IN THE SOUTH CAROLINA SUPREME COURT

Linda Ann Tyler 248190
VS.
THE STATE OF SOUTH CAROLINA

2012-212815
2010-CP-400-7794
NOTICE OF INTENT TO APPEAL
UNDER S.C.A.C.R. Rule 203

PROOF OF SERVICE

The (Appellant) files this NOTICE OF INTENT TO APPEAL, the Final Order of Dismissal of her Post Conviction Relief Claim from the Court of Common Pleas, Richland County, 5th Judicial Circuit, the honorable, James R. Barber III Chief Administrative Judge's Order of Dismissal, dated July 31st 2012. All Documents were submitted on and before the 24th day of August. 2012.

RESPECTFULLY Submitted,
Linda Ann Tyler 248196
August 30th 2012

SWORN TO And Subscribe before me,
ON This 30th DAY OF AUGUST 2012,
NOTARY Public FOR THE STATE OF SOUTH CAROLINA
Kathy R. Barnes
MY COMMISSION EXPIRES: My Commission Expires August 12, 2015

RECEIVED
SEP 04 2012
S.C. SUPREME COURT

Dan – **2012-212810**

Linda Tyler: This looks like stuff just randomly thrown in a box and mailed to us.

1-is any of this her 243 explanation? – I HAVE NO IDEA.

2-do we still need to send her the 243 letter? – YES

3-do I need to scan all this stuff in?

Thanks!

~JJ

1

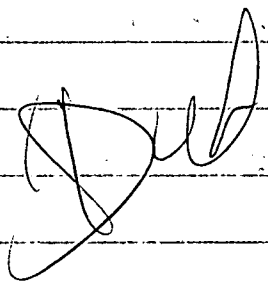
Peeples -v- Warren, 29. S.E. 659, 51 S.C. 560
Perkins -v- Douglas 29, S.E. 400, 52, S.C. 129
Conflicting Evidence
Jury were influenced by passion, prejudice or corruption contrary to Evidence. A NEW Trial must be granted, when the verdict is manifested against Evidence S.C. 1830, when the verdict

1. Petition the Court to use HYPNOSIS And Sodium Pentheal (Serm drug) Shot., Examination
2) U.S.C.A. 1503, 1504 False Swearing Knowledge of 18 U.S.C.A. Model Penal Code 241.2
Tamper. 224.4, P.
3. On March 7th 1997, Judge. Thagard U.S.C.A. 241.2 Court. Jr. order transcripts. See Records of
4. Brady v. 18 U.S.C.A. 1506, 2011, 2013 Model Penal. Code 241.2
Evidence Rule 401 RE-OPEN (Disqualify of Judge's
5. Atty failed to Impeached Autopsy Evidence.
Exp. failed to present evidence in open Court

NP Case

THERE IS A PCR PENDING.

RECEIVED
AUG 27 2012
S.C. Supreme Court



U.P. Oil
NO - gas up - US
Sub: 3-1-12 Fire meeting Tuesday
Landry Conley Quinn

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Paul E. Short, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LINDA TYLER,

APPELLANT

FINAL BRIEF OF APPELLANT

WANDA H. HAILE
Senior Assistant Appellate Defender

South Carolina Office
of Appellate Defense
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(803) 734-1330

ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

1. The lower court erred in allowing appellant's confession into evidence at trial.

2. The lower court erred in denying appellant's request for an involuntary manslaughter charge.

3. The lower court erred in denying appellant's directed verdict and new trial motions because appellant's actions did not result in the proximate cause of her husband's death.

4. The lower court erred in ruling that appellant was mentally competent to stand trial.

5. The lower court erred in making an improper analogy between the offenses of aggravated assault and voluntary manslaughter during the jury charge.

STATEMENT OF THE CASE

On October 16, 1996, Richland County grand jurors indicted appellant Linda Tyler for murder. Appellant was tried by jury during the March, 1988 term of the Richland County General Sessions Court before the Honorable Paul E. Short, Judge. Appellant was found guilty of murder, but mentally ill. Appellant appealed. This brief follows.

QUESTION I

The lower court erred in allowing appellant's confession into evidence at trial.

In the case at bar, the state alleged that appellant set her husband on fire on September 26, 1996. Investigator Joe Gray testified that he found appellant at the hospital where her husband was being treated on the morning of September 26, 1996. Investigator Gray subsequently transported appellant to the Columbia Police Station for questioning, during which time she admitted setting her husband on fire. Prior to trial, the defense moved to suppress said statement as it was involuntarily given to police because appellant was mentally ill when the statement was given and coerced into giving the statement. Nonetheless, the court allowed the statement into evidence subsequent to testimony presented at an in camera hearing held regarding the matter. ROA 67, l. 10 – p. 119, l. 16. The statement in question follows:

> QUESTION: How long have you known Van?
>
> ANSWER: About twenty years. We've been married for four.
>
> QUESTION: Were you and Van living together?
>
> ANSWER: Yes. Except when he was sleeping with his other women.
>
> QUESTION: How many women was he sleeping with?
>
> ANSWER: Two, no three people in my neighborhood. He was trading crack and heroin for sex too. I just found that out recently.
>
> QUESTION: When did you find out he was having sex with these women?
>
> ANSWER: I found out about the last girl last night. It was a neighbor Jackie that lives in Saxon Homes. She told me she

was two weeks pregnant by Van.

QUESTION: How did you feel towards Van after finding that out?

ANSWER: I loved my husband. I did so much for him. I took him drugs while he was in prison and I would pay people to take him marijuana.

QUESTION: Did you feel you were being taken advantage of?

ANSWER: Yes.

QUESTION: Is that why you poured the gas on Van Tyler?

ANSWER: Yes. I had the gas in a Pepsi bottle in the car. I didn't say anything to him. I just poured it on top of his head. Then I used my cigarette lighter to light him up.

QUESTION: Did Van say anything?

ANSWER: Afterwards I was on the ground with him. He said I didn't have to do it like that.

QUESTION: Is there anything else you wish to add to this statement?

ANSWER: Nothing. Except that I loved my husband.

QUESTION: Where did you get the gas?

ANSWER: I got it from Kalin at the Shell station on Two Notch. Kalin said Van had told him about the woman last night.

QUESTION: Is it because of what Kalin told you that you bought the gasoline?

ANSWER: No. I already made up my mind what I was going to do.

QUESTION: What was your plan?

ANSWER: To see him burn. I wanted him to hurt like he

hurt me.

QUESTION: Do you want to add anything else?

ANSWER: No. Just that I love my husband. I'm sorry it happened.

See State's Exhibit # 2

The testimony adduced during the in camera hearing established that appellant was mentally ill at the time the statement was given and coerced into giving a statement. For example, Dr. Donna Schwartz–Watts testified that she examined appellant and diagnosed her as having borderline intellectual functioning and paranoid personality disorder. Dr. Watts found that appellant was psychotic, could not handle stress, and became extremely paranoid when feeling threatened. Also, Dr. Watts concluded that appellant's mental state indicated an intellectual deficiency such that she would misunderstand or could not interpret writings, definitions, et. cetera. Dr. Watts concluded that appellant's poor impulse control and cognitive impairments, coupled with the stressors involved (event in question, police questioning) and the possibility of appellant probably experiencing psychosis during questioning (appellant sees shadows of the mouths of individuals), would have rendered her incapable of giving a voluntary statement to police on that date. ROA 106, l. 19 – p. 111, l. 19.

Appellant testified during the in camera hearing. Appellant stated that Investigator Gray indicated that she could talk to an attorney only after they talked (even though she asked for counsel at the outset), and that she was told by Gray that she was not going anywhere until she told him the truth about what happened to her husband. Appellant stated that when she denied culpability, Gray "slapped his hands on the desk three times and said

yes you did throw the gasoline on Ali." Then, Gray promised that she could use the telephone and get out on bond if she told him everything. Gray kept stating repeatedly that Ali told him (Gray) that she set him (Ali) on fire and that Gray would continue to slap the table over and over. Appellant stated that Gray made her feel "scared" and that she had already been crying and was already upset and shocked enough by what had happened. Appellant stated that she did not receive her Miranda rights until after she had signed the statement. Appellant inferred that Gray was angry because his face was "real red" during the time he was trying to get a statement. ROA 89, l. 3 – p. 100, l. 17.

As a rule, absent coercive police conduct causally related to a confession, there is no basis for finding a confession constitutionally involuntary... [and] a defendant's mental condition in and of itself does not render a statement involuntary in violation of due process. See State v. Hughes, 336 S.C. 585, 521 S.E.2d 500 (1999), citing to Colorado v. Connelly, 479 U.S. 157 (1986); and State v. Doby, 273 S.C. 704, 258 S.E.2d 896 (1979). However, in the case at bar, we do not have a mental deficiency standing alone, but a mental deficiency coupled with coercive police conduct. Appellant was seriously mentally ill (psychosis and limited cognitive ability/intelligence) and had been badgered, threatened, frightened, and bribed into making an uncounseled statement.

The pivotal question became whether in giving the statement appellant's will was overborne in light of her mental state and the coercive police conduct. See State v. Von Dolen, 322 S.C. 234, 471 S.E.2d 689 (1996) citing Schneckloth v. Bustamante, 412 U.S. 218 (1973). Here, appellant's will was overborne. The voluntariness of a statement is determined based on the totality of the circumstances. State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990). Here, the circumstances clearly proved appellant's statement was the

result of police coercion, which was exacerbated and amplified by appellant's mentally ill state of being. This meant that under the totality of the circumstances appellant's statement was given involuntary in violation of the fourteenth amendment due process clause, and the fifth and sixth amendments to the United States Constitution, and article 1, §12 and §14 of the South Carolina State Constitution. The lower court erred in allowing appellant's involuntary statement into evidence at trial.

QUESTION II

The lower court erred in denying appellant's request for an involuntary manslaughter charge.

At the close of the case, the defense requested a charge on the law of involuntary manslaughter because the facts warranted such a charge. The court denied the request. ROA 597, l. 16 – p. 599, l. 1; ROA 600, lines 15-21; ROA 634, lines 11-12. Involuntary manslaughter is the unintentional killing of another without malice. S.C. Code Ann. §16–3–50 (1995). See State v. Smith, 315 S.C. 547, 446 S.E.2d 411 (1994). Our courts have entertained the question of whether one's mental state would preclude the formation of malice. In State v. Morris, 307 S.C. 480, 415 S.E.2d 819 (1992), the Court of Appeals grappled with the issue of whether involuntary manslaughter should have been charged where the defendant's handling of the gun used to shoot the deceased was affected by his inability to control his emotional response to a heated situation due to his frontal lobe brain damage. Also, in State v. Gandy, 283 S.C. 571, 324 S.E.2d 65 (1984),[1] (overruled on other grounds in State v. Lowery, 315 S.C. 396, 434 S.E.2d 272 (1993), and Casey v. State, 305 S.C. 445, 409 S.E.2d 391 (1991)), the issue was whether an involuntary manslaughter charge should have been given when there was a question about whether the requisite mental state of malice was present where the defendant intended to kill shoot one man, but killed an unintended victim.

In the case at bar, it was clear that appellant's mental illness precluded the mental state necessary to formulate malice and that as a result, the jury should have been given

[1] Gandy was overruled in State v. Lowery, 315 S.C. 396, 434 S.E.2d 272 (1993), and Casey v. State, 305 S.C. 445, 409 S.E.2d 391 (1991) to the extent that a jury finding that a defendant acted with malice does

legislature violated the single subject clause of the Illinois Constitution in enacting Public Act 89-404. The Act was initially designed to address the singular subject of the criminal insanity defense. While this fact alone is not dispositive, we cannot overlook the fact that, as enacted, Public Act 89-404 deals with at least five separate legislative subjects involving both civil and criminal topics. In sum, the Act addresses such diverse subjects as: the basic duties and jurisdiction of law enforcement officials; the burden of proof for a criminal defendant asserting the insanity defense; rules governing drug offense and drug asset forfeiture proceedings; truth-in-sentencing law; and rules for the perfection and satisfaction of hospital liens. In our opinion, even the most liberal attempt to reconcile these various subjects is unavailing.

The State's failure to explain the necessary or even logical connection between truth-in-sentencing legislation, basic law enforcement duties, and hospital liens is unquestionable. The State argues, for example, that all measures within the Act are legitimately interrelated, since "each of the sections involves governmental matters which are the responsibility of the various county State's Attorneys." To say that such a "connection" satisfies the single subject rule strains credulity. Furthermore, that these topics might fit within the broad subject of "governmental matters" is not compelling. As we cautioned in Johnson, the permitted use of such a sweeping and vague category to unite unrelated measures would render the single subject clause of our constitution meaningless. Johnson, 176 Ill.2d at 517-18, 224 Ill.Dec. 1, 680 N.E.2d 1372. We conclude that there is no "natural and logical connection" that could justify the enactment of these various matters in one act. Accordingly, we hold that Public Act 89-404 violates the single subject clause of the Illinois Constitution and is, therefore, unconstitutional in its entirety.

The State, nevertheless, advances three arguments explaining why this court should rule in its favor despite our finding of a single subject rule violation. First, the State entreats this court to adopt a rule that would limit the time in which a defendant could raise a single subject rule claim. This scheme, which the State has styled the "codification rule," would preclude a defendant from challenging the constitutionality of an act on single subject grounds once it has become codified. The State relies primarily upon the Iowa case of State v. Mabry, 460 N.W.2d 472 (Iowa 1990), which stated the rule as follows:

> "Although an act, as originally passed, was unconstitutional because it contained matter different from that expressed in its title, or referred to more than one subject, it becomes, if otherwise constitutional, valid law on its adoption by the legislature and incorporation into a general revision or code * * *." Mabry, 460 N.W.2d at 475.

*6 The policy behind the codification rule is to strike a balance between the protective goals of the single subject rule and the public's need for finality through the validation of new legislation. Mabry, 460 N.W.2d at 475. In practice, the rule only allows a defendant to attack newly enacted legislation on procedure-related constitutional grounds between the date that act is passed and its date of official publication.

We decline to adopt the codification rule for several reasons. First, the rule goes against this state's well-established single subject clause jurisprudence. Illinois cases on this subject illustrate the seriousness with which this court regards single subject clause violations. See, e.g., Johnson, 176 Ill.2d 499, 224 Ill.Dec. 1, 680 N.E.2d 1372; People v. Dunigan, 165 Ill.2d 235, 209 Ill.Dec. 53, 650 N.E.2d 1026 (1995); Fuehrmeyer v. City of Chicago, 57 Ill.2d 193, 311 N.E.2d 116 (1974).

In Johnson, for example, we emphasized the dual purposes of the single subject clause. On one hand, the clause serves to prevent the enactment of legislation that, standing on its own, could not garner the votes necessary for passage. Johnson, 176 Ill.2d at 514, 224 Ill.Dec. 1, 680 N.E.2d 1372; Geja's Cafe v. Metropolitan Pier & Exposition Authority, 153 Ill.2d 239, 258, 180 Ill.Dec. 135, 606 N.E.2d 1212 (1992). Indeed, in upholding the mandate of the Illinois Constitution, this court is duty-bound to ensure that the legislature refrains from the" 'practice of bringing together into one bill subjects diverse in their nature, and having no necessary connection, with a view to combine in their favor the advocates of all * * *.' " Fuehrmeyer, 57 Ill.2d at 202, 311 N.E.2d 116, quoting People ex rel. Drake v. Mahaney, 13 Mich. 481, 494-95 (1865).

A second and equally important purpose of the single subject clause is to facilitate the enactment of bills through a legislative process that is orderly and informed. See Johnson, 176 Ill.2d at 514, 224 Ill.Dec. 1, 680 N.E.2d 1372. By limiting each bill to a single subject, each legislator can better understand and more intelligently debate the issues presented by a bill. Johnson, 176 Ill.2d at 514-15, 224 Ill.Dec. 1, 680 N.E.2d 1372. These dual purposes of the single

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subject clause, therefore, promote direct confrontation and informed discussion of legislative issues submitted for enactment.

A codification rule would, in no uncertain terms, drastically diminish the effect and importance of the single subject clause of the Illinois Constitution. That a "window of time" is available to challenging defendants is no consolation in such cases, since the time between an act's effective date and codification date is frequently minute. Moreover, a codification rule simply emphasizes finality over the importance of addressing the underlying wrong that exists in unconstitutionally enacted legislation. In our view, a codification rule in any form would unjustifiably emasculate the single subject rule in Illinois, and we, therefore, reject such a proposition. See also People v. Worden, 299 Ill.App.3d 836, 234 Ill.Dec. 271, 702 N.E.2d 611 (1998) (rejecting codification rule); People v. Dainty, 299 Ill.App.3d 235, 233 Ill.Dec. 475, 701 N.E.2d 118 (1998) (declining to apply codification rule).

*7 Next, the State contends that, although Public Act 89-404 may have violated the single subject rule, it was not the act under which defendants were sentenced. The State claims that, instead, Public Act 89-462 is the law which applied to defendants' cases. The State's argument is disingenuous at best. Public Act 89-462 is comprised of a simple amendment adding the offense of predatory sexual assault of a child to the list of offenses to which the truth-in-sentencing law applies. The State argues that this amendatory language of Public Act 89-462 somehow validated all of the truth-in-sentencing provisions of Public Act 89-404 and, therefore, served as the curative legislation needed to bring the truth-in-sentencing law outside of single subject rule scrutiny.

As the State correctly asserts, the Illinois legislature has the power to enact curative legislation. See Johnson, 176 Ill.2d at 518, 224 Ill.Dec. 1, 680 N.E.2d 1372; Bates v. Board of Education, Allendale Community Consolidated School District No. 17, 136 Ill.2d 260, 268, 144 Ill.Dec. 104, 555 N.E.2d 1 (1990). We note, however, that such legislation must exhibit on its face evidence that it is intended to cure or validate defective legislation. In Johnson, for instance, an act held to be unconstitutional for violating the single subject rule was validated in part by amendatory legislation that completely recodified a statutory provision within the invalidated act and that provided a clause expressly validating all actions taken in reliance on the defective statute. Johnson, 176 Ill.2d at 521, 224 Ill.Dec. 1, 680 N.E.2d 1372. In the case at bar, however, Public Act 89-462 does not recodify the language of the truth-in-sentencing provisions of Public Act 89-404. It only inserts an additional offense to be included in the truth-in-sentencing provision. Moreover, it is entirely devoid of curative language that would validate any actions taken in reliance upon Public Act 89-404. We conclude, therefore, that Public Act 89-462 did not serve as curative legislation for any portion of Public Act 89-404.

Lastly, the State argues that, assuming Public Act 89-404 was enacted in violation of the single subject rule, such a flaw can nonetheless be considered harmless. The State bases its contention on the notion that, since each of the sections within Public Act 89-404 possessed the necessary support for individual passage, the purpose of the single subject rule prohibiting "log rolling" of unpopular measures was not implicated.

The State's argument simply lacks merit. The State ignores the previously emphasized purpose of the single subject rule that promotes orderly and informed legislative debate and enactment. Since the crux of single subject rule analysis concerns the interrelatedness of an act's provisions, the harm in passing discordant bills in one act without informed debate is obvious. Moreover, we hold that the harmless error standard is entirely inapplicable to an analysis of the constitutionality of legislative enactments. In our view, when the procedure by which the General Assembly enacts legislation contravenes a constitutional mandate, a harmless error standard is inappropriate. Such a standard, if endorsed by the judiciary, would be at least as deleterious to the single subject clause as the codification rule would be.

Amendatory Legislation

*8 We note that, during the pendency of the appeals in this case, the General Assembly passed Public Act 90-592 (Pub. Act 90-592, eff. June 19, 1998). That act both deleted and recodified the entire truth-in-sentencing legislation originating from Public Act 89-404. Importantly, Public Act 90-592 contained the following two provisions:

"(a)(2) The rules and regulations on early release shall provide, with respect to offenses committed on or after the effective date of this amendatory Act of 1998, the following:

* * *

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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Paul E. Short, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LINDA TYLER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Robert E. Bogan, Esquire, this 29th day of September, 2000.

Wanda H. Haile
Senior Assistant Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 29th day of September, 2000.

Sandra R. Wise (L.S.)
Notary Public for South Carolina

My Commission Expires: ~~March 13, 2007~~ 2-3-2005.

```
CMTI330D                  SCDC OFFENDER MANAGEMENT SYSTEM                  12/01/
OMCOMITA                        RELEASE DATE SCREEN                        C04859
SCDC# ) 9248190                                              LOC: LEATH
TYLER, LINDA ANN                              SCDC CLASSIFICATION..: VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE  SEXUAL REGISTRY..: N
                                           SEXUAL PREDATOR..:
                                           DNA STATUS.......: COMPLETED
                                           GPS REQUIREMENT..: N
                                           PREA DECISION....:
CURRENT SENTENCE:                     CONSECUTIVE SENTENCE ..:
                 LIFE                 CURRENT SENT START DATE: 09/26/1996
PROJECTED COMPLETION DATES
  MAXOUT DATE .....: 99/99/9999       CURRENT EWC .:
  YOA SIX YEAR DATE:                  CURRENT EEC .:
INITIAL PAROLE DATE: 00/00/0000       NEXT PAROLE HEARING DATE: 00/00/0000


TOTAL GT DAYS EARNED .......: 000000      LABOR CREW/WORK PROG DATE: 99/99/999
TOTAL EARNED WORK CREDITS ..: 000000      LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS ....: 000000       CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS .: 000
TOTAL SERVICE TIME EARNED ..: 000000

PFKEYS:       5:HISTORY OF DATE CHANGES
```

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 12/01/10 C048

TYLER,LINDA ANN FBI # 279315N3 SID# SC00079154 SCDC # 248190
OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
INSTITUTION ..: LEATH CORRECTIONAL INST. DORM.....: M301037
SECURITY/CUST.: 3 ADULT-STRAIGHT SENTENCE RACE....:B SEX...:F
CURR INCARC SENT...:999 YRS 0 MOS 0 DYS PROJ MAXOUT DATE: 99/99/9999
CENTRAL MONITORING.: YES PROJ PAROLE DATE: 00/00/0000
SOCIAL SECURITY #...:247088867 EWC JOB..: NO CURRENT JOB
EDUC PGM.: NO CURR EDUC PROGRAM
CURRENT PROGRAM..: NO CURRENT PROGRAM EWC LEVEL: 0 EEC LEVEL:
AGE...: 53 DATE OF BIRTH..: 3/30/57 ASSIGNMENT..: LOCKED - UP

PREVIOUS NUMBERS:
Y00071609
00084831

CURRENT OFFENSES	SENTENCE YRS	MOS	DYS	COUNTY	SENTENCE START	V/NV	CATEGOR
MURDER	999	99	999	RICHLAND	9/26/1996	V	5

PRIOR COMMITMENTS OVER 90 DAYS:

4/13/88	COCAINE POSSESS	2	YRS	0 MOS	0 DYS
1/28/88	COCAINE DISTRIBUTION	7	YRS	0 MOS	0 DYS
1/28/88	SHOPLIFTING	0	YRS	6 MOS	0 DYS
10/14/77	ESCAPE	0	YRS	6 MOS	0 DYS
7/ 7/76	STRONG ARM ROBBERY	7	YRS	0 MOS	0 DYS
7/ 7/76	ASSLT & BATT W/INTNT KILL	7	YRS	0 MOS	0 DYS
7/ 7/76	*ARMED ROBBERY	21	YRS	0 MOS	0 DYS
5/23/74	*MARIJUANA POSSESS	6	YRS	0 MOS	0 DYS

DETAINERS (HOLD,WANTED,NOTIFY):
NO DETAINERS
NO DETAINERS

ESCAPES:
8/24/77 ESCAPE CLASS I

CRIMINAL CHARGES:
NO CRIMINAL CHARGES WHILE IN CUSTODY
NO CRIMINAL CHARGES WHILE IN CUSTODY
NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

9/18/10	ASSAULT/BATTERY OF INMAT	CONVICTED	MAJOR	INMATE	WEAPON
9/11/ 9	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		
7/14/ 9	STRIKING AN INMATE WITH/	CONVICTED	MAJOR	INMATE	
12/14/ 8	STRIKING AN INMATE WITH/	DROPPED	CHARG	INMATE	
7/26/ 7	STRIKING AN INMATE WITH/		OTHER	INMATE	
8/11/ 1	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		
12/27/99	STRIKING AN INMATE WITH/	CONVICTED	MAJOR	INMATE	
7/14/99	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		
3/ 7/90	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		0008483
3/ 7/90	FIGHTING WITHOUT A WEAPO	CONVICTED	MINOR		0008483
11/26/88	ROBBERY WITH FORCE	CONVICTED	MAJOR		0008483
8/18/84	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		0008483
8/27/82	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		0008483
6/20/81	FIGHTING WITHOUT A WEAPO	CONVICTED	MAJOR		0008483
10/10/77	FIGHTING WITHOUT A WEAPO	CONVICTED	MINOR		0008483
4/18/77	FIGHTING WITHOUT A WEAPO	CONVICTED	MINOR		0008483

NON-ASSAULTIVE DISCIPLINARIES:

8/11/10	TRAFFICKING AND TRADING		OTHER		
7/27/10	DISRESPECT		OTHER		
12/17/ 8	SEXUAL MISCONDUCT	CONVICTED	MAJOR		
10/18/ 8	USE,POSS NARC,MARIJ,UNAU	DROPPED	CHARG		
6/19/ 8	INTERFERING WITH COUNT		OTHER		

TYLER,LINDA ANN FRI # 279315N3 SID# SC00079154 SCDC # 248190 (CONTINUED)

12/29/ 6	INTERFERING WITH COUNT	DROPPED	CHARG	
4/26/ 6	OUT OF PLACE		OTHER	
3/ 3/ 6	INTERFERING WITH COUNT		OTHER	
8/10/ 5	INTERFERING WITH COUNT		OTHER	
7/15/ 5	INTERFERING WITH COUNT		OTHER	
4/10/ 5	INCITING/CREATING A DIST	CONVICTED	MAJOR	
3/29/ 5	CREATING UNNECESSARY NOI		OTHER	
6/10/ 4	VIOLATIONS WRITE/POST IN		OTHER	
12/ 5/ 3	POSSESSION OF CONTRABAND	NOT GUILTY	MINOR	
3/16/ 3	INCITING/CREATING A DIST	NOT GUILTY	MINOR	
12/ 4/ 2	TRAFFICKING AND TRADING	CONVICTED	MINOR	
11/20/ 2	REFUSING OR FAILING OBEY	CONVICTED	MAJOR	
11/20/ 2	INCITING/CREATING A DIST	CONVICTED	MAJOR	
11/12/ 2	POSSESSION OF CONTRABAND		OTHER	
10/11/ 2	REFUSING OR FAILING OBEY	CONVICTED	MAJOR	
10/ 2/ 2	INCITING/CREATING A DIST	CONVICTED	MAJOR	
9/30/ 2	THREATENING TO INFLICT H	CONVICTED	MAJOR	
8/12/ 2	VIOLATIONS WRITE/POST IN		OTHER	
5/21/ 2	DAMAGE,DESTROY,PROP.VALU	NOT GUILTY	MINOR	
8/11/ 1	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
1/22/ 1	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/ 6/ 1	VIOLATIONS WRITE/POST IN	CONVICTED	MINOR	
9/28/ 0	INCITING/CREATING A DIST	CONVICTED	MAJOR	
7/11/ 0	VIOLATIONS WRITE/POST IN	CONVICTED	MAJOR	
7/10/ 0	DISRESPECT		OTHER	
6/29/ 0	DISRESPECT	CONVICTED	MINOR	
3/10/ 0	THREATENING TO INFLICT H	NOT GUILTY	MAJOR	
2/27/ 0	INCITING/CREATING A DIST	CONVICTED	MINOR	
2/11/ 0	VIOLATIONS WRITE/POST IN	CONVICTED	MINOR	
11/ 2/99	FALSE STATEMENT TO HARM	NOT GUILTY	MINOR	
11/ 2/99	OUT OF PLACE	NOT GUILTY	MINOR	
8/19/99	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	
8/26/98	SOLICIT EMPLOYEE,I/M,VIO	CONVICTED	MINOR	
3/ 7/90	REFUSING OR FAILING OBEY	CONVICTED	MAJOR	0008483
3/ 7/90	INCITING/CREATING A DIST	CONVICTED	MAJOR	0008483
6/17/84	STEALING	CONVICTED	MAJOR	0008483
5/29/84	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	0008483
1/ 2/83	OUT OF PLACE	CONVICTED	MINOR	0008483
1/ 2/83	INCITING/CREATING A DIST	CONVICTED	MINOR	0008483
12/27/82	THREATENING TO INFLICT H	CONVICTED	MAJOR	0008483
12/27/82	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	0008483
12/27/82	INCITING/CREATING A DIST	CONVICTED	MAJOR	0008483
11/ 5/82	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	0008483
5/19/82	FALSE STATEMENT TO HARM	CONVICTED	MAJOR	0008483
6/20/81	INCITING/CREATING A DIST	CONVICTED	MINOR	0008483
3/10/81	REFUSING OR FAILING OBEY	CONVICTED	MINOR	0008483
2/ 3/81	STEALING	CONVICTED	MAJOR	0008483
9/ 2/80	REFUSING OR FAILING OBEY	CONVICTED	MINOR	0008483
6/17/80	INCITING/CREATING A DIST	CONVICTED	MINOR	0008483
6/ 8/79	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	0008483
8/25/78	INCITING/CREATING A DIST	CONVICTED	MINOR	0008483
10/10/77	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	0008483
8/24/77	CLASS I ESCAPE	CONVICTED	MAJOR	0008483
6/21/77	USE OBSCENE,VULGAR,PROFA	CONVICTED	MINOR	0008483

HISTORY OF MOVEMENTS:

1/ 7/10	LEATH	INCARCERATED	ADMINISTRATIVE
1/ 7/10	GRAHAM CORR INS	INCARCERATED	MEDICAL
3/20/ 7	LEATH	INCARCERATED	MEDICAL
3/20/ 7	GRAHAM CORR INS	INCARCERATED	MEDICAL
1/22/ 7	LEATH	INCARCERATED	ADMINISTRATIVE

TYLER,LINDA ANN FBI # 279315N3 SID# SC00079154 SCDC # 248190 (CONTINUED)

1/22/ 7	KIRKLAND	INCARCERATED	MEDICAL
12/13/ 6	LEATH	INCARCERATED	ADMINISTRATIVE
12/13/ 6	GRAHAM CORR INS	INCARCERATED	MEDICAL
11/27/ 6	LEATH	INCARCERATED	ADMINISTRATIVE
11/27/ 6	KIRKLAND	INCARCERATED	MEDICAL
11/14/ 6	LEATH	INCARCERATED	MEDICAL
11/14/ 6	GRAHAM CORR INS	INCARCERATED	MEDICAL
8/21/ 6	LEATH	INCARCERATED	ADMINISTRATIVE
8/21/ 6	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
8/ 8/ 6	LEATH	INCARCERATED	ADMINISTRATIVE
8/ 8/ 6	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
11/18/ 5	LEATH	INCARCERATED	RETURN FROM COURT
11/18/ 5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
7/20/ 5	LEATH	INCARCERATED	RETURN FROM COURT
7/20/ 5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/31/ 5	LEATH	INCARCERATED	RETURN FROM COURT
5/31/ 5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/25/ 5	LEATH	INCARCERATED	RETURN FROM COURT
4/25/ 5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/13/ 5	LEATH	INCARCERATED	ADMINISTRATIVE
4/13/ 5	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
3/18/ 5	LEATH	INCARCERATED	ADMINISTRATIVE
3/18/ 5	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
2/10/ 5	LEATH	INCARCERATED	RETURN FROM COURT
2/10/ 5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/ 7/ 4	LEATH	INCARCERATED	RETURN FROM COURT
10/ 7/ 4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
8/26/ 4	LEATH	INCARCERATED	RETURN FROM COURT
8/26/ 4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/24/ 4	LEATH	INCARCERATED	RETURN FROM COURT
5/24/ 4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
11/20/ 3	LEATH	INCARCERATED	RETURN FROM COURT
11/20/ 3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
6/27/ 3	LEATH	INCARCERATED	RETURN FROM COURT
6/27/ 3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
6/ 3/ 3	LEATH	INCARCERATED	ADMINISTRATIVE
6/ 3/ 3	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
5/20/ 3	LEATH	INCARCERATED	RETURN FROM COURT
5/20/ 3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/ 7/ 3	LEATH	INCARCERATED	ADMINISTRATIVE
4/ 7/ 3	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
11/22/ 2	LEATH	INCARCERATED	RETURN FROM COURT
11/22/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/29/ 2	LEATH	INCARCERATED	RETURN FROM COURT
10/29/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
9/ 5/ 2	LEATH	INCARCERATED	RETURN FROM COURT
9/ 5/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
8/ 8/ 2	LEATH	INCARCERATED	RETURN FROM COURT
8/ 8/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/20/ 2	LEATH	INCARCERATED	RETURN FROM COURT
5/20/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/23/ 2	LEATH	INCARCERATED	RETURN FROM COURT
4/23/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/12/ 2	LEATH	INCARCERATED	RETURN FROM COURT
4/12/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
2/19/ 2	LEATH	INCARCERATED	RETURN FROM COURT
2/19/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
2/ 8/ 2	LEATH	INCARCERATED	RETURN FROM COURT
2/ 8/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
1/24/ 2	LEATH	INCARCERATED	RETURN FROM COURT

TYLER,LINDA ANN FBI # 279315N3 SID# SC00079154 SCDC # 248190 (CONTINUED)

1/24/ 2	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
12/17/ 1	LEATH	INCARCERATED	ADMINISTRATIVE
12/17/ 1	ANDERSON CO	AUTH ABSENCE (AWL)	MEDICAL
7/ 3/ 1	LEATH	INCARCERATED	ADMINISTRATIVE
7/ 3/ 1	ANDERSON CO	AUTH ABSENCE (AWL)	MEDICAL
5/15/ 1	LEATH	INCARCERATED	ADMINISTRATIVE
5/15/ 1	RICHLAND CO	AUTH ABSENCE (AWL)	TO FUNERAL
8/25/ 0	LEATH	INCARCERATED	ADMINISTRATIVE
8/25/ 0	PALMETTO RCHLAN	AUTH ABSENCE (AWL)	MEDICAL
10/14/99	LEATH	INCARCERATED	RETURN FROM COURT
10/14/99	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
8/26/99	LEATH	INCARCERATED	RETURN FROM COURT
8/26/99	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
8/26/99	LEATH	INCARCERATED	RETURN FROM COURT
8/26/99	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
6/24/99	LEATH	INCARCERATED	RETURN FROM COURT
6/24/99	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/ 6/99	LEATH	INCARCERATED	RETURN FROM COURT
5/ 6/99	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/20/99	LEATH	INCARCERATED	ADMINISTRATIVE
4/16/99	GRAHAM CORR INS	INCARCERATED	DISCIPLINARY
4/16/99	GRAHAM R&E	INCARCERATED	DISCIPLINARY
8/25/98	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
8/25/98	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/19/98	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
3/25/98	GRAHAM R&E	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON
SENIOR GROUNDSKEEPER	08/02/10	9/18/10	PLACED IN ST/SP CUSTODY
SENIOR GROUNDSKEEPER	11/11/09	7/27/10	PLACED IN ST/SP CUSTODY
WARDKEEPER ASSISTANT	10/16/09	11/10/ 9	MEDICAL
LANDSCAPE LABORER	03/05/09	7/14/ 9	PLACED IN ST/SP CUSTODY
LANDSCAPE LABORER	09/20/05	7/27/ 7	PLACED IN ST/SP CUSTODY
LANDSCAPE LABORER	03/24/05	4/11/ 5	PLACED IN ST/SP CUSTODY
LANDSCAPE LABORER	02/05/04	3/18/ 5	PLACED IN ST/SP CUSTODY
LANDSCAPE LABORER	10/15/03	2/ 4/ 4	CUSTODY REVIEW
LANDSCAPE LABORER	06/17/03	10/14/ 3	CUSTODY REVIEW
LANDSCAPE LABORER	07/27/01	8/11/ 1	PLACED IN ST/SP CUSTODY
LANDSCAPE LABORER	10/30/00	7/26/ 1	CUSTODY REVIEW
LANDSCAPE LABORER	12/30/99	9/29/ 0	PLACED IN ST/SP CUSTOD
LANDSCAPE LABORER	07/22/99	12/27/99	PLACED IN ST/SP CUSTO
LANDSCAPE LABORER	04/22/99	7/14/99	PLACED IN ST/SP CUST
MACHINE OPERATOR TRA	12/09/98	4/16/99	DISCIPLINARY/LOCK-U
HORTICULTURIST (GRND	10/19/98	12/ 8/98	LATERAL TRANSFER
GENERAL WORKER	05/21/98	10/18/98	INMATE REQUEST

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATI REASON
LVL 3 - FULL TIME(NO EWC)	10/28/08	12/14/ 8	PLACED I
LVL 3 - FULL TIME(NO EWC)	06/24/08	10/19/ 8	PLACED I
LVL 3 - FULL TIME(NO EWC)	08/21/07	6/19/ 8	PLACED

********* END OF REPORT *********

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STATE OF SOUTH CAROLINA	COURT OF COMMON PLEAS
COUNTY OF Richland	2010-CP-400-7794
Undecided Lyle #248196	NOTICE OF INTENT TO
VS	APPEAL, PURSUANT TO Rule
THE STATE OF South Carolina	SCACR. Rule 201, SCACR. 203
	SCACR. Rule 227

THE STATE HAS TO MAKE A SHOWING THAT SHE WAS CERTAINLY UNDER THE CONVICTION FOR THESE CHARGES WITHIN THE TEN YEAR PERIOD, AND THAT AT LEAST WITH REGARD TO ONE OF THE SENTENCES ---

THE COURT: ALL RIGHT. JUST A MOMENT. I'M GOING TO MAKE IT EASY FOR YOU. I'M NOT GOING TO ALLOW THOSE TO BE USED FOR IMPEACHMENT, MADAM SOLICITOR. HOWEVER, I FIND THAT THEY WOULD BE MORE PREJUDICIAL THAN THEY WOULD BE PROBATIVE FOR THE STATE. I'M GOING TO NOT ALLOW THOSE FOR IMPEACHMENT PURPOSES, BUT THAT DOES NOT --- IS NOT CONTROLLING IN REGARD TO THE ISSUE OF WHETHER THEY MAY BE USED FOR SENTENCING PURPOSES.

MS. HAYNES: YOUR HONOR, IS THAT ALL OF MS. TYLER'S PRIOR RECORDS?

THE COURT: NO, JUST THOSE TWO. THANK YOU. THOSE ARE THE ONLY TWO SHE OBJECTED TO. THANK YOU.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: ANYTHING FURTHER FROM THE STATE IN REGARD TO PRETRIAL MOTIONS? HEARING NONE, FOR THE DEFENDANT?

MS. BELL: YES, YOUR HONOR. AT THIS TIME, YOUR HONOR, I WOULD ASK THE COURT TO GIVE MS. TYLER, THE DEFENDANT, SOME LEEWAY TO MAKE TWO MOTIONS SHE WANTS TO MAKE?

THE COURT: CERTAINLY. YES. BE GLAD TO HEAR FROM

THE COURT: ARE THOSE MORE RECENT?

MS. HAYNES: 1988. BUT YOUR HONOR, WE FEEL --- I MEAN, THESE ARE RECENT. SHE HAS BEEN LOCKED UP UNTIL 1992. IT FALLS CLEARLY ---

THE COURT: WELL, I UNDERSTAND, BUT I HAVE TO CONSIDER THE PREJUDICIAL EFFECT.

MS. BELL: YOUR HONOR, UNDER THE ANALYSIS, I THINK ESPECIALLY IN LIGHT OF THE POTENTIAL CONSEQUENCES IN THIS CASE, LIFE WITHOUT PAROLE ---

THE COURT: WELL, NOW, WAIT A MINUTE. I COULD RULE THAT THEY'RE NOT ADMISSIBLE FOR IMPEACHMENT, BUT THEY CERTAINLY COULD STILL BE USED --- YOU'RE GETTING THE HORSE BEFORE THE WAGON SO TO SPEAK. WE HADN'T GOTTEN TO THAT STAGE YET. BUT JUST BECAUSE --- IF THE COURT CHOSE TO NOT ALLOW THEM BECAUSE OF THE PREJUDICE OUTWEIGHING ANY VALUE THE COURT DETERMINES THEY MAY HAVE TO THE STATE, THEN CERTAINLY THAT WOULDN'T BE CONTROLLING ON THE RULING OF WHETHER OR NOT UNDER THE STATUTE THEY COULD BE CONSIDERED FOR SENTENCING. YOU AGREE, MS. BELL?

MS. BELL: THAT'S CORRECT, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

MS. BELL: YOUR HONOR ---

THE COURT: JUST A MOMENT, JUST A MOMENT --- IN REGARD TO THIS ISSUE?

MS. BELL: THE OTHER CONCERN THAT I HAVE, I THINK

YOU, MS. TYLER.

MS. TYLER: YOUR HONOR, I WANT TO TELL THE COURT --- I WOULD LIKE TO BE ALLOWED TO TAKE THE SODIUM PENTOTHAL -- IT WOULD BE SOMETHING THAT ---

THE COURT: I'M LISTENING.

MS. TYLER: CONCLUSION AND ANALYSIS FOR PSYCHIATRIC REPORT, AND I ALSO ASK THAT MY DAUGHTER BE PUT UNDER HYPNOSIS --- A SLEEPING STATE --- I WOULD REQUEST THAT BECAUSE MY DAUGHTER ON AUGUST 28TH WHEN I CAME HOME --- FOR ME AND MY HUSBAND, ALI --- MY DAUGHTER HAD TOLD ME THAT ALI HAD ATE HER POOH POOH. WHEN I WAS ARRESTED FOR HAVING MY CAR USED AS SOMEBODY STOLE SOMETHING OUT OF THE STORE AND I WENT TO JAIL BECAUSE IT WAS MY CAR, AND I TOLD THE INVESTIGATOR, AND THE INVESTIGATOR TOLD ME HE WAS NOT GOING TO ARREST ME. SO, I WROTE THE STATEMENT AND TOLD HIM. AND AFTER HE TOOK THE STATEMENT FROM ME, AND HE PUT ME IN JAIL, AND I STAYED IN JAIL FOR THREE DAYS. MY DAUGHTER HAD BEEN SODOMIZED. WHEN I GOT OUT OF JAIL --- I WENT TO THE COURTHOUSE, BECAUSE MY HUSBAND WAS WITH ME AT THE TIME. BUT THEN AFTER I GOT OUT OF JAIL I WENT TO FAMILY COURT ABOUT GETTING CUSTODY OF MY SONS --- HE HAD A MUSCLE DISORDER AND ON STRONG MEDICATION. AND I WAS AFRAID OF HIM. I ASKED HIM WOULD HE KIND HAVING MY SON ADMITTED TO THE PSYCHIATRIC HOSPITAL, AND THEN AFTER I TOLD --- I WAS AFRAID TO TELL THEM THAT HE HAD

ASSAULTED ME AND MY CHILDREN. I WAS AFRAID, AND HE HAD BEGAN TO DO SOMETHING TO ONE OF MY BOYS. I WAS AFRAID BECAUSE I WANTED TO GET MY SON BACK FROM FAMILY COURT.

(DEFENDANT IN TEARS. TESTIMONY INAUDIBLE.)

THE COURT: MS. TYLER, EXCUSE ME FOR INTERRUPTING, BUT YOU NEED TO FOCUS ON YOUR MOTION. I DON'T BELIEVE I NEED ALL THAT INFORMATION.

MS. TYLER: THEY HAD MY DAUGHTER. I HADN'T SEEN HER IN OVER A YEAR. HE WAS GOING TO HELP ME GET MY CHILDREN BACK. AND SHE TOLD ME THAT ALI HAD ATE HER POOH POOH --- I WANT TO TAKE A TRUTH SERUM. HE DID DRAW A GUN ON ME. AND OKAY. IT WAS THE TRUTH. I DID NOT MEAN TO HURT ALI.

THE COURT: THANK YOU, MA'AM. ALL RIGHT. MS. BELL OR MS. JOHNS, DO EITHER OF YOU AS ATTORNEYS FOR MS. TYLER HAVE ANY PRECEDENT TO CITE IN REGARD TO HER MOTION?

MS. JOHNS: NO, YOUR HONOR, WE DO NOT.

THE COURT: ALL RIGHT. I KNOW OF NO PRECEDENT. WHAT SHE IS REQUESTING IS A MOTION FOR ADMINISTERING ---

MS. JOHNS: YOUR HONOR, FOR THE RECORD, I JUST WANT THE RECORD TO BE CLEAR THAT THESE WERE TWO VERY STRONG CONCERNS MS. TYLER HAD WITH REGARD TO HER DEFENSE TO HER ATTORNEYS WORKING WITH HER AND ASSISTING HER IN HER DEFENSE. AND IT WAS SO MONUMENTAL THAT IT WAS SOMETHING THAT WE HAD TO OVERCOME BEFORE WE COULD EVEN GET TO THIS POINT. SO, I WANT TO PLACE IT ON THE RECORD TO MAKE SURE

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
	)	**2010-CP-40-07794**
Linda Tyler, #248190, Applicant, v. State of South Carolina, Respondent.	)	CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2012 APR 16 AM 9:04
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter comes before this Court by way of an application for post-conviction relief filed November 4, 2010.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. Applicant was true bill indicted at the October 1996 term of the Richland County Grand Jury for Murder (1996-GS-40-17046). She was represented by Teresa Johns, Esquire, on the charge. On March 19, 1998, Applicant proceeded to jury trial before The Honorable Paul E. Short, Jr., where she was found guilty but mentally ill of Murder. She was sentenced to life imprisonment without the possibility of parole.

A Notice of Appeal was filed and an appeal was perfected. After the submission of briefs and oral argument into the matter, the South Carolina Supreme Court affirmed Applicant's conviction and sentence. State v. Tyler, Op. No. 25423 (S.C. filed March 4, 2002).

SCANNED

Thereafter, Applicant filed an application for Post-Conviction Relief (PCR) on May 6, 2002 (2002-GS-40-02253). She was represented by Charlie Jay Johnson, Jr., Esquire, in the matter. The State made its Return to the application on June 20, 2003. In it, she alleged the following:

1. Trial judge denied the rights to due process of law;
2. Perjury;
3. Prosecution misconduct - conceal-order-to-examine deceased;
4. Fraud; and
5. Attorney failed to ask for mistrial, failed to submit scientific proof of autopsy films.

After numerous letters and motion filings by Applicant, the matter proceeded to evidentiary hearing and was later denied by The Honorable Allison Renee Lee by order filed July 3, 2006. A Notice of Appeal was filed on Applicant's behalf and a Petition for Writ of Certiorari was submitted. Following the State's Return to the Petition, the South Carolina Supreme Court denied the appeal on February 6, 2008. The Remittitur was issued on or about February 26, 2008.

In the current application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reason:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
   (a) Actually INNOCENCE, TRIAL Judge: P.C.R. failed to Act (SUA-SPONTE)
   (b) Prejudice, TRIAL Judge P.E. Short by, denied Sup. Ct. Appeal
   (c) Denied Rights to A Fair P.C.R. hearing, Atty. did not call An witness Judge PAUL'E Short M. was my sentencing Judge: Reversable Error.

10. State concisely and in the same order the facts which support each of the grounds set out in (9): Judge Knotts should've recused my sentencing Judge. Reversible error.

(a) I did not Kill (Ali) I was placed on the witness stand with PSYS. Exam.

(b) Judge Shuler heard P.C.R. case on Appeal in SUP.Ct. support the P.C.R

(c) Defense Atty. did not call any witness on my behalf, and failed to produce an arguable Defense and defined 'MENTAL illness told, Judge Allison Renee Lee, that mental illness was unfounded in his opinion. I was not aware of my court date... Again, there is NO SCIENTIFIC Proof to show the body being 2 (AUTOPSY) of YAN TYLER GIL Ineffective Assistance of Appellate Defense Atty.. Prejudice because Judge P.C. Shuler Jr. was sentencing Judge. Is miscarriage of Justice and Prejudice

In making its decision, the Court had before it the available records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, and the *Respondent's Return and Motion to Dismiss.*

Findings of Fact and Conclusions of Law

Timeliness – S.C. Code §17-27-45(a)

This Court agrees with the Respondent that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C.

468, 469 S.E.2d 606 (1996). For the purposes of this Order, the Applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later. Applicant's direct appeal was resolved on March 4, 2002, and remitted shortly thereafter. **This Application was filed on November 4, 2010, several years after the statutory filing period had expired.**

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court shall summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

SUCCESSIVE

This PCR application is also successive to Applicant's previous 2002 PCR action. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground

> for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised the new grounds for relief in her prior post-conviction relief application. The Applicant has failed to present any reasons why she could not have raised the current allegations in his previous post-conviction relief applications. Once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of prior PCR counsel. (Aice v. State, 409 S.E.2d 392 (1991). Even a belated direct appeal claim is subject to limitations. Graham v. State, 378 S.C. 1, 661 S.E.2d 337 (2008)(Petitioner was barred from raising in successive post-conviction relief (PCR) application claim that he was

denied the right to direct appeal due to the ineffective assistance of counsel, where claim could have been raised in first PCR application).

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted thirty (30) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Assistant Attorney General
Robert D. Corney
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 13 day of April, 2012.

The Honorable James R. Barber, III
Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Linda Tyler
☒ Plaintiff

v.

State Of South Carolina
☒ Defendant.

CASE NO.
2010-CP-40-7794

MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
Linda Tyler, Bar No. Address: Leath CI 2809 Airport Road Greenwood, S C 29649 phone: fax: e-mail: other:	Robert D. Corney, Bar No. Address: Post Office Box 11549 Columbia, South Carolina 29211 phone: 803-734-3737 fax: 803-734-[illegible] e-mail: rcorney@scag.gov other:

RICHLAND COUNTY FILED
2012 APR 16 AM 9:04
JEANETTE W. McBRIDE C.C.P. & G.S.

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☒ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

_____ April 12, 2012
Signature of Attorney for ☐Plaintiff / ☒Defendant Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT:
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	_____ JUDGE CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

SCCA/233 (11-03)

SCANNED

SMRC

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGM. IN A CIVIL CASE

CASE NUMBER: 2010CP4007794

Linda Ann #248-190 Tyler

PLAINTIFF(S)

State of South Carolina

DEFENDANT(S)

Submitted by: _____	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

RICHLAND COUNTY FILED
2012 APR 16 AM 9:05
JEANETTE W. McBRIDE C.C.P. & G.S.

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ **Judge Code** _____ **Date** _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 16 April 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Linda Ann #248-190 Tyler

Brian T Petrano

Linda Ann #248-190 Tyler

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SCRCP Form 4C (10/2011)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
	)	**2010-CP-40-07794**
Linda Tyler, #248190, Applicant, v. State of South Carolina, Respondent.	)	CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2011 APR 16 AM 9:04
JEANETTE W. McBRIDE
C.C.C.P. & G.S.

This matter comes before this Court by way of an application for post-conviction relief filed November 4, 2010.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. Applicant was true bill indicted at the October 1996 term of the Richland County Grand Jury for Murder (1996-GS-40-17046). She was represented by Teresa Johns, Esquire, on the charge. On March 19, 1998, Applicant proceeded to jury trial before The Honorable Paul E. Short, Jr., where she was found guilty but mentally ill of Murder. She was sentenced to life imprisonment without the possibility of parole.

A Notice of Appeal was filed and an appeal was perfected. After the submission of briefs and oral argument into the matter, the South Carolina Supreme Court affirmed Applicant's conviction and sentence. State v. Tyler, Op. No. 25423 (S.C. filed March 4, 2002).

SCANNED

Thereafter, Applicant filed an application for Post-Conviction Relief (PCR) on May 6, 2002 (2002-GS-40-02253). She was represented by Charlie Jay Johnson, Jr., Esquire, in the matter. The State made its Return to the application on June 20, 2003. In it, she alleged the following:

1. Trial judge denied the rights to due process of law;
2. Perjury;
3. Prosecution misconduct - conceal order to examine deceased;
4. Fraud; and
5. Attorney failed to ask for mistrial, failed to submit scientific proof of autopsy films.

After numerous letters and motion filings by Applicant, the matter proceeded to evidentiary hearing and was later denied by The Honorable Allison Renee Lee by order filed July 3, 2006. A Notice of Appeal was filed on Applicant's behalf and a Petition for Writ of Certiorari was submitted. Following the State's Return to the Petition, the South Carolina Supreme Court denied the appeal on February 6, 2008. The Remittitur was issued on or about February 26, 2008.

In the current application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reason:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
(a) Actually INNOCENCE, TRIAL Judge P.C.R. failed to Act (SUA-SPONTE)
(b) PREJUDICE, TRIAL Judge P.E. Short, M. decied Sup. Ct. Appeal
(c) Denied Rights to A Fair P.C.R. hearing, Atty. did not call An witness Judge Paul E Short M. was my sentencing Judge: Reversable Error.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) I did not Kill (Ali) I was placed on the witness stand with Psy's. Exam.

(b) Judge Shad jr. heard R.C.R. case on APPEAL IN SUP.CT. Support the P.C.R

(c) Defense Atty. did not call any witness on my behalf, and failed to produce an arguable Defense and defined MENTAL illness told, Judge Allison Reneelee, that mental illness was unfounded in his opinion. I was not aware of my court date... Again, there is NO SCIENTIFIC Proof to show the body being : (AUTOPSY) of YAN TY LEM JR. Ineffective Assistance of APPELLATE Defense Atty.. Prejudice because Judge P.H. Shad jr. was sentencing Judge, as miscarriage of Justice and Prejudice

In making its decision, the Court had before it the available records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, and the *Respondent's Return and Motion to Dismiss.*

Findings of Fact and Conclusions of Law

Timeliness – S.C. Code §17-27-45(a)

This Court agrees with the Respondent that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C.

468, 469 S.E.2d 606 (1996). For the purposes of this Order, the Applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later. Applicant's direct appeal was resolved on March 4, 2002, and remitted shortly thereafter. **This Application was filed on November 4, 2010, several years after the statutory filing period had expired.**

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court shall summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

SUCCESSIVE

This PCR application is also successive to Applicant's previous 2002 PCR action. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground

> for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised the new grounds for relief in her prior post-conviction relief application. The Applicant has failed to present any reasons why she could not have raised the current allegations in his previous post-conviction relief applications. Once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of prior PCR counsel. (Aice v. State, 409 S.E.2d 392 (1991). Even a belated direct appeal claim is subject to limitations. Graham v. State, 378 S.C. 1, 661 S.E.2d 337 (2008)(Petitioner was barred from raising in successive post-conviction relief (PCR) application claim that he was

denied the right to direct appeal due to the ineffective assistance of counsel, where claim could have been raised in first PCR application).

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted thirty (30) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Assistant Attorney General
Robert D. Corney
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 13 day of April, 2012.

The Honorable James R. Barber, III
Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Linda Tyler
☒ Plaintiff

v.

State Of South Carolina
☒ Defendant.

CASE NO.
2010-CP-40-7794

MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
Linda Tyler, Bar No. Address: Leath CI 2809 Airport Road Greenwood, S C 29649 phone: fax: e-mail: other:	Robert D. Corney, Bar No. Address: Post Office Box 11549 Columbia, South Carolina 29211 phone: 803-734-3737 fax: 803-734-[illegible] e-mail: rcorney@scag.gov other:

RICHLAND COUNTY FILED
2012 APR 16 AM 9:04
JEANETTE W. McBRIDE C.C.P. & G.S.

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☒ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant — April 12, 2012 Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT:
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	_____ JUDGE CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

SCCA/233 (11-03)

SCANNED

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
	)	**2010-CP-40-07794**
Linda Tyler, #248190, Applicant, v. State of South Carolina, Respondent.	)	CONDITIONAL ORDER OF DISMISSAL

This matter comes before this Court by way of an application for post-conviction relief filed November 4, 2010.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. Applicant was true bill indicted at the October 1996 term of the Richland County Grand Jury for Murder (1996-GS-40-17046). She was represented by Teresa Johns, Esquire, on the charge. On March 19, 1998, Applicant proceeded to jury trial before The Honorable Paul E. Short, Jr., where she was found guilty but mentally ill of Murder. She was sentenced to life imprisonment without the possibility of parole.

A Notice of Appeal was filed and an appeal was perfected. After the submission of briefs and oral argument into the matter, the South Carolina Supreme Court affirmed Applicant's conviction and sentence. State v. Tyler, Op. No. 25423 (S.C. filed March 4, 2002).

Thereafter, Applicant filed an application for Post-Conviction Relief (PCR) on May 6, 2002 (2002-GS-40-02253). She was represented by Charlie Jay Johnson, Jr., Esquire, in the matter. The State made its Return to the application on June 20, 2003. In it, she alleged the following:

1. Trial judge denied the rights to due process of law;
2. Perjury;
3. Prosecution misconduct - conceal order to examine deceased;
4. Fraud; and
5. Attorney failed to ask for mistrial, failed to submit scientific proof of autopsy films.

After numerous letters and motion filings by Applicant, the matter proceeded to evidentiary hearing and was later denied by The Honorable Allison Renee Lee by order filed July 3, 2006. A Notice of Appeal was filed on Applicant's behalf and a Petition for Writ of Certiorari was submitted. Following the State's Return to the Petition, the South Carolina Supreme Court denied the appeal on February 6, 2008. The Remittitur was issued on or about February 26, 2008.

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   (b) Prejudice, TRIAL Judge P.E. Shorty. decied Sup.Ct. Appeal
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(b) Judge Shuler heard P.C.R. case on Appeal in Sup.Ct. support the P.C.R

(c) Defense Atty. did not call any witness on my behalf, and failed to produce an arguable Defense and defined Mental illness told, Judge Allison Renee Lee, that mental illness was unfounded in his opinion. I was not aware of my court date... Again, there is no scientific Proof to show the body being 2 (Autopsy) of Van Tyler & Ineffective Assistance of Appellate Defense Atty.. Prejudice because Judge P.C. Shuler Jr. was sentencing Judge. Its miscarriage to Justice and Prejudice

In making its decision, the Court had before it the available records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, and the *Respondent's Return and Motion to Dismiss.*

Findings of Fact and Conclusions of Law

Timeliness – S.C. Code §17-27-45(a)

This Court agrees with the Respondent that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

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468, 469 S.E.2d 606 (1996). For the purposes of this Order, the Applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later. Applicant's direct appeal was resolved on March 4, 2002, and remitted shortly thereafter. **This Application was filed on November 4, 2010, several years after the statutory filing period had expired.**

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The Applicant could have raised the new grounds for relief in her prior post-conviction relief application. The Applicant has failed to present any reasons why she could not have raised the current allegations in his previous post-conviction relief applications. Once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of prior PCR counsel. (Aice v. State, 409 S.E.2d 392 (1991). Even a belated direct appeal claim is subject to limitations. Graham v. State, 378 S.C. 1, 661 S.E.2d 337 (2008)(Petitioner was barred from raising in successive post-conviction relief (PCR) application claim that he was

denied the right to direct appeal due to the ineffective assistance of counsel, where claim could have been raised in first PCR application).

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted thirty (30) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Assistant Attorney General
Robert D. Corney
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this ____ day of _____, 2012.

_____
The Honorable James R. Barber, III
Administrative Judge
Fifth Judicial Circuit

_____, South Carolina

ALAN WILSON
ATTORNEY GENERAL

RECA
APR 27 2
GENERAL COUNSEL

April 25, 2012

Christina Kellett, Esquire
South Carolina Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221-1787

RE: Linda A. Tyler, 248190 v. State of South Carolina CGGCI
2010-CP-40-7794
~~Aubrey V. Moton, 16478-171 v. State of South Carolina~~ not ours
~~2011-CP-40-0225~~

Dear Ms. Kellett:

Enclosed please find the Conditional Orders of Dismissals dated April 12, 13, 2012, dismissing the post-conviction relief application without a hearing in the above referenced cases signed by the Honorable James R. Barber. Please serve inmates Linda A. Tyler, #248190 and Aubrey V. Moton, #16478-171 with the orders and provide our office with an affidavit of service so that we may prepare a final order concluding the cases. If you have any questions, please feel free to call: 803-734-5178.

Sincerely,

Robert D. Corney
Assistant Attorney General

Cc Honorable Jeanette McBride
Richland County Clerk of Court

Enclosure(s)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
TYLER Linda A - # 00248190,	)	**2010CP4007794**
	)	
Applicant,	)	
	)	
v.	)	**RETURN AND MOTION TO DISMISS**
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed November 4, 2010 the Respondent would show the following.[1]

I.

The Applicant is presently confined at Leath Correctional Institution. The PCR application is based on orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted and/or convicted of the following: Murder – 96-GS-40-17046. The Applicant was represented by attorney Teresa N Johns. The Applicant was sentenced on March 19, 1998 by The Honorable Paul E. Short, Jr.. The Remittitur date for the Applicant's direct appeal was N/A.[2]

---

1 http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2010CP4007794&CourtType=G&CaseType=Civil&CourtAgency=40002

2 The Respondent reserves the right to amend the motion if additional relevant procedural history is found, such as more specific direct appeal information.

Attached herewith and/or incorporated via the readily available Clerk of Court records are the records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

According to the South Carolina Department of Corrections, the Applicant is serving the following sentence:

Offender Type Adult-straight Sentence Offense Murder Sentence Start Date 09/26/1996 Sentence Length LIFE SENTENCE Admission Date 03/25/1998 Committing County Richland Location Graham Corr Inst Projected Release Date Not Eligible Projected Parole Date Not Eligible Supervised Furlough Eligibility Not Eligible Sex Offender Registry No

https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00248190

II.

Timeliness – S.C. Code §17-27-45(a)

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

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A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act. *See also*, Rule 243(c), SCACR:

> (c) Explanation Required. If the lower court has determined that the post-conviction relief action is barred as successive or being untimely under the statute of limitations, the petitioner must, at the time the notice of appeal is filed, provide an explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. If the petitioner fails to make a sufficient showing, the notice of appeal may be dismissed.

SUCCESSIVE

The Respondent submits that it appears that this PCR application is also possibly successive. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised the new grounds for relief in his prior post-conviction relief application. The Applicant has failed to present any reasons

why he could not have raised the current allegations in his previous post-conviction relief applications. Once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of prior PCR counsel. (Aice v. State, 409 S.E.2d 392 (1991). Even a belated direct appeal claim is subject to limitations. Graham v. State, 378 S.C. 1, 661 S.E.2d 337 (2008)(Petitioner was barred from raising in successive post-conviction relief (PCR) application claim that he was denied the right to direct appeal due to the ineffective assistance of counsel, where claim could have been raised in first PCR application).

APPEAL -
CASE - Dk. 1216345
CASE 311-2010 34th C.C.
2008 - 2608134
2605134
Probation Revoked W-ND-1216346
16-13-1010(B)(3) 9427
March 11th 2010 Sentence

Atty, James C. Coleman
Hellam Jan 7th 2011

Tom Pratt (Paid Atty Probation
Atty. absent, appear with a
Substitute Prisc, Atty, Public D.
Instead...

III.

As a general matter, the Respondent notes that a high bar exists to obtain post-conviction relief.

> The writ of habeas corpus stands as a safeguard against imprisonment of those held in violation of the law. Judges must be vigilant and independent in reviewing petitions for the writ, a commitment that entails substantial judicial resources. Those resources are diminished and misspent, however, and confidence in the writ and the law it vindicates undermined, if there is judicial disregard for the sound and established principles that inform its proper issuance.

Harrington v. Richter, 09-587, 2011 WL 148587 (U.S. Jan. 19, 2011)

See also, State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

> The State must overcome many hurdles before an accused person is punished:
>
> (1) the magistrate may refuse to issue a warrant;
>
> (2) the magistrate may dismiss a case after a preliminary hearing;
>
> (3) a grand jury may refuse to indict;
>
> (4) the solicitor may nolle pross;
>
> (5) the trial judge may direct a verdict;

(6) a petit jury may refuse to convict if only one juror has a reasonable doubt;

(7) the judge may set the verdict aside notwithstanding a verdict of the jury;

(8) the appellate court may reverse the conviction.

If the accused person can prevail at any one of these stages of a proceeding, he goes free and is unpunished. On the other hand, the State must prevail at each of the eight stages before punishment is inflicted.

In addition to these many protections, the accused now has the right of application for post-conviction relief upon a proper showing. In almost any case a convicted person, given time for research, can come up with some sort of theory ostensibly warranting a new trial.

.....

Most of what Mr. Justice Harlan said in his separate opinion in Mackey v. United States, 401 U.S. 667, 91 S.Ct. 1160, 1179, 28 L.Ed.2d 404 (1971), with respect to collateral relief from a criminal conviction, is applicable here:

"Finality in the criminal law is an end which must always be kept in plain view. . . . At some point, the criminal process, if it is to function at all, must turn its attention from whether a man ought properly to be incarcerated to how he is to be treated once convicted. If law, criminal or otherwise, is worth having and enforcing, it must at some time provide a definitive answer to the question litigants present or else it never provides an answer at all. Surely it is an unpleasant task to strip a man of his freedom and subject him to institutional restraints. But this does not mean that in so doing, we should always be halting or tentative. No one, not criminal defendants, not the judicial system, not society as a whole is benefited by a judgment providing a man shall tentatively go to

jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation on issues already resolved.

A rule of law that fails to take account of these finality interests would do more than subvert the criminal process itself. It would also seriously distort the very limited resources society has allocated to the criminal process. While men languish in jail, not uncommonly for over a year, awaiting a first trial on their guilt or innocence, it is not easy to justify expending substantial quantities of the time and energies of judges, prosecutors, and defense lawyers litigating the validity under present law of criminal convictions that were perfectly free from error when made final. (citation omitted) This drain on society's resources is compounded by the fact that issuance of the habeas writ compels a State that wishes to continue enforcing its laws against the successful petitioner to relitigate facts buried in the remote past through presentation of witnesses whose memories of the relevant events often have dimmed. This very act of trying stale facts may well, ironically, produce a second trial no more reliable as a matter of getting at the truth than the first."

Anderson v. Leeke, 271 S.C. 435, 440-42, 248 S.E.2d 120, 123 (1978).

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

IV.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired and for any other reasons as explained above.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:

Attorneys for the Respondents

September 22, 2011

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
TYLER Linda A - # 00248190,	)	**2010CP4007794**
	)	
Applicant,	)	
	)	
v.	)	**CERTIFICATE OF SERVICE**
	)	
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 a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

TYLER Linda A, #248190
Leath Correctional Institution
2809 Airport Road
Greenwood, SC 29649

DATED September 27, 2011.

Jean R. Indriago
Legal Assistant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
TYLER Linda A - # 00248190,	)	**2010CP4007794**
Applicant,	)	
v.	)	**RETURN AND MOTION TO DISMISS**
State of South Carolina,	)	
Respondent.	)	

FILED
2011 SEP 28 AM 9:59
JEANETTE W. McBRIDE
C.C.P. & G.S.

In response to the post-conviction relief application filed November 4, 2010 the Respondent would show the following.[1]

I.

The Applicant is presently confined at Leath Correctional Institution. The PCR application is based on orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted and/or convicted of the following: Murder – 96-GS-40-17046. The Applicant was represented by attorney Teresa N Johns. The Applicant was sentenced on March 19, 1998 by The Honorable Paul E. Short, Jr.. The Remittitur date for the Applicant's direct appeal was N/A.[2]

---

1 http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2010CP4007794&CourtType=G&CaseType=Civil&CourtAgency=40002

2 The Respondent reserves the right to amend the motion if additional relevant procedural history is found, such as more specific direct appeal information.

Attached herewith and/or incorporated via the readily available Clerk of Court records are the records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

According to the South Carolina Department of Corrections, the Applicant is serving the following sentence:

Offender Type Adult-straight Sentence Offense Murder Sentence Start Date 09/26/1996 Sentence Length LIFE SENTENCE Admission Date 03/25/1998 Committing County Richland Location Graham Corr Inst Projected Release Date Not Eligible Projected Parole Date Not Eligible Supervised Furlough Eligibility Not Eligible Sex Offender Registry No

https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00248190

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Timeliness – S.C. Code §17-27-45(a)

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24

ALAN WILSON
ATTORNEY GENERAL

FILED
2011 SEP 28 AM 9:59
JEANETTE W. McBRIDE
C.C.P. & G.S.

Thursday, September 22, 2011

Clerk of Court - Richland County
Jeanette W. McBride
PO Box 2766
1701 Main Street, Room 205
Columbia, SC 29202

Re: PCR (2010CP4007794) - TYLER Linda A, 00248190 v. State

Richland County Clerk of Court:

Enclosed for filing is the State's Return and Motion to Dismiss in the PCR matter for:
TYLER Linda A, 2010CP4007794 v. State
(2010CP4007794).

Thank you for all of your assistance in this matter,

Brian T. Petrano
Assistant Attorney General
bpetrano@scag.gov

Enc.
cc. (Pro Se Applicant)
TYLER Linda A, #248190
Leath Correctional Institution
2809 Airport Road
Greenwood, SC 29649

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND TYLER Linda A, 00248190 Plaintiff, vs. State Defendant.	)	IN THE COURT OF COMMON PLEAS 5th JUDICIAL CIRCUIT CASE NO.: 2010CP4007794 MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney: (Pro Se Applicant) TYLER Linda A, #248190 Leath Correctional Institution 2809 Airport Road Greenwood, SC 29649	Defendant's Attorney: Brian T. Petrano, Bar No. 74244 Address: PO BOX 11549 Phone: 803-734-3737 Fax803-253-6283 E-mail: bpetrano@scag.gov

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II)
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

FILED
2011 SEP 28 AM 9:59
JEANETTE W. McBRIDE
C.C.P. & G.S.

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: ___ Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff /☒ Defendant — 9/22/2011 Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $_____
☒ EXEMPT:
(check reason)
w Cause in Child or Spousal Support
buse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:

JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE Date:

CLERK'S VERIFICATION

Collected by:___ Date Filed:
☐ MOTION FEE COLLECTED: $
☐ CONTESTED – AMOUNT DUE: $

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable Paul E. Short, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

LINDA TYLER,

Appellant.

FINAL BRIEF OF RESPONDENT

CHARLES M. CONDON
Attorney General

JOHN W. McINTOSH
Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

DERRICK K. McFARLAND
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ATTORNEYS FOR RESPONDENT.

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. The lower court erred in allowing appellant's confession into evidence at trial.

2. The lower court erred in denying appellant's request for an involuntary manslaughter charge.

3. The lower court erred in denying appellant's directed verdict and new trial motions because appellant's actions did not result in the proximate cause of her husband's death.

4. The lower court erred in ruling that appellant was mentally competent to stand trial.

5. The lower court erred in making an improper analogy between the offenses of aggravated assault and voluntary manslaughter during the jury charge.

STATEMENT OF THE CASE

On October 16, 1996, the Court of General Sessions for Richland County indicted the Appellant, Linda Tyler, for murder. The charges arose from an incident on September 26, 1996, when Van Tyler was set afire by Appellant and died as a result.

On March 16-19, 1998, the Appellant was tried by a jury before the Honorable Paul Short, Presiding Judge. She was represented at trial by Christa Bell, Esq. and Teresa Johns, Esq. The State was represented by Stacey D. Haynes and Don Sorenson of the Richland County Solicitor's office. The jury returned a guilty but mentally ill verdict on the charge. She was sentenced to life imprisonment without the possibility of parole. This appeal follows.

STATEMENT OF THE FACTS

On September 26, 1996, Van Tyler and his wife, Linda Tyler were in their car, in the midst of traffic. Unbeknownst to Mr. Tyler, who was driving, Linda Tyler had with her a soda bottle containing gasoline and a lighter. (R. pp. 441-442). The previous night, Ms. Tyler had discovered her husband and a neighbor were having an affair and that the neighbor was pregnant. (R. pp. 400-402). According to Ms. Tyler she wanted to "see him burn. I wanted him to hurt like he hurt me." (R. p. 78).

While stopped at an intersection Ms. Tyler poured the gasoline on her husband, lit the cigarette lighter and bailed out of the automobile. (R. p. 77; pp. 143-144). The car rolled to a stop with Van Tyler, trapped and on fire, inside. Linda Tyler indicated to bystanders that her husband was in the car, but had escaped. (R. p. 127; p. 155).

After looking in the burning car it became apparent to onlookers that Van Tyler was still in the car. Two men raced to free Tyler from the car. They were successful, however one of the rescuers testified that "his shoes were melting . . . he had no lips. Looked like he didn't have anything holding his eyes in. His ears and hair was gone. Like I said, just his skin just . . . fell to the ground. (R. pp. 139-141).

Van Tyler was taken by EMS to Richland Memorial Hospital with second and third degree burns to his face, front torso, arms and back. While en route to the hospital, Tyler informed personnel that Linda Tyler had poured gas on him and set him on fire. (R. pp. 213-215). Appellant was sent from Richland Memorial Hospital to the Augusta Medical Burn Center where he died the following day. (R. p. 298).

Immediately after the crime Ms. Tyler (Appellant) was taken to the Columbia City Police Department. While there she confessed to setting her husband on fire. (R. pp. 248-261).

ARGUMENT

I.

The trial judge properly found that the Appellant's September 26, 1996 statement was admissible where she freely and voluntarily waived her rights under Miranda after her arrest and was lucid and rational throughout the statement.

In her initial argument, Appellant claims that her September 26, 1996 statement should have been suppressed by the trial judge. More particularly, she claims that because she was suffering under a mental illness and was subjected to coercive police conduct, the trial judge erred in admitting the statement. The record reveals that Appellant, was lucid and rational and in full control of her faculties when she was advised and waived her Miranda rights. The trial judge, in denying the motion to suppress, concluded that appropriate Miranda warnings were given, that they were waived by the Appellant, and that the statements were the "voluntary product of the free will of the defendant." (R. pp. 117-119). Respondents submit that the trial judge did not abuse his discretion in admitting the statement.

A. Standard of Review on Appeal of Admission of Statement.

On appeal, the conclusion of the trial judge on issues of fact as to the voluntariness of a statement will not be disturbed unless so manifestly erroneous as to show an abuse of discretion. State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990); State v Kennedy, 333 S.C. 425, 510 S.E.2d 714 (1998); State v. Livingston, 223 S.C. 1, 73 S.E.2d 850 (1952).

A waiver of Miranda rights is determined from the totality of the circumstances. State v. Moultrie, 273 S.C. 60, 254 S.E.2d 294 (1979). Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). The trial judge's determination of whether a statement was knowingly, intelligently, and voluntarily made, requires an examination of "the totality of the circumstances" surrounding the waiver. State v. Doby, 273 S.C. 704, 258 S.E.2d 896 (1979). An express waiver is

unnecessary to support a finding that the defendant has waived the right to remain silent or the right to counsel guaranteed by Miranda. North Carolina v. Butler, 441 U.S. 369, 99 S.Ct. 1755, 60 L.Ed.2d 286 (1979). Statements elicited during interrogation are admissible if the prosecution can establish that the suspect "knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel." Miranda, 384 U.S. at 475, 86 S.Ct. at 1628.

If a defendant, as here, "was advised of his Miranda rights, but nevertheless chose to make a statement, the burden is on the State to prove by a preponderance of the evidence that his rights were voluntarily waived." State v. Neeley, 271 S.C. 33, 40, 244 S.E.2d 522, 526 (1978). Once a voluntary waiver of the Miranda rights is made, that waiver continues until the individual being questioned indicates that he wants to revoke the waiver and remain silent or circumstances exist which establish that his "will has been overborne and his capacity for self-determination critically impaired." Moultrie, S.C. at 62, S.E.2d at 294 (1979). Further, the confession may not be "extracted by any sort of threats or violence, [or] obtained by any direct or implied promises, however slight, [or] by the exertion of improper influence." Hutto v. Ross, 429 U.S. 28, 30, 97 S.Ct. 202, 203, 50 L.Ed.2d 194, 197 (1976) (brackets in original). A statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise. State v. Peake, 291 S.C. 138, 352 S.E.2d 487 (1987).

Absent coercive police conduct causally related to a confession, there is no basis for finding a confession constitutionally involuntary. A defendant's mental condition in and of itself does not render a statement involuntary in violation of due process. Colorado v. Connelly, 479 U.S. 157, 107 S.Ct. 515, 93 L.Ed.2d 473 (1986). Further, under State law, a confession is not inadmissible because of mental deficiency alone. State v Hughes, 336 S.C. 585, 521 S.E.2d 500 (1999); State v. Doby,

supra. In this case, as in Hughes, the statements in question were spontaneously made and there is no evidence of police coercion.

B. The Jackson v. Denno Hearing

Investigator Joe Gray of the Columbia City Police Department testified that Appellant was Mirandized at 11:40 a.m. at the Columbia Police Department. (R. pp. 69-71). Initially, Appellant signed a waiver of rights form and gave an oral statement indicating that she did not know how the car fire began. After being informed by Investigator Gray that her husband told EMS workers that she had set him ablaze, Appellant orally confessed to setting her husband on fire. (R. pp. 72-74).

Gray further testified that after Appellant's oral confession, he took a written statement from Appellant which reads as follows:

Q. How long have you known Van?

A. About 20 years. We've been married for four.

Q. Were you and Van living together?

A. Yes, except when he was sleeping with his other women.

Q. How many women was he sleeping with?

A. Two — No, three people in the neighborhood. He was trading crack and heroine for sex, too. I just found that out recently.

Q. When did you find out he was having sex with these women?

A. I found out about the last girl last night. It was a neighbor, Jackie, that lives in Saxon Homes. She told me she was two weeks pregnant by Van.

Q. How did you feel towards Van after finding that out?

A. I love my husband. I did so much for him. I took him drugs while he was in prison, and I would pay people to take him marijuana.

Q. Did you feel you were being taken advantage of?

A. Yes.

Q. Is that why you poured the gas on Van Tyler?

A. Yes. I had the gas in a Pepsi bottle in the car. I didn't say anything to him. I just poured it on top of his head, and I used my cigarette lighter to light him up.

Q. Did Van say anything?

A. Afterwards, I was on the ground with him. He said I didn't have to do it like that.

Q. Is there anything else you wish to add to this statement?

A. Nothing, except that I love my husband.

Q. Where did you get the gas?

A. I got it from Kahli — the Shell station on Two Notch. Kahli said Van had told him about the woman last night.

Q. Is it because of what Kahli told you that you bought the gasoline?

A. No, I already made up my mind what I was going to do.

Q. What was your plan?

A. To see him burn. I wanted him to hurt like he hurt me.

Q. Do you want to add anything else?

A. No, just like I love my husband. I'm sorry it happened.

(R. pp. 77-78).

According to Gray, Appellant was not upset and was alert. (R. pp. 83-84). Gray also declared he made no promises or threats, did not deny Appellant bodily comforts and did not coerce her in any way. (R. p. 80). He concluded that Appellant indicated she understood her Miranda rights, and never asked for an attorney. (R. p. 81; pp. 84-85).

Dr. Thomas Behrmann testified that he evaluated Appellant pursuant to a court order on December 6, 1996. Dr. Behrmann found Appellant to be cooperative. Based on that evaluation, he opined that Appellant: understood the nature of the charges against her; was competent to stand trial at that time; was criminally responsible for the charges against her at the time of the offense; was not insane at the time of the offense; and possessed the capacity to conform her conduct to the requirements of the law.

Dr. Behrmann re-examined Appellant on January 29, 1998 and found that she possessed the ability to knowingly waive her right to an attorney. (R. pp. 52-53).

The defense presented the testimony of Dr. Donna Schwartz-Watts. Dr. Schwartz-Watts opined that Appellant had a borderline intellectual functioning and suffered from paranoid personality disorder. (R. pp. 107-108). According to Dr. Schwartz-Watts, Appellant may have been experiencing a psychotic symptom at the time of the confession, and her paranoid personality coupled with her borderline intellectual functioning could have impaired her ability to voluntarily give a confession. (R. p. 111). On cross-examination, Dr. Schwartz-Watts indicated she first examined Appellant over one year after the crime and could not say whether she was paranoid at the time she committed the crime. (R. p. 112).

Appellant also testified on cross-examination that she signed the waiver of rights form and was told about her Miranda rights. She further stated she wanted to talk to Investigator Gray, and the words attributed to her in the written statement were accurate. (R. pp. 101-106).

Respondents submit that Judge Short properly admitted the statement of September 26, 1996 where the evidence is uncontradicted that on that date Appellant was timely advised of her Miranda rights, including her right to counsel and right to silence, and waived those rights and proceeded to discuss her recollection of the events surrounding the crime. The Appellant seeks to undermine this

evidence by suggesting that she was psychotic at the time of the statement, yet at the Jackson v. Denno hearing there was no evidence presented that she was psychotic on September 26, 1996 when the statement was entered.

The state presented an abundance of evidence that Appellant voluntarily and knowingly waived her rights. First, there is no question that she was advised of her Miranda rights. At that time Appellant indicated to Gray that she understood them. Contrary to her assertions, there is no evidence that Appellant was threatened or coerced in any manner to waive her rights.

Second, the evidence is uncontradicted that throughout the confession, Appellant presented herself in a rational manner. Investigator Gray found she was aware of what was going on, made sense, and was not upset.

In summary, Respondents assert that the trial court properly denied the motion to suppress and concluded the state had satisfied its burden that the September 26, 1996 statement was freely and voluntarily made after her Miranda rights were waived. Her initial allegation must be dismissed.

the option of deliberating on whether she unintentionally killed her husband via her negligent or reckless actions which stemmed from her mental illness. One may not be convicted of a criminal offense without proof of the criminal intent or mental state required for that offense. State v. Ferguson, 395 S.E.2d 182 (1990).

Appellant's absence of malice/intent was clearly apparent from the evidence adduced at trial. For example, appellant stated that she did not intend to kill her husband when she set him on fire. ROA 428 lines 4-6. Appellant stated that the voices she heard told her to put the gasoline in a bottle, to douse her husband with the gasoline, and to set him on fire with the lighter. Appellant added that she didn't realize what was happening at the time. ROA 411, l. 17 – p. 415, l. 16.

Appellant's account was consistent with several doctors' diagnoses of her mental state. Dr. Steven Shea testified that he conducted a psychological evaluation of appellant and found that she had borderline intelligence (reading on a fifth grade level). ROA 459, l. 2 – p. 465, l. 11. Dr. Donna Schwartz–Watts, a forensic psychologist, who first saw appellant in December, 1997, testified that appellant suffered from a major mental illness in the forms of bipolar disorder and paranoid ideation; and that she was delusional, suicidal, and had borderline intellectual functioning and auditory hallucinations. Dr. Watts described appellant as explosive (especially when she would see shadows over people's mouths), irrational, suicidal, and having poor impulse control and a low frustration tolerance. Dr. Watts found appellant to be delusional and to misperceive people. Appellant had been medicated since adolescence and had been on Prolixin since her incarceration to organize her thinking and decrease her paranoia. For example,

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not signal that a verdict for the lessor offense of manslaughter could not have been found, which meant the

appellant kept requesting truth serum. Also, appellant believed her younger daughter was molested and no medical findings supported this belief. Appellant also had a substance abuse problem. In the 1970's, appellant was treated for hallucinations with an antipsychotic drug. In June 1996, appellant was suicidal. At the time of trial, appellant was on Prolixin. Dr. Watts concluded that appellant was not competent on the day the crime was committed. ROA 469, l. 19 – p. 488, l. 1; ROA 498, l. 9 – p. 507, l. 25.

Dr. Thomas Berham testified that he diagnosed appellant as having paranoid personality disorder. Berhman stated that appellant was psychotic and suicidal and required medication. Appellant was medicated with Prolixin, an anti–psychotic drug, through out her incarceration. ROA 510, l. 8 – p. 521, l. 9; ROA 528, l. 8 – p. 541, l. 5.

Appellant explained her life to the jury. ROA 353. Appellant testified that she was put on medication at age 13. While growing up she was molested by her stepfather and brother, and during that time she would see shadows of people's mouths and always become hysterical over it. Appellant stated that she left home at age 16 to escape and subsequently become a prostitute. At age 19, appellant met her husband, who was her pimp. ROA 354, l. 1 – p. 359, l. 11. Appellant's first husband beat her so she divorced him in 1989 after four years of marriage. While in prison, she met her second husband and they married in 1992. Appellant was medicated in prison. ROA 359, l. 17 – p. 371, l. 19. When appellant's husband was released from prison in 1996, the physical abuse (husband beat her) and incessant infidelity began. ROA 373, l. 17 – 25; ROA 377, l. 4 – p. 389, l. 24; ROA 428, l. 23 – p. 429, l. 25. Appellant also acknowledged that she had been suicidal over her lifetime and admitted to hearing two people talking (one loud

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failure to charge manslaughter when appropriate, is not harmless error.

voice, one soft voice), for the past fifteen years. Appellant explained that her husband's unfaithfulness included heterosexual and homosexual encounters, and that one of his liaisons with another woman resulted in a pregnancy. ROA 398, l. 7 – p. 405, l. 4; ROA 412, lines 7-12; ROA 414, lines 13-16; ROA 415, lines 9 – 16; ROA 423, lines 23-25; ROA 430, l. 5 – p. 431, l. 5.

On the day in question, appellant described what happened as follows:

> QUESTION: Did you have any more discussions about the occurrence that happened the night before with Jackie?
>
> ANSWER: No, Ma'am. When we got to the filling station I was pumping the gas, and he leaned out the door and asked me how much gas did I put. I told him $6.00 and change, and he told me, no. He said, fill it up to $10.00, because he put a few more dollars with it, three more dollars with some change with it, and I said okay. So, when he was pumping the gas that's when them voices told me to get that gas and put that gas in that bottle, and so, when he had came to the door I had jumped and had wasted it on my shoes, and so, I hurried up and put the top on the thing and throw the bottle in a bag of clothes that I had in the back seat. So, them voices told me to go in and buy me a cigarette lighter, and see, I – –
>
> QUESTION: I can't hear you.
>
> ANSWER: I said them voices had told me to go and get a cigarette lighter because I don't know how to work a safety thing because I don't smoke cigarettes, and it's got a child proof thing on it, and so, I went and asked the brother do he sell cigarette lighters and he told me yeah, and I tell him – – –
>
> QUESTION: Who? Which brother?
>
> ANSWER: Brother Abdul (phonetically).
>
> QUESTION: You're talking about the shell station?
>
> ANSWER: Yeah.
>
> QUESTION: You bought one there?

ANSWER: Yes, Ma'am, and I asked him to show me how to work the cigarette lighter, and he showed me how to make it go up real high, and how to make it go real low, and how to take the child proof safety thing off of it, and I said, okay. So, I went in the bathroom and I changed my clothes because the gasoline had wasted on my shoe and I wanted to take the thing off because I didn't want him to smell the gas. So, we went on back into the car. I asked him could I sit in the back and he told me, no, sit in the front, because he knew I was in the mood to hit him, and I said, what – – –

QUESTION: He said what?

ANSWER: He said, no, he wanted me to sit in the front, because he knew I was in a mood to hit him, like a warrior, you know, one that's real strong, and one will fight.

QUESTION: He knows that you would hit him?

ANSWER: Yes, Ma'am. So we – – –

QUESTION: And you were like a warrior?

ANSWER: Yes, Ma'am. So he told me – – – that's what he said. So, he told me, no, to get in the front seat. So I got in the front seat and we drove to his job and he got his orders and signed them, and so I told him, I said, Ali, I said, I want to stop back home, because that purple robe is a winter robe and I wanted to change my clothes because they was sweaty, and I said would you mind stopping by the house so I can change my clothes? And he said, no, just tear the lining out of it. So, I began to tear the lining out of it because he didn't want to stop by because he didn't want the woman, Jackie, to see him back in the car with me.

So, he turned off up on Oak Street and then went on around instead of going down Elmwood. He turned off on Elmwood and went on Oak Street. And so, we got up there by the Health Department and so, them voices say throw that gasoline on him, but see them voices had already told me when I first got in the car to hit him, and I said no, I wasn't going to hit Ali. See, I had a knife in the car, and then the voices had told me to cut Ali, and I said "No, I ain't going to cut Ali." I could have ran him over. I could have wrecked

> the car with me and him both. There's a whole lot of things I could have do to Ali, but I didn't do them because I was not going to listen to them voices, and I know the voices was telling me to do that to Ali.
>
> So, them voices told me to get the gasoline, and I got the gasoline and then it said go and ask that lady to give you a cup so you can act like you pretending that you drinking some coffee, and so, I went and asked the lady if she'd give me a styrofoam cup, I wanted to get me some water, and she gave me the cup, and I came into the car, and I had poured the gasoline in the cup, but I didn't know the gasoline would melt the styrofoam cup and it had melted. So, I poured the gasoline back in the bottle, and it had got on one of my garments, so I had to change my clothes again. I changed two times, and so, He said why do you keep changing your clothes? I said, well, all these gowns I got is hot, you know, because they were winter gowns. I was going to put them in the dry cleaners, and so, I put the bottle, I put the gasoline back in the bottle, and so we drove on. So, when I asked him would he stop by the house so I can change my clothes, he said, no, he didn't want to stop, to keep the hot dress on. So them voices said, I told you he wasn't going to stop, didn't I tell you he wasn't going to stop? And so after that, we drove on up by the Health Department, and them voices said throw the gasoline on him, and I said, No, I ain't going to do that, and it said, throw it on him, and I said, no, I ain't going to do that, and it said, throw it on him, and I said, no, I ain't going to do that, and it said, throw it on him. So, I held my breath and I unscrewed the top and poured the gasoline on his head and I lit him up and I jumped out the back, and the voice said "now run on across the street." So, I ran across the street and a man said hey, miss, said, your car on fire, and I said, uh-huh, and he said, is somebody in there? And I said, yes, my husband is in there. And I went on across the street to where the car had stopped because he had stopped the car.

ROA 411, line 15 – p. 416, line 6.

The defendant's mental state, whatever it may be at the time the crime is committed, is contained within the defendant's brain when he or she commits the act. State v. Fennell, 531 S.E.2d 512 (2000). In Fennell, the question was whether the

defendant's intent to kill the intended victim, who was killed, transferred to assault and battery with intent to kill against an unintended victim caught in the fracas.

Clearly, appellant was unable to formulate malice in her mentally ill brain at the time she set her husband on fire. Thus, the killing occurred without malice. In light of appellant's mental illness, it was apparent that she acted unintentionally or even recklessly (voices directing her, and paranoia guiding her irrational thoughts). Therefore, involuntary manslaughter (unintentional killing) was applicable and should have been charged in the case. To warrant a court's eliminating the offense of manslaughter, it should be clear that there was no evidence whatsoever tending to reduce the crime from murder to manslaughter. State v. Lowery, supra. There was ample evidence presented to warrant an involuntary manslaughter charge in the case. The law to be charged is determined from the evidence presented at trial. The lower court erred in denying appellant's request to issue an involuntary manslaughter charge in violation of the fourteenth amendment to the United States Constitution.

QUESTION III

The lower court erred in denying appellant's directed verdict and new trial motions because appellant's actions did not result in the proximate cause of her husband's death.

During the case for the defense, Dr. H.D. Peterson testified that the deceased's burns were not fatal and that it was the medical care received which led to his death. The deceased's cause of death was due to over–resuscitation, which led to too much fluid in his lungs. The deceased's cause of death was pulmonary edema from over-resuscitation. The cause of death was not rhabdomxolysis from the burns. ROA 558, l. 23 – p. 583, l. 19.

The burden rests upon the state to prove beyond a reasonable doubt that the unlawful act in which the accused was engaged was at least the proximate cause of the homicide. State v. Burris, 334 S.C. 256, 513 S.E.2d 104 (1999); State v. Goodson, 312 S.C. 278, 440 S.E.2d 370 (1994). And although negligent medical treatment would not relieve appellant of liability, (see State v. Matthews, 291 S.C. 339, 353 S.E.2d 444 (1986); nonetheless, a defendant is not responsible for an intervening independent cause that would not be foreseeable. See State v. Moore, 264 S.C. 356, 215 S.E.2d 208 (1975). Here, any negligence connected to the deceased's treatment for his burns would not have been a ground on which appellant could escape liability. However, an over–spill of fluid in the deceased's lungs, which was medical care **not connected** to the burn treatment, would constitute an independent intervening cause (unconnected to burn treatment) absolving appellant of any liability in the case.

The lower court erred in denying appellant's directed verdict and new trial motions in violation of the fourteenth amendment due process clause and article 1, §3 of the South Carolina State Constitution

QUESTION IV

The lower court erred in ruling that appellant was mentally competent to stand trial.

Prior to trial, a competency hearing was held pursuant to the defense's position that appellant was not competent to stand trial. ROA 8, lines 7–18. During the hearing, Dr. Berhman testified that he wrote up an evaluation on December 6, 1996, after examining appellant and found she was competent to stand trial. ROA 12, l. 12 – p. 13, l. 17. Dr. Berhman examined appellant pursuant to a court order dated December 15, 1997, and issued a court order dated January 29, 1998. Then, Berhman interviewed appellant on February 13, 1998, whereinafter she was sent to the Hall Institute and medicated after showing symptoms of auditory hallucinations and increased paranoid thought (paranoid personality disorder) in order to assist her attorney in her defense. ROA 15, l. 21 – p. 19, l. 19. Appellant was placed on Prolixin pending her trial and on the date of the trial. ROA 20, l. 3 – p. 21, l. 9. Dr. Behrman admitted that appellant suffered from psychosis (auditory hallucinations and paranoia) and that the medication helped her. ROA 23, l. 17 – p. 24, l. 25. Also, appellant had a hypoactive thyroid.

At the close of the hearing, the court ruled that appellant competent to testify. ROA 30, l. 24 – p. 31, l. 9. Note that a separate hearing was held on February 23, 1998, wherein the testimony again confirmed appellant's borderline intellectual functioning, low impulse control functioning, visual and auditory hallucinations, and the use of Prolixin and Progentin prior to trial and at trial. ROA 18 l. 21 – p. 24, l. 20.

The test for competency to stand trial is whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational

understanding and whether he has a rational, as well as factual, understanding of the proceedings against him. State v. Davis, 309 S.C. 326, 422 S.E.2d 133 (1992); Godinez v. Moran, 509 U.S. 389 (1993). In the case at bar, appellant had to be medicated at trial and prior to trial. Appellant had been in and out of Hall Institute on numerous occasions and examined for competency numerous times. Due process prohibits the conviction of a person who is mentally incompetent. Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992), citing to Bishop v. United States, 350 U.S. 961 (1956). Clearly, appellant was not competent to stand trial, and the trial judge erred in allowing her to do so in violation of due process under the fourteenth amendment due process clause and article 1, §3 of the South Carolina State Constitution.

QUESTION V

The lower court erred in making an improper analogy between the offenses of aggravated assault and voluntary manslaughter during the jury charge.

The defense objected to the trial judge's jury charge to the extent that the trial judge made an improper analogy between the offenses of aggravated assault and voluntary manslaughter. ROA 634, l. 11 – p. 635, l. 5. The jury charge in question follows:

> Assault and battery of a high and aggravated nature, ladies and gentlemen, contains all of the elements of voluntary manslaughter except the actual death of the person assaulted. So, before a defendant could be found guilty of assault and battery of a high and aggravated nature, the jury must be satisfied beyond a reasonable doubt that if the person assaulted had died as a result of the injury inflicted upon him by the defendant, the defendant would have been guilty of voluntary manslaughter.

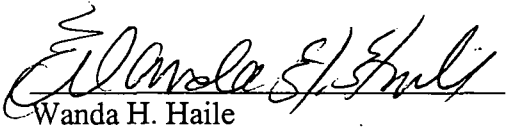
ROA 622, l. 21 – p. 623, l. 5.

This Court has discouraged the practice of comparing aggravated assault to manslaughter because it is confusing to jurors to import the heat of passion and legal provocation elements of voluntary manslaughter into an aggravated assault charge. State v. Fennell, ___ S.C. ___, 531 S.E.2d 512 (2000); State v. Foust, 325 S.C. 12, 479 S.E.2d 50 (1996); State v. Pilgrim, 320 S.C. 409, 465 S.E.2d 108 (Ct. App. 1995). The lower court erred in making an improper analogy between aggravated assault and voluntary during the jury charge.

CONCLUSION

Based on the foregoing argument, appellant's conviction and sentence should be reversed and her case remanded to the Richland County General Sessions Court for a new trial.

Respectfully submitted,



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This 29th day of August, 2001.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 210(b), SCACR.

August 29, 2001

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(6) a petit jury may refuse to convict if only one juror has a reasonable doubt;

(7) the judge may set the verdict aside notwithstanding a verdict of the jury;

(8) the appellate court may reverse the conviction.

If the accused person can prevail at any one of these stages of a proceeding, he goes free and is unpunished. On the other hand, the State must prevail at each of the eight stages before punishment is inflicted.

In addition to these many protections, the accused now has the right of application for post-conviction relief upon a proper showing. In almost any case a convicted person, given time for research, can come up with some sort of theory ostensibly warranting a new trial.

.....

Most of what Mr. Justice Harlan said in his separate opinion in Mackey v. United States, 401 U.S. 667, 91 S.Ct. 1160, 1179, 28 L.Ed.2d 404 (1971), with respect to collateral relief from a criminal conviction, is applicable here:

"Finality in the criminal law is an end which must always be kept in plain view. . . . At some point, the criminal process, if it is to function at all, must turn its attention from whether a man ought properly to be incarcerated to how he is to be treated once convicted. If law, criminal or otherwise, is worth having and enforcing, it must at some time provide a definitive answer to the question litigants present or else it never provides an answer at all. Surely it is an unpleasant task to strip a man of his freedom and subject him to institutional restraints. But this does not mean that in so doing, we should always be halting or tentative. No one, not criminal defendants, not the judicial system, not society as a whole is benefited by a judgment providing a man shall tentatively go to

jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation on issues already resolved.

A rule of law that fails to take account of these finality interests would do more than subvert the criminal process itself. It would also seriously distort the very limited resources society has allocated to the criminal process. While men languish in jail, not uncommonly for over a year, awaiting a first trial on their guilt or innocence, it is not easy to justify expending substantial quantities of the time and energies of judges, prosecutors, and defense lawyers litigating the validity under present law of criminal convictions that were perfectly free from error when made final. (citation omitted) This drain on society's resources is compounded by the fact that issuance of the habeas writ compels a State that wishes to continue enforcing its laws against the successful petitioner to relitigate facts buried in the remote past through presentation of witnesses whose memories of the relevant events often have dimmed. This very act of trying stale facts may well, ironically, produce a second trial no more reliable as a matter of getting at the truth than the first."

Anderson v. Leeke, 271 S.C. 435, 440-42, 248 S.E.2d 120, 123 (1978).

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

IV.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired and for any other reasons as explained above.

Respectfully submitted,

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THE COURT: ALL RIGHT. PLEASE STAND, MS. TYLER. JUST RAISE YOUR RIGHT HAND.

THEREUPON:

LINDA ANN TYLER, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY THE COURT

Q. MS. TYLER, DO YOU FULLY UNDERSTAND AND HAVE YOUR ATTORNEYS ADVISED YOU THAT YOU HAVE A CONSTITUTIONAL RIGHT NOT TO TESTIFY IN THIS CASE, AS WELL AS A CONSTITUTIONAL RIGHT TO TESTIFY IN THIS CASE? DO YOU FULLY UNDERSTAND THAT MS. TYLER?

A. YES, SIR.

Q. AND DO YOU UNDERSTAND THAT YOUR DECISION, WHATEVER IT MAY BE, MUST BE YOUR OWN DECISION AND NOT THAT OF YOUR ATTORNEYS? DO YOU UNDERSTAND THAT?

A. YES, SIR.

Q. AND DO YOU UNDERSTAND THAT THE DECISION MUST BE FREELY, VOLUNTARILY AND KNOWINGLY MADE BY YOU YOURSELF AND NOT YOUR ATTORNEYS? DO YOU FULLY UNDERSTAND THAT?

A. YES, SIR.

Q. DO YOU WISH TO TESTIFY, MS. TYLER?

A. YES, SIR.

Q. HAS ANYONE PROMISED YOU ANYTHING OR HELD OUT ANY

HOPE OF A REWARD TO GET YOU TO TESTIFY?

A. NO, SIR.

Q. HAS ANYBODY THREATENED YOU OR USED ANY FORCE OR INTIMIDATION TO GET YOU TO TESTIFY?

A. MAY I ASK A QUESTION?

Q. ALL RIGHT.

A. WELL, I HEARD SOMEONE SAY THAT IF I TESTIFY THAT THAT WOULD BE MADE PUBLIC, BUT I WANT TO TESTIFY SO I CAN JUST GET THIS OVER WITH.

Q. ALL RIGHT. DO YOU UNDERSTAND THAT --- I DON'T KNOW WHO, YOU SAID SOMEONE, I DON'T KNOW WHO YOU'RE REFERRING TO --- BUT THAT SOMEONE CANNOT MAKE THIS DECISION. THIS DECISION NEEDS TO BE MADE SOLELY BY YOU.

A. ALL RIGHT.

Q. OKAY, AND IS ANYONE USING ANY FORCE OR INTIMIDATION TO GET YOU TO TESTIFY?

A. NO, SIR.

Q. ARE YOU SATISFIED WITH THE SERVICE OF YOUR LAWYERS, MS. BELL AND MS. JOHNS?

A. YES, I AM.

Q. HAVE THEY DONE EVERYTHING YOU'VE ASKED THEM TO DO FOR YOU DURING THE TRIAL?

A. YES, SIR.

Q. THANK YOU. YOU MAY BE SEATED.

THE COURT: I FIND THAT THE DEFENDANT'S DECISION TO TESTIFY IS FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY MADE AND THAT SHE HAS THE ADVICE OF COUNSEL OF VERY COMPETENT, OF TWO VERY COMPETENT LAWYERS OF WHOM SHE SAYS SHE'S SATISFIED. I RESPECT HER DECISION AND SHE WILL BE ALLOWED TO TESTIFY.

MS. JOHNS: THANK YOU, YOUR HONOR.

THE COURT: BRING THE JURY IN.

(JURY TO COURTROOM.)

BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. ALL RIGHT. NEXT WITNESS.

MS. JOHNS: YOUR HONOR, AT THIS TIME THE DEFENSE CALLS THE DEFENDANT, MS. LINDA ANN TYLER, TO THE STAND.

THE COURT: PLEASE COME FORWARD, MA'AM.

THEREUPON:

LINDA ANN TYLER, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. JOHNS

Q. OKAY, MS. TYLER, I'M GOING TO ASK YOU TO SPEAK UP SO THAT THE JURY CAN HEAR YOU AND THAT THE REST OF THE PEOPLE IN THE COURT CAN HEAR YOU, THE JUDGE AND SO FORTH. OKAY?

A. YES, MA'AM.

Q. OKAY, MS. TYLER, WOULD YOU PLEASE TELL US HOW OLD YOU ARE?

A. I'M [redacted] YEARS OLD.

Q. AND WHERE WERE YOU BORN AND RAISED?

A. RICHLAND COUNTY.

Q. MS. TYLER, HOW MANY BROTHERS AND SISTERS DO YOU HAVE?

A. I HAVE FIVE SISTERS AND THREE BROTHERS.

Q. AND WHO RAISED YOU?

A. MY MOTHER AND STEPFATHER.

Q. AND STEPFATHER?

A. YES, MA'AM.

Q. DID YOU HAVE ANY PROBLEMS WITH YOUR STEPFATHER AND YOUR FAMILY?

A. DO YOU WANT ME TO TELL THAT?

Q. YES, MA'AM.

A. YES, MA'AM.

Q. WHAT HAPPENED?

A. WELL, WE WAS YOUNG, MY MOTHER, SHE USED TO BE A PROSTITUTE AND THEN SHE HAD CHANGED. SHE HAD MARRIED THIS SOLDIER, AND WE MOVED TO ALABAMA, AND SHE HAD GOT PREGNANT WITH MY BABY SISTER, IRA, AND SHE WENT BACK TO COLUMBIA AND LEFT US IN ALABAMA, AND MY STEPFATHER MOLESTED MY ELDEST SISTERS, AND HE USED TO MOLEST ME, BUT HE NEVER PENETRATED ME, AND I USED TO SEE HIM, HE

USED TO COME TO THE BED EVERY NIGHT, AND I WAS THE YOUNGEST GIRL AT THAT TIME AND I SLEPT IN THE MIDDLE AND EACH ONE OF THEM SLEPT ON THE EDGE, AND THEY WOULD TAKE TURNS ON WHO WAS GETTING ON THE END THAT NIGHT WHEN HE WOULD --- BERNICE ONE NIGHT AND MY SISTER LAURIE THE NEXT NIGHT, AND I SAW HIM RAPE MY SISTER BERNICE, AND HE BEAT ME WITH A DROP CORD BECAUSE I TOLD MY MAMA.

Q. WHAT HAPPENED WHEN YOU TOLD YOUR MOTHER THAT THIS WAS GOING ON?

A. SHE CAUGHT HIM IN THE ROOM AND HE SAID THAT --- HE WAS LYING, HE SAID THAT HE WAS DOING SOMETHING TO HER BUT HE WAS NOT MOLESTING HER. SO, SHE SAID "OKAY" AND HE WHIPPED ME BECAUSE I HAD TOLD WHAT I HAD SEEN. HE HAD TORE MY SLIP OFF ME, AND SO, WHEN HE WENT TO WORK THE NEXT MORNING MY MOTHER TOLD US THAT SHE WAS GOING TO WALK US TO SCHOOL, AND SHE MADE US GET ON THE BED AND SHE OPENED UP OUR LEGS AND LOOKED INTO OUR STUFF AND KNEW THAT MY SISTERS HAD BEEN MOLESTED, AND SO WHEN WE CAME BACK UP HERE SHE RAN AWAY AGAIN BECAUSE HE HAD WENT ALL THE WAY UP IN HER AND TORE UP HER INSIDES. SHE HAD A PARTIAL HYSTERECTOMY AT THE AGE OF [redacted] YEARS OLD, AND SHE GREW UP IN THE FOSTER HOME.

(INAUDIBLE.)

Q. TAKE A BREAK AND I'LL GET YOU SOME WATER IF YOU

NEED THAT. OKAY? LET ME KNOW WHEN YOU'RE READY.
A. I'M READY.
Q. OKAY. NOW, YOU GOT PUNISHED FOR TELLING THE TRUTH?
A. YES, MA'AM.
Q. OKAY, YOUR STEPFATHER PUNISHED YOU?
A. YES, MA'AM.
Q. AND HOW OLD WERE YOU AT THE TIME?
A. I WAS IN THE SECOND GRADE.
Q. NOW, YOU HAD MENTIONED YOUR BABY SISTER, IRA?
A. YES.
Q. WHERE IS IRA RIGHT NOW?
A. SHE LEFT THE COURTROOM. SHE WENT TO HAVE HER BABY.
Q. SHE WAS HERE TODAY?
A. YES.
Q. WHO DOES SHE LIVE WITH?
A. SHE LIVE WITH MY STEPFATHER.
Q. AND IS HE THE FATHER OF HER BABY?
A. I DON'T KNOW.
Q. HOW LONG HAS SHE BEEN LIVING WITH YOUR STEPFATHER?
A. EVER SINCE MY MAMA BEEN DEAD, SINCE 1989.
Q. NOW, YOU STATED THAT YOU HAD THREE OTHER MEN IN YOUR FAMILY AT THAT TIME, OTHER THAN YOUR STEPFATHER. THOSE ARE YOUR BROTHERS. RIGHT?

A. YES, MA'AM.
Q. DID YOU EVER HAVE ANY PROBLEMS WITH ANY OF THEM?
A. WELL, MY BROTHER, CLEO, AND MYSELF, WHEN MY MAMA HAD LEFT US DOWN IN ALABAMA WITH --- THEN CLEO AND ROBBIE STARTED HAVING SEX WITH BERNICE AND GLORIA AND THEM. THEY WAS TAKING TURNS, AND THEN WITH ME, BUT I WAS THE YOUNGEST GIRL. SO, THEY DIDN'T PUT THEIR STUFF IN ME. THEY JUST RUBBED THEIR SELF UP ON TOP OF ME, AND THEN WHEN WE CAME BACK UP TO COLUMBIA I HAD TOLD MY MAMA THAT CLEO WAS SNEAKING IN MY ROOM AT NIGHT AND CRAWLING UP ON THE FLOOR AND GET UP IN THE BED WITH ME, AND MY BROTHER WAS THE ONE WHO HAD BUST MY STUFF DOWN THERE.
Q. WHAT HAPPENED TO YOU WHEN YOU TOLD YOUR MOTHER THAT?
A. SHE DIDN'T SAY NOTHING.
Q. DID SHE DO ANYTHING TO CLEO?
A. NO.
Q. DID HE CONTINUE TO DO THIS TO YOU?
A. NO, MA'AM. NOT AFTER I HAD TOLD ON HIM, BUT HE USED TO DO IT ALL THE TIME. COME AND RUB UP ON ME, HUMP UP ON ME AND I USED TO TELL HIM I WAS GOING TO TELL MY MAMA.
Q. AND MS. TYLER, WHEN WAS THE FIRST TIME --- WHAT WAS THE FIRST JOB YOU EVER HAD?

A. BABY SITTING.
Q. WHO DID YOU BABY SIT?
A. FOR SOME WHITE PEOPLE NAMED MR. DAVID MICHAEL BOWENS.
Q. AND HOW OLD WERE YOU AT THE TIME?
A. THIRTEEN.
Q. WHEN DID YOU MOVE OUT OF THE HOUSE?
A. WHEN I --- I RAN AWAY WHEN I WAS SIXTEEN AND I WENT TO NEW YORK.
Q. AND DID YOU GET A JOB UP THERE?
A. NO, MA'AM. MY MAMA HAD SENT FOR ME AND MY COUSIN TO COME BACK HOME.
Q. AND DID YOU COME BACK HOME?
A. I CAME BACK HOME AND I STAYED BECAUSE I DIDN'T WANT MY STEPFATHER TO KEEP ON COMING UP IN MY ROOM AND TRYING TO SUFFOCATE ME INTO GETTING MY STUFF. SO, I WENT OUT ON THE STREETS.
Q. AND WHAT DID YOU DO ON THE STREETS?
A. I BECAME A PROSTITUTE.
Q. AND WHO DID YOU MEET WHEN YOU BECAME A PROSTITUTE?
A. WELL, I MET A PIMP NAMED LOLLIPOP AND I MET THIS GUY NAMED PRINCE ---
Q. DID YOU MEET YOUR HUSBAND?
A. NO, I MET MY HUSBAND AFTER I GOT OUT OF PRISON WHEN I WAS NINETEEN.

Q. NINETEEN?
A. YES.
Q. AND WHAT WAS HIS NAME?
A. VAN TYLER, JR.
Q. AND WHAT WAS HIS NAME AT THE TIME YOU MET HIM?
A. OH, I KNOW HIM AS RIP. THEY CALLED HIM RIP.
Q. AND WAS HE A BOYFRIEND?
A. YEAH, HE WAS MY PIMP TOO IN '76.
Q. SO, RIP WAS ALSO VAN?
A. VAN TYLER, JR.
Q. HE WAS ALSO ALI?
A. YES.
Q. HE WAS YOUR PIMP WHEN YOU WERE NINETEEN?
A. YES.
Q. IS THAT THE ONLY WAY YOU MADE MONEY AT THAT TIME?
A. YES, MA'AM.
Q. OKAY. NOW, WHEN'S THE FIRST TIME WHEN YOU GOT MARRIED?
A. I GOT MARRIED IN 1985.
Q. WHO DID YOU MARRY ---
A. NO, I GOT MARRIED IN 1986.
Q. WHO DID YOU MARRY THEN?
A. MY FORMER HUSBAND, LARRY KENNEDY.
Q. HOW MANY TIMES HAVE YOU BEEN MARRIED, MS. TYLER?
A. TWICE.

Q. THE FIRST TIME WAS TO MR. LARRY KENNEDY?
A. YES, MA' AM.
Q. WHAT WAS HIS NICKNAME?
A. JACK OF DIAMONDS.
Q. HOW DID HE TREAT YOU?
A. ABUSIVE. JACK WAS VIOLENT. YOU KNOW, HE USED TO FIGHT ALL THE TIME. HE WOULD SHOOT THEM DRUGS, AND WHEN HE COME DOWN OFF THEM DRUGS HE WOULD BE CLAIMING HE BE SEEING THINGS AND PUT IT ALL ON THEM DRUGS, THAT HE WAS GOING THROUGH THE DETOX AND HE DIDN' T LIKE TO HEAR A LOT OF NOISE AND STUFF LIKE THAT, AND THEN IF SOMETHING WASN' T RIGHT AND IF I DIDN' T MOVE FAST ENOUGH HE' D BEAT ME UP.
Q. DID YOU EVER HAVE TO GO TO THE HOSPITAL FOR WHAT JACK HAD DONE?
A. YEAH, I, YES, I LOST MY FIRST CHILD. YOU KNOW, HE BEAT ME AND HIT ME ACROSS MY BACK WITH THE BROOM, AND I LOST MY BABY SEPTEMBER 20 OF 1986.
Q. HOW OLD WERE YOU THEN?
A. TWENTY-SEVEN, TWENTY-EIGHT, TWENTY-NINE, TWENTY-EIGHT OR TWENTY-NINE.
Q. NOW. DID YOU DIVORCE JACK?
A. OH, YES, MA' AM.
Q. WHO FILED FOR THE DIVORCE?
A. I DID.

Q. AND WHEN DID YOU DIVORCE HIM?
A. WHEN I WENT TO PRISON, I TOOK THE DRUG CASE FOR JACK BECAUSE JACK WAS GOING TO GET TWENTY-FIVE YEARS IN PRISON, AND I NEVER HAD A DRUG RECORD, SO I WENT INTO THE CASE FOR HIM SO HIS MOTHER WOULD GIVE MY LITTLE BOY, [redacted] (PHONETICALLY), TO MY MOTHER, AND THEY AGREED TO DO THAT, AND I AGREED TO TAKE THE CASE FOR JACK TO KEEP HIM FROM GETTING TWENTY-FIVE YEARS. SO, THAT WAS IN 1988 WHEN I WENT TO PRISON FOR THE DRUG CHARGES FOR JACK, AND I DIVORCED HIM WHEN MY MOTHER DIED IN 1989.
Q. SO, YOU DIVORCED JACK OF DIAMONDS OR LARRY KENNEDY IN 1989?
A. YEAH, AND IT BECAME FINAL IN 1990.
Q. NOW, WHILE YOU WERE IN PRISON ON THESE DRUG CHARGES, DID YOU THEN AGAIN FIND OUT ABOUT RIP?
A. YES, I PETITIONED THE COURT ABOUT MY OLD CHARGES THAT WERE, I WAS BACK ON VIOLATION ON, AND I WAS GOING THROUGH THE SUPREME COURT AT THAT TIME, AND MARY CROCKER WAS TALKING ON THE PHONE AND RIP WAS, HE WAS AN INMATE COUNSELOR. HE WAS LIKE THE PRISON LAWYER, AND HE WAS OVER THE JAYCEE'S AND IUC BANQUET AND STUFF LIKE THAT, AND SO HE ASKED ME, SAY "GIRL DOWN THERE?" AND SO SHE SAID HILDA VINDER WALKING DOWN THE STREET, AND SO I GOT BACK INTO HIM DURING THE PROCESS OF MY SUPREME

COURT CASE.

Q. SO, YOU AND --- DID YOU CALL HIM RIP THEN?

A. NO, I CALLED HIM ALI BECAUSE HE TOLD ME NOT TO CALL HIM RIP BECAUSE HE HAD DONE BANDED THE NAME OF RIP, AND HE WAS GOING TO PRESUME TO HAVE HIS NAME CHANGED TO ALI.

Q. SO, WHEN YOU SAW HIM IN PRISON THEN HIS NAME WAS ALI?

A. YES, MA'AM.

Q. WHAT DID --- WHAT STEPS DID ALI TAKE TO GET YOU TO CHANGE YOUR FAITH?

A. NO, I HAD BECAME MOSLEM AND I DIDN'T KNOW --- I KNEW ALI WAS MOSLEM WHEN I MET HIM IN 1976, AND I BECAME MOSLEM IN 1985.

Q. SO, YOU WERE A MUSLIM AND HE WAS A MUSLIM AT LEAST IN 1990?

A. OH, YES.

Q. AND YOU MARRIED HIM?

A. I MARRIED HIM IN PRISON, MAY 16.

Q. OF WHAT YEAR?

A. 1991.

Q. NOW, YOU GOT OUT OF PRISON?

A. I GOT OUT OF PRISON, AND I GOT MARRIED TO HIM AGAIN NOVEMBER 8 OF 1992, AND I HAD A CEREMONY MARRIAGE AT THE MANNING CORRECTION INSTITUTION. THEN I GOT

MARRIED BY THE STATE TO ALI DECEMBER 6 OF 1992.
Q. WHERE DID YOU MARRY HIM ON DECEMBER 6, 1992?
A. AT MANNING CORRECTION INSTITUTION.
Q. WHERE DID YOU MARRY HIM ON NOVEMBER 8, 1992?
A. AT MANNING CORRECTIONAL INSTITUTION.
Q. SO, THE STATE MARRIED, THE MUSLIMS MARRIED YOU IN NOVEMBER, AND THEN THE STATE MARRIED YOU IN DECEMBER?
A. YES, I ACCEPTED THE MOSLEM MARRIAGE, BUT I HAD SEEN THAT A LOT OF MENS WAS ABUSING THAT. IT WAS LIKE THE MUTAT(PHONETICALLY) --- IS THE OLD RELIGION, SOME OF THE PAGAN USED TO PRACTICE THAT BUT THEY DIDN'T --- THEY'D SEE A WOMAN, THEY'D LOOK UPON HER, AND THEY SAY THEY DESIRE THAT WOMAN. THEY'D MARRY THAT WOMAN FOR ABOUT A SIX MONTH PERIOD OF TIME OR A YEAR PERIOD OF TIME, AND I DIDN'T WANT THAT FOR TO BE MY MARRIAGE. I WANTED BEING MARRIED TO BE RECOGNIZED BECAUSE SOME PEOPLE DO NOT RECOGNIZE THE ISLAMIC MARRIAGES, AND SO I NEEDED TO HAVE A MARRIAGE THAT WOULD BE CHARTERED. SO, I HAD TO GET MARRIED BY THE STATE.
Q. SO, YOU WANTED TO BE MARRIED BY THE STATE?
A. YES.
Q. WHY DID YOU WANT TO MARRY ALI?
A. I FELL IN LOVE WITH ALI.
Q. WHAT WERE SOME OF THE THINGS THAT HE DID THAT WERE NICE TO YOU?

A. HE CAN RECITE THE KORAN IN THE ARABIC LANGUAGE REAL NICE, AND HE CAN CHANT IT, AND HE LEARNED HOW TO WRITE IN ARABIC ALPHABET, AND HE TAUGHT SCHOOL AND HE WAS LIKE AN EMAL LIKE THE MINISTERS THAT WAS HERE TODAY. HE WAS OVER ALL OF THE WHOLE PRISON, AND EVERYBODY WOULD LOOK UP TO ALI BECAUSE ALI HAD KNOWLEDGE AND HE LATER ON --- I THINK HE GOT INSPIRED BY HIS LITTLE NEPHEW, MRS. BROWN'S SON, FOR HE WAS GOING TO COLLEGE AND HER DAUGHTER HAD WENT TO COLLEGE. SO, HE WENT BACK AND TOO WAS GOING TO COLLEGE BECAUSE HE USED TO TEACH A LOT OF OUR STUDENTS, THOSE WHO COULD NOT READ AND WRITE.

Q. ALL RIGHT. NOW, FROM THE TIME THAT YOU WERE TWELVE YEARS OLD, DID YOU EVER RECEIVE ANY COUNSELING FOR WHAT HAPPENED TO YOU AS A YOUNG GIRL?

A. NO, NO, MA'AM.

Q. DID YOU EVER RECEIVE ANY COUNSELING IN PRISON?

A. YES, MA'AM. I USED TO SEE A PSYCHIATRIST MONDAYS, WEDNESDAYS AND FRIDAYS.

Q. WHAT DID THEY SAY WAS WRONG WITH YOU, MS. TYLER?

A. I DON'T KNOW. WELL, YOU KNOW, THEY DIDN'T TELL ME BECAUSE I WAS A YOUTHFUL OFFENDER. YOU KNOW, THEY ONLY TOLD YOUR PARENTS WHAT WAS WRONG WITH YOU. THEY JUST TOLD ME I GET DEPRESSED A LOT AND I GET VERY HYSTERICAL. YOU KNOW, I'LL JUST START CRYING, AND THEN

I WAS PUT ON MEDICATION, YOU KNOW, WHEN I WAS THIRTEEN, BECAUSE I COULD SEE THOSE SHADOWS, YOU KNOW, BECAUSE MY STEPFATHER USED TO SNEAK UP IN THE ROOM AND TURN THE LIGHTS OFF CAUSE HE WAS A ELECTRICIAN, AND YOU KNOW, TRY TO SCARE US, AND SO ---

Q. WHO WAS TRYING TO SCARE YOU? I'M SORRY ---

A. MY STEPFATHER.

Q. OKAY.

A. YOU KNOW, HE WAS ELECTRICIAN, AND SO WHENEVER MY MAMA WAS GOING TO WORK --- SHE USED TO WORK FROM 3:00 O'CLOCK TO 12:00 O'CLOCK AT NIGHT, FROM 3:00 TO 11:00 OR 12:00, AT NIGHT AT THE HOSPITAL, HE WOULD TURN, GO OUTSIDE AND TURN THE LIGHT SWITCH OFF, YOU KNOW, AND THEN COME INTO THE HOUSE AND TRY TO ATTACK ONE OF THE GIRLS. SO, I HAD PROBLEMS WITH THAT, AND SO I WENT TO DR. LITTLE WHEN MY MAMA TOOK ME TO THE EMERGENCY ROOM AND I GOT VERY HYSTERICAL BECAUSE I KEEP TELLING HER I SEE THOSE SHADOWS AND SHE'D TELL ME I DON'T SEE NO SHADOWS, BUT I DO SEE THEM BECAUSE IT WOULD BE HIM, AND HE PUT, COVER HIS SELF WITH A CLOAK OR SOMETHING, YOU KNOW, TO TRY TO ACT LIKE HE WAS SOMEBODY ELSE, AND SO HE PUT ME ON MEDICATION.

Q. AND THAT WAS WHEN YOU WERE THIRTEEN?

A. YES, MA'AM.

Q. DO YOU KNOW WHAT KIND OF MEDICATION THAT WAS?

A. YES, IT WAS SOME LIBRIUM PILLS, A GREEN AND BLACK CAPSULE.

Q. LITHIUM?

A. LIBRIUM.

Q. LIBRIUM?

A. YES, MA'AM.

Q. WHAT DOES LIBRIUM DO FOR YOU?

A. THEY MADE YOU CALM. YOU KNOW, YOU DIDN'T GET UPSET.

Q. ALL RIGHT. NOW, YOU WERE IN PRISON IN 1992?

A. UH-HUH.

Q. RIGHT?

A. YES, MA'AM.

Q. DID YOU RECEIVE MEDICATION IN 1992?

A. NO, NO, MA'AM. IN 1992, I WAS PREGNANT WITH MY SON [redacted], AND I DIDN'T UNDERSTAND HOW THEY HAD GAVE ME ALL THE TIME THAT THEY HAD GAVE ME. SO, I DECLINED TO TAKE THE MEDICATION BECAUSE I WAS PREGNANT, AND AFTER I GOT, HAD MY BABY I GOT INTO ISLAMIC FAITH, AND OMAR SAID HE HAD TWO OF ME THROUGHOUT THE WHOLE TIME THAT I STAY THERE, AND I BECAME A LEADER AMONG THE WOMEN THERE, AND I BEGAN TO TEACH, LEARN HOW TO READ AND RECITE THE ARABIC AND WRITING ARABIC AFTER THAT. SO, I DIDN'T HAVE A DESIRE NO MORE. THEY SAID I HAD COME ABOVE A LEVEL WHERE I DIDN'T NEED ANY MEDICATION

AT THAT TIME, BUT ALTHOUGH I STILL LIVE ON THE INTENSIVE CARE UNIT BUILDING.

Q. OKAY. SO, AT SOME TIME YOU WERE INFORMED BY SOMEONE THAT YOU DIDN'T NEED MEDICATION ANY MORE?

A. YES, MA'AM. MS. CHRIS PRICE. SHE'S THE, SHE'S OVER TREATMENT SERVICES.

Q. SO, FROM THE AGE THIRTEEN TILL THE AGE OF THIRTY-FOUR, YOU WERE TAKING MEDICATION, RIGHT?

A. YES, MA'AM.

Q. AND YOU WERE RECEIVING MENTAL HEALTH TREATMENT DURING THOSE YEARS. RIGHT?

A. YES --- IN PRISON? YES, MA'AM.

Q. NOW, WHEN WERE YOU RELEASED?

A. DECEMBER, I MEAN OCTOBER 1, 1992.

Q. SO, YOU HAD BEEN RELEASED AND THEN YOU WENT BACK TO MANNING TO MARRY ALI?

A. YES, MA'AM, I MARRIED ALI. I GOT OUT OCTOBER 1 AND I WENT TO GET MARRIED TO ALI NOVEMBER 8, BUT AS SOON AS I HAD GOT OUT, HE PUT IN FOR A TRANSFER AND HE WAS TRANSFERRED TO MANNING ON OCTOBER 15.

Q. WHEN YOU SAY TRANSFERRED, MEANING THAT ---

A. THAT HE PUT IN FOR A TRANSFER BECAUSE THEY WOULD ONLY KEEP HIM IN EACH INSTITUTION EVER SINCE HE HAD GOT BUSTED WITH THE DRUGS IN PRISON. SO, EVERY YEAR THEY WOULD MOVE HIM ABOUT.

Q. NOW, YOU HEARD INVESTIGATOR GRAY RECITE YOUR STATEMENT IN COURT TODAY ABOUT YOU BRINGING ALI DRUGS.
A. YES, I USED TO DO THAT, AND WHEN THEY STOPPED ME FROM VISITING I USED TO PAY $100.00 TO TAKE HIM THE MARIJUANA.
Q. WHY DID THEY STOP YOU FROM VISITING?
A. BECAUSE THE OTHER WOMAN --- ALI WAS GOING WITH THIS GIRL NAMED TEALI(PHONETICALLY), AND ME AND HER WAS SUPPOSED TO HAVE BEEN LIKE BEST --- HER MOTHER SORT OF LIKE HELPED RAISE ME, TERESA, AND WE GOT INTO AN ARGUMENT, AND SO THE WARDEN HAD SUSPENDED ME AND HER FOR SIX MONTHS, AND THEN I GOT SUSPENDED AGAIN WHEN HE ACCUSED ME OF HAVING SEX, AND I TOLD HIM I WAS NOT HAVING SEX BUT IF HE KEPT ON ACCUSING ME THAT MAYBE I WILL GO AND DO HAVE SOME SEX. SO, I GOT SUSPENDED TWICE.
Q. SUSPENDED FROM VISITATION?
A. YES, AND THEN THE LAST TIME I GOT SUSPENDED FOR HAVING SEX OUT IN THE --- ON THE PICNIC TABLES.
Q. ON THE GROUNDS?
A. YES, AND ON THE ---
Q. WITH ALI?
A. YES, MA'AM.
Q. WHO ASKED YOU TO BRING DRUGS TO ALI?
A. ALI ASKED ME.

Q. WHY DID YOU DO IT?
A. I DID IT BECAUSE ALI SAID HE HAD WANTED TO HAVE --- I HAD JUST GOT MY APARTMENT AND I HAD GOT --- I HAD LET MY JOB GO. I HAD PUT MY CO-WORKER IN JAIL, MR. STEVE NIGEL, FOR SEXUAL HARASSMENT. HE WOULDN'T LET ME WORK IN THE UNIT THAT DAY BECAUSE THE MANAGER HAD, WAS GOING OUT OF TOWN, AND I WAS, YOU KNOW, MY EXPERIENCE IN TELE-MARKETING --- I'M A PROFESSIONAL TELECOMMUNICATOR OPERATOR, AND I WAS WORKING THE UNIT. SO, THE BOSS HAD CALLED ME AND ASKED ME WOULD I WORK EASTER, AND I TOLD HIM YES, AND SO, STEVE WOULDN'T LET ME IN THE UNIT. HE WOULD BE THE PERSON RESPONSIBLE FOR TAKING OUT THE ORDERS, AND I'D BE ANSWERING ALL THE TELEPHONES AND MAKING THE CALLS FOR THE SALES AND MAKING SURE THE SALES WENT OUT. AND SO, I DIDN'T HAVE ANY MONEY BECAUSE I HAD GOT, I LOST MY JOB, AFTER I PUT STEVE IN JAIL, AND HE SAID THAT HE WAS JUST GOING TO HUSTLE ENOUGH JUST SO HE COULD GET THE BIDS(PHONETICALLY) AND STUFF LIKE THAT AND THEN HE WOULD BE THROUGH, BUT THAT WASN'T IT.
Q. WHAT WAS IT?
A. I NEVER DID GET ANY MONEY. HE SAID THAT SOMEBODY HAD TOOK HIS STUFF.
Q. WOULD YOU HAVE TAKEN HIM DRUGS IF YOU DIDN'T LOVE HIM?

A. NO, MA'AM. I DIDN'T WANT TO TAKE IT ANYWAY BECAUSE SOMEBODY SAID THAT HE WAS A SNITCH, THAT HE WOULD SET YOU UP, AND I WAS SCARED. SO, THAT'S WHY I PAID OTHER PEOPLE TO TAKE IT TO HIM, AND I'D BE ON THE OUTSIDE.

Q. NOW, AFTER YOU WERE SUSPENDED FROM VISITING HIM, DID YOU KNOW WHO WAS ON HIS VISITOR'S LIST?

A. YES, MA'AM. HE GOT MARRIED TO ANOTHER LADY NAMED MS. ROBIN WILLIAMS FROM HOPKINS, SOUTH CAROLINA, AND HE HAD ANOTHER GIRL NAMED CAROLYN TO COME SEE HIM. HE HAD ABOUT THREE OR FOUR WOMEN TO COME SEE HIM, AND THERE WAS THIS ELDERLY LADY, SHE DIED RIGHT BEFORE HE GOT OUT. SHE DIED IN, SHE DIED IN '95. SHE USED TO GO SEE HIM AND TAKE HIM DRUGS, AND SHE TOO HAD GOT BUSTED AT CCI FOR BRINGING ALI THE DRUGS.

Q. SO, THERE WAS CAROLYN --- AND WHO WAS THE WILLIAMS WOMAN?

A. ROBIN.

Q. ROBIN?

A. YEAH.

Q. AND YOU KNEW OF THESE WOMEN?

A. I DIDN'T KNOW MS. ROBIN WILLIAMS. SHE'S A SCHOOL TEACHER IN HOPKINS. SHE WORKS AT A DAY CARE CENTER, AND I KNEW CAROLYN.

Q. DID YOU CONFRONT ALI ABOUT MS. WILLIAMS?

A. WELL, NO. HE CALLED ME WHEN I HAD GOT SUSPENDED FOR ARGUING WITH TEALI(PHONETICALLY) ABOUT HIM, AND HE PUT ME OFF THE VISITING LIST, BECAUSE I DIDN'T GO OUT THERE FOR THIRTY DAYS, AND HE CALLED ME AND LET ME KNOW THAT HE HAD GOTTEN MARRIED. HE GOT MARRIED AFTER THE FEAST, AFTER WE HAD FASTED FOR THE THIRTY DAYS.

Q. WHEN WAS HE SUPPOSED TO HAVE GOTTEN MARRIED ---

A. HE GOT MARRIED --- WHEN? 1993, MAY.

Q. WELL, THIS IS AFTER YOUR LEGAL MARRIAGE TO HIM?

A. YES, MA'AM. IT WASN'T EVEN SIX MONTHS.

Q. HOW DID THAT MAKE YOU FEEL?

A. I WAS HURT BECAUSE I HAD DID EVERYTHING THAT ALI HAD ASKED ME TO DO, YOU KNOW, BECAUSE YOU DON'T FIND PEOPLE THAT'S GOING TO GET OUT OF PRISON AND IS GOING TO GO BACK AND MARRY SOMEBODY IN PRISON AND WAIT ON HIM, AND I WAITED FOR MY HUSBAND FOR FOUR YEARS.

Q. WHY DID YOU WAIT FOR HIM?

A. BECAUSE I WAS IN LOVE WITH ALI AND I LOVED THAT ALI AND I BELIEVED IN HIM.

Q. AND WHAT ABOUT CAROLYN? DID HE TELL YOU ABOUT CAROLYN?

A. CAROLYN, HIS SISTER? OH, YOU TALKING ABOUT THE GIRLFRIEND, CAROLYN? WELL, WHEN SHE STOPPED BRINGING THE DRUGS, HE TOOK HER OFF THE VISITING LIST.

Q. WHAT KIND OF WORK DID YOU DO WHEN YOU GOT OUT IN

OCTOBER OF 1992?

A. OKAY, I WAS WORKING FOR THE TELECOMMUNICATIONS FOR THE SOUTHEASTERN PARALYZED VETERAN SERVICES, AND WHEN I GOT OUT MY BOSS HAD GUARANTEED ME THE JOB TO WORK IN THE UNIVERSITY SPORTS TELE-MARKETING UNIT THAT SELL USC GAMECOCKS FANS AND CLEMSON TIGERS POSTERS --- LOTS OF POSTERS AND STUFF LIKE THAT. I WORKED FOR THEM FOR ABOUT A WEEK, BUT I HAD A PROBLEM GETTING MY TRANSPORTATION. SO, I QUIT THERE AND THEN I WENT TO WORK FOR R.U.S., RENTAL UNIFORM SERVICE WHERE I WAS, YOU KNOW, I'M A SEAMSTRESS TOO, AND I DID REPAIR WORK AND STITCHES AND THINGS FOR THE CLOTHES THAT NEEDED MENDING, AND THEN I GOT FIRED BECAUSE A PERSON PUT A WRONG BUTTON --- THEY WAS HELPING ME OUT. WE HAD EMERGENCY STOCK CAME IN, AND THE WRONG BUTTON WAS SEWED ON THE CELEBRITY SHIRT. SO, I GOT FIRED FOR ALLOWING SOMEBODY ELSE TO DO MY WORK, AND THEN I LATER WENT TO SOUTHEASTERN CAROLINA EXTENSION SERVICE AND WAS A TELEPHONE COMMUNICATOR OPERATOR.

Q. HOW DID YOU MAKE ARRANGEMENTS FOR A PLACE TO LIVE?

A. I LIVED WITH MY SISTER-IN-LAW WHO HAD CUSTODY OF MY TWO OLDEST CHILDREN.

Q. WHAT IS HER NAME?

A. MAXINE GRAHAM SALLEY. SHE'S A SUPERVISOR OF THE STATE NEWSPAPER.

Q. AND DO YOU HAVE ANOTHER SISTER?
A. I HAVE SEVERAL SISTERS.
Q. DO YOU HAVE ONE THAT WORKS OUT AT WILLIAM S. HALL?
A. YES, THAT'S MY ELDEST SISTER, CLONDELLE MICHELLE SALLEY.
Q. CLONDELLE?
A. YES, MA'AM.
Q. OKAY, WHAT DOES SHE DO OUT THERE?
A. SHE'S A LICENSED PRACTICE NURSE. SHE GIVE OUT MEDICATION.
Q. SHE'S NOT TREATING YOU, IS SHE?
A. NO. SHE WORKS IN THE PRESTON BUILDING.
Q. HAS SHE BEEN THERE TO VISIT YOU?
A. NO.
Q. HOW LONG HAVE YOU BEEN THERE?
A. A MONTH.
Q. NOW, WHEN DID ALI GET RELEASED FROM PRISON?
A. MAY 1 OF 1996.
Q. AND WHERE DID HE COME WHEN HE GOT RELEASED?
A. I WENT TO PICK HIM UP. HE CAME WITH ME TO [redacted]
[redacted].
Q. TO WHERE?
A. [redacted].
Q. HOW LONG HAVE YOU LIVED IN [redacted]
A. ALMOST FOUR YEARS.

Q. WITHOUT HIM?

A. YES, MA'AM.

Q. AND HOW WAS THE RELATIONSHIP WHEN HE FIRST GOT OUT?

A. WHEN ALI FIRST GOT OUT THE VERY NEXT DAY, THE LADY THAT'S SUPPOSED TO BE HIS OTHER WIFE WAS RENEE MACK. SHE CAME IN A GRAY STATION WAGON WHILE HE WAS OUTSIDE THE CAR. I SAW THE GRAY STATION WAGON RIDE UP AND DOWN THE STREET. SO, WHEN ALI WENT OUT, I WATCHED HIM GO TO THE CAR, BUT ONCE HE HUNG OUT THE DOOR I WENT ON BACK TO THE KITCHEN BECAUSE I WAS GOING TO FIX HIM BREAKFAST. YOU KNOW, LIKE THIS IS MY HUSBAND, AND I'M JUST REALLY GETTING TO KNOW HIM AND TO DEAL WITH HIM, AND SO I WENT ON BACK TO THE KITCHEN AND HE SAID "MADINAH", AND I SAID "WHAT?" AND HE SAID "YOU KNOW RENEE WAS OUT THERE." I SAID "WELL WHY DIDN'T YOU COME LET ME KNOW?" AND HE SAID "WELL, I'LL LET YOU KNOW IF SHE DO IT AGAIN." SO, THE NEXT MORNING SHE CAME BACK AGAIN AND SHE TOLD ALI THAT IF SHE COULDN'T HAVE HIM NOBODY ELSE WAS GOING TO HAVE HIM, AND HIS SISTER, CAROLYN, WAS THE ONE WHO GAVE HER THE ADDRESS AND TOLD HER TO GO DOWN THERE, THAT'S WHERE SHE WOULD FIND ALI AT.

Q. OKAY.

A. I'D LIKE TO SAY THAT MS. RENEE, SHE DIDN'T KNOW

WHO I WAS AND SHE DID NOT KNOW WHERE I LIVED AT UNLESS SHE HAD GOTTEN IT FROM ---

Q. DID YOU EVER SPEAK TO MS. RENEE?

A. NO.

Q. SO, THIS IS YOUR HUSBAND'S FIRST DAY AT HOME WITH YOU?

A. YES, AND THE NEXT MORNING THERE SHE IS.

Q. AND YOU WERE FIXING HIM BREAKFAST?

A. YES, MA'AM.

Q. DID HE TELL YOU ABOUT HIS RELATIONSHIP WITH RENEE?

A. YES, I KNEW ABOUT RENEE. I BOUGHT ALI A BOX OF OIL, AND RENEE HAD CAME TO SEE HIM WITH A LITTLE BOY NAMED [redacted]--- THOSE CHILDREN ARE NOT ALI'S THOUGH, ALI HAD GOTTEN INTRODUCED TO RENEE BY HIS SISTER, CAROLYN, AND THE LITTLE BOY NAMED [redacted] HE WAS ABOUT [redacted] OLD OR SOMETHING LIKE THAT. SO, ALI BECAME THE CHILD'S, LIKE STEPFATHER, YOU KNOW LIKE A FOSTER PARENT FOR THE CHILD, BECAUSE THE CHILD'S FATHER'S NAME IS A MAN THEY CALL SMITTY, AND HE HAD TOLD ME THAT HE HAD SENT RENEE SOME DIVORCE PAPERS AND THAT HE HAD DIVORCED RENEE, BUT REALLY THEY WAS LIKE COMMON LAW MARRIED.

Q. ALI WAS MARRIED TO RENEE, ALSO? COMMON LAW MARRIAGE?

A. YES, MA'AM.

Q. HE TOLD YOU THIS?
A. THAT' S WHAT HE TOLD ME.
Q. AND SHE HAD SOME CHILDREN?
A. NONE OF THOSE CHILDREN ARE HIS, BECAUSE ALI CANNOT HAVE ANY CHILDREN.
Q. OKAY, BUT SHE HAD SOME CHILDREN?
A. SHE ALREADY HAD THOSE CHILDREN, JUST LIKE ME. I HAVE SEVEN CHILDREN AND NONE OF THEM BELONGED TO MY HUSBAND.
Q. ALL RIGHT. NOW, DID YOU HAVE A CHILD LIVING WITH YOU AT HOME AT THIS TIME?
A. YES, I HAD [redacted]
Q. NOW, ALSO, YOU HAD REFERRED TO ALI CALLING YOU ANOTHER NAME OTHER THAN LINDA ---
A. MADINAH.
Q. I' M SORRY?
A. MADINAH.
Q. SPELL THAT PLEASE.
A. M-A-D-I-N-A-H.
Q. AND THAT WAS YOUR MOSLEM, THAT IS YOUR MOSLEM NAME?
A. YES, MA' AM.
Q. DID HE ALWAYS REFER TO YOU AS MADINAH?
A. YES, MA' AM.
Q. AND YOU HAD A CHILD NAMED [redacted]

A. YES, ALI NAMED HER [redacted]

Q, [redacted]

A. YES.

Q. AND HOW OLD WAS [redacted] WHEN ALI GOT OUT OF PRISON?

A. [redacted]

Q. AND [redacted] WAS NOT ALI'S CHILD?

A. NO, ALI HAD DIVORCED ME --- ISLAMICALLY, HE DIVORCED ME, BUT LEGALLY I WAS STILL HIS WIFE. NOW, SEE LIKE I WAS TELLING YOU IN ISLAM YOU CAN DIVORCE A WOMAN. I CANNOT ATTAIN A DIVORCE NOT UNLESS MY HUSBAND GO AND THAT THE DIVORCE BE MADE KNOWN THAT HE INTEND TO DIVORCE ME, OTHERWISE I WOULD STILL BE MARRIED TO THIS MAN. SO, EACH TIME I SAID WELL, COME ON LET'S GO AHEAD ON AND GET A DIVORCE. HE SAID HE'S NOT GOING TO DO THAT, BUT HE'S DIVORCED ME IN FRONT, AMONG A HOST OF PEOPLE, BUT HE DID NOT DIVORCE ME THROUGH THE STATE. NOW, HE CAN DIVORCE ME JUST BY SAYING WELL, I RENOUNCE YOU, LIKE THAT, AND MY DIVORCE WOULD BE CONSIDERED, BUT I CAN'T GO IN AND GET A DIVORCE ON MY OWN. SO, I HAD TO STAY MARRIED TO ALI.

Q. AND YOU EXPLAINED TO HIM THE SITUATION WITH [redacted] RIGHT?

A. YES, MA'AM.

Q. WHAT DID YOU TELL HIM ABOUT [redacted]

A. WHEN HE TOLD ME THAT HE WAS MARRIED, I TOLD HIM THAT I WAS PREGNANT AND I WAS GOING TO HAVE A CHILD, AND SO, HE TOLD ME HE WAS NOT GOING TO TALK TO ME UNTIL AFTER THE CHILD WAS BORN. AND SO, WHEN I WENT TO HAVE THE BABY IN FEBRUARY I CALLED OUT THERE TO LET HIM KNOW I WAS GOING TO HAVE THE BABY AND HE SAID --- I ASKED HIM WHAT DID HE WANT ME TO DO BECAUSE I COULD HAVE GAVE THE BABY TO HER FATHER AND WENT ON BACK TO MY HUSBAND, AND HE SAID NO, TO KEEP THE BABY, AND HE ASKED ME WHAT I WAS GOING TO NAME HER AND I TOLD HIM I WAS WAITING ON HIM AND SO, HE NAMED HER [redacted] [redacted](PHONETICALLY), AND I GAVE HER MY MOTHER'S NAME, [redacted] AND [redacted]. HE GAVE HER HIS LAST NAME.

Q. WHEN WAS SHE BORN?

A. [redacted].

Q. NOW, YOU HAD SOME PROBLEMS WITH DSS, DIDN'T YOU?

A. YES, I HAVE A SON NAMED [redacted], YOU KNOW, WHEN I WAS IN PRISON, THE EARLY PART OF MY PRISON LIFE, AND I WAS ON THOSE STRONG MEDICATIONS LIKE (INAUDIBLE) TYLENOL, ATIRYL(PHONETICALLY), ATIVAN, AND THOSE THORAZINE SHOTS AND THINGS THAT THEY USED TO GIVE PRISONERS. I HAD A CHILD WHILE I WAS IN PRISON AND MY CHILD IS DEEMED AS EMOTIONALLY DISTURBED, AND HE ALWAYS HAVE PROBLEMS, AND HE HAVE FITS AND YOU HAVE TO BE REAL TENTATIVE WITH HIM. YOU KNOW, THE LEAST LITTLE THING

THAT YOU SAY TO HIM IT WILL SET HIM OFF, AND I WAS AFRAID OF HIM. HE WAS BIG FOR HIS AGE, AND SO I GOT CUSTODY OF MY SON WHILE HE WAS IN R & E CENTER. MY BROTHER AND MY SISTER-IN-LAW, MAXINE SALLEY, SAID THAT THEY WAS TIRED OF HIM. THEY HAD DONE EVERYTHING THAT THEY COULD DO FOR HIM AND THE CHILD WOULD JUST REBEL AGAINST THEM. SO, I SAID INSTEAD OF THEM PUTTING HIM IN PRISON AND THE R & E CENTER, I ASKED THE JUDGE TO LET ME HAVE THE CHILD. SO, THE JUDGE GAVE ME THE CHILD BACK, BUT I DID NOT KNOW THAT HE WAS REALLY THIS CORRUPT, AND JUST, WHEREVER YOU TRIED TO TURN HIM OR GUIDE THE CHILD, THE CHILD IS JUST GOING TO DO WHAT HE WANT TO DO. HE WANT TO COME IN THE HOUSE AT 10:00 AND 11:00 O'CLOCK AT NIGHT AND HE WAS JUST [redacted] YEARS OLD, AND I JUST FELT THAT THAT WASN'T RIGHT. I TOLD HIM HE HAD TO BE IN THE HOUSE AT 6:00 O'CLOCK. THEN HE WOULD RUN WITH THESE PEOPLE, THE LITTLE CHILDREN IN THE GHETTO WHO BREAK IN PEOPLE'S HOUSES AND BUST GLASSES, AND CUT PEOPLE'S TIRES AND STUFF LIKE THAT, AND I JUST CALLED THE POLICE AND REPORT MY SON. SO I --- SOMEBODY SUGGESTED ME TO GO TO THE JUDGE. SO, I WENT TO THE JUDGE UP HERE IN PROBATE COURT, AND I TOLD THE JUDGE ABOUT MY SON AND ABOUT HIS BEHAVIOR, AND I DIDN'T FEEL COMFORTABLE AROUND MY SON BECAUSE MY SON HAD MADE A PASS AT ME, AND I FOUND OUT THAT MY SON HAD BEEN

SODOMIZED WHILE I WAS IN PRISON, AND SO, MS. DELLA JACKSON, HIS PROBATION OFFICER, SHE'S UP HERE IN THIS COURTROOM, HAD HIM SENT TO R & E CENTER FOR BUSTING THE PEOPLE'S WINDOWS AND RECEIVING STOLEN GOODS AND STEALING OUT OF, A WALK-MAN OUT OF A SEARS STORE, AND I TOLD HIM THAT I WANTED HER, YOU KNOW, TO DO A PHYSICAL SO SHE COULD SEE WHAT I FELT AND BELIEVED WAS THE TRUTH THAT MY SON WAS SODOMIZED, AND SO, SHE CALLED ME AND SHE TOLD ME, SAID "MS. TYLER", SHE SAID "IT WAS FOUND THAT YOUR SON HAD BEEN SODOMIZED AND THAT'S PROBABLY WHY HIS BEHAVIOR IS THE WAY IT WAS." AND SO, AFTER HE --

Q. I'M SORRY, DID YOU SEEK TREATMENT FOR HIM AFTER YOU, AFTER THEY HAD CONFIRMED THAT HE WAS SODOMIZED?

A. YES, MA'AM. WELL, HE STAYED AT R & E CENTER FOR SIX MONTHS, AND THEY SAID THEY GIVE HIM GROUP THERAPY. HE HAS HIS OWN INDIVIDUAL GROUP THERAPIST THAT HE TALKS WITH DAILY, AND RIGHT NOW HE'S IN GREENVILLE, SOUTH CAROLINA.

Q. IN 1996, WERE YOU TRYING TO GET [redacted] BACK HOME?

A. YES, MA'AM.

Q. DID YOU CARE FOR HIM?

A. YES, MA'AM, BUT SEE, WHEN ALI, BEFORE ALI HAD GOTTEN OUT, ALI HAD TOLD THE JUDGE THAT HE GET OUT MAY 1, AND WHEN HE GET OUT MAY 1 HE WOULD BE RESPONSIBLE

FOR TAKING JOEY, FOR GETTING JOEY BACK. SO, THE JUDGE COULD HAVE GIVEN HIM TO ME, BUT ALI TOLD THE JUDGE NO, DON'T GIVE HIM TO ME BECAUSE I WAS AFRAID OF HIM, AND SO THE JUDGE TOLD ALI THAT HE WAS GOING TO GIVE HIM THIRTY DAYS. IN FACT, HE GAVE HIM THIRTY-FOUR DAYS AND TOLD HIM TO SHOW UP JUNE 4TH WITH A JOB, AND HE WOULD GO AHEAD AND GIVE JOEY BACK TO HIM, THAT HE WOULD BE TOTALLY RESPONSIBLE FOR TAKING CARE OF JOEY.

Q. WHICH MEANS [redacted] WOULD BE LIVING IN YOUR HOUSE?

A. YES, MA'AM, BUT ALI WOULD BE, HE WOULD ONLY DEAL WITH ALI. I WOULD HAVE NOTHING TO DO WITH IT. I WOULD, YOU KNOW, DO THE PARENTING THING, COOK AND FEED HIM AND MAKE SURE HE GOES TO SCHOOL, AND STUFF LIKE THAT.

Q. AND THAT WAS THE TREATMENT PLAN THROUGH THE FAMILY COURT?

A. YES, MA'AM.

Q. AND WHAT HAPPENED ON JUNE 4TH?

A. ALI DIDN'T SHOW UP. HE BEAT ME UP AND I HAD TO GO TO COURT WITH A BLOOD SHOT EYE, AND THEN HE SUPPOSED TO REPORT TO HIS PAROLE AND PROBATION OFFICE. SO, LATER ON AFTER I HAD TOOK THE OVERDOSE WHEN I TRIED TO KILL MYSELF ---

Q. LET ME BACK UP, OKAY?

A. OKAY.

Q. YOU SAID THAT HE HAD BEAT YOU UP?
A. YES, MA'AM, AND HE PACKED HIS CLOTHES AND LEFT.
Q. LET ME ASK YOU THIS. WHY DIDN'T YOU CALL THE POLICE?
A. I COULDN'T CALL, I CAN'T, I COULDN'T AFFORD TO CALL THE POLICE CAUSE ALI, ALI HELPED ME TO GET MY CHILDREN BACK.
Q. AND IF YOU HAD CALLED THE POLICE, WHAT WOULD HAVE HAPPENED?
A. THEN I WOULDN'T HAVE GOT MY CHILDREN.
Q. SO, WHY DID HE BEAT YOU UP?
A. BECAUSE HE KNEW THAT I HAD NEEDED HIM AND I DEPENDED UPON HIM AND HE TOLD ME THAT --- HE AGREED TO HELP ME AND ONCE I GET MY CHILDREN THAT HE CAN GO AHEAD ON HIS SEPARATE WAY, CAUSE THE FIRST TWO WEEKS HE WAS OUT I KNEW THAT THE MARRIAGE WASN'T GOING TO WORK BECAUSE THE MAN HAD STARTED SLEEPING OUT. HE WAS OUT SEPTEMBER 12TH. I WENT AND GOT HIM FROM JOHNNIE BELL HEYWARD'S HOUSE, THE LADY WHO TESTIFIED EARLIER, AND IT WAS JUST ONE EPISODE AFTER ANOTHER. ALI JUST WANTED TO BRING ME DOWN.
Q. OKAY, LET ME ASK YOU THIS. HE GOT OUT ON MAY 1, 1996?
A. YES, MA'AM.
Q. THE FIRST TIME HE DIDN'T SHOW UP AT HOME AT NIGHT

WAS WHEN?

A. AROUND ABOUT MAY 10TH. HE SPENT THAT NIGHT WITH A PROSTITUTE NAMED NIKKI TAYLOR WHO HE USED TO GO WITH UP AT THE MOTEL AT TWO NOTCH ROAD, ON THE FAIR ROAD, THE ABC MOTEL.

Q. NOW, HE WAS TELLING YOU, OR HE WAS GOING TO HELP YOU GET YOUR CHILDREN BACK?

A. YES.

Q. YOU BELIEVED THIS?

A. YES, MA'AM.

Q. AND HE HAD A COURT HEARING ON ---

A. JUNE 4.

Q. JUNE 4?

A. UH-HUH.

Q. AND YOU SAID HE DIDN'T SHOW UP?

A. NO, MA'AM. HE DIDN'T.

Q. BUT YOU DID WITH A BLACK EYE?

A. YES, MA'AM.

Q. WHAT DID THE JUDGE DO?

A. THE JUDGE RULED TO HAVE HIM DISMISSED FROM THE CASE AND HIS ATTORNEY MOVED TO HAVE, TO BE DISMISSED THAT HE HAD NO DESIRE TO REPRESENT MR. VAN TYLER EVEN IF HE CAME FIVE MINUTES LATE OR EVEN A HOUR LATE. HE SAID IT SHOWED THAT MR. VAN TYLER PROVED TO BE UNTRUE TO HIS WORD.

Q. WHAT HAPPENED TO YOUR CHILDREN?
A. WELL, MY SON REMAINED IN DSS CARE.
Q. DID YOU THROW ALI OUT OF THE HOUSE THEN?
A. NO, MA'AM. SEE, HE HAD ALREADY PACKED AND GONE THAT MORNING THAT HE PACKED. HE STARTED THE ARGUMENT. YOU KNOW HOW SOMEBODY WANT TO START SOMETHING SO THEY CAN HAVE A EXCUSE NOT TO DO SOMETHING --- WELL, THAT'S WHAT HE DID.
Q. HE STARTED AN ARGUMENT, WHY?
A. BECAUSE HE DIDN'T WANT TO GO TO COURT WITH ME. HE TOLD ME HE DIDN'T HAVE TO DO THAT BECAUSE THOSE WAS NOT NONE OF HIS KIDS.
Q. HOW MANY DAYS, OR HOW MANY WEEKS PRIOR TO THAT DID HE PROMISE YOU HE WOULD?
A. THAT WAS ALREADY AGREED UPON EVER SINCE HE WAS IN PRISON.
Q. OKAY. ALL RIGHT. NOW, AFTER JUNE 4, 1998, WHEN WAS THE NEXT INCIDENT THAT YOU HAD WITH ALI ---
A. YOU MEAN 1996?
Q. I MEAN 1996, I'M SORRY.
A. THE NEXT INCIDENT CAME WHEN I WENT TO JOHNNIE BELL HEYWARD'S HOUSE BECAUSE HE ASKED ME TO TAKE HIM OVER THERE, AND I TOOK HIM OVER THERE. HE TOLD ME THAT THAT WAS A RELATIVE OF HIS. THEN I WENT THERE THE NEXT MORNING. THE LADY HAD ON HER NEGLIGEE AND WASN'T

NOBODY IN THE HOUSE BUT HER AND ALI, AND HE CAME DOWN THE STEPS, AND HE WAS PUTTING ON SOME SHIRTS AND SOME CLOTHES, AND HE WAS BUTTONING UP HIS SHIRT AND HE HAD BUTTONED THEM UP UPSIDE DOWN.

Q. UPSIDE DOWN?

A. YEAH, AND I ASKED HIM "MAY I COME IN?" SHE SAID I COULD COME IN IF HE WANTED ME TO COME IN BUT HE, LIKE I HAD SAID IN MY REPORT THAT I HAVE OVER TO THE COURT, OVER A YEAR AND A HALF AGO, THAT HE CAME HALFWAY DOWN THE STEPS AND STOOD UP AND SAID HE DIDN'T WANT TO TALK AND TOLD ME TO GO AHEAD ON AWAY FROM HIM CAUSE HE WAS THROUGH WITH ME.

Q. THAT HE WAS WHAT?

A. HE WAS THROUGH WITH ME.

Q. AND HE EVENTUALLY DID SPEAK WITH YOU?

A. YES, MA'AM. HE HAD CALLED ME UP TO CORA LEE FULLER'S HOUSE AND TOLD CORA LEE TO TELL ME TO COME BACK AND PICK HIM UP OVER WHERE HE WAS AT.

Q. WHERE WAS HE WHEN YOU PICKED HIM UP?

A. AT THE WOMAN'S HOUSE, JOHNNIE BELL'S HOUSE.

Q. JOHNNIE BELL, WHO IS ALSO JOHNNIE HEYWARD?

A. YES, MA'AM.

Q. DID YOU KNOW MS. HEYWARD BEFORE THAT DATE?

A. NO, MA'AM. ALL I KNOW IS THAT SHE WAS ONE OF THE WOMEN THAT USED TO GO VISIT ALI.

Q. NOW, WHAT ALSO HAPPENED IN THE SUMMER OF 1996 PERTAINING TO YOU OR YOUR CHILDREN?
A. WELL, THEY PULLED A URINE TEST ON ME, AND I HAD SMOKED MARIJUANA WITH ALI, AND THEY FOUND MARIJUANA IN MY URINE, AND SO THEY CALLED ME TO GO TO COURT SEPTEMBER 12. THEY TOLD ME I WAS GOING TO COURT ABOUT MY SON, JOEY, BUT THEY ---
A. SEPTEMBER 12 --- I'M SORRY, IS THAT THE SAME DATE THAT HE WAS OVER AT JOHNNIE BELL HEYWARD'S HOUSE?
A. OH, NO, YOU TALKING ABOUT --- THAT WAS IN MAY.
Q. OKAY.
A. DO YOU WANT ME TO GO BACK TO THAT DATE?
Q. NO.
A. OH, AND SO, THEY TOLD ME I WAS GOING TO COURT ABOUT MY SON, JOEY, BUT WHEN I GOT THERE THEY TOLD ME THEY HAD ALREADY ISSUED A ORDER TO HAVE, TO SEIZE MY CHILDREN, MY TWO YOUNG CHILDREN, [redacted] AND I JUST DIDN'T BELIEVE THAT THEY COULD TAKE MY CHILDREN LIKE THAT. THAT'S WHEN I SEEN ALI --- OH, YOU WANT ME TO GO BACK TO THE DAY ABOUT ALI? OH, OKAY. WELL, ANYWAY, BEFORE THAT IN AUGUST, AFTER I HAD TOOK [redacted] I HAD WENT TO JAIL BECAUSE MY CAR WAS USED AS A THEFT, SOMEBODY STOLE SOMETHING OUT OF THE STORE, AND ALI TOLD ME TO PUT THEM IN MY CAR, AND I TOLD HIM "NO" ---

Q. WAIT A MINUTE, WAIT A MINUTE. LET ME BACK UP A MINUTE ---

A. OKAY.

Q. --- AND TRY TO FIND OUT WHEN THIS WAS.

A. WHICH INCIDENT --- I THOUGHT YOU WANTED ME TO GO ALL THE WAY BACK.

Q. THIS IS ---

A. THIS HAPPENED IN MAY. THIS INCIDENT HAPPENED IN MAY. ALI WASN'T ---

Q. TELL ME WHAT HAPPENED.

A. OKAY. MAY 28, AN INVESTIGATOR FROM THE SHERIFF'S DEPARTMENT, A MR. HUGH HENDERSON, CAME TO MY HOUSE AT 8:00 O'CLOCK THAT MORNING, BEFORE 8:00 O'CLOCK THAT MORNING, AND HE WAS KNOCKING ON THE DOOR, AND I WENT DOWN THERE AND TOLD HIM HE DIDN'T HAVE TO BEAT THAT LOUDLY AND I ASKED HIM WHAT HE WANTED, AND HE ASKED ME WAS I LINDA TYLER, AND I TOLD HIM YES, AND HE TOLD ME, HE SAID HE HAD THREE INCIDENTS CONCERNING ME AND MY CAR, AND HE NEEDED ME TO COME DOWN TO THE POLICE STATION BECAUSE HE WANTED TO ASK ME SOME QUESTIONS. SO, I ASKED HIM WAS HE GOING TO PUT ME IN JAIL, AND HE TOLD ME, NO, HE WASN'T GOING TO PUT ME IN JAIL. SO, HE ASKED ALI WAS HE THE PERSON THAT WAS IN THE CAR WITH ME THE DAY OF, TWO DAYS BEFORE THAT, AND HE TOLD HIM YEAH. SO, I WENT ON DOWN THERE WITH HIM, AND I LEFT ALI AND

MY DAUGHTER, [redacted] HOME AND WITH THE CAR KEYS BECAUSE ---

Q. HOW LONG?

A. HOW LONG WAS I GONE? EVER SINCE 8:00 O' CLOCK THAT MORNING.

Q. HOW LONG DID YOU LEAVE THEM ALONE?

A. I WENT TO JAIL FOR THREE DAYS.

Q. SO, ALI WAS ALONE WITH [redacted] FOR THREE DAYS?

A. YES, MA' AM, AND SO ---

Q. OKAY, YOU GET BACK OUT OF JAIL AND THEN WHAT HAPPENED?

A. I GET BACK OUT OF JAIL AND TWO DAYS, I GOT OUT OF JAIL THAT SATURDAY AND THE TUESDAY THERE WAS TIME FOR US TO GO TO COURT TO GET MY CHILDREN.

Q. JUNE 4TH?

A. JUNE 4TH. SO, THAT' S WHEN I ASKED ALI WHAT HE WAS GOING TO DO, AND HE SLAPPED ME IN MY FACE AND I SAID ALL YOU WANT TO DO IS TO START SOMETHING SO YOU DON' T HAVE TO GO AND SHOW UP IN COURT. SO, HE HIT ME IN MY EYE AGAIN. MY EYE TURNED BLOOD SHOT. SO, I TIED MY SCARF HALFWAY ACROSS MY EYE, THE BOTTOM WAS RIGHT LIKE HERE. I TRIED TO MAKE IT REAL TIGHT SO THEY COULD THINK THAT IT WAS JUST LIKE THAT, YOU KNOW, AND I JUST PULL IT DOWN HALFWAY LIKE THAT, AND SO, MS. MEYERS ASKED ME DID ALI HIT AT ME IN MY EYE. I TOLD HER NO, I

SAID I FELL DOWN THE STEPS, AND SHE SAID, NO, YOU'RE LYING. SHE SAID WE KNOW THAT MAN IS BEATING ON YOU BECAUSE SOMEBODY HAS ALREADY DONE TOLD US, BECAUSE THEY HAD SEEN US FIGHTING OUT IN THE STREET. SO, ALI DIDN'T SHOW UP FOR COURT, AND SO, THE JUDGE HAD DISMISSED THE CASE AND TOLD ME I NEEDED TO FIND MY HUSBAND, AND SO HE ---

Q. FOR WHAT REASON DID THE JUDGE TELL YOU THAT YOU NEEDED TO FIND YOUR HUSBAND?

A. BECAUSE HE HAD GAVE HIS WORD IN COURT THAT HE WAS GOING TO BE RESPONSIBLE FOR THAT CHILD, AND THE JUDGE WANTED TO SEE HIM PERIOD.

Q. AND IF HE DIDN'T SHOW UP FOR COURT WHAT WAS GOING TO HAPPEN?

A. THAT MY CHILD WOULD REMAIN IN DSS CARE.

Q. YOU NEEDED ALI ---

A. YEAH, TO GET MY CHILD, YEAH.

Q. AND WHAT HAPPENED WITH [redacted] THE WEEK AFTER THAT.

A. OKAY, SO, AFTER THAT, AFTER I LEFT THE COURTROOM, I WAS HURT BECAUSE THEY HAD SHOT THE CHILD BACK DOWN AND SAID THEY WASN'T GOING TO GIVE HIM TO ME. SO, I WENT TO THE STORE AND BOUGHT ME A PINT OF GIN AND DRUNK IT, AND I SAID WELL, I WAS GOING TO TRY TO KILL MYSELF. SO, AFTER THAT I DROVE TO THE BUS STATION WHERE ALI WAS

AT, THAT' S WHERE HE ALWAYS GO, AND I FELL OUT, AND SO --

Q. WHAT ELSE DID YOU TAKE WITH THE GIN?

A. NOTHING.

Q. YOU DIDN' T TAKE ANY MEDICATION?

A. NO, MA' AM.

Q. OKAY. SO, THEN WHAT HAPPENED?

A. SO, I ENDED UP GOING TO THE HOSPITAL AND THEY PUMPED MY STOMACH, AND SO ALI WAS THERE AND AFTER IT WAS OVER WE WENT ON BACK HOME, AND HE TOLD ME HE WAS ONLY GOING TO STAY WITH ME TO GET THOSE CHILDREN BACK AND ONCE HE GET THE CHILDREN BACK THAT HE WAS --- HE WAS OUT OF HERE, AND SO, AFTER THAT --- THAT WAS JUNE 4TH. ME AND HIM WAS OUT AND WE WENT TO --- CORA LEE FULLER IS MY SON [redacted] GODMOTHER, AND I ASKED HER WOULD SHE MIND [redacted] FOR ME WHILE ME AND ALI GO OUT IN THE STREET AND HUSTLE. SO, SHE SAID OKAY. SO, WE CAME BACK HOME AND I PICKED [redacted] UP. I BREAST FEED [redacted] BECAUSE SHE HAS A SKIN DISEASE AND SHE' S ALLERGIC TO THE COW MILK.

Q. HOW MANY DAYS AFTER YOU GOT OUT OF JAIL DID THIS HAPPEN?

A. OH, THAT WAS ABOUT TEN DAYS.

Q. OKAY.

A. I THINK IT WAS ABOUT TEN DAYS, I BELIEVE.

Q. OKAY.

A. WITHIN ABOUT TWO WEEKS.

Q. ALL RIGHT.

A. AND SO, I WAS BREAST FEEDING [redacted] SEE, SHE CAN'T USE WATER BECAUSE THE WATER BURNS HER SKIN. YOU HAVE TO WASH HER IN THAT SOLUTION. SOMETIMES SHE CAN TAKE THE WATER AND SOMETIMES SHE CAN'T. SHE SAYS THE WATER IRRITATES HER, AND SO, ALI WASHES [redacted] AND I WASHES [redacted] TOO. SO, I NEVER DID THINK ANYTHING FUNNY, BUT WHEN I HAD GAVE HER A BATH AND I BREAST FED HER, AND SHE SLEEPS LIKE THIS RIGHT HERE, AND HER BUTT, YOU COULD SEE THROUGH HER BUTT JUST LIKE THAT, AND I SAID ALI --- I MEAN I LOOKED OUT ONE EYE, AND I SAID I KNOW I'M NOT SEEING THINGS, AND I CLOSED BOTH OF MY EYES AND I OPENED MY EYES AGAIN, AND I CALLED FOR ALI. I SAID ALI, I SAID, COME HERE. I SAID LOOK, SOMEBODY'S DONE DONE SOMETHING TO [redacted] S BUTT. AND HE TOLD ME TO BUNK OVER AND I BUNKED OVER AND HE SAID WELL YOUR --
-

Q. HE SAID WHAT?

A. HE TOLD ME TO BUNK OVER.

Q. BUNK OVER?

A. YEAH, SO HE CAN LOOK AT MY BUTT. HE SAID WITH YOUR BUTT LAYING LIKE THAT, HE SAID SOMEBODY DID SOMETHING TO HER. SO, I GOT IN THE CAR, AND WE WENT

BACK UP TO CORA LEE'S HOUSE BECAUSE THAT'S WHERE I HAD LEFT HER AT, YOU KNOW, AND I CALLED THE PARAMEDICS AND I CALLED THE POLICE AND THE AMBULANCE AND EVERYBODY COME OUT, AND SO WE TOOK [redacted] TO RICHLAND MEMORIAL HOSPITAL TO HAVE THE TEST DONE, BUT SEE, THE DOCTOR, HE DID NOT DO A SPECIAL EXAMINATION ON [redacted] WHAT HE DID, HE TOLD ME TO HOLD HER IN MY LAP, AND TOLD ME TO PULL HER PAMPER APART, AND HE TOOK A Q-TIP AND JUST STUCK IT UP IN HER BUTT, AND THAT WAS IT, AND HE TOOK SOME BLOOD TEST FROM HER AND PUT HER NAME ON THE VICTIM WITNESS CRIME REPORT SYSTEM, AND THE INVESTIGATOR CAME AND TALKED TO ME, AND HE SAID AFTER THE REPORTS AND EVERYTHING COMES BACK THAT HE WOULD COME BACK AND LET ME KNOW WHAT WAS THE OUTCOME OF [redacted] TESTS, BUT EVERY TIME THE INVESTIGATOR WOULD COME I WOULD NOT BE HOME BECAUSE EVER SINCE THAT ALI WAS GOING TO STAY HOME. I SAID ALI, YOU'VE BEEN IN PRISON FOR NINE YEARS. YOU NEED TO GIVE THOSE DRUGS UP. BECAUSE HE HAD STARTED SELLING HEROINE(PHONETICALLY) AND I SAID "I CAN'T USE THAT HEROINE IN MY HOUSE BECAUSE I'M TRYING TO GET MY CHILDREN BACK AND GET MY LIFE TOGETHER. SO, ALI, I STOPPED HIM FROM USING DRUGS, AND I WENT OUT IN THE STREET AND JUST RENTED MY CAR OUT. YOU KNOW, PEOPLE USE THEIR CAR LIKE FOOD LION AND BI-LO TO TAKE PEOPLE HOME FOR GROCERIES AND STUFF LIKE THAT,

AND YOU MAKE A GOOD LITTLE BIT OF CHANGE LIKE THAT, AND SO, THAT'S HOW THAT WAS, AND SO, ALI WAS THE PERSON WHO WAS STAYING HOME WITH [redacted] SO, WHEN I CAME HOME THE END OF AUGUST, THE CAR, I BOUGHT ALI THAT CAR THAT I HAD SET HIM ON FIRE IN AS A GIFT. I SAID ALI, ONCE I GET THE CAR PAID UP AND INSURANCE, I SAID, I'M THROUGH HUSTLING. I SAID, IT'S TIME FOR ME TO GET BACK HOME, BECAUSE THE CHILDREN WOULD START GOING BACK TO SCHOOL IN SEPTEMBER, AND SO, ALI HAD, ALI DID SOMETHING. I CAME HOME THE END OF AUGUST, AND [redacted] SAY "MAMA", I SAID "HUH", SHE SAID "ALI ATE MY POOH POOH".

Q. I'M SORRY, YOU HAVE TO SPEAK UP.

A. I CAME IN HOME AT THE END OF AUGUST AND [redacted] SAID "MAMA", AND I SAID "HUH", SHE SAY "ALI ATE MY POOH POOH." ALI SAID "NO ,I DIDN'T." SHE SAY "YES, YOU DID EAT MY POOH POOH." AND HE SAID "STOP LYING ON ME." AND SHE SAID "YES, YOU DID EAT MY POOH POOH, AND I'M NOT LYING ON YOU." SO, ALI GOT UP AND LEFT. THAT WAS THE LAST TIME I SEEN ALI UNTIL SEPTEMBER 12, AND HE SHOWED UP ON THE FAMILY COURT TELLING THE PEOPLE THAT HE WANT HIS NAME TAKEN OFF, MY NAME ATTACHED TO HIS, BECAUSE HE WAS NOT THE FATHER OF ANY OF THOSE CHILDREN. THAT HE DID NOT LIVE WITH ME, AND THAT ME AND HIM WAS LIVING APART AND HE WAS FILING FOR A DIVORCE FROM ME. SO, THAT WAS HOW THAT WAS.

Q. HOW DID THAT MAKE YOU FEEL?
A. I WAS HURT BECAUSE HE DIDN'T HAVE TO DO THAT, AND THE ONLY THING THAT HE KNOW THAT HE COULD HURT ME IS BY DOING SOMETHING TO [redacted] ALI, HE GOT OUT OF PRISON, HE DIDN'T HAVE ANYTHING. EVERYTHING THAT HE HAVE I GAVE IT TO HIM, AND YOU'RE NOT GOING TO FIND NOBODY WHO'LL GO OUT AND BUY SOMEBODY A CAR, AND THE PERSON HADN'T EVEN BEEN OUT IN THE STREET, AND HADN'T DONE NOTHING. SO, HE DIDN'T DO ANYTHING. HE DIDN'T EVEN PAY HIS OWN PAROLE FEE. I EVEN PAID THAT UP TO JANUARY OF '97.
Q. WHAT HAPPENED BETWEEN YOU AND YOUR DAUGHTER AND HER ALLEGATIONS ABOUT HIM EATING HER POOH POOH?
A. SHE TOLD ME THAT --- ALI TOLD ME THAT [redacted] --- [redacted] TOLD ME ALI HAD ATE HER POOH POOH.
Q. DID YOU TELL ANYONE?
A. NO, I COULDN'T AFFORD TO TELL NOBODY BECAUSE THEY WOULD TAKE MY CHILDREN. IF I HAD GOTTEN INTO ANYTHING ELSE OUTSIDE THAT FOR THOSE DRUGS BEING ON ME, THAT THEY WAS GOING TO TAKE MY CHILDREN, AND SO THAT'S WHY I DIDN'T TELL, BUT I HAD CALLED MY ATTORNEY, MR. LEWIS, AND I HAD TOLD HIM --- I ASKED HIM COULD HE HAVE THE HEARING FOR SEPTEMBER 12 POSTPONED BECAUSE SOMETHING HAD HAPPENED AND HE TOLD ME NO, I COULDN'T HAVE IT POSTPONED BECAUSE HE HAD JUST ALREADY HAD THAT

DATE SET, AND I GOT, BECAME UPSET BECAUSE I COULD HAVE TOOK [redacted] AND LEFT TOWN. I COULD HAVE GAVE [redacted] TO MS. SMITH. I COULD HAVE LEFT. THAT'S ALL THE THINGS I COULD HAVE DONE BUT I DIDN'T DO THAT. YOU KNOW, I DIDN'T HAVE TO STAY AROUND. THE ONLY THING I KNOW IS THAT THEY WOULD HAVE BEEN LOOKING FOR ME, BUT AT LEAST I WOULD HAVE HAD A CHANCE TO GIVE THE CHILD TO HER FATHER AND THAT WAY THEY COULDN'T HAVE TAKEN HER. DO YOU SEE WHAT I'M SAYING? AND I WOULD HAVE ONLY BEEN RESPONSIBLE FOR NOT SHOWING UP IN COURT, AND FOR PROBABLY KIDNAPING MY OWN CHILD.

Q. WELL, MS. TYLER, WERE YOU LEFT WITH THE CHOICE OF EITHER YOUR HUSBAND OR YOUR CHILD?

A. YOU TALKING ABOUT WHAT MUST I DO?

Q. WHAT WAS YOUR CHOICES?

A. MY CHOICE WAS TO BE SILENT. NOT TO LET EVERYBODY KNOW. HOW WOULD YOU GO AND TELL SOMEBODY THAT YOUR HUSBAND ATE YOUR LITTLE GIRL'S STUFF? YOU KNOW, I HAD DONE WENT AND ASKED FOR HELP ON SEVERAL OCCASIONS, AND EVERY TIME I SAID, WELL, COME ON AND LET'S GO ON AND GET THIS DIVORCE, ALI. I'M READY TO GO ON AND STAND UP BY MYSELF AND JUST FACE ALL MY PROBLEMS BY MYSELF. EVERYBODY KNOW I'M DOING MY PART. I DIDN'T WANT TO LET MY SON DOWN BECAUSE I FELT HE HAD ALREADY BEEN THROUGH A LOT, AND I'VE BEEN THROUGH A LOT AND TO WHERE HE HAD

BEEN, HE GREW UP IN PRISON.

