

VOLUME THREE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

L. Casey Manning, Circuit Court Judge

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S.C. Supreme Court

SAMMIE LOUIS STOKES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000635

APPENDIX

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VOLUME THREE
Pages 1,001 – 1,500

INDEX

INDEX	i

VOLUME ONE

TRIAL TRANSCRIPT (October 25, 1999)	1
VOIR DIRE	22

VOLUME TWO

VOIR DIRE	501

GUILT PHASE

OPENING ARGUMENT BY WALTER BAILEY	777
OPENING ARGUMENT BY THOMAS SIMS	787

TESTIMONY

MARK OTT

Direct Examination by Mr. Bailey	792
Cross-Examination by Mr. Sims	799

DAVID OTT

Direct Examination by Mr. Bailey	807
Cross-Examination by Mr. Sims	810

ADOLPH SUBLETT MCALHANEY

Direct Examination by Mr. Bailey	812
Cross-Examination by Mr. Sims	817

SHANE JUDY

Direct Examination by Mr. Bailey	819
Cross-Examination by Mr. Sims	823
Re-Direct Examination by Mr. Bailey	825

TED SHEALEY

Direct Examination by Mr. Bailey	826
Cross-Examination by Mr. Sims	834

JACK COLEMAN

Direct Examination by Mr. Bailey.....	840
Cross-Examination by Mr. Sims.....	843

CLARK WHETSTONE

Direct Examination by Mr. Bailey.....	846
Cross-Examination by Mr. Sims.....	848

EMERY RUSH

Direct Examination by Mr. Bailey.....	848
Cross-Examination by Mr. Sims.....	849

DR. JOEL SEXTON

Direct Examination by Mr. Bailey.....	850
Cross-Examination by Mr. Sims.....	860
Redirect Examination by Mr. Bailey	864

TED SHEALEY

Direct Examination by Mr. Bailey.....	865

NORRIS MARTIN

Direct Examination by Mr. Bailey.....	871
Cross-Examination by Mr. Sims.....	905
Redirect Examination by Mr. Bailey	931
Re-Cross Examination by Mr. Sims.....	934
Re-Re-Direct Examination by Mr. Bailey.....	935

CLARK WHETSTONE

Direct Examination by Mr. Bailey.....	936
Cross-Examination by Mr. Sims.....	939

EMERY RUSH

Direct Examination by Mr. Bailey.....	941
Cross-Examination by Mr. Sims.....	945

KENNY KINSEY

Direct Examination by Mr. Bailey.....	947
Cross-Examination by Mr. Sims.....	950

EMERY RUSH

Direct Examination by Mr. Bailey.....	951
Cross-Examination by Mr. Sims.....	958

EMERY RUSH

Direct Examination by Mr. Bailey.....	963
Cross Examination by Mr. Sims.....	980

VOLUME THREE

EMERY RUSH	
Cross Examination by Mr. Sims	1001

HAROLD QUENTIN FELDER, JR.	
Direct Examination by Mr. Sims	1004

HAROLD QUENTIN FELDER, JR.	
Direct Examination by Mr. Sims	1007
Cross-Examination by Mr. Bailey	1008

CLOSING ARGUMENT BY MR. BAILEY	1014

CLOSING ARGUMENT BY MR. SIMS	1035

CHARGE ON THE LAW	1045

VERDICT	1077

PENALTY PHASE

MOTIONS	1079

OPENING JURY INSTRUCTION	1099

OPENING ARGUMENT BY MR. BAILEY	1103

OPENING ARGUMENT BY MR. SIMS	1110

TESTIMONY

AUDREY SMITH	
Direct Examination by Mr. Bailey	1113
Cross-Examination by Mr. Sims	1141

ROY F. STEVENS	
Direct Examination by Mr. Bailey	1145
Cross-Examination by Mr. Sims	1152

NORRIS MARTIN	
Direct Examination by Mr. Bailey	1154
Cross-Examination by Mr. Sims	1165
Direct Examination by Mr. Bailey	1168
Cross-Examination by Mr. Sims	1170

Re-Direct Examination by Mr. Bailey	1185
Re-Cross Examination by Mr. Sims	1187

TED SHEALEY

Direct Examination	1188

JOEL SEXTON

Direct Examination by Mr. Bailey	1195
Cross-Examination by Mr. Sims	1223
Re-Direct Examination by Mr. Bailey	1233
Re-Cross Examination by Mr. Sims	1234

TAMMY SANDERS

Direct Examination by Mr. Bailey	1235

ROBERT GEORGE

Direct Examination by Mr. Bailey	1238
Cross-Examination by Mr. Sims	1240

JACK COLEMAN

Direct Examination by Mr. Bailey	1240
Cross-Examination by Mr. Sims	1242

CLARK WHETSTONE

Direct Examination by Mr. Bailey	1243

BRETT BAKER

Direct Examination by Mr. Bailey	1245
Cross-Examination by Mr. Sims	1268
Re-Direct Examination by Mr. Bailey	1273
Re-Cross Examination by Mr. Sims	1273

KEITH SIMMONS

Direct Examination by Mr. Bailey	1279
Cross-Examination by Mr. Sims	1282
Re-Direct Examination by Mr. Bailey	1286
Re-Cross Examination by Mr. Sims	1287

CLARK WHETSTONE

Direct Examination by Mr. Bailey	1288
Cross-Examination by Mr. Sims	1312

FAITH LAPP

Direct Examination by Mr. Bailey	1323
Cross-Examination by Mr. Sims	1351
Re-Direct Examination by Mr. Bailey	1363

CLARK WHETSTONE	
Direct Examination by Mr. Bailey.....	1372
Cross-Examination by Mr. Sims.....	1377

JAMES EVANS AIKEN	
Direct Examination by Mr. Sims.....	1386
Cross-Examination by Mr. Bailey	1391
Direct Examination by Mr. Sims.....	1395
Cross-Examination by Mr. Bailey	1401
Re-Direct Examination by Mr. Sims	1427
Re-Cross Examination by Mr. Bailey.....	1429

CLOSING ARGUMENT BY MR. BAILEY	1431
CLOSING ARGUMENT BY MR. SIMS	1462
CHARGE ON THE LAW.....	1475
VERDICT	1492
SENTENCING	1495

VOLUME FOUR

SENTENCING	1501
TRANSCRIPT – TRIAL COUNSEL (January 19, 1999)	1503
PRE-TRIAL HEARING (October 14, 1999).....	1512
MOTION TO SUPPRESS STATEMENTS ABSENT THE PRESENCE OF COUNSEL	1518

<u>JACKSON V. DENO HEARING</u>	1519

TESTIMONY

CLARK WHETSTONE	
DIRECT EXAMINATION BY MR. BAILEY	1519
CROSS-EXAMINATION BY MR. SIMS.....	1527

EMORY RUSH	
DIRECT EXAMINATION BY MR. BAILEY	1533
CROSS-EXAMINATION BY MR. SIMS.....	1538

WANDA FITZGERALD	
DIRECT EXAMINATION BY MR. BAILEY	1546
CROSS-EXAMINATION BY MR. SIMS	1548
KENNY KINSEY	
DIRECT EXAMINATION BY MR. BAILEY	1550
CROSS-EXAMINATION BY MR. SIMS	1554
EMORY RUSH (RECALL)	
DIRECT EXAMINATION BY MR. BAILEY	1556
CROSS-EXAMINATION BY MR. SIMS	1563
CLARK WHETSTONE (RECALL)	
DIRECT EXAMINATION BY MR. BAILEY	1568
CROSS-EXAMINATION BY MR. SIMS	1572
REDIRECT EXAMINATION BY MR. BAILEY	1573
EMORY RUSH (RECALL)	
DIRECT EXAMINATION BY MR. BAILEY	1574
CROSS-EXAMINATION BY MR. SIMS	1578
MICHELLE SNELL	
DIRECT EXAMINATION BY MR. BAILEY	1581
CROSS-EXAMINATION BY MR. SIMS	1583

RECORD ON APPEAL DOCUMENTS

MAY 2 LETTER FROM SOLICITOR BAILEY	1644
JULY 28 LETTER FROM SOLICITOR BAILEY	1645
HANDWRITTEN LETTER FROM APPELLANT	1646
TYPED COPY OF LETTER FROM APPELLANT	1657
REDACTED COPY OF LETTER FROM APPELLANT	1669
INDICTMENT FOR MURDER	1678
NOTICE OF INTENT TO SEEK THE DEATH PENALTY	1680
NOTICE OF EVIDENCE IN AGGRAVATION	1681
RECOMMENDATION OF DEATH SENTENCE.....	1683
NO FINDING OF AGGRAVATING CIRCUMSTANCES (BLANK)	1684

RECOMMENDATION OF LIFE SENTENCE (BLANK).....	1685
AFFIRMATION OF JURY'S RECOMMENDATION	1686
DEATH SENTENCE	1687
INDICTMENT FOR CONSPIRACY	1688
SENTENCE FOR CONSPIRACY	1690
INDICTMENT FOR KIDNAPPING	1691
INDICTMENT FOR CRIMINAL SEXUAL CONDUCT	1693
SENTENCE FOR CRIMINAL SEXUAL CONDUCT	1695
INDICTMENTS	
<u>SMITH</u> -- ASSAULT AND BATTERY W/ INTENT TO KILL.....	1696
<u>SNIPES</u> -- MURDER, KIDNAPPING, CRIMINAL CONSPIRACY, AND CRIMINAL SEXUAL CONDUCT – FIRST DEGREE.	1698
<u>FERGUSON</u> -- MURDER, KIDNAPPING, AND CRIMINAL CONSPIRACY.....	1708
APPLICATION FOR POST-CONVICTION RELIEF (Filed October 17, 2001)	1714
FIRST AMENDED APPLICATION FOR POST-CONVICTION RELIEF (Filed May 6, 2002)	1720
RETURN TO APPLICATION FOR POST-CONVICTION RELIEF (Filed July 8, 2002)	1725
DEPOSITION OF THOMAS SIMS (April 18, 2003)	1739
AMENDED APPLICATION FOR POST-CONVICTION RELIEF (Filed August 9, 2004)	1782
MOTION FOR PROTECTIVE ORDER PURSUANT TO SCRP, RULE 26(c) (Filed August 26, 2004); MOTION TO DISMISS AMENDED ALLEGATION 9(g) PURSUANT TO SCRPC 12(b)(1) and 12(b)(6) (Filed August 26, 2004); and MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS AMENDED ALLEGATION 9(g) (Filed August 26, 2004).	1789
LETTER FROM KEIR WEYBLE TO JUDGE MANNING (Filed July 30, 2007)	1807
POST-CONVICTION RELIEF HEARING TRANSCRIPT (August 5, 2009)	1809

APPLICANT'S "MEMORANDUM CLARIFYING GROUND 9(b), AND MOTION TO SUPPLEMENT THE RECORD" with attached "AFFIDAVIT OF SAMMIE STOKES" (Served August 18, 2009).....	1922

POST-HEARING MEMORANDUM IN SUPPORT OF AMENDED APPLICATION FOR POST-CONVICTION RELIEF (Served February 15, 2010).....	1932

RESPONDENT'S POST-HEARING MEMORANDUM (Filed February 18, 2010).....	1961

VOLUME FIVE

RESPONDENT'S POST-HEARING MEMORANDUM (Filed February 18, 2010).....	2001

APPLICANT'S REPLY TO POST HEARING MEMORANDUM (Served March 1, 2010).....	2007

RESPONDENT'S POST-HEARING MEMORANDUM (Filed June 18, 2010).....	2016

RESPONDENT'S "PROPOSED ORDER OF DISMISSAL" (Sent to Judge Manning by email dated August 29, 2010).....	2063

APPLICANT'S "PROPOSED ORDER GRANTING RELIEF" (Served October 1, 2010).....	2110

ORDER OF DISMISSAL (Filed October 22, 2010).....	2139

MOTION TO ALTER OR AMEND JUDGMENT (Filed November 17, 2010)	2185

RESPONDENT'S RESPONSE IN OPPOSITION TO RULE 59 MOTION (Filed November 30, 2010).....	2196

LETTER FROM KEIR WEYBLE TO JUDGE MANNING REQUESTING ORAL ARGUMENT (December 6, 2010).....	2206

RULE 59 MOTION HEARING TRANSCRIPT (Dated December 8, 2011)	2208

APPLICANT'S POST RULE 59 BRIEF/ MEMORANDUM – styled "SUPPLEMENTAL POST-HEARING MEMORANDUM IN SUPPORT OF AMENDED APPLICATION FOR POST-CONVICTION RELIEF" (Served January 27, 2012).....	2234

RESPONDENT'S POST-HEARING ON RULE 59 MOTION MEMORANDUM (Filed January 30, 2012).....	2270

RESPONDENT'S MOTION AND PROPOSED "ORDER DENYING RULE 59 MOTION" (Submitted March 28, 2012.....	2291

APPLICANT'S OBJECTION TO ADOPTION OF PROPOSED ORDER, AND MOTION FOR APPOINTMENT OF NEW COUNSEL IN LIGHT OF <i>MARTINEZX</i> v. <i>RYAN</i> (Filed April 12, 2012).....	2313

RESPONDENT'S REVISED PROPOSED "ORDER DENYING RULE 59 MOTION AND DENYING MOTION TO APPOINT NEW COUNSEL" (Sent to Judge Manning and Opposing Counsel by email dated April 19, 2012).....	2321
RESPONDENT'S MOTION AND PROPOSED "ORDER DENYING RULE 59 MOTION AND DENYING MOTION TO APPOINT COUNSEL" (Submitted April 19, 2012)	2347
ORDER DENYING RULE 59 MOTION AND DENYING MOTION TO APPOINT NEW COUNSEL (Filed February 19, 2013)	2371
TRIAL TRANSCRIPT (PLAINTIFF'S PCR EXHIBIT 1) (March 12, 1991).....	2396
VOIR DIRE	2409
MOTION TO SUPPRESS	2422
OPENING STATEMENT BY SOLICITOR SIMS	2430
OPENING STATEMENT BY MR. BOWMAN	2432
TESTIMONY	
AUDREY ELAINE SMITH	
DIRECT EXAMINATION BY SOLICITOR SIMS	2435
CROSS-EXAMINATION BY MR. BOWMAN.....	2443
REDIRECT EXAMINATION BY SOLICITOR SIMS	2466
THOMASINA MILLER	
DIRECT EXAMINATION BY SOLICITOR SIMS	2467
ALLEN OAKLEY	
DIRECT EXAMINATION BY SOLICITOR SIMS	2470
CROSS-EXAMINATION BY MR. BOWMAN.....	2476
MARY MCINTOSH	
DIRECT EXAMINATION BY SOLICITOR SIMS	2479
VIRGINIA F. OTT	
DIRECT EXAMINATION BY SOLICITOR SIMS	2482
DIRECTED VERDICT	2484

TESTIMONY

MARY ANN BRADLEY	
DIRECT EXAMINATION BY MR. BOWMAN	2486
CROSS-EXAMINATION BY SOLICITOR SIMS.....	2489

SPENCER UTSEY	
DIRECT EXAMINATION BY MR. BOWMAN	2490
CROSS-EXAMINATION BY SOLICITOR SIMS.....	2495

NELSON GOLDSMITH	
DIRECT EXAMINATION BY MR. BOWMAN	2496
CROSS-EXAMINATION BY SOLICITOR SIMS.....	2500

VOLUME SIX

CROSS-EXAMINATION BY SOLICITOR SIMS.....	2501
MOTION FOR DIRECTED VERDICT – RENEWED	2502
CLOSING ARGUMENT BY MR. BOWMAN.....	2505
CLOSING ARGUMENT BY SOLICITOR SIMS.....	2514
CHARGE ON THE LAW.....	2521
JERRY R. BENTON (IN CAMERA EXAMINATION BY THE COURT).....	2534
VERDICT	2535
MOTION FOR JUDGMENT NOTWITHSTANDING THE JURY’S VERDICT	2536
SENTENCING	2537
MOTION TO PREVENTS USE OF PRIOR BAD ACT	2541
MOTION FOR A TRANSPORTATION ORDER FOR MISSING DOCUMENTS OF, IN THE ALTERNATIVE, TO REMAND FOR A RECONSTRUCTION HEARING	2543
ORDER (Issued by the South Carolina Supreme Court on March 19, 2014).....	2548
STIPULATION (Defendant’s Exhibit 1 – Reconstruction Hearing).....	2550

1 Stokes fired the second shot. I think there's ample
2 evidence to go to the jury on murder.

3 THE COURT: Obviously with the evidence before
4 the Court on that charge, I would have to deny the motion.

5 MR. SIMS: Yes, sir. Your Honor, I believe
6 that the Court should advise our client as it relates
7 to his constitutional right as it relates to his being
8 able to testify or to participate in this trial as I
9 think the Court has some instructions or questions of
10 my client.

11 THE COURT: Mr. Stokes, if I could have your
12 undivided attention at this time. I now advise you that
13 you have the right to invoke the protections given to
14 you by the Fifth Amendment of the Constitution of the
15 United States and a similar counterpart provision under
16 the Constitution of the State of South Carolina. And
17 what I am eluding to here, of course, is your Fifth
18 Amendment rights as far as testifying or not testifying.

19 The Fifth Amendment to the Constitution of the
20 United States provides in part that no person shall
21 be compelled in any criminal case to be a witness against
22 himself. This provision of constitutional law means
23 that you cannot be compelled or required to testify
24 in this case. This is a right and privilege that the
25 law extends to you. This is a personal privilege and

1 no one can waive this right except you.

2 You have the right not to testify but you also
3 have the right to testify. I will grant you the right
4 to consult your attorney before you make a final decision.
5 If you elect not to testify, your failure to testify
6 cannot be used by the State as an inference of guilt
7 and your failure to testify cannot be considered by
8 the jury in its deliberations. If you elect to testify
9 and waive the privilege extended to you by the Fifth
10 Amendment to the Constitution of the United States,
11 I advise you now that you will then assume the role
12 of a witness in this case and you then waive or give
13 up your constitutional privilege against self-incrimination.

14 This means that if you voluntarily take the
15 witness stand and testify, you then subject yourself
16 to the same rules that govern other witnesses and you
17 may be examined and cross-examined on any relevant issue
18 in this case and you may be impeached to the same extent
19 as any other witness, all of which is subject, however,
20 to the rules of evidence and procedure.

21 I further advise you that if you elect to take
22 the witness stand and testify, that this decision on
23 your part must be made freely, voluntarily, intelligently
24 and with knowledge of the protections given to you by
25 the Fifth Amendment of the Constitution of the United

1 States and with knowledge of the consequences of your
2 election to testify.

3 Do you wish to consult with your attorneys at
4 this time in regards to what I have advised you?

5 MR. STOKES: No, Your Honor.

6 THE COURT: Have you discussed with your attorneys
7 whether you should or should not testify?

8 MR. STOKES: Yes, sir.

9 THE COURT: Do you understand what I have
10 explained to you?

11 MR. STOKES: Yes, sir.

12 THE COURT: Do you understand what they have
13 explained to you?

14 MR. STOKES: Yes, sir.

15 THE COURT: Do you have any questions about
16 what I've just went over with you?

17 MR. STOKES: No, sir.

18 THE COURT: Do you wish to testify?

19 MR. STOKES: No, sir.

20 THE COURT: Thank you very much.

21 MR. SIMS: Your Honor, at this time there
22 is one issue that we had talked about in regards to
23 one of my witnesses, Mr. Harold Felder from the Department
24 of Social Services. And in light of the confidentiality
25 rules that we would bring him in so that he can be assured

Mr. Felder-Direct by Mr. Sims

1002

1 that he will be protected by testifying in this court.
2 If I could call him so the Court could do that.

3 THE COURT: All right, sir. He's with the
4 Department of Social Services?

5 MR. SIMS: Yes, sir, he is.

6 THE COURT: All right, bring him around and
7 let's swear him.

8
9 HAROLD QUENTIN FELDER,
10 JR., AFTER FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION BY MR. SIMS:

12 Q. Mr. Felder, you are with the Department of
13 Social Services, is that correct?

14 A. Yes, sir.

15 Q. You were involved in the child protective
16 services case involving Connie Snipes, is that correct?

17 A. Yes, sir.

18 Q. And pursuant to the statutory requirements
19 for workers who work for the Department of Social Services
20 there is a confidentiality statute, is that correct?

21 A. Yes, sir.

22 Q. And in order to be able to testify or disclose
23 that, you would need an order from the Court indicating
24 that it would be under these circumstances okay for
25 you to testify, is that correct?

Mr. Felder-Direct by Mr. Sims

1003

1 Q. And that's what you are asking the Court to
2 order at this point, is that correct?

3 A. Yes, sir.

4 MR. SIMS: Your Honor, I would ask the Court
5 to issue an order directing Mr. Felder to testify as
6 it relates to the issues in regard to this case.

7 THE COURT: It is so ordered. Okay, you may
8 step down and, of course, when you call him he will
9 need to re-take the oath in front of the jury.

10 MR. SIMS: Yes, sir.

11 SOLICITOR: Your Honor, while Mr. Felder is
12 there, if I could, Mr. Sims and I discussed the extent
13 of Mr. Felder's testimony. It is my understand that
14 his testimony would be limited to the fact that he placed
15 a call to Pattie Syphrette, I think on May 22, 1998,
16 and said words to the effect that Connie Snipes couldn't
17 be in the house with one of the children that Pattie
18 Syphrette had and that would be the extent of it. It
19 is my understanding that he wouldn't be getting into
20 anything that would reflect adversely on the character
21 of the victim, and I just wanted to know.

22 MR. SIMS: That is correct, Your Honor, that
23 is the purpose that we want to use him for.

24 THE COURT: Okay. Let me get something clear
25 on the record. I know we've discussed this before and

Mr. Felder-Direct by Mr. Sims

1004

1 we've got that juror that has got that exam in the morning,
2 it's at 8:30 over at the auditorium at South Carolina
3 State. We need to get on the record permission from
4 both sides that SLED can take him over there and let
5 him take that exam and I'll instruct him, of course,
6 that he is not to discuss this case with anyone.

7 SOLICITOR: No objection from the State, Your
8 Honor.

9 MR. SIMS: No objection from the defense.
10 Let me just clear it with Mr. Stokes again.

11 (WHEREUPON, A conference was held between
12 the defendant and his attorneys.)

13 MR. SIMS: Your Honor, we have discussed that
14 with our client and he indicates that he does not have
15 a problem with that, for that juror being excused for
16 that limited period of time.

17 THE COURT: All right, thank you very much.
18 Bring the jury in, please.

19 (WHEREUPON, The jury returned to the courtroom
20 and the following proceedings were held in their presence.)

21 THE COURT: Does the party waive the polling
22 of the jury?

23 SOLICITOR: State does, Your Honor.

24 MR. SIMS: Defense does also, Your Honor.

25 THE COURT: Call your first witness, Mr. Sims.

Mr. Felder-Direct by Mr. Sims

1005

1 MR. SIMS: Your Honor, at this time the defense
2 would call Mr. Harry Felder.

3
4 HAROLD QUENTIN FELDER,
5 JR., HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
6 DIRECT EXAMINATION BY MR. SIMS:

7 Q. Mr. Felder, would you give us your full name,
8 please?

9 A. Harold Quentin Felder, Jr.

10 Q. And you're employed with the South Carolina
11 Department of Social Services, is that correct?

12 A. Yes, sir.

13 Q. And you are employed here in the Orangeburg
14 County area, is that correct?

15 A. Correct.

16 Q. And how long have you been with the Department
17 of Social Services?

18 A. Since August of 1987.

19 Q. Were you familiar with Connie Snipes?

20 A. Yes, sir.

21 Q. And were you familiar also with Pattie Sphyrette?

22 A. Yes, sir.

23 Q. Did you not have an opportunity to call ---
24 did you call Mrs. Syphrette on or about the 21st or
25 the 22nd of May of 1998?

Mr. Felder-Direct by Mr. Sims

1006

1 A. Yes, sir, I did. It was on May 22nd.

2 Q. Okay, and in your conversation with Mrs. Syphrette
3 that day, did you give her any directions as to ---
4 well, let me rephrase that. Did you know at that time
5 that Connie Snipes was living with Mrs. Syphrette?

6 A. Connie had indicated to me that she lived
7 in Mrs. Syphrette's home. Mrs. Syphrette indicated
8 to me that she stayed there on occasion, she was in
9 and out.

10 Q. And as a result of your investigation, did
11 you direct Mrs. Syphrette to have Connie removed from
12 the home?

13 A. Based on information we had received about
14 care to Brian by Connie that was deemed possibly as
15 detrimental, I advised Mrs. Syphrette not to allow her
16 to have unsupervised contact with Brian. She indicated
17 to me on that day during that phone conversation that
18 she would have her out of the house that day.

19 MR. SIMS: That's all I have of this witness,
20 Your Honor.

21 THE COURT: Solicitor.

22 CROSS-EXAMINATION

23 BY THE SOLICITOR:

24 Q. Mr. Felder, that was May 22, 1998?

25 A. Yes, sir.

Mr. Felder-Cross by Solicitor

1007

1 Q. Pattie Syphrette said she would have Connie
2 gone that day, right?

3 A. Yes, sir.

4 SOLICITOR: Thank you, Mr. Felder, that's
5 all I have.

6 THE COURT: You may step down, sir.

7 MR. SIMS: Your Honor, the defense would rest.

8 THE COURT: All right, anything in reply or
9 rebuttal?

10 SOLICITOR: No, sir.

11 THE COURT: All right, ladies and gentlemen
12 of the jury, please do not discuss this case and I'm
13 going to ask you to step back to your room and relax
14 a few minutes and we will move to the next phase of
15 the trial just in a little bit.

16 (WHEREUPON, Jury retired to the jury room and
17 the following proceedings were held in the absence of
18 the jury.)

19 THE COURT: All jurors are clear. Mr. Sims,
20 you will have a right to open and, of course, you have
21 a right to close.

22 MR. SIMS: Your Honor, we would waive opening
23 unless required.

24 THE COURT: Solicitor.

25 SOLICITOR: I have no objection.

1 MR. SIMS: Your Honor, I believe I have to
2 renew my motions, my previous motions and at this time
3 the defense again would renew the previous motions that
4 we made in regards to the issue of kidnapping, in regards
5 to the issue of criminal sexual conduct, criminal conspiracy
6 and in regards to the issue of murder, Your Honor. We
7 feel that, again, the evidence taken in the light most
8 favorable to the State that a motion for a directed
9 verdict on all four of those issues should be granted
10 and that the evidence as presented to the jury at this
11 point would not --- does not give rise to the level
12 that's required for a jury to be able to discuss and/or
13 make a decision on those issues.

14 THE COURT: I'll stand by my ruling. Denied
15 on all motions.

16 MR. SIMS: Yes, sir.

17 THE COURT: Now, we need to get this clear
18 on the record. Mr. Sims, Mr. Johnson and Mr. Stokes,
19 the defense has the right to make last argument and
20 of course that means that the defendant has a right
21 to participate in that and make the last argument.

22 MR. SIMS: Yes, sir.

23 THE COURT: At this time we need to establish
24 on the record whether the defendant, Sammie Louis Stokes,
25 wishes to make an argument.

1 MR. SIMS: Your Honor, I have discussed that
2 with him and he has indicated that he does not want
3 to. I would also ask the Court at this time to inquire
4 on the record from Mr. Stokes whether or not he wanted
5 to participate at this stage.

6 THE COURT: Mr. Stokes, do you understand
7 that you have a right to make argument, closing argument
8 in this case?

9 MR. STOKES: Yes, sir.

10 THE COURT: Do you have any questions concerning
11 that?

12 MR. STOKES: No, sir.

13 THE COURT: Have you discussed this thoroughly
14 with counsel?

15 MR. STOKES: Yes, I have.

16 THE COURT: And what have you chosen or elected
17 to do?

18 MR. STOKES: I refuse.

19 THE COURT: Thank you very much.

20 SOLICITOR: Your Honor, we might need a charge
21 conference in your Chambers. I have some and I think
22 Mr. Sims said he had some also.

23 THE COURT: Okay, but we can do it right here.

24 SOLICITOR: Your Honor, I have submitted ten
25 charges, requests to charge, and that is not intended

1 to be an exhaustive list. I was assuming that Your
2 Honor' standard charge would cover most of it, probably
3 some of what I have sent up. I've given Mr. Sims a
4 copy of them.

5 MR. SIMS: Your Honor, I believe that in one
6 of our motions we had asked for a written charge and
7 you said you would go over your charge because I think
8 a lot of this will be covered by your charge and that's
9 one of the issues that I wanted to basically get an
10 idea in terms of what you are going to charge and how
11 your charge may impact upon these because I think that
12 this is basically the law in a number of cases, but
13 I wanted to see what the Court's charges were going
14 to be, if I could have that opportunity.

15 THE COURT: I can't give you a written charge
16 right now. I always put my charges together and it
17 will take a little while to do that.

18 MR. SIMS: Okay.

19 THE COURT: I can do that and then we can
20 come back.

21 SOLICITOR: Your Honor, I just have one ---
22 I'm not sure what your standard charge is on CSC first,
23 but I would ask that you include in that charge the
24 definition of aggravated battery, the complete definition
25 as set out in the statute. Aggravated force, I'm sorry.

1 THE COURT: I'll use Irvin's charge on that
2 if that will help you.

3 MR. SIMS: That's Irvin's?

4 THE COURT: Yes, sir. All right, everybody
5 relax and I'll step back and try to put this thing together
6 where you will have an idea about it and then we can
7 cover it on the record anything you would like.

8 (WHEREUPON, A short break was held and then
9 the proceedings resumed in the absence of the jury.)

10 THE COURT: Is everybody ready to go to the
11 jury?

12 SOLICITOR: Yes, sir.

13 MR. SIMS: Yes, sir.

14 THE COURT: Let's bring the jury in, please.

15 (WHEREUPON, The jury returned to the courtroom
16 and the following proceedings were held in their presence.)

17 THE COURT: Ladies and gentlemen, I want to
18 thank you for your patience in this case. As I told
19 you in the beginning, the jury is the judge of the facts
20 and the Judge is the judge of the law and at certain
21 stages of the trial I have to take up matters of law
22 and sometimes it takes a little time to do that. So
23 that requires breaks where we have to keep ya'll in
24 the jury room where I take up matters of law. We do
25 appreciate your cooperation and patience on that.

1 We are now ready to move into the next phase
2 of this trial and it is what we call the closing arguments
3 and so I'll turn it over to counsel.

4 SOLICITOR: Thank you, Your Honor. I want
5 to thank ya'll for your attention throughout this trial.
6 It's been a short trial but that doesn't diminish the
7 importance of the trial. I ask you to bear with me
8 a little bit longer while I make my closing argument
9 to you. I'm going to talk to you roughly a half an
10 hour or possibly a little bit longer than that.

11 And as I told ya'll before, Judge Burch will
12 charge you or instruct you on what the law is at the
13 end of this, after the lawyers have had the opportunity
14 to talk to you, and he may tell you the law is different
15 from what ya'll came into court thinking it was. He
16 will give you technical definitions of the four offenses
17 that Mr. Stokes is charged with and he will tell you
18 other things, he will read the law to you. And it will
19 be your duty to accept the law as he gives it to you,
20 even if it's different from what you think it was or
21 what you thought it was or what you think it ought to
22 be. That's your sworn duty.

23 As far as the facts of this case, I would
24 ask you to rely on your memory of the testimony that
25 you heard. I'm not going to intentionally misquote

1 anybody but if I do that and I say something different
2 than what ya'll remember when I go over my recollection
3 of the facts, you go by what you remember and if there's
4 any question about it, some significant factual issue,
5 ya'll have the ability to come back out here and ask
6 the court reporter to read back any portion of that
7 testimony that you think may be critical to your decision.

8 Your duty, as you know, is to deliberate and
9 to take the true facts as you find them to be, apply
10 those facts to the law that the Judge gives you, and
11 bring back a verdict that speaks the truth.

12 Part of the State's case involves the legal
13 concept of accomplice liability, the hand of one is
14 the hand of all. And Judge Burch will instruct you,
15 maybe not in these exact words, but if a crime is committed
16 by two or more people who are acting together in the
17 commission of that offense, the act of one is the act
18 of all, the hand of one is the hand of all. And I gave
19 ya'll just an example of that in my opening statement,
20 how that would work. If two or three people are involved
21 in a felony, one person is the trigger man, they all
22 know what's going on, they're all participating, they
23 are all involved, they are all guilty.

24 Now why am I talking about accomplice liability
25 or the hand of one is the hand of all? Because Sammie

1 Stokes did not act alone. The State has never contended
2 that he acted alone. This was a conspiracy involving
3 several people, one of who was Sammie Stokes. Even
4 in his opening statement Mr. Sims told ya'll that Sammie
5 Stokes was involved.

6 Let me say something that's obvious, but I'm
7 going to say it anyway. The defendant in this case is
8 that man over here, Sammie Stokes. It's your sworn
9 duty to judge his guilt or innocence. The other people
10 involved will be judged later by different people. I'm
11 not here to defend any of those people. But the focus
12 in this case is the involvement of Sammie Louis Stokes
13 in the murder of Connie Snipes.

14 What I'm going to do in a few minutes is just
15 to review the evidence with you and the reasonable inferences
16 that ya'll can draw from the evidence. But before I
17 do that, I want to talk to you a little bit about reasonable
18 doubt. As the Judge will instruct you, the State has
19 the burden of proving in any criminal trial, to prove
20 a person guilty of the charges brought against him beyond
21 a reasonable doubt. It's a common sense thing and we
22 don't want you to come into court and leave your common
23 sense at home. We want you to bring it with you. Your
24 sworn duty is to base your decision on the credible
25 evidence from that witness stand, not from speculation,

1 not from the statements of the lawyers, not from what
2 I'm telling you or what the defense may tell you when
3 they give a closing statement. The State has the burden
4 of proof in any criminal case and, as I said earlier,
5 I accept that burden in this case and in any case that
6 I prosecute. And if I'm unable to satisfy you beyond
7 a reasonable doubt of his guilty, then, of course, it's
8 your duty to find that defendant not guilty.

9 And Judge Burch will instruct you on reasonable
10 doubt. It's not a fanciful or imaginary doubt. The
11 State is not required to prove the defendant guilty
12 beyond all doubt. And it's not a shadow of a doubt like
13 you hear on television, it is a reasonable doubt, it's
14 not about saying well, what if this? It's not speculation
15 on things that did not come out in the trial. It's
16 based on the evidence that you hear and, as I said earlier,
17 if you have a reasonable doubt of his guilt on any of
18 the charges, it's your duty to acquit. And it is equally
19 your duty, your sworn duty, to convict if, in using
20 your common sense, you have no reasonable doubt as to
21 guilt on the offenses as the Judge charges you or instruct
22 you as to what those offenses are.

23 Now, when we talk about reasonable doubt,
24 we talk about reasonable doubt as to proof of the elements
25 of the different crimes charged, you may have reasonable

1 doubts about different bits of evidence in the case.
2 One example I could give you is that you may have a
3 reasonable doubt as to whether Sammie Stokes fired two
4 times or fired one time. Because there's a difference
5 between Norris Martin's testimony and Sammmie Stokes'
6 letter. Norris Martin says the gun was put in his hand
7 by Stokes and that Stokes actually fired the gun and
8 that he fired twice. Stokes' statements says Norris
9 Martin fired the first shot and he fired the second
10 shot.

11 You may have a reasonable doubt as to whether
12 or not Stokes fired once or twice, but even with that
13 reasonable doubt, if you have no reasonable doubt that
14 he fired at least one of those shots, he would be guilty
15 of murder and despite that reasonable doubt on that
16 piece of evidence, you would have no reasonable doubt
17 as to guilt. So I wanted to make that distinction clear.
18 And bear in mind, like I talked about earlier, the hand
19 of one is the hand of all.

20 In that regard, I direct your attention to
21 the testimony of Norris Martin, that after that first
22 shot, Mrs. Snipes screamed. When you scream that means
23 that you've alive. The second shot undisputedly was
24 fired by Sammie Stokes. Stokes said he did it, Norris
25 Martin said he did it.

1 I want to say one final thing about reasonable
2 doubt and your deliberations about reasonable doubt.
3 You're supposed to deliberate, that's your sworn duty
4 to go back there and discuss the case with each other
5 and to put your collective thoughts together and come
6 back with a verdict that speaks the truth.

7 What I'm going to do now is take each one
8 of these indictments separately, each one of the charges
9 that Mr. Stokes is charged with one at a time. I'm
10 going to discuss the law that applies in the simplest
11 terms that I can, bearing in mind that Judge Burch will
12 give you a complete instruction on the law at the end
13 of the case. And what I want to do is go through what
14 the crimes mean and also what the State's proof is that
15 shows these crimes, number one, was committed and that
16 Sammie Louis Stokes committed those crimes.

17 In this case ya'll have the best possible
18 evidence that you could possibly have. You've got
19 admissions of guilt by the defendant in a letter, an
20 unsolicited letter, that he wrote and sent over to the
21 detective. This letter wasn't the result of any question-
22 ing by the police, it wasn't as a result of any request
23 that he provide them a statement. He went over there
24 to his jail cell, he wrote this letter out and on his
25 own sent it over there. It's undisputedly his letter

1 in which he goes through his involvement and the involvement
2 of other people.

3 Even if you don't believe a single word that
4 Norris Martin said, that letter written by Stokes in
5 his own handwriting, is sufficient to convict him of
6 all four charges.

7 I want to talk to ya'll a few minutes about
8 Norris Martin. I'm not here to defend Norris Martin.
9 Norris Martin is a rapist and a murderer and I told
10 you in my opening statement that you wouldn't like some
11 of these people that you saw up here, and I told you
12 that some of them had deals with the State of South
13 Carolina and Norris Martin told you about his plea bargain
14 with the State of South Carolina, that he's charged
15 with murder, he's charged with first degree criminal
16 sexual conduct and he told you that his agreement was
17 he would plead to those charges and he would avoid the
18 death penalty and he would get a life without parole
19 sentence in exchange for his truthful testimony.

20 And Mr. Sims, in his opening statement, said
21 I had made a deal with the devil. And when he said
22 that, he's referring to Norris Martin. And ya'll heard
23 the devil, Norris Martin, testifying here. And again,
24 you are here to try Sammie Stokes, not Norris Martin.

25 But let me talk to ya'll about Norris Martin

1 a little bit. Norris Martin is a naive man who is around
2 40 years old, a simple man. He lived by himself in
3 an apartment in Branchville and hadn't had too much
4 worldly experience, based on Mr. Stokes' letter about
5 him. He's a laborer for the Town of Branchville. And
6 at the age of 17 he was in the seventh grade. The evidence
7 is he doesn't have a driver's license, he's never had
8 a driver's license. He carried around this highway
9 department ID card to identify himself. And he was
10 proud enough of this junior police plastic badge that
11 Officer Judy said they would give out to kids in Branchville,
12 he carried that with him. That's Norris Martin.

13 Another thing about Norris Martin's testimony
14 and what he told ya'll about his feelings towards Louis
15 Stokes, he's obviously scared to death of Louis Stokes.
16 He lied at first, he told you lies and he said that
17 up front. He was locked up, he was scared, he was locked
18 up in the jail with Louis Stokes, he was scared and
19 he lied and he told you that he lied.

20 But he took an oath here and he sat in this
21 chair, put his hand on the Bible and took that oath,
22 and he swore to tell the truth and I asked him repeatedly
23 if he was telling the truth and he said that he was.

24 Sammie Stokes used Norris Martin just as he
25 used that gun.

1 I introduced some testimony about fingerprints
2 of Connie Snipes in the car. There was a stipulation
3 on the DNA test showing blood in the car. That was Pattie
4 Syphrette's car and it was identified by the tag number
5 by Mr. Ott. That tag was run and it came back to Pattie
6 Syphrette. I introduced that evidence to corroborate
7 or to back up Norris Martin's testimony that the car
8 was involved, she was in it, her blood was in there
9 and they were in there. And Mr. Sims may get up here
10 and tell you that Sammie Stokes' prints weren't in that
11 car. Well, neither was Pattie Syphrette's, it was her
12 car and she was driving the car. You heard the fingerprint
13 people tell you that you don't necessarily get prints
14 on everything. Connie Snipes was in that car and her
15 blood was in that car, she was driven to her death in
16 that car.

17 The first offense that I want to talk to ya'll
18 about, the first charge is the criminal conspiracy.
19 That's a combination of two or more people for the purpose
20 of accomplishing a crime. In other words, it's a crime
21 to plan a crime with another person, it's a separate
22 crime to plan to commit a crime.

23 The evidence shows that Stokes conspired with
24 three people, Roy Tooth, who was in jail with him, Pattie
25 Syphrette, Roy Tooth's mother, and then later on to

1021

1 a limited degree, with Norris Martin. He gave him that
2 shovel and told him to dig that grave. He conspired
3 to kidnap, rape and murder Connie Snipes and then the
4 conspiracy was carried out. That conspiracy was proven
5 by Sammie Stokes in that unsolicited letter that he
6 sent over to Emery Rush and in Stokes' letter, which
7 ya'll are going to have in evidence, he quotes Roy Tooth,
8 and I'm going to put this up on the monitor here. Stokes,
9 quoting Roy Tooth says, " Hell, she ain't nothing but
10 a whore, we want the bitch dead anyway so my mother
11 can get custody of Nicole. I said, man, stop joking,
12 your mother isn't with that. He said, shit, you just
13 don't know, my mom is down, homey, hell, you see she
14 brings us weed all the time and if you think that you
15 can get the job done, you will be paid well. I said,
16 man, shit, that costs. He said, money is no problem.
17 I'm going to call my mom. And Stokes said, I said,
18 hold up, because I've been gone a while and right now
19 I don't know who to trust out there. He said you can
20 still should talk to my mom and I said okay, call her.
21 Well, there wasn't any shame in Pattie's game because
22 just as soon as I got on the phone after Roy was done
23 and I told her that I could have it done, she was glad
24 to talk to me." And then he quotes Pattie Syphrette,
25 his co-conspirator. " So what's up? Do you think that

1 you can handle it? What is is going to cost and don't
2 be playing any games with me because I done went through
3 all the games with fake people just trying to get my
4 money and then run out on me. I said, it would cost
5 \$2,000 and you will have ten months to come up with
6 the money and the gun. I'll be getting out in May of
7 1998."

8 After Stokes is released from prison May the
9 5th, 1998, he says this, " One night I told Norris about
10 the deal with Pattie and about the \$2,000 and he said,
11 oh, yeah? I said, oh, yeah, but the bitch wasn't serious
12 and besides, I was going to yank her ass anyway and
13 we laughed." Then he says to Norris Martin, according
14 to his letter, " I said, man, here's the deal, here's
15 your chance to be paid, plus get you some pussy finally.
16 All you have to do is break me off proper and she's
17 got \$2,000 for you. I haven't seen the money yet and
18 he said, hell, I'm down. I said to be ready at any
19 given time, I'll be going back to Orangeburg and we
20 will be back to pick you up. He said, I'll be ready
21 whenever.

22 In the car, going to the death scene, Stokes
23 says to Norris Martin, " Norris and I got out and I
24 asked him was he ready to handle the business? And
25 he said, yeah, but let's go back to my apartment so

1 I can get the pussy first."

2 So, ladies and gentlemen, by his own pen Stokes
3 is admitting to the criminal conspiracy to Pattie Syphrette
4 and Norris Martin. And, again, what greater proof do
5 you have beside the defendant himself, his own handwriting,
6 his unsolicited statement that he conspired to commit
7 the act of murder that ultimately was carried out.

8 Norris Martin's testimony, if you will, is
9 that he was picked up in Branchville and driven out
10 to the dirt road, Stokes got out of the car and walked
11 a short distance behind the car, and Stokes told him,
12 I want you to dig me a grave and there was a shovel.
13 At first Norris Martin said he said, no, I don't want
14 to do it and then the gun came out. That's the evidence
15 of a conspiracy with Norris Martin to corroborate what
16 Stokes was telling you.

17 The second charge that I want to talk to ya'll
18 about is the kidnapping charge. Most people think of
19 kidnapping, they think of somebody grabbing somebody
20 and holding them for ransom and the ransom money gets
21 paid. That would be a form of kidnapping but the kidnapping
22 statute in South Carolina, as Judge Bruch is going to
23 read to you and give you some additional explanation
24 on is much broader than that. Kidnapping, under our
25 law, is the unlawful seizure, confinement or the carrying

1 away of a person. Basically it's restricting somebody's
2 freedom of movement. It's taking them or making them
3 go where they don't want to go or making them stay when
4 they want to leave. And it can be accomplished by force,
5 it can be accomplished by trickery. The statute uses
6 the words inveigle or decoy to describe a type of kidnapping.
7 In other words, if you trick somebody into going where
8 they wouldn't otherwise go, even though no force is
9 employed, that's kidnapping. Obviously if you force
10 somebody with a gun or a threat or whatever, that's
11 a forcible kidnapping.

12 Kidnapping is a continuing offense and it
13 starts when a person is deprived of their liberty and
14 it ends when that liberty is restored, or in this case,
15 when the person is killed.

16 Mr. Sims in his questioning --- some of the
17 statements he made, says well, was she tied up, did
18 she run? No, she didn't, she wasn't tied up, she didn't
19 run. He asked whether or not she --- he asked Norris
20 Martin whether or not she was big as he was, implying
21 that maybe she could have fought them off or something.
22 This woman, for whatever reason, finds herself out in
23 the woods in Branchville at night with two grown men
24 and a gun pointed at her. She can't outrun a bullet,
25 she can't fight off two men. She hadn't got to be tied

1 up, she hasn't got to try to run to be kidnapped. Do
2 you think she wanted to be there when that gun came
3 out? You have the clearest possible example of kidnapping
4 where a woman is being held at gunpoint while she is
5 being raped, vaginally and anally, according to the
6 testimony.

7 Under the facts of this case, the kidnapping
8 actually began when Connie Snipes was picked up. This
9 shovel appeared in the trunk of the car, the shovel
10 is there for a reason, to dig her grave. Do you think
11 she would have gotten in that car with Pattie Syphrette,
12 Louise Stokes and Norris Martin if she had known that
13 trip was to go out in the woods where she would be raped
14 and killed? Whatever was told to her to get her in
15 that car was trickery, inveiglement, and she wouldn't
16 have done it without those words that was said to her
17 to get her to go there, whatever they were. The kidnapping
18 started there.

19 When that gun was produced, when that shovel
20 came out, she could not have been going along with that
21 of her own free will and accord. You heard Norris Martin's
22 testimony that when the shovel came out of the trunk,
23 she was visibly shaken, she started shaking and she
24 walked down that road with them because she had no choice.

25 Let's look at the evidence of kidnapping and

1 the letter, and again it's in evidence, of Sammie Stokes.
2 He says and they talk about after they get into the
3 woods, they stop the car, the shovel comes out of the
4 trunk, he's got the gun in his waistband, they go down
5 that road here, you will have this map, the car is here
6 and down that dirt road into that field. Stokes quotes
7 Connie Snipes and he says, " Then Connie says, please
8 don't kill me. And Norris said I want some pussy. Connie
9 said okay, and then Norris passed me the gun and said,
10 hold that. And then I passed the gun back to Norris
11 and Connie and I did our thing." With the gun out,
12 the gun is being held on her while she is vaginally
13 raped and anally raped.

14 Okay, next Stokes say, " While she was still
15 sitting on the ground, this is after the rape, I put
16 the bag over her head and Norris and I tried to pull
17 the bag all the way down over her shoulders which we
18 only got the bag just a little way over her shoulder."

19 Ladies and gentlemen, if ya'll think that
20 at that point in time, after she was vaginally and anally
21 raped, seen the gun, seen Norris Martin dig what was
22 to be her grave and that bag had been put over her head
23 and they told her they were going to kill her, if ya'll
24 think she was free to go, find this man not guilty of
25 kidnapping. But if ya'll think she was being held there

1 against her will, then you have a duty, under your oath,
2 to find him guilty of kidnapping. Again, Norris Martin
3 told you about the shovel that came out of the trunk
4 and he told you about when Stokes pulled that gun out
5 when they got in that field, she was not free to leave,
6 regardless of what her intention was when she went out
7 there.

8 Criminal sexual conduct in the first degree,
9 I described that to ya'll briefly as rape. Judge Burch
10 will charge you and it will be a lengthy charge on criminal
11 sexual conduct in the first degree, and he will tell
12 you that it consists of a sexual battery that would
13 include sexual intercourse and anal intercourse. Vaginal
14 and anal intercourse. It is first degree criminal sexual
15 conduct when the battery is accomplished by the use
16 of aggravated force or where the victim is also the
17 victim of forcible confinement or kidnapping. If you
18 find kidnapping and you find criminal sexual conduct,
19 then it will be first degree criminal sexual conduct
20 because of the kidnapping element.

21 It's also first degree criminal sexual conduct
22 when the victim is --- aggravated force definition is
23 the use of physical violence of a high and aggravated
24 nature to overcome the victim and it also includes the
25 threat of the use --- the threat or the use of a deadly

1 weapon. So if you have a deadly weapon held on somebody,
2 such as a pistol, listen to the Judge's charge when
3 he gets to that point, you don't have to fight, you
4 don't have to run, it's not voluntary if you've got
5 a gun pointed at you. Again, she doesn't have to try
6 to fight or outrun a bullet for it to be rape.

7 Let's look again at his letter where he tells
8 what happened. Talking about after Norris Martin had
9 intercourse with her while he held the gun. " When they
10 got finished Connie said, do you want some, too? I wanted
11 so bad to say let's wait until we get back but in my
12 heart I knew she wasn't leaving. And so I said, why
13 not? And I passed the gun back to Norris and Connie
14 and I did our thing."

15 Norris Martin's testimony is that Stokes had
16 the gun the entire time, he had it when he ordered him
17 to have sexual intercourse with her and he had it in
18 his hand when he raped her. Norris Martin described
19 that she screamed during the anal rape and tried to
20 push him off of her.

21 Now, Mr. Sims is going to tell ya'll that
22 she consented to that, it wasn't rape, she was out there
23 voluntarily to have sex with these men and ya'll can
24 infer from the evidence, I guess, that initially maybe
25 she did go out in that woods for the purpose of sex.

1 But, ladies and gentlemen, when that gun got
2 produced and pointed at her, when she saw that shovel
3 and they told her, you're going to be killed out here,
4 the consent is over. Everything after that is rape
5 or first degree criminal sexual conduct. And she would
6 have said or done anything instinctively to try to save
7 her life from that point. That's why she told Sammie
8 Stokes, do you want some, too. She was desperately
9 trying to do whatever she could, she would have done
10 anything, including taking that tampon out that Mr.
11 Sims mentioned, to save her life. That's not consensual
12 sex, that the instinct of survival.

13 Murder, an unlawful killing with malice aforethought.
14 There can be no question of the malice in this case.
15 It's a murder for hire, a planned murder, it had been
16 planned for a long time. Detailed planning, putting
17 the shovel in the trunk, getting the gun, doing all
18 this elaborate planning, no question of malice.

19 Connie Snipes, ya'll have heard a little bit
20 about her, she's not a debutante, she wasn't the pillow
21 of the community, but she had a right to live. She didn't
22 deserve to die in that manner. She did nothing to deserve
23 what happened to her at the hands of Lewis Stokes.

24 There's no issue that she was murdered. Dr.
25 Sexton testified that the cause of death was two gunshot

1 wounds to the head. One definitely fatal, the other
2 potentially fatal. There's no issue that Sammie Stokes
3 shot her, he said he did.

4 Let's look at the letter again. Stokes, talking
5 to Norris Martin, and he said, " After the rape, I
6 think asked Norris what's up? He said let me get behind
7 her and then he stepped completely behind her and I
8 stepped completely behind him. Then he moved over a
9 little to the left. I also moved behind him and he
10 pulled and the gun fired once, he passed me the gun
11 and he got behind me and then I fired the gun at her
12 head." Then I fired the gun at her head.

13 Now bear in mind she's got a cloth bag over
14 her head and it's dark. And Mr. Sims would get up here
15 and say, you know, according to Norris Martin he said
16 he shot her in the head and Dr. Sexton said that head
17 shot was fatal. So all Sammie Stokes did, he got up
18 here, he shot her in the jaw. Well, so what? If that
19 was the sequence that it happened, that doesn't say
20 anything good about Sammie Stokes. Dr. Dexton said that
21 jaw shot was also potentially fatal and remember, Norris
22 Martin testified that after that first shot she screamed.
23 Stokes said he did the second shot, so she was alive
24 when she was shot the second time. That is murder.
25 That is murder. There's no other way to describe it.

1 Ladies and gentlemen, I submit to you the
2 evidence in this case is overwhelming and beyond any
3 reasonable doubt that Sammie Stokes murdered Connie
4 Snipes in May of 1998 with malice aforethought. That
5 letter alone is enough to convict. Before he wrote
6 that letter, he was given his Miranda Rights by Emery
7 Rush on more than one occasion and he signed a waiver
8 of those rights. He said I've read this statement of
9 my rights and I understand what my rights are and I'm
10 willing to make a statement and answer questions and
11 I do not want a lawyer at this time. I understand and
12 know what I am doing. No promises or threats have been
13 made to me and no pressure or coercion of any kind has
14 been used against me.

15 They typed that letter out, went over it with
16 him and he changed the name up here from "Rusty" to
17 "Nasty" and on that last page before he signed he, that
18 letter says: " I declare that the statement above is
19 made freely and voluntarily, without promise or hope
20 of reward or leniency, without fear or threat of physical
21 harm by any person. I swear or affirm that this statement
22 is the truth, the whole truth, nothing but the truth,
23 so help me God." And he signed that letter. And that's
24 in evidence.

25 When Judge Burch charges you on the law on

1 murder, he charges you about malice that's an essential
2 element of murder, he's going to tell you that you infer
3 malice by the intentional use of a deadly weapon. Again,
4 this murder was unprovoked, a murder for hire, a murder
5 for money, and what did Emery Rush tell you that Sammie
6 Stokes told him when he interviewed him on that letter.
7 Something to the effect that it's just business.

8 I submit again, ladies and gentlemen, that
9 the evidence in this case far exceeds the reasonable
10 doubt standard for all four of the charges.

11 I appreciate your patience. I'm going to
12 sit down here in a minute and I apologize for talking
13 longer than I should have but this is the last opportunity
14 I get to speak to you. The defense will give their state-
15 ment, it's their time to give you their closing statement
16 and regardless of what they say, I can't get back up
17 here. Somebody has got to go first and somebody goes
18 last and so I can't get up here and rebut anything that
19 they may say to you. So I've got to try and anticipate
20 what they are going to say and get it all out now.

21 Mr. Sims, when he gets up here, will take
22 issue with what I said and it will be the last thing
23 that you hear before the Judge charges you on the law
24 in this case and then you will go back to deliberate.
25 But no matter what he tells you in his closing statement,

1 it cannot change the facts that you heard in this case
2 that you have sworn to base your decision on. You decide
3 the case on the facts.

4 The twelve of you were picked out of over
5 350 jurors that were summoned in this case. You were
6 picked by both sides as being twelve intelligent people
7 that can truly represent the Orangeburg community and
8 could decide this case in a truthful, intelligent and
9 non-biased fashion and reach a just verdict. Nobody
10 deserves what happened to Connie Snipes that day and
11 on behalf of the State of South Carolina and the citizens
12 of Orangeburg County, I'm asking ya'll unanimously to
13 bring back a verdict of guilty to murder, guilty of
14 kidnapping, guilty of criminal conspiracy, and guilty
15 of criminal sexual conduct in the first degree, not
16 because I say he's guilty, but because the evidence
17 that ya'll are sworn to base your decision on mandates
18 that decision.

19 Remember, your verdict must be unanimous,
20 all twelve of you must agree. Thank you.

21 THE COURT: Mr. Sims.

22 MR. SIMS: May it please the Court, Mr. Bailey.
23 Good morning, Madam Forelady, good morning, how are
24 you all. I know that you've had the opportunity to
25 sit and listen to all of the evidence in this case.

1 You've sat here and you've been very attentive
2 to everything that was done. At the beginning of the
3 trial I told you that the evidence would come to you
4 from this chair, that people would --- the witnesses
5 would come, they would take an oath, they would swear
6 to tell the truth to you.

7 I told you that you would have to judge the
8 credibility of all of the witnesses that came before
9 you. You, as jurors, who are seated in this case are
10 now the jurors or you are the triers of the facts of
11 this case. Each one of you, as I indicated to you from
12 the beginning, are now a judge of the facts of the case.
13 I pointed out to you at the beginning of this trial
14 that credibility is going to be very, very important.
15 Whether you can believe what a witness is telling you.
16 Now, I, too, briefly will talk to you about the charges
17 and try to give you some idea in terms of how those
18 charges relates to the facts of this case.

19 Let's start out initially with kidnapping.
20 Now, Mr. Bailey has given you what his version of kidnapping
21 is but let me ask you, when he gave you the statute
22 and talked to you about trickery or inveigling someone
23 to do a --- to get them to a certain place, there is
24 no evidence in this case that Sammie ever said anything
25 to Connie Snipes to get her into that car. If you recall

1 what the evidence was, they, according to his letter,
2 picked him up at Woody's Pawn Shop. Connie Snipes was
3 in the car, already in the car. There's no evidence
4 that he ever said anything to her about why she was
5 in the car when he got in the car. If anyone kidnapped
6 through trickery or deceit, it was Pattie Syphrette.
7 He never called Connie to get in the car, come with
8 Pattie. Pattie Syphrette was the one who put her in
9 the car, they met him down there on Russell Street.

10 Connie Snipes was a willing participant going
11 with the party. When they got to Branchville, according
12 to Sammie's letter, she was the one who went and got ---
13 knocked on Norris Martin's door. When he wasn't there,
14 they rode around Branchville, they saw him and she got
15 out of the car to go get Norris Martin. When they got
16 to the wooded area, she voluntarily got out of the car.
17 She walked in the woods. Why would she go in the woods?
18 I would submit to you that there was going to be sex.
19 They went in the woods to have sex and Norris Martin,
20 if you recall on cross-examination, admitted that the
21 sex was voluntary.

22 So we get out to the woods, we get to the
23 place where the sexual act is going to take place. Connie
24 is voluntarily out there, Connie is out there with every-
25 body, with them to get involved in sex.

1 Now before I go on, let's go back to the other ---
2 let's go back to --- that takes care --- let's go back
3 to another issue, the criminal conspiracy. You talk
4 about criminal conspiracy and the terms and the Judge
5 will charge you what that is. But you talk about something
6 that happened in prison with Roy Tooth, an agreement
7 or talking to Roy Tooth about what's going to happen
8 or what's going to do or what he is going to do or how
9 he's going to do it. And Sammie said, I haven't been
10 out there so I don't know who to trust. But I don't
11 believe your mom, your mon --- the mother, she didn't
12 do what she was supposed to do if you follow it in the
13 letter that he wrote to the police. She was supposed
14 to pick him up at the bus station, she didn't pick him
15 up at the bus station. She was supposed to have some
16 money, she didn't have some money. Now, he did talk
17 to Norris Martin about that. If you are going to take
18 his letter, then read all of his letter and remember,
19 all of his letter. When he talked to Norris Martin
20 about what was going to happen and Norris Martin agreed
21 to get involved. And he had told Emery Rush, I'm just
22 going to yank her off, I'm going get the money and I'm
23 going to yank her off.

24 We get into --- now, let's go and look at
25 this whole picture that we are talking about here.

1 You've got one statement that has been presented to
2 you by Sammie Stokes through the police officers. What
3 did Emery Rush say? That he was remorseful. Because
4 I asked him, he wanted to clear the air, and he wanted
5 to tell the whole story of what happened.

6 If Sammie Stokes was going to kill Connie
7 Snipes he would not need Norris Martin. But Norris Martin
8 was the man who was going to do the killing. But on
9 the one hand you've got one statement that's been shown
10 to you by Sammie Stokes and you know we've talked about
11 five stories that you have been told by Norris Martin.
12 The first statement of Norris Martin given on the 28th
13 of May of 1998 didn't even say anything about anyone
14 else. He told a lie that a woman came up to him in
15 Branchville and she had battery trouble, he fixed that
16 and he got in the car and she told him she had a dead
17 body in the car. I mean, this is his motive and he's
18 trying to keep all of the evidence away from him. He
19 knew that wasn't going to fly. So the next day on the
20 29th when they talked to him again, he went a little
21 further and he told them about the girl coming to pick
22 him up and he told them about he was having sex with
23 Pattie Syphrette and that Sammie was having sex with
24 Connie, and that Sammie put the gun in his hand and
25 fired the trigger. If you had a revolver that was

1 going to be put in somebody's hand and held and try
2 to -- and try to be fired, two people holding a gun
3 trying to shoot somebody. Mr. Bailey says that Norris
4 Martin is a simple man, he lived alone. Norris Martin
5 has a PHD out there on the street. He knows what he
6 had to say in order to keep the evidence off him.

7 At no time has he ever admitted to what he
8 did. At all times he's been trying to put everything
9 on Sammie. Because he knew from the beginning what
10 he had done and at every statement, when the police
11 got a little closer to him, he gave them another fact
12 on somebody else and that somebody else was Sammie.

13 When they figured that they didn't believe
14 that statement on the 29th, he gave them another statement
15 on June the 4th. After a year in jail, he gave another
16 one in July of '99 and then he testified in September
17 of '99 and he testified yesterday. Lie after lie after
18 lie after lie after lie. And Mr. Bailey says to you
19 that those people came in here and put their hand on
20 this Bible and it's a wonder it didn't burn up when
21 he put his hand on it. What does Norris Martin care
22 about an oath? Every other statement he gave he said
23 I swore an oath to tell the truth and admitted that
24 he had lied.

25 SOLICITOR: Judge, I'm going to have to object
at this point. He's getting into Norris Martin's testimony

1 at a prior trial and there's no indication that Mr.
2 Martin lied during trial. That's one of the dates he
3 mentioned.

4 MR. SIMS: Your Honor, I asked him on the
5 stand whether or not he lied in that statement and he
6 admitted on the stand that he had lied then.

7 THE COURT: Go ahead. I'll overrule that.

8 MR. SIMS: So what is one more lie for him
9 to come in here and testify to you on yesterday under
10 oath? Norris Martin got a deal, all wrapped up and
11 put in his back pocket. He would have come into this
12 courtroom and told you all that the world was square
13 if he thought that was what you wanted to hear. Because
14 he knows that the real truth is he was the one who fired
15 the fatal shot and if he ever admitted to it, he would
16 lose his life sentence that he has.

17 Yes, I am going to talk to you about the shooting
18 and how it occurred. Norris Martin says that --- or
19 tries to make it appear to you that he is afraid of
20 Sammie. But listen to what's happening out there, Norris
21 Martin described to you that the man who he is afraid
22 of is trying to put the gun in his hand. If you are
23 afraid of a person and they put a gun in your hand,
24 thank God because I'm going to shoot you. He's telling
25 you that Sammie is trying to put the gun in his hand

1 and he's trying to getting to get away from it and not
2 going to --- not going to take the gun. This man that
3 you are afraid of, this man who allegedly is making
4 you have sexual intercourse with somebody, standing
5 over you with a gun and trying to put the gun in your
6 hand and you're not going to take it. You're not going
7 to take the gun, use the gun for your benefit?

8 Credibility, credibility, credibility. Those
9 are the things that you have to look at and the gun
10 and the shot, there is no question who fired the first
11 shot. Norris Martin fired the first shot. If you are
12 going to take Sammie's letter, take it and believe all
13 of it then as to who fired the first shot. Who got
14 behind her and stood behind her and Sammie says he got
15 behind him. Who shot her in the back of the head, Norris
16 Martin, shot her in the back of the head. It is
17 uncontroverted by the pathologist that the fatal shot,
18 not potentially fatal but the fatal shot, was the shot
19 to the back of the head fired by Norris Martin.

20 Sammie did not come in here and tell you he
21 was a choir boy. That letter doesn't make him a choir
22 boy. That letter does not try to absolve him from all
23 involvement in this case. I told you in the beginning
24 that he was involved. and that letter doesn't do anything
25 to say that he wasn't involved in it. If you're going

1 to tell a lie, tell a good one, say that you didn't
2 do anything. You weren't out there, you never had your
3 hand on the gun, you didn't do anything.

4 But Emery Rush said he was remorseful, he
5 wanted to get it all out, he wanted to tell the truth
6 and he admitted what his involvement was. In his letter
7 he said, that was no rape, it was voluntary. There
8 was no kidnapping, he never tried to trick her or say
9 anything to her to get her out there. He didn't go
10 pick her up, he didn't ride her in the car, it wasn't
11 his car. She got in the car with Pattie Syphrette.
12 There was no kidnapping by Sammie. There was no rape
13 by Sammie. It just didn't happen. There was sex, there
14 was an agreement to sex.

15 You may not like any of these people but by
16 your oath you've got to give them and give Sammie a
17 fair trial based upon the evidence that you have heard
18 in this case. Don't just remember all of the pieces
19 that the Solicitor has put up there on the monitor.
20 Remember the whole statement. Think about the five
21 different statements that have been given to you by
22 Norris Martin or that we have talked about in terms
23 of Norris Martin.

24 Mr. Bailey says to you that Sammie fired the
25 weapon. We are not here and he didn't try to hide it

1 in his statement, he didn't try to hide it in his statement.
2 As I said earlier, if you're going to lie, tell a good
3 lie, that you never fired the weapon.

4 The second shot was the shot to the side of
5 the jaw that the doctor said was potentially fatal.
6 But there's no question and when I cross-examined him
7 you heard him say that that shot to the back of the
8 head was fatal, she was going to die. She was going
9 to die. Norris Martin killed her. Norris Martin is
10 the murderer.

11 You've got one statement of Sammie Stokes,
12 the defendant in this case here, and you've got a whole
13 pack of lies from Norris Martin here. Who are you going
14 to believe? Who are you going to believe?

15 The Solicitor said don't leave your common
16 sense at home and you're not required to leave your
17 common sense at home. You're not required to leave
18 your common sense, not at all. Not at all. When I said
19 that the Solicitor had made a deal with the devil, he
20 made a deal with a lying devil, Norris Martin..

21 Madam Forelady and ladies and gentlemen of
22 the jury, I'm not going to stand up here and belabor
23 this point because you've all sat here and you've all
24 listened to the evidence. You've all sat here very
25 attentively. I just ask that you weigh the evidence

1 based upon your own experiences. You make the decision
2 in terms of who is telling the truth, who you can believe.
3 I would submit to you that Sammie Stokes is innocent
4 in terms of what he said, in terms of murder, in terms
5 of what he said he had done. He did that, we're not
6 going to --- we're not going to try to lie. There was
7 no rape, there was no kidnapping. It just didn't happen.
8 And we ask that you find him not guilty. Thank you.

9 THE COURT: Before I start this charge which
10 is going to take a little while, you may want to stand
11 up and stretch. Let's just take a brief recess but
12 do not discuss this case at all.

13 (WHEREUPON, A short break was taken and then
14 the proceedings resumed in the presence and hearing
15 of the jury.)

16 THE COURT: Madam Forelady and ladies and
17 gentlemen of the jury, if I could have your attention.
18 I have observed you during this trial and you have very
19 patiently listened, attentively listened to the presentation
20 of the evidence and the arguments of counsel.

21 Under the law of South Carolina where the
22 State seeks the death penalty, as it does here, then
23 the trial is bifurcated, that is, it is a trial which
24 is held in two parts. First a trial is held before
25 a jury to determine the guilt or innocence of the

1 defendant, and that is the phase of the trial that we
2 are presently holding. At the conclusion of the first
3 trial, should the verdict from the jury be guilty, and
4 I make no recommendation to you concerning the verdict,
5 if the defendant is convicted of the crime of murder
6 then a second proceeding will be held. This second
7 proceeding is a sentencing procedure at which extenuating,
8 aggravating and mitigating circumstances may be introduced
9 into evidence and considered by you, the jury. Should
10 such a proceeding be necessary I will further instruct
11 you at that time. Please derive no inference from what
12 I have just told you as to what your verdict should
13 be. The purpose of my telling you this is to emphasize
14 that you are not to consider punishment or sentence
15 in this phase of the trial. You are only to determine
16 the innocence or guilt of the defendant on each of the
17 indictments based upon the evidence that has been introduced
18 into the trial of this case.

19 Now, it is my duty at this time, under the
20 Constitution of this State, to charge and instruct you
21 in the law applicable to the case. It is your duty
22 as jurors to accept and apply the law as the Court will
23 state it to you and as jurors it is your exclusive duty
24 to decide all of the issues of facts in this case and
25 for that purpose to determine the affect, the value,

1 the weight and the truth of the evidence. Both the
2 State and the defendant have a right to expect that
3 you will conscientiously consider, evaluate the evidence
4 and apply the law of the case thereto to the ends that
5 both the State of South Carolina and the defendant will
6 receive a fair and impartial trial in this case.

7 When I use the word "defendant", I refer to
8 Mr. Sammie Louis Stokes. The State of South Carolina,
9 by the bills of indictment in this case, charges the
10 defendant with the offenses of murder, criminal sexual
11 conduct in the first degree, kidnapping and criminal
12 conspiracy. To the charges and to the indictments,
13 the defendant has entered a plea of not guilty and the
14 plea of not guilty by the defendant places the burden
15 of proof on the State to prove by evidence the guilt
16 of the defendant beyond a reasonable doubt before you,
17 the jury, can find the defendant guilty.

18 The defendant is presumed in law innocent
19 of the charges contained in the indictments. It is
20 a cardinal and fundamental rule of the law of evidence
21 that a defendant, irrespective of the enormity of the
22 charge against him, will always be presumed innocent
23 of the crime for which he is indicted unless and until
24 the guilt of the defendant has been proved by evidence
25 that satisfies you, the jury, of his guilt beyond a

1 reasonable doubt. The presumption of innocence is not
2 a mere legal theory, it is not just a legal phrase.
3 The presumption of innocence is a substantial right
4 to which every accused is entitled. Our Supreme Court
5 has declared that the presumption of innocence is like
6 a robe of righteousness placed about the shoulders of
7 a defendant and it remains with him and assigns him
8 to that class, the innocent, until that presumptive
9 robe of righteousness has been striped from his person
10 by evidence satisfying you, the jury, of the guilt of
11 the defendant beyond a reasonable doubt.

