

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

DEC 8 2014

S.C. Supreme Court

JIMMY TAYLOR,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000669

APPENDIX

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 : CASE NOS. 2005-GS-38-2141,
COUNTY OF ORANGEBURG) 2142, 2143

STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
 Plaintiff,)
) JURY TRIAL - VOLUME I
) May 1, 2007
) Orangeburg, South Carolina
-versus-)
JIMMY R. TAYLOR,)
 Defendant.)

Jury Panel

B E F O R E:
The Honorable Diane S. Goodstein, Judge; and Jury

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I N D E X T O E X H I B I T S :COURT'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C-01	Juror Rap Sheet	37	
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Jury Selection

(My 1, 2007.)

THE COURT: Thank you all so much and please be seated. Good morning, ladies and gentlemen, and thank you so much for reporting this morning for your jury duty.

Do we have any folks on this side who are doing jury duty? Front row? Great. Thank you all for being here this morning, all of you.

Ladies and gentlemen, let me begin by introducing myself. My name is Diane Goodstein and I'm one of the two resident judges from the First Judicial Circuit. And I'm happy to report to you that you live in the First Judicial Circuit which is Dorchester County, Orangeburg County and Calhoun County. So welcome this morning, ladies and gentlemen, and again thank you for being here.

And let me start off by acknowledging that I know that there are about 3,812 places you'd rather be this morning and maybe 6 or 7,000 things you'd rather be doing. But, you see, I think that underscores the gift that you are giving to

Jury Selection

1 our way of life, to our system of justice
2 which is a citizen-based judicial system and
3 what you're giving to it is your dear and
4 precious time. I want to tell you right now,
5 ladies and gentlemen, we will take only so
6 much of it as we absolutely must have. And I
7 want you to know that every single minute
8 that you are here I'm well aware that you are
9 here and that we will take as little of your
10 time as we need.

11 However, having said that, let me
12 share with you that in all candor if you were
13 not here there would be no reason for any of
14 us to be here because you see, ladies and
15 gentlemen, we are a citizen-based judicial
16 system and what that means is, is that we
17 need people from the community to come in to
18 court and help fellow citizens resolve
19 disputes and that, of course, is what we are
20 about here this week.

21 Now, ladies and gentlemen, this is
22 a term of general sessions or criminal court
23 and we know that one side of the equation
24 this week during our trials will be the State
25 of South Carolina. Because the State of

Jury Selection

1 South Carolina is charged with the
2 responsibility in our state of prosecuting
3 cases. And then there will be fellow
4 citizens on the other side.

5 Now, ladies and gentlemen, let me
6 tell you how we're going to be proceeding
7 this morning, because what I'm going to be
8 doing this morning is I'm going to do the
9 general qualifications for your service this
10 week and then we're going to be concluded for
11 the day, you can go about your business, and
12 then I'm going to ask you to be so kind as to
13 return in the morning at 9:30. I'll remind
14 you we are then in the morning going to
15 select our jury for our first case for trial
16 and then we're going to get into the trial of
17 that case tomorrow afternoon, tomorrow
18 afternoon.

19 One of the first questions that
20 jurors always have is, ah, how long do we
21 have to be here. Is this like California
22 where you report for jury duty and you're
23 able to go home, like, in a couple of years?
24 No, no, no. This is a one-week term, ladies
25 and gentlemen, and under extraordinary

Jury Selection

1 circumstances sometimes we need a jury to
2 come back for a day or two in the following
3 week, but that's pretty rare.

4 Now that I've told you it's a
5 one-week term I've probably jinxed us all,
6 but normally and typically that's actually
7 fairly rare and this is a one-week term so
8 let me share that with you.

9 Ladies and gentlemen, we do our
10 jury qualification in stages. We now know
11 who's here because Marion called the roll for
12 us. I want you to remember as Marion was
13 going along calling the names there would be
14 no response, y'all just heard that happen?
15 You probably wondered what's that judge going
16 to do about that? I'm going to tell you what
17 I'm going to do about it. There's a list
18 that Marion now has that will go back down to
19 the jury coordinator for Orangeburg County
20 and they'll go back through and see if they
21 can find those folks.

22 Oft times what happens, ladies and
23 gentlemen, is that people have moved from the
24 county and they just simply haven't changed
25 all the addresses on all of their information

Jury Selection

1 and we'll pick somebody up. However we can
2 find those folks, we're going to ask one of
3 our folks from the sheriff's department that
4 works with our court system to go and find
5 those folks and give them a chauffer-driven
6 ride down to the courthouse so I can ask them
7 how come they missed us, we wanted to meet
8 them this morning and we didn't get that
9 chance.

10 So I did want you to know that we
11 do follow up and we do account for all of our
12 jurors. So I did want to share that with
13 you. And I understand we got a few folks to
14 be looking for; is that right? Yeah, got a
15 few folks to be looking for this week. Well,
16 that will keep -- that will keep our jury
17 coordinator who is always busy, busy.

18 Now, ladies and gentlemen, in a
19 moment we're actually going to go through the
20 roll call process one time more because we
21 want to know how you are employed and how
22 your spouse is employed if you are married.
23 And then there are some statutorily mandated
24 questions that I'm going to ask of you and
25 then that's going to conclude the work that

Jury Selection

1 we're going to do today, so we're going to be
2 able to get you out of here just as quickly
3 as we can. We're not going to keep you very
4 long.

5 Now, ladies and gentlemen, as a
6 part of the jury qualification process it is
7 necessary that I administer an oath to you.
8 So if you'd be so kind as to please stand and
9 raise your right hand.

10 (Whereupon, the jury panel is sworn.)

11 THE COURT: Great. If there's anyone
12 who failed to take the oath, if you'd please
13 stand at this time. And I find no one
14 standing.

15 Now -- yes, sir. Tell me your
16 name.

17 A PROSPECTIVE JUROR: My name is John
18 Green.

19 THE COURT: Oh, Mr. Green?

20 A PROSPECTIVE JUROR: Yes. I cannot be
21 jury duty because I can't remember nothing.

22 THE COURT: You have some physical
23 concerns, is that what you are telling me?

24 A PROSPECTIVE JUROR: Yes, ma'am.

25 THE COURT: All right, sir. And what --

Jury Selection

1 tell me -- do you want to tell me a little
2 more privately? You comfortable telling me
3 from there?

4 A PROSPECTIVE JUROR: I been bad in
5 motorcycle accident, I hit a deer, I been in
6 a coma for three months.

7 THE COURT: Oh, I'm so glad you're doing
8 so much better.

9 A PROSPECTIVE JUROR: I'm doing good,
10 but I can't be jury duty.

11 THE COURT: When was your accident?

12 A PROSPECTIVE JUROR: '94 I think.

13 THE COURT: In '94. And you were in a
14 coma for three months? We all want to ask :
15 you if you remember everything. Listen,
16 we're delighted you're doing well. Yes, sir.
17 If you think that's something you can't do,
18 you don't need to -- we're going to have
19 to -- I'm going to reach a point where I'm
20 going to ask that question, but you've stood
21 and told me that, but if you need to be
22 excused for that reason I'll let you be
23 excused.

24 A PROSPECTIVE JUROR: Thank you, ma'am.

25 THE COURT: And thank you so kindly for

1 being here today.

2 A PROSPECTIVE JUROR: Yes, ma'am. Thank
3 you.

4 THE COURT: All right. Now, ladies and
5 gentlemen, we receive our names for jurors
6 from three sources, three sources. From the
7 voter registration rolls of Orangeburg County
8 and from the highway department, Department
9 of Public Safety in the form of drivers
10 licenses and identification cards.

11 Ladies and gentlemen, if you do not
12 have at least one of those identification,
13 you don't have to have it with you, but if
14 you don't have at least one of those, let me
15 review, voter registration or drivers license
16 or identification card from the South
17 Carolina Department of Public Safety, the
18 highway department, if you don't have at
19 least one of those please stand because I
20 don't know how we were so lucky to have you
21 be here this morning. Maybe you just
22 followed everybody in off the sidewalk.
23 Everybody got one of those? Thank you. I
24 find no one standing.

25 Now, let me review. The next time

Jury Selection

1 that the roll is called, when Marion calls
2 the roll then we're going to ask you to stand.
3 and in a clear and audible voice, because we
4 really are interested in your information, if
5 you would just tell us how you are employed,
6 if you are retired just tell us a word or two
7 about your last employment. If you are
8 disabled, just tell us again your last --
9 about where you last worked and then if you
10 are married your spouse's employment. So
11 just to review even again, your employment,
12 your suppose's employment.

13 And with that I'm going to turn it
14 over to you, Marion.

15 (Roll call.)

16 THE COURT: Ladies and gentlemen, I now
17 have certain statutorily mandated questions I
18 must ask of you and, ladies and gentlemen,
19 most of them aren't that personal, but there
20 are a few that I think are rather personal.
21 I must have accurate information commensurate
22 with the oath that you have taken. So if you
23 need to respond, you got to respond, because
24 if you don't that would be a violation of
25 your oath. However, if you need to respond

Jury Selection

1 to a question that I'm going to ask you and
2 you think it's kind of personal and you might
3 be embarrassed if you answer it in the
4 presence of your fellow jurors, at the end of
5 this part of the process I'll ask you to come
6 forward and that will be your opportunity to
7 disclose that more private information with
8 me, of course, and our court reporter and our
9 clerk. However, just keep in mind, ladies
10 and gentlemen, if you need to respond and you
11 don't stand and you want to come forward,
12 just remember to come forward when I ask you
13 to do so.

14 Now, here are the questions which
15 determine your general eligibility to serve.
16 Ladies and gentlemen, is any member of our
17 jury panel not a citizen of the United
18 States? If you are not a citizen of the
19 United States, please stand. That's not one
20 of the more personal questions.

21 Ladies and gentlemen, if you are
22 not, if you are not a citizen and resident of
23 Orangeburg County, please stand. If you are
24 not a citizen and resident of Orangeburg
25 County, please stand. And I find no one

Jury Selection

1 standing for the first two questions.

2 Ladies and gentlemen, are you
3 able -- well, let me put it this way. Are
4 you unable, are you unable to read, write,
5 speak or understand the English language? If
6 you cannot read, write, speak or understand
7 the English language, you can stand now and
8 disclose that information or certainly come
9 up at the end. And I find no one standing.

10 And I know there's -- you know,
11 this is irresistible to me every time because
12 I know there's a juror out there thinking,
13 all right, Judge, if you don't understand the
14 English language how are you supposed to
15 understand you're being asked if you
16 understand the English language? That's why
17 I always preface by saying these are
18 statutorily mandated. I didn't come up with
19 these.

20 Now, ladies and gentlemen, do you
21 have less than a sixth grade education or its
22 equivalent? If you have less than a sixth
23 grade education or its equivalent, you can
24 stand now and disclose the information or
25 certainly you can come up at the end.

Jury Selection

1 Yes, sir. Tell me your name again.

2 A PROSPECTIVE JUROR: Robert McCollum.

3 THE COURT: Mr. McCollum, you have less
4 than a sixth grade education or its
5 equivalent?

6 A PROSPECTIVE JUROR: Yes, ma'am. I
7 went to Cope Revocation School, took up
8 automotive.

9 THE COURT: Did you?

10 A PROSPECTIVE JUROR: Yes, ma'am.

11 THE COURT: That's fantastic. Well --
12 and you can -- tell me, I forgot where you
13 told me you were working but I listened to
14 you.

15 A PROSPECTIVE JUROR: I work for Waste
16 Management.

17 THE COURT: What do you do for them?

18 A PROSPECTIVE JUROR: I drive a truck.

19 THE COURT: Okay. Well, that's -- you
20 know, that's certainly a tough job. Well,
21 and you get by at your job?

22 A PROSPECTIVE JUROR: Excuse me?

23 THE COURT: Get your bills paid, get by
24 at your work?

25 A PROSPECTIVE JUROR: Yes, ma'am.

Jury Selection

1 THE COURT: That's wonderful. And you
2 got through your automotive technical
3 training?

4 A PROSPECTIVE JUROR: Yes, ma'am.

5 THE COURT: Oh, you've got a lot more
6 than no sixth grade education. I get to keep
7 you. That's why I always say or equivalent.
8 You probably got more than equivalent to what
9 I got. I couldn't imagine me having to drive
10 a truck for anybody, let alone Waste
11 Management, because those or enormous, those
12 are the biggest trucks in the world.

13 All right. Ladies and gentlemen,
14 is any member of our jury panel -- and I got
15 to -- this one's got some explanation to it.
16 Does any member of our jury panel -- is there
17 any member of our jury panel who is
18 incapable, who is not capable by reason of a
19 mental or physical infirmity to render
20 efficient jury service? For example, do you
21 have a mental or physical condition that you
22 think would prevent you from being able to
23 serve on a jury this week?

24 But you got to have a little bit of
25 information just so that you can make that

Jury Selection

1 determination. Let me share with you that we
2 will start in the morning around 9:30 and
3 we're going to work for about an hour to an
4 hour and a half. You can't even wait, yes.

5 A PROSPECTIVE JUROR: Yes, I have one
6 problem. I have diabetes and I have frequent
7 restroom uses.

8 THE COURT: And you want to go right
9 now?

10 A PROSPECTIVE JUROR: If it's all right
11 with you.

12 THE COURT: You better believe it, but
13 I'm going to accommodate you. I can
14 accommodate you on my jury, but go on and
15 come right back.

