

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County
Honorable Clifton B. Newman, Circuit Court Judge

Trial Court Case No 1994-GS-36-616

THE STATE OF SOUTH CAROLINA

Respondent

vs.

GARY LANE PREWITT

Appellant

APPELLANT'S RECORD ON APPEAL-PART TWO

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The State of South Carolina

 $\sim$

- 1) BURGLARY, 16-11-311 (A) (1)
(a) (b) (c) (d)
- 2) GRAND LARCENY
- 3) ASSAULT AND BATTERY WITH INTENT TO KILL
- 4) VIOLATION SECTION 16-23-490

19

GARY LANE PREWITT

GARY LANE PREWITT

19 94 ,

19 94,
willfully and unlawfully enter a dwelling without consent and with intent
to commit a crime therein and either when in effecting entry or while in
the dwelling or in immediate flight therefrom, he or another participant
in the crime: was armed with a deadly weapon or explosive; or caused
physical injury to a person who was not a participant in the crime; or
used or threatened the use of a dangerous instrument; or displayed what
was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine
gun or other firearm, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
~~xxxxxxxxxx~~ the said dwelling being owned by Randy Tinsley

by Randy Tinsley

COUNT THREE

That GARY LANE PREWITT

did in Newberry ^{state aforesaid} County/on or about the 22nd day of July,
 19 94,
 in and upon one Joseph Dixon feloniously, wilfully and of
 his malice aforethought, did make an assault with a certain deadly weapon,
 to wit: a firearm and him the said GARY LANE PREWITT
with the said firearm did
shoot and wound with intent
 the said Joseph Dixon then and there feloniousl
 wilfully and of malice aforethought to kill and murder

COUNT FOUR

That GARY LANE PREWITT

did in Newberry ^{state aforesaid} County/on or about the 22nd day of July.

WITNESSES

Jerry Wright

✓ Doug Bozard

Randy Tinsley -

Joseph Dixon ✓

THE STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

NOVEMBER TERM, 19 94

94GS36-6116

THE STATE

VS

GARY LANE PREWITT

INDICTMENT FOR

- 1) BURGLARY, 16-11-311 (A) (1) ^{1ST}
(a) (b) (c) (d)
- 2) GRAND LARCENY ^{CL}
- 3) ASSAULT AND BATTERY WITH
INTENT TO KILL ^{16-3-16-D}
- 4) VIOLATION SECTION
16-23-490 ^{CL}

W. Townes Jones
Solicitor
TRUE BILL

Michael Kevin Carter 11-28-94
Foreman of Grand Jury

E-136670
D-841870

Against the peace and dignity of the State, and contrary to the statute in such case and made and provided.

I Hereby Appear In My Own Proper Person, Waive Grand
Jury Action and Plead Guilty To The Within Indictment.
W. Townes Jones
SOLICITOR

W. Townes Jones
Solicitor

VERDICT

A. 8-10-94
8-11-94
COUNT ONE:

COUNT TWO:

Property Value:

COUNT Three:

COUNT Four:

Foreman

Foreman

WITNESSES

Jerry Wright

Doug Bozard

Randy Tinsley -

Joseph Dixon ✓

298
292

A: 8-10-94
8-11-94

VERDICT

COUNT ONE: Guilty

COUNT TWO: Guilty

Property Value:

COUNT THREE: Guilty

COUNT FOUR: Guilty

Foreman

Peggy Wilson

THE STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

NOVEMBER TERM, 19 94

94GS36-616

THE STATE

VS

GARY LANE PREWITT

INDICTMENT FOR

- 1) BURGLARY, 16-11-311(A) (1)^{1st}
(a) (b) (c) (d)
- 2) GRAND LARCENY ^{CL}
- 3) ASSAULT AND BATTERY WITH
INTENT TO KILL ¹⁶⁻³⁻⁶²⁰
- 4) VIOLATION SECTION
16-23-490 <sup>fine - 1.00
by violation</sup>

W. Townes Jones
Solicitor
TRUE BILL

Michael Kevin Carter 11-28-94
Foreman of Grand Jury

E-136670
D-841870

INDICTMENT FOR:

The State of South Carolina

County of Newberry

- 1) BURGLARY, 16-11-311 (A) (1)
(a) (b) (c) (d)
2) GRAND LARCENY
3) ASSAULT AND BATTERY WITH INTENT TO KILL
4) VIOLATION SECTION 16-23-490

At a Court of General Sessions, convened on the 28th day of November,
1994, the Grand Jurors of Newberry County present upon their oath:

COUNT ONE

That GARY LANE PREWITT

did in the county and state aforesaid, on or about the 22nd day of July,
19 94 ,

wilfully and unlawfully enter a dwelling without consent and with intent to commit a crime therein and either when in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime: was armed with a deadly weapon or explosive; or caused physical injury to a person who was not a participant in the crime; or used or threatened the use of a dangerous instrument; or displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, ~~xxxxxxx~~ the said dwelling being owned by Randy Tinsley

COUNT TWO

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 -VS-)
)
 GARY LANE PREWITT,)
)
 DEFENDANT.)
 -----)

94-GS-36-616

JANUARY 19, 1995
NEWBERRY, SOUTH CAROLINA

B E F O R E:

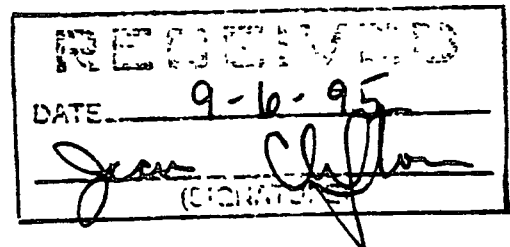
HONORABLE E.C. BURNETT, JUDGE

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

BETTY STROM, ASSISTANT SOLICITOR
NEWBERRY COUNTY

RAY WICKER, ESQUIRE
ATTORNEY FOR THE DEFENDANT

SUZIE H. NICHOLS
CERTIFIED COURT REPORTER



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1 MS. STROM: THE STATE IS READY TO PROCEED IN PICKING
2 A JURY IN 94-GS-36-616, THE STATE OF SOUTH CAROLINA
3 VERSUS GARY LANE PREWITT.

4 THE COURT: THE DEFENSE IS READY, MR. WICKER?

5 MR. WICKER: THE DEFENSE IS READY, YOUR HONOR,
6 CONDITIONED ON THE FACT WITH THE JURORS THAT ARE CALLED
7 WILL THEY COME FORWARD THAT I CAN SEE THEM.

8 THE COURT: OH, YES, SIR. MS. BOWERS, WHERE DO YOU
9 HAVE THE JURORS STAND? THEY'LL STAND RIGHT THERE.

10 MR. WICKER: VERY FINE. THANK YOU, YOUR HONOR.

11 THE COURT: AND YOU ARE PROCEEDING ON ALL COUNTS?

12 MS. STROM: YES, SIR, YOUR HONOR.

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE ARE
14 ABOUT TO BEGIN THE CRIMINAL TRIAL OF THE STATE AGAINST
15 GARY LANE PREWITT --- SPELLED P-R-E-W-I-T-T --- GARY LANE
16 PREWITT.

17 MR. PREWITT IS CHARGED UNDER AN INDICTMENT WITH THE
18 CRIMES OF BURGLARY, GRAND LARCENY, ASSAULT AND BATTERY
19 WITH INTENT TO KILL AND POSSESSION OF A FIREARM IN THE
20 COMMISSION OF A VIOLENT CRIME.

21 THE DEFENDANT IS PRESENT WITH HIS ATTORNEY MR. RAY
22 WICKER. HE HAS ENTERED A PLEA OF NOT GUILTY ON THE
23 CHARGES IN THE INDICTMENT.

24 UNDER OUR CONSTITUTION, WHEN A DEFENDANT ENTERS A
25 PLEA OF NOT GUILTY THE STATE THEN IS REQUIRED TO PROVE

1 THAT HE IS GUILTY IF THEY CAN PROVE THAT GUILT. THE
2 DEFENDANT IS UNDER NO OBLIGATION TO PROVE HIS OWN
3 INNOCENCE, AND THE STATE IS REQUIRED BY OUR LAW TO PROVE
4 HIM GUILTY BEYOND ANY REASONABLE DOUBT. I'LL DEFINE THAT
5 AND EXPLAIN THAT TO YOU AT THE APPROPRIATE TIME IN THE
6 COURSE OF THE TRIAL.

7 THE DEFENDANT'S PLEA OF NOT GUILTY PUTS IN EFFECT
8 CERTAIN PROTECTIONS PROVIDED TO EVERY CRIMINAL DEFENDANT
9 UNDER OUR CONSTITUTION, UNDER THE FEDERAL CONSTITUTION,
10 AND I WILL TELL YOU THAT YOU MUST PRESUME THAT THE
11 DEFENDANT IS INNOCENT. YOU MUST CONTINUE TO CONSIDER HIM
12 INNOCENT UNTIL AND UNLESS THE STATE SATISFIES YOU BEYOND
13 ANY REASONABLE DOUBT THAT HE IS GUILTY. THIS SAFEGUARD
14 I'LL DISCUSS AGAIN WITH YOU A LITTLE LATER IN THE TRIAL.

15 SEVERAL QUESTIONS I NEED TO ASK YOU TO QUALIFY YOU
16 AS JURORS IN THIS PARTICULAR CASE, AND AGAIN, AS I
17 MENTIONED ON MONDAY, THE QUESTIONS I WILL ASK ARE NOT
18 INTENDED TO CAUSE ANY DISCOMFORT OR EMBARRASSMENT TO YOU
19 BUT ARE INTENDED TO CAUSE YOU TO EXAMINE YOURSELF TO
20 DETERMINE IF YOU HAVE ANY REASON AT ALL WHY YOU COULD NOT
21 GIVE A FAIR TRIAL TO BOTH THE STATE OF SOUTH CAROLINA AND
22 TO THIS DEFENDANT IN THIS CASE.

23 SO, AS I ASK YOU THE QUESTIONS, JUST THINK VERY HARD
24 ABOUT YOURSELF AND MAKE THAT DETERMINATION, AND IF YOU
25 HAVE ANY DIFFICULTY AT ALL, ANY PROBLEM AT ALL IN YOUR

VOIR DIRE
BY THE COURT

7

1 ABILITY TO BE FAIR TO BOTH THE STATE AND THE DEFENDANT,
2 PLEASE MAKE US AWARE OF THAT.

3 MR. PREWITT, WOULD YOU STAND, PLEASE, SIR? FACE THE
4 JURY. IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
5 OR BY MARRIAGE TO THIS DEFENDANT GARY LANE PREWITT? ARE
6 ANY OF YOU ACQUAINTED WITH HIM? DO YOU KNOW HIM AT ALL?

7 (NO RESPONSE.)

8 THE COURT: THANK YOU. BE SEATED. THIS CASE COMES
9 INTO COURT BY WAY OF THIS DOCUMENT RIGHT HERE, LADIES AND
10 GENTLEMEN. IT IS CALLED AN INDICTMENT. IT IS NO MORE
11 THAN AN ACCUSATION, A CLAIM BY THE STATE AGAINST THE
12 DEFENDANT THAT HE COMMITTED THE CRIMES CHARGED IN THE
13 INDICTMENT.

14 IF YOU ARE SEATED AS A MEMBER OF THIS PANEL, PLEASE
15 REMEMBER AND KEEP IN MIND THAT THE FACT THAT HE'S BEEN
16 INDICTED IS NOT EVIDENCE THAT HE'S GUILTY, AND THE
17 CONTENTS OF THE INDICTMENT ARE NOT EVIDENCE AGAINST HIM.
18 THIS DOCUMENT IS MERELY AN ACCUSATION BY THE STATE THAT
19 HE DID COMMIT THESE CRIMES. HE HAS, AS I'VE TOLD YOU,
20 ENTERED A PLEA OF NOT GUILTY TO THE INDICTMENT AND TO
21 EACH CHARGE IN THE INDICTMENT. THE INDICTMENT SERVES
22 MERELY TO GIVE HIM NOTICE OF THE CRIMES CHARGES AGAINST
23 HIM AND SERVE TO THIS COURT JURISDICTION OF BOTH THE
24 CRIMES AND THE DEFENDANT. SERVES NO OTHER PURPOSE.

25 AND LET ME REFERENCE FROM THE INDICTMENT BEFORE I

1 ASK YOU ANY OTHER QUESTIONS SO YOU'LL BE MORE FAMILIAR
2 WITH WHAT IS CHARGED AGAINST HIM, WHAT IT IS CLAIMED THAT
3 HE DID.

4 THERE ARE FOUR COUNTS, FOUR SEPARATE CHARGES IN THE
5 INDICTMENT. COUNT ONE CHARGES THAT MR. PREWITT DID IN
6 NEWBERRY COUNTY, SOUTH CAROLINA, ON OR ABOUT JULY 22ND OF
7 1994, WILLFULLY AND UNLAWFULLY ENTER A DWELLING WITHOUT
8 CONSENT AND WITH THE INTENT TO COMMIT A CRIME WITHIN THE
9 DWELLING, AND EITHER WHEN GAINING ENTRY OR WHILE INSIDE
10 THE DWELLING OR WHEN LEAVING THE DWELLING, HE WAS ARMED
11 WITH A DEADLY WEAPON OR CAUSED PHYSICAL INJURY TO A
12 PERSON WHO WAS NOT A PARTICIPANT WITH HIM IN THE CRIME OR
13 THAT HE USED OR THREATENED TO USE A DANGEROUS INSTRUMENT
14 OR THAT HE DID DISPLAY WHAT WAS OR APPEARED TO BE A
15 DEADLY WEAPON. THE DWELLING IN THE CASE IS OWNED BY A
16 MR. RANDY TINSLEY. SO, COUNT ONE OF THE INDICTMENT
17 CHARGES THE CRIME OF BURGLARY AGAINST THE DEFENDANT.

18 COUNT TWO CHARGES THAT MR. PREWITT DID ON THIS
19 OCCASION, JULY 22, 1994, FELONIOUSLY TAKE AND CARRY AWAY
20 THE PERSONAL GOODS OF RANDY TINSLEY OF MONIES IN THE
21 AMOUNT OF A THOUSAND DOLLARS, ALONG WITH ASSORTED GUNS
22 AND OTHER GOODS WITH THE INTENT OF PERMANENTLY DEPRIVING
23 THE OWNER OF THAT PROPERTY. THAT COUNT OF THE INDICTMENT
24 CHARGES THE CRIME OF GRAND LARCENY.

25 COUNT THREE OF THE INDICTMENT CHARGES THAT MR.

1 PREWITT DID IN NEWBERRY COUNTY ON THIS OCCASION, JULY 22,
2 1994, COMMIT THE CRIME OF ASSAULT AND BATTERY WITH INTENT
3 TO KILL UPON ONE JOSEPH DIXON IN THAT HE DID FELONIOUSLY,
4 WILLFULLY AND WITH MALICE AFORETHOUGHT MAKE AN ASSAULT
5 WITH A DEADLY WEAPON, A FIREARM ON GARY LANE PREWITT, AND
6 WITH THE FIREARM THAT HE DID SHOOT AND WOUND MR. JOSEPH
7 DIXON WITH THE INTENT TO KILL HIM. THAT COUNT CHARGES
8 THE CRIME OF ASSAULT AND BATTERY WITH THE INTENT TO KILL.

9 AND THE FINAL COUNT OF THE INDICTMENT CHARGES THAT
10 MR. PREWITT DID ON THIS OCCASION POSSESS A FIREARM OR
11 VISIBLY DISPLAYED WHAT APPEARED TO BE A FIREARM DURING
12 THE COMMISSION OF A VIOLENT CRIME. THOSE ARE THE FOUR
13 COUNTS CHARGED AGAINST HIM.

14 BASED UPON WHAT I HAVE TOLD YOU, ARE ANY OF YOU
15 AWARE OF ANY BIAS OR ANY PREJUDICE YOU MIGHT HAVE?

16 (NO RESPONSE.)

17 THE COURT: BASED UPON WHAT I HAVE TOLD YOU, HAVE
18 ANY OF YOU EXPRESSED OR FORMED ANY OPINION OF THIS CASE?

19 (NO RESPONSE.)

20 THE COURT: HAVE ANY OF YOU READ OR HEARD ANYTHING
21 ABOUT THIS CASE?

22 (NO RESPONSE.)

23

24 THE COURT: ARE ANY OF YOU RELATED BY BLOOD OR BY
25 MARRIAGE, OR ARE YOU ACQUAINTED IN ANY WAY WITH MR.

1 JOSEPH DIXON OR MR. RANDY TINSLEY?

2 (NO RESPONSE.)

3 THE COURT: THERE ARE A NUMBER OF POTENTIAL
4 WITNESSES IN THE CASE. I'M GOING TO READ THE LIST TO
5 YOU. WHAT I WANT TO KNOW IS WHETHER YOU'RE RELATED TO
6 ANY OF THEM BY BLOOD OR BY MARRIAGE OR WHETHER YOU KNOW
7 THEM IN ANY WAY.

8 MS. STROM: YOUR HONOR, EXCUSE ME. BEFORE YOU
9 PROCEED, THE WITNESSES ARE HERE IN THE COURTROOM AND ARE
10 AVAILABLE TO STAND AND FACE THE JURY IF YOU WOULD LIKE
11 FOR THEM TO.

12 THE COURT: AND AS I CALL YOUR NAME, IF YOU WOULD
13 PLEASE STAND AND FACE THE JURY SO THEY CAN SEE WHO YOU
14 ARE.

15 JOE DIXON, RANDY TINSLEY, CHRISTY MCGUIRT, A.H.
16 WALKER, JR. --- OVER HERE. BEN BLANTON WITH THE NEWBERRY
17 COUNTY EMS.

18 MS. STROM: HE IS NOT IN THE COURTROOM, YOUR HONOR.

19 THE COURT: ALL RIGHT. HE'S WITH THE EMS HERE.
20 DANNY GILLIAM, NEWBERRY COUNTY SHERIFF'S DEPARTMENT,
21 WILLIAM JOLLY WITH THE SOUTH CAROLINA LAW ENFORCEMENT
22 DIVISION.

23 MS. STROM: HE'S NOT IN THE COURTROOM.

24 THE COURT: STEVE DERRICK WITH THE SOUTH CAROLINA
25 LAW ENFORCEMENT DIVISION.

1 MS. STROM: HE'S NOT IN THE COURTROOM.

2 THE COURT: AND IS IT KENNY OR KIMMIE?

3 MS. SHIPES: KIMMIE.

4 THE COURT: KIMMIE SHIPS --- CORRECT?

5 MS. STROM: SHIPES, YOUR HONOR.

6 THE COURT: SHIPES, I'M SORRY --- KIMMIE SHIPES.

7 THE STATE IN THIS CASE IS REPRESENTED BY ASSISTANT
8 SOLICITOR BETTY STROM AND BETH GRIFFITH. THE DEFENDANT
9 IN THE CASE IS REPRESENTED BY MR. RAY WICKER.

10 HAS ANY MEMBER OF THE JURY BEEN INVOLVED IN ANY KIND
11 OF LEGAL MATTER WHERE YOU WERE EITHER REPRESENTED BY OR
12 OPPOSED BY ANY OF THESE ATTORNEYS?

13 (NO RESPONSE.)

14 THE COURT: DO YOU ANY OF YOU LADIES AND GENTLEMEN
15 KNOW OF ANY REASON WHATSOEVER WHY YOU COULD NOT GIVE A
16 FAIR TRIAL TO BOTH THE STATE OF SOUTH CAROLINA AND TO
17 THIS DEFENDANT IN THIS CASE?

18 (NO RESPONSE.)

19 THE COURT: ANY OTHER QUESTIONS BY THE STATE?

20 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

21 THE COURT: BY DEFENSE?

22 MR. WICKER: NONE FROM THE DEFENSE, YOUR HONOR.

23 THE COURT: ALL RIGHT. SO, YOUR STRIKES ARE TEN FOR
24 DEFENSE, FIVE FOR THE STATE. GIVE US A JURY, PLEASE.

25

1 (A JURY OF 12 AND ONE ALTERNATE WAS SEATED AT THIS
2 TIME.)

3 THE COURT: I'VE GOT A FEW THINGS I NEED TO DO, AND
4 YOU'RE ENTITLED TO A SHORT RECESS. I'M GOING TO ASK YOU
5 TO STEP ON IN YOUR ROOM. ARE THERE REFRESHMENTS IN
6 THERE?

7 CLERK OF COURT: YES, SIR.

8 THE COURT: OKAY. GO ON BACK THERE, AND AS QUICK AS
9 I CAN, I'LL HAVE YOU BACK IN THE COURTROOM, AND WE'LL GO
10 FORWARD.

11 (JURY TO JURY ROOM.)

12 MS. STROM: THE VICTIM AND THE PROSECUTING WITNESS
13 IN THIS CASE IS SLIGHTLY TO MILDLY MENTALLY RETARDED. HE
14 HAS A MENTAL DEFICIENCY. HE ALSO HAS A SPEECH
15 IMPEDIMENT. I'VE DISCUSSED THIS WITH MR. WICKER THIS
16 MORNING, AND MY CONVERSATIONS WITH MR. DIXON, YOU CAN
17 UNDERSTAND HIM. IT MAY BE A LITTLE DIFFICULT TO
18 UNDERSTAND HIM. WHAT I INTEND TO DO IS ASK HIM VERY
19 SIMPLE QUESTIONS. IF IT NEEDS TO, BECAUSE OF HIS MENTAL
20 STATE, I DO BELIEVE I WOULD BE ENTITLED TO LEAD THIS
21 WITNESS UNDER THE CASE LAW IN SOUTH CAROLINA REGARDING
22 THE LEADING OF CHILD WITNESSES AND SUCH LIKE THAT. I DO
23 NOT THINK THAT WILL BE NECESSARY, YOUR HONOR, BECAUSE HE
24 IS ABLE TO COMMUNICATE. I JUST WANTED EVERYONE TO BE
25 AWARE THAT IF THAT BECAME A PROBLEM AND I NEED TO DO THAT

1 THAT I WOULD BE PROCEEDING WITH THAT OPTION TO LEAD THE
2 WITNESS, AND AS I EXPLAINED TO MR. WICKER, I WOULD LEAD
3 IN SUCH A WAY THAT IT WOULD NOT SUGGEST THE ANSWER.

4 MR. WICKER: YOUR HONOR, I'M NOT GOING TO HAVE ANY
5 OBJECTIONS AT THIS TIME, AND I DOUBT VERY MUCH IF I WOULD
6 EVER HAVE ANY OBJECTION, BECAUSE EVERYBODY KNOWS THAT
7 PERSONALLY I DO NOT OBJECT VERY OFTEN, BECAUSE I JUST
8 THINK THE JURY DOESN'T LIKE TO HEAR OBJECTIONS, AND I
9 KNOW THAT MS. STROM IS GOING TO BE FAIR IN THIS CASE, AND
10 I DO NOT OBJECT.

11 THE COURT: AND A LAWYER THAT DOESN'T LEAD AIN'T
12 MUCH OF A LAWYER.

13 MR. WICKER: I WOULDN'T GO THAT FAR, YOUR HONOR?

14 MS. STROM: I DO THINK, POSSIBLY, TO MAKE SURE WE
15 HAVE A CLEAN RECORD, BECAUSE OF THE QUESTION OF MR.
16 DIXON'S MENTAL CAPABILITIES, TO CLEAN THE RECORD, MAKE
17 SURE WE HAVE EVERYTHING ON RECORD, GET HIM QUALIFIED TO
18 TESTIFY --- THAT HE IS QUALIFIED. HE KNOWS THE
19 DIFFERENCE BETWEEN RIGHT AND WRONG, A TRUTH AND A LIE.

20 THE COURT: WE'LL DO THAT PRIOR TO THE SWEARING OF
21 THE JURY. ANY OBJECTION TO THAT PROCESS, MR. WICKER?

22 MR. WICKER: NONE, YOUR HONOR.

23 THE COURT: ALL RIGHT. LET'S TAKE TEN MINUTES.
24 THEN WE'LL BEGIN THE TRIAL PROCESS.

25 MS. STROM: THANK YOU, YOUR HONOR.

1 (A BREAK WAS TAKEN AT THIS TIME.)

2 EXAMINATION OF MR. DIXON

3 BY MS. STROM

4 Q. HOW ARE YOU DOING, MR. DIXON?

5 A. FINE.

6 Q. YOU DOING ALL RIGHT?

7 A. YEAH.

8 Q. WE DIDN'T SWEAR YOU IN. YOU DIDN'T PUT YOUR HAND ON
9 THE BIBLE.

10 A. I KNOW.

11 Q. TELL THIS COURT WHAT YOU'RE SUPPOSE TO DO WHEN YOU
12 COME INTO COURT?

13 A. TELL THE TRUTH.

14 Q. TELL THE TRUTH?

15 A. YEAH.

16 Q. DO YOU KNOW THE DIFFERENCE BETWEEN TELLING THE TRUTH
17 AND TELLING A LIE?

18 A. YEAH.

19 Q. WHICH ONE IS GOOD?

20 A. WHEN YOU TELL THE TRUTH AND DON'T LIE.

21 Q. WHEN YOU TELL THE TRUTH AND DON'T LIE. IF I TELL
22 YOU THAT MY SHIRT IS RED, AM I TELLING THE TRUTH OR AM I
23 TELLING A LIE?

24 A. YOU TELLING A LIE.

25 Q. TELLING A LIE, OKAY. MR. DIXON, YOU SEE HOW I'M

1 REPEATING WHAT YOU'RE SAYING?

2 A. YEAH.

3 Q. IF AT ANY TIME I SAY SOMETHING THAT YOU DID NOT SAY,
4 WHAT ARE YOU SUPPOSE TO DO?

5 A. TELL YOU YOU'RE TELLING IT WRONG.

6 Q. TELLING IT WRONG, OKAY. MR. DIXON, DO YOU KNOW WHO
7 THIS MAN IS UP HERE?

8 A. THE JUDGE.

9 Q. THE JUDGE, OKAY. WHAT DOES THE JUDGE WANT YOU TO DO
10 WHEN YOU COME TO COURT?

11 A. TELL THE TRUTH.

12 Q. WHAT HAPPENS IF YOU TELL A LIE?

13 A. HE FINES YOU.

14 Q. HE'LL FINE YOU?

15 A. YEAH.

16 Q. MR. DIXON, WHEN WE BRING THE JURY OUT, AND THE CLERK
17 IS GOING TO ASK YOU TO PUT YOUR HAND ON THE BIBLE, WHAT
18 ARE YOU GOING TO BE DOING?

19 A. HOLDING MY HAND OVER THE BIBLE AND HOLD MY HAND UP.

20 Q. AND WHAT IS SHE GOING TO ASK YOU TO DO?

21 A. WELL ---

22 Q. DO YOU KNOW?

23 A. YEAH.

24 Q. WHAT'S SHE GOING TO ASK YOU TO DO?

25 A. SHE WANTS ME MAKE SURE I DON'T LIE AND ALL THAT.

1 Q. DON'T LIE. IS SHE GOING TO TELL YOU TO TELL THE
2 TRUTH?

3 A. UH HUH.

4 Q. THE WHOLE TRUTH?

5 A. YEAH.

6 Q. AND WHAT ELSE?

7 A. AND DON'T LIE.

8 Q. AND DON'T LIE. WHAT ARE YOU GOING TO DO IN HERE
9 REGARDING THIS CASE?

10 A. TELL THE TRUTH.

11 Q. TELL THE TRUTH.

12 THE COURT: MR. WICKER, ANY QUESTIONS?

13 MR. WICKER: YOUR HONOR, I DON'T HAVE ANY QUESTIONS.

14 THE COURT: DO YOU HAVE ANY OBJECTION TO THIS
15 PROCESS OF QUALIFICATION?

16 MR. WICKER: NO, I DON'T, YOUR HONOR.

17 THE COURT: THANK YOU KINDLY. STEP DOWN, MR. DIXON.
18 BRING THAT JURY IN.

19 (JURY IN COURTROOM.)

20 THE COURT: ANYTHING FURTHER BEFORE WE SWEAR THE
21 JURY?

22 MS. STROM: NOTHING FROM THE STATE, YOUR HONOR

23 MR. WICKER: NOTHING FROM DEFENSE, YOUR HONOR.

24 THE COURT: WOULD YOU SWEAR THEM, PLEASE MA'AM.

25 (JURY SWORN AT THIS TIME.)

1 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
2 LET ME MAKE A FEW COMMENTS TO YOU, AND THEN WE WILL GET
3 RIGHT INTO THE TRIAL OF THE CASE. IT IS, AS YOU KNOW,
4 THE CASE OF THE STATE AGAINST GARY LANE PREWITT. YOU
5 KNOW THERE ARE FOUR SEPARATE COUNTS IN THE INDICTMENT
6 THAT I'VE ALREADY READ TO YOU. I WON'T READ THEM TO YOU
7 AGAIN. YOU KNOW THAT MR. PREWITT HAS ENTERED A PLEA OF
8 NOT GUILTY ON EACH CHARGE IN THE INDICTMENT, AND UNDER
9 OUR CONSTITUTION, AS I TOLD YOU BEFORE, WHEN A DEFENDANT
10 PLEADS NOT GUILTY, THE BURDEN IS THEN PLACED UPON THE
11 STATE OF SOUTH CAROLINA THROUGH THE SOLICITOR'S OFFICE TO
12 PROVE THAT HE IS GUILTY OF ANY OR ALL OF THESE CRIMES IF
13 THEY CAN PROVE THAT GUILT.

14 IT IS NEVER INCUMBENT UPON A DEFENDANT TO PROVE HIS
15 OR HER OWN INNOCENCE. EVERY DEFENDANT IS PRESUMED TO BE
16 INNOCENT, AND AS I'VE TOLD YOU, YOU AND I MUST LOOK UPON
17 THE DEFENDANT AS INNOCENT. WE MUST CONSIDER HIM INNOCENT
18 AND CONTINUE TO DO SO UNTIL AND UNLESS YOU ARE SATISFIED
19 THAT THE STATE HAS PROVED THAT HE IS GUILTY.

20 THOSE ARE VERY IMPORTANT SAFEGUARDS THAT EVERY
21 DEFENDANT HAS AND IS ENTITLED TO RECEIVE AT YOUR HANDS AS
22 WE GO INTO THIS PROCESS.

23 NOW, FOLKS, AS I TOLD YOU ON MONDAY, YOUR
24 RESPONSIBILITY AND MINE IS TO BE ULTIMATELY FAIR TO BOTH
25 THE STATE AND THE DEFENDANT. WE HAVE NO ONE TO WHOM TO

1 SHOW FAVOR, NO ONE TO WHOM TO SHOW ANY DISFAVOR, BUT WE
2 MUST EXERCISE EVERY POWER YOU POSSESS TO BE FAIR TO BOTH
3 SIDES IN THIS CASE, AND THAT'S THE GREATEST BURDEN YOU
4 BEAR, TO BE FAIR AS YOU HEAR THIS CASE, THE TESTIMONY,
5 THE EVIDENCE AND AS YOU DECIDE THIS CASE.

6 NOW, FOLKS, WHEN THE TESTIMONY BEGINS, YOU HAVE THE
7 RESPONSIBILITY, AS I'VE ALREADY TOLD YOU, OF LISTENING TO
8 THE WITNESSES, OF COURSE, DECIDING WHICH OF THE WITNESSES
9 YOU BELIEVE, WHAT PORTIONS OF THE WITNESSES' TESTIMONY
10 YOU MIGHT ACCEPT, IF ANY, AND WHAT VALUE THAT TESTIMONY
11 MIGHT HAVE. YOU ARE THE TRUTH SEEKING BODY.

12 UNDER THE LAW, I HAVE NO AUTHORITY TO TELL YOU WHO
13 I THINK YOU OUGHT TO BELIEVE, BUT THAT RESTS ENTIRELY
14 WITHIN THE HEARTS AND THE MINDS OF YOU LADIES AND
15 GENTLEMEN TO DECIDE BELIEVABILITY AND TO FIND THE TRUTH
16 IN ALL OF THE TESTIMONY AND THE EVIDENCE PRESENTED IN
17 THIS CASE.

18 AS THE JUDGE OF THE LAW, I'LL HAVE THE
19 RESPONSIBILITY OF DISCUSSING WITH YOU IN SOME DETAIL THE
20 LAW THAT MAY BE INVOLVED IN THIS PARTICULAR CASE. YOU
21 HAVE THE RESPONSIBILITY OF TAKING THE LAW AS I GIVE IT TO
22 YOU, APPLYING THAT LAW TO THE TRUTH THAT YOU DETERMINE
23 AND RETURNING A VERDICT MAKING A FINAL DECISION IN THIS
24 CASE WHICH RESTS COMPLETELY UPON THE TRUTH AND THE LAW
25 AND UPON NO OTHER BASIS. CERTAINLY WOULD BE IMPROPER FOR

1 YOU TO BRING BACK A VERDICT BASED UPON BIAS OR PREJUDICE
2 OR FAVOR OR DISFAVOR. SET ALL THAT ASIDE. PUT ALL YOUR
3 PREJUDICES, AND WE ALL HAVE THEM ONE WAY OR ANOTHER ---
4 PUT THEM ALL ASIDE AND LET YOUR VERDICT RESTS UPON JUST
5 THOSE TWO PILLARS OF THE TRUTH THAT YOU DECIDE AND THE
6 LAW THAT I GIVE YOU. YOUR VERDICT WILL BE A PROPER
7 VERDICT WHEN THAT IS DONE.

8 THE STATE IN THIS CASE IS REPRESENTED BY MS. STROM
9 AND MRS. GRIFFITH. THE DEFENDANT IS REPRESENTED BY MR.
10 WICKER. I'M GOING TO RECOGNIZE THEM FOR THEIR OPENING
11 COMMENTS IN JUST A MOMENT, AND I JUST GIVE YOU THIS ONE
12 CAUTION. LAWYERS ARE ENTITLED TO TALK TO YOU AT THE
13 BEGINNING OF THE TRIAL IF THEY WISH AND AGAIN AT THE END
14 OF THE TRIAL IF THEY WISH. THEIR COMMENTS ARE NOT
15 EVIDENCE IN THE CASE. THEIR COMMENTS CANNOT SERVE AS ANY
16 BASIS FOR YOUR VERDICT IN THE CASE. FOR YOU KNOW YOUR
17 VERDICT RESTS UPON THE TESTIMONY AND THE EVIDENCE AND THE
18 LAW AND NOT UPON THEIR COMMENTS. BUT THEIR COMMENTS ARE
19 VERY IMPORTANT.

20 HERE IN THE BEGINNING, THEY WILL HAVE AN OPPORTUNITY
21 TO TELL YOU WHAT THIS CASE IS ALL ABOUT. AT THE
22 CONCLUSION OF THE TRIAL, THEIR COMMENTS CAN BE EXTREMELY
23 IMPORTANT AS THEY ASSIST YOU AS YOU FOCUS UPON THE
24 QUESTIONS WHICH ONLY YOU CAN ANSWER. SO, EVEN THOUGH THE
25 COMMENTS ARE NOT EVIDENCE, THEY ARE EXTREMELY IMPORTANT.

1 LISTEN CLOSELY TO THEM.

2 MS. WILSON, AS FORELADY, YOU'LL HAVE THE
3 RESPONSIBILITY OF PRESIDING IN THE JURY ROOM AND
4 REPRESENTING THE PANEL HERE IN THE COURTROOM IN THE EVENT
5 OF THAT NEED. SO, WITH THAT, FOLKS, WE WILL PROCEED.

6 MS. STROM?

7 MS. STROM: MAY IT PLEASE THE COURT, YOUR HONOR?

8 OPENING STATEMENT

9 BY MS. STROM

10 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, AS
11 HIS HONOR HAS TOLD YOU, MY NAME IS BETTY STROM, AND I'M
12 THE DEPUTY PROSECUTOR, DEPUTY SOLICITOR, HERE IN NEWBERRY
13 COUNTY. MY JOB IS TO PROSECUTE CRIMINAL CASES THAT COME
14 AND OCCUR IN NEWBERRY COUNTY --- HERE TO BRING THE FACTS
15 TO YOU AND PRESENT THE CASE.

16 AS DEPUTY SOLICITOR, I HAVE THE JOB OF PROSECUTING
17 CRIMINAL CASES. THE STATE REPRESENTS THE VICTIMS IN THIS
18 CASE, AND WE REPRESENT THE PEOPLE OF NEWBERRY COUNTY.

19 MR. WICKER, WHO WILL BE UP TO TALK TO YOU IN A FEW
20 MINUTES, REPRESENTS THE DEFENDANT IN THIS CASE, GARY LANE
21 PREWITT.

22 THE STATE HAS CHARGED GARY LANE PREWITT WITH FOUR
23 CHARGES. ONE IS BURGLARY IN THE FIRST DEGREE. TO PROVE
24 TO YOU TO FIND THE DEFENDANT GUILTY OF BURGLARY IN THE
25 FIRST DEGREE, THESE ARE THE ELEMENTS THAT THE STATE MUST

OPENING STATEMENT
BY MS. STROM

21

1 PROVE, AND HIS HONOR, AT THE END OF THE CASE, WILL TELL
2 YOU WHAT THE LAW IS. IT'S DIFFERENT FROM WHAT ANYONE
3 ELSE SAYS. YOU MUST TAKE THE LAW AS HIS HONOR CHARGES IT
4 TO YOU, NOT AS YOU THINK IT SHOULD BE, NOT AS YOU WANT IT
5 TO BE OR HOW YOU WISH IT WOULD BE IN AN IDEAL SITUATION.
6 YOU MUST TAKE THE LAW AS HIS HONOR CHARGES IT.

7 HE WILL CHARGE YOU ON THE LAW OF BURGLARY IN THE
8 FIRST DEGREE. THE STATE ALLEGES AND THE STATE INTENDS TO
9 PROVE TO YOU THAT THE DEFENDANT, GARY LANE PREWITT,
10 ENTERED THE HOME OF MR. RANDY TINSLEY. MR. TINSLEY IS
11 SEATED THERE BEHIND COUNSEL TABLE. GARY LANE PREWITT
12 ENTERED HIS HOME WITHOUT HIS CONSENT AND WITH THE INTENT
13 TO COMMIT A CRIME THEREIN. IN OTHER WORDS, HE WENT INTO
14 THE MAN'S HOME WITH THE INTENT TO STEAL.

15 YOU MUST FURTHER FIND AN AGGRAVATING CIRCUMSTANCE.
16 AN AGGRAVATING CIRCUMSTANCE CAN BE ONE --- I BELIEVE IT'S
17 FOUR. AGAIN, TAKE IT AS HIS HONOR TELLS YOU. THAT THE
18 PERSON THAT ENTERED THE HOME WAS ARMED WITH A DEADLY
19 WEAPON. HE WENT INTO THE HOUSE WITH A DEADLY WEAPON OR
20 WHILE HE WAS IN THERE HE OBTAINED A DEADLY WEAPON OR
21 IMMEDIATELY IN FLIGHT FROM THAT HOME HE OBTAINED A DEADLY
22 WEAPON. THAT MAKES IT BURGLARY IN THE FIRST DEGREE.

23 THE SECOND ELEMENT, ANOTHER AGGRAVATING
24 CIRCUMSTANCE, IS THAT WHILE IN THE HOME, WITHOUT THE
25 PERSON'S CONSENT, THE DEFENDANT, GARY PREWITT, COMMITTED

1 AN ACT OF VIOLENCE AGAINST SOMEONE ELSE. HE INJURED
2 SOMEONE ELSE WHO WAS NOT INVOLVED IN THE CRIME WHILE HE
3 WAS THERE.

4 IF THE DEFENDANT THREATENED TO USE A DEADLY WEAPON,
5 THAT IS AN AGGRAVATING CIRCUMSTANCE. IF HE DISPLAYS,
6 SHOWS, PULLS A DEADLY WEAPON, THAT CAN MAKE IT BURGLARY
7 IN THE FIRST DEGREE --- ENTERING WITHOUT CONSENT WITH THE
8 INTENT TO COMMIT A CRIME THEREIN AND WAS ARMED WITH A
9 DEADLY WEAPON OR CAUSED INJURY WHILE IN THE HOME. THE
10 STATE INTENDS TO PROVE THAT TO YOU. THE STATE INTENDS TO
11 PROVE TO YOU THROUGH THE WITNESSES THAT MR. DIXON, JOE
12 DIXON, WENT TO A NEIGHBOR'S HOME BECAUSE HE HAD A
13 SUSPICION ABOUT THE VEHICLE THAT WAS IN THE YARD. HE
14 GOES OVER THERE AND FINDS TWO MEN IN THE HOUSE. ONE OF
15 THE MEN RUNS OUT THE FRONT DOOR. THE SECOND MAN, GARY
16 LANE PREWITT, SHOOTS JOE DIXON THREE TIMES. THE STATE
17 INTENDS TO PROVE THAT TO YOU.

18 THE SECOND CHARGE, LARCENY. WHAT IS LARCENY?
19 STEALING. IT'S JUST A LEGAL WORD FOR SAYING STEALING.
20 THE STATE INTENDS TO PROVE TO YOU THAT GARY LANE PREWITT,
21 WHILE HE WAS IN MR. TINSLEY'S HOME WITHOUT HIS
22 PERMISSION, STOLE FROM HIM. THAT HE STOLE MONEY FROM
23 HIM. THEN HE TRIED TO STEAL HIS GUNS.

24 THIRD CHARGE, ASSAULT AND BATTERY WITH INTENT TO
25 KILL. BASICALLY, ASSAULT AND BATTERY WITH INTENT TO KILL

1 IS AN UNLAWFUL INJURY TO ANOTHER PERSON WITH MALICE
2 AFORETHOUGHT. HIS HONOR AT THE END OF THE CASE WILL GIVE
3 TO YOU THE DEFINITION FOR MALICE. THE STATE INTENDS TO
4 PROVE THAT GARY LANE PREWITT COMMITTED AN ASSAULT AND
5 BATTERY WITH INTENT TO KILL WHEN HE SHOT JOE DIXON.

6 THE FOURTH CHARGE IS THE USE OF A FIREARM DURING THE
7 COMMISSION OF A VIOLENT CRIME. I'LL DISCUSS THAT MORE
8 WITH YOU AT THE END OF THE CASE AS FAR AS HOW EVERYTHING
9 IS TIED TOGETHER.

10 AGAIN, YOUR JOB TODAY IS TO LISTEN TO THE WITNESSES
11 THAT TESTIFY AND DETERMINE WHAT THE TRUTH IS, AND AS HIS
12 HONOR TOLD YOU, YOU HAVE NO FRIENDS TO REWARD. YOU HAVE
13 NO ENEMIES TO PUNISH HERE. YOU ARE THE NON-BIASED FACT
14 FINDERS.

15 WHAT YOU BRING TO THIS COURTROOM --- YOUR MOST
16 VALUABLE ASSET THAT YOU BRING TO THIS COURTROOM IS YOUR
17 GOOD COMMON SENSE. LOOK AT SOMETHING. LOOK AT SOMEBODY.
18 LISTEN TO WHAT THEY'RE TELLING YOU, AND DETERMINE IF
19 THEY'RE TELLING THE TRUTH.

20 LADIES AND GENTLEMEN, I APPRECIATE YOU BEING HERE.
21 I APPRECIATE THE ATTENTION THAT I KNOW EACH OF YOU WILL
22 GIVE TO THIS CASE. AND AS HIS HONOR SAID, AFTER MR.
23 WICKER COMES UP AND MAKES HIS OPENING ARGUMENT, WE WILL
24 BE PRESENTING THE TESTIMONY IN THIS CASE. AT THE END OF
25 THE CASE, WE WILL HAVE CLOSING ARGUMENTS. AT THAT TIME,

OPENING STATEMENT
BY MR. WICKER

24

1 LADIES AND GENTLEMEN, PRIOR TO YOUR DELIBERATIONS, I WILL
2 BE ASKING YOU TO RETURN A VERDICT IN THIS CASE. I WILL
3 BE ASKING YOU TO RETURN A VERDICT OF GUILTY ON ALL
4 CHARGES. THANK YOU.

5 THE COURT: MR. WICKER? MAY IT PLEASE THE COURT?

6 OPENING STATEMENT
7 BY MR. WICKER

8 MADAM FORELADY AND LADIES AND GENTLEMEN OF THE JURY,
9 MY NAME IS RAY WICKER, AND I PRACTICE LAW HERE IN
10 NEWBERRY IN THE FIRM OF WICKER & SENN, AND WE'RE ACROSS
11 THE STREET FROM THE OLD, OLD HOSPITAL BUILDING IN THE
12 BAKER BUILDING. I'M IN THE SPACE THAT USED TO BE A
13 FLOWER SHOP, NEXT DOOR TO THE DENTIST DR. BAKER.

14 WE'VE BEEN OVER THERE ABOUT A LITTLE OVER THREE
15 YEARS NOW INCORPORATED AS WICKER & SENN. LISA SENN IS MY
16 LAW PARTNER. SHE'S MARRIED INTO THE SENN TRUCKING FIRM
17 FAMILY.

