

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Aiken County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

OCT 15 2014

S.C. Supreme Court

CHAD EVERETTE WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000804

APPENDIX

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1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2007-GS-02-1308, 1309

3
4 STATE OF SOUTH CAROLINA,

5 -vs-

TRANSCRIPT OF RECORD

6 CHAD EVERETTE WILLIAMS,
7 Defendant.

8
9 Heard on Monday, October 20, 2008
10 and Tuesday, October 21, 2008
Aiken, South Carolina

11 BEFORE:

12 THE HONORABLE R. FERRELL COTHRAN, JR.

13 AND A JURY

14
15 APPEARANCES:

16 Counsel on Behalf of the State:
17 J. William Weeks, Esq.

18 Counsel on Behalf of the Defendant:
19 David Miller, Esq.

20
21
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SELECTION OF THE JURY

1 ON MONDAY, OCTOBER 20, 2008:

2 MR. WEEKS: Good morning, Your Honor, the State
3 would call the State of South Carolina versus Chad
4 Everette Williams, an indictment for murder and an
5 indictment for burglary in the first degree.

6 THE COURT: Okay. Ladies and gentlemen, if
7 you'll give me your attention, I apologize. We've had a
8 computer problem which caused us a delay but I appreciate
9 your patience. We're fixing to begin the case of the
10 State of South Carolina versus Chad Everette Williams.
11 You got a list of potential witnesses?

12 MR. WEEKS: Yes, sir.

13 THE CLERK: Yes, sir. It's up here.

14 THE COURT: Mr. Williams is indicted for the
15 crime of murder which allegedly took place on May 2, 2007
16 here in Aiken County, as well as the crime of burglary in
17 the first degree which took place on May 2, 2007 at [REDACTED]
18 [REDACTED] in Aiken. The alleged victim in this case
19 is Herbert Ellis.

20 Is there any member of the jury panel connected
21 by blood or marriage or close personal friends or social
22 relations in this case with Mr. Chad Everette Williams?
23 If so, please stand.

24 Has the jury panel been sworn?

25 THE CLERK: Yes, sir.

SELECTION OF THE JURY

1 THE COURT: Any member of the jury panel
2 connected by blood or marriage, close personal friends or
3 social relations with the alleged victim in this case,
4 Mr. Herbert Ellis? If so, please stand.

5 (No response.)

6 THE COURT: The potential witnesses in this case,
7 I'm going to read out their names. I got a list of
8 potentially 28 people. I need you to pay attention. If
9 you are connected by blood or marriage, close personal
10 friends or social relations with any of the potential
11 witnesses in this case, I need you to stand up.

12 Dr. Joel Sexton. Joshua Mace. Patricia Ann
13 Quarles. Mrs. Michalene Langford. Cathy Brown.
14 Katherine Young. Crystal Jackson. Jackie Sauls. James
15 Sauls. Chris Johnson. Clay Adams. J.D. Sanders. Lynn
16 Ghant. Mary Frances Sage O'Grady-Watts. Victoria
17 Lagger. Marcus Padgett. Mike Powell. Mike Goodwin.
18 Billy Fleury. Greg Savell. Brad Wertz. Gerald Turner.
19 Kenny Kinsey. Joseph Powell. Lillian Graham. Jan --

20 MR. WEEKS: Gallman.

21 THE COURT: Lilly Gallman, I'm sorry. Jan
22 Bryson. Ila Simmons. And Daryl Ables.

23 Any member of the jury panel connected by blood
24 or marriage or close personal friends with any of the
25 potential witnesses? If so, please stand.

SELECTION OF THE JURY

1 (No response.)

2 THE COURT: All right. Counsel, if y'all will
3 stand up and introduce yourself to the jury. I need to
4 know if any members of the jury panel are connected by
5 blood or marriage, close personal friends or social or
6 personal relationship connected by any of the lawyers in
7 this case.

8 MR. MILLER: My name is David Miller. I'm an
9 attorney with Smith, Massey, Thurmond, Brodie and Guynn, I
10 work in Aiken County. I represent the Defendant, Chad
11 Williams.

12 THE COURT: Anybody -- go ahead, Mr. Weeks.

13 MR. WEEKS: I'm Bill Weeks. I work in the Second
14 Judicial Circuit Solicitor's Office.

15 THE COURT: Anybody connected by blood or
16 marriage, close personal friends or social relations or
17 been represented by either two of these attorneys? If so
18 please stand.

19 (No response.)

20 THE COURT: Is there any member of the jury panel
21 or your immediate family have current criminal charges
22 pending in any of the courts or have any immediate family
23 members been arrested or acquitted of any crimes other
24 than a traffic ticket? If so, please stand. Okay.

25 (No response.)

SELECTION OF THE JURY

1 THE COURT: Has any member of the jury panel
2 formed or expressed an opinion about any of the matters or
3 issues involved in this case? If so, please stand.

4 (No response.)

5 THE COURT: Any member of the jury panel aware of
6 any bias or prejudice either towards the State of South
7 Carolina or this Defendant? If so, please stand.

8 (No response.)

9 THE COURT: Any member of the jury panel read
10 anything in the newspaper, on the news media, on
11 television or anything concerning the facts or issues
12 involved in this case? If so, please stand.

13 Okay. Anybody else? Yes, sir, what is your name
14 and number?

15 THE JUROR: James Young, 150.

16 THE COURT: Okay. All right. Mr. Young, if you
17 would, how about come forward and let me ask you a couple
18 of questions on the record.

19 THE JUROR: (Complying.)

20 THE COURT: You said you have heard something
21 about this case?

22 THE JUROR: Yes. This was the case where the man
23 worked out a guilty plea and then he backed out of it.

24 THE COURT: You read that in the paper.

25 THE JUROR: Yes, sir.

C SELECTION OF THE JURY

1 THE COURT: How long ago did you read it?

2 THE JUROR: Last week.

3 THE COURT: The fact that you read that in the
4 newspaper, could you set aside what you read and if you
5 were called to be a juror in this case, be fair and
6 impartial to both the State and the Defendant?

7 THE JUROR: I'll do my best, you know.

8 THE COURT: I understand. And this is, you know,
9 I just want to be sure that I have an impartial juror. If
10 you think that what you read would affect your decision,
11 then I need to know at this time.

C:12 THE JUROR: Well, I'll be honest you know, my
13 point is the other way. You're supposed to be innocent.
14 I would assume since he pleaded the only reason he backed
15 out was because of the length of the sentences.

16 THE COURT: Okay. I appreciate you being honest
17 with us. I'm going to excuse you from serving in this
18 case.

19 THE JUROR: Okay.

20 THE COURT: If you just have a seat. I'll deal
21 with the rest of the panel, but I appreciate you coming
22 forward.

23 How are you doing?

C-:24 THE JUROR: I'm number five. Corine Robinson.
25 My husband worked for the Aiken County Sheriff's

SELECTION OF THE JURY

1 Department as a reserve deputy.

2 THE COURT: Your husband works for?

3 THE JUROR: Aiken County Sheriff's Department.

4 THE COURT: And, well, I asked have you read or
5 heard anything about pretrial publicity?

6 THE JUROR: No, I haven't.

7 THE COURT: You don't know anything other than
8 your husband worked for the sheriff's department?

9 THE JUROR: He wasn't on the potential list of
10 witnesses. That's correct.

11 THE COURT: The fact that he works for the
12 sheriff's department, would you give this Defendant and
13 the State a fair and impartial trial?

14 THE JUROR: I don't think I can.

15 THE COURT: You don't think you can?

16 THE JUROR: No.

17 THE COURT: I will excuse you in this case.

18 THE COURT REPORTER: What was her number?

19 THE COURT: 105.

20 (Off-the-record discussion.)

21 THE COURT: Juror number 114.

22 THE CLERK: 114 and 142.

23 THE COURT: Tell me your name.

24 THE CLERK: Amy Seymour.

25 THE JUROR: When I first got here I got to use

SELECTION OF THE JURY

1 the rest room. He said go that way. I was washing my
2 hands and the lady, the lady was washing her hands. She
3 said -- I said, crisp cool morning. She thought I said
4 Christmas. She said the best Christmas present I would
5 have is if my baby was out of jail. He was just passed
6 out in the car. They're trying to convict him. I walked
7 into here. She was in here. So I don't know.

8 THE COURT: Okay. And the fact that you're all
9 that. She had this conversation with you in the bathroom,
10 could you put that aside if you're selected to be on this
11 jury to be fair and impartial to both the State and the
12 Defendant?

13 THE JUROR: I think so. I mean, I don't know
14 her -- other than --

15 THE COURT: Okay all right. I appreciate you
16 coming forward. Thank you so much. Juror 142. Can you
17 tell me your name again?

18 THE JUROR: Rebecca Wall.

19 THE COURT: Ms. Wall, you stated that you had a
20 conversation this morning. Tell me about that
21 conversation.

22 THE JUROR: She just told me that she had run
23 into somebody in the bathroom saying that she and her baby
24 was in jail.

25 THE COURT: The fact that you had this

SELECTION OF THE JURY

1 conversation with Ms. Seymore, would that affect your
2 ability to both the State and the Defendant to be
3 impartial in the trial?

4 THE JUROR: No, sir.

5 THE COURT: You could put that aside and decide
6 this case based on the facts?

7 THE JUROR: Yes, sir.

8 THE COURT: Thank you. Anything further?

9 THE CLERK: Judge, what are we doing with the
10 first two?

11 THE COURT: They're excused. Is there any member
12 of the jury panel that served on the Grand Jury here in
13 Aiken County that heard this case? If so, please stand.

14 (No response.)

15 THE COURT: Any member of the jury panel due to
16 religious or moral reasons unable to judge your fellow
17 man? If so, please stand. Yes, ma'am?

18 THE JUROR: It's against my religion.

19 THE COURT: What is your name and number, please,
20 ma'am?

21 THE JUROR: Valerie Rouse, juror 165.

22 THE COURT: 165. Okay. I'm going to set her
23 aside. Thank you.

24 Any member of the jury panel know of any reason
25 whatsoever that they can't give both the State of South

SELECTION OF THE JURY

1 Carolina and this Defendant a fair and impartial trial?

2 If so, please stand.

3 (No response.)

4 THE COURT: Any further questions from the
5 State?

6 MR. WEEKS: No, Your Honor.

7 THE COURT: From the defense?

8 MR. MILLER: No, Your Honor.

9 THE COURT: If you'll give us -- madam clerk, if.

10 THE CLERK: Strikes, Your Honor.

11 THE COURT: Five and 10.

12 Ladies and gentlemen, I didn't even introduce
13 myself to y'all when I came in. My name is Ferrell
14 Cothran, I'm from the third judicial circuit in Clarendon
15 County, in manning, I have been signed to hold court this
16 week in Aiken. I always love to come to Aiken, it's a
17 beautiful part of the state and you have some great people
18 here to work with.

19 And I'm sure that you're excited about being here
20 too because I can tell by the look on your faces. I
21 realize that you're here and we've taken you away from
22 your family and your friends and your work. And you're
23 hire not because you want to be, but because you got that
24 little notice in the mail and you're all good citizens and
25 willing to do your civic duty.

SELECTION OF THE JURY

1 And I promise you I'll do everything I can to
2 make it as enjoyable as I can. Hopefully you'll learn
3 something and come away with some appreciation. You'll
4 also find out this week that it's clear that I don't have
5 a watch, that I can tell time because invariably in the
6 middle of a trial we may take a break. Some things may
7 come up that I don't know about, I'll tell you that we'll
8 be back in ten minutes and an hour later you're still out
9 there. I apologize ahead of time. That just seems to be
10 the way that the wheels of justice turn.

11 But I'll do everything can I when I don't need
12 you to send you home and let you go about your own
13 business and I only will keep you here when I absolutely
14 have to. I appreciate you being here even though you may
15 not want to be here and hopefully you'll learn something
16 this week.

17 THE CLERK: As your name is called, please come
18 forward, stand in the middle facing the back of the room.
19 Bring your belongings with you. Juror number 84, James
20 Paradise (white male). What says the State?

21 MR. WEEKS: Please excuse Mr. Paradise from the
22 trial.

23 THE CLERK: You may return to your seat.

24 Juror number 34, David Dugan (white male). What
25 says the State?

C SELECTION OF THE JURY

1 MR. WEEKS: Please present Mr. Dugan.

2 THE CLERK: What says the defense?

3 MR. MILLER: Please excuse the juror.

4 THE CLERK: You may return to your seat.

5 Juror number 17, Charles Capps (white male).

6 What says the State?

7 MR. WEEKS: Please present Mr. Capps.

8 THE CLERK: What says the defense?

9 MR. MILLER: Please seat the juror.

10 THE CLERK: You may have a seat in the jury box

11 to your left.

C 12 Juror number 164, Rico Rouse, (black male). What
13 says the State?

14 MR. WEEKS: Please present Mr. Rouse.

15 THE CLERK: What says the defense?

16 MR. MILLER: Please present the juror.

17 THE CLERK: You may have a seat in the jury box

18 to your left.

19 Juror number 19, Charles Cato (black male). What
20 says the State?

21 MR. WEEKS: Please present Mr. Cato.

22 THE CLERK: What says the defense?

23 MR. MILLER: Please seat the juror.

C 24 THE CLERK: You may have a seat in the jury box

25 to the left.

SELECTION OF THE JURY

1 Juror number 168, John Smith (white male). What
2 says the State?

3 MR. WEEKS: Please present Mr. Smith.

4 THE CLERK: What says the defense?

5 MR. MILLER: Please excuse the juror.

6 THE CLERK: You may return to your seat.

7 Juror number 114, Amy Seymour (white female).

8 What says the State?

9 MR. WEEKS: Please present Ms. Seymour.

10 THE CLERK: What says the defense?

11 MR. MILLER: Please excuse juror 114.

12 THE CLERK: You may return to your seat.

13 Juror number 162, Joanne Pajerski (white

14 female). What says the State?

15 MR. WEEKS: Please present Ms. Pajerski.

16 THE CLERK: What says the defense?

17 MR. MILLER: Please seat Mrs. Pajerski.

18 THE CLERK: You may have a seat in the jury box
19 to the left.

20 Juror number 76, Gina A. Middleton (unknown race
21 female). What says the State?

22 MR. WEEKS: Please present Ms. Middleton.

23 THE CLERK: What says the defense?

24 MR. MILLER: Please excuse this juror.

25 THE CLERK: You may return to your seat. The

SELECTION OF THE JURY

1 State has exhausted one strike, the defense four.

2 Juror number 13, Catherine Butler (black
3 female). What says the State?

4 MR. WEEKS: Please present Ms. Butler.

5 THE CLERK: What says the defense?

6 MR. MILLER: Please excuse this juror.

7 THE CLERK: You may return to your seat.

8 Juror number 142, Rebecca Wall (white female).

9 What says the State?

10 MR. WEEKS: Please present Ms. Wall.

11 THE CLERK: What says the defense?

12 MR. MILLER: Please excuse Ms. Wall.

13 THE CLERK: You may return to your seat.

14 Juror number 175, Raymond Walls (white male).

15 What says the State?

16 MR. WEEKS: Please present Mr. Walls.

17 THE CLERK: What says the defense?

18 MR. MILLER: Please seat Mr. Walls.

19 THE CLERK: You may have a seat in the jury box
20 to the left.

21 Juror number 92, Barbara Pleasant (white
22 female). What says the State?

23 MR. WEEKS: Please present Ms. Pleasant.

24 THE CLERK: What says the defense.

25 MR. MILLER: Please excuse this juror.

SELECTION OF THE JURY

1 THE CLERK: You may return to your seat.
2 Juror number 159, Kelly Kiger. (white female).
3 What says the State?
4 MR. WEEKS: Please present Ms. Kiger.
5 THE CLERK: What says the defense?
6 MR. MILLER: Please seat Ms. Kiger.
7 THE CLERK: You may have a seat in the jury box
8 to the left.
9 Juror number 42, Christopher Gaffney (white
10 male). What says the State? What says the State?
11 MR. WEEKS: Please present Mr. Gaffney.
12 MR. MILLER: I'm sorry. The juror number?
13 THE CLERK: 42, Christopher Gaffney.
14 MR. MILLER: Please seat Mr. Gaffney.
15 THE CLERK: You may have a seat in the jury box
16 to the left.
17 Juror number 166, Susan Sheppard (white female).
18 What says the State?
19 MR. WEEKS: What number was that?
20 THE CLERK: 166.
21 MR. WEEKS: Please present Ms. Sheppard.
22 THE CLERK: What says the defense?
23 MR. MILLER: Please excuse juror 166.
24 THE CLERK: You may return to your seat.
25 The State has exhausted one strike, the defense

SELECTION OF THE JURY

1 eight.

2 Juror number 78, Gregory Morgan (White male).

3 What says the State?

4 MR. WEEKS: Please present Mr. Morgan.

5 THE CLERK: What says the defense?

6 MR. MILLER: Please seat the juror.

7 THE CLERK: You may have a seat in the jury box
8 to the left.

9 Juror number 16, Kayla Campbell (black female).

10 What says the State?

11 MR. WEEKS: Please present Ms. Campbell.

12 THE CLERK: What says the defense?

13 MR. MILLER: Please seat Ms. Campbell.

14 THE CLERK: You may have a seat in the jury box
15 to the left.

16 Juror number 69, Dale Londo (white male). What
17 says the State?

18 MR. WEEKS: Please present Mr. Londo.

19 THE CLERK: What says the defense?

20 MR. MILLER: Please excuse Mr. Londo.

21 THE CLERK: You may return to your seat.

22 Juror number 141, Natalie Walden (white female).

23 What says the State?

24 MR. WEEKS: Please present Ms. Walden?

25 THE CLERK: What says the defense?

SELECTION OF THE JURY

1 MR. MILLER: Please seat the juror.

2 THE CLERK: You may have a seat in the jury box
3 to the left.

4 Juror number 144, Forrest Wicks (white male).
5 What says the State?

6 MR. WEEKS: Please present Mr. Wicks.

7 THE CLERK: What says the defense?

8 MR. MILLER: Please seat the juror.

9 THE CLERK: You may have a seat in the jury box
10 to your left.

11 Juror number 170, Sharon Vargo (white male).
12 What says the State?

13 MR. WEEKS: Please present Ms. Vargo.

14 THE CLERK: What says the defense?

15 MR. MILLER: Please seat the juror.

16 THE CLERK: You may have a seat in the jury box
17 to the left. Alternates, Your Honor?

18 THE COURT: Two.

19 THE CLERK: Alternate number one, juror number
20 65, Allen King (white male). What says the State?

21 MR. WEEKS: Please present Mr. King.

22 THE CLERK: What says the defense?

23 MR. MILLER: Please seat the juror.

24 THE CLERK: You may have a seat in the jury box
25 to your left.

1 Alternate number two, juror number 40, Frederick
2 Fox (white male). What says the State? What says the
3 State?

4 MR. WEEKS: Please present Mr. Fox.

5 THE CLERK: What says the defense.

6 MR. MILLER: Please seat Mr. Fox.

7 THE CLERK: You may have a seat in the jury box
8 to your left.

9 THE COURT: Are there any matters of law
10 regarding selection of the jury from the State?

11 MR. WEEKS: None from the state, Your Honor.

12 THE COURT: Defense?

13 MR. MILLER: None, Your Honor.

14 THE COURT: Solicitor, what do you want me to do
15 with the panel?

16 MR. WEEKS: Call back after six tonight. We have
17 the call-in system.

18 THE COURT: Ladies and gentlemen of the panel who
19 were not selected to serve on this jury, I'm going to
20 allow you to go. You should've gotten a number. You will
21 call the number back after six tonight and it will give
22 you instructions as to when I need you to return. You're
23 going to get an answering machine. It is not a real
24 person so you cannot argue with it. If you do not get
25 through, keep calling until you get through. Thank you.

1 (Jury panel exits courtroom at 12:31 p.m.)

2 (Off-the-record discussion.)

3 THE COURT: Ladies and gentlemen, I've got some
4 matters that I need to deal with in another case. So
5 we're not going to probably be able to start the testimony
6 in this case until 2:30.

7 So instead of having you sit around in the jury
8 room, I'm going to send you to lunch and ask you to come
9 straight back to the jury room at 2:30. You don't know
10 anything about this case yet and you can't discuss this
11 case with anybody outside of this courtroom.

12 So, please, during the lunch, don't read anything
13 or don't listen to any media dealing with this case.
14 Don't allow anybody to talk to you about this case. When
15 you get back in the jury room, don't discuss this case
16 among yourselves.

17 I'll explain to you after lunch why I don't want
18 you to do all of that, but it's very important to the
19 State of South Carolina and this Defendant that you're a
20 fair and impartial jury and that you decide this case
21 based solely on the evidence that you hear in this
22 courtroom and the law that I'm going to instruct you.

23 If you'll have a nice lunch and come straight
24 back to the jury room at 2:30. Hopefully I'll get you out
25 here at 2:30 but, as I told you before, I can't control

JACKSON -V- DENNO: BILLY FLEURY: DIRECT

1 the time. I'll get you back out here just as quick as I
2 can. Thank you.

3 (Jury exits courtroom at 12:33 p.m.)

4 THE COURT: Anything further before we break for
5 lunch?

6 MR. WEEKS: Not in this matter, Your Honor.

7 (Thereupon, the luncheon recess was taken.
8 Thereafter, another matter was heard by the Court. At
9 2:20 p.m., the trial resumed:)

10 THE COURT: Let me ask you this: Is the Jackson
11 V. Denno issues going to come up early in the trial or is
12 it -- do we need to deal with them now or there is some
13 other time that we can deal with them before the
14 testimony?

15 MR. WEEKS: It's going to be referred to in my
16 opening statement.

17 THE COURT: How many witnesses you got on this?

18 MR. WEEKS: One.

19 THE COURT: Then let's call that witness and deal
20 with it right now.

21 MR. WEEKS: The State would call Billy Fleury.

22 BILLY FLEURY, having been duly sworn, was
23 examined and testified as follows:

24 THE CLERK: Have a seat in the witness box,
25 stating your full name, spelling your last, please.

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1 THE WITNESS: Billy Fleury. F. L. E. U. R. Y.

2 DIRECT EXAMINATION

3 BY MR. WEEKS:

4 Q. Billy, where are you employed?

5 A. Aiken County Sheriff's Office.

6 Q. What's your job there?

7 A. I'm the lieutenant of investigations, Aiken County
8 Sheriff's Office.

9 Q. How long have you been in law enforcement?

10 A. Twenty-four years.

11 Q. How long with the sheriff's department?

12 A. With Aiken County for 20 years. Well, 20 years
13 December, I'm sorry.

14 Q. Now, are you the lieutenant over investigations?

15 A. Yes.

16 Q. Have you been actively involved in the case of the
17 State versus Chad Williams?

18 A. Yes, sir.

19 Q. And if I could, I want to take you back to July 2nd of
20 this year. Were you involved in interviewing the
21 Defendant?

22 A. Yes, I was.

23 Q. Could you tell me where that took place?

24 A. It took place at a conference room at the Aiken County
25 Sheriff's Office in the investigations division.

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1 Q. Who was present?

2 A. Myself, you, Mr. David Miller, the Defendant, Chad
3 Williams and his investigator Rodger Sharpe.

4 Q. How many interviews did you have with the Defendant
5 that day, Billy?

6 A. I had two.

7 Q. I'm going to refer you to the first interview with
8 him. What time of day was that?

9 A. Sometime right before lunchtime.

10 Q. And prior to us taking any statement from the
11 Defendant, what did you do?

12 A. Advised him of his Miranda.

13 Q. When you say you advised him of his Miranda, what do
14 you mean?

15 A. We have a form at the Aiken County Sheriff's Office we
16 try to get every suspect or defendant to sign before we
17 interview them.

18 Q. Did you interview him in the presence of his attorney?

19 A. Yes, I did.

20 Q. And his private investigator?

21 A. Yes, I did.

22 Q. Tell me what you physically did prior to us beginning
23 the interview with Mr. Williams.

24 A. I read the rights off to him, his Miranda.

25 Q. What rights did you read?

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1 A. Can I read from here?

2 Q. Is that the same type form you used?

3 A. Yes, it is. It says: Before we ask you any
4 questions, you must understand your rights. You have the
5 right to remain silent. Anything you say can and will be
6 used against you in a court of law. You have the right to
7 talk to an attorney for advice before we ask you any
8 questions and to have him or her present during
9 questioning.

10 If you cannot afford an attorney, the Court will
11 appoint an attorney to represent you without cost if you
12 wish.

13 If you decide to answer questions now without an
14 attorney present, you still have the right to stop
15 answering questions at any time.

16 You also have the right to stop answering questions at
17 any time until you've talked to an attorney. Then it says
18 for the Defendant, it says: I have read this statement of
19 my rights and I understand what my rights are. And then
20 he signs it.

21 Then down below it's the waiver. It says: I'm
22 willing to make a statement and answer questions. I do
23 not want an attorney at this time. I understand and know
24 what I'm doing. No promises or threats have been made to
25 me and no pressure or coercion of any kind is being used

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1 against me.

2 And then we have where they sign it and the witnesses
3 and the date and time.

4 Q. Did you go over a similar form with him?

5 A. Yes, I did.

6 Q. At the time of taking the initial statement?

7 A. Yes, I did.

8 Q. Did he at any time indicate he wanted to not give a
9 statement?

10 A. No, he didn't.

11 Q. Did anybody from law enforcement or the solicitor's
12 office or anybody threaten him or force him into giving a
13 statement?

14 A. No, they didn't.

15 Q. I believe -- was his attorney present the entire time?

16 A. Yes, he was.

17 Q. Did he indicate any dissatisfaction with his attorney
18 at this time and not want him present or anything?

19 A. No, he did not.

20 Q. Did you also audiotape that statement?

21 A. Yes, I did.

22 Q. Did you audiotape the portion where you just said
23 where you read out the rights and got him to sign a form?

24 A. I'm not -- I don't believe I did.

25 Q. Where the tape starts, where the tape was made

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1 originally --

2 A. Yes, sir.

3 Q. -- and the places on the Miranda form that he
4 acknowledges those rights, did he physically sign those --

5 A. Yes, sir.

6 Q. -- in the presence of his lawyer?

7 A. Yes, he did.

8 Q. And we've misplaced the form somehow?

9 A. Sure did.

10 Q. But the actual statement itself is on audiotape and
11 his attorney has been given a copy of it; is that correct?

12 A. Yes, he has.

13 Q. All right. That occurred in the morning on July 2nd.

14 Did you have an opportunity later to interview him again?

15 A. Sometime later on that afternoon. It was after lunch.

16 Q. Who was present there?

17 A. Myself, the Defendant, Mr. Williams, and his attorney,
18 Mr. David Miller.

19 Q. All right. And where did that interview take place?

20 A. Also in the conference room at the Aiken County
21 Sheriff's Office.

22 Q. All right. And in the conference room, was there
23 anybody else present at the second interview?

24 A. That's all that was there.

25 Q. Did you record that interview also?

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1 A. Yes, I did.

2 Q. Did you acknowledge that the Defendant had been given
3 his Miranda warnings earlier?

4 A. Yes, I did.

5 Q. During that period of time, had he ever been taken
6 back to jail between the two?

7 A. No, he wasn't.

8 Q. At any time during that day, did he invoke his rights
9 to have an attorney present and to remain silent?

10 A. No, he did not.

11 Q. Did he ask to remain silent?

12 A. No, he did not.

13 Q. Did anybody threaten or coerce him or force him to
14 give you a statement?

15 A. No, they did not.

16 Q. Did he answer your questions voluntarily?

17 A. Yes, he did.

18 Q. Did he appear to understand them?

19 A. Yes.

20 Q. Did he appear to be under the influence of anything
21 that would have influenced his mind on that day?

22 A. No, he wasn't.

23 Q. He had been brought over from the detention center, I
24 believe?

25 A. Yes.

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1 Q. Was his attorney present with him during most of that
2 day?

3 A. Yes.

4 Q. Billy, you've toted up or we've toted up for your
5 review State's Exhibit Number 48 and 49. These two CDs,
6 what do they represent?

7 A. They represent the two statements that the Defendant,
8 Mr. Williams, gave.

9 Q. Okay. Would you characterize those statements as
10 identical?

11 A. No, sir. Similar but not identical.

12 Q. Okay. And the second statement, What's marked State's
13 Exhibit 49 that I'm going to move to introduce here in a
14 second, did he indicate any involvement in the killing of
15 Mr. Ellis?

16 A. Yes, he did.

17 Q. Your Honor, I'd move to introduce for purposes of this
18 hearing State's Number 48 and 49. The defense has copies
19 of it.

20 MR. MILLER: Your Honor, for the purposes of this
21 hearing, no objection.

22 THE COURT: Okay. Entered without objection.

23 (Thereupon State's Exhibits 48 and 49, CDs of
24 interviews, were received into evidence.)

25 BY MR. WEEKS:

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1 Q. At the time of the second interview, did that also
2 take place at the sheriff's office?

3 A. Yes, it did.

4 Q. Just the people you listed were present?

5 A. Yes, sir.

6 Q. That's represented verbatim on State's 49?

7 A. Yes, sir.

8 MR. WEEKS: Your Honor, rather than him go
9 through the substance of that statement, I'm going to
10 publish it for the Court.

11 THE COURT: All right. This is the second
12 statement you're going to publish?

13 MR. WEEKS: It is ten minutes, Judge.

14 THE COURT: How many?

15 MR. WEEKS: Ten.

16 (Thereupon CD, State's Exhibit No. 49, was played
17 for the Court.)

18 BY MR. WEEKS:

19 Q. Lieutenant Fleury, the interview that's marked as
20 State's Exhibit 48 took place before that one; is that
21 correct?

22 A. That's correct.

23 Q. And in that interview can you kind of summarize what
24 the difference was in the Defendant's admissions?

25 A. The Defendant in the first interview was trying to

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1 cast blame on another individual that was not there.

2 Q. All right. And that individual was Jason Quarles?

3 A. Yes.

4 Q. He gave him a role in all of this, that --

5 A. He was the instigator of all of it, he was the planner
6 of all of this.

7 Q. And in the second interview he said, no, that wasn't
8 true?

9 A. That wasn't true.

10 Q. In the first interview he talked about how he disposes
11 of the items of property that he took from Mr. Ellis?

12 A. Which one?

13 Q. In the first interview.

14 A. I believe so.

15 Q. And then he refers to it there. You asked him, has
16 anything changed about disposal of the property?

17 A. He said no.

18 Q. Can you essentially summarize what he told you he did
19 with the property or or what he told you he did with the
20 property?

21 A. He took the property and put it in a bag and took it
22 to a fire -- down the road to where a cell phone tower was
23 and buried it. Poured Kingsford lighter fluid on it and
24 set it on fire and buried it.

25 Q. And his admission was that he used Kingsford as

1 opposed to some other type?

2 A. Yes, sir.

3 Q. And was that property recovered?

4 A. Yes, it was.

5 Q. And the interview, the first interview on July 2nd,
6 does he indicate that Crystal as he's referred to in that,
7 was present also?

8 A. I believe so.

9 Q. And also once again at that interview was his attorney
10 and investigator?

11 A. His private investigator, myself and Solicitor Weeks.

12 Q. Your Honor, we move to introduce this one also, but
13 I'm not going to publish this one at this time.

14 THE COURT: I thought you moved both of them in.

15 MR. MILLER: Without objection, Your Honor.

16 THE COURT: Without objection, what number is
17 that?

18 MR. WEEKS: That one is 48.

19 THE COURT: Mr. Miller, do you have any
20 questions? Are you through with this witness? I'm sorry.

21 MR. WEEKS: I am.

22 MR. MILLER: No questions.

23 THE COURT: Okay. You may step down.

24 THE WITNESS: Yes, sir.

25 MR. WEEKS: That would be the State's case in

1 this hearing, Your Honor.

2 THE COURT: Mr. Miller, do you have anybody you
3 want to call as far as this hearing is concerned?

4 MR. MILLER: No, Your Honor.

5 THE COURT: I find that the Defendant's statement
6 was freely and voluntarily given; it was the result of an
7 in-custodial interrogation; that he was advised of his
8 rights under Miranda, and in fact his attorney was
9 present; and I find that by a preponderance of the
10 evidence that his statement is admissible under Jackson V.
11 Denno and other cases surrounding the voluntariness of his
12 statement.

13 Anything else?

14 MR. MILLER: Your Honor, very briefly. Mr. Weeks
15 was able to provide a laundry list, I think there were 44
16 photographs that he intended to introduce in the trial.

17 There are a number of those photographs that I
18 have delineated here that we would object to them coming
19 in under State V. Huey. I can work with Mr. Weeks and
20 pull them for the Court to review.

21 Essentially, Your Honor, they are eight and a
22 half by 11 color photographs depicting the injuries to
23 Mr. Ellis. And our position would be that the probative
24 value of those photographs is outweighed by the
25 prejudicial nature. They are full-color photographs.

1 They are extremely graphic. And, Your Honor, we would
2 simply ask that the State introduce black-and-white copies
3 of those photographs.

4 The only -- the only purpose that I'm aware of
5 that the State could be introducing them for would be to
6 show blood splatter patterns and also the indications of
7 wounds on Mr. Ellis's body.

8 And at this point, Your Honor, I just don't see
9 why they couldn't get a -- achieve the same result with a
10 less prejudicial display to the jury. Certainly it would
11 be in the Court's discretion.

12 And the specific photographs in order are Six,
13 Seven, Nine, Ten, 33 and 36 and 41. And I'll be happy to
14 pull those for the Court to look at if the Court would
15 like to look at them.

16 MR. WEEKS: I'm not going to wave them around in
17 the opening statement.

18 THE COURT: If you want to do it later or do it
19 now --

20 MR. WEEKS: I'd like to get --

21 THE COURT: Since I got this jury and I promised
22 them I'd like to have them out. I'd like to get started.
23 But if it's something that y'all are going to do in
24 opening statement, it is something I need to address now
25 and I can.

1 Are they going to come in under your first
2 witness?

3 MR. WEEKS: I would pass up State's Exhibit
4 Number Eight. The intention of the State is to get his
5 daughter who was later hoisted in the back room of the
6 house to testify as to the contents of that. That's
7 essentially what she saw when she got inside.

8 Her father's feet in the hallway. And that would
9 be the earliest that we would have. That would certainly
10 be our first or second witness. The rest of them are
11 intended to be later.

12 MR. MILLER: And, Your Honor, I would not object
13 to Number Eight.

14 THE COURT: Okay. All right.

15 MR. WEEKS: That would get us started a little
16 quicker.

17 THE COURT: Then we'll deal with those that you
18 objected to.

19 MR. MILLER: Your Honor, I'm just pulling out the
20 ones that we object to.

21 THE COURT: All right. I will put Number Eight
22 back.

23 MR. MILLER: Thank you, Your Honor.

24 THE COURT: All right. Anything before we bring
25 the jury in? Anything else?

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 MR. WEEKS: Nothing from the State.

2 MR. MILLER: Nothing from the defense.

3 THE COURT: All right. If you'll bring us a
4 jury, please.

5 (Thereupon, the jury enters the courtroom at
6 2:55 p.m. The jury was impaneled and the trial resumed:)

7 THE COURT: Ladies and gentlemen of the jury, I
8 want to make some brief opening remarks to kind of give
9 you an idea of how this case is going to progress. As
10 you're aware that we're about to begin the case of State
11 versus Chad Everette Williams.

12 Mr. Williams is indicted for the crime of murder
13 and burglary. And this indictment is not evidence in this
14 case. This is simply a formal document, formal charging
15 paper that brings this case to court. And to this
16 indictment -- to these indictments, Mr. Williams has pled
17 not guilty.

18 Therefore, it shifts the burden of proof upon the
19 State of South Carolina to prove each and every element of
20 these indictments beyond a reasonable doubt.

21 Now, your job in this case is simply to listen to
22 the evidence that comes into this courtroom. And that
23 evidence will come to you through sworn testimony from
24 this witness stand as well as any exhibits that may be
25 introduced and any stipulations by the attorneys.

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 I remind you that what the attorneys say is not
2 evidence. Their questions aren't evidence. It is simply
3 what you hear from the sworn testimony from this stand and
4 any other exhibits.

5 Your job is to listen to the evidence and find
6 and determine what the true facts are in this case. My
7 job is to decide what evidence is admissible under our
8 rules, what evidence you should hear under the rules of
9 this State and charge you on the law. And at the end of
10 this case, I will give you the law.

11 Your job is to find what the true facts are. My
12 job is to give you the law. I can't tell you what the
13 facts are. That's your job. So, if at any time during
14 this trial you think I may have an opinion about the
15 facts, disregard that. You're to determine what the true
16 facts are.

17 And having said that, it's important that you pay
18 close attention, because that's why we got 12 of you to
19 decide. It's such an important issue that, you know, no
20 one of us is smart as all of us. It's such an important
21 issue we got 12 people to decide.

22 And if you make a mistake it's very hard to fix
23 that mistake. If I make a mistake on the law, at some
24 other time and at some other place that will be reviewed
25 and possibly corrected. But if you make a mistake, it's

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 very hard to correct so I need you to pay close attention
2 throughout this trial.

3 Now when I finish talking, the attorneys will get
4 up and make an opening statement to you. That opening
5 statement is not evidence. It's simply their opinion as
6 to where the evidence is going to take you, kind of a
7 road map of where this case is going and explain to you in
8 general terms what this case is all about.

9 The State will go first because the State has the
10 burden of proof. Afterwards, the defense counsel,
11 Mr. Miller, will go second. Now, he doesn't have to make
12 an opening statement because he doesn't have to prove
13 anything. The State has to prove each and every element
14 beyond a reasonable doubt. And most of the times defense
15 counsel do make an opening statement to the jury.

16 After the opening statements you will hear the
17 testimony from the witnesses on this witness stand. After
18 you've heard all of the testimony in this case you will
19 hear the closing arguments of the attorneys. I remind you
20 they're not evidence either. They're simply the arguments
21 of the attorneys as to what they think the evidence in the
22 case has shown.

23 And then I will instruct you on the law in this
24 case. And you're to apply that law as I instruct it to
25 you, and determine what you think the true facts are in

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 this case and come back with a verdict that speaks the
2 truth.

3 Now, I told you I'd have you back at 2:30. We've
4 been back in here working since two o'clock. It happens
5 that way and I apologize. But if at any time during this
6 case you need a break, simply raise your hand and I'll
7 stop the testimony, we'll take a break. Because I need
8 you to be paying attention and if you're uncomfortable and
9 you need a break then you can't pay attention. So we'll
10 take a break, we'll come back and continue the testimony.

11 Throughout this trial we're going to take
12 breaks. I may have to send you to the jury room to rule
13 on some law. Always simply to take, you know, our break.
14 We try to go about an hour, hour and a half and take a
15 break whenever we can.

16 During those breaks I'm going to instruct you,
17 you can't discuss the case yet. You're going to say --
18 well, you may have heard from one or two witnesses. You
19 go back to the jury room during a break, you're going to
20 want to talk about what that witness said.

21 And the reason you can't do that because if one
22 of you express your opinion as to what you think that
23 witness said and later when you hear all the evidence in
24 this case you're going to want to defend that opinion you
25 had early on in the case. And that would be improper

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 because you're not to form an opinion until you have heard
2 all of the case.

3 And then and only then would it be proper for you
4 to start forming your opinion as to the guilt or innocence
5 of this Defendant.

6 So that's why I'm going to instruct you, please
7 don't talk about the case when I send you to the jury room
8 and that's why because I don't want you to start forming
9 an opinion until you've heard all the evidence as well as
10 the law that I'm going to instruct you on and then and
11 only then will it be proper for you to talk about the case
12 because you've given an oath that you're going to be fair
13 to both the State of South Carolina and this Defendant,
14 that you're going to decide this case based on what you've
15 heard in this courtroom and only what you've heard in this
16 courtroom.

17 Thank you for your attention. The attorneys will
18 give you an opening statement and we'll begin with the
19 testimony. Mr. Weeks.

20 OPENING STATEMENTS ON BEHALF OF THE STATE

21 MR. WEEKS: Thank you, Your Honor. May it please
22 the Court. Ladies and gentlemen of the jury. I know it's
23 a torturous process to get into those 12 seats or 14 seats
24 as the case may go but it's a worthy endeavor.

25 My name is Bill Weeks. I'm one of the

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 prosecutors that works for the solicitor's office in
2 Aiken. My role in these proceedings is to bring you the
3 evidence and to convince you beyond a reasonable doubt
4 that Chad Williams murdered Herbert Ellis on or about May
5 the 2nd of 2007 and that he burglarized the residence, the
6 dwelling place of Mr. Ellis that night in the commission
7 of this murder.

8 You know, most of us go through life and don't
9 serve on juries, don't sit in judgment on major things but
10 I tell you that one of the premises of our system is that
11 everybody has a right to have a fair and impartial jury,
12 guilty or innocent.

13 Mr. Williams has demanded a trial here and that's
14 what the State is going to give him. And we're going to
15 call, quite honestly, probably a substantial case against
16 Mr. Williams, probably a case that's going to leave you at
17 end of this trial thinking, why am I here.

18 But just remember that you have a right to a jury
19 trial in this country, guilty or innocent. At the end of
20 this trial I think that you'll realize that.

21 What the State's going to do and what opening
22 arguments are for is to kind you tell of you what we're
23 going to do. I don't like to get too specific because it
24 takes away a little bit of the surprise. I hate them
25 trailers on movies that pop out the best line to the movie

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 and you go to the movie thinking it's going to be
2 wonderful and my God, I just heard the four best lines in
3 the whole movie. And I'm going to not do that.

4 I'm going to tell you deliberately. I don't like
5 to do that. I'm going to give you kind of a game plan
6 here as to what the State is going to show you this case
7 is and it's not to minimize it.

8 It's not to make it more important than it is.
9 It's just kind of you need to know what's coming next.
10 Fortunately, really fortunately, most television jury
11 trials don't have any semblance to real life but it's
12 going to be a fast trial.

13 Fast in our terms. It's probably going to be a
14 couple of days. It's not California fast. In their terms
15 it would probably be a couple weeks, but it's not going to
16 take that long. We're going to be bringing witnesses up
17 in front of you very quickly.

18 What you're going to hear is that on, sometime in
19 the early morning hours of May the 2nd, 2007 Mr. Herbert
20 Ellis, an 80-year-old man, went to bed. He didn't wake
21 up. When he did wake up he was brutally murdered in that
22 process. He lived in a mobile home on the north side of
23 Aiken, out past the interstate off of Barn Owl or off of
24 Camp Long Road. [REDACTED] I believe is the name of
25 it.

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 And he had mobile home there and was in the
2 process of expanding his mobile home with some out
3 buildings and that sort of stuff.

4 And you're going to hear how this was his
5 residence. He had retired up here. His daughter
6 unfortunately and her husband are the ones that are going
7 to testify that they found Mr. Ellis in the early morning
8 hours of May 2nd, brutally murdered in his bedroom in his
9 residence.

10 Then you're going to hear repeated testimony and
11 evidence from witnesses that linked Chad Williams to
12 killing Mr. Ellis. And it's often amazing when the police
13 are called to a scene and there is a crying person there
14 who has just found a loved one that's obviously just been
15 brutally murdered and where they go from there trying to
16 find out how did this happen, who killed him and What's
17 this about.

18 You're going to hear and we're going to show you
19 this kind of step-by-step how the police solved this
20 case. In that litany of witnesses you're going to hear
21 just what I call good old-fashioned police work. And
22 you're going to hear what I guess I would refer to as CSI
23 kind of stuff. We all know what CSI is. I watch those TV
24 shows.

25 Now, I ain't going to get cute. This ain't going

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 to be CSI like's on television even though I kid Billy
2 Fleury and call him Horatio Cane all the time. It really
3 ain't going to be like that.

4 But what you're going to hear is from three or
5 four CSI people, our forensic experts out of South
6 Carolina Law Enforcement Division that's going to connect
7 the dots to what the Defendant thought was an attempt to
8 burn up the evidence. You know, sometimes fire does a
9 wonderful job of cleaning up stuff. Sometimes it don't.

10 In this case it didn't. And Mr. Williams is here
11 in front of y'all for his judgment because of that.

12 You're going to hear from some expert witnesses who will
13 testify about what the findings were in the DNA that was
14 found with the property that was taken from Mr. Ellis.
15 And you're going to hear, ultimately, about a statement
16 from Mr. Williams about killing Mr. Ellis. You're going
17 to hear what I suggest to you is going to be the old well-
18 if-he-did-it-somebody-else-is-just-as-bad-as-me kind of
19 argument and that's going to be pointed at Ms. Crystal
20 Jackson who is seated out there with her lawyer. You'll
21 hear from her in this case, too, and what her involvement
22 in it was.

23 Now without going into the bits and pieces of
24 what's going to be testified to today, it's a case that
25 I'm going to tell you we're going to show you kind of step

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 by step, we're going to show you the photographs. We're
2 going to show you the SLED reports and other things that
3 were done in order to bring this case before you and show
4 you beyond a reasonable doubt, beyond any doubt that Chad
5 Williams killed Herbert Ellis on that day.

6 And at times it's going to be tedious but at
7 times it's not going to be very pleasant, because it's
8 hard to take a bloody crime scene on the north side of
9 Aiken and bring it into this courtroom for y'all to see
10 what Ms. and Mr. Sauls found when they got there.

11 But I think that you're going to be relatively
12 amazed at what the police did and how they went about
13 solving it and finding the killer of Mr. Ellis.

14 Mr. Ellis isn't with us today, but I believe that
15 at the end of this trial after you've heard the State's
16 evidence, that there won't be any problem sitting in
17 judgment, sitting in that jury box and finding
18 Mr. Williams guilty of murder.

19 What we're going to have to show you, if you
20 accept that he killed Mr. Ellis, what we call or what the
21 Judge will define to you later is malice aforethought.
22 That's something that can occur in the twinkling of an
23 eye. Something can go wrong and you kill somebody in the
24 commission of a crime. It might not have been planned out
25 initially but it goes wrong and it goes wrong quick.

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 You put yourself in a situation where it can go
2 wrong. If you come into my house in the middle of the
3 night and things could go wrong quick and you're going to
4 hear some of that, but mostly what you're going to hear is
5 about a young man who attempted to steal something from an
6 older man, who had worked on his property. And in that
7 attempt to steal and in that attempt to break into his
8 dwelling, he brutally murdered him. Brutally killed him
9 with no remorse.

10 Now, oftentimes I stand up here and I introduce
11 myself to juries and I tell them what I'm going to tell
12 them, what I'm going to do, and the process of elimination
13 the jury selection you don't know me, you don't know David
14 Miller. You don't know Judge Cothran. You don't know any
15 of the parties to the system.

16 But truly the evidence that we will show you, at
17 the end of this trial that you'll be doing your job will
18 come from that witness stand and I'm confident that that's
19 going to happen.

20 You're going to hear a lot through the trial and
21 the Judge's charge to you on the law and the defense's
22 arguments on the law about beyond a reasonable doubt and
23 the presumption of innocence. Legal theories that have
24 stood the test of time in our courtrooms and with our
25 juries and in our legal system.

ON BEHALF OF THE STATE: OPENING STATEMENTS

1 And I like to tell juries that essentially what
2 you do when you sit in that jury box is you make
3 decisions. You think, well, I have never sat on a murder
4 trial before, how on earth can I make that decision.

5 Well, the decision that you make in a murder
6 trial is no different than the decision you make whether
7 or not to put the blinker on. At the end of the day, it's
8 a decision based on factors that you're observing and
9 hearing and witnessing in court.

10 And an accumulation of those factors is what
11 leads you to make that decision or what leads you to
12 realize that somebody has done you wrong, committed a
13 crime against you, shorted your change at a restaurant.
14 You know, day in and day out is what I'm saying, we make
15 these decisions. We make these judgment calls.

16 We make these judgment calls.

17 I try to tell jurors that because we picked you
18 as the finders of fact, it means that you don't take your
19 common sense and leave it in the car locked up in the
20 glove box. You bring it in here.

21 And that same common sense and observation of
22 people is and what you hear these witnesses say, eyes
23 really, and what you see that we present to you is what
24 you use to make those decision.

25 So even though they're powerful decisions, they

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 are truly decisions that will not be difficult for you to
2 make at the trial -- at the end of this trial.

3 We judge peoples' credibility every day. The
4 Judge will charge you at the end of the trial about
5 judging the credibility of witnesses. You judge the
6 credibility of the person in the lane next to you every
7 day. You judge the credibility of the loan officer at the
8 bank. You judge the credibility of your bank teller when
9 they hand you the change, whether or not you counted it or
10 not. You do all of that and you make those judgments.
11 And you'll be called upon in this case to look at the law
12 officers of Aiken County and see what they did.

13 Your job here is not a critic. It is not to
14 reward or punish anybody. I think you're going to see in
15 this case that the law officers in Aiken County did a
16 tremendous job in finding the killer of Herbert Ellis.

17 And I want you to listen as we go through this
18 case to the very steps until we're done but without trying
19 to over kill it in opening arguments, it is a simple case.

20 The mechanism by which we get here isn't
21 sometimes, but when I get up in front of you like this I
22 promise you at the end of this trial you'll agree with me,
23 this ain't a hard case. Thank you.

24 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

25 MR. MILLER: Thank you, Your Honor. May it

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 please the Court.

2 THE COURT: Yes, sir.

3 MR. MILLER: Mr. Weeks. Ladies and gentlemen, my
4 name is David Miller. I'm an attorney here in town, in
5 Aiken County working with the law firm of Smith, Massey,
6 Brodie, Thurmond and Guynn. And I represent Chad Williams
7 who's seated there at the table in the white shirt.

8 This morning during jury qualifications Judge
9 Early said something to all of you as a group and
10 obviously to the 47 you seated here today. This is the
11 best system in the world if you're accused of something.

12 Let me talk to you a little bit about the system.
13 You're here as jurors to determine what the facts are.
14 Now, I'm not going to make any promises to you about what
15 you're going to hear, and how it's going to be presented
16 because things happen in that witness stand that nobody
17 can predict.

18 People say things that are incredible to me in my
19 brief experience as a trial attorney trying criminal
20 cases. I found out that you never really know until you
21 actually hear it come out of their mouth what's going to
22 be said. You can get an idea, but you don't know.

23 So I'm not going to make any promises about what
24 you're going to hear. I will promise you one thing. I'll
25 try not to put you to sleep, but if I do, I'll point it

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 out to the Judge and let him let you take a break.

2 The system that we work in guarantees that Chad
3 Williams and anybody who is accused of a crime has the
4 right to have the State prove them guilty of that crime.
5 Sometimes you'll hear it called a cloak of innocence. He
6 sits there with a cloak of innocence and it's up to the
7 State of South Carolina to try to remove that cloak
8 through the efforts of Solicitor Weeks and all of these
9 people over on this side.

10 Rodger Sharpe sits there. He's my private
11 investigator. I'm sitting there. My job is to keep the
12 cloak of innocence on Chad Williams while they try to take
13 it off. But that's the system and everybody has got a
14 part to play.

15 And I want you to understand that as we go
16 through this trial, Mr. Weeks and I don't agree about
17 whether or not Chad Williams is guilty of this crime,
18 whether or not it can be proven beyond a reasonable doubt.

19 We don't agree on that, but as part of the system
20 you'll see me talking to Mr. Weeks or the investigators or
21 some of the other people over here and I'm going to be
22 polite to them and I'm going to be courteous to them and I
23 know they'll do the same to me.

24 I'm going to be courteous to the Judge. He has a
25 part to play in the system. Don't mistake that for, well,

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 he just agrees with them. Because if we agreed with each
2 other, we wouldn't be here.

3 There's a disagreement and there's a fundamental
4 disagreement. It is whether or not the evidence will show
5 beyond a reasonable doubt that Chad Williams committed the
6 crimes for which he is charged. We have a part to play in
7 the system and we all do this because we believe in the
8 system.

9 And at the end of this trial, you're going to be
10 called upon to take what you have learned from that
11 witness stand and apply the things that you already know,
12 your own life experiences to the facts that you heard from
13 that witness stand or the statements that you heard from
14 that witness stand and determine, as Judge Cothran just
15 said, what are the true facts in this case.

16 And, ladies and gentlemen, I submit to you that
17 there will be certain things, certain statements that are
18 made that you're just not going to be able to say beyond a
19 reasonable doubt that that's a fact. It might be because
20 there are other alternatives that are posed by concluding
21 that that statement is a fact.

22 It might be because you just flat don't believe
23 the person that stated it. And that's fine. That's your
24 job. That's your role as jurors.

25 Your role is to hear everything that is

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 presented, hear and see the witnesses that are presented
2 and determine do I believe everything that they said. Do
3 I believe some of what they said, or do I believe none of
4 what they said.

5 Mr. Weeks is going to make this move along
6 quickly. I have been around him, seen him try plenty of
7 cases before. He's going make it move quickly. He's not
8 going to waste anybody's time up there. He's going to
9 call the witnesses that he needs to call.

10 If you can't believe what his witness says,
11 that's a problem. It's a huge problem. If you can't
12 believe the witness, then that's where there is reasonable
13 doubt. And you have to determine that. You have to make
14 that decision for yourself.

15 At the conclusion of all of the witness
16 testimony, after everything is said and everything is
17 done, I'm going to come back up here and I'm going to make
18 another argument to you in this type fashion. And, again,
19 this isn't evidence. What I'm saying is not evidence.
20 But then we'll know what came out. Then we'll know how it
21 went and that's when you'll be called upon to do your job
22 as the jurors and to deliberate and to render a decision.

23 I will start here by just asking you again,
24 requesting, as the Judge did, to do your job effectively,
25 you really can't listen to one witness and then walk into

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 the back room and go, okay, I heard that witness talk,
2 we're going to put her in the category of people we
3 believe. I heard that witness talk, we're going to put
4 him in the category of people that we believe. By the
5 same token, you can't do that and say that you disbelieve
6 them either.

7 When all of the evidence is in, after everything
8 has come in in the case, that is when it is your job to
9 determine who you believe, and who you don't believe.

10 You know, in a lot of the crime shows, and this
11 is something that we have to deal with on a regular
12 basis. This isn't like TV. I wish it was. I wish I was
13 getting paid what some of those actors are that sit in
14 front of juries and talk.

15 But in a lot of those shows on TV one thing that
16 you will see is in the first 20 minutes nobody knows who
17 did it, and in the second 20 minutes everybody knows who
18 did it. And in the third 20 minutes, they're trying to
19 prove who did it. It's in a nice neat little package that
20 fits into an hour, whether it's Law and Order or CSI or
21 whatever kind of television show it is.

22 Unfortunately, ladies and gentlemen, there are
23 also situations where in the first 20 minutes, for
24 whatever reason, everybody thinks they know who did it and
25 in the second 20 minutes everybody tries to prove who did

ON BEHALF OF THE DEFENDANT: OPENING STATEMENTS

1 it. And in the third 20 minutes you find out, you know,
2 it really might not have been the person we thought it was
3 all along.

4 But that's no way. You've never seen a TV show
5 like that. And the reason you've never seen a TV show
6 like that is because then there is no end. Then there's
7 no who done it. There is no gotcha at the end of it.

8 Well, this isn't a TV show. And unfortunately,
9 while we would all agree and certainly do all agree that
10 Mr. Ellis's death was tragic and was brutal and certainly
11 it was a murder, you cannot burden yourselves with the
12 fact that if after hearing all the evidence that you
13 determine that Chad Williams is not guilty then there's
14 not going to be a conclusion to it.

15 There is no other investigations that can be
16 done, other suspects that can be identified if they're out
17 there. And then you will have done your job as jurors.
18 You will have prevented someone who might, might be
19 innocent from going to prison for a crime that they didn't
20 commit.

21 That is our system. It's often said it's better
22 to let 99 guilty people go free than to put one in prison
23 for something that they didn't do. And that's the burden
24 that the jury carries. That's the burden that is placed
25 upon you; to hear the facts and determine without passion

JAMES SAULS: DIRECT

1 or prejudice at the end of the day, can we say beyond a
2 reasonable doubt that Chad Williams did what they said.
3 Chad Williams -- what they say Chad Williams did.

4 I trust that you will pay attention to all of the
5 witnesses and to the arguments of counsel and to the Judge
6 throughout the course of the case. And I thank you in
7 advance for your service to the State of South Carolina.

8 Thank you.

9 THE COURT: You can call your first witness.

10 MR. WEEKS: Thank you, Your Honor. The State
11 would call James Sauls.

12 JAMES SAULS, having been duly sworn, was examined
13 and testified as follows:

14 THE CLERK: Have a seat in the witness box,
15 stating your full name and spelling your last for the
16 Court, please.

17 THE WITNESS: James Sauls, S. A. U. L. S.

18 DIRECT EXAMINATION

19 BY MR. WEEKS:

20 Q. James, how old are you?

21 A. How old am I? 64.

22 Q. And are you married?

23 A. Oh, yes.

24 Q. Who are you married to?

25 A. Jackie, Jackie.

C JAMES SAULS: DIRECT

1 Q. Does she go by Jackie Sauls?

2 A. Jackie.

3 Q. Where do you live locally?

4 A. Locally I stay at [REDACTED].

5 Q. Did you know Herbert Ellis?

6 A. Yes, sir. My father-in-law.

7 Q. How long have you been married to Jackie?

8 A. Forty-five years.

9 Q. So I guess he had been your father-in-law for 45
10 years?

11 A. Yes.

C 12 Q. Did you know where he lived in Aiken County --

13 A. Oh, yes.

14 Q. -- before he died?

15 A. Oh, yes.

16 Q. Had you been to his house on a number of occasions?

17 A. Most every day.

18 Q. What did you do there with him?

19 A. All kinds of things. Whatever, you know. Most of the
20 time --

21 Q. Speak up a little bit. All of these folks have got to
22 hear you.

23 A. Most of the time whatever Herbert wanted.

C 24 Q. How old was Mr. Ellis before he died?

25 A. He was 80.

JAMES SAULS: DIRECT

1 Q. Had you seen him the day before he died?

2 A. Yes, sir. I think I did; yes.

3 Q. In the early hours of May the 2nd of 2007, can you
4 tell me if you went to Mr. Ellis's house?

5 A. Yes, sir.

6 Q. All right. What did you find when you got there,
7 James?

8 A. Well, you want me to start, all of it? Well, I went
9 to Mr. Ellis's house, my father-in-law. Like most
10 mornings, I figured he was up because one of the dogs was
11 out. I kind of looked around for him. He wasn't there.

12 So, after about maybe five minutes kind of bumming
13 around maybe, you know, he was in the bathroom or
14 something.

15 Q. Were you there by yourself then?

16 A. No, sir. I had a friend of mine. His name was
17 Kenneth Lynch. He was a stroke patient, you know. And
18 anyway, I went to the door and knocked on the door and the
19 puppy inside barked but Herbert didn't answer.

20 So I done that again. And the third time I done it, I
21 hollered out, Herbert, and at that time my wife drove up.
22 She come around that morning to clean the house. And --

23 Q. She wanted to do what?

24 A. She come around that morning to clean the house.

25 Q. Okay.

JAMES SAULS: DIRECT

1 A. And I told her to go around the front door, Herbert
2 didn't answer. And so she went around there. And I
3 knocked a few more times, you know, and called out. And I
4 figured I might better go around and check her and see
5 what's going on. I got around --

6 Q. She had gone to the back of the trailer?

7 A. She went to the front. I was in the back.

8 Q. Okay.

9 A. And anyway, she was coming back around and when she
10 did she said, he didn't answer. So we turned around and
11 started to the back. And as I turned the corner of the
12 mobile home, I seen the bedroom window knocked out about
13 four inches, maybe five.

14 Q. Was the car that he normally drove in the yard?

15 A. Yes, sir.

16 Q. What time of morning was this, James?

17 A. Not precisely, but roughly around nine, maybe 9:30. I
18 don't get up -- but anyway, I went to the window and I
19 know something had to be wrong at this time, you know.
20 Anyway I jerked the window and pulled it out. I laid the
21 window on the side of the house and I pulled the curtain
22 back. My wife was right there. She seen Herbert laying
23 on the floor face down, half in the bedroom and half in
24 the bath. And lying down, you know.

25 You got to open the door for me. I put my wife up in

JAMES SAULS: DIRECT

1 the window. And she opened the door. And I went in and
2 she was in the bedroom and I went in there. And all I
3 could see was Herbert on the floor and the blood on the
4 washing on the machine.

5 And so I went back into the hall, I went through the
6 bathroom entrance there and --

7 Q. He was obviously dead, wasn't he, Mr. Sauls?

8 A. I had to check. I touched him here (indicating), you
9 know. The time I touched him I knew.

10 Q. Did you move him in any other way?

11 A. No, sir.

12 Q. Did you disturb the place in any other way?

13 A. Oh, no.

14 Q. Did you call the Aiken County Sheriff's Department or
15 your wife called?

16 A. Well, I called 9-1-1. I went in the hall and I done
17 that.

18 Q. Did they arrive there shortly thereafter?

19 A. Oh, yes, sir.

20 Q. Okay.

21 A. Yes, sir.

22 Q. Let me ask you a couple questions about some
23 photographs if you would. I hand you what's marked
24 State's Exhibit Number 42 which is in evidence without
25 objection, Your Honor.

JAMES SAULS: DIRECT .

1 (Thereupon, State's Exhibit No. 42, photograph, was
2 received into evidence.)

3 THE COURT: Okay.

4 BY MR. WEEKS:

5 Q. And if you could, tell me what's depicted in that
6 photograph.

7 A. That's the bedroom window I was talking about.

8 Q. Okay. Is that where you lifted your wife up?

9 A. Yes, sir. That's where I put her in.

10 Q. And State's Exhibit Number 43 which is in without
11 objection also. What does that depict?

12 A. That's the back door and part of the window.

13 (Thereupon, State's Exhibit No. 43, photograph, was
14 received into evidence.)

15 BY MR. WEEKS:

16 Q. Same window that we're talking about?

17 A. Yes, sir.

18 Q. And I guess that's Number Three. That's without
19 objection also.

20 A. That's the back door.

21 (Thereupon State's Exhibit No. 3, photograph, received
22 into evidence.)

23 BY MR. WEEKS:

24 Q. That's the back door, the one your wife opened and she
25 came out?

JAMES SAULS: DIRECT

1 A. Let me make sure. Yes, sir. That's the back door.

2 Q. Okay. Now, you mentioned Mr. Ellis's trailer. How
3 long had he been living there?

4 A. Maybe six months.

5 Q. Okay.

6 A. Maybe.

7 Q. That was his permanent residence?

8 A. Five months, more than like.

9 Q. That was his permanent residence?

10 A. Yes, sir.

11 Q. He had moved up here from somewhere?

12 A. From Daytona. His wife was ill.

13 Q. I hand you a series of photographs. Just two
14 photographs. State's One and Two without objection.

15 (Thereupon State's Exhibits 1, 2 and 8, photographs,
16 were received into evidence.)

17 BY MR. WEEKS:

18 Q. If you could, just identify what those are.

19 A. Well, that's the mobile home where Herbert was killed.
20 That's the shed in the backyard and on the right side is a
21 garage he built.

22 Q. And that's State's Number One. What is Number Two?

23 A. That's the mobile home that he lived in.

24 Q. Okay. Now, I'm going to hand you what's marked

25 State's Exhibit Number Eight and ask you: Did you see

JAMES SAULS: CROSS

1 what's depicted in State's Number Eight? And that's
2 without objection also.

3 A. Yes, sir.

4 Q. What was that?

5 A. Herbert laying there on the floor face down.

6 Q. And if you were looking at Mr. Ellis's feet, what's to
7 the right of his feet over there?

8 A. To the right of his feet?

9 Q. Yeah.

10 A. That's the bed.

11 Q. The bed. And where is his head laying?

12 A. Into the bathroom.

13 Q. Did you -- you didn't move Mr. Ellis at all when you
14 found him that morning?

15 A. Oh no, sir. No, sir.

16 Q. Did you disturb anything else in the house before law
17 enforcement got there?

18 A. No, sir. I had to get my wife out. She was having a
19 hard time breathing. So I took her straight on out as
20 soon as I called 9-1-1.

21 Q. Thank you. Your Honor, no further questions.

22 THE COURT: Mr. Miller?

23 CROSS-EXAMINATION

24 BY MR. MILLER:

25 Q. Mr. Sauls, you said you saw this bedroom window

JAMES SAULS: CROSS

1 knocked out about four inches?

2 A. Yes, sir.

3 Q. And you knew something was wrong?

4 A. Yes, sir.

5 Q. Why is that?

6 A. The window wouldn't have been out otherwise.

7 Q. Okay. Explain to me so maybe it's a little bit more
8 clear from the photograph.

9 A. At the time I didn't know whether Herbert might have
10 fell against the window getting up from the bed or, I had
11 no idea. I knew something was wrong.

12 Q. All right. Were these like standard double-hung
13 windows that went up and down?

14 A. Yes, sir.

15 Q. Okay. It was pushed out?

16 A. Yes, sir. It's a mobile home.

17 Q. Okay.

18 A. That's the difference, you know.

19 Q. All right. And you removed the window?

20 A. Yes, sir.

21 Q. So that your wife could get in?

22 A. Yes, sir. I put her up in the window.

23 Q. Okay. And she went -- you testified previously that

24 you went to the back door of the mobile home and it was

25 not until your wife got there that she went around to the

JACKIE SAULS: DIRECT

1 front?

2 A. Right.

3 Q. Where would the people that were going to Mr. Ellis's
4 home, where would they come into the home, generally?

5 A. Generally as far as me or most people?

6 Q. Or anybody else if you know, but we're talking about
7 you.

8 A. Most people come through the back door, you know.

9 Q. Most people came to the back door?

10 A. Yes. I always park in the back and I come to the back
11 door.

12 Q. Okay. That's where the parking area was behind the --

13 A. Right at the back door.

14 Q. Okay. Thank you, sir. No further questions.

15 A. All right.

16 REDIRECT EXAMINATION

17 BY MR. WEEKS:

18 Q. Mr. Sauls, were the doors to the residence locked
19 before y'all went in?

20 A. Yes, sir.

21 MR. WEEKS: No further questions.

22 THE COURT: Thank you, sir. You can step down.

23 MR. WEEKS: The State would call Jackie Sauls,

24 Your Honor.

25 THE COURT: You can come around Ms. Sauls.

JACKIE SAULS: DIRECT

1 JACKIE SAULS, having been duly sworn, was
2 examined and testified as follows:

3 THE CLERK: Have a seat in the witness box.
4 State your full name spelling your last for the Court,
5 please.

6 THE WITNESS: Jackie Sauls, S. A. U. L. S.

7 DIRECT EXAMINATION

8 BY MR. WEEKS:

9 Q. Ms. Sauls, have you unfortunately been married to this
10 man for 45 years?

11 A. Yes, sir.

12 Q. Back on May the 2nd of 2007, did you go to your
13 father's residence?

14 A. Yes, sir.

15 Q. Did you talk to him the night before?

16 A. I probably did. I can't remember if I did. I usually
17 talked to him or went and seen him just about every day or
18 he came to my house.