16 A PROSPECTIVE JUROR: Pardon me?

17 THE COURT: Run to the men's room and
18 come back.

19 A PROSPECTIVE JUROR: Run to you and
20 come back?

21 THE COURT: You need to go to the
22 restroom now?

23 A PROSPECTIVE JUROR: I can't half hear
24 you.

25 THE COURT: Come up here. We got seats

Jury Selection

1 right here, come on. But do you need to go
2 to the men's room real quick? Are you okay?
3 I don't want to embarrass you.

4 A PROSPECTIVE JUROR: I'm all right with
5 that.

6 THE COURT: Okay. Come on. You're
7 going to tell me that what I was going to
8 tell you when I reached the end of this part.
9 And you have a seat right in there would be
10 great. Yeah, you can sit right there would
11 be wonderful.

12 A PROSPECTIVE JUROR: Sit right here?

13 THE COURT: Yeah, that would be awesome.
14 Right there is fine. What I was going to
15 tell you is that if I can accommodate you I
16 will, anyone. I want you -- see, I want you
17 to be able to serve on a jury this week so if
18 we can take more frequent breaks, and we're
19 going to talk about the breaks, you have
20 diabetes, I got crackers, I can get fruit, I
21 mean I could accommodate you I think. Okay?
22 So but let me finish the question, then if we
23 need to talk more we will.

24 So, ladies and gentlemen, let me
25 tell you our schedule. We typically will

Jury Selection

1 start in the morning around 9:30, we'll work
2 for about an hour and a half and we'll take
3 our morning break. After our morning break
4 we'll come back and we'll work until our
5 lunch, which is typically around one
6 o'clock -- tomorrow it's going to be a little
7 bit earlier -- and then we come back after
8 lunch and we'll work for about an hour and a
9 half and we conclude in the afternoon between
10 5:00 and 5:30.

11 The reason there's flexibility is
12 that I try to stop the trial at a natural
13 breaking point, like at the conclusion of the
14 a witness' testimony or perhaps between the
15 direct and cross-examination of a witness.

16 But, ladies and gentlemen, as to
17 each and every one of you, again I want you
18 to be able to serve on this jury this week so
19 if I can accommodate you, I'm going to do
20 that. Some folks are concerned about
21 being -- having a little hearing difficulty.
22 I think that's my problem and not yours. I'm
23 going to make it where you are able to hear
24 the testimony and hear the lawyers and hear
25 me.

Jury Selection

1 If you need to take a little more
2 frequent break, that is not a problem. If
3 you need to have little snacks along and
4 along, that is not a problem. Sometimes
5 people have difficulty, you know, sitting for
6 long periods of time, but if they can stand
7 up and move a little bit they're fine. Those
8 people are fine on our jury, delighted to
9 have you, you can stand and move around a
10 little bit, it's not a problem.

11 Again, I want you to be able to
12 serve on a jury. I think it's -- it's such a
13 wonderful civic work and I think most people
14 actually enjoy it, so I want you to be able
15 to serve on a jury this week. So if I can
16 accommodate you I want you to know that I
17 will as best I can.

18 So with that in mind the question
19 is, ladies and gentlemen, do you have or are
20 you unable, are you unable by reason of a
21 physical or mental infirmity, a mental,
22 physical problem to render efficient jury
23 service? You can stand now and we can talk
24 about it or certainly you can come up at the
25 end. You want to just wait, come up at the

1 end? Okay. Okay.

2 A PROSPECTIVE JUROR: Pardon me?

3 THE COURT: You all right?

4 A PROSPECTIVE JUROR: I'm fine.

5 THE COURT: Okay. Now, ladies and
6 gentlemen, has any member of our jury panel
7 been convicted, been convicted, that's either
8 by a guilty plea or by a trial, of a crime
9 punishable by imprisonment for more than one
10 year and your civil rights have not been
11 restored by pardon or amnesty?

12 Now, ladies and gentlemen,
13 punishable by imprisonment for more than a
14 year means that you could have received
15 punishment of more than a year in prison.
16 You may have received a probationary sentence
17 or a fine, but what is relevant here is that
18 you could have received punishment of more
19 than a year in prison and your civil rights
20 have not been restored by pardon or amnesty.

21 Now, ladies and gentlemen, if this
22 applies to you, you can certainly stand now
23 and disclose the information or you certainly
24 may come up at the end. And I find no one
25 standing.

Jury Selection

1 Now, is any member of our jury
2 panel a clerk or deputy clerk of court,
3 constable, sheriff or other commissioned,
4 commissioned law enforcement officer, county
5 officer, county commissioner, probate judge
6 or any person employed within the walls of
7 any courthouse? If so, please stand at this
8 time. This is not -- this is not a personal
9 question. So if this applies to you, please
10 stand at this time. And I find no one
11 standing.

12 Now, is there any member of our
13 jury panel who has previously served on jury
14 duty in a court of record, not magistrate's
15 court or municipal court, but in common pleas
16 or general sessions, federal court, in a
17 court of record during the calender year
18 2007? If so, please stand. And I find no
19 one standing.

20 Now, do we have any members of our
21 jury panel who has served as a member of the
22 Orangeburg County Grand Jury, the Orangeburg
23 County Grand Jury in the last five years? If
24 so, please stand. Last five years, please
25 stand. And I find no one standing.

1 Now, ladies and gentlemen, we now
2 move to jury exemptions. An exemption does
3 not mean that you are not qualified to serve,
4 it simply means that you have the right to
5 say thank you, but I choose not to serve.
6 Ladies and gentlemen, an example that I use
7 happens to be our first exemption. Let me
8 explain it like this: Ladies and gentlemen,
9 obviously people who are 65 years old and
10 older represent a pool of fabulous talent for
11 jury service by virtue of your -- that number
12 of years on this earth you have a wonderful
13 amount of experience and good common sense
14 and judgment after that many years on this
15 earth; therefore, you are a fabulous talent
16 for jury service. However, state law
17 provides that if you are 65 years old or
18 older and you wish to be exempted from your
19 jury service then you may be exempted.

20 So I ask, do we have any members of
21 our jury panel who are 65 years old or older
22 and you wish to be exempted from your jury
23 service? If so, please stand at this time.
24 And I find no one standing.

25 Now we now move -- our next

Jury Selection

1 exemption involves those of you who have
2 served on jury service. Please listen very
3 carefully to this one, ladies and gentlemen,
4 and you will recall a moment ago I asked if
5 there was any member of our jury panel who
6 had served as a member of the jury in a court
7 of record during 2007, because that
8 disqualifies a juror from further service in
9 the same year, but prior jury service also
10 gives rise to an exemption because no juror
11 is required to serve more often than once
12 every three calender years in a court of
13 record.

14 So I ask, do we have any members of
15 our jury panel who served as a member of the
16 jury in a court of record, that's not
17 magistrate's court or municipal court but in
18 common pleas, general sessions or federal
19 court during the calender year 2006 or 2005
20 and you wish to be exempted from your jury
21 service? If so, please stand. All right. I
22 find no one standing.

23 Now, our next exemption deals with
24 those of you who may have small children.
25 Please listen very carefully because this

Jury Selection

1 exemption has several parts and each and
2 every part must apply to you for you to be
3 exempted on this basis. You may be exempted
4 from your jury service if you have a small
5 child or small children under seven years
6 old, under seven years old, six years old and
7 younger and you have the legal custody of
8 that child or children and you are not able
9 to provide adequately for the care of your
10 child or children under seven while
11 performing your jury duty. If this exemption
12 applies to you and you need to exercise this
13 exemption, please stand at this time. And I
14 find no one standing.

15 The next exemption involves those
16 of you who may be attending school at this
17 time or working in some capacity with a
18 school. You may be exempted from your jury
19 service if you are a full-time student,
20 school teacher, school bus driver, school
21 crossing guard or if you serve in any other
22 school-related function and you are not able
23 to serve this week as a result of your school
24 responsibilities. If you need to exercise
25 this exemption, we will simply transfer your

Jury Selection

1 service to another term of court at which
2 time your school responsibilities and your
3 juror responsibilities will not conflict. If
4 this exemption applies to you and you need to
5 exercise it, please stand at this time.

6 You're a full-time student. Where
7 are you going to school?

8 A PROSPECTIVE JUROR: State, South
9 Carolina State.

10 THE COURT: Oh, wonderful. What are you
11 majoring in?

12 A PROSPECTIVE JUROR: Political science.

13 THE COURT: Oh, we got a lawyer coming.
14 What year are you?

15 A PROSPECTIVE JUROR: Right now 10.

16 THE COURT: Oh, the class of 2010. You
17 must be working also, that's fabulous. You
18 got exams going on right now? We want all
19 A's. Come up here to Marion, you pick a week
20 that's going to be good for you. What's your
21 next exam?

22 A PROSPECTIVE JUROR: Well, I had one
23 today, but....

24 THE COURT: Oh, you didn't go for the
25 exam?

Jury Selection

1 A PROSPECTIVE JUROR: No, ma'am.

2 THE COURT: If your professor needs to
3 talk with me just have him call me right
4 here.

5 A PROSPECTIVE JUROR: Okay.

6 THE COURT: Okay. Marion, would you
7 give this young lady something so that she
8 can take it to her professor today? What
9 time is your exam?

10 A PROSPECTIVE JUROR: Well, it was at
11 9:30.

12 THE COURT: Oh, my goodness. Yeah,
13 we'll give you something, you can take it to
14 him immediately, okay? And if there's a
15 problem, have him call me or her, might be a
16 woman. And tell me your name.

17 A PROSPECTIVE JUROR: Monica Gadson.

18 THE COURT: Monica Gadson?

19 A PROSPECTIVE JUROR: Yes, ma'am.

20 THE COURT: I'm so sorry you missed your
21 exam, but you did right. Okay, we'll give
22 you something.

23 All right. Anyone else? All
24 right.

25 Now, ladies and gentlemen, the next

Jury Selection

1 exemption involves those of you who cares for
2 someone who is 65 years old or older or you
3 care for a severely disabled person and
4 neither the person that you care for that's
5 over the age of 65 or the severely disabled
6 person can care for themselves and there is
7 no one to care for them and they would be at
8 risk if you're not there to care for them.
9 Ladies and gentlemen, if this exemption
10 applies to you and you need to exercise this
11 exemption, please stand at this time. And I
12 find no one standing.

13 Now, this is my very favorite
14 exemption. The next exemption involves those
15 of you who perform services for a business,
16 commercial or agricultural enterprise, and
17 that's just about everybody. Do we have any
18 members of our jury panel who perform
19 services for a business, commercial or
20 agricultural enterprise, again that's about
21 everybody, and whose services are so
22 essential to the operation of the enterprise,
23 that's the same group of people, but here's
24 the kicker. That the enterprise must close,
25 not should close, but must close if you are

Jury Selection

1 required to perform your jury duty? If this
2 exemption applies to you and you need to
3 exercise this exemption, please stand at this
4 time. And I find no one standing.

5 And I don't think we have anyone to
6 whom this applies, but I'm going to ask
7 anyway. Do we have any member of our jury
8 panel who is employed as a guard, and we got
9 a social worker, but employed as a guard with
10 the Department of Corrections at a
11 penitentiary? If so, please stand, 'cause
12 state law says you're going to be exempted.
13 And I find no one standing.

14 Ladies and gentlemen, that
15 concludes the statutory list of
16 qualifications and exemptions for jury
17 service. And it may be that you are
18 qualified and no exemption applies to you but
19 this week, this one week, oh my, this
20 constitutes an extreme hardship, those would
21 be the operative words, an extreme hardship
22 upon you for a particular reason.

23 I cannot permanently excuse a
24 qualified juror from jury service, but under
25 extreme and compelling circumstances I can

Jury Selection

1 transfer the juror from this week to another
2 week if you've not been previously
3 transferred.

4 Ladies and gentlemen, please
5 recognize that general inconvenience is not a
6 sufficient reason to justify a transfer to
7 another term of court, because guess what?
8 This is generally inconvenient. And if I did
9 and was able to transfer you for that reason,
10 I would be transferring all of you forever
11 because, again, this is generally
12 inconvenient.

13 Let me give you some examples of an
14 extreme hardship. If you have a doctor's
15 appointment or treatment for later this week
16 I do not want anybody to miss your doctor's
17 appointment. I'm going to transfer your
18 service. If you have a loved one who has a
19 doctor's appointment or treatment and they're
20 counting on you being with them this week, I
21 am going to transfer your service, that is an
22 extreme hardship. Ladies and gentlemen, it
23 may be that you have inventory one time at
24 your place of employment, one time a year and
25 you are in charge of the inventory and it's

Jury Selection

1 this week. That's an extreme hardship. I'm
2 going to transfer your service for that
3 reason. Or it may be that you're supposed to
4 go to Tahiti tomorrow afternoon at 2:00.
5 That might be the most extreme hardship. I
6 certainly don't want anybody to miss the
7 trip, and we all want to go with you. Do not
8 miss your trip. Ladies and gentlemen, those
9 are some examples for you.