18 BEFORE THAT, I WAS IN NEWBERRY FOR A YEAR AND A HALF
19 AS GRIFFITH AND WICKER. WHEN MY FRIEND GENE GRIFFITH
20 DIED, I CAME TO NEWBERRY AND TOOK OVER HIS BUILDING FOR
21 A PERIOD OF ABOUT A YEAR AND A HALF, AND WE WERE THEN
22 GRIFFITH AND WICKER.

23 ABOUT SEVEN YEARS BEFORE THAT, I PRACTICED LAW IN
24 THE LITTLE PEACH GROWING COMMUNITY OF JOHNSTON, SOUTH
25 CAROLINA, WHERE I WAS A SOLE PRACTITIONER FOR SEVEN

OPENING STATEMENT
BY MR. WICKER

25

1 YEARS, AND I WAS THE COUNTY ATTORNEY FOR SIX OF THOSE
2 YEARS FOR EDGEFIELD COUNTY.

3 PRIOR TO THAT, I SPENT MANY YEARS IN THE ARMY. I
4 RETIRED AS A REGULAR ARMY FULL COLONEL IN THE JUDGE
5 ADVOCATE GENERAL'S CORP, AND SO, I WAS AN ARMY LAWYER FOR
6 THE LAST 22 YEARS THAT I SERVED. I SERVED ALL OVER THE
7 WORLD. IN FACT, I SERVED IN ETHIOPIA FOR A YEAR, VIETNAM
8 FOR TWO AND A HALF YEARS, KOREA FOR A YEAR, AUSTRIA FOR
9 A YEAR AND GERMANY FOR SIX YEARS, AND THEN I SERVED
10 AROUND THE PENTAGON IN FORT LEE, MARYLAND AND ARLINGTON,
11 VIRGINIA, AT WHICH TIME I WAS A STAFF JUDGE ADVOCATE FOR
12 ALL ARMY INTELLIGENCE WORLDWIDE FOR FIVE YEARS.

13 I WANT YOU TO KNOW THAT I GREW UP IN NEWBERRY. I
14 WAS BORN ON NANCE STREET. I GREW UP ON DRAYTON STREET
15 DOWN BELOW THE OLD FARMER'S OIL MILL. I FINISHED
16 NEWBERRY HIGH SCHOOL AND NEWBERRY COLLEGE ON CLINE STREET
17 --- THERE ON THE CORNER OF CLINE AND MAIN STREET ACROSS
18 FROM THE OLD LUMBER COMPANY. IT USED TO BE THE MURRAY
19 LUMBER COMPANY, AND THEN I LEFT TOWN, AND I WAS GONE FOR
20 A LONG TIME --- 32 YEARS TO BE EXACT. I DID GO TO
21 COLLEGE AT THE UNIVERSITY OF SOUTH CAROLINA ON THE G.I.
22 BILL, AND I STARTED THERE WHEN I WAS 26, AND GRADUATED
23 FROM LAW SCHOOL THERE WHEN I WAS 29. I WAS ADMITTED TO
24 THE BAR SOME 35 YEARS AGO.

25 I HAVE BEEN BACK LIVING IN NEWBERRY COUNTY FOR OVER

1 ELEVEN YEARS NOW. I HAVE LIVED ON MY GREAT GRANDFATHER'S
2 PLACE ALL OF THIS TIME. HE WAS LAMAR DOMINICK. HE WAS
3 THE MAGISTRATE IN CHAPPELLS FOR MANY YEARS. MY BROTHER
4 IS IN THE OLD HOME PLACE WHICH HE RESTORED, AND I BUILT
5 THE NEW HOUSE NEAR THERE. IT'S A BACK ROAD --- ISLAND
6 FORD ROAD BETWEEN CHAPPELLS AND SILVERSTREET. THAT'S
7 WHERE I GO HOME TO EVERY NIGHT AND GO TO BED AND TO BE
8 HAPPY THAT I'M BACK IN NEWBERRY COUNTY. I'M ALSO HAPPY
9 TO BE BACK IN MY HOME TOWN, NEWBERRY, AND WE'RE HAPPY
10 THAT WE CAN GET A JURY HERE TODAY ALL OF WHOM LIVE IN
11 NEWBERRY COUNTY, ALL OF WHOM ARE WIDE AWAKE, AND ALL OF
12 WHOM ARE GOING TO LISTEN TO EVERYTHING THE STATE SAYS AND
13 ALL OF WHOM WILL KEEP AN OPEN MIND AND LISTEN TO
14 EVERYTHING THE DEFENSE SAYS.

15 NOW, THE STATE DOES HAVE THE BURDEN OF PROOF TO
16 PROVE THE CASE BEYOND A REASONABLE DOUBT. THE DEFENSE
17 DOES NOT HAVE TO TAKE THE STAND AT ALL. HE WILL TAKE THE
18 STAND, AND HE WILL DEFEND HIMSELF, AND YOU WILL HEAR FROM
19 HIS MOUTH UNDER OATH, OF COURSE, THAT HE IS INNOCENT.
20 SO, YOU CAN KEEP ALL OF THAT IN MIND WHILE YOU ARE
21 LISTENING TO THE STATE'S EVIDENCE.

22 NEEDLESS TO SAY, MY CLIENT, WHO I CALL LANEY
23 PREWITT, AND MYSELF AND HIS MOTHER AND FATHER, WHO ARE IN
24 THE COURTROOM, ALL DEPEND ON THIS JURY TO RENDER A
25 VERDICT THAT IS JUST. AND YOU WILL HAVE TO HAVE A

1 CONSENSUS OF OPINION. THAT MEANS ALL 12 OF YOU WHO GO
2 BACK HERE TO DISCUSS THE CASE SHOULD TAKE PART IN THE
3 DISCUSSION, SHOULD SAY WHAT YOU THINK, SHOULD LISTEN AT
4 THE OTHER ELEVEN AND SHOULD COME UP WITH A FINDING ON
5 EACH ONE OF THESE FOUR CHARGES, AND OF COURSE, THE
6 FINDING WILL EITHER BE NOT GUILTY, WHAT WE WILL BE ASKING
7 FOR, OF COURSE, OR IF YOU GO GUILTY ON ALL OF THE CHARGES
8 OR ANY ONE OF THE CHARGES, THEN YOU HAVE TO SAY IN YOUR
9 HEART AND IN YOUR MIND THAT THE STATE OF SOUTH CAROLINA
10 HAS PROVEN THE CASE TO YOUR SATISFACTION BEYOND A
11 REASONABLE DOUBT, AND YOU'RE JOINING IN WITH THE OTHER 11
12 IN A CONSENSUS THEN TO SAY MY CLIENT IS GUILTY.

13 OF COURSE, WE BELIEVE THAT YOU WILL TRY TO BE FAIR.
14 SO, WE WOULD LIKE FOR YOU TO KEEP AN OPEN MIND UNTIL
15 LANEY GETS THE CHANCE TO TAKE THE STAND AND TELL YOU WHAT
16 HE HAS TO SAY. THANK YOU VERY MUCH.

17 THE COURT: CALL YOUR FIRST WITNESS.

18 MS. STROM: THE STATE CALLS RANDY TINSLEY.

19 WHEREUPON:

20 RANDY TINSLEY, BEING FIRST DULY
21 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MS. STROM

24 Q. MR. TINSLEY, I'M GOING TO NEED FOR YOU TO SPEAK UP
25 SO ALL THESE JURORS CAN HEAR YOU, ALL RIGHT?

- 1 A. ALL RIGHT.
- 2 Q. MR. TINSLEY, HOW OLD ARE YOU?
- 3 A. THIRTY.
- 4 Q. AND HOW LONG HAVE YOU LIVED IN NEWBERRY COUNTY?
- 5 A. ABOUT NINE YEARS.
- 6 Q. WHERE ARE YOU FROM?
- 7 A. ORIGINALLY FROM WHITMIRE.
- 8 Q. FROM WHITMIRE. WHERE DO YOU LIVE IN NEWBERRY
- 9 COUNTY?
- 10 A. HIGHWAY 63, KINARDS.
- 11 Q. YOU SAID THAT WAS HIGHWAY 63 IN KINARDS?
- 12 A. YES, MA'AM.
- 13 Q. WHERE DO YOU WORK?
- 14 A. I'M EMPLOYED AT CONE MILLS RIGHT NOW.
- 15 Q. AND WHAT DO YOU DO THERE?
- 16 A. TENON FRAME OPERATOR.
- 17 Q. WHAT TYPE OF FRAME OPERATOR?
- 18 A. TENON FRAME.
- 19 Q. MR. TINSLEY, DO YOU KNOW THE DEFENDANT GARY LANE
- 20 PREWITT?
- 21 A. YES, MA'AM.
- 22 Q. TELL THIS JURY HOW YOU KNOW HIM?
- 23 A. I LIVED IN JOANNA FOR ABOUT, BASICALLY, ALL MY LIFE,
- 24 AND HE'S FROM JOANNA, AND I WORKED AT ETHICA INDUSTRIES
- 25 FOR NINE AND A HALF YEARS, AND SOMEWHERE AROUND FOUR OR

1 FIVE YEARS AGO HE COME TO WORK THERE --- SAME SHIFT.

2 Q. DID Y'ALL SOCIALIZE TOGETHER, OR DID Y'ALL JUST WORK
3 TOGETHER?

4 A. REALLY, NEITHER ONE.

5 Q. HE WAS JUST ON THE SAME SHIFT?

6 A. YEAH, IN A DIFFERENT DEPARTMENT.

7 Q. ALL RIGHT, IN A DIFFERENT DEPARTMENT. I'M SORRY.

8 MR. TINSLEY, DO YOU RECALL JULY 22, 1994, THE DAY YOUR
9 HOUSE WAS BROKEN INTO?

10 A. YES, MA'AM.

11 Q. DID I HAVE THE CORRECT DATE? IS THAT THE CORRECT
12 DATE?

13 A. THE 22ND?

14 Q. YES, SIR. COULD YOU PLEASE TELL THIS JURY --- LET
15 ME ASK YOU THIS. DID GARY LANE PREWITT HAVE PERMISSION
16 TO BE IN YOUR HOUSE THAT DAY?

17 A. NO, MA'AM.

18 Q. WHO HAS A KEY TO YOUR HOME?

19 A. ME AND MY WIFE.

20 Q. I BELIEVE THIS WAS ON A FRIDAY. DID YOU WORK ON
21 THAT DAY?

22 A. YES, MA'AM.

23 Q. DOES YOUR WIFE WORK?

24 A. YES, MA'AM.

25 Q. WHERE DOES YOUR WIFE WORK?

- 1 A. E. L. MANSURE.
- 2 Q. DO YOU RECALL IF SHE WORKED ON THAT DAY?
- 3 A. YES, MA'AM.
- 4 Q. WHAT TIME DO Y'ALL GO TO WORK?
- 5 A. WE BOTH WORK FROM SEVEN IN THE MORNING UNTIL THREE
- 6 IN THE AFTERNOON.
- 7 Q. DO Y'ALL HAVE ANY CHILDREN?
- 8 A. TWO.
- 9 Q. WHO KEEPS YOUR CHILDREN?
- 10 A. ONE'S IN SCHOOL --- LITTLE BOY'S IN SCHOOL, AND
- 11 LITTLE GIRL'S IN NURSERY.
- 12 Q. ON THIS PARTICULAR DAY, ON THE 22ND, WOULD YOU TELL
- 13 THIS JURY WHAT YOU DID THAT MORNING PRIOR TO GOING TO
- 14 WORK?
- 15 A. GOT UP AND WENT TO WORK THAT MORNING. THAT WAS IT.
- 16 Q. DID YOU TAKE YOUR CHILDREN ANYWHERE?
- 17 A. TOOK MY LITTLE BOY TO SCHOOL AND TOOK OUR LITTLE
- 18 GIRL TO THE NURSERY.
- 19 Q. AND DID YOU HAVE OCCASION TO COME HOME --- DID YOU
- 20 COME HOME EARLY THAT DAY, OR WHEN DID YOU GET HOME?
- 21 A. THE PLANT MANAGER AT THE PLANT I WORKED AT NOTIFIED
- 22 ME THAT SOMEONE HAD BROKE IN THE HOUSE, AND JOE HAD BEEN
- 23 SHOOT, AND WE --- THAT MUST HAVE BEEN AROUND TEN, AND WE
- 24 ARRIVED AT THE HOUSE AROUND FIFTEEN OR TWENTY AFTER TEN.
- 25 Q. MR. TINSLEY, DO YOU KEEP ANY GUNS IN YOUR HOUSE?

1 A. YES, MA'AM.

2 Q. WHAT KIND OF GUNS DO YOU KEEP IN YOUR HOUSE?

3 A. RIFLES AND SHOT GUNS.

4 Q. DO YOU HAVE ANY HANDGUNS?

5 A. NO, MA'AM.

6 Q. ON THE 22ND, DID YOU HAVE ANY HANDGUNS?

7 A. NO, MA'AM.

8 Q. WHERE DO YOU KEEP THOSE GUNS?

9 A. IN A GUN CABINET.

10 Q. DO YOU RECALL IF YOUR GUN CABINET WERE LOCKED THAT
11 DAY?

12 A. NO, IT WASN'T LOCKED.

13 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

14 BY MS. STROM

15 Q. MR. TINSLEY, I HAND YOU A GROUP OF NINE PHOTOGRAPHS.
16 I WOULD LIKE FOR YOU TO LOOK THROUGH THOSE AND SEE IF YOU
17 CAN IDENTIFY THEM. CAN YOU IDENTIFY THEM?

18 A. YES, MA'AM.

19 Q. WHAT ARE THEY PICTURES OF?

20 A. PICTURES OF MY GUNS LAYING IN THE KITCHEN FLOOR, MY
21 GUN CABINET EMPTY, MY BEDROOM A MESS, RODS AND REELS,
22 FISHING TACKLE THAT I OWN IN THE KITCHEN PROPPED UP
23 AGAINST THE REFRIGERATOR AND MY HOME.

24 MS. STROM: YOUR HONOR, AT THIS TIME, THE STATE
25 WOULD INTRODUCE THESE NINE PHOTOGRAPHS AS STATE'S

1 EXHIBITS ONE THROUGH NINE.

2 THE COURT: ANY OBJECTION?

3 MR. WICKER: WITHOUT OBJECTION, YOUR HONOR.

4 THE COURT: THANK YOU, SIR.

5 MS. STROM: I'M SORRY, YOUR HONOR. THERE WERE TEN.
6 I THOUGHT THERE WAS NINE. I MISCOUNTED.

7 THE COURT: ANY OBJECTION?

8 MR. WICKER: NONE, YOUR HONOR.

9 (STATE'S EXHIBITS ONE THROUGH TEN MARKED FOR
10 IDENTIFICATION AND MADE A PART OF THE RECORD.)

11 BY MS. STROM

12 Q. MR. TINSLEY, IF YOU WOULD, STEP DOWN AND SHOW THESE
13 PHOTOGRAPHS TO THE JURY. I SHOW YOU WHAT'S BEEN MARKED
14 AS STATE'S EXHIBIT NUMBER FIVE. WOULD YOU PLEASE TELL
15 THIS JURY WHAT THAT DEPICTS?

16 A. THAT'S THE FRONT OF MY HOME --- FRONT DOOR.

17 Q. I SHOW YOU STATE'S EXHIBIT NUMBER NINE. WHAT IS
18 THAT?

19 A. THIS IS MY WHOLE HOME.

20 Q. I SHOW YOU STATE'S EXHIBIT NUMBER TEN. WHAT DOES
21 THAT DEPICT?

22 A. BACKSIDE OF MY HOUSE.

23 Q. THE BACKSIDE OF YOUR HOUSE. I SHOW YOU WHAT'S BEEN
24 MARKED AS STATE'S EXHIBIT NUMBER ONE. WHAT DOES THAT
25 DEPICT?

1 A. MY GUN CABINET.

2 Q. DID YOU LEAVE YOUR GUN CABINET IN THAT CONDITION
3 WHEN YOU LEFT TO GO TO WORK ON THE 22ND?

4 A. NO.

5 Q. HOW DID YOU LEAVE IT?

6 THE COURT: YOU WILL HAVE TO SPEAK LOUDLY ENOUGH
7 THAT I CAN HEAR YOU TOO, PLEASE, SIR.

8 WITNESS: NO, SIR, I LEFT THE DOOR SHUT AND THERE
9 WERE SIX GUNS IN IT.

10 BY MS. STROM

11 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
12 NUMBER TWO. WHAT IS THAT?

13 A. GUN LAYING UNDER MY KITCHEN TABLE.

14 Q. DID YOU LEAVE THAT GUN UNDER YOUR KITCHEN TABLE WHEN
15 YOU LEFT ON THE 22ND?

16 A. NO, MA'AM. IT WAS IN THE GUN CABINET.

17 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
18 NUMBER THREE. WHAT DOES THAT DEPICT?

19 A. TWO MORE GUNS LAYING IN THE FLOOR, A ROD AND REEL
20 AND TACKLE BOX AND SOME GUNS PROPPED UP AGAINST THE
21 KITCHEN CABINETS.

22 Q. DID YOU LEAVE THESE GUNS AND RODS AND REELS IN THE
23 KITCHEN PRIOR TO YOUR LEAVING ON THE 22ND?

24 A. NO, MA'AM.

25 Q. WHERE WERE THEY?

1 A. THE ROD AND REEL AND TACKLE BOX WERE IN THE CLOSET.
2 THE GUNS WAS IN THE GUN CABINET.

3 Q. I SHOW YOU WHAT'S STATE'S EXHIBIT NUMBER FOUR, AND
4 I BELIEVE THAT'S JUST A CLOSE UP SHOT. IS THAT CORRECT?

5 A. YES, GUN IN THE FLOOR.

6 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
7 NUMBER EIGHT. WHAT DOES THAT DEPICT?

8 A. IT'S THE BACK DOOR OF MY HOME WHERE THE BURGLARS
9 ENTERED AND BLOOD IN THE FLOOR WHERE JOE WAS SHOT.

10 Q. THIS IS THE BACK DOOR OF YOUR HOME?

11 A. YES, MA'AM.

12 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
13 NUMBER SEVEN. WHAT DOES THAT DEPICT --- AND ALSO STATE'S
14 EXHIBIT NUMBER SIX. I BELIEVE THAT'S BASICALLY THE SAME
15 SHOT.

16 A. THE DRAWERS OUT OF THE DRESSERS BEEN PULLED OUT IN
17 THE BEDROOM AND CLOTHES THROWN ALL OVER THE FLOOR.

18 Q. DID YOU LEAVE YOUR BEDROOM IN THIS CONDITION PRIOR
19 TO YOUR LEAVING ON THE 22ND?

20 A. NO, MA'AM.

21 Q. THANK YOU, MR. TINSLEY. YOU MAY RETAKE THE STAND.

22 MS. STROM: YOUR HONOR, IF THERE'S NO OBJECTION, I'M
23 GOING TO LEAVE THESE FOR THE JURY IF THEY CARE TO LOOK AT
24 THEM.

25 THE COURT: THEY ARE IN EVIDENCE.

1 BY MS. STROM

2 Q. MR. TINSLEY, DID YOU HAVE OCCASION, WHEN YOU FOUND
3 OUT THAT YOUR HOME HAD BEEN BURGLARIZED, TO DO AN
4 ASSESSMENT AS TO WHAT WAS TAKEN, IF ANYTHING? WAS
5 ANYTHING TAKEN FROM YOUR HOME?

6 A. YEAH.

7 Q. WOULD YOU PLEASE TELL THIS JURY WHAT WAS TAKEN FROM
8 YOUR HOME?

9 A. I HAD A FEW OLD COINS, SOME BI-CENTENNIAL QUARTERS,
10 A RING, THERE WAS A SWITCHBLADE POCKET KNIFE, ZIPPO
11 LIGHTER. I THINK THAT WAS ABOUT ALL THAT WAS REALLY
12 TAKEN.

13 Q. THESE OLD COINS, HAVE YOU HAD OCCASION TO HAVE THEM
14 VALUED?

15 A. I NEVER HAD THEM VALUED.

16 Q. DO YOU KNOW FROM YOUR OWN PERSONAL EXPERIENCE HOW
17 MUCH THEY ARE VALUED AND AT WHAT THEY'RE VALUED?

18 A. YEAH, BASICALLY.

19 Q. WOULD YOU PLEASE TELL THIS JURY WHAT THAT IS?

20 A. ALL OF THEM WERE AROUND 250 --- \$300 I WOULD SAY.

21 Q. WOULD THAT BE TOTAL?

22 A. YEAH.

23 Q. MR. TINSLEY, OF YOUR OWN PERSONAL KNOWLEDGE OF WHAT
24 YOU SAW, DO YOU KNOW WHO BROKE INTO YOUR HOME? DID YOU
25 SEE THE PERSON WHO BROKE INTO YOUR HOME?

1 A. NO, MA'AM.

2 Q. SO, YOU WEREN'T THERE WHEN IT OCCURRED?

3 A. NO, MA'AM.

4 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

5 BY MS. STROM

6 Q. MR. TINSLEY, YOUR HOME OUT IN KINARDS, THAT IS, OF
7 COURSE, IN NEWBERRY COUNTY, CORRECT?

8 A. YES, MA'AM.

9 Q. THANK YOU. PLEASE ANSWER ANY QUESTIONS THAT MR.
10 WICKER MAY HAVE.

11 CROSS EXAMINATION

12 BY MR. WICKER

13 Q. MR. TINSLEY, YOU MENTIONED YOUR SON WAS IN SCHOOL
14 THAT DAY; IS THAT CORRECT?

15 A. HE WAS --- I'LL REPHRASE THAT. HE WAS ACROSS THE
16 STREET AT HIS GRANDPARENT'S HOUSE.

17 Q. OKAY. SO, SCHOOL WAS NOT IN SESSION ON THE 22ND OF
18 JULY; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. SO, INSTEAD OF BEING IN SCHOOL, HE WAS ACROSS THE
21 STREET?

22 A. YEAH.

23 Q. OKAY. HAVE YOU RECOVERED ANY OF THESE OLD COINS OR
24 THE KNIFE OR THE MONEY THAT WAS TAKEN?

25 A. NO, SIR.

1 Q. WHEN THE LAW ENFORCEMENT PEOPLE CAME TO YOUR HOME,
2 DID THEY TAKE THE GUNS WITH THEM?

3 A. YEAH, SLED DID.

4 Q. HAVE YOU RECEIVED THEM BACK YET?

5 A. YEAH, I'VE GOT THEM BACK.

6 Q. HAVE YOU EVER SEEN LANEY PREWITT IN OR NEAR YOUR
7 HOME?

8 A. NO.

9 Q. AND WHEN YOU WORKED NEAR LANEY, YOU SAID YOU DIDN'T
10 KNOW HIM WELL?

11 A. HE WORKED IN ONE DEPARTMENT. I WORKED IN ANOTHER.
12 THERE WAS REALLY NO ASSOCIATION DONE THERE.

13 Q. THANK YOU VERY MUCH, MR. TINSLEY.

14 THE COURT: STEP DOWN, SIR. NEXT WITNESS, PLEASE?

15 MS. STROM: THE STATE CALLS CHRISTY McGUIRT.

16 WHEREUPON:

17 CHRISTY McGUIRT, BEING FIRST
18 DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. STROM

21 Q. MS. McGUIRT, WHERE DO YOU LIVE?

22 A. WELL, I HAVE A --- I'VE BEEN LIVING TEN YEARS ACROSS
23 THE ROAD ON HIGHWAY 63, NEWBERRY COUNTY.

24 Q. WHEN YOU SAY ACROSS THE ROAD, ACROSS THE ROAD FROM -

25 --

- 1 A. ACROSS FROM RANDY'S HOUSE. IT'S ON HIGHWAY 63.
- 2 Q. AND RANDY BEING RANDY TINSLEY?
- 3 A. RANDY TINSLEY.
- 4 Q. YOU HAVE BEEN LIVING THERE HOW LONG?
- 5 A. THE LAST TEN OR ELEVEN YEARS. I OWN A HOUSE --- WE
- 6 OWN A HOUSE UP IN LAURENS COUNTY IS WHY I WAS SAYING
- 7 THAT. HAVE TWO HOUSES.
- 8 Q. OKAY. ON JULY 22, 1994, WHERE WERE YOU LIVING?
- 9 A. AT THE WHITE HOUSE ACROSS FROM RANDY --- HIGHWAY 63.
- 10 Q. DO YOU RECALL WHAT OCCURRED ON THAT DAY --- WHAT
- 11 HAPPENED ON THAT DAY?
- 12 A. YES, MA'AM.
- 13 Q. WOULD YOU PLEASE TELL THIS JURY WHAT HAPPENED?
- 14 A. TO START WITH --- WHEN WE SAW THE CAR?
- 15 Q. WHAT CAR DID YOU SEE?
- 16 A. OKAY. I HAD BEEN UP TO THE BRICK HOUSE. I FIX HAIR
- 17 UP THERE.
- 18 Q. WHEN YOU SAY UP TO THE BRICK HOUSE ---
- 19 A. UP TO MY HOUSE IN LAURENS COUNTY.
- 20 Q. OKAY.
- 21 A. ABOUT THREE MILES UP THE ROAD. ANYWAY, I CAME HOME.
- 22 Q. WHAT TIME DID YOU COME HOME?
- 23 A. I WOULD SAY AROUND TEN --- A LITTLE AFTER.
- 24 Q. ALL RIGHT.
- 25 A. AND JOE WAS SITTING --- JOE DIXON WAS SITTING ON THE

1 FRONT PORCH WAITING FOR A RIDE TO GO TO CHARLESTON.

2 Q. DO YOU KNOW JOE DIXON?

3 A. YES, MA'AM.

4 Q. ARE YOU RELATED TO JOE DIXON?

5 A. COUSIN BY MARRIAGE.

6 Q. COUSIN BY MARRIAGE. HE WAS SITTING ON YOUR FRONT
7 PORCH?

8 A. UH HUH.

9 Q. WHEN YOU SAW HIM, WHAT DID Y'ALL DO?

10 A. WELL, I WENT OUT THERE TO SEE IF HE WAS READY, AND
11 I TOOK HIM SOME MONEY, AND I HAD JUST WENT BACK IN THE
12 HOUSE. I COULD SEE THE ROAD FROM WHERE I WAS AT, AND
13 THIS LIGHT GREEN REAL FADED OUT CAR --- OLD CHEVROLET
14 WENT BY. ANYWAY, I DIDN'T PAY IT ANY ATTENTION. I WENT
15 ON BACK TO THE KITCHEN, AND THEN JOE CAME IN ABOUT TEN
16 MINUTES LATER AND HE SAID --- HE TOLD ME, SAID, "CHRISTY,
17 THERE'S A CAR WENT TO RANDY'S AND RHONDA SUE'S HOUSE
18 ABOUT TEN MINUTES AGO, AND IT HASN'T COME BACK OUT."
19 USUALLY WHEN IT DOES THAT, HE'LL GO CHECK AND TELL THEM
20 THEY'RE NOT HOME AND WHEN THEY'LL BE BACK.

21 SO, I TOLD HIM IF HE WANTED TO GO CHECK TO GO CHECK,
22 AND I WENT TO THE SIDE PORCH WHERE I CAN SEE HIM GOING
23 ACROSS THE ROAD, AND MY TWO LITTLE GRAND BOYS WERE WITH
24 ME, AND THEY WANTED TO GO WITH HIM, BUT WE MADE THEM STAY
25 IN THE YARD. WE WERE STANDING --- I GOT THEM BACK TO THE

1 PORCH, AND WE WERE STANDING ON THE PORCH AND WATCHED JOE
2 CROSS THE ROAD. HE WENT DOWN MY YARD, ACROSS THE ROAD
3 AND UP IN THEIR YARD, AND THEN JOE DISAPPEARED.

4 Q. WHEN YOU SAY HE DISAPPEARED --- LET ME ASK YOU THIS,
5 MRS. MCGUIRT.

6 A. OKAY.

7 Q. DOES THE FRONT OF YOUR HOUSE FACE THE FRONT OF THE
8 TINSLEY'S HOME?

9 A. IT DOES, BUT WE WERE TO THE SIDE. THE PORCH GOES
10 FROM --- ACROSS THE FRONT PORCH AND DOWN THE SIDE, AND ME
11 AND THE TWO LITTLE BOYS WAS STANDING ON THE SIDE PORCH,
12 WHICH WE COULD STILL SEE STRAIGHT ACROSS, BUT WHEN HE
13 DISAPPEARED --- WHAT I'M SAYING IS HE WENT AROUND INTO
14 RHONDA SUE'S AND RANDY'S HOUSE TO WHERE THE CARPORT IS.
15 THAT'S WHERE I COULD NO LONGER SEE HIM. OKAY. AND WE
16 WERE JUST STANDING THERE WATCHING FOR JOE TO COME BACK
17 AND SEE THE CAR LEAVE.

18 Q. WHERE WAS THE CAR?

19 A. I COULD NOT SEE THE CAR. THE CAR WAS BEHIND THE
20 HOUSE.

21 Q. OKAY.

22 A. AND THEN I HEARD SHOTS. I HEARD ANOTHER SHOT. I
23 HEARD ANOTHER SHOT, AND I TOLD THE BOYS --- I SAID, "OH,
24 MY GOD, THEY SHOT JOE."

25 Q. MRS. MCGUIRT, WERE YOU ABLE TO SEE WHO WAS IN THE

1 CAR?

2 A. WHEN THE CAR WENT BY, I SAW IT WAS TWO WHITE BOYS.
3 THAT'S ALL I COULD TELL YOU. I KNEW THERE WERE TWO WHITE
4 BOYS. ONE OF THEM WAS LOOKING TOWARD OUR HOUSE, NOT THE
5 DRIVER. THE OTHER ONE WAS, BUT I COULDN'T TELL WHAT HE
6 LOOKED LIKE. ALL I COULD TELL IS HE WAS WHITE. ANYWAY,
7 SO, THEN I GOT THE BOYS. I SAID, WE GOT TO GET BACK IN
8 THE HOUSE, BECAUSE IF THEY SEE US STANDING HERE THEY'D
9 SHOOT US TOO. AND THEN ONE OF THE LITTLE GRAND BOYS WAS
10 HOLLERING GET THE RIFLE, BUT THAT'S THE ONLY GUN WE GOT.
11 HOLLERING FOR ME TO GET THE RIFLE.

12 Q. HOW OLD ARE THESE BOYS, OR HOW OLD WERE THEY AT THE
13 TIME?

14 A. SIX AND SEVEN.

15 Q. WHEN YOU HEARD THE SHOT AND YOU GOT THE BOYS BACK
16 INSIDE, WHAT DID YOU DO?

17 A. I RAN TO THE PHONE.

18 Q. WHO DID YOU CALL?

19 A. WELL, I TRIED TO CALL MY MAMA AND DADDY THAT LIVES
20 UP THE ROAD. I COULDN'T GET AN ANSWER. THEN I CALLED
21 BUSTER WALKER, BECAUSE I KNEW HE WAS THE ONLY ONE REALLY
22 AROUND THAT I THOUGHT WOULD BE HOME THAT I COULD GET
23 THERE IN A HURRY.

24 Q. DOES BUSTER WALKER LIVE NEAR YOU?

25 A. YEAH, I THINK ABOUT HALF A MILE UP THE ROAD. AND

1 SO, THEN I HEARD A HORN BLOWING, AND I RAN TO THE FRONT
2 DOOR AND LOOKED OUT, AND THE LIGHT GREEN CAR WAS COMING
3 OUT AROUND THE END OF THE HOUSE FROM WHERE THE CARPORT IS
4 AROUND, AND IT COME ACROSS RANDY'S AND RHONDA SUE'S FRONT
5 YARD, PULLED UP TO THE FRONT DOOR, BLOWING THE HORN ALL
6 THE WAY COMING AROUND THERE, AND THEN I RAN BACK TO THE
7 PHONE, AND I CALLED MY DAUGHTER IN CLINTON. THESE PHONE
8 CALLS MAY BE --- WHICH ONE I CALLED FIRST MAY NOT BE
9 EXACTLY IN ORDER, BUT I KNOW I CALLED ALL THREE OF THEM
10 RIGHT ABOUT THE SAME TIME RUNNING BACK TRYING TO LOOK TO
11 SEE WHAT I COULD SEE, TOO.

12 THEN WHEN I CALLED HER AND I TOLD HER THAT I HAD
13 HEARD THE THREE SHOTS. THAT I THOUGHT JOE HAD BEEN SHOT
14 --- TO GET THE POLICE FOR ME, AND THEN I WENT BACK OUT
15 THE FRONT DOOR. THE CAR WAS GONE. I COULD SEE THE ROAD.
16 THERE WAS ONE CAR WENT UP THE ROAD, BUT IT WAS NOT THE
17 CAR THAT WAS AT RANDY'S. THAT CAR WENT DOWN THE ROAD.

18 Q. WHEN YOU SAY DOWN THE ROAD, TOWARDS ---

19 A. COMING TOWARDS NEWBERRY TOWARDS JALAPA.

20 Q. AND DID YOU HAVE OCCASION TO GO OVER --- WHEN YOU NO
21 LONGER SAW THE CAR IN THE YARD, THE GREEN CAR IN THE
22 YARD, DID YOU GO OVER TO MR. TINSLEY'S HOME?

23 A. I WENT OUT TO THE ROAD, WAITED ON BUSTER. BY THE
24 TIME I GOT TO THE ROAD, BUSTER WALKER WAS THERE, AND HE
25 DROVE ON, AND I RAN ACROSS THE ROAD, AND WE RAN IN THE

1 HOUSE AND WENT IN THE BACK DOOR. I OPENED THE DOOR
2 FIRST. I SAW JOE LAYING THERE --- BLOOD EVERYWHERE.

3 Q. WHEN YOU SAY YOU OPENED THE DOOR ---

4 A. OPENED THE BACK DOOR.

5 Q. IS THIS A REGULAR DOOR, A STORM DOOR, SCREEN DOOR --
6 - WHAT KIND OF DOOR?

7 A. IT WAS A SCREEN DOOR. THE WOODEN DOOR WAS OPEN, AND
8 JOE WAS --- HIS SHOULDER MIGHT HAVE BEEN AGAINST IT. HIS
9 HEAD WAS UP. HE WAS RIGHT THERE WHERE THE DOOR WAS. HIS
10 HEAD WAS AGAINST THE WALL, BUT THE DOOR WAS STILL OPEN
11 AGAINST WHERE HE WAS AT.

12 Q. THE SCREEN DOOR THAT YOU OPENED, WAS IT LOCKED?

13 A. NO, MA'AM.

14 Q. MRS. MCGUIRT, IF YOU COULD STEP DOWN. I WOULD LIKE
15 FOR YOU TO LOOK AT SOME PHOTOGRAPHS FOR ME. LET ME SHOW
16 YOU WHAT'S MARKED AS STATE'S EXHIBIT NUMBER ONE THAT'S
17 BEEN IDENTIFIED AS THE TINSLEY HOME. WOULD YOU PLEASE
18 SHOW THIS PART OF THE JURY AND THEN SHOW THE OTHER PART
19 OF THE JURY WHERE YOU SAW THE CAR WHEN IT WAS BLOWING THE
20 HORN?

21 A. OKAY. IT WAS COMING AROUND THIS END FROM IN FRONT
22 OF THESE TWO TREES AND CAME UP TO THE FRONT DOOR.

23 Q. AGAIN, SHOW THE JURY WHERE YOU SAW THE VEHICLE ---
24 THE LIGHT GREEN VEHICLE.

25 A. FROM BETWEEN THE HOUSE THIS WAY IN BETWEEN THESE TWO

1 TREES. IT CAME STRAIGHT UP TO THE FRONT DOOR AND STOPPED
2 --- BLOWING THE HORN.

3 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
4 NUMBER TEN WHICH HAS BEEN REFERRED TO AS THE BACK OF THE
5 TINSLEY HOME.

6 A. THIS IS THE DOOR.

7 Q. THAT'S THE BACK DOOR THAT YOU WENT IN?

8 A. UH HUH.

9 Q. THIS IS THE BACK DOOR YOU WENT INTO?

10 A. YES.

11 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
12 NUMBER EIGHT.

13 A. THAT'S JUST INSIDE THE DOOR, OR YOU CAN SEE INSIDE
14 THE DOOR.

15 Q. WHICH DOOR WOULD THAT BE?

16 A. THE BACK DOOR.

17 Q. YOU MAY RETAKE THE STAND. DID YOU SEE ANYONE IN THE
18 HOUSE OTHER THAN JOE DIXON?

19 A. NO, MA'AM.

20 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

21 BY MS. STROM

22 Q. MRS. MCGUIRT, WHEN THE CAR LET THE FRONT AREA OF THE
23 TINSLEY HOME, DID YOU SEE WHERE IT WENT?

24 A. I DID NOT SEE WHERE IT WENT.

25 Q. MRS. MCGUIRT, WERE YOU --- I WITHDRAW THAT. PLEASE

1 ANSWER ANY QUESTIONS MR. WICKER MAY HAVE.

2 CROSS EXAMINATION

3 BY MR. WICKER

4 Q. MS. MCGUIRT, DID YOU SAY ON THIS FRIDAY, 22, JULY,
5 1994, THAT THIS CAR DROVE IN THE YARD AROUND 10 O'CLOCK
6 IN THE MORNING? IS THAT WHAT YOU SAID?

7 A. NO. I SAID I CAME BACK FROM UP THE ROAD AT 10
8 O'CLOCK. IT WAS SOMEWHERE AROUND A QUARTER UNTIL ELEVEN.

9 Q. SO, IT WOULD HAVE BEEN, MAYBE, 10:45?

10 A. SOMEWHERE ALONG THERE.

11 Q. OKAY. AND YOU SAW THE CAR GO IN. IS THAT RIGHT?

12 A. I DIDN'T SEE IT GO IN THE DRIVEWAY. I SAW IT COME
13 PAST MY HOUSE. WELL, LOOKING AT MY FRONT DOOR, IT'S JUST
14 ABOUT LIKE SIDE BY SIDE. I CANNOT SEE THEIR DRIVEWAY
15 FROM LOOKING OUT MY FRONT DOOR.

16 Q. YOU WERE ABOUT 15 YARDS AWAY?

17 A. MORE THAN 15.

18 Q. AND IF YOU COULD GIVE US A GOOD ESTIMATE OF HOW FAR
19 AWAY YOU WERE?

20 A. A HUNDRED --- HUNDRED AND FIFTY FEET.

21 Q. A HUNDRED AND A HUNDRED AND FIFTY YARDS?

22 A. UH HUH.

23 Q. YOU SAID THE CAR WAS A FADED GREEN CAR?

24 A. YES, SIR.

25 Q. AND DID YOU ALSO SAY IT WAS A CHEVROLET?

- 1 A. I'M PRETTY SURE IT WAS A CHEVROLET.
- 2 Q. AND YOU'RE FAMILIAR WITH CHEVROLETS?
- 3 A. YES, SIR.
- 4 Q. DO YOU HAVE ANY IDEA WHAT MODEL IT WAS?
- 5 A. IT WAS AN OLD MAKE.
- 6 Q. AND YOU SAY YOU SAW THE CAR LEAVE ALSO?
- 7 A. I SAW THE CAR LEAVE. THE CAR I SAW LEAVE WAS THE
- 8 SAME ONE I SAW GO.
- 9 Q. AND IT WENT TOWARD NEWBERRY?
- 10 A. YES. I DIDN'T SEE IT GO TOWARD NEWBERRY, BUT I WAS
- 11 LOOKING OUT MY FRONT DOOR, WHILE I WAS ON THE PHONE, TO
- 12 SEE WHICH WAY IT WENT, AND IT DIDN'T GO UP THE ROAD. SO,
- 13 IT --- THE ONLY OPTION.
- 14 Q. WELL, YOU SAID YOU SAW IT LEAVE, DID YOU NOT?
- 15 A. I SAW IT LEAVING THE BACK OF THE HOUSE AND COME
- 16 AROUND TO THE FRONT OF THE HOUSE. I DID NOT SEE IT LEAVE
- 17 THE HOUSE.
- 18 Q. OKAY. AND YOU KNOW IT WENT TOWARD NEWBERRY THOUGH?
- 19 A. I KNOW IT DIDN'T GO UP THE ROAD TOWARD CLINTON.
- 20 Q. AND YOU DIDN'T SEE ANYBODY IN THE CAR WHEN IT WAS
- 21 LEAVING, THEN, DID YOU?
- 22 A. THE DRIVER, BUT I COULDN'T SEE HIM OR TELL WHAT HE
- 23 LOOKED LIKE.
- 24 Q. AND WHEN IT WENT IN YOU COULD SEE --- YOU SAID TWO
- 25 WHITE BOYS IN THE CAR. IS THAT RIGHT?

1 A. UH HUH.

2 Q. OKAY. COULD YOU TELL HOW TALL THEY WERE?

3 A. NO, SIR.

4 Q. COULD YOU TELL WHAT COLOR OF HAIR THEY HAD?

5 A. NO, SIR.

6 Q. AND WHO DID YOU SAY WAS BLOWING A HORN?

7 A. THE DRIVER THAT CAME OUT OF THE BACK OF THE HOUSE.

8 Q. WAS BLOWING THE HORN OF THAT CAR WHEN IT WAS
9 LEAVING?

10 A. WHEN IT CAME FROM THE BACK GOING TO THE FRONT.

11 Q. AND BLEW THE HORN A LOT?

12 A. THE WHOLE WAY.

13 Q. SO, YOU DON'T BELIEVE AT THIS TIME YOU COULD
14 IDENTIFY POSITIVELY EITHER ONE OF THESE TWO WHITE BOYS;
15 IS THAT RIGHT?

16 A. I COULD NOT IDENTIFY THE BOYS.

17 Q. WELL, THANK YOU VERY MUCH.

18 MS. STROM: BRIEFLY, YOUR HONOR, ON REDIRECT.

19 THE COURT: YES, MA'AM. STAY UP HERE, PLEASE,
20 MA'AM.

21 REDIRECT EXAMINATION

22 BY MS. STROM

23 Q. MRS. McGUIRT, WHEN YOU REFERRED TO TWO WHITE BOYS,
24 ARE YOU ABLE TO TELL THIS COURT THE AGE OF THE PEOPLE YOU
25 SAW IN THE CAR?

1 A. NO, SIR --- NO, MA'AM.

2 Q. DO YOU KNOW IF THEY WERE BOYS OR MEN?

3 A. IT LOOKED LIKE BOYS.

4 Q. THANK YOU.

5 THE COURT: NEXT WITNESS.

6 MS. STROM: YOUR HONOR, MAY WE APPROACH?

7 THE COURT: WILL YOUR NEXT WITNESS BE LENGTHY?

8 MS. STROM: THAT'S WHAT I WAS GOING TO TELL YOU.

9 IT'S GOING TO BE A LENGTHY WITNESS.

10 THE COURT: OKAY. LET'S DO THAT. MADAM FORELADY
11 AND LADIES AND GENTLEMEN, IN VIEW OF THE HOUR, I'M GOING
12 TO RECESS FOR LUNCH. DURING THE TIME THAT YOU ARE AWAY
13 FROM US, I DO REQUIRE, AS I ALWAYS DO, THAT YOU NOT TALK
14 ABOUT THE CASE AMONG YOURSELVES. DON'T TALK TO ANYBODY
15 ELSE ABOUT THE CASE, AND DON'T LET ANYBODY TALK TO YOU OR
16 EVEN TRY TO TALK TO YOU. IT WOULD JUST BE WRONG FOR THAT
17 TO HAPPEN. BE BACK IN THE JURY ROOM AT TWO O'CLOCK.
18 WE'LL BEGIN THE TRIAL AGAIN AT TWO O'CLOCK. I'LL SEE YOU
19 AT TWO.

20 (JURY LEAVES FOR LUNCH.)

21 THE COURT: ANYTHING ELSE?

22 MS. STROM: NOTHING FROM THE STATE.

23 MR. WICKER: NOTHING FROM DEFENSE, YOUR HONOR.

24 THE COURT: TWO O'CLOCK.

25 (COURT RECONVENES)

1 MS. STROM: I WAS TELLING THE COURT REPORTER THAT
2 THE NEXT PERSON WE ARE GOING TO BE CALLING IS JOE DIXON.
3 I DIDN'T KNOW IF SHE NEEDED TO DO ANYTHING DIFFERENTLY
4 BECAUSE OF HIS SPEECH --- IF SHE NEEDED TO CHANGE
5 POSITIONS OR ANYTHING LIKE THAT TO BETTER UNDERSTAND HIM.
6 THANK YOU, YOUR HONOR.

7 (JURY RETURNS TO THE COURTROOM.)