12 The presumption of innocence accompanies the
13 defendant from the time of his arraignment and appearance
14 in the court and continues with the defendant throughout
15 every stage of the trial and continues with the defendant
16 after you retire to the jury room to deliberate your
17 verdict. The presumption of innocence continues in
18 existence to the benefit of the defendant until you,
19 the jury, reach the conclusion that the State has proved
20 the guilt of the defendant beyond a reasonable doubt.

21 The State is not required to prove the guilt
22 of a defendant beyond all doubt or beyond every doubt,
23 but beyond a reasonable doubt.

24 The government or the State has the burden
25 of proving the defendant guilty beyond a reasonable

1 doubt. Some of you have served as jurors possibly in
2 civil cases where you were told that it is only necessary
3 to prove that a fact is more likely true than not. In
4 criminal cases, the government's proof must be more
5 powerful than that. It must be beyond a reasonable
6 doubt. Proof beyond a reasonable doubt is proof that
7 leaves you firmly convinced of the defendant's guilt.
8 There are very few things in this world that we know
9 with absolute certainty and in criminal cases the law
10 does not require proof that overcomes every possible
11 doubt. If, based on your consideration of the evidence,
12 you are firmly convinced that the defendant is guilty
13 of the crime charged, you must find him guilty. If,
14 on the other hand, you think there is a real possibility
15 that he is not guilty, you must give him the benefit
16 of the doubt and find him not guilty.

17 I charge you that a defendant is entitled
18 to every reasonable doubt arising in the case. If,
19 upon any issue of fact essential to conviction and a
20 verdict of guilty, you have a reasonable doubt as to
21 how that issue should be resolved, it would be your
22 duty to resolve that reasonable doubt in favor of the
23 defendant. A defendant, ladies and gentlemen, is not
24 required to prove his innocence but the State is required
25 in law to prove every essential element of the offense

1 charged against the defendant by evidence which satisfies
2 you, the jury, of the guilt of the defendant beyond
3 a reasonable doubt before you can convict the defendant
4 and find him guilty. If then upon the case you have
5 a reasonable doubt as to the guilt of innocence of the
6 defendant, he is entitled to that reasonable doubt and
7 would be entitled to an acquittal and a verdict of not
8 guilty. But, on the other hand, if upon the case you
9 find that the State has proved by evidence satisfying
10 you, the jury, of the guilt of the defendant beyond
11 a reasonable doubt, then in such circumstance it would
12 equally be your duty to convict the defendant and find
13 him guilty.

14 I tell you and instruct you at this time that
15 an indictment in a case, which we have multiple indictments,
16 are not evidence and cannot be considered by the jury
17 as evidence in the case. An indictment is simply the
18 formal written instrument which contains the charge
19 against the defendant and it serves as a formal document
20 by which the case is processed into the court.

21 During the trial each of us, you and I, have
22 certain duties to perform. As the Trial Judge it is
23 my responsibility to preside over the trial of this
24 case and I also have the duty to rule upon or pass upon
25 the admissibility of evidence offered during the progress

1 of this trial. You are to consider only the competent
2 evidence before you and you are to disregard or disabuse
3 from your mind any testimony ordered stricken from the
4 record of this case during the progress of the trial
5 if there be any. And you are to consider only the testimony
6 which has been presented from the witness stand, together
7 with any exhibits admitted into the record of this case,
8 any stipulations that counsel made into the record if
9 there be any.

10 Now, ladies and gentlemen, the evidence is
11 the testimony and exhibits and the evidence presented
12 during the trial of a case. The attorneys' statements
13 or arguments are not evidence.

14 Now, I have the additional duty to charge
15 you the applicable law in the case and as the Presiding
16 Judge I am the sole judge of the law of the case and
17 it is your duty to accept and apply the law as I state
18 it to you. If you have a preconceived idea of what
19 the law is or what the law ought to be in this case,
20 and it should not agree with what I tell you that law
21 is, you are obligated under your oath to abandon this
22 preconception on your part because you are sworn to
23 accept the law precisely as I now state it to you.
24 In every case tried in this court before a jury, the
25 jury becomes the sole exclusive judge of the facts of

1 the case. You, the jury, are the judge of the facts
2 in this case and the Court is the judge of the law in
3 this case. The Constitution of this state has declared
4 that the Trial Judge should not intimate, state, comment
5 upon or make any statements to a trial jury about the
6 facts in a case. Since you are the sole judge of the
7 facts you are not to infer from anything that I have
8 said during the progress of this case in ruling upon
9 the admissibility of evidence or otherwise or anything
10 that I now say during the course of this charge to you
11 that I have an opinion about the facts in this case.
12 The law does not permit me to have an opinion about
13 the facts in this case. That is a matter solely for
14 you, the jury, to determine.

15 As jurors then it is your duty to determine
16 as I have stated to you the effect, the value, the weight
17 and the truth of the evidence presented during the course
18 of this trial. Necessarily then you must assess the
19 credibility of the witnesses who have testified in this
20 case. Credibility is simply a legalistic term which
21 means believability. It becomes your duty then to analyze
22 and evaluate the evidence and determine that evidence
23 which convinces you of its truth. I charge you that
24 in determining the question of the credibility or
25 believability of the witnesses, you may believe one

1 witness as against several witnesses, or several witnesses
2 against one witness. You may believe a part of the
3 testimony of a witness and reject the remainder part
4 of the testimony of that same witness. You may believe
5 the testimony of a witness in its entirety or reject
6 the testimony of a witness in its entirety. You may
7 consider whether any witness has exhibited any interest,
8 any bias or any prejudice in the case. You may consider
9 the demeanor of a witness and the appearance of the
10 witness from the witness stand. And you may consider
11 the opportunities for knowledge concerning those things
12 about which a witness testified. And in doing so, exercising
13 your mental processes, and in determining what you consider
14 to be true, the law simply requires that you exercise
15 your good judgment, your common sense, your sense of
16 logic and reason and your experiences in life.

17 You then apply these attributes of ability
18 to the evidence and determine what you consider the
19 truthful evidence and to these true state of facts determined
20 by you, the jury, you take and apply the law as I state
21 it to you and thus arrive at a true verdict in the case.

22 I am now going to specifically instruct you
23 on the law that relates to the charges in the indictments.

24 Now, as I've already told you and you are
25 well aware, the State has charged in one of the indictments

1 that the defendant is guilty of the crime of murder.
2 So it will become necessary for me to instruct you as
3 to the law of that crime in South Carolina.

4 What is murder by definition? Well, murder
5 may be defined as the willful, felonious killing of
6 a human being by a human being with malice aforethought.
7 Thus in order to convict of murder, the State must not
8 only prove that the killing of the deceased by the defendant,
9 but that it was done with malice aforethought and such
10 proof must be beyond a reasonable doubt.

11 Let me speak with you and define for you
12 the term malice. Malice is a word suggesting wickedness,
13 hatred and a determination to do what one knows to be
14 wrong without just cause or excuse or legal provocation.
15 Malice need not be in the mind of the one doing the
16 killing for any particular length of time before the
17 act of killing to render the killing murder. If it
18 is present in the mind of the one doing the killing
19 for any length of time before the act then its presence
20 would be sufficient to render the killing murder. Malice
21 is said to be expressed where there is manifested a
22 violent deliberative intention unlawfully to take away
23 the life of another human being. Malice may be inferred
24 where one intentionally and deliberately does an unlawful
25 act which he or she then knows to be wrong and in violation

1 of his duty to another. Malice is implied where no
2 excuse or legal provocation for the killing appears
3 and when the circumstances attending the killing show
4 an abandoned heart and a malignant heart fatally bent
5 upon mischief.

6 Such implications or inferences are not conclusive
7 and the jury, depending upon their view of the evidence,
8 may accept or reject the same.

9 The law says if one intentionally kills another
10 with a deadly weapon, the implication of malice may
11 arise. If facts are proved beyond a reasonable doubt
12 sufficient to raise an inference of malice to your satis-
13 faction, this inference would be simply an evidentiary
14 fact to be taken into consideration by you, the jury,
15 along with other evidence in the case and you may give
16 it such weight as you determine it should receive.

17 In other words, the inference of malice from
18 the use of a deadly weapon is simply an evidentiary
19 fact to be taken into consideration by the jury along
20 with other evidence in the case and it is to be given
21 such weight as the jury determines it should receive.
22 The inference of malice may be drawn when proof of the
23 use of a deadly weapon if the jury concludes such is
24 proper after considering all of the facts and circumstances
25 in evidence. The law says if one intentionally kills

1 another during the commission of a felony, the implication
2 of malice may arise. If facts are proved beyond a reasonable
3 doubt sufficient to raise an inference of malice to
4 your satisfaction, this inference would simply be an
5 evidentiary fact to be taken into consideration by you,
6 the jury, along with other evidence in the case and
7 you may give it such weight as you determine it should
8 receive.

9 If the evidence should show under what circumstance
10 a shot was fired or a blow delivered that took the life
11 of another, then you, the jury, would have to determine
12 whether under such circumstances the act was malicious.

13 I'm now going to charge you in regards to
14 the indictment alleging the charge of conspiracy. A
15 conspiracy is a combination or agreement of two or more
16 persons to accomplish some unlawful purpose or to accomplish
17 some lawful purpose by an unlawful means. The gist
18 of the offense is a combination or agreement to disobey
19 or disregard the law.

20 In order to establish the offense of a conspiracy,
21 the State must show that two or more of the defendants
22 willfully joined together as members of the conspiracy,
23 the conspiracy existed at the time alleged, and three,
24 in furtherance of the conspiracy, one or more of the
25 defendants knowingly committed at least one of the overt

1 acts charged in the indictment. This particular indictment
2 the count reads, " That Sammie Louis Stokes did, in
3 Orangeburg County, on or about May 23, 1998 for
4 approximately one year prior thereto, unlawfully and
5 willfully unite, combine, conspire, federate, agree
6 to have tacit understandings with other persons whose
7 names are unknown to the Grand Jurors for the purpose
8 of kidnapping, raping and murdering Connie Lee Snipes."

9 The fact that the defendants may be associated
10 with each other and may have assembled together and
11 discussed common aims and interests does not necessarily
12 establish proof of the existence of a conspiracy. Further-
13 more, the mere fact that one or more defendants may
14 have engaged in the performance of any of the acts charged
15 in the indictment as overt acts would not authorize
16 a conviction by reason of that fact alone. On the other
17 hand, evidence in the case need not show that the members
18 entered into any expressed or formal agreement or that
19 they directed by word or in writing stated between them-
20 selves what their purpose was or the details of the
21 scheme, or the means by which the purpose was to be
22 accomplished.

23 What the evidence in this case must show beyond
24 a reasonable doubt in order to establish proof that
25 a conspiracy existed is that the members in some manner

1 positively or tacitly came to a mutual understanding
2 to try to accomplish a common unlawful plan. If persons
3 pursue by their acts the same unlawful goal, one performing
4 one act and another person another act, all with the
5 view toward the attainment of the goal which they are
6 pursuing, the conclusion is warranted that they are
7 engaged in a conspiracy to achieve that goal. If one
8 conspirator departed from the original design as agreed
9 on by all of the members and did an act that was not
10 contemplated by those who entered into the common purpose,
11 but was not in furtherance thereof and not the natural
12 legitimate consequences of anything connected therewith,
13 the person guilty of such act if it was itself unlawful
14 would alone be responsible for that act.

15 Furthermore, if a person understanding the
16 unlawful character of the transaction encourages, advises
17 or in any manner with a purpose to forward the scheme
18 assists in its furtherance, then that person becomes
19 a conspirator. Guilty knowledge of the plan and intentional
20 participation in the scheme are necessary to establish
21 that a given defendant was a member of the conspiracy.

22 In order to be a member of a conspiracy, one
23 does not have to have full knowledge of all details.
24 In determining whether a conspiracy existed the jury
25 should consider the actions and declaration of all of

1 the alleged participants. However, in determining whether
2 a particular defendant was a member of a conspiracy
3 if any, the jury should consider only his acts and
4 statements. Where a criminal conspiracy has been formed
5 each member thereof is liable for and is bound by the
6 acts and declaration of all of the members of the
7 conspiracy that are done in furtherance of the common
8 scheme. Consequently, any evidence as to a statement
9 made or act done by one conspirator may be received
10 into evidence against his or her co-conspirators provided
11 that it was made during the existence of the conspiracy
12 and in furtherance of its purposes.

13 A statement or act of one defendant charged
14 as a conspirator made after the determination of the
15 conspiracy or not in furtherance of its purposes is
16 not binding on the others. Consequently, while evidence
17 of such a statement or act may be received into evidence
18 against the one who made it or the one who acted, it
19 may not be given any weight whatsoever in determining
20 the guilt of innocence of the others.

21 In your consideration of the evidence in this
22 case as to the offense of conspiracy charge, you should
23 first determine whether or not the conspiracy existed
24 as alleged in the indictment. If you conclude that
25 the conspiracy did exist, you should next determine

1 whether or not the accused willfully became a member
2 of the conspiracy. If it appears beyond a reasonable
3 doubt from the evidence in the case that the conspiracy
4 alleged in the indictment was willfully formed and the
5 defendant willfully became a member of the conspiracy
6 either at its inception or afterwards and that thereafter
7 one or more of the conspirators knowingly committed
8 one or more overt acts charged in furtherance of some
9 object or purpose of the conspiracy, then there may
10 be a conviction even though the conspirators may not
11 have succeeded in accomplishing their common object
12 or purpose.

13 The extent of any defendant's participation
14 in a conspiracy is not determinative of his guilt or
15 innocence. A defendant may be convicted as a conspirator
16 even though he may have played only a minor part in
17 the conspiracy. An overt act is defined as any act
18 knowingly committed by one of the conspirators in an
19 effort to accomplish some goal of the conspiracy. The
20 overt act need not be criminal in nature if considered
21 separate and apart from the conspiracy. It may be as
22 innocent as the act of walking across the street or
23 driving an automobile or using a telephone. It must,
24 however, be an act that follows and tends to accomplish
25 the plan or scheme and it must be knowingly done in

1 furtherance of some object or purpose of the conspiracy
2 charged in the indictment.

3 Conspiracy is a combination between two or
4 more persons for the purpose of accomplishing a criminal
5 or unlawful object or an object neither criminal nor
6 unlawful by criminal or unlawful means. That is section
7 16-17-410 or our Code of Laws. Simply put, a conspiracy
8 is an agreement between two or more person to do an
9 unlawful act or a lawful act by unlawful means. The
10 graviment of the offense of conspiracy is the agreement
11 or combination. What is required is a shared single
12 criminal objective and not just similar or parallel
13 objectives between similarly situated people.

14 The State must prove beyond a reasonable doubt
15 that the persons intended to act together for their
16 shared mutual benefit within the scope of the conspiracy
17 charged. The word "conspire" is defined substantially
18 as follows: If two or more persons agree acting upon
19 a common purpose to commit a criminal act, then they
20 conspire." A conspiracy is a combination between two
21 or more persons to do an unlawful act or to do a lawful
22 act by criminal or unlawful means.

23 There can be no conspiracy when one individual
24 acts by and for himself only. In order to become a
25 party to a conspiracy, a conspiracy must combine with

1 someone else to affect the object of the conspiracy
2 by the means agreed upon. A mere mental purpose cannot
3 justify a conviction of conspiracy. A common design
4 is of the essence of the charge of conspiracy.

5 In order to establish a conspiracy, the State
6 must prove the conspiracy or agreement to commit the
7 offense at the time as alleged in the indictment. Second,
8 the State must further prove that one or more of the
9 parties engaged in the conspiracy committed some act
10 to affect the object as alleged in the indictment. Although
11 the offense of conspiracy may be complete without proof
12 of an overt act, such acts must nevertheless be shown
13 since from them an inference may be drawn as to the
14 existence and object of the conspiracy.

15 To constitute a conspiracy it is not necessary
16 that two or more persons should meet and enter into
17 an expressed or formal agreement for the doing of an
18 unlawful act or that they should directly by words or
19 in writing unite between themselves or otherwise what
20 the unlawful object is to be or the details thereof
21 or the means by which the unlawful combination is to
22 be made effective. It is sufficient if two or more
23 persons in any manner or through any contrivance positively
24 or tacitly come to a mutual understanding to accomplish
25 a common and unlawful design. In other words, when

1 an unlawful end is sought to be affected and two or
2 more persons actuated by the common purpose of accomplishing
3 that end work together in any way in furtherance of
4 the unlawful scheme, each of such persons becomes a
5 member of the conspiracy.

6 The success or failure of the conspiracy is
7 immaterial but before any person can be found guilty
8 of the charge of conspiracy, the State must prove beyond
9 a reasonable doubt that the conspiracy was formed as
10 alleged in the indictment and that the particular person
11 was an active party to it. Although the offense of
12 conspiracy may be committed without proof of overt acts,
13 such acts nevertheless may be shown.

14 The conspiracy itself constitutes the offense.
15 Before a defendant may be convicted the State must prove
16 beyond a reasonable doubt that he was a party to the
17 conspiracy despite the fact that the defendant's name
18 may be engaged in the performance of any of the acts
19 charged in the indictment such as overt acts, you are
20 not authorized to convict by reason of that fact alone.
21 It is necessary to show that an individual defendant
22 was a party to the conspiracy. Each party to a conspiracy
23 must be actuated by an intent to promote the common
24 design. If the persons pursued by their hand the same
25 unlawful object, one performing one act and the other

1 another act, all with a view toward attainment of the
2 object they are pursuing, the conclusion is warranted
3 that they are engaged in a conspiracy to affect that
4 object. Cooperation in some form must be shown. There
5 must be intentional participation in the transaction
6 with a view and purpose to further the common design.

7 If a person understanding the unlawful
8 character of the transaction encourages, advises or
9 in any manner with a purpose to forward the enterprise
10 of the scheme assists in its prosecution, he becomes
11 a conspirator. Joint assent and joint participation
12 in the conspiracy may be found like any other fact as
13 an inference from the facts proved beyond a reasonable
14 doubt.

15 Thus the evidence and proof of the conspiracy
16 may be circumstantial. The term "overt acts" as used
17 in these instructions means an act committed by one
18 or more of the conspirators as alleged in the indictment.
19 In every criminal offense there must be concurrent act
20 and intent. Intent is the material element of the offense
21 and like all others, must be proven beyond a reasonable
22 doubt.

23 In determining the question of intent, you
24 are to consider all the facts and circumstances in the
25 case that touch the conduct of the defendant.

1 Conspiracy is an offense requiring specific
2 intent and purpose which must be shown to exist beyond
3 a reasonable doubt. Realization of profit or gain is
4 not an element of the crime of conspiracy.

5 Now let me charge you as to the law of kidnapping.
6 Under section 16-3-910 of the South Carolina Code, whoever
7 shall unlawfully seize, confine, inveigle, decoy, kidnap,
8 abduct or carry away any other person by any means whatso-
9 ever, without authority of law, shall be guilty of kidnapping.

10 Kidnapping is the intentional taking of a
11 person and compelling him or her to be detained against
12 his or her will. It is the willful and unlawful seizing
13 of a person against his or her will with an intent to
14 cause him or her to be confined, imprisoned or detained.

15 The essence of the offense of kidnapping is
16 the unlawful secret holding or imprisonment of a person.
17 Kidnapping means the carrying away of a person by unlawful
18 force or by fraud and against his or her will or seizing
19 and detaining him or her for the purpose of so carrying
20 him or her away.

21 The elements of kidnapping are (1) unlawful
22 seized, confined, inveigled, decoy, kidnap, abduct or
23 carry away any other person. (2) By any means whatsoever.
24 And (3) without authority of law.

25 Confine means to shut in or to imprison. Inveigle

1 means to lure, entice or lead astray by false representation
2 or promises or other deceitful means. Graviment of
3 the offense of kidnapping is some form of compulsion.
4 The law says that the requisite force or compulsion
5 need not consist of the use of actual physical force
6 or violence or of expressed threats.

7 An essential element of the offense of kidnapping
8 is that the taking or detention of the person kidnapped
9 is without lawful authority. To support an allegation
10 of unlawful taking or detention of a person, the State
11 must prove beyond a reasonable doubt that the accused
12 had the requisite intent to commit the alleged act or
13 acts.

14 Intent means to act knowingly. The law says
15 it is ordinarily reasonable to infer that a person intends
16 the natural, necessary and probably consequences of
17 acts knowingly done. The law infers the intent from
18 the doing of the unlawful act.

19 Kidnapping by the use of fraud, inveiglement
20 or enticing is the obtaining of a false consent by means
21 of deception. The use of fraud as a substitute for
22 force to affect a kidnapping implies false and fraudulent
23 representations amounting substantially to a coercion
24 of the will of the kidnapped person. In determining
25 whether a person was coerced by fraud and inveiglement

1 the nature of the alleged artifice employed the age,
2 education and condition of mind must be taken into
3 consideration. Ordinarily under the law, a false statement
4 or representation is not, in and of itself, sufficient
5 to constitute fraud.

6 Kidnapping by inveiglement may be accomplished
7 by acts of deception whereby the kidnapped person is
8 induced to yield assent to the taking. The law says
9 the inveiglement must be adequate to affect the unlawful
10 purpose. It does not arise from a false representation
11 alone and it does not exist where the kidnapped person
12 voluntarily consents to the taking.

13 Kidnapping by decoy or enticing usually refers
14 to suggestion, representation or solicitation whereby
15 the kidnapped person yields assent.

16 The taking, leading, carrying away or transportation
17 of the victim is an essential element of the offense
18 of kidnapping. The offense of kidnapping commences
19 when one is wrongfully and unlawfully deprived of his
20 or her freedom and continues until his or her freedom
21 is restored.

22 Now, as to the charge in the indictment for
23 criminal sexual conduct in the first degree. I am going
24 to read you and charge you section 16-3-652 of the Code
25 of Laws for South Carolina. " A person is guilty of

1 criminal sexual conduct in the first degree if the actor
2 engages in sexual battery with the victim and when any
3 one or more of the following circumstances are proven.
4 (a) The actor uses aggravated force to accomplish sexual
5 battery. (b) The victim submits to sexual battery by
6 the actor under circumstances where the victim is also
7 the victim of forcible confinement, kidnapping, robbery,
8 extortion, burglary, housebreaking or any other similar
9 offense or act. (c) The actor causes the victim, with
10 out the victim's consent, to become mentally incapacitated
11 or physically helpless by administering, distributing,
12 dispensing, delivering or causing to be administered,
13 distributed, dispenses or delivered a controlled substance
14 or gamma hydrodic aburate.

15 A person is guilty of criminal sexual conduct
16 in the first degree if that person engaged in sexual
17 battery with the victim and if the State has proven
18 beyond a reasonable doubt any one or more of the following
19 circumstances. First, that the person charged with
20 the crime used aggravated force to accomplish the sexual
21 battery. Aggravated force is defined by the Code to
22 mean that the actor, who is the person accused of criminal
23 sexual conduct, that the actor used physical force or
24 physical violence of a high and aggravated nature to
25 overcome the victim. This definition also includes

1 the threat of the use of a deadly weapon.

2 A second element which would either by itself
3 or in conjunction with the first element permit you
4 to find the defendant guilty of criminal sexual conduct
5 is a finding that you that the victim submitted to sexual
6 battery while that person was also the victim of forcible
7 confinement, kidnapping, robbery, extortion, burglary,
8 housebreaking or any other similar act or offense.

9 And that section (c) that I gave you would
10 not apply here so I will not charge you any further
11 on that. I read that to you, though, to give you the
12 complete statute, 16-3-652.

13 You need not find that both of these elements,
14 that is, aggravated force and a concurrent and serious
15 crime was present at the time of the sexual battery.
16 You need only determine that one element was present
17 in order to convict the defendant of criminal sexual
18 conduct in the first degree. But, of course, you must
19 determine that the State has proven that element beyond
20 a reasonable doubt.

21 Let me define for you the term "sexual battery".
22 Sexual intercourse, fellatio, cunnilingus, anal intercourse
23 or any intrusion, however slight, of any part of a person's
24 body or any object into the genital or anal opening
25 of another person's body, except when such intrusion

1 is accomplished for medically recognized treatment
2 for diagnostic purposes.

3 I charge you that one who joins with another
4 to accomplish an illegal purpose is liable criminally
5 for everything done by his confederate incident to the
6 execution of the common design and purpose.

7 I charge you that crimes committed by two
8 or more persons who are acting together in the commission
9 of that offense, the act of one is the act of all. This
10 is true if there are two people or more than two involved
11 in the act. Two or more than two people can be guilty
12 of killing another when only one of the persons fired
13 the shot or committed the act that caused death. If
14 two or more people are together, acting together, assisting
15 each other in the commission of an offense, the law
16 says that under these circumstances, the act of one
17 is the act of all, the hand of one is the hand of all.

18 There are two types of evidence which are
19 generally presented during a trial, there's direct evidence
20 and circumstantial evidence.

21 Direct evidence is the testimony of a person
22 who asserts or claims to have actual knowledge of a
23 fact, such as an eyewitness.

24 Circumstantial evidence is proof of a chain
25 of facts and circumstances that indicate the existence

1 of a fact. The law makes absolutely no distinction between
2 the weight and value to be given to either direct or
3 circumstantial evidence, nor is a greater degree of
4 certainty required of circumstantial evidence than of
5 direct evidence. You should weigh all evidence in this
6 case. After weighing all of the evidence, if you are
7 not convinced of the guilt of the defendant beyond a
8 reasonable doubt, you must find the defendant not guilty.

9 I instruct you now and emphasize to you that
10 the failure of a defendant in a trial of a criminal
11 case to testify in his own behalf is not a factor to
12 be considered by you in any way in your deliberations
13 and in your consideration on the question of the guilt
14 or innocence of the accused. It must not be considered
15 by you in any manner whatsoever against the defendant
16 or mitigate against him in any respect whatsoever. A
17 defendant has a constitutional right to remain silent
18 and the assertion of such constitutional right cannot
19 and must not be considered by you in your deliberations.
20 Under your oath then, you are to reach no inference
21 and draw no conclusion whatsoever from the fact that
22 the defendant in this case did not himself testify.
23 The failure of this defendant to testify should not
24 even be discussed in deliberations.

25 Ladies and gentlemen, you are not partisans

1 or advocates for the State of South Carolina or the
2 defendant. You do not serve as jurors to reward friends
3 or punish enemies. Obviously such a perverted system
4 of justice would be intolerable in our society.

5 You have been selected by both the State and
6 the defendant as fair and impartial jurors. It is your
7 duty then by your joint deliberations to determine the
8 truth of this case, giving to the defendant the benefit
9 of every reasonable doubt on each and every issue. And
10 then to the facts that you then determine to be true,
11 you then take and apply the law which has been given
12 to you by the Court, and thus arrive at a verdict which
13 does speak the truth of the case, for the word "verdict"
14 which has a Latin derivative means a true saying. And
15 when you have accomplished these responsibilities, you
16 will have satisfied your oath as jurors and you will
17 have discharged your duty to this court.

18 I am now going to instruct you as to the forms
19 of the verdicts in this case. You will have to take
20 up each indictment separately. You will have four separate
21 indictments. On each of the indictments, if the State
22 has failed to prove the guilt of the defendant beyond
23 a reasonable doubt, your verdict would be two words,
24 not guilty. If the State has proved the guilt of this
25 defendant beyond a reasonable doubt, your verdict will

1 be one word, guilty. And that applies to each indictment.

2 To these verdicts, the verdict that you render
3 on these indictments must be the verdict of each and
4 every juror and it must be a unanimous verdict, all
5 twelve jurors must agree on the verdict which you authorize
6 the foreman to write on the back of the indictment of
7 each of these indictments.

8 Now, Madam Forelady, on the back of each of
9 the indictments you will find on the bottom left side
10 an area that says VERDICT. It will be your duty to
11 write in the appropriate verdict, and do not give any
12 weight as to the numerical order that I went over the
13 possible verdicts with you. It will be your duty to
14 write in the appropriate verdict, sign your name and
15 date it, okay.

16 In just a second or two I'm going to ask you
17 to step back but do not begin your deliberations until
18 I give you the green light to begin those deliberations
19 because I have to check with the attorneys one last
20 time before I do that. As I said, you will have to
21 reach a unanimous verdict on each one of the indictments
22 and when you have reached your verdict, you will need
23 to knock on the door and let the bailiffs know so we
24 can receive the verdicts at that time.

25 I will need for the twelve first jurors to

1 the room. Do not deliberate on this case. Lt. Edwards,
2 the two alternates, we need another room for them to
3 remain secured and comfortable back there. You may
4 retire now.

5 (WHEREUPON, Jury retired to the jury room and
6 the following proceedings were held in the absence of
7 the jury.)

8 THE COURT: Gentlemen, any exceptions or additions
9 to the charge? I charged it exactly like I told you
10 I would.

11 SOLICITOR: Your Honor, no exceptions and
12 I apologize for not noting this earlier but, of course,
13 Dr. Sexton testified and I think that would probably
14 prompt an expert witness charge if the defense wants
15 that.

16 THE COURT: Only if you are concerned with
17 it.

18 SOLICITOR: Your Honor, also Ted Shealy qualified
19 as an expert, too. Also, although there was no formal
20 statement that was a direct result of Miranda, there
21 was that spontaneous letter that was sent in and I don't
22 know if that would warrant a charge on confession and
23 voluntariness.

24 MR. SIMS: Your Honor, we would not ask that
25 you give them additional instructions on the issue of

1 expert witnesses.

2 THE COURT: And how about the letter?

3 MR. SIMS: We basically admitted it and they
4 know that we admitted it, we admitted it in closing.

5 THE COURT: All right.

6 MR. SIMS: Your Honor, just one concern. We
7 were thinking that sometimes a jury may think that they
8 are under some time constraints and if you will inform
9 the jury that they have--- they can take the time that
10 they need in order to fully deliberate these issues.
11 That's the only addition that we would have.

12 THE COURT: All right, the defense says they
13 are all clear and satisfied with the charge, does that
14 suit you, Solicitor?

15 SOLICITOR: Yes, sir.

16 THE COURT: Counsel, I will defer to you.
17 Do you want me to bring the whole jury out here and
18 tell them or can I have the forelady brought out and
19 tell us that they are under no time constraints?

20 MR. SIMS: Your Honor, for the sake of the
21 record, I would prefer the whole jury.

22 THE COURT: If you will bring the twelve jurors
23 out, please.

24 (WHEREUPON, The jury returned to the courtroom
25 and the following proceedings were held in their presence.)

1 THE COURT: Ladies and gentlemen of the jury,
2 I brought you back out because counsel requested and
3 I'm certainly in agreement to instruct you at this time
4 that there are certainly no time constraints in your
5 deliberations, okay. With that said, you are instructed
6 at this time to begin your deliberations once you reach
7 the jury room. And ask you go out, Madam Forelady, and
8 Lt. Edwards, if you will assist her, go ahead and take
9 the exhibits back with you.

10 (WHEREUPON, The jury started their deliberations
11 at 1:00 P.M.)

12 THE COURT: All right, Mr. Stokes, are you
13 alright today?

14 MR. STOKES: Yes, sir.

15 THE COURT: We will have some lunch brought
16 over to you. I also see the victim's family here in
17 the court. Are ya'll alright?

18 LADY: Yes, sir.

19 THE COURT: All right, gentlemen, I want to
20 certainly relate to everybody in this case at this time
21 that it's certainly no pleasure for anyone to have to
22 try a case such as like we have before the Court. But
23 I do want to take a minute to compliment counsel for
24 your presentation. And the Court deeply appreciates
25 ya'll's cooperation with the Court in trying this case

1 in an orderly fashion. I also want to thank the victim's
2 family for being here and I want to thank the defendant
3 and everybody concerned with the case for their demeanor
4 and behavior during this trial.

5 With that said, we will recess until we are
6 notified by the jury of a verdict or any type of problem
7 they might have.

8 (WHEREUPON, The jury returned with verdicts
9 at 2:00 P.M.)

10 THE COURT: Madam Bailiff, has the jury reached
11 a verdict?

12 BAILIFF: Yes, sir.

13 THE COURT: Is counsel ready to receive the
14 verdicts?

15 SOLICITOR: State is.

16 MR. SIMS: Yes, sir.

17 CLERK: Madam Forelady, have you reached a
18 verdict?

19 MADAM FORELADY: Yes.

20 CLERK: I call the Court's attention to indictment
21 #98-GS-38-1247, State of South Carolina versus Sammie
22 Louis Stokes, indicted for Criminal Conspiracy, verdict
23 is GUILTY.

24 Indictment #98-GS-38-1248, State of South
25 Carolina versus Sammie Louis Stokes, indicted for

1 Kidnapping, verdict is GUILTY.

2 Indictment #98-GS-38-1245, State of South
3 Carolina versus Sammie Louis Stokes, indicted for Criminal
4 Sexual Conduct, First Degree, verdict is GUILTY.

5 Indictment #98-Gs-38-146, State of South Carolina
6 versus Sammie Louis Stokes, indicted for Murder, verdict
7 is GUILTY.

8 Is this your verdict and is it still your
9 verdict, Madam Forelady?

10 MADAM FORELADY: Yes.

11 THE COURT: Anything further of the jury at
12 this time concerning this verdict?

13 MR. SIMS: Just poll the jury, Your Honor.

14 THE COURT: Do you want a general poll or
15 do you want it broken down to each?

16 MR. SIMS: Each.

17 THE COURT: Okay, Madasm Clerk, you may poll
18 the jurors individually.

19 (WHEREUPON, Each juror was individually polled
20 and all twelve answered in the affirmative.)

21 CLERK: The jury has been polled and all answered
22 in the affirmative.

23 THE COURT: Counsel, ya'll approach the Bench,
24 please.

25 (WHEREUPON, A bench conference was held out
of the hearing of the jury and the court reporter.)

1 THE COURT: Anything further of the jury?

2 MR. SIMS: No, sir.

3 THE COURT: solicitor, anything further at
4 this time?

5 SOLICITOR: Not at this time, Your Honor.

6 THE COURT: What time was the verdict returned,
7 Madam Reporter?

8 COURT REPORTER: 2:00 P.M.

9 THE COURT: Everybody in agreement to 2:00?

10 MR. SIMS: Yes, sir.

11 SOLICITOR: Yes, sir.

12 THE COURT: Ladies and gentlemen of the jury
13 panel, if ya'll will step back to your room and just
14 relax just a few minutes, please.

15 (WHEREUPON, Jury retired to the jury room and
16 the following proceedings were held in the absence of
17 the jury.)

18 THE COURT: All right, Mr. Sims, I need to
19 hear from ya'll concerning the twenty-four hour waiting
20 period and then I need to hear from the defendant himself
21 in regards to that.

22 MR. SIMS: Your Honor, we would not waive
23 the twenty-four hour waiting period. I also need to
24 renew my motions again and move for a directed verdict
25 or in the alternative for a new trial. I raise those

1 issues, Your Honor. We feel that the evidence that
2 has been produced both by the defense and the State
3 clearly shows that at least two of those charges, the
4 criminal sexual conduct and the kidnapping, there was
5 not sufficient evidence for that matter to even be taken
6 to the jury and that a reasonable jury looking at the
7 light in the evidence most favorable to the State would
8 not have been able to find a verdict of guilty in that
9 matter and we would ask for a directed verdict on those
10 two issues, Your Honor, and in addition to that, as
11 it relates to criminal conspiracy and the murder charge
12 also. Or in the alternative for a new trial.

13 THE COURT: Motions are noted and I will have
14 to deny them. Solicitor, anything for the record?

15 SOLICITOR: Not at this time, Your Honor,
16 no, sir.

17 THE COURT: Mr. Stokes, your attorneys have
18 advised you concerning the twenty-four hour waiting
19 period?

20 MR. STOKES: Yes, sir.

21 THE COURT: Do you understand that?

22 MR. STOKES: Yes, sir.

23 THE COURT: And you do not wish to waive it?

24 MR. STOKES: No, sir.

25 THE COURT: Very good. Okay, counsel, I need

1 to hear from you about the --- just a guessestimate
2 about the time as to when we want to come back since
3 it is 2:00.

4 SOLICITOR: Your Honor, my preference would
5 be to start tomorrow at 2. I think if we went from
6 about 2 until about 6, we could get a substantial portion
7 of the case under way.

8 MR. SIMS: Your Honor, I have some experts
9 who are going to be coming in from out of state and
10 we are going to go back and make reservations to get
11 them here and it may be some questions --- we would
12 like to start later if at all possible. I know that
13 the Court had indicated that they were going to run
14 on Sunday and it would be our preference, if that would
15 be advisable or if we could, that would be what we would
16 prefer.

17 THE COURT: A later time tomorrow or wait
18 until Sunday?

19 MR. SIMS: Either one, a later time tomorrow
20 or wait until Sunday, Your Honor.

21 THE COURT: Well, ya'll are going to have
22 to help me with that now. If we start early Sunday,
23 do you think we could complete everything at one time?

24 SOLICITOR: Your Honor, I anticipate the
25 case, the State's penalty case, to be slightly longer

1 than the guilt phase, not a whole lot longer. I think
2 that if I was to start at 2:00 or shortly after 2 tomorrow,
3 that I could finish the State's case by Sunday, if we
4 went roughly a day and a half. That would give Mr. Sims
5 until Monday to go his people here.

6 My concern is the jury being sequestered and
7 trying to get them in the motel.

8 THE COURT: Yes, but I want to work with Mr.
9 Sims, too, about these witnesses. All right, Mr. Sims,
10 we will work with you in any way about these witnesses.
11 Let's plan to go ahead and --- well, just a second.
12 Let's go ahead and plan to fire up at 3:00 tomorrow,
13 okay.

14 MR. SIMS: Thank you, Your Honor.

15 THE COURT: All right, bring the jury back
16 in. All fourteen of them.

17 (WHEREUPON, The jury returned to the courtroom
18 and the following proceedings were held in their presence.)

19 THE COURT: Ladies and gentlemen, just a few
20 more instructions to you at this time. I'm going to
21 send you on back to the motel with Lt. Edwards. We
22 will reconvene here tomorrow at 3:00 P.M. We have a
23 statutory waiting period that we have to abide by so
24 we will come back at 3:00 P.M. tomorrow.

25 Do not discuss this case in any fashion and

1 we will see you tomorrow at 3:00. If you have any problems
2 whatsoever, let Lt. Edwards know, okay. Ya'll have
3 a good evening and a good night. See you tomorrow.

4 (WHEREUPON, The jury was dismissed for the
5 afternoon.)

6 THE COURT: All right, see everybody tomorrow
7 afternoon at 3. Have a good night.

8 (WHEREUPON, Court was recessed and resumed
9 on Saturday, October 30, 1999 at 3: 00 P.M.)

10 THE COURT: It is 3:00 P.M., the hour that
11 was set to reconvene the second stage of the State versus
12 Sammie Louis Stokes.

13 For the record the defendant, Sammie Louis
14 Stokes, was convicted on all indictments yesterday,
15 the verdict having been received at 2:00 P.M. and that
16 would have been October 29, 1999. We have waited more
17 than the twenty-four hours to begin this hearing. And,
18 of course, today is October 30, 1999 and the time being
19 3:00 P.M.

20 Will the State be offering additional evidence
21 in extenuation, mitigation or aggravation for punishment?

22 SOLICITOR: Yes, sir, Your Honor.

23 THE COURT: Will the defense be offering additional
24 evidence in regards to the same?

25 MR. SIMS: Yes, sir.

1 THE COURT: At this time I need to hear from
2 the State the statutory aggravating circumstances which
3 it contends is involved and then I will hear from the
4 defense.

5 SOLICITOR: Your Honor, the State would contend
6 and, of course, not all of these aggravating circumstances
7 have been proven to this point, some of them will come
8 out in the second phase of the trial, but we intend
9 to submit at the close of the case that Mrs. Snipes'
10 murder was committed while in the commission of criminal
11 sexual conduct, that her murder was committed while
12 in the commission of kidnapping, that she was murdered
13 while in the commission of physical torture, that the
14 murder was committed for the purpose of receiving money
15 or a thing of monetary value, that the murder was committed
16 by Mr. Stokes as an agent or employee of another person,
17 and that two or more persons were murdered by the defendant
18 by one act and pursuant to one scheme of conduct.

19 Your Honor, for the record, the defense has
20 been noticed on all of those aggravating circumstances
21 at the same time the death penalty notice was served
22 on the defendant.

23 THE COURT: I will now hear from defense on
24 any statutory mitigating circumstances which the defense
25 contends is involved.

1 MR. SIMS: Your Honor, we, under section B(3),
2 the victim was a participant in the defendant's conduct
3 or consented to the act, we think that there is ample
4 evidence in the record that the victim participated
5 up to a point by being involved in the actions of the
6 defendant at the time and we would think that that would
7 be a mitigating circumstance. Your Honor, we also intend
8 to --- or what we consider to be mitigating, his
9 adaptability to prison and there would be a third matter,
10 Your Honor, but I have somewhat of a dilemma that I
11 would like to approach the Bench on.

12 THE COURT: All right, sir.

13 (WHEREUPON, A bench conference was held out
14 of the hearing of the jury and the court reporter.)

15 MR. SIMS: Your Honor, I've had an opportunity
16 to have a conversation in regards to certain --- what
17 we felt to be certain mitigating factors regarding a
18 medical condition of my client. He has informed me
19 that he does not want us to pursue that as a medical
20 condition and as a mitigating circumstance in this matter.
21 And if the Court would inquire of him if that is, in
22 fact, the case.

23 THE COURT: Mr. Stokes, is that correct?

24 MR. STOKES: Yes, sir.

25 THE COURT: You know you have a right to have

1 your attorneys go into that?

2 MR. STOKES: Yes, I do, I understand.

3 THE COURT: And you do not want them to do
4 it?

5 MR. STOKES: No, sir. Thank you.

6 THE COURT: Thank you.

7 SOLICITOR: Your Honor, just to make the record
8 clear, the matter that Mr. Sims was talking about, I
9 think the record should reflect that it was matter of
10 trial strategy and that Mr. Sims wanted to get into
11 that situation but he was unable to do that and his
12 client has been fully informed.

13 MR. SIMS: Yes, sir.

14 THE COURT: That's correct. Now, in regards
15 to the adaptability to prison, I see no problem with
16 that. The victim having participated in the act situation,
17 if that goes back to what was not allowed in because
18 of the way the letter came in and all, you're not going
19 to be able to do it but if you develop that during the ---
20 if you develop something else ---

21 MR. SIMS: Yes, sir.

22 THE COURT: --- not in regards to that, that
23 would be fine because I understand that the State is
24 going to develop some of theirs, too, from this proceeding.
25 Is that correct, Solicitor?

1 SOLICITOR: That's correct, Your Honor.

2 THE COURT: All right, now, we have on the
3 record the defendant's wish to waive certain submissions
4 on the record concerning mitigating circumstances. Mr.
5 Stokes, is there any other mitigating circumstances
6 you may wish to have submitted that you would like to
7 tell the Court at this time?

8 MR. STOKES: No, Your Honor.

9 THE COURT: All right, the next thing we need
10 to establish is to determine whether there are any
11 stipulations.

12 SOLICITOR: Your Honor, Mr. Sims and I had
13 discussed a possible stipulation on the conviction record
14 and that would be --- the defendant has had some charges
15 that were reduced either by a jury or by the Solicitor
16 to lesser charges that he was convicted of. And we
17 had agreed, as I understand it, to go ahead and submit
18 a chart showing the convictions but not the indictments
19 or sentencing sheets themselves because of the potential
20 prejudice information contained in those other documents.

21 We also have a summary of the disciplinary
22 record from the Department of Corrections and I've provided
23 Mr. Sims a copy of that.

24 MR. SIMS: Could I see your copy again?

25 SOLICITOR: Sure.

1 THE COURT: All right.

2 SOLICITOR: I do have somebody from the Department
3 of Corrections, Your Honor, to testify that they do
4 have the record and this is an accurate representation
5 of it and this comes from the official file.

6 MR. SIMS: If the Court will remember, I believe
7 we did talk about and I have made a decision based on
8 that is, in fact, the record there but I did raise that
9 issue initially, that even though the records would
10 be business records exceptions, the contents of those
11 records in terms of what actually transpired in there
12 would not be a business records exception because that
13 would be hearsay. We took that position that that would
14 be, in fact, hearsay, even though the records would
15 be or could be considered to be business records exception,
16 we would not be able to cross-examine anyone as to the
17 contents of what was in that record because that would
18 be hearsay. And I raise that issue but after having
19 reviewed this information, we will withdraw that and
20 we will accept that as the record of what was within
21 the --- in his file from his prison days, Your Honor.
22 And that is a trial strategy reason that we are doing
23 that.

24 THE COURT: Okay.

25 SOLICITOR: Your Honor, it's my understanding

1 that we could stipulate on the record then I will not
2 need to call somebody from the Department of Corrections
3 to testify that that is from their records, is that
4 correct?

5 MR. SIMS: Yes, sir.

6 THE COURT: All right, let me back up a minute
7 now to the State's evidence concerning the two or more
8 persons. Do you want to be heard or do you want to reserve
9 that until that actually comes up and hash that out
10 at that time?

11 MR. SIMS: Two or more persons? you mean
12 the other prior bad act?

13 THE COURT: The murder of two or more persons
14 from the same course of conduct.

15 MR. SIMS: No, we wanted -- I wanted --- that's
16 one of the things I had indicated in terms of being
17 brought up at this point, one of the motions that we
18 wanted to raise because there is no conviction for two
19 or more persons at this time, Your Honor. There is an
20 allegation of a second person but there is absolutely
21 no prior criminal conviction for another murder.

22 SOLICITOR: That's correct, Your Honor, and
23 it doesn't have to be a conviction for murder. Obviously
24 you can't try them both together unless they consent
25 and one conviction has to occur before the other.

1 I've had this same situation in James Neal Tucker where
2 he was charged with two murders and, of course, we proceeded
3 in the first trial and the facts in the other murder
4 was submitted to the jury.

5 Your Honor, independent of attempting to prove
6 that as an aggravating circumstance, a prior act of
7 murder that he was involved in would certainly be relevant
8 to characteristics of the defendant, his propensity
9 for violence and so forth. And so whether or not the
10 jury accepts that as being a part of the common scheme
11 or plan, it's still relevant testimony. And I would
12 just --- for example, in the State -vs- PeeWee Gaskins,
13 there was evidence of seven prior murders that he had
14 not been convicted of, just photographs of the victims
15 that were put in.

16 MR. SIMS: Your Honor, and I would bring the
17 Court's attention State -vs- Kudro, which is a 1998
18 case, 332 S.C. 100. That case, and I was going to cite
19 that to the Court when the Court talked about --- that
20 the Trial Judge must clearly perceive the connection
21 between other crimes and the crimes charged. And it
22 gave out --- it really sets out what Lyles was talking
23 about and it also talks about, I believe this case also
24 talks about under 404(b), the Lyle except that it had
25 been codified. I bring the Court's attention to State

1 vs Brooks, which is a 1999 case and there is no cite
2 for it because it came out, I believe, on April 5, 1999
3 so there is no cite but I can print a copy of that out
4 for the Court if the Court would want to read that.
5 Because we take the position that, and Mr. Bailey just
6 simply said, it shows the character and the courts have
7 specifically said that you cannot produce or introduce
8 evidence of prior bad acts for the purpose of character,
9 solely for the purpose of character, saying if a person
10 did one, he did another. And we would take that position
11 that you must show in order to be able to produce, in
12 order to be able to present prior bad acts, you must
13 be able to show some connection, some common scheme,
14 motive or intent, those four things that were stated
15 in Lyle and I would ask the Court before the Court rules,
16 before it made a decision, to read those two cases.

17 SOLICITOR: Your Honor, of course, those two
18 cases that Mr. Sims cited are not death penalty cases.
19 They are Lyle issue cases. We're not dealing with Lyle
20 here. The same issue that Mr. Sims addressed was cited
21 by our Supreme Court in State -vs- Maurice Hughes which
22 came out on October 4th of this year and in footnote
23 number one on that case and I quote from the footnote,
24 it says: " Lyle is inapplicable here. Evidence admitted
25 under Lyle is substantive evidence to establish guilt,

1 not character evidence rather than a capital sentence."
2 That same issue was decided adversely to Mr. Sims and
3 I have submitted a memorandum in regard to the admission
4 of evidence of prior crimes in the family base and set
5 out all of the cases on that which covered non-conviction
6 adjudications, non-convicted offenses, as well as convictions
7 and juvenile adjudications.

8 THE COURT: Well, I agreed with the State
9 on that.

10 MR. SIMS: Yes, sir.

11 THE COURT: Mr. Stokes, I need to advise you
12 at this time on the record that you have a right to
13 testify and to argue to the jury regarding sentence
14 or punishment and, of course, I can wait on an answer,
15 but at this time if you could tell me. Do you desire
16 to make such an argument or to testify?

17 MR. STOKES: No, sir.

18 MR. SIMS: Your Honor --- wait a minute.

19 (WHEREUPON, Mr. Sims confers with his client.)

20 MR. SIMS: Your Honor, it's my understanding
21 from talking with my client that he did not want to
22 testify.

23 THE COURT: I understand.

24 MR. SIMS: But he has indicated a desire to
25 make a statement at closing.

1 THE COURT: Okay.

2 MR. SIMS: I just wanted to clear that up.

3 I think he did not fully understand what the Court said
4 on our last questions.

5 THE COURT: i understand. Now, at this time,
6 do you have any requests to charge to pass up?

7 MR. SIMS: Not at this time, Your Honor, I
8 don't. I will ---

9 THE COURT: Later on?

10 SOLICITOR: i think I have two, Your Honor.

11 THE COURT: Solicitor, do you have a written
12 or typed copy of your --

13 SOLICITOR: Of the aggravating circumstances?

14 THE COURT: Of the aggravating circumstances,
15 yeah, do you have a typed copy of that, otherwise I'm
16 going to be winging it what I'm doing here.

17 SOLICITOR: Yes, sir, I think so.

18 THE COURT: I would appreciate if ya'll would
19 bear with me just a moment, I've got to get this thing
20 structured.

21 SOLICITOR: Here is a copy of the notice of
22 aggravation and a supplement in that letter there, the
23 physical torture.

24 THE COURT: All right. I have five of them
25 now so I need to get the sixth one.

1 SOLICITOR: Your Honor, that was the physical
2 torture which is one I have in that letter I handed
3 up to you.

4 THE COURT: No, the one that I am missing
5 is the two or more people being murdered. I'm sorry,
6 it's on the next page. All right, that accounts for
7 all of them. Okay, will counsel waive polling of the
8 jury?

9 SOLICITOR: State does, Your Honor.

10 MR. SIMS: Defense does, too, Your Honor.

11 SOLICITOR: Your Honor, there were a couple
12 of other issues that Mr. Sims raised in Chambers and
13 I don't know if you want to take those up now. One
14 of them had to do with apparently trying to restrict
15 Norris Martin's testimony in regard to the cutting of
16 the victim because the knife was never located. Of
17 course, the gun wasn't introduced into evidence and ---

18 THE COURT: There are a lot of crimes where
19 there is no weapon is found.

20 SOLICITOR: Yes, sir, where there are no weapons
21 found and we would, of course, object to that. The other
22 issue, Your Honor, is that in the letter that Mr. Stokes
23 sent to Emery Rush by Depty Kinsey and in the version
24 that would include the evidence that will come out in
25 this part of the trial about Doug Ferguson's homicide,

1 there's some references similar to the references that
2 Mr. Stokes made about the victim, in which he attributes
3 some statements to Faith Lapp in saying that she wants
4 her common law husband killed and trying to convince
5 Stokes to kill her husband. We would move to redact
6 those portions for the same reason that Your Honor
7 redacted the reference to Connie Snipes' alleged comments
8 in that they are hearsay and not subject to any exception
9 to the hearsay rule.

10 Your Honor, if I could hand up to the Court
11 a copy of it and it's got highlighted what we are talking
12 about.

13 THE COURT: Do you want to be heard on that?

14 MR. SIMS: Well, Your Honor, we would of course
15 raise the same issues that we raised initially as it
16 relates to that this does not constitute hearsay, but
17 rather another instance of my client being able to testify
18 and testify truthfully through his statement and basically
19 stating through his statement what the present tense
20 impression of the people who are involved with him.
21 It also shows her state of mind, her motive for being
22 involved in this crime and that she had some prior involve-
23 ment in the crime also.

24 If the Court is going to exclude that, then
25 you're talking about a situation where it does not

1 show what her involvement is and precludes my client
2 or precludes the statement from being accurately shown
3 to the jury in terms of what was actually taking place.
4 We raised that issue as it related to the prior conduct
5 of the victim in the first matter and now this is a
6 co-defendant who was actually charged and initially
7 charged with that and who --- whom --- when they took
8 his statement, he gave a complete and full account of
9 what her involvement was and that she, too, wanted someone
10 killed and that she was involved in the actual scheme
11 that was going on at that time. It shows that, you
12 know, what her motive for being there was, what her
13 plans were, what her scheme was, and that she, too,
14 was a tacit participant in the crime.

15 THE COURT: This goes back to the same principles
16 we went through, though, on that previous ruling on
17 the other, right?

18 SOLICITOR: Yes, sir. That entire thing would
19 come in as an admission by a party opponent. That portion
20 that I want redacted is not an admission by him of any
21 misconduct, it's a hearsay quote of a third party. And
22 Mrs. Lapp will be testifying, Your Honor. And if Mr.
23 Sims has a good faith factual basis for the questions,
24 of course, he could ask her whether or not she made
25 those comments.

1 MR. SIMS: I do have a good faith factual
2 basis, there's no question about that.

3 THE COURT: All right, I'll have to deny your
4 motion on that based on the same principles and the
5 prohibition from the principles that were brought up
6 before in regards to that. Now, as far as a motion
7 concerning the knife not being recovered and available,
8 I would certainly have to deny that motion.

9 MR. SIMS: Just specifically, Your Honor,
10 my motion was specifically that there is no knife in
11 evidence, there will not be any knife in evidence and
12 you're going to be talking about matters that are not
13 in evidence or material that is not in evidence and
14 that's the basis for my motion to suppress any testimony
15 as it relates to the knife or an alleged knife that
16 was used in this matter.

17 THE COURT: All right.

18 SOLICITOR: Your Honor, also I think Mr. Sims
19 said he might have some objection to the penalty phase
20 photographs. I don't know if you want to address that
21 now, the jury has been back there for about 45 minutes
22 waiting.

23 MR. SIMS: Yeah, I wanted to see them. Since
24 he had indicated that he was not going to use certain
25 ones, that relieved me in terms of ---

1 THE COURT: How far into the proceeding do
2 you intend to introduce those, Solicitor?

3 SOLICITOR: Those would come in probably with
4 my ninth witness, eighth of ninth witness.

5 THE COURT: Okay, we can cover that later.

6 SOLICITOR: Your Honor, one final thing. My
7 first witness is Audrey Smith, who is Mr. Stokes' ex-
8 wife. Mrs. Smith is going to testify about some assaults
9 against her by the defendant that led to his conviction
10 and incarceration. She also has about 6 or 7 letters,
11 threatening letters, that Mr. Stokes wrote to her that
12 she can authenticate as being his handwriting. I've
13 provided Mr. Sims with copies of those letters. Mrs.
14 Smith would prefer to retain the originals and I would
15 like to submit --- she can bring the originals with
16 her but I would like to submit copies of those letters
17 for the record.

18 THE COURT: Any objection to copies being
19 submitted?

20 MR. SIMS: No after she authenticates the
21 originals, Your Honor.

22 THE COURT: All right.

23 SOLICITOR: And I don't know if any witnesses
24 are in the courtroom.
25

1 THE COURT: Anybody here under subpoena or
2 request from either side as far as a witness?

3 (NO RESPONSE.)

4 THE COURT: All right, bring the jury in.

5 (WHEREUPON, The jury returned to the courtroom
6 and the following proceedings were held in their presence.)

7 THE COURT: Good afternoon, ladies and gentlemen.
8 Once again we thank you for your patience.

9 I have a general charge that I need to make
10 to at this time. The defendant, Sammie Louis Stokes,
11 was convicted by you, the jury, of the offense of the
12 murder of Connie Snipes. The State of South Carolina
13 charges the defendant, one Sammie Louis Stokes, with
14 the commission of certain statutory aggravating circumstances
15 and in that regard I will explain the alleged statutory
16 aggravating circumstances. You will have a listing
17 of them in the jury room during your deliberations later
18 on.

19 I charge you at this time that these are simply
20 allegations and must be proven to your satisfaction
21 unanimously beyond a reasonable doubt.

22 Now, 16-3-20 of the South Carolina Code of
23 Laws, as amended, provides in part the following:

24 " A person who is convicted of or pleads guilty
25 to murder must be punished by death or by imprisonment

1 for life." That section is further amended and also
2 provides in part, " Upon conviction of a defendant of
3 murder, the Court shall conduct a second sentencing
4 proceeding to determine whether the defendant should
5 be sentenced to death or life imprisonment."

6 In this particular case, the State relies
7 and will prove --- attempt to prove to you the following
8 statutory aggravating circumstances.

9 (1) The murder of Connie Lee Snipes was committed
10 while in the commission of criminal sexual conduct,
11 and in this case, the first degree.

12 (2) The murder of Connie Lee Snipes was committed
13 while in the commission of kidnapping.

14 (3) The offender committed the murder of
15 Connie Lee Snipes for himself or another for the purpose
16 of receiving money or a thing of monetary value.

17 (4) The offender caused or directed another
18 to commit murder or committed the murder of Connie Lee
19 Snipes as an agent or employee of another person.

20 (5) Two or more persons were murdered by
21 the defendant by one act or pursuant to one scheme or
22 course of conduct.

23 (6) That the murder of Connie Lee Snipes
24 was committed while in the commission of physical torture.

25 Now, to the statutory aggravating circumstances

1 the defendant has pled not guilty which places upon
2 the State the burden of proving the defendant guilty.

3 A person charged with committing statutory
4 aggravating circumstances in South Carolina is never
5 required to prove himself innocent. I charge you that
6 it is a vital and important rule of the law of evidence
7 that the defendant in a criminal trial, no matter how
8 great or serious may be the offense with which he is
9 charged, must also be presumed innocent until his guilt
10 has been proven beyond a reasonable doubt. The presumption
11 of innocence remains with the defendant at all times
12 throughout the trial and until the jury has, upon the
13 testimony and evidence presented, reached a verdict
14 of guilty of the statutory aggravating circumstances
15 beyond a reasonable doubt. For it is the solemn duty
16 of the jury if not clearly convinced of his guilt beyond
17 every reasonable doubt to the contrary to acquit the
18 defendant of the statutory aggravating circumstances.

19 So the burden of proof is upon the State to
20 establish by evidence to your satisfaction the guilt
21 beyond a reasonable doubt of this defendant of one or
22 more of the following statutory aggravating circumstances.
23 And I will repeat those at this time.

24 (1) The murder of Connie Lee Snipes was committed
25 while in the commission of criminal sexual conduct in

1 the first degree.

2 (2) The murder of Connie Lee Snipes was committed
3 while in the commission of kidnapping.

4 (3) The defendant committed the murder of
5 Connie Lee Snipes for himself or another for the purpose
6 of receiving money or a thing of monetary value.

7 (4) The defendant caused or directed another
8 to commit murder or committed the murder of Connie Lee
9 Snipes as an agent or employee of another person.

10 (5) Two or more person were murdered by the
11 defendant by one act or pursuant to one scheme or course
12 of conduct.

13 (6) That the murder of Connie Lee Snipes was
14 committed while in the commission of physical torture.

15 The government has the burden of proving the
16 defendant guilty, as I said, beyond a reasonable doubt.
17 Proof beyond a reasonable doubt is proof that leaves
18 you firmly convinced of the defendant's guilt. There
19 are very few things in this world that we know without
20 absolute certainty and in criminal cases the law does
21 not require proof that overcomes every possible doubt.

22 If, based on your consideration of the evidence,
23 you are firmly convinced that the defendant is guilty
24 of the statutory aggravating circumstance that you may
25 be reviewing at that time, you must find him guilty.

1 If, on the other hand, you think there is
2 a real possibility that he is not guilty, you must give
3 him the benefit of the doubt and find him not guilty.

4 I charge you that reasonable doubt may arise
5 from the evidence which is in this case or from the
6 absence of lack of evidence in this case.

7 I remind you at this time that you, the jury,
8 are the finders of the facts and the judges of the credibility.
9 I also remind you once again that the Court is the instructor
10 of the law.

11 All right, at this time the State may proceed
12 to offer additional evidence in aggravation.

13 MR. SIMS: Your Honor, may we approach before
14 the State continues.

15 THE COURT: Yes, sir.

16 (WHEREUPON, A bench conference was held out
17 of the hearing of the jury and the court reporter.)

18 THE COURT: All right, counsel has requested
19 brief openings which I certainly grant.

20 SOLICITOR: Out of all the people in this
21 room, one of us is different. One of us in this room
22 has been convicted of murder with malice aforethought.
23 You have found this man over here, Sammie Lee Stokes,
24 to be a convicted murderer. You have also found that
25 is a convicted rapist and that he committed criminal

1 sexual conduct in the first degree on Connie Lee Snipes.
2 You found beyond a reasonable doubt that he kidnapped
3 Mrs. Snipes and that he conspired with other people
4 to perform these other crimes.

5 Your job is not over yet, in some ways your
6 job is just beginning. You are going to hear testimony
7 at this point of the trial about the appropriate punish-
8 ment to give Sammie Lee Stokes for the crimes that he's
9 committed. That is, you know the two choices, life
10 without parole and the death penalty.

11 You will hear about aggravating circumstances
12 and any mitigating circumstances that the evidence may
13 bring to light.

14 Judge Burch told you about these aggravating
15 circumstances and what an aggravating circumstance is,
16 it's a fact or situation or a condition that the Legislature
17 says that makes a crime worse, or the murderer worse.
18 And the significance of an aggravating circumstance
19 is that you cannot impose the death penalty in South
20 Carolina for the act of murder unless you also find
21 beyond a reasonable doubt that at least one statutory
22 mitigating circumstance exist. We have alleged six,
23 we need to prove one in order for you to have the power
24 to impose the death penalty if you feel that that is
25 the appropriate sentence.

1 So that's a threshold that we have to meet
2 to submit those two options to you.

3 Now, some aggravating circumstances is a separate
4 crime and a person can be indicted for those aggravating
5 circumstances, tried and convicted. This happened in
6 this case. Other aggravating circumstances are not
7 separate crimes, they are just factual situations which
8 there is evidence of and you will find whether or not
9 they exist beyond a reasonable doubt.

10 As Judge Burch told you, the State, in this
11 case, has alleged six aggravating circumstances and
12 you need to find one of them or you cannot impose the
13 death penalty.

14 The first one that I will mention to you is
15 the murder of Connie Snipes committed while in the commission
16 of criminal sexual conduct. Ya'll have already found
17 that when you found Sammie Lee Stokes guilty of criminal
18 sexual conduct in the first degree, and also found him
19 guilty of murder. You have found beyond a reasonable
20 doubt that that circumstance, that aggravating circumstance
21 exists.

22 The next statutory aggravating circumstance
23 is the murder of Connie Snipes was committed while in
24 the commission of kidnapping. And, again, you found
25 him guilty of kidnapping beyond a reasonable doubt in

1 phase one. So you've already found that second aggravating
2 circumstance to exist.

3 The last four aggravating circumstances are
4 not separate crimes, as I've said, they are factual
5 situations that would rise from the evidence that you
6 can take into consideration.

7 The next one I want to mention is that the
8 State alleges that the murder of Connie Snipes was committed
9 while in the commission of physical torture. The Judge
10 will instruct you on physical torture, it's not the
11 instantaneous death of a person, prolonging the pain
12 and suffering and it can be equated to an aggravated
13 battery. You will find, ladies and gentlemen, the testimony
14 in the second part of the trial that the anal rape and
15 the two shots to the head to Connie Lee Snipes were
16 not the worse things she endured, it was worse than
17 that. That will come out in the evidence that you will
18 hear later on. And when we get that far in the trial
19 it is not going to be pleasant and we will talk to you
20 about it and it's not going to be pleasant for you to
21 hear about it.

22 The fourth aggravating circumstance states
23 that the defendant committed the murder for himself
24 or for another for the purpose of receiving money or
25 a thing of monetary value. Ya'll have already had some

1 evidence in this case already, that the motivation or
2 at least part of the motivation for the killing of Connie
3 Snipes was Pattie Syphrette offering to pay Stokes \$2,000
4 to kill her.

5 The next one or the fifth one is related to
6 that other one. It says that the offender committed
7 murder as an agent or employee of another person. And
8 the State contends that Stokes committed this murder
9 as an agent or employee of Pattie Syphrette which she
10 agreed to pay him \$2,000 and he agreed to accept that
11 money from her to kill Connie Snipes and he did kill
12 her.

13 The last one is that two or more persons were
14 murdered by the defendant by one act or pursuant to
15 one scheme or course of conduct. You will hear evidence
16 in this part of the trial that about five days after
17 Connie Snipes was killed by Sammie Stokes, a young man
18 named Doug Ferguson was killed here in Orangeburg by
19 Sammie Stokes, Pattie Syphrette and there was a woman
20 named Faith Lapp present that will testify. And you
21 will hear evidence that these two murders were connected,
22 they were part of the same conspiracy, that they were
23 tied in. And you will hear evidence that Ferguson was
24 killed by these same people because he had been offered
25 the job to kill Connie Snipes and turned it down and

1 they were afraid that he would go to the police and
2 so Dougl Ferguson died on May the 28th of 1998, some
3 five days after Connie Snipes died.

4 As I said, two of these aggravating circumstances
5 have already been proven. And you've heard evidence
6 on some of the aggravating circumstances that are not
7 separate crimes so the first thing I do when I start
8 my case, I'm going to move to incorporate all of the
9 guilt phase evidence, all the guilt phase testimony,
10 into this part of the trial. Obviously, it would be
11 ridiculous to repeat stuff you've already heard and
12 reintroduce evidence. So I will move to incorporate
13 all of that and then when you consider the aggravating
14 circumstances, you consider what punishment to impose,
15 you consider everything, the guilt phase testimony and
16 what comes out in this penalty phase also, and arrive
17 at a decision.

18 In addition to the aggravating circumstances,
19 I'm allowed to introduce other types of evidence that
20 would relate or help you decide whether or not a life
21 sentence or the death penalty is the appropriate
22 punishment. In other words, aggravating circumstances
23 are kind of the starting point and you have to find
24 an aggravating circumstance --- if you do find an
25 aggravating circumstance it doesn't mean that you

1 have to impose the death penalty until you look at the
2 whole picture. We are going to be talking about circumstances
3 of the crime, details of the murder of Connie Snipes
4 that you did not hear about in the first part of the
5 trial, what happened to her before and after she was
6 killed.. We will talk about the characteristics of Sammie
7 Stokes, what kind of man he is, his prior prison convictions,
8 his disciplinary records in prison, that type of thing.
9 His ability or inability to adapt to jail, to be a safe
10 inmate.

11 I expect and again, I'm guessing, that this
12 phase of the trial as far as the State's presentation
13 will take about as long as the guilt phase did which
14 I think was some six or seven hours. After you've heard
15 all of the testimony in this part of the trial, I
16 will have an opportunity to speak to you one more time.
17 At that time, based on the evidence that you will hear
18 in this case and the law from the Judge, I will ask
19 you to bring back a verdict for the death penalty.
20 And as the Judge said, you just use your good common
21 sense and take the law as the Judge gives it to you,
22 take the facts as you find those facts to be, deliberate
23 and bring back one of those two verdicts. And the most
24 appropriate verdict because of this man's conduct, what
25 he has done, and the kind of person that he has turned
out to be, I ask you to use your good common sense and

1 pay close attention to this part of your most serious
2 decision that ya'll have to make. Thank you very much.

3 THE COURT: Ladies and gentlemen, at this
4 time I further charge you, after my initial charge to
5 you, that the defendant has an opportunity to introduce
6 additional evidence in mitigation and at this time,
7 Mr. Sims, you may proceed with an opening if you so
8 desire.

9 MR. SIMS: Good afternoon, Madam Forelady
10 and ladies and gentlemen of the jury. I'm going to
11 be very brief with you this afternoon and the first
12 thing that I want to say to you is that you made a decision
13 yesterday and that was your decision. As I told you
14 when this trial began, that once you make that decision
15 no one can change it, no one can argue about it, no
16 one can contest your decision and we don't do that.
17 I'm not standing here and won't be standing here today
18 to contest your decision, that's a decision that you
19 made after listening to the evidence.

20 The Solicitor has briefly stated to you that
21 he is going to introduce different or additional evidence
22 and he indicated to you that he is going to introduce
23 some additional evidence of details surrounding the
24 death of Connie Snipes. I want you to listen to those
25 details and I want you to listen to see if you can

1 believe as they are going to give it to you. We want
2 you to listen to those details very closely because
3 there are going to be some things that they are going
4 to say that you are going to have to believe. And I'm
5 going to ask you to just sit back and listen to them.

6 We are going to present --- and they are
7 going to present their aggravating circumstances and
8 they are going to present additional information in
9 regards to that. And each one of those aggravating
10 circumstances or each one of those elements they have
11 to prove, that's their burden.

12 I'm also going to tell you that we will produce
13 evidence or present evidence as to Mr. Stokes' ability
14 to adapt to prison. As he Solicitor told you a few
15 moments ago, simply because you find an aggravating
16 circumstance, you still have two alternatives -- life
17 imprisonment or the death penalty. And we're going
18 to ask that you not --- that you sit back and you listen
19 to the evidence and make your decision when we have
20 the opportunity --- or you've had that opportunity to
21 listen to all this additional evidence and make your
22 decision based upon the evidence, based upon the evidence
23 that you're going to hear in the trial, and based upon
24 your own experiences.

25 I'm not going to belabor it, you will have

1 the opportunity to hear but we will have that opportunity
2 to again talk to you at the end of the trial. Thank
3 you.

4 SOLICITOR: Your Honor, the State, at this
5 time, would move to incorporate all of the guilt phase
6 evidence and exhibits into the penalty phase.