10 Now, let me say that this is now
11 the opportunity for those of you who did not
12 respond earlier to those more personal
13 questions that I asked or any other question
14 that was asked, including those of you who
15 have a compelling reason to seek a transfer
16 to another term of court. Very briefly the
17 qualifications for jury service are that
18 you're a citizen of the United States, that
19 you're a citizen and resident of Orangeburg
20 County, that you are able to read, write,
21 speak and understand the English language,
22 that you have at least a sixth grade
23 education or its equivalent, that you are
24 able physically and mentally to render
25 efficient jury service, that you have not

Jury Selection

1 been convicted of a crime punishable by
2 imprisonment for more than a year and your
3 civil rights have not been restored by pardon
4 or amnesty, that you're not employed as a law
5 enforcement officer, county officer or
6 employed within the walls of any courthouse
7 and that you have not previously served on
8 jury duty in a court of record during the
9 calender year 2007. If any of these
10 qualifications concerns you, or if you have a
11 question about these qualifications as they
12 may apply to you in your circumstance, or if
13 you have a question or a concern about the
14 exemptions,, or if you need to share that more
15 personal information with me, or if you need
16 to seek a transfer to another term of court,
17 please come forward at this time. Going.
18 Going. Ah, all right. Come on forward.

19 THE BAILIFF: Nicholas Haines, I think
20 78.

21 THE CLERK: Seventy.

22 THE BAILIFF: Seventy.

23 THE COURT: Seventy. Hi, yes, sir.

24 A PROSPECTIVE JUROR: Your Honor, just
25 last week our pastor and secretary had

Jury Selection

1 resigned. I'm the only staff at the church.

2 THE COURT: Oh, yes, I agree.

3 A PROSPECTIVE JUROR: And we're under
4 remodeling process right now, so, and this is
5 going to take three months to maybe get a
6 pastor. I'm willing to serve, but this
7 week --

8 THE COURT: Right now is, absolutely.
9 But for you, you all would probably be in
10 terrible shape and I agree this is a
11 compelling reason. Here's what let's do.
12 Let's -- I'm going to transfer your service.

13 A PROSPECTIVE JUROR: Okay.

14 THE COURT: But you pick the week.
15 Think a moment about when you're satisfied
16 things will be calm and you're comfortable,
17 because you can put this to the end of the
18 year if that helps.

19 A PROSPECTIVE JUROR: Okay.

20 THE COURT: Thank you. I agree, it's a
21 compelling circumstance.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: You might rather be with us,
24 too, because I know you do a lot. Thank you,
25 Mr. Haines.

Jury Selection

1 Mr. Haines is going to transfer for
2 compelling reasons.

3 I find that our panel is now
4 qualified.

5 SOLICITOR PASCOE: May I approach, Your
6 Honor?

7 THE COURT: Sure. I need to see
8 Mr. Robert Charles Walker just a second,
9 please, and Mr. Curtis Evans. Y'all come on
10 up here for me just a second.

11 Hi. Tell me, you are...?

12 A PROSPECTIVE JUROR: Robert Walker.

13 THE COURT: Mr. Robert Walker. What's
14 your date of birth?

15 A PROSPECTIVE JUROR: [REDACTED] 1968.

16 THE COURT: Wait a minute now. [REDACTED]
17 what now?

18 A PROSPECTIVE JUROR: [REDACTED], 1968.

19 THE COURT: Okay. Hold on. You just
20 had a birthday.

21 A PROSPECTIVE JUROR: Yeah.

22 THE COURT: Happy birthday belated.
23 Bear with me just a moment. All right. Now,
24 is this you? This says Robert Charles
25 Walker, that's your date of birth. Is that

Jury Selection

1 your --

2 A PROSPECTIVE JUROR: Yes, ma'am.

3 THE COURT: This is your Social
4 Security?

5 A PROSPECTIVE JUROR: Uh-huh.

6 THE COURT: This is showing that in
7 19 --

8 A PROSPECTIVE JUROR: Eighty-six.

9 THE COURT: 1986, a long time ago, that
10 you were convicted of burglary, grand
11 larceny.

12 A PROSPECTIVE JUROR: Yeah.

13 THE COURT: That will disqualify you
14 from jury service, but let me share this with
15 you, '86, '96, 2007, that's 21 years ago.
16 Let me tell you one of the things that you
17 might consider is writing the governor's
18 office and asking them for a pardon because
19 it's been so long.

20 A PROSPECTIVE JUROR: Yeah.

21 THE COURT: But you know, and that would
22 restore your civil rights, okay?

23 A PROSPECTIVE JUROR: Yeah, okay.

24 THE COURT: Okay? But unfortunately I'm
25 not going to be able to have you serve on

Jury Selection

1 this jury panel, but if you can get this
2 pardoned, which given 21 years, a good life
3 lived, that's probably going to happen and
4 we'll be able to ask you to be with us later,
5 okay?

6 A PROSPECTIVE JUROR: Okay.

7 THE COURT: And you are free to go.

8 A PROSPECTIVE JUROR: Okay.

9 THE COURT: Thank you so much.

10 Mr. Walker is disqualified.

11 Hi. How are you?

12 A PROSPECTIVE JUROR: Fine.

13 THE COURT: What is your date of birth,
14 Mr. Evans?

15 A PROSPECTIVE JUROR: [REDACTED]

16 [REDACTED].

17 THE COURT: Okay. Look at this with me.
18 This says your birth date, this says Charles
19 Evans, birth date's right. Is that your
20 social?

21 A PROSPECTIVE JUROR: Yeah.

22 THE COURT: That's not your social. See
23 right here?

24 A PROSPECTIVE JUROR: Yeah, that's it.

25 THE COURT: That's your social. This is

Jury Selection

1 what we're showing. They're showing that
2 back a long time ago, 1987, that you were
3 convicted of failure to stop for a blue light
4 and siren. Do you remember that?

5 A PROSPECTIVE JUROR: Yeah, that was
6 quite a while back.

7 THE COURT: Well, let me tell you
8 exactly what this will do, because it is
9 punishable -- you got probation -- see,
10 there's a lot of people -- but because it
11 carries three years I'm not going to be able
12 to use you on my jury panel. But, but let me
13 encourage you to write the governor's office
14 and ask for a pardon. This is a long, long
15 time ago. We were children back then,
16 weren't we?

17 A PROSPECTIVE JUROR: Yeah.

18 THE COURT: And, you know, and ask for a
19 pardon. I would think it would be granted
20 and will restore your civil rights.

21 A PROSPECTIVE JUROR: Okay.

22 THE COURT: And you really should,
23 obviously you were a baby when that happened
24 and I would like to see you think about doing
25 that.

Jury Selection

1 A PROSPECTIVE JUROR: All right.

2 THE COURT: But on this jury panel I'm
3 going to be unable to use you, but if you
4 can -- could get this pardoned, you could,
5 and it's reasonable that -- because it was a
6 probation term. You wouldn't remember that,
7 okay?

8 A PROSPECTIVE JUROR: Okay.

9 THE COURT: Thank you. And you are free
10 to go.

11 A PROSPECTIVE JUROR: Thank you.

12 THE COURT: Thank you so much for being
13 here today.

14 A PROSPECTIVE JUROR: Thank you, ma'am.

15 THE COURT: Okay. Mr. Evans is also
16 disqualified.

17 Okay. I'm going to make these
18 Court's Exhibits.

19 (Marked for purposes of the record was
20 Court's Exhibit 1, juror rap sheet.)

21 (Marked for purposes of the record was
22 Court's Exhibit 2, juror rap sheet.)

23 THE COURT: I need to give you some
24 instruction. I am -- we're going to begin in
25 the morning at 9:30, 9:30. And at that time

Jury Selection

1 we're going to select our jury for our first
2 case for trial. Then what we're going to do
3 is we're going to take our lunch once that's
4 done and then we're going to come back
5 tomorrow afternoon, we're actually going to
6 start the trial tomorrow afternoon, but we're
7 going to select the jury in the morning at
8 9:30. So I need you all to please be here in
9 the courtroom at 9:30.

10 Let me tell you what's going to
11 happen. At that point I'm going to -- I'm
12 going to tell you a little bit about some of
13 the allegations of the case just to find out
14 if anybody knows or has heard anything about
15 it. Then I'm going to introduce you to some
16 folks and then I'm going to ask you some
17 questions. And then once I've done that then
18 we're going to select our jury for our first
19 case for trial.

20 If you're not -- if you're not
21 lucky enough to be selected on the first case
22 for trial, then I'll give you some
23 instruction about then how we'll stay in
24 contact with each other over the rest of the
25 week. So it is really, really, really

Jury Selection

1 important that you be here in the morning at
2 9:30. Be here in the morning at 9:30.

3 Now, let me just -- let me tell you
4 a couple things. First thing is, is that
5 after your service on this jury panel this
6 week -- and when you receive your big, fat
7 check for your jury service don't anybody be
8 planning that trip to Tahiti waiting on this
9 check, but once you receive your check in
10 your correspondence you will receive a notice
11 for your employers that you served on jury
12 this week. For most employers I gather that
13 that's sufficient. However, we're concluding
14 here in the day and I'm sure everybody's
15 running to work this afternoon.

16 What I absolutely do not want to
17 have happen to any of you is that I don't
18 want anybody to have any difficulties, I
19 don't want your employer concerned that
20 you're coming in this afternoon or whenever,
21 you know, when you leave here that you're
22 going to work and think you're late or
23 something like that. As a result, if any of
24 you need anything for your work today, today,
25 you can get that in the clerk's office

Jury Selection

1 downstairs on the first floor. It's like
2 where you go out the courthouse, clerk's
3 office is right there right as you go exit
4 the courthouse and you'll exit on your right
5 and the clerk's office is right there on your
6 left. I don't want anybody to have any
7 difficulties. Obviously if you're not going
8 to have any difficulties and you can just
9 tell your employer that there will be such a
10 notice of your jury service coming and that
11 will suffice, please just go ahead and bypass
12 the clerk's office. But if anybody needs
13 anything for your employer, again, I don't
14 want anyone to have any concern for that.

15 Now, does anybody work like isn't
16 it third shift typically the one that goes
17 from like 11:00 to 7:00? Anybody work third
18 shift? Not tonight. Not tonight. You got
19 to sleep. It's the same as these jurors who,
20 you know, work during the daylight hours
21 missing their work. You got to miss your
22 work, you cannot be on a jury and work at
23 night, you will be exhausted.

24 If your employer gives you any
25 heartache about that, have them call the

Jury Selection

1 clerk's office, call the clerk's office and
2 speak with someone in the clerk's office
3 about that. If they still have heartburn
4 I'll talk to them because I don't want my
5 jurors working at night trying to be jurors
6 in the day.

7 Yes, ma'am. Tell me your name.

8 A PROSPECTIVE JUROR: Dianne Nelson.

9 THE COURT: Hi, Dianne Nelson.

10 A PROSPECTIVE JUROR: What if you go to
11 work at 5:00 in the morning?

12 THE COURT: Unh-unh, not tomorrow.
13 Unh-unh. Unh-unh. Oh, no, that means you
14 got to get up at like 3:30 or 4:00? Unh-unh.
15 Unh-unh. No. And again, I don't want your
16 employers to have any concern because you're
17 doing that at the direction of the judge,
18 okay? So if anybody's got any concern about
19 that, tell them to call the clerk's office or
20 call -- you know, if they're not satisfied
21 the clerk's office knows to put them through
22 to me.

23 Yes, sir. Tell me your name.

24 A PROSPECTIVE JUROR: I got a question.
25 Seems like everybody in here works for a

Jury Selection

1 company. I'm self-employed.

2 THE COURT: Well, you weren't listening.
3 Come on up here. Come here. Hold on one
4 second.

5 Ladies and gentlemen, if you have
6 any questions or concerns y'all can stay here
7 and I'll chat with you, otherwise the rest of
8 you I'll see you in the morning at 9:30.
9 Have a wonderful day.

10 Okay. Yes, sir. Tell me your
11 name.

12 A PROSPECTIVE JUROR: Jason Fogle.

13 THE COURT: Yes, sir, Mr. Fogle, what do
14 you do? Tell me again.

15 A PROSPECTIVE JUROR: Tree service.

16 THE COURT: And you're self-employed?

17 A PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: Do you have employees?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: So you're going to have to
21 shut down the business?

22 A PROSPECTIVE JUROR: Yes, ma'am.

23 THE COURT: Didn't you hear what I said?
24 You were shy.

25 A PROSPECTIVE JUROR: I didn't know to

Jury Selection

1 come up then or not. I thought I better say.
2 something before you left.

3 THE COURT: You're right. That's why
4 that exemption exists so the business doesn't
5 have to shut down.

6 A PROSPECTIVE JUROR: Okay.

7 THE COURT: And so it's completely up to
8 you if you want to transfer if you're going
9 to get a bunch of employees, or if --

10 A PROSPECTIVE JUROR: You can't find
11 anybody.

12 THE COURT: I know you can't.

13 A PROSPECTIVE JUROR: Or anybody who is
14 any good has a job, you know what I'm saying?

15 THE COURT: And it's probably -- you
16 probably at the end of the day would rather
17 have it the way that you're doing now.