8 THE COURT: THE JURY IS PRESENT. CALL YOUR NEXT
9 WITNESS.

10 MS. STROM: THE STATE CALLS JOE DIXON.

11 WHEREUPON:

12 JOE DIXON, BEING FIRST DULY
13 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MS. STROM

16 Q. MR. DIXON, I'M GOING TO HAVE YOU TALK TO ME OVER
17 HERE SO ALL THESE JURORS CAN HEAR YOU. ALL RIGHT?

18 A. RIGHT.

19 Q. MR. DIXON, WHERE DO YOU LIVE?

20 A. I LIVE IN WALHALLA.

21 Q. WALHALLA?

22 A. YEAH.

23 Q. WHERE IS THAT NEAR?

24 A. GREENVILLE.

25 Q. GREENVILLE, OKAY. DO YOU SOMETIMES GO TO

1 CHARLESTON?

2 A. SOMETIMES.

3 Q. SOMETIMES. WHO LIVES DOWN IN CHARLESTON?

4 A. MY LITTLE BROTHER.

5 Q. YOUR BROTHER?

6 A. MY LITTLE BROTHER.

7 Q. YOUR LITTLE BROTHER, OKAY. MR. DIXON, WE'VE TALKED
8 BEFORE ABOUT THE DIFFERENCE BETWEEN THE TRUTH AND A LIE.
9 YOU KNOW THE DIFFERENCE?

10 A. I SURE DO.

11 Q. OKAY. WHAT ARE YOU SUPPOSE TO DO HERE IN COURT?

12 A. TELL THE TRUTH.

13 Q. MR. DIXON, I HAVE ON A RED SHIRT. AM I TELLING THE
14 TRUTH, OR AM I TELLING A LIE?

15 A. YOU'RE TELLING A LIE.

16 Q. TELLING A LIE. WHEN I TELL YOU I HAVE BROWN HAIR,
17 AM I TELLING THE TRUTH OR A LIE?

18 A. WELL --- WELL ---

19 THE COURT: I AGREE WITH YOU, MR. DIXON?

20 MS. STROM: IT HAS A LITTLE GRAY IN IT, BUT I CAN
21 TAKE CARE OF THAT. LET ME DO ANOTHER ONE.

22 BY MS. STROM

23 Q. IF I SAY DANNY GILLIAM IS A GIRL, AM I TELLING THE
24 TRUTH, OR AM I TELLING A LIE?

25 A. YOU'RE TELLING A LIE.

1 Q. MR. DIXON, DO YOU REMEMBER WHEN YOU GOT SHOT?

2 A. SURE DO.

3 Q. DO YOU REMEMBER WHAT DAY IT WAS ON?

4 A. JULY 21ST.

5 Q. OKAY. MR. DIXON, COULD IT HAVE BEEN THE 22ND?

6 A. YEAH.

7 Q. DO YOU REMEMBER ON WHAT DAY IT WAS? WAS IT A
8 MONDAY, TUESDAY, WEDNESDAY, THURSDAY --- WHAT DAY?

9 A. FRIDAY.

10 Q. IT WAS A FRIDAY. I SAID EVERY ONE BUT THAT ONE.
11 WHERE WERE YOU --- LET ME ASK YOU THIS. WERE YOU AT MS.
12 MCGUIRT'S HOUSE?

13 A. I SURE WAS.

14 Q. YOU WERE. WHERE WERE YOU?

15 A. I WAS SITTING ON THE FRONT PORCH.

16 Q. SITTING ON THE FRONT PORCH.

17 A. AND I SAW THE GREEN CAR.

18 Q. SAW A GREEN CAR. WHERE WAS THE GREEN CAR?

19 A. WELL, IT COME DOWN THE ROAD AND TURNED INTO MY
20 COUSIN'S DAUGHTER'S HOUSE.

21 Q. YOU SAW THE GREEN CAR COMING DOWN THE ROAD?

22 A. COME DOWN THE ROAD.

23 Q. WHERE DID IT TURN IN TO?

24 A. INTO MY COUSIN'S DAUGHTER'S HOUSE.

25 Q. WHAT'S YOUR COUSIN'S NAME?

- 1 A. CHRISTY.
- 2 Q. CHRISTY?
- 3 A. YEAH.
- 4 Q. DO YOU KNOW RANDY TINSLEY?
- 5 A. YEAH.
- 6 Q. OKAY. DID YOU EVER SEE THAT GREEN CAR IN HIS YARD?
- 7 A. YEAH, THAT DAY I GOT SHOT.
- 8 Q. THE DAY YOU GOT SHOT?
- 9 A. YEAH.
- 10 Q. WHOSE HOUSE WERE YOU AT WHEN YOU GOT SHOT?
- 11 A. AT RANDY'S.
- 12 Q. AT RANDY'S. WHY DID YOU GO TO RANDY'S HOUSE?
- 13 A. I SAW A CAR THAT WASN'T SUPPOSE TO BE THERE.
- 14 Q. YOU SAW A CAR THERE THAT WASN'T SUPPOSED TO BE
- 15 THERE?
- 16 A. YEAH.
- 17 Q. OKAY. DO YOU KNOW IF THIS WAS IN THE MORNING OR IN
- 18 THE AFTERNOON?
- 19 A. IN THE MORNING.
- 20 Q. DO YOU KNOW ABOUT WHAT TIME?
- 21 A. BETWEEN TEN AND ELEVEN.
- 22 Q. BETWEEN TEN AND ELEVEN. OKAY. WHEN YOU WENT OVER
- 23 TO MR. TINSLEY'S HOUSE, TO RANDY'S HOUSE, WHAT DOOR DID
- 24 YOU GO INTO?
- 25 A. THE SAME DOOR I BEEN GOING TO EVERY TIME --- THE

1 BACK DOOR.

2 Q. BACK DOOR. AND THAT'S THE DOOR YOU GO TO EVERY
3 TIME?

4 A. EVERY TIME.

5 Q. OKAY. MR. DIXON, I SHOW YOU STATE'S EXHIBIT NUMBER
6 EIGHT.

7 A. THAT'S THE DOOR.

8 Q. THAT'S THE DOOR YOU WENT INTO?

9 A. YEAH.

10 Q. WHEN YOU WENT IN THAT DOOR, WHAT DID YOU SEE? YOU
11 NEED SOMETHING TO DRINK. OKAY.

12 A. THANK YOU.

13 Q. YOU'RE WELCOME. IF YOU NEED ANY MORE, JUST LET US
14 KNOW. WHEN YOU WENT INTO MR. TINSLEY'S HOUSE, WHAT DID
15 YOU SEE?

16 A. WELL, I SAW --- WELL, I SAW THIS MAN RIGHT AT THE
17 BACK DOOR AND GOT IN THE GREEN CAR. I ASKED HIM, "WHAT
18 YOU DOING?"

19 Q. HOW MANY MEN DID YOU SEE?

20 A. TWO.

21 Q. TWO. WHEN YOU SAW THE TWO MEN ---

22 A. WELL, I SAW ONE GUY RUN OUT THE BACK DOOR, AND WHEN
23 HE RAN OUT THE BACK, I WENT IN THE HOUSE, AND THEN I SAW
24 THE OTHER GUY.

25 Q. ONE GUY RUNS OUT THE DOOR?

- 1 A. AND ONE GUY STAYS IN.
- 2 Q. AND ONE GUY STAYS IN THE HOUSE?
- 3 A. YEAH.
- 4 Q. OKAY. THE GUY THAT STAYS IN THE HOUSE, WHAT DID HE
- 5 SAY TO YOU?
- 6 A. I ASKED HIM --- I SAID, "WHAT YOU DOING IN THERE?"
- 7 Q. WHAT ARE YOU DOING IN THERE?
- 8 A. YEAH.
- 9 Q. WHAT DOES HE SAY?
- 10 A. HE DIDN'T SAY NOTHING, AND THEN HE STARTED SHOOTING.
- 11 Q. HE DIDN'T SAY ANYTHING. HE JUST STARTED SHOOTING?
- 12 A. YEAH.
- 13 Q. WHO DID HE SHOOT?
- 14 A. ME.
- 15 Q. ALL RIGHT. HE SHOT YOU. WHERE WERE YOU STANDING
- 16 WHEN YOU GOT SHOT?
- 17 A. RIGHT IN THE KITCHEN RIGHT THERE AT THE DOOR.
- 18 Q. AT THE DOOR. MR. DIXON, I SHOW YOU WHAT'S BEEN
- 19 MARKED AS STATE'S EXHIBIT NUMBER ELEVEN AT THIS TIME FOR
- 20 IDENTIFICATION. IS THAT MR. TINSLEY'S HOUSE?
- 21 A. YEAH. I COME IN, AND I WENT DOWN IN BETWEEN THOSE
- 22 TWO CHAIRS --- THAT CHAIR AND THE TABLE.
- 23 Q. OKAY. LET'S STEP DOWN HERE AND SHOW THIS JURY IF
- 24 YOU DON'T MIND.
- 25 MS. STROM: YOUR HONOR, AT THIS TIME, WE WOULD MOVE

1 STATE'S EXHIBIT NUMBER ELEVEN FOR IDENTIFICATION INTO
2 EVIDENCE.

3 THE COURT: ANY OBJECTION?

4 MR. WICKER: NO OBJECTIONS, YOUR HONOR.

5 (STATE'S EXHIBIT NUMBER ELEVEN MARKED FOR
6 IDENTIFICATION AND MADE A PART OF THE RECORD.)

7 BY MS. STROM

8 Q. SHOW THIS JURY --- WE'RE GOING TO SHOW THIS PART,
9 AND THEN WE'LL SHOW THE OTHER ONE. WHERE WERE YOU WHEN
10 YOU GOT SHOT?

11 A. WHEN I GOT SHOT, I WAS STANDING RIGHT HERE.

12 Q. WHEN YOU GOT SHOT, YOU WERE STANDING RIGHT THERE?

13 A. YEAH.

14 Q. THIS IS THE DOOR THAT GOES OUTSIDE?

15 A. YEAH.

16 Q. SHOW THIS JURY WHERE YOU WERE STANDING WHEN YOU GOT
17 SHOT.

18 A. I WAS STANDING RIGHT HERE, AND I WENT DOWN RIGHT
19 HERE.

20 Q. WENT DOWN RIGHT THERE. MR. DIXON, YOU CAN GO BACK
21 TO THE STAND. THANK YOU. HOW MANY TIMES WERE YOU SHOT?

22 A. THREE TIMES.

23 Q. THREE TIMES. WHERE WERE YOU SHOT FIRST?

24 A. FIRST I WAS SHOT RIGHT HERE IN THE CHEST.

25 Q. RIGHT HERE IN THE CHEST?

- 1 A. YEAH, FIRST TIME.
- 2 Q. ALL RIGHT. WHEN YOU GOT SHOT IN THE CHEST, WHAT
- 3 HAPPENED TO YOU?
- 4 A. I WENT DOWN.
- 5 Q. HOW DID YOU GO DOWN?
- 6 A. ON MY BACK.
- 7 Q. FELL DOWN ON YOUR BACK?
- 8 A. YEAH.
- 9 Q. OKAY. WHEN YOU FELL DOWN ON YOUR BACK, WHAT
- 10 HAPPENED?
- 11 A. AND MY HEAD HIT THE WALL.
- 12 Q. YOUR HEAD HIT THE WALL?
- 13 A. YEAH.
- 14 Q. ALL RIGHT. WHAT HAPPENED AFTER YOUR HEAD HIT THE
- 15 WALL?
- 16 A. THEN HE WALKED UP --- HE TURNED AROUND AND WALKED UP
- 17 TO ME.
- 18 Q. HE TURNED AROUND AND WALKED UP TO YOU?
- 19 A. AND PUT TWO MORE BULLETS IN ME.
- 20 Q. PUT TWO MORE BULLETS IN YOU?
- 21 A. YEAH.
- 22 Q. WHERE DID THOSE OTHER TWO BULLETS GO?
- 23 A. ONE WENT RIGHT HERE, ONE RIGHT HERE, AND I GOT TWO
- 24 RIGHT THERE. I GOT ONE ON MY SHOULDER, BETWEEN MY
- 25 SHOULDER AND MY NECK AND ONE BEHIND MY NECK.

1 Q. SO, YOU STILL HAVE THE TWO BULLETS IN YOU?

2 A. SURE DO.

3 Q. YOU GOT SHOT TWICE IN THE FACE --- TWO TIMES IN THE
4 FACE?

5 A. GOT ONE RIGHT HERE, AND ONE RIGHT HERE --- ONE ON
6 THIS SHOULDER AND NECK.

7 Q. OKAY. ONE ON THE NECK.

8 A. AND THEN ONE KIND OF ON MY LEFT SHOULDER.

9 Q. ON YOUR LEFT SHOULDER. WHEN YOU WERE SHOT, WERE YOU
10 SHOT IN THE FACE?

11 A. YEAH, YEAH.

12 Q. LET ME ASK YOU THIS, MR. DIXON. WAS IT A LONG GUN
13 THAT WAS USED, OR WAS IT A SHORT GUN?

14 A. A SHORT GUN.

15 Q. WHAT ARE SHORT GUNS CALLED?

16 A. PISTOLS.

17 Q. PISTOLS. DID YOU SEE THE PISTOL?

18 A. NO. YEAH --- SHOOT A 12-GAUGE SHOTGUN.

19 Q. YOU SAW A 12-GAUGE SHOTGUN?

20 A. I ---

21 Q. YOU HAVE ONE?

22 A. I GOT ONE.

23 Q. OH, I'M SORRY. YOU HAVE A 12-GAUGE SHOTGUN. DID
24 YOU HAVE YOUR SHOTGUN WITH YOU THAT DAY?

25 A. NO.

- 1 Q. OKAY. THE PISTOL THAT SHOT YOU --- LET ME ASK YOU
2 THIS. THE MAN WHO SHOT YOU, DID HE EVER SAY ANYTHING TO
3 YOU?
- 4 A. NO.
- 5 Q. WHEN HE SHOT YOU, YOU FELL DOWN AND HE SHOT YOU TWO
6 MORE TIMES, WHAT DID HE DO?
- 7 A. HE SHOT TWO TIMES, AND THEN HE RUN OUT THE DOOR ---
8 THE FRONT DOOR.
- 9 Q. HE RAN OUT THE FRONT DOOR. OKAY. MR. DIXON, THE
10 MAN THAT SHOT YOU, DID YOU SEE HIS HANDS?
- 11 A. WELL, HE HAD GLOVES ON.
- 12 Q. HE HAD GLOVES ON?
- 13 A. YEAH.
- 14 Q. AFTER YOU WERE SHOT, WHO CAME OVER THERE TO YOU?
- 15 A. A FRIEND OF MINE I KNOW, HE CAME FIRST.
- 16 Q. DID YOU EVER SEE BUSTER WALKER COME OVER THERE?
- 17 A. SURE DID.
- 18 Q. SURE DID. OKAY. MR. DIXON, HOW MANY PEOPLE SHOT
19 YOU THAT DAY?
- 20 A. ONE.
- 21 Q. ONE. DO YOU SEE THE MAN IN THE COURTROOM?
- 22 A. I SURE DO.
- 23 Q. CAN YOU TELL THIS JURY WHERE HE IS?
- 24 A. YEAH. RIGHT BACK OVER THERE.
- 25 Q. BACK OVER THERE. STAND UP AND POINT HIM OUT TO US.

1 ARE YOU POINTING TO THIS MAN RIGHT HERE?

2 A. I SURE IS.

3 Q. MR. PREWITT?

4 A. YEAH.

5 Q. YOU CAN HAVE A SEAT. MR. DIXON, ARE YOU SURE THAT'S
6 THE MAN WHO SHOT YOU?

7 A. I KNOW IT, BECAUSE I DON'T FORGET NOTHING.

8 Q. WHAT?

9 A. I DON'T FORGET NOTHING.

10 Q. YOU DON'T FORGET ANYTHING?

11 A. NO.

12 Q. YOU DON'T FORGET NOTHING, OKAY. MR. DIXON, AFTER
13 YOU WERE SHOT, DID YOU GO TO THE HOSPITAL?

14 A. I SURE DID.

15 Q. HOW LONG WERE YOU IN THE HOSPITAL?

16 A. WELL, I WAS IN ONE OVERNIGHT.

17 Q. ONE OVERNIGHT. THAT WAS THE ONE HERE IN NEWBERRY?

18 A. YEAH.

19 Q. OKAY. THEN WHERE DID YOU GO?

20 A. THEN I WENT TO COLUMBIA.

21 Q. COLUMBIA?

22 A. YEAH.

23 Q. HOW DID YOU GET TO COLUMBIA?

24 A. ON A HELICOPTER.

25 Q. ON A HELICOPTER. AND HOW LONG WERE YOU IN THE

- 1 HOSPITAL DOWN IN COLUMBIA?
- 2 A. THREE WEEKS.
- 3 Q. THREE WEEKS. DID THEY HAVE TO DO SURGERY ON YOU?
- 4 A. YEAH, ON MY JAW.
- 5 Q. ON YOUR JAW?
- 6 A. YEAH.
- 7 Q. WHAT WAS WRONG WITH YOUR JAW?
- 8 A. IT BROKE.
- 9 Q. IT BROKE?
- 10 A. YEAH.
- 11 Q. WHAT BROKE IT?
- 12 A. THE BULLET.
- 13 Q. THE BULLET, OKAY. DID YOU HAVE ANY OTHER SURGERY?
- 14 A. YEAH.
- 15 Q. WHERE?
- 16 A. THEY TOOK SOME BULLET OUT OF ME.
- 17 Q. TOOK SOME BULLETS OUT OF YOU. THAT'S THE ONE THAT
- 18 WENT IN YOUR CHEST?
- 19 A. YEAH.
- 20 Q. OKAY.
- 21 A. AND WHERE MY JAW WAS.
- 22 Q. WHERE?
- 23 A. IN THAT JAW RIGHT THERE.
- 24 Q. OKAY. RIGHT AT YOUR JAW?
- 25 A. YEAH.

1 Q. THEY HAD TO FIX YOUR JAW?

2 A. YEAH.

3 Q. OKAY. MR. DIXON, THE MAN THAT FIRST RAN OUT THE
4 DOOR, THIS OTHER FELLOW, DID HE EVER SHOOT YOU?

5 A. NO.

6 Q. DID HE HAVE A GUN WITH HIM?

7 A. NO.

8 Q. DID YOU SEE ANY OTHER GUNS THERE AT THE HOUSE?

9 A. YEAH --- NO, NO. THE ONLY ONE I SAW WAS RANDY'S GUN
10 ON THE KITCHEN FLOOR.

11 Q. ON THE KITCHEN FLOOR, OKAY. I SHOW YOU STATE'S
12 EXHIBIT NUMBER THREE AND STATE'S EXHIBIT NUMBER TWO. DO
13 YOU KNOW WHERE THAT IS?

14 A. YEAH.

15 Q. WHICH GUN DO YOU REMEMBER SEEING?

16 A. THAT ONE RIGHT THERE.

17 Q. AND YOU'RE POINTING TO STATE'S EXHIBIT NUMBER THREE.
18 ALL RIGHT.

19 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

20 BY MS. STROM

21 Q. MR. DIXON, I THINK THAT'S ALL THE QUESTIONS I HAVE.
22 PLEASE ANSWER ANY QUESTIONS MR. WICKER MAY HAVE.

23 CROSS EXAMINATION

24 BY MR. WICKER

25 Q. MR. DIXON, MY NAME IS RAY WICKER, AND I'M DEFENDING

- 1 LANEY PREWITT. DO THEY CALL YOU JOE?
- 2 A. YEAH.
- 3 Q. DO YOU MIND IF I CALL YOU JOE?
- 4 A. I DON'T CARE.
- 5 Q. OKAY. HOW FAR DID YOU GO IN SCHOOL?
- 6 A. WELL, I DIDN'T GO FAR.
- 7 Q. HOW FAR?
- 8 A. I DIDN'T GO BUT TO THE FIRST GRADE.
- 9 Q. YOU WENT TO THE FIRST GRADE?
- 10 A. YEAH.
- 11 Q. OKAY. AND HOW OLD ARE YOU NOW?
- 12 A. FORTY-NINE.
- 13 Q. FORTY-NINE. OKAY. ON THE FRIDAY IN QUESTION
- 14 BETWEEN TEN AND ELEVEN IN THE MORNING, I BELIEVE YOU
- 15 IDENTIFIED PROSECUTION EXHIBIT THREE. I'M GOING TO SHOW
- 16 YOU PROSECUTION EXHIBIT THREE. DO YOU REMEMBER SEEING
- 17 THOSE GUNS ON THE FLOOR THERE?
- 18 A. YEAH.
- 19 Q. DO YOU REMEMBER SEEING THE GUNS STANDING BY THE
- 20 REFRIGERATOR?
- 21 A. YEAH.
- 22 Q. AND THAT'S THE WAY YOU REMEMBER IT?
- 23 A. YEAH.
- 24 Q. OKAY. NOW, THE MAN WHO RAN AWAY, YOU WERE COMING IN
- 25 THE DOOR, AND HE WAS GOING OUT THE DOOR; IS THAT RIGHT?

1 A. I WAS --- AT THE CAR, AND HE COME RUNNING OUT THE
2 DOOR BY THE TIME I DID.

3 Q. HAVE YOU EVER SEEN HIM SINCE THEN?

4 A. NO.

5 Q. DID YOU EVER SEE HIM BEFORE THEN?

6 A. NO.

7 Q. DID YOU EVER SEE MY CLIENT BEFORE THAT TIME?

8 A. NO.

9 Q. OKAY. AND WHEN DID YOU FIRST SEE MY CLIENT AFTER
10 THAT TIME?

11 A. THE DAY I GOT SHOT.

12 Q. THE DAY YOU GOT SHOT YOU SAW HIM?

13 A. YEAH.

14 Q. WAS THAT THE FIRST TIME YOU SAW HIM?

15 A. THAT'S THE FIRST TIME.

16 Q. DO YOU REMEMBER THE NEXT TIME YOU SAW HIM?

17 A. I DIDN'T SEE HIM BUT JUST THAT ONE TIME.

18 Q. YOU JUST SAW HIM THAT ONE TIME; IS THAT RIGHT?

19 A. YEAH.

20 Q. OKAY. AND AFTER THAT, YOU NEVER SAW HIM AGAIN UNTIL
21 TODAY; IS THAT CORRECT?

22 A. YEAH.

23 Q. SO, YOU SAW HIM WHEN HE SHOT YOU, AND THEN THE NEXT
24 TIME YOU SAW HIM WAS TODAY?

25 A. YEAH.

- 1 Q. AND SO, EVEN THOUGH THIS HAPPENED IN JULY, AND WE'RE
2 NOW INTO NEXT YEAR IN JANUARY, ARE YOU STILL SURE ---
3 A. YEAH.
4 Q. --- THIS IS THE MAN?
5 A. I SURE IS.
6 Q. WELL, HOW WAS HE DRESSED THAT DAY?
7 A. HE HAD ON A PAIR OF BLUE JEANS.
8 Q. OKAY. AND YOU SAY YOU REMEMBER HE HAD ON GLOVES?
9 A. YEAH.
10 Q. WHAT KIND OF GLOVES DID HE HAVE ON?
11 A. JUST KIND OF THE --- KIND OF LIKE RUBBER GLOVES.
12 Q. HE HAD ON BLUE JEANS?
13 A. BLUE JEANS.
14 Q. WHAT KIND OF SHIRT DID HE HAVE ON?
15 A. WELL, HE HAD A KIND OF --- KIND OF A BLUE SHIRT ---
16 A HAT. HE HAD A KIND OF GRAY HAT ON HIS HEAD.
17 Q. HE HAD A HAT ON?
18 A. YEAH.
19 Q. AND IT WAS A GRAY?
20 A. YEAH.
21 Q. SO, YOU DIDN'T SEE HIS HAIR THEN?
22 A. WELL, I SAW A LITTLE BIT. IT WAS KIND OF BROWN.
23 Q. KIND OF BROWN. BUT YOU REMEMBER HE HAD A HAT ON?
24 A. YEAH.
25 Q. WHAT KIND OF HAT DID HE HAVE ON?

1 A. HE HAD A HAT. IT HAD A PICTURE --- HAD A PICTURE --
2 - HAD SOME KIND OF PICTURE ON IT.

3 Q. A PICTURE ON IT?

4 A. YEAH.

5 Q. AND EVEN THOUGH TODAY HE DOESN'T HAVE A HAT ON,
6 YOU'RE STILL SURE THAT'S HIM?

7 A. YEAH.

8 Q. THE MAN THAT SHOT YOU WAS HE TALLER THAN YOU?

9 A. NO.

10 Q. WAS HE ABOUT YOUR HEIGHT?

11 A. WELL, HE COULD BE A LITTLE BIT TALLER THAN I AM.

12 Q. AND YOU SAY HE NEVER SAID ANYTHING TO YOU?

13 A. NO.

14 Q. AND WHAT DID YOU SAY TO HIM?

15 A. I SAID --- I SAID, "WHAT ARE YOU DOING?"

16 Q. THE MAN WHO WAS RUNNING AWAY, DID YOU SAY ANYTHING
17 TO HIM?

18 A. I SAID --- I SAID, "WHAT ARE YOU DOING? WHAT ARE
19 YOU DOING IN THE HOUSE?"

20 Q. OKAY. AND DID HE SAY ANYTHING TO YOU --- THE ONE
21 WHO RAN AWAY?

22 A. NO, NO, NO. THE ONLY THING --- HE RUN AND GOT IN
23 THE CAR AND CRANKED IT UP.

24 Q. AND HOW TALL IS THAT MAN?

25 A. ABOUT FIVE FOOT TALL --- FIVE SOMETHING FOOT.

- 1 Q. DO YOU REMEMBER IF HE HAD A HAT ON?
- 2 A. YEAH. HE HAD A --- HE HAD A GREEN HAT ON HIM.
- 3 Q. HE HAD A GREEN HAT ON?
- 4 A. YEAH.
- 5 Q. OKAY. AND HE WAS TALLER THAN YOU?
- 6 A. A LITTLE BIT.
- 7 Q. AND YOU SAID YOU SAW A GREEN CAR. WHAT KIND OF CAR
- 8 WAS THAT?
- 9 A. A CHEVROLET.
- 10 Q. AND YOU KNOW WHAT A CHEVROLET IS?
- 11 A. YEAH.
- 12 Q. DO YOU KNOW WHAT MODEL THIS CHEVROLET WAS?
- 13 A. NO. I --- I DIDN'T SEE WHAT THE MODEL WAS.
- 14 Q. AT SOME POINT YOU WERE SHOWN THE PHOTOGRAPHS BY THE
- 15 LAW ENFORCEMENT PEOPLE, WERE YOU NOT?
- 16 A. YEAH.
- 17 Q. AND WHERE WERE YOU LOOKING AT THESE PHOTOGRAPHS?
- 18 WHERE WERE YOU WHEN THEY SHOWED THEM TO YOU?
- 19 A. IN THE HOSPITAL.
- 20 Q. IN THE HOSPITAL?
- 21 A. YEAH.
- 22 Q. IN COLUMBIA?
- 23 A. YEAH.
- 24 Q. DO YOU REMEMBER HOW MANY PHOTOGRAPHS THEY SHOWED
- 25 YOU?

1 A. A COUPLE OF THEM.

2 Q. A COUPLE? WAS IT TWO OR THREE OR FOUR?

3 A. TWO.

4 Q. THEY SHOWED YOU TWO PHOTOGRAPHS?

5 A. UH HUH.

6 Q. OKAY. AND WHAT DID THEY ASK YOU TO DO WITH THESE
7 TWO PHOTOGRAPHS?

8 A. WELL, HE ASKED --- WELL, HE ASKED ME WHAT COLOR OF
9 CAR IT WAS AND WHAT KIND IT WAS.

10 Q. WELL, DID YOU IDENTIFY ONE OF THESE PHOTOGRAPHS AS
11 BEING MY CLIENT?

12 A. I DIDN'T --- I TOLD HIM IT WAS A CHEVROLET --- A
13 DARK GREEN CHEVROLET.

14 Q. BUT WHEN THEY SHOWED YOU THESE PHOTOGRAPHS YOU SAY
15 THERE WERE TWO PHOTOGRAPHS OF TWO PEOPLE, RIGHT?

16 A. YEAH.

17 Q. TWO PEOPLE?

18 A. YEAH --- YEAH.

19 Q. DO YOU KNOW WHO WAS IN THOSE PHOTOGRAPHS?

20 A. NO.

21 Q. YOU DIDN'T KNOW WHO WAS IN THEM?

22 A. NO.

23 Q. WELL, WHEN DID YOU FIRST SAY THAT THIS WAS THE MAN
24 THAT SHOT YOU?

25 A. I KNOW THE GUY BECAUSE I SAW --- I DON'T FORGET

1 NOTHING. WHEN I SEE SOMETHING THE FIRST TIME, I DON'T
2 FORGET IT.

3 Q. LET ME SEE IF I CAN GET THIS. YOU SAY YOU REMEMBER
4 THE MAN WHO SHOT YOU?

5 A. I SURE DO.

6 Q. OKAY. AND YOU SAY YOU'VE NEVER SEEN HIM AGAIN UNTIL
7 TODAY; IS THAT RIGHT?

8 A. YEAH.

9 Q. AND YOU SAY YOU'RE SURE THIS IS HIM?

10 A. YEAH.

11 Q. AND YOU SAY AT THE TIME HE SHOT YOU HE HAD A HAT ON?

12 A. YEAH.

13 Q. AND YOU SAY THE OTHER GUY HAD A GREEN HAT ON?

14 A. YEAH.

15 Q. AND YOU SAY HE HAD GLOVES ON?

16 A. YEAH.

17 Q. BUT YOU NEVER SAW GARY PREWITT FROM THAT DAY UNTIL
18 TODAY; IS THAT CORRECT?

19 A. NO.

20 Q. YOU NEVER SAY HIM AGAIN?

21 A. NO.

22 Q. YOU NEVER PICKED HIS PICTURE OUT OF A LINE UP? YOU
23 NEVER PICKED HIS PICTURE OUT OF A GROUP OF PICTURES, DID
24 YOU?

25 A. YEAH, I PICKED OUT ONE.

1 Q. YOU PICKED HIS PICTURE OUT ONCE?

2 A. YEAH.

3 Q. AND HOW MANY PICTURES WERE YOU LOOKING AT WHEN YOU
4 PICKED IT OUT?

5 A. ABOUT A WHOLE BUNDLE OF THEM.

6 Q. A WHOLE BUNDLE OF PICTURES?

7 A. YEAH.

8 Q. WOULD THERE HAVE BEEN MAYBE TEN?

9 A. ABOUT TEN.

10 Q. ABOUT TEN?

11 A. YEAH.

12 Q. AND THE PICTURE YOU PICKED OUT DID NOT HAVE A HAT --
13 - THE PERSON DIDN'T HAVE A HAT ON DID HE?

14 A. NO. TOLD YOU THAT.

15 Q. AND IT WAS JUST HIS PHOTOGRAPH OF FROM HERE UP?

16 A. YEAH, YEAH.

17 Q. AND THE OTHER PICTURES THERE, DID ANY OF THEM LOOK
18 ALMOST LIKE LANEY?

19 A. YEAH.

20 Q. THEY DID?

21 A. YEAH.

22 Q. BUT YOU STILL REMEMBER THOSE GUNS JUST LIKE THAT ONE
23 BEFORE YOU GOT SHOT?

24 A. YEAH.

25 Q. DO YOU REMEMBER HOW MANY TIMES YOU HAVE SPOKEN TO

1 THE LAW ENFORCEMENT PEOPLE ABOUT THIS CASE?

2 A. ABOUT HALF A DOZEN TIMES.

3 Q. ABOUT A HALF A DOZEN TIMES, YOU SAY?

4 A. UH HUH.

5 Q. AND THE FIRST TIME WAS IN THE HOSPITAL, RIGHT?

6 A. YEAH.

7 Q. IS THAT WHEN YOU WERE SHOWN THE PICTURES?

8 A. YEAH.

9 Q. IN THE HOSPITAL?

10 A. YEAH.

11 Q. OKAY. AND YOU SAY YOU PICKED ONE OUT AND SAID THAT
12 WAS HIM?

13 A. YEAH.

14 Q. BUT UP UNTIL TODAY, YOU NEVER SAW HIM BEFORE TODAY
15 AT ALL?

16 A. NO.

17 MS. STROM: YOUR HONOR, THAT'S BEEN ASKED AND
18 ANSWERED SEVERAL TIMES.

19 THE COURT: SUSTAINED.

20 BY MR. WICKER

21 Q. GOING TO THE CAR THAT DROVE AWAY, DID YOU SEE THE
22 LICENSE PLATE AT ALL?

23 A. ONE NUMBER.

24 Q. WHAT NUMBER DID YOU SEE?

25 A. SEVEN --- SEVEN.

1 Q. SEVEN, OKAY. JOE, WE HAVE NO FURTHER QUESTIONS.

2 THE COURT: ANY REDIRECT?

3 MS. STROM: VERY BRIEFLY, YOUR HONOR.

4 REDIRECT EXAMINATION

5 BY MS. STROM

6 Q. MR. DIXON, ARE YOU NERVOUS?

7 A. LITTLE BIT.

8 Q. THAT'S OKAY. DO YOU NEED ANY MORE WATER? I THINK
9 I MIGHT BE CONFUSED. SO, I NEED YOU TO HELP ME OUT?

10 A. UH HUH.

11 Q. WHEN YOU WERE IN THE HOSPITAL, DANNY GILLIAM SHOWED
12 YOU SOME PICTURES?

13 A. SURE DID.

14 Q. DID HE SHOW YOU PICTURES OF A CAR?

15 A. WELL, HE SHOWED ME PICTURES OF A CAR.

16 Q. HE SHOWED YOU PICTURES OF A CAR?

17 A. YEAH.

18 Q. HOW MANY PICTURES WERE THERE OF THE CAR?

19 A. ABOUT TWO.

20 Q. ABOUT TWO. DID HE ALSO SHOW YOU SOME PICTURES OF
21 SOME PEOPLE?

22 A. YEAH.

23 Q. IS IT THOSE THE ONES THAT YOU SAY ARE ABOUT TEN?

24 A. YEAH.

25 Q. OKAY.

1 MS. STROM: I HAVE NO FURTHER QUESTIONS.

2 MR. WICKER: WE HAVE NOTHING FURTHER, YOUR HONOR.

3 THE COURT: THANK YOU. STEP DOWN, PLEASE.

4 MS. STROM: THE STATE CALLS A.H. WALKER.

5 THEREUPON:

6 A.H. WALKER, JR., BEING FIRST
7 DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MS. STROM

10 Q. MR. WALKER, WHERE DO YOU LIVE?

11 A. I LIVE ON HIGHWAY 63, INDIAN CREEK ROAD, AND I'M
12 ABOUT BETWEEN A HALF AND A MILE FROM WHERE THIS TOOK
13 PLACE.

14 Q. FROM RANDY TINSLEY'S HOUSE?

15 A. RIGHT.

16 Q. HOW LONG HAVE YOU LIVED IN NEWBERRY COUNTY?

17 A. ABOUT 50 YEARS.

18 Q. I WON'T ASK YOU HOW OLD YOU ARE, MR. WALKER. DO YOU
19 RECALL THE DAY THAT JOE DIXON WAS SHOT?

20 A. YES, I DO. I DON'T THINK I'LL EVER FORGET THAT DAY.
21 IT WAS ON A FRIDAY MORNING. IT WAS AROUND --- WELL, I
22 DON'T KNOW EXACTLY WHAT TIME. IT WAS SOMEWHERE AROUND
23 10:30, I WOULD GUESS, THAT MY TELEPHONE RANG IN THE SHOP,
24 AND CHRISTY MCGUIRT WAS VERY DISTRESSFUL AND DISTURBED,
25 AND I KNEW SOMETHING TERRIBLE HAD HAPPENED BY THE TONE OF

1 HER VOICE. SHE WAS --- SHE WAS --- HER VOICE WAS
2 CRACKING, AND SHE COULD HARDLY TALK, BUT SHE TOLD ME THAT
3 I NEEDED TO COME DOWN TO HER HOUSE JUST AS QUICK AS I
4 COULD GET THERE. SHE TOLD ME ABOUT SENDING LITTLE JOE
5 OVER TO RANDY'S HOUSE BECAUSE A STRANGE CAR HAD DRIVEN IN
6 THERE AND THAT SHE SENT JOE OVER TO TELL THE PEOPLE THAT
7 NO ONE WAS AT HOME, AND SAID SHORTLY AFTER THAT SHE HEARD
8 THREE SHOTS.

9 Q. DID YOU COME DOWN TO HER HOUSE?

10 A. I TOLD HER I'D BE RIGHT THERE, AND I JUMPED --- AND
11 I WAS THERE WITHIN A MINUTE, I GUESS, BECAUSE I KNEW
12 SOMETHING TERRIBLE WAS WRONG BY THE WAY SHE WAS TALKING.

13 Q. I BELIEVE YOU SAID YOU LIVED BETWEEN A HALF MILE AND
14 A MILE?

15 A. RIGHT.

16 Q. ALL RIGHT. WHEN YOU GOT THERE, WHAT DID YOU DO?

17 A. CHRISTY MET ME IN THE ROAD BETWEEN THE TWO HOUSES --
18 - BETWEEN HER HOUSE AND RANDY'S, AND I DROVE ON IN THE
19 DRIVEWAY, AND SHE CUT ACROSS THE LAWN, AND WE MET AT THE
20 BACK DOOR AND WENT IN THE BACK DOOR TOGETHER. I THINK
21 SHE ACTUALLY OPENED THE DOOR, AND WHEN SHE SAW JOE SHE
22 KIND OF WENT ALL TO PIECES, WHICH IS NATURAL, AND I
23 CHECKED JOE. HE WAS STILL ALIVE, AND I KNEW HE HAD TO
24 HAVE IMMEDIATE ATTENTION, BECAUSE HE WAS IN TERRIBLE ---
25 HE WAS IN CRITICAL CONDITION. HE WAS A BLOODY MESS.

1 THERE WAS BLOOD ALL IN THE FLOOR. THERE WERE FIVE OR SIX
2 GUNS IN VARIOUS PLACES STACKED AGAINST THE REFRIGERATOR
3 AND IN THE FLOOR, AND I STARTED SEARCHING FOR A
4 TELEPHONE. I LOOKED FOR A TELEPHONE EVERYWHERE, AND I
5 COULDN'T FIND ONE. SO, I TOLD CHRISTY WE WOULD HAVE TO
6 RUN BACK OVER TO HER HOUSE TO USE THE PHONE. AND THAT'S
7 WHEN I CALLED THE COUNTY EMERGENCY, AND I GOT THE
8 DISPATCHER, AND I DESCRIBED TO THEM WHAT HAD HAPPENED ---
9 THAT WE NEEDED EMS AND THE LAW ENFORCEMENT AS QUICKLY AS
10 THEY COULD GET THERE.

11 Q. DID SOMEONE ELSE COME TO THE HOUSE AND ASSIST YOU
12 WITH MR. DIXON?

13 A. YES, MA'AM. AFTER I MADE THE PHONE CALL, I CHECKED
14 MY WATCH, AND IT WAS 10:55.

15 Q. AFTER YOU MADE THE PHONE CALL?

16 A. AFTER I MADE THE PHONE CALL AND I CAME OUT THE FRONT
17 DOOR OF CHRISTY'S HOUSE --- AND TODD FRAZIER DROVE UP IN
18 HIS PICKUP TRUCK, AND I SIGNED FOR HIM TO COME ON OVER
19 TO RANDY'S HOUSE, BECAUSE HE KNOWS JOE.

20 Q. OKAY.

21 A. AND THE POSITION OF THE HOUSE I WAS AFRAID THAT THE
22 AMBULANCE MIGHT GO BY BECAUSE OF THE FOLIAGE AND THE
23 CURVE IN THE ROAD. SO, I WENT ON IN WITH HIM, AND HE
24 STARTED ADMINISTERING TO JOE --- STARTED CUTTING HIS
25 SHIRT AND ASKING HIM QUESTIONS, AND JOE WAS UNABLE TO

1 TALK TO ME. I JUST GOT A LITTLE MUMBLE OUT OF HIM, BUT
2 I KNEW HE WAS ALIVE, BUT HE WAS BEGINNING TO TALK TO TODD
3 SOME, AND I WENT BACK OUT TO THE ROAD SO I COULD STOP THE
4 AMBULANCE SO HE WOULD TURN IN THERE.

5 Q. AND DID EVENTUALLY THE AMBULANCE COME?

6 A. HE WAS THERE IN 15 MINUTES. I TIMED THAT, TOO. HE
7 WAS THERE TEN AFTER ELEVEN.

8 Q. AND THEY PROCEEDED TO TAKE OVER FROM THERE?

9 A. THEY TOOK OVER FROM THERE, AND THEN DANNY WAS THERE
10 RIGHT BACK OF THAT AND ALSO JERRY.

11 Q. MR. WALKER, THERE HAS BEEN SOME TESTIMONY ABOUT A
12 GREEN CAR. DID YOU HAVE OCCASION ANY TIME THAT DAY TO
13 SEE A GREEN CAR?

14 A. YES. AFTER I HEARD ABOUT A GREEN CAR WAS SEEN, I
15 RECALLED ABOUT 30 OR 45 MINUTES PRIOR TO GETTING THIS
16 TELEPHONE CALL MY DOGS STARTED BARKING. I ALWAYS GO AND
17 LOOK WHEN THE DOGS ARE BARKING. I THINK SOMEBODY'S
18 COMING UP IN THE YARD, AND I OBSERVED A PALE GREEN
19 CHEVROLET. IT WAS AN OLD MODEL, I WOULD SAY IN THE '70s,
20 GOING UP THE ROAD KIND OF SLOW. THAT'S WHY MY DOGS
21 BARKED AT HIM. IT WAS GOING SLOW AND HAD TWO PEOPLE IN
22 THE FRONT. I COULDN'T TELL WHAT WAS IN THE BACK, WHETHER
23 IT WAS ANOTHER PERSON OR OBJECT, BUT IT WAS GOING SLOW,
24 AND THEY WERE LOOKING ABOUT LIKE THEY WERE LOOKING ---

25 Q. WERE YOU ABLE TO --- WERE YOU ABLE TO SEE CLEARLY

1 THEIR FACES?

2 A. I COULDN'T SEE THEIR FACES. IT WAS TOO FAR AND I
3 COULDN'T IDENTIFY. I KNOW THEY WERE WHITE PEOPLE ---
4 WHITE MEN.

5 Q. TWO WHITE MEN. AND YOU, OF COURSE, DON'T KNOW WHERE
6 THAT CAR WENT?

7 A. NO. SINCE IT CONTINUED ON UP THE ROAD, I WENT BACK
8 IN MY SHOP AND CONTINUED TO WORK UNTIL I GOT THIS PHONE
9 CALL.

10 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
11 NUMBER ELEVEN, AND IF YOU WOULD, STEP DOWN HERE AND SHOW
12 THIS JURY WHERE YOU FOUND JOE DIXON. SHOW THIS HALF AND
13 THEN THAT HALF.

14 A. OKAY.

15 Q. YOU ARE GOING TO NEED TO SPEAK UP SO THE COURT
16 REPORTER CAN HEAR YOU.

17 A. THIS WAS THE BACK DOOR COMING INTO THE ROOM. THIS
18 IS THE KITCHEN, AND I FOUND JOE IN THIS POSITION. RIGHT
19 WHERE YOU SEE THIS BLOOD, HIS HEAD WAS AGAINST THE WALL,
20 AND HE WAS ON HIS BACK, AND ONE OF THE GUNS WAS UNDER
21 HIM.

22 Q. WAS UNDER HIM?

23 A. UNDER HIM. HE WAS PARTIALLY ON THE GUN, AND I
24 THOUGHT AT FIRST HE HAD BEEN SHOT WITH A SHOTGUN FROM THE
25 AMOUNT OF BLOOD THAT WAS PRESENT.

1 Q. COME DOWN AND SHOW THIS HALF OF THE JURY WHERE YOU
2 FOUND MR. DIXON.

3 A. AS I TOLD THEM, THIS WAS THE BACK DOOR COMING IN,
4 AND JOE WAS RIGHT THERE IN THE POOL OF BLOOD ON HIS BACK
5 AND HIS HEAD SLIGHTLY UP AGAINST THE WALL, AND THERE WAS
6 A GUN UNDER HIM.

7 Q. THANK YOU.

8 A. AND THERE WERE ABOUT FIVE OR SIX OTHER GUNS STACKED
9 AROUND WHERE IT LOOKED LIKED THEY GOT THEM READY TO TAKE
10 OUTSIDE.

11 Q. THANK YOU, MR. WALKER. PLEASE RETAKE THE STAND.

12 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

13 BY MS. STROM

14 Q. THANK YOU, MR. WALKER. PLEASE ANSWER ANY QUESTIONS
15 MR. WICKER MAY HAVE.

16 CROSS EXAMINATION

17 BY MR. WICKER

18 Q. MR. WALKER, THIS LIGHT GREEN CAR THAT YOU SAW DRIVE
19 BY YOUR PLACE SOMEWHERE AROUND TEN O'CLOCK THAT MORNING,
20 YOU SAID YOU SAW TWO PEOPLE IN IT?