Q. NOW, MS. TYLER.

A. MA' AM.

Q. WAS ALI A HOMOSEXUAL?

A. YES, ALI WAS A HOMOSEXUAL.

Q. HOW DID THAT EFFECT YOUR FEELINGS TOWARD WHAT HE MIGHT HAVE DONE TO [redacted]

A. THE ONLY PERSON THAT WOULD DO SOMETHING LIKE THAT IS A PERSON WHO IS A HOMOSEXUAL. YOU DON' T FIND PEOPLE MESSING WITH NOBODY' S CHILDREN IN THEIR BUTT, USUALLY THEY MESS WITH THEIR VAGINA.

Q. DID YOU EVER CONFRONT ALI ABOUT [redacted]

A. YES.

Q. WHAT DID HE DO?

A. HE LIED. HE SAID HE DIDN' T DO IT.

Q. WHAT DID HE --- THEN WHAT DID HE DO?

A. HE LEFT.

Q. HE LEFT YOU?

A. YEAH, HE LEFT.

Q. WHY DID HE LEAVE YOU?

A. HE SAID HE HAD TO LEAVE BECAUSE PEOPLE WOULD BELIEVE THEM CHILDREN. I SAID, WELL, IF YOU AIN' T GUILTY OF NOTHING, WHAT YOU LEAVING FOR? I SAID, SURELY SHE' S NOT GOING TO TELL NO LIE. THAT' S TOO BIG OF A THING FOR A CHILD TO SAY. SHE' S ONLY TWO [redacted]

[redacted] HOW IS SHE GOING TO KNOW THAT YOU ATE HER POOH POOH? NOW, THAT IN ITSELF TELLS SOMEBODY SOMETHING.

Q. WHEN HE LEFT, WHERE DID HE GO?

A. I DON'T KNOW WHERE HE WENT. I KNOW HE WENT AND STARTED STAYING WITH A BROTHER CALLED JAMAL, AND THEN HE WAS STAYING WITH JACKIE CADEIDRA.

Q. JACKIE?

A. MY NEIGHBOR.

Q. YOUR NEIGHBOR?

A. YEAH.

Q. IS THAT THE JACKIE THAT YOU MENTIONED IN YOUR STATEMENT?

A. YES, MA'AM.

Q. NOW ---

A. HE HAD PLENTY OF PLACES TO GO. SO, IT'S NOT LIKE THAT HE DIDN'T HAVE NO WOMEN SO HE COULD GO TO. HE COULD TAKE NIGHTS WITH THIS ONE AND NIGHTS WITH THAT ONE. SO, THAT'S LIKE HE DID FOR THE LAST, EVER SINCE AUGUST, THE END OF AUGUST.

Q. WELL, WHO WOULD HE CALL IF HE NEEDED MONEY?

A. WHO WOULD HE CALL FOR SOME MONEY?

Q. IF HE NEEDED MONEY.

A. ANYBODY. HE WOULD CALL ME. HE WOULD CALL ME AND GET ME DOWN AT THE STORE, AT JACKIE'S STORE. YES,

MA' AM. NOT THE SAME JACKIE, THOUGH, BUT ANOTHER LADY NAMED MS. KELLY.

Q. ALL RIGHT. NOW, THIS IS THE JACKIE THAT YOU REFERRED TO IN YOUR WRITTEN STATEMENT THAT YOU GAVE TO MR. GRAY. IS THAT RIGHT?

A. YES, MA' AM.

Q. DID YOU TELL MR. GRAY ABOUT THE INCIDENT AND JACKIE?

A. YES, I DID.

Q. WHAT DID YOU TELL MR. GRAY ABOUT JACKIE?

A. I TOLD HIM THE WHOLE TRUTH ABOUT THE STORY.

Q. WHAT DID YOU TELL HIM?

A. I TOLD HIM THAT JACKIE HAD CAME TO MY HOUSE THAT NIGHT BEFORE AND TOLD ME THAT, SHE SAID, MS. LINDA, SHE SAID, I WANT TO TALK TO YOU. I TOLD HER TO COME ON IN, AND SHE ASKED ME WAS ALI MY HUSBAND AND I TOLD HER YEAH, AND SHE SAID THAT ALI --- SHE ASKED ME WAS I MARRIED TO ALI, I TOLD HER YEAH. SHE ASKED ME WAS WE STILL TOGETHER AND I TOLD HER YEAH. SHE SAID, WELL, ALI TOLD ME, SHE SAID, ALI HAD APPROACHED ME TWO WEEKS AGO AND TOLD ME THAT HE WAS NOT MARRIED AND THAT HE WAS THROUGH WITH ME AND THAT HE WAS LOOKING FOR A WOMAN. THAT' S EXACTLY WHAT I TOLD MR. GRAY, AND SHE TOLD ME THAT SHE, ALI HAS TOLD HER, I SAID, ALI, I SAID JACKIE, I SAY, HAVE YOU HAD SEX WITH ALI? BECAUSE SHE WAS REAL

UPSET AND SHE SAID, OH, NO, MA'AM, IT WAS NOT NONE OF THAT. SO, I SIT ON THE FLOOR, I SAID, WELL, ALI, YOU NEED TO APOLOGIZE TO HER FOR THE WRONG THAT YOU HAVE DONE TO HER BECAUSE YOU WAS WRONG FOR LEADING HER ON. HE SAID, WELL, JACKIE, HE SAID, I'M THROUGH WITH YOU. I'M BACK WITH MADINAH. HER NAME IS CADEIDRA. SHE'S SUPPOSED TO BE A MOSLEM TOO, AND SO, SHE SAY, I DON'T CARE WHAT YOU SAY. ME AND YOU HAVE SOME UNFINISHED BUSINESS TO TALK ABOUT, AND YOU BETTER COME OVER TO MY HOUSE AND SEE ME. SO, I GOT UP OFF OF THE FLOOR BECAUSE I WAS BEING CALM AND BEING A LADY ABOUT THE THING, AND I SAID, NOW YOU MUST BE DONE DONE SOMETHING TO THIS WOMAN FOR THIS WOMAN TO GO OFF LIKE THAT. SO, HE SAID, WELL, MADINAH, CAN I GO UPSTAIRS AND TAKE ME A BATH AND MAKE LOVE TO MY WIFE AND THEN WE'LL GO OVER THERE AND ADDRESS THAT SITUATION.

Q. NOW, AFTER JACKIE WAS THERE AND SHE LEAVES, HE SAYS TO YOU, MADINAH, CAN I GO UPSTAIRS AND TAKE A BATH AND MAKE LOVE TO MY WIFE?

A. YES, MA'AM.

Q. AND THEN STRAIGHTEN OUT THE SITUATION?

A. YES, MA'AM.

Q. AND WHAT DID YOU DO?

A. SO, I WENT UPSTAIRS BECAUSE EVERY TIME, IF I'M JUST COMING IN --- I WAS JUST COMING IN. I WAS WAITING

ON HIM, BUT HE HAD JUST LEFT HER. HE HAD JUST GOT FINISHED HAVING SEX WITH THIS WOMAN BECAUSE HIS SHIRT WAS ON BACKWARDS, AND SHE CAME IN HER NIGHTGOWN, AND SHE DIDN'T EVEN HAVE ANY SHOES ON. SHE JUST HAD ON HER NIGHTGOWN AND HER ROBE, AND I CAN UNDERSTAND HOW SHE FEELS FOR YOU TO WALK OUT MY BEDROOM AND THEN YOU GO BACK OVER HERE TO ANOTHER WOMAN'S BEDROOM, AND SO, I WENT THROUGH IT. I SAID, ALI, I AIN'T INTO THIS. I SAID, COME ON, GET UP. I SAID, I WANT TO GO FIND OUT WHAT THIS SISTER IS TALKING ABOUT. SO, I HAD SOME CLOTHES IN MY HAND AND I WENT OVER THERE --- WELL, I TOOK THE KNIFE AND HE TOLD ME TO PUT THE KNIFE BACK DOWN, AND SO, I SAID, OKAY, BUT I HID ONE OF THEM, AND HE SAID, NO, PUT THE OTHER KNIFE --- IT'S NOT THERE. SO, I PUT THE KNIFE BACK DOWN, AND SO, HE SAID, WELL, LET'S GO ON AND GET THIS HERE STRAIGHTENED OUT. SO, WE WENT ON OVER THERE AND SHE SAID, COME ON IN, MS. LINDA. SO, I CAME ON IN. NOW, I DIDN'T GET LOUD WITH HER. I WAS LIKE A WOMAN, YOU KNOW, JUST AS I AM NOW, TALKING TO HER CALM. WHEN I GOT TO HER HOUSE SHE TOTALLY CHANGED. I SAID, WELL, WHAT IS IT THAT YOU'VE GOT ON ALI?

Q. HOW DID SHE CHANGE?

A. SHE GOT REAL LOUD AND BOISTEROUS. YOU KNOW, STARTED TALKING WITH HER HANDS ALL UP IN THE AIR AND

TALKING ABOUT WELL YOU KNOW THIS, YOU KNOW THIS. SO, I JUST ASKED HER, I SAID, MA'AM, DID YOU HAVE SEX WITH ALI? AND SHE SAID, YEAH, WE HAD SEX SEVERAL TIMES. AND SHE SAID, I'M TWO WEEKS PREGNANT. AND I SAID, JACKIE, I WENT AND SIT DOWN ON HER SOFA. I SAID, IF YOU'RE PREGNANT AND IF IT'S ALI'S BABY, I SAID, I'M GOING TO LET YOU HAVE ALI. AND I SAID, I'LL TAKE THE BABY IF YOU DON'T WANT THE BABY. AND SHE SAID, I DON'T WANT THE BABY AND I DON'T WANT HIM, THAT SHE WAS GOING TO HAVE AN ABORTION. I SAID, NO, I SAID, DON'T HAVE NO ABORTION BECAUSE ALI ALWAYS WANTED A CHILD, AND I SAID MAYBE THE LORD HAS BLESSED YOUR WOMB TO CONCEIVE THE CHILD. I SAID, I'VE BEEN TRYING TO GET A CHILD FOR FOUR AND A HALF YEARS AND I COULDN'T GET PREGNANT. SO, MAYBE THE LORD HAS BLESSED YOUR WOMB SO YOU CAN CONCEIVE A CHILD, AND I PRAY THAT YOU HAVE A HAPPY NORMAL CHILD. AND SHE SAID, WELL, ALL MY CHILDREN ARE HEALTHY AND NORMAL. I SAID, WELL, MA'AM, I AIN'T TRYING TO DEBATE WITH YOU. I SAID, BUT I FELT LIKE YOU DONE ME WRONG BECAUSE YOU KNEW THAT WAS MY HUSBAND, AND IF MY HUSBAND HAD APPROACHED YOU, ALL YOU HAD TO DO WAS COME AND TELL ME, MS. LINDA, YOUR HUSBAND IS GETTING OUT OF LINE WITH ME, OR IF YOU WAS UNCERTAIN ABOUT THINGS YOU STILL SHOULD HAVE CAME AND ASKED ME. SO, SHE GOT ALL LOUD. I SAID, WELL, JACKIE, I'M GOING TO

GIVE YOU TO ALI. AND I SAID, ALI, IT'S NOT ABOUT ME AND YOU NO MORE. IT'S ABOUT YOU AND THE WOMAN AND THE BABY. I SAID, I'M GOING TO GIVE YOU TO HER. HE SAID, I DON'T WANT HER. I SAID, CADEIDRA, DO YOU WANT HIM? SHE SAID, NO, I DON'T WANT HIM. BUT THEY WAS BOTH SITTING UP THERE LAUGHING AT ME. YOU SEE WHAT I'M SAYING? YOU KNOW HOW YOU'RE TRYING TO LOOK LIKE YOU SERIOUS AND YOU BREAK OUT AND START LAUGHING AND YOU'VE GOT THAT SMIRK GRIN ON YOUR FACE. SO ---

Q. HOW DID THAT MAKE YOU FEEL?

A. I GOT REAL HOT AND ANNOYED. I GOT MAD. I GOT MAD.

Q. HOW DID YOU HANDLE YOURSELF?

A. WELL, I GOT UP OFF THE SOFA AND I SAID, WELL, YOU DON'T WANT ALI? SHE SAID, NO. I SAID, ALI, DO YOU WANT HER? SHE SAID, NO. SO, I SAID, WELL, ALI COME ON. AND SO, WE LEFT OUT THE DOOR AND BEFORE WE GOT TO THE DOOR, HE SAID "WAIT A MINUTE." HE SAID "CADEIDRA, ARE YOU PREGNANT FOR REAL?" SHE SAID "YOU KNOW I TOLD YOU I WAS PREGNANT" AND SHE WAS LAUGHING THE WHOLE TIME. SO, I HAD HIT HIM IN THE CHEST AND GRABBED HIM ON OUT THE DOOR, AND SO, THE POLICE OFFICER HAD --- SEE, I HAD SEEN HIM THAT NIGHT BEFORE BECAUSE MY CAR HAD STOPPED AND I HAD GOT IN THE CAR FOR PROTECTION WITH A CAB DRIVER BECAUSE HE WANTED ME TO PAY HIM

$5.00, AND I LIVE RIGHT THERE IN SAXON HOMES, AND HE GOT TO COME DOWN HERE ON [redacted] TO TRY TO GET ON [redacted] STREET WHERE THE GAS STATION IS, AND HE INTENTIONALLY LET THE CARS JUST COME ON BY SO HE COULD RUN THE METER UP. SO, WHEN HE DROVE OUT AND DROVE ACROSS THE STREET, I TOLD HIM I'M NOT GOING TO PAY HIM NO $5.00 BECAUSE HE INTENTIONALLY LET THAT METER RUN UP ---

Q. THERE WAS A POLICE OFFICER THERE YOU SAY?

A. YES, YES, MA'AM.

Q. AND WHAT IS IT WITH THE POLICE OFFICER WHEN YOU WERE LEAVING?

A. WELL, I TOLD HIM THAT I APPRECIATED HIM TELLING THIS WOMAN NOT TO SAY ANYTHING TO ME BECAUSE SHE HAD DONE AFFILIATED HERSELF WITH MY HUSBAND.

Q. OKAY.

A. AND SO, HE TALKED TO ME, AND HE TOLD ME I NEEDED TO GO AHEAD ON ABOUT MY BUSINESS, THAT HE TOLD HER TO GO AHEAD ON INTO HER HOUSE.

Q. AND SO, DID ALI COME STAY THE NIGHT WITH YOU?

A. NO, MA'AM. HE WENT BACK TO JACKIE'S HOUSE. WE WENT AROUND TO THE CORNER AND WE MET A BROTHER, A MOSLEM BROTHER. HIS BROTHER WORKS AT THE HOSPITAL AND SOMEBODY HAD ROBBED HIM AND HE SAW ME, I HAD ON MY PJs AND MY CLOTHES, AND HE SAID --- HE ASKED ME WOULD I

GIVE HIM $2.50. THAT HE WAS STAYING AT THE BUDGET MOTEL, AND I TOLD HIM HE WAS GOING TO NEED MORE THAN $2.50, BUT HE DIDN'T KNOW BECAUSE HE WAS A FOREIGNER, AND SOMEBODY HAD ROBBED HIM BECAUSE HIS CAR HAD STOPPED ON TWO NOTCH ROAD BY THIS HOMOSEXUAL CLUB THAT THEY HAVE, AND I SAID, WELL, I'VE GOT MY OWN TROUBLES. AND SO, I SAID, ALI, COME ON LET'S GO. HE SAID, I'M GOING TO STAY HERE AND HELP THIS BROTHER. SO, I RAN UP THE CORA LEE FULLER HOUSE, SHE'S MY SON'S GODMAMA, AND I TOLD HER ABOUT ALI AND THE WOMAN. SO, HER HUSBAND ---

Q. YOU WENT TO CORA LEE FULLER'S HOUSE?

A. YES, MA'AM.

Q. SHE'S A FRIEND OF YOURS?

A. YES, MA'AM.

Q. TOLD HER WHAT HAPPENED WITH JACKIE?

A. YES, MA'AM.

Q. AND YOU LEFT ALI WITH THE BROTHER?

A. YES, MA'AM.

Q. AND THEN WHAT HAPPENED?

A. SO, WHEN BOBBY BRADLEY, ME AND BOBBY BRADLEY CAME BACK DOWN THE STREET. I THOUGHT THAT WAS ALI THAT HAD HIS CLOTHES ON BUT WHEN I GOT DOWN TO THE CORNER IT WAS NOT HIM. IT WAS SOMEBODY ELSE. SO, ALI HAD GONE. SO, I SAID, OH, WELL. SO, HE TALKED TO ME A LONG TIME. HE SAID, LINDA, SOMETIMES YOU HAVE TO LET THINGS GO.

AND SO I WENT AND GOT IN THE CAR, AND THE CAR HAD CRANKED RIGHT BACK UP, AND HE TOLD ME I HAD NEEDED ONE OF THOSE THINGS WHICH I DID BUY THIS NEXT MORNING, THOSE LITTLE AIR FILTER THINGS TO GO ON ---

Q. WHO TOLD YOU YOU NEEDED THAT FOR YOUR CAR?

A. ROBERT BRADLEY.

Q. AND HE'S YOUR COUSIN?

A. NO, HE'S CORA LEE FULLER, MY GODMOTHER'S, BOYFRIEND, COMMON LAW HUSBAND.

Q. OH, OKAY.

A. YEAH.

Q. ALL RIGHT. SO, HE TOLD YOU WHAT YOU NEEDED FOR YOUR CAR?

A. AND THAT WAS IT.

Q. OKAY.

A. SO, HE DROPPED ME OFF AND I CRANKED UP THE CAR AND I LEFT, AND SO, I KNEW IN MY HEART THAT HE WAS THERE, BECAUSE I COULD JUST ---

Q. THERE WHERE?

A. BACK WITH JACKIE. SO, I RODE AROUND TRYING TO FIND ME SOME REEFER, BUT THERE WAS NO REEFER, AND I TRIED TO BUY ME SOME LIQUOR AND THERE WAS NO LIQUOR. I JUST WANTED TO, JUST TO GET HIGH AND JUST GET THE HURTNESS OUT OF ME, AND I SAID ALI DIDN'T HAVE TO DO THAT. HE JUST DIDN'T HAVE TO DO IT LIKE THAT. SO, THE

NEXT MORNING I HAD GOT UP EARLY BECAUSE I WAS GOING TO BUY ME SOME REEFER, AND I CAME BACK HOME.

Q. DID YOU SLEEP THAT NIGHT?

A. SLEEP?

Q. YES.

A. I MUST HAVE WENT TO SLEEP AROUND ABOUT 4:30. I WAS RIDING AROUND TRYING TO FIND ME SOMETHING TO GET HIGH OFF OF.

Q. TO DO WHAT WITH?

A. TO GET HIGH BECAUSE I WAS HURT. YOU KNOW, WHEN HE HURTS MY FEELINGS OR WE GET IN AN ARGUMENT OR FIGHT I ALWAYS GO AND BUY ME A BAG OF REEFER, AND I THINK MORE CALMLY AND PLAINLY THEN, YOU KNOW, IF YOU ---

Q. HELPS YOU FORGET?

A. NO, YOU DON'T FORGET NOW. IT JUST MAKES IT MORE -- LIKE IT'S JUST RIGHT THERE. YOU DON'T FORGET.

Q. SO, WHAT TIME DID YOU GET, DO YOU THINK, BACK HOME?

A. I MUST HAVE WENT BACK IN THE HOUSE AROUND ABOUT 4:00 O'CLOCK.

Q. AND YOU NEVER FOUND ANYTHING TO HELP YOU GET RID OF THE PAIN?

A. NO, MA'AM, NO. SO, I WENT HOME.

Q. WHAT TIME WERE YOU UP?

A. I GOT UP AROUND ABOUT 6:30 AND I TOOK ME A BATH

AND I MAKE MY PRAYER, BECAUSE THE KIDS HAD NOT WENT TO SCHOOL YET. IT WAS, I THINK, ABOUT TEN AFTER 7:00 OR IT WAS TEN MINUTES TILL 7:00.

Q. THESE AREN' T YOUR KIDS?

A. NO, MA' AM. THESE ARE NEIGHBORHOOD CHILDREN. SO, I WAS GETTING READY TO GO TO MY CAR, AND MY AUNT, MS. WILAMINA, LIVE IN [redacted], I SAW HER ---

Q. OKAY, LET ME STOP YOU THERE. NOW, YOU GOT UP AROUND 7:00. RIGHT?

A. YES, MA' AM.

Q. ALL RIGHT, AND YOU TOOK YOU A BATH AND SAID YOUR PRAYERS?

A. YES, MA' AM.

Q. DID YOU HAVE TO GET UP THAT MORNING AND GO TO WORK?

A. NO, MA' AM.

Q. WHY DID YOU GET UP THAT MORNING?

A. WHY DID I GET UP THAT MORNING?

Q. YES, MA' AM.

A. I HAD TO GO TO COURT THAT MORNING.

Q. OKAY. WHAT TIME DID YOU HAVE TO BE IN COURT?

A. ELEVEN O' CLOCK.

Q. AND WHAT WAS THE COURT PROCEEDING FOR?

A. TO GET MY CHILDREN BACK.

Q. OKAY, AND HAD YOU HAD A DISCUSSION WITH ALI ABOUT

THIS THE NIGHT BEFORE?

A. NO, ALI HAD SAID IN COURT WHEN THEY HAD TOOK MY CHILDREN, HE TOLD ME THAT HE WAS GOING TO HELP ME GET MY CHILDREN BACK AND ONCE I GOT MY CHILDREN BACK, THEN THAT'S WHEN HE WAS GOING TO LEAVE.

Q. HE WAS GOING TO LEAVE YOU AGAIN?

A. YES, MA'AM.

Q. SO, YOU HAD TO BE IN COURT. SO, WHAT DID YOU DO AFTER YOU GOT DRESSED?

A. I SAID MY PRAYER, AND AFTER I SAID MY PRAYER, I LEFT AND I DROVE OFF. I WENT UP TO CHERYL'S HOUSE AND SHE WASN'T THERE, AND I WENT TO ---

Q. WHO'S CHERYL?

A. A GIRL THAT SELL REEFER.

Q. OH.

A. AND I WENT UP TO THE EMAL'S HOUSE, BUT THEY WERE NOT OUT YET.

Q. WHY WERE YOU GOING TO THESE PEOPLE'S HOUSES? LOOKING FOR ALI OR ---

A. NO, I WAS GOING TO TALK TO HIM AGAIN ABOUT ME A DIVORCE, BECAUSE EVERY TIME I WOULD GO FOR THE DIVORCE ALI WOULD SAY THAT HE WOULD GO, AND HE DON'T NEVER SHOW AND HE WOULD TELL ME TO MEET HIM THIS PLACE OR MEET HIM THERE WHERE WE WOULD BE AT ---

Q. AND HE WOULD NEVER ---

A. YES.
Q. OKAY.
A. AND HE DON'T NEVER DO IT.
Q. OKAY. THEN WHAT HAPPENED?
A. SO, I WENT ON BACK HOME AND I SEE AUNTIE AND I WAS TELLING AUNTIE I PARKED MY CAR, AND I SAW AUNTIE, AND I SAID, AUNTIE, I SAID, DID YOU KNOW ALI WAS HAVING AN AFFAIR WITH MY NEIGHBOR, THE LADY THAT STAY RIGHT ACROSS THE STREET. AND SHE SAID, NO, SHE DIDN'T KNOW THAT, AND SHE SAID, SHE WAS SO SORRY. I SAID, WELL, SHE ASKED ME ABOUT THE KIDS AND I SAID, WELL, I'M SUPPOSED TO GO TO COURT THIS MORNING ABOUT MY CHILDREN. SO, MY OTHER NEIGHBOR HAD CALLED ME, CASSANDRA, SHE SAID, COME HERE, LINDA. SHE SAID, WHAT ABOUT YOUR CHILDREN? AND I SAID, WELL, I'M SUPPOSED TO GO TO COURT THIS MORNING TO HELP GET MY KIDS BACK, AND SHE TOLD ME, SHE HEARD ABOUT WHAT HAPPENED BETWEEN ME AND ALI AND THE WOMAN LAST NIGHT, BUT SHE DIDN'T KNOW, BUT HAD SHE KNOWN SHE WOULD HAVE CAME AND TOLD ME HERSELF. SO, I SAID, OKAY, AND SO, I GOT ON IN MY CAR AND I WAS GOING BACK TO THE EMAL'S HOUSE, BECAUSE I KNOW HE HAD TO COME BACK DOWN THE STREET BECAUSE HE DID THE MATIDA(PHONETICALLY) AT 8:00 O'CLOCK. THAT'S WHEN I SEEN ALI WALKING FROM THE BACK FROM THE SISTER'S HOUSE.
Q. WAIT. WALKING FROM THE BACK ---

A. FROM THE BACK OF SAXON' S HOMES, FROM JACKIE' S HOUSE.
Q. FROM JACKIE' S HOME?
A. YES, MA' AM.
Q. OKAY. WELL, HOW DID HE --- WHAT WAS HE WEARING?
A. HE HAD ON SOME WHITE SHIRT, I MEAN WHITE PANTS, THE BLACK TENNIS SHOES I BOUGHT HIM AND A BLACK AND WHITE SHIRT, AND A WHITE HAT, AND SOME SHADES.
Q. WHAT DID YOU DO THEN?
A. I SAID, (INAUDIBLE.), AND HE SAID,(INAUDIBLE.) AND I SAID, CAN I GIVE YOU A RIDE? AND HE SAID, YEAH. SO, I GOT ON IN THE FRONT SEAT. I MOVED OVER AND LET HIM DRIVE AND HIS BEEPER WENT OFF AND SO HE STOPPED AT A CORNER STORE AND WENT TO ANSWER THE BEEPER. SO, I TOLD HIM TO BRING ME A SODA AND SOME BUBBLE GUM BECAUSE I LIKE GINGER ALE SODA AND SOME BUBBLE GUM EARLY IN THE MORNING. I WAS USED TO DOING THAT, BECAUSE I WAS GOING THROUGH THE DETOX OF GETTING OFF THE MARIJUANA.
Q. DID YOU NOT GET MARIJUANA THE NIGHT BEFORE?
A. NO, I HAD SMOKED A JOINT OF REEFER EARLIER THAT DAY, BUT ---
Q. THE SAME DAY YOU WERE GOING TO COURT?
A. NO, UH-UH, THE DAY OF THE INCIDENT, THAT NIGHT BEFORE.
Q. ON THE NIGHT BEFORE?

A. YEAH.
Q. OKAY. NOW, WHERE DID YOU GET THE GINGER ALE AND BUBBLE GUM?
A. FROM FELIA'S(PHONETICALLY) STORE.
Q. FROM FELIA'S STORE?
A. YES, SHELL STATION.
Q. IT WAS A SHELL STATION?
A. YEAH.
Q. OKAY. DID YOU TELL ALI THAT YOU WERE GOING TO COURT AND THAT HE WAS GOING WITH YOU?
A. NO, HE KNEW WE HAD TO GO TO COURT. SO, I ASKED HIM WAS HE GOING TO GO TO COURT WITH ME, AND HE TOLD ME, YEAH, BUT LET HIM GO CHECK WITH HIS JOB FIRST BECAUSE HE WAS WORKING FOR DSS SETTING UP COMPUTERS.
Q. DID YOU HAVE ANY MORE DISCUSSIONS ABOUT THE OCCURRENCE THAT HAPPENED THE NIGHT BEFORE WITH JACKIE?
A. NO, MA'AM. WHEN WE GOT TO THE FILLING STATION I WAS PUMPING THE GAS, AND HE LEANED OUT THE DOOR AND ASKED ME HOW MUCH GAS DID I PUT. I TOLD HIM $6.00 AND CHANGE, AND HE TOLD ME, NO. HE SAID, FILL IT UP TO $10.00, BECAUSE HE PUT A FEW MORE DOLLARS WITH IT, THREE MORE DOLLARS WITH SOME CHANGE WITH IT, AND I SAID OKAY. SO, WHEN HE WAS PUMPING THE GAS THAT'S WHEN THEM VOICES TOLD ME TO GET THAT GAS AND PUT THAT GAS IN THAT BOTTLE, AND SO, WHEN HE HAD CAME TO THE DOOR I HAD

JUMPED AND HAD WASTED IT ON MY SHOES, AND SO, I HURRIED UP AND PUT THE TOP ON THE THING AND THROW THE BOTTLE IN A BAG OF CLOTHES THAT I HAD IN THE BACK SEAT. SO, THEM VOICES TOLD ME TO GO IN AND BUY ME A CIGARETTE LIGHTER, AND SEE, I ---

Q. I CAN'T HEAR YOU.

A. I SAID THEM VOICES HAD TOLD ME TO GO AND GET A CIGARETTE LIGHTER BECAUSE I DON'T KNOW HOW TO WORK A SAFETY THING BECAUSE I DON'T SMOKE CIGARETTES, AND IT'S GOT A CHILD PROOF THING ON IT, AND SO, I WENT AND ASKED THE BROTHER DO HE SELL CIGARETTE LIGHTERS AND HE TOLD ME YEAH, AND I TELL HIM ---

Q. WHO? WHICH BROTHER?

A. BROTHER ABDUL(PHONETICALLY).

Q. YOU'RE TALKING ABOUT THE SHELL STATION?

A. YEAH.

Q. YOU BOUGHT ONE THERE?

A. YES, MA'AM, AND I ASKED HIM TO SHOW ME HOW TO WORK THE CIGARETTE LIGHTER, AND HE SHOWED ME HOW TO MAKE IT GO UP REAL HIGH, AND HOW TO MAKE IT GO REAL LOW, AND HOW TO TAKE THE CHILD PROOF SAFETY THING OFF OF IT, AND I SAID, OKAY. SO, I WENT IN THE BATHROOM AND I CHANGED MY CLOTHES BECAUSE THE GASOLINE HAD WASTED ON MY SHOE AND I WANTED TO TAKE THE THING OFF BECAUSE I DIDN'T WANT HIM TO SMELL THE GAS. SO, WE WENT ON BACK INTO

THE CAR. I ASKED HIM COULD I SIT IN THE BACK AND HE TOLD ME, NO, SIT IN THE FRONT, BECAUSE HE KNEW I WAS IN THE MOOD TO HIT HIM, AND I SAID, WHAT ---

Q. HE SAID WHAT?

A. HE SAID, NO, HE WANTED ME TO SIT IN THE FRONT, BECAUSE HE KNEW I WAS IN A MOOD TO HIT HIM, LIKE A WARRIOR, YOU KNOW, ONE THAT'S REAL STRONG, AND ONE WILL FIGHT.

Q. HE KNOWS THAT YOU WOULD HIT HIM?

A. YES, MA'AM. SO, WE ---

Q. AND YOU WERE LIKE A WARRIOR?

A. YES, MA'AM. SO HE TOLD ME --- THAT'S WHAT HE SAID. SO, HE TOLD ME, NO, TO GET IN THE FRONT SEAT. SO, I GOT IN THE FRONT SEAT AND WE DROVE TO HIS JOB AND HE GOT HIS ORDERS AND SIGNED THEM, AND SO I TOLD HIM, I SAID, ALI, I SAID, I WANT TO STOP BACK HOME, BECAUSE THAT PURPLE ROBE IS A WINTER ROBE AND I WANTED TO CHANGE MY CLOTHES BECAUSE THEY WAS SWEATY, AND I SAID WOULD YOU MIND STOPPING BY THE HOUSE SO I CAN CHANGE MY CLOTHES? AND HE SAID, NO, JUST TEAR THE LINING OUT OF IT. SO, I BEGAN TO TEAR THE LINING OUT OF IT BECAUSE HE DIDN'T WANT TO STOP BY BECAUSE HE DIDN'T WANT THE WOMAN, JACKIE, TO SEE HIM BACK IN THE CAR WITH ME.

SO, HE TURNED OFF UP ON OAK STREET AND THEN WENT ON AROUND INSTEAD OF GOING DOWN [redacted] HE TURNED OFF

ON [redacted]. AND SO, WE GOT UP THERE BY THE HEALTH DEPARTMENT AND SO, THEM VOICES SAY THROW THAT GASOLINE ON HIM, BUT SEE THEM VOICES HAD ALREADY TOLD ME WHEN I FIRST GOT IN THE CAR TO HIT HIM, AND I SAID NO, I WASN'T GOING TO HIT ALI. SEE, I HAD A KNIFE IN THE CAR, AND THEN THE VOICES HAD TOLD ME TO CUT ALI, AND I SAID "NO, I AIN'T GOING TO CUT ALI." I COULD HAVE RAN HIM OVER. I COULD HAVE WRECKED THE CAR WITH ME AND HIM BOTH. THERE'S A WHOLE LOT OF THINGS I COULD HAVE DONE TO ALI, BUT I DIDN'T DO THEM BECAUSE I WAS NOT GOING TO LISTEN TO THEM VOICES, AND I KNOW THE VOICES WAS TELLING ME TO DO THAT TO ALI.

SO, THEM VOICES TOLD ME TO GET THE GASOLINE, AND I GOT THE GASOLINE AND THEN IT SAID GO AND ASK THAT LADY TO GIVE YOU A CUP SO YOU CAN ACT LIKE YOU PRETENDING THAT YOU DRINKING SOME COFFEE, AND SO, I WENT AND ASKED THE LADY IF SHE'D GIVE ME A STYROFOAM CUP, I WANTED TO GET ME SOME WATER, AND SHE GAVE ME THE CUP, AND I CAME INTO THE CAR, AND I HAD POURED THE GASOLINE IN THE CUP, BUT I DIDN'T KNOW THE GASOLINE WOULD MELT THE STYROFOAM CUP AND IT HAD MELTED. SO, I POURED THE GASOLINE BACK IN THE BOTTLE, AND IT HAD GOT ON ONE OF MY GARMENTS, SO I HAD TO CHANGE MY CLOTHES AGAIN. I CHANGED TWO TIMES, AND SO, HE SAID WHY DO YOU KEEP CHANGING YOUR CLOTHES? I SAID, WELL, ALL THESE GOWNS I GOT IS HOT, YOU KNOW,

BECAUSE THEY WERE WINTER GOWNS. I WAS GOING TO PUT THEM IN THE DRY CLEANERS, AND SO, I PUT THE BOTTLE, I PUT THE GASOLINE BACK IN THE BOTTLE, AND SO WE DROVE ON. SO, WHEN I ASKED HIM WOULD HE STOP BY THE HOUSE SO I CAN CHANGE MY CLOTHES, HE SAID, NO, HE DIDN'T WANT TO STOP, TO KEEP THE HOT DRESS ON. SO THEM VOICES SAID, I TOLD YOU HE WASN'T GOING TO STOP, DIDN'T I TELL YOU HE WASN'T GOING TO STOP? AND SO AFTER THAT, WE DROVE ON UP BY THE HEALTH DEPARTMENT, AND THEM VOICES SAID THROW THE GASOLINE ON HIM, AND I SAID, NO, I AIN'T GOING TO DO THAT, AND IT SAID, THROW IT ON HIM, AND I SAID, NO, I AIN'T GOING TO DO THAT, AND IT SAID, THROW IT ON HIM. SO, I HELD MY BREATH AND I UNSCREWED THE TOP AND POURED THE GASOLINE ON HIS HEAD AND I LIT HIM UP AND I JUMPED OUT THE BACK, AND THE VOICE SAID "NOW RUN ON ACROSS THE STREET." SO, I RAN ACROSS THE STREET AND A MAN SAID HEY, MISS, SAID, YOUR CAR ON FIRE, AND I SAID, UH-HUH, AND HE SAID, IS SOMEBODY IN THERE? AND I SAID, YES, MY HUSBAND IS IN THERE. AND I WENT ON ACROSS THE STREET TO WHERE THE CAR HAD STOPPED BECAUSE HE HAD STOPPED THE CAR.

THE CAR HAD ROLLED OVER TO THE CURB AND IT HAD STOPPED, AND I SEEN THE FIRE FROM THE BACK BECAUSE I WAS WALKING BEHIND THE CAR. I SEEN THE FIRE BLOW UP LIKE THAT RIGHT THERE, AND THEN SO, ANOTHER LADY HAD

HOLLERED AND SAID, MA'AM YOUR CAR ON FIRE, AND I SAID I KNOW. SHE SAID, WAS ANYBODY IN THERE? AND I SAID, MY HUSBAND MAY BE IN THERE OR SOMETHING MIGHT BE WRONG WITH THE CAR. I WAS THINKING OF SOMETHING REAL FAST TO SAY. I WAS JUST LISTENING TO THE VOICE, WHAT THE VOICE WAS TELLING ME.

SO, THE CAR, THE TWO MENS HAD WENT AND OPENED THE FRONT SEAT, BUT HE WASN'T IN THE FRONT SEAT, AND I SAID WELL, MAYBE HE DID JUMP OUT THE CAR.

Q. WHO WENT AND OPENED THE FRONT DOOR?

A. THE BIG WHITE MAN AND A BLACK MAN, THEY OPENED THE FRONT SEAT, BUT HE WAS NOT IN THERE. SO, HE RAN AROUND ---

Q. WHERE DID YOU THINK HE HAD GONE?

A. I THOUGHT HE HAD GOT OUT. YEAH, I THOUGHT HE HAD GOT OUT BECAUSE I DIDN'T SEE ANYBODY. I DIDN'T SEE NOBODY IN THE FRONT SEAT AND I SAID, WELL, MAYBE HE DONE ROLLED OUT. SO, I HAD TO WALK AROUND TO LOOK ON THE OTHER SIDE TO SEE IF HE HAD ROLLED OUT ON THE PASSENGER'S SIDE, ON THE DRIVER'S SIDE OF THE CAR, BUT HE DIDN'T. HE WAS IN THE BACK SEAT, AND SO, WHEN THEY OPENED THE BACK SEAT ---

Q. DO YOU KNOW WHY HE GOT IN THE BACK SEAT?

A. NO --- SEE, THE PASSENGER SIDE OF THE CAR, YOU CANNOT GET OUT FROM THE INSIDE. SOMEONE HAS TO LET YOU

OUT FROM THE OUTSIDE BECAUSE THE LOCK ---

Q. YOU' RE TALKING ABOUT THE SIDE THAT YOU WERE SITTING ON IN THE FRONT SEAT?

A. YEAH, YOU CANNOT GET OUT FROM THE FRONT SEAT. SOMEBODY HAS TO LET YOU OUT. THE CAR, THE LOCK IS SPRANG, OKAY?

Q. SO, WHEN YOU GOT OUT AT THE GAS STATION, YOU HAD TO CLIMB IN THE BACK SEAT TO GET OUT?

A. YEAH, I WAS SITTING IN THE BACK SEAT THE WHOLE TIME, AND SO, I GUESS MAYBE THE REASON WHY HE JUMPED IN THE BACK SEAT BECAUSE HOW THE SEAT BELTS IS IN THE CAR, YOU KNOW, SEAT BELTS GO FROM THE LEFT TO THE RIGHT, AND IF THE STEERING WHEEL AND EVERYTHING IS ON FIRE, THEN HE DIDN' T WANT TO STAY IN THE FIRE. SO, I GUESS THAT' S WHY HE GOT IN THE BACK SEAT, BUT ALI PUT OUT HIS SELF IN THE CAR.

SO, WHEN THE MENS THAT OPENED THE DOOR, HE WAS LIKE SOMEBODY THAT WAS GOING TO FALL OUT, AND THEY STOOD HIM UP AND THE LADY WHO GAVE HIM HER UNIFORM, SHE WAS A NURSE AT BAPTIST HOSPITAL, I BELIEVE THAT' S WHERE SHE WORK AT, SHE GAVE HIM HER UNIFORM --- NO, SHE HOLLER OUT, SHE SAY, THROW SOME BLANKETS ON HIM. SOMEBODY GET SOME BLANKETS BECAUSE HE' S GOING TO GO INTO SHOCK. SO, I WAS WALKING ALI AROUND AND WHEN HE GOT OUT THE CAR THE FIRST THING HE SAID WAS,

(INAUDIBLE.) AND I SAID (INAUDIBLE.) --- THAT MEANS GOD IS THE GREATEST, AND HE SAID, HE DIDN'T SAY NOTHING THEN. SO, I GOT HIM AND I STARTED WALKING HIM AROUND. SHE SAID TO WALK HIM AROUND, HE WAS GOING TO GO IN SHOCK, AND THEN SHE SAID SOMEBODY GET SOME BLANKETS. SO, THIS LADY THREW OUT A GRAY PIECE THING LIKE YOU MIGHT PUT ON A SPARE TIRE, BUT IT HAD OIL STAINS ON IT AND I DIDN'T WANT IT TO DIRTY UP HIS SKIN. SO, I DIDN'T PUT IT ON HIM. SO, I TOOK OFF MY HEAD PIECE AND WRAPPED HIS HEAD, AND THEN SHE SAY LAY HIM DOWN ON THE GROUND. SO, I TOOK OFF MY ROBE, LIKE THE ONE I HAVE ON, AND OPENED IT OUT AND PUT IT ON THE GROUND AND I LAID ALI ON THE GROUND HIS SELF. NO ONE DIDN'T DO THAT AND THEN THEY SAID, GET AWAY FROM THE CAR BECAUSE THE CAR'S GOING TO EXPLODE. SO, I TOOK HIM BY HIS FEET AND DRUG HIM ALL THE WAY OVER HERE BY THE TREE SO HE WOULDN'T GET THE DIRT IN HIS SKIN AND SO THE CAR WOULDN'T BLOW UP ON HIM, AND I WAITED THERE WITH HIM THE WHOLE TIME. THE PARAMEDICS CAME AND THEN I THOUGHT THEY HAD TO BRING ---

Q. WHAT WERE YOU DOING?

A. WHEN THE PARAMEDICS CAME?

Q. WHAT WERE YOU DOING WHENEVER YOU HAD HIM WALKING HIM AROUND, WHAT WERE YOU SAYING TO HIM?

A. WELL, HE WAS, HE SAID, MADINAH, YOU DIDN'T HAVE TO

DO IT LIKE THAT. I SAID, ALI, I SAID, YOU KNOW I LOVE YOU, AND I SAID, AND THAT WOMAN TOLD ME SHE WAS TWO MONTHS, TWO WEEKS PREGNANT FROM YOU AND IF ANYBODY HAVE YOUR CHILD THEN IT SHOULD BE ME. AND I SAID, YOU DIDN'T HAVE TO DO WHAT YOU DID NEITHER. SO, I SAID ALI, ARE YOU GOING TO TELL ON ME --- I'D BEEN DOWN ON THE GROUND AND I HAD KISSED HIM AND HE REACHED UP AND HE GAVE ME A KISS AND I SAID, ALI, ARE YOU GOING TO TELL ON ME? AND HE SAID, NO, AND I SAID, ALI, ARE YOU GOING TO TELL ON ME? AND HE SAID, NO. I SAID, ALI, ARE YOU SURE YOU AIN'T GOING TO TELL ON ME? AND HE SAID, MADINAH, I'M GOING TO HAVE TO LIE FOR YOU THIS TIME. THIS TIME I'M GOING TO HAVE TO LIE FOR YOU. SO, I JUST TOOK HIM FOR HIS WORD THAT HE WASN'T GOING TO TELL ON ME, AND IT WAS UP TO ME FOR WHATEVER I WAS GOING TO TELL THE POLICE.

Q. WHEN DID YOU FIRST REALIZE WHAT YOU HAD DONE?

A. AFTER I JUMPED OUT OF THE CAR AND SEEN THE CAR ON FIRE.

Q. AND THEN WHAT DID YOU DO? DID YOU TURN BACK AROUND AND LOOK FOR HELP?

A. YES, YES, MA'AM.

Q. WERE YOU UPSET?

A. I COULDN'T TELL YOU HOW I FELT OR WHAT I FELT THAT DAY. THE ONLY THING I KNOW I WAS GOING TO TRY TO SAVE

ALI AND DO WHATEVER I COULD TO SAVE HIM BUT HE WAS NOT ON FLAME. IF ALI'S BODY WAS BURNING AS THEY CLAIMED IT WAS, THEN MY CLOTHES WOULD HAVE BEEN BURNED OR I WOULD HAVE BEEN BURNED.

Q. YOU SAID THAT YOU HAD TAKEN OFF YOUR DRESS?

A. YES, I TOOK OFF MY DRESS ---

Q. WHAT DID YOU HAVE ON UNDERNEATH YOUR DRESS?

A. MY PANTIES AND BRA.

Q. AND YOU STAYED LIKE THAT?

A. I STAYED LIKE THAT UNTIL THE LADY GAVE ME HER UNIFORM TO PUT ON. SHE WAS A NURSE AT THE HOSPITAL. SHE GAVE ME HER UNIFORM TO PUT ON BECAUSE ---

Q. YOU WERE AT THE HOSPITAL BEFORE YOU GOT CLOTHES?

A. NO, MA'AM, I WAS STILL ON THE SCENE WITH ALI. I GOT IN THE PARAMEDICS WITH MY PANTIES AND BRA ON AND THEY SAID, NO, SHE NEEDS SOME CLOTHES. SO, THE LADY HANDED ME HER UNIFORM TO PUT ON.

Q. AND THAT'S WHERE YOU GOT THAT?

A. YES, MA'AM.

Q. AND WHEN YOU GOT TO THE HOSPITAL WHAT DID YOU DO?

A. I WENT TO MAKE HIS CHART FOR HIM, AND THEN AFTER I MADE THE CHART THEY TOLD ME THAT I WAS GOING TO BE DETAINED AND THAT I COULD NOT LEAVE, AND I COULDN'T SEE ALI BECAUSE HE WAS GOING TO TRAUMA AND I NEEDED TO GO AHEAD AND GIVE THEM THE REPORT.

Q. AND WHAT HAPPENED TO YOU AFTER THAT?
A. OH, I WENT TO THE POLICE DEPARTMENT TO TALK TO MR. GRAY.
Q. WHAT HAPPENED WHEN YOU GOT THERE?
A. THE LADY SHE SHOWED ME INTO MR. GRAY'S OFFICE AND HE WANTED TO SHAKE MY HAND AND I TOLD HIM I DON'T SHAKE HANDS, AND HE SAID "I WANT YOU TO COME ON AND TELL ME THE TRUTH ABOUT WHAT HAPPENED BECAUSE WE KNOW THAT YOU DID NOT INTEND TO HURT ALI, THAT YOU DID NOT PLAN TO KILL HIM. WE KNOW THAT YOU LOVE HIM. WE JUST WANT TO KNOW WHAT MADE YOU SNAP." I TOLD MR. GRAY I KNEW I HAD A RIGHT TO HAVE AN ATTORNEY THERE AND I ASKED TO CALL MY ATTORNEY, MR. DENNIS, AND WHEN THEY BROUGHT ME IN, YOU CAN SEE THE MUNICIPAL COURTROOM AND I SAW PUBLIC DEFENDERS AND THE SOLICITORS, MAINLY THE ONE THAT WAS IN THE WHEEL CHAIR, BECAUSE HE'S THE ONE HAD REPRESENTED MY SON, JOEY, TO KEEP HIM FROM GOING TO THE DEPARTMENT OF JUVENILE JUSTICE. THEY GAVE HIM SIX MONTHS PROBATION AND LET HIM GO TO THE R & E CENTER, AND I SAID I WANTED TO TALK TO ONE OF THEM, AND I WANT TO TALK TO SOMEBODY SO SOMEBODY COULD BE A WITNESS TO WHAT I WAS SAYING, AND I KNEW MY MIRANDA RIGHTS.
HE TOLD ME I WAS NOT GOING NOWHERE UNTIL I TELL HIM THE TRUTH, BECAUSE HE HAD SEVERAL WITNESSES SAY THAT THEY SEEN ME SET ALI ON FIRE AND JUMP OUT OF THE

CAR. I SAID "ALI DID NOT SAY THAT." HE SAID THAT ALI TOLD THE PARAMEDICS THAT I HAD POURED THE GASOLINE ON HIM AND SET HIM ON FIRE, AND I SAID "NO, HE DIDN'T" AND I DENIED IT THREE TIMES UNTIL HE SLAPPED HIS HANDS ON THE DESK ---

Q. WHAT DID HE DO?

A. SLAPPED HIS HANDS ON THE DESK, LIKE THIS HERE --- YES, YOU DID, BUT EACH TIME I DENIED IT, AND SO I JUST WENT ON AND TOLD HIM THE TRUTH THAT, YES, I DID IT.

Q. OKAY. NOW, HAVE YOU HAD AN OPPORTUNITY TO LOOK AT YOUR STATEMENT IN THIS CASE --- BY THE WAY, YOU CAN READ?

A. YES, MA'AM.

Q. OKAY. HAVE YOU HAD AN OPPORTUNITY TO --- DID YOU HAVE AN OPPORTUNITY ON THAT DAY TO READ YOUR STATEMENT?

A. I READ THE TOP PART OF THE STATEMENT BECAUSE ---

Q. WHY? WHY DID YOU JUST READ THE TOP PART?

A. I GLANCED OVER IT BECAUSE IT WAS EVERYTHING THAT I HAD TOLD HIM.

Q. YOU GLANCED OVER IT?

A. YES, MA'AM.

Q. OKAY, AND WHAT DID HE TELL YOU TO DO AFTER YOU GLANCED OVER IT?

A. TO SIGN IT RIGHT HERE, AND I SIGNED IT IN BOTH PLACES ON THREE OR FOUR COPIES.

Q. OKAY. NOW, AT A LATER DATE, DID YOU HAVE AN OPPORTUNITY TO READ WHAT WAS ON THAT PIECE OF PAPER?
A. WHEN I READ THIS PAPER WAS IN 1997, AFTER MR. DOUG STRICKLER CAME TO SEE ME IN FEBRUARY, AND THAT' S WHEN I LEARNED THAT HE SAID THAT I HAD PLANNED TO MURDER MY HUSBAND, AND I NEVER SAID THAT A DAY IN MY LIFE.
Q. YOU NEVER TOLD THEM ---
A. NO, I TOLD THEM I HAD ALREADY MADE UP MY MIND I WAS GOING UP TO THE EMAL'S HOUSE AND GET RID OF ALI TO GET MY DIVORCE FROM ALI BECAUSE I HAD DONE WENT TO EMAL'S HOUSE FIVE TIMES.
Q. WERE THERE OTHER THINGS --- YOU HAD A CHANCE TO READ YOUR STATEMENT. RIGHT?
A. YES, MA' AM.
Q. WHAT OTHER THINGS DID YOU TELL INVESTIGATOR GRAY THAT' S NOT IN THAT STATEMENT?
A. I TOLD HIM I WANTED TO TALK TO INVESTIGATOR THOMAS, BECAUSE INVESTIGATOR THOMAS WAS INVESTIGATING THE CASE ABOUT MY DAUGHTER BEING SODOMIZED AND ABOUT MY SON, [redacted], BEING MOLESTED BY LINDA REED, AND I TOLD HIM ABOUT THE DRUGS THAT ALI WAS SELLING, AND I TOLD HIM ABOUT THE WOMAN, JACKIE.
Q. OKAY, AND YOU TOLD HIM --- DID YOU TELL HIM THAT ALI WAS A HOMOSEXUAL?
A. YES, I TOLD HIM THAT, AND HE TOLD ME SAID HE KNEW

ALI WAS SELLING DRUGS, THAT HIS NAME WAS RINGING DOWN AT THE POLICE STATION AND THEY WAS BOUND TO GET HIM.

Q. OKAY. DID YOU TELL HIM ABOUT ANY DISEASES THAT ALI MIGHT HAVE HAD?

A. I THOUGHT HE MIGHT HAVE BEEN INFECTED WITH THE AIDS VIRUS.

Q. IS THAT IN YOUR STATEMENT?

A. NO, MA' AM, IT' S NOT.

Q. DID YOU ASK HIM ABOUT CHECKING ON YOUR DAUGHTER?

A. YES, I DID. I ASKED HIM, I TOLD HIM I WANTED TO TALK TO INVESTIGATOR THOMAS ABOUT THE INCIDENT CONCERNING MY DAUGHTER.

Q. OKAY, AND WHAT DID HE TELL YOU? WHAT DID HE TELL YOU EACH TIME YOU REQUESTED ---

A. HE TOLD ME I WAS NOT GOING TO TALK, I WAS NOT GOING TO TALK TO NOBODY. I WAS NOT GOING TO GET ANYTHING UNTIL I TOLD HIM THE WHOLE TRUTH. HE SAID AFTER I TELL HIM EVERYTHING HE NEEDED TO KNOW --- HE ACTED LIKE HE WAS REALLY MY FRIEND, YOU SEE WHAT I' M SAYING, AND I JUST WENT ON AND TOOK HIM TO BE A TRUSTWORTHY PERSON. HE SAID HE' D LET ME CALL MY ATTORNEY, HE' D LET ME CALL A BONDSMAN. HE SAID I WILL GET OUT ON BOND THAT DAY.

NOW, WITH THE KNOWLEDGE THAT I HAVE LEARNED, I KNOW ABOUT THE MIRANDA RIGHTS. THAT' S THE FIRST THING

THAT A POLICE OFFICER IS SUPPOSED TO DO IS TO READ YOU YOUR RIGHTS. HE DID NOT READ ME MY RIGHTS UNTIL AFTER HE CAME BACK WITH THE STATEMENT, AND I HAD SIGNED THE STATEMENT, AND THEN HE SAID, WELL, LISTEN. I WANT TO READ YOUR RIGHTS TO YOU. YOU HAVE THE RIGHT TO REMAIN SILENT, YOU HAVE THE RIGHT IF YOU WANT TO TALK TO ME, AND STUFF LIKE, AND HE JUST WROTE THEM UP AND I SIGNED THE PAPER, BUT HE HAD ALREADY GOT THAT STATEMENT. SO, HE TRICKED ME TO GET THE STATEMENT.

Q. AND WHEN DID YOU REALIZE THAT HE TRICKED YOU?

A. AFTER I HAD DONE SIGNED THE PAPER HE SAID, I GOT HER. HE SAID, SHE PLANNED TO MURDER ALI. THAT'S WHEN HE WENT OUTSIDE AND TOLD THE PEOPLES THAT WAS STANDING OUTSIDE THE DOOR THERE.

Q. WHAT DID YOU SAY?

A. I SAY "I DID NOT TELL THAT MAN THAT." AND I KNEW IT WAS OVER FOR ME.

Q. NOW, YOU'VE HAD AN OPPORTUNITY TO MEET WITH A DR. BEHRMANN. HAVE YOU NOT?

A. YES.

Q. WHO IS DR. BEHRMANN?

A. RIGHT THERE.

Q. WHAT IS HE WEARING?

A. A BLACK BLAZER, BLACK SHOES, EITHER GRAY SLACKS AND BLACK SOCKS.

Q. OKAY.
A. A BLUE AND GRAY TIE AND A WHITE SHIRT.
Q. OKAY. WHO IS HE TO YOU?
A. HE' S MY MEDICAL DOCTOR, PSYCHIATRIC DOCTOR.
Q. WHERE HAS HE BEEN TREATING YOU?
A. AT THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE.
Q. AND DO YOU REMEMBER THE FIRST TIME YOU MET HIM?
A. YES, MA' AM.
Q. WHEN DID YOU FIRST MEET HIM?
A. WHEN I WAS IN PRISON IN 1974, BETWEEN '74 AND '76, '77.
Q. OKAY. WELL, PERTAINING TO THIS CASE, WHEN WAS THE FIRST TIME THAT YOU SAW HIM?
A. DECEMBER 2, 1996.
Q. AND HOW LONG DID HE SPEND WITH YOU AT THAT TIME?
A. ABOUT A HOUR.
Q. AND WHEN WAS THE NEXT TIME YOU SAW HIM?
A. JANUARY 29TH.
Q. OF WHAT YEAR?
A. NINETY-SEVEN.
Q. ALL RIGHT. HOW LONG DID HE SPEND WITH YOU THEN?
A. OH, IT MIGHT HAVE BEEN --- I KNOW IT WAS OVER TWO HOURS.
Q. OKAY, AND THEN WHEN DID YOU SEE HIM AGAIN?
A. FEBRUARY 13TH.

Q. OF WHAT YEAR?
A. NINETY-EIGHT.
Q. SO, IT WAS OVER A YEAR LATER?
A. NO. NO, MA'AM.
Q. ABOUT HOW LONG WAS IT BEFORE YOU SAW HIM AGAIN? WAS IT ABOUT A YEAR?
A. SINCE THE FIRST TIME I SAW HIM?
Q. YEAH.
A. YES.
Q. OKAY. HOW MANY TIMES HAVE YOU SEEN DR. BEHRMANN ALL TOGETHER?
A. SINCE DECEMBER '96, IN JANUARY AND FEBRUARY, BEFORE I GOT COMMITTED, ABOUT FIVE TIMES.
Q. ARE YOU FAMILIAR WITH A WOMAN NAMED DR. DONNA SCHWARTZ-WATTS?
A. YES, MA'AM.
Q. WHEN WAS THE FIRST TIME YOU MET HER?
A. WELL, SEE, SHE USED TO COME OUT TO THE PRISON.
Q. PERTAINING TO THIS.
A. OH, OKAY. I SAW HER IN DECEMBER WHEN MR. DOUG STRICKLER WAS MY ATTORNEY.
Q. OKAY, AND HOW MANY TIMES HAVE YOU SEEN HER SINCE DECEMBER?
A. I SAW HER AGAIN IN JANUARY, TWICE IN FEBRUARY. SHE CAME TO VISIT ME OVER AT THE HOSPITAL. I'VE SEEN

HER AT LEAST EIGHT TIMES.
Q. OKAY. MS. TYLER.
A. MA' AM?
Q. DID YOU ON SEPTEMBER 26, 1996, INTEND TO KILL YOUR HUSBAND?
A. NO, MA' AM. I JUST WANTED TO HURT ALI. THOSE VOICES THAT TOLD ME JUST TO BURN HIS HEAD UP.
Q. OKAY.
A. SET HIM ON FIRE.
Q. AND WHAT DID YOU THINK WAS GOING TO HAPPEN AFTER YOU BURNED HIM?
A. OH, I KNEW I WAS GOING TO GO TO JAIL, AND I KNEW HE WAS GOING TO GO TO THE HOSPITAL, BUT I DIDN' T KNOW HE WAS GOING TO DIE.
Q. AND WHAT HAS HAPPENED AS A RESULT OF THE STATUS WITH YOUR CHILDREN?
A. WELL, ALL MY CHILDREN HAS BEEN PLACED NOW. SO, I DON' T HAVE NO CHILDREN TO WORRY ABOUT EXCEPT FOR MY ONE SON THAT I NEVER DID GET BACK BECAUSE OF ALI, BECAUSE HIS FATHER IS DEAD AND EVERYBODY IS AFRAID OF HIM, AND SO HE IS A MENTAL CHILD. SO, HE' S IN A HOME FOR PROBLEM CHILDREN.
Q. NOW, YOU HAD MENTIONED ALSO THAT ALI HAD GIVEN YOU THAT BLACK EYE?
A. YES, MA' AM.

Q. OKAY. WAS THAT THE ONLY TIME HE EVER STRUCK YOU?
A. NO, MA'AM. ALI HAD STRUCK ME, BASICALLY HE'D HIT ME IF I'VE GOT [redacted] IN MY ARMS. HE LIKED TO FIGHT YOU WHEN YOU AIN'T, WHEN YOU AIN'T EXPECTING TO FIGHT. YOU KNOW HOW SOMEBODY IS GOING TO SNEAK YOU? THAT'S THE KIND OF PERSON HE WAS.
Q. ABOUT HOW MANY OCCASIONS DID HE ASSAULT YOU IN THAT WAY?
A. HOW MANY TIMES DID HE HIT ME?
Q. ABOUT HOW MANY TIMES DID HE ASSAULT YOU?
A. MANY TIMES.
Q. HOW MANY TIMES?
A. AT LEAST TEN.
Q. AND YOU NEVER REPORTED ANY OF THEM?
A. NO, MA'AM. MY NEIGHBORS REPORTED IT AND THEN I HAD TO DENY IT BECAUSE I WAS GOING TO GET PUT OUT OF HOUSING. THEY TOLD ME IF I HAD ANY MORE TROUBLE WITH MY SON, THAT THE POLICE CAME TO MY HOUSE ONE MORNING SAYING I WAS GOING TO GET PUT OUT. I WAS GOING TO BE PUT OUT ON THE STRENGTH OF WHAT MY SON WAS DOING BECAUSE OF HIS BEHAVIOR, AND I KNEW THAT IF I REPORTED A INCIDENT AND ALI'S NAME WAS NOT ON THE LEASE, HE REFUSED TO GIVE HIS POLICE REPORT.
Q. SO, ALI'S NAME WAS NOT EVEN ON THE LEASE?
A. NO.

Q. HE WOULDN'T AGREE TO THAT?
A. NO, HE WOULDN'T.
MS. JOHNS: I BEG THE COURT'S INDULGENCE, YOUR HONOR.
Q. NOW, MS. TYLER, YOU WERE TALKING ABOUT THE VOICES THAT YOU WERE HEARING ON THIS DATE. HAD YOU HEARD THE VOICES ANY OTHER DAY OTHER THAN THAT DAY?
A. YEAH, I HEAR VOICES MAINLY WHEN SOMEBODY HAS ANNOYED ME, YOU KNOW, WHEN SOMEBODY HAS DONE SOMETHING TO ME. THAT'S WHEN I HEAR THOSE VOICES.
Q. OKAY.
A. BUT THEN IF I'M DRIVING ACROSS A BRIDGE, YOU KNOW, THE VOICES WILL TELL ME TO DRIVE MY CAR, CAUSE I'M SCARE OF WATER, ACROSS THE BRIDGE AND IF I'M HIGH LIKE YOU CAN GO UP IN THE MALL AND HAVE TO GO UP ON THE ESCALATOR, THEM VOICES WILL TELL ME TO SLOW MYSELF DOWN. SO, I'VE BEEN HEARING VOICES FOR A WHILE. THIS IS NOT SOMETHING ALL OF A SUDDEN JUST HAPPENED.
Q. NOW, HOW LONG HAVE YOU BEEN HEARING THE VOICES?
A. OH, AT LEAST ABOUT TEN OR FIFTEEN YEARS.
Q. OKAY. IS IT A MALE VOICE OR A FEMALE VOICE?
A. IT'S LIKE TWO PEOPLE TALKING TO YOU AT ONE TIME. IT'S LIKE A SOFT VOICE AND IT'S A HARD VOICE.
Q. WHICH ONE IS MORE POWERFUL?
A. THE HARD VOICE.

Q. IS THAT A MALE VOICE OR A FEMALE VOICE?
A. I DON'T KNOW.
Q. OKAY. ON THE DAY THAT YOU HEARD THE VOICES, YOU SAID THAT THE VOICE TOLD YOU TO HIT ALI?
A. YES, MA'AM.
Q. HOW WERE YOU SUPPOSED TO HIT HIM?
A. HOW WAS --- HIT HIM WITH THE CAR.
Q. WITH THE CAR?
A. YES, MA'AM.
Q. OKAY, BUT YOU WEREN'T DRIVING?
A. I WAS DRIVING THE CAR. I WAS DRIVING THE CAR FIRST BEFORE I SAW HIM.
Q. AND WAS THAT THE SOFT VOICE OR THE HARD VOICE?
A. THAT'S THE HARD VOICE. SEE, IT'S THE HARD VOICE THAT TELL YOU TO DO THINGS, AND IT'S THE SOFT VOICE WHO WOULD TELL YOU NOT TO DO IT.
Q. AND WHICH VOICE WAS IT THAT YOU HEARD WHENEVER YOU WERE WALKING ACROSS THE STREET?
A. THE HARD VOICE.
Q. THE HARD VOICE?
A. YES.
Q. AND WHEN YOU TURNED BACK AROUND WHICH VOICE DID YOU HEAR THEN?
A. THE SOFT VOICE.
Q. THAT'S ALL.

THE COURT: ALL RIGHT. BEFORE WE HAVE CROSS EXAMINATION WE'RE GOING TO HAVE A SHORT RECESS. PLEASE STEP INTO THE YOUR JURY ROOM. I WILL SEND FOR YOU IN JUST A FEW MOMENTS. DO NOT DISCUSS THE CASE.

(JURY TO JURY ROOM.)

(SHORT BREAK.)

(JURY TO COURTROOM.)

THE COURT: ALL RIGHT, SOLICITOR, CROSS EXAMINATION.

CROSS EXAMINATION

BY MS. HAYNES

Q. MS. TYLER, MY NAME IS STACEY HAYNES OF THE SOLICITOR'S OFFICE. DO YOU NEED ANY WATER OR ANYTHING?

A. NO, MA'AM.

Q. LET ME ASK YOU A FEW QUESTIONS ABOUT ALI. YOU LOVED HIM A LOT. DIDN'T YOU?

A. YES, MA'AM.

Q. HE WAS A GOOD MAN TO YOU?

A. YES, MA'AM.

Q. AND HE HELPED YOU WITH YOUR KIDS. DIDN'T HE?

A. YES, MA'AM.

Q. AND EVEN THOUGH THOSE CHILDREN WEREN'T HIS, HE CONTINUED TO HELP YOU AND HELP YOU TRY TO GET THEM BACK THROUGH FAMILY COURT. DIDN'T HE?

A. YES, MA'AM.

Q. BUT HE HURT YOU BECAUSE HE FOOLED AROUND WITH OTHER WOMEN. DIDN'T HE?
A. YES, MA'AM.
Q. BUT THEN DURING THE WHOLE TIME THAT Y'ALL WERE MARRIED --- I THINK YOU GOT MARRIED, AND TELL ME IF I'M WRONG, IN 1992 OR ONE?
A. NINETY-TWO.
Q. NINETY-TWO. AND THE WHOLE TIME Y'ALL WERE MARRIED HE HAD AFFAIRS WITH OTHER WOMEN?
A. YES, MA'AM.
Q. AND YOU HAD AFFAIRS WITH OTHER MEN?
A. ONE MAN.
Q. BECAUSE THAT'S [redacted] FATHER?
A. YES.
Q. THAT'S NOT ALI'S CHILD?
A. NO.
Q. SO, YOU WEREN'T JUST SITTING BY WAITING FOR ALI TO GET OUT OF PRISON. WERE YOU?
A. YES, I WAS.
Q. WELL, HOW DO YOU EXPLAIN [redacted] THEN?
A. THAT WAS AFTER --- THAT WAS AFTER --- AFTER ALI HAD GOTTEN MARRIED TO RENEE.
Q. OKAY, BUT I THOUGHT YOU SAID THAT YOU WAITED FOR HIM FOR FOUR AND A HALF YEARS, AND THEN WHEN HE GOT OUT YOU WERE SO MAD BECAUSE HE HAS FOOLED AROUND WITH OTHER

WOMEN, BUT YET [redacted] WAS BORN DURING THAT TIME. WASN'T SHE?

A. WAS BORN?

Q. SHE'S [redacted] OLD WHEN THIS HAPPENED BACK IN 1996. WASN'T SHE? [redacted]

A. YES, MA'AM.

Q. OKAY. SHE WAS BORN BACK WHEN HE WAS IN PRISON DURING THE TIME THAT YOU WERE WAITING FOR HIM TO GET OUT?

A. YES, MA'AM.

Q. AND IN FACT YOU GOT IN A FIGHT WITH ANOTHER LADY AT PRISON AND GOT SUSPENDED FROM GOING TO VISIT ALI BECAUSE YOU WERE MAD ABOUT THE RELATIONSHIP SHE WAS HAVING WITH ALI. YOU FOUND OUT ABOUT HER AND GOT IN A FIGHT WITH HER, AND THEY WOULDN'T LET YOU GO BACK OUT TO THE PRISON TO SEE HIM. RIGHT?

A. YES, MA'AM.

Q. AND YOU ALSO THE NIGHT BEFORE ALL THIS HAPPENED OVER AT JACKIE'S HOUSE, YOU PICKED UP SOME KNIVES OVER THERE. DIDN'T YOU?

A. YES, MA'AM.

Q. AND ALI TALKED YOU OUT ---

A. IN MY HOUSE.

Q. OH, IN YOUR HOUSE. I'M SORRY, AND YOU PICKED UP THOSE KNIVES BECAUSE YOU WERE MAD AT ALI. WEREN'T YOU?

A. YES, MA'AM.
Q. AND I THINK WHAT YOU SAID IS YOU WERE REAL HOT, ANNOYED AND JUST GOT MAD?
A. YES.
Q. AND ALI TALKED YOU OUT OF IT AND GOT YOU TO PUT THEM DOWN. DIDN'T HE?
A. YES, MA'AM.
Q. BECAUSE HE HAD BEEN CHEATING ON YOU AND YOU WERE PRETTY FED UP WITH IT. WEREN'T YOU? YOU DIDN'T LIKE IT. DID YOU?
A. NO, I DIDN'T.
Q. AND IT BOTHERED YOU. DIDN'T IT?
A. YES, IT DID.
Q. AND NOW ALI HE HAD BEEN HELPING YOU TRY TO GET THESE KIDS BACK. IN FACT, WHEN ALI GOT OUT OF PRISON AND [redacted] WASN'T HIS, YOU TOLD HIM YOU'D GIVE [redacted] UP TO BE WITH HIM. DIDN'T YOU?
A. I TOLD HIM THAT, THAT WAS BEFORE [redacted] WAS BORN. YOU NEED TO GO BACK ANOTHER YEAR.
Q. GO BACK ANOTHER YEAR?
A. YES.
Q. YOU WERE GOING TO GIVE HER UP AND HE SAID, NO, KEEP HER.
A. YEAH.
Q. AND THAT WASN'T EVEN HIS CHILD?

A. RIGHT.
Q. BUT HE HELPED YOU WITH HER. DIDN'T HE?
A. NO, MA'AM. HE NEVER DID ANYTHING FOR [redacted]
Q. NOW, WASN'T HE WITH YOU --- DIDN'T YOU WRITE US SOME LETTERS SAYING THAT WHEN YOU FOUND OUT THAT YOU THOUGHT [redacted] HAD BEEN MOLESTED HE WAS WITH YOU, AND THAT Y'ALL BOTH TOOK HER DOWN, CALLED THE COLUMBIA POLICE DEPARTMENT, A PARAMEDIC, AND YOU BOTH WENT TO THE HOSPITAL WITH HER. ALI WAS WITH YOU?
A. OH, YES, MA'AM.
Q. BECAUSE HE WAS CONCERNED ABOUT HER?
A. I COULDN'T SAY THAT ALI WAS NOT THE PERSON WHO HAD DID THAT TO [redacted] AT THAT TIME, BECAUSE I DIDN'T KNOW WHEN IT HAD HAPPENED TO [redacted]
Q. YOU DIDN'T HAVE ANY INDICATION THAT HE HAD EVER DONE ANYTHING LIKE THAT TO [redacted] DID YOU?
A. RIGHT.
Q. AND THE DOCTOR IN FACT --- YOU WROTE IN HERE THE DOCTOR SAID HE DIDN'T SEE ANY FRESH OR TORN MARKS INDICATING A RAPE. DIDN'T HE?
A. HE DIDN'T SEE ANY FRESH BRUISES, BUT HE DID SEE SOME SCRATCH MARKS.
Q. AND, IN FACT, YOU FILED A POLICE REPORT TO THE POLICE. DIDN'T YOU? AND AT THAT TIME NO WHERE IN THERE DID YOU MENTION ALI. DID YOU?

A. ALI WAS WITH ME. SO, NO.
Q. THAT WAS IN JUNE OF '96. WASN'T IT?
A. YES, MA'AM.
Q. AND AT THAT TIME Y'ALL LISTED A SUSPECT BY THE NAME OF LINDA REED.
A. NO, THAT WAS LINDA REED IS THE SUSPECT IN THE ABUSE CASE WITH MY SON, [redacted].
Q. AND YOU FILED SEVERAL POLICE REPORTS, DIDN'T YOU, OVER THE TIME SPAN?
A. YES, MA'AM.
Q. WELL, YOU'VE NEVER BEEN SHY ABOUT CALLING THE POLICE IF YOU HAD SOMETHING YOU WANTED TO REPORT. HAVE YOU?
A. THAT'S RIGHT.
Q. YOU ALWAYS CALLED THEM. DIDN'T YOU?
A. YES, MA'AM.
Q. BUT YOU NEVER CALLED THEM ABOUT ALI. DID YOU?
A. NO, MA'AM.
Q. BECAUSE HE NEVER HURT YOU. DID HE?
A. NEVER HURT ME?
Q. WELL, I MEAN YOU'D FIGHT HIM BACK. WOULDN'T YOU?
A. YES, MA'AM.
Q. YOU WEREN'T SCARED OF HIM?
A. NO.
Q. BECAUSE YOU COULD HANDLE HIM?

A. YES, MA' AM.
Q. BECAUSE HE CALLED YOU THE WARRIOR. DIDN' T HE?
A. YES, MA' AM.
Q. WHAT DID HE MEAN BY WARRIOR, MS. TYLER?
A. WELL, IN HIS DEFINITION HE WAS CALLING ME (INAUDIBLE), THAT MEANT A SUCCESSFUL WARRIOR, ONE WHO WOULD FIGHT, FOREVER STRONG AND SUCCESSFUL.
Q. BECAUSE YOU' D FIGHT VERY STRONG AND SUCCESSFUL. WOULDN' T YOU?
A. YES, MA' AM.
Q. AND YOU FOUGHT ALI. DIDN' T YOU?
A. YES, MA' AM.
Q. AND YOU WEREN' T SCARE OF ALI?
A. NO.
Q. YOU WEREN' T A VICTIM OF ALI. WERE YOU?
A. YES, I WAS.
Q. YOU WERE SCARED OF HIM?
A. I WAS SCARED OF ALI TO A CERTAIN DEGREE. SEE, ALI WOULD ATTACK ME WHEN I' M NOT LOOKING.
Q. WHEN YOU' RE NOT LOOKING?
A. YES.
Q. KIND OF LIKE THROWING GAS ON SOMEBODY WHEN THEY' RE DRIVING A CAR?
A. YEAH, HE WASN' T LOOKING THEN.
Q. BUT NOW, IF YOU WERE LOOKING, YOU COULD HANDLE

HIM. COULDN'T YOU?
A. YES, MA'AM.
Q. AND THAT WASN'T ANYTHING UNUSUAL FOR YOU AND ALI TO FIGHT BACK AND FORTH. IT WAS PRETTY MUTUAL. WASN'T IT?
A. YES, MA'AM.
Q. I MEAN YOU FOUGHT HIM AS MUCH AS HE EVER FOUGHT YOU. DIDN'T YOU?
A. YES, MA'AM.
Q. YET YOU STILL STAYED WITH HIM. DIDN'T YOU?
A. YES, MA'AM. I STAYED WITH ALI ONLY TO GAIN POSSESSION OF MY CHILDREN.
Q. TO GET YOUR KIDS BACK, BUT YOU STAYED WITH HIM?
A. YES.
Q. I MEAN YOU COULD HAVE LEFT HIM. IN FACT, HE WANTED TO GO OFF WITH ANOTHER LADY BUT YOU WANTED HIM BACK, DIDN'T YOU, TO HELP YOU GET YOUR KIDS?
A. YES, MA'AM.
Q. AND THEN THAT DAY THAT THIS HAPPENED, YOU WENT AND I BELIEVE YOU SAID THAT YOU WERE DRIVING THE CAR? RIGHT?
A. YES.
Q. AND THAT'S THE CAR YOU BOUGHT FOR HIM?
A. YES, MA'AM.
Q. AND YOU WERE DRIVING AND SAW HIM WALKING. SO, YOU

PICKED HIM UP? AND THIS IS THE --- IS THAT RIGHT?
A. YES.
Q. AND THIS IS THE DAY AFTER THAT HE HAD BEEN WITH JACKIE AND YOU HAD GOTTEN MAD AND GOT THE KNIVES AND ALL?
A. YES.
Q. THE DAY YOU GOT REAL HOT AND ANNOYED AND GOT MAD?
A. UH-HUH.
Q. THAT' S THE NEXT MORNING, RIGHT, WHEN YOU SAW HIM?
A. YES, MA' AM.
Q. AND YOU PICKED HIM UP BECAUSE YOU WANTED TO TAKE HIM TO FAMILY COURT BECAUSE YOU WANTED HIM TO HELP YOU GET YOUR KIDS BACK. DIDN' T YOU?
A. YES, MA' AM.
Q. AND WHEN YOU PICKED HIM UP HE ASKED TO DRIVE. DIDN' T HE?
A. NO.
Q. OH, YOU LET HIM DRIVE?
A. YES, MA' AM.
Q. YOU SCOOTED OVER AND HE GOT IN THE DRIVER' S SEAT?
A. UH-HUH.
Q. AND THEN WHEN HE WAS DRIVING, Y' ALL STOPPED. I BELIEVE YOU SAID HE GOT A PAGE. SO, YOU STOPPED AT THE SHELL STATION, AND I COULDN' T GET THIS STRAIGHT. WERE YOU PUMPING THE GAS OR WAS HE PUMPING THE GAS?

A. I WAS.
Q. YOU WERE PUMPING THE GAS?
A. UH-HUH.
Q. AND THIS IS AFTER YOU ASKED HIM TO BUY YOU A SODA AND SOME BUBBLE GUM. RIGHT?
A. YES, MA'AM.
Q. AND HE HAD DONE THAT FOR YOU. HADN'T HE?
A. YES, MA'AM.
Q. HE WASN'T BEING MEAN TO YOU. WAS HE?
A. NO, MA'AM.
Q. HE WAS BEING NICE. HE BOUGHT YOU A SODA AND GUM LIKE YOU HAD ASKED HIM TO?
A. YES.
Q. OKAY, AND YOU STARTED PUMPING THE GAS, AND AT THAT POINT YOU PUT SOME OF THE GAS IN THE SODA BOTTLE. DID YOU DRINK IT ALL OR DID YOU POUR IT OUT AND EMPTY IT?
A. NO, I POURED THE SODA OUT.
Q. YOU POURED IT OUT?
A. UH-HUH.
Q. AND EMPTIED IT UP?
A. YES, MA'AM.
Q. BECAUSE YOU NEEDED SOMETHING TO PUT THE GAS IN. DIDN'T YOU?
A. YES, MA'AM.
Q. SO, YOU PUT THE GAS IN THERE, BUT THEN YOU DIDN'T

HAVE ANYTHING TO LIGHT THAT GAS WITH. DID YOU?

A. NO.

Q. SO, YOU WENT INSIDE TO GET A CIGARETTE LIGHTER. RIGHT?

A. YES, MA' AM.

Q. AND YOU SAID THAT YOU DIDN' T KNOW HOW TO USE A CIGARETTE LIGHTER BECAUSE YOU DIDN' T SMOKE?

A. THAT' S RIGHT.

Q. BUT YOU SMOKED REEFER. DIDN' T YOU?

A. YES.

Q. AND YOU HAVE TO LIGHT REEFER. DON' T YOU?

A. THE STOVE.

Q. MA' AM?

A. FROM THE STOVE.

Q. FROM THE STOVE?

A. UH-HUH.

Q. BUT YOU ASKED ALI HOW --- TO SHOW YOU HOW THAT LIGHTER WORKS. RIGHT?

A. NO, I DID NOT ASK ALI, I ASKED KAHLIA.

Q. OH, KAHLIA SHOWED YOU HOW?

A. YES.

Q. SO, KAHLIA IS THE ONE THAT WAS SHOWING YOU HOW TO RAISE THE FLAME UP ON THAT LIGHTER AND GET IT REAL HIGH?

A. YEAH.

Q. AND HOW TO GET BY THAT LITTLE CHILD PROOF SWITCH ON THAT LIGHTER?
A. UH-HUH.
Q. WHY WERE YOU WANTING TO KNOW HOW TO USE THAT LIGHTER, MS. TYLER?
A. BECAUSE THEM VOICES HAD TOLD ME TO LIGHT ALI'S HEAD UP.
Q. BECAUSE YOU WERE GOING TO LIGHT HIS HEAD UP?
A. YES.
Q. YOU WERE GOING TO SET HIM ON FIRE?
A. YES.
Q. BECAUSE YOU WERE MAD AND ANGRY AND ANNOYED AT HIM BECAUSE HE HAD CHEATED ON YOU FOR WHO KNOWS HOW MANY TIMES, AGAIN AND AGAIN AND AGAIN, RIGHT?
A. YES, MA'AM.
Q. AND YOU WERE FED UP WITH ALI'S CHEATING. WEREN'T YOU?
A. YES, MA'AM.
Q. NOW, YOU SAID IN THERE THAT YOU HAD TO CHANGE CLOTHES, I THINK, NOT ONCE BUT MAYBE TWO OR THREE TIMES?
A. YES.
Q. BECAUSE YOU'D GET THE GAS ON YOU?
A. UH-HUH.
Q. AND YOU DIDN'T ---

A. ON MY SHOES.
Q. --- WANT HIM TO SMELL THAT GAS --- I'M SORRY.
A. ON MY SHOES.
Q. ON YOUR SHOES, OKAY, AND YOU DIDN'T WANT HIM TO SMELL THAT GAS. DID YOU?
A. NO, MA'AM.
Q. BECAUSE YOU KNEW THAT IF HE SMELLED THAT GAS HE'D KNOW SOMETHING WAS UP. WOULDN'T HE?
A. YES, MA'AM.
Q. AND YOU WANTED TO HIDE THAT FROM HIM. DIDN'T YOU?
A. YES, MA'AM.
Q. YOU WANTED TO KEEP IT A SECRET. DIDN'T YOU?
A. YES, MA'AM.
Q. YOU WANTED TO POUNCE ON HIM WHEN HE DIDN'T EXPECT IT. DIDN'T YOU?
A. YES, MA'AM.
Q. AND YOU SAID YOU EVEN GOT A CUP BECAUSE YOU WANTED TO ACT LIKE YOU WERE DRINKING FROM SOMETHING SO HE WOULDN'T SUSPECT ANYTHING. RIGHT?
A. YES, MA'AM.
Q. AND THEN THE STYROFOAM MELTED WHEN THE GAS HIT IT. SO, YOU HAD TO THROW THAT AWAY AND JUST POUR IT BACK INTO THE BOTTLE. RIGHT?
A. YES, MA'AM.
Q. SO, YOU HELD IT IN THE PEPSI BOTTLE? THIS PEPSI

BOTTLE? OF COURSE, IT'S BEEN MESSED UP NOW. IT'S BEEN RUN OVER BY CARS, BUT WAS IT A PEPSI BOTTLE?

A. THAT'S NOT THE BOTTLE.

Q. OH, THIS IS NOT THE BOTTLE?

A. UH-UH.

Q. WAS IT A PEPSI BOTTLE?

A. THAT'S NOT A TWO LITER.

Q. OH, YOU HAD A TWO LITER?

A. UH-HUH.

Q. YOU HAD A TWO LITER FULL. DID YOU FILL IT UP WITH GAS?

A. NO.

Q. HOW MUCH DID YOU PUT IN IT?

A. ABOUT THAT MUCH.

Q. ABOUT THAT MUCH? WHAT'S THAT ABOUT TEN OR FIFTEEN CENTS WORTH OF GAS?

A. I DON'T KNOW.

Q. AND YOU ASKED HIM TO STOP AT THE HOUSE AND HE DIDN'T DO IT, AND AT THAT POINT YOU DECIDED TO THROW THE GAS ON HIM. SO, YOU HELD YOUR BREATH AND YOU POURED IT ON TOP OF HIS HEAD. YOU LIT IT AND YOU JUMPED OUT OF THE CAR?

A. YES.

Q. YOU JUMPED OUT OF THE CAR BECAUSE YOU DIDN'T WANT TO CATCH ON FIRE. DID YOU?

A. THAT'S RIGHT.
Q. THAT'S RIGHT, AND YOU STARTED WALKING AWAY UP [redacted] STREET. YOU DIDN'T TEAR OFF RUNNING, DID YOU?
A. WALKING AWAY? I WALKED BEHIND THE CAR.
Q. YES, WALKED BEHIND THE CAR, AND THEN YOU WENT UP THROUGH THERE, AND THAT'S WHEN I BELIEVE DOUGLAS BROWN ASKED YOU IF ANYBODY WAS IN THERE, AND YOU SAID --- I'M SORRY ---
A. AS I WAS CROSSING THE STREET, I HAD TO PASS A CAR IN ORDER TO CROSS THE STREET.
Q. OKAY.
A. SO, I WAS GOING TO THE CAR.
Q. AND SOMEONE ASKED YOU IF ANYONE WAS IN THAT CAR, AND YOU SAID, YEAH, MY HUSBAND?
A. YES, MA'AM.
Q. AND YOU KEPT WALKING?
A. NO.
Q. OH, YOU DIDN'T?
A. NO, MA'AM. I NEVER DID LEAVE THE SCENE.
Q. YOU RAN OVER THERE AND TRIED TO PULL HIM OUT?
A. NO. SOME GUYS ---
Q. DID YOU SCREAM AND GO OVER THERE AND SAY, DOUGLAS BROWN, GO GET MY HUSBAND OUT OF THE CAR. HE'S BURNING?
MS. JOHNS: WE OBJECT, YOUR HONOR, I ASK THAT THE PROSECUTOR ALLOW HER TO ANSWER.

THE COURT: SUSTAINED. PLEASE ALLOW THE WITNESS TO COMPLETE HER ANSWER.

MS. HAYNES: YES, I'LL LET HER ANSWER. THANK YOU.

BY MS. HAYNES

Q. AND SO, DID YOU GO TO DOUGLAS AND YOU SAY "GET HIM OUT OF MY CAR, GET HIM OUT ---

A. NO.

Q. NO?

A. NO, MA'AM.

Q. DID YOU GO TO ANYONE AND SAY "HELP MY HUSBAND, GET HIM OUT OF THERE. HE'S ON FIRE?"

A. NO, MA'AM.

Q. AND THERE AT THE CAR YOU SAID YOU WERE THINKING OF SOMETHING REAL FAST TO TELL THEM, MAYBE SOMETHING WAS WRONG WITH THE CAR?

A. UH-HUH.

Q. YOU KNEW WHAT YOU HAD DONE WAS WRONG. DIDN'T YOU?

A. YES, MA'AM.

Q. YOU KNEW THAT. THERE WAS NO DOUBT IN YOUR MIND, WAS THERE, BECAUSE YOU THOUGHT OF A STORY REAL FAST TO TELL THEM. DIDN'T YOU?

A. AS FOR ALI, YEAH.

Q. AND YOU TOLD THEM REAL FAST, OH, THAT CAR MIGHT HAVE MESSED UP. RIGHT?

A. YES.

Q. AND YOU RAN OVER TO ALI AND SAID, DON'T TELL ON ME ALI. DON'T TELL ON ME?
A. NO, I DIDN'T SAY THAT.
Q. YOU SAID "YOU'RE NOT GOING TO TELL ON ME?"
A. UH-UH, I ASKED HIM.
Q. DID YOU SAY "YOU GOING TO TELL ON ME?"
A. I ASKED HIM WERE HE GOING TO TELL ON ME.
Q. YOU ASKED HIM IF HE WAS GOING TO.
A. YES.
Q. SO, YOU WERE WORRIED BECAUSE YOU DIDN'T WANT TO GET TOLD ON BECAUSE YOU KNEW WHAT YOU HAD JUST DONE WAS WRONG?
A. NO, I KNEW I WAS GOING TO JAIL, BUT ---
Q. SO, YOU KNEW WHAT YOU HAD DONE WAS WRONG?
A. YES, MA'AM.
Q. AND SO, YOU KNEW WHAT YOU WERE DOING WAS WRONG. SO, YOU ASKED ALI IF HE WAS GOING TO TELL ON YOU?
A. YES, MA'AM.
Q. AND HE TOLD YOU NO.
A. YES, MA'AM.
Q. AND YOU ASKED HIM SEVERAL TIMES BECAUSE YOU WERE WORRIED ABOUT THAT. WEREN'T YOU?
A. YES, MA'AM.
Q. AND EACH TIME ALI WOULD TELL YOU NO. DIDN'T HE?
A. YES, MA'AM.

Q. BUT THEN LATER YOU FOUND OUT HE DID TELL ON YOU. DIDN'T YOU?
A. YES, MA'AM.
Q. ALI TOLD ON YOU?
A. YES.
Q. AND WHEN YOU WENT TO THE POLICE DEPARTMENT YOU TRIED TO TELL INVESTIGATOR GRAY, THE GENTLEMAN SITTING HERE AT THE TABLE, YOU TRIED TO TELL HIM THAT THE CAR MESSED UP, THAT YOU ---
A. NO.
Q. OH, YOU DIDN'T?
A. NO.
Q. YOU NEVER TOLD INVESTIGATOR GRAY WHEN YOU GOT DOWN THERE THAT YOU DENIED KNOWING THAT THE CAR WAS SET ON FIRE?
A. I TOLD HIM THAT I DID NOT DO THAT.
Q. YOU TOLD HIM YOU DIDN'T SET THE CAR ON FIRE?
A. UH-HUH.
Q. YOU SAID YOU DIDN'T KNOW HOW HE WAS BURNED?
A. YES.
Q. AND THAT THEY HAD JUST STOPPED FOR A LIGHT AT [redacted] AND [redacted] THAT YOU HAD GOTTEN OUT OF THE CAR TO GO TO THE HEALTH DEPARTMENT FOR A YEAST INFECTION?
A. YES, MA'AM.
Q. AND THAT YOU WALKED ACROSS THE ROAD AND NOTICED

THE CAR WAS ON FIRE?

A. YES.

Q. AND AT THAT POINT HE LOOKED AT YOU AND SAID, BUT THE WITNESSES SAY SOMETHING DIFFERENT, AND HE QUESTIONED YOU AGAIN ABOUT HOW THE FIRE STARTED?

A. YES, MA'AM.

Q. ALL THIS HAPPENED. DIDN'T IT?

A. YES.

Q. AND AT THAT TIME YOU AGAIN SAID YOU DIDN'T KNOW HOW IT STARTED?

A. RIGHT.

Q. AND AT THAT TIME YOU SAID IT COULD HAVE BEEN SOME CAR TROUBLE?

A. YES.

Q. BECAUSE YOU DIDN'T WANT HIM TO FIND OUT WHAT REALLY HAPPENED. DID YOU?

A. NO, MA'AM.

Q. BECAUSE YOU DIDN'T WANT TO GO TO JAIL. DID YOU?

A. RIGHT.

Q. AND THEN HE TOLD YOU THAT ALI DID TELL ON YOU. DIDN'T HE?

A. YES, MA'AM.

Q. AND ALI HAD TOLD THE PARAMEDICS, OR THE EMS PEOPLE OUT THERE, THAT YOU HAD DONE IT, THAT YOU HAD POURED GASOLINE ON HIS HEAD AND LIT HIM ON FIRE?

A. YES, MA'AM.
Q. AND AT THAT POINT YOU THEN ADMITTED THAT YOU SET HIM ON FIRE. DIDN'T YOU?
A. YES, MA'AM.
Q. BUT AT THAT POINT WHEN YOU ADMITTED YOU SET HIM ON FIRE, YOU ALSO GAVE A REASON FOR IT. DIDN'T YOU?
A. YES.
Q. YOU TOLD HIM HE'D BEEN CHEATING ON YOU? RIGHT?
A. YES, MA'AM.
Q. AND YOU TOLD HIM THAT LAST NIGHT A GIRL NAMED JACKIE --- I GUESS IS WHO YOU'RE TALKING ABOUT --- "FOUND ABOUT THE LAST GIRL LAST NIGHT. I WAS AT A NEIGHBOR'S, JACKIE'S, THAT LIVES AT SAXON HOMES. SHE TOLD ME THAT SHE WAS TWO WEEKS PREGNANT BY VAN?"
A. YES, MA'AM.
Q. SO, INVESTIGATOR GRAY WROTE DOWN WHAT YOU TOLD HIM ABOUT JACKIE. DIDN'T HE?
A. YES, MA'AM.
Q. AND HE WROTE DOWN IN HIS FOLLOW-UP WHAT YOU TOLD HIM ABOUT NOT KNOWING HOW THE FIRE STARTED. RIGHT?
A. YES.
Q. AND ABOUT THE YEAST INFECTION AND GOING TO THE HEALTH DEPARTMENT. RIGHT?
A. UH-HUH.
Q. HE WROTE ALL THAT DOWN.

A. UH-HUH.
Q. MA' AM?
A. YES, MA' AM.
Q. AND HE ALSO ASKED YOU IF THAT WAS --- IF YOU FELT LIKE YOU WERE BEING TAKEN ADVANTAGE OF BY VAN. DIDN' T HE?
A. YES, MA' AM.
Q. AND YOU SAID YES, JUST LIKE YOU SAID HERE TODAY, AND HE ASKED YOU WAS THAT WHY YOU POURED GAS ON VAN. DIDN' T HE?
A. YES, MA' AM.
Q. AND YOU TOLD HIM "YES, I HAD THE GAS IN A PEPSI BOTTLE IN THE CAR. I DIDN' T SAY ANYTHING TO HIM. I JUST POURED IT ON TOP OF HIS HEAD. THEN I USED MY CIGARETTE LIGHTER TO LIGHT HIM UP."
A. THAT' S WHAT I SAID.
Q. BECAUSE YOU WERE MAD AT HIM ABOUT THOSE WOMEN. WEREN' T YOU?
A. YES, MA' AM.
Q. YOU HAD JUST ABOUT HAD IT UP TO HERE WITH HIM. HADN' T YOU?
A. YES, MA' AM.
Q. YOU WANTED HIM TO FEEL SOME PAIN TOO BECAUSE YOU' D BEEN FEELING PAIN. HADN' T YOU?
A. YES, MA' AM.

Q. NOW IN HERE --- MS. TYLER, DO YOU HAVE A COPY OF THAT STATEMENT? DO YOU WANT TO LOOK AT ONE? LET ME HAND YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER TWO, AND I BELIEVE THIS IS ACTUALLY THE ORIGINAL. TAKE A LOOK AT THAT, MS. TYLER, AND THAT ORIGINAL HAS YOUR SIGNATURE ON IT ON THREE PAGES. RIGHT?

A. YES, MA'AM.

Q. AND IN THAT ORIGINAL, LOOK THROUGH THERE AND SHOW ME WHERE INVESTIGATOR GRAY WROTE DOWN THAT YOU PLANNED TO MURDER ALI?

A. IT'S NOT IN THIS STATEMENT BECAUSE SOMEONE TOLD ME THAT IT WAS CHANGED, THAT THE REPORT WAS CHANGED.

Q. OH, SO NOW ---

A. HE DID A SUPPLEMENTAL REPORT, I BELIEVE. THAT'S WHAT I WAS INFORMED. THAT'S WHAT MR. DOUG STRICKLER TOLD ME.

Q. SO, SOMEWHERE IN THE SUPPLEMENTAL REPORT HE WROTE DOWN THAT YOU PLANNED TO MURDER ALI?

A. THAT WAS SUPPOSED TO HAVE BEEN IN THE ORIGINAL REPORT, BUT MR. DOUG STRICKLER TOLD ME THAT IT WAS A SUPPLEMENTAL REPORT MADE AND SOME CHANGES WAS MADE IN THE STATEMENT, BECAUSE I REQUESTED TO HAVE THE STATEMENT THAT HE HAD MADE AGAINST ME.

Q. AND THERE'S THE STATEMENT THAT'S BEEN MADE. RIGHT? THAT'S THE ONLY STATEMENT THAT'S BEEN IN

EVIDENCE. THAT' S THE STATEMENT ---

A. WELL, LET ME READ IT.

Q. OKAY, TAKE YOUR TIME.

A. NO, MA' AM. THAT' S NOT IN THIS STATEMENT.

Q. SO, INVESTIGATOR GRAY DIDN' T PUT IN THERE THAT YOU PLANNED TO MURDER ALI.

A. NO, BUT HE, I WAS INSIDE THE OFFICE, HIS OFFICE, AND CHIEF AUSTIN WAS THERE ALONG WITH SOME OTHER PEOPLE WAS THERE, AND HE WENT INTO CHIEF AUSTIN' S OFFICE AND WHEN HE WALKED OUT THE DOOR HE SAID, I GOT HER, SHE PLANNED TO MURDER HIM. SHE TOLD ME THAT SHE PLANNED TO MURDER HIM.

Q. WHAT HE ACTUALLY WROTE DOWN WAS HE ASKED YOU ON PAGE THREE, IS IT BECAUSE OF WHAT KAHLIA TOLD YOU THAT YOU BOUGHT THE GASOLINE?

A. I KNOW WHAT HE ASKED ME.

Q. AND YOU SAID, NO. RIGHT?

A. YES, MA' AM.

Q. AND YOU SAID, I HAD ALREADY MADE UP MY MIND WHAT I WAS GOING TO DO.

A. YEAH. I WAS GOING TO GET MY DIVORCE FROM ALI THAT WAS THE LAST FINAL THING.

Q. AND HE SAID, WHAT WAS YOUR PLANS? RIGHT?

A. YES, I TOLD HIM I HAD MADE UP MY MIND. I PLANNED TO GO AHEAD AND GET MY DIVORCE FROM ALI TO GET RID OF

ALI. I NEVER SAID I WAS GOING TO MURDER ALI.
Q. NO, MA'AM. LISTEN TO MY QUESTION. OKAY? HE ASKED YOU WHAT WAS YOUR PLAN AND YOU SAID, TO SEE HIM BURN. I WANTED HIM TO HURT LIKE HE HURT ME.
A. OH, I THOUGHT YOU WAS TALKING ABOUT IN THE REFERENCE TO THE MURDER PART.
Q. ISN'T THAT WHAT YOU TOLD HIM?
A. YES, I TOLD HIM THAT.
Q. YOU WANTED TO WATCH HIM BURN. DIDN'T YOU?
A. YES, BUT I ALSO TOLD HIM I HAD MADE UP MY MIND TO GO ---
Q. TO GET A DIVORCE?
A. THAT'S RIGHT.
Q. AND YOU WANTED HIM TO HURT BECAUSE YOU WERE HURTING?
A. YES, MA'AM.
Q. AND YOU THOUGHT YOU'D MAKE HIM HURT BECAUSE YOU POURED GAS ON HIS HEAD AND SET HIM ON FIRE. DIDN'T YOU?
A. YES, MA'AM.
Q. AND THAT'S WHAT YOU DID. ISN'T IT?
A. YES, MA'AM.
Q. THIS MAN RIGHT HERE, DR. BEHRMANN. YOU KNOW HIM RIGHT?
A. YES, MA'AM.

Q. YOU TRUST HIM. DON'T YOU?
A. YES, MA'AM.
Q. AND HE'S BEEN YOUR DOCTOR FOR A GOOD WHILE. HASN'T HE?
A. YES, MA'AM.
Q. AND HE'S TREATED YOU --- IN FACT YOU'RE STAYING IN HIS FACILITY RIGHT NOW. AREN'T YOU?
A. YES, MA'AM.
Q. HE'S BEEN VERY NICE TO YOU. HASN'T HE?
A. YES, MA'AM.
Q. HE'S ALWAYS TREATED YOU WITH RESPECT, HASN'T HE, MS. TYLER?
A. YES, MA'AM.
Q. AND YOU TRUST HIM. DON'T YOU?
A. YES, MA'AM.

MS. HAYNES: I BEG THE COURT'S INDULGENCE ONE MOMENT. I DON'T HAVE ANYTHING FURTHER, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

MS. JOHNS: NO, YOUR HONOR.

THE COURT: THANK YOU. THANK YOU, MA'AM. YOU MAY STEP DOWN.

MADAM FORELADY, LADIES AND GENTLEMEN, I BELIEVE WE HAVE REACHED A CONVENIENT STOPPING PLACE FOR TODAY. ONCE AGAIN WHILE YOU'RE AWAY PLEASE DO NOT DISCUSS THE CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS THIS CASE

Q. I DON'T THINK IT SAYS ---
A. I TOLD HIM I HAD MADE UP MY MIND TO GO AHEAD AND GET RID OF ALI. I WAS ON MY WAY TO THE EMAL'S HOUSE WHEN I SEEN ALI WALKING OUT OF THE BACK OF SISTER CADEDRA'S HOUSE.
Q. OKAY. AND I BELIEVE WHAT IT SAID WAS WHAT WAS YOUR PLAN, AND YOU SAID TO SEE HIM BURN. I WANTED HIM TO HURT LIKE HE HURT ME, RIGHT?
A. YEAH, BUT ---
Q. THAT'S WHAT YOU SAID?
A. YES.
Q. I DON'T HAVE ANY FURTHER QUESTIONS.

THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN. THANK YOU VERY, VERY MUCH. THE NEXT WITNESS.

MS. JOHNS: YOUR HONOR, AT THIS TIME, THE DEFENSE WOULD CALL DR. DONNA SCHWARTZ-WATTS TO THE STAND, PLEASE.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

DR. DONNA SCHWARTZ-WATTS, BEING FIRST DULY SWORN TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. JOHNS

Q. DR. WATTS, ARE YOU FAMILIAR WITH LINDA ANN TYLER?
A. YES, I AM.

Q. BECAUSE THAT'S WHY YOU TOOK HIS WORD FOR IT BECAUSE HE HAD TREATED YOU PRETTY NICELY WHEN YOU CAME IN THERE, HADN'T HE?

A. YES, MA'AM.

Q. AND HE HADN'T THREATENED YOU OR TRIED TO HURT YOU OR FORCED YOU TO SIGN THIS, HAD HE?

A. YES, HE DID.

Q. HOW DID HE DO THAT, MS. TYLER?

A. GOING THAT LIKE THAT, AND HE CAME UP OUT OF HIS CHAIR, AND HE HAD ON SOME SHADES OR SOME GLASSES, AND HE HAD TOOK THEM OFF, AND HE SAID, YOU'VE GOT TO TELL ME THE TRUTH, BECAUSE YOU AIN'T GOING TO LEAVE HERE UNTIL YOU TELL ME THE TRUTH.

Q. HE HAD ON SHADES DOWN IN THE BASEMENT, MS. TYLER?

A. HE HAD ON SOME SHADES OR SOME GLASSES. HE HAD ON SOMETHING ON HIS EYES, AND YOU CAN ASK HIM WHETHER THEY WERE SHADES OR WERE THEY GLASSES.

Q. OKAY. SO, YOU TOOK THAT AS A THREAT WHEN HE LEANED OVER THE DESK?

A. YES, MA'AM, BECAUSE ---

Q. AND --- I'M SORRY GO AHEAD.

A. YES.

Q. AND SO, WHAT IN THIS STATEMENT IS NOT TRUE?

A. I DID NOT PLAN TO MURDER ALI. THAT'S WHAT HE SAID, THAT I PLANNED TO MURDER ALI. HE SAID I MADE UP MY MIND.

A. NO, I SAID THE FIRST PAGE.
Q. THE FIRST PAGE?
A. HE GAVE ME ALL THE PAPERS. I JUST READ THE FIRST PAGE, AND YOU KNOW, HE HAD THREE PAPERS ON EACH ONE OF THEM.
Q. YES, MA'AM.
A. AND I SIGNED --- JUST WENT ON AND SIGNED THEM. I DID NOT SEE ALL OF THEM.
Q. BUT HE GAVE THEM TO YOU FOR YOU TO READ IF YOU WANTED TO, DIDN'T HE?
A. YES, MA'AM.
Q. AND HE ALSO TOLD YOU ON THAT LAST QUESTION IF YOU COULD ADD ANYTHING HE'D LET YOU?
A. YES.
Q. AND IF YOU WANTED TO MAKE ANY CHANGES, HE WAS GOING TO LET YOU DO THAT?
A. YEAH.
Q. SO, YOU DID GLANCE OVER IT, DIDN'T YOU?
A. OVER THE TOP SHEET, THE FIRST SHEET, YES.
Q. AND YOU COULD HAVE LOOKED AT THE SECOND AND THIRD SHEET IF YOU WANTED TO?
A. YEAH, BUT I TOOK HIS WORD FOR IT. THERE WAS NO NEED FOR ME TO LOOK OVER IT.
Q. BECAUSE HE HAD BEEN NICE TO YOU, HADN'T HE?
A. YES, MA'AM.

A. NO, MA'AM, HE DID.
Q. THAT'S HIS HANDWRITING?
A. YES, MA'AM.
Q. AND TAKE A LOOK HERE, MS. TYLER. IS THAT YOUR SIGNATURE ON THE BOTTOM OF THE PAGE, MA'AM?
A. YES, MA'AM.
Q. AND ON THE SECOND PAGE, IS THAT YOUR SIGNATURE?
A. YES, MA'AM.
Q. AND ON THE THIRD PAGE, MS. TYLER, LOOK AT THAT.
A. YES. MA'AM.
Q. THOSE ARE ALL YOUR SIGNATURES. AND HE GAVE YOU AN OPPORTUNITY TO MAKE ANY CHANGES, DIDN'T HE?
A. NO, MA'AM.
Q. WELL, NOW, RIGHT HERE, ONE OF THESE QUESTIONS, I BELIEVE THE LAST QUESTION HE ASKED YOU, DO YOU WANT TO ADD ANYTHING ELSE, AND YOU PUT NO, BUT THEN YOU DECIDED, JUST THAT I LOVE MY HUSBAND. I'M SORRY IT HAPPENED?
A. YEAH, THAT WAS AN AFTERTHOUGHT.
Q. AND YOU TOLD HIM THAT?
A. YES.
Q. AND HE WROTE DOWN EXACTLY WHAT YOU TOLD HIM, DIDN'T HE?
A. YES.
Q. AND NOW, ONE TIME YOU SAID THAT HE DIDN'T GIVE YOU AN OPPORTUNITY TO LOOK AT THAT, BUT THEN ---

Q. AND YOU WANTED TO TALK TO HIM, DIDN'T YOU?
A. YES, MA'AM.
Q. AND HE ACTUALLY ASKED YOU SOME QUESTIONS, BECAUSE HE ASKED YOU WHERE YOU WENT TO SCHOOL, AND YOU TOLD HIM BOOKER T. WASHINGTON, DIDN'T YOU?
A. YES, MA'AM.
Q. AND HE WROTE THAT IN THE CORNER OF THE ADVICE OF RIGHTS?
A. YES, MA'AM.
Q. AND HE ASKED YOU HOW FAR YOU WENT IN SCHOOL, RIGHT?
A. YES, MA'AM.
Q. AND YOU TOLD HIM THE ELEVENTH GRADE?
A. YES, MA'AM.
Q. BECAUSE YOU TOLD HIM ALL THAT, RIGHT?
A. YES, MA'AM.
Q. AND HE WROTE THAT ON THE TOP OF THE ADVICE OF RIGHTS FORM SO HE'D KNOW HOW FAR YOU WENT TO SCHOOL AND WHICH SCHOOL YOU WENT TO?
A. YES, MA'AM.
Q. AND THEN HE STARTED TAKING THIS STATEMENT, AND THE TIME ON IT SAYS 12 O'CLOCK, BECAUSE RIGHT AFTER HE FINISHED THAT HE TALKED TO YOU AND WROTE THAT STATEMENT OUT, RIGHT?
A. NO, MA'AM.
Q. DID YOU WRITE THE STATEMENT OUT?

AND SAID, HI, MS. TYLER. HOW ARE YOU DOING. RIGHT?

A. UH HUH, YEAH.

Q. AND THEN HE TOOK YOU INTO A ROOM, JUST YOU AND HE, AND SHOWED YOU STATE'S EXHIBIT NUMBER ONE FOR I.D., WHICH IS THE ADVICE OF RIGHTS?

A. NO, NO, MA'AM.

Q. WELL, NOW, IT'S GOT THE TIME OF 11:40 A.M., RIGHT?

A. YES, MA'AM.

Q. AND IT'S GOT A CHECK BESIDE EACH QUESTION, BECAUSE HE CHECKS THEM OFF AS HE GOES OVER THEM WITH YOU, RIGHT?

A. YES, MA'AM.

Q. AND DOWN AT THE BOTTOM IT'S GOT HIS SIGNATURE AT THE TOP AT 11:43, ABOUT THREE MINUTES TO GO OVER EACH OF THESE QUESTIONS AND CHECK THEM OFF, RIGHT?

A. YES, MA'AM.

Q. AND THEN YOU SIGNED IT RIGHT THERE AT THE BOTTOM. IS THAT YOUR SIGNATURE, MS. TYLER?

A. YES, MA'AM.

Q. AND HE GAVE YOU AN OPPORTUNITY TO LOOK AT THAT IF YOU WANTED TO?

A. NO, MA'AM. HE TOLD ME ABOUT THE MIRANDA RIGHTS. HE SAID, WELL, YOU CAN SIGN THIS PAPER THAT YOU HAVE A RIGHT TO TALK TO ME, OR DO YOU GIVE UP THAT RIGHT OR DO YOU REQUEST TO HAVE AN ATTORNEY PRESENT, AFTER HE HAD DONE GOTTEN THE STATEMENT FROM ME.

Q. WHEN HE WAS READING YOU YOUR MIRANDA RIGHTS, DID YOU HAVE ANY QUESTIONS ABOUT THEM?

A. HE DIDN'T READ ME MY MIRANDA RIGHTS. HE GAVE ME THIS PAPER TO SIGN. HE SAID, DO YOU WANT TO WAIVE YOUR RIGHT TO TALK TO ME, OR DO YOU WANT TO WAIT TO HAVE AN ATTORNEY. BUT I DIDN'T THINK IT WAS RIGHT TO WAIVE MY RIGHTS WHEN I ALREADY DONE TALK TO YOU. SO, I WENT ON AND SIGNED THE PAPERS. HE SAID, WELL, YOU KNOW, YOU DID CONSENT TO GO AHEAD AND TALK. SO, YOU JUST CHECK OFF --- HE CHECKED OFF THESE THINGS, NOT ME. I JUST SIGNED MY NAME TO THEM.

Q. DID YOU HAVE HOPE OF GETTING OUT ON BAIL THAT AFTERNOON --A. YES, MA'AM, I SURE DID.

Q. THERE ARE ATTORNEYS HERE WHO WILL ASK YOU QUESTIONS. YOU ANSWER THEIR QUESTIONS. WE'LL LEAVE THESE UP HERE IN CASE THEY NEED THEM. ALL RIGHT?

A. YES, MA'AM.

CROSS EXAMINATION

BY MS. HAYNES

Q. MS. TYLER, MY NAME IS STACEY HAYNES. LET ME ASK YOU A FEW QUESTIONS NOW. INVESTIGATOR GRAY, THIS IS THE INVESTIGATOR YOU TALKED ABOUT RIGHT HERE. IS THAT RIGHT?

A. YES, MA'AM.

Q. AND HE WAS PRETTY NICE TO YOU WHEN YOU CAME DOWN THERE, BECAUSE YOU, YOURSELF, EVEN SAID HE CAME UP TO YOU

A. YEAH. I WAS SIGNING THE STATEMENT TO WHAT HE WAS SAYING TO THE QUESTIONS THAT HE ASKED ME, BUT I DID NOT -- -- ON THE FIRST PART --- AND I JUST ASSUMED THAT WHATEVER --- I TOOK HIM TO BE A TRUTHFUL PERSON, THAT WHATEVER HE ASKED ME THAT HE HAD WRITTEN IT DOWN, BUT I DID NOT SAY THAT I PLANNED TO MURDER ALI.

Q. NOW, I'M GOING TO SHOW YOU WHAT'S STATE'S EXHIBIT NUMBER ONE FOR I.D. AND ASK IF YOU RECOGNIZE THIS DOCUMENT.

A. YES. THIS IS MY MIRANDA RIGHTS.

Q. DOES THAT BEAR YOUR SIGNATURE? -

A. YES, MA'AM. I SIGNED THIS AFTER I SIGNED THE STATEMENT. HE GAVE ME THREE PAPERS LIKE THIS.

Q. DO YOU SEE THAT THERE'S A PLACE ON THERE THAT SAYS ON 11:43 ON SEPTEMBER 26?

A. YES, MA'AM --- 11:40.

Q. 11:40 A.M.?

A. YES, MA'AM.

Q. AND WHAT TIME IS ON YOUR STATEMENT, NUMBER TWO?

A. TWELVE O'CLOCK.

Q. IS THAT A MISTAKE?

A. YES, IT IS.

Q. AND WHY SO?

A. I SIGNED THE STATEMENT BEFORE I SIGNED THE MIRANDA RIGHTS.

THAT ARE NOT IN THAT STATEMENT?

A. YES. WHAT DID ALI SAY TO ME? I TOLD HIM THAT ALI WHEN HE FIRST GOT IN THE CAR HE SAID A LOT OF THINGS, AND THE THINGS THAT HE SAID THAT PEOPLE HAD TO PAT ALI OUT. THAT IS NOT SO. BECAUSE HE WAS NOT BURNING. IF ALI WAS BURNING THEN MY CLOTHES WOULD HAVE BEEN BURNED, BECAUSE I TOOK MY CLOTHES OFF TO COVER HIS BODY TO KEEP HIS BODY FROM GOING INTO SHOCK.

Q. WHAT DID YOU TELL MR. GRAY ABOUT YOUR CHILDREN?

A. HE KNEW MY CHILDREN WAS IN DSS.

Q. WHAT DID YOU TELL HIM ABOUT [redacted]

A. THAT ALI HAD SODOMIZED [redacted] IN AUGUST. [redacted] HAD TOLD ME THAT ALI HAD ATE HER POOH-POOH.

Q. AND WHAT DID YOU TELL INVESTIGATOR GRAY ABOUT ALI -- - HIS PHYSICAL CONDITION --- HIS DISEASES AND STUFF?

A. HIS DISEASE? OH, I TOLD HIM THAT ALI WAS INFECTED WITH THE AID'S VIRUS, BECAUSE I WAS INFORMED THAT ALI WAS A HOMOSEXUAL IN PRISON, AND HE WAS KNOWN AS A MAN CALLED CHINA DOLL. THAT'S WHAT HIS NAME THAT THEY HAD GIVEN HIM BEHIND THE WALLS AT CCI.

Q. YOU HAVE A PLACE ON THERE WHERE IT SHOULD HAVE A SIGNATURE --- IS THAT YOUR SIGNATURE?

A. YES, MA'AM, IT IS.

Q. DID YOU KNOW WHAT YOU WERE DOING WHEN YOU PUT YOUR NAME THERE?

LOOKED AT THIS PAPER, I WAS IN JAIL. I NEVER DID READ THE STATEMENT. IN FACT, I.S. LEVEY JOHNSON WAS THE PERSON WHO HAD MY STATEMENT. I NEVER DID READ THE STATEMENT UNTIL LATER AFTER MR. DOUG STRICKLAND TOLD ME THAT HE DIDN'T SEE NOTHING IN THE REPORT. THAT'S WHEN I SEEN THAT HE WROTE IN THERE THAT I PLANNED TO MURDER MY HUSBAND, AND I TOLD HIM THAT THAT WAS NOT SO, AND I WANTED TO SUBTRACT THAT STATEMENT. SO, THAT'S WHY I WENT THROUGH THOSE CHANGES WITH MR. DOUG STRICKLAND, BECAUSE I ASKED TO TAKE THE LIE DETECTOR TEST, AND I ASKED THE INVESTIGATOR TO TAKE THE LIE DETECTOR TEST, AND I'M WILLING TO TAKE A TRUTH SERUM, SODIUM PENTOTHAL. SO I COULD PROVE THAT EVERYTHING THAT I HAVE SAID IS THE TRUTH.

Q. LET ME ASK YOU ABOUT THAT STATEMENT YOU HAVE IN YOUR HAND RIGHT THERE, OKAY?

A. YES, MA'AM.

Q. ARE THERE THINGS IN THAT STATEMENT THAT ARE UNTRUE?

A. YES, MA'AM. I DID NOT PLAN TO MURDER ALI. I DID NOT SAY THAT. I SAID I HAD ALREADY MADE UP MY MIND I WAS GOING TO THE EMAL AND TRY TO GET ME A DIVORCE FROM ALI.

Q. LET ME ASK YOU ANOTHER QUESTION ABOUT THAT STATEMENT, OKAY?

A. OKAY.

Q. ARE THERE THINGS THAT SHOULD BE IN THAT STATEMENT

Q. IF YOU GAVE A STATEMENT?
A. YES. BECAUSE I TOLD HIM I HAD BEEN TO COURT THAT DAY ABOUT GETTING MY CHILDREN BACK, AND I HAD CALLED THE COURT --- AND ASKED HER WOULD SHE TELL THE DSS WORKER THAT SOMETHING HAS HAPPENED TO ALI AND I WAS BEING DETAINED, AND I HAD TO GO TO THE POLICE STATION.
Q. WHAT WAS MR. GRAY GOING TO DO TO YOU IF YOU DIDN'T GIVE THE STATEMENT?
A. I DON'T KNOW. HIS FACE JUST TURNED REAL RED, AND I JUST FELT UNCOMFORTABLE IN HIS PRESENCE. WASN'T NOBODY IN THERE BUT ME AND HIM, AND THAT ALI HAD --- HE SAID THAT I TRIED TO DO SOMETHING TO HIM, BUT I HAD ASKED FOR SOMEBODY ELSE TO COME IN THE ROOM TO BE A WITNESS TO WHAT I HAD SAID ANYWAY.
Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS COURT'S EXHIBIT NUMBER TWO FOR IDENTIFICATION PURPOSES ONLY, AND ASK YOU TO LOOK AT THAT AND SEE IF YOU RECOGNIZE THAT.
A. YES, MA'AM.
Q. WHAT IS THAT?
A. THIS IS THE STATEMENT THAT MR. GRAY HAD TOOK FROM ME. WHEN HE ASKED ME SOME QUESTIONS, I GAVE HIM THE ANSWERS TO THE QUESTIONS THAT HE ASKED.
Q. DID YOU HAVE AN OPPORTUNITY TO REVIEW THAT BEFORE TODAY?
A. NO, MA'AM. WHEN I SEEN THIS RIGHT HERE --- WHEN I

SIGN, BUT HE DID NOT GIVE ME THE MIRANDA RIGHTS FIRST TO SIGN, BECAUSE I HAD TOLD HIM, I SAID, I DONE BEEN TO PRISON, AND I KNOW YOU'RE SUPPOSE TO GIVE ME MY MIRANDA RIGHTS, AND YOU'RE VIOLATING THE LAW. I TOLD HIM THAT. NOW, YOU KNOW I KNOW THAT.

Q. SO, HE GAVE YOU YOUR MIRANDA RIGHTS AFTER HE GOT YOUR STATEMENT?

A. YES, MA'AM, AFTER I SIGNED THE STATEMENTS, AND THAT'S WHEN HE SAID, DO YOU AGREE TO TALK TO ME, OR DO YOU WAIVE YOUR RIGHTS, AND THAT'S WHEN HE WALKED OUT THE DOOR AND SAID, SHE PLANNED TO MURDER HIM. AND I SAID, I DID NOT SAY THAT.

Q. AND DID HE PROMISE YOU ANYTHING ABOUT BAIL?

A. YES. HE TOLD ME I WOULD BE ABLE TO GET OUT ON BOND THAT DAY.

Q. AT WHAT TIME?

A. WELL, I WENT THERE --- SAID I COULD SEE THE JUDGE BETWEEN THREE O'CLOCK OR FOUR O'CLOCK OR FIVE O'CLOCK AND THAT I WOULD MAKE BOND. THAT'S WHAT HE TOLD ME.

Q. DID HE SAY HE WAS GOING TO HELP YOU?

A. YES, MA'AM.

Q. IF YOU GAVE A STATEMENT?

A. YES, MA'AM.

Q. WHAT WAS HE GOING TO DO FOR YOU?

A. HE WAS GOING TO MAKE SURE I GET ME A P-R BOND.

YOU KNOW, SO WHEN THEY HAD GOTTEN HIM OUT OF THE CAR, I TOOK OFF MY HEAD PIECE AND WRAPPED HIM UP. HE WAS NOT ON FIRE. SOME PEOPLE SAID HE WAS ON FIRE. HE WAS NOT ON FIRE. THE SMOKE --- AS THEY OPENED THE CAR DOOR, THE SMOKE CAME OUT, AND THE NURSE TOLD ME, WHO GAVE ME HER UNIFORM TO PUT ON, SHE TOLD ME HE NEEDED SOME COVER. SO, A LADY HAD THREW OUT A BLANKET, BUT IT HAD OIL STAINS ON IT, AND I DIDN'T WANT THAT ON HIS SKIN. SO, I TOOK OFF MY CLOTHES. DO YOU WANT ME TO STOP?

Q. LET ME STOP YOU RIGHT THERE. I DON'T MEAN TO INTERRUPT YOU, BUT WE'RE GOING TO GET INTO ALL THAT.

A. OKAY.

Q. BUT WHAT I DO WANT TO ASK YOU, I WANT TO ASK YOU TO TELL THE COURT EXACTLY --- DESCRIBE YOUR EMOTIONAL STATE AT THE TIME THAT MR. GRAY WAS TALKING TO YOU?

A. I WAS SHOOK UP. I WAS VERY SHOOK UP, AND I WAS NERVOUS. I HAD WANTED TO TALK TO SOMEBODY. I HAD CALLED MY ATTORNEY, BUT HE WAS IN COURT. HE WAS NOT ---

Q. WHEN DID YOU CALL YOUR ATTORNEY?

A. WHEN MR. GRAY LET ME USE THE PHONE.

Q. WHEN DID HE LET YOU USE THE PHONE?

A. AFTER HE GOT THE STATEMENTS --- AFTER HE GOT THE STATEMENTS, HE WENT INTO ANOTHER ROOM, AND HE CAME BACK, AND HE BROUGHT ALL THE STATEMENTS AND TOLD ME TO SIGN THEM, AND THAT'S WHEN HE GAVE ME THE MIRANDA RIGHTS TO

WELL COME ON AND TELL THE TRUTH, BECAUSE YOU'RE NOT GOING TO LEAVE THIS BUILDING UNTIL YOU TELL ME THE TRUTH ABOUT WHAT HAPPENED.

Q. WHEN HE DID THAT, WHEN HE SLAMMED ON THE DESK, HOW DID THAT MAKE YOU FEEL?

A. I WAS SCARED, BECAUSE THERE WASN'T NOBODY IN THERE BUT HIM AND ME, AND I SAID, WELL, WHY CAN'T YOU ASK ONE OF THEM LADIES TO COME. BECAUSE I WANTED SOMEBODY TO BE A WITNESS OF WHAT HE SAID, AND IN SOME CASES THEY HAVE A TAPE RECORDER, AND HE DID NOT USE A TAPE RECORDER TO TAPE MY STATEMENT.

NOW, I READ THE TOP PAGE OF WHAT HE SAID, BECAUSE HE WAS JUST LIKE HERE WAS READING IT TO ME, AND I GLANCED OVER IT, BUT I DID NOT KNOW UNTIL AFTER --- LEFT IN FEBRUARY OF '97 THAT THE STATEMENT SAID THAT I HAD PLANNED TO MURDER MY HUSBAND, BECAUSE I TOLD HIM THAT HE KNEW I LOVED ALI, AND I DID NOT PLAN TO MURDER ALI, BUT I DID WANT TO HURT ALI.

Q. ALL RIGHT. MS. TYLER, HAD YOU BEEN CRYING THAT DAY?

A. CRYING?

Q. YES, MA'AM.

A. I CAN'T EVEN DESCRIBE THAT DAY.

Q. WERE YOU UPSET?

A. YES, I WAS SHOCKED, BECAUSE, YOU KNOW, AFTER WHAT I HAD DONE DID IS WHEN I HAD REALIZED WHAT I HAD DONE DONE.

HAVE HER.

AND ALI AND JACKIE SAID THEY DIDN'T WANT EACH OTHER, AND I TOLD ALI THAT NIGHT TO COME HOME, AND THE SAME THING I'M TELLING YOU I WROTE IT IN MY STATEMENT, AND I TOLD IT TO HIM, AND SO, HE TOLD ME OKAY, AND HE ASKED ME WHAT I WAS DOING THAT MORNING. I TOLD HIM I HAD MADE UP MY MIND TO GO AHEAD ON UP AND GET ME A DIVORCE FROM ALI. I NEVER DID TELL HIM THAT I HAD PLANNED TO KILL ALI, BECAUSE I DIDN'T, AND REQUESTED TO TAKE THE LIE DETECTOR TEST, AND I'VE REQUESTED TO TAKE A TRUTH SERUM SO I COULD PROVE THAT EVERYTHING THAT I TOLD YOU IS THE SAME THING THAT I TOLD HIM THAT I DID NOT MAKE THAT STATEMENT ON MY OWN FREE WILL. HE FORCED ME TO TELL HIM THAT STATEMENT. HE SAID I WAS NOT GOING NOWHERE UNTIL I TELL HIM THE WHOLE TRUTH, AND THAT IS THE TRUTH.

Q. NOW, I WANT YOU TO EXPLAIN TO THE COURT WHAT YOU MEAN WHEN YOU SAY THAT MR. GRAY FORCED YOU TO MAKE THIS STATEMENT. WHAT DID HE DO THAT MADE YOU THINK HE WAS FORCING YOU?

A. HE HAD SAID MS. TYLER, YOU MIGHT AS WELL COME ON AND TELL THE TRUTH BECAUSE WE GOT WITNESSES. I SAID, ALI DIDN'T TELL YOU THAT. HE SAID, HE DID. I SAID, NO, HE DIDN'T. HE SAID, YES, HE DID. (DEFENDANT SLAPS THE TABLE.) I SAID, NO, HE DIDN'T. (DEFENDANT SLAPS THE TABLE.) HE SAID, YES, HE DID TELL THEM. YOU MIGHT AS

YOU DID. I SAID, NO, I DIDN'T. HE SAID YOU MIGHT AS WELL GO ON AND TELL THE TRUTH, BECAUSE WE'VE GOT SEVERAL WITNESSES THAT SAW YOU THROW THE GASOLINE ON ALI.

SO, I TOLD HIM, I SAID, WELL, YES, I DID DO IT, AND HE BEGAN TO WRITE THE STATEMENT. HE SAID HE WANTED TO KNOW WHAT HAD MADE ME SNAP, AND HE ASKED ME WAS ALI BEATING ON ME. HE TOLD ME THAT ALI'S NAME WAS RUNNING DOWN IN THE POLICE DEPARTMENT FOR SELLING DRUGS, THAT THEY HAD ALMOST CAUGHT HIM BEHIND C.A. JOHNSON UP HERE IN A LITTLE --- BUT THEY COULDN'T CATCH HIM. THAT THEY COULD NOT CATCH HIM. IN THE TIME THEY WENT AFTER HIM, HE WOULD ALWAYS SEEM TO ESCAPE. HE SAID HE KNEW HE WAS SELLING DRUGS BECAUSE HIS NAME WAS RUNNING HAND IN HAND -- WAS POPULAR DOWN AT THE POLICE STATION.

SO, I WENT ON AND TOLD HIM EVERYTHING, AND HE TOLD ME THAT HE WOULD LET ME USE THE PHONE, WHICH HE DID LET ME USE THE PHONE, BECAUSE --- HE TOLD ME TO GO AHEAD ON AND TELL HIM THE TRUTH AND HE WOULD MAKE SURE I WOULD GET OUT ON BOND AND I WOULD GO CALL THE JUDGE, AND HE ASKED ME EVERYTHING ABOUT THE DETAILS.

I TOLD HIM THAT I HAD TOLD ALI HE COULD HAVE JACKIE BECAUSE SHE TOLD ME SHE WAS TWO WEEKS PREGNANT FROM ALI, AND I TOLD HER, I SAID, ALI HAD ALWAYS WANTED CHILDREN, AND MAYBE I COULDN'T BEAR NO CHILDREN, AND I TOLD HER THAT SHE COULD HAVE ALI, AND I TOLD ALI THAT HE COULD

A. YES, MA'AM.

Q. WHO MADE THE INTRODUCTION?

A. MR. GRAY DID.

Q. AND WHAT DID HE SAY TO YOU?

A. HE TOLD ME THAT, HOW ARE YOU DOING MS. TYLER. I TOLD HIM I WAS OKAY. HE SAID, DO YOU WANT TO TELL ME WHAT HAPPENED. I TOLD HIM I WANTED TO CALL MY ATTORNEY MR. DENNIS(PHONETICALLY) AT THAT TIME, AND HE TOLD ME THAT HE JUST WANTED TO TALK TO ME A LITTLE WHILE, AND AFTER HE GET FINISHED TALKING TO ME HE WOULD LET ME TALK TO MY ATTORNEY.

I LOOKED OUT THE WINDOW. I SAID, THERE'S SOME PUBLIC DEFENDER ATTORNEY'S GOING INTO THE MUNICIPAL COURTROOM, AND I ASKED HIM COULD HE GET THEM OR COULD HE GET SOMEBODY ELSE FOR ME TO BE A WITNESS OF WHAT I WAS SAYING TO HIM, AND HE TOLD ME I WAS NOT GOING ANY PLACE UNTIL I TELL HIM THE WHOLE TRUTH ABOUT WHAT HAPPENED TO ALI.

HE TOLD ME THAT THE PARAMEDICS ALREADY TOLD HIM THAT ALI HAD SAID THAT I THREW THE GASOLINE ON HIM AND SET HIM ON FIRE, AND I TOLD HIM, NO, ALI DID NOT TELL HIM THAT, BECAUSE ALI TOLD ME THAT HE WAS NOT GOING TO TELL ON ME, AND HE SLAPPED HIS HANDS ON THE DESK THREE TIMES AND SAID, YES, YOU DID THROW THE GASOLINE ON ALI. I SAID, NO, I DIDN'T THROW THE GASOLINE ON ALI. HE SAID, YES,

THE COURT: PLEASE COME FORWARD, MA'AM.

THEREUPON:

LINDA TYLER, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. JOHNS

Q. MS. TYLER, STATE YOUR FULL NAME FOR THE RECORD?

A. MRS. LINDA ANN TYLER.

Q. SPEAK UP AND RELAX, AND TALK INTO HERE, OKAY.

A. MRS. LINDA ANN TYLER.

Q. MS. TYLER, I WANT TO DIRECT YOUR ATTENTION TO SEPTEMBER 26, 1996, OKAY? DO YOU REMEMBER SPEAKING TO INVESTIGATOR JOE GRAY?

A. YES, MA'AM.

Q. DO YOU REMEMBER WHERE YOU WERE?

A. YES, MA'AM.

Q. WHERE WERE YOU?

A. AT THE COLUMBIA CITY POLICE DEPARTMENT.

Q. WHO BROUGHT YOU TO THE COLUMBIA CITY POLICE DEPARTMENT?

A. A FEMALE POLICE OFFICER.

Q. WAS SHE THERE DURING YOUR INTERVIEW?

A. NO, MA'AM. IT WAS ONLY MR. GRAY AND MYSELF.

Q. DO YOU REMEMBER THE INTRODUCTION MADE BETWEEN YOU AND MR. GRAY?

II.

The trial judge properly denied the Appellant's request to instruct on the crime of involuntary manslaughter where there was no evidence to support the instruction.

In this issue, Appellant claims that the trial court erred in refusing to instruct, upon request, the lesser-included offense of involuntary manslaughter. She asserts that such an instruction was warranted because, based on Appellant's mental state, she could not form malicious intent. For reasons set forth herein, we submit the Court properly denied the request.

Involuntary manslaughter is either: (1) the unintentional killing of another without malice, but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm; or (2) the unintentional killing of another without malice, while engaged in a lawful activity with reckless disregard for the safety of others. State v. Chatman, 336 S.C. 149, 519 S.E.2d 100 (1999); Bozeman v. State, 307 S.C. 172, 414 S.E.2d 144 (1992). A trial court should refuse to charge a lesser-included offense only where there is no evidence the defendant committed the lesser rather than the greater offense. State v. Smith, 315 S.C. 547, 446 S.E.2d 411 (1994).

In this case, Appellant poured gasoline on the victim and set him on fire with a lighter. Respondent's assert that Appellant's actions were an unlawful activity naturally tending to cause death or great bodily harm. Therefore, an involuntary manslaughter instruction was inappropriate.

Appellant testified that on the night before the murder, she learned that her husband and a neighbor had an affair that resulted in a pregnancy. (R. pp. 398-402). The next morning, Appellant and her husband were stopped at a gas station when, according to Appellant, "them voices" told her to put gas in a soda container and buy a cigarette lighter. (R. pp. 407-412). As they left the station and were traveling down the street:

> [T]hem voices said throw the gasoline on him, and I said, no, I ain't going to do that, and it said, throw it on him. So, I held my breath and I unscrewed the top and poured the gasoline on his head and I lit him up and I jumped out the back, and the voice said "now run across the street." So, I ran across the street and a man said hey, Miss, said, your car on fire, and I said, uh-huh, and he said, is somebody in there? And I said, yes, my husband is in there . . .
>
> The car had rolled over to the curb and it had stopped, and I seen the fire from the back because I was walking behind the car. I seen the fire blow up like that right there, and then so, another lady had hollered and said, Ma'am your car on fire, and I said I know. She said, was anybody in there? And I said, my husband may be in there or something might be wrong with the car. I was thinking of something real fast to say. I was just listening to the voice, what the voice was telling me.

(R. pp. 415-416).

According to Dr. Schwartz-Watts, Appellant knew right from wrong but she did not have the capacity to conform her conduct to the requirements of the law the day of the crime. (R. p. 503). Dr. Schwartz-Watts also indicated she first saw Appellant in December1997, over one year after the murder. (R. p. 488). However, Appellant never made mention of hearing voices until January, 1998.[1]

Clearly, the defense contended Appellant was not able to conform her conduct within legal parameters when she set her husband on fire. However, it is just as clear that Appellant's desire to " hurt him like he hurt me," involved malice. In any event, in addition to murder, the trial judge also charged voluntary manslaughter. (R. pp. 613-616). Here, Appellant intentionally poured gasoline on her husband and intentionally set him ablaze. Appellant was acting unlawfully in a manner tending to cause death or great bodily harm. The evidence in this case would not support a finding

[1]Also, Appellant made no mention of hearing voices during her confession, the day of the crime.

of involuntary manslaughter, thus, the trial court did not err in refusing to give an instruction on involuntary manslaughter.

III.

The trial court did not err by refusing to direct a verdict of acquittal where the State presented evidence indicating that Appellant's actions were the proximate cause of death.

In her next issue, Appellant contends the trial court erred in denying her directed verdict and new trial motions. Specifically, Appellant contends that Appellant's actions did not result in the proximate cause of her husband's death. Respondents assert that the trial court did not err because evidence was presented indicating that the victim's death was a direct result of Appellant's actions.

In reviewing the denial of a motion for a directed verdict, the evidence must be viewed in the light most favorable to the State, and if there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find that the case was properly submitted to the jury. State v. Kelsey, 351 S.C. 50, 502 S.E.2d 63 (1998); State v. Rowell, 326 S.C. 313, 487 S.E.2d 185 (1997).

At trial, the State presented testimony from Dr. Ronald Burns, who performed the autopsy in this case. Dr. Burns testified that the victim suffered very extensive third degree burns on his head and down the front of his chest, arms and legs. The burns also caused a loss of skin leaving Mr. Tyler susceptible to infection. Mr. Tyler also developed bilateral lobar pneumonia, which is consistent with inhalation injuries. (R. pp. 300-307). Because of the condition of the body, Dr. Burns' stated cause of death was extensive burns complicated by pneumonia and sepsis. (R. pp. 308-309).

Conversely, Appellant presented the testimony of Dr. H.D. Peterson, an expert in the field of burn injuries. In Dr. Peterson's opinion, the victim was mistreated and misdiagnosed at the Augusta Medical Burn Center, and the cause of death as found by Dr. Burns was incorrect. (R. pp. 570-574). Dr. Peterson opined that the cause of death was edema from over-resuscitation and the inability to oxygenate. (R. p. 583).

Therefore, at trial, conflicting theories of cause of death were presented to the jury. In ruling on a motion for a directed verdict, the trial court is concerned with the existence of evidence, not its weight. State v. Williams, 303 S.C. 274, 400 S.E.2d 131 (1991). In this case the state presented evidence that Appellant's actions were the proximate cause of the victim's death. See State v. Matthews, 291 S.C. 347, 353 S.E.2d 449 (1986)(negligence on the part of someone would not relieve the defendant from liability if his injury were the proximate cause of the death). The court did not err in denying the appellant's motions for a directed verdict or new trial.

> [T]he most remarkable effect is that she is significantly less anxious and less agitated . . . I think her thought processes are better organized, and she reports resolution of the hallucinatory symptoms at this time.

Once again, he found her competent to stand trial. (R. pp. 20-21).

Appellant's expert, Dr. Schwartz-Watts, testified at the February 23rd hearing that prior to the medication prescribed by Dr. Behrmann, Appellant was not competent to stand trial because she was not rationally competent and was having hallucinations. (R. p. 36). However, Dr Schwartz-Watts opined that with the help of medication, Appellant was competent to stand trial as of February 23, 1998. Drs. Behrmann and Schwartz-Watts both testified at trial that Appellant was competent to

IV.

The trial court did not err by ruling Appellant competent to stand trial.

Appellant next contends that she was not competent to stand trial. Respondents disagree. Appellant was found competent to stand trial by Dr. Thomas Behrmann. Additionally, Dr. Donna Schwartz-Watts, Appellant's expert, opined at trial that she was competent. Therefore, we assert that the trial judge did not err in ruling Appellant competent to stand trial.

The test for competency to stand trial or continue trial is whether the defendant has the sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational, as well as a factual, understanding of the proceedings against him. Drope v. Missouri, 420 U.S. 162, 95 S.Ct. 896, 43 L.Ed.2d 103 (1975); State v. Kelly, 331 S.C. 132, 502 S.E.2d 99 (1998). The defendant bears the burden of proving his incompetence by a preponderance of the evidence. State v. Kelly, supra.; State v. Nance, 320 S.C. 501, 466 S.E.2d 349 (1996). The trial court's determination of competency will be upheld if it has evidentiary support and is not against the preponderance of the evidence. Id.

On December 6, 1996, Dr. Behrmann performed an evaluation of Appellant and found her competent to stand trial. (R. pp. 11-13). Dr. Behrmann performed two additional evaluations of Appellant and found her competent to waive counsel and to stand trial. (R. pp. 14-17). Although Dr. Behrmann's opinion as to competency did not change, after his January, 1998 evaluation of Appellant, he found her to be paranoid, presenting symptoms of auditory and visual hallucinations. (R. pp. 18-19). In response, Dr. Behrmann prescribed anti-psychotic medication. At the February 23, 1998 competency hearing, Behrmann opined:

Questions Presented

~~STATEMENT OF THE CASE~~

Whether or NOT the United States District Court Magistrate Judge Wooten Abused his Discretion and whether or not Magistrate Judge Wooten, Failed in the Official Administrative Business of the Court and Failed to Act (Sua Sponte) to confirmed his opinion which was supported by the Justice Cameron McGowan Curiel.

"The United States District Court, Allowed A Guilty but Mentally ill person to represent herself in A Civil Litigation and denied her A Right to Attorney. Procedure were violated in relation to the Appellant Appearing Pro Se

Whether it was Prejudice, Racial Prejudice Constitutes and procedure error to deny the appellant And. Attorney based on the appellant's Mental illness.

Whether it was racial prejudice to grant Summary Judgment to the State Defendants, when its clear on the face of the record that appellants. State & Federal Civil Protected Rights were violate.

Whether the District Court erred, when it issued and Opinion on face of the record that appellant was fully adept to represent herself, despite her Mental Illness.

Whether the United States District Court erred when it failed to act (Sua Sponte) to obtained an Expert Medical opinion in regards to the appellant mental State of mind.

Whether the United States District Court, erred when it failed to allow the appellants to replead the Pleading before Summary Judgment was ruled upon.

IN THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA -V- LINDA ANN TYLER, 248-190	APPELLANT'S MOTION FOR NEW COURT APPOINTED ATTORNEY UNDER THE 5th 6th AMENDMENT OF THE U.S.C.A.

THE APPELLANT "Linda Ann Tyler, #248190, would like to beg the courts to appoint her a new attorney, based on her inability to represent herself and on conflict of interest on behalf of prior attorney mrs. Wanda Nasler Haile, The appellant states that she would desire an attorney to help her but is disatified with her attorney mrs. Haile, who is not acting in her best interest. The appellant, request this under the due process of law of the 5th 6th and 14th Amendment of the United States Constitution Amendment and in the best interest of justice towards the appellant. The appellant bess the courts to consider her needs at this time, and to render judgement accordingly. in favor of her...

Linda Ann Tyler
May 31st 2001

RECEIVED
JUN 13 2001
S.C. SUPREME COURT

SWORN TO And SubSCRIBe BEFORE ME
ON THIS 31st DAY OF MAY 2001
NOTARY PUBLIC FOR SOUTH CAROLINA

William M...

MY COMMISSION EXPIRES . .
1-1408

IN THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA
-V-
LINDA ANN TYLER, 248-190

AFFIDAVIT OF SERVICE

I, LINDA ANN TYLER, #248-190, CERTIFY UNDER PENALTY OF PURSURY that I HAVE SUBMITTED A MOTION TO BE GRANTED A NEW COURT APPOINTED ATTORNEY AND TO BE RELIEVED OF THE PRIOR ATTORNEY MRS. WANDA HAYLER HALJE, OF THE OFFICE OF THE SOUTH CAROLINA APPELLATE DEFENSE DIVISION. I, FURTHER CERTIFY UNDER PENALTY OF PURJURY that ALL PARTIES HAS BEEN NOTIFIED.

Linda Ann Tyler 248-190
May 31st 2001

SWORN TO AND SUBSCRIBE BEFORE ME

ON THES 31ST DAY OF MAY 2001

NOTARY PUBLIC FOR SOUTH CAROLINA

Wellen M Dee

MY COMMISSION EXPIRES...

1-14-08

IN THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA -V- LINDA ANN TYLER #248-190	"THE APPELLANT" PETITIONS THE COURT, FOR REASIGNING OF HER CASE TO MR. ROBERT M. PACHAK. OF the S.C. APPELLATE DEFENSE DIVISION, FOR her ATTORNEY and TO be RELIEVED OF W. H. HAILE.

THE APPELLANT "Linda ANN TYLER # 248-190, WOULD LIKE TO PETITION THE COURTS TO REASIGNED HER CASE to the Above ATTORNEY" MR. ROBERT M. PACHAK, OF THE SOUTH CAROLINA APPELLATE DEFENSE DIVISION.

THE APPELLANT believes that she is INTITLED to HAVE and ATTORNEY ON A DIRECT APPEAL IN ACCORDANCE TO THE S.C. LAWS. CRIMINA LAW. CJS. book 22.

"THE APPELLANT" Linda ANN TYLER" STATES that its been VERY painfull FOR her with Mrs. Haile, being her ATTORNEY. Mrs. HAILE, has only OFFERED me FALSE hope and is ACTING AS A COVER UP ARTIST FOR the STATE.

I AM AWARE OF what I'm FACING but AT LEAST, I would be ABLE to tell WHAT has been done to me WRONGFULLY. I dont KNOW All the LAWS or RULES and CERTAIN PROCEDURES that must ACCOMPAINED A RULE or MOTION or A PROCEDURE, but I do KNOW that 2+2=4, I know MRS. HALIE, has CONCEAL EVIDENCE to PROVE MY INNOCENCE, and I just CANT SIT by And NOT REPORT HER WRONGDOINGS. I'VE WROTE the DISCIPLINARY OFFICE ON Mrs. HAILE, LAST YEAR, I WAS INFORMED or INSTRUCTED TO FILE A CIVIL ACTION, BECAUSE the DISCIPLINARY OFFICE COULD NOT FORCE HER to GIVE ME the TRANSCRIPTS OF my CASE.

2

MRS. WANDA H. HAILE, HAS CONSTANTLY TOLD ME THAT SHE WOULD SEND ME All the PRETRIAL TRANSCRIPTS that RELATES TO MY TRIAL. AS OF THIS DAY MAY 30th 2001, MRS. HAILE, HAS NOT DONE SO. I, HAVE REPEATELY WRITTEN TO MRS. HAILE, And ALSO to MR. JOSEPH SMITH, And he had ALSO INFORMED MRS. HAILE, About A MATTER OF my HUSBANDS MEDICAL RECORDS FROM the AGUSTA BURNS CENTER, ALONG WITH the FIRST DEATH CERTIFICATE that STATED "MY husband's" DEATH WAS- UNDERTERMINED, STATED NO AUTOPSY NOT EMBALMED, STATE PLASTIC SURGERY did NOT CAUSE MY HUSBANDS DEATH NOR WAS RELATED to the CAUSE OF DEATH, Signed by DR. JOSEPH M. STILL, JR. And HEERY'S FUNERAL HOME, And CORNOR FRANK E. BARROON. III, ALthough, the CORNORE RECIEVED the DEATH CERTIFICATE AGAIN And Simple SCRATCH Out DR. JOSEPH M. STILL. JR's NAME, And WROTE his NAME FRANK. E. BARROM III IN the PLACE OF PHYSICIAN, And SCRATCHED through UNDERTERMINED And WROTE HOMOSIDE, THATS OBSTRUCTING JUSTICE, BECAUSE CORNOR FRANK E. BARROR III, did NOT SCRATH through the AUTOPSY OR EMBALMED NOR did he LIST his CAUSED OF DEATH, DEATH CIRTIFICATE STILL SAYS that the DEATH WAS CAUSED by RHAMDOLYLES, WHICH IS AN ASSOCAITION With MYGLOBIN - Blood IN the LINKINE", THAT IS WHAT WAS LISTED AS CAUSED OF DEATH. PLUS AT the GRAND JURY HEARING INVESTIGATOR Toby GRAY And the PROSECUTION ATTORNEY, stated that MY HUSBAND DIED FROM COLLASped LUNGS FROM the FIRE. THEN the HOSPITAL SAYS DR. BURNS of the RICHLAND MEMORIAL PATHOLOGIST DEPT. stated MY husband death WAS CAUSED by UPPER degree BURNS. SO, MY ISSUE IS how COULD there BE 3 CAUSES OF ONE DEATH. PLUS, the AUTOPSY REPORT IS BOGAS, its FAKE. ALI WAS NEVER AUTOPSY. THE MUSLIM ISLAMIC CENTER, Shaved his body And buried him. HE WAS NOT AUTOPSY SO, HOW COULD there BE AN AUTOPSY REPORT ?

THERE ARE OTHER ISSUES that I do Intend to RAISE, I WILL do SO when the COURT'S ORDER ME to do SO.

I'm Sending SOME LETTERS to the COURTS, JUST to SHOW the COURTS, that I HAVE been quite patience with MRS HAILE And SHE HAS continue to MAKE PROMISES to ME, the only WAY that I RECIEVED anything FROM MRS. HAILE, I HAVE to tell her that I WILL NOTIFY the Authorities About her Conduct and EVEN then SHE DOESNT take heed.

I KNOW I must be PUNISHED FOR SETTING ALI ON FIRE, And I dont HAVE A PROBLEM WITH that, I HAVE A PROBLEM When I'm being FRAMED FOR A MURDER" that I KNOW I did NOT COMMITTE, And when AN ATTORNEY REPRESENTS ME FALSELY. I AM AWARE OF WHO I AM, WHERE I AM AND WHOM I AM SPEAKING AGAINST. I'm ALSO AWARE that the STATE DOES NOT GOES AGAINST the STATE, UNLESS THERE IS PREPONDERANCE OF EVIDENCE, And it ALSO HAS BEEN SAID that "THE GOVERNMENT WILL PROTECT his OWN PEOPLE. THEREFORE I CAN be looking FOR A DEATH SENTENCE, BEFORE THE STATE FREE'S ME, but NONE OF that would MATTER, BECAUSE it only PROVES to ME that the LEGACY OF MANKind And the HISTORY OF RACISM And PREJUDICE IS STILL HERE, SO IF DEATH IS DECREED FOR ME It would NOT be FOR the Alleged MURDER OF ALI' but FOR COMPLAINING About WHITE RACE WHO HAS FRAMED ME FOR A MURDER" TO COVER UP FOR OTHER WHITE FOLKS WRONG DOING. And BECAUSE I'm BLACK, WITH A bad RECORD" THERE IS NO JUSTICE FOR ME. THE ONLY FACT that HAS BEEN PLAIN to ME IS that THERE IS NO hope OR JUSTICE FOR. This CASE WAS built ON RACISM And PREJUDICE AGAINST ME. Jamie Hunter

Radiologist LUNG X RAYS

THE Qualified Expert Forensic Radiologist

Court test whether the X-Rays were duplicate film rather than the original

A. Microphotographs - MICROSCOPE can be used to check the grain size of the X Rays he was shown. Photo Falsery can be detected it could be founded thru first the use of the X Ray and comparison of the photographs.

A Sophisticated Expert Radiologist was needed for the defense of Linda Ann Tyler.

THE Original Radiologist should have been subpoena to give open court testimony about the deased (lungs) which Well recorded a Fluid with Lung which caused his death.

Where are the X RAYS of Van Tyler Sr Lung

Why did the Prosecution or Defense attorney failed to acquire and Expert Radiologist and why the Radiologist was not subpoena to Court for testimony

The missing link that would free the defendant Linda Ann Tyler from the conviction are the X Rays of the Lung and the May 27th 1997 Hearing which the Prosecution Defense Attorneys agreed to cover up.

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APPENDIX E

APPENDIX F

When there were no family members present for the autopsy nor no one from the Muslim Umah community was present to witness the alledged autopsy, to make sure the body was cut in accordance to the ISLAMIC Decree based on the belief that the Body of a muslim is sacred and is forbidden to be autopsy examined

Thirty .. The photographs would have to show, V Tyler Jr face, from several perspectives. - If the Prosecution allege there are numerous photos showing the burn wounds then the photos must be submitted in V Tyler Jr. However, the faulty assumption that the picture of the deceased would be close up but would not show natural identifying marks would be unfounded. Similar considerations would prevailed when viewing the back of the head, torso and arms, back. It is possible for certain marks would it could use another body. It could also be possible that the films might have been faked by photo retouching but that to would be a complex operation it would have to undergo beginning when the originals, alterng them have to undergo beginning when the originals, altering them by art work, be photographing the original and then substituting the two prints back in the collection. This would have to be done with both the X Rays and the photographs the objective here is to bring the collection of X Rays, Films, autops Film and photographs into the courts for further Judicial Review with a Burn Fire Forensic Expert in Science and Burn Specialist. The X Rays + Photo autopsy Films need to be put on Record Immediately in Dr. Burns testimony about the alleged autopsy of Hasheem as proved by Dr Burns the X Rays + Films must be authenticated. corroborations of the pattern of his testimony which may be consumed by

Exhibit 3

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
HONORABLE: PAUL E. SHORT, JR., CIRCUIT COURT JUDGE.

ARGUMENT. "APPELLANT'S" THEORY "by: LINDA ANN TYLER" #248-190

GROUND ONE: THERE IS SUFFICIENT EVIDENCE to WARRANT A REOPENING OF THE CASE AGAINST THE ABOVE NAME defendant LINDA ANN TYLER #248-190. This is A PRIMA FACIE CASE... VI Art 2. USCA.

GROUND TWO: THE STATE Appointed ATTORNEY'S From the Public Defender's OFFICE, PROSECUTION ATTORNEY, ATTORNEY GENERAL'S OFFICE and THE APPELATE DEFENSE DIVISION; ALONG WITH The TRIAL Judge's and the ARESTING OFFICERS, Obstructed the COURSE OF JUSTICE and OFFERS the MITIGATING EVIDENCE IN the COURTS documents AGAINST themselves. who CHOOSE TO CONCEAL FACT Finding EVIDENCE that EXCluded the defendant LINDA ANN TYLER #248-190, From the Alledged MURDER OR DEATH OF the deceased "VAN TYLER, JR. . due PROCESS OF LAW. PROCEDURE ERRORS.

GROUND THREE: THE SOUTH CAROLINA SUPREME COURT, SHOULD throw out the CONCLUSION OF the JURY and SENTENCED by the STATE COURT, when there IS NOT ENOUGH EVIDENCE SUFFICIENT to SUPPORT the CHARGE OF MURDER and SENTENCE OF LIFE.

GROUND FOUR: THE CASE Should be disposed OF BASE ON the Following. PREJUDICE, RACIAL PREJUDICE CONST. ERRORS.

Linda Ann Sylvester #248-190
February 28th 2008

SWORN TO And Subscribe before me
ON This 28th DAY OF FEBRUARY 2008.
NOTARY Public FOR SOUTH CAROLINA
Willeen M Cobb

MY COMMISSION EXPIRES.
June 14 2008

IN THE SOUTH CAROLINA SUPREME COURT

IN RE) THE STATE -V- Linda Ann Tyler #248490
PETITION FOR REHEARING
NOTICE OF INTENT TO APPEAL

I, Linda Ann Tyler #248-490, CERTIFY UNDER PENALTY OF PERJURY, that I have FILE A NOTICE OF INTENT TO APPEAL the JUDGEMENT IN the ABOVE CASE. I FURTHER CERTIFY UNDER PENALTY OF PERJURY that the NOTICE WAS FILE FOR A PETITION ON REHEARING. NOTICE WERE SERVED ON the Following PARTIES..
EXHIBITS A.B.C.D.E.. EXHIBIT 1-2-3-4.
SOUTH CAROLINA SUPREME COURT
MR DANIEL E. SHEAROUSE/CLERK OF COURT
ATTORNEY GENERAL OFFICE
MR. DERRICK K. MCFARLAND.

EXHIBIT (C)

Linda Ann Tyler
March 2002

ATTORNEY GENERAL'S OFFICE
RECEIVED 3-15-02
ADMINISTRATIVE INSTRUCTIONS
FILE ____ OPEN ____ END
HAVE ____ COPIES MADE
ROUTE TO ____
ORDER: ____ TRANSCRIPT
PEN RECORDS ____ CLERK RECORDS
OTHER: ____

SWORN TO And SUBSCRIBE BEFORE ME
ON THIS 8 DAY OF MARCH 2002
NOTARY PUBLIC FOR SOUTH CAROLINA
William McCabe
MY COMMISSION EXPIRES
1-14-08

WRIT OF CERTIORARI should be granted because the APPELLANTS STATE and Federal Civil Protective Rights were violated. THE APPELLANT attempted to seek relief under Inmate Grievance procedure and throughout the Federal Courts and Courts of APPEALS. The Conduct complained About are STATE Alter Ego's who has acted under Color of STATE LAW, who has deprived the APPELLANT of Rights, Privileges or immunities secured by the Constitution and by the LAWS OF THE United STATES Constitution Amended. 42.U.S.C.A. §1983. The decision is in Conflict with the Article 6 clause 2. in violation of the 14th amendment the 15th amendment does not apply to these defendants. Magistrate Judge Written, construed the constitution. to apply art. 1. sec 25 to these defendants.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Linda Ann Tyler #248140

Date: February 2nd 2002

decision could be had denied discretionary review, a copy of that order should follow. If an order denying a timely filed petition for rehearing starts the running of the time for filing a petition for a writ of certiorari pursuant to Rule 13.3, a copy of the order should be appended next.

As an example, if the state trial court ruled against you, the intermediate court of appeals affirmed the decision of the trial court, the state supreme court denied discretionary review and then denied a timely petition for rehearing, the appendices should appear in the following order:

Appendix A Decision of State Court of Appeals

Appendix B Decision of State Trial Court

Appendix C Decision of State Supreme Court Denying Review

Appendix D Order of State Supreme Court Denying Rehearing

VIII. Table of Authorities

On the page provided, list the cases, statutes, treatises, and articles that you reference in your petition, and the page number of your petition where each authority appears.

IX. Opinions Below

In the space provided, indicate whether the opinions of the lower courts in your case have been published, and if so, the citation for the opinion below. For example, opinions of the United States courts of appeals are published in the Federal Reporter. If the opinion in your case appears at page 100 of volume 30 of the Federal Reporter, Third Series, indicate that the opinion is reported at 30 F.3d 100. If the opinion has been designated for publication but has not yet been published, check the appropriate space. Also indicate where in the appendix each decision, reported or unreported, appears.

X. Jurisdiction

The purpose of the jurisdiction section of the petition is to establish the statutory source for the Court's jurisdiction and the dates that determine whether the petition is timely filed. The form sets out the pertinent statutes for federal and state cases. You need provide only the dates of the lower court decisions that establish the timeliness of the petition for a writ of certiorari. If an extension of time within which to file the petition for a writ of certiorari was granted, you must provide the requested information pertaining to the extension. If you seek to have the Court review a decision of a state court, you must provide the date the highest state court decided your case, either by ruling on the merits or denying discretionary review.

The autopsy Diagram Body chart
Dr Burns claimed to conducted the autopsy
Prosecution attorney used a standard age body chart to
identify the burn area of Van Tyler Jr.

The autopsy Film is need. it must show Dr. Burns
making the body and removing its tissue and organ.
Without the evidence of the autopsy Films and X Rays
and photographs there is no genuine case of murder
The pathologist Dr. Burns must have in his file or the case
of the hospital the original records, the operation Made
on Van Tyler Jr. The medical records cannot be
destroyed, although the medical autopsy report was removed
out of court the jury never examine the autopsy Photograph
The X Rays Films were never introduced as Evidence
The X rays films and photographs were no where to be
found. The one set of documents that could disarmed
the Prosecution attorney appeared to had perversely vanished
to have disappeared. The X-ray Films should had been available
upon the Trial to show the autopsy procedure and results.
The death certificate and progdures were found and
Forged by the pathologist and coroner and was accepted by the
Jury and the courts. The question is whether it was techni-
-cally permissible to falsifying X Rays and photographs to make it
conform with a false autopsy Report The Showing or had
any Government person and is cover up the truth about a death
Was certainly capable of many factors. Such transaction
necessary one line of argument would be that the autopsy
photographs and X Ray Films was not available or were lost
or stolen but who could be sure that the autopsy or X Ray
Film and photographs of the body was indeed the body of Van Tyler Jr.

Y INCISION 2

(3)

IN THE SUPREME COURT OF SOUTH CAROLINA
IN RE)
.. LINDA ANN TYLER #248-190 -V- THE STATE...

..THE APPELLANT'S BRIEF OF LAW...

... CONSPIRACY and CONCEALMENT OF EVIDENCE..
THE (APPELLANT) STATES that: DEFENSE ATTORNEY CONSPIRED WITH THE PROSECUTOR to FRAMED HER FOR THE (MURDER OF VAN TYLER, JR.)... THE defense ATTORNEY HAS NEVER-VIEWED ANY PROOF OF AUTOPSY PHOTO'S OR SLIDES. of the body of VAN TYLER JR... THE defense ATTORNEY (SUBPEUNA) MEDICAL RECORD'S of ([redacted]) and the RECORD proved that: ([redacted]) WAS SEXUALLY ABUSED and failed to ALLOWED the EVIDENCE to COME into PLAY and to deny ([redacted]) PRESENCE INTO COURT to give testimony of WHAT ([redacted]) had done unto her.
THE defense ATTORNEY: denied the (APPELLANT) the Rights to USE the BATTERED WOMEN'S ACT, and CRIMINAL DOMESTICE VIOLENCE ACT, and denied her the Rights to EXHUMED the body OF VAN TYLER JR, AFTER the (2) two different DEATH-CERTIFICATES, which stated (2) two different kinds of DEATH. ALONG with ALTERATION of the DEATH certificates,.. The defense ATTY. SUBPOENA the (MUSLIMS CHAPLAIN) and did NOT QUESTIONED them WHETHER the body WAS AUTOPSYED or not.

RECEIPT FOR EXHIBITS

Case No. 02CP40-2253 Judge Alison Renee Lee

Plaintiff: Linda Tasker Pltf's Atty. Carlos A. Gibson, Jr.

Defendant: State Def's. Atty. Arie D. Bax

Date Trial Started: 11-18-05 Date Trial Ended: 11-18-05

Received of Donna A. Rutledge, Court Reporter for the above case, these exhibits:

		Clerk of Court Use
1	Applicants Letter with attachments to Linda from Patti Pridgeon	✓
2	4 pieces of paper inside file, ATD Sept 4, 1997	
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This 17th day of November 2005. Page 1 of 1

By: Jackie L. Pendergrass

Richland County Clerk of Court

Clerk should retain white copy in Civil cases, yellow copy in Criminal cases.

Revised 3/96

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
ALISON RENEE LEE, CIRCUIT COURT JUDGE

LINDA ANN TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

I certify that a true copy of the Johnson petition for writ of certiorari and a copy of the appendix in this case have been served on Robert L. Brown, Esquire, and Linda Ann Tyler, #248190, Leath Correctional Institution, this 28th day of February, 2007.

Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 28th day
of February, 2007.

(L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
ALISON RENEE LEE, CIRCUIT COURT JUDGE

LINDA ANN TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Linda Ann Tyler states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent petitioner.

2. She has reviewed the records and transcript of petitioner's post-conviction relief hearing which was held on November 18, 2005. In her opinion seeking certiorari from the order of dismissal is without merit.

3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed the one arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Linda Ann Tyler.

Respectfully submitted,

Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of February, 2007

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

February 26, 2008

REMITTITUR

The Honorable Barbara A. Scott
1701 Main St
PO Box 2766
Columbia, SC 29202-2766

Re: Tyler, Linda Ann v. The State
2002-CP-40-2253

Dear Ms. Scott:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Very truly yours,

Daniel E. Shearouse

CLERK

DES/klb

cc: Assistant Appellate Defender Kathrine H. Hudgins
Linda Ann Tyler, #248190
Assistant Attorney General Robert L. Brown

5788

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 7, 2008

Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: Tyler, Linda Ann v. The State

Dear Ms. Tyler:

This responds to your Petition for Rehearing dated February 12, 2008. This petition was received in this Court on February 29, 2008.

The order denying certiorari in this matter was filed on February 6, 2008. Under Rule 221(a), SCACR, any petition for rehearing in this matter must have been actually received by this Court on or before February 22, 2008. Therefore, your requesting for rehearing is untimely.

Further, the remittitur in this matter was sent to the circuit court on February 26, 2008. The sending of the remittitur ended this Court's jurisdiction over the case. Accordingly, no action will be taken on your petition.

Very truly yours,

Daniel E. Shearouse

CLERK

DES/klb

cc: Assistant Appellate Defender Kathrine H. Hudgins
Assistant Attorney General Robert L. Brown ✓

The Supreme Court of South Carolina

The State, Respondent,

v.

Linda Tyler, Appellant.

ORDER

Appellant is represented by counsel in this matter. She has now filed several documents with this Court and asks to be allowed to have hybrid representation in this matter. The request is denied. State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). The documents submitted by appellant will not be considered.

IT IS SO ORDERED.

C.J.

FOR THE COURT

Columbia, South Carolina

December 13, 2001

SBBP ✓
Closed
Case # 2006402-9
Bot # 38-C

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 16, 2008

Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: Tyler, Linda Ann v. The State

Dear Ms. Tyler:

The following Order has been endorsed on your petition for reinstatement in the above entitled case on appeal.

"Petition for reinstatement denied.

s/ Jean H. Toal C.J.
For the Court

April 16, 2008."

Very truly yours,

CLERK

DES/klb

cc: Assistant Appellate Defender Kathrine H. Hudgins
Assistant Attorney General Robert L. Brown ✓

The Supreme Court of South Carolina

Linda Ann Tyler, Petitioner,

v.

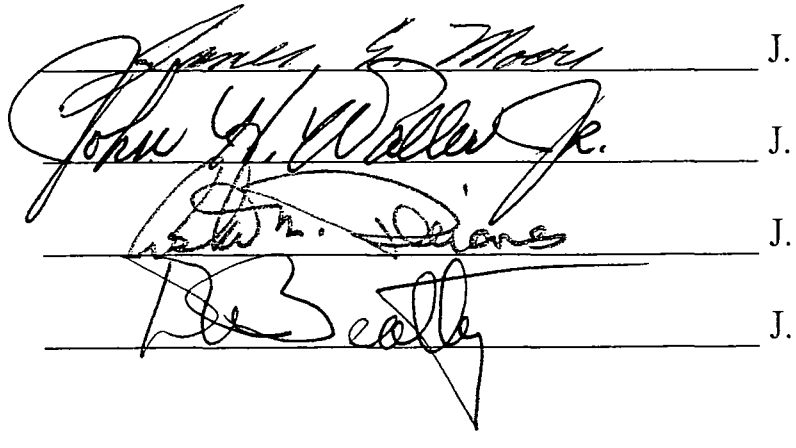
State of South Carolina, Respondent.

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has filed a *pro se* petition.

After careful consideration of the entire record as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.



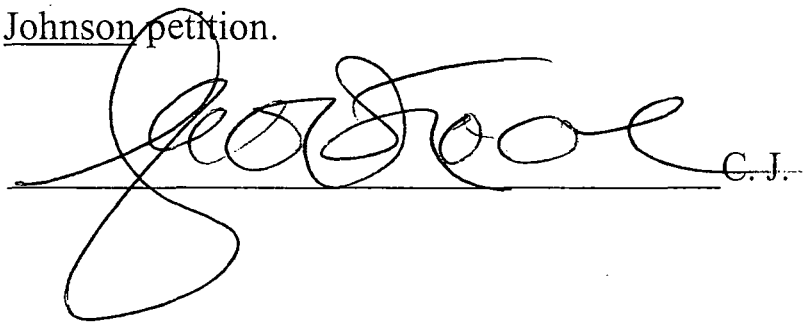
J.

J.

J.

J.

I would deny the motion to be relieved as counsel and direct counsel to rebrief the issue raised in the Johnson petition.



C. J.

Columbia, South Carolina

February 6, 2008

HENRY MCMASTER
ATTORNEY GENERAL

July 10, 2009

The Honorable Bruce H. Hendricks
United States District Court Magistrate Judge
Post Office Box 10823
Greenville, SC 29603

Re: Linda Ann Tyler, v. Kendell
C/A No.8:09-377-CMC-BHH

Dear Judge Hendricks:

Per your e-filing preferences, please find enclosed a copy of the **Motion for Summary Judgment, Return and Memorandum of Law in Support of Motion for Summary Judgment (with attachments), and Certificate of Service** , which were electronically filed today.

Petitioner was also served his copies and a copy of the notice of electronic filing.

Sincerely,

S. Creighton Waters
Senior Assistant Attorney General

SCW/epj

Enclosures
cc: Linda Ann Tyler, #248190
The Honorable W. Barney Giese
Sandi Wofford, Victim Services

INDEX

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ISSUE PRESENTED

Was trial counsel ineffective in failing to argue voluntary manslaughter when there was evidence of abuse at the hands of the husband/victim, the defendant believed the victim sodomized her 21/2 year old daughter and the defendant learned the night before the incident that another woman was carrying her husband's baby?

STATEMENT

In October of 1996, the Richland County Grand Jury indicted Tyler for murder, indictment #96-GS-40-17046. (App. p. 719). On March 16, 1998, Tyler proceeded to jury trial before the Honorable Paul Short. The jury returned a verdict of guilty but mentally ill. Judge Short sentenced Tyler to life without the possibility of parole pursuant to S.C. Code §17-25-45. (App. p.721). In 2002, the South Carolina Supreme Court affirmed Tyler's sentence and conviction. State v. Tyler, 348 S.C. 526, 560 S.E.2d 888 (2002). (App. pp. 713 – 718). The two issues raised on appeal involved the trial court's refusal to charge involuntary manslaughter and the trial court's erroneous charge on the offense of assault and battery of a high and aggravated nature.

On May 6, 2002, Tyler filed an application for post conviction relief alleging various grounds of ineffective assistance of counsel. (App. pp. 723-753). The State filed a return on June 19, 2003. (App. p. 754). An evidentiary hearing was held on November 18, 2005, before the Honorable Alison R. Lee. In a written order signed June 30, 2006, Judge Lee denied relief and dismissed the application. (App. pp. 822-826). A timely notice of intent to appeal was filed on July 18, 2006. (App. p. 827). This petition follows.

ARGUMENT

Trial counsel was ineffective in failing to argue voluntary manslaughter when there was evidence of abuse, the defendant believed the victim sodomized her 21/2 year old daughter and the defendant learned the night before that another woman was carrying her husband' child.

Tyler was convicted of pouring gasoline on her husband and setting him on fire. The husband later died at the Augusta Burn Center. In defense Tyler argued that her actions were not the proximate cause of her husband's death. Counsel for Tyler hired an expert who testified at trial that husband died as a result of over saturation at the hospital. (App. p. 783, lines 18 – p. 784, lines 1-17; App. pp 553-580). Additionally, Tyler argued that she did not intend to kill her husband. (App. p. 424, lines 4-14).

At trial Tyler testified that her husband, Ali, assaulted her at least ten times. (App. p. 425, lines 1-24). At trial, Tyler testified that she noticed something wrong with her 21/2 year old daughter Jasmina's behind. (App. p. 387, lines 4-18). Tyler testified that she took Jasmina to the hospital for an examination. (App. p. 388, lines 1-18). Tyler testified that later, Jasmina told her that Ali "ate her pooh pooh." (App. p. 389, lines 9-18). During the PCR hearing, trial counsel testified that Dr. Watts, an expert called at trial by the defense, felt that Ms. Tyler held the believe that her daughter had been sodomized. Tyler also testified that she learned that Jackie, a neighbor, had an affair with Ali and was carrying his baby. (App. p. 397, lines 1-5). Tyler learned of this the night before the incident. (App. p. 407, lines 15-17).

During closing argument defense counsel argued proximate cause, lack of intent and mental illness. (App. p. 645, lines 13-16). Counsel did not ask the jury to consider voluntary

manslaughter. (App. pp. 624-646). Although the trial court charged the jury on the law of voluntary manslaughter (App. pp. 672-673), trial counsel specifically advised the court that she was not asking for a voluntary charge during the charge conference. (App. p. 604, lines 5-16). Trial counsel was ineffective in failing to argue voluntary manslaughter when there was evidence of abuse, Tyler believed her husband sodomized her 21/2 year old daughter and Tyler learned the night before that another woman was carrying her husband's child.

Voluntary manslaughter is the unlawful killing of a human being in the sudden heat of passion upon sufficient legal provocation. State v. Knoten, 347 S.C.296, 555 S.E.2d 391 (2001). Trial counsel should have argued that the combination of events leading up to the incident constituted sudden heat of passion upon sufficient legal provocation. If counsel had argued voluntary manslaughter, the jury may have returned a verdict of guilty of voluntary manslaughter but mentally rather than the verdict of guilty of murder but mentally ill.

During the PCR hearing trial counsel testified:

> It was viable in that if we were to pursue a battered spouse syndrome defense, something of that nature, that that would be something that would have triggered Ms. Tyler into uncontrollable behavior. The issue about hiring an expert with regard to battered spouse syndrome or something of that nature was discussed. And I don't recall why we didn't pursue that defense. I thought that the proximate cause issue was stronger. We did present Ms. Tyler as being some – you know, an individual who had been abused through the years through many different people. But I don't think that it gave – I don't think if rise to the level of meeting the battered spouse syndrome definition.
> (App. p. 787, lines 9-22).

The final order found that trial counsel was not ineffective for failing to pursue a particular theory. (App. p. 825). The order finds that trial counsel employed a reasonable strategy.

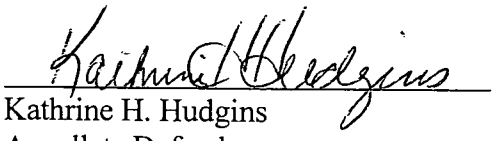
Counsel may avoid a finding of ineffectiveness if she articulates a valid reason for using a certain strategy. Ingle v. State, 348 S.C. 467, 560 S.E.2d 401 (2002). Counsel's strategy will be

reviewed under an "objective standard of reasonableness." Id. While arguing the proximate cause issue was a valid defense strategy, there is nothing that would have prevented counsel from arguing both the proximate cause issue and, alternatively, voluntary manslaughter. Counsel was ineffective in failing to argue voluntary manslaughter.

CONCLUSION

Base on the above argument, the petition for certiorari should be granted to allow further briefing on the issue.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of February, 2007.

IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE Linda Ann Tyler #248190-V-THE STATE

...THE APPELLANT'S BRIEF OF LAW:

(1)

THE APPELLANT beg's the COURT TO COMB THE RECEIVED
RECORD for All ERROR's Of PREJUDICE, APR 09 2007
TECHNICAL ERROR's, PROCEDURAL ERROR's, and SUPREME COURT
CONSTITUTIONAL ERROR's...

THE APPELLANT STATE that: TRIAL Judge ERRED; When he (Judge) denied the APPELLANT's Right to EXHUMED the Body to determined the APPROXIMATE CAUSE Of DEATH: TRIAL Judge ERRED; When (he) denied the APPELLANT Rights TO Hypnosis And Sodium Penthoal Shot, TRUTH SERMON EXAMINATION.

TRIAL Judge ERRED; When he ALLOWED the APPELLANT to testify AGAINST herself, while She WAS on MEDICATION in VIOLATION of the 5th and 14th AMENDMENT to the U.S. CONST.

TRIAL Judge erred: When (he) ALLOWED the State to USE the (APPELLANT's) PAST RECORD to SECURED the finding of guilty in VIOLATION Of. S.C. RULE Of EVIDENCE CODE 609. SEE ALSO: South CAROLINA CRIMINAL LAW. at 369.2 (1) and 372 (1) 374; S.C.A.C.R. Rule 407. 8.3. and 8.4. WHERE TRIAL Judge COMMITTED REVERSABLE ERROR's

IN THE SUPREME COURT OF SOUTH CAROLINA

(2) IN RE) Linda Ann Tyler #248190 -V- THE STATE.

IN-THE STATE-V- BRENDA GAIL CUTRO, S.C. 2d. 504 S.E. 2d. Defense Atty, and the South Carolina Supreme Court dessented: The South Carolina Supreme Court held: under Criminal Law: 372(1). Admission of Prior bad Acts Evidence was Reversable Error..

In-Linda Ann Salley -V- The State, S.C. case S.E. 2d at 410 the Appellant states that defense Allowed the Prosecuter to use her old-prior case of Salley -V- The State, to secure a conviction and to enhance a stiff sentence- when (Tyler) had completed All of her sentence on her prior conviction.

In closing Argument Solicitor mention that the Appellant was still under the conviction when the conviction had expired since 1991 of December 2nd. for ABWIK and strong Armed Robbery was the Appellant was sentenced in 1977 by the Honorable Judge Rodney Anthony Peoples to a period of 21 yr. and 15 years of January 19th 1977 and February 6th 1977. therefore the 1977 charges had been expired leaving on the 1988 convictions of distributing of crack cocain, even these charges are or were (10) years old beper the current charge was committed.

THE STATE -V- Tinder Allen Tyler #248198

AMENDMENTS OF THE U.S.C.A.

1. THE 5th AMENDMENT, RIGHT TO CONFRONT ONES ACCUSER, A RIGHT TO COMPULSORY, MIRANDA RIGHTS
2. THE 8th AMENDMENT, RIGHTS TO BE FREE FROM CRUEL AND UNUSALLY PUNISHMENT, AND DOUBLE JEOPARDY.
3. THE 14th AMENDMENT, RIGHTS TO DUE PROCESS OF LAW AND EQUAL PROTECTION UNDER THE LAW.
4. THE SIXTH AMENDMENT & 1st AMENDMENT RIGHTS TO HAVE COMPETENT COUNSEL FOR DEFENSENCE. THE RIGHT TO WAIVE COUNSEL.
5. CONSTITUTIONAL LAW. C.J.S. BOOK NO. 24. 1691-1692-1693. 250. 268, 1 (6) AMENDS. IMPEACH HEARING CONST LAW. 278. 45. CONSTITUTIONAL LAW 268 (9). 5th and 14th AMENDMENTS
6. CRIMINAL LAW. 407. (1). BATTERED WOMEN SYNDROM.
7. SOUTH CAROLINA CODE ANN LAWS. 16-3-10-ARTICLE 6. CHAPTER 3. HOMICIDE CAUSATION HAZING 16-13-15-ALTERING TRANSCRIPTS 18-9-70 - CASE & EXCEPTIONS, OBJECTIONS, SETTLEMENT ATTY GEN. 1969-70. NO. 2915. P. 162 #1964-65 OPS. NO. 1866. APPELLATE COURT RULES SCACR 407. RULES 3.3. (8.3). (8.4) (502) (1.14) 73 ALR 2d. 769 # 47. ALR 4th 18 # 45 ALR. 4th 1021 36. AM. JURY TRIALS 241 # 40. AM JURY TRIALS 501. FORENSIC PATHOLOGY IN HOMICIDE PHOTO OF CORPSE
7. ARTICLE VI CLAUSE 2 OF THE UNITED STATES CONSTITUTION
8. UNIVERSAL DECLARATION OF HUMAN RIGHTS.
9. BRADY MATERIALS
10. HYPNOSIS CRIMINAL LAW. S.C. SUPREME COURT RULE 1994.