18 A PROSPECTIVE JUROR: If I got to get
19 down and do it myself, I might as well do it
20 myself.

21 THE COURT: I respect that, sir. All
22 right. You can't find good help, can't find
23 anybody on my jury panel because everybody
24 got a job, so I'm going to -- I will excuse
25 you on that basis because the exemption

Jury Selection

1 applies, okay?

2 A PROSPECTIVE JUROR: Okay.

3 THE COURT: All right, dear. Thank you.

4 A PROSPECTIVE JUROR: What do I need to
5 do now?

6 THE COURT: Look at Marion and do like
7 this.

8 THE CLERK: Jason Fogle, right? See you
9 later.

10 THE COURT: Thank you for being here,
11 Mr. Fogle.

12 A PROSPECTIVE JUROR: It's been a
13 pleasure.

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Jury Selection

THE COURT: Bye now.

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 : CASE NOS. 2005-GS-38-2141,
COUNTY OF ORANGEBURG) 2142, 2143

STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
 Plaintiff,)
) JURY TRIAL - VOLUME II
 -versus-)
) May 2, 2007
JIMMY R. TAYLOR,)
 Defendant.) Orangeburg, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein, Judge; and Jury

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

David Pascoe, Esquire
Bryan Jeffries, Esquire
For the Plaintiff

Everett Chandler, Esquire
For the Defendant

/ Robin L. Davis, CSR, RMR
Post Office Box 771031
Steamboat Springs, CO 80477-1031

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STATE'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1A	Drawing of Collision One	50	224
S-1B	Diagram of Highway 70	50	224
S-2	Six Photographs of Defendant's Vehicle on Poster Board	50	192
S-3	Poster Board with Photographs of Glover Vehicle	50	213
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S-5	Poster Board with Five Photographs	50	182
S-6	Suspect's Rights/Miranda Warning Card	50	234

DEFENDANT'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
D-1	Field Notes	246	248
D-2	Field Notes	246	248

Jury Selection

1 (May 2, 2007.)

2 (Marked for identification were State's
3 Exhibits 1 through 6.)

4 THE COURT: We are about to try our
5 first case this week and we're about to
6 select our jury for our first case this week.

7 Now, what we're going to be doing
8 is in a moment, I'm going to ask the
9 solicitor to call the first case for trial
10 this week and then I'm going to be reading to
11 you some of the allegations and I'm going to
12 talk about that a little bit even before I do
13 that. And then I'm going to introduce you to
14 some folks, then I'm going ask you some
15 questions and then we're going to get right
16 into the jury selection of our first case for
17 trial and then right into the trial.

18 So, ladies and gentlemen, at this
19 time I'm going to call on -- let me introduce
20 you, this is Solicitor Pascoe your elected
21 solicitor. This is Deputy Solicitor
22 Jeffries.

23 If you all will call your first
24 case for trial this week.

25 SOLICITOR PASCOE: At this time the

Jury Selection

1 State calls the case of the State of South
2 Carolina v. Jimmy Taylor for indictment
3 number 05-GS-38-2141, 2142, 2143 and/or three
4 counts of felony DUI involving death.

5 THE COURT: Very well. Now --

6 THE BAILIFF: Your Honor, we had a juror
7 to go out and she is not in the bathroom. I
8 don't know where she went.

9 THE COURT: All right. We'll just take
10 a look. Thank you. Thank you very much for
11 that. I'll tell you, while we're searching
12 for that juror, let me -- I just -- let me
13 come down here because I wanted to just -- I
14 got -- I needed to speak to Mr. Strock. Come
15 here, Mr. Strock. Good morning.

16 A PROSPECTIVE JUROR: Good morning.

17 THE COURT: I needed to show you just a
18 little something, get your help a minute.

19 A PROSPECTIVE JUROR: Okay.

20 THE COURT: Mr. Strock, let me show you
21 this because it's not clear by any shade of
22 the imagination.

23 A PROSPECTIVE JUROR: Okay.

24 THE COURT: I just need to get your help
25 with regards to this. This popped up and

Jury Selection

1 it's your name, but we're just not sure and
2 that says '58.

3 A PROSPECTIVE JUROR: That's my
4 birthday.

5 THE COURT: That's your birth date.
6 Let's take a look a little bit. And then
7 this says -- this says earliest event date,
8 look it there, 1975, but this says theft by
9 taking.

10 A PROSPECTIVE JUROR: They dropped the
11 charges.

12 THE COURT: Well, see, that's what I had
13 to check with you. And then this one, what
14 happened with this one too?

15 A PROSPECTIVE JUROR: I have no idea.

16 THE COURT: Okay, I'm with you.

17 A PROSPECTIVE JUROR: They pleaded
18 guilty. I wasn't with them, but he told them
19 who I was. He got ten years.

20 THE COURT: Let me tell you what I want
21 you to do. Here's what I want you to do.
22 You can't do it now.

23 A PROSPECTIVE JUROR: Okay.

24 THE COURT: But at the conclusion of
25 this case, what I want you to do for me is --

Jury Selection

1 and I'm going to think about it, too, you got
2 to give me time to think about it. But
3 before we part this week we need to talk
4 about this, I want you to get this expunged
5 because there's no reason --

6 A PROSPECTIVE JUROR: That's from the
7 state of Georgia.

8 THE COURT: That's all I could tell.
9 When that happens -- I've found identity
10 theft with my jurors before and since it
11 popped up I wanted to be sure.

12 A PROSPECTIVE JUROR: But I was charged.

13 THE COURT: That's fine. I mean, that's
14 fine.

15 A PROSPECTIVE JUROR: Okay.

16 THE COURT: But what I want you to do
17 and I want us to talk about, because it's not
18 showing up on the state, it's showing up on
19 the feds and what I want you to do is I want
20 you to get this expunged and we're going to
21 talk about how you do that.

22 A PROSPECTIVE JUROR: Because I've been
23 on jury duty since then.

24 THE COURT: Yeah, absolutely. What I
25 want to do, I want us to talk about this

Jury Selection

1 because this ought never be a problem for you
2 again. We can talk about that before you
3 leave this week.

4 A PROSPECTIVE JUROR: Okay.

5 THE COURT: Thank you so much. Thank
6 you so much.

7 Let me see you all a second.

8 SOLICITOR PASCOE: Identity theft or
9 something?

10 THE COURT: Here's what he said
11 happened. Back in the '70s these people
12 stole a car, they included him in it, he was
13 arrested for it but they dismissed the
14 charges against him because they learned that
15 these other people just threw him in it.
16 This he doesn't know, he doesn't know what
17 this is at all.

18 SOLICITOR PASCOE: It looks like it
19 would go with that anyway.

20 THE COURT: It does. What these -- I've
21 told him we will help him, that I'll talk to
22 him about it at the conclusion and try to
23 give him some advice on how to get it
24 expunged.

25 SOLICITOR PASCOE: I can do that, too.

Jury Selection

1 THE COURT: I figured you could, but I
2 didn't want to give you credit with that at
3 this point.

4 SOLICITOR PASCOE: When he's on the
5 jury, tell him that if you could.

6 THE COURT: Exactly. Exactly.

7 SOLICITOR PASCOE: I'll say it in my
8 closing.

9 THE COURT: Wonderful. Come here a
10 minute with this lady. Come here. I'm so
11 glad you stood. Tell me your name again.

12 A PROSPECTIVE JUROR: Theresa James.

13 THE COURT: Ms. James was very, very shy
14 yesterday and so when she thought about the
15 jury service she came back into chambers and
16 I said just come on back today so we could
17 put it on the record. She has two disabled
18 children and she thought about -- probably
19 thought about trying to serve, probably
20 thought about the embarrassment of standing
21 because I think she's kind of shy and I told
22 her just come on back. But your children are
23 disabled and you don't have anyone?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: You care for them and you

Jury Selection

1 have no one to leave them with?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: I think the exemption would
4 apply, and bless her heart.

5 MR. CHANDLER: Absolutely.

6 THE COURT: Felt for her yesterday, but
7 I told her she had to come back to address it
8 on the record.

9 MR. JEFFRIES: What was your first name?

10 THE COURT: Theresa James. All right,
11 dear. Thank you so much.

12 THE CLERK: The juror has returned. The
13 missing juror has returned.

14 THE COURT: Our missing juror has
15 returned? All right. Where's our missing
16 juror? Oh, okay. Very well.

17 MR. JEFFRIES: Stand up.

18 THE COURT: For the purposes --
19 Solicitor Pascoe, for the purposes of our
20 juror who has returned, would you be so kind
21 as to announce the case again?

22 SOLICITOR PASCOE: Absolutely, yes,
23 ma'am. At this time, ladies and gentlemen,
24 the State of South Carolina calls the case of
25 the State v. Jimmy Taylor for indictment

Jury Selection

1 numbers 05-GS-2141, 2142, 2143 for three
2 counts of felony DUI involving death.

3 THE COURT: Now, ladies and gentlemen, I
4 want to tell you now what has just occurred
5 and then we're going to get right into the
6 jury qualification. What has just occurred
7 is that Solicitor Pascoe's just called the
8 first case for trial this week and he has
9 referred to three indictments.

10 Now, ladies and gentlemen, I want
11 to tell you what an indictment is and what an
12 indictment is not. Because in a moment I'm
13 going to be reading to you portions of the
14 indictments and I will tell you that the
15 reason that I'm going to be reading to you
16 portions of the indictment is to find out
17 whether or not you have heard or think you
18 may have heard or that you may know or think
19 you may know anything about these
20 allegations.

21 Now, what is an indictment? Under
22 our law, ladies and gentlemen, an indictment
23 is a charging document, it is a notice
24 document. It is the notice that is sent to a
25 citizen to notify that citizen that the State

Jury Selection

1 maintains that that citizen has violated one
2 or more of the criminal laws of the State of
3 South Carolina. That's what it is. It is a
4 notifying document. That is all it is. An
5 indictment is not evidence of any of the
6 allegations that it contains. It is simply
7 the notifying document.

8 Now, why would I be reading to you
9 a portion of the indictment or an indictment?
10 The reason is, is because it contains the
11 allegations. Now, and again I need to find
12 out whether or not any of you know or think
13 you may know anything about this matter.

14 Let me hasten to tell you that to
15 this indictment Mr. Taylor has pled not
16 guilty and that places on the State the
17 burden of proving each and every allegation
18 of each of these indictments beyond a
19 reasonable doubt to your satisfaction. We're
20 going to talk a lot more about that, those of
21 you who are selected to serve on this jury.
22 But I wanted you to know that at this
23 juncture. I wanted you to know what an
24 indictment is and what an indictment is not.

25 Now, ladies and gentlemen, I'm

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1 going to be reading to you again some of the
2 allegations of the indictments and my
3 question to you is this: Do any of you know
4 or think you may know, or have any of you
5 heard or think you may have heard anything
6 about this matter before today or today?
7 That's the question.

8 Now, ladies and gentlemen, the
9 indictment, and I'm reading from
10 2006-GS-38-2141, and the indictment reads in
11 part that Jimmy R. Taylor did in Orangeburg
12 County on or about October the 21st, 2005
13 drive a vehicle while under the influence of
14 alcohol, drugs or a combination thereof to
15 the extent that his faculties to drive were
16 materially and appreciably impaired and
17 committed an act forbidden by law or
18 neglected a duty imposed by law in driving
19 the motor vehicle, by failing to maintain
20 control of his vehicle which crossed over the
21 center line colliding with another vehicle,
22 which act or neglect proximately caused death
23 to George P. Neeley and as a result violated
24 Section 56-5-2945 of the Code of Laws of
25 South Carolina (1976) as amended.

Jury Selection

1 Ladies and gentlemen, indictment
2 2006-GS-38-2142, this indictment is identical
3 with the one that I just read with the
4 following -- the following language. That
5 the vehicle crossed over the center line
6 colliding with another vehicle, which act or
7 neglect proximately caused death to Ann
8 Neeley and as a result violated Section
9 56-5-2945.

10 Indictment 2005-GS-38-2143 is
11 identical except the language is different to
12 where it says that Mr. Taylor crossed the
13 center line and collided with another
14 vehicle, which act or neglect proximately
15 caused death to Madison G. Neeley and as a
16 result violated 56-5-2945 of the code of
17 laws.

18 Ladies and gentlemen, I ask do any
19 of you know or think you may know, or have
20 you heard or think you may have heard
21 anything about these allegations, this
22 matter? If so, please stand at this time.

23 Yes, ma'am. Just come forward for
24 me. Thank you. Hold on one second for me.

25 Counsel, you certainly may approach

Jury Selection

1 as well.

2 Tell me your name again.

3 A PROSPECTIVE JUROR: Karen Raines.

4 THE COURT: Karen...?

5 A PROSPECTIVE JUROR: Raines.

6 THE COURT: Ms. Raines, let me tell you
7 for this part of the process I need Ms. Keil
8 to be able to hear you. We will gather
9 around, but I want to keep your voice low so
10 that your jurors don't hear you, other jurors
11 don't hear you. Yes, ma'am. I'm listening
12 to you.

13 A PROSPECTIVE JUROR: I'm friends with
14 the Parker family, the daughter. Our
15 children have been in school forever and they
16 played football together. I know all the
17 kids. I could not be impartial.

18 THE COURT: Very well. What I'm going
19 to do is, Ms. Raines, I'm going to ask you to
20 sit this one out. Have you had occasion to
21 discuss this matter with any of your fellow
22 jurors?