21 A. RIGHT.

22 Q. AND DO YOU KNOW WHETHER OR NOT EITHER ONE OF THEM
23 WERE WEARING A HAT?

24 A. NO. I COULDN'T TELL THAT. I WASN'T THAT CLOSE TO
25 IT.

1 Q. IF ONE OF THEM HAD ON A GREEN HAT, DO YOU THINK YOU
2 COULD HAVE SEEN IT?

3 A. NO, I COULDN'T HAVE TOLD. WELL, I WASN'T EVEN
4 LOOKING FOR ANYTHING LIKE THAT, SINCE I DIDN'T PAY ALL
5 THAT MUCH ATTENTION TO IT OTHER THAN THE DOGS BARKING.
6 I SAW IT WAS A GREEN CAR. I DIDN'T PAY A LOT OF
7 ATTENTION TO WHAT THEY WOULD BE ---

8 Q. BUT THEN AFTER ---

9 MS. STROM: YOUR HONOR, IF HE MAY FINISH ANSWERING
10 HIS QUESTION.

11 THE COURT: LET HIM ANSWER. YOU MAY FINISH YOUR
12 ANSWER, MR. WALKER.

13 MR. WICKER: MY APOLOGIES. I DIDN'T MEAN TO
14 INTERRUPT HIM.

15 A. I WASN'T CLOSE ENOUGH TO TELL WHAT ANY OF THEM WERE
16 WEARING. I COULD JUST TELL THERE WERE TWO PEOPLE --- TWO
17 MEN IN THE FRONT SEATS, AND SOMETHING WAS IN THE BACK
18 SEAT, AND THEY WERE LOOKING TOWARD MY HOUSE, BUT I
19 COULDN'T TELL WHAT THEY WERE WEARING.

20 Q. OKAY, BUT YOU COULD TELL IT WAS A LIGHT GREEN
21 CHEVROLET?

22 A. YES.

23 Q. AND THE MODEL WOULD HAVE BEEN IN THE '70s?

24 A. I DON'T KNOW --- YES, IN THE '70s. SO MANY OF THOSE
25 MODELS WERE JUST ALIKE.

1 Q. DO YOU REMEMBER SEEING THAT CAR AGAIN SINCE THEN?

2 A. I HAVEN'T --- I COULDN'T SAY FOR SURE THAT I'VE SEEN
3 THAT CAR.

4 Q. AND YOU DON'T REMEMBER SEEING IT BEFORE THEN EITHER,
5 DO YOU?

6 A. NO.

7 Q. AND YOU'VE NEVER IDENTIFIED WHO WAS IN THE CAR?

8 A. NO.

9 Q. AND WHILE YOU WERE AT THE SCENE AND JOE HAD BEEN
10 SHOT, OF COURSE, YOU DIDN'T SEE ANY OF THE PERPETRATORS
11 OF THE CRIME?

12 A. NO. THEY HAD FLED.

13 Q. WELL, THANK YOU, BUSTER.

14 THE COURT: ANY REDIRECT?

15 MS. STROM: NOTHING ON REDIRECT.

16 THE COURT: THANK YOU, MR. WALKER.

17 MS. STROM: THE STATE CALLS KIMMIE SHIPES.

18 THEREUPON:

19 KIMMIE SHIPES, BEING FIRST DULY
20 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. STROM

23 Q. MS. SHIPES, I'M GOING TO HAVE TO ASK YOU TO SAY YES
24 OR NO, NOT NOD YOUR HEAD. AS YOU CAN SEE, THE COURT
25 REPORTER IS TAKING EVERYTHING DOWN FOR YOU --- FOR US.

- 1 MS. SHIPES, HOW OLD ARE YOU?
- 2 A. EIGHTEEN.
- 3 Q. ARE YOU MARRIED?
- 4 A. NO.
- 5 Q. WHERE DO YOU LIVE?
- 6 A. HIGHWAY 63.
- 7 Q. HOW FAR DO YOU LIVE FROM RANDY TINSLEY'S HOUSE?
- 8 A. ABOUT A HALF A MILE.
- 9 Q. WHERE DO YOU WORK?
- 10 A. INGLES.
- 11 Q. HOW LONG HAVE YOU WORKED AT INGLES?
- 12 A. SINCE ABOUT SEPTEMBER.
- 13 Q. OF '94?
- 14 A. NINETY-FOUR.
- 15 Q. MS. SHIPES, DO YOU KNOW MR. JOE DIXON?
- 16 A. NO.
- 17 Q. DO YOU RECALL THE DAY JOE DIXON WAS SHOT, THE DAY
- 18 THAT WE'RE TALKING ABOUT HERE IN COURT?
- 19 A. YEAH.
- 20 Q. DO YOU RECALL WHAT DAY OF THE WEEK THAT WAS?
- 21 A. YEAH.
- 22 Q. WHAT DAY WAS IT?
- 23 A. ON A FRIDAY.
- 24 Q. WHAT WERE YOU DOING THAT FRIDAY?
- 25 A. I WAS IN MY BED, BUT I WAS AWAKE, BECAUSE IT WAS

1 KIND OF EARLY, AND I HAD TO WORK THAT AFTERNOON WITH MY
2 GRANDMOTHER, BECAUSE I HELP HER CLEAN THE CHURCH UP
3 SOMETIMES.

4 Q. WHAT CHURCH IS THAT?

5 A. FAIRVIEW BAPTIST.

6 Q. WHAT TIME DO Y'ALL GO IN TO CLEAN THE CHURCH?

7 A. USUALLY RIGHT AFTER LUNCHTIME -- ABOUT 12:30, BUT I
8 WAS AWAKE, AND I WAS JUST LAYING THERE, AND AROUND IN THE
9 BACK OF OUR HOUSE IT HAS A DECK AND PATIO DOORS, AND I
10 HEARD SOMEBODY LIKE THEY WERE PIDDLING AROUND BACK THERE,
11 AND I THOUGHT, WELL, MAYBE IT WAS MY LITTLE COUSIN
12 WANTING IN. SO, I WENT ---

13 Q. HOW OLD IS YOUR LITTLE COUSIN?

14 A. HE'S ELEVEN.

15 Q. OKAY.

16 A. SO, I WENT TO THE BACK DOOR, AND I SAW MR. PREWITT
17 STANDING AT MY BACK DOOR, AND WHEN I PULLED THE CURTAIN
18 BACK AND CRACKED THE DOOR, HE JUMPED BACK LIKE HE WAS
19 SCARED, AND HE SHOVED HIS HANDS IN HIS POCKET, AND I
20 SAID, "CAN I HELP YOU?"

21 Q. DID HE SAY ANYTHING?

22 A. HE SAID, DOES EDDIE SO IN SO OR SOMEBODY LIVE HERE,
23 AND I SAID, "I'M SORRY. YOU HAVE THE WRONG HOUSE." AND
24 HE RAN OFF MY PORCH ALL WAY BACK AROUND AND GOT IN HIS
25 CAR, AND THEY DIDN'T SPEED AWAY OR ANYTHING. THEY JUST

- 1 DROVE DOWN THE DRIVEWAY.
- 2 Q. WHEN YOU SAY THEY, DID YOU SEE ANYBODY ELSE WITH
3 HIM?
- 4 A. THERE WAS SOMEBODY ELSE IN THE CAR, AND I DIDN'T
5 KNOW IF IT WAS A GIRL OR A BOY, BUT THEY LOOKED KIND OF
6 TALL FROM THE WAY THEY WAS SITTING, BUT I DIDN'T SEE THEM
7 OR THEIR FACE OR ANYTHING.
- 8 Q. DID YOU SEE THE CAR?
- 9 A. YEAH.
- 10 Q. WHAT COLOR WAS THE CAR?
- 11 A. IT WAS JUST RAGGEDY AND FADED OUT. I COULDN'T TELL
12 IF IT WAS GREEN OR BLUE, AND IT HAD SOME SPOTS ON IT.
- 13 Q. YOU SAID YOU SAW MR. PREWITT AT YOUR BACK PATIO
14 DOORS. DO YOU KNOW MR. PREWITT?
- 15 A. NO, I DO NOT.
- 16 Q. ARE YOU SURE THIS IS THE MAN YOU SAW AT YOUR BACK
17 DOOR?
- 18 A. POSITIVE.
- 19 Q. IS THERE ANYTHING DIFFERENT ABOUT HIM TODAY THAN
20 WHEN YOU SAW HIM ON THAT DAY?
- 21 A. LIKE HE HAD --- FROM THE WAY IT LOOKED --- FROM THE
22 WAY THE SUN WAS SHINING, LIKE HE HAD SOME FACIAL HAIR OR
23 SOMETHING.
- 24 Q. OKAY. MS. SHIPES, HOW WAS YOUR DRIVEWAY IN FRONT OF
25 --- IN YOUR HOME --- AT YOUR HOME?

1 A. WE LIVE IN A DOUBLE WIDE TRAILER, AND IT'S LIKE
2 THIS, AND WE HAVE A CIRCLE DRIVEWAY THAT GOES DIRECTLY IN
3 FRONT OF US, AND THERE'S THE ROAD --- THE HIGHWAY LIKE.

4 Q. SO, YOUR FRONT DOOR FACES THE HIGHWAY --- HIGHWAY
5 63?

6 A. YES, MA'AM.

7 Q. AND DOES THE CIRCULAR DRIVEWAY --- BY IT BEING
8 CIRCULAR, IT GOES FROM ONE END OF 63 OVER TO THE OTHER?

9 A. YEAH.

10 Q. OKAY. DOES THAT PASS BY YOUR FRONT DOOR?

11 A. YES, IT DOES.

12 Q. HOW MANY DOORS DO YOU HAVE TO YOUR TRAILER?

13 A. THREE.

14 Q. WHERE ARE THEY LOCATED?

15 A. HAVE THE FRONT DOOR IN THE VERY FRONT OF THE HOUSE.
16 ON THE SIDE, WE HAVE LIKE THE SIDE DOOR. IN THE VERY
17 BACK, WE HAVE THE PATIO DOORS.

18 Q. WHAT DO YOU HAVE TO DO TO GET TO THE PATIO DOORS?

19 A. YOU HAVE TO --- IF YOU WERE TO PARK IN THE FRONT
20 WHERE THEIR CAR WAS, YOU WOULD HAVE TO EITHER WALK AROUND
21 THIS SIDE OF THE HOUSE AND GO UP THE STEPS OR WALK AROUND
22 THE OTHER SIDE OF THE HOUSE AND GO ALL THE WAY AROUND AND
23 COME BACK UP THE STEPS.

24 Q. UP THE STEPS TO WHAT?

25 A. GET ON THE PATIO STEPS.

1 Q. OKAY. MS. SHIPES, THAT MORNING WHEN YOU HEARD
2 SOMEONE FIDDLING, I BELIEVE IT WAS YOUR WORD --- MEDDLING
3 --- FIDDLING AT YOUR PATIO DOOR, DID YOU AT ANY TIME EVER
4 HEAR SOMEONE KNOCKING ON YOUR FIRST DOOR?

5 A. NO, MA'AM.

6 Q. DID YOU EVER HEAR ANYONE KNOCKING ON YOUR SIDE DOOR?

7 A. NO, MA'AM.

8 Q. DID YOU HEAR ANYONE KNOCKING ON YOUR PATIO DOORS?

9 A. NO, IT WASN'T A KNOCK.

10 Q. WASN'T A KNOCK?

11 A. NO.

12 Q. HOW WOULD YOU DESCRIBE THE SOUND?

13 A. IT WAS LIKE --- LIKE A THUMPING NOISE JUST, I GUESS,
14 TRYING TO SEE IF IT WAS HOLLOW OR WHAT WAS BEHIND IT, OR
15 IT WAS JUST LIKE --- YOU CAN TAP YOUR FINGERNAILS ON THE
16 GLASS. YOU KNOW WHAT I'M TALKING ABOUT? LIKE THAT.

17 Q. DO YOU RECALL WHAT TIME THIS WAS?

18 A. IT WAS --- IT WAS RIGHT AT TEN O'CLOCK --- NOT MUCH
19 AFTER.

20 Q. MS. SHIPES, THE FACT THAT MR. PREWITT DOESN'T HAVE
21 ANY FACIAL HAIR TODAY, ARE YOU SURE THAT'S THE MAN THAT
22 WAS AT YOUR DOOR?

23 A. I SURE AM.

24 MS. STROM: COURT'S INDULGENCE, YOUR HONOR. I HAVE
25 NO FURTHER QUESTIONS. PLEASE ANSWER ANY QUESTIONS MR.

KIMMIE SHIPES
CROSS EXAMINATION BY MR. WICKER

85

1 WICKER MAY HAVE.

2 CROSS EXAMINATION

3 BY MR. WICKER

4 Q. MS. SHIPES, IS YOUR FIRST NAME KENNY?

5 A. KIMMIE.

6 Q. KIMMIE?

7 A. YEAH.

8 Q. COULD YOU SPELL THAT?

9 A. K-I-M-M-I-E.

10 Q. THANK YOU. HOW FAR DID YOU GO IN SCHOOL, MS.
11 SHIPES?

12 A. I'M A SENIOR NOW.

13 Q. AND WHAT SCHOOL DO YOU GO TO?

14 A. CLINTON HIGH SCHOOL.

15 Q. AND HOW LONG DID YOU SAY YOU HAVE WORKED AT INGLES
16 STORE?

17 A. SINCE SEPTEMBER OF '94.

18 Q. OKAY. ON THIS PARTICULAR FRIDAY, WHICH WOULD HAVE
19 BEEN THE 22ND OF JULY, I BELIEVE ---

20 A. UH HUH.

21 Q. --- WHAT KIND OF NOISE DID YOU HEAR ON YOUR BACK
22 PATIO?

23 A. IT SOUNDED LIKE SOMEBODY FIDGETING AROUND, JUST
24 PIDDLING AROUND ON MY PATIO OR MESSING AT THE BACK DOOR,
25 LIKE TAPPING THEIR FINGERS ON THE GLASS.

- 1 Q. DID YOU KNOW LANEY PREWITT BEFORE THEN?
- 2 A. NO, I DID NOT.
- 3 Q. HAVE YOU SEEN HIM SINCE THEN?
- 4 A. YES, I HAVE.
- 5 Q. WHERE AT?
- 6 A. I COULD ALMOST --- IN THE PICTURES THAT MR. GILLIAM
- 7 SHOWED ME, IT LOOKED EXACTLY LIKE HIM IN THE PICTURES
- 8 THEY SHOWED ME. I MEAN, WE LOOKED THROUGH TONS OF
- 9 PICTURES, AND ALL OF THEM WERE ALL DIFFERENT, AND THE
- 10 ONES THAT HE SHOWED --- THE ONE THAT I PICKED OUT, I
- 11 COULD ALMOST ASSURE YOU THAT THAT WAS HIM IN THAT
- 12 PICTURE.
- 13 Q. OKAY. DID YOU SEE LANEY PREWITT, THOUGH, SINCE
- 14 THEN?
- 15 A. IN PERSON, NO.
- 16 Q. UNTIL TODAY?
- 17 A. UNTIL TODAY.
- 18 Q. SO, YOU'RE SAYING YOU SAW HIM THAT DAY BUT DID NOT
- 19 SEE HIM AGAIN UNTIL TODAY?
- 20 A. RIGHT.
- 21 Q. YOU SAID HE HAD FACIAL HAIR ON THEN YOU THINK?
- 22 A. UH HUH.
- 23 Q. DID YOU SEE THE OTHER PERSON THAT WAS WITH HIM?
- 24 A. NO, I DID NOT.
- 25 Q. WAS THERE ANOTHER PERSON THERE?

1 A. UH HUH.

2 Q. DID EITHER ONE OF THEM HAVE ON A GREEN HAT?

3 A. I DON'T KNOW, BUT I KNOW HE HAD ON A HAT, AND IT HAD
4 --- I THINK IT WAS SOME KIND OF WASHINGTON HAT --- HAD
5 ONE OF THEM --- IT WAS A DARK COLOR, AND IT HAD A RED
6 CIRCLE ON THE MIDDLE OF IT LIKE AN EMBLEM.

7 Q. SO, LANEY HAD ON A HAT?

8 A. YEAH.

9 Q. AND HE HAD FACIAL HAIR?

10 A. UH HUH.

11 Q. DID YOU SAY, OR HAVE YOU EVER TOLD ANYONE, THAT HIS
12 HAIR WAS REDDISH BLONDE?

13 A. I SAID IT LOOKED VERY LIGHT BECAUSE OF THE WAY THE
14 SUN WAS SHINING ON HIM FROM THAT SIDE. IT JUST MADE HIM
15 LOOK REALLY PALE AND LIKE RED LIKE.

16 Q. BUT YOU HAVE SAID THAT HIS HAIR LOOKED RED TO YOU,
17 DIDN'T YOU?

18 A. YEAH.

19 Q. OKAY. AND YOU DON'T THINK IT LOOKS RED TODAY, DO
20 YOU?

21 A. NO. I THINK IT LOOKS BROWN TODAY.

22 Q. YOU ALSO SAID THAT THE PERSON YOU SAW WAS TALL, DID
23 YOU NOT?

24 A. YEAH.

25 Q. HOW TALL DO YOU THINK HE WAS?

1 A. TALLER THAN ME. HE WAS ABOUT --- I GUESS MAYBE 5'2"
2 --- 5'3", IF NOT TALLER.

3 MR. WICKER: LANEY, STAND UP.

4 BY MR. WICKER

5 Q. DO YOU THINK THE PERSON YOU SAW WAS TALLER THAN HE
6 IS?

7 A. NO.

8 Q. OKAY.

9 MR. WICKER: HAVE A SEAT.

10 BY MR. WICKER

11 Q. WHILE YOU WERE WORKING AT INGLES, DID YOU EVER SPEAK
12 TO LANEY'S MOTHER?

13 A. YES, I DID.

14 Q. AND DO YOU REMEMBER WHAT YOU TOLD HER?

15 A. I REMEMBER HER, AND I THINK IT WAS HER DAUGHTER ---
16 I CAN'T BE POSITIVE. THEY ASKED ME WAS I SURE THAT THAT
17 WAS HIM. THEY SHOWED ME A PICTURE OF A MAN IN A CAR, AND
18 I COULD SEE THE SIDE OF THE MAN'S FACE, AND THEY WERE
19 ASKING ME WAS I SURE THAT IT WASN'T THIS MAN INSTEAD OF
20 THEIR SON, AND I TOLD THEM THAT TO ME IT DID NOT LOOK
21 LIKE THE MAN, BUT THAT WAS ABOUT IT, AND THEY ASKED ME IF
22 I WOULD BE WILLING TO TALK TO THEIR LAWYERS, AND I TOLD
23 THEM I DIDN'T REALLY WANT TO HAVE THAT MUCH TO DO --- I
24 DIDN'T WANT TO HAVE ANYTHING TO DO WITH IT, AND THEY SAID
25 THAT THEIR LAWYERS COULD SUBPOENA ME INTO COURT OR

1 WHATEVER IF THEY NEEDED ME.

2 Q. IN FACT, YOU REPORTED THAT INCIDENT TO THE LAW
3 ENFORCEMENT PEOPLE, DID YOU NOT?

4 A. YES, I DID.

5 Q. DID YOU HELP THEM DRAW A COMPOSITE DRAWING OF THE
6 PERSON YOU SAW?

7 A. UH HUH, I SURE DID.

8 Q. AND WHEN THEY WERE DRAWING THAT COMPOSITE DRAWING,
9 DID YOU TELL THEM THAT HE LOOKED TALL TO YOU?

10 A. I TOLD THEM THAT HE LOOKED ABOUT 5'2" OR 5'3".

11 Q. AND YOU TOLD THEM THAT HIS HAIR WAS REDDISH BLONDE?

12 A. I SAID THAT IT LOOKED REDDISH BLONDE FROM THE WAY HE
13 WAS STANDING IN THE SUNLIGHT.

14 Q. BUT WHEN YOU SAW HIM DO YOU REMEMBER WHETHER HE HAD
15 GLOVES ON OR NOT?

16 A. NO, I DO NOT, BECAUSE WHEN I CAME TO THE DOOR AND HE
17 STEPPED BACK, HE SHOVED HIS HANDS IN HIS POCKETS.

18 Q. DID HE SAY ANYTHING TO YOU?

19 A. YES. HE SAID, DOES EDDIE SOMEBODY LIVE HERE, AND I
20 SAID, "NO, HE DOES NOT. YOU MUST HAVE THE WRONG HOUSE."

21 Q. DID YOU SAY THAT THIS CAR LOOKED BLUE TO YOU?

22 A. NO. I SAID I COULDN'T TELL WHETHER IT LOOKED GREEN
23 OR BLUE. IT WAS FADED, AND IT WAS RAGGEDY, AND IT HAD
24 SOME RUST SPOTS ON IT.

25 Q. BUT WHEN THE LAW ENFORCEMENT PEOPLE FIRST TALKED

1 WITH YOU YOU TOLD THEM IT WAS BLUE, DIDN'T YOU?

2 A. IT WAS LIKE A GREENISH-BLUE, I GUESS YOU COULD SAY.

3 Q. THANK YOU.

4 THE COURT: ANY REDIRECT?

5 MS. STROM: NO REDIRECT, YOUR HONOR, BUT I WOULD ASK
6 THAT THIS WITNESS BE EXCUSED.

7 THE COURT: ANY OBJECTION? YOU CAN SUBPOENA HER IF
8 YOU NEED HER.

9 MR. WICKER: I THINK THE OTHER SIDE MIGHT WANT TO
10 RECALL HER AFTER I PUT MY CASE ON, YOUR HONOR. THAT'S MY
11 ONLY CONCERN.

12 THE COURT: WELL, THAT'S THEIR PROBLEM.

13 MR. WICKER: I HAVE NO OBJECTION.

14 THE COURT: THANK YOU, MA'AM.

15 MR. WICKER: I JUST DON'T WANT IT TO BE THAT I LET
16 HER GET AWAY.

17 THE COURT: OKAY. THANK YOU, MA'AM. YOU MAY BE
18 EXCUSED.

19 MS. STROM: YOUR HONOR, THE STATE CALLS INVESTIGATOR
20 DANNY GILLIAM.

21 THEREUPON:

22 DANNY GILLIAM, BEING FIRST DULY
23 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MS. STROM

1 Q. MR. GILLIAM, WHERE ARE YOU EMPLOYED?

2 A. NEWBERRY COUNTY SHERIFF'S DEPARTMENT.

3 Q. HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
4 DEPARTMENT?

5 A. ABOUT FIVE YEARS.

6 Q. AND WERE YOU THE CHIEF INVESTIGATING OFFICER ON THIS
7 CASE THAT WE'RE DISCUSSING HERE TODAY?

8 A. YES, I WAS.

9 Q. AS THE CHIEF INVESTIGATING OFFICER, DID YOU GO TO
10 THE SCENE?

11 A. YES, I DID.

12 Q. WOULD YOU PLEASE DESCRIBE TO THIS JURY WHAT YOU
13 FOUND AT THE SCENE?

14 A. WHEN I ARRIVED AT THE SCENE, I WENT UP TO THE HOUSE,
15 REALIZED THAT THE FORENSICS FROM SLED WAS ON THE WAY. I
16 DID NOT ENTER THE HOUSE AT THAT TIME, BECAUSE EMS WAS
17 WORKING. THEY HAD JUST GOT THERE AND WAS WORKING ON JOE.

18 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
19 NUMBER TWELVE AND STATE'S EXHIBIT NUMBER THIRTEEN FOR
20 IDENTIFICATION AND ASK IF YOU CAN IDENTIFY THAT.

21 A. YES, I CAN. THAT'S THE BACK DOOR WHERE SOMEONE HAD
22 ATTEMPTED OR HAD PRIED IT OPEN.

23 Q. YOUR HONOR, AT THIS TIME, THE STATE WOULD INTRODUCE
24 NUMBERS, I BELIEVE IT'S TWELVE AND THIRTEEN.

25 MR. WICKER: AND NO OBJECTIONS, YOUR HONOR.

1 (STATES EXHIBITS TWELVE AND THIRTEEN MARKED FOR
2 IDENTIFICATION AND MADE A PART OF THE RECORD.)

3 BY MS. STROM

4 Q. WOULD YOU PLEASE STEP DOWN AND SHOW THIS JURY. I'M
5 SHOWING YOU STATE'S EXHIBIT NUMBER THIRTEEN. WILL YOU
6 SHOW THE JURY ABOUT WHAT YOU WERE SPEAKING?

7 A. YOU CAN SEE THE LOCK HERE ---

8 Q. YOU NEED TO SPEAK UP.

9 A. THIS INDENTURE RIGHT HERE, YOU CAN SEE A SHARP
10 OBJECT WAS USED TO PRY THE DOOR OPEN OR TO GET IT OPEN BY
11 PRYING ON IT AT THAT POINT. CAN YOU SEE WHERE THEY PUT
12 A LOT OF PRESSURE? THE INDENTURE CAME ALL THE WAY UP IN
13 THERE.

14 Q. NOW SHOW THIS PORTION OF THE JURY.

15 A. YOU CAN SEE WHERE SOMETHING HAD PRIED INTO HERE.
16 THIS INDENTURE RIGHT HERE IS --- A GOOD BIT OF PRESSURE
17 WAS PUT ON THE INSTRUMENT THAT WAS USED TO PRY THE DOOR
18 OPEN.

19 Q. AGAIN, THAT'S STATE'S EXHIBIT NUMBER THIRTEEN. I
20 SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER
21 TWELVE, AND CAN YOU DO THE SAME THING FOR THIS HALF OF
22 THE JURY AND THE OTHER HALF?

23 A. THIS IS THE DOOR PART RIGHT HERE. YOU CAN SEE THE
24 DAMAGE --- HOW IT POPPED OUT. YOU CAN SEE WHERE THE
25 PAINT HAS BEEN KNOCKED OFF. THAT'S WHERE THE INSTRUMENT

1 WENT IN TO POP THE DOOR.

2 Q. YOU SHOW THIS HALF OF THE JURY.

3 A. BY THE DOOR ---

4 Q. YOU ARE GOING TO HAVE TO SPEAK UP.

5 A. HOW THE DOOR WAS POPPED AND SWOLE(SIC) A LITTLE BIT.

6 YOU CAN SEE THE PAINT OFF. THIS IS WHERE THE INSTRUMENT
7 WAS PUT IN TO PRY THE DOOR.

8 Q. THANK YOU. YOU MAY RETAKE THE STAND. MR. GILLIAM,
9 IN YOUR INVESTIGATION, DID STATE'S EXHIBIT NUMBERS TWELVE
10 AND THIRTEEN APPEAR TO BE A FRESH, FOR LACK OF A BETTER
11 TERM --- FRESH WOUND TO THAT DOOR AREA?

12 A. YES, IT WAS.

13 Q. FRESH INDENTATION. MR. GILLIAM, IN YOUR
14 INVESTIGATION, DID YOU DEVELOP GARY LANE PREWITT THAT'S
15 SITTING HERE AS A SUSPECT?

16 A. YES, I DID.

17 Q. AND AS A RESULT OF THAT, DID YOU PREPARE A
18 PHOTOGRAPHIC LINEUP?

19 A. WE DIDN'T HAVE ANY PHOTOS OF HIM. WE CONTACTED OUR
20 SISTER COUNTY.

21 Q. DID YOU OBTAIN ONE?

22 A. YES, WE DID.

23 Q. YOU OBTAINED ONE?

24 A. YES, WE DID.

25 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT

1 NUMBER FOURTEEN AND ASK IF YOU CAN IDENTIFY THAT.

2 A. THIS IS THE LINE UP THAT WE HAD PREPARED.

3 MS. STROM: YOUR HONOR, AT THIS TIME, WE WOULD MOVE
4 STATE'S EXHIBIT NUMBER FOURTEEN INTO EVIDENCE.

5 THE COURT: ANY OBJECTION?

6 MR. WICKER: WE HAVE NO OBJECTIONS, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 (STATE'S EXHIBIT NUMBER FOURTEEN MARKED FOR
9 IDENTIFICATION AND MADE A PART OF THE RECORD.)

10 BY MS. STROM

11 Q. MR. GILLIAM, DID YOU HAVE AN OCCASION TO SHOW THAT
12 LINE UP TO MR. DIXON --- JOE DIXON?

13 A. YES, I DID.

14 Q. WHERE WAS HE WHEN YOU SHOWED HIM THIS LINE UP?

15 A. AT RICHLAND MEMORIAL HOSPITAL.

16 Q. AND DID YOU TALK WITH HIM PRIOR TO YOU SHOWING HIM
17 THE LINE UP?

18 A. YES, I DID.

19 Q. AND BASED UPON YOUR TALKING TO HIM, WERE YOU ABLE TO
20 DETERMINE IF HE WAS OF CLEAR THOUGHT?

21 A. YES, HE WAS. HE WAS --- I WAS VERY AMAZED THAT HE
22 WAS AS STRONG AS HE WAS AFTER THE ORDEAL HE HAD GONE
23 THROUGH.

24 Q. DID HE HAVE ANY TROUBLE COMMUNICATING WITH YOU WHEN
25 YOU WERE TALKING WITH HIM OTHER THAN HIS NATURAL SPEECH

1 IMPEDIMENT?

2 A. NO, MA'AM.

3 Q. WHAT DID --- LET ME ASK YOU THIS, MR. GILLIAM. WHO
4 WAS THERE WITH YOU WHEN YOU SHOWED THIS LINE UP TO MR.
5 DIXON?

6 A. AGENT WILLIAM JOLLY WITH SLED.

7 Q. WAS ANYONE ELSE IN THE ROOM?

8 A. CHRISTY McGUIRT AND A LADY.

9 Q. WERE YOU POINTING OUT SOMEONE?

10 A. THIS LADY RIGHT HERE ON THE END.

11 Q. HER NAME IS CONNIE DIXON?

12 A. RIGHT.

13 Q. THE WOMAN SITTING HERE AT THE FAR END. WHEN YOU HAD
14 THIS PHOTOGRAPHIC LINE UP WITH YOU AND YOU SHOWED IT TO
15 MR. DIXON, WHAT DID YOU TELL HIM?

16 A. I ASKED HIM TO LOOK AT THE --- I EXPLAINED TO HIM
17 WHAT A PHOTOGRAPH LINE UP WAS, THAT IT WAS PICTURES OF
18 SEVERAL PEOPLE. I WANTED HIM TO LOOK AT IT, TAKE AS MUCH
19 TIME AS HE NEEDED AND SEE IF HE RECOGNIZED ANYBODY ON
20 THERE ON THE LINE UP.

21 Q. DID YOU AT ANY TIME SUGGEST TO HIM WHICH PICTURE TO
22 PICK OUT?

23 A. NO, MA'AM.

24 Q. DID YOU TELL HIM THAT THE SUSPECT WAS IN THE
25 PHOTOGRAPHS --- WAS IN THE LINE UP?

- 1 A. NO, MA'AM.
- 2 Q. DID HE LOOK AT THE LINE UP?
- 3 A. YES, HE DID.
- 4 Q. HOW LONG DID HE LOOK AT THE LINE UP?
- 5 A. FOR A FEW MINUTES.
- 6 Q. AND DID HE PICK OUT ANYONE IN THE LINE UP?
- 7 A. YES, MA'AM, HE DID.
- 8 Q. WHAT, IF ANYTHING, DID HE TELL YOU REGARDING THAT
- 9 LINE UP?
- 10 A. HE WAS SITTING IN A CHAIR, AND I EXPLAINED
- 11 EVERYTHING TO HIM. HE TOOK THE LINE UP, AND HE WAS
- 12 LOOKING AT IT LIKE THIS. HE STUDIED IT FOR A FEW
- 13 MINUTES, AND THEN HE POINTED TO NUMBER ONE, AND HE SAID,
- 14 "THIS IS THE MAN THAT SHOT ME."
- 15 Q. HE SAID, THIS IS THE MAN THAT SHOT ME?
- 16 A. YES, MA'AM.
- 17 Q. DID YOU ASK HIM IF HE HAD ANY DOUBTS ABOUT THAT?
- 18 A. YES, I DID.
- 19 Q. AND WHAT WAS HIS RESPONSE?
- 20 A. HE SAID, "THIS IS THE MAN THAT SHOT ME."
- 21 Q. MR. GILLIAM, DID YOU HAVE OCCASION TO SHOW THAT LINE
- 22 UP TO ANYONE ELSE?
- 23 A. YES, MA'AM.
- 24 Q. TO WHOM DID YOU SHOW IT?
- 25 A. KIMMIE SHIPES.

1 Q. OKAY. AND WHERE DID YOU SHOW HER THIS LINE UP?

2 A. AT THE NEWBERRY COUNTY COMPLEX.

3 Q. SHE CAME DOWN TO THE COMPLEX?

4 A. YES, SHE DID.

5 Q. AND IF YOU WOULD, TELL THIS JURY WHAT YOU DID WITH
6 MS. SHIPES WHEN YOU SHOWED HER THE LINE UP?

7 A. I MET MS. SHIPES AT THE COMPLEX. WE WENT INTO THE
8 SQUAD ROOM, AND I EXPLAINED TO HER WHAT A LINE UP IS AND
9 THERE'S GOING TO BE SOME PICTURES. I WANT HER TO TAKE AS
10 MUCH TIME AS POSSIBLE AND SEE IF SHE RECOGNIZED ANYONE IN
11 THE PICTURES.

12 Q. AND DID SHE LOOK AT THE LINE UP?

13 A. YES, SHE DID.

14 Q. AND DID SHE IDENTIFY ANYONE?

15 A. YES, SHE DID.

16 Q. WHAT DID SHE DO?

17 A. SHE STUDIED IT FOR A --- I SAY PROBABLY ABOUT FIVE -
18 -- FIVE OR SIX MINUTES. SHE POINTED AT NUMBER ONE AND
19 SAID, "THAT'S THE MAN THAT CAME TO MY BACK DOOR."

20 Q. DID SHE HAVE ANY DOUBTS ABOUT THAT? DID SHE
21 INDICATE TO YOU SHE HAD ANY DOUBTS ABOUT IT?

22 A. I ASKED HER DID SHE HAVE ANY DOUBTS ABOUT THIS LINE
23 UP. SHE SAID, "NO, I DO NOT. THAT IS THE MAN THAT CAME
24 TO MY DOOR."

25 Q. AS FAR AS YOUR INVESTIGATION, DETECTIVE GILLIAM,

1 WERE YOU ABLE TO RECOVER ANY ITEMS THAT HAD BEEN STOLEN
2 FROM MR. TINSLEY'S HOME?

3 A. NO, WE WERE NOT.

4 Q. WERE YOU ABLE TO LOCATE THE GREEN CAR THAT HAS BEEN
5 REFERRED TO TODAY?

6 A. NO, MA'AM.

7 MS. STROM: COURT'S INDULGENCE, YOUR HONOR. I HAVE
8 NOTHING FURTHER. PLEASE ANSWER ANY QUESTIONS THAT MR.
9 WICKER MAY HAVE.

10 CROSS EXAMINATION

11 BY MR. WICKER

12 Q. DANNY, HAVE YOU EVER ARRESTED THE SECOND SUSPECT IN
13 THIS CASE?

14 A. NO, SIR, WE HAVE NOT.

15 Q. DO YOU HAVE ANY LEADS ON HIM AT ALL?

16 A. NO, SIR. WE DON'T HAVE ANY LEADS ON HIM WHATSOEVER.

17 Q. AND YOU DON'T KNOW ANYTHING ABOUT WHERE THE CAR IS?

18 A. NO, SIR, I DO NOT.

19 Q. NOW, AS FAR AS THESE GUNS THAT WERE IN THE HOUSE,
20 DID SLED EXAMINE THEM FOR FINGERPRINTS?

21 A. YES, SIR, THEY DID.

22 Q. AT THIS POINT IN YOUR INVESTIGATION, YOU HAVE NO
23 FINGERPRINTS ON MY CLIENT AT ALL; IS THAT CORRECT?

24 A. NO, SIR.

25 Q. NOW, DID YOU MAKE A COMPOSITE DRAWING?

1 A. YES, SIR, WE DID.

2 Q. AND MS. SHIPES WAS THE ONE THAT TOLD THEM HOW TO DO
3 THAT?

4 A. WE HAD AN ARTIST COME UP FROM SLED IN COLUMBIA. HE
5 CAME TO THE COMPLEX, MET WITH MS. KIMMIE SHIPES, AND SHE,
6 THROUGH HIS HELP --- SHE CREATED THE COMPOSITE.

7 Q. AND YOU WERE THERE AT THE TIME?

8 A. NO, SIR, I WAS NOT. I WAS IN THE OFFICE BUT NOT IN
9 THERE WITH THEM.

10 Q. THAT WAS BEFORE MS. SHIPES IDENTIFIED THE
11 PHOTOGRAPHS IN THAT LINE UP?

12 A. YES, SIR.

13 Q. WHEN YOU CAME UP WITH MY CLIENT AS A SUSPECT, WAS IT
14 MORE OR LESS YOU JUST STARTED LOOKING FOR EVERYBODY THAT
15 MAY HAVE BEEN IN THAT AREA AT THE TIME? I DON'T
16 UNDERSTAND WHAT LEADS LED YOU TO HIM.

17 A. WE HAD SEVERAL LEADS WE HAD TO FOLLOW UP. THESE
18 LEADS CARRIED US TO ALL PARTS OF SOUTH CAROLINA. WHEN --
19 - WE ESTABLISHED OUR LEAD CONCERNING MR. PREWITT THROUGH
20 A CONFIDENTIAL INFORMANT.

21 Q. OKAY. FROM THAT INFORMANT, THEN YOU PROCEEDED TO
22 SAY THAT GARY --- LANEY WAS A SUSPECT?

23 A. WE CONSIDERED HIM AT THAT TIME AS ONE OF THE
24 SUSPECTS.

25 Q. BUT YOU NEVER PUT A NAME ON THE SECOND GUY YET?

1 A. NO, SIR, WE HAVE NOT.

2 Q. WE'VE NEVER HAD A REAL LIVE LINE UP WITH GARY IN IT,
3 HAVE WE?

4 A. NO, SIR, WE HAVE NOT.

5 Q. SO, NONE OF THESE PEOPLE HAVE PICKED HIM OUT IN A
6 LINE UP AS FAR AS HAVING BODIES STANDING THERE?

7 A. NO, SIR.

8 Q. AND I TRUST MY CLIENT HAS NOT MADE ANY SORT OF
9 CONFESSION, HAS HE?

10 A. NO, SIR, HE HAS NOT.

11 Q. WE HAVE NO FURTHER QUESTIONS. THANK YOU.

12 THE COURT: REDIRECT?

13 MS. STROM: YES, YOUR HONOR.

14 REDIRECT EXAMINATION

15 BY MS. STROM

16 Q. MR. GILLIAM, DO YOU AT THE LAW ENFORCEMENT ---
17 NEWBERRY COUNTY SHERIFF'S DEPARTMENT, DO Y'ALL HAVE THE
18 CAPABILITY OF HAVING A PHYSICAL --- WHAT'S CALLED A
19 PHYSICAL LINE UP?

20 A. NO, WE DO NOT.

21 Q. I HAVE NO FURTHER QUESTIONS.

22 MR. WICKER: I HAVE ONE, YOUR HONOR.

23 THE COURT: YES, SIR.

24 RECROSS EXAMINATION

25 BY MR. WICKER

1 Q. HAVEN'T YOU CONDUCTED LINE UPS OVER THERE BEFORE?

2 A. YES, SIR, WE HAVE.

3 Q. THE PETE COCHRAN (PHONETICALLY) CASE YOU DID, DIDN'T
4 YOU?

5 MS. STROM: OBJECTION, YOUR HONOR. THAT OTHER CASE
6 DOESN'T HAVE ANYTHING TO DO WITH THIS ONE.

7 THE COURT: WELL, THE FACT THAT HE DID --- YOU MAY
8 GO INTO THAT, BUT WE'RE NOT GOING TO TRY ANOTHER CASE
9 NOW.

10 MR. WICKER: ALL RIGHT.

11 BY MR. WICKER

12 Q. I BELIEVE YOU SAID THAT YOU DON'T HAVE ANY WAY TO
13 HAVE A LINE UP OUT AT THE COMPLEX?

14 A. NOT AN EFFECTIVE LINE UP.

15 Q. BUT YOU HAVE A TWO-WAY MIRROR THERE, DON'T YOU?

16 A. IT DON'T HAVE ANYTHING TO DO WITH THE MIRROR. IT'S
17 THE FEASIBILITY OF GETTING SIX PEOPLE THAT ARE SO
18 FAMILIAR OR LOOK CLOSE TO LOOKING ALIKE. YOU CAN'T JUST
19 PICK ANYBODY OUT TO PUT IN A LINE UP. EACH PERSON HAS TO
20 HAVE THE CHARACTERISTICS OF THE NEXT PERSON, AND DOING A
21 PHYSICAL LINE UP USING BODIES, THAT'S ALMOST IMPOSSIBLE
22 TO FIND SIX PEOPLE THAT LOOK ENOUGH ALIKE TO DO A
23 PHYSICAL LINE UP.

24 Q. BUT YOU AGREE WITH ME THAT WE HAVE HAD LINE UPS OUT
25 THERE?

1 A. YES, SIR.

2 Q. BUT NOT IN THIS CASE?

3 A. NOT IN THIS CASE.

4 Q. OKAY.

5 THE COURT: THANK YOU, MR. GILLIAM. STEP DOWN.
6 NEXT WITNESS.

7 MS. STROM: YOUR HONOR, MAY WE APPROACH?

8 THE COURT: YES, MA'AM.

9 MS. STROM: THE STATE CALLS BEN BLANTON.

10 THEREUPON:

11 BEN BLANTON, BEING FIRST DULY
12 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MS. STROM

15 Q. MR. BLANTON, WHERE DO YOU LIVE?

16 A. WHERE DO I LIVE?

17 Q. YES, SIR.

18 A. NEWBERRY COUNTY.

19 Q. HOW LONG HAVE YOU LIVED IN NEWBERRY COUNTY?

20 A. A LITTLE OVER 32 YEARS.

21 Q. AND YOU ARE EMPLOYED, OBVIOUSLY, WITH THE EMS?

22 A. YES, NEWBERRY COUNTY EMS.

23 Q. AND THAT STANDS FOR?

24 A. EMERGENCY MEDICAL SERVICES.

25 Q. AND WHAT IS YOUR POSITION WITH EMS?

1 A. A SHIFT SUPERVISOR AND ---

2 Q. PLEASE TELL THIS JURY, IF YOU WOULD, YOUR TRAINING
3 THAT YOU HAVE RECEIVED.

4 A. OKAY. I'M A CERTIFIED --- SOUTH CAROLINA STATE
5 CERTIFIED PARAMEDIC, ALSO ACLS CERTIFIED.

6 Q. A-C-L-S?

7 A. THAT'S ADVANCED CARDIAC LIFE SUPPORT. AS FAR AS
8 TRAINING, I'M AS HIGH AS YOU CAN GO AS FAR AS EMS. IT'S
9 THE HIGHEST LEVEL TRAINING AS FAR AS EMS GOES --- A
10 PARAMEDIC.

11 Q. TO OBTAIN YOUR CERTIFICATION OF A PARAMEDIC, WHAT
12 DID YOU HAVE TO DO?

13 A. OKAY. I WAS A BASIC EMT. WELL, TO BE ABLE TO
14 BECOME A PARAMEDIC, YOU HAVE TO BE A BASIC EMT, AND YOU
15 HAVE TO WORK WITH A SERVICE FOR AT LEAST SIX MONTHS, AND
16 THEN YOU CAN GO TO PARAMEDIC SCHOOL, WHICH TAKES
17 APPROXIMATELY SIX MONTHS OF INTENSIVE TRAINING, CLINICAL
18 AND DIDACTIC TRAINING.

19 Q. WHAT IS MEANT BY DIDACTIC?

20 A. THAT'S LIKE CLASSROOM --- CLASSROOM. YOU HAVE
21 CLASSROOM BOOK TRAINING, AND THEN YOU HAVE IN THE FIELD
22 TRAINING. YOU HAVE HOSPITAL TRAINING.

23 Q. IN THIS TRAINING, ARE YOU TAUGHT TO ASSESS A WOUND
24 OR ASSESS A SITUATION? WHAT IS THE PURPOSE OF THAT?

25 A. THEY STRESS A PATIENT ASSESSMENT. BECAUSE WHEN YOU

1 FIND A PATIENT, YOU HAVE TO CHECK THEM OUT AND DETERMINE
2 THE EXTENT OF THE INJURIES AND THE APPROPRIATE TREATMENT.

3 Q. AND I BELIEVE YOU SAID THAT THE PARAMEDIC SCHOOL
4 TAKES APPROXIMATELY SIX MONTHS?

5 A. WELL, IT VARIES FROM CLASS TO CLASS. SOME CLASSES
6 TAKE A SHORTER TIME AND SOME TAKE THE LONGER. SOME
7 CLASSES TAKE UP TO NINE MONTHS. IT DEPENDS ON HOW MANY
8 HOURS YOU GO AT THE TIME. SOME OF THEM ARE MORE
9 CONCENTRATED. YOU --- LIKE THE CLASS I TOOK, I WENT FIVE
10 HOURS A DAY --- I MEAN, FIVE DAYS A WEEK, EIGHT HOURS A
11 DAY IN THE CLASSROOM, AND A LOT OF CLASSES THEY ONLY MEET
12 TWO TO THREE TIMES A WEEK AND TWO TO THREE HOURS A
13 MEETING. SO, IT TAKES LONGER FOR THOSE CLASSES THAN IT
14 DID THE CLASS I TOOK.