19 Q. And on this particular morning -- I mean, he was 80
20 years old, but did he get around a good bit?

21 A. Yes. He got around good. He had bad knees but I mean
22 he still would get around good.

23 Q. And on this particular day, did you go to his
24 residence?

25 A. Yes, sir.

JACKIE SAULS: DIRECT

1 Q. And what was your purpose in going there?

2 A. I went there to clean his house. I usually went once
3 a week at least to clean or do whatever, cook for him,
4 whatever.

5 Q. Was he disabled in any way?

6 A. No, no. I just did it because I wanted to help him.

7 Q. Where had he moved up here from?

8 A. From Daytona Beach, Florida.

9 Q. About how long had he lived up here?

10 A. All in all probably a year and a half, two years. He
11 came to live with us first and then we had that other
12 place and he decided, him and my mama wanted to be
13 independent, so they moved into the trailer.

14 Q. Prior to Mr. Ellis being killed, how long had your
15 mother been gone?

16 A. She had died in December.

17 Q. On May the 2nd when you went to the residence, your
18 husband has already testified y'all weren't able to rouse
19 him in any way?

20 A. No, sir.

21 Q. Did you go through the window that he depicted?

22 A. Yes, sir.

23 Q. And did you see your father laying there?

24 A. Yes, sir.

25 Q. Where did you go from there?

JACKIE SAULS: DIRECT

1 A. I can't remember if I went to let my husband in first
2 or if I -- his feet were down there and I touched his feet
3 and they were cold, and I let my husband in. He went
4 around and said he was cold too. So he went and called
5 9-1-1.

6 Q. Did y'all wait right there until the police got there?

7 A. Yes, sir.

8 Q. Did you disturb anything while you were there?

9 A. No.

10 Q. Were you familiar with your daddy's property?

11 A. How do you mean familiar?

12 Q. Did he carry a wallet?

13 A. Did he what?

14 Q. Did he carry a wallet?

15 A. Oh. Yeah, usually; yeah.

16 Q. Did he do his own grocery shopping?

17 A. Yes, sir.

18 Q. And where did he buy --

19 A. He did most of his cleaning but he didn't do a very
20 good job.

21 Q. I can be criticized for that, too. Where did he do
22 most of his grocery shopping?

23 A. Wal-Mart.

24 Q. Had you ever given him any kind of card, any kind of a
25 discount card or anything?

JACKIE SAULS: DIRECT

1 A. No, sir.

2 Q. And did you know him to keep a wallet? I might have
3 asked you that.

4 A. Yes, sir.

5 Q. Did he have a gun or anything in his house?

6 A. I think he did.

7 Q. Where?

8 A. I think it was above his dryer.

9 Q. Above his dryer. So that would be in his bathroom?

10 A. Bathroom. Uh-huh.

11 Q. He didn't make a habit of keeping one by his bed; did
12 he?

13 A. Not that I know of.

14 Q. Ms. Sauls, this residence where he lived was in Aiken
15 County?

16 A. Yes, sir.

17 Q. And the photographs that's been identified by your
18 husband is One, Two, 42, Eight, Three and 48. You
19 recognize all of those items, don't you? Just flip
20 through them if could you, Jackie.

21 A. (Complying). Yes, sir.

22 Q. Now in State's Number One, what is depicted on the
23 right side of that photograph? Was your father in the
24 process of doing anything on this property?

25 A. Yes, sir. He was building a garage.

MARCUS PADGETT: DIRECT

1 Q. Building a what?

2 A. A garage.

3 Q. Okay. Did he employ people to do that?

4 A. No. Mostly him and my husband done it.

5 Q. Okay.

6 A. Except for putting the cement down.

7 Q. Except for putting the cement down?

8 A. Yeah. He had to have somebody put that down.

9 Q. Okay.

10 A. I take it back. Now, he does -- well, he was -- he
11 did hire help, but I don't know. I mean, some boys.

12 Q. Part-time help?

13 A. Yeah, just to help him out every once in a while but
14 most of the time my husband helped him out.

15 Q. How did he earn his income? Was he retired?

16 A. Yeah. He was on Social Security.

17 Q. And like everybody on Social Security, you wait for
18 that check at the first of the month?

19 A. Yes, sir.

20 MR. WEEKS: Thank you, Ms. Sauls. Answer any
21 questions that the defense counsel has.

22 MR. MILLER: No questions, Your Honor.

23 THE COURT: Thank you, ma'am. You can step down.

24 THE WITNESS: Thank you.

25 MR. WEEKS: Watch your step, Mrs. Sauls. The

MARCUS PADGETT: DIRECT

1 State would call Marcus Padgett.

2 MARCUS PADGETT, having been duly sworn, was
3 examined and testified as follows:

4 THE CLERK: Have a seat in the witness box,
5 stating your full name, spelling your last for the Court,
6 please.

7 THE WITNESS: Marcus Padgett, P. A. D. G. E. T.
8 T.

9 DIRECT EXAMINATION

10 BY MR. WEEKS:

11 Q. Officer Padgett, where are you employed?

12 A. Aiken County Sheriff's Office.

13 Q. And back in May of 2007, were you employed there?

14 A. Yes, I was.

15 Q. What were your duties on that day?

16 A. I was lieutenant, B. Shift, Patrol Division. My
17 duties were to supervise the entire shift, and I was to
18 respond to any calls for service.

19 Q. Did you receive a call to go to, I believe, [REDACTED]

20 [REDACTED]

21 A. Yes, I did.

22 Q. And did you arrive there and find anybody?

23 A. Yes, I did. Upon arrival at the scene there were two
24 individuals outside of a mobile home. That would be
25 Jackie and James Sauls.

1 Q. And did you go in the house and find Mr. Ellis, too?

2 A. Yes. We entered the residence and found Mr. Ellis
3 face down with a pool of blood. We immediately sealed off
4 the scene and secured it until investigations and
5 forensics could arrive.

6 Q. Did you let anybody disturb the scene after that until
7 investigations and forensics got there?

8 A. One EMT entered the trailer with myself and checked
9 the vital signs of the victim and found him to be lifeless
10 and he was escorted out of the trailer and nobody entered
11 after that.

12 MR. WEEKS: Thank you. That's all the questions
13 I have. Answer any questions the defense has.

14 THE COURT: Mr. Miller?

15 CROSS-EXAMINATION

16 BY MR. MILLER:

17 Q. Deputy Padgett, did you do any kind of investigation
18 yourself or did you secure the scene?

19 A. The scene was secured by myself and Deputy Goodwin of
20 the Aiken County Sheriff's Office.

21 Q. You didn't dust for fingerprints, collect any
22 evidence?

23 A. No, we did not.

24 MR. MILLER: That's all the questions I have,
25 Your Honor.

1 MR. WEEKS: Nothing further from this witness.

2 THE COURT: You can step down.

3 THE WITNESS: Thank you.

4 MR. WEEKS: Your Honor, the next witness is going
5 to be a little lengthy. I was thinking it might be a good
6 time for a five-minute break.

7 THE COURT: Ladies and gentlemen, we'll take a
8 five- or ten-minute break and we'll give you a chance to
9 go to the restroom and stretch your legs. I'll get you
10 back out in ten minutes.

11 (Thereupon the jury exits the courtroom at
12 3:43 p.m.)

13 THE COURT: We'll be in recess ten minutes.

14 (Thereupon a recess was taken following which the
15 trial resumed:)

16 THE COURT: Is there anything before we bring the
17 jury in, from the State?

18 MR. WEEKS: No, Your Honor.

19 THE COURT: From the defense?

20 MR. MILLER: No, Your Honor.

21 THE COURT: Okay. Bring us a jury.

22 (Whereupon the jury entered the courtroom at
23 4:16 p.m.)

24 THE COURT: Ladies and gentlemen, I have been
25 informed by the bailiffs that some of y'all want to take

1 notes; is that correct?

2 Some judges don't allow juries to take notes. I
3 do, but with this caveat. Some of the concerns about the
4 jurors taking notes is, it's important that each one of
5 you decide this case based on the evidence you hear. And
6 the concerns that some judges have is some people are a
7 lot better note takers than others.

8 So I don't want you to go back to the jury room
9 in this case deciding it on one or two peoples' notes. So
10 I will allow you to take notes to help refresh your
11 memory, but those notes are for you and you only because
12 everybody takes note differently.

13 One thing I want you to be careful about though
14 if you are taking notes, be sure that you're paying
15 attention to the witness and the demeanor of the witness
16 as well. But I'll allow you to takes notes but as long as
17 when you go back to deliberate you only read your notes to
18 refresh your memory about things that happened during the
19 trial and you don't share your notes with each other
20 because what happens is some person may be a very good
21 note taker and then the entire panel will rely on that one
22 person's memory and that wouldn't be proper.

23 You've got to decide this case on each one of
24 your own memories. So, therefore, you can certainly take
25 notes but please use those notes to refresh your own

CRYSTAL JACKSON: DIRECT

1 memory. You can review them at the appropriate time and
2 then y'all can deliberate and discuss this case based on
3 your own recollection. Okay.

4 You can pass them out. At the end of the day if
5 you'll just leave those note pads. Don't take them home
6 with you. The bailiffs will keep them and give them back
7 to you tomorrow or however long this case may last.

8 But we had this big debate in judges' school. We
9 had judges all over the nation arguing about whether we
10 should let jurors take notes or not. And one of the
11 federal judges who was teaching the class said, okay, when
12 you judges sit on the bench and when you're hearing a
13 case, do you take notes. And we all raised our hands,
14 yeah. And he said, well, why can't the jury take notes.
15 He had a good point but the concern is that, you know, you
16 rely on your notes independently. Thank you.

17 Mr. Weeks, you may call your next witness.

18 MR. WEEKS: Thank you, Your Honor. The State
19 would call Crystal Jackson.

20 CRYSTAL JACKSON, having been duly sworn, was
21 examined and testified as follows:

22 THE CLERK: Have a seat in the witness box
23 stating your full name and spelling your last for the
24 court, please.

25 THE WITNESS: Crystal Jackson, J. A. C. K. S. O.

CRYSTAL JACKSON: DIRECT

1 N.

2 DIRECT EXAMINATION

3 BY MR. WEEKS:

4 Q. Ms. Jackson, how old are you?

5 A. I'm 24.

6 Q. What's your marital status?

7 A. Single.

8 Q. Where do you live?

9 A. [REDACTED].

10 Q. And how long have you lived there?

11 A. Since last year.

12 Q. At some point did you live on Barn Owl Road?

13 A. Yes, sir.

14 Q. Who did you live there with?

15 A. My grandmother.

16 Q. What's your grandmothers name?

17 A. Patricia Quarles.

18 Q. Who else did you live there with?

19 A. Joshua Mace, Katherine Young and Chad Williams.

20 Q. When you said Chad Williams, you looked that way. Who
21 is Chad Williams?

22 A. (Points.)

23 Q. Is he sitting at defense table?

24 A. (Nods head.)

25 Q. How long did you live with Chad there?

CRYSTAL JACKSON: DIRECT

1 A. We had ...

2 THE BAILIFF: Would you like a drink of water?

3 THE WITNESS: No. We had an on-and-off
4 relationship for four years.

5 BY MR. WEEKS:

6 Q. Do you have any children, Ms. Jackson?

7 A. (Nods head.)

8 Q. How many children do you have?

9 THE COURT: Ms. Jackson, I know it's difficult
10 but she needs to take down everything you say. So I need
11 you to speak, not nod for me. Okay?

12 THE WITNESS: Four.

13 THE COURT: Okay.

14 BY MR. WEEKS:

15 Q. And who is the father of those children?

16 A. Three of them by him.

17 Q. And one of those children is how old, the oldest?

18 A. My oldest one, he'll be six in December.

19 Q. Whose child is that?

20 A. Chad's.

21 Q. So you've had an on-and-off relationship with him for
22 six years, at least; haven't you?

23 A. Yes, but -- yeah, that's right.

24 Q. And the other children?

25 A. I have a four-year old which will be five and I have a

CRYSTAL JACKSON: DIRECT

1 set of twins that's two.

2 Q. And the set of twins, is Chad the father of those?

3 A. Yes, sir.

4 Q. Did y'all have those children with you there where you
5 resided on Barn Owl Road?

6 A. Not at the time.

7 Q. Were you working anywhere on May the 2nd of 2007?

8 A. Not as I can recall.

9 Q. Was Chad working anywhere then?

10 A. No, sir.

11 Q. Did you know Herbert Ellis?

12 A. Yes, sir.

13 Q. How did you know Mr. Ellis?

14 A. My family members and Chad had did occasional work for
15 him.

16 Q. Your family members. Who are you talking about?

17 A. Jason and Kathy and Josh maybe every now and then for
18 little stuff, like fixing up on something.

19 Q. Had you ever done any work for him?

20 A. No, sir.

21 Q. Had you lived there at that residence the entire time
22 Mr. Ellis was there?

23 A. I had been living there -- well, my grandparents have
24 had that house since was born if I can recall, but I had
25 been living at 245 Barn Owl Road for approximately, going

CRYSTAL JACKSON: DIRECT

1 on close to a year if not less.

2 Q. How far did Mr. Ellis live from that residence, [REDACTED]
3 [REDACTED]?

4 A. You could see his residence from my grandmother's
5 front window.

6 Q. Was there a field or something in between the houses?

7 A. Yes, sir; a horse pasture.

8 Q. Had you been to Mr. Ellis's home before May the 2nd of
9 2007?

10 A. Yes, sir.

11 Q. When?

12 A. Whenever --

13 Q. When was the last time you went?

14 A. The last time? On Saturday, I went to go use his cell
15 phone to try to get in touch with my kids because I was
16 getting them on every other weekend or every weekend and I
17 was trying to call them and nobody ever came.

18 Q. Did you go to the house?

19 A. He was outside in his -- in the shed they were working
20 on.

21 Q. That was Saturday. When did he die?

22 A. On the 1st, I do believe.

23 Q. The night of the 1st?

24 A. Yes, sir.

25 Q. Now, Crystal, you've been arrested in this case?

CRYSTAL JACKSON: DIRECT

1 A. (Nods head.)

2 Q. What are you charged with?

3 A. Accessory after the fact of murder.

4 Q. Say that again, slower.

5 A. Accessory after the fact of murder.

6 Q. Are you out on bond?

7 A. (Nods head.)

8 THE COURT: You got to speak up.

9 THE WITNESS: Yes, sir.

10 BY MR. WEEKS:

11 Q. What was your bond?

12 A. Yes, sir.

13 Q. Who went and what was it?

14 A. One hundred thousand.

15 Q. Who set your bond and who put up your bond?

16 A. My stepfather.

17 Q. Okay. Have you been out of jail for some time
18 awaiting trial on your charges?

19 A. Yes, sir.

20 Q. Crystal, I'm going to take you back to May the 2nd of
21 2007. Where were you that morning?

22 A. The morning that he was killed?

23 Q. The morning of May the 2nd, 2007, did the police come
24 to your house?

25 A. Oh: Yes, sir.

CRYSTAL JACKSON: DIRECT

1 Q. The night before that, tell this jury what you had
2 done starting with, say, dark.

3 A. Midnight. Well, dark?

4 Q. Dark.

5 A. My cousin, Joshua Mace, had gave \$30 to Chad
6 Williams. My Aunt Katherine Young, Joshua Mace and Chad
7 Williams rode to buy crack cocaine. They came back to the
8 house. Me, Chad, Kathy, and Christy Lee Barton sat in
9 Katherine Young's room and smoked a 30.

10 Q. You're going to have to educate this jury as to what a
11 30 is.

12 A. It's about this big (indicating).

13 Q. Of what?

14 A. Of crack.

15 Q. You just light it in a fire and inhale it? How do you
16 smoke it?

17 A. On a glass stem with Brillo.

18 Q. Describe that for me. A glass stem with Brillo, what
19 is that?

20 A. You burn the Brillo down. It's char broiled. You
21 burn it down and it's a glass rose that you take the rose
22 out and you put the Brillo in. You put the crack cocaine
23 on top and you ignite it with a lighter and then you just
24 inhale the smoke.

25 Q. Like a cigarette?

CRYSTAL JACKSON: DIRECT

1 A. Yeah.

2 Q. The glass tube is the cigarette?

3 A. No, it's a tube.

4 Q. I know, but do you suck on the end of the tube?

5 A. Yeah, like, you're smoking a cigarette.

6 Q. Okay. And the 30, what is that? Is that an amount of
7 crack cocaine?

8 A. 30. It --

9 Q. \$30 worth?

10 A. It was just a 30, like it was a gram --

11 Q. Okay.

12 A. -- of cocaine or crack.

13 Q. Where do you buy that?

14 A. A dope dealer.

15 Q. Did you leave the house that night?

16 A. No.

17 Q. You indicated y'all were in Kathy's room. Where was
18 that at in this house?

19 A. Pointing towards Mr. Ellis's house.

20 Q. Was it upstairs or downstairs?

21 A. Yeah, upstairs.

22 Q. Where did you and Chad stay when you were in the house
23 together?

24 A. All the way upstairs, back room.

25 Q. In this room where you were smoking the crack, was

CRYSTAL JACKSON: DIRECT

1 Josh there?

2 A. No.

3 Q. Tell me what you did after you smoked the crack.

4 A. I went out, changed my clothes. After that, not too
5 long after that, Josh came up and we started playing
6 cards. Chad --

7 Q. What did Chad do --

8 A. He was --

9 Q. -- when y'all stopped smoking?

10 A. He went outside.

11 Q. Prior to him going outside, did he do anything in your
12 room with you?

13 A. (Shakes head.).

14 Q. Was that a no?

15 A. No.

16 Q. Do you recall how Chad was dressed that night?

17 A. Whenever he came back he was in a black like wind suit
18 type ordeal.

19 Q. A black?

20 A. Wind suit.

21 Q. Okay. Do you recall if he had shoes on?

22 A. I don't recall at that time. He probably did.

23 Q. When you say when he came back, what do you mean?

24 A. Whenever he come upstairs he was bloodshot red,
25 pouring sweat, but he was flushed in the face.

CRYSTAL JACKSON: DIRECT

1 Q. This was after he had smoked the crack?

2 A. Yeah.

3 Q. After he had smoked the crack he left the house?

4 A. Yeah. We were arguing about our kids because we
5 didn't have the kids and they were with his stepsister and
6 he didn't like that. We fought all the time, though. It
7 was not an unordinary thing.

8 So he left. And I went and got dressed, you know,
9 changed my clothes, put on my night clothes. Josh came
10 in. We played cards. Chad come up, it didn't seem like
11 no time. And he ran upstairs and went to the -- we had --
12 the upstairs -- there's two bedrooms on each side and then
13 there's a hallway. Mine and Chad's bedroom was all the
14 way in the back and then there's a bathroom on the left.
15 He went straight to the bathroom, started puking blood.

16 Q. How do you know he was puking blood?

17 A. Me and Josh came out of mine and Chad's bedroom from
18 playing cards, and he was kneeled down on the floor puking
19 straight blood. I'm not -- I don't know if he had it on
20 anything then, but whenever he came out the bedroom he was
21 wearing plaid boxer shorts and you could see a spot of
22 blood on the side of them.

23 Then at that time he threw \$30 at Josh and said,
24 here's your F.ing money.

25 Q. What was that from?

CRYSTAL JACKSON: DIRECT

1 A. That was \$30 that he was supposed to reimburse Josh
2 with.

3 Q. That he had borrowed earlier?

4 A. Exactly.

5 Q. So he shows up, pays Josh \$30?

6 A. Right.

7 Q. What happens then?

8 A. He tells Josh to get out the room. Finally Josh
9 leaves. We walked downstairs, got a trash bag. Chad
10 starts throwing all of his stuff in the trash bag
11 including his -- it was including his tennis shoes, his
12 sweat pants that he was wearing, his boxer shorts, his
13 shirt and a jacket that was hanging on the wall. And he
14 told me to grab the jacket. I grabbed it. He put it in
15 the bag.

16 Q. What kind of bag?

17 A. A plastic trash bag.

18 Q. What color?

19 A. White. After that --

20 Q. Did you see him put anything else in there?

21 A. The man's belongings.

22 Q. How did you know they were the man's belongings?

23 A. Well, they wasn't his.

24 Q. Did he say anything to you?

25 A. I'm not sure if at that time he had stated that he had

CRYSTAL JACKSON: DIRECT

1 killed him, but between us leaving the house and from that
2 time, you know -- from the time that he came in from the
3 time that we were about to go down the driveway is
4 whenever he told me that he had killed Herb, and that he
5 was stronger than what he thought.

6 Q. What was the purpose of putting all of the stuff in
7 the bag upstairs?

8 A. I reckon --

9 Q. Did you know at the time?

10 A. -- so he could burn it.

11 Q. How did you know he was going to burn it?

12 A. I don't know, just ...

13 Q. Well, did he say anything to you? How did you end up
14 going with him?

15 A. He told me I was going to go with him.

16 Q. Why? What was the reason he told you?

17 A. So I couldn't say anything. He said, you're going to
18 go with me.

19 Q. Where did you go?

20 A. Went to the front porch. He grabbed -- well, I
21 grabbed the lighter fluid. We walked back down the
22 steps. Went -- he had ran back over to Herb's house. I
23 stood at the field. It's not that far between Herb's
24 house and the pasture. And he ran over there and grabbed
25 a flashlight and I saw him running back across the field

CRYSTAL JACKSON: DIRECT

1 with the light on.

2 Q. Prior to going there, did he do anything about a
3 flashlight at your house?

4 A. He asked my Aunt Kathy, well, Katherine Young if she
5 had had a flashlight. She said no. And I think that he
6 might have asked Christy Lee Barton for a flashlight,
7 too. And she said no.

8 So at that time we walked around the driveway.

9 Q. Before you get there. Now tell me what you saw him
10 do.

11 A. What I saw him do?

12 Q. After he had asked for a flashlight, what did you see
13 him do? Where if anyplace did he go?

14 A. Over to Mr. Ellis's.

15 Q. Did you see him do that?

16 A. Yeah.

17 Q. Was it dark?

18 A. Yeah.

19 Q. About what time was it?

20 A. Pretty late.

21 Q. After 12?

22 A. Yeah.

23 Q. Where did you see him go?

24 A. I guess y'all would call that his back door. He went
25 in the back door and came straight back out. And I heard

CRYSTAL JACKSON: DIRECT

1 the door close. Then he starts running across the field.
2 Then we walk up the driveway. And our driveway is, you
3 can either go this way or this way.

4 And we walked up this way and walked around the horse
5 pasture. And we have, like, three separate horse pastures
6 that surround our area. And there is one that cuts off
7 going this way. And there is a pile of shrubbery. And he
8 picked up the hammer and the crescent wrench from right
9 there and it was covered with blood.

10 After that we walked to the --

11 Q. What did he do with it?

12 A. He tied the bag on his other shoulder. We walked down
13 the dirt road to the phone tower. I guess that's what you
14 call it. And he started digging a hole. He put the stuff
15 in the hole and lit it on fire. It burned for five or ten
16 minutes, if that.

17 Then after that he covered it up with dirt and pine
18 straw. Then we came -- turned around and started walking
19 back to my grandmother's house and I took some Benadryl.
20 He pushed the crack stem again.

21 Q. What do you mean, he pushed the crack stem again?

22 A. He was trying to get residue off the crack stem.

23 Q. Smoked it again?

24 A. Yeah.

25 Q. Where did this happen?

CRYSTAL JACKSON: DIRECT

1 A. In our bedroom.

2 Q. So from where the fire was, you went back to where
3 y'all were staying?

4 A. Yes.

5 Q. Did he say anything on that walk or at any point
6 thereafter?

7 A. Basically that if I ever say anything that I'll be
8 going to jail right with him for accessory after the fact
9 of murder.

10 Q. He didn't use the term, accessory after the fact of
11 murder; did he?

12 A. But he said, you know, pretty much you'll be charged
13 with something if you ever say anything.

14 Q. All right. After you got up to your room, what did he
15 do?

16 A. I took some Benadryl, about five or six Benadryl and
17 went to sleep. The next morning y'all were at our door.

18 Q. Where did he sleep?

19 A. In the same bed.

20 Q. Was he there when the police arrived, also?

21 A. (Nods head.)

22 Q. Now, at some point that day did you go down and give a
23 statement to the police?

24 A. I think it was that day.

25 Q. Could it have been the next day?

CRYSTAL JACKSON: DIRECT

1 A. Possibly.

2 Q. Where did you go?

3 A. To the interview office where they -- the
4 interrogation place.

5 Q. At the sheriff's department?

6 A. Yeah.

7 Q. And did you tell them the truth?

8 A. The first time I told them the last time that I saw
9 Herb.

10 Q. The first time, what?

11 A. The first time -- no. I told them the last time that
12 I had saw Herbert Ellis was that Saturday. I never
13 implicated Chad or anything like that.

14 Q. You didn't tell them where the stuff was burned or
15 buried or anything?

16 A. (Shakes head.)

17 Q. When did you tell them something else?

18 A. About 20 minute later.

19 Q. And was that also at the sheriff's department?

20 A. Yes, yes.

21 Q. Did anybody threaten you --

22 A. No.

23 Q. -- coerce you or force you into telling them that?

24 A. No.

25 Q. What did you tell them then?

CRYSTAL JACKSON: DIRECT

1 A. The truth.

2 Q. Is that what you're telling us today?

3 A. Yes.

4 Q. Did you give them directions as to how to find this
5 location --

6 A. Yes.

7 Q. -- where the stuff was burned?

8 A. Uh-huh. I took them the same day.

9 Q. Prior to taking them, did you give them phone
10 directions, or did you tell the investigators that you
11 were talking to where it was?

12 A. Yeah.

13 Q. You actually went out there?

14 A. Yeah.

15 Q. And you pointed them to it?

16 A. Yeah.

17 Q. Did anybody promise you anything to get you to talk to
18 them that day?

19 A. No.

20 Q. Why did you change your mind?

21 A. Because they deserve it.

22 Q. On that day, why did you change your mind?

23 A. Because it was the right thing to do.

24 Q. Were you charged or arrested thereafter?

25 A. I was arrested a month later.

CRYSTAL JACKSON: DIRECT

1 Q. And you were arrested for the charges you're facing
2 today?

3 A. Yes, sir.

4 Q. I hand you what's marked State's Exhibit Number 39.
5 It's my understanding this is without objection, Your
6 Honor.

7 THE COURT: Is that correct, Mr. Miller?
8 Mr. Miller, do you have any objection to 39?

9 MR. MILLER: No, Your Honor. I'm sorry.

10 (State's Exhibit No. 39, photograph, was admitted
11 into evidence.)

12 BY MR. WEEKS:

13 Q. Can you identify what's depicted in that photograph?

14 A. It's my grandmother's house.

15 Q. Is that the house that you've been referring to?

16 A. Uh-huh.

17 Q. Okay. I hand you what's marked State's Exhibit Number
18 Four and ask you if you can identify what's depicted in
19 that photograph?

20 A. The horse pasture.

21 Q. The horse pasture that you've been referring to?

22 A. Uh-huh.

23 Q. What's the mobile home in that photograph?

24 A. Mr. Ellis's.

25 Q. You got to speak up now.

CRYSTAL JACKSON: DIRECT

1 A. Mr. Ellis's.

2 Q. Where is this picture taken from, the angle of it?

3 A. In front of my mom's house.

4 Q. And is that the house you saw Mr. Williams coming from
5 with the flashlight?

6 A. Uh-huh. Yes, sir.

7 MR. WEEKS: That's State's Exhibit Number Four, I
8 believe without objection also, Your Honor.

9 MR. MILLER: Without objection

10 THE COURT: It's in without objection.

11 (Thereupon, State's Exhibit No. 4, photograph,
12 was received into evidence.)

13 BY MR. WEEKS:

14 Q. Ms. Jackson, did you go to the home of Herbert Ellis
15 on the night of May the 1st or the early morning hours of
16 May the 2nd?

17 A. No, sir.

18 Q. Did you participate with Mr. Williams in killing or
19 planning on robbing Mr. Ellis?

20 A. No, sir.

21 Q. What you're telling the jury today is your role in
22 this case?

23 A. Yes, sir.

24 Q. Have you been promised anything?

25 A. No.

CRYSTAL JACKSON: DIRECT

1 Q. By us, by the State, by the police officers, by the
2 family, by anybody, for your testimony?

3 A. No, sir.

4 Q. Has anything at all happened to your charges?

5 A. No, sir.

6 Q. Okay. What have you been told about your charges?

7 A. It's a 10- to 15-year sentence, I think, I do believe.

8 Q. Has anybody promised you that your charge is going to
9 go away or that you're going to get some sort of reduced
10 sentence as a result of testifying?

11 A. No.

12 Q. Is what you're telling this jury here today what
13 happened that night?

14 A. Yes, sir.

15 Q. Crystal, were you under the influence that night?

16 A. (Nods head.)

17 THE COURT REPORTER: She needs to speak.

18 THE WITNESS: Yes.

19 BY MR. WEEKS:

20 Q. After the Benadryl, did you take anything else?

21 A. No.

22 Q. Did you ever leave the house after playing cards with
23 Josh before Mr. Williams got home?

24 A. No.

25 Q. And the Defendant in this case is the Chad Williams

CRYSTAL JACKSON: CROSS

1 that you're referring to throughout your testimony; is
2 that correct?

3 A. (Nods head.)

4 Q. Yes or no?

5 A. Yes.

6 MR. WEEKS: One second, Your Honor.

7 (Pause.)

8 BY MR. WEEKS:

9 Q. Crystal, did Mr. Williams say anything about a cell
10 phone?

11 A. I think that he thought that he had dropped it.

12 Q. Dropped it where?

13 A. In between the man's house and the field.

14 Q. What was the purpose or do you know the purpose of
15 going back over there and getting a flashlight?

16 A. No.

17 Q. You indicated that Mr. Williams put some items in a
18 bag. Did you put anything in the bag?

19 A. Only the jacket that he had told me to grab off the
20 coat hanger.

21 Q. And the clothing that he put in the bag, was that his
22 clothing?

23 A. Yes, sir.

24 Q. And had y'all been staying in that room together?

25 A. Uh-huh.

CRYSTAL JACKSON: CROSS

1 Q. For some period of time?

2 A. Yes, sir.

3 MR. WEEKS: Answer any questions that the defense
4 has.

5 CROSS-EXAMINATION

6 BY MR. MILLER:

7 Q. Ms. Jackson, you actually gave, by my count, four
8 separate statements to the police; didn't you?

9 A. I do believe so.

10 Q. On May the 2nd, didn't an officer come out to the
11 house and ask you if anybody knew anything about what
12 happened to Mr. Ellis?

13 A. Yes.

14 Q. That was the day that his body was found?

15 A. I don't know if that was -- I don't know if I talked
16 to them that day or not. I remember they all came out
17 there because they had the hounds and everything like
18 that. And that's whenever my aunt needed a jump for her
19 car, Katherine Young.

20 Q. Did you decide it was the right thing to do to let
21 Mr. Ellis's family know what had happened that day?

22 A. They needed to know.

23 Q. The next day you got carried down to the sheriff's
24 office or did you go down there yourself?

25 A. I think that they offered to take us and I agreed.

CRYSTAL JACKSON: CROSS

1 Q. So you went down to the sheriff's office. And do you
2 recall signing a Miranda warning at 1:25 on May the 3rd
3 waiving your rights and saying you were going to give a
4 statement?

5 A. Uh-huh.

6 Q. And you told the police you didn't know anything about
7 it; didn't you?

8 A. Yes, sir.

9 Q. So you lied to them, after you had lied to them the
10 day before?

11 A. (No response.)

12 Q. And then as they started talking to you, you signed,
13 at 3:42 that same day, a second Miranda statement. Do you
14 remember this?

15 A. Yes, sir.

16 Q. And at some point during the course of that day you
17 decide, okay, I'm going to tell the truth because the
18 Ellis family deserves to hear the truth and I'm going to
19 tell the police what happened; is that correct?

20 A. Yes, sir.

21 Q. So you changed your story from I don't know what
22 happened. You gave a written statement to the police. Is
23 that a copy of your handwritten statement given on May the
24 3rd?

25 A. Uh-huh.

CRYSTAL JACKSON: CROSS

1 Q. And you offered to take the police out to where the
2 evidence had been burned?

3 A. Yes, sir.

4 Q. But that written statement that you gave on May the
5 3rd wasn't the truth, either; was it?

6 A. (Nods head.)

7 Q. You left out some stuff; didn't you?

8 A. Yes, not on purpose though.

9 Q. You didn't? So you didn't tell them the whole truth;
10 did you?

11 A. It was very stressful at the time. I was not trying
12 to hold anything back.

13 Q. So you came back on June the 12th?

14 A. That was the day of my arrest.

15 Q. Oh. So you waited until you got arrested again before
16 you told them the truth?

17 A. June 12th.

18 Q. June the 12th, 2007 at 12:15?

19 A. June 12th was the day I came up there and turned
20 myself in.

21 Q. Why did you turn yourself in?

22 A. Uh --

23 Q. Did you know they were looking for you?

24 A. Somebody had told me to come up there and turn myself
25 in and I agreed to it.

CRYSTAL JACKSON: CROSS

1 Q. And so you signed this Miranda warning?

2 A. Uh-huh.

3 Q. And that is your signature on that saying you're going
4 to give them now your fourth statement?

5 A. Uh-huh.

6 Q. And in that statement -- is that your written
7 statement that you did on June the 12th?

8 A. (Nods head.)

9 Q. Read that statement for the jury.

10 A. The last time I saw the victim was Saturday before he
11 was killed. I did not see the victim any more after that
12 day. I did not help him in any way with the crime. I did
13 not hide or keep the money. I do not know where it could
14 be. And I don't -- and I didn't go to the front or any
15 door at the victim's house at any time or day he was
16 killed.

17 Q. So according to your testimony, you were lying when
18 you made that statement because you had helped Chad burn
19 the evidence that night; correct?

20 I didn't help him in any way with the crime. You're
21 talking about Chad Williams; aren't you?

22 A. Yeah.

23 Q. But you're lying right there because did you help him
24 by your admission with the crime. You helped him destroy
25 the evidence.

CRYSTAL JACKSON: CROSS

1 A. I didn't burn it. I didn't bury it.

2 Q. You say Saturday before Mr. Ellis was killed you went
3 to his house to use the phone?

4 A. Uh-huh.

5 Q. You never went over to his house at any other times?

6 A. No, I had no reason to.

7 Q. And you have a very detailed memory about the night of
8 smoking crack. You and Chad, according to your statement,
9 and Katherine Young and Christy Lee Barton smoked crack in
10 Kathy's room that night; correct?

11 A. Uh-huh.

12 Q. And you remember who all was in the room, and you
13 remember who left the room. You and Josh and Chad left
14 the room; correct?

15 A. (Nods head.)

16 Q. And what time was that?

17 A. I'm not sure. Late at night.

18 Q. What day of the week was Mr. Ellis killed on?

19 A. I think it was a Monday. I'm not really sure. I know
20 it was the beginning of the month.

21 Q. You think it was a Monday?

22 A. Well, I know that Chad got arrested on the 3rd.

23 Q. Well, how can you not remember the day that somebody
24 was murdered that lived 500 yards away from you, but you
25 can remember it was the Saturday before he was murdered

CRYSTAL JACKSON: CROSS

1 that you were at his house asking to use the phone? It
2 seems to me that using somebody's cell phone is a little
3 get inconsequential --

4 MR. WEEKS: Objection to the form.

5 MR. MILLER: Your Honor, I'll rephrase.

6 THE COURT: Okay.

7 BY MR. MILLER:

8 Q. Ms. Jackson, how can you remember the specific day you
9 went to somebody's house to use the phone but not be able
10 to remember the night that they were murdered and you were
11 a participant in the destruction of evidence according to
12 your story?

13 A. I remember the weekend that I used his phone because I
14 was trying to get ahold of my kids. That is the only
15 reason why I remember that. I knew that it was on the
16 weekend. I figured a Saturday, and it was a Saturday
17 whenever I last saw him.

18 Q. Your kids are important to you?

19 A. Yes. They're very important to me.

20 Q. Okay. This happened in May of 2007, and you remember
21 because you were using the phone to try to see your kids.
22 When is the last time you saw your children?

23 A. It's been almost a year now.

24 Q. It's been before this; isn't it? You still haven't
25 seen them in a year and a half?

CRYSTAL JACKSON: CROSS

1 A. (Shakes head.)

2 Q. Now you testified that when Chad came upstairs he was
3 wearing a black wind suit. But then later on you
4 testified that when he went into the bathroom he was
5 naked. Did he strip down in the hall?

6 A. No. He was naked in the bathroom.

7 Q. He was naked in the bathroom?

8 A. Well, he was in boxer shorts. Just boxer shorts.

9 Q. Okay. So he was in boxer shorts?

10 A. I take it that he undressed while he was in the
11 bathroom after he stopped puking. Whenever he continued
12 and came into the bedroom, he was in just boxer shorts.

13 Q. Well, where were the clothes that were put into the
14 plastic bag? Were they downstairs or were they upstairs?

15 A. No. They were upstairs with him.

16 Q. Okay. So he took the clothes from upstairs downstairs
17 or did you take them?

18 A. No.

19 Q. Okay. Was it Chad that took them?

20 A. No. I think they were left upstairs on the bed.

21 Q. His bloody clothing --

22 A. He --

23 Q. -- was left upstairs on the bed at your place?

24 A. Or either on the floor. I mean, it was somewhere in
25 the bedroom. Whenever we came back upstairs he put stuff

CRYSTAL JACKSON: CROSS

1 directly in the bag.

2 Q. So he came upstairs with the bag?

3 A. Yeah.

4 Q. You said he put a wallet in the bag. How did you know
5 it was Mr. Ellis's wallet?

6 A. Chad didn't have a wallet.

7 Q. Chad doesn't have a wallet?

8 A. Not as I can recall.

9 Q. Do you recall what Mr. Ellis's wallet looked like?

10 A. I think it was dark. It was a dark color, like brown.

11 Q. How many times did you see Mr. Ellis's wallet?

12 A. Just that one time.

13 Q. How did you know it was Mr. Ellis's then? .

14 A. He had just told me that he had killed a man.

15 Q. Okay. So now he told you that he killed him while
16 you're upstairs, not while you're down in the driveway?

17 A. No, I mean between --

18 Q. I understand that the details are kind of hard to keep
19 straight.

20 Let's move on. You testified that Chad came into the
21 house, went into the bathroom with a plastic bag he had
22 gotten somewhere along the way, went into the bathroom,
23 threw up, took off his clothes, put all of those clothes
24 into the plastic bag along with Mr. Ellis's wallet. What
25 else did he put into the bag?

CRYSTAL JACKSON: CROSS

1 A. His shoes, boxers.

2 Q. He was wearing his shoes when he came in?

3 A. When he came in from Mr. Ellis's. Whenever he came in
4 from killing Mr. Ellis, he ran up the stairs, went to the
5 bathroom, immediately started puking. Me and my cousin,
6 Joshua Mace, went to the bathroom, checked on Chad. He is
7 puking straight blood.

8 At that time -- I don't know if he was wearing clothes
9 or not. But whenever he came into the room, he was
10 wearing boxer shorts. He threw the money at Josh.

11 Q. Hold on a minute. You don't know whether he was
12 wearing clothes when he walked into the bathroom?

13 A. No, I mean, whenever --

14 Q. When you walked into the bathroom --

15 A. No, I do believe he was wearing clothes.

16 Q. Okay. He was wearing the bloody clothes that
17 presumably were bloody from beating Mr. Ellis?

18 A. Yeah.

19 Q. Was there blood in the bathroom?

20 A. In my grandmother's bathroom?

21 Q. The bathroom he went into.

22 A. I don't know.

23 Q. Was he standing up when he was throwing up over the
24 toilet or --

25 A. No.

CRYSTAL JACKSON: CROSS

1 Q. -- was he on his knees?

2 A. Yeah.

3 Q. So then we get to this admission that he killed Herb.
4 Where did that happen? Was it upstairs?

5 A. I do believe it was.

6 Q. Well, you told the jury before that it was downstairs
7 in the driveway. Which one is it?

8 A. He was talking about how Herb was stronger than he
9 thought or he put up more of a fight than he thought he
10 would. That's what he stated outside.

11 Q. So --

12 A. He told -- whenever he come in and after he threw Josh
13 out he said, I killed Herbert. I killed Herbert Ellis --
14 to something like that. I mean, I don't want to say the
15 wrong thing but, yeah, he told me that he had killed
16 Herbert and I was going to have to walk with him.

17 Q. So this occurred upstairs now, not in the driveway?

18 A. No. I think that he was telling -- saying about how
19 -- that's whenever he was talking about -- outside he was
20 talking about how he got an adrenaline rush and how it
21 made him feel good, and how Herb was stronger than he
22 thought he was going to be.

23 Q. So you go outside. Who is with you when you go
24 outside?

25 A. Chad.

CRYSTAL JACKSON: CROSS

1 Q. Chad is the only person? Where is Josh?

2 A. Inside.

3 Q. Inside where?

4 A. I don't know.

5 Q. Okay. So you have a bag full of clothes, shoes,

6 Mr. Ellis's wallet. What else?

7 A. And he had the murder weapons.

8 Q. Which were?

9 A. The crescent wrench and a hammer.

10 Q. When did those get put into the bag?

11 A. They never did.

12 Q. They never did?

13 A. No. He carried them.

14 Q. Was he carrying those when he came upstairs and

15 started throwing up?

16 A. No.

17 Q. Where did he get them?

18 A. Uh, there's a bush outside near my driveway and he

19 picked them up from there.

20 Q. Okay. So then you said that there was some discussion

21 about the flashlight?

22 A. Uh-huh.

23 Q. So Chad, covered in blood, went in and asked Kathy

24 Young for a flashlight?

25 A. No. He was in khaki Shorts.

CRYSTAL JACKSON: CROSS

1 Q. So now he is wearing khaki shorts, not the plaid
2 boxers and he goes in and he asked Kathy Young for a
3 flashlight and what does she tell him?

4 A. She didn't have one.

5 Q. She didn't have one. So who else did he ask for a
6 flashlight?

7 A. Christy.

8 Q. Now, does she live in the house?

9 A. No.

10 Q. She just comes there to smoke crack?

11 A. Well, yeah.

12 Q. Okay. So he asked the other person that's there
13 smoking crack that night, do you have a flashlight. What
14 does she say?

15 A. No.

16 Q. And was he in the khaki shorts at this time or had he
17 appeared in some other clothing?

18 A. No. He was in khaki shorts.

19 Q. So you go downstairs and suddenly Chad had a
20 flashlight. Where did it come from?

21 A. From Mr. Ellis.

22 Q. From Mr. Ellis. So it is May, it's late at night.

23 You're standing in front of your grandmother's house and

24 you watched Chad without a flashlight run across the field
25 and go into the back door of Mr. Ellis's house. Is that

CRYSTAL JACKSON: CROSS

1 your testimony?

2 A. Uh-huh.

3 Q. And you could see all of that?

4 A. It was very bright. The moon was full.

5 Q. When Chad comes out of Mr. Ellis's house, now he's got
6 a flashlight; correct?

7 A. Correct.

8 Q. How long was he in his house?

9 A. Not long at all.

10 Q. So, give us an idea. Is not long 30 minutes? 30
11 seconds?

12 A. A few seconds, five seconds, ten seconds.

13 Q. So he was inside. He found a flashlight, comes back
14 outside and comes running across the field. Was he
15 searching for something with the flashlight? What was he
16 doing with it?

17 A. I think he was looking for the cell phone. I can't
18 really recall.

19 Q. Where was his cell phone?

20 A. I don't know. I don't recall.

21 Q. Let me show you what's been previously marked as
22 State's Exhibit One. Would your grandmother's be over
23 here?

24 A. It would be more --

25 Q. More this way?

CRYSTAL JACKSON: CROSS

1 A. Yeah.

2 Q. So in the middle of the night he came out of
3 Mr. Ellis's house, he went running across the field with a
4 flashlight, he finds a cell phone somewhere along the way
5 using that flashlight and then he gets back to you; that's
6 your testimony?

7 A. (Nods head.)

8 Q. You need to say yes or no.

9 A. Yeah. I'm sorry.

10 Q. Now you testified that you were high on crack cocaine
11 during this incident but you remember certain details and
12 you don't remember other details. Where did you say that
13 the murder weapons were as what you referred to, what are
14 you talking about when you say murder weapons. What are
15 they?

16 A. It's a hammer and crescent wrench.

17 Q. Okay. Did Chad clean those things off?

18 A. No.

19 Q. He didn't?

20 A. No.

21 Q. From there you go out of the driveway into the
22 roadway, down the road a little bit, across the road and
23 you testified that Chad dug a hole. What did he dig a
24 hole with?

25 A. His hands.

CRYSTAL JACKSON: CROSS

1 Q. He digs a hole. He puts the bag in it. Where did the
2 lighter fluid come from?

3 A. From my grand mama's front porch.

4 Q. Who got it?

5 A. I did.

6 Q. You did?

7 A. Yeah.

8 Q. And the bag is set on fire?

9 A. (Nods head). Yeah.

10 Q. Now what was your contribution to this?

11 A. (No response.)

12 Q. Why would Chad Williams -- why would he go through all
13 of the trouble to gather up everything that could connect
14 him to this crime, walk past the lighter fluid on the
15 front porch, go up to your room and bring the one person
16 who could tell the police that he did it into the crime?

17 MR. WEEKS: Objection.

18 THE WITNESS: I don't know.

19 MR. WEEKS: Well, she answered it.

20 THE WITNESS: I'm sorry.

21 BY MR. MILLER:

22 Q. Okay. You've told this jury that the reason your
23 fourth statement to the police which turned out to contain
24 inaccuracies but the reason for your fourth statement to
25 the police was given was because the Ellis family deserved

CRYSTAL JACKSON: CROSS

1 it. You were trying to do the right thing. Is that
2 correct?

3 A. Tell the truth.

4 Q. Yeah?

5 A. Yeah.

6 Q. Why didn't you call 9-1-1?

7 A. We didn't have a phone.

8 Q. Okay. Why not go to a phone? We're not talking about
9 a trespasser here. We're talking about somebody being
10 murdered.

11 A. I couldn't.

12 Q. You couldn't go to a phone? Didn't you have friends
13 that lived down at the end of, the other end of Barn Owl
14 Road?

15 A. Miles and miles. I mean, it's so far from anybody
16 around there besides my aunt and I don't even think she
17 was living there then.

18 Q. Besides your aunt who?

19 A. Angela Mathis.

20 Q. Well, she was living there at the time, wasn't she,
21 because y'all had been over at that house less than a week
22 before that at Angie Mathis's house for Josh Mace's
23 birthday party.

24 A. She might have been. She had been incarcerated in
25 Florida and I'm not sure if that was the time that she had

CRYSTAL JACKSON: CROSS

1 moved back down there or not.

2 Q. You told the police?

3 A. Well, it had to be. I'm sorry. It had to be because
4 I had already had my twins. I'm sorry.

5 Q. So why didn't you go to Angie's house?

6 A. She didn't have a phone either.

7 Q. Did Kathy Young have a car?

8 A. Yeah. I think so.

9 Q. Did you tell Kathy Young or tell your grandmother
10 somebody needs to call the police, I think Chad killed
11 Mr. Ellis?

12 A. I was very scared for my family. I was not only
13 scared --

14 Q. Well, Chad was arrested on May the 3rd. So June 12th
15 when you want to do the right thing and the Ellises
16 deserve it, you're still not telling the truth to the
17 police. Why is that?

18 A. I'm telling the truth.

19 Q. What's that?

20 A. I'm telling the truth.

21 Q. Crystal, isn't it true that the reason why you knew
22 that Chad had killed Herbert Ellis is because you were in
23 the house with Chad whenever he killed Herbert Ellis?

24 A. No.

25 Q. And isn't it true that the reason that you were

CRYSTAL JACKSON: CROSS

1 involved in the plan to go to destroy the evidence is
2 because you were already a part of the plan? You were in
3 that house that night?

4 A. No, I was not.

5 Q. Well, then, how did you manage to call Lisa Williams
6 and tell her the position that Mr. Ellis's body was in
7 when the police found him?

8 A. I have no idea.

9 Q. You don't know?

10 A. No.

11 Q. Okay. When -- and you don't know what happened to the
12 money?

13 A. No.

14 Q. You got no idea?

15 A. No.

16 Q. Let's go back to this time line that you provided.
17 You said after you smoked crack with all of these people
18 except Josh Mace, after you smoked crack you left the
19 room. And where was Josh? Was he somewhere where you
20 could see him when you walked out of Kathy Young's room?

21 A. I don't believe so.

22 Q. Where was he; do you know?

23 A. I don't recall.

24 Q. Okay. Josh Mace isn't there, but you walked out of
25 Kathy Young's room and you go into your room and you put

CRYSTAL JACKSON: CROSS

1 on your night clothes and then Josh Mace is there?

2 A. Yeah. Not too long after I opened the door. It
3 couldn't have been that long.

4 Q. And then Chad Williams -- when he walked out of Kathy
5 Young's room, did he talk to you or did he walk out of the
6 room and walk downstairs?

7 A. No. He just walked straight out.

8 Q. Okay. And you said he was not gone long?

9 A. It was long enough for me and Josh to play about one
10 or two hands of cards, if that.

11 Q. Okay. Five minutes? Ten minutes?

12 A. Somewhere around in there.

13 Q. Does Josh Mace smoke crack with y'all?

14 A. No.

15 Q. He didn't that night. Did he ever smoke crack with
16 y'all?

17 A. No.

18 Q. Do you still smoke crack?

19 A. No.

20 Q. Now, you testified that Chad, after y'all got down --
21 well, sorry. And correct me if I'm wrong about any of
22 your testimony, but you testified that when Chad came back
23 into the room and now Josh is gone again, Chad tells you
24 that he killed Herb?

25 A. After he threw the money to Josh and told Josh to get

CRYSTAL JACKSON: CROSS

1 out. That's whenever.

2 Q. Is that before or after he went to the bathroom?

3 A. After.

4 Q. Okay. Was he wearing plaid boxers or was he wearing
5 khaki shorts?

6 A. Whenever he put everything in the bag is whenever he
7 put on his khaki shorts.

8 Q. When was that?

9 A. After he had been puking and everything.

10 Q. Okay. So these allegedly bloody clothes that he was
11 wearing at the time that he was throwing up, he was
12 standing in the bathroom, your bathroom upstairs near your
13 bedroom at your house; correct?

14 A. Correct.

15 Q. And his bloody clothes were there. And everything
16 that he had on he took off and he put into that bag;
17 correct?

18 A. Correct.

19 Q. And he put on a pair of khaki shorts. Any shoes?

20 A. No.

21 Q. So he is barefoot. Any shirt?

22 A. No. I think he might have had on some socks but no
23 underwear.

24 Q. He had on socks?

25 A. I think so.

CRYSTAL JACKSON: CROSS

1 Q. Okay. And you went with him and burned all of the
2 evidence?

3 A. I stood there.

4 Q. What do you know about the relationship between your
5 Aunt Kathy Young and Chad Williams?

6 A. What do you mean?

7 Q. What do you know about it? Do they like each other?
8 Do they not like each other?

9 A. They tolerate each other, I guess you'd say.

10 Q. Okay. Now, could you see whenever the wrench and the
11 hammer that were in the bush, when did Chad pick those up
12 in front of you?

13 A. Before we went to go -- before he went to go burn the
14 stuff at the tower.

15 Q. And he didn't put them in the bag?

16 A. No.

17 Q. And you said you saw blood on them?

18 A. Yeah, because he shined the flashlight on them.

19 Q. You saw the blood on the wrench?

20 A. Whenever he shined the flashlight on them, you could
21 see there was blood on them.

22 Q. That's what I'm asking you. You saw blood on the
23 wrench, and you saw blood on the hammer?

24 A. Uh-huh. Yeah.

25 Q. Did you see blood anywhere else? Did you see blood on

CRYSTAL JACKSON: CROSS

1 Chad?

2 A. On his shoes, it looked like. I'm not sure if that's
3 what it was, but it was something that was dark and it's
4 not supposed to be on his boxer shorts. It was a spot.

5 Q. Wait a minute. Is he in his boxer shorts again?

6 Where did the khaki shorts go?

7 A. No. This is whenever -- he threw the money at Josh.
8 He was standing in his blue plaid boxer shorts. They had
9 a bloodstain on his side. After he threw the money to
10 Josh, Josh had went out. He put on his khaki pants. He
11 put everything in the bag.

12 Q. So, he's in his plaid boxer shorts and he throws the
13 money to Josh. This is after he's thrown up?

14 A. Yes.

15 Q. After you and Josh had gone into the bathroom?

16 A. To check on Chad to see why he was making all of those
17 awful noises.

18 Q. I'm talking about when you're outside at the bush
19 where the hammer and wrench was supposed to be that Chad
20 supposedly got out of the bush, you saw blood on both of
21 them?

22 A. Yes.

23 Q. Where were you whenever all of this stuff was getting
24 burned?

25 A. A few feet away from him.

CRYSTAL JACKSON: REDIRECT

1 Q. A few feet away from him?

2 A. From Chad.

3 Q. And you didn't tell the first officers that came out
4 that morning about any of this?

5 A. Whenever they were investigating everything, whenever
6 the crime scene -- crime -- the people with the yellow
7 tape, they come up and they had the hound dogs out there
8 and everything like that and they were running all
9 around. I had a little puppy named Bridgette. Chad
10 walked outside. My dog ran outside. They had their dogs
11 right there so I had to go grab my puppy because I didn't
12 want him to get ate up because he was so tiny.

13 Chad told me at that time to go get in the shower. So
14 I went and got in the shower. I don't think -- I don't
15 know if, if I talked to y'all that day. I do believe that
16 it was the next day whenever they came and did the
17 interview with the videotapes and all of that.

18 Q. And sometime between the 27th of June -- excuse me.
19 The 12th of June and now was when you decided that the
20 Ellis family needs to know the truth?

21 A. No. They have been needing to know.

22 MR. MILLER: That's all the questions I have,
23 Your Honor.

24 THE COURT: Mr. Weeks?

25 MR. WEEKS: Just a couple, Your Honor.

CRYSTAL JACKSON: REDIRECT

REDIRECT EXAMINATION

1 BY MR. WEEKS:

2 Q. On June the 12th when you came back up to the
3 sheriff's department, had you been told that there was a
4 warrant for you?
5

6 A. Yeah.

7 Q. Were you coming to turn yourself in on that? Were you
8 taken to jail that day?

9 A. Uh-huh.

10 Q. And how long were you in jail?

11 A. Until the 27th.

12 Q. Of June?

13 A. Uh-huh. Yes, sir.

14 Q. And you made bond?

15 A. Yes, sir.

16 Q. Did anybody from the State help you make bond?

17 A. No.

18 Q. Did -- you indicated that Chad changed into khaki
19 shorts. Do you recall what else he was wearing when you
20 took the walk to the burn pile?

21 A. Khakis, capri shorts, like cargoes, got cargo pockets
22 on the side.

23 Q. Did he have shoes on? A shirt? Or anything?

24 A. I don't think so; no.

25 Q. And from May the 3rd when you gave that little

1 paragraph written statement to June 12th when they started
2 asking you some more questions, did it appear they had
3 more information at that time or were you giving them more
4 information?

5 A. I was giving them more information.

6 Q. On May the 3rd, was that the day that you took them to
7 the burn pile with all the stuff in it?

8 A. May the 3rd.

9 Q. When you came up there to the interview.

10 A. Yes, sir.

11 Q. And you rode with them?

12 A. Yes, sir.

13 Q. And you weren't under arrest, were you?

14 A. No, sir.

15 Q. And you showed them where the stuff was burned?

16 A. Yes, sir.

17 Q. That's all the items that you described that were put
18 into the bag were what you were showing them?

19 A. Yes, sir.

20 Q. Was there a wrench and hammer in the bag?

21 A. Yes, sir.

22 Q. Or in the hole?

23 A. Yes, sir.

24 Q. Did he put those in there?

25 A. Yes, sir.

1 MR. WEEKS: Thank you. I have no further
2 questions.

3 THE COURT: You can step down. Any reason we
4 can't stop for the day?

5 MR. WEEKS: No, sir.

6 THE COURT: I didn't know if you had a witness
7 from out of town that you were trying to get back. If not
8 we ...

9 MR. WEEKS: It would be a good time to stop.

10 THE COURT: All right. Ladies and gentlemen of
11 the jury, we're going to stop for today. I promised to
12 try to get you home to your family at a reasonable hour.
13 I remind you, please don't discuss this case yet. I know
14 when you get home everybody is going to want to know what
15 you're doing.

16 You just can't talk to them yet because they're
17 going to have an opinion and that wouldn't be proper to
18 hear anybody else's opinion.

19 When this case is over with you can tell anybody
20 you want everything you want to but don't discuss it yet.
21 Don't discuss it among yourselves. Don't read anything if
22 there is anything in the newspaper or anything on
23 television. Please don't listen to anything outside of
24 this courtroom. This is very important that both sides
25 get a fair and impartial trial.

1 If you'd be back in the jury room at 9:30 in the
2 morning. Thank you.

3 (Jury exits courtroom at 5:20 p.m.)

4 THE COURT: Yes, sir.

5 MR. MILLER: Your Honor, this may be a good time
6 to go ahead and talk about those photographs that I had
7 objections to.

8 THE COURT: Okay.

9 MR. MILLER: But it is certainly up to the Court
10 and the solicitor when that would be the easiest to do it.

11 MR. WEEKS: I have no objection to going into
12 them now, Judge.

13 THE COURT: Okay.

14 MR. WEEKS: Judge, I'm going to hand you State's
15 Six, Seven --

16 THE COURT: Nine, Ten.

17 MR. WEEKS: -- Nine, Ten, 33, 34.

18 THE COURT: He didn't object to 33 and 34.

19 MR. MILLER: Yes, sir. 33 through 36.

20 THE COURT: All right. Now, I didn't catch
21 that.

22 What we were talking about before I thought it
23 was Seven, Eight, Nine and ten and you withdrew Eight.
24 Okay.

25 MR. WEEKS: And 41.

1 That is 33 through 36. I'm going to pass these
2 up for Your Honor to review. If you can ask me about each
3 one of them, I'll show you the purpose of the State for
4 introducing these photographs.

5 THE COURT: Well, Number Six.

6 MR. WEEKS: Six.

7 THE COURT: It appears to be a photograph of a
8 bed and bedspread and a white pillow which appears to be
9 blood on it.

10 MR. WEEKS: There is blood on it. And the
11 purpose of that photograph is to corroborate the story of
12 the Defendant through his confession that he hit him and
13 he fell back down on the bed, and that there was blood
14 there.

15 I think several of next series of photographs are
16 really to corroborate his statement and also to
17 corroborate the witness's statement as to where they found
18 him.

19 THE COURT: And I'm looking at Six and Seven. Do
20 you want to -- do you want to address me on those?

21 MR. MILLER: Your Honor, the objection is the
22 same to each of these photographs. While certainly I
23 understand the State has the right and, quite frankly, the
24 obligation to enter the photographs into evidence, the
25 probative value of those photographs is outweighed by the

1 prejudicial effect because of the graphic nature of the
2 photographs.

3 I understand that the State takes the scene as
4 they find it but at the same time I think in the case of
5 all of these photographs that black-and-white photographs
6 can get the job done equally as well without inflaming the
7 passions of the jury.

8 And that would be -- and I've spoken with
9 Solicitor Weeks, and he's explained to me the extent that
10 he needed to why he wanted each of the photographs in.
11 And I don't dispute his reasoning for wanting photographs
12 in and I'm not trying to keep the photographs themselves
13 out. I just don't think that they need to be color
14 photographs, given the circumstances and nature of the
15 offense.

16 THE COURT: Okay.

17 MR. WEEKS: Quite honestly, we have a lot more
18 graphic photographs that we have kept out. These are
19 there for the purpose to tell the story and also to tie up
20 the forensic pathologist's report who I'm told will say
21 that the crescent wrench and the two-pound sledgehammer,
22 that will be introduced into trial, correlate to the
23 injuries on the skull of Mr. Ellis and the body of
24 Mr. Ellis.

25 And I do not believe that the law requires us, I

1 know it's a discretionary call on Your Honor, to alter the
2 pictures and make them black-and-white when they were
3 actually taken in color. And it depicts the blood versus
4 skin a whole lot better than something I would do.

5 We've taken out pools of blood. We've taken out
6 a lot of the other stuff but the location of the body and
7 the manner in which it is portrayed there is designed for
8 two reasons; one to corroborate the confession of the
9 Defendant and his story as to how it happened and what he
10 did with this man; and second is to corroborate the
11 testimony of the forensic pathologist as to the manner and
12 cause of death and the instrumentalities used in that.

13 THE COURT: And I don't think that Six and Seven
14 are unduly offensive and that black-and-white would really
15 make that big a difference. It doesn't appear that -- it
16 appears to me that the probative value outweighs the
17 prejudicial effect and I think Six and Seven will come in
18 as well as Number Nine and Number Ten.

19 What is number Nine and Ten are both of positions
20 of the body. What is the -- what is Number Ten? What
21 does Number Nine show that Number Ten doesn't show?

22 It appears that number -- well, I guess -- tell
23 me what the probative values are under two different
24 ones. I mean, obviously Number Nine depicts the victim's
25 feet.

1 MR. WEEKS: Number Ten would satisfy me because
2 it shows it all. And we've already got -- we've already
3 got the one of the feet that was kind of taken in a
4 series, but it also corroborates the confession that
5 you've heard on the tape in the in-camera hearing where he
6 says that he tried to make it to the bathroom and he had
7 the wrench in his hand and he turned around and dispatched
8 him.

9 THE COURT: And Number Ten shows the bathroom.
10 Number Nine doesn't show what room it is. Number Ten
11 shows a toilet there.

12 MR. WEEKS: I'll withdraw Number Nine.

13 THE COURT: You want to be heard on Number Ten?

14 MR. MILLER: No, Your Honor.

15 THE COURT: And I think that the probative value
16 outweighs the prejudicial value and that Number Ten is not
17 unduly offensive.

18 (Thereupon, State's Exhibit Nos. 6, 7, 10,
19 photographs, were received into evidence.)

20 THE COURT: Now 33, 34, 35, and 36 appear to be
21 autopsy photos. Is that what they are?

22 MR. WEEKS: They were, Judge.

23 THE COURT: And tell me what --

24 MR. WEEKS: Your Honor, you haven't seen it yet,
25 but the State is going to allege -- we'll get it in that

1 the deceased was killed with what you and I would call a
2 crescent wrench.

3 THE COURT: Okay.

4 MR. WEEKS: That's the top view of it. And
5 that's the closed view of it that was taken out of the
6 burn hole that's been testified to.

7 And even though I may think I know what a
8 crescent wrench would look like if it was laid upside my
9 head, the forensic pathologist has a lot more expertise
10 and he's going to testify, I believe, that they matched up
11 consistently with the weapons that were taken out of the
12 burn hole to corroborate the witness's testimony as well
13 as we have a skull picture, an X-ray picture of the skull
14 showing that the depressed fracture of the skull and what
15 appears to be a round or square-ish indentation on the
16 back of Mr. Ellis's head that we allege was done with the
17 sledgehammer.

18 And I understand the pathologist to say that the
19 square-ish hole on the back of his skull would be
20 consistent with a large instrument, blunt instrument like
21 this sledgehammer.

22 THE COURT: Okay.

23 MR. WEEKS: He refers to it, Dr. Sexton refers to
24 it as keyhole patterns. And that's the purpose of -- I'm
25 not sure which number it is. It's kind of a side view of

1 his head. You can see that particular keyhole kind of --

2 THE COURT: Number 34?

3 MR. WEEKS: Yes, sir. And then the others are --

4 THE COURT: Okay.

5 MR. WEEKS: -- kind of from the closed end of the
6 wrench or from the pattern that's -- would be subjected on
7 a body by the wrench in question.

8 We do have -- I do not believe any DNA from
9 Mr. Ellis was recovered from either one of the murder
10 weapons, that they were in the hole. So to tie it to the
11 death of Mr. Ellis by these weapons isn't accomplished by
12 any other way than the testimony of the Defendant,
13 Ms. Jackson and the corroboration by the pathologist.

14 So that's why the State feels like they are
15 important. I'm not trying to graphically try this case,
16 but I do want to be able to show the patterns. We are
17 going to run those black-and-white to see what they look
18 like and maybe we can substitute but I don't believe it
19 would show the pattern in the same fashion, the black-and-
20 white would.

21 THE COURT: Mr. Miller, do you want to address
22 those?

23 MR. MILLER: Your Honor, it's just the same.

24 THE COURT: Case law, State V. Nance, as well as
25 others, allow photographs of wounds that have been cleaned

1 up. These wounds have been cleaned up in that and show
2 some type of pattern. And assuming that the pathologist
3 is going to be able to connect these photographs and the
4 potential wounds to some type of pattern, you know, it
5 creates substantive evidence.

6 In light of assuming that will happen, then I
7 think they're admissible. Now if he can't connect any
8 meaning to them, then the only purpose would be prejudice
9 and passion of the jury then I wouldn't allow them in.
10 But they're clean and it appears that he's going to
11 testify based on what the State tells me that these
12 wounds, he can connect them to these alleged murder
13 weapons.

14 So 33, 34, and 36 are all different photographs
15 of different wounds to the victim, and I will allow those
16 in.

17 (Thereupon State's Exhibit Nos. 33, 34 and 36,
18 photographs, were received into evidence.)

19 THE COURT: Now 41 appears to be blood splatter
20 to a washing machine or some appliance.

21 MR. WEEKS: It's not particularly significant and
22 the lady testified about the dryer being in the bathroom.
23 But that's one side of where the body is and I think
24 Number Ten shows the blood splatter to the other side.

25 We don't have a blood splatter expert except for

1 lay people. He didn't cough that blood up on both sides
2 at the same time. So we're just showing that to show that
3 he was struck forcibly with something to corroborate the
4 Defendant's admission that he struck him in that area.

5 I don't think it's -- I don't think that one's
6 particularly prejudicial.

7 THE COURT: Certainly if you have some type of
8 evidence that's going to connect these blood splatters to
9 the scene, then I think that's admissible.

10 (Thereupon, State's Exhibit No. 41, photograph,
11 received into evidence.)

12 THE COURT: Okay. Anything else as far as the
13 pictures are concerned?

14 MR. WEEKS: That's it, Your Honor.

15 THE COURT: All right.

16 MR. MILLER: Judge, so I'm clear. Number Nine is
17 withdrawn. The rest are okay. And 33 through 36 is
18 subject to the testimony of Dr. Sexton?