23 A PROSPECTIVE JUROR: No. No, ma'am.

24 THE COURT: Very well. What I'm going
25 to ask you to do is obviously don't discuss

Jury Selection

1 this with your fellow jurors, but I do need
2 you to remain so that I may give you some
3 further instruction about how we'll stay in
4 contact with each other, okay, Ms. Raines?

5 MR. CHANDLER: Your Honor, that was 125.

6 THE COURT: 125, Ms. Raines. Great.

7 Thank you.

8 THE BAILIFF: This is 172, David
9 Summers.

10 THE COURT: Okay. Come forward for me,
11 please. Hi. Mr. Summers, I just need
12 Ms. Keil to hear you. Step forward a little
13 bit more for me, I don't want the other
14 jurors to be able to hear you explanation
15 while you gather around. Yes, sir.

16 A PROSPECTIVE JUROR: Does that include
17 newspaper?

18 THE COURT: Yes, it does. Thank you.

19 A PROSPECTIVE JUROR: Reading the
20 newspaper. Yes, ma'am. I read it in the
21 newspaper.

22 THE COURT: Okay. When did you read
23 it -- about it in the newspaper?

24 A PROSPECTIVE JUROR: I can't remember
25 the date.

Jury Selection

1 THE COURT: Whenever it occurred, at the
2 time the events occurred?

3 A PROSPECTIVE JUROR: Right. Right.

4 THE COURT: Have you read about it more
5 recently?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: I don't know if there's been
8 any publicity.

9 A PROSPECTIVE JUROR: No, ma'am.

10 THE COURT: As a result --

11 A PROSPECTIVE JUROR: I have one more
12 thing.

13 THE COURT: Sure.

14 A PROSPECTIVE JUROR: Is he the one
15 family runs the Neeley in Denmark appliance,
16 the appliances in Denmark?

17 THE COURT: I don't know, but I will
18 find that out. Let me ask you this question:
19 Assume for the purposes of my question that
20 they do run Neeley Appliance, okay? Let me
21 ask two questions. First of all, tell me
22 what you remember about what you read in the
23 newspaper.

24 A PROSPECTIVE JUROR: About what the
25 indictments said.

Jury Selection

1 THE COURT: Okay. All right. Okay.
2 And, all right, what about that? I need you
3 to articulate.

4 A PROSPECTIVE JUROR: The only thing I
5 remember saying Mr. --

6 THE COURT: Taylor.

7 A PROSPECTIVE JUROR: -- Taylor crossed
8 the center line and Mr. Neeley and I'm
9 thinking maybe his wife was in with him.

10 THE COURT: Okay. Okay.

11 A PROSPECTIVE JUROR: Is that true?

12 THE COURT: I don't know.

13 A PROSPECTIVE JUROR: I don't know, I
14 can't remember.

15 THE COURT: Okay. All right, sir. As a
16 result of what you read, do you have any --
17 do you come to this process with any ideas
18 about what occurred?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: All right. As a result of
21 the article that you read in the newspaper,
22 do you think that it could enter your mind in
23 any regard, and in any extent if you were to
24 be a juror in this case?

25 A PROSPECTIVE JUROR: No, ma'am.

Jury Selection

1 THE COURT: Do you believe that you
2 could dismiss what information you have from
3 the newspaper completely from your mind and
4 make up your mind based solely on what you
5 hear in court while court is in session?

6 A PROSPECTIVE JUROR: Yes, ma'am.

7 THE COURT: All right. Now let's talk
8 about Neeley Appliance. What is your
9 connection with Neeley Appliance?

10 A PROSPECTIVE JUROR: Well, we have
11 bought appliances from Mr. Neeley, if that's
12 the same one, assuming --

13 THE COURT: Assuming it's the same
14 person. And as a result of that business
15 relationship, might that, could that
16 interfere with your ability to be completely
17 fair and impartial both to the State as well
18 as to Mr. Taylor?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: Could you set that
21 relationship -- and I gather that would be
22 the extent of the relationship with the
23 Neeleys?

24 A PROSPECTIVE JUROR: That's it.

25 THE COURT: Could you set that

Jury Selection

1 relationship, that professional relationship,
2 business relationship completely aside,
3 completely aside, make up your mind based
4 upon what you hear while court is in session?

5 A PROSPECTIVE JUROR: Yes, ma'am.

6 THE COURT: All right, sir. Let me do
7 this in all fairness. I'm going to ask you
8 just to step right back where you stopped
9 with our bailiff, let me see if I can get
10 that information for you, okay, about the
11 appliance.

12 A PROSPECTIVE JUROR: Okay.

13 SOLICITOR PASCOE: I don't know.

14 (Whereupon, a bench conference was held off
15 the record.)

16 THE COURT: Mr. Summers, I don't know.
17 But again you've assumed for purposes of my
18 question that it is.

19 A PROSPECTIVE JUROR: Yes, ma'am.

20 THE COURT: Thank you so much. Please
21 stay with us.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: Thank you, sir.

24 Ladies and gentlemen, can you hear
25 me if I stand down here? All right. Now, if

ry Selection

1 you all get to where you can't hear me, raise
2 your hand because -- because I might need to
3 speak, and although I might need the exercise
4 I'll just stay right here.

5 Now, ladies and gentlemen, please
6 allow me to introduce you to David Pascoe,
7 Solicitor Pascoe, and B. J. Jeffries.

8 MR. JEFFRIES: Good morning.

9 THE COURT: Thank you, gentlemen, so
10 much.

11 And, ladies and gentlemen, in a
12 moment I'm going to ask you a question about
13 whether or not you know these lawyers. But
14 before I do that, in all fairness I need to
15 ask you if -- I need to define a term for you
16 that you're going to hear me use many times
17 in the next little bit and all week. The
18 term is are you acquainted with, are you
19 acquainted with. But I wanted to define that
20 for you because I use a very, very general
21 definition of acquainted with because my
22 intention is to find out whether or not you
23 have any connection with the people that I'll
24 be asking you about whatsoever. Let me give
25 you a couple of examples.

Jury Selection

1 Ladies and gentlemen, it might be
2 that you went to school with somebody that
3 I'll ask you about 20 years ago. Hadn't seen
4 them, hadn't thought about them in 20 years
5 but you know you went to high school with
6 them 20 years ago. This is such a young jury
7 panel I should say kindergarten 20 years ago.
8 But you know you went to kindergarten with
9 them but you hadn't seen or thought about
10 them since then. Ladies and gentlemen,
11 believe it or not, believe it or not, that
12 relationship, as limited, as old and moldy as
13 it is would be encompassed within my
14 definition of acquainted with.

15 It may be that you simply -- and I
16 know there's some huge plants and all in
17 Orangeburg, it may be that you just work at
18 the same location with somebody whose name
19 I'll mention and occasionally wave at each
20 other across the parking lot or whatever.
21 Ladies and gentlemen, believe it or not, as
22 limited as that relationship is, it would be
23 encompassed within the definition that I
24 intentionally use with the term acquainted
25 with. Again, I'm trying to find out if you

Jury Selection

1 have any connection whatsoever with the folks
2 whose name I'll be mentioning to you.

3 Now, ladies and gentlemen, my
4 question to you is this: Are you related by
5 blood or marriage or acquainted with
6 Mr. Pascoe or Mr. Jeffries? If so, please
7 stand at this time. And I find no one
8 standing.

9 Now who is going to give me the
10 names of the lawyers in the office?

11 SOLICITOR PASCOE: I can do that, Your
12 Honor.

13 THE COURT: Thank you so much,
14 Solicitor. Ladies and gentlemen, my question
15 to you is going to be are you related by
16 blood or marriage or acquainted with any of
17 the following individuals.

18 SOLICITOR PASCOE: Thank you. Of course
19 my first assistant solicitor is Bryan
20 Jeffries, Tommy Scott, Rob Clariday, Crystal
21 Chapman, Kelly Burbage and Laura McCann.
22 Have I forgotten anybody? And that's the
23 Orangeburg office, Your Honor.

24 THE COURT: Thank you so much. Ladies
25 and gentlemen, are you related by blood or

Jury Selection

1 marriage or acquainted with any of those
2 individuals? If so, please stand at this
3 time.

4 Yes, ma'am. Tell me who you know.

5 A PROSPECTIVE JUROR: Laura McCann.

6 THE COURT: All right. Now, is it --
7 the nature of your relationship with Laura
8 McCann, is it professional or personal?

9 A PROSPECTIVE JUROR: It was
10 professional.

11 THE COURT: It's professional. Come
12 here. And would you be so kind as to tell me
13 your name as you approach?

14 A PROSPECTIVE JUROR: Tanyetta Thompson.

15 THE COURT: Thank you, Ms. Thompson.

16 Counsel, you all may approach as
17 well.

18 Hey.

19 A PROSPECTIVE JUROR: How are you?

20 THE COURT: How do you know her?

21 A PROSPECTIVE JUROR: I worked for the
22 First Judicial Circuit in '98.

23 THE COURT: You worked for them. She
24 was there in '98. Wow, okay.

25 A PROSPECTIVE JUROR: Yeah.

Jury Selection

1 THE COURT: All right. Where are you
2 working now?

3 A PROSPECTIVE JUROR: At South Carolina
4 Department of Juvenile Justice.

5 THE COURT: That's right. That's right.
6 I remember that.

7 A PROSPECTIVE JUROR: Yes, ma'am. Yes,
8 ma'am.

9 THE COURT: I remember that. As a
10 result -- I'll just ask you straight out.

11 A PROSPECTIVE JUROR: Okay.

12 THE COURT: As a result of that
13 friendship, I guess professional relationship
14 is that what that is?

15 A PROSPECTIVE JUROR: Right.

16 THE COURT: Okay. Do you all see each
17 other currently?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Visit in each other's homes?

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Okay.

22 A PROSPECTIVE JUROR: No.

23 THE COURT: As a result of that
24 professional relationship, might that, could
25 that in any respect interfere with your

Jury Selection

1 ability to be completely fair and impartial
2 both to the State as well as to Mr. Taylor
3 and --

4 A PROSPECTIVE JUROR: No, ma'am.

5 THE COURT: Can you set that aside and
6 make up your mind based upon what you hear in
7 court --

8 A PROSPECTIVE JUROR: Yes, ma'am.

9 THE COURT: -- while court is in
10 session?

11 A PROSPECTIVE JUROR: Yes, ma'am.

12 THE COURT: Let me kind of get to it,
13 too. You work for the Department of Juvenile
14 Justice in the capacity as a social worker?

15 A PROSPECTIVE JUROR: Yes, ma'am.

16 THE COURT: In that capacity, and given
17 what you do in your profession in any respect
18 because it is associated with the criminal
19 justice system, as intimately as it is, do
20 you believe that your work -- you work every
21 day at the Department of Juvenile Justice?

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: -- in any respect might, or
24 could in any regard interfere with your
25 ability to be completely fair and impartial

Jury Selection

1 both to the State as well as to Mr. Taylor?

2 A PROSPECTIVE JUROR: No, ma'am.

3 Because I have to be like that on my job. I
4 have to be fair with the juveniles.

5 THE COURT: And do you believe that you
6 can make up your mind based solely on what
7 you hear in this court while court is in
8 session?

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: Thank you so much. Please
11 stay with us.

12 A PROSPECTIVE JUROR: All right.

13 MR. CHANDLER: I just had a question.
14 (Whereupon, a bench conference was held off
15 the record.)

16 THE COURT: Ms. Thompson, just now that
17 you've made it all the way back there I have
18 one more question.

19 A PROSPECTIVE JUROR: That's fine.

20 THE COURT: Come on back. I should have
21 asked you what did you do for the solicitor's
22 office?

23 A PROSPECTIVE JUROR: I was juvenile
24 arbitration program director.

25 THE COURT: Juvenile arbitration program

Jury Selection

1 director?

2 A PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: Okay. Thank you.

4 A PROSPECTIVE JUROR: It's 57.

5 THE BAILIFF: Fifty-seven.

6 THE COURT: Two thumbs up. Thank you.

7 Very well. All right.

8 Now -- oh, you have to stay
9 standing. All right. Ladies and gentlemen,
10 please let me introduce you to Mr. Jimmy R.
11 Taylor. Mr. Taylor, if you would stand,
12 please, face our jury panel. Thank you,
13 Mr. Taylor. This is Jimmy R. Taylor. Thank
14 you, sir, and you may be seated. Thank you
15 very much.

16 Ladies and gentlemen, I ask are you
17 related by blood or marriage or acquainted
18 with Mr. Jimmy R. Taylor? If so, please
19 stand at this time. And I find no one
20 standing.

21 Oh, yes, sir. Come on. Hi. Come
22 on forward. Tell me your last name again.

23 A PROSPECTIVE JUROR: Ideozu.

24 THE COURT: Ideozu. And your accent is
25 just wonderful. Where did you start off?

Jury Selection

1 A PROSPECTIVE JUROR: Originally from
2 Nigeria.

3 THE COURT: Nigeria. Just wonderful
4 accent. Mr. Ideozu, how do you know
5 Mr. Taylor?

6 A PROSPECTIVE JUROR: Lived in
7 Orangeburg a little over 25 years and I think
8 I have run across him several times.

9 THE COURT: I understand. As a result
10 of that acquaintanceship, do you believe that
11 that might, or could in any respect interfere
12 with your ability to be completely fair and
13 impartial both to the State as well as to
14 Mr. Taylor?