15 Q. AS FAR AS YOUR CERTIFICATION, DO YOU HAVE TO BE
16 RECERTIFIED OR DO YOU GET CONTINUING TRAINING?

17 A. WE ARE REQUIRED TO BE RECERTIFIED EVERY THREE YEARS.
18 PRESENTLY, WE HAVE AN IN-SERVICE PROGRAM IN EFFECT OUT
19 HERE AT NEWBERRY, AND WE HAVE CLASSES EVERY TWO WEEKS.
20 WE HAVE A CLASS EVERY TWO WEEKS THAT WE ATTEND, AND THE -
21 -- WE ARE PRESENTLY RECERTIFYING UNDER THAT PROGRAM. OUR
22 MEDICAL CONTROL PHYSICIAN HAS TO EVALUATE OUR PERFORMANCE
23 AND DECIDE WHETHER HE WANTS TO SIGN US OFF OR IF WE HAVE
24 TO GO BACK TO THE STATE AND BE RECERTIFIED.

25 Q. ARE YOU A CERTIFIED PARAMEDIC AT THIS TIME?

1 A. YES, I AM.

2 Q. ON JULY 22, 1994, WERE YOU A CERTIFIED PARAMEDIC?

3 A. YES, I WAS.

4 MS. STROM: YOUR HONOR, AT THIS TIME, WE WOULD OFFER
5 MR. BLANTON AS AN EXPERT OF EMERGENCY MEDICAL SERVICES
6 WHICH INCLUDES THE DETERMINATION OF WOUNDS AS BEING LIFE
7 THREATENING.

8 MR. WICKER: I CONCUR WITH THE STATE ON THAT, YOUR
9 HONOR.

10 THE COURT: THANK YOU, MR. WICKER. PROCEED.

11 BY MS. STROM

12 Q. MR. BLANTON, DID YOU HAVE OCCASION TO COME IN
13 CONTACT WITH JOE DIXON?

14 A. YES, I DID.

15 Q. DO YOU KNOW JOE DIXON?

16 A. NO, I DON'T.

17 Q. HOW WAS IT YOU CAME IN CONTACT WITH HIM?

18 A. WE GOT A CALL THAT SAID THAT WE HAD A GUNSHOT VICTIM
19 UP ON INDIAN CREEK ROAD, AND UPON ARRIVAL, I FOUND MR.
20 DIXON LYING ON HIS BACK IN THE FLOOR. HE WAS CONSCIOUS,
21 ALERT AND ORIENTED, BUT HIS INITIAL VITAL SIGNS SHOWED
22 HIM TO BE HYPERTENSIVE AND A LITTLE SHOCKY. WE INITIATED
23 ADVANCED LIFE SUPPORT ON HIM, STARTED IVs AND IMMOBILIZED
24 HIM AND PREPARED HIM FOR TRANSPORT TO NEWBERRY HOSPITAL.
25 Q. WERE YOU ABLE TO DETERMINE WHAT HIS INJURIES WERE?

- 1 A. INITIALLY, WE FOUND TWO GUNSHOT WOUNDS.
- 2 Q. WHEN YOU SAY INITIALLY, WAS THAT THERE AT THE SCENE?
- 3 A. THAT WAS AT THE SCENE.
- 4 Q. OKAY. WHERE WERE THE GUNSHOT WOUNDS?
- 5 A. ONE GUNSHOT WOUND WAS UNDER THE RIGHT EYE, AND THE
- 6 SECOND GUNSHOT WOUND THAT I FOUND WAS ABOUT TWO INCHES
- 7 BELOW THE TIP OF THE STERNUM.
- 8 Q. ALL RIGHT.
- 9 A. AND THE THIRD GUNSHOT WOUND WAS FOUND IN THE E-R,
- 10 AND IT WAS BELOW THE ONE BELOW THE RIGHT EYE, AND THE
- 11 BLOOD FROM THE UPPER WOUND WAS MASKING THE LOWER WOUND.
- 12 Q. IT WAS COVERING IT UP?
- 13 A. YEAH. THIS WOUND HERE WE SAW --- I SAW AN ENTRANCE
- 14 WOUND HERE. HE HAD AN EXIT WOUND TOWARDS THE BACK OF HIS
- 15 HEAD, AND THIS BULLET HERE WHERE IT WENT IN YOU COULD
- 16 FEEL WHERE IT HAD STOPPED UNDER THE SKIN RIGHT HERE UNDER
- 17 THE RIGHT FLANK.
- 18 Q. IT DID NOT EXIT?
- 19 A. IT DID NOT EXIT.
- 20 Q. AND IN ASSESSING MR. DIXON'S CONDITION, DO YOU HAVE
- 21 AN OPINION AS TO WHETHER THOSE WOUNDS HE RECEIVED WERE
- 22 LIFE THREATENING?
- 23 A. THEY WERE DEFINITELY LIFE THREATENING. IF WE HAD
- 24 NOT INITIATED THE IVs AND ALL AT THE SCENE, I FEEL HE
- 25 WOULD NOT HAVE SURVIVED, AND IF THE SURGEON HAD NOT BEEN

1 WAITING ON HIM WHEN WE GOT TO THE E-R, I DON'T FEEL HE
2 WOULD HAVE SURVIVED.

3 Q. THANK YOU, MR. BLANTON. PLEASE ANSWER ANY QUESTIONS
4 MR. WICKER MAY HAVE.

5 MR. WICKER: WE HAVE NO QUESTIONS.

6 THE COURT: THANK YOU, SIR.

7 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

8 MR. WICKER: WE WOULD BE GLAD TO EXCUSE THIS WITNESS
9 IF THE STATE WOULD LIKE TO.

10 MS. STROM: HE CAN BE EXCUSED, YOUR HONOR.

11 THE COURT: CERTAINLY.

12 MS. STROM: I JUST WANT TO CHECK ONE THING.

13 THE STATE RESTS, YOUR HONOR.

14 (STATE RESTS.)

15 THE COURT: OKAY, FOLKS. Y'ALL STEP IN YOUR ROOM
16 JUST A MINUTE. WE'LL TAKE A SHORT RECESS.

17 (JURY LEAVES COURTROOM.)

18 THE COURT: ANY MOTIONS?

19 MR. WICKER: NONE, YOUR HONOR.

20 THE COURT: VERY WELL, SIR. YOU UNDERSTAND, OF
21 COURSE, THAT YOU HAVE A RIGHT TO MAKE DIRECTED VERDICT
22 MOTIONS AT THIS STAGE?

23 MR. WICKER: I UNDERSTAND THAT, BUT I THINK IT WOULD
24 BE A USELESS EXERCISE AT THIS TIME.

25 THE COURT: ALL RIGHT, SIR. LET ME ASK MS. STROM.

1 I DIDN'T MAKE A NOTE OF IT WHEN THEY TESTIFIED, BUT THE
2 VALUE ON THE PROPERTY. MR. TINSLEY, I ASSUME, TALKED
3 ABOUT THAT.

4 MS. STROM: IT WAS LESS THAN \$1000, YOUR HONOR. I
5 BELIEVE IT WAS \$250 --- BETWEEN 250 AND 300.

6 THE COURT: OKAY. ALL RIGHT. WE'LL TAKE TEN
7 MINUTES.

8 (A SHORT BREAK WAS TAKEN AT THIS TIME.)

9 MS. STROM: YOUR HONOR, BEFORE THEY BRING THEM OUT -
10 --

11 THE COURT: WAIT A MINUTE. JUST ASK THEM TO HOLD
12 JUST ONE SECOND, PLEASE. MA'AM, WOULD YOU HOLD JUST ONE
13 SECOND? I GOT ONE MORE LITTLE THING I GOT TO DO.

14 MS. STROM: YOUR HONOR, THIS MAY BE CAUTIONARY ON MY
15 PART. I JUST WANTED TO NOTE AS FAR AS THE RECORD --- DO
16 WE NEED TO PUT ANYTHING ON THE RECORD THAT HE KNOWS HE
17 DOES NOT HAVE --- HE HAS THE RIGHT NOT TO TESTIFY AND
18 THAT CANNOT BE HELD AGAINST HIM.

19 THE COURT: YOUNG MAN, YOU WANT TO STAND UP, PLEASE?
20 AND I DON'T KNOW WHAT YOU'RE GOING TO DO. IT'S ENTIRELY
21 UP TO YOU AND YOUR LAWYER, BUT YOU DO UNDERSTAND THAT YOU
22 DO HAVE A RIGHT TO TESTIFY IN THIS TRIAL?

23 MR. PREWITT: YES, SIR.

24 THE COURT: YOU UNDERSTAND YOU HAVE A RIGHT NOT TO
25 TESTIFY?

1 MR. PREWITT: YES, SIR.

2 THE COURT: AND YOU UNDERSTAND IF YOU DON'T TESTIFY,
3 IF YOUR LAWYER WANTS ME TO, I'LL TELL THE JURY THAT THEY
4 CAN'T HOLD THAT AGAINST YOU?

5 MR. PREWITT: I UNDERSTAND THAT. I DON'T HAVE
6 ANYTHING TO HIDE.

7 THE COURT: ALL RIGHT, SIR. WILL YOU TESTIFY OR NOT
8 TESTIFY?

9 MR. PREWITT: I WILL TESTIFY.

10 THE COURT: ALL RIGHT.

11 MS. STROM: THANK YOU, YOUR HONOR.

12 THE COURT: BRING THEM IN.

13 (JURY RETURNS TO THE COURTROOM.)

14 MR. WICKER: YOUR HONOR, THE FIRST WITNESS THAT THE
15 DEFENSE CALLS IS THE DEFENDANT IN THIS CASE, LANEY
16 PREWITT.

17 THEREUPON:

18 GARY L. PREWITT, BEING FIRST
19 DULY SWORN TO TELL THE WHOLE, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. WICKER

22 Q. AND YOU AND I HAVE KNOWN EACH OTHER FOR SOME TIME;
23 IS THAT CORRECT?

24 A. YES, SIR.

25 Q. WHERE HAVE YOU LIVED FOR THE LAST FEW MONTHS?

1 A. NEWBERRY COUNTY DETENTION CENTER.

2 MS. STROM: OBJECTION, YOUR HONOR.

3 THE COURT: WHERE HAS HE LIVED?

4 MR. WICKER: THAT'S WHAT I ASKED.

5 MS. STROM: YOUR HONOR, MAY WE APPROACH.

6 THE COURT: YES, MA'AM.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
8 RECORD IN THE PRESENCE OF THE JURY BUT OUT OF THE HEARING
9 OF THE JURY.)

10 THE COURT: GO AHEAD, PLEASE.

11 BY MR. WICKER

12 Q. LANEY, WHERE HAVE YOU LIVED FOR THE LAST FEW MONTHS?

13 A. SINCE AUGUST 19TH, I LIVED AT NEWBERRY COUNTY
14 DETENTION CENTER.

15 Q. LET ME CALL YOUR ATTENTION TO THE 22ND DAY OF JULY,
16 1994, WHICH WOULD HAVE BEEN ON A FRIDAY.

17 A. YES, SIR.

18 Q. WOULD YOU LOOK AT THE JURY OVER HERE AND TELL THEM
19 WHAT YOU REMEMBER ABOUT THAT DAY?

20 A. WELL, IT WAS ABOUT TWO WEEKS --- LITTLE OVER TWO
21 WEEKS, YOU KNOW, AFTER THIS --- JULY 22ND, I WAS
22 ARRESTED, AND YOU KNOW, THE WAY I CAN FIGURE IS, YOU
23 KNOW, ME AND MY WIFE AND MY MOM AND DAD ALWAYS COMES OVER
24 THERE ON FRIDAYS AND SATURDAYS, YOU KNOW. I WAS
25 UNEMPLOYED, AND MY MOM ALWAYS TOLD ME, YOU KNOW --- I WAS

1 JOB HUNTING. SHE SAID TUESDAYS, WEDNESDAYS AND THURSDAYS
2 ARE THE BEST TIME TO JOB HUNT, YOU KNOW.

3 SO, SHE COME OVER THERE FRIDAY --- THAT FRIDAY
4 MORNING ABOUT 10:30 AND WOKE ME UP, AND ME AND MY WIFE --
5 - MY WIFE WAS AWAKE. I WAS STILL IN THE BED, BUT I GOT
6 UP, AND MY MOM AND DAD WAS, YOU KNOW, COME OVER THERE,
7 AND THEY JUST, YOU KNOW, SAT AROUND AND TALKED WITH THE
8 KIDS, AND THEN MY MOM HAD TO GO GET HER CHECK, YOU KNOW,
9 AND THEN THEY LEFT, AND I WENT BACK TO BED.

10 Q. AND ABOUT WHAT TIME WOULD YOU THINK THAT THEY WOULD
11 HAVE BEEN IN YOUR HOME?

12 A. AT 10:30, SHE HAS TO BE TO PICK HER CHECK UP. SO,
13 IT WAS ABOUT 10 O'CLOCK --- QUARTER AFTER OR SOMETHING
14 LIKE THAT. SHE GOES TO CLINTON. I LIVE, YOU KNOW, IN
15 CLINTON, AND THEY LIVE IN JOANNA, YOU KNOW, AND THEY JUST
16 STOPPED BY THERE, AND MY WIFE GIVE HER SOME FUDGE OR
17 CHOCOLATE CAKE OR SOMETHING, YOU KNOW, THAT MORNING.

18 Q. NOW, HOW DID YOU GO BACK AND RECONSTRUCT WHAT YOU
19 DID THAT DAY?

20 A. BECAUSE THE FRIDAY BEFORE --- AFTER THAT, YOU KNOW,
21 I FIGURED IT UP, I HAD TO GO TAKE A DRUG TEST FOR WAL-
22 MART DISTRIBUTION CENTER, YOU KNOW.

23 Q. ALL RIGHT.

24 A. AND WE WENT --- MY WIFE --- MY MAMA AND WIFE TOOK
25 ME, YOU KNOW, AND I TOOK A DRUG TEST AT WAL-MART

1 DISTRIBUTION CENTER, AND THEN I --- WE STOPPED AT SOME
2 YARD SALES, YOU KNOW, BECAUSE I LIKE GOING TO THEM YARD
3 SALES. MAMA --- YOU KNOW, WE STOPPED BY THERE.

4 Q. AND YOU KNEW THAT WAS THE WEEK AFTER THE TIME THAT
5 THEY SAID YOU --- YOU ARE ACCUSED?

6 A. YEAH, THE WEEK AFTER THAT.

7 Q. AND YOU WERE ACTUALLY ARRESTED ON THE 10TH OF
8 AUGUST?

9 A. YEAH, ON THE 10TH, AND THEN ANOTHER THING THAT I CAN
10 REMEMBER ABOUT THE 22ND IS THE 21ST I PAWNED MY VCR,
11 BECAUSE MY WIFE'S TAXES AND TAGS WAS DUE ON THE CAR, AND
12 WE WENT AND, YOU KNOW, PAWNED MY VCR, BECAUSE I WAS OUT
13 OF WORK AND SHE WAS OUT OF WORK. YOU KNOW, I GOT LAID
14 OFF OF MY JOB. I WAS WORKING FOR A TEMPORARY SERVICE,
15 AND I GOT LAID OFF ON THE 16TH, YOU KNOW. NO, IT WAS THE
16 12TH, AND I PICKED MY LAST CHECK UP ON THE 16TH.

17 Q. OKAY. AND ON THIS PARTICULAR FRIDAY, WHAT DO YOU
18 REMEMBER? JUST TELL US WHAT YOU REMEMBER THAT HAPPENED
19 THAT MORNING AND THAT DAY.

20 A. WELL, THE NIGHT BEFORE ME AND MY BROTHER-IN-LAW WAS
21 OUT IN THE BACKYARD --- WELL, HE'S MY SISTER'S BOYFRIEND.
22 THEY SO CLOSE, YOU KNOW, YOU MIGHT AS WELL CALL THEM
23 MARRIED, BUT WE WAS OUT IN THE YARD WRESTLING AROUND, YOU
24 KNOW, JUST HORSE PLAYING, AND I HURT MY RIBS, AND THE
25 NEXT DAY, YOU KNOW, I JUST LAID IN THE BED, AND MOM AND

1 DAD COME UP BY THERE, YOU KNOW, AND SEEN MY KIDS. I GOT
2 A LITTLE BOY AND LITTLE GIRL. THEY JUST COME UP BY THERE
3 AND SEEN MY KIDS, AND THEN THAT EVENING IT STARTED
4 RAINING. IT RAINED --- STARTED ABOUT 12 O'CLOCK, I
5 GUESS, AND IT STARTED RAINING, AND I JUST, YOU KNOW ---
6 WE SAT AROUND THE HOUSE, AND I GOT A SEGA GENESIS. ME
7 AND MY WIFE WE SAT AROUND AND PLAYED IT, YOU KNOW, AND
8 SHE WROTE OUT A LIST WHERE TO GO MONDAY, YOU KNOW. THIS
9 IS FRIDAY. SHE WROTE OUT A LIST WHERE WE COULD GO, YOU
10 KNOW, JOB HUNTING MONDAY, AND IT WAS TUESDAY, BECAUSE
11 MONDAY AND FRIDAY WE NEVER JOB HUNT, YOU KNOW. IT'S
12 TUESDAY, WEDNESDAY AND THURSDAY, YOU KNOW.

13 Q. OKAY. NOW, BEFORE TODAY, HAD YOU EVER SEEN JOE
14 DIXON OR NOT?

15 A. NEVER.

16 Q. AND YOU'RE SAYING TO THIS JURY RIGHT OVER HERE THAT
17 YOU NEVER SAW JOE DIXON UNTIL TODAY?

18 A. NEVER. I THOUGHT THAT MAN RIGHT THERE THAT'S IN THE
19 JURY --- I THOUGHT HE WAS JOSEPH DIXON WHEN HE WAS
20 SITTING RIGHT THERE, YOU KNOW, THE WAY HE WAS LOOKING,
21 AND I THOUGHT, YOU KNOW, HIS EYE WAS BRUISED, YOU KNOW,
22 THE WAY HE WAS SITTING IN THE JURY, AND YOU KNOW, I WAS
23 THINKING WHEN I WAS SITTING OVER THERE. I WAS THINKING
24 HE WAS JOSEPH DIXON, YOU KNOW, BECAUSE I DIDN'T KNOW THE
25 JURY WAS ON THIS SIDE.

- 1 Q. ALL RIGHT. HAD YOU EVER SEEN THIS YOUNG LADY --- I
2 BELIEVE HER NAME WAS KIMMIE SHIPES, BEFORE TODAY?
- 3 A. NEVER.
- 4 Q. PRIOR TO TODAY, YOU'VE NEVER SEEN KIMMIE SHIPES?
- 5 A. NEVER, NOT ONE TIME.
- 6 Q. YOU ARE SAYING THAT UNDER OATH WITHOUT HESITATION?
- 7 A. I HAVE NEVER SEEN HER.
- 8 Q. UNTIL TODAY?
- 9 A. TODAY.
- 10 Q. FIRST TIME?
- 11 A. FIRST TIME EVER.
- 12 Q. OF COURSE, YOU KNEW DANNY GILLIAM BEFORE?
- 13 A. HE'S THE ONLY ONE I KNOW.
- 14 Q. YOU KNEW JERRY WRIGHT?
- 15 A. AND JERRY WRIGHT AND THEM SITTING AT THAT TABLE, AND
16 I KNOW RANDY AND HIS WIFE, YOU KNOW. I KNOW OF THEM. I
17 DON'T KNOW THEM PERSONALLY, YOU KNOW. I KNOW RANDY'S
18 BROTHER PRETTY GOOD --- TONY. I KNOW HIM. MY MOM AND
19 DAD, AND OTHER THAN THAT, THAT'S THE ONLY ONES I KNOW IN
20 THIS COURTROOM, YOU KNOW. I NEVER SEEN, YOU KNOW, JOSEPH
21 DIXON OR SHIPES, NEVER, UNTIL TODAY, YOU KNOW.
- 22 Q. AND SO, YOU'RE DENYING HAVING ANYTHING TO DO WITH
23 THIS CRIME?
- 24 A. I HAD NOTHING TO DO WITH IT. I TRIED TO GET DANNY
25 GILLIAM, YOU KNOW --- MY MAMA AND THEM WAS DOING SOME

1 INVESTIGATING, AND THEN THEY SAID, WELL, IF SHE
2 INVESTIGATES, YOU KNOW, WE'LL GET HER FOR TAMPERING WITH
3 WITNESSES AND STUFF, AND IT SCARED HER, YOU KNOW. YOU
4 KNOW, WE TRIED TO TAKE THEM EVIDENCE, BUT THEY DON'T WANT
5 TO HEAR IT. THEY SAID THEY HAVE THEIR MAN, ME, AND I
6 DIDN'T DO IT. I SWEAR TO GOD I DIDN'T DO IT. HAD
7 NOTHING TO DO WITH IT, YOU KNOW.

8 Q. AND YOU'VE DENIED THIS FROM DAY ONE?

9 A. FROM DAY ONE. I TOLD THEM --- THEY COME ARRESTING
10 ME FOR ASSAULT AND BATTERY WITH INTENT TO KILL, AND I
11 TOLD THEM --- THEY TOOK ME FROM MY MAMA'S. I WAS AT MY
12 MOM'S WHEN THEY ARRESTED ME. TOOK ME OUT TO MY HOUSE.
13 THEY SAID, "WELL, CAN WE SEARCH YOUR HOUSE?" I SAID,
14 "SURE." YOU KNOW, THEY SAID, "WELL, WITHOUT A SEARCH
15 WARRANT?" I SAID, "GO AHEAD." THEY WENT IN THERE AND
16 SEARCHED IT, AND I TOLD MY MOM, I SAID, "MOM", I SAID,
17 "I'LL BE HOME." AND MY WIFE --- I SAID, I'LL BE OUT IN
18 A COUPLE OF HOURS, YOU KNOW, I'VE GOT TO EXPLAIN WHERE
19 I'M AT --- WHERE I WAS AT. AND I GOT DOWN HERE AT
20 NEWBERRY, AND THEY SET MY BOND AT A HALF A MILLION
21 DOLLARS, AND I'VE BEEN HERE FOR SIX MONTHS. MY WIFE AND
22 --- YOU KNOW ---

23 Q. LET ME INTERRUPT YOU. ON THIS 10TH DAY OF AUGUST,
24 1994, WHEN YOU WERE ARRESTED, DO YOU REMEMBER WHO
25 ARRESTED YOU?

1 A. ROBBIE YON AND A NEWBERRY SHERIFF'S DEPUTY. HE GOT
2 MARRIED THE SATURDAY AFTER --- THE SATURDAY AFTER I WAS
3 ARRESTED THAT WEDNESDAY, BECAUSE I HEARD THEM TALKING
4 ABOUT IT, YOU KNOW, AND THAT'S THE ONLY THING I CAN
5 REMEMBER FROM HIM, YOU KNOW.

6 Q. OKAY. AND YOU WERE AT YOUR MOTHER'S HOUSE WHEN YOU
7 WERE ARRESTED?

8 A. I WAS FIXING TO GET IN THE SWIMMING POOL.

9 Q. OKAY.

10 A. JUST GOT DONE JOB HUNTING. SHE HAD BROUGHT ME HOME,
11 AND MY WIFE HAD FOUND A JOB, AND MY MAMA TOOK ME AROUND
12 TO LOWE'S AND SOME LADDER MAKING PLACE AND THE
13 UNEMPLOYMENT OFFICE, AND THEN WE WENT BACK TO HER HOUSE,
14 AND MY WIFE GOT OFF AT FOUR O'CLOCK. I WAS FIXING TO GET
15 IN SOME SWIMMING TRUNKS, AND THE POLICE PULLED UP.

16 Q. AND THIS IS ALL IN LAURENS COUNTY?

17 A. YES, SIR.

18 Q. OKAY. NOW, AFTER YOU WERE ARRESTED THEY TOOK YOU TO
19 YOUR HOUSE; IS THAT RIGHT?

20 A. YES, SIR, AND SERVED A WARRANT ON ME.

21 Q. OKAY. NOW, HOW FAR AWAY IS YOUR MOTHER'S HOUSE FROM
22 YOUR HOUSE?

23 A. WELL, YOU CAN GO THIS A WAY THROUGH THE COUNTRY AND
24 MAKE IT THERE. IT'S ABOUT THREE MILES, BUT YOU CAN GO
25 BACK AROUND THIS WAY, AND IT'S SIX MILES, AND THEY TOOK

1 THE LONG WAY AROUND, YOU KNOW.

2 Q. OKAY. AND WHEN YOU GOT TO YOUR HOUSE, WHO WAS
3 THERE?

4 A. OH, MAN. THERE WAS MORE POLICE LIKE I WAS A BIG
5 MURDERER OR SOMETHING, YOU KNOW. THERE WAS SLED AND
6 DOGS, AND MY WHOLE --- THE FRONT OF MY HOUSE WAS FULL OF
7 POLICE --- MY DRIVEWAY, THE SIDE AND THE FRONT YARD.
8 THEY WAS ALL GATHERED THERE LIKE A FAMILY REUNION, AND WE
9 PULLED UP THERE, YOU KNOW. I LIKED TO FELL OUT THEN. I
10 SAID, LORD, LOOK AT ALL THE POLICE.

11 Q. AND THEY ASKED YOU WHAT?

12 A. IF THEY COULD SEARCH MY HOUSE.

13 Q. DID THEY TELL YOU WHETHER OR NOT THEY HAD A SEARCH
14 WARRANT ALREADY?

15 A. NO. THEY JUST SAID, CAN WE SEARCH YOUR HOUSE? I
16 SAID, SURE. THEY SAID, WELL, --- NO, NO, NO, NO, NO.
17 THEY SAID --- THEY PULLED UP INTO THE YARD LIKE THIS.
18 JERRY --- SANDY TEMPLETON WALKED TO THE BACK OF THE
19 POLICE CAR. THEY OPENED IT UP. THERE WAS A DETECTIVE IN
20 THE BACK. HE SAID, WE'RE CHARGING --- I SAID, "WHAT'S MY
21 CHARGES?" HE SAID, "ASSAULT AND BATTERY WITH INTENT TO
22 KILL ON JOSEPH DIXON." HE READ THE WARRANT OUT. THEY
23 SAID, "DO YOU GIVE US PERMISSION TO SEARCH YOUR HOUSE?"
24 I SAID, "SURE." BY THAT TIME, MY MOM AND WIFE HAD PULLED
25 UP, AND MY WIFE GIVE THEM THE KEYS TO THE HOUSE, YOU

1 KNOW, AND THEY WENT IN THERE, AND THEY WENT IN THE ATTIC
2 AND SEARCHED UNDER THE HOUSE AND THE SHEDS ---
3 EVERYTHING. DIDN'T FIND NOTHING, YOU KNOW.

4 Q. IN OTHER WORDS, YOU WERE THERE WHEN THEY SEARCHED?

5 A. MOST OF THE TIME.

6 Q. AND AS FAR AS YOU KNOW, THEY TOOK NOTHING AWAY WITH
7 THERE?

8 A. THEY TOOK NOTHING. MY WIFE AND MOTHER SAID THAT.
9 THEY WAS NOTHING. THEY COULDN'T GET NOTHING FROM MY
10 HOUSE, BECAUSE I DIDN'T DO IT, YOU KNOW. THAT'S THE
11 REASON I TOLD THEM --- GO AHEAD AND SEARCH IT, YOU KNOW.

12 Q. SO, THEN YOU CAME TO NEWBERRY?

13 A. YES, SIR.

14 Q. AND WHILE YOU HAVE BEEN IN NEWBERRY, HAVE YOU BEEN
15 QUESTIONED BY ANYBODY?

16 A. WELL, I WAS QUESTIONED THE FIRST DAY, THE 11TH. I
17 WAS QUESTIONED THAT THURSDAY --- THAT FRIDAY. THEY COME
18 GOT MY SHOES OUT OF MY CELL, AND I'VE BEEN BACK THERE
19 UNTIL DANNY GILLIAM AND LEE FOSTER COME BACK THERE THE
20 OTHER WEEK, AND DANNY GILLIAM TRIED TO SLAM MY HAND IN
21 THE SLAT(PHONETICALLY). BECAUSE I TRIED TO TELL HIM, YOU
22 KNOW, GO CHECK WITH THESE PEOPLE, YOU KNOW. THEY GOT A
23 GREEN --- BLUISH GREEN CAR, YOU KNOW. GOT --- ONE OF THE
24 BOYS LOOKS JUST LIKE ME, IS WHAT SOMEBODY TOLD ME, YOU
25 KNOW. I'M JUST GOING BY HEARSAY, BECAUSE I WAS IN THE

1 JAIL, YOU KNOW. THESE PEOPLE SAY, WELL, MAN, SO AND SO
2 AND HIS BROTHER ---

3 MS. STROM: OBJECTION, YOUR HONOR. OBJECTION.

4 THE COURT: YOU CAN'T SAY WHAT SOMEBODY ELSE SAYS.

5 A. OKAY. WELL, I'M JUST, YOU KNOW ---

6 THE COURT: YEAH, I UNDERSTAND. LISTEN TO YOUR
7 LAWYER, PLEASE.

8 BY MR. WICKER

9 Q. OKAY. BUT AS A MATTER OF FACT, YOU HAVE
10 CONSISTENTLY DENIED HAVING ANYTHING TO DO WITH THIS?

11 A. FROM MINUTE ONE.

12 Q. AND YOUR POSITION TODAY UNDER OATH IS THAT YOU HAD
13 NOTHING TO DO WITH THIS?

14 A. HAD NOTHING TO DO WITH IT --- NOT ONE THING.

15 Q. AND THAT'S WHY YOU'RE HERE; IS THAT CORRECT?

16 A. YES, SIR.

17 Q. DO YOU KNOW IF THEY FINGER PRINTED YOU WHEN YOU WERE
18 ARRESTED?

19 A. YES, SIR --- HAND PRINTS, SIDE OF MY HANDS, TIPS OF
20 MY FINGERS. IF THERE'S A PLACE ON MY HAND TO GET A
21 PRINT, THEY TOOK IT.

22 Q. AND DO YOU KNOW IF THEY PHOTOGRAPHED YOU?

23 A. YES, SIR. COLOR PHOTOGRAPH THIS TIME.

24 Q. THE PHOTOGRAPH IN THIS LINE UP HERE --- I DON'T KNOW
25 IF YOU'VE SEEN THIS. I DON'T THINK YOU HAVE. LET ME

1 JUST SHOW IT TO YOU. HAVE YOU SEEN THOSE PHOTOGRAPHS
2 BEFORE? I WANT IT TO SHOW THAT I'M HANDING YOU
3 PROSECUTION EXHIBIT FOURTEEN. HAVE YOU SEEN THOSE
4 BEFORE?

5 A. I JUST SEEN THEM WHEN WE WAS SITTING RIGHT THERE AT
6 THE TABLE AND THEY SHOWED THEM TO YOU. I LOOKED THROUGH
7 THEM.

8 Q. OH, YOU DID SEE THEM THEN?

9 A. YES, SIR.

10 Q. JUST GLANCED AT THEM?

11 A. YES, SIR.

12 Q. OKAY. BUT THEY TOOK PICTURES OF YOU AFTER THIS; IS
13 THAT CORRECT?

14 A. YES, SIR.

15 Q. OKAY. DO YOU KNOW ANY OF THE OTHER PEOPLE ON THERE?

16 A. I KNOW THAT MAN.

17 Q. WHO IS HE?

18 A. MACK GAFFNEY.

19 Q. WHERE DID YOU KNOW HIM?

20 A. I USED TO WORK WITH HIM IN JOANNA MILLS.

21 Q. DO YOU KNOW WHERE THIS HOUSE IS THAT WE'RE TALKING
22 ABOUT?

23 A. I KNOW ABOUT WHERE IT'S AT. I HAVEN'T --- YOU KNOW
24 --- THAT'S JUST FROM MY MAMA TELLING ME, YOU KNOW, WHERE
25 IT'S AT. I WAS THINKING --- SEE, WHERE I LIVE AT --- I

1 LIVE IN --- IT'S DOUBLE-A TRAIL ROAD IS WHERE I LIVE AT,
2 AND IT'S AN A-SHAPE, YOU KNOW. THERE'S A ROAD RUNS THIS
3 WAY, AND IT'S LIKE TWO AS PUT TOGETHER --- TWO CAPITAL
4 AS, AND THEN THERE'S ANOTHER OLD ROAD THAT RUNS BETWEEN
5 MY ROAD AND THE TRASH DUMP, AND THAT'S INDIAN CREEK ROAD,
6 OKAY. FROM THEN --- YOU KNOW, I HEARD ON THE NEWS THE
7 NIGHT THAT IT HAPPENED AT THE ELEVEN O'CLOCK NEWS THAT A
8 MAN HAD BEEN SHOT ON INDIAN CREEK ROAD, YOU KNOW. I WAS
9 THINKING IT WAS THAT ROAD THAT RUN FROM MY ROAD TO THE
10 TRASH DUMP. WELL, AFTER I GOT LOCKED UP, THIS ROAD IS
11 SEVEN OR EIGHT MILES FROM WHERE I LIVE AT.

12 Q. IT'S ANOTHER INDIAN CREEK ROAD?

13 A. YEAH, ANOTHER INDIAN CREEK ROAD.

14 Q. OKAY. WHAT I WANT YOU TO DO IS LISTEN TO THE
15 QUESTIONS AND ANSWER EVERY ONE OF THEM THAT YOU ARE
16 ASKED.

17 A. YES, SIR.

18 CROSS EXAMINATION

19 BY MS. STROM

20 Q. MR. PREWITT ---

21 A. YES, MA'AM.

22 Q. --- I BELIEVE YOU STATED THAT YOU RECOGNIZED
23 SOMEBODY ELSE IN THIS LINE UP?

24 A. YES, MA'AM.

25 Q. DO YOU RECOGNIZE THAT MAN RIGHT THERE?

1 A. YES, MA'AM.

2 Q. WHO IS THAT?

3 A. GARY LANE PREWITT.

4 Q. NUMBER ONE IS GARY LANE PREWITT? MR. PREWITT, HOW
5 LONG HAVE YOU BEEN OUT OF WORK? HOW LONG HAD YOU BEEN
6 OUT OF WORK WHEN THIS HAPPENED?

7 A. SINCE 16TH OF JULY --- OR THE 15TH, BECAUSE THE 16TH
8 IS WHEN I PICKED UP MY LAST CHECK.

9 Q. I THOUGHT YOU SAID IT WAS THE 12TH WAS THE LAST DAY
10 YOU WORKED, AND PICKED UP YOUR CHECK ON THE 16TH?

11 A. WELL, OKAY, YOU KNOW, WHENEVER IT WAS. I KNOW IT
12 WAS JUST THEM COUPLE OF DAYS, YOU KNOW, RIGHT THERE.

13 Q. HOW MUCH DID YOU GET FOR YOUR VCR?

14 A. FIFTY DOLLARS.

15 Q. WHAT ELSE DID YOU PAWN?

16 A. WELL, THAT MONDAY AND TUESDAY I PAWNED ANOTHER
17 SHOTGUN OF MINE AND ONE --- MY 16-GAUGE AND THEN MY .22
18 ON THAT TUESDAY.

19 Q. WHAT DID YOU DO WITH THE PISTOL?

20 A. I DON'T OWN A PISTOL --- NEVER HAVE OWNED A PISTOL.

21 Q. HOW MUCH WERE THE TAXES ON YOUR CAR?

22 A. I DON'T KNOW. MY WIFE PAID THAT. IT WAS HER CAR.
23 SHE PAID IT, YOU KNOW. WE WENT TO McDONALD'S AND EAT
24 THAT DAY THAT WE PAWNED IT --- THE VCR, AND SHE WENT AND
25 PAID THE TAXES ON THE CAR.

1 Q. MR. PREWITT, YOU STATED THAT YOUR MAMA AND DADDY
2 CAME BY TO SEE THE KIDS. ISN'T IT TRUE THAT AFTER THEY
3 LEFT IS WHEN YOU WENT DOWN TO RANDY TINSLEY'S HOUSE?

4 A. NO, BECAUSE I WENT RIGHT BACK TO BED.

5 Q. YOU WENT RIGHT BACK TO BED?

6 A. RIGHT BACK TO BED, AND BECAUSE MY WIFE'S GOT A
7 FRIEND THAT COME UP BY THERE AT 2:30 THAT DAY, AND IT WAS
8 RAINING, AND SHE GOT OUT OF THE CAR, AND HER HUSBAND WAS
9 JUST SETTING IN THE CAR, AND I GOT UP, AND I TOLD MY
10 WIFE, I SAID, LOOK A THERE. I SAID, HERBIE'S ABOUT SORRY
11 AS HELL --- EXCUSE MY LANGUAGE --- FOR LETTING HIS WIFE
12 COME OUT IN THE RAIN AND HE WOULDN'T GET OUT OF THE CAR.

13 Q. AND THAT WAS AT 2:30?

14 A. ABOUT 2:30, AND I WAS STILL IN THE BED THEN. I GOT
15 UP AND EAT A HAMBURGER THAT MY WIFE COOKED AND WAS RIGHT
16 BACK IN THE BED, BECAUSE I WATCHED GERALDO AND ALL THAT,
17 YOU KNOW, ON TV, BECAUSE WE'VE GOT A TV IN THE BEDROOM?

18 Q. WHAT WAS ON GERALDO?

19 A. THE KU KLUX KLAN, AND JERRY SPRINGER RIGHT AFTER
20 THAT, HE HAD KU KLUX KLAN ON IT, TOO.

21 Q. DID YOU WATCH IT THE NEXT DAY?

22 A. NO, BECAUSE IT WAS SATURDAY.

23 Q. WHAT DID YOU WATCH SATURDAY?

24 A. NOTHING, BECAUSE MY DAD COME UP BY THERE THAT
25 SATURDAY BECAUSE MY MOM WENT TO WORK, AND HIM AND ONE OF

1 HIS FRIENDS COME UP BY THERE --- JOHN, AND HE MESSES WITH
2 QUAILS, YOU KNOW, AND HE GIVE ME A RABBIT PEN, AND I HAD
3 SOME STEEL BARS THAT I GOT FROM THE JOHN DEERE STORE THAT
4 THEY PACK RIDING MOWERS IN, AND I LOADED THEM UP ON HIS
5 TRUCK. ME AND MY WIFE JUST, YOU KNOW, SAT AROUND THE
6 HOUSE. IF YOU BROKE, YOU CAN'T GO NOWHERE.

7 Q. MR. PREWITT ---

8 A. YEAH.

9 Q. LET'S GO BACK OVER THIS. IS IT TRUE --- LET ME
10 START HERE. YOU SAID YOU THOUGHT THIS JUROR UP HERE WAS
11 JOE DIXON?

12 A. YEAH.

13 Q. YOU THOUGHT HE LOOKED LIKE JOE DIXON?

14 A. NO. I JUST SAID, YOU KNOW, I FIGURED THAT'S WHO IT
15 WAS, BECAUSE HE WAS SETTING RIGHT THERE BY HIMSELF, YOU
16 KNOW, RIGHT HERE IN THE FRONT. NO, I HADN'T NEVER SEEN
17 JOE DIXON BEFORE IN MY LIFE, AND I WAS JUST TRYING, YOU
18 KNOW, TO SEE, YOU KNOW, WHO HE WAS.

19 Q. WHAT WERE YOU DOING UP AT KIMMIE SHIPES' HOUSE?

20 A. I AIN'T NEVER BEEN TO KIMMIE SHIPES' HOUSE. AIN'T
21 NEVER SEEN HER BEFORE IN MY LIFE UNTIL TODAY, AND HOW SHE
22 SAID THAT I WAS THE ONE THAT COME TO HER DOOR --- NAH.

23 Q. YOU SAID YOU KNOW WHERE --- YOU KNOW MR. TINSLEY,
24 AND I BELIEVE YOU SAID YOU KNEW HIS WIFE OR KNEW OF HIS
25 WIFE?

1 A. I KNOW HIM OF HIS --- OF HIM AND HIS WIFE, AND I
2 KNOW HIS BROTHER.

3 Q. WHERE DO THEY LIVE?

4 A. I HAVE NO IDEA. ON INDIAN CREEK ROAD.

5 Q. INDIAN CREEK ROAD?

6 A. YEAH. AND I DIDN'T KNOW THAT UNTIL I GOT LOCKED UP.
7 AFTER THEY DONE ACCUSED ME OF ---

8 Q. HOW WELL DID YOU KNOW MR. TINSLEY?

9 A. MAYBE SAY HEY AND, YOU KNOW, PASSING THROUGH, YOU
10 KNOW. I KNOW HIS BROTHER PRETTY GOOD, YOU KNOW.

11 Q. I BELIEVE YOU SAID HIS BROTHER'S NAME WAS TONY?

12 A. TONY.

13 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

14 BY MS. STROM

15 Q. MR. TINSLEY(SIC), I BELIEVE YOU STATED THAT YOUR
16 MAMA AND DADDY LEFT BECAUSE SHE HAD TO PICK UP A CHECK AT
17 10:30; IS THAT RIGHT --- PICK UP A CHECK AT 10:30?

18 A. YES, MA'AM.

19 Q. AT CLINTON?

20 A. YES, MA'AM. WELL, BETWEEN 10:30 AND 11:30, AND MY
21 NAME IS MR. PREWITT. YOU SAID MR. TINSLEY.

22 Q. OH, I'M SORRY. I'M SORRY. I APOLOGIZE.

23 MS. STROM: COURT'S INDULGENCE.

24 BY MS. STROM

25 Q. MR. TINSLEY --- EXCUSE ME, I WON'T DO IT AGAIN. MR.

1 PREWITT ---

2 A. YES, MA'AM.

3 Q. AFTER YOU WERE ARRESTED, YOU TALKED TO JERRY WRIGHT,

4 DID YOU NOT?

5 A. YES, MA'AM.

6 Q. WHAT YOU JUST TESTIFIED TO TODAY IS NOT WHAT YOU

7 TOLD HIM, IS IT?

8 A. WELL, LET ME SAY THIS. YOU LET SOME ---

9 Q. JUST ANSWER MY QUESTION.

10 A. NO.

11 Q. IS WHAT YOU TOLD TODAY ---- WAS THAT THE SAME THING

12 YOU TOLD JERRY WRIGHT ON THE DAY THAT HE QUESTIONED YOU?

13 A. NO, MA'AM.

14 Q. ALL RIGHT. THANK YOU.

15 MS. STROM: YOUR HONOR, I HAVE NO FURTHER QUESTIONS

16 OF THIS WITNESS.

17 THE COURT: ANY REDIRECT?

18 MR. WICKER: YOUR HONOR, WE HAVE NO REDIRECT. YOU

19 COME RIGHT ON DOWN. OUR NEXT WITNESS WILL BE THE

20 DEFENDANT'S MOTHER SANDRA PREWITT. SANDRA, WOULD YOU

21 PLEASE TAKE THE STAND?

22 THEREUPON:

23 SANDRA PREWITT, BEING FIRST DULY

24 SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. WICKER

2 Q. SANDRA, WHERE DO YOU WORK?

3 A. I WORK AT CLINTON MILLS ON THE WEEKEND SHIFT.

4 Q. AND HOW LONG HAVE YOU WORKED THERE?

5 A. SINCE GREENWOOD MILLS CLOSED DOWN IN JOANNA, ABOUT
6 FIVE YEARS.

7 Q. AND IS YOUR SON LANEY PREWITT?

8 A. YES, SIR.

9 Q. AND HE IS NAMED FOR YOUR HUSBAND?

10 A. YES, SIR.

11 Q. HE'S A JUNIOR?

12 A. NO, HE'S NOT A JUNIOR. THEY'VE GOT DIFFERENT MIDDLE
13 NAMES.

14 Q. YOUR HUSBAND IS GARY PREWITT?

15 A. WELL, HIS NAME IS GARY LAWRENCE, AND THEN LANEY ---
16 WE CALL HIM LANEY. HIS NAME IS GARY LANE.

17 Q. OKAY. AND YOU'VE SAT IN THE COURTROOM THROUGHOUT
18 THIS CASE, HAVE YOU NOT?

19 A. YES, SIR.

20 Q. AND YOU HEARD YOUR SON TESTIFIED THAT YOU VISITED
21 HIM ON THE 22ND OF JULY, 1994; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. DO YOU REMEMBER WHAT YOU DID ON THE 22ND OF JULY OF
24 1994?