THE STATE -V- Linda Ann Tyler #248190

And ARE ACTS Under COLOR OF STATE LAW. WHEN

Cases

1. THE STATE -V- Debra Kidd. Trial Judge postpone Jury Trial until State Witness was found. Accused 15 year cap sentenced on Transfered attempt -
2. Feretta -V- California. Defense attorney told Judge defendant suffer from emotional and mental problems to prevent Representing himself.
3. JACKSON -V- INDIANA. 406. 715 U.S. S.C. 1844, committed to a state Hospital involuntarily for the Criminal insane because defendant was incompetent to stand Trial
4. STATE -V- Terry EVANS. South Carolina case 1992 HYPNOSIS Evisdence
5. State -V- Felix Cheesboro S.C. 1998 (HYPNOSIS WAS USED AS EVIDENCE
6. STATE -V- OWENS, REHEARING on APPEAL. Incompetent Counsel THE ART OF defending A conFederate scheme was projected from a Kaleidoscope of confusion based on errors of who did what, when, where and why. Prosecution elucidate the conspiracy by using her lawyer like skills to shake the testimony of Dr. Peterson

Linda Ann Tyler
March 11th 2002

SWORN TO And Subscribe before me
On this 11th day of March 2002
Notary Public for SOUTH Carolina

MY COMMISSION EXPIRES . .

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Operations

ORDER TO REPORT

SCDC #	Name	Area
248190	**Linda Ann Tyler**	**P- 215**

REPORT TO **LAUREL CONFERENCE ROOM** AT **5:15 PM on Wednesday, 01/28/2004**

Bring All Belongings ☐ Bring State Clothing ☐ Bring Nothing ☐

Battered Women's Project

Date	Signed
01/15/2004	
Date	Inmate's Signature
Date 1-16-04	Staff Member's Signature

SCDC 19-45 (Rev.August 1997)

[redacted]

MS. LAURIE THOMAS SAID TO MAKE SURE YOU BRING ANY LEGAL INFORMATION THAT YOU MAY WANT TO GIVE TO HER OR TALK TO HER ABOUT WITH YOU WHEN YOU COME TO GROUP.

–MELISSA
CHAPLAIN WRAY CLERK

IN THE SOUTH CAROLINA SUPREME COURT

THE APPELLANT'S "THEORY".

THE CRIME! THE COVER UP! THE CONSPIRACY! THE CONVICTION!

THE REALITY OF THE EVIDENCE WAS GLIMPSED BY MANY APPEARANCES, but MANY REFUSED TO ACCEPT the REALITY OF the EVIDENCE, that VAN TYLER, JR. did NOT DIE "by the ACT OF the GASOLINE BURN he RECIEVED by his WIFE LINDA ANN TYLER...

Whatever ELSE IS TRUE. THE GASOLINE BURNS WERE CONTRARY to the Alledge AUTOPSY REPORT. THE BURN INJURY did NOT CAUSE the DEATH OF VAN TYLER, JR. NOR did IT CAUSE his LUNGS TO COLLAPSED. THE BURN INJURY did NOT DEFY the LAWS OF PROBABILITY. THE LAWS OF PHYSICS and the LAWS OF FORENSIC. PATHOLOGY. WHAT it did do WAS APPEAR MYSTERIOUSLY UNCONNECTED TO THE DEATH OF THE DECEASED "VAN TYLER JR. THE NOTION that the AUTHORITIES had SOME SECRET KNOWLEDGE OR RATIONALE behind the CAUSE OF DEATH CAME down to SIMPLE JUDGEMENT ABOUT FACTS and the PREVASIVE QUESTION WAS, IF I could SEE SOMETHING WAS WRONG, WHY? couldnt the TRIAL JUDGE SEE that AS WELL.

EXHIBIT A

IN THE SOUTH CAROLINA SUPREME COURT

WRITTEN by. DEFENDANT/APPELLANT #248-190, "LINDA ANN TYLER"..

19. THE FACT'S: IN SCHOOL WERE ARE TAUGHT 2+2=4; but IN LAW, THE FACTS WERE NOT THE IMMEDIABLE TRUTHS, ESTABLISHED by, WARRANTS, POLICE REPORTS, MEDICAL DATA AND OR by SCIENCE. FACTS WERE MEREN THE OPINIONS OF A JURY, AFTER HEARING both SIDES," PRESENT EVIDENCE," This GROUP OF TWELVE REASONABLE MEN AND WOMENS, (THE IDEAL JURORS) determined WHAT THE FACTS WERE, AND RENDERED A VERDICT. THE JURY Finds THE FACTS. This MEANT THAT A FACT WAS just About Anything that A GROUP OF TWELVE PEOPLE," COULD BE MADE to believed or PERSUADED to believe, AND WHAT had ACTUALLY HAPPEN IN THE CAUSED OF THE DEATH OF VAN TYLER, JR, AND WHO WAS LEGALLY RESPONSIABLE OR WHO CAUSED OR WHAT CAUSED THE DEATH OF VAN TYLER, JR.. THE CASE IS CIRCUMSTANTIAL...

When YOU SEEK to determine A FACT FROM conflicting data, YOU must ARRANGE THE DATA, ACCORDING TO A HIERARCHY, OF RELIABILITY. All DATA ARE NOT EQUAL. SOME EVIDENCE (e.g PHYSICIAL EVIDENCE, OR A SCIENTIFIC REPORT) is MORE INHERENTLY ERROR FREE, and hence MORE RELIABLE, THAN OTHER EVIDENCE (e.g. EYE WITNESS ACCOUNT). THE best EVIDENCE RULES THE CONCLUSION; WHATEVER VOLUME OF CONTRARY EVIDENCE there MAY BE IN the LOWER CATEGORIES. THE REALITY OF THE EVIDENCE, WAS glimpsed by MANY APPEARANCES, but MANY REFUSED to ACCEPT the REALITY OF the EVIDENCE, that VAN TYLER, JR," did NOT DIE", by the ACT OF the GASOLINE BURN INJURY," HE RECIEVED by the hands OF his ACCUSED and CONVICTED WIFE, the defendant LINDA ANN TYLER #248-190 IN this CASE.. WHATEVER ELSE is TRUE. THE GASOLINE BURNS," CONTRARY to the ALLEDGE AUTOPSY REPORT and by the PATHOLOGIST. DR. BURNS, ALONG WITH the CORNOR FRANK E. BARRON III, WAS NOT the CAUSED OF the deceased "VAN TYLER, JR's DEATH. It did NOT CAUSE his Lungs to COLLAPSED OR CAUSED his PROXIMATE CAUSE OF DEATH.

IN THE UNITED STATES SUPREME COURT

THE BURN INJURY!? OPERATION "SKIN GRAFT!??

DR. JOSEPH M. STILL, JR. COMPLETED A SKIN GRAFT ON VAN TYLER, JR. DR. JOSEPH M. STILL, JR. SIGNED DOCUMENTS THAT THE SURGERY WAS GOOD"; VAN TYLER, JR. LEFT THE OPERATION ROOM WITH SATIFICATION OF THE SURGERY. "THERE WAS NO LIFE SAVING SURGERY PERFORMED ON VAN TYLER, JR." NO LEGITIMATE LIFE SAVING SURGERY PERFORMED; THE BURN INJURY WAS CURED. THE BURN INJURY MYSTERIOUSLY APPEARED TOTALLY UNCONNECTED AS A CAUSE OF DEATH. THE MISSING LINK" AS TO THE RE INTERING OF THE OPERATION ROOM", TO PERFORMED "A TRACHEOTOMY INCISION" WAS DONE AFTER DR. JOSEPH M. STILL, JR, HAD EXIT OR LEFT THE BURN CENTER, 2 TO 3 HOURS LATER, "THIS IS WHERE WE INTER THE LABYRINTHINE OR SINKING HOLE, AS TO WHAT "TRUTH'S WHOSE TRUTHS WOULD BE ACCEPTED, THE MEDICAL BURN CENTER MADE THE RECORDS TO APPEAR AS A KALEIDOSCOPE OF CONFUSION, AS ERRORS OF WHO did WHAT, WHEN, WHERE, AND WHY. "THIS WAS A ART OF deciete defending A CONFIDENCE SCHEME...

Linda Van Tyler
May 2001

SWORN TO And SUBSCRIBE BEFORE ME
ON THIS 25 DAY OF MAY 2001
NOTARY PUBLIC FOR SOUTH CAROLINA
William M. [illegible]
MY COMMISSION EXPIRES 1-14-08

IN THE UNITED STATES SUPREME COURT

THE RADIOLOGIST "EXPERT ANALYZED OF X RAYS???
THE LUNGS COLLASPED!! THE MISSING LINK???

ON OCTOBER 9th 1996. A CORNOR'S INQUEST WAS held At the City MUNIPCAL COURT. INVESTIGATOR Toby GRAY, SAYS OPEN COURT STATEMENT, that the deceased died of collasped Lungs. At Bond Court ON MAY 9TH 1997, SOLICITOR STACY HAYNES, stated on page three, that VAN TYLER JR. died of collasped Lungs. Indictment for MURDER by Solicitor BARNEY Giese. What depth was from collasped Lungs. Applied GASOline burn injury to the DEATH. THE X RAY FILMS WERE NEVER INTERDUCE AS EVEDENICE THE X RAY photographs WERE NO where to be Found. A QUALIFIED MEDICAL ILLUSTRATOR WAS NEEDED FOR THE Purpose OF the X RAYS OF THE LUNGS..

Linda Ann Tyler
2001

SWORN TO AND SUBSCRIBE BEFORE ME
ON THES 25 DAY OF MAY 2001
NOTARY PUBLIC FOR SOUTH CAROLINA
Wellie M Cox
MY COMMISSION EXPERES 1-14-08

IN THE UNITED STATES SUPREME COURT

THE TRACHEOTOMY OPERATION ??? LIFE SUPPORT SYSTEM!??
IF, "VAN TYLER, JR's "HEALTH WAS NOT LIFE THREATEN," THE ACTUAIN CAUSE OF VAN TYLER, JR's", DEATH "MUST" BE CAUSED by MEDICAL CARE HEAITH TREATMENT.. HEAITH HOSPITAL IS "LIABLE FOR SUIT; IF," VAN TYLER, JR. WAS NOT A TERMINALLY ILL PATIENT... UNDER THE TEXAS ADVANCE DIRECT ACT.. HOSPITAL OFFICIALS", CANNOT Pull the "LIFE SUPPORT SYSTEM," UNLESS THE PATIENT" has A" .. TERMINAL ILLNESS." HOSPITAL OFFICIALS MUST PROVIDE Adequate and quality MEDICAL CARE and MEDICAL TREATMENT.. THE RIGHT TO LIVE IS NOT A MEDICAL DECISION, to DENY A PATIENT his/her Rights to LIVE OR DIE.. THE MEDICAL STAFF did VIOLATE the LAWS GOVERNING MEDICAL TREATMENT.. THE MEDICAL STAFF, ARE the ONLY PERSON'S who COULD BE AND Should be held LEGALLY RESPONSIABLE FOR the DEATH OF the VAN TYLER, JR, BECAUSE OF A BREACH OF PERFORMANCE; IN the HEAITH AND MEDICAL CARE POLICY that WAS VIOLATED... U.S CONSTITUTION ARTICLE (25) MEDICAL CARE...

Linda Ann Tyler
May 2001

SWORN TO AND SUBSCRIBE BEFORE ME
ON THIS 25 DAY OF MAY 2001

NOTARY PUBLIC FOR SOUTH CAROLINA
William M Otte

MY COMMISSION EXPIRES 1-14-08

IN THE UNITED STATES SUPREME COURT

THE UROLOGIST WAS DR. RONALD GIBSON BURNS???
A UROLOGIST" IS A "KIDNEY and BLADDER" DOCTOR..
A UROLOGIST" NEVER MOVES ABOVE the BELLY BUTTON..
DR. BURNS STATED that HE REMOVED the ORGANS
OF VAN TYLER, JR. KIDNEY And LIVER.

Linda Ann Tyler
May 2001

SWORN TO And SUBSCRIBE BEFORE ME
ON THIS 25 DAY OF MAY 2001
NOTARY PUBLIC FOR SOUTH CAROLINA
Willie McCoy
MY COMMISSION EXPIRES 1-1408

IN THE UNITED. STATES SUPREME COURT

THE AUTOPSY, THE PRE AUTOPSY. Allegedly PERFORMED???
A HUMAN BEING ONLY HAS ONE AUTOPSY. An AUTOPSY IS THE AUTOPSY DIAGRAM CONTAINED A SET OF STANDARD AUTOPSY body CHARTS. ONE A REAR VIEW OF THE BODY, the Other A FRONT VIEW - ANNOTATED by the DOCTORS during the AUTOPSY. THE ORIGINAL AUTOPSY REPORT had been Changed to SUPPORT the Alledged DEATH CERTIFICATE. that WAS ALTERED by the CORNOR FRANK E. BARRON III.

Linda Ann Tyler

SWORN TO And SUBSCRIBE before ME
ON THIS 25 DAY OF May 2001
NOTARY Rublic FOR SOUTH CAROLINA
William M
MY COMMISSION EXPIRES. 1-14-08

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY

ALISON RENEE LEE, CIRCUIT COURT JUDGE

LINDA ANN TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

JOHNSON PETITION FOR WRIT OF CERTIORARI

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT.

APPEAL FROM Richland County
HONORABLE: PAUL E. SHORT, JR., CIRCUIT COURT Judge.

THE DEATH CERTIFICATED "MEDICAL FORGERY! CORNOR F.E.B.III!? THE ORIGINAL DEATH CERTIFICATE WAS ALTERED by the CORNOR, and WAS Changed. DR. JOSEPH M. STILL, JR. Signed the CAUSED OF DEATH AS UNDERTERMINE "which MEANS "UNKNOWN". Changing the DEATH CERTIFICATE WOULD REQUIRE, that the ORIGINAL DOCUMENT be DESTROYED And REDRAFFED; that the ORIginAL TYPED copy be RETURNED or RETYPED (and ALL PREVIOUS COPIES "RETRIEVED") And that ALL the AUTOPSY "DOCTOR's and Other MEDICAL EXAMINER'S, AGREE to give FALSE TESTIMONY. It SEEMED to ME "Absurd" to believe that the "CORONOR. FRANK E. BATTON III. could ARRANGED this himself.. THE PATHOLOGIST, THE RADIOLOGIST, THE UROLOGIST and DR. JOSEPH M. STILL, JR. Along with the FURNAL HOME DIRECTOR'S and ATTENDANTS, the MORTICIANS, would HAVE to be INVOLVED.. THE SOLICTOR'S OFFICE And POLICE OFFICERS WOULD ALSO be NEEDED IN ORDER to UPDATE the CHARGE to MURDER. THE TRIAL Judge and or the CORNOR'S INQUEST Judge, JURY, MUST ALSO be INVOLVED IN ORDER to ALLOWA A DEATH RECORD TO be ERADICATED. SUPPLEMENT DEATH CERTIFICATE ~~WAS~~ SUBMITTED TO SUPPORT the PROSECUTION ATTORNEY . . .

Linda Fra Tyler
February 28th 2000

SWORN TO AND SUBSCRIBE BEFORE ME
ON This 28th DAY OF FEBRUARY 2000!
NOTARY PUBLIC FOR SOUTH CAROLINA
Willie M Cole

MY COMMISSION EXPIRES . . .
JAN 16 2008

IN THE UNITED STATES SUPREME COURT

THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE MEDICAL DOCTORS OF THE FORENSIC UNIT STAFFING OR COMMITTEE.... ECT. ECT-ECT... THE MENTAL ILLNESS OR DISEASE. THERE WERE VARIOUS DIFFERENT OPINIONS AS TO THE DEFENDANT MENTAL ILLNESS.

DR. SHEA, stated the defendant had A LEARNING problem
DR. B stated the defendant had A Drug Addiction
along with other disorders
DR. DONNA SWAN-W stated the defendant had A MAJOR MENTAL ILLNESS.

THE THREE EXPERT'S holds DISAGREEMENT, EACH EXPERT holds fundamentally different ASSUMPTIONS, About the NATURE OF ABNORMAL behavior, EACH SEE'S the defendant thrus different SET OF ASSUMPTIONS ABOUT the defendants state OF MIND ON the day OF the CRIME. SCHIZOPHRENIA IS A BAD DISEASE which means these TYPE OF people possesses unconventional behavior, which what the defendant doesn't have; A MENTAL ILLNESS, CAN be CURRECT with TREATMENT, OF EDUCATIONAL programas, medications, And with group therapy, which in this case the defendant MENTAL ILLNESS, has been cured

Linda Ann Tyler

SWORN TO And Subscribe BEFORE ME
ON THIS 25 DAY OF May 2001
NOTARY PUBLIC FOR SOUTH CAROLINA
William M. Cobb
MY COMMISSION EXPERES 1-14-08

IN THE UNITED STATES SUPREME COURT

THE Alleged "MENTAL ILLNESS" CRIMINAL INSANE. ISSUES. THE MENTAL ILLNESS CONCEPT OF ABNORMAL BEHAVIOR!!? THE Field OF ABNORMAL PSYCHOLOGY,". EVEN IN the BEHAVIORAL SCIENCES, the ILLNESS PERSPECTIVE CONTINUES to be UNDER "the ATTACK" PRIMARY FOR the USE OF MEDICAL APPROACHES, to the MEDICAL TREATMENT," OF HUMAN PROBLEMS IN LIVING.. THE ISSUSES OF "THE MENTAL ILLNESS OR DESEASE .. SCHIZOPHRENIA", IS A bad DISEASE.. SCHIZOPHRENIA'S POSSESSES UNCONVENTIAL BEHAVIOR, which WAS NOT IN the defendant's CHARACTER, because defendant is NOT housed IN the Setting FOR SCHIZOPHRENIAS, NOR is the defendant being TREATED AS OF this days date FOR ANY PSYCO'S DISORDERS.. THE MENTAL ILLNESS" IS A "MYTH" MENTAL ILLNESS" CAN BE CORRECTED",. THE defendant, had A LEARNING PROBLEM, and behavior did Change, throughout the USE OF, TRAING SKILLS, EDUCATIONAL SKILLS, GROUP And INDIVIDUAL PSYCOLOGY TREATMENT PROGRAMS, that the defendant WAS PLACED INTO, ONCE Admitted to the MEDICAL WARD TREATMENT SERVICES the defendant's behavior has changed REMARKABLE. Lineka Ann Tyler

SWORN TO And SubSCRIBE before ME
ON THIS 25 DAY OF May 2001
NOTARY Public FOR SOUTH CAROLINA
Wellea M Watts
MY COMMISSION EXPERES. 1-14-08

IN THE UNITED STATES SUPREME COURT

THE DEFENSE ATTORNEY'S VIOLATED THE ATTORNEY & CLIENT DUCTRINE ?!! THE ATTORNEY'S USED THE "LEGALLY INSANE" ISSUE TO PREVENT THE DEFENDANT, FROM REPRESENTING HERSELF.. THIS DEFENSE" WAS NOT APPOPIATE. MENTE CAPTUS (MEN-TEE-KAP-TUS) MEANS.. [LATIN" CAPTURED IN MIND"] PERSONS WHO ARE DEEMED HABITUALLY INSANE..which is in conflict, because the defendant is not housed in a setting for the habitually insane, these types of people are not sent to prison. I would admit to temperarly insane, but not habitually insane.. ALL OF THE ATTORNEY'S who had possession OF the case against the defendant" Linda Ann Tyler #248-190, denied her the rights to the DISCOVERY MOTION, and MENTAL HEALTH Medical CARE RECORDS OF" daughter" JASMINA TYLER" From the W.S.H.I. Abuse and RECOVERY Records along with the D.S.S. Files.. ATTORNEY CRYSTAL BELL, THERSA N. JOHNS, did on JANUARY 29th 1998 gave the defendant, A form to signed, stating she had RECIEVED A COPY OF the "DISCOVERY MOTION", but the ENVELOPED CONTAINED the POLICE REPORT, CRIME SCENCE REPORT, AND ORIGINAL documents, that WERE SENT to the COURTS by the defendant... Linda Ann Tyler

SWORN TO AND SUBSCRIBE BEFORE ME
ON THIS 25 DAY OF May 2001
NOTARY PUBLIC FOR SOUTH CAROLINA
Willie M Wade
MY COMMISSION EXPIRES. 6-15-08

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 3, 2002

ATTORNEY GENERAL'S OFFICE
RECEIVED 4-3-02
ADMINISTRATIVE INSTRUCTIONS
_____FILE_____OPEN_____END
_____HAVE_____COPIES MADE
_____ROUTE TO_____
_____ORDER:_____TRANSCRIPT
__PEN RECORDS__CLERK RECORDS
____OTHER:_____

REMITTITUR

The Honorable Barbara A. Scott
Post Office Box 2766
Columbia, SC 29202-2766

Re: The State v. Tyler, Linda
1997-GS-40-17046

Dear Ms. Scott:

The above referenced matter is hereby remitted to the trial court. A copy of the judgment of this Court is attached.

Very truly yours,

CLERK

DES/djp

Enclosure

cc: Ms. Linda Ann Tyler, #248190
Senior Assistant Appellate Defender Wanda H. Haile
Assistant Attorney General Derrick K. McFarland

EXHIBIT E

IN THE SOUTH CAROLINA SUPREME COURT

(IN RE) THE STATE -V- Linda Ann TYLER H248-98

AN ESSAY by THE CONSTITUTION LAW. 14th AMENDMENT

TRUE "JUSTICE IN THE JUDICIARY" should USE the LEGAL SKILLS TO END the EVILS OF "DISCRIMINATION". THE PRESENTATION OF THE "JUSTICES" IN CASE AFTER CASE AND COURT AFTER COURT, should help bring a Society in which "Equal Protection of the Laws" could be a Reality and not merely a legal phrase. "Judges" should speak from first hand knowledge of the Laws' failure to fulfill its promised protection for so many defendants Judges should use the tools of the Bill of Rights and of the legal argument to close the (gap) between Constitutional Ideal and Reality. Judges' supposed to send a message: that the constitution's Protections must not be denied to anyone and that the sensitivity needed to assure that Needed Judges' must all ways be persuasive in all court cases

THE language of (article VI) of the U.S. constitution. A STATE Statute was inconsistent with either the federal Constitution or a Federal Statute. This is to say, a State Statute which is in conflict with the Constitution of the united States is Invalid only because (Article VI) Provides that constitution of the united States which is the Supreme Law of the Land. A State Statute in conflict with a Valid Federal Statute or a State Statute "or a Treaty is invalid for the same reason. In the absence of (Article VI) this result would have been no more inevitable in the one situation than in the other. If the Act which the Attorney General seeks to enforce be a Violation of the Federal Constitution, the officer in proceeding under such

Enactment comes in conflict with the Supreme authority of that constitution, for he is in that case, stripped of his official or Representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart him any Immunity from responsibility to the Supreme authority of the United States. Under Article VI clause 2 of the U.S. Const. Amendment of the United States provides. This constitution and the Laws of United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made under the authority of the United State, shall be the Supreme Law of the Land, and Judges in every State shall be bound thereby any thing in the constitution or Law of any State to the contrary notwithstanding. However, it was held that the Doctrine of Sovereign Immunity did not bar the actions against the attorney General. Under the Fourteenth Amendment and 5th Amendment, the State violate due process when it obtains a conviction through use of false Evidence or on basis of a Witness Testimony, when that witnesses has failed to disclose a promise of favorable treatment from the Prosecution. Even where defense Counsel is aware of falsity of Witness testimony, there may be deprivation of due process. If Prosecute re inforces deception by capitalizing on it in closing argument or by posing misleading questions to the Witness. Prosecution misconduct consist of failure to Correct false Testimony; does not rise to level of Fourteenth Amend Violation, Unless it can be said that there was reasonable likelihood that testimony affected judgement of Jury or

EXHIBIT E.

that it may have had effected Judgement of Jury or that it may have had effect on outcome of Trial and that determination requires Independent examination of record Under Constitutional Law 268 (9) Perjured or Falsified Evidence. False Evidence admission of which constitutes Violation of due process in Criminal prosecutions include untrue testimony going only to credibility of Witness. Prosecution knowing use of false or perjured Testimony constitutes a denial of due Process, If there is any reasonable likelihood that false testimony could have effected judgment of the Jury. Under Criminal Law 753. On Ruling on Motion for Directed Verdict. Trial Judge is concerned only with existence of Evidence not with its weight. Criminal Law 752.2. (3) Unless there is failure of Competent Evidence tending to prove charged offense Trial Judge should refused Motion for directed Verdict of acquital. Criminal Law 1144.13 (3) In reviewing denial of Motion for directed Verdict, evidence must be reviewed in light most favorable to State, and if there is any direct or any circumstantial Evidence reasonable tending to prove guilt of accused. Defendant may be convicted on circumstantial Evidence. To establish prosecution misconduct or denial of due process from admission of alleged false Testimony, defendants must show 1. that Statements was actually false; that statement was material; and that Prosecution knew it was false. ~~Criminal~~ Law. 268 (9). The State knowing use of material false Evidence by the prosecution in criminal Prosecution

EXHIBIT (E.)

Page 4. does violates due process, and such Rule applies equally when State, although not Solicited perjured testimony allows it to go uncorrected after learning of its falsity whether falsehood bears upon witness credibility or directly upon defendants guilt. Under U.S.C.A. 14th Amendment. Due process will not be violated if a conviction is obtained by perjured testimony Due process is denied if Government knowingly uses perjured testimony against accused to obtained conviction regardless of whether Government Solicits false Evidence as long as Government allows Evidence to go uncorrected when it surfaces. THE VERDICT IS DEFECTIVED ON which a Judgement cannot be based because of irregularities or legal inadequacies. The Instructed Verdict follows because it fails to establish a Prima Facie Case A False Verdict is so contrary to the Evidence and so unjust that the Judge may set it aside. The Legal Inconsistent Verdict which the same elements is found to exists can not exist, when a Defendant is acquitted of one offense and convicted of another, when the offenses arises from the same set of facts and elements of the second offense requires proof that the first offense has been committed. The General Verdict, subject to a Special case. a court Verdict to render without regard to the Jury's. General Verdict given when a Party does not want to put the legal Question of Law on the record but merely wants the court to decide on the basis of a written statement of all facts in the case, prepared for opinion of the court by the Counsel on either side according to the Principles of a Special Verdict, whereupon the court decides the special case and give Judgment

EXHIBIT (E)

THE STATE-V-LINDA ANN TYLER #248-190

5 The United State Supreme Court Ruled. Denial of access to possible exculpatory Evidence stated a Claim of denial of due process and United States Courts of appeal stated when defendant is denied exculpatory Evidence tending to Prove the crime was not committed by them and when State Court has fail to submit such Evidence on record of the Court, of them and to Reveiw documents which was exclude from Evidence and defendant have his possesion of such documents does violate actions under Color of State and Federal law and give Courts of appeals Jurisdiction under section 1983. 42 U.S.CA. and 28 U.S.C.A. 2243. of Habeas Corpus relief Fed Court when defendant states he's being held in Prison unlawfull, illegally. South Carolina Supreme Court cannot ruled on Evidence that's not on the record for review & inspection, South Carolina Supr Court, Must put all answers to each question that was presented for review on the face of the record. the South Carolina Supr Court cannot isolate opinions of (3) three questions and give written opinion on 2 questions and confirm other motions or questions that was included for review. the other (3) questions must be raised or preserve. under Fed Rule. Civ. Proc., Court cannot Review on Motions.

SWORN TO And SUBSCRIBE BEFORE ME
ON THIS 8 DAY OF MARCH 2002
NOTARY PUBLIC FOR SOUTH CAROLINA
William M Coates
MY COMMISSION EXPIRES ..
1-14-08

Prosecution

This wasn't a mistake possibility, but the Prosecu
was cautious mp. Haynes and her assistance. It would
a professional debacle, and they would only have themselv
to blame. By failing to adhere to the best reliable Evidence,
which was the (X Rays of the Lungs) and the Burn Facts that the
Evidence finding of Facts exempt the defendant Lonnie Tyler.
from the death of Van Tyler Jr. The Prosecution Laid themselves
wide open when they choose to framed the defendant for the
death, was the Prosecutors ideal of Justice.

The prosecution set the case up for Jud

The "Incision"

At the Start of An Autopsy. A Y incision is made to remove the organs from the trunk of the body

THE Autopsy Photographer: Where are the autopsy Film? Dr. Burns alledged to be the autopsy Surgeon but his name does not appear on the death certificate of "Autops" was performed! Why wasn't the X Ray and photographs available to corroborate the Surgeon Pathologist or to impeach the ~~State Prosecution~~ defense attorney

If the X Ray & Photographs supported the findings of the Pathologist Surgeon then the deceased cause of death was from the Gasoline burns, but if this was true, why was not the Evidence induce at trial. If Dr Burns testimony was truthfully then his testimony would be verified by the X Ray, and photographs

In that case the cause of death would be as Dr. Burns stated Unless one had to believed that either the prosecutor, Doctor, corner deliberately lied. If the defense attorney had the pictures of the X Ray Films and autopsy Film and photographs of the deceased body burns operated on, the lie would be uproven by the State on witness who would risked his career for the sake of the Prosecution and blow the cover up of the conspiracy.

It can be said that because this was a High Stake Criminal Trial the Prosecution attorney, simple let the chips fall where they may Where are the authentic pictures & X Rays. There is two types of distinction of the evidence, the autopsy X Ray & photographs.

It would be impossible for the Surgeon Pathologist to perjured himself, it was patherapon Indictable problem. Dr Burns testimony was false, he acted on behalf of the prosecution, to assist them in the cover up to obtain a murder conviction of the defendant. Dr. Burns, Corner Frank E. Burton, published the autopsy report describing medical facts they knew was false. The conspiracy seemed to get bigger and bigger

IM THE SOUTH Carolina Supreme Court.

THE APPELLANT'S BRIEF.
INRE) THE STATE -V- LINDA ANN TYLER # 245-190
Ground one.

1 THE question before the courts is whether it was prejudice Racial prejudice, constitutional errors and procedure errors or procedure Violations in the case against the defendant.

2 Ground Two.
The Questions is Whether Trial Trucle Paul E. Short Jr. was prejudice or was it prejudecal to the Afecial Administration of Justice to deny the defendant the Right to use Hypnosise and Sodium Penthoal.

3. Ground Three
whether it Prejudice per Trial Trials Short. Jr. to continue with Trial with the absent of the State Witness Frank E. Barron III, when the Coroner was Subpeona to testify in Court but failed to appear.

4. Ground Four.
Whether it was a denial of due Process of Law for Trial Trucle Paul E Short. Jr. to continue with the Trial after having knowledge that Prior Judge Thomas W Cooper Jr. Order the deceased body "Von Tyler, Jr." body to be Exhumed from the Grave.

5. Whether Appellant Defense attorny Represented the defendant" falsely when attorny on recorsly appeal submitted a defected Appeal Brief

CHAPTER 27

Uniform Post-Conviction Procedure Act

SEC.
17-27-10. Short title.
17-27-20. Persons who may institute proceeding; exclusiveness of remedy.
17-27-30. Jurisdiction of court.
17-27-40. Commencement of proceedings by filing of application.
17-27-50. Form and contents of application.
17-27-60. Court costs and expenses for indigents.
17-27-70. Court procedure on receipt of application.
17-27-80. Hearing on application; final judgment.
17-27-90. Grounds for relief.
17-27-100. Appeals.
17-27-110. Rules.
17-27-120. Construction.

§ 17-27-10. Short title.

This chapter may be cited as the Uniform Post-Conviction Procedure Act.

HISTORY: 1962 Code § 17-612; 1969 (56) 158.

ALR and L Ed Annotations—

Adequacy of defense counsel's representation of criminal client regarding appellate and postconviction remedies. 15 ALR4th 582.

Prosecutor's reference in opening statement to matters not provable or which he does not attempt to prove as ground for relief. 16 ALR4th 810.

Time limitations in connection with motions for new trial under Rule 33 of Federal Rules of Criminal Procedure. 51 ALR Fed 482.

Availability of postconviction relief under 28 USCS § 2255 based on alleged ...vernmental violation of the Interstate Agreement on Detainers Act (18 USCS ...x). 58 ALR Fed 443.

...ilability of postconviction relief under 28 USCS § 2254 based on alleged ...mental violation of Interstate Agreement on Detainers Act (18 USCS ... ALR Fed 155.

CASE NOTES

...ffective assistance of ... established where, ...-appointed counsel ...t investigation of ...aware of state's ...witnesses, in... trial rights, ...to the sen... examined ...ng nolo ...(1976)

Plea of nolo contendere was entered knowingly and intelligently where court thoroughly explained the meaning and consequences of such a plea; applicant could not claim that he believed nolo contendere to mean not guilty. Kibler v State (1976) 267 SC 250, 227 SE2d 199.

Defendant who voluntarily absented himself from term of court during which his misdemeanor charge was to be tried waived his right to be present

APPLY THE LAW PRECISELY AS THE COURT WILL STATE IT FOR YOU.

LADIES AND GENTLEMEN, YOU ARE TO FIND AND TO DETERMINE THE FACTS IN THIS CASE FROM THE TESTIMONY THAT YOU WILL HEAR FROM THIS WITNESS STAND ALONG WITH ANY OTHER EVIDENCE WHICH IS PROPERLY ADMITTED INTO THE RECORD OF THE CASE DURING THE TRIAL OF THE CASE. IT IS UP TO YOU AND YOU ALONE TO DETERMINE THE INFERENCES WHICH YOU FEEL MAY PROPERLY BE DRAWN FROM THE EVIDENCE. YOU MUST NOT CONSIDER ANYTHING YOU MAY HAVE READ OR HEARD ABOUT THIS CASE OUTSIDE OF THIS COURTROOM, WHETHER BEFORE OR DURING THE TRIAL OF THE CASE, AND UNTIL THIS CASE IS SUBMITTED TO YOU, LADIES AND GENTLEMEN, YOU MUST NOT DISCUSS IT WITH ANYONE, NOT EVEN WITH YOUR FELLOW JURORS. AFTER THIS CASE IS SUBMITTED TO YOU, YOU MUST DISCUSS IT ONLY IN YOUR JURYROOM WITH ALL OF YOUR FELLOW JURORS BEING PRESENT.

LADIES AND GENTLEMEN, IT IS VERY, VERY IMPORTANT THAT YOU KEEP AN OPEN MIND IN THIS CASE AND THAT YOU NOT DECIDE ANY ISSUE IN THIS CASE UNTIL THE ENTIRE CASE HAS BEEN SUBMITTED TO YOU UNDER THE INSTRUCTIONS FROM THIS COURT.

MADAM FORELADY, IT IS YOUR ADDED DUTY TO PRESIDE IN THE JURYROOM AND TO SERVE AS THE SPOKESPERSON FOR THE TRIAL JURY.

CHARGE AGAINST THE DEFENDANT, AND IT IS NOT IN ANY SENSE OF THE WORD EVIDENCE OF THE ALLEGATIONS WHICH IT CONTAINS. THE DEFENDANT, MS. TYLER, HAS PLED NOT GUILTY TO THIS INDICTMENT. THEREFORE, THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF THE INDICTMENT BEYOND A REASONABLE DOUBT.

THE PURPOSE OF THIS TRIAL, LADIES AND GENTLEMEN, IS TO DETERMINE WHETHER OR NOT THE STATE OF SOUTH CAROLINA HAS MET THAT BURDEN. YOUR PURPOSE AS JURORS IS TO FIND AND TO DETERMINE THE FACTS IN THIS CASE.

UNDER OUR SYSTEM OF CRIMINAL PROCEDURE, YOU, THE LADIES AND GENTLEMEN OF THE TRIAL JURY, ARE THE SOLE JUDGES OF THE FACTS IN THIS CASE. IF AT ANY TIME I SHOULD MAKE ANY COMMENT CONCERNING THE FACTS IN THIS CASE, YOU ARE AT LIBERTY TO DISREGARD IT.

LADIES AND GENTLEMEN, IT IS VERY, VERY IMPORTANT THAT YOU PERFORM YOUR DUTY OF FINDING AND DETERMINING THE FACTS IN THIS CASE BOTH DILIGENTLY AND CONSCIENTIOUSLY. FOR ORDINARILY, LADIES AND GENTLEMEN, THERE IS NO MEANS OF CORRECTING AN ERRONEOUS DETERMINATION OF FACT BY A TRIAL JURY.

ON THE OTHER HAND AND WITH EQUAL EMPHASIS, I CHARGE YOU THAT THE LAW AS GIVEN TO YOU BY THIS COURT CONSTITUTES THE ONLY LAW FOR YOUR GUIDANCE AND YOUR CONSIDERATION, AND IT IS YOUR SWORN DUTY TO ACCEPT AND

MS. JAMISON, THE COURT HEREBY APPOINTS YOU FOREPERSON OF THE TRIAL JURY. YOU SHALL ALWAYS OCCUPY THE FOREPERSON'S SEAT. THE TWO ALTERNATE JURORS WILL ALWAYS OCCUPY THE ALTERNATE SEATS. THE OTHER LADIES AND GENTLEMEN OF THE JURY MAY SIT ANYWHERE YOU LIKE WHEN WE RETURN FROM A BREAK OR RECESS.

MADAM CLERK, PLEASE ADMINISTER THE OATH.

(JURY SWORN AT THIS TIME.)

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, WHAT I WILL NOW SAY TO YOU IS INTENDED TO SERVE AS AN INTRODUCTION TO THE TRIAL OF THIS CASE. IT IS NOT A SUBSTITUTE FOR THE DETAILED INSTRUCTIONS ON THE LAW WHICH I WILL GIVE TO YOU AT THE CONCLUSION OF THE CASE AND BEFORE YOU RETIRE TO DELIBERATE YOUR VERDICT.

LADIES AND GENTLEMEN, THIS IS A CRIMINAL CASE COMMENCED BY THE STATE OF SOUTH CAROLINA, WHICH I SOMETIMES MAY REFER TO AS THE PROSECUTION, AGAINST THE DEFENDANT, MS. LINDA ANN TYLER, AND THIS CASE IS BASED UPON AN INDICTMENT WHICH THE ASSISTANT SOLICITOR WILL READ OR EXPLAIN TO YOU IN JUST A MOMENT, AFTER WHICH THE ATTORNEY FOR THE DEFENDANT WILL ALSO BE GIVEN AN OPPORTUNITY TO MAKE A SHORT OPENING STATEMENT ON HER BEHALF IF THEY SO DESIRE.

MADAM FORELADY AND LADIES AND GENTLEMEN, YOU SHOULD DISTINCTLY UNDERSTAND THAT THIS INDICTMENT IS SIMPLY A

AT 2:30. AFTER THE COURT GIVES A SHORT PRELIMINARY CHARGE, I WANT TO HAVE OPENING STATEMENTS. SO, IF THERE ARE ANY MOTIONS, I WANT TO DO THEM RIGHT NOW.

SO, ANYTHING FROM THE STATE? STATE'S READY TO OPEN. ANYTHING FROM THE DEFENDANT?

MS. BELL: NOTHING, YOUR HONOR.

THE COURT: DEFENDANT IS READY TO OPEN.

MS. HAYNES: I HAVE THE MEDICAL RECORDS FOR HER AS WELL.

THE COURT: WELL, PLEASE GIVE THOSE TO MS. BELL.

MS. BELL: THANK YOU.

THE COURT: ALL RIGHT. WE'RE IN RECESS UNTIL 2:30.

(COURT IN RECESS FOR LUNCH.)

(COURT RECONVENES.)

THE COURT: ALL RIGHT. IS THE STATE READY?

MS. HAYNES: YES, SIR, YOUR HONOR.

THE COURT: IS DEFENDANT READY?

MS. JOHNS: WE ARE, YOUR HONOR.

THE COURT: MR. BAILIFF, PLEASE BRING THE JURY IN. HAVE MS. JAMISON TAKE THE FOREPERSON'S CHAIR.

BAILIFF: YES, SIR.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. ALL RIGHT. LET THE RECORD REFLECT ALL THE JURORS ARE PRESENT.

SOLICITOR, YOU MAY OPEN.

MR. SORENSON: MAY IT PLEASE THE COURT, YOUR HONOR?

THE COURT: YES.

OPENING STATEMENT

BY MR. SORENSON

GOOD AFTERNOON, MADAM FORELADY AND LADIES AND GENTLEMEN OF THE JURY. SEPTEMBER THE 26TH OF 1996, APPROXIMATELY 10:00 A.M. IN THE MORNING, VAN TYLER, JR., WAS DRIVING HIS 1983 CHEVY CELEBRITY DOWN [redacted] STREET TOWARDS FIVE POINTS. HIS WIFE, MS. LINDA TYLER, WAS SEATED IN THE PASSENGER SEAT WITH HIM.

AS THEY APPROACHED [redacted] AND [redacted] STREET OVER BY THE RICHLAND COUNTY ADMINISTRATIVE BUILDING, MS. TYLER AT THAT TIME TOOK IT UPON HERSELF TO TAKE A PEPSI BOTTLE THAT SHE HAD FILLED WITH GASOLINE AND POURED IT OVER MR. TYLER'S HEAD, THEN TOOK A BIC LIGHTER AND LIT HIM ON FIRE, EXISTING THE VEHICLE UNHARMED, CLOSING THE DOOR TO LEAVE HIM BEHIND IN A BURNING VEHICLE.

THAT VEHICLE THEN ROLLED TO A STOP UP ON THE CURB RIGHT AT THE CORNER OF [redacted] AND [redacted] YOU ARE GOING TO HEAR TESTIMONY FROM WITNESSES, MR. MIKE MADAR AND MR. DOUGLAS BROWN, HAD TO PULL MR. TYLER ENGULFED IN FLAMES OUT OF THAT VEHICLE AFTER SHE HAD MADE THE STATEMENT INITIALLY THAT THERE WAS NO ONE IN THE VEHICLE, AND THEN FINALLY TOLD SOMEBODY, YES, MY HUSBAND IS STILL IN THERE.

YOU ARE GOING TO HEAR TESTIMONY, LADIES AND GENTLEMEN, THAT HE WAS TAKEN BY EMS TO RICHLAND MEMORIAL HOSPITAL AND FROM THERE WAS FLOWN TO THE AUGUSTA BURN CENTER IN AUGUSTA, GEORGIA, WHERE HE DIED THE NEXT DAY AS A RESULT OF THOSE INJURIES INFLICTED BY THAT LADY SEATED OVER THERE AT THE DEFENSE TABLE, MS. LINDA ANN TYLER.

LADIES AND GENTLEMEN, MY NAME IS DON SORENSEN, AND I REPRESENT THE STATE OF SOUTH CAROLINA. I WORK FOR THE FIFTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE, WHICH ENCOMPASSES RICHLAND AND KERSHAW COUNTY.

SEATED WITH ME AT THE STATE'S TABLE IS MS. STACEY HAYNES. SHE IS ALSO ASSISTANT SOLICITOR HERE IN RICHLAND COUNTY. IT IS OUR DUTY AND OUR ROLE AND OUR RESPONSIBILITY TO PRESENT THE FACTS TO YOU IN THIS CASE, TO PRESENT TO YOU THE WITNESSES THAT WERE OUT THERE ON THE SCENE, THE WITNESSES THAT COLLECTED THE EVIDENCE, THE WITNESSES THAT TALKED TO MS. LINDA TYLER AFTER THIS HAPPENED, THE DOCTORS WHO DEALT WITH MR. TYLER AFTER HE DIED IN DETERMINING WHAT THE CAUSE OF DEATH WAS TO MR. TYLER. THAT'S OUR ROLE. THAT'S OUR RESPONSIBILITY.

SEATED AT THE STATE'S TABLE NEXT TO MS. HAYNES IS MR. JOE GRAY, INVESTIGATOR JOE GRAY, WITH THE COLUMBIA POLICE DEPARTMENT. HE'S THE CHIEF INVESTIGATOR. IT'S HIS ROLE AS CHIEF INVESTIGATOR TO GATHER ALL THAT EVIDENCE UP AND PRESENT IT TO US SO WE CAN HOPEFULLY IN

ART. MALICE MEANS, ESSENTIALLY, A DEPRAVED HEART, A WICKED HEART WITH A PERSON DOING AN UNLAWFUL ACT TO ANOTHER PERSON.

YOUR HONOR, AT THE CLOSE OF THIS TRIAL, IS GOING TO CHARGE YOU ON THIS TERM ALONG WITH OTHER ELEMENTS OF MURDER AND A LOT OF OTHER LEGAL TERMS. KEEP THAT IN MIND, THE INTENTIONAL ACT BY MS. TYLER WITH THE INTENT TO DO SERIOUS BODILY HARM OR TO KILL VAN KILLER ON SEPTEMBER THE 26TH OF 1996. THAT'S WHAT MALICE MEANS.

AFORETHOUGHT JUST MEANS THAT THERE HAD TO BE PRESENT AT THE TIME THAT SHE POURED THAT GASOLINE ON HIM AND LIT THAT LIGHTER, AFORETHOUGHT. THE THOUGHT HAD TO BE AS OPPOSED TO AN AFTERTHOUGHT. IT HAD TO BE AFORETHOUGHT.

HIS HONOR IS GOING TO INSTRUCT YOU THAT THERE IS NO SPECIFIC TIME FRAME THAT IT HAD TO BE PRESENT SO LONG AS THE TIME THAT THE BLOW THAT TURNED OUT TO BE FATAL WAS STRUCK, IF MALICE WAS PRESENT AT THAT TIME, SUFFICIENT TO FIND MS. TYLER GUILTY OF THE CRIME OF MURDER.

AS I SAID EARLIER, THE STATE --- OUR ROLE IS TO PRESENT THAT EVIDENCE TO YOU, AND THE WAY WE'RE GOING TO DO THAT IS BY CALLING WITNESSES TO THE STAND, WITNESSES WHO EITHER SAW, HEARD OR DID SOMETHING THAT INVOLVED --- THAT WAS SOMEHOW INVOLVED IN THIS CASE. AND YOU AS THE JURY IN THIS CASE, YOU HAVE A ROLE TOO. YOUR ROLE IS --- YOU ARE THE FINDERS AND THE JUDGES OF THE FACTS. AND

RETURN PRESENT IT TO YOU IN AN ORDERLY AND ORGANIZED MANNER.

AS I STATED EARLIER, SEATED AT THE DEFENSE TABLE IS MS. LINDA ANN TYLER. SHE'S BEEN CHARGED WITH THE OFFENSE OF MURDER AS HIS HONOR TOLD YOU EARLIER.

WHAT I HAVE BEFORE ME HERE IS A COPY OF THE TRUE BILLED INDICTMENT IN THE CASE. WHAT AN INDICTMENT IS IS MERELY A CHARGING PAPER WHICH IS THE MEANS BY WHICH WE PUT MS. TAYLOR --- I MEAN, MS. TYLER, EXCUSE ME, AND HER ATTORNEYS ON NOTICE OF THE CHARGES AGAINST HER.

IN THIS INDICTMENT FOR MURDER, THE STATE ALLEGES THAT LINDA TYLER, ALSO KNOWN AS LINDA ANN SALLEY, DID IN RICHLAND COUNTY ON OR ABOUT SEPTEMBER 26TH OF 1996, FELONIOUSLY, WILLFULLY AND WITH MALICE AFORETHOUGHT KILL ONE, VAN TYLER, BY MEANS OF POURING A FLAMMABLE LIQUID ON MR. TYLER AND/OR IGNITING SUCH LIQUID SO AS TO SET MR. TYLER'S BODY ON FIRE, AND THAT THE SAID VICTIM DIED AS A PROXIMATE CAUSE THEREOF.

THE OTHER THING THAT THAT DOES IS ESSENTIALLY LAYING OUT THE ELEMENTS THAT THE STATE OF SOUTH CAROLINA HAS TO PROVE TO YOU BEFORE YOU CAN FIND MS. TYLER GUILTY OF THE CHARGE. ESSENTIALLY, WHAT MURDER BOILS DOWN TO IS THE UNLAWFUL KILLING OF ANOTHER HUMAN BEING WITH MALICE AFORETHOUGHT.

MALICE AFORETHOUGHT MEANS THAT IT IS A LEGAL TERM OF

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VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

LINDA ANN TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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ATTORNEYS FOR RESPONDENT

HAND THAT UP TO THE COURT. IT'S BEEN SERVED, BOTH, ON MS. TYLER AND HER DEFENSE COUNSEL.

THE COURT: WELL, THE TIME TO BRING THAT UP IS AT THE END OF THE TRIAL.

MS. BELL: I WAS GOING TO SUGGEST THAT, YOUR HONOR.

THE COURT: THAT'S OUT OF ORDER NOW. ALL RIGHT ANYTHING ELSE?

MS. HAYNES: I JUST WANTED TO BRING THAT TO THE COURT'S ATTENTION.

THE COURT: ALL RIGHT. ANY OTHER MOTIONS FROM THE STATE?

MS. HAYNES: I WAS GOING TO SAY AND ATTACHED TO THAT SAME MOTION WOULD BE HER PRIOR RECORD. DO WE WANT TO GO AHEAD AND SETTLE THAT NOW, OR DO YOU WANT TO SETTLE THAT LATER ON SHOULD SHE DECIDE TO TAKE THE STAND?

MS. BELL: YOUR HONOR, IF YOU WOULD RATHER DO IT NOW, MAYBE IT WOULD TAKE UP LESS TIME.

THE COURT: ALL RIGHT. GO AHEAD.

MS. HAYNES: HER PRIOR RECORD AS OUTLINED IN THAT NOTICE ---

THE COURT: DO YOU OBJECT TO ANY, MS. BELL?

MS. BELL: YES, SIR.

THE COURT: WHICH ONES?

MS. BELL: ASSAULT AND BATTERY WITH INTENT TO KILL.

THE COURT: WAIT A MINUTE. ALL RIGHT.

COURT FURTHER FINDS THAT IT IS PROVED BY THE GREATER WEIGHT OR THE PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT KNOWINGLY AND INTELLIGENTLY WAIVED HER RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTIONAL SAFEGUARDS REQUIRED BY MIRANDA V. ARIZONA, AND THAT THE ALLEGED INCRIMINATING STATEMENT WAS OBTAINED FROM THE DEFENDANT FREELY AND VOLUNTARILY, GIVEN WITHOUT DURESS, COERCION, WITHOUT UNDUE INFLUENCE OR PROMISE OF REWARD OR HOPE OF REWARD AND WITHOUT ANY LENIENCY OR THREATS OF INJURY, WITHOUT ANY COMPULSION OR INDUCEMENT OF ANY KIND, AND THAT SAID INCRIMINATING STATEMENT WAS A VOLUNTARY PRODUCT OF THE FREE AND UNCONSTRAINED WILL OF THE DEFENDANT.

FOR ALL OF THE FOREGOING REASONS, THE COURT FINDS THAT THE INCRIMINATING STATEMENT IS ADMISSIBLE. STATE'S EXHIBITS ONE AND TWO ADMITTED OVER OBJECTION.

(STATE'S EXHIBITS ONE AND TWO MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE STATE?

MS. HAYNES: YES, YOUR HONOR. WE NOTICED THE INTENTION TO SEEK THE SENTENCE OF LIFE WITHOUT PAROLE SHOULD MS. TYLER BE CONVICTED IN THIS TRIAL ON NOVEMBER 17, 1997, RELYING UPON HER PRIOR CONVICTIONS FOR ASSAULT AND BATTERY WITH INTENT TO KILL AND ARMED ROBBERY, AND I

THAT THE RECORD IS CLEAR THAT WE DID TELL HER THAT WE WOULD GIVE HER THE OPPORTUNITY TO BRING IT BEFORE THE COURT AND ASK THE COURT TO RULE ON ALL THESE MOTIONS.

THE COURT: CERTAINLY. AS YOU KNOW, THERE IS NO PRECEDENT FOR THIS. IN THE STATE, I KNOW OF NO CASE THAT ALLOWS THE ADMINISTERING OF TRUTH SERUM OR HYPNOSIS OF ANY SUCH PROCEDURE YOU CAN RECITE. I DENY HER MOTION. THANK YOU.

ANYTHING FURTHER FROM THE DEFENDANT?

MS. BELL: YOUR HONOR, AT THIS TIME, JUST AS A PRECAUTIONARY MEASURE, WE WOULD RENEW OUR RULE FIVE MOTION.

THE COURT: HAVE YOU NOT PROVIDED THEM EVERYTHING, SOLICITOR?

MS. HAYNES: EVERYTHING EXCEPT THE SLED RECORD WE JUST GOT THIS MORNING. I'M GOING TO SHOW IT TO HER AS SOON AS WE FINISH.

THE COURT: ALL RIGHT. SHOW THEM TO HER. WE'RE GOING TO DRAW A JURY.

MS. BELL: YOUR HONOR, WE DID HAVE A MOTION IN LIMINE. I DON'T KNOW IF THE STATE PLANS ON INTRODUCING CERTAIN PHOTOGRAPHS. WE WOULD CERTAINLY OBJECT TO CERTAIN PHOTOGRAPHS IN THE CASE.

MS. HAYNES: WE WOULD NOT BE SEEKING TO INTRODUCE PHOTOGRAPHS, UNLESS AS THEY INFORMED US FRIDAY AFTERNOON

AT FOUR O'CLOCK, THEY CONTEND THAT THEIR DEFENSE IS THAT THE AUGUSTA BURN CENTER IS THE REASON THE DEFENDANT DIED IN THIS CASE AND NOT BECAUSE OF THE EXTENT OF HIS INJURIES. IF THEY GO THAT ROUTE ---

THE COURT: WELL, YOU CAN'T GET PRELIMINARY RULINGS ON EVERYTHING. MAKE THE MOTIONS AT THE APPROPRIATE TIME, AND I'LL RULE ON THEM.

MS. BELL: YES, SIR.

THE COURT: WE'RE GETTING WAY AHEAD OF OURSELVES.

MS. BELL: YES, SIR.

THE COURT: ANYTHING FURTHER? BRING US A JURY, MADAM CLERK. ALL RIGHT. ANY REQUESTS BEFORE WE DRAW FROM THE STATE OR THE DEFENDANT? IF SO, PASS THEM UP.

WE NEED AT LEAST 30 OR 35. ALL RIGHT. I'M GOING TO STEP INTO MY CHAMBERS.

(SHORT BREAK AT THIS TIME.)

(COURT RECONVENES.)

THE COURT: LADIES AND GENTLEMEN OF THE PETIT JURY PANEL, PLEASE GIVE ME YOUR ATTENTION. WE'RE ABOUT TO COMMENCE THE TRIAL OF THE CASE ENTITLED THE STATE OF SOUTH CAROLINA VERSUS LINDA ANN TYLER, ALSO KNOWN AS LINDA ANN SALLEY, CHARGED IN THIS BILL OF INDICTMENT WITH THE OFFENSE KNOWN IN LAW AS MURDER.

THE DEFENDANT, MS. TYLER, IS REPRESENTED BY MS. BELL OF THE PUBLIC DEFENDER'S OFFICE AND MS. JOHNS OF THE

RICHLAND COUNTY BAR.

LADIES, PLEASE HAVE MS. TYLER STAND AND FACE THE LADIES AND GENTLEMEN OF THE PETIT JURY PANEL. THANK YOU VERY, VERY MUCH. YOU MAY BE SEATED. THANK YOU.

LADIES AND GENTLEMEN OF THE PETIT JURY PANEL, AT THIS TIME, THE COURT NOW ADDRESSES THE FOLLOWING QUESTIONS TO EACH AND EVERY ONE OF YOU:

ARE ANY MEMBERS OF THE PETIT JURY PANEL RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH THE DEFENDANT, MS. LINDA ANN TYLER? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: ARE ANY MEMBERS OF THE PETIT JURY PANEL RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH THE ALLEGED VICTIM IN THIS CASE, MR. VAN TYLER? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: ARE ANY MEMBERS OF THE PETIT JURY PANEL RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH ANY OF THE POTENTIAL WITNESSES FOR THE STATE OF SOUTH CAROLINA, WHICH INCLUDES BUT ARE NOT LIMITED TO THE FOLLOWING PERSONS. IF THESE PERSONS ARE IN THE COURTROOM WHEN I READ YOUR NAME, PLEASE STAND AND REMAIN STANDING.

JOE GRAY, ALEX LAYTON, CAROLYN HARRIS, RICK SEEL, CONNIE McKAY, DR. RONALD BURNS, SANDRA THOMAS, MIKE MADAR, JAMES COKER, DOUGLAS BROWN, LUCIUS MOULTRIE, JAMES

POTASH, JOHN REICH, DANA DEHART, DR. THOMAS BEHRMANN, SHARON WALKER, LOIS MALINSKI, RANDY MARTIN?

ANYONE RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH ANY OF THOSE POTENTIAL WITNESSES? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: HAVE ANY MEMBERS OF THE PETIT JURY PANEL FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT, MS. LINDA ANN TYLER? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: ARE ANY MEMBERS OF THE PETIT JURY PANEL CONSCIOUS OF ANY INTEREST, ANY BIAS, OR ANY PREJUDICE FOR OR AGAINST THE DEFENDANT, MS. LINDA ANN TYLER? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: CAN EACH AND EVERY MEMBER OF THE PETIT JURY PANEL GIVE BOTH THE DEFENDANT, MS. LINDA ANN TYLER, AND THE STATE OF SOUTH CAROLINA A FAIR AND IMPARTIAL TRIAL? IF NOT, PLEASE STAND.

(NO RESPONSE.)

THE COURT: IS ANY MEMBER OF THE PETIT JURY PANEL RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH ANY MEMBER OF ANY LAW ENFORCEMENT AGENCY, INCLUDING THE FIFTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE OR WITH ANY OF THE

ATTORNEYS INVOLVED IN THE TRIAL OF THIS CASE? IF SO, PLEASE STAND.

(NO RESPONSE.)

THE COURT: HAVE ANY MEMBERS OF THE PETIT JURY PANEL OR MEMBERS OF YOUR IMMEDIATE HOUSEHOLD EVERY BEEN EMPLOYED BY ANY CIVILIAN OR MILITARY LAW ENFORCEMENT AGENCY? IF SO, PLEASE STAND.]

YES, SIR, YOUR NAME?

JUROR: GORDON ERNST.

THE COURT: ERNST, MR. ERNST. YOU WERE ---

JUROR: I WAS EMPLOYED AS A CIVILIAN POLICE AND A MILITARY POLICE.

THE COURT: WERE YOU IN THE ARMY?

JUROR: YES, SIR.

THE COURT: WHEN WERE YOU WITH THE MPs?

JUROR: IN 1985 AND 1997.

THE COURT: AND SINCE THEN, YOU HAVE BEEN EMPLOYED WITH A CIVILIAN ---

JUROR: CIVILIAN WAS BEFORE THAT.

THE COURT: WHERE WAS THAT?

JUROR: OHIO.

THE COURT: WHICH POLICE AGENCY?

JUROR: COUNTY SHERIFF'S DEPARTMENT AND POLICE DEPARTMENT.

THE COURT: DESPITE THAT FACT, DO YOU BELIEVE YOU

COULD GIVE THE STATE OF SOUTH CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

JUROR: I COULD.

THE COURT: THANK YOU. I FIND THE JUROR QUALIFIED. THANK YOU, SIR.

IS ANY MEMBER OF THE PETIT JURY PANEL A MEMBER OR CONTRIBUTOR TO ANY VICTIM RIGHT'S GROUPS, SUCH AS THE RAPE CRISIS NETWORK, SISTERCARE, THE MEN'S RESOURCE CENTER, OR ANY OTHER GROUPS PERTAINING TO DOMESTIC VIOLENCE? IF SO, PLEASE STAND.

YES, MA'AM, YOUR NAME?

JUROR: SHIRLEY FURTICK.

THE COURT: FURTICK. WHICH ORGANIZATION ARE YOU A MEMBER OR CONTRIBUTOR TO?

JUROR: I CONTRIBUTE TO RAPE CRISIS.

THE COURT: DESPITE THAT FACT, DO YOU BELIEVE YOU CAN GIVE THE STATE OF SOUTH CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

JUROR: YES. MAY I ALSO ADD THAT I WORK FOR THE DEPARTMENT OF MENTAL HEALTH IN FORENSIC SERVICES, AND I KNOW DR. BEHRMANN.

THE COURT: HOW ARE YOU EMPLOYED THERE, MA'AM?

JUROR: I AM THE COUNTY --- JAILS AND COMMUNITY MENTAL HEALTH.

THE COURT: HAVE YOU BEEN INVOLVED IN THIS CASE IN

ANY MANNER WHATSOEVER TO YOUR KNOWLEDGE?

JUROR: NO.

THE COURT: ALL RIGHT. I FIND THE JUROR QUALIFIED. THANK YOU. PLEASE HAVE A SEAT.

HAS ANY MEMBER OF THE JURY PANEL READ OR HEARD ANYTHING ABOUT THIS CASE EITHER TODAY OR BEFORE TODAY? THIS CASE INVOLVES THE ALLEGED MURDER OF THE VICTIM, MR. TYLER, BY THE ALLEGED USE OF GASOLINE. IS THAT CORRECT, MS. BELL AND MADAM SOLICITOR?

MS. BELL: YES, SIR.

THE COURT: ANYONE READ OR HEARD ANYTHING ABOUT THIS CASE BEFORE TODAY? IF SO, PLEASE STAND.

YES, MA'AM, YOUR NAME?

JUROR: CHARLIE MAE GUNN.

JUROR: MARTHA DENKA.

THE COURT: LADIES, WOULD THIS INFORMATION EFFECT YOUR ABILITY TO SIT AS FAIR AND IMPARTIAL JURORS IN THE TRIAL OF THIS CASE?

JUROR: NO.

JUROR: NO.

THE COURT: THANK YOU. I FIND THE JURORS QUALIFIED.

HAVE ANY MEMBERS OF THE PETIT JURY PANEL OR MEMBERS OF YOUR IMMEDIATE FAMILY EVER BEEN THE VICTIM OF A HOMICIDE OR AGGRAVATED ASSAULT AND BATTERY OR CRIMINAL DOMESTIC VIOLENCE? IF SO, PLEASE STAND.

JUROR: MY MOTHER WAS MURDERED?

THE COURT: YOUR NAME, MA'AM?

JUROR: DONNA SMITH.

THE COURT: MS. SMITH, DESPITE THAT FACT, DO YOU BELIEVE YOU COULD GIVE THE STATE OF SOUTH CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

JUROR: YES.

THE COURT: THANK YOU, VERY MUCH. I FIND THE JUROR QUALIFIED.

YES, SIR, YOUR NAME?

JUROR: ISAAC GANTT.

THE COURT: MR. GANTT?

JUROR: MY BROTHER WAS MURDERED.

THE COURT: DESPITE THAT FACT, MR. GANTT, DO YOU BELIEVE YOU COULD GIVE THE STATE OF SOUTH CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

JUROR: YES, SIR.

THE COURT: THANK YOU, SIR. I FIND THE JUROR QUALIFIED. THANK YOU.

DOES ANY MEMBER OF THE PETIT JUROR PANEL SUBSCRIBE TO ANY PERSONAL OR RELIGIOUS BELIEF WHICH WOULD PROHIBIT YOU FROM KEEPING AN OPEN MIND REGARDING THE MUSLIM FAITH? IF SO, PLEASE STAND?

(NO RESPONSE.)

THE COURT: ANYTHING FURTHER FROM THE STATE?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: FROM THE DEFENDANT?

MS. BELL: NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT. GIVE US A JURY.

(A JURY OF TWELVE AND TWO ALTERNATES WERE SELECTED AT THIS TIME.)

THE COURT: ALL RIGHT. ANYTHING FROM THE STATE OR THE DEFENDANT IN REGARD TO THE SELECTION OF THE TRIAL JURY FROM THE STATE?

MS. HAYNES: BEG THE COURT'S INDULGENCE ONE MOMENT. NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: THANK YOU. FROM THE DEFENDANT?

MS. BELL: NOTHING FROM THE DEFENDANT, YOUR HONOR.

THE COURT: THANK YOU. LADIES AND GENTLEMEN OF THE PETIT JURY PANEL, SINCE YOU WERE NOT FORTUNATE ENOUGH TO HAVE BEEN SELECTED TO SERVE ON THIS PARTICULAR JURY, I'M GOING TO ASK THAT YOU RETURN TO YOUR JURY ASSEMBLY ROOM WHERE YOU WILL RECEIVE FURTHER INSTRUCTIONS. THANK YOU VERY MUCH.

LADIES AND GENTLEMEN OF THE TRIAL JURY, PLEASE GIVE ME YOUR ATTENTION. WE RAN A LITTLE PAST OUR NORMAL LUNCH HOUR. THEREFORE, WE ARE GOING TO RECESS AT THIS TIME FOR LUNCH.

WHILE YOU ARE AWAY, PLEASE DO NOT DISCUSS THIS CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS THE CASE WITH YOU.

IF ANYONE SHOULD APPROACH YOU AND ATTEMPT TO DISCUSS THE CASE WITH YOU, PLEASE ADVISE THAT PERSON THAT YOU'RE SERVING ON THE JURY, AND YOU CANNOT AND WILL NOT DISCUSS THE CASE WITH THEM. IF THAT PERSON SHOULD PERSIST IN THEIR EFFORTS TO CONTINUE TO ATTEMPT TO CONTINUE DISCUSSING THE CASE WITH YOU, PLEASE TAKE THAT PERSON'S NAME, WRITE IT DOWN, AND WHEN YOU RETURN TO YOUR JURYROOM THIS AFTERNOON, REPORT THAT TO YOUR BAILIFF WHO WILL BE STATIONED OUTSIDE OF YOUR DOOR, AND I ASSURE YOU WE WILL TAKE CARE OF THAT MATTER RIGHT AWAY.

NOW, LADIES AND GENTLEMEN, PLEASE BE BACK IN YOUR SEAT AT 2:30 --- EXCUSE ME, NOT IN YOUR SEAT, IN THE JURYROOM --- THE JURYROOM. WHEN I EXCUSE YOU IN JUST A MOMENT, THE BAILIFF WILL TAKE YOU TO A JURYROOM AND SHOW YOU WHERE YOU ARE TO REPORT. YOU ARE TO COME UP HERE TO THIS JURYROOM, NOT DOWNSTAIRS BUT UP HERE. PLEASE BE ON TIME, LADIES AND GENTLEMEN. WE CAN'T START WITHOUT ALL 14 OF YOU. YOU NOT ONLY INCONVENIENCE THE COURT IF YOU'RE LATE, YOU INCONVENIENCE EVERY ONE OF YOUR FELLOW JURORS. PLEASE TRY TO BE AS CONSIDERATE OF THEM AS YOU CERTAINLY WANT THEM TO BE OF YOU. THANK YOU VERY MUCH. HAVE A NICE LUNCH.

(JURY LEAVES FOR LUNCH.)

THE COURT: ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT? NOW, I WANT TO BE PREPARED WHEN WE COME BACK

YOU OBJECT TO USING THOSE?

MS. BELL: YES, SIR.

THE COURT: ON WHAT GROUND? WAIT A MINUTE. ASSAULT AND BATTERY OF WHAT?

MS. BELL: WITH INTENT TO KILL.

THE COURT: ALL RIGHT. WHAT'S THE DATE OF THE CONVICTION?

MS. BELL: THE DATE OF THE CONVICTION IS 1977 WAS THE YEAR.

THE COURT: ALL RIGHT. WHAT'S THE OTHER ONE --- ARMED ROBBERY?

MS. BELL: AND THAT'S ALSO A CONVICTION IN 1977.

THE COURT: ALL RIGHT, SOLICITOR?

MS. HAYNES: I BELIEVE THAT THE CASE LAW IS TEN YEARS OR DATE OF RELEASE, AND WE OBTAINED RECORDS FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS WHICH HAVE BEEN PROVIDED TO MS. BELL THAT SHE WAS IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FROM JANUARY, 1977 --- SHE WAS PAROLED AT SOME POINT, AND I BELIEVE IN 1985 --- BUT THEN HER PAROLE WAS REVOKED, AND SHE WENT BACK AND SERVED UNTIL OCTOBER OF 1992. SHE WAS NEVER RELEASED FROM THE CUSTODY OF THEM UNTIL 1992. THEREFORE, IT WOULD COME WITHIN THE TEN YEAR RANGE UNDER THE RULES ON BOTH THOSE CHARGES, YOUR HONOR.

THE COURT: ALL RIGHT, MS. BELL?

MS. BELL: THANK YOU, YOUR HONOR, MAY IT PLEASE THE COURT?

THE COURT: ISN'T THAT THE RULE UNDER THE RULES OF EVIDENCE THAT WE'RE OPERATING UNDER NOW, TEN YEARS FROM RELEASE?

MS. BELL: YOUR HONOR, THAT WOULD PUT IT WITHIN THE RULES, BUT OUR ARGUMENT, ONE, TO THE COURT WOULD BE THAT, CERTAINLY, IF THAT DETERMINATION IS MADE THAT PRELIMINARILY IT CAN COME IN, IT'S STILL ULTIMATELY UNDER YOUR DISCRETION AS TO WHETHER OR NOT SUCH EVIDENCE BROUGHT OUT WOULD BE ---

THE COURT: TOO PREJUDICIAL?

MS. BELL: RIGHT. UNDER 403 ANALYSIS, YOUR HONOR, NUMBER ONE, WE WOULD SAY THAT CERTAINLY UNDER 403, BASED ON THE FACT THAT SHE WAS 17 YEARS OLD IN 1977 WHEN SHE PLED GUILTY TO THESE OFFENSES, TWENTY YEARS FROM TODAY'S DATE. SO, FOR THAT REASON, WE WOULD SAY THAT ---

THE COURT: IS THERE ANY OTHER PRIOR RECORD?

MS. BELL: THERE IS SOME OTHER MORE RECENT PRIOR RECORDS, YOUR HONOR.

THE COURT: WHY DO YOU WANT TO USE IT, SOLICITOR, IN REGARD TO IMPEACHMENT?

MS. HAYNES: YES, SIR, YOUR HONOR. SHE HAS THAT AS FAR AS PRIOR RECORD --- THE ARMED ROBBERY. SHE ALSO HAS A POSSESSION WITH INTENT TO DISTRIBUTE NARCOTICS.

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PREPONDERANCE OF THE EVIDENCE, BUT IF THERE IS A REASONABLE DOUBT AS TO WHETHER SUCH DEFENSE HAS BEEN ESTABLISHED, THE DEFENDANT IS ENTITLED TO THE BENEFIT OF SUCH REASONABLE DOUBT.

I CHARGE YOU THE DEFENSE OF INSANITY DOES NOT IMPORT AN ADMISSION OF THE ACT WHICH IS CHARGED AND WHICH MUST BE PROVED BY THE STATE OF SOUTH CAROLINA AS ALLEGED BEYOND A REASONABLE DOUBT. NOTWITHSTANDING ANY AFFIRMATIVE DEFENSE THAT THE DEFENDANT MAY HAVE PLED OR RELIED UPON, THE STATE OF SOUTH CAROLINA MUST MAKE OUT EVERY MATERIAL ELEMENT IN THE CASE OF THE OFFENSE CHARGED BEYOND A REASONABLE DOUBT. IF UPON THE TESTIMONY ARISING FROM THE WHOLE CASE YOU HAVE A REASONABLE DOUBT AS TO THE GUILT OF THE DEFENDANT, IN THAT EVENT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

TEMPORARY INSANITY HAS BEEN DEFINED AS LASTING FOR A TIME ONLY, EXISTING OR CONTINUING FOR A LIMITED TIME, NOT PERMANENT. I CHARGE YOU THE LAW DOES NOT REQUIRE THAT THE INSANITY RELIED ON AS A DEFENSE SHALL HAVE EXISTED FOR ANY DEFINITE PERIOD BUT ONLY THAT IT SHALL HAVE EXISTED AT THE PRECISE MOMENT WHEN THE ACT OCCURRED WITH WHICH THE DEFENDANT STANDS CHARGED. I CHARGE YOU TEMPORARY INSANITY MAY BE A COMPLETE DEFENSE.

IF ONE PLEADS INSANITY AS A DEFENSE, THE BURDEN IS UPON HIM OR HER TO PROVE BY THE GREATER WEIGHT OR THE

ALLEGED ACT DID THE DEFENDANT HAVE MENTAL CAPACITY SUFFICIENT TO DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG AND RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR LEGALLY WRONG. IF SO, HE OR SHE WOULD BE MENTALLY RESPONSIBLE. OTHERWISE, THEY WOULD NOT. IN ORDER TO RELIEVE HIMSELF FROM RESPONSIBILITY FOR A CRIMINAL ACT BY REASON OF MENTAL UNSOUNDNESS, A DEFENDANT MUST SHOW THAT BECAUSE OF MENTAL DISEASE OR DERANGEMENT OR A GENERAL MENTAL INCAPACITY AT THE TIME OF THE ACT HE OR SHE DID NOT KNOW THAT THE ACT OR ACTS HE OR SHE COMMITTED WERE WRONG OR CRIMINAL OR PUNISHABLE, NOTWITHSTANDING THAT HIS OR HER MIND MAY BE DISEASED, IF THE DEFENDANT IS STILL CAPABLE OF FORMING A CORRECT JUDGMENT AS TO THE NATURE OF THE ACT AS TO IT BEING MORALLY OR LEGALLY WRONG, HE OR SHE IS STILL RESPONSIBLE FOR HIS OR HER ACT AND PUNISHABLE AS IF NO MENTAL DISEASE EXISTED AT ALL. IT IS NOT SIMPLY THE POWER TO DISTINGUISH RIGHT FROM WRONG IN THE ACT OR ACTS. WHEN THE POWER TO RECOGNIZE THAT THE ACT COMPLAINED OF IS EITHER MORALLY OR LEGALLY WRONG EXISTS IN A DEFENDANT, HE OR SHE MUST ANSWER FOR THEIR ACTS. THE LAW PRESUMES EVERY PERSON TO BE SANE. THUS, THE BURDEN OF ESTABLISHING THE SANITY OF THE ACCUSED IS NEVER ON THE STATE OF SOUTH CAROLINA. INSANITY, HOWEVER, IS AN AFFIRMATIVE DEFENSE AND MUST BE ESTABLISHED BY THE

CAROLINA MUST PROVE CRIMINAL INTENT AS IT MUST PROVE EVERY OTHER ELEMENT OF THE OFFENSE CHARGED BEYOND A REASONABLE DOUBT.

NOW, MADAM FORELADY, LADIES AND GENTLEMEN, THE DEFENDANT IN THIS CASE HAS PLEADED THE DEFENSE OF LEGAL INSANITY. SINCE INTENT IS AN ESSENTIAL INGREDIENT OF THE CRIME CHARGED, ONE WHO IS SO INSANE OR MENTALLY UNSOUND AS TO BE INCAPABLE OF ENTERTAINING A CRIMINAL INTENT CANNOT BE GUILTY OF A CRIME OR HELD CRIMINALLY RESPONSIBLE FOR HIS OR HER ACTS. HENCE, INSANITY IS A COMPLETE DEFENSE AND NOT MERELY A MITIGATING CIRCUMSTANCE.

I WILL NOW READ TO YOU SECTION 17-24-10, A AND B OF THE 1976 CODE OF LAWS OF SOUTH CAROLINA WHICH READS IN PERTINENT PART AS FOLLOWS: "IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION FOR A CRIME THAT AT THE TIME OF THE COMMISSION OF THE ACT CONSTITUTING THE OFFENSE THE DEFENDANT AS A RESULT OF MENTAL DISEASE OR DEFECT LACK THE CAPACITY TO DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG OR TO RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR LEGALLY WRONG. THE DEFENDANT HAS THE BURDEN OF PROVING THE DEFENSE OF INSANITY BY A PREPONDERANCE OF THE EVIDENCE.

I CHARGE YOU UNDER THE LAW OF THE STATE OF SOUTH CAROLINA THE TEST FOR INSANITY IS AT THE TIME OF THE

NATURE, THE JURY MUST BE SATISFIED BEYOND A REASONABLE DOUBT THAT IF THE PERSON ASSAULTED HAD DIED AS A RESULT OF THE INJURY INFLICTED UPON HIM BY THE DEFENDANT, THE DEFENDANT WOULD HAVE BEEN GUILTY OF VOLUNTARY MANSLAUGHTER.

CRIMINAL INTENT. I CHARGE YOU CRIMINAL INTENT IS A NECESSARY ELEMENT OF EACH CRIME CHARGED AND MUST BE PROVED BY THE STATE OF SOUTH CAROLINA BEYOND A REASONABLE DOUBT. I CHARGE YOU CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE CIRCUMSTANCES SURROUNDING THE SITUATION. THERE IS NO WAY, LADIES AND GENTLEMEN, THAT MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND DETERMINE WHAT HE OR SHE HAD IN MIND. SO, THE LAW STATES THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW THE JURY MAKES A DETERMINATION OF WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT.

I CHARGE YOU, MADAM FORELADY AND LADIES AND GENTLEMEN, CRIMINAL INTENT IS A STATE OF MIND THAT OPERATES JOINTLY WITH AN ACT IN THE COMMISSION OF A CRIME. I CHARGE YOU CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS WRONGDOING. SO, IT IS UP TO YOU, THE LADIES AND GENTLEMEN OF THE JURY, TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. I CHARGE YOU THAT THE STATE OF SOUTH

REASONABLE DOUBT THAT THE DEFENDANT WOULD HAVE BEEN GUILTY OF MURDER HAD THE PERSON ASSAULTED HAD DIED AS A RESULT OF THE INJURY INFLICTED BY THE DEFENDANT, THEN THE DEFENDANT WOULD NOT BE GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL, AND YOU WOULD HAVE TO CONSIDER THE LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

I AM NOW GOING TO DEFINE FOR YOU THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. I CHARGE YOU THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IS DEFINED AS AN UNLAWFUL ACT OF VIOLENT INJURY TO THE PERSON OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION. THE USE OF A DEADLY OR DANGEROUS WEAPON OR THE INFLICTION OF SERIOUS BODILY HARM ARE RECOGNIZED AS CIRCUMSTANCES OF AGGRAVATION. I CHARGE YOU ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IS AN ASSAULT AND BATTERY COMMITTED WITH A DEADLY WEAPON OR DANGEROUS INSTRUMENTALITY WITHOUT MALICE BUT IN A SPIRIT OF WANTONNESS AND WITH A RECKLESS DISREGARD FOR THE RIGHTS AND SAFETY OF OTHERS.

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, LADIES AND GENTLEMEN, CONTAINS ALL OF THE ELEMENTS OF VOLUNTARY MANSLAUGHTER EXCEPT THE ACTUAL DEATH OF THE PERSON ASSAULTED. SO, BEFORE A DEFENDANT COULD BE FOUND GUILTY OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED

THE PERSON OF ANOTHER ACCOMPANIED WITH MALICE AFORETHOUGHT. I CHARGE YOU, MADAM FORELADY AND LADIES AND GENTLEMEN, ASSAULT AND BATTERY WITH INTENT TO KILL CONTAINS ALL OF THE ELEMENTS OF MURDER EXCEPT THE ACTUAL DEATH OF THE PERSON ASSAULTED. SO, BEFORE THE DEFENDANT CAN BE CONVICTED OF ASSAULT AND BATTERY WITH INTENT TO KILL, THE JURY WOULD HAVE TO BE SATISFIED BEYOND A REASONABLE DOUBT THAT IF THE VICTIM OR PERSON ASSAULTED HAD DIED AS A RESULT OF THE INJURIES INFLICTED BY THE DEFENDANT THEN THE DEFENDANT WOULD HAVE BEEN GUILTY OF THE OFFENSE OF MURDER.

NOW, LADIES AND GENTLEMEN, BEFORE THE DEFENDANT CAN BE CONVICTED AND FOUND GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL, THE JURY MUST BE SATISFIED BEYOND A REASONABLE DOUBT ONCE AGAIN THAT IF THE PARTY ASSAULTED HAD DIED AS A RESULT OF THE INJURIES INFLICTED UPON HIM BY THE DEFENDANT, THEN THE DEFENDANT WOULD HAVE BEEN GUILTY OF THE CRIME OF MURDER. THEREFORE, ASK YOURSELF THIS QUESTION. IF THE PERSON ASSAULTED HAD DIED AS A RESULT OF THE INJURY INFLICTED BY THE DEFENDANT, WOULD THE DEFENDANT HAVE BEEN GUILTY OF MURDER? IF YOUR ANSWER TO THIS QUESTION IS YES, THE DEFENDANT IS GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL.

IF YOU SHOULD CONCLUDE THAT THE STATE OF SOUTH CAROLINA HAS FAILED TO PROVE TO THE JURY BEYOND A

INCLUDING THE OFFENSES OF ASSAULT AND BATTERY WITH INTENT TO KILL OR THE OTHER LESSER INCLUDED OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

WHAT IS AN ASSAULT? I CHARGE YOU AN ASSAULT IS THE UNLAWFUL ATTEMPT TO OFFER WITH FORCE OR VIOLENCE TO DO CORPORAL HURT OR INJURY TO THE PERSON OF ANOTHER WHERE THERE IS THE PRESENT ABILITY TO COMPLETE THE ATTEMPT TO OFFER BY A BATTERY.

WHAT IS A BATTERY? I CHARGE YOU A BATTERY IS THE UNLAWFUL TOUCHING OF THE PERSON OF ANOTHER BY THE PARTY COMMITTING THE ASSAULT HIMSELF OR BY ANY OBJECT PUT IN MOTION BY THE PARTY COMMITTING THE ASSAULT. I CHARGE YOU A BATTERY MAY BE FURTHER DEFINED AS THE CARRYING INTO AFFECT OF AN ASSAULT BY USING OR APPLYING FORCE TO THE PERSON OF ANOTHER, HOWEVER SLIGHT IN A RUDE, ANGRY OR RESENTFUL MANNER WITHOUT LEGAL JUSTIFICATION.

I CHARGE YOU THE MOST SERIOUS OFFENSE OF ASSAULT AND BATTERY IS ASSAULT AND BATTERY WITH INTENT TO KILL WHICH IS DEFINED AS AN UNLAWFUL ACT OF VIOLENT INJURY TO THE PERSON OF ANOTHER ACCOMPANIED WITH MALICE AFORETHOUGHT. I AM NOW GOING TO DEFINE FOR YOU THE TWO OFFENSES, ASSAULT AND BATTERY WITH INTENT TO KILL AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

I CHARGE YOU AN ASSAULT AND BATTERY WITH INTENT TO KILL IS DEFINED AS AN UNLAWFUL ACT OF VIOLENT INJURY TO

LIABILITY.

I CHARGE YOU NEGLIGENCE IS THE FAILURE TO EXERCISE DUE CARE. IT IS A FAILURE TO CONFORM TO THE STANDARD OF WHAT A REASONABLY PRUDENT PERSON WOULD HAVE DONE UNDER THE SAME OR SIMILAR CIRCUMSTANCES. I CHARGE YOU GROSS NEGLIGENCE IS THE FAILURE TO EXERCISE SLIGHT CARE. IT IS THE INTENTIONAL, CONSCIOUS FAILURE TO DO SOMETHING WHICH IT IS INCUMBENT UPON ONE TO DO. I CHARGE YOU AN EFFICIENT INTERVENING CAUSE IS ONE THAT IS INDEPENDENT OF THE WRONGFUL ACT OR OMISSION WHICH IS ADEQUATE TO BRING ABOUT THE INJURIOUS RESULT AND WHICH WAS NOT REASONABLY FORESEEABLE BY THE ORIGINAL WRONGDOER.

I CHARGE YOU ONLY AN INTERVENING ACT WHICH BREAKS THE CAUSABLE CHAIN AND BECOMES THE PROXIMATE CAUSE OF THE HARM WILL BREAK THE CAUSABLE CHAIN. I CHARGE YOU THAT INADEQUATE MEDICAL TREATMENT MAY OR NOT BE A SUFFICIENT INTERVENING CAUSE TO SEVER THE CAUSAL LINK BETWEEN THE DEFENDANT'S ALLEGED WRONGFUL ACT AND THE VICTIM'S DEATH.

I CHARGE YOU THE SIMPLE NEGLIGENCE OF MEDICAL PERSONNEL WILL NOT BREAK THE CAUSAL LINK, BUT GROSS NEGLIGENCE WILL BREAK THE CAUSAL LINK. I CHARGE YOU IF THE CAUSAL LINK BETWEEN THE DEFENDANT'S ACT AND THE VICTIM'S DEATH IS BROKEN SO THAT SHE MAY NOT BE CONVICTED OF MURDER OR VOLUNTARY MANSLAUGHTER, THE DEFENDANT MAY STILL BE CONVICTED OF SOME LESSER INCLUDED OFFENSE,

HAPPENED UNTIL THE DEATH.

I CHARGE YOU IF THE VICTIM WAS PROPERLY DIAGNOSED AS DEAD AS THE PROXIMATE RESULT OF THE WOUND INFLICTED BY THE DEFENDANT ON OR ABOUT SEPTEMBER 26, 1996, THEN NO SUBSEQUENT MEDICAL PROCEDURE WOULD BE DEEMED A CAUSE OF DEATH. HOWEVER, IF THE VICTIM'S DEATH WAS DUE TO THE NEGLIGENCE OF A MEDICAL PRACTITIONER, THE SUBSEQUENT PROCEDURES MAY HAVE BEEN A CAUSE OF DEATH, BUT THAT NEGLIGENCE WOULD NOT CONSTITUTE A SUPERSEDING CAUSE OF DEATH RELIEVING THE DEFENDANT OF LIABILITY.

IF, HOWEVER, THE DEATH WAS DUE TO THE GROSS NEGLIGENCE OR THE INTENTIONAL WRONGDOING, THAT IS THE RECKLESSNESS OR WILLFUL WRONGDOING OF A MEDICAL PRACTITIONER AS DETERMINED BY A GREAT DEVIATION OR GROSS DEPARTURE FROM ACCEPTED MEDICAL PRACTICES OR DISREGARD FOR LEGALLY COGNISABLE CRITERIA FOR DETERMINING DEATH, THE INTERVENING MEDICAL PROCEDURE WOULD THEN INTERRUPT THE CHAIN OF CAUSATION AND THEN IT WOULD BECOME THE LEGAL CAUSE OF DEATH. THUS, THE PROPRIETY OF THE MEDICAL PROCEDURES IS AN INTEGRAL QUESTION TO CAUSATION.

TO SUMMARIZE, NEGLIGENCE ON THE PART OF SOMEONE WOULD NOT RELIEVE THE DEFENDANT FROM LIABILITY IF THE DEFENDANT'S ACT WAS THE PROXIMATE CAUSE OF THE DEATH. BUT GROSS NEGLIGENCE OR INTENTIONAL ACTIVITY ON THE PART OF THE SAME PRACTITIONERS WOULD RELIEVE THE DEFENDANT OF

HAVE RECOVERED HAD HE BEEN TREATED ACCORDING TO THE MOST APPROVED SURGICAL OR MEDICAL STANDARDS OR AS A REASONABLY PRUDENT DOCTOR WOULD HAVE TREATED IN THE CASE OR EVEN BY SHOWING THAT THE TREATMENT WAS UNSKILLED OR IMPROPER OR ERRONEOUS THROUGH NEGLIGENCE. IF, HOWEVER, THE DEATH WAS CAUSED NOT BY THE WOUND OR THE INJURY OF THE DEFENDANT BUT WAS CAUSED MERELY BY THE GROSS OR ERRONEOUS TREATMENT, THAT IS WHERE TREATMENT WAS SO GROSS OR WHERE TREATMENT WAS SO DELIBERATE OR SO WILFUL THAT IT WAS THE CAUSE OF DEATH, THEN THE DEFENDANT WOULD NOT BE GUILTY OF THE OFFENSE OF MURDER OR VOLUNTARY MANSLAUGHTER.

I CHARGE YOU ONE WHO INFLICTS AN INJURY ON ANOTHER IS DEEMED BY LAW TO BE GUILTY OF A HOMICIDE IF THE INJURY CONTRIBUTES IMMEDIATELY TO THE DEATH OF THE DECEASED. THE FACT THAT OTHER CAUSES ALSO CONTRIBUTE TO THE DEATH OF THE DECEASED DOES NOT RELIEVE THE DEFENDANT FROM RESPONSIBILITY.

OF COURSE, LADIES AND GENTLEMEN, YOU HAVE TO BE CONVINCED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS THE CAUSE OF DEATH. I CHARGE YOU A PERSON WHO INFLICTS A FATAL INJURY UPON A PERSON AND THAT PERSON DIES AT A LATER TIME, YOU HAVE TO BE CONVINCED BEYOND A REASONABLE DOUBT THAT THE INFLICTION OF THE FIRST INJURY WAS THE CAUSE OF DEATH, THAT IT WAS THE PROXIMATE CAUSE, THAT THERE WAS A CHAIN OF CAUSATION FROM THE TIME IT

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU ONE CANNOT BE CONVICTED OF ANY CRIME WHICH IS DEFINED IN TERMS OF A RESULT AS IS MURDER OR VOLUNTARY MANSLAUGHTER UNLESS ONES ACT IS THE PROXIMATE RESULT IN MURDER OF THE DEATH OF THE VICTIM OR IN VOLUNTARY MANSLAUGHTER IN THE DEATH OF THE VICTIM. MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU PROXIMATE CAUSE IS THAT CAUSE WHICH IS THE NATURAL AND CONTINUING SEQUENCE UNBROKEN BY AN EFFICIENT INTERVENING CAUSE WHICH PRODUCES THE DEATH AND WITHOUT WHICH THE RESULT WOULD NOT HAVE OCCURRED.

I CHARGE YOU AN EFFICIENT INTERVENING CAUSE IS ONE THAT IS INDEPENDENT OF THE WRONGFUL ACT OR OMISSION WHICH WAS ADEQUATE TO BRING ABOUT THE INJURIOUS RESULT AND WHICH WAS NOT REASONABLY FORESEEABLE BY THE DEFENDANT.

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU THE LAW RECOGNIZES THERE MAY BE MORE THAN ONE PROXIMATE CAUSE. THE ACTS OF TWO OR MORE PERSONS MAY COMBINE AND CONCUR TOGETHER AS AN EFFICIENT OR PROXIMATE CAUSE OF THE DEATH OF A PERSON. THE DEFENDANT'S ACT MAY BE REGARDED AS THE PROXIMATE CAUSE IF IT IS A CONTRIBUTING CAUSE OF THE DEATH OF THE DECEASED. THE DEFENDANT'S ACT NEED NOT BE THE SOLE CAUSE OF THE DEATH, PROVIDED THAT IT BE A PROXIMATE CAUSE ACTUALLY CONTRIBUTING TO THE DEATH OF THE DECEASED.

IT IS NOT A DEFENSE TO SHOW THAT THE DECEASED MIGHT

MADE WITH VIOLENCE OR WITH CIRCUMSTANCES OF INDIGNITY UPON A PERSON AND THE PARTY SO ASSAULTED KILLS THE AGGRESSOR THE CRIME WOULD BE REDUCED TO VOLUNTARY MANSLAUGHTER IF IT APPEARS THAT THE ASSAULT WAS RESISTED IMMEDIATELY AND THAT THE AGGRESSOR WAS KILLED IN THE HEAT OF BLOOD. WHAT WILL BE OBSERVED, LADIES AND GENTLEMEN, THAT THE KILLING MUST BE DONE IN SUDDEN HEAT AND PASSION, AND IF IN FACT PASSION HAD COOLED OR IF THERE WAS SUFFICIENT TIME BETWEEN THE PROVOCATION AND THE KILLING FOR PASSION TO HAVE COOLED, THE KILLING WOULD NOT BE ATTRIBUTED TO THE HEAT OF PASSION BUT RATHER TO MALICE. THE SUFFICIENCY OF THE COOLING TIME WOULD DEPEND WHETHER THERE WAS TIME, ALL CIRCUMSTANCES BEING CONSIDERED, FOR A PERSON OF ORDINARY REASON TO COOL.

I CHARGE YOU, MADAM FORELADY AND LADIES AND GENTLEMEN, THAT NO MERE WORDS ALONE HOWEVER INSULTING OR OFFENSIVE WOULD JUSTIFY A PERSON TAKING THE LIFE OF ANOTHER HUMAN BEING SO AS TO REDUCE THE CRIME FROM MURDER TO VOLUNTARY MANSLAUGHTER, BUT WORDS OR THREATENING LANGUAGE ACCOMPANIED BY SOME ACT WHICH INDICATES AN IMMEDIATE INTENT TO PUT SUCH THREATS IN EXECUTION WOULD BE CONSIDERED A LEGAL PROVOCATION IF SUCH WORDS AND ACTS TAKEN TOGETHER OR SUCH ACTS TAKEN ALONE ARE CALCULATED TO PRODUCE A DEGREE OF ANGER, RAGE, RESENTMENT OR PASSION SUFFICIENT TO RENDER ONE INCAPABLE OF COOL REFLECTION.

I HAVE CHARGED YOU THAT MALICE IS AN ESSENTIAL ELEMENT OF THE CRIME OF MURDER. I NOW CHARGE YOU THAT MALICE IS NOT AN ESSENTIAL ELEMENT OF THE CRIME OF VOLUNTARY MANSLAUGHTER. THE PRESENCE OF MALICE IN MURDER AND THE ABSENCE OF MALICE IN VOLUNTARY MANSLAUGHTER IS WHAT DISTINGUISHES THESE TWO OFFENSES.

WHAT IS VOLUNTARY MANSLAUGHTER? VOLUNTARY MANSLAUGHTER IS THE FELONIOUS TAKING OF THE LIFE OF ANOTHER HUMAN BEING IN SUDDEN HEAT AND PASSION UPON A SUFFICIENT LEGAL PROVOCATION. THE LAW RECOGNIZES, LADIES AND GENTLEMEN, THE FACT THAT SUDDEN HEAT AND PASSION MAY FOR THE TIME BEING AFFECT ONES SELF CONTROL OR TEMPORARILY DISTURBS THE SWAY OF REASON AND HENCE REDUCE THE CRIME FROM MURDER TO VOLUNTARY MANSLAUGHTER WHERE THE HOMICIDE WAS DONE IN SUDDEN HEAT AND PASSION, PROVIDED THERE WAS A SUFFICIENT LEGAL PROVOCATION.

I CHARGE YOU SUFFICIENT LEGAL PROVOCATION MUST BE SUCH AS WOULD BE CALCULATED TO CAUSE A PERSON OF ORDINARY REASON AND PRUDENCE, SOMETIMES REFERRED TO AS THE AVERAGE PERSON, TO BECOME ENRAGED, THAT IS TO EXPERIENCE SUDDEN HEAT AND PASSION AND HENCE TO LOSE CONTROL OF HIMSELF OR HERSELF AND TEMPORARILY. AND FREQUENTLY, IT INVOLVES SOME PHYSICAL AGGRESSION OR ASSAULT.

MERELY BY WAY OF ILLUSTRATION AND ILLUSTRATION ALONE, I CHARGE YOU THAT WHEN AN UNJUSTIFIABLE ASSAULT IS

ONCE AGAIN, LADIES AND GENTLEMEN, THIS IS AN INFERENCE ONLY, AND THIS INFERENCE IS SIMPLY AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU THE JURY ALONG WITH ALL THE OTHER EVIDENCE IN THIS CASE, AND IT SHOULD BE GIVEN SUCH WEIGHT AS YOU THE JURY DETERMINE THAT IT SHOULD RECEIVE.

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU A DEADLY WEAPON IS GENERALLY DEFINED AS ANY ARTICLE, INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO PRODUCE DEATH OR GREAT BODILY HARM.

I AM NOW GOING TO DEFINE FOR YOU, MADAM FORELADY, THE LAW OF VOLUNTARY MANSLAUGHTER. AN INDICTMENT FOR MURDER INCLUDES THE LESSER CRIME OF VOLUNTARY MANSLAUGHTER, EVEN THOUGH THE LESSER CRIME OF VOLUNTARY MANSLAUGHTER IS NOT PHYSICALLY WRITTEN INTO THE BODY OF THE INDICTMENT. IN OTHER WORDS, A DEFENDANT INDICTED FOR MURDER MAY BE CONVICTED OF VOLUNTARY MANSLAUGHTER IF THE EVIDENCE WARRANTS IT.

WHAT IS MANSLAUGHTER? MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU VOLUNTARY MANSLAUGHTER IS THE UNLAW KILLING OF ANOTHER HUMAN BEING WITHOUT MALICE EXPRESS OR INFERRED. YOU WILL NOTE, LADIES AND GENTLEMEN, THAT THE ABSENCE OF MALICE IS WHAT DISTINGUISHES VOLUNTARY MANSLAUGHTER FROM THE CRIME OF MURDER.

THE ONLY KIND OF MALICE KNOWN TO THE LAW MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE.

I CHARGE YOU MALICE MAY BE EXPRESSED AS WHERE PREVIOUS THREATS OF VENGEANCE OR LYING IN WAIT OR OTHER CIRCUMSTANCES SHOW DIRECTLY THAT AN INTENT TO KILL WAS ENTERTAINED. I CHARGE YOU MALICE MAY BE INFERRED WHERE THOUGH NO EXPRESS INTENT TO KILL IS PROVED BY DIRECT EVIDENCE, IT MAY BE INFERRED FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED.

I CHARGE YOU MALICE MAY BE INFERRED FROM THE WILFUL, DELIBERATE, AND INTENTIONAL DOING OF AN UNLAWFUL ACT WITHOUT JUST CAUSE OR LEGAL EXCUSE. IN OTHER WORDS, MALICE MEANS THE DOING OF A WRONGFUL ACT INTENTIONALLY WITHOUT JUSTIFICATION OR LEGAL EXCUSE. BUT EVEN IF FACTS PROVED ARE SUFFICIENT TO RAISE AN INFERENCE OF MALICE, THIS INFERENCE WOULD BE SIMPLY AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU THE JURY ALONG WITH ALL OF THE OTHER EVIDENCE IN THIS CASE. AND YOU MUST GIVE IT SUCH WEIGHT AS YOU DETERMINE IT SHOULD RECEIVE AS TO WHETHER OR NOT MALICE HAS BEEN PROVED BEYOND A REASONABLE DOUBT.

I CHARGE YOU THE STATE OF SOUTH CAROLINA MAY PROVE THAT THE DEED OR ACT WAS DONE WITH A DEADLY WEAPON, AND AN INFERENCE OF MALICE MAY ARISE FROM THAT FACT. BUT

WITH MALICE AFORETHOUGHT EITHER EXPRESS OR IMPLIED."

I CHARGE YOU, LADIES AND GENTLEMEN, MURDER IS THE UNLAWFUL KILLING OF ANY PERSON WITH MALICE AFORETHOUGHT EITHER EXPRESSED OR IMPLIED. IN ORDER TO CONVICT ONE OF MURDER, THE STATE OF SOUTH CAROLINA MUST NOT ONLY PROVE THE KILLING OF THE DECEASED BY THE DEFENDANT BUT THAT IT WAS DONE WITH MALICE AFORETHOUGHT, AND SUCH PROOF MUST BE BEYOND A REASONABLE DOUBT.

MALICE AFORETHOUGHT, LADIES AND GENTLEMEN, IS AN ESSENTIAL ELEMENT IN THE CRIME OF MURDER. I CHARGE YOU THERE MUST BE MALICE AFORETHOUGHT WHICH MEANS THAT THE MALICE MUST HAVE BEEN CONCEIVED IN THE MIND OF THE DEFENDANT PRIOR TO THE FACT PRODUCING THE FATAL RESULT. HOWEVER, THE LAW DOES NOT REQUIRE THAT THE MALICE MUST EXIST FOR ANY APPRECIABLE LENGTH OF TIME BEFORE THE COMMISSION OF THE ACT.

WHAT IS MALICE? I CHARGE YOU MALICE IS DEFINED IN THE LAW OF HOMICIDE AS A TERM OF ART. THIS IS A TECHNICAL TERM IMPORTING WICKEDNESS AND EXCLUDING JUST CAUSE OR A LEGAL EXCUSE. IT IS SOMETHING WHICH SPRINGS FROM WICKEDNESS, FROM DEPRAVITY, FROM A DEPRAVED SPIRIT, FROM A HEART DEVOID OF SOCIAL DUTY AND FATALLY BENT ON MISCHIEF.

THE WORDS EXPRESSED OR IMPLIED MALICE DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH

THE TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT SUCH AS AN EYE WITNESS.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. THE LAW MAKES ABSOLUTELY NO DISTINCTION, LADIES AND GENTLEMEN, BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT EVIDENCE OF CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU THAT THE DEFENDANT IS ENTITLED TO EVERY INFERENCE IN HER FAVOR WHICH CAN REASONABLY BE DRAWN FROM THE EVIDENCE, AND WHERE TWO INFERENCES MAY BE DRAWN FROM THE SAME FACTS, ONE CONSISTENT WITH GUILT AND ONE CONSISTENT WITH INNOCENCE, THE DEFENDANT IS ENTITLED TO THE INFERENCE WHICH IS CONSISTENT WITH HER INNOCENCE.

I'M NOW GOING TO INSTRUCT YOU IN THE LAW OF MURDER. THE DEFENDANT AS I HAVE STATED TO YOU IS CHARGED IN THE BILL OF INDICTMENT WITH THE OFFENSE KNOWN IN LAW AS MURDER. SECTION 16-3-10 OF THE CODE OF LAWS OF SOUTH CAROLINA STATES: "MURDER IS THE KILLING OF ANY PERSON

MAY CONSIDER THE DEMEANOR OF THE WITNESS, LADIES AND GENTLEMEN, THAT IS THE APPEARANCE OF THE WITNESS ON THIS WITNESS STAND DURING THE TRIAL OF THE CASE. AND YOU MAY CONSIDER THE OPPORTUNITY FOR KNOWLEDGE CONCERNING THOSE THINGS ABOUT WHICH A WITNESS TESTIFIED. THESE CONSIDERATIONS YOU DO NOT EXERCISE ARBITRARILY, BUT IF IN YOUR GOOD JUDGMENT THERE IS SOUND REASON IN THE RECORD ON THIS CASE FOR SO DOING, BECAUSE YOUR OBJECTIVE, LADIES AND GENTLEMEN, IS TO FIND THE TRUTH, WHETHER IT COME FROM A WITNESS OR WITNESSES FOR THE STATE OF SOUTH CAROLINA OR A WITNESS OR WITNESSES FOR THE DEFENDANT, AND IN SO DOING, IN EXERCISING YOUR MENTAL PROCESSES, LADIES AND GENTLEMEN, THE LAW SIMPLY REQUIRES THAT YOU EXERCISE YOUR GOOD COMMON SENSE, YOUR GOOD JUDGMENT, YOUR SENSE OF LOGIC AND REASON AND YOUR EXPERIENCES IN LIFE. YOU THEN APPLY THESE ATTRIBUTES OF ABILITY TO THE EVIDENCE AND DETERMINE WHAT YOU CONSIDER TO BE THE TRUTHFUL EVIDENCE, AND AS TO THOSE TRUE STATE OF FACTS AS DETERMINED BY YOU, YOU THEN TAKE AND APPLY THE LAW WHICH I WILL NOW READ AND STATE TO YOU AND THUS ARRIVE AT A VERDICT WHICH DOES SPEAK THE TRUTH IN THIS CASE.

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. I CHARGE YOU DIRECT EVIDENCE IS

OPINION ABOUT THE FACTS IN THIS CASE. LADIES AND GENTLEMEN, THE LAW DOES NOT PERMIT ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THAT IS A MATTER SOLELY FOR YOU THE JURY TO DETERMINE.

AS JURORS THEN, IT IS YOUR DUTY TO DETERMINE AS I HAVE STATED TO YOU THE EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH OF THE EVIDENCE PRESENTED DURING THE COURSE OF THIS TRIAL. NECESSARILY THEN, LADIES AND GENTLEMEN, YOU MUST ASSESS THE CREDIBILITY OF THE WITNESSES WHO HAVE TESTIFIED IN THIS CASE.

CREDIBILITY, LADIES AND GENTLEMEN, IS SIMPLY A LEGALISTIC WORD WHICH MEANS BELIEVABILITY. IT BECOMES YOUR DUTY TO ANALYZE AND TO EVALUATE THE EVIDENCE AND TO DETERMINE THAT EVIDENCE WHICH CONVINCES YOU OF ITS TRUTH.

I CHARGE YOU IN DETERMINING THE QUESTION OF THE CREDIBILITY OR THE BELIEVABILITY OF THE WITNESSES, YOU MAY BELIEVE ONE WITNESS AS AGAINST SEVERAL WITNESSES OR SEVERAL WITNESSES AS AGAINST ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY.

YOU MAY CONSIDER WHETHER A WITNESS HAS EXHIBITED ANY INTEREST, ANY BIAS OR ANY PREJUDICE IN THIS CASE, AND YOU

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE APPLICABLE LAW OF THIS CASE. I AS THE PRESIDING JUDGE AM THE SOLE JUDGE OF THE LAW IN THIS CASE, AND IT IS YOUR DUTY TO ACCEPT AND APPLY THE LAW PRECISELY AS I WILL NOW STATE IT TO YOU.

IF YOU HAVE A PRECONCEIVED IDEA AS TO WHAT THE LAW IS OR AS WHAT THE LAW OUGHT TO BE AND IT SHOULD NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, LADIES AND GENTLEMEN, YOU ARE OBLIGATED UNDER YOUR OATH TO ABANDON THIS PRECONCEPTION ON YOUR PART, BECAUSE, LADIES AND GENTLEMEN, YOU ARE SWORN TO ACCEPT AND APPLY THE LAW PRECISELY AS I NOW STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS OF A CASE. YOU THE LADIES AND GENTLEMEN OF THIS JURY ARE THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS IN THIS CASE.

THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA HAS DECLARED THAT A TRIAL JUDGE SHALL NOT INTIMATE, STATE, COMMENT UPON OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. LADIES AND GENTLEMEN, SINCE YOU ARE THE SOLE JUDGES OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM ANYTHING THAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF THE EVIDENCE OR OTHERWISE OR FROM ANYTHING THAT I NOW SAY TO YOU DURING THE COURSE OF MY CHARGE TO YOU THAT I HAVE AN

I CHARGE YOU THAT THE INDICTMENT IN THIS CASE WHICH YOU WILL HAVE WITH YOU IN JUST A FEW MOMENTS IN THE JURYROOM IS NOT EVIDENCE AND CANNOT AND MUST NOT BE CONSIDERED BY YOU AS EVIDENCE IN THIS CASE. THE INDICTMENT, LADIES AND GENTLEMEN, IS SIMPLY THE FORMAL WRITTEN INSTRUMENT WHICH CONTAINS THE CHARGE AGAINST THE DEFENDANT, AND IT SERVES AS THE FORMAL DOCUMENT BY WHICH THIS CASE IS PROCESSED INTO THIS COURT.

DURING THIS TRIAL, LADIES AND GENTLEMEN, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE UPON OR PASS UPON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THE PROGRESS OF THE TRIAL.

I CHARGE YOU YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU, AND YOU ARE TO DISREGARD AND DISABUSE FROM YOUR MIND ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD OF THIS CASE DURING THE PROGRESS OF THIS TRIAL. AND LADIES AND GENTLEMEN, YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH YOU HEARD FROM THIS WITNESS STAND, TOGETHER WITH THE EXHIBITS WHICH WERE ADMITTED INTO THE RECORD OF THE CASE AND THE STIPULATIONS ENTERED INTO BY THE SOLICITOR ON BEHALF OF THE STATE OF SOUTH CAROLINA AND MS. BELL AND MS. JOHNS ON BEHALF OF THE DEFENDANT.

IF THEN UPON THE WHOLE CASE YOU HAVE A REASONABLE DOUBT AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT, SHE IS ENTITLED TO THAT REASONABLE DOUBT AND WOULD BE ENTITLED TO AN ACQUITTAL AND A VERDICT OF NOT GUILTY AT YOUR HANDS. LIKEWISE, IF YOU HAVE A REASONABLE DOUBT AS TO WHETHER OR NOT THE DEFENDANT HAS MADE OUT HER DEFENSES, THEN SHE WOULD BE ENTITLED TO THAT REASONABLE DOUBT, AND SHE WOULD BE ENTITLED TO AN ACQUITTAL AND A VERDICT OF NOT GUILTY.

BUT ON THE OTHER HAND, IF UPON THE WHOLE CASE YOU FIND THAT THE STATE OF SOUTH CAROLINA HAS PROVED BY EVIDENCE WHICH SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, THEN IN SUCH CIRCUMSTANCE, LADIES AND GENTLEMEN, IT WOULD EQUALLY BE YOUR SWORN DUTY TO CONVICT THE DEFENDANT AND FIND HER GUILTY. IF YOU FIND THE DEFENDANT GUILTY BUT YOU HAVE A REASONABLE DOUBT AS TO WHETHER THE DEFENDANT BE GUILTY OF THE GREATER CRIME CHARGED OR THE LESSER CRIME CHARGED, THEN YOU WOULD RESOLVE THAT REASONABLE DOUBT IN FAVOR OF THE DEFENDANT AND WRITE A VERDICT OF GUILTY ONLY AS TO THE LESSER CHARGE. BUT OF COURSE, YOU COULD NOT WRITE A VERDICT OF GUILTY TO ANY CHARGE UNLESS AND UNTIL AS TO THAT CHARGE YOU FIND ALL ELEMENTS OF THE CHARGE TO HAVE BEEN PROVED BY THE STATE OF SOUTH CAROLINA BEYOND A REASONABLE DOUBT.

IN EXISTENCE TO THE BENEFIT OF THE DEFENDANT UNTIL AND UNLESS YOU THE LADIES AND GENTLEMEN OF THIS JURY REACH THE CONCLUSION THAT THE STATE OF SOUTH CAROLINA HAS PROVED THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT.

THE STATE OF SOUTH CAROLINA IS NOT REQUIRED TO PROVE THE GUILT OF A DEFENDANT BEYOND ALL DOUBT OR BEYOND EVERY DOUBT BUT BEYOND A REASONABLE DOUBT. MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU A REASONABLE DOUBT IS THE KIND OF DOUBT WHICH WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT. I CHARGE YOU THAT THE DEFENDANT IS ENTITLED TO EVERY REASONABLE DOUBT ARISING IN THE WHOLE CASE OR IN ANY DEFENSES ASSERTED BY HER. IF THEN UPON ANY ISSUE OF FACT ESSENTIAL TO A CONVICTION AND A VERDICT OF GUILTY YOU HAVE A REASONABLE DOUBT AS TO HOW THAT ISSUE SHOULD BE RESOLVED, I CHARGE YOU IT WOULD BE YOUR SWORN DUTY TO RESOLVE THAT REASONABLE DOUBT IN FAVOR OF THE DEFENDANT.

A DEFENDANT, LADIES AND GENTLEMEN, IS NOT REQUIRED TO PROVE THEIR INNOCENCE, BUT THE STATE OF SOUTH CAROLINA IS REQUIRED IN LAW TO PROVE EVERY ESSENTIAL ELEMENT OF THE OFFENSE CHARGED AGAINST THE DEFENDANT BY EVIDENCE WHICH SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT BEFORE YOU CAN CONVICT THE DEFENDANT AND FIND HER GUILTY.

THAT A DEFENDANT IRRESPECTIVE OF THE ENORMITY OF THE CHARGE AGAINST HER WILL ALWAYS BE PRESUMED INNOCENT OF THE CRIME FOR WHICH SHE IS INDICTED UNTIL AND UNLESS THE GUILT OF THE DEFENDANT HAS BEEN PROVED BY EVIDENCE WHICH SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE, LADIES AND GENTLEMEN, IS NOT A MERE LEGAL THEORY. IT IS NOT JUST A LEGAL PHRASE. THE PRESUMPTION OF INNOCENCE, LADIES AND GENTLEMEN, IS A SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED.

THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA HAS DECLARED THAT THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE DEFENDANT, AND IT REMAINS WITH HIM OR HER AND ASSIGNS THEM TO THAT CLASS, THE INNOCENT, UNTIL THAT PRESUMPTIVE ROBE OF RIGHTEOUSNESS HAS BEEN STRIPPED FROM THEIR PERSON BY EVIDENCE WHICH SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT.

THE PRESUMPTION OF INNOCENCE ACCOMPANIES THE DEFENDANT FROM THE TIME OF THE APPEARANCE IN THIS COURTROOM AND CONTINUES WITH HER THROUGHOUT EVERY STAGE OF THIS TRIAL AND CONTINUES WITH HER AFTER YOU RETIRE TO YOUR JURYROOM TO DELIBERATE YOUR VERDICT. THE PRESUMPTION OF INNOCENCE, LADIES AND GENTLEMEN, CONTINUES

WHEN I REFER TO THE WORD DEFENDANT, MADAM FORELADY, LADIES AND GENTLEMEN, I'M REFERRING TO THE DEFENDANT IN THIS CASE, MS. LINDA ANN TYLER. THE STATE OF SOUTH CAROLINA BY THIS BILL OF INDICTMENT CHARGES THE DEFENDANT, MS. TYLER, WITH THE OFFENSE KNOWN IN LAW AS MURDER.

THE INDICTMENT READS IN PERTINENT PART AS FOLLOWS: THAT LINDA ANN TYLER, ALSO KNOWN AS LINDA ANN SALLEY, DID IN RICHLAND COUNTY ON OR ABOUT SEPTEMBER 26, 1996, FELONIOUSLY, WILFULLY AND WITH MALICE AFORETHOUGHT KILL ONE VAN TYLER BY MEANS OF POURING A FLAMMABLE LIQUID ON VAN TYLER AND/OR IGNITING SUCH LIQUID SO AS TO SET VAN TYLER'S BODY ON FIRE. AND THAT SAID VICTIM DIED AS A PROXIMATE RESULT THEREOF.

TO THIS INDICTMENT, TO THIS CHARGE, THE DEFENDANT, MS. TYLER, HAS ENTERED A PLEA OF NOT GUILTY. THIS PLEA OF NOT GUILTY BY HER PLACES THE BURDEN OF PROOF ON THE STATE OF SOUTH CAROLINA TO PROVE THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT BEFORE YOU THE JURY CAN CONVICT THE DEFENDANT AND FIND HER NOT GUILTY --- OR FIND HER GUILTY.

THE DEFENDANT, MS. TYLER, IS PRESUMED IN LAW INNOCENT OF THE CHARGE CONTAINED IN THIS INDICTMENT. MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU IT IS A CARDINAL AND FUNDAMENTAL RULE OF THE LAW OF EVIDENCE

THE COURT: THANK YOU VERY MUCH.

JURY CHARGE

BY THE COURT

MADAM FORELADY, LADIES AND GENTLEMEN, PLEASE GIVE ME YOUR ATTENTION. YOU HAVE FOLLOWED VERY PATIENTLY AND LISTENED VERY ATTENTIVELY TO THE PRESENTATION OF THE TESTIMONY AND THE EVIDENCE IN THIS CASE AND TO THE ABLE ARGUMENTS MADE BY SOLICITOR HAYNES ON BEHALF OF THE STATE OF SOUTH CAROLINA AND BY MS. BELL ON BEHALF OF THE DEFENDANT, AND I THANK YOU FOR THAT.

IT NOW BECOMES MY DUTY AS THE TRIAL JUDGE TO CHARGE AND INSTRUCT YOU IN THE APPLICABLE LAW IN THIS CASE. IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW PRECISELY AS I WILL NOW STATE IT TO YOU.

LADIES AND GENTLEMEN, AS JURORS IT IS YOUR EXCLUSIVE DUTY TO DECIDE ALL OF THE ISSUES OF FACT IN THIS CASE FOR THAT PURPOSE AND TO THAT END, TO DETERMINE THE EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH OF THE EVIDENCE IN THIS CASE. BOTH THE STATE OF SOUTH CAROLINA AND THE DEFENDANT HAVE A RIGHT TO EXPECT THAT YOU WILL CONSCIENTIOUSLY CONSIDER AND EVALUATE THE EVIDENCE AND APPLY THE LAW OF THE CASE THERETO TO THE END THAT BOTH THE STATE OF SOUTH CAROLINA AND THE DEFENDANT WILL RECEIVE AND OBTAIN A FAIR AND IMPARTIAL TRIAL IN THIS CASE.

TODAY. THEREFORE, WE'RE GOING TO RECESS FOR THE EVENING. PLEASE BE IN YOUR JURYROOM IN THE MORNING AT 9:30. WHILE YOU'RE AWAY, ONCE AGAIN, PLEASE DO NOT DISCUSS THE CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS THE CASE WITH YOU. ALSO, PLEASE DO NOT WATCH ANY NEWS ACCOUNTS OR READ ANY NEWS ACCOUNTS OF THIS TRIAL.

PLEASE BE PROMPT. BE ON TIME IN THE MORNING AT 9:30 IN ORDER THAT WE CAN CONCLUDE THE TRIAL OF THIS CASE. THANK YOU VERY MUCH. YOU MAY RETIRE.

(JURY LEAVES FOR THE DAY.)

THE COURT: ALL RIGHT. WE'LL BE IN RECESS UNTIL IN THE MORNING.

(COURT IN RECESS.)

(COURT RECONVENES.)

MS. BELL: JUST ONE QUICK MATTER. I UNDERSTAND YOUR RULING FROM YESTERDAY TO THE CHARGE OF INVOLUNTARY MANSLAUGHTER. I WOULD JUST RESPECTFULLY ASK FOR YOU TO RECONSIDER IT.

THE COURT: NO, MA'AM. THANK YOU. I DON'T BELIEVE IT'S APPLICABLE IN THIS CASE. THANK YOU VERY MUCH. I NOTE YOUR EXCEPTION.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. PLEASE BRING THE JURY IN.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

DID TO VAN TYLER, NO EXCUSE. THAT SHE HEARD VOICES. OH, YEAH, THE NURSES AND THE DOCTORS AT AUGUSTA WERE THE CAUSE OF DEATH. AND WE ALSO HEARD THAT VAN TYLER WAS THE REASON THIS HAPPENED. THE VICTIM IS THE REASON THIS HAPPENED. HE WAS CHEATING ON HER. THAT'S WHAT SHE TOLD INVESTIGATOR GRAY.

EVERYONE IS TO BLAME, WHOLE LIST IS TO BLAME. EVERYONE EXCEPT THE REAL PERSON, LINDA ANN TYLER. EVERYONE TO BLAME BUT LINDA ANN TYLER. THE DOCTORS AT THE BURN CENTER, THE VOICES THAT SHE STARTED HEARING AND DIDN'T TELL ANYBODY UNTIL 1998, THE DYSFUNCTIONAL FAMILY SHE GREW UP IN, VAN TYLER HIMSELF. HE'S THE REASON IT HAPPENED. HE CAUSED IT. IT'S HIS FAULT. EVERYBODY BUT LINDA TYLER.

I GUESS VAN TYLER'S WORDS WERE PROPHETIC. LINDA TYLER IS A SUCCESSFUL WARRIOR, BECAUSE SHE KILLED VAN TYLER. SHE SET HIM ON FIRE. SHE WANTED TO WATCH HIM BURN. SHE WANTED TO HURT HIM LIKE HE HURT HER, AND SHE DID THAT. SHE HURT HIM SO BADLY, SO BADLY, HE DIED THE NEXT DAY.

LINDA TYLER IS THE REASON THIS ALL HAPPENED. HOLD HER ACCOUNTABLE. HOLD HER RESPONSIBLE FOR HER ACTIONS, FOR HER CHOICES. THANK YOU.

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, I BELIEVE WE'VE REACHED A CONVENIENT STOPPING PLACE FOR

THE COURT: WHAT'S YOUR GROUND?

MS. BELL: ABOUT BEING HER DOCTOR. SO WAS DR. ---

THE COURT: OVERRULED. SHE COMMENTED. SHE'S CALLING THE FACTS AS SHE HEARD THEM. THE COURT WILL INSTRUCT THE JURY TO TAKE THE TESTIMONY AS THEY HEARD IT.

MS. HAYNES: THANK YOU, YOUR HONOR.

BY MS. HAYNES

DR. SWARTZ-WATTS AND DR. BEHRMANN WERE HER DOCTORS. DR. BEHRMANN, ACCORDING TO THE FACTS, MS. TYLER OR --- I BELIEVE IT WAS WHEN MS. TYLER TOOK THE STAND, HAD TREATED HER EARLY IN THE '70s WHEN SHE WAS AT THE WOMEN'S CENTER. TREATED HER FOR A LONG TIME. HE KNOWS MS. TYLER.

AND I SUBMIT TO YOU SHE NEVER GAVE HIM ANY OCCASION THAT SHE HEARD VOICES, SHE WAS HALLUCINATING, THAT VOICES TOLD HER TO THROW THAT GAS ON VAN TYLER. THE FIRST TIME SHE TOLD ANYBODY ABOUT VOICES WAS EARLY THIS YEAR. AND I SUBMIT TO YOU THE TRIAL WAS COMING UP.

ALL THESE DOCTORS SAID LINDA TYLER HAS GOT A GREAT UNDERSTANDING OF THE LEGAL SYSTEM. IN HER OWN TESTIMONY SHE SAID THAT SHE'S BEEN INVOLVED IN IT SINCE THE '70s. MS. TYLER KNOWS WHAT'S GOING ON. LINDA TYLER, SHE KNOWS WHAT SHE'S DOING.

WHY DID VAN TYLER DIE? WHY DID THIS HAPPEN? LET'S SEE. WE HAVE STATED --- SHE CAME FROM A DYSFUNCTIONAL FAMILY. I SUBMIT TO YOU THAT'S NO REASON FOR WHAT SHE

HER CONDUCT WHEN SHE THREW THE GAS ON HIM. IN FACT, DR. BEHRMANN SAID SHE COULD. DR. SWARTZ-WATTS SAID SHE COULDN'T, BUT DR. SWARTZ-WATTS NEVER SAW HER IN 1996. DR. SWARTZ-WATTS NEVER SAW HER UNTIL THE VERY END OF DECEMBER OF 1997, AND THEN SAW HER THEN, AND SAW HER THE FIRST FEW MONTHS OF THIS YEAR, 1998 AND SAID THAT SHE COULD NOT CONFORM BECAUSE SHE HAD A MAJOR MENTAL ILLNESS.

IF YOU BELIEVE THAT, THEN SHE'S GUILTY BUT MENTALLY ILL. IF YOU BELIEVE DR. BEHRMANN THAT SHE COULD CONFORM, SHE'S GUILTY. BUT I SUBMIT TO YOU THESE OTHER CHARGES, THEY DON'T APPLY. THEY APPLY IF YOU THINK THE AUGUSTA MEDICAL CENTER IS GUILTY, IF YOU THINK THAT'S WHAT KILLED HIM AND NOT THE BURNS.

THIS IS WHAT IT COMES DOWN TO. MURDER, GUILTY OR GUILTY BUT MENTALLY ILL. AND MS. BELL MADE MENTION WHEN MS. TYLER WAS FIRST SEEN AT WILLIAM S. HALL THEY MADE A DIAGNOSIS OF BI-POLAR DISORDER OR THERE WAS SOME RULING ABOUT THAT. REMEMBER WHEN I STOOD BACK UP AND I ASKED DR. SWARTZ-WATTS, DID THEY MAKE A DIAGNOSIS OF THAT. SHE SAID, NO. SHE SAID THEY LOOKED AT THAT TO SEE IF THAT FIT, BUT THEY RULED IT OUT, RIGHT. YES, THEY RULED IT OUT. THEY CONSIDERED EVERYTHING. DR. BEHRMANN AND HIS STAFF OF SEVEN DOCTORS CONSIDERED EVERYTHING. AND DR. BEHRMANN IS HER DOCTOR. HE'S SEEN HER ---

MS. BELL: OBJECTION.

NOT AN OPTION. SO, WE'RE DOWN TO THE ORIGINAL CHARGE OF MURDER. IT DOESN'T REQUIRE SPECIFIC INTENT TO KILL. IT DOESN'T REQUIRE A PERSON INTENDED TO KILL HIM, BUT HIS DEATH RESULTED BECAUSE OF WHAT SHE DID, BECAUSE THE MALICE THAT SHE'S SHOWN ON SEPTEMBER 26, 1996, BECAUSE SHE TOOK THAT GASOLINE AND POURED IT OVER HIS HEAD AND LIT THAT LIGHTER AND WATCHED HIM BURN. THOSE WERE HER WORDS, NOT MINE. I WANTED TO SEE HIM BURN. I WANTED TO HURT HIM LIKE HE HURT ME. REVENGE.

SHE'S EITHER GUILTY OF THAT, OR SHE'S GUILTY BUT MENTALLY ILL. DR. BEHRMANN SAID SHE'S NOT GUILTY BUT MENTALLY ILL. DR. BEHRMANN SAID BECAUSE SHE COULD CONFORM THAT DAY. HE WAS THE FIRST DOCTOR TO SEE HER. HE SAW HER WITHIN THREE MONTHS OF THIS HAPPENING. IT HAPPENED IN SEPTEMBER OF '96. HE SAW HER IN DECEMBER OF '96.

SHE WAS COMPETENT. SHE KNEW THE DIFFERENCE BETWEEN RIGHT AND WRONG, AND SHE HAD THE CAPACITY TO CONFORM. THINK ABOUT HER OWN TESTIMONY WHEN SHE SAID, WELL, THESE VOICES --- THESE VOICES ARE SAYING CUT HIM UP, STAB HIM, BUT I DIDN'T DO THAT. THESE VOICES WERE SAYING, RUN OVER HIM WITH THE CAR, BUT I DIDN'T DO THAT, AND THEN THESE VOICES SAID, THROW THE GAS ON HIM. SHE DID THAT. SHE MADE CHOICES EARLIER. IF SHE COULD CONFORM HER CONDUCT EARLIER, THERE'S NO INDICATION THAT SHE COULD NOT CONFORM

I SUBMIT TO YOU IF YOU DON'T FEEL THAT THEY WERE NEGLIGENT, GROSSLY NEGLIGENT IN THEIR TREATMENT, IF YOU DON'T FEEL THAT THEIR NEGLIGENCE, THEIR GROSS NEGLIGENCE IS WHAT KILLED VAN TYLER, ABIK AND ABHAN ARE NOT APPLICABLE, BECAUSE THOSE ARE WHERE DEATH DOES NOT RESULT, DEATH DOES NOT RESULT BECAUSE OF HER ACTIONS.

I SUBMIT TO YOU DEATH DID RESULT BECAUSE OF HER ACTIONS, MOST CERTAINLY. THEN WE'RE LEFT WITH THE MURDER AND VOLUNTARY MANSLAUGHTER. VOLUNTARY MANSLAUGHTER IS JUST A LESSER OF MURDER. MURDER IS THE UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT EITHER EXPRESS OR IMPLIED. VOLUNTARY MANSLAUGHTER IS BASICALLY KILLING IN THE HEAT OF PASSION. LEGAL PROVOCATION. AND I SUBMIT TO YOU THERE WAS NO HEAT OF PASSION. SHE STOPPED AND PICKED HIM UP. THEY WEREN'T IN AN ARGUMENT THAT DAY. HE WAS GOING TO GO WITH HER AND HELP HER GET HER KIDS BACK. THERE WAS NO FIGHT. THERE WAS NO HEAT OF PASSION GOING ON AT THAT TIME.

HAD SHE WALKED IN AND CAUGHT HIM WITH ANOTHER WOMAN AND SAW THEM, THERE MAY HAVE BEEN HEAT OF PASSION, BECAUSE SHE DIDN'T HAVE A TIME TO COOL OFF. THAT WAS NOT THE CASE HERE. SHE HAD COOL REFLECTION ON WHAT TO DO. SHE HAD COOL REFLECTION AS SHE WENT IN THERE AND GOT THE SODA, FILLED IT WITH GAS.

SO, I SUBMIT TO YOU THAT VOLUNTARY MANSLAUGHTER IS

was engaged was proximate cause of the homicide); State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001) (defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged); State v. Nance, 320 S.C. 501, 466 S.E.2d 349, cert. denied, 518 U.S. 1026, 116 S.Ct. 2566, 135 L.Ed.2d 1083 (1996)(trial court's determination of competency will be upheld if it has evidentiary support and is not against the preponderance of the evidence).

AFFIRMED.

TOAL, C.J., MOORE, BURNETT and PLEICONES, JJ., concur.

ABHAN and manslaughter was erroneous. However, we find the error harmless under the facts of this case. Immediately prior to charging the jury on ABHAN and ABIK, the trial court instructed the jury that "**if the causal link between the defendant's act and the victim's death is broken so that she may not be convicted of murder or voluntary manslaughter,**" the defendant may still be convicted of ABIK or ABHAN. (Emphasis supplied). Accordingly, ABHAN and/or ABIK were possible verdicts if, and only if, the jury concluded that Tyler's actions had not proximately caused her husband's death. The jury did not find such a break in the causal chain and, instead, convicted Tyler of murder.[3]

Accordingly, we find any choice the jury had in the present case between manslaughter and ABHAN was not premised upon malice or the absence thereof, but upon whether it found Tyler's actions had proximately resulted in her husband's death. Given that the possibility of an ABHAN or ABIK verdict was not premised upon malice or a lack thereof, but upon the proximate cause of the victim's death, we find the erroneous ABHAN charge did not contribute to the jury's verdict, such that any error was harmless. See State v. Jeffries,316 S.C. 13, 446 S.E.2d 427 (1994) (erroneous jury charge which does not contribute to jury's verdict is harmless).

Tyler's remaining issues are affirmed pursuant to Rule 220(b), SCACR, and the following authorities: State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990)(State must prove a voluntary waiver of the defendant's Miranda rights by a preponderance of the evidence); State v. Hughes, 336 S.C. 585, 521 S.E.2d 500 (1999)(defendant's mental condition in and of itself does not render a statement involuntary in violation of due process; absent coercive police conduct causally related to a confession, there is no basis for finding a confession constitutionally involuntary); State v. Burris, 334 S.C. 256, 513 S.E.2d 104 (1999) (burden on State to prove unlawful act in which the accused

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[3] Had the jury found a break in the causal chain, it would have been faced with two alternatives, either ABIK or ABHAN. If the jury misinterpreted the trial court's instructions as requiring an absence of malice to convict of ABHAN, and if it indeed found malice, then its verdict would have been ABIK and not murder.

of others.

> Assault and battery of a high and aggravated nature, ladies and gentlemen, **contains all of the elements of voluntary manslaughter except the actual death of the person assaulted.** So, before a defendant could be found guilty of assault and battery of a high and aggravated nature, the jury must be satisfied beyond a reasonable doubt that if the person assaulted had died as a result of the injury inflicted upon him by the defendant, the defendant would have been guilty of voluntary manslaughter.

(Emphasis supplied).

Both this Court and the Court of Appeals have held that it is error for a trial court to give instructions which equate ABHAN with voluntary manslaughter. State v. Fennell, 340 S.C. 266, 531 S.E.2d 512 (2000); State v. Pilgrim, 320 S.C. 409, 465 S.E.2d 108 (Ct. App. 1995)(Pilgrim I), *aff'd as modified* State v. Pilgrim, 326 S.C. 24, 482 S.E.2d 562 (1997)(Pilgrim II), *overruled on other grounds* State v. Foust, 325 S.C. 12, 479 S.E.2d 50(1996).

In Pilgrim I, the Court of Appeals noted that the difference between manslaughter and murder is the absence of malice in manslaughter and the presence of malice in murder.320 S.C. at 414-415, 465 S.E.2d at 111, *citing* William S. McAninch & W. Gaston Fairey, The Criminal Law of South Carolina 149 (2d ed. 1989). The court noted that the absence of malice is not a required element of the offense of ABHAN, and the fact that a defendant acts with malice does not preclude a finding of ABHAN. Therefore, to the extent a jury instruction equates ABHAN with manslaughter, it precludes a jury from finding ABHAN if it finds the defendant acted with malice. This Court affirmed in Pilgrim II.[2] In Fennell, supra, we reiterated these holdings, noting that a defendant may be convicted of ABHAN regardless of whether malice is present.

Under the above authorities, it is clear the trial court's charge equating

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[2] Pilgrim I was modified to the extent the Court of Appeals had held a specific intent was required for ABIK.

and battery which in and of itself is not of a character to cause death, is held to constitute involuntary manslaughter).

Tyler's conduct does not fit within either definition of involuntary manslaughter. It is patent that her conduct in pouring gasoline on her husband's head and igniting him was not a lawful activity. It is likewise patent that her conduct would naturally tend to cause death or great bodily injury. Accordingly, she was not entitled to an involuntary manslaughter charge.[1]

2. ABHAN JURY CHARGE

As part of her defense, Tyler presented evidence that her husband's death may have been caused by medical malpractice when doctors improperly treated his burn injuries. In light of this evidence, the trial court instructed the jury that, in the event it found Tyler's actions did not proximately cause her husband's death, then it could consider the offenses of assault and battery with intent to kill (ABIK) and assault and battery of a high and aggravated nature (ABHAN). Tyler asserts that, in instructing the jury on the law of ABHAN, the trial court improperly analogized ABHAN and voluntary manslaughter, thereby mandating a reversal of her conviction.

The trial court instructed the jury as follows:

> I charge you the offense of assault and battery of a high and aggravated nature is defined as an unlawful act of violent injury to the person of another accompanied by circumstances of aggravation. The use of a deadly or dangerous weapon or the infliction of serious bodily harm are recognized as circumstances of aggravation. I charge you assault and battery of a high and aggravated nature is an assault and battery committed with a deadly weapon or dangerous instrumentality without malice but in a spirit of wantonness and with a reckless disregard for the rights and safety

---

[1]Tyler's assertion that, due to her mental illness she was unable to form the requisite mental state for murder, is essentially an argument that the jury should have accepted her insanity defense; the jury declined to do so.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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The State, Respondent,

v.

Linda Tyler, Appellant.

Appeal From Richland County
Paul E. Short, Jr., Circuit Court Judge

Opinion No. 25423
Heard January 23, 2002 - Filed March 4, 2002

AFFIRMED

Senior Assistant Appellate Defender Wanda H. Haile, of Columbia, for appellant.

Attorney General Charles M. Condon, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Donald J. Zelenka, Assistant Attorney General Derrick K. McFarland and Solicitor Warren B. Giese, all of Columbia, for respondent.

JUSTICE WALLER: Appellant Linda Tyler was convicted of murder

and sentenced to life imprisonment without possibility of parole. We affirm.

FACTS

On the morning of September 26, 1996, while riding as a passenger in a car driven by her husband Van, Tyler poured gasoline on her husband's head and used her cigarette lighter to "light him up." She did so because she had learned the day before that a next door neighbor was 2 weeks pregnant with his child. Van Tyler died the following day of third degree burns and inhalation injury. Tyler was found guilty but mentally ill (GBMI) of murder.

ISSUES

1. Did the trial court err in refusing to charge involuntary manslaughter?

2. Did the trial court's charge on assault and battery of a high and aggravated nature (ABHAN) constitute reversible error?

1. INVOLUNTARY MANSLAUGHTER CHARGE

Tyler contends she was entitled to an instruction upon involuntary manslaughter. We disagree.

Involuntary manslaughter is (1) the unintentional killing of another without malice, but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm; or (2) the unintentional killing of another without malice, while engaged in a lawful activity with reckless disregard for the safety of others. State v. Chatman, 336 S.C. 149, 519 S.E.2d 100 (1999). "An unintentional killing resulting from an unlawful assault and battery, not of a character of itself to cause death, is involuntary manslaughter . . ." Id. at 152-153, 519 S.E.2d at 101 *citing* 40 C.J.S. Homicide § 40 (1991). See also People v. Johnson, 100 Ill.App.2d 13, 241 N.E.2d 584 (1968) (death resulting from blow from fist may be involuntary manslaughter because although unlawful, a blow to the face with hand is not likely to be attended with dangerous or fatal consequences); State v. Cobo, 90 Utah 89, 60 P.2d 952 (1936) (the great weight of authority is that an unintentional killing, resulting from an unlawful assault

RICHLAND MEMORIAL HOSPITAL
DEPARTMENT OF PATHOLOGY
COLUMBIA, SOUTH CAROLINA
REPORT OF POSTMORTEM EXAMINATION

NAME TYLER,VAN **AUTOPSY LAB #** A96-189

AGE 41 **RACE** BLACK **SEX** MALE **CHART #** 007092794

DATE OF DEATH 09/27/96 **AUTOPSY** 09/28/96

REQUESTOR FRANK BARRON, III **ADDRESS** COLUMBIA,SC

PROSECTOR RONALD G BURNS,MD

PROVISIONAL ANATOMICAL DIAGNOSES

I. GENERAL:
   A) SEVERE BURNS (SECOND AND THIRD DEGREE) TO HEAD AND NECK, RIGHT AND LEFT UPPER EXTREMITIES, CHEST, AND UPPER ABDOMEN, BILATERAL ANTERIOR THIGHS.
   B) SURGICAL DEBRIDEMENT BILATERAL UPPER EXTREMITIES.
   C) CHEST AND ABDOMINAL FASCIOTOMIES, SURGICAL.

II. HEART: FOCALLY SEVERE CORONARY ATHEROSCLEROSIS, LEFT ANTERIOR DESCENDING VESSEL.

III. LUNGS:
   A) MARKED PULMONARY EDEMA.
   B) STATUS POST TRACHEOSTOMY.
   C) TRACHEAL ERYTHEMA.
   D) PLEURAL ADHESIONS.

IV. LIVER: PARENCHYMAL MOTTLING.

V. GASTROINTESTINAL:
   A) ESOPHAGEAL EXUDATE AND DISCOLORATION.
   B) PUNCTATE GASTRIC MUCOSAL ERYTHEMA, CONSISTENT WITH ULCERATION.

CAUSE OF DEATH: **EXTENSIVE SEVERE BURNS TO HEAD, UPPER BODY, AND UPPER EXTREMITIES.**

09/30/96
RGB:dr
A96-189
A B C

Ronald G. Burns, MD
PATHOLOGIST

CASE, AND LET THE COURT KNOW WE HAVE PUT A CALL INTO HIM AT THIS TIME ---

THE COURT: WELL, YOU KNOW YOU'RE GOING TO HAVE TO COMPLY WITH THE LAW AND THE RULES.

MS. JOHNS: YES, YOUR HONOR.

THE COURT: I'VE GOT TO SEE THAT HE WAS ACTUALLY SERVED ---

MS. JOHNS: YES, YOUR HONOR.

THE COURT: --- WHAT WAS ON THE SUBPOENA, HOW IT WAS DIRECTED, BEFORE I CAN DO ANYTHING.

MS. JOHNS: YES, YOUR HONOR. I JUST WANTED TO BRING THAT TO YOUR ATTENTION. I WILL HAVE MR. PARKER UP HERE TO HAVE HIM SHOW THE SUBPOENA TO THE COURT AND ALSO TESTIFY IF NECESSARY.

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

(JURY TO COURTROOM.)

BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. ALL RIGHT. YOU MAY PROCEED.

MS. BELL: THANK YOU, YOUR HONOR. IF IT PLEASE THE COURT?

THE COURT: YES, MA'AM.

MS. BELL: THE DEFENSE WOULD CALL DR. SHEA.

THE COURT: PLEASE COME FORWARD.

WITH YOU. ALSO, PLEASE DO NOT READ ANY NEWS ACCOUNTS OR WATCH ANY NEWS ACCOUNTS OF THESE PROCEEDINGS.

PLEASE BE BACK IN YOUR JURY ROOM IN THE MORNING AT 9:45 AND WE WILL CONTINUE THE TRIAL OF THIS CASE.

THANK YOU VERY MUCH. HAVE A NICE EVENING.

(JURY LEAVES FOR THE DAY.)

(COURT IN RECESS.)

(COURT RECONVENES.)

THE COURT: IS THE DEFENSE READY?

MS. JOHNS: YOUR HONOR, WE HAVE ONE MATTER TO ADDRESS.

THE COURT: ALL RIGHT.

MS. JOHNS: YOUR HONOR, AT THE BEGINNING OF THIS THE DEFENSE PREPARED A SUBPOENA, PERSONALLY SERVED ON AN AGENT OF THE CORONER'S OFFICE ON 4/4 FOR THE PERSONAL APPEARANCE OF FRANK BARRON, III, THE CORONER OF THIS COUNTY, AND AS I UNDERSTAND IT MR. BARRON IS NOT IN TOWN TODAY. HOWEVER, HE WAS IN TOWN EARLIER THIS WEEK, AND HE DECIDED HE WAS GOING TO SEND AN AGENT, AND IT IS NOT THE AGENT THAT I NEED AND ---

THE COURT: LET ME SEE A COPY OF THE SUBPOENA WHICH WAS SERVED ON THE WITNESS AND THE PROOF OF SERVICE.

MS. JOHNS: YOUR HONOR, I'M GOING TO HAVE TO CATCH UP WITH OUR INVESTIGATOR THAT'S BEEN WORKING ON THIS

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THINGS, BUT AS SHE CONTINUED TO IGNORE WHEN THE VOICES BEGAN TELLING HER TO BURN HER HUSBAND SHE TRIED NOT TO DO THAT. SHE WAS --- OBVIOUSLY, IT WAS SOME TIME BEFORE SHE COMPLETED THE ACT, BUT THEY KEPT GETTING LOUDER AND LOUDER AND EGGING HER ON. SO, AT THAT POINT, WITH ALL THE STRESSORS SHE'D BEEN GOING THROUGH, LOSING HER CHILDREN --- YOU COULD SEE THAT HER LIFE IF YOU LOOK BEFORE THAT DAY IT WAS FALLING APART. I MEAN FROM MAY ON SHE --- HER LEVEL OF FUNCTION WAS GETTING LOWER AND LOWER AND LOWER. SHE WAS LOSING HER KIDS. SHE WAS STILL USING DRUGS. SHE WAS HAVING PROBLEMS WITH HER HUSBAND. SHE THOUGHT HER DAUGHTER HAD BEEN MOLESTED. THERE ARE MANY THINGS GOING ON, AND HER FUNCTIONING KEPT GOING DOWN LOWER AND LOWER. BEFORE SHE HAD BEEN ABLE TO KEEP UP HER HOUSE, SHE HAD HER CHILDREN, SHE HAD BEEN WORKING.

SO, IF YOU KIND OF TAKE A PICTURE AND SEE THAT HER PERFORMANCE, HER FUNCTIONING, KEPT DROPPING AND DROPPING AS THE DATE CAME, AND HER ABILITY EVENTUALLY TO REFRAIN FROM LISTENING TO THESE VOICES --- SHE WASN'T ABLE TO DO THAT ANYMORE.

Q. AND YOU HAVE --- LET ME ASK YOU BECAUSE THERE MAY BE SOME QUESTION ABOUT WHETHER YOU'VE TESTIFIED FOR THE STATE SINCE YOU'VE LEFT THE FORENSIC UNIT HERE AT WILLIAM S. HALL. HAVE YOU DONE SO?

A. YES.
Q. OKAY. LET ME ASK YOU THIS. HAVE YOU BEEN CONSULTED BY DEFENSE ATTORNEYS AND HAVE DECLINED TO GIVE OPINIONS OR HAVE --- BASICALLY COULD NOT GIVE OPINIONS THAT THEY COULD USE IN COURT?
A. I'VE BEEN RETAINED ON A NUMBER OF CASES THAT I COULDN'T TESTIFY ON.
Q. DO YOU HAVE ANY PROBLEMS IN THIS CASE GIVING YOUR PROFESSIONAL OPINION ABOUT MS. TYLER'S CAPACITY TO CONFORM ON DECEMBER OF 19, I'M SORRY, SEPTEMBER OF 1996?
A. NOT AT ALL.
Q. AND YOUR OPINION IS?
A. THAT SHE LACKED CAPACITY TO CONFORM HER CONDUCT TO THE REQUIREMENTS OF THE LAW.
Q. AND THE FACT THAT SHE DIDN'T TELL YOU THAT SHE WAS HAVING HALLUCINATIONS, IS THAT SOMETHING THAT IS A FIRST TIME FOR YOU?
A. OH, NO, PSYCHIATRISTS MANY TIMES WHEN PEOPLE ARE PARANOID THEY WON'T TELL YOU THEIR SYMPTOMS, AND IN FACT THEY CAN LOOK PRETTY NORMAL UNTIL YOU HIT ON THE AREA WHERE THEY HAVE THEIR FIXED FALSE BELIEFS, OR A LOT OF TIMES THERE'S MANY PARANOID PEOPLE. WE'RE NOT ALWAYS THAT GREAT. WE CAN'T ALWAYS PICK IT UP THE FIRST TIME, BUT YOU LOOK AT --- THAT'S WHY WE DO ALL

THE OTHER THINGS OTHER THAN JUST INTERVIEWING PEOPLE. WE LOOK AT ALL THE HISTORY THAT WE CAN GET. WE LOOK AT PAST MEDICAL RECORDS. SO, IT'S NOT UNCOMMON THAT SOMEONE WOULD DENY SYMPTOMS.

Q. OKAY, AND THE DEGREE OF MEDICAL RECORDS THAT WE HAVE THIS DAY AND TIME JUST CONFIRM YOUR OPINION?

A. THAT'S CORRECT. I ALSO USED THEM TO FORM MY OPINION, BUT THEY ABSOLUTELY CONFIRM MY OPINION.

Q. WHAT ABOUT HER TESTIMONY YESTERDAY? DOES THAT IN ANY WAY SHAPE YOUR OPINION THAT YOU HAVE IN THIS CASE?

A. NO, HER TESTIMONY YESTERDAY WAS CERTAINLY CONSISTENT WITH THE THINGS I'VE BEEN SEEING. WHEN SHE'S ASKED QUESTIONS, SHE'S A LITTLE BIT NERVOUS. SHE TENDS TO TALK A LOT, ESPECIALLY WHEN THEY'RE ASKED IN A NICE FASHION AND PEOPLE ARE KIND TO HER. SHE'LL TALK VERY QUICKLY. SHE'LL GET OUT MANY IDEAS. SHE CAN'T FOCUS. YOU'LL ASK HER ONE QUESTION AND SHE MIGHT TALK ABOUT FIFTEEN OR TWENTY DIFFERENT THINGS, AND THEN SHE HAS TO BE REDIRECTED AND FOCUSED TO ANSWER THE QUESTION, AND SHE CAN DO THAT, AND THEN ON HER CROSS EXAMINATION WHEN YOU ASK HER DIRECT QUESTIONS SHE'S ABLE TO RESPOND BETTER.

Q. DR. WATTS, I THINK MS. HAYNES SAID THAT HER STATEMENT SAID THAT SHE DIDN'T SOUND PARANOID AT THAT TIME. COULD YOU EXPLAIN --- WHAT IS YOUR OPINION ABOUT

THAT?

A. MY OPINION ABOUT THAT, ON THE DAY THAT SHE WAS GIVEN THE STATEMENT, THE INVESTIGATOR WAS APPARENTLY VERY KIND TO HER. I MEAN HE WAS NICE TO HER AND SHE FELT LIKE SHE WAS TALKING WITH HIM, AND SHE WAS ABLE TO GIVE HIM STATEMENTS, AND THEN YOU CAN SEE SHE DID BECOME PARANOID LATER. SHE STATES THAT --- NOW, WHETHER THIS HAPPENED OR NOT I'M NOT THERE. I DON'T KNOW, BUT THAT HE BEGAN SLAPPING HIS HANDS ON THE TABLE. THAT WAS SOMEWHAT FRIGHTENING TO HER, BUT AGAIN MS. TYLER IS THE KIND OF PERSON WITH HER INTELLECTUAL IMPAIRMENT, SHE MIGHT DURING THE SITUATION BE VERY COOPERATIVE, AND IT'S ONLY LATER WHEN SHE THINKS ABOUT THINGS, AND MUCH LATER SHE DID GET PARANOID ABOUT THIS, AND THE WAY THAT I THINK SHE GOT PARANOID ABOUT IT IS THAT SHE SAID THE INVESTIGATOR PUT IN THE STATEMENT THAT HER INTENT WAS TO MURDER HER HUSBAND, AND YOU SEE THAT'S NOT IN THE STATEMENT AT ALL. THERE'S NO STATEMENT IN THERE THAT WAS WRITTEN ABOUT HER THAT SAID SHE INTENDED TO MURDER HER HUSBAND. SO, AGAIN IT'S LATER. YOU KNOW, AT THE TIME SHE WAS PROBABLY COOPERATIVE, AND I SUSPECT AT THE TIME SHE PROBABLY WASN'T EVEN PARANOID WHEN SHE THOUGHT THE INVESTIGATOR WAS SLAMMING HIS HANDS. IT'S LATER AS SHE THOUGHT ABOUT THOSE THINGS THAT SHE BECAME PARANOID.

Q. THANK YOU.

MS. BELL: YOUR HONOR, I HAVE NO FURTHER QUESTIONS AT THIS TIME.

MS. HAYNES: I'D LIKE TO ASK ONE QUESTION.

THE COURT: SURE, AS LONG AS IT'S RECROSS EXAMINATION.

MS. HAYNES: YES, SIR.

RECROSS EXAMINATION

BY MS. HAYNES

Q. AND I BELIEVE MS. BELL MADE MENTION OF A BIPOLAR DISORDER THAT WAS WRITTEN IN SOME NOTE BECAUSE THEY WERE GOING TO TRY TO RULE THAT OUT?

A. THAT'S CORRECT.

Q. AND THEY RULED IT OUT. SHE WASN'T DIAGNOSED THAT WAY. WAS SHE?

A. I CERTAINLY HAVEN'T DIAGNOSED HER WITH THAT, AND I SAW NO OTHER RECORDS IN THE CHART THAT WOULD INDICATE SHE HAD THAT DIAGNOSIS.

Q. THANK YOU. NO FURTHER QUESTIONS.

THE COURT: THANK YOU. THANK YOU VERY MUCH. YOU MAY STEP DOWN. NEXT WITNESS.

MS. JOHNS: YOUR HONOR, THE DEFENSE CALLS DR. BEHRMANN TO THE STAND.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

DR. THOMAS W. BEHRMANN, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. JOHNS

Q. DR. BEHRMANN, WOULD YOU PLEASE STATE TO THE JURY YOUR POSITION?

A. CURRENTLY I SERVE AS THE ASSOCIATE DIRECTOR FOR FORENSIC SERVICES AT WILLIAM S. HALL PSYCHIATRIC INSTITUTE.

Q. AND COULD YOU GIVE US A BRIEF VESTIGE OF YOUR EDUCATIONAL BACKGROUND.

MS. HAYNES: YOUR HONOR, THE STATE WILL STIPULATE DR. BEHRMANN IS AN EXPERT. WE WERE GOING TO CALL HIM OURSELVES.

THE COURT: IN THE FIELD OF?

MS. HAYNES: FORENSIC PSYCHIATRY?

MS. JOHNS: FORENSIC PSYCHIATRY.

THE COURT: ALL RIGHT. IT IS STIPULATED AND AGREED BETWEEN THE STATE AND THE DEFENDANT THAT THIS WITNESS IS AN EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY. LADIES AND GENTLEMEN OF THE JURY, YOU MAY CONSIDER THAT TO BE TRUE. THANK YOU VERY MUCH.

BY MS. JOHNS

Q. DR. BEHRMANN, DO YOU KNOW LINDA ANN TYLER?

A. YES, I DO.
Q. WHEN WAS THE FIRST TIME YOU MET WITH MS. TYLER, DR. BEHRMANN?
A. MS. TYLER WAS ADMITTED TO THE FORENSIC UNIT IN DECEMBER OF 1996, AND I BECAME FAMILIAR WITH MS. TYLER AFTER SHE WAS TRANSFERRED TO MY SERVICE ON THE 5TH OF DECEMBER.
Q. SO, THE FIRST TIME YOU MET MS. TYLER WAS DECEMBER 5, 1996?
A. YES.
Q. AND WHEN YOU MET WITH HER WHAT WAS THE PURPOSE OF YOUR INITIAL CONTACT?
A. JUST TO BRIEFLY GET TO KNOW HER.
Q. AND WHEN YOU BRIEFLY GET TO KNOW HER, HOW MUCH DID TIME YOU SPEND WITH HER?
A. PROBABLY JUST A FEW MINUTES. PROBABLY NO MORE THAN FIFTEEN MINUTES.
Q. ABOUT FIFTEEN MINUTES?
A. UH-HUH.
Q. AT THAT TIME, DID YOU ATTEMPT TO MAKE ANY DIAGNOSIS OF HER AT ALL?
A. NO.
Q. DID YOU OBTAIN ANY SOCIAL HISTORY FROM HER AT ALL?
A. PERSONALLY, NO.
Q. SO, BASICALLY THE FIFTEEN MINUTES WAS USED AS AN

INTRODUCTION?

A. CORRECT.

Q. HOW LONG DID SHE STAY AT THE INSTITUTE IN DECEMBER OF 1996?

A. LET'S SEE, SHE WAS DISCHARGED ON DECEMBER 9TH OF 1996.

Q. AND BETWEEN THE DATE DECEMBER 5TH AND DECEMBER 9TH, DID YOU HAVE AN OPPORTUNITY TO FURTHER SPEAK WITH MS. TYLER?

A. I THINK THE ONLY OTHER TIME THAT I MET WITH MS. TYLER WAS ON THE DATE OF THE STAFFING EVALUATION WHICH WAS ON DECEMBER 6TH.

Q. OKAY, AND ON DECEMBER 6TH WHAT WAS THE PURPOSE OF YOU HAVING CONTACT WITH THE PATIENT?

A. AT THAT TIME, ALL OF THE PRELIMINARY TESTING THAT IS ROUTINELY CARRIED OUT ON PATIENTS WHO ARE ADMITTED FOR THE PURPOSE OF EVALUATION HAD BEEN COMPLETED, AND WE MET WITH HER AT THAT TIME TO FORMALLY DISCUSS WITH HER THE ISSUES THAT THE COURT HAD ASKED US TO PERFORM THE EVALUATION ABOUT.

Q. AND SO THIS WAS PURSUANT TO A COURT ORDER?

A. COURT ORDER, CORRECT.

Q. OKAY, AND IN THAT ORDER, EXPLAIN TO THE JURY WHAT THAT COURT ORDER REQUIRES YOU AS A FORENSIC PSYCHIATRIST TO DO FOR THE PATIENT THAT IS ORDERED TO

GO THROUGH THE FACILITY.

A. THIS WAS AN ORDER THAT HAD BEEN RECEIVED FROM THE RICHLAND COUNTY COURT THAT INSTRUCTED US TO PERFORM AN EVALUATION ON MS. TYLER. IT WAS ON THE TOP OF THE COURT ORDER --- IT SAID AN ORDER FOR COMPETENCY EVALUATION. HOWEVER, THE BODY OR THE TEXT OF THE ORDER ITSELF ASKED US TO EVALUATE MS. TYLER ON THREE DIFFERENT ISSUES.

THE FIRST ISSUE WAS WHETHER OR NOT SHE WAS COMPETENT TO STAND TRIAL, WHICH BASICALLY MEANS DOES SHE HAVE THE ABILITY TO UNDERSTAND THE CHARGES AGAINST HER, WHAT IS HER ABILITY TO FOLLOW WHAT GOES ON IN THE COURTROOM, AND ALSO, WHAT IS HER ABILITY TO COOPERATE WITH HER ATTORNEYS IN HER OWN DEFENSE.

Q. AND YOU DECIDED THAT ON DECEMBER 6TH?

A. CORRECT.

Q. YOU DID?

A. YES.

Q. OKAY, AND WHAT WAS THE SECOND ISSUE?

A. THE SECOND ISSUE IS WHAT IS TERMED CRIMINAL RESPONSIBILITY, AND WHAT THAT REFERS TO IS AT THE TIME OF THE INCIDENT THAT LED TO THE CHARGES AGAINST MS. TYLER, WAS SHE SUFFERING FROM ANY MAJOR MENTAL ILLNESS OR DEFECT WHICH WOULD HAVE SOMEHOW PREVENTED HER FROM APPRECIATING THE DIFFERENCE BETWEEN MORAL AND LEGAL

RIGHT AND WRONG AND ALSO APPRECIATING THE POTENTIAL WRONGFULNESS OF HER ACTIONS.

Q. AND DID YOU MAKE A DETERMINATION ON THE SECOND ISSUE ON DECEMBER 6, 1996?

A. YES, WE DID.

Q. AND WHAT WAS THE THIRD ISSUE?

A. THE THIRD ISSUE WAS THAT WE WERE ASKED TO FORM AN OPINION ABOUT HER CAPACITY TO CONFORM HER BEHAVIOR TO THE REQUIREMENTS OF THE LAW, WHICH ONCE AGAIN REFERS TO THE DATE OF THE INCIDENT, AND AT THAT TIME WE'RE ASKED TO TRY TO DETERMINE AS BEST WE CAN WHETHER OR NOT THERE WAS A MAJOR MENTAL ILLNESS OR DEFECT EFFECTING MS. TYLER WHICH WOULD HAVE SOMEHOW PREVENTED HER FROM BEING ABLE TO CONTROL HER BEHAVIOR.

Q. AND ON DECEMBER 6TH WHEN YOU MET WITH MS. TYLER AND HAD CONTACT WITH THIS PATIENT, HOW LONG DID YOU SPEND WITH HER ON DECEMBER 6TH?

A. I THINK WE SPENT PROBABLY ABOUT AN HOUR AND A HALF.

Q. AN HOUR AND A HALF?

A. UH-HUH.

Q. OKAY. NOW, SINCE SHE WAS ADMITTED ON DECEMBER 5TH AND YOU SAW HER FOR FIFTEEN MINUTES AND THEN YOU SAW HER AGAIN FOR ABOUT AN HOUR AND A HALF ON DECEMBER 6TH, WOULD YOU PLEASE TELL THE JURY WHAT DOCUMENTS YOU HAD

ALSO THE IRRATIONAL BEHAVIOR WE MAY HAVE SEEN WAS SECONDARY TO THE VOICES. SHE STATES THAT ON ONE OCCASION THE VOICES WERE TELLING HER TO RUN OVER HER HUSBAND, BUT SHE DIDN'T WANT TO DO THAT. THEN THEY TOLD HER TO SLIT HIS THROAT, AND SHE DIDN'T WANT TO DO THAT, AND THEN THEY BEGAN TO TELL HER TO BURN HER HUSBAND. SO, ALL OF THOSE THINGS TOGETHER WERE AFFECTING HER BEHAVIOR.

Q. AND WHEN YOU SAY SHE COULD DISTINGUISH LEGAL RIGHT FROM WRONG, DOES THAT HAVE ANYTHING TO DO, OR DOES THAT IN ANY WAY SIGNIFY THAT SHE HAS AN INTENT TO MURDER HER HUSBAND? HER MENTAL STATE WAS SUCH THAT SHE HAD THE INTENT TO MURDER HER HUSBAND?

A. NO, THOSE AREN'T THE SAME THINGS. WHEN I SAY THAT SHE WAS NOT LEGALLY INSANE, SHE UNDERSTANDS THAT IF SHE HURT HER HUSBAND THAT WAS THE WRONG THING TO DO, AND THAT SHE COULD GO TO PRISON FOR THAT. SHE UNDERSTOOD THAT WAS ILLEGAL. SHE UNDERSTAND THAT WAS WRONG.

Q. AND WHAT YOU'RE SAYING --- WELL, WHAT IS YOUR OPINION ABOUT HER CAPACITY TO CONFORM?

A. IT'S MY OPINION THAT SHE DID NOT HAVE THE CAPACITY TO CONFORM HER CONDUCT TO THE REQUIREMENTS OF THE LAW THAT DAY. MEANING THAT SHE WAS ABLE WHEN THE VOICES WERE TELLING HER TO DO THINGS THAT WOULD KILL HER HUSBAND, RUN OVER HIM, STAB HIM, SHE WOULDN'T DO THOSE

BE THE SAME ON US AS THE EFFECT IT HAD ON MS. TYLER?
A. NO, HER ABILITY TO COPE WITH THOSE STRESSORS IS GOING TO BE EFFECTED BECAUSE OF HER MENTAL ILLNESS.
Q. OKAY, AND IN DR. BEHRMANN'S REPORT IT INDICATES THAT HER TOLERANCE LEVEL WAS LOW?
A. THAT'S CORRECT. HER FRUSTRATION TOLERANCE.
Q. HER FRUSTRATION IS LOW. OKAY, WOULD THOSE BE THINGS THAT WERE INTERPLAYED ALONG WITH HER INTELLECTUAL LEVEL OF FUNCTIONING AND HER MAJOR MENTAL ILLNESS?
A. ABSOLUTELY.
Q. WOULD THAT DESCRIBE IRRATIONAL BEHAVIOR OR RECKLESS BEHAVIOR?
A. WELL, THOSE ARE CERTAINLY MANIFESTATIONS OF RECKLESS BEHAVIOR, THE ACT IS WHAT --- THE BEHAVIOR ITSELF IS WHAT WOULD BE RECKLESS OR NOT, AND EXAMPLES OF THAT WOULD BE THAT SHE KNEW SHE HAD A COURT HEARING THAT DAY AND HAD HER CHILDREN TAKEN AWAY FROM HER BECAUSE SHE HAD BEEN USING MARIJUANA, BUT YET THAT MORNING SHE STATED IN HER TESTIMONY YESTERDAY THAT SHE WENT OUT LOOKING FOR DRUGS. SHE WAS LOOKING FOR GIN. SHE WAS LOOKING FOR MARIJUANA.

I THINK THE FACT THAT SHE WAS SOMEWHAT DISORGANIZED --- SHE WAS SPILLING GAS, NOT ONE TIME, NOT TWO TIMES, BUT THREE TIMES ON HERSELF, AND I THINK

TRUTH. SHE BELIEVES THE THINGS THAT SHE SAYS. SHE BELIEVES THAT HER DAUGHTER HAS BEEN MOLESTED. SHE BELIEVES THESE VARIOUS OTHER ISSUES, AND SHE WANTED SOMEONE TO JUST VALIDATE THAT WHAT SHE WAS SAYING WAS TRUE. THAT'S MY OPINION WHY SHE WANTS THAT TEST.

Q. NOW, WHEN SOME OF THESE THINGS WERE DISCUSSED WITH HER AND HER FORMER ATTORNEY, DID HER PARANOIA ---

MS. HAYNES: OBJECTION, YOUR HONOR. WE'RE BEYOND ---

THE COURT: SUSTAINED. OUTSIDE THE SCOPE OF REDIRECT EXAMINATION.

MS. BELL: YOUR HONOR, I THINK SHE'S TALKED ABOUT PARANOIA AND HOW PARANOIA .

THE COURT: THAT'S NOT WHAT YOU'RE ASKING.

BY MS. BELL

Q. LET ME ASK YOU, THE SOLICITOR INDICATES THAT ANYBODY CAN HAVE STRESSORS THAT MS. TYLER WAS HAVING ON THOSE PARTICULAR DAYS, WITH HER HUSBAND DECEIVING HER, WITH HER HUSBAND LYING TO HER, WITH HER CHILDREN BEING TAKEN AWAY FROM HER, WITH HIS DECEPTIONS ABOUT HIM HELPING HER, WITH THE DEATH OF HER HUSBAND, WITH TRYING TO HOLD DOWN THE APARTMENT AND KEEP THE FAMILY TOGETHER. NOW, THOSE TYPE OF STRESSORS, ARE THEY GOING TO BE THE SAME FOR A PERSON WHO IS NOT MENTALLY ILL LIKE MS. HAYNES OR MYSELF OR MS. JOHNS? IS IT GOING TO

DECEMBER OR ON SEPTEMBER OF 1996?
A. NO, COMPETENCY TO STAND TRIAL IS A MEASURE OF HOW THAT PERSON IS DOING ON THAT DAY. FOR EXAMPLE, SOMEBODY COULD BE COMPETENT TODAY, AND MAYBE THEY WEREN'T THREE WEEKS AGO. SOME PEOPLE ARE COMPETENT ALL THE TIME. IT'S TOWARD THE ACTUAL DAY, HOW THEY'RE PERFORMING. CAN THEY RELATE TO THEIR ATTORNEY? CAN THEY HELP THEIR ATTORNEY? DO THEY UNDERSTAND WHAT'S GOING ON IN THE COURTROOM?
Q. AND YOU'VE REVIEWED SOME RECORDS IN THIS CASE, AND IN FACT YOU HAD OCCASION TO BE IN COURT WHEN MS. TYLER MADE MOTIONS TO THE COURT. CORRECT?
A. YES, I WAS.
Q. OKAY, AND ONE OF THOSE MOTIONS WAS FOR A TRUTH SERUM SHOT OR SODIUM PENTOTHAL SHOT. IS THAT CORRECT?
A. THAT'S CORRECT.
Q. OKAY, AND IT WAS INDICATED TO HER THAT HER ATTORNEYS COULD NOT MAKE THAT MOTION FOR HER BECAUSE THERE WAS NO LAW AVAILABLE FOR THAT MOTION?
A. THAT'S CORRECT.
Q. OKAY, BUT WHY WAS SHE SO ADAMANT ABOUT HAVING THAT MOTION HEARD?
A. TO ME THAT'S A SYMPTOM OF HER ILLNESS. THAT SHE WANTS SOMEONE TO BELIEVE THAT THE BELIEFS SHE HAS ARE TRUE. SHE WANTS PEOPLE TO KNOW THAT SHE'S TELLING THE

Q. WASN'T THERE INDICATION OF A BIPOLAR DISORDER IN DECEMBER OF 1996?
A. WELL, THERE IS A REFERENCE TO IT IN THE NOTES. WHAT HAPPENS WHEN SOMEONE IS ADMITTED, SOMETIMES WE'RE NOT --- WE CAN'T ALWAYS DIAGNOSE SOMEONE IMMEDIATELY. IT TAKES HISTORY. IT TAKES OUR EXAMINATIONS, AND SO AT THE TIME SHE WAS ADMITTED, ONE OF THE PROFESSIONALS HAD PUT HER ON A TREATMENT PLAN TO RULE OUT WHETHER SHE HAD BIPOLAR DISORDER OR NOT.
Q. AND THAT'S LARGELY BASED ON THE FACT OF SOCIAL HISTORY AS WELL. CORRECT?
A. SOCIAL HISTORY, MEDICAL HISTORY, THE MEDICAL, THE HISTORY AND PHYSICAL EXAMINATION, CLINICALLY WHAT PEOPLE ARE SEEING, THE PSYCHOLOGICAL TESTING. IT'S A WHOLE COMPREHENSIVE PICTURE. WE BASE OUR DIAGNOSIS ON ALL OF THOSE THINGS.
Q. ANY INDICATION IN THOSE RECORDS THAT SOMEONE WAS CONTACTED AS FAR AS SOCIAL HISTORY AND INDICATED THAT MS. TYLER AT ONE MINUTE COULD APPEAR VERY SWEET AND NICE AND BE VERY EASILY FRUSTRATED?
A. THAT'S CORRECT. THAT WAS IN THE SOCIAL HISTORY.
Q. OKAY, AND THAT WAS IN DECEMBER OF 1996. CORRECT?
A. THAT'S CORRECT.
Q. LET ME ASK YOU, COMPETENCY TO STAND TRIAL, DOES THAT HAVE ANYTHING TO DO WITH HOW MS. TYLER WAS ON

AFTER WE HAD RECEIVED THE RECORDS THAT SHE HAD BEEN HALLUCINATING IN THE DEPARTMENT OF CORRECTIONS, BUT SHE DID NOT TALK WITH ME ABOUT THE DAY OF THE OFFENSE HEARING VOICES UNTIL JANUARY OF 1998.

Q. I DON'T HAVE ANY FURTHER QUESTIONS.

THE COURT: THANK YOU. REDIRECT?

MS. BELL: YES, SIR. YOUR HONOR.

REDIRECT EXAMINATION

BY MS. BELL

Q. DR. WATTS, ISN'T IT TRUE THAT YOU HAVE DISCUSSED THIS CASE WITH DR. BEHRMANN AND MYSELF AND MS. JOHNS?

A. YES, I HAVE.

Q. YOU HAVE DISCUSSED YOUR OPINIONS. HE'S DISCUSSED HIS OPINIONS AND YOU'VE TALKED ABOUT THIS CASE?

A. YES, I HAVE.

Q. LET ME ASK YOU, WERE YOU PRESENT WHEN HE WAS GIVEN RECORDS OF SOME OF HER MEDICAL RECORDS?

A. YES, I GAVE HIM THE DEPARTMENT OF CORRECTION RECORDS, AND I DON'T THINK HE HAD THOSE AT THE TIME OF HIS EVALUATION.

Q. LET ME ASK YOU, LOOKING AT THE RECORDS FROM 1996 WHEN MS. TYLER WAS ADMITTED TO THE COOPER BUILDING, ISN'T THERE INDICATIONS OF DIAGNOSIS BIPOLAR DISORDER. IS THAT A MAJOR MENTAL ILLNESS?

A. YES.

Q. I MEAN, THAT'S NOT THAT STRANGE, IS IT, FOR AN INMATE TO BE EXPERIENCING PARANOIA AND THINK THAT PEOPLE ARE AGAINST THEM. IS IT?
A. IT'S NOT ALWAYS COMMON AND ALWAYS TYPICAL, BUT IN SOMEONE WITH AN UNDERLYING DISORDER I WOULD CERTAINLY EXPECT THEM TO BE MORE PARANOID AFTER BEING ARRESTED.
Q. BUT WHEN YOU SAW HER SHE WAS IN JAIL. THAT WAS A YEAR AND SOME THREE MONTHS LATER, AND BEING PARANOID WHEN YOU'RE IN JAIL AND FACING A TRIAL, THAT'S NOT THAT STRANGE.
A. WELL, IT'S NOT THAT STRANGE TO FEEL PARANOID, BUT WHAT'S STRANGE IS WHEN YOU'RE DEVELOPING THESE FIXED FALSE REASONS TO EXPLAIN YOUR PARANOIA, YOUR DISCOMFORT BY ACCUSING A CORONER OF BEING IN CAHOOTS WITH THE ATTORNEY TO MAKE SURE THAT YOU'RE SENT AWAY FOR LIFE. THAT THE EXPLANATIONS. THE FEELING OF BEING PARANOID IS CORRECT, BUT THE EXPLANATIONS SHE USES, THAT'S NOT COMMON.
Q. AND THE FIRST TIME SHE EVER MADE MENTION OF THESE VOICES WAS AFTER YOU SAW HER A COUPLE OF TIMES, AND IN 1998 IS THE FIRST TIME SHE EVER BROUGHT FORTH ABOUT ANY VOICES?
A. WELL, SHE HAD MENTIONED THAT SHE HEARD VOICES BEFORE, BUT NOT DURING A TIME, NOT DURING, WHILE HER INCARCERATION IN THE JAIL. SHE --- WE ALREADY KNEW

STRESSORS CAN INCREASE SOMEONE'S PARANOIA OR HALLUCINATIONS. CORRECT?

A. THAT'S CORRECT. THEY CAN MAKE SYMPTOMS OF AN UNDERLYING ILLNESS WORSE. FOR EXAMPLE, LIKE IF YOU HAD DIABETES AND YOU'D HAVE THE STRESS OF GETTING AN INFECTION AND YOUR SUGAR MAY GO UP. SO, LIKE IN ANY OTHER ILLNESS, STRESS WILL WORSEN THE SYMPTOMS.

Q. BUT THOSE STRESSORS THAT YOU MADE MENTION OF --- HER SUFFERING BACK IN 1996, THE DEATH OF HER HUSBAND EARLIER, THE LOSING HER CHILDREN, HER OTHER HUSBAND, VAN TYLER NOT WANTING ANYTHING ELSE TO DO WITH HER, THOSE WOULD UPSET ANY PERSON. CORRECT? MOST LIKELY?

A. THAT'S CORRECT. THOSE ARE SIGNIFICANT STRESSORS.

Q. AND LET ME ASK YOU THIS. DON'T YOU AGREE THAT BEING ARRESTED FOR MURDER IS A STRESSOR?

A. ABSOLUTELY.

Q. AND BEING PLACED IN JAIL IS A STRESSOR?

A. A TERRIBLE STRESSOR.

Q. AND ISN'T IT CORRECT THAT BEING PLACED IN JAIL AND HAVING CHARGES BROUGHT AGAINST YOU TENDS TO MAKE A PERSON PARANOID?

A. WELL, I CAN'T SAY THAT IN GENERAL, BUT SOMEONE WITH AN UNDERLYING PARANOID DISORDER WOULD MOST LIKELY HAVE THEIR SYMPTOMS WORSENED BY BEING ARRESTED, CHARGED WITH MURDER AND PLACED IN JAIL.

Q. AND ALSO, IF A PERSON IS EXPERIENCING A PSYCHOTIC EPISODE, USUALLY WHAT THEY'RE SAYING DOESN'T MAKE SENSE OR IT'S NOT COHERENT. ISN'T THAT TRUE?
A. NO, THAT'S NOT NECESSARILY TRUE. THEY CAN BECOME DISORGANIZED IN THEIR THINKING, BUT THERE'S MANY PEOPLE THAT CAN EXPLAIN THEIR PSYCHOSIS, THEIR FIXED FALSE BELIEFS IN A VERY COHERENT MANNER.
Q. AND LET ME ASK YOU THIS. YOU'RE NOT TELLING THIS JURY THAT MS. TYLER DIDN'T KNOW RIGHT FROM WRONG. ARE YOU?
A. NO, I'M NOT.
Q. SHE DID KNOW RIGHT FROM WRONG.
A. THAT'S MY OPINION.
Q. SO, SHE'S NOT INSANE.
A. WELL, INSANE IS YOUR TERM, BUT SHE WAS, RIGHT, SHE WAS NOT SO PSYCHOTIC THAT SHE COULDN'T TELL RIGHT FROM WRONG ON THAT DAY.
Q. AND THAT'S THE TEST IN SOUTH CAROLINA FOR INSANITY? IS IT NOT?
A. THAT'S CORRECT.
Q. WHETHER YOU KNOW RIGHT FROM WRONG.
A. THAT'S CORRECT.
Q. AND SHE DID KNOW RIGHT FROM WRONG.
A. THAT'S MY OPINION.
Q. LET ME ASK YOU THIS. YOU SAID THAT VARIOUS

KNOWLEDGE OF THE LEGAL SYSTEM.

A. SHE DOES. SHE KNOWS HER RIGHTS. SHE KNOWS THE ROLE OF THE COURT OFFICIALS VERY, VERY WELL.

Q. SHE KNOWS WHAT SHE'S DOING WHEN IT COMES TO COURT. DOESN'T SHE?

A. WELL, SHE KNOWS THE ROLES. SHE HAS A FACTUAL UNDERSTANDING OF WHAT'S SUPPOSED TO HAPPEN IN COURT, A VERY CLEAR FACTUAL UNDERSTANDING.

Q. AND YOU SAID THAT SHE WAS EXAMINED AND GIVEN AN M.R.I. AND AN E.E.G.?

A. THAT'S CORRECT.

Q. AND THAT THOSE WERE BOTH ORDERED AND SHE COOPERATED, AND IT TOOK A LOT OF CONCENTRATION AND SHE ACTUALLY HAD THOSE TESTS PERFORMED ON HER, BUT SHE WAS RELUCTANT TO HAVE A PELVIC EXAM?