15 A PROSPECTIVE JUROR: I would think so,
16 yes.

17 THE COURT: You would think that it
18 might?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: You would be concerned that
21 because you have seen him --

22 A PROSPECTIVE JUROR: Correct.

23 THE COURT: -- that that will enter into
24 your thought processing?

25 A PROSPECTIVE JUROR: My decision making

Jury Selection

1 process.

2 THE COURT: Your decision making
3 process. I can't tell you except I'm so
4 grateful for your candor. What I'm going to
5 ask you to do is -- you haven't discussed
6 that with your fellow jurors?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Very well. What I'm going
9 to ask you to do is not discuss that with
10 your fellow jurors, but stay with me for a
11 little bit longer because I need to give you
12 some instruction about how we'll stay in
13 contact with each other.

14 A PROSPECTIVE JUROR: All right, ma'am.
15 Thank you so much.

16 THE COURT: Thank you so much.

17 I'm going to sit this one out. All
18 right.

19 MR. JEFFRIES: What number was that?

20 THE CLERK: Eighty.

21 MR. JEFFRIES: Eighty.

22 THE COURT: Now, ladies and gentlemen,
23 please let me introduce you to Mr. Everett
24 Chandler. This is Mr. Everett Chandler and
25 he is representing Mr. Taylor.

Jury Selection

1 And thank you, Mr. Chandler.

2 MR. CHANDLER: Thank you, Your Honor.

3 THE COURT: And I ask, ladies and
4 gentlemen, are you related by blood or
5 marriage or acquainted with, or have you or
6 any member of your immediate family, to your
7 knowledge, been represented by Mr. Everett
8 Chandler? If so, please stand. And I find
9 no one standing.

10 Now, ladies and gentlemen, I am
11 going to be reading to you a list of
12 potential witnesses. And my question with
13 regards to each and every one of these
14 witnesses is are you related by blood or
15 marriage or acquainted with any of these
16 individuals. If these folks happen to be
17 here in the courtroom, if you would be so
18 kind as to stand. I don't know that we have
19 any of our witnesses here, but I would
20 appreciate that because sometimes, ladies and
21 gentlemen, it's easier to put a face with a
22 name than just a name in a vacuum. So,
23 folks, if I call your name and you happen to
24 be here this morning, if you would please
25 stand.

Jury Selection

1 Ladies and gentlemen, are you
2 related by blood or marriage or acquainted
3 with any of the following individuals:
4 Jessie Glover, George Bonnette, Lynne Drawdy,
5 Steven Pearrow. Ah, here's Mr. Pearrow.
6 This is Mr. Steven Pearrow. Thank you so
7 much. You may be seated. Regina Guinyard,
8 Jeff Neeley, Richard --

9 SOLICITOR PASCOE: Jeff is here, Your
10 Honor.

11 THE COURT: Oh, thank you. And would
12 you turn this way? Thank you. This is Jeff
13 Neeley. Thank you, Mr. Neeley. Thank you so
14 much.

15 Richard Taylor, Brandon Landrum,
16 Ricky Dixon, David Lee, S. R. Breland, J. A.
17 Myrick, Corporal Mobley or Mobley, Lieutenant
18 Filyaw, A. K. Grice, and R. S. Whatley.

19 A PROSPECTIVE JUROR: I'm acquainted
20 with one of the names called.

21 THE COURT: Sure. Bridgett Glover,
22 Danny Rivers, Elijah McCottry. Alisha -- I
23 did that wrong. Alisha, Alisha McCottry.

24 All right. Come on forward. Come
25 on forward for me. Thank you. Yes. Hi.

Jury Selection

1 Tell me your last name again.

2 A PROSPECTIVE JUROR: Trussell, 178.

3 THE COURT: Trussell. Thank you for
4 knowing your number. Tell me who you know.

5 A PROSPECTIVE JUROR: Well, I know three
6 George Bonnettes, so....

7 THE COURT: Probably know one of those
8 three George Bonnettes.

9 A PROSPECTIVE JUROR: So that's why I
10 was wondering. And I did shake the hand of a
11 Mr. George Bonnette this morning when I came
12 in before I came into the courthouse.

13 THE COURT: Okay. And how do you know
14 George Bonnette?

15 A PROSPECTIVE JUROR: Just personally.

16 THE COURT: Personally?

17 A PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: Do you visit in each other's
19 homes?

20 A PROSPECTIVE JUROR: I have been to his
21 home on business at one time, if that's the
22 same George Bonnette.

23 THE COURT: If that's the same George
24 Bonnette. Was that the same George Bonnette
25 that you shook his hand this morning?

Jury Selection

1 A PROSPECTIVE JUROR: Yes, ma'am.

2 THE COURT: And how often do you visit
3 in each other's homes?

4 A PROSPECTIVE JUROR: Just one time.

5 THE COURT: Just one time?

6 A PROSPECTIVE JUROR: Yes, ma'am.

7 THE COURT: Not like once a month, once
8 a week. Okay. So would you describe your
9 relationship as a business relationship?

10 A PROSPECTIVE JUROR: Business and
11 personal, you know, we speak to each other
12 when we see each other.

13 THE COURT: And tell me just a word or
14 two, I don't want to pry any more and I don't
15 want any more information than I need, but
16 what is the nature of the business
17 relationship?

18 A PROSPECTIVE JUROR: I worked on his
19 telephone at one time and I know he's an
20 electrician.

21 THE COURT: Very well. As a result of
22 that relationship, might that, could that in
23 any respect interfere with your ability to be
24 completely fair and impartial to the State as
25 well as to Mr. Taylor?

Jury Selection

1 A PROSPECTIVE JUROR: I do not believe
2 so.

3 THE COURT: Could you set that
4 relationship completely aside and make up
5 your mind based on what you hear in court
6 while court is in session?

7 A PROSPECTIVE JUROR: Yes, I can.

8 THE COURT: Very well. Now, that would
9 be any of those George Bonnettes that you
10 know. Would that apply to each of those
11 George Bonnettes?

12 A PROSPECTIVE JUROR: Yes, ma'am.

13 THE COURT: The one whose hand you shook
14 this morning as well as the other ones?

15 A PROSPECTIVE JUROR: Yes, ma'am.

16 THE COURT: Did you happen to have any
17 conversation with the George Bonnette whose
18 hand you shook this morning?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: Just hello?

21 A PROSPECTIVE JUROR: Just hello, yes,
22 ma'am.

23 THE COURT: You didn't ask what are you
24 doing here, y'all didn't have any kind of
25 conversation like that?

Jury Selection

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Very well. Thank you so
3 much. Please stay with us.

4 A PROSPECTIVE JUROR: Thank you.

5 THE COURT: Yes.

6 THE BAILIFF: Number 88, Mary Knotts.

7 A PROSPECTIVE JUROR: I went to church
8 with that guy, patrolman.

9 THE COURT: This fellow who stood?

10 A PROSPECTIVE JUROR: Yep. That's all I
11 know about him.

12 THE COURT: That's it, you just
13 recognize his face as someone who goes to
14 church with you.

15 A PROSPECTIVE JUROR: Used to, yeah.

16 THE COURT: Not even currently?

17 A PROSPECTIVE JUROR: No. No.

18 THE COURT: How long ago, do you
19 remember?

20 A PROSPECTIVE JUROR: It's about a year.

21 THE COURT: About a year ago.

22 A PROSPECTIVE JUROR: A year ago.

23 THE COURT: In other words, you just --
24 did you have any interaction with him and --

25 A PROSPECTIVE JUROR: No. No.

Jury Selection

1 THE COURT: Just recognize him?

2 A PROSPECTIVE JUROR: Yeah.

3 THE COURT: See, my acquaintanceship, it
4 just throws a big net and so you really are
5 answering that and thank you for that. Thank
6 you so much.

7 A PROSPECTIVE JUROR: Okay. Thank you.

8 THE COURT: Is there anything about that
9 fact in and of itself that could interfere
10 with your ability to be completely fair and
11 impartial to the State as well as to
12 Mr. Taylor?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Thank you so much.

15 A PROSPECTIVE JUROR: Okay.

16 THE COURT: Please stay with us.

17 THE BAILIFF: Number 6, Edward Axson.

18 THE COURT: Hi, Mr. Axson. Good
19 morning.

20 A PROSPECTIVE JUROR: Good morning.

21 THE COURT: Who do you know.

22 A PROSPECTIVE JUROR: George Bonnette.

23 THE COURT: George Bonnette?

24 A PROSPECTIVE JUROR: Yes, ma'am.

25 THE COURT: Did you happen to see him

Jury Selection

1 this morning at the courthouse?

2 A PROSPECTIVE JUROR: Yes, ma'am.

3 THE COURT: Did you speak to him this
4 morning?

5 A PROSPECTIVE JUROR: I waved at him,
6 yes, ma'am.

7 THE COURT: Waved at him, but y'all
8 didn't have any conversation?

9 A PROSPECTIVE JUROR: No, ma'am.

10 THE COURT: Just briefly how do you know
11 him?

12 A PROSPECTIVE JUROR: We went to school
13 together.

14 THE COURT: Okay. . .

15 A PROSPECTIVE JUROR: And I think we
16 worked together.

17 THE COURT: Okay. In the past or
18 currently?

19 A PROSPECTIVE JUROR: It's been way
20 back.

21 THE COURT: A long time ago?

22 A PROSPECTIVE JUROR: Yes, ma'am.

23 THE COURT: Do you currently visit in
24 each other's homes?

25 A PROSPECTIVE JUROR: No, ma'am.

Jury Selection

1 THE COURT: Okay. That definition that
2 I gave.

3 A PROSPECTIVE JUROR: Right.

4 THE COURT: It catches a lot, doesn't
5 it?

6 A PROSPECTIVE JUROR: Yes, ma'am.

7 THE COURT: All right, sir. As a result
8 of that acquaintanceship, do you think that
9 it could, or it might in any respect
10 interfere with your ability to be completely
11 fair and impartial to the State as well as to
12 Mr. Taylor?

13 A PROSPECTIVE JUROR: No, ma'am.

14 THE COURT: Do you believe that you can
15 set that relationship aside, that
16 acquaintanceship aside, and make up your mind
17 based on what you hear in court while court
18 is in session?

19 A PROSPECTIVE JUROR: Yes, ma'am.

20 THE COURT: Thank you so much. Please
21 stay with us.

22 Now, ladies and gentlemen, I'm
23 going to ask you two questions together. I'm
24 going to ask you not to respond to either of
25 the questions until I have asked you both.

Jury Selection

1 The first question is this: Are there any
2 members of our jury panel or members of your
3 immediate family who currently, who currently
4 have pending charges in the First Circuit
5 Solicitor's Office? That's the first
6 question.

7 And the second question is this:
8 Are any members of our jury panel personally
9 involved in or a member of or make
10 contribution to organizations such as Mothers
11 Against Drunk Driving or any other group
12 taking a position on the subject of, you
13 know, alcohol, drinking. I think SADD is
14 one, Students Against Drunk Driving. If you
15 are involved in any regard or contribute to
16 those organizations or organizations like
17 that.

18 And now I'm going to ask you if you
19 need to respond to either this question or
20 the one that I just asked you, if you would
21 please stand at this time.

22 Yes, sir. Hi, yes, sir. And tell
23 me your last name again.

24 A PROSPECTIVE JUROR: Myers.

25 THE COURT: Myers. Yes, sir, Mr. Myers.

Jury Selection

1 Which one of the questions are you responding
2 to?

3 A PROSPECTIVE JUROR: I respond to I
4 give to a lot of the groups because I give
5 to -- we go to a lot of the organizations.

6 THE COURT: A lot of the organizations,
7 okay. As a result of those contributions, do
8 you believe that that, that the fact that you
9 make those contributions or your relationship
10 with those organizations, do you believe that
11 those involvements could, or might interfere
12 with your ability to be completely fair and
13 impartial both to the State as well as to
14 Mr. Taylor?

15 A PROSPECTIVE JUROR: Well, I can't
16 really say about that because, see, I done
17 been involved in a lot of different things
18 like that, accident happened like that.

19 THE COURT: Okay. In other words, tell
20 me just a word or two more about what you're
21 saying. In other words, you've been involved
22 in an accident?

23 A PROSPECTIVE JUROR: No. Parents,
24 grandparents.

25 THE COURT: Have been involved in an

Jury Selection

1 accident?

2 A PROSPECTIVE JUROR: In accidents like
3 that.

4 THE COURT: In accidents like that?
5 More than one?

6 A PROSPECTIVE JUROR: Yes. I lost my
7 great-grandfather in an accident like that.

8 THE COURT: Okay. Keep your voice low.
9 I don't want the jury panel to hear. Okay.
10 You lost your grandparent like that?

11 A PROSPECTIVE JUROR: I lost
12 great-grandparents like that.

13 THE COURT: And I'm just noticing your
14 emotion in your face. In other words, you're
15 concerned that as you hear these facts that
16 that could sort of bring that emotion up for
17 you?