19 THE COURT: That's correct.

20 MR. MILLER: Okay. Thank you, Your Honor.

21 THE COURT: All right. Anything else before we
22 break for the day?

23 END OF DAY'S PROCEEDINGS.

24 * * * *

25 ON TUESDAY, OCTOBER 21, 2008 AT 9:45 A.M.:

JOSHUA MACE: DIRECT

1 THE COURT: Anything before we bring the jury in
2 from the State?

3 MR. WEEKS: Not from the State.

4 MR. MILLER: Nothing, Your Honor.

5 THE COURT: Okay. If you'll bring us the jury.

6 (Thereupon, the jury enters courtroom at
7 9:45 a.m.)

8 THE COURT: Good morning, ladies and gentlemen.
9 Solicitor, you may call your next witness.

10 MR. WEEKS: Thank you, Your Honor, Josh Mace.

11 JOSHUA MACE, having been duly sworn, was examined
12 and testified as follows:

13 THE CLERK: Have a seat in the witness box, state
14 your full name For the Court, spelling your last.

15 THE WITNESS: Joshua Mace, M. A. C. E.

16 DIRECT EXAMINATION

17 BY MR. WEEKS:

18 Q. Josh, how old are you?

19 A. Fifteen.

20 Q. And where do you live?

21 A. [REDACTED].

22 Q. Who do you live there with?

23 A. My grandma, my mother and my little brother.

24 Q. Who's your grand mama?

25 A. Patricia Quarles.

JOSHUA MACE: DIRECT

1 Q. And your mother?

2 A. Angela Mathis.

3 Q. And the other one you named? I'm sorry.

4 A. Andrew Mathis, my brother.

5 Q. Back in May of last year, were you living there also?

6 A. Yes, sir.

7 Q. Who were you living there with then?

8 A. Myself, my grandmother, Crystal Jackson, Chad

9 Williams. And I believe my brother was there sometimes.

10 Q. How about Kathy Young?

11 A. Kathy Young, too.

12 Q. Was Christy Lee Barton living there then?

13 A. No. She was there for that day, I think.

14 Q. And who's your brother?

15 A. Andrew Mathis.

16 Q. And Josh, back on May the 2nd of 2007, did law
17 enforcement come to your residence?

18 A. That morning, I believe.

19 Q. The morning prior to the law enforcement officers
20 showing up, can you tell me what you did? Or the day
21 prior to that morning, more specifically that night, who
22 was there at the house?

23 A. Myself, Chad, Christy, Kathy and Crystal, my grandma.

24 Q. And your grand mom, that's Patricia?

25 A. Uh-huh.

JOSHUA MACE: DIRECT

1 Q. When you say Chad, who are you referring to?

2 A. Chad Williams.

3 Q. The Defendant, Chad Williams?

4 A. Uh-huh.

5 Q. After dark that night, can you tell me what you did?

6 A. Well, the night started out, they was upstairs in the
7 room for a minute. And they came down and me and Chad was
8 playing basketball outside, right OUT in front of our
9 front porch.

10 Q. Was it dark?

11 A. It was dark. It was probably about 11 or 12, towards
12 midnight or something.

13 Q. Prior to that, let me take you back a little bit
14 earlier than that, earlier than you playing basketball.
15 Were all those people you named there at the house?

16 A. I believe so, but I don't recall much before that.

17 Q. Did you loan Chad any money prior to that?

18 A. Uh-huh. I loaned him \$30.

19 Q. About when was that?

20 A. Probably eight or nine. It was a good bit earlier.

21 Q. And can you tell me, did you get any collateral?

22 A. I got a necklace and a watch.

23 Q. Was that his necklace and watch?

24 A. Uh-huh.

25 Q. Tell me what happened now starting when you were

JOSHUA MACE: DIRECT

1 playing ball.

2 A. We played ball for about 20, 25 minutes. And then I
3 quit playing and we went upstairs, and I was playing cards
4 with Crystal.

5 Q. Can you tell me what Chad was wearing when you were
6 playing ball?

7 A. The only thing I remember for sure was the shoes. It
8 was a pair of white tennis shoes, and I think something
9 like a wind suit or wind outfit, kind of silky.

10 Q. Okay.

11 A. Dark blue or something, darker colors.

12 Q. When you went upstairs, where did Chad go? Did you
13 see?

14 A. He -- I asked him about the money I was going to get
15 back, the \$30. And there's a trail that you can take from
16 my grandma's house that leads to my mother's road. And he
17 said he was going down there. There's a pool table. I
18 figured that he would gamble or something. I asked him if
19 he wanted me to come with him. He said no. I asked him
20 if Crystal was coming, he said no.

21 Q. Did he tell you he was going to pay you back that
22 money at any point?

23 A. He said, I'll get you your money back.

24 Q. Now you went upstairs. Where was Crystal?

25 A. Crystal was in her back room. That's whenever we

JOSHUA MACE: DIRECT

1 started playing cards.

2 Q. When you say you were playing cards, what were you
3 playing?

4 A. Rummy.

5 Q. Where were you playing at?

6 A. On the very edge of her bed, closest to the door and
7 the TV.

8 Q. In her room where her and Chad stayed?

9 A. Uh-huh.

10 Q. Where did you stay in the house, Josh?

11 A. I usually slept downstairs on the couch or in my
12 grandma's room.

13 Q. Now what happened after you and Crystal began playing
14 cards?

15 A. About 15, maybe 20, 25 minutes, somewhere in that area
16 passed. We was playing and Chad came up the door or came
17 up the steps and he was sweating real bad. His face was
18 red and he had on nothing but boxers. They were blue and
19 white or blue with like white stripes, checkerboard.

20 Then he went back to the bathroom in the hallway going
21 towards where me and Crystal were at and he bent over the
22 toilet and started throwing up. And I think Crystal went
23 -- actually went in the bathroom but I was kind of
24 standing at the door just watching and he ended up the
25 shutting the door and making me get out.

JOSHUA MACE: CROSS

1 Q. Shutting the door where?

2 A. The bathroom and just kind of pushed it shut for a
3 minute while he was throwing up. And he took a shower
4 after that.

5 Then I was waiting in Crystal's room on him. And when
6 he got out the shower he threw the \$30 at me and he was
7 like, here is your F.ing money and he wanted his
8 collateral back and he made me leave out the room.

9 Q. What did you give him back?

10 A. His silver watch and necklace.

11 Q. When you left out of the room, where did you go?

12 A. I went to Kathy's room and I ended up going to sleep
13 within 20, 25 minutes.

14 Q. Did you ever see Josh or Crystal after that --

15 A. Who?

16 Q. -- that night? I mean, Chad or Crystal after that?

17 A. No.

18 Q. Josh, answer any questions -- well, let me ask you
19 this: On May the 2nd of last year, how old were you?
20 When is your birthday?

21 A. April 27th. I was just turning 14, I believe.

22 MR. WEEKS: Okay. Thank you.

23 CROSS-EXAMINATION

24 BY MR. MILLER:

25 Q. Good morning, Mr. Mace.

JOSHUA MACE: CROSS

1 A. Good morning.

2 Q. You mentioned that -- I want to take you back through
3 the time line that you provided here. You said that
4 around eight or nine o'clock at night you loaned Chad \$30?

5 A. I wasn't very sure about the time, but it was a good
6 bit earlier in the day.

7 Q. It was early in the evening?

8 A. Uh-huh.

9 Q. Okay. Where had you been prior to that?

10 A. I was at my house.

11 Q. Were you ever at Angie Mathis's house that night?

12 A. No, not that night.

13 Q. Okay. To clarify for the jury, Angie Mathis is your
14 mom?

15 A. Uh-huh.

16 Q. And she lives at this [REDACTED] address with
17 you now; correct?

18 A. Uh-huh.

19 Q. But at that time, she didn't live at [REDACTED]
20 Road?

21 A. (shakes head.)

22 Q. Where did she live?

23 A. Actually at [REDACTED]. It was within a mile
24 walking distance back from my grandmother's house.

25 Q. So you mentioned that there was trail?

JOSHUA MACE: CROSS

1 A. Yes. That led right back to her very own driveway.

2 Q. Okay. And you said that -- you said that there was a
3 pool table over there?

4 A. Yeah.

5 Q. And so, was it a common occurrence for people to be
6 over there hanging out and playing pool, or is it one of
7 those pool tables that collected dust and had clothes
8 laying on top of it?

9 A. It was in use a good bit.

10 Q. Okay. So at eight or nine o'clock, your testimony is
11 that you loaned Chad money. What happened after that?

12 A. After I loaned him the money, I was just at the house
13 passing time, playing video games and watching TV and
14 stuff and just, time passed until we started playing
15 basketball.

16 Q. But you never left the house after you loaned him the
17 \$30?

18 A. Not that I can recall.

19 Q. Okay. Do you recall leaving the house with Chad and
20 Kathy Young to go buy crack cocaine?

21 A. Yeah. Yes, I do but at the time I didn't know that's
22 what they was going to get.

23 Q. Okay. So that was after you loaned him the \$30?

24 A. Yes. It was at some point from eight or nine when I
25 loaned him the money until we played basketball.

JOSHUA MACE: CROSS

1 Q. Okay. So, tell me about going to get the crack
2 cocaine with Chad and Kathy Young.

3 A. The only thing I remember, I was sitting in the back
4 seat and we went by a convenience store. I don't even
5 remember what it was. They got gas. And then we went
6 somewhere off Reynolds Pond Road, I believe. I don't even
7 have an idea of where it was at or what it looked like.

8 Q. Okay. And whose car were you in?

9 A. I believe it was Kathy's Sunfire.

10 Q. Is it a Pontiac Sunfire?

11 A. I believe so.

12 Q. What color was it?

13 A. If it's the car I'm referring to, it's gold. Gold.

14 Q. Okay. You had been around that car a lot; correct?

15 A. No, I had just -- I had known about it because I knew
16 who had previously drove it. So I knew the car.

17 Q. You were familiar with the car?

18 A. Uh-huh.

19 Q. Okay. So you didn't know where they were going but
20 you rode with Kathy?

21 A. And Chad.

22 Q. And Chad. And went somewhere and then you came back
23 to the house?

24 A. (Nods head.)

25 Q. Did you leave the house any other time?

JOSHUA MACE: CROSS

1 A. (Shakes head.)

2 Q. I'm sorry. You need to speak up because she's taking
3 it down.

4 A. No, sir. No, sir.

5 Q. All right. And at some point in time -- well, what
6 happened whenever y'all got back to the house? Tell me
7 what happened.

8 A. Chad, Christy, Kathy, and Crystal went into the room
9 and I guess they were smoking crack, now that I know. I
10 didn't know at the time what they were doing, but they was
11 in the room smoking crack.

12 Q. What time was that?

13 A. Probably, I'd say, around 11, a little later than 11
14 maybe.

15 Q. So they go in and they go into the room and where are
16 you during that time?

17 A. Downstairs playing my Xbox.

18 Q. So you're playing on the Xbox downstairs. Where --
19 what happened after that?

20 A. That -- about -- like I said, around 12 or so after
21 that came around, after I was playing with my Xbox that's
22 whenever we started playing basketball.

23 Q. Okay. So they were in the room smoking crack for an
24 hour?

25 A. Yeah. They was in there for close to an hour, they

JOSHUA MACE: CROSS

1 sat in there for a while.

2 Q. Okay. So at 12 a.m., did Chad come downstairs?

3 A. He came down the stairs and asked me what I was doing,
4 I believe, and then we started playing basketball because
5 it was right by the door.

6 Q. Okay. Did Crystal come downstairs?

7 A. No. Chad was the only one.

8 Q. Your grandmother was asleep downstairs; correct?

9 A. Uh-huh.

10 Q. And you and Chad started playing basketball?

11 A. (Nods head.)

12 Q. How did the subject of the \$30 come up?

13 A. While we was playing, you know, my adrenaline was
14 going and I didn't know I was just like, hey, what about
15 that 30 bucks that I loaned you earlier, when are you
16 going to be able to pay that back.

17 Q. Okay. So this is the \$30 you had loaned to him four
18 hours earlier or three hours earlier?

19 A. Uh-huh.

20 Q. All right. Do you know what day of the week May the
21 1st was?

22 A. I have no idea.

23 Q. Okay. Do you remember if it was a school night?

24 A. I don't.

25 Q. All right. So you're downstairs playing basketball

JOSHUA MACE: CROSS

1 with Chad and you start talking about the \$30. It's your
2 testimony that at that point Chad walked off going on the
3 trail towards your mother's house?

4 A. Well, I made a statement to him before he left. I
5 asked him where he was going. He said he was going down
6 to my mom's house. So I figured he was going to try to
7 gamble to get my 30 bucks back or something on the pool
8 table. I asked him if he wanted me to go. He said no. I
9 asked him if Crystal was going, he said no.

10 Q. Then what did you do then?

11 A. Then I walked upstairs and started playing cards with
12 Crystal.

13 Q. Did you see him walking on the trail towards your
14 mother's house?

15 A. I never even saw him. It was dark. I wasn't paying
16 much attention to it after I went inside. I didn't see
17 what direction he left or anything.

18 Q. So it was dark enough that night that you couldn't see
19 what direction he walked off on?

20 A. Well, I wouldn't say that. I wasn't paying attention
21 to where he was going. I was inside.

22 Q. Okay. Now, how long were you and Chad playing
23 basketball after he came downstairs from what you now know
24 he was smoking crack?

25 A. No more than 15 or 20 minutes.

JOSHUA MACE: CROSS

1 Q. Okay. So you play basketball for a few minutes, Chad
2 leaves and you go upstairs. How long were you -- where
3 did you go when you went inside?

4 A. Straight up the steps, straight back to the back room
5 where Crystal and Chad stayed and sat on the end of their
6 bed and was playing rummy.

7 Q. Okay. And you said that you played cards for about 15
8 minutes?

9 A. Yeah. It was probably about 15, 20 minutes.

10 Q. Okay. What was Chad wearing the next time you saw
11 him?

12 A. After we were playing cards and he had left?

13 Q. Uh-huh.

14 A. The only thing he had on when he came up the steps was
15 dark blue and maybe black-and-white checkerboard boxers.
16 It was plaid.

17 Q. He wasn't wearing a wind suit?

18 A. No. That was -- he didn't have anything on but that
19 and he was really red and sweating.

20 Q. Okay. When he was standing in the bathroom and he was
21 throwing up, according to your testimony, what was he
22 wearing then?

23 A. The boxers still.

24 Q. Just the boxers?

25 A. He hadn't changed anything from when I saw him the

JOSHUA MACE: CROSS

1 first time.

2 Q. Okay. And how do you know that Chad took a shower?

3 A. Because I heard the shower water cut on while I was
4 sitting in there with Crystal.

5 Q. So did you and Crystal leave?

6 A. Huh-uh. Well, the bathroom is right beside Crystal's
7 room.

8 Q. Okay.

9 A. And right after I saw him throwing up I didn't want to
10 watch that so I walked back to the back room and, you
11 know, within a few minutes I heard the shower water cut on
12 and so I put two and two together.

13 Q. Was Crystal with Chad the entire time?

14 A. Huh-uh.

15 Q. Where was she?

16 A. In there with me.

17 Q. Okay. When you went into Kathy's room, who was in
18 Kathy's room?

19 A. Just her and she was sitting on the bed reading a book
20 and I ended up going to bed very shortly after that.

21 Q. Where was Christy Lee Barton?

22 A. Downstairs, I guess. I didn't see much of her that
23 night after all of this. She usually stayed downstairs on
24 the couch and kind of kept to herself.

25 MR. MILLER: One second please, Your Honor.

PATRICIA QUARLES: DIRECT

1 THE COURT: Yes, sir.

2 (Pause.)

3 BY MR. MILLER:

4 Q. When you saw Chad throwing up, did you see any blood
5 on him?

6 A. No, I didn't. I didn't know to look for anything like
7 blood. I didn't see anything out the ordinary. I just
8 saw him puking.

9 MR. MILLER: Okay. That's all the questions I
10 have, Your Honor.

11 THE COURT: Okay.

12 MR. WEEKS: Nothing further, Your Honor.

13 THE COURT: Thank you, sir. You can step down.

14 MR. WEEKS: Patricia Quarles.

15 PATRICIA QUARLES, having been duly sworn, was
16 examined and testified as follows:

17 THE CLERK: Have a seat in the witness box, state
18 your full name for the Court, spelling your last.

19 THE WITNESS: Patricia Quarles, Q. U. A. R. L. E.
20 S.

21 DIRECT EXAMINATION

22 BY MR. WEEKS:

23 Q. Ms. Quarles, are you the owner of the residence at
24 Barn Owl Road that's been described?

25 A. Yes, I am.

PATRICIA QUARLES: DIRECT

1 Q. And back in May of 2007, May 2nd of 2007, who was
2 staying at that residence with you?

3 A. It was me and Josh, Crystal, Chad and Kathy.

4 Q. Kathy who?

5 A. Young. My daughter.

6 Q. And is Josh your grandson?

7 A. Yes.

8 Q. Is Patricia related to you?

9 A. Crystal?

10 Q. I'm Sorry.

11 A. Crystal.

12 Q. Got too many names.

13 A. Crystal. She's my granddaughter.

14 Q. She's your granddaughter also?

15 A. Uh-huh.

16 Q. Is Chad related to you?

17 A. No.

18 Q. How long had he been staying there at your residence?

19 A. Me?

20 Q. How long had he been staying there at your residence?

21 A. I'm not sure. They would come awhile and then they'd
22 would go to his sister's or something and come back.

23 Several months, him and Crystal.

24 Q. Now, the police officers from the county show up?

25 A. Yes.

PATRICIA QUARLES: DIRECT

1 Q. May the 2nd, in the morning?

2 A. Yes.

3 Q. Can you describe what you observed when you got up?

4 A. When I got up, I think I had been cooking and I was
5 washing dishes. Kathy and Chad had to go to probation
6 that morning. And Kathy had been having a lot of problems
7 with her car battery. And Herb would come over and jump
8 it off. I didn't have my car.

9 Q. Who was Herb?

10 A. Mr. Ellis. I never did know his last name until after
11 he died. But if she needed a jump if he was home he'd
12 come and jump it before she got a battery in it. And
13 Kathy told Chad --

14 Q. Don't say what Kathy told Chad. Let me just ask you:
15 When the police arrived, did they question you?

16 A. They wanted to know if I had heard or seen anything.
17 If I heard the dogs barking.

18 Q. Did they ask you for consent to search?

19 A. Yes.

20 Q. Did you give that to them?

21 A. Yes.

22 Q. Did they threaten you or anything to get that from
23 you?

24 A. No.

25 Q. Did you allow them to search your yard, too?

1 A. Yes, I did.

2 Q. Now, is Jason your son?

3 A. Yes.

4 Q. But he wasn't living there at the time, was he?

5 A. No.

6 Q. Had you seen him the night before?

7 A. No. He had been gone for several days. He lived in
8 Windsor.

9 Q. Where did Chad and Crystal stay when they were in your
10 house? Did they stay in the same room together?

11 A. Yes.

12 Q. Where was that?

13 A. Upstairs, all the way to the back.

14 Q. Okay. Thank you. Answer any questions that
15 Mr. Miller has for you.

16 CROSS-EXAMINATION

17 BY MR. MILLER:

18 Q. Ms. Quarles, where is your daughter, Kathy Young,
19 today?

20 A. Where is she?

21 Q. Yes.

22 A. She's in prison.

23 MR. MILLER: Okay. No further questions.

24 MR. WEEKS: Nothing further, Your Honor.

25 THE COURT: Thank you, ma'am.

CHRIS JOHNSON: DIRECT

1 THE WITNESS: Okay.

2 MR. WEEKS: Your Honor, Ms. Quarles and Josh are
3 both under subpoena. I have no other use for them, their
4 testimonial purposes. I would ask that they be released
5 from their subpoena.

6 THE COURT: Any objection?

7 MR. MILLER: No objection, Your Honor.

8 THE COURT: They can be certainly released. You
9 can be excused.

10 MR. WEEKS: They may want to stay, I don't know.

11 THE COURT: Sure. If you wanted to leave you
12 can, but you're welcome to stay. It's up to you. But
13 you're released from your subpoena.

14 MR. WEEKS: State calls Chris Johnson.

15 CHRIS JOHNSON, having been duly sworn, was
16 examined and testified as follows:

17 THE CLERK: Have a seat in the witness box, state
18 your full name for the court spelling your last.

19 THE WITNESS: My name is Chris Johnson, J. O. H.
20 N. S. O. N.

21 DIRECT EXAMINATION

22 BY MR. WEEKS:

23 Q. Chris, where are you employed?

24 A. Aiken County Sheriff's Office.

25 Q. And what capacity are you working in over there?

CHRIS JOHNSON: DIRECT

1 A. I'm a forensic investigator for the sheriff's office.

2 Q. How long have you been with the sheriff's office?

3 A. I've been with the sheriff's office since December
4 19th, 2003.

5 Q. Back on May the 2nd of 2007, were you called to a
6 crime scene?

7 A. Yes, sir; I was.

8 Q. Is that the crime scene where Mr. Ellis's body was
9 located?

10 A. Yes, sir.

11 Q. And what was your purpose in coming to the crime
12 scene?

13 A. My purpose was to -- as a forensic investigator to
14 videotape, to document and collect evidence and process
15 the scene.

16 Q. All right. Were you working with Clay Adams who's
17 blocked off from me?

18 A. Yes, sir.

19 Q. Were you both working in forensics at the time?

20 A. Yes, sir.

21 Q. Did you both participate in varying degrees in this
22 investigation?

23 A. Yes, sir; we did.

24 Q. Chris, can you tell me what you did when you arrived
25 there inside the residence where Mr. Ellis's body was

CHRIS JOHNSON: DIRECT

1 located?

2 A. Yes, sir.

3 Q. Let me just ask you this: Did you take some
4 photographs?

5 A. Yes, sir; I did. I took several photographs of the
6 inside.

7 Q. Is that part of what you do when you arrived there?

8 A. Yes, sir.

9 Q. Take a lot of photographs?

10 A. Yes, sir.

11 Q. Now, I'm going to hand you a good number of

12 photographs there. And ask you whether you took What's
13 marked State's Five, Six, Seven, Eight and Ten, or if you
14 didn't take them, do you recognize the scene depicted in
15 those?

16 A. Yes, sir. Number Five, Number Six, Number Seven,
17 Number Eight, yes, sir, and Number Ten, yes, sir; I took
18 these photographs.

19 Q. And can you briefly describe what those photographs
20 are, in general?

21 A. Yes, sir. The photograph or Exhibit Number Five is a
22 bed that was in the master bedroom of the mobile home.

23 Number Six is a photograph of underneath the pillow
24 where there is some stains on the bed.

25 And Number Seven is another photograph of the bed

CHRIS JOHNSON: DIRECT

1 showing some other stains on the pillows.

2 Number Eight is a photograph of the floor and the feet
3 of the victim, Mr. Ellis, and also the foot of the bed.

4 And then Number Ten is a photograph of the victim,
5 Mr. Ellis, and some stains on the washer and dryer and the
6 door.

7 Q. What kind of stains do they appear to be?

8 A. They appear to be bloodstains in each of the
9 photographs.

10 Q. And the scene depicted in State's 42 and 43, do you
11 recognize that?

12 A. Yes, sir. That is the window of the -- that is going
13 to be -- it should be -- if you're standing at the foot of
14 the bed, it's going to be to the right of the bed. It's
15 going to be a window to the master bedroom where these
16 pictures were taken, Five, Six, Seven.

17 43 is the same area of the back door and part of the
18 window. It's going to be the back of the trailer at [REDACTED]

19 [REDACTED]
20 Q. Chris, did either you or Clay when y'all arrived
21 there, after you took photographs and that sort of stuff,
22 did you attempt to lift any prints?

23 A. No, sir. I did not attempt to lift any prints at the
24 time. I had to respond to autopsy.

25 Q. You went with the body to autopsy?

CHRIS JOHNSON: DIRECT

1 A. Yes, sir; I did.

2 Q. Did -- at some subsequent point, I believe the next
3 day, did you participate in documenting the recovery of
4 some evidence?

5 A. Yes, sir; I did.

6 Q. Can you tell me how you did that?

7 A. The next day?

8 Q. (Nods head).

9 A. The burn hole?

10 Q. Yes.

11 A. At the -- I got a request to respond out to old Barn
12 Owl Road. I was requested to bring a video camera. Once
13 I got there, I did use the video camera to document with
14 the video camera and then further document with digital
15 camera, still digital images of the scene.

16 Q. That scene you referred to as the burn hole, what was
17 that?

18 A. Well, the burn hole was off of Barn Owl Road there is
19 a cell phone tower. It's on the left-hand side of the
20 road if you're heading away from Wire Road or -- excuse
21 me, Old Camp Long Road on Barn Owl Road, excuse me. It
22 was on the left and it was probably about 100 yards back
23 and there was a wood line on that side of the road, back
24 near that cell phone tower there was a burn hole.

25 Apparently there was a place in the ground where you

CHRIS JOHNSON: DIRECT

1 could tell it was freshly dug and pine straw had been put
2 over top of it. And you could even see where there was
3 pine straw pulled from another location close to it over
4 to where the hole had been dug.

5 Q. And did you make a videotape of the location of that
6 hole and the event leading up to the location of it?

7 A. Yes, sir. I made a videotape of one of the
8 investigators speaking with a witness and she described
9 what area that the burn hole would be. As other
10 investigators were in the woods, she was kind of directing
11 them where to go.

12 Q. And have you reviewed your video prior to court,
13 sometime earlier than today?

14 A. Yes, sir.

15 Q. Is it an accurate and true representation of what you
16 filmed and saw that day?

17 A. Yes, sir.

18 MR. WEEKS: Your Honor, I'm going to move to
19 introduce State's Number 51 which is the video in
20 evidence.

21 MR. MILLER: Without objection.

22 THE COURT: Okay. 51 is in without objection.

23 (Thereupon, State's Exhibit No. 51, DVD - burn
24 hole, was received into evidence.)

25 MR. WEEKS: Your Honor, if we could I'd like to

CHRIS JOHNSON: DIRECT

1 publish it at this time.

2 THE COURT: Okay.

3 MR. WEEKS: I always say tongue in cheek because
4 it involves technological advances that I'm not capable of
5 doing.

6 (Thereupon video played for the jury.)

7 (Thereupon, State's Exhibits Six, Seven, Eight,
8 Ten, 42, and 43, photographs, were received into
9 evidence.)

10 MR. WEEKS: Your Honor, I referred earlier to
11 State's Exhibits with the witness that, for the record, I
12 wanted to point out that those photographs previously
13 shown to him are already without objection from the
14 defense, going to be entered into evidence.

15 THE COURT: Is that correct?

16 MR. MILLER: That is correct Your Honor.

17 THE COURT: Give me those numbers again.

18 MR. WEEKS: 43, 42, 10, Eight, Seven and Six.

19 THE COURT: Okay. They're in without objection.

20 BY MR. WEEKS:

21 Q. Chris, I'm going to take you back to the scene with
22 this body, and ask you, State's Exhibit Number 37, did you
23 take that photograph?

24 A. Yes, sir; I did.

25 Q. And what's that purports to be?

CHRIS JOHNSON: DIRECT

1 A. That is the backside of the victim's pajama pants
2 where it appeared to be a footwear impression left in what
3 appeared to be blood.

4 MR. WEEKS: And, Your Honor, previously as
5 indicated 37 is not objected to.

6 THE COURT: Okay. That's in without objection
7 (Thereupon, State's Exhibit No. 37, photograph,
8 received in evidence.)

9 MR. WEEKS: Your Honor, 11, 12, 13, 14, 15, 44
10 are in without objection also as I understand it.

11 MR. MILLER: That's correct, Your Honor.

12 THE COURT: All right. They're in without
13 objection.

14 (Thereupon State's Exhibits 11, 12, 13, 14, 15,
15 and 44, photographs, were received into evidence.)

16 BY MR. WEEKS:

17 Q. Chris, if you would, do you recognize the scene that's
18 depicted in that group of photographs that I've handed
19 you?

20 A. Yes, sir. This is photographs of the scene where we
21 just saw on the video, where the hole was found.

22 Q. Those are some of the digital images that you took
23 that day?

24 A. Yes, sir; these are digital images.

25 Q. What was visible when you raked away the little pine

CHRIS JOHNSON: DIRECT

1 straw on that location?

2 A. When we raked away a little bit of the pine straw we
3 could see that the earth had been freshly turned over, had
4 been dug up. And also there was -- once we brushed away a
5 little bit of the earth, we could start to see that there
6 was, it looked like fire debris, an adjustable wrench, a
7 plastic bag with stuff in it. Items such as that.

8 Q. Okay. More specifically, State's Number 44, what does
9 that depict?

10 A. This depicts an adjustable wrench. You can see it
11 running right through here, an adjustable wrench. And it
12 also appears to be a bottom of a shoe. It looks like it's
13 got a little bit of a footwear pattern in it, the pattern
14 of a shoe.

15 Q. Were you taking pictures kind of in stages as y'all
16 uncovered it?

17 A. Yes, sir; we were.

18 Q. State's Exhibit Number 15, describe that picture for
19 me. Kind of face it towards the jury. Okay?

20 A. State's Number 15 you can see, of course, there's the
21 hole that we're pulling this out of. You see what appears
22 to be a plastic bag from -- it was a plastic bag and you
23 can see a shoe sticking out of the top of the bag. And
24 you see some clothing coming out of the bottom of the bag,
25 right here.

CHRIS JOHNSON: DIRECT

1 Q. Okay. What did y'all do with those items when you
2 removed them from the hole?

3 A. We packaged them up in a paper bag, and we transported
4 them back to the sheriff's office where we could take a
5 closer look at them in the lab.

6 Q. Okay. The same, Chris, with regard to the photographs
7 you took and particularly the photograph depicted in
8 State's Number 37, on the pajama bottom, the photograph of
9 the pajama bottoms?

10 A. Yes.

11 Q. Do you turn your photographs over for further review,
12 too?

13 A. We downloaded them into the database at the sheriff's
14 office and whoever needs to view them, whoever needs to
15 have access to them as far as doing any type of
16 comparison, they have access to them; yes.

17 Q. And you indicated you went to autopsy?

18 A. Yes, sir; I did.

19 Q. In that autopsy, did you take some of the clothing?

20 A. Yes, sir. Let me refer to --

21 Q. Just specifically, did you take the pants that
22 Mr. Ellis was wearing that you took a picture of?

23 A. Yes, sir. Yes, sir; I did.

24 Q. And were those pants sent on to the South Carolina Law
25 Enforcement Division?

CHRIS JOHNSON: CROSS

1 A. Yes, sir; they were.

2 Q. Chris, at some point after you took the video and all
3 that, were you called upon to take a blood standard from
4 the Defendant, Chad Williams?

5 A. Yes, sir. I was requested to go to the Family Med
6 Center with one of the investigators.

7 Q. And did you witness the taking of a vial of blood from
8 him?

9 A. Yes. I witnessed it.

10 Q. And some buccal swabs?

11 A. Yes, sir; I took the buccal swabs from him.

12 Q. Tell me what a buccal swab is.

13 A. A buccal swab is, we use a sterile swab and we swab
14 the inside of the cheeks, inside of the mouth in order to
15 obtain DNA.

16 Q. And those items were sent on to the South Carolina Law
17 Enforcement Division for --

18 A. Yes, sir.

19 Q. -- testing?

20 A. Yes, sir; they were. Yes.

21 MR. WEEKS: Answer any questions Mr. Miller has
22 for you.

23 CROSS-EXAMINATION

24 BY MR. MILLER:

25 Q. Good morning, Investigator Johnson.

CHRIS JOHNSON: CROSS

1 A. Good morning, Mr. Miller.

2 Q. The photograph of the window of the mobile home where
3 it had been removed and it was beside the mobile home?

4 A. Yes, sir.

5 Q. And we're kind of out of order here with these
6 pictures, so I'm not exactly sure where it is.

7 A. I think it's back there towards the beginning, if I'm
8 not mistaken.

9 Q. Yeah, that's what I was thinking.

10 Well, there was a window that was removed that was in
11 the master bedroom?

12 A. Yes, sir.

13 Q. And you testified that it was, from the end of the bed
14 it would be on the right-hand side?

15 A. Yes, sir.

16 Q. Okay. Was that window tested for fingerprints?

17 A. The window was collected and taken back to the lab.

18 Q. The whole window?

19 A. Yes, sir.

20 Q. How about the area surrounding the window and I
21 believe that -- is that the window that we're talking
22 about?

23 A. Yes. That's the window that we're talking about.

24 Q. So the whole window was sent back to the lab?

25 A. Yes, sir.

CLAY ADAMS: DIRECT

1 Q. Was any evidence processing or evidence collection
2 done in the area around the window or just inside the
3 window?

4 A. Besides collecting the window and taking the window,
5 like I had testified to earlier, I left and had gone to
6 autopsy.

7 Q. Okay. So you didn't do it?

8 A. No, sir; I did not do it.

9 MR. MILLER: Okay. That's all the questions I
10 have.

11 MR. WEEKS: No further questions.

12 THE COURT: Thank you, sir. You can step down.

13 MR. WEEKS: The State would call Investigator
14 Clay Adams.

15 CLAY ADAMS, having been duly sworn, was examined
16 and testified as follows:

17 THE CLERK: Have a seat in the witness box, state
18 your full name for the Court, spelling your last.

19 THE WITNESS: Clay Adams, A. D. A. M. S.

20 DIRECT EXAMINATION

21 BY MR. WEEKS:

22 Q. Clay, where do you work?

23 A. I work at the Aiken County Sheriff's Office.

24 Q. And how long have you been there?

25 A. Approximately eight years.

CLAY ADAMS: DIRECT

1 Q. What was your role at the sheriff's department back in
2 May of 2007?

3 A. Sergeant of forensic investigations.

4 Q. Are you still with forensic investigations at the
5 sheriff's office?

6 A. I am.

7 Q. Did you and Chris respond to the location where
8 Mr. Ellis was located?

9 A. We did.

10 Q. Can you tell me just kind of in general, what you do
11 when you get there on a scene like this?

12 A. When we arrive at a crime scene we make sure that the
13 crime scene has been secured. We'll enter the crime
14 scene. We'll document the crime scene as to how we found
15 it. We'll process the crime scene for any physical
16 evidence, collect any physical evidence for future
17 processing either in our lab or to be submitted to SLED,
18 document and preserve.

19 Q. Okay. And whether it's introduced in trial here or
20 not, I mean, do y'all do things like diagrams and that
21 sort of stuff typically?

22 A. We do.

23 Q. Take photographs?

24 A. Yes, sir.

25 Q. More than have been introduced; is that correct?

CLAY ADAMS: DIRECT

1 A. Correct.

2 Q. At the time when y'all got to the scene of Mr. Ellis,
3 did you have any kind of clue as to who had committed this
4 crime?

5 A. We did not.

6 Q. Did it certainly appear that it was not a self-
7 inflicted wound?

8 A. It appeared that way; yes, sir.

9 Q. Even though the body hadn't been to autopsy, you could
10 pretty much figure that out; couldn't you?

11 A. Yes, sir.

12 Q. Now on the scene there, what else did you do or what
13 else did you do that day?

14 A. Typically when more than one of us responds to a crime
15 scene, we give ourselves a job assignment. In this case
16 Investigator Johnson went through and photographed and
17 videotaped. I, on the other hand, would go in and along
18 with him and look for any physical evidence at the scene,
19 inside of the scene, around the scene, outside of the
20 scene, and anything that comes up thereafter.

21 Q. There was some question about the window and the
22 processing around the window. Did you do any of that,
23 Clay?

24 A. Yes. I processed for latent fingerprints.

25 Q. Were you able to find any latent fingerprints that

CLAY ADAMS: DIRECT

1 were relevant to this case?

2 A. No, sir..

3 Q. Did you take the window out and take it back to the
4 lab?

5 A. Yes, sir.

6 Q. Why did you do that?

7 A. At that point in time we weren't quite sure of the
8 extent of the physical evidence that could possibly be on
9 it. So we would much rather take any type of physical
10 evidence that we can back to our lab where we would have
11 more of a controlled environment.

12 Q. Were you able to find any fingerprints or anything on
13 that window of significance?

14 A. Not of significance; no, sir.

15 Q. Now do you do other things with regard to physical
16 forensic evidence with regard to footwear?

17 A. Yes, sir. We -- at the scene we were able to identify
18 a footwear pattern. We do not do the actual examination
19 of a known to an unknown. We do send those to SLED;
20 however, we do identify a footwear impression that can be
21 later examined.

22 Q. Did you observe something at this scene, Clay, that
23 you tried to replicate for the lab?

24 A. We did. On the buttocks of the -- of Mr. Ellis there
25 was a partial of an impression which appeared to be in

CLAY ADAMS: DIRECT

1 blood on his rear end that had a very unique pattern to
2 it. We were able to identify that as possibly being a
3 footwear impression or a shoe impression. We were able to
4 go outside of the residence and to the right-hand side of
5 the residence we were able to find a shoe impression in
6 the dirt with that -- it is a very similar out sole
7 design.

8 Q. Okay. And were you -- did you with the assistance or
9 with -- after conferencing with Lieutenant Fleury, did
10 y'all ultimately call for what I call the dog team?

11 A. Yes, sir.

12 Q. Tracking team?

13 A. Yes, sir; we called for the bloodhound tracking team.

14 Q. This was all on the morning of May the 2nd, 2007?

15 A. Correct.

16 Q. Subsequent to that on May the 3rd of 2007, were you
17 called to another location?

18 A. I was.

19 Q. And where was that location in reference to where were
20 you on May the 2nd?

21 A. That location is on Barn Owl Road. It's next to a
22 cellular phone tower. It's approximately about 300 yards
23 by the way that the crow flies from the initial incident
24 scene.

25 Q. And that would be as the crow flies, but that probably

CLAY ADAMS: DIRECT

1 wouldn't be the best way to get there, would it?

2 A. No. In a straight line it's probably about 300
3 yards. By road, I'm not quite sure how far away it is.

4 Q. Now, some of these photographs -- were you at the
5 location Chris has testified to?

6 A. I was.

7 Q. Were you in the video?

8 A. I believe so. I don't remember.

9 Q. Well we cut the video off. Who was present when the
10 hole was kind of uncovered? Were you present?

11 A. I was present.

12 Q. I'm not sure but is State's Number 15 you?

13 A. That is me.

14 Q. That's your hands and your feet?

15 A. My hands and my feet; yes, sir.

16 Q. What do you have in your hand there?

17 A. That is a bag of debris that was recovered from the
18 hole.

19 Q. And that bag of debris, did you -- did y'all take it
20 to the lab and send it to South Carolina Law Enforcement
21 Division?

22 A. Eventually; yes, sir.

23 Q. Clay, did you at some point in time get that back from
24 them? Get the debris back in some fashion or maybe prior
25 to sending it, did you take any photographs of it?

CLAY ADAMS: DIRECT

1 A. Prior to. We took the bag of debris into our lab at
2 the sheriff's office where we did see a shoe and some
3 other items. We kept those together as one. Sent that to
4 the State Law Enforcement Division.

5 Once it was returned after their examination we
6 basically disassembled the pile of burned debris.
7 Everything had kind of melted in on itself, where we were
8 able to locate other items inside the burned debris.

9 Q. What type of items did you find inside of the package
10 of burned debris?

11 A. Inside the burned debris we found remains of clothing,
12 shoes, and articles of identification.

13 Q. What do you mean? What types of articles of
14 identification?

15 A. We found a -- the charred remains of a brown wallet.
16 With that wallet we were able to find the partial burned
17 remains of a Florida driver's license and two credit
18 cards.

19 Q. Okay. Did you photograph some of those items?

20 A. I did.

21 MR. WEEKS: And, Your Honor, for the record
22 that's State's 16 through 28, I believe, are without
23 objection.

24 THE COURT: Is that correct?

25 MR. MILLER: Yes, sir, Your Honor.

CLAY ADAMS: DIRECT

1 THE COURT: Okay. Items 16 through 28 are in
2 without objection.

3 (Thereupon, State's Exhibit 16, 17, 18, 19, 20,
4 21, 22, 23, 24, 25, 26, 27 and 28, photographs, were
5 received into evidence.)

6 BY MR. WEEKS:

7 Q. Clay, step down and kind of go through those and show
8 the jury right now.

9 A. (Complying.)

10 Q. Instead of you handling them all, let me fumble
11 around.

12 State's Exhibit 16, can you kind of explain what all
13 that is?

14 A. Okay. State's Exhibit 16 is kind of an overall
15 photograph of the burned debris. As you can tell, this
16 mass is kind of together. The plastic and other surfaces
17 have kind of bonded together from the heat.

18 In this case we have pulled apart a piece of clothing,
19 right here, and a shoe.

20 Q. Okay. State's 17?

21 A. State's 17 is a close-up photograph of the side of one
22 of these shoes with what appears to be blood.

23 Q. State's 18?

24 A. State's 18 is the out sole design of that shoe.

25 Q. Nineteen?

CLAY ADAMS: DIRECT

1 A. And 19 is the side design of the shoe with apparent
2 blood on the side.

3 Q. These were all in that bag or in that hole?

4 A. Yes, sir.

5 Q. And State's 20?

6 A. State's 20 is a close-up photograph of some boxer
7 shorts, blue plaid style boxer shorts.

8 Q. Twenty-one?

9 A. State's 21 is a photograph of -- an enlarged
10 photograph of the -- or a photograph of the black-in-color
11 T-shirt that we recovered from that burn hole.

12 Q. State's 22?

13 A. State's 22 is a photograph of a pair of white colored
14 socks that we found in the burned debris.

15 Q. Twenty-three?

16 A. State's 23 is a photograph of a wind style suit
17 Jerzees size large.

18 Q. Twenty-four?

19 A. State's Exhibit 24 is a close-up photograph of the
20 partial remains of a Florida driver's license where if you
21 look closely you can see Theodore Ellis.

22 Q. Twenty-five?

23 A. State's Exhibit 25 is the close-up photograph of a
24 Bank of America Visa style card with the partial remains
25 of the signature of Herbert Ellis.

CLAY ADAMS: DIRECT

1 Q. Twenty-six?

2 A. Twenty-six is a close-up photograph of a Visa credit
3 card with the signature of Herbert still remaining.

4 Q. Twenty-seven?

5 A. State's Exhibit 27 is a close-up of a card. I believe
6 it's an Auto Broker style card. It's a credit card but
7 the name T. Ellis is -- still remains on the card.

8 Q. Twenty-eight?

9 A. State's Exhibit 28 is the remains of a card. I'm not
10 quite sure what type it is, but the Ellis signature still
11 remains.

12 Q. Where were y'all -- did you discover part of a cell
13 phone in that bag?

14 A. We did; the remains of it.

15 Q. What part of the remains of it?

16 A. The keypad portion was the only identifiable part of
17 it.

18 Q. Now State's 45 -- Your Honor, 46, and 47 it's my
19 understanding are without objection also.

20 MR. MILLER: That's correct, Your Honor.

21 THE COURT: Okay.

22 (Thereupon State's Exhibits 45, 46, and 47,
23 photographs, were admitted into evidence.)

24 THE COURT: Okay. They are in without objection.

25 BY MR. WEEKS:

CLAY ADAMS: DIRECT

1 Q. Can you tell me what those items are?

2 A. Item 45 is a photograph of, I guess it best would be
3 described as a two-pound sledgehammer. It's not like a
4 full-length sledgehammer. It's the size of a regular
5 hammer but heavier. That was recovered in the burn hole
6 on Barn Owl Road.

7 State's Exhibit 46 is a photograph of an adjustable
8 wrench which also was recovered out of the burn hole and
9 State's Exhibit 47 is the same wrench.

10 Q. Why is it turned that way, Clay?

11 A. That is to show the underside area of the, of the
12 wrench area. Right here.

13 Q. Clay, did y'all process these in any way?

14 A. No, we did not.

15 Q. Where did y'all send them to?

16 A. We sent those to the State Law Enforcement Division.

17 Q. I'm going to hand you what's been marked as Exhibit 52
18 for identification. Can you tell me what's contained in
19 that box?

20 A. Do you have a pair of scissors?

21 THE COURT REPORTER: I do.

22 THE WITNESS: Do you have a pair of gloves?

23 MR. WEEKS: No.

24 (Pause.)

25 THE WITNESS: Yes, sir. I recognize it.

CLAY ADAMS: DIRECT

1 BY MR. WEEKS:

2 Q. Is that the wrench that was recovered from the hole
3 that we've been describing?

4 A. Yes, sir.

5 Q. And that's the wrench that's depicted in State's 46
6 and 47?

7 A. That's correct.

8 Q. Was that sent to SLED for further processing also?

9 A. It was.

10 Q. State's 53?

11 A. Yes, sir. This is the remains of a two-pound
12 sledgehammer.

13 Q. Was that removed from the burn hole that we've been
14 describing?

15 A. Yes, sir.

16 MR. WEEKS: Your Honor, I move to introduce 52
17 and 53.

18 MR. MILLER: No objection, Your Honor.

19 THE COURT: Without objection. 52 and 53 are in
20 without objection.

21 (Thereupon State's Exhibits 52, remains of
22 wrench, and State's Exhibit No. 53, remains of
23 sledgehammer, were admitted into evidence.)

24 BY MR. WEEKS:

25 Q. Clay, to clean this up a little bit, all the other

CLAY ADAMS: DIRECT

1 items of the burn hole are over there, too; aren't they?

2 A. Yes, sir.

3 Q. The ones that you were shown pictures of?

4 A. Yes, sir.

5 Q. The ones that you described?

6 A. Yes, sir.

7 Q. Clay, you indicated that you do something else with
8 regard to footwear. Did you do anything in this
9 particular case with regard to footwear?

10 A. I did. When the out sole pattern was observed in
11 blood on the pajama pants, we went outside of the
12 residence and located a footwear impression to the right
13 side of the house. Identified three of them as being the
14 most identifiable and a plaster cast was taken of the
15 footwear impression.

16 Q. Clay, I'm going to hand you what's been marked 54 and
17 55 and ask if you can identify what's contained in those
18 photographs.

19 A. I can.

20 Q. Do they appear to be true and accurate depictions of
21 what they contain?

22 A. They do.

23 Q. And, what are they?

24 A. These are photographs of the clean cast impressions
25 that I made of the shoe impressions.

CLAY ADAMS: DIRECT

1 MR. WEEKS: Your Honor, the State would move to
2 introduce 54 and 55.

3 MR. MILLER: No objection, Your Honor.

4 THE COURT: 54 and 55 are in without objection.

5 (Thereupon State's Exhibits 54 and 55,
6 photographs of cast impressions, were received into
7 evidence.)

8 BY MR. WEEKS:

9 Q. Clay, did you also visibly view any other footprints
10 without casting them?

11 A. I did.

12 Q. Where at?

13 A. In the driveway of the Quarles's house.

14 Q. Where was that located?

15 A. Barn Owl Road. On Barn Owl Road across the field.

16 Q. Okay. Now, the footprints on the buttocks of
17 Mr. Ellis were photographed and sent to SLED for analysis,
18 or the pants were sent to SLED for analysis?

19 A. Correct. We sent the pajama pants themselves to SLED.

20 Q. The actual physical casts were send to SLED that you
21 took out of the yard of Mr. Ellis?

22 A. Yes.

23 Q. And then photographs of the prints in the yard of
24 Ms. Quarles?

25 A. I believe so.

CLAY ADAMS: DIRECT

1 Q. Were you able to cast any of those --

2 A. No, sir.

3 Q. -- prints in the yard?

4 A. No, sir.

5 Q. Clay, on a later date subsequent to May the 2nd, did
6 you participate in some fashion in trying to locate some
7 lighter fluid at the residence of Ms. Quarles?

8 A. We did.

9 Q. Did you obtain a can of lighter fluid or a bottle of
10 lighter fluid from the residence?

11 A. Yes, sir.

12 Q. What did y'all do with that?

13 A. It was processed for latent fingerprints and sent to
14 the State Law Enforcement Division for a chemical
15 analysis.

16 Q. Were you able to get any prints that matched anybody
17 in this case off of the lighter fluid bottle?

18 A. No, sir.

19 Q. Were any prints lifted, Clay, in regard to the window
20 frame and the house or anything that are significant in
21 this case?

22 A. No, sir.

23 Q. Y'all at the sheriff's department don't do DNA; do
24 you?

25 A. No, sir.

CLAY ADAMS: DIRECT

1 Q. I hate to ask this question, Clay, but where are all
2 of the burnt clothes?

3 A. They're in the box.

4 Q. All of them are in the same box?

5 A. Everything is together.

6 Q. Those items that you described in the photograph?

7 A. Are located in that box.

8 Q. Okay. Do you need to check it or have you checked it
9 before you stuffed them all in here?

10 A. I checked it before I put them all in here.

11 MR. WEEKS: State would move to introduce State's
12 54, Your Honor.

13 THE COURT: No. We already got 54.

14 MR. WEEKS: 56. I'm sorry.

15 THE COURT: What says the defense?

16 MR. MILLER: No objection, Your Honor.

17 THE COURT: 56 is in evidence.

18 (Thereupon, State's Exhibit No. 56, items
19 recovered from burn hole, was received into evidence.)

20 BY MR. WEEKS:

21 Q. The shoes and all of that stuff is in here, if anybody
22 wants to look?

23 A. The only thing that is not in that box was the pair of
24 socks and the black-in-color T-shirt. They were removed
25 and boxed separate.

CLAY ADAMS: CROSS

1 Q. And the items that you indicated were removed the
2 wrench and that are not in there but the clothing and the
3 pieces of credit cards and all of that are in the box?

4 A. No, sir. They're behind you.

5 Q. The clothing is in this box?

6 A. The clothing is in this box along with the shoes.

7 Q. State's 57, do you know what that contains?

8 A. Yes, sir. This is the black-in-color T-shirt and
9 white socks that were removed from the burn debris.

10 Q. Now, Clay, at some point after you got the items back
11 from South Carolina Law Enforcement Division that were
12 included in that initial cluster of burnt materials, did
13 y'all dissect it a little bit more and send some other
14 items back to SLED?

15 A. Yes. When the burn debris came back to us, it was
16 still in its original shape minus the shoes. The shoes
17 had been removed from the burn debris.

18 When the items came back to us, we basically
19 disassembled the burn debris. At that point in time is
20 when we located the Florida driver's license and credit
21 cards, observed the burned remains of the cell phone as
22 well as the white pair of socks and the black colored
23 T-shirt, which we sent back to SLED for DNA analysis.

24 Q. The socks and the T-shirt?

25 A. Yes, sir.

CLAY ADAMS: CROSS

1 MR. WEEKS: Clay, answer any questions that
2 defense has for you.

3 CROSS-EXAMINATION

4 BY MR. MILLER:

5 Q. Good morning, sir.

6 A. Good morning sir.

7 Q. You testified that it was your job to process,
8 yourself, assigned the job to process the scene for latent
9 fingerprints?

10 A. Yes, sir.

11 Q. And I keep hearing this, there were no latent prints
12 of significance found. Now, what does that mean, of
13 significance?

14 A. Of significance means that they are identifiable.

15 Q. Okay.

16 A. If there's enough ridge detail present in the
17 impression to positively identify it to a person.

18 Q. So you found fingerprints in the house, and you found
19 prints throughout the house, but you just didn't find any
20 fingerprints that could be identified or you didn't find
21 any fingerprints that identified any of the suspects?

22 A. We didn't find identifiable fingerprints, period.

23 Q. Okay. Were you the only person that was looking for
24 the latent fingerprints inside the crime scene?

25 A. Yes, sir.

1 Q. When you arrived, was the crime scene secure?

2 A. Yes, it was.

3 Q. And did you maintain the security of that crime scene
4 while you were doing your job?

5 A. Yes, sir.

6 Q. And when did the -- when was the crime scene, I guess
7 is the term, released? When was it opened back up?

8 A. When we were satisfied that all the physical evidence
9 was located.

10 Q. And I'm not asking you for a specific date but would
11 it have been a week later or two weeks later?

12 A. No, sir; I believe we held it for about 24 hours.

13 Q. Okay. So for about 24 hours nobody came in or out
14 without y'all knowing about it?

15 A. It was taped; yes, sir.

16 MR. MILLER: Okay. That's all the questions I
17 have.

18 THE COURT: Any further questions of this
19 witness?

20 MR. WEEKS: No, sir.

21 THE COURT: All right. If you could step down.
22 Ladies and gentlemen, we might have reached the time I
23 promised you a morning break. So we're going to take
24 about a 15-minute break.

25 I remind you, don't discuss this case yet when

MICHAEL DAVID POWELL: DIRECT

1 you go to the jury room. And I'll get you back out about
2 11:15. Thank you.

3 (Thereupon the jury exits courtroom at
4 11:01 a.m.)

5 THE COURT: We'll be in recess 15 minutes.

6 (Thereupon a recess was taken.)

7 THE COURT: All right. Anything before we bring
8 the jury in?

9 (No response.)

10 THE COURT: Bring us the jury, please, ma'am.

11 (Thereupon the jury enters courtroom at
12 11:23 a.m.)

13 THE COURT: You may call your next witness.

14 MR. WEEKS: Thank you, Your Honor. The State
15 would call Investigator Mike Powell.

16 MICHAEL DAVID POWELL, having been duly sworn, was
17 examined and testified as follows:

18 THE CLERK: Have a seat in the witness box, state
19 your full name for the Court, spelling your last.

20 THE WITNESS: It is Michael David Powell. Last
21 name, P. O. W. E. L. L.

22 DIRECT EXAMINATION

23 BY MR. WEEKS:

24 Q. Mike, where do you work?

25 A. Aiken County Sheriff's Office.

MICHAEL DAVID POWELL: DIRECT

1 Q. How long have you been there?

2 A. Approximately 13 years.

3 Q. In what capacity are you serving in now there?

4 A. I'm a lieutenant of special operations and narcotics.

5 Q. Back in May of 2007, did you play a role in the
6 investigation in this case?

7 A. Yes, sir.

8 Q. What was that role?

9 A. On that day I was a lieutenant over special operations
10 which the bloodhound tracking team falls under. I was
11 also a supervisor on the scene for the bloodhounds.

12 Q. On May the 2nd, were you dispatched to bring the dog
13 team or bring the dog to the location on [REDACTED] [REDACTED]

14 A. Yes, sir. I get notified by dispatch to call out the
15 bloodhounds and I respond in my county vehicle. Meet them
16 at the scene usually.

17 Q. Did you respond to the residence of Mr. Ellis?

18 A. I did, sir.

19 Q. When you got there, were you given some sort of
20 direction as to what to do?

21 A. I did.

22 Q. Where to look?

23 A. Yes, sir. I was met by Investigator Adams of the
24 sheriff's office on the scene to find out what we had and
25 what we were looking for. And he pointed out a shoe

MICHAEL DAVID POWELL: DIRECT

1 impression or footwear impression at the back rear of the
2 residence that --

3 Q. Had that footwear impression been preserved at that
4 time?

5 A. It had. It had been circled and was kind of roped off
6 in the area or blocked off.

7 Q. I hand you what's been marked State's Exhibit Number
8 40. Does that look similar to what was pointed out?

9 A. Yes, sir.

10 Q. Now what did do you at that point, Mike?

11 A. I notified the team, told them what we had which is
12 several other officers that are part of the bloodhound
13 tracking team. We brought a dog, bloodhound, to the
14 location which the dog's name's Ginger.

15 What we do is from that location we go out from it,
16 that is untampered or no traffic has been to from the
17 actual scene itself as far as officers go. We do what we
18 call we strike the bloodhound out on the trail.

19 Q. Let me ask you a couple of questions before we get to
20 that, Mike.

21 A. Yes, sir.

22 Q. Do you train with regard to handling of this dog?

23 A. I do.

24 Q. How often?

25 A. At least once or twice a week.

MICHAEL DAVID POWELL: DIRECT

1 Q. Do you go to school --

2 A. Yes, sir.

3 Q. -- with regard to bloodhound tracking?

4 A. I've been to several state-run schools, bloodhound
5 tracking schools. And I'm a specific skilled instructor
6 for the State of South Carolina. I also teach a
7 bloodhound tracking school for the sheriff's office.

8 Q. What's involved in bloodhound tracking in addition to
9 using the dog?

10 A. Learning how to, what we call hand track or man
11 track. Basically it's the use of just observing shoe
12 impressions, footwear impressions to verify the bloodhound
13 or whatever type tracking dog you're using is on the
14 trail.

15 You learn the ins and outs of a bloodhound or a
16 tracking dog; when they're on the trail and when they're
17 not. Also how to be observant throughout the trail for
18 evidence and shoe impressions or footwear impressions as
19 well.

20 Q. Do you have any estimate as to the number of times
21 y'all get called out or you've been called out?

22 A. I think last year we had a hundred and -- actually,
23 I'm sorry. It was 205 calls last year.

24 Q. And the year prior to that?

25 A. Pretty close to that. Some up, some down; yes, sir.

MICHAEL DAVID POWELL: DIRECT

1 Q. And how many years have you been doing it?

2 A. Ten years. I've been on the bloodhound ten years.

3 Q. Have you had the opportunity to trail a number of
4 individuals with dogs and without --

5 A. Yes, sir.

6 Q. -- during that period of time?

7 A. Yes, sir.

8 Q. Do y'all keep training records for your dogs?

9 A. Yes, we do.

10 Q. And do more than one person handle the dogs?

11 A. Yes, sir.

12 Q. Obviously these dogs aren't smart enough to talk to
13 you, but do y'all interpret what they do?

14 A. We do. We watch their demeanor. You can -- you learn
15 over the years to read a dog. He can tell you -- he or
16 she can tell you when, just by their actions whether or
17 not they're on the trail or if they're searching or
18 whether their nose is down.

19 Q. Are they scent trailing; is that --

20 A. Scent trailing; yes, sir.

21 Q. -- what they're trained to do?

22 A. Yes, sir; scent trailing.

23 Q. In regard or in the training of these dogs, what are
24 they trained to do as far as the last known trail?

25 A. What they do is, obviously we try to strike the dog

MICHAEL DAVID POWELL: DIRECT

1 out in the area which is undisturbed other than a possible
2 suspect or a victim in some circumstances.

3 The dog is trained to sniff out skin cells. Skin
4 cells fall off a person's body constantly throughout the
5 day. That's called rafting. The dog is known, their --
6 through their training they learn that they can use their
7 nose to smell versus trying to sight a trail. Once they
8 get to where they put their nose on the ground you can see
9 them start actually sniffing and they'll move back and
10 forth with the trail.

11 Q. Now on TV they kind of give them something that
12 somebody wore last and send them off in the woods. That's
13 not the way it's actually done; is it?

14 A. There is a type of tracking dog that does that, but we
15 don't use that. We do what we call last scent. Last
16 scent can be just like it sounds, the last scent of the
17 person that was in the area. As you're referring to is an
18 article dog which is, you give them an article of clothing
19 and they're going to track that specific scent. Their
20 noses are that particular. They can lock onto a
21 particular person's scent.

22 Q. Now, on this particular day you and other members of
23 your squad used a dog?

24 A. Yes, sir.

25 Q. Were you able to -- did the dog indicate to you

MICHAEL DAVID POWELL: DIRECT

1 whether or not she had struck a trail; yes or no?

2 A. Yes, sir.

3 MR. WEEKS: Your Honor, I'm going to move to
4 qualify Lieutenant Powell as an expert in dog handling for
5 purposes of giving an opinion of what the dog was doing
6 that day.

7 THE COURT: What says the defense?

8 MR. MILLER: No objection, Your Honor.

9 THE COURT: I so find he's an expert in dog
10 handling.

11 BY MR. WEEKS:

12 Q. Mike, tell me what Ginger did that day when you put
13 her out. What did y'all do with her when you put her out?

14 A. We struck her out past -- again, that's just placing
15 the dog out past the known area of the last person that
16 was on the scene that had been out.

17 We run our dogs on a lead meaning that we hold a
18 leash. We don't turn them loose. On certain trails, most
19 -- the majority of our trails we run them off lead, but if
20 we think it might be an older trail that we don't have a
21 time frame, sometimes we run them on lead.

22 We struck out. She started going back and forth. We
23 do what we call a circle. We'll circle out around the
24 last known area and she'll -- you can watch her and she'll
25 start to throw her head down to the ground. At that point

C. MICHAEL DAVID POWELL: DIRECT

1 you know that she's starting to lock in on something, a
2 skin cell.

3 On that day -- on this particular day we did the same
4 thing. We do what's called a semi-circle around the known
5 shoe impression. She put her nose down. She started
6 tracking. She would go left and right. You could see her
7 lift up. She'll come back over. Dogs are -- know that
8 they're getting off of it. You can see them getting back,
9 you know, they'll go back and they'll get back on it. She
10 was doing the same thing. She'll confirm herself that
11 she's doing right.

C 12 And we was working her and she would get off five or
13 ten, 15 feet, she would come right back to the trail. We
14 actually on this incident here, it was actually a pathway
15 that led from the incident location to a residence, a
16 brown, I call it a log cabin type two-story house which
17 was probably 150, 200 yards away.

18 There was somewhat of a worn path or a path that you
19 could see has been used. She was somewhat staying on that
20 pathway and throughout the path, we could see the known
21 shoe impression that we had been shown on several
22 occasions. There was some dirt piles or whatever. We
23 could see parts -- enough of the shoe that we could see
C 24 that it was the same or similar shoe impression throughout
25 the trail.

MICHAEL DAVID POWELL: DIRECT

1 Q. And where did y'all stop your tracking that day?

2 A. She tracked across the field. Like, again,
3 approximately 150, 200 yards. There was a wooden fence
4 that had a section out of it. She went -- she actually
5 went across. There was one piece on the bottom but there
6 was an opening. She actually went across the one little
7 bottom piece.

8 We went into a driveway which was of the two-story
9 brown log cabin house, I call it. Once we got in that
10 driveway, she started circling. At that point we know
11 that she's trying to figure out which way they went.

12 We could clearly see in this driveway the similar shoe
13 impression full length because it was a dirt driveway.
14 You could see that it had been coming and going on several
15 areas throughout the driveway.

16 Q. Did you observe visibly some footprints, Mike?

17 A. We did.

18 Q. And did you point those out to Investigator Adams and
19 those folks when they arrived over at that location?

20 A. Yes.

21 Q. I hand you what's marked Exhibits 37 and 38 and Four
22 and ask you if you can identify those items.

23 A. Yes, sir.

24 MR. WEEKS: Your Honor, I believe those three
25 photographs are in without objection, or will be in

MICHAEL DAVID POWELL: DIRECT

1 without objection.

2 THE COURT: 37, 38 and what?

3 MR. WEEKS: Four.

4 THE COURT: Four. Is that correct?

5 MR. MILLER: That's correct.

6 THE COURT: In without objection.

7 (Thereupon, State's Exhibit Nos. 37, 38 and Four,
8 photographs, were received in evidence.)

9 BY MR. WEEKS:

10 Q. Tell me What's depicted in Number Four, Mike.

11 A. This is the actual crime scene. This is the fence
12 area I was talking about. We came across this area here,
13 almost a direct path. And instead of coming through this
14 opening, she came through here. Again she could be off
15 five feet or so. She came through this area. I released
16 her to come back around and got her because as soon as we
17 reached this dirt, which is a driveway, we could clearly
18 see the similar shoe impressions throughout that driveway.

19 Q. Have they been marked on State's Exhibit Four? Were
20 there some of them marked?

21 A. I'm -- yes, sir. What we do is we don't carry
22 anything with us. We do what we call a foot drag. What
23 we'll do is take our foot, usually within six or eight
24 inches, the toe and heel of the shoe and we'll mark it.

25 What the mark is referring to here is where we take

MICHAEL DAVID POWELL: CROSS

1 and just drag our feet to mark it because on a trail we
2 may mark it and move on. Here we were locating a certain
3 area so we marked it so that we could notify the
4 investigators or whoever is coming to see what we got.

5 Q. Who puts that paint on it?

6 A. I believe the forensics investigator did that.

7 Q. And State's Number 37, does it depict a similar thing?

8 A. It does.

9 Q. And State's 38, is that one of the footprints that
10 y'all arrived at?

11 A. Yes, sir.

12 Q. Mike, at some point, did you get consent to search the
13 house in the area from Ms. Quarles?

14 A. I believe Lieutenant Fleury actually received the
15 consent to search but myself and him were together during
16 the whole time.

17 MR. WEEKS: Thank you. No further questions.

18 THE WITNESS: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. MILLER:

21 Q. Investigator Powell, you talked some about how the
22 dogs pick up the scent and you were talking about skin
23 cells and then they're following the scent.

24 But the dogs don't know who they're following, they
25 just know that they're following a scent; correct?

JOEL STEVEN SEXTON, MD: DIRECT

1 A. Right. Correct.

2 Q. And so the scent trail that the dog was following went
3 from Mr. Ellis's residence to the residence on Barn Owl
4 Road, the log cabin as you called it?

5 A. Yes, sir.

6 Q. And did it leave from there?

7 A. No, sir. We had it just circling in the driveway, as
8 far as we could tell, like it had been there a while.

9 Q. Okay.

10 MR. MILLER: That's all the questions I have.

11 MR. WEEKS: No further questions.

12 THE COURT: Thank you, sir. You can step down.

13 THE WITNESS: Thank you, sir.

14 MR. WEEKS: Probably it's a little out of order,
15 but because he is from out of town, I will call Dr. Joel
16 Sexton.

17 THE COURT: Okay. Dr. Sexton, if you'll come
18 around.

19 JOEL STEVEN SEXTON, having been duly sworn, was
20 examined and testified as follows:

21 THE CLERK: Have a seat in the witness box, state
22 your full name for the Court, spelling your last.

23 THE WITNESS: Dr. Joel Steven Sexton. And
24 that's S. E. X. T. O. N.

25 DIRECT EXAMINATION

JOEL STEVEN SEXTON, MD: DIRECT

1 BY MR. WEEKS:

2 Q. Dr. Sexton, how are you this afternoon?

3 A. Fine, thank you.

4 Q. Could you tell this jury what your job is and give me
5 a little background, about how long you've been doing it?

6 A. I'm a pathologist which is a physician that monitors
7 the laboratory to make sure that the tests are run
8 properly and helps your physician interpret those results
9 on urine and spinal fluid and blood.

10 A pathologist also examines persons that die in the
11 hospital setting with the permission of the family and
12 with the request of the physician to learn more about that
13 disease or illness.

14 A pathologist also examines tissue removed at surgery
15 to help your physician, sometimes while he is still doing
16 the surgery, know what type of illness or disease you
17 have, particularly types of cancer.

18 I've also got sub specialization in forensic
19 pathology, having graduated from the Medical University of
20 South Carolina back in '68 and then training in that
21 department until 1972.

22 The forensic pathologist deals with looking at bodies
23 that have died sudden or violent deaths to determine facts
24 about how they died as well as any evidence that might
25 point to a specific suspect or to a specific set of

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1 circumstances.

2 We're trained to recognize what causes various
3 injuries, whether they're gunshot wounds, stab wounds or
4 blunt-force injuries.