A. A PELVIC AND A RECTAL EXAM. THAT'S CORRECT.

Q. IS THAT UNUSUAL FOR WOMEN OR MEN TO BE RELUCTANT TO HAVE THAT DONE TO THEM?

A. NO, THERE'S MANY TIMES THAT PEOPLE THAT AREN'T PARANOID REFUSE THOSE EXAMS AS WELL.

Q. AND DO YOU BELIEVE SHE'S COMPETENT HERE TODAY? MS. TYLER?

A. YES, THAT'S MY OPINION.

Q. AND SHE'S ABLE TO ASSIST HER ATTORNEYS?

A. YES.

Q. BUT DR. BEHRMANN STILL THOUGHT SHE WAS COMPETENT?
A. THAT'S MY UNDERSTANDING BASED ON HIS TESTIMONY.
Q. AND HE FELT LIKE THAT MIGHT HELP HER CALM DOWN SO THAT SHE WOULD BE MORE RESERVED AND BE CAPABLE OF ASSISTING HER ATTORNEYS? HE THOUGHT THIS MIGHT BE BENEFICIAL, BUT SHE WAS ALREADY COMPETENT?
A. THAT'S CORRECT. IT WOULD MAKE HER LESS PARANOID SO THAT SHE WOULD INTERPRET THINGS CORRECTLY.
Q. AND I BELIEVE YOU SAID IN AN EARLIER HEARING THAT A PERSON WITH A PARANOID PERSONALITY WOULD NORMALLY SCRUTINIZE EVERYTHING. THAT THEY DON'T TRUST ANYBODY.
A. THAT'S CORRECT.
Q. SO, LIKE WHEN INVESTIGATOR GRAY ON SEPTEMBER 26 SHOWED HER THIS STATEMENT AND SHE JUST SIGNED EVERY PAGE AND JUST GLANCED IT AND DIDN'T SCRUTINIZE IT, SHE WAS TRUSTING HIM. CORRECT?
A. WELL, I WASN'T THERE, BUT THE WAY THAT I WOULD FORMULATE THAT IS THAT SHE READ THE FIRST PAGE. SHE ASSUMED THAT BECAUSE THE FIRST PAGE WAS CORRECT THAT HE WOULD HAVE WRITTEN THE REST OF HER STATEMENTS.
Q. THAT DOESN'T SOUND LIKE A PARANOID PERSON. DOES IT, DOCTOR?
A. NO, IT DOES NOT.
Q. AND I BELIEVE YOU ALSO STATED IN AN EARLIER HEARING THAT SHE HAD AN EXCELLENT KNOWLEDGE, OR FACTUAL

ILLNESS THEN. WAS SHE?
A. THERE WAS NO DIAGNOSIS WRITTEN IN THOSE RECORDS, BUT SHE WAS DIAGNOSED AS HAVING HALLUCINATIONS AND TREATED FOR THEM.
Q. BUT THEY DIDN'T MAKE ANY FINDING AS TO HER HAVING SOME MAJOR MENTAL ILLNESS AT THAT TIME. DID THEY?
A. THERE WAS NO DIAGNOSIS IN THE REPORTS.
Q. AND I BELIEVE THE FIRST TIME DR. BEHRMANN SAW HER WAS SOME THREE MONTHS AFTER HER --- THIS INCIDENT HAPPENED IN SEPTEMBER. AT THAT TIME, HE DIDN'T SEE ANY EVIDENCE OF HALLUCINATIONS. DID HE?
A. NO.
Q. AND HE FOUND THAT SHE WAS COMPETENT. DIDN'T HE?
A. BASED ON HIS REPORT, THAT'S CORRECT.
Q. AND YOU IN FACT BELIEVE SHE'S COMPETENT. DON'T YOU?
A. TODAY SHE IS, YES.
Q. AND IN FACT YOU MADE MENTION THAT SHE WAS SENT TO WILLIAM S. HALL TO GET PROLIXIN TO HELP CALM HER DOWN?
A. TO ORGANIZE HER THOUGHTS.
Q. ORGANIZE HER THOUGHTS?
A. YES.
Q. AND AT THAT TIME, YOU DIDN'T FEEL SHE WAS COMPETENT?
A. THAT'S CORRECT.

INSTITUTE, HOW MANY TIMES HAVE YOU TESTIFIED FOR THE STATE?

A. PROBABLY ABOUT TEN TIMES.

Q. SO, THE MAJORITY OF THE TIMES SINCE YOU'VE LEFT THE STATE HOSPITAL YOU'VE BEEN PROVIDING INFORMATION AND TESTIFYING ON BEHALF OF THE DEFENSE?

A. NO. TEN TIMES FOR DEFENSE AND TEN TIMES FOR STATE.

Q. AND LET ME ASK YOU THIS, PARANOIA CAN COME AND GO. CAN IT NOT?

A. ABSOLUTELY.

Q. AND YOU DON'T HAVE ANY IDEA WHAT MS. TYLER'S CONDITION WAS BACK ON SEPTEMBER 26, 1996. DO YOU?

A. WELL, BASED ON MY RAPPORT, MY RAPPORT WITH HER AND MY INTERVIEWS WITH HER, BASED ON THE RECORDS, I HAVE AN OPINION ON WHAT HER MENTAL STATE WAS.

Q. YOU DIDN'T SEE HER ON THAT DATE. DID YOU?

A. NO.

Q. AND YOU DIDN'T SEE HER BEFORE THAT DATE. DID YOU?

A. NO, AS NO ONE DID.

Q. AND YOU DIDN'T SEE HER --- WELL, PEOPLE AT THE, I BELIEVE YOU SAID SHE WAS EVALUATED AS SHE WAS INCARCERATED BACK IN THE EARLY 70S. CORRECT?

A. THAT'S CORRECT.

Q. AND SHE WAS NOT DIAGNOSED WITH ANY MAJOR MENTAL

YOU'D HAVE A PROBLEM WITH THAT AND YOU INDICATED NO, BUT THEN MS. JOHNS SAID "YOU DON'T HAVE TO TALK TO HER" AND YOU HAVEN'T TALKED TO ME. YOU HAVEN'T PROVIDED ANY REPORT. YOU HAVEN'T TALKED TO ME ABOUT ANYTHING YOU WERE GOING TO TESTIFY TO TODAY, BUT YET YOU REVIEWED EVERY SINGLE THING THAT DR. BEHRMANN HAS DONE. YOU'VE LOOKED THROUGH ALL HIS REPORTS. HE'S BEEN MORE THAN GRACIOUS TO PROVIDE EVERY SINGLE DOCUMENT TO YOU TO OPEN UP HIS REPORTS AND SIT THERE AND EXPLAIN THEM TO YOU AND TO TALK TO YOU OVER NUMEROUS OCCASIONS ABOUT HIS FINDINGS. HAS HE NOT?

A. OH, HE'S BEEN MORE THAN COOPERATIVE.

Q. AND IN FACT, DR. BEHRMANN IS THE ACTING DIRECTOR OF THE WILLIAM S. HALL FORENSIC DIVISION. CORRECT?

A. HE IS THE DIRECTOR OF THE WILLIAM S. HALL FORENSIC DIVISION.

Q. HE'S THE DIRECTOR, AND THAT'S WHERE YOU DID A LOT OF TRAINING?

A. YES, IT IS.

Q. AND HE'S ON THE FACULTY THERE?

A. THAT'S CORRECT.

Q. AND I BELIEVE YOU SAID THAT YOU TESTIFIED ABOUT A HUNDRED TIMES, AND THAT EIGHTY OF THOSE TIMES WERE WITH THE STATE AND ABOUT TWENTY WITH THE DEFENSE. SINCE YOU'VE LEFT THE WILLIAM S. HALL, WHICH IS A STATE

I SAW HER. I WAS PROVIDED WITH THOSE RECORDS, I BELIEVE, IN JANUARY OF 1998.

Q. AND YOU WOULD AGREE IT'S PROFESSIONALS THAT PREPARE A REPORT. IS IT NOT?

A. I'M SORRY.

Q. PROFESSIONALS THAT PREPARE REPORTS. YOU'VE PREPARED NUMEROUS REPORTS WHEN YOU YOURSELF WORKED AT WILLIAM S. HALL?

A. ABSOLUTELY.

Q. AND YOU DID NOT PREPARE A REPORT IN THIS CASE. DID YOU?

A. NO, I DID NOT.

Q. AND IN FACT, WHEN I ASKED TO SPEAK WITH YOU EARLIER THIS WEEK, MS. JOHNS TOLD YOU YOU DIDN'T HAVE TO.

MS. JOHNS: YOUR HONOR, I OBJECT. THIS IS PRIVILEGED HERE, AND I DON'T THINK THE PROSECUTOR SHOULD BE ABLE TO CROSS EXAMINE HER AS TO WHETHER OR NOT WE DECIDED TO EXERCISE THAT PRIVILEGE.

THE COURT: A PRIVILEGE WITH YOU AND DR. WATTS.

MS. JOHNS: THROUGH THE CLIENT.

THE COURT: WELL, I DIDN'T UNDERSTAND THAT TO BE THE QUESTION. RESTATE YOUR QUESTION.

Q. WHAT I SAID I BELIEVE WAS, DR. SCHWARTZ-WATTS, IS THAT I ASKED TO SPEAK WITH YOU EARLIER THIS WEEK IF

VERY CALM.

MS. BELL: YOUR HONOR, I HAVE NOTHING FURTHER AT THIS TIME.

THE COURT: THANK YOU. CROSS EXAM.

CROSS EXAMINATION

BY MS. HAYNES

Q. DR. SCHWARTZ-WATTS, I BELIEVE YOU SAID THE FIRST TIME YOU EVER SAW MS. TYLER WAS IN DECEMBER OF 1997?

A. THAT' S CORRECT.

Q. AND THAT WAS SOME ONE YEAR AND THREE MONTHS AFTER HER ARREST AND THIS INCIDENT TOOK PLACE?

A. THAT' S CORRECT.

Q. AND THAT WAS EVEN A WHOLE YEAR AFTER DR. BEHRMANN HAD ALREADY EXAMINED HER. CORRECT?

A. THAT' S CORRECT.

Q. AND I BELIEVE YOU ALSO STATED THAT YOU IN YOUR EVALUATION OF HER TOOK INTO ACCOUNT AND REVIEWED ALL OF THE REPORTS PREPARED BY DR. BEHRMANN AND PEOPLE AT WILLIAM S. HALL. DID YOU NOT?

A. AT THE POINT I SAW HER IN DECEMBER OF ' 97, I HAD THE COURT REPORTS THAT DR. BEHRMANN HAD PREPARED BUT NONE OF THE OTHER HALL RECORDS AT THAT TIME.

Q. BUT SHORTLY THEREAFTER YOU WERE PROVIDED ALL THOSE, AND YOU REVIEWED ALL THOSE?

A. THAT' S CORRECT. I THINK IT WAS DECEMBER ' 97 WHEN

Q. NOW, YOU SAW HER TESTIFY YESTERDAY?
A. YES.
Q. IS THERE ANY --- AND YOU'VE SEEN HER BEFORE SHE WAS ON THE PROLIXIN. WAS THERE ANY SIDE EFFECTS YOU CAN SEE AS FAR AS HER AFFECT, AND COULD YOU EXPLAIN TO THE JURY WHAT AFFECT IS?
A. YES. THE OLDER MEDICATIONS THAT WE HAVE --- WE HAVE SOME NEWER MEDICATIONS THAT ARE A BIT BETTER, BUT THE OLDER MEDICATIONS WE HAVE --- AND PROLIXIN IS ONE OF THE OLDER ONES, AND THEY WORK VERY WELL. THE PROBLEM IS THAT THEY HELP TO CONTROL THE SYMPTOMS AND THEY OFTEN DO A VERY GOOD JOB, BUT THEY ALSO HAVE SIDE EFFECTS, AND ONE OF THE SIDE EFFECTS THAT YOU CAN SEE --- IT KIND OF, I DON'T KNOW IF YOU'VE SEEN SOMEONE THAT HAS PARKINSON'S DISEASE. IT CAN MAKE SOMEONE LOOK LIKE THEY HAVE PARKINSONS. ONE OF THE SYMPTOMS THAT YOU SEE IS CALLED A MASKED FACE, MEANING THAT YOUR FACIAL MUSCLES DON'T MOVE AS MUCH. YOU KNOW, THAT YOU KIND OF HAVE A GAZE AND A STARE AND IT MAKES PEOPLE APPEAR SERENE OR CALM. IT'S MORE DIFFICULT FOR THEM TO MOVE THEIR FACIAL MUSCLES.

THE OTHER THING THAT IT CAN DO IS BECAUSE IT WORKS AND BECAUSE IT'S CONTROLLING HER THINKING, IT MAY KEEP HER AFFECT, WHICH IS HOW SHE LOOKS ON THE OUTSIDE. IF YOU TAKE A PICTURE HOW SHE PRESENTS, SHE MAY APPEAR

A. SHE'S ON A MEDICATION CALLED PROLIXIN AND THAT'S AN ANTIPSYCHOTIC MEDICATION, AND WHAT THAT DOES IS THAT ORGANIZES YOUR THINKING. IT DECREASES PARANOID THINKING. IT WOULD, HOPEFULLY WHEN IT'S WORKING AT BEST, IT WOULD STOP HALLUCINATIONS, HEARING THOSE VOICES.

Q. LET ME ASK YOU. HOW LONG AGO WAS SHE PUT ON PROLIXIN, AND WHAT PRECIPITATED HER BEING PUT ON PROLIXIN?

A. WELL, SHE WAS PLACED IN THE HOSPITAL AFTER A COURT HEARING. WE HAD SHOWN UP IN COURT FOR HER --- TO ORIGINALLY DECIDE WHETHER SHE WAS COMPETENT TO STAND TRIAL. AT THAT POINT, DR. BEHRMANN HAD EXAMINED HER AND WITH ME AS WELL, AND WE FELT THAT SHE COULD BENEFIT FROM BEING HOSPITALIZED AND PLACED ON THOSE MEDICATIONS. SHE WAS PARANOID AT THE TIME. SHE WAS HAVING SOME PROBLEMS WITH HER THINKING. SO, WE THOUGHT TO HOSPITALIZE HER, TAKING HER OUT OF THE JAIL SETTING AND PUTTING HER INTO A HOSPITAL AND MEDICATING HER WOULD KEEP HER COMPETENT THROUGHOUT THIS PROCEEDING SO SHE COULD PAY ATTENTION, SO SHE COULD HELP HER DEFENSE.

Q. SO, IT WAS YOUR OPINION AT THAT PARTICULAR TIME THAT SHE WAS NOT COMPETENT?

A. IT WAS MY OPINION ON THAT DAY SHE WAS NOT COMPETENT.

THAT COULD HAPPEN IS IF YOU'RE NICE TO HER AND SHE MIGHT BE VERY POLITE AND KIND TO YOU, BUT THEN IF SHE BELIEVES THAT YOU'RE LYING, SHE MAY THINK ABOUT THAT LATER AND THEN THE NEXT TIME YOU SEE HER SHE MIGHT BE EXPLOSIVE.

SO, YOU COULD SEE HER ON THE STREET ONE DAY AND IF YOU LIED TO HER OR IF SHE THINKS YOU LIED TO HER, SHE MIGHT BE KIND THAT DAY, AND THEN THE NEXT TIME YOU SEE HER SHE MIGHT BE VERY ANGRY WITH YOU. SO, EITHER SHE'S GOING TO GET ANGRY AT THAT POINT, DEPENDING IF SHE'S HEARING VOICES OR NOT OR IT COULD BE LATER.

SO, BECAUSE OF HER INTELLECTUAL FUNCTIONING, SHE HAS TROUBLE JUDGING THOSE THINGS, AND THEN THAT'S WORSENED BY HER MENTAL ILLNESS.

Q. AND ON, BACK IN SEPTEMBER OF 1996, AFTER REVIEWING HER RECORDS, WAS SHE ON ANY KIND OF ANTIPSYCHOTIC MEDICATION?

A. NO, SHE WAS NOT.

Q. WAS SHE ON ANY KIND OF MEDICATIONS FOR ANY KIND OF ILLNESS?

A. NO, SHE WAS NOT.

Q. YOU SAW MS. TYLER TESTIFY?

A. YES, I DID.

Q. OKAY. YOU SEE HER BEFORE --- WHAT MEDICATION IS SHE ON NOW?

Q. AND IT COULD MANIFEST ITSELF IN RECKLESS BEHAVIOR?
A. IT CAN.
Q. AND IRRATIONAL BEHAVIOR?
A. IT CAN.
MS. BELL: I BEG THE COURT'S INDULGENCE.
Q. DR. WATTS, WE ALL HAVE INDEPENDENT OF ANY MENTAL ILLNESS, WE ALL HAVE EVERYDAY STRESSORS, THINGS THAT CERTAINLY WOULD BE A PROFOUND IMPACT ON US PSYCHOLOGICALLY. HOW IS IT DIFFERENT IN MS. TYLER'S CASE WITH THE FACT OF THE MAJOR MENTAL ILLNESS AND THE OTHER FACTORS THAT WE TALKED ABOUT?
A. WELL, I THINK THE BEST WAY TO DESCRIBE THAT WOULD BE TO GIVE AN EXAMPLE. IF MS. TYLER IS FACED WITH A STRESSOR, AND I CAN NAME --- I'VE GOTTEN TO KNOW HER OVER THE TIME, AND SOME PARTICULAR STRESSORS FOR HER WOULD BE ON A DAILY BASIS --- IF SHE BELIEVES SOMEONE HAS LIED TO HER, IF SHE THINKS SOMEONE IS LYING TO HER, SHE AUTOMATICALLY BECOMES VERY IRRITABLE. SHE MAY OR MAY NOT. SOME CASES SHE BEGINS TO HALLUCINATE, OTHER TIMES SHE DOESN'T. SHE MAY HEAR VOICES AT THAT TIME SAYING THAT PERSON IS LYING TO YOU, DON'T TRUST THEM, YOU KNOW, WATCH OUT. SHE MAY HALLUCINATE. SHE MAY NOT TRUST YOU. SHE MAY BECOME SOMEWHAT IRRITABLE AND ANGRY AND EXPLOSIVE, AND THEN ON TOP OF THAT SHE COULD REACT ANOTHER WAY. IT'S VERY UNPREDICTABLE. THE OTHER THING

COULD EXPLAIN WHAT STRESSORS ARE FOR ME --- HOW WOULD THEY EFFECT MS. TYLER?

A. WELL, STRESS IS KIND OF DIFFICULT TO DEFINE. I THINK STRESS VARIES BY THE INDIVIDUAL, BUT PSYCHIATRISTS LOOK AT WHAT'S CALLED SIGNIFICANT STRESSORS AND SOME OF THOSE SIGNIFICANT STRESSORS SHE WOULD BE --- IT CERTAINLY WOULD BE HAVING HER CHILDREN TAKEN AWAY FROM HER. THAT WAS VERY STRESSFUL FOR HER. HAVING HER HUSBAND LEAVE PRIOR TO THIS EVENT, THAT'S VERY STRESSFUL FOR HER. TRYING NOT TO USE DRUGS THEN, BECAUSE SHE WANTED HER CHILDREN BACK AND REFRAINING FROM HER USE OF MARIJUANA WHICH SHE USED HISTORICALLY KIND OF TO CALM HER AND KEEP HER UNDER CONTROL. THAT WOULD BE A STRESSOR. HER SUICIDE ATTEMPT.

ALSO, HER HUSBAND, HER FORMER HUSBAND, HAD DIED I BELIEVE IN MAY OF 1996, A FEW MONTHS BEFORE THAT YOU COULD SEE THAT SHE HAD A NUMBER OF STRESSORS. SHE WAS WORRIED ABOUT HER SON. THEN SHE WAS WORRIED ABOUT HER DAUGHTER HAD BEEN MOLESTED. SHE WAS HAVING THE CHRONIC MARITAL PROBLEMS WITH HER HUSBAND, AND THEN HER OWN MENTAL PROBLEMS.

IN THE WAY THAT STRESS USUALLY REACTS IN A MENTALLY ILL PERSON IS IT WILL TAKE THOSE SYMPTOMS AND WORSEN THEM. IT DOESN'T CAUSE THEM, BUT IT WORSENS THEM.

THERE MAY BE MORE THAN ONE VOICE. THERE MAY BE A NUMBER OF VOICES, AND WHAT THEY DO IS THEY HAVE A RUNNING COMMENTARY ON YOUR BEHAVIOR. THEY MAY BE TALKING TO EACH OTHER AT THE SAME TIME. IT'S OUTSIDE OF HER HEAD. THERE ARE SOME THINGS THAT ARE VAGUE ABOUT HER HALLUCINATIONS. SHE DOESN'T REALLY KNOW THE SEX. SOMETIMES PEOPLE WITH MENTAL ILLNESS ARE ABLE TO TELL YOU WHETHER IT'S A MALE OR FEMALE VOICE, BUT CERTAINLY THE FACT THAT THEY'RE OUTSIDE OF HER HEAD, THEY COMMENT ON HER BEHAVIOR. ONE TELLS HER GOOD THINGS, ONE TELLS HER BAD THINGS, ONE IS A SOFT VOICE, ONE IS LOUD. THAT IS VERY CONSISTENT WITH MENTAL ILLNESS.

Q. AND ANY INDICATION --- AND YOU SAID SHE HAS VARIOUS DOCUMENTATION THAT SHE HAD BEEN EXPERIENCING HALLUCINATIONS?

A. ACCORDING TO THE RECORDS IN THE DEPARTMENT OF CORRECTIONS, SHE PRESENTED AND WAS TREATED FOR HALLUCINATIONS AND ALSO BY THAT NUMBER OF HOURS I SPENT WITH HER CLINICALLY ASKING HER. GOING BACK OVER TIME, SHE'S HAD THESE OFF AND ON FOR YEARS.

Q. NOW, WITH HER MAJOR MENTAL ILLNESS, WITH HER LOW INTELLECTUAL OR BORDERLINE FUNCTION, WITH HER POOR IMPULSE CONTROL, WITH HER POOR JUDGMENT, WITH HER POOR SOCIAL JUDGMENT, WHAT WOULD STRESSORS --- AND IF YOU

THAT SHE HAD HAD.

A. YES, PEOPLE THAT HAVE BEEN SEXUALLY ABUSED, THERE'S A SPECTRUM OF WAYS THAT THEY MAY REACT TO THAT, AND THAT'S CERTAINLY CONSISTENT WITH ONE OF THE BEHAVIORS YOU MAY SEE IN SOMEONE WHO HAS BEEN SEXUALLY ABUSED.

Q. AND YOU WERE HERE YESTERDAY WHEN MS. TYLER TESTIFIED? CORRECT?

A. YES, I WAS. I THINK I CAME IN IN THE MIDDLE OF HER TESTIMONY, BUT I WAS PRESENT FOR A GOOD BIT OF IT.

Q. AND DID YOU HEAR ABOUT THE ALLEGATIONS OF SEXUAL ABUSE THAT SHE HAS HAD IN HER FAMILY?

A. WELL, NOT WITH HER TESTIMONY. I BELIEVE I CAME IN AFTER THAT PART OF THE TESTIMONY.

Q. GETTING BACK TO THE HALLUCINATIONS THAT SHE HAS, DID YOU FEEL LIKE THE TERM MALINGERING OR FAKING --- THAT SHE WAS FAKING HEARING THESE VOICES?

A. NO, THERE WAS NO INDICATION THAT SHE WAS FAKING HEARING THESE VOICES.

Q. AND WHAT DO YOU BASE THAT OPINION ON KNOWING WHAT YOU KNOW ABOUT HALLUCINATIONS AND HOW THEY MAY AFFECT SOMEBODY?

A. WELL, HALLUCINATIONS THAT WE SEE THAT ARE CONSISTENT WITH A MENTAL ILLNESS ARE BASICALLY SIMILAR TO THOSE THAT MS. TYLER DESCRIBED TO YOU. SOMETIMES

A TIME WHEN SHE ASKED ABOUT A RECTAL, GENITAL, OR OTHER TYPE OF EXAM, PELVIC EXAM?

A. YES, ON HER ADMISSION.

Q. AND WHAT WAS --- WHAT INDICATION IS THERE ON THAT REPORT?

A. SHE REFUSED THOSE EXAMINATIONS.

Q. OKAY. DO YOU HAVE AN OPINION ABOUT WHY THAT MAY BE SO?

A. YES, IT'S VERY COMMON IN PEOPLE THAT ARE VERY PARANOID THAT THAT'S AN INVASION OF THEIR BODY SPACE, AND THEY QUITE OFTEN WILL REFUSE THAT ON PHYSICAL EXAM.

Q. LET ME ASK YOU, IN LOOKING AT HER MEDICAL RECORD, THE COOPER BUILDING AS WELL AS OTHER RECORDS, ARE THERE --- IS THERE DOCUMENTATION THAT PRIOR TO DECEMBER OF 1996 THAT SHE WAS SEXUALLY ABUSED?

A. OH, EXCUSE ME, YES. IN THE SOCIAL HISTORY THERE WAS A SOCIAL HISTORY PERFORMED BY THE SOCIAL WORKER. THAT'S PART OF THE EVALUATION AT THE HALL INSTITUTE AS WELL, AND ALSO SOME OTHER RECORDS I HAD FROM THE SOCIAL HISTORY PERFORMED BY THE PUBLIC DEFENDER'S OFFICE. THERE IT WAS CLEARLY REPORTED THAT SHE HAD BEEN SEXUALLY ABUSED.

Q. WAS THAT --- YOU SAID THAT A PERSON COULD BE PARANOID ABOUT THE INVASION OF PRIVACY. COULD THAT BE COMPOUNDED BY THE FACT OF DOCUMENTATION OF SEXUAL ABUSE

THE COOPER RECORDS?

A. YES, I HAVE.

Q. SHE HAD A M.R.I.?

A. THAT' S CORRECT.

Q. DID SHE HAVE AN E.E.G.?

A. YES, SHE DID.

Q. WAS SHE FAIRLY COOPERATIVE FROM WHAT YOU COULD SEE, AND COOPERATED WITH THE TESTS THAT WERE BEING DONE?

A. RIGHT. THOSE TESTS DR. BEHRMANN ORDERS AS PART OF THE WORKUP IN ADDITION TO THE PSYCHOLOGICAL TESTING. AN M.R.I. IS A SCAN OF YOUR HEAD TO LOOK AT THE BRAIN STRUCTURE, AND HER BRAIN STRUCTURE WAS WITHIN NORMAL LIMITS. THAT REQUIRES SOME ABILITY TO CONCENTRATE AND COOPERATE, BECAUSE YOU' RE BASICALLY IN A TUNNEL WHERE THE RADIOLOGIST IS TAKING PICTURES, AND THE E.E.G. IS A MEASURE THAT WE USE TO SEE IF PEOPLE HAVE SEIZURE DISORDERS. IT' S A MEASURE OF BRAIN WAVES, AND THAT REQUIRES SOME LEVEL OF CONCENTRATION. YOU HAVE TO LAY STILL, LOOK AT A STROBE LIGHT. THEY' LL PUT ELECTRODES ON YOUR HEAD, AND IT REQUIRES --- YOU HAVE TO FOLLOW INSTRUCTIONS. THE TECHNICIAN MAY ASK YOU TO SHUT YOUR EYES, MAY ASK YOU TO BREATHE VERY RAPIDLY. SO, THEY BOTH REQUIRE COOPERATION.

Q. SO, SHE COOPERATED IN THOSE AREAS. NOW, WAS THERE

CONTROL MEANING THAT THERE'S OCCASIONS WHERE SHE HAS TROUBLE CONTROLLING HER IMPULSES.

Q. CAN THAT BE SUPPLEMENTED, OR FURTHER EXPLAINED BY DR. SHEA'S FINDING REGARDING HER SOCIAL JUDGMENT AND HER POOR JUDGMENT THAT HE TESTED AND PERSONALITY TRAITS?

A. YES, THERE'S NOT A LOT OF SCIENCE ABOUT IMPULSE CONTROL, BUT WE ALL HAVE IMPULSES, THOUGHTS TO DO THINGS AND EITHER WE ACT ON THEM OR WE DON'T.

NOW, SOME OF THE THINGS THAT WORSEN HER IMPULSE CONTROL I WOULD SAY COMPARED TO OTHER PEOPLE IS THAT SHE HAS THIS MENTAL ILLNESS AND SHE HAS LOWER INTELLECTUAL FUNCTIONING, AND DR. SHEA SAID THAT HER LOWEST AREA OF FUNCTIONING IS IN HER SOCIAL JUDGMENT --- YOU KNOW ON THAT VERBAL SET OF THE I.Q., IT'S IN HER SOCIAL JUDGMENT AND JUDGMENT TO HYPOTHETICAL SITUATIONS. SO, WE KNOW THAT HER MENTAL ILLNESS KIND OF EFFECTS HER JUDGMENT, AND IN ADDITION, HER INTELLECTUAL FUNCTIONING PLAYS SOME ROLE IN THAT AS WELL.

Q. AND HOW MANY TIMES HAVE YOU SEEN LINDA TYLER?

A. I SAW HER IN DECEMBER OF 1997. I SAW HER TWO TIMES IN JANUARY, TWO TIMES IN FEBRUARY AND ABOUT EIGHT TIMES THIS MONTH, IN MARCH.

Q. LET ME ASK YOU, SHE HAS --- HAVE YOU LOOKED OVER

YOU SEE TIMES WHEN THERE IS AN INDICATION OF HALLUCINATIONS THAT ARE INDEPENDENT, THAT ARE NOT ASSOCIATED WITH SUBSTANCE ABUSE?

A. THAT'S CORRECT. AS A PSYCHIATRIST, ONE OF THE THINGS THAT WE HAVE TO DO IS MAKE SURE --- SOMETIMES VARIOUS DRUGS CAN CAUSE PEOPLE TO HALLUCINATE. THEY CAN CAUSE DISTORTIONS IN PEOPLE'S THINKING. SO, IT'S VERY IMPORTANT FOR US TO BE ABLE TO RULE OUT WHAT THE CAUSES ARE WHEN WE'RE ABLE TO, AND MS. TYLER HAS CONTINUED TO HAVE THESE SYMPTOMS EVEN WHEN SHE HAS NOT BEEN UNDER THE INFLUENCE OF ANY DRUGS, AND SHE'S BEEN HOSPITALIZED FOR QUITE SOME TIME, AND IN A JAIL FOR QUITE SOME TIME AND HAS NOT BEEN USING DRUGS AND STILL CONTINUES TO HAVE THESE SYMPTOMS.

Q. DID YOU ALSO HAVE OCCASION TO LOOK AT SOME REPORTS THAT DR. BEHRMANN MADE IN REFERENCE TO THIS CASE?

A. YES, I DID.

Q. AND WOULD YOU --- WERE THERE ANY INDICATIONS IN THOSE REPORTS ABOUT HER TOLERANCE LEVEL OR HER FRUSTRATION LEVEL?

A. YES.

Q. AND WHAT WERE THOSE?

A. WELL, BY MEMORY IT JUST STATED IN THE REPORT THAT SHE HAS A VERY LOW FRUSTRATION TOLERANCE, WHICH MEANS THAT SHE BECOMES EASILY FRUSTRATED, AND POOR IMPULSE

A. IN ADDITION, I'VE REVIEWED NUMEROUS DOCUMENTS. SHE HAS MULTIPLE VISITS TO THE ERs, RICHLAND MEMORIAL AND BAPTIST, AND A SIGNIFICANT EVENT IS IN JUNE OF 1996. SHE WAS TAKEN TO THE EMERGENCY ROOM FOR AN OVERDOSE ATTEMPT, AND AT THAT TIME A DRUG SCREEN WAS PERFORMED, AND SHE WAS JUST FOUND TO BE INTOXICATED WITH ALCOHOL, BUT SHE WAS CONSIDERED SUICIDAL AT THAT POINT. SHE WAS SENT HOME IN HER HUSBAND'S CUSTODY.

ALSO, IN THE RECORDS THAT I REVIEWED THAT WERE PERTINENT IS IN JUNE OF '96, AGAIN, SHE HAD TAKEN HER DAUGHTER TO THE EMERGENCY ROOM WHEN SHE SUSPECTED THAT SHE HAD BEEN MOLESTED. AGAIN, THOSE RECORDS SHOW THAT THERE WAS NO EVIDENCE OF SEXUAL ABUSE, THAT THERE WAS AN EXAMINATION PERFORMED.

OTHER RECORDS THAT WERE PERTINENT WERE, OF COURSE, THE INCIDENT REPORTS ABOUT THIS, ABOUT WHAT HAPPENED ON THE DAY OF THE OFFENSE, ALL THE WITNESS' STATEMENTS, THE AUTOPSY REPORT ON MR. TYLER, AND I ALSO REVIEWED RECORDS THAT WERE FROM SOME OF HER FAMILY MEMBERS.

I ALSO REVIEWED ALL HER RECORDS FROM THE WILLIAM S. HALL INSTITUTE WHEN SHE WAS HOSPITALIZED BACK IN DECEMBER OF 1996 AND AGAIN THIS YEAR.

Q. AND DOES MS. TYLER HAVE A SUBSTANCE ABUSE PROBLEM?

A. YES, SHE DOES.

Q. AND LET ME ASK YOU, IN REVIEWING THE RECORDS, DO

SHE HAD SOME CONCERNS ABOUT AN AUTOPSY REPORT, AND SHE BELIEVED THAT HER ATTORNEY WAS WORKING FOR THE CORONER, FRANK BARRON, AND THAT TOGETHER THEY WOULD MAKE SURE THAT SHE WENT TO PRISON FOR THE REST OF HER LIFE BECAUSE SHE HAD COMMITTED THIS CRIME AGAINST HER HUSBAND.

Q. NOW, AT SOME LATER DATE, DID YOU ALSO HAVE MEDICAL RECORDS TO REVIEW IN REFERENCE TO LINDA TYLER?

A. YES, I DID.

Q. OKAY, AND CAN YOU TALK ABOUT WHAT MEDICAL RECORDS YOU HAD TO REVIEW IN THIS CASE?

A. YES, I HAVE REVIEWED MANY AND THE SIGNIFICANT ONES THAT HELPED FORMULATE MY DECISION. SHE HAD SOME DEPARTMENT OF CORRECTIONS MEDICAL RECORDS FROM THE 1970s, AND AT THAT TIME THERE ARE REFERENCES BY THE PHYSICIAN THERE TREATING HER THAT SHE HAD HALLUCINATIONS. SHE WAS ON VARIOUS MEDICATIONS SIMILAR TO THOSE THAT SHE'S ON NOW THAT HELP CONTROL HER THINKING THAT WOULD STOP HALLUCINATIONS. SO, WE KNOW THAT AS FAR BACK AS THE 1970s SHE HAD BEEN ON THESE MEDICATIONS AND HAD SOME DISTURBANCE IN HER THINKING. ALSO ---

Q. I'M SORRY. WERE THOSE ANTIPSYCHOTIC MEDICATIONS?

A. YES, THEY WERE.

Q. I DIDN'T MEAN TO INTERRUPT YOU.

WITH ME AS WELL AS SOME OF HER OTHER LAWYERS. IF YOU'RE NICE TO HER AND YOU TALK KINDLY TO HER, SHE'S GOING TO BE VERY COOPERATIVE WITH YOU AT FIRST BECAUSE SHE THINKS THAT YOU ARE THERE TO HELP HER, AND IT'S ONLY LATER AS SHE THINKS ABOUT WHAT'S BEEN SAID OR WHAT SHE SAID THAT SHE BECOMES QUITE PARANOID. SHE'S HAD A CHANCE TO THINK ABOUT IT. SO, THE NEXT TIME YOU MEET HER, EVEN THOUGH YOU LEFT HER IN A PRETTY GOOD --- YOU KNOW, FEELING GOOD ABOUT THE RELATIONSHIP, FEELING THAT SHE RELATED WELL TO YOU AND SHE TRUSTS YOU, THE NEXT TIME SHE MIGHT BECOME EXTREMELY ASSAULTIVE, LABILE IN THE TERMS OF VERBALLY SHE'LL BE VERY UPSET WITH YOU. SHE MAY TRY TO LEAVE THE ROOM.

Q. AND DID I CONTACT YOU ON THOSE SIMILAR CONCERNS?

A. YES, IT WAS MY OPINION AFTER SHE HAD MET WITH DOUG STRICKLER --- I TOLD HIM THAT HE SHOULD REMOVE HIMSELF FROM THE CASE BECAUSE SHE WAS NOT GOING TO BE ABLE TO WORK WITH HIM. SHE DID NOT TRUST HIM, AND THEN YOU WERE APPOINTED.

Q. NOW, WE TALKED ABOUT HER HAVING A MAJOR MENTAL ILLNESS. YOU INITIALLY FORMED THAT OPINION BASED ON SEEING HER. IS THAT CORRECT?

A. THAT'S CORRECT. I BASED THAT OPINION AT THAT TIME IN DECEMBER BECAUSE SHE HAD DESCRIBED THE THINKING ABOUT HER ATTORNEY. SHE HAD DESCRIBED THE THINKING ---

WITH THIS MAJOR MENTAL ILLNESS?

A. YES. IN ADDITION, I NEED TO ADD IN TERMS OF HER THINKING, I'VE DESCRIBED HOW THAT FOCUSES ON HER MENTAL ILLNESS. IT ALSO EFFECTS HER BEHAVIOR AND HOW SHE FEELS. THERE MAY BE TIMES WHEN SHE'S NERVOUS AND UPSET THAT SHE CAN BECOME QUITE EXPLOSIVE IF SHE BELIEVES THAT SOMEONE IS LYING TO HER. AT THAT POINT SHE GETS THESE HALLUCINATIONS. SHE MIGHT SEE A SHADOW OVER SOMEONE'S MOUTH, AND THAT LETS HER KNOW THAT THIS PERSON IS NOT BEING TRUTHFUL. AT THAT TIME, SHE MIGHT BECOME QUITE EXPLOSIVE. SHE COULD BECOME CONFRONTIVE OF THAT PERSON AND ASK THEM WHY THEY'RE LYING TO HER.

IN ADDITION, SHE MIGHT ACT IMPULSIVELY. IN ADDITION TO ALL OF THOSE THINGS, HER MENTAL ILLNESS, SHE ALSO --- HER BORDERLINE INTELLECTUAL FUNCTIONING THAT DR. SHEA DESCRIBED, THAT EFFECTS HOW SHE REACTS TO PEOPLE. HERE'S SOMEONE THAT'S BASICALLY PARANOID, THAT MISINTERPRETS THINGS, AND ALSO DOESN'T HAVE A VERY HIGH LEVEL OF INTELLECTUAL FUNCTIONING. SO, SHE MAY MISINTERPRET THINGS EVEN MORE. SO, SHE HAS TWO THINGS, TWO CONDITIONS, THAT LEAD HER TO NOT INTERPRET THINGS LIKE PEOPLE WITHOUT MENTAL ILLNESS WOULD.

IN ADDITION, BECAUSE OF HER LOW INTELLECTUAL FUNCTIONING, SHE'S A LITTLE MORE TRUSTWORTHY AT FIRST, AND I'LL GIVE AN EXAMPLE OF THAT. THIS HAS HAPPENED

TEST, THERE'S NO CONSTITUTIONAL BASIS FOR THAT, AND SHE INTERPRETED THAT AS MEANING THAT DR. BEHRMANN SAID SHE HAD NO CONSTITUTIONAL RIGHTS. SO, SHE WOULD TAKE SOMETHING THAT SOMEONE SAYS AND MISINTERPRET AND BASE IT IN A UNREALISTIC FASHION. IT'S NOT BASED ON REALITY.

THE OTHER PART THAT SHE HAD IN TERMS OF HER THINKING, HOW HER MENTAL ILLNESS EFFECTS HER THINKING, IS AT TIMES SHE WOULD HEAR VOICES. NOW, THE FIRST TIME I MET HER IN DECEMBER OF 1997, SHE DID NOT ADMIT THAT SHE WAS HEARING THESE VOICES. THAT TOOK TIME. SHE DIDN'T TRUST ME VERY MUCH, AND AS I MET HER LATER ON --- AND THAT'S ALSO WHAT YOU SEE IN THE THINKING PROCESS, THAT SHE'S PARANOID. SHE MAY NOT ALWAYS TRUST SOMEONE INITIALLY. SO, HER THINKING IS EFFECTED BY HER PARANOID THOUGHTS AT TIMES, HOW SHE MISPERCEIVES WHAT PEOPLE SAY. ALSO, THE FACT THAT SHE HEARS VOICES AT TIMES. ALSO, SHE HAS BELIEFS THAT SHE BELIEVES ARE TRUE, AND IT DOES NOT MATTER WHAT KIND OF EVIDENCE YOU GIVE HER TO THE CONTRARY. SHE'S GOING TO CONTINUE TO BELIEVE THESE THINGS, AND THOSE ARE CALLED DELUSIONS.

Q. AND CAN YOU GIVE AN EXAMPLE OF ANY OCCASIONS WHERE THERE MAY HAVE BEEN AT LEAST SOME PROOF THAT SOMETHING DID NOT OCCUR, BUT SHE HELD ONTO THE BELIEF THAT IT DID?

Q. AND AT THAT TIME WHAT WAS YOUR OPINION AS TO WHETHER OR NOT SHE HAD A MENTAL ILLNESS?
A. IT WAS MY OPINION AT THAT TIME, I HAD EVALUATED HER FOR APPROXIMATELY THREE HOURS --- I MET WITH HER WHILE SHE WAS IN THE WOMEN'S UNIT AT THE DETENTION CENTER. AT THAT TIME, IT WAS MY OPINION THAT SHE WAS SUFFERING FROM A MAJOR MENTAL ILLNESS.
Q. AND WHAT IS A MAJOR MENTAL ILLNESS?
A. A MAJOR MENTAL ILLNESS IS A CLINICAL CONDITION THAT EFFECTS YOUR THINKING, THE WAY YOU FEEL AND THE WAY THAT YOU ACT.
Q. CAN YOU DESCRIBE SOME OF THE SYMPTOMS?
A. YES, IN TERMS --- I NEED TO SAY THAT IN DECEMBER OF 1997, I WASN'T QUITE SURE WHAT THE NAME OF HER DIAGNOSIS WAS. I KNEW THAT SHE WAS ILL, BUT I WAS STILL IN THE PROCESS OF EVALUATING HER, BUT BASICALLY IN TERMS OF HER THINKING, I WAS ABLE TO RECOGNIZE AT THAT TIME THAT SHE HAD PROBLEMS WITH WHAT'S CALLED PARANOID IDEATION, AND WHAT THAT MEANS IS THAT SHE WOULD HEAR THE SAME THING THAT YOU AND I WOULD HEAR, BUT SHE WOULD INTERPRET IT IN A VERY DIFFERENT WAY, IN A VERY PARANOID FASHION.
GIVING SOME EXAMPLES, IN ONE EVALUATION WITH DR. BEHRMANN SHE HAD ASKED TO TAKE A TRUTH SERUM TEST, AND DR. BEHRMANN CORRECTLY TOLD HER THAT THE TRUTH SERUM

Q. AND HAVE YOU TESTIFIED AS AN EXPERT IN FORENSIC PSYCHIATRY?

A. YES, I HAVE.

Q. ON HOW MANY OCCASIONS?

A. APPROXIMATELY ONE HUNDRED TIMES.

Q. AND HOW MANY OF THOSE TIMES --- HAVE YOU EVER BEEN CALLED BY THE STATE AS AN EXPERT IN FORENSIC PSYCHIATRY?

A. YES, I HAVE.

Q. AND HAVE YOU BEEN CALLED BY THE DEFENSE AS AN EXPERT IN FORENSIC PSYCHIATRY?

A. THAT' S CORRECT.

Q. ABOUT HOW MANY TIMES HAVE YOU BEEN CALLED BY THE STATE?

A. GUESSING OUT OF THE HUNDRED TIMES, PROBABLY EIGHTY OF THOSE ONE HUNDRED TIMES.

Q. AND THE OTHER TWENTY WOULD BE FOR THE DEFENSE?

A. THAT' S CORRECT.

Q. DR. WATTS, YOU' VE HAD THE OCCASION TO SEE LINDA TYLER IN REFERENCE TO HER CASE?

A. YES, I HAVE.

Q. AND WHEN WAS THE FIRST TIME THAT YOU SAW HER?

A. IN DECEMBER OF 1997. HER ATTORNEY AT THE TIME WAS MR. DOUG STRICKLER, AND HE CONTACTED ME AND ASKED ME TO EVALUATE HER IN THE JAIL FOR HIM.

BY MS. BELL

Q. DR. WATTS, WHERE ARE YOU CURRENTLY EMPLOYED?

A. I'M AT THE UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE, DEPARTMENT OF NEUROPSYCHIATRY AND BEHAVIORAL SCIENCE.

Q. AND HOW LONG HAVE YOU BEEN THERE?

A. MY POSITION THERE, I'M THE CLINICAL ASSOCIATE PROFESSOR, AND I DIRECT THE FORENSIC RESIDENCY TRAINING PROGRAM, WHICH MEANS I TRAIN THE RESIDENTS IN FORENSIC PSYCHIATRY, AND I'VE BEEN THERE IN THAT CAPACITY SINCE JULY OF THIS YEAR, OF 1997.

Q. AND PREVIOUS TO BEING THERE AT THE UNIVERSITY IN THAT CAPACITY, WHERE WERE YOU EMPLOYED?

A. I WAS EMPLOYED AT THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE SINCE 1989. I DID MY RESIDENCY THERE. I DID A FORENSIC FELLOWSHIP THERE, AND THEN I CONTINUED THERE TO WORK THERE IN THE SAME DEPARTMENT WITH DR. BEHRMANN FROM 1989 UNTIL 1997.

Q. AND HAVE YOU PUBLISHED ANY LITERATURE IN THE AREA OF FORENSIC PSYCHIATRY?

A. YES, I HAVE.

Q. IS IT FAIR TO SAY THAT YOU HAVE SIGNIFICANT CLINICAL AS WELL AS ACADEMIC CONCENTRATION IN THE AREA OF FORENSIC PSYCHIATRY?

A. YES, I HAVE.

A. THOSE VERBAL SKILLS, MANY OF HER VERBAL SKILLS, YES, WERE IN THE AVERAGE RANGE.

Q. AND YOU ALSO SAID I BELIEVE THAT YOU LOOK FOR BRAIN DAMAGE. DIDN'T FIND ANY, DID YOU?

A. ALL OF HER TESTS WERE CONSISTENT WITH HER INTELLIGENCE. THEY DIDN'T COME OUT LOOKING BRAIN DAMAGED. THEY ALL CAME OUT THE LOW END OF THE AVERAGE RANGE. THE SAME WAY ---

Q. LOW END OF AVERAGE?

A. THE SAME WAY HER INTELLIGENCE CAME UP.

Q. THANK YOU, SIR. NO FURTHER QUESTIONS.

THE COURT: THANK YOU. YOU MAY STEP DOWN.

MS. BELL: YOUR HONOR, MAY DR. SHEA BE EXCUSED?

THE COURT: ANY OBJECTION?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU'RE EXCUSED. NEXT WITNESS.

MS. BELL: YOUR HONOR, AT THIS TIME THE DEFENSE WOULD CALL DR. DONNA SCHWARTZ-WATTS.

THE COURT: PLEASE COME FORWARD, MA'AM.

THEREUPON:

DR. DONNA SCHWARTZ-WATTS,

BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS?

DIRECT EXAMINATION

A. THAT' S CORRECT.
Q. AND THESE TESTS THAT YOU PERFORMED, THESE I.Q. TESTS, THESE WERE DONE AS PART OF AN EXAMINATION THAT DR. BEHRMANN LATER WAS INVOLVED IN. CORRECT?
A. THAT' S CORRECT.
Q. SO, BASICALLY YOU' RE JUST DOING TESTS WHICH HE TAKES AND USES IN HIS FULL BLOWN EXAMINATION AND OPINION OF MS. TYLER DOWN THE ROAD?
A. THAT WAS THE CASE IN THIS INSTANCE. YES.
Q. AND YOU WEREN' T INVOLVED IN THAT?
A. NO, I WASN' T.
Q. BUT HE ACTUALLY LOOKED AT YOUR FINDINGS AND CONSIDERED THOSE. DID HE NOT?
A. I BELIEVE THAT HE DID. YES.
Q. AND YOU WEREN' T INVOLVED IN DETERMINING WHETHER OR NOT MS. TYLER KNEW WHAT SHE WAS DOING WAS RIGHT OR WRONG. WERE YOU?
A. NO, I WAS NOT.
Q. AND YOU SAID SHE WAS IN THE AVERAGE RANGE. RIGHT? AVERAGE RANGE?
A. ONLY ON HER VOCABULARY. HER FULL SCALE INTELLIGENCE WAS IN THE BORDERLINE RANGE.
Q. BUT AS FAR AS THE VOCABULARY AND HER VERBAL AND TALKING AND ABILITY SUCH AS THAT, SHE WAS AVERAGE, MAYBE LOW END OF AVERAGE, BUT AVERAGE?

AND WHO HAVE AN AVERAGE COMMAND OF GENERAL FACTS. PEOPLE MAY NOT REALIZE THAT THEY HAVE OTHER IMPAIRMENTS, BUT BECAUSE THEY'RE ABLE TO SPEAK WELL, BECAUSE THEY'RE ABLE TO SPEAK INTELLIGENTLY, PEOPLE DON'T REALIZE THAT THEY MAY HAVE TROUBLE IN OTHER AREAS. THEY DON'T REALIZE WHAT SORTS OF PROBLEMS A PERSON HAS, AND THAT COULD BE EITHER BECAUSE WE ASSUME THAT JUST BECAUSE SOMEBODY SPEAKS INTELLIGENTLY THEY ARE INTELLIGENT, OR PEOPLE WHO SPEAK INTELLIGENTLY ARE ALSO ABLE TO HIDE THEIR DEFICITS BETTER AND TALK AROUND THINGS THAT THEY CAN'T DO.

MS. BELL: I BEG THE COURT'S INDULGENCE.

Q. DR. SHEA, PLEASE ANSWER ANY QUESTIONS THE STATE HAS.

THE COURT: CROSS EXAMINATION.

MS. HAYNES: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MS. HAYNES

Q. DR. SHEA, I BELIEVE YOU WORK AT WILLIAM S. HALL INSTITUTE. CORRECT?

A. THAT'S CORRECT.

Q. AND THE ACTING DIRECTOR OF WILLIAM S. HALL INSTITUTE IS DR. BEHRMANN?

A. HE'S THE DIRECTOR OF THE FORENSIC UNIT. YES.

Q. THE UNIT THAT YOU'RE TALKING ABOUT?

PUTTING TOGETHER SOMETHING PHYSICALLY. LIKE IF YOU WERE GOING TO ASSEMBLE A HOUSEHOLD APPLIANCE OUT OF A BOX, SOMETHING THAT SHE HAS A LOT OF TROUBLE WITH THAT. THE OTHER AREAS THAT SHE HAD MOST TROUBLE WITH WERE HER JUDGMENT, BOTH TO HYPOTHETICAL SITUATIONS AND TO SOCIAL SITUATIONS.

Q. AND WHEN YOU SAY JUDGMENT OF SOCIAL SITUATIONS, COULD YOU EXPLAIN TO THE JURY EXAMPLES OF THAT?

A. WELL, JUDGMENT IN SOCIAL SITUATIONS IS BEING ABLE TO LOOK AT WHAT'S GOING ON BETWEEN PEOPLE AND FIGURE OUT WHAT'S GOING ON HERE. IF YOU WALK UP TO A SOCIAL SITUATION AND YOU SEE WHAT'S GOING ON, MOST PEOPLE CAN SORT OF GUESS WHAT STARTED ALL THIS, OR WHERE, OR WHAT HAPPENED BEFORE, WHAT'S GOING TO HAPPEN NEXT, WHAT'S GOING ON BETWEEN THE TWO PEOPLE, AND SHE SCORED VERY POORLY IN THAT SORT OF SKILL.

Q. WOULD THAT ALSO MEAN THE ABILITY TO READ PEOPLE AND INTERPRET PEOPLE IN SOCIAL SITUATIONS?

A. YES.

Q. AND HER VOCABULARY SKILLS WERE IN THE LOW TO AN AVERAGE RANGE, BUT IN THE LOW END OF THE AVERAGE RANGE. BASED ON THE OTHER FINDINGS THAT YOU FOUND, DOES THAT GIVE THE APPEARANCE THAT SHE MAY BE SMARTER THAN WHAT SHE REALLY IS?

A. WE SEE THAT A LOT. PEOPLE WITH GOOD VOCABULARIES

THE TESTS THAT LOOK AT ABSTRACT REASONING, THE ABILITY TO DO ARITHMETIC, MENTAL CALCULATIONS, AND VOCABULARY. SHE WAS ALSO JUST BARELY BELOW AVERAGE, OUT OF THE AVERAGE RANGE ON HER FUND OF INFORMATION.

Q. SO, IT APPEARED THAT AS FAR AS HER VOCABULARY THAT SHE AT LEAST WAS IN THE LOW AVERAGE RANGE?

A. THAT' S CORRECT.

Q. WHAT ABOUT ---

A. ACTUALLY SHE WAS IN THE LOW END. SHE WAS IN THE AVERAGE RANGE --- THE LOWER END OF IT, BUT SHE WAS SOLIDLY IN THE AVERAGE RANGE WHEN IT CAME TO HER VOCABULARY.

Q. WHAT ABOUT HER READING LEVEL?

A. HER READING LEVEL WAS --- LET ME CHECK THIS TO MAKE SURE --- I BELIEVE ABOUT, SHE WAS READING AT ABOUT THE FIFTH GRADE LEVEL.

Q. FIFTH GRADE LEVEL?

A. YES.

Q. AS FAR AS HER SOCIAL JUDGMENT AND JUST HER OVERALL JUDGMENT, WHAT WERE YOUR FINDINGS AS FAR AS THAT WAS CONCERNED?

A. THOSE WERE SOME OF THE AREAS THAT SHE SCORED THE WORST IN ON THE INTELLIGENCE TEST. HER POOREST PERFORMANCES WERE IN THE AREAS OF VISUAL SPACIAL SKILLS --- THE ABILITY TO FIGURE OUT SPACIAL RELATIONSHIPS,

ADMINISTERED AN I.Q. TEST. WHAT WERE THE FINDINGS ON THAT?

A. THE GENERAL FINDINGS WERE THAT IN THE VERBAL AREA HER INTELLIGENCE WAS IN THE LOW AVERAGE RANGE. IN THE NONVERBAL AREA, HER SKILLS WERE IN THE BORDERLINE RANGE AND OVERALL HER INTELLIGENCE WAS IN THE BORDERLINE RANGE.

Q. SO, WHAT YOU DO IS YOU LOOK AT DIFFERENT, YOU LOOK AT DIFFERENT SEGMENTS FOR DETERMINING INTELLIGENCE SUCH AS VERBAL, NONVERBAL, AND THEN YOU AVERAGE THOSE SCORES TOGETHER?

A. THAT' S CORRECT. INTELLIGENCE ISN' T JUST HOW MUCH YOU LEARNED IN SCHOOL. IT' S A DIFFERENT SET OF SKILLS, YOUR VOCABULARY, YOUR FUND OF INFORMATION, YOUR ABILITY TO DO ARITHMETIC, YOUR MEMORY, YOUR ABILITY TO FIGURE THINGS OUT, YOUR ABILITY TO FIGURE OUT SPACIAL RELATIONSHIPS.

THERE' S A LOT OF DIFFERENT SKILLS THAT GO INTO WHAT WE CALL INTELLIGENCE, AND WHAT YOU DO IS YOU TEST A NUMBER OF THOSE SKILLS AND LOOK AT HOW A PERSON FALLS INTO RELATION TO OTHERS OF THE SAME AGE.

Q. AND I NOTE THAT ON YOUR EVALUATION, WHAT WERE THE STRENGTHS THAT SHE HAD?

A. IN GENERAL, SHE WAS IN THE AVERAGE RANGE, ALTHOUGH THE LOWER END, BUT IN THE AVERAGE RANGE ON THE PARTS OF

TYLER IN DECEMBER OF 1996?
A. YES, I DID.
Q. AND WHAT WAS THE PURPOSE OF YOU SEEING HER?
A. HALL INSTITUTE RECEIVED A COURT ORDER FOR A COMPETENCY TO STAND TRIAL ON CRIMINAL RESPONSIBILITY EVALUATION. I SAW HER FOR PSYCHOLOGICAL TESTING AS PART OF THAT EVALUATION.
Q. AND CAN YOU EXPLAIN TO THE JURY WHAT TYPE OF TESTS YOU ADMINISTERED AT THAT TIME?
A. I ADMINISTERED TESTS THAT WOULD LOOK FOR BRAIN DAMAGE. I GAVE HER A STANDARD INTELLIGENCE TEST, AND I GAVE HER A TEST OF PERSONALITY, A TEST TO HELP DIAGNOSE ANY MENTAL ILLNESSES THAT MIGHT BE THERE.
THE REASONS WE GIVE THESE ARE TO LOOK FOR ANY PARTICULAR PROBLEMS A PERSON MAY HAVE THAT WOULD IMPACT ON THE QUESTIONS OF COMPETENCY AND CRIMINAL RESPONSIBILITY.
Q. NOW, YOU DID NOT ACTUALLY MAKE ANY DETERMINATION AS TO CRIMINAL RESPONSIBILITY. DID YOU?
A. I WAS NOT INVOLVED WITH THAT PART OF THE EVALUATION. NO.
Q. THE PART OF YOUR EVALUATION WAS STRICTLY FOR THE PSYCHOLOGICAL EVALUATION OF MS. TYLER?
A. THAT' S CORRECT.
Q. AND WHAT TYPE OF --- I THINK YOU INDICATE THAT YOU

THEREUPON:

DR. STEVEN J. SHEA, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BELL

Q. WHAT'S YOUR FULL NAME?

A. MY NAME IS STEVEN JOHN SHEA. THAT'S SPELLED S-H-E-A.

Q. AND DR. SHEA, WHERE ARE YOU CURRENTLY EMPLOYED?

A. I'M EMPLOYED AT THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE HERE IN COLUMBIA, AND I'M AFFILIATED WITH THE UNIVERSITY OF SOUTH CAROLINA.

Q. AND WHAT IS YOUR CURRENT POSITION?

A. I AM A CLINICAL PSYCHOLOGIST AT HALL INSTITUTE AND AN H.B.I. ASSOCIATE PROFESSOR IN NEUROPSYCHIATRY AT THE UNIVERSITY.

Q. AND WOULD YOU TELL THE JURY ABOUT YOUR EDUCATIONAL BACKGROUND?

A. I RECEIVED MY BACHELORS DEGREE IN PSYCHOLOGY FROM RUDGER'S UNIVERSITY IN 1979. I RECEIVED MY PH.D. IN CLINICAL AND COMMUNITY PSYCHOLOGY FROM THE UNIVERSITY OF SOUTH CAROLINA IN 1989. I DID AN A.P.A. APPROVED INTERNSHIP IN CLINICAL PSYCHOLOGY IN, AT THE V.A. IN HONOLULU, HAWAII. I'M CURRENTLY A LICENSED CLINICAL

PSYCHOLOGIST IN THE STATE OF SOUTH CAROLINA.

Q. AND DO YOU ALSO --- DO YOU ALSO WORK IN THE AREA OF FORENSIC PSYCHOLOGY?

A. YES, I DO. I'VE BEEN WORKING IN THE AREA OF FORENSIC PSYCHOLOGY SINCE 1981.

Q. HAVE YOU TESTIFIED IN COURT BEFORE AS AN EXPERT IN FORENSIC PSYCHOLOGY?

A. YES, I HAVE.

Q. ON HOW MANY OCCASIONS?

A. BETWEEN CIRCUIT COURT AND CRIMINAL MATTERS IN THE FAMILY COURT, APPROXIMATELY A HUNDRED TIMES OVER THE LAST SEVERAL YEARS.

Q. AND HAVE YOU TESTIFIED ON BEHALF OF BOTH THE STATE AND THE DEFENSE?

A. YES, I HAVE.

MS. BELL: YOUR HONOR, AT THIS TIME I ASK TO HAVE DR. SHEA QUALIFIED AS AN EXPERT IN FORENSIC PSYCHOLOGY.

THE COURT: WOULD YOU LIKE TO CROSS EXAMINE HIM IN REGARD TO HIS QUALIFICATIONS?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: ALL RIGHT, THEN THE COURT FINDS THE WITNESS TO BE AN EXPERT IN THE FIELD OF FORENSIC PSYCHOLOGY.

<u>BY MS. BELL</u>

Q. DR. SHEA, DID YOU HAVE AN OCCASION TO SEE LINDA

Q. SO, YOU HAD THE ABILITY TO SPEND FORTY-FIVE MINUTES WITH MS. TYLER ON THE 13TH NOT MEDICATED?
A. CORRECT.
Q. OKAY, AND THEN YOU HAD OPPORTUNITY TO SPEND TIME WITH MS. TYLER AFTER SHE STARTED RECEIVING MEDICATION?
A. THAT'S CORRECT, YES.
Q. WHAT IS YOUR OPINION AS TO THE EFFECT OF THE MEDICATION ON MS. TYLER?
A. I THINK THE MEDICATION HAS HAD A SIGNIFICANT EFFECT IN ALLOWING HER TO BE MORE CALM, TO CONVERSE ABOUT THE ISSUES RELATED TO HER TRIAL. WHEREAS PRIOR TO THAT TIME, SHE WAS RATHER ADAMANT ABOUT SOME OF THESE ISSUES. AT THIS POINT, I FIND THAT SHE CAN TOLERATE DISCUSSING THEM AND CONSIDERING WHAT SIDES OF AN ISSUE, WHICH PRIOR TO THAT TIME SHE WAS HAVING PRETTY SIGNIFICANT DIFFICULTY DOING.
Q. DR. BEHRMANN, WERE YOU THE PRESCRIBING PHYSICIAN FOR THE PROLIXIN?
A. YES.
Q. AND YOU ARE IN AGREEMENT THAT PROLIXIN IS AN ANTIPSYCHOTIC DRUG?
A. THAT IS CORRECT, YES.
Q. WHICH WOULD SUPPORT THE FACT PERHAPS THAT MS. TYLER HAS SUFFERED FROM SOME SORT OF PSYCHOSIS?
A. IT WAS MY OPINION THAT MS. TYLER WAS EXPERIENCING

Q. A MOTION TO THAT ---
A. A MOTION TO THAT.
Q. THAT WAS PROVIDED TO YOU BY MS. BELL, HER ATTORNEY NOW?
A. RIGHT, MS. BELL, CORRECT.
Q. ALL RIGHT. WHEN WAS MS. TYLER ADMITTED AT YOUR INSTITUTE?
A. HER CURRENT HOSPITAL, OR HER CURRENT ADMISSION DATE WAS FEBRUARY 17TH OF 1998.
Q. THAT WAS FOUR DAYS AFTER THE TIME THAT YOU MET HER ON FEBRUARY 13TH FOR FORTY-FIVE MINUTES?
A. CORRECT.
Q. AND AT THAT TIME YOU AND DR. WATTS HAD SORT OF COLLABORATED AS PROFESSIONALS IN REGARD TO THE TREATMENT OF MS. TYLER?
A. WE HAD DISCUSSED THOSE ISSUES ON THE 13TH.
Q. OKAY, AND ON THE 13TH DID YOU --- WERE YOU IN AGREEMENT WITH OR WAS DR. SCHWARTZ-WATTS IN AGREEMENT WITH YOU ABOUT PROLIXIN?
A. I DON'T KNOW THAT WE DISCUSSED A SPECIFIC MEDICATION AT THAT TIME.
Q. BUT YOU DID DISCUSS MEDICATION?
A YES.
Q. AND ON THE 13TH WAS MS. TYLER MEDICATED?
A. NO.

A. I HAD BEEN GIVEN COPIES OF SOME RECORDS BY DR. SCHWARTZ-WATTS AT THAT TIME CONCERNING HER TREATMENT IN THE DEPARTMENT OF CORRECTIONS.

Q. AND DID YOU HAVE AN OPPORTUNITY TO REVIEW THOSE RECORDS PRIOR TO FEBRUARY 13, 1998?

A. NO. NO, I DID NOT. I RECEIVED THEM THAT DAY.

Q. YOU RECEIVED THEM THAT DAY?

A. CORRECT.

Q. OKAY. DID YOU RECEIVE ANY OTHER DOCUMENTS FROM --- PERTAINING TO MS. TYLER, HER MENTAL HEALTH, FROM DECEMBER 6, 1996, TO FEBRUARY 13, 1998?

A. SUBSEQUENT TO THE MEETING THAT WE HAD ON JANUARY 29TH, I RECEIVED A PACKAGE FROM MS. BELL OF MOTIONS, COPIES OF MOTIONS THAT MS. TYLER HAD MADE TO THE COURT, AND THESE ADDRESSED ISSUES THAT SHE HAD ABOUT --- THAT WERE SIMILAR TO WHAT SHE HAD MENTIONED DURING THE INTERVIEW THAT WE HAD ON THE 29TH.

Q. LIKE THE AUTOPSY?

A. LIKE THE AUTOPSY, LIKE HER CONCERNS ABOUT HER ATTORNEY, HER CONCERNS ABOUT THE CORONER, SOME CONCERNS ABOUT WHETHER OR NOT HER CHILD HAD BEEN SEXUALLY MOLESTED. I THINK THERE WAS ALSO A MOTION THERE TO GRANT A SPEEDY TRIAL.

Q. A MOTION IN THERE TO ORDER THE BODY EXHUMED?

A. YES, THERE WAS AN ORDER TO THAT REGARD.

HER HUSBAND AFTER HE PASSED AWAY, AND THEN SHE FELT THAT THE BODY HAD NOT BEEN DISTURBED AS A RESULT OF THE MOSLEM RIGHT THAT HAD BEEN PERFORMED ON HIM.

Q. OKAY. NOW, WHEN IS THE NEXT TIME --- AND BY THE WAY, ON THE INTRODUCTION ON JANUARY 5TH, I'M SORRY, DECEMBER 5, 1996, WHEN YOU MET HER FOR FIFTEEN MINUTES, DID SHE REPORT TO YOU ANY HALLUCINATIONS?

A. NO.

Q. OKAY. ON DECEMBER 6, 1996, WHEN YOU HAD THE STAFFING WHERE YOU DETERMINED THE THREE ISSUES IN AN HOUR AND A HALF, DID SHE REPORT TO YOU ANY OF HER HALLUCINATIONS?

A. NO, ACTUALLY SHE DENIED HALLUCINATIONS.

Q. AND ON JANUARY 29 OF '98, DID SHE REPORT ANY HALLUCINATIONS?

A. NO, SHE DID NOT.

Q. ALL RIGHT. WHEN WAS THE NEXT TIME YOU MET WITH HER?

A. I BELIEVE THAT WOULD HAVE BEEN ON FEBRUARY 13TH OF 1998.

Q. HOW LONG DID YOU SPEND WITH HER THEN?

A. WE SPENT, I WOULD SAY, ABOUT FORTY-FIVE MINUTES TO AN HOUR WITH HER AT THAT TIME.

Q. AND AT THIS MEETING WITH MS. TYLER, DID YOU HAVE THE BENEFIT OF ANY RECORDS?

Q. RIGHT. OKAY. WHAT ELSE DID YOU DISCUSS ON JANUARY 29, 1998, WITH MS. TYLER?
A. LET' S SEE. WE DISCUSSED WITH HER SOME OF HER CONCERNS ABOUT WHAT SHE HAD PERCEIVED HAD BEEN GOING ON IN HER CASE UP UNTIL THAT TIME. IN OTHER WORDS, WE TALKED ABOUT HER CONCERNS ABOUT THE PERFORMANCE OF HER ATTORNEY WHO HAD PREVIOUSLY BEEN ASSIGNED TO HER CASE, MR. STRICKLER. WE TALKED ABOUT CONCERNS SHE HAD ABOUT WHETHER OR NOT AN AUTOPSY HAD ACTUALLY BEEN PERFORMED.
Q. AND WHAT WERE HER THOUGHTS ON WHETHER OR NOT AN AUTOPSY HAD ACTUALLY BEEN PERFORMED?
A. IT WAS --- AT THAT TIME, IT WAS HER BELIEF THAT SHE STATED THAT SHE FELT THAT AN AUTOPSY HAD NOT BEEN PERFORMED ON HER HUSBAND.
Q. AND WAS IT HER BELIEF THAT THE AUTOPSY REPORT WAS FABRICATED?
A. SHE FELT, SHE UNDERSTOOD, PARDON ME --- SHE STATED AS BEST I CAN RECALL, THAT SHE DIDN' T UNDERSTAND HOW THERE COULD BE AN AUTOPSY REPORT GENERATED WHEN SHE DIDN' T FEEL AN AUTOPSY HAD BEEN PERFORMED.
Q. AND DID SHE SAY THE REASON WHY SHE FELT THAT AN AUTOPSY HAD NOT BEEN PERFORMED?
A. AS BEST I COULD UNDERSTAND, IT WAS BECAUSE SHE HAD CONTACTED VARIOUS OFFICIALS WITHIN HER FAITH, THE MOSLEM COMMUNITY, TO ARRANGE FOR A MOSLEM BURIAL FOR

A. THAT' S CORRECT.
Q. THIS IS A PROCEDURE USED BY THE INSTITUTE TO TRY TO TRAIN THEM IN BECOMING COMPETENT TO STAND TRIAL?
A. NO, THAT' S NOT CORRECT.
Q. WELL, EXPLAIN TO THE JURY WHAT IT IS.
A. IT' S A SCREENING TEST TO TRY TO ASSESS THEIR BASELINE KNOWLEDGE ABOUT THESE ISSUES.
Q. AND IF THEY DON' T MEET THE BASELINE, THEN WHAT HAPPENS TO THEM?
A. WELL, THIS IS JUST TO GET A GENERAL IDEA OF WHERE THEY' RE AT AT THE BEGINNING.
Q. DO THEY CONTINUE ON IN THE CLASS?
A. YES. THEY WOULD CONTINUE WHETHER THEY SCORED ZERO OR A HUNDRED PERCENT ON THE TEST.
Q. THEY CONTINUE IN THE CLASS?
A. CORRECT.
Q. THAT KEEPS THEM FOCUSED ON THE ROLE OF THE PEOPLE IN THE COURTROOM. DOESN' T IT?
A. WELL, IT KEEPS THEM --- WELL, WHAT IT IS IS THAT IT' S A TOOL THAT WAS USED BY THE PEOPLE WHO ARE TEACHING THE CLASS TO TRY TO GET A NOTION OF WHERE A PARTICULAR CLIENT WAS AT A CERTAIN TIME. IT WAS NOT MEANT AS EITHER A REWARD OR A PUNISHMENT TO THE INDIVIDUAL PATIENT, NOR WAS IT MEANT AS ANY PARTICULAR MOTIVATING FACTOR TO THEM.

Q. AND AFTER THE BASELINE IS ESTABLISHED, THEN THE PATIENTS ARE TESTED WITH A WRITTEN TEST. ARE THEY NOT?
A. NOT IN A FORMAL MANNER, NO.
Q. NOT IN A FORMAL MANNER?
A. NO.
Q. A VERY INFORMAL MANNER?
A. ONCE AGAIN, THESE TESTS ARE GIVEN AT INTERVALS, BUT THE TESTS REALLY DO NOT RELATE TO A DETERMINATION OF WHETHER OR NOT THEY ARE IN FACT COMPETENT.
Q. OKAY, RIGHT. SO, COULD YOU GIVE THE JURY AN EXAMPLE OF SOME OF THE QUESTIONS ON THAT TEST?
A. I DON'T KNOW IF I HAVE A COPY OF IT HERE OR NOT.
Q. AND DID YOU KNOW --- DO YOU KNOW PERSONALLY WHAT ONE OF THE QUESTIONS MIGHT BE?
A. WELL, THESE WERE TYPICALLY MULTIPLE CHOICE QUESTIONS WHICH HAD I THINK THREE OR FOUR POTENTIAL ANSWERS, AND IT WOULD BE SUCH THINGS AS THE ROLE OF THE SOLICITOR IS (A) TO DEFEND YOUR CASE; (B) TO PROVE THE CHARGES AGAINST YOU; (C) TO TESTIFY ABOUT FACTS REGARDING YOUR CASE. SOMETHING SIMILAR TO THAT REGARD, BUT I CAN'T SAY THAT THAT WAS SPECIFICALLY A QUESTION.
Q. AND AFTER A PATIENT PASSES THE TEST, THEN IT'S DETERMINED IF THEY'RE COMPETENT?
A. NO.
Q. IT'S NOT.

A. THIS IS A GROUP SETTING IN WHICH PATIENTS WHO ARE ASSIGNED TO THIS GROUP WILL ATTEND, AND IT WILL REVIEW WITH THE PATIENTS ISSUES THAT ARE RELATED PRIMARILY TO COURT PROCEDURE IN TERMS OF SUCH THINGS AS UNDERSTANDING WHAT THE LAYOUT OF THE COURTROOM IS, WHAT THE ROLES OF THE VARIOUS PEOPLE WITHIN THE COURT ARE.

Q. SUCH AS THE JUDGE?

A. THE JUDGE, THE DEFENSE ATTORNEY, THE SOLICITOR ---

Q. THE JURY?

A. THE JURY, WITNESSES. THAT SORT OF THING. WE' LL ALSO COVER SUCH THINGS AS PLEAS THAT MAY BE AVAILABLE TO THE PATIENT IN RESPONDING TO THE CHARGES AGAINST THEM, THE PROCESS OF PLEA BARGAINING, WHAT THAT' S ABOUT, WHAT THE VARIOUS IMPLICATIONS OF EITHER AGREEING TO OR DECLINING A PLEA BARGAIN MIGHT BE.

Q. AND THIS IS A FACTUAL TEACHING TYPE OF SETTING. IS THAT CORRECT?

A. CORRECT.

Q. OKAY, AND THE STUDENTS OR THE PATIENTS ARE TESTED, IS THAT CORRECT, ON THE FACTS OF COURTROOM PROCEDURES?

A. A SCREENING TEST IS --- I BELIEVE, AT THAT TIME, A SCREENING TEST WAS GIVEN TO PATIENTS TO TRY TO ACHIEVE SOME BASELINE SCORE FOR WHAT THEIR UNDERSTANDING OF WHAT COURTROOM PROCEDURE WAS AND TO GIVE SOME GENERAL NOTION OF WHAT THEIR UNDERSTANDING OF THE COURT WAS.

MS. TYLER REGARDING HER ABILITY TO WAIVE HER RIGHT TO COUNSEL, AND SO, SHE HAD BEEN SCHEDULED TO RETURN TO THE FORENSIC UNIT AS AN OUTPATIENT TO BE EVALUATED AROUND THAT ISSUE.

Q. SO, SHE WANTED TO WAIVE HER RIGHT TO AN ATTORNEY AND REPRESENT HERSELF?

A. THAT WAS THE INFORMATION WE RECEIVED, YES.

Q. NOW, DID YOU INTERVIEW HER ON THAT DATE YOURSELF?

A. YES.

Q. AND YOU WENT THROUGH THE SAME THREE ISSUES THAT YOU WENT THROUGH BACK IN DECEMBER OF 1996?

A. NO.

Q. WHAT ISSUES DID YOU COVER?

A. WE COVERED ISSUES THAT WERE APPLICABLE TO COMPETENCY AT THAT TIME, AND THEN WE COVERED ISSUES THAT WERE DIRECTLY RELATED TO HER CONCERNS ABOUT HER ATTORNEY, HER UNDERSTANDING OF THE ROLE OF THE DEFENSE ATTORNEY IN HER CASE, HER APPRECIATION OF THE VARIOUS OPTIONS THAT WERE AVAILABLE TO HER, AND FINALLY, THE POTENTIAL OUTCOMES THAT MIGHT RESULT FROM HER CHOICES.

Q. NOW, AT YOUR INSTITUTE, YOU HAVE WHAT' S CALLED COMPETENCY CLASSES?

A. YES, WE DO.

Q. WOULD YOU PLEASE EXPLAIN TO THE JURY WHAT A COMPETENCY CLASS IS?

STAFF IN OBTAINING INFORMATION ABOUT THE PATIENT SO THAT A DIAGNOSIS CAN BE MADE.

A. WELL, ORDINARILY, WHEN WE RECEIVE ORDERS FROM THE COURT TO PERFORM THESE EVALUATIONS, OUR ADMINISTRATIVE STAFF WILL SEND OUT A LETTER REQUESTING THAT VARIOUS ITEMS OF INFORMATION BE SUPPLIED, AND GENERALLY WE TRY TO GET MOST OF THE BACKGROUND INFORMATION FROM THE PATIENT'S DEFENSE ATTORNEY, AND WE WOULD ROUTINELY ASK THEM FOR ANY APPLICABLE MEDICAL RECORDS THAT THEY MAY HAVE IN THEIR POSSESSION.

Q. DO YOU HAVE A COPY OF THAT LETTER WITH YOU?

A. I DON'T KNOW. I'LL LOOK. NO, THERE DOES NOT APPEAR TO BE A COPY OF THAT IN THIS FILE.

Q. OKAY. HOW LONG DID YOU SPEND WITH MS. TYLER AGAIN ON JANUARY 28TH?

A. PARDON ME, JANUARY?

Q. 28, 1998.

A. THAT WAS THE 29TH THAT I SAW HER, NOT ---

Q. I'M SORRY, 29TH.

A. I WOULD ESTIMATE BETWEEN AN HOUR AND A HALF AND TWO HOURS.

Q. WHAT WAS THE PURPOSE OF SEEING MS. TYLER ON THAT DATE?

A. WE HAD RECEIVED AN ADDITIONAL ORDER FROM THE COURT ON THAT DATE DIRECTING US TO PERFORM AN EVALUATION ON

A. CORRECT.
Q. SO, WE'VE GONE FROM DECEMBER 6, '96 --- YOU DIDN'T SEE HER AT ALL IN 1997?
A. THAT IS CORRECT.
Q. AND THEN JANUARY 28, 1998?
A. CORRECT.
Q. IS THAT CORRECT?
A. UH-HUH.
Q. OKAY. SO, WITH REGARD TO YOUR DIAGNOSIS OF ANY MAJOR MENTAL ILLNESS, AT LEAST ON DECEMBER 6, 1996, YOU DID NOT MAKE THE DETERMINATION OF ANY MAJOR MENTAL ILLNESS. DID YOU?
A. CORRECT.
Q. AND HOW LONG DID YOU STAY WITH HER ON JANUARY 28, 1998?
A. I WOULD SAY PROBABLY BETWEEN AN HOUR AND A HALF AND TWO HOURS.
Q. NOW, DR. BEHRMANN, DID YOU HAVE KNOWLEDGE OF THE PATIENT'S ATTORNEY BACK IN DECEMBER OF 1996? DO YOU KNOW WHO THE ATTORNEY WAS?
A. YES, THE ORDER THAT WE HAD RECEIVED FOR HER INITIAL EVALUATION HAD BEEN SIGNED BY HER ATTORNEY AT THAT TIME, MR. DOUGLAS STRICKLER.
Q. PLEASE EXPLAIN TO THE JURY HOW CONTACT WITH THE PATIENT'S ATTORNEY MAY HAVE, MAY ASSIST YOU OR YOUR

A. CORRECT.
Q. OKAY, AND SO, NOBODY FROM YOUR STAFF OBTAINED ANY RECORDS FROM THE COLUMBIA AREA MENTAL HEALTH?
A. NOT AT THAT TIME, NO.
Q. OKAY. ANY MEDICAL RECORDS FROM RICHLAND MEMORIAL HOSPITAL, BAPTIST, PRESBYTERIAN? ANYTHING WITH THAT REGARD? WERE THOSE RECORDS OBTAINED?
A. NO, THERE WERE NO ADDITIONAL MEDICAL RECORDS OF ANY SORT.
Q. DO YOU KNOW THAT MS. TYLER HAD ATTEMPTED SUICIDE AND THAT IT WAS REPORTED AT RICHLAND MEMORIAL, THERE ARE RECORDS OF THAT?
A. YES.
Q. OKAY, YOU ARE NOW AWARE OF RECORDS OF COLUMBIA AREA MENTAL HEALTH WHERE SHE WAS REFERRED THERE BECAUSE OF HER BELIEF THAT [redacted] WAS SODOMIZED?
A. CORRECT.
Q. AND THOSE RECORDS EXISTED ON DECEMBER 6, 1996. DID THEY NOT?
A. I BELIEVE THEY PROBABLY DID.
Q. NOW, AFTER DECEMBER 6, 1996, WHEN WAS THE NEXT TIME THAT YOU SAW THE PATIENT, MS. TYLER?
A. THE NEXT TIME THAT I CAME IN CONTACT WITH MS. TYLER WAS ON JANUARY 29TH OF 1998.
Q. OF 1998?

ON ANY OF THESE PEOPLE IN HIS REPORT.

Q. SO, THE CONTACT THAT HE MADE WAS FROM A PERSON THAT DIDN'T APPRECIATE BEING CONTACTED?

A. CORRECT.

Q. AND HE HAD CORA LEE FULLER THAT WAS CONCERNED WITH HER WELL BEING, STATED THAT THE PATIENT WAS GOING TO TAKE ADVANTAGE OF PEOPLE?

A. CORRECT.

Q. AND THEN THE OTHER CONTACT HAD REPORTED THAT SHE KNEW VERY LITTLE ABOUT THE PATIENT?

A. CORRECT.

Q. AND THE OTHERS WERE JUST ATTEMPTS WHICH WERE MADE, JUST BASICALLY NO CONTACT WAS MADE?

A. AND ALSO THE SOURCE FROM THE DETENTION CENTER.

Q. OKAY. NOW, DID ANYBODY, YOU OR YOUR STAFF, ATTEMPT TO ACQUIRE ANY RECORDS FROM THE COLUMBIA AREA MENTAL HEALTH?

A. ROUTINELY OUR SOCIAL WORKERS WILL ATTEMPT TO OBTAIN THOSE RECORDS WHEN IT IS IDENTIFIED THAT THEY MAY BE AVAILABLE.

Q. OKAY, AND THE STAFFING YOU SAID WAS ON DECEMBER THE 6TH?

A. CORRECT.

Q. WHEN THE THREE ISSUES, COMPETENCY, MORAL LEGAL RIGHT FROM WRONG, CAPACITY TO CONFORM WERE ESTABLISHED?

A. ANOTHER PERSON THAT'S IDENTIFIED ON THIS SOCIAL HISTORY IS SOMEONE NAMED BRENDA SMITH, AND THAT PERSON IS IDENTIFIED AS SOMEONE WHO WORKS AT THE RICHLAND COUNTY DETENTION CENTER MEDICAL UNIT.

Q. OKAY, AND WHAT INFORMATION WAS PROVIDED BY MS. SMITH.

A. I DON'T HAVE ANYTHING IMMEDIATELY LISTED THERE BY MS. SMITH, IMMEDIATELY UNDER HER NAME.

Q. IS THAT THE ONLY OTHER PERSON?

A. HE RECORDED THAT HE HAD TRIED TO CONTACT A BROTHER --- I CAN'T READ THE FIRST NAME. IT APPEARS TO BE C-L-A-O, BUT I'M NOT SURE THAT THAT'S CORRECT, LAST NAME SALLEY, BUT THAT PERSON WAS NOT AVAILABLE.

ANOTHER PERSON, LILLIAN RYAN, THAT I BELIEVE HE LISTED AS A COUSIN, WAS CONTACTED BUT STATED THAT SHE KNEW VERY LITTLE ABOUT THE PATIENT.

Q. OKAY. IS THAT IT?

A. THOSE ARE THE SOURCES THAT HE HAS LISTED ON HIS REPORT. YES.

Q. WAS MR. SPIRES --- THE FOLLOW-UP SOCIAL WORK SUMMARY PRIOR TO DECEMBER 6, 1996?

A. I'M SORRY. I DIDN'T HEAR THE END OF THE QUESTION.

Q. DO YOU HAVE ANY OTHER FOLLOW-UP ON ANY OF THESE PEOPLE PRIOR TO DECEMBER 6, 1996?

A. I DON'T SEE THAT HE RECORDED ANY FURTHER FOLLOW-UP

TYLER?

A. HE LISTED AS SOURCES FOR HIS HISTORY A PERSON, I BELIEVE THIS IS EMMA DALE SALLEY, WHO WAS IDENTIFIED AS BEING A HALF SISTER TO MS. TYLER.

Q. WHAT INFORMATION DID SHE PROVIDE?

A. SHE, AT LEAST ON THE INFORMATION THAT WAS LISTED IMMEDIATELY BENEATH HER NAME WAS THAT --- SHE STATED THAT SHE HAD NOT HAD MUCH CONTACT WITH THE PATIENT AND WAS NOT APPRECIATIVE OF BEING CONTACTED ABOUT HER.

Q. SHE DID NOT APPRECIATE BEING CONTACTED ABOUT HER?

A. CORRECT.

Q. OKAY. WHO ELSE DID MR. SPIRES CONTACT REGARDING SOCIAL HISTORY?

A. LET' S SEE. ANOTHER PERSON THAT HE LISTED WAS SOMEONE IDENTIFIED AS CORA LEE FULLER, WHO WAS IDENTIFIED ON THIS FORM AS BEING A FRIEND, THE PATIENT' S BABY' S GODMOTHER.

Q. WAS WHAT?

A. THE PATIENT' S BABY' S GODMOTHER.

Q. OKAY, AND WHAT INFORMATION DID MS. FULLER PROVIDE?

A. WELL, MR. SPIRES RELATED HERE THAT MS. FULLER SEEMED TO BE CONCERNED ABOUT THE PATIENT' S WELL BEING, BUT REPORTED HOW THE PATIENT HAD TAKEN ADVANTAGE OF OTHERS.

Q. OKAY, AND IS THERE ANYBODY ELSE?

YOU HAD BEEN REVIEWING AT THE TIME TO ESTABLISH THESE THREE ISSUES?

A. WELL, WE HAD, OF COURSE, THE ADMITTING HISTORY AND PHYSICAL THAT HAD BEEN PERFORMED ON HER AT THE TIME OF HER ADMISSION TO THE HOSPITAL. A SOCIAL HISTORY HAD BEEN OBTAINED BY ONE OF OUR SOCIAL WORKERS AT THE INSTITUTE.

Q. AND WHO MIGHT THAT SOCIAL WORKER HAVE BEEN?

A. THE SOCIAL WORKER WHO OBTAINED THIS WAS JIMMY SPIRES.

Q. OKAY, AND WHAT OTHER DOCUMENTS?

A. WE HAD VARIOUS LEGAL RECORDS WHICH HAD BEEN SENT TO US WHICH WOULD INCLUDE SUCH THINGS AS HER --- AS THE WARRANTS AGAINST HER. WE WOULD HAVE ALSO HAD I BELIEVE THE INCIDENT REPORT CONCERNING THE ALLEGED INCIDENT.

Q. AND THOSE WERE SUBMITTED TO YOU BY WHOM?

A. I THINK THOSE GENERALLY COME FROM THE SOLICITOR. I DON'T KNOW SPECIFICALLY WHO SENT THOSE TO US.

Q. OKAY, SO, YOU HAD THE PHYSICAL. YOU HAD A SOCIAL WORKER SUMMARY. YOU HAD THE WARRANT. YOU HAD AN INCIDENT REPORT. IS THAT CORRECT?

A. YES.

Q. OKAY. IN THAT SOCIAL WORKER'S SUMMARY, DID MR. SPIRES MAKE ANY CONTACT WITH ANYBODY IN THE COMMUNITY WITH REGARD TO GIVING SOCIAL HISTORY IN REGARD TO MS.

Q. AND HAS SHE BEEN A PATIENT OF YOURS FOR SOME TIME?
A. WELL, I WAS ASKED TO EVALUATE HER AT THE REQUEST OF HER ATTORNEY AT THE TIME, DOUG STRICKLER, AND I SAW HER FOR THE FIRST TIME IN DECEMBER OF 1997.
Q. ARE YOU FAMILIAR WITH THE CASE, THE CHARGE PENDING AGAINST HER, ARE YOU NOT?
A. YES, I AM.
Q. AS A RESULT OF YOUR EVALUATION, DO YOU HAVE AN OPINION AS TO HER INTELLECTUAL FUNCTIONING?
A. WELL, BASED ON THE REPORTS FROM THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE WHERE SHE WAS HOSPITALIZED AND HAD AN EVALUATION PURSUANT TO THE COURT ORDER THAT WAS PRESENTED EARLIER, IT WAS INDICATED IN THE RECORD THAT SHE HAS A BORDERLINE INTELLECTUAL FUNCTIONING, ALTHOUGH I HAVE NOT SEEN THE RESULTS OF THOSE PSYCHOLOGICAL TESTS TO KNOW WHAT HER EXACT IQ IS.
Q. HOW WOULD THE RESULTS OF THE IQ TEST BE HELPFUL IN DETERMINING WHETHER SOMEBODY VOLUNTARILY WAIVED THEIR RIGHTS?
A. WELL, WHETHER SOMEONE VOLUNTARILY RAISED THEIR RIGHTS, I THINK, DEPENDS ON A NUMBER OF FACTORS. THAT WOULD BE ONE OF THEM. ONE WOULD BE THEIR MENTAL STATE, AND THEN ANY UNDERLINING MENTAL CONDITION, COMBINED WITH THEIR INTELLECTUAL FUNCTIONING. THOSE WOULD CERTAINLY BE THE SIGNIFICANT FACTORS ONE WOULD NEED TO LOOK AT.

Q. AND WITHOUT AN IQ, YOU REALLY CAN'T SAY FOR SURE WITH REGARD TO MS. TYLER'S CASE?

A. THAT'S CORRECT. BECAUSE BORDERLINE INTELLECTUAL FUNCTIONING ACTUALLY COVERS ABOUT 15 IQ POINTS. SO, THE RESULTS OF THAT TESTING WOULD BE VERY IMPORTANT TO KNOW. FOR EXAMPLE, HER IQ COULD BE AS LOW AS 70, AND THAT WOULD CLASSIFY BORDERLINE RANGE OF INTELLECTUAL FUNCTIONING, AND IT COULD GO ALL THE WAY UP TO 85. SO, THE ACTUAL IQ ASSIGNED WOULD BE VERY IMPORTANT TO KNOW.

Q. HOW DOES THE IQ COMBINED WITH HER STATE OF MIND HELP ONE DETERMINE WHETHER SOMEBODY VOLUNTARILY AND INTELLIGENTLY WAIVED THEIR LEGAL RIGHTS?

A. WELL, I THINK IN MS. TYLER'S CASE SPECIFICALLY, WE ALREADY KNOW THAT SHE HAS A PARANOID PERSONALITY DISORDER AS DR. BEHRMANN TESTIFIED TO EARLIER TODAY, AND ALSO I'VE TESTIFIED TO PREVIOUSLY. PERSONALLY, THE PARANOID PERSONALITY IS NORMALLY GOING TO BE SOMEONE THAT SCRUTINIZES EVERYTHING THAT'S WRITTEN, THAT WOULD READ EVERY PAGE, THAT WOULD LOOK AT EVERY ITEM OF INFORMATION AVAILABLE TO ONE, AND IN MS. TYLER'S CASE, GIVEN HER PARANOID PERSONALITY, I THINK HER BORDERLINE INTELLECTUAL FUNCTION PLAYS A ROLE IN THIS, IN THAT PERHAPS SHE'S NOT ABLE TO HAVE THE ABILITY TO DO THOSE THINGS. PERHAPS SHE IS UNABLE TO INTERPRET SOME OF THE DEFINITIONS, SOME OF THE WORDS IN THE STATEMENT, AND THAT INSTEAD OF PAYING

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CERTIFICATE OF SERVICE

I, S. Creighton Waters, do hereby certify that I have this date served ***Return and Memorandum of Law in Support of Motion for Summary Judgment*** and ***Motion for Summary Judgment*** in the foregoing action on the Petitioner by depositing one copy of the same in the United States mail, first-class postage prepaid, and addressed as follows:

Linda Ann Tyler, #248190
Leath Correctional Institution
2809 Airport Road
Greenwood, South Carolina 29649

This 10th day of July, 2009.

s/ S. Creighton Waters
S. Creighton Waters

ATTACHMENTS TO THE RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Linda Ann Tyler, #248190
v.
Catherine T. Kendell, Warden of Leath Correctional Institution

C/A No.8:09-377-CMC-BHH

1.	Appendix including: Index; Trial Transcript;State v. Linda Tyler, 348 S.C. 526, S.E. 2d 888 (2002); Indictments; Post-Conviction Relief Application; Return; Post-Conviction Relief Transcript; Order Denying Relief; Notice of Appal;	
2.	March 30, 2001	Order (denying request to submit pro-se brief);
3.	May 25, 2001	Order (notify court within 10 days of representation);
4.	May 31, 2001	Appellant's Motion for New Court Appointed Attorney;
5.	August 9, 2001	Order (denying Motion);
6.	August 29, 2001	Final Brief of Appellant;
7.	September 5, 2001	Final Brief of Respondent;
8.	December 13, 2001	Order (denying submission of documents);
9.	March 8, 2002	Petition for Rehearing and Notice of Intent to Appeal;
10.	April 3, 2002	Order (denying Petition for Rehearing);
11.	April 3, 2002	Remittitur;
12.	November 18, 2005	Exhibits;
13.	February 27, 2007	Johnson Petition for Writ of Certiorari;
14.	April 9, 2007	Pro-Se Response to Johnson Petition;
15.	February 6, 2008	Order (denying petition);
16.	February 26, 2008	Remittitur;
17.	March 7, 2008	Letter from Clerk of South Carolina Supreme Court;
18.	April 16, 2008	Order (denying Petition for reinstatement).

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
-VS-)
) 97-GS-40-17046
LINDA TYLER,)
)
DEFENDANT.)
)
----------)

MARCH 16, 1998
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE PAUL SHORT, JUDGE

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

STACEY D. HAYNES, ASSISTANT SOLICITOR
DON SORENSON, ASSISTANT SOLICITOR
REPRESENTING THE STATE

CHRISTA BELL, ESQUIRE
TERESA JOHNS, ESQUIRE
REPRESENTING THE DEFENDANT

SUZIE H. NICHOLS
CERTIFIED COURT REPORTER

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DEFENDANT'S EXHIBIT NINE
FLOW CHART FOR I.D. ONLY

DEFENDANT'S EXHIBIT TEN
ARTICLE FOR I.D. ONLY

MS. HAYNES: YOUR HONOR, AT THIS TIME THE STATE WOULD CALL CASE OF STATE VERSUS LINDA TYLER. THE INDICTMENT NUMBER IS 96-GS-40-17046 FOR THE OFFENSE OF MURDER.

I BELIEVE SHE IS REPRESENTED BY TERESA JOHNS AND CHRISTA BELL.

THE COURT: ALL RIGHT. THIS IS INDICTMENT 96-GS-40-17046. NOW, MS. BELL AND SOLICITOR, YOU ADVISED ME IN MY CHAMBERS THAT EACH OF YOU HAD SOME PRETRIAL MOTIONS WE NEED TO TAKE UP TODAY BEFORE WE SELECT THE JURY. IS THAT CORRECT, MADAM SOLICITOR?

MS. HAYNES: YES, YOUR HONOR.

THE COURT: IS THAT CORRECT, MS. BELL?

MS. BELL: YES, SIR, YOUR HONOR.

THE COURT: ALL RIGHT. I BELIEVE THE FIRST MATTER WE NEED TO TAKE UP IS THE COMPETENCY HEARING FOR THE DEFENDANT MS. TYLER. IS THAT CORRECT?

MS. HAYNES: YES, SIR, YOUR HONOR.

THE COURT: ALL RIGHT. YOU MAY PROCEED, MS. HAYNES.

MS. HAYNES: THE STATE WOULD CALL DR. THOMAS BEHRMANN.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

DR. THOMAS BEHRMANN, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HAYNES

A. MY NAME IS THOMAS WILLIAM BEHRMANN. MY LAST NAME IS SPELLED B-E-H-R-M-A-N-N.

Q. DR. BEHRMANN, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED AT WILLIAM S. HALL PSYCHIATRIC INSTITUTE IN THE FORENSIC DIVISION.

Q. WHAT ARE YOUR DUTIES THERE?

A. I'M THE DIRECTOR OF THE FORENSIC DIVISION, AND SO, I HAVE OVERALL ADMINISTRATIVE RESPONSIBILITY FOR THE ACTIVITIES OF THE FORENSIC DIVISION. IN ADDITION, I HAVE A FULL PATIENT LOAD AND PERFORM BOTH TREATMENT AND COURT ORDERED EVALUATIONS.

Q. DR. BEHRMANN, APPROXIMATELY HOW LONG HAVE YOU BEEN EMPLOYED BY THE SOUTH CAROLINA MENTAL HEALTH DEPARTMENT?

A. I'VE BEEN EMPLOYED BY THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH SINCE 1988.

Q. AND COULD YOU BRIEFLY DESCRIBE TO THE COURT YOUR EDUCATIONAL BACKGROUND AFTER HIGH SCHOOL?

A. YES. I GRADUATED FROM THE UNIVERSITY OF MICHIGAN IN 1969. I GRADUATED FROM THE UNIVERSITY OF MICHIGAN MEDICAL SCHOOL IN 1973. I INITIALLY TRAINED IN SURGERY AND COMPLETED SURGICAL RESIDENCY AT ST. JOSEPH MERCY HOSPITAL IN ANN ARBOR IN 1977.

FOLLOWING THAT, I MOVED TO SOUTH CAROLINA AND

ENGAGED IN PRIVATE PRACTICE AND GENERAL SURGERY IN NEWBERRY, SOUTH CAROLINA UNTIL 1988, AT WHICH TIME I RETIRED FROM MY SURGICAL PRACTICE AND ENTERED THE GENERAL PSYCHIATRY RESIDENCY AT WILLIAM S. HALL PSYCHIATRIC INSTITUTE. ON COMPLETION OF THAT IN 1991, I DID A ONE YEAR POST GRADUATE FELLOWSHIP IN FORENSIC PSYCHIATRY AND JOINED THE FACULTY THEREAFTER.

Q. AND HAVE YOU EVER TESTIFIED IN COURT BEFORE?

A. YES, I HAVE.

Q. DO YOU KNOW APPROXIMATELY HOW MANY TIMES?

A. MORE THAN 50 TIMES.

Q. AND DURING THOSE TIMES, HAVE YOU BEEN FOUND TO BE AN EXPERT IN FORENSIC PSYCHIATRY?

A. YES, I DID.

MS. HAYNES: YOUR HONOR, AT THIS TIME, WE WOULD MOVE TO HAVE DR. BEHRMANN QUALIFIED AS AN EXPERT IN FORENSIC PSYCHIATRY.

THE COURT: ALL RIGHT. WOULD THE DEFENSE LIKE TO CROSS EXAMINE HIM IN REGARD TO HIS QUALIFICATIONS?

MS. BELL: NO, SIR, YOUR HONOR.

THE COURT: ALL RIGHT. THE COURT FINDS THE WITNESS TO BE AN EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY.

BY MS. HAYNES

Q. DOCTOR, LET ME SHOW YOU THIS DOCUMENT AND ASK IF YOU RECOGNIZE IT?

A. YES, I DO.
Q. WHAT DO YOU RECOGNIZE THAT TO BE, DOCTOR?
A. THIS IS AN ORDER FOR A COMPETENCY EVALUATION ISSUED BY THE COURT OF GENERAL SESSIONS IN RICHLAND COUNTY ORDERING THE EVALUATION ON MS. LINDA TYLER FOR COMPETENCY TO STAND TRIAL, CRIMINAL RESPONSIBILITY, AND CAPACITY TO CONFORM BEHAVIOR. IT WAS ISSUED BY JUDGE JOHNSON AND SIGNED ON OCTOBER 16TH OF 1996.
MS. HAYNES: AT THIS TIME, WE WOULD ADMIT THIS TO THE RECORD.
THE COURT: ALL RIGHT. ANY OBJECTION?
MS. BELL: WITHOUT OBJECTION.
THE COURT: ALL RIGHT. JUDGE JOHNSON'S ORDER OF OCTOBER 16, 1997. THIS IS A COURT'S EXHIBIT, IS THAT CORRECT?
MS. HAYNES: YES, SIR. IT'S OCTOBER 16, 1996.
THE COURT: EXCUSE ME, OCTOBER 16, 1996. ADMITTED AS COURT EXHIBIT ONE WITHOUT OBJECTION.
(COURT'S EXHIBIT ONE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)
BY MS. HAYNES
Q. DOCTOR, DID YOU ACTUALLY PERFORM AN EVALUATION OF MS. TYLER PURSUANT TO COURT'S EXHIBIT NUMBER ONE?
A. YES, I DID.
Q. AND WHAT MATERIAL, IF ANY, DID YOU HAVE TO REVIEW IN

DOING THAT EVALUATION ON MS. TYLER?

A. WE HAD ADMITTED HER TO THE FORENSIC UNIT. WE COMPLETED ROUTINE HISTORY AND PHYSICAL EXAMINATIONS. A SOCIAL HISTORY WAS OBTAINED. SHE HAD A MEDICAL WORKUP, INCLUDING MRI OF THE BRAIN AND AN EEG. SHE HAD PHYSIOLOGICAL AND NEUROLOGICAL EVALUATIONS PERFORMED. IN ADDITION TO THAT, WE HAD DOCUMENTATION FROM THE RICHLAND COUNTY AUTHORITIES ABOUT THE ALLEGED CHARGES AGAINST HER.

Q. AND DID YOU FIND HER TO BE COOPERATIVE DURING THAT INTERVIEW?

A. YES.

Q. I'M GOING TO SHOW YOU THIS DOCUMENT AND ASK IF YOU RECOGNIZE THIS?

A. YES. THIS THE WRITTEN REPORT OF THE EVALUATION THAT WAS DONE ON MS. TYLER ON DECEMBER 6TH OF 1996.

Q. AND WERE YOU PRESENT DURING THAT INTERVIEW OF MS. TYLER?

A. YES, I WAS.

MS. HAYNES: ASK TO ENTER COURT'S EXHIBIT TWO.

MS. BELL: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. COURT EXHIBIT NUMBER TWO ADMITTED WITHOUT OBJECTION. WHAT'S THE DATE OF THAT REPORT?

MS. HAYNES: DECEMBER 6, 1996 WAS THE EVALUATION DATE.

THE COURT: ALL RIGHT.

(COURT'S EXHIBIT NUMBER TWO MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MS. HAYNES

Q. NOW, DOCTOR, DURING THAT EVALUATION ON DECEMBER 6, 1996, DID YOU HAVE AN OPINION AS TO WHETHER OR NOT MS. TYLER UNDERSTOOD THE NATURE OF THE CHARGES?

A. YES, WE DID.

Q. AND WHAT WOULD THAT HAVE BEEN?

A. IT WAS OUR OPINION THAT MS. TYLER DID UNDERSTAND HER CHARGES AT THAT TIME.

Q. AND DID YOU HAVE AN OPINION AS TO WHETHER OR NOT SHE WAS COMPETENT AT THAT TIME?

A. YES, WE DID.

Q. AND WHAT WAS THAT OPINION?

A. IT WAS OUR OPINION THAT MS. TYLER WAS COMPETENT TO STAND TRIAL AT THAT TIME.

Q. AND WHAT ABOUT HER CAPACITY FOR ASSISTING HER ATTORNEY IN A DEFENSE AT THAT TIME?

A. IT WAS ALSO OUR OPINION THAT MS. TYLER DID POSSESS THE CAPACITY TO ASSIST HER ATTORNEY AT THAT TIME.

Q. AT THAT TIME, DID YOU ALSO LOOK INTO WHETHER OR NOT SHE WAS CRIMINALLY RESPONSIBLE FOR HER ACTIONS?

A. YES, WE DID.

Q. AND WHAT WAS YOUR OPINION ON THAT?

A. IT WAS OUR OPINION WITH REASONABLE DEGREE OF MEDICAL CERTAINTY THAT MS. TYLER WAS CRIMINALLY RESPONSIBLE TOWARDS THE CHARGE AGAINST HER.

Q. AND IN MAKING THAT DETERMINATION, WHAT TYPE OF MATERIAL DID YOU REVIEW?

A. ONCE AGAIN, THE SAME MATERIALS THAT I HAD ELICITED OR LISTED BEFORE.

Q. AND TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, DO YOU HAVE AN OPINION AS TO WHETHER OR NOT SHE WAS LEGALLY INSANE AT THE TIME OF THE OFFENSE?

A. YES, I DO.

Q. AND WHAT IS THAT OPINION?

A. MY OPINION WITH A REASONABLE DEGREE OF MEDICAL CERTAINTY IS THAT MS. TYLER WAS NOT INSANE AT THE TIME OF THE OFFENSE.

Q. DO YOU HAVE AN OPINION AS TO HER ABILITY TO CONFORM HER CONDUCT?

A. YES.

Q. AND THAT OPINION IS?

A. ONCE AGAIN, THAT MS. TYLER DOES POSSESS THE CAPACITY TO CONFORM HER BEHAVIOR TO THE REQUIREMENTS OF THE LAW AT THE TIME OF THE INCIDENT.

Q. AND ALL THOSE OPINIONS ARE AS A RESULT OF YOUR INTERVIEW WITH MS. TYLER BACK IN DECEMBER CONTAINED IN YOUR REPORT THAT YOU PREPARED AS LISTED IN COURT'S

EXHIBIT NUMBER TWO?

A. CORRECT.

Q. DID YOU HAVE THE OCCASION TO COME BACK INTO CONTACT WITH MS. TYLER PURSUANT TO AN ORDER BY JUDGE COOPER BACK ON THE 15TH OF DECEMBER, 1997?

A. YES, WE DID.

Q. LET ME SHOW YOU AND ASK IF YOU RECOGNIZE IT?

A. YES, I RECOGNIZE IT.

Q. IS THAT THE ORDER THAT, BASICALLY, SENT MS. TYLER BACK TO YOU FOR REEVALUATION TO HER ISSUE OF WHETHER OR NOT SHE COULD VOLUNTARILY, KNOWINGLY WAIVE A RIGHT TO AN ATTORNEY?

A. THAT'S CORRECT.

MS. HAYNES: WE WOULD ENTER THIS AS COURT'S EXHIBIT NUMBER THREE.

MS. BELL: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: SO ORDERED.

(COURT'S EXHIBIT THREE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MS. HAYNES

Q. PURSUANT TO COURT'S EXHIBIT NUMBER THREE, THE ORDER OF JUDGE COOPER, DID MS. TYLER COME BACK TO WILLIAM S. HALL FOR FURTHER EVALUATION BY YOURSELF?

A. YES, SHE DID.

Q. AND WHAT WERE THE RESULTS OF THAT DIAGNOSIS?

A. FOLLOWING THAT EVALUATION, IT WAS MY OPINION THAT MS. TYLER DID POSSESS THE ABILITY TO KNOWINGLY WAIVE HER RIGHT TO AN ATTORNEY PURSUANT TO THE STATE V. BREWER DECISION.

Q. AND LET ME SHOW YOU THIS DOCUMENT AND ASK IF YOU RECOGNIZE THIS DOCUMENT?

A. YES. THIS IS A WRITTEN REPORT THAT REPORTS ON THE EVALUATION THAT WAS DONE ON MS. TYLER CONCERNING HER ABILITY TO WAIVE HER RIGHT TO AN ATTORNEY.

Q. THAT'S A REPORT PREPARED BY YOURSELF?

A. CORRECT.

Q. DATED JANUARY 29, 1998?

A. YES.

MS. HAYNES: INTRODUCE THIS AS COURT'S, I BELIEVE, FOUR.

THE COURT: COURT EXHIBIT NUMBER FOUR, REPORT OF JANUARY 29, 1998 ---

MS. BELL: NO OBJECTION.

THE COURT: --- WITHOUT OBJECTION. MARK THAT AS COURT EXHIBIT NUMBER FOUR.

(COURT'S EXHIBIT FOUR MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MS. HAYNES

Q. DOCTOR, DID YOU HAVE AN OPPORTUNITY BACK ON FEBRUARY 13, 1998 TO COME BEFORE THE HONORABLE JUDGE COLE FOR

ANOTHER HEARING CONCERNING MS. TYLER?

A. YES.

Q. LET ME SHOW YOU THIS DOCUMENT AND ASK IF YOU RECOGNIZE THIS AS WELL?

A. YES, I RECOGNIZE IT.

Q. AND WHAT DO YOU RECOGNIZE THAT TO BE?

A. THAT IS AN ORDER THAT WAS ASSIGNED BY JUDGE COLE PURSUANT TO THE HEARING THAT WAS HELD ON FEBRUARY 13TH, AT WHICH TIME MS. TYLER WAS RETURNED TO HALL INSTITUTE FOR FURTHER EVALUATION OF HER COMPETENCY TO STAND TRIAL AND ALSO FOR THE PURPOSE OF HER TO RECEIVE MEDICATION TO ASSIST HER WITH HER COMPETENCY.

MS. HAYNES: ENTER THIS AS COURT'S EXHIBIT NUMBER FIVE.

MS. BELL: WITHOUT OBJECTION.

THE COURT: ALL RIGHT. WHAT'S THE DATE OF THE ORDER?

MS. HAYNES: FEBRUARY 13, 1998

THE COURT: ALL RIGHT. ADMITTED COURT EXHIBIT NUMBER FIVE WITHOUT OBJECTION.

(COURT'S EXHIBIT FIVE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MS. HAYNES

Q. NOW, PURSUANT TO THE COURT EXHIBIT FIVE, MS. TYLER WAS RETURNED TO WILLIAM S. HALL INSTITUTE FOR MEDICATION

REGARDING HER COMPETENCY?

A. THAT IS CORRECT.

Q. HAD YOUR OPINION CHANGED TO HER COMPETENCY AT THAT TIME?

A. NO, IT DID NOT.

Q. AND WHAT WERE YOUR BELIEFS OR THE REASON FOR SENDING MS. TYLER BACK TO WILLIAM S. HALL INSTITUTE FOR MEDICATION?

A. WHEN MS. TYLER WAS INTERVIEWED ON FEBRUARY 13TH PRIOR TO THE HEARING, AT THAT TIME SHE PRESENTED ME WITH A NUMBER OF ADDITIONAL SYMPTOMS THAT SHE HAD NOT PRESENTED PRIOR TO THAT TIME. THIS INCLUDED SUCH THINGS AS AUDITORY HALLUCINATIONS. IT WAS MY IMPRESSION BASED ON THE FINDINGS AT THAT TIME THAT MS. TYLER WAS EXPERIENCING A SIGNIFICANT DEGREE OF PARANOID THOUGHT WHICH I FELT WAS BEST INTERPRETED BEING DUE TO A PARANOID PERSONALITY DISORDER. I FELT THAT HER RECEIVING MEDICATION WOULD ALLOW HER TO DEAL WITH HER PARANOID THOUGHTS IN AN EFFECTIVE MANNER SUCH THAT THEY WOULD NOT INTERFERE WITH HER ABILITY TO COOPERATE WITH HER ATTORNEYS OR IMPACT ON HER COMPETENCY TO STAND TRIAL.

Q. SO, BASICALLY, YOUR OPINION AS TO HER COMPETENCY HAD NOT CHANGED AT THAT POINT, BUT YOU FELT THAT THE MEDICATION MIGHT BE BENEFICIAL IN HELPING HER DEAL WITH STRESS LEVELS IN TRIAL SO THAT SHE WOULD NOT BE ---

A. THAT IS CORRECT.

Q. AND HAD YOUR OPINION AS TO COMPETENCY OR CRIMINAL RESPONSIBILITY OF MS. TYLER CHANGED AT THAT POINT?

A. NO.

Q. SHE WAS STILL CRIMINALLY RESPONSIBLE UNDER YOUR VIEW AND COMPETENT?

A. CORRECT.

Q. FINALLY, DOCTOR, I WOULD SHOW YOU --- DID YOU HAVE AN OCCASION ON MONDAY, FEBRUARY 23, 1998, TO COME BEFORE THIS COURT, THE HONORABLE JUDGE SHORT, FOR ANOTHER HEARING CONCERNING MS. TYLER?

A. YES.

Q. DO YOU RECOGNIZE THAT DOCUMENT?

A. YES. THIS IS A ORDER SIGNED BY DR.(SIC) SHORT WHICH ORDERS THAT --- FIRST OF ALL, IT FINDS MS. TYLER COMPETENT TO STAND TRIAL AND THAT SHE CONTINUE AT THE COOPER BUILDING OF WILLIAM S. HALL PSYCHIATRIC INSTITUTE UNTIL THE TIME OF HER TRIAL DATE.

Q. THANK YOU.

MS. HAYNES: WE ASK THE ORDER OF FEBRUARY 23, 1998 BE ADMITTED AS COURT'S SIX, I BELIEVE.

MS. BELL: WITHOUT OBJECTION.

THE COURT: COURT EXHIBIT NUMBER SIX ADMITTED WITHOUT OBJECTION.

(COURT'S EXHIBIT SIX MARKED FOR IDENTIFICATION AND

MADE A PART OF THE RECORD.)

BY MS. HAYNES

Q. PURSUANT TO COURT'S EXHIBIT NUMBER SIX, AN ORDER OF JUDGE SHORT, WAS MS. TYLER RETURNED BACK TO WILLIAM S. HALL FOR FURTHER MEDICATION PENDING HER TRIAL TODAY?

A. YES, SHE WAS.

Q. AND DID YOU, IN FACT --- WERE YOU HER PHYSICIAN THERE AT WILLIAM S. HALL?

A. YES, I WAS HER ATTENDING PHYSICIAN.

Q. AND HAVE YOU HAD CONTACT WITH HER OVER THE PERIOD OF TIME FROM BACK WHEN SHE FIRST WENT TO WILLIAM S. HALL BACK IN JANUARY?

A. YES, I HAVE.

Q. AND HAVE YOU, IN FACT, SPOKE WITH MS. TYLER THIS MORNING?

A. YES, I HAVE.

Q. AND WHAT ARE YOUR OPINIONS TO A REASONABLE DEGREE OF MEDICAL CERTAINTY AS TO MS. TYLER'S COMPETENCY TO STAND TRIAL?

A. I BELIEVE THAT MS. TYLER IS COMPETENT TO STAND TRIAL AT THIS TIME.

Q. AND AS TO HER CAPABILITY OF ASSISTING HER ATTORNEY?

A. MY OPINION IS MS. TYLER POSSESSES THE ABILITY TO ASSIST HER ATTORNEY IN HER OWN DEFENSE.

Q. WAS SHE COOPERATIVE WITH YOU THIS MORNING IN HER

INTERVIEW?

A. YES, SHE WAS.

Q. WHAT IS YOUR OPINION AS TO THE EFFECT THE MEDICATION HAS HAD ON HER?

A. IN MY OPINION, MS. TYLER HAS BENEFITTED GREATLY FROM HER MEDICATION. SHE APPEARS TO BE MUCH MORE CALM. SHE'S ABLE TO TOLERATE PARTICIPATING IN DISCUSSIONS ABOUT HER LEGAL SITUATION AND HAS A GREATER APPRECIATION OF THE VARIOUS ISSUES RELATED TO HER TRIAL.

Q. AND HAS YOUR OPINION THAT SHE WAS NOT LEGALLY INSANE --- HAS THAT CHANGED?

A. NO, IT HAS NOT.

Q. HAS YOUR OPINION THAT SHE IS CRIMINALLY RESPONSIBLE CHANGED?

A. NO, THAT HAS NOT.

Q. I DON'T HAVE ANYTHING FURTHER. IF YOU WOULD ANSWER ANYTHING MS. BELL OR MS. JOHNS MAY HAVE.

THE COURT: THANK YOU. CROSS EXAMINATION.

MS. BELL: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

THE COURT: CERTAINLY.

CROSS EXAMINATION

BY MS. BELL

Q. DR. BEHRMANN?

A. YES.

Q. MS. TYLER CAME TO THE COOPER BUILDING BY COURT ORDER IN DECEMBER, 1996, FOR THE FIRST TIME?

A. YES. SHE WAS ADMITTED DECEMBER 2ND OF 1996.

Q. AND AT THAT TIME, THERE WERE VARIOUS ASSESSMENTS REGARDING NEUROLOGICAL TESTING AS WELL AS PSYCHOLOGICAL EVALUATIONS?

A. CORRECT.

Q. DO YOU KNOW WHO PERFORMED THOSE PSYCHOLOGICAL EVALUATIONS?

A. DR. STEVEN SHEA(PHONETICALLY).

Q. DR. SHEA?

A. UH HUH.

Q. AND WHAT WOULD BE THE PURPOSE OF ADMINISTERING THOSE PSYCHOLOGICAL EVALUATIONS?

A. WE ROUTINELY ADMINISTER A BATTERY OF PSYCHOLOGICAL EVALUATIONS TO PATIENTS WHO ARE ADMITTED FOR THE PURPOSE OF EVALUATION. I LOOK AT DIFFERENT FACTORS. ONE OF --- SOME OF THESE TESTS ARE WHAT WE CALL NEURO-PSYCHOLOGICAL SCREENS TO LOOK FOR EVIDENCE OF NEUROLOGICAL DYSFUNCTION THAT MIGHT AFFECT A PERSON'S MENTAL STATE. WE LOOK --- THERE ARE VARIOUS PERSONALITY ASSESSMENTS THAT ARE ADMINISTERED TO LOOK FOR EVIDENCE OF PERSONALITY DYSFUNCTION, AND ALSO AN ASSESSMENT OF INTELLECTUAL FUNCTION IS PERFORMED DURING THE PSYCHOLOGICAL EVALUATIONS.

Q. AND SO, IN THIS PARTICULAR CASE, THERE WERE PERSONALITY TESTS PERFORMED ON MS. TYLER?
A. I BELIEVE SO.
Q. DO YOU KNOW WHAT THE RESULTS OF THOSE WERE?
A. I DO NOT HAVE THE REPORT OF DR. SHEA IN THE MEDICAL RECORD WITH ME THIS MORNING.
Q. WOULD YOU AGREE WITH ME, DR. BEHRMANN, THAT THOSE -- - THE RESULTS OF THOSE TESTS WOULD BE HELPFUL TO YOU IN DETERMINING DIAGNOSIS?
A. YES.
Q. AND AT SOME POINT IN TIME, MORE SPECIFICALLY FEBRUARY OF THIS YEAR, DID YOU DETERMINE THAT MS. TYLER DID HAVE PARANOID PERSONALITY TYPE?
A. YES.
Q. BUT THAT WAS INDEPENDENT OF ANY TESTING THAT MAY HAVE BEEN DONE AT THE COOPER BUILDING?
A. WELL, THAT WAS BASED ON AN OVERALL PICTURE OF MS. TYLER'S MENTAL STATE ON AN ENDURING BASIS.
Q. AND YOU ALSO --- IS IT YOUR MEDICAL OPINION THAT SHE SUFFERED FROM PSYCHOSIS?
A. SHE WAS EXPERIENCING PSYCHOTIC SYMPTOMS.
Q. PSYCHOTIC SYMPTOMS?
A. YES, WHICH PRIMARILY WERE THE AUDITORY HALLUCINATIONS THAT SHE REPORTED TO US IN FEBRUARY OF THIS YEAR. SHE ALSO HAD A SIGNIFICANT DEGREE OF PARANOID

THOUGHT THAT SHE EXPRESSED WHEN SHE CAME BACK FOR THE EVALUATION TO ASSESS HER FOR HER ABILITY TO WAIVE HER RIGHT TO COUNSEL. SHE EXPRESSED AT THAT TIME THAT SHE WAS EXPERIENCING A LOT OF CONCERNS AND SUSPICION ABOUT HER ORIGINAL COUNSEL THAT HAD BEEN APPOINTED TO HER CASE, AND FOR THAT PURPOSE HAD ASKED THAT NEW COUNSEL BE ASSIGNED TO HER CASE. SHE ALSO EXPRESSED SOME PARANOID THOUGHTS WITH RESPECT TO THE STAFF AND SOME OF THE INMATES AT THE RICHLAND COUNTY DETENTION CENTER.

Q. AND DR. BEHRMANN, ISN'T IT TRUE THAT I CONTACTED YOU PRIOR TO THE EVALUATION IN REGARDS TO SOME OF THOSE PARANOID THOUGHTS?

A. I BELIEVE YOU DID, YES.

Q. AND DID YOU RECEIVE SOME CORRESPONDENCE THAT SHE HAD SENT TO THE COURT IN THAT REGARD?

A. YES. I RECEIVED A NUMBER OF CORRESPONDENCE THAT SHE HAD SENT TO THE COURT ADDRESSING THE ISSUES I MENTIONED.

Q. SO, EVENTUALLY WITH THE PARANOID --- THE MOST RECENT COURT HEARING ON THE 23RD OF FEBRUARY AND THE 13TH OF FEBRUARY, YOU FOUND THAT MEDICATION WOULD HELP THESE SYMPTOMS THAT SHE WAS HAVING?

A. IN MY --- WELL, I MEAN, AT THE FEBRUARY 13TH HEARING, IT WAS MY OPINION THAT MS. TYLER WOULD BE HELPED BY MEDICATION, AND THE SUBSEQUENT HEARING IT WAS MY OPINION THAT SHE HAD BEEN HELPED BY MEDICATION.

Q. AND THAT WOULD HAVE BEEN --- SHE WAS PRESCRIBED PROLIXIN?
A. CORRECT.
Q. AND THAT'S AN ANTIPSYCHOTIC MEDICINE?
A. CORRECT.
Q. AND IN THIS PARTICULAR CASE, WOULD YOU AGREE THAT THE HISTORY OF THE CASE, THAT OR ANY PARTICULAR CASE, THAT COMPETENCY IS A FLUID CONCEPT?
A. YES.
Q. AND BASICALLY, THAT MEANS A PERSON COULD BE COMPETENT TODAY AND NOT COMPETENT TOMORROW?
A. YES. THAT'S THEORETICALLY POSSIBLE.
Q. WHAT IN YOUR OPINION WOULD BE THE BEST GUIDELINE TO MAKE SURE THAT DOES NOT HAPPEN IN A CASE?
A. WELL, I THINK THAT, AS WITH ANY OTHER DEFENDANT, IT'S IMPORTANT TO HAVE AN ONGOING OBSERVATION AND ASSESSMENT OF THEIR MENTAL STATUS.
Q. WOULD IT BE BENEFICIAL IF MS. TYLER WERE EVALUATED EACH MORNING TO SEE IF SHE'S COMPETENT PRIOR TO A TRIAL?
A. I DON'T THINK THAT THAT WOULD BE MANDATORY UNLESS THERE WAS EVIDENCE OF SOME SIGNIFICANT CHANGE IN HER MENTAL STATUS. THAT'S NOT A ROUTINE SORT OF INTERVENTION THAT'S CARRIED OUT. CERTAINLY, I THINK IN MS. TYLER'S CASE IT WOULD NOT BE UNREASONABLE TO CONTINUE TO OBSERVE HER MENTAL STATUS.

Q. DR. BEHRMANN, IS IT TRUE THAT MS. TYLER HAS NOW DEVELOPED A THYROID CONDITION?

A. YES.

Q. CAN YOU EXPLAIN THAT?

A. SHE'S HAD LABORATORY TESTS COME BACK THAT WOULD INDICATE HER THYROID IS HYPOACTIVE. IT'S LESS ACTIVE THAN NORMAL.

Q. WHAT EFFECT COULD THAT HAVE ON --- OR COULD IT HAVE ANY EFFECT ON ONE'S MENTAL STATE?

A. THE MOST COMMON EFFECT THAT WOULD HAVE WOULD BE ON A PERSON'S MOOD, AND THE MOST COMMON MANIFESTATION WOULD BE A DEPRESSED STATE.

Q. DEPRESSED STATE?

A. UH HUH.

MS. BELL: BEG THE COURT'S INDULGENCE.

THE COURT: GO AHEAD.

MS. BELL: YOUR HONOR, AT THIS TIME, I HAVE NOTHING FURTHER FOR DR. BEHRMANN ON THE ISSUE OF COMPETENCY.

MS. HAYNES: ONE QUESTION.

REDIRECT EXAMINATION

BY MS. HAYNES

Q. THESE PERSONALITY TESTS AND CORRESPONDENCE BY MS. TYLER TO THE COURT, ALL OF THOSE WERE REVIEWED BY YOU PRIOR TO YOU ISSUING YOUR OPINION AS TO HER COMPETENCY?

A. YES.

Q. DID THEY EFFECT YOUR OPINION?

A. I CONSIDERED THOSE, BUT THEY DID NOT CHANGE MY OPINION.

MS. HAYNES: I HAVE NO FURTHER QUESTIONS.

THE COURT: THANK YOU. YOU MAY STEP DOWN.

MS. BELL: YOUR HONOR, I DON'T KNOW IF THIS IS AN APPROPRIATE TIME, BUT I CAN'T THINK OF ANOTHER MORE APPROPRIATE TIME. I SUBPOENAED THE ENTIRE MEDICAL RECORD FROM THE COOPER BUILDING CONCERNING MS. TYLER, AND IN MY REVIEW OF THE MEDICAL RECORDS, I DO NOT HAVE ANY PSYCHOLOGICAL TESTING --- NONE OF THE TESTS THAT WERE PERFORMED OR THE RESULTS, AND I THINK IT IS ESSENTIAL TO OUR CASE FOR US TO HAVE THOSE PROJECTIVE TYPES OF TESTS. I THINK WE'VE HEARD FROM DR. BEHRMANN THAT THOSE WERE DONE BY DR. SHEA, AND I JUST DON'T HAVE THEM IN THE RECORD.

THE COURT: DO YOU HAVE A COPY OF YOUR SUBPOENA OR WHO DID YOU SUBPOENA?

MS. BELL: YES, SIR. I'VE GOT A COPY OF IT, AND I ASKED FOR THE ENTIRE MEDICAL RECORD.

THE COURT: IF YOU'LL PASS IT UP, I'LL BE GLAD TO LOOK AT IT.

MS. HAYNES: YOUR HONOR, DR. BEHRMANN SAYS HE DOESN'T HAVE A COPY EITHER, IF THEY DO EXIST. HE DIDN'T HAVE THEM IN HIS FILE. I BELIEVE SAYING THEY WERE BY DR.

SHEA --- SHE ASKED HIM IF YOU AGREE THEY WERE BY DR. SHEA. HE SAID, QUITE POSSIBLY. I DON'T BELIEVE HE KNOWS AT THIS TIME IF THERE ARE ANY SUCH --- HE'LL BE HAPPY TO LOOK AND PRODUCE THEM.

THE COURT: ALL RIGHT. PASS UP THE SUBPOENA. IF THE SUBPOENA WAS SERVED, YOU NEED TO READ THE SUBPOENA SO YOU CAN BRING THEM WITH YOU WHAT THE COURT ASKS FOR. LET ME SEE THE SUBPOENA.

WELL, NOW, THIS IS THE RELEASE, NOT A SUBPOENA. I NEED TO SEE THE SUBPOENA THAT WAS SERVED ---

MS. BELL: I APOLOGIZE, YOUR HONOR. THEY WEREN'T UNDER THE SUBPOENA. THEY NEEDED THE MEDICAL RELEASE FORM FROM MS. TYLER. THEY SAID THE SUBPOENA WOULD NOT BE SUFFICIENT. THAT I WOULD HAVE TO HAVE AN AUTHORIZATION WITH HER SIGNATURE ON IT FOR HER RELEASING, AND THAT WOULD BE SUFFICIENT.

THE COURT: I NEED A COPY OF A SUBPOENA THAT WAS SERVED ON WITNESSES. WITNESSES DO NOT HAVE AN OPTION OF ACCEPTING OR DECLINING SUBPOENAS.

MS. BELL: I'M SORRY, YOUR HONOR. DR. BEHRMANN NEVER RECEIVED A SUBPOENA FROM ME PERSONALLY ABOUT BRINGING THE MEDICAL RECORDS.

THE COURT: WELL, IF YOU WANT MEDICAL RECORDS, THE WAY YOU GET THOSE, COUNSEL, I'M SURE YOU'RE AWARE, YOU SUBPOENA THE WITNESS, DUCES TECUM, TO BRING WITH HIM ANY

AND ALL RECORDS. NOW, YOU HAVEN'T DONE THAT. IS THAT RIGHT?

MS. BELL: THAT'S CORRECT.

THE COURT: BUT THE SOLICITOR STATES THAT THEY'RE WILLING TO MAKE THOSE AVAILABLE. IS THAT CORRECT?

MS. HAYNES: YES, DR. BEHRMANN SAYS HE'LL MAKE THOSE AVAILABLE.

THE COURT: ALL RIGHT. HOW LONG DO WE NEED TO GET THOSE?

MS. BELL: YOUR HONOR, AS SOON AS WE CAN GET THEM.

THE COURT: COULD WE GO AHEAD AND FINISH OUR PRETRIAL MOTION, DRAW OUR JURY, AND HOPEFULLY HAVE THOSE BY 2:15? WOULD THAT BE AGREEABLE?

MS. BELL: WE CAN PROCEED, YOUR HONOR, WITH OTHER MATTERS.

THE COURT: ALL RIGHT. I'M GOING TO DIRECT, SINCE THE SOLICITOR HAS AGREED, THAT THE STATE OF SOUTH CAROLINA TURN OVER TO MS. BELL, AS THE ATTORNEY FOR THE DEFENDANT, ALL, ALL, PSYCHOLOGICAL TESTS AND ANY OTHER DOCUMENTS IN THEIR POSSESSION THAT PERTAIN TO MS. TYLER. DOES THAT ASSIST YOU?

MS. BELL: YES, SIR, YOUR HONOR --

THE COURT: AND I WANT THAT DONE BY 2:15.

MS. BELL: AND IN THAT LIGHT, YOUR HONOR, IF WE COULD HAVE THE MEDICAL RECORDS FROM THE TIME --- BECAUSE

I DON'T HAVE ANY ACTIVITY OF WHAT HAS GONE ON WITH MS. TYLER AT THE COOPER BUILDING SINCE FEBRUARY THE 13TH. SO, IF THEY COULD JUST INCLUDE THOSE RECORDS AS WELL.

THE COURT: WELL, I DON'T KNOW IF THEY HAVE ANY RECORDS. DO THEY HAVE ANY RECORDS, SOLICITOR?

MS. BELL: SHE'S BEEN TREATED THERE ---

THE COURT: WELL, WE'RE GOING TO GIVE YOU EVERYTHING THEY'VE GOT. HOW IS THAT?

MS. BELL: THANK YOU, YOUR HONOR. GETTING A LITTLE OUT OF SYNC HERE. WE'RE IN THE MIDDLE OF A BLAIR HEARING. THE STATE HAS PRESENTED ONE WITNESS, DR. BEHRMANN. DO YOU HAVE ANY OTHER WITNESSES YOU WISH TO PRESENT OR ANY OTHER EVIDENCE?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: ALL RIGHT. AND MS. BELL, DO YOU HAVE ANY TESTIMONY OR EXHIBITS OR EVIDENCE YOU WISH TO SUBMIT IN REGARDS TO THE BLAIR HEARING?

MS. BELL: NOT AT THIS TIME, YOUR HONOR.

THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE I RULE IN REGARD TO COMPETENCY OF THE DEFENDANT FROM THE STATE OR FROM THE DEFENDANT?

MS. HAYNES: NO, YOUR HONOR.

MS. BELL: NOTHING FURTHER, YOUR HONOR.

THE COURT: AFTER DULY CONSIDERING ALL OF THE TESTIMONY AND EVIDENCE IN THIS MATTER, INCLUDING COURT

EXHIBITS ONE THROUGH SIX, THE COURT FINDS THAT THE DEFENDANT, MS. LINDA TYLER, IS CAPABLE OF UNDERSTANDING THE NATURE OF THE CHARGES AGAINST HER AND IS CAPABLE OF ASSISTING IN HER OWN DEFENSE. THE COURT FURTHER FINDS THAT SHE DID HAVE THE ABILITY TO DIFFERENTIATE RIGHT FROM WRONG AT THE TIME OF THE ALLEGED OFFENSE ON SEPTEMBER 26, 1996, AND HAVE THE CAPACITY TO CONFORM HER CONDUCT TO THE REQUIREMENTS OF THE LAW. I FIND THE DEFENDANT TO BE COMPETENT. AND WE'RE READY TO PROCEED.

ALL RIGHT. NOW, I BELIEVE THAT ENDS THAT MATTER. I BELIEVE THE DEFENDANT OR THE STATE ADVISED ME EARLIER THAT, BOTH OF YOU TOGETHER, THAT WE NEEDED A JACKSON V. DENNO HEARING. IS THAT CORRECT, MADAM SOLICITOR AND MS. BELL?

MS. BELL: THAT'S CORRECT, YOUR HONOR.

THE COURT: ALL RIGHT. SOLICITOR, YOU MAY PROCEED.

MR. SORENSON: IF IT PLEASE THE COURT, YOUR HONOR? THE STATE CALLS INVESTIGATOR JOE GRAY.

THE COURT: JUST A MOMENT. ALL RIGHT. ARE YOU READY, MS. BELL, OR DO YOU NEED A MOMENT?

MS. BELL: I NEED JUST ONE MOMENT.

THE COURT: OKAY. THIS IS THE JACKSON V. DENNO HEARING. MR. ELAM, YOU MAY PROCEED.

MR. SORENSON: SORENSON.

THE COURT: SORENSON, EXCUSE ME. I'M SORRY.

THEREUPON:

JOE GRAY, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. INVESTIGATOR GRAY, WHERE ARE YOU EMPLOYED?

A. COLUMBIA CITY POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN WITH THE COLUMBIA POLICE DEPARTMENT?

A. FOURTEEN YEARS.

Q. AND WHAT ARE YOUR DUTIES, YOUR ROLE AT THE COLUMBIA POLICE DEPARTMENT?

A. I'M ASSIGNED TO THE INVESTIGATOR DIVISION.

Q. BACK IN SEPTEMBER OF 1996, WHAT WERE YOUR DUTIES AT THAT TIME?

A. I WAS ASSIGNED TO THE MAJOR CRIME INVESTIGATIVE DIVISION TO INVESTIGATE CRIMES AGAINST PERSONS.

Q. TURNING YOUR ATTENTION SPECIFICALLY TO SEPTEMBER THE 26TH OF 1996 ABOUT 11:30 OR SO THAT MORNING, AT THAT TIME, WERE YOU WORKING FIRST OF ALL?

A. YES, I WAS.

Q. DID YOU HAVE AN OPPORTUNITY AT THAT TIME TO COME INTO CONTACT WITH A LINDA TYLER?

A. YES.

Q. PLEASE TELL THE COURT HOW THAT CAME ABOUT?

A. MS. TYLER HAD ACCOMPANIED HER HUSBAND, VAN TYLER, TO THE HOSPITAL WHERE HE RECEIVED TREATMENT FOR SOME BURNS. SHE WAS THEN BROUGHT TO THE COLUMBIA POLICE DEPARTMENT FOR AN INTERVIEW.

Q. WERE YOU AWARE OF HOW SHE ARRIVED AT THE COLUMBIA POLICE DEPARTMENT?

A. SHE WAS A PASSENGER IN A POLICE CAR, CITY POLICE CAR OPERATED BY MS. THOMAS, OFFICER THOMAS.

Q. WAS SHE UNDER ARREST AT THAT TIME?

A. SHE WAS IN CUSTODY. I'M NOT SURE IF SHE WAS HANDCUFFED AT THAT TIME OR NOT.

Q. AT THAT POINT IN TIME, YOU HAD RECEIVED SOME INFORMATION THAT SHE WAS A POSSIBLE SUSPECT IN THE INJURIES THAT HER HUSBAND HAD RECEIVED?

A. YES.

Q. ARE YOU AWARE OF APPROXIMATELY WHAT TIME IT WAS THAT MS. TYLER ARRIVED DOWN AT THE COLUMBIA POLICE DEPARTMENT?

A. IT WAS BETWEEN 11:10 AND 11:40. PROBABLY AROUND 11:20 THAT MORNING --- I'M SORRY, 11:30 THAT MORNING.

Q. WHAT WAS THE PURPOSE OF YOU MEETING WITH MS. TYLER?

A. TO SPEAK WITH HER ABOUT THE INCIDENT INVOLVING VAN TYLER.

Q. DID YOU AT THAT POINT IN TIME HAVE AN OPPORTUNITY TO GO OVER MS. TYLER'S MIRANDA RIGHTS WITH HER?

A. YES, I DID.

Q. I SHOW YOU A DOCUMENT AND ASK IF YOU RECOGNIZE THAT DOCUMENT?

A. YES. THIS IS THE ADVICE OF RIGHTS FORM THAT I WENT OVER.

MR. SORENSON: MARK THIS FOR IDENTIFICATION, YOUR HONOR.

THE COURT: ANY OBJECTION?

MS. BELL: WITHOUT OBJECTION.

THE COURT: MARK IT FOR I.D. COURT EXHIBIT --- IS IT GOING TO BE A COURT EXHIBIT?

MR. SORENSON: MARK IT AS A STATE EXHIBIT.

THE COURT: ANY OBJECTION FOR STATE'S EXHIBIT ONE?

MS. BELL: NO, YOUR HONOR.

THE COURT: ALL RIGHT. STATE EXHIBIT NUMBER ONE WITHOUT OBJECTION.

(STATE'S EXHIBIT ONE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. I ASK YOU TO LOOK AT WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER ONE FOR I.D. PURPOSES. IS THAT THE FORM THAT YOU WENT OVER WITH MS. TYLER?

A. YES, IT IS.

Q. PLEASE TELL THE COURT HOW YOU GO ABOUT GOING THROUGH MS. TYLER'S MIRANDA WARNING WITH HER?

A. I BEGIN THE INTERVIEW AND ASK HER HER EDUCATION.

SHE RESPONDED THAT SHE HAD GONE THROUGH THE ELEVENTH GRADE AT BOOKER T. WASHINGTON. I MADE A NOTE OF THAT ON THE FORM AND THEN FILLED OUT THE HEADING WHICH INDICATES THE PLACE: 1409 LINCOLN STREET, DATE: 9/26/96, AND THE TIME: 11:40. AND THEN I CONTINUED DOWN THE FORM AND READ THE FORM TO HER.

Q. GO THROUGH THAT LIKE YOU DID, IF YOU WOULD.

A. BEFORE I ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER.

Q. DID MS. TYLER INDICATE TO YOU THAT SHE UNDERSTOOD THOSE RIGHTS?

A. YES, SHE DID.

Q. DO YOU HAVE ANY WAY OF GOING THROUGH THE FORM SHOWING THAT YOU WENT THROUGH EACH OF THOSE RIGHTS WITH MS. TYLER?

A. AS I READ EACH SENTENCE, I PLACED A CHECK MARK TO

THE LEFT OF IT.

Q. DID MS. TYLER AT THAT TIME HAVE ANY QUESTIONS AS TO WHAT ANY OF HER RIGHTS MEANT?

A. NO, SIR.

Q. DID SHE AT THAT POINT INDICATE TO YOU THAT SHE WISHED TO WAIVE THOSE RIGHTS AND GIVE YOU A STATEMENT?

A. YES, SHE DID.

Q. WOULD YOU GO THROUGH FOR THE COURT HOW YOU WENT ABOUT ASCERTAINING THAT MS. TYLER WAS MAKING AN INTELLIGENT WAIVER OF HER RIGHTS?

A. HAVING READ THE WAIVER OF RIGHTS, AT THE BOTTOM OF THE PAGE WHICH I SAID, "I READ THE STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I'M DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

I THEN ASKED HER IF SHE WANTED TO WAIVE HER RIGHTS, AND IF SO, TO SIGN THE FORM.

Q. DID MS. TYLER AT THAT TIME SIGN THAT FORM?

A. YES.

Q. DID YOU WITNESS HER SIGNING THAT FORM?

A. YES.

Q. WHAT TIME WAS THAT THAT THAT HAPPENED?

A. IT WAS 11:43.
Q. APPROXIMATELY THREE MINUTES AFTER YOU BEGAN ADVISING MS. TYLER OF HER RIGHTS, SHE INDICATED SHE WANTED TO WAIVE THOSE RIGHTS?
A. YES.
Q. DID SHE HAVE ANY QUESTIONS AT THAT TIME OF YOU AS FAR AS THE PROCEDURE THAT SHE WAS GOING THROUGH?
A. NO, SIR.
Q. AT THAT POINT IN TIME YOU, IN FACT, GET A STATEMENT FROM MS. TYLER?
A. YES.
Q. AND WAS THAT ORAL OR A WRITTEN STATEMENT?
A. NO. IT WAS INITIALLY AN ORAL STATEMENT.
Q. AND WOULD YOU PLEASE TELL THE COURT WHAT MS. TYLER'S INITIAL ORAL STATEMENT WAS TO YOU?
A. I BEGAN BY ASKING HER HOW HER HUSBAND WAS INJURED. DURING THE FIRST FEW MOMENTS, SHE SAID THAT SHE DIDN'T KNOW HOW HER HUSBAND WAS BURNED. SHE SAID THEY HAD STOPPED AT THE LIGHT AT [redacted] AND [redacted] AND SHE HAD EXITED THE CAR TO GO TO THE HEALTH DEPARTMENT FOR A YEAST INFECTION.

SHE SAID SHE HAD WALKED ACROSS THE ROAD, THEN NOTICED THE CAR WAS ON FIRE. SHE WAS THEN INFORMED OF THE WITNESS INFORMATION AND QUESTIONED AGAIN ABOUT THE ORIGIN OF THE FIRE. SHE AGAIN SAID SHE DIDN'T KNOW HOW

IT STARTED. SHE SAID IT COULD HAVE BEEN CAR TROUBLE.

SHE WAS THEN ADVISED THAT HER HUSBAND HAD TOLD ONE OF THE EMS PEOPLE THAT SHE HAD SET HIM AFIRE. MS. TYLER THEN ADMITTED TO SETTING VAN AFIRE WITH GASOLINE AS RECORDED IN HER STATEMENT.

Q. HER INITIAL STATEMENT WAS INITIALLY THAT SHE HAD NO KNOWLEDGE OF HOW THE CAR STARTED ON FIRE. SHE WAS GOING TO THE HEALTH DEPARTMENT. WHEN SHE WALKED ACROSS THE ROAD, SHE NOTICED THE CAR WAS ON FIRE?

A. YES, SIR.

Q. YOU THEN INFORMED HER FROM WITNESS INFORMATION THAT YOU HAD ASCERTAINED FROM OFFICERS THAT WERE AT THE SCENE?

A. THAT AS WELL AS SOME OF THE WITNESSES THAT I INTERVIEWED AT THE SCENE.

Q. IN RESPONSE TO THAT, SHE AGAIN DENIED KNOWING HOW THE CAR CAUGHT ON FIRE. AT THAT POINT, SHE INDICATED THAT IT COULD HAVE BEEN CAR TROUBLE?

A. YES, SIR.

Q. AT THAT POINT IN TIME, DID YOU ADVISE HER OF STATEMENTS HER HUSBAND HAD MADE?

A. YES, SIR.

Q. THIS WAS TO EMS PEOPLE?

A. YES, SIR.

Q. AT THAT POINT IN TIME, SHE ADMITTED SHE HAD SET MR. TYLER ON FIRE WITH GASOLINE?

A. YES, SIR.
Q. AT THAT POINT IN TIME, WERE YOU ABLE TO TAKE AN ACTUAL WRITTEN STATEMENT FROM MS. TYLER?
A. YES. I THEN BEGAN THE WRITTEN STATEMENT, SERIES OF QUESTIONS AND ANSWERS.

MS. JOHNS: YOUR HONOR, I'M GOING TO OBJECT AT THIS TIME TO THIS EVIDENCE. I'M GOING TO WAIT UNTIL THE COURT'S RULING.

THE COURT: WELL, WE CAN MARK IT FOR IDENTIFICATION. ALL RIGHT. STATE EXHIBIT NUMBER TWO, COPY OF THE ALLEGED WRITTEN STATEMENT MADE BY THE DEFENDANT ON THIS DATE. MARK IT FOR I.D. ONLY AT THIS TIME.

MR. SORENSON: THREE PAGE STATEMENT.

THE COURT: THREE PAGE STATEMENT.

(STATE'S EXHIBIT TWO MARKED FOR IDENTIFICATION.)

BY MR. SORENSON

Q. THE EXHIBIT THAT'S BEEN MARKED AS STATE'S NUMBER TWO JUST FOR I.D. PURPOSES, I ASK YOU IF YOU RECOGNIZE THAT DOCUMENT?
A. YES. THIS IS THE STATEMENT THAT I TOOK FROM MS. TYLER.
Q. AND WHAT TIME DID YOU TAKE THIS STATEMENT FROM MS. TYLER?
A. I BEGAN THE WRITTEN PORTION AROUND 12 NOON ON THE 26TH.

Q. IS THAT DIRECTLY FOLLOWING THE ORAL STATEMENT MS. TYLER GAVE YOU THAT WE JUST DISCUSSED?
A. YES, SIR.
Q. PLEASE TELL THE COURT HOW YOU WENT ABOUT FILLING OUT THE STATEMENT FROM MS.TYLER?
A. I BEGAN WITH THE DATE: 9-26-96, TIME: 12:00, PLACE WAS 1409 LINCOLN STREET. I AM LINDA TYLER. MY BIRTH DATE IS 3-30-57. MY ADDRESS AND PHONE NUMBER ARE 2-8 SAXON HOMES. I'M GIVING THIS STATEMENT CONCERNING SETTING ALI VAN TYLER ON FIRE TO J. GRAY WHO HAS IDENTIFIED HIMSELF INVESTIGATOR/CPD.
Q. AND THAT TOP LITTLE BLOCK OF THE STATEMENT, IS THE ENTIRE STATEMENT --- WHOSE HANDWRITING IS THAT?
A. THIS IS IN MY HANDWRITING.
Q. AND IS THAT YOUR COMMON PRACTICE WHEN TAKING A STATEMENT FROM A WITNESS?
A. YES.
Q. AND THE INFORMATION OBTAINED AT THE TOP, WHICH IS THE ADDRESS, DATE OF BIRTH, SO FORTH, WHERE DID THAT INFORMATION COME FROM?
A. THAT CAME FROM MS. TYLER.
Q. WAS SHE AT THAT TIME --- WAS SHE BEING COOPERATIVE?
A. YES, SHE WAS.
Q. DID YOU AT THAT POINT IN TIME TAKE A WRITTEN STATEMENT FROM HER?

A. YES, I DID.
Q. PLEASE GO THROUGH AND READ THE STATEMENT FOR THE COURT.
Q. QUESTION: HOW LONG HAVE YOU KNOWN VAN? ANSWER: ABOUT 20 YEARS. WE'VE BEEN MARRIED FOR FOUR. QUESTION: WERE YOU AND VAN LIVING TOGETHER? ANSWER: YES, EXCEPT WHEN HE WAS SLEEPING WITH HIS OTHER WOMEN. QUESTION: HOW MANY WOMEN WAS HE SLEEPING WITH? ANSWER: TWO --- NO, THREE PEOPLE IN MY NEIGHBORHOOD. HE WAS TRADING CRACK AND HEROINE FOR SEX, TOO. I JUST FOUND THAT OUT RECENTLY. QUESTION: WHEN DID YOU FIND OUT HE WAS HAVING SEX WITH THESE WOMEN? ANSWER: I FOUND OUT ABOUT THE LAST GIRL LAST NIGHT. IT WAS A NEIGHBOR, JACKIE, THAT LIVES IN SAXON HOMES. SHE TOLD ME SHE WAS TWO WEEKS PREGNANT BY VAN. PAGE TWO --- QUESTION: HOW DID YOU FEEL TOWARDS VAN AFTER FINDING THAT OUT? ANSWER: I LOVE MY HUSBAND. I DID SO MUCH FOR HIM. I TOOK HIM DRUGS WHILE HE WAS IN PRISON, AND I WOULD PAY PEOPLE TO TAKE HIM MARIJUANA. QUESTION: DID YOU FEEL YOU WERE BEING TAKEN ADVANTAGE OF? ANSWER: YES. QUESTION: IS THAT WHY YOU POURED THE GAS ON VAN TYLER? ANSWER: YES. I HAD THE GAS IN A PEPSI BOTTLE IN THE CAR. I DIDN'T SAY ANYTHING TO HIM. I JUST POURED IT ON TOP OF HIS HEAD, AND I USED MY CIGARETTE LIGHTER TO LIGHT HIM UP. QUESTION: DID VAN SAY ANYTHING? ANSWER: AFTERWARDS, I

WAS ON THE GROUND WITH HIM. HE SAID I DIDN'T HAVE TO DO IT LIKE THAT. PAGE THREE --- QUESTION: IS THERE ANYTHING ELSE YOU WISH TO ADD TO THIS STATEMENT? ANSWER: NOTHING, EXCEPT THAT I LOVE MY HUSBAND. QUESTION: WHERE DID YOU GET THE GAS? ANSWER: I GOT IT FROM KAHLI --- THE SHELL STATION ON TWO NOTCH. KAHLI SAID VAN HAD TOLD HIM ABOUT THE WOMAN LAST NIGHT. IS IT BECAUSE OF WHAT KAHLI TOLD YOU THAT YOU BOUGHT THE GASOLINE? NO, I ALREADY MADE UP MY MIND WHAT I WAS GOING TO DO. QUESTION: WHAT WAS YOUR PLAN? ANSWER: TO SEE HIM BURN. I WANTED HIM TO HURT LIKE HE HURT ME. QUESTION: DO YOU WANT TO ADD ANYTHING ELSE? ANSWER: NO, JUST LIKE I LOVE MY HUSBAND. I'M SORRY IT HAPPENED.

Q. THE THREE PAGES OF QUESTIONS AND ANSWERS --- THE QUESTIONS, WHO WROTE THE ---

A. THE QUESTIONS WERE MY WORDS.

Q. AND THE RESPONSES, THE ANSWERS --- WHOSE RESPONSES WERE THOSE?

A. LINDA TYLER'S.

Q. DID YOU AT THAT POINT IN TIME GIVE HER AN OPPORTUNITY TO GO BACK OVER THIS STATEMENT?

A. YES, I DID.

Q. DID YOU GIVE HER AN OPPORTUNITY TO READ THE STATEMENT?

A. YES. I HANDED HER THE STATEMENT AND ASKED HER TO

READ IT.

Q. DID YOU OBSERVE HER APPEARING TO READ THE STATEMENT?

A. YES.

Q. DID SHE INDICATE TO YOU AT THAT TIME THAT SHE WANTED TO MAKE ANY CHANGES TO THE STATEMENT?

A. NO.

Q. DID YOU, IN FACT, AT THAT TIME HAVE HER SIGN THE STATEMENT?

A. YES, I DID.

Q. AND IS THAT EACH PAGE, ONE, TWO AND THREE?

A. YES.

Q. THOSE PAGES --- IS THAT NOTARIZED?

A. YES.

Q. WHO NOTARIZED IT?

A. I NOTARIZED THE STATEMENT.

Q. DID MS. TYLER GET A COPY OF HER STATEMENT AT THAT TIME?

A. YES. THIS FORM --- WHERE YOU HAVE A WHITE, YELLOW AND A PINK COPY, AND SHE WAS GIVEN A PINK COPY OF EACH PAGE.

Q. AND DOES IT INDICATE THOSE THREE COPIES WERE PROVIDED TO MS. TYLER?

A. YES. AT THE END OF THE STATEMENT, SHE SIGNED INDICATING SHE HAD RECEIVED THREE COPIES.

Q. DID SHE SIGN THAT?

A. YES.
Q. WERE THERE ANY OTHER WITNESSES --- WHERE WAS THIS QUESTIONING? WHERE DID IT TAKE PLACE AT THE COLUMBIA POLICE DEPARTMENT?
A. THIS WAS IN THE BASEMENT OF THE POLICE DEPARTMENT IN AN OFFICE THAT HAS THREE CHAIRS AND TWO TABLES --- I MEAN, THREE CHAIRS AND ONE TABLE. SHE WAS SEATED ACROSS THE TABLE FROM ME.
Q. WAS ANYONE ELSE IN THE ROOM AT THAT TIME?
A. NO.
Q. WAS SHE HANDCUFFED AT THAT TIME?
A. I DON'T RECALL IF SHE WAS OR NOT.
Q. DID SHE INDICATE TO YOU AT ANY POINT IN TIME THAT -- - DID SHE EVER WANT ANYTHING TO DRINK OR EAT OR ANY OTHER BODILY COMFORT? DID SHE HAVE TO GO TO THE BATHROOM?
A. I DON'T RECALL HER ASKING. SHE MAY HAVE. IF SHE HAD, I WOULD HAVE ALLOWED HER TO DO SO.
Q. SHE WASN'T DENIED ANY OF THOSE?
A. NO.
Q. DID YOU MAKE ANY PROMISES TO HER TO GET HER TO GIVE THIS STATEMENT TO YOU?
A. NO.
Q. THREATEN HER IN ANY WAY?
A. NO.
Q. COERCE HER IN ANY WAY TO GIVE YOU THE STATEMENT?

A. NO.

MR. SORENSON: BEG THE COURT'S INDULGENCE.

BY MR. SORENSON

Q. ONCE AGAIN, MS. TYLER, BEFORE SHE GAVE YOU BOTH HER ORAL STATEMENT AND THE WRITTEN STATEMENT, DID SHE INDICATE THAT SHE UNDERSTOOD THE MIRANDA WARNINGS?

A. YES, SHE DID.

Q. AND WAIVER OF HER RIGHTS?

A. YES.

Q. DID SHE AT ANY POINT IN TIME DURING THE QUESTIONING, DURING THE ORAL STATEMENT OR THE WRITTEN STATEMENT, INDICATE TO YOU THAT SHE WANTED TO RESERVE ANY OF THOSE RIGHTS?

A. NO, SHE DIDN'T.

Q. DID SHE INDICATE THAT SHE DIDN'T WANT TO TALK TO YOU ANY MORE?

A. NO.

Q. DID SHE ACTUALLY WANT AN ATTORNEY WITH HER?

A. NO, SHE DID NOT.

MR. SORENSON: THAT WOULD BE ALL I HAVE, YOUR HONOR.

THE COURT: THANK YOU. ANY CROSS EXAMINATION?

MS. JOHNS: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

CROSS EXAMINATION

BY MS. JOHNS

Q. MR. GRAY, WHEN YOU FIRST CAME INTO CONTACT WITH MS. TYLER, SHE WAS AT THE HOSPITAL, IS THAT CORRECT?
A. NO, MA'AM.
Q. SHE WAS ON THE SCENE?
A. NO, MA'AM.
Q. WHERE WAS SHE?
A. SHE WAS IN MY OFFICE.
Q. SHE WAS IN YOUR OFFICE?
A. YES, MA'AM.
Q. SHE WAS BROUGHT TO YOU THEN?
A. YES, MA'AM.
Q. OKAY. SO, HOW LONG HAD THE INCIDENT --- WHAT TIME DID THE INCIDENT OCCUR?
A. IT WAS AROUND 10:16 THAT MORNING.
Q. AND THEN YOU SAW HER AT 11 O'CLOCK THAT MORNING?
A. IT WAS AFTER ELEVEN, YES, MA'AM.
Q. TEN MINUTES AFTER OR SOMETHING ---
A. ABOUT 11:20, PROBABLY.
Q. AND ANOTHER OFFICER BROUGHT HER TO YOUR OFFICE, IS THAT CORRECT?
A. YES.
Q. AND THE INFORMATION THAT YOU HAD RECEIVED ON THE CASE WAS THAT THERE HAD BEEN A CAR SET ON FIRE, PERSON SET ON FIRE, AND THEY WERE AT THE HOSPITAL. IS THAT RIGHT?

A. YES, MA'AM.
Q. AND THAT SHE WAS THE SUSPECT FROM THE ASSAULT ON THIS PERSON, IS THAT CORRECT?
A. YES, MA'AM.
Q. ALL RIGHT. ANY OTHER INFORMATION YOU HAVE RECEIVED?
A. YES, MA'AM. I WENT TO THE SCENE AND SPOKE WITH SOME OF THE POLICE THAT WERE THERE, AND I SPOKE WITH SOME OF THE WITNESSES.
Q. PRIOR TO?
A. PRIOR TO, YES, MA'AM.
Q. AND WHEN YOU ARRIVED AT THE SCENE, DID YOU SEE MS. TYLER THERE?
A. NO, MA'AM.
Q. OKAY. WHEN YOU FIRST DID SEE MS. TYLER, WHAT WAS HER APPEARANCE?
A. SHE WAS DRESSED IN HOSPITAL SCRUBS. SHE HAD A BAG IN HER HAND WHICH CONTAINED HER DRESS. SHE WAS ALERT.
Q. DID YOU ASK HER WHY SHE WAS IN HOSPITAL SCRUBS?
A. NO, I DIDN'T.
Q. DID YOU FIND OUT WHEY SHE WAS IN HOSPITAL SCRUBS?
A. YES, MA'AM.
Q. WHY WAS SHE IN HOSPITAL SCRUBS?
A. I LATER FOUND OUT AT THE SCENE SHE HAD TAKEN HER DRESS OFF THERE AT THE SCENE.
Q. OKAY.

A. AND THE HOSPITAL PROVIDED HER WITH SOME SCRUBS, AND THAT'S WHAT SHE WORE DOWN TO THE POLICE DEPARTMENT.
Q. OKAY. SO, AT THE SCENE, SHE HAD DISROBED HERSELF, AND SHE WAS IN HER BRA AND PANTIES. IS THAT RIGHT?
A. I DON'T KNOW WHAT SHE WAS WEARING UNDER HER DRESS. MY UNDERSTANDING WAS SHE HAD USED HER DRESS TO TRY TO EXTINGUISH THE FLAMES.
Q. OKAY. AND DID SHE RIDE IN THE AMBULANCE --- DO YOU KNOW IF SHE RODE IN THE AMBULANCE?
A. THAT'S WHAT I WAS TOLD THAT SHE RODE TO THE HOSPITAL IN THE FRONT OF THE AMBULANCE.
Q. DID SHE HAVE ANY MORE OF HER PERSONAL EFFECTS WITH HER, POCKETBOOK OR ANY IDENTIFICATION ON HER?
A. I DON'T RECALL IF SHE DID OR NOT.
Q. OKAY. DID SHE APPEAR TO BE UPSET?
A. NO, MA'AM.
Q. SHE DID NOT?
A. NO.
Q. OKAY. DID SHE ASK ABOUT THE CONDITION OF HER HUSBAND?
A. I DON'T RECALL HER ASKING. I DIDN'T MAKE A NOTE OF IT THAT SHE DID, AND I DON'T THINK SHE DID.
Q. OKAY. AND ISN'T IT TRUE THAT SHE MENTIONED THE WORD ATTORNEY TO YOU?
A. MA'AM?

Q. SHE DIDN'T MENTION THE WORD ATTORNEY TO YOU?
A. NO, MA'AM, NO.
Q. OKAY. DID YOU HAVE ANY DISCUSSION WITH HER --- WELL, FIRST OF ALL LET ME ASK YOU THIS. THERE WAS A 30 MINUTE DELAY, APPROXIMATELY, BETWEEN THE TIME THAT SHE FIRST CAME INTO YOUR OFFICE AND THE TIME THAT YOU SIGNED THE ADVISE OF RIGHTS FORM AS FAR AS THE TIME GOES. IS THAT RIGHT?
A. NO, MA'AM.
Q. FROM 11:10 TO 11:43?
A. I DIDN'T SAY SHE GOT THERE AT 11:10.
Q. OKAY.
A. I WAS NOTIFIED AT 11:10 THAT SHE WAS AT THE HOSPITAL, AND THEN I ASKED ONE OF THE OFFICERS TO BRING HER TO THE POLICE DEPARTMENT. SO, IT WAS SOMETIME BETWEEN 11:10 AND 11:40 WHEN SHE ARRIVED.
Q. OKAY. SO, THERE WAS SOME TIME THAT YOU HAD DISCUSSIONS WITH HER PRIOR TO HER SIGNING THE ADVICE OF RIGHTS FORM?
A. SHE WAS IN THE POLICE DEPARTMENT, BUT I DIDN'T DISCUSS ANYTHING WITH HER, NO, MA'AM.
Q. YOU DIDN'T HAVE ANY DISCUSSIONS WITH HER AT ALL UNTIL THE ADVICE OF RIGHTS FORM HAD BEEN SIGNED. IS THAT YOUR TESTIMONY?
A. YES, MA'AM.

Q. DID YOU MENTION ANYTHING TO HER ABOUT BAIL?
A. NO, MA'AM.
Q. DID YOU MENTION ANYTHING TO HER ABOUT WHAT SHE WAS BEING CHARGED WITH?
A. I DID LATER. I THINK IT WAS AFTER THE INTERVIEW. AND I EXPLAINED TO HER THAT SHE WAS GOING TO BE CHARGED WITH ASSAULT AND BATTERY, AND LIKE I SAID, THAT WAS AFTER THE INTERVIEW.
Q. AND DID YOU MENTION ANYTHING TO HER ABOUT BAIL?
A. NO, MA'AM, NOT THAT I RECALL.
Q. OKAY. WHAT DID YOU MENTION TO HER ABOUT HER HUSBAND SELLING DRUGS?
A. I DON'T RECALL INITIATING ANYTHING ABOUT HIM SELLING DRUGS.
Q. DID SHE INITIATE ANYTHING ABOUT HIM SELLING DRUGS?
A. SHE MENTIONED THAT HE USED DRUGS AND THAT SHE TOOK HIM DRUGS IN PRISON. SHE MENTIONED THAT SHE ACCOMPANIED HIM TO SOME CRACK HOUSES, BUT I DON'T REMEMBER ANY DISCUSSION OTHER THAN THAT.
Q. OKAY. DID SHE MENTION A CHILD BY THE NAME OF [redacted]
A. NOT THAT I RECALL.
Q. DID SHE MENTION ANY OF HER CHILDREN AT ALL?
A. I DON'T REMEMBER.
Q. YOU DON'T REMEMBER?

A. NO.
Q. DO YOU HAVE ANY NOTES PRIOR TO YOU MAKING THE WRITTEN STATEMENT?
A. JUST THE ONES REGARDING THE INTERVIEWS, THE ONES THAT I PUBLISHED HERE.
Q. JUST THE ONES YOU'VE PUBLISHED ARE THE ONLY NOTES YOU MADE?
A. PRIOR TO THE INTERVIEW?
Q. PRIOR TO, DURING AND AFTER?
A. JUST THE NOTES THAT I HAVE IN MY ---
Q. THAT YOU'VE ALREADY PUBLISHED TODAY?
A. YES, MA'AM. WELL, NO, I'VE GOT OTHER NOTES AFTER THE INTERVIEW DURING THE COURSE OF THE INVESTIGATION. I'M NOT SURE WHAT YOU'RE ASKING.
Q. JUST DURING THE INTERVIEW UNTIL SHE WAS TAKEN FROM YOUR OFFICE?
A. NO. WHAT I PUBLISHED TODAY WAS THE NOTES I HAD FROM THE INTERVIEW.
Q. OKAY. DID YOU HAVE ANY IDEA THAT MS. TYLER HAD BORDERLINE INTELLECTUAL FUNCTIONING?
A. NO, MA'AM.
Q. DID YOU HAVE ANY SOCIAL HISTORY REGARDING THIS COUPLE, WHETHER THEY HAD FOUGHT BEFORE?
A. NOT AT THE TIME OF THE INTERVIEW, NO, MA'AM.
Q. DID YOU HAVE ANY INFORMATION AS TO WHETHER OR NOT

THERE WAS AN ASSAULT UPON HER PRIOR TO THE ASSAULT THAT SHE HAD COMMITTED ON HER HUSBAND?

A. NO, MA'AM.

Q. WHEN YOU WERE READING THE ADVICE OF RIGHTS FORM, AS YOU READ EACH ONE OF THOSE RIGHTS, YOU CHECK THEM OFF AS YOU READ THEM OFF, ISN'T THAT CORRECT?

A. YES, MA'AM.

Q. YOU DID NOT GIVE HER AN OPPORTUNITY AFTER EACH STATEMENT TO RESPOND TO EACH STATEMENT, DID YOU?

A. I READ THE RIGHTS FORM. I CHECKED THE RIGHTS OFF AND THEN ASKED HER IF SHE UNDERSTOOD THEM, AND THAT WAS HER OPPORTUNITY TO RESPOND.

Q. OKAY. BUT AFTER EACH STATEMENT WAS READ, YOU DID NOT LOOK UP TO HER AND ASK HER IF SHE HAD ANY QUESTIONS AS TO THAT PARTICULAR WAIVER OF RIGHTS, DID YOU?

A. NO, MA'AM.

MS. JOHNS: I DON'T HAVE ANYTHING FURTHER FROM THIS WITNESS, YOUR HONOR.

THE COURT: THANK YOU. YOU MAY STEP DOWN. ALL RIGHT. ANYTHING FURTHER FROM THE STATE?

MR. SORENSON: NO, SIR.

THE COURT: ALL RIGHT. WOULD THE DEFENDANT LIKE TO PRESENT ANY EVIDENCE IN REGARD TO THIS MATTER?

MS. JOHNS: YES, YOUR HONOR. YOUR HONOR, THE DEFENSE WOULD CALL MS. LINDA TYLER TO THE STAND.

13.3. Filing in the Supreme Court means the actual receipt of documents by the Clerk or their deposit in the United States mail, with first-class postage prepaid, on or before the final date allowed for filing. The U. S. postmark governs as to the date of filing. See Rule 29.2.

IV. What To File

Unless you are an inmate confined in an institution and not represented by counsel, file:

—An original and ten copies of a motion for leave to proceed *in forma pauperis* and an original and 10 copies of an affidavit or declaration in support thereof. See Rule 39.

—An original and 10 copies of a petition for a writ of certiorari with an appendix consisting of a copy of the judgment or decree you are asking this Court to review including any order on rehearing, and copies of any opinions or orders by any courts or administrative agencies that have previously considered your case. See Rule 14.1(j).

—One affidavit or declaration showing that all opposing parties or their counsel have been served with a copy of the papers filed in this Court. See Rule 29.

If you are an inmate confined in an institution and not represented by counsel, you need file only the original of the motion for leave to proceed *in forma pauperis*, affidavit or declaration in support of the motion for leave to proceed *in forma pauperis*, the petition for a writ of certiorari, and proof of service.

The attached forms may be used for the original motion, affidavit or declaration, and petition, and should be stapled together in that order. The proof of service should be included as a detached sheet, and the form provided may be used.

V. Page Limitation

The petition for a writ of certiorari may not exceed 40 pages excluding the pages that precede Page 1 of the form. The documents required to be contained in the appendix to the petition do not count toward the page limit. See Rule 33.2(b).

VI. Method of Filing

All documents to be filed in this Court must be addressed to the Clerk, Supreme Court of the United States, Washington, D. C. 20543 and must be served on opposing parties or their counsel in accordance with Rule 29.

REASONS FOR GRANTING THE PETITION

"THE APPELLANT WAS ASSAULTED ONCE WHILE MAKING HER PRAYER
the blanced of hardship WAS PLACED ON the APPELLANT to produce WHATEVER
Evidence that she could. The APPELLANT" is A MENTALLY ill inmate", who READS
ON A FIFTH(5) GRADE LEVEL. She WAS denied A Right to HAVE A Court Appointed
ATTORNEY. WAS FORCE to PREPARE HER OWN DEFENSE AGAINST A CHAMPION AT LAW
ATTORNEY. who MANIPULATE AND MANUEVER the Courts SYSTEM to MAKE the CLAIM
Subject FOR dismissal, BECAUSE OF the APPELLANTS UNEXPERIENCE And LACK of
Knowledge. The CLAIM is A PRIMA FACIE CLAIM. PRIMARY REASONS FOR REQUESTING
AN ATTORNEY WAS based on the Petitioner" Linda Ann Tyler's being found by
A Jury to be A Guilty but Mentally Ill Person. The ISSUES INVOLVE IN the
CLAIM ARE Complex Defendants failed to preserve.

Petition should be granted because this claim is a Prima facie Case. And the primary reasons for requesting a court appointed attorney was based on my mental illness, in conjunction with a lack of knowledge. I'm an undereducated did not complete high school, grew up in Prison, has been declared in prison on various Medical and I was not informed that I had a mental illness. I Was given shotzen shots, Visteral, Mellaril, Melphets Perquine, Haldol, phenzen. Valiums Librums, Xanax been on a lot of Sycotic medicate that bleeds to disturbed in the patient and can cause birth defects, blindness loss of "teeths" decays and can have children born with Down Syndrome, and children suppers with enclosed problems and some born handicapp" mentally retarded in the brain. The appellant was denied the rights to go to School, and has been subject to two false disciplinary And and Was giving dirty filthy clothes, and had to wear loose shoes with holes in them for 2 months. Was giving boots that had nail in them, denied the shower privileges, denied the right to be separate from defendant facility. Was denied any mental Health care

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Civil Rights / Civil Liberty. the First Amendment
United States Constitutional Amendments. 8th and 6th Amendments
THE 14th Amendment 13th Amendment 15th Amendment

Due Process and the Rights of Equal Protection Under
the Law. Also Under Title VII.
Federal Statute Enacted After the Civil War. (1861-1865)

15-3-535 Fraud Code of Civil Procedures in (1870) S.C. Code Ann Law Rule 1.6
16-17-56 Conspiracy Civil Code Procedures (187) Post. C S.C. Code Ann Law
16-5-10 Federal Conspiracy Statute] Concealment of the Violations].

Breach of Performance

U.S. Supreme Court (CA6) 63.502.
U.S. Supreme Court (63): 123 Text 63.138.) Sua Sponte
Tenn. Supreme Court) 64: 214 Mental-Illness

Criminal Law (22 Book C.J.S.) 641.45 641.138 Effective Waiver & Pro Se-
Lafave & Israel Criminal Procedures, Vol. 2. 11.5.©
28 U.S.C.A. U.S.C.A. Art. 3. 1et seq
Racial Discrimination C(A. 1-64-181
U.S. Supreme Court (63.2049) Text 349-63 63-326 (CA.10) 6.3.183

Administrative Office of the United States Courts
Administrative Procedure Act (A.P.A.) 5.45CA? 556 (c)
42.U.S.CA. 1983 Civil Rights of Institutionalize Persons Act (A) 42.U.S.CA
}1977e@. Id. Federal courts 267.
S.C. Code Ann Law. 17-3-100

The medical photographer was not mentioned in the report as to who shot the autopsy film or Von Tyler Jr. The signature of the photographer should appear on the Autopsy Receipts. Each picture should be identified by a number, EACH Film sheet contains two sheets of Film. The original receipt for the photographs contained one entry for Black-white photograph and one entry for color photographs. To understand the numbers involved. We sheets of color film and 12 of black and white. The autopsy Film must show all parties, as conducting the autopsy, all would show his assistance and all those connected with the autopsy operation. The autopsy conclusions was changed and was based on account of sources who had access to special documents. Medical Forgery Such as a hand written letter from Medical Examiner to Governor or to a Congressional would take the entire 21 pictures a forgery. Medical forgery can be detected the same way from written document a written Plastic Surgery hand written documents, which would be called

4 of 4

If Dr. Burns testified falsely, then there seemed to be two possibilities

1. UNO - THE XRAYS and photos were authentic in this case they would expose a conspiracy on the part of the Autopsy doctor to mislead the Defense attorney about the details of the Gasoline Burns along with the collapsed Lungs and would become the basis for an accurate reconstruction of the burn injury and the collapsed Lungs theory or concept.

(2) False X rays and photo would be need to corroborate that testimony. Here they would agree that a conspiracy would require the tacit approval of the photographer and Radiologist and the pathologist Autopsy must show V Tyler name date Id. No. and facial features

Questions: When was the full Autopsy done? Who was the medical technologists that assisted the Prosectors or the pathologists in the autopsy of V A Tyler Jr.
The location and identity of the the people who were in the Autopsy room should be kept in the Pathologist File along with Richland memorial Hospital Records of patient and information The Bureau of Medical and Surgery of the Richland Memorial Hospital and pathologist and association. Special list of Autopsy log Book.
Who prepared the Body for the autopsy and who assisted in moving the body from the body bag to the autopsy table
Medical technologists assists the prosectors or pathologist in all autopsies. Laboratory school students are rotated in different departments Pathology and Hematology

VIII

s/ Mrs Linda Ann Tyler

Linda Ann Tyler #248-190

SWORN or affirmed to and subscribed before me this

23 day of Sept, 19 98

Mirabella H. Delasi

Notary Public of South Carolina

My Commission Expires: 7-27-2005

VII

M. Still Jr. states cause of death a Rhadomyles' which is cause myoglobion with association with blood in the urine and death was signed as an undetermined as the cause of death Death certificate signed by Dr. Joseph M. Still Jr. 10-5-96

Defendant states that the Augusta Medical Center did submit false information about the deceased Van Tyler Jr's medical history. On the Report for Immune deceased it states that the deceased didn't have any diseases. However, the medical report from the Augusta Medical Center states that Mr. Van Tyler Jr. did test positive for Hepatitis A and positive for Hepatitis B infectious diseases. Also a follow up report from the Department of Corrections Medical Staff did fax the Augusta Medical Center paper work on Van Tyler Jr's medical history of Asthma and stab wounds on leg, thighs and left wrist, that Mr. Van Tyler had been hospitalized for pneumonia also the deceased Mr. Van Tyler Jr's body was tagged for immune diseases by the Hospital Richland Memorial Pathologist Dr. Donald G. Burns M.D.

Defendant states that there were no Carbon Monoxide poison found in the deceased body of Mr. Van Tyler Jr. and the deceased death was not a result of being burned by the gasoline liquids, but merely from being over necessiatefrom fluids that was put into the deceased body by the Medical Practitioners at the Medical Center.

Defendant believes that in all best interest of justice that the deceased body be exumed from the grave to determine the true cause of death and that she should be relieved of a life sentence and that she could move on in her life and hope that she'll someday be able to gain her children back and make amends for the hurt and grief that she's caused the deceased family and her siblings.

Defendant hopes that she'll be able to gain a new life once the death has been properly ascertain

Defendant ask for mercy in the best interest of justice that conviction be over turned.

VI

Any person to willfully and knowingly obtain, posses, use, sell, furnish for any purpose of deception any certificate, record, report or certified copy there of so made counterfeited, altered, amended or mutilated. Any person who violates the provisions of this action shall be deem guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars or imprisonment for not more than two years or both.

Defendant Linda Ann Tyler states that she is the victim in this case and that Dr. Joseph M. Still Jr. and the Augusta Regional Medical Center is at fault for the cause of the deceased Van Tyler Jr's death.

Defendant bel[illegible]t intervening medical care caused the deceased death. If the deceased was properly diagnosed as dead as the proximate result of the wound that he received from the gasoline injury by the defendant, then no subsequent medical procedure would be deem a cause of death.

However, the defendant believes that the deceased Van Tyler Jr's death was due to merely negligence of a medical practitioner's and that the medical procedures may have been a cause of death. However, the defendant believes that the death was due to gross negligence or to reckless or willful wrong doing, or to intentional wrong doing on the part of the medical personnel, the defendant is not liable. Medical care is grossly negligent or even more wrongful if the care is a gross deviation from accepted medical practices where such gross deviation exists, the intervening medical conduct would interrupt the chain of causation and become the legal cause of death.

The burden of Proof of proximate cause of death is upon the medical care that the deceased received at the Augusta Burn Center.

Defendant believes that the deceased Mr. Van Tyler Jr. was giving to much fluids intake into his body and that the deceased could've survived the burn injury that he received from the defendant.

Defendant states hospital says the deceased death was from Respitory failure and severe burns was secondary to the deceased death. However, Dr. Joseph

Five V

as undetermined and coroner changed it to homicide, although the death certificate had been altered, and the deceased body was not autopsied nor embalmed. Frank E. Barron III was served a subpoena to testify in court and failed to appear and Joseph M. Still Jr. Plastic Surgeon was not order to testify, but defendant had requested to have the Dr. Joseph M. Still Jr. present for testimony about deceased death and attorney refused to submit a subpoena for Dr. Joseph M. Still Jr. That trial Judge asked to see the subpoena for Frank E. Barron III the coroner who failed to appear for testimony attorney objected to this and Judge asked for a 5 minute recess to discuss this matter in his office.

Defendant believes that trial Judge intentional allowed her trial to go on without the material witnesses for the case being absent.

That Trial Judge did err to denied the defendant the right to use Sodium Penethol Shot and Hypnosis for her defense. The right to compel the witness was denied, and rights to produce suppression of evidence favorable for the defendant by the which is forbidden by due process and its progencey was denied.

State VS Stanley the 8 year old girl allowed to testify for the State about the rape that was done to her N.C. 1984

In State VS Roger Lee McQueen 1092 6-6-78 the state witness had been hypnotized prior to trial did not render her testimony inadmissible or by undergoing hypnosis. The U.S. Supreme Court Rules in 1994 that hypnosis could be admitted as evidence in a criminal trial. In addition the trial of Jerry Evan VS the State 1992 hypnosis was admitted as evidence in his trial for the state as part evidence for the material witness testimony. However in 1998 State VS Cheeseboro Judge Thomas N. Cooper Jr. hypnosis to be used as evidence for the State in the Cheeseboro Trial.