18 A PROSPECTIVE JUROR: Well, I don't
19 really know.

20 THE COURT: Yeah. And are you concerned
21 that those sad experiences in your life
22 could, or might interfere with your ability
23 to be completely fair and impartial to both
24 the State as well as to Mr. Taylor?

25 A PROSPECTIVE JUROR: To be truthful, I

Jury Selection

1 don't really know.

2 THE COURT: Okay. All right. Very
3 well. Thank you so much, Mr. Myers.

4 I am going to excuse Mr. Myers. I
5 can see him and I don't know if you all could
6 see his body language, but it was such that
7 he's a very big, husky man and I think
8 there's a portion of him that wants to be
9 able to deal with everything, but he was
10 clouding up.

11 SOLICITOR PASCOE: He couldn't give a
12 definitive answer.

13 THE COURT: He could not give me a
14 definitive answer because the struggle came
15 from I ought to be able to do this, so I'm
16 very uncomfortable, so I'm going to excuse
17 him.

18 SOLICITOR PASCOE: Yes, ma'am.

19 MR. CHANDLER: Thank you.

20 THE COURT: I'm going to ask you two
21 questions again. Please don't respond to the
22 first question unless -- until I've asked
23 both questions and then I'll ask you to
24 respond.

25 Ladies and gentlemen, are you,

Jury Selection

1 speaking, of course, to members of our jury,
2 are you morally or religiously opposed to the
3 consumption of alcohol or in any other way
4 have any other issues regarding alcohol and
5 the consumption of alcohol such that it
6 could, or it might interfere with your
7 ability to be completely fair and impartial
8 both to the State as well as to Mr. Taylor?

9 I am informed, ladies and
10 gentlemen, that there's going to be some
11 discussion about the consumption of
12 substances, alcohol and driving. That
13 there's going to be some discussion about
14 that. And my question is without any more
15 than that, do you believe that those issues
16 for you are such that they could, or they
17 might in any respect, in any respect
18 interfere with your ability to be completely
19 fair and impartial to the State as well as
20 to -- as well as to Mr. Taylor?

21 Because, you see, you must be able
22 to listen to the evidence, make up your mind
23 about what you hear in court while court is
24 in session unaffected completely by matters
25 what are called extraneous, or outside the

Jury Selection

1 courtroom. That was a long question. Does
2 anybody need me to repeat it? Thank you.
3 That's the first question.

4 The second question is this: Are
5 any of you related by blood or marriage to
6 someone who is currently or formerly a law
7 enforcement officer, a law enforcement
8 officer or a state constable? In other
9 words, law enforcement officer. And you know
10 that would be highway patrol -- I got you,
11 Mr. Myers -- highway patrol or city police or
12 port police or transportation police. All
13 kind of police. Come on forward for me.
14 Mr. Myers, I got you though. I got you,
15 Mr. Myers. Thank you.

16 Hi. Come on forward. Hi. Tell me
17 your last name again.

18 A PROSPECTIVE JUROR: Thigpen.

19 THE COURT: Ms. Thigpen, let me tell you
20 what I need you to do for me. I need enough
21 volume so that Ms. Keil can hear you, but
22 we'll gather around. Tell me which of these
23 questions are you responding to?

24 A PROSPECTIVE JUROR: To the officer,
25 that I'm related to an officer.

Jury Selection

1 THE COURT: Okay. Who?

2 A PROSPECTIVE JUROR: My nephew is an
3 officer, Lynn Hamm over in Manning.

4 THE COURT: In Manning. He's with the
5 sheriff's department or the city?

6 A PROSPECTIVE JUROR: He was, but I
7 think he's with SLED or something else now,
8 he's moved up.

9 THE COURT: Oh, okay. As a result of
10 his profession, do you believe that that
11 might, or could interfere with your ability
12 to be completely fair and impartial both to
13 the State as well as to Mr. Taylor?

14 A PROSPECTIVE JUROR: I don't think that
15 would be a problem.

16 THE COURT: Okay. In other words, and
17 let me just be candid. What that would mean
18 is would you worry about the next family
19 reunion or whatever like, oh, how am I going
20 to face him, you know, if I didn't think the
21 State had met its burden, something like
22 that, do you think it could enter into your
23 thought process?

24 A PROSPECTIVE JUROR: I don't think so.
25 I don't think it would be a problem.

Jury Selection

1 THE COURT: Can you make up your mind
2 based on what you here in this court while
3 court is in session?

4 A PROSPECTIVE JUROR: I'll do my best.

5 THE COURT: All right. Thank you,
6 Ms. Thigpen.

7 THE BAILIFF: Juror 137, Joel Robinson.

8 THE COURT: I thought you were
9 C-o-o-g-i-e. It's a brand name. That is
10 awesome. I love the colors. Okay. Tell me
11 your last name again.

12 A PROSPECTIVE JUROR: Robinson.

13 THE COURT: Mr. Robinson, which of these
14 questions are you responding to?

15 A PROSPECTIVE JUROR: Both really.

16 THE COURT: Both really. Talk to me.

17 A PROSPECTIVE JUROR: Well, I have in
18 law enforcement Officer James Shumpert.

19 THE COURT: And where does he work?

20 A PROSPECTIVE JUROR: Sheriff's
21 department.

22 THE COURT: Here? James Shumpert.

23 A PROSPECTIVE JUROR: I had an uncle
24 killed by a drunk driver.

25 THE COURT: And so you're concerned

Jury Selection

1 about that. You're concerned about whether
2 or not that would enter your thought
3 processes; is that what you're telling me?

4 A PROSPECTIVE JUROR: Yeah.

5 THE COURT: You know, it's not easy to
6 be candid and I am so grateful to you for
7 being candid with me, Mr. Robinson. You
8 haven't discussed either that you're related
9 to Mr. Shumpert, or I should say Deputy
10 Shumpert or your -- about your uncle with
11 your fellow jurors this morning?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Okay. I'm going to ask you
14 to stay, obviously don't do that now, but
15 stay with me because I do need to give you a
16 little bit of instruction about how we're
17 going to stay in contact with each other.
18 Thank you so much. Thank you for your
19 candor.

20 He's out.

21 THE CLERK: Okay.

22 THE COURT: Okay.

23 THE BAILIFF: Number 6, Edward Axson.

24 THE COURT: Hi, Mr. Axson. Which one of
25 the questions are you responding to?

Jury Selection

1 A PROSPECTIVE JUROR: I'm related, I
2 have a son-in-law that's a lieutenant with
3 the public safety and I have a nephew on the
4 sheriff's department.

5 THE COURT: Here sheriff's department?

6 A PROSPECTIVE JUROR: Yes, ma'am.

7 THE COURT: Public safety.

8 A PROSPECTIVE JUROR: Is Orangeburg.

9 THE COURT: Is Orangeburg also?

10 A PROSPECTIVE JUROR: Yes, ma'am.

11 THE COURT: Okay. Okay. Tell me who's
12 on the sheriff's department.

13 A PROSPECTIVE JUROR: Tommy Stroman.

14 THE COURT: Okay. Tommy Stroman, okay.

15 As a result of their involvement, either
16 individually or together, do you believe that
17 their profession could, or might interfere
18 with your ability to be completely fair and
19 impartial to the State as well as to
20 Mr. Taylor?

21 A PROSPECTIVE JUROR: No, ma'am.

22 THE COURT: Really where I think that
23 comes into play is if you were sitting on the
24 jury and you thought the State hadn't met its
25 burden, would the fact that you got to see

Jury Selection

1 them at family reunions or whatever enter in
2 your mind?

3 A PROSPECTIVE JUROR: 'No, ma'am.

4 THE COURT: All right. Very well.

5 Thank you, sir. Please stay with us.

6 A PROSPECTIVE JUROR: All right.

7 THE BAILIFF: Number 14, Barbara Bolen.

8 THE COURT: Hi, Ms. Bolen. Good
9 morning.

10 A PROSPECTIVE JUROR: Good morning.

11 THE COURT: Tell me which of these --

12 A PROSPECTIVE JUROR: Married, my
13 husband is a retired police officer.

14 THE COURT: Where from?

15 A PROSPECTIVE JUROR: From the city.

16 THE COURT: Of Orangeburg?

17 A PROSPECTIVE JUROR: Of Orangeburg.

18 THE COURT: How long has he been
19 retired?

20 A PROSPECTIVE JUROR: Almost 17 years.

21 THE COURT: Oh, my goodness, almost 17.

22 Very well. As a result of his profession of
23 which he's retired, do you think that that in
24 any way, any way could interfere with your
25 ability to be completely fair and impartial

Jury Selection

1 to Mr. Taylor as well as to the State?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: And can you set his former
4 profession -- well, former profession aside
5 and make up your mind based upon what you
6 hear in court while court is in session?

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Thank you so much. And
9 please stay with us.

10 A PROSPECTIVE JUROR: Thank you.

11 THE COURT: Thank you.

12 THE BAILIFF: Number 169, Nathaniel
13 Stroman.

14 THE COURT: Hi, Mr. Stroman.

15 A PROSPECTIVE JUROR: How are you doing?

16 THE COURT: Come on one more step
17 because I need Ms. Keil to hear you. We will
18 gather around you, just have enough volume
19 for her. But tell me which of the questions
20 you're responding to.

21 A PROSPECTIVE JUROR: My brother-in-law
22 on the sheriff department.

23 THE COURT: Okay. What's his name?

24 A PROSPECTIVE JUROR: Bobby Jones.

25 THE COURT: Bobby Jones, all right. As

Jury Selection

1 a result of your brother's profession,
2 brother or brother-in-law?

3 A PROSPECTIVE JUROR: Brother-in-law.

4 THE COURT: Brother-in-law's profession,
5 might that, could that in any regard
6 interfere with your ability --

7 A PROSPECTIVE JUROR: No.

8 THE COURT: -- to be completely fair and
9 impartial both to the State as well as to
10 Mr. Taylor?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: All right. And really what
13 it gets to is that if you felt that the State
14 had not met its burden, would you be worried
15 about the next family reunion or whatever
16 next time you see your brother-in-law?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Okay. Thank you so much.

19 A PROSPECTIVE JUROR: Okay.

20 THE COURT: Please stay with us.

21 THE BAILIFF: Number 188, Elaine
22 Weatherford.

23 THE COURT: Hi, Ms. Weatherford.

24 A PROSPECTIVE JUROR: Hi.

25 THE COURT: Which of the questions are

Jury Selection

1 you responding to?

2 A PROSPECTIVE JUROR: I'm related to a
3 police officer.

4 THE COURT: Where is he?

5 A PROSPECTIVE JUROR: George Brandt with
6 the city. He's retired, I don't know how
7 many years ago.

8 THE COURT: Okay. Okay. As a result of
9 his profession, could that, might that
10 interfere with your ability to be completely
11 fair and impartial both to Mr. Taylor as well
12 as to the State?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Thank you.

15 A PROSPECTIVE JUROR: Thank you.

16 THE COURT: Thank you, Ms. Weatherford.
17 Please stay with us.

18 Great. Moving right along. Ladies
19 and gentlemen, do you belong to a church or a
20 club or any organization that disapproves of
21 or condemns the consumption of any alcoholic
22 beverage? That's the first question.

23 The second question is are any
24 members of our jury panel related to or close
25 personal friends with, now, close personal

Jury Selection

1 friends, let me just tell you that means
2 somebody that is so close to you that they're
3 like a family member with, or members, of
4 course, of your immediate family, a person
5 who has been injured or involved in any
6 automobile accident where there were
7 allegations of drinking alcoholic beverages
8 and then driving? Was that clear? I think I
9 could do that better. I'm going to do it one
10 more time.

11 Ladies and gentlemen, are you or
12 any members of your immediate family or close
13 personal friends with a person or has this
14 occurred to a member of your immediate family
15 who has been injured or involved in an
16 automobile accident where there have been
17 allegations of drinking alcoholic beverages
18 and then driving? If you need to respond to
19 either of those questions, if you would
20 please come forward.

21 Come on. Hi, yes, sir. Tell me
22 your name, last name.

23 A PROSPECTIVE JUROR: McCollum,
24 M-c-C-o-l-l-u-m.

25 THE COURT: Yes, sir, Mr. McCollum.

Jury Selection

1 A PROSPECTIVE JUROR: My wife's mother
2 was killed in an accident back in '68 or '69.

3 THE COURT: Okay.

4 A PROSPECTIVE JUROR: She was driving a
5 little Volkswagen Beetle and a guy hit her,
6 he crossed the center line.

7 THE COURT: Okay. As a result of that
8 experience in your life, might that, could
9 that interfere with your ability to be
10 completely fair and impartial?

11 A PROSPECTIVE JUROR: No, ma'am.

12 THE COURT: Can you set that experience,
13 or experience of you and your wife, can you
14 set that completely aside and make up your
15 mind based upon what you hear in court while
16 court is in session?

17 A PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: Okay. Thank you,
19 Mr. McCollum. Please be seated.

20 THE BAILIFF: Number 157, Odell Simpson.

21 THE COURT: Hi, Mr. Simpson.

22 A PROSPECTIVE JUROR: How are you doing?

23 THE COURT: Which of the questions are
24 you responding to?

25 A PROSPECTIVE JUROR: The first one. I

Jury Selection

1 think I didn't pick it up too clearly.

2 THE COURT: Okay. Can I -- let me see.
3 The first one is do you belong to a church,
4 club or any organization that disapproves or
5 condemns the consumption of any alcohol.