5 When I finished at the Medical University in '72, I
6 became -- first in '68 licensed in the State to practice
7 medicine, in '72 became nationally certified in pathology,
8 that being clinical and anatomic pathology, and then in
9 '93 became nationally certified in forensic pathology.

10 I've taught at the Medical University until 1983. I
11 wanted to moved to Newberry where I am now and took over
12 the Department of Pathology at the Newberry County
13 Hospital and became a consulting forensic pathologist for
14 about 25 of the 46 county coroners, mostly in the Upstate
15 part of the State.

16 This is the capacity that I have served in since 1983
17 with cases being sent to us such as this case from those
18 varies counties for autopsy.

19 Q. Do you have any idea as to how many autopsies you've
20 performed through the years?

21 A. Well over 8,000.

22 Q. And have you ever been qualified as an expert witness
23 in forensic pathology in this state?

24 A. Yes; over 700 times.

25 Q. And you testified in the courts of this state numerous

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1 times that I'm aware of?

2 A. That's correct; since 1968.

3 MR. WEEKS: Your Honor, I would move to qualify
4 Dr. Joel Sexton as an expert in forensic pathology.

5 MR. MILLER: No objection, Your Honor.

6 THE COURT: All right. I so find.

7 BY MR. WEEKS:

8 Q. Dr. Sexton, you indicated you became involved in this
9 case how?

10 A. The coroner here contacted us and asked if we would do
11 an autopsy on Mr. Herbert Ellis.

12 Q. Did you do that?

13 A. We did. On the 2nd of May of 2007.

14 Q. Would you tell the process about how you go about
15 doing that?

16 A. We ask the body to be sent to us just as is found once
17 they pronounce death so that we can look at the external
18 surface of the body, the clothing, as well as anything
19 that comes with the body.

20 Mr. Ellis was dressed in pajamas. He had,
21 particularly around his head, a fair amount of blood in
22 that area. And so we examined the body externally. We
23 photographed the body. We document what's there with
24 evidence transfer sheets, and then we undress the body.

25 In this case we found no specific items on the

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1 clothing that we could recognize. So it was bagged up and
2 transferred to the officer that came with the body so it
3 could be sent to State Law Enforcement's Division and that
4 was Mr. Johnson from here in Aiken.

5 The next thing we do is look at the injuries that we
6 might see and photograph those and then we clean them up
7 and rephotograph and diagram those injuries. In this case
8 the injuries were primarily on the head but there were
9 some elsewhere on the body as well. But all of the fatal
10 injuries were on the head.

11 These consisted of lacerations, which means that the
12 skin has been struck by a hard object that squeezes the
13 bone of the skull, squeezes the skin between the bone of
14 the skull and the object, splitting the skin as opposed to
15 being cut with a sharp knife.

16 When you have a laceration you still see some tissue
17 bridging that gap. And the edge of the laceration is not
18 as smooth as it would be if it were a cut with a sharp
19 instrument like a knife, which we call an incise wound.

20 So there were lacerations. Some of the edges showed
21 very minor scrapes or abrasions. And there were fractures
22 of the skull which we refer to as comminuted, which is
23 like taking a hard-boiled egg and cracking it multiple
24 times. So the bones were fractured to the point where
25 there were a number of bones that were not connected to

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1 the rest of the skull, just loose in that area.

2 So we had multiple lacerations with a few abrasions,
3 and skull fractures that were his primary injury.

4 On his back and arm and his buttocks were some pattern
5 injuries where an object struck him and left a pattern,
6 just as the shoe impressions that were discussed. You can
7 get injuries, say, if you're struck with a certain type of
8 object, sometimes you have an outline of that object. On
9 other occasions you have just a portion of the outline of
10 that object. So he had some pattern injuries on his upper
11 back and on his buttocks as well as on his scalp.

12 Q. Dr. Sexton, were you able to render an opinion as to
13 the cause of Mr. Ellis's death?

14 A. Yes, this -- in my opinion within reasonable medical
15 certainty his cause of death was due to his head injury
16 which caused what we call subarachnoid hemorrhage. The
17 brain is suspended in fluid that's created inside the
18 brain and engulfs the brain so that the brain is very well
19 protected.

20 This fluid acts as a buffer and protects the brain.
21 If the brain receives enough injury that the little
22 vessels from the skull lining the dura to the brain
23 rupture, then we get subarachnoid hemorrhage meaning
24 hemorrhage between the surface of the brain and the lining
25 over the top of it which he had.

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1 So he had a subarachnoid hemorrhage in his brain, a
2 type of head injury from the injuries to the top of his
3 head and the back of his head that were rendered by blows,
4 what we call blunt trauma during a beating.

5 Q. And were you able to reach an opinion as to the manner
6 of death?

7 A. Yes. In this case -- the manner of death has to do
8 with natural death, a person that dies of an accidental
9 death such as lightening, a person that dies with
10 inflicting death on themselves such as a suicidal
11 shooting, or a homicide where the death is at the hands of
12 another, has nothing to do with intent just indicating
13 that someone else had to cause this death.

14 These injuries were so extensive on the back and the
15 top of his head, in my opinion he would have been
16 unconscious after some of the first injuries he could not
17 have inflicted this on himself. So in my opinion with a
18 reasonable degree of medical certainty this had been a
19 homicide meaning it's at the hands of another person.

20 Q. Dr. Sexton, as part of your autopsy protocol do you
21 X-ray the deceased?

22 A. We do.

23 Q. And are you called upon from time to time to examine
24 objects or photographs of objects to determine whether or
25 not they're consistent with pattern injuries as you've

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1 indicated?

2 A. Yes.

3 Q. And did you do both of those in this particular case?

4 A. We did.

5 Q. I hand you State's Exhibit 29 and ask if you can
6 identify that photograph?

7 A. Yes. This is the X-ray of the side of Mr. Ellis's
8 head. And in the upper -- may I publish it to the jury?

9 MR. WEEKS: Yes. Your Honor, 29 is in without
10 objection.

11 THE COURT: Is that correct?

12 MR. MILLER: (Nods head.)

13 THE COURT: All right. It's in without
14 objection.

15 (Thereupon, State's Exhibit No. 29, photograph,
16 was received into evidence.)

17 THE WITNESS: Here is the occipital region which
18 is the back of the head near the top. You may not be able
19 to see it from where you are, but when you see it more
20 closely, you'll see little thin lines radiating from the
21 back of the head forward and downward.

22 These are the areas that look dark like the
23 background. These represent where the bones have
24 separated. And there are multiple ones. We can only see
25 about a few down further here. I can see about six here

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1 in this photograph, indicating that the bones were
2 separated and fractured, by X-ray.

3 BY MR. WEEKS:

4 Q. Doctor, also on State's Exhibit 29 does it indicate a
5 large chunk of bone that's compressed into the occipital
6 area of the brain?

7 A. Correct. Here in the very back, notice how, you may
8 be able to tell from there, the surface instead of being
9 rounded and uniform, there is an indentation between my
10 fingers here. When you see it closer you can see that
11 that bone has been actually separated from all the bone
12 around it and pushed into the brain. And that's an almost
13 square area that we can only see here in one dimension,
14 here in the back of the head.

15 By the way that was Number 29, Exhibit 29.

16 Q. Dr. Sexton, if you would, with the Court's permission
17 step down so that I can ask you some -- let me -- before
18 you step down, let me ask you some general questions
19 first. I got you up and down.

20 I'm going to hand you what's marked State's Exhibit
21 30, 31, 32, 33, 34, 35, and 36. And ask if you can
22 identify items depicted in those photographs; just yes or
23 no.

24 A. Yes. These are copies of photographs that either I
25 took or the investigator at the scene, at the time of the

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1 autopsy took. But these are all photographs of injuries
2 to Mr. Ellis.

3 MR. WEEKS: Your Honor, I'd move to introduce
4 these items subject to the previous discussion.

5 THE COURT: Yes.

6 MR. MILLER: Your Honor, that would be subject to
7 my previously-stated objection for 33 to 36.

8 THE COURT: Okay. They're in evidence subject to
9 your objection.

10 (Thereupon, State's Exhibit Nos. 30, 31, 32, 33,
11 34, 35 and 36, photographs, were received into evidence.)

12 BY MR. WEEKS:

13 Q. Dr. Sexton, were you asked to or were you given
14 photographs or shown items to compare to those injuries?

15 A. Yes, I was. Both the items were brought to me and
16 photographs shown to me.

17 Q. I'm going to hand you what's marked State's 45, 47 and
18 46, and ask you if you're familiar with those items?

19 A. Yes. These are photographs of the items that I saw
20 plus I've got a few close-ups of my own of those items.

21 Q. Dr. Sexton, what's the significance of those items?
22 Were you able to reach any opinion as to the importance of
23 those items in this case?

24 A. Yes. In looking at, and measuring the items that were
25 present, one had a flat surface, the two-pound sledge,

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1 that was consistent with the indentation on the back of
2 the head where the skull was fractured and overlying
3 laceration of the scalp in that location.

4 The crescent wrench had an area on it as you move the
5 jaws open and closed, you create an opening at one end of
6 that crescent wrench that is consistent with the injuries
7 that were the pattern injuries that were on the back and
8 on the side of the head of Mr. Ellis.

9 Q. They --

10 A. And they matched as far as measurements and shape.

11 Q. Dr. Sexton, if you could take these photographs and
12 come down and explain what you're talking about.

13 A. Do you have the close-ups of these? It may be easier
14 for them to see.

15 (Pause.)

16 Q. I ask you to look at those items contained in those
17 photographs that are, if you could indicate the number on
18 them, Doc?

19 A. This is Exhibit Number 30. It shows the left buttocks
20 of the decedent. I will show this end and then the other
21 end of the jury. Here on the left buttocks, you can see a
22 uniquely shaped abrasion where the object that struck this
23 area was sharp enough in some areas to scrape the skin
24 away and leave an impression at the same time. Again,
25 this is Number 30.

1 I think you can see there is a unique impression
2 here. A scrape caused by the very sharp edge of an object
3 that caused this abrasion, the unusual pattern.

4 This is a similar abrasion up here on the body.
5 That's not quite as easy to recognize as the previous one,
6 but it has some of the similar traits, particularly on the
7 portion of it as though it had hit at an angle. You see a
8 vertical line and part of a C.-shaped pattern. That was
9 Exhibit Number 31.

10 Thirty-two is a close-up of that pattern, that you can
11 see right here. This is a close-up of the pattern that
12 was on the buttocks. That was 32.

13 On the top of Mr. Ellis's head as I mentioned earlier
14 were multiple lacerations. The edges of these show very
15 minor abrasions indicating the object was not a flat
16 object. If a person is hit with a baseball bat, the
17 portion of the bat that actually comes in contact with the
18 scalp, if you can imagine the outline of a bat if you were
19 looking at it having sawed it in two, you've got a rounded
20 surface. So the part that comes in contact is the leading
21 edge but it's not fairly narrow. It's fairly broad. And
22 so you get a laceration right in the middle and then you
23 get abrasion down each side.

24 So when we look at it here on the scalp or somewhere,
25 we'll see a split of the skin but scraping down the side

1 is fairly extensive. Here the scraping is fairly narrow
2 indicating the edges are fairly narrow that struck this
3 area.

4 There are multiple injuries here, most all of them are
5 linear or meaning they're straight or they sort of curve
6 slightly. And underneath these areas in particular this
7 squared off in the back are fractures of the skull.

8 This is Exhibit Number 33. This is the back and top
9 of Mr. Ellis's head. You can see the ear on each side.
10 This shows a nearly squared-off laceration abrasion with a
11 square fracture underneath that you would be able to see
12 on the X-ray and all of these linear lacerations on
13 Exhibit 33, each of which have a fracture under them. And
14 some of those fractures touch, the piece of bone is just
15 loose.

16 Here on the right side of his head is another one of
17 those pattern injuries. You see that same sort of semi-
18 circular C. with some of the skin missing and another
19 smaller circle right below it. So it's a pattern injury
20 indicating some type of object that had an area on it
21 that's sort of a semi-circle with an open area and then a
22 small round circle.

23 You can see that same pattern that's behind his right
24 ear. You see a semi-circular pattern that's sort of open
25 here at the bottom to your right and low. And nearly a

1 round pattern that's really more oval of the smaller
2 pattern. That was on Exhibit 34.

3 Thirty-five shows a big laceration. This is on the
4 back of the head. Let me turn it this way. Here is his
5 left ear at this location. Here is the squared-off area
6 that's missing. The skin is missing there. It's pulled
7 over to this side, but the area that's missing is nearly
8 square. And that's right in the back of the head. And
9 that's the area that you'll see on the X-ray that shows a
10 nearly square piece of bone broken off and pushed into the
11 skull at this location.

12 This is the back of the head. This is his left ear.
13 This is right in the back and you see a square area of
14 laceration of the skin underneath it. The bone is
15 fractured in a square pattern and forced into the skull.

16 I'm sorry, 36. Thirty-six shows that's from the right
17 side of his head. You can see again that squared-off
18 pattern here in back slightly to the left and all of these
19 other patterns that are either straight or slightly
20 curving inward that are on the back and top of the head.
21 Multiple lacerations that are either curving linear
22 meaning slightly curved or straight.

23 Q. Dr. Sexton, with regard to those patterns that you've
24 described, were you able to reach an opinion as to the
25 items submitted to you for your comparison?

1 A. Yes, I was.

2 Q. And I hand you 45, 46, and 47 and ask: Are those
3 items that were submitted to you?

4 A. These are. These are photographs of the items that I
5 was given to examine.

6 Notice on 45, the head of this hammer is squared off.
7 And this measurement in size are consistent. It is the
8 size, the weight of it and the measurement of it are
9 consistent with the type of object it would take to
10 fracture the skull in the back producing a squared-off
11 laceration of the skin. It just tore the skin away and
12 fractured the skull and pushed it on into the brain. And
13 that was Exhibit 45.

14 Exhibit 46 shows a fairly large, as you saw earlier,
15 crescent wrench. Fairly heavy and large crescent wrench.
16 This edge and actually this edge, the ridge itself is
17 heavy enough to cause the fractures that I saw in the
18 skull.

19 And it's linear and narrow so you can see very little
20 abrasions along the edge of that type of laceration. So
21 in my opinion the hammer in 45 within reasonable medical
22 certainty is most probably the type of object. I can't
23 say it was this particular object. It was the type of
24 object that caused this injury to the back of the head
25 where it fractured the skull and knocked the square piece

1 into the skull. It's my opinion within a reasonable
2 medical certainty that the crescent wrench, this type of
3 crescent wrench is most probably the type of instrument
4 that caused the laceration of the scalp that we've seen,
5 multiple lacerations, most consistent with those type of
6 lacerations.

7 You can see it's fairly large. It's -- it is much
8 larger than this photograph because this is a one-inch
9 ruler. So you can see that about nearly a ten-inch
10 crescent wrench. It's large enough and heavy enough.

11 What is even more important, when you look at the edge
12 on 46, the curved edge where the jaws open and close,
13 there is a worn edge that can you see here that goes
14 through that edge when you look at it on that edge you can
15 see that similar type of pattern we saw earlier where you
16 have, it almost looks like a little vase or a little
17 container with a neck on it but on the skin we only saw
18 part of the linear and all of the curved. And in several
19 areas we could see the adjacent round area right below it,
20 particularly the one on the side of the head. You can see
21 that same pattern which I was able to look at and measure
22 and compare to this crescent wrench.

23 So this area here on this side of the crescent wrench
24 where the screw works and goes back and forth and opens
25 the jaws is that same pattern that you can imagine this

1 sort of covering up sort of the linear portion did not
2 strike. It's perpendicular, slightly at an angle.

3 So that one side of the vertical and the rest of you
4 can see, in the little round portion below it, all made a
5 pattern on the scalp similar to the type that the
6 sledgehammer made as far as knocking a square portion
7 out.

8 This made that same little pattern on his buttocks.
9 There were also some on the upper back that were similar
10 but not as clear. And on the side of the head where you
11 had most of that pattern minus one of the vertical pieces,
12 that sort of C.-shape with a trail and a circle adjacent
13 to it. And that's on Exhibit Number 47 that shows this
14 pattern.

15 Q. And do you have an opinion as to whether a similar
16 type object could have made those injuries on Mr. Ellis?

17 A. In my opinion to a reasonable degree of medical
18 certainty, this pattern is consistent with this particular
19 type of object.

20 Q. Thank you. You can be seated.

21 A. (Complies.)

22 MR. WEEKS: Answer any questions that Mr. Miller
23 has for you, Doctor.

24 MR. MILLER: No questions, Your Honor.

25 THE COURT: Thank you, Doc.

1 THE WITNESS: You're welcome.

2 THE COURT: Any objections to Dr. Sexton being
3 excused?

4 MR. WEEKS: No, Your Honor.

5 THE COURT: Thank you, sir.

6 MR. MILLER: None.

7 THE WITNESS: Thank you.

8 MR. WEEKS: The State calls Joe Powell.

9 THE COURT: Okay.

10 JOSEPH D. POWELL, having been duly sworn, was
11 examined and testified as follows:

12 THE CLERK: Have a seat on the witness box.
13 State your full name for the Court, spelling your last.

14 THE WITNESS: My name is Joseph D. Powell. P. O.
15 W. E. L. L.

16 DIRECT EXAMINATION

17 BY MR. WEEKS:

18 Q. Joe, where do you work?

19 A. I work as a supervisor of the trace evidence section
20 at SLED.

21 Q. South Carolina Law Enforcement Division?

22 A. Yes, sir; it's commonly -- that's called SLED. It's
23 known as South Carolina Law Enforcement Division.

24 Q. What is trace evidence department responsible for?

25 A. Trace evidence is responsible for the analysis of

1 things such as: Gunshot residue, this is residue that's
2 emitted from a weapon when it's discharged; distance
3 determination, how far away someone was when they were
4 shot; accelerants, someone used material to either start a
5 fire, we test for that; fibers; paint; glass; explosives.
6 All of these items come under the purview of trace
7 evidence.

8 Q. How long have you been in trace evidence?

9 A. Twenty-seven years.

10 Q. And you conduct those analysis you describe?

11 A. Yes, sir; both conduct those analysis as well as I'm
12 the training officer for the staff that works in my
13 department.

14 Q. Do you have an estimate as to the number of times that
15 you conducted analysis in that regard?

16 A. I have conducted many thousands of tests in all of the
17 various areas that I've described.

18 Q. How long have you been doing trace evidence at SLED?

19 A. I was doing trace evidence even before it became a
20 department. It's actually been for 27 years. Originally
21 it was part of the drug ID department and then after about
22 four or five years it split out into its own section. So
23 for the first four to five years, I was doing both drug
24 analysis and trace evidence.

25 Q. And you testified in court a number of times?

1 A. Yes, sir. I have testified approximately 600 times,
2 of that in the area of accelerants, approximately seven or
3 eight times in the area of accelerants.

4 Q. And were you called upon in this case to conduct or
5 review some findings of your department with regard to
6 accelerants?

7 A. Yes, sir; I was.

8 MR. WEEKS: Your Honor, I'm going to ask that he
9 be qualified as an expert in trace evidence.

10 MR. MILLER: No objection, Your Honor.

11 THE COURT: Okay. I so find.

12 BY MR. WEEKS:

13 Q. Joe, were you submitted some items from the Aiken
14 County Sheriff's Department or was your department
15 submitted some items for testing?

16 A. Yes, sir. Items were submitted to my department for
17 analysis to examine both for some paint as well as various
18 items to look for accelerants.

19 Q. Were you able to -- do you have any findings with
20 regard to accelerants, and what were those finding from?

21 A. Yes, sir. We had received originally our item number
22 63 which is container of Kingsford Charcoal Lighter. We
23 ran analysis of this. We found that it contained a,
24 what's called a medium petroleum distillate.

25 When materials are being produced by the petroleum

1 manufacturers, they take and they boil certain chemicals
2 and put them together into unique little groups. There's
3 light petroleum distillates, medium petroleum distillates
4 and heavy petroleum distillates.

5 And then those are then sold under various names for
6 various applications. For example, a heavy petroleum
7 distillate may be a kerosene or a diesel fuel. A medium
8 petroleum distillate would be something like a charcoal
9 lighter fluid or maybe resorcinol which would be a
10 cigarette lighter fluid and so forth.

11 We classified the various materials we look at, trying
12 to see if we can determine which class would it fall into
13 and then describe some of the components that we found
14 with it.

15 And in this case the material that's found in
16 Kingsford Charcoal Lighter Fluid is a medium petroleum
17 distillate which is exactly what would be expected.

18 Q. Did you compare that with any of the other items
19 submitted by the sheriff's department?

20 A. Yes, sir. I looked over the evidence that was
21 submitted and there were three other items that were
22 submitted for testing for accelerants. Our item 30 was a
23 bag containing burnt shoes and other debris from hole.

24 That's the way we received it into our laboratory.

25 Analysis was ran on this material and a medium

1 petroleum distillate was found. The level of material was
2 very high, meaning it was off-the-wall product that was on
3 this material. I looked at the material or the accelerant
4 found in the burn hole and compared it to the one in the
5 lighter fluid and they're identical as far as their
6 components. That in itself, the lighter fluid container
7 could have been actually the container used to squirt onto
8 the hole or some product with the same material inside of
9 it.

10 The second set of evidence that was submitted was a
11 bag containing khaki shorts and blue plaid boxer shorts
12 from Chad Williams's clothes hamper. On these clothes the
13 test was ran and also a medium petroleum distillate was
14 found on his clothing. This, however, was not very
15 strong. So I cannot say that it definitely came from this
16 charcoal lighter fluid. It had a similar pattern but it
17 was very weak. So we was unable to make any strong
18 conclusion about it.

19 Q. There are a number of medium petroleum distillates,
20 different types, brands, that sort of stuff?

21 A. Yes, that's correct. When people are making up this
22 material, they make it up in many, many thousands of
23 gallons and then they will package them at various
24 manufacturers, different brand names. And they will also
25 change their formulation fairly frequently. You can't get

1 the same of their classification outside of uniquely
2 fingerprinting them, because they're constantly changing
3 their formulation.

4 MR. WILLIAMS: Okay. Answer any questions that
5 the defense has for you.

6 THE WITNESS: Yes, sir.

7 MR. MILLER: No questions, Your Honor.

8 THE COURT: Okay. Thank you. You can step down.

9 THE WITNESS: Thank you, sir.

10 MR. WEEKS: The State would call Lilly Gallman.

11 LILLY SMALLS GALLMAN, having been duly sworn, was
12 examined and testified as follows:

13 THE CLERK: Have a seat in the witness box.
14 State your full name for the Court, spelling your last.

15 THE WITNESS: My name is Lilly Smalls Gallman.
16 Gallman spelled G. A. L. L. M. A. N.

17 DIRECT EXAMINATION

18 BY MR. WEEKS:

19 Q. Ms. Gallman, good afternoon. Where are you employed?

20 A. I'm employed with the South Carolina Law Enforcement
21 Division as a forensic DNA analyst.

22 Q. How long have you been employed as such, Lilly?

23 A. I began working at SLED in January of 1990, so this
24 January coming will be 19 years.

25 Q. And how long have you been in the DNA department?

1 A. I was hired as a forensic DNA analyst.

2 Q. Do you have any estimate as to the number of times
3 you've conducted DNA analysis?

4 A. Since I've been involved with doing DNA work,
5 approximately 30 years altogether. When it pertains to
6 forensic DNA analysis, I have done thousands of tests.

7 Q. Can you just give me briefly your educational
8 background?

9 A. I have degree in biology from the University of South
10 Carolina. Once I received my degree, I continued working
11 in the area of molecular genetics. I was involved in
12 extracting DNA, cloning DNA and sequencing of DNA.

13 And I began working with the South Carolina Law
14 Enforcement Division, as I said, in January of 1990 as a
15 forensic DNA analyst. And since that time I've attended
16 the FBI DNA classes which pertain to forensic DNA
17 analysis. I've taken advanced genetics courses, also
18 advanced statics courses because we utilize all of these
19 things in our casework.

20 I've also been trained in the area of serology. And
21 I've also attended the South Carolina Law Enforcement area
22 to become a certified police officer.

23 Q. Were you asked in this case to conduct some analysis
24 on items that may or may not contain DNA?

25 A. Yes, sir. I was.

1 MR. WEEKS: Your Honor, I'm going to move to
2 qualify Ms. Gallman as an expert in the field of DNA
3 analysis.

4 MR. MILLER: No objection, Your Honor.

5 THE COURT: Okay. I so find.

6 BY MR. WEEKS:

7 Q. Ms. Gallman, could you explain to me, in a level I can
8 understand, what DNA is?

9 A. Basically DNA is the genetic makeup of your body.
10 Everyone's DNA is unique except for identical twins. You
11 get part of your DNA from your mother and part from your
12 father. And since everyone's DNA is unique, we're able to
13 compare unknown samples to known samples to determine
14 whether they match or they do not match.

15 The known samples are generally blood or from a buccal
16 swab which is a standard from either a victim or a suspect
17 in a particular case.

18 Q. Is DNA something you can see with a naked eye or with
19 a microscope?

20 A. Not with the naked eye, and then it depends on what
21 type microscope.

22 Q. One of them one about as big as a space --

23 A. Yes, sir.

24 Q. -- telescope that you can see it?

25 A. Yes, sir.

1 Q. Is that the way y'all go about comparing them?

2 A. No, we don't. We extract the DNA and it's contained
3 in a solution.

4 Q. Tell me the process.

5 A. Yes. And then once the DNA is extracted we perform
6 what is called an amplification of that particular DNA,
7 making it so that we're able to take to small amount of
8 DNA and determine whether we have a match against a
9 standard or not. Once that DNA is amplified, then it's --
10 a DNA profile is developed from that particular DNA and
11 the comparison is done then.

12 Q. And how do you go about doing that comparison? What
13 do you do to the DNA that you extract to make a
14 comparison?

15 A. Well, we develop a DNA profile. We're looking at 16
16 different areas on the DNA chromosome. We take that
17 particular profile which as I said you get part from your
18 mother and part from your father, and then we, once that
19 profile is developed we're looking at those different
20 areas on the chromosome. We take that particular profile
21 and then we compare it to the known profile which is taken
22 through the same procedures as with the unknown samples.

23 Q. What does it -- I see these charts that you send me
24 that's got all of these numbers on it. What does all of
25 that mean?

1 A. Okay. When you look at a chart that has the numbers
2 on it, you're looking at each area on the chromosome. You
3 see either a person will be a 15, 16. The 15 can come
4 from the mother father, and the 16 can come from the
5 mother father. Without the mother's and father's DNA, I
6 can't tell you exactly which one it's coming from, but
7 you'll develop a profile which we put into a chart and
8 then compare it back to the standard.

9 Q. Does a computer do most of this now?

10 A. It does.

11 Q. Now in this case were you submitted samples to compare
12 to known samples, unknown samples to compare to known
13 samples?

14 A. Yes.

15 Q. If you're submitted a shoe, what do you go about doing
16 with that shoe?

17 A. If a shoe is submitted and you take the shoe for any
18 particular evidence on that particular shoe, there are
19 occasions that we will take the shoe and do ownership with
20 that particular shoe.

21 But the first thing you look for, any biological
22 evidence. If there's blood there, then that blood is
23 swabbed off of that shoe and then proceed into the next
24 step to have that -- the DNA extracted from that blood and
25 the DNA profile developed from that DNA.

1 Q. So then you got a profile from the item that was
2 submitted and then you want to compare it to somebody's
3 known profile; is that right?

4 A. That's correct.

5 Q. Can you tell me the items that you were submitted in
6 this case, the number of items that you were submitted?
7 Do you have a list there?

8 A. The number of items. Okay. There are quite a few. I
9 analyzed approximately 49 items.

10 Q. Okay. Were you able to extract DNA from some of those
11 items?

12 A. Yes, I was.

13 Q. And were you able to compare the DNA extracted from
14 those items with some known DNA samples?

15 A. Yes.

16 Q. Lilly, if you could tell me if you were able to render
17 an opinion as to some of the unknown or what opinion you
18 were able to render as to some of the unknown DNA
19 samples.

20 A. Okay. There were quite a few items submitted. And I
21 have quite a few items that match with the victim,
22 Mr. Ellis. And they are based on SLED case numbers, so I
23 have to tell you what the items are.

24 Q. Well, typically how would you get the victim in the
25 murder case, how would you get his DNA, known DNA?

1 A. They could be submitted as a blood standard or as a
2 buccal swab.

3 Q. From autopsy or something?

4 A. Yes.

5 Q. Were you submitted the known --

6 A. Standard?

7 Q. -- something to take a known standard from for Herbert
8 Ellis?

9 A. Yes, I was. His blood was submitted to me as a
10 standard.

11 Q. Okay. Were you able to develop a DNA profile for
12 Mr. Ellis?

13 A. Yes, I was.

14 Q. And were you able to compare that DNA profile with
15 items submitted to you for analysis?

16 A. Yes, I was.

17 Q. Can you tell me what items you found Mr. Ellis's DNA
18 on?

19 A. To start with, there was a cutting from the carpet. I
20 don't know exactly where these items are coming from. And
21 then I'm using SLED item number 12.2, which is the cutting
22 from a carpet, item 14.1, which was a hair. Item 21 --

23 Q. Was that a hair?

24 A. Hair.

25 Q. Okay.

1 A. I'm from Charleston.

2 Q. Judge Cothran understood you, but I didn't.

3 A. Everything is two syllables.

4 Item number 31 was hairs and item number 21 was two
5 swabs from step at back door at victim's house. Item
6 number 22.1, 22.2, 22.3 were cuttings from gray pants. I
7 believe that came from the victim. And item number 25.1
8 which is a swab from the side of item 25.

9 I don't know exactly what item 25 is based on my --
10 because I received cuttings and not the whole item. So I
11 don't have what item it's from.

12 I have item 26.1 which was a cutting from panties.
13 Item number 26.2, which is another hair.

14 Item number 27, a white paper towel from behind
15 headboard from victim's residence.

16 Item number 30.5 which is a swab from item number 30,
17 which I believe is a shoe.

18 And item number 65.1, is a cutting from a sock. Item
19 66.3, a cutting from a T-shirt. And all of these items
20 matched the DNA profile from Herbert Ellis.

21 Q. The shoe and the sock and the T-shirt were submitted
22 to you by the Aiken County Sheriff's Department?

23 A. Yes, they were submitted to SLED and I received
24 cuttings from those items.

25 Q. And Mr. Ellis's DNA was found on those items?

1 A. That's correct.

2 Q. Was -- were you submitted a known blood sample from
3 the Defendant, Chad Williams?

4 A. Yes, I was.

5 Q. Were you able to make any comparisons as to his DNA
6 profile to items submitted to you?

7 A. Yes, I was.

8 Q. Could you tell us what those were?

9 A. Besides receiving his blood, I also received
10 fingernail clippings from his right and left hand. Of
11 course they matched him without any minor contributor
12 being a mixture. And item number 41.1, which was a hair
13 also matched him.

14 Item number 35, which is a swab from the shower knob
15 of suspect's bathroom was a mixture. And Chad Williams
16 and Katherine Young, who is another standard I received,
17 could not be excluded as possible contributors to that
18 mixture. So it was a mixture, and they could not be
19 excluded as contributors.

20 The next item where I found Mr. Williams was item
21 number 36, which is a swab from suspect's bathroom sink
22 counter. There Crystal Jackson which is another standard
23 I received and Mr. Williams could not be excluded as a
24 contributors to that sample.

25 Okay. Item 65.3, which is a swab from a pair of

1 socks, I believe from the same sock as I got the cutting
2 with Mr. Ellis on. The DNA profile developed, it was a
3 mixture. And the major contributor to this mixture
4 matched the DNA profile of Chad Williams.

5 Q. So you got Chad Williams's DNA and Mr. Ellis's off of
6 a pair of socks or off of the socks?

7 A. Yes, yes. That's correct. I think that's all of the
8 items. This is a ten-page report, so I hope I'm not
9 excluding any.

10 Q. Lilly, were you submitted or was SLED submitted a
11 wrench and a sledgehammer in this case?

12 A. Yes. Item number 28.1 is a swab from a wrench.

13 Q. Were you able to make any comparisons from those
14 items?

15 A. Yes, I was. The DNA profile available from item 28.1
16 is from an unidentified female individual. So I did not
17 have -- it did not match any of the standards that were
18 submitted to me.

19 Q. That was off of the wrench. Did you get anything off
20 the hammer?

21 A. I was not submitted any swabs from the hammer.

22 Q. Let me ask you this before we go on a little further:
23 How long can DNA stay on an item?

24 A. If it's not touched, washed, any changes done to it,
25 it could just stay forever.

1 Q. How about if it's burned?

2 A. Heat breaks down the DNA and that could affect whether
3 any is left or whether a small amount is left on what item
4 it's on.

5 Q. So it can affect, you can burn the DNA off or burn
6 evidence off an item?

7 A. That's correct.

8 Q. You mentioned several other standards. Were you --
9 were you given a number of exclusion samples?

10 A. Yes.

11 Q. Swabs from other people?

12 A. Yes.

13 Q. Known swabs?

14 A. Yes.

15 Q. And you developed DNA profiles on those and then
16 compared them against the profiles developed from the
17 evidence that you received; is that what you did?

18 A. That's correct.

19 Q. Okay. But none of those people, the Defendant, nobody
20 else matched the one that you were able to find on the
21 wrench?

22 A. No, sir.

23 Q. You made -- you may have said it, but were you able to
24 identify any profile from cuttings from a shirt?

25 A. From the T-shirt?

1 Q. Uh-huh.

2 A. Yes. That would be SLED case number 66 and there were
3 several cuttings made from that item. I had three
4 cuttings. For example, 66.3 matched the DNA profile of
5 Herbert Ellis. Also item number 66.2, which was a mixture
6 and Herbert Ellis was the major contributor to that
7 mixture. Item 66.1 was also a mixture, but there was no
8 conclusive statement could be made as to inclusion or
9 exclusion of any of the standards that I had.

10 Q. What's that mean when you come up with a conclusion
11 like that?

12 A. It means that when I look at the profile that was
13 developed from 66.1, there isn't much of a profile. I'm
14 looking at 16 areas on a chromosome and I only have five
15 of them showing any type of a profile coming from them.
16 The only thing I can say for sure is that there is a male
17 contributor to that item.

18 Q. Okay. That's because you found the only Y.
19 chromosome?

20 A. Yes.

21 Q. I saw movie about that. Did -- you indicated, I
22 believe, 30.5 was swabs from side of shoe?

23 A. Swab from side 30.1, I believe the shoe.

24 Q. And that had Mr. Ellis's DNA on it?

25 A. That's correct.

1 Q. Lillian, you indicated in your qualifications that
2 y'all do statistical analysis. What's that mean? What do
3 you do then?

4 A. That means that once we develop a DNA profile, that
5 particular profile is added to a database. And the
6 database, once you look at the database you'll see how
7 frequent that particular DNA profile appears in a
8 population.

9 So, for example, the DNA profile that was developed
10 from item 30.5, the first thing we established that it
11 matched the DNA profile of Herbert Ellis. And then the
12 next thing we want to know, how frequently would you see
13 that particular DNA profile.

14 And it came back as being approximately one in 760
15 trillion (760,000,000,000,000).

16 Q. One in 760 trillion (760,000,000,000,000)?

17 A. Yes, sir.

18 Q. The likelihood of that DNA profile repeating itself?

19 A. That's correct.

20 Q. Now we haven't analyzed 760,000,000,000,000 people?

21 A. No, sir.

22 Q. It's done by statics; is that correct?

23 A. That's correct.

24 Q. That's a very high probability that that was his DNA;
25 is that correct?

1 A. That's correct.

2 Q. I mean, I've seen them quadrillions and thousands and
3 even hundreds; is that right?

4 A. Yes.

5 Q. That was the probability of Mr. Ellis's DNA being on
6 what?

7 A. Item number 30.5.

8 Q. The shoe?

9 A. Yes.

10 Q. And was that swab blood that you identified that from?

11 A. Yes, sir.

12 Q. Lilly, when items are burned or charred or -- does
13 that affect whether or not you're able to get DNA from
14 them?

15 A. Yes, it does.

16 Q. And the shoes in the case that you were submitted,
17 were they burned?

18 A. I only received the swabs. I did not receive the
19 shoes actually.

20 Q. Swabs were taken from the shoe and submitted to you?

21 A. Yes, sir.

22 MR. WEEKS: Okay. Thanks. Answer any questions
23 of defense.

24 CROSS-EXAMINATION

25 BY MR. MILLER:

1 Q. Ma'am, I might have to jump back and forth a little
2 bit because I'm kind of putting a couple of different
3 reports back. SLED item number 49, you identified that as
4 a swab from the white shoe in the fire; is that correct?

5 A. That's --

6 Q. That's what you were told it was?

7 A. Yes.

8 Q. Whose blood was on that -- whose DNA was identified
9 from that?

10 A. The DNA profile developed from item 49 was -- 49.1
11 matched the DNA profile of Katherine Young.

12 Q. Does it have a probability there of how certain y'all
13 are of that?

14 A. Well, the frequency of that particular DNA profile is
15 one in one quadrillion (1,000,000,000,000).

16 Q. So Katherine Young's blood was on the shoe that was in
17 the hole. And on several occasions here we have
18 Mr. Ellis, the victim's blood, but there were no DNA from
19 Chad Williams on the shoes, was there?

20 A. Not from the swabs that I was given.

21 Q. Okay. You testified previously that there was a
22 wrench that was submitted for analysis and that there was
23 DNA, a DNA profile of an unidentified female on that
24 wrench; is that correct?

25 A. That's correct.

1 Q. Explain how it would be possible that a fire could
2 destroy the DNA evidence of one person without destroying
3 the DNA evidence of the other on the same item?

4 A. Well, if you have -- if this is item, the DNA of the
5 person that's being destroyed is on this side and the
6 other person is here, the fire hits here, it doesn't hit
7 there. That's the only way I can think it happens.

8 Q. Do you have any idea where on the wrench the swab was
9 taken from?

10 A. No, I do not.

11 Q. But, again, Chad Williams's DNA was not on it?

12 A. Not on swab that was given to me.

13 Q. Okay. And in fact item -- the black T-shirt that
14 we've been talking about, item 66, there was one -- there
15 was one partial DNA profile developed from item 66-1 which
16 was the first cutting, and who was that from?

17 A. Item 66.1, as I stated, was a mixture and I could draw
18 no conclusive statement from that item, the DNA profile
19 developed from that because the amount of DNA there was
20 limited.

21 Q. Okay. And then item 66.2, and 66.3 was -- I'm sorry,
22 let's just go to 66.2 because I think it's a little bit
23 different. You got a mixture of two individuals on that
24 one, too; didn't you?

25 A. Yes.

1 Q. On item 66.2?

2 A. Yes. That's correct.

3 Q. And you could identify the major contributor being
4 Mr. Ellis, the victim?

5 A. Yes.

6 Q. But you couldn't tell who the minor contributor was,
7 there wasn't enough for you to interpret that?

8 A. That's correct.

9 Q. And how about 66.3?

10 A. 66.3 matched Herbert Ellis.

11 Q. Okay. Now, correct me if I'm wrong, but when you

12 received these swabs from the trace evidence or from
13 wherever you received them from, the sheriff's office or
14 wherever it is, you're just getting the swab; correct?

15 A. Yes.

16 Q. So you don't get the physical piece of evidence along
17 with the swab, you actually get the swab and you analyze
18 the swab; correct?

19 A. In this particular case, yes, I received just the
20 swabs.

21 Q. All right. And there were a number of swabs that were
22 sent to you that were identified as swabs from the
23 suspect's bathroom sink drain and shower knob of the
24 suspect's bathroom and the suspect's bathroom sink counter
25 and the suspect's bathroom toilet. That would be an item

1 SLED ID number 34, 35, 36, and 37. What can you tell me
2 -- what can you tell the jury about those items?

3 A. Okay. For item number 34, item number 34, no DNA
4 profile was developed for that item.

5 Q. All right. How about item number 35?

6 A. And item number 35, it was a mixture, and Chad
7 Williams and Katherine Young could not be excluded as
8 contributors to this mixture.

9 Q. Okay.

10 A. And number 36 was a mixture of at least three
11 individuals. Crystal Jackson and Chad Williams could not
12 be excluded as possible contributors to that mixture
13 either. Chad Williams couldn't, different female.

14 Q. Number 37?

15 A. Number 37 is a mixture of at least three individuals,
16 and Joshua Mace could not be excluded as a contributor to
17 that mixture.

18 Q. Okay. And item number 22, all of the analysis done of
19 the cuttings from item number 22, I understand came back
20 to Herbert Ellis or a partial of Herbert Ellis; is that
21 correct?

22 A. One second, please.

23 (Pause.)

24 That's correct.

25 Q. And nothing on item 22 came back to Chad Williams, not

1 a combination, not a mixture, no nothing?

2 A. No.

3 Q. One second, please.

4 (Pause.)

5 MR. MILLER: That's all the questions I have.

6 Thank you.

7 THE COURT: Anything further from the State?

8 MR. WEEKS: No, Your Honor.

9 THE COURT: Okay. You can step down, please.

10 MR. WEEKS: Your Honor, the State would call
11 Kenny Kinsey.

12 KENNY KINSEY, having been duly sworn, was
13 examined and testified as follows:

14 THE CLERK: Please have a seat on the witness
15 box. State your full name for the Court, spelling your
16 last.

17 THE WITNESS: My name is Kenny Kinsey, K. I. N.
18 S. E. Y.

19 DIRECT EXAMINATION

20 BY MR. WEEKS:

21 Q. Mr. Kinsey, where are you employed?

22 A. I'm employed with South Carolina Law Enforcement
23 Division commonly known by the acronym of SLED.

24 Q. What's your expertise there?

25 A. I'm a special agent in the latent print crime scene

1 unit and we process crime scenes and physical evidence
2 that's submitted to us. We do fingerprint comparison,
3 tire and footwear comparison, blood splatter analysis and
4 crime scene reconstruction.

5 Q. You do footwear?

6 A. Yes, sir; I do.

7 Q. How long have you been operating in that regard?

8 A. I have been at SLED three and a half years. Prior to
9 SLED, I was with a local sheriff's office where I also
10 performed the same tasks. I've been doing a total of
11 about 14 years.

12 Q. Have you been to school to gain education in regard to
13 these items?

14 A. Yes, sir; I have. I have approximately six- to 700
15 hours of advanced courses, classes and seminars. I hold a
16 bachelor of science degree and a lot of on-the-job
17 training also.

18 Q. Were you submitted some items in this case for
19 comparison and analysis?

20 A. Yes, sir; I was.

21 Q. Before I get to that, do you testify on a regular
22 basis as an expert witness for SLED?

23 A. Yes, sir; I do.

24 Q. And have you testified in any circuit courts in this
25 state?

1 A. Yes, sir; I have.

2 MR. WEEKS: Your Honor, I move to qualify
3 Mr. Kinsey as an expert in the field of footwear analysis.

4 MR. MILLER: No objection, Your Honor.

5 THE COURT: Okay. I so find.

6 BY MR. WEEKS:

7 Q. Kenny, were you submitted some samples in this case?

8 A. Yes, sir; I was.

9 Q. Could you tell me what you were submitted?

10 A. May I refer to my report?

11 Q. Sure.

12 A. In this case I was submitted a bedspread, a carpet
13 cutting, a pair of blue and green striped pajama pants,
14 three footwear casts, one can of Blairex wound saline
15 wash.

16 Q. Let me ask you before you get into all of that: What
17 did you do analysis on that you were submitted?

18 A. On this case, particularly the three footwear casts, a
19 pair of shoes that were found in a bag of burned debris,
20 and the Blairex wound saline wash.

21 Q. What were you looking for on that?

22 A. On the saline wash, it was processed for latent
23 fingerprints. I also swabbed a substance that tested
24 positive, presumptively tested positive for blood. And
25 the footwear casts were compared with the pair of shoes in

1 the bag of burned -- what was left of the pair of shoes in
2 the bag of burned debris.

3 Q. Could you tell the jury how you go about doing
4 footwear comparisons in general?

5 A. Yes, sir. What we do is we take a known and an
6 unknown and we do a side-by-side comparison which involves
7 minute measurements, calipers, those sort of things and
8 very low level magnification. And we will compare
9 different aspects of the footwear or the sole of the shoes
10 and we will also do a super imposition where we will take
11 a photograph of the known which is on the transparent
12 Mylar film and we will place it on top of the unknown, the
13 photograph of the unknown.

14 Q. Okay. Can you kind of -- do you have some
15 transparencies here that you used in this case?

16 A. Yes, sir; I do.

17 Q. Just kind of demonstrate how that works.

18 A. This would be the photograph on the transparent film.

19 Q. Would you take that photograph from an item submitted
20 to you?

21 A. Actually they were submitted the photo and I assisted
22 and the photographs were taken in our photograph
23 department.

24 And this is the unknown which in this case is the pair
25 of pajama pants that I mentioned. And it was SLED item

1 13.1.

2 Q. And that was the item you were submitted from the
3 Aiken County Sheriff's Office?

4 A. Yes, sir. The pajama pants were 13 and the footwear
5 that was represented on the seat of those pants was marked
6 as item 13.1.

7 Q. What did you compare those to?

8 A. I compared those with the photographs of the pair of
9 shoes that were found in the bag of burned debris.

10 Q. Did you actually physically have the shoes, too?

11 A. Yes, sir; I did.

12 Q. In front of you?

13 A. Yes, sir; I did.

14 Q. Did you take a photograph of that or your photography
15 department did?

16 A. I assisted in the photography department.

17 Q. And that's what you make into an overlay?

18 A. Yes, sir; it is. There are two different ways we can
19 do it. If we have a pair of shoes that we can physically
20 put on our feet, we will put on a protective sock, put the
21 known shoe on our foot and we'll powder it with a medium
22 ink. Our cases we usually use red fingerprint powder and
23 we will physically walk and transfer that to the Mylar
24 film.

25 In this case the shoes were burnt or partially burnt

1 and we couldn't do that so our next best thing is to take
2 a photograph on the Mylar film.

3 Q. And when you take a photograph you compare it to the
4 items.

5 A. Yes, sir; like I mentioned we do a side by side and
6 then develop an overlay.

7 Q. Were you submitted items 54 and 55 in this case?

8 A. Yes. State's Exhibit 54 which would be SLED item 18
9 and State's Exhibit 55 which was SLED item 19. Yes, sir.
10 Those are the footwear casts that I examined.

11 Q. And the other item, the picture from the pajama bottom
12 pants?

13 A. That was --

14 Q. The third item?

15 A. Yes, sir; it was. And it's marked with our item 13.1.

16 Q. Kenny, prior to me asking you any opinions you were
17 able to reach, if any, what did you do with regard to the
18 shoes? Was there something particular in this case?

19 A. Yes, sir. Well, the first thing I did, as I
20 mentioned, I swabbed them. They had a small amount of
21 some kind of material that, may have been blood on the
22 sides of it but it was not enough for me to do a
23 presumptive test on it. So I didn't want to waste up my
24 sample.

25 I swabbed both shoes, the out sole of both shoes. And

1 I took them over to photo, as I mentioned. Once I got
2 them to photo the photographer was having a hard time
3 getting them at 90 degrees. To have a direct
4 representation of an item, you have to photograph it at 90
5 degrees or the scale is going to be off a little bit.

6 As I mentioned we try do it to scale -- or we do it to
7 scale. The photographer was having a hard time getting
8 those shoes at 90 degrees because they were in a pile of
9 debris and you couldn't get the camera flat, so I assisted
10 her. And when I pulled the shoes apart, some of the
11 plastic in that burned debris cracked apart and I saw what
12 was readily identifiable as blood. So I reswabbed the
13 left shoe again.

14 Q. And what did you do with that swab from the shoe?

15 A. After the presumptive test which tested positive with
16 the chemical we use, I submitted that swab as item 30.5 to
17 the DNA department for further analysis.

18 Q. And that's the item Ms. Gallman has testified about?

19 A. Yes, sir; it is.

20 Q. Were you able to reach or come to any conclusions
21 about the shoe prints that you were submitted and the
22 shoe prints that you made?

23 A. Yes, sir; I was. In all three of the samples
24 mentioned, the two footwear casts and the footwear
25 impression on the seat of the victim's pajamas, I made

1 what is called a class match on the known and the
2 unknown.

3 Q. Tell me what that means.

4 A. That means that the shoes that were in the bag of
5 burned debris matched in size, shape and out sole design
6 with the impression on the pajamas and the two footwear
7 casts.

8 And what we do when we compare, we looked at a few
9 different things. We looked at manufacturer and design
10 characteristics. We look at size and shape. We'll look
11 at wear patterns. Everybody walks a little bit different
12 and we'll also look at unique characteristics which are
13 things that cannot easily be replicated.

14 And unfortunately in this, the shoes were damaged to
15 such a point we couldn't find some of those minute
16 characteristics that you would use to make a definitive
17 match but in this one, either the left shoe in that bag of
18 fire debris made these impression or another shoe the same
19 size, shape out sole design made them.

20 Q. And that would be the same with regard to the
21 footprints you were asked about?

22 A. Yes, sir; both footwear casts and the seat of the
23 pajamas.

24 MR. WEEKS: Please answer any questions that the
25 defense has for you.

CROSS-EXAMINATION

BY MR. MILLER:

Q. Good afternoon, sir.

A. Good afternoon.

Q. Referring you to SLED item number 12.1.

A. Yes, sir.

Q. What was your result of your analysis on that item?

A. On 12.1 it was no conclusion due to the quality of 12.1.

Q. Okay. And the same -- the same with regard to the bedspread, item number 11?

A. Actually there was nothing -- it's the same in words but I found -- I actually found some detail on the other, but on the bedspread I found nothing at all.

MR. MILLER: No further questions. Thank you.

REDIRECT EXAMINATION

BY MR. WEEKS:

Q. The 12.1 that he was referring to was a carpet sample from the victim's home?

A. Yes, sir.

MR. WEEKS: Thank you. Nothing further.

THE COURT: Thank you. You can step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Mr. Solicitor, you got somebody you can put up in six minutes?

1 MR. WEEKS: I can't get out of the chair in six
2 minutes.

3 THE COURT: Seems like it's a good time to take a
4 lunch break. Ladies and gentlemen, we're going to take
5 our lunch break. I ask you to be back at 2:30 in the jury
6 room.

7 When you get back, I want you to do two things
8 for me. While you're at lunch you can't discuss the
9 case. Don't allow anybody to discuss it with you. When
10 you get back, I want you to select a foreperson. I have
11 found out that juries do a whole lot better when they
12 select their own foreperson than when I do.

13 I don't know any of you. You have at least spent
14 a day and a half together so you've learned something
15 about each other. The foreman or the foreperson has no
16 greater responsibilities or duties than anyone else. They
17 simply preside over the deliberation in this case and will
18 ultimately sign the verdict form.

19 So when you get back from lunch if you will
20 select a foreperson. Let the bailiff know who that is and
21 I'll bring you out, hopefully as close as I can to 2:30
22 and we'll finish this case. Thank you. Have a nice
23 lunch.

24 (Jury exits courtroom at 12:54 p.m.)

25 THE COURT: Anything before we break for lunch?

1 MR. MILLER: Not from the defense, your Honor.

2 THE COURT: We'll be in recess until 2:30.

3 (Thereupon, the lunch recess was taken, following
4 which the trial resumed:)

5 THE COURT: State ready?

6 MR. WEEKS: Yes, sir. I just want to clarify a
7 couple of things on the record before we bring them in.

8 THE COURT: Okay.

9 MR. WEEKS: It's my understanding that with the
10 exception of photograph Number Nine, all of the State's
11 photographs, One through 47, are in without objection or
12 subject to the previous objections made and overruled.
13 And that the State's Number 54 is in. And State's 55 with
14 regard to photographs -- I'm just trying to make sure I
15 had all the photographs accounted for. It's my
16 understanding that they are all in.

17 THE COURT: I have 54 and 55 are moved in without
18 objection. 56 is clothes and shoes in without objection.
19 57 is the black T-shirt and the white socks and they have
20 not been moved into evidence.

21 MR. WEEKS: The State would move those into
22 evidence.

23 MR. MILLER: No objection.

24 THE COURT: They're in now without objection.

25 (Thereupon, State's Exhibit No. 57, clothing, was

1 received into evidence, State's Exhibit No. 40, photograph
2 was received into evidence.)

3 THE COURT: You talked about them. I don't think
4 you made that motion.

5 MR. WEEKS: Okay.

6 THE COURT: I have everything else in my notes.

7 MR. WEEKS: Except for number nine, the one that
8 I withdrew.

9 THE COURT: Do you disagree with any of that,
10 Mr. Miller?

11 MR. MILLER: No, Your Honor.

12 THE COURT: Madam court reporter, is that your
13 record is as well?

14 THE COURT REPORTER: It is.

15 MR. WEEKS: Your Honor, also for the record, as
16 you realize we've been entering without calling chain of
17 custody, without calling have a dozen SLED witnesses.
18 Prior to the trial we had stipulated that the defense
19 would not insist upon a half-dozen SLED officers and
20 county officers to testify about moving items from one
21 place to the other.

22 So I just wanted to put on the record the chain
23 of custody had been discussed. We had subpoenaed them all
24 and could have had them here but the defense indicated to
25 me that they would not insist upon chain of custody

1 witnesses.

2 MR. MILLER: That is correct as well, Your Honor.

3 THE COURT: All right. Anything else?

4 MR. MILLER: Nothing further from the defense,
5 Your Honor.

6 THE COURT: Can you give me an idea about how
7 much longer? I'm not rushing you. I'm just trying to
8 figure out --

9 MR. WEEKS: I have two witnesses, Your Honor. I
10 don't think they'll be particularly long. Except we are
11 going to play the tape of the second one.

12 THE COURT: Of the second interview?

13 MR. MILLER: Is that the one that was the Denno?

14 MR. WEEKS: Yes.

15 THE COURT: Okay. All right. Anything else
16 before we bring the jury in?

17 MR. WEEKS: Nothing from the State, Your Honor.

18 MR. MILLER: Nothing from the defense, Your
19 Honor.

20 THE COURT: Do you want me to go over your
21 client's rights with him now or wait until after the end
22 of the State's case as far as his testimony?

23 MR. MILLER: Your Honor, now would be fine if the
24 Court desires. He could do it after the State rests. I
25 have discussed it with my client previously so we're ready

1 to go whenever the Court is.

2 THE COURT: Okay. I can do it either way. Well
3 we'll just wait and do it at the end of the State's case.
4 At that point we'll need to take a break anyway and deal
5 with whatever motions you might have.

6 MR. MILLER: Yes, sir.

7 THE COURT: You may or may not have. If you'll
8 bring us a jury.

9 (Jury enters courtroom at 2:36 p.m.)

10 THE COURT: Ladies and gentlemen, I understand
11 that y'all have selected a foreperson; is that correct?

12 THE FOREPERSON OF THE JURY: Yes.

13 THE COURT: And that's Mr. Rouse?

14 FOREPERSON OF THE JURY: Yes.

15 THE COURT: Okay. We'll continue with the
16 testimony of the trial. Mr. Solicitor, you may call your
17 next witness.

18 MR. WEEKS: Thank you, Your Honor. State would
19 call Kathy Young.

20 KATHERINE YOUNG, having been duly sworn, was
21 examined and testified as follows:

22 THE CLERK: Have a seat in the witness box.
23 State your full name for the Court, spelling your last.

24 THE WITNESS: Katherine Young, Y. O. U. N. G.

25 DIRECT EXAMINATION

1 BY MR. WEEKS:

2 Q. Ms. Young, are you currently incarcerated?

3 A. Yes, sir.

4 Q. And back on May the 2nd of 2007, where were you
5 living?

6 A. At my mother's house, 1285 Barn Owl Road.

7 Q. And how long had you been living there prior to May
8 the 2nd?

9 A. Approximately a year.

10 Q. Did the sheriff's department show up on May the 2nd?

11 A. Yes, sir.

12 Q. Were you present when they arrived?

13 A. Yes.

14 Q. Did they question you concerning anything you might
15 have seen?

16 A. Yes. They questioned everyone there.

17 Q. Did you hear them question Mr. Williams?

18 A. Yes.

19 Q. Did you hear them ask him about his shoes?

20 A. Yes.

21 Q. Did you note anything wrong with his answers?

22 A. Yes, I did.

23 Q. And what was that?

24 A. They asked him if -- he had on a pair of black work
25 boots and they asked him if that's the only shoes that he

1 owned and he said yes.

2 Q. And you knew different?

3 A. Right.

4 Q. What kind of shoes did he own?

5 A. He had on sneakers the night before.

6 Q. What color were they?

7 A. They were white.

8 Q. The night before the sheriff's department showed up,
9 did you have any contact at all with Mr. Herbert Ellis?

10 A. No, sir.

11 Q. Did you know Mr. Ellis?

12 A. Yes, I did.

13 Q. How did you know Mr. Ellis?

14 A. I did odd jobs for him. He was building an apartment
15 behind the trailer he lived in, and if people needed money
16 he would let people work for him.

17 Q. And did you do some work for him prior to his death?

18 A. Yes, I did.

19 Q. On the night prior to the sheriff's department showing
20 up, after dark, do you remember what you were doing?

21 A. I was kind of hanging out with my niece and Chad and a
22 friend of mine.

23 Q. And who is your niece?

24 A. Crystal Jackson.

25 Q. And Chad and who else?

1 A. Christy Lee Barton.

2 Q. And how about Josh, was he around there?

3 A. He was there.

4 Q. What were y'all doing, Kathy?

5 A. We were doing drugs.

6 Q. And specifically?

7 A. Crack.

8 Q. Where had you gotten the crack from?

9 A. We acquired it.

10 Q. Did you buy it from a dealer?

11 A. Yes.

12 Q. What did you buy it with?

13 A. I had some money and Christy had some money, a little
14 bit of money. We didn't have much money.

15 Q. Did anybody borrow money from Josh?

16 A. Chad borrowed some money from Josh.

17 Q. What was that used for?

18 A. To buy crack.

19 Q. Did y'all smoke the crack he bought?

20 A. Yes.

21 Q. Smoked it all that night?

22 A. We smoked ours. Chad went downstairs with what he had
23 left. I don't know exactly what he did with it.

24 Q. At some point in time, were you and chad and Christy
25 Lee and Crystal all in the same room?

1 A. Yeah. We were in the same room for a while.

2 Q. What were y'all doing?

3 A. We were smoking.

4 Q. Did y'all break up at some point?

5 A. Yeah.

6 Q. Who stayed in the room?

7 A. Me and Christy and Josh and Crystal stayed in the
8 room, in my bedroom. And Chad disappeared for a while. I
9 didn't know what happened to him.

10 Q. At some point did you see Chad later?

11 A. It was quite a bit later when I saw Chad. I don't
12 even really remember if I saw Chad later until that next
13 morning. I'm not real sure on that. I know he came back
14 in but I didn't see him, Christy saw him.

15 Q. Were you taken to the sheriff's department on May the
16 3rd or went down there to give a statement?

17 A. Yes, sir.

18 Q. And did you tell them about the shoes?

19 A. Yes, sir; I did.

20 Q. Did you attempt to find Chad's shoes in the meantime?

21 A. Yes. Myself and my nephew, Josh, we both looked for
22 them.

23 Q. Were you able to find them?

24 A. No, sir.

25 Q. Kathy, where was your bedroom in relation to crystal's

1 and Chad?

2 A. When you come upstairs my bedroom is right on the
3 right. And when you go straight down the hall at the very
4 end, that's where their bedroom is at.

5 Q. Did y'all share a joint bathroom?

6 A. Yes.

7 Q. And how long had y'all been living there together up
8 there at Ms. Quarles's?

9 A. I had been there for about a year. I'm not exactly
10 sure how long they had been there. They had been there a
11 while though.

12 Q. And you and Crystal and Chad all stayed upstairs?

13 A. Yes.

14 Q. And all used the same bathroom?

15 A. Yes.

16 Q. Did you go to Mr. Ellis's house at any point on the
17 night of May the 1st?

18 A. No, I did not.

19 Q. Did you participate in any way in the murder of
20 Mr. Ellis?

21 A. No, I did not. I had not been there, probably two
22 weeks prior to when that happened.

23 MR. WEEKS: Okay. Thank you.

24 CROSS-EXAMINATION

25 BY MR. MILLER:

1 Q. Ms. Young, you gave a written statement to the Aiken
2 County Sheriff's Office on May the 3rd, 2007; didn't you?

3 A. Yes, sir.

4 Q. Do you recognize that?

5 A. Yeah.

6 Q. Is that your written statement?

7 A. Yes, sir.

8 Q. Read that statement to the jury.

9 MR. WEEKS: Your Honor, I object to the form.

10 THE COURT: Sustained.

11 BY MR. MILLER:

12 Q. I'll ask you about it. You didn't tell the police
13 anything about smoking crack that night; did you?

14 A. No, sir.

15 Q. In fact, you told the police that you were somewhere
16 else -- well, you say your sister's house. Who is your
17 sister?

18 A. We did go there. It's right behind my mother's
19 house.

20 Q. What's your sister's name?

21 A. Angela Mathis.

22 Q. And Angie Mathis's house is a mobile home that's
23 behind Patricia Quarles's house?

24 A. Right.

25 Q. And there has been prior testimony that there is a

1 trail to get to it; is that correct?

2 A. Yes.

3 Q. And how long is that trail, how far away is Angie's
4 house from Patricia Quarles's house?

5 A. I don't know exactly how far. I mean, we walk there
6 all the time.

7 Q. Okay. And you told the police that you were there
8 shooting pool until 12:30 in the morning; correct?

9 A. If that's what it says.

10 Q. Then you told the police that you came home and you,
11 Chad, and Josh went to the store. What store did you go
12 to?

13 A. I would imagine it probably had to been the Smile
14 Station, I guess.

15 Q. Okay. A little context. This Barn Owl Road, where is
16 it in relationship to the interstate and Highway 1?

17 A. It's a couple of miles.

18 Q. Okay. So if you're coming from Aiken and going out
19 US-1, is Barn Owl Road on the other side of the
20 interstate?

21 A. Yes. First road past it.

22 Q. The first road past the interstate. All right. Did
23 -- so when you say you went to the Smile Station, was that
24 the Smile Station that's right there at the intersection
25 of Highway 1 and I-20?

1 A. Yes.

2 Q. What did you do at the Smile Station?

3 A. I don't recall exactly. I'm sure we went and got junk
4 to drink or something. We went and bought drugs.

5 Q. Did you buy them at the Smile Station?

6 A. No.

7 Q. Okay.

8 A. We went somewhere else other than the store.

9 Q. Okay.

10 A. But I just didn't add all of that in to begin with
11 because it didn't look very good.

12 Q. So, where did you go to buy the drugs after you left
13 the Smile Station?

14 A. Off Reynolds Pond Road.

15 Q. Off what? I'm sorry.

16 A. Reynolds Pond Road.

17 Q. Where is Reynolds Pond Road in relationship to the
18 Smile Station?

19 A. Just a few miles down the road, couple miles.

20 Q. And did you go to somebody's house?

21 A. Yes.

22 Q. And you got out of the car?

23 A. Yes.

24 Q. And who was with you when you got out of the car?

25 A. I know my niece was with me and Chad.

1 Q. So Crystal was with you?

2 A. Yes.

3 Q. And then you came back to the house -- well, did you
4 go anywhere after you bought the crack or did you go
5 straight back to the Barn Owl Road?

6 A. Went back to the house.

7 Q. Okay. Went back to the house. And then when you got
8 to the house, what happened next?

9 A. I went to my room. That's where I stayed. When we
10 got back to my mom's house I stayed upstairs.

11 Q. Okay. Did everybody else come in and smoke crack with
12 you in your room?

13 A. Chad came in, and Crystal came in there and Christy and
14 I stayed in there.

15 Q. Okay. So everybody smokes crack and then at some
16 point you testified that Chad left but everybody else
17 stayed in the room with you?

18 A. Right.

19 Q. So how long was it from the time that you came back
20 from Angie Mathis's house at 12:30 until Chad left your
21 bedroom?

22 A. I don't know exactly how long it was.

23 Q. Okay.

24 A. Chad didn't stay very long in the bedroom with us. I
25 don't know.

1 Q. He stayed long enough to smoke crack with you; is that
2 right?

3 A. He didn't smoke all of his.

4 Q. What's that?

5 A. He didn't smoke all of his.

6 Q. He didn't smoke all of his?

7 A. No.

8 Q. So Chad had more crack?

9 A. Yes.

10 Q. Okay. Now, when you got to the drug dealer's house,
11 after you left the Smile Station, you said that it was
12 your money and Christy Lee's money that y'all were using
13 to buy the crack?

14 A. Yeah. Well, Chad borrowed money from my nephew.

15 Q. Okay. Chad borrowed money from Josh. And did you see
16 him borrow money from Josh?

17 A. Yes.

18 Q. Okay. And Chad was using the money -- well, who paid
19 for the crack?

20 A. We all did.

21 Q. So you bought some and Chad bought some?

22 A. And Christy bought some.

23 Q. And Christy bought some. Okay.

24 A. Supposedly that's what the flashlight was for because
25 he had lost his crack. That's what we -- we all did. We

1 all had some.

2 Q. Okay. So Chad came into the room and asked for a
3 flashlight?

4 A. No. Crystal did.

5 Q. Crystal did. Okay. Do you know what time that was?

6 A. No. I'm sure I knew then, but I can't remember right
7 now.

8 Q. I'm sorry, ma'am?

9 A. I'm sure I knew then, but I can't remember right now.

10 Q. But you're pretty certain, based upon your previous
11 testimony and upon your written statement having read
12 that, that y'all were all over at Angie Mathis's house on
13 the night of the 1st, correct, going into 12:30 a.m. on
14 the 2nd?

15 A. Yeah.

16 Q. I mean, because this statement would have been two
17 days after the fact?

18 A. (Nods head.)

19 Q. If it was given on the 3rd; correct?

20 A. Right.

21 Q. One second.

22 (Pause.) Okay. What was your relationship like with
23 Chad Williams?

24 A. Sometimes we got along, and sometimes we didn't.

25 Q. I'm sorry?

1 A. Sometimes we got along and sometimes we didn't.

2 Q. What was your relationship with him like on May the
3 3rd whenever you were talking to the police?

4 A. Uh, I felt that Chad had been lying and I thought that
5 if he did something to hurt someone that it was wrong.

6 Q. So you wanted to tell the truth and you wanted to tell
7 the police everything that happened so that Chad would be
8 brought to justice on the 3rd?

9 A. If he did it, yeah. I mean, I thought a lot of
10 Mr. Ellis, and I just figured they should know the truth.

11 Q. But you didn't tell the truth whenever you talked to
12 the police; did you?

13 A. I told the truth about everything that mattered. The
14 drug part, no, I didn't tell that, but that's it. That's
15 the only part I didn't tell.