However, Judge Paul E. Short refused to allow the defendant Linda Ann Tyler to use hypnosis or the Sodium Penethol Shot as evidence for her defense. That did violate the 11th Amendment of the U.S. Constitution Amendment, also 14th and the 5th and 6th Amendments to Criminal Law. A reasonable doubt must be created by evidence introduced at trial, whereas of course a

Four

II

Injury materially accelerated death although proximately occasional by criminal law 486 prexisting. Fact that experts opinions as to cause of death may have been based in part on heresay went to the weight and credibility and not to admissibility. That the jury relied upon the testimony of the witness of the crime scene and not the fact finding evidence of the medical experts that the defendant did not commit the act of murder and that the deceased did not die as a result of the injury that he'd received from the defendant.

Defendant states that evidence of mitigating circumstances was developed on trial of the case and was known to counsel at the time of first attorney and new appointed attorneys Christal Bell and Theresa N. Johns who was appointed to represent the defendant on January & February 1998 was aware of the fraudulent documentation of the death certificate, that no autopsy existed nor was the deceased embalmed.

Defendant believes that because there were deficiency in the charge of murder in such regard should have been enumerated the attorney defense that the defendant charge should have been of a lesser charge Criminal Law 486.

Defendant asked counsel on cross-examination ask to see notes for possible impeachment and counsel refused this request. After the witness has testified from notes used to refresh his/her recollection the defendant is absolutely entitled to inspect the notes fro which the witness testified and must be given a reasonable opportunity to prepare a cross-examination. When the evidence is conflicting the question whether the relation of principal and agent existed and if so whether the agent acted within the scope of his authority and in behalf of his principal are questions for the jury. Because there are conflicting inferences which can be drawn from the evidence and since there is disputed evidence as to the proper and legal cause of death.

Defendant believes that ineffective of trial counselors deficient performance prejudice her defense so as to deprive her of a fair trial, that case should have been postponed until material witnesses' Frank E. Barron III and Dr. Joseph M. Still Jr. appeared in court for testimony about the caused of the deceased death being that the death certificate stated death

Three III

Particular evidence & actions or issues
Effect or withdrawl of objections and offer to admit evidence
Argument and conduct of counsel
Matters not sustained by evidence & comments on evidence or witness.
Comments on failure to produce evidence or call witnesses.
Presentation of evidence .
Effect of verdict

1061.4 Demurrer to evidence
Application to facts and evidence & pleading and issues.
Negligence, excluding or ignoring issues defense or evidence

Defendant states that in accordance to O.C.G.A. 16-10-1 laws 1972, pg. 31 25 Violation 17-7-34. An indictment is required to set forth the elements of the offense sought to be charge. All facts of the allege must be submitted. The sufficiency of the evidence presented against her, proof of charges.

Defendant states that under the Code of Laws of 16-52 failure to grant defendants motion for an inquest or probable cause hearing was not granted to her in full, that the Honorable Judge Thomas W. Cooper Jr., did say he'll have the deceased body exumed from the grave to determine the deceased death, that the body would be examined by a pathologist being that the death certificate stated that the body was not autopsied nor embalmed. That the defendant had and was denied the right under the due process of laws the motion to suppress the potential testimony of the state witness which was the coroner Frank E. Barron III and Dr. Joseph M. Still Jr., the M.D., Plastic Surgeon doctor who completed the operation on the deceased. Defendant believes that positive identification as to the cause of death goes to the weight of evidence and not as admissible evidence, circumstantial evidence.

Homicide Rule 5 states that where one inflicts an unlawful injury such injury is to be accounted as the efficient proximate cause of death whenever it shall be made to appear either that (1) Injury itself constitute sole proximate caused of death (2) Injury directly and materially contributed to happening of a subsequent occurring immediate cause of death or that (3)

TWO II

Defendant states that Attorney did not allow her daughter to testify in her defense that, the deceased did performed oral and vaginal sex with the defendant. daughter.

Defendant states that D.S.S. reports prove that the defendant child had been sexually abused that it was detected discovered once the defendant child was taken into custody. The rule in this state is that there is no age below which one is considered incompetent as a matter of law State VS Jones 310 NC 716 314 S.E.nd 529 (1984). Even where relevancy of evidence is doubtful it should be admitted and it's weight determined by jury. Every act or circumstance serving to validate or throw light upon material fact in issue's relevant and admissible. Evidence which legally tends to prove or disprove material fact in issues is relevant.

Defendant states that attorney did not produce evidence of the D.S.S. file but use the evidence of Richland Memorial Hospital file and cover up the truth of the sexual abuse on daughter.

Conduct of Trial or Hearing

1046.3 Ruling as to burden of proof and right to open and close order of trail issues.

Admission of evidence

Opinions and conclusions, Documentary evidence, photographs. photos of burning car didn't have no relevant as to the cause of deceased death. Harmless error. Evidence of fact unnecessary to issue.

Evidence admitted without preliminary proof

Facts otherwise established

By undisputed facts or evidence thereof

By construction of writing in evidence

Evidence as to one issue made immaterial by finding on another. By instruction limiting scope of evidence. By instructions submitting other issues and ignoring issue on which improper evidence is admitted.

1056. Exclusion of Evidence Prejudicial effect.

Evidence not affecting result

S.C. (6)

reasonable doubt as to the accused guilt may rest solely upon the presumption of evidence.

Criminal Law 782-8

The trial court Judge should have charge the jury. If you find there is a conflict in the evidence it is your duty to reconcile such conflict. If the jury can possible do so without inputting perjury to say witness or witnesses. However, If the Jury can not reconcile the conflict in the evidence. If the jury should find there is a conflict in the evidence then it will become your duty as the jury to adopt that testimony which addresses itself to your minds and conscience as being the most reasonable and most probable and the most truthful.

Defendant states that the 1995 Amendment Act No. 83 by 62 provides that the 1995 Amendment to this section applies prospectively to all crimes committed on or after the act's effective date of January 1, 1996.

Defendant states that to sentence her to life is cruel and double jeopardy to her life that her crime was committed after the law had came into effect and that the law was not retroactive in her case.

That her attorney was very negligent in her case and preparing her defense.

s/Linda Ann Tyler 348-190

SWORN to and subscribed before me this 28

day of Oct., 19 98

Michelle H. Opsahl

Notary Public of South Carolina

My Commission Expires: 7.27.2005

(5)

deceased Van Tyler Jr.'s body was not Autopsied nor embalmed. Signed by Dr. Joseph M. Still Jr. and Frank E. Barron III the Richland County Coroner. My question is why was not Dr. Donald G. Burns name on this death certificate if he's the one who performed an autopsy ? Dr. Donald G. Burns states that he took dictations, and that the deceased Mr. Van Tyler Jr. didn't have pneumonia nor did he have Sepsis but that his lungs collapsed from to much fluids being pumped into his body.

Dr. Donald G. Burns did change his story about cause of deceased death under oath in the trial of Mrs. Linda Ann Tyler on March 18th, 1998. The criminal law of South Carolina at 71 (3rd Ed. 1996) ("Even if the causal link between the defendants wrongful act and the ultimate harm is deemed to be broken so that she may not be convicted of Homicide, the defendant may none the less have committed some lesser criminal offense"). The defendant believes that her alleged actions may have caused Mr. Van Tyler Jr. certain injuries, but the subsequent intervening conduct of others broke the casual link. However, the predominant cause of Mr. Van Tyler Jr's death is at issue.

Defendant states that there is conflicting and contradicting evidence about the death of Mr. Van Tyler Jr. in accordance to the S.C. Code of Law 44-63-161 Unlawful Acts' Penalties.

S.C. Code of Law 44-63-161
Unlawful Acts: Penalties

Any person without lawful authority and with the intent to deceive to make counterfeit, alter, amend or mutilate any certificate, record or report required to be filed by law or a certified copy of such certificate, record or report.

Any person to willfully makes a false statement in a certificate, record or report required to be filed by Law or in an application for an amendment thereof or in an application for a certified copy of a vital record, or to willfully supply false information intending that such information be used in the preparation of any such [illegible], record or certificate or amendment there of.

(4)

has been violated. Defendant also states that the subpoena list was not honored and that material witness for the case was not present for testimony after he'd been subpoena

Defendant states that trial judge denied her rights to cross exam the Coroner and ordered the trial to go on after viewing the subpoena that was served upon the Coroner Frank E. Barron, that the Judge wither cover up the attorney negligence to send proper subpoena, or that the subpoena was improperly sent by facsimile and the trial Judge cover up wrong doing of the attorney's.

In Debra Kidd VS State, Trial Judge Henry F. Floyd postponed the trial until material witness for the state was found. October 30, 1996 Kidd VS State.

Defendant requests that these papers be forwarded to the Supreme Court records, throughout the legal system of Ms. Barbara S. Scott, Richland County Clerk of Courts Record and that a photo copy be sent to her with the Clerk of Courts date and time stamped on it. Defendant ask for mercy in the best interest of justice that this document be forwarded along with her transcript.

s/ Linda Ann Sepe 2-18-98

SWORN to and subscribed before me this 28

day of Oct., 19 98

Michelle H. Opsall

Notary Public of South Carolina

My Commission Expires: 7-27-2005

of the cause of death and conflicting evidence that was relied upon by the Prosecution Attorney Criminal Law 486.

Defendant believes that she was intentional denied to grant her motion for an inquest, probably cause hearing was not granted in full. Defendant states that on May 27, 1997 she was called to court because she'd requested to have a fast & speedy trial, for bond hearing, for new attorneys, to have the deceased body exumed from the grave, to determine the true cause of the deceased death and request that body be examined by forensic specialist and to represent herself if the Judge would not remove former attorney Douglas Strickler.

Defendant states that the Honorable Thomas W. Cooper Jr. did set her trial for December of 1997 no later than January of 1998. Defendant was denied bond, denied new attorneys and was granted to have the deceased body exumed from the grave. Defendant states that new attorney said that the Judge Thomas W. Cooper Jr. did not signed the order to have the deceased body exumed from the grave.

Defendant states that all information containing to her court case should be forwarded and that the Appellate Defense Attorney should obtained all court appearances prior to her trial date. Bond Hearing on October 9th 1996 Preliminary Hearing in the general Sessions Courts, Evidence Hearing that was held on May 27th 1997 Fast & Speedy trial hearing. December 8th 1997 Motion to remove Attorney to go Pro Bono. Competency Hearing on February 13th 1998 and February 23 Competency Hearing of February 23, 1998 In the General Sessions Courts.

Defendant requests that all evidence be produced and that appellate defense obtain these records for burden of proof. Defendant request these transcripts in the best interest of justice.

Defendant states that and indictment is required to set forth the elements of the offense sought to be charge all the facts of the allege incident must be submitted. The sufficiency of the evidence presented against her and proof of charge. Defendant states that under 17-7-34-10-10 that her rights

and that her attorney was deficient in their performance of representing her during her trial.

Defendant states that she was deprived of her rights to a fair trial and of good legal counsel.

Defendant states that the evidence has come to her knowledge before her trial that the deceased body was not autopsied nor embalmed. Attorney viewed the death certificate whereas it simply stated that no autopsy nor was the body embalmed, signed by Doctor Joseph M. Still, Jr., I.S. Levy Funeral Home Director, and Coroner Frank E. Barron III on October 4, 1996 and the cause of death was listed as undetermined, caused by mygoblion with associationwith blood in the urine. The death certificate clearly states that the deceased was burn but cause of death was not from the injury that he received.

Defendant states that the evidence was not cumulative only that it is so material that it could produce a different verdict that a new trial should be granted because of the preponderance of evidence that was submitted by the defense attorney.

Defendant states that there is suppression of evidence favorable to defendant by the which is forbidden by due process and its progency to prohibit the defendant of her rights.

Defendant states that where one inflicts an unlawful injury such injury is to be accounted as the efficient proximate cause of death whenever it shall be made to appear either that (1) Injury itself constituted sole proximate cause of death (2) Injury directly and materially contributed to happening of a subsequent occurring immediate cause of death or that (3, Injury materially accelerated death, although proximately occasional by preexisting. Homicide Rule 5 Criminal Law 486

Defendant believes that because there were deficiency in the charge of Murder in such regard should have been enumerated, in that defendant attorney should have petition courts for a lesser charge base soley upon the evidence

discovery vein. See VEIN.

discredit, *vb.* To destroy or impair the credibility of (a witness, a piece of evidence, or a theory); to lessen the degree of trust to be accorded to (a witness or document). — **discredit,** *n.*

discreet (di-**skreet**), *adj.* Exercising discretion; prudent; judicious; discerning.

discrete (di-**skreet**), *adj.* Individual; separate; distinct.

discretion (di-**skresh**-ən). **1.** A public official's power or right to act in certain circumstances according to personal judgment and conscience. — Also termed *discretionary power.*

administrative discretion. A public official's or agency's power to exercise judgment in the discharge of its duties.

judicial discretion. The exercise of judgment by a judge or court based on what is fair under the circumstances and guided by the rules and principles of law; a court's power to act or not act when a litigant is not entitled to demand the act as a matter of right. — Also termed *legal discretion.*

prosecutorial discretion. A prosecutor's power to choose from the options available in a criminal case, such as filing charges, prosecuting, plea-bargaining, and recommending a sentence to the court.

2. *Criminal & tort law.* The capacity to distinguish between right and wrong, sufficient to make a person responsible for his or her own actions. **3.** Wise conduct and management; cautious discernment; prudence.

discretion, abuse of. See ABUSE OF DISCRETION.

discretionary (di-**skresh**-ə-ner-ee), *adj.* (Of an act or duty) involving an exercise of judgment and choice, not an implementation of a hard-and-fast rule. • Such an act by a court may be overturned only after a showing of abuse of discretion.

discretionary account. An account that allows a broker access to a customer's funds to purchase and sell securities or commodities for the customer based on the broker's judgment and without first having to obtain the customer's consent to the purchase or sale.

discretionary act. A deed involving an exercise of personal judgment and conscience. — Also termed *discretionary function.* See DISCRETION; ABUSE OF DISCRETION.

discretionary damages. See DAMAGES.

discretionary function. See DISCRETIONARY ACT.

discretionary immunity. See IMMUNITY (1).

discretionary order. See ORDER (4).

discretionary power. See DISCRETION (1).

discretionary review. See REVIEW.

discretionary trust. See TRUST.

discriminant function (di-**skrim**-ə-nənt). An IRS method of selecting tax returns to be audited. • The method consists of (1) using a computer program to identify returns with a high probability of error (such as those showing a disproportionate amount of deductible expenses), and (2) having examiners manually review the selected returns to determine which ones should be audited. — Also termed *DIF system.*

discriminatee (di-skrim-ə-nə-**tee**). A person unlawfully discriminated against.

discrimination, *n.* **1.** The effect of a law or established practice that confers privileges on a certain class or that denies privileges to a certain class because of race, age, sex, nationality, religion, or handicap. • Federal law, including Title VII of the Civil Rights Act, prohibits employment discrimination based on any one of those characteristics. Other federal statutes, supplemented by court decisions, prohibit discrimination in voting rights, housing, credit extension, public education, and access to public facilities. State laws provide further protections against discrimination. **2.** Differential treatment; esp., a failure to treat all persons equally when no reasonable distinction can be found between those favored and those not favored.

> "The dictionary sense of 'discrimination' is neutral while the current political use of the term is frequently non-neutral, pejorative. With both a neutral and a non-neutral use of the word having currency, the opportunity for confusion in arguments about racial discrimination is enormously multiplied. For some, it may be enough that a practice is called discriminatory for them to judge it wrong. Others may be mystified that the first group condemns the practice without further argument or inquiry. Many may be led to the false sense that they have

ATTENTION TO THOSE, SHE GLOSSES OVER THEM, BECAUSE SHE DOES NOT WANT TO POINT OUT THAT SHE HAS AN INTELLECTUAL DEFICIENCY. SHE IS A PERSON THAT WOULD MINIMIZE HER WEAKNESSES WHEN RELATING TO OTHER PEOPLE.

Q. AND THAT WOULD BE THE REASON WHY SHE WOULD GLOSS OVER ANY MISUNDERSTANDING OF THE THINGS THAT WERE UNCLEAR TO HER?

A. WELL, THAT WOULD CERTAINLY BE A MAIN CONCERN FOR ME, AND ALSO JUST HER MENTAL STATE AT THE TIME. IF SHE'S UPSET, PERHAPS HER ABILITY TO COPE, HER ABILITY TO FUNCTION IS DIMINISHED BASED ON HER MENTAL STATE AT THE TIME, AND JUST STRESSORS THAT SHE WAS UNDERGOING.

Q. FOR A PERSON WITH PARANOID PERSONALITY, IF DURING QUESTIONING SOMEBODY WAS TO APPEAR TO MAKE A THREAT, HOW WOULD THAT EFFECT THE RESPONSE OF SOMEBODY IN MS. TYLER'S CONDITION?

A. WELL, NOT HAVING BEEN THERE, I COULD TELL YOU THAT A PERSON THAT IS PARANOID WHEN THEY PERCEIVE THREATS THEY BECOME MORE PARANOID.

Q. AND WHAT TYPE OF REACTION DO THEY NORMALLY WANT TO GIVE THE QUESTIONER WHEN THIS IS HAPPENING?

A. I THINK THAT WOULD DEPEND ON THE SITUATION. SOME PEOPLE WHEN THEY'RE PARANOID THEY BECOME COMPLIANT TO DECREASE THE FEARFULNESS THAT THEY MAY BE EXPERIENCING. OTHER PEOPLE CAN BECOME QUITE AGITATED AND COMBATIVE AND

KIND OF CONFRONT THE PERSON THAT THEY FEEL PERSECUTED BY.

Q. WHAT IS YOUR OPINION IN REGARD TO THE EFFECT THAT THE INCIDENT HAD ON MS. TYLER ON THE DATE IN QUESTION REGARDING HER VOLUNTARINESS OF HER STATEMENT?

A. COULD YOU REPHRASE THAT AND BE A LITTLE MORE SPECIFIC? I'M NOT REALLY SURE OF YOUR QUESTION.

Q. COULD YOU TELL THE COURT WHAT EFFECT WHICH THIS INCIDENT WOULD HAVE ON HER DECISION MAKING PROCESSES ON THE DATE IN QUESTION WHEN SHE WAS BEING QUESTIONED BY INVESTIGATOR GRAY?

A. WELL, I THINK THE STRESSOR OF THE SEVERITY THAT HAPPENED ON THAT OCCASION WOULD ALREADY DECREASE HER ABILITY TO HANDLE IMPULSES, HER FRUSTRATION TOLERANCE. SHE WOULD BECOME MORE EASILY FRUSTRATED. SHE MIGHT BECOME MORE IMPULSIVE. IT WOULD ALSO DIMINISH WHAT LITTLE ABILITY SHE HAD TO DEAL WITH STRESS BECAUSE OF HER LIMITED COGNITIVE IMPAIRMENTS BASED ON HER BORDERLINE INTELLECTUAL FUNCTIONING. SO, THESE THINGS TOGETHER WOULD MAKE HER LESS LIKELY TO TOLERATE FRUSTRATION PERHAPS. NOW, KNOWING SOME OF THE SYMPTOMS THAT SHE HAS, HAVING EVALUATED HER, THAT IT MAY ALSO CAUSE HER TO BECOME PSYCHOTIC.

Q. BASED ON THE CIRCUMSTANCES SURROUNDING THE INCIDENT AND JUST THE MERE KNOWLEDGE THAT SHE HAS BORDERLINE INTELLECTUAL FUNCTIONING, WOULD IT BE YOUR OPINION SHE

WOULD BE MORE LIKELY TO WANT TO PLEASE THE EXAMINER OR TO SOMEHOW HIDE FROM THE EXAMINER FOR LACK OF A BETTER WORD?

A. WELL, IT'S MY OPINION BASED ON LISTENING TO HER TESTIMONY TODAY --- I HAD QUESTIONS AS WHETHER OR NOT SHE ACTUALLY BECAME PSYCHOTIC WHEN GIVING THE STATEMENT. I'M NOT SURE IF THE INVESTIGATOR HAD GLASSES ON OR NOT. I KNOW FROM MY PRIOR EVALUATIONS OF HER WHEN SHE BECOMES --- ONE OF HER PSYCHOTIC SYMPTOMS IS THAT SHE OFTEN SEES SHADOWS ON THE FACES OF VARIOUS PEOPLE, AND I KNOW IN MY PERSONAL INTERVIEWS OF MS. TYLER ON VARIOUS OCCASIONS SHE HAS SEEN SHADOWS OVER THE MOUTHS OF VARIOUS INDIVIDUALS. SO, THAT ALONE WOULD MAKE ME QUESTION WHETHER OR NOT SHE MIGHT HAVE BEEN EXPERIENCING A PSYCHOTIC SYMPTOM AT THAT TIME.

THAT, TAKEN WITH HER PARANOID PERSONALITY, WHICH WE ALREADY KNOW EXISTS AND HER LIMITED INTELLECTUAL FUNCTIONING AND THE STRESSORS OF THAT DAY, COULD CERTAINLY IMPAIR HER ABILITY TO VOLUNTARILY GIVE A CONFESSION.

Q. THANK YOU, DR. SCHWARTZ-WATTS. I HAVE NO FURTHER QUESTIONS.

THE COURT: CROSS EXAMINE.

CROSS EXAMINATION

BY MS. HAYNES

Q. DR. SCHWARTZ-WATTS, BASICALLY WE'RE TALKING ABOUT

POSSIBILITIES AND PROBABILITIES AND HYPOTHETICALS, BECAUSE YOU'RE WEREN'T THERE THAT DAY AT THE COLUMBIA POLICE DEPARTMENT, WERE YOU?

A. THAT'S CORRECT.

Q. AND YOU NEVER SAW MS. TYLER FOR THE FIRST TIME UNTIL A YEAR AND SOME MONTHS LATER, RIGHT?

A. THAT'S CORRECT. IT WAS DECEMBER OF 1997.

Q. AND THIS TOOK PLACE IN SEPTEMBER OF 1996. SO, A YEAR AND THREE MONTHS LATER IS WHEN YOU FIRST SAW HER?

A. THAT'S CORRECT.

Q. YOU CAN'T SAY WHETHER OR NOT SHE ACTUALLY HAD PARANOIA BACK THEN?

A. NO. ANY OPINION I WOULD MAKE WOULD BE BASED ON HER TESTIMONY, JUST INTERVIEWS I'VE HAD WITH HER.

Q. AND IF SHE HAD PARANOIA AND WAS UNTRUSTING, WHY WOULD SHE, AS SHE TOLD ME, TRUST INVESTIGATOR GRAY AND NOT READ THE REST OF THE STATEMENT BECAUSE SHE TRUSTED HIM?

A. I THINK THERE COULD BE A NUMBER OF EXPLANATIONS FOR THAT.

Q. BUT THAT WOULD BE TYPICAL IF YOU WERE PARANOID LIKE YOU SAID. IF YOU WERE PARANOID, YOU WOULD WANT TO LOOK OVER IT MORE AND READ EVERY SINGLE PAGE AND SCRUTINIZE IT HEAVILY?

A. THAT'S CORRECT. AND I THINK THAT MENTAL STATE WOULD

HOLD FOR SOMEONE WITH HIGH LEVELS OF INTELLECTUAL FUNCTIONING. IF YOU'RE NOT ABLE TO SCRUTINIZE THOSE PAGES AND THINK VERY CAREFULLY ABOUT WHAT YOU'VE WRITTEN, YOU MAY NOT BE ABLE TO.

Q. NOW, TYPICALLY, TOO, IF SOMEONE HAD BEEN THREATENING YOU AND YOU'RE SCARED OF THEM, YOU'RE NOT GOING TO TRUST THEM, ARE YOU?

A. I WOULDN'T.

Q. AND SHE HAD NO PROBLEMS ANSWERING THE QUESTIONS HERE TODAY, DID SHE?

A. I THINK SHE DID HAVE SOME PROBLEMS ANSWERING THE QUESTIONS TODAY.

Q. AND BEFORE WHEN YOU'VE ACTUALLY HAD A HEARING CONCERNING MS. TYLER, YOU HAD TESTIFIED THAT SHE HAS AN EXCELLENT FACTUAL UNDERSTANDING OF THE LEGAL PROCESS, CORRECT?

A. YES, SHE DOES.

Q. SHE KNOWS WHAT'S GOING ON?

A. YES, SHE DOES.

Q. I DON'T HAVE ANY FURTHER QUESTIONS.

THE COURT: THANK YOU. THANK YOU, DOCTOR. YOU MAY STEP DOWN. NEXT WITNESS.

MS. JOHNS: NOTHING FURTHER.

THE COURT: ALL RIGHT. SO, THE DEFENSE RESTS IN REGARD TO THIS MATTER?

MS. JOHNS: YES, YOUR HONOR.

THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT IN REGARD TO THE ISSUE OF ADMISSIBILITY OF THE STATEMENT? SOLICITOR?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: MS. JOHNS?

MS. JOHNS: NO MORE EVIDENCE, YOUR HONOR.

THE COURT: WELL, ANYTHING FURTHER BEFORE I RULE?

MS. JOHNS: I WOULD LIKE TO ARGUE.

THE COURT: CERTAINLY.

MS. JOHNS: YOUR HONOR, WITH REGARDS TO THE STATEMENT AND THE ADMISSIBILITY, THE DEFENSE WOULD MOVE TO SUPPRESS THE STATEMENT BASED ON THE GROUNDS THAT AT THE TIME THE STATEMENT WAS GIVEN, ONE, LINDA ANN TYLER HAD BEEN RETRIEVED FROM THE HOSPITAL WHERE HER HUSBAND HAD BEEN SEVERELY BURNED BY HER OWN HANDS AND OWN ADMISSION AND WAS AS REPORTED TO INVESTIGATOR GRAY OUT THERE IN HER BRA AND PANTIES AND WAS BROUGHT TO THE HOSPITAL IN SOME FORM AND WAS GIVEN A HOSPITAL GOWN, THEN BROUGHT TO HIM, AND --- MADE THAT SHE HAD SAID THAT HE HAD TOLD HER THAT SHE WASN'T GOING TO GO ANYWHERE UNTIL SHE GAVE HIM STATEMENTS.

EVEN AFTER SHE ASKED IF HE COULD JUST GET SOMEBODY IN HERE TO BE A WITNESS TO HER STATEMENT TO HIM, HE DID NOT ALLOW THAT TO HAPPEN WHICH IS EVIDENCED BY THE FACT

SHE WAS FULLY ADVISED OF HER RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, AND THAT SHE WAS ADVISED OF THE CONSTITUTIONAL SAFEGUARDS AS REQUIRED BY MIRANDA V. ARIZONA AS FOLLOWS: ONE, DEFENDANT WAS ADVISED PRIOR TO ANY INTERROGATION THAT SHE HAD THE RIGHT TO REMAIN SILENT AND THAT IS SHE WAIVED HER RIGHT TO REMAIN SILENT AND MADE A STATEMENT, THAT SUCH STATEMENT COULD AND WOULD BE USED AGAINST HER IN A COURT OF LAW, AND THAT SHE HAD THE RIGHT TO EMPLOY OR SELECT AN ATTORNEY, AND IF SHE DID NOT HAVE THE MONEY OR FUNDS OR RESOURCES TO EMPLOY AN ATTORNEY THAT THE COURT WOULD APPOINT AN ATTORNEY FOR HER WITHOUT ANY COSTS OR EXPENSE TO HER, AND THAT SHE HAD THE RIGHT TO HAVE HER ATTORNEY PRESENT WITH HER AT ALL TIMES DURING ANY AND ALL INTERVIEWS, AND THAT SHE WAS FURTHER ADVISED THAT SHE HAD A RIGHT TO CONSULT WITH HER ATTORNEY BEFORE ANY INTERROGATION, AND WAS FURTHER ADVISED THAT SHE HAD THE RIGHT TO INTERRUPT AND TERMINATE ANY INTERROGATION AT ANY TIME, AND HAD THE FURTHER RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME DURING THE INTERROGATION.

SHE WAS FURTHER ADVISED THAT IF DURING THE INTERROGATION SHE DESIRED AN ATTORNEY THE INTERROGATION WOULD CEASE AND AN ATTORNEY WOULD BE PROVIDED FOR HER, AND SHE WOULD BE GIVEN AN OPPORTUNITY TO CONSULT WITH HER ATTORNEY PRIOR TO ANY FURTHER INTERROGATION, AND THE

FACT, IF YOU'LL NOTICE THE LAST QUESTION AS ASKED THAT MS. HAYNES BROUGHT OUT, DO YOU HAVE ANYTHING ELSE YOU WANT TO ADD TO THIS STATEMENT, AND JUST SORT OF ASSUME THAT SHE KNOWS WHAT'S IN THE REST OF THE STATEMENT BY THE FACT THAT SHE ANSWERED, NO, JUST THAT I LOVE MY HUSBAND AND I'M SORRY THAT IT HAPPENED INDICATES THAT THERE'S NOTHING ELSE THAT SHE WANTED TO CHANGE OR ADD TO THAT STATEMENT.

I THINK AT THIS STAGE OF THE PROCEEDINGS, YOUR HONOR, WE HAVE PROVED BEYOND A PREPONDERANCE OF THE EVIDENCE THAT SHE MADE A KNOWINGLY INTELLIGENT WAIVER OF HER RIGHT TO COUNSEL. JUST BECAUSE SHE'S LOW BORDERLINE INTELLECTUAL FUNCTIONING --- YOU HEARD HER TESTIFY HERE TODAY, YOUR HONOR. SHE UNDERSTOOD THE QUESTIONS THAT HER ATTORNEY POSED TO HER. SHE UNDERSTOOD THE QUESTIONS THAT MS. HAYNES POSED TO HER AND HAD NO TROUBLE ANSWERING THOSE QUESTIONS.

FOR THIS STAGE OF THE PROCEEDING, YOUR HONOR, I THINK WE'VE MET OUR BURDEN.

THE COURT: THANK YOU. ALL RIGHT. THE COURT HAS CAREFULLY CONSIDERED ALL OF THE EVIDENCE WHICH HAS BEEN OFFERED BY THE STATE AND THE DEFENDANT AND IS CONVINCED, AND I FIND THAT THE STATE HAS PROVED BY THE GREATER WEIGHT OF THE EVIDENCE THAT BEFORE THE ALLEGED INCRIMINATING STATEMENT WAS OBTAINED FROM THE DEFENDANT

PREPONDERANCE OF THE EVIDENCE, AND IT'S FOR THE JURY TO DECIDE WHETHER WE'VE PROVED BEYOND A REASONABLE DOUBT THAT MS. TYLER'S WAIVER WAS KNOWING AND VOLUNTARY.

YOU'VE HEARD INVESTIGATOR GRAY'S TESTIMONY, YOUR HONOR. AS TO JUST ONE QUICK ASIDE AS TO THE BOND, THE BAIL QUESTION. BONDS ARE SET IN THE MORNING. THEY'RE NOT SET IN THE AFTERNOON. INVESTIGATOR GRAY --- ALL CITY BONDS ARE SET IN THE MORNING. IF YOU WERE GOING TO TELL SOMEONE YOU WOULD HELP THEM WITH A BOND, IT WOULD BE THAT I WILL HELP YOU TOMORROW MORNING.

MS. TYLER IS THE ONE THAT IS MORE FAMILIAR WITH THE CRIMINAL JUSTICE SYSTEM AND KNOWS THAT BONDS ARE POSSIBLY SET IN THE COUNTY IN THE AFTERNOON. SO, I THINK THAT KIND OF GOES TO HER HAVING MADE THAT STATEMENT UP, YOUR HONOR.

YOU HAVE BOTH THE WAIVER OF RIGHTS AND THE STATEMENT BEFORE YOU. MS. TYLER INDICATED THAT SHE COULD READ AND WRITE. SHE INDICATED THAT SHE TRUSTED MR. GRAY. HE WENT OVER THOSE RIGHTS WITH HER, AND THAT SHE SIGNED THE WAIVER OF RIGHTS INDICATING THAT SHE WANTED TO WAIVE HER RIGHTS AND GIVE A STATEMENT.

THEN, THE THREE PAGE STATEMENT. I MEAN, IF SHE WAS SO UNTRUSTWORTHY OR THREATENED BY MR. GRAY, DON'T YOU THINK THAT SHE WOULD HAVE AT LEAST LOOKED OVER THAT STATEMENT IF SHE FELT THAT THERE WAS SOMETHING WRONG? IN

THAT THERE IS NOT A WITNESS TO THE ADVICE OF RIGHTS FORM OR TO THE STATEMENT ITSELF WHERE MR. GRAY HAD NOTARIZED MS. TYLER'S SIGNATURE AND HIS OWN SIGNATURE.

THERE WAS SOME DISCUSSION AS TO BAIL, BAIL BEING SET AT THREE OR FOUR O'CLOCK IN THE AFTERNOON, WHICH IS WHEN BAIL IS SET DOWN THERE AT THE RICHLAND COUNTY DETENTION CENTER. I DON'T BELIEVE THAT MS. TYLER HAD MADE THAT UP. THAT CERTAINLY IS TRUE WITH OUR BAIL PROCEEDINGS HERE IN OUR COUNTY.

WITH REGARD TO HER REQUESTING AN ATTORNEY, AS SHE STATED ON THE STAND, YOUR HONOR, SHE DOES HAVE SOME FAMILIARITY WITH THE CRIMINAL JUSTICE SYSTEM. SHE KNOWS THAT MIRANDA NEEDS TO BE READ. SHE HAD STATED THAT MR. GRAY WAS POUNDING ON THE DESK SEVERAL TIMES WHICH HAD INTIMIDATED HER, AND AT SOME POINT WHERE SHE HAD THOUGHT THAT MR. GRAY COULD BECOME TRUSTWORTHY AFTER WRITING THE STATEMENT, SHE THEN CONCEDED AND SIGNED THE STATEMENTS, AND THE ADVICE OF RIGHTS FORM WAS NOT READ TO HER OR SIGNED BY HER UNTIL AFTER THE STATEMENT WAS GIVEN TO HER --- SUPPRESSING THOSE THINGS, IN ADDITION TO WHAT THE EXPERT DONNA SCHWARTZ-WATTS HAS SAID.

THE COURT: THANK YOU. ANYTHING FURTHER, SOLICITOR?

MR. SORENSEN: MAY IT PLEASE THE COURT, YOUR HONOR? FIRST OF ALL, AS FAR AS THIS PROCEEDING GOES, THE BURDEN THAT THE STATE HAS TO PROVE IS JUST BEYOND A

TYLER GOT OUT OF PRISON HE CAME OVER TO YOUR HOUSE WITH TWO PILLOWCASES FULL OF STUFF?
A. YEAH, WITH HIS CLOTHES IN IT.
Q. OKAY, IS THAT THE NIGHT THAT HE SPENT THE NIGHT THERE?
A. YES.
Q. OKAY, THAT'S THE NIGHT --- THE NEXT MORNING THAT SHE CAME OVER TO YOUR FRONT DOOR?
A. YEAH.
Q. OKAY. WHEN DID THAT HAPPEN IN 1996?
A. I CAN'T REMEMBER THE DATE NOW, YOU KNOW, BECAUSE I DON'T KNOW ABOUT ALL THAT. I DON'T REMEMBER THE DATE.
Q. I MEAN WOULD IT SURPRISE YOU IF IT WAS EARLY 1996? IS THAT POSSIBLE? I MEAN WE'RE TALKING ABOUT UP TO APPROXIMATELY TWO YEARS AGO?
A. YEAH. I AIN'T FOR SURE NOW. I'M JUST SAYING HE CAME TO THE DOOR, I DON'T, THE DATE.
Q. OKAY. ALL YOU KNOW IS IT WAS SOME TIME BACK IN 1996 WHEN MR. TYLER, IS THE DAY HE GOT OUT OF PRISON?
A. YEAH, AND IT WAS AT NIGHT AND HE SHOWED UP TO THE DOOR. SO, I THOUGHT IT BEING NIGHT, YOU KNOW, I'D LET HIM IN, YOU KNOW, ME AND MY BOYFRIEND WAS THERE ALREADY. SO, I THOUGHT I WAS BEING NICE LETTING HIM SPEND THE NIGHT IN THE OTHER ROOM BECAUSE I HAD A FOUR BEDROOM.

MORE" LIKE THAT, YOU KNOW, AND THEN SHE JUST WENT ON BACK DOWN THE STEPS. YOU KNOW, THEY HAD A LITTLE WORD OR TWO, AND THEN SHE JUST WENT ON BACK DOWN THE STEPS AND GOT IN HER CAR AND THEN THE NEXT DAY SHE CAME BACK. SHE WENT TO FOLLOWING ME AND STUFF, YOU KNOW, BACK TO BACK. EVERY TIME I COME BACK HOME TO MY APARTMENT SHE WAS THERE, AND I TOLD HER "YOU CAN COME IN AND CHECK MY WHOLE HOUSE." I SAID "HE'S NOT IN HERE WITH ME."

Q. THAT DAY THAT SHE WAS THERE, DID HE APPEAR TO HAVE BEEN LAUGHING AT HER?

A. HE WAS LAUGHING AND ALL, TALKING ABOUT HER TOO. HE SAID HE DIDN'T WANT HER BECAUSE SHE WAS UGLY AND ALL THAT.

Q. SO, HE WAS TELLING THIS IN HER PRESENCE?

A. YEAH, HE WAS TELLING, I WAS STANDING THERE WHEN HE TOLD HER.

Q. I DON'T HAVE ANYTHING FURTHER. THANK YOU MS. HEYWARD.

THE COURT: ALL RIGHT.

CROSS EXAMINATION

BY MR. SORENSON

Q. MS. HEYWARD, MY NAME IS DONALD SORENSON, AND I'M WITH THE RICHLAND COUNTY SOLICITOR'S OFFICE. I'M A LITTLE CONFUSED. LET'S BACK UP AS TO EXACTLY WHAT TIME THIS ALL HAPPENED. YOU SAID THAT THE DAY THAT MR.

TO SPEAK TO HER HUSBAND. YOU KNOW, SHE SAID "MY NAME IS MS. TYLER" AND I SAID "WHAT" LIKE THAT AND THEN THAT'S WHEN I CALLED HIM DOWNSTAIRS AND HE CAME HALFWAY DOWN THE STEPS BUT HE WOULDN'T GO OUT THE SCREEN DOOR THOUGH. SO, I WENT ON IN THE KITCHEN AND PAID THEM NO MIND. I WENT ON IN MY KITCHEN.

Q. DID YOU SEE HIM COME DOWN THE STAIRS?

A. HE CAME HALF WAY, BUT SHE STILL WAS ON THE OUTSIDE OF THE DOOR. MY SCREEN DOOR WAS STILL LATCHED THOUGH BECAUSE I SLEPT WITH THE FRONT DOOR OPEN THAT NIGHT WITH THE SCREEN LATCHED, YOU KNOW, BECAUSE I DIDN'T WANT, THE AIR CONDITIONER WAS BROKE, SO I LET THE AIR CIRCULATE THROUGH THE BACK DOOR OUT THE BACK DOOR.

Q. RIGHT, OKAY, AND SO, WHEN HE GOT HALFWAY DOWN THE STAIRS YOU TOLD HIM HIS WIFE WAS THERE?

A. I TOLD HIM, I SAID "YOUR WIFE IS DOWNSTAIRS HERE", AND I TOLD HER SHE COULD HAVE COME IN TOO.

Q. DID HE THEN STOP COMING DOWN THE STAIRS?

A. HE WENT NO MORE FURTHER. HE DIDN'T EVEN WANT TO UNLATCH THE SCREEN DOOR OR NOTHING. HE JUST STOPPED HALFWAY DOWN THE STEPS. HE WAS STILL ON THE STEPS.

Q. OKAY, AND WHAT DID SHE DO?

A. SHE WAS SAYING TO HIM TO COME ON, COME LET HER TALK TO HIM LIKE THAT, AND THEN HE WOULDN'T, HE WOULDN'T COME. HE SAID "I AIN'T MESSING WITH YOU NO

THE PRISON?
A. YEAH, LIKE TENNIS SHOES AND STUFF LIKE THAT, YOU KNOW. I WAS LOOKING OUT FOR HIM, THAT'S ALL.
Q. HOW OFTEN WOULD YOU GO VISIT HIM?
A. I WENT TO VISIT HIM ALL THE TIME.
Q. WAS IT ON A REGULAR BASIS? ONCE A WEEK?
A. IT WAS ABOUT, THAT WAS ABOUT ONCE A WEEK.
Q. OKAY.
A. THAT'S IT THEN BECAUSE CCI WAS --- HE WAS AT CCI.
Q. DID YOU BRING HIM MONEY?
A. NO, I AIN'T BROUGHT NO MONEY.
Q. DID HE EVER ASK YOU TO BRING HIM DRUGS?
A. OH, NO. THAT WAS OUT COMPLETELY TO START WITH.
Q. WHEN MS. TYLER SHOWED UP AT YOUR DOOR THE NEXT MORNING, WAS IT OBVIOUS TO EVERYBODY THAT MR. TYLER HAD SPENT THE NIGHT AT YOUR HOUSE?
A. BUT HE HAD DID SPEND THE NIGHT.
Q. OKAY. DID SHE KNOW THAT?
A. NO, SHE DIDN'T KNOW. THE ONLY THING, THE ONLY WAY HE COULD, THE ONLY WAY SHE COULD HAVE FOUND OUT HOW HE KNOW ME, IS THAT HE HAD TO TELL HER THAT.
Q. WELL, WAS SHE ---
A. BECAUSE I HAD NEVER SEEN THAT LADY.
Q. WHEN SHE APPEARED AT YOUR APARTMENT WAS SHE ANGRY?
A. NO, SHE DIDN'T APPEAR TO BE ANGRY. SHE JUST ASKED

MARRIED?

A. NO, I AIN'T TOUCHED HIM WHEN HE WAS MARRIED. NO, BECAUSE I HAD DONE QUIT SEEING HIM PERIOD. WHEN HE GOT OUT I JUST STOPPED SEEING HIM PERIOD. I DIDN'T SEE HIM NO MORE THEN.

Q. WHEN HE GOT OUT YOU SAW HIM THAT ONE TIME?

A. JUST THAT ONE TIME. HE CAME TO MY HOUSE AND THEN THE NEXT DAY SHE CAME OVER TO THE HOUSE.

Q. OKAY.

A. AND I TOLD YOU I WAS COMING, I CAME DOWNSTAIRS WITH MY GOWN ON, YOU KNOW, CAUSE ME AND MY OLD MAN WAS UPSTAIRS IN OUR OWN ROOM HALF SLEEPING, AND I CAME DOWNSTAIRS AND THERE SHE CAME TO MY DOOR AND ASKED ME SAID "IS VAN TYLER HERE?" AND I SAID "WHO YOU IS?" AND SHE SAID "I'M VAN TYLER'S WIFE." AND I SAID "WHAT?" AND THEN THAT'S WHEN HE CAME, I SAID "YOUR WIFE WANTS YOU DOWNSTAIRS" AND THAT'S WHEN I WENT ON IN THE KITCHEN, AND THEN HIM AND HER TALKED.

Q. SO, YOU DIDN'T KNOW HE HAD A WIFE WHEN YOU WERE GOING WITH HIM?

A. I DIDN'T KNOW HE WAS MARRIED AT ALL. HE DIDN'T SAY NOTHING ABOUT NO MARRIED OR NO NOTHING WHEN HE CAME TO MY DOOR, CAUSE IF I KNEW THAT HE WOULDN'T HAVE COME IN MY APARTMENT.

Q. YOU SAID THAT HE HAD YOU BRING HIM THINGS OUT TO

AND HE ASKED ME, SAID "CAN I SPEND THE NIGHT HERE, A NIGHT OR TWO OR SOMETHING", AND I SAID "YEAH, YOU WELCOME," YOU KNOW. AND THEN HE CAME IN AND BROUGHT THE SACKS IN AND HE WENT ON UPSTAIRS CAUSE I GOT FOUR BEDROOMS, AND HE WENT UPSTAIRS IN THE ROOM AND WAS GOING TO PUT HIS SACKS IN THERE AND TOOK HIS CLOTHES OUT, YOU KNOW, TO TAKE A SHOWER AND STUFF, AND THEN HE CAME BACK DOWNSTAIRS AND ATE DINNER. I HAD COOKED SOME MACARONI PIE AND POTATO SALAD AND STUFF, AND HE ATE DINNER AND THEN HE LEFT AND WENT BACK OUT THE DOOR.

Q. NOW YOU SAY YOU WENT, YOU SAY YOU WENT WITH HIM, YOU WERE GOING WITH HIM?

A. YEAH.

Q. AND HOW LONG DID THIS RELATIONSHIP LAST?

A. IT DIDN'T LAST TOO LONG.

Q. IN A MATTER OF YEARS OR MONTHS?

A. I'D SAY ABOUT, I'D SAY ABOUT THREE YEARS.

Q. YOU WENT WITH HIM FOR THREE YEARS?

A. YEAH.

Q. DID YOU EVER GET INTIMATE WITH HIM? DO YOU KNOW WHAT THAT MEANS?

A. YOU TALKING ABOUT SEX WITH HIM?

Q. YES, MA'AM.

A. ONE TIME.

Q. OKAY. WAS THIS DURING THE TIME THAT HE WAS

Q. DID YOU KNOW A MAN BY THE NAME OF VAN TYLER?
A. YES.
Q. HOW DO YOU KNOW HIM?
A. BECAUSE I USED TO GO WITH HIM.
Q. I'M SORRY?
A. I USED TO GO WITH HIM.
Q. YOU USED TO GO WITH HIM.
A. UH-HUH.
Q. WHEN DID YOU USED TO GO WITH HIM? DO YOU REMEMBER?
A. NO, AS SOON AS HE GOT OUT OF THE PENITENTIARY I USED TO GO VISIT HIM IN WATKINS WHEN WAS IN PRISON. YOU KNOW, I'D TAKE HIM TENNIS SHOES AND STUFF LIKE THAT. YOU KNOW, LOOK OUT FOR HIM, AND THEN WHEN, YOU KNOW, HE WAS MESSING UP PRETTY BAD SO I LEFT HIM ALONE WHILE HE WAS STILL IN PRISON, AND THEN I WENT ON ABOUT MY BUSINESS.
Q. OKAY.
A. AND THEN WHEN HE GOT OUT THEN THAT'S WHEN HE CAME TO MY APARTMENT WAS THAT NIGHT. HE HAD TWO, WHAT DO YOU CALL THEM SILK BAGS, PILLOWCASES, WITH ALL HIS CLOTHES IN IT, AND HE CAME TO THE APARTMENT AND THEN HE KNOCKED ON THE DOOR AND I SAID "YOU OUT ALREADY?" AND THEN HE SAID "YEAH, I'M OUT." AND THEN HE DIDN'T MENTION NOTHING ABOUT HE WAS MARRIED OR NONE OF THAT,

THE COURT: CROSS EXAMINE.

MR. SORENSON: NOTHING, YOUR HONOR.

THE COURT: THANK YOU. YOU MAY STEP DOWN. NEXT WITNESS.

MS. BELL: YOUR HONOR, SHE'S BEING BROUGHT UP FROM THE HOLDING CELL.

THE COURT: ALL RIGHT.

THEREUPON:

JOHNNIE BELL HEYWARD, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. JOHNS

Q. JOHNNIE BELL, HI, I'M TERESA JOHNS. WHERE DO YOU LIVE, MS. HEYWARD?

A. I LIVE WITH MY MOTHER AT PRESENT.

Q. THAT'S COLUMBIA?

A. UH-HUH.

Q. AND HOW LONG HAVE YOU LIVED WITH HER?

A. WASN'T TOO LONG. I'D SAY THAT'S ABOUT FOUR MONTHS.

Q. WHERE DID YOU LIVE BEFORE THAT?

A. [redacted].

Q. AND HOW LONG DID YOU LIVE AT [redacted]

A. THIRTY SOMETHING YEARS.

A. YES.
Q. AND IS THERE AN OCCASION --- IS HE STILL LIVING?
A. NO, HE'S DECEASED.
Q. OKAY, AND WHAT HAPPENED TO HIM?
A. KIDNEY FAILURE.
Q. DID YOU HAVE AN OCCASION TO SEE HER AROUND THE TIME OF HIS DEATH?
A. YES, WELL, EVEN WHEN HE WAS SICK I WOULD, YOU KNOW, WOULD SEE HER.
Q. BUT DID YOU HAVE OCCASION TO SEE HER AT THE FUNERAL?
A. YES.
Q. WAS SHE ACTING NORMAL AT THAT TIME?
A. NO, UH-UH.
Q. WHAT HAPPENED?
A. SHE WAS IN AND OUT, TALKING LOUD, SAYING THAT THE WOMAN THAT HE WAS MARRIED TO WAS NOT HIS WIFE.
Q. WAS THAT AT THE FUNERAL?
A. YES.
Q. AND WHAT DATE WAS THIS?
A. I CAN'T REMEMBER, BUT I KNOW IT WAS --- BECAUSE HE DIED IN MAY.
Q. MAY OF WHAT?
A. OF '96.
MS. BELL: YOUR HONOR, I DON'T HAVE ANY FURTHER QUESTIONS.

A. [redacted] THE LITTLE BOY THAT I HAVE NOW. SHE STATED TO ME THAT SOMEBODY HAD BEEN MOLESTING HIM, AND YOU KNOW, I DIDN'T, YOU KNOW, I DIDN'T BELIEVE IT, BUT THEN LATER ON --- NOW SOME THINGS THAT I SEE HIM DO, YOU KNOW, IT MAKES ME WONDER NOW.

Q. NOW, GETTING BACK TO HER, OBSERVATIONS YOU MAY HAVE ABOUT HER STATE OF MIND, COULD SHE ACT ONE WAY ONE MINUTE AND ANOTHER WAY THE NEXT MINUTE?

A. OH, YEAH.

Q. AND CAN YOU TELL US WHAT YOU MEAN BY THAT?

A. WELL, SHE WOULD CHANGE BECAUSE SHE WOULD BE HAPPY ONE MINUTE AND MAYBE LOUD THE NEXT, YOU KNOW.

Q. FOR ANY APPARENT REASON?

A. I WOULDN'T THINK SO. JUST BY TALKING.

Q. WELL, DID YOU OBSERVE THIS KIND OF BEHAVIOR IN 1996?

A. YEAH, BECAUSE SHE WOULD COME INTO THE HOUSE AND BLOW THE HORN AND JUMP OUT, AND YOU KNOW, JUST START HOLLERING, YOU KNOW, AND I DON'T KNOW. I DIDN'Y PAY IT NO NEVER MIND.

Q. DID YOU NOTICE THAT KIND OF BEHAVIOR BEFORE 1996?

A. I'D NEVER SEEN IT.

MS. BELL: I BEG THE COURT'S INDULGENCE.

Q. MS. SMITH, MS. TYLER WAS AT ONE TIME MARRIED TO YOUR BROTHER?

AND JOSEPH, HER OTHER SON, BUT LATER ON AROUND THE MIDDLE PART OF '96 SHE STOPPED COMING AROUND. YOU KNOW, SHE STARTED SLACKING UP, AND WHEN SHE WOULD COME, SHE WOULD COME AND LEAVE, YOU KNOW, SHE WOULDN'T SPEND AS MUCH TIME WITH [redacted] AS SHE WOULD NORMALLY DO, AND HER APPEARANCE STARTED CHANGING A LITTLE, IN SOME WAYS IN '96.

Q. WELL, LET ME ASK YOU, JUST GENERALLY SPEAKING, DO YOU HAVE ANY OBSERVATIONS ABOUT HER ATTITUDE, HER MOOD, OR HOW THEY CHANGED OR NOT CHANGED?

A. WELL, LIKE I SAID AT FIRST, YOU KNOW, SHE SEEMED MUCH HAPPIER WHEN SHE, YOU KNOW, FIRST STARTED COMING AROUND, YOU KNOW, [redacted], BUT THEN LATER ON SHE ACTED LIKE SHE WOULD ALWAYS BE, YOU KNOW, IN, YOU KNOW, SHE HAD TO LEAVE. SHE DIDN'T, YOU KNOW, WOULDN'T SPEND AS MUCH TIME WITH HER, AND SHE JUST CHANGED. YOU KNOW, I CAN'T, YOU KNOW, REALLY DESCRIBE IT, YOU KNOW. YOU KNOW, BUT I SAW A DIFFERENCE IN HER APPEARANCE LIKE I SAID. WHEN SHE FIRST CAME AROUND SHE WOULD, YOU KNOW, BE TOTALLY, YOU KNOW, DRESSED, BUT THEN HER HAIR STARTED GOING, YOU KNOW, DOWN, AND HER APPEARANCE JUST CHANGED, AND THAT WASN'T LIKE HER.

Q. DID SHE EVER HAVE, DID SHE EVER MENTION TO YOU ANY CONCERNS ABOUT ANY OF HER OTHER CHILDREN THAT WERE WITH HER?

Q. DID YOU HAVE AN OCCASION TO SEE HER IN 1996?
A. YES, I DID.
Q. IN FACT, YOU WOULD SEE HER PRETTY REGULARLY?
A. YES.
Q. HOW WOULD YOU DESCRIBE HER STATE OF MIND? WHAT I MEAN BY THAT IS MENTALLY, HOW WOULD YOU DESCRIBE HER?
MR. SORENSON: OBJECTION, YOUR HONOR. I DON'T BELIEVE SHE'S QUALIFIED AS FAR AS PSYCHIATRY GOES.
THE COURT: WELL, I THINK SHE ACTUALLY ASKED HER A PSYCHIATRIC QUESTION. I OVERRULE THE OBJECTION. ANSWER THE QUESTION IF YOU KNOW THE ANSWER.
BY MS. BELL:
Q. THANK YOU. IF YOU KNOW, IF YOU HAVE AN OPINION AS TO HER STATE OF MIND, OR HER MENTAL CAPACITY ---
THE COURT: NO, NO, THAT ISN'T WHAT I SUSTAINED, OVERRULED. I ALLOWED HER TO TESTIFY FROM HER OBSERVATIONS, NOT --- IF YOU WANT TO GET INTO OPINIONS NOW, YOU'RE GOING TO HAVE TO QUALIFY THE WITNESS.
Q. FROM YOUR OBSERVATIONS ---
MS. BELL: I'M SORRY, YOUR HONOR.
Q. YOUR OBSERVATIONS ABOUT HER BEHAVIOR?
A. WELL, THE EARLY PART OF 1996 SHE WOULD, YOU KNOW, COME BY AND VISIT WITH [redacted] WHICH IS HER DAUGHTER AND, YOU KNOW, WOULD TAKE HER TO THE PARK AND, YOU KNOW, HAVE LUNCH WITH HER AND THINGS LIKE THAT WITH HER

MR. SORENSON: NO CROSS.

THE COURT: THANK YOU. YOU MAY STEP DOWN. THANK YOU VERY MUCH. NEXT WITNESS.

MS. BELL: YOUR HONOR, MAY THE SOLICITOR AND I APPROACH?

(A BENCH CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE JURY BUT OUTSIDE THE HEARING OF THE JURY).

MS. BELL: DEBRA SMITH.

THE COURT: PLEASE COME FORWARD, MA'AM.

THEREUPON:

DEBRA SMITH, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BELL

Q. MS. SMITH, DO YOU KNOW MS. TYLER?

A. YES, I DO.

Q. OKAY. HOW LONG HAVE YOU KNOWN MS. TYLER?

A. ABOUT FIFTEEN YEARS.

Q. IN FACT, DO YOU KEEP ANY OF HER CHILDREN?

A. YES, I DO.

Q. HOW MANY OF HER CHILDREN DO YOU KEEP?

A. TWO.

Q. AND HOW DID YOU GET TO KNOW MS. TYLER?

A. SHE WAS MARRIED TO MY BROTHER AT ONE TIME.

SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS?

DIRECT EXAMINATION

BY MS. BELL

Q. MR. SHAHEED, YOU ARE AN EMAL AS WELL?

A. YES, MA' AM.

Q. AND WHERE EXACTLY IS YOUR MOSQUE LOCATED?

A. IT' S LOCATED ON MONTICELLO ROAD, 5119 MONTICELLO ROAD.

Q. AND DO YOU KNOW MS. LINDA TYLER?

A. YES.

Q. AND WOULD YOU HAVE AN OCCASION TO RECEIVE A REQUEST FROM MS. TYLER SOMETIME IN SEPTEMBER OF 1996?

A. YES, IN REFERENCE TO?

Q. WHAT WAS IT IN REFERENCE TO?

A. IT WAS IN REFERENCE TO HER HUSBAND, DECEASED, HAVING AN ISLAMIC BURIAL, ISLAMIC FUNERAL, ISLAMIC BURIAL.

Q. SO, DID SHE REQUEST THAT YOU PROVIDE A PROPER BURIAL?

A. YES, MA' AM.

Q. AND DID YOU HONOR THAT WISH?

A. YES, MA' AM. WE ARRANGED IT WITH THE MOSQUE TO MAKE SURE THAT HE WOULD HAVE THE MOSLEM BURIAL.

Q. YOUR HONOR, I DON' T HAVE ANY FURTHER QUESTIONS.

THE COURT: THANK YOU. ANY CROSS?

[redacted] AND [redacted] STREET ON SEPTEMBER 26 OF 1996, WERE YOU?

A. AGAIN, PLEASE?

Q. THE MORNING OF SEPTEMBER 26 OF 1996, WHEN MR. ALI TYLER HAD GASOLINE POURED ON HIM BY HIS WIFE AND HAD HIMSELF SET ON FIRE --- YOU WEREN'T THERE THAT DAY. WERE YOU?

A. OH, NO, NO.

Q. SO, YOU HAVE NO IDEA WHAT TRANSPIRED BETWEEN THE TWO OF THEM IN THE MOMENTS BEFORE THAT?

A. NO.

Q. OR THE NIGHT BEFORE?

A. NO.

Q. OR ANY TIME DIRECTLY BEFORE THAT ---

A. NOT EVEN A WEEK BEFORE.

Q. NOT EVEN A WEEK BEFORE?

A. YEAH.

Q. THANK YOU, SIR.

THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN. THANK YOU VERY MUCH FOR COMING. NEXT WITNESS.

MS. BELL: YOUR HONOR, THE DEFENSE WOULD CALL OMAR SHAHEED.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

OMAR SHAHEED, BEING FIRST DULY

WHEN SHE DISCUSSED THIS, THE NATURE OF THE PROBLEMS SHE WAS HAVING WITH HER HUSBAND?

A. THE NATURE OF THE FAMILY PROBLEM ---

MR. SORENSON: OBJECTION, YOUR HONOR. THIS IS ALL JUST HEARSAY.

THE COURT: MS. BELL?

MS. BELL: YOUR HONOR, IT'S HER STATEMENTS. I'M SAYING WHAT MS. TYLER SAID.

MR. SORENSON: IT'S STILL HEARSAY.

THE COURT: IS IT NOT A STATEMENT BY, AN OUT OF COURT STATEMENT BY A DECLARANT WHO HAS NOT TESTIFIED, MS. BELL?

MR. SORENSON: IT'S ALSO HEARSAY.

THE COURT: I SUSTAIN THE OBJECTION.

MS. BELL: THANK YOU, YOUR HONOR.

BY MS. BELL

Q. AND HOW MANY TIMES DID SHE COME TO YOU, MR. ADLY, SEEKING ADVICE OR CONSULTATION?

A. I GUESS FIVE TIMES.

Q. THANK YOU. I HAVE NOTHING FURTHER.

THE COURT: THANK YOU. ANY CROSS?

MR. SORENSON: IF IT PLEASE THE COURT, YOUR HONOR, JUST BRIEFLY.

CROSS EXAMINATION

BY MR. SORENSON

Q. MR. ADLY, YOU WEREN'T OUT AT THE INTERSECTION OF

A. I'M THE DIRECTOR OF THE ISLAMIC CENTER, COLUMBIA, SOUTH CAROLINA, 1929 GERVAIS STREET. MY POSITION AS MINISTER.

Q. SO, EMAL IS LIKE A MINISTER?

A. ALMOST.

Q. AND DO YOU KNOW MS. LINDA TYLER?

A. YES.

Q. AND HOW DO YOU KNOW MS. LINDA TYLER?

A. I KNOW HER FROM HER PARTICIPATION IN THE MOSQUE. SHE USED TO COME TO THE MOSQUE FOR CLASSES AND ACTIVITIES.

Q. DID YOU KNOW HER HUSBAND, ALI TYLER?

A. YES, I DO.

Q. DID YOU HAVE AN OCCASION TO TALK TO MS. TYLER IN 1996 ABOUT HER MARRIAGE WITH MR. TYLER?

A. YES, I DID.

Q. CAN YOU TELL THE JURY ABOUT THAT?

A. LINDA HAD CAME TO ME SEVERAL TIMES COMPLAINING ABOUT PROBLEMS BETWEEN HER AND HER HUSBAND, AND SHE ASKED FOR FAMILY CONSULTATION. I HAD AGREED TO THIS, BUT I HAD EXPLAINED TO HER THAT I COULD NOT HEAR A STORY FROM ONE SIDE, SO, FOR HER TO BRING HER HUSBAND SO I CAN TALK TO BOTH OF THEM, AND TO MY UNDERSTANDING THAT SHE HAD TRIED SEVERAL TIMES TO BRING HIM TO THE MOSQUE BUT HE DIDN'T SHOW UP FOR THE CONSULTATION. SO,

I COULD NOT DO TOO MUCH ABOUT IT.
Q. WAS THERE EVER AN OCCASION WHERE HE DID COME TO THE SITE?
A. YEAH, HE CAME, BUT HE DIDN'T COME FOR THIS PURPOSE.
Q. WHAT HAPPENED ON THAT OCCASION, SIR?
A. HE USED TO COME SOMETIMES FOR THE PRAYER BEFORE HE GOT RELEASED FROM THE PRISON. HE USED TO WORK AT THE CAPITOL HOUSE. SO, THE MOSQUE IS CLOSE BY AND HE USED TO COME SOMETIMES FOR THE PRAYER, AND AFTER HE GOT RELEASED FROM THE PRISON, HE USED TO SHOW UP OCCASIONALLY. HE WAS NOT LIKE A REGULAR PERSON COMING.
Q. DID HE EVER COME WITH MS. TYLER FOR CONSULTATION ABOUT THEIR MARRIAGE?
A. HE CAME FOR ONE TIME, BUT HE DID NOT STEP INSIDE THE MOSQUE, AND BY THE TIME SHE CAME INSIDE THE MOSQUE TO CALL ME OR TO TELL ME THAT HE'S HERE, SO, WHEN SHE STEPPED OUT HE ALREADY LEFT, AND SHE GOT IN HER CAR MAD, YOU UNDERSTAND, AND SHE WENT TO LOOK FOR HIM, AND THIS IS THE ONLY TIME I SAW HIM COME IN FOR THIS PURPOSE.
MS. BELL: I BEG THE COURT'S INDULGENCE.
Q. NOW, MR. ADLY, I KNOW THAT YOU SAID THAT YOU WOULDN'T LISTEN TO ONE SIDE OF THE STORY AND YOU WANTED TO HAVE HIM THERE, BUT DO YOU KNOW ANY OF THE NATURE,

INFORMATION, SOLICITOR?

MS. HAYNES: YES, SIR.

MS. BELL: AND AS FAR AS THAT GOES, YOUR HONOR, THOSE ARE ALL THE LAY WITNESSES. WE DO HAVE DR. DONNA SCHWARTZ-WATTS. WE HAVE FRANK BARREN, THE CORONER. WE HAVE DR. PETERSON, WHO THEY RECEIVED PREVIOUS INFORMATION ON, AND WE HAVE AN INMATE, BUT THEY ALREADY HAVE THAT INFORMATION.

THE COURT: WELL, I BELIEVE THEY' LL WAIVE THE RECORD CHECK ON THOSE PARTICULAR WITNESSES.

MS. HAYNES: YES, SIR. THAT INMATE IS JOHNNIE BELL HEYWARD?

MS. BELL: THAT' S RIGHT.

THE COURT: ALL RIGHT. BRING THE JURY IN MR. BAILIFF, SIR.

(JURY TO COURTROOM.)

THEREUPON:

MUHAMMAD S. ADLY, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BELL

Q. MR. ADLY, HAVE YOU EVER TESTIFIED IN COURT BEFORE?

A. MANY TIMES.

Q. LET ME ASK YOU, WHAT POSITION DO YOU HOLD?

MS. BELL: YOUR HONOR, THERE IS ONE WITNESS THAT'S DOWNSTAIRS IN LOCK UP, SO, I KNOW SHE HAS A RECORD.

MS. HAYNES: WELL, YOU TELL ME. I DON'T HAVE A CLUE WHO IT IS.

THE COURT: WE NEED THE NAME, DATE OF BIRTH AND SOCIAL SECURITY NUMBER.

MS. BELL: YOUR HONOR, IF YOU'LL GIVE ME ABOUT FIVE MINUTES, I'LL GET IT ALL.

MS. HAYNES: IF YOU CAN GIVE ME THE NAME, I CAN PULL IT UP FROM DOWNSTAIRS AND IF THEY'VE GOT A RECORD ---

MS. BELL: OKAY, HER NAME IS JOHNNIE HEYWARD.

MS. HAYNES: DONNIE?

MS. BELL: JOHNNIE.

MS. HAYNES: JOHNNIE? JOHNNIE MAE HEYWARD.

MS. BELL: JOHNNIE BELL HEYWARD.

MS. HAYNES: HEYWARD --- H-A-Y?

MS. BELL: H-E-Y, I THINK.

MS. HAYNES: I'LL JUST STEP DOWN AND BE RIGHT BACK, YOUR HONOR ---

THE COURT: WELL --- ALL RIGHT. NOW, GIVE THEM THAT INFORMATION. DO YOU HAVE THAT?

MS. BELL: WE PROVIDED THAT TO, I BELIEVE, THE PARALEGAL. SHE'S RUNNING THIS NOW.

THE COURT: OKAY, YOUR PARALEGAL HAS THAT

under no duress when signing the will. • The effect is to make live testimony or other evidence unnecessary when the will is offered for probate.

sham affidavit. An affidavit that contradicts clear testimony previously given by the same witness, usu. used in an attempt to create an issue of fact in response to a motion for summary judgment.

supplemental affidavit. An affidavit made in addition to a previous one, usu. to supply additional facts.

affidavit of defense. See *affidavit of merits* under AFFIDAVIT.

affilare (af-ə-**lair**-ee), *vb.* [Law Latin] To put on record; to file.

affile (ə-**fil**), *vb. Archaic.* To file.

affiliate (ə-**fil**-ee-it), *n.* **1.** A corporation that is related to another corporation by shareholdings or other means of control; a subsidiary, parent, or sibling corporation. **2.** *Securities.* One who controls, is controlled by, or is under common control with an issuer of a security. SEC Rule 10b–18(a)(1) (17 CFR § 240.10b–18(a)(1)). See CONTROL PERSON. — **affiliate** (ə-**fil**-ee-ayt), *vb.* — **affiliation** (ə-fil-ee-**ay**-shən), *n.*

affiliated director. See *outside director* under DIRECTOR.

affiliated group. A chain of corporations that can elect to file a consolidated tax return because at least 80% of each corporation is owned by others in the group.

affiliated purchaser. See PURCHASER (1).

affine (ə-**fin**). A relative by marriage.

affinitas (ə-**fin**-ə-tas). [Latin] *Roman law.* Relationship by marriage.

affinitas affinitatis (ə-**fin**-i-tas ə-fin-i-**tay**-tis), *n.* [Latin] *Civil law.* The connection between parties arising from marriage; remote relationship by marriage.

affinity (ə-**fin**-ə-tee). **1.** A close agreement. **2.** The relation that one spouse has to the blood relatives of the other spouse; relationship by marriage. **3.** Any familial relation resulting from a marriage. Cf. CONSANGUINITY.

> "There is no affinity between the blood relatives of one spouse and the blood relatives of the other. A husband is related by affinity to his wife's brother, but not to the wife of his wife's brother. There is no affinity between the husband's brother and the wife's sister; this is called affinitas affinitatis." 2 Charles E. Torcia, *Wharton's Criminal Law* § 242, at 573 (15th ed. 1994).

collateral affinity. The relationship of a spouse's relatives to the other spouse's relatives. • An example is a wife's brother and her husband's sister.

direct affinity. The relationship of a spouse to the other spouse's blood relatives. • An example is a wife and her husband's brother.

quasi-affinity. *Civil law.* The affinity existing between two persons, one of whom has been engaged to a relative of the other.

secondary affinity. The relationship of a spouse to the other spouse's marital relatives. • An example is a wife and her husband's sister-in-law.

affirm, *vb.* **1.** To confirm (a judgment) on appeal. **2.** To solemnly declare rather than swear under oath.

affirmance, *n.* **1.** A ratification, reacceptance, or confirmation.

> "A party who has the power of avoidance may lose it by action that manifests a willingness to go on with the contract. Such action is known as 'affirmance' and has the effect of ratifying the contract. See Restatement of Restitution § 68. The rule stated in this Section is a special application of that stated in § 85, under which a promise to perform a voidable duty is binding. On ratification, the affirming party is bound as from the outset and the other party continues to be bound." *Restatement (Second) of Contracts* § 380 cmt. a (1981).

2. The formal approval by an appellate court of a lower court's judgment, order, or decree. — **affirm,** *vb.*

affirmance day general. See DAY.

affirmant. A person who testifies under affirmation and not under oath.

affirmation, *n.* A pledge equivalent to an oath but without reference to a supreme being or to "swearing." • While an oath is "sworn to," an affirmation is merely "affirmed," but either type of pledge may subject the person making it to the penalties for perjury. — **affirm,** *vb.* — **affirmatory,** *adj.* Cf. OATH.

affirmative, *adj.* **1.** That supports the existence of certain facts <affirmative evidence>. **2.**

overeignty	God oversees and cares about his people—past, present, and future. God's ways of dealing with people are always fair. Because God is in charge of all creation, he can save whomever he wills.	Because of God's mercy, both Jews and Gentiles can be saved. We all must respond to his mercy and accept his gracious offer of forgiveness. Because he is sovereign, let him reign in your heart.
ervice	When our purpose is to give credit to God for his love, power, and perfection in all we do, we can serve him properly. Serving him unifies all believers and enables them to show love and sensitivity to others.	None of us can be fully Christlike by ourselves—it takes the entire body of Christ to fully express Christ. By actively and vigorously building up other believers, Christians can be a symphony of service to God.

A. WHAT TO BELIEVE (1:1—11:36)

Paul begins his message to the Romans by vividly portraying the sinfulness of all mankind, explaining how forgiveness is available through faith in Christ, and showing what believers experience in life through their new faith. In this section, we learn of the centrality of faith to becoming a Christian and to living the Christian life. Apart from faith, we have no hope in life.

1. Sinfulness of mankind

1:1
a 1Co 1:1
b Ac 9:15
c 2Co 11:7
1:2
d Gal 3:8
1:3
e Jn 1:14

1 Paul, a servant of Christ Jesus, called to be an apostle[a] and set apart[b] for the gospel of God[c]— 2the gospel he promised beforehand through his prophets in the Holy Scriptures[d] 3regarding his Son, who as to his human nature[e] was a descendant of David, 4and who through the Spirit[a] of holiness was declared with power to be the Son of God[b] by his resurrection from the dead: Jesus Christ our Lord. 5Through him and for

a 4 Or *who as to his spirit* b 4 Or *was appointed to be the Son of God with power*

1:1 Paul wrote this letter to the church in Rome. Neither he nor the other church leaders, James and Peter, had yet been to Rome. Most likely, the Roman church had been established by believers who had been at Jerusalem for Pentecost (Acts 2:10) and travelers who had heard the Good News in other places and had brought it back to Rome (for example, Priscilla and Aquila, Acts 18:2; Romans 16:3–5). Paul wrote the letter to the Romans during his ministry in Corinth (at the end of his third missionary journey just before returning to Jerusalem; Acts 20:3; Romans 15:25) to encourage the believers and to express his desire to visit them someday (within three years he would). The Roman church had no New Testament because the Gospels were not yet being circulated in their final written form. Thus, this letter may well have been the first piece of Christian literature the Roman believers had seen. Written to both Jewish and Gentile Christians, the letter to the Romans is a systematic presentation of the Christian faith.

1:1 When Paul, a devout Jew who had at first persecuted the Christians, became a believer, God used him to spread the gospel throughout the world. Although it was as a prisoner, Paul did eventually preach in Rome (Acts 28), perhaps even to Caesar himself. Paul's Profile is found in Acts 9.

1:1 Paul humbly calls himself a servant of Jesus Christ and an apostle ("one who is sent"). For a Roman citizen—which Paul was—to choose to be a servant was unthinkable. But Paul chose to be completely dependent on and obedient to his beloved Master. What is your attitude toward Christ, your Master? Our willingness to serve and obey Jesus Christ enables us to be useful and usable servants to do work for him—work that really matters.

1:2 Some of the prophecies predicting the Good News regarding Jesus Christ are Genesis 12:3; Psalms 16:10; 40:6–10; 118:22; Isaiah 11:1ff; Zechariah 9:9–11; 12:10; Malachi 4:1–6.

1:3, 4 Paul states that Jesus is the Son of God, the promised Messiah, and the resurrected Lord. Paul calls Jesus a descendant of King David to emphasize that Jesus truly had fulfilled the Old Testament Scriptures predicting that the Messiah would come from David's line. With this statement of faith, Paul declares his agreement with the teaching of all Scripture and of the apostles.

1:3-5 Here Paul summarizes the Good News about Jesus Christ, who (1) came as a human by natural descent, (2) was part of the Jewish royal line through David, (3) died and was raised from the dead, and (4) opened the door for God's grace and kindness to be poured out on us. The book of Romans is an expansion of these themes.

1:5, 6 Christians have both privilege and a great responsibility. Paul and the apostles received forgiveness ("grace") as an undeserved privilege. But they also received the responsibility to share the message of God's forgiveness with others. God also graciously forgives our sins when we believe in him

his name's sake, we received grace and apostleship to call people from among all the Gentiles[f] to the obedience that comes from faith.[g] 6And you also are among those who are called to belong to Jesus Christ.[h]

7To all in Rome who are loved by God[i] and called to be saints:

Grace and peace to you from God our Father and from the Lord Jesus Christ.[j]

Paul's Longing to Visit Rome

8First, I thank my God through Jesus Christ for all of you,[k] because your faith is being reported all over the world.[l] 9God, whom I serve[m] with my whole heart in preaching the gospel of his Son, is my witness[n] how constantly I remember you 10in my prayers at all times; and I pray that now at last by God's will the way may be opened for me to come to you.[o]

11I long to see you[p] so that I may impart to you some spiritual gift to make you strong— 12that is, that you and I may be mutually encouraged

1:5 [f]Ac 9:15 [g]Ac 6:7
1:6 [h]Rev 17:14
1:7 [i]Ro 8:39 [j]1Co 1:3
1:8 [k]1Co 1:4 [l]Ro 16:19
1:9 [m]2Ti 1:3 [n]Php 1:8
1:10 [o]Ro 15:32
1:11 [p]Ro 15:23

as Lord. In doing this, we are committing ourselves to begin a new life. Paul's new life also involved a God-given responsibility—to witness about God's Good News to the world as a missionary. God may or may not call you to be an overseas missionary, but he does call you (and all believers) to witness to and be an example of the changed life that Jesus Christ has begun in you.

1:6, 7 Paul says that those who become Christians are invited by Jesus Christ to (1) become part of God's family, and (2) be holy people ("to be saints," set apart, dedicated for his service). What a wonderful expression of what it means to be a Christian! In being reborn into God's family we have the greatest experience of love and the greatest inheritance. Because of all that God has done for us, we strive to be his holy people.

1:6–12 Paul showed his love for the Roman Christians by expressing God's love for them and his own gratitude and prayers for them. To have an effect on people's lives, you first need to love them and believe in them. Paul's passion to teach these people began with his love for them. Thank God for your Christian brothers and sisters, and let them know how deeply you care for them.

1:7 Rome was the capital of the Roman empire that had spread over most of Europe, North Africa, and the Near East. In New Testament times, Rome was experiencing a golden age. The city was wealthy, literary, and artistic. It was a cultural center, but it was also morally decadent. The Romans worshiped many pagan gods, and even some of the emperors were worshiped. In stark contrast to the Romans, the followers of Christ believed in only one God and lived by his high moral standards.

1:7 Christianity was at odds with the Romans' dependence on military strength. Many Romans were naively pragmatic, believing that any means to accomplish the intended task was good. And for them, nothing worked better than physical might. The Romans trusted in their strong military power to protect them against all enemies. Christians in every age need to be reminded that God is the only permanent source of our security and salvation, and at the same time he is "our Father"!

1:8 Paul uses the phrase "I thank my God through Jesus Christ" to emphasize the point that Christ is the one and only mediator between God and humans. Through Christ, God sends his love and forgiveness to us; through Christ, we send our thanks to God (see 1 Timothy 2:5).

1:8 The Roman Christians, at the Western world's political power center, were highly visible. Fortunately, their reputation was excellent; their strong faith was making itself known around the world. When people talk about your congregation or your denomination, what do they say? Are their comments accurate? Would you rather they noticed other features? What is the best way to get the public to recognize your faith?

1:9, 10 When you pray continually about a concern, don't be surprised at how God answers. Paul prayed to visit Rome so he could teach the Christians there. When he finally arrived in Rome, it was as a prisoner (see Acts 28:16). Paul prayed for a safe trip, and he did arrive safely—after getting arrested, slapped in the face, shipwrecked, and bitten by a poisonous snake. God's ways of answering our prayers are often far from what we expect. When you sincerely pray, God will answer—although sometimes with timing and in ways you do not expect.

1:11, 12 Paul prayed for the chance to visit these Christians so that he could encourage them with his gift of faith and be encouraged by theirs. As God's missionary, he could help them understand the meaning of the Good News about Jesus. As God's devoted people, they could offer him fellowship and comfort. When Christians gather, everyone should give *and* receive. Our mutual faith gives us a common language and a common purpose for encouraging one another.

1:13 [q]Ro 15:22,23
1:14 [r]1Co 9:16
1:15 [s]Ro 15:20
1:16 [t]2Ti 1:8 [u]1Co 1:18

THE GOSPEL GOES TO ROME

When Paul wrote his letter to the church in Rome, he had not yet been there, but he had taken the gospel "from Jerusalem all the way around to Illyricum" (15:19). He planned to visit and preach in Rome one day, and hoped to continue to take the gospel farther west—even to Spain.

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the salvation of everyone who believes: first for the Jew,[v] then for the Gentile.[w] 17For in the gospel a righteousness from God is revealed,[x] a righteousness that is by faith from first to last,[c] just as it is written: "The righteous will live by faith."[d][y]

God's Wrath Against Mankind

18The wrath of God[z] is being revealed from heaven against all the godlessness and wickedness of men who suppress the truth by their wickedness, 19since what may be known about God is plain to them, because God has made it plain to them.[a] 20For since the creation of

1:16 [v]Ac 3:26 [w]Ro 2:9,10
1:17 [x]Ro 3:21 [y]Hab 2:4; Gal 3:11; Heb 10:38
1:18 [z]Eph 5:6; Col 3:6
1:19 [a]Ac 14:17

c 17 Or *is from faith to faith* d 17 Hab. 2:4

often they would have to be disciplined; but still they had a precious heritage of belief in the one true God. Of all the people on earth, the Jews should have been the most ready to welcome the Messiah and to understand his mission and message—and some of them were (see Luke 2:25, 36–38). Of course, the disciples and the great apostle Paul were faithful Jews who recognized in Jesus God's most precious gift to the human race.

1:16 Jews and Christians alike stood against the idolatrous Roman religions, and Roman officials often confused the two groups. This was especially easy to do since the Christian church in Rome could have been originally composed of Jewish converts who had attended the Feast of Pentecost (see Acts 2:1ff). By the time Paul wrote this letter to the Romans, however, many Gentiles had joined the church. The Jews and the Gentiles needed to know the relationship between Judaism and Christianity.

1:17 The gospel shows us both how righteous God is in his plan for us to be saved, and also how we may be made fit for eternal life. By trusting Christ, our relationship with God is made right. "From first to last" God declares us to be righteous because of faith and faith alone.

1:17 Paul is quoting Habakkuk 2:4. Habakkuk may have understood "will live" to mean this present life only. But Paul extends this statement to include eternal life. As we trust God, we are saved; we find life both now and forever.

1:18 Why is God angry at sinful people? Because they have substituted the truth about him with a fantasy of their own imagination (1:25). They have stifled the truth God naturally reveals to all people in order to believe anything that supports their own self-centered life-styles. God cannot tolerate sin because his nature is morally perfect. He cannot ignore or condone such willful rebellion. God wants to remove the sin and restore the sinner—and he is able to, as long as the sinner does not stubbornly distort or reject the truth. But his anger erupts against those who persist in sinning. Make sure you are not pursuing a fantasy rather than the true God. Don't suppress the truth about him merely to protect your own life-style.

1:18ff Romans 1:18—3:20 develops Paul's argument that no one can claim by their own efforts or merit to be good in God's sight—not the masses, not the Romans, not even the Jews. All people everywhere deserve God's condemnation for their sin.

1:18–20 Does anyone have an excuse for not believing in God? The Bible answers an emphatic *no*. God has revealed what he is like in and through his creation. Every person, therefore, either accepts or rejects God. Don't be fooled. When the day comes for God to judge your response to him, no excuses will be accepted. Begin today to give your devotion and worship to him.

1:18–20 In these verses, Paul answers a common objection: How could a loving God send anyone to hell, especially someone who has never heard about Christ? In fact, says Paul, God has revealed himself plainly in the creation to *all* people. And yet people reject even this basic knowledge of God. Also, everyone has an inner sense of what God requires, but they choose not to live up to it. Put another way, people's moral standards are always better than their behavior. If people suppress God's truth in order to live their own way, they have no excuse. They know the truth, and they will have to endure the consequences of ignoring it.

1:18–20 Some people wonder why we need missionaries if people can know about God through nature (the creation). The answer: (1) Although people know that God exists, they suppress that truth by their wickedness and thus refuse a relationship with him. Missionaries sensitively expose their error and point them to a new beginning. (2) Although people may believe there is a God, they refuse to commit themselves to him. Missionaries help persuade them, both through loving words and caring actions. (3) Missionaries convince people who reject God of the dangerous consequences of their actions. (4) Missionaries help the church obey the Great Commission of our Lord (Matthew 28:19, 20). (5) Most important, though nature reveals God, people need to be told about Jesus and how, through him, they can have a personal relationship with God.

Knowing that God exists is not enough. People must learn that God is loving. They must understand what he did to demonstrate his love for us (5:8). They must be shown how to accept God's forgiveness of their sins. (See also 10:14, 15.)

1:20 What kind of God does nature reveal? Nature shows us a God of might, intelligence, and intricate detail; a God of order and beauty; a God who controls powerful forces. That is *general* revelation.

the world God's invisible qualities—his eternal power and divine nature—have been clearly seen, being understood from what has been made,[b] so that men are without excuse.

1:20 [b] Ps 19:1-6

21 For although they knew God, they neither glorified him as God nor gave thanks to him, but their thinking became futile and their foolish hearts were darkened.[c] 22 Although they claimed to be wise, they became fools[d] 23 and exchanged the glory of the immortal God for

1:21 [c] Jer 2:5; Eph 4:17,18

1:22 [d] 1Co 1:20,27

FAITH

Faith is a word with many meanings. It can mean faithfulness (Matthew 24:45). It can mean absolute trust, as shown by some of the people who came to Jesus for healing (Luke 7:2–10). It can mean confident hope (Hebrews 11:1). Or, as James points out, it can even mean a barren belief that does not result in good deeds (James 2:14–26). What does Paul mean when, in Romans, he speaks of saving faith?

We must be very careful to understand faith as Paul uses the word, because he ties faith so closely to salvation. It is *not* something we must do in order to earn salvation—if that were true, then faith would be just one more deed, and Paul clearly states that human deeds can never save us (Galatians 2:16). Instead, faith is a gift God gives us *because* he is saving us (Ephesians 2:8). It is God's grace, not our faith, that saves us. In his mercy, however, when he saves us he gives us faith—a relationship with his Son that helps us become like him. Through the faith he gives us, he carries us from death into life (John 5:24).

Even in Old Testament times, grace, not deeds, was the basis of salvation. As Hebrews points out, "it is impossible for the blood of bulls and goats to take away sins" (10:4). God intended for his people to look beyond the animal sacrifices to him, but all too often they, instead, put their confidence in fulfilling the requirements of the law—that is, performing the required sacrifices. When Jesus triumphed over death, he cancelled the charges against us and opened the way to the Father (Colossians 2:12–15). Because he is merciful, he offers us faith. How tragic if we turn faith into a deed and try to develop it on our own! We can never come to God through our own faith, any more than his Old Testament people could come through their own sacrifices. Instead, we must accept his gracious offer with thanksgiving and allow him to plant the seed of faith within us.

Through *special* revelation (the Bible and the coming of Jesus), we learn about God's love and forgiveness, and the promise of eternal life. God has graciously given us both sources that we might fully believe in him.

1:20 God reveals his divine nature and personal qualities through creation; even though creation's testimony has been distorted by the fall. Adam's sin resulted in a divine curse upon the whole natural order (Genesis 3:17–19); thorns and thistles were an immediate result, and natural disasters have been common from Adam's day to ours. In Romans 8:19–21, Paul says that nature itself is eagerly awaiting its own redemption from the effects of sin (see Revelation 22:3).

1:21–23 How could intelligent people turn to idolatry? Idolatry begins when people reject what they know about God. Instead of looking to him as the Creator and sustainer of life, they see themselves as the center of the universe. They soon invent "gods" that are convenient projections of their own selfish plans and decrees. These gods may be wooden figures, but they may also be goals or things we pursue such as money, power, or comfort. They may even be misrepresentations of God himself—making God in our image, instead of the reverse. The common denominator is this—idolaters worship the things God made rather than God himself. Is there anything you feel you can't live without? Is there any priority greater than God? Do you have a dream you would sacrifice everything to realize? Does God take first place? Do you worship God or idols of your own making?

1:21–32 Paul clearly portrays the inevitable downward spiral into sin. First, people reject God; next, they make up their own ideas of what a god should be and do; then they fall into sin—sexual sin, greed, hatred, envy, murder, strife, deceit, malice, gossip. Finally, they grow to hate God and encourage others to do so. God does not cause this steady progression toward evil. Rather, when people reject him, he allows them to live as they choose. God gives them over or permits them to experience the natural consequences of their sin. Once caught in the downward spiral, no one can pull himself or herself out. Sinners must trust Christ alone to put them on the path of escape.

1:23 When Paul says that men exchanged the glory of the immortal God for images of birds, animals, and reptiles, he seems to deliberately state man's wickedness in the terms used in the Genesis narrative of Adam's fall (see Genesis 1:20–26). When we worship the creature instead of the Creator, we lose sight of our own identity as those who are higher than the animals—made in the image of God.

images[e] made to look like mortal man and birds and animals and reptiles.

[24]Therefore God gave them over[f] in the sinful desires of their hearts to sexual impurity for the degrading of their bodies with one another.[g] [25]They exchanged the truth of God for a lie,[h] and worshiped and served created things[i] rather than the Creator—who is forever praised.[j] Amen.

[26]Because of this, God gave them over[k] to shameful lusts.[l] Even their women exchanged natural relations for unnatural ones.[m] [27]In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed indecent acts with other men, and received in themselves the due penalty for their perversion.[n]

[28]Furthermore, since they did not think it worthwhile to retain the knowledge of God, he gave them over[o] to a depraved mind, to do what ought not to be done. [29]They have become filled with every kind of wickedness, evil, greed and depravity. They are full of envy, murder, strife, deceit and malice. They are gossips,[p] [30]slanderers, God-haters, insolent, arrogant and boastful; they invent ways of doing evil; they disobey their parents;[q] [31]they are senseless, faithless, heartless,[r] ruthless. [32]Although they know God's righteous decree that those who do such

1:23 *e*Ps 106:20; Jer 2:11; Ac 17:29
1:24 *f*Eph 4:19 *g*1Pe 4:3
1:25 *h*Isa 44:20 *i*Jer 10:14 *j*Ro 9:5
1:26 *k*ver 24,28 *l*1Th 4:5 *m*Lev 18:22,23
1:27 *n*Lev 18:22; 20:13
1:28 *o*ver 24,26
1:29 *p*2Co 12:20
1:30 *q*2Ti 3:2
1:31 *r*2Ti 3:3

1:24-32 These people chose to reject God, and God allowed them to do it. God does not usually stop us from making choices that are against his will. He lets us declare our supposed independence from him, even though he knows that in time we will become slaves to our own rebellious choices—we will lose our freedom not to sin. Does life without God look like freedom to you? Look more closely. There is no worse slavery than slavery to sin.

1:25 People tend to believe lies that reinforce their own selfish, personal beliefs. Today, more than ever, we need to be careful about the input we allow to form our beliefs. With TV, music, movies, and the rest of the media often presenting sinful life-styles and unwholesome values, we find ourselves constantly bombarded by attitudes and beliefs that are totally opposed to the Bible. Be careful about what you allow to form your opinions. The Bible is the only standard of truth. Evaluate all other opinions in light of its teachings.

1:26, 27 God's plan for natural sexual relationships is his ideal for his creation. Unfortunately, sin distorts the natural use of God's gifts. Sin often means not only denying God, but also denying the way we are made. When people say that any sex act is acceptable as long as nobody gets hurt, they are fooling themselves. In the long run (and often in the short run), sin hurts people—individuals, families, whole societies. How sad it is that people who worship the things God made instead of the Creator so often distort and destroy the very things they claim to value!

1:26, 27 Homosexuality (to exchange or abandon natural relations of sex) was as widespread in Paul's day as it is in ours. Many pagan practices encouraged it. God is willing to receive anyone who comes to him in faith, and Christians should love and accept others no matter what their background. Yet, homosexuality is strictly forbidden in Scripture (Leviticus 18:22). Homosexuality is considered an acceptable practice by many in our world today—even by some churches. But society does not set the standard for God's law. Many homosexuals believe that their desires are normal and that they have a right to express them. But God does not obligate nor encourage us to fulfill all our desires (even normal ones). Those desires that violate his laws must be controlled.

If you have these desires, you can and must resist acting upon them. Consciously avoid places or activities you know will kindle temptations of this kind. Don't underestimate the power of Satan to tempt you, nor the potential for serious harm if you yield to these temptations. Remember, God can and will forgive sexual sins just as he forgives other sins. Surrender yourself to the grace and mercy of God, asking him to show you the way out of sin and into the light of his freedom and his love. Prayer, Bible study, and strong support in a Christian church can help you to gain strength to resist these powerful temptations. If you are already deeply involved in homosexual behavior, seek help from a trustworthy, professional, pastoral counselor.

1:32 How were these people aware of God's death penalty? Human beings, created in God's image, have a basic moral nature and a conscience. This truth is understood beyond religious circles. Psychologists, for example, say that the rare person who has no conscience has a serious personality disorder that is extremely difficult to treat. Most people instinctively know when they do wrong—but they may not care. Some people will even risk an

1:32 *s*Ro 6:23 *t*Ps 50:18; Lk 11:48; Ac 8:1; 22:
2:1 *u*Ro 1:20
*v*2Sa 12:5; Mt 7:1,2
2:4 *w*Ro 9:23; Eph 1:7,18
2:7 *x*Ro 11:22 *y*Ro 3:25 *z*Ex 34:6 *a*2Pe 3:9
2:5 *b*Jude 6
2:6 *c*Ps 62:12 Mt 16:27
2:7 *d*ver 10 *e*1Co 15:

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1:32 sRo 6:23 tPs 50:18; Lk 11:48; Ac 8:1; 22:20

things deserve death,[s] they not only continue to do these very things but also approve[t] of those who practice them.

God's Righteous Judgment

2:1 uRo 1:20

v2Sa 12:5-7; Mt 7:1,2

2 You, therefore, have no excuse,[u] you who pass judgment on someone else, for at whatever point you judge the other, you are condemning yourself, because you who pass judgment do the same things.[v] 2Now we know that God's judgment against those who do such things is based on truth. 3So when you, a mere man, pass judgment on them and yet do the same things, do you think you will escape God's judgment? 4Or do you show contempt for the riches[w] of his kindness,[x] tolerance[y] and patience,[z] not realizing that God's kindness leads you toward repentance?[a]

2:4 wRo 9:23; Eph 1:7,18; 2:7 xRo 11:22 yRo 3:25 zEx 34:6 a2Pe 3:9

5But because of your stubbornness and your unrepentant heart, you are storing up wrath against yourself for the day of God's wrath, when his righteous judgment[b] will be revealed. 6God "will give to each person according to what he has done."[ec] 7To those who by persistence in doing good seek glory, honor[d] and immortality,[e] he will give eternal life. 8But for those who are self-seeking and who reject the truth and follow

2:5 bJude 6

2:6 cPs 62:12; Mt 16:27

2:7 dver 10 e1Co 15:53,54

e6 Psalm 62:12; Prov. 24:12

SALVATION'S FREEWAY

Romans 3:23 ..... Everyone has sinned.
Romans 6:23 ..... The penalty for our sin is death.
Romans 5:8 ..... Jesus Christ died for sin.
Romans 10:8–10 .. To be forgiven for our sin, we must believe and confess that Jesus is Lord. Salvation comes through Jesus Christ.

early death for the freedom to indulge their desires now. "I know it's wrong, but I really want it," they say; or, "I know it's dangerous, but it's worth the risk." For such people, part of the "fun" is going against God's law, the community's moral standards, common sense, or their own sense of right and wrong. But deep down inside they know that sin deserves the punishment of death (6:23).

2:1 Whenever we find ourselves feeling justifiably angry about someone's sin, we should be careful. We need to speak out against sin, but we must do so in a spirit of humility. Often the sins we notice most clearly in others are the ones that have taken root in us. If we look closely at ourselves, we may find that we are committing the same sins in more socially acceptable forms. For example, a person who gossips may be very critical of others who gossip about him or her.

2:1ff When Paul's letter was read in the Roman church, no doubt many heads nodded as he condemned idol worshipers, homosexual practices, and violent people. But what surprise his listeners must have felt when he turned on them and said in effect, "You have no excuse. You are just as bad!" Paul was emphatically stressing that *nobody* is good enough to save himself or herself. If we want to avoid punishment and live eternally with Christ, all of us, whether we have been murderers and molesters or whether we have been honest, hard-working, solid citizens, must depend totally on God's grace. Paul is not discussing whether some sins are worse than others. Any sin is enough to lead us to depend on Jesus Christ for salvation and eternal life. We have all sinned repeatedly, and there is no way apart from Christ to be saved from sin's consequences.

2:4 In his kindness, God holds back his judgment, giving people time to repent. It is easy to mistake God's patience for approval of the wrong way we are living. Self-evaluation is difficult, and it is even more difficult to expose our conduct to God and let him tell us where we need to change. But as Christians we must pray constantly that God will point out our sins, so that he can heal them. Unfortunately, we are more likely to be amazed at God's patience with others than humbled at his patience with us.

2:5–11 Although God does not usually punish us immediately for sin, his eventual judgment is certain. We don't know exactly when it will happen, but we know that no one will escape that final encounter with the Creator. For more on judgment, see John 12:48 and Revelation 20:11–15.

2:7 Paul says that those who patiently and persistently *do* God's will find eternal life. He is not contradicting his previous statement that salvation comes by faith alone (1:16, 17). We are not saved by good deeds, but when we commit our lives fully to God, we want to please him and do his will. As such, our good deeds are a grateful *response* to what God has done, not a prerequisite to earning his grace.

THE COURT: IS THE DEFENDANT READY?

MS. JOHNS: YES, YOUR HONOR.

THE COURT: GOOD. BRING THE JURY IN, PLEASE.

(JURY TO COURTROOM)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: LET THE RECORD REFLECT THAT ALL OF THE JURORS ARE PRESENT.

GOOD MORNING, LADIES AND GENTLEMEN. MADAM FORELADY, LADIES AND GENTLEMEN, ONE OF THE BAILIFFS ASKED ME YESTERDAY AFTER WE HAD RECESSED THAT ONE OF THE JURORS HAS INQUIRED WHETHER OR NOT YOU COULD TAKE NOTES. NORMALLY I DO NOT PERMIT YOU TO TAKE NOTES BECAUSE IF A JUROR WOULD INADVERTENTLY TAKE A MATTER DOWN ERRONEOUSLY, NO MATTER HOW WELL INTENTIONED AND TAKE IT BACK TO THE JURY ROOM, THE OTHER JURORS MIGHT RELY ON THAT, AND YOU WOULD BE HAVING INFORMATION THAT WAS NOT CORRECT. IN OUR STATE OF ADVANCED TECHNOLOGY WE HAVE THE ABILITY TO REPLAY TO YOU THE PORTION OF ANY WITNESS' TESTIMONY IN ITS ENTIRETY, PART OF IT, WHATEVER, AFTER YOU BEGIN YOUR DELIBERATIONS IF YOU FEEL YOU MAY NEED TO HEAR THE TESTIMONY AGAIN WE CERTAINLY HAVE THAT CAPABILITY. THANK YOU, VERY MUCH.

ALL RIGHT, SOLICITOR.

MS. HAYNES: THE STATE CALLS JAMES COKER.

THEREUPON:

JAMES COKER, HAVING BEEN FIRST DULY SWORN BY THE COURT, TESTIFIED AS FOLLOWS:

THE COURT: JAMES COKER? C-O-K-E-R?

DIRECT EXAMINATION

BY MS. HAYNES

Q. MR. COKER, WHERE ARE YOU EMPLOYED?

A. AT PRESENT?

Q. YES.

A. WITH CLARENDON COUNTY EMS.

Q. HOW LONG HAVE YOU BEEN WITH CLARENDON COUNTY EMS?

A. ABOUT NINE MONTHS.

Q. NINE MONTHS. PRIOR TO THAT WHERE WERE YOU EMPLOYED?

A. RICHLAND COUNTY EMS.

Q. HOW LONG WERE YOU THERE?

A. FOUR AND A HALF YEARS.

Q. AND WHAT WERE YOUR DUTIES THERE AT RICHLAND COUNTY EMS?

A. I WAS PARAMEDIC CREW CHIEF OVER A UNIT.

Q. AND WHAT DOES THAT MEAN?

A. I'M RESPONSIBLE FOR WHAT WE CALL THE SECOND MAN, AND THE OPERATION AND DUTIES, HIS DUTIES --- MAKE SURE HE DOES EVERYTHING, MAKE SURE THE UNIT HAS EVERYTHING, AND IT IS PROPERLY OPERATED.

Q. AND WERE YOU IN THAT CAPACITY BACK ON SEPTEMBER 26, 1996?

A. YES, I WAS.
Q. AND DO YOU RECALL WHO WAS RIDING WITH YOU THEN?
A. JAMES MIXON.
Q. IS HE STILL AT RICHLAND COUNTY EMS?
A. NO, HE MOVED OUT OF STATE. I BELIEVE MONTANA OR ---
Q. AND DO YOU RECALL ANYTHING UNUSUAL, OR ANY TYPE CALL THAT YOU RECEIVED ON THE MORNING OF SEPTEMBER 26, 1996?
A. YES, MA'AM. IT WAS IN THE MORNING.
Q. WHAT KIND OF CALL DID YOU RECEIVE?
A. WHAT WE CALL A SIGNAL 16, WHICH IS A BURN.
Q. AND WHERE WERE YOU WHEN YOU RECEIVED THAT CALL?
A. WE WERE LEAVING HEADQUARTERS RIGHT THERE AT [redacted] STREET --- WE WERE LEAVING OUT OF THE END OF HEADQUARTERS GOING TOWARDS [redacted] STREET AND WERE TURNING TO THE RIGHT GOING DOWN TOWARDS FIVE POINTS.
Q. AND AS A RESULT OF RECEIVING THIS CALL, WHERE DID YOU GO?
A. WE DIDN'T RECEIVE THE CALL THROUGH THE USUAL CHANNELS. WE HAD SOMEONE BLOW THE HORN AS WE PULLED UP TOWARDS THE FIRST LIGHT THERE, AND WE ROLLED THE WINDOW DOWN, AND THEY TOLD US THAT A CAR WAS ON FIRE ABOUT A BLOCK UP, AND I NOTIFIED DISPATCH, CENTRAL DISPATCH BY OUR RADIO TO TELL THEM THAT WE HAD A, WHAT WE CALL A 1070, A FIRE, AND THAT THE PERSON HAD ALSO TOLD ME, THAT STOPPED ME, THAT THERE WAS SOMEONE IN THE CAR. SO, WE

RESPONDED ALSO.

Q. AND SO, WHEN YOU RECEIVED THIS CALL YOU WERE AT THE INTERSECTION OF [redacted] AND GERVAIS AT THAT LIGHT?

A. YES, MA' AM.

Q. AND YOU SAID IT WAS ONLY LIKE A BLOCK UP FROM WHERE YOU HAD TO GO?

A. YES, MA' AM.

Q. SO, YOU GOT THERE RATHER QUICKLY?

A. YES, MA' AM. FROM OUR RECORDS IT ONLY TOOK US ABOUT A MINUTE.

Q. AND WHAT DID YOU FIND WHEN YOU GOT THERE?

A. WHEN WE PULLED UP ON THE SCENE, WE FOUND A 41 YEAR OLD MALE BEING WALKED BACK DOWN THE SIDEWALK TOWARDS FIVE POINTS BY A LADY.

Q. AND WHAT DID YOU DO WHEN YOU GOT THERE?

A. WE WENT AHEAD AND TOOK ALL OF OUR EQUIPMENT OFF, WENT TOWARDS HIM. WE GRABBED HIM, SAT HIM DOWN ON THE STRETCHER AND STARTED INITIAL TREATMENT WITH BURN SHEETS.

Q. WHAT IS A BURN SHEET?

A. A BURN SHEET IS A STERILE FIELD THAT YOU WRAP AROUND THE PERSON IF THEY HAVE A LARGE BURNED AREA, AND IT' S SUPPOSED TO HELP KEEP ANY ORGANISMS OUT THAT COULD CAUSE AN INFECTION.

Q. IF THE SKIN IS GONE?

A. YES, MA' AM.

Q. AND HOW BADLY WAS MR. TYLER BURNED?
A. GOING BY MY RECORDS FROM THAT DAY, HE HAD --- GIVE ME JUST A SECOND --- WE HAD WHAT WE CALL 54 PERCENT SECOND AND THIRD DEGREE BURNS TO THE FACE, FRONT TORSO, BOTH ARMS AND HALF OF HIS BACK.
Q. AND YOU SAY SECOND AND THIRD DEGREE BURNS. HOW ARE BURNS CLASSIFIED?
A. A FIRST DEGREE BURN IS MORE JUST A REDNESS. A SECOND DEGREE BURN IS BLISTERS, AND A THIRD DEGREE IS WHAT WE CALLED CHARRED. THAT'S WHEN THE BLISTERS BUST AND YOU CAN ACTUALLY SEE THE BLACKNESS.
Q. AND SO, THIRD DEGREE IS MORE SEVERE?
A. YES, MA'AM.
Q. AND AFTER YOU PUT THE BURN SHEET ON HIM AND PUT HIM ON THE STRETCHER, DID YOU THEN TRANSPORT HIM TO RICHLAND MEMORIAL?
A. WE SAT ON THE SCENE JUST A FEW MINUTES TO TRY TO INITIATE SOME IV LINES, AND MY SUPERVISOR ALSO ARRIVED ON THE SCENE, AND HE AIDED IN THE TREATMENT OF MR. TYLER, BUT WE WERE UNABLE TO ESTABLISH IV LINES DUE TO THE SKIN, THE BADLY BURNED SKIN THERE.
Q. AND SO, WHAT DID YOU DO SINCE YOU WEREN'T ABLE TO ESTABLISH AN IV LINE?
A. THE ONLY THING THAT WE WERE ABLE TO DO, WE PUT HIM ON THE LIFE PACK TENT, A HEART MONITOR. WE ADMINISTERED

HIGH FLOW OXYGEN FOR POSSIBLE INHALATION BURNS. WE ATTEMPTED THE IV ACCESS, WHICH AS I STATED WE COULDN'T GET, AND WE ALSO DID WHAT WE CALL A PULSE OX, WHICH IS THE OXYGEN CONCENTRATION IN THE BLOOD TO MAKE SURE THAT THEY'RE EXCHANGING AIR ADEQUATELY IN THE LUNGS.

Q. YOU MADE MENTION OF AN INHALATION BURN. WHAT EXACTLY DOES THAT MEAN?

A. IT'S JUST LIKE, IF SOMEBODY THROWS COLD WATER ON YOU, THE --- WHAT WE LOOK FOR THE MOST IN EMS IN ANY FIRE IS INHALATION BURNS, SUPER HEATED AIR THAT YOU INHALE. WHAT YOU HAVE TO DO THEN IS YOU REALLY TRY TO INTUBATE THEM AS QUICKLY AS YOU CAN, BECAUSE THEY WILL, THEY'LL GET LARYNGOLODEMA --- THEIR THROAT WILL ACTUALLY CLOSE UP AND IF YOU DON'T GET THAT TUBE QUICKLY, YOU WON'T GET IT.

Q. IS THAT CAUSED BY GASPING, WHEN THAT HAPPENS TO YOU?

A. YES, MA'AM.

Q. AND DID YOU ACTUALLY TRANSPORT HIM TO RICHLAND MEMORIAL?

A. YES, MA'AM.

Q. DID YOU RIDE IN THE TRUCK WITH HIM OR WERE YOU DRIVING?

A. I WAS IN THE BACK WITH MY SUPERVISOR AND JAMES MIXON DROVE.

Q. AND WHICH HOSPITAL DID YOU TAKE HIM TO?

A. WE TOOK HIM TO RICHLAND MEMORIAL.

Q. AND CAN YOU TELL ME WHAT IF ANYTHING OCCURRED WHILE YOU WERE AT RICHLAND MEMORIAL AS FAR AS --- DID YOU CONTINUE TO BE THERE WITH THE VICTIM?

A. WE HAD CALLED AHEAD, WHICH IS NORMAL PROCEDURE IN ANY EMS --- YOU CALL AHEAD AND LET THEM KNOW WHAT YOU HAVE, AND I'M SURE THEY HAD THE TRAUMA TEAM ALREADY ASSIGNED TO WHAT WE CALL THE TRAUMA ROOM, AND WE MOVED HIM OVER AND JUST AS WE WERE MOVING HIM OVER --- I HADN'T TALKED TO HIM THE WHOLE TIME, BUT HE WAS AWARE OF HIS SURROUNDINGS AND KNEW WHAT WAS GOING ON, AND WHENEVER WE WENT TO MOVE HIM OVER, I ASKED HIM A QUESTION. I SAID "HOW DID THE FIRE START?"

MS. BELL: OBJECTION. THAT IS HEARSAY, YOUR HONOR.

MS. HAYNES: YOUR HONOR, I BELIEVE THIS IS AN EXCEPTION TO THE HEARSAY RULE UNDER PRESENT SENSE IMPRESSION AND/OR EXCITED UTTERANCE --- BOTH OF THOSE ARE UNDER RES GESTAE.

THE COURT: SOLICITOR, I MEAN MS. BELL.

MS. BELL: YOUR HONOR, I DON'T KNOW IF IT WOULD BE EXCITED UTTERANCE IF IT WAS IN RESPONSE TO A QUESTION.

THE COURT: ALL RIGHT. I FIND THAT IT IS AN EXCEPTION. I OVERRULE THE OBJECTION.

MS. HAYNES: THANK YOU, YOUR HONOR.

<u>BY MS. HAYNES</u>

Q. YOU ASKED HIM WHAT HAPPENED?

A. WHEN WE WENT TO MOVE HIM OVER FROM MY STRETCHER OVER TO THE TRAUMA BED, I ASKED AND I HAVE THE PAPER THAT I SENT TO INVESTIGATOR WARD --- "HOW DID THE FIRE START?"

Q. WHAT DID HE SAY?

A. HE TOLD, HE SAID "SHE DID IT." I THEN ASKED "HOW?", AND HIS EXACT WORDS WERE, "SHE THREW GAS ON ME AND SET ME ON FIRE."

Q. THAT'S WHAT VAN TYLER TOLD YOU AS YOU WERE PUTTING HIM INTO THE TRAUMA ROOM?

A. YES, MA'AM. WHEN WE WERE MOVING HIM OVER TO THE TRAUMA BED.

Q. LET ME SHOW YOU THESE THREE PHOTOGRAPHS NOW. DO YOU RECOGNIZE THESE, SIR?

A. YES, I DO.

Q. ALL THREE?

A. YES, MA'AM.

Q. AND DO THOSE APPEAR --- AND WHAT DO THOSE APPEAR TO YOU TO BE?

A. IT APPEARS TO BE SECOND AND THIRD DEGREE BURNS TO MR. TYLER.

Q. AND IS THAT THE CONDITION IN WHICH HE WAS IN --- THAT YOU FOUND HIM WHEN YOU RESPONDED TO THE SCENE?

A. YES, MA'AM.

MS. HAYNES: I'D LIKE TO MARK THESE FOR ID AT THIS TIME, YOUR HONOR.

MS. BELL: FOR WHAT PURPOSE, YOUR HONOR? MAY WE APPROACH?

THE COURT: YES.

(A BENCH CONFERENCE TAKES PLACE AT THIS TIME OUTSIDE THE HEARING OF THE JURY.)

THE COURT: OKAY. MARK THEM STATE'S EXHIBITS, THE NEXT APPROPRIATE EXHIBITS FOR ID ONLY.

MS. HAYNES: THANK YOU, YOUR HONOR.

(STATE'S EXHIBIT NUMBERS 21, 22, AND 23 FOR I.D.)

THE COURT: WHAT NUMBERS WOULD THOSE BE, MADAM COURT REPORTER.

COURT REPORTER: TWENTY-ONE, TWENTY-TWO AND TWENTY-THREE.

THE COURT: TWENTY-ONE, TWENTY-TWO AND TWENTY-THREE?

COURT REPORTER: YES, SIR.

THE COURT: THANK YOU. NEXT QUESTION.

BY MS. HAYNES

Q. AND THIS MEMO THAT YOU WERE SAYING YOU GAVE TO INVESTIGATOR WARD, IS THAT BASICALLY THE STATEMENT YOU GAVE YOUR SUPERVISOR?

A. YES, MA'AM.

Q. AND DO YOU KNOW THE DATE OF THAT STATEMENT YOU GAVE HIM?

A. THE DATE WAS OCTOBER 1 OF '96.

Q. AND IS THAT BASICALLY SOMETHING YOU JUST HAVE TO DO

IN YOUR JOB WHEN YOU HAPPEN UPON A SCENE LIKE THIS?
A. IF WE THINK THAT THEY' RE --- WHAT THIS DOES IS HELPS US RECALL EXACTLY WHAT HAPPENED. IT' S JUST AN ADMINISTRATIVE MEMO TO PUT IN OUR FILE AND THAT WAY --- I WAS TOLD TO DO IT AND, ALSO, I THOUGHT IT WAS A GOOD IDEA.
Q. AND IT BASICALLY JUST STATES WHAT YOU TOLD THIS JURY HERE TODAY?
A. YES, MA' AM.
Q. I DON' T HAVE ANYTHING FURTHER, YOUR HONOR.
THE COURT: CROSS EXAMINE.
MS. BELL: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?
THE COURT: YES.

CROSS EXAMINATION

BY MS. BELL

Q. MR. COKER, YOU ARE AN EMS SPECIALIST?
A. I' M JUST A PARAMEDIC, MA' AM.
Q. A PARAMEDIC?
A. YES, MA' AM.
Q. AND SO, IT' S YOUR JOB TO PROVIDE ANY FIRST AID THAT MAY BE AVAILABLE IN ORDER TO GET SOMEONE TO THE HOSPITAL IN THIS PARTICULAR CASE? WAS THAT WHAT YOU WERE DOING?
A. WE HAVE, WE HAD CERTAIN THINGS THAT WE WOULD HAVE TRIED TO DO WHICH WOULD HAVE AIDED THE HOSPITAL. WE

COULDN'T DO IT, BEING THAT CLOSE TO THE HOSPITAL. SO, WE CHOSE TO LOAD HIM AND GET HIM THERE.

Q. WHEN YOU ARRIVED ON THE SCENE, MR. TYLER WAS NOT IN ANY FLAMES, WAS HE?

A. NO, MA'AM.

Q. AND AT THAT PARTICULAR POINT YOU PUT THE BLUE BLANKETS ON HIM?

A. BURN SHEETS.

Q. THE BURN SHEETS. WAS THAT ALSO FOR --- WAS THERE ANY WAY THAT YOU USE THAT TO COOL DOWN THE BURNS AS WELL?

A. IT DOESN'T REALLY COOL DOWN THE BURNS. I'M SURE IT HAS SOMEWHAT OF A COOLING EFFECT BECAUSE IT CUTS THE WIND OFF OF THE PATIENT ALSO.

Q. AND AT THE TIME THAT YOU TRANSPORTED HIM YOU INDICATE THAT HE WAS CONSCIOUS AND ORIENTED?

A. YES, MA'AM. AS FAR AS WE COULD TELL, HE WAS.

Q. WHEN YOU CAME ON THE SCENE DID YOU NOTICE --- YOU SAID YOU NOTICED AN INDIVIDUAL WALKING WITH HIM, A LADY?

A. YES, MA'AM.

Q. DID YOU ASCERTAIN WHO THAT PERSON WAS?

A. I ASCERTAINED IT TO BE HIS WIFE.

Q. AND IN THE MEMO THAT YOU REFERRED TO THAT YOU GAVE TO INVESTIGATOR WARD, DIDN'T YOU INDICATE IN THERE THAT SHE WAS EXHIBITING SOME VERY STRANGE BEHAVIOR?

A. WELL, ANYTIME YOU PULL UP ON A SCENE WITH AN

AMBULANCE TO HELP SOMEONE AND SOMEONE IS WALKING THEM AWAY FROM THE AMBULANCE, I CONSIDER THAT TO BE STRANGE.

Q. LET ME ASK YOU, WAS SHE --- HOW WAS SHE --- WHAT WAS SHE WEARING AT THAT TIME?

A. MA'AM, I DON'T RECALL. MY FOCUS WAS ON HIM, NOT HER. SHE SEEMED TO BE IN FINE HEALTH, AND MY ATTENTION WENT TO HIM.

Q. DO YOU NOT RECALL THAT SHE WAS IN A BRA AND PANTIES?

A. NO, MA'AM.

Q. BUT SHE WAS WITH HIM?

A. YES, MA'AM.

Q. DID SHE SAY ANYTHING TO YOU?

A. NO, MA'AM, NOT TO ME.

Q. BUT SHE WAS EXHIBITING STRANGE BEHAVIOR?

A. WELL, THAT'S THE ONLY THING I BASED IT ON IS SHE WAS GOING AWAY FROM ME WITH HIM, AND I WAS THE ONE THERE TO GIVE FIRST AID.

Q. SHE WASN'T BELLIGERENT TO YOU IN ANY WAY?

A. NO, MA'AM. NOT TO ME.

MS. BELL: I BEG THE COURT'S INDULGENCE.

Q. DO YOU KNOW IF SHE WAS TALKING TO MR. TYLER AT ALL? ANY CONVERSATIONS WITH HIM?

A. NO, MA'AM.

Q. I HAVE NOTHING FURTHER.

THE COURT: THANK YOU. YOU MAY STEP DOWN. THANK

YOU VERY MUCH. NEXT WITNESS.

MS. HAYNES: MAY HE BE EXCUSED TO GO BACK TO WORK?

THE COURT: ANY OBJECTION?

MS. BELL: NO OBJECTION, YOUR HONOR.

THE COURT: THANK YOU. THE WITNESS IS EXCUSED. NEXT WITNESS.

MR. SORENSON: THE STATE CALLS CALL CORPORAL RANDY MARTIN.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

RANDY D. MARTIN, HAVING BEEN FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. CORPORAL MARTIN? IS THAT CORRECT?

A. YES.

Q. CORPORAL MARTIN, WHERE ARE YOU EMPLOYED?

A. COLUMBIA POLICE DEPARTMENT.

Q. OKAY, AND HOW LONG HAVE YOU BEEN WITH THE COLUMBIA POLICE DEPARTMENT?

A. FIFTEEN YEARS.

Q. AND COULD YOU PLEASE TELL THE JURY A LITTLE BIT WHAT YOUR DUTIES ARE AT THE COLUMBIA POLICE DEPARTMENT?

A. CURRENTLY I'M SUPERVISOR OF THE DESK DOWNTOWN, AT

HEADQUARTERS.

Q. BACK AT THE END OF 1996, WHAT WERE YOUR DUTIES BACK THEN?

A. I WAS A STREET SUPERVISOR.

Q. OKAY, AND WHAT DOES THAT ENTAIL?

A. I WAS ASSIGNED TO DISTRICT TWO WHICH IS THE DOWNTOWN AREA. I WORKED UNDER THE SUPERVISION OF SERGEANT KOON. WE SUPERVISED SEVERAL OFFICERS IN THAT ONE AREA.

Q. AND WERE YOU WORKING ON THE MORNING HOURS OF SEPTEMBER 26TH OF 1996?

A. YES, SIR, I WAS.

Q. DO YOU RECALL A CALL GOING OUT REGARDING A CAR THAT WAS ON FIRE AT THE INTERSECTION OF [redacted] AND [redacted] STREETS?

A. YES, SIR. I DO.

Q. OKAY. WHAT DID YOU DO IN RESPONSE TO THAT CALL COMING IN?

A. I WAS INSTRUCTED BY SERGEANT KOON TO GO TO RICHLAND MEMORIAL HOSPITAL TO CHECK THE WELFARE OF THE VICTIM AND TO STAND BY FOR FURTHER INSTRUCTIONS.

Q. AND DID YOU IN FACT RESPOND TO RICHLAND MEMORIAL HOSPITAL?

A. YES, SIR. I DID.

Q. AND WHO DID YOU FIND AT RICHLAND MEMORIAL HOSPITAL?

A. FIRST I WENT TO THE TRAUMA ROOM WHERE I COULD SEE IN

THOMAS DO THAT?

A. NO, SIR. AFTER I INSTRUCTED OFFICER THOMAS, I THEN PROCEEDED BACK TO [redacted] STREET.

MR. SORENSON: I BEG THE COURT' S INDULGENCE.

Q. PLEASE ANSWER ANY QUESTIONS ---

THE COURT: CROSS EXAMINE.

MS. BELL: YOUR HONOR, I HAVE NO QUESTIONS.

THE COURT: THANK YOU. THANK YOU OFFICER. YOU MAY STEP DOWN. THANK YOU VERY MUCH.

MS. HAYNES: MAY HE BE EXCUSED, YOUR HONOR?

THE COURT: ANY OBJECTION?

MS. BELL: NO OBJECTION.

THE COURT: THANK YOU.

MR. SORENSON: THE STATE CALLS LIEUTENANT ALEX LAYTON.

THEREUPON:

GRADY ALEXANDER LAYTON, HAVING BEEN FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. LIEUTENANT LAYTON, WHERE ARE YOU EMPLOYED?

A. THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

Q. AND WHAT ARE YOUR DUTIES AT --- IS THAT OTHERWISE KNOWN AS S.L.E.D.?

A. SHE WAS, MY WORDS I WOULD SAY, SEEMED TO BE, NOT CALM, LIKE SHE HAD A LOT GOING ON INSIDE OF HER, REAL EXCITED. JUST KEPT FIDGETING, YOU KNOW.

Q. DID SHE GIVE ANY STATEMENTS TO YOU AT THAT TIME WITH REGARD TO WHAT HAPPENED?

A. NO, I DIDN'T --- NO.

Q. I BELIEVE YOU INDICATED THAT YOU RELAYED TO OFFICER THOMAS THAT SHE NEEDED TO TAKE MS. TYLER DOWN TO SEE INVESTIGATOR GRAY? IS THAT CORRECT?

A. I DIDN'T HEAR YOUR FIRST PART.

Q, AT THAT TIME YOU RELAYED TO INVESTIGATOR THOMAS TO TAKE ---

A. OFFICER THOMAS.

Q. I'M SORRY. OFFICER THOMAS.

A. RIGHT, YES, SIR, I DID.

Q. TO TAKE MS. TYLER DOWN TO INVESTIGATIONS ---

A. INVESTIGATIONS, YES SIR.

Q. WERE YOU AWARE OF WHAT MS. TYLER WAS WEARING AT THAT TIME INSIDE THE FAMILY ROOM?

A. SHE HAD SOME TYPE OF HOSPITAL CLOTHING ON.

Q. DID YOU HAPPEN TO NOTICE IF SHE HAD ANYTHING ELSE IN HER HAND? WHETHER SHE WAS CARRYING ANYTHING?

A. I CAN'T SAY FOR SURE. I DON'T REMEMBER.

Q. ALL RIGHT. AT THAT TIME, WERE YOU INVOLVED IN TRANSPORTING HER DOWN TO INVESTIGATIONS, OR DID OFFICER

A. WELL, I JUST SAW HER TALKING ON THE PHONE. SHE WAS TALKING TO SOMEONE ABOUT HER KIDS.
Q. OKAY. AT THAT TIME WHEN YOU ARRIVED AT THE HOSPITAL, HOW WAS THIS CASE BEING TREATED AT THAT TIME?
A. IT WAS BEING TREATED AS A NORMAL TRAFFIC ACCIDENT.
Q. WITH A POSSIBLE INJURY. IS THAT CORRECT?
A. RIGHT.
Q. ALL RIGHT. WHAT DID YOU DO AFTER THAT?
A. I WENT BACK OUT TO MY CAR, BECAUSE IT'S HARD TO TRANSMIT ON THE RADIO WITHIN THE HOSPITAL, AND ADVISED SERGEANT KOON OF THE VICTIM'S CONDITION.
Q. OKAY. HAVE YOU HAD AN OPPORTUNITY AT SOME POINT IN TIME TO TALK TO INVESTIGATOR GRAY SEATED IN THE COURTROOM?
A. YES, SIR.
Q. AND WHAT DID YOU DO AS A RESULT OF TALKING WITH INVESTIGATOR GRAY?
A. HE ADVISED ME THAT THE CASE WAS BEING TREATED AS A CRIMINAL OFFENSE, NOT AN ACCIDENT, AND TO HAVE OFFICER THOMAS TRANSPORT DEFENDANT DOWN TO INVESTIGATION.
Q. DID YOU GO BACK INSIDE AND RELAY THAT INFORMATION TO OFFICER THOMAS?
A. YES, SIR. I DID.
Q. ALL RIGHT. HOW WAS MS. TYLER ACTING AT THAT TIME INSIDE THE FAMILY ROOM?

AND SAW THE VICTIM. I COULD HEAR HIM SCREAMING AND MOANING.

Q. YOU COULD HEAR HIM COMING OUT, AS YOU WENT IN THE ER ROOM, THE TRAUMA ROOM?

A. RIGHT, YES, HEARD THE DOCTORS SAY THEY WAS PREPARING HIM TO FLY HIM TO AUGUSTA BURN CENTER.

Q. WHO ELSE WAS AT THE HOSPITAL?

A. I SAW CHIEF WRIGHT FROM THE FIRE DEPARTMENT, OFFICER THOMAS AND THE DEFENDANT.

Q. THAT WOULD BE MS. LINDA TYLER?

A. YES, SIR.

Q. SITTING IN THE MIDDLE OF THE DEFENSE TABLE?

A. YES, SIR.

Q. OKAY, AND WHERE WAS SHE LOCATED WHEN YOU ARRIVED AT THE HOSPITAL?

A. SHE AND OFFICER THOMAS WERE IN WHAT THEY CALL A FAMILY ROOM.

Q. AND WHAT WERE THEY DOING AT THAT TIME?

A. WHEN I KNOCKED ON THE DOOR TO GO IN, THOMAS OPENED THE DOOR AND MS. TYLER WAS ON THE PHONE, AND I ASKED THOMAS WHO WAS SHE TALKING TO AND SHE SAID SHE WAS ---

MS. BELL: OBJECTION TO HEARSAY, YOUR HONOR.

THE COURT: SUSTAINED.

BY MR. SORENSON

Q. JUST WHATEVER YOU SAW OR HEARD.

Q. SO, YOU'RE NOT SURE EXACTLY WHEN IT HAPPENED, BUT I MEAN, IT COULD HAVE HAPPENED IN MARCH OF 1996. IS THAT CORRECT?
A. YEAH, IT COULD.
Q. OKAY, THE NEXT MORNING WHEN MS. TYLER CAME OVER AND CONFRONTED VAN TYLER, I DON'T KNOW IF YOU KNOW HIM BY VAN OR ALI? I'M NOT SURE ---
A. I KNOW HIM BY VAN TYLER. I DON'T KNOW ABOUT NO ALI.
Q. OKAY. THE NEXT DAY WHEN MS. TYLER CONFRONTED MR. VAN TYLER, DID SHE APPEAR TO BE SCARED OF HIM AT THAT TIME?
A. DIDN'T LOOK TO BE TO ME.
Q. DIDN'T LOOK TO BE?
A. NO.
Q. I MEAN SHE WASN'T ANGRY EITHER?
A. WASN'T ANGRY, SHE WAS JUST CALM AND COOL TO ME.
Q. EVERY DAY OCCURRENCE? AND SHE INDICATED TO YOU THAT ALL SHE WANTED TO DO WAS TALK TO HIM, RIGHT?
A. YEAH.
Q. OKAY, AND THEY DID TALK. RIGHT?
A. YEAH.
Q. YOU LEFT THEM ALONE TO TALK?
A. YEAH, BUT I AIN'T HEAR ALL THE THINGS THEY WAS TALKING ABOUT, YOU KNOW. I WENT ON AND DID ABOUT MY

BUSINESS IN MY HOUSE.

Q. I UNDERSTAND THAT. HAVE YOU HEARD WHEN MR. TYLER GOT KILLED? WERE YOU AWARE OF WHEN THAT HAPPENED?

A. NO, I DIDN'T KNOW UNTIL MY MOTHER TOLD ME THE NEXT DAY WHEN, SHE SAID "LOOK AT THE NEWS", AND SHE SAID "YOU KNOW VAN'S DEAD ALREADY?" I SAID "DEAD." I SAID "I JUST GOT THROUGH TALKING TO HIM, YOU KNOW, WHEN HE CAME OVER TO THE HOUSE, AND HE'S DEAD?"

Q. OKAY. WELL, THIS WAS IN SEPTEMBER OF 1996 WHEN HE WAS KILLED? SO, YOU ---

A. AND THEN THAT'S WHEN I SAW HER PICTURE ON THE TV AND THEN, YOU KNOW, THEY ALL HAD IT ON THE NEWS.

Q. OKAY. NOW, THE DAY THAT, THE DAY HE GOT OUT OF PRISON, THE NEXT DAY WHEN SHE CAME OVER AND CONFRONTED HIM THAT WAS SOME SIX MONTHS BEFORE HE WAS KILLED. CORRECT?

A. UH-HUH.

Q. HE WAS KILLED --- THAT WILL BE ALL I HAVE. THANK YOU MS. HEYWARD.

MS. JOHNS: REDIRECT.

THE COURT: ALL RIGHT.

REDIRECT EXAMINATION

BY MS. JOHNS

Q. DO YOU KNOW WHEN HE GOT OUT OF PRISON?

A. NO, I JUST KNOW HE SHOWED UP TO THE DOOR. IT WAS

THAT NIGHT HE JUST SHOWED UP TO THE DOOR.

Q. YOU DON'T KNOW IF HE GOT OUT OF PRISON THAT DAY OR NOT?

A. I DON'T KNOW NOTHING ABOUT ALL THAT.

Q. AND YOU SAID EARLIER THAT YOU HAD YOUR SCREEN DOOR OPEN?

A. NO, MY SCREEN DOOR WAS LATCHED, BUT I, YOU KNOW ABOUT YOU GOING TO SLEEP AT NIGHT ABOUT UPSTAIRS, SO I LET, YOU KNOW ABOUT IT BE HOT IN THE SUMMERTIME, SO I LET THE AIR CIRCULATE THROUGH MY DOOR, YOU KNOW, BECAUSE AIN'T NOBODY EVER BOTHERED ME OR ANYTHING, YOU KNOW.

Q. AND SO, IS IT YOUR TESTIMONY THAT IT WAS SUMMER TIME?

A. IT WAS IN THE SUMMER TIME BECAUSE MY DOOR WAS OPEN ALL NIGHT.

Q. WELL, THIS IS MARCH, WOULD YOU LEAVE YOUR DOOR OPEN RIGHT NOW?

A. YEAH, CAUSE I DON'T LIKE BEING SHUT IN BECAUSE IT BE, YOU KNOW, I DON'T LIKE TO BE LIKE CLAUSTROPHOBIA, YOU KNOW, SHUT IN.

Q. FOR THE MONTH OF MARCH, OKAY?

A. UH-HUH.

Q. IF YOU WERE AT HOME, WOULD YOU LEAVE YOUR DOOR OPEN OVER NIGHT OR WOULD IT BE COLD?

A. YOU TALKING ABOUT IT BE REAL COLD OR SOMETHING?
Q. I'M TALKING ABOUT LIKE RIGHT NOW DURING THIS SEASON.
A. YEAH, SOMETIMES I DO.
Q. OKAY. THAT'S ALL.
THE COURT: THANK YOU. YOU MAY STEP DOWN. NEXT WITNESS.
MS. JOHNS: YOUR HONOR, WE HAVE A MATTER WE NEED TO TAKE UP OUTSIDE THE PRESENCE OF THE JURY.
THE COURT: ALL RIGHT. PLEASE STEP INTO THE JURY ROOM. PLEASE DO NOT DISCUSS THE CASE. I'LL SEND FOR YOU AS SOON AS I AM ABLE. THANK YOU VERY MUCH.
(JURY TO JURY ROOM.)
THE COURT: ALL RIGHT.
MS. JOHNS: THANK YOU, YOUR HONOR. YOUR HONOR, AT THIS POINT MS. BELL AND I AS HER ATTORNEYS HAVE DISCUSSED WITH HER AT SOME LENGTH HER RIGHT TO TESTIFY AND HER RIGHT TO REMAIN SILENT, AND SHE APPEARS TO UNDERSTAND THAT RIGHT, BUT WE DO KNOW THAT BASED ON THE COMPETENCY ISSUE THIS MORNING THAT WE FEEL THAT SHE'S COMPETENT, AND WE WOULD LIKE FOR THE COURT TO ADDRESS THIS ISSUE ON THE RECORD WITH REGARD TO WHETHER SHE KNOWS WHAT SHE'S DOING, WHETHER SHE KNOWS WHAT RIGHTS SHE HAS, AND THE RISKS THAT SHE IS TAKING IF SHE DOES TESTIFY, I MEAN IF SHE DOES WANT TO TESTIFY.

name of the law is the Brady Handgun Violence Prevention Act. The U.S. Supreme Court held unconstitutional the law's interim provision, which required chief state law-enforcement officers (usu. sheriffs) to conduct background checks until the national system was in place. The act is named for James Brady, a campaigner for gun-control laws who, as a member of President Ronald Reagan's staff, was wounded by gunfire during an attempted presidential assassination in 1981. 18 USCA §§ 921–930.

***Brady* material.** Information or evidence that is favorable to a criminal defendant's case and that the prosecution has a duty to disclose. • The prosecution's withholding of such information violates the defendant's due-process rights. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963). Cf. JENCKS MATERIAL.

brain death. See DEATH.

brake. See DUKE OF EXETER'S DAUGHTER.

branch. **1.** An offshoot, lateral extension, or division of an institution <the executive, legislative, and judicial branches of government>. **2.** A line of familial descent stemming from a common ancestor <the Taylor branch of the Bradshaw family>. — Also termed *stock*.

Brandeis brief (**bran**-dis). A brief, usu. an appellate brief, that makes use of social and economic studies in addition to legal principles and citations. • The brief is named after Supreme Court Justice Louis D. Brandeis, who as an advocate filed the most famous such brief in *Muller v. Oregon*, 208 U.S. 412, 28 S.Ct. 324 (1908), in which he persuaded the Court to uphold a statute setting a maximum ten-hour workday for women.

Brandeis rules. See ASHWANDER RULES.

branding. **1.** The act of marking cattle with a hot iron to identify their owner. **2.** Formerly, the punishment of marking an offender with a hot iron.

brand name. See TRADENAME.

branks (brangks). *Hist.* An instrument used to punish scolds, consisting of an iron framework that surrounded the head and entered the mouth to keep the offender's tongue de- [illegible] *scolding bridle*. See

brassage (**bras**-ij): *Hist.* A government charge for the actual cost of coining metals. • Any profit is termed *seigniorage*. See SEIGNIORAGE (2).

breach, *n.* A violation or infraction of a law or obligation <breach of warranty> <breach of duty>. — **breach,** *vb.*

breach of arrest. A military offense committed by an officer who, being under arrest in quarters, leaves those quarters without a superior officer's authorization. See *arrest in quarters* under ARREST.

breach of close. The unlawful or unauthorized entry on another person's land; a common-law trespass. — Also termed *breaking a close*. See CLOSE.

breach of contract. Violation of a contractual obligation, either by failing to perform one's own promise or by interfering with another party's performance.

> "A breach may be one by non-performance, or by repudiation, or by both. Every breach gives rise to a claim for damages, and may give rise to other remedies. Even if the injured party sustains no pecuniary loss or is unable to show such loss with sufficient certainty, he has at least a claim for nominal damages. If a court chooses to ignore a trifling departure, there is no breach and no claim arises." Restatement (Second) of Contracts § 236 cmt. a (1981).

active breach of contract. *Civil law.* The negligent performance of a contractual obligation, to the point of acting outside the contract's terms. • Under Louisiana law, active breach of contract is contrasted with passive breach of contract, which is a failure to perform the obligations created by the contract. Unlike a passive breach, an active breach of contract may give rise to claims in contract and in tort. Cf. *passive breach of contract*.

anticipatory breach. A breach of contract caused by a party's anticipatory repudiation, i.e., unequivocally indicating that the party will not perform when performance is due. • Under these circumstances, the nonbreaching party may elect to treat the repudiation as an immediate breach and sue for damages. — Also termed *constructive breach*. See REPUDIATION.

> "A repudiation by one party may occur before the time for performance has arrived. Such a repudiation is called an anticipatory breach, and it gives the innocent party the option of treating the contract as terminated at once and suing for damages immediately if he chooses or, alternatively, of waiting until the time of performance

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

LINDA ANN TYLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
-VS-)
)
LINDA TYLER,)
)
DEFENDANT.)
)
---)

VOLUME II
97-GS-40-17046

MARCH 16, 1998
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE PAUL SHORT, JUDGE

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

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DON SORENSON, ASSISTANT SOLICITOR
REPRESENTING THE STATE

CHRISTA BELL, ESQUIRE
TERESA JOHNS, ESQUIRE
REPRESENTING THE DEFENDANT

SUZIE H. NICHOLS
CERTIFIED COURT REPORTER

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DEFENDANT'S EXHIBIT NINE
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ARTICLE FOR I.D. ONLY

MS. HAYNES: YOUR HONOR, YOUR RULING IS THAT IT WOULD BE PREJUDICIAL FOR THE JURY TO SEE THAT SHE'S BEEN CONVICTED OF ASSAULT AND BATTERY ---

THE COURT: IT'S NOT PREJUDICIAL. THE PREJUDICE THAT WAY IS TO THE PROBATIVE VALUE AND ---

MS. HAYNES: RIGHT.

THE COURT: AND IMPEACHMENT VALUE TO THE STATE.

MS. HAYNES: YES, SIR, AND I UNDERSTAND THAT RULING BASED ON HER PRIOR RECORD CONSISTING OF ASSAULT AND BATTERY WITH INTENT TO KILL DURING A ROBBERY.

THE COURT: RIGHT.

MS. HAYNES: WHAT IF I HAVE A SUGGESTION --- I JUST WANT TO THROW IT OUT TO YOU, YOUR HONOR, WITH --- TAKE THIS INTO ACCOUNT --- WHAT IF WE JUST MERELY SAID SHE HAD BEEN CONVICTED OF TWO FELONIES IN THE PAST AND NOT GO INTO THE TITLE OF IT? THAT WOULD TAKE OUT THE PREJUDICIAL IMPACT I BELIEVE. WOULD IT NOT?

THE COURT: WELL, THOSE THINGS ARE THIRTY YEARS OLD. I BELIEVE YOU SAID 78. I REALIZE THAT SHE DIDN'T COMPLETE THE SENTENCES AND THAT'S WHAT THE RULE GOES, BUT I ALSO MUST USE BALANCE IN THE TEST. I BELIEVE YOU HAD SOME OTHER MATTERS THAT YOU WERE GOING TO USE TO IMPEACH, SOME OTHER CONVICTIONS?

MS. HAYNES: POSSESSION OF COCAINE ---

THE COURT: IF THEY'RE APPROPRIATE ---

CLARIFY THAT BRIEFLY. WHEN YOU WERE TAKING THAT ORAL STATEMENT FROM MS. TYLER, AT THAT POINT IN TIME DID YOU FEEL THAT SHE WAS BEING TRUTHFUL WITH YOU? THE ORAL STATEMENT?

A. NO, NOT INITIALLY, NO.

Q. AND WHY IS THAT THAT YOU FELT THAT SHE WAS NOT BEING TRUTHFUL WITH YOU?

A. WELL, I HAD THE INFORMATION FROM THE WITNESS AND INFORMATION ABOUT THE STATEMENT THAT THE VICTIM MADE SAYING THAT SHE HAD SET HIM ON FIRE.

Q. AND AT 12 O'CLOCK NOON ON SEPTEMBER 26, WHEN YOU BEGAN TAKING THAT WRITTEN --- THAT THREE PAGE WRITTEN STATEMENT FROM MS. TYLER, AT THAT POINT IN TIME IN YOUR OPINION DID YOU FEEL THAT SHE WAS THEN BECOMING MORE FORTHRIGHT WITH YOU AS FAR AS WHAT HAPPENED OUT THERE?

MS. JOHNS: YOUR HONOR, I WOULD OBJECT TO THIS LINE OF QUESTIONING. I DON'T SEE THAT HE'S QUALIFIED TO TESTIFY AS TO WHETHER OR NOT HE KNEW SHE WAS TELLING THE TRUTH OR NOT. HE SAID HE DIDN'T HAVE ANY INTERROGATION --

THE COURT: WELL, I OVERRULE YOUR OBJECTION ON THAT GROUND, BUT WE'RE GETTING, BORDERING AWFULLY CLOSE TO BEING IMPROPER REDIRECT. I THINK YOU'RE GETTING KIND OF FAR AFIELD, MR. SOLICITOR. I OVERRULE THE OBJECTION AT THIS TIME.

MENTIONED?
A. NO, SIR.
Q. LET ALONE AS A SUSPECT?
A. NO, SIR.
Q. AGAIN, WHEN MS. TYLER WAS DOWN, WHEN YOU WERE SPENDING APPROXIMATELY MAYBE AN HOUR THAT DAY INTERVIEWING HER, DID SHE EVER MENTION TO YOU AT THAT TIME THAT VAN TYLER HAD DONE, HAD MOLESTED HER DAUGHTER IN SOME WAY?
A. NO, SHE DID NOT.
Q. DID SHE EVER INDICATE TO YOU AT THAT TIME THAT SHE HAD, THAT HE HAD BEAT HER?
A. NO, SHE DID NOT.
Q. OKAY. YOU INDICATED I BELIEVE ON DIRECT WHEN I ASKED YOU ABOUT CHECKING ON SOME REPORTS TO SEE IF THERE WAS ANY ALLEGATIONS OF ABUSE IN THE PAST?
A. YES.
Q. AT WHOSE REQUEST DID YOU DO THAT, OR WHY DID YOU GO BACK AND DO THAT?
A. I DID IT AT THE REQUEST OF THE SOLICITOR'S OFFICE.
Q. IS THERE ANY REASON --- DID THAT STEM AT ALL OUT OF YOUR CONVERSATIONS WITH MS. TYLER?
A. NO.
Q. AND MS. JOHNS ASKED YOU A BUNCH ABOUT YOUR NOTE TAKING PRACTICE. I JUST WANT TO KIND OF GO BACK AND

NIGHT. IS THAT YOUR TESTIMONY?

A. YES, MA'AM. THAT'S DOCUMENTED HERE IN THE STATEMENT.

Q. NOW, WHEN DID YOU CONTACT THE CORONER'S OFFICE?

A. IT WAS AFTER I SPOKE WITH THE NURSE AT THE AUGUSTA BURN CENTER, ABOUT 2:00 O'CLOCK ON THE 27TH.

Q. AND WHEN YOU TALKED TO THE CORONER'S OFFICE, WHAT DID YOU THEN DO?

A. I CONTACTED THE SOLICITOR'S OFFICE.

Q. WHEN YOU CONTACTED THE CORONER'S OFFICE, YOU TOLD THE CORONER'S OFFICE THAT MR. VAN TYLER HAD DIED AT AUGUSTA BURN CENTER. IS THAT CORRECT?

A. I TOLD THEM THE INFORMATION THAT I HAD. THAT THEY HAD CALLED ME AND THAT THEY SAID HE HAD DIED FROM THE BURNS AND ---

Q. AND YOU SPOKE TO A NURSE?

A. YES.

Q. AND YOU TOLD THIS TO THE CORONER?

A. YES.

Q. AND THEN YOU CONTACTED THE SOLICITOR'S OFFICE. IS THAT CORRECT?

A. YES, MA'AM.

Q. AND THE SOLICITOR'S OFFICE ADVISED YOU TO UPGRADE THE WARRANT TO MURDER?

A. YES, MA'AM.

PUBLISHED THAT WAS ON PAGE THREE THERE, ABOUT MY QUESTIONS AND HER RESPONSES. THAT'S WHAT I WROTE DOWN.

Q. OKAY, BUT, I'M ASKING YOU, THAT YOU DID TALK TO HER FROM 11:43 UNTIL YOU PUT 12:00 O'CLOCK ON HER STATEMENT?

A. YES, MA'AM.

Q. YOU WERE TALKING TO HER?

A. YES, MA'AM.

Q. DID YOU HAVE IN YOUR NOTES THAT YOU DISCARDED THAT SHE HAD TOLD YOU THAT SHE DIDN'T MEAN TO HURT HIM?

A. NO, MA'AM.

Q. THAT HE AT THAT TIME --- DID YOU HAVE ANY --- WELL, LET ME ASK YOU THIS. DID YOU HAVE ANY INFORMATION THAT HE HAD EXPIRED AT THE TIME THAT YOU INTERVIEWED MS. TYLER?

A. NO, MA'AM. HE WAS STILL ALIVE.

Q. DID YOU AT ANY TIME IN YOUR INVESTIGATION INTERVIEW A KAHLI AT THE SHELL STATION?

A. THERE WAS A KAHLI THAT WORKED AT THE SHELL STATION. IT'S AN AMOCO NOW. HE'S A, I THINK HE'S SYRIAN. YES, I DID.

Q. YOU DID TALK TO HIM?

A. YES.

Q. DID HE TELL YOU --- WELL, I'M NOT GOING TO ASK YOU THAT. BUT YOU SAY THAT MS. TYLER TOLD YOU THAT KAHLI TOLD HER THAT HER HUSBAND TOLD HIM ABOUT THE WOMAN LAST

NOTES AND THEN PUT IT ON THE OTHER FORM LATER.

Q. OKAY. YOU DON'T HAVE THOSE?

A. NO, I DON'T.

Q. AND SO, YOU DON'T KNOW WHAT WOULD BE ON THOSE?

A. WHAT I PUT IN MY CASE NOTES AND WHAT'S ON THE STATEMENT WOULD HAVE BEEN ON THAT IF I STILL HAD IT.

Q. IF YOU STILL HAD IT?

A. YES, MA'AM.

Q. BUT YOU DON'T HAVE IT FOR ME TO SEE?

A. I DON'T HAVE IT PERIOD.

Q. HOW LONG DID IT TAKE YOU TO WRITE OUT THIS STATEMENT?

A. I'M NOT SURE, MA'AM, I DIDN'T ---

Q. WELL, YOU PUT THE TIME ON THE ---

A. PROBABLY, IT PROBABLY LASTED AT LEAST THIRTY MINUTES OR SO.

Q. AND THIS WAS WHERE YOU WOULD ASK HER A QUESTION AND THEN YOU WOULD WRITE IT DOWN?

A. YES.

Q. AND THEN YOU WOULD ASK HER A QUESTION AND THEN YOU WOULD WRITE IT DOWN?

A. YES, MA'AM.

Q. YOU ALREADY DID THAT PREVIOUSLY? FROM THE TIME 11:43 ---

A. I WROTE DOWN WHAT I PUT IN MY NOTES, WHAT I

A. THE LAST ENTRY ON PAGE 6 WOULD HAVE BEEN THE 27TH AT 2:00 P.M.

Q. THERE WAS A CONTINUING DOCUMENT. IS THAT FAIR TO SAY?

A. WELL, THEY'RE SEPARATE PAGES AND IT'S DOCUMENTATION OF SOME OF THE THINGS I DID THROUGHOUT THE CASE. YES, MA'AM.

Q. AND THIS CASE SUMMARY IS USED TO GIVE TO THE STATE PROSECUTOR'S OFFICE. IS THAT CORRECT?

A. YES, MA'AM.

Q. TO ENLIGHTEN THEM AS TO WHAT YOU'VE DONE ON THE CASE?

A. YES, MA'AM.

Q. BUT THESE ARE NOT YOUR PERSONAL INTERROGATIONS. THESE ARE NOTES OF THE CASE ---

A. SOMETIMES THEY INCLUDE NOTES. THINGS THAT AREN'T DOCUMENTED, SUCH AS HER STATEMENT HERE. SOMETIMES THEY ARE DOCUMENTED IN NOTES. I'VE DONE IT MANY TIMES IN OTHER CASES.

Q. ALL RIGHT. WHERE ARE YOUR LITTLE NOTES THAT YOU TOOK PRIOR TO WRITING OUT THE STATEMENT?

A. I --- IN REFERENCE TO THE STATEMENT?

Q. YES, SIR. WHERE ARE YOUR NOTES ---

A. I DON'T HAVE THE ORIGINAL. I, PROBABLY, SOMETIMES I'LL USE THE BACK OF ONE OF THESE FORMS AND MAKE A FEW

A. NO.
Q. IT'S NOT THERE?
A. NO.
Q. IN FACT THIS IS A CASE SUMMARY. RIGHT?
A. SOME OF THESE NOTES --- WHEN I'M TAKING NOTES I SOMETIMES DO IT ON DIFFERENT PIECES OF PAPER, AND THIS IS JUST ALL THE NOTES COMBINED.
Q. OKAY, AND THEY'RE DATED?
A. YES, MA'AM.
Q. SAY FOR EXAMPLE, 9/26/96?
A. YES, MA'AM.
Q. AND THEN THEY'RE WRITTEN OUT ---
A. YES, MA'AM.
Q. --- AS IF WRITING IN SCRIPT?
A. YES, MA'AM.
Q. AND WHAT IS THE PURPOSE OF A CASE SUMMARY?
A. IT'S JUST TO JOG MY MEMORY, BASICALLY, A LOT OF IT. OTHER THINGS ARE JUST TO DOCUMENT THINGS THAT HAPPEN OR THINGS THAT I DO THAT MAY NOT BE DOCUMENTED ANYWHERE ELSE.
Q. AND WHEN WAS THIS CASE SUMMARY DOCUMENTED, FINISHED? WHEN DID YOU FINISH PREPARING IT?
A. THE NOTES REFERRING TO HER STATEMENT HERE WERE DONE THAT DAY.
Q. WHEN WAS THE ENTIRE DOCUMENT FINISHED?

A. NO, MA' AM.
Q. SO, THEN WHEN YOU DECIDE THAT YOU' RE GOING TO MAKE NOTES, YOU ONLY MAKE NOTES OF DENIALS OF ACTS?
A. NO, MA' AM.
Q. NO?
A. NO, MA' AM.
Q. DO YOU EVER MAKE NOTES OF ADMISSION OF ACTS?
A. YES, MA' AM.
Q. MAY I SEE YOUR NOTES?
A. IT' S AT THE BOTTOM OF THE PAGE THERE.
Q. DO YOU HAVE THE REST OF THE PAGES TO THIS CASE SUMMARY?
A. YES, MA' AM.
Q. WHAT ELSE IS ON THERE? CASE SUMMARY?
A. IT' S PAGE THREE.
Q. HOW MANY PAGES IN THE CASE SUMMARY, INVESTIGATOR GRAY?
A. I' VE GOT SIX PAGES HERE LABELED AND THEN TWO OTHER PAGES THAT WERE JUST SOME --- AREN' T REALLY PART OF THE CASE SUMMARY, IT' S JUST SOME NOTES THAT I WROTE DOWN.
Q. YOU HAVE SIX PAGES OF NOTES HERE?
A. YES.
Q. THIS IS PRE-INTERVIEW NOTES?
A. NOT ALL OF THEM, NO.
Q. NO.

A. YES, MA' AM.
Q. THANK YOU. AND YOU DECIDED NOT TO PUT IN HER WRITTEN STATEMENT THAT SHE SAID THAT SHE WAS GOING TO THE HEALTH DEPARTMENT AND CHECK OUT A YEAST INFECTION?
A. I PUT THAT IN MY NOTES.
Q. I' M ASKING YOU DID YOU PUT IT IN THE STATEMENT ---
A. NO, I WROTE IT IN MY NOTES SO IT WOULD BE DOCUMENTED.
Q. SO, THE ANSWER WOULD BE NO ---
A. IT WOULD HAVE BEEN A DUPLICATION TO PUT IT IN THAT. SO, I PUT IT IN MY NOTES.
Q. OKAY, DID YOU PUT IN YOUR NOTES THAT SHE HAD KNOWN VAN TYLER FOR TWENTY YEARS?
A. NO, MA' AM.
Q. YOU DID NOT?
A. NO, MA' AM.
Q. DID YOU PUT IN YOUR NOTES THAT SHE HAD FOUND OUT LAST NIGHT THAT THERE WAS A NEIGHBOR, JACKIE, THAT LIVES IN SAXON HOMES? DID YOU PUT THAT IN YOUR NOTES?
A. NO, MA' AM.
Q. YOU DIDN' T? DID YOU PUT IN YOUR NOTES THAT SHE SAID THAT HE WAS SLEEPING WITH TWO, NO, THREE PEOPLE IN MY NEIGHBORHOOD?
A. NO, MA' AM.
Q. YOU DIDN' T PUT THAT IN YOUR NOTES?

IT TO WRITING. IS THAT CORRECT?

A. NOT ALL OF THE NOTES. I JUST TOOK A FEW NOTES ALONG THE WAY, AND THEN I WENT BACK AND DOCUMENTED THE OTHER QUESTIONS AND ANSWERS.

Q. INVESTIGATOR GRAY, WHO DECIDES WHEN YOU'RE INTERROGATING SOMEBODY WHAT NOTES YOU SHOULD WRITE AND WHAT NOTES YOU SHOULD NOT WRITE?

A. I DETERMINE THAT.

Q. AND THEN YOU DECIDE OUT OF THOSE NOTES WHAT NOTES GO INTO A WRITTEN STATEMENT AND WHICH NOTES DO NOT?

A. THAT STATEMENT IS BASICALLY EVERYTHING THAT WAS COVERED IN THE INTERVIEW EXCEPT WHAT I DIDN'T PUT IN THERE THAT I WROTE IN MY CASE NOTES HERE.

Q. YES, SIR, BUT THAT WAS NOT MY QUESTION. MY QUESTION WAS WHO DECIDES FROM YOUR NOTES WHAT GOES INTO A WRITTEN STATEMENT, AND WHAT DOES NOT GO INTO A WRITTEN STATEMENT? WHO DECIDES IS MY QUESTION.

A. THERE WAS NO WRITTEN STATEMENT PRIOR TO THAT OTHER THAN WHAT I HAD IN MY NOTES HERE, AND THAT'S WHAT I DOCUMENTED. THE QUESTIONING PRIOR TO THAT WRITTEN STATEMENT WHICH IS DOCUMENTED HERE --- WHAT WAS SAID, WHAT WAS ASKED AND THEN THAT STATEMENT, AND THAT'S MY DECISION. THAT'S WHAT I HAVE TO DO.

Q. THEN YOU DECIDE FROM YOUR NOTES AS TO WHAT YOU ARE GOING TO PUT IN A WRITTEN STATEMENT? IS THAT RIGHT?

Q. DID SHE EVER TELL YOU ABOUT HOW HE HAD HUMILIATED HER THE NIGHT BEFORE?
A. NO.
Q. YOUR TESTIMONY IS THAT SHE DID NOT SAY THAT SHE AND ALI WENT TO JACKIE AND CONFRONTED JACKIE ABOUT BEING PREGNANT?
A. SHE MENTIONED ---
Q. AND THEY LAUGHED IN HER FACE?
A. SHE MENTIONED JACKIE IN THE STATEMENT AND THAT'S WHAT I WROTE DOWN, WHAT SHE MENTIONED ABOUT JACKIE.
Q. AND DID SHE THEN TELL YOU THAT HE LAUGHED IN HER FACE?
A. NO, IF SHE HAD I WOULD HAVE PUT IT IN THE STATEMENT.
Q. OH, WELL, SHE HAD TOLD YOU THAT SHE SAID THAT SHE HAD A YEAST INFECTION AND YOU DIDN'T PUT IT IN THE STATEMENT.
A. THAT'S IN MY NOTES.
Q. RIGHT, YES, SIR, BUT IT'S NOT IN THE STATEMENT. IS IT?
A. I DOCUMENTED IT IN MY NOTES HERE.
Q. I UNDERSTAND THAT.
A. I DIDN'T ASK HER AGAIN ABOUT THE YEAST INFECTION IN THE WRITTEN STATEMENT, BUT I DID DOCUMENT IT IN MY NOTES.
Q. OKAY. SO, WHAT YOU DID THEN, IS YOU TOOK TWO STATEMENTS? YOU TOOK NOTES FIRST, AND THEN YOU REDUCED

A. YES.
Q. AT ONE POINT?
A. YES.
Q. AND THEN SHE REFERRED TO HIM AS WHAT? WHAT NAME DID SHE CALL HIM?
A. WELL, SHE REFERRED TO HIM AS ALI AND VAN TYLER.
Q. AND VAN TYLER?
A. YES, MA'AM.
Q. AND SHE USED HIS NAME VAN IN HER STATEMENT TO YOU? IS THAT YOUR TESTIMONY?
A. THE WRITTEN STATEMENT YOU'RE REFERRING TO?
Q. ANY STATEMENT?
A. YES, MA'AM. WELL, SHE USED BOTH NAMES, ALI AND VAN TYLER.
Q. ALL RIGHT. DID SHE ALSO TELL YOU THAT ALI HAD BEAT ON HER?
A. NO, MA'AM.
Q. SHE NEVER TOLD YOU THAT?
A. NO, MA'AM.
Q. DID SHE EVER TELL YOU ABOUT THE TIME THAT SHE HAD A BLACK EYE WHEN SHE HAD TO MAKE A COURT APPEARANCE?
A. SHE NEVER TOLD ME ANYTHING REGARDING HIM ASSAULTING HER PRIOR TO THIS OCCASION OR AT ANY TIME.
Q. SHE NEVER TOLD YOU?
A. NO, SHE NEVER MENTIONED ANYTHING LIKE THAT.

THAT CORRECT?

A. YES, MA' AM.

Q. SO, FROM 11:43 TO 12 NOON, YOU OBVIOUSLY HAD AN OPPORTUNITY TO TALK TO HER. RIGHT?

A. YES, MA' AM.

Q. AND BASED ON YOUR TESTIMONY ON DIRECT, THE ONLY THING YOU TALKED ABOUT WAS HER DENIAL. IS THAT CORRECT?

A. WE TALKED ABOUT WHAT I DOCUMENTED, WHAT I READ, YES, MA' AM.

Q. NOW, WE' RE GOING TO TALK ABOUT --- I WANT YOU TO TALK ABOUT THINGS THAT YOU DID NOT DOCUMENT. FOR EXAMPLE, DID SHE TELL YOU THAT HER DAUGHTER WAS SODOMIZED?

A. NO, MA' AM.

MR. SORENSON: OBJECTION, YOUR HONOR.

THE COURT: WHAT GROUNDS?

MR. SORENSON: THERE' S NO RELEVANCE TO THIS.

THE COURT: SIR?

MR. SORENSON: THERE' S NO RELEVANCE TO THAT.

THE COURT: OVERRULED.

<u>BY MS. JOHNS</u>

Q. DID SHE TELL YOU THAT --- LET ME ASK YOU THIS, INVESTIGATOR GRAY, WHAT DOES SHE CALL HER HUSBAND?

A. SHE REFERRED TO HIM AS ALI AT ONE POINT.

Q. ALI?

Q. THEY WERE COTTON SCRUBS. THEY GAVE THAT TO HER?
A. I ASSUME SOMEONE THERE DID. THAT'S WHAT SHE WAS DRESSED IN.
Q. YET, WHEN SHE GOT TO YOUR OFFICE SHE WAS STILL WEARING THAT?
A. YES, MA'AM. THAT'S WHAT I TESTIFIED TO.
Q. AND SHE ALSO CAME THERE PRETTY SHAKEN UP. DIDN'T SHE?
A. SHE WAS PRETTY CALM WHEN I TALKED TO HER.
Q. SHE WAS CALM?
A. UH-HUH.
Q. WAS SHE PACING?
A. NO, MA'AM. SHE WAS SEATED IN A CHAIR.
Q. SHE WAS SEATED IN A CHAIR AT WHOSE INSTRUCTION?
A. I OFFERED HER A SEAT, I MEAN, JUST OUT OF COURTESY. I OFFERED HER A SEAT IN THE CHAIR AT THE TABLE, AND SHE SAT DOWN.
Q. AND WAS SHE SHAKING?
A. MA'AM?
Q. WAS SHE SHAKING?
A. I DON'T REMEMBER HER SHAKING. NO, MA'AM.
Q. ALL RIGHT. NOW, YOU BEGAN YOUR INTERROGATION OF HER AT 12 NOON? IS THAT CORRECT?
A. NO, MA'AM.
Q. WELL, YOU BEGAN WRITING A STATEMENT AT 12 NOON. IS

Q. BUT YOU RECEIVED INFORMATION THAT SHE HAD DONE THAT?
A. YES.
Q. AND WHEN SHE CAME THERE YOU SAID SHE HAD HER DRESS IN HER HAND?
A. YES, MA'AM.
Q. AND THAT DRESS WAS TAKEN FROM HER. IS THAT CORRECT?
A. SHE WAS ASKED TO LEAVE IT OUTSIDE THE OFFICE DURING THE INTERVIEW, AND I LATER PICKED IT UP AND ---
Q. SO, THEN IT'S SAFE TO SAY THAT SHE HAD THE DRESS WHILE SHE WAS OUT AT RICHLAND MEMORIAL HOSPITAL?
A. YES, MA'AM.
Q. AND IT WAS IN HER POSSESSION?
A. YES, MA'AM. AS FAR AS I KNOW. I WASN'T THERE WITH HER, BUT SHE HAD IT WHEN SHE CAME TO THE POLICE DEPARTMENT.
Q. AND IT WOULD BE SAFE ALSO TO SAY THAT SHE HAD AN OPPORTUNITY IN THE FAMILY ROOM TO AT LEAST PUT THE DRESS BACK ON. IS THAT CORRECT?
A. WELL, I CAN'T SAY THAT BECAUSE I WASN'T THERE. THE HOSPITAL PROVIDED HER WITH CLOTHING.
Q. SCRUBS? DISPOSABLE?
A. NO, THEY WERE COTTON CLOTHING. THEY'RE NOT DISPOSABLE.
Q. THEY'RE NOT ---
A. NO, MA'AM.

AND PUT 11:43?

A. YES, I READ THE FORM, ALLOWED HER TO LOOK AT IT. PASSED IT ACROSS THE TABLE TO HER. SHE SIGNED IT AND THEN I SIGNED IT AND PUT THE TIME ON IT.

Q. NOW, YOU STATED THAT SHE CAME INTO THE INTERROGATION, OR AT LEAST CAME INTO HEADQUARTERS IN SCRUBS. IS THAT CORRECT?

A. YES, MA' AM.

Q. AND SHE HAD HER DRESS IN HER HAND WHICH WOULD BE STATE' S EXHIBIT NUMBER SIXTEEN. IS THAT RIGHT?

A. YES, MA' AM.

Q. WAS SHE NOT ALLOWED AN OPPORTUNITY TO GET DRESSED?

A. NO, MA' AM. WE NORMALLY DON' T LET ANYONE CARRY PERSONAL ITEMS INTO THE INTERVIEW ROOM. SO, THAT WAS LEFT OUTSIDE DURING THE INTERVIEW.

Q. SO, IT WAS LEFT OUTSIDE. SO, THE DRESS WAS ---

A. SHE WAS FULLY CLOTHED DURING THE INTERVIEW, SHE HAD, SHE WAS FULLY CLOTHED.

Q. THE INFORMATION THAT YOU RECEIVED ABOUT HER APPEARANCE ON THE SCENE WAS THAT SHE WAS IN HER BRA AND PANTIES. RIGHT?

A. I HAD SOME INFORMATION THAT SHE HAD TAKEN HER DRESS OFF THERE. I DIDN' T ---

Q. YOU WEREN' T THERE?

A. I WASN' T THERE.

Q. WELL, HOW LONG AGO WAS IT?
A. THAT WAS 1984, 1985.
Q. '84 OR '85. OKAY. HAVE YOU WITNESSED INTERROGATING WITNESSES BY OTHER OFFICERS?
A. YES, MA'AM.
Q. HOW MANY INTERVIEWS OR INTERROGATIONS HAVE YOU WITNESSED?
A. I'M NOT SURE OF THE NUMBER.
Q. WOULD IT BE OVER A THOUSAND?
A. PROBABLY NOT. NO, MA'AM.
Q. NO?
A. PROBABLY NOT.
Q. NOT OVER A THOUSAND SINCE 1984?
A. PROBABLY NOT.
Q. OKAY. YOU ALSO STATED ON DIRECT THAT YOU ALLOWED MS. TYLER TO MAKE A PHONE CALL.
A. SHE WAS ALLOWED USE OF THE PHONE AFTER THE INTERVIEW.
Q. YES, SIR.
A. I'M NOT SURE WHO SHE CALLED, BUT SHE WAS ALLOWED USE OF THE PHONE.
Q. AFTER THE INTERVIEW?
A. YES, MA'AM.
Q. AND SO, IN THREE MINUTES ON THIS FORM, YOU JUST READ THE FORM, SHE LOOKED AT IT AND SIGNED IT, YOU SIGNED IT

A. I'VE BEEN TO SEVERAL COURSES AT THE ACADEMY, BUT I DON'T REMEMBER ANYTHING FROM THE ACADEMY SPECIFICALLY DEALING WITH INTERROGATION OF SUSPECTS.

Q. LET ME ASK YOU THIS. YOU DID TAKE A TRAINING COURSE AT THE CRIMINAL JUSTICE ACADEMY. DID YOU NOT?

A. YES, MA'AM. THAT'S MANDATORY FOR ALL POLICE OFFICERS.

Q. AND WITHIN THAT TRAINING COURSE THERE WAS A SECTION WHICH INCLUDED INTERROGATING WITNESSES. WAS THERE NOT?

A. I'D HAVE TO GO BACK AND CHECK. I DON'T RECALL IT IF THERE WAS.

Q. YOU DON'T RECALL?

A. NO, MA'AM.

Q. DO YOU RECALL BEING TRAINED THAT WHEN YOU INTERROGATE A WITNESS YOU HAVE TO IN FACT LET A WITNESS TRUST YOU?

A. WELL, I MEAN I TRY NOT TO DO ANYTHING THAT WOULD MAKE SOMEONE NOT TRUST ME, ESPECIALLY IN AN INTERVIEW.

Q. WELL, THAT WAS NOT MY QUESTION. MY QUESTION IS WITHIN YOUR TRAINING AS A POLICE OFFICER WHEN INTERROGATING WITNESSES YOU'RE TRAINED AS A TACTIC TO ALLOW THE WITNESS TO TRUST YOU?

A. MA'AM, I DON'T RECALL ANY OF THE INFORMATION ABOUT INTERROGATION THAT I TOOK AT THE ACADEMY. THAT WAS A LONG TIME AGO.

BROUGHT IN, SO ---

Q. SO, YOU DON'T HAVE ANY PERSONAL KNOWLEDGE AS TO WHETHER OR NOT SHE HAD EVEN SEEN THE MUNICIPAL COURTHOUSE. RIGHT?

A. NO, MA'AM, I DON'T.

Q. SO, IT'S PROBABLE SHE SAW IT. RIGHT?

A. SHE COULD HAVE SEEN IT, BUT NOT FROM DOWNSTAIRS THROUGH A WINDOW.

Q. SHE ALSO ASKED YOU IF SHE COULD SEE OFFICER THOMAS, DIDN'T SHE?

A. NO.

Q. SHE DIDN'T?

A. NO.

Q. SO, IT TAKES YOU --- YOU OBVIOUSLY HAVE A EXCELLENT EDUCATION. YOU GRADUATED FROM COLLEGE. IS THAT CORRECT?

A. YES, MA'AM.

Q. AND YOU DON'T HAVE ANY PROBLEM WITH READING OR INTERPRETING ANYTHING YOU READ. IS THAT RIGHT?

A. NO, MA'AM.

Q. AND NOT ONLY ARE YOU EDUCATED IN SECONDARY EDUCATION, BUT YOU ALSO ARE SPECIALLY TRAINED BY SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY. ARE YOU NOT?

A. IN REFERENCE TO WHAT?

Q. WELL, SPECIFICALLY IN REFERENCE TO INTERROGATING SUSPECTS?

Q. SHE DIDN'T MAKE A COMMENT TO YOU LOOKING OUT THE WINDOW UPSTAIRS WHEN SHE WAS WAITING FOR YOU, DID SHE?
A. SHE WASN'T UPSTAIRS.
Q. SHE WASN'T?
A. NO, MA'AM.
Q. SO, FROM THE 10:15 OR WHATEVER TIME YOU SAY SHE ARRIVED THERE UNTIL YOU PUT 11:40 A.M., SHE WAS WITH YOU THE WHOLE TIME?
A. SHE WAS IN THE OFFICE THERE WHERE THE INTERVIEW WAS CONDUCTED. MY OFFICE IS ADJACENT TO IT. WHEN SHE FIRST CAME IN THAT'S WHERE SHE WAS SEATED.
Q. OKAY. SO, WHEN SHE CAME IN SHE HAD TO BE IN THE PARKING LOT BESIDE THE MUNICIPAL COURT. IS THAT CORRECT?
A. WELL, THAT'S WHERE THE BACK DOOR IS, THERE AT THE PARKING LOT. YES, MA'AM, BUT THERE'S A STAIRWELL GOING DOWN TO THE DOOR TO INVESTIGATIONS AND THEN THERE'S A MAZE OF HALLWAYS LEADING BACK TO MY OFFICE, BUT THERE IS NO WINDOWS.
Q. ALL RIGHT. WELL, THEN SHE HAD AN OPPORTUNITY TO AT LEAST SEE AS SHE WAS ENTERING INTO THE INVESTIGATIONS, OR THE HEADQUARTERS, THAT THE MUNICIPAL COURT WAS RIGHT THERE ACROSS THE PARKING LOT. RIGHT?
A. WELL, THE COURT IS THERE. I'M NOT SURE WHETHER THE POLICE OFFICER POSITIONED THE CAR AND THAT COULD HAVE BLOCKED HER VIEW, BUT I WASN'T OUT THERE WHEN SHE WAS

A. YES, MA' AM.
Q. ALL RIGHT. INVESTIGATOR GRAY, ARE YOU AWARE THAT THE ENTIRE DIRECT EXAMINATION OF THE INTERROGATION ADVICE OF RIGHTS FORM TOOK TWO MINUTES AND THIRTY SECONDS?
A. NO, MA' AM. I DIDN' T TIME IT.
Q. IN FACT, INVESTIGATOR GRAY, MS. TYLER WAS ASKING YOU IF SHE COULD MAKE A PHONE CALL. WASN' T SHE?
A. NO, MA' AM.
Q. SHE ASKED YOU IF SHE COULD CONTACT A LAWYER, DIDN' T SHE?
A. NO, MA' AM.
Q. AND SHE HAD SOME QUESTIONS THEN ABOUT HER RIGHT TO REMAIN SILENT, DIDN' T SHE?
A. NO, MA' AM. SHE DID NOT.
Q. SHE HAD A QUESTION FOR YOU, DID SHE NOT, ABOUT HER RIGHT TO TALK TO A LAWYER FOR ADVICE?
A. NO, MA' AM.
Q. SHE MADE SOME REFERENCE --- LET ME ASK YOU THIS, DID SHE MAKE A REFERENCE AS TO LOOKING OUT THE WINDOW AND SEEING LAWYERS WALKING INTO THE MUNICIPAL COURTROOM AND WHETHER OR NOT SHE COULD GET ONE OF THOSE LAWYERS TO COME IN AND WITNESS HER STATEMENT, DIDN' T SHE?
A. NO, MA' AM. SHE DIDN' T. WE DON' T HAVE ANY WINDOWS DOWNSTAIRS IN THE BASEMENT. SO, NO, SHE DIDN' T MAKE THAT COMMENT TO ME EITHER.

YES, MA' AM.

Q. OKAY. NOW, YOU SIGNED THIS FORM AT 11:43 A.M. IS THAT RIGHT?

A. YES, MA' AM.

Q. AND SO, THAT' S AN ESTIMATION OR AT LEAST BY THIS FORM, THAT' S THREE MINUTES TIME.

A. ABOUT THREE MINUTES, YES.

Q. AND IT TOOK YOU THREE MINUTES TO READ THROUGH THIS ENTIRE FORM?

A. WELL, THAT' S ---

Q. AND ASK HER IF SHE UNDERSTOOD IT. IS THAT CORRECT?

A. THAT THREE MINUTES INCLUDED THE READING OF THE FORM, PASSING THE FORM TO HER, ALLOWING HER TO READ IT, AND ALLOWING HER TO SIGN IT. YES, MA' AM.

Q. OKAY. SO, NOW YOUR TESTIMONY IS THAT SHE READ IT?

A. SHE HAD THE OPPORTUNITY TO READ IT WAS MY TESTIMONY.

Q. SO, YOU OFFER AS YOUR TESTIMONY NOW THAT SHE HAD THE OPPORTUNITY TO READ IT?

A. YES, MA' AM.

Q. AND THEN SHE SIGNED IT?

A. YES, MA' AM.

Q. AND THEN YOU SIGNED IT?

A. YES, MA' AM.

Q. AND THEN YOU INDICATED ON THERE THE TIME WAS 11:43 A.M. IS THAT CORRECT?

MS. JOHNS: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MS. JOHNS

Q. INVESTIGATOR GRAY, YOU HAD YOUR FIRST INITIAL CONTACT WITH MS. TYLER AT 11:40 A.M.? IS THAT CORRECT?

A. YES, MA'AM.

Q. THAT WAS IN YOUR OFFICE ---

A. WELL, THAT'S WHEN I BEGAN THE WAIVER FORM. SHE CAME IN PROBABLY A FEW MINUTES BEFORE THAT.

Q. DID YOU SPEAK TO HER WHEN SHE CAME IN?

A. I NORMALLY GREET SOMEONE AND IDENTIFY MYSELF. I'M SURE I DID WITH HER.

Q. SO, THAT WAS WHAT, 11:30?

A. I'M NOT SURE. I DIDN'T MAKE A NOTE. SOMETIME BETWEEN 11:10 AND 11:40.

Q. ALL RIGHT. SO, YOU BEGIN YOUR INTERROGATION WITH HER AT APPROXIMATELY 11:40 A.M. IS THAT CORRECT?

A. THAT'S WHEN I BEGAN THE WAIVER OF RIGHTS FORM.

Q. YES, SIR. IT SAYS RIGHT HERE ON THE WAIVER OF RIGHTS FORM, STATE'S EXHIBIT NUMBER ONE, "INTERROGATION, ADVICE OF RIGHTS", AT THE VERY TOP RIGHT HERE.

A. YES, MA'AM. THAT'S WHAT IT SAYS.

Q. SO, YOU BEGAN YOUR INTERROGATION OF HER WITH THE ADVICE OF RIGHTS FORM AT 11:40 A.M. RIGHT?

A. I BEGAN THE --- WENT OVER THIS FORM AT 11:40 A.M.

REGARDING THE VICTIM IN THIS CASE, MR. VAN TYLER, EVER ABUSING OR ASSAULTING HER?

A. YES, I HAVE.

Q. WERE YOU ABLE TO FIND ANY REPORT INDICATING THAT?

A. NO, THERE WERE NO REPORTS WITH VAN TYLER'S NAME LISTED OTHER THAN THE POLICE REPORT TO THIS INCIDENT.

MR. SORENSON: I BEG THE COURT'S INDULGENCE.

Q. JUST ONE LAST, BRIEF THING, INVESTIGATOR GRAY. YOU INDICATED THAT YOU RESPONDED INITIALLY OUT TO THE INTERSECTION OF [redacted] AND [redacted] STREETS?

A. YES, I DID.

Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER TWELVE FOR ID. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THAT INTERSECTION?

A. YES, IT IS.

Q. [redacted] STREET, [redacted] STREET?

A. YES, SIR.

MR. SORENSON: AT THIS TIME, YOUR HONOR, I JUST MOVE NUMBER TWELVE INTO EVIDENCE.

MS. JOHNS: NO OBJECTION.

THE COURT: ALL RIGHT. STATE'S EXHIBIT NUMBER TWELVE IS NOW ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

(STATE'S EXHIBIT TWELVE MADE A PART OF THE RECORD.)

MR. SORENSON: THAT WILL BE ALL I HAVE, YOUR HONOR.

THE COURT: CROSS EXAMINATION.

TRANSPORTED TO THE RICHLAND COUNTY JAIL.
Q. WAS SHE THEN PLACED UNDER ARREST AT THAT TIME?
A. YES.
Q. OKAY. WHAT WAS SHE ORIGINALLY PLACED UNDER ARREST FOR?
A. I TOLD HER AFTER THE INTERVIEW THAT SHE WAS GOING TO BE CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL.
Q. DID YOU SUBSEQUENTLY THE NEXT DAY LEARN SOME FURTHER INFORMATION REGARDING THE VICTIM, VAN TYLER?
A. YES, ABOUT 12:45 THE NEXT DAY, I RECEIVED A PHONE CALL FROM THE BURN CENTER IN AUGUSTA. THE NURSE I SPOKE WITH INDICATED THAT MR. TYLER HAD DIED. HE WAS PRONOUNCED DEAD AT 12:54 P.M. THAT DAY.
Q. WHAT DID YOU THEN DO IF ANYTHING?
A. I ASKED HER A LITTLE BIT ABOUT THE INJURIES, AND THEN I CONTACTED THE RICHLAND COUNTY CORONER' S OFFICE AS WELL AS THE SOLICITOR' S OFFICE.
Q. WHAT IF ANYTHING WAS DONE AS FAR AS CHARGES ON MS. TYLER AT THAT TIME?
A. THE WARRANT WAS, THE FIRST WARRANT FOR THE ASSAULT WAS VOIDED AND ANOTHER WARRANT FOR MURDER WAS DRAWN UP.
Q. DID YOU --- SUBSEQUENT TO THIS TIME, HAVE YOU HAD AN OPPORTUNITY, INVESTIGATOR GRAY, TO GO BACK THROUGH THE RECORDS OF THE COLUMBIA POLICE DEPARTMENT AND DETERMINE WHETHER ANY COMPLAINTS WERE EVER MADE BY MS. TYLER

STATEMENTS?

A. I TALKED TO CORPORAL MARTIN AT THE HOSPITAL A FEW MINUTES AFTER 11:00. SHE WAS BROUGHT DOWN SOMETIME PROBABLY BETWEEN 11:15 AND 11:40. I'M NOT SURE EXACTLY WHEN SHE ARRIVED. THE INTERVIEW LASTED PROBABLY TILL AROUND 12:30 OR SO, JUST TIME ENOUGH TO WRITE THE STATEMENT DOWN.