7 MR. SIMS: Your Honor, subject to the objections
8 that were made in the guilt phase of the trial.

9 THE COURT: I understand, all right. Granted,
10 subject to an noting prior objections in the trial,
11 the initial trial.

12 SOLICITOR: Thank you, Your Honor. Your Honor,
13 the State would next move to offer a stipulated exhibit
14 which I would like to offer and publish to the jury.

15 MR. SIMS: That is true.

16 THE COURT: All right.

17 (WHEREUPON, A Summary of the criminal record
18 of the defendant was entered and marked as State's exhibit
19 #1.)

20 SOLICITOR: Ladies and gentlemen, this is
21 State's exhibit #1 in the penalty phase and it's a summary
22 of Sammie Louis Stokes' criminal conviction record.
23 It indicates a court date of March 9, 1998 where he
24 was convicted of assault and battery of a high and
25 aggravated nature, received eight years imprisonment

Mrs. Smith-Direct by Solicitor

1111

1 and five years probation and restitution. On August
2 31, 19, 1990 he was paroled from that conviction. On
3 March 13, 1991 he was again convicted of assault and
4 battery of a high and aggravated nature and received
5 a ten year sentence. On April 3, 1991, his prole from
6 the first sentence was revoked. On February 11, 1993,
7 he was again convicted of assault and battery of a high
8 and aggravated nature and he received three years
9 confinement, consecutive to the sentence he was already
10 serving.

11 The State calls Audrey Smith.

12
13 AUDREY SMITH, AFTER FIRST
14 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY SOLICITOR:

16 Q. Please tell the jury what your name is, your
17 full name.

18 A. My name is Audrey Elaine Smith.

19 Q. Mrs. Smith, were do you live?

20 A. I live in Branchville.

21 Q. Have you lived in Branchville all your life?

22 A. No, I lived in New York. I came down here
23 in 1979.

24 Q. Do you know the defendant in this case, Sammie
25 Louis Stokes?

- 1 A. Yes, I do.
- 2 Q. How do you know him?
- 3 A. I was married to him.
- 4 Q. Where were ya'll married?
- 5 A. At right here at the courthouse.
- 6 Q. And do you recall the first words he said
- 7 to you after the marriage?
- 8 A. I got you now.
- 9 Q. He said, I got you now?
- 10 A. Uh-huh.
- 11 Q. Okay, how long did you and Mr. Stokes live
- 12 together as husband and wife?
- 13 A. About almost two months.
- 14 Q. I want to call your attention to approximately
- 15 November 3, 1987 and ask where you were living at that
- 16 time?
- 17 A. In 1987? In Branchville.
- 18 Q. And were you living by yourself?
- 19 A. Yeah, in apartment #13 Branchville Villas.
- 20 Q. You were separated from Mr. Stokes at that
- 21 time?
- 22 A. Yes.
- 23 Q. And did you see Sammie Stokes that day?
- 24 A. Yes.
- 25 Q. And where did you see him?

Mrs. Smith-Direct by Solicitor

1113

- 1 A. He came to my back door.
- 2 Q. And what, if anything, did he say or do when
3 he arrived at the back door?
- 4 A. When he came to the back door he told me,
5 he said he wanted to give me something and when he gave
6 me --- he gave me --- wait a minute, let me recall.
7 There's two things that happened.
- 8 Q. Take your time.
- 9 A. Okay. There was two events but is this the
10 last event that you are talking about?
- 11 Q. I'm talking about the first event which would
12 have been in November of 1987.
- 13 A. Okay, I'm on the right track now.
- 14 Q. All right.
- 15 A. Okay, he came to the back door, he asked me
16 for a glass of water and I said, you tell me you came
17 through the street and didn't get nothing to drink?
18 He told me, he said give me a glass of water, I have
19 something to give you. So as I went in the house to
20 get him a glass of water, he said turn around. So when
21 I turned around, he put a knife to my throat. So I ---
- 22 Q. Was there anybody else in the apartment at
23 that time?
- 24 A. No, I was by myself during that time.
- 25 Q. All right, I don't want to interrupt you but

Mrs. Smith-Direct by Solicitor

1114

1 did you have children at that time?

2 A. Yeah, I have four kids.

3 Q. But they were not by you and Mr. Stokes, were
4 they?

5 A. No, we didn't have any.

6 Q. All right, and were the children at home?

7 A. No, was at school.

8 Q. Go ahead and continue, what happened after
9 he put the knife to your throat?

10 A. Okay, I told him, I said, look, I said I got
11 to go to my momma house and he said well, you won't
12 be going to your momma house now. I said, well, I got
13 my house to clean and he said I'll let you clean the
14 house. So I went to clean my sunroom, when I went to
15 clean up he took the knife from around my throat and
16 he told me, he said, first he told me to write a note
17 saying that you're going somewhere and be back later.
18 So I didn't write the note right then and I was in the
19 room cleaning it up and he say, do all these windows
20 stay lock down, and I told him, yeah.

21 And as I got --- he stood by the door t keep
22 me from going out the door. I made up the bed and he
23 went to put the knife back around my throat and that's
24 when me and him went to tussling and both of my hands
25 got cut up.

Mrs. Smith-Direct by Solicitor

1115

1 Q. Tell the jury how your hands got cut up.

2 A. Because I went to grab the knife and it was
3 like this here, around my throat, and he and him went
4 to tussling.

5 Q. Why did he put the knife to your throat the
6 second time?

7 A. Because he was holding me hostage, he was
8 not going to let me out of the apartment.

9 Q. All right, did he cut both hands?

10 A. Yeah, both of my hands gotten cut up.

11 Q. Okay, how badly were they cut?

12 A. Well, I didn't get stitches.

13 Q. Okay, did they bleed?

14 A. Yeah, they bleed and he clean up the mess
15 and I wrote the note, a little blood was on it, and
16 he said well, I've got to find some place to put you.

17 So the day went on and my daughter, she got
18 off the school bus.

19 Q. How old was your daughter then?

20 A. She was in four year old kindergarten during
21 the time.

22 Q. All right.

23 A. And the bus driver will not put the child
24 out at the door 'cause usually I be to the door but
25 I wasn't to the door at that time. So the bus driver

Mrs. Smith-Direct by Solicitor

1116

1 took her to my momma house. For some reason she knew
2 that I was ---

3 MR. SIMS: Objection to what she knew, talking
4 about the minor child.

5 THE COURT: sustained.

6 Q. Mrs. Smith, just tell what happened as far
7 as you and Mr. Stokes in regard to any discussion you
8 had over the child.

9 A. Okay, so the day went on and so it was almost
10 close time for the kids to get out of school and he
11 said, well, I got to put you somewhere and I can't put
12 you under the bed nor in the closet. So he spotted
13 the loft up inside of the apartment.

14 Q. Did the kids come home from school?

15 A. Not at the time yet, it wasn't at that time
16 yet, no one but my daughter. So he picked at the lock
17 and during the time he pick at the lock he had me standing
18 in the bath in the bathroom and all my doors went in
19 and stuff but the closet door went out and the loft
20 was in the hallway. And I heard him broke the lock
21 and I went to run to the front door. By the time I got
22 to the front door, he put his foot down and he say,
23 I can't trust you, you trying to get away.

24 So he got me up in the loft, he got in the
25 loft, too. And then later on that day my kids came home

Mrs. Smith-Direct by Solicitor

1117

1 from school. My brother came in the house, too, and
2 he said you make a sound I will kill you.

3 Q. How did you know your brother was in the house?

4 A. Because we can hear the voices down.

5 Q. You were both up in the attic?

6 A. Yeah, we was both was up in the loft.

7 Q. Where was the knife?

8 A. He had the knife.

9 Q. How long did you stay in the attic held hostage
10 with this knife?

11 A. I been up in the attic a good little while
12 'cause I doze off to sleep because it was hot up there.
13 And then everybody left out the house, my brother, my
14 kids, they left all the lights on.

15 Q. State whether or not --- were ya'll talking
16 about the fact that there were people downstairs?

17 A. No, you could hear the voices and he told
18 me, he said, you make a sound, I'll go downstairs and
19 I'll kill your kids and your brother.

20 Q. And how many of the kids were in the house
21 then?

22 A. All of them.

23 Q. And what were their ages then, their approximate
24 ages?

25 A. Uhm --- let me see. They was young, they

Mrs. Smith-Direct by Solicitor

1118

1 was young. I couldn't remember to really tell you.

2 Q. He told you that if you made a noise he would
3 kill your children?

4 A. Uh-huh, they was young.

5 Q. Okay.

6 A. And so we got out the loft, it was dark because
7 the lights was on, everybody was looking for me that
8 day. So I told him I had to go to the bathroom and
9 so he said you can go to the bathroom and I went to
10 the bathroom and when I went out he said, I got to find
11 a way of getting you out the project. So he must have
12 went to the window or something, but anyway I went in
13 the closet and I got a coat, I got a quilted coat. So
14 he put me down in a ditch in the back yard of the project
15 so he --

16 Q. Was it dark then?

17 A. It was dark, the lights was on, the street
18 light was on, and we went down in the ditch and so I
19 thought my brother could see me because everybody was
20 looking for me. And I glanced my brother and he said,
21 if you make a sound I'm going to kill you.

22 Q. Who said that?

23 A. Sammie. I did, I holler for my brother, I
24 took a chance and he stabbed me three times in the back.
25 Only one kinda punctured my back a little bit, the rest

Mrs. Smith-Direct by Solicitor

1119

1 of them didn't go through. But he took off and ran.

2 Q. All right. And did the heavy coat block some
3 of the blade, keep the blade from going all the way
4 through?

5 A. The coat did, the coat did.

6 Q. All right, but at least one time it went through
7 the coat and stabbed your back?

8 A. Yes, uh-huh.

9 Q. What happened after he stabbed you in the
10 ditch?

11 A. He took off and I went to the hospital.

12 Q. He ran off?

13 A. Uh-huh.

14 Q. And you went to the hospital?

15 A. Yes.

16 Q. Now, as a result of that assault on you, the
17 jury already has in evidence a summary of the conviction
18 record, he was convicted in March of that assault on
19 you and received eight years in prison?

20 A. Right.

21 Q. About how long did he stay in prison?

22 A. He didn't stay long, he didn't stay locked
23 up that long 'cause he got out on a early release program.

24 Q. Now, I want to call your attention next to
25 December 2, 1990, where were you living then?

1 A. Stay at my momma.

2 Q. And was Stokes out of prison by then?

3 A. Yes, he was.

4 Q. Did you see him on that day?

5 A. I seen him on that day, yes.

6 Q. Where?

7 A. He came by the house and he say he had something
8 for me and to tell me so we went walking and as we walk,
9 he say he asked me to go up on the hill and anybody
10 from Branchville, they know what the hill is. That's
11 by the elementary school. And the lady suppose to be
12 making him something, cake, pie, and we never made it
13 to the lady house. And some of his friends came out
14 and he said that he wanted to have sex with me and I
15 told him I would not have sex with him out in the opening
16 like that. So it did took place and then after that
17 he said he wanted to --- he was going to give me --
18 that he was going some place. So anyway at the high
19 school, on the side of the high school and he had gave
20 me this letter.

21 Q. He gave you a letter?

22 A. A letter.

23 Q. What did the letter say?

24 A. The letter had stated that he was going to
25 kill me that night. So he say, let me hold the letter

Mrs. Smith-Direct by Solicitor

1121

1 'cause he say knowing you, you are going to take it
2 straight to the police. So he took the letter, he say,
3 come on, you going with me.

4 Q. He handed you a letter that said he was going
5 to kill you and then he wanted the letter back?

6 A. Uh-huh.

7 Q. And you read the letter?

8 A. Yes.

9 Q. And what did it say?

10 A. It stated that he was going to kill me that
11 night.

12 Q. Where were ya'll when he handed you that letter?

13 A. On the side of the high school.

14 Q. What time of the day was it, roughly?

15 A. It was in the afternoon 'cause it was getting
16 kinda dark.

17 Q. Okay, anybody else around there then?

18 A. No, huh-uh.

19 Q. What happened after you read that letter that
20 said he was going to kill you and then you gave the
21 letter back to Mr. Stokes?

22 A. He say, come on, go with me. So the area
23 that we walked to his sister had live down that road
24 and I assume that we was going to his sister house.
25 So we got further down the road and there was one car

Mrs. Smith-Direct by Solicitor

1122

1 that pass by, that was the only car that pass while
2 we was walking. And we kept walking and when we got
3 beside this brick house and beside that house was a
4 corn field that was already cut down.

5 Q. Let me ask you this, Mrs. Smith, why didn't
6 you run off from him?

7 A. 'Fraid. See, I already know what he capable
8 of, you know what I'm saying, I was aware of that and
9 I didn't want to make matters worse.

10 MR. SIMS: Your Honor, that's not very responsive
11 to the question. He asked her why and she's given ---
12 that calls for a conclusion and a summary and not being
13 responsive to the actual question that he asked.

14 SOLICITOR: It goes to her state of mind,
15 Your Honor, I was asking her what her state of mind
16 was, why she didn't run off.

17 THE COURT: All right, try to directly answer
18 the questions as best as possible.

19 Q. Were you afraid to run off?

20 A. Yes.

21 Q. What happened next?

22 MR. SIMS: Your Honor, I would ask the Solicitor
23 not to lead.

24 THE COURT: Be careful with the leading.

25 Q. What happened next?

Mrs. Smith-Direct by Solicitor

1123

1 A. Okay, we started walking in the wooded ---
2 the open field and he said there was something that
3 he left out there. So he was looking to see whether
4 it was out there.

5 Q. What did he say he left out there?

6 A. Guns.

7 Q. Guns?

8 A. Uh-huh.

9 Q. Okay.

10 A. So I was praying he didn't see the guns so
11 he say come on, you going with me. He say, you can
12 yell, you can scream, but I done been out there and
13 I done test it out, you can holler or whatever, ain't
14 nobody can hear you.

15 So we went into the wooded area and he pulled
16 out a extension cord with knots in it.

17 Q. He pulled out an extension cord?

18 A. Uh-huh, with knots in it.

19 Q. Okay, describe --- when you say an extension
20 cord with knots in it, what do you mean?

21 A. A regular extension cord, brown extension
22 cord and it had knots in it. I seen it earlier, earlier
23 I had seen the extension cord. And he said, what are
24 you think about and I say, I'm thinking about my kids.

25 Q. Let me ask you. Was there anything else

Mrs. Smith-Direct by Solicitor

1124

1 unusual about the extension cord besides it had knots
2 tied in it?

3 A. Yeah, during that time he start cutting the
4 knots.

5 Q. Okay.

6 A. And he say, what you think about, and I say,
7 I'm thinking about my kids and he say, where you going,
8 you need to be praying. So he say --- I had --- I was
9 wearing glasses and so he took the glasses and he say,
10 where you going, you don't need the glasses. And next
11 I know, he put it around my neck and I passed out.

12 Q. He put the extension cord around your neck?

13 A. Uh-huh.

14 Q. Until you passed out?

15 A. Uh-huh.

16 Q. What's the next thing that you remember?

17 A. When I wake, it was like a star came up and
18 shine on me so I just lift up and when I lift up, I
19 grabbed for my throat and when I grab for my throat
20 I seen blood. So I went to get up and one of my shoes
21 was on and one was off. So I look around to see if
22 I see anybody, I didn't see no one. So I got up and
23 I started running one way and I say, no, this don't
24 look like the way, so then I ran another way and I ran,
25 I fall, I pray, I ran, I fall, I pray.

Mrs. Smith-Direct by Solicitor

1125

1 So I went to the brick house that we had went
2 past by and nobody answer the door. I seen a car light
3 so I duck by the house.

4 Q. Why did you duck?

5 A. Huh? 'Cause I was scared he was coming back
6 to check to see whether I was dead or not. So I seen ---
7 there was a hedge just separating the two houses so
8 I said, well, I'm not going to go through them hedges
9 'cause there might be wire between them. So I didn't
10 go through there, I went in the road and went to the
11 next house and that's where they went and got help for
12 me.

13 Q. And where did you go that night?

14 A. I went to the emergency room.

15 Q. And what part of the hospital were you put
16 in?

17 A. They took me and put me in intensive care.

18 Q. How long were you in extensive care?

19 A. I was in there overnight.

20 Q. And how long were you in the hospital altogether?

21 A. It must be about three, four weeks, all total.

22 Q. Did you have like a nervous breakdown over
23 this?

24 A. Yeah ----

25 MR. SIMS: Your Honor, the Solicitor is leading

Mrs. Smith-Direct by Solicitor

1126

1 and testifying and I understand that this is a very
2 delicate situation ---

3 SOLICITOR: I'll rephrase it, Your Honor.

4 THE COURT: All right.

5 Q. Why were you in the hospital that length of
6 time?

7 A. Okay, after I left out extensive care, they
8 put me in the regular part of the hospital, I stayed
9 there about almost eight days. I could not deal with
10 coming back to Branchville so I asked to be put in the
11 Rose Center.

12 Q. What's the Rose Center?

13 A. It's for people with nervous breakdowns and
14 different other kinds of problems. I asked to go in
15 there and I stayed in there for about eleven or twelve
16 days, and to build enough strength to deal with reality
17 all over again.

18 Q. All right, Mrs. Smith, as a result of that
19 assault on you on March 31, 1991, did he receive ten
20 years in prison for assault and battery of a high and
21 aggravated nature?

22 A. Yes.

23 Q. Now, when Sammie Stokes was locked up, did
24 he write you some letters?

25 A. Yes, he did.

Mrs. Smith-Direct by Solicitor

1127

1 Q. Do you have those letters with you?

2 A. Yes, I do.

3 Q. Do you recognize his handwriting?

4 A. Yes, I do.

5 Q. Are those his letters there in the package
6 there in front of you?

7 A. Yes.

8 Q. What did he call you, as far as your name?

9 A. Elaine.

10 Q. Elaine, and your name is Audrey?

11 A. Audrey Elaine.

12 Q. Let me show you a copy of a letter and ask
13 you if you have the original in your package here?

14 A. Yes, I do.

15 Q. Okay, and that's a letter to you from Sammie
16 Stokes while he was in prison, is that correct?

17 A. Yes, it is, uh-huh.

18 SOLICITOR: Your Honor, I would offer this
19 into evidence.

20 MR. SIMS: No objection as to that letter.

21 THE COURT: In without objection.

22 (WHEREUPON, Letter to wife from prison was
23 entered and marked as State's exhibit #2.)

24 SOLICITOR: Your Honor, I would like to publish
25

Mrs. Smith-Direct by Solicitor

1128

1 this to the jury.

2 THE COURT: All right, proceed.

3 SOLICITOR: " Elaine: It doesn't bother me
4 about your giving Orangeburg Courthouse my letters because
5 there's nothing they can do now. The case is clsoed
6 and I done start my time. Damn, I thought you said you
7 knew me, must not because you know I'm smart enough
8 to wait until the right time to write. It's you that
9 don't have no sense because you should be trying to
10 make peace with me. Unless you are planning on moving
11 in the courthouse when I get back, none of those courthouse
12 people are going to be living with you. Oh, yeah, tell
13 that old, old man you go with that I don't care how
14 many guns he has, he can't stop me from getting to you
15 if I really want to do something to you. But he probably
16 might be done drop dead by the time I get back. So
17 just remember, I'm coming back, you and I got something
18 to talk about. So give this letter to the courthouse
19 too because I don't care. Please give it to them since
20 they can't stop me from coming back and your man can't
21 be no good because you are still scared and running
22 to the courthouse and the courthouse can't help you
23 no more. They got to wait on me and it won't be long
24 more I'll be out and give them a damn good reason to
25 want to see me. But you're not worrying about nothing

Mrs. Smith-Direct by Solicitor

1129

1 because you've got that old bag t protect you. Elaine,
2 don't be no fool or nobody's fool, 'cause you know me
3 and that old man. He will be just wasting his time.

4 If I was to come out on a mission, I made
5 a promise to you, remember, I told you that I was going
6 to do my best to change my way of thinking but all I
7 ask for is a little help from you. I'm trying to be
8 your friend before I come home, then I be done get used
9 to the idea that I won't be able to have you, but still
10 can be your friend.

11 So I'll leave that all up to you or you can
12 still run to the courthouse but they can't do nothing
13 until I do something. Elaine, wake up and smell the
14 flavor and nobody is going to watch you 24-7 around
15 the clock but I will and you know it. So I'm going
16 to try and get better with my had problem, meaning my
17 way of thinking, but if I fail, remember, you wouldn't
18 help when I was asking you to. All I want is to be your
19 friend, someone I can say hi and bye to, but you know
20 me, I might say a little more. So it's up to you if
21 we can work together as friends or take chances on one
22 another life and that's going to soon run out because
23 somebody is going to get killed.

24 So it's up to you. I be waiting on you to
25 let me know how you feel about it. Here's my address,

Annette J. Mole
14th Circuit Court Reporter
P. O. Box 374
Vainville, S.C. 29044

Mrs. Smith-Direct by Solicitor

1130

1 oh, yeah, you can give the courthouse my address, too,
2 if you think that's going to help you. Sammie L. Stokes.
3 P.S. Wake up, Elaine, the people are all for theyself,
4 to each his own."

5 Q. Mrs. Smith, is this a letter to you from Sammie
6 Stokes while he was in prison in his handwriting?

7 A. Yes, it is.

8 Q. Do you have the original of that letter in
9 your pile there?

10 A. Yes, I do.

11 SOLICITOR: Your Honor, we would offer this
12 one into evidence.

13 THE COURT: Is that without objection, Mr.
14 Sims?

15 MR. SIMS: Yes, sir.

16 THE COURT: It's in.

17 (WHEREUPON, Letter to wife from prison was
18 entered and marked as State's exhibit #3.)

19 SOLICITOR: " Elaine: So what's up, baby
20 girl, hope everything is going smoothly for you. I
21 know you probably think that I'm crazy for everything
22 that has happened. Well, I'm not crazy and about court,
23 well, that was all planned, or should I say a set up
24 and everybody worked out well because I'll be home again
25 in 19 months.

Mrs. Smith-Direct by Solicitor

1131

1 There's something else I need to tell you,
2 baby. I know you wasn't dead when I left you because
3 I didn't meant to kill you, but I could have did it
4 but I changed my mind because I knew you still loved
5 me and it wasn't fair so I left you there coughing on
6 the ground and then I went to the white people yard
7 and stand by a tree and watched you until you finally
8 got out of the woods. I also follow you to the Vernons
9 house so see if I wanted to kill you I could have but
10 I didn't. 'Cause I know you still love me at that time.
11 I knew you don't love me any more but you still care.

12 Elaine, in 1987 it all started. In 1990 you
13 came very close to death. What's it going to be like
14 the next time I get home because each time it gets worser.

15 Elaine, you are a very nice person and your
16 kids need you on the earth, no under it. So I'm telling
17 you this from my heart, I'm going to do my best to better
18 my head and my way of thinking because I'm a very dangerous
19 young man and if I get out and plan on doing something
20 to you, nobody couldn't stop me, not even you. So I
21 promise I will do my best to get my head together but
22 I need to answer my questions. Elaine, don't play with
23 me. Answer my question and tell me the truth because
24 time is moving and you're getting older and I'm still
25 young and strong and getting stronger and you are in

Mrs. Smith-Direct by Solicitor

1132

1 no shape to be running from me so let's get something
2 straight.

3 Baby, I'm going to do my best to get killing
4 you out of my mind but I'm going to need your help.
5 So it's up to you and not Janie or anybody or nobody.
6 'Cause you got to face me, not them. No matter what
7 you do or where you go I'll find you or better yet,
8 you'll come to me. You had better open your eyes and
9 realize the power I have over you nobody and nothing
10 can change it or remove it from me. Sweetheart, ya'll
11 feel the wind but I see the wind. So I'm going to do
12 my best and I promise to you that I will do my best
13 to change my way of thinking but I need your help.

14 So if you're tired of playing games in your
15 life before you fuck around and lose it, then you help
16 yourself with me. Elaine, answer my questions and I'll
17 be waiting on my answers from you. If you don't write
18 me back soon and very soon then I'll still do my best
19 to get it out of my mind but if it don't work, remember
20 you did it to yourself.

21 Answer these questions: (1) Do you want to
22 try and be my friend or you want to be my enemy?
23 (2) Are you scared of me? (3) Do you have any feelings
24 for me? (4) Do you think about me sometimes? (5) Do
25 you really want to live? (6) Do you want peace from

Mrs. Smith-Direct by Solicitor

1132 (A)

1 me? (7) Can we talk like nice people to one another?

2 (8) Do you really think I'm crazy or am I just crazy
3 about you?

4 I'll stop there for now but there's more.
5 Remember, I need to know how you feel about this. Oh,
6 yeah, I got your pictures up here with me. I look at
7 them every night and, Elaine, I'm coming back so let's
8 get things straight. Don't write me no lies because
9 I'll know.

10 I write this to you but no Branchville but
11 I don't care who you show it to, it's your life to be
12 playing with because I'll know it if you show it to
13 anybody. Sammie L. Stokes. I'm only 30 miles away
14 from you, I can smell you every time I go outside.
15 Smile."

16 Q. Look at this letter here and is this a letter
17 from your ex-husband while he was in prison?

18 A. Yes, it is.

19 SOLICITOR: We would offer this, Your Honor.

20 MR. SIMS: No objection.

21 THE COURT: In without objection.

22 (WHEREUPON, Letter to wife from prison was
23 entered and marked as State's exhibit #4.)

24 SOLICITOR: " Oh, yeah, baby, don't flip on
25 me. I heard but I don't care. You did told me it was

Mrs. Smith-Direct by Solicitor

1133

1 going to happen. Well, take care and remember, you've
2 got to stop somewhere before somebody gets kills. I
3 want peace out of you and I know you want the same from
4 me. So think about things and regardless we will face
5 each other again. How we do it is up to you.

6 Well, this is my last time writing you. I
7 just hope you think before you move. Things could be
8 better if we worked together on this case. But it's
9 all up to you and not the people. Besides the arrow
10 isn't pointing at you no more so let's work together.
11 I'm coming home and I can say to myself, well, she did
12 help me so how can I plug out. So don't flip like you
13 did the last time because that would only make me flip,
14 too, and the bullshit has got to stop before somebody
15 dies. So think about things. So remember it's up to
16 you how we meet when we do meet because we will meet."

17 Q. Mrs. Smith, is this a letter to you from your
18 husband while he was in prison, your ex-husband?

19 A. Yes, it is.

20 SOLICITOR: I would offer this, Your Honor.

21 MR. SIMS: No objection.

22 THE COURT: In without objection.

23 (WHEREUPON, Letter to wife from prison was
24 entered and marked as State's exhibit #5.)

25 SOLICITOR: " I still feel like you are lying.

Mrs. Smith-Direct by Solicitor

1134

1 Elaine, you are mine and I don't care what I got to
2 do but I must have you, believe it, believe it, believe
3 it. I understand that you are scared of me but you
4 also need to realize that I'm coming back and we will
5 see each other and I'm going to say something to you
6 and nobody can stop me and I mean nobody. I refuse to
7 live without you and that's final.

8 Elaine, take care and remember, I'm not living
9 without you, you mean something to me. Sammie L. Stokes."

10 Q. Is this a copy of a letter to you from your
11 husband or your ex-husband while he was in prison?

12 A. Yes, sir.

13 SOLICITOR: I would offer this, Your Honor.

14 MR. SIMS: Without objection.

15 THE COURT: In without objection.

16 (WHEREUPON, Letter to wife from prison was
17 entered and marked as State's exhibit #6.)

18 SOLICITOR: " I understand you might be don't
19 want to never see me again or say anything to me but
20 tough cookie, baby, because every time I see you I'm
21 going to say something to you. Elaine, if you don't
22 want to try and be my friend, just write and say no
23 and I will try to understand but I doubt that I will.
24 Smile. Let me know something, pretty girl. Sammie Louis
25 Stokes."

Mrs. Smith-Direct by Solicitor

1135

1 Q. Is this a copy of a letter to you from Sammie
2 Stokes while he was in prison?

3 A. Yes, it is.

4 SOLICITOR: I would offer this into evidence,
5 Your Honor.

6 MR. SIMS: No objection.

7 THE COURT: In without objection.

8 (WHEREUPON, Letter to wife from prison was
9 entered and marked as State's exhibit #7.)

10 SOLICITOR: " Audrey, I want to be honest
11 with you because I've been doing a lot of thinking lately
12 especially now that I'm about to get out. I truly feel
13 that you should know where my head is at and please
14 don't get scared or upset 'cause there' no need. I'm
15 just going to straight up, baby, I'm still in love with
16 you and I understand that I've hurted you and I'm sorry
17 that I fell weak from the drugs and lost all control.
18 Please take me very much serious when I say no paper
19 or no nigger or the courthouse can stop me from finding
20 my baby and being with her. I refuse to do with out
21 you and no matter where you go, city or town, I'll find
22 you.

23 Baby, I don't have a drug problem no more,
24 the only problem I got now is being without you and
25 I solve the first problem and without a doubt I'll solve

Mrs. Smith-Direct by Solicitor

1136

1 the next one. And I got enough money save up to travel
2 and check in motels, so you see, I be thinking when
3 the rest are sleep. I'm well prepared to find you wherever
4 you go and with my brains it won't be hard. Baby, I
5 need you, I love you and I got to have you and I won't
6 have it any other way. Don't take me for no fool in thinking
7 I'm playing. So if you want to play cat and mouse, then
8 go for it. And this is my last letter, the next time
9 you will be able to look in my face as I tell you I
10 love you. So you still don't want to write me and tell
11 me how you feel, I think you should unless you think
12 I'm playing games.

13 P.S. I'm coming to your town or city real
14 soon and remember, all eyes are on you so what's up.
15 Oh, yeah, I started to send you a visitor form so then
16 you can come and talk with me but I almost forgot. You
17 think this is only one big joke but in time, all in
18 good time, my baby, will speak for itself."

19 Q. And the last one, Mrs. Smith, is this a copy
20 of a letter that you received from Sammie Stokes while
21 he was in prison?

22 A. Yes, it is.

23 SOLICITOR: I would offer this into evidence,
24 Your Honor.

25 MR. SIMS: No objection.

Mrs. Smith-Direct by Solicitor

1137

1 THE COURT: In without objection.

2 (WHEREUPON, Letter to wife from prison was
3 entered and marked as State's exhibit #8.)

4 SOLICITOR: " Well, are you sick or what because
5 I want to know what's happened or that nigger done fool
6 you to marry him and that shit better not never happen
7 because if it do, I better not never see you or get
8 you in shooting range because I'll blow your head off
9 and you know I will. While I'm sitting next to my window
10 looking out of it wondering, what is I going to do when
11 I get back? Well, puff that for now.

12 But, hey, I can handle any place they send
13 me because I've made up my mind to do my time in peace
14 and get back to Branchville and see what's in your mind.
15 So wish me luck, baby. So don't think you can play
16 me because you can't. You can't hurt me no more because
17 I'm doing fine. But I wonder what's going to happen
18 when I get out. Don't you think about that some time?
19 Well, if not, you had better because time is moving
20 every day goes by is a day closer to me getting back.
21 So don't fool yourself 'cause El Nasty is coming back
22 to town and I don't want to hear that shit, oh, Louis,
23 I'm so sorry for not keeping in touch and coming to
24 see you because I'm going to say, Elaine, I tried to
25 be nice to you by writing to you and telling you how

Mrs. Smith-Direct by Solicitor

1138

1 I feel about you and I also tried to be your friend
2 but, no, you wouldn't listen. You went ahead and let
3 me start hating you and now you got to be the one to
4 pay so I'm asking.

5 Baby, I hope that I won't have to repeat these
6 words. You just come on and see me and let's see could
7 we sit down and talk things over, okay. So call and
8 make an appointment to see me and show me that you were
9 not lying to me because I know the car is fixed and
10 tell Ronald hello. Don't let the time pass by with
11 your eyes closed and don't ever, ever, ever think that
12 I'm not coming back. Just pray that I come back and
13 don't have revenge on my mind. Because if I do, something
14 bad is going to happen and this time I will succeed.
15 We are not going to let that happen, right, Elaine?

16 Oh, yeah, remember to stay healthy because
17 you might have to do a lot of running and ducking when
18 I get back. Smile because I am El Nasty.

19 Tonight I just feel like doing something crazy
20 in this place."

21 Q. Mrs. Smith, did you ever at anytime do anything
22 to cause this man to stab you in the back?

23 A. No, I didn't.

24 Q. Did you do anything to cause him to take that
25 knotted extension cord and put it around your neck until

Mrs. Smith-Direct by Solicitor

1139

1 you passed out?

2 A. No, I didn't.

3 SOLICITOR: Please answer any questions MR.

4 Sims may have of you.

5

6 CROSS-EXAMINATION

7 BY MR. SIMS:

8 Q. Mrs. Smith, I just have one or two questions
9 for you. Did you know when he got out of prison in
10 May?

11 A. Yes, I do.

12 Q. And you had no contact with him, is that correct?

13 A. Right.

14 Q. He didn't come around you?

15 A. No.

16 Q. He never called you?

17 A. No.

18 Q. He never wrote you any letters?

19 A. In May?

20 Q. I mean, in May, yes, ma'am.

21 A. Of this year?

22 Q. Yes, ma'am.

23 A. I mean, of this year, I'm sorry.

24 Q. '98.

25 A. '98. Yes, he wrote me letters.

Mrs. Smith-Cross by Mr. Sims

1140

1 Q. When was the last time he wrote you a letter?

2 A. Uhm --- it been a while because they had the
3 letters stopped.

4 Q. When is the last time you received one?

5 A. It been a while.

6 Q. I'm sorry, but I need to know --- I'm not
7 trying to put any pressure on you but I just need to
8 know what do you mean by a while?

9 A. Couple of years.

10 Q. It's been a few years since he had written
11 you, is that correct?

12 A. Right.

13 Q. All right, so when he actually got out in
14 May, you heard nothing from him, never saw him, never
15 received any letters from him or anything when he got
16 out of prison?

17 A. No.

18 Q. When you all were going through these problems
19 did you know whether or not he was on drugs at that
20 time?

21 A. Only what he tell me.

22 Q. Only what he told you?

23 A. Uh-huh.

24 Q. He was jealous of you at that time?

25 A. Yes, he was.

Mrs. Smith-Cross by Mr. Sims

1141

1 Q. And he was possessive of you, is that correct?

2 A. Yes.

3 Q. And in a number of those letters that the
4 jury has heard or read, he wanted --- he was asking
5 you about being your friend, is that correct?

6 A. Yes.

7 Q. And he was asking you about being able to
8 talk with him or write him.

9 A. Yes.

10 Q. And wanted to talk with you.

11 A. Yes.

12 Q. And in those letters also he was talking to
13 you about trying to get his head straight, is that right?

14 A. That's what he wrote me.

15 MR. SIMS: That's all I have, Your Honor.

16

17 RE-DIRECT EXAMINATION BY THE SOLICITOR;

18 Q. What did you do, Mrs. Smith, to get him to
19 stop writing those letters to you?

20 A. I went to the Town of Branchville, to the
21 police office.

22 Q. And who else did you have to talk to to get
23 him to stop writing those letters to you?

24 A. The --- oh, I think it was the parole probate
25 people.

1 SOLICITOR: Thank you, that's all I have,
2 Mrs. Smith.

3 THE COURT: Anything further, Mr. Sims?

4 MR. SIMS: Nothing further, Your Honor.

5 SOLICITOR: Your Honor, I have another exhibit
6 I think that we have a stipulation on.

7 MR. SIMS: Yes, sir, that's right, no objection.

8 (WHEREUPON, A poster with the violations
9 of the defendant while in SCDC was entered and marked
10 as State's exhibit #9.)

11 SOLICITOR: May I publish this to the jury?

12 THE COURT: Yes, sir.

13 SOLICITOR: This is for Mr. Sammie Louis Stokes,
14 Department of Corrections, prisoner' violation record.

15 July 1, 1998, violation for fighting without
16 a weapon.

17 January 4, 1992, refusing or failing to obey
18 promptly or properly a direct order.

19 January 22, 1992, out of place, lying to employees.

20 January 26, 1992, out of place.

21 February 26, 1992, exciting or creating a
22 disturbance, refusing to failing to obey promptly and
23 properly to a direct order.

24 April 11, 1992, out of place.

25 July 12, 1992, possession of a weapon.

Mr. Stevens-Direct by Solicitor

1143

1 July 29, 1992, fighting without a weapon.

2 December 3, 1992, striking an inmate.

3 June 23, 1993, gambling.

4 July 28, 1993, lying to employees.

5 SOLICITOR: Call Ray Stevens.

6

7 ROY F. STEVENS, AFTER

8 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY SOLICITOR:

10 Q. State your full name, please.

11 A. Roy F. Stevens.

12 Q. Mr. Stevens, where do you live at this time?

13 A. [REDACTED], Walterboro, South
14 Carolina in Colleton County.

15 Q. And are you retired?

16 A. Yes, I am.

17 Q. And what are you retired from?

18 A. Law enforcement.

19 Q. Okay. And calling your attention to December
20 of 1992, where were working?

21 A. I worked for the South Carolina Department
22 of Corrections, Internal Affairs Division, I was a criminal
23 investigator.

24 Q. And what facility were you assigned to?

25 A. I was assigned to the Coastal Region, to Allendale,

Mr. Stevens-Direct by Solicitor

1144

1 and I worked for the other Coastal Region institutions
2 but most of my work was at Allendale Correctional Institution.

3 Q. All right, and that's a facility with the
4 South Carolina Department of Corrections?

5 A. Yes, sir.

6 Q. And I want to ask you to state whether or
7 not Sammie Louis Stokes, the defendant in this case,
8 was an inmate at Allendale at that time?

9 A. Yes, sir, Sammie Stokes was an inmate at Allendale
10 Correctional Institution in '92.

11 Q. This jury has in evidence a record of a February
12 11, 1993 conviction for assault and battery of a high
13 and aggravated nature, are you familiar with the investiga-
14 tion that led to that conviction?

15 A. Yes, sir, I am.

16 Q. Did you handle that investigation?

17 A. Yes, sir, I did.

18 Q. Who was the victim of the assault?

19 A. Jackie Williams, a black male.

20 Q. Okay, was he also an inmate?

21 A. Yes, sir, he was an inmate serving his sentence
22 at the Allendale Correctional Institution in the South
23 Carolina Department of Corrections.

24 Q. And during the course of your investigation
25 did you take some photographs of Mr. Jackie Williams ---

Mr. Stevens-Direct by Solicitor

1145

1 A. Yes, sir, I did.

2 Q. --- and the location where the assault took
3 place?

4 A. Yes, sir, I did.

5 Q. I'm going to hand you four photographs and
6 ask if you took these photographs?

7 A. Yes, sir, I took them.

8 Q. And based on your investigation, where did
9 this assault take place?

10 A. This assault, this photo here shows it was
11 in the restroom in the educational building, it's an
12 inmate all male restroom.

13 Q. And what occurred in that restroom between
14 Mr. Stokes and Mr. Williams?

15 A. That's where inmate Sammie Stokes attacked
16 inmate Jackie Williams with what appeared to be a box
17 cutter and slashed him about his face.

18 Q. What I'm going to do is hand you this first
19 photograph and ask if you can identify that, yes or
20 no.

21 A. Yes, sir.

22 MR. SIMS: I haven't seen them, Your Honor.

23 THE COURT: Show them to Mr. Sims.

24 Q. Mr. Stevens, what I'm going to do is put these
25 on the monitor ---

Mr. Stevens-Direct by Solicitor

1146

1 SOLICITOR: Do you have any objection to these?

2 MR. SIMS: One moment. No objection to the
3 pictures, Your Honor.

4 THE COURT: All right, they are in.

5 (WHEREUPON, Three photographs of inmate Williams
6 were entered and marked as State's exhibits #10,11 and
7 12; One photograph of the inmate restroom was entered
8 and marked as State's exhibit #13.)

9 SOLICITOR: What i would like to do so that
10 Mr. Stevens can explain these pictures to the jury but
11 the monitor is not picking up the pictures too well,
12 so after that I would like to publish that to the jury
13 by handing them to the forelady and ask her to pass
14 them around.

15 THE COURT: Sure.

16 Q. This is State's #13, Mr. Stevens, if you could
17 look up at the monitor to your left, tell the jury what
18 that shows.

19 A. That's blood spatters and drops that came
20 from the face of Jackie Williams --

21 MR. SIMS: Your Honor, I have to interpose
22 an objection. He took the pictures and he may know
23 that those are blood splatters but he does not know
24 how they came about or how that was done, he was not
25 there. I think he said he took the pictures of the

Mr. Stevens-Direct by Solicitor

1147

1 floor and he took the pictures of Mr. Williams but any
2 conversation or any testimony where he was not there
3 is hearsay.

4 SOLICITOR: Your Honor, he's testified that
5 he was the investigator in this case which did result
6 in the conviction and the conviction is in evidence
7 and he's just giving his background on his investigation.

8 THE COURT: All right, well try to keep it
9 as clean as possible, though.

10 SOLICITOR: All right, sir.

11 Q. Mr. Stevens, if you could, please tell the
12 jury what that picture --- where that pictures was taken
13 and what that picture shows.

14 A. It was taken in the inmate restroom in the
15 education section of the Allendale Correctional Institution,
16 South Carolina Department of Corrections.

17 Q. And without saying who it came from, what
18 are the dark looking spots?

19 A. That's blood droppings, spats from blood and
20 the white is towels that was used to try to stop the
21 bleeding.

22 Q. State's #12.

23 A. That's inmate Jackie Williams and sutures
24 to the right --- to the left side of his face and his
25 face and under here and then on the other side there's

Mr. Stevens-Direct by Solicitor

1148

1 also a slash. You will not be able to see it in this
2 picture, though.

3 Q. Okay. So what you see in that picture is the
4 right side of his face?

5 A. Yes, sir, that's correct.

6 Q. And there are how many slashes there?

7 A. Two, one was under here, not very far from
8 the artery, and the other one was above the bone, the
9 jawbone there.

10 Q. State's #11.

11 A. That's him laying down and that shows both
12 the cuts there, the one that came above the jawbone
13 and the one that went under the jawbone and you see
14 the artery back to your ---

15 MR. SIMS: Your Honor, I would have to object.

16 THE COURT: Sustained.

17 SOLICITOR: Your Honor, could I be heard on
18 that? I know he's not a doctor but it's shown in the
19 picture.

20 THE COURT: Well, pictures speak for themselves,
21 let's don't get into any medical findings here.

22 Q. Mr. Stevens, the cuts --- go up there and
23 point to the actual cuts and tell the jury, just so
24 they are clear, what the white marks are.

25 A. This is just sutures to close it up 'til they

Mr. Stevens-Direct by Solicitor

1149

1 could stop the bleeding.

2 Q. If you could stand a little bit to the side
3 so they could all see.

4 A. Oh, I'm sorry. Here, these are just sutures
5 to close it up for an emergency type thing, to cut down
6 some of the bleeding. This is the actual gash here
7 and it was rather deep. I'm pretty sure it was ten
8 stitches at the time they closed this one up.

9 MR. SIMS: Your Honor, again, he's getting
10 back into areas that he's not qualified to testify to.
11 He testified that he took the pictures, he can say what
12 he saw in the pictures but in terms of deep, how many
13 sutures and all of that, I mean, how many stitches and
14 all of that ---

15 THE COURT: I'm going to have to sustain that.
16 Now he can testify as to how many stitches he actually
17 saw. The jury will disregard the statement about the
18 depth. All right, counsel, you may proceed.

19 Q. Let me ask you this and just answer yes or
20 no, please. Did you see any sutures?

21 A. Yes, sir.

22 Q. Okay, approximately how many did you observe?

23 A. Ten, sir.

24 Q. The last picture is State's #10.
25

Mr. Stevens-Direct by Solicitor

1150

1 A. That's Jackie Williams, same inmate, and that's
2 the opposite side of his face.

3 Q. Okay.

4 A. He's laying on his back and he's turned the
5 left side of his face over.

6 Q. You can have a seat, Mr. Stevens.

7 SOLICITOR: Answer any questions Mr. Sims
8 may have for you, please.

9 THE COURT: Mr. Sims.

10
11 CROSS-EXAMINATION

12 BY MR. SIMS:

13 Q. Mr. Stevens, just one or two questions for
14 you. You were the investigator down at Allendale the
15 complete time that Mr. Stokes was there, is that correct?

16 A. Yes, sir, as far as I can remember.

17 Q. And you investigated this incident, is that
18 correct?

19 A. Yes, sir.

20 Q. Okay, now that was the fight --- that fight
21 or alleged fight that happened, that was not the first
22 time that there had been a fight between Mr. Stokes
23 and Jackie Williams, is that correct?

24 SOLICITOR: Your Honor, may we approach?

25 THE COURT: Yes, sir.

1 (WHEREUPON, A bench conference was held out
2 of the hearing of the jury and the court reporter.)

3 THE COURT: All right, you may answer that
4 question.

5 A. Could he repeat it, Your Honor?

6 Q. And just whether or not you know ---

7 A. I ---

8 Q. Let me ask you, I was just going to ask you
9 this, whether or not you know whether or not that was
10 the first fight or there had been other fights?

11 A. I have no knowledge of them being any other
12 fights and this was an attack, not a fight.

13 Q. Well, that's not responsive to my question.
14 I asked you whether you knew of any other fights and
15 I did not ask you whether ---

16 SOLICITOR: Your Honor, Mr. Sims is being
17 argumentative. He characterized it in his question
18 as a fight and this gentleman just said it was not a
19 fight, it was an attack.

20 MR. SIMS: Your Honor, I asked him a question
21 and he did not respond to my question. He gave his
22 own interpretation, that's not what I asked him. I
23 asked him whether or not this was a fight and if he
24 would have said yes or no but he didn't answer my question,
25 he gave an interpretation.

Mr. Martin-Direct by Solicitor

1152

1 THE COURT: Okay. Any other questions?

2 MR. SIMS: That's all I have.

3 SOLICITOR: No re-direct, Your Honor.

4 MR. SIMS: Your Honor, I would move that that
5 comment which was not responsive to my answer be stricken
6 from the record.

7 THE COURT: Well he has a right to explain
8 his answer.

9 MR. SIMS: Yeah, he has a right to explain
10 but he never answered it.

11 THE COURT: Okay, we will strike it from the
12 record, the jury will disregard that last phrase. Thank
13 you, Mr. Stevens, you may step down and be excused.

14 SOLICITOR: State calls Norris Martin.

15
16 NORRIS MARTIN, AFTER
17 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION BY SOLICITOR:

19 Q. Norris, I want to ask you a few questions,
20 all right?

21 A. All right.

22 Q. You have testified before, is that correct?

23 A. Yes, sir.

24 Q. And were there some things that happened out
25 there that night in the woods with Connie Snipes that

Mr. Martin-Direct by Solicitor

1153

1 I asked you not to bring up during the last part of
2 the trial?

3 A. Yes.

4 Q. Okay, and I told you it's okay to talk about
5 it now, right?

6 A. Right.

7 Q. And you're still under an oath to tell the
8 truth, do you understand that?

9 A. Yes.

10 Q. And are you ready to tell the whole truth?

11 A. Yes, sir.

12 Q. All right, Norris, you testified that you
13 had sex with Connie Snipes, is that correct?

14 A. Yes.

15 Q. And that Louis Stokes had a gun that he was
16 holding on you.

17 A. Yes, sir.

18 Q. I want you to tell the jury when you had sex
19 with her, did you take all your clothes off?

20 A. My pants.

21 Q. Okay, did you take them off or pull them down?

22 A. I pulled them down.

23 Q. Now, you testified about your wallet, is that
24 correct?

25 A. Yes.

Mr. Martin-Direct by Solicitor

1154

- 1 Q. That you dropped. Did you drop anything else?
- 2 A. Yes, I dropped a butterfly knife.
- 3 Q. And the butterfly knife was in what pocket?
- 4 A. In my back pocket.
- 5 Q. Okay, why did you have a knife in your back
- 6 pocket?
- 7 A. I use it for work to cut twine.
- 8 Q. You cut twice for work for the Town of Branchville?
- 9 A. Yes, sir.
- 10 Q. And you had the knife in your back pocket?
- 11 A. Yes, sir.
- 12 Q. So when you dropped you pants the knife came
- 13 out.
- 14 A. Right.
- 15 Q. Norris, what happened after you finished having
- 16 sex with Connie Snipes?
- 17 A. Well, I got up, I didn't know my knife was
- 18 on the ground but Louis Stokes pointed the gun at Connie
- 19 and told her to take her clothes off and he put a crocus
- 20 bag on the ground and she got on top of it.
- 21 Q. Did she take her clothes off?
- 22 A. Yes.
- 23 Q. Okay, you might have testified to this before
- 24 but what clothes did she take off?
- 25 A. All her clothes except her bra and her panties.

Mr. Martin-Direct by Solicitor

1155

1 Q. All right. What happened after she took her
2 clothes off?

3 A. Well, I had sex with her.

4 Q. And after you had sex with her, what happened?

5 A. I got up and Louis got on top of her.

6 Q. Now where were you when Louis got on top of
7 her?

8 A. I was looking at both of them.

9 Q. And do you know what happened to the knife
10 that you dropped?

11 A. Yes, I dropped it on the ground.

12 Q. Okay, and then what happened to it?

13 A. Louis grabbed it.

14 Q. Okay, and did you see what, if anything, Louis
15 did with the knife?

16 A. Yes.

17 Q. What did he do?

18 A. He stabbed Connie in her breasts, chest part.

19 Q. And right before that or right after that
20 did either Louis or Connie say anything when the stabbing
21 happened?

22 A. No.

23 Q. What happened next?

24 A. Then after he stabbed her in the chest, he
25 cut her breasts.

Mr. Martin-Direct by Solicitor

1156

- 1 Q. Okay, when you say he cut her breasts, I want
2 you to demonstrate for the jury what you saw.
- 3 A. He grabbed it like this and real quick.
- 4 Q. Okay, and could you see what part of her breast
5 he cut?
- 6 A. Her right.
- 7 Q. Did you see what part of her right breast
8 that he cut?
- 9 A. Yeah.
- 10 Q. What part did he cut?
- 11 A. The nipple.
- 12 Q. All right. And you were how far away?
- 13 A. Real close.
- 14 Q. And did you see how much of the nipple was
15 cut?
- 16 A. No.
- 17 Q. Okay, what happened after he cut her nipple?
- 18 A. She started screaming.
- 19 Q. How did she scream, did she say words or just
20 screamed?
- 21 A. Just screamed.
- 22 Q. What happened after that, Norris?
- 23 A. And after that, he turnt her over and had
24 anal sex with her.
- 25 Q. So he cut her nipple before he had anal sex

Mr. Martin-Direct by Solicitor

1157

1 with her?

2 A. Right.

3 Q. And when you say he had anal sex with her,
4 how close away were you at that point in time?

5 A. I was real close.

6 Q. Let me walk towards you and you stop me when
7 I'm about as far away as you were from them.

8 A. Whoa, right there.

9 Q. Right here?

10 A. Right.

11 Q. Was there moonlight?

12 A. Yes.

13 Q. Could you see clearly?

14 A. Yes.

15 Q. You testified earlier that when Louis Stokes
16 was having anal sex with Connie Snipes ---

17 MR. SIMS: Your Honor, again, he's leading
18 the witness.

19 SOLICITOR: Your Honor, he's testified and
20 the jury has heard him before and I'm just putting it
21 in context.

22 THE COURT: That's right, he hasn't posed
23 the question yet.

24 Q. You testified previously that she had resisted ---

25 A. Yes.

Mr. Martin-Direct by Solicitor

1158

1 Q. --- do you recall saying that?

2 A. Yes.

3 Q. What I want you to do, NORris, is come on
4 out here on the floor, can you get up and stand down
5 there?

6 A. Yeah.

7 Q. And I want you to demonstrate, turn around
8 there, you demonstrate --- you're Connie Snipes, how
9 she resisted him, all right?

10 A. First she was like this --- first she was
11 like this and then she rolled over like this and ---

12 Q. You've got to talk up loud because the jury
13 can't hear you.

14 A. She pushed him off like this.

15 Q. All right, you can get back up and take the
16 stand. All right, and this was after he had cut her
17 breasts, is that right?

18 A. Right.

19 Q. Did he cut both of them or one of them?

20 A. Both.

21 Q. And when he cut the second one did she scream?

22 A. Yes.

23 Q. Was she crying?

24 A. Right.

25 MR. SIMS: Your Honor, again, as I said, he's

Mr. Martin-Direct by Solicitor

1159

1 actually leading. He's testifying, the witness is not
2 doing anything but saying yes or no.

3 THE COURT: That was leading, be careful with
4 your leading now.

5 SOLICITOR: Thank you, Your Honor.

6 Q. What, if anything, was she doing when she
7 had her breasts cut?

8 A. She was screaming and moaning, vigorously.

9 Q. Now after Stokes finished having anal intercourse
10 with Mrs. Snipes, you testified about the shooting,
11 is that correct?

12 A. Right.

13 Q. And what I want you to do and I think Mr.
14 Murphy can help us here, you testified about --- well,
15 go ahead and demonstrate --- stand up there again and
16 I'm going to get you to demonstrate --- okay, Mr. Murphy
17 will be you and you be Stokes. Show the jury what Stokes
18 did.

19 A. Grabbed my arm and slapped the gun in it and
20 I was trying to get away from him and he pulled the
21 trigger.

22 Q. And then what did you do?

23 A. I told him, what did he do that for?

24 Q. All right, and was that the first shot, is
25 that correct?

Mr. Martin-Direct by Solicitor

1160

- 1 A. Yes.
- 2 Q. Okay, what about the second shot?
- 3 A. The second shot he moved up closer to her.
- 4 Q. After the second shot did she quit moving?
- 5 A. Yes.
- 6 Q. What did ya'll do then?
- 7 A. Then he told me, we can't leave her out like
- 8 that, so help him drag her body in the woods.
- 9 Q. And did you drag the body in the woods?
- 10 A. Yes.
- 11 Q. About how far in the woods did you drag her?
- 12 A. 'Bout from here to that table.
- 13 Q. And after ya'll dragged the body into the
- 14 woods, tell the jury what occurred next.
- 15 A. He scalped her.
- 16 Q. When you say he, I want you to give the name.
- 17 A. Stokes.
- 18 Q. How close were you to him?
- 19 A. Real close.
- 20 Q. Tell the jury what you saw.
- 21 A. Stokes took my knife and scalped her head.
- 22 Q. What did he do with the hair?
- 23 A. He threw it in the woods.
- 24 Q. Norris, what did he do after that?
- 25 A. Then he cut her vagina out.

Mr. Martin-Direct by Solicitor

1161

1 Q. How close were you?

2 A. Real close.

3 Q. Did you see what he was doing?

4 A. Yes.

5 Q. Get up and demonstrate what you saw.

6 A. He grabbed her hair ---

7 Q. Here, this pen here is the knife. Talk loud
8 so they can hear you, Norris.

9 A. Grabbed her hair, cut her hair and threw it
10 and then he just (witness motions) cut her there.

11 Q. Okay. And that's when ya'll saw the lights?

12 A. Yes.

13 Q. And you have already told us the rest of what
14 happened, correct?

15 A. Right.

16 Q. Norris, is what you've told this jury the
17 absolute truth as you remember it?

18 A. Yes.

19 SOLICITOR: Bear with me just a second, Your
20 Honor.

21 THE COURT: Yes, sir.

22 SOLICITOR: Your Honor, could we approach
23 briefly?

24 THE COURT: Yes, sir.

25

Mr. Martin-Direct by Solicitor

1162

1 (WHEREUPON, A bench conference was held out
2 of the hearing of the jury and the court reporter.)

3 THE COURT: Ladies and gentlemen of the jury,
4 if you will step out and relax for just a minute, please.

5 (WHEREUPON, Jury retired to the jury room and
6 the following proceedings were held in the absence of
7 the jury.)

8 THE COURT: Solicitor.

9 Q. Norris, let me ask you a question. You've
10 been kept in the Dorchester County Jail since the last
11 time you testified?

12 A. Yes.

13 Q. Okay, and I want to ask you whether or not
14 you were ever recently put in the same cell with Sammie
15 Stokes, or the same area of the jail?

16 A. Same area, yes.

17 Q. Did you have a conversation with him?

18 A. Yes.

19 Q. When did this happen?

20 A. This afternoon.

21 Q. And what, if anything, did he say to you?

22 A. He said, don't say anything about the cutting
23 'cause we will be going to the same prison.

24 SOLICITOR: Your Honor, that would be the
25 State's proffer.

Mr. Martin-Direct by Solicitor

1163

1 THE COURT: Any questions, Mr. Sims?

2 MR. SIMS: Yes, sir.

3

4 CROSS-EXAMINATION

5 BY MR. SIMS:

6 Q. Mr. Martin, were you in the drug tank?

7 A. Yeah, the drunk tank.

8 Q. The drunk tank.

9 A. Yes, sir.

10 Q. And there are no windows in the drunk tank,
11 is there?

12 A. Yes.

13 Q. Just a small little window and he was walking
14 past you, is that correct?

15 A. Yeah.

16 Q. He had a guard with him, is that correct?

17 A. Yes.

18 Q. And that guard was bringing him over to the
19 court, right?

20 A. He was --- I think they was going to visitation
21 or something.

22 Q. Who was that guard, do you know?

23 A. Yeah.

24 Q. Who was it?

25 A. Mr. White.

1 MR. SIMS: Your Honor, before this can be
2 admitted into evidence, I think we need more corroboration
3 other than just this. Them being in the same institution
4 or something like that and the things that have gone
5 on, I would think we would definitely need more corroboration.
6 If White, Phillip White, was walking with this man,
7 he should be able to corroborate his testimony.

8 SOLICITOR: Your Honor, Mr. Murphy has talked
9 to Mr. White and he can relate to the Court what was
10 said, he's not here but we've got his phone and can
11 call him over here if that's necessary. But I don't
12 know of any proposition of law that says that this type
13 of evidence must be corroborated.

14 MR. MURPHY: Your Honor, I just spoke with
15 correctional officer White, I just called him at home
16 and he was on duty this afternoon, he got off at 4:00.
17 He admitted that he was in the process of bringing inmate
18 Stokes up to the front. Inmate Norris Martin was in
19 the drunk tank. Stokes looked over, saw Norris Martin,
20 said something to Norris Martin. Phillip White does
21 not know what was said because he was dealing with another
22 inmate at that time that was spitting on people or something
23 to that effect. After this incident when they got Stokes
24 to the location that they were bringing him to, he did
25 tell me that Norris Martin kept coming up and wanted

1 to tell CO or correctional officer White what Stokes
2 had said to him and that Martin was visibly upset or
3 agitated or whatnot, anxious.

4 And I have talked to him and I do have his
5 home phone number.

6 THE COURT: Well, okay, I'm not going to run
7 ya'll's case but I don't have any cases to quote up
8 here but an action such as this would be similar to
9 the thing that happened in Greenville with the pencil
10 deal. I note your objection but it can come in.

11 MR. SIMS: Your Honor, I would note my objection
12 and that the prejudicial effect of this is far outweighed
13 by any probative value. This is a highly charged and
14 highly prejudicial issue and this definitely will serve
15 to do nothing more than enflame the jury. Let me ask
16 one other question here, Your Honor. We may want to
17 put our client up in response to that for that limited
18 purpose in this courtroom as to this question only.

19 SOLICITOR: Your Honor, the evidence --- the
20 State's evidence, the admissibility of our evidence
21 is not contingent on whatever evidence they may have
22 to refute it. I mean, he may say it did happen or it
23 didn't happen if he testifies as part of the proffer
24 but I don't see how that would have any bearing on the
25 admissibility. It might have some bearing with the

Mr. Martin-Direct by Solicitor

1166

1 jury if they had heard it.

2 THE COURT: Objection is noted. I'll overrule
3 it. Now how ya'll proceed with the guard or whatever,
4 that's none of my concern.

5 All right, bring them back.

6 (WHEREUPON, The jury returned to the courtroom
7 and the following proceedings were held in their presence.)

8 THE COURT: All right, Solicitor.

9

10 CONTINUED DIRECT EXAMINATION BY THE SOLICITOR:

11 Q. Just a few more questions, Mr. Martin. You've
12 been kept for the last several days in the Dorchester
13 County Jail, is that correct?

14 A. Yes.

15 Q. And were you brought over here today?

16 A. Yes.

17 Q. This afternoon. When you were brought over
18 to the Orangeburg Jail this afternoon, did you have
19 occasion to see the defendant Louis Stokes?

20 A. Yes.

21 Q. What part of the jail were you in when you
22 saw him?

23 A. The drunk tank.

24 Q. You were in the drunk tank?

25 A. Yes.

Mr. Martin-Direct by Solicitor

1167

- 1 Q. And where was Sammie Stokes?
- 2 A. He was coming by.
- 3 Q. Okay. Coming by the hallway or what?
- 4 A. Yeah, coming by the hallway.
- 5 Q. And did anything occur between the two of
- 6 you as he walked by where you were?
- 7 A. Yeah, he said something to me.
- 8 Q. What did he say to you?
- 9 A. He said ---
- 10 Q. Now, when you say "he", you're talking about
- 11 Sammie Louis Stokes, this fellow right here, right?
- 12 A. Right.
- 13 Q. What did he say to you?
- 14 A. He told me that we was going to the same prison
- 15 and he said don't mention nothing about the cutting.
- 16 SOLICITOR: All right, Norris, answer any
- 17 questions Mr. Sims may have for you.

18

19 CROSS-EXAMINATION20 BY MR. SIMS:

- 21 Q. Let's start with that from the beginning.
- 22 There was a police officer with him when he was being
- 23 brought up there, is that correct?
- 24 A. Yes.
- 25 Q. And that police officer was walking beside

Mr. Martin-Cross by Mr. Sims

1168

1 him.

2 A. Yes.

3 Q. And nobody else heard this but you.

4 A. No.

5 Q. Isn't it true that you were the one who responded
6 or said something to him?

7 A. No, he said something to me.

8 Q. And you told him, you've got to do what you've
9 got to do?

10 A. He said that.

11 Q. And then you said --- he said to you, he still
12 loved you.

13 A. No, he ain't say that part.

14 Q. Let's go back a little bit. Now, first of
15 all you said that he put the gun in your hand and you
16 demonstrated with Mr. Murphy, and he put the gun in
17 your hand and he fired the shot and you said, what did
18 you do that for?

19 A. Yeah.

20 Q. Now in your previous ---

21 A. Correct.

22 Q. I'm sorry, go on.

23 A. Correct, you're right.

24 Q. In your previous testimony you never said
25 anything about asking him, what did you do that for,

Mr. Martin-Cross by Mr. Sims

1169

1 did you?

2 A. No.

3 Q. You said that you were trying to get away
4 from the gun.

5 A. Yes, I was.

6 Q. But you never said one time that you said
7 anything to him about what did you do that for.

8 A. No.

9 Q. Now when you were --- when you were being
10 talked --- when the police officers were talking with
11 you about coming in here, back in July, isn't it true
12 that you said that you pushed up her bra so that you
13 could play with her nipples?

14 A. Yes.

15 Q. So you pushed up her bra so that you could
16 play with her nipples.

17 A. Yes.

18 Q. Now, prior to --- let me ask you this. So
19 you weren't too afraid of anyone to play with her nipples.

20 A. No.

21 Q. You weren't so afraid until you --- you weren't
22 so afraid of Sammie Stokes or anybody out there so that
23 you couldn't enjoy yourself?

24 A. Yes, I was afraid.

25 Q. You pushed up her bra, you played with her

Mr. Martin-Cross by Mr. Sims

1170

1 nipples and you were afraid?

2 A. Yes.

3 Q. Now, does this look like the bra that she
4 had on?

5 A. Yes.

6 Q. And that's a hole in the bra right there,
7 isn't it?

8 A. Yes.

9 Q. That hole in the bra approximately covers
10 the breast, isn't that right?

11 A. Yes.

12 Q. So before the bra was pushed up that hole
13 was made in the bra, isn't that right?

14 A. Yeah.

15 Q. You had the knife at that time and you made
16 the hole in the bra?

17 A. No, no.

18 MR. SIMS: Your Honor, we would move to introduce
19 this.

20 SOLICITOR: No objection.

21 THE COURT: In without objection.

22 (WHEREUPON, Photograph of bra was entered
23 and marked as Defendant's exhibit #1.)

24 Q. Norris Martin, it was your knife, isn't that
25 correct?

Mr. Martin-Cross by Mr. Sims

1171

- 1 A. Yes.
- 2 Q. Sammie Stokes didn't have a knife.
- 3 A. No.
- 4 Q. And you said it was a butterfly knife.
- 5 A. Yes.
- 6 Q. A butterfly knife is one of those fancy martial
- 7 arts knives, isn't it?
- 8 A. Yes.
- 9 Q. That's a knife that you use for cutting up
- 10 people, isn't it?
- 11 A. I don't know.
- 12 Q. You don't up twine with that, you use that
- 13 for cutting up people.
- 14 A. No.
- 15 Q. For protecting and going after people with
- 16 it.
- 17 A. I use it for cutting twine.
- 18 Q. And you had it with you that night.
- 19 A. Yes, I had it with me that night.
- 20 Q. And every time something got -- gets closer
- 21 to you, you put it off on somebody else, isn't that
- 22 right?
- 23 A. No.
- 24 Q. Let me ask you this. How did she get taken
- 25 into the woods?

Mr. Martin-Cross by Mr. Sims

1172

1 A. Uhm --- Stokes told me to help drag her in
2 the woods.

3 Q. Okay, Stokes told you to help him drag her
4 in the woods. Which part of the body did you take?

5 A. I had the legs.

6 Q. You had the legs. Now, this is a woman who
7 has been cut on the breasts, this is a woman who has
8 been shot twice, once in the back of the head and once
9 in the face, he had the other part of the body, right?

10 A. Right.

11 Q. How did he carry the other part of the body?

12 A. We lift her up.

13 Q. Did he grab her and he pulled her like this?

14 A. Yes.

15 Q. So her head and body and shoulders were up
16 against him, isn't that right?

17 A. Right.

18 Q. So part of her body that had been shot, isn't
19 that correct?

20 A. Right.

21 Q. And then ya'll left the woods.

22 A. Yes, we left the woods.

23 Q. Went to Allan Murray's.

24 A. Right.

25

Mr. Martin-Cross by Mr. Sims

1173

1 Q. Stokes got out of the car.

2 A. Yes, sir.

3 Q. Went to get something to drink.

4 A. Yeah.

5 Q. Walking around in Allan Murray's.

6 A. Yes.

7 Q. And no blood on him, nobody recognized or
8 saw any blood on him ---

9 SOLICITOR: Your Honor, he can't say what somebody
10 at Allan Murray's club saw or recognized. Mr. Sims
11 knows that's an improper question. This man was in
12 the car outside. He doesn't know what happened in Allan
13 Murray's.

14 THE COURT: Rephrase your question.

15 Q. You were at Allan Murray's club with him,
16 right?

17 A. Yes, but I was in the car.

18 Q. Sammie Stokes was the one who got out of the
19 car.

20 A. Yes, sir.

21 Q. Sammie Stokes is the one who walked around
22 in the club.

23 A. Yes.

24 Q. Now, let's go back to this cutting business
25 again. You pushed up the bra, there's not a question

Mr. Martin-Cross by Mr. Sims

1174

1 about that, you pushed it up.

2 A. Yeah.

3 Q. To play with her nipples.

4 A. Yes.

5 Q. Now, one man with a gun in one hand, a knife
6 in the other hand is going to be able to cut the woman's
7 nipples.

8 A. No, he put the gun down.

9 Q. He put the gun down now. Now, all of a sudden,
10 he's putting the gun down. You're standing there, you're
11 afraid of Sammie Stokes, a gun is right there on the
12 ground and you make no effort to pick the gun up to
13 protect yourself from Sammie Stokes.

14 A. No, I was too scared.

15 Q. He's down on top of her -- now, the breasts
16 are not firm like these bricks are, are they?

17 A. No.

18 Q. If you move or touch one, they move, don't
19 they?

20 A. Yeah.

21 Q. And you want us to believe that one man with
22 a woman who is alive is going to be able to just whack
23 off her breast, whack off the nipple off her breast.

24 A. Yes.

25 Q. Real clean and with her down there struggling,

Mr. Martin-Cross by Mr. Sims

1175

1 moving around, and all he gets is that little bitty
2 piece of the nipple. He doesn't cut the breast any
3 other where --- any other place.

4 A. No.

5 Q. Does make a jagged cut but a real smooth cut,
6 a one time whack. Then he stops there and he's down
7 there wrestling with her, isn't that correct?

8 SOLICITOR: Your Honor, I object to the compound
9 question. He's asked about four or five in a row without
10 giving Mr. Martin a chance to answer it. I would ask
11 that he be given an opportunity to answer the question,
12 one at a time.

13 THE COURT: Pose one question, counselor.

14 MR. SIMS: Your Honor, he's saying yes and
15 he's saying no and I've given him that opportunity.

16 Q. Now, all right, one breast was cut, isn't
17 that right?

18 A. Yes, also the other.

19 Q. Let me finish, I'm not there yet. We are
20 going to get to that one in a little bit. But now ---
21 and you're saying that Connie Snipes was alive.

22 A. Yeah.

23 Q. And one breast is cut, he cuts that one off,
24 is that correct?

25 A. Correct.

Mr. Martin-Cross by Mr. Sims

1176

- 1 Q. Now, she's bleeding, isn't she?
- 2 A. Yeah.
- 3 Q. She's bleeding and blood is going on Sammie
- 4 Stokes.
- 5 A. Yeah.
- 6 Q. He's down there wrestling with her and blood
- 7 is going on him.
- 8 A. Yes.
- 9 Q. Then he reaches over and the same woman who
- 10 is laying there, moving around, struggling, fighting
- 11 to get this man off of her, he's going to be able to
- 12 cut that breast and cut the nipple, very smooth, very
- 13 easy, no cutting of the breast or anything like that,
- 14 is that correct?
- 15 A. Correct.
- 16 Q. One man.
- 17 A. (No response.)
- 18 Q. Norris, you live less than a half of a mile
- 19 from there, don't you?
- 20 A. Yes, about a couple of blocks.
- 21 Q. Couple of blocks?
- 22 A. Yeah.
- 23 Q. You had access to that field at anytime you
- 24 wanted, didn't you?
- 25 A. No.