16 Q. Did you wait until the police came to you and started
17 asking you questions before you told the police that?

18 A. I didn't know anything about it. I didn't know
19 anything about it until they came over there. I had no
20 idea anything had happened to anybody.

21 Q. What movie did you watch that night?

22 A. I can't recall now.

23 Q. Okay. So you can't recall exactly what time. Who was
24 the drug dealer that you bought the crack from?

25 A. I'm not saying.

1 MR. MILLER: Your Honor, she's got to answer the
2 question.

3 THE COURT: How is that relevant?

4 MR. MILLER: Your Honor, it's relevant because
5 she can't remember what time it was. I guess she can't
6 remember who the drug dealer was that she bought the crack
7 from. She can't remember what she --

8 THE WITNESS: She didn't say she can't remember.
9 She just didn't want to say.

10 MR. MILLER: I'm not aware of what privilege that
11 would fall under for her not to answer a question
12 truthfully when she's under oath and being questioned.

13 MR. WEEKS: I would love for her to answer the
14 question. I prosecute dope dealers, too.

15 THE COURT: All right. If you know the answer,
16 you need to answer the question.

17 THE WITNESS: He's deceased. He passed away, or
18 got killed when I was in the county jail. So, all I know
19 is --

20 BY MR. MILLER:

21 Q. Okay.

22 A. -- his name was Baldy. That's all I can tell you. I
23 don't know any first names or --

24 Q. Fair enough. Did you buy drugs from him often?

25 A. Yes.

1 Q. And you don't remember what time Crystal came into
2 your room asking for a flashlight?

3 A. I knew -- like I said, at the time I'm sure I knew,
4 but I've had a lot going on since then. I can't remember
5 the exact times.

6 Q. What was Chad wearing that night when you saw him
7 last?

8 A. He had on a running suit and sneakers, like a wind
9 suit.

10 Q. Okay. What was the last time before you got on the
11 stand to testify that you discussed your testimony with
12 anybody?

13 A. I spoke with Mr. Weeks for just a moment before I came
14 in, a little while before I came in here but I hadn't
15 talked to anybody.

16 Q. Well, your written statement that you gave to the
17 sheriff's office doesn't indicate what Chad was wearing,
18 and you can't remember the timing of any of these events,
19 and you can't remember what movie you were watching that
20 night --

21 MR. WEEKS: Your Honor, I'm objecting. He's got
22 to ask a question.

23 BY MR. MILLER:

24 Q. The question is: How can you remember what Chad was
25 wearing two years ago when you can't remember any of the

1 other details about that night even after you've had your
2 written statement to look at?

3 A. Because Chad only had just a very few knew things,
4 maybe three things he wore all the time. And that's what
5 he had on that night. And I remember that.

6 I'm sorry if you don't like the answer, but that's
7 what he had on.

8 Q. And so the last time you saw him he was walking out of
9 your door after he just smoked crack with you and you
10 didn't see him again any more that night?

11 A. Not that I recall. Crystal came up and asked for a
12 flashlight. She said he had dropped his bag is what she
13 said. And later she said he dropped his cell phone is
14 what it was, Mr. Ellis's cell phone.

15 Q. Okay. One second, please.

16 (Pause.)

17 MR. MILLER: That's all the questions I have,
18 Your Honor.

19 THE COURT: Okay. Anything further from the
20 State?

21 MR. WEEKS: Just a couple, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. WEEKS:

24 Q. Kathy, you indicated that you talked to me. That's
25 the first time I have talked to you about this incident;

1 isn't it?

2 A. Yes, sir.

3 Q. And you're not under arrest or not in jail for
4 anything related to these charges; are you?

5 A. No, sir.

6 MR. WEEKS: Thank you.

7 THE COURT: You can step down.

8 MR. WEEKS: Your Honor, the State would call
9 Lieutenant Billy Fleury.

10 BILLY FLEURY, having been duly sworn, was
11 examined and testified as follows:

12 THE CLERK: Have a seat in the witness box, state
13 your full name for the Court, spelling your last.

14 THE WITNESS: Billy Fleury. F. L. E. U. R. Y.

15 DIRECT EXAMINATION

16 BY MR. WEEKS:

17 Q. Billy, what do you do with the sheriff's department?

18 A. I'm lieutenant over investigations, Aiken County
19 Sheriff's Office.

20 Q. And as the lieutenant over investigations you do,
21 what?

22 A. I handle anything from property crimes to violent
23 crimes, homicides, sexual assaults, so on.

24 Q. Do you investigate them?

25 A. Yes, along with the investigators I supervise.

1 Q. How many investigators do you supervise?

2 A. Probably about 12.

3 Q. How long have you been with the sheriff's department?

4 A. Aiken County, December 2nd will be 20 years with Aiken
5 County.

6 Q. Prior to that, Saluda County?

7 A. Four years with Saluda County.

8 Q. How long have you been an investigator with the
9 sheriff's department?

10 A. With Aiken County, in May it will be 20 years in May.

11 Q. I will call your attention back to May the 2nd of
12 2007. Did you respond or did your department respond to a
13 call concerning Mr. Ellis?

14 A. Yes, we did.

15 Q. Tell me what you did.

16 A. Upon arrival, the scene had already been sealed off.
17 Three of my -- actually four of my investigators arrived.
18 Investigator Clay Adams and Investigator Chris Johnson
19 with the forensics team. They showed up. And I entered
20 the house with Mr. Adams, with Investigator Adams and
21 observed the deceased, Mr. Ellis, laying on the floor.

22 Q. From there, where did you go or what did you do?

23 A. I turned the scene over to Investigator Adams and
24 Johnson. We then started combing the neighborhood,
25 looking for any information about anybody that may have

1 seen or heard anything.

2 Q. Did you request any other assistance from your
3 department?

4 A. Investigator Adams pointed out a shoe track in the
5 field right behind Mr. Ellis's residence, in between
6 Mr. Ellis's residence and the residence of Ms. Quarles's.
7 And I did ask the dispatch to dispatch the dog team.

8 Q. And with that did they arrive?

9 A. Yes, they did.

10 Q. And what did they do?

11 A. As testified previously, turned the dog loose. They
12 made paths looking for tracks, and they found some tracks
13 in Ms. Quarles's driveway that matched the tracks to the
14 ones behind Mr. Ellis's house.

15 Q. They communicated that to you?

16 A. Yes, they did.

17 Q. Did you go to Ms. Quarles's house?

18 A. Yes, I did.

19 Q. And did you talk to any folks there?

20 A. In the yard I spoke to the Defendant, Mr. Chad
21 Williams, Crystal, and Ms. Patricia Quarles.

22 Q. Did you get Ms. Quarles's consent to go in the house
23 and look around?

24 A. Yes. She gave us consent to search the property.

25 That's including the track in the driveway and also inside

1 the house.

2 Q. Did you notice what kind of footwear Mr. Williams was
3 wearing?

4 A. He was wearing, like, a black boot, work-boot type.

5 Q. Was that similar in any way to the track y'all were
6 looking at?

7 A. No, sir.

8 Q. How did you -- where did you go from there, Billy?

9 How did you begin your interviews with these folks?

10 A. I asked Mr. Williams if that's the only pair of shoes
11 he had at that time. He stated yes. He gave his

12 consent. We could look in his room. He signed the
13 consent to search. And we found no tennis shoes or
14 anything that would match the shoe prints out there.

15 Q. Where did you go from there?

16 A. Basically the same thing. I asked, just checking the
17 neighborhood. We talked to Mr. Williams a little bit,
18 Ms. Jackson and Ms. Quarles.

19 Q. The next day, did you have the opportunity to
20 interview some of them at the sheriff's department?

21 A. Ms. Jackson and Mr. Williams went to the sheriff's
22 office and they spoke with Investigator Sanders and Ghant
23 and eventually with Investigator Savell and Wertz. I
24 stayed at the scene with Investigator Adams most of the
25 next day, still checking the neighborhood.

1 Q. The various pieces of evidence that have been
2 submitted, they're the responsibility of you to make sure
3 they get to SLED and get analyzed further?

4 A. Yes. I coordinate with the investigation supervisor,
5 with the forensics unit on the evidence that goes to SLED.

6 Q. And the evidence from Mr. Ellis's house, was part of
7 that some gray pants?

8 A. Yeah. The gray pants that were hanging up in the --
9 it's like a washroom between his bedroom and where
10 Mr. Ellis's body was laying. They were hanging up by the
11 washing machine. As you go in, they were right there on
12 the left.

13 Q. Were they significant at all in this investigation?

14 A. Had some what appeared to be blood, but not really.

15 Q. Was there blood splatter all over?

16 A. It was splattered. It was splattered everywhere.

17 Q. Now, did you participate the next day with
18 Ms. Jackson? I believe I saw a skinnier version of you on
19 the video earlier. Did you go to somewhere else on Barn
20 Owl Road?

21 A. Yes. We went to a dirt road. I believe it's right
22 off Barn Owl. As you go out Ms. Quarles's driveway you go
23 down Barn Owl, there's a dirt road that cuts down. That's
24 where they're talking about.

25 I believe that's where Ms. Mathis lives, back over in

1 there. But if you keep going down, she gave us directions
2 to a cell phone tower. And we, myself and another
3 investigator, we went down to about where we thought the
4 stuff would be buried where she was talking about and we
5 found it.

6 Q. The video that was made, were you out there when the
7 hole was discovered and --

8 A. Yes. Ms. Jackson was then transported back out to the
9 dirt road. She then gave us directions. We came back
10 out. She then gave us directions where it was at.

11 Q. The evidence that was unearthed, for lack of a better
12 word, from that location, was that sent to South Carolina
13 Law Enforcement Division?

14 A. Yes, it was.

15 Q. Was there a pair of shoes included in that?

16 A. Yes, it was.

17 Q. Is that the only shoes that were sent up there in this
18 case to be analyzed for anything?

19 A. That's the only shoes that I'm aware of that were
20 sent.

21 Q. When the shoes were removed from the hole, were you
22 present?

23 A. Yes, I was.

24 Q. The crescent wrench and the hammer that was removed
25 from the hole, were you present for that, too?

1 A. Yes, I was.

2 Q. Did it appear that items had been burned?

3 A. Yes, sir.

4 Q. And subsequent to that on another day, did you go to
5 the house or did your investigators go to the house to
6 obtain some items?

7 A. Yes, we did.

8 Q. Did you send that to SLED?

9 A. Also. That went also.

10 Q. Subsequent to that, did you do any more investigation
11 with regard to clothing?

12 A. We went back later on. Investigators went back with
13 Investigator Adams and retrieved some clothing out of the
14 upstairs bathroom.

15 Q. Were they characterized as khaki Shorts?

16 A. Khaki shorts, and -- I believe it was khaki shorts and
17 a T-shirt or some plaid underwear, I believe it was.

18 Q. And were they sent to SLED also?

19 A. I believe so.

20 Q. Were you in here when Agent Powell testified as to the
21 findings on those items?

22 A. Yes, I was.

23 Q. And those are the same items that you were referring
24 to also?

25 A. Yes, sir.

1 Q. When Ms. Gallman testified concerning findings on
2 shoes, were those the items that you had sent from the
3 hole to SLED?

4 A. Yes, they were.

5 Q. Billy, if you could step down here a second with Your
6 Honor's permission?

7 THE COURT: Yes, sir.

8 THE WITNESS: (Complies.)

9 BY MR. WEEKS:

10 Q. Billy, if you could mark an X. where Mr. Ellis's
11 trailer was, and the Quarles's house and then the
12 approximate location of this burn hole. Put an X. on
13 Mr. Ellis's residence.

14 A. This is it right here. This is where --

15 Q. Put a circle around that.

16 A. (Complies.)

17 Q. Okay. Put a circle around Ms. Quarles's house.

18 A. This is Ms. Quarles's. And we came back out --

19 Q. Put a big old -- from where the open approximate
20 location of the burn hole was.

21 A. (Complying.)

22 Q. Is this the fire tower?

23 A. Yeah. I'm trying to find it. I hadn't seen this map
24 previously. I'm trying to find the fire tower. It's hard
25 to ...

1 Q. I should have showed it to you previously.

2 A. I'm trying to find it. I think it's right in here.

3 Q. This is Ms. Quarles's house?

4 A. Yeah.

5 Q. And the fire tower?

6 A. Right in there somewhere.

7 Q. Okay. Let me have my pen back.

8 A. All right. (Witness returns to witness stand.)

9 Q. Billy, it was the afternoon of May the 3rd, I believe,
10 when Crystal came up there and talked to y'all?

11 A. Yes, sir.

12 Q. And initially she denied knowing anything?

13 A. Initially she didn't know anything.

14 Q. And then subsequent to that that same afternoon she
15 told you, what?

16 A. Yes, sir. I was still out on the scene and she had
17 talked to the investigators and the investigators called
18 me up.

19 Q. They were directing you by phone to the location?

20 A. Yes, they were. It seems farther on the map than it
21 actually is.

22 Q. Was it within walking distance of the house?

23 A. Oh, yes.

24 Q. Billy, I'm going to call your attention to sometime
25 this summer. Did you have the opportunity to discuss

1 anything with the Defendant, Chad Williams?

2 A. Yes, I did.

3 Q. How did that take place?

4 A. I was notified by his attorney that he wished to make
5 a statement.

6 Q. And did you coordinate that event?

7 A. Yes, I did.

8 Q. And who was present?

9 A. Myself, Mr. David Miller, Mr. Rodger Sharpe,
10 Mr. Williams, Chad Williams, and Solicitor Weeks.

11 Q. Solicitor Weeks would be me?

12 A. That would be you.

13 Q. Where did that take place at?

14 A. It took place at the sheriff's office.

15 Q. And where at the sheriff's office?

16 A. Upstairs in the conference room in CID.

17 Q. Can you tell the jury what you did that morning?

18 A. That morning Mr. Williams wanted to make a statement.
19 I then advised him of his Miranda.

20 Q. You say that you advised him of his Miranda. What is
21 that?

22 A. That is what you refer to as his rights as is referred
23 to on television.

24 Q. Did he waive those rights?

25 A. Yes, sir. He signed those rights along with his

1 attorney and myself.

2 Q. His attorney was present for him to do that?

3 A. Yes.

4 Q. Did he give you a statement?

5 A. Yes, he did; an audio statement.

6 Q. And in that statement, did he indicate his involvement
7 in the murder of Mr. Ellis?

8 A. Very light. It was -- he was blaming someone else
9 that wasn't even there.

10 Q. Did he indicate his participation though, going to the
11 house and that sort of stuff?

12 A. As a distraction.

13 Q. As a what?

14 A. A distraction, I believe it was.

15 Q. Did he indicate that he dispatched or disposed of some
16 of the evidence?

17 A. Yes, he did.

18 Q. And at some point later that day, did Mr. Ellis give
19 another statement -- I mean, Mr. Williams give another
20 statement?

21 A. Yes, he did.

22 Q. And who was present for that?

23 A. Myself, his attorney, Mr. Miller, and Mr. Williams.

24 Q. Who?

25 A. Mr. Williams, the Defendant.

1 Q. Was that one likewise audio taped?

2 A. Yes, it was.

3 Q. And was he advised of his rights?

4 A. I advised him that he was still under Miranda.

5 Q. And that would mean he would still have the right to
6 remain silent?

7 A. Yes, it does.

8 Q. And he had the right to an attorney?

9 A. Yes.

10 Q. And if he wanted an attorney --

11 A. His attorney was present.

12 Q. -- one would be appointed for him?

13 A. Yes.

14 Q. He could stop answering questions at any time?

15 A. Any time he wanted to.

16 Q. Was he under the influence of anything while you were
17 taking those statements from him?

18 A. No, he wasn't.

19 Q. Was he in the presence of his attorney for both of
20 them?

21 A. Yes, he was.

22 Q. You audio taped both of them but the second one, did
23 he admit something with regard to Mr. Ellis?

24 A. Yes. He admitted to killing Mr. Ellis.

25 Q. What else did he admit to with regard to that?

1 A. He admitted to --

2 Q. With regard to all of this evidence that we've been
3 talking about?

4 A. Taking it to the burn pile and burning it.

5 Q. So did you audiotape that?

6 A. Yes, I did.

7 Q. Have you reviewed that audiotape?

8 A. Yes, I have.

9 MR. WEEKS: Your Honor, the State would move to
10 introduce State's Number 49.

11 THE WITNESS: Okay.

12 THE COURT: What says the defense?

13 MR. MILLER: Without objection, Your Honor.

14 THE COURT: Okay. Number 49 is in evidence
15 without objection.

16 (Thereupon, State's Exhibit No. 49, DVD of
17 interview, was received into evidence.)

18 MR. WEEKS: Your Honor, if I may it's about ten
19 and a half minutes. I'd like to publish it.

20 THE COURT: Okay. While you're publishing this
21 to the jury, if anybody needs to leave you need to leave
22 now because I don't want anybody coming in and out because
23 this may be hard to hear. So if you don't let anybody in
24 or out during this ten minutes, I would appreciate it.

25 (Thereupon, the DVD of the interview was played

1 for the jury.)

2 BY MR. WEEKS:

3 Q. Investigator Fleury, after or maybe shortly before
4 that interview, did other items go back up to Columbia for
5 further analysis?

6 A. Yes, sir; they did.

7 Q. And have those items been testified to by Ms. Gallman?

8 A. Yes, sir.

9 Q. Socks?

10 A. Yes, they have.

11 Q. Shirt?

C 12 A. (Nods head.)

13 Q. And were those items taken out of the burn hole, too?

14 A. Yes, sir.

15 MR. WEEKS: Thank you. Answer any questions of
16 defense.

17 CROSS-EXAMINATION

18 BY MR. MILLER:

19 Q. Good afternoon, Lieutenant Fleury. You testified that
20 items were sent up to SLED to be tested. Who decides what
21 SLED tests for?

22 A. Who decides? We decide as a team.

23 Q. Okay. And when you say we as a team, do you mean you
C 24 and the sheriff's office or you and SLED and the sheriff's
25 office?

1 A. All three, basically.

2 Q. Okay. Ms. Lilly Gallman, who was the DNA expert for
3 SLED and was qualified as an expert in DNA, said that one
4 of the types of tests that they can do on a shoe was they
5 could do an ownership test to determine whose shoe it
6 was. But that wasn't ever done in this case, was it?

7 A. They sent the shoes up. They sent swabs up. And I
8 don't know what she testified to, really.

9 Q. Okay. When Chad gave you the initial statement, the
10 one the jury didn't hear, on July the 2nd of 2008, you
11 knew he was lying to you; didn't you?

12 A. Yes, sir.

13 Q. And you knew he was lying to you because he had
14 implicated Jason Quarles and you knew Jason Quarles wasn't
15 involved; correct?

16 A. That's correct.

17 Q. And in your 20 years of investigative experience, and
18 I won't go into how long you've been in law enforcement
19 altogether, but have you ever had a suspect tell you a
20 lie?

21 A. A lot of times.

22 Q. And is it fair to say that sometimes the suspects lie
23 because they're trying to minimize the consequences of
24 their actions?

25 A. Could be.

1 Q. And other suspects besides Chad Williams have told you
2 a lie before; correct?

3 A. I'm sorry?

4 Q. Other suspects besides Chad, people not involved in
5 this case?

6 A. Oh yes, sir.

7 Q. How about witnesses, do witnesses lie?

8 A. At times.

9 MR. MILLER: That's all the questions I have for
10 Investigator Fleury, Your Honor.

11 THE COURT: Okay. Anything further from the
12 State?

13 MR. WEEKS: No, Your Honor.

14 THE COURT: All right, sir. Thank you, sir. You
15 can step down.

16 MR. WEEKS: Your Honor, the State rests.

17 THE COURT: Okay. Ladies and gentlemen, the
18 State has rested their case. I'm going to need you to
19 step to the jury room for a few minutes and I'll get you
20 back out just as quick as I can. I remind you that you
21 can't start discussing this case yet.

22 (Jury exits courtroom at 3:27 p.m.)

23 THE COURT: All right. Anything from the
24 defense?

25 MR. MILLER: No motions, Your Honor.

1 THE COURT: All right. Mr. Williams, if you
2 would, stand up, please, sir, and raise your right hand.

3 (Defendant placed under oath.)

4 THE COURT: We've reached this portion in your
5 trial where you have a right to put up a defense, if you
6 want to. And it's -- certainly you don't have to.
7 Under -- you have a constitutional right not to testify
8 and not to put up a defense. The State has the burden of
9 proving you guilty beyond a reasonable doubt.

10 But I just want you to understand your rights.
11 And if you have any questions for me, if you want me to
12 repeat anything, if you'd just ask me I'll go back over it
13 with you.

14 Now, as I told you, you're not required to
15 testify in this case. And I'll instruct the jury if you
16 decide not to testify they can't hold that against you in
17 any way whatsoever. They can't even discuss that in the
18 jury room.

19 But this decision as to whether you testify or
20 not testify is your decision. It is a personal decision
21 to you. It's not your attorney's decision. You certainly
22 can talk to him, get whatever advice you deem is
23 appropriate from him, but ultimately it's your
24 constitutional right to testify or not to testify.

25 Now if you do decide to testify, you'd be under

1 the same rules as any other witness. If you have a
2 criminal -- you'd be subject to cross-examination on any
3 relevant issues.

4 If you have a criminal record dealing with
5 dishonesty or false statements or anything that's
6 punishable by a crime more than one year, and I deem that
7 the probative value outweighed the prejudicial value, that
8 may come out against you in dealing with your credibility
9 if you decide to testify. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You also have a right to put up
12 witnesses and any other evidence that you deem
13 appropriate. What I'm dealing with now is the fact that
14 you have the right to testify or not to testify. Have you
15 had enough time to talk to your lawyer about this
16 decision?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you need any more time to discuss
19 with him as to whether you want to testify or not?

20 THE DEFENDANT: Just a few more minutes, sir.

21 THE COURT: Certainly. Okay. And y'all can sit
22 down and take what time you need --

23 MR. MILLER: All right, sir.

24 THE COURT: -- to make this decision.

25 (Pause. Defendant confers with counsel.)

1 MR. MILLER: Your Honor, can we step to the
2 back?

3 THE COURT: Sure. We'll take a ten-minute recess
4 or whatever you need.

5 MR. MILLER: Five, Your Honor.

6 THE COURT: We'll stand at ease. If you come
7 back and let me know something.

8 Okay. The next question is how long we're going
9 to be whether we're going to get the case to the jury
10 tonight or not.

11 MR. WEEKS: Sidebar?

12 THE COURT: Yes, sir.

13 (Off-the-record discussion. Short recess taken.)

14 THE COURT: Mr. Williams, you've had an
15 opportunity now to talk with your attorney?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You've had enough time to make an
18 intelligent decision concerning your testimony?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you going to testify or not
21 testify?

22 THE DEFENDANT: Not testify, sir.

23 THE COURT: Do you need me to review any of your
24 rights with you? Have you understood everything that I've
25 talked about?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: All right, sir. Now, is there
3 anything else from the defense that we need to deal with?

4 We had a sidebar, gentlemen, concerning getting
5 this case to the jury tonight. And y'all both told me
6 that you would argue, your closing arguments would last
7 about 30 minutes and my charge is probably going to last
8 20 or 30 minutes. So we would not get this case to the
9 jury before ten minute to five, five o'clock. That's
10 usually been the scenario to give the jury a case --
11 nobody knows how long they're going to take. They aren't
12 going to know. I've had juries come back in 15 minutes
13 and, you know, ten hours.

14 So I'm inclined just to wait until in the
15 morning, to let them go early today and do closing
16 arguments and charge in the morning. Do y'all agree with
17 that decision or do you want to spend the night?

18 MR. WEEKS: No, Your Honor. And I would prefer
19 not to split up the arguments and charge and that sort of
20 stuff. So I'd like to give it to them all in one package
21 in the morning when they have ample time to deliberate.

22 THE COURT: I --

23 MR. MILLER: I agree with that, Your Honor. I
24 think it's best to go ahead as we discussed.

25 THE COURT: Okay. Then I'll bring them back out

1 and let you rest in front of them on the record, if that's
2 what you want to do.

3 Then I'll simply tell them that the next stage is
4 closing arguments and charge and we would not be able to
5 give them this case before five o'clock. And then that
6 means that, obviously I promised them this week that I
7 would try send them home at five or 5:30.

8 And once I give them the case I would not allow
9 them to go home unless both parties agreed. So I'm sure
10 they probably would rather go home and not take a chance
11 on spending the night up here.

12 MR. MILLER: They'll get a full day's pay for not
13 a full day's work.

14 THE COURT: Okay. All right.

15 MR. MILLER: Your Honor, very briefly for the
16 record, at this time the defense would move for a directed
17 verdict on the basis of the fact that the State has failed
18 to present credible evidence as to each and every element
19 of the offenses charged, that being murder and burglary in
20 the first degree.

21 THE COURT: Okay. And I respectfully deny your
22 motion. I think there's sufficient -- at this stage
23 whether there's any evidence in the record that the jury
24 could reach a verdict on, they can give whatever weight to
25 that evidence as they deem appropriate. I think there is

1 sufficient evidence in this record that the jury could
2 reach a verdict and I also respectfully deny your motion.

3 Okay. Anything else before we bring the jury
4 in?

5 MR. MILLER: No, sir.

6 THE COURT: If you'll bring us a jury, please,
7 sir.

8 (Jury enters courtroom at 3:41 p.m.)

9 MR. MILLER: Your Honor, the defense rests.

10 THE COURT: Okay. Ladies and gentlemen, that
11 means that you have heard all of the evidence that you're
12 going to hear in this case. And the next stage of this
13 trial will be the closing arguments of the attorneys and I
14 will charge you on the law.

15 It is a quarter to four. That process is
16 probably going to take about an hour and a half which
17 means you wouldn't get this case until about five o'clock
18 to decide and nobody knows how long it's going to take
19 y'all to decide. And once I give you this case I can't
20 split you up. I have to keep you together with a few
21 exceptions, and therefore I'm kind of reluctant to --
22 because, you know, I've had some terrible problems with
23 giving a jury a case after five o'clock. We usually spend
24 the night up here.

25 So in light of that, I'm going to allow you to go

1 home. We'll stop right now for the day and allow you to
2 go home and come back at 9:30 in the morning and then
3 hopefully you'll get a good night's sleep and we'll do
4 closing arguments and I'll charge you on the law and I'll
5 give you this case sometime mid-morning tomorrow for you
6 to decide.

7 So I remind you, please don't discuss this case
8 yet with anybody or allow anybody to discuss it with you.
9 Don't watch anything on TV that may deal with coverage of
10 this case. Don't read anything in the newspaper.

11 You've taken an oath and it's extremely important
12 to the State of South Carolina and this Defendant that you
13 decide this case based solely on what you hear in this
14 room.

15 Have a nice evening. I'll see you back at 9:30
16 in the morning.

17 (Thereupon the jury exits courtroom at 3:43 p.m.)

18 THE COURT: Okay. Anything else we need to deal
19 with in this case?

20 MR. WEEKS: No, Your Honor.

21 THE COURT: We'll be in recess in this case until
22 9:30 in the morning.

23 END OF DAY'S PROCEEDINGS: 3:45 P.M.

24

25

* ** *

1 CERTIFICATE OF REPORTER

2 I, Cheri L. Young, Registered Professional
3 Reporter, and Official Court Reporter for the State of
4 South Carolina, do hereby certify that the foregoing
5 transcript of proceedings heard on Monday, October 20,
6 2008 and Tuesday, October 21, 2008, in Aiken, South
7 Carolina, was reported by Lisa H. Hicklin, using machine
8 shorthand and realtime computer-aided translation and
9 reduced into transcript format by the undersigned, and is
10 a true, accurate and complete transcript of the
11 proceedings had and evidence introduced in the hearing of
12 the matter.

13 I do further certify that I am neither of kin,
14 counsel nor interest to any party hereto.

15 I have hereunto set my hand this Friday the 24th
16 day of April, 2009.

17
18
19
20 Cheri L. Young, RPR
Official Court Reporter
21
22
23
24
25

ORIGINAL¹

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2007-GS-02-1308, 1309, 342

3
4 STATE OF SOUTH CAROLINA,

5 -vs-

TRANSCRIPT OF RECORD

6 CHAD EVERETT WILLIAMS,
7 Defendant.

8
9 Heard on Wednesday, October 22, 2008
10 Aiken, South Carolina

11 BEFORE:

12 THE HONORABLE R. FERRELL COTHRAN

13 AND A JURY

14 APPEARANCES:

15 Counsel on Behalf of the State:
16 J. William Weeks, Esq.

17 Counsel on Behalf of the Defendant:
18 David Miller, Esq.

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20
21
22 Cheri L. Young, RPR
23 Circuit Court Reporter
P O Box 1154
24 Aiken, SC 29802-1154
25

1 ON WEDNESDAY, OCTOBER 22, 2008 AT 9:41 A.M.:

2 THE COURT: My law clerk has typed up a possible
3 verdict form. If y'all want to review it, I'll pass it
4 down to the clerk. See if it suits y'all, if you want any
5 changes.

6 (Pause.)

7 MR. MILLER: Your Honor, no objection from the
8 defense as to the form of the verdict.

9 THE COURT: Okay. Gentlemen, anything before we
10 bring the jury in?

11 MR. MILLER: Your Honor, briefly. We brought to
12 the attention of the Court yesterday that we were
13 requesting a charge on voluntary manslaughter in the
14 case. The Court's aware of the various precedents of the
15 South Carolina Supreme Court and the Court of Appeals
16 relative to the request for the charge of voluntary
17 manslaughter in murder cases.

18 And, frankly, Your Honor, I'm of the view that
19 there are times whenever the Court finds -- the Appellate
20 Court upon review finds that there was a scintilla of
21 evidence indicative that a manslaughter charge might be
22 appropriate. And I'm not sure that I always recognize
23 those scintillas of evidence, but in this case I would
24 point out to the Court my client does say in his
25 confession that was admitted into evidence yesterday by

1 the State, that, I believe the quote was, he lost it.

2 I don't know if that's a scintilla of evidence
3 sufficient to warrant the charge, but I do believe, Your
4 Honor, that the charge would be appropriate to give the
5 jury the option to find my client guilty of voluntary
6 manslaughter as opposed to murder and would therefore make
7 that request.

8 THE COURT: All right, sir. And I think under
9 the case of State versus Shuler which is 344 South
10 Carolina 604, the Supreme Court has held that a victim's
11 attempt to defend himself from a crime does not satisfy
12 the sufficient legal provocation element of voluntary
13 manslaughter.

14 And the facts that have come out in this case,
15 that this occurred in the victim's home, the victim was
16 asleep, the victim woke up, and the fact that he had a
17 right to defend himself doesn't come to the level of legal
18 provocation.

19 So I respectfully deny your motion.

20 MR. MILLER: Thank you, Your Honor.

21 THE COURT: Anything else?

22 MR. WEEKS: Not from the State, Your Honor.

23 THE COURT: All right, sir. Bring us the jury.

24 THE BAILIFF: Okay.

25 (Jury enters courtroom at 9:43 a.m.)

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 THE COURT: Good morning, ladies and gentlemen.
2 As I've told y'all, we've reached this portion of the
3 trial where you will hear the closing arguments of the
4 attorneys, and then I will charge you on the law. So if
5 you will please pay close attention to the attorneys while
6 they give you their closing arguments.

7 Solicitor?

CLOSING STATEMENTS ON BEHALF OF THE STATE

8 MR. WEEKS: Thank you, Your Honor. If it please
9 the Court. Mr. Miller, Mr. Foreman, and members of the
10 jury.
11

12 I come before you in the stage of the trial
13 that's called closing arguments. And, quite honestly, I'm
14 not going to argue with you during the closing arguments.
15 I'm going to try not to argue with anybody. It's just
16 what they call this stage of the process.

17 But what I am going to go through are some items
18 that the State feels are important, to refresh your memory
19 over a two-day trial. We feel that the evidence that
20 you've heard, the 12 of you, when you get back there and
21 deliberate, will be very clear.

22 Everybody hears little nuances, little different
23 things, sees little things. You know, that's the beauty
24 of our jury system is that y'all get back there and
25 collectively look at the case and the totality of the

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 circumstances that the State has presented. And after
2 considering the Judge's law that he will give you at the
3 conclusion of our arguments, applying that law to the
4 facts as you've heard them and the facts that's been
5 presented and make a decision.

6 You know, this process has been going on since we
7 founded this country. And the right to a jury trial, as I
8 told you in opening arguments, is an absolute right in a
9 criminal case, whether you're guilty or whether you're
10 innocent or whether you feel like the State has proved
11 your guilt. All three of those things apply.

12 The Defendant has an absolute right to a jury
13 trial and we have the burden of giving him that jury
14 trial. And we accept that burden. We accept the standard
15 of law in this country and in this state that requires us
16 to prove guilt beyond a reasonable doubt.

17 As I told you in opening arguments that at the
18 end of this trial I really hope that when you got back
19 there in the jury room you'd look at each other and say,
20 why are we here. And I suggest to you that the evidence
21 in this case has been just that strong; that when you get
22 back to the jury room you'll look at each other and say,
23 why are we here.

24 But there are a couple of things I want to point
25 out to you and they are reminders of things that I would

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 call life's lessons. Life's lessons are some things that
2 I can't put up here on the screen, I can't introduce in
3 the trial. Those are things that you bring in here and
4 that are part of the common sense that we talked about
5 throughout the trial of this thing.

6 But life's lessons are that two people don't
7 remember events exactly alike. Two people don't remember
8 time exactly alike. As we've discussed in this courtroom
9 in a humorous fashion, we all have estimates of time that
10 are not accurate. They're just not accurate.

11 And based on life's experiences, I think you can
12 all consider that, reflecting on the testimony that
13 various witnesses have given on behalf of the State as to
14 what time something happened, quite honestly, time is not
15 relevant in this case. The only time that's really
16 relevant from the State's burden of proof is that
17 Mr. Ellis was murdered in his home after dark.

18 And that's just been uncontradicted by the
19 witnesses that have testified. Every witness had a little
20 variation on what time a particular event happened,
21 whether they went to buy crack at eight o'clock or nine
22 o'clock or loaned the money at eight o'clock or nine
23 o'clock, or Mr. Williams disappeared at 12 o'clock or
24 12:30. I'm never going to be able to prove time in a
25 criminal case to an absolute certainty.

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 Every clock in my house is a different time. I
2 don't quite understand that. There's some sort of
3 psychological disease or something that makes people set
4 clocks faster than the real time. Both my wife and I have
5 that same disease, because we just kind of, like, close
6 our eyes and set clocks so we won't be late. Not wanting
7 to be late is probably some psychological disorder.

8 But nobody can tell time with certainty. And
9 when the stress of the day or the stress of police
10 interrogation or the stress of being at a police station,
11 asking questions and asking you to come up with time, if I
12 brought you five witnesses up here and they all said
13 exactly the same time, then, please, my credibility is out
14 the door because that just means I've trained them to say
15 the exact same time. That's not going to happen. They're
16 all going to come up here and they're going to say
17 different times.

18 So the only thing, in review of this case, that
19 struck me as odd was that all of these people -- that
20 should strike you as odd are these people are smoking
21 crack cocaine. And I can't bring experts in here to say
22 what the effects of crack cocaine are on your memory, on
23 your mind, on your ability to tell time.

24 But I suggest to you common sense and life
25 experiences from alcohol, from crack cocaine or from any

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 other substance, or whether it be prescription
2 medications, can mess with your ability to remember
3 precise details.

4 Couple that with, of course, events over a year.
5 And precise details are something that the State will
6 never be able to prove in a criminal trial. Just never.

7 You know, I think back to cases where I've had
8 the crime occur on videotape. One of the first arguments
9 was, the time on that thing's not right. Well, the time's
10 not important. So don't get hung up on that. That's the
11 reason I make these points up front.

12 We started the trial of this case by calling
13 Ms. Sauls and Mr. Sauls. And the reason for that wasn't
14 to give you any sympathy toward Ms. Sauls by finding her
15 dad in a pool of blood, but it's to start the
16 chronological history of how the police ended up arresting
17 Chad Williams for the murder and why we're here in court
18 today, to document that they found him in the early
19 morning hours on May the 2nd, to document that they didn't
20 disturb the crime scene other than what you really have to
21 to go in there and determine that somebody is dead.

22 They described to you the methodology by which
23 they entered the house and what they did thereafter, and
24 what the police did when they got there, and what all
25 transpired thereafter. I'm going to take you through all

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1 of that just for a little bit because it's important that
2 some of the details, when you're listening you don't know
3 the importance at the beginning of the trial, but they are
4 important at the end of the trial. And to remind you of
5 those details, I think, is part of my job.

6 First of all, the back door. The back door is
7 relevant. It wasn't relevant until you've heard the
8 testimony or the confession of Chad Williams that they
9 went in the back door. The back door is right there at
10 the bedroom. When you see the pictures you can notice the
11 toilet, which was right next to Mr. Ellis' head when he
12 succumbed to these blows, was right straight out that
13 door. That there wasn't any room at all between the back
14 door and the window, that Ms. Sauls had to climb in to get
15 in there. This crime occurred within that narrow space.

16 You're going to have 50-some pictures back there
17 to review. I'm going to flash a couple of them up here
18 for you to kind of tell the story, but the crime scene for
19 Mr. Ellis' death essentially spread from that small area
20 of the trailer to outside when the police were trying to
21 find, you know, how you get -- how he got in there and
22 killed Mr. Ellis. The door is closed, the front door is
23 closed.

24 Police drive up there. Jackie drives up there.
25 They don't know whether somebody has come up there in a

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1 car, whether somebody has come up there by foot, whether
2 they dropped in by parachute. They just don't know when
3 they arrive there.

4 So they start doing what I called in opening
5 argument old-fashioned police work because that's the way
6 they solved these crimes. They go out there and they run
7 perimeter, whether it's crime scene tape or whatever. And
8 they start looking around the perimeter, looking around
9 the outside.

10 And the first thing they find? They don't find a
11 murder weapon. They don't find anything indicating that
12 it's Chad Williams. They don't find none of that. They
13 find a footprint. That's as old fashioned as, you know,
14 from the cowboy days, where they used to trail people by
15 foot. They find a footprint with a tennis shoe tread on.
16 And like probably a million other tennis shoe treads, this
17 has got specific patterns on it.

18 But what's important about this one is it's in
19 Mr. Ellis' yard and it's visible. We all know from our
20 common sense that footprints degrade, whether it's wind or
21 rain or whatever. They don't stay there forever. So
22 that's a relatively hot clue; there's some fresh-looking
23 footprints here.

24 They don't know Mr. Ellis. If Mr. Williams is
25 involved in this. They put the dog on the footprint. The

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1 dog -- they put the dog on the perimeter smelling for the
2 most-recent freshest scent and by this time, keep in mind,
3 it's been seven, eight hours anyway, since Mr. Ellis was
4 killed. And the dog still has enough of a scent. And we
5 all have dogs. That's the beauty of old-fashioned police
6 work and using a scent-tracking dog.

7 I grew up watching bird dogs fly out sparrows and
8 everything else because they were pointing something that
9 had scent. These dogs are trained weekly. They're
10 trained by the sheriff's department and that's what they
11 do.

12 What this dog did was follow the path. As it
13 turns out, they followed the trail, veering back and
14 forth. The officer testified, uncontradicted, that there
15 were tracks leading up to the sandy area that you'll see
16 depicted in the photographs here. And there's this
17 similar track. Police still don't know Chad Williams.
18 They don't know Chad Williams lives there. They don't
19 know he's involved, knows Mr. Ellis; anything. It's still
20 in the investigative stage.

21 Well, you saw the testimony or heard the
22 testimony of Officer Powell about taking the dog team and
23 finding that track. The dog kind of milled around, just
24 like Mr. Williams' confession a year later says. He went
25 across that field to Mr. Ellis' house, killed Mr. Ellis

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1 and came back across there.

2 So the dog, unbeknownst to anybody else in the
3 world, is starting to corroborate the confession of
4 Mr. Williams a year after this event. That dog hasn't
5 been trained to put on the trail of Mr. Williams. He was
6 put on the trail of Mr. Williams on the morning of May the
7 2nd when not a soul knew Mr. Williams was going to confess
8 to killing Mr. Ellis a year later.

9 So all of these people, these crack heads that
10 were called to testify, all of them have motives. They
11 have life experiences. They're on dope. They're
12 whatever, but the dog wasn't. He's as simple a witness as
13 we can find. It's uncontradicted. The dog went to
14 Mr. Williams' house.

15 What does that tell you? Does it tell you
16 Mr. Williams did it? No. We're not here to argue that
17 Mr. Williams was convicted by the dog. Mr. Williams is
18 going to be convicted by his own voice. But the dog is a
19 witness that has credibility.

20 You're going to hear the defense lawyer get up
21 here and hammer on these people that were in the house and
22 try to point fingers at them and try to point fingers away
23 from Mr. Williams. He ain't going to be able to say
24 nothing about that dog. Wasn't any cross-examination
25 about the dog or the dog trainer. So just keep that in

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1 mind. That's a point.

2 Now, the police get there. Sheriff's department
3 gets there. Everybody testifies consistently, that
4 morning they woke up, police were in their yard. You
5 know, there's other houses in that area, why aren't the
6 police in their yard? Police are in this yard because
7 these tracks was in the back yard of Mr. Ellis' house and
8 a similar track was in the front yard of Ms. Quarrels'
9 house.

10 So they start questioning people and there's
11 another one of them common sense things. You know, in
12 spite of what most folks believe, people will lie.
13 They'll lie to the police. They'll lie to their
14 preacher. They'll lie to their mama. They'll lie to
15 their wives, husbands. They will lie.

16 When confronted with something right in the
17 beginning, the natural tendency I think for folks will be
18 to lie: I don't know; I don't remember; I don't know; I
19 didn't hear nothing.

20 Well, police do what they're trained to do and
21 they start comparing different statements, comparing
22 different stories that people are telling them. And a
23 common thread starts to unravel here. It appears that
24 these people knew Mr. Ellis. They had been over there at
25 various times working for Mr. Ellis, and there was some

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1 common thread here that made them suspicious, made them
2 suspicious that somebody in this house may be involved,
3 may know something about the murder of Mr. Ellis.

4 So they start taking them down to the station.
5 And you didn't hear any cross-examination of brutal cross-
6 examination tactics or brutal interrogation tactics or
7 long time stuck in a room with somebody without food or
8 water. This ain't Abi Ghraib or whatever the name of that
9 place is. These people were hauled up there on their own,
10 some of them just drove up there, questioned.

11 And the importance of that is that you start the
12 process of being able to get them to where I go up to them
13 and I say, well, you told me this then. We found out that
14 that's wrong. You lied to me then. So then you get a
15 little more of the truth. And then you get a little more
16 of the truth. And then at some point in time you have
17 your physical evidence that's come back.

18 You all heard these analyses, this DNA, this shoe
19 casting and photographing and trace evidence collection,
20 doesn't happen overnight. It happens over a period of
21 time. So the case is being built over a period of time.
22 It's not something that they know from looking at it.

23 So the police are doing their best at the
24 beginning to question people who were there, who were
25 eyewitnesses to participants and, yes, there's going to be

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1 differences in statements. There's going to be a
2 statement this long, talking about what the events
3 transpired over five hours. Well, obviously something has
4 been left out of those statements. Obviously the police
5 are going to go back and ask further questions. Obviously
6 that entire statement is not going to be the entire facts
7 of the night. It's just common sense, once again.

8 But it's still not something that's a burden of
9 proof for me to come in front of you and show you. What's
10 a burden of proof for me are the elements of the crime.
11 And we proved that.

12 But, just so that the cross-examination of
13 witnesses who may have told this much at the beginning and
14 now are testifying for 20 minutes is not unusual. It's
15 common sense. They're testifying. In the beginning --
16 they admitted they denied it in the beginning. Admitted
17 that after 20 minutes, I think Crystal said, she told the
18 substance of what she told yesterday, and also took them
19 to the scene where this burn pile was discovered.

20 And that's a powerful, powerful piece of evidence
21 for the State. It's powerful from the law enforcement
22 perspective because what they have now is some real,
23 hundred percent corroboration that Mr. Ellis was probably
24 murdered by one of these people involved.

25 The location of the burn pile, the fact that

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1 Crystal knows where it's at and points them to it, the
2 fact that it contains clothing, the fact that it contains
3 what appears by the naked eye to be instruments of death,
4 instruments that could have killed Mr. Ellis, what has
5 Mr. Ellis' readily-apparent identification in the hole.
6 Obviously somebody that robbed Mr. Ellis and burglarized
7 his home has participated in this burn pile.

8 Still takes a while. But the fact that Crystal
9 on May the 3rd takes the police out there, is credible.
10 The fact that Crystal can't remember her name two weeks
11 later is just Crystal. Okay. It's a situation where, you
12 know, you all heard the thing. If I was going to have an
13 ideal crime, it would be committed in front of 12
14 preachers. Well, that ain't the way crimes happen.
15 People slip around in the dark of the night into people's
16 bedrooms, commit horrendous crimes without there being
17 witnesses for whatever reason.

18 Common sense will tell you this, too. Human
19 nature is such that nobody likes to be alone, you know.
20 Chad Williams, high on crack cocaine and alcohol wants
21 some help. He wants somebody to, to, you know, to be
22 guilty with him, is what he wants. He wanted somebody to
23 either confess to or wanted somebody to help him
24 physically. He needed a flashlight. He realized he
25 dropped this old man's cell phone in the pasture. So he's

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1 got to get some help. And the likely person for him to
2 get help with is his crack-smoking baby's mama. So he
3 gets her to help him.

4 Now all of the testimony and nuances in the
5 testimony from different folks is based on their
6 recollection but it's all uncontradicted that he comes in
7 hot and sweaty, throws up his guts in the bathroom, takes
8 a shower, cleans up, changes his clothes, and, according
9 to Crystal, goes back to the residence after he cannot
10 find a flashlight in the house. They cannot get one from
11 Kathy.

12 He goes back to the residence. And that's for
13 two reasons, I suggest to you. One is to get a flashlight
14 of Mr. Ellis'. Two is to finish Mr. Ellis off. He gets
15 in there and he hears him groaning. Three is to get
16 money, to look more, to do something else, now that he
17 knows Mr. Ellis is dead.

18 All of which are things I don't have to prove as
19 to why he went back. I don't have to prove that, because
20 in his own testimony he says he went over there and killed
21 Mr. Ellis.

22 Now, keep in mind this was July 2nd, I think, of
23 2008 when he sits beside his lawyer and confesses to
24 Mr. Fleury that he killed Mr. Ellis and how he killed
25 Mr. Ellis. But leading up to that he's had hearings, he's

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1 had discovery, he's had all the things that, all of the
2 rights given to a defendant in our country. He's had the
3 right to a lawyer. He's got a lawyer. He's had a private
4 investigator. He's had all of that to tear apart anything
5 that the State's saying about him.

6 And that's the first day that he mentions that
7 Crystal was involved with him in some way. So, why do you
8 think all of a sudden Crystal's involved with him at the
9 house? Why do you think all of a sudden that's his big
10 thing? Crystal was there, too. I'm going to make Crystal
11 a murderer too because she's there.

12 Well, he's had a year. He's had a year to grind
13 on it. He's had a year to think, I'm going to get this
14 bitch. That's exactly what he's had a year to do. And so
15 what he does is he includes Crystal in it. He says she's
16 the one that led him to this burn pile. We got DNA
17 records in now that says mine and Mr. Ellis' DNA is in the
18 hole, on socks, on shirts, on shoes. My shoes. Then
19 they'll come in here and argue with Crystal they were her
20 shoes. Uncontradicted. Chad had a pair of white tennis
21 shoes. Uncontradicted. Those white tennis shoes or
22 anything in the same size like them would match those
23 prints in the yard. None of that's contradicted by the
24 cross-examination of these witnesses.

25 So, it's just really important that you

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1 understand that defendants can lie, too. Now, am I going
2 to sit up here and argue that we heard the absolute truth
3 by his confession? No. No, because I suggest to you we
4 haven't. I suggest to you his confession was groomed a
5 little bit to try to make Mr. Ellis seem like some, some
6 vicious bear of a man that was going to kill him because
7 he put his feet on him in his house next to his bed.

8 I think it's ludicrous to assume that he went in
9 that house in the dark of the night thinking Mr. Ellis
10 would be the kind of man that would have a gun and he was
11 armed with a smile. I think it's ludicrous to assume that
12 the crescent wrench was not in his hand or the sledge was
13 not in his hand when he went in there, crawling on the
14 floor, trying to steal Mr. Ellis' money.

15 He would have had to get through the door,
16 probably did come up on Mr. Ellis in the bed asleep,
17 probably did try to whack him, kill him. So Mr. Ellis
18 knew him. He knew him. He had been over there, done work
19 for him. He knew him. So he's going to go rob him and
20 once he wakes up he's not going to kill him?

21 I told you in the twinkling of an eye malice
22 forms. That's one of the old catch phrases of the law.
23 Malice is wickedness. It's wanton derivation or wanton
24 intention to deprive people of their life or their
25 property or their injuries or to create great bodily

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1 injury to them. It's a lot of things. And it's
2 exactly -- if you had to look under the word malice in the
3 dictionary, they ought to have a picture of this crime
4 scene because there is blood. There is -- I mean, it's
5 just, it's just incomprehensible that a man could beat
6 another man to death in the fashion that Mr. Ellis was
7 beat to death and not have any remorse for it.

8 Now, a lot's been put on the stand. But really,
9 it's really the kind of case where I could have started
10 with this confession. That might have had y'all a little
11 bit warmer throughout the trial. But, the confession at
12 the end of the State's case is important because of the
13 timing of it, because of what he said, because of the
14 clear, unequivocal admission that he killed Mr. Ellis.

15 It's also the ultimate corroboration of what the
16 State showed you earlier. And I say that by saying that,
17 based on his description of how he killed Mr. Ellis you
18 can certainly understand how we had his, Mr. Ellis' blood
19 on Chad Williams' clothing, can certainly understand how
20 the burn hole contained a crescent wrench that matched up
21 to the wounds on Mr. Ellis' body, can certainly understand
22 how, you know, why the two-pound sledgehammer was
23 introduced into evidence.

24 And it's tied up by the square piece of
25 Mr. Ellis' skull that's crushed into his brain. I suggest

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1 to you that that was the killing blow, that really he
2 couldn't get Mr. Ellis to succumb, he was too tough, until
3 he hit him with that two-pound sledgehammer and bust his
4 skull.

5 He corroborates the shoe print testimony of the
6 SLED experts. It corroborates something that's kind of
7 simple, but it certainly wasn't just that. All the
8 lighter fluid that was used to burn the hole and the
9 lighter fluid, even though not as strong because this is
10 days later, on the khaki pants that it's uncontradicted
11 that he changed into.

12 All of that's important. At the end it wouldn't
13 have -- at the beginning it wouldn't have made as much
14 sense, but at the end when you hear his confession you
15 understand why we have all of that evidence. You
16 understand why we have DNA from the socks that he dumped
17 in the bag, from the shirt that he dumped in the bag, from
18 the shoes that he dumped in the bag.

19 And just to be clear, DNA is a wonderful tool.
20 It's a wonderful piece of evidence, but, you know, if a
21 murder happens in this courtroom tonight, mine and your
22 DNA is all over this place. It is all over this place but
23 that ain't going to make us guilty of that murder. That
24 don't do it.

25 DNA is so small you couldn't -- I maybe joke

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1 about using a space telescope to try to see it. I don't
2 know if you can see it doing that. It's magnified. The
3 statics are applied to it. It's extremely important and
4 it hasn't been contested that the DNA of Mr. Ellis was on
5 the clothing in the hole that Chad Williams had been
6 wearing earlier that night. Mr. Ellis' DNA.

7 Well, maybe they're going to argue that the DNA
8 got on Chad Williams two weeks earlier or whatever when he
9 did some work for him. I don't think Mr. Ellis' blood got
10 on him two weeks earlier. Maybe he's going to argue that
11 Chad's just trying to, was just trying to protect his
12 baby's mama. That's why he confessed, he didn't really do
13 it, he just didn't want Crystal to get in trouble.

14 Did you get that feeling during the trial? I
15 don't believe that's what occurred. But the fact that
16 Mr. Ellis' DNA is in that hole is a lunar landing shot.
17 DNA is so small it's like the uncontested DNA of some
18 unidentified person on this wrench. Well, there is no
19 telling how many people have touched the wrench through
20 the years. Mrs. Sauls. People that, you know, you cannot
21 compare the DNA samples that are sent to SLED with the
22 known universe. They were not identified with any of the
23 people in the house because as she testified, all of those
24 DNA profiles were developed to run against that.

25 If you and I live in the same room together, over

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1 the course of a year on and off, clothes put in the same
2 hamper, using the same shower and using the same toilet,
3 all of those areas are going to have DNA, more than likely
4 unless they are a lot cleaner than I am. They're going to
5 have DNA.

6 So just the fact that we get DNA alone is not
7 necessarily the saving grace. But it's really important
8 because it's unexplainable how Mr. Ellis' DNA and Chad
9 Ellis' (sic) DNA are there together in that hole. It's
10 just not explainable other than Mr. Williams was over
11 there. And I'll probably get the names confused. If I do
12 y'all straighten me out there back there. But
13 Mr. Williams was over there killing Mr. Ellis with that
14 crescent wrench and that hammer.

15 It's also not unusual based upon Ms. Gallman's
16 testimony, DNA can burn up. The lighter fluid's squirted
17 in the hole. As we put in the pictures, and I'll flash
18 through them again, of the hole as it's gradually
19 uncovered, what you see first off is a wrench. Well, that
20 was on top of the pile. That's the part that's burning.

21 You see a melted hammer. Now, to melt the rubber
22 off a tennis shoe takes more than a match. It would have
23 to be a long match, you would have to hold it a while.
24 But to melt the rubber off an industrial two-pound
25 sledgehammer probably takes a little heat. That little

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1 heat would burn off blood. It would burn off DNA.

2 And those are items that were found as Crystal
3 indicated, they weren't in the bag. They were carried
4 separately. They were dumped on the thing. So those are
5 the things that got the hottest the quickest.

6 So the fact that we don't find things in the hole
7 is credibility for the State, to be honest with you.
8 Because, the likelihood of finding DNA on a piece of metal
9 that's been burned is something that we have to attempt to
10 do. But the likelihood of finding it is not very strong
11 when all the testimony is going to be that he torched it.

12 But we do it anyway. And we bring that in here
13 to show you that, to show you the lengths at which the
14 State goes to collect this evidence.

15 But you just got to keep in mind that a piece of
16 DNA is so infinitesimally small, the scientific process
17 that's developed, and it's really uncontested much
18 anymore. The genetic links are on it. They testified
19 that they swabbed the area and then they put it in a fluid
20 and magnified the DNA that's collected there.

21 Well if you swab an area where there's not any
22 DNA present or is not enough of a sample then you don't
23 get anything. If you swab something you can see, then the
24 likelihood of finding DNA is a whole lot stronger.

25 Well, folks, I ain't nearly blind enough I can't

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1 see blood on those shoes. When you swab that blood, guess
2 what came back. It came back to be Mr. Ellis' blood.
3 When you take a piece out of a shirt and cut it because it
4 looks like it's got blood on it, that's the area that
5 you're going to find DNA. If you stuck the whole shirt in
6 there and cut it into 9,000 little strips, little threads,
7 you may find DNA from everybody in Aiken on that thing.
8 Because it's been testified he done been to the store,
9 done been to the crack dealer's house. You just don't
10 know. So it leads you to random areas that really aren't
11 relevant. So the thought process along those lines aren't
12 relevant either. The thought process, I suggest, that
13 y'all need to go through, Mr. Ellis' blood is not going to
14 be in that hole unless one of two people put it there or
15 both.

16 Now, it brings me to Crystal. Crystal is being
17 prosecuted by the State also. I can't -- the State can't
18 make her testify any more than I could Josh Quarrels, any
19 more than I could Patricia Quarrels because law
20 enforcement, Mr. Fleury mentioned the Miranda in the tape
21 in front of his lawyer. Miranda is a right to remain
22 silent. We all have it in our country. Well, the
23 witnesses do too, folks. They don't have to come up here
24 and testify. They don't have to subject themselves and be
25 humiliated about their children or where they're at, how

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1 long they've been married, and just details that most
2 people don't like to bring out.

3 But, she did. She's charged with a crime. Her
4 day in court comes later. It comes later. Her
5 culpability isn't really to be judged by y'all in this
6 case, because, if you believe the Defendant, she's guilty
7 of murder, too, because she pre planned to go there and
8 all of a sudden the Defendant decides he has to kill this
9 guy.

10 So it's kind of like the consequences of the acts
11 that you start are going to be held to you criminally.

12 It's kind of the theory of the law, the hand of one is the
13 hand of all. If I, me and Mr. Bodie here, we plan to go
14 rob the store and we get in there and he don't like the
15 storekeeper's hairdo and pulls out a gun and kills him,
16 well guess who's going to be tried for murder too, if the
17 State can prove it. It would be me, because we planned to
18 rob this store. And that's one of the things that can
19 happen when you rob a store.

20 I tell people all the time, one of things that
21 can happen if you come in my house in the middle of the
22 night, you could be killed. I might regret it later,
23 might be perfectly innocent, but you could be dead the
24 next day. And so you can't plan to go rob somebody, even
25 if you believe his story, which I suggest to you is a

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1 little bit suspect, that he went in there without a wrench
2 and without a hammer and he was going to sneak up there
3 and take Mr. Ellis' wallet in the dark. And Mr. Ellis, he
4 thought, would have gone to get a gun because his
5 grandfather had a gun at one time and his grandfather
6 would have been the kind that would have shot him.

7 Well, I suggest to you, Mr. Ellis was trying to
8 defend himself, but it was absolutely futile at that point
9 because he just had his head caved in with a wrench. And
10 that his intention, whether you believe Crystal was with
11 him on the plan, his intention was to go in there and
12 start a sequence of events that led to the death of
13 Mr. Ellis. And a year later, he had to get it off his
14 conscience, had to tell.

15 One other thing that I don't have to do today is
16 convince you beyond a reasonable doubt that Crystal's
17 guilty of murder. I'm trying Chad Williams today. Now,
18 sometimes, you know, I ask questions of witnesses that I
19 can't figure out what I asked, either. And they don't
20 make sense. They just don't come out the way my brain was
21 working. It skips a beat or fell off a step or something
22 when I ask a question.

23 But Mr. Miller asked Crystal something to the
24 effect, and I didn't write it down exactly, but it's your
25 testimony here today you weren't at the house when Chad

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1 killed Mr. Ellis. It's kind of indicative, don't you
2 think? It's just trying to put some mud on Crystal. But
3 even in the question it's clear Chad killed Mr. Ellis. I
4 asked him, well, you didn't believe Chad the first time he
5 gave you that statement up there with me and my
6 investigator and the solicitor present, there was some
7 other third party being killed. He said, no. Didn't ask
8 him the follow-up question. Did you believe him the
9 second time when he changed and told you that he killed
10 him, told you what he killed him with. He didn't ask
11 that.

12 One of the beauties of technology is that it can
13 raise up out of this box and testify for you without me
14 saying a thing hardly. Because I'm a lawyer I probably
15 won't let that happen. I'll probably have to say
16 something.

17 But I just want to point out to you sometimes the
18 story can be told by pictures without even getting to the
19 clear-as-a-bell confession of the Defendant. But this
20 started at the Quarrels' residence after dark. Footprints
21 are depicted in this picture that led the only witness
22 here that couldn't be cross-examined, Ginger, to the
23 residence. Came across the field from Mr. Ellis' trailer,
24 back here. Not around here, came across through there.
25 And the footprints that you see there are what the police

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1 found when they were trailing Ginger. The back door that
2 they went in, you can tell with the other pictures that
3 you'll have back there, Mr. Ellis' head was just past that
4 door there. That's the door they went in and the door
5 they came out of.

6 You know, everybody, everybody thinks that you
7 ought to have fingerprints, you ought to have this and
8 that. Well, we've been watching fingerprint stuff since
9 we were kids. I mean, crack heads are stupid but they're
10 not retarded. I mean, the fact that he didn't have --
11 that there weren't fingerprints on the door knob and there
12 weren't fingerprints on something is probably more attuned
13 to one of the reasons he might have gone back over there.
14 So just to tell you that, don't let that be some sort of
15 red flag or red herring because the fact we didn't find --
16 we did find a fingerprint on the lighter fluid bottle, but
17 it didn't come back to anybody.

18 But you go in that door, end Mr. Ellis' life.
19 The crescent wrench. I don't think I need to say anything
20 more about the crescent wrench. A little keyhole pattern
21 on it, that I call a keyhole pattern. Dr. Sexton has been
22 doing it -- I can't ever remember every time he tells me
23 how many autopsies he's performed because when he gets
24 that word out I just kind of go ah, but he's performed a
25 gazillion of them. He knows a pattern injury when he sees

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1 it. Anybody recognize the pattern?

2 The murder starts in the bed. He said he was
3 crawling, and I got the impression he said in his
4 confession that he was over here, somewhere between the
5 bed and this wall right there. And Mr. Ellis flipped his
6 feet over and hit him. Well, obviously Mr. Ellis -- the
7 bedspread tells the story, that he hit him in bed or he
8 fell back. See the blood trail? The blood trail that
9 goes across there. That's up at the head of the bed where
10 there's other blood that obviously corroborates
11 Mr. Williams' story, that he fell back after he hit him.
12 Bed's right here. Blood everywhere.

13 Mr. Ellis' head in the bathroom. Right here,
14 bloody footprint. Blood splatter on both sides. Just
15 kind of corroborates that there was a struggle, that
16 castoff or this blood that he was smashing out of his head
17 with the wrench and the hammer was done right there while
18 he was laying there on the floor.

19 Now, look at the handle on that rubber hammer.
20 It ain't going to take a Bic lighter to melt that. It's
21 going to take some heat. And that's what he did. She
22 says he burned it for five or ten minutes. Well, it
23 burned out. He just didn't -- didn't have anything to
24 stir the pot with like you do coals that burn down real
25 quick, underneath all that fat lighter and everything

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1 else, it just doesn't have enough heat to light up.

2 Well, that's where he made his mistake. He
3 didn't stir his little burn pile enough to burn up
4 everything but the hammer and the wrench. You see the
5 wrench on the top. The evidence was burned off of that.

6 What that hammer says to -- should say to you is
7 that Mr. Ellis' death was not only brutal but it was
8 extremely premeditated. That hammer, that square right
9 there, is correspondent to this piece right here that's
10 caved in on the back of Mr. Ellis' skull. You see all the
11 other little fractures that were caused by the beating
12 with the wrench? You see the bloody footprint on
13 Mr. Williams' (sic) body? Wasn't enough that he beat him
14 to death with a wrench, he had to step on him, probably to
15 hold him down. Probably to finish him off with that
16 sledgehammer.

17 See the wrench right on top where they squared it
18 off or raked off the pine straw? See the shoe right
19 there? I've seen cases where everybody tries to say that
20 the police are lying. I don't think they're trying to say
21 the police are lying in this case. It's refreshing
22 actually.

23 Nobody argued that that's blood. See the shoe
24 that's been melted over here? That's blood. That's
25 Mr. Ellis' blood. It's in that burn pile in the middle of

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1 the woods past the house where this Defendant was living.

2 These are other items that were -- that's the
3 bundle of stuff that they had to break loose to find the
4 identification but you see the burn on the shoes. You see
5 Mr. Ellis' name, time and time again in the hole. You see
6 pants that were discovered in the hole. Wind pants as
7 everybody referred to them. You see shirts with cuttings
8 out that was in the hole or a shirt. Mr. Ellis' blood was
9 on it. See the plaid undershorts that everybody described
10 in the hole?

11 And the last picture that I'm going to flip for
12 you, there's 50 of them over there, is the socks. Now
13 Mr. Ellis had socks on -- I mean, Mr. Williams had socks
14 on. And the significance of them is when the police tore
15 that big bundle apart and found those socks in there where
16 they had not gotten burned, was that there was not only
17 Mr. Ellis' blood, there was, I think you can see visibly,
18 areas that appear to be blood. There was Chad Williams'
19 DNA on those socks.

20 Now, socks in my house might have anything from
21 dog to cat to two children to wife to visitors that came
22 in on them, but they ain't going to have Mr. Ellis' blood
23 on them unless I was there murdering him.

24 Now the way our system works is closing arguments
25 or closing discussions or whatever are done in an order.

1 Courts run by rules. It's run by rules of evidence, rules
2 of procedure. And the procedure is I have the burden of
3 proof because I am the State's representative. We are the
4 State in this case prosecuting Mr. Williams for the murder
5 of Mr. Ellis.

6 And when I sit down his lawyer who will come up
7 here and I'm sure make some arguments that I really can't
8 hardly wait to see, that Mr. Williams is not guilty of
9 confessing to murdering Mr. Ellis. So, it should be
10 enlightening.

11 This man right here in the early morning hours of
12 May 2nd of 2007 beat an 80-year-old man to death with a
13 crescent wrench and a sledgehammer.

14 So, thank you for paying attention to the tedious
15 at some times, lengthy at some times, but overwhelming
16 evidence that the State was able to collect against
17 Mr. Williams. But thank you very much for listening as
18 intently as I saw you listen to the Defendant's own mouth
19 when he told you that he killed Mr. Ellis. And that he
20 went in his home and burglarized him.

21 The Judge is going to charge you the law. I ask
22 you to find a verdict that speaks the truth.

23 THE COURT: Mr. Miller?

24 MR. MILLER: Your Honor, we've been going for 45
25 minutes and I'm going, probably going to be that long.

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1 Can we take a five-minute break for the jury?

2 THE COURT: All right. Ladies and gentlemen,
3 since it's 14 of y'all, we may take ten minutes. We'll
4 take a ten-minute break. I remind you not to discuss this
5 case. I'll get you back out here.

6 (Jury exits courtroom at 10:33 a.m.)

7 THE COURT: We'll be in recess for ten minutes.

8 MR. MILLER: Thank you, Your Honor.

9 (Thereupon from 10:33 until 10:48 a.m., a break
10 was taken.)

11 THE COURT: Mr. Miller, are you ready to
12 proceed?

13 MR. MILLER: Yes, Your Honor.

14 THE COURT: Bring us a jury, please.

15 (Jury enters courtroom at 10:49 a.m.)

16 THE COURT: Mr. Miller, you may proceed.

17 CLOSING ARGUMENT

18 MR. MILLER: Thank you, Your Honor, may it please
19 the Court. Solicitor Weeks. Mr. Foreman, and members of
20 the jury.

21 I told you at the beginning of this case that I
22 wasn't going to predict to you what was going to come out,
23 what evidence was going to be presented. And it's a good
24 thing I told you that because as it turns out, the story's
25 changed. Different testimony was presented from the stand

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1 than had been heard before. People got up and with crack-
2 addled memories or out-and-out deceit in their hearts
3 testified from that stand.