Q. DID SHE AT ANY POINT IN TIME IN YOUR OBSERVATION OF HER --- DID SHE APPEAR TO BE INTOXICATED?

A. NO.

Q. DID SHE APPEAR TO BE UNDER THE IMPAIRMENT OF ANY DRUGS OR MEDICATION?

A. NO.

Q. DID SHE APPEAR TO BE COHERENT WHEN YOU WERE TALKING WITH HER?

A. YEAH. SHE WAS COOPERATIVE AND SHE, YOU KNOW, AFTER THE INITIAL PART OF DENYING, SHE ANSWERED ALL OF THE QUESTIONS THAT I ASKED HER.

Q. HAVE YOU HAD AN OPPORTUNITY, INVESTIGATOR GRAY, AS PART OF YOUR FOLLOW-UP --- LET ME ASK YOU THIS --- WHAT THEN HAPPENED AFTER YOU GOT DONE TALKING WITH MS. TYLER, TAKING THAT STATEMENT FROM HER? WHAT THEN WAS DONE WITH HER?

A. SHE WAS LEFT IN THE ROOM FOR A LITTLE WHILE UNTIL ARRANGEMENTS COULD BE MADE FOR HER TO BE PICKED UP AND

A. NO.
Q. DID YOU MAKE ANY PROMISES TO HER?
A. NO.
Q. DID SHE AT ANY TIME INDICATE TO YOU THAT SHE NEEDED SOMETHING TO EAT OR NEEDED TO USE THE REST ROOM OR MAKE A TELEPHONE CALL?
A. SHE MAY HAVE. I NORMALLY --- THAT' S MADE AVAILABLE. THERE' S A REST ROOM DOWNSTAIRS THERE, DRINK MACHINES, AND NORMALLY WE ALLOW PEOPLE TO MAKE PHONE CALLS AFTER AN INTERVIEW IF THEY NEED TO, BUT I DON' T REMEMBER THAT SHE DID IN THIS CASE, BUT THAT WOULD HAVE BEEN AVAILABLE.
Q. SHE DIDN' T ASK TO MAKE A TELEPHONE CALL AFTER YOU WERE DONE INTERVIEWING HER?
A. YES.
Q. DID SHE AT ANY POINT IN TIME WHILE GIVING YOU EITHER THAT ORAL STATEMENT OR THIS WRITTEN STATEMENT INDICATE TO YOU THAT SHE WANTED TO SEEK THE ADVICE OF AN ATTORNEY BEFORE SHE CONTINUED TALKING?
A. NO.
Q. DID SHE AT ANY POINT IN TIME INDICATE TO YOU THAT SHE WANTED TO TERMINATE THE INTERVIEW AND ASSERT HER RIGHT TO REMAIN SILENT?
A. NO, NOT AT ALL.
Q. AS YOU WERE TALKING WITH HER, HOW LONG DO YOU THINK SHE WAS DOWN IN INVESTIGATIONS WITH YOU GIVING YOU THESE

Q. DID SHE INDICATE SHE WISHED TO CHANGE ANYTHING TO THE STATEMENT?
A. NO.
Q. WHAT DID YOU HAVE HER DO THEN AT THAT TIME?
A. I HAD HER SIGN EACH PAGE OF THE STATEMENT.
Q. DID SHE IN FACT DO THAT?
A. YES, SHE DID.
Q. EVIDENCED BY EACH OF THESE PAGES ON THE STATEMENT. RIGHT? DOWN AT THE BOTTOM?
A. YES.
Q. OKAY. YOU THEN --- WHAT THEN DID YOU DO WITH THE STATEMENT?
A. I FILLED OUT THE REST OF THE PORTION AT THE BOTTOM, AND THESE STATEMENTS CONSIST OF THREE COPIES, A WHITE, YELLOW AND A PINK. I TORE OFF THE THREE PINK COPIES AND GAVE THEM TO HER.
Q. SHE THEN HAD A COPY OF HER STATEMENT ON SEPTEMBER 26, 1996?
A. YES.
Q. OKAY. ONCE AGAIN, AS I ASKED YOU REGARDING THE ORAL STATEMENT, THAT IN TAKING THIS WRITTEN STATEMENT FROM MS. TYLER, DID YOU AT ANY POINT IN TIME THREATEN HER TO TELL YOU WHAT HAPPENED?
A. NO.
Q. DID YOU COERCE HER IN ANY WAY?

MIND WHAT I --- I ALREADY MADE UP MY MIND WHAT I WAS GOING TO DO.

QUESTION, WHAT WAS YOUR PLAN? ANSWER, TO SEE HIM BURN. I WANTED HIM TO HURT LIKE HE HURT ME.

QUESTION, DO YOU WANT TO ADD ANYTHING ELSE? ANSWER, NO, JUST THAT I LOVE MY HUSBAND AND I'M SORRY IT HAPPENED.

Q. WHEN YOU GOT DONE WRITING OUT THIS THREE PAGE STATEMENT, WHAT DID YOU DO THEN AT THAT TIME, INVESTIGATOR GRAY?

A. I ASKED MS. TYLER --- I HANDED HER THE STATEMENT AND ASKED HER TO LOOK OVER IT TO MAKE SURE IT WAS CORRECT.

Q. DID SHE DO THAT AT THAT TIME?

A. YES, SHE DID.

Q. DID SHE INDICATE TO YOU AT THAT TIME THAT SHE WISHED TO MAKE ANY CHANGES TO THE STATEMENT?

A. NO, SHE DIDN'T.

Q. OF COURSE, THE LAST QUESTION YOU ASKED HER WAS IF THERE WAS ANYTHING ELSE SHE WANTED TO ADD TO THE STATEMENT. IS THAT CORRECT?

A. YES, SIR.

Q. IN SHORT OF HER INDICATING THAT SHE WAS SORRY IT HAPPENED, SHE LOVED HER HUSBAND, DID SHE INDICATE THAT SHE WISHED TO ADD ANYTHING ELSE?

A. NO.

GIRL LAST NIGHT. IT WAS A NEIGHBOR, JACKIE, WHO LIVES IN SAXON HOMES. SHE TOLD ME SHE WAS TWO WEEKS PREGNANT BY VAN --- AND PAGE 2 ---

HOW DID YOU FEEL TOWARDS VAN AFTER FINDING THAT OUT? ANSWER, I LOVE MY HUSBAND. I DID SO MUCH FOR HIM. I TOOK HIM DRUGS WHILE HE WAS IN PRISON, AND I WOULD PAY PEOPLE TO TAKE HIM MARIJUANA.

QUESTION, DID YOU FEEL YOU WERE BEING TAKEN ADVANTAGE OF? ANSWER, YES.

QUESTION, IS THAT WHY YOU POURED THE GAS ON VAN TYLER? ANSWER, YES. I HAD THE GAS IN A PEPSI BOTTLE IN THE CAR. I DIDN'T SAY ANYTHING TO HIM. I JUST POURED IT ON TOP OF HIS HEAD AND THEN I USED MY CIGARETTE LIGHTER TO LIGHT HIM UP.

QUESTION, DID VAN SAY ANYTHING? ANSWER, AFTERWARDS I WAS ON THE GROUND WITH HIM. HE SAID I DIDN'T HAVE TO DO IT LIKE THAT. --- PAGE 3 ---

QUESTION, IS THERE ANYTHING ELSE YOU WISH TO ADD TO THIS STATEMENT? ANSWER, NOTHING EXCEPT THAT I LOVE MY HUSBAND.

QUESTION, WHERE DID YOU GET THE GAS? ANSWER, I GOT IT FROM KAHLI AT THE SHELL STATION ON TWO NOTCH. KAHLIA SAID VAN TOLD HIM ABOUT THE WOMAN LAST NIGHT.

QUESTION, IS IT BECAUSE OF WHAT KAHLI TOLD YOU THAT YOU BOUGHT THE GASOLINE? ANSWER, NO, I ALREADY MADE MY

STATEMENT?

A. YES. THE PLACE WAS 1409 LINCOLN STREET AT THE POLICE DEPARTMENT. I FILLED IN MS. TYLER'S NAME, DATE OF BIRTH AND ADDRESS AND THE TOPIC OF THE STATEMENT. I FILLED MY NAME IN, THAT I WAS AN INVESTIGATOR FOR CPD, WHICH IS COLUMBIA POLICE DEPARTMENT.

Q. ALL RIGHT, IF YOU WOULD, JUST PLEASE GO THROUGH THE REST OF THE STATEMENT.

A. IT'S A SERIES OF QUESTIONS AND ANSWERS.

Q. AND WHO'S HANDWRITING, TO INTERRUPT YOU, I'M SORRY, INVESTIGATOR --- WHO'S HANDWRITING IS THIS STATEMENT IN?

A. IT'S IN MY HANDWRITING.

Q. IS THAT STANDARD PROCEDURE?

A. YES.

Q. ALL RIGHT. CONTINUE THROUGH THE STATEMENT.

A. HOW LONG HAVE YOU KNOWN VAN? ABOUT 20 YEARS, ANSWER ABOUT 20 YEARS. WE'VE BEEN MARRIED FOR FOUR.

QUESTION, WERE YOU AND VAN LIVING TOGETHER. ANSWER, YES, EXCEPT WHEN HE WAS SLEEPING WITH HIS OTHER WOMEN.

QUESTION, HOW MANY WOMEN WAS HE SLEEPING WITH? ANSWER, TWO, NO, THREE PEOPLE IN MY NEIGHBORHOOD. HE WAS TRADING CRACK AND HEROINE FOR SEX, TOO. I JUST FOUND THAT OUT RECENTLY.

QUESTION, WHEN DID YOU FIND OUT HE WAS HAVING SEX WITH THESE WOMEN? ANSWER, I FOUND OUT ABOUT THE LAST

BY MR. SORENSON

Q. ALL RIGHT. INVESTIGATOR GRAY, I WANT TO SHOW YOU NOW WHAT'S BEEN MARKED PREVIOUSLY AS STATE'S EXHIBIT NUMBER TWO FOR ID PURPOSES, AND ASK YOU IF YOU RECOGNIZE THAT DOCUMENT?

A. YES, THIS IS THE STATEMENT I TOOK FROM MS. TYLER.

Q. ON SEPTEMBER 26, 1996?

A. YES.

MR. SORENSON: AT THIS TIME, YOUR HONOR, WE MOVE STATE'S NUMBER TWO INTO EVIDENCE.

THE COURT: ALREADY ADMITTED. NUMBER TWO OVER OBJECTION.

BY MR. SORENSON

Q. INVESTIGATOR, NOW IF YOU WOULD PLEASE GO THROUGH, THROUGH FOR THE JURY HOW YOU WENT ABOUT TAKING THIS WRITTEN STATEMENT FROM MS. TYLER.

A. THIS IS JUST A STANDARD FORM WE USE WHEN WE TAKE A WRITTEN STATEMENT AT THE POLICE DEPARTMENT. I FILLED OUT THE HEADING, 9/26/96. THE TIME WAS ABOUT 12 O'CLOCK WHEN I STARTED THE WRITTEN STATEMENT.

Q. SO, IT WAS ABOUT --- I BELIEVE YOU INDICATED ON THE ADVICE OF RIGHTS THAT YOU FINISHED THAT ABOUT 11:43?

A. YES.

Q. SO, IT WAS ABOUT SEVENTEEN MINUTES IN BETWEEN FINISHING THE ADVICE OF RIGHTS AND STARTING THAT WRITTEN

Q. AS YOU WERE GETTING THIS ORAL STATEMENT OUT OF HER AT THAT TIME, HAD YOU AT ANY TIME THREATENED HER TO GET HER TO TALK TO YOU?

A. NO.

Q. ANY KIND OF PROMISE OR ANYTHING?

A. NO.

Q. COERCING HER IN ANY WAY?

A. NO.

Q. NOW, YOU INDICATED AFTER PROVIDING HER WITH THAT INFORMATION FROM THE EMT THEN SHE AT THAT TIME ADMITTED IT. DID YOU THEN HAVE AN OPPORTUNITY TO TAKE A WRITTEN STATEMENT FROM HER?

A. YES, I DID.

MR. SORENSON: YOUR HONOR, WE' D LIKE THIS BLOW-UP OF THE STATEMENT MARKED FOR IDENTIFICATION PURPOSES.

THE COURT: ALL RIGHT. ANY OBJECTION?

MS. JOHNS: NO OBJECTION, YOUR HONOR.

THE COURT: THIS WOULD BE NUMBER TWENTY-FIVE, MADAM COURT REPORTER?

COURT REPORTER: YES, SIR.

MR. SORENSON: UNLESS, SIR, IF YOU WANT TO MARK THEM SEPARATE, YOUR HONOR, WE HAVE THREE DIFFERENT ---

THE COURT: WELL, JUST DO TWENTY-FIVE A, B, AND C.

(STATE' S EXHIBIT TWENTY-FIVE A, B, AND C MARKED FOR I.D.)

Q. ONCE AGAIN, WOULD THAT BE MR. MADAR ---
A. THAT WAS MR. MADAR.
Q. --- OR MR. BROWN, THAT WE ALREADY TALKED ABOUT?
A. YES, SIR.
Q. OKAY, WHAT WAS HER RESPONSE TO BEING PROVIDED WITH THAT INFORMATION?
A. SHE AGAIN SAID SHE DIDN'T KNOW HOW IT STARTED AND SAID IT COULD HAVE BEEN CAR TROUBLE.
Q. BUT THIS TIME --- SO, AFTER BEING PROVIDED WITH THAT INFORMATION SHE STILL CLAIMED SHE DOESN'T KNOW HOW IT STARTED ---
MS. JOHNS: OBJECTION, YOUR HONOR. HE'S TESTIFYING ---
THE COURT: SUSTAINED.
BY MR. SORENSON
Q. DID YOU AT THAT POINT IN TIME PROVIDE HER WITH ANY OTHER INFORMATION OR TELL HER ANYTHING ELSE ABOUT WHAT YOU HAD LEARNED ABOUT THE INCIDENT?
A. YES, I THEN TOLD HER ABOUT A STATEMENT THAT HER HUSBAND HAD MADE TO ONE OF THE EMS PEOPLE --- THAT SHE HAD SET HIM AFIRE.
Q. WHAT WAS HER RESPONSE FROM BEING PROVIDED WITH THAT INFORMATION?
A. THAT'S WHEN SHE ADMITTED THAT SHE HAD SET HIM ON FIRE WITH GASOLINE.

UNDERSTANDING OF HER WAIVER OF RIGHTS, THAT SHE GAVE YOU A STATEMENT AT THAT TIME?

A. YES, SHE DID.

Q. OKAY. WAS THAT A ORAL OR A WRITTEN STATEMENT AT THAT TIME?

A. IT WAS AN ORAL STATEMENT AT THAT POINT.

Q. PLEASE GO THROUGH, JUST TELL THE JURY WHAT THAT STATEMENT CONSISTED OF.

A. I ASKED MS. TYLER A FEW QUESTIONS ABOUT HOW HER HUSBAND WAS BURNED. I MADE NOTE OF IT, SOME NOTES ON IT TO HAVE CASE NOTES, AND THIS IS WHAT I WROTE DURING, ABOUT WHAT WE TALKED ABOUT. DURING THE INITIAL MINUTES OF THE INTERVIEW, MS. TYLER SAID SHE DIDN'T KNOW HOW HER HUSBAND WAS BURNED. SHE SAID THEY STOPPED AT THE LIGHT AT [redacted] AND [redacted] AND SHE HAD EXITED THE CAR TO GO TO THE HEALTH DEPARTMENT FOR A YEAST INFECTION. SHE SAID SHE WALKED ACROSS THE ROAD, THEN NOTICED THE CAR WAS ON FIRE.

Q. OKAY. SO, AT THAT POINT IN TIME HER FIRST INITIAL STATEMENT IS THAT SHE HAD NO IDEA HOW THE CAR CAUGHT ON FIRE?

A. YES, SIR.

Q. OKAY, DID YOU THEN PROVIDE HER WITH ANY INFORMATION?

A. I WENT OVER SOME OF THE WITNESS INFORMATION ABOUT THE WITNESS'S ACCOUNT OF WHAT HAPPENED THERE.

A. NO, SHE DIDN'T.
Q. DID SHE AT ANY TIME INDICATE TO YOU THAT SHE DID NOT WISH TO TALK TO YOU?
A. NO.
Q. DID SHE AT ANY TIME INDICATE TO YOU THAT SHE HAD ANY QUESTIONS AS TO WHAT ANY OF THESE RIGHTS MEANT?
A. NO.
Q. OKAY. YOU INDICATED YOU HANDED HER THE FORM AND ALLOWED HER TIME TO READ IT IF SHE HAD, IF SHE WANTED TO?
A. YES.
Q. OKAY, AND THAT'S WITH HER SIGNATURE ON IT?
A. YES, IT IS.
Q. OKAY. IS THAT WITNESSED? HER SIGNATURE WITNESSED BY ANYBODY?
A. I WITNESSED HER SIGNATURE. SO, I PUT MY NAME AND THE TIME THAT WE FINISHED THE FORM.
Q. AND WHAT WAS THAT TIME?
A. 11:43 A.M.
Q. AND WHAT IS THE SIGNIFICANCE OF 11:43 A.M.?
A. THAT'S THE TIME THAT WAS SPENT ON THE FORM.
Q. IT TOOK APPROXIMATELY THREE MINUTES TO GO OVER THIS FORM WITH HER?
A. UH-HUH.
Q. NOW, YOU INDICATE THAT AT THAT POINT IN TIME THAT AS EVIDENCED BY HER SIGNATURE ON THAT FORM AND HER

Q. DID SHE AT THAT TIME INDICATE TO YOU THAT SHE WISHED TO WAIVE HER RIGHTS AND TALK WITH YOU?
A. I WENT AHEAD AND READ THE WAIVER OF RIGHTS, AND YES, SHE DID.
Q. OKAY. GO THROUGH THAT, PLEASE.
A. I READ THE STATEMENT OF MY RIGHTS --- I UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I'M DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.
Q. AT THAT POINT IN TIME AFTER YOU WENT THROUGH THAT PARAGRAPH WITH HER, ESSENTIALLY A WAIVER OF HER MIRANDA RIGHTS, DID SHE INDICATE TO YOU AT THAT TIME THAT SHE WISHED TO WAIVE THOSE RIGHTS AND TO GIVE A STATEMENT TO YOU?
A. YES.
Q. OKAY. HOW IS THAT EVIDENCED ON THAT FORM?
A. I THEN HANDED HER THE FORM, AND ASKED HER TO SIGN IT TO INDICATE SHE WAIVED HER RIGHTS.
Q. OKAY. DID SHE IN FACT AT THAT TIME BEGIN TALKING WITH YOU ABOUT WHAT HAPPENED?
A. YES.
Q. OKAY. DID SHE AT ANY POINT IN TIME INDICATE TO YOU THAT SHE WISHED TO HAVE AN ATTORNEY PRESENT?

A. YES. BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONING NOW WITHOUT A LAWYER PRESENT YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER.

Q. AS YOU WENT THROUGH EACH OF THOSE, ONE, TWO, THREE, FOUR, FIVE, SIX DIFFERENT PARAGRAPHS OR SENTENCES WITH MS. TYLER, DID SHE INDICATE TO YOU THAT SHE UNDERSTOOD EACH OF THEM AS YOU WENT THROUGH THEM?

A. WHEN I FINISHED READING I ASKED HER IF SHE UNDERSTOOD THEM.

Q. AND WHAT WAS HER RESPONSE AT THAT TIME?

A. SHE INDICATED SHE DID.

Q. I BELIEVE YOU INDICATED THAT YOU CHECKED OFF EACH ONE AS YOU READ IT TO HER?

A. YES.

Q. OKAY. IS THAT EVIDENCED BY A CHECK AFTER EACH, AFTER, OR BEFORE EACH OF THE INDIVIDUAL MIRANDA RIGHTS?

A. YES, SIR.

Q. IS THAT AN ENLARGEMENT OF THAT?
A. YES, SIR.
Q. NOW, IF YOU COULD, INVESTIGATOR GRAY, IF YOU WOULD FOR THE JURY JUST GO THROUGH THAT FORM HOW YOU WENT THROUGH IT WITH MS. TYLER ON THE MORNING OF SEPTEMBER 26, 1996.
A. PRIOR TO GOING INTO THE FORM, I ASKED HER HER EDUCATION AND SHE SAID SHE WENT THROUGH THE ELEVENTH GRADE AT BOOKER T. WASHINGTON.
Q. IS THAT WHEN YOU WROTE THAT UP AT THE TOP OF THE FORM?
A. YES, SIR. I MADE A NOTE OF THAT ON THE FORM AND THEN I FILLED IN THE PLACE WHICH WAS 1409 LINCOLN STREET, THE DATE, AND THE TIME.
Q. OKAY. WHAT WAS THE TIME THAT YOU ---
A. 11:40 A.M.
Q. OKAY. IS THAT THE TIME --- WHAT'S INDICATED BY 11:40 A.M., WHAT IS THAT TIME --- WHAT IS THE SIGNIFICANCE OF THAT TIME?
A. THAT'S WHEN I BEGAN READING THIS FORM.
Q. OKAY.
A. I THEN READ EACH SENTENCE ON THE FORM TO HER AND CHECKED IT OFF AS I READ IT.
Q. OKAY. DID YOU DISCUSS THOSE RIGHTS AS YOU WENT THROUGH IT WITH MS. TYLER?

FOR ID. ANY OBJECTION? HEARING NONE. GO AHEAD.

MR. SORENSON: ALL RIGHT.

MS. JOHNS: NO OBJECTION.

(STATE'S EXHIBIT TWENTY-FOUR MARKED FOR I.D.)

BY MR. SORENSON

Q. ALL RIGHT. INVESTIGATOR GRAY, I WANT TO SHOW YOU WHAT AT THIS TIME HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER ONE FOR ID PURPOSES AND ASK YOU IF YOU RECOGNIZE THAT DOCUMENT?

A. YES, THIS IS A STANDARD FORM WE USE TO ADVISE SOMEONE OF THEIR RIGHTS.

Q. AND DID YOU HAVE AN OPPORTUNITY AT THAT TIME TO GO OVER THAT FORM WITH MS. TYLER?

A. YES, I DID.

Q. OKAY. IS THIS ACTUALLY A COPY OR IS THIS THE ORIGINAL FORM THAT YOU WENT OVER WITH MS. TYLER?

A. THAT'S THE ORIGINAL FORM.

MR. SORENSON: OKAY. AT THIS TIME, YOUR HONOR, WE MOVE STATE'S NUMBER ONE INTO EVIDENCE.

THE COURT: IT'S ALREADY INTO EVIDENCE. OVER OBJECTION.

BY MR. SORENSON

Q. NOW, INVESTIGATOR GRAY, WHAT'S DEPICTED HERE AS STATE'S EXHIBIT NUMBER TWENTY-FOUR. WHAT IS THIS?

A. THAT'S A REPRESENTATION OF THE FORM.

Q. WHAT DID YOU DO WITH IT AT THAT TIME?
A. I TOOK IT INTO MY POSSESSION.
Q. AT THIS TIME, YOUR HONOR, WE' D OFFER STATE' S EXHIBIT SIXTEEN INTO EVIDENCE.
THE COURT: ANY OBJECTION.
MS. JOHNS: NO OBJECTION.
THE COURT: STATE EXHIBIT SIXTEEN ADMITTED WITHOUT OBJECTION.
(STATE'S EXHIBIT SIXTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)
BY MR. SORENSON
Q. YOU INDICATE AT THAT TIME THAT SHE WAS DRESSED IN HOSPITAL SCRUBS OR A HOSPITAL GOWN?
A. YES.
Q. OKAY. PLEASE TELL THE JURY THEN WHAT YOU DID WITH MS. TYLER AT THAT TIME?
A. SHE HAD A SEAT AT THE TABLE. I THEN BEGAN THE INTERVIEW.
Q. OKAY, AND DID YOU AT THAT POINT IN TIME GO OVER WITH MS. TYLER HER MIRANDA WARNINGS?
A. YES, I DID.
MR. SORENSON: I MARK THIS FOR ID, YOUR HONOR.
THE COURT: WHAT NUMBER?
MR. SORENSON: TWENTY-FOUR, YOUR HONOR.
THE COURT: STATE EXHIBIT NUMBER TWENTY-FOUR MARKED

ASKED HIM TO ARRANGE FOR HER TO BE BROUGHT TO HEADQUARTERS FOR AN INTERVIEW.

Q. DID ONE OF THEM AT THAT POINT IN TIME TRANSPORT HER TO COLUMBIA POLICE DEPARTMENT?

A. YES, OFFICER THOMAS BROUGHT HER.

Q. OKAY. COULD YOU DESCRIBE TO THE JURY WHERE IS YOUR OFFICE LOCATED AT THE COLUMBIA POLICE DEPARTMENT?

A. WE'RE LOCATED AT 1409 LINCOLN STREET, AND OUR OFFICE IS IN THE BASEMENT OF HEADQUARTERS.

Q. IS THAT WHERE MS. TYLER WAS BROUGHT TO?

A. YES.

Q. OKAY, AND WHERE DID HE TAKE HER --- WHAT DID YOU DO WITH HER THEN AT THAT TIME?

A. SHE CAME IN AND HAD A SEAT IN A CHAIR. IT'S A ROOM WE HAVE THAT'S ACTUALLY IN THE SAME ROOM AS OUR OFFICE, AND IT HAS A TABLE AND A COUPLE OF CHAIRS, FILE CABINETS, REFRIGERATOR, AND SHE SAT BY THE TABLE.

Q. DID SHE HAVE ANYTHING WITH HER AT THAT TIME?

A. SHE HAD HER DRESS WITH HER.

Q. WHAT WAS SHE WEARING?

A. SHE WAS WEARING HOSPITAL SCRUB CLOTHES, BLUE CLOTHING.

Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER SIXTEEN. DO YOU RECOGNIZE THAT ITEM IN THAT BAG?

A. YES, THAT'S THE DRESS THAT SHE HAD WITH HER.

Q. WHAT WAS THAT INFORMATION?
A. MR. MADAR INDICATED THAT HE HAD SEEN SOMEONE GET OUT OF THE CAR THERE AT THE SCENE, AND I ALSO LEARNED THAT THE VICTIM MAY HAVE BEEN SET AFIRE.
Q. AND WHO IS IT THAT YOU LEARNED THAT INFORMATION FROM?
A. I WAS MADE AWARE OF SOME COMMENTS MADE TO THE EMTS.
Q. THAT WAS MR. COKER?
A. YES.
Q. AND I BELIEVE MR. MIXON IS THE OTHER ONE?
A. YES.
Q. AND WERE YOU AWARE OF WHO THOSE COMMENTS WERE MADE BY?
A. MS. TYLER.
Q. MS. TYLER OR ---
A. MS. TYLER, I'M SORRY, MR. TYLER.
Q. MR. TYLER?
A. YES, SIR.
Q. IT WAS COMMENTS THAT THE VICTIM HAD MADE TO THE EMTS?
A. YES.
Q. WHAT DID YOU THEN --- DID YOU THEN REQUEST CORPORAL MARTIN TO DO ANYTHING AT THAT TIME?
A. YES, CORPORAL MARTIN AND OFFICER THOMAS WERE THERE AT THE HOSPITAL WITH THE VICTIM AND MS. TYLER, AND I

Q. AND DID INVESTIGATOR BURNS HAVE AN OPPORTUNITY TO INTERVIEW MR. BROWN?
A. YES.
Q. WHAT DID YOU DO AT THAT TIME?
A. AFTER I LEFT THE SCENE, I WENT BACK TO THE POLICE DEPARTMENT.
Q. AND WHO DID YOU LEAVE OUT AT THE SCENE?
A. INVESTIGATOR SEEL WAS THERE AND TOOK CONTROL OF THE CRIME SCENE AS FAR AS COLLECTING AND PROCESSING EVIDENCE, ASSISTED WITH MR. MOULTRIE AND INVESTIGATOR POTASH.
Q. SO, THEY HANDLED IT AS FAR AS THE VEHICLE AND COLLECTING ANY EVIDENCE THAT WAS OUT AT THE SCENE?
A. YES, SIR.
Q. ALL RIGHT. WHERE DID YOU RESPOND AT THAT TIME?
A. I WENT BACK TO HEADQUARTERS AT THE POLICE DEPARTMENT.
Q. AT THAT POINT IN TIME, DID YOU HAVE OCCASION TO COME INTO, HAVE CONTACT WITH ANY OTHER LAW ENFORCEMENT OFFICERS?
A. YES, I SPOKE WITH CORPORAL MARTIN WHO WAS AT THE HOSPITAL.
Q. HAD YOU LEARNED ANY OTHER INFORMATION AT THIS TIME AS FAR AS WHAT POSSIBLY COULD HAVE HAPPENED OUT THERE AT THE SCENE?
A. YES, I DID.

WERE?

A. THEY WERE AT RICHLAND HOSPITAL, YES.

Q. WHAT DID YOU DO WHILE YOU WERE AT THE SCENE? FIRST OF ALL, WHAT DID YOU OBSERVE OUT AT THE SCENE?

A. WELL, I SAW THE CAR THAT WAS BURNED. I SPOKE WITH MOULTRIE AND SEEL FOR A FEW MINUTES, AND THEY POINTED OUT THE BOTTLE THAT HAD BEEN RECOVERED, AND JUST LOOKED AROUND FOR A FEW MINUTES.

Q. I ASSUME BY THIS TIME THE CAR HAD BEEN EXTINGUISHED WHEN YOU ARRIVED OUT THERE?

A. YES.

Q. ARE YOU AWARE OF WHAT TIME IT WAS YOU GOT THERE?

A. IT WAS ABOUT 10:35.

Q. WERE THERE ANY OTHER WITNESSES OUT AT THE SCENE AT THAT TIME?

A. YES, THERE WERE.

Q. AND WHO WAS THAT?

A. MIKE MADAR WAS THERE, DOUGLAS BROWN, AND I THINK THAT WAS IT.

Q. DID YOU HAVE AN OPPORTUNITY TO SPEAK WITH ONE OF THEM AT THAT TIME?

A. YES, I INTERVIEWED MR. MADAR.

Q. OKAY. WAS THERE ANOTHER INVESTIGATOR THAT WENT OUT TO THE SCENE WITH YOU?

A. YES, INVESTIGATOR BURNS.

A. YES.

Q. I WANT TO TURN YOUR ATTENTION, INVESTIGATOR GRAY, BACK TO SEPTEMBER 26, 1996, AT APPROXIMATELY 10:30 IN THE MORNING. DO YOU RECALL GETTING A CALL AT THAT TIME TO RESPOND AT [redacted] AND [redacted] STREETS?

A. YES, SIR.

Q. PLEASE TELL THE JURY WHAT THE NATURE OF THAT CALL WAS?

A. I WAS ASKED TO GO TO THE SCENE TO LOOK INTO A FIRE THERE IN WHICH A PERSON HAD BEEN INJURED.

Q. DID YOU ACTUALLY RESPOND OUT THERE AT [redacted] AND [redacted]

A. YES, I DID.

Q. AND WHO DID YOU ENCOUNTER WHEN YOU GOT OUT THERE?

A. THERE WERE SEVERAL OFFICERS THERE. SERGEANT SAMMY KOON, DALE HAMILTON, MIKE BLAIR, INVESTIGATOR SEEL, INVESTIGATOR MOULTRIE, INVESTIGATOR POTASH AND SOME OTHERS.

Q. WAS THE VICTIM IN THIS CASE, VAN TYLER, STILL ON THE SCENE?

A. NO.

Q. HOW ABOUT THE DEFENDANT IN THIS CASE, MS. LINDA TYLER?

A. NO.

Q. WERE YOU AWARE AT THAT TIME WHERE THE TWO OF THEM

THE COURT: THANK YOU. LET THE RECORD REFLECT ALL THE JURORS ARE PRESENT.

ALL RIGHT. YOU MAY CALL YOUR NEXT WITNESS.

MR. SORENSON: THANK YOU, YOUR HONOR. IF IT PLEASE THE COURT, THE STATE CALLS INVESTIGATOR JOE GRAY.

THEREUPON:

JOE GRAY, HAVING BEEN FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. INVESTIGATOR GRAY, WHERE ARE YOU EMPLOYED?

A. AT COLUMBIA CITY POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN WITH THE COLUMBIA POLICE DEPARTMENT?

A. FOURTEEN YEARS.

Q. WOULD YOU PLEASE DESCRIBE FOR THE JURY WHAT YOUR DUTIES AND RESPONSIBILITIES ARE WITH THE COLUMBIA POLICE DEPARTMENT?

A. I'M ASSIGNED TO THE INVESTIGATIVE BUREAU. I WORK IN THE MAJOR CRIME UNIT. WE INVESTIGATE PRIMARILY ASSAULTS, ROBBERIES AND HOMICIDES.

Q. AND HOW LONG HAVE YOU BEEN AN INVESTIGATOR WITH THE COLUMBIA POLICE DEPARTMENT?

A. ABOUT NINE YEARS.

Q. NINE YEARS. BEFORE THAT WERE YOU AN OFFICER?

JITTERINESS THAT SHE SEEMS TO BE EXPERIENCING FROM HER MEDICATION WORSEN, THEN WE WOULD OFFER HER SOME ADDITIONAL COGENTIN TO TRY TO HELP CONTROL THAT, AND HOPEFULLY THAT WOULD NOT MAKE HER EXCESSIVELY DROWSY, BUT TO JUST GIVE IT TO HER AT THIS POINT I'M AFRAID WOULD JUST HAVE THE EFFECT OF SEDATING HER AND INTERFERING WITH HER ABILITY TO ATTEND TO WHAT'S GOING ON IN THE COURTROOM.

Q. ALL RIGHT, BUT IT IS YOUR TESTIMONY AT THIS TIME IN YOUR EXPERT OPINION THAT SHE IS ALERT, ORIENTATED AND ABLE TO ASSIST IN HER DEFENSE WITH HER ATTORNEYS AND IS COMPETENT. IS THAT CORRECT?

A. YES, YOUR HONOR.

Q. ALL RIGHT. DR. BEHRMANN, I'M GOING TO ASK THAT YOU REMAIN WITH US IN ORDER --- FOR THE REST OF THIS TRIAL SO THAT WE WILL HAVE YOU AVAILABLE IN CASE WE MAY NEED YOU TO EXAMINE THE DEFENDANT AT A LATER TIME. THANK YOU. YOU MAY STEP DOWN.

ANYTHING FURTHER FROM THE STATE?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: FROM THE DEFENDANT?

MS. JOHNS: NO, YOUR HONOR.

THE COURT: THANK YOU. BRING THE JURY IN.

(JURY TO COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

PROLIXIN AT THIS POINT, AS WELL AS SOME MINOR SIDE EFFECTS FROM THE COGENTIN. SPECIFICALLY, SHE IS EXPERIENCING SOME BLURRED VISION WHICH IS A NORMAL SIDE EFFECT THAT' S EXPECTED FROM THE COGENTIN MEDICATION, AND SHE' S ALSO EXPERIENCING SOME MILD RESTLESSNESS WHICH ACCORDING TO HER DESCRIPTION SEEMS TO BE BOTHERING HER MOSTLY IN HER LOW BACK REGION. BOTH OF THESE SEEM TO BE AT TOLERABLE LEVELS AT THIS POINT AS FAR AS WE CAN DETERMINE.

IN CONVERSATION WITH MS. TYLER AND HER COUNSEL, AND DR. WATTS WHO WAS ALSO PRESENT AT THAT TIME, I THINK WE ALL CAME TO THE AGREEMENT THAT MS. TYLER CAN CONTINUE AT THIS TIME, BUT THAT IF HER SIDE EFFECTS WERE TO BECOME MORE PRONOUNCED WE COULD PRESCRIBE ADDITIONAL MEDICATION TO HELP CONTROL THAT. THE PROBLEM IS, OF COURSE, IS THAT WE' RE WALKING A TIGHT ROPE IN SOME WAYS ABOUT THAT IN THAT GIVING HER ADDITIONAL MEDICATION MAY HAVE THE PROBLEM OF MAKING HER DROWSY WHICH CAN ALSO INTERFERE WITH HER ABILITY TO ATTEND TO WHAT IS GOING ON IN THE COURTROOM, AND I THINK WE' RE ALL IN AGREEMENT THAT SHE DOES NOT WANT TO BE DROWSY DURING THE COURSE OF THE TRIAL ITSELF.

SO, THE CONCLUSION THAT WE CAME TO RIGHT NOW IS THAT WE WILL NOT GIVE HER ANY ADDITIONAL MEDICATION AT THIS TIME, BUT SPECIFICALLY SHOULD HER RESTLESSNESS, AND THIS

BEHRMANN?

A. YES, YOUR HONOR.

Q. ALL RIGHT. IS SHE ABLE TO CONTINUE AT THIS TIME?

A. IN MY OPINION, SHE IS, YOUR HONOR.

Q. SHE'S FULLY COMPETENT AND ABLE TO ASSIST HER COUNSEL IN HER OWN DEFENSE?

A. YES, YOUR HONOR. SHE APPEARS TO STILL BE COMPETENT.

Q. WHAT PROBLEMS IS SHE HAVING THAT WE NEED TO --- DOES SHE NEED ANY MEDICATIONS AT THIS TIME, SIR?

A. THE PROBLEMS THAT MS. TYLER APPEARS TO BE EXPERIENCING AT THIS POINT ARE SIDE EFFECTS FROM THE MEDICATION THAT SHE'S RECEIVING. SHE IS RECEIVING TWO MEDICATIONS THAT SEEM TO BE INVOLVED IN THIS. THE FIRST MEDICATION IS THE PROLIXIN MEDICATION WHICH IS THE ANTI-PSYCHOTIC MEDICATION WHICH WE PRESCRIBE FOR HER TO ASSIST HER IN REMAINING CALM AND PARTICIPATING WITH HER ATTORNEYS IN HER OWN DEFENSE. THIS TYPE OF MEDICATION HAS A CERTAIN SPECTRUM OF SIDE EFFECTS THAT ARE FREQUENTLY ASSOCIATED WITH IT, AND FOR THAT REASON WE ALSO PRESCRIBED A SECOND MEDICATION, CALLED COGENTIN, WHICH HELPS TO PREVENT THE SIDE EFFECTS FROM THE PROLIXIN.

UNFORTUNATELY, THE COGENTIN HAS ITS OWN SET OF SIDE EFFECTS AS WELL, AND I THINK THAT WHAT MS. TYLER IS EXPERIENCING ARE SOME MINOR SIDE EFFECTS FROM THE

DR. THOMAS WILLIAM BEHRMANN, HAVING BEEN FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY THE COURT

Q. THANK YOU, SIR. DR. BEHRMANN, PLEASE STATE YOUR FULL NAME FOR THE RECORD, SIR.

Q. THOMAS WILLIAM BEHRMANN.

Q. DR. BEHRMANN, I BELIEVE YOU'VE BEEN INVOLVED WITH THE EXAMINATION AND EVALUATION OF THE DEFENDANT, MS. LINDA ANN TYLER, SINCE AT LEAST DECEMBER OF 1996, AND MORE SPECIFICALLY ON A MORE REGULAR BASIS SINCE DECEMBER OF 1997. IS THAT CORRECT?

A. THAT'S CORRECT, YOUR HONOR.

Q. AND I BELIEVE YOU TESTIFIED YESTERDAY IN REGARD TO THE COMPETENCY HEARING HELD BEFORE THIS TRIAL BEGAN. IS THAT CORRECT?

A. THAT'S CORRECT, YOUR HONOR.

Q. DR. BEHRMANN, DURING THE TRIAL THE DEFENSE COUNSEL, MS. JOHNS, ADVISED THE COURT THAT MS. TYLER HAD ADVISED HER THAT SHE WAS EXPERIENCING SOME SIDE EFFECTS FROM THE MEDICATIONS WHICH SHE HAD RECEIVED. AT THAT TIME WE STOPPED THE TRIAL, RECESSED THE TRIAL, AND ASKED THAT YOU BE SUMMONED TO THE COURTHOUSE TO EXAMINE MS. TYLER. HAVE YOU HAD A FULL OPPORTUNITY TO EXAMINE MS. TYLER, DR.

THE COURT: THANK YOU. IN RECESS.

MS. JOHNS: CONCERNING COMPETENCY --- BUT I WAS HOPING THAT PERHAPS WE COULD WORK OUT THE REST OF THE CASE WITH REGARD TO THIS MEDICATION. THEY SAID THAT THE SIDE EFFECTS FROM PROLIXIN WILL NOT BE LIFE THREATENING OR ANYTHING OF THAT NATURE, AND THAT IF SHE DOES EXPERIENCE THOSE KIND OF SIDE EFFECTS TO WHERE SHE FEELS LIKE SHE NEEDS THE COGENTIN TO OFFSET THE SIDE EFFECTS, THAT I CAN GO AND CALL THEM AND THEY WANT TO LOOK AT HER BEFORE THEY PRESCRIBE IT TO HER, BUT SHE COULD STILL CONTINUE ON WITH THE CASE.

THE COURT: I NEED THE DOCTORS TO COME IN AND BRING THE DEFENDANT. DR. BEHRMANN. I DON'T KNOW WHO YOU'RE REFERRING TO THE DEFENSE DOCTORS.

MS. JOHNS: DR. BEHRMANN IS THE ATTENDING PHYSICIAN.

THE COURT: RIGHT. WHEN HE FINISHES, MADAM SOLICITOR, WHEN HE FINISHES EXAMINING THE DEFENDANT, I NEED FOR THE DOCTOR TO COME INTO THE COURTROOM.

ALL RIGHT, LET'S GO ON THE RECORD. LET THE RECORD REFLECT THAT THE DEFENDANT IS PRESENT ALONG WITH HER ATTORNEYS. THE STATE IS PRESENT REPRESENTED BY THE SOLICITOR'S OFFICE.

DR. BEHRMANN, WOULD YOU PLEASE COME FORWARD AND TAKE THE WITNESS STAND, SIR.

THEREUPON:

MS. JOHNS: YES, SIR.

THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

ALL RIGHT, MADAM FORELADY, LADIES AND GENTLEMEN, WE WILL TAKE A SHORT RECESS. PLEASE DO NOT DISCUSS THE CASE. I'LL SEND FOR YOU AS SOON AS I AM ABLE. THANK YOU. PLEASE RETIRE.

(JURY TO JURY ROOM.)

MS. JOHNS: YOUR HONOR, I HAVE BEEN SPEAKING WITH MS. TYLER, AND SHE IS ON PROLIXIN. SHE DID NOT RECEIVE HER MEDICATION THIS MORNING, WHICH ALTERS THE SIDE EFFECTS OF THIS MEDICATION. SHE SAYS THAT HER VISION IS GETTING BLURRED AND SHE IS GETTING THE JITTERS, AND I THINK THE ONLY DOCTOR THAT CAN ADMINISTER THIS PROPERLY IS DR. BEHRMANN.

THE COURT: WHERE IS DR. BEHRMANN?

MS. HAYNES: YOUR HONOR, I'LL BE HAPPY TO CALL DR. BEHRMANN. I WOULD REQUEST THAT MS. JOHNS NOT MAKE ANY FURTHER SPEECHES AS SUCH AS SHE JUST DID IN FRONT OF THE JURY. SHE COULD ASK TO APPROACH INSTEAD OF MAKING SPEECHES ABOUT SIDE EFFECTS HER CLIENT IS SUFFERING IN FRONT OF OUR JURY.

THE COURT: ALL RIGHT. ALL RIGHT. GET DR. BEHRMANN AND I WANT HIM TO REMAIN HERE UNTIL THE CONCLUSION OF THIS TRIAL.

MS. HAYNES: OKAY.

THE COURT: REDIRECT.

MR. SORENSON: THANK YOU, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. SORENSON

Q. ALONG THOSE LINES, LIEUTENANT LAYTON, WOULD THE AMOUNT OF GAS THAT ONE GETS ON THEIR HAND OR ON THE, AROUND THE GAS NOZZLE WHEN YOU'RE FILLING UP THE GAS TANK, WOULD THAT BE ENOUGH GAS --- I'LL SHOW YOU STATE'S EXHIBITS NUMBER SEVEN, ELEVEN, SIX, FOUR AND THREE --- TAKE A LOOK AT THEM.

WOULD THAT AMOUNT OF GAS BE A SIGNIFICANT ENOUGH AMOUNT OF GAS TO CAUSE THAT DAMAGE TO THAT VEHICLE WITHIN A FIVE OR SIX MINUTE PERIOD OF TIME?

A. NO, SIR. THIS IS A RESULT OF A FAIRLY LARGE QUANTITY OF GASOLINE.

Q. DAMAGE SHOWN IN THESE PHOTOGRAPHS, YOUR TESTIMONY IS THAT A FAIR AMOUNT OF ---

A. IT WOULD NOT BE JUST FROM GASOLINE ON YOUR HAND. THAT HAD TO COME FROM A LARGE QUANTITY.

Q. THANK YOU.

MS. JOHNS: YOUR HONOR, AT THIS TIME, YOUR HONOR, I'M GOING TO HAVE TO ASK THE COURT FOR A BREAK. SHE'S HAVING SIDE EFFECTS FROM PROLIXIN AND WE NEED TO GET DR. BEHRMANN.

THE COURT: WELL, ARE YOU FINISHED WITH THE WITNESS?

Q. OKAY, AND SO, THERE WAS JUST ENOUGH THERE TO DETECT, WHICH COULD BE ANY AMOUNT. ISN'T THAT RIGHT?
A. WELL, I DON'T KNOW WHAT THE ORIGINAL AMOUNT WAS BUT I KNOW THERE WAS ENOUGH THERE TO DETECT, ENOUGH TO SMELL INITIALLY.
Q. AND HOW MUCH DOES IT TAKE TO SMELL GASOLINE?
A. WELL, IT'S HARD TO SAY. GASOLINE IS PRETTY EASILY DETECTED IN CERTAIN CIRCUMSTANCES WHERE THERE'S NOT ANY OTHER ODORS PRESENT.
Q. AND IS THAT JUST FILLING UP YOUR GAS, GASOLINE ON THE GAS HANDLES AND TOUCHING IT IS ENOUGH TO SMELL GASOLINE ---
A. SURE.
Q. --- IN THE VEHICLE. IS THAT CORRECT?
A. WELL, ENOUGH TO SMELL GASOLINE IN THE VEHICLE?
Q. NO, IF YOU WERE TO PUMP GASOLINE INTO YOUR CAR ---
A. RIGHT.
Q. --- AND THERE WAS GAS ON THE GAS HANDLE ---
A. YES.
Q. AND THEN YOU GET INTO YOUR CAR, YOU CAN SMELL THE GASOLINE ON YOUR HANDS. IS THAT CORRECT?
A. YES, THAT'S TRUE.
Q. THANK YOU, I HAVE NOTHING FURTHER.
THE COURT: THANK YOU.
MR. SORENSON: JUST ONE ---

Q. THAT ITEM NUMBER ONE ONCE AGAIN WAS THE PEPSI BOTTLE?

A. THAT'S CORRECT. THE PLASTIC BOTTLE, AND ALSO ITEM NUMBER THREE HAD AN ODOR TOO, BUT I DIDN'T --- COULDN'T TELL EXACTLY WHAT IT WAS FROM MY NOSE, BECAUSE MY NOSE IS NOT THAT GOOD AT IDENTIFYING CERTAIN THINGS WHEN THEY HAVE OTHER ODORS MASKING THE ORIGINAL ODOR, BUT IT WAS VERY SUSPICIOUS --- ITEM NUMBER THREE WHICH WAS THE CLOTHING FROM THE VICTIM.

Q. WHICH ONCE AGAIN DID COME BACK WITH HAVING ---

A. POSITIVE FOR GASOLINE, CORRECT.

Q. THAT WOULD BE ALL I HAVE, YOUR HONOR.

THE COURT: CROSS EXAMINATION.

CROSS EXAMINATION

BY MS. JOHNS

Q. LIEUTENANT LAYTON, WITH ALL DUE RESPECT WITH ALL OF YOUR TESTING AND EXPERTISE, DID YOU GIVE US A REPORT AS TO HOW MUCH LIQUID IN YOUR ESTIMATE WAS USED?

A. NO, MA'AM. I DID NOT MAKE --- WAS NOT ASKED TO MAKE A DETERMINATION OF --- I HAVE NO WAY OF KNOWING HOW MUCH LIQUID WAS USED.

Q. AND YOU HAVE NO WAY OF KNOWING HOW MUCH LIQUID WAS POURED INTO THAT VEHICLE OR UPON THAT PERSON?

A. NO, MA'AM. I JUST KNOW THERE WAS ENOUGH THERE TO DETECT AFTER THE FIRE.

ACCELERANT FOUND ON HER DRESS?

A. THAT' S CORRECT.

MR. SORENSON: I BEG THE COURT' S INDULGENCE.

Q. LET ME ASK YOU NOW, GOING BACK TO ITEM NUMBER TWO WHICH WAS THE FIRE DEBRIS FROM THE BACK SEAT OF THE VEHICLE.

A. YES, SIR.

Q. I BELIEVE YOU FOUND THAT THERE WAS NO ACCELERANT AND NO FLAMMABLE, COMBUSTIBLE LIQUID DETECTED?

A. THAT' S CORRECT.

Q. IS THAT UNUSUAL WHEN YOU' RE DEALING WITH A CAR FIRE?

A. WELL, IN SOME CASES IT IS. SOME CASES IT DEPENDS ON HOW LONG THE FIRE BURNED AND HOW MUCH LIQUID WAS INITIALLY USED TO ACCELERATE THE FIRE IN THE VEHICLE.

Q. OKAY. WOULD A FACTOR --- CONSIDERED TO BE A FACTOR IF THE LIQUID WAS POURED ON A PERSON AND NOT ACTUALLY POURED OUT IN THE CAR?

A. THAT WOULD BE A DEFINITE FACTOR. YES, SIR.

Q. SERGEANT, WHEN YOU FIRST GOT THESE ITEMS, WERE YOU ABLE TO DETECT ANY PARTICULAR SMELL ABOUT ANY OF THESE ITEMS?

A. YES, SIR, AND INITIALLY IN ITEM NUMBER --- LET ME CHECK MY NOTES --- ITEM NUMBER ONE I BELIEVE. I MADE A NOTE WHEN I INITIALLY OPENED IT THERE WAS AN ODOR OF SOME SORT OF ACCELERANT.

Q. OKAY. STATE'S NUMBER TWO, WHICH I BELIEVE IN PREVIOUS TESTIMONY WAS THAT THIS CAME FROM THE BACK OR REAR SEAT, I BELIEVE? THERE WAS NO FLAMMABLE ---

A. OR COMBUSTIBLE LIQUID DETECTED IN THAT PARTICULAR SAMPLE.

Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER FIFTEEN WHICH I BELIEVE IS GOING TO BE YOUR NUMBER THREE, AND ASK YOU IF YOU RECOGNIZE THAT ITEM?

A. YES, SIR. I DO, AND AGAIN IT HAS THE SAME LABORATORY FILE NUMBER. IT HAS THE SAME DATE AND MY INITIALS ALSO ON HERE, AND THIS WOULD BE ITEM NUMBER, MY ITEM NUMBER THREE, STATE'S EXHIBIT FIFTEEN. IT WAS CLOTHING BELONGING TO THE VICTIM, AND THE RESULTS OF THE ANALYSIS WAS GASOLINE FOUND.

Q. ONCE AGAIN THIS CAME BACK, THE PATTERN THAT IT EXHIBITED MATCHED UP ---

A. CONSISTENT WITH GASOLINE.

Q. THE LAST THING I WANT TO SHOW YOU HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER SIXTEEN, AND I ASK YOU IF YOU RECOGNIZE THAT ITEM?

A. YES, SIR. I DO. IT HAS THE SAME LABORATORY NUMBER AND MY INITIALS AND THE DATE, AND IT WAS LISTED AS A DRESS BELONGING TO SUSPECT, AND I FOUND NO FLAMMABLE OR COMBUSTIBLE LIQUIDS DETECTED ON THAT.

Q. ON THE DRESS BELONGING TO THE DEFENDANT, NO

Q. I SHOW YOU THIS CAN, LIEUTENANT LAYTON, AND ASK YOU IF THAT IS ITEM NUMBER ONE YOU'RE REFERRING TO?
A. YES, SIR. THIS HAS OUR LABORATORY FILE NUMBER, L9612372. IT HAS THE COUNTY, COLUMBIA POLICE DEPARTMENT, THE DATE THAT I ANALYZED IT, NOVEMBER EIGHTH, AND MY INITIALS ALSO ON THIS PARTICULAR CAN. ITEM NUMBER ONE, STATE'S EXHIBIT THIRTEEN, AND IN THAT ---
Q. WHAT IS IN THAT --- WHAT WAS THAT ITEM THAT YOU ANALYZED?
A. AND THIS WAS A MELTED PLASTIC SODA TYPE BOTTLE THAT I FOUND GASOLINE IN.
Q. SO, WHEN YOU PERFORMED THOSE ANALYSES THAT YOU JUST TALKED ABOUT, IT CAME BACK AS A MATCH?
A. TO GASOLINE.
Q. TO GASOLINE.
A. IT MATCHED PERFECTLY TO GASOLINE.
Q. I SHOW YOU WHAT HAS BEEN MARKED AS, LISTED ON YOUR REPORT AS S.L.E.D. NUMBER TWO, STATE'S EXHIBIT NUMBER SEVENTEEN. I ASK YOU IF YOU HAD OCCASION TO COME INTO CONTACT WITH THAT ITEM?
A. YES, SIR. I DID. THIS HAS THE SAME LABORATORY FILE NUMBER, THE SAME DATE, AND ALSO MY INITIALS ON THIS PARTICULAR CAN, MY ITEM NUMBER TWO, STATE'S EXHIBIT SEVENTEEN, AND I FOUND NO FLAMMABLE OR COMBUSTIBLE LIQUID IN THAT PARTICULAR SAMPLE. THERE WAS NONE DETECTED.

TIMES DEPENDING ON HOW VOLATILE THEY ARE. THE LEAST VOLATILES WILL COME OUT LAST AND THE MOST VOLATILE STUFF WILL COME OUT IN THE BEGINNING.

IN THE ARSON LABORATORY WE DIVIDE THE RESULTS UP INTO ABOUT FOUR MAJOR CLASSIFICATIONS. ONE IS A LIGHT PETROLEUM PRODUCT WHICH COMES OUT AT THE VERY BEGINNING OF THE CHROMATOGRAPHIC RUN. A MEDIUM PETROLEUM PRODUCT WHICH COMES OUT IN THE MIDDLE OF THE CHROMATOGRAPHIC RUN, AND A HEAVY PETROLEUM PRODUCT WHICH COMES OUT AT THE END OF THE CHROMATOGRAPHIC RUN, AND ALSO GASOLINE. GASOLINE IS SEPARATE. IT WOULD TEND TO FALL UNDER THE LIGHT PETROLEUM PRODUCTS, BUT ITS PATTERN IS PRETTY MUCH UNIQUE. THE REFINERIES THAT PRODUCE GASOLINE PRODUCE A CERTAIN QUALITY OF GASOLINE. THEY HAVE TO MEET CERTAIN STANDARDS BEFORE THE GASOLINE IS SOLD TO THE DIFFERENT COMPANIES SUCH AS SHELL, BP, EXXON AND DIFFERENT GAS COMPANIES THAT YOU BUY GASOLINE FROM.

SO, WHAT I DO IS I RUN STANDARDS ON THE GAS CHROMATOGRAPH, AND I RUN GASOLINE ON THE GAS CHROMATOGRAPH UNDER THE EXACT SAME CONDITIONS THAT I RUN THIS UNKNOWN SAMPLE, AND I JUST PATTERN MATCH. IF THE PATTERNS MATCH, I CALL IT A POSITIVE. IF THEY DON'T MATCH, I CALL IT EITHER NEGATIVE OR EITHER DO FURTHER TESTS ON IT, AND IN THIS PARTICULAR CASE I FOUND A PATTERN MATCH ON ITEM NUMBER ONE ---

INCREASE THE TEMPERATURE OF THE CONTAINER OR WHATEVER THEY'RE IN, THEY WILL TEND TO GO TO THE VAPOR STATE. IF THEY GO INTO THE VAPOR OR GASEOUS STATE, THEY WILL BE ABSORBED ON THAT CHARCOAL STRIP.

I TAKE THAT CHARCOAL STRIP NEXT AND WASH IT WITH A SOLVENT, CARBON DISULFIDE. THAT SOLVENT WASHES OFF ANY VOLATILES THAT MIGHT BE PRESENT THAT WERE TRAPPED ONTO THAT ACTIVATED CHARCOAL STRIP.

THEN THE NEXT STEP IS TO TAKE THAT INDIVIDUAL LIQUID, CARBON DISULFIDE, AND ANY VOLATILES THAT MIGHT HAVE BEEN ABSORBED ORIGINALLY ON THE CHARCOAL STRIP AND INJECT IT INTO AN INSTRUMENT I USE IN THE LABORATORY CALLED A GAS CHROMATOGRAPH, AND THAT GAS CHROMATOGRAPH IS SIMPLY AN INSTRUMENT THAT'S USED TO SEPARATE MIXTURES INTO THEIR PURE COMPONENTS.

GASOLINE IS A MIXTURE OF 200 TO 300 DIFFERENT COMPOUNDS, IF YOU WERE TO SEPARATE THEM ALL. MOST OF THE TIME I LOOK AT AN AVERAGE OF 20 TO 30 DIFFERENT COMPOUNDS IN GASOLINE, THE MAJOR COMPONENTS OF GASOLINE. KEROSENE IS AN EXTREMELY COMPLEX MIXTURE ALSO. IT HAS 400 TO 500 COMPOUNDS IN IT. SO, WE'RE LOOKING AT VERY, VERY COMPLEX MIXTURES HERE IN CERTAIN CASES, AND IN THIS PARTICULAR CASE THE RESULTS --- WHAT I DO IS INJECT THE SAMPLE OF CARBON DISULFIDE INTO THE GAS CHROMATOGRAPH AND I GET A PATTERN NOW. DIFFERENT PEAKS WILL COME OUT AT DIFFERENT

VERY SMALL TINY RECTANGULAR SQUARE OF ACTIVATED CHARCOAL THAT COME TO US FROM THE PRO-TEC COMPANY. I PLACED A WIRE, COPPER WIRE, THROUGH THE LITTLE CHARCOAL STRIP, AND I DO THAT SO THAT I CAN HANG THAT CHARCOAL STRIP IN THE HEAD SPACE, OR THE SPACE BETWEEN THE FIRE DEBRIS AND THE TOP OF THE CONTAINER, WHATEVER THE FIRE DEBRIS IS, WHETHER IT'S CLOTHING, WHETHER IT'S WOOD, CARPET OR WHATEVER IS SUBMITTED, AND IN THIS PARTICULAR CASE IT WAS SOME CLOTHING SUBMITTED AND ALSO SOME FIRE DEBRIS AND A BOTTLE, A PLASTIC BOTTLE CONTAINING A LIQUID, AND WHAT HAPPENS NEXT IS EACH SAMPLE WAS PREPARED EXACTLY THE SAME WAY. THE CHARCOAL STRIP WAS PLACED INSIDE THE HEAD SPACE OR THE SPACE BETWEEN THE FIRE DEBRIS AND THE TOP OF THE CONTAINER. IT WAS --- THE CONTAINER WAS THEN SEALED. IF IT WAS A CAN, IT WAS SEALED AND IF IT WAS A BAG IT WAS RE-SEALED WITH A HEAT SEALER. THE BAGS AND CANS WERE THEN PLACED IN AN OVEN AT 60 DEGREE CENTIGRADE AND ALLOWED TO HEAT OVERNIGHT, ABOUT SIXTEEN HOURS.

THE CONTAINERS WERE THEN REMOVED FROM THE OVEN AND THE ACTIVATED CHARCOAL STRIP WAS THEN REMOVED FROM EACH INDIVIDUAL CONTAINER. IF THERE WERE ANY VOLATILES PRESENT AT ROOM TEMPERATURE MOST OF THE TIME THEY WOULD BE A LIQUID OR TEND TO BE A LIQUID. MOST OF YOUR LIQUIDS RUN WHAT WE CALL AN EQUILIBRIUM. THAT IS THEY GO BETWEEN THE VAPOR STATE AS A GAS AND THE LIQUID STATE, AND AS YOU

A. I RECEIVED FOUR INDEPENDENT ITEMS FROM INVESTIGATOR SEEL WITH THE COLUMBIA POLICE DEPARTMENT. I RECEIVED THOSE ON SEPTEMBER 26, 1996. THEY WERE LOGGED IN. THEY WERE BROUGHT INTO S.L.E.D. FORENSIC LAB, LOGGED INTO EVIDENCE LOG-IN. THEY WERE PLACED IN A BOX, A SEALED BOX AND PLACED WITH THE EVIDENCE CUSTODIAN THERE, CONNIE MCKAY. CONNIE MCKAY THEN BROUGHT IT UP TO MY LABORATORY TO BE PLACED INTO THE ARSON LAB EVIDENCE AREA.

Q. DID YOU THEN HAVE AN OPPORTUNITY TO ACTUALLY COME INTO CONTACT WITH THESE ITEMS YOURSELF?

A. YES, SIR. ON NOVEMBER EIGHTH, I REMOVED THE SEALED BOX FROM THE EVIDENCE ROOM AT S.L.E.D. ARSON LAB. I PLACED MY INITIALS AND DATE AND TIME THAT I ANALYZED EACH INDIVIDUAL SAMPLE. I DID A PREPARATORY ANALYSIS ON EACH INDIVIDUAL CONTAINER.

Q. OKAY, AND YOU DID AN ANALYSIS ON EACH CONTAINER?

A. THAT' S CORRECT.

Q. PLEASE TELL THE JURY HOW --- I MEAN WHAT PROCEDURES YOU GO THROUGH IN ANALYZING SOMETHING TO DETERMINE WHETHER AN ACCELERANT WAS PRESENT OR NOT.

A. OKAY. IN EACH OF THESE PARTICULAR ITEMS THAT WERE SUBMITTED, I WANTED TO CHECK TO SEE IF THERE WERE ANY VOLATILE COMPONENTS THAT MIGHT BE PRESENT FROM A LIQUID THAT MIGHT HAVE BEEN USED TO ACCELERATE THIS PARTICULAR INCIDENT. I TOOK A ACTIVATED CHARCOAL STRIP WHICH IS A

A. AN ACCELERANT IS ANY LIQUID, COMBUSTIBLE LIQUID, IGNITABLE LIQUID THAT IS USED TO ACCELERATE A FIRE. ORDINARY COMBUSTIBLES SUCH AS PAPER, PLASTIC, THINGS LIKE THAT CAN BE USED TO ACCELERATE A FIRE, BUT LIQUIDS WORK A LITTLE BETTER. THEY'RE MORE VOLATILE. THEY'RE EASIER TO IGNITE.

IF WE WERE GOING TO BURN A PARTICULAR ROOM, MOST OF THE MATERIAL IN THE ROOM HAS TO BE --- GET TO ITS IGNITION TEMPERATURE, AND IN ORDER TO GET CHAIRS, CARPET, FLOORING, WALL PANELING, CEILING TO ITS IGNITION TEMPERATURE YOU HAVE TO HAVE SOME SORT OF ACCELERANT TO ACCELERATE THAT. AN ACCELERANT RAPIDLY SPREADS THE FIRE AND ALSO ALLOWS OTHER ORDINARY COMBUSTIBLES TO REACH THEIR IGNITION TEMPERATURE WHICH IN TURN ACCELERATES OTHER COMBUSTIBLES IN THE ROOM.

Q. AND WOULD GASOLINE --- IS THAT AN ACCELERANT?

A. YES, SIR. IT IS.

Q. I WANT TO TURN YOUR ATTENTION, LIEUTENANT LAYTON, TO THE CASE AT HAND HERE, STATE V. LINDA TYLER. WERE YOU --- IN THE COURSE OF YOUR DUTIES OUT AT S.L.E.D., HAVE AN OCCASION TO COME INTO CONTACT WITH SOME EVIDENCE IN THIS CASE?

A. YES, SIR. I DID.

Q. OKAY. IF YOU COULD TELL THE JURY WHAT THOSE ITEMS WERE THAT YOU RECEIVED.

EXPERT IN THE FIELD OF ARSON AND FORENSIC INVESTIGATIONS?

MS. JOHNS: YES, SIR. YES, YOUR HONOR.

THE COURT: DO YOU ACCEPT THE STIPULATIONS?

MR. SORENSON: THAT'S FINE, YOUR HONOR.

THE COURT: THANK YOU. THE COURT FINDS THE WITNESS TO BE AN EXPERT IN THE FIELD OF ARSON AND FORENSIC INVESTIGATIONS.

MADAM FORELADY, LADIES AND GENTLEMEN, A STIPULATION IS AN AGREEMENT BETWEEN COUNSEL IN REGARD TO A PARTICULAR FACT, WHICH YOU MAY CONSIDER TO BE TRUE. IN THIS CASE, IT IS STIPULATED AND AGREED BY THE SOLICITOR ON BEHALF OF THE STATE OF SOUTH CAROLINA, AND MS. JOHNS, THAT THE WITNESS IS AN EXPERT IN THE FIELD OF ARSON AND FORENSIC INVESTIGATIONS. YOU MAY CONSIDER THAT TO BE TRUE. THANK YOU.

MR. SORENSON: THANK YOU, YOUR HONOR.

BY MR. SORENSON

Q. LIEUTENANT LAYTON, I BELIEVE YOU INDICATED A FEW MOMENTS AGO THAT ONE OF YOUR PRIME RESPONSIBILITIES IS DETERMINING WHETHER THE PRESENCE OR ABSENCE OF --- I BELIEVE YOU INDICATED A LIQUID OR A VOLATILE ACCELERANT --- IS THAT CORRECT?

A. YES, SIR. THAT'S CORRECT.

Q. PLEASE EXPLAIN TO THE JURY WHAT THAT MEANS. WHAT IS AN ACCELERANT --- A LIQUID OR A VOLATILE ACCELERANT?

A. YES, SIR. THAT'S CORRECT.
Q. WHAT ARE YOUR DUTIES OUT AT S.L.E.D.?
A. I'M IN CHARGE OF THE ARSON LABORATORY AT S.L.E.D. AND THE FORENSIC LAB.
Q. OKAY. IF YOU COULD JUST BRIEFLY GO THROUGH AND TELL THE JURY WHAT THAT ENTAILS BEING IN CHARGE OF THAT DEPARTMENT OUT AT S.L.E.D.
A. OKAY. I BECAME SUPERVISOR OF THE ARSON LABORATORY IN SEPTEMBER OF 1990. THERE IS REALLY ONLY ONE PERSON IN THERE AND THAT'S ME. I DO ALL THE WORK. I'VE RECENTLY HIRED A TECHNICIAN TO HELP ME WITH SOME OF THE ANALYSIS AND PROCEDURES.

I RECEIVE EVIDENCE FROM VARIOUS POLICE ORGANIZATIONS, FROM FIRE DEPARTMENTS ALL OVER THE STATE, FROM EIGHTEEN FULL TIME ARSON INVESTIGATORS WHO WORK WITH S.L.E.D., AND I ANALYZE THE FIRE DEBRIS FOR ANY LIQUID OR VOLATILE ACCELERANTS THAT MIGHT BE PRESENT THAT WERE USED TO ACCELERATE A FIRE.

Q. WHAT KIND OF TRAINING, WHAT KIND OF COURSES HAVE YOU BEEN THROUGH TO AID YOU IN YOUR, PERFORMING YOUR DUTIES OUT AT S.L.E.D.?
A. I RECEIVED A B.S. DEGREE IN CHEMISTRY ---

MS. JOHNS: YOUR HONOR, WE WOULD STIPULATE TO MR. LAYTON'S QUALIFICATIONS AT S.L.E.D. WE HAVE ---

THE COURT: I SEE. YOU'LL STIPULATE THAT HE'S AN

BY MR. SORENSON

Q. WHEN YOU BEGAN TAKING THE WRITTEN STATEMENT, DID YOU AT THAT TIME FEEL THAT SHE HAD BECOME MORE FORTHRIGHT WITH YOU?

A. YES, SIR.

Q. AS FAR AS WHAT MS. TYLER SPOKE WITH YOU THAT DAY ABOUT, EVERYTHING SHE TOLD YOU IS EITHER DOCUMENTED SOMEWHERE IN YOUR CASE NOTES OR IN THE WRITTEN STATEMENT?

A. YES.

Q. MS. JOHNS ASKED YOU ABOUT THAT SUMMARY THEN BEING PROVIDED TO THE SOLICITOR'S OFFICE, WHO THEN IN TURN PROVIDED IT TO THE DEFENSE ALSO. IS THAT CORRECT?

A. YES, SIR.

Q. AND I BELIEVE ON THE FIRST LINE OF QUESTIONING SHE ASKED YOU ABOUT WAS --- ABOUT THE USE OF THE TELEPHONE. ABOUT HOW YOU FINALLY ALLOWED HER USE OF THE TELEPHONE AFTER YOU WERE DONE QUESTIONING HER. DID SHE EVER ASK TO USE THE TELEPHONE BEFORE YOU BEGAN QUESTIONING HER?

A. NO.

Q. DURING THE INTERROGATION OR QUESTIONING, HOWEVER YOU MIGHT WANT TO PHRASE IT?

A. NO, SHE WAS VERY ATTENTIVE DURING THE WHOLE INTERVIEW.

Q. THE FIRST TIME THE USE OF THE TELEPHONE CAME UP, WHAT DID YOU ALLOW HER TO DO?

A. SHE WAS ALLOWED TO USE THE PHONE OR WOULD HAVE BEEN ALLOWED TO USE THE BATHROOM OR ANYTHING LIKE THAT.

Q. THANK YOU. THAT' S MY REDIRECT.

THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN. NEXT WITNESS.

MS. HAYNES: THE STATE CALLS DR. RONALD BURNS.

THEREUPON:

RONALD GIBSON BURNS, HAVING BEEN FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HAYNES

Q. DR. BURNS, WHERE ARE YOU EMPLOYED, SIR?

A. AT RICHLAND MEMORIAL HOSPITAL.

Q. AND WHAT ARE YOUR DUTIES THERE AT RICHLAND MEMORIAL HOSPITAL?

A. I' M ONE OF SEVERAL PATHOLOGISTS THERE.

Q. WHAT EXACTLY IS A PATHOLOGIST?

A. A PATHOLOGIST IS A DOCTOR WHO SPECIALIZES IN EXAMINATION FOR DISEASE.

Q. AND THE REASON FOR THAT IS WHAT?

A. WELL, IT' S A SUPPORTED DIAGNOSTIC MEDICAL SPECIALTY. IF BIOPSIES ARE TAKEN WE READ THOSE BIOPSIES FOR TUMORS FOR EXAMPLE. WE ALSO DO AUTOPSIES TO FIND OUT CAUSE OF DEATH.

Q. AND HOW LONG HAVE YOU BEEN THERE AT RICHLAND MEMORIAL HOSPITAL?

A. SINCE 1983.

Q. FIFTEEN YEARS?

A. YES.

Q. AND WOULD YOU BRIEFLY DESCRIBE TO THE JURY YOUR EDUCATIONAL BACK GROUND AFTER HIGH SCHOOL, DOCTOR.

A. WELL, I ATTENDED COLLEGE AT DUKE UNIVERSITY, AND FROM THERE WENT TO THE MEDICAL COLLEGE OF SOUTH CAROLINA, NOW THE MEDICAL UNIVERSITY OF SOUTH CAROLINA. GRADUATED THERE IN 1975 AND ENTERED RESIDENCY IN PATHOLOGY AT WILLIAM BEAUMONT ARMY MEDICAL CENTER IN EL PASO, TEXAS. I COMPLETED OUT THERE, I BELIEVE, IN 1979 AND IN 1980 BEGAN AT EISENHOWER ARMY MEDICAL CENTER WHERE I WAS ON THE TEACHING STAFF THERE AND LEFT THERE IN 1983 TO COME TO COLUMBIA.

Q. AND YOU ACTUALLY WERE BORN AND RAISED IN COLUMBIA?

A. YES, I WAS.

Q. WENT TO A.C. FLORA HIGH SCHOOL?

A. RIGHT.

Q. AND GOT A SCHOLARSHIP TO USC MEDICAL SCHOOL?

A. YES, I DID.

Q. AND YOU SAID YOU DID SOME TIME AT THE ARMY MEDICAL CENTER?

A. RIGHT.

Q. WAS THAT YOUR INTERNSHIP OR RESIDENCY?

A. YES, IT WAS.

Q. AND HAVE YOU EVER QUALIFIED AS AN EXPERT IN PATHOLOGY BEFORE, DOCTOR?

A. MANY TIMES, YES.

Q. AND IN THIS COURT ITSELF?

A. YES.

Q. AND HAVE YOU EVER TESTIFIED BEFORE?

A. YES, MANY TIMES.

Q. DO YOU KNOW APPROXIMATELY HOW MANY TIMES?

A. MULTIPLE DOZENS OF TIMES OVER THE YEARS.

MS. HAYNES: YOUR HONOR, AT THIS TIME, WE WOULD SEEK TO INTRODUCE DR. BURNS AS AN EXPERT BOTH IN PATHOLOGY AND GENERAL MEDICINE.

THE COURT: ALL RIGHT. WOULD YOU LIKE TO CROSS EXAMINE HIM IN REGARD TO HIS QUALIFICATIONS?

MS. JOHNS: NO VOIR DIRE, YOUR HONOR.

THE COURT: ALL RIGHT. THE COURT FINDS THE WITNESS TO BE AN EXPERT IN THE FIELD OF PATHOLOGY AND GENERAL MEDICINE.

MS. HAYNES: THANK YOU, YOUR HONOR.

<u>BY MS. HAYNES</u>

Q. NOW, DR. BURNS, DID YOU HAVE THE OCCASION TO PERFORM AN AUTOPSY ON VAN TYLER?

A. YES, I DID.

Q. AND WHEN WAS THAT DONE?
A. THAT WAS ON THE 28TH OF SEPTEMBER, 1996.
Q. AND DO YOU KNOW WHEN HE ACTUALLY DIED?
A. I BELIEVE THE RECORDS INDICATED HE HAD DIED THE DAY BEFORE.
Q. WAS THAT THE 27TH?
A. YES.
Q. DO YOU KNOW WHERE HE DIED?
A. I BELIEVE AGAIN THAT WAS AT THE AUGUSTA BURN CENTER.
Q. DO YOU KNOW WHY HE WAS AT THE AUGUSTA BURN CENTER?
A. FOR EXTENSIVE BURNS.
Q. AND TELL ME, DOCTOR, IF YOU CAN, IS THAT TYPICAL OR ATYPICAL WHEN A BURN PATIENT IS RECEIVED AT RICHLAND MEMORIAL HOSPITAL THAT THEY BE SENT TO THE AUGUSTA MEDICAL BURN CENTER?
A. I BELIEVE THAT THE AUGUSTA BURN UNIT IS THE NEAREST LARGE SCALE BURN UNIT AROUND HERE.
Q. AND SO, THAT'S WHY YOU HAVE PATIENTS SENT OUT VIA HELICOPTER THERE?
A. I ASSUME THAT'S THE REASON, YES.
Q. AND WHY WOULD YOU THEN, DUE TO THE FACT THAT HE DIED ON THE 27TH AFTER GETTING HIS BURNS ON THE 26TH AND DIED THE NEXT DAY ON THE 27TH, WHY WOULD YOU THEN ON THE 28TH BE THE ONE TO PERFORM THE AUTOPSY AND NOT SOMEONE DOWN AT AUGUSTA?

A. WELL, I ASSUME THAT HAS TO DO WITH JURISDICTIONS SINCE AN INCIDENT OCCURRED IN THIS COUNTY, AND WE DO THE AUTOPSIES FOR THE RICHLAND COUNTY CORONER, THAT WE DID IT.

Q. AND IS THAT PRETTY MUCH STANDARD POLICY AT RICHLAND MEMORIAL?

A. YES, IT IS.

Q. AND DOCTOR, WHAT EXACTLY DID YOU FIND WHEN DOING YOUR AUTOPSY?

A. WELL, WHEN WE RECEIVED MR. TYLER HE HAD VERY EXTENSIVE BURNS ON THE HEAD AND THE FACE, THE NECK, THE CHEST, FRONT AND BACK, BOTH UPPER ARMS AND SOME LESSER BURNS ON BOTH LEGS.

Q. AND WHAT IF ANYTHING DID YOU FIND THAT WAS CAUSED BY THESE BURNS?

A. WELL, THERE ARE MULTIPLE THINGS THAT HAPPEN WITH BURNS BECAUSE THEY DESTROY TISSUE, CAUSE LOSS OF FLUIDS, PROTEINS, ELECTROLYTES, ALL THINGS THAT ARE REQUIRED TO MAINTAIN BLOOD PRESSURE FOR EXAMPLE, AND THOSE GO INTO THE AREAS THAT HAVE BEEN DAMAGED.

ADDITIONALLY, CERTAINLY THERE'S PHYSIOLOGIC SHOCK FROM THE OCCURRENCE THAT DESTROYS RED BLOOD CELLS. IT DOES GO TO THE KIDNEY AND CAUSE DAMAGE. THOSE ARE THE GENERAL THINGS. THIS ALSO INCREASES ONES LIKELIHOOD TO INFECTION, AND ADDITIONALLY THERE CAN BE INHALATION

INJURIES FROM INHALING HOT GASES DURING BURNS THAT CAN DAMAGE THE LUNGS.

Q. SO, BASICALLY YOUR SKIN IS A DEFENSE TO INFECTION FOR YOU?

A. YES.

Q. IT' S A BARRIER?

A. YES.

Q. AND WITHOUT YOUR SKIN THERE, SAY IF YOU SUFFERED A BURN, IT COULD CAUSE YOUR SKIN TO FALL OFF, YOU' RE MORE SUBJECT TO INFECTION AND OTHER OUTSIDE THINGS ENTERING IN YOUR BODY TO HARM IT?

A. CERTAINLY, YES.

Q. AND DID THAT HAPPEN IN THIS CASE?

A. WELL, YES. HE LOST A LARGE PORTION OF SKIN, AND WE SAW AT THE AUTOPSY TIME THAT HE HAD A COLONIZATION OF BACTERIA EXTENSIVELY THROUGH THOSE DEAD TISSUES.

Q. AND THAT COLONIZATION OF BACTERIA JUST MEANS INFECTION IN HIS BODY BECAUSE HE DIDN' T HAVE A BARRIER OF SKIN TO PROTECT HIM?

A. YES.

Q. AND YOU MENTIONED AN INHALATION INJURY. WHAT EXACTLY DOES THAT MEAN, DOCTOR?

A. WELL, IT WOULD BE INHALING HOT GASES AT THE TIME OF A BURN. TYPICALLY IS RELATED TO BURN IN ENCLOSED SPACES WHEN THOSE GASES ARE PRESENT, BUT THE HEAT, AS IT DOES

EXTERNALLY, DAMAGES THE INTERNAL TISSUES OF THE LUNGS.
Q. SO, YOU'RE TALKING ABOUT ENCLOSED SPACES. WOULD THAT INCLUDE LIKE IF YOU WERE IN AN AUTOMOBILE AND SOMEONE POURED GASOLINE ON TOP OF YOUR HEAD AND LIT A LIGHTER ON YOU AND LEFT YOU IN THERE? WOULD THAT BE AN ENCLOSED SPACE THAT WOULD CAUSE YOU TO HAVE AN INHALATION INJURY?
A. I WOULD INTERPRET IT THAT WAY, YES.
Q. AND THAT WOULD ACTUALLY DAMAGE NOT ONLY THE SKIN ON THE OUTSIDE WITH THE GAS AND THE FLAMES LIT, BUT IT WOULD DAMAGE YOUR INSIDES --- YOUR LUNGS BECAUSE YOU'RE BREATHING IN THOSE FUMES?
A. YES.
Q. AND DID MR. TYLER IN FACT SUFFER THESE TYPES OF INJURIES?
A. WELL, WHAT WE SAW AT AUTOPSY WAS THAT HE HAD BEGINNING PNEUMONIA, ACTUALLY FAIRLY EXTENSIVE IN THE LUNGS.
Q. AND THAT'S PRETTY TYPICAL OF INHALATION INJURIES?
A. THAT WOULD BE ONE OF THE CHANGES, YES.
Q. AND CAN YOU EXPLAIN IF YOU CAN, DOCTOR, THE DIFFERENT DEGREES OF BURNS? HOW DO YOU RATE BURNS, AND WHAT EXACTLY DO THE RATINGS MEAN?
A. WELL, BURNS --- THE ONES THAT I'M MOST FAMILIAR WITH, FIRST, SECOND AND THIRD DEGREE TYPES OF BURNS ---

THE FIRST DEGREE BURN IS A VERY SUPERFICIAL BURN WHERE THE EPIDERMIS REMAINS FULLY INTACT, AND WE TYPICALLY SEE THAT AS AN AREA OF REDDENING AND PAINFULNESS IF WE'RE BURNED.

Q. IS THAT LIKE A SUNBURN?

A. LIKE A SUNBURN, YES. SECOND DEGREE BURNS ARE THOSE WHICH ARE ACCOMPANIED BY BLISTERING, AND THERE YOU'VE DAMAGED A PORTION OF THE LOWEST SEGMENT OF THE SKIN THAT WE SEE ON THE OUTSIDE.

Q. WOULD THAT BE LIKE WHEN YOU GO TO GET SOMETHING OUT OF THE OVEN AND YOU TOUCH THAT TRAY IN THE OVEN AND IT BLISTERS UP?

A. YES, AND IT BLISTERS. YEAH, THAT'S THE MOST EASILY SEEN SIGN. THE THIRD DEGREE TYPE OF BURN IS A BURN WHICH BURNS ENTIRELY THROUGH THE OUTER THICKNESS OF THE SKIN AND OFTEN DAMAGES NERVES. UNLIKE THE OTHER TYPES OF BURNS, IT'S TYPICALLY NOT ACCOMPANIED BY BLISTERING IN THOSE AREAS, AND THERE IS ACTUALLY LOSS OF SENSATION THERE BECAUSE THE NERVES HAVE BEEN DAMAGED.

Q. AND SO, THE THIRD DEGREE BURN WOULD BE THE MOST SERIOUS OF THOSE THREE?

A. IT IS, YES.

Q. AND CAN YOU TELL ME, DOCTOR, IF YOU KNOW THE TYPE OF BURNS THAT MR. TYLER SUFFERED, PLEASE?

A. HE APPEARED TO HAVE SUFFERED VERY EXTENSIVE THIRD

DEGREE BURNS.

Q. THE WORST BURNS?

A. YES.

Q. AND LET ME SHOW YOU THIS, DOCTOR, AND ASK YOU IF YOU'VE SEEN THIS IN THE MEDICAL RECORDS THAT YOU'VE REVIEWED FROM THE AUGUSTA BURN CENTER?

A. YES, I HAVE.

Q. AND WILL THIS ASSIST YOU IN SHOWING THE JURY THE AREAS OF THE BODY THAT WERE ACTUALLY BURNED ON VAN TYLER?

A. YES.

MS. HAYNES: WE NEED TO MARK THIS FOR ID AT THIS TIME.

THE COURT: ALL RIGHT. MARK IT --- ANY OBJECTION TO THE NEXT APPROPRIATE STATE EXHIBIT?

MS. JOHNS: NO OBJECTION.

THE COURT: WHAT NUMBER IS THAT?

MS. HAYNES: TWENTY-SIX, YOUR HONOR.

THE COURT: ID ONLY.

(STATE'S EXHIBIT TWENTY-SIX MARKED FOR I.D.)

BY MS. HAYNES

Q. DOCTOR, IF YOU'LL TAKE A LOOK AT STATE'S EXHIBIT NUMBER TWENTY-SIX. I'LL SEE IF WE CAN POSITION THIS SO EVERYONE CAN SEE. CAN YOU SEE IT FROM THERE, DOCTOR?

A. YES, I CAN.

Q. CAN YOU SHOW ME WHAT STATE'S EXHIBIT TWENTY-SIX

DEPICTS? DOES IT SHOW A MALE BODY, OR A HUMAN BODY?
A. YES, IT SHOWS A HUMAN BODY WITH AREAS MARKED OUT IN LETTERS THAT I THINK MUST BE IN TERMS TO HELP THEM EVALUATE THE EXTENT OF BURNS.
Q. AND WHAT DO THE SHADED AREAS ON STATE'S EXHIBIT TWENTY-SIX --- WHAT DO THEY DEPICT?
A. THOSE WOULD DEPICT THE BURNED AREAS AND CORRESPOND TO WHAT I SAW AT AUTOPSY.
Q. AND THAT WOULD BE CONTAINED ON THE HEAD, FRONT AND BACK?
A. YES.
Q. ON THE FULL CHEST, FRONT AND BACK?
A. YES.
Q. DOWN THE LENGTHS OF BOTH ARMS, FRONT AND BACK?
A. YES.
Q. AND DOWN THE FRONT OF THE LEGS?
A. YES.
Q. THERE'S NONE ON THE BACK. CORRECT?
A. NOT ON THE BACK OF THE LEGS.
Q. WOULD THAT BE CONSISTENT WITH SOMEONE SITTING IN AN AUTOMOBILE WHEN IT'S DOUSED ON TOP OF THEIR HEAD?
A. THAT WOULD SEEM TO BE CONSISTENT.
Q. AND THOSE ARE ALL AT LEAST SECOND AND THIRD DEGREE BURNS?
A. THAT'S CERTAINLY WHAT THEY LOOKED LIKE AT AUTOPSY,

YES.

Q. AND HAVE YOU ALSO HAD THE OPPORTUNITY TO REVIEW THE MEDICAL RECORDS FROM THE AUGUSTA BURN CENTER?

A. YES, VERY RECENTLY.

Q. AND I BELIEVE YOU IN FACT HAVE THOSE, OR COPIES OF THOSE ACTUAL RECORDS WITH YOU?

A. YES.

Q. SO, ALL OF THESE RECORDS ARE FROM HIS TWENTY-FOUR HOUR STAY AT THE AUGUSTA MEDICAL CENTER?

A. THAT' S RIGHT.

Q. AND IN THOSE RECORDS, DOES IT INDICATE WHETHER OR NOT THEY MONITORED HIM, MONITORED MR. TYLER PRETTY EXTENSIVELY?

A. IT WAS VERY EXTENSIVELY, YES.

Q. AND IN FACT THERE' S FLOW CHARTS, ARE THERE NOT, IN THERE, OR CHARTS IN THERE WHERE THEY MONITORED DIFFERENT AMOUNTS OF IV GIVEN TO HIM?

A. YES, THEY MONITORED ALL HIS INPUT AND OUTPUT.

Q. THEY MONITORED INPUT AND OUTPUT. SO, THEY MONITORED THE INPUT OF IVS, AND THEY MONITORED THE OUTPUT OF URINE?

A. YES, THEY DID.

Q. AND THAT' S PRETTY EXTENSIVE YOU SAID?

A. YES.

Q. AND THAT WHOLE PACKAGE WAS FOR A TWENTY-FOUR HOUR PERIOD THAT HE WAS THERE?

A. RIGHT.
Q. AND THE MEDICAL RECORDS THAT YOU REVIEWED FROM THE AUGUSTA MEDICAL CENTER ARE THEY CONSISTENT, OR DO THEY SUPPORT YOUR THEORY AS TO CAUSE OF DEATH OF MR. TYLER?
A. YES, THEY SEEM TO.
Q. AND DID YOU SEE ANY OTHER THING CONTAINED IN THOSE MEDICAL RECORDS FROM THE AUGUSTA BURN CENTER THAT WOULD INDICATE TO YOU THAT HE DIED OF SOMETHING OTHER THAN THE BURNS INFLICTED UPON HIM ON THE 26TH BY MS. LINDA TYLER?
A. WELL, I CAN ONLY REFER TO THE BURNS, AND I DID NOT SEE ANYTHING ELSE, NO.
Q. THERE WAS NOTHING ELSE THAT YOU SAW IN THE RECORDS TO INDICATE ---
A. NO.
Q. --- HIS CAUSE OF DEATH OTHER THAN BEING FROM BURNS AND THE COMPLICATIONS AS A RESULT OF THOSE BURNS?
A. YES, THAT' S CORRECT.
Q. THAT' S THE INFECTION YOU MENTIONED?
A. YES.
Q. DID YOU ALSO --- DO YOU ALSO IN --- BESIDES JUST LOOKING AT THE BURNS ON THE BODY AS FOR DISEASE DURING AUTOPSY, DO YOU ALSO GO IN AND ACTUALLY LOOK AT ORGANS WITHIN THE BODY?
A YES, THAT' S PART OF THE ROUTINE AUTOPSY PROCEDURE.
Q. AND DID YOU HAVE A CHANCE TO LOOK AT HIS HEART?

A. YES, WE DID.
Q. AND WHAT WAS YOUR FINDING AS TO THE CONDITION OF HIS HEART?
A. WELL, HIS HEART WAS A NORMAL SIZE HEART. HE DID HAVE ONE BLOOD VESSEL THAT SHOWED MODERATE TO SEVERE ARTHROSCLEROSIS OR HARDENING OF THE ARTERIES AS WE USUALLY REFER TO IT.
Q. WAS THAT CAUSE OF DEATH?
A. I DID NOT THINK SO, NO.
Q. AND AS FAR AS HIS LUNGS, DID YOU ACTUALLY INSPECT HIS LUNGS AND LOOK AT THOSE?
A. YES, YES, HIS LUNGS WERE VERY HEAVY WHICH IS TYPICAL OF PNEUMONIA.
Q. AND HE HAD A BILATERAL LOBAR PNEUMONIA WITH MARKED BACTERIAL COLONIZATION?
A. RIGHT.
Q. WHAT EXACTLY DOES THAT MEAN, DOCTOR?
A. OKAY. LOBAR PNEUMONIA JUST MEANS THAT THE PNEUMONIA INVOLVED THE MULTIPLE LARGE SEGMENTS OF THE LUNG EXTENSIVELY AS OPPOSED TO BEING A SPOTTY TYPE THAT WE OFTEN REFER TO AS BRONCHOPNEUMONIA. IT ALSO TENDS TO BE VERY AGGRESSIVE AND PROGRESSIVE. IT' S VERY DANGEROUS.
Q. IS THAT CONSISTENT WITH AN INHALATION INJURY?
A. YES.
Q. AND DID YOU ALSO TAKE A LOOK AT HIS LIVER?

A. YES, I DID.
Q. AND WHAT WERE YOUR FINDINGS AS TO THAT?
A. WELL, THE LIVER WAS MOSTLY UNREMARKABLE, BUT IT ALSO SHOWED BACTERIAL COLONIZATION INDICATING THAT BACTERIA WAS THERE TO GROW.
Q. SO, FURTHER INFECTION?
A. YES.
Q. AND AS FAR AS HIS GASTROINTESTINAL AREA?
A. YEAH, I COULDN'T TELL FOR SURE WHETHER HE HAD DEFINITE ULCERATION OR NOT, BUT HE HAD LOST SOME OF THE MUCOSA, BUT THEN WE SOMETIMES SEE THAT AFTER DEATH BECAUSE OF THE ACID THAT'S PRESENT IN THE STOMACH, BUT HE ALSO HAD BACTERIAL COLONIZATION THERE.
Q. INFECTION?
A. I WOULD THINK SO, YES.
Q. AND FINALLY, DOCTOR, WHAT WAS THE CAUSE OF DEATH? WHAT DID YOU LIST ON YOUR AUTOPSY --- AND YOU DETERMINE CAUSE OF DEATH? CORRECT?
A. YES, I DO.
Q. OR A DOCTOR? TYPICALLY THE CORONER'S OFFICE SENDS SOMEONE TO THE AUTOPSY TO REPORT YOUR FINDINGS TO LIST ON A CERTIFICATE, DEATH CERTIFICATE, AS TO CAUSE OF DEATH IN AN AUTOPSY?
A. I BELIEVE THAT'S WHAT HE DOES, YES.
Q. AND WHAT DID YOU LIST AS THE CAUSE OF DEATH, SIR?

A. AS EXTENSIVE BURNS AND COMPLICATED BY PNEUMONIA AND SEPSIS.

Q. AND THOSE WERE MOST LIKELY A RESULT OF WHAT, DOCTOR?

A. OF THE BURN INJURY.

Q. DOES THIS STATE'S EXHIBIT TWENTY-SIX FOR ID FAIRLY AND ACCURATELY REPRESENT THE LOCATION OF THE BURNS UPON THE BODY OF VAN TYLER.

A. YES, IT DOES.

MS. HAYNES: WE SEEK TO INTRODUCE STATE'S EXHIBIT NUMBER TWENTY-SIX AT THIS TIME, YOUR HONOR.

THE COURT: ANY OBJECTION.

MS. JOHNS: NO OBJECTION.

THE COURT: ENTERED WITHOUT OBJECTION. STATE'S EXHIBIT NUMBER TWENTY-SIX.

MS. HAYNES: THANK YOU, YOUR HONOR.

(STATE'S EXHIBIT NUMBER TWENTY-SIX MADE A PART OF THE RECORD.)

MS. HAYNES: I DON'T HAVE ANYTHING FURTHER OF DR. BURNS.

THE COURT: CROSS EXAMINE.

MS. HAYNES: ANSWER ANYTHING THE DEFENSE MAY OFFER.

MS. BELL: THANK YOU, YOUR HONOR. IF IT PLEASE THE COURT.

CROSS EXAMINATION

BY MS. BELL

Q. DR. BURNS, YOU INDICATED THAT YOU ARE A PATHOLOGIST AT RICHLAND MEMORIAL?

A. YES, THAT' S RIGHT.

Q. YOU ARE NOT, HOWEVER, A FORENSIC PATHOLOGIST ARE YOU?

A. RIGHT. THAT' S A SEPARATE SPECIALTY. IT REQUIRES ADDITIONAL CERTIFICATION.

Q. YOU ARE WHAT' S KNOWN AS A CLINICAL PATHOLOGIST?

A. CLINICAL AND ANATOMIC, BOTH.

Q. FORENSIC PATHOLOGY IS PART OF AN ADDITIONAL FELLOWSHIP. IS THAT CORRECT?

A. YES, FOR CERTIFICATION IN FORENSICS. THAT' S CORRECT.

Q. AND CERTIFICATION IN FORENSICS WOULD BE AN ADDITIONAL TRAINING IN PATHOLOGY AND DETERMINATIONS OF DEATH. IS THAT CORRECT?

A. YEAH, IT' S ADDITIONAL TIME SPENT WITH AN AREA WHICH IS ENCOMPASSED WITHIN GENERAL PATHOLOGY BUT MUCH MORE EXTENSIVE TRAINING IN THAT AREA.

Q. AND THAT AREA OF FORENSICS LOOKS MORE CLOSELY AT SUSPICIOUS NATURES AS THE CAUSE OF DEATH?

A. YES, IT DOES.

Q. AND YOU INDICATED THAT YOU WERE ABLE TO REVIEW THE MEDICAL RECORDS FROM AUGUSTA HOSPITAL?

A. YES, I SAW IT JUST RECENTLY.

Q. JUST RECENTLY. DID YOU HAVE THE CHANCE TO SEE THEM AT THE TIME THAT YOU PERFORMED THE AUTOPSY?

A. NO, I HAD NOT SEEN THEM AT ALL.

Q. IF YOU HAD SEEN THOSE RECORDS, COULD IT HAVE MADE A DETERMINATION, A DIFFERENCE IN THE DETERMINATION FROM REVIEWING THOSE RECORDS?

A. I WOULD NOT THINK SO. I JUST USE RECORDS FOR BACKGROUND TO HELP ME INTERPRET THINGS SOMETIMES WHEN I SEE THEM IN AUTOPSY.

Q. SO, YOU WOULD NOT LOOK AT MEDICAL RECORDS IN DETERMINING IN YOUR OWN OPINION AS TO WHAT THE CAUSE OF DEATH WAS?

A. NO.

Q. AND YOU WERE ASKED TO DO THIS AUTOPSY AT THE REQUEST OF THE CORONER?

A. YES, I WAS.

Q. DID YOU HAVE THE OCCASION TO LOOK AT THE DEATH CERTIFICATE IN THIS CASE?

A. NO, I'VE NEVER SEEN IT.

Q. DID YOU SEE THE DEATH CERTIFICATE FROM THE STATE OF GEORGIA IN REFERENCE TO THIS CASE?

A. NO, I HAVE NOT SEEN THAT EITHER.

Q. THAT WAS NOT INCLUDED IN THE MEDICAL RECORDS YOU HAD?

A. WELL, AGAIN, I DID NOT HAVE ANY MEDICAL RECORDS WHEN

I DID THE AUTOPSY.

Q. DOCTOR, I'D LIKE TO SHOW THIS TO YOU TO IDENTIFY WHAT THIS IS.

A. YEAH, IT LOOKS LIKE THE CERTIFICATE OF DEATH FROM THE STATE OF GEORGIA ON VAN TYLER.

Q. AND THIS IS YOUR FIRST TIME SEEING THAT DOCUMENT, SIR?

A. YES, IT IS.

Q. CAN YOU SEE ON THERE WHAT IS LISTED AS THE CAUSE OF DEATH?

A. YEAH, THEY LIST AS IMMEDIATE CAUSE 56 PERCENT THIRD DEGREE BURNS AND SECONDARILY INHALATION INJURY.

Q. DO THEY LIST ANYTHING ELSE ON THE PARTICULAR --- A LITTLE FURTHER DOWN?

A. OTHER SIGNIFICANT CONDITIONS --- THEY MENTION RHABDOMYOLYSIS.

Q. OKAY, AND IT'S SPELLED INCORRECTLY?

A. IT'S SPELLED INCORRECTLY, YES.

Q. NOW, THOSE WERE NOT THE FINDINGS THAT YOU FOUND AS THE COMPLICATIONS, IS THAT CORRECT, THAT CONTRIBUTED TO MR. TYLER'S DEATH?

A. WELL, THE INHALATION INJURY WAS REPRESENTED BY THE PNEUMONIA SEEN.

Q. LET ME ASK YOU, LOBAR PNEUMONIA, WOULDN'T THAT INDICATE GENERALLY AN INFECTION THAT WILL BE ACQUIRED IN

THE COMMUNITY --- THAT IS ---

A. MOST OF THOSE ARE COMMUNITY ACQUIRED, YES.

Q. SO, IT WOULD BE INDEPENDENT OF A BURN INJURY?

A. I'M NOT CERTAIN WHAT YOU MEAN BY INDEPENDENT, BUT IF YOU LOOK AT GENERAL STATISTICS MOST LOBAR PNEUMONIA IS ACQUIRED IN THE COMMUNITY.

Q. IT'S ACQUIRED IN THE COMMUNITY?

A. UH-HUH.

Q. SO, THAT WOULD BE A PRE-EXISTING CONDITION?

A. IF YOU'RE LOOKING AT GENERAL STATISTICS.

Q. AT GENERAL STATISTICS, BUT YOU KNOW THAT THERE WAS PNEUMONIA IN THIS CASE?

A. YES, THERE WAS.

Q. OKAY. NOW, YOU DID NOT LOOK AT THE MEDICAL RECORDS FROM AUGUSTA. CORRECT?

A. NO.

Q. OKAY. YOU DID NOT HAVE THE OPPORTUNITY TO LOOK AT A CHEST X-RAY?

A. NO.

Q. DOCTOR, I'D ASK YOU TO TAKE A LOOK AT THIS AND SEE IF YOU RECOLLECT SEEING THOSE DOCUMENTS?

A. I BELIEVE THERE MAY BE COPIES OF THESE IN THIS MEDICAL RECORD FROM AUGUSTA.

Q. YES, SIR, AND CAN YOU TELL THE JURY WHAT THOSE ARE?

A. YEAH, THESE ARE REPORTS THAT WERE GENERATED BY THE

RADIOLOGIST AS HE INTERPRETS THE CHEST X-RAYS THAT HE SEES.

Q. AND IN THOSE CHEST X-RAYS ISN'T IT TRUE THAT THE RESULT THAT WAS FOUND THERE WAS THAT THE LUNG FIELDS WERE CLEAR?

A. YES, THESE ARE FOR DIFFERENT EXAMS AND DIFFERENT DATES. THE ONE ON 9/26 WHICH WAS AT 1:15 P.M., IT SAYS THAT THE LUNGS ARE CLEAR. SO, THAT WOULD BE HIS INITIAL ARRIVAL. THEN ONE AT 8:30 IN THE MORNING ON THE 27TH. IT SAYS CONGESTION WITH BILATERAL INFILTRATES AND INFUSION IS SEEN CONSISTENT WITH VOLUME OVERLOAD.

Q. SO --- I'M SORRY GO AHEAD.

A. OKAY, AND IN THE LAST ONE WHICH IT DOESN'T REALLY GIVE THE EXACT TIME FOR THAT, IT SAYS THE LUNGS REMAIN CLEAR, NO ACUTE FINDINGS --- SO, PERHAPS THIS IS EARLIER THAN THE ONE THAT I JUST READ --- POSSIBLE INTERVAL DEVELOPMENT OF SMALL PLURAL INFUSIONS, OTHERWISE NEGATIVE CHEST.

Q. SO, IF WE TAKE THESE X-RAY RECORDS CHRONOLOGICALLY, IT LOOKS LIKE THE FIRST TIME THAT AN X-RAY WAS DONE IN THIS CASE THE CHEST WAS PRETTY MUCH CLEAR OF FLUIDS? WASN'T IT?

A. YES, UH-HUH.

Q. IT WAS. WE KNOW ON THE 27TH IT WAS. THERE WAS SOME CONGESTION?

A. YES.
Q. NOW THEY ATTRIBUTED THAT WITH VOLUME OVERLOAD. CORRECT?
A. THAT' S WHAT THEY SAY, YES.
Q. AND IN BURN CASES, WITH THE AMOUNT OF FLUIDS --- LET ME ASK YOU THIS --- IN BURN CASES, ISN' T IT TRUE THAT AT THE INITIAL TIME OF THE BURN YOU TRY TO GET AS MANY FLUIDS, OR FLUID RESUSCITATION TO THE INDIVIDUAL?
A. RIGHT, BECAUSE OF MASSIVE LOSS OF FLUIDS FROM THE BURNED AREAS.
Q. AND ALSO, MAYBE TO FLUSH OUT THE URINE OF ANY BLOOD THAT IS PRESENT?
A. THAT' S ANOTHER IMPORTANT THING, YES. THAT' S THE RHABDOMYOLYSIS SPOKEN OF IN THE REPORT.
Q. RIGHT. SO, WHAT YOU WOULD TRY TO DO IS THEY WOULD PUT A GREAT AMOUNT OF FLUID INTO THE BODY. CORRECT?
A. YES.
Q. AND SO WHAT THEY WERE SAYING IN THIS REPORT IS THAT WHEN HE INITIALLY CAME IN THEY SAID THE LUNGS WERE CLEAR AND ABSENT OF CONGESTION. IT WAS SOMETIME WHILE HE WAS AT AUGUSTA HOSPITAL ON THE 27TH THAT THEY SAW SOME CONGESTION IN THE LUNGS?
A. YES.
Q. OKAY, AND THEY ATTRIBUTED THAT TO THE VOLUME OVERLOAD, NOT TO LOBAR PNEUMONIA, CORRECT?

A. THAT'S WHAT THEY STATE, YES.
Q. DID YOU FORM AN OPINION ABOUT THE RHABDOMYOLYSIS, OR IT WAS NOT SOMETHING THAT YOU REALLY CONSIDERED?
A. WELL, IT'S CERTAINLY SOMETHING THAT ONE CONSIDERS WHENEVER YOU APPROACH A MAJOR BURN, EITHER THERAPEUTICALLY OR LOOKING AT IT FROM THE POINT OF VIEW OF A PATHOLOGY AUTOPSY. IN OUR PARTICULAR CASE, WE DID NOT SEE THE SOURCE OF INJURIES THAT WOULD BE TYPICAL OF RHABDOMYOLYSIS WHICH I INTERPRET THEN, NOW THAT I KNOW THAT THEY HAD PLENTY OF FLUIDS, IS THAT THEY SUCCESSFULLY GOT PAST THAT WITH FLUID THERAPY, AND THAT'S THE USUAL THERAPY.
Q. AND ANOTHER QUESTION. I NOTICED THE SOLICITOR WAS ASKING YOU ABOUT COLONIZATION OF BACTERIA.
A. YES.
Q. CERTAINLY, IN BURN CASES, THE EPIDERMIS OR THE SKIN, IT SERVES AS A BARRIER TO INFECTIONS?
A. THE NORMAL SKIN DOES, RIGHT.
Q. NOW, WHEN YOU'RE TALKING ABOUT INTERNAL ORGANS AND COLONIZATION OF BACTERIA IN THE INTERNAL ORGANS, THAT'S SOMETHING THAT TAKES A LITTLE MORE TIME, DOESN'T IT, TO OCCUR? COLONIZATION OF THE BACTERIA INTERNALLY?
A. I'M NOT CERTAIN EXACTLY WHAT TERM YOU MEAN BY COLONIZATION. FOR ME IT'S A DESCRIPTION OF THE BACTERIAL PRESENCE.

Q. WELL, THE PRESENCE OF THE BACTERIA --- OBVIOUSLY IN EVERYONE'S BODY, THERE TENDS TO BE SOME INDICATION OF BACTERIA IN THE ORGANS. CORRECT?

A. YES.

Q. THERE'LL BE SOME PRESENT, BUT IF THERE'S A GREAT DEGREE OF BACTERIA IN THE ORGANS, THAT'S NOT SOMETHING THAT'S DONE IN A RAPID PERIOD OF TIME, IS IT, GENERALLY?

A. IT DEPENDS ENTIRELY ON THE IMMUNE STATUS OF THE INDIVIDUAL AND CAN OCCUR VERY RAPIDLY WITH POOR IMMUNE STATUS OR DAMAGE TO IMMUNE STATUS.

Q. HOW ABOUT --- AND THE SEPSIS WOULD BE REFLECTIVE OF THAT. CORRECT?

A. YES, THAT'S MY INTERPRETATION OF SEEING MULTIPLE AREAS OF ACTUAL COLONIZATION WHICH IS OTHERWISE A VERY UNUSUAL FINDING.

Q. AND I NOTICED LOOKING AT THE SOUTH CAROLINA --- YOU HAVE NOT BEEN ABLE TO REVIEW THE SOUTH CAROLINA DEATH CERTIFICATE?

A. NO, I HAVE NOT.

Q. LET ME SHOW THAT TO YOU. I'M SORRY.

A. UH-HUH.

Q. ON THAT PARTICULAR DOCUMENT, DO YOU SEE ANY OF YOUR FINDINGS AS FAR AS THE COMPLICATIONS INCLUDING THE PNEUMONIA ---

A. I DON'T SEE THEM LISTED, NO.

Q. AND JUST TO BE CLEAR, THE IMMEDIATE CAUSE --- I MEAN HE DIDN'T IMMEDIATELY DIE FROM BURNS. CORRECT?
A. NO, IT WAS ABOUT TWENTY-FOUR HOURS.
Q. IT WOULD BE A COMPLICATION FROM THE BURNS. IS THAT CORRECT?
A. YES, UH-HUH.
Q. AND A COMPLICATION THAT YOU LIST WOULD BE LOBAR PNEUMONIA AND SEPSIS?
A. YES, RIGHT.
Q. AND FROM WHAT WE HAVE SEEN THUS FAR WITH GEORGIA, WHAT WAS DETERMINED IN GEORGIA WAS INHALATION INJURIES AND RHABDOMYOLYSIS?
A. YES.
Q. AND LET ME JUST SHOW YOU ONE OTHER DOCUMENT. WHILE I'M TRYING TO FIND IS THIS DOCUMENT, DOCTOR, I CAN ASK YOU, DID YOU NOTICE FROM LOOKING OVER --- YOU'LL PROBABLY HAVE TO LOOK AT THE MEDICAL RECORDS, BUT EVEN UPON THE AUTOPSY, THAT AN ESCHAROTOMY WAS DONE IN THIS CASE?
A. YES, VERY EXTENSIVE.
Q. AND CAN YOU EXPLAIN WHAT AN ESCHAROTOMY IS?
A. YES, THE AREA THAT'S BURNED IN A THIRD DEGREE BURN IS CALLED ESCHAR, AND SO, AN ESCHAROTOMY IS TO CUT INTO THE AREA OF BURN, AND AS I SAID BEFORE THE DAMAGED AREAS TEND TO LOSE WATER, AND IT CAUSES SWELLING IN THESE AREAS. AS YOU MIGHT IMAGINE, SWELLING IN THE AREA OF THE

ARM BEGINS TO --- JUST LIKE IF YOU' RE SQUEEZING YOUR ARM, YOU CAN STOP THE BLOOD FLOW. UNLESS YOU ACTUALLY CUT INTO THAT TIGHT SWELLING TISSUE THE BLOOD FLOW WOULD BE STOPPED COMPLETELY, AND AN INDIVIDUAL WOULD LOSE PULSE AND PERHAPS LOSE THE ARM FROM LOSS OF BLOOD FLOW. SO, ESCHAROTOMIES WERE DONE ON THE ARMS AND ALSO EXTENSIVELY ON THE CHEST AND ABDOMEN BECAUSE THEY WERE HAVING DIFFICULTY, I NOTICED IN THE CHART, GETTING AIR TO HIM BECAUSE THE LUNGS WOULDN'T EXPAND.

Q. AND SPEAKING OF BACTERIA, CERTAINLY IN CARING FOR A BURN PATIENT, IT'S VERY CAREFUL THAT HOSPITAL STAFF, BECAUSE OF THE DEGREE OF INFECTION THAT COULD BE PRESENT, THAT THEY ALWAYS HAVE PLASTIC GLOVES AND BE SURE NOT TO CONTAMINATE THE AREA THAT THEY' RE WORKING ON?

A. RIGHT. YES, THAT' S TRUE.

Q. AND IN THIS CASE, ALSO THERE WAS A TRACHEOGRAPHY DONE. IS THAT CORRECT?

A. A TRACHEOSTOMY? YES, UH-HUH.

Q. TRACHEOSTOMY, AND THAT ALSO INCREASES THE LIKELIHOOD OF SOME INFECTION, DOESN' T IT?

A. YES, YOU KNOW, THE BODY HAS DEFENSES WHEN YOU NORMALLY BREATHE THROUGH YOUR NOSE AND YOUR THROAT TO TRAP BACTERIA, AND A TRACHEOSTOMY IS PUTTING THE HOLE RIGHT HERE AND PUTTING IN A LITTLE PERMANENT DEVICE TO HOLD IT OPEN, AND SO THAT BYPASSES ALL THOSE DEFENSES.

SO, YOU HAVE TO BE DOUBLY CAREFUL.

Q. AND ALSO, DID YOU NOTICE FROM LOOKING AT THE AUGUSTA RECORDS THAT THERE WAS INTRAVENOUS ANTIBIOTIC FLUIDS IN THIS CASE?

A. I NOTICED AT LEAST ONE NOTATION OF THAT, YES.

Q. AND THAT KIND OF PROPHYLACTIC PROCEDURE TO PREVENT --

A. YES, YES.

Q. LET ME JUST ASK YOU TO TAKE A LOOK AT THIS, DOCTOR, AND, YOU MIGHT CAN READ IT A LITTLE BETTER THAN I DID. THIS PARTICULAR AREA RIGHT HERE. CAN YOU MAKE, DISCERN WHAT THAT'S SAYING?

A. OKAY, THE BEST I CAN MAKE OUT IT'S JUST ONE OF A LIST OF ITEMS, I GUESS, ON THE 22ND. IT'S ITEM NUMBER SEVEN OF A LIST THAT SAYS "RHABDO-IMPROVING, URINE CLEAR." SO, I THINK THAT MEANS RHABDOMYOLYSIS APPEARS IMPROVING BECAUSE THE URINE IS CLEAR.

Q. AND THAT WAS THE DETERMINATION THAT WAS MADE --- WOULD HAVE BEEN MADE AT AUGUSTA HOSPITAL?

A. UH-HUH, YEAH, AND THEN THERE'S ANOTHER HIGHLIGHTED ITEM. DID YOU WANT THAT?

Q. IN DEALING WITH INHALATION INJURIES, I NOTICED ONE FACTOR FOR INHALATION, INHALATION INJURY CAN BE HEAT. CORRECT?

A. YES, UH-HUH.

Q. ANOTHER COULD BE JUST THE INHALATION OF NOXIOUS GASES. RIGHT?
A. YES.
Q. SO, CARBON MONOXIDE IS ONE?
A. YEAH, CARBON MONOXIDE.
Q. I THINK IN YOUR REPORT, IT INDICATES THAT NO SOOT OR FOREIGN MATTER WAS IDENTIFIED FROM THE LUNGS. RIGHT?
A. RIGHT, UH-HUH.
Q. SO, YOU WOULD HAVE RULED OUT AT LEAST AS FAR AS NOXIOUS GASES FROM WHAT YOU COULD DISCERN FROM I GUESS LOOKING AT --- AS FAR AS WHETHER NOXIOUS GASES WOULD HAVE CONTRIBUTED TO THE INHALATION INJURY.
A. WELL, I DON'T THINK IT ACTUALLY RULES OUT NOXIOUS GASES, BUT JUST IS, I THINK, AN EXPECTED THING TO EXAMINE FOR IN ANY FIRE INJURY TO SEE WHETHER I COULD AT THAT TIME TWENTY-FOUR HOURS LATER SEE EVIDENCE OF SOOT WHICH WOULD HAVE INDICATED INHALATION OF HOT OR NOXIOUS GASES, AND I DID NOT AT THAT TIME.
Q. DIDN'T SEE ANY OF THOSE? DIDN'T SEE THAT?
A. DID NOT.
Q. IN REVIEWING THE AUGUSTA MEDICAL RECORDS, NOT FOR YOU TO GO OVER THEM AT LENGTH, BUT DO YOU RECALL WHETHER OR NOT YOU EVEN SAW WHETHER THERE WAS ANY INDICATION OF ANY CARBON MONOXIDE POISONING?
A. THEY DID NOT INDICATE CARBON MONOXIDE AT ALL.

MS. BELL: I BEG THE COURT'S INDULGENCE.

Q. AND JUST QUICKLY, IN YOUR PARTICULAR AREA OF INTEREST IS NOT DEALING WITH BURN PATIENTS AT ANY LENGTH OF TIME, IS IT?

A. NO, IT'S NOT.

Q. AND IN FACT, RICHLAND MEMORIAL HOSPITAL IS NOT REALLY EQUIPPED TO DEAL WITH SEVERE BURN INJURIES. CORRECT?

A. YEAH, WE DO NOT DO LONG TERM BURN CARE.

Q. AND NOW THAT --- WOULD YOUR OPINION CHANGE ANY, DR. BURNS, ABOUT THE LOBAR PNEUMONIA BASED ON THE FACT THAT IN LOOKING AT THE CHEST X-RAYS AND THE FACT THAT THE CHEST X-RAYS WERE CLEAR?

A. WELL, NO, ACTUALLY IT WOULDN'T, AND I DON'T WANT TO, YOU KNOW, SECOND GUESS THE RADIOLOGIST, BECAUSE I DON'T KNOW WHAT HE SAW, AND I'M NOT TRAINED AS A RADIOLOGIST, BUT WHAT I DID SEE WHEN I EXAMINED THE TISSUES MICROSCOPICALLY WAS ACUTE INFLAMMATORY CELLS, AND THOSE ARE THE DIRECT RESPONSE OF DAMAGE AND REACTION TO DAMAGE DURING LIFE, AND THAT'S WHY I CALLED IT PNEUMONIA.

Q. AND NOT FROM VOLUME OVERLOAD?

A. I COULDN'T STATE WHETHER THERE WAS OR WASN'T SOME VOLUME OVERLOAD PRESENT AT SOME TIME, BUT AT LEAST AT THE TIME THAT I EXAMINED HIM HE CERTAINLY HAD DEVELOPING PNEUMONIA.

Q. NOTHING FURTHER, YOUR HONOR.

THE COURT: THANK YOU.

MS. HAYNES: JUST BRIEFLY, YOUR HONOR.

REDIRECT EXAMINATION

BY MS. HAYNES

Q. NOW, DOCTOR, SHE WENT OVER THE RECORDS FROM AUGUSTA MEDICAL CENTER WITH YOU, CORRECT?

A. YES.

Q. AND RICHLAND MEMORIAL SENT HIM THERE BECAUSE IT'S THE RENOWN BURN CENTER IN THIS AREA, CORRECT?

A. AS FAR AS I KNOW, YES.

Q. AND YOU'RE NOT ONLY LICENSED TO PRACTICE MEDICINE IN SOUTH CAROLINA, YOU'RE ALSO LICENSED TO PRACTICE IN GEORGIA AS WELL. AREN'T YOU?

A. WELL, IT TURNS OUT THAT'S TRUE, YES.

Q. AND LET ME ASK YOU THIS, DOCTOR, THIS RHABDO, I DON'T KNOW HOW TO SAY IT. SAY IT FOR ME, THE RHABDOM, THAT SHE MENTIONED ---

A. RHABDOMYOLYSIS?

Q. YES. ISN'T THAT CONSISTENT WITH A BURN INJURY? ISN'T IT AN EFFECT ON THE MUSCLES THAT COULD BE CONSISTENT WITH SOMEONE SUFFERING BURNS?

A. IT'S BASICALLY HEAT DESTRUCTION OF MUSCLE, YES.

Q. AND YOU MADE MENTION THAT HE HAD A SEVERE INHALATION INJURY. CORRECT?

A. YES, I MENTIONED THAT READING THEIR CHART.
Q. THAT WAS LISTED ON YOUR REPORT THAT YOU GENERATED --
A. UH-HUH.
Q. YOU GENERATED A REPORT IN THIS CASE. CORRECT?
A. YEAH, BUT I DON'T THINK I LISTED SEVERE INHALATION INJURY ON MY REPORT.
Q. BUT YOU TESTIFIED TODAY ABOUT IT?
A. YES, READING THE AUGUSTA RECORDS.
Q. AND ISN'T IT CORRECT, DOCTOR, THAT WATER IN THE LUNGS OR LIQUID IN THE LUNGS IS CONSISTENT WITH AN INHALATION INJURY?
A. THAT WOULD BE A REACTION TO THE INHALATION DAMAGE.
Q. AND ALSO, DOCTOR, WHAT EFFECT WOULD SUFFERING BURNS TO YOUR BODY HAVE ON YOUR IMMUNE SYSTEM?
A. IT TYPICALLY SHOCKS AND LESSENS THE IMMUNE REACTION.
Q. AND AS YOU TESTIFIED EARLIER I BELIEVE ON CROSS EXAMINATION, IF YOUR IMMUNE SYSTEM IS LESSENED, THE COLONIZATION OR THE INFECTION CAN SET IN A WHOLE LOT FASTER THAN NORMAL.
A. YES, THAT'S CORRECT.
Q. AND LET ME ASK YOU, DO YOU HAVE AN OPINION AS TO THE PROXIMATE CAUSE OF VAN TYLER'S DEATH?
A. WELL, I THINK IT WAS DUE TO THE BURN INJURIES AND THE SECONDARY COMPLICATIONS.

Q. AND LET ME SHOW YOU THESE DOCUMENTS WHICH WE'VE BASICALLY TAKEN FROM THE DOCUMENTS YOU HAVE IN YOUR HAND, THE MEDICAL RECORDS FROM AUGUSTA.

A. YES.

Q. WOULD YOU LOOK DOWN THERE TO THE PORTION THAT'S HIGHLIGHTED AND I BELIEVE UNDERLINED?

A. YES.

Q. WHAT DOES THAT SAY, DOCTOR?

A. THIS STATES NEAR THE BOTTOM "THE FAMILY UNDERSTANDS THE SEVERITY OF THE CONDITION, AND THE FAMILY CHOSE AT THAT TIME TO KEEP THE PATIENT COMFORTABLE, AND THEY UNDERSTOOD THAT THE PATIENT WOULD DIE."

Q. THANK YOU, DOCTOR.

THE COURT: ALL RIGHT. ANYTHING FURTHER OF THIS WITNESS?

MS. BELL: NOTHING FURTHER, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

MS. HAYNES: MAY HE BE EXCUSED?

THE COURT: ANY OBJECTION? HEARING NONE, HE'S EXCUSED. THANK YOU FOR COMING. YOU'RE EXCUSED.

MADAM FORELADY, LADIES AND GENTLEMEN, WE'VE GONE PAST OUR LUNCH RECESS. WE'RE GOING TO RECESS FOR LUNCH AT THIS TIME. WHILE YOU'RE AWAY PLEASE DO NOT DISCUSS THIS CASE OR ALLOW ANYONE TO DISCUSS THE CASE WITH YOU OR WATCH ANY NEWS REPORTS OR READ ANY NEWS REPORTS OF THIS

Q. OKAY, AND THIS ALL HAPPENED ON THE SAME DAY?
A. YES, MA' AM.
Q. OKAY. DID YOU REVIEW ANY DOCUMENTS FROM THE AUGUSTA BURN CENTER?
A. NO, MA' AM.
Q. DID FRANK BARRON OR ANYBODY FROM HIS OFFICE REVIEW ANY OF THE MEDICAL RECORDS FROM AUGUSTA BURN CENTER?
A. I HAVE NO IDEA WHAT MR. BARRON DID OR ANYONE FROM HIS OFFICE.
Q. OKAY. DID THE SOLICITOR' S OFFICE REVIEW ANY OF THE MEDICAL RECORDS FROM THE AUGUSTA BURN CENTER?
A. I DON' T KNOW.
Q. YOU HAVE NO PERSONAL KNOWLEDGE OF THAT?
A. NO, MA' AM.
Q. ONE MOMENT. NOW, INVESTIGATOR GRAY, YOU STATED ON DIRECT EXAMINATION THAT YOU HAD AN OPPORTUNITY TO REVIEW SOME INCIDENT REPORTS FILED BY MS. LINDA TYLER. DID YOU NOT?
A. YES, MA' AM.
Q. AND NONE OF THEM, HOWEVER, LISTS HER HUSBAND AS A SUSPECT IN ANY OF THOSE INCIDENT REPORTS. IS THAT RIGHT?
A. WHAT I DID IS WE HAVE A COMPUTER THAT IF YOU MAKE A NAME INQUIRY, AND THAT' S WHAT I DID WITH HER NAME AND HIS NAME, AND THE ONLY NAME, THE ONLY TIME HIS NAME APPEARED WAS FROM THIS REPORT.

Q. SO, EVERY TIME THAT YOU RAN HER NAME THROUGH YOU CAME UP WITH AN INCIDENT REPORT. IS THAT CORRECT?
A. EVERY TIME I RAN HER NAME THROUGH?
Q. NO, SIR. WHAT I'M ASKING YOU --- I DON'T WANT TO MAKE THIS COMPLICATED --- IS THAT DID YOU REVIEW INCIDENT REPORTS THAT SHE HAD FILED REGARDLESS OF WHO THE SUSPECT WAS?
A. YES, MA'AM.
Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS, NOT BEEN MARKED, I WANT TO SHOW YOU THIS DOCUMENT AND ASK IF YOU CAN IDENTIFY THIS?
A. YES, THIS IS A COPY OF THE INCIDENT REPORT FILED BY MS. TYLER.
MS. JOHNS: YOUR HONOR, AT THIS TIME WE WOULD MOVE THIS DOCUMENT, THIS INCIDENT REPORT INTO EVIDENCE.
THE COURT: WHAT'S THE DATE?
MR. SORENSON: WE WOULD OBJECT TO THAT, YOUR HONOR.
THE COURT: WAIT A MINUTE. WHAT'S THE DATE?
MS. JOHNS: THE DATE, YOUR HONOR, IS JUNE 22, 1996.
THE COURT: ON WHAT GROUNDS DO YOU OBJECT?
MR. SORENSON: FIRST OF ALL, RELEVANCE. I MEAN, THERE'S NOWHERE IN THERE IS THE VICTIM, VAN TYLER, LISTED. HE'S NOT ON THERE AT ALL. IT WAS JUST A REPORT FILED BY ---
THE COURT: WELL, DIDN'T YOU GO OVER THAT DURING

TO RICHLAND COUNTY MEMORIAL HOSPITAL TO BE EXAMINED. PHYSICIAN CONDON'S GERALD PHONE NUMBER, GERALD CONDON PHONE NUMBER 434-6116, FAMILY PRACTICE, R.C.M.H., SIGNAL TWO KIT WAS DONE. COMPLAINANT'S SON STATES ABOVE LISTED SUSPECT IS THE ONE WHO IS MOLESTING VICTIM. VICTIM STAYED AT LISTED WITNESS'S HOUSE FROM 6/21/96 AT ONE THOUSAND TO --- I'M SORRY, AT TEN HUNDRED TO 6/21/96 AT TWENTY-TWO HUNDRED, WHEN SHE WAS TAKEN HOME, AND THEN THERE'S AN INVESTIGATIVE REPORT --- POLICE INVESTIGATION REVEALED THE ABOVE LISTED INCIDENT DID NOT TAKE PLACE. THIS CASE IS CLEARED AS UNFOUNDED.

Q. THANK YOU.

THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

MR. SORENSON: REDIRECT, YOUR HONOR.

THE COURT: REDIRECT.

REDIRECT EXAMINATION

BY MR. SORENSON

Q. DEFENDANT'S EXHIBIT NUMBER ONE, INVESTIGATOR GRAY. WHAT IS THE DATE OF THAT REPORT?

A. IT'S DATED JUNE 22, 1996.

Q. THREE MONTHS BEFORE THIS HAPPENED ON --- NO, I'M SORRY --- YEAH, THREE MONTHS BEFORE THIS HAPPENED IN SEPTEMBER OF 1996. CORRECT?

A. YES.

Q. ANYWHERE IN THIS REPORT IS VAN TYLER'S NAME EVEN

YOUR DIRECT EXAMINATION, SOLICITOR?

MR. SORENSON: HOW IS THIS RELEVANT ---

THE COURT: ALL RIGHT. OVERRULED. MARK IT DEFENSE EXHIBIT NUMBER ONE. ADMITTED INTO EVIDENCE OVER OBJECTION.

(DEFENSE EXHIBIT ONE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MS. JOHNS

Q. WHAT' S THE TYPE OF OFFENSE ON THIS INCIDENT REPORT, INVESTIGATOR GRAY?

A. LEWD ACT ON A CHILD UNDER FOURTEEN YEARS OF AGE.

Q. OKAY, AND DOES IT LIST WHO THE VICTIM IS?

A. YES, IT LISTS THE SUSPECT AND THE VICTIM, AS WELL AS THE COMPLAINANT. THE VICTIM WOULD BE [redacted] TYLER.

Q. [redacted] TYLER, AGE?

A. AGE TWO.

Q. OKAY, AND SUSPECT?

A. LINDA REED, A BLACK FEMALE.

Q. OKAY, AND COMPLAINANT?

A. LINDA TYLER.

Q. OKAY, AND IN THE BODY OF THAT INCIDENT REPORT, INVESTIGATOR GRAY, WHAT' S THE ALLEGATIONS?

A. THE COMPLAINANT STATES THAT WHILE GIVING VICTIM A BATH COMPLAINANT NOTICED VICTIM' S ANAL AREA TO BE IRRITATED AND ABNORMALLY LARGE. VICTIM WAS TRANSPORTED

CASE IF ANY THERE BE.

PLEASE BE BACK IN YOUR JURY ROOM AT QUARTER OF 3:00, 2:45 P.M. THANK YOU VERY MUCH. HAVE A NICE LUNCH.

(JURY LEAVES)

THE COURT: ALL RIGHT. FOR SCHEDULING PURPOSES, DOES THE STATE HAVE ANY ADDITIONAL WITNESSES?

MS. HAYNES: NO, YOUR HONOR, AND I SUSPECT THAT WHEN WE COME BACK WE' LL BE RESTING.

THE COURT: ALL RIGHT. ARE YOU READY TO PROCEED?

MS. JOHNS: YES, SIR, YOUR HONOR.

THE COURT: ALL RIGHT. FOR SCHEDULING PURPOSES HOW MANY WITNESSES DO YOU PROPOSE OR DO YOU ANTICIPATE?

MS. JOHNS: YOUR HONOR, PROBABLY ABOUT SIX OR SEVEN.

THE COURT: ALL RIGHT. PLEASE HAVE THEM ALL HERE. THANK YOU. WE' RE IN RECESS.

(LUNCH RECESS.)

(GO TO NEXT VOLUME.)

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IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE)

(5) Linda ANN TYLER #248-190-V- THE STATE

.. THE APPELLANT'S BRIEF OF LAW :..

Police Miconduct, Miranda Warnings, Evidence, 4th, 5th Amendments RIGHTS Violation. U.S.C.A. THE (Appellant) states that ARRESTing Officer Violated the 5th Amendment when (he) used COERSION to obtained A confession and Evidence from the (Appellant) In which the STATE US AS EVIDENCE AGAINST the (APPELLANT) AS A RESULT Of the (Miranda Rights violation) and 4th Amend.

The STATE At P.C.R. HEARING, failed to produce the Alledged Autopsy Photos and has failed AGAIN to provide the DISCOVERY Documents to the COURT and the defendant. See. P.C.R. TRIAL TRANSCRIPT: DEFENSE ATTORNEY MR. JOHNSON stated to trial Judge: Honorable A.R. LEE, that he has not seen any photo graphs of the DECEASE. DEFENSE Atty. BELL and John's stated that, the STATED Should have photo's of the deceased, but She didnt know where the photo's were, but She did see photo's of the deceased b THESE ARE NOT Autopsy photo's.

Judge LEE; WAS given A Documentary Letter from the (Appellant) AS Evidence of the (daughters) Abuse and (deceased) MEDICAL RECORDS.

IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE) Linda Ann TYLER #248190 -V- THE STATE

(6)
(6)

...CASE LAW IN SUPPORT OF APPEAL ISSUES...

IN- GATHERS -V- SOUTH CAROLINA and IN BOOTH -V- MARYLAND, the United States Supreme Court" REVERSED both CASE's BECAUSE the (STATE) USED the VALUE of the Victim's Life, IN VIOLATION of the (STARE DECISIS DOCTRINE) The 14th Amendment to the U.S.C.A, prohibits A State from the mentioning of the WORTH of A Victim. In the Appellant's CASE the (DECEASED) left the (APPELLANT) his INSURANCE VALUED OVER 1$80,000 dollars.. See PROBATE Court DATA..

IN- MATTHEWS -V- STATE, 2001 WL 1887491 S.C. Sup. Ct. Improper arguments by the PROSECUTION

IN- EZELL -V- STATE, 345 S.C. 312, 548 S.E. 2d. 852. The SUPREME COURT: found that APPROPRIATE REMEDY for, Ineffective ASSISTANCE of APPELLATE COUNSEL IS A NEW TRIAL. Id. Appellate Court Counsel MAY ALSO BE ineffective FOR failing to MAKE A RECORD sufficient for REVIEW.. Citing LEGGE -V- STATE, 349. S.C. 222, 562. S.E. 2d. 833 (1999): Citing: STRICKLAND, -V- WASHINGTON, 466. U.S. 668 (1984).. Citing CASE LAW: Judge -V- STATE, 321 S.C. 554, 471. S.E. 2d. 146 (1994)

In- PYLER -V- STATE, 309, S.C. 408, 424. S.E. 2d. 477. Counsel deficient for failing to object to IMPROPER CHARGE on MALICE, ERRONEOUS JURY INSTRUCTION by the TRIAL Judge...

(7)

IN THE SUPREME COURT OF SOUTH CAROLINA
IN RE) Linda Ann Tyler #248190 - V - THE STATE

TRIAL Judge Short: ERRED when giving specific INSTRUCTION TO THE JURY to REJECT the testimony of some witnesses AGAINST several witness. to me it is saying DISCREDIT ONE WITNESS And ACCEPT the testimony of the MAJORITY of the other WITNESSES
TRIAL Judge: Alison RENEE LEE: ERRED when She failed TO Act (SUA-SPONTE) BECAUSE of the (APPELLANTS) Conviction AS G. B. M. I. And ISSUED an opinion ABSENT the showing of Any Autopsy photos, death CERTIFICATES..

BASED ON the following facts And ISSUES RAISE HEREIN the (APPELLANT) BEGS the COURT to OVER-TURN the LOWER COURTS finding IN LIEU Of throwing-OUT the Conclusion Of the STATE COURTS JURY findings of Guilty but MENTALLY ill of MURDER..

Respectfully
#248190 Linda Ann Tyler
March 27th 2007

SWORN TO And SUBSCRIBE before ME
ON this 27th DAY Of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
William M. Coats
MY COMMISSION EXPIRES
Jan 14 2008

(8)

In THE STATE Of SOUTH CAROLINA
In THE SUPREME COURT

(In RE) Linda Ann Tyler #248190 -V- THE STATE

Table of Authorities

1. FRAISER -V- State, 306 S.C. 158, 410 S.E. 2d. 572 (1991)
2. PYER -V- State, 309, S.C. 408, 424 S.E. 2d. 477 (1992
3. MATTHEWS -V- State, 200 WL. 188, 7491 (S.C. Sup. Ct.)
4. DAWKINS -V- State, 436. S.C. 151, 155 S.E. 2d. 260 (2001)
5. STRICKland -V- WASHington, 1466 U.S. 688 (1984) (Id. At, 685)
6. MIRANDA -V- ARIZONA (1965) 5th Amendment violations
7. MAPP -V- OHIO (1949) 4th Amendment violations
8. State -V- Council, SUPRA, 335. S.C. 1. 515, S.E. 2d. 509 (1999)
9. U.S. -V- Scheffer, 523. U.S. 303, 118. S.Ct. 126. (1998)
10. S.C.R.E. Code 609 USE Of PRIOR RECORDS
11. S.C.A.C.R. RULE 8.3. and 8.4. TRIAL JUDGE'S ERRED
12. THE State -V- BRENDA Gail CUTRO. S.C. case. S.E. 2d at 504
13. The State -V- Smiller
14. LYLE -V- WHEATLY:
15. TINA WALKER -V- THE State, S.C. CASE (2003)
16. PLESSY -V- FERGUSON (1896 case)

#248190 Linda Ann Tyler
March 26th 2007

SWORN TO And Subscribe before ME
On This 26th DAY Of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
[signature]
MY COMMISSION EXPIRES
Jan 14 2008

IN THE STATE Of SOUTH CAROLINA

(9) In THE SUPREME COURT Of SOUTH CAROLINA.

In RE)
Linda Ann Tyler #248140 THE APPELLANT'S BRIEF
-V-
THE STATE

The Appellant States that All matters describe herein Lays Strongly on the foundation on the issues of guilt and Actually innocent of the Appellant.

Ground One: THE APPROXIMATE CAUSE Of DEATH is still unfounded to have been caused by the APPELLANT: NO scientific Proof only heresay.
Ground Two: USE Of Prior bad Acts. S.C.R.E code 608
Ground Three: Inflamatory Statments by the Prosecutor.
Ground Four: Denied DUE PROCESS Of LAW, to USE Hypnosises, Sodium Pentadal,
Ground Five: Ineffective Assistance of APPELLATE Counsel, TRIAL Counsel..

#248-140
Linda Ann Tyler
March 6th 2007

Sworn to And Subscribe before me
On this 6th Day Of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
27 MARCH 2008
MY COMMISSION EXPIRES

(10)

IN THE STATE OF SOUTH CAROLINA

IN THE SOUTH CAROLINA SUPREME COURT

INRE) Linda Ann Tyler -V- THE STATE

APPELLANT RAISES the following ISSUES FOR REVIEW before the SUPREME COURT

1. Subject Matter Jurisdiction
2. Defect of Indictment
3. Defendant was Questioned without the presence of Counsel.
4. STATE used Information Gained from defendant.
5. Violation of Miranda Rights, 5th Amendments
6. Ineffective Assistance of Counsel.
7. 4th Amendment Rights Violation
8. Used of PRIOR bad Acts. S.C.R.E. Code 609.
9. APPROXIMATE CAUSE OF DEATH
10. Prosecution Misconduct: Inflamatory Statements
11. TRIAL Judge, denied due PROCESS OF LAW.
12. Ineffective Assistance of Counsel
13. Ineffective Assistance of Appellate Court Counsel.

#248-190

Linda Ann Tyler
March 26th 2007

SWORN TO And SubSCRIBE before ME
ON THIS 26th DAY OF MARCH 2007
NOTARY Public FOR SOUTH CAROLINA

MY COMMISSION EXPIRES
Jan 14 2008

(11) IN THE SOUTH CAROLINA SUPREME COURT

(IN RE)

Linda Ann Tyler #248190

-V-

THE STATE

AFFIDAVIT
OF
SERVICE

I Linda Ann Tyler #248190, certify under PENALTY OF PURJURY THAT: I HAVE SUBMITTED An Opositional BRIEF in the Above Case On this 26th Day of March 2007.

#248-190
Linda Ann Tyler
March 26th 2007

SWORN TO And Subscribe before me
ON THIS 26th Day of MARCH 2007
NOTARY Public for South Carolina
Wallace M Cobb

MY COMMISSION EXPIRES
JAN 14 2008

(12)

In THE STATE Of SOUTH CAROLINA
In THE SUPREME COURT
AFFIDAVIT Of SERVICE

I, Linda Ann Tyler #248190, certify under PENALTY Of PERJURY that I have submitted THREE BRIEFS with (3) different dates upon them for the COURT'S to REVIEW.

1. BRIEF dated SEPTEMBER 23RD 1998, (8) PAGES
2. BRIEF dated OCTOBER 28th 1998, (6) PAGES
3. BRIEF dated MARCH 26th 2007. (12) PAGES

ADDRESSED to: MR. DANIEL E. SHARPE CLERK Of COURTS. on this 27th DAY Of MARCH. 2007, A total Of (26) sheets Of PAPER..

#248190
Linda Ann Tyler
March 27th 07

SWORN TO And SUBSCRIBE before ME
ON THIS 27th DAY Of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
Wallace M Gee
MY COMMISSION EXPIRES
June 14 2008

The Supreme Court of South Carolina

RECEIVED
AUG 0 9 2001

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-1080
FAX (803) 734-1499

August 9, 2001

ATTORNEY GENERAL'S OFFICE
RECEIVED 8-14-01
ADMINISTRATIVE INSTRUCTIONS
_____FILE_____OPEN_____END
_____HAVE_____COPIES MADE
_____ROUTE TO_____
_____ORDER:_____TRANSCRIPT
__PEN RECORDS__CLERK RECORDS
____OTHER:_____
_____
_____

Ms. Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: The State v. Tyler, Linda

Dear Ms. Tyler:

The following Order has been endorsed on your Motion for New Court Appointed Attorney in the above entitled case on appeal.

"Motion denied.

s/ Jean H. Toal C.J.
For the Court

August 9, 2001."

By copy of this letter, we are advising counsel that the final briefs in this matter must be served and filed within twenty (20) days of the date of this letter.

Very truly yours,

Daniel E. Shearouse
DS
CLERK

DES/djp
cc: Senior Assistant Appellate Defender Wanda H. Haile
Assistant Attorney General Derrick K. McFarland

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 3, 2002

ATTORNEY GENERAL'S OFFICE
RECEIVED 4-3-02
ADMINISTRATIVE INSTRUCTIONS
_____FILE_____OPEN_____END
_____HAVE_____COPIES MADE
_____ROUTE TO_____
_____ORDER:_____TRANSCRIPT
__PEN RECORDS__CLERK RECORDS
_____OTHER:_____

Ms. Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: The State v. Tyler, Linda

Dear Ms.Tyler:

The Court has issued the following order on your Petition for Rehearing:

"Petition for Rehearing is Denied.

s/ Jean H. Toal C.J.

s/ James E. Moore J.

s/ John H. Waller, Jr. J.

s/ E.C. Burnett, III J.

s/ Costa M. Pleicones J.

April 3, 2002."

The remittitur is today being forwarded to the lower court.

Very truly yours,

CLERK

DES/djp

cc: Senior Assistant Appellate Defender Wanda H. Haile
Assistant Attorney General Derrick K. McFarland

9:45. PLEASE BE IN YOUR JURYROOM AT 9:45 IN ORDER THAT WE CAN CONTINUE THE TRIAL OF THE CASE.

THANK YOU VERY MUCH. YOU'RE EXCUSED.

(JURY LEAVES FOR THE DAY.)

THE COURT: ALL RIGHT. SOLICITOR AND MS. BELL, LET ME SEE Y'ALL OVER HERE.

(GO TO NEXT VOLUME.)

BY MS. JOHNS

Q. WOULD CHIEF BE THE APPROPRIATE TITLE?

A. THAT'S CORRECT. I HOLD THE RANK AS ASSISTANT CHIEF, BUT I'M THE FIRE MARSHAL FOR COLUMBIA.

Q. FIRE MARSHAL REICH, DID YOU HAVE AN OPPORTUNITY TO SEE MS. TYLER IN THE EMERGENCY ROOM?

A. MS. TYLER WAS, I BELIEVE, IN A HOLDING ROOM OR A CONSULTATION ROOM AT THAT TIME. I DIDN'T SPEAK DIRECTLY WITH HER, I DON'T BELIEVE.

Q. DID YOU OBSERVE HER?

A. I WAS TOLD THAT SHE WAS IN THE ROOM.

Q. NOT WHAT YOU WERE TOLD. I JUST WANT TO KNOW IF YOU OBSERVED HER?

A. I DON'T RECOLLECT IF I DID.

Q. OKAY. I HAVE NOTHING FURTHER.

THE COURT: THANK YOU. YOU MAY STEP DOWN. ALL RIGHT, LADIES AND GENTLEMEN, WE'VE REACHED A CONVENIENT STOP, AT LEAST FOR THE DAY. WE'RE GOING TO RECESS UNTIL IN THE MORNING. WHILE YOU'RE AWAY, ONCE AGAIN, DO NOT DISCUSS THIS CASE OR ALLOW ANYONE TO DISCUSS THE CASE WITH YOU.

ALSO, LADIES AND GENTLEMEN, PLEASE DO NOT READ ANY NEWS ACCOUNTS OR WATCH ANY NEWS ACCOUNTS OF THIS PROCEEDING IF ANY THERE BE. PLEASE JUST REFRAIN FROM THAT. PLEASE REPORT TO YOUR JURYROOM IN THE MORNING AT

A. WHEN I PUT THE CLOTHING IN THE BAG, THERE WAS A DISTINCT FLAMMABLE LIQUID SMELL. YOU COULD SMELL IT IN THE TRAUMA ROOM AT THAT TIME. EVEN WHEN I GOT INTO MY VEHICLE AND I WAS TRANSPORTING THAT, AND I TIED THE BAG TIGHT, YOU COULD ACTUALLY SMELL THE FLAMMABLE LIQUID IN MY CAR.

Q. AND YOU GAVE IT TO INVESTIGATOR SEEL WHO THEN, WHO HAS TESTIFIED HERE TODAY ALREADY, PUT THEM IN THIS CONTAINER?

A. YES, THAT'S CORRECT.

Q. TO TAKE THEM TO SLED?

A. THAT'S CORRECT.

MS. HAYNES: SEEK TO ENTER THESE AT THIS TIME THAT HAVE BEEN MARKED FOR ID.

MS. JOHNS: NO OBJECTION.

THE COURT: ALL RIGHT. STATE'S EXHIBITS 15 AND 16, ADMIT THEM INTO EVIDENCE WITHOUT OBJECTION.

MS. HAYNES: FIFTEEN, YOUR HONOR, NOT SIXTEEN.

THE COURT: ALL RIGHT. JUST 15 ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER FIFTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

MS. HAYNES: I DON'T HAVE ANYTHING FURTHER.

THE COURT: CROSS EXAMINE.

CROSS EXAMINATION

Q. AND ARE THOSE THE VICTIM'S CLOTHES?
A. YES, THEY WERE.
Q. AND YOU OBTAINED THOSE FROM A NURSE?
A. YES, INSIDE THE TRAUMA ROOM.
Q. AND WHAT THEN DID YOU DO WITH THOSE ITEMS, SIR?
A. I REQUESTED THAT THE CLOTHES BE TAKEN AS EVIDENCE, AND I PICKED UP SOME OF THE CLOTHES THAT WERE ON THE TABLE. SHE WAS PICKING THEM UP OFF THE FLOOR WHERE THEY HAD JUST CUT THE REMAINS OF THE CLOTHING OFF THE BODY AND PUT IT IN A PLASTIC BAG. I GOT HER NAME AND RETURNED TO THE SCENE.
Q. AND AT THE SCENE, DID YOU HAVE THE OCCASION TO GIVE THOSE TO INVESTIGATORS SEEL?
A. I DIRECTLY HANDED THEM TO SEEL.
MS. HAYNES: BEG THE COURT'S INDULGENCE.
BY MS. HAYNES
Q. THIS IS WHAT I JUST SHOWED YOU, STATE'S EXHIBIT, I BELIEVE, 15. ARE THOSE THE ITEMS YOU JUST LOOKED AT IN STATE'S EXHIBIT 15 THAT YOU RECEIVED FROM THE NURSE?
A. YES.
Q. ARE THEY IN THE SAME CONDITION YOU ACTUALLY GAVE THEM TO INVESTIGATOR SEEL AND PLACED THEM IN THIS CONTAINER?
A. I DON'T BELIEVE THEY'RE IN THE EXACT SAME CONDITION.
Q. GO AHEAD.

WAS UNCONSCIOUS BUT MOANING. HIS EYELIDS WERE GONE. HIS NOSTRILS WERE OPEN WHERE HIS NOSE HAD BURNT AWAY. THERE WAS NO LIPS ON HIM. HIS LIPS WERE GONE. HIS TEETH WERE PROTRUDING.

Q. WHAT WAS THE PROGNOSIS OF MR. TYLER AT THAT TIME?

A. I INQUIRE ---

MS. JOHNS: YOUR HONOR, THAT'S HEARSAY.

THE COURT: SUSTAINED.

BY MS. HAYNES

Q. BASED ON WHAT YOU LEARNED AT THE HOSPITAL, DID YOU HAVE OCCASION TO GO BACK TO THE SCENE AND TALK WITH INVESTIGATOR SEEL?

A. YES, I DID.

Q. AND DID YOU RELAY TO HIM WHAT THE PHYSICIANS THERE AT RICHLAND MEMORIAL HOSPITAL HAD TOLD YOU AS TO THE PROGNOSIS OF VAN TYLER?

A. YES, I DID.

Q. AND DID YOU ALSO HAVE THE OCCASION THERE WHILE AT RICHLAND MEMORIAL HOSPITAL TO COME INTO CONTACT WITH A NURSE BY THE NAME OF LOIS MIYAZAKI?

A. YES, I DID.

Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 15 FOR ID AND ASK YOU IF YOU RECOGNIZE THE ITEMS CONTAINED WITHIN THAT PAINT CAN?

A. YES, I DO.

SECURING IT I MEANT, JUST TO STAY WITH IT AND PROTECT IT FROM FURTHER DAMAGE OF VEHICLE DAMAGE OR PEDESTRIANS, AND CERTAINLY, THE WIND WAS BLOWING, AND IT COULD HAVE BLEW AWAY.

Q. SO, YOU LEFT OTHER FIRE FIGHTERS THERE TO MAKE SURE THE PEPSI BOTTLE REMAINED WHERE IT WAS?

A. THAT'S CORRECT.

Q. UNTIL INVESTIGATOR MOULTRIE CAME AND RETRIEVED IT?

A. I LEFT PRIOR TO INVESTIGATOR MOULTRIE ARRIVING.

Q. WHY DID YOU LEAVE?

A. WELL, ONE OF MY PRIMARY THINGS IS TO IDENTIFY HOW SERIOUS PERSONS ARE INJURED IN FIRES, AND I WANTED TO GET TO THE HOSPITAL, BECAUSE THE FIRE FIGHTERS THAT WERE AT THE SCENE SAID THAT THIS PERSON WAS BADLY BURNED AND IT DIDN'T LOOK REAL GOOD.

Q. DID YOU ACTUALLY GO TO RICHLAND MEMORIAL HOSPITAL?

A. YES, I DID.

Q. AND UPON GOING TO RICHLAND MEMORIAL HOSPITAL, DID YOU HAVE OCCASION TO COME INTO CONTACT WITH MR. VAN TYLER?

A. YES, I DID. UPON ARRIVAL, I WENT RIGHT INTO THE TRAUMA CENTER, RIGHT INTO THE ROOM WHERE THEY WERE WORKING ON HIM.

Q. WHAT DID YOU FIND?

A. AT THAT TIME, HE HAD TUBES GOING UP IN HIS NOSE. HE

Q. BASED UPON YOUR EXPERIENCE AS A FIRE INVESTIGATOR, WHAT DID THAT SIGNAL TO YOU WHEN YOU SAW THE BURN PATTERNS?

A. CERTAINLY, IT WAS A RAPID AND INTENSE FIRE, INDICATIVE OF A FLAMMABLE LIQUID.

Q. AND DID YOU BEGIN TO LOOK AROUND THE SCENE, OR WHAT ELSE DID YOU DO?

A. YES, I DID. I QUESTIONED THE FIRE FIGHTERS, AND I WANTED TO KNOW WHERE THE FIRE BEGAN AS FAR AS THE LOCATION OF THE CAR, BECAUSE IT WAS STOPPED AT A CURB AND HIT ONE OF OUR SIGNALING DEVICES, CITY SIGNALING DEVICES.

Q. DID YOU LEARN WHERE THE CAR HAD FIRST BEEN SPOTTED?

A. YES, AND THAT WAS AT THE INTERSECTION OF [redacted] AND [redacted]

Q. DID YOU GO TO THAT AREA?

A. YES. THERE WAS TRAFFIC FLOW STILL IN THAT AREA, AND I WALKED OUT INTO THE STREET, AND AT THAT TIME, I NOTICED A PEPSI BOTTLE SITTING THERE AND SOME DEBRIS ON THE GROUND.

Q. AND WHAT DID YOU DO AT THAT POINT?

A. I WAS WITH TWO FIRE FIGHTERS, AND I BROUGHT THEM OVER TO IT, AND I SAID THIS IS POSSIBLY FROM THE VEHICLE AT THE POINT OF IGNITION, AND I SAYS, I WANT THIS STREET CORDONED OFF, YELLOW TAPE PUT UP, AND AT THAT TIME, I TOLD THEM TO SECURE THAT DEBRIS IN THE STREET, AND

A. JUST THE IMMEDIATE VICINITY OF WHERE THE CAR WAS SITUATED. THE TRAFFIC WAS STILL FLOWING ON [redacted] STREET.

Q. DID YOU EVER HAVE THE OCCASION TO CORDON THE AREA OFF?

A. YES, I DID. WHEN I GOT THERE, I INQUIRED WHY THEY CALLED EMS, AND THEY GAVE ME A REPORT THAT A SUBJECT WAS TRANSPORTED TO RICHLAND MEMORIAL HOSPITAL. I THEN VIEWED THE CAR, AND THE ENGINE COMPARTMENT WAS OPEN, AND THE TRUNK COMPARTMENT WAS OPEN AT THAT TIME, AND I FOUND THAT THERE WAS NO FIRE IN EITHER AREA. LOOKING ON THE INTERIOR OF THE COMPARTMENT, THE DRIVER'S COMPARTMENT, I NOTICED SEVERE BURN PATTERNS IN THERE, WHICH IS NOT INDICATIVE OF A NATURAL TYPE FIRE.

Q. AND WHAT DID THAT MEAN TO YOU AS AN INVESTIGATOR SINCE 1978 WITH THE FIRE DEPARTMENT?

A. WELL, I STARTED IN THE FIRE SERVICE IN 1972.

Q. I'M SORRY.

A. WHEN I SEEN THAT FIRE THAT WAS EXTENSIVE ON THE INSIDE, I WAS THINKING THAT IT COULD BE ---

MR. JOHNS: I OBJECT, YOUR HONOR, TO HIM THINKING --

-

Q. BASED ON YOUR EXPERIENCE AS ---

THE COURT: ALL RIGHT. I SUSTAIN THE OBJECTION.

BY MS. HAYNES

SEPTEMBER 26, 1996?

A. YES, I DID.

Q. AND CAN YOU TELL ME WHAT YOU DID OR WHAT WERE YOUR DUTIES ONCE YOU GOT THERE TO THAT SCENE?

A. I RESPONDED. I WAS PROBABLY THREE TO FOUR MILES AWAY WHEN THE CALL CAME IN OVER THE RADIO, AND WHEN THEY REQUESTED EMS TO THE SCENE, I STARTED HEADING IN THAT DIRECTION. I DID NOT RESPOND CODE THREE. I JUST FOLLOWED NORMAL TRAFFIC PATTERN, WHICH PROBABLY BROUGHT ME THERE, MAYBE, FIVE MINUTES AFTER THE FIRE TRUCK GOT THERE.

Q. LET ME INTERRUPT YOU THERE. WHAT DOES CODE THREE MEAN?

A. LIGHTS AND SIRENS.

Q. OKAY. SO, YOU DID NOT GO LIGHTS AND SIRENS?

A. NO, I DIDN'T.

Q. AND YOU GOT THERE ABOUT FIVE MINUTES AFTER THE CALL CAME OUT?

A. FIVE MINUTES AFTER THE FIRE DEPARTMENT RESPONDED AND GOT THERE.

Q. WHAT DID YOU FIND AT THE SCENE?

A. AT THAT TIME, THE FIRE DEPARTMENT HAD THE FIRE EXTINGUISHED. IT WAS UNDER CONTROL. THE CAR WAS OPEN AND STILL SMOKING AND VAPORS COMING OFF THE CAR.

Q. WAS THE AREA CORDONED OFF AT THAT POINT?

Q. THANK YOU.

THE COURT: THANK YOU. YOU MAY STEP DOWN. LET'S HAVE A SHORT WITNESS FROM THE STATE.

MS. HAYNES: WE CALL JOHN REICH.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

JOHN REICH, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

MR. REICH: MY NAME IS JOHN REICH --- R-E-I-C-H.

DIRECT EXAMINATION

BY MS. HAYNES

Q. OFFICER REICH, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED WITH THE CITY OF COLUMBIA FIRE DEPARTMENT AS CHIEF FIRE MARSHAL.

Q. AND WHAT DOES THE CHIEF FIRE MARSHAL DO? WHAT DOES THAT MEAN?

A. I'M RESPONSIBLE FOR THREE RESPONSIBILITIES IN THE DEPARTMENT. THAT'S FIRE INVESTIGATIONS, CODE ENFORCEMENT AND PUBLIC FIRE EDUCATION. I'M THE SUPERVISOR OVER THE FIRE PREVENTION BUREAU.

Q. HOW LONG HAVE YOU BEEN DOING THAT?

A. I WAS PROMOTED TO CHIEF FIRE MARSHAL IN 1991, BUT I'VE BEEN IN THE DIVISION SINCE 1978.

Q. AND DID YOU HAVE AN OCCASION TO RESPOND TO A CAR FIRE AT THE CORNER OF [redacted] AND [redacted] STREET BACK ON

MS. HAYNES: --- AND SHOPLIFTING.

THE COURT: NO, I'M GOING TO ---

MS. HAYNES: I JUST THOUGHT I'D PUT THAT UP THAT THAT WAS A WAY TO ----

THE COURT: I UNDERSTAND. GOOD TRY, SOLICITOR.

MS. HAYNES: JUST BECAUSE THEY'RE TRYING TO BASICALLY PAINT HER AS A VICTIM AND THAT SHE'S ALWAYS BEEN AGGRESSED UPON BY OTHER PEOPLE ---

THE COURT: ALL RIGHT.

MS. HAYNES: I WANTED TO SHOW THAT SHE WASN'T NECESSARILY THE VICTIM THAT WOULD PAINT HER TO BE, BUT I UNDERSTAND YOUR RULING. THANK YOU.

THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. ALLOW THE RECORD TO REFLECT THAT BOTH DEFENSE COUNSEL NOW ARE PRESENT IN THE COURTROOM, MS. JOHNS AND MS. BELL.

ALL RIGHT. NOW, SOLICITOR, IT IS MY UNDERSTANDING THAT WHEN WE BEGIN THE STATE INTENDS TO REST. IS THAT CORRECT?

MS. HAYNES: YES, SIR.

THE COURT: IN LIGHT OF THAT SO WE DON'T HAVE THE JURY COMING IN AND OUT AND IN AND OUT, ARE THERE ANY MOTIONS THAT THE STATE WOULD LIKE TO, THAT THE DEFENSE WOULD LIKE TO MAKE AT THIS TIME?

MS. BELL: YES, SIR, YOUR HONOR. AT THIS TIME WE,

THE DEFENSE, WOULD ASK FOR A DIRECTED VERDICT.

THE COURT: WELL, CONSIDERING THE EVIDENCE IN LIGHT MOST FAVORABLE TO THE STATE, I RESPECTFULLY DENY YOUR MOTION.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. ARE WE READY TO PROCEED?

MS. HAYNES: ONE MATTER, YOUR HONOR. I BELIEVE ONCE WE'VE RESTED AND STARTED THE DEFENSE CASE, AND I KNOW THEY HAVE NUMEROUS WITNESSES --- WE'VE PROVIDED THEM NECESSARY INFORMATION ON OUR WITNESSES WHO TOOK THE STAND A LONG TIME AGO AS TO WHETHER THEY HAD ANY RECORDS. I DON'T EVEN HAVE DATE OF BIRTHS YET AS TO THEIR WITNESSES TO BE ABLE TO SEE, AND I DON'T WANT TO BREAK COURT DOWN SO WE CAN CHECK IT. IF THEY'D GIVE US THAT INFORMATION NOW WE CAN RUN IT.

THE COURT: COULD YOU DO THAT, MS. BELL?

MS. BELL: WE CAN DO THAT, YOUR HONOR.

(PAUSE IN PROCEEDINGS.)

THE COURT: ALL RIGHT. HAVE YOU DONE THAT, MS. BELL?

MS. BELL; YOUR HONOR, THERE'S TWO OTHER WITNESSES THAT ARE SUPPOSED TO BE ON THEIR WAY UP.

THE COURT: COULD I GET A LIST OF THE PROPOSED WITNESSES FOR THE DEFENSE? DO YOU HAVE ONE, OR DO YOU HAVE ONE WE COULD COPY?

AGGRAVATED NATURE AS A LESSER INCLUDED ON THE AUTHORITY OF STATE V. FIELDS, AND I BELIEVE THERE'S ANOTHER CASE, CASEY, MAYBE. I CAN'T RECALL THE OTHER CASE OFF THE TOP OF MY HEAD.

ALL RIGHT. HOW ABOUT VOLUNTARY MANSLAUGHTER?

MS. HAYNES: MY THEORY ON THAT WOULD BE THE SAME THING. THERE'S JUST NO EVIDENCE THAT IT WOULD SUPPORT THAT, AND I DIDN'T SEE IN HERE WHERE SHE ASKED FOR VOLUNTARY, I THOUGHT INVOLUNTARY ---

THE COURT: WELL, THAT'S WHY I ASKED. SHE MAY NOT WANT THAT.

MS. BELL: WE'RE NOT ASKING FOR VOLUNTARY.

THE COURT: SHE DON'T WANT THAT ONE. THAT SOLVES THAT. ALL RIGHT. SO, WHAT ELSE? NOW, WE NEED TO MOVE ON TO HER OTHER REQUESTS WHICH SHE DOES HAVE NUMBERS ON THOSE. ALL RIGHT. INVOLUNTARY MANSLAUGHTER?

MS. HAYNES: I WOULD OBJECT TO THAT, YOUR HONOR. I WOULD HAND UP STATE V. BOZEMAN.

THE COURT: I'LL BE GLAD TO LISTEN TO YOU ON INVOLUNTARY MANSLAUGHTER.

MS. BELL: YES, SIR, YOUR HONOR. IN THIS PARTICULAR CASE, WE FEEL THAT THERE HAS BEEN, OBVIOUSLY, THE MENS REA AND WHAT CRIMINAL INTENT IS INVOLVED HERE IS CERTAINLY AN ISSUE. THERE WAS NO INTENTIONAL KILLING. AND INVOLUNTARY MANSLAUGHTER IS THE UNINTENTIONAL KILLING

NO DISPUTE THE VICTIM DIED AS A RESULT OF THE BATTERY ALLEGED IN THE INDICTMENT, ASSAULT AND BATTERY AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE ARE NOT LESSER INCLUDED OFFENSES OF MURDER."

IN THIS CASE, IN THE CASE AT BAR, THE CASE WE'RE TRYING TODAY, ISN'T IT DISPUTED --- I KNOW YOU DON'T AGREE WITH IT, BUT IT IS IN DISPUTE AS TO WHETHER OR NOT THE BATTERY CAUSED THE DEATH OF THE VICTIM IN THIS CASE?

MS. HAYNES: I SEE WHAT YOU'RE SAYING, YOUR HONOR, BUT WHAT I'M SAYING IS THE STATE WOULD CONTEND THAT IF THE JURY BUYS THE DEFENSE'S THEORY THAT THE DOCTORS AND NURSES KILLED HIM AND THAT WAS THE PROXIMATE CAUSE, THEN SHE'S NOT GUILTY. SHE'S EITHER GUILTY OF MURDER OR NOT GUILTY OF MURDER UNDER THE PROXIMATE CAUSE THEORY.

MS. BELL: YOUR HONOR ---

THE COURT: NO. HE STILL WOULD HAVE SUSTAINED THE SERIOUS BODILY INJURY, WOULDN'T HE?

MS. HAYNES: WELL, THEN WE HAVE THE CHARGE OF ASSAULT AND BATTERY WITH INTENT TO KILL ALSO.

THE COURT: YES. BUT SHE DIDN'T REQUEST THAT, BUT IF I CHARGE ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, OBVIOUSLY I'M GOING TO CHARGE ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE THE FACTS DICTATE THAT.

ALL RIGHT. I'M GOING TO CHARGE ASSAULT AND BATTERY WITH INTENT TO KILL AND ASSAULT AND BATTERY OF A HIGH AND

OTHERS FROM THE STATE? IS THAT CORRECT, MS. BELL?

MS. BELL: THAT'S CORRECT, YOUR HONOR.

THE COURT: THANK YOU. NOW, LET'S GO TO THE DEFENDANT'S REQUEST.

OKAY. I DON'T KNOW HOW TO DO THESE. I DON'T KNOW IF YOU HAD THEM NUMBERED. LET'S GO WITH THE FIRST ONE -- - REQUEST FOR INSTRUCTION ON ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

MS. HAYNES: WE, OF COURSE, OBJECT TO THAT, BECAUSE I DON'T BELIEVE THE EVIDENCE WILL SUSTAIN THAT. THE EVIDENCE HERE, BECAUSE THE EVIDENCE HERE IS MURDER, AND THERE WEREN'T LESSER CHARGES. EITHER SHE'S GUILTY OF MURDER OR SHE'S NOT GUILTY, OR MAYBE SHE'S GUILTY BUT MENTALLY ILL.

THE COURT: WHAT ABOUT THE STATE V. FIELDS CASE, WHICH THE SUPREME COURT --- JUSTICE MOORE WROTE, "THIS IS A NOVEL QUESTION IN THIS STATE. WE NOW HOLD WHERE THERE IS NO DISPUTE THE VICTIM DIED AS A RESULT OF THE BATTERY ALLEGED IN THE INDICTMENT, ASSAULT AND BATTERY AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE ARE NOT LESSER INCLUDED OFFENSES OF THE CRIME OF MURDER."

MS. HAYNES: I'M SORRY, YOUR HONOR, I DIDN'T FOLLOW WHAT YOU SAID ---

THE COURT: IT'S NOT WHAT I SAID. IT'S WHAT THE SUPREME COURT SAID. JUSTICE MOORE WROTE, "WHERE THERE IS

THAT, BUT THAT IS PART OF MY CHARGE.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: I JUST NEED TO KNOW IF YOU OBJECT TO ANY OF THEM. I THINK NUMBER FIVE IS INCLUDED IN MY GENERAL CHARGE. SIX --- LET'S TALK ABOUT SIX. DO YOU OBJECT TO SIX?

MS. BELL: YOUR HONOR, WE WOULD OBJECT TO SIX. I DON'T KNOW --- STATE V. MATTHEWS, MY INTERPRETATION OF IT --- IT'S NOT A FORESEEABLE DEFENSE.

MS. HAYNES: I BELIEVE THE WAY THE CASE READS IS THAT ANY NEGLIGENCE IS NOT ENOUGH TO MAKE HER ACTIONS NOT PROXIMATE CAUSE ACTIONS --- GROSS NEGLIGENCE. SO, THEREFORE, I THINK THIS IS GOING TO THAT THAT ANY NEGLIGENCE IS NOT ---

THE COURT: ALL RIGHT. WELL, I'M NOT GOING TO READ NUMBER SIX, BUT PART OF THAT PROPOSITION WHICH IS CORRECT MAY BE INCLUDED BUT NOT THOSE WORDS.

MS. HAYNES: YES, SIR.

THE COURT: SEVEN?

MS. HAYNES: SEVEN IS JUST THE EXACT --- ALMOST THE SAME THING --- IT MIGHT BE INCLUDED ALREADY IN YOUR CHARGE --- GROSS NEGLIGENCE AND WHAT IT TAKES ---

THE COURT: RIGHT. ALL RIGHT. NUMBER EIGHT IS IN MY CHARGE. WELL, IT'S SUBSTANTIVELY THE SAME.

ALL RIGHT. SO, YOU DON'T HAVE ANY OBJECTION TO ANY

(JURY TO THE JURYROOM.)

THE COURT: ALL RIGHT. ANYTHING WE NEED TO TAKE UP FROM THE STATE OR THE DEFENDANT?

MS. BELL: YOUR HONOR, AT THIS TIME, THE DEFENSE WOULD MOVE THAT THE CASE NOT BE SUBMITTED TO THE JURY, THAT THE STATE HAS NOT MET ITS STANDARD. WE WOULD ASK FOR A DIRECTED VERDICT BASED ON THE FACT THAT NOW THAT ALL THE EVIDENCE HAS BEEN PRESENTED THAT THE STATE HAS NOT MET THE ELEMENTS, ONE BEING MENS REA, AND TWO THE PROXIMATE CAUSATION.

THE COURT: ALL RIGHT. VIEWING THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE AS I'M REQUIRED TO DO, I RESPECTFULLY DENY YOUR MOTION.

MS. BELL: THANK YOU FOR ENTERTAINING THE MOTION.

THE COURT: CERTAINLY. ALL RIGHT. ANYTHING FURTHER?

MS. HAYNES: NOTHING FROM THE STATE, OTHER THAN MAYBE JURY CHARGES, YOUR HONOR.

THE COURT: ALL RIGHT. WHILE WE'RE HERE. BE GLAD TO HEAR FROM YOU.

MS. HAYNES: WELL, I SUBMITTED OUR REQUEST TO CHARGE. I BELIEVE WE HAVE APPROXIMATELY EIGHT, MOST OF WHICH ARE DEALING WITH THE PROXIMATE CAUSE ISSUE, SOME WITH MALICE.

THE COURT: WELL, BRIEFLY, NUMBER ONE IS IN MY

GENERAL CHARGE. NUMBER TWO, I MAY USE YOUR DEFINITION OR MINE. NUMBER THREE, I WILL USE --- I DON'T KNOW IF I'LL USE YOURS. I FIND THAT LANGUAGE ON PAGE 91 A LITTLE CUMBERSOME. I WILL USE SOME OF THAT LANGUAGE, BUT I HAVE A CHARGE, ESSENTIALLY, THE SAME. ALSO NOTE, THE DEFENDANT HAS SUBMITTED, I BELIEVE, REQUEST ON THAT ISSUE ALSO, HAVEN'T YOU?

MS. BELL: YES, SIR.

THE COURT: AND THEN OVER TO NUMBER FOUR. WELL, THAT'S INCLUDED IN MY GENERAL CHARGE.

MS. BELL: YOUR HONOR, YOU ARE NOT CHARGING?

MS. HAYNES: HE SAID IT'S INCLUDED IN HIS GENERAL CHARGE.

THE COURT: RIGHT. NUMBER FOUR IS THE LAW OF THIS STATE, IS IT NOT?

MS. BELL: YES, SIR. I WAS WONDERING IS THAT WAS THE APPROXIMATE CAUSE OR MENS REA

THE COURT: WELL, NO. THE ONE I HAVE FROM THE STATE IS ONE WHO INFLICTS AN INJURY ON ANOTHER IS DEEMED BY LAW TO BE GUILTY OF HOMICIDE WHEN THE INJURY CONTRIBUTES IMMEDIATELY OR IMMEDIATELY TO THE DEATH OF THE OTHER. THAT IS THE PROPOSITION OF LAW WHERE STATE V. JENKINS STANDS FOR, IS IT NOT?

MS. BELL: WELL, YOUR HONOR ---

THE COURT: THAT'S NOT ALL I'M GOING TO CHARGE ON

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, ON BEHALF OF THE STATE OF SOUTH CAROLINA AND RICHLAND COUNTY, I WOULD LIKE TO THANK EACH OF YOU FOR YOUR JURY SERVICE. YOU HAVE BEEN A VERY DEDICATED AND CONSCIENTIOUS JURY. I THANK YOU FOR YOUR JURY SERVICE.

LADIES AND GENTLEMEN, OUR SYSTEM COULD NOT FUNCTION WERE IT NOT FOR GOOD CITIZENS LIKE YOU WHO WERE READY, WILLING, ABLE AND QUALIFIED TO SERVE AS JURORS. THE CONTRIBUTION THAT YOU MADE TO OUR SYSTEM IS INVALUABLE.

WHEN I EXCUSE YOU TODAY, YOU DO NOT HAVE TO RETURN. YOU DO NOT HAVE TO COME BACK TOMORROW. YOU DO NOT EVEN HAVE TO COME BACK FOR THREE YEARS AS A JUROR IN THIS COURT. IF YOU SHOULD INADVERTENTLY BE SUBPOENAED TO APPEAR AGAIN IN THIS COURT AS A JUROR, PLEASE CONTACT YOUR FINE CLERK OF COURT, MS. SCOTT, ADVISE HER THAT YOU SERVED IN THE MARCH 19, 1998 TERM. SHE'LL MAKE ARRANGEMENTS TO HAVE YOU EXCUSED.

I TELL MOST OF THE JURORS, SHORTLY YOU SHOULD RECEIVE A CHECK IN THE MAIL FOR YOUR SERVICES AS A JUROR. REMEMBER, YOU ARE NOT PAID WHAT YOU'RE WORTH, ONLY WHAT RICHLAND COUNTY CAN AFFORD TO PROVIDE FOR YOU. NO AMOUNT OF MONEY COULD COMPENSATE YOU FOR THE SERVICE WHICH YOU PROVIDED.

ONCE AGAIN, I THANK YOU. ONCE YOU'RE RELEASED, LADIES AND GENTLEMEN, JURORS OFTEN ASK DO THEY HAVE TO

MS. JOHNS: NO, YOUR HONOR, AND YOUR HONOR, WE KNOW THAT AS FAR AS SENTENCING GOES THAT THIS COURT BASICALLY HAS NO OPTION OTHER THAN TO SENTENCE HER TO LIFE, AND SHE UNDERSTANDS THAT AS WELL.

THE COURT: WELL, THIS IS PURELY A TRAGEDY AND A SAD DAY. IT'S JUST HARD TO UNDERSTAND THE EVENTS THAT OCCURRED. 97-GS-40-17046, THE STATE OF SOUTH CAROLINA VERSUS LINDA TYLER, WHEREIN SHE HAS BEEN FOUND GUILTY BUT MENTALLY ILL, IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 17-24-70, THAT THE DEFENDANT FIRST BE TAKEN TO A FACILITY DESIGNATED BY THE DEPARTMENT OF CORRECTIONS FOR TREATMENT AND RETAINED THERE UNTIL IN THE OPINION OF THE STAFF AT THAT FACILITY SHE MAY SAFELY BE MOVED TO THE GENERAL POPULATION OF THE DEPARTMENT OF CORRECTIONS TO SERVE THE REMAINDER OF HER SENTENCE WHICH THE COURT SENTENCES HER TO THE TERM OF LIFE IMPRISONMENT FOR THE OFFENSE OF MURDER AND ALSO NOTES THAT UNDER SECTION 17-25-45, THAT THE DEFENDANT HAS TWO PRIOR SERIOUS OFFENSES, CONVICTIONS --- MOST SERIOUS OFFENSES FOR THE OFFENSE OF ASSAULT AND BATTERY WITH INTENT TO KILL AND FOR THE OFFENSE OF ARMED ROBBERY. THEREFORE, THE SENTENCE OF LIFE IMPRISONMENT IS WITHOUT THE POSSIBILITY OF PAROLE. THANK YOU VERY MUCH. THANK YOU VERY MUCH.

MS. JOHNS: THANK YOU, YOUR HONOR.

EITHER A CONVICTION, OR THERE'S NOT A CONVICTION.

MS. JOHNS: YES, YOUR HONOR, I UNDERSTAND.

THE COURT: UNDER 17-25-45 OF OUR CODE.

MS. JOHNS: WITH ALL DUE RESPECT TO THE COURT, YOUR HONOR, I DO UNDERSTAND THAT A CONVICTION IS ALL THAT MATTERS, BUT WITH REGARD TO THE RECORD OF THE DEFENDANT, MS. TYLER, I WANTED TO PLACE THIS INFORMATION ON THE RECORD THAT SHE WAS ADVISED AT THE TIME THAT THE PCR WAS FILED ON THAT THE MORNING THAT IT WAS TO BE HEARD THAT SHE SHOULD DISMISS HER PCR ACTION BECAUSE THE STATE WAS GOING TO OFFER HER A PLEA TO SOMETHING THAT WAS NOT A VIOLENT OFFENSE WHICH WAS ACCESSORY AFTER THE FACT OF ARMED ROBBERY.

SHE SAYS THAT SHE AGREED TO DISMISS IT BASED ON THAT PRETEXT. I HAVE TALKED WITH MS. TYLER IN DEPTH, AND I JUST WANTED TO PLACE ALL OF THIS, YOUR HONOR, ON THE RECORD FOR WHATEVER REASON I NEED TO.

THE COURT: NOTED FOR THE RECORD. I'LL CERTAINLY NOTE THAT.

MS. JOHNS: THANK YOU.

MS. HAYNES: YOUR HONOR, IF I MAY? THAT NOTICE WAS FILED BACK IN NOVEMBER OF '97. SO, THEY'VE HAD IT FOR QUITE A WHILE.

THE COURT: THANK YOU. ALL RIGHT. ANYTHING FURTHER FROM THE DEFENDANT, MS. BELL?

MS. JOHNS: SHE DOES.

THE COURT: HAS IT BEEN OVERTURNED?

MS. JOHNS: NO, IT HAS NOT BEEN OVERTURNED, BUT SHE WAS RELEASED UNTIL THEY DETERMINED THE REASON AS TO WHY THEY WERE HOLDING HER UNLAWFULLY, ADDITIONALLY, WITH REGARD TO ONE OF THOSE CONVICTIONS, YOUR HONOR.

THE COURT: IS THAT IN REGARD TO THE ARMED ROBBERY CONVICTION, ALSO?

MS. JOHNS: THAT WOULD BE THE ASSAULT AND BATTERY WITH INTENT TO KILL.

THE COURT: SO, THERE IS NOTHING PENDING ON THE ARMED ROBBERY CONVICTION?

MS. JOHNS: THE ISSUE WITH THE ARMED ROBBERY, YOUR HONOR, IS THAT MS. TYLER HAS INFORMED US WHEN WE RECEIVED NOTICE OF THE STATE SEEKING LIFE WITHOUT PAROLE, THAT THERE WAS AN ISSUE REGARDING THE ARMED ROBBERY WHERE A POST CONVICTION RELIEF MATTER WAS FILED IN COMMON PLEAS COURT WHERE SHE WAS THEN APPOINTED SOME ATTORNEY THAT SHE WISHED TO HAVE HERE AT SENTENCING SO THAT THE COURT WILL HAVE AN EVIDENTIARY HEARING LISTENING TO SOME OF THESE CONCERNS IN REGARD TO HER ADVICE THAT SHE RECEIVED REGARDING THE WITHDRAWAL OF A PCR MOTION. I WANTED TO PUT THAT ON THE RECORD ON HER BEHALF, YOUR HONOR.

THE COURT: YOU CAN PUT IT ON THE RECORD NOW, BUT THAT'S NOT PROVIDED FOR UNDER THE STATUTE. I MEAN, IT'S

BELIEVE IT'S A MANDATORY LIFE SENTENCE UPON CONVICTION FOR THIS MURDER OFFENSE.