Mr. Martin-Cross by Mr. Sims

1177

1 Q. You could walk back there any time you wanted
2 to, didn't you?

3 A. No, 'cause I don't know the area.

4 Q. You just said it was a couple of blocks from
5 your house.

6 A. Well, I don't know the area.

7 Q. Didn't you testify yesterday that you walked
8 further than that every other day, every day?

9 A. I walked towards --- down Doran's Road, yeah.

10 Q. Now that knife, you took it home, didn't you?

11 A. Yes.

12 Q. The knife was at your house.

13 A. Yes.

14 Q. Sammie Stokes didn't have the knife, you had
15 the knife.

16 A. 'Cause he give it back to me.

17 Q. When you got arrested the knife was at your
18 house.

19 A. Yes.

20 Q. And where in your previous three statements
21 or any of those other statements that you said that
22 he gave you back the knife?

23 A. Yes, I did.

24 MR. SIMS: One moment, Your Honor.

25 Q. Mr. Martin, you said that you were afraid

Mr. Martin-Cross by Mr. Sims

1178

1 of Sammie Stokes.

2 A. Yes, sir.

3 Q. You had your opportunity to take the gun and
4 protect yourself, didn't you?

5 A. Yes.

6 Q. You didn't take the gun, is that right?

7 A. No.

8 Q. You had the knife, he gave you the knife back
9 and you had that knife and you didn't do anything to
10 protect yourself.

11 A. (No response.)

12 Q. Is that right?

13 A. No.

14 Q. You were afraid of Sammie Stokes when you
15 were having sex with Connie Snipes.

16 A. Yes.

17 Q. But you weren't too afraid to push up the
18 bra and play with her nipples.

19 A. No.

20 Q. Isn't it true that there was at least, according
21 to even your testimony, there were two or three times
22 out there when you could have had the gun, had the gun
23 in your hand and done anything that you wanted with
24 the gun?

25 A. No.

Mr. Martin-Cross by Mr. Sims

1179

- 1 Q. He tried to put the gun in your hand.
- 2 A. Yeah, he tried to put the gun in my hand and
- 3 I was trying to get away from it.
- 4 Q. He put the knife in your hand.
- 5 A. He gave me the knife back.
- 6 Q. And you kept the knife.
- 7 A. Yes.
- 8 Q. Mr. Norris, in your first statement back on
- 9 the 28th, you told a lie on somebody, you told a lit
- 10 on Pattie Syphrette, didn't you?
- 11 A. No.
- 12 Q. Let me get those statements, Your Honor, if
- 13 I may. The first statement that you made when you were
- 14 arrested and you said the woman came up in the car,
- 15 had the battery problem.
- 16 A. Yes, that was a lie, I was shook up, I was
- 17 confused.
- 18 Q. The next day you gave another statement, isn't
- 19 that right?
- 20 A. Yes.
- 21 Q. And in that statement you said that you were
- 22 having sex with Pattie Syphrette and Sammie was having
- 23 sex with Connie Snipes, isn't that correct?
- 24 A. Correct.
- 25 Q. And that was a lie.

Mr. Martin-Cross by Mr. Sims

1180

1 A. Yes.

2 Q. Also in that statement, isn't that the first
3 time that you mentioned that he tried to put the gun
4 in your hand?

5 A. No.

6 Q. When did you tell us that?

7 A. Uhm ---I can't recall.

8 Q. Mr. Martin, is that your handwriting there?

9 A. Yes, that's the first one, statement.

10 Q. This statement is on the 29th. Do you want
11 to read it?

12 A. Yes, I read it.

13 MR. SIMS: Your Honor, we would move to introduce
14 this as a defendant's exhibit.

15 SOLICITOR: Your Honor, I'm not sure what
16 the nature of that is. Mr. Martin has admitted that
17 he lied in those previous statements, he admitted it
18 today, he admitted it when he testified previously.
19 If he denied lying, then the statement would come in
20 to impeach him but since he's admitted lying in those
21 statements, freely, I don't see the basis for the statement
22 coming in.

23 MR. SIMS: Because I want to publish part
24 of it, Your Honor, and I just asked him a moment ago
25 whether or not this was the statement that he stated ---

Mr. Martin-Cross by Mr. Sims

1181

1 the first time he had stated that he put the gun in
2 his hand and he said no.

3 SOLICITOR: I think the proper procedure would
4 be to ask him about that particular portion of the state-
5 ment, not to introduce the entire statement into evidence.

6 THE COURT: That's right, you can do it that
7 way.

8 Q. Mr. Martin, would you read that portion of
9 the statement, right there.

10 A. " He put the gun in my hand and pointed the
11 gun at me and said if you say anything he was going
12 to kill me."

13 Q. So he put the gun in your hand, pointed the
14 gun at you. And you gave another statement in June
15 of that year, did you not?

16 A. Correct.

17 Q. In your June statement, let me just clear
18 this up, in your June statement you didn't mention anything
19 about cutting the nipples, did you?

20 A. No.

21 Q. Your first statement that you gave on the
22 28th, you didn't mention anything about cutting the
23 nipples.

24 A. No.

25 Q. The 29th you didn't mention anything about

Mr. Martin-Cross by Mr. Sims

1182

1 cutting the nipples.

2 A. No.

3 Q. And you did not mention anything about that
4 until July 2, 1999.

5 A. Correct.

6 Q. And you had talked with the Orangeburg County
7 Sheriff's Department on at least three previous occasions
8 to that, didn't you?

9 A. Yes.

10 Q. And at no time when you talked to them did
11 you ever mention anything about the nipples being cut.

12 A. Yes.

13 Q. And that didn't come up until a year and a
14 half --- almost --- over a year after the incident,
15 after the murder occurred that you mentioned that.

16 A. Correct.

17 Q. And that was during the time that you knew
18 your lawyer was negotiating with the State for your
19 plea agreement, isn't that right?

20 A. Yes.

21 Q. So you knew that your lawyer was talking to
22 the State about getting you a life sentence, isn't that
23 right?

24 A. Right.

25 Q. And you knew that they wanted to know certain

Mr. Martin-Cross by Mr. Sims

1183

1 things, isn't that right?

2 A. No, not at the time.

3 Q. They asked you about certain things, isn't
4 that right?

5 A. Yes.

6 Q. And you told them about certain things.

7 A. Yes.

8 Q. And when they asked you something about a
9 nipple, you told them what they wanted to hear, didn't
10 you?

11 A. Yes.

12 Q. And then you told them about the cutting because
13 they asked you about it and you told them what they
14 wanted to hear.

15 A. Yes.

16 Q. And you would have told them everything or
17 anything that you thought they wanted to hear, isn't
18 that right?

19 A. Yes.

20 MR. SIMS: That's all I have.

21 THE COURT: Any re-direct?

22 SOLICITOR: Yes, sir.

23

24 RE-DIRECT EXAMINATION BY SOLICITOR;

25 Q. Norris, would you have told something that

Mr. Martin-Re-Direct by Solicitor

1184

1 wasn't the truth?

2 A. No.

3 Q. Okay. So whatever you told us here in court
4 was the truth?

5 A. Was the truth, yes.

6 Q. And you told Mr. Sims that you were afraid
7 of Sammie Stokes.

8 A. Yes.

9 Q. Why are you ---

10 MR. SIMS: Your Honor, I've allowed that for
11 a while but that's self-serving and trying to bolster
12 his own witness in terms of whether or not you would
13 have told us the truth. That's bolstering his own witness
14 and that is improper.

15 SOLICITOR: Your Honor, if I could be heard
16 on that. He has asked this man repeatedly on cross-
17 examination by he didn't grab the gun, why he didn't
18 do this. I'm just asking him if he has any basis for
19 being afraid of Stokes.

20 THE COURT: You're okay up until now, just
21 don't be repetitious. Go ahead.

22 Q. Why are you afraid of Sammie Stokes?

23 A. Yes, because of this mark right up here, from
24 a chain, that's why.

25 Q. You hit you with a chain?

Mr. Martin-Re-Direct by Solicitor

1185

1 A. Louis Stokes.

2 Q. Why didn't you mention or tell the police
3 that Sammie Stokes cut off that girl's nipples earlier?

4 A. I was scared.

5 Q. Were you ashamed?

6 A. Yes.

7 SOLICITOR: Norris, that's all I have of you
8 for now.

9 THE COURT: Anything else?

10 MR. SIMS: Yes, sir.

11
12 RE-CROSS-EXAMINATION

13 BY MR. SIMS:

14 Q. You've never said anything to anybody, anywhere,
15 any place about that mark on your head, had you?

16 A. Yes.

17 Q. Until right here.

18 A. Yes, I did, a couple of times.

19 Q. It's not in these statements.

20 A. Personal.

21 Q. Did you talk to Jack Coleman?

22 A. Yes.

23 Q. You talked to Emery Rush?

24 A. Yeah.

25 Q. And you never said anything to them about

Mr. Martin-Re-Direct by Solicitor

1186

1 it in those statements, in any of those statements,
2 did you?

3 A. No.

4 Q. This is the first time that you have ever
5 said anything about a mark on your head that he allegedly
6 put there.

7 A. Correct.

8 MR. SIMS: That's all I have, Your Honor.

9 THE COURT: You may step down.

10 SOLICITOR: State calls Ted Shealey.

11
12 -----TED SHEALEY, AFTER FIRST
13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY SOLICITOR:

15 Q. Mr. Shealey, you testified in the first part
16 of this trial that you were with SLED, is that correct?

17 A. Yes, sir.

18 Q. And that you worked the crime scene in Branchville
19 where Connie Snipes had been murdered, is that correct?

20 A. Yes, sir.

21 Q. And you also testified that you took the photo-
22 graphs at the scene, is that correct?

23 A. Yes, sir.

24 Q. And when you observed the area in the woods
25 where Connie Snipes' body was, did you observe hair?

Mr. Shealey-Direct by Solicitor

1187

1 A. Yes, sir, I did.

2 Q. And would you tell the jury whether or not
3 the hair that you observed was attached to Mrs. Snipes/
4 body?

5 A. The hair was not attached to the body, no.

6 Q. How far from the body was the hair, approximately?

7 A. Without referring to my notes I want to say
8 about 15 or 20 feet.

9 Q. Do you have your notes there with you?

10 A. Yes, sir, I do.

11 Q. Please refer to them.

12 A. Approximately 17 feet.

13 Q. Did you take a picture of the hair?

14 A. Yes, sir, I did.

15 Q. Let me hand you this and ask you if that's
16 the picture that you took in May of 1998.

17 A. Yes, sir, it is.

18 SOLICITOR: We would offer this, Your Honor.

19 THE COURT: What sayeth the defendant?

20 MR. SIMS: No objection.

21 THE COURT: In without objection.

22 (WHEREUPON, Photographs of hair was entered
23 and marked as State's exhibit #14.)

24 Q. Mr. Shealey, I'm going to ask you to show
25 the jury what that picture shows.

Mr. Shealey-Direct by Solicitor

1188

1 A. This is an area about 20 feet inside the wood
2 line from the edge of the field going in towards the
3 body. You will notice this area right here, this is
4 a t-shirt and this area right here is a lock of hair,
5 moving inward you would go to the body.

6 Q. When you say a lock of hair, what's the approximate
7 volume of hair, how much hair are we looking at there?

8 A. Volume-wise, I could not say. It was a good
9 chunk of hair is what it was.

10 Q. And was that hair recovered and sent to Newberry
11 for the autopsy?

12 A. Yes, sir, it was.

13 Q. And where was Mrs. Snipes' body in relation
14 to the hair? I know it's not shown there, I don't believe.

15 A. If you travel this little path right here,
16 here again it's about 17 feet back into the woods.

17 SOLICITOR: Your Honor, since the clarity
18 is not too good on the monitor with the overhead lighting,
19 I would like to pass this photograph around to the jury.

20 THE COURT: That's fine.

21 SOLICITOR: Mr. Shealey, please answer any
22 questions Mr. Sims may have for you.

23 THE COURT: Mr. Sims.

24 MR. SIMS: No questions, Your Honor.

25 SOLICITOR: Your Honor, could we approach?

1 THE COURT: Yes, sir.

2 (WHEREUPON, A bench conference was held out
3 of the hearing of the jury and the court reporter.)

4 THE COURT: All right, ladies and gentlemen,
5 let's take a ten minute recess. Do not discuss the case.

6 (WHEREUPON, Jury retired to the jury room and
7 the following proceedings were held in the absence of
8 the jury.)

9 THE COURT: All right, I understand from counsel
10 that the State will be calling Dr. Sexton out of order
11 and the defense would like to put ---

12 MR. SIMS: Some issues on the record, Your
13 Honor, as it relates to those pictures. There are two
14 issues, one that I raised initially in regards to the
15 issue of aggravating circumstances. The State has alleged,
16 I believe, that's number nine, that two or more, common
17 scheme. It's not nine on his but in looking at the
18 statutory, I believe, that statutory standard or the
19 way they work out in the statute, it's number nine,
20 that's where I'm looking.

21 We take the position, Your Honor, that there
22 is no evidence, none whatsoever, of a common scheme.
23 The only evidence that has been produced in this case
24 up until this point is that there may have been a
25 conspiracy with my client and Pattie Syphrette to

1 kill Connie Snipes. Now, the common scheme, there's
2 absolutely no testimony in terms of that because if
3 there was a planned action on the part of my client
4 to kill Douglas Ferguson. There had been some question
5 and testimony, I believe, in regards to some jewelry
6 that my client had but there's been no evidence of any
7 common scheme and we would think and we would ask the
8 Court to exclude that as an aggravating circumstance.

9 On the other hand, we also raise the issue
10 in terms of whether or not the pictures that they propose
11 to use are going to be so highly prejudicial until they
12 will outweigh any probative value that they may have.
13 I know that the Court said in State -vs- Tucker that
14 you look at the materiality but there's also, it says,
15 an exception to photographs should be excluded only
16 if it is calculated to arouse the jury's sympathy or
17 prejudice or is irrelevant or unnecessary to substantiate
18 the facts.

19 If you don't have a common scheme then these
20 pictures as it relates to Doug Ferguson are irrelevant,
21 have absolutely no basis in this case. By showing them
22 to the jury then that is only for one purpose and one
23 purpose only and that is to arouse the prejudice or
24 passions of the jury. Not only there but in State -vs-
25 Nance it also talked about, you know, that it should

1 be used to corroborate the testimony that's being put
2 forth. If there is no testimony of a common scheme
3 or in this situation there's no testimony for those
4 pictures whatsoever, and in State -vs- Gardner, when
5 it talks about the Trial Judge is required to balance
6 the prejudicial effect of a photograph against its
7 probative value. The scope or probative value is much
8 broader in the sentencing phase of a capital trial and
9 we understand that, we definitely understand that, but
10 in terms of this case, if you take the position that
11 there's no common scheme, that there was no plan, that
12 there was no conspiracy or agreement between the defendant
13 and another person to kill this person, then there's
14 no common scheme. By allowing these pictures to come
15 in, then you create a situation where the only purpose
16 that they are going to be used for is to arouse the
17 passion and prejudice of the jury. We would ask that
18 they be excluded, those pictures specifically, as it
19 relates to Douglas Ferguson.

20 THE COURT: What say the State?

21 SOLICITOR: Your Honor, Mr. Sims is actually
22 raising two issues, one is whether or not the pictures
23 should come in in an effort to prove a common scheme
24 or plan. I have no finished my case yet but the purpose
25 of having the penalty phase is to allow me to introduce

1 that type of evidence and that evidence will come out
2 primarily or maybe one hundred percent through the letter
3 that Mr. Stokes sent that was redacted in the guilt
4 phase to leave out the talk about killing Doug Ferguson.
5 That sets out a conspiracy between Pattie Syphrette
6 and Sammie Stokes to kill Ferguson because he knew too
7 much, basically.

8 So I admit there's no evidence in the record
9 yet of a common scheme or plan but that's because we
10 are taking Dr. Sexton out of order. But putting that
11 aside, the photographs involving the Doug Ferguson crime
12 scene and the Doug Ferguson autopsy bear on the
13 characteristics of the defendant and it would corroborate
14 Dr. Sexton's testimony about the cause of death and
15 the details of his testimony. And I would just cite ---
16 one case that I can think of would be State -vs- Gaskins
17 where photographs of seven prior murder victims were
18 introduced in the penalty phase of the one murder that
19 he was being tried for.

20 I think this type evidence is what the penalty
21 phase is all about, that's why we have a penalty phase.

22 THE COURT: Let the record be clear that I
23 have reviewed those photographs, looked at them, and
24 also being familiar with the redaction and all of that
25 procedure, I'm going to have to overrule defense's

Dr. Sexton-Direct by Solicitor

1193

1 objection to it.

2 MR. SIMS: Yes, sir.

3 THE COURT: Are we ready for the jury?

4 MR. SIMS: Yes, sir.

5 SOLICITOR: Yes, sir.

6 THE COURT: Bring them in, please.

7 (WHEREUPON, The jury returned to the courtroom
8 and the following proceedings were held in their presence.)

9 THE COURT: Solicitor;

10 SOLICITOR: State calls Dr. Joel Sexton.

11
12 JOEL SEXTON, AFTER FIRST
13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY THE SOLICITOR:

15 Q. Okay, Dr. Sexton, you testified in the guilt
16 phase of this trial that you are a forensic pathologist
17 and that you performed the autopsy on Connie Snipes,
18 is that correct, sir?

19 A. Yes, that's correct.

20 Q. All right, sir, I want to call your attention
21 to May 29, 1998 and ask whether or not you had occasion
22 to do an autopsy on a body identified to you as that
23 of Douglas Ferguson?

24 A. Yes, I did.

25 SOLICITOR: Your Honor, if I could advise

Dr. Sexton-Direct by Solicitor

1194

1 the jury at this time that Dr. Sexton's testimony is
2 being taken out of order.

3 THE COURT: That's correct.

4 Q. Dr. Sexton, could you describe the condition
5 of the body when it arrived at Newberry for the autopsy?

6 A. Yes. Mr. Ferguson arrived clothed in a pair
7 of pants and shoes. The unusual thing about his body
8 was that he was wrapped in duct tape. His ankles were
9 taped together, his wrists were taped together and his
10 arms were taped together and then that was taped to
11 his chest and then his face and head was fully taped.

12 Q. Do you take photographs as part of your autopsy?

13 A. Yes, I did.

14 Q. And would your photographs be helpful to you
15 in order to demonstrate to the jury the condition of
16 the body when it arrived?

17 A. Yes, they would.

18 Q. I hand you this photograph and ask you if
19 you took this of Mr. Ferguson at the autopsy?

20 A. Yes, this is one of the photographs that I
21 took showing the head and face region of Mr. Ferguson.

22 Q. I'm sorry, Doctor?

23 A. This is one of the photographs that I took,
24 this is a copy of one of the photographs that I took.

25 Q. That's an enlarged copy?

Dr. Sexton-Direct by Solicitor

1195

1 A. That's correct.

2 SOLICITOR: Your Honor, I would offer this.

3 MR. SIMS: Your Honor, subject to my objection.

4 THE COURT: All right, it's in.

5 (WHEREUPON, Photographs of the body of Ferguson
6 was entered and marked as State's exhibit #15.)

7 Q. I'm going to show you two photographs that
8 you did not take but I would ask if these photographs
9 as far as the body is concerned show the appearance
10 of Mr. Ferguson's body as it was when it arrived at
11 Newberry.

12 A. Yes, these photographs show the condition
13 of the body as I saw it when it first arrived.

14 SOLICITOR: I would offer these.

15 MR. SIMS: Again, subject to my previous objection,
16 Your Honor.

17 THE COURT: In, subject to the previous objection.

18 (WHEREUPON, Two photographs of the body of
19 Ferguson were entered and marked as State's exhibit
20 #16 and #17.)

21 Q. Okay, Dr. Sexton, what I'm going to do is
22 put these on the monitor and read the exhibit number
23 and then ask you if you could show the jury what these
24 pictures show. State's #16.

25 A. State's #16 is a photograph taken at the scene

Dr. Sexton-Direct by Solicitor

1196

1 that shows the condition of the body as I first saw
2 when it arrived at autopsy. Notice that the decedent's
3 ankles are taped, you can see the white socks and black
4 trousers and a different colored, shiny color here where
5 the tape was across the ankles. You can see the tape
6 around the wrists and around the upper chest, he's not
7 wearing a shirt, and you can see that his entire face
8 and neck and head region was also taped up.

9 Q. This is State's #17.

10 A. #17 is also at the scene and it depicts the
11 way I saw the body when it arrived. It shows the upper
12 part of the body and you can see a little better the
13 tape around the wrists and the fact that the upper arms
14 are taped to the chest and the entire face and all the
15 way around the back of the neck and head had been taped
16 up so that there's really no way for any air to get
17 through the tape to the nose or the mouth.

18 Q. State's #15, was this photograph taken at
19 the autopsy?

20 A. Yes, it was. This shows a closer view showing
21 that the tape is very tight and conforms to the face
22 and again, it goes all the way around behind the head
23 so there's no way to get air into the nose and mouth.

24 Q. Approximately how many layers of tape were
25 on the face?

Dr. Sexton-Direct by Solicitor

1197

1 A. The tape is, as you can see, about this wide.

2 As far as how many turns around?

3 Q. Yes, sir.

4 A. At least eight to twelve turns to produce
5 this. We did not try to unwrap the tape. In a case
6 like this you cut the tape from the back, remove it
7 carefully without touching it so if there are prints
8 present they can be obtained from the outside of the
9 tape. So I don't know how many times it was layered
10 on top of itself. You can see, just looking at the
11 width of it, the way it is there, it was probably eight
12 or ten turns at least.

13 Q. I hand you another photograph and ask if this
14 was taken at the autopsy of Mr. Ferguson?

15 A. Yes, this is a photograph taken after the
16 removal of the tape.

17 SOLICITOR: We would offer this.

18 MR. SIMS: Subject to my previous objections.

19 THE COURT: In, subject to the previous objection.

20 (WHEREUPON, Photographs of the body of Ferguson
21 was entered and marked as State's exhibit #18.)

22 Q. State's exhibit #18.

23 A. This is exhibit #18 and it shows the face
24 of Mr. Ferguson after the removal of the tape. The significant
25 aspect of this is that you can see bruising and scrapping

Dr. Sexton-Direct by Solicitor

1198

1 of the left eyelid. See where the left eyelid is bruised
2 and scrapped. There was also a small laceration of the
3 edge of the eyebrow. The bone of the orbit of the eye
4 is just very close under the skin and an injury to that
5 part of the face can actually split the skin at that
6 location. It doesn't show that well in this photograph
7 but there's a split in the skin here on the edge of
8 the eyebrow and there's a bruising and scrapping around
9 the eyelid and a small bruise here at the corner of
10 the lower lip on the left side.

11 Q. Do you have an opinion to a reasonable degree
12 of medical certainty as to what caused the trauma to
13 the left eye?

14 A. Some sort of blunt force either from being
15 struck in that location or that part of the head being
16 forced against something or falling and hitting some
17 surface. Usually when it's a scrap like this it has
18 to be a surface that is rough like the upholstery on
19 a chair that causes that. But it came be from any surface,
20 even a part of the body can do that but often than not,
21 it doesn't cause the scrapping effect, it causes just
22 bruising.

23 Q. And due to the condition of the scrapping
24 there, do you have an opinion as to whether or not that
25 injury would have been inflicted before or after the

Dr. Sexton-Direct by Solicitor

1199

1 taping?

2 A. Because of the scrapping it would have to be
3 before the taping because the tape would tend to protect the
4 skin so as to prevent it from scrapping because you wouldn't
5 have the tangential force of that scrapping action on the skin
6 with the tape over it. The skin would tend to protect
7 the skin so this had to have occurred before the taping.

8 Q. You testified earlier that part of the autopsy
9 procedure was that you would do sketches or drawings,
10 is that correct?

11 A. Yes, that's correct..

12 Q. Did you do that in this case?

13 A. Yes, I did.

14 Q. Let me hand you this and ask you if this is
15 an enlargement of the drawing that you did on the body
16 of Mr. Ferguson?

17 A. Yes, this is an enlargement of the drawing
18 that was done of Mr. Ferguson at the time of autopsy.

19 SOLICITOR: We would offer this, Your Honor.

20 MR. SIMS: Again, subject to my previous objections.

21 THE COURT: All right, in, subject to prior
22 objections.

23 (WHEREUPON, Diagram of the body of Ferguson
24 was entered and marked as State's exhibit #19.)

25 Q. This is State's #19 and you can either use

Dr. Sexton-Direct by Solicitor

1200

1 the easel or however you want to do it to explain to
2 the jury what you have on here.

3 A. Again, you can see that outlined is the left
4 eyebrow, the left eyelid, they are bruised and scrapped.
5 Also behind the right ear we have labeled here an area
6 of contusion which is secondary bruising behind the
7 right ear. On top of both shoulders are scraps or
8 abrasions that occurred. These dots that are on the
9 back are called tardue spots and they occur when someone
10 dies from lack of oxygen or asphyxia. After death we
11 see the settling of blood in little areas that are small
12 little ruptured vessels that occur. We see the same
13 thing in the eyes that occur prior to death which are
14 little ruptured vessels or tiny capillaries that produce
15 tiny round or nearly round hemorrhages in the eyes and
16 they are called petechial and Mr. Ferguson had petechial
17 in both eyes, on the white of the eye which we refer
18 to as the sclera and on the inside of the lid which
19 we call the conjunctiva.

20 Q. And, again, what is petechial indicative of?

21 A. Of asphyxia. If you obstruct the return of
22 the blood flow from the brain back to the heart which
23 is done by either obstructing the airway or obstructing
24 the vessels in the neck of the return flow which only
25 takes about seven pounds of pressure, then the blood

Dr. Sexton-Direct by Solicitor

1201

1 in the artery getting to the brain, the blood that is
2 there is not getting out so it's using up all of the
3 oxygen and all the little vessels get weak and the little
4 tiny capillaries lead to produce these small hemorrhage
5 under the greater pressure, plus not leading and the
6 lack of oxygen.

7 Q. Did you photograph that to document the petechial?

8 A. Yes, I did.

9 Q. And I hand you this photograph and ask you
10 if you can identify it?

11 A. Yes, this is the photograph that I took of
12 the eyelid or the inside of the eyelid, again, showing
13 the petechial.

14 SOLICITOR: We would offer this, Your Honor.

15 MR. SIMS: Same objection.

16 THE COURT: In, subject to prior objections.

17 (WHEREUPON, Photograph of the eyelid was entered
18 and marked as State's exhibit #20.)

19 Q. I would hand you State's #20 and ask if you
20 can demonstrate for the jury what that shows.

21 A. This one might project well on the monitor,
22 let's try it. There that's good. This is inside the
23 eyelid and you can see the eyelashes and these small
24 round dark areas which are red, although they don't
25 show up bright red on this projection, are small little

Dr. Sexton-Direct by Solicitor

1202

1 areas of hemorrhage, some of them are here as well and
2 there are so many of them that they've become confluent
3 because they have merged with each other. The same is
4 true up here. But on the edge you can see that they
5 are individual small hemorrhages which, when you have
6 enough of them, produce a large area of confluent
7 hemorrhage.

8 Q. I'm going to hand you two other photographs
9 and ask whether or not you took these during the autopsy
10 and whether or not those are pictures of Doug Ferguson
11 and whether they would assist you in demonstrating to
12 the jury what you observed on his body.

13 A. Yes, these are also two other photographs
14 that I took and they show some of the injuries that
15 we've not described and would be of assistance.

16 SOLICITOR: We would offer these, Your Honor.

17 MR. SIMS: With the same objection, Your Honor.

18 THE COURT: In, subject to prior objections.

19 (WHEREUPON, photograph of left eye was entered
20 and marked as State's exhibit #21; photograph of right
21 ear was entered and marked as State's exhibit #22.)

22 Q. I will put State's #21 on the monitor, Doctor.

23 A. This is a close up of the left eye area. This
24 is the eyebrow and you can see the darkness of the bruising
25 and the scrapping of the eye. Can you brighten that

Dr. Sexton-Direct by Solicitor

1203

1 up? Okay. It's a little difficult to see here but
2 here's the gash or laceration that I mentioned within
3 the eyebrow. If you feel the edge of your eye you feel
4 the bone directly under the skin and it's very easy
5 for a blow here, to lacerate that. The fact that there's
6 no scrapping or abraiding of the edge of that suggests
7 that may have been some padded surface like part of
8 the body, a fist or an elbow or a knee or it could have
9 been some padded surface on some item of furniture,
10 something of that sort, that caused that laceration
11 at the corner of the eye.

12 As I mentioned earlier, this other portion
13 is scrapped and bruised so it would be a rough surface.
14 And they may or may not have occurred at the same time,
15 depending on the circumstances.

16 Q. Have you got an opinion to a reasonable degree
17 of medical certainty as to whether or not an injury
18 as depicted there to that area of the body would be
19 painful?

20 A. Yes, it would be painful. Anytime you lacerate
21 the face, the hands, or other parts of your body, the
22 genitals, the breasts, these are areas that have a lot
23 of pain receptors as well as other receptors for touch
24 and so they are prone to be very painful when they are
25 injured. Not only does it take enough force here to

Dr. Sexton-Direct by Solicitor

1204

1 give you a headache to produce that type of injury,
2 depending on whether it's a tangential or perpendicular
3 force but it certainly would be painful to the eyebrow
4 and this one to the eye, we all know how painful it
5 is when we have something in your eye. So both of those
6 in my opinion would have been painful.

7 Q. All right, sir, State's #22.

8 A. I should stipulate to the fact that that's
9 assuming the person was conscious after the injury.
10 That's not an area of the head that you get a blow on
11 and you frequently become unconscious but you can become
12 unconscious with a blow in that area.

13 Q. You've testified previously that in your opinion
14 that that blow was received prior to the time of the
15 taping.

16 A. That blow or fall on some surface because
17 of the scrapping of the eyebrow or eyelid, it would
18 be more likely to occur because the taping would protect
19 it, so it would have to occur before the taping.

20 This is the right ear and behind the right
21 ear is an area of bruising and a little bit of abrasion
22 but notice the abrasion here is very focal, unlike what
23 was on the eyelid which was a larger area that required
24 some tangential force and this is a bruise with a small
25 amount of scrapping on it but it's mostly a bruise.

Dr. Sexton-Direct by Solicitor

1205

1 Q. All right, if that scrapping is present do
2 you have an opinion to a reasonable degree of medical
3 certainty as to whether or not that injury would have
4 occurred prior to the taping?

5 A. In this case because the scrapping is not
6 as extensive, it could have occurred with the tape present.
7 It's much easier to get an abrasion without the tape
8 there to protect it so it would be more easily done
9 without the tape but because it's a small area of scrapping,
10 it conceivably could be done with the taping present
11 but it's more likely without the tape present.

12 Q. Would an injury like that, to that part of
13 the body, be painful?

14 A. This part of the body is more likely to cause
15 unconsciousness because this is in what we call the
16 rabbit punch area that boxers are forbidden to use in
17 fights because it's close to the base of the brain which
18 is the part of the brain that controls your heart and
19 your lungs. The impulses from the medulla and the pons
20 at the base of the brain to keep your heart beating
21 and your lungs breathing and a blow there can stop that
22 and totally depolarize the brain and kill a person.

23 And so this is more likely to render a person
24 unconscious if they did not become unconscious it would
25 be painful.

Dr. Sexton-Direct by Solicitor

1206

1 Q. All right, sir. Doctor, do you have an opinion
2 to a reasonable degree of medical certainty and based
3 on your observations that you've described to the jury
4 as to the cause of death to Doug Ferguson?

5 A. Yes, in my opinion within reasonable medical
6 certainty he suffocated from inability to get oxygen
7 into his lungs because of the tape that was on his nose
8 and mouth and, in fact, over his whole head and prevented
9 him from breathing.

10 Q. I'm going to show you two other photographs
11 and ask if these were taken at the autopsy?

12 A. Yes, these are two additional photographs
13 taken at the time of autopsy by myself.

14 SOLICITOR: We would offer these, Your Honor.

15 MR. SIMS: Again, Your Honor, subject to my
16 objection.

17 THE COURT: Admitted in subject to previous
18 objections.

19 (WHEREUPON, photograph of hands and wrists
20 was entered and marked as State's exhibit @23; photograph
21 of socks was entered and marked as State's exhibit #24.)

22 Q. I hand you State's #24, Doctor, and ask if
23 you could, either using the monitor or just going up
24 to the jury box and demonstrate what that shows.

25 A. I think you can probably even see from the

Dr. Sexton-Direct by Solicitor

1207

1 back row. The socks on his feet, this is the label
2 we use with a ruler and the case number. Notice the
3 tape is around his ankles and the significant fact is
4 that the tape is torn here at the upper portion, indicating
5 that there was some effort, presumably on his part,
6 to try to free himself, spreading his legs and the tape
7 did tear a little bit but not enough to free his legs.

8 His socks, the label, the tape around the ankles
9 and here a tear in the tape at the upper portion of
10 the tape.

11 Q. And State's exhibit #23.

12 A. Exhibit #23 is again a blowup of one of my
13 photographs and you can see the fingers here, the label
14 and this tape around the hands and wrists and then you
15 see tearing at the bottom of the tape, where the arms
16 were spread enough to start tearing it but insufficient
17 to tear it completely. And then you see the tape around
18 the hands and wrists, here are the fingers at the top,
19 the label at the bottom, and you see tearing of the
20 tape at the bottom.

21 Q. Doctor, based on these last two photographs
22 showing the tearing of the tape, do you have an opinion
23 as to whether or not Doug Ferguson was conscious after
24 his hand and feet were taped?

25 A. In my opinion he was.

Dr. Sexton-Direct by Solicitor

1208

1 Q. Doctor, what does a person being suffocated
2 in this manner, what do they experience? How long would
3 it take for them to die?

4 A. Once they are unable to hold their breath
5 any longer, then the amount of oxygen present diminishes
6 to the point where they pass out. But during that time
7 and I'm sure there's a --- according to the people to
8 have nearly drown and have been under those circumstances,
9 a great deal of pain trying to breathe and unable to
10 breathe because of the fact that they are under water
11 and in this case because there's no way to get oxygen
12 in, and then with time, usually a matter of 15 to 20
13 seconds after they are unable to get any oxygen to their
14 brain, they pass out. If they are unable to get any
15 oxygen after that period of time, after a period of
16 about 4 to 6 minutes, then they are essentially brain
17 dead.

18 Q. All right, sir, you can have a seat back up
19 there. Now, you testified in the guilt phase about
20 Connie Snipes' autopsy, the gunshot wounds to her head
21 and that being the cause of death, is that correct?

22 A. Yes, that's correct.

23 Q. Would you state whether or not during the
24 course of that autopsy you observed any non-fatal wounds?

25 A. Yes, there were.

Dr. Sexton-Direct by Solicitor

1209

1 Q. And have you prepared a sketch showing some
2 of those?

3 A. I beg your pardon?

4 Q. Did you prepare a drawing showing some of
5 those?

6 A. Yes, i did.

7 Q. I'm going to hand you this and ask you if
8 you can identify that.

9 A. Yes, this is a drawing --- it's a copy of
10 the drawing that was done at autopsy indicating injuries
11 to the hands.

12 SOLICITOR: We would offer these.

13 MR. SIMS: I do not have an objection as to
14 these pictures.

15 THE COURT: All right, they are in without
16 objection.

17 (WHEREUPON, a diagram of Mrs. Snipes' hands
18 was entered and marked as State's exhibit #25; A diagram
19 of Mrs. Snipes' body was entered and marked as State's
20 exhibit #26.)

21 Q. Doctor, I show you now what is marked as State's
22 #25 and ask if you will demonstrate and tell the jury
23 what is shown on there.

24 A. Exhibit #25 is a diagram showing the left
25 hand and the significant finding is that here between

Dr. Sexton-Direct by Solicitor

1210

1 the little finger and the ring finger is an incise wound.
2 In fact, there are two cuts here on the back of the
3 hand and one cut on the front, indicating a sharp instrument
4 such as a knife or something similar cut in that location
5 producing what we call an incise wound, the type of
6 wound that is longer than it is deep. Stab wounds refer
7 to wounds that are deeper than they are long on the
8 surface, and this is a incise wound caused by a sharp
9 instrument between the little finger and the ring finger
10 of the left hand.

11 Q. And how do you characterize that type ---
12 that location and that type wound?

13 A. When wounds occur on the hands, the forearms,
14 in the legs in a person that has been injured and fatally
15 injured, we often characterize these as wounds that
16 could occur while a person is defending themselves
17 and we frequently refer to them as defense type wounds.
18 That doesn't mean that it happened in that fashion but
19 it's in an area where you might expect them to happen
20 while a person is defending themselves.

21 Q. Is there any doubt in your opinion, Doctor,
22 that those incise wounds were caused by some bladed
23 object such as a knife?

24 A. They would have to be a sharp edged object,
25 could be a piece of tin, but certainly with a sharp

Dr. Sexton-Direct by Solicitor

1211

1 edge and it's more consistent most of the time that
2 this type of incise wound is produced by a knife.

3 Q. You can have a seat again. I hand you one
4 other drawing and asked if you made that during the
5 course of Connie Snipes' autopsy and it's marked as
6 State's #26.

7 A. Yes, that's a duplicate of our diagram done
8 at the time of the autopsy.

9 Q. Okay, let me ask you a few questions about
10 this. And if you wouldn't mind stepping around again.
11 Up here where it says " Brown long wavy hair, comes
12 with body".

13 A. That's correct.

14 Q. Did you make that notation?

15 A. I did.

16 Q. And when Mrs. Snipes' body arrived at Newberry
17 for the autopsy, was the head hair attached to her body?

18 A. No, it arrived separately. The body was decomposed
19 enough that some portions of the body were missing due
20 to animal destruction, however, the scalp and all seemed
21 to be unusually --- seemed to have been removed more
22 quickly than you would normally expect on decomposition.
23 But there was decomposition noted in the region of the
24 head and the hair was not on the skull.

25 Q. Did you note anything around the neck area

Dr. Sexton-Direct by Solicitor

1212

1 of Mrs. Snipes' body?

2 A. There was a stab wound in the neck area, here
3 on the left side of the neck that's depicted here at
4 this point. It's listed as just a hole on the left side
5 of the neck and the reason we described it that way
6 was because there was no soft tissue in the neck. Maggots
7 had started infesting the body and had destroyed some
8 of the internal soft tissue of the neck as well as other
9 parts of the body, particularly in the head region. Maggots
10 generally enter the body through orifices like the mouth
11 and nose and attack that part of the body first.

12 And so it was impossible to say for sure the
13 angle of that knife penetrating the body or, for that
14 matter, whether it was a long or short blade or whether
15 it may have been some cut on the surface but the fact
16 that it was in this location, the fact that the bra
17 which was up in that location, pushed up around the
18 head, also had a cut in it consistent with stab holes,
19 with one edge of it being squared off and the other
20 edge sharp. When a knife goes into clothing or into
21 a body, it looks like the blade --- if you broke the
22 blade and looked at the broken end, it's a very long
23 thin triangle with a flat edge and a sharp edge. And
24 the clothing had that type of hole in it and the hole
25 in the skin was most consistent with that type hole.

Dr. Sexton-Direct by Solicitor

1213

1 And she had a hole in the side of the neck consistent
2 with a stab wound.

3 Q. All right, sir, and with regard to the incise
4 wound on the left hand, do you have an opinion with
5 a reasonable degree of medical certainty whether that
6 would have been a painful wound?

7 A. Yes, as I mentioned earlier, the hands is
8 another area --- probably the area that has the most
9 receptors for pain and touch and anything to our hands
10 is always very painful.

11 Q. What about the stab wound to the neck, would
12 that have been painful?

13 A. In most cases it is, depending on what part
14 of the structure it strikes. There's a lot of other
15 structures there that are not as sensitive as they are
16 on the face but usually a stab wound to the neck would
17 be painful.

18 Q. And, again, how was the body clothed when
19 it arrived at Newberry for the autopsy?

20 A. There was a shoe present and sock on one foot
21 and then there was a bra that was pushed up around the
22 neck and arm regions with the arms up over the head.

23 Q. And did you take some photographs of the bra
24 after you removed?

25 A. Yes, I did.

Dr. Sexton-Direct by Solicitor

1214

1 Q. I hand you three photographs and ask you if
2 you can identify those?

3 A. Yes, these are photographs at a distance,
4 intermediate range and close up of the hole in the bra.

5 MR. SIMS: No objection, Your Honor.

6 THE COURT: In without objection.

7 (WHEREUPON, Three photographs of bra were
8 entered and marked as State's exhibit #27, 28 and 29.)

9 Q. Now, Doctor, I'm going to put State's #27
10 up and ask you to demonstrate to the jury what that
11 shows.

12 A. This is a photograph here and you can see
13 here the size of the object from the six inch ruler.
14 This is the sports bra and you can see here with some
15 white paper under it the defect in the sports bra. It's
16 over the right breast area.

17 Q. And that defect, in your opinion, is what?

18 A. In my opinion it's consistent with a stab
19 wound or a stab hole in the clothing

20 Q. Exhibit #28.

21 A. #28 shows a closer view of that same hole.
22 You can see right across here and the next one shows
23 even a closer view.

24 Q. State's #29.

25 A. Yes, you can make out that it's somewhat squared

Dr. Sexton-Direct by Solicitor

1215

1 off here and pointed here. Oftentimes when a knife
2 goes in in one path it will go out in another path either
3 because of the person being stabbed moves or the person
4 doing the stabbing brings it out in a different path
5 and oftentimes we will see a squared off edge, a sharp
6 edge and then an additional area of defect.

7 Q. Now, Doctor, during the course of an autopsy,
8 do you routinely try to get information from law enforcement
9 officers about where the body is found and the circumstances
10 surrounding the crime scene?

11 A. Yes, we ask that when they send us a body
12 that they give us as much information as possible. What
13 we try to do is evaluate the body and the material that
14 comes with the body to determine if the facts and the
15 history match what we find on the body. Oftentimes the
16 cause of death is very obvious but the circumstances
17 may not be and so we ask for history to see if the history
18 fits the findings at the time of autopsy.

19 Q. Okay, and did you have a history that the
20 hair was separated from the body at the crime scene?

21 A. I don't really remember whether we were aware
22 that it had been separated at the crime scene but it
23 certainly came separate with the body. I don't recall
24 their saying that they found it at a separate location.

25 Q. All right, sir. You were present in court

Dr. Sexton-Direct by Solicitor

1216

1 when Norris Martin testified, I believe, today?

2 A. Yes, that's correct.

3 Q. All right, would you state whether or not
4 your findings were inconsistent in any way with regard
5 to the head hair from Norris Martin's testimony?

6 A. Oh, no, they were at least consistent with
7 that and certainly the hair could have been cut away
8 and then the tissue be in the condition that we found
9 it at the time it was brought separate from the body.

10 Q. All right, so there was nothing inconsistent
11 with the hair being cut away from the body?

12 A. That's correct. I recognize that that area
13 had already started to rot and be destroyed by maggots
14 so it was difficult to evaluate it fully but it is certainly
15 not inconsistent with that history.

16 Q. So going back to this drawing here of the
17 whole body drawing, Doctor, that's State's #26, I think,
18 if you could come up here I want to ask you about this
19 writing here, where it says " hole in both nipples,
20 breast tissue gone due to maggots."

21 A. That's correct. If you have a pen I can draw
22 that on there. Occasionally we will see that maggots
23 will invade through the nipple and through the vagina.
24 Usually when that's the case, by the time they start
25 invading there, they've already entered the rest of

1 the body and come from the inside out. In fact there
2 have been studies in animals where they have observed
3 the animals as they slowly decay and as the maggots
4 and other things that cause them to decay occur. In
5 an animal, it's perfectly normal externally that pretty
6 soon an animal looks like it's starting to move, like
7 there's something inside of it and then it just collapses,
8 because the maggots go from within and work out and
9 the skin is generally intact.

10 Q. Let me back up, if I could a minute, Doctor.
11 When a body, a dead body, is in a wooded area in the
12 summertime, in this area in May or June, what type insects
13 would attack that body?

14 A. Initially flies will lay eggs that are later
15 going to hatch into maggots and the maggots feed on
16 that particular dead body.

17 Q. Now what areas of the body do the maggots
18 attack first, how do they enter the body?

19 A. They enter the body through any opening and
20 that might be the nose or the mouth, and to a smaller
21 degree the holes in the nipples that allow milk to be
22 discharged through the nipple and through the vagina
23 and through any injury that might be present on the
24 body.

25 Q. And do they normally enter through an area

Dr. Sexton-Direct by Solicitor

1218

1 of unbroken skin?

2 A. Not normally or initially. With time, as
3 the skin breaks down, they can bore into most any injury.

4 Q. As I understand your testimony they would
5 normally enter through a wet area, the mouth ---

6 A. Through an opening, particularly an area that
7 is moist.

8 Q. Now, can you describe in detail the appearance
9 of Mrs. Snipes, the area around her nipples.

10 A. The nipple and the areola area were all missing
11 in an area about like what I'm drawing with the red
12 marker, so that the nipple was gone, the areola, the
13 ampulla was gone and a small quantity of breast skin
14 around that was gone. What was more significant I think
15 was the fact that even though the breast tissue underneath
16 this was missing, that area of missing breast tissue
17 did not yet communicate with the inside of the body
18 where the tissue was missing from maggot infestation.
19 It was such that there was maggot infestation in the
20 body coming outward and a different group going into
21 the breast from the outside is the impression that it
22 gave at the time of the autopsy.

23 Q. All right, sir, and what was the significance
24 in your mind as a forensic pathologist the fact that
25 the maggot activity was in that breast area?

Dr. Sexton-Direct by Solicitor

1219

1 A. It was consistent with their being an injury
2 to the breast to allow that to come in from the outside
3 instead of it coming from the inside out. The fact that
4 the edge of the defect was very smooth was also consistent
5 with some injury having occurred as opposed to again
6 the tissue being destroyed by the maggots coming from
7 the inside.

8 Q. And, again, you were present when Norris Martin
9 testified, is that correct?

10 A. That is correct.

11 Q. with regard to what happened to Mrs. Snipes'
12 breast area.

13 A. Yes.

14 Q. Was your observation consistent with Mr. Martin's
15 account of what he observed?

16 A. They were consistent with the nipple area
17 being cut from each breast.

18 Q. All right, sir, you can have a seat, please.
19 Assuming, Doctor, that Mrs. Snipes was alive when her
20 nipples were cut off, do you have an opinion to a reasonable
21 degree of medical certainty as to whether or not that
22 would have been painful?

23 A. It definitely would have been painful.

24 Q. On a scale from 1 to 10, how painful would
25 it have been?

Dr. Sexton-Direct by Solicitor

1220

1 A. That's difficult for anyone to evaluate. It's
2 going to vary from person to person but it would certainly
3 be the upper end of that scale because of the sensitive
4 nature of that part of the body.

5 Q. Did you make any observations with respect
6 to the vaginal area?

7 A. I did.

8 Q. All right, sir. And did you spend a significant
9 amount of time examining that area?

10 A. Not as much at the time of autopsy as I did
11 later reviewing the photographs. After we do cases
12 as a group, the three forensic pathologists in our group,
13 review all of the slides that we've taken of the previous
14 case and go over those cases at a slide conference on
15 a weekly basis. And at that time, where we could project
16 the slide and actually see the area that we photographed
17 larger than it was at the time we did the autopsy, I
18 was even more struck by the sharp edge of the demarcation
19 between the normal skin and the tissue that was absent
20 and it became apparent with that, plus some of the areas
21 of the sharp demarcated skin, had what we call little
22 skin tags. When a knife is pulled across the skin which
23 is a surface that is very tough and it's difficult to
24 cut unless the knife is sharp plus it gives, you sometimes
25 have the knife will skip and as it skips, as you're

Dr. Sexton-Direct by Solicitor

1221

1 going along, you end up getting little skin tags that
2 points back in the direction the knife is coming from
3 and there were skin tags present on the skin to further
4 indicate that the area was more than likely cut as
5 opposed to simply destroyed by maggots.

6 Q. So was the entire vaginal area cut out?

7 A. That's correct.

8 Q. And you were present again when Norris Martin
9 testified in regard to that aspect of what he observed?

10 A. I was.

11 Q. Were your observations consistent with Norris
12 Martin's testimony?

13 A. They are consistent with his testimony.

14 SOLICITOR: Thank you, Doctor, please answer
15 any questions Mr. Sims may have of you.

16 THE COURT: Mr. Sims.

17

18 CROSS-EXAMINATION

19 BY MR. SIMS:

20 Q. Dr. Sexton, how are you doing?

21 A. I'm fine.

22 Q. When you say that it was consistent with what
23 Norris Martin says, you're saying that it was consistent
24 that there was a cut but not how he said it was done,
25 is that correct?

Dr. Sexton-Cross by Mr. Sims

1222

1 A. As far as how he said the breasts were cut,
2 it's consistent with someone grabbing the nipple and
3 just cutting underneath it. He did not give a extensive
4 description of cutting the vaginal area, but it's
5 consistent with somebody starting with a knife one one
6 side, cutting up and over and removing the vaginal area.

7 Q. I just want to be clear that we understand
8 here, you're saying that it's consistent with a sharp
9 object cutting those areas and that's what your consistency
10 is.

11 A. That is correct and the way he described the
12 nipples being cut.

13 Q. But you make no determination as to the truth
14 of what he said.

15 A. Correct. I'm not testifying that he was speaking
16 the truth, only that what he said was consistent with
17 the findings that I saw at autopsy.

18 Q. Initially your statement that your autopsy
19 report raised some question about the issue of whether
20 or not there was maggot infestation that had caused
21 that or a sharp object that had caused that, is that
22 correct?

23 A. That's correct. When I did the autopsy I do
24 a dictation at that time. When we review the slides,
25 it generally takes us about a week and a half or two

Dr. Sexton-Cross by Mr. Sims

1223

1 weeks to get the slides back and review them. So the
2 autopsy had already gone out indicating that this may
3 represent maggot infestation as far as the loss of the
4 tissue in the vaginal area. It wasn't until we blew
5 up the photographs or projected them to see that it
6 was more likely a sharp object used at that time.

7 Q. Let me ask you, could you make a determination
8 whether it was pre-mortum or post-mortum.

9 A. I cannot, that's true of both the breasts
10 and the vaginal area. The injury that occurs during
11 life when the heart is pumping is associated with bruising,
12 which is blood that is out between the cells and cannot
13 be washed away. In the case of the breasts, the tissue
14 that would have that bruising had been eaten away by
15 the maggots. In the case of vaginal area, the same
16 was true. The tissue that would have the bruising in
17 it had been definitely eaten away by maggots or had
18 been removed. So there was no way to tell whether either
19 of these areas were removed pre-mortum, that is, while
20 the person is alive, as opposed to post-mortum.

21 Q. I was going to go there because we are using
22 pre-mortum and post-mortum but what we are actually
23 talking about here is that you cannot determine whether
24 or not the victim at this time was alive or dead.

25 A. That's correct.

Dr. Sexton-Cross by Mr. Sims

1224

1 Q. Now you said that the bra, when the body came
2 to you, the bra was pushed up around the neck, is that
3 correct?

4 A. Right, not only pushed up but sort of twisted
5 so that the portion that was over the left breast was
6 in fact over the right breast --- was over the left
7 side of the neck.

8 Q. Now the picture that you were showing and
9 I believe that this was State's --- well, that's defendant's
10 #1, that's the same picture that you were shown by the
11 State, is that correct, with the bra?

12 A. The photograph that you just picked up is
13 a photograph of the bra with the hole in the bra.

14 Q. Okay, and that's the same one that you described
15 for the State, I believe, State's #27. These are basically
16 the same pictures? Not basically, but are the same
17 pictures, is that correct?

18 A. That's correct. Defense #1 and State's #27
19 are both photographs of the bra showing the defect in
20 the right side of the bra over the breast area.

21 Q. Now that area I believe you said the breast
22 area and the nipple area has a lot of receptors, nerve
23 receptors, is that correct?

24 A. Yes, that's correct.

25 Q. And by nerve receptors we're saying that it

1 would be very painful if that was done when a person
2 was alive, that person would experience that pain, I
3 believe you've talked about that, is that correct?

4 A. Yes, that's correct.

5 Q. And experiencing that pain would cause that
6 person to move around.

7 A. I would expect them to move around but people
8 react differently to different situations. Some people
9 are numbed by pain as we hear histories from people
10 as to what happened, say, in combat or in struggles,
11 but you would normally expect a person to certainly
12 fight a situation that is causing that much pain.

13 Q. Well, that's what we are talking about, the
14 normal probabilities is what you have been giving us
15 as it relates to whether this was a sharp object, was
16 a knife, was probabilities.

17 A. That's correct.

18 Q. You have not given us any certainties as to
19 whether or not this was a knife that caused it but you
20 said most probable that it was something like a knife
21 that caused it or a sharp piece of tin I believe that
22 you used.

23 A. That's correct. In this case we can't say
24 with absolute certainty the type of object, it's just
25 most consistent with a knife because of the defect in

Dr. Sexton-Cross by Mr. Sims

1226

1 the clothing and the injuries to the hand and to the
2 neck. But can't say with absolute certainty but it's
3 within reasonable medical certainty.

4 Q. Well, is it most probable that a person would
5 be moving around when someone would try to cut that.
6 Isn't it most probable that you would not have such
7 a neat, close incise wound?

8 A. I can't really say that because it depends
9 upon how quickly it's done, how much force the individual
10 is using to overpower the person that's struggling and
11 whether they, in fact, would struggle that much as opposed
12 to just freeze with that sort of pain. But it be maybe
13 more likely than not that it wouldn't be that uniform,
14 but in this case because the maggots had infested that
15 area and continued to eat, as I mentioned, they get
16 involved in areas that already have defects. In fact,
17 it was learned in the Civil War that they were beneficial
18 to people who had wounds because we didn't have means
19 of fighting bacterial infections back then and people
20 that had maggots in their wounds survived because the
21 maggots ate only the dead tissue and ate around the
22 edge of that defect. And so it had occurred in this
23 case and so it may not have been as smooth as it looked
24 prior to my seeing it. It may have been more irregular
25 at the time that it occurred.

1 Q. But what you saw, what you have indicated in
2 terms of what you initially saw, and you said that it
3 would be most probable that it wouldn't be that smooth
4 under the circumstances that we are talking about here.

5 A. I think --- if I understand your question
6 correctly I would say it's not necessarily going to
7 be very smooth. It depends on the sharpness of the
8 knife, the quickness of the person, the amount of force
9 they can use.

10 Q. And because, as a matter of fact, when you
11 talked about the cut to the vaginal area, you talked
12 about a tag wherein the knife would skip a piece and
13 that would leave like a rag or piece of tag if you were
14 looking at it in that way.

15 A. Yes, that's correct.

16 Q. The other part of the smoothness would not
17 be if a person --- the vaginal area is also has a lot
18 of nerve receptors, too, doesn't it?

19 A. Yes, it does.

20 Q. And it would be extremely painful for a person
21 to endure that kind of pain without moving.

22 A. Yes, I would certainly think so.

23 Q. So then would you agree with me also that
24 if that person was moving around, you would not have
25 had simply just one tag but in a situation like that,

Dr. Sexton-Cross by Mr. Sims

1228

1 because of the moving of the body then that would create
2 a situation where you would have -- you would expect
3 more than one tag.

4 A. I would agree that certainly in the vaginal
5 area because of the configuration of the cut and the
6 fact that you would have to hold the legs apart in order
7 to do it and to cut in sort of a U-shaped pattern, that
8 you would expect more irregularity than actually I saw
9 unless the maggots in fact tended to trim this up to
10 make it look more regular, whereas in the breast area,
11 just a quick slice could cause a very smooth cut. But
12 in the vaginal area it would take more time, more effort
13 and a different movement and so you would expect if
14 a person was alive to see more skin tags and more
15 irregularities in the cut that's in the vaginal area.

16 Q. Now, when the nipples, if a person is alive
17 and the blood is pumping, I mean, the heart is pumping
18 and the blood is moving throughout the body, if those
19 nipples were, in fact, cut at a certain time when all
20 of that was going on, there would be blood, is that
21 correct?

22 A. Yes, there would be.

23 Q. And it would be rather profuse?

24 A. I'm not sure how profuse. There are certain
25 areas of the body like the scalp, an injury to the scalp

1 generally bleeds very profusely. Other areas of the
2 body sometimes bleed very little at all because of the
3 body's mechanism to constrict the vessels and to diminish
4 the blood loss. But there certainly would be blood,
5 I just don't know how much in that case.

6 Q. And the shot to the back of the head, would
7 there be blood in that area also?

8 A. You would normally expect there to be blood
9 there. Again, it depends on what part of the brain is
10 struck, but you would expect there to be some bleeding
11 in that area, particularly if the person is on their
12 back for a period of time. It's true that body cavities
13 sometimes will allow the blood to be in the cavity and
14 not come out, depending on the position of the body.
15 If you have a person shot in the back and they stay
16 on their back, it may not bleed outwardly because there's
17 enough space in the body cavity for that blood to go.
18 But in the brain you've got a very restricted space
19 and I would expect, if the body is moved at all, you
20 would have blood coming from that wound.

21 Q. And also there was another wound that went
22 in, I believe, about here and lodged in the back of
23 the mandible, I believe you testified to.

24 A. The bullet actually goes through, enters
25 here in the jaw and comes out the mandible but only

Dr. Sexton-Cross by Mr. Sims

1230

1 a small piece is left here in the mandible. So there
2 are two holes in that case but now this is in an area
3 that is not very vascular but this is fairly vascular.

4 Q. And by vascular you mean a lot of blood would
5 concentrate in that area?

6 A. Correct.

7 Q. So you would expect in that area profuse blood
8 or bleeding.

9 A. Correct. I recognize that's in the mouth
10 so some of that could be swallowed as opposed to bleeding
11 externally but, again, I think there would be some bleeding
12 externally.

13 Q. Now when you said it could be swallowed, when
14 you did the autopsy did you check that cavity or where
15 that blood may have settled?

16 A. Let me refer to my notes as to what's in the
17 stomach. The stomach has a small quantity of pinkish
18 brown semi-solid, no indication of blood in the stomach,
19 just some solid material that's sort of pink colored.

20 Q. The lack of blood in the stomach would indicate
21 that obviously it wasn't swallowed. In a usual situation
22 it would indicate that the blood was not swallowed and
23 taken down into the stomach cavity.

24 A. That's correct.

25 Q. And so that would mean necessarily that there

Dr. Sexton-Cross by Mr. Sims

1231

1 was bleeding and the bleeding was outwardly, not an
2 internal situation.

3 A. Yes, that's correct.

4 MR. SIMS: Your Honor, that's all we have
5 of this witness.

6 THE COURT: Re-direct, Solicitor?

7 SOLICITOR: Yes, sir.

8

9 RE-DIRECT EXAMINATION BY THE SOLICITOR;

10 Q. Let me clarify one point if I might, Doctor.
11 The stab wound to the left of the neck ---

12 A. Yes, sir.

13 Q. --- that you testified to, does that coincide
14 with the location of the bra?

15 A. It's consistent with the location of the bra
16 as we found it. As I mentioned, the bra was pushed up
17 and then twisted so that the part that's over the right
18 breast was, in fact, over the left side of the neck.
19 So, yes, it could be that the person was stabbed with
20 the bra still in place into the right breast and that
21 tissue was absent due to the maggot infestation, or
22 it could be that she was stabbed here in the neck with
23 the bra in place over the left side of the neck, or
24 the reverse could be true, there could be a stab here
25 in the neck without the bra there and only a stab in

Dr. Sexton-Re-Direct by Solicitor

1232

1 the breast that went through the bra.

2 Q. It could have been up or down?

3 A. That's correct.

4 SOLICITOR: Thank you, sir.

6 RE-CROSS-EXAMINATION

7 BY MR. SIMS:

8 Q. Let me ask you one other question, Doctor.

9 Did your --- is it --- and I may be wrong, I've read
10 so much, but your autopsy report questioned or looked
11 at a spot on the breast to determine whether or not
12 there was a stab wound there, is that correct?

13 A. Correct. When we repositioned the bra that
14 hole was over the area of breast tissue that was absent
15 due to the maggot infestation, so we couldn't really
16 say that there was a stab wound in that area or not.

17 Q. And you couldn't say that there wasn't one?

18 A. That's right.

19 Q. Because that tissue had been gone because
20 of maggot infestation.

21 A. Yes, that's correct.

22 MR. SIMS: That's all I have.

23 THE COURT: You may step down, Doctor.

24 SOLICITOR: State calls Tammy Sanders.

25 THE COURT: Come around, please.

Ms. Sanders-Direct by Solicitor

1233

1 TAMMY SANDERS, AFTER FIRST
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY SOLICITOR:

4 Q. You are Tammy Sanders?

5 A. Yes, sir.

6 Q. Okay, Ms. Sanders, where do you live?

7 A. Bamberg.

8 Q. And would you state whether or not you knew
9 Doug Ferguson?

10 A. Yes, I did.

11 Q. Tell the jury what your relationship with
12 Doug Ferguson was back in May of 1998.

13 A. He was my boyfriend.

14 Q. And if Doug Ferguson had any injuries to his
15 eye or his head or any part of his body, would you have
16 known it?

17 A. Yes.

18 Q. And On May 28, 1998, did he have any such
19 injuries the last time you saw him?

20 A. No.

21 Q. Do you recall what ya'll did on May 28, 1998?

22 A. Well, we went for him to see about getting
23 a job.

24 Q. When you say "we", you need to use the names,
25 okay?

Ms. Sanders-Direct by Solicitor

1234

1 A. Me and Theresa Squires.

2 Q. Okay, ya'll took Doug Ferguson to get a job?

3 A. Uh-huh.

4 Q. And do you recall about what time it was when
5 ya'll took him for a job interview?

6 A. I think it was between 2:30 and 3, I'm not
7 sure of the time.

8 Q. Where did ya'll take him?

9 A. To some kind of company there in Orangeburg.

10 Q. You need to speak up a little bit so these
11 people down here can hear you.

12 A. To a company in Orangeburg.

13 Q. Okay, so you and Ms. Squires took Doug Ferguson
14 for a job interview in Orangeburg?

15 A. Yes.

16 Q. And after that job interview was over where
17 did ya'll go?

18 A. To Theresa's trailer.

19 Q. Where was that located?

20 A. In North.

21 Q. In North, South Carolina?

22 A. Uh-huh.

23 Q. And what did ya'll do when you got back to
24 the trailer?

25 A. Well, we left Doug there and we went on to

Ms. Sanders-Direct by Solicitor

1235

1 my house.

2 Q. Ya'll dropped Doug off at the trailer and
3 you went on to your house, right?

4 A. Yeah.

5 Q. And about what time was it when you left Doug
6 at that trailer in North on May the 28th of last year?

7 A. I think somewhere between 5 and 6, I'm not
8 sure of the time.

9 Q. Did you have any further contact with him
10 that evening?

11 A. Yes, I spoke with him on the phone.

12 Q. Okay. One time or more than one?

13 A. More than once.

14 Q. And do you know about what time the last phone
15 call was?

16 A. I think around 6, I'm not sure.

17 Q. Around 6 p.m.?

18 A. Yes, sir.

19 Q. And did you ever see him after that?

20 A. No.

21 SOLICITOR: Please answer any questions Mr.
22 Sims may have for you.

23 MR. SIMS: No questions, Your Honor.

24 THE COURT: You may step down.

25 SOLICITOR: Call Robert Googe.

Mr. Googe-Direct by Solicitor

1236

1 ROBERT GOOGE, AFTER FIRST
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY SOLICITOR:

4 Q. Give the jury your full name, please.

5 A. Robert Russell Googe.

6 Q. Mr. Googe, where do you live now?

7 A. [REDACTED], Bamberg, South Carolina.

8 Q. And did you know Doug Ferguson?

9 A. Yes, sir.

10 Q. Back in May of last year, how long had you
11 known Doug Ferguson?

12 A. About a month.

13 Q. And I want to call your attention to Thursday,
14 May 28, 1998, and ask whether or not you recall being
15 at Theresa Squires' house.

16 A. Yes, sir.

17 Q. Is that a house or a trailer?

18 A. Trailer.

19 Q. Mobile home, okay. And around 4:00 or so,
20 was Doug Ferguson there?

21 A. Uhm --- yes, sir, I think so.

22 Q. Was he there that evening, that afternoon?

23 A. Uhm --- yeah.

24 Q. And while you and Doug Ferguson were at Theresa
25 Squires' house, could you state whether or not you saw

Mr. Googe-Direct by Solicitor

1237

1 him using the telephone?

2 A. Yes, sir, he used the phone.

3 Q. Now around 6:30 p.m. or somewhere that evening,
4 what did you observe as far as Doug Ferguson?

5 A. He just told me to walk up to the end of the
6 road with him 'cause somebody was picking him up and
7 then I walked up and I seen him get in the truck and
8 leave.

9 Q. Do you recall what kind of truck it was?

10 A. It was a blue --- I seen the front of it as
11 it was coming, it was a blue, I don't know what model
12 it was.

13 Q. And could you see how many people were in
14 the truck when it came and picked Doug Ferguson up?

15 A. Just one person.

16 Q. Could you tell if it was a man or a woman?

17 A. A female.

18 Q. Okay, and Doug Ferguson got in the truck?

19 A. Well, I didn't actually --- well, yes, but
20 I didn't actually see him get inside the truck.

21 Q. Did you walk out there to meet the truck with
22 him and you saw the truck?

23 A. Uh-huh, well, as the truck was coming up,
24 I left and went.

25 Q. And did you ever see Doug Ferguson again?

Mr. Googe-Cross by Mr. Sims.

1238

1 A. No, sir.

2 SOLICITOR: Thank you. Answer any questions
3 Mr. Sims may have.

4 THE COURT: Mr. Sims.

5
6 CROSS-EXAMINATION

7 BY MR. SIMS:

8 Q. Just one question. The only person in that
9 truck was a female, is that correct?

10 A. Yes, sir.

11 MR. SIMS: That's all I have.

12 THE COURT: You may step down. Call your next
13 witness.

14 SOLICITOR: Call Jack Coleman.

15
16 JACK COLEMAN, AFTER FIRST
17 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION BY SOLICITOR:

19 Q. Mr. Coleman, you testified in the guilt phase.
20 Were you one of the Orangeburg County detectives that
21 on May 28, 1998 that went to 609 Rivelon Road for the
22 purpose of serving an arrest warrant on Pattie Syphrette?

23 A. Yes, I was.

24 Q. And could you state whether or not you observed
25 Detective Emery Rush place Mrs. Syphrette under arrest?

Mr. Coleman-Direct by Solicitor

1239

1 A. Yes, I did.

2 Q. And where was she placed when she was arrested?

3 A. In Deputy Kinsey's car.

4 Q. And would you state whether or not Mr, Kinsey
5 advised you that Mrs. Syphrette wanted to talk to you?

6 A. Yes, he did.

7 Q. What did you do then?

8 A. I exited the house and Detective Rush was
9 still in the house, along with Detective Wigfall, Sgt.
10 Walters and Brian, a young child, and proceeded to the
11 patrol vehicle which she was in the front seated handcuffed.
12 I got in the car and she told me, she says ---

13 MR. SIMS: Objection, Your Honor, as to what
14 she told him.

15 SOLICITOR: Your Honor, tis' Ras Gestae, excited
16 utterance.

17 MR. SIMS: This is a --- Your Honor, we need
18 to approach here.

19 THE COURT: All right.

20 (WHEREUPON, A bench conference was held out
21 of the hearing of the jury and the court reporter.)

22 Q. Mr. Coleman, without relating specifically
23 what Mrs. Syphrette told you, did you have a brief conversa-
24 tion with her?

25 A. Yes, I did.

Mr. Coleman-Direct by Solicitor

1240

1 Q. What did you do after that conversation?

2 A. I exited the vehicle and we didn't have portable
3 radios with us so I had to yell that there was another
4 person in the house, Stokes was in the house with a
5 dead body.

6 SOLICITOR: Please answer any questions Mr.
7 Sims may have for you.

8 THE COURT: Mr. Sims.

9
10 CROSS-EXAMINATION

11 BY MR. SIMS:

12 Q. How long had you all been in that house?

13 A. Approximately five minutes.

14 Q. You had already been in the house for five
15 minutes and how many people were in there?

16 A. Myself, --- to begin with, myself when we
17 entered the house, there was a gun that was on the chair
18 and we went in, Pattie Syphrette came out of the house
19 where she was placed under arrest. Myself and Detective
20 Rush went into the house and when we saw the gun Detective
21 Wigfall came in and Brian was in there, the small child.
22 And we knew he was in the house so we wanted to make
23 sure he was okay.

24 Q. And that's Brian?

25 A. That's right.

Mr. Coleman-Cross by Mr. Sims

1241

1 Q. The small child?

2 A. That's correct.

3 Q. And all of the officers were okay, isn't that
4 correct? All the police officers when you went back
5 in and said that somebody else was in the house.

6 A. Excuse me?

7 Q. All of the police officers who were there
8 were still okay.

9 A. That's correct.

10 Q. There was nothing wrong, nobody had threatened
11 them and nobody had tried to hurt any of them.

12 A. That's correct.

13 MR. SIMS: That's all I have, Your Honor.

14 SOLICITOR: Nothing further.

15 THE COURT: You may step down.

16 SOLICITOR: Call Clark Whetstone.

17

18 CLARK WHETSTONE, AFTER FIRST

19 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY SOLICITOR:

21 Q. Mr. Whetstone, you testified in the guilt phase
22 that you arrested Sammie Stokes in a closet, I believe?

23 A. No, sir.

24 Q. I'm sorry, under the bed.

25 A. Yes, sir.

Mr. Whetstone-Direct by Solicitor

1242

1 Q. And what other observations did you make inside
2 the house at 609 Rivelon Road other than seeing Stokes
3 under the bed?

4 A. Located in the rear bedroom of the residence
5 was the deceased body of Douglas Ferguson. He was located
6 with a blanket over his body in the middle of the floor.