4 But there's an obvious issue in this case that
5 Mr. Weeks has made a lot out of and I'm just going to be
6 up front with you. In November of 1970, before I was
7 born, the United States Supreme Court decided a case
8 called North Carolina versus Alford. And essentially the
9 Court said that a person could plead guilty to a crime
10 without admitting that they committed the crime because
11 they recognized that the evidence against them was so
12 substantial that if they went to trial they would be
13 convicted.

14 The Supreme Court said it really doesn't matter
15 if they committed the crime or not. If they knowingly and
16 intelligently looked at the evidence against them and
17 decided it's better to plead guilty and take the advantage
18 of that deal than it is to go to trial and have all of
19 that evidence brought in front of a jury and be convicted,
20 that's okay.

21 Ladies and gentlemen, Chad Williams was in jail
22 on May the 3rd of 2007. And he stayed in jail as I came
23 to represent him and I requested from the State all of the
24 evidence, copies of the statements, copies of the
25 photographs, copies of the recorded statements of all of

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1 the people involved. And I discussed all of that stuff
2 with Mr. Williams. Mr. Weeks said so in his closing.

3 On July the 2nd of 2008, all of the evidence
4 that's been presented here was in front of Chad Williams.
5 But there was one thing missing. Chad Williams knew he
6 didn't commit the crime.

7 Now, what did Chad Williams know on July the 2nd
8 of 2008? Chad Williams knew that Crystal Jackson knew
9 where that stuff was buried because he had seen the same
10 video that you saw of Crystal Jackson leading Lieutenant
11 Fleury and those guys out there to the evidence. So Chad
12 made up a story. He made up a story that implicated
13 Crystal and implicated the third party that he thought
14 might have done it. And of course it implicated himself
15 because the fact of the matter is Crystal Jackson gave the
16 most frequently-used confession in all of law
17 enforcement. You caught me. He did it.

18 Chad knew that wasn't going to fly so he tells
19 the story to Lieutenant Fleury and to Bill Weeks with me
20 sitting there and Lieutenant Fleury testified from the
21 stand, you knew that was a lie, didn't you, Lieutenant
22 Fleury. Yep. Because you knew Jason Quarrels wasn't
23 around that night didn't you. Yep. They knew it was a
24 lie.

25 Chad was confronted with a lie. Where does he go

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1 from there? Last chance. Last chance to get some kind of
2 consideration from the State, it's just to say I did it.
3 But here's the problem with that. If you didn't do it,
4 there's certain things that you don't know about the
5 crime.

6 Chad Williams didn't know that Dr. Sexton was
7 going to stand up here and say that the initial blow from
8 the wrench rendered Mr. Ellis unconscious. So Chad makes
9 up the part about I was asking him where his money was and
10 he was telling me as I was hitting him in the head that he
11 didn't have any money. Chad Williams didn't know
12 Mr. Ellis would have been unconscious after the first blow
13 was struck.

14 Chad Williams didn't know if a hammer had been
15 used in the commission of the crime. Chad Williams only
16 saw the pictures. But Dr. Sexton is absolutely clear, two
17 weapons inflicted those injuries. One of them was a
18 wrench. One of them was a hammer.

19 So let's think about this logically. If you
20 believe the State's case, then you have to believe that
21 either Chad Williams started striking Mr. Ellis with a
22 wrench and then decided the wrench isn't getting the job
23 done, let me go find the sledgehammer.

24 Well, that doesn't make much sense. Let's try an
25 alternate theory. Maybe Chad went in and in one hand

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1 while he's trying to burglarize the house he's got a
2 wrench and in the other he's got a two-pound
3 sledgehammer. What's he going to pick stuff up with?
4 That doesn't make any sense either. Well, maybe when
5 Mr. Ellis got up, Chad picked up the wrench and hammer and
6 started hitting him like this. That doesn't make any
7 sense, either.

8 Ladies and gentlemen, there were two people that
9 murdered Mr. Ellis. One had a wrench, one had a hammer.
10 But Chad didn't know that. He didn't know that on July
11 2nd whenever he gave his statement.

12 He didn't know that there were two people there.
13 He knows Crystal had something to do with it so he puts
14 Crystal there. But he didn't even say that Crystal struck
15 him with a hammer and I struck him with a wrench. He
16 didn't know, so he couldn't make that part up.

17 There are other inconsistencies in his own
18 statement, in his own confession. Mr. Ellis was fighting
19 with him. Not according to Dr. Sexton. And, ladies and
20 gentlemen, when you are weighing the testimony of the
21 witnesses that you have heard, you have to necessarily
22 judge their credibility. Dr. Sexton has been testifying
23 as an expert witness in the State of South Carolina since
24 before I was born. I believe Dr. Sexton. And I think he
25 knows what he's talking about. But that's not consistent

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1 with Chad's confession.

2 So, why on earth would Chad give a confession to
3 a crime he didn't commit? He didn't have any other
4 choice. He saw all the evidence stacked up against him.
5 If in fact we had had the DNA back by then, he would have
6 known none of his DNA with the exception of one hair, one
7 hair of Chad Williams on a sock was in that hole.

8 The State says, oh, that's not important because
9 you can burn away evidence. Well, tell me this: How do
10 you burn away the DNA evidence on the wrench when it's at
11 the top of the pile and the lighter fluid is supposedly
12 sprayed on it and you burn away any traces of DNA evidence
13 of Chad, of Crystal, of Mr. Ellis, and yet they find DNA
14 from an unidentified female on it? That doesn't make any
15 sense.

16 One hair on one sock was all the DNA of Chad
17 Williams that was in that hole. And you heard the DNA
18 expert from SLED testify to that.

19 Now, I may have misunderstood Mr. Weeks during
20 his closing. He seemed to imply that Herbert Ellis' and
21 Chad Williams' DNA was all in that hole. No. Herbert
22 Ellis' DNA was in that hole. Herbert Ellis' DNA was on
23 multiple places on that black shirt but Chad Williams'
24 wasn't. Herbert Ellis' DNA was on multiple places on
25 other items of clothing in that hole, but Chad Williams's

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1 was not.

2 Herbert Ellis' DNA was on the white shoes that
3 was in that hole. Chad Williams' was not. But Kathy
4 Young's was. Kathy Young's blood was on the white shoe
5 that was in the hole.

6 Well, what sense does that make? Item number 49,
7 if you have your notes or you refer to your notes, I
8 specifically asked the DNA expert whose blood -- whose DNA
9 was found in item 49. The swab from the white burn hole
10 in the burn hole. It was Kathy Young.

11 Let's talk about what the State didn't put in
12 front of you. Here it is alleged that Mr. Williams broke
13 into Mr. Ellis' house and a struggle ensued, a struggle
14 which put blood all over that room, a struggle with two
15 blunt instruments, a struggle which, if you believe
16 Mr. Williams' confession, occurred with Mr. Ellis
17 struggling with Chad.

18 You haven't heard one shred of testimony, you
19 haven't seen one photograph of any kind of wounds on Chad
20 Williams, who was arrested the day after. No marks on
21 him. No bruises on him. No nothing on him. Chad
22 Williams managed to complete this crime, this brutal
23 murder, if you believe the State's case, completely
24 unscathed. They did clip off his fingernails. And the
25 DNA expert said Chad Williams' DNA was on Chad Williams'

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1 fingernails, not Herbert Ellis'. He didn't scratch him.
2 He didn't do anything to him to put any transfer of Chad
3 Williams' DNA to Herbert Ellis during this violent attack.

4 There was not one piece of DNA belonging to Chad
5 Williams in Herbert Ellis' house. Not one. And the
6 prosecution says, well, we'll just write off the fact that
7 there weren't any fingerprints in the house.

8 Think about this. According to the State's star
9 witness, Crystal Jackson, Chad was gone -- well, put all
10 of them together. Crystal, Josh and Kathy. Chad was gone
11 for between five and 15 minutes when he supposedly
12 committed the crime. From the time he disappeared until
13 the time that he came back either clothed or unclothed,
14 flushed or not flushed, whatever it is, that whatever
15 their story was that they put together, that's between
16 five and 15 minutes.

17 So let's go on the big end of that. In 15
18 minutes, Chad went across the field to Mr. Ellis' house,
19 broke into the house by some means, went in, killed
20 Mr. Ellis, removed every single piece of evidence that
21 could have connected him to the crime, cleaned that crime
22 scene to the point that the Aiken County Forensics Office
23 could not find a single trace of him in there.

24 Did you hear any testimony about any gloves? Did
25 they find any gloves in the burn bag? Maybe that would be

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1 their excuse. Well, he was wearing gloves. That's why
2 his fingerprints weren't. No. It was testified to.
3 There was not a single identifiable fingerprint in that
4 house.

5 Ladies and gentlemen, you can't do that in 15
6 minutes. I would submit to you you can't do that in 30
7 minutes. It would take an inordinate amount of time to do
8 that. Chad Williams didn't have time.

9 But according to Crystal's story he comes back,
10 and he's wearing his wind suit covered in Mr. Ellis' blood
11 and he goes into the bathroom, the suspect's bathroom and
12 he leans down over the toilet and he starts throwing up.
13 Well, when they did all the swabs for the bathroom they
14 found Crystal's DNA and Chad's DNA and Kathy's DNA and
15 Josh's DNA.

16 So, Chad must have cleaned up the bathroom so
17 well that not a drop of Mr. Ellis' DNA was there. Yet
18 somehow he managed to leave DNA from the other four people
19 that were there. That doesn't make any sense. How does
20 that happen?

21 Josh says Chad got into the shower. Crystal
22 never mentions Chad getting into the shower. Josh says
23 Chad came upstairs. He was wearing boxer shorts. Crystal
24 says he came upstairs, he was not wearing boxer shorts
25 then she changed it to he was, then she wasn't sure

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1 anymore.

2 Ladies and gentlemen, one thing Mr. Weeks and I
3 agree on, and there's a lot of stuff we agree on but one
4 of the things that he mentioned to you that we agree on is
5 this case -- it is essential in this case for you to use
6 your common sense. If three people witness an event occur
7 as Josh Hall (sic) and Crystal Jackson and Kathy Young sat
8 up here and said that they did, there could be minor
9 inconsistencies in their statements. We're not talking
10 about time. We're not talking about the inconsistency in
11 their statement was, did it happen at 11 or did it happen
12 at 11:15. We're talking about, was the guy wearing
13 clothes or not.

14 But here's the problem. If three people
15 witnessed the same thing, and if three people talk about
16 witnessing the same thing, their stories are going to be
17 really close to each other. And some people would say,
18 yeah, but that attorney can get up there and make anything
19 look like a big deal even when it's not. No. The fact of
20 the matter is, their stories, they don't have to be
21 completely locked together, but they got to be
22 substantially similar to each other.

23 And if three people witness something and those
24 three people have an opportunity to talk to each other
25 about it, their stories are going to be pretty close to

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1 each other. But if three people sit down with each other
2 and decide to make up a story, they'll never get all the
3 details right.

4 There's an expression, the devil's into details.
5 The lie is exposed by the details. And these people went
6 to the sheriff's office on May the 3rd, and they told
7 their half-truths. They told what they needed to tell to
8 hang Chad up, and get out of there.

9 Do you reckon they went home and played cards
10 after that? Again, use your common sense. What do you
11 think that they did after they went home? I would submit
12 to you that common sense would say they probably discussed
13 what they had told the police. And then they tried to
14 hold onto that fabrication. They had tried to hold onto
15 that lie.

16 I think you'll agree that Josh Mace's story was
17 closer to Crystal's story. Josh Mace was sitting out here
18 when Crystal testified the day before. Kathy Young comes
19 in and she's got some huge inconsistencies. Kathy says
20 Crystal is the one that came and asked her for the
21 flashlight when Crystal said it was Chad that went and
22 asked Kathy for the flashlight. That's a big part of this
23 story and yet Kathy wasn't here when Crystal testified.
24 Kathy was in prison. She got brought over the next day.
25 So she didn't have the advantage of listening to Crystal's

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1 testimony the way that Josh Mace did.

2 And even with Josh Mace sitting in the courtroom
3 and listening to every word that Crystal said, their
4 stories didn't line up. There were inconsistencies in
5 their stories. Here's something else, too. You've got
6 Crystal, Josh, Kathy, Christy Lee Barton and Patricia
7 Thornton. They were all supposedly in that house that
8 night. And at times people just appear and they
9 disappear. Where was Chad? Well, Chad disappeared.
10 Well, where was Josh? Well, he was in my room. Well,
11 what happened next? Well, then we went here. Where was
12 Josh? Well, Josh was gone then.

13 They have people appear and disappear to suit
14 their story. Here's what is uncontradicted. Chad
15 Williams was with some other people -- Crystal says it was
16 Christy Lee, Kathy Young says it was Crystal -- buying
17 crack. They were buying crack that night. There was a
18 period of time when Chad Williams was gone from the
19 residence at night, when it was dark. He's off Reynolds
20 Pond Road with, supposedly, Kathy Young buying crack.
21 Okay.

22 We don't know what was happening at the house
23 during that time period. We have no idea. But there was
24 an opportunity for the crime to have occurred. One thing
25 you didn't hear from Dr. Sexton, and I thought it was kind

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1 of interesting, Dr. Sexton never told you what the time of
2 death was. He never told you it occurred at nine. He
3 never told you it occurred between six and midnight. He
4 never told you it occurred between midnight and
5 three a.m. He never told you what the time of death was.

6 So all of his testimony was -- well, everybody
7 except for Kathy's who, strangely enough, puts the time
8 frame a lot later. All the testimony is Mr. Ellis could
9 have been killed anytime between dark and daylight.

10 That's what you know. That is beyond a reasonable doubt.

11 You know Mr. Ellis was killed during the nighttime.

C 12 But isn't it interesting that the only person
13 whose blood beside Mr. Ellis' is inside that hole is also
14 the only person that puts the whole time frame about two
15 and a half hours after all of the other witnesses.

16 Because if Crystal Jackson and Kathy Young went
17 to Mr. Ellis' house, and broke into this house, each of
18 them armed with a weapon, a hammer and a wrench, and
19 Mr. Ellis woke up during the commission of the crime and
20 one of them was hitting him with the wrench and the other
21 one hearing the commotion ran in and hit him with the
22 hammer, that would fit all of the evidence.

23 And then they have all the time that they want to
C 24 clean up the crime scene, make sure there weren't any
25 fingerprints, make sure that they've done everything they

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1 can to get that crime scene cleaned up and any evidence
2 out of that crime scene. And then they can go over to the
3 house and they can take off all of the clothes that had
4 Mr. Ellis' blood on them and they can put them in the
5 bag. And then they can go over and they can burn all this
6 stuff in the burn pile.

7 But they got to have a story. They got to have a
8 way to make it Chad's fault. Well, that's easy enough.
9 Crystal would just be the first one on the bus. Crystal
10 would be the first one to give up somebody and Crystal
11 will point the finger at Chad. Because, what, what
12 corroborates Crystal Jackson's story? One thing and one
13 thing only, and it was that video you saw. Crystal
14 Jackson led the police to that burned evidence.

15 But the only thing that says that Chad Williams
16 had a connection with that burned evidence was testimony
17 from Kathy Young that those were his clothes, testimony
18 from Kathy Young that those were his shoes, testimony from
19 Crystal Jackson that this master criminal who broke into
20 the house and killed Mr. Ellis and took all of the time to
21 clean up the crime scene, came back to the house and said,
22 Crystal, you're completely not involved in this and you're
23 the only person that's going to be able to give any
24 testimony against me, so come on, let me go show you where
25 I'm going to burn the evidence at.

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1 What kind of sense does that make? What kind of
2 common sense does that make?

3 You know, it was interesting yesterday, Kathy
4 Young testified -- well, Kathy Young testified yesterday
5 when Chad Williams left the room he had crack. The
6 State's theory of the case was they were smoking crack,
7 they ran out of crack, he went over to Mr. Ellis' house to
8 rob him for money to go get more crack. But Kathy Young
9 says when Chad left the room he had crack.

10 So you go back to Crystal's story. Well, Chad
11 drove me downstairs. I was standing in the driveway, and
12 I could see him run across this field in the dead of night
13 without a flashlight and open the door to the mobile home
14 and go inside for about five seconds and come back out
15 with a flashlight, where he then came back across the
16 field, found the cell phone, picked up the cell phone and
17 went and put it into the burn bag.

18 Question: Where's the flashlight? There was a
19 consent to search done at Chad's house. No flashlight was
20 found. Wasn't a flashlight in the burn bag. If you
21 believe Crystal's story, Chad in his haste to get out of
22 Mr. Ellis' house left, and left the back door unlocked.
23 Yet in the five seconds he was inside, he went, hmmm,
24 maybe I should lock the back door now. Because, you know,
25 the next day when Mr. and Mrs. Sauls showed up, the door

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1 was locked. Did he leave the door unlocked just in case I
2 need to come back and get something else later on? What
3 did he do in five seconds inside that house?

4 You have to believe Crystal's story -- you have
5 to believe Crystal's story to reach the point that the
6 State wants you to reach. And here's the problem, ladies
7 and gentlemen. The physical evidence and common sense
8 doesn't match Crystal's story.

9 It doesn't match Kathy Young's story. And it
10 doesn't match Josh Mace's story but conveniently enough
11 Crystal and Josh's and Kathy's statements don't match each
12 other, either. Not exactly. And I would submit to you,
13 they don't match each other close enough for you to
14 warrant that they are credible at all.

15 That leads to the next point. The State could
16 not have proven this case without the testimony of Crystal
17 Jackson. If the State could have proven this case without
18 the testimony of Crystal Jackson, she never would have
19 been on that stand. Because Mr. Weeks knew what I was
20 going to do when I got up and cross-examined her about all
21 the holes and inconsistencies in her story. She never
22 would have been on the stand if she wasn't absolutely
23 crucial to their case.

24 And, ladies and gentlemen, the Judge is going to
25 charge you in just a few minutes about your obligation as

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1 jurors and one of your roles as the finder of fact is to
2 judge the credibility of witnesses. Do you believe all of
3 what the witness says, some of what the witness says or
4 none of what the witness says.

5 And, ladies and gentlemen, other than the fact
6 that evidence was burned and it was burned over here, you
7 can't believe anything that Crystal Jackson says. It
8 doesn't add up. There is no way that this case would have
9 been brought without Crystal Jackson. And Crystal Jackson
10 did the classic confession. You got me, he did it.

11 Why make up this story? Why make up this
12 elaborate lie? Kathy, Josh, and Crystal are family.
13 They're family. Crystal and Kathy smoke crack together.
14 They're tight. Josh, will say whatever Josh was told to
15 say, Josh is the one to do whatever he can to help out his
16 family. This stuff was bought for \$30. Kathy forgot
17 about that whenever she started testifying and she comes
18 back, oh yeah, that's right, he did have \$30 that he
19 borrowed from Josh. Oh yeah, I saw him borrow the \$30
20 from Josh. There wasn't any \$30.

21 You notice that Crystal talks about we came back
22 and we smoked a 30, we smoked a gram of crack cocaine at
23 the house. That's what we smoked. Kathy goes, huh-uh.
24 We came back and everybody smoked a little bit of
25 everybody's crack. When Chad left the room he still had

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1 crack left. Kathy wasn't here to listen to Crystal's
2 testimony. That was Kathy's problem. If Kathy had been
3 here to hear Crystal's testimony, I submit to you her
4 testimony would have been a lot closer to Crystal's but it
5 wasn't.

6 Kathy is the person who puts the time line later
7 in the night or earlier in the morning, however you want
8 to look at it. I guess earlier in the morning on May the
9 2nd. Kathy's DNA, her blood. This isn't a hair. I've
10 taken off my socks before and had a hair from my legs
11 stuck in them. I've taken off my shirt before and maybe
12 there's a hair stuck in my shirt. I can't recall the last
13 time I took off my sock and my blood -- and blood was on
14 it, or my shoes for that matter.

15 Mr. Ellis' blood was on the shoe. Kathy Young's
16 blood was on the shoe. And not Kathy's shoe, not
17 according to her. Chad's shoe. Did the police ever look
18 at Kathy Young and say, does she have any kind of
19 defensive wounds? Does she have any marks on her body? I
20 don't know. I didn't hear about it if they did and
21 certainly we didn't hear about it from the witness stand.
22 We don't have any pictures of it in evidence.

23 This elaborate story was concocted by Crystal
24 Jackson and Kathy Young and either participated in or made
25 up along with Josh Mace. That's why they can't get the

CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 details together. We're not talking about times. We're
2 not talking about was it 9:15 or was it 10:15. We're not
3 talking about setting your clocks ahead ten minutes to
4 convince yourself that you're not running late or that you
5 are running late so you need to hurry. We're not talking
6 about times.

7 We're talking about who was smoking crack and who
8 went to smoke crack. And we're talking about who came and
9 asked you for a flashlight and what was this guy wearing.
10 And they can remember, oh, Chad was wearing white tennis
11 shoes that night. I remember that, clear as a bell.

12 I don't remember whose house it was we went to go
13 get the drugs from. My drug dealer that I bought the
14 drugs from was conveniently killed in a tragic accident
15 shortly after I went to prison. That's the statement that
16 you can evaluate Kathy Young's credibility on.

17 Mr. Weeks made an issue of it, so I'm going to
18 address it. Crystal Jackson had just told you that my
19 client had murdered Herbert Ellis. So when I said to
20 Crystal Jackson that, you were there when Chad Williams
21 murdered Herbert Ellis, I wasn't going to get into the
22 argument with her over she was -- Chad was there or Chad
23 wasn't there. That wasn't the point of the question. It
24 it was not a statement that I think Chad Williams is
25 guilty, but let me tell you another thing that Crystal

CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 Jackson said in her testimony.

2 I asked her, you were there. If you weren't
3 there, how did you know what the position of the body was
4 whenever you talked to Lisa Williams. And did she say, I
5 didn't know what the position was? Did she say, I never
6 talked to Lisa Williams. Her response was, I don't know.
7 That was her response. I don't know.

8 Crystal Jackson was there. Now, Mr. Weeks is
9 correct, we're not here to try Crystal Jackson. But if
10 Crystal Jackson's being present when Mr. Ellis was
11 murdered and her getting up here and facing accessory
12 after the fact charges, as long as she sticks with her
13 same story, she knows she can't change her story. If she
14 changes her story and says, okay, I was there and Chad was
15 there with me, she's going to be tried for murder and
16 burglary first, too. She's not facing murder charges.
17 She's not facing burglary first charges.

18 She's going to tell the story that she needs to
19 tell. She's going to lie and say anything that she needs
20 to say to protect her own skin.

21 Mr. Weeks mentioned to you that there was a
22 fingerprint on the lighter fluid (sic). This is when I
23 comment on or when Mr. Weeks' comments on and the Judge
24 will remind you of this, when we comment on the evidence,
25 we can be wrong. We can be mistaken. I don't think

CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 there's anything nefarious about it. You all have to
2 refer to your notes or if you want to you can ask the
3 testimony be read back. There was no fingerprint on the
4 lighter fluid. There was no fingerprint that was
5 identifiable on the lighter fluid. That just came up.

6 He talked about the DNA on the shoe -- on the
7 shirt, the DNA on the shoes.. The only DNA on the shirt
8 was Mr. Ellis'. It wasn't anybody else's DNA on it.
9 That's -- that was the testimony from the DNA expert.
10 Chad Williams' DNA wasn't on it. The only DNA on the
11 shoes was Mr. Ellis' DNA and Kathy Young's DNA. There was
12 a hair from a sock that had Mr. Ellis' DNA on the blood on
13 the sock, and the one hair from the sock had Chad
14 Williams' DNA. That's -- that one hair is the only thing
15 that connects Chad Williams to that bag.

16 We've already talked about all of the different
17 aspects of what the DNA evidence says and what the DNA
18 evidence doesn't say. And to an extent, I agree with
19 Mr. Weeks on this. DNA evidence is not the end-all and
20 be-all. DNA evidence is not the silver bullet that it's
21 made out to be on TV. But, ladies and gentlemen, I remind
22 you, I'm not here to prosecute Kathy Young. I don't have
23 to prove to you beyond a reasonable doubt that it was
24 Kathy Young and Crystal that went and killed Mr. Ellis
25 that night. I'm here on behalf of Chad Williams.

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1 And when you look at the evidence as a whole
2 you're going to see and you're going to understand how and
3 why Chad Williams didn't give a false confession, a
4 confession that was a lie. He tried to minimize his
5 involvement in the crime in the morning. He got called on
6 it by Investigator Fleury who's an excellent investigator.
7 So, that day he says, I'm going to minimize the damage.
8 I'll tell you what you want to hear.

9 Ladies and gentlemen, you heard his confession.
10 But you didn't hear the confession from earlier in the
11 day, because the prosecution doesn't want you to hear
12 that. That's not what they wanted you to hear. They
13 didn't want you to hear his confession from earlier in the
14 day. They wanted you to hear the confession that
15 afternoon. He told them what they wanted to hear and so
16 now they played it for you because that is what they
17 wanted you to hear.

18 Ladies and gentlemen, old fashioned police work
19 in this case led to an arrest. It didn't solve this
20 crime. It hasn't solved this crime yet. Old fashioned
21 police work, the hard efforts of the investigators from
22 the Aiken County Sheriff's Office and the people at SLED,
23 and every law enforcement officer that was involved in
24 this case up to this point, those hard efforts led to an
25 arrest. They didn't lead to this case being solved.

CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 I told you before, Mr. Ellis' death is absolutely
2 tragic and unnecessary and certainly everyone wants
3 justice for his family. But that is not your job. Your
4 job is not to convict someone to bring them closure. Your
5 job is to make sure that the State has proven beyond a
6 reasonable doubt that the person they are offering up for
7 conviction is guilty beyond a reasonable doubt.

8 I told you in the beginning, he started cloaked
9 with innocence. And it's the State's job to take it off
10 of him. And I submit to you that they have not done it.
11 There are too many other possible ways that the evidence
12 could be stacked up exactly the way the evidence is
13 stacked up. There are too many other possibilities as to
14 how this crime happened to say beyond a reasonable doubt,
15 conclusively, Chad Williams is the person that killed
16 Herbert Ellis. It doesn't make sense. It doesn't make
17 sense.

18 And now it's up to you to go back and determine,
19 as I pointed out before, what the true facts are. Not
20 what the facts are as they've been presented, because if
21 all we're going to go on is the facts as they've been
22 presented we wouldn't need juries. We could stack up the
23 statements on one side against and we could stack up the
24 statements on the other side for and we could say, okay,
25 we got more people saying it happened this way than not,

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1 so therefore that's the weight of the evidence.

2 No. It is the jury's job to discern what the
3 true facts are in the case. And to fulfill that role you
4 don't leave your common sense at the metal detector
5 downstairs. You don't leave your common sense in this
6 jury box. You take it into that jury deliberation room
7 with you and you discuss the case. And you talk about the
8 holes in the case. You talk about the places where the
9 evidence is not as strong as the State would have you
10 believe.

11 I don't for a second -- I don't for a second
12 doubt that Mr. Ellis was murdered in his house that night
13 brutally. And I don't for a second doubt that somebody
14 living in that cabin on Barn Owl Road killed him, maybe
15 some bodies killed him. But, ladies and gentlemen, after
16 you've considered the evidence, you're going to come to
17 the conclusion that there is a reasonable doubt as to
18 whether Chad Williams alone was that person.

19 And that's what the State would have you believe.
20 There is a reasonable doubt as to the guilt or innocence
21 of Chad Williams. And if there's a reasonable doubt, it
22 is your obligation, it is your oath, you must find him not
23 guilty. You must. If you're firmly convinced that he did
24 it, if you think he did it, if he probably did it, none of
25 that's good enough under our system. Under our system of

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1 laws, you have to be convinced beyond a reasonable doubt.
2 If you have a doubt in your mind and you're reasonable, to
3 me that's reasonable doubt.

4 The Judge will charge you as to what reasonable
5 doubt is. But that is where you weigh the case. And that
6 is where you determine the true facts of the case. And
7 after undertaking that burden, which I understand is
8 significant, you will come to the same conclusion, that
9 Chad Williams is not guilty beyond a reasonable doubt.

10 Thank you.

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11 THE COURT: Ladies and gentlemen. I'm going to
12 charge you on the law. It's going take about 20 minutes.
13 Do any of y'all need a break? Anyone want to go? Okay.

14 Now that you've heard all of the evidence in this
15 case as well as the closing arguments of both the State
16 and the defense, I'm going to explain to you what the law
17 is that you should apply in this case.

18 Under our constitution and under our code of
19 laws, only the jury can make a finding of facts in this
20 case. I am not permitted to indicate to you how I might
21 feel about the facts in this case. So if I've said
22 anything or done anything throughout this trial that you
23 think I may have an opinion about the facts, you are to
24 disregard that because I don't have an opinion about the
25

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1 facts. That is solely and independently your
2 responsibility. You must weigh the evidence presented in
3 this trial and render a verdict based solely on that
4 evidence.

5 Under the same constitution and code of laws that
6 makes you the finder of the facts, makes me the judge of
7 the law and the exclusive judge of the law. So, if you
8 have an idea of what the law is, or what the law ought to
9 be or what the law should be and it differs from what I
10 now tell you the law is, you are to disregard that idea
11 and apply the law exactly as I give it to you.

12 The fact that the Defendant was arrested, charged
13 and indicted in this case is not evidence in this case and
14 cannot be considered by you as evidence of guilt in this
15 case, nor does it create any presumption or inference of
16 guilt. The indictment is simply a formal written
17 instrument which contains the charge or charges against
18 this Defendant. And it serves as a formal document that
19 brings this case to be processed through the court
20 system.

21 Now to this indictment this Defendant has pled
22 not guilty. And that plea casts the burden upon the State
23 of South Carolina to prove each and every element of these
24 indictments beyond a reasonable doubt.

25 A person charged with committing a criminal

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1 offense in South Carolina is never required to prove
2 himself or herself innocent. Now, I instruct you and
3 emphasize to you that the fact the Defendant did not
4 testify is not a factor to be considered by you in any way
5 in your deliberations and in your consideration of the
6 question of guilt or innocence.

7 It must not be considered by you in any manner
8 whatsoever. The Defendant has a constitutional right to
9 remain silent. And the assertion of this right must not
10 be considered by you in your deliberations. I repeat,
11 under your oath you're to draw no conclusions whatsoever
12 from the fact that the Defendant did not testify. You
13 should not even discuss that in the jury room.

14 It is an important rule of law of this country
15 that the defendant in a criminal trial will always be
16 presumed innocent of the crime for which he is indicted,
17 unless and until his guilt has been proven by evidence
18 that satisfies you of that guilt beyond a reasonable
19 doubt.

20 The presumption of innocence is not a mere legal
21 theory. It is not just a legal phrase. It is a
22 substantial constitutional right to which every defendant
23 is entitled. The presumption of innocence accompanies the
24 Defendant from the time he is charged and throughout the
25 trial and until you reach a verdict based on the evidence

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1 that satisfies you of that guilt beyond a reasonable
2 doubt.

3 Now reasonable doubt is the doubt which makes an
4 honest, sincere, conscientious juror in search of the
5 truth to hesitate to act. Proof beyond a reasonable doubt
6 must therefore be proof of such a convincing character
7 that a reasonable person would not hesitate to rely and
8 act upon it in the most important of his or her own
9 affairs. Proof beyond a reasonable doubt can also be
10 described as proof that leaves you firmly convinced of the
11 Defendant's guilt.

12 There are very few things in this world that we
13 know with absolute certainty. And in a criminal case the
14 law does not require proof that overcomes every possible
15 doubt. If, based on your consideration of the evidence,
16 you are firmly convinced that the Defendant is guilty of
17 the crime charged, you must find him guilty. If, on the
18 other hand, there's a real possibility he is not guilty,
19 you must give him the benefit of that doubt and find him
20 not guilty.

21 Now in determining the factors in this case you
22 must necessarily pass upon the credibility, which simply
23 means the believability of the witnesses, and the weight
24 and value to be given to their testimony. You alone must
25 decide the force and effect and the truth of that

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1 testimony.

2 In making this decision there are many things
3 that you may consider and take into consideration, such as
4 the appearance and manner of the witness on the stand,
5 sometimes referred to as the demeanor of the witness; was
6 the witness forthright or hesitant; was the witness's
7 testimony consistent or did it contain discrepancies; what
8 was the ability of the witness to know the facts about
9 which he or she testified; did the witness have a cause or
10 reason to be biased and prejudiced in favor of their
11 testimony; what was the witness's -- was the testimony of
12 the witness corroborated or made stronger by other
13 testimony or evidence, or was it made weaker or impeached
14 by such other testimony or evidence.

15 Now under the rules of evidence ordinarily we do
16 not permit a witness to testify to opinions or
17 conclusions. An exception to this rule exists for
18 witnesses we call expert witnesses. A witness who by
19 education and experience has become an expert in some art,
20 science, profession or calling may state an opinion as to
21 relevant material matters in which the witness claims to
22 be an expert, and may also state reasons for that
23 opinion. You may consider any expert opinion received in
24 evidence in this case like any other evidence; give it the
25 weight you think it deserves.

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1 If you decide that an opinion of an expert
2 witness is not based on sufficient education and
3 experience, or if you conclude that the reasons given in
4 support of that opinion are not sound, or that the
5 opinion's outweighed by other evidence, you may disregard
6 the opinion in its entirety. An expert's testimony is to
7 be given no greater weight than that of any other witness
8 simply because that witness is an expert. And, further,
9 you're not required to accept an expert's opinion even
10 though it is not contradicted.

11 As jurors, you have a right to believe a small
12 portion of a witness's testimony and disregard the larger
13 or vice versa. You may believe all of a witness's
14 testimony or none of a witness's testimony. You may
15 believe the testimony of a single witness against that of
16 many or the other way around.

17 And there are two types of evidence generally
18 presented during a trial; direct and circumstantial
19 evidence. Direct is the testimony of a person who asserts
20 or claims to have actual knowledge of a fact such as an
21 eyewitness. Circumstantial evidence is proof of a chain
22 of facts and circumstances indicating the existence of the
23 fact.

24 Now, to give you a better example of
25 circumstantial evidence. If I go to bed one winter's

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1 night and look out my front door and the lawn is clear, I
2 wake up the next morning, it's covered in snow. I didn't
3 see it snow, but I can assume that sometime during the
4 night while I was asleep it snowed because my lawn was
5 covered in snow. If I had seen it snow, that would have
6 been direct evidence. The fact that I woke up the next
7 morning it was covered in snow, that's circumstantial
8 evidence.

9 The law makes absolutely no distinction between
10 circumstantial and direct evidence and the weight you're
11 to give it. You're to give whatever weight and value to
12 that evidence that you deem appropriate.

13 After weighing all of the evidence if you're
14 convinced of the Defendant's guilt beyond a reasonable
15 doubt, you must find the Defendant guilty. On the other
16 hand, if you're not convinced beyond a reasonable doubt
17 after weighing all the evidence, you're to give him the
18 benefit of that doubt and find him not guilty.

19 Criminal intent is a necessary element of each
20 crime. It must be proved by the State beyond a reasonable
21 doubt. Criminal intent is always a matter that must be
22 determined by the jury from the circumstances surrounding
23 the situation. There is no way to prove intent to a
24 mathematical certainty. There is no way medical science
25 can dissect a person's brain and determine what he or she

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1 had in mind. So the law states criminal intent may be
2 inferred from the circumstances shown to have existed both
3 before and after the fact.

4 This is how you, the jury, make a determination
5 of whether or not the elements requiring intent was
6 present. Criminal intent is a state of mind that operates
7 jointly with an act or omission in the commission of a
8 crime.

9 Criminal intent is a mental state, a conscious
10 wrongdoing. So it is up to you, the jury, to determine
11 what the Defendant intended to do based on circumstances
12 shown to have existed. And I tell you, the State must
13 prove criminal intent beyond a reasonable doubt, just as
14 the State must prove every element beyond a reasonable
15 doubt.

16 Now I charge you, a person who voluntarily
17 becomes intoxicated is just as responsible for the acts
18 committed while intoxicated as when the person is not
19 intoxicated.

20 I have admitted into evidence in this case
21 statements alleged to have been made by the Defendant.
22 Before you may consider these statements as evidence for
23 any purpose, you must find that the State has proven
24 beyond a reasonable doubt the answer -- that the answer is
25 yes to both of the following questions; one, did the

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1 Defendant make the statement; two, was the statement made
2 voluntarily.

3 The word voluntarily means that he freely chose
4 to make the statement and it was not induced by pressure,
5 force, or intimidation. If the statement was voluntarily
6 given, it may be used against him. If the statement was
7 not voluntarily given, it cannot be used against him.

8 In determining whether or not the statement was
9 voluntary, you should consider all of the factors and
10 circumstances surrounding the statement including the
11 Defendant's age, maturity, his level of education, his
12 intelligence, his physical and mental health, his
13 background and environment, the nature of any questioning
14 and any other evidence you believe bears on the
15 voluntariness of the Defendant's statement.

16 If the Defendant was in custody at the time the
17 statement was made, you should also consider the place and
18 length of his custody and whether or not he was given or
19 whether or not he understood his constitutional rights,
20 which are commonly referred to as his Miranda rights.
21 These rights are: He has the right to remain silent; that
22 any statement he does make can and will be used against
23 him in a court of law; that he has the right to counsel --
24 to the counsel of a lawyer before and during any
25 questioning; and if he cannot afford a lawyer, the Court

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1 will appoint one to represent him without cost; that he
2 has the right to exercise these rights at any time and
3 terminate questioning nor answer any questions or make any
4 statement. I find, as a matter of law, that the Defendant
5 was in custody at the time the statement was made.

6 Now, the Defendant is charged with the crime of
7 murder. The State must prove beyond a reasonable doubt
8 that the Defendant killed another person with malice
9 aforethought. Malice is hatred, ill will or hostility
10 towards another person. It is the intentional doing of a
11 wrongful act without just cause or excuse and with the
12 intent to inflict an injury or under circumstances of law
13 that would infer an evil intent.

14 Malice aforethought does not require that malice
15 exists for any particular time before the act is
16 committed, but malice must exist in the mind of the
17 Defendant just before and at the time the act is
18 committed. Therefore, you must -- there must be a
19 combination of the previous ill intent and the act.

20 Malice aforethought may be express or inferred.
21 These terms, express and inferred, do not mean different
22 kinds of malice but merely the manner in which the malice
23 may be shown to exist. That is, either by direct evidence
24 or by inference from the facts and circumstances which are
25 proved.

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1 Express malice is shown when a person speaks
2 words which express hatred or ill will for another or when
3 the person prepares beforehand to do the act which was
4 later accomplished. For example, lying in wait for a
5 person or in any other act or preparation going to show
6 that the deed was within the Defendant's mind would be
7 expressed malice.

8 Malice may be inferred from the conduct showing a
9 total disregard for human life. Inferred malice may also
10 arise when the deed is done with a deadly weapon. A
11 deadly weapon is any article, instrument, or substance
12 which is likely to cause death or great bodily harm.
13 Whether an instrument has been used as a deadly weapon
14 depends on the facts and circumstances of each case.

15 The following are examples of instruments which
16 may be deadly weapons; a pistol, a shotgun, a rifle, a
17 dirk, a dagger, a knife, a slingshot, metal knuckles, a
18 razor, gasoline, a firebomb, lighter fluid, a Molotov
19 cocktail.

20 Ordinary objects may become deadly weapons when
21 the facts show that they have been used to inflict serious
22 bodily harm or death.

23 The Defendant's also charged with the crime of
24 burglary in the first degree. The State must prove beyond
25 a reasonable doubt that the Defendant entered a dwelling

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1 without consent. A dwelling is any building or a portion
2 of a building in which a person ordinarily sleeps. A
3 building constructed as a dwelling that has never been
4 occupied cannot be considered a dwelling for purposes of
5 burglary, but a building is a dwelling even if the
6 residents are temporarily absent from the building.

7 In order to prove the Defendant entered the
8 dwelling, the State does not have to show that the
9 Defendant's entire body entered the dwelling. The
10 smallest entry is sufficient. It may be any part of the
11 body such as a hand or foot or even an instrument such as
12 a hook or other instrument.

13 In addition, the State does not have to prove
14 that force was used to gain entry. If a person enters a
15 building by using deception, trick, or misrepresentation
16 to get consent to enter, that is entry without consent.

17 Next the State must prove beyond a reasonable
18 doubt the Defendant intended to commit a crime, either a
19 felony or a misdemeanor, at the time of the entry. The
20 mere entry into a dwelling without consent is not burglary
21 if the intent to commit a crime is formed after the entry.

22 On the other hand, if the Defendant intended to
23 commit a crime at the time of the entry it is burglary,
24 even if the intent was abandoned after the entry. It does
25 not matter the intended crime was not completed. Intent

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1 may be shown by acts and conduct of the Defendant and any
2 other circumstances which you may naturally and reasonably
3 infer intent.

4 Finally the State must prove beyond a reasonable
5 doubt when entering or while in the dwelling or when
6 fleeing, the Defendant or an accomplice caused physical
7 injury to anyone not participating in the crime. When
8 entering or while in the dwelling or when fleeing, the
9 Defendant or an accomplice used or threatened to use a
10 dangerous object, or the Defendant entered or remained in
11 the dwelling in the nighttime. Nighttime is the period
12 between sunset and sunrise during which there's not enough
13 light to recognize a person's face except by artificial
14 light or moonlight.

15 So the State must prove -- those are the three
16 things, the three elements. You only have to find one of
17 those three for it to be burglary first degree; either
18 injury occurs to someone, a weapon was used, or it
19 occurred in the nighttime. But you must find at least one
20 of those three things beyond a reasonable doubt before you
21 can convict the Defendant of burglary in the first degree.

22 Now, ladies and gentlemen, you are not partisans
23 of the State of South Carolina or this Defendant. You're
24 not to serve as jurors to reward your friends or punish
25 your enemies. Clearly that system of justice would not be

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1 tolerated.

2 You have been selected by both the State and this
3 Defendant to be fair and impartial jurors. It is your
4 duty then by your joint deliberations to determine the
5 truth in this case, giving to this Defendant the benefit
6 of every reasonable doubt on each and every issue. Then
7 to the facts that you determine to be true, you are to
8 take the law as I'm now giving it to you and reach a
9 verdict that speaks the truth. When you've accomplished
10 these responsibilities, you will have satisfied your oath
11 as jurors and discharged your duty to this Court.

12 Now, I've got two verdict forms, because there
13 are two charges in this case, that my law clerk has drawn
14 up. The order that they're in, you should draw no
15 inference from whatsoever. We had to put them in some
16 order. And basically the verdict forms are the caption of
17 the case, State of South Carolina, County of Aiken, State
18 versus Chad Everett Williams and the indictment number.

19 And there's two possible verdicts for each
20 charge. On the indictment 1309, which is the indictment
21 for burglary, we, the jury, find the Defendant guilty of
22 burglary in the first degree or, we, the jury, find the
23 Defendant not guilty. Whichever is a unanimous verdict,
24 Mr. Foreman, you are to sign your name under that verdict,
25 and when you reach a verdict, knock on the door.

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1 The other indictment is for murder. We, the
2 jury, find the Defendant guilty of murder or we, the jury,
3 find the Defendant not guilty. And that must be a
4 unanimous verdict as well. Whichever is a unanimous
5 verdict, you're to sign your name under that verdict on
6 this form.

7 Now, I'm -- when you go to your jury room to
8 deliberate this case, it must be a unanimous verdict. All
9 12 of you must agree. And only then are you authorized to
10 sign this verdict form. And during your deliberations if
11 anybody needs to take a break and leave, you need to go to
12 the restroom or whatever, you're to stop your
13 deliberations. You can only deliberate about this case
14 while all 12 of you are present there in the room. And
15 when -- do y'all have a light system?

16 THE BAILIFF: Yes, sir.

17 THE COURT: Okay. The bailiffs will show you
18 when you reach a verdict, if you will signal. They have a
19 light system that will let us know you have a verdict and
20 I will bring you back out and receive that verdict.

21 Before you can start your deliberations, I'm
22 going to have to review what I've told y'all with these
23 lawyers to be sure I haven't left anything out. If I have
24 left anything out, I'll bring you back out and charge you
25 further on the law. If I've covered everything, then I

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1 will send these verdict forms into the jury room with you
2 along with the evidence. When you receive this verdict
3 form and the evidence, that will be your signal to begin
4 your deliberations. And when you've reached a verdict we
5 will bring you back out.

6 Now, I also see that it's ten minutes till 12.
7 The -- I have no idea how long it's going to take you and
8 you don't know how long it's going to take you, but if you
9 want lunch, we will provide you lunch but I think we got
10 to have about 30 minutes notice.

11 THE BAILIFF: About 30 to 45.

12 THE COURT: So when you get back to the jury room
13 and you decide if you want us to order you lunch -- I
14 can't let you go to lunch as long as you're deliberating,
15 so you got to stay there. So if you will let the bailiff
16 know, then he'll send in whatever menu they have and you
17 can order lunches. You understand it's going to take 35
18 to 40 minutes to get there. So you may want to order it a
19 little early but, anyway, like I say, when you've reached
20 a verdict, if you will signal, we'll bring you back out
21 and take that verdict.

22 My two alternates, everybody else looks healthy,
23 if you two will stay with me, I think everybody is going
24 to make it. It looks like they are, but if you'll stay
25 with me, the rest of you can go to the jury room. Either

1 I'll bring you back out or I send you the evidence.

2 (Jury exits courtroom at 11:55 a.m.)

3 THE COURT: Are there any exceptions, deletions
4 from the State?

5 MR. WEEKS: None from the State, Your Honor.

6 THE COURT: From the defense?

7 MR. MILLER: None from the defense, Your Honor.

8 THE COURT: Gentlemen, if y'all will get with the
9 court reporter and be sure that we have all the evidence
10 and these are the verdict forms. The bailiff will take
11 them into the courtroom (sic).

12 Now, what's the jury panel going to do?

13 MR. WEEKS: Judge, we're not aware of any more
14 trials.

15 THE COURT: So I can excuse these two gentlemen
16 for the week?

17 MR. WEEKS: Yes. Unless you want them to hang
18 around for a while. I don't know of any reason why you
19 would.

20 THE COURT: No. I appreciate y'all serving. I
21 understand that you sat here the whole time and now you're
22 not going to get to make a decision. But you were here in
23 case somebody got sick so we wouldn't have to do this
24 again and I would put you in that spot. I appreciate you
25 being here. I enjoyed being with you.

1 Y'all going to mail them a check, is that how it
2 works?

3 THE BAILIFF: We can take them back over there
4 and get it now.

5 THE COURT: You will be floored at how big that
6 check is.

7 MR. MILLER: Richly rewarded.

8 THE COURT: The people of Aiken County can't pay
9 you what you're worth. The taxes would be too high. I
10 appreciate you being here and now you're excused for the
11 rest of the week. You don't have to do this again for
12 three years.

13 I've been telling you the whole week you can't
14 talk about it. Now you can talk about it to anybody you
15 want to.

16 (Alternate jurors excused. Attorneys confirm
17 exhibits.)

18 MR. WEEKS: Judge, if you could instruct
19 Mr. Whittle to tell them that if they want to listen to
20 the tapes, we'll provide a laptop without anything else on
21 it.

22 THE COURT: Okay. There's nothing else on it but
23 that?

24 MR. WEEKS: That's correct.

25 THE COURT: Okay. If you'll tell them that --

VERDICT & SENTENCING

1 THE BAILIFF: Okay.

2 THE COURT: -- if they want to listen to that,
3 we'll provide them the means to do that.

4 We'll stand at ease until we either get a verdict
5 or y'all get something else we can do.

6 MR. WEEKS: We got a couple pleas. We got to
7 round up lawyers. Jack's doing pleas on the other side or
8 doing something over there with them, so we'll try to --

9 THE COURT: Well, gentlemen, y'all did a good
10 job. I enjoyed trying the case with you.

11 MR. WEEKS: Thank you.

12 MR. MILLER: Thank you, Your Honor.

13 (Thereupon, deliberations commenced at
14 11:59 a.m.)

15 (Thereafter, other matters were heard by the
16 Court. The trial resumed at 2:15 p.m.)

17 THE COURT: I understand we have a verdict.
18 Anything from the State before we bring the jury in?

19 MR. WEEKS: No, Your Honor.

20 THE COURT: From the defense?

21 MR. MILLER: No, Your Honor.

22 THE COURT: Okay. If you'll bring the jury,
23 please, sir.

24 THE BAILIFF: Okay.

25 (Jury enters courtroom at 2:16 p.m.)

VERDICT & SENTENCING

1 THE COURT: Mr. Foreman, I understand y'all have
2 reached a verdict?

3 FOREPERSON OF THE JURY: Yes, we have, Your
4 Honor.

5 THE COURT: Is it a unanimous verdict?

6 FOREPERSON OF THE JURY: Yes, it is, Your Honor.

7 THE COURT: Okay. If you'd pass it up, please,
8 sir.

9 FOREPERSON OF THE JURY: (Complying.)

10 THE COURT: Okay. You may publish the verdict.

11 THE CLERK: Your Honor, we have State of South
12 Carolina, County of Aiken, versus Chad Everett Williams,
13 indictment number 2007-GS-02-1309, we, the jury, find the
14 Defendant guilty of burglary in the first degree. Signed
15 by Foreperson Rico Rouse, dated October 22nd, 2008.

16 Your Honor, we have the State of South Carolina,
17 County of Aiken versus Chad Everett Williams, indictment
18 number 2007-GS-02-1308, we, the jury, find the Defendant
19 guilty of murder. Signed by Foreman Rico Rouse, dated
20 October 22nd, 2008.

21 Ladies and gentlemen of the jury, Mr. Foreman, if
22 this is your verdict, please indicate by raising your
23 right hand.

24 THE JURY: (Complying.)

25 THE CLERK: All hands are raised, Your Honor.

VERDICT & SENTENCING

1 THE COURT: Anything from the State?

2 MR. WEEKS: Not with regard to the jury, Your
3 Honor.

4 THE COURT: All right. Defense?

5 MR. MILLER: Nothing with regard to the jury,
6 Your Honor.

7 THE COURT: Okay. Ladies and gentlemen, I want
8 to thank you for your service this week. I'm informed by
9 the solicitor's office that we have enough pleas to finish
10 out the week. I'm letting the rest of the jury panel go
11 for this week so therefore you're free to go as well.

12 My understanding is you can either pick up your
13 check or they will mail it to you. And it's not a very
14 big check. So you will -- you won't get very far with it,
15 but I appreciate your service this week.

16 I've been telling you the whole week you couldn't
17 talk about this case. Now you can talk about it to
18 anybody you want to. You don't have to talk about it. If
19 somebody wants to ask you about it and you don't want to
20 talk about it, just simply tell them you don't want to
21 talk about it. I appreciate your service. You don't have
22 to serve again for three years.

23 I enjoyed being with you this week. You're free
24 to go home or you can stay if you want to. Thank you.

25 (Jury exits courtroom at 2:19 p.m.)

VERDICT & SENTENCING

1 THE COURT: Okay. Do y'all want to proceed with
2 sentencing at this time, or do you need more time or
3 what's --

4 MR. WEEKS: Just give me a couple minutes to get
5 the sentence sheet.

6 THE COURT: Sure.

7 (Pause.)

8 THE COURT: Okay. Anything further from the
9 State?

10 MR. WEEKS: Thank you, Your Honor. You've heard
11 the facts in the case with regard to the murder of
12 Mr. Ellis. It occurred on or he was found on May 2nd of
13 2007. In the audience here is a number of members from
14 his immediate family and extending down into Florida.
15 We'll have some letters and some, at least one
16 spokesperson for the family at the point you want to hear
17 that.

18 I wanted to tell you about his prior record.
19 He's got -- he's own probation right now for burglary
20 second and he's on parole for YOA for another burglary.
21 So he's got two prior burglaries, one from 2006 and one
22 from 2003.

23 THE COURT: Are these burglaries violent?

24 MR. WEEKS: The burglary second indicates it was
25 a violent. It might be otherwise.

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1 THE COURT: Okay.

2 PROBATION OFFICER: No. It's violent.

3 THE COURT: Which one was that?

4 MR. WEEKS: The second one. The one in 2006.

5 He's on probation for that one, Judge.

6 THE COURT: And the burglary before that?

7 MR. WEEKS: That was a burglary third and he got
8 a YOA.

9 THE COURT: Okay.

10 MR. WEEKS: There was also a resisting arrest
11 charge pending in Aiken on top of this, but that will go
12 away.

13 THE COURT: And, I'll be glad to hear from the
14 family.

15 MR. WEEKS: Your Honor, this Carla Derring.
16 She's our victims' witness person. She's got some letters
17 she'd like to read from some of them, and then I believe
18 we're going to have a spokesperson.

19 MS. DERRING: Your Honor, I'd just like to let
20 you know first of all who is here today on behalf of
21 Mr. Ellis. We have Mr. and Mrs. Sauls, daughter and
22 son-in-law. We have Pam and Joe Fanning, granddaughter
23 and grandson. Tiffany Sauls, great granddaughter. Susan
24 and Danny Sauls, granddaughter and grandson. Tonya
25 McLahan (phonetically), granddaughter. She's from

VERDICT & SENTENCING

1 Florida. Lonnie Herbert Ellis which is a grandson from
2 Florida also. And Chip Ellis who is another grandson all
3 the way from Indiana and Frankie Ellis Robert who is also
4 a daughter-in-law to Mr. Ellis. And you can tell he was
5 well loved because of all the family that are here today.

6 And I'm just going to briefly read a few letters
7 that they've written.

8 THE COURT: Okay.

9 MS. DERRING: My first is Pam Fanning,
10 granddaughter of Herbert Ellis. This boy has put my
11 family through hell. My parents are the ones that found
12 my Pop-Pop that horrible day. It has been one of the
13 hardest things to deal with. I have already lost my
14 daughter, the worst day day of my life, and now this. I
15 hope he gets what he deserves. I think prison is too good
16 for him. He has ruined all our lives.

17 That's Pam Fanning.

18 Your Honor, my name is Kathy Eversaul
19 (phonetically) -- this is a granddaughter from Florida
20 that couldn't be here. My name is Kathy Eversaul and I'm
21 one of the grandchildren of Herbert Ellis. I live in
22 Florida but I have been following my grandfather's case
23 very carefully. I cannot attend the trial due to
24 scheduling conflicts with school. It has caused me stress
25 and frustration. I think it's extremely important that

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1 you understand the kind of man my grandfather was.

2 My grandfather and my grandmother were married
3 for over 60 years and shared a loving and devoted life
4 together. When my grandmother Nanny became so frail that
5 it was difficult for my grandfather, Pop, to care for her
6 on his own, they left Florida and moved to Aiken to be
7 near their daughter and son-in-law, Jim and Jane so they
8 could aid him in caring for her. He doted on her every
9 whim, determined to make her last years on this earth as
10 happy as he could.

11 On December 7, 2006, my grandmother was taken to
12 the hospital and my grandfather stayed by her side all
13 night. She finally managed to convince him that he should
14 go home and take care of their dogs and after he left she
15 slipped away. I cannot begin to convey the grief that he
16 and my family experienced over her loss.

17 When I spoke with my grandfather the weekend
18 before he died, he said he was finally able to think about
19 her without crying and felt he was able to get back on his
20 feet. He was so excited about the little cottage that he
21 was building for himself on the little piece of land he
22 owned and was planning on visiting us in June and flying
23 to Colorado to visit my parents in July. He was finding
24 his happiness again.

25 Then Chad Williams went into his home and

VERDICT & SENTENCING

1 repeatedly beat him over the head until my grandfather was
2 dead. I can't imagine what my grandfather felt in those
3 last few moments and I cry about that often.

4 Chad Williams confessed to brutally killing my
5 grandfather. And my beloved grandfather meant more to me
6 than I could ever express.

7 Please, Your Honor, consider the loss of my
8 family and the grief that we still suffer when you
9 sentence Chad Williams for the crime he committed against
10 my grandfather.

11 My grandfather was the head of our family, the
12 glue that bound us together. No other man will ever love
13 me the way my grandfather loved me again. His loss is
14 immeasurable. Kathy Eversaul, a granddaughter.

15 Your Honor, after a year and a half I'm glad to
16 see that justice will finally be served. This young man
17 went into my 80-year-old grandfather's home and beat him
18 to death. My grandfather fought for his life and died for
19 his efforts and his wallet.

20 Allow me to give you a brief insight into the man
21 that was taken from us. Herb Ellis was a dedicated
22 husband, father, grandfather and friend. He was always
23 there for his family. He was married for over 60 years to
24 our beloved Nanny who lost her life only five months
25 before he did -- he was taken from us. He was beginning

C VERDICT & SENTENCING

1 to heal from the loss and moving on.

2 Pop was always there to lend a helping hand, be
3 it a place to stay, money or even a car. If it was within
4 his means, it was yours. He was always there to offer a
5 shoulder to lean on or experienced advice. He was and
6 still is deeply loved.

7 In this, I personally am still trying to come to
8 the realization that our wonderful loving Pop-Pop is
9 gone. Had he died of natural causes would have been hard
10 enough. The fact that this loving, giving man who never
11 met a stranger was attacked as he slept is something I, my
C. 12 family will never, ever get over. Everyday I look at
13 Pop's picture and feel the pain of his loss.

14 Chad Williams has a history of burglary.
15 Eventually someone was going to get in his way. That
16 someone was my grandfather. Only a coward could beat an
17 80-year-old man to death. Your Honor, the family of
18 Herbert Ellis pleads with you to sentence Mr. Williams to
19 the harshest possible sentence within your power.

20 Please consider that this family has lost our
21 patriarch of our family, our Pop-Pop, our friend. We will
22 have to live with this tragic loss for the rest of our
23 lives.

C. 24 Our family thanks you for your time and
25 consideration.

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1 That's from Tonya McLahan (phonetically).

2 And then we have one family member who's going to
3 address the Court. Ms. Frankie.

4 THE COURT: Okay.

5 MS. ROBERT: My name is Frankie Ellis Robert.

6 R. O. B. E. R. T.

7 I appreciate the opportunity to speak on behalf
8 of our family. In May 1968, I was 18. I left South
9 Carolina. I'm a South Carolina girl and came to Florida
10 with my soon-to-be husband and met Herbert and Catherine
11 Ellis.

12 As a child from a broken home, I found the
13 parents everyone should have. I was fortunate enough to
14 put two grandsons in Herbert Ellis' arms. The first was
15 Dale Clyde Ellis, Jr., named after Herbert's only son, and
16 the second was Lonnie Herbert Ellis, named after my father
17 and Herbert. I never knew that naming a child after
18 someone could bring such joy.

19 Herbert was the kind of man that was tough. He
20 wanted to teach people to do the right thing, to be
21 honorable, to work hard for the things that you get in
22 life, but yet he never turned away from helping anyone.

23 When my children's father and I divorced, Herbert
24 was the one that would guide me. He would make sure that
25 I stayed on the right path, make sure that I was well

VERDICT & SENTENCING

1 educated and that I would follow the tenants that he tried
2 to instruct me from the time I was 18 years old. He was
3 an incredible man with a wonderful sense of humor. He was
4 a businessman. He started many different businesses. He
5 taught me how to sew. He taught me how to dance. He
6 taught me how to sing, and he kicked my butt when I needed
7 it. Great sense of humor.

8 I said, whenever I was 18 and walked into his
9 home, we were sitting at the dinner table and he looks at
10 me, I had only met them for a week and he says, you look a
11 little peaked, are you feeling all right. I said, yes,
12 sir. And he says, I don't think so. Did you poop today.

13 Those were the kinds of things that he laid out
14 for us. He wanted to make sure that you be the person
15 that you are. And yet you stay connected and make sure
16 that you be the person, the very best person that you
17 could be.

18 On behalf of our family, I would appreciate it if
19 you would do everything in your power to make sure that
20 Chad Williams understands that he has taken the greatest
21 gift from us. Thank you.

22 THE COURT: Thank you, Ms. Roberts. Anything
23 else?

24 MR. WEEKS: No, Your Honor. Obviously the facts
25 speak for themselves. This is an extremely brutal murder.

VERDICT & SENTENCING

1 THE COURT: Mr. Miller, anything you want to tell
2 me?

3 MR. MILLER: Your Honor, the Court has learned
4 throughout the testimony Chad Williams was 23 years old.
5 He has three children with Crystal Jackson who testified
6 against him two days ago, a daughter, twin daughters,
7 Megan Lynn Williams -- excuse me. Megan Anne Williams and
8 Mya Lynn Williams and a son Stephen O'Neal Jackson.
9 Mr. Williams was unemployed at the time of -- at the time
10 of the incident. And he has a ninth grade education.

11 Mr. Williams has family members here in the
12 courtroom, his mother, his stepmother, and his father.
13 His mother, Lisa Williams, would like to address the Court
14 if the Court will hear from her.

15 THE COURT: Yes, ma'am.

16 MS. LISA WILLIAMS: Your Honor, what my son has
17 done is terrible. But I love him. He is my son. And my
18 heart goes out to the Ellis family. They're very good
19 people.

20 But justice is not served yet because it's more
21 than one. And for us to be arrested (sic) to lose my son
22 possibly the rest of my life and his children not to ever
23 see the good that he was, and I don't know where he went
24 wrong but for justice for me and out of hope for the Ellis
25 family too, that everybody responded to justice for this

1 horrible, horrible crime.

2 But I ask a little bit of leniency on me because
3 it is my son, even though it is terrific but it is in no
4 way, in my eyes, that this boy could have done all of this
5 by hisself. And please bring justice to everybody. Thank
6 you.

7 THE COURT: Thank you, ma'am. Anything else?

8 MR. MILLER: That's it, Your Honor.

9 THE COURT: SENTENCE OF THE COURT ON INDICTMENT
10 2007-GS-02-1308, FOR THE CRIME OF MURDER, THE DEFENDANT IS
11 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR AND
12 DURING THE TERM OF HIS NATURAL LIFE.

13 ON BURGLARY IN THE FIRST DEGREE, HE'S SENTENCED
14 TO 25 YEARS, CONCURRENT TO THE MURDER.

15 Good luck to you, sir.

16 MR. MILLER: Thank you, Your Honor.

17 THE COURT: And his probation, he won't have to
18 worry about the probation situation.

19 MR. MILLER: Your Honor, I assume revoke in full
20 and terminate?

21 THE COURT: Yes, sir.

22 PROBATION OFFICER: Okay.

23 END OF PROCEEDINGS: 2:35 P.M.

24

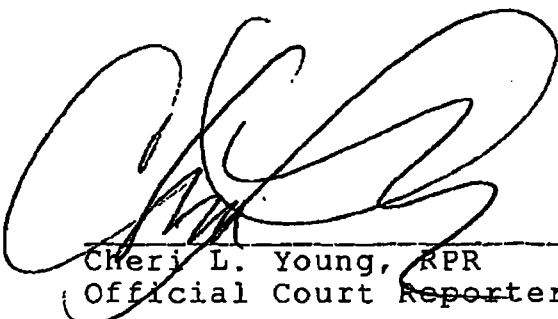
25

1 CERTIFICATE OF REPORTER

2 I, Cheri L. Young, Registered Professional
3 Reporter, and Official Court Reporter for the State of
4 South Carolina, do hereby certify that the foregoing
5 transcript of proceedings heard on Wednesday, October 22,
6 2008, in Aiken, South Carolina, was reported by me using
7 machine shorthand and realtime computer-aided translation
8 and is a true, accurate and complete transcript of the
9 proceedings had and evidence introduced in the hearing of
10 the matter.

11 I do further certify that I am neither of kin,
12 counsel nor interest to any party hereto.

13 I have hereunto set my hand this Friday the 1st
14 day of January, 2009.

15
16
17 
18 Cheri L. Young, RPR
19 Official Court Reporter
20
21
22
23
24
25

FORM 5

K094754
094766

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of AikenChad Everette Williams 302225

Full name and prison number (if any) of Applicant

2011 CP-02-00729
2007 GS-02-1308, 1309Filed 4-1-2011

C.C.C.P. & G.S. State of South Carolina

Deputy Clerk Crystal Michael JacksonTrial Judge B. Paul Johnson Jr.Trial Atty. Crystal Michael JacksonCourt Reporter Crystal Michael JacksonSec. PCR Petitioner Crystal Michael Jackson

General Sessions Atty. Gen.

Appointed Atty. Crystal Michael Jackson[SEE Exhibits 1-7]
Front
Back

APPLICATION FOR

POST-CONVICTION RELIEF

[Attachment Rule 60 b-1.5]

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Inst.
2. Name and location of Court which imposed sentence General Sessions Court
of Aiken County.
3. Name(s) of co-defendant(s) (if any) Crystal Michael Jackson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) GS-2007-1308
 - (b) GS-2007-1309

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

APR 12 2011

C.C.C.P. & G. S., Aiken County, S.C.

Deputy Clerk

- (c) N/A
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 22, 2008
- (b) 2007-GS-1308 - Murder - Natural Life
- (c) 2007-GS-1309 - 1st Degree Burglary - 25 years Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. November 12, 2010
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2010-14-505
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Council 2 See attached
- (b) Will Amend pursuant to SC RCP Rule 71.1
- (c) Prosecution misconduct 2 Brady Violation
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached
- (b) N/A
- (c) N/A
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Motion for Relief of Judgement Under Rule 60 ¹⁻⁵ SC RCP
- ii. Motion Pursuant to Newly discovered evidence under Fed. R. Cr. P. 33
- iii. Mistake, Surprise and Misrepresentation - Newly Discovered
- iv. Evidence Pursuant to Reliance
- (b) the name and location of the Court in which each was filed:
- i. Aiken County - General Sessions
- ii. South Carolina - Attorney General's office
- iii. Manning County - General Sessions
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

~~NO~~ YES
N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. A Rule 60(B) 1-5 SCBCP was filed ^{motion} January 28, 2011
- ii. In the Aiken County General sessions Court.
- iii. Under Newly Discovered Evidence

(b) the proceedings in which each ground was raised:

- i. Aiken County Court of General sessions
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Ineffective Assistance Counsel could not be raised on
 (b) direct appeal & neither could these issues be raised they were not
 (c) properly preserved for direct appeal.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. Aaron Walsh - Public Defenders Office in Aiken County.
left and went to enter Private Practice
 ii. David Miller - P.O. Box Drawer 3368 - Aiken, SC 29802
N/A
 iii. ~~Joseph Sawitz III~~ Joseph Sawitz III - Chief Appellate Defender.
~~SC Commission on Indigent Defense~~ SC Commission on Indigent Defense - Division - App. Def. Sec.
 (b) the proceedings at which each such attorney represented you: P.O. Box 11289
Columbia, SC. 29211-1586
 i. Aaron Walsh - Preliminary Hearing - at Aiken County Detention Cent.
~~David Miller~~
 ii. David Miller - Trial Attorney - Post Trial Motions.
Trial - Sentencing
 iii. Joseph Sawitz III - Appellant Attorney - Direct -
Appeal.

MEMORANDUM OF LAW

Ineffective Assistance of Counsel

[Stickland v. Washington]

Applicant herewith amends the following grounds, arguments and violations to the attached post-conviction relief act for further grounds of relief.