25 A. YEAH, BECAUSE MY SISTER CAME IN FROM FLORIDA. SO,

1 I REMEMBER IT REAL WELL.

2 Q. OKAY. COULD YOU TELL THE JURY, NOW, BECAUSE THEY'RE
3 VERY INTERESTED IN THIS --- WHAT DO YOU REMEMBER ABOUT
4 THAT DAY?

5 A. OKAY. I REMEMBER THAT WE GOT UP THAT MORNING.
6 WELL, I GOT UP. GARY WAS ALREADY UP, BECAUSE HE HAD JUST
7 CAME HOME FROM WORK, AND WHEN HE GOT HOME FROM WORK, AND
8 I GUESS THIS HAPPENED THE SAME THAT DAY AS IT DOES EVERY
9 OTHER DAY --- HE ALWAYS CAME HOME AND CLEANED THE
10 SWIMMING POOL, YOU KNOW --- EMPTY THE SKIMMER OUT AND,
11 YOU KNOW, PUT CHEMICALS IN AND EVERYTHING IN THE SWIMMING
12 POOL, AND THEN I GOT DRESSED, AND WE WENT TO GET MY
13 CHECK, AND IT WAS ABOUT TEN MINUTES AFTER TEN I WOULD
14 THINK. NOW, I CAN'T GIVE YOU AN EXACT TIME, BUT I KNOW
15 IT WAS BEFORE 10:30, BECAUSE IT WAS EARLY, AND ON THE WAY
16 TO CLINTON IS THE ROAD THAT TURNS OFF THAT GOES TO
17 LANEY'S HOUSE, AND I TOLD GARY, I SAID, "LET'S RUN BY AND
18 CHECK ON THE BABIES." WHICH, IF I DON'T SEE THEM IN A
19 DAY OR TWO, I'M OVER THERE TO CHECK ON THEM, YOU KNOW.
20 SO, I SAID, "LET'S RUN BY AND CHECK ON THE BABIES." WE
21 WENT OVER THERE. WENT TO THE DOOR. LANEY CAME TO THE
22 DOOR IN HIS UNDERWEAR. HIS WIFE GAVE ME SOME GERMAN
23 CHOCOLATE CAKE. I REMEMBER THAT, BECAUSE I PUT IT IN THE
24 OVEN AFTER WE HAD DONE WENT AND PICKED UP MY CHECK AND
25 EVERYTHING AND CAME BACK TO THE HOUSE. I HAD PUT IT ON

1 TOP OF MY STOVE, AND I PUT IT IN THE OVEN, BECAUSE MY
2 SISTER AND ALL OF THEM CAME IN FOR HAMBURGERS THAT NIGHT,
3 AND I DIDN'T HAVE ENOUGH CAKE FOR EVERYBODY. SO, I JUST
4 STUCK THAT IN THE OVEN, AND ON MONDAY MORNING MY GIRLS
5 WAS TEASING ME ABOUT HORDING ALL THE SWEETS. SO, I KNOW
6 IT WAS THAT FRIDAY.

7 Q. OKAY. CAN YOU TELL THE JURY TO THE BEST OF YOUR
8 KNOWLEDGE WHEN YOU ARRIVED AT LANEY'S HOUSE AND WHEN YOU
9 LEFT ON THAT PARTICULAR FRIDAY?

10 A. WHAT TIME?

11 Q. ABOUT WHAT TIME?

12 A. IT HAD TO HAVE BEEN BEFORE ELEVEN O'CLOCK. BECAUSE
13 LIKE I SAID, I HAVE TO GET MY CHECK BY 11:45. SO, I
14 WOULD SAY --- AND IT WAS EARLY. SO, I KNOW IT WAS TOO
15 EARLY FOR ME TO GET MY CHECK, AND I COULD HAVE GOT IT AT
16 10:30. SO, I WOULD SAY RIGHT AT 10 O'CLOCK.

17 Q. OKAY. DID YOU NOTICE ANYTHING UNUSUAL WHILE YOU
18 WERE THERE?

19 A. NO. WE JUST SAT AROUND AND TALKED FOR A FEW
20 MINUTES. WHITNEY WAS STILL IN BED --- THEIR LITTLE GIRL.
21 SHE'S FOUR. SHE WAS STILL IN BED. COLBY --- HE'S ALWAYS
22 UP EARLY. USUALLY WHEN I GO OVER THERE ON FRIDAY
23 MORNINGS, WHITNEY CRIES TO GO WITH NANNY. SO, I TAKE
24 WHITNEY WITH ME TO THE GROCERY STORE, BUT WHITNEY WAS
25 STILL IN BED THAT MORNING, AND I KNEW THAT MY SISTER WAS

1 COMING IN FROM FLORIDA, AND I KNEW I WAS GOING TO SPEND
2 THE DAY WITH HER. SO, I JUST LEFT WHITNEY IN THE BED AND
3 LEFT COLBY AT HOME, AND GARY AND I WENT AND BOUGHT
4 GROCERIES AND CAME BACK TO MY MOTHER'S.

5 Q. SANDRA, I NOW WANT YOU TO SKIP OVER TO THE 10TH DAY
6 OF AUGUST, 1994, WHEN YOUR SON WAS ARRESTED. WERE YOU AT
7 YOUR HOME THEN?

8 A. YES, SIR, WE WERE.

9 Q. AND WHERE WERE YOU AT?

10 A. IN THE SWIMMING POOL.

11 Q. AND IS THIS SWIMMING POOL IN YOUR BACKYARD?

12 A. IN OUR BACKYARD. IT SURE IS.

13 Q. AND COULD YOU JUST TELL THE JURY WHAT YOU REMEMBER
14 ABOUT YOUR SON BEING ARRESTED?

15 A. OKAY. WE WERE ALL OUT IN THE SWIMMING POOL. WELL,
16 NOT ALL OF US. IT WAS --- WELL, WE JUST BOUGHT THE
17 SWIMMING POOL. WE HADN'T HAD IT LONG, AND IT'S AN ABOVE
18 GROUND POOL, AND WE HAD BUILT A FENCE AROUND IT AND PUT
19 NO TRESPASSING SIGNS AND EVERYTHING WHERE WE WOULD BE
20 LEGAL, AND GARY AND LANEY HAD TWO LAWN CHAIRS SITTING ON
21 THE OUTSIDE OF THE FENCE, AND SHELLEY --- LANEY'S WIFE,
22 AND WHITNEY AND COLBY AND ME AND THESE TWO KIDS ---
23 JOHNNY AND KIM NABORS' TWO KIDS WERE ALL OVER --- WERE
24 BOTH OVER THERE, AND WE WERE ALL IN THE POOL, AND SHELLEY
25 KEPT TELLING LANEY, COME ON GET IN THE POOL. COME ON GET

1 IN THE POOL, AND ANGEL CAME IN FROM WORK, AND WHEN ANGEL
2 CAME IN FROM WORK, SHE COME TO THE BACK DOOR, AND SHE
3 SAID, "I'M GOING TO GET IN WITH Y'ALL."

4 SO, HER AND MELISSA WENT THROUGH TO GET THEIR
5 BATHING SUITS ON. GARY AND LANEY WERE STILL SITTING
6 THERE IN THE CHAIRS, AND WE WERE ALL IN THE SWIMMING
7 POOL, AND THEN ANGEL COME TO THE BACK DOOR, AND I DIDN'T
8 HEAR IT WHEN SHE SAID IT, BUT WHEN I TURNED AROUND AND
9 LOOKED THERE WAS A POLICE STANDING RIGHT THERE NEXT TO
10 THE SWIMMING POOL, AND I SAID, "WHAT'S GOING ON?" YOU
11 KNOW, AND I GOT MY BATHING SUIT ON, AND YOU KNOW, I DON'T
12 WEAR IT OUT IN PUBLIC OR NOTHING.

13 I'M ASKING THIS GUY, WHAT'S GOING ON. WHAT YOU
14 DOING IN MY BACK YARD. AND THEN I SEEN LANEY GO OUT THE
15 FRONT DOOR, AND THE NEXT THING I KNEW SOMEBODY SAID,
16 THEY'RE ARRESTING HIM, AND I GOT OUT OF THE SWIMMING
17 POOL, AND SHELLEY AND I PUT ON OUR CLOTHES, AND THEY TOOK
18 HIM, AND WE FOLLOWED THEM OVER THERE, AND I SAID, WELL,
19 I'M NOT GOING TO GO ON THE --- SHELLEY SAID, "PULL IN THE
20 DRIVEWAY." WELL, THERE WAS JUST LAW EVERYWHERE. I SAID,
21 "NO, I'M NOT GOING TO GO ON THE PROPERTY. YOU KNOW, THEY
22 MIGHT SAY I'M TRYING TO INTERFERE WITH SOMETHING." SO,
23 ME AND SHELLEY AND THE KIDS SAT IN THE CAR.

24 Q. NOW, WHO IS SHELLEY?

25 A. IT'S LANEY'S WIFE.

1 Q. OKAY. AND Y'ALL STAYED IN THE CAR?

2 A. WE STAYED IN THE CAR. IT WAS REAL HOT THAT DAY, AND
3 THE KIDS --- WE DIDN'T EVEN PUT CLOTHES ON THEM. ALL WE
4 DID WAS JUST GRAB TOWELS AND PUT AROUND THEM, AND I THINK
5 I PUT ON A T-SHIRT AND A PAIR OF SHORTS AND ---

6 Q. DID SHELLEY GIVE THEM THE KEYS TO GET IN HER HOUSE?

7 A. THEY ASKED FOR THE KEYS BEFORE THEY EVER LEFT OUR
8 HOUSE. AS A MATTER OF FACT, THEY WENT OUT AND GOT IN THE
9 CAR, AND THEN ONE OF THEM CAME BACK TO THE STEPS AND SAID
10 THEY NEEDED SHELLEY'S HOUSE KEY, AND WHEN THE LAW LEFT
11 SHELLEY'S HOUSE THAT DAY, WE HAD TO CALL A LOCKSMITH THE
12 NEXT MORNING TO GET A NEW LOCK --- NEW KEYS MADE FOR
13 SHELLEY'S CAR, AND HAD TO CHANGE THE DOOR KNOB ON HER
14 FRONT DOOR, BECAUSE THE KEYS DISAPPEARED WHEN THE LAW
15 DID.

16 Q. AND YOU'VE NEVER GOTTEN THE KEYS BACK?

17 A. NO, SIR.

18 Q. NOW, DID YOU HEAR YOUR SON SAY ANYTHING WHEN HE WAS
19 ARRESTED?

20 A. WHAT DID I DO. WHAT DID I DO, AND THEN WHEN THEY
21 SAID IT WAS NEWBERRY COUNTY. HE TURNED AROUND. HE SAID,
22 "I AIN'T BEEN TO NEWBERRY." YOU KNOW, WHICH WE FIGURED
23 AFTER, YOU KNOW, THEY BROUGHT HIM AND QUESTIONED HIM OR
24 WHATEVER, YOU KNOW, THEY'D BRING HIM BACK HOME. WE
25 DIDN'T DO ANYTHING FOR THE FIRST WEEK. DIDN'T TALK TO

1 ANYBODY OR ANYTHING.

2 Q. ALL RIGHT. NOW, YOU LOVE YOUR SON, DON'T YOU?

3 A. YES, SIR, I DO.

4 Q. AND YOU BELIEVE YOUR SON WHEN HE TELLS YOU
5 SOMETHING?

6 A. MOST OF THE TIME.

7 Q. AND WHAT YOU'VE TOLD THE JURY TODAY YOU CAN REMEMBER
8 CLEARLY?

9 A. YES, SIR, I SURE CAN.

10 Q. AND YOU REMEMBERED THE 22ND OF JULY CLEARLY?

11 A. YES, SIR.

12 Q. AND YOU REMEMBER THE 10TH OF AUGUST CLEARLY?

13 A. YES, SIR.

14 Q. OKAY. ANSWER ANY QUESTIONS THE OTHER SIDE MAY OR --
15 -- MAY HAVE.

16 A. OKAY.

17 MS. STROM: NO QUESTIONS FOR THIS WITNESS, YOUR
18 HONOR.

19 THE COURT: THANK YOU, MA'AM.

20 MR. WICKER: OKAY. YOU MAY STEP DOWN. WE CALL OUR
21 LAST WITNESS, YOUR HONOR. WE'RE GOING TO CALL HIS
22 FATHER, WHICH IS MR. PREWITT. I BELIEVE THEY CALL HIM
23 GARY --- LAWRENCE PREWITT --- GARY PREWITT.

24 THEREUPON:

25 GARY LAWRENCE PREWITT, BEING

1 FIRST DULY SWORN TO TELL THE WHOLE TRUTH, TESTIFIED AS
2 FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. WICKER

5 Q. GARY, WHERE DO YOU WORK?

6 A. I WORK AT WHITTEN CENTER.

7 Q. AT WHITMAN CENTER?

8 A. WHITTEN CENTER, YES, SIR.

9 Q. HOW LONG HAVE YOU BEEN THERE?

10 A. SINCE THE MILL CLOSED DOWN. I'VE BEEN THERE FIVE
11 YEARS.

12 Q. OKAY. AND HOW OLD ARE YOU NOW?

13 A. I'M 46.

14 Q. AND HOW MANY CHILDREN DO YOU HAVE?

15 A. I HAVE FOUR.

16 Q. OKAY. AND CALLING YOUR ATTENTION TO THIS PARTICULAR
17 FRIDAY THAT WE'VE BEEN TALKING ABOUT, THE 22ND DAY OF
18 JULY, 1994, DO YOU REMEMBER WHAT HAPPENED THAT DAY?

19 A. YES, SIR, I DO.

20 Q. AND YOU HEARD ALL THE TESTIMONY THAT'S BEEN BROUGHT
21 IN THIS COURTROOM TODAY?

22 A. YES, SIR.

23 Q. OKAY. WOULD YOU LOOK AT THE JURY, BECAUSE THEY ARE
24 THE ONES THAT WE ARE HERE TO TALK TO, AND TELL THEM WHAT
25 YOU CAN REMEMBER ABOUT THE 22ND OF JULY, THAT FRIDAY,

1 1994?

2 A. I GOT OFF WORK AT ABOUT A QUARTER AFTER SEVEN. I
3 GOT HOME ABOUT 25 AFTER, AND I WENT IN THE HOUSE AND KIND
4 OF STRETCHED OUT AND TURNED THE TELEVISION ON, SMOKED ME
5 A CIGARETTE UNTIL ABOUT EIGHT O'CLOCK. I WENT IN AND
6 WOKE MY WIFE UP AND TOLD HER TO GO AHEAD AND GET READY SO
7 WE CAN GO GET HER CHECK, AND IN THE MEANTIME, I GO CLEAN
8 THE POOL AND PUT THE CHEMICALS IN IT.

9 WELL, SHE GOT UP AND GOT READY, AND WHEN SHE COME
10 OUT THE DOOR, SHE TOLD ME ABOUT A LITTLE SCUFFLE MY SON
11 AND MY DAUGHTER'S BOYFRIEND HAD, AND I SAID, "WELL, DID
12 EITHER ONE OF THEM GET HURT?" AND SHE SAID, SHE DON'T
13 BELIEVE SO, BECAUSE MY DAUGHTER'S BOYFRIEND IS A WHOLE
14 LOT BIGGER THAN LANEY. SO, THE BOY ---- HE DID NO MORE
15 THAN JUST HOLD HIM IN A BEAR HUG. HE DIDN'T HIT HIM AT
16 ALL.

17 SO, WE GOT IN THE CAR AND HEADED OVER THAT WAY, AND
18 WHEN WE --- SHE SAID, "WELL, LET'S TURN AND GO DOWN AND
19 CHECK ON THE KIDS." I SAID, "ALL RIGHT."

20 Q. THESE ARE YOUR GRANDCHILDREN?

21 A. RIGHT, MY GRANDCHILDREN. SO, WHEN WE CROSSED THE
22 TRACK AND STARTED DOWN TOWARD LANEY'S HOUSE, SHE ASKED ME
23 IF I WAS GOING TO SAY ANYTHING TO LANEY ABOUT THE FIGHT,
24 AND I SAID, "NO, NOT UNLESS HE DOES."

25 SO, WE WENT ON OVER THERE, AND I COULD TELL THAT,

1 YOU KNOW, THINGS WASN'T KIND OF RIGHT WITH HIM, BECAUSE
2 HE DIDN'T MOVE LIKE HE USUALLY DOES. WHEN WE KNOCKED ON
3 THE DOOR, HE COME TO THE DOOR IN HIS UNDERWEAR. THE
4 LITTLE GRAND BOY, HE WAS UP. SHELLEY AND WHITNEY WAS
5 STILL IN THE BED, BUT WHILE WE WERE THERE, SHELLEY DID
6 GET UP, BUT THE GRAND DAUGHTER, SHE STAYED IN THE BED.
7 I WAS KIND OF HOPING SHE WOULD GET UP SO SHE COULD GO
8 WITH US TO THE GROCERY STORE, BUT SHE NEVER DID, AND WE
9 STAYED OVER THERE FOR A WHILE, AND THEN SHE GIVE SANDY
10 SOME CAKE TO TAKE HOME WITH US. I THINK IT WAS A GERMAN
11 CHOCOLATE CAKE. I'M NOT FOR SURE, BUT I BELIEVE IT WAS
12 A GERMAN CHOCOLATE CAKE.

13 I GUESS WE WERE OVER THERE --- I GUESS WE GOT OVER
14 THERE ABOUT TEN OR A LITTLE AFTER, SOMETHING ALONG IN
15 THERE, AND WE LEFT THERE ABOUT 10:30, MAYBE 25 UNTIL 11
16 TO GO PICK HER CHECK UP.

17 Q. AT THE TIME THAT YOU FOLKS LEFT THAT MORNING, DID
18 ANYTHING APPEAR UNUSUAL?

19 A. NO, SIR.

20 Q. AND WERE YOU PRESENT WHEN YOUR SON WAS ARRESTED ON
21 THE 10TH OF AUGUST, 1994?

22 A. YES, SIR.

23 Q. AND COULD YOU TELL THE JURY WHAT YOU REMEMBER ABOUT
24 THAT?

25 A. LIKE MY WIFE SAID, EVERYBODY WAS IN THE SWIMMING

1 POOL BUT ME AND LANEY, AND MY OLDEST DAUGHTER WENT IN THE
2 HOUSE, AND SHE COME BACK OUT THE BACK DOOR, AND SHE SAID,
3 "DADDY, THE LAW IS OUTSIDE." AND SO, LANEY AND I GOT UP
4 AND WENT IN THE BACK DOOR THROUGH THE KITCHEN INTO THE
5 LIVING ROOM, AND THERE WAS A KNOCK AT THE DOOR, AND I
6 OPENED THE DOOR, AND IT WAS A LAURENS COUNTY DEPUTY,
7 ROBBIE YON, STANDING THERE. AND HE SAID, "GARY, IS LANEY
8 HERE?" AND I SAID, "YES, SIR." SO, I TURNED AROUND, AND
9 I SAID, "LANEY, THEY WANT TO TALK TO YOU."

10 SO, LANEY STEPPED OUT THE DOOR, AND ROBBIE YON TOLD
11 HIM, SAID, "LANEY, WE NEED TO TALK TO YOU." SO, THEY
12 TOOK HIM ON OUT AND OUT INTO THE DRIVEWAY, AND WHEN I
13 TURNED AROUND AND LOOKED OUT THE FRONT ROOM --- THE FRONT
14 LIVING ROOM, THEY WAS PUTTING THE HANDCUFFS ON HIM, AND
15 I WENT ON OUT THE DOOR, AND I ASKED THEM WHAT HE HAD
16 DONE, AND THEY SAID, "WELL, WE CAN'T INFORM YOU OF THAT
17 UNTIL WE GET HIM OVER TO HIS HOUSE." AND I SAID, "CAN
18 YOU TELL ME WHERE IT HAPPENED AT?" AND THEY SAID,
19 "NEWBERRY COUNTY." AND LANEY AND I LOOKED AT EACH OTHER,
20 AND I TOLD LANEY, I SAID, "I DON'T BELIEVE YOU'VE BEEN TO
21 NEWBERRY HAVE YOU?" AND HE SAID, "NO, I HAVEN'T." AND
22 I SAID, "WELL, DON'T WORRY ABOUT IT. JUST GO PEACEFULLY
23 WITH THEM."

24 Q. AND WHAT DID YOU DO AFTER THAT DAY?

25 A. WELL, I STAYED THERE AT THE HOUSE WHILE MY WIFE AND

1 MY DAUGHTER-IN-LAW AND THE KIDS WENT OVER TO THE HOUSE TO
2 SEE WHAT WAS GOING ON. I DIDN'T GO OVER THERE.

3 Q. OKAY. AND OF COURSE, YOU LOVE ALL YOUR CHILDREN?

4 A. YES, SIR, VERY MUCH.

5 Q. AND AS FAR AS LANEY IS CONCERNED, WOULD YOU BELIEVE
6 LANEY IF HE TOLD YOU SOMETHING?

7 A. IN A CASE LIKE THIS, YES, SIR, I WOULD.

8 Q. I DON'T BELIEVE WE HAVE ANY FURTHER QUESTIONS. IF
9 THE OTHER SIDE HAS ANY, YOU ANSWER THEM.

10 A. YES, SIR.

11 MS. STROM: THE COURT'S INDULGENCE. THANK YOU.

12 THE COURT: STEP DOWN, SIR. THANK YOU.

13 MR. WICKER: AT THIS TIME, YOUR HONOR, WE REST.

14 (DEFENSE RESTS.)

15 THE COURT: WILL THERE BE ANY REPLY?

16 MS. STROM: JUST ONE MOMENT, YOUR HONOR. YOUR
17 HONOR, MAY I TAKE TWO MINUTES? THANK YOU.

18 (JURY LEAVES THE COURTROOM.)

19 THE COURT: MR. WICKER?

20 MR. WICKER: I WOULD LIKE TO MAKE A MOTION AT THIS
21 TIME, YOUR HONOR, FOR A DIRECTED VERDICT IN FAVOR OF MY
22 CLIENT BASED ON THE FACT THAT AFTER ALL THE EVIDENCE HAS
23 COME IN AND ALL THE PEOPLE HAVE BEEN CROSS EXAMINED,
24 INCLUDING THE WITNESSES I PUT ON, I THINK IT'S CLEAR THAT
25 WE HAVE A PROBLEM HERE, CERTAINLY, WHEN WE'RE TALKING

1 ABOUT BEYOND A REASONABLE DOUBT THAT MY CLIENT WAS EVER
2 IDENTIFIED HERE, BECAUSE I THINK ---

3 THE COURT: THE EVIDENCE PRESENTED MAKES THAT A
4 FACTUAL ISSUE. I'LL LET THE JURY --- THEY MUST RESOLVE
5 IT.

6 MR. WICKER: THAT'S THE ONLY MOTION I HAVE, YOUR
7 HONOR.

8 THE COURT: ALL RIGHT. NOW, ON THE CHARGES, I'LL
9 TELL YOU WHAT I'VE FACTORED IN. GOT FOUR CRIMES, NO
10 LESSER INCLUDED. I'VE GOT THEIR INSTRUCTION ON
11 IDENTIFICATION. I'VE GOT ALIBI. AND I DON'T KNOW THAT
12 WE NEED IT, BUT I PUT IN THE HAND OF ONE CHARGE, SINCE
13 THERE WERE TWO DEFENDANTS THERE. I INSERTED THAT. DOES
14 THAT BOTHER EITHER ONE OF YOU?

15 MR. WICKER: IT DOESN'T BOTHER ME, YOUR HONOR.

16 THE COURT: THE ONLY REASON I DID IT IS BECAUSE
17 THERE WAS ANOTHER FELLOW RUNNING FROM THE PLACE AND TO
18 LET THE JURY KNOW THAT THE FACT THAT ANOTHER FELLOW MIGHT
19 HAVE BEEN THERE WOULD NOT INSULATE THIS FELLOW FROM THE
20 FACT OF CONSPIRACY TO COMMIT BURGLARY, LARCENY. THERE'S
21 NO QUESTION ABOUT THE SHOOTING, BUT ON THOSE TWO, I
22 THOUGHT HAND OF ONE MIGHT BE A PROBLEM, MAY NOT BE. I
23 MAY BE CREATING MORE PROBLEMS THAN I'M SOLVING. BUT WHAT
24 DO YOU SAY, MS. STROM?

25 MS. STROM: YOUR HONOR, THE STATE'S POSITION IS THE

1 ---

2 THE COURT: I'LL TAKE IT OUT IF YOU DON'T WANT IT.
3 I'LL TAKE IT OUT.

4 MS. STROM: I DON'T THINK IT'S NECESSARY, YOUR
5 HONOR.

6 THE COURT: ANY OBJECTIONS, MR. WICKER?

7 MR. WICKER: NO.

8 THE COURT: I'LL TAKE IT OUT.

9 MR. WICKER: NONE AT ALL.

10 THE COURT: SUITS ME. ANY OTHER REQUESTS TO CHARGE?

11 MR. WICKER: NONE BY THE DEFENSE, YOUR HONOR.

12 MS. STROM: YOUR HONOR, DO YOU CHARGE ON REASONABLE
13 DOUBT?

14 THE COURT: I DEFINE IT AS HESITATE TO ACT.
15 ANYTHING ELSE?

16 MS. STROM: NOTHING FROM THE STATE.

17 THE COURT: HOW LONG DO YOU ANTICIPATE YOUR
18 ARGUMENTS, BECAUSE WE'VE GOT TO GO ALL THE WAY TONIGHT?

19 MS. STROM: I'M THINKING 30 --- 35 MINUTES AT THE
20 MOST.

21 THE COURT: I'M THINKING THAT'S TOO LONG.

22 MS. STROM: FOR BOTH OPENING ON THE LAW AND THE
23 CLOSING ---

24 THE COURT: YES, MA'AM. I'M THINKING THAT'S TOO
25 LONG. ARE YOU GOING TO OPEN?

1 MS. STROM: OPEN ON THE LAW AND RESERVE MY RIGHT TO
2 CLOSE.

3 THE COURT: ARE YOU GOING TO OPEN?

4 MS. STROM: YES, SIR.

5 MR. WICKER: I WOULD THINK 20 MINUTES FOR ME.

6 THE COURT: OKAY. I THINK ABOUT 20 MINUTES IS MORE
7 THAN ADEQUATE.

8 MS. STROM: YES, SIR.

9 MR. WICKER: TWENTY MINUTES FOR ME, YOUR HONOR.

10 THE COURT: OKAY. BRING THEM IN.

11 (JURY RETURNS TO THE COURTROOM.)

12 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
13 THE TESTIMONY IN THE CASE HAS CONCLUDED. THE ATTORNEYS
14 WILL NOW MAKE THEIR FINAL COMMENTS TO YOU, AFTER WHICH
15 I'LL TALK TO YOU ABOUT THE LAW THAT APPLIES IN THE CASE.

16 I DO REMIND YOU THAT THEIR COMMENTS ARE NOT EVIDENCE
17 BUT ARE VERY IMPORTANT, AND I DO URGE YOU TO LISTEN VERY
18 CLOSELY TO THEM.

19 MS. STROM?

20 MS. STROM: THANK YOU, YOUR HONOR.

21 CLOSING STATEMENT

22 BY MS. STROM

23 LADIES AND GENTLEMEN, WE ALL APPRECIATE YOUR TIME
24 THAT YOU'VE GIVEN TO THIS CASE AND THE ATTENTION THAT
25 YOU'VE GIVEN TO THIS CASE.

1 MY JOB HERE AT THIS POINT IS TO CLOSE ON THE LAW.
2 IN OTHER WORDS, TO BRIEFLY EXPLAIN TO YOU WHAT THE LAW
3 IS. AND AS I TOLD YOU EARLIER, HIS HONOR WILL GIVE YOU
4 THE FINAL CHARGE WHEN HE SPEAKS TO YOU ABOUT WHAT THE LAW
5 IS.

6 HE WILL CHARGE YOU THE STATE HAS THE BURDEN OF
7 PROOF. THE STATE MUST PROVE THE DEFENDANT GUILTY BEYOND
8 A REASONABLE DOUBT.

9 THE STATE BRINGS IN TO THIS CASE, INTO THIS
10 COURTROOM TODAY, EVIDENCE WE FEEL IS SUFFICIENT TO MEET
11 THAT BURDEN --- BEYOND A REASONABLE DOUBT. HIS HONOR
12 WILL CHARGE YOU THAT IS THE KIND OF DOUBT THAT WOULD
13 CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

14 USE YOUR GOOD COMMON SENSE IN THIS CASE. ANY BIG
15 DECISION --- ANY BIG DECISION YOU MAY HESITATE AT FIRST,
16 BUT AFTER CONSIDERING ALL OF THE EVIDENCE, AFTER
17 DISCUSSING IT AMONG YOURSELVES, AFTER TALKING BACK AND
18 FORTH ABOUT WHO'S TELLING THE TRUTH, WHO'S NOT TELLING
19 THE TRUTH, IT'S ONLY THEN AFTER YOU'VE CONSIDERED
20 EVERYTHING DO YOU HAVE A REASONABLE DOUBT.

21 BURGLARY, JUST BRIEFLY, ENTERING A PERSON'S HOUSE
22 WITHOUT CONSENT WITH THE INTENT TO COMMIT A CRIME THEREIN
23 ARMED WITH A DEADLY WEAPON OR INFLECTING INJURY. 2
24 I SAID I'M UP HERE BRIEFLY TO OPEN ON THE LAW. I WILL
25 HAVE AN OPPORTUNITY TO COME BACK TO YOU AND ARGUE AS TO

1 THE FACTS OF THIS CASE IN AN ATTEMPT TO PERSUADE YOU AND
2 TO ASSIST YOU IN DETERMINING HOW THE FACTS ARE IN THIS
3 CASE. YOU ARE ULTIMATELY THE FINDERS OF THE FACTS IN
4 THIS CASE.

5 HIS HONOR WILL ALSO CHARGE YOU THAT THERE ARE
6 CERTAIN FACTORS YOU CAN CONSIDER WHEN JUDGING A PERSON'S
7 CREDIBILITY, AND THAT IS --- ARE THEY BIAS? DO THEY HAVE
8 ANY REASON TO LIE? DO THEY HAVE ANYTHING TO GAIN OR LOSE
9 BY COMING IN THIS COURTROOM? WOULD WHAT THEY HAVE TO
10 GAIN OR LOSE --- WOULD THAT AFFECT THEIR TESTIMONY? YOU
11 CAN LOOK AT ALL THIS AS WELL AS THEIR DEMEANOR. DO THEY
12 APPEAR TO BE TRUSTWORTHY TO YOU? DO THEIR STORIES
13 CONTRADICT, OR WERE THEY SUPPORTED BY OTHER EVIDENCE?
14 THOSE ARE THINGS THAT YOU CAN CONSIDER WHEN DETERMINING
15 WHETHER SOMEONE IS TELLING THE TRUTH.

16 AGAIN, YOU WILL HAVE FOUR CHARGES. HIS HONOR WILL
17 GIVE YOU THE LAW ON THE FOUR CHARGES. YOU WOULD FIND THE
18 FACTS, AND APPLY THE LAW AS HIS HONOR GIVES IT TO YOU,
19 AND AFTER DOING THAT, BEYOND A REASONABLE DOUBT.

20 AGAIN, I'LL BE BACK UP HERE TO SPEAK TO YOU ABOUT
21 THE FACTS OF THE CASE, AND HIS HONOR WILL CHARGE YOU ON
22 THE LAW. THANK YOU.

23 THE COURT: MR. WICKER?

24 MR. WICKER: MAY IT PLEASE THE COURT?

25 CLOSING STATEMENT

1 6BY MR. WICKER

2 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
3 THANK YOU, THANK YOU. THANK YOU FOR PAYING ATTENTION TO
4 US AND LISTENING TO US AND LISTENING TO THE STATE AND
5 THINKING ABOUT IT AND GIVING US YOUR TIME AND YOUR
6 EFFORT, BECAUSE THIS IS WHAT THE UNITED STATES OF AMERICA
7 IS ALL ABOUT, AND I HAVE SEEN TRIALS IN MANY, MANY
8 FOREIGN COUNTRIES, BECAUSE IT'S SORT OF A HOBBY OF MINE
9 TO VISIT FOREIGN COURTS, AND I CAN ASSURE YOU THAT
10 THERE'S NEVER BEEN A COUNTRY THAT TRIES PEOPLE THE WAY WE
11 DO HERE IN AMERICA, AND I'M VERY FOND OF THE JURIES WE
12 HAVE HERE IN NEWBERRY COUNTY, AND WE'RE GOING TO LEAVE IT
13 IN YOUR HANDS, BECAUSE THIS IS THE GREATEST DECISION MADE
14 HERE TODAY.

15 ONE TIME, ONE OF MY CLIENTS WAS SENTENCED TO DEATH
16 IN EDGEFIELD COUNTY, AND I WENT HOME AND SLEPT VERY WELL,
17 AND I WAS ASKED HOW COULD YOU SLEEP? YOUR CLIENT WAS
18 SENTENCED TO DEATH TODAY. I SAID, MY JOB WAS EASY. I
19 DID EVERYTHING I COULD FOR HIM, AND THE JURY SENTENCED
20 HIM TO DEATH. I DID EVERYTHING I COULD FOR HIM.

21 SO, THE DEFENSE COUNSEL HAS AN EASY JOB COMPARED TO
22 THE JURY. I HAVE NEVER SAT ON A JURY. I'VE SERVED AS A
23 MILITARY JUDGE. I'VE BEEN A PROSECUTOR MOST OF MY LIFE,
24 AND I'VE BEEN A DEFENSE COUNSEL, OF COURSE, FOR THE PAST
25 11 YEARS. SO, THE TIME HAS COME FOR 12 PEOPLE FROM

1 NEWBERRY COUNTY TO DECIDE ON THIS CASE.

2 VERY BRIEFLY, AND I MEAN VERY BRIEFLY, I WANT TO
3 JUST MENTION TO YOU THAT THE STATE BROUGHT TO YOU RANDY
4 TINSLEY. WE HAVE NOTHING TO DISAGREE --- NOT ONE THING
5 DO WE DISAGREE WITH RANDY TINSLEY. HIS HOUSE WAS BROKEN
6 INTO, AND HIS THINGS WERE STOLEN AND THE PLACE WAS MESSED
7 UP. WE AGREE WITH EVERYTHING HE SAID. SO, THERE'S NO
8 CONFLICT WITH RANDY TINSLEY.

9 NEXT COMES CHRISTY McGUIRT. WE HAVE NO CONFLICT AT
10 ALL WITH CHRISTY McGUIRT. WE AGREE WITH EVERYTHING SHE
11 SAID.

12 THEN WE HAVE JOE DIXON. WE ARE GLAD THAT JOE DIXON
13 IS ALIVE TODAY. BECAUSE BELIEVE ME, WHEN YOU GET SHOT
14 THE WAY HE WAS SHOT, YOU VERY OFTEN DIE, AND IT WAS A
15 MATTER OF PROVIDENCE THAT HE'S ALIVE TODAY, BECAUSE WHEN
16 YOU GET SHOT THREE TIMES, THE FACT THAT YOU'RE STILL
17 ALIVE TO TELL SOMEBODY ABOUT IT IS AMAZING. THANK GOD
18 JOE DIXON IS ALIVE TODAY.

19 THE ONLY DIFFERENCE WE HAVE WITH JOE DIXON IS THE
20 FACT THAT WE BELIEVE --- MY CLIENT BELIEVES AND TOLD YOU
21 HE BELIEVES THAT JOE DIXON MADE A MISTAKE --- MADE A
22 MISTAKE ON IDENTITY HERE. JOE DIXON SAID, I NEVER SAW
23 PREWITT BEFORE THAT DAY. JOE DIXON TOLD YOU UNDER OATH.
24 I NEVER SAW PREWITT AGAIN UNTIL HE CAME IN HERE TODAY.
25 A GOOD LONG WHILE. HE ALSO SAID THAT HE WAS WEARING A

1 HAT, AND THE ONE THAT --- THE SUSPECT THAT LEFT WAS
2 WEARING A GREEN HAT. HE ALSO SAID HE WAS WEARING GLOVES.
3 HE ALSO SAID HE COULD DESCRIBE HOW THE ROOM LOOKED AND
4 ALL THAT SORT OF STUFF AND THAT MY CLIENT WAS THE PERSON
5 WHO SHOT HIM. VERY DAMAGING EVIDENCE. BUT IF YOU THINK
6 ABOUT THIS, IF HE HAD NEVER SEEN PREWITT BEFORE THEN, AND
7 HE HAD NEVER SEEN PREWITT SINCE THEN UNTIL TODAY, AND
8 THERE'S NEVER BEEN A REAL LIVE BODY LINE UP IN THE CASE
9 WHERE YOU LINE THE PEOPLE UP AND YOU COME IN AND PICK
10 SOMEBODY OUT. THEY NEVER DID THAT IN THIS CASE.

11 SO, OUR TOTAL POSITION OF JOE DIXON, AS MUCH AS WE
12 LIKE HIM AND AS HAPPY AS WE ARE THAT HE'S ALIVE, IS HE
13 MADE A MISTAKE IN THIS CASE. HE'S ACCUSING THE WRONG
14 PERSON HERE. IT WAS NOT LANEY PREWITT THAT SHOT HIM. IT
15 WAS SOMEBODY ELSE. WE DON'T KNOW WHO.

16 MR. WALKER CAME IN --- BUSTER WALKER. WE CERTAINLY
17 HAVE NOTHING TO DISAGREE THERE. HE CAME ON THE SCENE,
18 AND HE PROCEEDED TO GET HELP, AND HE SEEMED TO BE THE ONE
19 THAT KNEW WHAT TO DO AND KNEW THE SERIOUSNESS OF THE
20 SITUATION, AND PERHAPS, SAVED JOE'S LIFE.

21 THEN WE HAVE KIMMIE SHIPES COMING IN. KIMMIE SHIPES
22 SAID THAT SHE DID NOT KNOW PREWITT BEFORE THIS, AND SHE
23 HASN'T SEEN PREWITT SINCE SHE SAW HIM OUTSIDE HER BACK
24 DOOR THAT DAY. SHE HASN'T SEEN HIM AT ALL EXCEPT OUTSIDE
25 HER BACK DOOR AND IN THE COURTROOM TODAY --- TWO TIMES.

1 SHE SAID THAT SHE DID TELL THEM THAT SHE THOUGHT HE HAD
2 REDDISH BLONDE HAIR BUT THAT IT JUST MAY HAVE LOOKED THAT
3 WAY. SHE TOLD US WHAT SHE THOUGHT HE WAS WEARING, BUT
4 SHE SAID SHE THOUGHT HE WAS TALL, AND SHE'S SHORT, BUT
5 SHE SAID SHE THOUGHT HE WAS TALL. SHE HELPED WITH A
6 COMPOSITE DRAWING. SHE SAID THAT SHE HAD SPOKEN TO
7 LANEY'S MOTHER. SHE SAID THAT SHE HAD REPORTED THAT TO
8 THE POLICE. SHE SAID SHE DIDN'T KNOW WHETHER HE HAD ON
9 GLOVES, BUT HE DID HAVE ON A HAT, AND HE WAS KIND OF
10 TALL.

11 THEN DANNY GILLIAM CAME UP. DANNY, OF COURSE,
12 TURNED IN THE PICTURES TO THE BACK DOOR WHERE IT HAD BEEN
13 OPENED. HE TOLD YOU ABOUT THE PHOTOGRAPH LINEUP, AND HE
14 SAID HE TOOK THESE SHOTS OUT TO THE COMPLEX, I THINK, TO
15 SHOW HER THE LINEUP. MAYBE YOU REMEMBER WHAT I'M TALKING
16 ABOUT. IT'S THE PHOTOGRAPH LINEUP. HE SAID THEY NEVER
17 WERE ABLE TO FIND THE CAR. THEY WERE NEVER ABLE TO FIND
18 THE SECOND SUSPECT.

19 AND THEN THEY BROUGHT BEN BLANTON IN. HE WAS THE
20 EMT. WE CERTAINLY AGREE WITH EVERYTHING HE SAID, AND WE
21 THINK THAT HE PROBABLY SAVED JOE'S LIFE. I THINK IT'S A
22 WONDERFUL THING TO HAVE HIM HERE IN TOWN.

23 WHEN YOU DEFEND PEOPLE, YOU BRING IN ALL YOU CAN
24 FIND AND ALL YOU HAVE, AND YOU PUT THEM ON THE STAND, AND
25 THEY TELL THEIR SIDE OF THE STORY UNDER OATH.

1 SO, WE BROUGHT ALL WE HAD. WE BROUGHT LANEY IN, AND
2 LANEY LOOKED YOU IN THE EYE AND SAID HE DIDN'T DO IT.
3 LANEY TOLD YOU THAT HE HAD NEVER SEEN JOE UNTIL TODAY IN
4 COURT. HE TOLD YOU HE HAD NEVER SEEN MS. SHIPES UNTIL
5 TODAY IN COURT. HE SAYS HE HAS NEVER SEEN ANY OF THESE
6 PEOPLE EXCEPT FOR DANNY GILLIAM, JERRY WRIGHT AND HIS
7 MOTHER AND FATHER, OF COURSE, AND HE DID NOT KNOW WHO JOE
8 WAS UNTIL TODAY, AND HE WAS SITTING OVER THERE TRYING TO
9 FIGURE OUT WHO JOE WAS. IN LOOKING AT EVERYBODY HE SAW,
10 HE THOUGHT MAYBE IT MIGHT HAVE BEEN SOMEONE WHO'S ON THE
11 JURY TODAY, BECAUSE HE DIDN'T KNOW WHAT HE LOOKED LIKE.
12 HE DIDN'T KNOW WHAT MS. SHIPES LOOKED LIKE EITHER, BUT HE
13 SAYS HE DID KNOW THIS ON THAT DAY, AND HE RECONSTRUCTED
14 IT, BECAUSE THE ALLEGED INCIDENT OCCURRED ON 22, JULY,
15 AND HE WAS ARRESTED ON 10, AUGUST, AND PUT IN JAIL, AND
16 HE THOUGHT BACK --- WHAT HAPPENED TO ME, AND HE COULD
17 REMEMBER WHAT HE DID THE WEEKEND BEFORE THAT BECAUSE HE
18 WENT TO WAL-MART TO GET A DRUG TEST TO SEE IF HE COULD
19 GET A JOB, AND HE KNEW THE WEEKEND BEFORE THAT WAS THE
20 WEEKEND ALL THIS WAS SUPPOSED TO HAPPEN.

21 HE TOLD YOU THAT HE GAVE PERMISSION FOR THEM TO
22 SEARCH HIS HOUSE, AND THEY SEARCHED HIS HOUSE AND NOTHING
23 WAS FOUND. HE SAID THEY SEARCHED UNDER THE HOUSE AND IN
24 THE ATTIC, THE WHOLE HOUSE AND THE YARD, AND NOTHING WAS
25 FOUND.

1 SANDRA PREWITT, OF COURSE, LOVES HER SON --- LOVES
2 ALL HER CHILDREN, SO DOES GARY PREWITT. THEY CAME IN AND
3 SAID, WELL, WE KNOW ON THAT MORNING, SOMEWHERE AROUND
4 10:30 OR SO, WE WERE AT THEIR HOUSE ON THE WAY TO PICK
5 HER CHECK UP WHERE SHE WORKED, AND SHE KNOWS THAT HER SON
6 WAS THERE, HIS WIFE WAS THERE, THE TWO CHILDREN WERE
7 THERE, HER GRANDCHILDREN, AND THEY GAVE HER A PIECE OF
8 CAKE, AND WHEN THEY LEFT, THEY DIDN'T NOTICE ANYTHING
9 UNUSUAL. THAT WAS SANDRA PREWITT. THAT WAS GARY PREWITT
10 --- HIS MOTHER AND HIS FATHER.

11 IT'S NOT THAT EASY SOMETIMES TO REMEMBER WHAT YOU DO
12 EVERY DAY. I AM PROBABLY ONE OF THE VERY FEW PEOPLE CAN
13 YOU TELL YOU WHAT I DID 30 YEARS AGO, BECAUSE I'VE
14 WRITTEN A DIARY EVERY DAY SINCE I WAS A VERY YOUNG
15 TEENAGER. JUDGE BLEASE TALKED ME INTO WRITING A DIARY
16 EVERY DAY, AND I HAVE USED IT MANY TIMES TO TESTIFY ALL
17 OVER THE WORLD, AND I'VE HAD JUDGES SAY, HOW CAN YOU SAY
18 WHAT YOU DID THREE YEARS AGO ON THAT DATE, AND I HAND UP
19 THE DIARY AND SAY, I HAVE EVERY DAY OF MY LIFE WRITTEN
20 DOWN, AND I CAN TELL YOU WHAT I DID, BECAUSE I CAN
21 REFRESH MY MEMORY.