7 Q. And would you state whether or not you removed
8 the blanket to observe what was underneath it?

9 A. I did not.

10 Q. Were you present when someone did?

11 A. Yes, I was.

12 Q. What did you observe?

13 A. I observed his body. He only had on a pair
14 of jeans, socks, he was duct taped, bound at the feet,
15 the hands, the chest area and his neck to the top of
16 his head. The only thing you could see was his hair
17 sticking out. He was completely covered in duct tape.

18 Q. All right, and would you state whether or
19 not the Sheriff's Office called the SLED forensic unit
20 in?

21 A. Yes, we did.

22 Q. And were you present when the SLED agents
23 arrived?

24 A. Yes, I was.

25 Q. And did anybody disturb the crime scene or

Mr. Whetstone-Direct by Solicitor

1243

1 move anything or disturb any evidence between that time ---
2 between the time you arrived and the time the SLED agents
3 arrived?

4 A. No.

5 Q. And did SLED Agent Brett Baker arrive to process
6 the crime scene?

7 A. Yes, he did.

8 SOLICITOR: Please answer any questions that
9 Mr. Sims may have.

10 MR. SIMS: No questions, Your Honor.

11 THE COURT: You may step down.

12 SOLICITOR: Call Brett Baker.

13
14 BRETT BAKER, AFTER

15 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY SOLICITOR:

17 Q. So you are Brett Baker?

18 A. Yes, sir.

19 Q. And where are you employed?

20 A. I'm employed with the South Carolina Law Enforce-
21 ment Division, commonly known as SLED and I work specifically
22 in the latent print crime scene department.

23 Q. I want to call your attention to May 28th
24 and ask whether or not in the course of your duties
25

Mr. Baker-Direct by Solicitor

1244

1 did you go to 609 Rivelon Road in Orangeburg?

2 A. Yes, sir, I did.

3 Q. And about what time did you receive the call
4 to come to Orangeburg?

5 A. Again, I will have to refresh from my notes.

6 Q. Okay.

7 A. Approximately 8:22 p.m.

8 Q. And about what time did you arrive in Orangeburg?

9 A. My arrival was 9:35 p.m., the same night.

10 Q. Was the crime scene secured when you got there?

11 A. Yes, sir, it was.

12 Q. What observations, just in general, did you
13 make when you arrived at 609 Rivelon Road?

14 A. My general observations it was a single story
15 home, a wood exterior. There were several cars parked
16 outside the home. Again, the home was secured by the
17 Orangeburg County Sheriff's Office. The home, as I
18 would describe it, was pretty much in shambles. It
19 was disorganized, some trash, there were some holes
20 in the floors, you could see the ground and there was
21 even a room with dog feces piled up in a room and it
22 looked like in one room there had been a possible struggle
23 at some point. Bed overturned, that sort of thing.

24 Q. Did you observe a dead body?

25 A. Yes, sir, I did, in the back room.

Mr. Baker-Direct by Solicitor

1245

1 Q. And did you bring a camera with you?

2 A. Yes, sir, I did.

3 Q. Did you take some photographs?

4 A. Yes, sir, I have.

5 Q. I hand you State's #16 and #17 which Dr. Sexton
6 has already identified and placed into evidence and
7 I ask if you took those photographs of Doug Ferguson's
8 body?

9 A. Yes, sir, these are enlargements of the photo-
10 graphs that I had taken that night.

11 Q. And I'm going to hand you another group of
12 photographs and ask you to look at these and tell me
13 whether or not you took those that night and if so,
14 if they accurately depict what you observed on May the
15 28th of last year.

16 A. Yes, sir, these are pictures of various items
17 as well as the interior of the home there on Rivelon
18 Road.

19 Q. Okay, now, did something happen to those pictures
20 as far as the film or the development?

21 A. Yes, sir. Unfortunately we do not process
22 color film at SLED in-house. We have a contract with
23 an outside firm who basically their chemicals and the
24 process was messed up and you can see you have a blotch
25 or some slight discoloration or light colored spots

Mr. Baker-Direct by Solicitor

1246

1 on the film. But it is an accurate representation
2 of the items in the home. And again, this was something
3 that occurred in the process and it couldn't be corrected
4 so the negatives themselves would have these spots on
5 them.

6 Q. Okay.

7 SOLICITOR: I would offer these into evidence.

8 MR. SIMS: No objection to those, Your Honor.

9 THE COURT: In, without objection.

10 (WHEREUPON, Ten photographs of the Syphrette
11 house were entered and marked as State's exhibit #30,
12 31, 32, 33, 34, 35, 36, 37, 38, and 39.)

13 MR. SIMS: Those were --- I made a mistake
14 on that. Those were the ones in which I had interposed
15 an objection to initially and I still maintain that
16 objection.

17 THE COURT: All right.

18 Q. Mr. Baker, I'm going to put these on the monitor
19 and if you need to ---

20 THE COURT: Wait a minute, approach.

21 (WHEREUPON, A bench conference was held out
22 of the hearing of the jury and the court reporter.)

23 THE COURT: I'm going to allow them in subject
24 to the prior objection but the defense, you don't have
25 any objection as far as the flaw that was mentioned

1 in the process?

2 MR. SIMS: No, sir, I have no objection as
3 to that flaw.

4 Q. Mr. Baker, I'm going to put these on the monitor
5 and here's a pointer over here and if you would, just
6 tell the jury what those pictures show.

7 A. This is the interior of the home located on
8 Rivelon Road. Let me get my bearings here.

9 Q. Would it help if you looked at the picture
10 first and then hand it to Mr. Murphy?

11 A. Okay. There's two entrances to the home.
12 Behind this wall here is the kitchen area and you have
13 an entrance to the home behind there, this is the door,
14 the side entrance to the home. Here you have a fan.
15 Here's a chair. To the left of the chair as we look
16 at it is a hallway that leads to the back bedroom where
17 the body was found. Here on the chair was a K-mart
18 plastic bag with various items, a .38 special gun as
19 well as a revolver and other items found in this chair.

20 Q. State's #31.

21 A. Again, this is showing a little more to the
22 left of the chair. You have the couch and again the
23 hallway that leads down to where the body was found.

24 Q. State's #32.

25 A. Again, this is the chair, again, with the

Mr. Baker-Direct by Solicitor

1248

1 bag. Again you can see the various spots on the picture
2 in the process. Those are again flaws in the actual
3 development. This is the close-up or medium range shot
4 of the K-mart bag.

5 Q. State's #33.

6 A. These are the contents of the bags as I found
7 them. I had to actually pull the contents out so we
8 could photograph what was in those bags. Again, there
9 was a holster with a .38 revolver, there were 44 cartridges
10 found a plastic sleeve or package that you receive ammunition
11 in. There was various torn, like latex rubber gloves,
12 surgical type gloves, as well as some duct tape pieces
13 of duct tape that was found in that bag.

14 Q. #34.

15 A. This would be one step to the prior photograph,
16 being that I photographed it --- it's a normal procedure
17 when photographing a room that you get a medium range
18 shot and I do a photograph showing the contents of the
19 bag prior to me pulling the stuff out with the previous
20 photograph.

21 Q. State's #35.

22 A. This is as we would sit in that chair that
23 had the K-mart bag and the other items. If you were
24 sitting in the chair, directly in front of you and to
25 your right is a coffee table that's in front of that

1 couch and, again, the hallway is to our right as we
2 look at this picture. This is duct tape, this is a
3 serrated blade knife that was found on the end of that
4 coffee table.

5 Q. State's #36.

6 A. To the right of the couch basically inbetween
7 the chair and the couch you have a end table. Up under
8 the end table was a trash waste basket and inside that
9 basket there was a packaging, a ten pack for latex gloves
10 that we found in the trash can. So that's next to the
11 couch, in the same proximity of the bag.

12 Q. State's #37.

13 A. You can see some of the blotches from the
14 processer. This is some type of identification that
15 was found in a men's wallet that was on the end table
16 next to the couch and under this end table was the waste
17 basket that had the latex gloves in it and this was
18 an identification of a Mr. Ferguson.

19 Q. State's #38.

20 A. This, again, if I was looking at the couch,
21 I would have the chair to my right, this is at the end
22 of the hallway is a bedroom. This is as we found the
23 room when we arrived. Mr. Ferguson's body was found
24 under this blanket in the back bedroom.

25 Q. In the middle of the blanket, what is that?

Mr. Baker-Direct by Solicitor

1250

1 A. It appears to be some type of men's ball cap,
2 baseball cap.

3 Q. Is that where you found it when you entered
4 the room?

5 A. Yes, sir, this is, again, we photographed
6 it as we find it when we arrive on the scene before
7 anything is moved. And then we would photograph it in
8 stages as we undercover or basically like peeling an
9 onion. You would photograph each layer as you go.

10 Q. State's #39.

11 A. Again, this is just at another angle and the
12 hat and this is the blanket in that bedroom that was
13 covering the body.

14 Q. All right, sir. Mr. Baker, you can have a
15 seat back up there. As part of your processing the
16 crime scene, did you take custody of certain items that
17 you thought might be of evidentiary value?

18 A. Yes, sir, as the lead forensic expert or
19 investigator on the scene, my job is to document and
20 collect any and all physical evidence which may be related
21 to the crime or crimes committed. So any physical evidence
22 that's on the scene I would take custody of that evidence
23 and if it's potential evidence I may take custody and
24 deliver it to the State Law Enforcement Division. Various
25 items I would send to its respective departments. Some

Mr. Baker-Direct by Solicitor

1251

1 items I would keep and actually do examinations on myself.

2 Q. Let me hand you this and ask whether or not
3 this appears to be the roll of duct tape that is shown
4 in one of those pictures that was on the table.

5 A. Yes, sir, it is. It's in the same packaging
6 and I would have returned it to the agency in Orangeburg
7 County. It's got the case number, the SLED item number
8 and then my initials also.

9 SOLICITOR: I would offer this, your Honor.

10 MR. SIMS: Your Honor, this is the area where
11 I would interpose my objections.

12 THE COURT: It's in, subject to the prior
13 objections.

14 (WHEREUPON, Duct tape was entered and marked
15 as State's exhibit #40.)

16 Q. There's a photograph of the South Carolina
17 ID card of Doug Ferguson that you showed is, is that
18 that card?

19 A. Yes, sir, this would be one in the same.

20 Q. All right, and that was found at the house
21 at Rivelon?

22 A. Yes, sir, that was found on the end table
23 next to the couch.

24 SOLICITOR: We would offer this, Your Honor.

25 THE COURT: In, subject to the prior objection.

Mr. Baker-Direct by Solicitor

1252

1 (WHEREUPON, ID card of Doug Ferguson was entered
2 and marked as State's Exhibit #41.)

3 Q. I hand you this and ask you if you can identify
4 it.

5 A. Yes, sir, this would be the K-mart bag that
6 was found on the chair as you come into the room and
7 it had the revolver in it, the latex gloves as well
8 as the cartridges .

9 SOLICITOR: We would offer this into evidence.

10 THE COURT: In, subject to the previous objections.

11 (WHEREUPON, K-mart bag was entered and marked
12 as State's exhibit #42.)

13 Q. And what are those?

14 A. These would be the other items, the latex
15 gloves that were found in the K_mart bag and the
16 discoloration is the chemical processing that I have
17 to do in the course of my job. As I said, they are not
18 the color that you would normally see latex gloves.

19 Q. For the record what was the condition of the
20 latex gloves as you observed them on May 28, 1998?

21 A. They were torn, bits and pieces of them removed
22 or missing. Again, they were that normal color, the
23 white milky color that you would normally associate
24 with a surgical or a latex type glove.

25 SOLICITOR: I would offer this, Your Honor.

Mr. Baker-Direct by Solicitor

1253

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MR. SIMS: Same objection, Your Honor.

THE COURT: In, subject to the previous objection.

(WHEREUPON, Latex gloves were entered and
marked as State's exhibit #43.)

MR. SIMS: Your Honor, may we approach?

THE COURT: Yes.

(WHEREUPON, A bench conference was held out
of the hearing of the jury and the court reporter.)

THE COURT: All right, Mr. Sims, all of the
items that are coming into evidence from this particular
scene are subject to your previous objections.

MR. SIMS: Thank you, Your Honor.

Q. Can you identify that?

A. Yes, sir, this is the box of cartridges that
were found in the K-mart bag on that chair.

Q. What caliber are those?

A. These are .38 caliber, .38 special caliber
ammunition.

SOLICITOR: We would offer this, Your Honor.

THE COURT: In, subject to the prior objection.

(WHEREUPON, Box of cartridges were entered
and marked as State's exhibit #44.)

Q. Can you identify the contents of this bag?

A. Yes, sir, this is the actual latex --- ten
package of latex gloves that you have seen in the

Mr. Baker-Direct by Solicitor

1254

1 photograph earlier that was laying in the waste basket.

2 MR. SIMS: Your Honor, as to the previous
3 exhibit, there is a specific objection to that also.
4 We would object to it also for its prejudicial effect
5 because --- and I don't know if I should argue this
6 before the jury --- I want to be able to be heard on
7 that piece of evidence, Your Honor.

8 THE COURT: Ladies and gentlemen of the jury,
9 if you would step back to your room for just a moment.
10 Do not discuss the case.

11 (WHEREUPON, Jury retired to the jury room and
12 the following proceedings were held in the absence of
13 the jury.)

14 MR. SIMS: Your Honor, the reason I wanted
15 to raise an specific objection to this is that in the
16 previous trial as I had noted to the Court, there was
17 the weapon that was found in this house and it was a
18 .38 caliber weapon and it was shown to a co-defendant,
19 Norris Martin, and he testified that that was not, in
20 fact, the gun that killed Connie Snipes. Now we have
21 cartridges of the caliber that have been identified
22 as being involved in the murder of Connie Snipes found
23 in a different area and a different crime scene being
24 put into this case and the prejudicial effect and the
25 jury has the opportunity to probably draw or attempt

Mr. Baker-Direct by Solicitor

1255

1 to draw a conclusion that this .38 caliber, there has
2 already been testimony about a .38 caliber weapon being
3 found and now we have .38 caliber bullets and they have
4 get the assumption or run the risk of making the assumption
5 or the jury making the assumption that that was the
6 gun, that these are the bullets that killed Connie Snipes.

7 THE COURT: Why don't ya'll stipulate that
8 it's not the gun?

9 SOLICITOR: Your Honor, I don't know whether
10 it is the gun or isn't the gun. Norris Martin said
11 that it was not the gun and ballistics says that it's
12 not inconsistent but there's not enough land and groves
13 for them to say that it is.

14 THE COURT: Why can't ya'll stipulate that
15 Norris Martin said that.

16 SOLICITOR: I guess we could, Your Honor,
17 we hadn't discussed that. But in regard to the ammunition,
18 it's in the plastic K-mart bag and it's got Sammie Stokes
19 fingerprints on that bag and inside the bag is a box
20 of ammunition that's got Pattie Syphrette's fingerprints
21 on it and I'm sure that if I ask Mr. Baker about Sammie
22 Stokes' fingerprints on the bag he would say, well isn't
23 it true that Pattie Syphrette's fingerprints are on
24 the ammunition, and I didn't want to withhold that
25 information from the jury.

Mr. Baker-Direct by Solicitor

1256

1 THE COURT: I've got a question. I saw a
2 pistol in the photographs and you weren't intending
3 to introduce the pistol, were you?
4

5 SOLICITOR: I asked Mr. Sims if he would object
6 to the pistol coming in and he said that he would so
7 I was going to withdraw it but --- the photographs
8 came in with just a general objection so the jury knows
9 that there was a pistol in the bag.

10 THE COURT: Right. You are going to have
11 to help me with this now. In those pictures did it
12 show that box of ammunition?

13 SOLICITOR: Yes, sir.

14 MR. SIMS: Yes, sir.

15 THE COURT: Okay, that helps me. I'm going
16 to overrule your objection because it's already in the
17 photographs. All right, bring the jury in.

18 (WHEREUPON, The jury returned to the courtroom
19 and the following proceedings were held in their presence.)

20 THE COURT: All right, continue, Solicitor.

21 SOLICITOR: Your Honor, when we broke I was
22 getting ready to offer the latex glove bag into evidence.

23 THE COURT: Yes, sir, it's in, subject to
24 the prior objection.

25 (WHEREUPON, Glove bag was entered and marked
as State's exhibit #45.)

Mr. Baker-Direct by Solicitor

1257

1 Q. Mr. Baker, the following day which would have
2 been May 29, 1998, did you attend Doug Ferguson's autopsy
3 done by Dr. Sexton in Newberry?

4 A. Yes, sir, I did.

5 Q. And were you present when the tape was removed
6 off Mr. Ferguson's face and body?

7 A. Yes, sir, I helped personally remove that
8 tape off of the body.

9 Q. And would you state whether or not you took
10 possession of that tape once it was removed from Mr.
11 Ferguson's body?

12 A. Yes, sir, I took possession of that tape and
13 kept it with me until I got back to the State forensic
14 laboratory where it was housed in my evidence locker.

15 Q. And I'm going to hand you a box that contains
16 several plastic containers and I'm going to ask you
17 if you can identify those.

18 A. Yes, sir, these are the various bags that
19 contain the various pieces of duct tape off the different
20 areas of Mr. Ferguson's body.

21 Q. Okay, did you separately label the tape from
22 the different areas?

23 A. Yes, sir.

24 Q. Okay, if you could just take them one at a
25 time and identify the area.

Mr. Baker-Direct by Solicitor

1258

1 A. I may have to refer to my notes just for a
2 second.

3 Q. All right.

4 A. This piece here is actually just miscellaneous
5 duct tape that was found in the plastic bag. This item
6 here ---

7 Q. That was found inside the plastic K-mart bag?

8 A. That is correct, that particular piece was
9 found inside the K-mart bag.

10 SOLICITOR: We would offer this, Your Honor.

11 THE COURT: It's in, subject to the prior
12 objection.

13 (WHEREUPON, Duct tape found in the K-mart
14 bag was entered and marked as State's exhibit #46.)

15 Q. This was found in the bag with the gloves,
16 is that correct?

17 A. That is correct. This --- State's exhibit
18 #67 here is the duct tape that was removed from around
19 Mr. Ferguson's head, neck and face area.

20 SOLICITOR: We would offer this, Your Honor.

21 THE COURT: In, subject to the prior objection.

22 (WHEREUPON, Duct tape from around Mr. Ferguson's
23 head was entered and marked as State's exhibit #47.)

24 Q. What about this one?

25 A. State's exhibit #64 is the duct tape that

Mr. Baker-Direct by Solicitor

1259

1 was removed from around Mr. Ferguson's feet.

2 SOLICITOR: I would offer this.

3 THE COURT: In, subject to the prior objection.

4 (WHEREUPON, Duct tape removed from Mr. Ferguson's
5 feet was entered and marked as State's exhibit #48.)

6 Q. This one.

7 A. State's exhibit #65 is gray duct tape that
8 was removed from around Mr. Ferguson's hands.

9 SOLICITOR: Offer this.

10 THE COURT: In, subject to the prior objection.

11 (WHEREUPON, Duct tape removed from Mr. Ferguson's
12 hands was entered and marked as State's exhibit #49.)

13 A. State's exhibit #66 here would be or is the
14 duct tape that was removed from around Mr. Ferguson's
15 upper body/arms. In the photograph, again, he had duct
16 tape that was wrapped around his wrists, his feet, his
17 head and then around his arms, basically securing his
18 arms to the side of his body.

19 SOLICITOR: I would offer this, Your Honor.

20 THE COURT: In, subject to the prior objection.

21 (WHEREUPON, Duct tape removed from Mr. Ferguson's
22 upper body and arms was entered and marked as State's
23 exhibit #50.)

24 Q. What training have you had in fingerprint
25 comparison?

Mr. Baker-Direct by Solicitor

1260

1 A. Well, I've ---

2 MR. SIMS: Your Honor, I would stipulate his
3 qualifications as a fingerprint expert.

4 THE COURT: The defense stipulates to the
5 witness' being qualified in fingerprint analysis, is
6 that correct?

7 MR. SIMS: Yes, sir.

8 Q. In the course of your duties in working on
9 this case, could you state whether or not you obtained
10 the known fingerprints of several individuals, including
11 Pattie Syphrette, Sammie Louise Stokes and Faith Lapp?

12 A. Yes, sir, I did.

13 Q. And did you attempt to lift latent fingerprints
14 off of any of these items of evidence that you have
15 identified that have been put into evidence this afternoon?

16 A. Yes, sir, I did.

17 Q. And were you able to lift any readable prints
18 off of any of those items?

19 A. Yes, sir, I did have identifiable prints developed
20 on various items.

21 Q. And did you then compare them to the known
22 prints of Sammie Louis Stokes, Pattie Syphrette and
23 Faith Lapp?

24 A. Yes, sir, I did.

25 Q. All right, I want to call your attention to

Mr. Baker-Direct by Solicitor

1261

1 the K-mart bag, let me see if I can find that, State's
2 #42 and ask whether or not you lifted any prints off
3 of that?

4 A. Yes, sir, I did. There were two fingerprints
5 that were developed and identifiable fingerprints developed
6 on this K-mart bag and what I mean by developed, fingerprints
7 are left behind in greases and oils and sweat and you
8 touch an item, your fingerprints transfer much like
9 an inked rubber stamp would, if you would ink a stamp
10 and place it on a piece of paper. The ink transfers
11 the image of that stamp. The sweat transfer the image
12 of your fingerprints on to items.

13 Again, it was developed using a means called
14 black powder which most of us may be familiar with from
15 TV. You see them going to a little can with black powder.
16 So the prints were developed on here with black powder
17 technique, yes, sir.

18 Q. And ---

19 A. And, again, that's where the color just ---
20 the color distortion on the bag.

21 Q. Whose prints did you identify on that bag?

22 A. There were two individual's prints identified
23 on this K-mart bag. One of them being Pattie Syphrette
24 and the other being Sammie Stokes.

25 Q. And did you prepare an enlargement of the

Mr. Baker-Direct by Solicitor

1262

1 latent print and the known print of Sammie Stokes?

2 A. Yes, sir, I did.

3 Q. Do you have that with you?

4 A. Yes, sir. This is a --- this is a enlargement
5 for demonstrative purposes or for court demonstrations
6 of the actual latent as well as the actual known inked
7 print of Mr. Stokes.

8 SOLICITOR: I would go ahead and offer this
9 at this time.

10 MR. SIMS: Same objection, Your Honor.

11 THE COURT: In, subject to prior objections.

12 (WHEREUPON, Fingerprint card of Mr. Stokes
13 was entered and marked as State's exhibit #51.)

14 Q. Okay, it's now been marked as State's #51,
15 Mr. Baker, and if you would, demonstrate what that is
16 to the jury.

17 A. Okay, again, to give you some brief background
18 on fingerprints. A latent fingerprint, again, is that
19 fingerprint that's developed on a piece of evidence.
20 Latent meaning hidden, a Latin root word meaning hidden.

21 So oftentimes when your fingerprints are left
22 behind in greases and oils, it's not visible to the
23 human eye when you walk up and look at it. So it takes
24 some powder or some other chemicals to develop that
25 print so you can visually see it with the human eye.

Mr. Baker-Direct by Solicitor

1263

1 Typically after developing that print it's either photographed
2 or lifted with lift tape, basically like clear scotch
3 tape and then it's transferred to a white card. At which
4 time if we have a suspect and we have the ability to
5 have any standard, that is inked fingerprints standards,
6 and we will compare those fingerprints to the unknown
7 fingerprint that was developed.

8 In this case, this is the inked finger of #2
9 right index finger of Mr. Stokes. This is the latent
10 fingerprint that was developed on the K-mart bag. Again,
11 black in color because of the black powder we use to
12 develop the print.

13 What you see on here numbered one through twelve
14 is what we refer to as identifying characteristics.
15 If we all look at our fingerprint you will notice that
16 there's raised portions of skin and recessed portions
17 of skin, most like a rubber stamp. The raised portions
18 of skin don't just continue in a straight line. They
19 are oftentimes broken, they are oftentimes fragmented
20 to one or more ridges and so you may have a forking
21 ridge, one ridge breaks into two or more ridges. At
22 those breaks or those stops, those are the things that
23 make our fingerprints unique to us. In other words,
24 my fingerprint on the number one right thumb is different
25 than any other finger on any of my ten fingers. And

Mr. Baker-Direct by Solicitor

1264

1 that one thumb is different than any of ya'll's fingers.
2 So fingerprints are unique. Today the only most positive
3 means of identifying any individual is fingerprints.
4 So every person's fingerprint is unique.

5 So we have Mr. Stokes' fingerprint and we have
6 charted those things that make his fingerprint unique
7 to him. Again, one here, the line is pointed to what
8 we call a fork in the ridge . I'll move down so everyone
9 can see. The one over here is pointing to that same
10 ridge in the latent. And this is not the actual size
11 of the finger. It's about 8½ times larger than normal.
12 We enlarged it so we could visually see it without looking
13 under a magnifying glass or anything like that. So
14 that's pointed to a fork in the ridge. If you skip
15 over to the next ridge that's listed as number two you
16 will notice, you will skip one ridge, get to the next
17 and you will have what is called another forking ridge.
18 If you follow the inside leg of that it comes to a third
19 forking ridge which is listed as number three. And,
20 again, you can chart that out and you will get the same
21 number of ridges from three to four on both sides and
22 you will actually get to the same identifying characteristics.

23 Now here at nine, I want to say six and five
24 are pointing to the end of what we refer to the short
25 ridge. It's a ridge that's short. So five and six ---

Mr. Baker-Direct by Solicitor

1265

1 Q. So based on the similarities that you are pointing
2 out there, you have given some examples there but there
3 are how many of them ---

4 A. There's twelve charts, in excess of twelve
5 characteristics present in the ---

6 Q. And can you positively identify that latent
7 print from the bag as that of Sammie Stokes' fingerprint?

8 A. Without a doubt exclusive of all other individuals
9 in the world this was and is Sammie Stokes' fingerprint
10 that was developed on that K-mart bag.

11 Q. And again, what were the contents of the bag
12 when you observed it?

13 A. The contents of the bag were a .38 caliber
14 revolver, a box of cartridges containing 44 .38 caliber
15 ammunition, pieces of latent gloves, pieces of duct
16 tape were found in that K-mart bag.

17 Q. State's #44 is the ammunition box. Were you
18 able to lift any readable prints off of that?

19 A. Yes, sir, i was.

20 Q. Whose did you match those to if anybody?

21 A. If you will indulge me one second, please.
22 There was only one fingerprint identified off this box
23 and that was identified to Mrs. Pattie L. Syphrette.

24 Q. And item State's #50 which is SLED item #33
25 being the duct tape and what portion of Mr. Ferguson's

Mr. Baker-Direct by Solicitor

1266

1 body did that come off of?

2 A. This is the duct tape that was removed from
3 around Mr. Ferguson's arms/upper body, the portion of
4 tape that was securing his arms to his side.

5 Q. And were you able to lift any prints off of
6 that?

7 A. Yes, sir, i was able to develop a latent fingerprint
8 on that and that was identified to Mrs. Syphrette also,
9 Pattie L. Syphrette.

10 Q. What's the SLED item number for the tape that
11 you removed from Mr. Ferguson's head?

12 A. It was item #34, SLED's item #34.

13 Q. Which is State's #47. Were you able to lift
14 any readable prints off of that?

15 A. No, sir, there were no identifiable prints
16 developed off of this section of tape.

17 SOLICITOR: Mr. Baker, please answer any questions
18 Mr. Sims may have for you.

19 THE COURT: Mr. Sims.

20
21 CROSS-EXAMINATION

22 BY MR. SIMS:

23 Q. Agent Baker, on none of the duct tape do you
24 have any fingerprint of Mr. Stokes, is that correct?

25 A. That is correct.

1 Q. As a matter of fact, the only fingerprint that
2 you have was on that K-mart bag, is that correct?

3 A. That is correct.

4 Q. You've identified State's #44, the fingerprint
5 that was found on the ammunition box here, was that
6 of Pattie Syphrette.

7 A. That is correct, yes, sir.

8 Q. The only fingerprint that was found on the
9 duct tape was that of Pattie Syphrette.

10 A. That is correct.

11 Q. Okay.

12 A. However, there were other prints developed,
13 just not identifiable prints.

14 Q. Not identifiable prints.

15 A. That's correct.

16 Q. But the fact of the matter is that the only
17 fingerprint that you found on any duct tape that you
18 can identify was that of Pattie Syphrette.

19 A. That is correct.

20 Q. Can you again describe that house in terms
21 of --- or draw a diagram of that house on the board
22 for us?

23 A. If need be, I could draw a rough diagram of the home,
24 yes, sir.

25 Q. If you would do that for me, please.

Mr. Baker-Cross by Mr. Sims

1268

1 A. And if I could refer to my original notes,
2 I may have a drawing or should have a sketch of the
3 home.

4 THE COURT: Is there any way that we could
5 use that sketch, otherwise we are going to need to
6 preserve what he is drawing.

7 MR. SIMS: We can --- let me see that.

8 A. It may fit up under the monitor, I'm not sure.

9 Q. Now can you tell me again so we can get an
10 understanding of where that chair was.

11 A. It was right here. Again, there was two basic
12 ways to enter the home, one through the side door, one
13 through what I would consider the front door, Rivelon
14 Road being down here where Gold Star is written. This
15 is the kitchen area, kinda kitchenette area, this is
16 a partitioned wall, maybe 4 foot high. On the other
17 side of that wall in the living room area is the chair
18 that contained the K-mart bag and the various items,
19 the gun, the duct tape, as well as latex gloves and
20 the ammunition box.

21 Q. Okay.

22 A. Further describing the home, here is the coffee
23 table and, again, I may note that this drawing is not
24 to scale so it's, you know, it's not going to be, you
25 know, one foot equals one inch or anything like that.

1 Q. Right.

2 A. You have the coffee table, which on the end
3 of the coffee table was the duct tape and a knife. You
4 have the sofa and at the end of the sofa was an end
5 table. Under the end table was a waste basket that
6 contained the latex gloves. On top of the end table
7 was a men's wallet which contained the Department of
8 Highway Transportation identification card of Mr. Ferguson.
9 At the end of this hallway, Mr. Ferguson's body right
10 here represented here. And you had another bedroom,
11 you had various storage areas, a bathroom.

12 Q. Where is that bathroom, please?

13 A. This would be the bathroom here.

14 Q. And the door opens which way?

15 A. To the right.

16 Q. Right here, going in?

17 A. Yes, sir, the bathroom you would open the
18 door and would be referred to, what's referred to as
19 a right hung door.

20 Q. Okay, now what is this area back here, another
21 storage area?

22 A. It is another storage area back in this area
23 is where dog feces was piled up in the middle of the
24 floor.

25 Q. And this room here?

Mr. Baker-Cross by Mr. Sims

1270

1 A. This was a --- it looked like at one point
2 this entrance like it could have been to a porch that
3 was separated by a small partition. It looks like another
4 little room, it had the roof sagging and it was another
5 storage area, there were boxes and what have you stored
6 in that room.

7 Q. Now this here was the partially partitioned
8 wall, it wasn't all the way up to the ceiling, is that
9 what you're saying?

10 A. Correct, parts of it was not all the way up
11 to the ceiling. You could come on both sides of it
12 and to the best of my recollection I do not believe
13 that was partitioned all the way up. It would be almost
14 like a bar type wall where you have posts and the panel
15 such as this and you would have the wall and it would
16 stop approximately 3½ or 4 foot high.

17 Q. Now there was a serrated knife also found
18 on the coffee table I believe, is that correct?

19 A. Yes, sir, that's correct.

20 Q. Was that serrated knife processed for finger-
21 prints?

22 A. Yes, sir, it was.

23 Q. Were there any fingerprints identified on
24 that knife?

25 A. There were no identifiable prints identified

Mr. Baker-Cross by Mr. Sims

1271

1 on that knife, no, sir.

2 Q. Was that knife also processed to determine
3 whether or not there was any residue from duct tape
4 on it?

5 A. I do not believe there was any examination
6 conducted to tell if there was duct tape residue present
7 on that knife, no, sir.

8 MR. SIMS: That's all we have, Your Honor.

9
10 RE-DIRECT EXAMINATION BY SOLICITOR:

11 Q. One question, Mr. Baker, if a person is wearing
12 latex gloves, would they leave fingerprints?

13 A. No, sir, you would not leave fingerprints
14 if you had on latex gloves. Again, that would cover
15 the raised portions of skin. So if you touched an item,
16 your fingerprints couldn't transfer through latex to
17 an item.

18 SOLICITOR: Thank you, that's all I have.

19
20 RE-CROSS-EXAMINATION

21 BY MR. SIMS:

22 Q. In follow up to that, if a person had on those
23 latex gloves, isn't there a method to determine whether
24 or not those gloves came from a specific person? Could
25 you not do DNA analysis on those gloves to determine

Mr. Baker-Cross by Mr. Sims

1272

1 whether or not a person, because if you're wearing those
2 gloves you're going to sweat, is that correct, would
3 you agree with that?

4 A. That is correct.

5 Q. And would you not be able to do an analysis
6 on those gloves to determine whether or not there was
7 any residue or any matter that may have been able to
8 be analyzed by DNA?

9 A. Not to my knowledge, not specifically for
10 DNA, no, sir.

11 Q. But for other purposes which may lead to
12 identification?

13 A. Sir, again you could process these gloves
14 to try to develop fingerprints and we did this. We
15 processed these gloves to try to develop prints on them
16 and, again, there were no identifiable prints. When
17 I mean no identifiable prints, I'm saying I can either --
18 I developed something where somebody touched but there's
19 not enough of those characteristics to conclusively
20 say it was Mr. Stokes, Mrs. Syphrette or any other person
21 had left it.

22 Q. In effect you're saying that there was nothing
23 on none of the gloves that you actually processed for
24 latent fingerprints, you could not say that any of those
25 gloves had been worn by Mr. Stokes because none of his

Mr. Baker-Cross by Mr. Sims

1273

1 fingerprints were on them?

2 A. That's correct, I neither could include or
3 exclude him because there were prints developed, just
4 not identifiable prints.

5 MR. SIMS: That's all I have, Your Honor.
6 Your Honor, I would like to get a copy of his diagram
7 of the house.

8 THE COURT: You want that put in as evidence?

9 MR. SIMS: Yes, sir.

10 THE COURT: Any objection?

11 SOLICITOR: No.

12 THE COURT: All right, Madam Court Reporter,
13 when we break here, if you would make a copy of that
14 and enter it into evidence.

15 COURT REPORTER: Yes, sir.

16 (WHEREUPON, Diagram of the house was entered
17 and marked as Defendant's exhibit #2.)

18 THE COURT: all right, are we ready to break
19 for the evening?

20 SOLICITOR: Whenever you are, Judge.

21 THE COURT: All right, I think we've had enough
22 for today. Remember, don't talk about the case or allow
23 anyone to talk to you about it and we will see you in
24 the morning at 9:30.

25 (WHEREUPON, Court was adjourned for the evening
and resumed the next morning. The following proceedings

1 were held in the absence of the jury.)

2 THE COURT: all right, are we ready to proceed?

3 SOLICITOR: State's ready, Your Honor.

4 MR. SIMS: Defense is ready, Your Honor.

5 SOLICITOR: Your Honor, I have a short witness
6 and then I would propose to call Clark Whetstone and
7 let him read the entire statement to the jury and Your
8 Honor has already ruled on it. I've provided Mr. Sims
9 with a copy of what we will be reading.

10 MR. SIMS: There is a part of the statement
11 which I would again point out to the Court that was
12 not --- that was left out and it was the last page,
13 on the past page of the statement and I'll read it to
14 the Court. The Solicitor, in redacting the statement,
15 stopped at :

16 " P.S. There was a bag in the chair with a
17 gun in it. Pattie said it was Fay's. I put my gloves
18 in that bag after we were finished. Patti had loaded
19 the gun when we came back from the store, but we never
20 used it (no more than look at it). Pattie did say
21 we had to get rid of it tonight."

22 Right after that he said, :

23 " Telling their family sorry would only make
24 them hate me more. Because saying sorry want bring
25 their loved ones back, it would only add more pain

1 hearing it from me. I will say this much, God is going
2 to bless them and help them make it through this. Without
3 a doubt, God is going to punish me for my part. And
4 there's no excuse because we all have choices in life."

5 That was a part of that statement and we would
6 ask that that be put in the statement.

7 SOLICITOR: Your Honor, I deleted that in
8 the proposed redaction because I felt like it injected
9 religion into the case and it's self-serving to that
10 extent and I just felt like it should be out.

11 MR. SIMS: Your Honor, it shows his state
12 of mind at the time and we've all --- as part of our
13 defense and we've already talked about the fact of him
14 being remorseful and that he has a conscience in this
15 matter. But this definitely shows and --- it does not
16 get into religion, it's simply a statement of what his
17 feelings were at that time and why he was making the
18 statement.

19 THE COURT: Detective Rush touched on that.
20 I'm going to allow that in.

21 SOLICITOR: Your Honor, that's not in the
22 copy that I've got and it would take me some time to ---
23 if I could have probably just ten minutes just to run
24 off that last page if it has to come in.

25 THE COURT: The Court will stand at ease.

1 (WHEREUPON, A short recess was taken and then
2 the proceedings resumed.)

3 MR. SIMS: Your Honor, again, I have posed,
4 as we talked about yesterday, part of my defense or
5 at this part of the case was about a medical condition.
6 I have asked my client if we would be allowed to get
7 into that medical condition and again, he has told me
8 that he does not want to do that and I would like to
9 put that on the record and ask the Court to ask him
10 again.

11 THE COURT: Is that correct, Mr. Stokes?

12 MR. STOKES: Yes, Your Honor.

13 THE COURT: And you have --- this is your
14 decision and you have requested your attorneys not to
15 do so?

16 MR. STOKES: Yes, sir.

17 THE COURT: Okay.

18 MR. SIMS: Thank you, Your Honor.

19 THE COURT: Are we ready for the jury?

20 SOLICITOR: Yes, sir.

21 MR. SIMS: Yes, sir.

22 THE COURT: Bring them in.

23 (WHEREUPON, The jury returned to the courtroom
24 and the following proceedings were held in their presence.)

25 THE COURT: Good morning, ladies and gentlemen,

Mr. Simmons-Direct by Solicitor

1277

1 we are ready to proceed.

2 SOLICITOR: State calls Keith Simmons.

3

4

KEITH SIMMONS, AFTER FIRST

5 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY SOLICITOR:

7 Q. You are Keith Simmons?

8 A. Yes, I am.

9 Q. Mr. Simmons, tell the jury, please, where
10 you are employed?

11 A. Where I'm employed?

12 Q. Yes, sir.

13 A. I'm employed at Sizemore Security at this
14 time.

15 Q. And were you formerly employed as a correctional
16 officer at the Orangeburg-Calhoun Regional Detention
17 Center?

18 A. Yes, I was.

19 Q. Did you work as a correctional officer in
20 July of 1999?

21 A. Yes, I did.

22 Q. And would you state whether or not the defendant
23 in this case, Sammie Louis Stokes, was an inmate at
24 the correctional -- at the Regional Detention Center
25 at that time?

Mr. Simmons-Direct by Solicitor

1278

1 A. Yes, he was.

2 Q. And would you state whether or not there was
3 also an inmate named Shawn Windburn who was at the detention
4 center at that time?

5 A. Yes, he was.

6 Q. I want to call your attention to July 27,
7 1999, shortly before 5 p.m. and ask whether or not you
8 were on duty at the jail as a correctional officer?

9 A. Yes, I was.

10 Q. And would you state whether or not you observed
11 anything in regard to Sammie Louis Stokes and inmate
12 Shawn Windburn?

13 A. Yes, I did a fight broke out.

14 Q. Okay. Describe for the jury what you saw.

15 A. I was feeding the inmates at the time and
16 Shawn Windburn was a houseman.

17 Q. What's a houseman?

18 A. A houseman is a guy that has small privileges
19 like as far as helping out the officers and COs.

20 Q. All right.

21 A. And he was closing, you know, trying to close
22 the door, a cell door, because Sammie had got his food
23 and was going on back in and they had a few words and
24 next thing I know Sammie started hitting on him.

25 Q. And when you say Sammie, are you referring

Mr. Simmons-Direct by Solicitor

1279

1 to Sammie Louis Stokes?

2 A. Sammie Stokes, yeah.

3 Q. And you observed Sammie Stokes hitting inmate
4 Windburn?

5 A. Yes, sir.

6 Q. Did you observe inmate Windburn strike Stokes?

7 A. No, sir.

8 Q. Could you tell approximately how many times
9 Stokes hit Windburn?

10 A. I couldn't actually count, numerous of times,
11 yeah.

12 Q. What part of the body was he ---

13 A. The head.

14 Q. The head?

15 A. Yeah.

16 Q. And could you tell if he was using his open
17 hand or his fist?

18 A. Fist.

19 Q. Fist, okay. And do you know whether or not
20 Mr. Windburn was injured in any way?

21 A. Yes, sir.

22 Q. Did it require him to go to the hospital or
23 the doctor?

24 A. Yes, it did.

25 Q. And as a result of that, was Stokes written

Mr. Simmons-Direct by Solicitor

1280

1 up?

2 A. Yes, he was.

3 Q. Okay, you wrote him up?

4 A. Yes, sir.

5 Q. And was there some type of punishment administered
6 when somebody violates the rules?

7 A. He was on lock down.

8 Q. Lock down?

9 A. Yes, sir.

10 Q. What is lock down?

11 A. Lock down means he cannot come out with the
12 other inmates.

13 Q. Do you recall how long he was locked down?

14 A. Uhm --- it was --- no, not really. It was
15 a little while.

16 SOLICITOR: Mr. Simmons, please answer any
17 questions that Mr. Sims may have for you.

18 THE COURT: Mr. Sims.

19

20 CROSS-EXAMINATION

21 BY MR. SIMS:

22 Q. Mr. Simmons, you wrote up the incident, is
23 that correct?

24 A. Yes, sir.

25 Q. First before we get started, fights out there

Mr. Simmons-Cross by Mr. Sims

1281

1 at the jail or fights in the jail are not uncommon,
2 is it, right?

3 A. No, sir.

4 Q. They happen all the time, is that correct?

5 A. Yes, sir.

6 Q. And that's between -- that's actually between
7 inmates and inmates, is that correct?

8 A. Yes, sir.

9 Q. And you don't know what, if anything, that
10 Simmons did --- your houseman did to precipitate the
11 fight or to start the fight?

12 A. No, sir.

13 Q. You don't know whether he provoked the fight
14 or anything like that. You were in one part and it
15 started, is that correct?

16 A. Yes, sir.

17 Q. Now, let me ask you this. When the fight
18 was broken up, wasn't it a female officer there?

19 A. In the control room.

20 Q. Yeah. And did she not, by herself, put Sammie
21 back in his cell?

22 A. No, sir.

23 Q. Who put him back?

24 A. I did.

25 Q. And he didn't give you any trouble, did he?

Mr. Simmons-Cross by Mr. Sims

1282

1 A. No, sir.

2 Q. He didn't try to fight you.

3 A. No, sir.

4 Q. He didn't try to hit you or attack you, said
5 nothing but went back in his room?

6 A. No, sir, all he did was went right on back
7 and I closed the door.

8 Q. Okay, so he made no effort to be aggressive
9 towards you?

10 A. No, sir.

11 Q. Let me ask you this. Now, when you were,
12 as a correctional officer, I believe there are several
13 levels of reports that you can do an inmate, is that
14 correct?

15 A. Yes.

16 Q. You can do an incident report ---

17 A. Yes, sir.

18 Q. --- which is what you did in this case.

19 A. Yes, sir.

20 Q. You can do a disciplinary action, could you
21 not?

22 A. Not I.

23 Q. Not I, but you could have someone else to
24 do a disciplinary report.

25 A. Yes, sir.

- 1 Q. And then also, either not you or someone on
2 your behalf, could have gone over and sworn out a warrant
3 against Sammie Stokes, isn't that right?
- 4 A. I'm not sure about that.
- 5 Q. Okay. But the only thing that actually happened,
6 you wrote up an incident report.
- 7 A. Yes, sir.
- 8 Q. But let me put it this way, before I go any
9 further than that, a warrant can be done on an inmate
10 if he does ---
- 11 A. Oh, yes, sir.
- 12 Q. --- something that warrants that kind of action.
- 13 A. Yes, sir.
- 14 Q. So basically, an incident report, disciplinary
15 action and a warrant that can be sworn out.
- 16 A. Yes, sir.
- 17 Q. And in this incident, you used the lowest
18 form of violation in that you wrote up an incident report.
- 19 A. I did what was required of me.
- 20 Q. Okay. Now, I believe that was like taking
21 his canteen privileges for a couple of days, too, is
22 that right?
- 23 A. If I'm not mistaken I think it was canteen
24 and no visitations and --- well, he was on lock down.
- 25 Q. Yeah, so you're talking about for five days.

Mr. Simmons-Cross by Mr. Sims

1284

1 A. If I'm not mistaken it was.

2 Q. And that's usually what happens when inmates
3 get into a fight, you either just give them an incident,
4 you do --- you put them down on lock down and there
5 was nothing unusual about this fight.

6 A. No, sir.

7 Q. So there was nothing unusual about the punishment
8 that you issued out.

9 A. No, sir.

10 MR. SIMS: That's all I have, Your Honor.

11
12 RE-DIRECT EXAMINATION BY SOLICITOR;

13 Q. Just a couple of questions, Mr. Simmons. Are
14 infractions classified as major and minor?

15 A. Yes, sir.

16 Q. And was this classified as a major or minor
17 infraction?

18 A. Major.

19 Q. And when Mr. Sims characterized this thing
20 that you observed as a fight, did you see a fight or
21 did you see this man over here Mr. Stokes striking the
22 other person several times?

23 A. I saw him striking the other person which
24 actually was a fight.

25 Q. Okay, let me ask you this. Would you state

Mr. Simmons-Re-Direct by Solicitor

1285

1 whether or not Windburn was fighting with Stokes?

2 A. No, sir.

3 SOLICITOR: That's all I have.

4 THE COURT: Mr. Sims.

5

6 RE-CROSS-EXAMINATION

7 BY MR. SIMS:

8 Q. Major or minor, when you talked about major
9 or minor in terms of the classification that you used
10 for this, did you give a major restriction?

11 A. See, I don't do that part. The Lieutenant/Captain
12 Chief or Mr. Bamberg does that.

13 Q. Okay, so the escalation or the determination
14 or major or minor is just simply something that you
15 put down, is that correct?

16 A. No, I still don't write that down. I just
17 write up the report.

18 Q. You just write the report.

19 A. Yes, sir.

20 Q. And so you don't even write --- you didn't
21 even write down major or minor?

22 A. No, sir.

23 Q. That was somebody else who did it who wasn't
24 even there?

25 A. That's my superior officer.

Mr. Whetstone-Direct by Solicitor

1286

1 MR. SIMS: Thank you.

2 THE COURT: You may step down.

3 SOLICITOR: State would call Clark Whetstone.

4 MR. SIMS: Again, this would also roll over
5 from yesterday as it related to my objection in regards
6 to this testimony.

7 THE COURT: Noted.

8
9 CLARK WHETSTONE, AFTER

10 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION BY SOLICITOR:

12 Q. Mr. Whetstone, you testified yesterday or several
13 days ago in the guilt phase that you were the case officer
14 and that you maintained the case file in this case,
15 is that correct?

16 A. Yes, it is.

17 Q. And you were present in the courtroom when
18 a portion of the typed statement prepared by Sammie
19 Stokes that went to Mr. Kinsey and then to Emery Rush
20 was published, is that correct?

21 A. Yes, I was.

22 Q. And were certain items related to Doug Ferguson's
23 murder deleted from that statement during the guilt
24 phase?

25 A. Yes, they were.

Mr. Whetstone-Direct by Solicitor

1287

1 Q. I'm going to hand you a document and asked
2 whether or not this is that typed statement prepared
3 by a Sheriff's Office secretary from the original handwritten
4 letter from Mr. Stokes and whether that letter contains,
5 in addition to what was published before, the references
6 to Doug Ferguson's murder?

7 A. Just bear with me a minute. (witness looks
8 over statement) Yes, it does.

9 SOLICITOR: Your Honor, I would offer that
10 into evidence at this time.

11 MR. SIMS: Again, Your Honor, subject to my
12 objections.

13 THE COURT: In subject to the prior objections.

14 (WHEREUPON, Statement was entered and marked
15 as State's exhibit #52.)

16 MR. SIMS: And also my objection as it relates
17 to in regards to the statement in general, Your Honor,
18 the first objection as it relates to the voluntariness
19 of the statement.

20 THE COURT: All right.

21 Q. And what I would request at this time, Mr.
22 Whetstone, is that you publish that letter to the jury.
23 I have copies of the letter that I would like to hand
24 out to the members of the jury so they can follow along
25 with him as he reads it.

Mr. Whetstone-Direct by Solicitor

1288

1 THE COURT: Okay, Madam Bailiff, if you would
2 pass out the statements and once we are through with
3 it, if you will take them back up, number them and put
4 them in a package, please.

5 (WHEREUPON, Statements were passed out to
6 the member of the jury.)

7 Q. If you would, Mr. Whetstone, please publish
8 that to the jury.

9 A. I'll start at the top where it says, date
10 6/12/98, time 3:08 P.M., please Orangeburg County Detention
11 Center. Defendant Name: Sammie L. Stokes a/k/a L. Nasty.
12 Age 31, Date of Birth [REDACTED], phone number [REDACTED].
13 Address is [REDACTED], Orangeburg, South Carolina.

14 " My rights are as follows. I have the right
15 to mremain silent, anything I say can be used against
16 me in court. I have the right to talk to a lawyer for
17 advice before I am asked any question. If I cannot
18 afford a lawyer, one will be appointed for me before
19 any questions if I wish. If I decide to answer questions
20 now without a lawyer present, I will still have the
21 right to stop answering at any time. I also have the
22 right to stop answering at any time until I talk with
23 a lawyer.

24 I understand the rights above and initialed
25 each. I have been advised of the rights above by F.

Mr. Whetstone-Direct by Solicitor

1289

1 Emery Rush of the Orangeburg County Sheriff's Office
2 and wish to make the following statement.

3 Well, it all started one evening when I was
4 in my room at Turbeville Correctional Institution just
5 chilling out watching T.V. My roommate, James Roy Tooth,
6 came into the room upset and cursing. He said that
7 tich Connie has done it again, not only has she got
8 me in here now, the bitch got my daughter taken away
9 by DSS, all that whoring, hanging out and leaving the
10 baby home alone. I said I thought Connie lived with
11 your mother and he said yeah, she do. The only reason
12 my mother let's her stay there is because of my daughter.
13 He said my don't like Connie and I hate the bitch, too.
14 Hell, she isn't nothing but a whore and we want the
15 bitch dead anyway so my mother could get custody of
16 Nicole. I said, man, stop joking, your mother isn't
17 with that. He said, shit, you just don't know, my moms
18 is down, homie. Hell, you see she brings us weed all
19 the time and if you think that you can get the job done,
20 you will be paid well. I said, man, shit that cots.
21 He said, money is no problem, I am going to call my
22 moms. I said hold up because I've been gone awhile
23 and right now, I don't know who to trust out there.
24 He said, you still should talk to my moms. I said,
25 okay, call her. Well, there wasn't any shame in Pattie's

Mr. Whetstone-Direct by Solicitor

1290

1 games because as soon as I got^{ed} on the phone after Roy
2 was done and told her that I could have it done, she
3 was glad to talk with me. I asked her right off the
4 top was she serious about having Connie killed? She
5 said, hell, yeah, and I asked why? She said because
6 the bitch isn't any good, she caused my son to be locked
7 up plus I caught her fucking my old man on the couch,
8 and she treats my son like shit. The only reason I
9 let her stay with me is because of Nichole, my grandbaby.
10 She says I owe her and Lee big time. I said, who's
11 lee? She said, my boyfriend. I said, what has he done?
12 She said he almost killed me by beating me up until
13 I passed out and Connie stood there laughing at me plus
14 he tried to get my son kill. I said, damn, and you're
15 still fucking around with him and Connie after all that
16 shit. She said, that's to only keep up with them until
17 I could get them and believe me, honey, I owe them both
18 big time. So what's up? Do you think you could hand
19 it, what is it going to cost and don't be playing any
20 games because I done went through all the games with
21 fake people just trying to get my money and then run
22 out on me. I said, it will cost \$2,000 and you'll have
23 10 months to come up with the money and the gun. I'll
24 be getting out in May, '98 and right now I've been gone
25 awhile and I don't know who to trust out there. All

Mr. Whetstone-Direct by Solicitor

1291

1 you have to do is stay in touch with me. She said, that's
2 no problem. I'll write and come to see you because I
3 want to see now you look and talk with you face-to-
4 face. I said, okay, but do you think you can keep up
5 with Connie and Lee that long? She said, hell, yeah,
6 and besides I've got him pussy whipped. I just laughed
7 and said I hear you, girl. She wrote and stayed in
8 touch with me and a month later Roy came into the room
9 again looking crazy. I said, what's up, Roy? He said,
10 that the bitch is pregnant again by god knows who. I
11 said, damn. He said, mommie wants you to call her tonight
12 after 9:30 count. I said, okay. I called and Pattie
13 said, I told you the bitch was a whore, she is pregnant
14 again. I kicked her ass out and I'm trying to get custody
15 of Nicole from DSS. She said the bitch is living with
16 Robbie, which is Lee's brother. I said, is Robbie the
17 father? She said, no, Connie don't know who's the father.
18 I said, will you still be able to keep up with her and
19 she said, yes. I said, and Lee? She said, he is under
20 my control. I said, okay. She just went on talking
21 about the baby and that she wanted her granddaughter
22 back and how it was all Connie's fault the little girl
23 was taken. Well, as time went by, Pattie and I grew
24 closer as friends or so called friends. I mailed her
25 two gold rings and a Pulsar watch to hold for me till

Mr. Whetstone-Direct by Solicitor

1292

1 I got out.

2 In March, Pattie told me that some guy she
3 knew had gotten out of prison and she was letting him
4 live with her till he got on his feet. She said his
5 name was Doug Ferguson. A week or two later, she claimed
6 that Doug stole my watch and rings and hocked them.
7 She also told me that Doug said he knew me from prison
8 and that he could beat my ass if I didn't like it. She
9 claimed that she was putting him out, plus going to
10 sign a warrant on his ass for stealing my shit and some
11 shit of hers. I said, yeah, put the cops on his ass
12 before I get out and kick his ass.

13 After Connie had the baby, her and Robbie broke
14 up because she was too wild and didn't want to stay
15 home (so Pattie say). Pattie told me in a letter that
16 her and Connie were back living together and that Connie
17 had to go and do some time for some money she had owed
18 and that she was going to be in custody of Connie's
19 baby boy while she is locked up. She also said that
20 Connie will beat me out and that nothing has changed
21 in the plan.

22 A few weeks later, she said in a letter that
23 Doug had read one of my letters, but it wasn't no big
24 deal because he also didn't like Connie and wanted her
25 dead, too. She never told me his reasons for disliking

Mr. Whetstone-Direct by Solicitor

1293

1 and wanting Connie dead. I wrote her back and asked
2 her, what's up with my shit? She wrote back and told
3 me that if she didn't get them back that she would add
4 whatever price I wanted ton the \$2,000.

5 Well, in April or earlier, Connie had gotten
6 out and was living with Pattie (so Pattie say). Doug
7 was living with some girl in Bamberg along with his
8 sister and her sister's boyfriend, which was a black
9 guy (so Pattie say). Well, I got out in May, '98. Pattie
10 was suppose to pick me up, but never showed up, so I
11 took the bus to Orangeburg. Right then I knew she was
12 just bull shitting about the money and the deal. I
13 said to myself, I will catch up with her one day and
14 get the money for my shit. I took the bus to Branchville
15 and went to my partner's "Norris Martin" apartment and
16 cool out with him for a few days. We drank and laughed
17 and took night walks only and talked about the good
18 old days. The night walks was just to keep everybody
19 from sweating me and running back telling my ex-wife
20 all kind of lies.

21 One night I told Norris about the deal with
22 Pattie and about the \$2,000. He said, oh, yeah? I
23 said, yeah, but the bitch wasn't serious and besides,
24 I was going to yank her ass anyway and we laughed. Then
25 I said that I'm going to still get my money from her

Mr. Whetstone-Direct by Solicitor

1294

1 for my shit. He said, how? I said, I got her phone
2 number and address and she has been wanting me to fuck
3 her for the longest, but I don't dig fat girls (we
4 laughed). He said, I'll fuck her and I said, I know
5 you will, after all, you haven't had any pussy yet and
6 you're damn near 40 years old. I said, man, let's go
7 call her and we did, but got no answer. I asked him
8 did he have a stamp and envelope. He said, no, but
9 I got a box full of plain envelopes. You write the
10 letter and I'll mail it tomorrow. I said bet. I wrote
11 the letter talking shit to her. I told her that she
12 was in care of my shit and I hold her for it and that
13 I didn't know Doug or nothing about him. I also told
14 her that I was just 10 miles away from her in Branchville
15 Villa and that she needed to come and tell me something
16 or take me to Doug and let me ask him what's up.

17 The day after I mailed the letter she came
18 over in a blue stationwagon, Norris wasn't home. She
19 told me that she still wanted her business taken care
20 of and that Doug had flipped on her and told Lee and
21 Connie that she wanted them dead. She said, now I want
22 him, too, because he is running his mouth and he is
23 the only one that could connect me to them. I said,
24 dman, you are asking a lot. She said, I would do it
25 myself, but they will figure that out easy. I said

Mr. Whetstone-Direct by Solicitor

1295

1 after you didn't show up I didn't take you seriously
2 and now I'll have to talk with my boy when he gets in.
3 Then we started talking about sex and I told her my
4 partner Norris hasn't had no pussy all his life. She
5 said, stop lying. I said, I'm serious. She said, I
6 ought to bring Connie here and let him have a field
7 day. I said he would love that and I said he'll fuck
8 you, too. She laughed and said, I bet he will. Then
9 she said, I got to go and get things straight, I'll
10 be back in a few, Poncho has the baby and I need to
11 get him. I said, I'll be right here.

12 Well, a hour later, the police and some probation
13 officer came and locked me up talking about I didn't
14 report in. I got out in a week and went to stay with
15 my sister on Windsor Street. The next night I went
16 back to Branchville and got up with Norris and I told
17 him about Pattie stopping by the day I got locked up
18 in his apartment. He said, oh, yeah? I said, man, here's
19 the deal. Here's your chance to get paid, plus get
20 you some pussy finally. All you have to do is break
21 me off proper because she got \$2,000 for you. I haven't
22 seen the money yet. He said, hell, I'm down. I said
23 to be ready at any given time. I'll be going back to
24 Orangeburg and we will be back to pick you up. He said,
25 I'll be ready whenever. Well, to keep people out of

Mr. Whetstone-Direct by Solicitor

1296

1 our business, I left the next night and went back to
2 Orangeburg. I said, damn, what's the hurry? She said
3 because DSS told me that Connie could no longer live
4 with me. If she stay here another night, they was going
5 to take the boy away from me, she's got to go tonight.
6 I said, well, I talked with Norris and everything is
7 straight on his end. She said, I'll pick you up at
8 Woody's Pawn Shop at 9:30 p.m. She said Connie thinks
9 we are going to kill Doug and she thinks we already
10 got him tied up in Branchville somewhere. She said,
11 I wish that were true so we could do all both of them.
12 She said that Connie can't stand Doug and wants to be
13 there to help us and besides, she wants to meet you
14 anyway. I know you've been talking to her on the phone
15 when Roy calls and I wasn't home. You just better not
16 flip on me for her. I laughed and I said, see ya'll
17 at 9:30 p.m.

18 They both showed up at 9:30 at Wood's and I
19 went to the passenger side and Connie got out and I
20 said, what's up, girl, pulled her to me and hugged her
21 tight. She said, ain't nothing. so I got in and we drove
22 off. While riding to Branchville, Connie said Doug
23 ain't shit and I'd love to see him get his. She said,
24 I had plans tonight but this is better. I just laughed
25 and looked at Pattie.

1 We got to Branchville and rode straight through
2 town and came up through shake-rag and came on a black
3 street, but you can still see the town. I spotted Norris
4 or thought I did but it wasn't him. So we went to his
5 apartment and Connie went and knocked on the door, but
6 there wasn't no answer. We drove back down town the
7 same back route. That's when I spotted Norris coming
8 out the store walking over to two parked cars with a
9 bag in his hand. So we stopped and was trying to decide
10 who should go call him. So Connie said, fuck it, I'll
11 go get him and she got out and walked down the road
12 and called Norris. They both came back and got in. I asked
13 what's up, bro? And he said, that he came downtown
14 to get some beer. So we went down the dirt road passed
15 Owen's home and I told Pattie to stop.

16 Norris and I got out and I asked him was he
17 ready to handle the business. He said, yeah, but let's
18 go back to my partment so I can get the pussy first.
19 I said, we can't go there because people is out walking
20 about in the projects. I said, well, I know that I
21 can get the pussy because she likes me anyway. I said,
22 you want Pattie? He said, I'd rather have the other
23 one first. Well, I was thinking right there, I know
24 she isn't going to be willing to do it with him. So
25 I said, well, once you get her in your spot, handle

Mr. Whetstone-Direct by Solicitor

1298

1 your business. I asked him where did he want to go
2 and he said, I'll show you. So we got back in the car
3 and he showed us the spot. Then once we got there I
4 got the gun out from behind the seat and passed it to
5 Norris. Then we all got out and Pattie opened the trunk
6 and tried to pass me the shovel, but I wouldn't take
7 it. Then she give it to Norris. Then Connie say, let's
8 go and Pttie said, I'll stay here and watch the car
9 just in case anybody comes. I'll say I'm tricking and
10 we all laughed. Then Connie and Norris walked off and
11 Pattie said, is he going to fuck her, too? I said,
12 yes. Then she said, you better not. I ran and caught
13 up with them and we walked over some bushes and broken
14 limbs and got to the back of the file or on the side.

15 That's when Connie said, well, where is he
16 at? I said, baby, I'm sorry, but it's you that Pattie
17 wants dead and Connie said, all my god, that fat bitch.
18 She said, ya'll don't trust her because she will only
19 turn on ya'll, too. I said, she is paying us \$2,000.
20 Connie said, that fat bitch hasn't got two cents. Then
21 Connie said, please, don't kill me and Norris said,
22 I want some pussy. Connie said, okay, and then Norris
23 passed me the gun and said, hold that. Then Connie
24 spread a crocker sack bag on the ground, a bag I didn't
25 even know she had. He and Pattie must of had it up

Mr. Whetstone-Direct by Solicitor

1299

1 front in the car because she sure didn't get it out
2 the trunk. Well, while her and NORris was doing their
3 thing, I was looking across the field. When they got
4 finished, Connie said, you want some, too? I wanted
5 so bad to say let's wait till we get back, but deep
6 in my heart I knew she wasn't leaving with us. So I
7 said, why not? Then I passed the gun back to Norris
8 and Connie and I did our thing.

9 Afterward, I got up and looked at Norris and
10 he looked back at me. Connie said, ya'll, please don't
11 do it. Pattie is only setting ya'll up. Then I said,
12 give me the crocker sack bag you're sitting on and she
13 did. While she was still sitting on the ground, I put
14 the bag over her head and Norris and I tried to pull
15 the bag all the way down over her shoulders, which we
16 only got the bag to go just a little way over her shoulders.

17 I then asked Norris, what's up? He said, let
18 me get behind her and when he stepped completely behind
19 her, I stepped completely behind him. Then he moved
20 over a little to the left. I also moved right behind
21 him. He pulled and the gun fired once. He passed me
22 the gun and got behind me then I too fired the gun at
23 her head.

24 Then we walked back to get Pattie and when
25 we got to the car Pattie said, well, is she dead? I

Mr. Whetstone-Direct by Solicitor

1300

1 said, let's go see, but before we left I took all the
2 bullets out the gun and passed Pattie the gun. Then
3 she said, yeah, I got to take that back because it belongs
4 to my best friend. Then we all walked back down to
5 the field and Connie was still there and Norris was
6 just about to dig a hole when a truck pulled up behind
7 Pattie's car. We all ran and jumped in the woods. After
8 the truck left, Pattie said, fuck it, ya'll, let's go
9 before the damn police come. I said, we just can't
10 leave her laying out like that. Then Norris said, let's
11 put her in the woods. I told Pattie to get Connie's
12 ID card and her shorts off the ground and she did. Norris
13 went to the head and shoulders and tried to pick Connie
14 up while I had her legs. He couldn't pick her up with
15 the corcker sack bag still over her. so he took the
16 bag off her then we picked her up and put her in the
17 woods while Pattie stood there watching. Then we came
18 out the woods and Pattie said Norris, get that bag and
19 he did and we ran out the woods. Pattie asked me to
20 drive because she claimed that she couldn't hardly breath.
21 So I took the keys and ran ahead of her and Norris.
22 When they got to the car, Pattie got in the front and
23 Norris got in the back sitting right behind her and
24 we drove off.

25 We went to Bowman at a club called Allen Murray.

Mr. Whetstone-Direct by Solicitor

1301

1 O went in to get me some wine and got Pattie a soda.
2 Norris already had beer and we just sat there and talked
3 about everybody keeping their mouth shut. Then Norris
4 said, guess what, ya'll? I said, what? Norris said,
5 we left the damn shovel. Then he asked us was he wearing
6 a white white. Pattie nor I could remember. I said
7 we need to go back and check it out. Pattie said, no,
8 I've got a bad feeling about going back. Then Norris
9 said, fuck it.

10 After sitting there for a while, Norris said
11 ya'll can drop me off on the outside of Branchville
12 and I'll walk the rest. So we pulled off. Pattie said,
13 damn, we need to get rid of her shit and Norris said,
14 yeah, I still got the bag. We rode around and went
15 the back way to Reesville from Bowman. On our way,
16 Pattie cut up Connie's ID card and let it fly out the
17 window, took her shorts and the rest of her clothes
18 she already had in the car and let them all go out the
19 window one by one. Then we stopped and turned around
20 and went back to Bowman.

21 On our way, we stopped at the same bridge and
22 Norris got out and tossed the bag over. I'm not sure
23 if it was the bag because Norris asked me to stop again
24 alongside the road and he got out and ran to the field
25 and got rid of something. Then we took him to Branchville

Mr. Whetstone-Direct by Solicitor

1302

1 and the only thing we all was talking about was everybody
2 keeping their mouth shut. We let Norris out on a dirt
3 road that runs into Branchville. Norris got out and
4 he said, when will ya'll be coming back? I said, hopefully
5 tomorrow night to straighten you out. Norris said,
6 I'll see ya'll then. So Pattie and I drove off. Pattie
7 said, I need to make a phone call when we get to Roseveill.
8 She said I need to call Poncho and let him know that
9 I'm alright.

10 So before we got there, I turned the light
11 on and asked her was there anything else in the car.
12 She looked in the back and said, dman, there is blood
13 all over the back seat, off the bag Norris had. Then
14 she said, I'll tell Poncho to bring something to clean
15 the car out. I said, do you think he's come? And she
16 said, hell, yeah, besides he wanted her dead, too. If
17 anything goes wrong, he is willing to take the blame
18 for me. So she made the call in Roseville. I stayed
19 in the car while she talked. Then when she got back
20 in the car, she said, we'll take the back road to Orange-
21 burg because Ponco is meeting us. On our way, all we
22 talked about was Norris acting crazy. Pattie said,
23 do you think he will talk? I said, well, if he do,
24 he would only be telling on himself and she laughed.
25 She spotted Poncho's truck when it passed by us so

Mr. Whetstone-Direct by Solicitor

1303

1 we pulled over and he did too. I turned around and
2 pulled up behind him. She got out and went to talk with
3 him. She got back in and said, follow him back down
4 the road and I did. We followed him back down the road,
5 we came on. Poncho stopped on the bridge and got out
6 of the truck. Poncho came to the car and he said, no,
7 we better get off this bridge. He went back and pulled
8 off and we followed him for maybe another mile or less.
9 Then he pulled over and I pulled over right behind him.
10 Poncho got out of his truck, reached in the back and
11 got a bucket with some water in it and brought it over
12 to the car. Pattie and I got out. Poncho gave me the
13 bucket and a rag and I wiped the blood off the back
14 seat. Poncho said, give me the floor mats and I did.
15 He tossed them in the woods. He said, hell, we could
16 get some more mats (speaking out loud because he and
17 I never said a word to each other).

18 When I got finished cleaning the back seat,
19 Pattie said Poncho take the car and give us the truck
20 so he did so. Pattie asked me to drive and I did. Pattie
21 said where do you want to go? I said, to my sister's
22 house on Windsor Street and that's where we went (that
23 was here first time going there).

24 No on our way to Orangebrug from Roseville,
25 I asked Pattie what was she going to do with that gun

Mr. Whetstone-Direct by Solicitor

1304

1 she left in the car with Poncho. Pattie said, that
2 gun belongs to my best friend, Fay. She told it from
3 her old man so I could use it on Connie. I got to give
4 it back to her before he misses it. I said, damn, I
5 hope you don't tell Fay about me. Pattie said, she knows
6 the deal about Connie and about Doug's big mouth. She
7 don't know who's helping me, so don't worry about that
8 and besides, she wants her old man dead, too.

9 So we entered Orangeburg and we just stop talking
10 until I got at my sister's house. Before I got out,
11 Pattie said call me in a day or so and I said okay,
12 got out and she slid on over under the wheel and drove
13 off.