(1) [Brady violation Rule 5]

(2) [Suppressing violation] Counsel failed to object to the admission of picture of socks, wallet, cards wrench, hammer, shoes xrays and tape of confession was illegally submitted to the jury, which was prejudice to Applicant.

(3) Stickland v. Washington


Chad Williams

19. State clearly the relief you seek in filing this application:

Vacate / Reverse sentence and conviction,
Remand for a New Trial

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of Aiken)

VERIFICATION

I, Clad Everette Williams 303225, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Clad E. Williams
Clad E. Williams

SWORN to and subscribed before me this 28TH
 day of MARCH, 2011.

[Signature] (L.S.)
 Notary Public

My Commission Expires: FEBRUARY 21, 2012

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Chad Everette Williams 300225, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Chad E. Williams
Applicant

SWORN or affirmed to and subscribed before me this
28TH day of MARCH, 2011.

[Signature]
Notary Public

My Commission Expires: FEBRUARY 21, 2012

Exhibit
①

1 the deceased was killed with what you and I would call a
2 crescent wrench.

3 THE COURT: Okay.

4 MR. WEEKS: That's the top view of it. And
5 that's the closed view of it that was taken out of the
6 burn hole that's been testified to.

7 And even though I may think I know what a
8 crescent wrench would look like if it was laid upside my
9 head, the forensic pathologist has a lot more expertise
10 and he's going to testify, I believe, that they matched up
11 consistently with the weapons that were taken out of the
12 burn hole to corroborate the witness's testimony as well
13 as we have a skull picture, an X-ray picture of the skull
14 showing that the depressed fracture of the skull and what
15 appears to be a round or square-ish indentation on the
16 back of Mr. Ellis's head that we allege was done with the
17 sledgehammer.

18 And I understand the pathologist to say that the
19 square-ish hole on the back of his skull would be
20 consistent with a large instrument, blunt instrument like
21 this sledgehammer.

22 THE COURT: Okay.

23 MR. WEEKS: He refers to it, Dr. Sexton refers to
24 it as keyhole patterns. And that's the purpose of -- I'm
25 not sure which number it is. It's kind of a side view of

1 his head. You can see that particular keyhole kind of --

2 THE COURT: Number 34?

3 MR. WEEKS: Yes, sir. And then the others are --

4 THE COURT: Okay.

5 MR. WEEKS: -- kind of from the closed end of the
6 wrench or from the pattern that's -- would be subjected on
7 a body by the wrench in question. *Exhibit ①*

8 We do have -- I do not believe any DNA from
9 Mr. Ellis was recovered from either one of the murder
10 weapons, that they were in the hole. So to tie it to the
11 death of Mr. Ellis by these weapons isn't accomplished by
12 any other way than the testimony of the Defendant,
13 Ms. Jackson and the corroboration by the pathologist.

14 So that's why the State feels like they are
15 important. I'm not trying to graphically try this case,
16 but I do want to be able to show the patterns. We are
17 going to run those black-and-white to see what they look
18 like and maybe we can substitute but I don't believe it
19 would show the pattern in the same fashion, the black-and-
20 white would.

21 THE COURT: Mr. Miller, do you want to address
22 those?

23 MR. MILLER: Your Honor, it's just the same.

24 THE COURT: Case law, State V. Nance, as well as
25 others, allow photographs of wounds that have been cleaned

CLAY ADAMS: DIRECT

1 A. And 19 is the side design of the shoe with apparent
2 blood on the side.

3 Q. These were all in that bag or in that hole?

4 A. Yes, sir.

5 Q. And State's 20?

6 A. State's 20 is a close-up photograph of some boxer
7 shorts, blue plaid style boxer shorts.

8 Q. Twenty-one?

9 A. State's 21 is a photograph of -- an enlarged
10 photograph of the -- or a photograph of the black-in-color
11 T-shirt that we recovered from that burn hole.

12 Q. State's 22?

EXHIBIT 2

13 A. State's 22 is a photograph of a pair of white colored
14 socks that we found in the burned debris.

15 Q. Twenty-three?

16 A. State's 23 is a photograph of a wind style suit
17 Jerzees size large.

18 Q. Twenty-four?

19 A. State's Exhibit 24 is a close-up photograph of the
20 partial remains of a Florida driver's license where if you
21 look closely you can see Theodore Ellis.

22 Q. Twenty-five?

23 A. State's Exhibit 25 is the close-up photograph of a
24 Bank of America Visa style card with the partial remains
25 of the signature of Herbert Ellis.

CLAY ADAMS: DIRECT

1 Q. Twenty-six?

2 A. Twenty-six is a close-up photograph of a Visa credit
3 card with the signature of Herbert still remaining.

4 Q. Twenty-seven?

5 A. State's Exhibit 27 is a close-up of a card. I believe
6 it's an Auto Broker style card. It's a credit card but
7 the name T. Ellis is -- still remains on the card.

8 Q. Twenty-eight?

9 A. State's Exhibit 28 is the remains of a card. I'm not
10 quite sure what type it is, but the Ellis signature still
11 remains.

12 Q. Where were y'all -- did you discover part of a cell
13 phone in that bag?

14 A. We did; the remains of it.

15 Q. What part of the remains of it?

16 A. The keypad portion was the only identifiable part of
17 it.

18 Q. Now State's 45 -- Your Honor, 46, and 47 it's my
19 understanding are without objection also.

20 MR. MILLER: That's correct, Your Honor.

21 THE COURT: Okay.

22 (Thereupon State's Exhibits 45, 46, and 47,
23 photographs, were admitted into evidence.)

24 THE COURT: Okay. They are in without objection.

25 BY MR. WEEKS:

CLAY ADAMS: CROSS

1 Q. And the items that you indicated were removed the
2 wrench and that are not in there but the clothing and the
3 pieces of credit cards and all of that are in the box?

4 A. No, sir. They're behind you.

5 Q. The clothing is in this box?

6 A. The clothing is in this box along with the shoes.

7 Q. State's 57, do you know what that contains?

Exhibit
35

8 A. Yes, sir. This is the black-in-color T-shirt and

9 white socks that were removed from the burn debris.

10 Q. Now, Clay, at some point after you got the items back
11 from South Carolina Law Enforcement Division that were
12 included in that initial cluster of burnt materials, did
13 y'all dissect it a little bit more and send some other
14 items back to SLED?

15 A. Yes. When the burn debris came back to us, it was
16 still in its original shape minus the shoes. The shoes
17 had been removed from the burn debris.

18 When the items came back to us, we basically
19 disassembled the burn debris. At that point in time is
20 when we located the Florida driver's license and credit
21 cards, observed the burned remains of the cell phone as
22 well as the white pair of socks and the black colored
23 T-shirt, which we sent back to SLED for DNA analysis.

24 Q. The socks and the T-shirt?

25 A. Yes, sir.

CLAY ADAMS: CROSS

Exhibit
(3)

1 MR. WEEKS: Clay, answer any questions that
2 defense has for you.

3 CROSS-EXAMINATION

4 BY MR. MILLER:

5 Q. Good morning, sir.

6 A. Good morning sir.

7 Q. You testified that it was your job to process,
8 yourself, assigned the job to process the scene for latent
9 fingerprints?

10 A. Yes, sir.

11 Q. And I keep hearing this, there were no latent prints
(12 of significance found. Now, what does that mean, of
13 significance?

14 A. Of significance means that they are identifiable.

15 Q. Okay.

16 A. If there's enough ridge detail present in the
17 impression to positively identify it to a person.

18 Q. So you found fingerprints in the house, and you found
19 prints throughout the house, but you just didn't find any
20 fingerprints that could be identified or you didn't find
21 any fingerprints that identified any of the suspects?

22 A. We didn't find identifiable fingerprints, period.

23 Q. Okay. Were you the only person that was looking for
24 the latent fingerprints inside the crime scene?

25 A. Yes, sir.

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 the woods past the house where this Defendant was living.
2 These are other items that were -- that's the
3 bundle of stuff that they had to break loose to find the
4 identification but you see the burn on the shoes. You see
5 Mr. Ellis' name, time and time again in the hole. You see
6 pants that were discovered in the hole. Wind pants as
7 everybody referred to them. You see shirts with cuttings
8 out that was in the hole or a shirt. Mr. Ellis' blood was
9 on it. See the plaid undershorts that everybody described
10 in the hole?

11 And the last picture that I'm going to flip for
12 you, there's 50 of them over there, is the socks. Now
13 Mr. Ellis had socks on -- I mean, Mr. Williams had socks
14 on. And the significance of them is when the police tore
15 that big bundle apart and found those socks in there where
16 they had not gotten burned, was that there was not only
17 Mr. Ellis' blood, there was, I think you can see visibly,
18 areas that appear to be blood. There was Chad Williams'
19 DNA on those socks.

20 Now, socks in my house might have anything from
21 dog to cat to two children to wife to visitors that came
22 in on them, but they ain't going to have Mr. Ellis' blood
23 on them unless I was there murdering him.

24 Now the way our system works is closing arguments
25 or closing discussions or whatever are done in an order.

Exhibit
④

CLOSING STATEMENTS ON BEHALF OF THE STATE

1 else, it just doesn't have enough heat to light up.

2 Well, that's where he made his mistake. He
3 didn't stir his little burn pile enough to burn up
4 everything but the hammer and the wrench. You see the
5 wrench on the top. The evidence was burned off of that.

6 What that hammer says to -- should say to you is
7 that Mr. Ellis' death was not only brutal but it was
8 extremely premeditated. That hammer, that square right
9 there, is correspondent to this piece right here that's
10 caved in on the back of Mr. Ellis' skull. You see all the
11 other little fractures that were caused by the beating
12 with the wrench? You see the bloody footprint on
13 Mr. Williams' (sic) body? Wasn't enough that he beat him
14 to death with a wrench, he had to step on him, probably to
15 hold him down. Probably to finish him off with that
16 sledgehammer.

17 See the wrench right on top where they squared it
18 off or raked off the pine straw? See the shoe right
19 there? I've seen cases where everybody tries to say that
20 the police are lying. I don't think they're trying to say
21 the police are lying in this case. It's refreshing
22 actually.

23 Nobody argued that that's blood. See the shoe
24 that's been melted over here? That's blood. That's
25 Mr. Ellis' blood. It's in that burn pile in the middle of



AIKEN COUNTY SHERIFF'S OFFICE
420 HAMPTON AVE., NE
AIKEN, SOUTH CAROLINA 29801
(803) 642-1791

Forensic Section Crime Scene Report

Death Investigation	07-024860	Inv. Sanders
0510707	1600	C. Johnson/C. Adams

YES	NO	YES	NO
	X		X
	X		X
X		X	
	X		
X			
	X		
X			

Several swabs for DNA

Exhibit 5

Items collected:

- CJ-17: One empty box of "Brawny" draw strings trash bag from trash in the front porch.
- CJ-18: One swab from the suspect's bathroom sink drain.
- CJ-19: One swab from shower knob of the suspect's bathroom.
- CJ-20: One swab from the suspect's bathroom sink counter. (Rx to Blue Star)
- CJ-21: One swab from the suspect's bathroom toilet right side. (Rx to Blue Star)
- CJ-22: One red in color wash rag, one green in color wash rag, and one purple, green and white striped wash rag from the suspect's bathroom. (Rx to Blue Star)
- * CJ-23: One pair of white in color socks from suspect's bathroom.
- CJ-24: One bath mat from the suspect's bathroom. (RX to Blue Star)
- CJ-25: One white in color towel and one green in color towel from the suspect's bathroom.
- CJ-26: One wash rag/lufa (mesh) sponge from suspect's bathroom. (Rx to blue star)
- CJ-27: One piece of wall paper and one light switch cover from the wall of the suspect's bathroom. (Rx to Blue Star)
- CJ-28: One swab from light switch of the suspect's bathroom. (Rx to Blue Star)

Exhibit
(6)

SLED Lab No. _____

SLED Item No LAB ONLY	Agency Item No.	Description of Evidence	Analysis Requested
	A0027544	Swab from shower knob of suspect's bathroom	Trace/DNA
	A0027545	Swab from suspect's bathroom sink counter	Trace/DNA
	A0027546	Swab from suspect's bathroom toilet (right side)	Trace/DNA
	A0027553	(1) Red wash rag, (1) green wash rag, (1) purple, green & white striped wash rag from suspect's bathroom	Trace/DNA
	A0027552	Pair of white socks from suspect's bathroom	Trace/DNA
	A0027555	Bath mat from suspect's bathroom	Trace/DNA
	A0027554	(1) White towel & (1) green towel from suspect's bathroom	Trace/DNA
	A0027550	(1) Wash rag/loofah sponge from suspect's bathroom	Trace/DNA
	A0027551	(1) piece of wall-paper & (1) light switch cover from wall of suspect's bathroom	Trace/DNA
	A0027547	Swab from light switch of suspect's bathroom	Trace/DNA
	A0027548	Swab of suspected blood from white shoe in fire debris	Trace/DNA
	A0027563	Buccal swab from Patricia Ann Quarles	Serology
	A0027519	Buccal swab from Katherine Deldre Young	Serology
	A0027520	Buccal swab from Joshua Clint Mace Jr.	Serology
	A0027562	Buccal swab from David Jason Quarles	Serology
	A0027641	Khaki shorts (sz. 34, No Boundaries) & lt. blue plaid boxers from Chad Williams clothes hamper	Serology
	A0027642	Green & white boxers, white tank top and flip flops from Crystal Jackson	Serology
Comments			
VICTIM IS HERBERT ELLIS			
SUSPECT IS CHAD E. WILLIAMS			

Print
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Aiken County Sheriff's Office

EVIDENCE/PROPERTY RECEIPT

Exhibit (7)

Case Number: 07-02480	
Officer: C. JOHNSON	Employee Number: 5260
Crime Type: Death Inv.	
Name of Person Received From: Case Scene / SUSPECT'S BATHROOM	
Defendants:	1. 2.
	3. 4.
Victims:	1. ELLIS, HERBERT
	2. 3. 4.
Physical Address: RD	Time: 5:00 PM Date: 5-7-07

Laboratory examination to be performed (i.e. Latent, AFIS, Serology):

Item #	Quantity	Item Description (include color, brand, serial number, condition, unusual markings)
7544	1	EMPTY BOX OF "BRAWNY" DEODORANT TRASH BAGS FROM TRASH ON FRONT PORCH (1682)
7543	1	SWAB FROM SUSPECT'S BATHROOM SINK DRAIN (1697)
7544	1	SWAB FROM SHOWER HEAD OF SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1700)
7545	1	SWAB FROM SUSPECT'S BATHROOM SINK COUNTER (R/R TO BLUE STAIR) (1702)
7546	1	SWAB FROM SUSPECT'S BATHROOM TOILET BOWL SIDE (R/R TO BLUE STAIR) (1705)
7553	3	ONE RED IN COLOR WASH RAG, ONE GREEN IN COLOR WASH RAG, ONE PINK, GREEN, AND WHITE STRIPED WASH RAG FROM SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1706)
7552	1	PAIR OF WHITE IN COLOR SOCKS FROM SUSPECT'S BATHROOM (1708)
7555	1	BATH MAT FROM SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1709)
7554	2	ONE WHITE IN COLOR TOWEL AND ONE GREEN IN COLOR TOWEL FROM SUSPECT'S BATHROOM (1710)
7550	1	WASH RAG / LOOFER SPOON FROM SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1709)
7551	2	ONE BOX OF WASH RAGS - ONE LIGHT GREEN COLOR FROM WASH OF SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1712)
7557	1	SWAB FROM LIGHT SWITCH OF SUSPECT'S BATHROOM (R/R TO BLUE STAIR) (1713)

CHAIN OF CUSTODY

Item #	Date	Print Name	Signature	Purpose for Change
07-02480	5-07-07	C. JOHNSON	[Signature]	ENCLOSURE CUSTODIAN
17-28	5-8-07	D. Sawyer	[Signature]	logged in
07-02480	5-10-07	C. JOHNSON	[Signature]	THAN TO SLED
17-28	5-10-07	D. Sawyer	[Signature]	Ret to Evid - SLED closed



State of South Carolina
The Circuit Court of the Third Judicial Circuit

R. FERRELL COTHRAN, JR.
 JUDGE

16 NORTH BROOKS STREET
 MANNING, SOUTH CAROLINA 29102
 TELEPHONE: (803) 435-2450
 FAX: (803) 435-2461
 E-MAIL: rcothran@sccourts.org

March 14, 2011

The Honorable Liz Godard
 Clerk of Court, Aiken County
 Post Office Box 583
 Aiken, South Carolina 29802

SEE exhibit 5
1-7
Attachment
Rule 60 b, 1-5

Re: Chad Williams vs. The State of SC

Dear Liz:

Enclosed for filing please find a Notice and Motion for Relief Judgment Under Rule 60 (B) SCRCF which I have denied. Please send Mr. Williams a certified copy.

Thank you for your assistance and cooperation in this matter.

With kindest personal regards, I am

Sincerely yours,

R. Ferrell Cothran, Jr.
 jgb
 Enclosures

March 16, 2011
Liz Godard
 C.C.P. & S.
Sharon Higgins
 Deputy Clerk

K094754

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

CHAD WILLIAMS,)

VS.)

STATE OF SOUTH CAROLINA)
_____)

NOTICE AND MOTION FOR RELIEF
JUDGEMENT UNDER RULE 60 (B),
SCRCP.

Handwritten signature
1500

STATEMENT AND PROCEDURAL HISTORY OF CASE

ON OCTOBER 20-22, 2008, APPLICANT CHAD E. WILLIAMS, STOOD TRIAL BY JURY IN THIS AIKEN COUNTY, BEFORE HONORABLE JUDGE FERRELL COTHRAN, JR., AND INDICTMENTS CHARGING HIM WITH FIRST-DEGREE BURGLARY AND MURDER. THE JURY FOUND WILLIAMS GUILTY AS CHARGED, AND THE JUDGE SENTENCED HIM TO CONCURRENT TERMS OF LIFE IN PRISON FOR MURDER AND 25 YEARS FOR FIRST-DEGREE BURGLARY.

THE APPLICANT APPEALED THE COURT'S ORDER TO THE SOUTH CAROLINA COURT OF APPEALS. THE COURT ISSUED IT'S UNPUBLISHED OPINION NO. 2010-UP-505, SUBMITTED NOVEMBER 1, 2010, FILED NOVEMBER 12, 2010. APPEAL DISMISSED.

APPLICANT PURSUANT TO RULE 60 (B) 1-5, UNDER THE NEWLY AND AFTER DISCOVERED EVIDENCE DOCTRINE FOR REVIEW AND TO BE CALLED INTO QUESTION UNDER THE RULE 60 (B), SEEKING RELIEF JUDGEMENT, MISTAKES, INADVERTENCE, EXCUSABLE NEGLIGENCE, NEWLY AFTER DISCOVERED EVIDENCE, WHICH IS SUPPORTED BY THE ATTACHED EXHIBITS NOT DISCOVERED IN TIME TO FILE A POST-TRIAL MOTION UNDER RULE 50-59, SCRCP, TO INCORPORATE RULE 60 (B), 1-5, SCRCP. APPLICANT'S PLEADINGS BEFORE THIS COURT AND THE ATTACHED ARGUMENTS, (AFFIDAVITS), SHOWS THAT HE JUST THROUGH THE EXERCISE OF DUE-DILIGENCE, RECEIVED AFTER THE [INFERRED] MALICE FROM THE USE OF A DEADLY WEAPON, FOR WHICH APPLICANT WAS SENTENCED AND TRIED

Denied
R. Ferrell C. Jr.
3-15-11

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, the Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing documents are a true and correct copy of the original documents which have been filed in my office at _____ day of _____, 2011.
Handwritten signature
Clerk of Court

2007-65-02-01309

BY ERRONEOUS JURY INSTRUCTIONS ON OCTOBER 20-22, 2008, SEE TRIAL TRANSCRIPT Pg. 68, LINES 8-18.

MALICE MAY BE INFERRED FROM CONDUCT [SHOWING] A TOTAL DISREGARD FOR HUMAN LIFE. [INFERRED] MALICE MAY ALSO ARISE WHEN THE DEED IS DONE [WITH A DEADLY WEAPON]. A DEADLY WEAPON IS [ANY] ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF EACH CASE. THE FOLLOWING ARE EXAMPLES OF THE INSTRUMENTS WHICH MAY BE DEADLY WEAPONS. PISTOL, GUN, RIFLE, DIRK, DAGGER, KNIFE, SLING-SHOT, MEDAL KNUCKLES, RAZOR, GASOLINE, FIRE-BOMB, LIGHTER-FLUID, AND A MOLOTOV. THE MISTAKE, INADVERTENCE, EXCUSABLE NEGLECT, FRAUD, MISREPRESENTATION, OR CIRCUMSTANCES PROFFERED BY THE ADVERSE PARTY WHICH WERE NOT AT THE TIME OF APPLICANT'S TRIAL UNCONSTITUTIONAL, BUT ARE NOW RETROACTIVELY UNCONSTITUTIONAL WITH THE INFERRED MALICE CHARGE TO A JURY BY A TRIAL JUDGE IS UNCONSTITUTIONAL, AND SETS A NEW PRECEDENT, AND STATE SUPREME COURT PRECEDENT FOR THE RULE 60 (B) 1-5, SCRPC, STATE V. BELCHER, OPINION NO. 26729, HEARD MAY 14, 2009, OCTOBER 12, 2009, THE SUPREME COURT MADE THE RULING RETROACTIVE, BUT MORE IMPORTANTLY, APPLICANT WAS TRIED AND CONVICTED UNDER THIS GRAVE UNCONSTITUTIONAL JURY INSTRUCTION ON INFERRED MALICE FROM THE USE OF ANY WEAPON WHICH CAUSES [DEATH]. THIS CHARGE INSTRUCTED THE JURY IN APPLICANT'S CASE WITH THE [INFERRED] MALICE INSTRUCTION AWAY FROM THE FACTS OF APPLICANT'S CASE. THE SUPREME COURT HAS RULED THIS IS NO LONGER GOOD LAW IN SOUTH CAROLINA, WHERE EVIDENCE PRESENTED THAT WOULD REDUCE MITIGATE EXCUSE OR JUSTIFY THE HOMICIDE. THE SOLICITOR IN APPLICANT'S CASE PRIMARILY DEPENDED ON THE STATUTE ITSELF OF MURDER TO PRECLUDE ANY LESSOR OFFENSE TO THE CRIME WAS LEAVING THE JURY WITH ONLY ONE ALTERNATIVE WHICH WAS TO FIND THE APPLICANT GUILTY OF MURDER, SPECIFICALLY WITH THE INFERRED MALICE CHARGE FROM THE USE OF ANY DEADLY WEAPON INSTRUCTION TO JURY, IT GAVE THE FINDER OF FACTS ONLY A NARROW LINE TO DELIBERATE. THE SOLICITOR AND THE COURTS

PRESENTMENT OF THE DETAILS OF THE CRIME TO THE JURY IN CHARGING THEM AND IN THE OPENING AND CLOSING REMARKS, SIMPLY RELIED UPON THE INFERRED MALICE INSTRUCTION IN A ROUND ABOUT WAY, ALTHOUGH MENTIONING AND NOTING THE OTHER ELEMENTS OF MURDER, CLEARLY, THIS CONFUSED THE JURY AND AT MINIMUM, [POSSIBLY], CAUSED THE JURY TO IGNORE THE OTHER INSTRUCTIONS, AND HAD THE POTENTIAL TO BLINDSIDE THE JURY FROM ANY DEFENCE PREPARED OR OBJECTED TO BY COUNSEL FOR APPLICANT. AT BEST AS IN THE BELCHER RULING, THE TESTIMONY AT APPLICANT'S TRIAL REVEALED NUMEROUS CONFLICTING STATEMENTS ABOUT THE VERSIONS OF THE SCENE OF THE CRIME AND APPLICANT'S INVOLVEMENTS.

ANALOGY

SEE TRIAL TRANSCRIPT, Pg. 224, LINES 10-22, LILLY, WERE YOU SUBMITTED OR WERE S.L.E.D SUBMITTED A WRENCH AND A SLEDGEHAMMER IN THIS CASE? YES. ITEM NUMBER 28.1 IS A SWAB FROM A WRENCH. WERE YOU ABLE TO MAKE ANY COMPARISONS FROM THOSE ITEMS, LINE 15, YES, I WAS, THE D.N.A PROFILE AVAILABLE FROM ITEM 28.1 IS FROM AN UNIDENTIFIED FEMALE INDIVIDUAL. SO I DID NOT, LINE 17, HAVE - - IT DID NOT MATCH ANY OF THE STANDARDS THAT WERE SUBMITTED TO ME. THUS, THE HAMMER AND THE WRENCH BY THE STATE'S OWN FORENSICS DID NOT MATCH APPLICANT'S D.N.A., WHICH WAS PROVIDENTIALLY THE ITEMS AND EXHIBITS HEAVILY RELIED UPON TO PROVE MURDER BY INFERRED MALICE. APPLICANT'S CASE AND CONVICTION OF MURDER LIKE IN THE BELCHER'S RULING PROHIBITED THE JURY FROM BEING CHARGED ON THE FACTS OF HIS CASE. TRIAL COUNSEL THEN WAS HIGHLY INEFFECTIVE AND PREJUDICIAL BY NOT AT LEAST OBJECTING TO THE IMPLIED MALICE INSTRUCTION. THE COURT EXPLAINED THAT, [W]HEN ALL THE CIRCUMSTANCES OF THE CASE ARE FULLY PROVED, THERE IS NO ROOM FOR PRESUMPTION, UNLESS THE FACTS AND CIRCUMSTANCES SHOWN IN TESTIMONY ON BEHALF OF THE STATE, INCIDENTALLY REBUT IT.

THE APPLICANT'S CASE WAS ONE TO BE DECIDED BY THE FACT

FOR THE JURY ON [ALL] THE ELEMENTS OF MALICE APART FROM THE COURT'S INSTRUCTIONS TO AUTOMATICALLY ASSUME THE PRESUMPTION OF INFERRED MALICE IN IT'S INSTRUCTION SIMPLY FOR THE USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME. THE SUPREME COURT HAS RECENTLY RULED THIS INSTRUCTION TO A JURY IS UNCONSTITUTIONAL. THE RECORDS AND EVIDENCE PROFFERED BY THE STATE AND THE INSTRUCTION OF IMPLIED MALICE CHARGE UNDERMINES THE TRUE CONDUCT AS DETERMINED BETWEEN THE TIMES OF THE INCIDENT UNTIL THE ACTUAL ALLEGED CRIME. THE APPLICANT WAS DEPRIVED OF ANY DOUBT THAT MAY HAVE BEEN CONSIDERED BY THE JURY BY THE IMPLIED MALICE INSTRUCTION AS TO WHETHER OR NOT IT WAS A COLD BLOODED CALCULATED PREMEDITATED SCHEME TO MURDER. IT IS MORE LIKELY THAT THIS PRECEPTION GAVE THE JURY AN INSTRUCTION, WHICH CAUSED THEM TO ERR IN IT'S APPLICATION OF THE CHARGE OF MURDER. THE LAW AS BEING INTERPUTED NOW IS THAT THE JURY [MUST] FIND MALICE, IF AT ALL, FROM THE EVIDENCE, WITHOUT ANY AIDE FROM THE COURT AS TO WHAT WEIGHT DID THOUGHTS, MOTIVES, AND INTECTION THAT MAY OR MAYNOT BE PRESENT SIMPLY BY THE USE OF ANY TYPE OF WEAPON WHICH ENDED IN MURDER. THE MALICE INSTRUCTION GIVEN TO THE JURY IN THE INSTANT CASE WAS WITHOUT THE INSTRUCTION REQUIRED. HENCE, THE CHARGE WAS BURDEN SHIFTING AND PLACES APPLICANT IN AN UNCONSTITUTIONAL POSITION TO PROVE HIS OWN INNOCENCE.

THE HIGH COURT HAS RECENTLY RULED THE IMPLIED MALICE INSTRUCTION NO-LONGER HAS ANY PLACE IN A MURDER TRIAL, SPECIFICALLY WHERE EVIDENCE AND TESTIMONY AS IN THE INSTANT CASE PROVES DIFFERENT. APPLICANT RESPECTFULLY URGES THIS COURT TO TREAT AND FIND THAT THE BENCH-MARK CASE, AND RECENT FINDINGS BY OUR ESTEEMED SUPREME COURT BE UPHELD AND APPLIED IN WILLIAM'S CASE WITH THE IMPLIED MALICE CHARGE WHICH WAS NOT AT TRIAL, BUT FOUND LATER TO BE UNCONSTITUTIONAL FOR WHICH IS THE PREMISE FOR THE RULE 60 (B) 1-5, SCRCF. UNDER THIS RULE THE COURT MAINTAINS POWER EVEN AFTER ONE YEAR TO SET ASIDE IT'S OWN JUDGEMENT, EVEN UNDER AN INDEPENDENT MOTION TO AVOID THE NECESSITY OF BRINGING A NEW ACTION TO SET ASIDE JUDGEMENT IN SUCH CASES AFTER ONE YEAR. THE SUPREME COURT IN THE BELCHER'S RULING IS THE PREMISE FOR

APPLICANT'S MOTION UNDER THE FUNDAMENTAL ALLOWANCE OF LAW, MISTAKES, INADVERTENCE, SURPRISE, OR EXCUSABLE NEGLECT.

FINALLY, KEY 456 (2) LIMITATION APPLICABLE RELIEF FROM JUDGEMENT FOR FRAUD UPON THE COURT IS NOT SUBJECT TO THE ONE YEAR LIMIT PLACED ON RELIEF FOR FRAUD, MISREPRESENTATION, OR OTHER MISCONDUCT BY ADVERSE PARTY, SEE 60 (B) (3), CHEWNING (2001) JUDGEMENT KEY 773 (4), DUE-PROCESS PROHIBITS AND STOPPING LITIGANTS UNDER DOCTRINE OF COLLATERAL ESTOPPEL WHO [NEVER] HAD A CHANCE TO PRESENT THEIR NEW EVIDENCE AND ARGUMENTS ON CLAIM, DESPITE THE ADVERSE PARTY'S POSITION, SEE U.S.C.A. 14; ROBERTS V. RECOVERY BUREAU, Inc., 450 S.E.2d 616, 316 S.C. 492 (S.C. APP. 1994).

THE SUPREME COURT RULED IN BELCHER THAT BECAUSE THEIR DECISION ON THE INFERRED, OR IMPLIED MALICE DOCTRINE INSTRUCTION TO JURIES FOR THE USE OF A WEAPON DURING THE ACT OF MURDER REPRESENTS A CLEAR BREAK FROM THEIR MODERN PRECEDENT THAT THE RULING IS EFFECTIVE IN ALL CASES WHICH ARE PENDING OR DIRECT REVIEW OR NOT YET FINAL WHERE THE ISSUE IS PRESERVED, THEY FURTHER RULED THAT THE NEW RULE FOR THE CONDUCT OF CRIMINAL PROSECUTIONS IS TO BE [APPLIED RETROACTIVELY] TO ALL CASES NOT FINAL. IT ALSO APPLIES TO ALL CASES IN THE PIPELINE. THE HOLDING ALSO APPLIED TO ASSAULT AND BATTERY WITH INTENT TO KILL APPLIES TO [ABWIK]; STATE V. WILDS, 355 S.C. 269, 275, 584 S.E.2d. 138, 141 (Ct. App. 2003), THE COURTS RULED THIS MALICE RULE IS AND WAS MISLEADING BECAUSE IT DOES NOT CHARGE A JURY TO THE LAW, BUT THE FACTS WHETHER THE CHARGE IS JUSTIFIABLE OR UNEXCUSED.

31 *Charles E. Williams*

Respectfully
Submitted:

STATE OF SOUTH CAROLINA
COUNTY OF ALLEN
I, the Clerk of Court, do hereby certify and attest that the foregoing is a true and correct copy of the original document filed with me in my office this _____ day of _____, 2003.
Clerk of Court
Charles E. Williams

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

CHAD WILLIAMS)
VS.)
STATE OF SOUTH CAROLINA.)

CERTIFICATE OF SERVICE BY MAIL

I, Chad Everett Williams, HEREBY DECLARE THAT ON JANUARY 18, 2011, I PLACED RULE 60 (B) 1-5 MOTION PURSUANT TO NEWLY DISCOVERED EVIDENCE UNDER FRAUD, MISTAKE, SURPRISE, MISREPRESENTATION INTO THE CUSTODY OF PERRY CORRECTIONAL INSTITUTION'S MAIL ROOM CLERK, PROPER POSTAGE PRE-PAID, AND AFFIXED TO THE ADDRESSES BELOW, NOTICE AND MOTION.

LIZ GODARD
CLERK OF COURT-AIKEN COUNTY
P.O. BOX 583
AIKEN, SOUTH CAROLINA, 29802-0583

SOUTH CAROLINA ATTORNEY GENERAL
P.O. BOX 11549
COLUMBIA, SOUTH CAROLINA 29211

The Honorable R. Ferrell Cochran Sr.
16 North Brooks Street
Manning, SC 29102

S/ Chad Everett Williams
CHAD WILLIAMS
P.C.-I - DORM Q1A-108

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

430 OAKLAWN ROAD

I, Liz Godard, Clerk of Court of Common Pleas and County
Judges for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this

SOUTH CAROLINA

29669

28 January 2011
Chad Everett Williams
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

CHAD E. WILLIAMS,)
VS.)
STATE OF SOUTH CAROLINA.)

C/A NO. 2007-GS-1308-2007-GS-13c
SWORN AFFIDAVIT

I, Chad Everett Williams, DECLARE UNDER THE
PENALTY OF PERJURY WITH THE FILING OF NOTICE AND MOTION FOR
RELIEF JUDGEMENT UNDER RULE 60 (B) 1-5, SCRPC:

- 1) ALLEGATIONS TO BE TRUE;
- 2) I AM THE APPLICANT IN THE MATERIALS AND
ISSUES RAISED UNDER NEWLY AND AFTER
DISCOVERED EVIDENCE PURSUANT TO BELCHER;
- 3) COULD NOT THROUGH DUE-DILIGENCE
BE RAISED OR DISCOVERED EARLY OR AT TRIAL.

SWORN TO SUBSCRIBED TO BEFORE ME
THIS 18th DAY OF JANUARY, 2011.

Conrad J. Gorman
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires:
May 17th, 2014

S/ Chad Everett Williams
CHAD E. WILLIAMS

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Deborah A. Gorman, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original document which have been filed in my office this
day of January, 2011.
Deborah A. Gorman
Clerk of Court of Common Pleas and General Sessions
Aiken County, South Carolina
Deputy Clerk

JANUARY 18, 2011

LIZ GODARD
CLERK OF COURT-AIKEN COUNTY
P.O. BOX 583
AIKEN, SOUTH CAROLINA 29802-0583

IN RE: CHAD E. WILLIAMS #303225, 430 OAKLAWN ROAD, PELZER,
SOUTH CAROLINA 29669, DORM Q1A-108.

NOTICE AND MOTION FOR RELIEF JUDGEMENT UNDER RULE
60 (B) S.C.R.C.P.

DEAR CLERK GODARD.

ENCLOSED HERewith YOU WILL PLEASE TAKE JUDICIAL NOTICE
OF THE APPLICANT'S 60 (B) 1-5, S.C.R.C.P. ACCORDINGLY, YOU WILL
FIND TWO (2) COPIES AND ONE ORIGINAL FOR CLOCK-STAMP FILING IN
THIS COURT, AND THE RETURNING OF MY COPIES FOR MY RECORDS, IN THE
ENVELOPE PROVIDED FOR YOUR CONVENIENCE.

YOURS TRULY
S/ *Chad Everett Williams*
CHAD E. WILLIAMS

*Copies Mr. Williams
Sent.
Jude Early*

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing contains a true and correct copy of the
original documents which have been filed in my office this
day of *January*, 2011.
Liz Godard
Clerk of Court
Deputy Clerk

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Aiken

Chad Everett Williams

AKA:

Race:

Sex: M

Age:

DOB:

SSN:

Address:

14 Gibson Road

City, State, Zip:

Jackson 29821

DL#

SID#

SC 01980816

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS

TO:

Murder

in violation of § 16-3-10

of the S.C. Code of Laws, bearing CDR Code # 116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lowd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTORNEY

Philip W. Green

Solicitor

Chad Williams

Defendant

David W. Miller

Attorney for Defendant

14553

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections, ☐ County Detention Center, for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ set by SCDPPPS

Attend Voc. Rehab. or Job Corp. _____

Recipient:

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$

\$14-1-206 (Assessments 107.5%)

\$

\$14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

\$100.00

\$14-1-211(A)(2) (DUI Surcharge)

\$100

\$

\$56-5-2995 (DUI Assessment)

\$12

\$

\$35.13 (Public Def/Prob)

\$500

\$

\$73.3, 1B TP (Law Enforce. Funding)

\$25

\$

\$25.00

\$33.7, 1B TP (Drug Court Surcharge)

\$100

\$

\$50-21-114(BUI Breath Test Fee)

\$50

\$

\$56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$

\$3.90

\$90.11 TP (SCCJA Surcharge)

\$5

\$

\$5.00

TOTAL

\$133.90

Ann Sanders
Clerk of Court/ Deputy Clerk

Court Reporter:

Cheri Young

PRESIDING JUDGE

Judge Code:

Sentence Date:

2 1 4 14
Oct 22, 08

SCCA/217 (07/2008)

STATE OF SOUTH CAROLINA
COUNTY OF AIKENIN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

State of South Carolina)

INDICTMENT NO:

2007-GS-02-1308

v.)

VERDICT FORM

Chad Everett Williams,)
Defendant.)
_____)POSSIBLE VERDICTS

1. We the jury find the Defendant guilty of murder.

Ric J. Rame #164
Foreman

2. We the jury find the Defendant not guilty.

Foreman

October 22, 2008

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on July 23, 2007, the
Grand Jurors of Aiken County present upon their oath:

MURDER

That CHAD EVERETTE WILLIAMS did in Aiken County on or about May 2, 2007, feloniously, wilfully and with malice aforethought, then and there kill and murder Herbert Ellis by means of beating Herbert Ellis about his head and body with a crescent wrench and a hammer and that the victim did die in Aiken County at [REDACTED] Aiken, South Carolina as a proximate result thereof on the 2nd day of May, 2007. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

V. Lagger, A.C.S.O.

FILED

July 12 2007

Tracy Hodard

CLERK

Pauline Perry

Deputy Clerk

ARREST WARRANT NUMBER

K-094754

ACTION OF GRAND JURY

True Bill

Joan W. Denny

Foreperson of Grand Jury

Date: July 12, 2007

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-02- 1308

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

July 23, Term 2007

THE STATE

vs.

CHAD EVERETTE WILLIAMS

Indictment for

MURDER

SC Code 16-3-10

CDR Code 116

Class FEL-EXM

407

ARREST WARRANT

K- 094754

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

AIKEN COUNTY

THE STATE

against

07-024860

CHAD WILLIAMS

Address: _____

AIKEN SC 29805

Phone: _____ SSN: _____

Sex: ☐ Race: ☐ Height: ☐ Weight: ☐ 150

DL State: _____ DL#: _____

DOB: _____ Agency ORI: 200

Prosecuting Agency: SHERIFF DEPT

Prosecuting Officer: IND. VICTORIA LAGGER

Offense: MURDER - VIOLATION

SC 16-3-10 Offense Code: 114

Code/Ordinance Sec. 16-3-10

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date

RETURN

A copy of this arrest warrant was delivered to defendant CHAD WILLIAMS on 3/30/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

POLICE HEARING COURT

405 LITTE ROAD

AIKEN

SC 29801

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

AIKEN COUNTY

AFFIDAVIT

Personally appeared before me the affiant IND. VICTORIA LAGGER who being duly sworn deposes and says that defendant CHAD WILLIAMS did within this county and state on 3/23/07 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars:

DESCRIPTION OF OFFENSE: MURDER - VIOLATION SC 16-3-10

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

UPON INFORMATION AND BELIEF BETWEEN MAY 1, AND 2, 2007, CHAD WILLIAMS DID KILL HERBERT ELLIS WITH MALICE AFORETHOUGHT, BEATING HIM TO DEATH AT HIS RESIDENCE LOCATED AT _____ IN AIKEN, AIKEN COUNTY, SC. WILLIAMS HAS ADMITTED TO OTHER THAT HE COMMITTED THIS OFFENSE AND OTHERS WITNESSED HIM DISPOSE OF PROPERTY RELATED TO THIS OFFENSE. THIS INCIDENT BEING A VIOLATION OF THE SC CODE OF LAWS AS AMENDED.

Signature of Affiant

Affiant's Address: 100 MARTIN AVE

AIKEN

Affiant's Telephone: 803-622-1740

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

AIKEN COUNTY

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 3/23/07 defendant CHAD WILLIAMS did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below.

DESCRIPTION OF OFFENSE: MURDER - VIOLATION SC 16-3-10

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be served to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

Signature of Issuing Judge

(L.S.)

Signature of Issuing Judge

Judge Code: 430

Judge's Address: 100 MARTIN AVE

AIKEN

Judge's Telephone: 803-622-1740

Issuing Court:

☐ Magistrate☐ Municipal☐ Circuit

ORIGINAL

Form Approved-110
N.C. Attorney General's
April 17, 2006
S.C.A.R. 10

3/30/07
Ind. Victoria Lagger
Sheriff's Office
AIKEN
(Deputy Clerk)

408

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Aiken

Chad E. Williams

AKA:

Race:

Sex: M

Age: 23

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

815

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO:

Burglary First

in violation of § 16-11-311(A)(3) of the S.C. Code of Laws, bearing CDR Code # 079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lowd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,

which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: To Murder☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State

Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐☐ set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: \$ _____ Substance Abuse Counseling ☐\$14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing ☐

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ prts. of \$ _____ Beginning _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

\$35.13 (Public Def/Prob) \$500 \$ _____ Other: _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 35.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114(BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

\$90.11 TP (SCCA Surcharge) \$5 \$ 3.90

TOTAL \$ 133.90

PRESIDING JUDGE _____

Court Reporter: _____ Judge Code: _____

Sentence Date: _____

SCCA/217 (07/2008)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

State of South Carolina)
)
)
v.)
)
)
Chad Everette Williams,)
Defendant.)
_____)

INDICTMENT NO:
2007-GS-02-1309

VERDICT FORM

POSSIBLE VERDICTS

1. We the jury find the Defendant guilty of burglary in the first degree.

Rita J. Paine #164
Foreman

2. We the jury find the Defendant not guilty.

Foreman

October 22, 2008

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

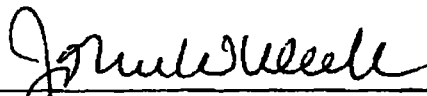
INDICTMENT

At a Court of General Sessions, convened on July 23, 2007, the Grand Jurors of Aiken County present upon their oath:

BURGLARY IN THE FIRST DEGREE

That CHAD EVERETTE WILLIAMS did in Aiken County on or about May 2, 2007, wilfully and unlawfully enter the dwelling of Herbert Ellis located at [REDACTED] Aiken, South Carolina, without consent and with the intent to commit a crime therein and the defendant did enter or remain in the dwelling in the nighttime, all in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

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


BARBARA R. MORGAN, SOLICITOR

411

WITNESSES

V. Lager, A.C.S.O.

FILED

July 12 2007

Tracy Hodard

CLERK

Pauline Lunny

Deputy Clerk

ARREST WARRANT NUMBER

K-094766

ACTION OF GRAND JURY

True Bill

Joan W. Donnelly

Foreperson of Grand Jury

Date: July 12, 2007

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-02-

1309

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

July 23, TERM 2007

THE STATE

vs.

CHAD EVERETTE WILLIAMS

Indictment for

BURGLARY IN THE FIRST DEGREE

SC Code: 16-11-311(A)(3)

CDR Code: 079

Class FEL-EXM(V)

ARREST WARRANT

K- 094766

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Aiken CountyTHE STATE 07-094827
against

CHAD WILLIAMS

Address: Aiken Island SC 29805

Phone: SSN: [REDACTED]

Sex: Race: Height: Weight: 150

DL State:

DOB: Agency ORI: 0000

Prosecuting Agency: Aiken County

Prosecuting Officer: VICTORIA LADDER

Offense: BURGLARY 1ST 16-11-011(A)(1)(A)(3)(C)

Offense Code: 007

Code/Ordinance Sec. 16-11-011

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant CHAD WILLIAMS
on 5-4-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Aiken County
Aiken Island SC 29805

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Aiken County

AFFIDAVIT

Personally appeared before me the affiant SGT BAKER who
being duly sworn deposes and says that defendant CHAD WILLIAMS
did within this county and state on 5/2/07 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of)
in the following particulars:DESCRIPTION OF OFFENSE: BURGLARY 1ST 16-11-011(A)(1)(A)(3)(C)
(2)(3)I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
UPON INFORMATION AND BELIEF IN THE EARLY HOURS OF MAY 2, 2007
CHAD WILLIAMS DID ENTER THE RESIDENCE OF HERBERT ELLIS BARNETT
HOURS OF DARKNESS AND BEAT HIM TO DEATH AT HIS RESIDENCE LOCATED
AT [REDACTED] IN AIKEN, AIKEN COUNTY, SOUTH CAROLINA.
WILLIAMS STOLE MONEY AND PROPERTY FROM ELLIS WHILE ARMED WITH A
HAMMER AND WRENCH AND HE HAS ADMITTED TO OTHERS THAT HE COMMITTED
THIS OFFENSE. WILLIAMS HAS THREE PRIOR CONVICTIONS FOR BURGLARY,
THIS INCIDENT BEING IN VIOLATION OF THE SC CODE OF LAWS AS
AMENDED.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Aiken CountyAffiant's Address: 420 HANFORD AVENUE
AIKEN SC 29801

Affiant's Telephone: 803 642-1550

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 5/2/07 defendant CHAD WILLIAMS
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County/ ☐ Municipality of) as set forth below.DESCRIPTION OF OFFENSE: BURGLARY 1ST 16-11-011(A)(1)(A)(3)(C)
(2)(3)Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.Sworn to and subscribed before me
on 5/2/07

(L.S.)

Signature of Issuing Judge

Judge Code: 654

Judge's Address: 420 HANFORD AVENUE

AIKEN SC 29801

Judge's Telephone: 803 642-1550

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

Court Approved by
S.C. Attorney General
April 21, 2007
SCAG 619

MS. Godard,

3-28-11

Enclosed in this Envelope is my PCR Application - my exhibits - agreements to establish my grounds. I ask you this day that you send me a copy of this documentation that you have received this package, has been clock stamped - filed with the General Sessions Court of Licken County, with your office. So I can have a copy for my file... Thank you.

Respectfully
Submitted
By
Chael
Everette
Williams.

...
Copys sent.

1) Clerk of Court - Liz Godard, of Licken County.

2) Attorney General's Office.

Sent

March, 27th, 2011

FORM 5

K094754

K094766

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN)

CASE NO.: 2011-CP-02-00729

Chad Everette Williams # 303225)

Full name and prison number (if any) of Applicant.)

AMENDED

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution, 435 Oaklawn Road, Pelzer, SC 29669

2. Name and location of Court which imposed sentence Aiken County Court of General Sessions

3. Name(s) of co-defendant(s) (if any) Crystal Jackson

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2007-GS-02-1308

(b) 2007-GS-02-1309

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) October 22, 2008 (Sentence was imposed)

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AIKEN COUNTY
CLERK OF COURT

- (b) 2007-GS-02-1308 Murder - Life
 - (c) 2007-GS-02-1309 Burglary in the First Degree - 25 Years Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
 - (b) after a plea of not guilty X
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. The South Carolina Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Denied
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. Submitted November 1, 2010
 - ii. Filed November 12, 2010
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. Unpublished Opinion No. 2010-UP-505
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) Ineffective assistance of Counsel - Counsel failed to object to the introduction of certain pieces of evidence that should have been objected to and therefore prejudiced the applicant.

(b) Ineffective assistance of Counsel - Counsel failed to object to the jury charge instructing that malice may be inferred from the use of a deadly weapon.

(c) Ineffective assistance of Counsel - Counsel failed to properly object to the introduction of the confession during the Jackson v. Denno hearing.

(d) Ineffective assistance of Counsel - Counsel was ineffective for advising applicant to confess to the crimes of Murder and Burglary as the confession was used to convict applicant at trial.

(e) Ineffective assistance of Counsel - Counsel failed to request the jury instruction of Accessory after the fact.

(f) Ineffective assistance of Counsel - Counsel failed to adequately prepare for trial and develop a trial strategy.

(g) Brady Violations

(h) Ineffective assistance of Counsel - Counsel failed to object to testimony of state's witnesses and failed to effectively cross examine the state's witnesses.

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

(a) Counsel was ineffective for not objecting to the introduction of the picture of the socks and other items introduced into evidence.

(b) The jury received a charge instructing that malice may be inferred from the use of a deadly weapon which under State v. Belcher is no longer good law. Counsel should have objected to this charge

(c) At the time of applicant's confession he was under the influence of the antipsychotic medication, Lorazepam. This medication affected applicant's ability to knowingly, voluntarily and willingly confess.

(d) Applicant's counsel advised him to confess to the crimes of Murder and Burglary. Applicant did not plead guilty to these crimes for a reduced sentence. Instead, applicant went to trial and was found guilty by his own confession.

(e) There was evidence that applicant should have received the jury instruction of accessory after the fact. Counsel should have requested this instruction.

(f) On October 16, 2008, applicant went to court for a guilty plea to the charges of Murder and Burglary. The plea fell through. The case went to trial four days later and applicant was convicted of Murder and Burglary. This was insufficient time for counsel to adequately prepare for trial and prepare a trial strategy.

(g) The state committed a Brady violation when they failed to turn over evidence to the defense counsel and applicant.

(h) Counsel failed to object to or correct on cross examination testimony of certain witnesses for the state.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
- (d) any other petitions, motions or applications in this or any other Court? No.

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Motion for relief of Judgment under rule 60(B) SCRCP.

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. Aiken County Court of General Sessions Second Judicial Circuit

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Denied

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. March 16, 2011

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. A motion was filed pursuant to Rule 60 (B) of the SCRCF regarding newly discovered evidence.

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. Aiken County Court of General Sessions

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is applicant's first time filing for post-conviction relief.

- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
 - (b) your trial, if any? Yes.
 - (c) your sentencing? Yes.
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes.
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. David Miller - Second Circuit Solicitor's Office - PO Box 3368 Aiken SC 29802
 - ii. Joseph L. Savitz - 1825 St. Julian Place Unit 15-D Columbia, SC 29204
 - iii. Paige Weeks Johnson, Esq. and Brett H. Lancer, Esq. - Johnson, Johnson, Whittle & Lancer Attorneys, P.A. - PO Box 2619 Aiken, SC 29802
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial and Sentencing
 - ii. Appeal
 - iii. PCR Application
19. State clearly the relief you seek in filing this application:
Vacate sentence and conviction and remand for new trial.
20. Are you now under sentence from any other court that you have not challenged?
No.

STATE OF SOUTH CAROLINA

County of Aiken

)
)
)

VERIFICATION

I, Brett H. Lancer, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Brett H. Lancer

SWORN to and subscribed before me this 10th
day of January, 2014.

Brett Richardt (L.S.)
Notary Public

My Commission Expires: 4/11/23

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2011-CP-02-00729
	)	
Chad Everette Williams, #303225,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(Appointment of Counsel Requested)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 1, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted at the July 2007 term of the Aiken County Grand Jury for Murder (2007-GS-02-1308) and Burglary in the First Degree (2007-GS-02-1309). David Miller, Esquire, represented him. On October 20-22, 2008, Applicant proceeded to a jury trial before the R. Ferrell Cothran, Jr. Applicant was found guilty, and on October 22, 2008, Applicant was sentenced to life imprisonment for Murder and twenty five (25) years imprisonment for Burglary, First. All sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was perfected by Joseph L. Savitz, III, Esquire. The Applicant submitted a Brief of Appellant on December 4, 2009. The South Carolina Court of Appeals dismissed the Applicant's appeal.

State v. Williams, Op. No. 2010-UP-505 (S.C. Ct. App. filed November 12, 2010). The Remittitur was sent on December 23, 2010.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the appellate records and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Exhibits 1-7."
 - b. "Brady Violation Rule 5."
 - c. "Suppressing violation. Counsel failed to object to the admission of picture of socks, wallet, cards wrench, hammer, shoes xrays and tape of confession was illegally submitted to the jury, which was prejudice to Applicant."
 - d. "Strickland v. Washington."
2. "Prosecution misconduct – Brady Violation."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process

that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ROBERT D. CORNEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

September 12, 2011.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2011-CP-02-00729
	)	
CHAD EVERETTE WILLIAMS, 303225,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Paige Weeks Johnson, Esquire
 Johnson, Johnson & Whittle
 Post Office Box 2619
 Aiken, SC 29802

DATED this 12th day of September, 2011.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2011-CP-02-00729

3
4 CHAD E. WILLIAMS,
Applicant,

5 -vs-

TRANSCRIPT OF RECORD

6
7 STATE OF SOUTH CAROLINA,
Respondent.

8
9 Post-Conviction Relief Hearing

10 Heard on Tuesday, January 21, 2014

11 Aiken, South Carolina

12 BEFORE:

13 THE HONORABLE EDGAR W. DICKSON

14
15 APPEARANCES:

16 Counsel on Behalf of the Applicant:
17 Brett H. Lancer, Esq.

18
19 Counsel on Behalf of the Respondent, State of SC:
Daniel Gourley, Esq.

20
21
22 Cheri L. Young, RPR
23 Circuit Court Reporter
P O Box 5232
24 Aiken, SC 29803-5232
25

EXAMINATION INDEX

CHAD EVERETT WILLIAMS

DIRECT BY MR. LANCER

7

CROSS BY MR. GOURLEY

53

DAVID W. MILLER

DIRECT BY MR. LANCER

60

CROSS BY MR. GOURLEY

90

EXHIBIT INDEX

MAR ADM

Plaintiff's

1	Photograph	10	12
2	SLED investigative report, 7 pages	39	40
3	SLED report, pages 1-5 of 10, 5 pages		43

1 ON TUESDAY, JANUARY 21, 2014 AT 10:37 A.M.:

2 MR. LANCER: Good morning, sir. How are you doing?

3 THE COURT: Doing fine. All right, Mr. Gourley?

4 MR. GOURLEY: Yes, Your Honor.

5 This is Chad Williams versus State of South
6 Carolina. Docket Number 2011-CP-02-729. Presently
7 confined to South Carolina Department of Corrections
8 pursuant to orders of commitment from the Aiken County
9 Clerk of Court. He was indicted at the July 2007 term of
10 the Aiken County Grand Jury for murder and burglary in
11 first degree. Mr. David Miller represented him.

12 On October 20th through the 22nd, 2008, he proceeded
13 to a jury trial before the Honorable R. Ferrell Cothran,
14 Jr. Found guilty. And on October 22nd, 2008, he was
15 sentenced to life imprisonment for murder and 25 years
16 imprisonment for burglary first. All sentences were to be
17 served concurrently.

18 Timely notice of appeal was filed on Applicant's
19 behalf. An Anders brief was perfected by Mr. Joseph
20 Savitz. The Applicant submitted a brief of Appellant on
21 December 4, 2009. South Carolina Court of Appeals
22 dismissed the Applicant's appeal. The remittitur was
23 issued on December 23rd, 2010.

24 Subsequently on April 1st, 2011, he filed an
25 application for post-conviction relief alleging

1 ineffective assistance of counsel and prosecutorial
2 misconduct.

3 Mr. Brett Lancer, PCR counsel, filed an amendment to
4 the post-conviction relief application alleging
5 ineffective assistance of counsel for failing to object to
6 the jury charge, instructing that malice may be inferred
7 from the use of a deadly weapon; ineffective assistance of
8 counsel for failing to object to entering pieces of
9 evidence that should have been objected to and therefore
10 prejudiced the Applicant; ineffective assistance of
11 counsel for failing to properly object to the introduction
12 of the confession during the Jackson -v- Denno hearing;
13 ineffective assistance of counsel for failing to advise
14 the Applicant -- or ineffectively advising Applicant to
15 confess to the crimes of murder and burglary as such
16 confession was used to convict Applicant at trial;
17 ineffective assistance of counsel for failing to request a
18 jury instruction of accessory after the fact; ineffective
19 assistance of counsel for failing to adequately prepare
20 for trial and develop a trial strategy; Brady violation;
21 and ineffective assistance of counsel for failing to
22 object to the testimony of the State's witnesses, and
23 failing to effectively cross-examine the State's
24 witnesses.

25 The State made its return on September 12th, 2011.

CHAD E WILLIAMS - DIRECT BY LANCER

1 He's represented in this matter by Mr. Brett Lancer and
2 I'll turn it over to Mr. Lancer.

3 THE COURT: Mr. Lancer?

4 MR. LANCER: Yes, Your Honor.

5 THE COURT: How are you?

6 MR. LANCER: Doing well, sir. How are you?

7 THE COURT: Good to see you again, sir.

8 MR. LANCER: Nice to see you.

9 THE COURT: What's up? What you got for me?

10 MR. LANCER: Your Honor, I'm ready to call
11 Mr. Williams.

12 THE COURT: If you'll do it. Go ahead.

13 MR. LANCER: I would call Chad Williams to the
14 stand. Your Honor, would it be all right if I would use
15 the podium?

16 THE COURT: Sure.

17 CHAD EVERETTE WILLIAMS, having been duly sworn, was
18 examined and testified as follows:

19 THE CLERK: Please have a seat in the witness box
20 and state your full name for the Court.

21 THE COURT: Good morning.

22 THE APPLICANT: Chad Everette Williams.

23 THE COURT: All right. Mr. Lancer, your witness.

24 MR. LANCER: Thank you, Your Honor.
25

CHAD E WILLIAMS - DIRECT BY LANCER

DIRECT EXAMINATION

BY MR. LANCER:

Q. Mr. Williams, are you here today to ask this Court to vacate your conviction and sentence and remand for a new trial?

A. Yes, sir.

Q. In your PCR application you cite several instances of ineffective assistance of counsel; is that right?

A. Yes, sir.

Q. And you also cite a Brady violation; is that also correct?

A. Yes, sir.

Q. Okay. Mr. Williams, what I want to do is go through each of your grounds for PCR, one at a time. Try to give the Court the best understanding of each ground as possible. Does that sound all right?

A. Yes, sir.

Q. Mr. Williams, David Miller was your trial attorney; is that right?

A. That's right.

Q. And you were convicted and sentenced on October 22nd, 2008; is that correct?

A. Twenty-second; yes, sir.

Q. Okay. Would you please tell the Court what you were convicted of and the sentence on each?

CHAD E WILLIAMS - DIRECT BY LANCER

1 A. I was convicted for murder and sentenced to natural
2 life in prison. And I was convicted for first degree
3 burglary concurrent, to 25 years.

4 Q. Okay. Mr. Williams, I'm going to start off with
5 your first ground under ineffective assistance of
6 counsel. In your application, just so we're on the same
7 page, you have counsel failed to object to the
8 introduction of certain pieces of evidence that should
9 have been objected to.

10 Specifically, are you referencing the State's
11 Exhibit 22, the pair of socks?

12 A. Yes, sir.

13 Q. Okay. Would you please go to the trial transcript
14 to page 169, please, Mr. Williams? Do you recall who
15 prosecuted your case?

16 A. Yes, sir.

17 Q. Who was that?

18 A. Bill Weeks. Solicitor Weeks.

19 Q. Okay. On page 169 of the trial transcript,
20 Solicitor Bill Weeks has Lieutenant Clay Adams on direct
21 examination; is that right?

22 A. Yes, sir.

23 Q. Okay. Would you please read lines 11 on page 169 to
24 line two on page 170?

25 A. Yes, sir. If I may. If it may please the Court. I

CHAD E WILLIAMS - DIRECT BY LANCER

1 would -- my, my transcript is in that folder right there,
2 but I have with me the testimony from Clay Adams
3 specifically from the direct.

4 I'm sorry for the inconvenience, Your Honor.

5 THE COURT: No problem.

6 THE APPLICANT: Yes, sir.

7 (Documents handed to the Applicant.)

8 THE APPLICANT: Kind of rough working with handcuffs
9 on.

10 BY MR. LANCER:

11 Q. Page 169, Mr. Williams.

12 A. Yes, sir; 169.

13 Q. Would you please read line 11 on 169 to line two on
14 page 170?

15 A. Yes, sir. Line 11. Inside the burned debris we
16 found remains of clothing, shoes and articles of
17 identification. Says, what do you mean. What types of
18 articles of identification. We found a shard (verbatim)
19 remains of a brown wallet and with the wallet we were able
20 to find the partial burned remains of a Florida driver's
21 license and two credit cards. Okay. Did you photograph
22 some of those items. I did.

23 Mr. Weeks. Your Honor, for the record, and that's
24 State's 16 through 28, I believe all without objection.

25 The Court. That is correct. Mr. Miller. Yes, sir,

CHAD E WILLIAMS - DIRECT BY LANCER

1 Your Honor.

2 One. The Court. Okay. Item 16 through 28 are in
3 without objection. Line three. Thereupon, the State's
4 Exhibits 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27
5 and 28, photographs, were received into evidence.

6 Q. Thank you, Mr. Williams. Would you now go to page
7 171 and read lines 13 and 14?

8 A. All right. As State's 22 is a photograph of a pair
9 of white-in-color socks that we found in the burned
10 debris.

11 Q. That's State's 22, the pair of white socks, is that
12 what you are saying should have been objected to? Is that
13 what you're speaking of, Mr. Williams?

14 A. That is correct.

15 Q. Okay.

16 (Plaintiff's Exhibit No. 1, photograph, marked for
17 identification.)

18 BY MR. LANCER:

19 Q. Mr. Williams --

20 A. Yes, sir.

21 Q. -- can you identify for me what's been marked
22 Plaintiff's Exhibit Number One for identification? What
23 is this?

24 A. It's a pair of socks. It looks like those were the
25 shards (verbatim) around them.

CHAD E WILLIAMS - DIRECT BY LANCER

1 Q. Is that an identical copy of State's 22 that was
2 introduced at trial?

3 A. I don't know, sir. I never saw it.

4 Q. Did you ever -- did you see that picture at trial?

5 A. No, sir. The ones that I've -- that were presented
6 to the Court for the seen (verbatim) of the jury, but as
7 far as me seeing them for my record, no, sir. I've never
8 seen them.

9 Q. Mr. Williams, my question is: Is that the picture
10 that the jury saw at trial?

11 A. If this is State's 22, then that is.

12 Q. So, is it your testimony that that is a picture of
13 State's 22 that the jury saw at trial?

14 A. Yes, sir.

15 Q. Okay. To your knowledge, has that -- was that
16 photograph -- has this been altered in any way from what
17 was introduced at trial or is that an exact copy, to the
18 best of your knowledge?

19 A. I've -- like I said, this is marked as State's
20 Exhibit 22. I have not -- for the record, I have not seen
21 this picture presented to me at no period of time --

22 Q. Mr. Williams, my question is: Is that the picture
23 that the jury saw?

24 A. Oh, yes, sir.

25 Q. Okay.

CHAD E WILLIAMS - DIRECT BY LANCER

1 A. Yes, sir.

2 MR. LANCER: Your Honor, I would ask that this
3 document be moved into evidence.

4 THE COURT: Mr. Gourley?

5 MR. GOURLEY: No objection, Your Honor.

6 THE COURT: Plaintiff's Number One is in evidence
7 without objection.

8 (Plaintiff's Exhibit No. 1, photograph, received
9 into evidence.)

10 BY MR. LANCER:

11 Q. Mr. Williams, would you please go into detail as to
12 why your trial attorney should have objected to this
13 photograph coming into evidence at your trial?

14 A. Because we had -- I had no prior knowledge of the
15 pair of socks that was found inside of the burned debris.
16 I had no information or no, even discovery that they were
17 found inside of this burned debris. And I don't, quite
18 frankly to my knowledge that they were put within the bags
19 that were there during the, during the burning.

20 I feel like he should have objected to it, to the
21 admission to the pictures of them, pertains to the DNA
22 results or pertaining to the testings from them.

23 What I see since now I can see clearly with it, that
24 they don't look like there's any burn marks and, but
25 there's shard (verbatim) articles around and they look

CHAD E WILLIAMS - DIRECT BY LANCER

1 melted and pretty, pretty messed up. There's, pretty much
2 they're debris.

3 Why in fact did them socks not get touched if
4 everything within this picture, photograph, says it's all
5 sharded (verbatim) together.

6 I -- so now, I feel like he should have objected to
7 the admission or to the failure of having foreknowledge of
8 a pair of socks inside of the burned debris. I mean, that
9 would clarify.

10 Q. Mr. Williams, is your objection to that photograph
11 based on the appearance of the socks?

12 A. It's based upon the presentation of the socks.

13 Q. Okay. Would you discuss that a little bit further?

14 A. The presentation why them socks was introduced to my
15 trial was to prove or have some type of evidence to link
16 me to that burn hole or -- and those were the specific
17 articles of clothing that was supposed to link me to the
18 murder or to the crime scene.

19 Q. How did that pair of socks link you to the crime
20 scene?

21 A. According to the DNA forensics, Ms. Lilly Gallman,
22 Lilly Gallman Smalls, Lilly Gallman, under her testimony
23 says my hair was found upon a sock inside the burned
24 debris. And they used -- during the State's Exhibit at
25 22, they used this pair and said this was the exact pair

CHAD E WILLIAMS - DIRECT BY LANCER

1 of socks that they said they had my hair from.

2 I had no foreknowledge of this. I had no discovery
3 rule. I never seen no pictures prior to trial. I have
4 never received any identification as of another pair of
5 socks or as of a pair of socks that has came from a hole
6 with my DNA on it.

7 So I object to the admission. That's why I want to
8 object to the admission to them. I feel they were
9 prejudiced towards me.

10 Q. Okay. Mr. Williams, is there anything further that
11 you would like to add to this ground for post-conviction
12 relief before we move on?

13 A. Yes, sir. There's -- for the record if I may, Your
14 Honor?

15 THE COURT: Sure.

16 THE APPLICANT: I would ask in fact that since I had
17 no prior knowledge of these, of these instruments or of
18 these articles of clothing, I would ask for a Brady
19 violation to be heard and granted within the form of the
20 evidentiary hearing that we are in today.

21 THE COURT: Well, you're asking me that now? Is
22 that what --

23 THE APPLICANT: Pertains to the -- what I'm saying
24 was pertains to the findings or the lack of information
25 thereof through the presentment for the pair of socks.