22 MY CLIENT DOESN'T KEEP A DIARY, BUT HE REFRESHED HIS
23 MEMORY BY GOING THREE WEEKS BACK AND REMEMBERING WHAT HE
24 DID ON THAT DAY, AND HIS MOTHER AND FATHER REFRESHED
25 THEIR MEMORY BY GOING BACK, AND SO, THAT WAS ALL THEY

1 HAD. SO, WHEN YOU ARE ACCUSED AND WHEN YOU ARE ARRESTED
2 AND WHEN YOU'RE TAKEN IN, AND THAT'S ALL YOU HAVE, YOU
3 GET ON THE STAND AND SAY, THAT'S ALL I HAVE.

4 IF I WERE ON THE JURY, AND I'VE NEVER SERVED ON A
5 JURY, I WOULD BE INTERESTED IN THIS CASE BY THE NUMBER OF
6 THINGS THAT ARE NOT HERE. IF YOU'LL JUST LET ME TELL YOU
7 IN JUST A VERY FEW MINUTES.

8 WE HAVE NO FINGER PRINTS IN THIS CASE AT ALL. HE
9 TESTIFIED HE WAS FINGER PRINTED, PALM PRINTED, YOU NAME
10 IT. NO FINGER PRINTS AT ALL IN THIS CASE. THERE'S NO
11 HANDGUN IN THIS CASE THAT WAS USED TO SHOOT JOE. THERE
12 IS NO GREEN CAR IN THIS CASE THAT WE CAN FIND. THERE IS
13 NO SECOND SUSPECT IN THIS CASE THAT'S BEEN ARRESTED. WE
14 DON'T KNOW WHO THE MYSTERIOUS GUY WAS WEARING THE GREEN
15 CAP. AND WHEN ONE OF OUR WITNESSES SAID SHE SAW THE CAR
16 GO BY WITH TWO WHITE BOYS IN IT, SHE DIDN'T MENTION THAT
17 THEY HAD ON A GREEN CAP. SHE COULD TELL THEY WERE WHITE
18 BOYS, BUT THEN THE GREEN CAP COMES UP.

19 WE HAVE --- WE DO NOT HAVE A SECOND SUSPECT. I
20 THINK IT'S ALSO INTERESTING --- WE NEVER HAVE AN
21 ADMISSION IN THIS CASE. FROM DAY ONE, LANEY HAS SAID, I
22 DON'T KNOW THE PEOPLE. I HAVE NEVER BEEN IN THAT HOUSE.
23 I DON'T EVEN KNOW WHERE THAT HOUSE IS. I DIDN'T EVEN
24 KNOW THAT ROAD WENT DOWN THAT FAR, BUT I WASN'T THERE,
25 AND HE HAS CONSISTENTLY TO THIS DAY SAID, I AM INNOCENT.

1 THERE WAS NO REAL LINE UP. AND THEY SAID HE HAD A
2 HAT ON THAT DAY. THEY SAID HE HAD HAIR ON HIS FACE THAT
3 DAY. YET, TODAY, THEY SAY, I'VE NEVER SEEN HIM BUT THAT
4 ONE TIME. THAT'S MS. SHIPES, AND THAT'S JOE. I'VE SEEN
5 HIM ONE TIME IN MY LIFE. MS. SHIPES SAID HE WAS OUTSIDE
6 HER BACK DOOR, AND I SAW HIM, AND JOE SAYS, HE SHOT ME,
7 AND I SAW HIM. NEITHER ONE OF THEM SAID THAT THEY KNEW
8 HIM BEFORE THAT, AND NEITHER ONE OF THEM HAD SEEN HIM,
9 THEY SAY, FROM THEN UNTIL TODAY IN COURT. VERY
10 INTERESTING THAT THEY ARE SO SURE THAT THAT'S THE RIGHT
11 MAN, EVEN THOUGH AT THE TIME THEY'RE SAYING THE GUY HAD
12 ON A HAT --- HAD FACIAL HAIR.

13 SO, THE FACT THAT THEY SHOWED THEM SOME PICTURES AND
14 SAID, LOOK AT THESE AND SEE IF YOU CAN PICK THEM OUT, AND
15 I BELIEVE THEY SAID JOE LOOKED AT THEM A FEW MINUTES ---
16 THAT THEY SAID MS. SHIPES LOOKED AT THEM ABOUT FIVE
17 MINUTES, AND THEN SHE PICKS OUT NUMBER ONE AND SAID,
18 THERE HE IS UP THERE.

19 A LOT HINGES ON IDENTITY. I DON'T THINK VERY MANY
20 PEOPLE LOOK LIKE ME, BUT THE MOST AMAZING THING IS YOU
21 CAN GO TO GERMANY, AND THERE'S A LOT OF PEOPLE LOOK LIKE
22 ME DOWN IN BAVARIA, BECAUSE I LOOK VERY GERMAN. I DIDN'T
23 KNOW HOW GERMAN I LOOKED UNTIL I WENT OVER THERE AND THEY
24 STARTED TALKING GERMAN TO ME WHEN I WALKED DOWN INTO
25 MUNICH.

1 I DON'T SEE THAT MANY PEOPLE THAT LOOK LIKE ME
2 AROUND HERE, BUT I THINK THERE MIGHT BE A LOT MORE PEOPLE
3 THAT LOOK LIKE GARY PREWITT AROUND HERE. HE IS NOT THE
4 TYPE OF PERSON THAT STANDS OUT IN THE CROWD. SOME PEOPLE
5 STAND OUT IN A CROWD AND SOME PEOPLE DON'T. I THINK I
6 STAND OUT IN A CROWD BASED ON THE NUMBERS OF PEOPLE THAT
7 TELL ME THEY HAVE SEEN ME SOMEWHERE THAT I'VE BEEN, AND
8 I DON'T REMEMBER SEEING THEM, BUT ALL PEOPLE DON'T STAND
9 OUT IN A CROWD. MAYBE GARY PREWITT DIDN'T, BUT IF YOU
10 WILL JUST THINK AND DISCUSS AMONG YOURSELVES WHAT IF ---
11 WHAT IF SOMEONE GOT ACCUSED LIKE THIS AND THEY CAME IN
12 AND TOLD YOU ALL THEY HAD, TOLD YOU VERY FRANKLY THEY'VE
13 BEEN IN JAIL? THEY COULDN'T GET OUT AND INVESTIGATE THE
14 CASE THEMSELVES --- TOLD YOU VERY FRANKLY THAT, IT JUST
15 WASN'T ME.

16 WHAT YOU HAVE HERE IS THAT POSSIBILITY OF A MISTAKEN
17 IDENTITY WHERE FOR SOME REASON TWO PEOPLE SAID I NEVER
18 SAW HIM BEFORE THAT DAY. I NEVER SAW HIM AGAIN UNTIL
19 TODAY, BUT THERE HE IS OVER THERE. THAT'S WHAT WE HAVE
20 HERE. IT'S A QUESTION OF WHETHER YOU BELIEVE THAT PROVES
21 THIS CASE BEYOND A REASONABLE DOUBT OR NOT.

22 AND I WOULDN'T BE SURPRISED IF EVERY ONE OF YOU
23 DON'T HAVE A SLIGHT DIFFERENT OPINION OF WHAT THE
24 EVIDENCE SHOWS YOU, BUT I CERTAINLY JUST WANT ALL OF YOU
25 TO THINK ABOUT IT AND DECIDE IN YOUR HEART WHETHER YOU

1 THINK THE STATE'S PROVED THIS CASE BEYOND A REASONABLE
2 DOUBT. AND THE POSITION OF MY CLIENT IS THAT THEY DIDN'T
3 PROVE IT BEYOND A REASONABLE DOUBT, BECAUSE HE DIDN'T DO
4 IT. THAT'S HIS POSITION. THAT'S WHAT HE TOLD YOU, AND
5 THAT'S WHAT HE HOPES THAT YOU'LL BELIEVE. THANK YOU.

6 THE COURT: MS. STROM?

7 MS. STROM: MAY IT PLEASE THE COURT, YOUR HONOR.

8 CLOSING STATEMENT

9 BY MS. STROM

10 LADIES AND GENTLEMEN, GARY LANE PREWITT MAY NOT
11 STAND OUT IN A CROWD. YOU MIGHT NOT RECOGNIZE HIS FACE
12 IF YOU SEE HIM IN A CROWD. YOU PASS HIS FACE IN THE
13 MALL, AND YOU MIGHT NOT RECOGNIZE HIM, BUT BY GOD, LADIES
14 AND GENTLEMEN OF THE JURY, THAT'S NOT WHAT HAPPENED.

15 WHAT HAPPENED IS, HE WENT INTO A MAN'S HOME WHERE HE
16 HAD NO BUSINESS. JOE DIXON, A NEIGHBOR, GOES OVER THERE
17 TO CHECK IT OUT. HE SEES HIM. THE MAN SHOTS HIM ONCE IN
18 THE STOMACH. HE FALLS DOWN. HE GETS SHOT TWICE IN THE
19 FACE. YOU DON'T THINK JOE DIXON IS GOING TO BE PAYING
20 ATTENTION TO WHAT THAT MAN LOOKS LIKE? HE'S NOT SEEING
21 HIM IN A CROWD. HE'S NOT SEEING HIM AT THE MALL. HE'S
22 SEEING HIM POINT THIS GUN AT HIS FACE AND SHOOTING HIM.
23 IS HIS ATTENTION MORE KEEN? IS HE A LITTLE BIT MORE
24 CONCERNED ABOUT WHAT THIS MAN MIGHT LOOK LIKE --- TRYING
25 TO TELL THE POLICE WHO SHOT ME? DOES THAT NOT MAKE MORE

1 SENSE, LADIES AND GENTLEMEN?

2 YOU MIGHT SAY, WELL, IS THAT ALL THE STATE HAS IS
3 THE WORD OF JOE DIXON. LADIES AND GENTLEMEN, I SUBMIT TO
4 YOU, FIRST OF ALL, THAT'S ENOUGH. YOU SAW MR. DIXON
5 TESTIFYING. YES, HE HAS A SPEECH IMPEDIMENT. DOES THAT
6 MAKE YOU THINK HE'S UNTRUTHFUL? GOT UP THERE AND TOLD
7 YOU WHAT HE SAW. HE SAW A MAN. HE SAW A GREEN CAR
8 COMING UP TO TINSLEY'S HOUSE --- RANDY TINSLEY'S HOUSE.
9 SAW TWO WHITE MALES. HE GOES OVER THERE. WHO ELSE
10 CORROBORATES --- SUPPORTS THAT? MS. MCGUIRT --- CHRISTY
11 MCGUIRT. SHE SEES A GREEN CAR PULL UP INTO THE YARD TO
12 THE BACK OF THE HOUSE OF RANDY TINSLEY'S, AND JOE GOES
13 OVER THERE TO CHECK IT OUT.

14 BUSTER WALKER, ABOUT 10 O'CLOCK, SEES A GREEN CAR.
15 AT THE TIME, HE DOESN'T THINK ANYTHING ABOUT IT. JUST
16 SEES A GREEN CAR GOING BY, BUT THEN AFTER THIS INCIDENT
17 HAPPENED AND HE HEARS THAT THERE WAS A GREEN CAR INVOLVED
18 HE REMEMBERS. HE REMEMBERS --- I REMEMBER SEEING A GREEN
19 CAR DRIVING SLOWLY DOWN MY ROAD. WHERE DO I LIVE? HE
20 LIVES UP THE ROAD. I THINK HE SAID BETWEEN HALF A MILE
21 AND A MILE FROM RANDY TINSLEY'S HOUSE. SEES THEM DRIVING
22 SLOWLY DOWN THE ROAD.

23 WHO ELSE SUPPORTS IT? KIMMIE SHIPES. KIMMIE SHIPES
24 IS NOT RELATED TO ANY OF THESE PARTIES, DOESN'T KNOW
25 THEM. SHE JUST LIVES UP THE ROAD FROM THEM. SHE SAID,

CLOSING STATEMENT
BY MS. STROM

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1 I WAS IN MY BED, ABOUT 10 O'CLOCK, LYING THERE. I WAS
2 AWAKE. I HEARD SOMEBODY FIDDLING AT MY BACK DOOR.
3 FIDDLING --- MEDDLING AT MY BACK PATIO DOOR. THE MAN
4 DIDN'T GO TO THE FRONT DOOR TO ASK IF EDDIE WERE HOME,
5 WHICH IS THE DOOR HE PULLED UP IN FRONT OF WHEN THEY
6 PULLED UP IN THE CAR. HE DOESN'T GO TO THE SIDE DOOR.
7 HE GOES ALL THE WAY AROUND TO THE BACK OF THE TRAILER UP
8 ON THE PATIO AND STARTS FIDDLING IN HER BACK DOOR, AND
9 HERE IS A WOMAN ALONE AT HOME. SHE GOES TO THE DOOR,
10 BECAUSE SHE HEARS SOMETHING STRANGE GOING ON AT THE BACK
11 DOOR. SHE THINKS IT MIGHT BE JUST HER NEPHEW. WHEN SHE
12 GETS THERE, WHAT DOES SHE FIND? SHE FINDS GARY --- LANEY
13 PREWITT AT HER BACK DOOR. ARE YOU SURE IT'S MR. PREWITT?
14 YES, I'M SURE. I WAS LOOKING AT HIM. SHE SAID HE HAD
15 SOME FACIAL HAIR ON HIM. HE HAD A CAP ON HIM. WHO ELSE
16 SAID HE HAD A CAP ON? JOE DIXON SAID HE HAD A CAP ON.

17 WHAT DOES HE DO AT KIMMIE SHIPES HOUSE AT THE BACK
18 PATIO DOOR? HE SAYS, IS EDDIE HOME. THE FIRST THING HE
19 DOES IS HE JUMPS BACK AND STICKS HIS HANDS IN HIS
20 POCKETS. WHY IS HE STICKING HIS HANDS IN HIS POCKETS?
21 HE'S JUST ASKING IF SOMEBODY'S HOME. WHY ARE YOU SO
22 NERVOUS? SHE SAID, YOU'VE GOT THE WRONG HOUSE. AND WHAT
23 DOES HE DO? JUST LOOK AT WHAT HE DOESN'T DO. HE DOESN'T
24 SAY, I'M SORRY, MA'AM, AND WALKS BACK AROUND. SHE SAYS
25 HE RUNS AROUND HER HOUSE AND JUMPS IN THE CAR AND THEY

1 LEAVE. AND WHAT COLOR CAR? SHE SAID SHE WASN'T SURE IF
2 IT WERE GREENISH OR BLUE. I THINK HER TERM WAS GREENISH
3 BLUE, BUT IT HAD SPOTS ON IT. IT WAS RAGGED. TWO MEN IN
4 THAT CAR. THEY LEFT HEADED UP THE ROAD.

5 LADIES AND GENTLEMEN, DOESN'T THAT SUPPORT WHAT JOE
6 DIXON TOLD YOU? WHAT BUSTER WALKER TOLD YOU? DOESN'T
7 THAT SUPPORT THAT? THIS THING ABOUT NO FINGER PRINTS ---
8 NO FINGER PRINTS. WHAT DO YOU HAVE ON THAT? WELL, FIRST
9 OF ALL, YOU HAVE KIMMIE SHIPES SAYING HE STUCK HIS HANDS
10 DOWN IN HIS POCKET. WHAT'S HE TRYING TO HIDE? IS HE
11 WEARING GLOVES? DOES HE NOT WANT THAT WOMAN TO SEE HIM
12 AT HER BACK DOOR WITH GLOVES ON, AND THAT'S WHY HE STICKS
13 THEM IN HIS POCKET?

14 AND WHO ELSE SAYS HE HAS GLOVES ON? JOE DIXON SAYS
15 HE HAS GLOVES ON? AND HOW DOES HE KNOW IT? BECAUSE THE
16 MAN IS HOLDING THE GUN SHOOTING HIM. HE'S LOOKING AT
17 THAT GUN. HE'S LOOKING AT THAT HAND. HE'S LOOKING AT
18 THE FACE OF THAT MAN AND HE SEES IT.

19 GARY PREWITT ADMITS TO YOU HE'S OUT OF WORK. THAT'S
20 NOTHING TO BE ASHAMED OF. NOTHING IN THIS WORLD TO BE
21 ASHAMED OF. BUT WHAT IS SHAMEFUL IS WHEN YOU VICTIMIZE
22 SOMEONE ELSE BECAUSE YOU'RE DOWN ON YOUR LUCK. THAT IS
23 SHAMEFUL.

24 HE AND HIS WIFE WERE OUT OF WORK STATING HE HAD
25 BILLS DUE. HE WAS SO DESTITUTE FOR MONEY THAT HE PAWNED

1 HIS OWN VCR AND HIS OWN SHOTGUN.

2 LADIES AND GENTLEMEN, I ASK YOU WHAT WERE THESE GUNS
3 DOING THERE? WHERE WERE THEY GOING? I SUBMIT TO YOU IF
4 THEY HAD GOTTEN OUT OF THAT HOUSE THEY WOULD HAVE BEEN
5 GOING TO THE PAWN SHOP, TOO.

6 LADIES AND GENTLEMEN, THERE IS NO QUESTION THIS
7 HOUSE WAS BROKEN INTO. WE ADMITTED THAT. YOU HAVE THE
8 PHOTOGRAPH SHOWING THE PRYING OPEN OF THE DOOR. WHO DID
9 IT? NO QUESTION JOE DIXON WAS SHOT THREE TIMES, TWICE
10 AFTER HE HAD FALLEN TO THE FLOOR. QUESTION IS WHO DID
11 IT.

12 WHO DID IT --- I SUBMIT TO YOU GARY LANE PREWITT.
13 THAT'S BASED UPON THE TESTIMONY THAT I WENT OVER WITH YOU
14 EARLIER. HAVE HIM IN THE AREA AROUND 10 O'CLOCK. HAVE
15 BUSTER WALKER COMMENT --- ONE COMMENT ON BUSTER WALKER'S
16 TESTIMONY. HE WAS THE ONLY PERSON WHO LOOKED AT HIS
17 WATCH. RECALL THE TESTIMONY. THE TIME, I SUBMIT TO YOU,
18 WOULD BE MORE ACCURATE FROM THE PERSON WHO LOOKED AT HIS
19 WATCH AFTER HE HAD RUN ACROSS THE STREET, SAW JOE DIXON,
20 RUNS BACK OVER TO FIND A PHONE BECAUSE HE COULDN'T FIND
21 A PHONE IN RANDY TINSLEY'S HOUSE. I BELIEVE HE SAID IT
22 WAS FIVE MINUTES UNTIL ELEVEN.

23 WHAT HAPPENED BETWEEN TEN O'CLOCK AND FIVE MINUTES
24 UNTIL ELEVEN? WHAT HAPPENED WAS GARY LANE PREWITT LEFT
25 KIMMIE SHIPES' HOME. HE LEFT HER BACK DOOR. AND IS IT

1 A COINCIDENT, LADIES AND GENTLEMEN, THAT HE IS AT KIMMIE
2 SHIPES' BACK DOOR, AND THE DOOR THAT HE GOES INTO HERE IS
3 THE BACK DOOR? HE GOES INTO THE BACK DOOR. HE'S
4 STEALING THOSE GUNS. HE'S GOTTEN THE COINS. HE'S GOTTEN
5 THE RING, AND HE'S HEADED OUT. HE'S GOT IT PACKED UP IN
6 THE KITCHEN READY TO LEAVE, AND LO AND BEHOLD, A GOOD
7 CITIZEN, A GOOD NEIGHBOR, GOES OVER THERE AND SURPRISES
8 HIM. AND WHAT DOES HE GET FOR IT? HE GETS SHOT.

9 HIS HONOR WILL TELL YOU THAT ASSAULT AND BATTERY
10 WITH INTENT TO KILL --- SOMEONE INJURES --- A VIOLENT
11 INJURY UPON ANOTHER PERSON WITH MALICE AFORETHOUGHT.
12 WHAT IS MALICE? MALICE IS EVILNESS. IT'S A HEART
13 DEPRAVED OF ANY SOCIAL DUTY OVER ONE ANOTHER --- OVER
14 SOCIETY. TO HAVE NO REGARD FOR THE RIGHTS OF OTHERS.

15 AND I SUBMIT TO YOU HE WAS DOWN ON HIS LUCK. HE WAS
16 OUT OF A JOB AND HAD BILLS COMING UP, AND HE HAD KIDS TO
17 FEED. BUT HE DISREGARDED THE RIGHTS OF OTHERS BY GOING
18 IN THAT MAN'S HOME AND ATTEMPTING TO TAKE THAT MAN'S
19 LIFE.

20 THAT'S NOT MALICE? THAT'S NOT MALICIOUS WHEN YOU
21 SHOOT A MAN AND HE FALLS DOWN, AND YOU WALK OVER TO HIM
22 AND YOU PUT THE GUN IN HIS FACE AND YOU PULL THE TRIGGER
23 TWO MORE TIMES? THAT'S NOT MALICE?

24 LADIES AND GENTLEMEN, JOE DIXON, YOU SAW HIM UP
25 THERE. SEEMS TO BE A FINE FELLOW. LET ME ASK YOU

1 SOMETHING? HAS HE EVER HURT ANYBODY? YOU THINK HE WOULD
2 HAVE HURT ANYBODY? HOW MUCH MORE MALICIOUS CAN YOU GET
3 WHEN YOU SHOOT SOMEONE, TRY TO KILL SOMEONE WHO IS
4 SHOWING NO HARM TO YOU?

5 MR. PREWITT STATED ON THE WITNESS STAND THAT THE
6 POLICE CAME DOWN THERE TO HIM --- DOWN TO HIS HOUSE LIKE
7 HE WAS A MURDERER. I SAY, THANK GOD, AND IT IS ONLY BY
8 THE GRACE OF GOD AND THE WORK OF THE MEDICAL PERSONNEL
9 THAT HE DID NOT DIE.

10 SO, I'M PROUD OF THIS LAW ENFORCEMENT FOR GOING
11 AFTER HIM LIKE HE'S A MURDERER, BECAUSE THAT'S HOW CLOSE
12 IT CAME.

13 LADIES AND GENTLEMEN, AS TO WHOSE TESTIMONY YOU
14 WOULD BELIEVE, THAT'S UP TO YOU. I WANT TO REMIND YOU OF
15 THREE THINGS. THE DEFENDANT'S MOTHER SAID SHE BELIEVED
16 HIM MOST OF THE TIME. THE DEFENDANT'S FATHER SAID HE
17 WOULD BELIEVE HIM IN A CASE LIKE THIS, BUT RECALL ---
18 THIS MAY SEEM A SLIGHT THING. HE HESITATED, AND I MADE
19 A NOTE. HE HESITATED FOR QUITE SOME TIME BEFORE HE
20 ANSWERED THAT QUESTION.

21 WHAT DID GARY LANE PREWITT SAY? IT WAS THE LAST
22 QUESTION I ASKED HIM. IS WHAT YOU'RE TELLING US HERE
23 TODAY, IS THAT WHAT YOU TOLD JERRY WRIGHT THE DAY YOU
24 WERE ARRESTED --- THE DAY YOU WERE QUESTIONED? AND HE
25 SAID, NO.

JURY CHARGE
BY THE COURT

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1 NOW, LADIES AND GENTLEMEN, I SUBMIT THERE'S ONLY ONE
2 WAY TO LOOK AT SOMEBODY WHO TELLS ONE THING ONE DAY AND
3 ANOTHER THING ANOTHER DAY. THEY'RE NOT TRUTHFUL, AND HE
4 KNEW ON THE DAY HE WAS ARRESTED HE WAS BEING ARRESTED FOR
5 ASSAULT AND BATTERY WITH INTENT TO KILL. IT WAS A
6 SERIOUS SITUATION TO BE IN. SERIOUS SITUATION HERE
7 TODAY. I SUBMIT TO YOU HE HAS NOT BEEN TRUTHFUL.

8 ONE FINAL THING AND I'M GOING TO SIT DOWN. THIS
9 LINE UP. I WANT YOU TO LOOK AT THIS LINE UP WHEN YOU
10 HAVE IT BACK THERE. I WANT YOU TO LOOK AT HOW SIMILAR
11 THESE PEOPLE LOOK. HOW SIMILAR DO THEY LOOK? WHAT DO
12 BOTH WITNESSES WHO WERE SHOWN THIS LINE UP TELL YOU?
13 NUMBER ONE. AND WHO DOES MR. PREWITT TELL US NUMBER ONE
14 IS? MR. PREWITT. THIS MAY HAVE BEEN THE ONLY TIME HE'S
15 SEEN THIS PERSON SINCE THE DAY HE WAS SHOT. HOW MANY
16 TIMES DO YOU HAVE TO SEE A MAN WHO IS GOING TO KILL YOU?

JURY CHARGE

18 BY THE COURT

19 MADAM FORELADY AND LADIES AND GENTLEMEN, IT COMES
20 NOW MY RESPONSIBILITY TO TALK TO YOU ABOUT THE LAW THAT
21 APPLIES IN THE CASE. AND THERE ARE A NUMBER OF POINTS
22 THAT I MUST MAKE. THERE ARE FOUR CHARGES I HAVE TO TALK
23 TO YOU ABOUT. SEVERAL OF THE POINTS. BEAR WITH ME. I
24 HAVE VARIOUS NOTES THAT I MAKE REFERENCE TO TO ENSURE
25 THAT I GIVE YOU THE COMPLETE LAW AND I GIVE IT TO YOU AS

JURY CHARGE
BY THE COURT

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1 CORRECTLY AS I'M ABLE TO.

2 BY THE INDICTMENT IN THIS CASE, WHICH YOU OF COURSE
3 HAVE WHEN YOU RETIRE TO DELIBERATE, THIS DEFENDANT GARY
4 LANE PREWITT IS CHARGED WITH THE CRIMES OF BURGLARY IN
5 THE FIRST DEGREE, LARCENY, ASSAULT AND BATTERY WITH
6 INTENT TO KILL AND POSSESSION OF A FIREARM DURING THE
7 COMMISSION OF A VIOLENT CRIME.

8 I REMIND YOU THAT THE INDICTMENT IS NOT EVIDENCE.
9 IT IS USED TO INITIATE CRIMINAL PROCEEDINGS. I REMIND
10 YOU THAT THE FACT THAT HE HAS BEEN INDICTED IS NOT
11 EVIDENCE TO HIS GUILT. THE CONTENTS OF THE INDICTMENT
12 ARE NOT EVIDENCE AGAINST HIM. IT IS AN ACCUSATION.
13 PLEASE REMEMBER THAT.

14 TO THE CHARGE IN THE INDICTMENT, THE DEFENDANT HAS
15 ENTERED A PLEA OF NOT GUILTY. IN OUR CONSTITUTION, UNDER
16 OUR LAW, WHEN ANY DEFENDANT ENTERS A PLEA OF NOT GUILTY
17 THE STATE THEN MUST ASSUME THE BURDEN OF PROVING HIS
18 GUILT. NO DEFENDANT IN ANY CRIMINAL PROSECUTION IS EVER
19 REQUIRED TO PROVE HIS OR HER OWN INNOCENCE. EVERY
20 DEFENDANT UNDER OUR CONSTITUTION IS PRESUMED TO BE
21 INNOCENT. AS I'VE TOLD YOU, AND I REMIND YOU, YOU AND I
22 MUST LOOK UPON THE DEFENDANT AS INNOCENT. WE MUST
23 CONSIDER HIM INNOCENT AND CONTINUE TO DO SO UNTIL AND
24 UNLESS YOU'RE SATISFIED THAT THE STATE HAS PROVED BEYOND
25 ANY REASONABLE DOUBT THAT HE IS GUILTY.

JURY CHARGE
BY THE COURT

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1 IT, OF COURSE, IS NOT REQUIRED THAT THE STATE PROVE
2 GUILT BEYOND ALL POSSIBLE DOUBT. THE TEST IS ONE OF
3 REASONABLE DOUBT, AND A REASONABLE DOUBT DOUBT IS THE
4 KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO
5 HESITATE TO ACT. IF YOU HAVE A REASONABLE DOUBT OF THE
6 GUILT OF THIS DEFENDANT, IT IS YOUR DUTY TO RESOLVE THAT
7 DOUBT IN HIS FAVOR AND ACQUIT HIM. HOWEVER, IF YOU HAVE
8 NO REASONABLE DOUBT OF HIS GUILT, YOU MAY FIND HIM
9 GUILTY, BUT NO DEFENDANT SHOULD EVER BE CONVICTED ON MERE
10 SUSPICION, MERE CONJECTURE.

11 NOW, FOLKS, I TOLD YOU SINCE MONDAY THAT IN THESE
12 CASES YOU ARE THE SOLE JUDGES OF THE FACTS. AS SUCH, YOU
13 MUST OF NECESSITY PASS UPON THE BELIEVABILITY OF THE
14 WITNESSES WHO HAVE COME HERE TO TESTIFY. IN DECIDING
15 BELIEVABILITY, YOU MAY TAKE INTO CONSIDERATION THE
16 INTEREST ONE MIGHT HAVE IN THE OUTCOME OF THIS
17 PROCEEDING. YOU MAY CONSIDER THE BIAS OF THE WITNESS,
18 THE PREJUDICE OF THE WITNESS. YOU MAY CONSIDER THE
19 DEMEANOR, THE MANNER OF THE WITNESS WHILE HERE TESTIFYING
20 BEFORE YOU.

21 I REMIND YOU AND URGE YOU TO USE YOUR COMMON SENSE,
22 USE YOUR INTELLIGENCE, USE YOUR LIFE EXPERIENCE AS YOU
23 DECIDE BELIEVABILITY AND AS YOU FIND THE TRUTH.

24 IN ADDITION, LADIES AND GENTLEMEN, OUR LAW ALLOWS TO
25 YOU, AS JUDGES OF THE FACTS, CERTAIN VERY BROAD

JURY CHARGE
BY THE COURT

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1 DISCRETIONS TO ASSIST YOU IN DECIDING BELIEVABILITY AND
2 IN FINDING THE TRUTH. UNDER SOUTH CAROLINA LAW, YOU
3 FOLKS HAVE THE RIGHT TO BELIEVE ONE WITNESS, AND YOU CAN
4 DISBELIEVE ANOTHER. YOU MAY BELIEVE A PART OF WHAT A
5 WITNESS TELLS YOU, AND YOU CAN DISBELIEVE THE REST. YOU
6 MAY BELIEVE ONE WITNESS AS OPPOSED TO MANY WITNESSES, OR
7 YOU MAY BELIEVE MANY WITNESSES AS OPPOSED TO ONE WITNESS.
8 THE ONLY LIMITATION OUR LAW PLACES ON YOUR EXERCISE OF
9 THOSE DISCRETIONS IS THAT OUR LAW REQUIRES THAT YOU
10 EXERCISE GOOD SOUND JUDGMENT IN DECIDING BELIEVABILITY
11 AND IN FINDING THE TRUTH.

12 AS JUDGES OF THE FACTS, YOU ARE, OF COURSE, ENTITLED
13 TO CONSIDER ANYTHING IN THIS CASE WHICH IN YOUR GOOD
14 JUDGMENT TENDS TO SHOW WHETHER A WITNESS IS WORTHY OF
15 BELIEF. YOU MUST DETERMINE THE BELIEVABILITY OF THE
16 WITNESSES, AND YOU MUST FIND THE TRUTH IN ALL OF THE
17 TESTIMONY AND THE EVIDENCE YOU HAVE SEEN AND HEARD, AND
18 TO THAT TRUTH, YOU MUST APPLY THE LAW THAT I WILL DISCUSS
19 WITH YOU.

20 ONE OF THE FIRST QUESTIONS YOU MUST DECIDE IN THIS
21 CASE, LADIES AND GENTLEMEN, IS THE IDENTIFICATION OF THIS
22 DEFENDANT AS THE ONE WHO COMMITTED OR PARTICIPATED IN
23 COMMITTING THE CRIME BEFORE YOU. THE STATE, AGAIN, HAS
24 THE BURDEN OF PROVING IDENTITY BEYOND A REASONABLE DOUBT.
25 YOU MUST DETERMINE WHETHER THE STATE HAS ESTABLISHED THE

1 IDENTITY OF THE DEFENDANT BEYOND A REASONABLE DOUBT. IF
2 YOU ARE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT THE
3 DEFENDANT WAS THE PERSON WHO COMMITTED OR PARTICIPATED IN
4 COMMITTING THESE CRIMES, YOU MUST FIND THE DEFENDANT NOT
5 GUILTY. YOU MUST CONSIDER THE BELIEVABILITY OF THE
6 IDENTIFICATION WITNESSES IN THE SAME WAY AS ANY OTHER
7 WITNESS. YOU SHOULD CONSIDER WHETHER THE IDENTIFICATION
8 WITNESS IS TRUTHFUL, WHETHER THE WITNESS HAD THE
9 CAPACITY, THE OPPORTUNITY, TO MAKE A RELIABLE OBSERVATION
10 ON THE MATTER COVERED BY HIS OR HER TESTIMONY, AND IF
11 AFTER CONSIDERING THE TESTIMONY YOU HAVE A REASONABLE
12 DOUBT AS TO THE ACCURACY OF THE IDENTIFICATION, YOU MUST
13 FIND THE DEFENDANT NOT GUILTY.

14 THE CHARGES IN THE CASE, LADIES AND GENTLEMEN, AS
15 I'VE TOLD YOU, ARE FOUR --- BURGLARY IN THE FIRST DEGREE,
16 LARCENY, ASSAULT AND BATTERY WITH INTENT TO KILL AND
17 POSSESSION OF A FIREARM DURING THE COMMISSION OF A
18 VIOLENT CRIME.

19 I'M GOING TO TALK TO YOU ABOUT EACH ONE OF THOSE
20 BEGINNING WITH THE BURGLARY CHARGE AND GIVE YOU THE
21 ELEMENTS AND TELL YOU WHAT THE STATE MUST PROVE, AND THEN
22 IT WILL BE YOUR DETERMINATION WHETHER THE EVIDENCE YOU
23 HAVE HEARD SATISFIES THE ELEMENTS OF THESE CRIMES.

24 LET ME FIRST READ TO YOU THE STATUTE LAW ON THE
25 CRIME OF BURGLARY IN THE FIRST DEGREE, AND SINCE THERE

JURY CHARGE
BY THE COURT

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1 ARE SEVERAL PARTS OF IT, I'M GOING TO DISCUSS THE
2 ELEMENTS WITH YOU A LITTLE MORE INDIVIDUALLY, BUT THE
3 STATUTE READS, "A PERSON IS GUILTY OF BURGLARY IN THE
4 FIRST DEGREE IF THE PERSON ENTERS A DWELLING WITHOUT
5 CONSENT AND WITH INTENT TO COMMIT A CRIME THEREIN, AND
6 EITHER WHEN IN EFFECTING ENTRY OR WHILE IN THE DWELLING
7 OR IN IMMEDIATE FLIGHT THEREFROM, HE OR ANOTHER
8 PARTICIPANT IN THE CRIME IS ARMED WITH A DEADLY WEAPON OR
9 CAUSES PHYSICAL INJURY TO ANY PERSON WHO IS NOT A
10 PARTICIPANT IN THE CRIME OR USES OR THREATENS THE USE OF
11 A DANGEROUS INSTRUMENT OR DISPLAYS WHAT IS OR APPEARS TO
12 BE A PISTOL, REVOLVER OR OTHER FIREARM."

13 TO CONVICT, THE STATE MUST PROVE BEYOND A REASONABLE
14 DOUBT THE FOLLOWING ELEMENTS: THE STATE MUST FIRST PROVE
15 THAT THE DEFENDANT ENTERED A DWELLING WITHOUT CONSENT. A
16 DWELLING, OF COURSE, IS A BUILDING THAT IS USED ---
17 NORMALLY USED FOR SLEEPING, LIVING OR LODGING BY A
18 PERSON. THE SECOND THING THEY MUST PROVE IS THAT THE
19 DEFENDANT DID INTEND TO COMMIT A CRIME WITHIN THE
20 DWELLING, AND THEN THE STATE MUST PROVE AT LEAST ONE OF
21 THE FOLLOWING FOUR ELEMENTS: THEY MUST PROVE THAT WHILE
22 EFFECTING ENTRY INTO THE DWELLING OR WHILE IN THE
23 DWELLING OR WHILE FLEEING FROM THE DWELLING THAT THE
24 DEFENDANT WAS ARMED WITH A DEADLY WEAPON, OR THAT THE
25 DEFENDANT USED OR THREATENED TO USE A DANGEROUS

JURY CHARGE
BY THE COURT

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1 INSTRUMENT, SUCH AS A PISTOL, OR THAT THE DEFENDANT
2 CAUSES PHYSICAL INJURY TO A PERSON WHO IS NOT A
3 PARTICIPANT IN THE CRIME, OR THAT THE DEFENDANT DISPLAYS
4 WHAT IS OR APPEARS TO BE A PISTOL, REVOLVER OR OTHER
5 FIREARM. ONE OF THOSE FOUR THINGS MUST ACCOMPANY THE
6 FIRST TWO.

7 THE CHARGE OF LARCENY. LARCENY IS IN LAW DEFINED AS
8 THE TAKING AND CARRYING AWAY OF THE PERSONAL PROPERTY OF
9 ANOTHER WITH THE INTENT, WITH THE PURPOSE, OF PERMANENTLY
10 DEPRIVING THE OWNER OF THE PROPERTY. IT IS, SIMPLY,
11 STEALING. TO CONVICT, THE STATE MUST PROVE BEYOND A
12 REASONABLE DOUBT FOUR ELEMENTS. FIRST OF ALL, THAT THE
13 DEFENDANT DID TAKE AND CARRY AWAY THE PERSONAL PROPERTY
14 OF ANOTHER. AND IN THIS REGARD, I WILL TELL THAT ANY
15 REMOVAL OF THE PROPERTY OF ANOTHER, NO MATTER HOW SLIGHT
16 THAT REMOVAL MIGHT BE, IS SUFFICIENT TO ESTABLISH A
17 TAKING OF THE PROPERTY.

18 SECONDLY, THAT THE DEFENDANT DID NOT AT THE TIME
19 HAVE THE CONSENT OF THE OWNER TO TAKE THE PROPERTY.
20 THIRD, THAT HE TOOK THE PROPERTY WITH THE INTENT, THE
21 PURPOSE, OF PERMANENTLY DEPRIVING THE OWNER OF THE
22 PROPERTY. IT, OF COURSE, DOES NOT MATTER THAT THE
23 PROPERTY MAY HAVE BEEN RETURNED TO THE RIGHTFUL OWNER AT
24 SOME OTHER TIME. AND FOURTH, THEY MUST ESTABLISH THE
25 VALUE OF THE PROPERTY.

1 THE CHARGE OF ASSAULT AND BATTERY WITH INTENT TO
2 KILL. AN ASSAULT AND BATTERY WITH INTENT TO KILL IS SUCH
3 AN ASSAULT AND BATTERY THAT IF THE PERSON ASSAULTED HAD
4 DIED THE PERSON MAKING THE ASSAULT WOULD BE GUILTY OF
5 MURDER. TO CONVICT, THE STATE MUST PROVE BEYOND A
6 REASONABLE DOUBT THE FOLLOWING ESSENTIAL ELEMENTS. I'M
7 GOING TO LIST THEM FOR YOU, AND THEN I'M GOING TO DEFINE
8 THEM FOR YOU.

9 THEY MUST PROVE THAT THE DEFENDANT DID COMMIT AN
10 ASSAULT AND BATTERY. THEY MUST PROVE THAT HE DID ACT
11 WITH MALICE, AND THEY MUST PROVE THAT IT WAS HIS INTENT
12 TO KILL THE PERSON ASSAULTED.

13 SO, THE FIRST ELEMENT OF ASSAULT AND BATTERY, THE
14 STATE MUST PROVE THAT THE DEFENDANT DID COMMIT AN ASSAULT
15 AND BATTERY UPON THE VICTIM. AN ASSAULT, LADIES AND
16 GENTLEMEN, IS MERELY AN ATTEMPT WITH FORCE OR VIOLENCE TO
17 DO BODILY HARM TO THE PERSON OF ANOTHER WHERE THERE IS
18 THE ABILITY TO COMPLETE THE ATTEMPT, SUCH AS WHEN I MIGHT
19 STRIKE AT YOU BUT NOT TOUCH YOU. A BATTERY IS THE ACTUAL
20 AND UNLAWFUL TOUCHING OF ANOTHER, HOWEVER SLIGHT THAT
21 TOUCHING MAY BE.

22 SECONDLY, THE STATE MUST PROVE THAT THE DEFENDANT
23 ACTED WITH MALICE AFORETHOUGHT IN COMMITTING THE ASSAULT
24 AND BATTERY. MALICE IS THE INTENTIONAL DOING OF A
25 WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN

1 INTENT TO INFLICT INJURY. MALICE AFORETHOUGHT IS THE
2 DELIBERATE AND WELL FORMED PURPOSE TO DO THE UNLAWFUL
3 ACT. AFORETHOUGHT MEANS SIMPLY THAT THE INTENTION TO DO
4 THE UNLAWFUL ACT WAS CONCEIVED OR PLANNED SOMETIME BEFORE
5 THE ACTUAL COMMISSION OF THE UNLAWFUL ACT. THE MALICE,
6 OF COURSE, NEED NOT EXIST FOR ANY PARTICULAR LENGTH OF
7 TIME PRIOR TO THE ACT.

8 MALICE, LADIES AND GENTLEMEN, MAY BE EXPRESS OR IT
9 MAY BE INFERRED FROM THE CIRCUMSTANCES. MALICE IS SAID
10 TO BE EXPRESS WHEN THERE IS MANIFESTED A VIOLENT
11 DELIBERATE INTENTION TO DO AN UNLAWFUL ACT. MALICE MAY
12 BE INFERRED WHERE ONE INTENTIONALLY AND DELIBERATING DOES
13 AN UNLAWFUL ACT WHICH HE OR SHE KNOWS TO BE WRONG AND IN
14 VIOLATION OF HIS DUTY TO ANOTHER. MALICE MAY BE INFERRED
15 WHERE NO EXCUSE OR LEGAL PROVOCATION FOR THE ACT APPEARED
16 AND WHEN CIRCUMSTANCES ATTENDING THE ACT SHOW AN
17 ABANDONED HEART OR A MALIGNANT HEART FATALLY BENT UPON
18 MISCHIEF.

19 THE COURT: YOUNG MAN, YOU BETTER STAY IN HERE WITH
20 ME. DON'T GO OUTSIDE YET.

21 THE LAW SAYS, LADIES AND GENTLEMEN, THAT IF ONE
22 INTENTIONALLY COMMITS THE UNLAWFUL ACT WITH A DEADLY
23 WEAPON THAT THE INFERENCE OF MALICE MAY ARISE. AND A
24 PISTOL, OF COURSE, IS A DEADLY WEAPON. SO, MALICE MAY BE
25 INFERRED FROM THE USE OF A DEADLY WEAPON. YOU ARE

JURY CHARGE
BY THE COURT

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1 PERMITTED TO INFER MALICE FROM THE CONDUCT OF A DEFENDANT
2 IN THE USE OR HANDLING OF A DEADLY WEAPON IF SUCH CONDUCT
3 RESULTS DIRECTLY IN THE ACTS COMMITTED AND IF SUCH
4 CONDUCT WAS SO INEXCUSABLE, SO AGGRAVATED AND GROSSLY
5 RECKLESS, AS TO SHOW AN ACTUAL INTENTIONAL DISREGARD OF
6 THE CONSEQUENCES TO HUMAN LIFE. A CONDUCT SUFFICIENT TO
7 SHOW A DELIBERATE INTENTIONAL DESIGN TO USE OR HANDLE A
8 DEADLY WEAPON AS TO ENDANGER THE LIFE OF ANOTHER WITHOUT
9 JUST CAUSE OR EXCUSE IS SUFFICIENT TO RAISE AN INFERENCE
10 OF MALICE.

11 IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT
12 SUFFICIENT TO RAISE THIS INFERENCE OF MALICE FROM THE USE
13 OF A DEADLY WEAPON TO YOUR SATISFACTION, THIS INFERENCE
14 WOULD BE, SIMPLY, AN EVIDENTIARY FACT TO BE TAKEN INTO
15 CONSIDERATION BY YOU ALONG WITH THE OTHER EVIDENCE IN
16 THIS CASE BEARING ON THE QUESTION OF MALICE, AND YOU MAY
17 GIVE THIS INFERENCE SUCH WEIGHT AS YOU DETERMINE IT
18 SHOULD RECEIVE. AND FINALLY, THE STATE MUST PROVE THAT
19 IT WAS THE DEFENDANT'S INTENT, IT WAS HIS PURPOSE TO KILL
20 THE VICTIM.

21 AND THE FINAL CHARGE --- POSSESSION OF A FIREARM IN
22 THE COMMISSION OF A VIOLENT CRIME. SOUTH CAROLINA LAW
23 PROVIDES THAT IT IS UNLAWFUL FOR ANY PERSON TO POSSESS A
24 FIREARM OR VISIBLY DISPLAY WHAT APPEARS TO BE A FIREARM
25 DURING THE COMMISSION OF A VIOLENT CRIME, AND THE PERSON

JURY CHARGE
BY THE COURT

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1 IS CONVICTED OF COMMITTING OR ATTEMPTING TO COMMIT A
2 VIOLENT CRIME.