14 I called her on Monday evening and Patti said,
15 I need to see you now. I said, well, you know where
16 I'm at. She came in the truck and I got in and we drove
17 to the Gardens and parked. Pattie said, man, I got to
18 do something with Doug before they find Connie. Pattie
19 said, I know where he is and he wants me to come and
20 pick him up. She said but it can't be today. i said,
21 yeah, you're right because we got to go and get Norris
22 and can get him only at night time. Pattie said, I'll
23 be back Wednesday to tell you more. I said, okay. Then
24 she drove me back. On the way back Pattie said, well,
25 when are you going to do like you promised. I knew

Mr. Whetstone-Direct by Solicitor

1305

1 what she was talking about (me having sex with her).
2 I said, all in good time but I knew it wasn't going
3 to happen because I don't dig fat girls. She never came
4 back Wednesday. I called her Friday. When she answered
5 the phone, Pattie asked, where are you? I said, over
6 at Whatley Street. I asked her if she saw the news
7 yet. Patti said, no and why? I said because they are
8 showing shit about Connie on the news. Pattie said,
9 damn man, I can't let Doug run to the cops. She said,
10 can you make it over to Rivelon Road? I said, yes.
11 Pattie said, just come straight down Rivelon to the
12 yellow house. She said, my best friend Fay is over here.
13 I said, do you think that it is cool for Fay and me
14 to meet? Pattie said, I done told you, she is down.
15 I said, okay, and left for Rivelon.

16 When I got there, Pattie met me at the door.
17 I walked in and went to I guess the living room where
18 Fay was sitting. I looked at Fay and she looked at
19 me. Pattie said, have a seat. So I sat on the couch
20 with the little baby boy and started playing with him.
21 Pattie said, Fay, we got to do something about Doug.
22 Faye said, you better because he will tell the cops.
23 I said we got to get my partner from Branchville. Pattie
24 said, I know. Fay said, yeah. Pattie said, I've got
25 a little gas in the truck, how much is in your car,

Mr. Whetstone-Direct by Solicitor

1306

1 Fay? Fay said, not much. Pattie said, I still got
2 these pills I need to take around the corner and sell.
3 Then she said, I hate driving in the rain. I said,
4 I'll drive you. We took the truck and went around the
5 corner to somebody's house. Pattie got out and ran
6 up to the people's porch and knocked. She went in and
7 came right back out with plenty money in her hands.
8 Then we went to the store and got gas in the truck and
9 went back to the house. Pattie said, Fay, we are going
10 to put gas in your car so he can go pick up his partner
11 from Branchville. Fay said, that's fine with me. So
12 Pattie and I left again, but in Fay's car this time.
13 We were on our way to the gas station. Pattie and I
14 got Fay's gun back at the house but there isn't no bullets.
15 We got at the gas station, she went in to pay for it
16 and I pumped it getting soaking wet. I told Pattie
17 on our way to get the bullets. I got to stop and change
18 clothes and we did that. When we got back at the house
19 I asked Fay did she see the news. Fay said, yes, they
20 are still trying to ID the body. Pattie said, I can
21 go get Doug now and we will keep him here until you
22 go get your partner, but you got to hide until I get
23 him all the way in. Fay said, yeah, because he will
24 run, he ain't nothing but mouth. Pattie said, now,
25 you'll get your chance to meet the man who took your

1 shit plus say he'll kick your ass. I said, you're right.
2 So Patti left Fay and me with the baby while she went
3 to pick Doug up.

4 Now, it's just Fay and me cooling out watching
5 TV. Pattie pulled up in the yard with Doug. Fay said,
6 go in the first room on the left and I did. Doug came
7 in with Pattie walking behind him and sat on the couch.
8 Pattie was standing next to Fay while Fay was sitting
9 in the short chair playing with the baby. I came out
10 the room and from around the corner to where Doug was
11 sitting. I kind of scared him because he jumped up.
12 I said, man, do you know me? He said, no. I said,
13 well, you told Pattie that you knew me. I'm the owner
14 of that watch and rings. He said, I got them at the
15 house for you, I'm sorry for taking them. Pattie said,
16 you're damn right, you're sorry, let's tie him up and
17 I said with what? Pattie said with that duct tape on
18 the table. So Fay grabbed the tape and I backed up
19 and was putting some gloves on when Pattie said, Doug,
20 get on the floor and lay down and he did. So Fay started
21 putting tape around his feet. After she took off his
22 shoes, Pattie was trying to hold him down, but he was
23 getting loose. By then I had my gloves on so I reached
24 down and punched him. He started bleeding. I grabbed
25 him and held him down while Pattie and Fay taped him

Mr. Whetstone-Direct by Solicitor

1308

1 up. First Fay taped his feet and then Pattie taped
2 his hands together while I held them together by his
3 arms. Then Pattie started putting tape around his head.
4 Doug said, please, don't do that, Pattie. But she kept
5 on and she said, I warned you not to mess with me, Doug.
6 The tape started sticking to Pattie's hands and that's
7 when she asked Fay to help her and Fay got up from holding
8 his feet. I pulled him up so he could sit up then Fay
9 and Pattie took turns wrapping the tape around his head.

10 At first, they left his nose open and tapes
11 his mouth up and around his neck. Then they put some
12 around his arm and across his chest area. I got up
13 and pushed him back to the floor. Then Fay grabbed his
14 head and Pattie then wrapped the rest of the tape over
15 his mouth and head. He started fighting but we all
16 held him down and we all carried him to that back room.

17 Then afterward, Fay said, I'm going to the
18 store to get a soda. There was a noise in the back and
19 Pattie said, Doug is faking it, that's the way he is.
20 Pattie and me walked to that back room and just watch
21 him for a few. Fay said, I'm going and I'll be right
22 back. Pattie and I came out the room and sat down on
23 the couch. I told Pattie, do you think she is coming
24 back and Pattie said, yeah. I trust her with my life.
25 I said when she get back, I'm going to get Norris. I

Mr. Whetstone-Direct by Solicitor

1309

1 got up to peek out the window and I saw all kinds of
2 police running in the yard. I said, Pattie, Fay done
3 set us up because here comes the cops. I ran and got
4 under the bed in the first room on the left.

5 P.S. There was a bag in the chair with a gun
6 in it. Pattie said it was Fay's. I put my gloves in
7 the bag after we were finished. Patti had loaded the
8 gun when we came back from the store, but we never used
9 it (no more than to look at it). Pattie did say we
10 had to get rid of it tonight.

11 Telling their family sorry would only make
12 them hate me more. Because saying sorry won't bring
13 their loved ones back. It would only add more pain
14 hearing it from me. I will say this much. God is going
15 to bless them and help them make it through this. Without
16 a doubt, God is going to punish me for my part. And
17 there's no excuse because we all have choices in life.

18 I declare that the statement above is made
19 freely and voluntarily without promise or hope of reward
20 or leniency and without fear or threat or physical harm,
21 by any person.

22 I swear or affirm that this statement is the
23 truth, the whole truth and nothing but the truth, so
24 help me God.

B.V.

Sammie L. Stokes"

Mr. Whetstone-Cross by Mr. Sims

1310

1 SOLICITOR: Please answer any questions Mr.
2 Sims may have for you.

3
4 CROSS-EXAMINATION

5 BY MR. SIMS:

6 Q. Mr. Whetstone, let me ask you a question.
7 In the first part of this statement, there were conversa-
8 tions about Roy Tooth, is that correct?

9 A. Yes, sir.

10 Q. Do you know whether or not Roy Tooth has ever
11 been served with any warrants?

12 A. No, he has not.

13 SOLICITOR: Objection, may we approach, Your
14 Honor?

15 THE COURT: Yes.

16 (WHEREUPON, A bench conference was held out
17 of the hearing of the jury and the court reporter.)

18 THE COURT: All right, before we get too deep
19 into it, exactly where were you headed with your question?
20 Maybe that will resolve it without ---

21 MR. SIMS: I was just going to ask him that --
22 whether Roy Tooth had ever been served with a warrant
23 and he answered no. I was going to move on from there.

24 THE COURT: Okay. Ladies and gentlemen,
25 please go to your room for just a moment.

1 (WHEREUPON, Jury retired to the jury room and
2 the following proceedings were held in the absence of
3 the jury.)

4 SOLICITOR: Well, Your Honor, of course, the
5 fact that Roy Tooth wasn't served with a warrant was
6 part of a plea negotiation with him which would result
7 in Roy Tooth not getting any time and it falls in the
8 same category as any other non-testifying witness. For
9 example, Pattie Syphrette who hasn't testified, you
10 ruled that Mr. Sims couldn't get into the content of
11 her plea agreement, the fact that she was going to receive
12 a lesser sentence than we were seeking for the defendant
13 in this case.

14 THE COURT: That's right.

15 SOLICITOR: This is part of the same thing.

16 THE COURT: Well, he asked the question and
17 he has answered it and it is probably going to do more
18 harm for me to comment on it now, don't you think we
19 probably just need to go on since he's not going to
20 further pursue it?

21 MR. SIMS: Your Honor, may I respond to something,
22 though? Pattie Syphrette didn't get an agreement. Pattie
23 Syphrette was found guilty and was given a life sentence
24 and part of the issue was that I could not raise,
25 according to Chrippen and others, before the jury and

Mr. Whetstone-Cross by Mr. Sims

1312

1 argue before the jury that because she got a life sentence,
2 that he should get a life sentence. It had nothing
3 to do with my saying or whether or not there was an
4 agreement. When we are talking about proportionality,
5 we're talking about proportionally in the context of
6 begin argued --- of being able to argue to the jury
7 whether because a co-defendant got a life sentence or
8 because Norris Martin got a life sentence and Roy Tooth
9 didn't get a life sentence or got a deal, that they
10 should give him a deal. That's what proportionality
11 is talking about. But the jury has a right to know that
12 he did not get --- that he does not --- that he did
13 not have a warrant served on him. I'm not arguing pro-
14 portionality, I'm not saying to the jury that because
15 they got one time, he should get something else. That's
16 not what I'm arguing. The jury has a right to know
17 that but I don't have the right to say if he didn't
18 get any warrants served on him then ya'll shouldn't
19 do anything to this man. That is what proportionality
20 is talking about.

21 THE COURT: I think we had better leave it
22 right where it is and you are saying you're not going
23 any further with it.

24 MR. SIMS: Yeah, I wasn't going any further
25 with it.

1

THE COURT: So does that settle it?

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SOLICITOR: I guess it does, Your Honor, the

cat is kind of out of the bag but I think it's clearly

in violation of your ruling on the motion that I made.

Somebody else's deal or sentence, the fact that somebody

else is prosecuted or not prosecuted has no bearing

on any penalty phase issue.

THE COURT: Well, the cat --- looking at it

from your point of view or whatever, it was answered

but I think for me to say anything would just make matters

worse. So that ends it.

SOLICITOR: Okay, well, since Mr. Sims may

argue that in closing, I would ask if Your Honor would

rule whether or not that would be an appropriate subject

for argument. I think you've already ruled that it

would not, that other people's sentences or deals would

not enter into it, unless for impeachment purposes and

they testified ---

THE COURT: That's true.

MR. SIMS: I don't plan to do that but I can

for Norris Martin, he got a deal, and that's impeachment

and I can argue impeachment in closing argument.

THE COURT: If it's in.

MR. SIMS: And Faith Lapp, if she testifies,

Mr. Whetstone-Cross by Mr. Sims

1314

1 her deal will be in and I will be able to argue that
2 for impeachment.

3 THE COURT: That's right. If it's properly
4 in under the proper circumstances.

5 MR. SIMS: Yes, sir.

6 THE COURT: All right, we are all on the same
7 lane. All right.

8 MR. SIMS: Your Honor, before the jury comes
9 back, I just wanted to raise an issue with the Court
10 and want to make it a part of the record as it relates
11 to my continuing objection to the fact that the information
12 regarding the reason or the motive for Connie Snipes
13 being out there with the defendant on that night was
14 withheld or redacted in the guilt phase of this matter.
15 It has now been put in in the penalty phase of the matter
16 and it has come out, it has been read into the record
17 that Connie Snipes at that time was out there to kill,
18 according to my client's statement, was out there with
19 them in order to kill Doug Ferguson because she felt
20 that Doug Ferguson --- she thought Doug Ferguson was
21 in Branchville, somewhere they had him tied up.

22 This is clearly what I was talking about as
23 it relates to the penalty phase in terms of the relevance
24 of that part of that statement being allowed to be in
25 the statement because it took away a consideration that

1 the jury could have had in the penalty phase, especially
2 as it relates to the issue of kidnapping and the criminal
3 sexual conduct, on those two issues. That took away
4 a vital part of the defendant's statement and the State
5 is using the bits and pieces of the defendant's statement
6 to prejudice the defendant in different parts of the
7 trial. And it creates and it is definitely unfair to
8 the defendant in the first part to take out a vital
9 part of his defense by not allowing that and then relying
10 upon that as hearsay to keep it out. We take the position
11 that we took earlier that that part of the statement
12 should have been allowed in so that the jury would have
13 his entire statement to understand the parameters of
14 what was going on and the reason and the motive for
15 Connie Snipes being out there with them. And I wanted
16 to make that a part of the record at this point also,
17 Your Honor.

18 THE COURT: Once again I point out that that's
19 the way the rule was set up and operates. Of course
20 you've got two different ballgames here. Anything further?

21 MR. SIMS: We're ready.

22 THE COURT: Bring them in.

23 (WHEREUPON, The jury returned to the courtroom
24 and the following proceedings were held in their presence.)

25 THE COURT: You may proceed, Mr. Sims.

Mr. Whetstone-Cross by Mr. Sims

1316

1 CONTINUED CROSS-EXAMINATION

2 BY MR. SIMS:

3 Q. Detective Whetstone, in the first part of
4 the statement I believe it was in the beginning, when
5 you were taking that statement, let's be clear that
6 the defendant told you that Pattie Syphrette had talked
7 about only Connie and Lee as her targets, isn't that
8 right, Pattie Syphrette had talked about Connie and
9 Lee Ferguson or Lee Jefferies or whoever he is ---

10 SOLICITOR: Your Honor, I'm going to object
11 to any hearsay from Pattie Syphrette told him.

12 MR. SIMS: This is what the defendant told
13 him that Pattie Syphrette said, it was read into the
14 record, Your Honor, it's part of the record that has
15 been already read in. It's the statement that was given
16 by my client to him regarding that.

17 SOLICITOR: Your Honor, of course the jury
18 has that in its entirety and it speaks for itself.

19 THE COURT: All right, what is the question?

20 MR. SIMS: I asked him that in the first part
21 of the statement whether or not my client told him that
22 Pattie Syphrette had talked about Connie and Lee being
23 the persons that she wanted to kill.

24 THE COURT: Something that's in the statement?

25 MR. SIMS: Yes, sir.

Mr. Whetstone-Cross by Mr. Sims

1317

1 THE COURT: Go ahead.

2 Q. Is that correct?

3 A. Yes, it is in the statement.

4 Q. You were also told, and in that statement
5 you were also told about the fact that Doug Ferguson
6 had taken some rings and watches that belonged to Sammie
7 Stokes, isn't that correct?

8 A. Yes, that is correct.

9 Q. Now, Sammie, when he talked to you about that,
10 wanted his money for his rings, wanted his stuff back
11 for his rings, isn't that correct?

12 A. Yes, that is correct.

13 Q. Now, Sammie, as it relates to the fact that
14 those rings had been taken by Doug Ferguson, Sammie
15 never indicated that he wanted to kill Doug Ferguson
16 because of those rings, isn't that right?

17 SOLICITOR: Your Honor, I'm going to object
18 to that. All we have is a statement that the defendant
19 voluntarily gave to the police, it's in evidence and
20 his cross-examination of --- he's getting into what
21 is not in the statement.

22 MR. SIMS: That's in the statement that he
23 only talked about that he wanted his money back. He
24 never mentioned in the statement that he wanted to kill
25 Doug Ferguson because of the rings.

Mr. Whetstone-Cross by Mr. Sims

1318

1 THE COURT: You're going to need to rephrase
2 your question to reel it in to the statement, otherwise
3 the Solicitor has got a point.

4 Q. Okay. In the statement is there ever a place
5 in that statement where Sammie Stokes said that he wanted
6 to kill Doug Ferguson because of those rings?

7 SOLICITOR: My objection is that there are
8 a whole world of things that are not in that statement.
9 The New York City telephone book is not in the statement.
10 What is not in the statement is not evidence. He's
11 asking this witness to characterize things that are
12 not in the statement.

13 MR. SIMS: Your Honor, they introduced ---

14 SOLICITOR: The statement speaks for itself.

15 MR. SIMS: They introduced the statement and
16 I should have the right to ask them whether or not there's
17 any references in the statement. If they're in there,
18 they can say that they are in there. If they are not
19 in there, they can say that it's not in there.

20 THE COURT: But it is characterizing.

21 MR. SIMS: Your Honor, may I be heard on that?
22 I don't think it's characterizing, it's simply asking
23 him to state what's in the statement, to show me in
24 the statement where he said that he was going to kill
25 him for the rings.

1 THE COURT: Ask the question again then.

2 Q. Is there a statement, a part of that statement,
3 where Sammie Stokes said to you, is it in that statement,
4 that he wanted to kill Doug Ferguson because of those
5 rings?

6 THE COURT: That's not in the statement, right?

7 SOLICITOR: That's correct.

8 MR. SIMS: And I'm asking whether it's in
9 there and he said --- he can either say it is or it's
10 not.

11 THE COURT: Sustained.

12 MR. SIMS: Your Honor, if the Court would
13 note my objection.

14 Q. Now, let me ask you, let's move on then. In
15 the statement there were some bullets found, is that
16 correct, there were some bullets found at Pattie
17 Syphrette's house, is that correct?

18 A. Yes, that is correct.

19 Q. Now, there was also a K-mart bag found there,
20 is that correct?

21 A. Yes, that is correct.

22 Q. Now, you're a police officer and you would
23 be able to tell me. Is there a process for purchasing
24 bullets in the state where you have to show ID.

25 A. I don't believe I've ever had to show ID to

Mr. Whetstone-Cross by Mr. Sims

1320

1 purchase ammunition.

2 Q. You don't believe you've ever had to show
3 ID to purchase ammunition?

4 A. Not that I can recall.

5 Q. Okay. Let me ask you this, if anyone goes
6 out to K-mart to check, to make a determination of who,
7 if anyone, had purchased any bullets --- well, let me
8 ask it a different way. Did anybody take the picture
9 of Sammie Stokes, Faith Lapp or Pattie Syphrette out
10 to K-mart to determine if they had purchased bullets?

11 A. Not to my knowledge.

12 MR. SIMS: That's all I have of this witness,
13 Your Honor.

14 THE COURT: You may step down.

15 SOLICITOR: Call Faith Lapp.

16 MR. SIMS: Your Honor, at some point may I
17 be heard on that issue as it relates to the statement?

18 THE COURT: Do you want to do it now?

19 MR. SIMS: I'll do it after this witness,
20 Your Honor.

21 SOLICITOR: Your Honor, did you want to collect
22 the copies?

23 THE COURT: If we are through with the statement,
24 you may take them back up.

25 (WHEREUPON, Bailiff took up the copies of
the statement.)

Ms. Lapp-Direct by Solicitor

1321

- 1 FAITH LAPP, AFTER FIRST BEING
2 DULY SWORN, TESTIFIED AS FOLLOWS:
3 DIRECT EXAMINATION BY SOLICITOR:
4 Q. You are Faith Lapp?
5 A. Yes.
6 Q. And, Ms. Lapp, tell the jury how old you are,
7 please.
8 A. I'm 58.
9 Q. And you have a throat problem, is that correct?
10 A. Yes.
11 Q. Does that prevent you from speaking loudly?
12 A. Yes.
13 Q. Okay. What I want you to do, Ms. Lapp, this
14 just has to hear what you've got to say, is to lean
15 into the microphone and talk as loud as you can where
16 I can hear you, where the people out here can hear you,
17 okay?
18 A. Okay.
19 Q. What is your marital status?
20 A. Common law marriage.
21 Q. Who are you married to, who do you consider
22 your husband?
23 A. Kenneth Zaleetil.
24 Q. Okay. And what was your occupation during
25 your working years?

Ms. Lapp-Direct by Solicitor

1322

- 1 A. Truck driver.
- 2 Q. What kind of truck driver were you?
- 3 A. 18 wheeler.
- 4 Q. Do you have a CDL license?
- 5 A. Yes.
- 6 Q. Over the road truck driver?
- 7 A. Yes.
- 8 Q. How long did you do that kind of work?
- 9 A. Off and on for over thirty years.
- 10 Q. Okay. And did you retire from that?
- 11 A. Yeah.
- 12 Q. When did you retire?
- 13 A. Uhm --- two years ago.
- 14 Q. And I want to ask you to tell the jury whether
- 15 or not you were charged in connection with the death
- 16 of Douglas Ferguson and Connie Snipes?
- 17 A. Yes, sir.
- 18 Q. And what were you charged with?
- 19 A. Conspiracy, kidnapping, first degree lynching,
- 20 accessory after the fact.
- 21 Q. You were also charged with murder, weren't
- 22 you?
- 23 A. Yes, I was.
- 24 Q. And are you represented by a lawyer?
- 25 A. Yes, sir.

Ms. Lapp-Direct by Solicitor

1323

- 1 Q. What's that lawyer's name?
- 2 A. Joseph Dasta.
- 3 Q. And is Mr. Dasta here in the courtroom?
- 4 A. Yes, sir.
- 5 Q. And with Mr. Dasta's assistance was there
- 6 a plea agreement worked between you and the State of
- 7 South Carolina?
- 8 A. Yes, sir.
- 9 Q. Tell the jury what that plea agreement is.
- 10 A. Uhm --- conspiracy and accessory after the
- 11 fact. And it contains a twenty year ---
- 12 Q. You need to speak up a little bit because
- 13 you are fading out, Ms. Lapp.
- 14 A. It contains to a twenty year sentence.
- 15 Q. You are facing up to twenty years?
- 16 A. Yes.
- 17 Q. And you are in jail now, is that correct?
- 18 A. Yes.
- 19 Q. And you've been in jail for how long?
- 20 A. 511 days.
- 21 Q. When did you enter into your plea agreement
- 22 with the State?
- 23 A. In September.
- 24 Q. Of this year?
- 25 A. Of this year, yes, sir.

Ms. Lapp-Direct by Solicitor

1324

- 1 Q. September, 1999?
- 2 A. Yes.
- 3 Q. Before you got locked up, where did you live?
- 4 A. In Bamberg.
- 5 Q. Did you live in a house or a trailer?
- 6 A. A trailer.
- 7 Q. Okay, was that in a trailer park?
- 8 A. Yes.
- 9 Q. Who did you live with?
- 10 A. Mr. Zaleetil and myself.
- 11 Q. And did you know a woman named Pattie Syphrette
- 12 last year, like May of last year?
- 13 A. Yes, sir.
- 14 Q. About how long had you known Pattie Syphrette
- 15 back then?
- 16 A. About two years.
- 17 Q. How did you know her?
- 18 A. She was my neighbor and friend.
- 19 Q. When you say your neighbor, how close was
- 20 her trailer to your trailer?
- 21 A. Right next door.
- 22 Q. And this is in Bamberg, is that correct?
- 23 A. Yes.
- 24 Q. There's been some testimony about a house
- 25 in Orangeburg, did Mrs. Syphrette always live in the

1 trailer at Bamberg?

2 A. No. Her husband has a house in Orangeburg.

3 Q. Okay. Do you know her husband?

4 A. Yeah.

5 Q. What's his name?

6 A. We call him Poncho.

7 Q. Poncho, okay. At the time she lived in the
8 trailer next to you in the trailer park in Bamberg,
9 is that correct?

10 A. Yes.

11 Q. Okay. And who did she live with and let's
12 talk about the time frame April, May, 1998?

13 A. There was Pattie and Connie and Doug and Brian.

14 Q. Okay, let's take the full names now. When
15 you say Connie, you're talking about ---

16 A. Connie Snipes.

17 Q. Connie Snipes, okay.

18 A. And Doug Ferguson.

19 Q. Doug Ferguson lived there. Who else?

20 A. Brian Snipes.

21 Q. Okay, and Brian Snipes was the baby, right?

22 A. Right.

23 Q. And about how old was Brian Snipes back in
24 May of last year?

25 A. Back in May?

Ms. Lapp-Direct by Solicitor

1326

1 Q. Yeah.

2 A. Eight or nine months.

3 Q. And who was Brian's mother?

4 A. Pardon me?

5 Q. Who was Brian Snipes; mother?

6 A. Connie Snipes.

7 Q. Who was his father or do you know?

8 A. I don't know.

9 Q. Did you know Connie Snipes?

10 A. Yeah, a little bit.

11 Q. And how did you know her, through Pattie?

12 A. Yeah.

13 Q. I want to back up a little bit to January
14 of 1998, were you living in the same location, the trailer
15 in Bamberg?

16 A. Yeah.

17 Q. Who were you living with?

18 A. Ken Zaleetil.

19 Q. And how were you the two of ya'll getting
20 along?

21 A. We were just getting back together.

22 Q. So you had been separated, had some problems?

23 A. Yeah.

24 Q. And what, if anything, did you find in your
25 trailer in January of 1998?

1 A. I found a handgun.

2 Q. And when you found the handgun, was it loaded
3 or unloaded?

4 A. It was loaded.

5 Q. Okay, and what was your reaction when you
6 found a loaded gun in your trailer?

7 A. Well, I had previously asked Ken to unload
8 the guns and he didn't do it and I was very upset and
9 I asked Pattie to get rid of it for me.

10 Q. And again, Pattie is Pattie Syphrette?

11 A. Correct.

12 Q. So you gave Pattie Syphrette the gun in January
13 of 1998?

14 A. Yes, sir.

15 Q. Okay, for the purpose of getting rid of it.

16 MR. SIMS: Your Honor, again, he's leading
17 the witness.

18 SOLICITOR: I'll rephrase it.

19 Q. Why did you give Pattie Syphrette the gun?

20 A. So I wouldn't know where it was.

21 Q. Okay. Did you know Doug Ferguson?

22 A. Yeah.

23 Q. How did you know Doug Ferguson?

24 A. Through Pattie and Connie.

25 Q. Approximately how long was it that Doug Ferguson

Ms. Lapp-Direct by Solicitor

1328

1 was living in the trailer with Pattie Syphrette and
2 Connie Snipes?

3 A. Couple, three months.

4 Q. And did you have an opportunity to observe
5 the relationship between Pattie Syphrette and Doug
6 Ferguson?

7 A. I thought she was just helping him out.

8 Q. Shortly before May 28, 1998, do you recall
9 having a telephone conversation with Pattie Syphrette?

10 A. Yeah.

11 Q. And who placed the call, do you remember?

12 A. She did.

13 Q. What, if anything, did she say in reference
14 to Doug Ferguson?

15 A. She said that he had to go because he knew
16 too much.

17 Q. I want to call your attention to May 28, 1998
18 and ask whether or not you were home that day?

19 A. Yes.

20 Q. That was a Thursday, I believe.

21 A. Yes.

22 Q. Were you home in your trailer in Bamberg?

23 A. Yes.

24 Q. Did you receive a telephone call?

25 A. Yes, sir.

1 Q. From who?

2 A. From Pattie.

3 Q. And what was Pattie's demeanor as she called
4 you on the telephone?

5 A. She said that uhm ---

6 MR. SIMS: Objection as to what Pattie said.

7 SOLICITOR: Your Honor, this is part of the
8 Ras Gestae in 803(3). It's not introduced for the truth
9 but to show why she did her subsequent what she did.

10 MR. SIMS: It is hearsay.

11 THE COURT: You asked what her demeanor was.

12 SOLICITOR: Yes, sir.

13 MR. SIMS: Over the phone?

14 Q. Without saying what she told you over the
15 phone right now, how would you characterize her voice,
16 the way she presented herself over the phone to you?

17 A. She sounded very upset.

18 Q. And what, if anything, did she say?

19 MR. SIMS: Objection again, Your Honor.

20 SOLICITOR: Again, under 803(3).

21 THE COURT: Overruled.

22 Q. What did she say to you?

23 A. That she wanted me to come up to Poncho's
24 house.

25 Q. And were you familiar with where that location

Ms. Lapp-Direct by Solicitor

1330

1 was?

2 A. Yes.

3 Q. You had been there before?

4 A. Yes.

5 Q. Where is that located?

6 A. On Rivelon Road.

7 Q. All right. And would you state whether or
8 not she told you why she wanted you at the house?

9 A. She just said that she needed me to come up
10 there right away and something about she needed me for
11 Brian.

12 Q. Okay, and Brian was the baby?

13 A. Yeah.

14 Q. And did you go to the house?

15 A. Yes.

16 Q. By yourself?

17 A. Yes.

18 Q. You drove yourself over there?

19 A. Yeah.

20 Q. When you arrived at the house, was anybody
21 there?

22 A. Pattie Syphrette and Brian and I found out
23 it was Mr. Stokes.

24 Q. Okay, and do you see Mr. Stokes in the courtroom
25 today?

Ms. Lapp-Direct by Solicitor

1331

1 A. Yes, sir.

2 Q. Point him out.

3 A. The third man on my right.

4 SOLICITOR: Your Honor, for the record she
5 is pointing to the defendant, Sammie Louis Stokes.

6 Q. Okay, what was --- had you ever seen him before?

7 A. No, sir.

8 Q. And where were the different people in the
9 house when you went in?

10 A. Pattie was on the couch and Brian was playing
11 on the floor right there by her, and then Mr. Stokes
12 was right behind me.

13 Q. And what happened when you entered the house,
14 did you say anything to anybody?

15 A. I asked Pattie what was going on.

16 Q. And what was her demeanor at this point in
17 time?

18 A. She was almost laughing and cutting up.

19 Q. Laughing and cutting up?

20 A. Yeah.

21 Q. And what do you recall about Sammie Stokes's
22 demeanor and by demeanor I mean the way they were acting,
23 the way they were presenting themselves?

24 A. When I first got there he was real quiet.

25 Q. What did you do when you entered the house?

Ms. Lapp-Direct by Solicitor

1332

1 A. I walked over and I started playing with Brian.

2 Q. And what part of the house were you in when
3 you started playing with Brian?

4 A. The living room.

5 Q. Okay. Where in the living room were you?

6 A. On the far end of the couch.

7 Q. And while you were playing with the baby what,
8 if anything, was going on between Pattie Syphrette and
9 Sammie Stokes?

10 A. They were talking at the other end.

11 Q. In the same room with you?

12 A. Yeah.

13 Q. Could you hear what they were saying?

14 A. No, I didn't catch hardly any of it.

15 Q. Okay, at some point did you hear anything,
16 any words said?

17 A. Pattie asked if we were all in agreement and ---
18 MR. SIMS: Objection, Your Honor, about what
19 Pattie asked.

20 SOLICITOR: Your Honor, again, this would
21 be part of the conspiracy and the statement of a co-
22 conspirator in furtherance of the conspiracy.

23 THE COURT: Overruled.

24 Q. What did you hear her say, Mrs. Lapp?
25

Ms. Lapp-Direct by Solicitor

1333

1 A. Wanted to know if we were all in agreement.

2 Q. Who said that?

3 A. Pattie.

4 Q. Okay. And who was she directing that to?

5 A. She was looking at me and Mr. Stokes.

6 Q. And was there any response from anybody to
7 that?

8 A. I asked her what she meant.

9 Q. And did she respond to that?

10 A. And she said --- I --- she said they were
11 going to get Doug to come up here and teach him a lesson
12 for sure.

13 MR. SIMS: Your Honor, if I could interpose
14 an objection to this entire conversation as it relates
15 to what someone else who is not in court, an out of
16 state declarant, out of court declarant is saying, I
17 would want to interpose my objection.

18 THE COURT: Noted.

19 Q. Again, Mrs. Lapp, when they were --- what
20 did you think was happening, what were they thinking
21 or talking about in your mind?

22 A. I thought they were going to rough him up
23 a little bit.

24 Q. And did you know why they wanted to rough
25 him up?

Ms. Lapp-Direct by Solicitor

1334

1 A. To teach him not to steal any more.

2 Q. All right, and what happened after that?

3 A. Pattie left.

4 Q. Patti left? Did she leave by herself?

5 A. She left by herself in the pickup.

6 Q. Can you describe the pickup truck she left
7 in?

8 A. It was a blue Chevy pickup.

9 Q. And did she say where she was going?

10 A. She said she was going to go down and pick
11 up Doug.

12 Q. Did she go by herself?

13 A. Yeah.

14 Q. Approximately how long was she gone?

15 A. About an hour.

16 Q. Okay, and during that hour that Pattie Syphrette
17 drove off in the pickup truck, what, if anything, was
18 going on in the house, what were you doing and what
19 was Stokes doing?

20 A. I was taking care of Brian and Stokes was
21 sitting in the chair and then he got up and started
22 going from window to window and wondering what was taking
23 Pattie so long.

24 Q. And was there any conversation between you
25 and Stokes during that hour that Pattie Syphrette was

Ms. Lapp-Direct by Solicitor

1335

1 gone?

2 A. Yeah.

3 Q. Tell the jury what he said and what you said.

4 A. He was telling me that ---

5 Q. Speak up now so they can hear you.

6 A. He was telling me that if I said anything
7 that he was going to get to me and do to me what he
8 did to Connie. And if he couldn't get to me, he was
9 going to get to my family and then he said that he was
10 going to have to come back in twenty years and get the
11 baby. (witness is crying.)

12 Q. What baby?

13 A. Brian.

14 Q. And when he said that to you, Mrs. Lapp, what
15 was your reaction to that?

16 A. I didn't think, I just got out the way.

17 Q. What was your state of mind?

18 A. Sad.

19 Q. Were you scared?

20 A. Yeah.

21 Q. Did you believe what he told you?

22 A. Yeah.

23 Q. Why?

24 A. Well, Pattie told me earlier that they shot
25 Connie.

Ms. Lapp-Direct by Solicitor

1336

1 MR. SIMS: Your Honor, I have an objection
2 again and I know I've made that objection and I would
3 object again to what someone else said and I would move
4 for a mistrial.

5 SOLICITOR: Your Honor, again, this is part
6 of the Ras Gestae, what occurred, her state of mind.

7 THE COURT: Ladies and gentlemen of the jury,
8 step out a minute, please.

9 (WHEREUPON, Jury retired to the jury room and
10 the following proceedings were held in the absence of
11 the jury.)

12 SOLICITOR: Your Honor, if I may, her testimony
13 was that Stokes told her that he would do to her what
14 he did to Connie. That's obviously not hearsay, that's
15 something Stokes said.

16 THE COURT: The reason I sent the jury out
17 I didn't catch exactly what her response was to that
18 last question.

19 SOLICITOR: Her response to that question
20 was that --- after she said that Stokes said that he
21 would do to her what he did to Connie, I asked her if
22 she was scared and then I asked her why she was afraid
23 and she said that Pattie related to her what had happened
24 to Connie.

25 MR. SIMS: Your Honor, she said that Pattie

Ms. Lapp-Direct by Solicitor

1337

1 basically she was saying that Pattie told her what he
2 had done to Connie and basically that he had shot Connie
3 or something like that.

4 SOLICITOR: Your Honor, of course, the jury
5 has already found that Connie had been shot in the guilt
6 phase so there's no prejudice here.

7 MR. SIMS: Your Honor, I would take the position
8 that there's prejudice. We're in the position now of
9 talking about the penalty that's going to be imposed
10 and this is put in for the truth and bolstering the
11 testimony that said that he killed Connie Snipes. This
12 is my somebody who is not in the courtroom, this is
13 by somebody who is out --- I have no way of cross-examining
14 that person, I have no way of determining or getting
15 to or confronting that person. This is an out of state,
16 an out of court statement put in for the truth of the
17 matter bolstering the testimony that my client killed
18 Connie Snipes.

19 THE COURT: It's not prejudicial, the jury
20 has already found him guilty of that.

21 MR. SIMS: They found him guilty but this
22 is an issue in terms of whether or not they are going
23 to --- this whole case and I've objected to this whole
24 case as it relates to Doug Ferguson because it's an
25 attempt not to show that he's guilty of it, but in

Ms. Lapp-Direct by Solicitor

1338

1 basically showing his character. And by continuing to
2 refer back to issues that someone else said that he
3 killed Connie is continuing --- it's cumulative, it's
4 getting to the point where the whole purpose of this
5 is one to get to the jury to inflame the jury, this
6 whole thing of the tears, the whole thing of how she
7 was afraid. Everybody that has come in this courtroom
8 has talked about being afraid of Sammie Stokes. Everybody
9 is now afraid of Sammie Stokes. She's coming in here
10 with the same thing, that she's afraid of Sammie. Why?
11 Because Connie told her, not because she has anything ---
12 any independent information that Connie --- that he
13 killed Connie Snipes but because someone else, Pattie
14 Syphrette, told her that he had killed someone else,
15 that he had killed her.

16 THE COURT: Well, I don't see that it's prejudicial.
17 What I'm going to do is I'm going to strike it and tell
18 the jury to disregard it, that particular statement.

19 SOLICITOR: All right, sir.

20 THE COURT: It's not that --- that's a close
21 call on that.

22 MR. SIMS: If the Court would note my objection
23 and my motion for a mistrial, Your Honor.

24 THE COURT: Bring in the jury, please.
25

1 (WHEREUPON, The jury returned to the courtroom
2 and the following proceedings were held in their presence.)

3 THE COURT: All right, I'm going to strike
4 the last response from the witness and instruct the
5 jury to disregard the statement and disabuse it from
6 your mind. Go ahead, Solicitor.

7 Q. Thank you, Your Honor. All right, Mrs. Lapp,
8 what happened after Pattie Syphrette returned to the
9 house, was she by herself?

10 A. No.

11 Q. Okay, who was with her?

12 A. Doug.

13 Q. Doug Ferguson?

14 A. Doug Ferguson was with her.

15 Q. And when they returned, what part of the house
16 were you in?

17 A. I was in the living room.

18 Q. And would you state whether or not Sammie
19 Stokes was still in the house.

20 A. He was in the bedroom.

21 Q. And what happened after Pattie Syphrette and
22 Doug Ferguson came into the house?

23 A. Doug came in and he picked up the baby and
24 said, hello, and Pattie went into the ---

25 Q. Slow down now, Doug Ferguson picked the baby

Ms. Lapp-Direct by Solicitor

1340

1 up.

2 A. Picked the baby up and said hello to him and
3 give him a kiss and put him back down.

4 Q. When Doug Ferguson picked the baby up, kissed
5 the baby and put it back down, what occurred next?

6 A. And then he went over and sit down on the
7 couch.

8 Q. He meaning Doug?

9 A. Doug went over and sit on the couch.

10 Q. All right, and what, if anything, did ---
11 where did Pattie Syphrette go?

12 A. She was in the bathroom.

13 Q. And what about Sammie Stokes, this man over
14 here?

15 A. He was in the bedroom and then he came out.

16 Q. And what, if anything, did you observe after
17 Sammie Stokes came out of the bedroom and Doug Ferguson
18 was on the couch?

19 A. He came in and kept asking him if he knew
20 him and ---

21 Q. You have to give names now, there are two
22 men there, Doug Ferguson and Sammie Stokes.

23 A. Okay. Mr. Stokes came out of the back room
24 and I heard him asking Doug if he knew him and ---

25 Q. Okay, now let me slow you down a second, Mrs.

Ms. Lapp-Direct by Solicitor

1341

1 Lapp. Do you recall what Sammie Stokes was wearing when
2 he came out of that other room?

3 A. He was wearing latex gloves.

4 Q. Wearing what?

5 A. Latex gloves.

6 Q. Latex gloves. Okay, and go ahead and tell
7 the jury what occurred after Stokes came out of the
8 other room wearing the latex gloves.

9 A. Well, he came out and he kept on hollering
10 at him, do you know me, do you know me, you're going
11 to know me ---

12 Q. I can't hear you. Slow it down, Mrs. Lapp,
13 the jury needs to hear you. Tell the jury, to the best
14 of your recollection, what Sammie Stokes said to Doug
15 Ferguson.

16 A. He kept asking him if he knew him and Doug
17 kept saying no. And ---

18 Q. What were his exact words?

19 A. And he said, motherfucker, you're going to
20 know me.

21 Q. And when this was going on, Mrs. Lapp, what,
22 if anything, did you do?

23 A. I got up and took the baby out in the other
24 room.

25 Q. And why did you leave the room?

Ms. Lapp-Direct by Solicitor

1342

1 A. Because I was afraid they was going to start
2 fighting.

3 Q. So you picked the baby up and you left the
4 room, where did you go?

5 A. I went into the kitchen and Pattie came out
6 of the bathroom by then and then I went in the bathroom.

7 Q. Okay, did you take the baby with you?

8 A. Yes.

9 Q. And after you got in the bathroom, could you
10 hear anything happening in the other part of the house?

11 A. Well, I heard muffled sounds like they were
12 talking or whatever and then I heard a thud and I looked
13 out.

14 Q. Okay, now, to look out, you left the bathroom?

15 A. Yeah.

16 Q. And did you look into the living room?

17 A. Yeah.

18 Q. Tell the jury what you saw.

19 A. I saw Stokes was taping up Ferguson's feet,
20 his ankles.

21 Q. And what position was Ferguson in when ---

22 A. He was laying on the floor.

23 Q. Did you observe Doug Ferguson's hands?

24 A. They were taped, too.

25 Q. They were already taped?

Ms. Lapp-Direct by Solicitor

1343

- 1 A. Yeah.
- 2 Q. Where was Pattie Syphrette when this was happening?
- 3 A. She was in that general area.
- 4 Q. And was anything being said among these three
- 5 people, Doug Ferguson is being taped up, Sammie Stokes
- 6 and Pattie Syphrette, did you hear any conversation?
- 7 A. Doug started crying.
- 8 Q. Crying?
- 9 A. Uh-huh.
- 10 Q. How?
- 11 A. He was begging them not to shoot him.
- 12 Q. And when he was crying and begging them not
- 13 to shoot him, was there any response from either Pattie
- 14 Syphrette or Sammie Stokes?
- 15 A. Well, Pattie asked him if she ever lied to
- 16 him and he said no and she said I'm not going to shoot
- 17 you and she calmed him down like that.
- 18 Q. Calmed down?
- 19 A. Got Doug to calm down.
- 20 Q. All right. Did you see anything else on that
- 21 trip out of the bathroom?
- 22 A. No.
- 23 Q. Did you hear anything else?
- 24 A. No.
- 25 Q. Did you go back into the bathroom?

Ms. Lapp-Direct by Solicitor

1344

- 1 A. Yes.
- 2 Q. Did you eventually come out of the bathroom?
- 3 A. Yeah, when I heard them --- some noises in
- 4 the hallway.
- 5 Q. What kind of noises were in the hallway?
- 6 A. Just like some bumping and stuff.
- 7 Q. Bumping?
- 8 A. Yeah.
- 9 Q. Okay.
- 10 A. And then it got real quiet and then I came
- 11 out and I looked around and I didn't see anybody so
- 12 I went out and sat in the chair in the living room.
- 13 Q. You went back in the living room. Was anybody
- 14 else in the living room at that time?
- 15 A. No.
- 16 Q. And you had the baby with you?
- 17 A. Yeah.
- 18 Q. Did you see anybody else enter the living
- 19 room?
- 20 A. Pattie came into the living room at that time.
- 21 Q. As Pattie walked into the living room did
- 22 you observe what she had on?
- 23 A. She had latex gloves on at that time.
- 24 Q. Latex gloves?
- 25 A. Yeah.

Ms. Lapp-Direct by Solicitor

1345

1 Q. Okay. Any conversation at that point?

2 A. She told me that he wasn't going to steal
3 any more.

4 Q. Pattie Syphrette said that he wasn't going
5 to steal any more?

6 A. Yeah.

7 Q. Did you respond to her?

8 A. How do you know he's not going to steal any
9 more? And that's when she told me he was dead.

10 Q. Did you believe her at that time?

11 A. Just the way she said it.

12 Q. Now where was Stokes at that time?

13 A. He was in the back bedroom.

14 Q. And did he come out of the bedroom at any
15 point?

16 A. Uhm --- he called Pattie back in there and
17 I guess they were talking or something and then ---

18 Q. Well, don't guess, but did she go back in
19 the bedroom?

20 A. Well, I couldn't make out what they were saying
21 or anything.

22 Q. You heard voices?

23 A. Yeah.

24 Q. And then what happened?

25 A. And then she came back out and asked me if

Ms. Lapp-Direct by Solicitor

1346

1 I would go for some drinks.

2 Q. She asked you to go get drinks?

3 A. Yeah.

4 Q. And did you do that?

5 A. Yeah.

6 Q. Where did you go?

7 A. I ---

8 Q. Wait a minute, before you left was there any
9 conversation that you had either with Pattie or with
10 Stokes, any words exchanged?

11 A. Well, Mr. Stokes didn't want me to go get drinks
12 because he was afraid I was going to call the police.

13 Q. Well, how do you know that?

14 A. 'Cause that's what he told Pattie and I heard
15 him.

16 Q. What did he tell Pattie?

17 A. That I don't think she ought to go.

18 Q. Did he say anything else?

19 A. And Pattie told him that I would be okay,
20 that I could go and as I was leaving and she give me
21 some money to get some drinks and then he said, don't
22 forget.

23 Q. Okay, Stokes told you don't forget?

24 A. Yeah.

25 Q. Where did you go?

Annette J. Mole

1416 Circuit Court Reporter

P. O. Box 374

St. Louis, Mo.

Ms. Lapp-Direct by Solicitor

1347

- 1 A. I went down to Henricks.
- 2 Q. Hendricks, that's a convenience store?
- 3 A. Yeah.
- 4 Q. On Rivelon Road?
- 5 A. Well, it's closer to --- it's a ways down
- 6 there where you can get cut rates.
- 7 Q. Okay, did you see anything on the way from
- 8 609 Rivelon Road to the store?
- 9 A. Yeah, when I got up to the corner of 301 and
- 10 Rivelon Road there was a bank there and there was a
- 11 bunch of police officer up there.
- 12 Q. You saw a bunch of police cars?
- 13 A. Yeah.
- 14 Q. And what did you do when you got to the store?
- 15 A. I made my purchases and then I went to the
- 16 store and I called back to Pattie's.
- 17 Q. When you called to the house what was the
- 18 purpose of you making that call?
- 19 A. To find out where the police went.
- 20 Q. Did Pattie answer the phone?
- 21 A. I thought she answered the phone but she didn't.
- 22 Q. Who was it?
- 23 A. It was the police department, sheriff's office.
- 24 Q. You hung up?
- 25 A. After I told them that they were at the corner

Ms. Lapp-Direct by Solicitor

1348

1 and headed down that way and look where they were going,
2 look out and see where they were going.

3 Q. After you hung the phone up, you were at the
4 convenience store, right?

5 A. Yeah.

6 Q. Where did you go?

7 A. I went down to the fish hatchery.

8 Q. And why did you go to the fish hatchery?

9 A. To calm down.

10 Q. You were upset?

11 A. Yeah, very.

12 Q. Do you recall talking to Detective Clark Whetstone
13 on the day of the 29th of May, 1998?

14 A. Yes, sir.

15 Q. And you gave your statement?

16 A. Yes.

17 Q. And did you tell Clark Whetstone that you
18 were not present in the house when Doug Ferguson was
19 killed?

20 A. That's correct.

21 Q. And was that a lie?

22 A. Yes, sir.

23 Q. Why did you lie?

24 A. Scared.

25 Q. Scared of what?

Ms. Lapp-Direct by Solicitor

1349

1 A. Of Mr. Stokes.

2 SOLICITOR: Mrs. Lapp, please answer any questions
3 that Mr. Sims may have for you.

4 THE COURT: Mr. Sims.

5

6 CROSS-EXAMINATION

7 BY MR. SIMS:

8 Q. Mrs. Lapp, the gun --- you gave the gun to
9 Pattie Syphrette, isn't that correct?

10 A. Yes, sir.

11 Q. It was the gun that came out of your house?

12 A. Yeah.

13 Q. And you do have a deal, is that correct?

14 A. Yes, sir.

15 Q. And because of your deal you are in here testifying?

16 A. Yeah.

17 Q. And what is it, you're going to get twenty
18 years?

19 A. Yeah.

20 Q. And so you need to be sure that what you say
21 is consistent with what you've told the police, isn't
22 that right?

23 A. I don't quite understand.

24 Q. Well, you've got to tell them something and
25 you told them back then, you put everything on Sammie

Ms. Lapp-Cross by Mr. Sims

1350

1 Stokes and Pattie Syphrette, so you've got to keep that
2 to be consistent with that, isn't that right?

3 A. I just want to tell the truth.

4 Q. Let's go over a few things before we get to
5 your statements here. You live with your common law
6 husband, is that correct?

7 A. Yes, sir.

8 Q. And you all live over where, in Bamberg?

9 A. Yes, sir.

10 Q. And he's a big man, isn't he?

11 A. Yeah.

12 Q. About 6'3", 250 pounds.

13 A. Not that big.

14 Q. And you were kind of afraid of him, isn't
15 that right?

16 A. Yeah.

17 Q. He had been abusive to you?

18 A. Threw a lawn mower at me.

19 Q. Threw a lawn mower at you. And so you were
20 afraid of him and you wanted somebody to get rid of
21 him, didn't you?

22 A. No.

23 Q. And that's what you talked with Stokes about.

24 A. No, I didn't.

25 Q. You told him about your husband, didn't you?

Ms. Lapp-Cross by Mr. Sims

1351

- 1 A. No.
- 2 Q. You never told him about him?
- 3 A. No.
- 4 Q. Never said anything to him about him?
- 5 A. (No response.)
- 6 Q. You never told him that you all had a couple
- 7 of trailers or that he had a couple of trailers and
- 8 always carried a lot of money on him.
- 9 A. No.
- 10 Q. You never said anything to him about that?
- 11 A. No.
- 12 Q. Now, you knew Connie, did you?
- 13 A. Yeah.
- 14 Q. And Pattie?
- 15 A. Yeah.
- 16 Q. And did you ever talk to Pattie about Connie
- 17 Snipes?
- 18 A. Just that she's on the phone a lot.
- 19 Q. Just that she's on the phone?
- 20 A. Yeah, she was on the phone a lot.
- 21 Q. So Pattie Syphrette never told you anything
- 22 about wanting to kill Connie Snipes?
- 23 A. No.
- 24 Q. She never said anything to you about that?
- 25 A. No.

Ms. Lapp-Cross by Mr. Sims

1352

1 Q. Did she ever tell you that she wanted to kill
2 Doug?

3 A. No.

4 Q. She never said anything to you about she wanted
5 to kill Doug?

6 A. No.

7 Q. Now when you got there to the house, you
8 came in your own car, is that correct?

9 A. Yeah.

10 Q. And Pattie left to go get Doug, is that correct?

11 A. Yes.

12 Q. And you said that you were at the house about
13 an hour with Sammie Stokes, is that correct?

14 A. Yeah.

15 Q. And this is when you said that he threatened
16 you and your family and said that he would come back
17 in twenty years and get Brian.

18 A. Correct.

19 Q. Let me hand you your statement of June 1,
20 1998. Now in that statement of June 1, 1998, is there
21 any place in there that you told the police that Sammie
22 Stokes told you that he was going to come back in twenty
23 years and get Brian?

24 A. (Witness looks over statement.)

25 Q. Have you finished reading that?

Ms. Lapp-Cross by Mr. Sims

1353

- 1 A. Yeah.
- 2 Q. That's not in there, is it?
- 3 A. No, sir.
- 4 Q. Now, so then today is the first time that
- 5 you've ever said anything to anybody about Stokes telling
- 6 you that he was going to come back in twenty years and
- 7 get Brian?
- 8 A. Would you repeat the question, please?
- 9 Q. Today is the first day that you've ever told
- 10 anyone that Sammie Stokes had threatened to come back
- 11 in twenty years and get Brian, the little baby?
- 12 A. I had said it before but I don't remember
- 13 when.
- 14 Q. You never told the police because it's not
- 15 in any of your statements, isn't that right?
- 16 A. It's not in the statement, no.
- 17 Q. This is your first statement on 5/29 of '98
- 18 and in that statement you even denied ever being at
- 19 the house, isn't that right?
- 20 SOLICITOR: Objection, Your Honor, she's already
- 21 answered that on direct that she lied in that statement.
- 22 There's nothing to impeach.
- 23 THE COURT: Overruled.
- 24 Q. Isn't that correct?
- 25 A. Yeah.

Ms. Lapp-Cross by Mr. Sims

1354

1 Q. So that statement is a lie?

2 A. Yes, sir.

3 Q. Now, you were there for one hour with Sammie
4 Stokes, had your car keys, your car was sitting out
5 the door, sitting right outside the door, but you never
6 made one attempt to just walk out the door, leave the
7 house and not be involved at all, did you?

8 A. I was asked to stay there.

9 Q. You were asked to stay there but by your testimony
10 you said that you had been threatened, that if you said
11 anything about what was going to happen that you would
12 be killed, your family would be killed, that twenty
13 years later he would even come back and kill the little
14 boy, but you never even walked to the door to get in
15 your car and leave, did you?

16 A. I was too scared.

17 Q. You were too afraid to walk out the door and
18 leave?

19 A. Yes, sir.

20 Q. Now, Stokes only told you, according to your
21 testimony, that they were going to rough up Doug, isn't
22 that correct?

23 A. Yes.

24 Q. So just roughing him up doesn't mean that
25 they were going to kill him or they were going to do

1 anything to him other than maybe a fight.

2 A. That's the impression that I had, yes, sir.

3 Q. So he would have no reason to threaten you
4 to not to say anything about a fight ---

5 SOLICITOR: Objection, she can't characterize
6 what was in Stokes' mind, she can say what was in her
7 mind when she heard it but he's asking her what was
8 in his mind.

9 THE COURT: You can't ask her to state what
10 was in his mind. You might want to rephrase that.

11 Q. This was only supposed to be a fight, isn't
12 that right?

13 A. That's what I thought.

14 Q. Over some jewelry.

15 A. Yes, sir.

16 Q. You had no reason to be afraid of a fight.

17 A. No.

18 Q. You could have left anytime you wanted to.

19 A. Pattie asked me to stay.

20 Q. Pattie asked you to stay but you could have
21 left anytime you wanted.

22 A. Probably.

23 Q. Mr. Stokes never put a gun on you or held
24 you or tried to do anything to keep you in that house,
25 did he?

Ms. Lapp-Cross by Mr. Sims

1356

1 A. No, that's why I don't understand why he told
2 me that.

3 Q. Now, you say that when Mrs. Stokes came back,
4 you went to the bathroom. No, when Pattie came back
5 with Doug, you got the baby, you went to the bathroom,
6 is that correct?

7 A. Yes, sir.

8 Q. Now, that bathroom is on the side around from
9 the living room, where everything was going on, isn't
10 that correct?

11 A. Yeah, it was on the front part of the house.

12 Q. If you would come down for a moment, please.

13 A. (Witness complies.)

14 Q. You're familiar with that house, is that correct,
15 you've been there before?

16 A. Uh-huh.

17 Q. And you know where the bathroom is, correct?

18 A. Uh-huh.

19 Q. Could you show us on here where the bathroom
20 is, there's a pointer.

21 SOLICITOR: Judge, that's a real rough sketch
22 that she hasn't prepared and hasn't seen before. I
23 would ask that she be given a minute or two to familiarize
24 herself with it.

25 MR. SIMS: She just pointed to it.

- 1 THE COURT: Ma'am, do you need a minute to
2 look at it?
- 3 A. No, sir.
- 4 THE COURT: All right, go ahead and proceed.
- 5 Q. Would you tell us?
- 6 A. That's the bathroom right there.
- 7 Q. That's the bathroom right there.
- 8 A. Uh-huh.
- 9 Q. And the living room was over here where the
10 couch and everything was, is that correct?
- 11 A. Yes.
- 12 Q. So you were in the bathroom right there and
13 you don't know what was going on out there in the living
14 room, is that correct?
- 15 A. No, I don't.
- 16 Q. So you don't know what happened out there?
- 17 A. Only when I went out.
- 18 Q. When you went out, where did you go when you
19 went out?
- 20 A. Okay, I was in the bathroom here and I went
21 into here.
- 22 THE COURT: You need to speak up, Madam Court
23 Reporter or I can't hear you.
- 24 Q. You need to speak up, she didn't hear what
25 you just said.

Ms. Lapp-Cross by Mr. Sims

1358

1 A. I came out of the bathroom, through the door
2 here, and I walked to here which is partly just in
3 the kitchen.

4 Q. I can't even hear you now and I'm standing
5 right by you, I'm sorry.

6 A. Partly in the kitchen.

7 Q. Partly in the kitchen. Okay, and you say that
8 by your testimony that when you went in there, you saw
9 Mr. Stokes at the feet of Doug Ferguson with tape in
10 his hands, is that correct?

11 A. Yes, sir, he had his feet taped up.

12 Q. Now, did you see anything else or you went
13 back into the bathroom?

14 A. I went back in the bathroom.

15 Q. You said something about you heard Doug Ferguson
16 begging them not to shoot him, is that correct?

17 A. Yes, sir.

18 Q. And isn't it true that you also testified
19 was that you heard Sammie Stokes said he couldn't do
20 this.

21 SOLICITOR: Objection, Your Honor, could we
22 approach?

23 THE COURT: Yes, sir.

24 (WHEREUPON, A bench conference was held out
25 of the hearing of the jury and the court reporter.)

Ms. Lapp-Cross by Mr. Sims

1359

- 1 Q. Now, when you were back there did you hear
2 Sammie Stokes say anything?
- 3 A. When?
- 4 Q. When Doug was so-called begging for his life
5 or begging?
- 6 A. Yeah.
- 7 Q. What did he say?
- 8 A. He couldn't deal with this.
- 9 Q. I'm sorry?
- 10 A. He couldn't deal with his begging.
- 11 Q. He couldn't deal with Doug Ferguson's begging,
12 is that correct?
- 13 A. Yes, sir.
- 14 Q. And what did Pattie Syphrette do?
- 15 A. She calmed him down.
- 16 Q. She calmed who down?
- 17 A. Douglas.
- 18 MR. SIMS: One moment, Your Honor.
- 19 Q. Now after all of this had happened, you don't
20 know what happened in the back bedroom, do you?
- 21 A. No, I don't, sir.
- 22 Q. You didn't see anything that went on back
23 there.
- 24 A. No, sir.
- 25 Q. So you can't tell the Court and jury anything

Ms. Lapp-Cross by Mr. Sims

1360

1 that went on back there?

2 A. I have no idea.

3 Q. But you left the house and when you left the
4 house you saw the police down at the bank, is that correct?

5 A. Yes, sir.

6 Q. Now, you didn't at that point, stop and say
7 to the police officers that something had gone on in
8 the house, did you?

9 A. No.

10 Q. They were right there, Sammie Stokes wasn't
11 around you, Pattie Syphrette was not around you either,
12 was she?

13 A. No, sir.

14 Q. And you had seen what had taken place in the
15 house but you didn't stop right there where the police
16 were to tell them what went on.

17 A. No, sir.

18 Q. You went down to the store, is that correct?

19 A. Yes, sir.

20 Q. And you called back to the house.

21 A. Yeah.

22 Q. And you were going to tell Pattie Syphrette
23 that the police were down there, isn't that right?

24 A. That they were at the corner.

25 Q. That they were at the corner.

- 1 A. Right.
- 2 Q. In effect, you were warning them.
- 3 A. To look out and see where they were going.
- 4 Q. Now, you never taped up any part of Doug Feruson?
- 5 A. No, sir.
- 6 Q. You never took the tape and taped up his feet
- 7 after you took his shoes off?
- 8 A. No, sir.
- 9 Q. Never taped up his arms?
- 10 A. No.
- 11 Q. Never took turns with Patti Syphrette to tape
- 12 up his head?
- 13 A. No.
- 14 Q. And then tape up the rest of the body?
- 15 A. No.
- 16 Q. Now you said at one point you heard thud,
- 17 you don't know what happened when you heard that thud.
- 18 A. No.
- 19 MR. SIMS: That's all I have, Your Honor.
- 20 THE COURT: Re-direct, Solicitor.
- 21 SOLICITOR: Yes, sir.
- 22
- 23 RE-DIRECT EXAMINATION BY SOLICITOR:
- 24 Q. Mrs. Lapp, Mr. Sims asked you about a statement
- 25 dated June 1, 1998 that you gave to law enforcement,

Ms. Lapp-Re-Direct by Solicitor

1362

1 is that correct?

2 A. Yes, sir.

3 Q. Okay, let me hand you this and ask you if that
4 is the statement that you were talking about here?

5 A. Yes, sir.

6 Q. And did you sign that statement?

7 A. Yes, sir.

8 Q. And is that --- are you alright, do you need
9 some water?

10 A. Yes, sir. Thank you, I'm sorry.

11 Q. Now, Mrs. Lapp, that statement that you gave
12 Detective Whetstone was over a year before you had your
13 plea agreement, is that correct?

14 A. Yes, sir.

15 SOLICITOR: We would offer this, Your Honor.

16 MR. SIMS: Subject to my previous objections
17 as to this line of questioning.

18 THE COURT: All right, in subject to that
19 prior objection.

20 (WHEREUPON, Faith Lapp's statement was entered
21 and marked as State's exhibit #53.)

22 SOLICITOR: Your Honor, may I publish this
23 to the jury at this time?

24 THE COURT: Yes, sir.

25 SOLICITOR: " June 1, 1998, 7:20 p.m. Statement

Ms. Lapp-Re-Direct by Solicitor

1363

1 of Faith L. Lapp.

2 On Thursday, May 28, 1998 it was around 4 P.M.
3 or 5 P.M. in the afternoon, Pattie Syphrette called
4 and asked me to come to the house and babysit Brian
5 Snipes and she said right away. I got into my vehicle,
6 drove to the house on Rivelon Drive in Orangeburg, S.C.
7 When I got to the house Pattie was there, along with
8 a black male named Stokes. Pattie told me she was going
9 to pick up Doug, a guy that stayed with her at one time.
10 Pattie left driving Poncho's chevy pickup and I stayed
11 at the house along with Stokes and Brian.

12 While Pattie was gone for a while Stokes was
13 making the statement that he was going to teach Doug
14 a lesson about stealing his stuff, his rings and a watch.
15 Stokes was walking back and forth and he made the comment
16 that Doug wouldn't be stealing from anyone any more.
17 Stokes told me that I would end up like Connie if I
18 told anyone and if he couldn't get to me, he would get
19 to my family.

20 Pattie and Doug came to the house and came
21 in and Doug picked up Brian and said hello to him and
22 then Doug sat on the couch. Stokes came out of the
23 bedroom with some white gloves on and told Doug, you
24 know me? Doug said, no. Stokes stated, you're going
25 to know me, you stole my rings and my watch. Stokes

Ms. Lapp-Re-Direct by Solicitor

1364

1 then moved towards Doug and I picked up Brian and walked
2 towards the bathroom. Pattie was coming out of the
3 bathroom and she told me to take Brian into the bathroom
4 and I did.

5 Stokes was wrapping Doug's hands as I was walking
6 towards the bathroom. I could hear Stokes yelling about
7 his watch and rings and I looked out of the bathroom
8 and I saw Stokes wrapping Doug's feet and Doug asked
9 Stokes not to shoot him. Pattie was standing next to
10 Doug with the gloves on her hands and she told Doug,
11 no one was going to shoot him. I then heard the three
12 of them talking and I heard a noise like a thud.

13 I stayed in the bathroom for a while and then
14 I came out. Pattie was in the living room and Stokes
15 called for her to come into the back bedroom. She went
16 towards the back and then both came out. Stokes made
17 the comment that his gloves were ripped up and I saw
18 Pattie take hers off also. That's when I saw a gun
19 laying on the chair. Pattie then asked me if I had
20 a drink and I told her no. She then asked me if I would
21 go and get some drinks and I wanted to get some cigarettes
22 and Stokes then said if I breathed a word to anyone,
23 I would be dead or my family would be dead.

24 Pattie then gave me some money to get the drinks
25 and then got out of the house and walked to my car and

Ms. Lapp-Re-Direct by Solicitor

1365

1 left. I went to Henry Spar to purchase four pepsis
2 and a carton of Doral cigarettes. I then was driving
3 towards the store and that's when in my way to Henry
4 Spur that I saw the police cars at the bank. While I
5 was at Henry Spur's I tried to called Pattie but got
6 no answer at first. Finally a female answered and I
7 told them that the plain wrappers were on the corner,
8 they were coming down the road. The woman on the phone
9 said thank you very much, this is the Sheriff's Department.

10 I then hung up the phone and rode to the fish
11 hatchery for a while.

12 About Tuesday or Wednesday Pattie had told
13 me that Stokes shot Connie Snipes in the back of the
14 head twice. The reason that I didn't tell Detective
15 Whetstone this on Friday, May 29, 1998, is because I
16 was scared of Stokes.

17 Also in January of 1998, I gave Pattie Syphrette
18 a hangun ----"

19 MR. SIMS: Your Honor, I hate to interrupt ---
20 I hate to interrupt at this time but, again, I would
21 object to those references as I objected to them earlier
22 in regards to what Pattie Sphyrette had said and the
23 connotation that it was and I would again move for a
24 mistrial.

25 SOLICITOR: Judge, at a bench conference I

Ms. Lapp-Re-Direct by Solicitor

1366

1 specifically asked Mr. Sims if he had any objection
2 to it and he said no.

3 MR. SIMS: I did object to it, subject to
4 all of my objections in regards to this. I objected
5 to it and I objected to it again. I mean, here in regards
6 to when it was put in, I've raised my objection as I've
7 raised it all the time as regards to information in
8 this area and I've raised the objection ---

9 THE COURT: You raised a previous objection
10 but you did at the bench conference say that you had
11 no problem with it.

12 MR. SIMS: That does not preclude me, Your
13 Honor, at this time in regards to that part of that
14 statement which deals with what a third party said who
15 is not in here in regards to that issue as it relates
16 to what someone else said.

17 THE COURT: You are just wanting me to note
18 the previous objection?

19 MR. SIMS: The previous objection and my renewal
20 of objections as to anything that Pattie Syphrette would
21 have said to this lady because what I objected to initially
22 when she first made --- that you instructed the jury
23 to disregard it.

24 THE COURT: Solicitor, anything else?

25 SOLICITOR: No, sir.

1 SOLICITOR: Other than the fact that at the
2 bench conference I told Mr. Sims that under the rule
3 I was going to offer this statement in and he said he
4 had no objection.

5 THE COURT: Well, that's true. All right,
6 go ahead.

7 SOLICITOR: " Also back in January of 1998,
8 I gave Pattie Syphrette a handgun that belonged to Ken
9 Zaleetil because I was scared. She told me it was taken
10 care of. I can read and write and I give Detective
11 Clark Whetstone permission to write this statement for
12 me. This is the whole truth, so help me God. Signed
13 Faith L. Lapp."

14 Your Honor, that's all I have for this witness.

15 THE COURT: Anything on re-cross?

16 MR. SIMS: No, sir.

17 THE COURT: You may step down, thank you.
18 All right, would the jury step out just for a minute,
19 please.

20 (WHEREUPON, Jury retired to the jury room and
21 the following proceedings were held in the absence of
22 the jury.)

23 THE COURT: All right, Solicitor, you need
24 to put on the record then what you intend to do and
25 see if Mr. Sims has an objection. Let's do one thing

1 at a time.

2 SOLICITOR: Yes, Your Honor, the reason for
3 that was that I just didn't want our objections and
4 reasons for the objections stated in front of the jury
5 if there were any and I would intend, as my last witness,
6 to recall Detective Whetstone. If you will recall during
7 the Jackson -vs- Denno hearing, Detective Whetstone
8 testified that on January the 8th of thereabouts, after
9 they had received the letter --- excuse me, June the
10 8th, after they had received the letter that Mr. Stokes
11 had written, there was an interview with him in which
12 they went over the letter to ascertain whether or not
13 it was an authentic letter and if it was his letter
14 and that he said something to the effect that it was
15 just business and I would also ask Detective Whetstone
16 to demonstrate how Mr. Stokes demonstrated that he was
17 punching Doug Ferguson. And that would be the extent
18 of it.

19 THE COURT: All right, and you want to note
20 all of your previous objections to that.

21 MR. SIMS: All my previous objections to that,
22 Your Honor, and that also includes my initial objection
23 as it relates to the admission of the statement, his
24 statement, as it relates to the fact that this was
25 corroborating a written statement and when the State

1 made the effort to go and get my client and talk to
2 him about a statement after knowing that he had an attorney
3 appointed, I believe this statement was taken on the
4 8th of June and this is after the letter that had been
5 given to them and they went and initiated conversations
6 with him and initiated contact with him at that time
7 and we objected to the fact and felt like that statement
8 should be suppressed because it is definitely in violation
9 of his constitutional right against self-incrimination,
10 they knew he had an attorney and I would raise that
11 issue also, Your Honor.

12 THE COURT: All right, the way I ruled as
13 I did would go back to the fact that he initiated the
14 contact by the letter and it was all contained within
15 that same circle, is that correct, Solicitor?

16 SOLICITOR: Yes, sir.

17 THE COURT: I think you have got yourself
18 protected on the record.

19 MR. SIMS: Your Honor, I also wanted to raise
20 the question that we had talked about initially also
21 in regards to Faith Lapp's testimony when the State
22 redacted part of my client's testimony they left out
23 the part that related to the fact that he had told them
24 that Mrs. Lapp had told her about her husband and wanting
25 to have her husband killed also. That issue was left

Mr. Whetstone-Direct by Mr. Sims

1370

1 out and I specifically asked her about it and she denied
2 it and I wanted to be able to, at some point, ask Detective
3 Whetstone since he's coming back on the stand, was he
4 not told that by my client or was that part of his initial
5 statement.

6 SOLICITOR: Your Honor, as I understand it
7 what he wants to do, he wants to impeach Faith Lapp
8 on something that she denies by getting Detective Whetstone
9 to testify to what Stokes told him Mrs. Lapp allegedly
10 told him. That's third hand hearsay.

11 THE COURT: Once again you're trying to do
12 something that should be coming from your client.

13 MR. SIMS: Well, your Honor, I would like
14 to --- when he takes the stand right now before the
15 jury comes back in, if I could proffer that testimony
16 and make it a part of the record.

17 SOLICITOR: Sure.

18 THE COURT: You're still under oath, Detective.
19

20 CLARK WHETSTONE, AFTER HAVING
21 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY MR. SIMS:

23 Q. Detective Whetstone, just real briefly. you
24 took the statement, is that correct, from Sammie Stokes?

25 A. I went over the letter with him, yes, I did.

1 Q. And part of that --- in part of that letter
2 there was a statement in that letter which stated that
3 Faith Lapp had told him that she wanted her husband
4 killed, is that correct?