CHAD E WILLIAMS - DIRECT BY LANCER

1 THE COURT: Okay. That's one of your issues that --
2 THE APPLICANT: Yes, sir.
3 THE COURT: -- should have been addressed at trial?
4 THE APPLICANT: Yes, sir.
5 THE COURT: Okay. I've got that. Okay.
6 MR. LANCER:
7 Q. Mr. Williams, are you saying that this photograph
8 was not -- or the pair of socks was not presented to you
9 prior to trial, that you did not have prior knowledge
10 before trial of this evidence?
11 A. That's correct, Your Honor.
12 Q. Okay. Anything else you'd like to add,
13 Mr. Williams?
14 A. Well, based upon those -- I've stated enough upon
15 those socks, but I was, wanted to get them and to getting
16 them removed. They show prejudice.
17 Q. All right. Mr. Williams, I'm going to move on to
18 the next ground if you're ready.
19 A. I'm ready, sir.
20 Q. Okay. Your next ground for post-conviction relief
21 also comes under ineffective assistance of counsel. In
22 your application you have that counsel failed to object to
23 the jury charge instructing that malice may be inferred
24 from the use of a deadly weapon. Is that correct?
25 A. That's correct, sir.

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1 Q. Okay. Are you arguing this under State versus
2 Belcher?

3 A. Yes, sir.

4 Q. Okay. Did the jury in your case receive an
5 instruction regarding inferred malice from the use of a
6 deadly weapon?

7 A. Yes, sir.

8 Q. Okay. In your trial transcript, let's take a look
9 at page 353.

10 THE COURT: What page again, counsel? Three fifty-
11 three?

12 MR. LANCER: Yes, sir.

13 THE COURT: Thank you, sir.

14 BY MR. LANCER:

15 Q. Mr. Williams, would you please read for the Court
16 lines eight through 14 on page 353?

17 A. Line eight. Malice may be inferred from the conduct
18 showing a total disregard for human life. Inferred malice
19 may also arise when the deed is done with a deadly
20 weapon. A deadly weapon is an article, instrument or
21 substance which is likely to cause death or great bodily
22 harm. Whether an instrument has been used as a deadly
23 weapon depends on the facts and circumstances of each
24 case. The following are examples of instruments which may
25 be deadly weapons: A pistol, a shotgun, a rifle, a dirth,

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1 a dagger, a knife, a slingshot, metal knuckles, a razor,
2 gasoline, a fire bomb, lighter fluid and Motolov
3 (verbatim) cocktail.

4 Q. Thank you, Mr. Williams.

5 A. All right.

6 Q. And, what you just read, was that given by your --
7 the trial judge as a charge to the jury?

8 A. Yes, sir.

9 Q. Okay. Tell me why based on the facts of your case
10 your attorney should have objected to that charge at
11 trial?

12 A. Well, due to -- well, due to the lack of the
13 evidence or the weight of the evidence that was presented
14 at trial, it should have not received the jury instruction
15 for malice with the infer of the use of a deadly weapon.

16 When the State's case based its murder on a
17 particular object, a wrench, within this case, the DNA
18 from the wrench matched an unidentified female
19 individual.

20 And as far as that, the State's trying to meet their
21 criteria of murder and basically now the inferred malice
22 charge with the use of a deadly weapon, the State based
23 their conviction upon a murder weapon that had not the
24 victim's DNA on it at all.

25 So, then the charge of the inferred malice with the

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1 use of a deadly weapon was prejudicial toward me when the
2 charge should have never been instructed to the jury. But
3 a lesser-included offense dealing by the weight of the
4 evidence that the State presented, it should have at
5 least -- they should have released me or at least to a
6 lesser-included offense to murder.

7 Q. Mr. Williams, is it your understanding of State
8 versus Belcher that a jury charge instructing that malice
9 may be inferred from the use of a deadly weapon is no
10 longer good law in South Carolina where evidence is
11 presented that would reduce, mitigate, excuse or justify
12 homicide?

13 A. Yes, sir.

14 Q. Okay. Mr. Williams, what evidence was there that
15 would reduce, excuse, mitigate or justify the homicide?
16 Was anything presented at trial, in the statement given
17 before trial that would have led to that conclusion?

18 A. Other than the findings of the -- other than the DNA
19 results from the articles and the instruments that the
20 State presented and the testimony from witnesses, it
21 should have been and basically now is my confession, a
22 confession that would have shown -- if it would have been
23 properly preserved, it would have been shown that in fact
24 a malice charge should have never been raised, that a
25 lesser-included offense to murder could have been charged

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1 as to the DNA.

2 Q. What grounds were there to charge the jury on a
3 lesser included?

4 A. The actual DNA results from the murder. Well, from
5 the murder, the alleged murder weapons. The pathologist,
6 the testimony of the pathologist and from the forensics of
7 Lilly Gallman, her testimony. I do feel within -- I do
8 feel that I was, according to law that the charge of this
9 malice inferred it was illegal burden shifting upon me and
10 it left me in an un -- an un -- well, a predicament. I
11 couldn't object to it.

12 Had it been properly preserved, I may have been
13 granted my relief from the higher courts. But now
14 according to the weight of the evidence and the lack of
15 the DNA, that's why I asked for -- that's why I'm stating
16 that the malice charge should have never been instructed
17 to the jury based upon the evidence with the use of a
18 deadly weapon as being a wrench and -- wrench and the --
19 basically from the wrench and the DNA results.

20 Q. Okay. Mr. Williams, is there anything else that you
21 would like to add to this ground for post-conviction
22 relief before we move on?

23 A. Yes, sir. Upon this, it would have been -- I move
24 for the grounds for a violation and state for the record
25 there's a 14th amendment violation and when in fact that

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1 my lawyer, my trial attorney lawyer, Mr. Miller, could
2 have objected to the admission as knowing, at least could
3 have properly preserved it for direct appeal or for review
4 based upon the evidence.

5 But it was also an illegal -- well, it was also an
6 erroneous jury instruction. I feel like he should have
7 objected to it dealing on the weight of the evidence.

8 Q. Anything else on that, Mr. Williams?

9 A. No, sir.

10 Q. Okay. Mr. Williams, I want to move on to your third
11 ground for PCR. Under ineffective assistance of counsel
12 you got, counsel failed to properly object to the
13 introduction of the confession during the Jackson -v-
14 Denno hearing; is that correct?

15 A. Yes, sir.

16 Q. Okay. Your PCR application references that at the
17 time of your confession you were under the influence of
18 medication; is that right?

19 A. That's correct.

20 Q. Okay. What medication were you on at the time?

21 A. 15 milligram Lorazepam.

22 Q. Okay. Anything other than Lorazepam?

23 A. No, sir.

24 Q. Okay. When did you go on Lorazepam?

25 A. About six, I want to say prior -- six to seven

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1 months prior to my, prior to my, prior to confession,
2 maybe four.

3 Q. Okay. But you were prescribed that medication at
4 the time of the confession; is that right?

5 A. Yes, sir. Yes, sir.

6 Q. Okay. Would you describe for the Court what
7 Lorazepam is and the effect that it has on a person?

8 A. Lorazepam is an anti-psychotic. It is very -- from
9 between a -- well, Elavil, a stronger Elavil or a 600 to a
10 400 milligram Seraquel. That is to put you to sleep. It
11 was to mellow you out and to hit you as a Zanax or to a
12 stronger Clonopin.

13 Q. And why were you on this medication, Mr. Williams?

14 A. I was put upon this medication due to the, basically
15 through the psyche doctor at the county, at the Aiken
16 County Detention Center due to a overdosage of a
17 depressant from a hundred milligram Terazadol (verbatim)
18 so I was placed upon these as an insomnic medication and
19 an anti-psychotic.

20 Q. Lorazepam is anti-psychotic, is that what you're
21 saying?

22 A. Yes, sir.

23 Q. Okay. While you were awaiting trial, you were being
24 held at the Aiken County Detention Center; is that right?

25 A. Yes, sir.

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1 Q. And who, who prescribed this medication for you? Do
2 you know the doctor's name?

3 A. I don't remember his name. I can't recall, but
4 it's --

5 Q. Okay. Who administered this medication at the jail?

6 A. He did.

7 Q. Okay. How often would you see the doctor?

8 A. Very rare. He was -- he come in to see me maybe
9 once two, three months. But he has it at the Aiken County
10 Medical Center right next, right down the road from that
11 Aiken, the Aiken Center.

12 Q. Okay.

13 A. Aiken Mental Health.

14 Q. Your confession took place on July 2nd, 2008; is
15 that right?

16 A. That's right.

17 Q. And during that time you were on the medication; is
18 that right?

19 A. Yes, sir.

20 Q. Okay. Do you recall how many statements you gave
21 that day?

22 A. Two.

23 Q. Okay. Were these statements different or the same?

24 A. Different.

25 Q. Okay. Would you discuss with the Court the

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1 differences in those statements?

2 A. The difference of them from the first -- well, from
3 the first one is to implicate my role as to destruction of
4 evidence, to dispose of it.

5 The second one that was heard was when I changed it,
6 said I committed the murder, said I murdered him.

7 Q. Okay. Mr. Williams, is it your position today that
8 the medication affected your ability to voluntarily make
9 those statements or confess to these crimes?

10 A. Yes, sir. And to the weight I had upon me through
11 my incarceration, it kind of -- I wanted to -- I feel like
12 this was the only way I could have got relief.

13 Mr. Miller informed me through a letter and through
14 the rest of them basically now to tell him this is my only
15 option, this is my only chance to get a lesser charge and
16 not get a life sentence. So he tried to inform me to
17 confess to the stuff I knew. So he writ (verbatim) me a
18 letter and I have that letter.

19 And he -- and all of this stuff that has been placed
20 upon me for 18 months prior to my, prior -- up to my
21 confession, I was just, I wasn't right. And I wanted to
22 leave. I wanted to get out of there.

23 I just wanted two things; just let me get a bond,
24 let me go home, release me from these charges or, two, let
25 me catch up and send me up the road, send me to prison. I

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1 got to get out of Aiken County. I had to get out. My
2 sight -- it was messing with my sight, with my mind.

3 Q. Can you talk specifically how the medication
4 affected you?

5 A. It mellowed me out. It mellowed me out. Sometimes
6 I would go to sleep right after. I'd wake up, I'd take a
7 pill, finish my meal, wake up, and come right back, take
8 it again.

9 But it was coming where they tried to keep me, I, I
10 don't know really, other than trying to messing up my, my
11 ability to function.

12 Q. Okay. Mr. Williams, is there anything else you'd
13 like to add to this ground before we move on?

14 A. Yes, sir. To the admission of the Jackson-Denno
15 hearing, Mr. Miller would not want to object to it. He
16 didn't want to object to it.

17 I'm not so much mad about that but to the admission
18 of the confession to the jury, that's where it was
19 prejudiced toward me, dealing under the, already the
20 presentations that have been made, the testimony, the
21 pictures, the DNA, the pathologist, the tape should have
22 never been played. Those tapes should -- the jury should
23 have never heard that confession dealing through what was
24 presented or admitted to the Court.

25 So I feel within my discretion, well, in -- through

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1 the discretion of the Court it was prejudiced towards me
2 as to the admission and the playing of this tape to the
3 jury..

4 Q. So --

5 A. That's as -- I'd like to state that for the record.

6 Q. Anything else, Mr. Williams, on this?

7 A. No, sir.

8 Q. Okay. Mr. Williams, I want to move on to your
9 fourth ground for post-conviction relief under ineffective
10 assistance of counsel. Counsel was ineffective for
11 advising Applicant to confess to the crimes of murder and
12 burglary as the confession was used to convict Applicant
13 at trial; is that correct?

14 A. That's correct, sir.

15 Q. Okay. Would you please tell the Court the history
16 of how you came to confess to these crimes?

17 A. If I may, Your Honor?

18 THE COURT: Yes, sir.

19 THE APPLICANT: If I may, I just have one paragraph
20 of the letter from Mr. -- informal letter from Mr. Miller.

21 THE COURT: Okay. Have you shown it -- Mr. Lance,
22 do you know what he's talking about?

23 MR. LANCER: Yes, Your Honor, I do know.

24 THE COURT: All right.

25 THE WITNESS: This is how I became aware and how I

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1 wanted to state. It says, having reviewed -- for the
2 record, this is a letter from Mr. Miller.

3 It says, having reviewed the evidence in this
4 matter, I have -- and having talked with you repeatedly by
5 phone and at the detention center, it says, I feel it is
6 extremely unlikely that you would not be found guilty of
7 these crimes. The circumstantial evidence of your guilt
8 and including your actions of the day following the
9 incident matches the written statements of the multiple
10 witnesses against you.

11 I do not have a problem taking your case to trial
12 and we will put up the best defense possible, it says, but
13 I'm advising you in writing that I believe you will
14 ultimately, ultimately be found guilty and be sentenced by
15 the Court to life in prison.

16 He said, in my professional opinion my only
17 reasonable hope for a lesser sentence will be for you to
18 confess to the crime and to fully advise law enforcement
19 of any assistance you had from the third parties in
20 committing the crime.

21 And strictly upon the evidence and what he's,
22 basically what he had in presenting to me, it said that he
23 came back and the DNA findings from off a sock was matched
24 to a hair that was found in a hamper, upstairs bathroom.
25 That was my foreknowledge as to a sock and a hair.

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1 So all of this weight come up and I understand I
2 wanted, I had -- that was my only chance. I felt that was
3 being pressured. I felt that that's the only the type of
4 way I can try to get some type of relief. Maybe some
5 stuff will come out at trial, but according to that and my
6 two confessions that day, I had no other, I had no other
7 choice. I didn't feel I had any other choice. It's -- I
8 couldn't get nothing done.

9 Q. Mr. Williams, by giving the statements, the
10 confession, what did you expect the result of that was
11 going to be?

12 A. Some type of a relief. It would have been a
13 relief. I don't know. It was done, they say, willfully,
14 but I don't -- there was nothing there for me. But he
15 told me, it was off the record but the possibility they
16 had the recorder on saying that we'll deal with the
17 co-defendant in my case. She was -- pretty much got the
18 better end. She was about to get the 15 years, and they
19 was going to give me the 40, the 30 years day-for-day and
20 15 consecutive. They just -- that was the actual thing
21 that came after the confession.

22 Q. Mr. Williams, prior to giving the statements, what
23 were your intentions? Did you intend on going to trial or
24 did you intend on pleading? What were your intentions at
25 that point --

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1 A. I intended --

2 Q. -- before the confession?

3 A. Before the confession I intended to go to trial but
4 during I was -- I was wanting to get a bond hearing.
5 That's all I wanted. I wanted a bond. I wanted to get
6 out.

7 All the evidence come piling up, nothing there. DNA
8 results matched some other people, placed them there. I
9 would -- just wanted to relieve -- to get relief,
10 basically mentally also physically to get out from the
11 county. But I, I, I used it as just to -- now I see now
12 it really hurt me.

13 Q. What changed your mind from your heading to trial to
14 plea? Was there anything in particular?

15 A. Yes.

16 Q. What was it?

17 A. I didn't want to take the 40 years based upon this,
18 not for murder, not for murder, not for this charge and
19 crime.

20 Q. Prior to you making these statements, were there any
21 offers on the table?

22 A. No, sir.

23 Q. Was it your hope that by making these statements
24 that an offer would be put on the table?

25 A. Yes, sir.

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1 Q. Did you -- did you know that if you made these
2 statements an offer would be put on the table?

3 A. Just depend on what I, what I told them. They said
4 it depend on what I told them.

5 Q. Okay. And what offer was made after the statements?

6 A. Months, about a month went by. DNA came back. 30
7 years for murder, day for day, 15 years, 85 consecutive --
8 I mean -- yeah, consecutive.

9 Q. And initially you agreed to it; is that right?

10 A. I initially agreed, yes; that's correct.

11 Q. Okay. Then on October 16th of 2008, you went in
12 front of Judge Early; is that right?

13 A. That's right.

14 Q. Okay. Would you please discuss with the Court what
15 happened on that date?

16 A. We went in for the initial plea. The State asked,
17 they said Judge Early, he spoke. It was respectfully.
18 And he let me know, informed me of my rights to plead and
19 what I'll be forfeiting.

20 And he showed me the obligation or actually now the
21 weight from the plea. They were to be considering now a
22 plea of 30 years now to 15, but I turned -- I looked at
23 him, I said, well, if you give me 30 years, add it, ran it
24 concurrent and time served, I'll sign.

25 Mr. Early then said to me, well, he didn't say it to

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1 the Court. He said, well, that's not part of the deal.
2 That's not the plea. The State didn't want, you know,
3 he's talking about Mr. Miller then trying to argue that,
4 trying to get it for me. He done tried to do this. But
5 that wasn't open. He asked me again and I turned it down.

6 And Mr., then Mr. Weeks then stated, all right,
7 that's it. It's done. The judge set it up for the
8 following court term.

9 Q. Okay. And you went to trial on October the 20th of
10 that year, just four days later; is that right?

11 A. That's correct, sir.

12 Q. And by that time the State's case was stronger in
13 that you had confessed; is that what you're saying?

14 A. Yes, sir.

15 Q. Was that confession used against you at trial?

16 A. Yes, it was.

17 Q. Is there anything else you'd like to add to this
18 ground for post-conviction relief before we move on,
19 Mr. Williams?

20 A. No, sir.

21 Q. Okay. Mr. Williams, I want to move on to your fifth
22 ground for post-conviction relief. Under ineffective
23 assistance of counsel, you've got your counsel failed to
24 request the jury instruction of accessory after the fact;
25 is that correct?

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1 A. That's correct, sir.

2 Q. And then you were -- is it your position that your
3 attorney should have requested a charge on accessory after
4 the fact?

5 A. Yes, sir.

6 Q. Okay. Would you go into detail with that and
7 specifically discuss what evidence there was to warrant
8 that charge?

9 A. Dealing on the weight of the evidence presented and
10 the testimony that was given and apparently now my
11 confession, that accessory charge should have been
12 administered -- should have been administered in -- or
13 should have been admitted or instructed in.

14 Q. Could you go into detail with any specifics?

15 A. In the specifics that my involvement within this,
16 within this crime, within the crime was just to disregard
17 the evidence. And that was it. To basically, to dispose
18 of them, not to have --

19 Q. Mr. Williams, after the crimes were committed the
20 items used in the crimes were burned and buried; is that
21 right?

22 A. That's correct, sir.

23 Q. So are you saying that there was evidence that you
24 assisted with that after the crimes were committed?

25 A. Yes, sir.

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1 Q. Okay. And what, what evidence was there that you
2 assisted in that?

3 A. The testimony from Crystal Jackson.

4 Q. Okay. What did Ms. Jackson say?

5 A. I mean, she was saying that she got the lighter
6 fluid and I was walking with her. Of course she tried to,
7 of course say I made her walk to the place to where we
8 could dispose of this stuff, to where we could get rid of
9 it.

10 But in fact all I did was I dug it, made it, planted
11 it, and done -- that's -- just burned them up. That was
12 my involvement.

13 And in fact that there wasn't shed blood, you know,
14 I didn't fully participate within it, within the crime but
15 all I did was to disregard the evidence.

16 Q. Okay. Is there anything else you'd like to add to
17 this ground before we move on, Mr. Williams?

18 A. No, sir.

19 Q. Okay. Mr. Williams, I'm going to move on to your
20 sixth ground for PCR under ineffective assistance of
21 counsel. You've got, counsel failed to adequately prepare
22 for trial and develop a trial strategy; is that right?

23 A. Yes, sir.

24 Q. Okay. Prior to trial, did you develop a trial
25 strategy with your attorney?

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1 A. He was wanting to get, get with me about, from the
2 results. He didn't want to put up nothing until he got
3 the DNA results.

4 So other than that, I believe that it was all in
5 his, all in his skill or strategy was for me to plea. He
6 wanted me to plea out. So I feel like he didn't put up an
7 adequate defense for me.

8 And there wasn't nothing there other than trying
9 to -- other than what, the showing from the other people,
10 other people's involvement with it. And he didn't put up
11 no type of defense for me, and...

12 Q. So when your plea fell through, was there a strategy
13 at that point put in place to execute at trial?

14 A. No, sir.

15 Q. How did you feel about going to trial at that point?

16 A. I didn't feel quite -- I didn't feel comfortable,
17 but he told me, he said, well, you know, he said, your
18 case, we're up for next term.

19 So apparently he said he was, he had been ready.
20 Only now I don't know if he was.

21 Q. Mr. Williams, in the months leading up to trial when
22 you discussed your relationship with your attorney and
23 your communication with your attorney --

24 A. Yes, sir.

25 Q. • -- did you discuss all of that?

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1 A. Yes, sir. I was wanting him to get here for a fast
2 and speedy trial for me. He said he didn't want to do it
3 based upon that he wanted to wait for SLED. I wanted to
4 get it in there to have something done for me to have some
5 type of relief.

6 DNA came back. Still nothing. Still nothing. And
7 just awaiting, just awaiting.

8 Well, I then -- then I wanted to pursue with the
9 bond hearing. My first one it was denied bond. Then I
10 went in for it again. Bond was granted for me, a \$1.5
11 million bond was set for me after my speedy trial motion
12 hearing. And I was -- and Judge Early set the bond for
13 me.

14 Once he set it, Mr. Miller said, thank you and
15 packed up and proceeded to walk out the door. I said,
16 thank you. And I just, I lost it. I went -- I just
17 spazzed on Mr. Early. And I began to use vulgar language
18 and after that it was nothing.

19 So I tried to talk with -- I talked with him again.
20 I felt like he wasn't doing a properly -- procedural
21 search or investigation for me or try to put up a defense
22 for me. So I asked to come again in front of Mr. Early
23 with a motion of, a motion to dismiss trial counsel, to
24 get Mr. Miller off, to remove him off of my case as being
25 representative of me.

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1 Mr. Early heard it but he didn't grant it. He told
2 me if I feel like if he needs any more type of chastising
3 or tries to -- needs to be corrected again, write another
4 one and come in front of him again.

5 As of that moment, no, sir, no strategic, no --
6 there was nothing there. Just waiting on the DNA to come
7 back.

8 Q. Mr. Williams, the time in between your plea falling
9 through and going to trial four days later, what was going
10 on? Did you meet with your attorney? Were y'all
11 discussing trial strategy? What was going on?

12 A. Not after that. Not after that.

13 Q. Were there things that you asked your attorney to do
14 that you feel that he did not do?

15 A. Oh, yeah. I was wanting to come -- I was wanting to
16 get cleared of this. I wanted to get cleared. I wanted
17 justice.

18 And I couldn't, like I said, I couldn't get it, but
19 that was nothing, there was nothing there. And he just
20 below to my, to my opinion to what's now been done to me,
21 I believe now it's my opinion that he was unproductive or
22 efficient (verbatim) establishing grounds for defending
23 me, putting up a case for me.

24 I feel he was ineffective into that note as dealing
25 now, as he has to go to trial I feel like he wasn't

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1 prepared for trial but had he had more time I feel like,
2 yes, he could have, you know, he coulda had more positive
3 or effective defense for me.

4 Q. Mr. Williams, is there anything you'd like to add to
5 this ground before we move on?

6 A. On that note, yes, sir, I have some questions but I
7 don't -- but I have a few questions pertains to,
8 pertaining to them grounds, if I may but state to -- if I
9 may, Your Honor.

10 Q. Mr. Williams, if there's anything you'd like to add
11 here, certainly this is your time to add.

12 A. All right. Well, I'd ask the question. It was
13 referred to indirectly towards Mr. Miller pertaining to,
14 under my argument here, it says, is it true, sir, there's
15 a reason why you did not want to put up a defense or
16 present evidence at the trial was so you could get the
17 last argument.

18 That was one of the keys I feel like he was
19 ineffective because that's what he wanted. He wanted the
20 last argument. He said it was important for him to
21 receive the last argument or to have the last closing
22 argument, but ...

23 Q. Anything else, Mr. Williams?

24 A. May I state that for the record?

25 THE COURT: Yeah, you did. You did.

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1 THE APPLICANT: And that was -- and I feel because
2 he was inadequate or he was ineffective for not putting up
3 a proper defense or even trying to present evidence into
4 my case that would have helped or litigate -- or help
5 mitigate or reduce the charge for murder as -- that's what
6 I ask.

7 BY MR. LANCER:

8 Q. Okay. I'm going to move on to the next ground for
9 PCR. Okay, Mr. Williams?

10 A. Yes, sir.

11 Q. All right. Under ineffective assistance of counsel
12 you've got, counsel failed to object to the testimony of
13 State's witnesses and failed to adequately cross-examine
14 the State's witnesses.

15 Mr. Williams, I'm going to ask you to go through
16 each of the witnesses of the State that you're referring
17 to and sort of discuss what should have been corrected or
18 what should have your attorney cross-examined them on.

19 A. Transcript page, according -- it was Lilly Gallman's
20 testimony.

21 THE COURT: What page again, Mr. Williams?

22 THE APPLICANT: Two twenty-three.

23 THE COURT: Okay.

24 THE APPLICANT: And it's the testimony of Lilly
25 Gallman.

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1 BY MR. LANCER:

2 Q. Mr. Williams, will you discuss what testimony of
3 Lilly Gallman you're referring to?

4 A. Defer to the DNA, from the DNA results upon the
5 socks and upon -- lines 12 to 25. And it says here on
6 line 12, it said in item number 41-1 which was a hair also
7 matched him.

8 I received no foreknowledge of anything pertaining
9 to a hair and it don't say from what. It just says a
10 hair. Would never say from what, where it was found on.

11 But then on 25 this is where I feel he should have
12 objected to, had not had foreknowledge or even information
13 knowing about this, about this hair or from a sock was
14 item 65.3, says, which is a pair of socks. Says, I do
15 believe from the same sock as I got the cutting from
16 Mr. Ellis on.

17 And lines two through seven said, the DNA profile
18 developed said it was a mixture and the major contributor
19 to this mixture matched the DNA profile of Chad Williams.

20 Five. So you got Chad Williams's DNA and
21 Mr. Ellis's off of a pair of socks or off the socks. She
22 said, yes, yes.

23 Now I'm battling, I want to establish the grounds.
24 He should have objected to that testimony or at least
25 corrected it because the socks in fact didn't come from a

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1 burn hole. They came from a upstairs bathroom.

2 As to Exhibits Five through Seven as attached to my
3 PCR application, and as I presented to it and from the
4 findings from Clay Adams and Chris Johnson.

5 And, Your Honor, this is the DNA results from off of
6 them. The only record I have or even have foreknowledge
7 of is from a pair of socks.

8 Q. Mr. Williams, would you like this admitted into
9 evidence?

10 A. Yes, sir.

11 (Plaintiff's Exhibit No. 2, SLED investigative
12 report of 03-28-08, consisting of 7 pages, marked for
13 identification.)

14 THE APPLICANT: Now and from my exhibits attached to
15 the PCR application which pertains to the findings of the
16 socks.

17 MR. LANCER: One second, Your Honor.

18 THE COURT: Okay.

19 (Pause.)

20 BY MR. LANCER:

21 Q. Mr. Williams, do you have the entire report?

22 A. Yes, sir. I do. That's it.

23 (Document handed to Mr. Lancer). The entire report
24 are these right here.

25 Q. This is it right here?

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1 A. All right.

2 THE COURT: How many pages is that?

3 MR. LANCER: Your Honor, this is seven pages.

4 THE COURT: So this will be Plaintiff's Number Two.

5 MR. LANCER: Yes, Your Honor.

6 THE COURT: Seven pages.

7 MR. GOURLEY: That's without objection, Your Honor.

8 THE COURT: All right. It is in evidence without

9 objection.

10 (Plaintiff's Exhibit No. 2, SLED evidence report

11 consisting of 7 pages, received into evidence.)

12 THE COURT: He's going to tell me what it is?

13 BY MR. LANCER:

14 Q. Mr. Williams, what is that document?

15 A. It is the results from the items of evidence that

16 was seized.

17 THE COURT: Okay. That's the SLED investigative

18 report?

19 THE APPLICANT: Yes, sir.

20 THE COURT: Okay. Thank you, sir.

21 BY MR. LANCER:

22 Q. All right. Mr. Williams, what were you referencing

23 in that document?

24 A. I was referencing in this document as the only pair

25 of socks that I was ever informed that I know that a

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1 search or a DNA analysis was being served upon that it was
2 ever found. And that was found on 5-7-07 by Investigator
3 Dennis Sanders, Chris Johnson and Clay Adams. That was
4 found inside the residence and Patricia Quarrels and
5 Catherine Young on a consent to search.

6 I have a list of items that was seized and collected
7 from their consent to search, from their search. It's
8 from Chris Johnson 23 as I amended in, it says a pair of
9 white-in-color socks from the suspect's bathroom.

10 Now, and it's again upon -- is a check in through --
11 it's now docket numbers or trace number. It says a pair
12 of white socks from suspect's bathroom as Exhibit Six.
13 And on Exhibit Seven is again a chain of custody and a
14 receipt of property. And it's 552CJ23 a pair of white
15 color socks from suspect's bathroom.

16 And upon my -- upon discovery and upon my
17 information, only knowledge of it, it was socks from a
18 upstairs bathroom not from a burn hole.

19 The DNA that came back says that no blood detected.
20 According to Lilly Gallman's testimony, blood was detected
21 or not blood, excuse me. Let me correct that. A hair was
22 upon a sock with the DNA from the victim according to her
23 testimony. That's on page 224 on the transcript page.

24 That's where I'm at today. And on -- in fact, and I
25 move in or submit to the Court the second results which I

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1 just received six -- just a few weeks ago. I've been
2 trying to write for the past six and a half years to get,
3 and I just received it just a few weeks ago, maybe three
4 weeks. I've consistently written Mr., to Mr. Miller
5 through the Clerk of court Ms. Goddard, clock stamp filed
6 dated as a letter seeking my rule five. I wanted all
7 legal documentation, indictments any information that
8 pertains to my case.

9 I've been writing to him since October, since my
10 conviction. I've yet to hear a response. I've yet to
11 receive any type of motion, any type of lab results, any
12 type of anything from him. Even -- not even a letter.

13 So, as I received this and according to Lilly
14 Gallman's testimony and according to the recent findings
15 and I submit for the Court for the sake of this hearing,
16 Your Honor, I present the same -- well, it's another DNA
17 analysis from SLED.

18 And it says that the -- let's see. And it states
19 on item number 65.3 was a swab from a sock that was
20 supposedly inside this burn hole. These where the socks
21 that they say they alleging, I guess, I don't know if it
22 came from those or the other produced findings, but it
23 says that my DNA was, Chad Williams, is the major
24 contributor to this item.

25 In fact, the DNA from the victim, Mr. Ellis, is the

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1 first name that's on them socks as an exclusion as being a
2 possible contributor to this item. So that means his
3 blood is not upon this sock, not with my DNA on it.

4 Q. Mr. Williams, can you identify this document for the
5 Court, please?

6 A. Yes, sir. It is the document from the State's Law
7 Enforcement Division. It's the lab results from the
8 serology, the serology analysis.

9 MR. LANCER: Your Honor, we would ask this document
10 be moved into evidence.

11 THE COURT: Plaintiff's Three.

12 MR. GOURLEY: No objection, Your Honor.

13 THE COURT: Is in evidence without objection.
14 What's the date on that, Mr. Lancer?

15 MR. LANCER: Your Honor, it is dated September --
16 Your Honor, it's a little difficult to read but it's
17 definitely September 20-something, 2008. It looks like
18 24th possibly.

19 THE COURT: Okay. Thank you, sir.

20 (Plaintiff's Exhibit No. 3, SLED report, pages 1-5
21 and 8-10, 5 pages, received into evidence.)

22 THE APPLICANT: And it states from Ms. Gallman's lab
23 results and from her testimony, it's contradictory. She
24 says that my hair was found on this sock with the victim.
25 According to her analysis, she said 65-3 is a mixture of

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1 at least two individuals. The DNA profile developed from
2 the major contributor to this mixture also matches Chad
3 Williams. Crystal Jackson could not be excluded as a
4 possible minor contributor to this mixture. Herbert
5 Ellis, meaning the victim, Patricia Quarrels, Catherine
6 Young, Joshua Mays, David Quarrels are excluded as
7 possible contributors to this mixture. According to the
8 State's forensic, according to her testimony that my hair,
9 my DNA was on nothing pertains with any articles of
10 clothing with Mr. Ellis on them.

11 And when it was testified to that it was presented
12 in a box, I have yet to see the pair of socks. I have yet
13 to see any type of resembrant (verbatim) of a sock other
14 than a picture. I have not received no physical cuttings,
15 no anything. I have not seen any swabs. I have not seen
16 no type of legal documentation that pertains to these
17 socks.

18 I have nothing. So I -- and I believe and I
19 would -- I do believe as is according to the law, I'm not
20 going, getting off of that. I'm going to establish, I'm
21 just speaking upon the law upon the Brady versus Maryland
22 and Kennerly versus State that I'm entitled to any
23 expatory (verbatim) evidence that is entitled to me that
24 will help, help me, inform me, give me some type of
25 insight to anything that the State has to establish a

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1 conviction or even help me.

2 Regardless if it hurt me, I'm still entitled to this
3 information. And I feel like it was prejudiced because
4 they withheld this information for six and a half years.
5 For six and a half years they held this. And I have yet
6 to hear anything pertaining to a sock inside of a burn
7 hole.

8 I was convicted upon it. And I feel like David
9 Miller should have objected to it if he had not any
10 foreknowledge of it. So if he did have foreknowledge of a
11 second pair of socks, then he was highly ineffective and
12 prejudiced toward me because he did not let me know. He
13 did not even put up a trial defense trying to find other
14 findings of a sock.

15 He tried to get me plead out to a sock that was
16 found inside of a hamper in a upstairs bathroom. Brought
17 my mother to the county jail. For eight hours I sat there
18 and talked to him. And he wanted me to plead out, sign a
19 paper and saying that my hair and the DNA came back on a
20 sock inside of a hamper, not inside of a burn hole.

21 So I had no prior knowledge. I had no knowledge of
22 this at all.

23 And the State withheld this from me since the whole
24 month before I went to trial. I feel that's, that's a
25 violation -- man, that's a constitutional violation that's

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1 been done for me. Deprive me of my rights. Deprive me of
2 my rights. I feel passion about this, Your Honor, that's
3 why --

4 THE COURT: I feel your passion about it but --

5 THE APPLICANT: -- it's --

6 THE COURT: -- you need to calm down.

7 THE APPLICANT: I'm sorry.

8 THE COURT: That's okay. Mr. Lancer is going to
9 continue to ask you some questions. You need to answer
10 his questions.

11 THE APPLICANT: Thank you, Your Honor.

12 THE COURT: Go ahead, Mr. Lancer.

13 BY MR. LANCER:

14 Q. Mr. Williams, is there anything else that you'd like
15 to add regarding the socks or do you think it's been
16 covered?

17 A. I -- and through not objecting to the testimony of
18 Clay Adams, as to the pictures and Lilly Gallman and to
19 her testimony by not even, by not trying to correct her or
20 state for the grounds this is a pair of socks that also in
21 fact, that Crystal Jackson's DNA was on, Crystal Jackson's
22 DNA was found on this pair of socks that the, allegedly
23 the State placed, put me there. They tried to use me as a
24 major to this crime. Crystal Jackson being the State's
25 key witness and to the conviction of a murder and that is

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1 also a cutting from a sock that was inside this burn hole.

2 And it states, Your Honor, for the record --

3 THE COURT: Uh-huh.

4 THE APPLICANT: -- same, it says the DNA obtained
5 from item 65-2 which is also a cutting from a sock, not a
6 swab, is a mixture of at least two individuals. The DNA
7 profile developed from the major contributor to this
8 mixture also matches Herbert Ellis, the victim. No
9 conclusive statement can be made as to the inclusion or
10 exclusion of Crystal Jackson to this mixture. It says
11 Chad Williams, Patricia Quarrels, Catherine Young, Josh
12 Mays, David Quarrels are excluded as possible contributors
13 to this mixture.

14 And to the findings of this, why wasn't that ever
15 presented or brought up?

16 Q. Mr. Williams, are you saying that it's under a Brady
17 violation?

18 A. Yes, sir. Yes, sir.

19 Q. Okay. Other than the testimony of Lilly Gallman,
20 are there any other State's Witnesses that you would like
21 to bring up?

22 A. Cathy Young as her, as her involvement with all of
23 this. And even her DNA being found with the -- on a shoe,
24 her blood on a shoe with the victim's blood inside this
25 burn hole. My lawyer was ineffective for not adequately

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1 or trying to give testimony towards that or trying to
2 expose it but he never, he never presented any type of
3 defense. He never followed it up. Never asked her why is
4 your blood, Cathy Young, on a shoe inside of a burn hole
5 with Mr. Ellis.

6 State's -- that's the State's -- that's the State's
7 Exhibit that was also, that was used to state that the
8 shoes was, that also tested as Cathy Young's testimony was
9 because I was wearing shoes. I had these white shoes on.

10 My DNA was not found on the inside of them shoes nor
11 around them shoes. In fact, that Cathy Young's blood was
12 on them shoes with the blood of the victim inside of that
13 burn hole, I feel that he should have objected to it,
14 tried to correct it. It was perjured testimony and he
15 should have objected to it or at least tried to correct it
16 because Cathy's testimony was strictly based upon her
17 conviction of me with them shoes. The DNA results came
18 back Cathy Young was on the shoes, not me.

19 Q. Okay. Other than Cathy Young, any other State's
20 witnesses that you would like to discuss?

21 A. Another one of Lilly Gallman pertains on the same
22 page, transcript page 224, lines 10 through 18, Your
23 Honor.

24 THE COURT: I've got the transcript.

25 THE APPLICANT: From 10 through 18.

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1 THE COURT: Got it.

2 THE APPLICANT: And it says -- if I may read. Says,
3 you were submitted -- or SLED was submitted a wrench and a
4 sledgehammer in this case. Yes. Item number 28-1 is a
5 swab from a wrench.

6 Line 13: Were you able to make any comparisons from
7 the items -- from those items. She said, yes, I was. The
8 DNA profile developed from item 28-1 is from an
9 unidentified individual so I did not have -- it did not
10 match any of the standards that were submitted to me.

11 And unidentified female individual. The State's
12 basing its case upon murder on this alleged wrench they
13 said that I used in the commission of crime to kill
14 Mr. Ellis. The DNA matched a unidentified female, not in
15 fact Mr. Ellis.

16 He should have objected to the admission or to the
17 exclusion of the items.

18 Q. Anything else, Mr. Williams?

19 A. Not on that note other than he should have objected
20 and corrected the testimony, objected to their testimony.

21 Q. Okay. Any other witnesses?

22 A. No, sir.

23 Q. Okay. Mr. Williams, anything else on that before we
24 move to your final ground for post-conviction relief?

25 A. No, sir. I believe I just covered it all.

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1 Q. Okay. Mr. Williams, your final ground is a Brady
2 violation. And I know you've discussed Brady violations
3 quite a bit.

4 Is there anything that you would like to add to
5 that?

6 A. From -- other than the withholding of evidence, the
7 withholding of knowledge from me, that's a clear, I
8 believe that's a clear showing of a violation was when the
9 evidence, I mean, with the evidence, the results, me
10 withholding -- I mean, the State withholding evidence from
11 me, lab results from me and they knew about it, I believe
12 that is -- constitutes -- I believe that falls under the
13 criteria or the elements for a Brady violation -- of a
14 violation of a Brady by not handing over or not giving to
15 me or not even telling me or disclosing to me the
16 information pertains to these certain documents. In this
17 case documents being a pair of socks and the findings on
18 them socks.

19 The testimony -- the tape, I have not seen the
20 tape. It's like I said, I don't -- about the socks, I
21 would love, I would love -- if it please the Court, if I
22 can for the sake of this hearing see them socks that was
23 produced to get me convicted for this trial for this
24 murder and at least the cuttings, at least the cuttings.

25 May I see them for the sake of this hearing? For

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1 the sake for establishing the grounds for a Brady
2 violation, and for the sake of this PCR, I'd ask the Court
3 to please allow me to see this evidence that I was
4 withheld from.

5 Q. Mr. Williams, that evidence is not available to us
6 today.

7 A. Not available. Not available.

8 Q. Is there anything else you'd like to add?

9 A. Other than I would, I'd want to see them, the
10 physical side of them because I know that I can, I can't
11 see anything inside of a box, inside the picture but not
12 seeing the articles in, I can only take things at face
13 value. Now, I can't. I can't.

14 It's like the same stuff, the laws -- I once -- as I
15 understand, it's kind of like a thin line. And I would,
16 I, I can't -- it's like I can't take it. I can't take it
17 for face value. I can't, I can't take their word.

18 You withheld this stuff. You withheld it and I got
19 to take you on face value for what you say because you
20 preponderance -- I mean, I understand I respect the law.
21 I respect it by all means, but having the law about you
22 and what you represent and if you had a strong case built
23 upon your, your alleged accused, present to them, show it
24 to them, don't withhold it, don't withhold foreknowledge
25 of it. Disclose it to them. Show the Courts. Build your

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1 case upon it. I didn't want to look at a box.

2 I feel like my attorney was ineffective for not
3 trying to present, not even trying to admit them into
4 evidence for a defense for me, to put up a defense for
5 me. He didn't do it.

6 So for the sake of this and establishing for the
7 Brady violation was in fact that the State withheld
8 excapatory (verbatim) evidence that was very detrimental
9 to my case and beyond -- and the jury I feel like through
10 the evidence and the weight thereof and the results that
11 the jury within a reasonable -- without a reasonable doubt
12 would have found another charge, would have not found me
13 guilty of murder had they in fact known the information
14 that three people or two people's DNA was on the alleged
15 evidence that the State said was mine's only.

16 I do not believe they would have found me or had me
17 convicted for murder if the State would have presented
18 this evidence or have -- this evidence would have been
19 presented truthfully without the intent of deprivation of
20 my rights to a fair trial.

21 MR. LANCER: Thank you, Mr. Williams. I don't have
22 any more questions for you right now. Please answer any
23 questions Mr. Gourley has for you.

24 THE COURT: Mr. Gourley, I hate to stop you. We're
25 going to take about a 10-minute break.

CHAD E WILLIAMS - CROSS BY GOURLEY

1 MR. GOURLEY: Yes, Your Honor.

2 THE COURT: All right. Thank you.

3 (Break taken at 11:52 a.m., until 12:03 p.m., and
4 the hearing resumed:)

5 THE COURT: All right. Mr. Gourley.

6 MR. GOURLEY: Thank you.

7 CROSS-EXAMINATION

8 BY MR. GOURLEY:

9 Q. Mr. Williams, how many times did you meet with
10 Mr. Miller prior to your trial? A rough estimation if you
11 can.

12 A. One -- I'd say about five.

13 Q. About five times?

14 A. I'd say about four or five times.

15 Q. Did y'all go over any type of evidence, or any type
16 of discovery material or anything like that?

17 A. Other than we were waiting to get some results back.

18 Q. Right.

19 A. But he asked me pertaining to the events of that
20 night so, yes.

21 Q. Okay. DID y'all discuss any possible defense to
22 your charges?

23 A. No, sir. Other than waiting on the results --

24 Q. Okay.

25 A. -- to come back.

CHAD E WILLIAMS - CROSS BY GOURLEY

- 1 Q. How about after when the results came back, did
2 y'all discuss anything?
- 3 A. He said it depends on what the results say.
- 4 Q. Okay. Did you ever give Mr. Miller any type of
5 witnesses or leads to investigate on your behalf?
- 6 A. Yes, I did.
- 7 Q. And who was that?
- 8 A. Robert Bush.
- 9 Q. Okay.
- 10 A. And also I gave him -- I think that was, that was
11 it.
- 12 Q. That was it, Robert Bush?
- 13 A. Robert Bush.
- 14 Q. And who is Robert Bush?
- 15 A. Robert Bush is a, well, used to be a former
16 associate with people, or with me and myself. But he's
17 also the person I spoke with that night once I left the
18 cabin, the cabin -- when I left the residence to went back
19 to Angie's, Angie Mathis's place.
- 20 Q. Okay. Now you gave a confession in this case;
21 right?
- 22 A. Yes, sir; I did.
- 23 Q. And your allegation is that you were on some sort of
24 medication that prevented you from knowing what you were
25 doing at the time?

CHAD E WILLIAMS - CROSS BY GOURLEY

- 1 A. Yes, sir.
- 2 Q. Did you tell anybody you were taking medication?
- 3 A. They knew.
- 4 Q. They knew?
- 5 A. I mean, other than -- I don't think I informed
- 6 Mr. Miller.
- 7 Q. Okay. So you never told counsel that you were on
- 8 meds?
- 9 A. I don't think so.
- 10 Q. And then if I understood your testimony earlier you
- 11 confessed to this crime because you were trying to get a
- 12 better deal, didn't want to face life?
- 13 A. Yeah.
- 14 Q. Now as part -- after your confession the State
- 15 offered you 30 years for murder and 10 years to run
- 16 consecutive to your murder charge; correct?
- 17 A. No, sir.
- 18 Q. Okay. What did the State offer you?
- 19 A. Thirty years for murder, and 15 --
- 20 Q. Okay.
- 21 A. -- for the burg plea.
- 22 Q. So they did offer you a plea deal after you
- 23 confessed to the crime; right?
- 24 A. Yes, sir.
- 25 Q. And you chose not to accept that plea deal; right?

CHAD E WILLIAMS - CROSS BY GOURLEY

1 A. Yes, sir.

2 Q. And as a result of you not accepting the plea deal
3 you proceeded to trial?

4 A. Yes, sir.

5 Q. Okay. Now specifically to your allegation of
6 accessory after the fact, it's your testimony here today
7 that Crystal Jackson got you to go to the burn hole with
8 her, that you weren't involved in the murder of
9 Mr. Herbert Ellis at all?

10 A. She didn't force me --

11 Q. Okay.

12 A. -- to do it. She didn't force me, took me to do it,
13 no.

14 Q. Right. but your involvement --

15 A. My involvement --

16 Q. -- started --

17 A. -- was --

18 Q. -- with Crystal Jackson going to the burn hole?

19 A. Yes, sir.

20 Q. That was when your involvement in this crime
21 initially started?

22 A. Yes, sir.

23 Q. Okay. Crystal Jackson also stated that you told her
24 that you'd killed Herbert Ellis; correct?

25 A. That's correct.

1 Q. Now, were you ever indicted for accessory after the
2 fact?

3 A. No, sir.

4 MR. GOURLEY: Beg the Court's indulgence, Your
5 Honor.

6 THE COURT: Take your time.

7 (Pause.)

8 BY MR. GOURLEY:

9 Q. Mr. Williams, the letter that you read that
10 Mr. Miller wrote to you, do you know the date of that
11 letter?

12 A. Yes, sir. January the 18th, 2008.

13 Q. Okay. And what did you attempt -- when did you
14 attempt to plead guilty?

15 A. What was it. October.

16 Q. Okay. And when was your confession?

17 A. July.

18 MR. GOURLEY: Okay. Your Honor, that's all the
19 questions I have.

20 THE COURT: All right. Mr. Lancer, anything on
21 redirect limited to his cross?

22 MR. LANCER: Nothing further, Judge.

23 THE COURT: All right. Thank you. Mr. Williams,
24 you may step down.

25 THE APPLICANT: All right. Your Honor, for the

1 record I'd ask for a 59(e) motion.

2 THE COURT: Well, you really can't get that until
3 after I rule.

4 THE APPLICANT: Oh, I'm sorry.

5 THE COURT: You save that for later. Okay?

6 THE APPLICANT: Just save that for later?

7 THE COURT: Yeah. That's to clarify anything I miss
8 or anything like that. In other words, if I don't address
9 some of your issues --

10 THE APPLICANT: Yes, sir.

11 THE COURT: -- Mr. Lancer will be more than happy to
12 file a 59(e) to correct me for something like that.

13 THE APPLICANT: All right.

14 THE COURT: Okay? But since I don't know how I'm
15 ruling yet, you can't get to ask that.

16 THE APPLICANT: No.

17 THE COURT: Okay. Thank you, sir.

18 THE APPLICANT: Thank you, Your Honor.

19 THE COURT: Okay. Give you a chance to gather
20 everything up. And, Mr. Lancer, you can help him if you
21 want to.

22 MR. LANCER: Certainly.

23 THE APPLICANT: Your Honor, I have a suggestion
24 pertains to the credibility of Lilly Gallman as her
25 testings and the findings from her analysis and her

1 credibility.

2 Now I found recently a state -- in Spartanburg
3 pertaining to Jepheth Barnes versus Spartanburg County
4 Sheriff's Office pertaining to Lilly Gallman's perjury of
5 falsifying DNA under her forensics as she was accused of
6 it and found because of a Jepheth Barnes, attorney,
7 objected to what he saw and it was within the lab results
8 he challenged it.

9 And she was then dealt with accordingly. But that
10 was in May 2007. And it was a West Law case and it's --
11 I'm -- it's 137-7564. I believe it is. I have it on the
12 table within my notes but I was asking the credibility
13 upon her to be challenged and under her forensics.

14 THE COURT: Okay. And you're going to provide me --
15 your attorney is going to provide me with a copy of that?

16 MR. LANCER: Yes, Judge, I will.

17 THE APPLICANT: Yes, sir.

18 THE COURT: All right.

19 MR. GOURLEY: Yes, sir.

20 THE COURT: And, Mr. Gourley, you heard what
21 Mr. Williams said about he wanted to question
22 Ms. Gallman's credibility based on a case that's going to
23 be, that --

24 MR. GOURLEY: Okay.

25 THE COURT: -- she was present. Do you have any

DAVID W MILLER - DIRECT BY LANCER

1 questions regarding that?

2 MR. GOURLEY: No, Your Honor.

3 THE COURT: Okay. I just didn't want you --

4 MR. GOURLEY: Appreciate that.

5 THE COURT: -- I wanted you to have that
6 opportunity.

7 MR. GOURLEY: Yes, sir.

8 THE COURT: Thank you.

9 THE APPLICANT: Thank you, Your Honor.

10 (Off-the-record discussion.)

11 THE COURT: Mr. Lancer, your next witness.

12 MR. LANCER: Your Honor, I would call Deputy
13 Solicitor David Miller.

14 THE COURT: Okay.

15 DAVID W. MILLER, having been duly sworn, was
16 examined and testified as follows:

17 THE CLERK: Please have a seat in the witness box.
18 State your full name for the Court.

19 THE WITNESS: David Miller.

20 THE COURT: Your witness.

21 DIRECT EXAMINATION

22 BY MR. LANCER:

23 Q. Mr. Miller, were you appointed or retained to
24 represent Mr. Williams?

25 A. I was appointed.

DAVID W MILLER - DIRECT BY LANCER

1 Q. And where were you working at the time that you were
2 appointed?

3 A. I was in private practice at law offices of Smith
4 Massey Brody Thurmond -- Thurmond at that time.

5 Q. What kind of work were you doing for that firm?

6 A. Primarily criminal defense and civil plaintiff's
7 work.

8 Q. Do you remember approximately when you were
9 appointed to represent Mr. Williams?

10 A. It would have been in late 2007. Sometime late
11 2007.

12 Q. Okay. Did you have an investigator assist you with
13 this case?

14 A. I did.

15 Q. Who was that?

16 A. Roger Sharp.

17 Q. Okay. David, when you first got this case would you
18 kind of discuss the approach that you took, who you talked
19 to, what your goals were with the case, that sort of thing
20 initially?

21 A. The first person I talked to whenever I got the case
22 was the Defendant. He was in jail. He did not have a
23 bond. We sat down and talked about the case and really
24 not even as much talking about the case as it was just
25 kind of finding out where he was in the process.

DAVID W MILLER - DIRECT BY LANCER

1 I didn't have the discovery at that point in time.
2 Sometimes it's helpful to go ahead and get somebody's
3 position on the case before you have the discovery but
4 obviously I wasn't going to run out and start making
5 allegations or accusations based upon his version of the
6 story.

7 But, really, the first time I talked to him, I
8 probably didn't talk to him about the case myself much at
9 all, just kind of what the process was going to be. He,
10 he was very adamant about certain things involving the
11 case, and he was very adamant about the fact that he
12 wanted to get out of jail.

13 And, I was pretty confident that that wasn't going
14 to happen.

15 Q. David, throughout your representation what methods
16 of communication did you use with him, for example, in
17 person? At the jail? Through letters? Through
18 telephone? What kind of communication would you use?

19 A. Predominately -- well, initially, like with all the
20 clients, I would go out and I would talk to him in person
21 at the jail. And I would tell him that he could call my
22 firm collect and that if our staff, our receptionist knew
23 if I was there and I wasn't with somebody they would take
24 the collect call. If I was not there or if I was in a
25 meeting with somebody else, they would decline the call.

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1 It was simply to keep our firm from paying for a bunch of
2 collect calls that were useless whenever they knew he was
3 calling for me.

4 So I would meet with him at the jail and
5 occasionally he would call. As he became more and more
6 irrational I started documenting by writing him letters
7 and explaining things to him in letter, because this whole
8 doublespeak of legal mumbo jumbo that we've listened to
9 for the last hour and a half was what I listened to for a
10 year from him about how once he decided a fact was not
11 going to go his way he would move on to the next fact that
12 he wanted to challenge, and say it wasn't going to go --
13 and say it was going to go his way.

14 For example, the very first problem that we ran into
15 was his fervent belief that there was no way Crystal
16 Jackson was ever going to take the stand and testify
17 against him. She's the mother of my children. She's not
18 going to testify against me. For literally weeks Roger
19 Sharp and I both had to convince him, you can't sit there
20 and argue that you can't be convicted in this case because
21 Crystal Jackson's not going to testify. She's going to
22 testify.

23 Once he finally accepted the fact that Crystal
24 Jackson was going to testify against him, he then started
25 coming up with reasons why Crystal Jackson was lying about

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1 what her testimony would be.

2 And for what it's worth, I absolutely believe
3 Crystal Jackson lied about her testimony but not in any
4 way that was beneficial to Chad Williams.

5 Q. You talked about writing letters to Mr. Williams.
6 About how many letters would you say you wrote to him?

7 A. I would say three or four. It was usually for
8 something significant, like the letter that he referenced
9 in January of 2008. By that time I had had a chance to
10 review all the discovery that the State had at the time.
11 Obviously the DNA results themselves didn't come in until
12 September. I want to say September 17th of 2008. They
13 were sent to me on the 24th, September 24th of 2008.

14 I went through those results with him. I went
15 through those results with him at the jail. We even got
16 special permission from the jail so that myself,
17 Investigator Sharp and Chad Williams could all meet in one
18 room so that we could watch videos, because a lot of this
19 stuff had to do with videotaped interviews.

20 It was a reenactment or a documentary video that was
21 done whenever they were LED out to where the burned items
22 were that shows the recovery of the burned items in the
23 pit or in the hole. And we couldn't really go through
24 those videos with him with the normal visitation at the
25 jail with the glass in between us.

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1 And so we talked to at-that-time Captain Barranco.
2 He gave us special permission and we actually met in a big
3 room in the intake area where all of us could sit down
4 together. And we spent literally hour upon hour upon hour
5 discussing this case and discussing all of the evidence
6 and him handing us stuff that he had circled and
7 highlighted or circled and noted and saying, well, what
8 about this and answering those questions.

9 Q. Was he at the detention center throughout your
10 representation?

11 A. Yes.

12 Q. How many times would you say you went down to see
13 him there, approximately?

14 A. I would guess I spoke to him somewhere between six
15 and 10 times, but I had other clients that were at the
16 detention center at the time. And a lot of times if I was
17 seeing somebody else I'd just say, hey.

18 The real -- the difficulty in representing Chad was
19 he had decided that no matter what he just needed to get
20 out of jail. If he could just get out of jail then
21 everything was going to be fine.

22 And I knew that wasn't happening. So there was a
23 lot of -- I was realistic with him from day one. I wrote
24 him the letter that he read earlier that said, look, the
25 way it looks right now I expect in my professional opinion

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1 if you go to trial you're going to get hammered. I was
2 trying to be as forthright with him and up front with him
3 as I could but any time that you said something to Chad
4 that Chad didn't like, he just acted like you didn't say
5 it which is why I put in writing. I put in writing to him
6 so he couldn't come back later on and say, I had no idea I
7 was looking at life in prison on this charge because my
8 attorney never told me.

9 And, that was his basic -- that was the nature of
10 all of our discussions. I want a bond. You got to get me
11 out of here. Okay, Chad, let me explain this to you. The
12 process is, because you've been denied bond and the judge
13 has already said no bond, we file a motion for speedy
14 trial.

15 The judge is going to say, try him by this date. If
16 they don't try him by that date, we get to move for a
17 bond. That bond is going to be ridiculously high.
18 There's no way you'll be able to make it. But the next
19 term, if they haven't tried you, we get to ask again. And
20 the judge generally is going to cut it in half. And the
21 next term if they haven't tried you, we get to ask for a
22 bond again and the judge is generally going to cut it in
23 half until at some point it either gets to a point that
24 you can make bond, it gets to a PR bond, or they try the
25 case. That's the speedy trial motion.

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1 Now, February the 14th of 2008, I made the motion
2 for a speedy trial in front of Judge Newman. And Judge
3 Newman told at-that-time Deputy Solicitor Weeks, try the
4 case by May or you can come back and have bond set.

5 In May, we came back, May of 2008, in front of Judge
6 Early. And Judge Early set his bond at \$1.5 million which
7 is what I had told him in advance, I had warned him was
8 going to happen. It was going to be exceedingly high, but
9 it's another step in the process.

10 He showed his behind and where he's standing over
11 next to where Dean McFarland is, he actually yelled at the
12 judge. And so Judge Early had him brought back. And he
13 said, what's the problem. And Chad said, you might as
14 well not even set a bond for me. And Judge Early asked
15 him, does that mean you're withdrawing your motion for
16 bond. And he said, I might as well.

17 So here was what I was dealing with with Chad
18 Williams. I've explained it to him two different times.
19 We're at the second hearing in the stage. No matter what
20 he does, he's going to walk out of this room with a bond,
21 not a bond he can necessarily make. And somehow he
22 manages to make it so that when he walks back in there he
23 doesn't have a bond and he doesn't have a bond motion
24 pending any more.

25 That is the attitude that was presented every single

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1 time he didn't get his way.

2 And it was a big part in my decision to advise him,
3 even though it was abundantly clear from the record and
4 from what was done, that it was his decision whether or
5 not to testify and put up a defense. It was my advice to
6 him that with his attitude he absolutely not do that
7 because he was going to fold like a cheap suit when Bill
8 Weeks started cross-examining him.

9 And he agreed with that at the time, that he didn't
10 want to testify. He had a terrible prior record. This
11 was a horrendous set of facts and he had already put his
12 story out there so to speak about what had happened
13 whenever he confessed in July.

14 Q. David, you talked about a speedy trial motion. Was
15 that something that Mr. Williams was pushing for or was
16 that just part of the process of getting a bond set?

17 A. No, that was something he was pushing for.

18 Q. Okay.

19 A. Well, it was part of the process of getting a bond
20 set, but it was the only way we were going to get a bond
21 set in the case with the allegations, the nature of the
22 allegations, okay, and the State basically saying, Judge,
23 we want to wait until we get our DNA back from SLED, as
24 very often happens. The only way he was going to get a
25 bond is if we went the speedy-trial route. And so that's

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1 why we went that direction.

2 Now after May of 2008 bonds and speedy trials were
3 out the window because he had withdrawn his motion by
4 throwing a temper tantrum in the courtroom.

5 Q. David, was there any other motions that Mr. Williams
6 asked you to file on his behalf over the course of
7 representation?

8 A. There really wasn't. He didn't really care about
9 anything other than getting out of jail. And he used the
10 expression up here today that I must have heard a thousand
11 times; you've got to go get these charges off of me. Get
12 these charges off of me.

13 Like there was some magical way that I was going to
14 go in and change the facts of the case so that all of a
15 sudden the State was going to go, oh, well, we should
16 probably not even bring these charges.

17 Q. Do you remember who all Roger Sharp interviewed over
18 the course of your representation?

19 A. I don't know who Roger interviewed. Roger's
20 involvement in the case was pretty well limited. By the
21 time that we got the discovery and kind of had what we
22 felt was a good grasp of what went on, what everybody was
23 saying because there were videotaped interviews from Cathy
24 Young and Crystal Jackson and Josh. All of these people
25 had given videotaped interviews. And we had gone through

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1 all the videotaped interviews including going through them
2 with Chad. We had a pretty good grasp of what everybody
3 was going to say.

4 And our position as far as the defense went, was
5 going to have to be all these people are lying because
6 they have more involvement in the crime than they've
7 admitted. And they're all putting it on Chad who had no
8 involvement in the crime other than actually burning this
9 stuff.

10 And, essentially Chad's position was, well, I want
11 to tell the same story that Crystal Jackson told. Which
12 Crystal Jackson's story was that Chad left and when he
13 came back he took her along to go burn this stuff. She
14 admitted that she was with him when they burned all of
15 this stuff out in the middle of the woods.

16 And that was basically Chad's story was -- that's
17 what he wanted. He wanted to put forth that defense. I
18 had nothing to do with it but Crystal Jackson came and got
19 me and I went with her to go burn this stuff out in the
20 woods.

21 And it didn't match up. It didn't make sense. It
22 didn't match with any other stories. And so, we explained
23 to him why, in my opinion, the jury wasn't going to buy
24 that. That wasn't something we could sell to a jury.

25 And so then he came up with another version of the

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1 story about how, well, he had gone over to the trailer,
2 and he was gone but really he hadn't gone into the
3 trailer, and that's how he ended up getting some of them
4 the money, because he was with the person who had done it.

5 And we, again, went through all of the problems that
6 we saw. This is -- when I say we, I'm talking about me
7 and Roger Sharp, went through all of the reasons why a
8 jury was not going to believe that story.

9 And finally in June, somewhere around there, he
10 comes up with the story about Jesse James Quarrels. And
11 the story about Jesse James Quarrels was essentially this
12 guy did it. He's the one that did it. I didn't want to
13 tell you who he was the first year I was sitting in jail
14 because I was scared of him. Crystal's scared of him so
15 that's why she's lying. Here's the story. All I did was
16 help them burn the stuff afterwards.

17 And frankly, Roger -- he told me the story over the
18 phone, Chad did. Told me the story over the phone. I
19 couldn't really find any holes in the story. I -- the
20 evidence, there was nothing directly to contradict his
21 story in the evidence. If in fact all these people were
22 scared and that's why they didn't want to say it was the
23 person who had actually done it, then it was at least a
24 plausible story.

25 But before I did anything with that information, I

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1 wanted Roger Sharp to hear the story, too. And Roger was
2 a retired or is a retired SLED investigator and he's heard
3 enough BS stories in his life that I put some faith in his
4 ability to figure it out.

5 So, Chad tells his story to Roger. And Roger can't
6 find any obvious problems with it. Ultimately if his
7 story was to be believed, it would be a complete defense
8 to murder. Okay. It was not me, if his story is to be
9 believed.

10 For that reason after I had vetted the story, after
11 Roger vetted the story, we contacted Solicitor Weeks. And
12 we asked if he could be put on a polygraph after we
13 discussed with Chad this is the process. If you want to
14 get the advantage of this story, they're going to want to
15 put you on the box. And if you pass the polygraph then it
16 changes the whole game and everybody has to figure out
17 what they're going to do from there, but you got to tell
18 them the story and you got to pass the polygraph on the
19 story.

20 He was all for it, ready to go. Roger and I even
21 compared the versions of story we had heard and they were
22 almost verbatim, identical. He hadn't change the story
23 between telling it to me and telling it to Roger.

24 And on July the 2nd of 2008, Chad tells the story
25 again to me, Roger Sharp, Investigator Billy Fleury,

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1 Deputy Solicitor Weeks, and Tommy Platt who's the
2 polygrapher for the Aiken County Sheriff's Office. And
3 after he tells the story, he goes into the polygrapher's
4 room. This is pre-interview. He goes into the
5 polygrapher's room with Investigator Platt. And I looked
6 at Billy Fleury and I said, well, what do you think. And
7 he laughed and said -- well, he said that he didn't
8 believe the story. And I asked him why. And he said
9 because Jesse Quarrels was in the Edgefield County
10 Detention Center whenever this murder took place.

11 About an hour later Investigator Platt comes out and
12 says he wasn't being truthful. He admitted that Quarrels
13 didn't have anything to do with it to me in the interview
14 room. I never even hooked him up to the polygraph. He
15 just admitted that he was lying.

16 At that point they were bringing Chad out to take
17 him back to the jail and Chad said, what do we do,
18 essentially. And I said, Chad, if you don't cooperate
19 with them, they've got no reason to help you at all.
20 Either you cooperate with them or we're going to trial
21 with what we've got and he was well aware of what we had.

22 And at that point he told -- sat down and, in my
23 opinion, told the truth for the only time that he's told
24 it the entire case. He was detailed. It was very quick.
25 His whole story confession-wise, his confession couldn't

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1 have been more than 15 minutes.

2 He knew certain things. He gave details. Crystal
3 Jackson was in fact with him the entire time. He talked
4 about how they both went in the back door of the trailer
5 and he peeled off to the right and she peeled off to the
6 left, that they were looking for money and they were
7 looking for drugs. They knew that Mr. Ellis had both.

8 And he talked about getting to the back bedroom.
9 And Mr. Ellis had a small dog that slept in the bed with
10 him and the dog woke up and started growling and barking
11 which aroused Mr. Ellis. And he said, Chad said that he
12 thought he saw him reaching under his pillow and he didn't
13 know if he had a gun there or not so he hit him in the
14 head.

15 And that first blow knocked him from the bed onto
16 the floor and he just kept on hitting him. And Crystal
17 came running back to the bedroom screaming, oh my God,
18 Chad, what are you doing, what are you doing. And when he
19 stopped he and Crystal ran out of the trailer.

20 And then they went back to the house where they had
21 come from, the cabin. And they bagged up all of the
22 clothing and all of the other evidence and they set it on
23 fire.

24 And that was significant because the biggest problem
25 with the State's case all along was Crystal Jackson was

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1 saying, I had nothing to do with this murder until Chad
2 came up to me and asked me to help him dispose of the
3 evidence. But I didn't do anything to help him dispose of
4 the evidence. It just didn't make any logical sense. Why
5 would somebody commit a crime and then come to a third
6 party and say, hey, come here. You don't know that I
7 committed this crime until now but I'm going to tell you I
8 committed this crime. Come help me dispose of evidence.

9 And the reason why -- and I still believe this to be
10 true, the reason why Crystal Jackson was involved in the
11 disposal of the evidence is because she was involved in
12 the actual commission of the crime. So that's where --
13 that's where the confession came in. That's how the
14 confession played out.

15 The case was on the trial roster. I didn't -- I
16 wasn't as concerned about the fact that they were going to
17 try the case because the SLED evidence wasn't back in
18 August.

19 But by September it was back. And I was harassing
20 Bill Weeks on, at least three or four times a week about
21 working out some kind of deal. He, Billy Fleury, Roger,
22 I, we all thought Chad had done his part, he had been
23 truthful with his confession. He didn't minimize his
24 involvement in his confession. And I was looking for a
25 deal.