THE COURT: THANK YOU. ALL RIGHT. FROM THE DEFENSE, ANYTHING IN REGARD TO SENTENCING, MS. BELL?

MS. BELL: YOUR HONOR, UNDER THE STATUTE AND THE OFFENSE THAT SHE'S BEEN CONVICTED UNDER, CERTAINLY WE UNDERSTAND THE JURY DECISION. THEY DELIBERATED LONG AND HARD.

YOUR HONOR, SHE DOES HAVE FAMILY. THEY'VE BEEN HERE DURING THE COURSE OF THE TRIAL, AND I BEG THE COURT'S INDULGENCE.

MS. JOHNS: YOUR HONOR, WITH REGARD TO THE LIFE WITHOUT PAROLE NOTICE RECEIVED BY THE STATE, THERE ARE SOME ISSUES THAT ARE SOMEWHAT PECULIAR IN MS. TYLER'S CASE IN THAT, ONE, THERE WAS A HABEAS CORPUS MOTION FILED ON HER BEHALF REGARDING ONE OF THE SENTENCES. SHE HAD WON THAT MOTION AND WAS ORDERED TO BE RELEASED. THAT'S ONE OF THE THINGS THAT NEED --- THAT I THINK THAT THE COURT NEEDS TO BE AWARE OF WITH REGARD TO DEFERRING SENTENCING. THE OTHER ISSUE, YOUR HONOR ---

THE COURT: EVEN IF SHE DOES NOT HAVE A PREVIOUS PRIOR CONVICTION UNDER 17-25-45?

MS. JOHNS: I'M SORRY, YOUR HONOR.

THE COURT: SHE DOES NOT HAVE A PRIOR CONVICTION OF ASSAULT AND BATTERY WITH INTENT TO KILL?

VERDICT?)

THE COURT: PLEASE COME FORWARD FOR SENTENCING.

MS. BELL: YOUR HONOR, BEFORE SENTENCING, WE HAVE SOME MATTERS FOR YOUR HONOR.

THE COURT: WELL, I BELIEVE I CAN GO AHEAD AND IMPOSE SENTENCING, AND WE CAN TAKE THOSE MATTERS UP LATER.

MS. BELL: YOUR HONOR, IS IT POSSIBLE THAT WE DEFER SENTENCING?

THE COURT: NO, MA'AM.

MS. BELL: BECAUSE OF THE NOTICE THAT WE RECEIVED FROM THE STATE. I WOULD LIKE AN OPPORTUNITY ---

THE COURT: WELL, I THOUGHT YOU'D HAD THAT NOTICE FOR A GOOD WHILE. I'LL BE GLAD TO HEAR FROM YOU NOW. PLEASE COME FORWARD FOR SENTENCING.

THE COURT: ALL RIGHT, MADAM SOLICITOR, ANYTHING FURTHER FROM THE STATE IN REGARD TO SENTENCING?

MS. HAYNES: I BELIEVE YOUR HONOR IS QUITE FAMILIAR WITH THE CASE. YOU'VE HEARD ALL THE FACTS, THE PRIOR RECORD, WHICH I BELIEVE YOUR HONOR IS ALSO FAMILIAR WITH. SHE PLEADED TO ASSAULT AND BATTERY WITH INTENT TO KILL CONVICTION IN 1979, INVOLVED IN AN ARMED ROBBERY CONVICTION AT THAT SAME TIME. SHE ALSO HAD DISTRIBUTION OF COCAINE AND POSSESSION OF COCAINE, ALONG WITH A SHOPLIFTING CONVICTION. UNDER THE LAW OF THIS STATE, I

THE COURT: THANK YOU. MADAM FORELADY, HAS THE JURY BEEN ABLE TO REACH A UNANIMOUS VERDICT?

FORELADY: YES, WE HAVE.

THE COURT: THANK YOU. WOULD YOU PLEASE PASS IT TO THE CLERK OF COURT, MA'AM?

PLEASE PUBLISH THE VERDICT.

CLERK OF COURT: 97-GS-40-17046, THE STATE OF SOUTH CAROLINA VERSUS LINDA TYLER. THE VERDICT IS, WE FIND THE DEFENDANT, LINDA TYLER, GUILTY BUT MENTALLY ILL OF MURDER, SIGNED BY DONNA JAMISON.

MADAM FORELADY, IS THIS YOUR VERDICT AND THE VERDICT OF THIS JURY?

FORELADY: YES, IT IS.

CLERK OF COURT: THANK YOU.

THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE THE COURT IMPOSES SENTENCING FROM THE STATE?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: FROM THE DEFENDANT?

MS. BELL: YES, SIR, YOUR HONOR. WE WOULD ASK THAT THE JURY BE POLLED.

THE COURT: ALL RIGHT, MADAM CLERK, WILL YOU PLEASE POLL THE JURY BEGINNING WITH THE FORELADY.

(JURY POLLED AT THIS TIME BY THE CLERK OF COURT. THEY ALL ANSWERED IN THE AFFIRMATIVE TO THE FOLLOWING QUESTIONS: IS THIS YOUR VERDICT? IS IT STILL YOUR

MENTALLY ILL AS DEFINED IN SUBSECTION-A OF THE CODE SECTION WHICH I JUST READ TO YOU.

MADAM FORELADY, LADIES AND GENTLEMEN, PLEASE RETIRE AND CONTINUE YOUR DELIBERATIONS. THANK YOU VERY MUCH.

(JURY TO THE JURYROOM.)

THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT?

MS. HAYNES: NO, YOUR HONOR.

MS. BELL: NO, YOUR HONOR.

THE COURT: THANK YOU. PLEASE MAKE THIS THE NEXT APPROPRIATE COURT EXHIBIT FOR THE RECORD, MADAM COURT REPORTER.

(COURT'S EXHIBIT ELEVEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

(COURT IN RECESS.)

(COURT RECONVENES.)

THE COURT: I UNDERSTAND WE HAVE A VERDICT. THE COURT WOULD REMIND EVERYONE THAT WE DO NOT ALLOW ANY EMOTIONAL OUTBURST. IF ANYONE FEELS HE OR SHE CANNOT CONTROL THEIR EMOTIONS, NOW WOULD BE A GOOD TIME TO EXIT THE COURTROOM RATHER THAN FACE A CONTEMPT OF COURT CITATION.

PLEASE BRING THE JURY IN.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

IN SECTION 17-24-10-A, BUT BECAUSE OF MENTAL DISEASE OR DEFECT, HE LACKED SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW.

(B) TO RETURN A VERDICT OF GUILTY BUT MENTALLY ILL, THE BURDEN OF PROOF IS UPON THE STATE TO PROVE BEYOND A REASONABLE DOUBT TO THE TRIER OF FACT THAT THE DEFENDANT COMMITTED THE CRIME, AND THE BURDEN OF PROOF IS UPON THE DEFENDANT TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT WHEN HE COMMITTED THE CRIME HE WAS MENTALLY ILL AS DEFINED IN SUBSECTION-A.

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU A DEFENDANT IS GUILTY BUT MENTALLY ILL IF AT THE TIME OF THE COMMISSION OF THE ACT CONSTITUTING THE OFFENSE HE HAD THE CAPACITY TO DISTINGUISH RIGHT FROM WRONG OR TO RECOGNIZE HIS ACT AS BEING WRONG AS DEFINED IN SECTION 17-24-10-A, BUT BECAUSE OF MENTAL DISEASE OR DEFECT, HE LACKED SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW.

I CHARGE YOU, MADAM FORELADY AND LADIES AND GENTLEMEN, TO RETURN A VERDICT OF GUILTY BUT MENTALLY ILL THE BURDEN OF PROOF IS UPON THE STATE OF STATE OF SOUTH CAROLINA TO PROVE BEYOND A REASONABLE DOUBT TO THE JURY THAT THE DEFENDANT COMMITTED THE CRIME, AND THE BURDEN OF PROOF IS UPON THE DEFENDANT TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT WHEN HE COMMITTED THE CRIME HE WAS

DEFINED IN THE SUBSECTION-A." IS THAT NOT THE LAW? IT IS THE LAW. THANK YOU.

MS. BELL: THANK YOU.

THE COURT: PLEASE BRING THE JURY IN.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. MADAM FORELADY, LADIES AND GENTLEMEN, I HAVE A NOTE PRESUMABLY WRITTEN BY YOU, MADAM FORELADY, WHICH READS AS FOLLOWS: "PLEASE RESTATE THE CHARGE TO THE JURY RELATIVE TO MENTAL ILLNESS."

MADAM FORELADY, DOES THE JURY WISH THE COURT TO RECHARGE THE DEFENSE OF INSANITY, OR DO YOU JUST WISH TO HEAR THE CHARGE OF THE SECTION REGARDING GUILTY BUT MENTALLY ILL, OR DO YOU WISH BOTH?

FORELADY: GUILTY BUT MENTALLY ILL.

THE COURT: THANK YOU.

RECHARGE OF JURY INSTRUCTION

BY THE COURT

GUILTY BUT MENTALLY ILL. MADAM FORELADY, LADIES AND GENTLEMEN, SECTION 17-24-20, A AND B OF THE SOUTH CAROLINA CODE OF LAWS FOR 1976 READS IN PERTINENT PART AS FOLLOWS: A DEFENDANT IS GUILTY BUT MENTALLY ILL IF AT THE TIME OF THE COMMISSION OF THE ACT CONSTITUTING THE OFFENSE HE HAD THE CAPACITY TO DISTINGUISH RIGHT FROM WRONG OR TO RECOGNIZE HIS ACT AS BEING WRONG AS DEFINED

MADE A PART OF THE RECORD.)

(COURT IN RECESS.)

(COURT RECONVENES.)

THE COURT: LADIES AND GENTLEMEN, I HAVE A NOTE FROM THE JURY WHICH READS AS FOLLOWS: "PLEASE RESTATE THE CHARGE TO THE JURY RELATIVE TO MENTAL ILLNESS."

I PLAN ON BRINGING THE JURY IN AND CHARGING THEM IN REGARD TO MENTAL ILLNESS. ANY OBJECTION?

MS. HAYNES: NONE FROM THE STATE, YOUR HONOR.

MS. BELL: NONE FROM THE DEFENSE, YOUR HONOR. I JUST WANTED TO POINT OUT THAT EARLIER I DID NOT MAKE AN OBJECTION, BUT I THOUGHT ABOUT IT ON THE PART OF INSANITY. I THINK WE DO HAVE AN AFFIRMATIVE DEFENSE AS FAR AS INSANITY IS CONCERNED, AND WE WOULD HAVE TO PROVE BY THE PREPONDERANCE OF THE EVIDENCE, BUT I DO NOT THINK WE HAVE THE BURDEN OF PROOF ON IT AS FAR AS GUILTY BUT MENTALLY ILL.

THE COURT: WELL, THE CODE SECTION WHICH IS EXACTLY WHAT I READ TO THE JURY, SUBSECTION-B OF 17-24-20 READS: "TO RETURN A VERDICT OF GUILTY BUT MENTALLY ILL, THE BURDEN OF PROOF IS UPON THE STATE TO PROVE BEYOND A REASONABLE DOUBT TO THE TRIER OF FACT THAT THE DEFENDANT COMMITTED THE CRIME, AND THE BURDEN OF PROOF IS UPON THE DEFENDANT TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT WHEN HE COMMITTED THE CRIME HE WAS MENTALLY ILL AS

UNDERSTAND?

FORELADY: YES.

THE COURT: THANK YOU. ALL RIGHT. DO YOU WANT ME TO START AT THE BEGINNING AT THIS TIME, AND IF YOU WANT TO FAST FORWARD, YOU WANT TO BACK UP, I CAN HAVE THE COURT REPORTER DO THAT, BUT YOU'VE GOT TO TELL ME, MADAM FORELADY.

FORELADY: LET ME ASK THEM WHICH PORTION.

THE COURT: SURE. Y'ALL CAN HUDDLE UP KIND OF LIKE A FOOTBALL TEAM.

(JURY CONFERS.)

THE COURT: YES, MA'AM?

FORELADY: YOUR HONOR, WE WOULD LIKE TO HEAR ALL OF IT.

THE COURT: ALL RIGHT.

(DR. PETERSON'S TESTIMONY REPLAYED AT THIS TIME FOR THE JURY.)

THE COURT: ALL RIGHT. THANK YOU. PLEASE RETIRE AND CONTINUE YOUR DELIBERATIONS. THANK YOU.

(JURY TO THE JURYROOM.)

THE COURT: ANYTHING FROM THE STATE?

MS. HAYNES: NO, SIR.

THE COURT: FROM THE DEFENDANT?

MS. BELL: NOTHING, YOUR HONOR.

(COURT'S EXHIBIT TEN MARKED FOR IDENTIFICATION AND

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. MADAM FORELADY, LADIES AND GENTLEMEN, I HAVE A NOTE PRESUMABLY WRITTEN BY YOU, MADAM FORELADY. "WE WOULD LIKE TO REVIEW THE VIDEO/AUDIO OF DR. PETERSON'S TESTIMONY IN THE JURYROOM."

LADIES AND GENTLEMEN, WE ONLY HAVE THE CAPABILITY OF REPLAYING THE TESTIMONY IN ITS ENTIRETY TO YOU, OR WE CAN REPLAY JUST PORTIONS OF IT. I HAVE MY COURT REPORTER READY TO DO THIS AT THIS TIME, LADIES AND GENTLEMEN.

LADIES AND GENTLEMEN, WE CAN REPLAY THE TESTIMONY, ALL OF IT, MADAM FORELADY, PART OF IT, JUST WHATEVER THE JURY WANTS. WE HAVE TO DO IT IN OPEN COURT. WE DON'T HAVE THE ABILITY TO GIVE YOU A TAPE AND ALLOW YOU TO TAKE IT INTO THE JURYROOM.

NOW, MADAM FORELADY AND LADIES AND GENTLEMEN, THERE IS NOTHING SACRED ABOUT YOUR CHAIRS. YOU'RE NOT GLUED TO THOSE SO TO SPEAK.

MADAM FORELADY, YOU CAN GET UP IF YOU NEED TO. I DON'T KNOW IF YOU NEED TO. BUT IF YOU NEED TO TO CONFER WITH THE JURORS TO SEE IF THEY'VE HEARD THE PORTION OF THE TESTIMONY THEY WISH TO HEAR OR IF THEY WISH TO HEAR IT ALL OR WHATEVER, YOU CAN KIND OF STAND UP AND MOVE AMONGST THEM, AND IF THEY NEED TO MOVE A LITTLE CLOSER TO BE ABLE TO HEAR, YOU CAN DO THAT, LADIES AND GENTLEMEN. YOU'RE NOT CONFINED TO YOUR SEAT SO TO SPEAK. SO, DO YOU

LAW CHARGED OR THE ENTIRE CHARGE AGAIN TO YOU, PLEASE NOTIFY THE COURT.

THANK YOU. PLEASE RETIRE AND CONTINUE TO DELIBERATE.

(JURY TO JURYROOM.)

THE COURT: ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT?

MS. HAYNES: NOT FROM THE STATE, YOUR HONOR.

MS. BELL: NOTHING, YOUR HONOR.

THE COURT: MAKE THIS THE NEXT APPROPRIATE COURT EXHIBIT.

(COURT'S EXHIBIT NINE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

THE COURT: ALL RIGHT, MR. BAILIFF, PLEASE BRING THE JURY IN.

BAILIFF: YES, SIR.

THE COURT: SOLICITOR, MS. BELL, LET THE RECORD REFLECT THE DEFENDANT IS PRESENT AND ALL THE ATTORNEYS. I HAVE ANOTHER NOTE. "WE WOULD LIKE TO REVIEW THE VIDEO/AUDIO OF DR. PETERSON'S TESTIMONY IN THE JURYROOM." OBVIOUSLY, WE DO NOT HAVE THAT CAPABILITY. I'M BRINGING THE JURY IN. THE COURT REPORTER IS PREPARED TO REPLAY THE TESTIMONY OF DR. PETERSON IN ITS ENTIRETY OR PORTIONS, WHATEVER THEY WANT TO HEAR.

(JURY TO THE COURTROOM.)

PRESENT. I HAVE A NOTE PRESUMABLY WRITTEN FROM THE FORELADY. "YOUR HONOR, MAY WE HAVE A COPY OF THE CHARGES YOU READ TO US?" OBVIOUSLY, I THINK THEY REQUESTED A COPY OF MY WRITTEN CHARGE. THAT'S NOT PERMISSIBLE, AND I HAVE TO EXPLAIN THAT TO THEM.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. MADAM FORELADY, LADIES AND GENTLEMEN, I HAVE A NOTE, MADAM FORELADY, PRESUMABLY WRITTEN BY YOU WHEREIN YOU REQUEST, "MAY WE HAVE A COPY OF THE CHARGES READ TO US?" I BELIEVE YOU'RE REFERRING, MADAM FORELADY, TO MY CHARGE TO THE JURY WHICH I JUST EXPLAINED TO YOU.

MADAM FORELADY, LADIES AND GENTLEMEN, THAT IS NOT PERMISSIBLE IN SOUTH CAROLINA UNDER OUR LAW. HOWEVER, I CAN RECHARGE THE JURY ON ANY PORTIONS OF THE LAW WHICH THE JURY MAY WISH TO HEAR, OR I CAN READ IT AGAIN IN ITS ENTIRETY OR ANY PORTIONS THEREOF YOU, THE JURY, MAY WISH TO HEAR, MADAM FORELADY. DO YOU UNDERSTAND?

FORELADY: YES.

THE COURT: OR I CAN HAVE IT JUST PLAYED BACK TO YOU. MOST OF THE TIME, I'D USUALLY READ IT AGAIN TO YOU, BUT WHATEVER THE JURY MAY DESIRE.

WITH THAT, I'M GOING TO ASK THAT YOU RETIRE AND CONTINUE DELIBERATING. IF YOU WANT ANY PORTIONS OF THE

RETURN IT TO THE RECORDS OF THE CASE. THANK YOU VERY MUCH. PLEASE RETIRE AND CONTINUE TO DELIBERATE. YOU MAY BEGIN AGAIN.

I THINK EVERYONE HAS HAD A CHANCE TO SMOKE NOW, MADAM FORELADY?

FORELADY: YES, SIR.

THE COURT: THANK YOU. MR. BAILIFF, YOU NEED TO BRING THAT BACK INTO THE COURTROOM WHEN YOU GET IT. I NEED TO PUT THIS ON THE RECORD, PLEASE.

ALL RIGHT. ON THE RECORD, I'M GOING TO HAVE THE FORM OF VERDICT SHEET, THE ORIGINAL ONE, MADE A COURT EXHIBIT TO KEEP IT WITH THE RECORDS. ANY OBJECTION FROM THE STATE?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: FROM THE DEFENDANT?

MS. BELL: NONE, YOUR HONOR.

THE COURT: LET THE RECORD REFLECT I HAVE SUBMITTED THE AMENDED FORM INCLUDING ALL POSSIBLE FORMS OF VERDICT TO THE JURY.

THANK YOU. WE WILL BE IN RECESS IN THIS CASE.

(COURT'S EXHIBIT EIGHT MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

(COURT IN RECESS.)

(COURT RECONVENES.)

THE COURT: LET THE RECORD REFLECT EVERYONE IS

AND GENTLEMEN. HOWEVER, WHEN I CAUSED TO BE TYPED THE FORMS OF VERDICT SHEET, I HAD INADVERTENTLY ON MY PART LEFT OUT ONE OF THE POSSIBLE FORMS OF VERDICT. I'M GOING TO HAVE THE CLERK OF COURT HAND TO YOU, MADAM CLERK, AN AMENDED FORM OF VERDICT SHEET WHICH I HAVE CAUSED TO BE TYPED.

AS YOU WILL RECALL DURING THE TRIAL OF THE CASE, THE DEFENDANT HAD RAISED THE DEFENSE OF LEGAL INSANITY. THE COURT CHARGED YOU THOROUGHLY ON THE DEFENSE OF LEGAL INSANITY.

IF THE JURY UNANIMOUSLY CONCLUDES THAT THE DEFENDANT HAS PROVED BY THE PREPONDERANCE OF THE EVIDENCE THAT SHE WAS LEGALLY INSANE AT THE TIME OF THE COMMISSION OF THE ALLEGED ACT, YOUR VERDICT FORM WOULD BE NUMBER TWO, WE FIND THE DEFENDANT, LINDA TYLER, NOT GUILTY BY REASON OF INSANITY. IF THAT WERE THE UNANIMOUS VERDICT OF THE JURY, YOU WOULD SIGN UNDER THERE AS FORELADY. DO YOU SEE THAT, MADAM FORELADY?

FORELADY: YES, SIR.

THE COURT: DO YOU HAVE THE FORM OF VERDICT SHEET WHICH I SUBMITTED TO YOU, OR DID YOU LEAVE IT IN THE JURYROOM?

FORELADY: I LEFT IT.

THE COURT: ALL RIGHT. WHEN I SEND YOU BACK, I'M GOING TO ASK YOU TO HAND IT OUT TO THE BAILIFF SO I CAN

THE COURT: I DON'T THINK I DID. I THINK THE ONLY COMPARISON I MADE WAS WITH MALICE, WAS IT NOT?

MS. HAYNES: THAT'S WHAT I REMEMBER.

THE COURT: I THINK SO. I RESPECTFULLY DENY YOUR MOTION. ALL RIGHT.

MS. BELL: YOUR HONOR, THE VERDICT FORM HAS NOT GUILTY BY REASON OF INSANITY ON IT AS WELL?

THE COURT: YES. YOU CAN HAVE A COPY.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. TAKE THEM THE EXHIBITS. YOU BETTER HUDDLE WITH MY COURT REPORTER. MAKE SURE THEY GET ALL THE EXHIBITS TO THE JURYROOM. IT HAS BEEN MY EXPERIENCE, UNFORTUNATELY, ONE TIME THEY DID NOT.

ALL RIGHT. TWO ALTERNATES, ON BEHALF OF THE STATE OF SOUTH CAROLINA AND RICHLAND COUNTY, THANK YOU FOR YOUR JURY SERVICE. FORTUNATELY, NO ONE BECAME ILL OR INJURED AND YOU DIDN'T HAVE TO MOVE UP ON THE REGULAR JURY.

AT THIS TIME, I'M GOING TO ALLOW YOU TO RETURN TO THE JURY ASSEMBLY ROOM, AND YOU WILL RECEIVE FURTHER INSTRUCTIONS. THANK YOU VERY MUCH.

(JURY TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. MADAM FORELADY, LADIES AND GENTLEMEN, PLEASE GIVE ME YOUR ATTENTION. I'M SORRY I HAD TO SEND FOR YOU SO EARLY, MADAM FORELADY AND LADIES

THE COURT: ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT?

MS. HAYNES: ONE MATTER, YOUR HONOR, I BELIEVE YOUR HONOR CHARGED TEMPORARY INSANITY, AND THE WAY I UNDERSTAND IT IS THAT IS NOT THE LAW IN SOUTH CAROLINA. I BELIEVE UNDER STATE V. ROBERT SOUTH --- I MAY BE INCORRECT. I CAN GO PULL THE CASE, BUT I THINK THAT THAT LAW DOES NOT RECOGNIZE A TEMPORARY INSANITY DEFENSE.

THE COURT: WELL, I TOOK IT RIGHT OUT OF THE CASE LAW. YES, MA'AM?

MS. BELL: YOUR HONOR, THE ONLY EXCEPTION OTHER THAN THE FACT THAT YOU DIDN'T CHARGE INVOLUNTARY MANSLAUGHTER IS THE ANALOGY BETWEEN VOLUNTARY MANSLAUGHTER AND ABHAN.

THE COURT: I DIDN'T MAKE ANY ANALOGY BETWEEN --- VOLUNTARY MANSLAUGHTER AND ABHAN --- ALL RIGHT. GO AHEAD.

MS. BELL: THE OBJECTION I WOULD HAVE TO THAT IS THAT THAT WOULD PUT AN ADDITIONAL ELEMENT ON ABHAN THAT, IN OTHER WORDS, VOLUNTARY MANSLAUGHTER REQUIRES PROVOCATION --- LEGAL PROVOCATION. ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE DOES NOT, AND THAT WOULD BE OUR EXCEPTION.

THE COURT: WHAT'S THE STATE'S POSITION? I DON'T BELIEVE THAT I CHARGED REQUIRED LEGAL PROVOCATION, DID I?

MS. HAYNES: I DON'T THINK YOU DID.

YOU SEE THAT, MADAM FORELADY?

FORELADY: YES.

BY THE COURT

ONCE AGAIN, WHATEVER YOUR VERDICT, IT MUST BE YOUR UNANIMOUS VERDICT. ALL 12 JURORS MUST AGREE ON ANY VERDICT WHICH YOU AUTHORIZE YOUR FORELADY TO WRITE FOR THE JURY.

MADAM FORELADY, AT THIS TIME, I'M GOING TO ASK THAT YOU STEP INTO YOUR JURYROOM. PLEASE DO NOT BEGIN DELIBERATING QUITE YET. THE LAW REQUIRES THAT I CONSULT WITH THE ATTORNEYS. IT MAY EVEN BE NECESSARY THAT I BRING YOU BACK IN AND GIVE YOU SOME ADDITIONAL INSTRUCTIONS ON THE LAW. HOWEVER, IF THAT IS NOT REQUIRED, MADAM FORELADY, I WILL MERELY HAVE ONE OF THE BAILIFFS BRING TO THE JURYROOM ALL OF THE EXHIBITS WHICH WERE ADMITTED INTO EVIDENCE DURING THE TRIAL OF THE CASE. HE OR SHE WILL INSTRUCT YOU TO BEGIN DELIBERATING.

ONCE THE JURY HAS REACHED A UNANIMOUS VERDICT AND YOU HAVE RECORDED THE VERDICT, MADAM FORELADY, PLEASE KNOCK ON THE DOOR AND ADVISE THE BAILIFF. HE WILL IN TURN ADVISE THE COURT, AND WE WILL BRING YOU BACK IN IMMEDIATELY TO RECEIVE YOUR VERDICT.

THANK YOU VERY, VERY MUCH. PLEASE RETIRE. THE TWO ALTERNATES PLEASE STAY WITH US.

(JURY RETIRES TO THE JURYROOM.)

YOU WOULD SIMPLY SIGN YOUR NAME THERE UNDER IT. DO YOU SEE THAT?

FORELADY: YES.

BY THE COURT

IF AFTER YOUR JOINT DELIBERATION, THE JURY UNANIMOUSLY CONCLUDES THAT THE STATE OF SOUTH CAROLINA HAS PROVED THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT IN REGARD TO THE OFFENSE OF MURDER OR VOLUNTARY MANSLAUGHTER OR ASSAULT AND BATTERY WITH INTENT TO KILL OR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, YOU WOULD CIRCLE THAT OFFENSE WHICH THE STATE HAS PROVED BEYOND A REASONABLE DOUBT AND SIGN YOUR NAME AS FORELADY. DO YOU SEE THAT?

FORELADY: YES.

BY THE COURT

IF AFTER YOUR JOINT DELIBERATIONS, THE JURY UNANIMOUSLY CONCLUDES THAT THE STATE OF SOUTH CAROLINA HAS PROVED THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT IN REGARD TO ONE OF THE OFFENSES BUT THE DEFENDANT HAS PROVED BY THE GREATER PREPONDERANCE OF THE EVIDENCE THAT SHE WAS MENTALLY ILL AT THE TIME OF THE COMMISSION OF THE SAID ACT, YOU WOULD USE FORM NUMBER THREE, WE FIND THE DEFENDANT, LINDA TYLER, GUILTY BUT MENTALLY ILL OF -- - AND YOU WOULD CIRCLE THE APPROPRIATE OFFENSE AS DETERMINED BY THE JURY AND SIGN YOUR NAME AS FOREMAN. DO

WHEN YOU HAVE ACCOMPLISHED THESE RESPONSIBILITIES, YOU WILL HAVE SATISFIED YOUR OATH AS JURORS, AND YOU WILL HAVE DISCHARGED YOUR DUTY TO THIS COURT. MADAM FORELADY, LADIES AND GENTLEMEN, THE VERDICT WHICH YOU RENDER IN THIS CASE MUST BE THE VERDICT OF EACH AND EVERY JUROR. IT MUST BE YOUR UNANIMOUS VERDICT. ALL 12 JURORS MUST AGREE ON ANY VERDICT WHICH YOU AUTHORIZE YOUR FORELADY TO WRITE FOR THE JURY. JURY VERDICTS IN SOUTH CAROLINA MUST BE UNANIMOUS.

MADAM CLERK, WOULD YOU PLEASE PASS OVER TO THE FORELADY A COPY OF THE INDICTMENT? WOULD YOU PLEASE PASS OVER TO THE FORELADY THE INDICTMENT ALONG WITH THE FORM OF VERDICT SHEETS?

MADAM FORELADY, LADIES AND GENTLEMEN, IN ORDER TO ASSIST THE JURY IN RECORDING ITS VERDICT, I HAVE CAUSED TO BE TYPED A FORM WHICH I HAVE NAMED FORMS OF VERDICT. DO YOU SEE THAT, MADAM FORELADY?

FORELADY: YES.

BY THE COURT

IF AFTER YOUR JOINT DELIBERATIONS THE JURY UNANIMOUSLY CONCLUDES THAT THE STATE OF SOUTH CAROLINA HAS FAILED TO PROVE THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, THE VERDICT FORM WOULD BE NUMBER ONE, WE FIND THE DEFENDANT LINDA TYLER NOT GUILTY. IF THAT WERE THE UNANIMOUS VERDICT OF THE JURY, MADAM FORELADY,

TESTIMONY AND EVIDENCE BEYOND A REASONABLE DOUBT THAT IT WAS NOT ONLY ACTUALLY MADE BY SUCH DEFENDANT AND THAT IT WAS NOT EXTORTED BY FORCE OR FEAR NOR INDUCED BY PROMISES BUT THAT IT WAS THE FREE AND VOLUNTARY ACT OF THE DEFENDANT IN EVERY RESPECT. AND OF COURSE, IN ORDER TO CONSTITUTE ANY EVIDENCE, ALLEGED STATEMENT WOULD HAVE TO BE BELIEVED BY THE JURY EITHER IN WHOLE OR IN PART.

I CHARGE YOU IF YOU FIND THAT ANY ALLEGED STATEMENT WAS MADE FREELY AND VOLUNTARILY, THEN, OF COURSE, IT SHOULD BE CONSIDERED BY YOU ALONG WITH ANY AND ALL OTHER EVIDENCE IN THE CASE AND BE GIVEN SUCH WEIGHT IN WHOLE OR IN PART AS YOU THE JURY DETERMINES IT IS ENTITLED TO.

MADAM FORELADY, LADIES AND GENTLEMEN, YOU ARE NOT PARTISANS OR ADVOCATES FOR THE STATE OF SOUTH CAROLINA OR FOR THE DEFENDANT. YOU DO NOT SERVE AS JURORS TO REWARD YOUR FRIENDS OR PUNISH YOUR ENEMIES. OBVIOUSLY, SUCH A PERVERTED SYSTEM OF JUSTICE WOULD BE INTOLERABLE. IT IS YOUR DUTY AS JURORS BY YOUR JOINT DELIBERATIONS TO DETERMINE THE TRUTH IN THIS CASE GIVING TO THE DEFENDANT THE BENEFIT OF EACH AND EVERY REASONABLE DOUBT. THEN TO THE FACTS WHICH YOU DETERMINE TO BE TRUE, YOU THEN TAKE AND APPLY THE LAW WHICH I HAVE JUST STATED FOR YOU AND THUS ARRIVE AT A VERDICT, A VERDICT IN THIS CASE, A TRUE VERDICT, BECAUSE THE VERDICT, LADIES AND GENTLEMEN, HAS A LATIN DERIVATIVE WHICH MEANS A TRUE SAYING.

EVIDENCE OR THE GREATER WEIGHT OF THE EVIDENCE IN REGARD TO THAT ISSUE.

HOWEVER, IF IN REGARD TO THAT ISSUE AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED THE SCALES SHOULD TIP EVEN SO SLIGHTLY IN FAVOR OF THE DEFENDANT IN REGARD TO THAT ISSUE, THEN THE DEFENDANT WOULD HAVE MET HER BURDEN OF PROOF ON THAT ISSUE.

I CHARGE YOU NO ALLEGED STATEMENT CAN BE CONSIDERED AGAINST ANY DEFENDANT IF IT WAS MADE THROUGH FORCE OR FEAR OR UNDER DURESS OR COMPULSION OF ANY KIND OR IF IT WAS INDUCED BY ANY PROMISE OF LENIENCY OR REWARD OF ANY KIND. IN OTHER WORDS, LADIES AND GENTLEMEN, AN ALLEGED STATEMENT ACTUALLY MADE BY A DEFENDANT CONSTITUTES NO EVIDENCE AGAINST HIM OR HER UNLESS IT WAS FREELY AND VOLUNTARILY MADE WITHOUT ANY THREAT OR INDUCEMENTS ADDRESSED TO FEAR OR HOPE, AND FURTHER, THAT THE DEFENDANT UNDERSTOOD THE CONTENTS OF THE STATEMENT. IT IS YOUR DUTY TO DETERMINE FROM ALL OF THE EVIDENCE BEFORE YOU WHETHER THE STATE OF SOUTH CAROLINA HAS PROVED BEYOND A REASONABLE DOUBT THAT SUCH ALLEGED STATEMENT WAS IN FACT FREE AND VOLUNTARY.

I CHARGE YOU AS TO ANY ALLEGED STATEMENT INTRODUCED IN EVIDENCE IN THIS CASE THE SAME MUST BE DISREGARDED BY YOU AND NOT CONSIDERED AGAINST THE DEFENDANT UNLESS THE STATE OF SOUTH CAROLINA HAS SATISFIED YOU FROM THE

THE COMMISSION OF THE ACT CONSTITUTING THE OFFENSE HE HAD THE CAPACITY TO DISTINGUISH RIGHT FROM WRONG OR TO RECOGNIZE HIS ACT AS BEING WRONG AS DEFINED IN SOUTH CAROLINA CODE SECTION 17-24-10-A, BUT BECAUSE OF MENTAL DISEASE OR DEFECT HE LACKED SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW, I CHARGE YOU TO RETURN A VERDICT OF GUILTY BUT MENTALLY ILL. THE BURDEN OF PROOF IS UPON THE STATE OF SOUTH CAROLINA TO PROVE BEYOND A REASONABLE DOUBT TO THE JURY THAT THE DEFENDANT COMMITTED THE CRIME, AND THE BURDEN OF PROOF IS UPON THE DEFENDANT TO PROVE BY A GREATER WEIGHT --- EXCUSE ME --- BY A PREPONDERANCE OF THE EVIDENCE THAT WHEN HE COMMITTED THE CRIME HE WAS ACTUALLY ILL AS DEFINED IN SUBSECTION-A OF THE CODE OF LAWS OF SOUTH CAROLINA, SECTION 17-24-20-B.

MADAM FORELADY, LADIES AND GENTLEMEN, WHAT IS MEANT BY THE TERM PREPONDERANCE OF THE EVIDENCE OR GREATER WEIGHT OF THE EVIDENCE? CAN IT BE ILLUSTRATED BY YOU IMAGINING A SET OF TRADITIONAL SCALES? WHEN THE CASE BEGINS THE SCALES ARE EVENLY BALANCED. IF AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED IN REGARD TO THAT ISSUE, THE SCALES SHOULD TIP EVEN SO SLIGHTLY IN FAVOR OF THE STATE OF SOUTH CAROLINA, OR IF THE SCALES SHOULD REMAIN EVENLY BALANCED, THEN THE DEFENDANT WOULD HAVE FAILED TO MEET THEIR BURDEN OF PROOF BY THE PREPONDERANCE OF THE

PREPONDERANCE OF THE EVIDENCE THAT AT THE TIME HE OR SHE COMMITTED THE ACT HE OR SHE WAS INSANE. THAT IS AT THE TIME HE OR SHE COMMITTED THE ACT OR ACTS THEY WERE UNDER A MENTAL DELUSION BY REASON OF MENTAL DISEASE OR GENERAL INCAPACITY, AND THAT HE OR SHE DID NOT KNOW THE ACT OR ACTS THEY COMMITTED WERE WRONG OR CRIMINAL OR PUNISHABLE, EITHER ONE OR THE OTHER.

GUILTY BUT MENTALLY ILL. SECTION 17-24, A AND B OF THE 1976 CODE OF LAWS OF SOUTH CAROLINA READS IN PERTINENT PART AS FOLLOWS: A: "A DEFENDANT IS GUILTY BUT MENTALLY ILL IF AT THE TIME OF THE COMMISSION OF THE ACT CONSTITUTING THE OFFENSE HE HAD THE CAPACITY TO DISTINGUISH RIGHT FROM WRONG OR TO RECOGNIZE HIS ACT AS BEING WRONG AS DEFINED IN SECTION 17-24-10-A, BUT BECAUSE OF MENTAL DISEASE OR DEFECT HE LACKED SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENT OF LAW. B: TO RETURN A VERDICT OF GUILTY BUT MENTALLY ILL, THE BURDEN OF PROOF IS UPON THE STATE OF SOUTH CAROLINA TO PROVE BEYOND A REASONABLE DOUBT TO THE TRIER OF FACT THAT THE DEFENDANT COMMITTED THE ACT, AND THE BURDEN OF PROOF IS UPON THE DEFENDANT TO PROVE BY A PREPONDERANCE OF EVIDENCE WHEN HE COMMITTED THE ACT HE WAS MENTALLY ILL AS DEFINED IN SUBSECTION-A."

MADAM FORELADY, LADIES AND GENTLEMEN, I CHARGE YOU A DEFENDANT IS GUILTY BUT MENTALLY ILL IF AT THE TIME OF

NO DISPUTE THE VICTIM DIED AS A RESULT OF THE BATTERY ALLEGED IN THE INDICTMENT, ASSAULT AND BATTERY AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE ARE NOT LESSER INCLUDED OFFENSES OF MURDER."

IN THIS CASE, IN THE CASE AT BAR, THE CASE WE'RE TRYING TODAY, ISN'T IT DISPUTED --- I KNOW YOU DON'T AGREE WITH IT, BUT IT IS IN DISPUTE AS TO WHETHER OR NOT THE BATTERY CAUSED THE DEATH OF THE VICTIM IN THIS CASE?

MS. HAYNES: I SEE WHAT YOU'RE SAYING, YOUR HONOR, BUT WHAT I'M SAYING IS THE STATE WOULD CONTEND THAT IF THE JURY BUYS THE DEFENSE'S THEORY THAT THE DOCTORS AND NURSES KILLED HIM AND THAT WAS THE PROXIMATE CAUSE, THEN SHE'S NOT GUILTY. SHE'S EITHER GUILTY OF MURDER OR NOT GUILTY OF MURDER UNDER THE PROXIMATE CAUSE THEORY.

MS. BELL: YOUR HONOR ---

THE COURT: NO. HE STILL WOULD HAVE SUSTAINED THE SERIOUS BODILY INJURY, WOULDN'T HE?

MS. HAYNES: WELL, THEN WE HAVE THE CHARGE OF ASSAULT AND BATTERY WITH INTENT TO KILL ALSO.

THE COURT: YES. BUT SHE DIDN'T REQUEST THAT, BUT IF I CHARGE ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, OBVIOUSLY I'M GOING TO CHARGE ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE THE FACTS DICTATE THAT.

ALL RIGHT. I'M GOING TO CHARGE ASSAULT AND BATTERY WITH INTENT TO KILL AND ASSAULT AND BATTERY OF A HIGH AND

AGGRAVATED NATURE AS A LESSER INCLUDED ON THE AUTHORITY OF STATE V. FIELDS, AND I BELIEVE THERE'S ANOTHER CASE, CASEY, MAYBE. I CAN'T RECALL THE OTHER CASE OFF THE TOP OF MY HEAD.

ALL RIGHT. HOW ABOUT VOLUNTARY MANSLAUGHTER?

MS. HAYNES: MY THEORY ON THAT WOULD BE THE SAME THING. THERE'S JUST NO EVIDENCE THAT IT WOULD SUPPORT THAT, AND I DIDN'T SEE IN HERE WHERE SHE ASKED FOR VOLUNTARY, I THOUGHT INVOLUNTARY ---

THE COURT: WELL, THAT'S WHY I ASKED. SHE MAY NOT WANT THAT.

MS. BELL: WE'RE NOT ASKING FOR VOLUNTARY.

THE COURT: SHE DON'T WANT THAT ONE. THAT SOLVES THAT. ALL RIGHT. SO, WHAT ELSE? NOW, WE NEED TO MOVE ON TO HER OTHER REQUESTS WHICH SHE DOES HAVE NUMBERS ON THOSE. ALL RIGHT. INVOLUNTARY MANSLAUGHTER?

MS. HAYNES: I WOULD OBJECT TO THAT, YOUR HONOR. I WOULD HAND UP STATE V. BOZEMAN.

THE COURT: I'LL BE GLAD TO LISTEN TO YOU ON INVOLUNTARY MANSLAUGHTER.

MS. BELL: YES, SIR, YOUR HONOR. IN THIS PARTICULAR CASE, WE FEEL THAT THERE HAS BEEN, OBVIOUSLY, THE MENS REA AND WHAT CRIMINAL INTENT IS INVOLVED HERE IS CERTAINLY AN ISSUE. THERE WAS NO INTENTIONAL KILLING. AND INVOLUNTARY MANSLAUGHTER IS THE UNINTENTIONAL KILLING

THE DEFENSE, WOULD ASK FOR A DIRECTED VERDICT.

THE COURT: WELL, CONSIDERING THE EVIDENCE IN LIGHT MOST FAVORABLE TO THE STATE, I RESPECTFULLY DENY YOUR MOTION.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. ARE WE READY TO PROCEED?

MS. HAYNES: ONE MATTER, YOUR HONOR. I BELIEVE ONCE WE'VE RESTED AND STARTED THE DEFENSE CASE, AND I KNOW THEY HAVE NUMEROUS WITNESSES --- WE'VE PROVIDED THEM NECESSARY INFORMATION ON OUR WITNESSES WHO TOOK THE STAND A LONG TIME AGO AS TO WHETHER THEY HAD ANY RECORDS. I DON'T EVEN HAVE DATE OF BIRTHS YET AS TO THEIR WITNESSES TO BE ABLE TO SEE, AND I DON'T WANT TO BREAK COURT DOWN SO WE CAN CHECK IT. IF THEY'D GIVE US THAT INFORMATION NOW WE CAN RUN IT.

THE COURT: COULD YOU DO THAT, MS. BELL?

MS. BELL: WE CAN DO THAT, YOUR HONOR.

(PAUSE IN PROCEEDINGS.)

THE COURT: ALL RIGHT. HAVE YOU DONE THAT, MS. BELL?

MS. BELL; YOUR HONOR, THERE'S TWO OTHER WITNESSES THAT ARE SUPPOSED TO BE ON THEIR WAY UP.

THE COURT: COULD I GET A LIST OF THE PROPOSED WITNESSES FOR THE DEFENSE? DO YOU HAVE ONE, OR DO YOU HAVE ONE WE COULD COPY?

MS. HAYNES: --- AND SHOPLIFTING.

THE COURT: NO, I'M GOING TO ---

MS. HAYNES: I JUST THOUGHT I'D PUT THAT UP THAT THAT WAS A WAY TO ----

THE COURT: I UNDERSTAND. GOOD TRY, SOLICITOR.

MS. HAYNES: JUST BECAUSE THEY'RE TRYING TO BASICALLY PAINT HER AS A VICTIM AND THAT SHE'S ALWAYS BEEN AGGRESSED UPON BY OTHER PEOPLE ---

THE COURT: ALL RIGHT.

MS. HAYNES: I WANTED TO SHOW THAT SHE WASN'T NECESSARILY THE VICTIM THAT WOULD PAINT HER TO BE, BUT I UNDERSTAND YOUR RULING. THANK YOU.

THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. ALLOW THE RECORD TO REFLECT THAT BOTH DEFENSE COUNSEL NOW ARE PRESENT IN THE COURTROOM, MS. JOHNS AND MS. BELL.

ALL RIGHT. NOW, SOLICITOR, IT IS MY UNDERSTANDING THAT WHEN WE BEGIN THE STATE INTENDS TO REST. IS THAT CORRECT?

MS. HAYNES: YES, SIR.

THE COURT: IN LIGHT OF THAT SO WE DON'T HAVE THE JURY COMING IN AND OUT AND IN AND OUT, ARE THERE ANY MOTIONS THAT THE STATE WOULD LIKE TO, THAT THE DEFENSE WOULD LIKE TO MAKE AT THIS TIME?

MS. BELL: YES, SIR, YOUR HONOR. AT THIS TIME WE,

Q. THANK YOU.

THE COURT: THANK YOU. YOU MAY STEP DOWN. LET'S HAVE A SHORT WITNESS FROM THE STATE.

MS. HAYNES: WE CALL JOHN REICH.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

JOHN REICH, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

MR. REICH: MY NAME IS JOHN REICH --- R-E-I-C-H.

DIRECT EXAMINATION

BY MS. HAYNES

Q. OFFICER REICH, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED WITH THE CITY OF COLUMBIA FIRE DEPARTMENT AS CHIEF FIRE MARSHAL.

Q. AND WHAT DOES THE CHIEF FIRE MARSHAL DO? WHAT DOES THAT MEAN?

A. I'M RESPONSIBLE FOR THREE RESPONSIBILITIES IN THE DEPARTMENT. THAT'S FIRE INVESTIGATIONS, CODE ENFORCEMENT AND PUBLIC FIRE EDUCATION. I'M THE SUPERVISOR OVER THE FIRE PREVENTION BUREAU.

Q. HOW LONG HAVE YOU BEEN DOING THAT?

A. I WAS PROMOTED TO CHIEF FIRE MARSHAL IN 1991, BUT I'VE BEEN IN THE DIVISION SINCE 1978.

Q. AND DID YOU HAVE AN OCCASION TO RESPOND TO A CAR FIRE AT THE CORNER OF [redacted] AND [redacted] STREET BACK ON

SEPTEMBER 26, 1996?

A. YES, I DID.

Q. AND CAN YOU TELL ME WHAT YOU DID OR WHAT WERE YOUR DUTIES ONCE YOU GOT THERE TO THAT SCENE?

A. I RESPONDED. I WAS PROBABLY THREE TO FOUR MILES AWAY WHEN THE CALL CAME IN OVER THE RADIO, AND WHEN THEY REQUESTED EMS TO THE SCENE, I STARTED HEADING IN THAT DIRECTION. I DID NOT RESPOND CODE THREE. I JUST FOLLOWED NORMAL TRAFFIC PATTERN, WHICH PROBABLY BROUGHT ME THERE, MAYBE, FIVE MINUTES AFTER THE FIRE TRUCK GOT THERE.

Q. LET ME INTERRUPT YOU THERE. WHAT DOES CODE THREE MEAN?

A. LIGHTS AND SIRENS.

Q. OKAY. SO, YOU DID NOT GO LIGHTS AND SIRENS?

A. NO, I DIDN'T.

Q. AND YOU GOT THERE ABOUT FIVE MINUTES AFTER THE CALL CAME OUT?

A. FIVE MINUTES AFTER THE FIRE DEPARTMENT RESPONDED AND GOT THERE.

Q. WHAT DID YOU FIND AT THE SCENE?

A. AT THAT TIME, THE FIRE DEPARTMENT HAD THE FIRE EXTINGUISHED. IT WAS UNDER CONTROL. THE CAR WAS OPEN AND STILL SMOKING AND VAPORS COMING OFF THE CAR.

Q. WAS THE AREA CORDONED OFF AT THAT POINT?

A. JUST THE IMMEDIATE VICINITY OF WHERE THE CAR WAS SITUATED. THE TRAFFIC WAS STILL FLOWING ON [redacted] STREET.

Q. DID YOU EVER HAVE THE OCCASION TO CORDON THE AREA OFF?

A. YES, I DID. WHEN I GOT THERE, I INQUIRED WHY THEY CALLED EMS, AND THEY GAVE ME A REPORT THAT A SUBJECT WAS TRANSPORTED TO RICHLAND MEMORIAL HOSPITAL. I THEN VIEWED THE CAR, AND THE ENGINE COMPARTMENT WAS OPEN, AND THE TRUNK COMPARTMENT WAS OPEN AT THAT TIME, AND I FOUND THAT THERE WAS NO FIRE IN EITHER AREA. LOOKING ON THE INTERIOR OF THE COMPARTMENT, THE DRIVER'S COMPARTMENT, I NOTICED SEVERE BURN PATTERNS IN THERE, WHICH IS NOT INDICATIVE OF A NATURAL TYPE FIRE.

Q. AND WHAT DID THAT MEAN TO YOU AS AN INVESTIGATOR SINCE 1978 WITH THE FIRE DEPARTMENT?

A. WELL, I STARTED IN THE FIRE SERVICE IN 1972.

Q. I'M SORRY.

A. WHEN I SEEN THAT FIRE THAT WAS EXTENSIVE ON THE INSIDE, I WAS THINKING THAT IT COULD BE ---

MR. JOHNS: I OBJECT, YOUR HONOR, TO HIM THINKING --

-

Q. BASED ON YOUR EXPERIENCE AS ---

THE COURT: ALL RIGHT. I SUSTAIN THE OBJECTION.

BY MS. HAYNES

Q. BASED UPON YOUR EXPERIENCE AS A FIRE INVESTIGATOR, WHAT DID THAT SIGNAL TO YOU WHEN YOU SAW THE BURN PATTERNS?

A. CERTAINLY, IT WAS A RAPID AND INTENSE FIRE, INDICATIVE OF A FLAMMABLE LIQUID.

Q. AND DID YOU BEGIN TO LOOK AROUND THE SCENE, OR WHAT ELSE DID YOU DO?

A. YES, I DID. I QUESTIONED THE FIRE FIGHTERS, AND I WANTED TO KNOW WHERE THE FIRE BEGAN AS FAR AS THE LOCATION OF THE CAR, BECAUSE IT WAS STOPPED AT A CURB AND HIT ONE OF OUR SIGNALING DEVICES, CITY SIGNALING DEVICES.

Q. DID YOU LEARN WHERE THE CAR HAD FIRST BEEN SPOTTED?

A. YES, AND THAT WAS AT THE INTERSECTION OF [redacted] AND [redacted]

Q. DID YOU GO TO THAT AREA?

A. YES. THERE WAS TRAFFIC FLOW STILL IN THAT AREA, AND I WALKED OUT INTO THE STREET, AND AT THAT TIME, I NOTICED A PEPSI BOTTLE SITTING THERE AND SOME DEBRIS ON THE GROUND.

Q. AND WHAT DID YOU DO AT THAT POINT?

A. I WAS WITH TWO FIRE FIGHTERS, AND I BROUGHT THEM OVER TO IT, AND I SAID THIS IS POSSIBLY FROM THE VEHICLE AT THE POINT OF IGNITION, AND I SAYS, I WANT THIS STREET CORDONED OFF, YELLOW TAPE PUT UP, AND AT THAT TIME, I TOLD THEM TO SECURE THAT DEBRIS IN THE STREET, AND

SECURING IT I MEANT, JUST TO STAY WITH IT AND PROTECT IT FROM FURTHER DAMAGE OF VEHICLE DAMAGE OR PEDESTRIANS, AND CERTAINLY, THE WIND WAS BLOWING, AND IT COULD HAVE BLEW AWAY.

Q. SO, YOU LEFT OTHER FIRE FIGHTERS THERE TO MAKE SURE THE PEPSI BOTTLE REMAINED WHERE IT WAS?

A. THAT'S CORRECT.

Q. UNTIL INVESTIGATOR MOULTRIE CAME AND RETRIEVED IT?

A. I LEFT PRIOR TO INVESTIGATOR MOULTRIE ARRIVING.

Q. WHY DID YOU LEAVE?

A. WELL, ONE OF MY PRIMARY THINGS IS TO IDENTIFY HOW SERIOUS PERSONS ARE INJURED IN FIRES, AND I WANTED TO GET TO THE HOSPITAL, BECAUSE THE FIRE FIGHTERS THAT WERE AT THE SCENE SAID THAT THIS PERSON WAS BADLY BURNED AND IT DIDN'T LOOK REAL GOOD.

Q. DID YOU ACTUALLY GO TO RICHLAND MEMORIAL HOSPITAL?

A. YES, I DID.

Q. AND UPON GOING TO RICHLAND MEMORIAL HOSPITAL, DID YOU HAVE OCCASION TO COME INTO CONTACT WITH MR. VAN TYLER?

A. YES, I DID. UPON ARRIVAL, I WENT RIGHT INTO THE TRAUMA CENTER, RIGHT INTO THE ROOM WHERE THEY WERE WORKING ON HIM.

Q. WHAT DID YOU FIND?

A. AT THAT TIME, HE HAD TUBES GOING UP IN HIS NOSE. HE

WAS UNCONSCIOUS BUT MOANING. HIS EYELIDS WERE GONE. HIS NOSTRILS WERE OPEN WHERE HIS NOSE HAD BURNT AWAY. THERE WAS NO LIPS ON HIM. HIS LIPS WERE GONE. HIS TEETH WERE PROTRUDING.

Q. WHAT WAS THE PROGNOSIS OF MR. TYLER AT THAT TIME?

A. I INQUIRE ---

MS. JOHNS: YOUR HONOR, THAT'S HEARSAY.

THE COURT: SUSTAINED.

BY MS. HAYNES

Q. BASED ON WHAT YOU LEARNED AT THE HOSPITAL, DID YOU HAVE OCCASION TO GO BACK TO THE SCENE AND TALK WITH INVESTIGATOR SEEL?

A. YES, I DID.

Q. AND DID YOU RELAY TO HIM WHAT THE PHYSICIANS THERE AT RICHLAND MEMORIAL HOSPITAL HAD TOLD YOU AS TO THE PROGNOSIS OF VAN TYLER?

A. YES, I DID.

Q. AND DID YOU ALSO HAVE THE OCCASION THERE WHILE AT RICHLAND MEMORIAL HOSPITAL TO COME INTO CONTACT WITH A NURSE BY THE NAME OF LOIS MIYAZAKI?

A. YES, I DID.

Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 15 FOR ID AND ASK YOU IF YOU RECOGNIZE THE ITEMS CONTAINED WITHIN THAT PAINT CAN?

A. YES, I DO.

Q. AND ARE THOSE THE VICTIM'S CLOTHES?
A. YES, THEY WERE.
Q. AND YOU OBTAINED THOSE FROM A NURSE?
A. YES, INSIDE THE TRAUMA ROOM.
Q. AND WHAT THEN DID YOU DO WITH THOSE ITEMS, SIR?
A. I REQUESTED THAT THE CLOTHES BE TAKEN AS EVIDENCE, AND I PICKED UP SOME OF THE CLOTHES THAT WERE ON THE TABLE. SHE WAS PICKING THEM UP OFF THE FLOOR WHERE THEY HAD JUST CUT THE REMAINS OF THE CLOTHING OFF THE BODY AND PUT IT IN A PLASTIC BAG. I GOT HER NAME AND RETURNED TO THE SCENE.
Q. AND AT THE SCENE, DID YOU HAVE THE OCCASION TO GIVE THOSE TO INVESTIGATORS SEEL?
A. I DIRECTLY HANDED THEM TO SEEL.
MS. HAYNES: BEG THE COURT'S INDULGENCE.
BY MS. HAYNES
Q. THIS IS WHAT I JUST SHOWED YOU, STATE'S EXHIBIT, I BELIEVE, 15. ARE THOSE THE ITEMS YOU JUST LOOKED AT IN STATE'S EXHIBIT 15 THAT YOU RECEIVED FROM THE NURSE?
A. YES.
Q. ARE THEY IN THE SAME CONDITION YOU ACTUALLY GAVE THEM TO INVESTIGATOR SEEL AND PLACED THEM IN THIS CONTAINER?
A. I DON'T BELIEVE THEY'RE IN THE EXACT SAME CONDITION.
Q. GO AHEAD.

A. WHEN I PUT THE CLOTHING IN THE BAG, THERE WAS A DISTINCT FLAMMABLE LIQUID SMELL. YOU COULD SMELL IT IN THE TRAUMA ROOM AT THAT TIME. EVEN WHEN I GOT INTO MY VEHICLE AND I WAS TRANSPORTING THAT, AND I TIED THE BAG TIGHT, YOU COULD ACTUALLY SMELL THE FLAMMABLE LIQUID IN MY CAR.

Q. AND YOU GAVE IT TO INVESTIGATOR SEEL WHO THEN, WHO HAS TESTIFIED HERE TODAY ALREADY, PUT THEM IN THIS CONTAINER?

A. YES, THAT'S CORRECT.

Q. TO TAKE THEM TO SLED?

A. THAT'S CORRECT.

MS. HAYNES: SEEK TO ENTER THESE AT THIS TIME THAT HAVE BEEN MARKED FOR ID.

MS. JOHNS: NO OBJECTION.

THE COURT: ALL RIGHT. STATE'S EXHIBITS 15 AND 16, ADMIT THEM INTO EVIDENCE WITHOUT OBJECTION.

MS. HAYNES: FIFTEEN, YOUR HONOR, NOT SIXTEEN.

THE COURT: ALL RIGHT. JUST 15 ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER FIFTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

MS. HAYNES: I DON'T HAVE ANYTHING FURTHER.

THE COURT: CROSS EXAMINE.

CROSS EXAMINATION

BY MS. JOHNS

Q. WOULD CHIEF BE THE APPROPRIATE TITLE?

A. THAT'S CORRECT. I HOLD THE RANK AS ASSISTANT CHIEF, BUT I'M THE FIRE MARSHAL FOR COLUMBIA.

Q. FIRE MARSHAL REICH, DID YOU HAVE AN OPPORTUNITY TO SEE MS. TYLER IN THE EMERGENCY ROOM?

A. MS. TYLER WAS, I BELIEVE, IN A HOLDING ROOM OR A CONSULTATION ROOM AT THAT TIME. I DIDN'T SPEAK DIRECTLY WITH HER, I DON'T BELIEVE.

Q. DID YOU OBSERVE HER?

A. I WAS TOLD THAT SHE WAS IN THE ROOM.

Q. NOT WHAT YOU WERE TOLD. I JUST WANT TO KNOW IF YOU OBSERVED HER?

A. I DON'T RECOLLECT IF I DID.

Q. OKAY. I HAVE NOTHING FURTHER.

THE COURT: THANK YOU. YOU MAY STEP DOWN. ALL RIGHT, LADIES AND GENTLEMEN, WE'VE REACHED A CONVENIENT STOP, AT LEAST FOR THE DAY. WE'RE GOING TO RECESS UNTIL IN THE MORNING. WHILE YOU'RE AWAY, ONCE AGAIN, DO NOT DISCUSS THIS CASE OR ALLOW ANYONE TO DISCUSS THE CASE WITH YOU.

ALSO, LADIES AND GENTLEMEN, PLEASE DO NOT READ ANY NEWS ACCOUNTS OR WATCH ANY NEWS ACCOUNTS OF THIS PROCEEDING IF ANY THERE BE. PLEASE JUST REFRAIN FROM THAT. PLEASE REPORT TO YOUR JURYROOM IN THE MORNING AT

9:45. PLEASE BE IN YOUR JURYROOM AT 9:45 IN ORDER THAT WE CAN CONTINUE THE TRIAL OF THE CASE.

THANK YOU VERY MUCH. YOU'RE EXCUSED.

(JURY LEAVES FOR THE DAY.)

THE COURT: ALL RIGHT. SOLICITOR AND MS. BELL, LET ME SEE Y'ALL OVER HERE.

(GO TO NEXT VOLUME.)

Very truly yours,

CLERK

DES/djp

cc: Senior Assistant Appellate Defender Wanda H. Haile
Assistant Attorney General Derrick K. McFarland

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 3, 2002

ATTORNEY GENERAL'S OFFICE
RECEIVED 4-3-02
ADMINISTRATIVE INSTRUCTIONS
_____FILE_____OPEN_____END
_____HAVE_____COPIES MADE
_____ROUTE TO_____
_____ORDER:_____TRANSCRIPT
__PEN RECORDS__CLERK RECORDS
_____OTHER:_____

Ms. Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: The State v. Tyler, Linda

Dear Ms.Tyler:

The Court has issued the following order on your Petition for Rehearing:

"Petition for Rehearing is Denied.

s/ Jean H. Toal C.J.

s/ James E. Moore J.

s/ John H. Waller, Jr. J.

s/ E.C. Burnett, III J.

s/ Costa M. Pleicones J.

April 3, 2002."

The remittitur is today being forwarded to the lower court.

The Supreme Court of South Carolina

RECEIVED
AUG 09 2001

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-1080
FAX (803) 734-1499

August 9, 2001

ATTORNEY GENERAL'S OFFICE
RECEIVED 8-14-01
ADMINISTRATIVE INSTRUCTIONS
_____FILE_____OPEN_____END
_____HAVE_____COPIES MADE
_____ROUTE TO_____
_____ORDER:_____TRANSCRIPT
__PEN RECORDS__CLERK RECORDS
____OTHER:_____

Ms. Linda Ann Tyler, #248190
Leath Correctional
Institution for Women
2809 Airport Road
Greenwood, SC 29649

Re: The State v. Tyler, Linda

Dear Ms. Tyler:

The following Order has been endorsed on your Motion for New Court Appointed Attorney in the above entitled case on appeal.

"Motion denied.

s/ Jean H. Toal C.J.
For the Court

August 9, 2001."

By copy of this letter, we are advising counsel that the final briefs in this matter must be served and filed within twenty (20) days of the date of this letter.

Very truly yours,

Daniel E. Shearouse
DS
CLERK

DES/djp
cc: Senior Assistant Appellate Defender Wanda H. Haile
Assistant Attorney General Derrick K. McFarland

(12)

In THE STATE Of SOUTH CAROLINA
In THE SUPREME COURT
AFFIDAVIT Of SERVICE

I, Linda Ann Tyler #248190, certify under PENALTY Of PERJURY that I have submitted THREE BRIEFS with (3) different DATES upon them for the COURT'S to REVIEW.

1. BRIEF dated SEPTEMBER 23RD 1998, (8) PAGES
1. BRIEF DATED OCTOBER 28th 1998, (6) PAGES
1. BRIEF dated MARCH 26th 2007. (12) PAGES

ADDRESSED TO: MR. DANIEL E. SHARPE CLERK Of COURTS. On this 27th DAY Of MARCH. 2007, A TOTAL Of (26) sheets Of PAPER..

#248190
Linda Ann Tyler
March 27th 07

SWORN TO And SUBSCRIBE before ME
ON THIS 27th DAY Of MARCH 2007
NOTARY Public for SOUTH CAROLINA
Wallace M Gee
MY COMMISSION EXPIRES
Jan 14 2008

(11) IN THE SOUTH CAROLINA SUPREME COURT

(IN RE)

Linda Ann Tyler #248140

-V-

The State

AFFIDAVIT
Of
SERVICE

I Linda Ann Tyler #248140, certify under PENALTY of PERJURY that: I HAVE Submitted An Opositional BRIEF in the Above case On this 26th Day of MARCH 2007.

#248-140

SWORN TO And Subscribed before me Linda Ann Tyler
ON THIS 26th Day of MARCH 2007 March 26th 2007
NOTARY Public for South CAROLINA

My COMMISSION EXPIRES.
Jan 14 2008

(10)

IN THE STATE Of SOUTH CAROLINA

IN THE SOUTH CAROLINA SUPREME COURT

INRE) Linda Ann Tyler -V- THE STATE

APPELLANT RAISES the following ISSUES FOR REVIEW before the SUPREME COURT

1. Subject Matter Jurisdiction
2. Defect of Indictment
3. Defendant was Questioned without the presence of Counsel.
4. STATE used Information Gained from defendant.
5. Violation of Miranda Rights, 5th Amendments
6. Ineffective Assistance of Counsel.
7. 4th Amendment Rights Violation
8. Used of PRIOR bad Acts, S.C.R.E. code 609.
9. APPROXIMATE CAUSE OF DEATH
10. Prosecution Misconduct; Inflamatory statements
11. TRIAL Judge, denied due PROCESS OF LAW.
12. Ineffective Assistance of Counsel
13. Ineffective Assistance of Appellate Court Counsel.

#248-190

Linda Ann Tyler
March 2007

SWORN TO And SUBSCRIBE before ME
ON THIS 26th DAY of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA

William M. Cobb

MY COMMISSION EXPIRES
Jan 14 2008

IN THE STATE of SOUTH CAROLINA
IN THE SUPREME COURT of SOUTH CAROLINA.

(9)

IN RE)
Linda Ann Tyler #248140 THE APPELLANT'S BRIEF
-V-
THE STATE

The Appellant States that All matters describe herein lays strongly on the foundation on the issues of guilt and Actually innocent of the Appellant.

Ground One: THE APPROXIMATE CAUSE OF DEATH is still unfounded to have been caused by the Appellant: No scientific Proof only heresay.
Ground Two: Use of Prior bad Acts. S.C.R.E code 608
Ground Three: Inflamatory Statments by the Prosecutor.
Ground Four: Denied Due Process of Law, to use Hypnosises, Sodium Pentadal,
Ground Five: Ineffective Assistance of Appellate Counsel, TRIAL Counsel..

#248-140
Linda Ann Tyler
March 6th 2007

Sworn to And Subscribe before me
on this 6th Day of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
27 March 2008
MY COMMISSION EXPIRES

(8)

In THE STATE Of SOUTH CAROLINA
In THE SUPREME COURT

(In RE) Linda Ann Tyler #248190-V- THE STATE

Table of Authorities

1. FRAISER-V- STATE, 306, S.C. 158, 410, S.E. 2d. 572 (1991)
2. PYLER-V- STATE, 309, S.C. 408, 424, S.E. 2d. 477 (1992
3. MATHEWS-V- STATE, 200 WL. 188, 7491 (S.C. Sup. Ct)
4. DAWKINS-V- STATE, 436, S.C. 151, 155 S.E. 2d. 260 (2001)
5. STRICKland-V- WASHington, 1466 U.S. 688 (1984) (Id. At, 685)
6. MIRANDA-V- ARIZONA (1965) 5th Amendment violations
7. MAPP-V- OHIO (1949) 4th Amendment violations
8. State-V-Council, SUPRA, 335, S.C. 1, 515, S.E. 2d. 509 (1999)
9. U.S. -V- Scheffer, 523, U.S. 303, 118, S.Ct. 126. (1998)
10. S.C.R.E. Code 609 USE of PRIOR RECORDS
11. S.C.A.C.R. RULE 8.3. and 8.4. TRIAL JUDGE'S ERRED
12. THE STATE -V- BRENDA Gail Cutro. S.C. case. S.E. 2d at 504
13. The State-V- Smiller
14. LYLE -V- WHEATLY:
15. TINA WALKER-V- THE STATE, S.C. CASE (2003)
16. PLESSY-V-FERGUSON (1896 case)

#248190 Linda Ann Tyler
March 26th 2007

SWORN TO And Subscribe before ME
On This 26th DAY Of MARCH 2007
NOTARY Public FOR SOUTH CAROLINA
[signature]
MY COMMISSION EXPIRES
Jan 14 2008

(7)

IN THE SUPREME COURT OF SOUTH CAROLINA
IN RE) Linda Ann Tyler #248190 - V - THE STATE

TRIAL Judge Short: ERRED when giving specific INSTRUCTION TO THE JURY to REJECT the testimony of some witnesses AGAINST several witness. to me it is saying DISCREDIT one witness and ACCEPT the testimony of the MAJORITY of the other witnesses
TRIAL Judge: Alison Renee Lee: ERRED when She failed TO ACT (SUA-SPONTE) BECAUSE of the (APPELLANTS) Conviction AS G.B.M.I. and ISSUED an opinion Absent the showing of any Autopsy photos, death certificates..

BASED ON the following facts and ISSUES RAISE HEREIN the (APPELLANT) begs the Court to OVER-TURN the LOWER COURTS finding IN LIEU Of throwing-out the conclusion Of the State COURTS JURY findings of Guilty but MENTALLY ill of MURDER..

Respectfully
#248190 Linda Ann Tyler
March 27th 2007

SWORN TO And SUBSCRIBE before ME
ON this 27th DAY Of March 2007
NOTARY Public FOR SOUTH CAROLINA
William M. Coats
MY COMMISSION EXPIRES
Jan 14 2008

IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE) Linda Ann TYLER #248190 -V- THE STATE

(6)
(6)

...CASE LAW IN SUPPORT OF APPEAL ISSUES...

IN- GATHERS -V- SOUTH CAROLINA and IN BOOTH -V- MARYLAND, the United States Supreme Court" REVERSED both CASES because the (STATE) used the VALUE of the Victim's Life, IN VIOLATION of the (STARE DECISIS DOCTRINE) The 14th Amendment to the U.S.C.A, prohibits A State from the mentioning of the WORTH of A Victim. In the Appellants CASE the (deceased) left the (APPELLANT) his INSURANCE VALUED OVER 1$80,000 dollars.. See PROBATE Court DATA..

IN- MATTHEWS -V- STATE, 2001 WL 1887491 S.C. Sup. Ct. Improper arguments by the Prosecution IN- EZELL -V- STATE, 345 S.C. 312, 548 S.E. 2d. 852. The Supreme Court found that appropriate Remedy for, Ineffective ASSISTANCE of APPELLATE COUNSEL IS A NEW TRIAL. Id. Appellate Court Counsel MAY ALSO BE ineffective for failing to MAKE A RECORD sufficient for REVIEW.. Citing Legge -V- STATE, 349. S.C. 222, 562. S.E. 2d. 833 (1999): Citing: STRICKLAND -V- WASHINGTON, 466. U.S. 668 (1984).. Citing CASE LAW: Judge -V- STATE, 321 S.C. 554, 471. S.E. 2d. 146 (1994) IN- PYLER -V- STATE, 309, S.C. 408, 424. S.E. 2d. 477. Counsel deficient for failing to object to IMPROPER CHARGE on MALICE, erroneous JURY INSTRUCTION by the TRIAL Judge...

IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE)

(5) Linda ANN TYLER #248-190-V- THE STATE

.. THE APPELLANT'S BRIEF OF LAW :..

Police Miconduct, Miranda Warnings, Evidence, 4th, 5th Amendments RIGHTS VIOLATION, U.S.C.A. THE (Appellant) states that: ARRESTING Officer VIOLATED the 5th Amendment when (he) used COERCION to obtained A CONFESSION and EVIDENCE from the (Appellant) In which the STATE US AS EVIDENCE AGAINST the (APPELLANT) AS A RESULT Of the (MIRAND Rights VIOLATION) and 4th Amend.

THE STATE At P.C.R. HEARING, FAILED to PRODUCE the ALLEDGED AUTOPSY PHOTOS and HAS FAILED AGAIN to PROVIDE the DISCOVERY DOCUMENTS to the COURT and the defendant. See. P.C.R. TRIAL TRANSCRIPT: DEFENSE ATTORNEY MR. JOHNSON STATED to TRIAL JUDGE: HONORABLE A.R. LEE, that HE HAS NOT SEEN ANY PHOTO GRAPHS of the DECEASE. DEFENSE ATTY. BELL and JOHN'S STATED that, the STATED Should HAVE PHOTO'S of the DECEASED, but She didnt know where the PHOTO'S WERE, but She did see PHOTO'S of the DECEASED b THESE ARE NOT AUTOPSY PHOTO'S.

JUDGE LEE; WAS GIVEN A DOCUMENTARY Letter from the (Appellant) AS EVIDENCE of the (daughter's) ABUSE and (deceased) MEDICAL RECORDS.

KNEW SHE WAS GOING TO GO TO JAIL, BECAUSE SHE KNEW WHAT SHE DID WAS WRONG. SHE'S NOT INSANE.

AND THAT GOES TO WHEN SHE SAID I HAD TO THINK OF A STORY REAL FAST. SO, SHE TOLD THEM THE CAR MUST HAVE MALFUNCTIONED. WHY IS SHE THINKING OF A STORY REAL FAST IF SHE DIDN'T KNOW WHAT SHE DID WAS WRONG? IF SHE DIDN'T KNOW SHE HAD DONE SOMETHING WRONG, WHY IS SHE GOING TO HAVE TO TELL STORIES?

SHE CONTINUED WHEN INVESTIGATOR GRAY QUESTIONED HER TO GIVE A FALSE STORY ABOUT WHAT HAPPENED AND BLAMING IT ON THE CAR, BECAUSE SHE KNEW WHAT SHE DID WAS WRONG. THERE'S NO EVIDENCE THAT SHE DIDN'T KNOW THE DIFFERENCE BETWEEN RIGHT AND WRONG. NONE. THAT'S NOT AN OPTION I SUBMIT TO YOU.

THEN YOU'RE LEFT WITH THE MURDER, INVOLUNTARY MANSLAUGHTER, THE ABIK AND THE ABHAN. I SUBMIT TO YOU IF YOU FEEL THAT THE DOCTORS AT THE AUGUSTA BURN CENTER AND THE NURSES THERE AND THE STAFF THERE DID EVERYTHING WITHIN THEIR POWER TO TRY TO SAVE VAN TYLER, THEY REPLACED SKIN GRAFTS. THEY SPENT 30 TO $40,000 ACCORDING TO THE DEFENSE EXPERTS IN PUTTING SKIN GRAFTS ON HIM BECAUSE HIS SKIN WAS GONE. SO, IT ACTUALLY MADE HIM SUSCEPTIBLE TO INFECTION. THEY TRIED TO PUT NEW SKIN OVER IT TO PROTECT HIM. THEY GAVE HIM THE BEST OXYGEN HE SAID. THEY DID ALL THIS TREATMENT.

HER SHOES, THE ONES SHE KNEW SHE SHOULD CHANGE, BECAUSE SHE DIDN'T WANT HIM TO SMELL IT. IF SHE DIDN'T KNOW WHAT SHE WAS DOING WAS WRONG, WHY WAS SHE CONCERNED ABOUT HIM SMELLING THE GAS ON HER? AND FURTHERMORE, SHE INDICATED SHE HAD GOT AT ONE POINT A CUP AND TRIED TO PUT THE GAS IN IT, BECAUSE SHE WAS GOING TO ACT LIKE SHE WAS DRINKING SOMETHING. IF SHE DIDN'T KNOW WHAT SHE WAS DOING WAS WRONG, WHY WAS SHE TRYING TO HIDE WHAT SHE WAS DOING?

THIRDLY, SHE SAID WHEN SHE GOT OUT OF THE CAR AND AFTER SHE DID IT, SHE WENT UP TO HIM WHILE HE'S ON THE GROUND, AND THAT'S WHY SHE TOOK HER CLOTHES OFF. SHE TOLD YOU SHE TOOK HER CLOTHES OFF BECAUSE SHE WAS TRYING TO SMOTHER HIM, YOU KNOW, PUT OUT THE FLAMES. SHE TRIED TO LAY HIM DOWN ON THE FLOOR OR THE GROUND SO HE WOULDN'T GET ANYTHING ON HIM. THAT'S WHY SHE HAD HER CLOTHES OFF THAT DAY OUT THERE.

AND I SUBMIT TO YOU THAT SHE LEANED OVER TO HIM AND SAID, YOU'RE NOT GOING TO TELL ON ME, ARE YOU. AND HE SAID, NO. YOU'RE NOT GOING TO TELL ON ME, ALI, ARE YOU. NO. IF SHE DOESN'T KNOW WHAT SHE DID WAS WRONG, WHY IS SHE ASKING HIM NOT TO TELL ON HER? SHE KNEW WHAT SHE DID WAS WRONG.

AND WHY DID SHE SAY WHEN SHE WAS TALKING ON THE WITNESS STAND THAT SHE KNEW SHE WAS GOING TO HAVE TO GO TO JAIL AND HE WAS GOING TO HAVE TO THE HOSPITAL? SHE

YOUR TIME. LOOK AT EACH ONE, AND YOU THINK ABOUT HOW THEY'RE LAID OUT. YOU THINK ABOUT HOW THE EVIDENCE FITS INTO THOSE BOXES.

UNDER MURDER, YOU'RE GOING TO HAVE GUILTY AND GUILTY BUT MENTALLY ILL. YOU'RE GOING TO HAVE THE SAME CHOICES OF GUILTY BUT GUILTY BUT MENTALLY ILL, AND I JUST WROTE GBMI, GUILTY BUT MENTALLY ILL. YOU'RE GOING TO HAVE THE SAME CHOICES UNDER ABIK AND UNDER ABHAN. I SUBMIT TO YOU DEFENSE COUNSEL HAS ALREADY SAID NOT GUILTY IS NOT AN OPTION, BECAUSE LINDA TYLER ADMITTED WHAT SHE HAD DONE. SHE ADMITTED DOING THIS ACTION. YOU DON'T HAVE TO WORRY ABOUT THAT CHOICE. AND I SUBMIT TO YOU YOU DON'T HAVE TO WORRY ABOUT NOT GUILTY BY REASON OF INSANITY. BECAUSE ALL THE TESTIMONY IS THAT SHE KNEW RIGHT FROM WRONG. EVEN MS. TYLER HERSELF --- YOU MIGHT HAVE WONDERED WHY I KEPT ASKING --- YOU KNEW WHAT YOU WERE DOING WAS WRONG, DIDN'T YOU. YES. AND THE DOCTORS, BEHRMANN AND SWARTZ-WATTS, THEY SAID THAT SHE KNEW THE DIFFERENCE BETWEEN RIGHT AND WRONG, AND IF SHE KNEW THE DIFFERENCE BETWEEN RIGHT AND WRONG, SHE'S NOT INSANE IN SOUTH CAROLINA.

IN HER ACTIONS, BESIDES HER JUST TELLING ME WHEN SHE WAS ON THE STAND THAT SHE KNEW THE DIFFERENCE BETWEEN RIGHT AND WRONG, THINK ABOUT HER ACTIONS THAT DAY. SHE TOOK THE GAS AND POURED THE COKE OUT AND PUT THE GAS IN THE PEPSI BOTTLE, AND THEN SHE SPILLED A LITTLE BIT ON

HIS HEAD ON FIRE. SHE WANTED TO SET HIS HEAD ON FIRE. SHE SAID THAT ON THE WITNESS STAND YESTERDAY. SHE SAID THAT TO INVESTIGATOR GRAY SEPTEMBER 26, 1996. I SUBMIT TO YOU, WHAT DID SHE THINK WOULD RESULT IN THAT ACTION? A BOTTLE OF GASOLINE AND A BIC LIGHTER, WHAT DID SHE THINK WOULD HAPPEN TO VAN TYLER AFTER SHE DID THAT TO HIM AND LEFT HIM IN THAT BURNING CAR? MALICE.

NOW, AS WE STATED, THERE'S A WHOLE LOT OF DIFFERENT CHARGES. Y'ALL ARE GOING TO HAVE THAT THERE, AND YOUR HONOR IS GOING TO GIVE YOU THE VERDICT FORM, AND THE VERDICT FORM IS SIMPLY A PIECE OF PAPER WHICH WILL HAVE IT LISTED, AND I DON'T KNOW WHICH WAY THE COURT IS GOING TO LIST THE POSSIBLE FORMS OF VERDICT, BUT THESE ARE THE POSSIBLE FORMS THAT YOU WILL HAVE.

YOU'LL HAVE MURDER. YOU'LL HAVE INVOLUNTARY MANSLAUGHTER --- WAIT, I FORGOT TO MENTION IN THE VERY BEGINNING, BUT MR. SORENSON REMINDED ME WHEN I SAT BACK DOWN. YOU'LL HAVE ASSAULT AND BATTERY WITH INTENT TO KILL AND ABIK IS THE LEGALIZE SYNONYM FOR THAT, SHORTER VERSION INSTEAD, AND YOU'LL HAVE ABHAN, WHICH IS ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

THOSE ARE THE FOUR CHARGES YOU'LL CONSIDER. YOU'LL ALSO CONSIDER NOT GUILTY BY REASON OF INSANITY AND NOT GUILTY. SO, YOUR FORM IS GOING TO HAVE A LOT OF DIFFERENT BOXES AND A LOT OF DIFFERENT CHOICES. TAKE

I BELIEVE YOU WILL HEAR THAT THE STANDARD IN SOUTH CAROLINA IS GROSS NEGLIGENCE. THAT'S THE STANDARD. THAT'S THE LAW. AND NO ONE, NO ONE CAME IN HERE AND SAID THOSE DOCTORS WERE GROSSLY NEGLIGENT, NO ONE. AND IF THOSE DOCTORS WEREN'T GROSSLY NEGLIGENT, THEN WHATEVER THEY DID OR WHATEVER THEY FAILED TO DO WAS NOT PROXIMATE CAUSE. IT DID NOT REPLACE LINDA ANN TYLER'S ACTIONS ON THAT DATE.

AS I SAID, AGAIN, MALICE IS WHAT WE HAVE TO SHOW. MALICE. NOT A SPECIFIC INTENT TO KILL. THINK ABOUT IT COMMON SENSICALLY AS SHE SAID. HOW OFTEN DOES SOMEONE GO UP AND SAY, I'M GOING TO KILL YOU? YOU DON'T HAVE EXPRESS MALICE VERY OFTEN. MOST OF THE TIME IT'S IMPLIED, AND IT'S IMPLIED MALICE THROUGH THE CIRCUMSTANCES. AND YOU LOOK AT THE CIRCUMSTANCES, AND YOU LOOK AT WHAT HAPPENED THAT DAY, AND YOU LOOK AT THE FACT THAT A DEADLY WEAPON WAS USED, THAT GASOLINE WAS USED, AND THAT MOST CERTAINLY WAS A SUBSTANCE THAT WOULD LIKELY PRODUCE DEATH OR GREAT BODILY INJURY, MOST CERTAINLY, AND THAT WAS USED IN CONJUNCTION WITH A CIGARETTE LIGHTER. THAT MOST DEFINITELY THE STATE SUBMITS TO YOU SHOWS MALICE.

WHAT ELSE SHOWS MALICE? WHAT ABOUT HER OWN STATEMENT WHEN SHE SAID I WANTED TO SEE HIM BURN, I WANTED HIM TO HURT LIKE HE HURT ME. SHE WANTED TO SET

LAW. AND MALICE AFORETHOUGHT IS AN EVIL HEART, AN EVIL HEART BENT ON MISCHIEF, A DEPRAVED HEART. IT'S THE WRONGFUL INTENT TO INJURE ANOTHER AND INDICATES A WICKED OR DEPRAVED SPIRIT INTENT ON DOING WRONG.

AND ANOTHER ELEMENT IS THAT DEATH RESULTED. AND VAN TYLER'S DEATH RESULTED. NOW, THE DEFENSE IS ALLEGING IN THIS CASE AS THEIR EXPERT DR. PETERSON SAID THAT THE DEATH ONLY RESULTED BECAUSE THE DOCTORS AT THE HUMANA BURN CENTER DIDN'T --- THE NURSES AND DOCTORS AND THE STAFF THERE DIDN'T TREAT HIM APPROPRIATELY. THEY WERE WRONG IN THEIR TREATMENT, AND HAD THEY DONE WHAT DR. PETERSON WOULD HAVE DONE IF HE HAD BEEN DOWN THERE, THAT VAN TYLER WOULD HAVE LIVED.

I SUBMIT TO YOU, LADIES AND GENTLEMEN, NO ONE HAS SAID THAT THEY WERE GROSSLY NEGLIGENT, AND THAT'S THE LAW. IN ORDER FOR THEIR WRONG DOING --- THEIR FAILURE IN THEIR TREATMENT TO REPLACE THE RESPONSIBILITY ---

MS. BELL: THAT'S A MISSTATEMENT, YOUR HONOR. THAT'S A MISSTATEMENT ABOUT NO GROSS NEGLIGENCE.

THE COURT: ALL RIGHT. I WILL CHARGE THE LAW. SHE IS RECALLING THE FACTS THE WAY SHE HEARD IT. THE JURY WILL RECALL THE FACTS THE WAY THEY HEARD IT. I OVERRULE YOUR OBJECTION.

MS. HAYNES: THANK YOU, YOUR HONOR.

BY MS. HAYNES

TALKED WITH HIM. SHE KISSED HIM. ONE OF THE EMS PEOPLE SAID SHE WAS ACTING VERY STRANGE AND BIZARRE, NOT COOL, CALM, COLLECTED. SHE WASN'T CHARGED WITH MURDER THEN. THAT WAS THE REAL LINDA ANN TYLER.

SO, LADIES AND GENTLEMEN, I THINK WHAT THE STATE DOESN'T WANT YOU TO DO IS FOCUS ON THE LEGITIMATE ISSUES ABOUT WHETHER --- ABOUT HER MENTAL ILLNESS AND CAUSE AND EFFECT. BUT SEE, THIS CASE YOU CAN'T JUST SAY BECAUSE THIS THING HAPPENED AND THIS THING RESULTED SHE'S GUILTY. GOT TO SCRATCH THE SURFACE, GOT TO FOLLOW THE LAW. YOU'VE GOT TO GIVE HER THESE INFERENCES THAT SHE'S ENTITLED TO THAT ARE REASONABLE.

LADIES AND GENTLEMEN, ALL SHE'S WANTED WAS A FAIR AND IMPARTIAL TRIAL. AND AS I STATED, CAN YOU FEEL SYMPATHY FOR MR. VAN TYLER? YES, YOU CAN. CAN FEEL SYMPATHY FOR MS. TYLER? YES, YOU CAN. BUT YOU CAN'T BASE YOUR FEELINGS SOLELY ON THAT. AND WE THINK THE FACTS HERE ARE SUFFICIENT THAT YOU DON'T HAVE TO. SUFFICIENT THAT THE STATE HAS NOT MET THEIR BURDEN OF PROOF IN THIS CASE. THANK YOU.

CLOSING STATEMENT

BY MS. HAYNES

THE LAW IS JUST AS I TOLD YOU BEFORE. MURDER IS THE UNLAWFUL KILLING OF ANOTHER HUMAN BEING WITH MALICE AFORETHOUGHT EITHER EXPRESSED OR IMPLIED. THAT'S THE

CLEARLY, NOT SUFFERING FROM ANY VOICES AND HANDLED THE SITUATION QUITE WELL, AND WHEN SHE WENT OVER TO MS. JOHNNIE MAE'S HOUSE, SHE WAS FINE, BUT THESE VOICES THAT MORNING, COURT DATE COMING UP, SHE WAS OUT LOOKING FOR MARIJUANA TO TRY TO GET RID OF THESE VOICES. THAT'S NOT RATIONAL KNOWING SHE HAD A COURT DATE. AND THEN THIS HAPPENS.

AND LADIES AND GENTLEMEN, WHEN SHE WAS UP HERE, WHAT SHE SAID IS VERY COMPELLING AS TO WHETHER OR NOT SHE HAD --- WHAT WAS GOING ON IN HER STATE OF MIND. I DON'T KNOW. THEY DON'T KNOW. WE REALLY DON'T KNOW. NOBODY CAN RECREATE SEPTEMBER 26, 1996. BUT I CAN CERTAINLY TELL YOU TWO THINGS. SHE DID NOT INTEND TO KILL VAN TYLER. SHE DID NOT HAVE MALICE AFORETHOUGHT. THAT SHE WAS MENTALLY ILL. THAT THE DEATH OF VAN TYLER WAS NOT PROXIMATELY CAUSED BY THE BURNS.

FOR THOSE REASONS, LADIES AND GENTLEMEN, MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL DON'T EVEN FACTOR IN. IF HER MENTAL STATE WAS SUCH THAT SHE DIDN'T KNOW -- - HERE'S ANOTHER THING ABOUT WHETHER OR NOT WHAT SHE WAS DOING WAS RIGHT OR WRONG HAD TO BE AT THE TIME THAT THE INCIDENT OCCURRED, NOT AFTERWARDS, NOT AFTER WHEN SHE SAW HIM AT THE CAR AND THEN REALIZED THAT SHE HAD DONE WHAT SHE HAD DONE WAS WRONG AND RAN TO HIM AND TRIED TO SAVE HIM AND DO EVERYTHING SHE COULD TO SAVE HIM. SHE EVEN

HE DIDN'T HELP HER GET HER KIDS LIKE HE SAID, EVEN AFTER HE HAD A PLACE TO COME TO WHEN HE GOT OUT OF PRISON, HE HAD A CAR TO DRIVE, HE HAD HIS WOMEN, SHE WOULD PICK HIM UP FROM WOMEN'S HOUSES. ALL THAT STUFF THAT GOING ON. LOST THE KIDS, EVERYTHING, SHE STILL WANTED HIM TO HAVE A PROPER BURIAL.

AND YOU KNOW WHAT? EVEN AT THE SCENE SHE WAS SHOWING THAT SHE HAD CONCERN AND CARED FOR HIM. I KNOW THE STATE IS GOING TO SAY TO YOU THAT THAT HAPPENED AFTER THE FACT, BUT IT HAPPENED AT THE TIME. AND THAT WOULD NEGATE MALICE. AND WHO --- IF SHE WAS SO RATIONAL --- THE ACTION ITSELF WAS VERY IRRATIONAL, ESPECIALLY CONSIDERING THAT SHE COULD HAVE HAD AN ALTERNATIVE.

LADIES AND GENTLEMEN, BASED ON NOT JUST HER DIAGNOSIS FOR PARANOID PERSONALITY DISORDER, NOT JUST BECAUSE OF ALL OF THE SEXUAL ABUSE THAT SHE HAD DONE TO HER, AND IT'S SUBSTANTIATED IN THE COURTS, NOT THAT HER HUSBAND WAS DECEIVING HER AND PHYSICALLY ABUSING HER, AND IT'S NOT A SELF DEFENSE CASE, AND I'M NOT EVEN TRYING TO TELL YOU IT'S ONE, BUT THAT DOESN'T MEAN HE NEVER ASSAULTED HER, BUT EVEN MORE IMPORTANTLY THE PSYCHOLOGICAL ABUSE. I DON'T WANT YOU ANYMORE. ALL THAT STUFF GOING ON. SHE STILL LOVED HIM. AND IN HER MIND THE NIGHT WHEN SHE WAS CONFRONTED BY THIS NEIGHBOR JACKIE, SHE WAS DOING PRETTY GOOD AND THINKING REAL

HIS CASE THAT BENEFITED HIS CAUSE WERE PUT DOWN IN THERE, AND SHE INDICATED THOSE THINGS TO MS. HAYNES --- ALL THE THINGS ABOUT THE SODOMY OF HER DAUGHTER. DID SHE TELL HIM THAT? SHE SAID SHE TOLD HIM THAT. AT THE HOSPITAL, WAS SHE CALLING HER CHILDREN?

OFFICER --- AND I'VE FORGOTTEN HIS NAME, BUT --- OFFICER MARTIN, WHEN HE GOT UP ON THE STAND --- YOU KNOW, BECAUSE I THINK, LADIES AND GENTLEMEN, THE APPEARANCE IS GOING TO BE THAT SHE WAS COOL, CALM AND CALCULATED. SHE KNEW WHAT SHE WAS DOING. SHE HAD HER PLAN. SHE KNEW HOW TO CARRY IT OUT, BUT LADIES AND GENTLEMEN, WHEN YOU HEARD THIS WITNESS OF THE STATE, SHE SEEMED VERY DISTRAUGHT. I'M GOING TO ASK YOU, IF SOMEBODY IS BEING COOL, CALM AND RATIONAL, RUNNING AROUND IN A BRA AND PANTIES IN THE MIDDLE OF THE DAY ON [redacted] AND [redacted] STREET AT 10:15 -- THAT'S A CROWDED AREA. THERE WERE A LOT OF CARS OUT THERE. SHE WAS NOT CALM AND RATIONAL ANYWAY. IF SHE WAS CALM AND RATIONAL, LADIES AND GENTLEMEN, I SUBMIT TO YOU THIS WOULDN'T HAVE HAPPENED. SHE SURE COULD HAVE DONE IT THE NIGHT BEFORE. SO, CERTAINLY HER MENTAL STATE IS AN ISSUE.

SHE LOVED ALI. I GUARANTEE YOU SHE LOVES HIM TODAY, IN SPITE OF EVERYTHING THAT HAPPENED, AND THE REASON WHY I CALLED MR. OMAR SHAHEED HERE WAS, AGAIN, TO NEGATE MALICE. BECAUSE EVEN AFTER HE CHEATED ON HER, EVEN AFTER

THE CAR.

AND SO, THEY TRY TO PULL HIM OUT OF THE CAR, AND I KNOW WHAT THEY DID WAS A GREAT DEAL AND AWFUL FOR THEM TO HAVE TO EXPERIENCE, BUT STILL, LADIES AND GENTLEMEN, IT DOESN'T GO TO WHAT HER INTENT WAS. IT WAS HORRIBLE THE THING SEEMED. IT'S STILL REVOLVES AROUND WHAT HER INTENT WAS AT THE TIME.

SO, THIS PARTICULAR DAY --- LET ME TELL YOU ANOTHER RATIONAL THING ABOUT IT, BECAUSE SHE WAS SUPPOSE TO BE GOING TO COURT TO TRY TO GET HER CHILDREN BACK, AND MR. TYLER HAD SAID THAT HE WAS GOING TO HELP HER IN THAT REGARD. WE HAVE ALREADY HEARD ABOUT THE THINGS THAT --- SHE GAVE A STATEMENT TO AN INVESTIGATOR, AND WHAT I WANT YOU TO THINK ABOUT IS THAT THERE WAS ABOUT 20 MINUTES THAT WENT BY IN THIS STATEMENT THAT'S NOT RECORDED, FOR HE SAID IT WAS AN ORAL --- AN ORAL STATEMENT SHE GAVE LIKE DENYING THE CHARGES. THAT WOULD HAVE ONLY TAKEN A FEW MINUTES. DID YOU SEE HOW SHE TALKED ON AND ON AND ON AND ON? I KNOW MANY OF YOU --- I DON'T KNOW IF YOU WERE LISTENING TO EVERYTHING SHE SAID, BUT I'M ASKING YOU --- CUT HER OFF LIKE SHE HAD BEEN CUT OFF --- LISTEN TO WHAT SHE'S SAYING, AND THERE WERE THINGS THAT INVESTIGATOR GRAY WOULD NOT PUT IN THAT STATEMENT. HE MAY HAVE THOUGHT, THIS HAS NOTHING TO DO WITH THIS CASE. THE THINGS THAT WOULD PROVE --- WHAT HE THOUGHT WOULD PROVE

HAPPENED. PEOPLE WHO AREN'T MENTALLY ILL AREN'T GOING TO HEAR THOSE KIND OF HALLUCINATIONS SAYING DO IT, DO IT, DO IT. THE VOICES GOT LOUDER, AND THERE WAS A TIME PERIOD THAT WENT ON.

I SUGGEST TO YOU THE STATE MAY SAY THAT SHOWS MALICE AFORETHOUGHT, THAT SHE HAD PLANNED IT, THAT SHE HAD MADE THIS DECISION THAT SHE WAS GOING TO DO IT. BUT WHAT I WANT TO SUGGEST TO YOU THAT THE OTHER REASONABLE INFERENCE IS THAT SHE WAS FIGHTING OFF THE VOICES. SHE POURED THE GASOLINE IN THE CUP, AND SHE HAD CHANGED TWO TIMES. IT WAS JUST DO IT, DO IT, DO IT GETTING LOUDER AND LOUDER --- DO IT, DO IT, DO IT. SHE DID.

AND YOU KNOW WHAT? AFTER SHE DID IT, SHE GOT OUT OF THE CAR, AND SHE DIDN'T FLEE THE SCENE. SOMEBODY CAME BY AND SAID IS ANYBODY ELSE IN THE CAR, AND SHE SAID, YES, MY HUSBAND. AND THERE WAS A LITTLE DISCREPANCY ABOUT --- THE REASON I WANT TO BRING IT OUT NOW IS BECAUSE I DON'T KNOW IF THE STATE IS GOING TO TRY TO SAY IT WAS MALICE. BUT LET ME GIVE YOU THE OTHER REASONABLE INFERENCE IS THAT --- I FORGOT THE GENTLEMAN'S NAME, BUT HE WAS ONE OF THE INDIVIDUALS THAT PULLED HER OUT OF THE CAR, AND HE SAID THAT SHE SAID NOBODY WAS IN THE CAR, BUT NOW WHEN HE MADE THE STATEMENT BACK ON THE DATE OF THE INCIDENT, HE DID NOT INDICATE THAT SHE SAID NOBODY WAS IN THE CAR. HE SAID, YES, MY HUSBAND --- SHE SAID, YES, MY HUSBAND IS IN

PAST 15 YEARS, AND YOU KNOW, THOSE VOICES THAT DAY, SHE WAS ON HER WAY TO --- I THINK TO THE HEALTH DEPARTMENT. SHE WAS GOING --- SHE HAD A COURT DATE FOR HER CHILDREN, AND LADIES AND GENTLEMEN, FROM WHAT YOU'VE HEARD FROM EVERYTHING THAT'S BEEN DOCUMENTED, SHE WAS CONCERNED ABOUT HER CHILDREN. THAT MEANT VERY MUCH TO HER.

NOW, SHE'D COME FROM A VERY DYSFUNCTIONAL BACKGROUND. YOU KNOW EVERYTHING ABOUT THE FACTS AND THE CIRCUMSTANCES IN THIS CASE. THIS CASE IN A LOT OF WAYS HAS BEEN VERY NOT WHAT WE WOULD CONSIDER NORMAL. IT'S HER LIFE. AND IT'S HER STORY AND IT'S WHAT HAPPENED.

SO, I THINK IN ORDER TO DETERMINE WHAT WAS GOING ON YOU'VE GOT TO LOOK AT WHAT HER STATE OF MIND WAS. IF SHE WAS HEARING VOICES AND THE VOICES SAID --- SHE SAW HIM, AND THEY SAID SHE'S GOT TO DO THAT.

WELL, YOU GOT A KNIFE IN THE CAR, JUST STAB HIM. JUST SLIT HIS THROAT. NO, CAN'T DO THAT. GASOLINE. DOUSE HIM WITH GASOLINE. NO, I CAN'T DO THAT. SHE GOT IN THE CAR. AFTER SHE GOT IN THE CAR AND THE VOICES STILL GOING ON. HE'S DRIVING AT THIS TIME. HE'S PUMPING THE GAS, AND ALL ALONG THE VOICES ARE SAYING DO IT, DO IT, DO IT, AND NONE OF THESE DOCTORS --- AND I KNOW IT'S HARD FOR US TO BELIEVE IF YOU'VE NEVER HEARD VOICES AND DON'T KNOW WHAT IT'S LIKE --- THAT'S WHY WE HAD THE DOCTORS HERE TO SAY IT HAPPENS, AND IN THIS CASE IT

ANOTHER, ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION --- LOOK HERE. HERE IS BODILY INJURY, USE OF A DEADLY WEAPON, PURPOSEFUL INFLICTION OF SHAME AND DISGRACE. AND THE OTHER ONES TOO. I JUST POINT THOSE OUT BECAUSE THOSE APPEAR, AND LIKE I SAID, AND LIKE THE JUDGE SAID, WHAT I SAY IS NOT EVIDENCE IN THIS CASE AND NOT TESTIMONY. SO, WHATEVER YOU THINK IS APPROPRIATE UNDER THE CIRCUMSTANCES, BUT CERTAINLY THOSE WERE SOME THINGS THAT CERTAINLY APPEAR TO BE RELEVANT IN THIS CASE.

SO, WHAT DISTINGUISHES ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE FROM ASSAULT AND BATTERY WITH INTENT TO KILL, THERE WAS NO INTENT TO KILL --- NO INTENT TO KILL. THERE'S AN INTENT TO CREATE SOME VIOLENT PHYSICAL INJURY AND SERIOUS BODILY INJURY. NOW, AND THEN NOT GUILTY. AND LADIES AND GENTLEMEN, THERE'S CERTAINLY OPPORTUNITY IN THIS CASE, AND I JUST DON'T --- TO BE HONEST WITH YOU, I DON'T KNOW IF ANY OF THE FACTS WOULD SUPPORT JUST A NOT GUILTY, BECAUSE I THINK WHAT IS VERY IMPORTANT IN THIS CASE IS BASICALLY PROXIMATE CAUSE ISSUES AND MS. TYLER'S STATE OF MIND.

AND SO, WHEN WE DETERMINE HER STATE OF MIND, WE KNOW THAT SHE WAS HEARING VOICES. THAT'S UNDISPUTED BY THE MEDICAL EXPERTS, AND THAT'S CERTAINLY EVIDENCED BY MS. TYLER'S OWN TESTIMONY. IT'S NOT THE FIRST TIME SHE'S HEARD VOICES. SHE HAS HEARD THEM IN THE PAST, IN THE

SO, ONCE YOU'VE TALKED ABOUT --- WE'VE TALKED ABOUT MURDER AND MALICE AFORETHOUGHT --- HOW MALICE IS AN INFERENCE. HOW THE LAW --- SHE IS ENTITLED TO EVERY REASONABLE INFERENCE. SO, IN THIS CASE, IT'S NOT MURDER, BECAUSE ONE, THE PROXIMATE CAUSE ISSUE. AND TWO, WHICH WAS NOT WRITTEN DOWN HERE --- AND TWO, SHE DID NOT HAVE THE REQUISITE MALICE AFORETHOUGHT. SHE DID NOT INTEND TO MURDER HER HUSBAND, AND SHE DIDN'T HAVE THE MALICE.

ASSAULT AND BATTERY WITH INTENT TO KILL. WELL, YOU KNOW, ASSAULT AND BATTERY WITH INTENT TO KILL AND MURDER ARE JUST ABOUT THE SAME CHARGE. THE ONLY DIFFERENCE IS THE PROXIMATE CAUSE ISSUE. WITH ASSAULT AND BATTERY WITH INTENT TO KILL, YOU'VE GOT TO HAVE MALICE, AND YOU'VE GOT TO HAVE AN INTENT TO KILL. BECAUSE THE ONLY THING THAT DOESN'T HAPPEN IS THE PROXIMATE CAUSE. THERE'S NO DEATH. THERE'S NO DEATH AS A RESULT. SO, THAT'S ASSAULT AND BATTERY WITH INTENT.

SO, SHE DIDN'T HAVE THE MENTAL STATE FOR MURDER. SHE DIDN'T HAVE THE MENTAL STATE FOR ASSAULT AND BATTERY WITH INTENT TO KILL. ASSAULT AND BATTERY, I'M NOT SURE IT'S ON HERE, OF A HIGH AND AGGRAVATED NATURE, IS AN UNLAWFUL ACT, AND CERTAINLY, IF ONE IS INTENDING TO CARRY OUT AN UNLAWFUL ACT SUCH AS POURING GASOLINE ON SOMEONE, THAT WOULD BE AN UNLAWFUL ACT AND THEN LIGHTING THE PERSON, A VIOLENT PHYSICAL INJURY TO THE PERSON OF

THE PERIOD OF PSYCHOSIS, AND DR. WATTS DIAGNOSED HER WITH HAVING BRIEF PSYCHOSIS DISORDER AND PARANOID PERSONALITY DISORDER. TWO SEPARATE --- TWO SEPARATE DIAGNOSES, AND THE BRIEF PSYCHOSIS DISORDER IS A MAJOR MENTAL ILLNESS.

SO, SHE TALKED TO HER. SHE REVIEWED ALL THE MEDICAL RECORDS. I SUPPLIED DR. BEHRMANN WITH MEDICAL RECORDS, AND THERE WAS HISTORY OF HER HAVING THESE THINGS, BUT WHAT I DON'T WANT YOU TO THINK IS THAT IT'S SOMETHING THAT COME UP ALL OF A SUDDEN WITHOUT ANY VALIDITY, BECAUSE DR. BEHRMANN HAS SAID THAT HE DIDN'T DOUBT OR THINK SHE WAS MALINGERING ABOUT THESE THINGS.

DR. WATTS INDICATED THAT IT'S NOT UNUSUAL FOR A PERSON WHEN THEY FIRST MEET SOMEBODY TO TALK ABOUT VOICES. IN FACT, IN CERTAIN CASES, PEOPLE DON'T EVEN WANT PEOPLE TO KNOW THEY ARE MENTALLY ILL, AND I'M SURE YOU ALL HAVE HEARD ABOUT CASES LIKE THAT.

SO, WHAT WE HAVE HERE IS A MENTALLY ILL PERSON, AND I THINK, LADIES AND GENTLEMEN, THAT'S WHAT DISTINGUISHES --- THAT'S WHAT DISTINGUISHES US FROM HER UNDER THESE SITUATIONS. YOU KNOW, I THINK THE STATE MAY WANT YOU TO BELIEVE THAT MS. TYLER IS SUPPOSE TO ACT LIKE WE ALL WOULD ACT UNDER SIMILAR CIRCUMSTANCES. THAT'S NOT COMMON SENSE, LADIES AND GENTLEMEN. THAT'S NOT COMMON SENSICAL. YOU'VE GOT TO LOOK AT HER MIND AND WHAT SHE WAS GOING THROUGH.

THROUGH. THEY DIDN'T KNOW HER EXPERIENCES.

AND AS THE CASE BEGAN TO DEVELOP, YOU KNOW, IF YOU THINK ABOUT IT, HE NEVER, EVER, EVER SAID SHE WAS MALINGERING OR FAKING ABOUT THE SYMPTOMS, ABOUT HEARING VOICES. THINK ABOUT IT. HE NEVER --- YOU CAN REHEAR THE TESTIMONY, BUT HE NEVER, EVER SAID THAT SHE WAS FAKING ANY OF THE SYMPTOMS. AND YOU KNOW, EVENTUALLY, HE DID CHANGE HIS DIAGNOSIS. AND HE SAID THAT SHE HAD A PARANOID PERSONALITY TYPE, AND YOU KNOW, I BEG TO DIFFER. OF COURSE, IT'S ULTIMATELY YOU ALL'S DECISION WITH MS. HAYNES ABOUT THE CHOICES. RATIONAL CHOICES. CHOICES PEOPLE COULD MAKE, BECAUSE EVEN DR. BEHRMANN SAID THAT WE KNOW WHAT PARANOID PERSONALITY TYPE --- IT'S NOT JUST A PERSON CHOOSES TO BE PARANOID OR CHOOSES TO ACT A CERTAIN WAY IN CERTAIN SITUATIONS, AND I DON'T KNOW IF YOU ALL HEARD THAT. SO, IN A LOT OF WAYS, IT'S NOT A CONSCIOUS DECISION, BUT BECAUSE OF WHO YOU ARE AND WHAT YOU'VE GONE THROUGH AND YOUR PERSONALITY AND WHAT HAS DEVELOPED. HE EVEN SAID, AND I THINK MS. JOHNS WAS TRYING TO GET HIM TO POINT OUT THAT SHE HAD --- HE INDICATED SHE HAD CLINICAL PSYCHOSIS, AND RIGHT NOW SHE'S ON PSYCHOTIC MEDICATION.

SO, IN THE DSM-4, WHICH IS THE TEXTBOOK FOR DIAGNOSING MENTAL ILLNESS, THEY WENT THOUGHT PARANOID PERSONALITY TYPE, AND SURE ENOUGH, SHE FIT AT LEAST FOUR OUT OF SIX OF THOSE, BUT NOTHING IN THERE DID IT INDICATE

SHE COULD HAVE KILLED HER HUSBAND, AND SHE CERTAINLY HAD THE MENTAL CAPACITY. SHE WOULD HAVE THE MALICE AFORETHOUGHT AND THE INTENT TO KILL HIM. SHE SURE COULD HAVE DONE IT AND NOT DONE IT IN BROAD DAYLIGHT IN THE CAR WITH HIM IN BROAD DAYLIGHT.

IN FACT, THE EVENING BEFORE, YOU HEARD THE TESTIMONY, SHE HAD A KNIFE, YOU KNOW. AT THAT TIME, SHE WASN'T HEARING VOICES, AND YOU KNOW, SHE, I GUESS, UNDER THE CIRCUMSTANCES WAS PRETTY REASONABLE. SHE WAS UPSET OBVIOUSLY. BUT YOU KNOW, THAT WOULD HAVE BEEN A PERFECT OPPORTUNITY RIGHT THERE, YOU KNOW, AT HER HOUSE WITH NO WITNESSES AROUND, AND SHE DIDN'T.

AND YOU ALSO HEARD A LOT ABOUT HER STATE OF MIND AS FAR AS HER LIMITED COPING SKILLS. I THINK DR. BEHRMANN -- AND YOU HAVE TO UNDERSTAND HE MADE HIS INITIAL OPINION DECEMBER 6, 1996, AND HE WASN'T THERE THE DATE OF THE INCIDENT. DR. WATTS WASN'T THERE. MS. TYLER WAS THERE.

AND ON THAT PARTICULAR --- WHEN HE MADE THE DIAGNOSIS AT THAT TIME, HE DIDN'T HAVE --- VERY LITTLE SOCIAL HISTORY. BUT THERE WAS SOME CONCERN AND SOME PRELIMINARY FINDING OF, MAYBE, SOME BI-POLAR, OR AT LEAST SOMETHING --- THERE WAS PRELIMINARY DETERMINATION OF A MAJOR MENTAL ILLNESS, AND THEY REALLY DIDN'T KNOW MS. TYLER. THAT'S BASICALLY WHAT IT BOILS DOWN TO. THEY DIDN'T KNOW HER. THEY DIDN'T KNOW WHAT SHE HAD BEEN

AND I DIDN'T KNOW MR. TYLER, AND I'M NOT HERE TO BEAT UP ON HIM, BUT WHAT I'M HERE TO SHOW IS WHAT WAS GOING THROUGH HER MIND.

AND SO, YOU HAD A LADY WHO GOT UP HERE WHO DOESN'T HAVE ANYTHING TO GAIN BY COMING IN HERE, AND SHE SAID YEAH, I WAS SEEING MR. TYLER AT ONE TIME, AND HE WAS AT THE DEPARTMENT OF CORRECTIONS, AND I WAS GIVING HIM --- SENDING HIM STUFF AND VISITING HIM, AND HE CAME BY MY HOUSE, AND I DIDN'T KNOW HE WAS MARRIED, BECAUSE HE DIDN'T TELL ME THAT, AND HE CAME OVER, AND HE SPENT THE NIGHT, AND SHE CAME BY, AND YOU KNOW, I DIDN'T HAVE ANY WORDS WITH HER, BECAUSE SHE WANTED TO SEE HER HUSBAND, I WAS SHOCKED HE DIDN'T TELL ME HE WAS MARRIED, AND THEN SOMETHING THAT'S VERY COMPELLING. HE CAME DOWN STAIRS, AND HE SAID, I DON'T WANT TO GO ANYWHERE WITH YOU. I DON'T WANT TO BE WITH YOU. I DON'T WANT YOU. YOU'RE UGLY, AND HE DIDN'T SAY IT BEHIND HER BACK. HE DIDN'T SAY IT TO OTHER PEOPLE TO HERSELF WITH NOBODY ELSE AROUND, BUT SAID IT IN FRONT OF THIS OTHER WOMAN.

YOU KNOW, SHE WENT BACK TO HIM. HE HAD CALLED HER OVER AT CORA LEE FULLER'S HOUSE, AND SHE GOES AND GETS HIM. AND THERE WERE OTHER OCCASIONS, LADIES AND GENTLEMEN. THIS IS WHAT I WANT YOU TO SEE AS FAR AS WHAT HER STATE OF MIND WAS, BECAUSE THERE WERE OTHER OPPORTUNITIES, IF YOU'LL LOOK BACK ON THE EVIDENCE, WHERE

IS AN INFERENCE OF GUILT.

WHEN SHE STAYED ON THE SCENE AND SHE DISROBED HERSELF IN BROAD DAYLIGHT, AND SHE WAS WALKING AROUND WITH HER HUSBAND, AND I THINK THESE THINGS WOULD GO TO NEGATE MALICE. SURE, AN ACT HAD BEEN COMMITTED, AND THEN WE'LL HAVE TO BACK UP AGAIN AS FAR AS WHAT HER INTENT WAS AT THAT TIME.

AT LEAST FOR MALICE AFORETHOUGHT, IT FAILS. ON A MURDER CHARGE, THE STATE HAS FAILED TO MEET THEIR BURDEN, ONE, ON THE PROXIMATE CAUSE ISSUES. TWO, THE FACT THAT SHE DID NOT INTEND TO KILL HER HUSBAND, AND MS. HAYNES ASKED HER ON THE STAND, AND SHE SAID, WELL, THE STATEMENT HERE YOU DIDN'T SAY ON THERE THAT YOU INTENDED TO KILL YOUR HUSBAND. SHE SAID ON THERE SHE WANTED HIM TO FEEL THE PAIN --- I THINK, FEEL THE PAIN THAT --- WANTED TO SEE HIM BURN. I WANTED HIM TO HURT LIKE HE HURT ME.

LET'S TALK ABOUT THAT FOR A MOMENT, BECAUSE A LOT OF THAT ALSO GOES TO HER STATE OF MIND. AND YOU HEARD FROM --- EXACTLY WHAT HER STATE OF MIND WAS AT THE TIME. SOME OF THE THINGS THAT WERE GOING ON AND WHY WE TRIED TO GET OUT SOME OF THE THINGS THAT WERE HAPPENING TO HER HER WHOLE LIFE, BECAUSE WE HAVE TO VIEW THIS CASE BASED ON MS. TYLER AND WHAT HER STATE OF MIND WAS, NOT WHAT WE WOULD HAVE DONE IF OUR SPOUSE WAS CHEATING ON US, BECAUSE IT DIDN'T INVOLVE JUST CHEATING, AND I THOUGHT ABOUT IT,

THEY ARE RELYING ON INFERRED MALICE, AN INFERENCE.

LET ME TELL YOU SOMETHING ABOUT AN INFERENCE, LADIES AND GENTLEMEN. UNDER THE LAW, THE JUDGE WILL CHARGE YOU THAT FOR EVERY INFERENCE THAT THE STATE RELIES ON THAT'S ALL IT IS. IT'S NOT CONCLUSIVE. IT'S NOT CONCLUSIVE. IT IS NOT CONCLUSIVE. AND WHAT THAT MEANS IS THAT IF THERE IS ANOTHER INFERENCE THAT CAN BE EXPLAINED REASONABLE THAT'S IN FAVOR OF MS. TYLER, SHE'S ENTITLED TO THAT INFERENCE UNDER THE LAW. WE ALL ARE, NOT JUST MS. TYLER, BUT ANYBODY THAT'S CHARGED WITH A CRIME.

IN THIS CASE, LADIES AND GENTLEMEN, WHERE THEY HAVE FAILED TO MEET THE MALICE AFORETHOUGHT AS FAR AS HER STATE OF MIND FOR MURDER, NOT INTENT, NOT JUST INTENT, BUT THE MALICE AFORETHOUGHT, YOU CAN INFER, AND I'M NOT SURE WHAT ALL HAS BEEN SUGGESTED TO YOU AS AN INFERENCE, BUT I WANT TO ALSO THINK ABOUT THE THINGS THAT NEGATE --- THE INFERENCES THAT WOULD GO AGAINST MALICE. AND WHAT WOULD THOSE BE? WELL, WE CERTAINLY KNOW ON THE DATE OF THE INCIDENT SOME THINGS THAT WERE GOING ON FROM EVEN THE STATE'S WITNESSES WHEN THEY GOT TO THE SCENE.

AS FAR AS HER DISROBING HERSELF, AND AT THIS TIME, LADIES AND GENTLEMEN, SHE WASN'T CHARGED WITH A THING, AND I CAN BET YOUR BOTTOM DOLLAR IF SHE HAD RUN FROM THE SCENE OR FLED FROM THE SCENE, THE STATE WOULD BE UP HERE, AND THEY WOULD SAY SHE WAS GUILTY BECAUSE OF --- FLIGHT

LADIES AND GENTLEMEN, THE TESTIMONY THAT YOU HAVE HEARD HERE TODAY IS REASONABLE THAT THE BURNS THAT ARE THE ACTIONS BY MS. TYLER WERE NOT THE PROXIMATE CAUSE OF HIS DEATH. NOW, THAT DOESN'T MEAN THAT YOU CAN'T CONSIDER WHETHER OR NOT SHE'S GUILTY OF SOMETHING ELSE, AND I'LL GET TO THAT IN A MOMENT, BECAUSE THERE ARE A LOT OF SCENARIOS HERE, BUT CERTAINLY ANY ISSUES OF PROXIMATE CAUSE --- THEY HAVEN'T ESTABLISHED.

MORE IMPORTANTLY, OR JUST AS IMPORTANTLY, THE STATE HAS TO SHOW THE ELEMENTS OF MENTAL STATE AND INTENT. AND IN EVERY CRIMINAL CASE, A PERSON HAS TO HAVE SOME KIND OF AN INTENT. IN THIS CASE, SHE HASN'T HAD AN INTENT TO KILL HER HUSBAND WITH MALICE AFORETHOUGHT, MURDER. SO, LET'S SAY ALREADY YOU'VE CROSSED OFF MURDER IF YOU BELIEVE THE PROXIMATE CAUSE ISSUE, BUT YOU CAN ALSO CROSS OFF MURDER AND HER STATE OF MIND. SHE DID NOT HAVE THE REQUISITES --- WHAT WE CALL IN THE LAW MENS REA FOR CRIMINAL INTENT TO COMMIT MURDER AND MALICE AFORETHOUGHT, WHICH REMINDS ME OF ANOTHER LEGAL COMPOSITION OF INFERENCES.

THE STATE IN THIS CASE IS RELYING ON IMPLIED MALICE. THERE'S NO SUCH MALICE IN THIS CASE. THERE IS NO OCCASION ANY WHERE YOU'VE SEEN WHERE MS. TYLER EXPRESSLY SAID I WANTED TO KILL MY HUSBAND --- I INTENDED TO KILL MY HUSBAND. SO, THIS IS NOT A CASE OF EXPRESSED MALICE.

DR. BURNS, DID NOT CAUSE DEATH. EVEN THOUGH IT'S INDICATED AS THAT ON THE DEATH CERTIFICATE.

SO, LADIES AND GENTLEMEN, WHAT I'M SAYING TO YOU IN THAT REGARD IS PROXIMATE CAUSE ISSUE IS THAT THE STATE MUST PROVE TO YOU BEYOND A REASONABLE DOUBT, AND LET ME JUST DIGRESS HERE FOR A MOMENT AND TALK ABOUT WHAT REASONABLE DOUBT IS, BECAUSE WE HEAR IT A LOT, AND SOMETIMES WE MAY USE IT AND NOT REALLY UNDERSTAND WHAT TYPE OF BURDEN IT IS.

IN CIVIL CASES, THERE'S PREPONDERANCE OF THE EVIDENCE, AND THAT'S WHERE WHOEVER WAS SUING A PERSON HAS TO SHOW 51 PERCENT THAT THEY'RE ENTITLED TO RECOVER --- 51 PERCENT IS GOOD ENOUGH. SO, IF THEY CAN SHOW BY 51 PERCENT THAT THEY'RE ENTITLED TO RECOVERY THEY'VE MET THEIR BURDEN OF PROOF. THAT'S NOT THE ISSUE IN THIS CASE. IT'S NOT SUFFICIENT.

THERE'S ALSO IN CIVIL CASES WHAT'S KNOWN AS CLEAR AND CONVINCING EVIDENCE, AND THAT HAPPENS A LOT IN FAMILY COURT, AND THAT'S PROVEN BY CLEAR AND CONVINCING COGENT EVIDENCE. SO, WE KNOW THAT'S SOMETHING MORE THAN 51 PERCENT, SOMETHING HIGHER THAN THAT. IT'S NOT SUFFICIENT --- YOU LET THE HIGHEST BURDEN --- THAT IS BEYOND A REASONABLE DOUBT. SO, WE KNOW IT CAN'T BE 51 PERCENT, AND I'M NOT EXACTLY SURE IN NUMBER TERMS WHAT CLEAR AND CONVINCING MEANS. BUT IT'S BEYOND A REASONABLE DOUBT.

PROVE THAT IT WAS INHALATION INJURY. HIS GASES WERE GOOD. IN FACT, DR. BURNS SAID THAT HE REVIEWED THE LUNGS, AND HE DIDN'T SEE ANY SIGN OF SOOT. CERTAINLY, THERE'S BEEN NO TESTIMONY ABOUT ANY KIND OF CARBON MONOXIDE POISONING IN THE LUNGS, AND EVEN WITH THE HEAT EXPOSURE THAT --- THERE ARE TWO TYPES OF --- THE UPPER AND LOWER INHALATION INJURIES, BUT EVEN IN THAT CASE, THAT THERE WAS NOT THE TYPE OF INJURIES THAT YOU COULD SEE THE ORGANS WHERE THEY WERE BURNED --- SHOW BURNED ORGANS.

NOW, DID THEY HAVE CRIMINAL INTENT? NO. NO. BUT I THINK IT'S A LEGITIMATE QUESTION AS TO WHETHER OR NOT THE BURNS WERE THE PROXIMATE CAUSE OF THE DEATH, OR WAS IT BECAUSE IN THEIR EFFORTS TO RESUSCITATE, OBVIOUSLY, THEY DETERMINED THAT THEY DID, AND IF FROM THAT DETERMINATION --- BECAUSE THEY TREATED HIM. UPON HIS ARRIVAL HE RESPONDED WELL TO THAT. AND THEY WERE CONCERNED ABOUT RHABODOMYOLYSIS. SO, THEY WERE PUMPING A LOT OF FLUIDS TO TRY TO GET THE REDNESS OR THE PIGMENTATION OUT OF HIS BLOOD TO CLEAR TO --- TO CLEAR HIS URINE, AND EVEN IT WAS INDICATED THAT WAS DONE, THAT THERE WAS SOME NOTATIONS IN THE MEDICAL RECORDS FROM AUGUSTA THAT THE RHABDOMYOLYSIS WAS CLEARING AND IMPROVING AND HIS URINE WAS CLEAR. AND THAT RHABDOMYOLYSIS, NOT JUST FROM DR. PETERSON, BUT ALSO FROM

INTO HIS BODY WITHOUT PROPERLY BEING MONITORED.

WHAT WAS IMPORTANT IN THIS CASE? IT IS IMPORTANT IN THIS CASE, BECAUSE THAT'S AN ELEMENT THAT THEY HAVE TO PROVE TO YOU BEYOND A REASONABLE DOUBT. WELL, NOT ONLY THAT --- SO, DR. BURNS GIVES THE BILATERAL LOBAR PNEUMONIA DIAGNOSIS ALSO. BUT THEN HE ALSO GIVES A CAUSE OF DEATH AS SEPSIS. AND I THINK IT WAS AT LEAST ESTABLISHED AT THE AUGUSTA BURN CENTER, AT LEAST FROM THE DEATH CERTIFICATE WHICH YOU'LL HAVE A COPY TO GO OVER, THEY DIDN'T LIST SEPSIS AS A CAUSE OF DEATH.

SEPSIS IS SOMETHING THAT OCCURS IN A LIVING PERSON, AND SURE, BACTERIA CAN FORM ON A PERSON'S INTERNAL ORGANS, BUT WHAT WAS GOING ON, HE WAS BEING INTRAVENOUSLY --- INTRAVENOUSLY MONITORED --- AND HE HAD UNDERGONE A PROCEDURE TO REMOVE A LOT OF THE SKIN TO REPLACE IT.

SO, THOSE CAUSES OF DEATH THAT DR. BURNS GIVES, AND HE DID NOT REVIEW THE MEDICAL RECORDS, AND HE'S THE PATHOLOGIST HERE, WERE DEFINITELY DIFFERENT FROM THOSE GIVEN FROM THE BURN CENTER, BECAUSE WHAT THEY SAID THE CAUSE OF DEATH WAS INHALATION INJURY, AND THEN DR. PETERSON, HOWEVER, MAY HAVE COME ACROSS TO YOU AS BEING BRASH, OR I DON'T KNOW HOW IT MAY HAVE COME ACROSS. HE'S A MAN WHO'S SEEN A THOUSAND OR MORE BURN PATIENTS, BUT WHAT HE INDICATED TO YOU WAS FIRST, YOU KNOW, WHEN YOU SAY ANYTHING ON A PIECE OF PAPER, BUT WHAT DO YOU HAVE TO

OR ANOTHER KNOW PEOPLE IN THE MEDICAL PROFESSION. I MAY MORE SO THAN A LOT OF OTHERS. IT'S NOT MY JOB TO BEAT UP ON THE DOCTORS. BECAUSE, LADIES AND GENTLEMEN, THERE IS PROOF IN THIS CASE, AND PROXIMATE CAUSE IS AN ISSUE. YOU KNOW WHAT? IT'S NOT JUST FROM DR. PETERSON, AND I KNOW DIFFERENT PEOPLE HAVE DIFFERENT PERSONALITIES. AND I DON'T KNOW HOW HIS PERSONALITY CAME ACROSS TO YOU, BUT LISTEN TO WHAT HE HAD TO SAY. BECAUSE IT'S IMPORTANT, THE PROXIMATE CAUSE. BUT GUESS WHAT? IT'S NOT JUST WHAT HE HAS TO SAY ABOUT PROXIMATE CAUSE IN THIS CASE. HIS OWN DOCTOR SAID --- DR. BURNS, WHO'S THE PATHOLOGIST IN THIS CASE --- GUESS WHAT? HE MADE A REPORT BEFORE HE REVIEWED THE MEDICAL RECORDS, AND I THINK THAT'S IMPORTANT IN THIS CASE. I REALLY DO. I THINK YOU ALL SHOULD CONSIDER THAT IN THIS CASE, BECAUSE HE JUST RECENTLY SAW THE MEDICAL RECORDS. AND ONE THING ABOUT THE LOBAR PNEUMONIA, WHICH HE INDICATED WAS THE CAUSE OF DEATH, WAS THAT HE HAD NOT SEEN CHEST X-RAYS FROM THE MEDICAL CENTER WHICH SHOWED THAT HIS X-RAYS WERE CLEAR, WERE CLEAR ON TWO OCCASIONS. AND THEN I THINK ON THE 27TH TOWARDS THE END OF --- WHEN MR. TYLER WAS ABOUT TO DIE, THEY COULD NOT OXYGENATE HIM BECAUSE HE HAD SO MUCH FLUID IN HIS LUNGS THAT THERE WAS SOME CONGESTION, BUT EVEN THE BURNS' MEDICAL RECORDS SHOWS THAT THAT WAS VOLUME RESUSCITATION FROM TOO MANY FLUIDS BEING PUMPED

HAVE THE BURDEN TO DO IT. BUT I'LL TELL YOU SOMETHING, LADIES AND GENTLEMEN, AS AN ATTORNEY FOR MS. TYLER, I KNOW I CAN SPEAK FOR MS. JOHNS AS WELL, IN INVESTIGATING THIS CASE, WE HAVE AN OBLIGATION AS HER ATTORNEYS THAT IF THERE IS EVIDENCE THAT CAN BE PRESENTED BEFORE YOU TO AT LEAST DISCUSS IT WITH HER, BECAUSE IT'S CERTAINLY DOES MAKE A BIG DIFFERENCE, AND THAT LEADS ME TO SOMETHING ELSE. SO, THERE ARE TWO THINGS THAT WE'RE TALKING ABOUT, HER STATE OF MIND AND PEOPLE THAT TALKED ABOUT HER STATE OF MIND AND A DIAGNOSIS OF WHAT SHE WAS GOING THROUGH AT THE TIME OF THE INCIDENT, ALSO PROXIMATE CAUSE. BECAUSE I DON'T HAVE ANOTHER CHANCE TO COME BACK BEFORE YOU, I DON'T KNOW WHAT THE STATE IS GOING TO SAY, I CAN ANTICIPATE THEY MAY SAY DON'T LET ME MUDDY THE WATER. DON'T LET THEM PUT A SMOKEY MIRROR.

LADIES AND GENTLEMEN, THAT'S NOT MY JOB. I WOULD STAND TO SAY THAT EVIDENCE THAT THE DEFENSE PUT UP IS VERY CREDIBLE. THEY HAVE TO PROVE THAT INDICTMENT. THE CHARGING PAPER IS NOT EVIDENCE. THEY HAVE TO SHOW THAT SHE HAD THE INTENT TO KILL HER HUSBAND WITH MALICE AFORETHOUGHT IN ORDER TO AND THAT HER ACTIONS WERE THE PROXIMATE CAUSE OF HIS DEATH.

DID THE DOCTORS AT THE BURN CENTER CAUSE HIS INJURIES, CAUSE HIM TO BE BROUGHT THERE? NO. AND I'M NOT BEATING THE FACTS. I'M SURE WE ALL IN --- SOMEWHERE

SO, IN MANY RESPECTS, WHAT MS. JOHNS TOLD YOU WILL COME IN FULL CIRCLE WHEN SHE INDICATED THAT THERE WERE TWO ISSUES IN THIS CASE. ONE IS STATE OF MIND OF MS. TYLER ON SEPTEMBER 26, 1996. AND IT'S NOT FAR FETCHED TO BELIEVE. IN FACT, YOU'VE HEARD EVIDENCE FROM THIS STAND RIGHT HERE, NOT JUST FROM MS. TYLER, FROM THE EMAL, MR. ADLEY, FROM MS. SMITH, FROM DR. BEHRMANN, THAT A LOT OF THINGS WERE GOING ON WITH MS. TYLER THROUGHOUT HER LIFE, THINGS THAT HAD BEEN DOCUMENTED PRIOR TO 1996.

SO, WHEN MS. JOHNS SAID THAT THIS CASE IS ABOUT MORE THAN JUST THE DATE OF 1996, IT IS, IN DETERMINING HER STATE OF MIND AND WHAT ALL WAS GOING ON. WE HAVE TO WALK IN THE SHOES OF MS. TYLER, BECAUSE THAT'S WHAT YOU GOT TO BASE THIS CASE ON, NOT HOW YOU WOULD HAVE ACTED UNDER THE CIRCUMSTANCES, BUT BASED ON THE EVIDENCE THAT YOU HEARD THAT WAS GOING ON, AND I THINK IT'S PRETTY FAIR TO SAY THAT THE MAJORITY IF NOT ALL OF US WOULDN'T WANT TO WALK IN HER SHOES, BUT I THINK FROM THIS CASE BECAUSE WE ARE TALKING ABOUT WHAT A PERSON'S STATE OF MIND --- AND WE'VE GOT TO TALK ABOUT NOT JUST ANYBODY BUT WHAT HER STATE OF MIND WAS. SO, YOU HAVE TO LOOK AT IT.

HER TESTIMONY --- WELL, LET ME BACKTRACK FOR A MOMENT AND SAY THAT SHE DIDN'T HAVE TO PRESENT ANY EVIDENCE IN THIS CASE. THE STATE HAS THE ENTIRE BURDEN OF PROOF. THEY'VE GOT THE BURDEN. IT'S THEIR JOB. THEY

LADIES AND GENTLEMEN OF THE JURY, WE, TOO, KNOW THAT YOU DIDN'T HAVE A CHOICE IN THE MATTER, BUT YOU ALL HAD TO BE HERE, BUT WE DO APPRECIATE YOUR ATTENTIVENESS, AND IN MANY RESPECTS TO TRY TO MAKE SENSE OF WHAT APPEARS TO BE A SENSELESS ACT, AND THAT'S BASICALLY WHAT YOU'RE GOING TO TRY TO DO IN THIS CASE, AND IS THERE SYMPATHY INVOLVED --- AND YOU KNOW IT IS TERRIBLE WHAT HAPPENED? IT IS. AND IS IT OKAY TO FEEL SYMPATHY --- SYMPATHY FOR MR. TYLER --- SYMPATHY FOR MS. TYLER? IT IS. CAN YOU BASE YOUR DECISION ON SYMPATHY ALONE? NO, YOU CANNOT. YOU HAVE TO BASE YOUR DECISION FROM THE EVIDENCE, FROM THE EVIDENCE ON THE STAND.

AND WHAT OCCURRED TO ME IN TRYING TO THINK ABOUT WHEN WE FIRST CAME HERE ON MONDAY WHAT MR. SORENSON SAID. THAT YOU KNOW THERE WERE MANY OTHER RECOURSES IN THIS CASE. JUST LISTENING THROUGHOUT THE CASE AND WHAT'S IMPORTANT IN THIS CASE IS THAT THERE WERE OTHER RECOURSES OBVIOUSLY, BUT WHAT WE'RE DEALING WITH IS WHAT MS. TYLER'S STATE OF MIND WAS IN 1996, NOT WHAT WAS MS. HAYNES STATE OF MIND, NOT WHAT MR. SORENSON'S STATE OF MIND, MY STATE OF MIND, MS. JOHNS' STATE OF MIND, ANY OF YOUR STATE OF MINDS. WHAT WAS HER STATE OF MIND, AND WHAT DO YOU BASE IT ON, LADIES AND GENTLEMEN? WELL, IN LARGE, YOU'VE GOT TO BASE IT ON --- YOU HAVE TO BASE IT ALL ON THE EVIDENCE THAT WAS PRESENTED ON THIS STAND.

DO THAT, YOU JUDGE THEIR CREDIBILITY. THAT'S THE MOST IMPORTANT THING HERE, CREDIBILITY OF THE WITNESSES. WHAT DO THEY STAND TO GAIN? WHAT DO THEY STAND TO LOSE BY COMING IN HERE? DID THEY HAVE ANY BIASES OR PREJUDICES? IS THERE A REASON THEY'RE TELLING YOU WHAT THEY'RE TELLING YOU? THAT'S WHAT'S IMPORTANT. CREDIBILITY OF WHO TOOK THIS STAND. WHY ARE THEY TELLING US THAT? WHAT'S THEIR MOTIVATION? JUDGE THE CREDIBILITY OF THE WITNESSES, AND THAT WILL HELP YOU JUDGE THE EVIDENCE AND HOW YOU APPLY IT TO THE LAW IN THIS CASE AND THE FACTS AS YOU WILL FIND AS THEY OCCURRED ON SEPTEMBER 26, 1996.

I'M GOING TO SIT DOWN, AND MS. JOHNS OR MS. BELL, I'M NOT SURE, WILL COME UP AND SPEAK TO YOU ALL. AND AFTER THEY FINISH, I'M GOING TO HAVE A CHANCE TO COME BACK UP AND TALK TO YOU AGAIN, AND I JUST ASK THAT DURING ALL THE COUNSELS' CLOSING STATEMENTS AND ARGUMENTS THAT YOU KEEP AN OPEN MIND. KEEP AN OPEN MIND. HEAR THE CHARGES FROM HIS HONOR. THEN GO BACK IN THE JURYROOM, AND DURING YOUR DELIBERATIONS MAKE YOUR DECISION.

THE COURT: FOR THE DEFENDANT.

MS. BELL: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

THE COURT: YES.

CLOSING STATEMENT

BY MS. BELL

TYLER'S BURN INJURIES OVER HIS HEAD, ARMS, LEGS AND CHEST AREA, IF THEY WERE THE CAUSE OF HIS DEATH AND NOT THE BURNS, THEN YOU SKIP PAST MURDER, BUT IF YOU DON'T BELIEVE THE DOCTORS CAUSED HIS DEATH AND YOU BELIEVE THAT LINDA TYLER'S ACTIONS CAUSED HIS DEATH, THEN YOU CONSIDER MURDER, AND YOU DON'T WORRY ABOUT THESE. AND UNDER MURDER YOU CONSIDER, IS SHE GUILTY. IS SHE GUILTY BUT MENTALLY ILL WHERE SHE COULDN'T MAKE CHOICES, SHE COULDN'T CONFORM TO THE LAW, THEN SHE'S NOT GUILTY OR SHE'S NOT GUILTY BY REASON OF INSANITY, AND I SUBMIT TO YOU OUT OF LINDA TYLER'S OWN MOUTH CAME THE WORDS, I KNEW WHAT I WAS DOING WAS WRONG, AND THAT'S THE TEST. DID SHE KNOW WHAT SHE WAS DOING WAS WRONG? THE DIFFERENCE BETWEEN RIGHT AND WRONG, AND I SUBMIT TO YOU THERE'S NO EVIDENCE THAT SHE DIDN'T KNOW THE DIFFERENCE. IN FACT, ALL THE EVIDENCE FROM EVERY DOCTOR, DEFENSE AND STATE, AND THE DEFENDANT'S OWN MOUTH IS THAT SHE KNEW WHAT SHE WAS DOING WAS WRONG. SO, INSANITY IS NOT AN APPROPRIATE VERDICT.

ONE OF THE THINGS THAT YOU'RE GOING TO BE ASKED TO CONSIDER WHEN YOU GO BACK THERE AND TRYING TO SORT OUT ALL THIS EVIDENCE AND ALL THE TESTIMONY THAT YOU'VE HEARD AND SORTING THROUGH ALL THE EVIDENCE THAT'S BEEN SUBMITTED UP HERE, THINK ABOUT WHO CAME TO THIS WITNESS STAND. THINK ABOUT WHAT THEY HAD TO SAY. AND WHEN YOU

DIFFERENT CIRCUMSTANCES OF AGGRAVATION THAT YOU CAN CONSIDER. YOU CAN CONSIDER A CIRCUMSTANCE OF AGGRAVATION AS BEING SERIOUS BODILY INJURY, THE USE OF A DEADLY WEAPON. IF THERE'S AGE DIFFERENCE IN THE PARTIES. IF THE PERSON WHO'S INFLICTED THE INJURIES IS A YOUNGER PERSON AND THE PERSON WHO IS INJURED IS REALLY, REALLY OLD, OR THERE'S A GREAT DISPARITY IN THEIR PHYSICAL CONDITION, ONE'S BIG AND ONE'S LITTLE, YOU CAN CONSIDER THAT AS AGGRAVATION.

THOSE ARE THE DIFFERENT THINGS THAT CAN AGGRAVATE AN ASSAULT AND BATTERY TO THE LEVEL OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. AND AGAIN, YOU'LL HAVE THE SAME CHOICES UNDER THAT AS YOU WILL UNDER MURDER --- GUILTY, GUILTY BUT MENTALLY ILL, NOT GUILTY, OR NOT GUILTY BY REASON OF INSANITY.

AND THEN, OF COURSE, YOU WILL JUST HAVE THE NOT GUILTY. IF YOU BELIEVE LINDA TYLER IS NOT GUILTY, THE STATE HAS NOT PROVEN THIS CASE BEYOND A REASONABLE DOUBT, THEN YOU VOTE NOT GUILTY.

JUST TO GO BACK OVER THIS JUST BRIEFLY TO TRY TO WRAP IT UP --- FIRST, CONSIDER MURDER. GO TO MURDER FIRST. IF YOU THINK SHE'S NOT GUILTY OF ANYTHING, THEN YOU VOTE NOT GUILTY, AND YOU'RE DONE. IF YOU THINK THAT THE DOCTORS AT THE AUGUSTA MEDICAL CENTER, THE NURSES THERE WERE GROSSLY NEGLIGENT IN THEIR TREATMENT OF VAN

TYLER DO YOU EVER CONSIDER ANYTHING BUT MURDER, ONLY THEN.

BUT IF YOU FIND THE NURSES AND THE DOCTORS CONTRIBUTED TO HIS DEATH AND THAT THEY WERE GROSSLY NEGLIGENT AND BECAUSE OF THAT GROSS NEGLIGENCE ON BEHALF OF THOSE DOCTORS TRYING TO SAVE HIS LIFE THAT THAT'S WHY HE DIED AND NOT BECAUSE OF THE BURNS, THEN YOU LOOK AT ASSAULT AND BATTERY WITH INTENT TO KILL, AND YOU GO THROUGH THE SAME CHOICES UNDER ASSAULT AND BATTERY WITH INTENT TO KILL THAT YOU DID UP UNDER MURDER, GUILTY, GUILTY BUT MENTALLY ILL, NOT GUILTY, AND NOT GUILTY BY REASON OF INSANITY.

BUT IF YOU DON'T EVEN THINK IT RISES TO THAT LEVEL AND YOU THINK THAT THE DOCTORS AND THE NURSES AT THE AUGUSTA MEDICAL CENTER WERE GROSSLY NEGLIGENT AND THAT'S WHAT KILLED HIM AND NOT THE BURNS, AND YOU DON'T THINK IT IS ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE YOU DON'T THINK SHE MEANT TO KILL HIM WHEN SHE POURED GAS OVER HIS HEAD AND WANTED TO SEE HIM BURN AND LIT HIM UP WITH THE CIGARETTE LIGHTER AND LEFT HIM IN THE CAR TO BURN, THEN YOU GO TO ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, AND QUITE BASICALLY, IT'S THE SAME AS ASSAULT AND BATTERY, AN UNLAWFUL ACT OF VIOLENT PHYSICAL INJURY TO THE PERSON OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION. AND THERE'S A LOT OF

CAME IN HERE AND SAID THE NURSES AT THE AUGUSTA BURN CENTER WERE THE REASON FOR HIS DEATH, IF YOU BELIEVE THAT, IF YOU BELIEVE THAT WAS THE PROXIMATE CAUSE OF HIS DEATH, THAT THE BURNS WERE NOT THE PROXIMATE CAUSE OF HIS DEATH, THEN YOU GO TO ASSAULT AND BATTERY WITH INTENT TO KILL, BUT I SUBMIT TO YOU THAT IF YOU DON'T BELIEVE THE NURSES KILLED HIM, AND YOU DON'T BELIEVE THE AUGUSTA BURN CENTER KILLED HIM, THEN YOU GO TO MURDER AND YOU DON'T WORRY ABOUT THE REST. BECAUSE IF THE BURNS WERE THE PROXIMATE CAUSE OF HIS DEATH --- WITHOUT THOSE BURNS, HE WOULDN'T BE AT THE AUGUSTA MEDICAL CENTER, AND THE STANDARD IS NOT WHETHER THOSE DOCTORS WERE NEGLIGENT AND DID SOMETHING WRONG --- OF COURSE, YOU CAN ALWAYS SAY THAT YOU MIGHT HAVE DONE SOMETHING BETTER, OR A DOCTOR COULD HAVE DONE SOMETHING A LITTLE BIT BETTER, BUT THAT'S NOT THE STANDARD. THE STANDARD IS THAT THE DOCTORS WERE GROSSLY NEGLIGENT.

IF YOU'LL REMEMBER, I DON'T THINK YOU'VE HEARD ONE PERSON COME UP HERE AND SAY GROSSLY NEGLIGENT. DR. PETERSON NEVER USED THOSE WORDS. HE SAID A BAD JOB. I SUBMIT TO YOU, DON'T YOU THINK IF HE HAD THOUGHT IT WAS GROSSLY NEGLIGENT HE WOULD HAVE SAID THOSE WORDS? ONLY, ONLY COULD YOU FIND THE DOCTORS' AND THE NURSES' CARE IN AUGUSTA WERE GROSSLY NEGLIGENT TO A POINT WHERE THAT'S WHAT KILLED HIM AND NOT THE BURNS INFLICTED BY LINDA

TO VAN TYLER WHEN SHE POURED A 20 OUNCE PEPSI SODA BOTTLE FULL OF GAS OVER HIS HEAD AND LIT HIM ON FIRE, IF SHE DIDN'T HAVE MALICE WHEN SHE DID THAT, THEN YOU GO TO ASSAULT AND BATTERY WITH INTENT TO KILL. I APOLOGIZE FOR MY WRITING. I'M TRYING TO WRITE FAST.

ASSAULT AND BATTERY WITH INTENT TO KILL IS BASICALLY THAT THE PERSON DIDN'T DIE. AND ASSAULT IS WHEN YOU THREATEN TO HARM SOMEONE. LIKE, IF I COME UP TO SOMEONE AND I GO LIKE THIS, AND I HAVE THE PRESENT ABILITY TO CARRY THROUGH WITH IT, THREATENING HIM. IF I ACTUALLY WENT THROUGH WITH THE PUNCH AND CONNECTED AND HIT HIM, THAT'S THE BATTERY. SO, THE ASSAULT IS THE THREAT AND THE PRESENT ABILITY TO CARRY THROUGH WITH IT. THE BATTERY IS THE CONNECTION, THE TOUCHING.

WITH INTENT TO KILL CAN BE THROUGH AN UNLAWFUL ACT OF VIOLENT INJURY TO THE PERSON OF ANOTHER WITH INTENT TO KILL IS STILL MALICE --- EITHER EXPRESSED OR IMPLIED. AND YOU LOOK AT WAS A DEADLY WEAPON INVOLVED. WE SUBMIT GASOLINE WAS INVOLVED. THAT'S A DEADLY WEAPON, BECAUSE UNDER THE LAW A DEADLY WEAPON CAN BE ANY ARTICLE OR SUBSTANCE THAT IS LIKELY TO PRODUCE DEATH AND/OR GREAT BODILY INJURY, WHICH OF COURSE, GASOLINE CAN. THAT'S THE SECOND ONE YOU LOOK AT.

IF YOU DON'T THINK THAT HE DIED AS A RESULT OF THE BURNS, IF YOU BELIEVE THE TESTIMONY OF DR. PETERSON WHO

IT, THEY'VE PROVED IT, BUT SHE'S MENTALLY ILL, AND SHE COULDN'T STOP HERSELF. SHE COULDN'T CONFORM HER CONDUCT. IN DETERMINING THAT, YOU REMEMBER WHAT PEOPLE SAID WHEN THEY CAME TO THE WITNESS STAND. WHAT DR. SCHWARTZ-WATTS SAID IS THAT SHE'S GUILTY BUT MENTALLY ILL. SHE COULDN'T CONFORM HERSELF, BUT WHAT DR. BEHRMANN TOLD YOU IS THAT SHE COULD. SHE MADE CHOICES. AND REMEMBER WHAT LINDA SAID, MS. TYLER, AS TO THE CHOICES THAT SHE MADE THAT DAY. AND I'LL GET MORE INTO THAT LATER ON. BUT THAT'S WHAT YOU HAVE TO DETERMINE IN THAT VERDICT.

THE FINAL VERDICT WILL BE NOT GUILTY BY REASON OF INSANITY. AND THAT VERDICT, QUITE SIMPLY, MEANS SHE'S NOT GUILTY BECAUSE SHE'S INSANE. AND THE TEST IN SOUTH CAROLINA FOR INSANITY IS DID THAT PERSON KNOW RIGHT FROM WRONG. NO EXPERT HAS TAKEN THIS STAND AND SAID THAT LINDA TYLER DID NOT KNOW RIGHT FROM WRONG. NO ONE HAS TAKEN THE STAND AND SAID LINDA TYLER DID NOT KNOW RIGHT FROM WRONG. IN FACT, ALL THE EVIDENCE THAT CAME FROM THIS STAND FROM THE STATE AND THE DEFENSE IS THAT SHE DID KNOW RIGHT FROM WRONG. SHE KNEW WHAT SHE WAS DOING WAS WRONG. SO, THE STATE WOULD SUBMIT TO YOU --- DON'T EVEN CONSIDER THAT ONE.

THE NEXT CHARGE YOU'RE GOING TO LOOK AT IS IF YOU DON'T THINK IT'S MURDER, IF YOU DON'T THINK THAT SHE HAD MALICE OR AN EVIL HEART TRYING TO DO GREAT BODILY INJURY

MALICE. EXPRESS MALICE BASICALLY IS I'M GOING TO KILL YOU. IMPLIED MALICE IS WHAT IT SAYS, LYING IN WAIT, OR IT CAN BE INFERRED BY THE USE OF A DEADLY WEAPON, AND A DEADLY WEAPON DOES NOT HAVE TO MEAN A KNIFE, A GUN OR SOME OBJECT. IT COULD BE A SUBSTANCE. ANY SUBSTANCE OR ARTICLE THAT IS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY, GREAT BODILY INJURY, AND I SUBMIT TO YOU UNDER THE LAW OF THE STATE, GASOLINE CAN BE A DEADLY WEAPON.

YOU'RE GOING TO CONSIDER THE OFFENSE OF MURDER. AND UNDER THAT CHARGE, YOU'RE GOING TO CONSIDER WHETHER SHE IS GUILTY, GUILTY BUT MENTALLY ILL, NOT GUILTY, OR NOT GUILTY BY REASON OF INSANITY.

THE WAY YOU REACH THOSE VERDICTS UNDER MURDER IS YOU LOOK AT THE EVIDENCE, AND THE EVIDENCE YOU CONSIDER IS THE EVIDENCE THAT CAME FROM THIS WITNESS STAND AND YOU HEARD FROM THE WITNESSES, BOTH FOR THE STATE AND THE DEFENSE. YOU HEARD SEVERAL EXPERTS. YOU HEARD DR. SCHWARTZ-WATTS. YOU HEARD DR. BEHRMANN, AND YOU ALSO HEARD DR. SHEA, AND YOU ALSO HEARD FROM LINDA TYLER.

GUILTY --- YOU ALL KNOW WHAT THAT MEANS. THEY EITHER DID IT OR HE DIDN'T DO IT. THAT'S GUILTY AND NOT GUILTY. NOW, THE TWO YOU MAY HAVE SOME WANDERS ABOUT IS GOING TO BE GUILTY BUT MENTALLY ILL OR NOT GUILTY BY REASON OF INSANITY.

GUILTY BUT MENTALLY ILL, QUITE SIMPLY, MEANS SHE DID

TO COME UP TOMORROW. WE CAN DOUBT THAT WE'RE EVER GOING TO GET OUT OF THIS COURT HOUSE. BUT IS THAT REASONABLE?

THERE'S GOING TO BE SEVERAL VERDICTS IN THIS CASE, AND I THINK THE EASIEST WAY TO EXPLAIN THEM TO YOU IS TO SHOW YOU A DIAGRAM. THE FIRST OF THESE VERDICTS YOU WILL BE ASKED TO CONSIDER IS MURDER. AND MURDER, QUITE SIMPLY, IS THE UNLAWFUL KILLING OF ANOTHER HUMAN BEING WITH MALICE AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. AND THE UNLAWFUL KILLING FOR WHICH MS. TYLER IS ON TRIAL FOR IS THE UNLAWFUL KILLING OF VAN TYLER BACK ON SEPTEMBER 26, 1996. THE REST OF THAT DEFINITION IS WITH MALICE AFORETHOUGHT.

SPECIFICALLY, MALICE IS A HEART BENT ON MISCHIEF. MALICE IS A LEGAL TERM. IT'S WRONGDOING. A HEART BENT ON MISCHIEF, EVIL. AFORETHOUGHT MEANS AT THE TIME THE BLOW IS STRUCK, AT THE TIME THE FIRE IS LIT, AT THE TIME THE TRIGGER IS PULLED. IT DOESN'T MEAN THAT SHE HAD TO PREMEDITATE LIKE YOU SEE IN THE MOVIES WHERE IT HAS TO BE REALLY PLANNED OUT, ALTHOUGH I SUBMIT TO YOU IN THIS CASE THERE WAS A PLAN. IT DOESN'T HAVE TO BE PREMEDITATED LIKE YOU SEE ON TV. IT'S AFORETHOUGHT FOR A SECOND. IT DOESN'T MEANS DAYS, DOESN'T MEAN HOURS, DOESN'T MEAN MINUTES. IT CAN BE A SECOND. IT MEANS AT THE TIME, NOT LATER.

IT CAN BE EXPRESSED MALICE OR IT CAN BE IMPLIED

TO TAKE PART IN DELIBERATIONS, ARE THE JUDGES OF THE FACTS. YOU 12, NO ONE ELSE, DECIDES WHAT HAPPENED TO VAN TYLER ON SEPTEMBER 26, 1996. THAT'S YOUR JOB. YOU'RE THE FINDERS OF THE FACTS.

BASICALLY, THIS PART OF THE OPENING STATEMENT I GET TO TALK TO YOU ABOUT THE LAW, AND AFTER I FINISH OUTLINING A LITTLE BIT OF THE LAW TO YOU, THEN I'M GOING TO SIT DOWN, AND EITHER MS. BELL OR MS. JOHNS WILL COME BEFORE YOU, AND THEY WILL GIVE YOU THE FACTS AND WHAT THEY CONTEND THE LAW IS RELEVANT IN THIS CASE IS, AND AFTER THEY FINISH WITH THAT, I'LL COME BACK BEFORE YOU, AND I'LL TALK TO YOU ABOUT THE FACTS, AND ABOUT HOW THE LAW AND THE FACTS MEET AND HOW THEY INTERTWINE, AND I WILL TELL YOU WHAT THE STATE SUBMITS YOU WILL FIND FROM THE FACTS AND THE LAW AS THEY INTERTWINE.

THE QUESTION RIGHT NOW IS JUST ON THE LAW. I JUST WANT TO LET YOU KNOW --- MR. SORENSON SAID IT IN HIS OPENING STATEMENT --- WE HAVE THE BURDEN OF PROOF, THE STATE DOES, AND THAT MEANS WE MUST PROVE EVERY ELEMENT BEYOND A REASONABLE DOUBT, AND I SUBMIT TO YOU, WE'VE DONE THAT.

AND THAT DOESN'T' MEAN EVERY POSSIBILITY. IT MEANS EXACTLY WHAT IT SAYS, A REASONABLE DOUBT, REASONABLE. BECAUSE AS YOU ALL KNOW, THROUGHOUT LIFE, YOU CAN DOUBT ANYTHING IN THE WORLD. YOU CAN DOUBT IF THE SUN IS GOING

HAPPENED TO HIM.

I WANT TO THANK YOU FOR THE ATTENTION THAT YOU PAID. YOU'VE ALL PAID CLOSE ATTENTION, AND WE PAID ATTENTION DURING THE TRIAL TO THE WAY THAT YOU ALL RESPONDED TO THE WITNESSES AND WATCHED THEM AS THEY CAME UP HERE AND TESTIFIED AND PRESENTED TO YOU WHAT THEY SAW, WHAT THEY DID BACK IN SEPTEMBER AND UP TO TODAY'S DATE, AND I APPRECIATE THAT. AND NOT ONLY DO I APPRECIATE THAT, BUT THE FAMILY OF VAN TYLER WHO HAS BEEN HERE THROUGHOUT THE TRIAL SITTING ON THAT FRONT ROW, THEY APPRECIATE THAT. THEY APPRECIATE YOUR TIME AND YOUR EFFORT AND THE CONSIDERATION YOU'VE GIVEN TO THIS TRIAL.

NOW, AS YOUR HONOR SAID, WE'RE AT THE STAGE OF THE TRIAL WHERE WE'RE GOING TO DO CLOSING STATEMENTS, AND BASICALLY, IT'S MY OPPORTUNITY TO COME BEFORE YOU ON BEHALF OF THE STATE AND TALK TO YOU A LITTLE BIT ABOUT THE LAW IN THIS CASE AND WHAT THE STATE SUBMITS TO YOU THE LAW IS.

NOW, HIS HONOR, JUDGE SHORT, IS GOING TO GIVE YOU THE LAW. ONCE ALL THE ATTORNEYS FINISH DOING THEIR CLOSING STATEMENTS, HE'S GOING TO READ THE LAW OF THIS STATE TO YOU, AND YOU'RE GOING TO TAKE THE LAW FROM JUDGE SHORT AS HE GIVES IT TO YOU, BECAUSE HE IS THE JUDGE OF THE LAW.

YOU, 12 AND THE ALTERNATE, IF THEY SHOULD BE DEEMED

IT IS NOW TIME, LADIES AND GENTLEMEN, FOR THE ATTORNEYS TO GIVE THEIR CLOSING ARGUMENTS TO YOU. MADAM FORELADY AND LADIES AND GENTLEMEN, I WOULD CAUTION YOU, THE CLOSING ARGUMENTS OF COUNSEL ARE NOT EVIDENCE AND SHOULD NOT BE CONSIDERED BY YOU AS EVIDENCE IN THIS CASE.

HOWEVER, CLOSING ARGUMENTS OF COUNSEL ARE AN IMPORTANT STAGE IN THE PROCEEDING, AND I WOULD ASK THAT YOU PLEASE GIVE THEM YOUR CLOSE ATTENTION.

SOLICITOR, FOR THE STATE?

MS. HAYNES: THANK YOU, YOUR HONOR, IF IT PLEASE THE COURT?

CLOSING STATEMENT

BY MS. HAYNES

LADIES AND GENTLEMEN OF THE JURY, FIRST OF ALL, I WANT TO THANK YOU FOR YOUR ATTENTION IN THIS CASE. I REALIZE IT'S NOT BEEN THE MOST PLEASANT TOPIC THAT WE'VE BEEN TALKING HERE TODAY ABOUT AND THE PAST COUPLE OF DAYS, AND I REALIZE THAT SOME OF THE TESTIMONY, IN FACT, HAS BEEN GRUESOME. IT'S HARD TO DEAL WITH, AND I APOLOGIZE FOR THAT, BUT UNFORTUNATELY, THOSE ARE THE FACTS THAT CAME INTO PLAY BACK ON SEPTEMBER 26, 1996. THAT'S WHAT HAPPENED TO VAN TYLER ON THAT DAY. AND I APOLOGIZE IF IT'S BEEN UNCOMFORTABLE FOR YOU TO HEAR ABOUT BURNS AND THE EXTENT OF HIS INJURIES AND HOW MUCH HIS BODY WAS BURNED, BUT UNFORTUNATELY, THAT'S WHAT

ALL RIGHT. ARE WE READY TO PROCEED?

MS. HAYNES: YES, YOUR HONOR.

THE COURT: ALL RIGHT. DOES THE STATE WAIVE OPENING, OR DO YOU WANT TO OPEN, OR DOES THE DEFENDANT REQUIRE THE STATE TO OPEN?

MS. HAYNES: I THINK WE'LL HAVE TO OPEN REGARDING THE DIFFERENT FORMS OF THE VERDICT AND EXPLAIN A LITTLE BIT OF THE LAW.

THE COURT: ALL RIGHT. BRING THEM IN.

MS. BELL: YOUR HONOR, CAN DR. BEHRMANN BE EXCUSED BEFORE CLOSING ARGUMENTS?

THE COURT: ALL RIGHT. DO YOU HAVE ANY OBJECTION? WE CAN EXCUSE HIM NOW, CAN'T WE?

MS. HAYNES: I DON'T HAVE ANY OBJECTION.

THE COURT: THANK YOU, DOCTOR. YOU'RE EXCUSED IF YOU WOULD LIKE TO BE. THANK YOU SO VERY MUCH FOR YOUR SERVICES.

(JURY RETURNS TO THE COURTROOM.)

BAILIFF: JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. MADAM FORELADY, LADIES AND GENTLEMEN, PLEASE GIVE ME YOUR ATTENTION. WE HAVE NOW REACHED THE STAGE IN THIS PROCEEDING WHEREIN YOU HAVE HEARD ALL OF THE EVIDENCE THAT YOU WILL HEAR FROM THIS WITNESS STAND, OR ALL OF THE TESTIMONY WHICH YOU WILL HEAR FROM THIS WITNESS STAND, AND ALL OF THE EXHIBITS WHICH WILL BE ADMITTED INTO EVIDENCE HAVE COME IN.

AGGRAVATED NATURE, CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE IS NOT --- OBVIOUSLY, IT'S NOT A LESSER INCLUDED IN ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, WHICH REQUIRES AN ADDITIONAL ELEMENT, BUT IT'S PARALLEL TO PENALTY.

THE COURT: I'LL RESPECTFULLY REJECT THAT. NOTE IT ON THE RECORD.

ANYTHING FURTHER FROM THE STATE OR THE DEFENDANT?

MS. HAYNES: NO, SIR, JUST THAT WE WOULD OBJECT TO INSANITY.

THE COURT: THANK YOU. WE'LL BE IN RECESS ABOUT FIVE MINUTES. LET ME SEE Y'ALL IN MY CHAMBERS, PLEASE.

(SHORT BREAK AT THIS TIME.)

(COURT RECONVENES.)

THE COURT: OKAY. AFTER CAREFULLY CONSIDERING THE ISSUE AND CONSIDERING THE MATTER AND NOTING THE CASES, STATE V.CAMPEN AND STATE V. LEWIS AND REVIEWING THE TESTIMONY, TESTIMONY OF THE DEFENDANT IN REGARD --- PORTIONS OF HER TESTIMONY ABOUT HEARING VOICES AT THE TIME OF THE ALLEGED OFFENSE, I'M GOING TO CHARGE LEGAL INSANITY. THE COURT STATE V. RIMER, WHICH INDICATES THAT ONCE A DEFENSE RAISED AN ISSUE OF INSANITY, SECTION 17-24-30, REQUIRES SUBMISSION OF ALL FOUR FORMS OF VERDICT AS NOTED IN THAT STATUTE. I'M GOING TO CHARGE LEGAL INSANITY.

THE COURT: ARE YOU FAMILIAR WITH THE CASE, SOLICITOR?

MS. HAYNES: NO, YOUR HONOR.

THE COURT: ALL RIGHT. IN JUST A MOMENT, I'LL GIVE YOU A CHANCE TO HAVE A LITTLE BREAK TO REVIEW IT.

ALL RIGHT. LET'S MOVE ON. IF I CHARGE INSANITY, I'LL PROBABLY BE USING MY CHARGE.

I BELIEVE WE'VE ALREADY COVERED INFERENCES, HAVE WE NOT, MS. BELL?

MS. BELL: YES, SIR.

THE COURT: ALL RIGHT. AND INSANITY, WE JUST DISCUSSED, OBVIOUSLY, IS AN AFFIRMATIVE DEFENSE IF I CHARGE IT. ALL RIGHT.

MS. BELL: AND YOUR HONOR, DO YOU HAVE A GUILTY BUT MENTALLY ILL?

THE COURT: YES. I WILL BE CHARGING THAT, OBVIOUSLY. ALL RIGHT. DOES THAT COVER ALL OF THAT?

MS. BELL: YES, YOUR HONOR.

THE COURT: SO, ALL WE NEED TO DO IS RESOLVE ONE ISSUE.

MS. BELL: YOUR HONOR, JUST ONE OTHER THING. MS. JOHNS AND I WERE TALKING ABOUT THE ABHAN CHARGE. RECENTLY ---

THE COURT: ABHAN?

MS. BELL: ASSAULT AND BATTERY OF A HIGH AND

MS. HAYNES: THERE'S NO EVIDENCE OF THAT, YOUR HONOR. WE WOULD OBJECT. THE FIRST DOCTOR SAID SHE WASN'T INSANE.

THE COURT: YES, MA'AM. BE GLAD TO HEAR FROM YOU.

MS. BELL: YOUR HONOR, I THINK IT'S STATE V. COPPIN.

THE COURT: YOU CITE STATE V. GRIMES AND STATE V. McINTOSH ON YOUR REQUEST TO CHARGE INSANITY.

MS. BELL: YOUR HONOR, AFTER THAT, YOUR HONOR, I CAME UP WITH SOME CASES.

THE COURT: BUT IS THERE ANY EVIDENCE OF LEGAL INSANITY IN THIS CASE FROM LAY WITNESSES OR EXPERTS? OBVIOUSLY, THERE'S EVIDENCE OF MENTAL ILLNESS, BUT THE DEFENSE'S OWN EXPERT TESTIFIED THAT IN HER OPINION THE DEFENDANT COULD CONFORM HER CONDUCT OF BEHAVIOR TO THE REQUIREMENTS OF THE LAW. DID SHE NOT?

MS. BELL: YOUR HONOR, IN STATE V. CAMPEN --- C-A-M-P-E-N, THAT'S A COURT OF APPEALS CASE, OPINION NUMBER 2497. IN THAT CASE, IT OCCURRED MARCH 5, 1996 --- IN THAT PARTICULAR CASE, THE EXPERT INDICATED THAT THE PERSON WAS --- EITHER WAS SANE OR WAS GUILTY BUT MENTALLY ILL, BUT BECAUSE THE DEFENDANT GOT UP AND TESTIFIED THAT HE WAS HEARING VOICES AT THE TIME OF THE INCIDENT ---

THE COURT: PASS THAT CASE UP FOR ME. DO YOU HAVE A COPY?

MS. BELL: YES, SIR.

THE COURT: WELL, I'M GOING TO CHARGE THAT THEY'RE ENTITLED TO EVERY REASONABLE DOUBT. I DON'T KNOW ABOUT THE INFERENCES. WHAT INFERENCES ARE YOU REFERRING TO?

MS. BELL: YOUR HONOR, I THINK IN THIS PARTICULAR CASE MALICE.

THE COURT: ALL RIGHT. I'LL CHARGE THAT. YOU DON'T OBJECT TO THAT, DO YOU, SOLICITOR?

MS. HAYNES: YES, SIR. I THINK IT TAKES REASONABLE DOUBT.

THE COURT: DID YOU READ THE REQUEST?

MS. HAYNES: OH, I SEE WHAT YOU'RE SAYING. YES, SIR, THAT'S THE LAW.

THE COURT: I'M GOING TO CHARGE THAT YOU HAVE TO PROVE MALICE BEYOND A REASONABLE DOUBT. I'M GOING TO BE CHARGING MALICE CAN BE INFERRED FROM THE CIRCUMSTANCES AND USE OF A DEADLY WEAPON AND ALL THE OTHER. THIS IS JUST --- I THINK SHE'S ENTITLED TO THE CHARGE.

MS. HAYNES: YES, SIR.

THE COURT: THANK YOU. I'LL CHARGE THAT ONE.

ALL RIGHT. THE NEXT ONE, REASONABLE DOUBT, PRESUMPTION OF INNOCENCE. THAT'S INCLUDED. I'M GOING TO CHARGE MY CHARGE. I'M GOING TO USE MY CHARGE FOR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. I'M GOING TO USE MY CHARGE ON MURDER AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. INSANITY?

MANSLAUGHTER. THANK YOU.

ALL RIGHT. THE NEXT CHARGE, NUMBER FIVE. THAT'S INCLUDED IN MY CHARGE. I WON'T USE YOUR WORDS. I'LL USE MINE. I DON'T FIND THREE APPLICABLE.

ALL RIGHT. THE NEXT CHARGE DOES NOT HAVE A NUMBER. IT HAS HOMICIDE-CAUSATION. ANY OBJECTION?

MS. HAYNES: I'M TRYING TO FIND HER NUMBER.

THE COURT: IT'S NOT NUMBERED, MADAM SOLICITOR.

MS. HAYNES: OKAY.

THE COURT: I BELIEVE IT IS A CORRECT STATEMENT OF THE LAW. THAT'S NOT ALL I WILL BE CHARGING ON THAT ISSUE, BUT I BELIEVE THAT IS A CORRECT STATEMENT UNDER THE LAW.

MS. HAYNES: YES, YOUR HONOR.

THE COURT: AND SO IS THE NEXT ONE, INTERVENING CAUSE. AND THE NEXT ONE I BELIEVE YOU WANT, DON'T YOU, SOLICITOR, MEDICAL CARE HOMICIDE?

MS. HAYNES: YES, YOUR HONOR, MAYBE NOT NECESSARILY IN THEIR WORDS, BUT YOU ADVISED ME YOU WERE GOING TO CHARGE ---

THE COURT: RIGHT, RIGHT. I DON'T KNOW THAT I WILL CHARGE THAT ONE VERBATIM, BUT IT WILL BE INCLUDED, ALL OF THOSE ISSUES REQUESTED.

MS. HAYNES: I BELIEVE THE NEXT ONE IS BASICALLY THE SAME THING.

WITHOUT MALICE WITH RECKLESS BEHAVIOR, RECKLESS FOR THE LIFE AND SAFETY OF OTHERS. WE FEEL THAT UNDER THE LAW AND THE FACTS THAT WERE PRESENTED IN THIS CASE THAT WE WOULD BE ENTITLED TO INVOLUNTARY.

THE COURT: ALL RIGHT. I DISAGREE. I DON'T THINK INVOLUNTARY MANSLAUGHTER IS APPROPRIATE. I'M NOT GOING TO CHARGE IT. DO YOU WANT VOLUNTARY MANSLAUGHTER?

MS. BELL: YOUR HONOR, I WOULD JUST ASK --- I KNOW THERE IS STATE V. CASEY. IN THAT PARTICULAR --- TWO CASES I'M THINKING OF WHERE INVOLUNTARY MANSLAUGHTER CHARGE --- ONE WAS STATE V. CASEY, AND THAT CASE IT APPEARS THAT IT WAS A CASE OF IMPERFECT SELF DEFENSE. A GUN WAS USED. SOMEONE WAS KILLED --- I COULDN'T TELL FROM THE CASE WHETHER OR NOT THERE WAS A REASONABLE BELIEF THAT THE PERSON WAS IN IMMINENT DANGER. IN THAT CASE, A DEADLY WEAPON WAS USED, AND THE JURY WAS PROPERLY INSTRUCTED ON INVOLUNTARY MANSLAUGHTER BECAUSE OF ---

THE COURT: ON VOLUNTARY?

MS. BELL: ON INVOLUNTARY.

THE COURT: I'VE RULED THAT INVOLUNTARY IS NOT APPLICABLE. BUT WHAT I'M ASKING YOU IS DO YOU WISH THE COURT TO CHARGE VOLUNTARY MANSLAUGHTER?

MS. BELL: BEG THE COURT'S INDULGENCE?

THE COURT: SURE. WELL, LET'S JUST DO IT THIS WAY. I'LL MAKE IT EASY FOR YOU. I'M GOING TO CHARGE VOLUNTARY

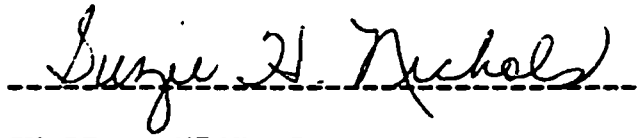
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

I, THE UNDERSIGNED, SUZIE H. NICHOLS, OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL IN CRIMINAL COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE NINETEENTH DAY OF MARCH, 1997.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL OR INTEREST TO ANY PARTY HERETO.



SUZIE H. NICHOLS

MY COMMISSION EXPIRES: 3/13/2000

TALK TO ANYBODY. YOU DO NOT HAVE TO TALK TO ANYONE. IF YOU CHOSE TO TALK TO SOMEONE, YOU CAN. IT IS UP TO YOU. IF ANYONE SHOULD CONTACT YOU AND ATTEMPT TO DISCUSS THIS CASE WITH YOU AND YOU DO NOT WISH TO DISCUSS IT WITH THAT PERSON, PLEASE SO ADVISE THEM. IF THEY CONTINUE TO PERSIST, TO HARASS OR BOTHER YOU ABOUT IT, PLEASE CONTACT YOUR CLERK OF COURT, ADVISE HER. SHE WILL IN TURN ADVISE THE COURT, AND I ASSURE YOU WE WILL TAKE CARE OF THAT MATTER.

ONCE AGAIN, I THANK YOU VERY, VERY MUCH FOR YOUR SERVICE. YOU ARE EXCUSED. THANK YOU.

(JURY LEAVES.)

MS. BELL: THANK YOU, YOUR HONOR. IF IT PLEASE THE COURT. AT THIS TIME, THE DEFENSE WOULD MOVE TO RENEW ALL PREVIOUS OBJECTIONS AND MOTIONS. IN THE ALTERNATIVE, WE WOULD ASK FOR A NEW TRIAL.

THE COURT: THANK YOU. ALL RIGHT. AFTER CONSIDERING THE MATTER, I RESPECTFULLY DENY YOUR MOTION. PLEASE NOTE FOR THE RECORD FOR APPEAL.

MS. BELL: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU. I ENJOYED TRYING THE CASE. ALL OF YOU ACTED VERY PROFESSIONALLY. THANK YOU VERY MUCH.

*****END OF TRANSCRIPT*****

CHOICES AT THAT TIME.

Q. IN YOUR OPINION, DOES SHE SUFFER FROM A MAJOR MENTAL ILLNESS THAT WOULD ROB HER OF THAT CHOICE?

A. NO.

Q. DID SHE SUFFER FROM A MAJOR MENTAL ILLNESS THAT WOULD ROB HER OF THAT CHOICE BACK IN SEPTEMBER OF '96?

A. IN MY OPINION SHE DID NOT.

Q. AND FINALLY, DOCTOR, I BELIEVE MS. JOHNS ASKED YOU ABOUT THE ORDER FOR COMPETENCY THAT WAS SIGNED BY THE COURT BACK, I BELIEVE, IN OCTOBER OF 1996?

A. CORRECT.

Q. THAT DATE THAT YOU EXAMINED HER IN DECEMBER OF '96?

A. RIGHT.

Q. CAN YOU TELL ME, HER ATTORNEY DOUGLAS STRICKLER WAS THE MOVING PARTY IN THAT CASE? WAS HE NOT?

A. YES, IT CAME UNDER MOTION OF COUNSEL FOR THE DEFENDANT.

Q. AND I ACTUALLY CONSENTED TO THAT?

A. YES, YOU DID.

Q. AND AFTER THIS ORDER WAS DONE, YOUR AGENCY, THE WILLIAM S. HALL INSTITUTE, DID THE EVALUATION AND YOU REACHED A CONCLUSION THAT SHE WAS COMPETENT TO STAND TRIAL, KNEW RIGHT FROM WRONG, AND COULD CONFORM HER CONDUCT? RIGHT?

REACH THE CONCLUSION OR THE OPINION THAT IT DID INTERFERE WITH HER ABILITY TO CONFORM HER BEHAVIOR TO THE REQUIREMENTS OF THE LAW.

Q. AND IN FACT PARANOID PERSONALITY DISORDER BASICALLY IS JUST COVERING PERSONALITY TRAITS. IT COVERS HOW SHE HAS CHOSEN TO ACT IN THE PAST AND HOW SHE CHOOSES TO ACT RIGHT NOW. THAT DOESN'T MEAN THAT SHE CAN'T ACT IN OTHER WAYS?

A. WELL, IT DOESN'T MEAN THAT SHE CAN'T ACT ANOTHER WAY, BUT IT MAY NOT ALWAYS INVOLVE ACTIVE CHOICE. PERSONALITY TRAITS ARISE OUT OF MANY OF THE LIFE EXPERIENCES THAT PEOPLE HAVE OVER THE FULL COURSE OF THEIR LIVES, AND A LOT OF THIS HAS TO DO WITH THEIR OWN UNCONSCIOUS DEFENSE MECHANISMS THAT THE BRAIN USES TO DEAL WITH STRESS AND TO COPE WITH ISSUES THAT THEY ENCOUNTER IN THEIR EVERY DAY LIVES, AND ALSO, IT HAS TO DO WITH THEIR PERCEPTION OF WHAT'S GOING ON WITH THEMSELVES AND IN THE WORLD AROUND THEM, AND AS WITH ANYBODY IN THEIR BASIC PERSONALITY STYLE, A LOT OF THIS TENDS TO OCCUR AUTOMATICALLY AFTER A WHILE WITHOUT US CONSCIOUSLY THINKING ABOUT IT, BUT AT THE SAME TIME IT DOES NOT ROB US OF THE ABILITY TO MAKE CHOICES.

Q. SHE HAD THE ABILITY TO MAKE CHOICES. SHE HAD THAT ABILITY ON SEPTEMBER 26, 1996?

A. IN MY OPINION, SHE DID HAVE THE ABILITY TO MAKE

ATTORNEY, AND BASED ON THE INFORMATION THAT MS. BELL SUPPLIED TO ME WITH THE MOTIONS THAT SHE MADE TO THE COURT, IT APPEARED THAT SHE WAS EXPERIENCING A GOOD DEAL OF PARANOID THOUGHT AT THAT TIME.

Q. AND THAT WAS ALL AFTER HER ARREST, AFTER THE LEGAL PROCESS HAD BEGUN WORKING?

A. THAT' S CORRECT.

Q. AND DOCTOR, IT' S NOT UNUSUAL FOR INMATES TO BECOME PARANOID OR BE UNDER STRESS OF A TRIAL COMING UP. IS IT?

A. WELL, I THINK THAT IT' S NOT AT ALL UNUSUAL FOR PEOPLE WHO ARE APPROACHING A TRIAL, PARTICULARLY IF THEY' RE FACING SERIOUS CHARGES TO EXPERIENCE A HIGHER LEVEL OF STRESS.