5 A. Yes, that is correct.

6 Q. And he, in that letter, described the size
7 of her husband and how big and how tall he was and how
8 much he weighed, did it not?

9 A. Yes, it did.

10 Q. And she told you that he wanted --- Sammie
11 Stokes told you that Faith Lapp had tried to negotiate,
12 in effect negotiate with him to kill her husband.

13 A. Yes, she did.

14 MR. SIMS: That's the part of the statement
15 that was redacted by the State, Your Honor.

16 SOLICITOR: Your Honor, for the record that
17 is in the handwritten statement that's marked for identifica-
18 tion only in the guilt phase of the trial, so the whole
19 thing is a part of the record.

20 THE COURT: All right, if you will state on
21 behalf of the State why you feel like that shouldn't
22 come in, I want this fully explored.

23 SOLICITOR: Your Honor, my understanding is
24 that Mr. Sims intends to use Mr. Whetstone's --- to
25 use what was redacted out of that letter to impeach

1 Faith Lapp's denial that she tried to hire Stokes to
2 kill her husband and under --- the only time a prior
3 statement of a witness can come in would be under rule
4 801 and under 801 (d)(1) if the declarant testifies
5 at the trial or is subject to cross-examination concerning
6 the statement, if the statement is inconsistent, the
7 declarant's testimony can come in. But this is not Faith
8 Lapp's statement; this is Sammie Stokes' statement
9 in which he's relating what he says Faith Lapp said.

10 THE COURT: All right.

11 SOLICITOR: I don't think you can impeach
12 a witness on what's not her prior inconsistent statement.

13 THE COURT: I agree, that's why I've done
14 what I've done.

15 MR. SIMS: Your Honor, just one last thing
16 on this issue, I hate to beat a dead horse but one last
17 thing on this issue, and that is that we take the position
18 that if the State is using it we should be able to use
19 the entire statement. Just choosing, as I stated earlier,
20 just bits and pieces of the statement and taking out
21 just what would appear to be a disadvantage to the State,
22 the jury should be able to listen to the entire statement
23 and draw their own conclusions from the contents of
24 the statement. And that's all we have to say on it,
25 Your HONor.

1 SOLICITOR: Your Honor, I took the exact same
2 position Mr. Sims took with Judge Brown in State -vs-
3 Taylor and Judge Brown said I was right and he let me
4 put it all in and the Supreme Court said that was wrong,
5 that only the portion that specifically pertained to
6 the reason the statement comes in could come in. And
7 this is not, this portion that we are talking about
8 is not a statement against his interest or anything
9 of that nature and it's collateral to the issue before
10 the Court.

11 THE COURT: All right.

12 MR. SIMS: The whole statement is against
13 his interest, Your Honor, there's no question about
14 that.

15 THE COURT: Bring them in.

16 (WHEREUPON, The jury returned to the courtroom
17 and the following proceedings were held in their presence.)

18 THE COURT: All right, Solicitor, you may
19 proceed.

20 SOLICITOR: State calls Clark Whetstone.

21
22 CLARK WHETSTONE, HAVING ALREADY
23 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
24 DIRECT EXAMINATION BY THE SOLICITOR:
25 Q. Mr. Whetstone, you testified in the guilt phase

Mr. Whetstone-Direct by Solicitor

1374

1 of the trial about a meeting that you and I believe
2 Emery Rush had with the defendant, Sammie Stokes, on
3 June the 8th after you had received the letter that
4 he had written to the jail, is that correct?

5 A. Yes, that is correct.

6 Q. And can you state whether or not you had a
7 conversation with Sammie Stokes relating to that letter?

8 A. Yes, I did.

9 Q. What, if anything, did he say in regards to
10 his activity described in the letter?

11 A. He gave a brief demonstration to myself and
12 Detective Rush as to how he stood over Mr. Ferguson
13 and how he punched him in the head.

14 Q. All right, sir, would you demonstrate to the
15 jury what he demonstrated to you as far as what he said
16 he did to Ferguson.

17 A. Our interview room has a very long table and,
18 of course, we were on one side of that table and he
19 was on the other side. So basically all he did was he
20 got up from the table and walked back and stood there
21 and basically told us how he sat on Mr. Ferguson, that
22 he was laying down on the ground and he reached down
23 and punched him in the face area.

24 Q. Okay. State whether or not there was any
25 conversation regarding motivation.

Mr. Whetstone-Direct by Solicitor

1375

1 A. As far as --- I don't understand what you're
2 asking.

3 Q. Motivation for the murder.

4 A. Basically he talked about the rings and the
5 watch being taken from him.

6 SOLICITOR: That's all I have. Please answer
7 any questions Mr. Sims might have for you.

8
9 CROSS-EXAMINATION

10 BY MR. SIMS:N

11 Q. Just briefly, that's not in his statement
12 that you wrote --- that he wrote, is that correct?

13 A. Excuse me?

14 Q. That's not in the statement that he wrote,
15 is that correct?

16 A. About the rings and the watch?

17 Q. Yeah, the statement that you read into the
18 record a little while ago, that's not in there what
19 you just testified to.

20 A. The demonstration?

21 Q. Yeah.

22 A. No, it is not.

23 Q. And was that on any of your incident reports
24 or anything that you wrote?

25 A. No, just what I remember.

1 MR. SIMS: That's all I have, Your Honor.

2 SOLICITOR: No re-direct.

3 THE COURT: You may step down.

4 SOLICITOR: Your Honor, the State rests.

5 THE COURT: All right, I'm going to send the
6 jury on to lunch, we've got to get them there at 12:00,
7 so don't discuss the case and don't let anybody approach
8 you and try to discuss the case with you. Ya'll go with
9 the Lieutenant to lunch and let's try to be back at
10 1:15.

11 (WHEREUPON, The jury was excused for the luncheon
12 recess and the following proceedings resumed in their
13 absence.)

14 THE COURT: The next stage, of course, is
15 that the defendant may offer evidence in extenuation
16 or mitigation. Before we get into that, before we bring
17 the jury back there's certain things that I need to
18 go over with counsel and the defendant once again.

19 MR. SIMS: Yes, sir.

20 THE COURT: So we will take our lunch recess
21 and be back at 1:10 and that should give me enough time
22 to do what I have to do.

23 MR. SIMS: And, Your Honor, also at the time
24 I also want to raise the issue as it relates to one
25 of the aggravating circumstances, that I have contended

1 all along in terms of that there's no common scheme
2 or plan and I will raise that at that time also.

3 THE COURT: That's fine. All right we are
4 in recess for lunch.

5 (WHEREUPON, A short luncheon recess was taken
6 and then the proceedings resumed out of the presence
7 of the jury.)

8 THE COURT: All right, court will come to
9 order. Once again, Mr. Stokes, I want to go over with
10 you your rights at this time. I need to point out to
11 you that under our state law and our statute just like
12 in the initial phase I need to do this. That you have
13 a right to testify and to argue to the jury during this
14 phase regarding sentence of punishment. Have you discussed
15 this aspect fully with your attorneys?

16 MR. STOKES: Yes, sir.

17 THE COURT: Do you need some more time to
18 discuss this any further with them?

19 MR. STOKES: No, sir.

20 THE COURT: Do you wish to testify, and understand
21 this, this is a personal decision that you need to make.
22 Do you wish to testify in regards to this final phase?

23 MR. STOKES: Yes, sir.

24 THE COURT: Do you wish to make an argument?

25 MR. SIMS: Your Honor, may I --- I think he

1 is -- we need to clear this up. Not testify but make
2 a final statement to the jury. That's what we had discussed
3 and that's what he had indicated to us so there are
4 differences and he needs to be able to just explain
5 that to him the difference in terms of not testifying
6 on the stand but rather making a statement to the jury
7 and that's what he had indicated that's what he wanted
8 to do.

9 THE COURT: Okay, let me go over it with you
10 again. You have a right to take the stand, under oath,
11 and testify.

12 MR. STOKES: No, I don't want to testify.

13 THE COURT: And you also, of course, have
14 a right to make an argument. And you're saying that
15 you want to make an argument to the jury?

16 MR. STOKES: Yes.

17 THE COURT: Okay. I need to put these findings
18 on the record now to make sure that I have thoroughly
19 gone over this with him, just as I did in the first
20 phase and I find in the first phase, of course, that
21 he did knowingly and voluntarily waive his right to
22 take the stand and make a statement to the jury.

23 I find in this phase that he is exercising
24 his statutory right not to testify but will or is
25 presently his position that he desires to make an

1 argument. Should that change, feel free to let me know.

2 MR. STOKES: Thank you, Your Honor.

3 MR. SIMS: Your Honor, I would also say for
4 the record that in regards to the issue in regards to
5 his medical condition that we have also had Dr. Donna
6 Shwartz, a psychiatrist, to talk with him to determine
7 whether or not there was anything that would be hindering
8 him at this time as it relates to making that decision
9 in terms of not being able to put up that part of his
10 evidence and she has talked with him and has informed
11 me that he definitely understands what it is he's doing
12 and that he knows what he is doing and that he understands
13 that he has a right to present that evidence if he so
14 chooses but has chosen not to do that.

15 THE COURT: Is that still your position, Mr.
16 Stokes?

17 MR. STOKES: Yes, sir, Your Honor.

18 MR. SIMS: Your Honor, I just had one other
19 issue and that was as it relates to a common scheme
20 or plan in terms of one of the aggravating circumstances
21 of the State where they introduced the evidence of
22 both of the murders. The last statement that Detective
23 Whetstone said was that in his opinion he felt that
24 he got involved with Doug Ferguson because of the rings
25 and watches that had been taken from him, and we have

1 relied upon that and in terms of whether or not there
2 was sufficient evidence in the record or to be put in
3 the record which would have shown a common scheme on
4 the part of my client and a third party or another party
5 who is not in this court but a co-conspirator to kill
6 Doug Ferguson. There was no common scheme and as we
7 stated initially, the only thing that there was if you
8 can consider it an agreement would have been to agree
9 as it relates to Connie Snipes. There was no agreement
10 as it relates to Doug Ferguson. There was no scheme,
11 no plan, no --- no working out of anything in order
12 to try to kill Doug Ferguson. This was something that
13 the other party thought about doing and having to do
14 his thing there was to get his rings and stuff back.
15 And I believe that's clear from the evidence when you
16 listen to all of the evidence.

17 SOLICITOR: Your Honor, on page four of the
18 transcript of Mr. Stokes' letter, this was prior to
19 either murder taking place, he quotes what Pattie
20 Syphrette told him and I quote for the record: " She
21 told me that she still wanted her business taken care
22 of" --- referring to Connie Snipes --- " and that Doug
23 had flipped on her and told Lee and Connie that she
24 wanted them dead. She said now I want them dead, too,
25 because he's running his mouth and he is the only one

1 that can connect me to them. I said, damn, you're asking
2 a lot and she said, I would do it myself but they will
3 figure that out easy." Then later on in the statement
4 he says, " I called Pattie the next day and before I
5 could say anything she said, man, Connie got to go tonight."
6 So then they go ahead and kill Connie.

7 Your Honor, I think the jury from that statement
8 alone --- one other thing, Your Honor, on page 8, this
9 is after Connie Snipes' murder, he states or says that
10 Pattie Syphrette called him after the murder--- " She
11 came in the truck and I got in and we drove to the gardens
12 park and Connie said, man, I've got to do something
13 with Doug before they find Connie."

14 So I think the jury could reasonable infer
15 from that that there was a common scheme or plan between
16 Pattie Syphrette and Sammie Stokes to kill both Doug
17 Ferguson and Connie Snipes. That particular aggravating
18 circumstance has only been construed on time, to my
19 knowledge, and that was in State -vs- Ord which dealt
20 with the murder of a mother and the viable fetus which,
21 of course, is inapplicable here. But as I read that
22 it really covers three situations. You have to have
23 two people murdered by one act or pursuant to one scheme
24 or pursuant to one course of conduct. And I think the
25 scheme and the course of conduct is implied because

1 they are inter-related.

2 THE COURT: From the evidence that I heard,
3 I agree.

4 MR. SIMS: Your Honor, could I just one ---
5 and I know you've ruled but if you're going to have
6 a conspiracy or a common scheme you've got to have a
7 meeting of the minds. None of the evidence that he
8 read from my client's statement indicated that there
9 was a meeting of the mind. The only person who was
10 talking about what she had to do in that situation was
11 Pattie Syphrette. There was never an affirmative statement
12 by him that I'm going to do Doug for you, other than
13 he said in one of those areas was that " you're asking
14 a lot".

15 SOLICITOR: But he did do Doug.

16 MR. SIMS: That's to be tried by another jury
17 to determine whether he did do Doug. And also, Your
18 Honor, I would just renew all my previous motions as
19 it relates to the evidence and especially in light of
20 the fact that we're talking about the aggravating circum-
21 stances and we don't feel that the evidence has been
22 produced by the State is sufficient to go to a jury
23 on the question of aggravation and we would renew all
24 our motions on that, Your Honor.

25 THE COURT: And I would deny all such motions

1 at this time.

2 THE COURT: Ready for the jury?

3 MR. SIMS: Just one other motion, Your Honor,
4 and that is in regards to we take the position that
5 the cumulative effect of all of the prejudicial evidence
6 that we have been objecting to all the time has been
7 prejudicial to my client and that the matter should
8 not have been put up and we would ask the Court to at
9 least at this point to dismiss this action, this part
10 of the case and declare a mistrial on those issues.

11 THE COURT: Denied.

12 MR. SIMS: We are ready for the jury, Your
13 Honor.

14 SOLICITOR: Your Honor, one final thing. I've
15 got, in just anticipation or possible rebuttal or reply
16 testimony on any psychiatric issues, I have the
17 psychiatrist and psychologist that did the court ordered
18 evaluation here. As I understand, Mr. Sims, you will
19 not be introducing any psychiatric or any psychiatrist
20 or psychologist and there will be no testimony of any
21 mental disorder?

22 MR. SIMS: Right.

23 SOLICITOR: And with that representation then,
24 I'm going to go ahead and release those people at this
25 time.

Mr. Aiken-Direct by Mr. Sims

1384

1 MR. SIMS: We only, Your Honor, we have ---
2 after discussing, we will have one witness and that
3 would be Mr. Aiken, Jim Aiken.

4 THE COURT: Okay, release them.

5 SOLICITOR: Thank you.

6 THE COURT: Bring the jury in.

7 (WHEREUPON, The jury returned to the courtroom
8 and the following proceedings were held in their presence.)

9 THE COURT: Mr. Sims.

10 MR. SIMS: Your Honor, at this time the defense
11 would call Mr. Jim Aiken.

12
13 JAMES EVANS AIKEN, AFTER
14 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MR. SIMS:

16 Q. Mr. Aiken, would you give us your full name
17 for the record, please.

18 A. James Evans Aiken, A-i-k-e-n.

19 Q. And, Mr. Aiken, where do you presently live?

20 A. I live in Brevard, North Carolina.

21 Q. And prior to moving to North Carolina, where
22 did you live? Let me ask you this way, where were you
23 born?

24 A. I was born in raised in Camden, South Carolina.

25 Q. And where did you go to school?

1 A. I was educated in the Kershaw County school
2 system, as well as receiving a Bachelor of Arts degrees
3 from Benedict College, Columbia, South Carolina and
4 a Masters of Criminal Justice from the University of
5 South Carolina.

6 Q. Upon leaving school, where were you employed?

7 A. I was employed initially with the South Carolina
8 Department of Corrections.

9 Q. And where was that?

10 A. That was in Columbia, South Carolina where
11 I was initially hired as a social worker in the substance
12 abuse program in Columbia, South Carolina, Manning
13 Correctional Institution.

14 Q. Upon after that, did you move up in the system?

15 A. Yes, I did. I moved from a social worker
16 position to a administrative assistant to the warden
17 at the Manning Correctional Institution, which was a
18 medium security prison located in Columbia. From there
19 I became deputy warden of that same facility. Then
20 from there I was promoted to deputy warden of CCI which
21 was the state penitentiary of South Carolina. From there
22 I became warden of the women's prison, also located
23 in Columbia, South Carolina. From there I became the
24 warden of CCI, the state penitentiary, which was a maximum
25 security prison that housed the most dangerous people

Mr. Aiken-Direct by Mr. Sims

1386

1 in the state of South Carolina, as well as managing
2 death row population. From there I began a deputy regional
3 administrator for the Midland Correctional region in
4 South Carolina, which comprised at that time of approximately
5 16 facilities to include maximum and super maximum security
6 prisons as well as work release centers.

7 From there I became Commission or Corrections
8 for the State of Indiana. It comprised of 46 or 47
9 facilities approximately. I was in charge of all adult
10 prisons. I was in charge of all juvenile prisons, as
11 well as parole services for the state of Indiana.

12 From there I became Director of Corrections
13 for the United States Virgin Islands. From there I
14 went into consulting, president of the James E. Aiken
15 and Associates to which I am presently involved at this
16 particular time.

17 Q. Let me ask you, as part of your responsibilities
18 when you were in the state of South Carolina, did you
19 have anything to do with the rating system of prisoners
20 as it relates to what category they would fall in?

21 A. Yes, that's called classification. I have
22 literally classified thousands and thousands of inmates
23 during my tenure in my career. Not only that, I have
24 designed and helped design classification systems
25 and they fall into two basic categories. An internal

1 system where you evaluate how a inmate behaves within
2 the prison, as well as an objective classification system
3 which evaluates and determines what type of institution
4 that particular inmate belongs in.

5 Q. Have you also been involved with the federal
6 government in regards to security and classifications?

7 A. Yes, sir. I served as a consultant for the
8 United States Department of Justice National Institute
9 of Corrections. I have been a consultant with them
10 as well as other clients throughout the United States
11 and in other countries as it relates to a varied aspects
12 of correctional operation. That includes managing violent
13 inmate population, teaching new wardens how to manage
14 correctional facilities, as well as teaching seasoned
15 wardens on new concepts of managing correctional systems,
16 as well as helping to implement classification systems,
17 evaluating performance of correctional operations, as
18 well as gang management, managing prison disturbances,
19 prevention of prison disturbances, evaluating the design
20 of prisons, as well as a number of other involvements
21 to include correctional leadership where we develop
22 leaders within the correctional profession.

23 Q. And have you been called upon to testify in
24 the courts in the state of South Carolina and other
25 states?

Mr. Aiken-Direct by Mr. Sims

1388

1 A. Yes, I've been certified as an expert in the
2 state of South Carolina as well as the state of Georgia,
3 the state of Louisiana, the state of Missouri, as well
4 as the state of Virginia and the U. S. District Court
5 of Connecticut.

6 Q. And for the state of South Carolina how many
7 times have you been certified as an expert in the area
8 of adaptability?

9 A. Adaptability, I would guess at least four
10 to five times.

11 Q. And in those other states you were also certified
12 in those areas, too, is that correct?

13 A. That is correct, sir.

14 Q. And in all, how many times have you been certified
15 as an expert in the area of adaptability?

16 A. In Missouri at least three times, in Louisiana,
17 at least one time, in Georgia at least two times, in
18 South Carolina, as I stated, and Virginia at least two
19 times.

20 MR. SIMS: Your Honor, at this time I would
21 move to have him certified as an expert in the area
22 of adaptability.

23 SOLICITOR: Your Honor, I would like to ask
24 him a few questions in regards to his expertise.

25 THE COURT: All right, sir.

Mr. Aiken-Cross by Solicitor

1389

1 CROSS-EXAMINATION

2 BY SOLICITOR:

3 Q. Mr. Aiken, let me ask you this. Is prison
4 adaptability, is that a recognized area of expertise
5 to your knowledge?

6 A. It is a --- it is a way and recognized within
7 my profession, yes. It says no, we cannot predict human
8 behavior but we can very predict human behavior and
9 we have developed instruments as well as expertise in
10 this particular area.

11 Q. All right, sir, and have you attended any
12 specific seminars or courses on prison adaptability?

13 A. Sir, mostly my expertise has come from developing
14 those kind of programs as it relates to classification
15 and it falls under the area of classification. I took
16 a leadership role in that very early in my career and
17 implemented internal classification system. For example,
18 here in South Carolina was one of the first in our profession.
19 So most of my expertise as well as seminars, so to speak,
20 was in my master's degree and obtaining my master's
21 degree where I have been a leader in developing programs
22 of looking at how we can better manage inmate populations.

23 Q. All right, when you said that you were an
24 expert in adaptability, do you mean present adaptability
25 as it relates to classifying someone, where to assign

Mr. Aiken-Cross by Solicitor

1390

1 them to minimum, medium, maximum prisons or are you
2 talking about future adaptability to prison?

3 A. Basically I'm talking about both. What we
4 have developed are systems to reduce the probability
5 of risk of harm to the staff, inmates as well as the
6 general community and when we make decisions as to
7 placement for those individuals we place them in those
8 areas in order to reduce the probability of a critical
9 event occurring.

10 Q. All right, sir, and that would relate, of
11 course, to the inmate's present adaptability. You would
12 place them in accordance with how you feel their present
13 behavior or traits would be best, minimum, medium, maximum
14 what have you?

15 A. Not necessarily so, sir. We look at the history
16 and not just the present behavior. We look at it over
17 a period of time and also evaluating it in relationship
18 to the environment that person was in.

19 Q. All right, sir. I may not have made myself
20 too clear, Mr. Aiken, I apologize if I'm not. What
21 I'm trying to find out is whether you are qualified
22 as an expert in adaptability, whether or not you are
23 qualified as an expert in present adaptability for inmates,
24 to classify them as to where they should be placed or
25 whether you are claiming to be an expert that can predict

1 the future and testify whether or not somebody would
2 be dangerous at some point in time in the future.

3 A. And what I'm testifying to is the fact that
4 I can look at, based on thousands of decisions as well
5 as a classification system decisions that I've made
6 personally, as well as to look at the systems that are
7 implemented to do this to tell you the present as well
8 as to better predict the future of that behavior.

9 Q. All right, and of the four of five times that
10 you've been qualified as an expert in adaptability,
11 in how many of those cases were you qualified to testify
12 as an expert in future adaptability?

13 A. Uhm --- I don't remember and I stand corrected
14 where that was a issue.

15 Q. Okay, so the answer would be that you've never
16 been qualified as an expert in the field of future
17 adaptability?

18 A. A part of my testimony in delivering and preparing
19 for the testimony is inclusive of that in all the cases.

20 Q. That would be the extent of your testimony
21 but as I understand what you are saying, is that you've
22 never been qualified as an expert in future adaptability?

23 A. I have been qualified as an expert in adaptability
24 and most of my testimony is directly related to future
25 adapatability and not previous adaptability.

Mr. Aiken-Cross by Solicitor

1392

1 Q. Is not future adaptability something generally
2 a psychologist or psychiatrist would testify to?

3 A. I have no way of telling you that. All I can
4 tell you is that based on my expertise and my experience
5 that I've had to make those decisions of future adaptability
6 literally thousands of times with violent and non-violent
7 inmate population.

8 Q. All right, sir. Could you tell me the name
9 of the four or five cases where you've been qualified
10 as an expert in prison adaptability in this state?

11 A. I don't remember right off, Cheesborough was
12 one case in Richland County. I had a number of cases
13 in Lexington County also.

14 Q. Could you give me those Lexington County cases?

15 A. I don't remember right off hand, sir.

16 SOLICITOR: Your Honor, for the record it's
17 the State's position that Mr. Aiken, although apparently
18 a well qualified expert in classification which would
19 relate to someone present placement in the prison system,
20 but according to his testimony he's never been qualified
21 as an expert in future adaptability. And I would think
22 that if he is going to render an opinion in that he
23 would need to simply laid a better foundation than what's
24 been laid at this point.

25 MR. SIMS: Your Honor, that's not what he

Mr. Aiken-Direct by Mr. Sims

1393

1 said. He said it never had been an issue, nobody had
2 ever raised it. He said his testimony has been both
3 in present and future adaptability and he's stated that ---
4 a response to every kind of way the Solicitor tried
5 to raise the question, that he has been qualified and
6 has testified in the area of present and future adaptability.

7 THE COURT: All right, I'm going to find
8 him qualified as an expert in adaptability.

9 MR. SIMS: Thank you, Your Honor.

10 A. Thank you, Your Honor.

11

12 CONTINUED DIRECT EXAMINATION BY MR. SIMS:

13 Q. Mr. Aiken, you were given the prison records
14 of Sammie Louis Stokes, is that correct?

15 A. That is correct, sir.

16 Q. And that was where he was in, I believe, Allendale,
17 Turbeville, Perry and all the institutions that he has
18 been in, is that correct?

19 A. As well as Wateree, yes, sir.

20 Q. And you had the opportunity to review those
21 records, did you not?

22 A. That's correct, sir.

23 Q. Now, I'm going to --- did you also have the
24 opportunity to --- and I'm looking at State's exhibit
25 #1, did you also have the opportunity to look and review

Mr. Aiken-Direct by Mr. Sims

1394

1 the conviction record of Mr. Stokes?

2 A. That's correct, sir.

3 Q. And I'm also going to hand you or show you
4 State's exhibit #9 which is Department of South Carolina ---
5 South Carolina Department of Corrections violation record,
6 you were also --- you also had an opportunity to review
7 that, is that correct?

8 A. That's a part of his record, that's correct,
9 sir.

10 Q. Now, after having reviewed all of the records,
11 you reviewed both the external records and the internal
12 records of the defendant, did you reach a conclusion?

13 A. Yes, sir.

14 Q. And based upon that conclusion, would you
15 tell this Court and jury what your conclusion is?

16 A. This individual can be incarcerated in the
17 South Carolina Department of Corrections for the remainder
18 of his life without causing undue risk or harm to other
19 inmates, staff nor the general community.

20 Q. Let me ask you, on this record there were
21 especially inside and I believe you call these internal
22 violations that you looked at?

23 A. That's correct, sir.

24 Q. And in viewing those internal, what is the
25 criteria that you use to reach that decision?

1 A. The criteria that I use is one of in looking
2 at the violation, looking at when the violations took
3 place and also looking at the general circumstances
4 involving them and relating that to my experience as
5 actually managing correctional systems and correctional
6 facilities, as a warden, as a deputy warden, and as
7 an executive within the correctional agencies. And
8 determining in relationship to this individual's behavior
9 to that of other behaviors as well as the ability of
10 the agency to effectively manage this individual for
11 the remainder of his life.

12 Q. And do you see anything in this record here
13 which would indicate that he would not be able to be
14 managed in prison?

15 A. I do not see anything in this profile that
16 would indicate that the South Carolina Department of
17 Corrections was not capable of adequately managing this
18 individual. In fact, I found very strikingly what's
19 not in this record to help make that determination.

20 Q. And by that what are you talking about?

21 A. Well, I find that he does not demonstrate
22 behaviors of being a predator, that he does not try
23 to control the facility, that he is not inflicting risk
24 upon the staff. As you heard in other testimony today
25 that, you know, when he's told to go in a cell, he

Mr. Aiken-Direct by Mr. Sims

1396

1 goes. Now, you must take it in the context. The context
2 being this, that prison is a violent places. People
3 that go to prison are not people that learn or demonstrate
4 the behaviors to be in the community, and that the
5 correctional systems and especially South Carolina,
6 has taken a leadership role in better managing their
7 inmate population. They have staffs that are well equipped,
8 well trained, well designed facilities to manage population
9 that cannot adequately be in the general community.

10 So looking at these violations and looking
11 at in a context of evaluating thousands of people like
12 that, he does not demonstrate the unusual risk of harm
13 to staff, inmates or the genera community.

14 Q. Now, there's one in here that talks about
15 fighting in prison. Does that bother you in terms of
16 fighting? There's also been some testimony about, and
17 I believe you looked at the record, an assault in prison
18 which resulted in an arrest warrant being filed or being
19 served on him.

20 A. Yes, let's take those particular incidents
21 for example. Let's take first the fighting without
22 a weapon. That's indicative of saying that he used fists,
23 he didn't use a weapon, he did not have a weapon with
24 him when this altercation takes place.

25 Additionally looking at it, you will find that

1 it took place in July 1, 1988. That's over ten years
2 ago and people change over periods of time.

3 Additionally you look at --- what's the other
4 one that you wanted to refer to?

5 Q. The assault and battery of a high and aggravated
6 nature, I believe that's March 13, 1991.

7 A. Yes, that took place in a correctional facility
8 and in looking at the narrative there it indicates very
9 clearly that there was superficial lacerations to the
10 victim. On top of that you will find that the Department
11 of Corrections took very deliberate actions in relationship
12 to that particular behavior, to include taking him to
13 the court and finding the individual guilty and having
14 that individual to serve additional crime --- time for
15 the crime that he committed. And I'm sure, as you also
16 know, that the Department of Corrections did everything
17 within their power to insure a rapid and complete and
18 decisive punishment for that type of behavior.

19 Q. Okay. Mr. Aiken, how many times have you
20 testified for the defense?

21 A. Uhm --- in --- on these particular cases?

22 Q. Yes, sir.

23 A. Yes, I have testified --- all of the cases
24 that I've testified to was for the defense, yes.

25 Q. Have you ever been asked to testify for the

Mr. Aiken-Direct by Mr. Sims

1398

1 prosecution?

2 A. No, I have not.

3 Q. Would you testify for the prosecution?

4 A. I review every case individually and I render
5 a factual decision based on the information and whether
6 it falls in the favor of the defense or the prosecution,
7 it doesn't bother me and the answer to your question
8 is yes.

9 MR. SIMS: Answer any questions Mr. Bailey
10 may have.

11

12 CROSS-EXAMINATION

13 BY THE SOLICITOR:

14 Q. How are you doing today?

15 A. How do you do?

16 Q. I'm fine, thank you. Mr. Aiken, let me ask
17 you a few questions. When we talk about future adaptability
18 we're talking about a prediction, is that correct?

19 A. A prediction based on factors that we have
20 determined to better predict human behavior.

21 Q. But nobody has a crystal ball, you can't predict
22 human behavior, can you, with any degree of certainty?

23 A. I can better predict human behavior, with
24 absolute, no.

25 Q. I'm sorry?

Mr. Aiken-Cross by Solicitor

1399

1 A. As an absolute, no.

2 Q. Okay. And during the period of time that you
3 have been associated with the South Carolina Department
4 of Corrections you are aware of situations where people
5 serving life sentences have committed murders within
6 the prison system, have you not?

7 A. Yes, people that have been serving life sentence
8 have committed murders and I know of people that are
9 serving minor sentences to do the same.

10 Q. All right, sir. Now, the Department of Corrections
11 is the name of the South Carolina prison system, is
12 it not?

13 A. The South Carolina Department of Corrections.

14 Q. We don't even call it prison now, it's the
15 Department of Corrections.

16 A. As all other 50 states, yes.

17 Q. And the idea is that when someone is sent
18 to prison, there are programs in place to try to rehabilitate
19 those people so that eventually they can be released
20 to society and hopefully not return to prison, is that
21 correct?

22 A. Partially correct, sir. There is also another
23 variable that's involved in those people serving live
24 without parole at which time in which I've had experience
25 with throughout the United States in trying to better

Mr. Aiken-Cross by Solicitor

1400

1 manage that population. You will find that the issue
2 is no longer getting back to the community; the issue
3 is incapacitation and you will find that South Carolina
4 has taken a very strong leadership role in recent years
5 in incapacitation, that is, to effectively manage a
6 individual in a correctional environment for the rest
7 of his or her life.

8 Q. Let's talk about a person who gets a eight
9 year sentence, for example. The goal there of the Department
10 of Corrections would be to rehabilitate that person
11 because he's eventually going to go back out on the
12 street and they don't want him to come back, do they?

13 A. You will find that most correctional systems
14 don't include the word " rehabilitation" any more in
15 their mission statement. Their mission in South Carolina
16 and it has taken a leadership role in this also, is
17 the protection of the public and that public is better
18 defined as other inmates, staff as well as the general
19 community. Now if a individual wishes to partake into
20 rehabilitative activities to include anger management,
21 domestic violence training, education, et cetera, those
22 things are offered to individuals that are geared toward
23 reintegration into society.

24 Q. The Department of Corrections recognizes that
25 is something that would be a benefit to an inmate and

1 those programs are available?

2 A. That is correct, sir, to certain aspects of
3 the population or the inmate population.

4 Q. And they are encouraged to enroll in those
5 programs, are they not, anger management, stress manage-
6 ment those types of things?

7 A. Those people that are preparing for reintegration
8 into the community are given opportunities such as that
9 and in South Carolina has curtailed in recent years
10 those opportunities.

11 Q. Now, the present system has to have rules
12 to operate because it's a structured environment, is
13 that correct?

14 A. Yes, sir.

15 Q. And each inmate, when they're in the Department
16 of Corrections is given an inmate handbook telling them
17 clearly what those rules are.

18 A. That is correct, sir.

19 Q. For that system to work properly, the inmates
20 have to follow the rules, don't they?

21 A. Partially, and if they don't know how to follow
22 the rules and wish not to follow the rules, we are trained
23 to deal with that type of behavior.

24 Q. All right, sir.

25 A. And have designs to do that also.

Mr. Aiken-Cross by Solicitor

1402

1 Q. Now, let me ask you this, Mr. Aiken. You've
2 looked at the records, is that correct, the disciplinary
3 records and so forth?

4 A. Yes, we call them the inmate records, yes.

5 Q. Who have you talked to in forming your opinion
6 that Mr. Sammie Louis Stokes would be an adaptable prisoner?

7 A. I didn't talk to anyone and the purpose for
8 that is I addressed this as a warden and as a warden,
9 I would look at the official record and make decisions
10 on the official record. That's why I chose not to even
11 interview Mr. Stokes. I want to see what the official
12 record looks like and I want to make and render a decision
13 as I would have as a warden in relationship to this
14 particular case.

15 Q. Let me make sure I understand you, Mr. Aiken.
16 You're telling me that you're preparing to testify as
17 an expert witness that Sammie Louis Stokes would not
18 be a danger if sentenced to life imprisonment and you
19 have never even spoken to this man?

20 A. And don't care to. I want to look at his behavior,
21 I want to look at how officials look at his behavior.
22 That's the key issue I use in making those determinations
23 and it give me a better focus. There have been times,
24 yes, I've interviewed just for clarification but in
25 this particular record it indicates to me very clearly

Mr. Aiken-Cross by Solicitor

1403

1 that he can housed in the correctional environment for
2 the remainder of his life without causing undue risk
3 of harm to staff, inmates as well as the general public.

4 Q. Just to go over his record here, Mr. Aiken,
5 March of 1998 he was convicted of assault and battery
6 of a high and aggravated nature. Do you know anything
7 at all about the facts of that conviction and what he
8 actually did to cause him to get that eight year sentence?

9 A. In relationship to a domestic violence situation,
10 yes, sir.

11 Q. All right, sir, tell the jury what you know
12 about this first conviction in 1998, in 1988, I'm sorry.

13 A. He inflicted bodily harm to his spouse and
14 was sentenced to the South Carolina Department of Corrections
15 and was incarcerated.

16 Q. Do you know what kind of bodily harm he committed?

17 A. I don't have that in front of me. What I ---
18 I don't have that record in front of me but what I do
19 know is that I look at not only the particulars of the
20 case and his behaviors as it relates to that particular
21 case, but also the sentence that he received and I've
22 seen people receive much more time than eight years
23 for that type of offense and I also evaluate it from
24 that.

25 Q. In testifying that this man is not dangerous,

Mr. Aiken-Cross by Solicitor

1404

1 you don't know that he stabbed his wife in the back
2 while she was laying in a ditch in the dark?

3 A. Yes, sir, I am aware of him doing that but
4 I'm also aware that the Department of Corrections can
5 adequately manage this type of person and also the Department
6 of Corrections in South Carolina has managed many people
7 that demonstrate that type of behavior in the community.

8 Q. Let me ask you about this next one here. This
9 is in March of 1991, assault and battery of a high and
10 aggravated nature where he got a ten year sentence,
11 which is some couple of years after the first one.

12 A. Uh-huh.

13 Q. What do you know about that particular conviction?

14 A. I don't have those records in front of me
15 at this particular time but as I stated previously,
16 I look at that offense as a violent offense and that
17 this individual was incarcerated in the South Carolina
18 Department of Corrections and was adequately managed
19 while in that correctional environment.

20 Q. While he was serving that sentence, Mr. Aiken,
21 in which you said he was adequately managed, he received
22 a consecutive three year sentence for yet a third aggravated
23 assault. That was against an inmate in the Department
24 of Corrections, is that not correct, sir?

25 A. Yes, and I pay particular attention to that

Mr. Aiken-Cross by Solicitor

1405

1 particular incident and I saw that this individual
2 inflicted, as it states in the record, superficial facial
3 lacerations to that individual and that individual was
4 adequately attended to as well as the South Carolina
5 Department of Corrections effectively enforcing the
6 laws of this state in bringing him to trial for that
7 particular behavior.

8 Q. Mr. Aiken, so what you're saying is that if
9 an inmate commits an assault in prison and is sentenced
10 to prison again, that shows that he's adaptable to prison,
11 is that what you're saying?

12 A. That says that that individual can be adequately
13 managed in the prison setting. Just for example, sir,
14 just because a person is in prison doesn't mean that
15 that individual is above the law and this surely demonstrates
16 that. What's different is that the South Carolina
17 Department of Corrections as well as other correctional
18 agencies have the ability, have the technique, have
19 the training and have the equipment to effect lethal
20 force if that person does not adequately follow certain
21 rules and regulations. And I will also add that I have
22 ordered inmates killed because they did not follow rules
23 and regulations and that inmate has been killed.

24 Q. Okay, well I'm not sure that quite in response
25 to my question, Mr. Aiken. Let me ask you this.

Mr. Aiken-Cross by Solicitor

1406

1 A. I'm sorry.

2 Q. Up on the screen here, if you will look up
3 there, do you recognize that young man on the left there?

4 A. I don't know him personally, no, I don't.

5 Q. Do you know who he is?

6 A. No, I don't know who he is.

7 Q. All right. Have you reviewed the internal
8 affairs record of the South Carolina Department of
9 Corrections in connection with this third assault which
10 occurred in 1993, this last one on the record?

11 A. I would have to take a look at it to see whether
12 I did or not. (Witness looks at file.) I don't know
13 whether this is the complete record from internal affairs
14 but I certainly notice a number of documents that was
15 in his official record.

16 Q. You've seen those before in preparation for
17 your testimony?

18 A. Yes, I've seen at least some of these.

19 Q. You said you did not consider Mr. Stokes a
20 predator, what do you mean by predator?

21 A. I did not find any evidence where he was trying
22 to control the operations of the facility, found no
23 evidence where he has demonstrated behaviors that would
24 intimidate the staff in relationship to their authorized
25 and statutory duties of operating the facilities. In

Mr. Aiken-Cross by Solicitor

1407

1 contrast, there are a number of inmates in correctional
2 systems that constantly try to control the operations
3 of correctional facilities to include effecting death
4 upon the staff and there is no evidence of that at all.

5 Q. Okay, isn't a predator in the prison system
6 someone that preys on other inmates?

7 A. Not necessarily so.

8 Q. You would not call a prisoner, a dominant
9 prisoner in there, that preys on younger, weaker inmates
10 a predator? Isn't that what the classification system
11 is all about?

12 A. That may be one aspect of it but what we are
13 finding in our correctional systems, as I stated earlier,
14 that they inherently violent places and people that
15 enter correctional systems today, not the individuals
16 that we would call the first time non-violent offender,
17 especially in a maximum security environment these people
18 have to earn their right to be in a maximum security
19 environment and that's based on their behavior and this
20 individual, Mr. Stokes, should be housed in a maximum
21 security facility for the remainder of his life.

22 Q. That's where you keep the most dangerous inmates,
23 is that correct?

24 A. The most volatile, dangerous inmates, that's
25 correct, sir.

Mr. Aiken-Cross by Solicitor

1408

1 Q. Now, I want to try to make sure I understand,
2 Mr. Aiken, and again, I'm not trying to be argumentative
3 with you, you're the expert and I'm not but I'm just
4 trying to understand. Are you saying that a person
5 is adaptable to prison if the prison system can deal
6 with them when they commit an infraction, that's what
7 makes them adaptable?

8 A. That's one aspect of it, yes.

9 Q. All right, sir, so if somebody commits an
10 act of violence and then that person is punished for
11 it, that means that person is adaptable, is that what
12 you're saying?

13 A. What I'm saying is that in correctional systems
14 and South Carolina is no different, the majority of
15 the people, the vast majority of the people that are
16 incarcerated in maximum security are in for violent
17 offenses and that the South Carolina Department of Corrections
18 has taken a leadership role in this nation in managing
19 that type of population.

20 Q. I'm not sure --- I understand what you are
21 saying but I want to make sure that you understand my
22 question so I can see if I understand your answers.

23 Are you saying that a person is adaptable,
24 you're an expert on adaptability, because the prison
25 system is designed to deal with that person when he

1 commits an infraction, is that what makes him adaptable?

2 A. And my response is that is one aspect of it.

3 After reviewing Mr. Stokes' record, Mr. Stokes doe snot
4 come near, even though he will stay in a maximum security
5 environment, but I've seen much more violence and
6 predatorial behavior of inmates in a correctional system
7 compare to Mr. Stokes.

8 Q. All right, so you think that the fact that
9 you've seen worse inmates than Mr. Stokes would be of
10 much consolation to Jackie Williams up here?

11 A. Again, I don't know who Jackie Williams is,
12 sir.

13 Q. I'm sorry, I thought you said you had reviewed
14 those internal affairs notes ---

15 MR. SIMS: Your Honor ---

16 SOLICITOR: This is cross-examination, Your
17 Honor ---

18 MR. SIMS: It is cross-examination but that's
19 not what he said and he responded to the question that
20 Mr. Bailey had asked when he said he had reviewed those
21 internal records and what Mr. Bailey is saying now is
22 that I thought you said that you had reviewed and he's
23 trying --- he's trying to do something improper in terms
24 of misquoting what the witness has said.

25 THE COURT: Pose the question.

Mr. Aiken-Cross by Solicitor

1410

1 Q. My question was, sir, you've reviewed those
2 internal affairs records concerning the February 11,
3 1993 assault, is that correct?

4 A. What I stated to you, sir, ---

5 Q. Could you just give me a yes or no, sir, and
6 then you can explain.

7 A. Okay. No. What I said to you, sir, is that
8 I've reviewed the documents you provided me and recognize
9 a significant portion of these documents as part of
10 his official record.

11 Q. All right, sir.

12 A. Additionally, you asked me if Mr. Jackie Williams,
13 I don't know whether that's Jackie Williams or not.

14 Q. Would you dispute, if I told you that was
15 Jackie Williams would you dispute it?

16 A. I have no grounds to dispute it. I just don't ---
17 I've never seen a picture of Jackie Williams.

18 Q. The second page of the internal affairs records
19 that I think you said you reviewed, is that not a picture
20 of Jackie Williams, the same picture up here?

21 A. Well, yes, sir, I see it now and I do relate
22 the two.

23 Q. And you don't see anything in that picture
24 and in that report that would indicate that Sammie Louise
25 Stokes, at least in February of 1993, had some problems

Mr. Aiken-Cross by Solicitor

1411

1 adapting to prison environment?

2 A. Yes, I'm not saying that he will not have
3 any problems adapting. What I am saying is that if
4 those behaviors are demonstrated they can adequately
5 be managed and that based on looking at his record,
6 the probability of him adapting very well is tremendously
7 high and that's based on thousands and thousands of
8 reviews, as well as developing and designing systems
9 myself.

10 Q. When you say that prisons has the ability
11 to deal with it, you mean they have the ability to discipline
12 him when he breaks the rules?

13 A. As well as up to using lethal force and taking
14 his life if required.

15 Q. Certainly if you had to take somebody's life
16 in the prison system, to shoot them or whatever, they
17 are not adapting there, are they?

18 A. What I'm saying is that if that behavior is
19 demonstrated, the Department of Corrections can adequately
20 deal with that situation.

21 Q. By killing them?

22 A. That can happen or putting them within a prison
23 within a prison. The Department of Corrections has
24 the capability of separating his population for a very
25 long period of time. And so they will not have access

Mr. Aiken-Cross by Solicitor

1412

1 to other population.

2 Q. July 12, 1992, Mr. --- on by the way, on
3 these infractions here, they have like a little trial,
4 don't they, in the Department of Corrections where they
5 have an opportunity to give their side of the story?

6 A. Yes, sir, an administrative hearing, yes,
7 sir.

8 Q. Okay, and it's like a little mini-trial where
9 they can tell their side of the story, the victim tells
10 their side of the story and they've got a little committee
11 there that decides whether or not they are guilty or
12 not guilty?

13 A. That's correct, sir.

14 Q. Okay.

15 A. And the only thing different is that they
16 are given more leeway in relationship to sanction as
17 well as determining what the facts are.

18 Q. July 12, 1992 Mr. Stokes had a weapon on him
19 within the walls of the Department of Corrections. Do
20 you know from your review of the files what kind of
21 weapon he had?

22 A. I don't have that in front of me but I think
23 it was --- I don't want to speculate on it, but he was
24 found in possession of a weapon and properly adjudicated
25 for possession of that weapon. Which, in 1992, was

Mr. Aiken-Cross by Solicitor

1413

1 not very unusual in relationship to finding weapons.
2 The Department of Corrections has done a tremendous
3 job in contraband control over the last five to six
4 years.

5 Q. Do you have that file with you?

6 A. No, I don't have it in front of me, no, sir.

7 Q. I mean in the courtroom.

8 A. No, sir.

9 Q. You have it in your car outside?

10 A. I have part of it, yes.

11 Q. Do you have the part of it that shows what
12 kind of weapon Mr. Stokes had when he got written up
13 and found guilty within that administrative proceeding
14 for possession of a weapon in prison in July of 1992?

15 A. I'm sure counsel has that.

16 Q. Could you get that for me?

17 MR. SIMS: It will take me some time to find
18 it through all of this, Your Honor. I've got some more
19 of it over here, Your Honor.

20 SOLICITOR: It's July 12, 1992, Mr. Sims.

21 A. Sometimes all kind of instruments are used
22 in the prison industry and sometimes inmates have the
23 ability or had the ability to smuggle those. They are
24 no longer than I would say about this long from my
25 recollection.

Mr. Aiken-Cross by Solicitor

1414

1 Q. Now, you're talking about a shank and you are
2 saying they are this long. Are you talking about the
3 blade or the handle and the blade?

4 A. No, the handle and the blade is about that
5 long from my recollection.

6 Q. And is' like a curved blade, right?

7 A. Some of are, yes, sir.

8 Q. Box cutters have a curved blade.

9 A. Some of them what they call a hawk bill blade
10 to them, some of the don't.

11 Q. And, again, an inmate is not supposed to have
12 a box cutter in the bathroom, are they?

13 A. Not in the bathroom, the library, no, sir.

14 Q. That's where this assault occurred?

15 A. According to the documentation, yes, sir.

16 Q. And, of course, the documentation is what
17 you have based your opinion on, is that correct?

18 A. As I stated, yes.

19 Q. And the box cutter in that context would be
20 considered contraband, is that correct?

21 A. Most definitely.

22 Q. And contraband is something that's against
23 the rules, you're not supposed to have contraband, are
24 you?

25 A. Most definitely.

Mr. Aiken-Cross by Solicitor

1415

1 Q. So if Mr. Stokes had a box cutter on the date
2 that he cut that young man three times, he was in violation
3 of the contraband rule, is that correct?

4 A. That is correct, as well as the behavior in
5 which he has demonstrated and the administrative staff
6 saw it fit not only to exercise administrative remedies
7 for his behaviors or sanctions, but also to take it
8 to court, criminal court, for prosecution, which is
9 considered to be serious.

10 Q. So the harder the Department of Corrections
11 cracks down on somebody's infraction the more adaptable
12 you think that person is because that violation is being
13 dealt with?

14 A. Not only that but also the person's age, the
15 person's previous behaviors, the person's level of super-
16 vision and custody and classification.

17 Q. Let me ask you this and this does require
18 some speculation I think on your part, Mr. Aiken, but
19 if, based on the last thing that we've got up here is
20 July 28, 1993. That's the last thing you know about
21 any problems in the Department of Corrections, is that
22 correct, based on your records?

23 A. Are we specifically talking about the South
24 Carolina Department of Corrections?

25 Q. Yes, sir.

Mr. Aiken-Cross by Solicitor

1416

1 A. Yes, sir, I think that's correct.

2 Q. So if you had been asked in 1993 whether or
3 not you felt like this was a violent person or would
4 have a tendency to be violent in the future, what would
5 have said? The same thing you are saying here today?

6 A. And that's speculative.

7 Q. Sure it is, what you are saying now is speculative,
8 too, isn't it?

9 A. No. What I'm saying to you is that in 1993
10 with individuals demonstrating this type of behavior,
11 the Department of Corrections, the South Carolina Department
12 of Corrections could adequately manage that behavior
13 and I'm also saying is that I have dealt with and I
14 have managed and I have supervised and I have classified
15 people demonstrating this type of behavior and the
16 difference is I have to sign my name to those folks
17 on those pieces of paper and live with it. And I have
18 to see those inmates, just like him, everyday. I have
19 to look at the staff that are supervising that inmate
20 everyday and I have to live with my decisions and I
21 have become very good and methodical in evaluating each
22 decisions because it's not academic, it's for real,
23 and if you make a bad decision, yes, people can get
24 hurt and I have done a very good job of developing systems
25 and to ensure the proper accountability in evaluation

1 of people. No, can I have a crystal ball and predict
2 everything a person will do in the future? Nobody has
3 that ability but what we are saying is that through
4 our system and through the proper analyzation of people
5 that are incarcerated, we can deal with it as well as
6 we can have impact on that behavior.

7 Q. I think I know the answer to this already
8 since you've said you haven't talked to anybody but
9 have you ever talked to a fellow named Francis Richardson,
10 does the name ring a bell?

11 A. No, it does not, sir.

12 Q. Let me hand you a document and ask if you
13 remember seeing that?

14 A. This is a ---

15 Q. could you give me a yes or a no and then you
16 can explain your answer.

17 A. Oh, yes.

18 Q. Thank you, sir.

19 A. What was the question to make sure I answer
20 it correctly?

21 Q. Have you ever seen that before?

22 A. Yes, sir, I think I have. This is, of course,
23 another document as it relates to his --- Mr. Stokes'
24 altercation as it relates at Wateree Correctional
25 Institution if I'm not mistaken, and it was assault

Mr. Aiken-Cross by Solicitor

1418

1 and battery and he was found guilty and given 300 days
2 adm. and 90 days loss of good time.

3 Q. All right, and that indicates that Mr. Stokes
4 and another young man beat up a 53 year old man, right?

5 A. I wasn't too particular about the other person's
6 involvement because I was dealing with this, but I know
7 Mr. Stokes was --- was involved in this, yes.

8 Q. Go ahead and look at it now, Mr. Aiken, if
9 you would and doesn't that indicate that it was a two
10 to one situation with two young men ---

11 A. According to the report.

12 Q. Which, of course, is what you are basing your
13 opinion on, isn't that correct?

14 A. That's correct.

15 Q. That's part of it?

16 A. Uh-huh.

17 Q. Did you ever look at any of the incident reports
18 from the Orangeburg jail?

19 A. Yes, sir, I had an opportunity to look at
20 those.

21 Q. This one here, did you look at that?

22 A. Yes, sir.

23 Q. That indicates that Mr. Stokes struck an inmate
24 over at the jail while he was waiting for this trial,
25 doesn't it?

Mr. Aiken-Cross by Solicitor

1419

1 A. Uhm --- it's dated July 27, 1999, I don't know
2 whether the trial was going on but it's a incident report
3 and, again, I emphasize the notation that it is a incident
4 report and not a arrest report and not a disciplinary
5 report where he did, according to staff, and this is
6 an official report, did inflict bodily harm on another
7 inmate with his fists and while they were feeding and
8 the officer broke up the fight and Mr. Stokes was escorted
9 back to his cell, cell 322, with minimum force. And
10 as a result of those actions, he received no canteen
11 or visitation for five days. And, of course, the inmate
12 refused to go to the hospital for treatment, that is
13 the one that he hit, according to this report.

14 Q. do they still have a inmate classification
15 where you have like an Alpha and Beta system, is that
16 what they still use?

17 A. Uhm --- internal classification system, right.

18 Q. And what --- if you have a real gentle non-
19 violent person that wouldn't cause anybody any problems,
20 how are they classified?

21 A. Well, if I could explain the system, the system
22 is called the AIMS System and that's called the Adult
23 Inmates Management System, and I was the first institution
24 to implement the protocol for the typical design for
25 this. And what it does is to evaluate how inmate

Mr. Aiken-Cross by Solicitor

1420

1 population, you know, acts or manipulates or deals with
2 conflict and those kind of things in the correctional
3 institution. It's not meant for punishment, it's meant
4 for proper assignment and an Alpha is known as more
5 of aggressive, manipulative population, does that say
6 that an individual will be violent? No, it doesn't
7 necessarily say that he or she resorts to violence every
8 time but there's a type of population that adequately,
9 I mean, it's a system that places those types of
10 individuals together and then there is the more or less
11 manipulative population and then there's the population
12 that does not result into any manipulative or violent
13 behaviors.

14 Q. And what are they called?

15 A. You've got Alpha, Beta and Gamma.

16 Q. Okay, Alpha is the worse, Beta is medium and
17 Gamma would be the ---

18 A. Again, we're not talking about what's better
19 and what's worse. What we are talking about is how to
20 adequately evaluate and manage that particular population,
21 so let's say that a Gamma will not, you know, result
22 to violence? No, what it is saying is that this is
23 a type within the population we can better manage based
24 on their personality traits.

25 Q. Alpha would be the more dangerous inmates?

Mr. Aiken-Cross by Solicitor

1421

1 A. The Alpha would be more manipulative and require
2 more management and supervision, yes.

3 Q. And they were require more management and
4 supervision because they are more dangerous and more
5 violent and more predatory?

6 A. They're --- they have the tendency to do that
7 more than the other two groups.

8 Q. And he is an Alpha?

9 A. I don't recall --- yes.

10 Q. Well, how would you classify him?

11 A. I would --- internally classify him?

12 Q. Yes, sir.

13 A. I would internally classify him as a Alpha
14 One, instead of an Alpha Two because you have breakdowns
15 in those particular areas.

16 Q. What's the difference in an Alpha One and
17 an Alpha Two?

18 A. Alpha Two will tend to be more violent than
19 an Alpha One. And Alpha One is more manipulative than
20 resolving issues of violence.

21 Q. You would classify him as we speak now, I
22 think this is October 31, 1999, as less violent than
23 some of the other, you would not give him the highest
24 violent classification?

25 A. What I'm saying now, please understand ---

Mr. Aiken-Cross by Solicitor

1422

1 Q. I want to understand.

2 A. --- that this person is still in maximum custody,
3 whether he's an Alpha or Gamma and I have Gammas in
4 super maximum security so it has no direct relationship
5 to that. But I can say that he will be between an Alpha
6 One more than an Alpha Two in my estimation because
7 there are people that we are housing and living with
8 in prison systems that are much more violent than he
9 is.

10 Q. Okay, and when you make that classification,
11 would you be taking into consideration the fact that
12 this jury has convicted Mr. Stokes of the May 28, 1998
13 kidnapping, forcible rape and murder, would you take
14 that into consideration?

15 A. What we take into consideration --- yes. What
16 we will take into consideration is that with that conviction
17 we don't care how nice he becomes. We don't care whether
18 he learns how to read, we don't care what other circumstances
19 take about. This individual will remain in maximum custody
20 because of that conviction for the remainder of his
21 life. This individual will never be able to go down
22 to medium or minimum security as long as he lives. There
23 is no behavior that he can demonstrate that will bring
24 him out of maximum security.

25 Q. Was he an Alpha classification when he did

1 this?

2 A. I don't recall and I know you want a clear
3 definition and I'm trying to give you one and that clear
4 definition is one in which he can be an Alpha or he
5 could be the most passive individual that ever entered
6 the prison system, but the point is that with this
7 conviction he remains in maximum custody and Alpha,
8 Beta or Gamma is immaterial to that.

9 Q. Let me boil it down real simple, Doctor, and
10 I'm not trying to get on you and I don't want you to
11 get on me, ---

12 A. I understand.

13 A. --- I'm not arguing with you.

14 A. I hope I don't demonstrate that.

15 Q. No, I hope I don't either, if I do, I sincerely
16 apologize.

17 A. No, I don't feel that way at all.

18 Q. I want to know whether if he goes to the Depart-
19 ment of Corrections he will be put in a place where
20 he cannot do something like this again, can you tell
21 me that he will be put in a place where he can't do
22 that again?

23 A. He can be placed in a correctional system
24 in a correctional institution where the probability
25 of that occurring is minuscule. No, we cannot predict

Mr. Aiken-Cross by Solicitor

1424

1 the future, we can better predict the future and the
2 probability of him inflicting that type of violence
3 on another inmate is minuscule. And I may add, if he
4 does demonstrate that behavior in the Department of
5 Corrections ---

6 Q. You can deal with it.

7 A. --- you had better believe it.

8 Q. But that ain't going to help the fellow that
9 ends up here with his face slashed up, is it, the fact
10 that you deal with it after the fact?

11 A. No, it doesn't but it's very beneficial as
12 to how it happened and why it happened so you can you
13 can better and continuously improve the way we manage
14 him. And that's what we have been doing for the last
15 ten or fifteen years. Before that, the correctional
16 professions that said it happened and so forth, no,
17 what we are doing is incorporating very proactive systems
18 to better manage and better predict this behavior and
19 to prevent this behaviors from happening.

20 Q. And how long have you been doing that?

21 A. Uhm --- since 1971.

22 Q. Which, of course, would encompass 1993 and
23 1992 when all of this happened?

24 A. That is correct and we have learned tremendously
25 over the last ten to fifteen years.

1 Q. You cannot as an expert in prison adaptability
2 stand up here and tell this jury that this man gets
3 a life sentence he won't hurt or kill somebody in the
4 prison system, can you?

5 A. I cannot tell you that and I cannot tell you
6 that if he gets a death sentence either, because I've
7 managed death row population also and inclusive of
8 executing two inmates myself.

9 SOLICITOR: Mr. Aiken, that's all I have and
10 again, I apologize if you think I was out of line with
11 my questions but I was just trying to understand you.

12 A. Very well, sir, and I do not feel intimidated
13 at all.

14 SOLICITOR: I don't either, thank you.

15
16 RE-DIRECT EXAMINATION BY MR. SIMS:

17 Q. Let me just clear up one thing. You were asked,
18 I think it was the last question, whether or not you
19 can assure this jury that if he got a life sentence
20 he would never be able to commit that kind of act on
21 anyone else and I believe your statement was --- and
22 if I'm wrong, you correct me --- that even if he got
23 the death penalty, you could not say that he would not
24 get --- that he would not be involved in that kind of
25 activity, is that correct?

Mr. Aiken-Re-Direct by Mr. Sims

1426

1 A. That's correct, sir, and it's based on my experience
2 of not only managing the general population, maximum
3 security population, but also death row population.

4 MR. SIMS: That's all I have.

5 SOLICITOR: One further question, Your Honor,
6 if I might.

7
8 RE-CROSS-EXAMINATION

9 BY THE SOLICITOR:

10 Q. If he's executed he can't do that again, can
11 he?

12 A. That means if he's dead?

13 Q. Yeah.

14 A. Well, obviously that question is very evident,
15 the answer to it is very evident.

16 SOLICITOR: Thank you.

17 MR. SIMS: One follow up after that.

18
19 RE-RE-DIRECT EXAMINATION BY MR. SIMS:

20 Q. You can't tell us when that would happen even
21 if he got a death sentence, you couldn't tell us when
22 he would be executed?

23 A. That is correct, sir, it may take years and
24 years.

25 MR. SIMS: Thank you, that's all I have.

1 SOLICITOR: Nothing further.

2 THE COURT: You may step down, thank you,
3 sir.

4 MR. SIMS: Your Honor, could I have a moment
5 to talk to my client?

6 THE COURT: Ladies and gentlemen, if you would
7 step back to your room. Don't discuss the case.

8 (WHEREUPON, Jury retired to the jury room and
9 the following proceedings were held in the absence of
10 the jury.)

11 MR. SIMS: Your Honor, when they come back
12 out, I'm just going to announce that that's going to
13 be our case.

14 THE COURT: Anything in rebuttal?

15 SOLICITOR: No, sir.

16 THE COURT: All right.

17 SOLICITOR: Judge, I would like to be heard
18 prior to the time that Mr. Stokes makes his closing
19 statement.

20 THE COURT: Yes, sir.

21 SOLICITOR: But I can do that later.

22 THE COURT: Okay, whenever.

23 SOLICITOR: I can do it now. Your Honor,
24 I would just request that you consider asking Mr. Stokes
25 to proffer his closing statement out of the presence

1 of the jury because with his co-defendant, she got out
2 there and gave unsworn testimony. I can't cross-examine
3 it and once it's out, it's out, and there's always that
4 danger because they don't know where the parameters
5 are and I don't want him testifying under the guise
6 of a closing statement.

7 MR. SIMS: Your Honor, I don't know if that's
8 proper or not, to proffer what he is going to say. I
9 have told him that he can't testify and made that absolutely
10 clear to him.

11 THE COURT: I'm not going to require him to
12 proffer it but I'm telling you right now, if he starts
13 testifying, I'm going to stop him.

14 MR. SIMS: Yes, sir, I understand that and
15 I've explained that to him, that if he starts to testify
16 about the facts, he will be stopped.

17 SOLICITOR: I think just for the record the
18 law is that he can discuss the facts that are in evidence.

19 MR. SIMS: Yeah.

20 SOLICITOR: but if he gets off the record,
21 then that's where I've got a problem, if he starts to
22 inject something into the record that I can't cross-
23 examine him on.

24 THE COURT: If he starts adding, right.

25 MR. SIMS: I understand.

1 THE COURT: How much time are you going to
2 need, Mr. Sims?

3 MR. SIMS: About ten minutes, that's all I
4 need.

5 THE COURT: Well, rather than bring them in
6 and send them right back, let's hear everything we need
7 to and I'll review my checklist.

8 MR. SIMS: That will be fine.

9 (WHEREUPON, A short recess was held and then
10 the proceedings resumed.)

11 THE COURT: All right, are we ready for the
12 jury?

13 MR. SIMS: Yes, sir.

14 SOLICITOR: Yes, Your Honor.

15 THE COURT: Bring them in.

16 (WHEREUPON, The jury returned to the courtroom
17 and the following proceedings were held in their presence.)

18 THE COURT: Ladies and gentlemen, it now becomes
19 the phase in this trial where we will hear arguments,
20 final arguments, with the State going first. Solicitor.

21 SOLICITOR: Thank you, Your Honor. I want to
22 thank ya'll for your service throughout this trial.
23 We will finish up today and I know it's been a hardship
24 on you and we do appreciate it. What ya'll are doing
25 by serving as jurors in a case of this magnitude is

1 the highest duty that any citizen can render for their
2 country or state and we all appreciate it.

3 This is the last opportunity that I will have
4 to speak to you in this trial. You will then deliberate
5 and bring back and verdict and I'm not going to yell
6 and argue, even though it is referred to as the closing
7 argument but I'm not going to argue with you. I'm not
8 going to try to make a fancy speech. What I want to
9 do is talk to ya'll about the facts of this case, the
10 law that applies and, as I said in the first part of
11 the trial, somebody has to go first, somebody has to
12 go last. And the defense gets to go last and no matter
13 how bad I want to get up and say, this isn't right here,
14 here's what I want to say, I can't do it. So what I've
15 got to do is get it all out now and to a certain extent,
16 I've got to guess or anticipate what Mr. Sims may say
17 to you in his closing argument and try to confront that
18 ahead of time because I can't get back up here again.

19 And, of course, as ya'll know, guilt or innocence
20 is not an issue at this point. Ya'll have found Sammie
21 Louis Stokes guilty of murder, conspiracy, criminal
22 conduct in the first degree and kidnapping and, as you
23 know, your sole duty at this point is determine the
24 appropriate punishment, life without parole or the death
25 penalty.

1 Monday seems like a long time ago, last week,
2 when ya'll were out here with the other 300 or so jurors
3 and you were all put under oath, you were asked to raise
4 your right hand and each of you said that you swore
5 to tell the truth, the whole truth, nothing but the
6 truth, so help you God. And under that oath you were
7 asked a series of questions by Judge Burch, by me and
8 by Mr. Sims for the defense. And each of ya'll said
9 under oath that in the appropriate case, I could bring
10 back a verdict for the death penalty. Each of ya'll
11 said under that same oath that if I vote for the death
12 penalty and the other jurors join me in that vote, I
13 could sign my name to that death verdict form. Each
14 of you said that if you voted for the death penalty
15 and you signed that paper, you could announce that decision
16 out loud. Each of ya'll said under oath the fact that
17 the defendant in this case is black and the victim was
18 white, that that would have absolutely no bearing on
19 your decision in this trial. And, ladies and gentlemen,
20 when ya'll said that, when ya'll gave those answers,
21 I believed you or you wouldn't be on this jury.

22 So the issue of whether or not the death penalty
23 is right or wrong or whether we ought to have a death
24 penalty is not an issue, because each of ya'll said
25 under oath that in the appropriate case, you can impose

1 the death penalty, knowing that penalty would be carried
2 out.

3 So the only issue is whether this case, this
4 defendant, is the appropriate case for the death penalty,
5 based on the facts that you've heard from this witness
6 stand.

7 Ladies and gentlemen, the facts that you've
8 heard throughout the last several days in this case
9 spell out a course of conduct by one human being toward
10 another, so devoid of conscience, so bent on malice,
11 so lacking in human compassion that it cries out for
12 the death penalty. Last week or last Monday when ya'll
13 said that you could bring back a verdict for the death
14 penalty, you all had a mental picture in your minds
15 of a case so extreme, a set of facts so extreme that
16 the only appropriate sentence would be for the death
17 penalty. This is that case. Ya'll seen it, you have
18 heard a horror story that you couldn't imagine could
19 do what you have heard has been done. But it happened,
20 it happened and ya'll have heard the testimony and this
21 is that case. Ya'll have seen it, you've heard it and
22 the evidence is in.

23 If you heard or read in the paper or saw on
24 television that somebody in California or New York or
25 somewhere away from here and got a stray dog or stray

1 cat and grabbed that animal and tortured it and then
2 mutilated the body afterwards, you would be shocked.
3 You would say that's horrible, how could a human being
4 do that to a dog or a cat.

5 This man over here, Sammie Stokes, did that
6 to a human being here in Orangeburg County, a fellow
7 human being.

8 Let's talk a little bit about Norris Martin
9 and, again, I don't know what Mr. Sims is going to say
10 when he gets up but I imagine since he said I made a
11 deal with the devil, he was talking about Norris Martin.
12 And he's going to get here and tell you that you can't
13 believe Norris Martin, Norris Martin is the bad guy
14 here, he said you ought to try Norris Martin. Trying
15 to get ya'll to think that Norris is lying about what
16 happened, he says, you know, how could he --- how could
17 Stokes drag this body out here and not get any blood
18 on him, things like that. Ladies and gentlemen, if
19 you're dragging a body out by the arms, you're not going
20 to get any blood on you.

21 He may even try to suggest to you, although
22 there's no facts to support it, and you make a decision
23 on the facts, that Norris Martin did this cutting. Norris
24 Martin, you have it in evidence, I don't see it right
25 now, that Norris Martin is the man that carried that

1 little plastic toy police badge that the city of Branch-
2 ville gave out to their people, seventeen years old
3 in the seventh grade. And he wants ya'll to think that
4 Norris Martin did the cutting. Norris Martin, there's
5 no history of Norris Martin cutting anybody. There's
6 a history of Sammie Stokes doing some cutting. Jackie
7 Williams, his own wife, his ex-wife, Audrey Smith. He's
8 cut before.

9 He asked Norris Martin questions about, aren't
10 you familiar with this area, don't you live here by
11 the area? We put a picture in, an aerial photograph
12 of that area. He may suggest that Norris came out there
13 at night one night after the body was there and mutilated
14 the body or something like that. Ladies and gentlemen,
15 if that type argument comes up, there are no facts to
16 support that. If Norris Martin had come back out there,
17 wouldn't he have picked that ID card up that he left
18 out at the crime scene? Wouldn't that be the first
19 thing that he would do? The ID card is there, it's
20 there from May 23rd until May 27th when Mr. McAlhaney
21 found the body.

22 No doubt Connie Snipes was cut up, partly cutting
23 when she was alive. Do you remember Dr. Sexton talked
24 about this incised blade wound on her hand, a defensive
25 wound, where you are trying to fight somebody off and

1 that corroborates or supports Norris Martin's story
2 about Stokes getting on her and she was trying to fight
3 him off. He's trying to get you to believe that Norris
4 Martin is a liar. Norris Martin has lied before, he's
5 capable of lying, I'm not going to dispute that. But
6 the point is, ladies and gentlemen, Norris Martin's
7 horror story that he told ya'll is supported by the
8 physical evidence. It's supported by Ted Shealey that
9 told ya'll that the hair, that the head hair from Mrs.
10 Snipes, was 17 feet away from the body. It's supported
11 by Dr. Sexton's testimony that I will talk to ya'll
12 about later on. That proves Norris Martin isn't making
13 this up. It's something that happened and we've proved
14 it.

15 Another thing that the defense may do is try
16 to cast some dispersions on the character of Connie
17 Snipes, what's she doing out in the woods with these
18 two guys? I'm not here to judge anybody, the victim
19 in this case. But, ladies and gentlemen, Connie Snipes
20 can't defend herself. Anything that the defense tells
21 you about Connie Snipes, why she was out there, what
22 she was doing, would have to come through the only evidence
23 which would be Sammie Stokes' letter in which he's trying
24 to bring whoever he can down with him. Remember what
25 Emery Rush told you he said when he got the letter from

1 him? I know I'm going to fry and I'm going to bring
2 these other motherfuckers with me. So bear that in
3 mind when they talk about the victim in this case.

4 This was not only a malicious act, it was a
5 cowardly act. You've got a grown man with a gun and
6 an unarmed woman out in the woods at night. Sammie Stokes
7 snuffed her life out. What did he gain by it? He wanted
8 \$2,000. Is \$2,000 the value of a human life? Motivated
9 by the desire for that \$2,000 and just meanness and
10 a desire to kill. Someone who had never done anything
11 to him. Have you heard any testimony that Connie Snipes
12 did anything to Sammie Stokes at all?