3 TO CONVICT, THE STATE MUST PROVE BEYOND A REASONABLE
4 DOUBT THE FOLLOWING ELEMENTS: THEY MUST PROVE THAT THE
5 DEFENDANT DID ON JULY 22, 1994, POSSESS A FIREARM OR
6 VISIBLY DISPLAY WHAT APPEARED TO BE A FIREARM. THEN THEY
7 MUST PROVE THAT THE POSSESSION OR DISPLAY OCCURRED AT
8 SOME TIME DURING THE COMMISSION OF A VIOLENT CRIME. AND
9 UNDER OUR LAW, ASSAULT AND BATTERY WITH INTENT TO KILL
10 AND BURGLARY IN THE FIRST DEGREE ARE BOTH CLASSIFIED AS
11 VIOLENT CRIMES.

12 AND FINALLY, TO CONVICT FOR THIS CRIME, THE
13 DEFENDANT MUST ACTUALLY BE CONVICTED OF COMMITTING THE
14 VIOLENT CRIME I'VE DISCUSSED WITH YOU, AND THAT'S THE LAW
15 AS APPLIES TO THE ELEMENTS AND THE CRIMES INVOLVED IN THE
16 CASE.

17 NOW, IN THIS CASE, EVIDENCE HAS BEEN INTRODUCED THAT
18 THE DEFENDANT WAS NOT PRESENT AT THE TIME AND THE PLACE
19 OF THE COMMISSION OF THIS CRIME AND KNEW NOTHING OF THE
20 CRIME FOR WHICH HE IS HERE ON TRIAL. UNDER SOUTH
21 CAROLINA LAW, WHEN ONE WHO WAS NOT AT THE PLACE WHERE A
22 CRIME WAS COMMITTED AT THE TIME OF ITS COMMISSION IS
23 LATER CHARGED WITH HAVING BEEN PRESENT AND HAVING
24 COMMITTED OR TAKEN PART IN COMMITTING A CRIME, HIS
25 ABSENCE FROM THE SCENE OF THE CRIME IS A COMPLETE

1 DEFENSE. IT IS THE DEFENSE WE CALL ALIBI. THE STATE
2 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
3 WAS AT THE PLACE OF THE COMMISSION OF THE ALLEGED CRIME
4 AT THE TIME CLAIMED IN THE INDICTMENT, AND IF YOU HAVE A
5 REASONABLE DOUBT ARISING FROM THE TESTIMONY OR LACK OF
6 TESTIMONY THAT THE DEFENDANT WAS AT THE PLACE OF THE
7 COMMISSION OF THE ALLEGED CRIME AT THE TIME CLAIMED IN
8 THE INDICTMENT, THEN YOU MUST RESOLVE THAT DOUBT IN HIS
9 FAVOR AND ACQUIT HIM.

10 AND THAT'S THE ENTIRETY OF THE LAW, LADIES AND
11 GENTLEMEN, THAT I DISCERN APPLIES IN THE CASE. AS YOU GO
12 TO YOUR DELIBERATIONS, I WOULD REMIND YOU THAT YOU HAVE
13 NO PERSONS TO WHOM TO SHOW FAVOR, NONE TO WHOM TO SHOW
14 DISFAVOR, AND AGAIN, I IMPRESS UPON YOU THE
15 RESPONSIBILITY OF BEING ULTIMATELY FAIR IN THE DECISIONS
16 YOU ARE CALLED UPON TO MAKE.

17 AND THE VERDICT YOU'LL RETURN IN THIS CASE ON EACH
18 COUNT MUST BE UNANIMOUS. YOU ALL 12 MUST BE IN AGREEMENT
19 TO THE VERDICT.

20 ON THE INDICTMENT, MADAM FORELADY, HERE IN THE
21 BOTTOM LEFT HAND CORNER, IS A SPACE ENTITLED VERDICT, AND
22 IN THAT SPACE, I HAVE ENTERED COUNT ONE AND A LINE, COUNT
23 TWO AND A LINE. COUNT ONE, OF COURSE, WAS THE BURGLARY
24 CHARGE. COUNT TWO IS THE LARCENY CHARGE. BENEATH THAT
25 I HAVE WRITTEN PROPERTY VALUE. THERE ENTER WHAT THE

1 EVIDENCE SATISFIES YOU WAS THE PROPERTY VALUE.

2 COUNT THREE WAS THE ASSAULT AND BATTERY WITH INTENT
3 TO KILL, AND COUNT FOUR WAS THE POSSESSION OF A FIREARM
4 IN THE COMMISSION OF A VIOLENT CRIME. AND THERE YOU WILL
5 ENTER THE VERDICT ON EACH COUNT, AND YOUR VERDICT ON EACH
6 ONE WILL BE EITHER GUILTY OR NOT GUILTY. MUST BE
7 UNANIMOUS. WHICHEVER IT IS, ENTER IT ON THE SPACE
8 CORRESPONDING TO THAT COUNT. WHEN YOU'VE COMPLETED THAT
9 FORM, SIGN YOUR NAME IN THE SPACE PROVIDED AS FORELADY.
10 THAT WILL COMPLETE YOUR RESPONSIBILITY.

11 SO, WITH THAT, FOLKS, I'LL SEND YOU TO YOUR ROOM.
12 WE'LL ASK YOU NOT TO BEGIN YOUR DELIBERATIONS UNTIL I
13 SEND IN THE INDICTMENT AND THE EXHIBITS. THERE ARE A
14 COUPLE OF MATTERS I HAVE TO TAKE UP WITH THE LAWYERS.
15 I'LL SHORTLY SEND THIS IN TO YOU. YOU CAN RETIRE. WAIT
16 A MINUTE. ONE THING.

17 MR. TAYLOR, AS THE ALTERNATE JUROR, IT WOULD HAVE
18 BEEN YOUR RESPONSIBLY TO TAKE THE PLACE OF A JUROR NOT
19 ABLE TO COMPLETE WHAT WE ASKED OF THEM. THEY LOOK LIKE
20 THEY ARE GOING TO BE ALL RIGHT. SO, AS THEY GO BACK, YOU
21 STAY HERE WITH ME. THANK YOU. YEAH, I'LL SEND ALL THAT
22 IN IN JUST A MOMENT, MADAM FORELADY.

23 (JURY GOES TO JURY ROOM.)

24 THE COURT: MR. TAYLOR, I CAN GIVE YOU AN OPTION.
25 YOU MAY EITHER BE EXCUSED WITH MY THANKS FOR YOUR TIME

1 AND YOUR ATTENTION IN THE CASE, OR YOU CAN STAY AND WAIT
2 AND SEE WHAT THE JURY DOES. I'LL LEAVE IT UP TO YOU.
3 THANK YOU KINDLY.

4 ANY EXCEPTIONS OR ADDITIONS BY THE STATE?

5 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

6 THE COURT: BY DEFENSE?

7 MR. WICKER: NONE BY DEFENSE, YOUR HONOR.

8 THE COURT: DO YOU HAVE ANY EXHIBITS? GET THE
9 EXHIBITS. HERE'S THE INDICTMENT.

10 MS. STROM: YOUR HONOR, PRIOR TO SENDING THE
11 INDICTMENT BACK, GENERALLY IN THIS COUNTY, AND I'LL DO
12 WHATEVER HIS HONOR WISHES ME TO, WE ALWAYS MAKE A COPY
13 AND TAKE OFF THE GUILTY PLEA STAMP. I WOULD BE GLAD TO
14 DO THAT.

15 THE COURT: THAT WOULD BE SATISFACTORY. AND YOU CAN
16 LOOK AT THE WRITING, MR. WICKER, I PUT ON THERE AND THE
17 VERDICT FORM. IT IS JUST EXACTLY WHAT I TOLD THE JURY.

18 MR. WICKER: WE AGREE WITH IT, YOUR HONOR.

19 THE COURT: MAKE YOUR COPY, GIVE IT TO THE CLERK,
20 AND WE'LL PUT THEM TO WORK.

21 (JURY BEGINS DELIBERATING AT 5:25 P.M.)

22 (JURY RETURNS AT 7:00 P.M.)

23 THE COURT: LADIES AND GENTLEMEN, I KNOW YOU HAVE
24 NOT REACHED A VERDICT AT THIS TIME, BUT IN VIEW OF THE
25 HOUR, I THOUGHT I WOULD INQUIRE, MADAM FORELADY, IF YOU

1 THOUGHT YOU MIGHT SOON HAVE A VERDICT?

2 FORELADY: YOUR HONOR, WE'RE CLOSER THAN WE WERE A
3 HALF HOUR AGO, BUT WE ARE STILL --- WE FEEL LIKE ---

4 THE COURT: I DON'T WANT TO PROBE INTO WHERE YOU
5 ARE.

6 FORELADY: WE FEEL THAT THERE NEEDS TO BE MORE
7 DISCUSSION.

8 THE COURT: OKAY. WOULD YOU PREFER TO DO IT
9 TONIGHT, OR WOULD YOU RATHER ADJOURN FOR THE EVENING AND
10 COME BACK IN THE MORNING AND RESUME AGAIN?

11 FORELADY: I THINK IT WOULD HELP IF WE THOUGHT ABOUT
12 IT OVERNIGHT.

13 THE COURT: ALL RIGHT. I THINK THAT'S PROBABLY A
14 WISE THING TO DO. I WILL REQUIRE AND VERY MUCH IMPRESS
15 UPON YOU THAT YOU NOT DISCUSS THE CASE WHEN YOU'RE AWAY
16 FROM US, AND PLEASE DON'T LET ANYBODY TALK TO ANY OF YOU
17 ABOUT THE CASE. IT WOULD BE SO WRONG FOR THAT TO HAPPEN.

18 I'M GOING TO ASK YOU TO BE BACK IN YOUR ROOM AT NINE
19 O'CLOCK IN THE MORNING. I HAVE A LITTLE ADDITIONAL
20 INSTRUCTION THAT I CAN GIVE YOU THEN THAT MAY BE OF HELP
21 TO YOU IN YOUR DELIBERATION, AND THEN WHEN I'M DONE WITH
22 THAT, I'LL PUT YOU BACK TO WORK WHILE I GO ON WITH THE
23 OTHER WORK THAT I HAVE TO DO. SO, THE MATTERS YOU HAVE -
24 -- YOU HADN'T WRITTEN ANYTHING DOWN?

25 FORELADY: NO, SIR.

1 THE COURT: OKAY. WELL, I'M GOING TO LET THE CLERK
2 TAKE THAT AND KEEP THAT FOR YOU UNTIL IN THE MORNING, THE
3 EXHIBITS AND THE INDICTMENT, AND THEN Y'ALL BE BACK IN
4 YOUR ROOM AT NINE O'CLOCK IN THE MORNING. I'LL SEE YOU
5 THEN. WE'LL TALK FURTHER.

6 (JURY LEAVES FOR THE DAY.)

7 THE COURT: ANY OBJECTION BY THE STATE?

8 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

9 THE COURT: BY DEFENSE?

10 MR. WICKER: NONE BY DEFENSE, YOUR HONOR.

11 THE COURT: ALL RIGHT, FOLKS. WELL, I'LL SEE YOU IN
12 THE MORNING --- NINE O'CLOCK.

13 MS. STROM: THANK YOU, YOUR HONOR.

14 (COURT ADJOURNS FOR THE DAY.)

15 (COURT RECONVENES AT 9:00 A.M.)

16 THE COURT: LADIES AND GENTLEMEN, I TRUST YOU RESTED
17 WELL AND ARE PREPARED TO RESUME THE WORK AT HAND. BEFORE
18 I MAKE SOME COMMENTS TO YOU, LET ME ASK IF DURING THE
19 EVENING RECESS ANYBODY HAS TALKED TO YOU OR TRIED TO TALK
20 TO YOU ABOUT THE CASE. HAS ANYTHING AT ALL HAPPENED
21 WHICH AFFECTS YOUR ABILITY TO BE FAIR IN THE CASE?

22 (NO RESPONSE.)

23 THE COURT: GOOD. WELL, BEFORE I SEND YOU BACK OUT,
24 LET ME MAKE THESE COMMENTS TO YOU, AND LET ME PREFACE
25 THAT BY SAYING THAT YOU ARE THE JUDGES OF THE

1 BELIEVABILITY OF WITNESSES. YOU ARE THE SEEKERS OF THE
2 TRUTH IN THIS CASE. I HAVE THE RESPONSIBILITY OF
3 DECLARING TO YOU THE LAW. I HAVE NO AUTHORITY TO TELL
4 YOU WHO I THINK YOU OUGHT TO BELIEVE. THAT RESTS
5 ENTIRELY WITHIN THE GOOD, SOUND JUDGMENT OF YOU LADIES
6 AND GENTLEMEN. SO, YOU MUST MAKE THAT DETERMINATION OF
7 WHAT IS THE TRUTH AND APPLY TO THAT THE LAW THAT I HAVE
8 GIVEN YOU.

9 NOW, LADIES AND GENTLEMEN, THE COMMENTS I WANT TO
10 MAKE TO YOU MIGHT NOT EVEN APPLY TO YOU, BUT THEY'RE
11 COMMENTS THAT I HAVE USED IN OTHER TRIALS AS I SEEK TO
12 PROVIDE SOME GUIDANCE TO YOU AS YOU TAKE UPON YOURSELVES
13 THE RESPONSIBILITY THAT YOU HAVE IN THIS CASE.

14 IT OFTENTIMES IS VERY DIFFICULT FOR TWO PEOPLE TO BE
15 IN AGREEMENT ON ANY PARTICULAR THING AND, OF COURSE,
16 CORRESPONDINGLY MORE DIFFICULT WHEN 12 OF YOU ARE BROUGHT
17 TOGETHER AND REQUIRED TO BE IN AGREEMENT ON A VERDICT,
18 AND OF COURSE, AS I'VE TOLD YOU, THE VERDICT YOU RETURN
19 IN THIS CASE MUST BE A UNANIMOUS VERDICT. YOU ALL 12
20 MUST BE IN AGREEMENT TO THAT VERDICT.

21 AT THE SAME TIME, I WOULD, OF COURSE, TELL YOU THAT
22 NO JUROR IS REQUIRED TO GIVE UP THEIR OPINION BASED ON
23 SOUND REASONING MERELY FOR THE PURPOSE OF BEING IN
24 AGREEMENT.

25 I'VE OFTEN TOLD JURIES, AND I DON'T KNOW THAT THIS

FURTHER JURY CHARGE
BY THE COURT

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1 APPLIES TO YOU, BUT I WANT TO TELL YOU ANYWAY. I'VE
2 OFTEN TOLD JURIES THAT THE JUROR WHO WOULD RENDER LESS
3 SERVICE TO NEWBERRY COUNTY AND TO THE STATE OF SOUTH
4 CAROLINA IS THE JUROR WHO MIGHT SAY, I KNOW WHAT I WANT
5 TO DO IN THIS CASE, AND WHEN AND IF YOU OTHER JURORS
6 AGREE WITH ME, THEN WE'LL WRITE A VERDICT, BUT WE WILL
7 NOT WRITE A VERDICT UNTIL YOU AGREE WITH ME. AND AS I
8 SAY, I DON'T EVEN KNOW THAT THAT APPLIES TO YOUR JURY,
9 BUT I SAY THAT TO ENGENDER IN YOU THOUGHT PROCESSES TO
10 FOCUS YOU UPON THE MOST IMPORTANT RESPONSIBILITY THAT YOU
11 HAVE AND URGE YOU TO SEEK A VERDICT IN THIS CASE.

12 IF YOU ARE NOT ABLE TO REACH A VERDICT, A MISTRIAL
13 WOULD BE DECLARED, AND WHAT THAT MEANS IS THIS --- WHAT
14 IT DOESN'T MEAN IS THIS. IT DOESN'T MEAN THAT THE CASE
15 ENDS. DOESN'T MEAN THAT IT GOES AWAY. IT MEANS, SIMPLY,
16 THAT AT PROBABLY THE NEXT TERM OF COURT THE CASE WOULD
17 AGAIN BE CALLED. IT MEANS THAT THESE SAME LAWYERS WOULD
18 COME HERE. THESE SAME WITNESSES WOULD COME HERE, AND OF
19 COURSE, THIS SAME DEFENDANT WOULD COME HERE. THEY WOULD
20 SIT BEFORE SOME JUDGE, POSSIBLY ME, BUT A CIRCUIT COURT
21 JUDGE OF SOUTH CAROLINA, AND A JURY WOULD BE SELECTED IN
22 THAT CASE, PRETTY MUCH THE SAME WAY YOU WERE. THESE
23 LAWYERS WILL MAKE COMMENTS TO THAT JURY PRETTY MUCH AS
24 YOU'VE HEARD THEM MAKE. THAT JUDGE WILL TALK TO THAT
25 JURY PRETTY MUCH AS I'VE TALKED TO YOU. SAME WITNESSES

FURTHER JURY CHARGE
BY THE COURT

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1 WILL BE CALLED. THEY'LL TESTIFY PRETTY MUCH LIKE YOU'VE
2 HEARD THEM TESTIFY. THE JUDGE IN THAT CASE WILL TELL
3 THAT JURY THE LAW PRETTY MUCH AS I'VE TOLD YOU THE LAW,
4 AND THAT JURY WILL GO TO THE ROOM WHERE YOU WILL SHORTLY
5 GO, AND THEY'LL DELIBERATE THIS CASE.

6 NOW, LET ME HASTEN TO SAY THAT I DON'T THINK ANY
7 OTHER JURY IS ANY MORE COMPETENT AND ABLE TO RESOLVE THIS
8 CASE THAN ARE THE 12 OF YOU. AND THOUGH MISTRIALS
9 HAPPEN, THEY ARE --- THEY ARE NOT SMILED UPON BECAUSE OF
10 THE DUPLICATION OF EFFORT, THE DUPLICATION OF EXPENSE,
11 AND AS I TELL YOU THAT, I DO IMPRESS UPON YOU THAT NO
12 JUROR IS REQUIRED TO GIVE UP AN OPINION BASED ON SOUND
13 REASONING MERELY FOR THE PURPOSE OF REACHING A VERDICT,
14 BUT IT IS OBVIOUSLY IMPORTANT THAT LITIGATION BE ENDED IF
15 IT CAN BE ENDED WITHOUT ANY OF YOU DOING VIOLENCE TO YOUR
16 OWN CONSCIENCE.

17 SO, WHAT I DO URGE, LADIES AND GENTLEMEN, IS THAT
18 YOU TELL OTHER JURORS HOW YOU FEEL ABOUT THE TESTIMONY,
19 THE EVIDENCE IN THE CASE AND WHY YOU FEEL AS YOU DO, AND
20 I THINK IT'S THE RESPONSIBILITY OF THE OTHER JURORS TO DO
21 THE SAME WITH YOU AS YOU 12 LADIES AND GENTLEMEN REASON
22 TOGETHER TO SEEK AND FIND THE TRUTH IN THE TESTIMONY, THE
23 EVIDENCE IN THIS CASE, AND WHEN YOU HAVE MADE THAT
24 DETERMINATION YOU WOULD APPLY TO IT THE LAW THAT I'VE
25 ALREADY TOLD YOU, AND THEN THE CASE WOULD RESOLVE, AND IT

1 WOULD BE A DECISION THAT RESTS UPON THOSE TWO PRINCIPLES
2 I TOLD YOU IN THE BEGINNING OF THE TRUTH AND THE LAW AND
3 UPON NO OTHER FOUNDATION. DO NOT PERMIT BIAS OR
4 PREJUDICE OR FAVOR OR DISFAVOR TO ENTER INTO YOUR
5 DELIBERATIONS, BUT DISPASSIONATELY FIND THE TRUTH AND
6 APPLY THE LAW THAT I'VE GIVEN YOU SO YOUR VERDICT WILL BE
7 A RIGHT VERDICT.

8 NOW, BEFORE I SEND YOU BACK, LADIES AND GENTLEMEN,
9 I'LL ASK, MADAM FORELADY, IF THERE ARE ANY POINTS OF LAW
10 THAT I DISCUSSED WITH YOU ON YESTERDAY THAT YOU FEEL
11 MIGHT BE OF BENEFIT TO THE JURY, AND I WILL SAY THAT IF
12 NOTHING COMES TO MIND RIGHT NOW THAT AS YOU GO INTO YOUR
13 JURY ROOM IF YOU CONSIDER THAT THERE ARE POINTS OF LAW
14 THAT I'VE GIVEN YOU THAT MAY BE OF HELP TO YOU, IF YOU'LL
15 SEND IN A NOTE, I'LL BRING IT BACK UP AND BRING YOU IN
16 AND RECHARGE YOU ON WHATEVER POINTS YOU MIGHT NEED. IS
17 THERE ANYTHING ELSE THAT I CAN DO FOR YOU AT THIS TIME
18 BEFORE I SEND YOU TO YOUR ROOM?

19 (NO RESPONSE.)

20 THE COURT: GO TO YOUR ROOM. RESUME DELIBERATIONS.
21 THANK YOU.

22 (JURY LEAVES THE COURTROOM TO BEGIN DELIBERATIONS AT
23 9:30 A.M.)

24 THE COURT: ANY OBJECTIONS TO MY COMMENTS?

25 MS. STROM: NO OBJECTIONS, YOUR HONOR.

1 MR. WICKER: NONE BY THE DEFENSE, YOUR HONOR.

2 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

3 MS. STROM: YOUR HONOR, IF THE EVIDENCE COULD BE ---
4 I DON'T KNOW IF THEY'VE RECEIVED THE EVIDENCE THIS
5 MORNING.

6 THE COURT: THEY ALREADY HAVE IT.

7 (NOTE FROM THE JURY AT 10:20 A.M.)

8 THE COURT: MADAM FORELADY, I GOT YOUR NOTE, AND I
9 HAVE THE LAWYERS IN TO WATCH ME TO BE SURE I DON'T DO
10 ANYTHING IMPROPER, BUT REGARDING THE PROPERTY VALUE, YOU
11 DON'T HAVE TO MAKE ANY DETERMINATION OF PROPERTY VALUE.
12 THEY HAVE AGREED THE PROPERTY VALUE IS LESS THAN A
13 THOUSAND DOLLARS. SO, YOU DON'T HAVE TO MAKE ANY
14 DETERMINATION ON THAT. OKAY.

15 (JURY RETURNS TO JURY ROOM.)

16 THE COURT: ANY OBJECTIONS TO MY COMMENTS OR THE
17 MANNER IN WHICH I RENDERED THEM TO THE JURY?

18 MR. WICKER: NONE BY THE DEFENSE, YOUR HONOR.

19 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

20 THE COURT: ALL RIGHT. THE JURY ADVISES ME THEY
21 HAVE A VERDICT. BRING THE DEFENDANT IN, PLEASE. I WILL
22 ASK THAT THE NOTE BE MARKED AND PLACED WITH THE RECORD.

23 (COURT'S EXHIBIT NUMBER ONE MARKED AND MADE A PART
24 OF THE RECORD.)

25 THE COURT: I WILL ASK THE DEPUTIES TO PLACE IN

VERDICT
BY THE JURY

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1 CUSTODY ANYBODY WHO WOULD MAKE ANY KIND OF OUTBURST.
2 THANK YOU.

3 STATE'S READY?

4 MS. STROM: STATE'S READY, YOUR HONOR.

5 THE COURT: DEFENSE?

6 MR. WICKER: DEFENSE IS READY.

7 THE COURT: ALL RIGHT. BRING THEM IN, PLEASE.

8 (JURY RETURNS TO COURTROOM AT 10:25 WITH A VERDICT.)

9 THE COURT: MADAM FORELADY, HAVE YOU REACHED A
10 VERDICT?

11 FORELADY: YES, YOUR HONOR.

12 THE COURT: WOULD YOU PASS IT UP, PLEASE MA'AM?
13 MADAM CLERK, WOULD YOU PUBLISH THE VERDICT, PLEASE?

14 VERDICT

15 CLERK OF COURT: 94-GS-36-616, THE STATE VERSUS GARY
16 LANE PREWITT. THE VERDICT OF THE JURY IS ON COUNT ONE,
17 GUILTY; COUNT TWO, GUILTY; COUNT THREE, GUILTY; COUNT
18 FOUR, GUILTY. SIGNED, "PEGGY WILSON, FORELADY."

19 MADAM FORELADY, LADIES AND GENTLEMEN, IS THIS YOUR
20 VERDICT? IF SO, PLEASE INDICATE BY RAISING YOUR RIGHT
21 HAND.

22 (ALL HANDS WERE RAISED.)

23 THE COURT: IF ANY MEMBER OF THE JURY DISAGREE WITH
24 THE VERDICT, RAISE YOUR HAND?

25 (NO HANDS WERE RAISED.)

1 THE COURT: DOES EITHER SIDE WISH TO POLL THE JURY?

2 MS. STROM: THE STATE DOES NOT REQUEST POLLING?

3 MR. WICKER: YOUR HONOR, THE DEFENSE DOES NOT, YOUR
4 HONOR.

5 THE COURT: ALL RIGHT. ANY MOTIONS, MR. WICKER?

6 MR. WICKER: I WOULD LIKE TO MAKE A MOTION FOR A
7 FINDING OF NOT GUILTY IN SPITE OF THE VERDICT, BECAUSE I
8 DON'T THINK THE EVIDENCE SHOWS BEYOND A REASONABLE DOUBT
9 THAT MY CLIENT WAS GUILTY OF EVEN BEING THERE.

10 THE COURT: THE EVIDENCE PRESENTED A FACTUAL ISSUE
11 TO BE RESOLVED BY THE JURY. THEY HAVING RESOLVED THAT
12 FACTUAL ISSUE AGAINST YOUR CLIENT, I HAVE NO AUTHORITY TO
13 SET IT ASIDE. THE EVIDENCE PRESENTED ON IDENTIFICATION
14 WAS VERY CREDIBLE. THE JURY'S VERDICT IS WELL SUPPORTED
15 BY THE EVIDENCE I HAVE HEARD DIVESTING ME OF ANY
16 AUTHORITY TO SET IT ASIDE.

17 ANY OTHER MOTIONS?

18 MR. WICKER: NONE BY THE DEFENSE, YOUR HONOR.

19 THE COURT: ANY REASON WHY SENTENCING SHOULD NOT NOW
20 BE IMPOSED?

21 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

22 MR. WICKER: NOTHING FROM THE DEFENSE, YOUR HONOR.

23 THE COURT: MR. WICKER, I WILL, OF COURSE, TELL YOU
24 THAT YOUR CLIENT IS ENTITLED TO HAVE A PRESENTENCE
25 INVESTIGATION MADE OF HIM. I THINK IT WOULD REQUIRE IT

1 IN A JURY VERDICT ALSO. DOES IT NOT?

2 MS. STROM: THEY ARE REQUIRED IN A JURY VERDICT,
3 YOUR HONOR. MY UNDERSTANDING OF THE STATUTE IS BECAUSE
4 OF THE POTENTIAL PUNISHMENT IT FALLS OUTSIDE OF THEIR
5 RANGE. HE WOULD ONLY BE ENTITLED TO ONE IF YOU ORDER
6 ONE.

7 MR. WICKER: I AGREE WITH THE STATE ON THAT, YOUR
8 HONOR. I WOULD LIKE TO, OF COURSE, CALL HIS PARENTS AND
9 HIS SISTER UP WHEN YOU SENTENCE HIM.

10 THE COURT: OH, I'LL BE GLAD TO HEAR ANYTHING THAT
11 YOU HAVE IN OFFERING MITIGATION.

12 MR. WICKER: ARE YOU READY FOR THAT?

13 THE COURT: YES, SIR.

14 MS. STROM: YOUR HONOR, DO WE NEED TO FILL OUT THE
15 SENTENCING SHEET FOR YOU?

16 THE COURT: GO AHEAD AND DO THAT. I'LL HAVE THE
17 VERDICT ATTACHED TO THE ORIGINAL DOCUMENT, OR WOULD YOU
18 PREFER THAT THE ORIGINAL INDICTMENT BE NOTED WITH THE
19 VERDICTS?

20 MR. WICKER: I WOULD JUST SOON THAT YOUR VERDICT
21 WILL BE ATTACHED, YOUR HONOR.

22 THE COURT: THAT WILL BE FINE.

23 MR. WICKER: ACTUALLY, I BELIEVE YOUR SENTENCE IS
24 WHAT I SHOULD HAVE SAID RATHER THAN VERDICT.

25 THE COURT: WELL, THE VERDICT IS ON THE COPY OF THE

1 INDICTMENT WE MADE FOR THE JURY.

2 MR. WICKER: RIGHT.

3 THE COURT: AND IF YOU HAVE NO OBJECTION, I WILL
4 ORDER THAT THE VERDICT BE ATTACHED TO THE ORIGINAL
5 INDICTMENT.

6 MR. WICKER: I WOULD RATHER THAT IT'S ATTACHED TO
7 THE ORIGINAL.

8 THE COURT: I'LL DO THAT.

9 MS. STROM: YOUR HONOR, MAY BE APPROACH?

10 THE COURT: YES, MA'AM.

11 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
12 RECORD.)

13 MS. STROM: YOUR HONOR, I HAVE HIS PRIOR CRIMINAL
14 RECORD.

15 THE COURT: ALL RIGHT.

16 MS. STROM: IN 1987, HE HAD A CONVICTION FOR SIMPLE
17 POSSESSION OF MARIJUANA. IN 1988, HE'S HAD A CONVICTION
18 FOR DRIVING UNDER THE INFLUENCE. IN 1989, YOUR HONOR, HE
19 HAD A CONVICTION FOR OPEN CONTAINER AND DRIVING UNDER THE
20 INFLUENCE, POSSESSION OF BEER BY A PERSON UNDER THE AGE
21 OF 21 AND GIVING FALSE INFORMATION. IN 1991, HE HAS A
22 CONVICTION FOR POSSESSION OF MARIJUANA SECOND OFFENSE.
23 AND ALSO ON THAT SAME DATE OF 1991, HE HAS A CONVICTION
24 FOR OPEN CONTAINER. YOUR HONOR, IN 1992, HE HAS A
25 CONVICTION FOR DRIVING UNDER THE INFLUENCE MORE THAN A

1 FIRST. IN 1992, HE HAS A CONVICTION FOR PUBLIC DRUNK.
2 THAT'S HIS PRIOR CRIMINAL RECORD, YOUR HONOR.

3 THE COURT: MR. WICKER?

4 MR. WICKER: YOUR HONOR, GARY PREWITT, WHO STANDS
5 BEFORE YOU CONVICTED, IS 25 YEARS OLD. HE'S MARRIED. HE
6 HAS A SON WHO IS THREE YEARS OLD AND A DAUGHTER WHO'S
7 FOUR YEARS OLD. HIS WIFE IS SHELLEY LONG PREWITT. SHE'S
8 23. SHE'S NOT HERE TODAY, AND I KNOW HER. SHE'S BEEN IN
9 MY OFFICE. THEY'VE BEEN MARRIED FOR FIVE YEARS.

10 THIS MAN HAS A BROTHER AND TWO SISTERS. ONE OF THE
11 BROTHERS IS HERE. ONE OF THE SISTERS IS HERE, AND OF
12 COURSE, HE HAS A MOTHER AND A FATHER WHO LOVES HIM VERY
13 MUCH. HIS PARENTS SACRIFICED TO HIRE ME. THEY HAD
14 ALREADY HIRED ANOTHER ATTORNEY BEFORE THAT, AND SO, THEY,
15 IN FACT, PAID TWO LAWYERS ON THIS CASE.

16 HE HAS BEEN INCARCERATED SINCE HE WAS ARRESTED.
17 HE'S BEEN IN SOLIDARY CONFINEMENT ON OCCASION, AND HE'S
18 TALKED TO ME ANY NUMBER OF TIMES AT THE JAIL, AND I HAVE
19 TALKED TO THE PEOPLE OUT AT THE COMPLEX, AND BASICALLY,
20 HE HASN'T CAUSED THEM ANY CONCERN. HE'S NOT CONSIDERED
21 TO BE A PERSON THAT WOULD CAUSE ANY VIOLENCE.

22 I THINK IT IS CERTAINLY OUT OF --- FROM WHAT I HAVE
23 SEEN AND HEARD ABOUT HIS MAN AND HIS PRIOR RECORD AND ALL
24 SUCH THINGS, I THINK THAT THIS OFFENSE WAS VERY OUT OF
25 TOUCH WITH HIS PERSONALITY, BECAUSE I DON'T THINK HE'S

1 THAT TYPE OF A PERSON.

2 HE'S 25 YEARS OLD. HE LOVES HIS CHILDREN. HE LOVES
3 HIS PARENTS. HE WOULD LIKE TO MAKE SOMETHING OUT OF
4 HIMSELF. HE TOLD ME WHEN I LEFT HIM LAST NIGHT THAT HE
5 WAS GOING TO PRAY ALL NIGHT. HIS PARENTS WERE GOING TO
6 PRAY ALL NIGHT. HE TOLD ME THIS MORNING HE HAD BEEN
7 PRAYING ALL NIGHT. HIS MOTHER SAID THAT SHE AND HER
8 HUSBAND HAD BEEN PRAYING ALL NIGHT.

9 BASICALLY, I JUST WANT YOU TO KNOW THAT I THINK
10 THERE IS HOPE FOR THIS GUY AFTER HE IS REHABILITATED, AND
11 I HAVE CONFIDENCE IN HIM IN TURNING OVER A NEW LEAF AND
12 MAKING SOMETHING OUT OF HIMSELF, BECAUSE THIS IS PROBABLY
13 THE SHOCK IN HIS LIFE THAT HAS MADE HIM STOP AND THINK,
14 AND I THINK THE FACT HE'S BEEN IN JAIL --- HE'S BEEN
15 THINKING. HE'S BEEN TALKING TO ME. I'VE BEEN TRYING TO
16 ENCOURAGE HIM TO TURN OVER A NEW LEAF AND TO MAKE
17 SOMETHING OUT OF HIMSELF FOR HIS CHILDREN IF FOR NOBODY
18 ELSE. HE'S PROMISED ME HE'LL DO THAT. I BELIEVE HE
19 MEANS TO DO THAT, AND I DO REPRESENT HIS FAMILY, WHO I
20 KNOW VERY WELL AS WELL, AS GARY. THAT'S ALL WE HAVE,
21 YOUR HONOR.

22 THE COURT: MR. PREWITT, IS THERE ANYTHING YOU WOULD
23 LIKE TO TELL ME BEFORE I IMPOSE SENTENCING?

24 MR. PREWITT: I DIDN'T DO IT. I SWEAR ON MY LIFE I
25 DID NOT DO IT. I DIDN'T DO IT.

1 THE COURT: WELL, LET ME JUST SAY FOR THE RECORD
2 THAT I'VE BEEN HERE AS HAS THE JURY. I'VE HEARD THE SAME
3 TESTIMONY THEY HAVE. THEY DIDN'T AGREE WITH YOU, NOR DO
4 I. YOUR PROTESTATIONS AT THIS POINT IN TIME ARE SIMILAR
5 TO MANY SUCH PROTESTS I HAVE SEEN AFTER A RENDERING OF A
6 PROPER VERDICT OF GUILTY.

7 I WILL TELL YOU, SIR, THAT YOU DO HAVE A RIGHT TO
8 APPEAL THIS DECISION TO THE SOUTH CAROLINA SUPREME COURT.
9 I DO NOT SUGGEST THAT YOU HAVE ANY BASIS FOR AN APPEAL,
10 MERELY THAT YOU HAVE THAT RIGHT.

11 DO YOU UNDERSTAND THAT RIGHT?

12 MR. PREWITT: DON'T HAVE A BASIS. WHAT'S THAT MEAN?

13 THE COURT: THAT MEANS I DON'T THINK THERE'S ANY
14 MERIT AT ALL TO IT. YOU'RE ENTITLED TO APPEAL. DO YOU
15 UNDERSTAND?

16 MR. PREWITT: YES, SIR.

17 THE COURT: IF YOU WISH TO APPEAL, IF YOU TELL YOUR
18 LAWYER, HE WILL SEE TO THE FILING OF A NOTICE OF APPEAL.
19 DO YOU UNDERSTAND?

20 MR. PREWITT: YES, SIR.

21 THE COURT: ANYTHING ELSE YOU WOULD LIKE TO TELL ME?

22 MR. PREWITT: PLEASE BE LENIENT.

23 SENTENCE

24 THE COURT: ON THE INDICTMENT 94-616, BEGINNING WITH
25 THE LARCENY CHARGE, IT HAVING BEEN STIPULATED THAT THE

1 VALUE OF THE PROPERTY WAS LESS THAN A THOUSAND DOLLARS.
2 THE EVIDENCE SUPPORTS THAT. THE LAW MANDATES THAT I
3 SENTENCE YOU AS REQUIRED IN THE MAGISTRATE'S COURT, AND
4 I ORDER THAT YOU BE CONFINED FOR 30 DAYS.

5 THE CHARGE OF ASSAULT AND BATTERY WITH INTENT TO
6 KILL --- THE SENTENCE OF THE COURT IS THAT YOU BE
7 CONFINED TO THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
8 FOR 20 YEARS.

9 SAME INDICTMENT, POSSESSION OF A FIREARM IN THE
10 COMMISSION OF THIS CRIME, THE SENTENCE IS CONFINEMENT FOR
11 FIVE YEARS.

12 BURGLARY IN THE FIRST DEGREE, ONE OF THE MOST
13 HEINOUS CRIMES ON OUR BOOKS, THE SENTENCE OF THE COURT IS
14 THAT YOU BE CONFINED TO THE SOUTH CAROLINA DEPARTMENT OF
15 CORRECTIONS FOR THE TERM OF YOUR LIFE.

16 THANK YOU AND GOOD LUCK TO YOU.

17 MS. STROM: THANK YOU, YOUR HONOR.

18 *****END OF TRANSCRIPT*****

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March 17, 2011

KH During the trial period of Gary Lane Previtt,
KH I felt a lot of pressure from myself and
KH the community in which I grew up in to
KH do the right thing and help law enforcement.
KH During that period I was not taking my
KH medication and was mentally unstable. If
KH someone had suggested or incriminated who
KH I was supposed to identify, I would have
KH tried to do my best to please that
KH individual. Whether that be my father,
KH law enforcement, or anyone else at
KH the time. Today, I am on my medication
KH and have been since I have been in
KH the Department of Corrections. I feel
KH that I am in a much better place
KH today to say whether that was or was
KH not Mr. Previtt. I would not be able
KH to say today that that was Mr. Previtt
KH at my back door with another unidentified
KH male. The vehicle that drove away from my
KH house that day was a dull color with rust
KH spots. During that point in time, I was
KH having hallucinations and was not mentally
KH stable. Attached to this statement is a
KH copy of Dr. Harold C. Morgan, M.D. evaluation
KH of me. At this time. I cannot recall

K# that I would testify to the same facts
K# as I did at the trial of Cary Lane Prewitt
K# These statements were given freely and voluntarily.

3-17-11

Date

Kimberly S. Heaton

Kimberly Shipes Heaton

3/17/11

Date

Pete G. Scidmore

Pete G. Scidmore

3-17-11

Date

Nicholas P. Edwards

Nicholas P. Edwards

HAROLD C. MORGAN, M.D.
CONSULTANT IN GENERAL AND FORENSIC PSYCHIATRY

116 BLANDING STREET, SUITE 2-A
COLUMBIA, SOUTH CAROLINA 29201

May 5, 1998

FAX 864-833-4587

TEL PHON
1803) 256-050
FAX (803) 771-7071

Claude H. Howe, III, Esq.
509 North Broad Street
Clinton, South Carolina 29325

Re: Kimmie Lee Heaton

Dear Mr. Howe:

Based upon psychiatric examination and psychological testing here and review of prior medical records it is my conclusion that your client has a serious mental illness.

The medical records show that she was first seen at the local mental health center on May 30, 1991. On June 8, 1991 she was admitted to the Marshall Pickens Psychiatric Hospital with severe depression with suicidal ideas as well as hearing voices. She was treated with appropriate medication, Prozac and Trilafon. After three weeks as an inpatient she was discharged for follow-up in the local mental health center but she did not respond well to outpatient treatment. On September 20, 1991 she was again admitted to the Marshall Pickens Hospital with worse depression, more hallucinations and more suicidal thoughts. On September 28, 1991 she was transferred to the William S. Hall Psychiatric Institute where she remained until November 15, 1991. Her diagnosis there was Major Depression with psychotic features. After release from the Hall Institute she was followed at the mental health center until she dropped out of treatment in 1993.

Examination here on December 12, 1997 revealed depression as the most obvious clinical feature. However, psychological testing with the Personality Assessment Inventory and the Minnesota Multiphasic Personality Inventory (MMPI) revealed more peculiarities in her thinking, impairment in judgement and magical thinking or delusional ideas. In short, her contact with reality is fragile.

It should be noted that this young woman's early life was chaotic. She was the product of rape but was subsequently adopted when her mother married Mr. Shipes. That marriage was unstable; the patient recalls lots of fights between her parents and when she was a teenager her mother abandoned the family. The record shows that her mother also has a long history of psychiatric illness.

A TRUE COPY OF ORIGINAL *for*

Barbara T. Wasson

BARBARA T. WASSON
Lancaster County CCCP & C.

Page -2- Kimmie Lee Heaton 5-5-98

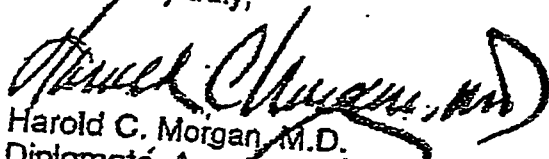
In summary, this defendant has a chronic mental illness, which requires treatment with antidepressants and antipsychotic medication. At the time of the incident she was not being treated. As a consequence her thinking, judgement and behavior were significantly impaired.

Ms. Heaton is intelligent and insightful. Whatever the outcome of her legal charges she needs continued treatment with medication and counseling. If this can be provided in a stable, consistent environment she can become a productive citizen.

I hope that this information will be helpful; if you have questions please contact me.

Thank you for asking me to see your client and please accept my best personal wishes.

Yours very truly,



Harold C. Morgan, M.D.
 Diplomate, American Board of Psychiatry and Neurology
 Diplomate, American Board of Forensic Psychiatry
 Clinical Professor of Psychiatry
 University of South Carolina School of Medicine

HCM/jg

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ANGIE D KNIGHT +*

*Managing Member

+Also Member of the Georgia Bar

843 492 5422 (MAIN)

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info@grandstrandlawgroup.com

SEPTEMBER 16, 2014

Clerk of the South Carolina Court of Appeals

P.O. Box 11629

Columbia, South Carolina 29211

Re: State of South Carolina v. Gary Lane Prewitt
Appellate Case No. 2013-001728

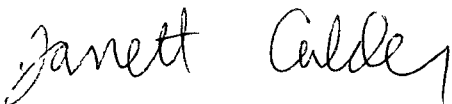
To Whom It May Concern:

Enclosed you will find the following:

- 1) Fourteen (14) bound copies of Appellant's Record on Appeal (Parts One and Two);
- 2) One (1) unbound copy of Appellant's Record on Appeal (Parts One and Two),
- 3) Certificate of Counsel; and
- 4) Proof of Service

If you need my assistance or have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Jarrett S. Calder, Esq.

GRAND STRAND LAW GROUP, LLC

Enclosures

RECEIVED

SEP 17 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Newberry County Court of General Sessions
Honorable Clifton B. Newman, Circuit Court Judge

RECEIVED
SEP 17 2014
SC Court of Appeals

Appellate Case No. 2013-001728

THE STATE

Respondent

vs.

GARY LANE PREWITT

Appellant

PROOF OF SERVICE

I certify that I have served fourteen (14) bound copies and one (1) unbound copy of Appellant's Record on Appeal-Part One and Appellant's Record on Appeal-Part Two, along with the Certificate of Counsel and this Proof of Service on the Clerk of the South Carolina Court of Appeals, by depositing a copy via United States Mail, postage prepaid, on September 16, 2014, addressed to the following:

Clerk of the South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211


Jarrett S. Calder, Esq.
Angie D Knight, Esq.
P.O. Box 3237
Myrtle Beach, SC 29578
(843) 492-5422
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Newberry County Court of General Sessions

Honorable Clifton B. Newman, Circuit Court Judge

Appellate Case No. 2013-001728

RECEIVED
SEP 17 2014
SC Court of Appeals

State of South Carolina,

Respondent,

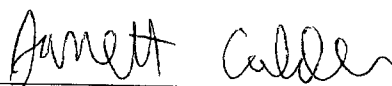
v.

Gary Lane Prewitt,

Appellant.

CERTIFICATE OF APPELLANT'S COUNSEL

The undersigned certifies that the Record on Appeal complies with Rules 210 and 267, SCACR


Jarrett S. Calder, Esq
Angie D. Knight, Esq.
P.O. Box 3237
Myrtle Beach, SC 29578
(843) 492-5422
Attorneys for Appellant

September 16, 2014