Q. AND I BELIEVE NOW YOU' VE DIAGNOSED HER AS PARANOID PERSONALITY DISORDER?

A. CORRECT.

Q. AND THAT' S NOT A MAJOR MENTAL ILLNESS. IS IT?

A. THAT' S CONSIDERED A PERSONALITY DISORDER WHICH IS NOT GENERALLY CONSIDERED A MAJOR MENTAL ILLNESS.

Q. AND SO, THAT' S NOT A MAJOR MENTAL ILLNESS THAT WOULD CAUSE HER TO NOT BE ABLE TO CONFORM HER CONDUCT. IS IT?

A. WE WOULD CONSIDER THAT DIAGNOSIS IN THAT ISSUE, BUT ONCE AGAIN I DID NOT SEE SUFFICIENT EVIDENCE TO

A. YES, COOPERATIVE.
Q. BUT YOU DID NOTE THAT SHE WAS ACTING IN A CLEARLY SELF-PROTECTIVE MANNER?
A YES.
Q. AND YOUR OPINION DIDN'T CHANGE AT THAT TIME. YOU STILL FELT SHE WAS COMPETENT AND STILL FELT SHE KNEW RIGHT FROM WRONG AND YOU STILL FELT THAT SHE COULD CONFORM HER CONDUCT IN SEPTEMBER?
A. YES.
Q. AND YOU STILL FEEL ALL THOSE THREE THINGS TODAY?
A. THAT IS CORRECT.
Q. SO, YOUR OPINIONS FROM DECEMBER 6, 1996, SOME JUST THREE MONTHS AFTER THIS INCIDENT HAPPENED, UNTIL TODAY, HAVE REMAINED THE SAME?
A. YES, ON THE OCCASIONS THAT I'VE HAD TO SEE MS. TYLER DURING THAT PERIOD OF TIME, MY OPINIONS HAVE NOT CHANGED.
Q. AND THE ONLY THING IS THAT RECENTLY IN THE PAST COUPLE OF MONTHS AS THE TRIAL DATE HAS BEEN LOOMING OR COMING FORWARD, SHE'S BEEN SHOWING A LITTLE BIT MORE PARANOIA?
A. WELL, HISTORICALLY BY THE HISTORY THAT WAS AVAILABLE TO ME SHE BEGAN EXPERIENCING PARANOID THOUGHTS BACK IN 1997, PROBABLY IN THE EARLY PART, THAT SEEMED TO REVOLVE AROUND HER RELATIONSHIP WITH HER

Q. AND YOU WERE TALKING ABOUT IMPULSIVENESS AS BEING AN IRRESISTIBLE IMPULSE, AND I TAKE INTO ACCOUNT PLANNING? PLANNING SUCH AS GOING AND GETTING THE PEPSI BOTTLE, POURING OUT THE PEPSI, FILLING IT UP WITH GAS, GOING TO PURCHASE A CIGARETTE LIGHTER, FINDING OUT HOW TO WORK THE CIGARETTE LIGHTER, HOW TO ADJUST THE FLAMES. IS THAT WHAT YOU MEAN AS PLANNING?

A. ALL THOSE WOULD, YOU KNOW, BE THINGS THAT WE WOULD CONSIDER AS PART OF PLANNING.

Q. AND WHEN YOU AGAIN EXAMINED HER IN FEBRUARY OF 1998, SHE STILL AT THAT TIME, HER THOUGHT PROCESS WAS LOGICAL AND GOAL DIRECTED?

A. YES.

Q. AND SHE DID NOT ENDORSE ANY CLEARLY DELUSIONAL MATERIAL?

A. NOT CLEARLY, NO.

Q. AND SHE WAS NOT EXPERIENCING HALLUCINATIONS?

A. SHE DID NOT REPORT ANY HALLUCINATIONS.

Q. AND SHE WAS ALERT AND ORIENTED?

A. YES.

Q. HER JUDGMENT WAS ADEQUATE?

A. APPEARED TO BE, YES.

Q. AND HER SPEECH WAS NORMAL AND FLUID?

A. YES.

Q. COOPERATIVE WITH YOU?

IT WAS WRONG. SHE REPORTED THAT THE VOICES HAD TOLD HER TO STAB HIM, BUT SHE DIDN'T DO THAT BECAUSE SHE KNEW THAT WAS WRONG. SHE REPORTED THAT THE VOICES HAD TOLD HER TO HOSE HIM DOWN WITH THE GAS HOSE, BUT SHE DIDN'T DO THAT BECAUSE SHE KNEW THAT WAS WRONG. SHE FINALLY SAID THAT THE VOICES TOLD HER TO PUT GASOLINE IN THE BOTTLE WHICH SHE DID AND THEN AT SOME LATER TIME FINALLY TOLD HER TO POUR GASOLINE ON HIS HEAD, BUT SHE WASN'T ABLE TO EXPLAIN TO ME WHAT THE DIFFERENCE WAS BETWEEN THAT EPISODE AND THE PRIOR EPISODES. IN OTHER WORDS ---

Q. BECAUSE SHE WAS ABLE TO RESIST THE OTHER VOICES THAT WERE TELLING HER TO DO THE OTHER THINGS?

A. THAT IS CORRECT.

Q. SHE MADE THE CHOICE NOT TO STAB HIM, AND SHE MADE THE CHOICE NOT TO RUN HIM OVER WITH THE CAR, AND SHE MADE THE CHOICE NOT TO HOSE HIM DOWN WITH THE GASOLINE. DID SHE NOT?

A. THAT IS CORRECT.

Q. SO, THE VOICES THAT TOLD HER TO DO THAT, SHE RESISTED THEM. DID SHE NOT?

A. APPARENTLY SO, YES.

Q. SHE HAD THE CAPACITY TO RESIST THEM BECAUSE SHE DIDN'T DO ANY OF THOSE THINGS?

A. THAT WAS MY INTERPRETATION, YES.

A. THAT' S CORRECT.

Q. AND BASICALLY CONFORMING --- THE CAPACITY TO CONFORM, DOESN' T THAT BASICALLY MEAN THE ABILITY TO CHOOSE?

A. CAPACITY TO CONFORM IS GENERALLY CONCEPTUALIZED AS A PERSON EXPERIENCING WHAT' S CALLED AN IRRESISTIBLE IMPULSE. THE ISSUE IN DETERMINING CAPACITY TO CONFORM IS TRYING TO DIFFERENTIATE IF YOU WILL BETWEEN AN IRRESISTIBLE IMPULSE AND AN IMPULSE THAT SIMPLY IS NOT RESISTED, AND THERE ARE CERTAIN THINGS THAT WE GENERALLY TRY TO CONSIDER IN TERMS OF MAKING A DIFFERENTIATION. ONE OF THOSE WOULD BE THE PERSON' S ABILITY TO DEFER THEIR ACTIONS AT A CERTAIN TIME, THE PATIENT' S ABILITY TO PLAN WHAT MAY HAVE GONE ON RATHER THAN DOING IT ON THE SPUR OF THE MOMENT, THOSE KINDS OF THINGS, AND IN MS. TYLER' S CASE IT WAS MY OPINION THAT THERE WAS NOT ADEQUATE EVIDENCE OR INFORMATION, IF YOU WILL, TO SUGGEST THAT THE IMPULSE THAT SHE HAD WAS DUE TO AN IRRESISTIBLE IMPULSE.

SHE DID REPORT TO US THAT SHE WAS EXPERIENCING AUDITORY HALLUCINATIONS AT THE TIME THAT THIS OCCURRED TELLING HER TO DO VARIOUS THINGS TO HER HUSBAND, BUT THIS WAS A SERIES OF THINGS THAT SEEMED TO HAVE OCCURRED. SHE REPORTED THAT THE VOICES HAD TOLD HER TO RUN HIM OVER, BUT SHE DIDN' T DO THAT BECAUSE SHE KNEW

GUARDED AS TO INFORMATION SUCH AS THAT THE ENTIRE TIME YOU'VE SEEN HER. HAS SHE NOT?

A. SHE HAS BEEN, I THINK, A FAIRLY GUARDED PERSON. IN TERMS OF HER INTERACTIONS WITH ME PERSONALLY, GENERALLY MS. TYLER HAS BEEN COOPERATIVE, AND MOST OF THE TIME I WOULD SAY THAT SHE'S BEEN PRETTY OPEN ABOUT HER ACTIONS AS TO WHAT HAPPENED ON A FACTUAL BASIS ON THE DATE OF THE INCIDENT.

Q. SHE TRUSTS YOU?

A. I BELIEVE SHE DOES.

Q. CAN YOU ALSO --- IN LOOKING AT WHETHER OR NOT SHE KNEW RIGHT FROM WRONG, YOU DO THAT BECAUSE THAT'S THE TEST IN SOUTH CAROLINA FOR SANITY. IS IT NOT?

A. CORRECT.

Q. AND SHE WAS NOT INSANE AT THE TIME. WAS SHE?

A. IN MY OPINION, SHE WAS NOT.

Q. BECAUSE SHE KNEW RIGHT FROM WRONG?

A. CORRECT.

Q. AND THEN THE FINAL EXAMINATION, THE FINAL RESULT THAT YOU REACHED IS WHETHER OR NOT SHE COULD CONFORM HER CONDUCT TO THE LAW?

A. THAT'S CORRECT.

Q. AND YOU ISSUED AN OPINION BACK IN DECEMBER OF '96, AND I BELIEVE YOU STATED IT'S STILL YOUR OPINION TODAY THAT SHE COULD CONFORM?

REVIEWED HER STATEMENT, YOU REVIEWED THE INCIDENT REPORT, AND YOU SPOKE WITH HER ALL CONCERNING THAT. DID YOU NOT?

A. THAT'S CORRECT.

Q. AND HER ACTIONS THERE AT THE SCENE, I BELIEVE THAT'S WHAT YOU LOOK AT TO DETERMINE IF SOMEONE KNOWS WHAT'S RIGHT AND WRONG. DO YOU NOT?

A. WELL, THAT'S PART OF WHAT WE LOOK AT, YES.

Q. PART OF WHAT YOU LOOK AT IS HER ACTIONS, AND HER ACTIONS THERE AT THE SCENE INDICATE THAT SHE WAS TRYING TO MAKE UP A STORY. I BELIEVE SHE TESTIFIED YESTERDAY "I WAS TRYING TO THINK OF SOMETHING REAL FAST, AND SO, I SAID THE CAR MESSED UP." THAT INDICATES SHE KNEW WHAT SHE WAS DOING WAS WRONG. DOESN'T IT, DOCTOR?

A. WELL, ORDINARILY WE WOULD INTERPRET A STATEMENT LIKE THAT TO INDICATE THAT SHE DID APPRECIATE THE WRONG INFLUENCE, YES.

Q. AND DENYING IT AGAIN TO INVESTIGATOR GRAY WHEN SHE CAME DOWN TO COLUMBIA POLICE DEPARTMENT, THAT AS WELL IS KNOWING WHAT SHE DID WAS WRONG AND NOT WANTING TO TELL IT?

A. WELL, THAT KIND OF A STATEMENT WOULD BE INTERPRETED AS BEING SELF-PROTECTIVE AND IN AN EFFORT TO CONCEAL WRONGFULNESS.

Q. AND SHE'S PRETTY MUCH BEEN SELF-PROTECTIVE AND

Q. IT'S NOT TO MAKE HER COMPETENT?
A. WELL, IT'S TO, THE PURPOSE OF THE COURSE IS TO REFRESH PEOPLE'S MEMORIES ABOUT WHAT GOES ON IN THE COURTROOM, AND IF THEY DON'T HAVE ANY KNOWLEDGE ABOUT THAT, TO INSTRUCT THEM ABOUT WHAT OCCURS IN THE COURT.
Q. MS. TYLER HAD A LOT OF KNOWLEDGE OF THAT. DIDN'T SHE?
A. YES, SHE DID.
Q. SHE'S PRETTY KNOWLEDGEABLE ABOUT THE WORKINGS OF THE COURT SYSTEM. IS SHE NOT?
A. SHE POSSESSES A VERY GOOD FACTUAL KNOWLEDGE ABOUT WHAT GOES ON IN COURT.
Q. AND LET ME ASK YOU THIS, DOCTOR, AT THAT TIME YOU ALSO MADE A DETERMINATION OF WHETHER OR NOT SHE KNEW RIGHT FROM WRONG, BACK ON SEPTEMBER 26, 1996?
A. YES.
Q. THE DATE OF THE INCIDENT?
A. YES, CORRECT. I'M SORRY.
Q. AND YOU FOUND THAT SHE DID KNOW RIGHT FROM WRONG?
A. IN OUR OPINION SHE DID.
Q. SO, WHEN SHE THREW THE GAS ON VAN TYLER'S HEAD AND LIT HIM WITH A CIGARETTE LIGHTER, SHE KNEW WHAT SHE WAS DOING WAS WRONG?
A. IN OUR OPINION SHE DID.
Q. AND YOU REVIEWED THE WITNESS'S STATEMENTS, YOU

AFTER THIS INCIDENT OCCURRED IN DECEMBER OF 1996, SHE HAS REMAINED COMPETENT UNTIL TODAY?

A. IN MY OPINION SHE HAS, YES.

Q. AND THE ONLY REASON THAT YOU AGREED TO HAVE HER ADMITTED BACK TO WILLIAM S. HALL AND HAVE HER ADMINISTERED THE PROLIXIN IS TO ASSIST HER FURTHER IN REMAINING CALM?

A. YES, I FELT THAT HER BEING ON MEDICATION WOULD HELP TO CALM SOME OF HER PARANOID THOUGHTS AND WAS SPECIFICALLY CONCERNED THAT UNDER THE STRESS OF THE TRIAL THAT HER PARANOIA MAY WORSEN TO THE POINT THAT SHE MAY IN FACT BECOME NOT COMPETENT TO STAND TRIAL.

Q. THAT DIDN'T HAPPEN?

A. I HAVE NOT SEEN THAT, NO.

Q. THE MEDICINE WASN'T TO MAKE HER COMPETENT?

A. NO.

Q. AND THE COMPETENCY CLASSES THAT MS. JOHNS REFERRED TO, HAD MS. TYLER ATTENDED ANY COMPETENCY CLASSES BEFORE DECEMBER 6, 1996?

A. BEFORE DECEMBER 6TH? LET ME CHECK. SHE ATTENDED A COMPETENCY CLASS ON DECEMBER 5TH OF 1996.

Q. THAT'S THE SCREENING CLASS?

A. WELL, THIS IS ONE OF THE CLASSES THAT TALKS ABOUT VARIOUS ASPECTS OF THE COURTROOM EXPERIENCE AND WHAT GOES ON IN THE COURTROOM.

FAMILY IS, AND THEN THOSE ARE THE PEOPLE THAT YOU MAY GO OUT AND CONTACT?

A. CORRECT.

Q. THAT'S PROBABLY HOW YOU GOT THE NAME OF CORA LEE FULLER, HER FRIEND, WHO SAID THAT SHE TAKES ADVANTAGE OF OTHER PEOPLE A LOT?

A. THAT'S A POSSIBILITY, BUT I CAN'T STATE THAT WITH CERTAINTY.

Q. AND WHEN YOU DID THAT EXAMINATION BACK ON DECEMBER 6TH OF 1996, YOU WERE LOOKING AT THREE THINGS BASICALLY. YOU WERE LOOKING FIRST TO SEE WHETHER OR NOT SHE WAS COMPETENT?

A. CORRECT.

Q. AND THAT WAS WHETHER OR NOT SHE WAS CAPABLE OF UNDERSTANDING THE NATURE OF HER CHARGES, WHICH SHE WAS.

A. CORRECT.

Q. WHETHER OR NOT SHE WAS CAPABLE OF ASSISTING HER ATTORNEYS OR COUNSEL?

A. CORRECT.

Q. SHE WAS?

A. IN OUR OPINION SHE WAS, YES.

Q. AND YOUR OPINION AS TO THAT HAS NEVER CHANGED SINCE THAT DATE. HAS IT, DOCTOR?

A. NO, IT HAS NOT.

Q. SHE HAS REMAINED IN YOUR VIEW SINCE THREE MONTHS

SAW ANY HALLUCINATIONS?

A. WE DID NOT APPRECIATE THAT SHE WAS EXPERIENCING HALLUCINATIONS.

Q. AND AT THAT TIME, I BELIEVE YOU SAID YOU SPENT AN HOUR AND A HALF WITH HER, BUT THERE WERE LIKE SEVEN OTHER DOCTORS WORKING AND COMPILING REPORTS. THERE WAS A SOCIAL WORKER, DR. SHEA HIMSELF WAS DOING THE I.Q. TEST AND DIFFERENT PERSONALITY TESTS UPON HER. THERE WAS ABOUT SEVEN OTHER DOCTORS BESIDES YOURSELF GATHERING INFORMATION ABOUT MS. TYLER FOR YOU TO REACH YOUR CONCLUSIONS?

A. WELL, OUR EVALUATIONS ARE A MULTI-DISCIPLINARY EFFORT THAT INCLUDES NURSING, SOCIAL WORK, PSYCHOLOGY, AS WELL AS PHYSICIANS.

Q. SO, A LOT MORE WENT INTO THAT EVALUATION THAN JUST AN HOUR AND A HALF?

A. THAT' S CORRECT.

Q. AND THAT SOCIAL HISTORY MS. JOHNS WENT OVER AND ASKED YOU ABOUT ALL THESE PEOPLE YOU CONTACTED FOR A SOCIAL HISTORY, HOW DID YOU KNOW HOW TO CONTACT THESE PEOPLE?

A. GENERALLY, THESE --- THERE IS SOME INDICATION THAT WE RECEIVE WHEN PEOPLE COME TO US OF CONTACT PEOPLE. ALSO, THE CLIENT MAY BE ASKED DIRECTLY FOR CONTACTS.

Q. SHE MAY TELL YOU WHO HER FRIENDS ARE AND WHO HER

MADAM FORELADY, LADIES AND GENTLEMEN, PLEASE STEP INTO YOUR JURY ROOM. HAVE YOUR MORNING BREAK. DO NOT DISCUSS THIS CASE. I'LL SEND FOR YOU IN JUST A FEW MOMENTS. THANK YOU VERY MUCH.

(JURY TO JURY ROOM.)

(SHORT BREAK.)

(JURY TO COURTROOM.)

THE COURT: CROSS EXAMINATION, SOLICITOR.

MS. HAYNES: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MS. HAYNES

Q. DR. BEHRMANN, I BELIEVE YOU FIRST EVALUATED MS. TYLER BACK ON DECEMBER 6, 1996?

A. YES.

Q. THAT WAS LESS THAN THREE MONTHS AFTER THIS INCIDENT OCCURRED?

A. CORRECT.

Q. AND AT THAT TIME SHE DIDN'T EXHIBIT ANY OF THIS PARANOID PERSONALITY DISORDER. DID SHE?

A. SHE DIDN'T EXHIBIT SYMPTOMS THAT WOULD HAVE LED US TO MAKE THAT DIAGNOSIS.

Q. AND SHE ALSO DID NOT AT THE TIME TELL YOU ABOUT EVER HEARING ANY VOICES?

A. THAT'S CORRECT.

Q. AND YOU DID NOT SEE ANY INDICATION THAT SHE EVER

HALLUCINATIONS?

A. WHICH OPINION ARE YOU REFERRING TO?

Q. THE PSYCHOSIS OF THE HALLUCINATIONS.

A. I BELIEVE THAT HALLUCINATIONS ARE A PSYCHOTIC SYMPTOM, YES.

Q. AND DO YOU AGREE WITH THE OPINION WITH REGARD TO DR. DONNA SCHWARTZ-WATTS REGARDING THE COMPETENCY OF MS. TYLER?

A. COMPETENCY, YES.

Q. AND HER CAPACITY TO CONFORM?

A. NO, I DO NOT.

Q. WHAT IS YOUR OPINION AS TO HER CAPACITY TO CONFORM?

A. IT IS MY OPINION THAT SHE DID POSSESS THE CAPACITY TO CONFORM HER BEHAVIOR TO THE REQUIREMENTS OF THE LAW.

Q. THAT SHE DID?

A. SHE DID, YES.

Q. AND MORAL LEGAL RIGHT FROM WRONG?

A. MORAL LEGAL RIGHT FROM WRONG, IT WAS MY OPINION THAT SHE DID POSSESS THE ABILITY TO APPRECIATE THE DIFFERENCE BETWEEN MORAL LEGAL RIGHT AND MORAL LEGAL WRONG.

MS. JOHNS: I HAVE NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT. WE'RE GOING TO TAKE OUR RECESS BEFORE WE HAVE OUR CROSS EXAMINATION.

A. I BELIEVE SHE HAS, YES.
Q. SO, WOULD IT BE FAIR THEN TO SAY THAT SHE TRUSTS POLICE OFFICERS?
A. WELL, I HAVEN'T QUESTIONED HER SPECIFICALLY ON THAT ISSUE.
Q. OKAY, AND IN YOUR DIAGNOSIS OF PARANOID PERSONALITY DISORDER, WHAT DOES IT SAY IN THERE WHY A PERSON SUFFERING FROM PARANOID PERSONALITY DISORDER WOULD BE HEARING VOICES?
A. IT DOES NOT SAY THAT. ALTHOUGH, IT DOES SAY THAT PEOPLE WHO DO EXPERIENCE PARANOID PERSONALITY DISORDER UNDER STRESS CAN EXPERIENCE BRIEF PSYCHOTIC SYMPTOMATOLOGY.
Q. OKAY, AND THAT'S THE SITUATION WITH MS. TYLER?
A. IN MY OPINION IT IS, YES.
Q. AND THAT'S A SEPARATE DIAGNOSIS?
A. NO, IT IS NOT.
Q. BRIEF PSYCHOSIS DISORDER?
A. THAT IS A SEPARATE DIAGNOSIS, BUT I DON'T BELIEVE THAT IT APPLIES IN MS. TYLER'S CASE.
Q. OKAY. DO YOU BELIEVE THAT MS. TYLER HAD HEARD VOICES?
A. YES, I DO.
Q. OKAY, AND DO YOU AGREE WITH THE OPINIONS GIVEN BY DR. DONNA SCHWARTZ-WATTS IN REGARD TO THE

Q. SO, IN THIS SITUATION, WHEN YOU COMBINE THE PARANOID PERSONALITY DISORDER WITH A BORDERLINE INTELLECTUAL FUNCTIONING, IS IT UNUSUAL FOR A PARANOID PERSON TO INITIALLY TRUST SOMEBODY?

A. IT DEPENDS ON THE SITUATION THAT THEY'RE IN. IF THEY'RE PUT INTO A SITUATION WHERE THE PERSON WOULD ORDINARILY EXPECT TO HAVE TRUST, THEN PERHAPS NOT, BUT IF THEY'RE PUT INTO A SITUATION WHERE THEY MAY HAVE SOME REASON TO ALREADY HARBOR SOME SENSE OF DISTRUST, THEN I THINK THAT THEY WOULD BE HIGHLY SUSPICIOUS AND HIGHLY DISTRUSTFUL.

Q. OKAY. IN YOUR OPINION, DOES MS. TYLER KNOW THE ROLE OF A POLICE OFFICER IN THE COMMUNITY?

A. IN MY OPINION, SHE DOES, YES.

Q. AND WHAT WOULD THAT BE?

A. TO ENFORCE THE LAW.

Q. ARE YOU AWARE OF ANY PARTICULAR CONTACT THAT MS. TYLER HAS HAD WITH POLICE OFFICERS IN THE PAST?

A. I WAS AWARE THAT SHE HAD PREVIOUSLY BEEN INCARCERATED, YES.

Q. OKAY, AND I'M TALKING ABOUT WHEN SHE NEEDED HELP.

A. RIGHT, AND I WAS AWARE BY HER DESCRIPTION THAT SHE HAD REPORTED TO US THAT SHE HAD CONTACTED THE POLICE.

Q. OKAY, AND IN YOUR REVIEW OF THE RECORDS, HAD SHE CONTACTED THE POLICE MULTIPLE TIMES?

ANY DRUGS?

A. AT THE TIME OF MY DIAGNOSIS, I WAS NOT AWARE THAT SHE WAS UNDER THE INFLUENCE OF ANY DRUGS.

Q. OR ALCOHOL?

A. OR ALCOHOL.

Q. OKAY, AND WITHIN THESE THAT YOU READ ---

A. YES.

Q. DOES IT MEAN THAT THE BELIEFS ARE FABRICATED OR CAN THE BELIEFS BE TRUE?

A. THE BELIEFS ARE OFTENTIMES --- WELL, THE BELIEFS CAN BE TRUE FIRST OF ALL, BUT PARTICULARLY IN THE THING THAT MAKES THIS A MALADAPTIVE SITUATION FOR THIS PARTICULAR PERSON IS THAT OFTENTIMES THE BELIEFS ARISE OUT OF SOME MISPERCEPTION THAT THE PERSON HAS OF WHAT IS ACTUALLY GOING ON.

Q. OKAY, AND FINALLY, THE STATE HAS PRESENTED THE TRUSTWORTHINESS OF MS. TYLER TO INVESTIGATOR GRAY IN REGARD TO HER STATEMENT. NOW, THAT WOULD SORT OF CONTRADICT PARANOIA? TRUE OR FALSE?

A. IN A GENERAL SENSE, PEOPLE WHO ARE PARANOID HAVE DIFFICULTY WITH TRUST.

Q. NOW, SO, IN A SENSE, IT WOULD CONTRADICT? IT IS TRUE THAT IT WOULD CONTRADICT HER BEING PARANOID?

A. WELL, I THINK THAT'S A GROSS OVER SIMPLIFICATION OF THE SITUATION.

THE REMAINING CRITERIA, NUMBER FIVE IS "PERSISTENTLY BEARS GRUDGES. IN OTHER WORDS IS UNFORGIVING OF INSULTS, INJURIES OR SLIGHTS."

NUMBER SIX "PERCEIVES ATTACKS ON HIS OR HER CHARACTER OR REPUTATION THAT ARE NOT APPARENT TO OTHERS AND IS QUICK TO REACT ANGRILY OR COUNTERATTACK." AND I THINK WE'VE ALREADY HEARD TESTIMONY THAT IN CERTAIN SITUATIONS SHE'S EASILY AGITATED AND EASILY ANGERED.

NUMBER SEVEN, AND THIS IS THE FINAL CRITERIA, "HAS RECURRENT SUSPICIONS WITHOUT JUSTIFICATION REGARDING FIDELITY OF SPOUSE OR SEXUAL PARTNER." AND CERTAINLY MS. TYLER, I BELIEVE, HAS HAD CONCERNS ABOUT THE FIDELITY OF HER SEXUAL PARTNERS, BUT THIS MAY OR MAY NOT HAVE BEEN WITHOUT CONFIRMING BELIEF.

THE OTHER MAJOR CRITERIA, PARAGRAPH-B, NOW SAYS "THAT THIS DOES NOT OCCUR EXCLUSIVELY WITHIN THE COURSE OF SCHIZOPHRENIA, A MOOD DISORDER WITH PSYCHOTIC FEATURES OR ANOTHER PSYCHOTIC DISORDER, AND IS NOT DUE TO THE DIRECT PHYSIOLOGIC EFFECTS OF A GENERAL MEDICAL CONDITION", WHICH MEANS THAT THESE SYMPTOMS CANNOT BE BETTER ATTRIBUTED TO SOME OTHER MAJOR MENTAL ILLNESS, OR THE FACT THAT SHE WAS UNDER THE INFLUENCE OF SOME DRUG.

Q. AND AT THE TIME OF YOUR DIAGNOSIS, PARANOID PERSONALITY DISORDER, WAS SHE UNDER THE INFLUENCE OF

THE FIRST OF THESE IS "SUSPECTS WITHOUT SUFFICIENT BASIS THAT OTHERS ARE EXPLOITING, HARMING OR DECEIVING HIM OR HER." AND I FELT THAT WAS PROBABLY APPLICABLE TO MS. TYLER, SPECIFICALLY ABOUT HER CONCERNS ABOUT HER ATTORNEY.

NUMBER TWO IS, "PREOCCUPIED WITH UNJUSTIFIED DOUBTS ABOUT THE LOYALTY OR TRUSTWORTHINESS OF FRIENDS OR ASSOCIATES." THERE WAS SOME REASON TO BELIEVE THAT THAT MAY BE OPERATIVE WITH MS. TYLER AS WELL.

NUMBER THREE IS "RELUCTANT TO CONFIDE IN OTHERS BECAUSE OF UNWARRANTED FEAR THAT THE INFORMATION WILL BE USED MALICIOUSLY AGAINST HIM OR HER." FOLLOWING OUR INTERVIEW ON THE 13TH OF FEBRUARY, AT WHICH TIME MS. TYLER PRESENTED ME WITH A NUMBER OF ADDITIONAL SYMPTOMS THAT SHE HAD NOT CONFIDED TO ME PRIOR TO THAT TIME, ONCE AGAIN THAT SEEMED THAT THAT MAY BE AN OPERATIVE ISSUE WITH MS. TYLER ALSO.

NUMBER FOUR IS "READS HIDDEN MEANINGS AND THREATENING MEANINGS INTO BENIGN REMARKS OR EVENTS." ONCE AGAIN AS YOU'VE ALREADY HEARD, MS. TYLER HAS THE PROPENSITY TO MISINTERPRET COMMENTS OR STATEMENTS THAT ARE MADE TO HER OFTENTIMES IN A HARMFUL OR POTENTIALLY THREATENING MANNER. SO, I FELT THAT THAT WAS AN OPERATIVE ISSUE FOR HER, AND THAT'S ALREADY FOUR CRITERIA.

EXAMPLE OF AN IDEA OF REFERENCE WOULD BE IF A PERSON CAME INTO A ROOM AND OBSERVED TWO PEOPLE ENGAGED IN CONVERSATION, AN IDEA OF REFERENCE WOULD OCCUR IF THIS PERSON ASSUMES WITHOUT HAVING ANY KNOWLEDGE OF WHAT THESE PEOPLE WERE DISCUSSING, THAT PERSON ASSUMES THAT THEY WERE TALKING ABOUT THEM IN SOME WAY.

SO, THAT'S AN IDEA OF REFERENCE, AND THESE PEOPLE ALSO MAY HAVE UNWARRANTED IDEAS THAT PEOPLE WHO ARE CLOSE TO THEM, PARTICULARLY FAMILY MEMBERS, LOVED ONES, SIGNIFICANT OTHERS, ARE TRYING TO DECEIVE THEM OR BEING UNTRUE TO THEM, COMMITTING INFIDELITY, THOSE KINDS OF THINGS.

Q. OKAY. I WANT TO HAND THIS TO YOU AND REFERRING TO THE DSM-4, PARANOID PERSONALITY DISORDER, PAGE 637 WHERE WE'RE LOOKING AT THE CRITERIA FOR PARANOID PERSONALITY DISORDER. IT SAYS IN THERE --- COULD YOU PLEASE RECITE TO THE JURY ANY OF THOSE THAT APPLY TO MS. TYLER?

A. ALL RIGHT. THIS IS THE TABLE THAT LISTS DIAGNOSTIC CRITERIA FOR PARANOID PERSONALITY DISORDER, AND UNDER THIS, UNDER PARAGRAPH A IT STATES "A PERSUASIVE DISTRUST AND SUSPICIOUSNESS OF OTHERS SUCH THAT THEIR MOTIVES ARE INTERPRETED AS BENEVOLENT BEGINNING BY EARLY ADULTHOOD AND PRESENT IN A VARIETY OF CONTACTS AS INDICATED BY FORM ARE THE FOLLOWING."

THAT PSYCHIATRISTS USE REGULARLY?

A. CORRECT.

Q. IS THAT CORRECT?

A. THAT IS CORRECT, YES.

Q. UNDERNEATH HER PARANOID PERSONALITY DISORDER, WHAT IS LISTED ON THERE WITH REGARD TO PSYCHOTIC BEHAVIOR?

A. WELL, FIRST OF ALL, AS FAR AS A PARANOID PERSONALITY DISORDER IS CONCERNED THE GENERAL PROBLEM WITH A PARANOID PERSONALITY DISORDER, THE GENERAL FRAME OF REFERENCE THAT PEOPLE WHO HAVE THIS DISORDER HAVE IS THAT THEY HAVE THIS PERSISTENT CONCERN THAT OTHER PEOPLE ARE SOMEHOW TRYING TO USE THEM OR DECEIVE THEM OR HARM THEM IN SOME WAY, AND WHAT THEY WILL TYPICALLY DO IS THAT THEY WILL SCAN THEIR ENVIRONMENT AND PARTICULARLY SCAN OTHER PEOPLE LOOKING FOR EVIDENCE TO CONFIRM THOSE BELIEFS, AND SO, THAT GENERALLY TENDS TO BE MANIFESTED BY A HEIGHTENED SENSE OF SUSPICION AND LACK OF TRUST IN THESE PEOPLE IN TERMS OF --- WELL, PARTICULARLY OF THEIR INTERACTIONS WITH OTHER PEOPLE, BUT IT COULD BE INTERACTIONS WITH VARIOUS INSTITUTIONS LIKE GOVERNMENTAL INSTITUTIONS OR OTHER SIMILAR BODIES, ESPECIALLY THOSE THAT MIGHT HAVE SOME OFFICIAL BEARING.

NOW, SPECIFICALLY, THESE PEOPLE CAN AT TIMES HAVE VERY STRONG PARANOID BELIEFS. THEY CAN HAVE WHAT WE CALL IDEAS OF REFERENCE, AND PROBABLY THE CLEAREST

WITH THE WAY PEOPLE THINK ABOUT THOSE THINGS, AND TO SOME DEGREE IT ALSO HAS TO DO WITH HOW THEY MAY ACT.

A PERSON WHO HAS A PERSONALITY DISORDER --- BEFORE I GET INTO THAT. PERSONALITY TRAITS CAN EITHER BE HELPFUL TO A PERSON OR THEY CAN BE PROBLEMATIC. IN OTHER WORDS, CERTAIN PEOPLE HAVE PERSONALITIES THAT ALLOW THEM TO BE SUCCESSFUL AND TO ACCOMPLISH THE THINGS THAT THEY WOULD LIKE TO HAVE IN LIFE AND TO GENERALLY SUCCEED. PERSONALITY TRAITS CAN ALSO BE MALADAPTIVE IN THAT THEY MAY INTERFERE WITH A PERSON'S ABILITY TO ACHIEVE THE THINGS THAT MOST PEOPLE MIGHT LIKE AND MIGHT INTERFERE WITH THEIR GENERAL SENSE OF HAPPINESS AND WELL BEING.

A PERSONALITY DISORDER OR THE DIAGNOSIS OF A PERSONALITY DISORDER IS MADE WHEN WE SEE A CERTAIN CLUSTER OF THESE PERSONALITY TRAITS THAT RESULTS IN A SIGNIFICANT DEGREE OF SYMPTOMATOLOGY AND MALADAPTIVE BEHAVIOR IN A PERSON'S EVERY DAY LIFE, AND THIS IS NOT A ONE SHOT DEAL, A ONE TIME THING. THIS TENDS TO BE AN ENDURING PATTERN FOR THIS PERSON THROUGHOUT THE MAJORITY OF AT LEAST THEIR ADULT LIFE. THE DIAGNOSIS OF A PERSONALITY DISORDER IS GENERALLY NOT MADE UNTIL A PERSON REACHES ADULTHOOD, ARBITRARILY WE SAY GENERALLY AROUND EIGHTEEN FOR MOST OF THEM.

Q. DR. BEHRMANN, YOU'RE FAMILIAR WITH DSM-4 TREATMENT

BENEFIT TO BE ON AN ANTIPSYCHOTIC MEDICATION NOW DUE TO THE CURRENT STRESS LEVEL THAT SHE'S UNDER. I THINK AT OTHER TIMES SHE'S DEMONSTRATED THAT SHE'S BEEN ABLE TO FUNCTION IN A REASONABLE FASHION OFF OF MEDICATION. SO, I DON'T THINK THAT I CAN GIVE A DEFINITE ANSWER AS TO WHETHER OR NOT SHE WOULD NEED TO CONTINUE ON THIS MEDICATION INDEFINITELY.

Q. OKAY.

MS. JOHNS: I BEG THE COURT'S INDULGENCE, YOUR HONOR.

Q. DR. BEHRMANN, WITH THE PARANOID PERSONALITY DISORDER, IT SEEMS LOGICAL THAT SOME DIAGNOSIS SHOULD FOLLOW. WHAT WOULD BE THE DIAGNOSIS REGARDING PSYCHOSIS AT THIS POINT?

A. I'M NOT SURE THAT I UNDERSTAND YOUR QUESTION.

Q. OKAY, YOU SAID THAT YOU HAD ADDED ANOTHER DIAGNOSIS REGARDING --- YOU SAID PARANOID PERSONALITY DISORDER. DESCRIBE TO THE JURY WHAT THAT IS AND HOW THAT APPLIES TO MS. TYLER.

A. ALL RIGHT. FIRST OF ALL, A PERSONALITY DISORDER IS A CLUSTER OF PERSONALITY TRAITS, AND A PERSONALITY TRAIT IS PROBABLY BEST CONSIDERED TO BE A WAY IN WHICH, OR A PATTERN IN WHICH A PERSON HAS OF PERCEIVING OR LOOKING AT AND UNDERSTANDING THEMSELVES, OTHER PEOPLE AND THEIR ENVIRONMENT IN GENERAL, AND IT ALSO HAS TO DO

WOULD GIVE HER AN ADDITIONAL DIAGNOSIS OF PARANOID PERSONALITY DISORDER.

Q. AT ANY TIME SUBSEQUENT TO HER BEING ADMITTED INTO YOUR INSTITUTION HAD SHE REPORTED HALLUCINATIONS?

A. ON WHICH ADMISSION?

Q. I'M SORRY?

A. YOU SAID AT ANY TIME SUBSEQUENT TO HER BEING ADMITTED.

Q. YES.

A. SHE'S BEEN ADMITTED TWICE.

Q. FEBRUARY 7TH.

A. ON HER CURRENT ADMISSION, YES, SHE HAS REPORTED HALLUCINATIONS AT THE EARLY STAGE OF THAT ADMISSION.

Q. AT THE EARLY STAGE?

A. UH-HUH.

Q. OKAY. DR. BEHRMANN, IS IT YOUR PROFESSIONAL OPINION THAT MS. TYLER IS FAKING ANY OF THESE DIAGNOSES?

A. I'VE SEEN NO SIGNIFICANT DATA THAT WOULD LEAD ME TO THAT CONCLUSION. I DON'T BELIEVE SHE'S FAKING.

Q. WOULD IT BE YOUR OPINION AS FAR AS PROGNOSIS GOES THAT SHE CONTINUE ON SOME ANTIPSYCHOTIC MEDICATION TO AT LEAST CONTROL THE PSYCHOTIC SYMPTOMS?

A. I THINK THAT THAT'S SOMETHING THAT'S GOING TO NEED TO BE SEEN. I THINK THAT IT'S CLEARLY TO MS. TYLER'S

PSYCHOTIC SYMPTOMS, YES.

Q. PSYCHOTIC SYMPTOMS?

A. UH-HUH.

Q. WHICH IS NOT WHAT YOU HAD DIAGNOSED ---

MS. HAYNES: OBJECTION, YOUR HONOR, LEADING AND IT'S ON DIRECT.

MS. JOHNS: VERY WELL, YOUR HONOR. I'LL REPHRASE MY QUESTION.

BY MS. JOHNS

Q. WHAT WAS YOUR DIAGNOSIS OF MS. TYLER REGARDING HER MENTAL ILLNESS IN 1996?

A. IN 1996, HER DISCHARGE DIAGNOSES WERE THAT OF MARIJUANA DEPENDENCE AND BORDERLINE INTELLECTUAL FUNCTION.

Q. AND THAT WAS DONE WITHOUT THE BENEFIT OF ANY MEDICAL OR MENTAL HEALTH RECORDS?

A. CORRECT.

Q. NOW, SUBSEQUENT TO YOU REVIEWING THE MEDICAL AND MENTAL HEALTH RECORDS, HAS YOUR OPINION AS TO HER DIAGNOSIS CHANGED?

A. SUBSEQUENT TO THAT, NO.

Q. WELL, WHAT IS YOUR DIAGNOSIS OF MS. TYLER TODAY?

A. MY DIAGNOSIS OF MS. TYLER TODAY IS THE SAME TWO DIAGNOSES, MARIJUANA DEPENDENCE, BORDERLINE INTELLECTUAL FUNCTIONING, AND IN ADDITION TO THAT I

(1)

State of South Carolina	)	In the Supreme Court
County of Richland	)	5th Judicial Circuit
	)	Indictment #97-GS--40-17046
State of South Carolina	)	Warrant # P-252391
	)	
VS	)	Notice to file Amended Actions to
	)	Direct Appeal
Linda Ann Tyler	)	
	)	

FILED
98 OCT -5 PM 12:35
BARBARA A. SCOTT
C.C.C. & G.S.

I Mrs. Linda Ann Tyler, #248-190 of 4450 Broad River Road, Columbia, South Carolina, 29210.

I do hereby wish to file this Motion in the Honorable Courts at this time. I file these Motions under the Due Process of the Laws of the 5th Amendment, 6th Amendment, and the 11th Amendments of the U.S. Constitutional Law. Defendant is indigent and unable to pay for the filing of this Motion.

Defendant states that Dr. Ronald G. Burns, M.D. of the Richland Memorial Department of Pathology Association did submit false evidence in the medical examination of the deceased Mr. Van Tyler Jr. on September 28 th, 1996. In his report Dr. Ronald G. Burns, M.D. states that the deceased died from severe bu[illegible] Pneumonia Sepsis complicated by Blaratal Pneumonia.

Defendant believes that there are co[illegible]dicting and conflicting statements as to the proper cause of the deceased Van Tyler Jr.'s death.

Defendant states that Dr. Donald G. Burns did testify in court that the deceased death information was [illegible]ten do[illegible] by notes for him to composed together.

Dr. Donald G. Burns name did not appeared on the death certificate for the deceased Mr. Van Tyler [illegible]. However the death certificate states that the

(14)

IN THE SUPREME COURT OF SOUTH CAROLINA

IN RE)
LINDA ANN TYLER #248190 - V - THE STATE

THE APPELLANT'S BRIEF OF LAW. 18 U.S.C.A. ID 331
CONCEALMENT OF VAN. TYLER, JR's. PRISON RECORD
PROSECUTION MISCONDUCT, OBSTRUCTION OF JUSTICE.
MONETARY; USE OF THE VALUE OF THE VITUM'S LIFE...

THE (APPELLANT) STATES THAT: PROSECUTOR'S ENTERED A (GAG) "ORDER" TO PREVENT THE EXHUMATION OF THE BODY OF VAN TYLER JR, BECAUSE THE BODY OF VAN TYLER JR, WOULD ERECT THE JURY'S FINDING UPON A FOUNDATION OF SAND... THIS IS TO SAY THAT: VAN TYLER, JR, DID NOT DIE AS A RESULT OF THE GASOLINE BURN INJURY HE RECEIVED.. UNDER THE S. C. CONST, THAT WAS HANDED DOWN BY THE S.C. GENERAL ASSEMBLY IF THE ACT OF THE ATTY. GEN. OR OF THE STATE THE ATTORNEY IN ACTMENT OF THE CASE COMMITS AND ACT IN WHICH HE/SHE KNOWS TO BE IN VIOLATION, SHALL BE STRIPPED OF HIS/HER REPRESENTATIVE CHARACTER AND THE STATE HAS NO AUTHORITY TO IMPUT IMMUNITY TO HIM/HER. UNDER VI CLAUSE 2 OF THE U.S.C.A. TRIAL JUDGE: THOMAS W. COOPER, JR, ORDERED THE BODY OF VAN TYLER, JR. TO BE (RESSURECTED) TO DETERMINED THE APPROXIMATE CAUSE OF DEATH AND THAT ORDER WAS NOT EXCUTED. PROSECUTION CONCEALED THE VALUE OF VAN TYLER'S JR ESTATE FROM THE JURY, BUT MADE IT APPEAR THAT VAN TYLER, JR, WAS AN LAW ABIDING CITIZEN.

Q. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER FIVE. WHAT DOES THAT PHOTOGRAPH SHOW?
A. IT SHOWS THE CAR AND THE FIRE TRUCK AND POLICEMEN, SOMETHING LYING IN THE STREET, SOME PEOPLE STANDING AROUND.
Q. IS THAT WHERE THE CAR ENDED UP?
A. YES, MA'AM.
MS. HAYNES: REQUEST PERMISSION TO PUBLISH THESE TO THE JURY.
THE COURT: CERTAINLY.
BY MS. HAYNES
Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER SIX. SEE THIS? WHAT DOES THAT SHOW?
A. IT SHOWS THE CAR STOPPED.
Q. SIDE VIEW?
A. YES, MA'AM.
Q. AND THAT'S THE CONDITION IT WAS IN THAT MORNING?
A. YES, MA'AM.
Q. STATE'S EXHIBIT NUMBER FOUR, DOES THAT JUST SHOW THE OTHER SIDE OF THE CAR?
A. YES, MA'AM.
Q. STATE'S EXHIBIT NUMBER SEVEN, A LITTLE CLOSER UP VIEW?
A. YES, MA'AM.
Q. STATE'S EXHIBIT EIGHT, WHAT DOES THAT DEPICT?

YOU RECOGNIZE THOSE PHOTOGRAPHS?

A. YES, MA'AM.

Q. WHAT DO YOU RECOGNIZE THOSE PHOTOGRAPHS TO BE?

A. A CAR THAT THE VICTIM WAS IN.

Q. AND DO THOSE PHOTOGRAPHS FAIRLY AND ACCURATELY PORTRAY THE CAR IN THE CONDITION THAT IT WAS THAT MORNING ON SEPTEMBER 26TH?

A. YES, MA'AM.

MS. HAYNES: YOUR HONOR, AT THIS TIME, WE SEEK TO INTRODUCE STATE'S --- I BELIEVE TWO THROUGH ELEVEN.

THE COURT: ANY OBJECTIONS?

MS. BELL: YOUR HONOR, WE NEED TO REVIEW THEM. WE HAVEN'T SEEN THEM. WITHOUT OBJECTION, YOUR HONOR.

THE COURT: STATE EXHIBITS --- I BELIEVE IT WOULD BE THREE THROUGH ELEVEN. ALL RIGHT. STATE EXHIBITS THREE THROUGH TWELVE, PHOTOGRAPHS ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

(STATE EXHIBITS THREE THROUGH ELEVEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

MS. HAYNES: I BELIEVE STATE'S EXHIBIT NUMBER WILL BE CHANGED TO STATE'S EXHIBIT TWELVE. JUST KEEPING COUNT.

THE COURT: ALL RIGHT. THAT'S THE AMOUNT.

MS. HAYNES: YES.

BY MS. HAYNES

[redacted] AND [redacted] IS THAT THE COUNTY ADMINISTRATION BUILDING?

A. YES, MA'AM.

Q. WOULD YOU POINT OUT, PLEASE, THE INTERSECTION IN WHICH YOU WERE STOPPED?

A. I WAS STOPPED RIGHT HERE.

Q. YOU WERE STOPPED HERE ON [redacted] STREET AT THAT INTERSECTION?

A. YES, MA'AM.

Q. DO YOU RECALL FROM WHICH DIRECTION THE CAR CAME THAT YOU MENTIONED SEEING COMING IN FRONT OF YOU ON FIRE?

A. IT CAME FROM THIS DIRECTION.

Q. AND WHERE DID IT GO TO, OR WHERE DID IT END UP?

A. IT ENDED UP ON THE CORNER RIGHT HERE, HIT THE METAL BOX AND STOPPED ON THE CURB.

Q. AND YOU WERE STILL SEATED RIGHT THERE IN YOUR AUTOMOBILE AT THE INTERSECTION?

A. YES, MA'AM.

Q. AND THE LADY THAT YOU SAW WALKING TOWARDS YOU, DO YOU RECALL WHICH DIRECTION SHE CAME WALKING?

A. FROM THIS CORNER.

Q. AND YOU CAN TAKE THE WITNESS STAND. I ASK YOU TO TAKE A LOOK AT THIS PHOTOGRAPH AND ASK YOU --- NINE PHOTOGRAPHS --- AND ASK YOU TO TAKE A LOOK AT THOSE PHOTOGRAPHS IF YOU WILL, SIR, AND TELL ME WHETHER OR NOT

A. YES, MA'AM.
Q. AND DID YOU SEE ANYTHING OUT THERE THAT DAY LYING AROUND IN THE STREET WHEN THE POLICE WERE THERE OR ONCE THEY HAD GOTTEN THERE AFTER YOU HAD HELPED MR. TYLER GET OUT OF THE CAR?
A. WELL, THERE WAS A CRUSHED PEPSI BOTTLE, PLASTIC PEPSI BOTTLE.
Q. OUT THERE IN THE STREET?
A. IN THE STREET, YES, MA'AM.
Q. I WANT TO SHOW YOU WHAT'S MARKED STATE'S EXHIBIT NUMBER ONE FOR ID AND ASK YOU IF YOU RECOGNIZE THIS MAP?
A. YES, MA'AM.
Q. IF YOU WILL STEP DOWN, PLEASE.
MS. HAYNES: YOUR HONOR, CAN WE LET THIS WITNESS STEP DOWN FOR A MOMENT?
THE COURT: CERTAINLY.
BY MS. HAYNES
Q. COME RIGHT HERE SO THE COURT REPORTER CAN HEAR YOU. IF YOU WILL ORIENT YOURSELF TO STATE'S EXHIBIT NUMBER ONE FOR ID WHICH IS A MAP OF RICHLAND COUNTY. SHOW ME IF YOU WILL THE LOCATION OF [redacted] STREET ON THIS MAP?
A. [redacted] STREET IS RIGHT HERE.
Q. AND IT'S RUNNING DIAGONALLY ACROSS THE EXHIBIT?
A. YES, MA'AM.
Q. AND THIS BIG BUILDING RIGHT HERE ON THE CORNER OF

I DON'T KNOW WHAT EXPLODED IN THE CAR, BUT WE KNEW WE HAD TO MOVE HIM AGAIN, AND WHATEVER SHE SAID TO HIM, HE STOOD RIGHT UP, AND WE GOT THE CHANCE TO MOVE HIM AND PUT HIM IN THE WOOD CHIPS. AS SOON AS WE SAT HIM DOWN, THE AMBULANCE CAME AND TOOK HIM ---

Q. YOU WERE TRYING TO MOVE HIM FURTHER AWAY FROM THE CAR?

A. YES, MA'AM.

Q. WAS THE CAR STILL ON FIRE?

A. YES, MA'AM.

Q. AND AT THAT POINT, I BELIEVE YOU SAID THE AMBULANCE HAD GOTTEN THERE OR THE FIRE DEPARTMENT?

A. WHEN WE MOVED HIM AWAY FROM THE CAR AGAIN?

Q. YES.

A. YES.

Q. AND DID THE POLICE LATER RESPOND TO THE SCENE?

A. YES, MA'AM.

Q. AND YOU ENDED UP TALKING TO THE POLICE, AND I BELIEVE, IN FACT, GAVE A STATEMENT TO INVESTIGATOR BURNS?

A. YES, MA'AM.

Q. AND YOU DID ALL THAT THERE AT THE SCENE THAT MORNING?

A. YES, MA'AM.

Q. AND BASICALLY OUTLINED EXACTLY WHAT YOU TOLD THE JURY HERE THIS MORNING?

EARS AND HIS HAIR WAS GONE. LIKE I SAID, JUST HIS SKIN JUST ALL JUST FELL TO --- FELL TO THE GROUND.

Q. HAD YOU EVER SEEN ANYTHING LIKE THAT BEFORE?

A. NO, MA'AM.

Q. BECAUSE YOU'VE HAD A LOT OF NIGHTMARES AFTERWARDS?

MS. BELL: OBJECTION, YOUR HONOR, TO RELEVANCE.

THE COURT: SUSTAINED.

BY MS. HAYNES

Q. AND AFTER YOU GOT THE FIRE OUT, WHAT IF ANYTHING DID YOU DO?

A. WELL, I HAD TO --- AFTER WE --- AFTER WE GOT THE FIRE OUT, I HAD TO PULL THE LADY OFF OF HIM. BECAUSE AFTER WE GOT IT OUT, SHE CAME UP. SHE HAD TOOK OFF HER CLOTHES, THE SAME LADY I SAW WALK BEHIND MY VAN, AND SHE WAS TRYING TO PUT HIM OUT, AND WE WERE TRYING TO EXPLAIN TO HER WE HAD ALREADY GOT HIM OUT, AND AFTER WE SAID THAT, SHE KIND OF LIKE --- I DON'T WANT TO SAY --- SHE WAS JUMPING ON TOP OF HIM.

Q. WHAT HAPPENED AFTER THAT?

A. SHE WAS SAYING SOMETHING TO HIM. I DON'T EXACTLY KNOW, AND SHE WAS KISSING HIM AND SAYING THAT SHE WAS SORRY.

Q. WHAT IF ANYTHING DID HE DO?

A. AFTER THAT, HE JUST --- I DON'T KNOW WHAT SHE SAID TO HIM, BUT HE SAT UP, BECAUSE THE CAR WAS ABOUT TO ---

Q. WHAT DID YOU DO?
A. WELL, I PUT MY HANDS ON HIS WAIST, WHICH WAS THE ONLY THING THAT WASN'T ON FIRE, AND I TURNED HIM AROUND, AND HE CIRCLED --- HE WAS FACING AWAY FROM ME, AND I CAUGHT HOLD TO HIS BELT HOLES, AND I PULLED HIM AWAY FROM THE CAR AROUND THE DOOR INTO THE FRONT OF THE CAR.
Q. DID SOMEONE ELSE COME AT THAT TIME AND BEGIN TO HELP YOU?
A. YES. THIS GUY ---
Q. MIKE MADAR?
A. YES, MA'AM, AND ANOTHER GUY.
Q. WHAT DID YOU ALL DO AT THAT POINT?
A. WELL, WE TRIED TO PUT HIM OUT STANDING UP, BUT WE COULDN'T PUT HIM OUT STANDING UP. SO, WE HAD TO ---
Q. HE WAS STILL ON FIRE?
A. YEAH. HE WAS STILL ON FIRE. SO, WE HAD TO PUT HIM ON THE GROUND AND ROLL HIM OUT TO GET HIM OUT.
Q. DID YOU GET THE FIRE OUT?
A. YEAH.
Q. LET'S GO BACK TO WHEN YOU WERE IN THE BACK SEAT AND YOU REACHED AND GRABBED HIS SHOES. WHAT IF ANYTHING DID YOU NOTICE WHEN YOU WENT TO PULL HIM OUT?
A. WELL, HIS SHOES WERE MELTING, BECAUSE THEY MELTED ON MY FINGERTIPS, AND I DIDN'T --- HE HAD NO LIPS. LOOKED LIKE HE DIDN'T HAVE ANYTHING HOLDING HIS EYES IN. HIS

WAS ON THE BACK SEAT, YOU KNOW, LAYING ON HIS BACK.
Q. WHAT DID YOU DO AT THAT POINT, DOUGLAS?
A. I CALLED TO HIM, AND HE RESPONDED, BUT HE WAS SAYING, JUST AH, AND I ASKED HIM, YOU KNOW, WAS HE ALL RIGHT, YOU KNOW, COULD HE MOVE OR ANYTHING. HE DIDN'T SAY ANYTHING. HE JUST WAS MOANING.
Q. WAS HE ON FIRE AT THAT TIME?
A. YES.
Q. THEN WHAT DID YOU DO?
A. I REACHED IN TO GRAB HIS FEET, AND HIS SHOES WERE --
-
Q. HOW WAS HE POSITIONED IN THAT BACK SEAT OF THAT CAR WHEN YOU REACHED IN IN ORDER FOR YOU TO GRAB HIS SHOES?
A. HE WAS ON HIS BACK, AND HIS LEGS WERE RAISED UP ---
Q. IN THE AIR?
A. AND HIS HANDS WERE OUT TO HIS SIDE LIKE THIS.
Q. WHEN YOU GRABBED HIS SHOES, WHAT DID YOU DO THEN, DOUGLAS?
A. WELL, WITH ONE PULL, I JUST YANKED HIM OUT AS HARD AS I COULD, AND HE SLID OFF THE SEAT AND STOOD UP AND ---
Q. WHAT DID YOU SEE THEN?
A. WELL, A FLAME OF FIRE CAME OFF HIS HAIR AND ALL HIS SKIN AND STUFF JUST STARTED PEELING AWAY FROM HIS BODY, AND FOR A MINUTE, I HAD TO FIGURE OUT HOW I WAS GOING TO GET HIM AWAY FROM THE CAR WITHOUT CATCHING AFIRE MYSELF.

A. I IMMEDIATELY LOOKED BACK TO MY LEFT TO SEE IF ANYTHING ELSE WAS COMING TOWARDS ME.

Q. WAS THERE?

A. YES, MA'AM.

Q. WHAT WAS THAT?

A. IT WAS A LADY. SHE WAS LIKE WALKING BEHIND THE VAN I WAS DRIVING, AND I ASKED HER WAS THERE ANYBODY IN THE CAR, DID THEY GET OUT ALL RIGHT, AND SHE JUST LOOKED AT ME AND SAID, YES, MY HUSBAND.

Q. WHAT DID SHE DID?

A. KEPT WALKING.

Q. WHAT DID YOU DO?

A. AT THIS TIME, I PUT MY VAN IN PARK, AND I THOUGHT ABOUT IT FOR A SECOND, BECAUSE THE CAR WAS ON FIRE, AND I SAID, WELL, I BETTER MAKE SURE, AND I GOT OUT AND WENT TO THE CAR, WENT TO THE PASSENGER SIDE, OPENED THE FRONT DOOR, AND I LOOKED IN. I SAW NOTHING AT FIRST. I CLOSED THE DOOR BACK, AND I WAS GOING TO WALK OFF. SOMETHING SAID, NO, OPEN THE BACK DOOR. SO, I OPENED THE BACK DOOR, AND YOU KNOW, SMOKE CAME OUT AND EVERYTHING, AND I REALLY COULDN'T SEE ANYTHING FROM THIS POINT. SO, WHEN I CLOSED THE DOOR, THE SUN HIT HIS RING ON HIS FINGER, AND AT THAT POINT IN TIME, I KNEW SHE WAS TELLING THE TRUTH. SO, I CLOSED THE DOOR AND WENT AROUND TO THE OTHER SIDE OF THE CAR AND OPENED THE DOOR, AND THERE HE

A. [redacted] STREET.
Q. YOU WERE ON [redacted] STREET GOING TO TURN RIGHT ON [redacted] STREET?
A. LEFT ON [redacted] STREET.
Q. LEFT ON [redacted] STREET. GO UP [redacted]
A. RIGHT.
Q. AND WHAT'S ON THAT CORNER THERE AT [redacted] AND [redacted] SO THE JURY --- SO THEY CAN PLACE IN THEIR MIND WHICH AREA OF TOWN WE'RE TALKING ABOUT?
A. WELL, ACROSS FROM THE ALLEN BUILDING --- I MEAN, NOT ALLEN BUILDING, BUT ALLEN UNIVERSITY, THE DEPARTMENT OF SOCIAL SERVICES, AND THERE IS A STORE TO THE LEFT OF THEM.
Q. SO, RIGHT THERE ON YOUR CORNER ON YOUR RIGHT WOULD BE THE COUNTY ADMINISTRATION BUILDING?
A. RIGHT.
Q. AND AS YOU WERE SITTING THERE AT THE TRAFFIC LIGHT WAITING TO MAKE YOUR LEFT TURN ON TO [redacted] STREET, WHAT IF ANYTHING HAPPENED?
A. A CAR ROLLED IN FRONT OF ME, AND IT WAS LIKE ON FIRE, AND I JUST WATCHED IT HIT THE CURB AND BOUNCE UP AND HIT THE METAL BOX AND COME BACK DOWN TO THE CURB.
Q. DID YOU SEE ANYONE?
A. NOT AT THE TIME.
Q. WHAT DID YOU DO AT THAT TIME?

BY MS. HAYNES

Q. MR. BROWN, WHERE ARE YOU FROM?

A. COLUMBIA.

Q. HOW LONG HAVE YOU LIVED IN COLUMBIA?

A. ALL MY LIFE.

Q. ALL YOUR LIFE. DID YOU GO TO SCHOOL HERE?

A. YEAH.

Q. WHAT HIGH SCHOOL DID YOU GRADUATE FROM?

A. C.A. JOHNSON HIGH SCHOOL.

Q. AND WHERE ARE YOU WORKING AT NOW?

A. RICHLAND MEMORIAL HOSPITAL.

Q. WHAT DO YOU DO AT RICHLAND MEMORIAL HOSPITAL?

A. I'M A NURSE TECH.

Q. NURSE TECH. WHAT DOES THAT MEAN?

A. I TAKE CARE OF PATIENTS.

Q. OKAY. AND ARE YOU MARRIED?

A. YEAH.

Q. HOW LONG HAVE YOU BEEN MARRIED?

A. A YEAR AND A HALF.

Q. A YEAR AND A HALF. NOW, LET ME DRAW YOUR ATTENTION BACK TO THURSDAY MORNING, SEPTEMBER 26, 1996. DO YOU RECALL WHERE YOU WERE THAT MORNING, DOUGLAS?

A. YES, MA'AM. I WAS SITTING AT A TRAFFIC LIGHT FIXING TO MAKE A LEFT TURN ON TO [redacted] STREET.

Q. SO, YOU WERE ON WHICH STREET?

ONE MORE THING AS TO WHY MS. TYLER MAY HAVE POURED GASOLINE ON HER HUSBAND AND LIT HIM WITH A LIGHTER. THE STATE DOESN'T HAVE TO PROVE A MOTIVE, BUT THERE IS AN EXPLANATION. I WANT YOU TO KEEP AN OPEN MIND. I WANT YOU TO JUST LISTEN TO EACH AND EVERY WITNESS ON THIS WITNESS STAND, AND I WANT YOU TO REMEMBER EACH AND EVERY PERSON ON THIS WITNESS STAND THAT TAKES THIS WITNESS STAND IS FIRST AND FOREMOST A HUMAN BEING JUST LIKE VAN TYLER. AND VAN TYLER IS THE DECEASED IN THIS CASE, AND VAN TYLER NOW IS A VICTIM IN THIS CASE, AND LINDA TYLER MAY ALSO BE A WITNESS IN THIS CASE. I WANT YOU TO KEEP THAT IN MIND. I WANT YOU TO KEEP AN OPEN MIND. I WANT YOU TO FOLLOW THE JUDGE'S INSTRUCTIONS AND BE VERY CONSCIENTIOUS ABOUT YOUR DELIBERATIONS IN THIS CASE. THANK YOU.

THE COURT: THANK YOU VERY MUCH. CALL YOUR FIRST WITNESS, SOLICITOR.

MS. HAYNES: THE STATE CALLS DOUGLAS BROWN.

THE COURT: PLEASE COME FORWARD.

CLERK OF COURT: STATE YOUR FULL NAME, PLEASE.

MR. BROWN: DOUGLAS JEROME BROWN.

THEREUPON:

DOUGLAS BROWN, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

YOU, I WANT TO POINT OUT TO YOU. THE FIRST ONE IS DID LINDA ANN TYLER INTEND TO KILL HER HUSBAND, NUMBER ONE? NUMBER TWO, DID HER HUSBAND VAN TYLER DIE AS A RESULT OF THE BURNS, OR DID HE DIE AS A RESULT OF GROSS NEGLIGENCE THAT HE RECEIVED WHEN HE SOUGHT MEDICAL ATTENTION FOR THOSE BURNS? IF HE DID NOT DIE AS A PROXIMATE CAUSE OF THE RESULT OF THOSE BURNS BUT FROM SOME OTHER TYPE OF GROSS NEGLIGENCE BY A MEDICAL PROVIDER, THEN SHE IS NOT GUILTY OF HIS DEATH.

IF SHE DID NOT WITH MALICE AFORETHOUGHT INTEND TO KILL HER HUSBAND, THEN WHAT SHE DID TO HIM IS NOT MURDER. I WANT YOU TO FOCUS ON THOSE TWO POINTS. I WANT YOU TO REALIZE SOMETHING VERY, VERY IMPORTANT IN THIS CASE. MS. TYLER HAD NO DUTY, NO BURDEN, AS THE STATE HAS, TO PROVE TO YOU ANY OF THOSE TWO POINTS THAT I'VE MENTIONED TO PROVE TO YOU THAT SHE INTENDED OR DID NOT INTEND OR FOR WHATEVER REASON YOU FEEL LIKE SHE NEEDS TO PROVE SOMETHING, SHE HAS ABSOLUTELY NO DUTY TO PROVE TO YOU ANYTHING. THE STATE HAS BROUGHT THE CHARGE OF MURDER AGAINST HER BEFORE YOU FOR YOU TO DECIDE. AND IT'S THE STATE'S BURDEN, NOT THEIR DUTY, NOT THEIR ROLE, NOT THEIR JOB TO PRESENT THE FACTS, BUT THEIR BURDEN TO PROVE TO YOU THAT SHE'S GUILTY OF MURDER. AND IF THEY DON'T PROVE EACH AND EVERY ELEMENT TO YOU BEYOND A REASONABLE DOUBT, THEN YOU CANNOT CONVICT HER OF MURDER.

FORMERLY KNOWN AS LINDA SALLEY BEFORE SHE MARRIED VAN TYLER. WHETHER IT'S AN AKA OR LINDA SALLEY OR LINDA TYLER, WE REPRESENT LINDA TYLER WHO WAS MARRIED TO VAN TYLER.

THIS CASE IS NOT ONLY ABOUT WHAT HAPPENED ON SEPTEMBER 26, 1996, BUT THIS CASE IS WHAT HAPPENED TO MS. TYLER BASICALLY THE MAJORITY OF THE TIME OF HER LIFE, MAJORITY OF THE TIME THAT SHE WAS MARRIED TO VAN TYLER, THE MAJORITY THAT SHE WAS LOOKING FOR HELP AND COULD NOT GET ANY.

THIS CASE ISN'T ABOUT WHAT HAPPENED SOLELY ON THE MORNING OF SEPTEMBER 26, 1996. THIS CASE IS ABOUT A MENTAL HEALTH ISSUE. THIS MENTAL HEALTH ISSUE CONCERNS WHETHER OR NOT SHE WAS MENTALLY ILL AT THE TIME, OR WHETHER SHE WAS LEGALLY INSANE AT THE TIME.

TO TAKE A FLAMMABLE LIQUID AND POUR IT ON SOMEBODY'S HEAD AND THEN LIGHT THEM ON FIRE IS A GRUESOME THING TO DO, AND IN THIS PARTICULAR CASE, LADIES AND GENTLEMEN, I WANT YOU TO PAY PARTICULAR ATTENTION TO TWO POINTS THAT WE AS THE DEFENSE HAS TO SHOW TO YOU, EVEN THOUGH WE DON'T HAVE A BURDEN TO SHOW TO YOU, WE HAVE TO SHOW TO YOU TO CONVINCE YOU, PERSUADE YOU THAT THERE IS SOME OTHER CHARGE OR SOME OTHER CRIME THAT MS. LINDA ANN TYLER MAY BE GUILTY OF, BUT IT CERTAINLY ISN'T MURDER.

THESE ARE THE TWO POINTS THAT I WANT TO MENTION TO

WHAT THAT MEANS IS THAT EVERY WITNESS IS CALLED TO THE STAND YOU, LADIES AND GENTLEMEN, HAVE THE SOLE RESPONSIBILITY OF DETERMINING HOW CREDIBLE AND HOW BELIEVABLE THEIR TESTIMONY IS AND HOW MUCH WEIGHT YOU WANT TO GIVE TO THEIR TESTIMONY.

YOU CAN BELIEVE A PORTION OF A WITNESSES' TESTIMONY, ALL OF A WITNESSES' TESTIMONIES OR NONE OF THE WITNESSES' TESTIMONY. AND IN TURN, THROUGH THOSE WITNESSES THERE MAY BE CERTAIN EXHIBITS, PIECES OF EVIDENCE THAT ARE INTRODUCED INTO EVIDENCE, AND IN TURN, YOU'RE GOING TO HAVE TO GIVE THE SAME CREDENCE TO THAT. YOU'RE GOING TO HAVE TO WEIGH THAT AND DETERMINE HOW MUCH WEIGHT YOU WANT TO GIVE TO THAT EVIDENCE IN THE CASE.

AT THE END OF THE CASE, JUDGE SHORT IS GOING TO CHARGE YOU ON THE LAW IN THIS CASE, AND AT THAT POINT IN TIME, YOUR REAL JOB WILL BE TO RETIRE TO YOUR JURYROOM AND TAKE THOSE FACTS AS YOU FOUND THEM PRESENTED TO YOU THROUGHOUT THE TRIAL AND APPLY THEM TO THE LAW THAT JUDGE SHORT HAS CHARGED YOU, AND AT THAT POINT IN TIME, RETURN A VERDICT.

THIS, LADIES AND GENTLEMEN, THE CASE --- YOU WILL HEAR ABOUT A STATEMENT THAT MS. TYLER MADE A COUPLE OF HOURS AFTER THIS HAPPENED WHERE SHE ACCUSED MR. TYLER OF HAVING CHEATED ON HER. SHE ACCUSED HIM OF HAVING MULTIPLE GIRLFRIENDS THAT SHE FOUND OUT ABOUT HIM GETTING

ONE OF THEM PREGNANT THE NIGHT BEFORE. AT THAT POINT IN TIME, THAT SET HER OFF. THAT'S WHAT CAUSED HER TO GO, WHEN THEY STOPPED FOR GASOLINE, TO GET THE GASOLINE IN A PEPSI BOTTLE AND THEN POUR IT OVER HIS HEAD.

THIS CASE, LADIES AND GENTLEMEN, IS NOT ABOUT A VICTIM OVER THERE. IT'S ABOUT A VICTIM, MR. VAN TYLER, WHO HAD SOMETHING DONE TO HIM THAT IS TOTALLY BEYOND WHAT WAS CALLED FOR. THERE ARE OTHER RECOURSES FOR WHAT MS. TYLER FEELS WAS DONE TO HER. THIS, LADIES AND GENTLEMEN, BOILS DOWN TO A CASE ABOUT HOLDING HER RESPONSIBLE, HOLDING HER ACCOUNTABLE FOR HER ACTIONS ON SEPTEMBER 26TH OF 1996. THANK YOU.

THE COURT: FOR THE DEFENSE.

MS. JOHNS: MAY IT PLEASE THE COURT, YOUR HONOR?

THE COURT: YES.

OPENING STATEMENT

BY MS. JOHNS

THE ROLE AND DUTY OF THE STATE IN THIS PARTICULAR CASE IS NOT JUST TO PRESENT THE FACTS TO YOU FROM THAT WITNESS STAND, BUT THE ROLE AND DUTY AND BURDEN OF THE STATE IS TO PROVE TO YOU BEYOND ANY AND ALL REASONABLE DOUBT THAT LINDA ANN TYLER IS GUILTY OF MURDER.

LADIES AND GENTLEMEN, MY NAME IS TERESA JOHNS. THIS IS LINDA ANN TYLER SITTING NEXT TO ME. SITTING NEXT TO HER IS CHRISTA BELL. WE REPRESENT MS. LINDA ANN TYLER,

A. YES, MA'AM.
Q. THE TRUNK AREA?
A. (NOD OF HEAD.)
Q. STATE'S EXHIBIT NUMBER NINE, WHAT DOES THAT SHOW, PLEASE, SIR?
A. YES, MA'AM.
Q. WHAT DOES IT SHOW, SIR?
A. IT SHOWS THE FRONT OF THE CAR WITH THE HOOD UP AND THE DOORS OPEN AND THE TRUNK.
Q. AND THAT'S WHERE THE CAR CAME TO REST?
A. YES, MA'AM, ON THE CURB.
Q. WERE THOSE PICTURES TAKEN AFTER THE FLAMES WERE EXTINGUISHED?
A. YES, MA'AM.
Q. AND STATE'S EXHIBIT NUMBER ELEVEN, WHAT DOES THAT SHOW?
A. BURNED DASHBOARD AND INSIDE OF THE CAR.
Q. AND STATE'S EXHIBIT NUMBER TEN, CLOSER UP VIEW OF THE SAME PHOTOGRAPH?
A. YES, MA'AM.
Q. AND FINALLY, STATE'S EXHIBIT NUMBER THREE, IS THAT THE BACK SEAT OF THAT SAME VEHICLE?
A. YES, MA'AM.
Q. THAT BACK SEAT FROM WHICH YOU PULLED MR. TYLER?
A. YES, MA'AM.

Q. COUPLE OF MORE QUESTIONS, MR. BROWN. YOU MADE MENTION THAT YOU SAW A LADY. AFTER YOU SAW THE CAR COMING IN FRONT OF YOU, YOU SAW A LADY WALKING TOWARDS YOU, AND CAN YOU TELL ME WHAT THAT LADY WAS DOING?

A. SHE WAS JUST WALKING.

Q. WAS SHE SCREAMING OR ---

MS. BELL: OBJECTION, YOUR HONOR, TO LEADING.

BY MS. HAYNES

Q. WHAT IF ANYTHING WAS SHE DOING?

A. JUST WALKING.

Q. AND DID ANYONE COME TO YOUR CAR ASKING FOR ASSISTANCE?

A. NO, MA'AM.

Q. WHO IF ANYONE WAS OUT ON THE SIDEWALK SCREAMING FOR HELP IN THE CAR?

A. NO ONE.

Q. AND THE LADY THAT YOU SAW OUT THERE THAT DAY WALKING TOWARDS YOU THAT SAID HER HUSBAND WAS IN THE CAR, AND I BELIEVE YOU SAID THAT'S THE SAME LADY THAT LATER TOOK OFF HER CLOTHES TRYING TO EXTINGUISH THE FIRE YOU HAD ALREADY PUT OUT?

A. YES, MA'AM.

Q. IS SHE HERE IN THE COURTROOM TODAY?

A. YES, MA'AM.

Q. COULD YOU PLEASE POINT HER OUT TO THE JURY, PLEASE?

THE LADY SEATED RIGHT HERE BETWEEN MS. BELL AND MS. JOHNS?

A. YES, MA'AM.

Q. ANY DOUBT?

A. NO, MA'AM.

MS. HAYNES: MAY THE RECORD REFLECT THAT HE IDENTIFIED THE DEFENDANT IN THIS CASE.

Q. PLEASE ANSWER ANY QUESTIONS THEY MAY HAVE FOR YOU, SIR.

THE COURT: CROSS EXAMINATION.

MS. BELL: THANK YOU, YOUR HONOR. DOES IT PLEASE THE COURT?

CROSS EXAMINATION

BY MS. BELL

Q. MR. BROWN, HOW ARE YOU?

A. I'M ALL RIGHT.

Q. DO YOU RECALL APPROXIMATELY HOW LONG WERE YOU AT THE SCENE?

A. TO THE TIME, I GUESS THE NEWS CREW WAS OUT THERE, AND EVERYTHING WAS OVER WITH.

Q. COULD YOU ESTIMATE ABOUT HOW LONG YOU WERE THERE?

A. I WASN'T KEEPING TRACK OF THAT.

Q. MORE THAN 30 MINUTES OR LESS?

A. I COULDN'T GIVE AN ACCURATE ACCOUNT.

Q. CAN YOU REMEMBER HOW LONG IT WAS FROM THE TIME THAT

YOU FIRST NOTICED THE VEHICLE UNTIL THE TIME THAT THE AMBULANCE CAME, ABOUT HOW LONG THAT WAS?

A. EVERYTHING HAPPENED SO FAST. I MEAN, YOU KNOW, YOU WANT TO GIVE ME --- I'LL GIVE YOU A GUESSTIMATION. ANYWHERE FROM LIKE TEN TO FIFTEEN MINUTES.

Q. AND YOU INDICATED WHEN YOU SAW MS. TYLER SHE WAS WALKING ON THE OPPOSITE SIDE OF THE STREET ON [redacted] STREET COMING TOWARDS YOUR VEHICLE?

A. SAY AGAIN.

Q. WHEN YOU FIRST SAW MS. TYLER, SHE WAS WALKING TOWARDS YOUR CAR, TOWARDS YOUR VEHICLE?

A. SHE WAS KIND OF WALKING DIAGONALLY. IF MY VEHICLE WAS HERE, SHE WAS WALKING, LIKE, TO GO BEHIND MY VEHICLE AND CROSS THE STREET.

Q. BUT SHE WAS NOT WALKING AWAY FROM THE BURNED VEHICLE?

A. ALL I SAW WAS HER WALKING TRYING TO GET PAST MY VEHICLE TO CROSS THE STREET.

Q. AND SHE WAS ON THE SCENE THE WHOLE TIME THAT YOU WERE ON THE SCENE, CORRECT? I MEAN, SHE NEVER LEFT THE AREA? SHE NEVER FLED THE AREA, DID SHE?

A. I DIDN'T SEE HER UNTIL AFTER WE GOT HIM OUT AND WAS TRYING TO FIGURE OUT HOW TO MOVE HIM FROM IN FRONT OF THE CAR.

Q. AND AT THAT TIME WHEN YOU DID SEE HER FROM THAT

POINT ON, SHE WAS PRETTY MUCH THERE THE ENTIRE TIME? I MEAN, SHE DIDN'T LEAVE THE SCENE OF THIS ACCIDENT, DID SHE?

A. I CAN'T SAY IF SHE LEFT THE SCENE OR NOT. LIKE I SAID, I DON'T REMEMBER SEEING HER ANY MORE UNTIL WE GOT HIM OUT AND WE WAS DECIDING HOW WE WAS GOING TO PICK HIM UP TO MOVE HIM FROM IN FRONT OF THE CAR.

Q. AND WHAT DIRECTED YOU TO THE VEHICLE WAS THE FACT THAT MS. TYLER TOLD YOU THAT HER HUSBAND WAS IN THE CAR, CORRECT?

A. YES, MA'AM.

Q. AND YOU INDICATED AT SOME POINT --- DID YOU SEE HER DISROBE HERSELF AND TAKE HER DRESS OFF?

A. WELL, WHEN SHE CAME --- SHE CAME FROM BEHIND US --- WELL, SHE CAME FROM BEHIND ME, AND WHEN I TURNED AROUND, SHE WAS WAVING HER DRESS. SHE WAS, LIKE, IN A ONE PIECE, AND SHE ONLY HAD ON HER UNDERWEAR, HER BRA AND HER PANTIES, AND ---

Q. WHAT TIME OF DAY WAS THIS, SIR?

A. IN THE MORNING TIME.

Q. BROAD DAYLIGHT?

A. BROAD DAYLIGHT.

Q. AND YOU SAID AT ONE TIME THAT SHE APPEARED LIKE SHE WAS KISSING ON HIM?

A. IT APPEARED THAT SHE --- SHE WAS SAYING SOMETHING.

I DON'T KNOW WHAT SHE WAS SAYING OR WHAT SHE WAS DOING DOWN THERE, YOU KNOW. WE WAS TRYING TO GET HER OFF OF HIM TO MOVE HIM BEFORE THE CAR BLOWED UP.

Q. AND DID SHE ASSIST YOU ALL IN MOVING HIM AWAY FROM THE VEHICLE?

A. NO.

Q. SHE JUST SAID SOMETHING TO HIM THAT MADE HIM STAND UP, AND THAT'S WHEN YOU ALL PULLED HIM FROM THE VEHICLE?

A. YES, WE JUST ---

Q. I MEAN, PULLED ---

A. WE JUST DIRECTED --- YES, MA'AM.

MS. BELL: BEG THE COURT'S INDULGENCE.

BY MS. BELL

Q. AS FAR AS HER --- WHEN SHE TOOK OFF HER DRESS AND YOU SAW HER WAVING HER DRESS, WHAT EXACTLY DID IT APPEAR THAT SHE WAS DOING WITH HER DRESS?

A. MA'AM, I HAVE NO IDEA.

Q. DID SHE HAVE ON A HEAD PIECE AS WELL --- ANY GARMENT OVER HER HAIR?

A. YES, MA'AM, I BELIEVE SHE DID.

Q. DID YOU KNOW IF SHE AT ANY TIME TOOK THAT OFF?

A. NO.

MS. HAYNES: NOTHING FURTHER.

THE COURT: THANK YOU VERY MUCH, SIR. YOU MAY STEP DOWN. THANK YOU.

MS. HAYNES: MAY MR. BROWN BE EXCUSED TO GO BACK TO WORK?

THE COURT: ANY OBJECTIONS?

MS. BELL: NO OBJECTION, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU'RE EXCUSED.

MS. HAYNES: THE STATE CALLS MIKE MADAR.

THEREUPON:

MICHAEL D. MADAR, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HAYNES

Q. MR. MADAR, DO YOU LIVE HERE IN COLUMBIA?

A. YES, I DO.

Q. HOW LONG HAVE YOU LIVED IN COLUMBIA?

A. TEN YEARS.

Q. AND DO YOU WORK?

A. YES, PART-TIME.

Q. WHERE DO YOU WORK?

A. PROVIDENCE HOSPITAL.

Q. WHAT DO YOU DO THERE?

A. I'M A STUDENT NURSE-TECH.

Q. AND WHAT DO YOU DO THE REST OF YOUR TIME?

A. I'M IN SCHOOL TO BE AN RN.

Q. WHERE ARE YOU GOING TO SCHOOL?

A. MIDLANDS TECH.

Q. MARRIED?

A. YES, I AM.

Q. HOW LONG?

A. EIGHT YEARS.

Q. AND LET ME DIRECT YOUR ATTENTION BACK TO THURSDAY, SEPTEMBER 26, 1996, THAT MORNING. DO YOU RECALL WHAT YOU WERE DOING THAT MORNING?

A. YES, MA'AM. I WAS ON THE WAY TO THE HEALTH DEPARTMENT. AT THE TIME, I WAS WORKING FOR THE DEPARTMENT OF MENTAL HEALTH, AND I WAS EXPOSED TO T-B, AND AS JUST A PRECAUTIONARY MEASURE, I WAS HAVING TO TAKE I-N-H MEDICATION, AND I HAD TO GO TO THE HEALTH DEPARTMENT ONCE A MONTH TO GET MY PRESCRIPTION.

Q. AND WHAT, IF ANYTHING, DID YOU ENCOUNTER ON YOUR WAY TO THE HEALTH DEPARTMENT?

A. WELL, I WAS RUNNING A FEW MINUTES LATE, AND I WAS COMING DOWN [redacted] STREET, AND THE LIGHT WAS GREEN, AND THERE WERE SEVERAL VEHICLES STOPPED IN THE RIGHT HAND LANE, AND I WAS COMING UP ON THE RIGHT HAND LANE. YOU KNOW, I COULDN'T FIGURE OUT WHY THE LIGHT, YOU KNOW, WAS GREEN AND EVERYBODY ELSE WAS SITTING THERE. SO, I WENT AROUND THEM, AND AS I PASSED THE VEHICLES, I SAW A CAR AT THE LIGHT JUST KIND OF EASE ACROSS THE MID --- RIGHT ACROSS THE INTERSECTION OF [redacted] AND HARDEN, AND THERE WAS SMOKE COMING OUT OF THE CAR, AND A LADY BAILED OUT OF

THE RIGHT SIDE OF THE CAR, AND WHEN SHE CAME OUT, SHE DIDN'T HAVE ANY CLOTHES ON. SHE JUST HAD HER PANTIES AND BRA, AND IT REALLY STRUCK ME AS ODD.

SO, I HAD PULLED MY VEHICLE OFF RIGHT PAST THE CORNER AND STOPPED AND GOT OUT, AND THEN THE CAR JUST BURST INTO FLAMES AND ROLLED ACROSS THE INTERSECTION AND HIT A METAL BOX THAT, I GUESS, CONTAINED PHONE TRANSFER WIRES OR WHATEVER, AND THAT'S WHERE IT RESTED.

Q. AND AT THAT POINT, WHAT IF ANYTHING DID YOU DO?

A. WELL, I JUMPED OUT OF MY TRUCK RIGHT AWAY, AND I RAN TOWARD THE VEHICLE, AND THERE WAS ANOTHER GENTLEMAN STANDING THERE, AND I ASKED HIM, YOU KNOW, IF ANYBODY ELSE WAS IN THE CAR, BECAUSE I SAW, YOU KNOW, THE LADY BAIL OUT OF THE CAR, AND HE HAD TOLD ME THAT HE HAD YELLED AND SHE HAD SAID NO, THERE WAS NOBODY ELSE IN THE CAR.

SO, I WAS JUST STANDING THERE TALKING TO HIM, AND MR. BROWN WAS STANDING ON THE OTHER SIDE OF THE VEHICLE, AND WE HAD STOOD THERE FOR A COUPLE OF MINUTES.

Q. WHEN MR. BROWN CAME AROUND THE PASSENGER SIDE AND OPENED UP THE DOOR, WHAT IF ANYTHING DID YOU DO IN ASSISTING HIM?

A. AT FIRST, HE OPENED THE RIGHT SIDE PASSENGER DOOR. HE HAD SAID --- HE HAD YELLED TO ME, THERE'S SOMEBODY ELSE IN THE VEHICLE. AND WE RAN TOWARD THE CAR, THE

GENTLEMAN AND MYSELF, AND HE OPENED THE PASSENGER SIDE DOOR, AND HE COULDN'T SEE ANYTHING, BECAUSE SMOKE WAS POURING OUT OF THE CAR, AND HE RAN AROUND TO THE SECOND DOOR ON THE PASSENGER SIDE. I THINK IT'S A FOUR DOOR, AND HE OPENED THE DOOR AND SMOKE WAS BILLOWING OUT, BUT I SAW A HAND COME OUT OF THE CAR, AND HE SAID HE COULDN'T GET TO THE GENTLEMAN BECAUSE THE HEAT WAS TOO --- YOU KNOW, TOO EXTREME.

SO, HE RAN AROUND TO THE DRIVER'S SIDE BACK DOOR, AND I RAN UP TOWARD HIM, AND AS HE OPENED THE CAR DOOR, I SAW HIM BEND DOWN, AND WHEN HE DID, THE GENTLEMAN STOOD STRAIGHT UP, AND HE HAD FIRE, YOU KNOW, COMING OFF THE BACK OF HIS HEAD A GOOD THREE OR FOUR FEET HIGH.

Q. AND AFTER MR. BROWN GOT MR. TYLER OUT OF THE CAR, WHAT IF ANYTHING DID YOU DO TO ASSIST HIM?

A. WELL, WE CARRIED --- WE KIND OF GOT HIM, BECAUSE I REALLY DIDN'T WANT TO TOUCH HIM, BECAUSE I --- HE WAS BURNED PRETTY BAD, AND I REALLY DIDN'T, YOU KNOW, DO MUCH RIGHT AT THAT POINT. HE JUST KIND OF STAGGERED OVER TO THE CURB, WHICH IS PROBABLY FROM WHERE HE WAS WAS MAYBE 15 OR 20 FEET, AND I GRABBED MY SHIRT --- I HAD A LAB COAT ON --- I HAD JUST BEEN IN CLASS, AND WE TRIED TO PUT HIM OUT WHILE HE WAS STANDING UP, AND WE COULD NOT, AND SO, WHEN HE --- YOU KNOW, HE KIND OF LIKE FELL TO THE GROUND, AND WE PUT HIM OUT WHILE HE WAS ON THE GROUND.

Q. AND THIS LADY THAT YOU HAD SEEN BAIL OUT OF THE CAR AT THE INTERSECTION, WHAT IF ANYTHING DID YOU NOTICE --- WHERE WAS SHE?

A. WELL, IT STRUCK ME ODD. BECAUSE WHEN SHE GOT OUT OF THE CAR, SHE JUST WALKED UP THE STREET --- UP [redacted] STREET AWAY FROM THE CAR, AND I SAW HER GO AROUND A VEHICLE OVER TO THE RIGHT HAND SIDE --- YEAH, RIGHT HAND SIDE, AND I DIDN'T SEE HER AFTER THAT. I DIDN'T PAY THAT MUCH ATTENTION AFTER THAT. I WAS TOO BUSY TRYING TO HELP, YOU KNOW, PUT THE GENTLEMAN OUT.

Q. AND DID YOU GET THE FIRE OUT?

A. YEAH. WE PUT THE --- HE KIND OF ROLLED AROUND ON THE GROUND A LITTLE BIT, AND MR. BROWN AND MYSELF AND ANOTHER GENTLEMAN PUT HIM OUT.

Q. WAS EMS, THE FIRE DEPARTMENT OR THE POLICE PRESENT AT THAT TIME?

A. NO, THEY WERE NOT.

Q. HOW LONG DO YOU GUESSTIMATE, IF YOU RECALL, THAT IT TOOK FOR THEM TO GET THERE?

A. TWENTY --- TWENTY-FIVE MINUTES, I WOULD THINK, BECAUSE IT SEEMED LIKE A LONG TIME TO ME, BUT I MEAN, EVERYTHING WAS HAPPENING SO FAST I COULDN'T SAY FOR SURE.

Q. IT COULD HAVE BEEN A SHORTER TIME?

A. YEAH. IT COULD HAVE BEEN A LITTLE SHORTER OR A LITTLE BIT LONGER. I COULDN'T SAY FOR SURE.

Q. AND DURING THIS TIME, WHAT IF ANYTHING WERE YOU DOING AFTER YOU GOT THE FLAMES PUT OUT ON MR. TYLER?

A. WELL, THERE WAS A CROWD OF PEOPLE STANDING AROUND, AND YOU KNOW, I YELLED FOR THEM TO GET BACK, BECAUSE FROM WHERE HE WAS POSITIONED WE WERE ONLY APPROXIMATELY MAYBE SIX OR EIGHT FEET FROM THE CAR, AND THE FLAMES WERE PROBABLY 30 OR 40 FEET HIGH IN THE AIR. I MEAN, IT WAS PRETTY GOOD, AND WE HEARD A LOUD POP, AND SO, I WAS CONCERNED THAT THE CAR WAS GOING TO BLOW UP AND, YOU KNOW, KILL THE REST OF US. SO, YOU KNOW, I YELLED FOR SOMEBODY TO FIND A BLANKET SO WE COULD MOVE HIM. I DIDN'T REALLY WANT TO MOVE HIM, BUT I FIGURED WE BETTER MOVE HIM AWAY FROM THE CAR BEFORE, YOU KNOW, IT BLOWS UP.

AT THAT TIME, THE LADY CAME FROM MY LEFT SIDE, AND SHE KNELT OVER TO HIM, AND SHE WAS TALKING TO HIM, AND HE SAT UP, AND AS I TURNED TO SEE IF THE PERSON HAD BROUGHT THE BLANKET, SHE HAD GRABBED HIM BY HIS LEG AND WAS DRAGGING HIM UP THE SIDEWALK.

Q. IS THAT THE SAME LADY YOU SAW GET OUT OF THE CAR EARLIER?

A. YES, IT WAS.

Q. AND IF YOU WILL, TAKE A LOOK AROUND THE COURTROOM AND TELL ME WHETHER OR NOT YOU SEE THAT LADY IN THE COURTROOM TODAY?

A. YES, MA'AM. SHE'S SITTING BETWEEN THOSE TWO LADIES

WITH THE TAN BLAZER ON.

Q. AND THAT'S THE LADY YOU SAW BAIL OUT OF THE CAR IN THE INTERSECTION?

A. YES, MA'AM.

MS. HAYNES: BEG THE COURT'S INDULGENCE FOR A MOMENT. I DON'T HAVE ANYTHING FURTHER. PLEASE ANSWER ANYTHING DEFENSE MAY HAVE.

THE COURT: CROSS EXAM.

MS. BELL: THANK YOU, YOUR HONOR. IF IT PLEASE THE COURT?

CROSS EXAMINATION

BY MS. BELL

Q. MR. MADAR, YOU ARE STUDYING TO BE A NURSE NOW?

A. YES, MA'AM.

Q. AND AT THE TIME OF THIS INCIDENT YOU WERE TAKING COURSES TOWARD THAT PURSUIT?

A. PREREQUISITE COURSES, YES, MA'AM.

Q. FIRST AID, WOULD IT HAVE EVER BEEN IN ANY OF THOSE COURSES?

A. PARDON? I'M SORRY.

Q. WOULD FIRST AID EVER BE ONE OF THOSE COURSES?

A. YEAH, COMMUNITY CPR.

Q. AND YOU INDICATED THAT YOU SAW MS. TYLER GET OUT OF THE CAR, AND AT THAT TIME, SHE HAD ON HER BRA AND PANTIES?

A. YES. SHE WAS COMING OUT OF THE CAR AS I CAME OUT OF THE CAR.
Q. AS YOU CAME OUT OF THE CAR?
A. RIGHT.
Q. AND WAS ANYBODY NEAR THE CAR AT THAT TIME?
A. OTHER THAN HER?
Q. RIGHT.
A. NO.
Q. YOU SAID THERE WAS A THIRD GENTLEMAN THAT WAS HELPING YOU AND MR. BROWN?
A. YES, MA'AM.
Q. DO YOU KNOW WHO THAT WAS?
A. I HAVE NO IDEA. I NEVER KNEW HIS NAME, AND HE DIDN'T STAY AFTER EVERYTHING WAS OVER.
Q. AT THE TIME OF THIS INCIDENT, YOU GAVE A STATEMENT ON THAT DAY?
A. YES, MA'AM.
Q. LET ME ASK YOU IF YOU --- DID YOU GIVE A STATEMENT TO MR. GRAY, INVESTIGATOR GRAY?
A. YES, I DID.
Q. DO YOU RECOGNIZE THIS DOCUMENT, SIR?
A. YES, MA'AM.
Q. WHAT DO YOU RECOGNIZE THAT DOCUMENT AS BEING?
A. THE STATEMENT I GAVE.
Q. AND IT CONSISTS OF HOW MANY PAGES?

A. APPROXIMATELY ONE AND A HALF.
Q. CAN YOU LOOK ON THERE AND LET ME KNOW WHEN YOU GET TO A POINT THAT SAYS THAT MS. TYLER TOLD SOMEONE THAT HER HUSBAND WAS NOT IN THE CAR?
A. IT'S NOT IN HERE.
Q. OKAY. YOU KNOW IT'S NOT IN THERE?
A. YES, MA'AM. I JUST LOOKED OVER IT. IT'S NOT IN THERE.
Q. IN FACT, FROM YOUR STATEMENT, THE INDICATION IS THAT THERE WAS --- HER HUSBAND WAS IN THE CAR, CORRECT?
A. YES, UH HUH.
Q. OKAY. SO, AT THE PARTICULAR RELEVANT PERIOD OF TIME WHAT SHE HAD TOLD PEOPLE ON THE SCENE WAS THAT HER HUSBAND WAS IN THE CAR, ISN'T THAT CORRECT, AS REFLECTED BY YOUR STATEMENT?
A. AS REFLECTED BY MY STATEMENT, YES.
Q. AND THAT WAS GIVEN THE DAY OF THIS INCIDENT, SIR?
A. YES, MA'AM.
Q. AND ALSO, MR. TYLER WAS CONSCIOUS AT THE TIME, IS THAT CORRECT?
A. YES, HE WAS.
Q. AND HE HIMSELF ROLLED OUT AND PUT HIMSELF OUT, OR YOU ALL ---
A. WE PUT HIM OUT.
Q. AND ISN'T IT TRUE THAT SHE ACTUALLY NEVER LEFT THE

SCENE? SHE WENT OVER TO HER HUSBAND AFTER HE WAS BURNED?
A. WELL, THERE WAS A TIME SPAN WHEN SHE LEFT THE CAR AND WALKED UP THE STREET UNTIL SHE GOT TO HIM. I DON'T KNOW WHERE SHE WAS STANDING OR ANYTHING LIKE THAT. I DON'T KNOW IF SHE HAD LEFT THE SCENE OR NOT. I WASN'T AWARE OF HER PRESENCE AT THAT TIME.
Q. BUT THERE WAS A TIME PERIOD WHEN SHE WAS OUT OF THE CAR WHEN HE WAS ON THE GROUND THAT SHE WAS OVER NEAR HIM?
A. YES.
MS. BELL: BEG THE COURT'S INDULGENCE.
BY MS. BELL
Q. JUST ONE QUICK QUESTION.
A. SURE.
Q. AS FAR AS THE VEHICLE, YOU INDICATED THAT YOU SAW SMOKE COMING OUT OF THE VEHICLE?
A. AT FIRST, YEAH, AND A FEW SECONDS LATER, FLAMES WERE COMING OUT.
Q. AND THE SMOKE WOULD HAVE BEEN COMING FROM WHERE?
A. I NOTICED AT FIRST FROM THE FRONT, THE FRONT DRIVER'S SIDE, BECAUSE I WAS FACING THAT SIDE AS I WAS COMING DOWN THE ROAD.
Q. IT WASN'T COMING FROM THE ENGINE, BUT IT WAS ACTUALLY ---
A. NO, IT WAS COMING FROM INSIDE.
Q. OKAY. AND SMOKE WAS COMING OUT OF THE WINDOW?

A. YES. IT WAS BILLOWING OUT FROM AROUND THE WINDOW. I DON'T KNOW IF IT WAS CRACKED OR NOT, BUT SMOKE WAS POURING OUT FROM THAT SIDE.

MS. BELL: I HAVE NOTHING FURTHER, YOUR HONOR.

MS. HAYNES: JUST ONE QUESTION, YOUR HONOR.

THE COURT: REDIRECT EXAMINATION.

REDIRECT EXAMINATION

BY MS. HAYNES

Q. THIS STATEMENT THAT YOU GAVE THAT MORNING, YOU HAD AN OPPORTUNITY TO LOOK AT THAT EARLIER THIS MORNING, DIDN'T YOU?

A. YES, I DID.

Q. AND IS THAT STATEMENT, BASICALLY, JUST A SUMMARY OF YOUR TESTIMONY THAT YOU'RE GIVING HERE TODAY?

A. YES, MA'AM.

Q. AND IS EVERY SINGLE WORD AND EVERY SINGLE THING INCLUDED IN THAT STATEMENT?

A. NO, IT WAS NOT.

Q. I DON'T HAVE ANYTHING FURTHER.

THE COURT: THANK YOU, SIR. NEXT WITNESS.

MS. HAYNES: MAY HE BE EXCUSED TO GO BACK TO SCHOOL?

MS. BELL: NO OBJECTION, YOUR HONOR.

THE COURT: THANK YOU, SIR. THANK YOU FOR COMING. YOU'RE EXCUSED. NEXT WITNESS.

MR. SORENSON: THE STATE CALLS DANA DEHART.

THE COURT: PLEASE COME FORWARD.

THEREUPON:

DANA DEHART, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. MS. DEHART, YOU LIVE HERE IN COLUMBIA?

A. YES, I DO.

Q. HAVE YOU LIVED HERE ALL YOUR LIFE?

A. NO. I JUST MOVED HERE IN '95.

Q. WHERE DO YOU WORK?

A. I WORK AT THE UNIVERSITY OF SOUTH CAROLINA.

Q. WHAT ARE YOUR DUTIES THERE AT THE UNIVERSITY OF SOUTH CAROLINA?

A. I USED TO TEACH IN THE PSYCH-DEPARTMENT. CURRENTLY, I'M IN VICTIM ASSISTANCE'S TRAINING DEVELOPMENT WHERE I DO DOMESTIC VIOLENCE RESEARCH.

Q. I WANT TO TURN YOUR ATTENTION, MS. DEHART, BACK TO SEPTEMBER 26TH OF 1996. DO YOU REMEMBER THAT DAY?

A. YES, I DO.

Q. WHERE WERE YOU COMING FROM? WHERE WERE YOU GOING TO IN THE EARLY MORNING HOURS?

A. I WAS COMING FROM GETTING A CAST PUT ON MY ARM. I HAD BROKEN MY ARM THE PREVIOUS DAY AND HAD A TEMPORARY CAST. I WAS GOING TO THE CAMPUS TO TEACH CLASS. WHAT

ELSE DID YOU ASK ME?

Q. WHERE WERE YOU DRIVING, ON WHAT ROAD HERE IN COLUMBIA?

A. I WAS DRIVING ON [redacted] STREET.

Q. WHERE WERE YOU COMING FROM? WHERE DID YOU GET YOUR CAST?

A. EXCUSE ME?

Q. WHERE HAD YOU GOTTEN THE CAST PUT ON YOUR ARM?

A. SOMEWHERE OUT WHERE ALL THOSE HOSPITALS AND STUFF ARE OUT AT RICHLAND.

Q. SO, YOU WERE GOING DOWN [redacted] STREET TOWARDS FIVE POINTS?

A. YES.

Q. AS YOU APPROACHED THE INTERSECTION OF [redacted] AND [redacted] STREET, DO YOU KNOW WHICH INTERSECTION I'M TALKING ABOUT, AT THE COUNTY ADMINISTRATIVE BUILDING RIGHT ON THE RIGHT HAND SIDE?

A. I DON'T KNOW ABOUT THE COUNTY ADMINISTRATIVE --- BUT I KNOW WHERE [redacted] AND [redacted] IS.

Q. TELL THE JURY --- DESCRIBE FOR THE JURY WHAT YOU SAW AT THAT TIME?

A. I WAS DRIVING DOWN THE STREET, AND THE CAR IN FRONT OF ME STOPPED IN THE LANE, AND I WAS WONDERING WHY THEY WERE STOPPED, BECAUSE NO ONE WAS GETTING OUT. SO, I WENT AROUND THEM. THE CAR IMMEDIATELY IN FRONT OF THAT WAS ON

FIRE, AND IT WAS BURNING ON THE INSIDE OF THE CAR, AND THERE WAS A GUY WHO HAD JUST PULLED OVER THAT WAS MAKING A CALL FROM A CELL-PHONE, WHICH HE, I THINK, GOT OUT OF THE TRUNK OF HIS CAR OR SOMETHING.

SO, I PULLED UP AND PARKED NEAR HIM, AND WE BOTH APPROACHED THE CAR AND WERE STANDING THERE SORT OF --- IT WAS ON FIRE ON THE INSIDE, AND THE DOORS WERE ALL SHUT, AND WE WERE STANDING AROUND, AND THERE WAS A WOMAN, I THINK, ON THE OTHER SIDE OF THE CAR WHO WAS YELLING, HE GOT OUT. HE'S NOT IN THERE, AND SO, WE WERE SORT OF LOOKING AROUND TO SEE WHETHER HE WAS --- HAD GOTTEN OUT OF THE CAR, AND I WAS WONDERING WHY HE HAD SHUT THE DOORS WHEN HE WAS JUMPING OUT OF A BURNING CAR.

THEN, ALL OF A SUDDEN, I HEARD SOMEONE YELL, OH, MY GOD, HE'S IN THERE, AND TWO MEN --- TWO MEN RUSHED TO TRY TO PULL HIM FROM THE CAR, AND AS THEY WERE DOING THAT, I RAN TO MY TRUCK TO TRY TO GET A BLANKET OUT TO SMOTHER THE FLAMES, AND I HAD A CAST ON MY ARM. SO, IT WAS SORT OF HARD AND TAKING ME A LONG TIME.

THEN, I LOOKED BACK AND THEY HAD GOTTEN HIM OUT OF THE CAR, AND HE WAS BURNING, AND I YELLED A FEW TIMES TO ROLL HIM ON THE GROUND. I HEARD SOME OTHER PEOPLE YELLING THAT. THEY ROLLED HIM ON THE GROUND, APPARENTLY. I WASN'T LOOKING AT THAT POINT, BECAUSE I WAS STILL TRYING TO GET THE BLANKET OVER THERE. I TOOK THE BLANKET

BACK AND JUST SORT OF WRAPPED IT AROUND HIM OR HELD IT OUT OR SOMETHING. I CAN'T REALLY RECALL.

Q. WHEN YOU LOOKED BACK, THOUGH, YOU SAW TWO GENTLEMEN HAD GOTTEN HIM OUT OF THE VEHICLE?

A. YES.

Q. WAS HE ON FIRE STILL AT THAT TIME?

A. YES.

Q. DO YOU KNOW WHAT HAPPENED TO THAT LADY WHO YOU HAD HEARD SAY HE GOT OUT. HE'S NOT IN THERE?

MS. BELL: OBJECTION, YOUR HONOR. THAT'S NOT HER TESTIMONY THAT A LADY SAID THAT. SHE SAID SHE HEARD SOMEONE SAY THAT.

THE COURT: ALL RIGHT. OVERRULED. I'M GOING TO LET HIM CROSS EXAMINE. GO AHEAD.

<u>BY MR. SORENSON</u>

Q. WHO WAS IT THAT SAID HE GOT OUT AND HE'S NOT IN THERE?

A. I THINK IT WAS THE LADY THAT WAS ON THE OTHER SIDE OF THE CAR.

Q. THAT WAS THE DIRECTION THAT THE STATEMENT CAME?

A. YES, YES.

Q. DID YOU GET A LOOK AT THAT LADY TO SEE WHAT SHE LOOKED LIKE AT THAT TIME?

A. I KNEW IT WAS AN AFRICAN-AMERICAN WOMAN. I CAN'T REMEMBER MUCH MORE ABOUT THAT.

Q. WHERE WAS SHE AT --- DO YOU KNOW WHERE SHE WENT OR WHAT SHE WAS DOING WHILE YOU WERE OVER AT YOUR CAR ---
A. NO.
Q. WHEN THE GENTLEMEN WERE TRYING TO GET HIM OUT --- WHEN YOU GOT THE BLANKET OUT OF YOUR CAR AND BROUGHT IT OVER, WHAT DID YOU DO AT THAT TIME?
A. I DROPPED MY KEYS AND STARTED CUSSING AND FREAKING OUT.
Q. SUFFICE IT TO SAY, HAD YOU EVER SEEN ANYTHING LIKE THIS BEFORE?
A. NO, IT WAS THE WORST THING ---
MS. BELL: OBJECTION, YOUR HONOR. I DON'T THINK THAT'S RELEVANT.
A. --- I'VE EVER SEEN.
THE COURT: I'LL OVERRULE THE OBJECTION.
BY MR. SORENSON
Q. DID YOU GO DO ANYTHING ELSE AT THAT TIME?
A. OH, YEAH. THEN SOMEONE YELLED TO GO GET SOME WATER. SO, I BEGAN RUNNING TO GET SOME WATER. I RAN TO A DELI THAT WAS ALONG [redacted] STREET AND TRIED TO DO THAT, AND BY THE TIME I GOT OUT WITH THE WATER, THE AMBULANCE HAD ARRIVED.
Q. DID THE POLICE SHOW UP?
A. I ASSUME THEY SHOWED UP. I DON'T RECALL ANYTHING ABOUT THAT.

Q. DID YOU STICK AROUND MUCH LONGER AFTER THAT?
A. I DIDN'T STICK AROUND FOR MUCH LONGER. I WAS BLOCKED IN, I THINK, BY A FIRE TRUCK OR SOMETHING, BUT AS SOON AS I WASN'T BLOCKED IN, I LEFT.
Q. DID YOU SEE THE FIRE TRUCK COME AND PUT THE FIRE OUT EVENTUALLY?
A. I --- I BELIEVE I DID. I DON'T RECALL THAT WELL.
Q. AT THAT TIME WHEN YOU WERE AT THE SCENE ON THE 26TH, DID YOU HAVE AN OPPORTUNITY TO TALK TO ANY LAW ENFORCEMENT THAT DAY ABOUT WHAT HAPPENED?
A. I THINK I REMEMBER SOMEONE CAME --- I THINK IT WAS EITHER A FIRE PERSON OR LAW ENFORCEMENT CAME UP AND ASKED ME SOMETHING, AND I JUST REMEMBER SAYING NO TO THEM. I DON'T EVEN RECALL WHAT THEY ASKED ME, AND I DIDN'T REALLY TALK TO ANYONE AT THAT TIME. I DIDN'T TALK TO LAW ENFORCEMENT UNTIL I HAD SEEN SOMETHING ON THE NEWS ABOUT IT, AND THEN I REALIZED THAT IT WAS SOMETHING THAT WAS BEING INVESTIGATED, AND I THOUGHT I'D BETTER CALL.
Q. DID YOU AT THAT TIME CALL THE COLUMBIA POLICE DEPARTMENT?
A. I CALLED COLUMBIA POLICE AND EVENTUALLY TALKED TO INVESTIGATOR GRAY.
Q. AS TO THE FIRE YOU SAW WHEN YOU PULLED AROUND ALONG SIDE THE VEHICLE, WHERE WAS THE VEHICLE AT THAT TIME? YOU INDICATED YOU PULLED AROUND WHERE THE CARS WERE

STOPPED. YOU WERE TRYING TO GET AROUND THEM ON [redacted] STREET?

A. EXCUSE ME?

Q. AS YOU CAME DOWN [redacted] STREET, THERE WERE TWO CARS STOPPED IN FRONT OF YOU AS BEST YOU COULD TELL?

A. YEAH. THE SORT OF HANDICAPPED BUS, AND THEN THERE WAS THE BURNING CAR.

Q. WHEN YOU FIRST CAME UP BEHIND THEM, DID YOU NOTICE IF THE CAR WAS ON FIRE WHILE YOU WERE STILL BEHIND THE VAN AND THE CAR?

A. OH, NO,NO.

Q. WHERE DID YOU FIRST NOTICE THAT THE CAR WAS ON FIRE?

A. WHEN I WAS RIGHT ALONG BESIDE IT.

Q. WHERE WAS THE CAR LOCATED THEN? WAS IT STILL ON [redacted] STREET, OR HAD IT MOVED?

A. IT WAS SORT OF AT THE --- IT WAS AT THE VERY CORNER OF [redacted] AND [redacted] I DON'T THINK ---

Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER FIVE AND ASK IF YOU, IS THAT WHERE THE CAR WAS LOCATED AT?

A. IT LOOKS LIKE THAT.

Q. AND YOU WERE GOING THAT WAY ON [redacted] STREET, IS THAT CORRECT?

A. NO, I WAS COMING DOWN HERE.

Q. COMING DOWN PAST THE FIRE TRUCK?

BLANKET, THEN HE WAS SITTING ON THE GROUND, JUST PRETTY DESTROYED, LIKE, HIS FACE WAS JUST CHARCOAL, BURNED AWAY.

Q. WAS THE FIRE OUT BY THAT TIME?

A. YEAH, BUT HIS HEAD WAS STILL SMOLDERING SOME.

Q. THANK YOU, MS. DEHART. PLEASE ANSWER ANY QUESTIONS THE DEFENSE HAS?

A. OKAY.

THE COURT: CROSS EXAMINATION.

MS. JOHNS: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MS. JOHNS

Q. MS. DEHART, I KNOW THIS IS DIFFICULT FOR YOU. AND I'LL TRY TO KEEP IT SHORT, OKAY?

A. OKAY. THANK YOU.

Q. YOU DESCRIBED A WOMAN THAT WAS AT THE SCENE ---

A. UH HUH.

Q. COULD YOU PLEASE DESCRIBE FOR THE JURY HER BEHAVIOR?

A. WHICH WOMAN ARE YOU TALKING ABOUT? I THINK THERE WERE ABOUT THREE INSTANCES WHEN I SAW AN AFRICAN-AMERICAN WOMAN AT THE SCENE.

Q. DID YOU SEE AN AFRICAN-AMERICAN WOMAN WALKING UP [redacted] STREET?

A. WALKING UP [redacted] STREET? I SAW ONE THAT WAS RUNNING PAST THAT DELI DOWN [redacted] STREET. THE ONE THAT WAS STANDING ON THE OTHER SIDE OF THE CAR THAT WAS

A. I WAS GOING RIGHT THERE, AND I WAS PARKED IN FRONT OF THE FIRE TRUCK. I HAD PARKED IN FRONT OF THE FIRE TRUCK.

Q. WHEN YOU SAW THE VEHICLE AND NOTICED THAT IT WAS ON FIRE, DESCRIBE TO THE JURY HOW THE FIRE WAS. WAS IT INSIDE THE CAR? WAS IT COMING OUT THE ENGINE, THE TRUNK?

A. IT WAS TOTALLY INSIDE THE CAR, AND THAT'S WHY IT WAS SORT OF PERPLEXING. AT FIRST, I DIDN'T --- IT DIDN'T LOOK LIKE A CAR ACCIDENT HAD OCCURRED, AND SO, I WAS BAFFLED AS TO HOW AN INTERIOR FIRE WAS TAKING PLACE.

MR. SORENSON: BEG THE COURT'S INDULGENCE.

BY MR. SORENSON

Q. YOU INDICATE, MS. DEHART, THAT WHEN YOU WERE PULLING THE BLANKET OUT OF THE VEHICLE, YOU LOOKED BACK AND SAW THE TWO MEN THAT HAD PULLED THE INDIVIDUAL OUT OF THE CAR. DESCRIBE TO THE JURY HOW HE APPEARED AT THAT TIME?

A. HE WAS --- HE CAME OUT FEET FIRST WITH HIS ARMS OUT, HIS MOUTH WIDE OPEN, AND HE WAS --- SORT OF LIKE IF YOU WERE WALKING IN THE DARK AND YOU COULDN'T SEE ANYTHING, HE WAS JUST LIKE THAT WITH HUGE HUNKS OF, I ASSUME, FLESH AND FIRE SORT OF DRIPPING OFF HIS BACK, WHITE SPLOTCHES ON HIS BACK WHERE THE FLESH HAD FALLEN OFF, AND FROM --- AFTER I SAW THAT AND THEY HAD BEGUN, I GUESS, TO DO SOMETHING TO HELP PUT OUT THE FLAMES, BECAUSE I WAS STILL GETTING THE BLANKET, BY THE TIME I RETURNED WITH THE

A. SHE WAS STANDING.
Q. DID YOU AT ANY TIME SEE HER MAKE ANY CONTACT WITH MR. TYLER?
A. I DON'T RECALL.
MS. JOHNS: I DON'T HAVE ANYTHING FURTHER FOR THIS WITNESS, YOUR HONOR.
THE COURT: THANK YOU. YOU MAY STEP DOWN. NEXT WITNESS.
MS. SORENSON: MAY SHE BE EXCUSED, YOUR HONOR?
THE COURT: ANY OBJECTION?
MS. JOHNS: NO OBJECTION.
THE COURT: THANK YOU, MA'AM, YOU MAY STEP DOWN. WITNESS IS EXCUSED. THANK YOU VERY MUCH. THANK YOU FOR COMING.
MR. SORENSON: THE STATE CALLS INVESTIGATOR RICKY SEEL.
THE COURT: PLEASE COME FORWARD.
THEREUPON:
RICHARD D. SEEL, BEING FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. INVESTIGATOR SEEL, WHERE DO YOU WORK?
A. I'M EMPLOYED WITH THE COLUMBIA POLICE DEPARTMENT.
Q. HOW LONG HAVE YOU BEEN WITH THE COLUMBIA POLICE

YELLING, HE GOT OUT, WAS STANDING ABOUT 30 FEET ON THE OTHER SIDE OF THE CAR, AND THEN WHEN I CAME BACK WITH THE BLANKET, THERE WAS A WOMAN DISROBED STANDING OVER THE GUY, BUT I COULD NOT SAY WHETHER THAT'S THE SAME WOMAN THAT WAS ONE OF THE PREVIOUS TWO THAT I SAW, BECAUSE EVERYTHING WAS BLURRY.

Q. OKAY. SO, THE WOMAN THAT WAS DISROBED STANDING OVER THE DECEASED, YOU CAN'T SAY THAT SHE WAS THE SAME WOMAN STANDING ON THE OTHER SIDE OF THE CAR SAYING HE GOT OUT?

A. NO, I DON'T HAVE VERY GOOD VISION OF ANY OF THOSE PEOPLE, BECAUSE I WAS NOT FOCUSING ON THAT ASPECT OF WHAT WAS GOING ON.

Q. OKAY. AND YOU SAY THAT SHE WAS DISROBED. YOU COULD EXPLAIN TO THE JURY WHAT SHE WAS WEARING?

A. SHE WAS WEARING SKIMPY UNDERGARMENTS, A BRA AND PANTIES.

Q. AND DID YOU SEE HER DISROBE HERSELF?

A. NO.

Q. DID YOU SEE ANY GARMENTS IN HER HAND?

A. I DON'T RECALL.

Q. DID YOU SEE ANY ITEMS IN HER HAND?

A. I DON'T RECALL.

Q. YOU SAID THAT SHE WAS OVER THE DECEASED IN THIS CASE. DESCRIBE TO THE JURY HOW SHE WAS OVER THE DECEASED. WAS SHE KNEELING? WAS SHE STANDING?

Q. AND APPROXIMATELY 10:30 DID YOU RECEIVE A CALL TO RESPOND TO A CERTAIN LOCATION?

A. YES, I DID, APPROXIMATELY AT 1031 HOURS.

Q. AND WHERE WAS THAT OR WHAT WAS THE NATURE OF THAT CALL?

A. I RECEIVED A CALL FROM OUR RADIO DISPATCHER SUMMONINGS ME TO THE CORNERS OF [redacted] AND [redacted] STREET IN THE CITY OF COLUMBIA, AND THE NATURE OF THE CALL WAS THAT THERE WAS A CAR ON FIRE AT THAT LOCATION, AND THERE WAS --- POSSIBLY SOMEONE HAD BEEN BURNED OR INJURED SEVERELY IN THAT FIRE.

Q. AND YOU INDICATED THAT WAS IN THE CITY OF COLUMBIA. IS THAT ALSO WITHIN RICHLAND COUNTY?

A. THAT IS CORRECT.

Q. WHO DID YOU ENCOUNTER, OR WHAT DID YOU SEE WHEN YOU ARRIVED AT THE INTERSECTION OF [redacted] AND [redacted] STREET?

A. WHEN I ARRIVED AT THAT LOCATION, I GOT OUT OF MY VEHICLE, AND I OBSERVED THAT THERE WAS A CHEVROLET VEHICLE THAT WAS PARKED CATTY CORNER ON THE CORNER OF THE --- [redacted] AND [redacted] STREET NEAR THE RICHLAND COUNTY ADMINISTRATION BUILDING ON THAT SAME SIDE. THERE WAS FIRE DEPARTMENT PERSONNEL PRESENT ON THE SCENE, AND AS I APPROACHED THE SCENE, I WAS APPROACHED BY INVESTIGATOR LUCIUS MOULTRIE. HE IS THE FIRE ARSON INVESTIGATOR FOR THE COLUMBIA FIRE DEPARTMENT, AND HE ADVISED ME THAT

DEPARTMENT?

A. I HAVE BEEN WITH THE COLUMBIA POLICE DEPARTMENT FOR APPROXIMATELY 25 YEARS.

Q. PLEASE TELL THE JURY WHAT YOUR DUTIES AND RESPONSIBILITIES ARE WITH THE COLUMBIA POLICE DEPARTMENT?

A. I AM CURRENTLY EMPLOYED WITH THE COLUMBIA POLICE DEPARTMENT AS A CRIMINAL INVESTIGATOR. MY FIELD OF EXPERTISE IS FIRE ARSON INVESTIGATION.

Q. HOW LONG HAVE YOU BEEN SPECIFICALLY DEALING WITH FIRE AND ARSON INVESTIGATION?

A. PRACTICALLY ALL MY CAREER OF 25 YEARS. I HAVE BEEN A FIRE ARSON INVESTIGATOR WITH THE COLUMBIA FIRE DEPARTMENT --- CORRECTION, COLUMBIA POLICE DEPARTMENT SINCE 1980. PRIOR TO THAT, I WAS A FIRE FIGHTER WITH THE COLUMBIA FIRE DEPARTMENT AND THE FEDERAL FIRE DEPARTMENT AT FORT JACKSON FOR APPROXIMATELY --- A TOTAL OF SEVEN YEARS.

Q. AS A FIRE ARSON INVESTIGATOR WITH THE COLUMBIA POLICE DEPARTMENT, ARE YOU CALLED OUT ANY TIME THERE IS A FIRE IN THE CITY OF COLUMBIA THAT MAY HAVE CRIMINAL IMPLICATIONS TO IT?

A. THAT IS CORRECT.

Q. AND TURNING YOUR ATTENTION BACK TO SEPTEMBER 26TH OF 1996, WERE YOU WORKING ON THAT MORNING?

A. YES, I WAS.

THERE HAD BEEN A FIRE AT THAT LOCATION, THAT THERE WAS POSSIBLY SOME FOUL PLAY INVOLVED IN THE FIRE, AND THAT THERE HAD BEEN A MAN THAT HAD BEEN BURNED VERY, VERY BADLY THAT HAD ALREADY BEEN TRANSPORTED TO THE RICHLAND MEMORIAL HOSPITAL BY THE EMS SERVICE, AND THAT WE WERE GETTING INDICATIONS FROM THE PARAMEDICS ON THE SCENE THAT HE MIGHT NOT LIVE.

Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S NUMBER FIVE, INVESTIGATOR SEEL. IS THAT A FAIR AND ACCURATE PICTURE OF HOW THE VEHICLE WAS LOCATED WHEN YOU ARRIVED OUT THERE THAT DAY?

A. THAT'S CORRECT.

Q. AND WHEN YOU ARRIVED ON THE SCENE, WAS THE VEHICLE STILL ON FIRE WHEN YOU GOT THERE?

A. NO. THE VEHICLE HAD BEEN EXTINGUISHED BY THE COLUMBIA FIRE DEPARTMENT. THEY HAD PUT THE FIRE OUT, AND THEN IT WAS MY JOB AND THAT OF INVESTIGATOR MOULTRIE TO DETERMINE THE CAUSE AND ORIGIN OF THIS FIRE.

Q. DID YOU AT THAT POINT IN TIME HAVE AN OPPORTUNITY TO TALK TO ANY WITNESSES THAT WERE OUT THERE THAT MAY HAVE SEEN WHAT HAVE HAPPENED?

A. YES. I WAS DIRECTED BY INVESTIGATOR MOULTRIE AT THE TIME THAT THERE WERE AT LEAST TWO WITNESSES WHO WERE THERE ON THE SCENE, MR. MATT MADAR AND A MR. DOUGLAS BROWN. SUBSEQUENTLY, I DID INTERVIEW BOTH OF THEM ON THE

SCENE, AND THEY TOLD ME WHAT THEY HAD SEEN, AND I AT THAT POINT IN TIME ASKED THEM TO STAND BY, BECAUSE WE HAD A MAJOR CRIME INVESTIGATOR COMING TO THE SCENE WHO WOULD WANT TO TALK WITH THEM.

Q. WHAT OTHER COLUMBIA POLICE DEPARTMENT PERSONNEL OR OFFICERS WERE ON THE SCENE WHEN YOU ARRIVED?

A. THERE WAS --- INVESTIGATOR MOULTRIE WAS PRESENT. THERE WAS ALSO ---

Q. HE'S WITH THE COLUMBIA FIRE DEPARTMENT?

A. HE IS WITH THE COLUMBIA FIRE DEPARTMENT. THERE ALSO, SERGEANT SAMMY KOON WAS PRESENT. AFTER MY ARRIVAL, LIEUTENANT DALE HAMILTON, WHO IS NOW CAPTAIN DALE HAMILTON ARRIVED ON THE SCENE, AND I BRIEFED HIM ON THE STATUS OF THE SCENE.

LATER ON, THE CHIEF FIRE MARSHALL FOR THE CITY OF COLUMBIA, JOHN REICH, HAD COME TO THE SCENE AND BROUGHT SOME EVIDENCE TO ME FROM THE HOSPITAL.

Q. DID INVESTIGATOR JOE GRAY EVENTUALLY SHOW UP ON THE SCENE?

A. YES, HE DID.

Q. AND DID HE AT THAT POINT IN TIME TAKE OVER THE INVESTIGATION OF THIS CASE?

A. AT THAT POINT IN TIME WHEN HE ARRIVED, HE TOOK OVER AS FAR AS THE LEAD INVESTIGATOR IN THE CASE. IT WAS HIS JOB AT THAT POINT. HE TOOK THE WITNESSES THAT WERE

PRESENT, AND HE INTERVIEWED THEM. WE DID SEND AN OFFICER TO THE RICHLAND MEMORIAL HOSPITAL TO DETAIN THE DEFENDANT IN THIS CASE AND TO BRING HER TO POLICE HEADQUARTERS, AND HIS JOB WAS TO ALSO INTERVIEW HER. MY JOB, AS I SAID, WAS TO STAY ON THE SCENE TO COLLECT THE EVIDENCE THERE AND DETERMINE THE CAUSE AND THE ORIGIN OF THE FIRE THERE AND TO COLLECT ANY EVIDENCE IN CONNECTION WITH THE CRIME THAT OCCURRED THERE.

Q. I SHOW YOU THIS CAN. IF YOU WOULD LOOK AT THAT AND TELL ME IF YOU RECOGNIZE THE OBJECT INSIDE?

A. YES, I DO.

Q. PLEASE TELL THE JURY WHAT THE ITEM IS?

A. THIS CAN CONTAINS A ONE LITER, ONE OF THOSE 28 OUNCE DRINKS OR LITER BOTTLE, PEPSI BOTTLE, THAT WAS FOUND AT THE SCENE AT THIS INCIDENT. IT WAS FOUND ON [redacted] STREET IN THE MIDDLE OF THE LANE OF TRAFFIC AND WAS LYING THERE, AND IT WAS POINTED OUT TO ME AS HAVING BEEN BEING DROPPED BY THE DEFENDANT AS SHE EXITED THE VEHICLE, AND I WENT --- I DID CHECK THIS BOTTLE OUT, AND IT CONTAINED LIQUID WITH A STRONG ODOR THAT RESEMBLED THAT OF GASOLINE. SO, I COLLECTED IT.

MR. SORENSON: I WOULD LIKE TO MARK THIS FOR I.D.

THE COURT: ALL RIGHT. WHAT NUMBER IS THAT?

COURT REPORTER: NUMBER THIRTEEN.

THE COURT: STATE EXHIBIT NUMBER 13. MARK IT FOR

I.D.

(STATE'S EXHIBIT NUMBER THIRTEEN MARKED FOR I.D.)

BY MR. SORENSON

Q. WHEN YOU SAW THIS ITEM, INVESTIGATOR SEEL, WHERE WAS IT LOCATED?

A. THE FIRST TIME I EVER SAW THIS ITEM IT WAS LOCATED IN THE ROADWAY, AND IT WAS LATER RECOVERED BY INVESTIGATOR MOULTRIE AND TURNED OVER TO ME.

Q. IS THIS ESSENTIALLY THE CONDITION IT WAS IN WHEN YOU FIRST NOTICED IT?

A. WITH THE EXCEPTION OF FINGERPRINT POWDER, YES.

Q. THAT WOULD BE THE BLACK POWDER NOW ON IT?

A. THAT'S CORRECT.

Q. IF YOU WOULD, POINT OUT TO THE JURY WHERE IN THIS DIAGRAM THAT BOTTLE WAS LOCATED WHEN YOU FIRST OBSERVED IT?

A. IT WAS LOCATED RIGHT IN THIS AREA HERE WHERE THE --- THIS BOX IS LAYING HERE --- THIS IS ACTUALLY A BOX OF THIS EVIDENCE TAPE, AND AFTER WE COLLECTED IT, WE TOOK THIS BOX AND SET IT IN THE SAME LOCATION TO MARK THE SPOT WHERE THE BOTTLE HAD BEEN SITTING. NORMALLY, WE WOULD HAVE LEFT IT THERE, BUT DUE TO THE TRAFFIC HAZARDS, IT HAD ALREADY BEEN RAN OVER. WE WENT ON AND REMOVED IT FROM THE AREA AND THEN JUST PUT A BOX THERE TO MARK THE SPOT WHERE IT WAS LOCATED.

Q. ONCE AGAIN, YOU INDICATED, INVESTIGATOR SEEL, THIS IS SUBSTANTIALLY THE SAME CONDITION AS IT WAS THAT DAY EXCEPT FOR THE FINGERPRINT POWDER THAT IS STILL ON IT?

A. THAT'S CORRECT.

MR. SORENSON: AT THIS TIME, YOUR HONOR, WE WOULD MOVE STATE'S NUMBER THIRTEEN INTO EVIDENCE.

THE COURT: ANY OBJECTION?

MS. JOHNS: NONE, YOUR HONOR.

THE COURT: THANK YOU. STATE EXHIBIT 13 ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 13 MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. AND I BELIEVE YOU INDICATED YOU OBTAINED THAT BOTTLE --- YOU ACTUALLY, VISUALLY SAW IT OUT IN THE ROAD, BUT IT WAS ACTUALLY INVESTIGATOR MOULTRIE THAT RETRIEVED IT AND GAVE IT TO YOU. IS THAT CORRECT?

A. WELL, HE ACTUALLY TURNED IT OVER TO ME, YES.

Q. AFTER YOU OBTAINED THAT BOTTLE, WHAT DID YOU DO WITH IT AT THAT TIME?

A. I PLACED IT INTO THAT CAN. I PUT EVIDENCE TAGS ON IT, PUT MY INITIALS ON IT, AND I SEALED THE CAN TO PRESERVE THE GASOLINE VAPORS TO KEEP THEM FROM ESCAPING, AND THEN WE --- THEN I TOOK THEM, AND EVENTUALLY, I TURNED IT OVER TO OUR I.D. TECHNICIAN TO HAVE HIM PROCESS

IT FOR FINGERPRINTS, AND OF COURSE, I WAS PRESENT AND DID WATCH HIM AND OBSERVE HIM CHECK IT FOR FINGERPRINTS. THEN IT WAS TURNED BACK OVER TO ME, AND I EVENTUALLY --- I TOOK THE BOTTLE TO THE STATE LAW ENFORCEMENT DIVISION LABORATORY AND TURNED IT OVER TO MR. ALEX LAYTON WITH THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WHO IS A LAB TECHNICIAN FOR FIRE ARSON INVESTIGATIONS.

Q. YOU INDICATED THAT YOU TURNED IT OVER TO A FORENSIC INVESTIGATOR TO CHECK IT FOR FINGERPRINTS?

A. THAT'S CORRECT.

Q. WOULD THAT BE INVESTIGATOR POTASH?

A. THAT'S CORRECT.

Q. IS HE WITH THE COLUMBIA POLICE DEPARTMENT?

A. HE IS AN I.D. DETECTIVE WITH THE COLUMBIA POLICE DEPARTMENT.

Q. DID YOU GUYS --- DID YOU AND/OR INVESTIGATOR MOULTRIE DO ANYTHING ELSE WITH THE CAN OUT THERE -- THE CAN WITH THE BOTTLE IN IT OUT AT THE SCENE?

A. NO. WE PRESERVED IT. IT WAS --- YOU KNOW, THE AREA WAS PHOTOGRAPHED, BUT WE PRESERVED THE BOTTLE.

Q. YOU INDICATED THAT THERE WAS SOME LIQUID INSIDE OF IT WHEN YOU FIRST GOT THIS BOTTLE?

A. YES.

Q. YOU INDICATED, ONCE AGAIN, THAT IT APPEARED TO YOU TO BE GASOLINE, IS THAT CORRECT?

A. IT APPEARED IN APPEARANCE AND BY SMELL.
Q. INVESTIGATOR SEEL, I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 14, A PHOTOGRAPH, AND ASK YOU IF YOU RECOGNIZE THAT PHOTOGRAPH?
A. YES, I DO.
Q. WHAT DOES THAT PHOTOGRAPH DEPICT?
A. THIS PHOTOGRAPH DEPICTS A HYDRA CARBON DETECTOR. IN MY LINE OF WORK, WE CARRY WHAT WE CALL A HYDRA CARBON DETECTOR. ALL FLAMMABLE LIQUIDS ARE BASICALLY --- IN CHEMISTRY THEY ARE HYDRA CARBONS, AND WE USE A DETECTOR THAT IS ABLE TO PICK UP AND DETECT HYDRA CARBONS IN THE AIR, AND SO, THIS PICTURE IS A PHOTOGRAPH THAT I TOOK OF THE BOTTLE. ONCE I PUT IT IN THE CAN, I TOOK MY HYDRA CARBON DETECTOR AND HELD IT DOWN TO THE CAN TO SEE IF I WOULD GET A POSITIVE READING FOR A FLAMMABLE ACCELERATE, AND THE PICTURE DEPICTS THAT MY HYDRA CARBON DETECTOR NEEDLE PEGGED ALL THE WAY OUT PAST THE GREEN SECTION WHICH IS THE HIGHEST IT CAN GO, AND WHAT THIS PICTURE IS DEPICTING.
Q. INDICATING THAT THERE IS A FLAMMABLE ACCELERATE?
A. A VERY STRONG FLAMMABLE ACCELERATE.
MR. SORENSON: WE WOULD LIKE TO ENTER THIS PICTURE.
THE COURT: ANY OBJECTION.
MS. JOHNS: NO OBJECTION, YOUR HONOR.
THE COURT: ADMITTED WITHOUT OBJECTION, STATE

EXHIBIT FOURTEEN, A PHOTOGRAPH.

(STATE'S EXHIBIT FOURTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. AND YOU INDICATED AFTER YOU DID THAT WITH THAT CAN, YOU SEALED IT AND TOOK IT OUT TO SLED, WAS THAT YOUR TESTIMONY?

A. AFTER DOING THAT, WE SEALED IT, AND THEN IT WAS NEXT CHECKED FOR FINGERPRINTS AND THEN TRANSPORTED TO SLED.

Q. AND I BELIEVE YOU INDICATED, INVESTIGATOR SEEL, A LITTLE WHILE AGO THAT CHIEF FIRE MARSHALL JOHN REICH WAS ALSO OUT AT THE SCENE?

A. YES, HE WAS.

Q. DID HE TURN ANY ITEMS OVER TO YOU?

A. YES, HE DID. HE HAD WENT TO THE RICHLAND MEMORIAL HOSPITAL AFTER FIRST ARRIVING AT THE SCENE, AND HE WENT THERE TO CHECK ON THE CONDITION OF THE VICTIM. WHILE HE WAS THERE, HE COLLECTED THE VICTIM'S CLOTHING WHICH HE -- - IT WAS PLACED IN A BAG AND WAS TRANSPORTED. HE TRANSPORTED THAT BACK TO THE SCENE OF THE FIRE WHERE I WAS PRESENT AT, AND HE TURNED THAT OVER TO ME AS EVIDENCE.

MR. SORENSON: I WANT TO MARK THIS FOR I.D., YOUR HONOR.

THE COURT: ALL RIGHT.

(STATE'S EXHIBIT FIFTEEN MARKED FOR I.D.)

BY MR. SORENSON

Q. INVESTIGATOR SEEL, I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 15 AND ASK IF YOU RECOGNIZE WHAT'S IN THAT CAN?

A. YES, I DO. THIS IS THE SAME CLOTHING THAT CHIEF FIRE MARSHALL JOHN REICH TURNED OVER TO ME AS BEING THE VICTIM'S CLOTHING THAT HE RECOVERED FROM THE HOSPITAL, AND THE CAN CONTAINS MY INITIALS, MY SIGNATURE AND MY HANDWRITING.

Q. I BELIEVE IN LOOKING AT THIS, INVESTIGATOR SEEL, THAT IT WAS ACTUALLY TURNED OVER TO INVESTIGATOR POTASH AND THEN TO YOURSELF, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. IS IT ESSENTIALLY THE SAME CONDITION NOW AS IT WAS WHEN YOU RECEIVED IT BACK ON SEPTEMBER 26TH?

A. SAME.

Q. HAVE YOU HAD AN OPPORTUNITY TO OBTAIN ANY OTHER EVIDENCE IN THIS CASE FROM ANY OTHER LAW ENFORCEMENT OFFICERS OR INVESTIGATOR GRAY?

A. NO.

Q. ANY CLOTHING FROM MS. TYLER THAT WAS TURNED OVER TO YOU?

A. OH, YES, THERE WAS. HER CLOTHING WAS ALSO OBTAINED FROM INVESTIGATOR GRAY. I TOOK IT INTO EVIDENCE AND ALSO

TRANSPORTED IT TO SLED FOR ANALYSIS TO HAVE THEM CHECK HER CLOTHING TO SEE IF THERE WAS ANY GASOLINE ON HER CLOTHING.

MR. SORENSON: MARK THIS FOR I.D., YOUR HONOR.

THE COURT: YES.

(STATE'S EXHIBIT SIXTEEN MARKED FOR I.D.)

BY MR. SORENSON

Q. INVESTIGATOR SEEL, I WANT TO SHOW YOU WHAT'S MARKED AS STATE'S NUMBER 16 FOR I.D., AND I ASK IF YOU RECOGNIZE THAT ITEM?

A. YES, I DO. THIS IS MY HANDWRITING. THIS IS MY NAME AND SO FORTH ON HERE, AND THIS IS THE DRESS THAT WAS TURNED OVER TO ME BY INVESTIGATOR JOE GRAY AT THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS AS BEING THE CLOTHING BELONGING TO THE DEFENDANT.

Q. DID YOU HAVE AN OPPORTUNITY THAT DAY OUT AT THE SCENE --- YOU COLLECTED THAT PEPSI BOTTLE --- DID YOU HAVE AN OPPORTUNITY TO COLLECT ANY OTHER EVIDENCE FROM THE ACTUAL VEHICLE?

A. YES, WE DID. WE COLLECTED SAMPLES FROM THE INTERIOR OF THE VEHICLE. WE RAN THE HYDRA CARBON DETECTOR OVER THE INTERIOR OF THE VEHICLE, AND WE DID RECEIVE LIGHT TRACES OF A FLAMMABLE HYDRA CARBON BEING PRESENT. BASED ON THAT, WE DID DRAW SOME SAMPLES. HOWEVER, THERE WERE ONLY LIGHT TRACES DUE TO THE EXORBITANT AMOUNTS OF WATER

BEING USED IN THE EXTINGUISHMENT OF THE FIRE BY THE FIRE DEPARTMENT.

MR. SORENSON: MARK THIS FOR I.D., YOUR HONOR.

(STATE'S EXHIBIT SEVENTEEN MARKED FOR I.D.)

BY MR. SORENSON

Q. CAN YOU IDENTIFY THESE INVESTIGATOR SEEL? ASK YOU IF YOU RECOGNIZE THAT ITEM?

A. YES, I DO. THIS IS MY HANDWRITING, AGAIN, MY MARK. THESE ARE FIRE DEBRIS THAT MYSELF AND INVESTIGATOR MOULTRIE COLLECTED FROM THE BACK SEAT OF THE VICTIM'S AUTOMOBILE.

Q. TAKEN OUT OF THE BACK SEAT?

A. THAT IS CORRECT.

Q. AND WHAT DID YOU DO WITH THIS ITEM THEN?

A. THAT ITEM WAS TRANSPORTED TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION FOR ANALYSIS.

Q. IS THIS ITEM IN SUBSTANTIALLY THE SAME CONDITION AS WHAT IT WAS OUT THERE ON THE 26TH OF SEPTEMBER?

A. YES, IT IS.

MR. SORENSON: AT THIS TIME, YOUR HONOR, WE WOULD MOVE NUMBER 17 INTO EVIDENCE.

MS. JOHNS: NO, OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. SIXTEEN AND FIFTEEN AREN'T IN EVIDENCE.

MR. SORENSON: THAT IS CORRECT, YOUR HONOR.

THE COURT: ADMITTED INTO EVIDENCE AS NUMBER 17, STATE EXHIBIT WITHOUT OBJECTION.

(STATE'S EXHIBIT SEVENTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. THANK YOU, INVESTIGATOR SEEL, ANSWER ANY QUESTIONS THAT THE DEFENSE MAY HAVE.

THE COURT: CROSS EXAM.

MS. JOHNS: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MS. JOHNS

Q. INVESTIGATOR SEEL, YOU WERE NOT AT THE INCIDENT LOCATION WHILE MS. TYLER WAS PRESENT, WERE YOU?

A. NO, SHE HAD ALREADY LEFT. SHE, ACCORDING TO THE INFORMATION I RECEIVED, LEFT IN THE AMBULANCE WITH THE VICTIM.

Q. AND THE DESCRIPTION YOU RECEIVED WAS THAT SHE WAS IN HER BRA AND PANTIES, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND ALSO, THE INFORMATION YOU RECEIVED SHE HAD DISROBED HERSELF OF STATE'S EXHIBIT NUMBER 16? WASN'T THAT YOUR UNDERSTANDING OF THE CASE?

A. THAT'S CORRECT.

Q. AND YOU HAD STATED ON DIRECT WITH MR. SORENSON THAT YOU HAD SAID YOU RECEIVED INFORMATION ABOUT HER DROPPING

A PEPSI BOTTLE. WHO GAVE YOU THAT INFORMATION?
A. I DO NOT RECALL EXACTLY WHO GAVE ME THAT INFORMATION. IT WAS INFORMATION THAT WAS PROVIDED AT THE SCENE THAT BROUGHT MY ATTENTION TO THE BOTTLE.
Q. YOU MADE A PRETTY THOROUGH INVESTIGATIVE REPORT REGARDING THIS INCIDENT, DID YOU NOT?
A. YES, MA'AM.
Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THAT AGAIN TODAY?
A. YES, MA'AM.
Q. AND WITHIN THAT REPORT, DO YOU RECALL WHETHER YOU MADE A NOTATION IN THAT REPORT AS TO RECEIVING INFORMATION ABOUT SOMEBODY EYE WITNESSING MS. TYLER DROPPING THE PEPSI BOTTLE?
A. I'LL CHECK MY REPORT. IN MY REFERENCE IN THE REPORT, I DID NOT HAVE THAT.
Q. NOW, YOU ALSO RECEIVED INFORMATION ABOUT LINDA TYLER EXITING THE VEHICLE, ISN'T THAT CORRECT?
A. YES, I DID.
Q. FROM ONE OF THE WITNESSES?
A. ONE OF THE WITNESSES, YES.
Q. AND ONE OF THE WITNESSES YOU HAVE IT IN THE REPORT SAID THAT SHE HAD EXITED OUT THE PASSENGER SIDE FRONT DOOR, IS THAT CORRECT?
A. CORRECT.

Q. NOW, YOU DID TAKE THE CAR INTO EVIDENCE, DID YOU NOT, TO INSPECT IT FURTHER?
A. WE SIMPLY TOOK THE CAR, AND IT WAS IMPOUNDED AND TAKEN, TOWED AWAY, IN THE EVENT THAT JOBY GRAY WANTED TO DO ANY FURTHER FOLLOW UP INVESTIGATION AS FAR AS THE ACTUAL CAR WENT. AS TO WHETHER HE DID THAT OR NOT, I DO NOT KNOW.
Q. DID YOU DO ANY FOLLOW UP INVESTIGATION IN REGARD TO THE VEHICLE?
A. NOT AFTER THAT DAY, NO, MA'AM.
Q. WHEN YOU ARRIVED ON THE SCENE, WAS THE VEHICLE STILL ON THE SCENE?
A. YES, IT WAS.
Q. WITH THE VEHICLE ON THE SCENE, DID YOU HAVE AN OPPORTUNITY TO INSPECT THE VEHICLE YOURSELF?
A. YES, I DID.
Q. AND WERE THERE OTHER ITEMS WITHIN THE VEHICLE THAT HAD ALSO BURNED?
A. THE ENTIRE INTERIOR HAD BURNED, YES, MA'AM.
Q. WERE ANY OF THE ITEMS THAT YOU FOUND IN THE VEHICLE IDENTIFIABLE?
A. IN WHAT RESPECT, MA'AM?
Q. DID YOU FIND THE POCKETBOOK BELONGING TO MS. TYLER IN THE CAR?
A. NO, I DIDN'T.

Q. HOW LONG HAVE YOU HAD EXPERIENCE WITH ARSON INVESTIGATION?

A. SINCE 1980.

Q. HOW MANY YEARS IS THAT?

A. EIGHTEEN.

Q. HAD YOU HAD ANY DEMONSTRATIONS OR ANY TESTS WITH REGARD TO BURNING VEHICLES?

A. YES, I HAVE.

Q. CAN YOU GIVE US INFORMATION BASED ON YOUR EXPERIENCE AS TO HOW LONG IT WOULD TAKE A BURNING VEHICLE TO BURN AS THIS ONE DID?

A. WELL, THAT WOULD DEPEND ON FACTORS, COMMON FACTORS. IF THE FIRE WAS ACCELERATED, IT COULD BURN --- WITH AN ACCELERANT, IT COULD BURN A LOT FASTER. UNDER JUST NORMAL BURNING CONDITIONS WITH MATERIALS THAT ARE AVAILABLE, IT MAY BURN SLOWER.

Q. IF IT WAS A COMBUSTIBLE MATERIAL, HOW QUICKLY CAN THE CAR BURN?

A. I'M NOT SURE I FOLLOW YOUR QUESTION BEING UNDER ---

Q. HOW QUICKLY WILL IT TAKE?

A. IF A FLAMMABLE WAS USED?

Q. YES.

A. IN THIS INSTANCE FROM EYE WITNESSES' ACCOUNTS, THAT CAR BURNED APPROXIMATELY SEVEN MINUTES, FIVE TO SEVEN MINUTES, AND IT BURNED THAT BADLY IN THAT AMOUNT OF TIME,

WHICH IS AN INDICATION TO ME THAT IT WAS AN ACCELERATED BURN. IT WAS NOT BURNING SLOWLY.

Q. IN YOUR OPINION WITH REGARD TO YOUR EXPERIENCE, DOES THE INTERIOR OF A CAR BURN QUICKER WITH THE DOORS AND WINDOWS SHUT OR THE DOORS AND WINDOWS OPEN?

A. IT WOULD BURN QUICKER WITH THEM OPEN.

Q. BECAUSE OF THE OXYGEN, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER FOUR, WHICH IS A PHOTOGRAPH --- OF ONE OF THE PHOTOGRAPHS OF THE VEHICLE, AND LOOK IN THERE ON THE BACK SEAT. DO YOU SEE IF YOU RECOGNIZE A WOMAN'S POCKETBOOK IN THAT PHOTOGRAPH?

A. NO, I DO NOT SEE ONE. OF COURSE, IT'S JUST A LOT OF RUBBLE. IT APPEARS TO BE A CAN ON THE FLOOR.

Q. NOW, DID YOU OR ANYBODY WITHIN YOUR, I GUESS, AREA OF EXPERTISE ON THIS CASE INSPECT THE MECHANICAL PARTS OF THIS VEHICLE?

A. YES, WE DID. AS YOU CAN SEE FROM THE PHOTOGRAPH YOU'VE HANDED ME, WE HAD THE HOOD UP. WE ALSO HAD THE PHOTOGRAPHS OF THE TRUNK THAT WAS UP. WE INSPECTED THE ENGINE COMPARTMENT, AND WE INSPECTED THE TRUNK AREA TO SEE IF THE FIRE HAD ORIGINATED IN THOSE AREAS, AND THE PHOTOGRAPHS THAT WE HAD WILL SHOW YOU THAT THE FIRE ORIGINATED WITHIN THE PASSENGER'S COMPARTMENT, AND THERE

WAS SOME EXTERIOR SPREAD TOWARDS THE OTHER AREAS, BUT THE FIRE HAD NOT ORIGINATED THERE.

Q. SO, YOU'RE SAYING THAT THE FIRE ORIGINATED IN THE PASSENGER SIDE OF THE VEHICLE?

A. PASSENGER'S COMPARTMENT. I MEAN THE INTERIOR OF THE VEHICLE.

Q. DID YOU INSPECT THE LOCKS OR WAS THE CAR TOO DETERIORATED TO DO THAT?

A. I DID NOT INSPECT THE LOCKS. ARE YOU TALKING ABOUT THE DOOR LOCKS?

Q. YES, SIR.

A. NO, I DID NOT.

Q. AND, AGAIN, REFERRING TO STATE EXHIBIT NUMBER FOUR, AS I POINT THIS OUT TO YOU RIGHT HERE, CAN YOU RECOGNIZE THAT AT ALL, THAT LITTLE WHITE PIECE BACK HERE IN THE BACK SEAT?

A. LET ME GET MY GLASSES OUT. MAYBE I CAN SEE IT ON ANOTHER. NO, MA'AM, I DO NOT RECOGNIZE WHAT THAT IS.

Q. IT IS WHITE, IS IT NOT?

A. IT IS SOMETHING THAT APPEARS TO BE WHITE, MAYBE PAPER, CLOTH. I COULD NOT TELL WHETHER THAT'S JUST FALL DOWN MATERIALS FROM THE ROOF OF THE INTERIOR OF THE CAR OR WHAT THAT IS AT THIS POINT.

Q. YOU CANNOT TELL IF THAT'S A POCKETBOOK?

A. IT DOES NOT APPEAR TO BE A POCKETBOOK TO ME, MA'AM.

Q. NONETHELESS, THAT WAS NOT TAKEN INTO EVIDENCE, IS THAT CORRECT?
A. I DID NOT TAKE A POCKETBOOK INTO EVIDENCE, AND WHATEVER THAT IS, I DID NOT TAKE IT INTO EVIDENCE.
Q. OKAY. NOW, TO THE BEST OF YOUR RECOLLECTION AND THE ACCOUNT THAT YOU RECEIVED FROM THE WITNESSES ON THE SCENE, YOU DID CONFIRM THAT MR. TYLER WAS PULLED FROM THE BACK SEAT, IS THAT CORRECT?
A. THAT IS CORRECT.
Q. DID YOU ALSO LEARN THAT MR. TYLER WAS ALSO THE DRIVER OF THE VEHICLE, IS THAT CORRECT?
A. THAT IS CORRECT.
Q. YOU ALSO STATED ON DIRECT EXAMINATION THAT YOU HAD RECEIVED INFORMATION AND THAT MR. TYLER WOULD NOT LIVE?
A. THAT IS CORRECT.
Q. DID YOU RECEIVE THIS FROM A PHYSICIAN, THIS INFORMATION FROM A PHYSICIAN OR A PATHOLOGIST?
A. NO.
Q. YOU RECEIVED THIS INFORMATION FROM AN EMERGENCY MEDICAL TECHNICIAN, IS THAT CORRECT?
A. I DIRECTLY RECEIVED THE INFORMATION, MA'AM, FROM THE CHIEF FIRE MARSHALL FROM THE CITY OF COLUMBIA WHO IS JOHN REICH.
Q. BUT DID YOU KNOW IF HE HOLDS A MEDICAL DEGREE?
A. NOT TO MY KNOWLEDGE.

Q. AND DO YOU HOLD A MEDICAL DEGREE?
A. NO, MA'AM.
Q. SO, AS TO THE OPINION AS TO THE LIKELIHOOD OF HIM SURVIVING WAS MERELY A LAY PERSON'S OPINION, CORRECT?
A. NO, MA'AM. HE HAD RECEIVED THAT INFORMATION FROM THE DOCTOR AT THE HOSPITAL.
Q. DO YOU KNOW THAT FROM PERSONAL KNOWLEDGE?
A. PERSONAL KNOWLEDGE, HE GAVE IT TO ME.
Q. NO. SIR, FROM YOUR PERSONAL KNOWLEDGE, WERE YOU PRESENT WHEN HE RECEIVED THE INFORMATION FROM A PHYSICIAN?
A. NO, MA'AM. I WAS ON THE SCENE OF THE FIRE.
Q. SO, YOU DON'T HAVE ANY PERSONAL KNOWLEDGE AS TO WHERE HE RECEIVED THE INFORMATION, ISN'T THAT CORRECT?
A. OTHER THAN WHAT HE TOLD ME.
Q. RIGHT. SO, YOU HAVE NO PERSONAL INFORMATION, NO PERSONAL KNOWLEDGE THAT THE CHIEF RECEIVED IT FROM A PHYSICIAN OTHER THAN WHAT HE TOLD YOU?
A. OTHER THAN WHAT HE TOLD ME.
Q. DID YOU EXAMINE THE STATE'S EXHIBIT NUMBER 16 TO SEE IF THERE IS ANY FLAMMABLE MATERIAL ON HERE?
A. I DID NOT.
Q. OR GASOLINE?
A. I HAD IT SENT TO THE STATE LAW ENFORCEMENT DIVISION.
Q. AND TO YOUR KNOWLEDGE, WAS THERE ANY FLAMMABLE

GASOLINE ON THIS GARMENT?

A. THE REPORT I RECEIVED HAD THERE WAS NONE FOUND?

A. WITH REGARD TO THE VICTIM'S CLOTHING, THERE WAS SOME GASOLINE ON THE VICTIM'S CLOTHING?

A. YES, THERE WAS.

Q. YOU ALSO PUT IN YOUR REPORT THAT SOMEBODY HAD MEASURED THE DISTANCE BETWEEN WHERE THE SODA BOTTLE WAS FOUND IN RELATIONSHIP TO THE CAR, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND I'LL REFER YOU TO STATE'S EXHIBIT FIVE WHERE YOU HAD POINTED OUT ON DIRECT EXAMINATION WHERE HE HAD LAID A BOX, IS THAT RIGHT?

A. THAT IS CORRECT.

Q. AND THAT BOX IS WHAT DISTANCE FROM THE CAR?

A. I DO NOT KNOW. INVESTIGATOR POTASH TOOK THOSE MEASUREMENTS, AND HE WOULD HAVE THEM.

Q. CERTAINLY, THE BOTTLE BASED ON WHAT YOUR INVESTIGATION REVEALED, THE BOTTLE WAS FOUND IN THE MIDDLE OF THE ROAD, ISN'T THAT RIGHT?

A. THAT'S CORRECT.

Q. AND CERTAINLY NOT IN A DITCH OR SOMEWHERE UNDER THE BUSHES, ISN'T THAT RIGHT?

A. NO, MA'AM. IT WAS FOUND IN THE MIDDLE OF THE ROAD WHERE --- BASICALLY WHERE THE CAR HAD FIRST BEEN OBSERVED BY THE OTHER WITNESSES.

MS. JOHNS: BEG THE COURT'S INDULGENCE.

Q. THANK YOU, INVESTIGATOR SEEL, I DON'T HAVE ANY FURTHER QUESTIONS.

THE COURT: THANK YOU. ALL RIGHT, SIR. YOU MAY STEP DOWN. THANK YOU, MR. WITNESS.

MADAM FORELADY, LADIES AND GENTLEMEN, AT THIS TIME WE'RE GOING TO TAKE A SHORT RECESS. WHILE YOU ARE IN YOUR JURYROOM, DO NOT DISCUSS THE CASE. PLEASE ORDER ANY LIGHT REFRESHMENTS YOU MAY DESIRE THROUGH THE BAILIFFS STATIONED OUTSIDE YOUR DOOR. THEY MAY BE IN THE JURYROOM, BUT ANYTHING WITHIN REASON THAT RICHLAND COUNTY CAN AFFORD TO PROVIDE FOR YOU TO MAKE YOUR STAY A LITTLE MORE COMFORTABLE. THANK YOU VERY MUCH. PLEASE RETIRE.

(JURY TO THE JURYROOM FOR A BREAK.)

THE COURT: ALL RIGHT. WE'LL BE IN RECESS FOR ABOUT FIVE OR TEN MINUTES. THANK YOU.

(COURT IN RECESS.)

(COURT RECONVENES.)

THE COURT: BRING THE JURY IN, PLEASE.

(JURY TO THE COURTROOM.)

BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU. LADIES AND GENTLEMEN OF THE JURY, I HAVE A NOTE PRESUMABLY WRITTEN BY YOUR FORELADY. "PLEASE ESTIMATE TIME OF RECESS FOR THE DAY DUE TO EVENING COMMITMENTS AT 5:30 P.M. THANKS."

MADAM FORELADY, LADIES AND GENTLEMEN, ESTIMATING TIME IS ONE OF THE MOST DIFFICULT DUTIES I HAVE. I'M REQUIRED TO DO IT BASED ON INFORMATION WHICH I RECEIVE WHICH DOES NOT ALWAYS TURN OUT TO BE CORRECT. I THINK, THOUGH, THAT YOU CAN SAFELY ASSUME YOU'LL PROBABLY BE ABLE TO MEET YOUR COMMITMENTS AS STATED IN YOUR NOTE. YOU MAY BE JUST A FEW MINUTES LATE, BUT NOT VERY. THANK YOU VERY MUCH.

MAKE THIS THE APPROPRIATE COURT EXHIBIT.

(COURT'S EXHIBIT NUMBER SEVEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

THE COURT: THANK YOU. CALL YOUR NEXT WITNESS.

MR. SORENSON: THANK YOU, YOUR HONOR. THE STATE CALLS INVESTIGATOR LUCIUS MOULTRIE.

THEREUPON:

LUCIUS MOULTRIE, FIRST BEING DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. SORENSON

Q. INVESTIGATOR MOULTRIE, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED WITH THE CITY OF COLUMBIA, THE FIRE DEPARTMENT, AS THE ARSON INVESTIGATOR.

Q. IF YOU WOULD, PLEASE, TELL THE JURY A LITTLE BIT ABOUT YOUR EDUCATIONAL BACKGROUND AS A FIRE INVESTIGATOR?

A. I'VE BEEN WITH THE COLUMBIA FIRE DEPARTMENT FOR 26

YEARS. FIFTEEN OF THOSE YEARS AS AN ARSON INVESTIGATOR. TWENTY-ONE OF THOSE YEARS I'VE BEEN CROSS TRAINED AS A FIRE INVESTIGATOR, ALSO AS A FIRE INSPECTOR, AND I'VE CURRENTLY HELD THE POSITION OF THE CHIEF FIRE INVESTIGATOR FOR THE LAST FIVE YEARS.

Q. HAVE YOU HAD TO ATTEND ANY CLASSES TO BECOME THE CHIEF INVESTIGATOR?

A. YES. WE'VE HAD CLASSES THROUGH THE SOUTH CAROLINA FIRE ACADEMY, THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY. WE ARE CERTIFIED LAW ENFORCEMENT AS WELL AS CERTIFIED FIRE MARSHALS.

Q. HAVE YOU HAD ANY TRAINING SPECIFICALLY DEALING WITH FIRES IN AUTOMOBILES?

A. YES. THE NFPA, AUTOMOBILE FIRE COURSE, WE TOOK THAT, AND ALSO, WE TAUGHT THAT COURSE TO THE FIRE DEPARTMENT PERSONNEL.

Q. DOES THAT AID YOU IN DETERMINING WHETHER A FIRE IS AN ACCIDENTAL FIRE OR AN INTENTIONALLY SET FIRE IN AN AUTOMOBILE? IS THAT THE TYPE OF THING THAT YOU'RE LOOKING FOR?

A. IT'S GENERALLY INVESTIGATION OF AUTOMOBILE FIRES IN GENERAL WHICH ENTAILS ACCIDENTAL AND ARSON CAUSES.

MR. SORENSON: AT THIS TIME, YOUR HONOR, WE WOULD OFFER INVESTIGATOR MOULTRIE AS AN EXPERT DEALING WITH FIRE AND ARSON INVESTIGATORS

THE COURT: WOULD YOU LIKE TO CROSS EXAMINE HIM IN REGARD TO HIS QUALIFICATIONS?

MS. JOHNS: NO, YOUR HONOR.

THE COURT: ALL RIGHT. THE COURT FINDS THE WITNESS TO BE AN EXPERT IN THE FIELD OF ARSON INVESTIGATION.

BY MR. SORENSON

Q. INVESTIGATOR MOULTRIE, I WANT TO TURN YOUR ATTENTION SPECIFICALLY BACK TO SEPTEMBER THE 26TH OF 1996. AT THAT TIME, DO YOU RECALL OR HAVE RECORDS INDICATING A CALL GOING OUT TO THE INTERSECTION OF [redacted] AND [redacted] STREET?

A. YES, I DO.

Q. AND PLEASE TELL THE JURY WHEN THAT CALL CAME IN?

A. ON 9-26TH OF '96, THE COLUMBIA FIRE DEPARTMENT RECEIVED NOTIFICATION THAT THERE WAS A VEHICLE ON FIRE AT THE CORNER OF [redacted] AND [redacted] STREET. THIS CALL CAME INTO THE COLUMBIA FIRE DEPARTMENT AT 10:18. TRUCKS WERE DISPATCHED AT THAT TIME, AND THEY ARRIVED ON THE SCENE ONE MINUTE LATER AT 10:19.

Q. WAS THAT A.M.?

A. THIS IS A.M.

Q. WHERE IS THE COLUMBIA FIRE DEPARTMENT LOCATED IN RELATION TO [redacted] AND [redacted]

A. THE COLUMBIA FIRE DEPARTMENT, THE HEADQUARTERS STATION WHICH WAS DISPATCHED, IS THREE BLOCKS AWAY ON THE

CORNER OF BARNWELL AND LAUREL STREET.

Q. ARE YOU AWARE OF WHAT VEHICLES, WHAT FIRE VEHICLES RESPONDED TO THE SCENE?

A. YES. THERE WAS ONE ENGINE COMPANY AND ONE LADDER COMPANY THAT WAS DISPATCHED TO THE SCENE.

Q. WHAT TIME DID YOU ARRIVE OUT AT THE SCENE?

A. OKAY. SHORTLY AFTER THE ENGINE COMPANY ARRIVED ON THE SCENE, CHIEF FIRE MARSHALL JOHN REICH ALSO RESPONDED TO THAT INCIDENT LOCATION, AND AT THAT POINT, THE FIRE WAS BEING EXTINGUISHED. I WAS ALSO CALLED TO THE SCENE.

ONE OF MY PRIMARY DUTIES AS THE ARSON INVESTIGATOR FOR THE CITY OF COLUMBIA IS TO IDENTIFY ANY FIRE, NOT JUST SUSPICIOUS, BUT TO IDENTIFY ANY FIRE CAUSE WHERE WE HAVE A LARGE DOLLAR LOSS, WHEREAS ANY INJURY TO FIRE FIGHTER PERSONNEL OR INJURY OR DEATH TO FIRE FIGHTER PERSONNEL OR CIVILIANS, AND I WAS DISPATCHED TO RESPOND TO THIS LOCATION, BECAUSE THERE WAS AN INJURY INVOLVED WITH THIS PARTICULAR FIRE.

Q. THAT WAS THE REASON WHY YOU RESPONDED WAS BECAUSE THERE WAS A PERSON WHO WAS INJURED IN THIS VEHICLE FIRE?

A. THAT'S TRUE. REGARDLESS TO THE SIZE OF THE FIRE OR REGARDLESS TO THE NATURE OF THE FIRE, IF SOMEONE IS INJURED, I RESPOND.

Q. ARE YOU AWARE OF WHAT TIME IT WAS THAT YOU ARRIVED OUT AT [redacted] AND [redacted] STREET?

A. I WAS ON THE SCENE AT 10:30.
Q. APPROXIMATELY TEN MINUTES AFTER THE CALL WENT OUT?
A. THAT'S CORRECT.
Q. PLEASE TELL THE JURY WHAT YOU OBSERVED WHEN YOU ARRIVED OUT AT THE SCENE?
A. OKAY. WHEN I ARRIVED ON THE SCENE, THERE WAS A VEHICLE THAT WAS --- THE FIRE WAS OUT AT THE TIME THAT I ARRIVED ON THE SCENE. THE VEHICLE WAS NOT IN THE INTERSECTION, BUT IT WAS ON [redacted] STREET, AND IT WAS -- - THE VEHICLE WAS AGAINST THE CURB, AND THE INTERIOR OF THE VEHICLE APPEARED TO HAVE BURNED.
Q. WHEN YOU ARRIVED ON THE SCENE, WERE THE CAR DOORS OPEN OR CLOSED?
A. DOORS WERE OPEN.
Q. ALL FOUR DOORS?
A. AS I RECALL, I KNOW THAT THE DRIVER'S SIDE AND THE PASSENGER DRIVER'S SIDE WAS OPEN, AND I THINK THE FRONT DOOR ON THE PASSENGER SIDE WAS ALSO OPEN.
Q. AND AT THAT POINT IN TIME, HAD THE CAR BEEN EXTINGUISHED?
A. YES, IT HAD.
Q. I SHOW YOU WHAT HAS BEEN MARKED AS STATE'S NUMBERS, I BELIEVE THREE THROUGH ELEVEN AND ASK YOU IF THESE PICTURE WHAT YOU SAW OUT THERE THAT DAY?
A. YES, THEY DO.

Q. AND YOU INDICATED THAT THE FIRE APPEARED TO BE IN THE PASSENGER COMPARTMENT OF THE VEHICLE?
A. YES. THE ORIGIN OF THE FIRE APPEARED TO HAVE BEEN IN THE PASSENGER COMPARTMENT.
Q. WHAT SIGNIFICANCE WOULD THAT PLAY AS FAR AS YOU TRYING TO DETERMINE THE CAUSE OF THE FIRE?
A. WELL, GENERALLY, IN DETERMINING THE CAUSE OF A FIRE, WE LOOK FOR THE AREA OF THE MOST SEVERE BURN. THIS PARTICULAR CASE THERE WAS NO FIRE DAMAGE TO THE ENGINE COMPARTMENT OR THE TRUNK OF THE VEHICLE. IN EXAMINATION OF THE INTERIOR PASSENGER COMPARTMENT INDICATED THAT WE HAD HEAVY BURN THROUGHOUT, WITH THE MOST SEVERE CHARRING OCCURRING ON THE PASSENGER REAR SEAT.
Q. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBERS 19 AND 20 FOR IDENTIFICATION AND ASK YOU IF YOU RECALL OBSERVING THAT AREA OF THE VEHICLE?
A. YES. BOTH PICTURES ARE OF THE ENGINE COMPARTMENT WHICH SHOWS NO FIRE DAMAGE WHATSOEVER.
Q. DOES IT FAIRLY AND ACCURATELY DEPICT HOW THAT ENGINE COMPARTMENT APPEARED ON THAT DAY?
A. YES, IT DOES.
MR. SORENSON: WE'D MOVE AT THIS TIME, YOUR HONOR, STATE'S 19 AND 20 INTO EVIDENCE.
MS. JOHNS: WITHOUT OBJECTION, YOUR HONOR.
THE COURT: WELL, JUST A MOMENT. WHERE IS 18?

MR. SORENSON: WE HAVEN'T ---

THE COURT: YOU'RE ADMITTING 19 AND 20 BEFORE 18?

MR. SORENSON: WE'VE MARKED THEM ALL FOR I.D.

THE COURT: ALL RIGHT. NINETEEN AND TWENTY, STATE EXHIBITS, ADMITTED WITHOUT OBJECTION, TWO PHOTOGRAPHS.

(STATE'S EXHIBITS NINETEEN AND TWENTY MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. ONCE AGAIN, THE SIGNIFICANCE OF THESE PHOTOGRAPHS WOULD BE THAT THERE'S NO FIRE DAMAGE IN THE ENGINE COMPARTMENT OF THE VEHICLE?

A. NONE WHATSOEVER.

Q. NOW, I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 18, INVESTIGATOR MOULTRIE, AND ASK IF YOU CAN RECOGNIZE THAT PHOTOGRAPH?

A. YES. THIS PHOTOGRAPH IS OF THE TRUNK AREA OF THE VEHICLE.

Q. AND WHAT SIGNIFICANCE IS THIS PHOTOGRAPH?

A. AGAIN, NO FIRE DAMAGE. WE DO HAVE SOME BURNT MATERIAL WHICH IS FALL-DOWN MATERIAL FROM THE REAR SEAT AREA OF THE VEHICLE.

Q. DOES THIS FAIRLY AND ACCURATELY DEPICT HOW THE TRUNK AREA LOOKED ON SEPTEMBER THE 26TH OF 1996?

A. YES, IT DOES.

MR. SORENSON: I WOULD MOVE THIS INTO EVIDENCE.

MS. JOHNS: NO OBJECTION.

THE COURT: ALL RIGHT. ADMITTED WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER EIGHTEEN MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.)

BY MR. SORENSON

Q. I SHOW YOU STATE'S EXHIBIT --- I BELIEVE THIS IS NUMBER EIGHT, IS THIS JUST ANOTHER SHOT OF THE TRUNK AREA?

A. YES, IT IS.

Q. ONCE AGAIN, DEPICTING THE SAME ---

A. DEPICTING NO FIRE DAMAGE. YOU CAN SEE THIS AREA HERE WHERE THE --- FIRE FIGHTING TECHNIQUES, THE FALL-DOWN MATERIAL --- IT WAS BURNT.

Q. AND INVESTIGATOR MOULTRIE, I WANT TO SHOW YOU STATE'S EXHIBIT ENTERED INTO EVIDENCE --- I BELIEVE STATE'S EXHIBIT NUMBER 10 AND NUMBER 11. I ASK YOU WHAT'S DEPICTED IN THOSE PHOTOGRAPHS?

A. IN EXHIBIT NUMBER 11, SHOWS THE DRIVER'S --- THE DRIVER'S AREA OF THE VEHICLE AND THE DASHBOARD WHICH SHOWS HEAVY FIRE DAMAGE.

Q. OKAY.

A. AND THIS IS A CLOSE-UP OF THE SAME.

Q. WHAT ELSE IS DEPICTED IN THE MIDDLE OF THAT PHOTOGRAPH? ARE THE KEYS ---

A. THE KEYS ARE STILL IN THE IGNITION.

Q. CAN ANYTHING BE TOLD AS FAR AS WHAT POSITION THEY'RE IN?

A. IT APPEARS THAT THE IGNITION IS IN THE ON POSITION.

Q. DOES THAT INDICATE TO YOU THE VEHICLE WAS ON WHEN IT WAS ON FIRE?

A. YES.

Q. AGAIN, I BELIEVE YOU INDICATED, ONCE AGAIN, WHAT AREA OF THE VEHICLE, INVESTIGATOR MOULTRIE, YOU INDICATED THE HEAVIEST FIRE DAMAGE? I SHOW YOU STATE'S EXHIBIT NUMBER SIX AND NUMBER SEVEN, WHICH I BELIEVE BOTH SHOW THE INTERIOR OF THE VEHICLE, ALSO NUMBER FOUR.

A. THE ENTIRE INTERIOR COMPARTMENT SUSTAINED HEAVY DAMAGE, BUT THE AREA THAT SHOWED THE MOST SEVERE BURNING WOULD BE THE REAR DRIVER'S --- I MAY HAVE SAID PASSENGER SIDE BEFORE, BUT IT'S THE REAR DRIVER'S SIDE PORTION OF THE VEHICLE.

Q. AND STATE'S EXHIBIT THREE, IS THAT WHAT'S DEPICTED IN STATE'S EXHIBIT NUMBER THREE?

A. YES, THAT WOULD BE THE REAR PASSENGER SIDE.

Q. THE PASSENGER SIDE OR DRIVER'S SIDE?

A. REAR DRIVER'S SIDE.

Q. YOU WERE IN THE COURTROOM FOR INVESTIGATOR SEEL'S TESTIMONY, IS THAT CORRECT, INVESTIGATOR MOULTRIE?

A. YES, I WAS.

Q. DO YOU RECALL HIM MAKING REFERENCE TO A PEPSI

BOTTLE?

A. YES, I DO.

Q. LET ME SHOW YOU WHAT'S MARKED AS STATE'S EXHIBIT NUMBER 13. ASK IF YOU CAN RECOGNIZE THAT ITEM?

A. IT APPEARS TO BE THE BOTTLE THAT WE FOUND THAT MORNING.

Q. DO YOU RECALL WHERE IT WAS THAT YOU FOUND THAT BOTTLE?

A. THE PEPSI BOTTLE WAS BROUGHT TO MY ATTENTION BY A FIRE FIGHTER BY THE NAME OF STEVEN CLARK, AND I THINK FIRE MARSHALL JOHN REICH POINTED IT OUT TO HIM, HAD HIM TO RETRIEVE IT AND GIVE IT TO ME WHEN I ARRIVED ON THE SCENE.

Q. DID YOU IN TURN HAND THOSE OVER TO INVESTIGATOR SEEL?

A. INVESTIGATOR SEEL.

Q. DO YOU RECALL INVESTIGATOR SEEL PERFORMING A HYDRA CARBON TEST ON THAT OBJECT?

A. YES, I DO.

Q. AND YOU WERE PRESENT WHEN THAT WAS DONE?

A. YES, I WAS.

Q. AND IF YOU COULD BRIEFLY JUST EXPLAIN WHAT A HYDRA CARBON --- EXACTLY WHAT YOU CALLED IT --- THE DEVICE THAT ---

MS. JOHNS: YOUR HONOR, I WOULD OBJECT. I BELIEVE

THAT DEPUTY SEEL ALREADY EXPLAINED THAT.

THE COURT: SUSTAINED.

MR. SORENSON: BEG THE COURT'S INDULGENCE.

BY MR. SORENSON

Q. IN YOUR OPINION, INVESTIGATOR MOULTRIE, WERE YOU ABLE TO DETERMINE WHAT THE CAUSE OF THIS FIRE WAS?

A. WHAT WE DID WHEN WE ARRIVED ON THE SCENE WE TOOK AN INITIAL WALK AROUND THE VEHICLE. WE LOOKED AT THE ENGINE COMPARTMENT. WE LOOKED AT THE TRUNK. WE LOOKED AT THE INTERIOR OF THE VEHICLE. I LOOKED AT THE DASH AREA --- LOOKING FOR ANY ACCIDENTAL CAUSES FOR THE FIRE.

WHEN WE DO A CAUSE AND ORIGIN INVESTIGATION, WE DON'T IMMEDIATELY GO LOOKING FOR AN INCENDIARY FIRE. WE LOOK FOR ANY NATURAL OR ACCIDENTAL CAUSES FOR THE FIRE. I COULD DETERMINE NO ACCIDENTAL OR NATURAL CAUSE FOR THE FIRE. SO, AT THAT POINT, WE LOOKED AT WHAT ELSE COULD HAVE CAUSED THIS FIRE TO OCCUR.

Q. WERE YOU ABLE TO RULE OUT ANY MECHANICAL FAILURE ---

A. YEAH.

Q. --- OF THE VEHICLE?

A. WE LOOKED FOR MECHANICAL FAILURE. WE LOOKED FOR ELECTRICAL FAILURES, AND WE DETERMINED THAT WE DIDN'T HAVE EITHER AS FAR AS THIS WAS CONCERNED --- THIS FIRE WAS CONCERNED.

Q. LET ME ASK YOU THIS, INVESTIGATOR MOULTRIE. AS FAR

AS THE CAR CATCHING ON FIRE, TO THAT DEGREE OF DAMAGE YOU SEE IN THE INTERIOR OF THAT VEHICLE, WHAT WOULD CAUSE THAT DEGREE OF DAMAGE TO BE DONE TO A CAR IN A SHORT PERIOD OF TIME?

A. THE PRESENCE OF A FLAMMABLE LIQUID.

Q. SUCH AS GASOLINE?

A. GASOLINE, YES.

Q. THAT'S WHAT IS KNOWN AS AN ACCELERANT?

A. ANY ACCELERANT, NOT ONLY GASOLINE --- KEROSENE, ANY TYPE OF FLAMMABLE LIQUID COULD CAUSE THAT KIND OF DAMAGE.

Q. ONCE AGAIN, ONCE YOU'D RULED OUT ANY ACCIDENTAL DAMAGE OR --- ACCIDENT OF THE CAR --- MECHANICAL FAILURE, ELECTRICAL FAILURE, WHAT THEN DID YOU COME TO THE CONCLUSION OF BEING THE CAUSE OF THE FIRE?

MS. JOHNS: OBJECTION, YOUR HONOR. ASKED AND ANSWERED.

THE COURT: WELL, I DON'T BELIEVE THAT'S BEEN ANSWERED. I'M GOING TO OVERRULE YOUR OBJECTION ON THOSE GROUNDS.

BY MR. SORENSON

Q. WERE YOU ABLE TO DETERMINE, THEN, WHAT IN YOUR OPINION THAT THE CAUSE OF THE FIRE WAS?

A. WELL, THE FIRE WAS INTENTIONALLY SET WAS MY DETERMINATION.

Q. THANK YOU, INVESTIGATOR MOULTRIE.

THE COURT: CROSS.

MS. JOHNS: THANK YOU, YOUR HONOR, MAY IT PLEASE THE COURT?

CROSS EXAMINATION

BY MS. JOHNS

Q. CHIEF MOULTRIE, WAS MS. LINDA TYLER AT THE SCENE WHEN YOU ARRIVED?

A. NO, SHE WASN'T.

Q. YOU DIDN'T GET ANY STATEMENT FROM MS. TYLER, DID YOU?

A. I NEVER INTERVIEWED HER.

Q. DID YOU RETRIEVE ANY ITEMS OUT OF THE CAR SUCH AS HER POCKETBOOK?

A. NO, I DID NOT.

Q. DO YOU HAVE ANY EXPLANATION AS TO WHY MR. TYLER WAS IN THE BACK SEAT?

A. DO I HAVE AN EXPLANATION? I CAN ONLY TELL YOU WHAT WAS TOLD TO ME.

Q. I'M ASKING YOU AS AN EXPERT. CAN YOU EXPLAIN TO THE JURY WHY MR. TYLER WAS IN THE BACK SEAT OF THE BURNING VEHICLE.

A. WELL, YES, I CAN, IF YOU WANT TO HEAR IT. IT WOULD BE MY PROFESSIONAL OPINION.

Q. YES, SIR.

A. HE WAS TRYING TO ESCAPE THE FLAMES.