13 You know we come in court in this part of the
14 case and it's my job to try to relate to ya'll the horror
15 of this crime, how bad it was, and I don't feel like
16 I can do it, I really don't. We're in court where we
17 wear our coats and ties and stand up and sit down at
18 the appropriate times with a judge who is wearing his
19 robe and we're wearing our suits and all and in this
20 kind of sterile atmosphere, I just can't --- don't have
21 the words to convey to ya'll the horror of what took
22 place last year here in Orangeburg County. You just
23 have to, in your mind's eye, take yourselves out there
24 to that wooded area at night and that young woman out
25 there, her fear when that shovel came out of the trunk,

1 what did she think? When she saw the gun, what did
2 she think?

3 Sammie Stokes, this man over here, said Connie,
4 you're going to be killed. What went through her mind?
5 What was she thinking about the last minutes of her
6 life as she lay on that cloth bag, her nipples cut off,
7 waiting to die?

8 Judge Burch is going to talk to ya'll about
9 aggravating circumstances as a part of his instructions
10 and I went over this in my opening statement and I'm
11 going to go over it again. The State of South Carolina
12 has alleged six aggravating circumstances, and as I
13 said before, the significance of the aggravating circumstances
14 is that no matter how bad a murder is, if I walked over
15 here and shot Ms. Simmons in the head right now for
16 no reason, I couldn't get the death penalty because
17 there's no aggravating circumstances. The Legislature
18 has set out things that they say make a murder worse
19 or make a murderer worse and if you find at least one
20 of those aggravating circumstances, you can bring back
21 the death penalty. You don't have to, you never have
22 to and Mr. Sims will tell you that. Proof of one is
23 all you need if that's your desire, if that's what you
24 think that the just and appropriate punishment is.

25 One of the aggravating circumstances is that

1 Connie Snipes was murdered during the commission of
2 criminal sexual conduct in the first degree. You've
3 found that, that's no longer an issue. You found him
4 guilty beyond a reasonable doubt.

5 The second aggravating circumstance is kidnapping.
6 You've already found that. So with that alone, you
7 could bring back the death penalty, but there's more.
8 There are four other aggravating circumstances and probably
9 the most important of which in this case is physical
10 torture. Judge Burch will explain physical torture
11 to you. Physical torture is when the victim was subjected
12 to physical, serious physical abuse before her death
13 and it exists when there is aggravated battery and it's
14 the opposite of instantaneous death and it can occur
15 when there's a disparity between the ages, the physical
16 condition of the victim and the defendant, different
17 sexes. It's the intentional infliction of severe abuse
18 on the body of another person just prior to death.

19 We know from Norris Martin's testimony what
20 happened to Connie Snipes. As I said before, in addition
21 to the pain she experienced being anally raped that
22 he described graphically, he got down there on the floor,
23 you have the defensive wound that Dr. Sexton said would
24 be painful. If it is a hand, it has pain receptors
25 where that would be a painful experience to be cut like

1 that fighting herself off.

2 Then he told you what happened before she was
3 anally raped. That both of her nipples were severed,
4 cut off. As I have said before, that is just too cruel
5 to believe if you didn't have independent proof that
6 it happened. Can you imagine what kind of a person would
7 do that to a woman before he killed her, cut off her
8 nipples. What could motivate somebody? What possible
9 mitigation, what reason could anybody have for doing
10 that to somebody?

11 Stokes went into detail as to what he says
12 occurred but he doesn't mention that he used the knife
13 at all in that letter. He leaves that part out. There's
14 independent medical evidence to support Norris Martin's
15 testimony. You have in evidence the bra that she was
16 wearing, the sports bra that at the time she arrived
17 at the autopsy that was all she had on other than one
18 shoe. And Dr. Sexton said and the people at the crime
19 scene said that when they found the body the bra was
20 pushed up. Dr. Sexton said that's a knife wound. He
21 described the blunt side of the blade and the sharp
22 side of the blade and no doubt that that's a knife wound
23 through her bra. He can't tell you if the bra was up
24 or down, but what he did say was and he shows us on
25 his chart, there's a wound to her neck and he said that

1 to a reasonable degree of medical certainty that it
2 was a knife wound and he said that the right hand side
3 of the bra was twisted over and it was over on the left
4 shoulder area of this thing here. So you've got the
5 hole through the bra, the bra is twisted up, and the
6 hole in her neck, the knife blade there. And due to
7 the condition of the right breast he can't tell whether
8 the bra --- whether the blade, when it went through,
9 was down over her breast to where it was pulled up but
10 the line up to where the bra was and the knife hole
11 there and the knife hole in her neck, it was consistent.
12 And it was consistent with Norris Martin's testimony
13 that Stokes stabbed her in the neck.

14 Again, can you imagine someone going through
15 that and not only going through the agony of having
16 her nipples cut off, knowing that after that she was
17 going to die. The last moments of her life were having
18 her nipples severed by this man. The gun is out, she
19 knows what is going to happen to her. Her life is is
20 almost over and she's being tortured for his pleasure.

21 All he had to do to get his \$2,000 was to kill
22 her, shoot her in the head. The rest was pleasure. He
23 was enjoying it, inflicting pain on somebody before
24 he kills them.

25 The next two aggravating circumstances that

1 I want to talk to ya'll about kind of run together.
2 And they said that the defendant committed murder as
3 an agent or employee of another person and that the
4 defendant committed this murder for himself or another
5 for the purpose of receiving money or a thing of monetary
6 value. The proof of those two aggravating circumstances
7 is in Sammie Stokes' letter. And I want to show you
8 a brief portion of it that's on the screen now.

9 Stokes is quoting Pattie Syphrette, his co-
10 conspirator. " Well, what's up? Do you think that
11 you can handle it? What is it going to cost, don't be
12 playing any games because I done went through all the
13 games with fake people just trying to get my money and
14 then run out on me. I said it will cost \$2,000 and
15 you will have ten months to come up with the money and
16 a gun." Later on Stokes is talking to Norris Martin
17 and he said, " Oh, yeah? Said, man, here's the deal,
18 here's your chance to get paid plus get you some pussy
19 finally. All you have to do is break me off proper because
20 she's got \$2,000 for you, I haven't seen the money yet."

21 Then when they're out in the woods with Connie
22 Snipes, Connie says, " Ya'll don't trust her, she will
23 only turn on you to." I said, and this is Sammy Stokes,
24 " She is pay us \$2,000."

25 So when you listen to the Judge instruct you
on that aggravating circumstance, the defendant did

1 the murder for myself or another for the purpose of
2 receiving money. He doesn't have to receive the money,
3 that has to be his purpose for committing the murder,
4 and that's his stated purpose.

5 The last aggravating circumstance is that two
6 or more person murdered by the defendant by one act
7 or pursuant to one scheme or course of conduct. And,
8 of course, that refers to the murder of Doug Ferguson.
9 He's not charged with the murder of Doug Ferguson as
10 far as ya'll are concerned, as far as the indictment,
11 but the facts of that murder are in evidence and you
12 can consider those facts as you would consider any other
13 facts in this case. Doug Ferguson's murder is clearly
14 an act that is part of the same common scheme or course
15 of conduct, part of that same conspiracy that developed
16 between Sammie Louis Stokes and these other people.
17 He was involved in both of them.

18 Mr. Sims may tell you that Stokes fingerprints
19 on that tape or that there were no readable fingerprints
20 on the part of the duct tape around his head. Doug
21 Ferguson didn't wrap that around his head himself. Sammie
22 Stokes was there, he participated. You heard Faith
23 Lapp, you heard Clark Whetstone demonstrate how he
24 participated in that by striking Ferguson and holding
25 him down while the taping was going on. And remember,

1 Stokes was wearing gloves, he wouldn't be expected
2 to leave his fingerprints, that's why he had on the
3 gloves and you have those in evidence.

4 Let's look at the tape here again --- excuse
5 me, the letter. And when you talk about the connection
6 between the two murders. Stokes is talking to Pattie
7 Syphrette, " And I said, damn, I hope you didn't tell
8 Fay about me. And Pattie said, she knows the deal about
9 Connie and about Doug's big mouth." Stokes is talking
10 to Pattie Syphrette. " I called her Monday evening
11 and Pattie said I need to see you now. Well, you know
12 where I'm at. And she came in the truck and I got in
13 and we drove to the gardens park. Pattie said, we've
14 got to do something with Doug before they find Connie."

15 So after Connie's death, it was part of this
16 same course of events, they need to kill Doug Ferguson
17 because he knows about Connie. And again, Stokes and
18 Pattie Syphrette. He said, " I called Friday and when
19 she answered the phone and Pattie asked where are you?
20 I said, over on Whatley Street. I asked her if she
21 saw the news yet?" This is after Connie is dead and
22 the body is found. "Pattie said, no, why? I said,
23 they are showing shit about Connie on the news. Pattie
24 said, damn man, I can't let Doug run to the cops."

25 They're connected, they are tied in together

1 and that's the sixth aggravating circumstance that has
2 been proven in this case and when you look at the guilt
3 phase and the penalty phase, put them altogether.

4 And, again, I remind you, I don't need to prove
5 all six, I need to prove one. You can go beyond that
6 and you should go beyond that, there's other evidence
7 that you can consider. You can look at Sammie Stokes'
8 conduct, the kind of person he is, not as a statutory
9 aggravating circumstance but as a characteristic of
10 the defendant.

11 And when you consider life in prison as an
12 alternative to the death penalty, consider Sammie Stokes'
13 criminal record. It starts out in 1988, taking his
14 wife or his ex-wife out and basically kidnapping her,
15 holding her in the house, threatening to kill her children,
16 threatening to kill her brother, putting the knife to
17 her throat, cutting her hands up when she tries to grab
18 the knife. She finally gets out of the house and it's
19 dark and he puts her down in the ditch and she yells
20 for help from her brother and this man stabs her in
21 the back. He gets out of prison in March of 1991 and
22 he comes to her house, wants to talk to her, go for
23 a walk, it's late in the evening. He has something
24 with him, he's got an extension cord that he's taken
25 the trouble to tie knots and he's got a knife, he's

1 a knife man, and he's cut little notches on those knots
2 so it will grip. When he gets that woman out in the
3 woods, the woman who hasn't done a thing to him, gets
4 her out on those woods, wraps that thing around her
5 neck until she passes out. She ends up in the hospital
6 in intensive care and she ends up with psychiatric problems
7 where she is hospitalized after that.

8 He wrote a letter to her telling her about
9 it admitting that and I read that letter to you. He
10 said that he watched her the whole time when she woke
11 up and crawled out of the woods or walked out of the
12 woods.

13 So he goes to prison again and in February
14 of 1993, he's in prison, he gets a box cutter and he
15 hacks up another inmate's face in the bathroom. And
16 you saw those pictures when Mr. Aiken was testifying.
17 And you think about the characteristics of the defendant,
18 you think about his criminal record, his record for
19 violence. Every time he has been to prison, all three
20 criminal convictions, were violent crimes, hurting other
21 people that hadn't done anything to him. Hurting them
22 with weapons, a cord, a knife on two occasions.

23 You know, prison, and I asked Mr. Aiken about
24 this, it's called the Department of Corrections, corrections
25 means you correct somebody. To me that would mean you

1 would try to reform them, try to rehabilitate them.
2 The problem with Mr. Stokes is it didn't work on him.
3 Because after he goes to prison three times and then
4 he comes out and commits this murder that ya'll are
5 trying him on, that ya'll have already found him guilty
6 of. It didn't work. What they offered him didn't work,
7 he didn't reform, it didn't rehabilitate him.

8 And I want you to think about the significance
9 of the fact that his last criminal conviction was incurred
10 with the use of a knife or a box cutter while he's in
11 prison serving a sentence for another assault. And you
12 think about life in prison and his adaptability to prison,
13 you think about that.

14 You can also look at his disciplinary record
15 and you have that in evidence.

16 The mitigating circumstance, and I'll talk
17 to you about that in a minute, and they are going to
18 submit to you that he's adaptable to prison. This is
19 his record. And Mr. Aiken downplays that record. In
20 1988 we know from his record here and my questions and
21 Mr. Aiken's answers that he and another guy together
22 beat up a 53 year old inmate. He's got a few minor
23 things, not obeying an order and so forth, being out
24 of place in line, creating a disturbance and he's got
25 possession of a weapon. In July of 1992 he's in the

1 prison system and for whatever reason has a weapon on
2 him. Fighting again in 1992, later on in 1992, striking
3 an inmate and it didn't end there. When he's in the
4 jail awaiting this trial for capital murder, when he
5 ought to be on his best behavior, he again attacks another
6 inmate and we have evidence of that. No evidence that
7 the other inmate struck him or fought back. He's doing
8 all the hitting. He hit him several times in the face
9 and he had to go get medical treatment.

10 This is an extremely dangerous man over here,
11 I don't care what Mr. Aiken tells you. The only way
12 you can judge future behavior is how he's acted in the
13 past. Think about his prior conduct, in prison and out
14 of prison being characterized by violence. You've heard
15 nothing about this man other than violence.

16 And you think about how he's adapted in prison.
17 I read his letters that he wrote to Audrey Smith from
18 prison after his assaults on her sent him to prison.
19 Ya'll heard her testify. State's exhibit #3 which is
20 a letter from this man to his wife or his ex-wife while
21 he's in prison for injuring her. " Elaine, you are
22 a very nice person and your kids need you on the earth,
23 not under it. So I'm telling you this from my heart,
24 I will do my best to better my head and my way of thinking
25 because I am a very dangerous young man. If I get out

1 planning on doing something to you, nobody can stop
2 me." So this man that they want to tell you that can
3 adapt to prison, the terror of Audrey Smith doesn't
4 end once he's locked up for trying to kill her. He
5 continues to terrify her by writing her these letters.

6 As I said, the mitigating circumstance that
7 ya'll will have to consider is that he's adaptable to
8 prison, that's it, the mitigating circumstance. The
9 Judge will instruct you on that and he will tell you
10 that there's some evidence in the record to support
11 that and that's based on Mr. Aiken's testimony and it's
12 up to you to decide, based on that evidence, whether
13 it really exists, whether he really is adaptable to
14 prison. And if you think he is what significance that
15 should have. Even if you find that mitigating circumstance,
16 if you also find one or more aggravating circumstances,
17 you can still impose the death penalty.

18 Now, I apologize to ya'll if ya'll thought
19 I was being rude to Mr. Aiken. He seemed like a nice
20 man and it was my job to question him and frankly,
21 I didn't really ---- I couldn't really follow him so
22 I had to ask him questions and when I talk to ya'll
23 about credibility of witnesses and believability of
24 witnesses. I told ya'll the way you judge somebody,
25 you way you size a witness up, you look them in the

1 eye and you look at their demeanor, the way they act
2 and you judge them the way you judge people in your
3 everyday life and how you think about it, using your
4 common sense. That's the way you make decisions in
5 important matters. Mr. Aiken is a nice man but all
6 he did was get a bunch of papers and read through them.
7 He wants to get up here and declare himself an expert
8 on prison adaptability and tell you this man can adapt
9 to prison and he has never even talked to Sammie Stokes.
10 He hasn't had an interview, he has not talked to a single
11 person, he hasn't talked to Jackie Williams, he hasn't
12 talked to Audrey Smith, he hasn't talked to Shawn
13 Weldon that was assaulted over at the jail, he hasn't
14 talked to anybody in Connie Snipes' family, he hasn't
15 talked to a law enforcement officers, he doesn't know
16 any details about the assault. And what he tells ya'll
17 is that the South Carolina Department of Corrections,
18 boy, we can deal with them, you know, we're tough, we
19 can shoot them if we have to, I've had them shot before.

20 So what he says is that if somebody messes
21 up, we can deal with them. And he gave an example of
22 adaptability that the fact of this assault and battery
23 on Jackie Williams, he got additional time. They preferred
24 charges and he got convicted. So it's sort of like
25 an Alice in Wonderland thing, where he's using the

1 punishment for infractions, the ability to deal with
2 that, to say that the man is adaptable. It's just the
3 opposite. If it's adapting to prison you don't have
4 to punish him. So Mr. Aiken's testimony in that regard
5 just didn't make any sense. He tells you this man is
6 not dangerous based on his record up through 1993, but
7 this week ya'll found this man that he would say is
8 not dangerous and be controlled guilty of murder with
9 malice aforethought.

10 Look at life in prison. Is that an acceptable
11 alternative to the horror stories ya'll have heard in
12 the last several days? Connie Snipes is in her grave,
13 she will be there forever, she will never see her children.
14 I submit to you that life imprisonment is not an acceptable
15 alternative for a man like Sammie Stokes who has done
16 what he's done.

17 The defense is going to tell ya'll that life
18 imprisonment is the next thing to the death penalty,
19 that he will serve his entire life in prison, he can't
20 get out, he can't hurt anybody because it's life without
21 parole. And they're right to a certain extent. Life
22 without parole is the next worse sentence to the death
23 penalty, the next most severe. But think of this, think
24 of his conduct in prison, think of Jackie Williams that
25 you saw laying up in that bed cut up. Short of another

1 murder, he can't get any more time for anything he does
2 in prison with a life without parole sentence. They
3 can deny his canteen benefits or lock him down for a
4 while, but they can't give him any more time because
5 he's maxed out. He gets a blank check to go around and
6 do whatever he wants to do, there's no controls over
7 him with a life without parole sentence.

8 Judge Burch will instruct you that you can
9 consider any mitigating circumstances that may be brought
10 out in this case but even if you find every mitigating
11 circumstance suggested to you by the defense, I want
12 to emphasize, you can still impose the death penalty
13 because the State has proven at least one aggravating
14 circumstance.

15 And I would ask you to look at everything.
16 Look at the statutory aggravating circumstances, look
17 at what they allege for a mitigating circumstance, look
18 at the characteristics of Sammie Stokes, the kind of
19 person he is. Look at the circumstances of the crime
20 that he's committed.

21 When I sit down here the defense is going to
22 get up here and they are going to play the blame game
23 with you. They are going to blame Pattie Syphrette,
24 they are going to blame Roy Tooth, they are going to
25 blame Norris Martin, they are going to blame Faith

1 Lapp. Ya'll are not sitting in judgment on them, you're
2 sitting in judgment on Sammie Louis Stokes, that's your
3 sworn duty, to decide what happens to him. He made
4 his choices. I would ask ya'll to remember what this
5 is, it's a penalty hearing, it's not an excuse hearing,
6 it's not a rehabilitation hearing, it's a penalty hearing
7 and the only person to blame for his conduct is Sammie
8 Stokes.

9 The defense gets up here and tells you how
10 severe a life without parole penalty is, remember, they
11 are begging you for that sentence. They will beg you
12 for life without parole. And that's the best thing
13 that ya'll can do for Sammie Stokes at this point, is
14 to give him life without parole. But ya'll are here
15 not to do what's best for Sammie Stokes. You're here
16 to do justice, to determine that most appropriate punish-
17 ment.

18 And what I'm talking about, ladies and gentlemen,
19 is accountability, responsibility. For our judicial
20 system to work, for our society to work, people have
21 to be held accountable for their actions.

22 I'm a prosecutor, I'm not a psychologist,
23 psychiatrist or social worker. I can't tell ya'll
24 how Sammie Stokes got to be the person he is to have
25 done these things. That's not my job, it's not your

1 job. Our problem is what do we do with him once he
2 gets to be the way he is, once he's done these things,
3 once he's in our midst. This murder was an act of horror,
4 it wasn't an act of recklessness or an act of killing
5 in the heat of passion, crime of impulse, it was a cold
6 blooded murder. And I submit to you, ladies and gentlemen,
7 when you kill that way you forfeit your right to live.

8 As I said before, the defendant here, Sammie
9 Stokes, enjoyed the act of murder. Connie Snipes' death
10 didn't stop the horror, didn't satisfy him to sever
11 her nipples, to stab her, to anally rape her, to terrify
12 her. Because after she was dead, he scalped her and
13 he cut out her vagina. What kind of man mutilates a
14 dead body? And you know what happened because you remember
15 Dr. Sexton he talked to you and described the vaginal
16 area, it was gone. He described the three tags where
17 when you cut, you take a swipe, you stop, you take a
18 swipe, you stop and there will be a little skin tag
19 there, there were three of them. And he said in his
20 opinion to a reasonable degree of medical certainty
21 that her vagina was cut out and that's what Norris Martin
22 told you and Dr. Sexton said that was consistent with
23 what he saw.

24 I would ask you, ladies and gentlemen, to keep
25 focused on the appropriate punishment for an intentionally

1 committed murder, rape, torture, mutilation that you've
2 seen here.

3 Connie Snipes had the right to live her life
4 how she wanted to live it. I ask you to use your common
5 sense and follow Judge Burch's instructions on the law
6 and your decision should be based on the circumstances
7 of the crime and the characteristics of the defendant
8 and I ask you, what is it about the circumstances
9 surrounding the murder, the rape, the mutilation of
10 Connie Snipes that would cause ya'll to want to reward
11 Sammie Stokes with a life sentence? What is it about
12 the way Sammie Stokes has lived his life that would
13 cause ya'll to want to reward him with a life sentence?

14 Have you heard in this entire trial one good
15 thing about Sammie Stokes? One thing. Have you heard
16 one piece of evidence favorable to Sammie Stokes that
17 maybe you should consider a life sentence? But it's
18 just not here. And your sworn duty is to make that
19 life and death decision that you said you could make
20 based on the facts, and the facts were all one way.

21 I mentioned this before, talking about physical
22 evidence, hard facts. Connie Snipes' hair was 17 feet
23 from her body. I'm thankful that she was already dead
24 then when that happened and her vagina was cut out by
25 this man.

1 Your duty is to decide this case from the facts.
2 The murder that you convicted him of was, of course,
3 the murder of Connie Snipes. You also have in evidence
4 the murder of Doug Ferguson. That's part of the
5 characteristics of the defendant and his conduct and
6 you can take that into consideration also. Think about
7 his death. It's a horrible way to die. Fear, panic,
8 the sensation of not being able to breathe. To be bound
9 up where you can't move, you can't see, you can't breathe.
10 You have in evidence pictures of Doug Ferguson that
11 Dr. Sexton testified about. As Doug Ferguson laying
12 on the floor there in that death house that they took
13 him to, Pattie Syphrette picked him up and took him
14 there. That's that man that Clark Whetstone demonstrated
15 how Stokes showed him how he punched him in the face
16 and ya'll know that happened because Dr. Sexton got
17 pictures of the injuries that he sustained behind his
18 ear and his eye. And that's where he was trying disparately
19 in his last moments to free himself, the instinct to
20 live, trying to tear that duct tape where his hands
21 are, where his feet are. He's alive then, he's struggling,
22 he's trying to get out, he's trying to live.

23 And what did Doug Ferguson do to deserve that?
24 Couple of rings that he had, apparently. The main thing
25 is Doug Ferguson apparently had enough character or

1 whatever to turn down Pattie Syphrette's --- this is
2 Doug Ferguson after the tape was removed. This man here
3 had enough character not to kill Connie Snipes. He
4 told Pattie Syphrette I don't want to do that. And after
5 they killed her, they said Doug Ferguson knows about
6 it so he died, too, because he refused to kill Connie
7 Snipes. And they knew that he knew and that he might
8 tell.

9 There's only one way that ya'll can assure
10 yourself that there won't be any more victims, there
11 won't be any more Audrey Smiths or Jackie Williams or
12 Doug Fergusons or Connie Snipes and that's the death
13 penalty.

14 As I said before, nothing has come out in this
15 trial that's sufficient to justify anything less than
16 the death penalty in this case. Sammie Stokes deserves
17 the ultimate penalty that can be imposed in the State
18 of South Carolina for the crime of murder. He's earned
19 it. Ya'll need to be able to reach a verdict a little
20 later on this afternoon, a verdict that you can come
21 out here in open court and look everybody in the eye
22 and let them know that justice has been done in this
23 case.

24 Judge Burch will charge you, he will instruct
25 you, that you could bring back a life sentence for

1 any reason or no reason at all, purely as an act of
2 mercy and that's what the defense will ask you to do.
3 They will ask you to bring back a life sentence as an
4 act of mercy and that's within your power to do it.
5 But you can't do justice to this case and extend mercy
6 to Sammie Stokes at the same time. You have to take
7 your choice, justice or mercy. A person deserving of
8 mercy was Connie Snipes, she didn't get it at Sammie
9 Stokes' hands. In his mind her life was worth \$2,000.

10 The death penalty is not the most appropriate
11 penalty in this case. It's the only appropriate penalty
12 based on the facts that you've heard here. This is all
13 about justice and justice is a real simple concept,
14 the punishment has to fit the crime. There's one punishment
15 that fits the crime here in this case that ya'll have
16 heard and that's the death penalty. And your verdict,
17 no matter what it is, life or death, is not going to
18 bring Connie Snipes back, but it can do justice in this
19 case. By his conduct, his own conduct, Sammie Stokes
20 has shown that he should not be allowed to exist in
21 society, either in prison or out of prison, because
22 he's dangerous to other people any place you put him.

23 Your task is an awesome task and what I'm asking
24 you to do, and I know it's not easy, it's not supposed
25 to be easy. I'm going to sit down in a minute and

1458

1 the defense is going to get up here and they will give
2 their closing statement to you. As I said earlier,
3 nothing they say to you can change those facts that
4 you've heard. And you took a solemn oath to base your
5 decision on the facts, not the questions of the lawyers,
6 not the arguments or statements of the lawyers, but
7 the facts. And again, I ask you to search your mind
8 and throughout all the testimony that you've heard in
9 this entire trial and try to think of one positive thing,
10 one positive thing about Sammie Stokes. And if you can't,
11 I submit to you that the death penalty is the only
12 appropriate punishment.

13 I pointed out earlier that the fourteen of
14 ya'll were chosen after extensive questioning to be
15 fair and impartial, non-biased, fair representatives
16 of the Orangeburg community that can do justice and
17 do your full duty in this case. And again, each of
18 you raised your hands and said, I can sign my name to
19 this verdict form under the proper circumstances and
20 I would ask you to let your verdict say, citizens of
21 Orangeburg County, State of South Carolina, are not
22 going to tolerate this kind of inhuman activity from
23 one human being to another, without the person that
24 does that paying the ultimate penalty.

25 I would ask you, ladies and gentlemen, to have

1 the courage to do your full duty. Remember, all twelve
2 of you must agree on your verdict. Thank you.

3 MR. STOKES: In my statement I never denied
4 my involvement but the statement I gave was truthful
5 and I do have a conscience, that's one of the main reasons
6 why I gave the statement. You know, I been in trouble
7 before but nothing like this before so I felt I had
8 to set the record straight. But I give one statement
9 and I give a honest one, I didn't four or five, I give
10 one. And I'm deeply sorry that any of it ever happened
11 and I'm also sorry for the role that I played in it.

12 You know, I prayed and prayed and prayed and
13 have asked God to forgive me ---

14 SOLICITOR: May we approach?

15 THE COURT: Yes.

16 (WHEREUPON, A bench conference was held out
17 of the hearing of the jury and the court reporter.)

18 MR. STOKES: But I'm asking for forgiveness ---

19 SOLICITOR: Objection.

20 MR. STOKES: --- and I believe ---

21 THE COURT: Wait just a second.

22 MR. SIMS: Just a minute.

23 (WHEREUPON, A bench conference was held out
24 of the hearing of the jury and the court reporter.)

25 MR. STOKES: Well, I would just like to

1 say that I will forever be sorry for the role that I
2 played in it and most of all I truly feel for the family
3 and if I could turn back the hand of time none of this
4 would have occurred and I wouldn't be standing before
5 ya'll now pleading for my life. And once again, I truly
6 would like to say that I'm sorry and wish that you could
7 find it in your heart to forgive me for the role that
8 I played in this.

9 I would like to discuss how --- but i can't
10 get into that because they say I can't get into it so
11 I would like to say that I am truly sorry, I really
12 am.

13 MR. SIMS: Madam Forelady, ladies and gentlemen
14 of the jury, I, too, want to take this opportunity to
15 thank you as Mr. Bailey has done because you've given
16 us one of the most important weeks of your life. When
17 you have been called upon to, in effect, not in effect
18 but in reality, to make a life or death decision. It's
19 not something that everybody has to do in their lifetime.
20 I would submit that it's not something that you would
21 have probably think that you would have ever gotten
22 to this point in your life, where you are going to have
23 to make that decision.

24 But when you came in here with the 300 plus
25 other jurors, and you were chosen to sit here today

1 to be able to make that decision. And, yes, we are
2 asking for his life. Mr. Bailey told you that I would
3 do that and we are going to ask you for his life.

4 When you look over this case, we have to talk
5 about the participants in the case. Sammie Stokes wasn't
6 in this case by himself and you have to look at it and
7 I talked to you about credibility the other day and
8 we're going to talk credibility again in the context
9 of why, let's say, Norris Martin would lie. Because
10 he wanted something that he got, he lied about his involve-
11 ment.

12 I want to point out to you that in the first
13 part of the trial when Sammie Stokes' statement was
14 read, if you will recall there was nothing to tell you
15 as to why Connie Snipes was out there. The question
16 is whether or not she was there for sex. In the second
17 statement it was read to you that Connie Snipes went
18 out there to kill Doug Ferguson. That does not mean
19 that anybody should be killed but it is an indication
20 of everything that was going on in this scenario.

21 In this first statement that Norris Martin
22 gave, you didn't hear anything about the cutting of
23 the nipples, and it was brought in in the second time.
24 But whose knife was it? Who owned the knife? Who,
25 by his own testimony, told you that he pushed the bra

1 up to play with her nipples? But at the same time Norris
2 Martin wanted you to believe that he was afraid of Sammie.
3 Does that sound like someone who was afraid? And I asked
4 him, he had a gun in one hand, he has a knife in one
5 hand, how could he cut out the nipples? I asked him,
6 that one man, one man, all alone can hold a woman down
7 and cut off her nipples while she is alive, one man.
8 And Norris Martin couldn't come in here and tell you
9 that he participated in that. Every statement that
10 he gave during this entire scenario was always pushing
11 the envelope, pushing it away from his involvement and
12 what he did in this case.

13 When he gave a statement on the 28th and the
14 29th, the 2nd or the 4th of June, the 2nd of July, in
15 September, on yesterday and today. You heard these
16 various statements and you heard how they progressively
17 moved him further and further away from his involvement
18 in this matter.

19 I would submit to you that there's been a lot
20 of testimony about Doug Ferguson and what happened to
21 Doug Ferguson. I would submit further that there is
22 a jury somewhere who is going to have to decide Sammie
23 Stokes' guilt or innocence on that case. Because as
24 he sits in this courtroom today, he's innocent of that.
25 He is innocent, he has never been tried for what happened

1 to Douglas Ferguson. So by our law, by our statute,
2 by our constitution, Sammie Stokes is innocent of that
3 until twelve other people say he's guilty. You did
4 not hear all of the facts.

5 We are here and you were chosen ---

6 SOLICITOR: Your Honor, I'm not sure of the
7 factual basis for him saying that we didn't hear all
8 the facts here. I think it's off the record there and
9 I hate to object to his closing.

10 MR. SIMS: Your Honor, the only thing we've
11 heard is what the State put up and that's what I said,
12 basically you didn't hear it. You heard what the State
13 put up, in effect.

14 THE COURT: On what?

15 MR. SIMS: On Douglas Ferguson.

16 THE COURT: Okay, go ahead, you wasn't clear.

17 MR. SIMS: So as I was saying, let that issue
18 be decided that twelve others. We are here and you
19 were chosen to make your decision based upon the State
20 versus Sammie Louis Stokes in the death of Connie Snipes.

21 You heard a lot of testimony about Sammie's
22 prison record. You heard about Sammie's letters to
23 his wife. You heard about what he has done and how
24 it was done. But let me pose a question to you. If
25 Sammie Louis Stokes had not been remorseful, as Emery.

1 Rush said, and gave a handwritten unsolicited statement,
2 what would the State have against Sammie Stokes?

3 Mr. Bailey told you about a deprived mind,
4 somebody without any conscience. Emery Rush, the State's
5 own witness, testified that he was remorseful and he
6 said I want to tell you everything. I know what's going
7 to happen to me but I am going to tell you everything.
8 All of this evidence that's here, Sammie Stokes' finger-
9 prints are not on this shovel. And you can put that
10 back over here. You wouldn't hear about this record,
11 none of these would you have heard about because it
12 wouldn't have been relevant, it wouldn't have been any
13 evidence on him at all without his own statement. Without
14 him feeling remorseful and wanting to tell the truth
15 you would not have heard anything. That's a conscience.

16 You would have heard about this, about the
17 cuts, about the shots, but whose identification was
18 out there? Norris Martin, Norris Martin's identification
19 was there. Norris Martin was the one whose hat was there,
20 whose wallet was there, whose badge was there. All
21 of these pictures and everything that are up here, all
22 of this evidence here could just be taken back and put
23 right back over here on the prosecution table because
24 without the statement of Sammie Stokes, his conscience
25 saying he wanted to clear the air, feeling sorry,

1 was remorseful, where would you be. His own statement
2 that you had the opportunity to hear and listen to,
3 to see, which was read to you from this chair, that
4 he gave one statement and he told you what his involvement
5 was in that statement.

6 Now who else in this whole trial that you have
7 heard gave only one statement? Norris Martin didn't.
8 Faith Lapp didn't. Everybody had a reason to lie, to
9 deflect away from the truth, everybody. But Sammie
10 said I'm going to tell it like it is. I'm going to
11 tell what happened. I want to set the record straight.
12 And you heard what Emery Rush said he said. He was
13 remorseful but he wasn't going to go down by himself,
14 he was going to tell the truth, he was going to tell
15 what everybody did. And that is conscience, that is
16 a conscience. The statement that he gave unsolicited,
17 the last thing that he said before he said, this statement
18 is true, I declare that this above statement is made
19 freely and voluntarily without promise or hope, the
20 last thing that he said before that was, telling their
21 family sorry would only make them hate me more. Because
22 saying sorry won't bring their loved ones back. It
23 would only add more pain hearing it from me. I will
24 say this much, God is going to bless them and help them
25 make it through this. Without a doubt, God is going

1 to punish me for my part and there's no excuse because
2 we all have choices in life.

3 Sammie Stokes did not try to sugar coat his
4 involvement. Sammie Stokes did not try ---

5 SOLICITOR: Your Honor, I apologize, could
6 we approach?

7 THE COURT: Yes.

8 (WHEREUPON, A bench conference was held out
9 of the hearing of the jury and the court reporter.)

10 MR. SIMS: Madam Forelady, ladies and gentlemen
11 of the jury, you have heard the conscience of Sammie
12 Stokes. The statement that you have before you shows
13 a man with a conscience. It shows remorse, it shows
14 contrition, it shows consideration for the family of
15 the victim.

16 Yes, I stand before you and I ask you to spare
17 his life. Mr. Aiken came in and he didn't try to sugar
18 coat anything either. He said he listened --- he looked
19 at all the records and he didn't talk to anybody because
20 he wanted to keep his focus, he wanted to make his
21 decision based on what he had seen in the records. One
22 thing he said that Sammie Louis Stokes would never be
23 a free man on the streets in the State of South Carolina
24 again. He's going to be in maximum security. And he
25 told you about the factors of maximum security, he told

1 what all those factors works, how that works in the
2 State of South Carolina.

3 What cost does remorse have? If he had never
4 said anything, we have a different view. But his remorse
5 brought him to this point. His contrition brought him
6 to this point. His feelings for the family brought
7 him to this point. His conscience brought him right
8 here before you twelve people today to make the decision
9 whether he's going to live or die. And I would submit
10 that conscience, remorse, contrition counts for something.
11 It counts for something.

12 Madam Forelady and ladies and gentlemen of
13 the jury, you've been here for one solid week. You've
14 listened to everything that we have had to put in, both
15 the State and the defense. You've heard versions of
16 statements, you've had different versions of statements,
17 because the one thing that is unmistakable and that
18 is that the remorse, the feelings that Sammie had to
19 write everything, to get everything right has brought
20 him right here today, to this point in his life. You
21 twelve individuals hold life or death in your hands.
22 You twelve individuals are now the supreme judge and
23 you have a decision to make.

24 I would ask you to give him life. What price
25 is a conscience? What price is remorse? Does it mean

1468

1 anything at all? I say it does. I say it means life.
2 Life. Life. Thank you.

3 THE COURT: Any of you jurors need a break
4 at this time?

5 MADAM FORELADY: Yes, sir.

6 THE COURT: Okay, we are going to take a ten
7 minutes break. Don't discuss the case.

8 (WHEREUPON, Jury retired to the jury room and
9 the following proceedings were held in the absence of
10 the jury.)

11 MR. SIMS: Before we --- as part of your
12 instruction, I would ask for a limited instruction in
13 regard to the prior bad acts information in terms of
14 the other case. I would ask the Court to instruct the
15 jury on that pursuant to the instructions of Lyle. I
16 know we are not in a Lyle situation, but it still has
17 the same effect of prior bad acts being put in in the
18 penalty phase of a death penalty or capital murder case.
19 Under Lyle, if this was strictly Lyle, there would be
20 a limited instruction to the jury in terms of what the
21 effect of that statement should be or that info ---
22 or that prior bad acts information should be.

23 SOLICITOR: Your Honor, I agree with him to
24 a point. I don't think it's a Lyle issue but I think
25 the jury should be instructed not to consider any evidence

1 of prior crimes as evidence of any aggravating circumstances.
2 Of course, the exception would be the murder of Doug
3 Ferguson which we contend is in support of one of the
4 aggravating circumstances. But the prior offenses ---

5 THE COURT: All right, how about scratching
6 that out on a piece of paper exactly how ya'll want
7 that said.

8 MR. SIMS: I almost forgot about it.

9 SOLICITOR: All right, sir. I have fixed
10 up the proposed charge and Mr. Murphy is writing it
11 out so you can read it.

12 THE COURT: All right.

13 MR. SIMS: Your Honor, while Mr. Murphy is
14 writing that out I can raise my other issue. As the
15 Court knows, in the previous hearing that we held I
16 had raised the issue in regards to proportionality and
17 the Court had ruled and instructed me that I would not
18 be able to argue it pursuant to the two cases that are
19 on record here in the State of South Carolina, I believe
20 it's Chirping and Hughes. Those are the two cases that
21 have been cited as standing for the proposition that
22 the issue of proportionality is not an issue for the
23 jury to concern itself in regards to. In light of that,
24 I had raised the issue and raise the issue again, that
25 if the State of South Carolina, first of all that the

1 statute that deals with proportionality talks about
2 the Supreme Court's ability to review a case as it relates
3 to whether or not the sentence imposed is in proportion
4 to the evidence. That's the way I look at proportionality
5 statute but the cases seem to be saying on the one hand
6 that a defendant is precluded from introducing evidence
7 of what a co-defendant got in a case, in the same case,
8 and in this case we are talking about his one co-defendant
9 getting or being given a sentence of life and we are
10 seeking the death penalty against my client.

11 At that time and for the record today, I
12 reiterate the fact that the interpretation that has
13 come down in those two cases that I talked about, I
14 feel they are unconstitutional and it violates my client's
15 rights under the equal protection and due process clause
16 of the constitution. And I state for the record that
17 if the State is allowed in presenting victim impact's
18 statement as part of the record, and preventing victim
19 impact testimony wherein some mother, some father or
20 some daughter or brother can come into the courtroom
21 and present evidence about the uniqueness of the victim,
22 the impact that that loss would have on that family
23 or that person in particular, in addition to being able
24 to show all of the emotion or tears and anger and frustra-
25 tion and hostility on the one hand, but then to deny

1 a defendant the right to present evidence that is credible
2 and has an impact upon how a jury may feel about giving
3 the death penalty to this individual, for example, and
4 where we are talking about --- we are prohibited, the
5 State has prohibited us from being able to argue that
6 if a co-defendant of equal culpability has gotten a
7 life sentence, then the jury should be able to consider
8 that fact in its deliberation when they are talking
9 about the defendant at trial. We think that the scales
10 in terms of the emotions, the hostility, the impact
11 statement and the testimony and everything that goes
12 on the one side creates a situation of unfairness and
13 it also prohibits my client from getting a fair trial
14 pursuant to the Sixth Amendment where he has a right
15 to a fair trial.

16 So we would raise the issue, Your Honor, that
17 the proportionality argument that has been ruled on
18 in this court which prevented me from being able to
19 argue that the co-defendants in this case, one, having
20 gotten a life sentence, the other one haven't gotten
21 twenty years for her statement and testimony should
22 be considered by the jury when they make a determination
23 as it relates to what sentence to impose on my client,
24 whether he should get life or death, and we were prevented,
25 by the ruling of the Court and the rulings that have

1 been talked about form the Supreme Court as it relates
2 to those issues.

3 THE COURT: An what are you asking me to do?

4 MR. SIMS: Well, therefore, I was asking ---
5 you had ruled on them but I wanted to put them on the
6 record that we had asked to be able to argue proportionality
7 and that was prevented, we were prevented from doing
8 that because of the case law that exists at this time
9 in the State of South Carolina.

10 THE COURT: I note your position on that however,
11 I don't think it would be ripe in this case anyway because
12 we didn't have any victim impact evidence anyway, did
13 we?

14 SOLICITOR: No, sir.

15 MR. SIMS: No, we didn't have any victim impact
16 but we did have ---

17 THE COURT: You are saying that it could happen
18 in another case.

19 MR. SIMS: In another case and not only that,
20 we did have the fact that one of the co-defendants got
21 a life sentence already because of a deal with the Solicitor
22 and the other one got a twenty year sentence because
23 of a deal with the Solicitor.

24 THE COURT: That's in the facts. Any response
25 to that?

1 SOLICITOR: No, sir, other than just to cite
2 State -vs- Maurice Hughes and the Chirping case which
3 raises those same issues and we take issue that the
4 jurors are not in a position in this case to determine
5 relative culpability of the other defendants because
6 those people aren't in court, some of them aren't in
7 court. For example, Mrs. Syphrette hasn't had an
8 opportunity to be heard or anything of that nature.
9 So they can't judge relative merits at any rate.

10 THE COURT: Okay, bring them in.

11 (WHEREUPON, The jury returned to the courtroom
12 and the following proceedings were held in their presence.)

13 THE COURT: Madam Forelady and member of the
14 jury, it now becomes your duty to decide what sentence
15 to impose upon the defendant, Sammie Louis Stokes.

16 First, however, you are asked to determine
17 the existence of non-existence of any statutory aggravating
18 circumstances. You see, under our law you may only
19 consider a sentence of death if you first unanimously
20 decide that the State has proved one or more statutory
21 aggravating circumstance beyond a reasonable doubt.

22 In this case, the State has asserted six statutory
23 aggravating circumstances. These are listed on the form
24 which I hold in my hand, entitled " Statutory Instructions".
25 You will have this form in the jury room with you so

1 you don't need to memorize this. The State has asserted
2 these six statutory or designated aggravating circumstances.

3 (1) The murder of Connie Lee Snipes was committed
4 while in the commission of criminal sexual conduct in
5 any degree.

6 (2) The murder of Connie Lee Snipes was committed
7 while in the commission of kidnapping.

8 (3) The defendant committed the murder of
9 Connie Lee Snipes for himself or another for the purpose
10 of receiving money or a thing of monetary value.

11 (4) The defendant caused or directed another
12 to commit murder or committed the murder of Connie Lee
13 Snipes as an agent or employee of another person.

14 (5) Two or more persons were murdered by
15 the defendant by one act or pursuant to one scheme or
16 course of action.

17 (6) The murder of Connie Lee Snipes was committed
18 while in the commission of physical torture.

19 Let me emphasize to you that these are the
20 only circumstances you may consider as aggravating circum-
21 stances. What is statutory aggravating circumstances?
22 It is a fact, an incident, a detail or an occurrence
23 which the General Assembly has declared by statute would
24 make worse, that is, aggravate the offense of murder
25 when the two occur together. In other words, it is

1 something which increases the enormity or adds to the
2 injurious consequences of the offense.

3 If you find the State has proved at least
4 one of the aggravating circumstances beyond a reasonable
5 doubt, then there are two sentences you are to consider
6 in this case. One is the death penalty and the other
7 is life imprisonment.

8 Now, as to statutory instructions, upon this
9 sheet of paper which I hold in my hand are written the
10 words STATUTORY INSTRUCTIONS. You will have this paper
11 in your jury room during your deliberations. The body
12 of this form states: " In determining whether the defendant,
13 Sammie Louis Stokes, be sentenced to life imprisonment
14 or death, you shall first determine whether the State
15 has proven the existence of one or more of the following
16 statutory aggravating circumstances beyond a reasonable
17 doubt.

18 The murder of Connie Lee Snipes was committed
19 while in the commission of criminal sexual conduct in
20 any degree.

21 The murder of Connie Lee Snipes was committed
22 while in the commission of kidnapping.

23 The defendant committed the murder of Connie
24 Lee Snipes for himself or another for the purpose of
25 receiving money or a thing of monetary value.

1 The defendant caused or directed another to
2 commit murder or committed the murder of Connie Lee
3 Snipes as an agent or employee of another person.

4 Two or more persons were murdered by the defendant
5 by one act or pursuant to one scheme or course of action.

6 The murder of Connie Lee Snipes was committed
7 while in the commission of physical torture.

8 I charge you in regards to the term " physical
9 torture ", torture occurs when the victim is subjected
10 to serious physical abuse before death. torture occurs
11 when the victim is subjected to aggravated battery.
12 What is aggravated battery? An aggravated battery is
13 an unlawful act of violent injury to the person of another,
14 accompanied by circumstances of aggravation, such as
15 the use of a dangerous or deadly object, the infliction
16 of serious bodily injury with the intent to commit a
17 felony, a great disparity between the ages and physical
18 condition of the parties, a difference in the sexes.
19 Physical torture is the intentional infliction of serious,
20 vile, horrible or inhuman abuse upon the body of another
21 before death. The instantaneous death of a victim does
22 not constitute torture. Physical torture may include
23 the malicious infliction of bodily harm to another by
24 depriving him or her of a member of him or her's body
25 or by rendering a member of his or her body useless

1 or by seriously disfiguring his or her body or a member
2 of his or her body or the intentional and unmerciful
3 prolonging of severe pain and abuse upon the body, or
4 the intentional and unmerciful infliction of serious
5 and extensive physical pain and abuse to the body of
6 another.

7 If you do not unanimously find the existence
8 of one or more of the alleged statutory aggravating
9 circumstances as listed, you shall so indicate on part
10 A of the sentencing verdict form entitled, JURY'S VERDICT
11 ON PROOF OF AGGRAVATING CIRCUMSTANCES, which is also
12 here in this packet.

13 At this point you will cease deliberations
14 and return to the courtroom with your verdict which
15 is to be signed by the forelady.

16 If, however, you unanimously find the existence
17 of one or more of the alleged statutory circumstances
18 listed above, you shall so indicate on part 1 or the
19 I or B of the sentencing verdict forms. This finding,
20 if made by you, must be signed by every member of the
21 jury. If you unanimously find the existence of one
22 or more of the alleged statutory aggravating circumstances
23 and designate this finding on part 1(b) of the sentencing
24 verdict form entitled, " JURY'S VERDICT ON PROOF OF
25 AGGRAVATING CIRCUMSTANCES ", you must then continue

1 your deliberations in order to determine whether you
2 shall sentence the defendant, Sammie Lee Stokes, to
3 life imprisonment or to death.

4 Now, as far as life imprisonment. By this
5 form which I hold in my hand, you, the jury can sentence
6 the defendant to life imprisonment. I will now read
7 the text of this verdict form.

8 " We, the jury, in the above entitled case,
9 decide that the defendant, Sammie Louis Stokes, shall
10 be imprisoned in the State Penitentiary for the balance
11 of his natural life." Please note that only the forelady
12 is required to sign this sentencing form.

13 Now, as to the death penalty, which I hold
14 the form in my hand. You, the jury, can sentence the
15 defendant to death. Please observe that immediately
16 below the body of the verdict there are twelve lines.
17 This is where, should you decide to sentence the defendant
18 to death, each one of you would sign your name. It
19 is the law in this state, Madam Forelady and members
20 of the jury, that the sentence of death be a unanimous
21 verdict and that each and every juror sign his or her
22 name to the sentencing form.

23 I will now instruct you on what you may consider
24 in making your decision. Back to statutory aggravating
25 circumstances.

1 As I stated to you earlier, a statutory
2 aggravating circumstance is a fact, incident or detail
3 or an occurrence which the General Assembly has declared
4 by statute would make worse, that is, aggravate the
5 offense of murder when the two occur together. In other
6 words, it is something which increases the enormity
7 or adds to the injurious consequences of the offense.

8 If you find the existence beyond a reasonable
9 doubt of a statutory aggravating circumstance, then
10 you are permitted, but not required, to sentence the
11 defendant to death. The law also requires that you
12 consider any mitigating circumstances which are supported
13 by the evidence. You must consider mitigating circumstances
14 because if you are to make an individualized assessment
15 of the appropriateness of the death penalty in the defendant's
16 case, which the law of this state requires you to do,
17 evidence about the defendant's background and character
18 is a relevant consideration. In this regard it is also
19 relevant for you to consider any positive attributes
20 of the defendant's character in mitigating for punishment.

21 A mitigating circumstance is neither justification
22 nor excuse for the murder. It's simply lessens the
23 degree of one's guilt, that is, makes him less blameworthy
24 or less culpable.

25 I charge you that you may consider any other

1 mitigating circumstances which are supported by the
2 evidence in this case.

3 Now there are such things as statutory mitigating
4 circumstances which are not alleged or brought forth
5 in this case and then there are what we call non-statutory
6 mitigating circumstances.

7 A non-statutory mitigating circumstance is
8 one which is not provided for by statute, but is one
9 which serves the same purpose, that is, to reduce the
10 degree of the guilt of the offense or reduce the punishment
11 that should be fairly imposed. An example of these
12 which you may consider if found in the evidence would
13 include the following, which the defendant asserts and
14 should be found in the evidence, and that is, the defendant
15 is adaptable to prison.

16 In considering the appropriate punishment,
17 you may consider in addition to the aggravating circum-
18 stances and mitigating circumstances the character of
19 the defendant and the circumstances of the crime.

20 I charge you with the exception of the evidence
21 introduced in support of the aggravating circumstance,
22 that two or more people were murdered by the defendant
23 by one act or pursuant to one scheme or course of conduct,
24 I instruct you that evidence of other crimes may only
25 be considered by you as bearing on the characteristics

1 of the defendant and that they may not be considered
2 as evidence of any other statutory aggravating circumstances.

3 Furthermore, although I have instructed you
4 that any finding of a statutory aggravating circumstance
5 has been proven, if such a finding is made by you must
6 be made unanimously and beyond a reasonable doubt. No
7 such requirement exists for consideration of mitigating
8 circumstances. Therefore, in deciding the appropriate
9 punishment in this case, each individual juror must
10 consider each mitigating circumstance which he or she
11 finds to be supported by the evidence. It is not necessary
12 that the entire jury unanimously agree on that existence
13 of any mitigating factor before you, as jurors, may
14 consider. Rather, the existence of mitigating circumstances
15 and the weight to be accorded to such mitigating circum-
16 stances are matters which each juror may determine for
17 himself or herself. Nor, as I told you a moment ago,
18 is it necessary for the existence of any mitigating
19 circumstances or circumstance to be proven beyond a
20 reasonable doubt before each of you may consider it.
21 The defendant does not bear any such burden of proving
22 the existence of such mitigating circumstance, rather
23 you are to consider each and every mitigating circumstance
24 which you find to be supported by the evidence before
25 you.

1 In reaching your decision as to the sentence,
2 you will consider the aggravating and mitigating
3 circumstances. While an aggravating circumstance must
4 be found before you can even consider the death penalty.
5 Once such a finding is made beyond a reasonable doubt,
6 you may sentence the defendant to death even though
7 you find the existence of a mitigating circumstance.
8 In other words, the existence of an alleged mitigating
9 circumstance is not a bar to the imposition of the death
10 penalty.

11 Finally, if you should conclude that a statutory
12 aggravating circumstance exists, you may consider whether
13 the defendant should be sentenced to life imprisonment
14 for any reason or for no reason at all. This is what
15 has been traditionally referred to as a sentence of
16 mercy and should such be your decision, you would so
17 indicate by returning to the Court the sentence of life
18 imprisonment form which will be signed by Madam Forelady
19 alone. In other words, you may choose to sentence to
20 life imprisonment if you find a mitigating circumstance
21 or you may choose to sentence to life imprisonment for
22 no reason at all, that is, as an act of mercy.

23 In any instance, should you choose to sentence
24 to life imprisonment, Madam Forelady alone would be
25 required to sign the sentencing form.

1 To the extent that you are called upon to
2 make decisions regarding factual issues, I again remind
3 you that you are the sole judges of the facts and that
4 the State must prove the aggravating circumstances and
5 the circumstances of the crime which they assert or
6 rely upon beyond a reasonable doubt.

7 I charge you that a defendant has a constitutional
8 right to remain silent and the assertion of such
9 constitutional right cannot and must not be considered
10 by you in your deliberations. Under your oath then,
11 you are to reach no inference and draw no conclusion
12 whatsoever from the fact that the defendant in the case
13 did not himself testify. The failure of a defendant
14 to testify should not even be discussed in the jury
15 room.

16 I will summarize what I have just told you.
17 You will have in the jury room during your deliberations
18 the following forms: Statutory Instructions, Form for
19 Aggravating Circumstances, Form for Recommendation
20 of the Sentence of the Death Penalty, a form for Recommend-
21 ation of Sentence of Life Imprisonment, and there's
22 also that reads, " We, the jury in the above entitled
23 case, are unable to unanimously agree on the existence
24 of any aggravating circumstances." And that is entitled,
25 NO FINDING OF AGGRAVATING CIRCUMSTANCES.

1 The statutory instructions state the only
2 aggravating circumstances you shall consider in the
3 case. Should you fail to find beyond a reasonable doubt
4 that one of these circumstances existed at the time
5 that the murder was committed, then you should go no
6 further and your sentence must be for life imprisonment.

7 Should you find beyond a reasonable doubt
8 the existence of an aggravating circumstance or circum-
9 stances, you would then be authorized to consider
10 sentencing the defendant to death. And in your deliberations,
11 you must then consider any mitigating circumstances
12 which are supported by the evidence.

13 You may consider any fact in mitigation of
14 the offense and you can sentence the defendant to life
15 imprisonment for no reason at all. If you decide to
16 sentence to death, you will complete the proper form
17 and all twelve jurors must sign it.

18 Should you decide to sentence to life imprisonment,
19 only Madam Forelady must sign the form.

20 In considering whether to recommend that the
21 defendant be sentenced to death or life imprisonment,
22 I charge you that you are not to allow any passion,
23 prejudice or any other arbitrary factors to influence
24 your judgment. As jurors, you must decide the issues
25 involved in this proceeding without bias and without

1 prejudice to any party. You cannot allow yourselves
2 to be governed by mere sympathy, my prejudice, by passion
3 or by public opinion. Both the State and the defendant
4 have the right to expect that each of you will carefully,
5 impartially consider all the evidence in the case and
6 you will follow the law as I have given it to you in
7 determining your recommendation.

8 At this time, ladies and gentlemen, I'm going
9 to ask the two alternate jurors to step out. Madam
10 Bailiff, retire them to a separate room.

11 (WHEREUPON, Alternate jurors left the courtroom.)

12 THE COURT: Ladies and gentlemen, the twelve
13 of you, I am instructing you that your verdict, whatever
14 it is, must be a unanimous verdict. Follow the instructions
15 that I have given to you about filling out the forms.
16 Do not begin your deliberations until I instruct you
17 to do so by sending in the forms and the exhibits. I've
18 got to check in with the attorneys one last time. You
19 may retire to the jury room

20 (WHEREUPON, Jury retired to the jury room and
21 the following proceedings were held in the absence of
22 the jury.)

23 THE COURT: Solicitor?

24 SOLICITOR: Your Honor, I may have missed
25 it but I believe the jury should be charged that their

1 recommendation will be followed. That may have been
2 in the charge but I missed it if it was.

3 MR. SIMS: I didn't hear it either, Your Honor.

4 THE COURT: I don't believe it was.

5 SOLICITOR: I might have missed it. I was
6 trying to take notes.

7 THE COURT: Anything else?

8 SOLICITOR: No, sir.

9 MR. SIMS: No, Your Honor, I did not hear
10 it either.

11 THE COURT: Whatever their recommendation
12 is will be followed by the Court?

13 SOLICITOR: Your Honor, of course, the defendant
14 in this case is parole ineligible, whatever the sentence
15 is, but with an aggravating circumstance it would be
16 life without parole under State -vs--Simmons. The jury
17 is entitled to an instruction of that if the defense
18 requests an instruction.

19 MR. SIMS: Yes, sir.

20 THE COURT: Only if you request it.

21 MR. SIMS: I do.

22 SOLICITOR: Your Honor, the jury has already
23 found the defendant in the first phase guilty of kidnapping,
24 criminal sexual conduct in the first degree, and these
25 were also aggravating circumstances and it wouldn't

1 make any sense to charge them again on that but I would
2 ask if Mr. Sims would waive that on the record, having
3 to recharge that.

4 MR. SIMS: Yes, sir, I would waive that.

5 THE COURT: Okay. Anything else? Now, in
6 regards to your charge ---

7 MR. SIMS: That if they find an aggravating
8 circumstance and recommend life --- a life sentence,
9 it would be life without parole.

10 SOLICITOR: Judge, I think, if you would give
11 me a second, I might have a copy of the charge on that.

12 THE COURT: Okay.

13 SOLICITOR: Your Honor, I've got a quote out
14 of State -vs- Sims and Bellamy on the recommendation.
15 That whatever you recommend will be the sentence given
16 to the defendant.

17 THE COURT: All right, Mr. Sims, give me exactly
18 what you want me to charge to the jury.

19 MR. SIMS: If the jury finds an aggravating
20 circumstance and recommends life, it will be life without
21 parole, without the possibility of parole.

22 THE COURT: All right, I think I've got it
23 all now. Bring them back.

24 (WHEREUPON, The jury returned to the courtroom
25 and the following proceedings were held in their presence.)

1 THE COURT: Ladies and gentlemen, i need to
2 further charge you that whatever you recommend will
3 be the sentence that will be given to the defendant.

4 Also, if the jury finds an aggravating
5 circumstances or circumstances and recommends a life
6 sentence, such sentence will be a life sentence without
7 possibility of parole.

8 Does that do it, gentlemen?

9 SOLICITOR: Yes, sir.

10 MR. SIMS: Yes, sir.

11 THE COURT: All right, ladies and gentlemen,
12 you may step back to your room and begin your deliberations.
13 Lieutenant, if you will hand these forms to Madam Forelady
14 and also assist Madam Bailiff with the exhibits, please.

15 (WHEREUPON, the jury began their deliberations
16 at 5:15 P.M.)

17 THE COURT: All right, let's stand at ease
18 until we have a verdict.

19 (WHEREUPON, The jury sent a note out to the
20 Court at 5:23 P.M.)

21 THE COURT: Mr. Sims, Solicitor, we've got
22 a question that I will make as a Court's exhibit. I
23 would prefer that we not bring them back out and just
24 let me put on there that they are to write them out.

25 Let me read it to you, Madam Court Reporter.

1 " On the aggravating circumstances, do we
2 list the number of the aggravating circumstances or
3 write them out entirely or may we summarize? "

4 And the answer to that is, " You write them
5 out entirely." Are ya';; in agreement with that?

6 SOLICITOR: Yes, sir, it would be the safest.

7 MR. SIMS: Yes, sir.

8 (WHEREUPON, Note was returned to the jury.)

9 THE COURT: Let's be at ease until we get
10 a verdict.

11 (WHEREUPON, The jury sent in another note
12 at 6:00 P.M.)

13 THE COURT: Let's bring the jury in.

14 (WHEREUPON, The jury returned to the courtroom
15 and the following proceedings were held in their presence.)

16 THE COURT: Madam Forelady, I'm in receipt
17 of your inquiry and for the record the questions are:

18 " Define maximum security prison for life
19 in prison without parole, what privileges does one have?

20 Define maximum security prison for the death
21 penalty. What privileges does one have? "

22 The only comment I can make in regard to your
23 inquiry, ladies and gentlemen, is to say this. That
24 you, the jury, must base your decision on the evidence
25 in the record. You may retire to the jury room and

1 continue your deliberations.

2 (WHEREUPON, Jury returned to the jury room.)

3 THE COURT: Any exceptions on that?

4 SOLICITOR: Not from the State, Your Honor.

5 MR. SIMS: None, Your Honor.

6 THE COURT: We will await the verdict of the
7 jury.

8 (WHEREUPON, The jury returned to the courtroom
9 at 8:30 P.M. with a verdict.)

10 CLERK: Madam Forelady, have you reached a
11 verdict?

12 FORELADY: Yes, we have.

13 CLERK: Pass it by the bailiff.

14 THE COURT: You may publish the verdict.

15 CLERK: " WE, THE JURY, IN THE ABOVE ENTITLED
16 CASE, FIND BEYOND A REASONABLE DOUBT THE FOLLOWING
17 STATUTORY AGGRAVATING CIRCUMSTANCES:

18 THE MURDER OF CONNIE LEE SNIPES WAS COMMITTED
19 WHILE IN THE COMMISSION OF CRIMINAL SEXUAL CONDUCT IN
20 ANY DEGREE.

21 THE MURDER OF CONNIE LEE SNIPES WAS COMMITTED
22 WHILE IN THE COMMISSION OF KIDNAPPING.

23 THE DEFENDANT COMMITTED THE MURDER OF CONNIE
24 LEE SNIPES FOR HIMSELF OR ANOTHER FOR THE PURPOSE OF
25 RECEIVING MONEY OR A THING OF MONETARY VALUE.

1 THE DEFENDANT CAUSED OR DIRECTED ANOTHER TO
2 COMMIT MURDER OR COMMITTED THE MURDER OF CONNIE LEE
3 SNIPES AS AN AGENT OR EMPLOYEE OF ANOTHER PERSON.

4 SIGNED BY ALL TWELVE JURORS."

5 " WE, THE JURY, IN THE ABOVE ENTITLED CASE,
6 HAVING FOUND BEYOND A REASONABLE DOUBT THE EXISTENCE
7 OF THE FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES,
8 TO-WIT:

9 THE MURDER OF CONNIE LEE SNIPES WAS COMMITTED
10 BY IN THE COMMISSION OF CRIMINAL SEXUAL CONDUCT IN ANY
11 DEGREE.

12 THE MURDER OF CONNIE LEE SNIPES WAS COMMITTED
13 WHILE IN THE COMMISSION OF KIDNAPPING.

14 THE DEFENDANT COMMITTED THE MURDER OF CONNIE
15 LEE SNIPES FOR HIMSELF OR ANOTHER FOR THE PURPOSE OF
16 RECEIVING MONEY OR A THING OF MONETARY VALUE.

17 THE DEFENDANT CAUSED OR DIRECTED ANOTHER PERSON
18 TO COMMIT MURDER OR COMMITTED THE MURDER OF CONNIE LEE
19 SNIPES AS AN AGENT OR EMPLOYEE OF ANOTHER PERSON.

20 WE NOW RECOMMEND TO THE COURT THAT THE DEFENDANT,
21 SAMMIE LOUIS STOKES, BE SENTENCED TO DEATH.

22 SIGNED BY ALL TWELVE JURORS."

23 Madam, Forelady, was this your verdict and
24 is it still your verdict?

25 FORELADY: Yes.

1 THE COURT: Anything further of the jury?

2 MR. SIMS: Poll the jury, Your Honor.

3 THE COURT: Madam Clerk, if you will proceed
4 to poll the jury.

5 (WHEREUPON, Each juror was polled individually
6 and all jurors answered in the affirmative.)

7 THE COURT: Anything further of the jury?

8 MR. SIMS: No, sir.

9 THE COURT: Ladies and gentlemen of the jury,
10 if ya'll will just relax a few minutes, I'll have some
11 comments to make to you and some finalizations as far
12 as the charge.

13 As the Trial Judge of the above entitled action,
14 prior to the imposition of the death sentence upon the
15 defendant, Sammie Louis Stokes, I find as an affirmative
16 fact that the evidence in the case warrants the imposition
17 of the death penalty and this imposition is not the
18 result of prejudice, passion or any other arbitrary
19 factor.

20 At this time, Mr. Stokes, is there anything
21 that you would like to tell the Court?

22 MR. STOKES: No, Your Honor.

23 THE COURT: Is there anything you have to
24 say or would like to say why judgment should not be
25 pronounced against you?

1 MR. STOKES: No.

2 THE COURT: Anything else?

3 MR. STOKES: No.

4 THE COURT: Thank you, sir, you may be seated.
5 I need counsel to approach, please.

6 (WHEREUPON, A bench conference was held out
7 of the hearing of the jury and the court reporter.)

8 THE COURT: I'm going to ask everybody to
9 be at ease because we've got to calculate the statutory
10 time. I'm going to let you go on back to your jury
11 room for a little while.

12 (WHEREUPON, The jury returned to the jury
13 room.)

14 THE COURT: I appreciate everybody's patience,
15 it's going to take a little while to do this paper work.

16 (WHEREUPON, A short recess was held and then
17 the proceedings resumed in the presence of the jury.)

18 THE COURT: State of South Carolina, County
19 of Orangeburg in the Court of General Sessions, the
20 State versus Sammie Louis Stokes, defendant. The defendant,
21 Sammie Louis Stokes, has been found by the jury to be
22 guilty of the offense of murder. The jury has recommended
23 that the defendant should be sentenced to death.

24 It is therefore the judgment of the law and
25 the sentence of the Court that the defendant, Sammie

1 Louis Stokes, be taken to the Orangeburg Detention Center
2 and thence to the State Department of Corrections hence-
3 forth to be kept in close and safe confinement until
4 the first day of December, 1999 upon which day between
5 the hours of 6 o'clock P.M. and 6 o'clock A.M. or upon
6 an order of execution issued by the South Carolina Supreme
7 Court, the defendant, Sammie Louis Stokes, shall suffer
8 death by electrocution or by lethal injection in the
9 manner provided by law.

10 Signed sentence by me, dated today, October
11 31, 1999 here in Orangeburg, South Carolina.

12 All right, ladies and gentlemen of the jury,
13 once again I thank you for your patience. I want to
14 sincerely thank you for your service on this case, I
15 want to thank you for your patience with the Court.
16 I've already thanked the attorneys for their cooperation
17 with the Court. I know it's a difficult duty to have
18 to sit in judgment of your fellow man. Jury duty, no
19 matter what the case is, as far as criminal court can
20 be a tough duty to follow and I sincerely thank you
21 for ya'll's service on this case.

22 That will end the case for you and you will
23 be allowed to go back to your respective homes but before
24 you go, there is a charge that I need to give you at
25 this time.

1 After your service in this trial has concluded,
2 you have the right to either refuse to discuss the verdict
3 you have rendered or to discuss the verdict to the extent
4 you so desire. If you choose to discuss the verdict,
5 you are free to terminate any such discussion at any
6 point. If the person with whom you are speaking continues
7 to pursue a discussion of the verdict after you have
8 communicated a desire to terminate the discussion, or
9 if a person continues to harass you after you have refused
10 to discuss the verdict, you should report that person
11 to the Sheriff's Department, and I have provided on
12 there the address and the phone number for the Sheriff's
13 Department.

14 Madam Bailiff, if you will pass out the written
15 charge that I have prepared to each juror, please.

16 (whereupon, charge was given to the jurors.)

17 THE COURT: That's Orangeburg County Sheriff's
18 Department and your sheriff is Sheriff James Johnson.

19 As far as the alternates, I sincerely thank
20 y'all for your service. As you know, alternates have
21 to sit in case any of the first twelve become incapacitated
22 for some reason. That did not happen in this trial.
23 I know you would have probably liked to have gone back
24 and deliberated with them but the law would not allow
25 me to do that. There can only be twelve deliberating

1 jurors. On behalf of the Court, I do want to thank
2 you for your service. I know all of you have had a
3 long week, motel rooms are probably getting old and
4 you're ready to do home.

5 Counsel, anything before I release the jury?

6 SOLICITOR: Not from the State, Your Honor.

7 MR. SIMS: Nothing from the defense, Your
8 Honor.

9 THE COURT: All right, once again, I appreciate
10 everybody's patience, it took us some time there to
11 calculate the time factor within the sentence.

12 All right, everybody else remain seated while
13 the jury departs.

14 (WHEREUPON, The jury was dismissed.)

15 THE COURT: All right, Mr. Sims, you said
16 you wanted to note something on the record?

17 MR. SIMS: Yes, sir, Your Honor, we would
18 again renew all of our motions for a directed verdict
19 and our motions as relates to this part of the trial
20 in which we asked the Court to dismiss the charges.
21 We feel that the evidence taken in the light most favorable
22 to the State and the evidence that has been educed in
23 this matter could only have been done --- that a jury
24 could only have reached a decision in this case based
25 upon passion and prejudice and we would ask the Court

1 for a new trial, or in the alternative, for a directed
2 verdict.

3 THE COURT: Anything from the State?

4 SOLICITOR: Nothing in regard to that, your
5 Honor.

6 THE COURT: I'll have to deny your motions
7 at this time. As far as appellate rights you will certainly
8 need to explain those to Mr. Stokes and under this
9 circumstance the appeal is what we call automatic but,
10 Mr. Stokes, you do have a right to appeal.

11 Anything else?

12 SOLICITOR: Your Honor, are you going to impose
13 sentence on the conspiracy and the criminal sexual conduct?

14 THE COURT: That's right, we need sentencing
15 sheets on those. It's been a long day.

16 All right, you all correct me if I'm wrong.
17 It's criminal sexual conduct in the first degree and
18 that carries a maximum possible punishment of thirty
19 years?

20 SOLICITOR: Yes, sir.

21 THE COURT: And the kidnapping?

22 SOLICITOR: Your Honor, that's assumed with
23 the murder conviction, I believe.

24 MR. SIMS: That is, it merged in.

25 THE COURT: All right, criminal conspiracy?