6 A PROSPECTIVE JUROR: I'm a pastor, so
7 definitely I'm opposed to it.

8 THE COURT: Okay. Very well. To the
9 extent that it might interfere with your
10 ability to be completely fair and impartial
11 to Mr. Taylor as well as to the State?

12 A PROSPECTIVE JUROR: Well, I would just
13 have to say no under any circumstances
14 because it goes against my religion.

15 THE COURT: Okay. Very well. Very
16 well. Would you do this for me, would you
17 just -- have you -- let me ask, I must ask
18 this question of you. Have you discussed
19 your feeling about the consumption of
20 alcoholic beverages with any of your fellow
21 jurors?

22 A PROSPECTIVE JUROR: No, ma'am.

23 THE COURT: Okay. Would you be so kind
24 as to not do that, but I do need you to
25 remain.

Jury Selection

1 A PROSPECTIVE JUROR: Okay.

2 THE COURT: So I can give you some
3 instruction about how we can stay with each
4 other.

5 A PROSPECTIVE JUROR: Thank you.

6 THE COURT: How to stay in contact.
7 Thank you, Mr. Simpson.

8 Okay.

9 THE BAILIFF: Twenty-nine, Norma Cantly.

10 THE COURT: Hi, Ms. Cantly. Which of
11 these questions are you responding to?

12 A PROSPECTIVE JUROR: Number one.

13 THE COURT: Number one?

14 A PROSPECTIVE JUROR: Yes, ma'am.

15 THE COURT: Talk to me.

16 A PROSPECTIVE JUROR: Well, I don't
17 believe in drinking.

18 THE COURT: Okay.

19 A PROSPECTIVE JUROR: And alcohol and
20 drugs and all that.

21 THE COURT: Okay. And do you believe
22 that your feelings as you're describing them
23 might interfere with your ability to be
24 completely fair and impartial both to
25 Mr. Taylor as well as to the State?

Jury Selection

1 A PROSPECTIVE JUROR: It may. It may.

2 THE COURT: Well, you're being so candid
3 and I am so grateful to you for being so
4 candid. Have you happened to discuss your
5 feelings with any of your fellow jurors?

6 A PROSPECTIVE JUROR: No, ma'am.

7 THE COURT: I don't mean to worry, but
8 in an abundance of caution if you would be so
9 kind as to not do that, but I do need you to
10 remain for me.

11 A PROSPECTIVE JUROR: Okay.

12 THE COURT: So I can give you some
13 instruction about how we'll stay in contact
14 with each other.

15 A PROSPECTIVE JUROR: All right.

16 THE COURT: Thank you so much.

17 Ms. Cantly is out.

18 THE CLERK: Thank you.

19 THE BAILIFF: 175, Sadie Thigpen.

20 THE COURT: Yeah. Hi, Ms. Thigpen.

21 A PROSPECTIVE JUROR: To the first
22 question, I belong to a church that we don't
23 drink, so....

24 THE COURT: Okay. As a result of that
25 religious involvement --

Jury Selection

1 A PROSPECTIVE JUROR: It is, and then we
2 have children in the church that come from
3 broken homes from alcoholics.

4 THE COURT: Do you think that could in
5 any way affect your ability to be a juror in
6 this case?

7 A PROSPECTIVE JUROR: It might.

8 THE COURT: It might. And you're
9 concerned about that?

10 A PROSPECTIVE JUROR: I am.

11 THE COURT: And you're being candid with
12 me because you're answering my question.
13 Thank you so much, Ms. Thigpen. Have you
14 happened to discuss your feelings with any of
15 your fellow jurors?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Would you be so kind as to
18 not do that, but stay with me because I need
19 to give you some instruction about how to
20 stay in contact with each other.

21 A PROSPECTIVE JUROR: All right.

22 THE COURT: Thank you, Ms. Thigpen.

23 Out.

24 THE BAILIFF: Number 184, Shemeaca
25 Walker.

Jury Selection

1 THE COURT: Hi, Ms. Walker. Which of
2 the questions are you responding to?

3 A PROSPECTIVE JUROR: My father has been
4 involved not in an accident, but he has lost
5 his license for DUI.

6 THE COURT: He has?

7 A PROSPECTIVE JUROR: Uh-huh.

8 THE COURT: Let me ask you this
9 question: As a result of your father's
10 experience, could that, might that in any
11 regard interfere with your ability to be
12 completely fair and impartial both to
13 Mr. Taylor as well as to the State?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Can you set that experience
16 aside and make up your mind based upon what
17 you hear in court while court is in session?

18 A PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: That's a yes?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Thank you so much.

22 A PROSPECTIVE JUROR: You're welcome.

23 THE COURT: Stay with us.

24 Ladies and gentlemen, do you
25 support any law enforcement organization by

Jury Selection

1 making contributions and the like? There are
2 those organizations that support law
3 enforcement, or do you have any stickers on
4 your car showing any support for any law
5 enforcement organization? If so, please
6 stand. And I find no one standing.

7 Ladies and gentlemen, are you
8 related by blood or marriage or close
9 personal friend, like a member of your family
10 that's someone you're so close with, anyone
11 who is employed by the attorney general of
12 South Carolina or any other solicitor's
13 office other than the First Circuit
14 Solicitor's Office? If so, please stand.
15 And I find no one standing.

16 Are you a member of or a financial
17 contributor to any group which has as its
18 primary concern the promotion of law
19 enforcement or victims' rights? I think CAV
20 is one of those organizations, that's an
21 acronym for it, for example. If so, please
22 stand.

23 Ladies and gentlemen, have you ever
24 appeared as a witness in a case? Have you
25 ever been a witness in a trial? If so,

Jury Selection

1 please stand.

2 THE CLERK: Judge.

3 THE COURT: Ms. Thompson. In your
4 capacity with DJJ?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Got it. How many times?

7 A PROSPECTIVE JUROR: One.

8 THE COURT: Just once. How long ago?
9 Years?

10 A PROSPECTIVE JUROR: Yeah, a couple
11 years ago.

12 THE COURT: Thank you, Ms. Thompson.

13 Now, I'm going to ask you two
14 questions together again. Ladies and
15 gentlemen -- and my last question is going to
16 sound very general and I just want you to
17 know in advance I mean it to sound very
18 general. Ladies and gentlemen, do you
19 prohibit the storage or the use of alcoholic
20 beverages in your home, that's the first
21 question.

22 The second question is this: Do
23 you know any reason why you ought not, should
24 not, could not be a juror in this case? If
25 you are a juror in this case you must be

Jury Selection

1 ready, willing and able to be completely fair
2 and impartial to Mr. Taylor, to the State,
3 you must be ready, willing and able to listen
4 to the evidence, of course listen to my
5 instruction on the law and make up your mind
6 based solely on what you hear in court while
7 court is in session.

8 Ladies and gentlemen, if there's
9 any reason why you have any concerns about
10 that whatsoever, I want you to please come
11 forward. It might be related to the
12 questions that I just asked you, it might be
13 related to a question that I asked you
14 yesterday, and it might be something that's
15 happened. It might be that you went home
16 last night and, oh, my gosh, the tickets to
17 Tahiti, they were in the drawer next to the
18 refrigerator, you completely forgot about the
19 trip, you're supposed to go to Tahiti
20 tomorrow afternoon. It could be any reason.

21 It could be, you know, Fred McMahon
22 was standing at home with the big bunch of
23 balloons and the big check and you're just
24 distracted. It really could be anything. It
25 might be that you woke up in the middle of

Jury Selection

1 the night with a horrible stomach virus and
2 you just don't -- you feel horrible, really
3 anything. If so, now if you need to respond
4 to either of those questions, come on
5 forward, let us talk about it.

6 I already got you. Thank you. I
7 got you, yeah. And the lady -- this nice
8 lady in orange, I got you too. Got you.

9 THE BAILIFF: This is Leslie Green.

10 THE COURT: Hi, Ms. Green. Leslie
11 Green?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Hi. You're in a green top.
14 Yes, ma'am. I just need enough volume so
15 Ms. Keil can hear you. We'll gather around.

16 A PROSPECTIVE JUROR: Okay. My mother
17 had a bad accident yesterday, she fell and
18 slipped and hurt her hip.

19 THE COURT: You're going to go.

20 A PROSPECTIVE JUROR: Okay.

21 THE COURT: You're going to go. I'm
22 going to transfer your service. You go to
23 your mamma, but you call back to the clerk's
24 office sometime this week and give them
25 another date you can serve, but you go take

Jury Selection

1 care of your mamma.

2 A PROSPECTIVE JUROR: Thank you.

3 THE COURT: Absolutely. Thank you for
4 bringing it, you should have brought that up
5 earlier, dear. Thank you.

6 I'm going to transfer her service,
7 Ms. Green. Her mother was in a bad accident.

8 Okay. Now, I find that our -- I
9 find that our panel is now qualified. Let me
10 tell what you happens next. Next we have --

11 THE CLERK: We need to pull them. We
12 need a minute to pull them.

13 THE COURT: Oh, but to turn the hopper,
14 my favorite part. Ladies and gentlemen, let
15 me tell you what's going to happen. This is
16 so neat. Let me tell you what's going to
17 happen next. Your names are placed in these
18 little capsules. Oh, my goodness. I dropped
19 someone. All right. And what's going to
20 happen is that they're now going to be
21 placed -- this is my favorite part, I love
22 hopper turning -- and they're going to be
23 placed in the hopper and then we're going to
24 have hopper turning.

25 On behalf of the State do you waive

Jury Selection

1 the selection of the jury from a small child
2 or blind person?

3 SOLICITOR PASCOE: Yes, ma'am.

4 THE COURT: How about from the defense?

5 MR. CHANDLER: Yes, Your Honor.

6 THE COURT: Very well. And in all
7 candor our clerk's office needs just a moment
8 to do that. I know it's about midmorning,
9 and if anybody needs to scoot out to the -- :
10 know that's probably delicate, as they say in
11 Beaufort County I'll state it like this, if
12 anyone needs a comfort break we're going to
13 take about -- it's probably going to be about
14 three or four minutes, if you want to step
15 out, take your comfort break, dash right now
16 but come right back.

17 (Recess, from 10:58 a.m. to 11:04 a.m.)

18 THE COURT: Is everybody back? If
19 you're not back, would you please stand?
20 Mr. Richardson is looking for some folks, so
21 we must not be quite ready.

22 Ladies and gentlemen, let me tell
23 you what happens next. We now have hopper
24 turning. Wonderful. Now, ladies and
25 gentlemen, the capsules will be removed one

Jury Selection

1 at the time and your name removed. If your
2 name is called, I'm going to ask you to
3 please come down the row, unless you want to
4 go out that way and walk around, however
5 works is fine, and come and stand where I'm
6 standing.

7 I'm happy to report to you that
8 once I sat where you sat, my name was called,
9 I came out here, I stood and all I could
10 think was, gosh, I wish I didn't have to
11 bring my arms with me, what do I do with my
12 hands? Just bring them with you, that's
13 okay.

14 And here's what you're going to
15 hear. You are going to hear from -- first
16 from the solicitor and you're going to hear
17 one of two things. You will either here
18 present the juror or excuse the juror. Let
19 me tell you up front that the process of jury
20 selection has been, I don't know, going for
21 hundreds, literally of years in the state of
22 South Carolina and the elements that go into
23 that are more than I could count. So I would
24 not want you to be embarrassed if you are not
25 selected simply because it is not rejection,

Jury Selection

1 it's just any -- there are thousands and
2 thousands of thoughts and elements that go
3 into a lawyer's thought process and these
4 lawyers certainly mean you no embarrassment
5 at all, I'll assure you.

6 But, ladies and gentlemen, if you
7 are not selected, if you are excused, if you
8 hear excuse the juror, just please take your
9 seat. I was excused, I'll share that with
10 you.

11 If you hear present the juror, then
12 you will then hear from Mr. Chandler. You
13 will hear one of two things. Either excuse
14 the juror, in which case you'll take your
15 seat, or seat the juror. And you'll just
16 take your seat over here.

17 So please, if you have a pocketbook
18 with you or newspaper, or I don't know what
19 you're going to do with a newspaper, leave
20 your newspaper there, but if you have an
21 umbrella or pocketbook or whatever, just
22 bring that with you if you're selected,
23 you'll take your seat.

24 And without further ado, I'm going
25 to turn it over to you all.

Jury Selection

1 THE CLERK: Judge, my I say one thing?
2 Some of them when there might have been a
3 name change, when these are stuffed we
4 wouldn't have known so we may be saying a
5 name that --

6 THE COURT: If we call your old name,
7 please forgive us in advance, right?

8 THE CLERK: Right.

9 THE COURT: Great.

10 THE CLERK: Okay. Juror Number 69,
11 James Haigler (black male). What says the
12 State?

13 SOLICITOR PASCOE: Please present
14 Mr. Haigler.

15 THE CLERK: What says the defense?

16 MR. CHANDLER: Please present
17 Mr. Haigler.

18 THE CLERK: Okay. You may be seated in
19 the jury box, Mr. Haigler.

20 Number 19, Charles Brown (white
21 male). What says the State?

22 SOLICITOR PASCOE: Please present
23 Mr. Brown.

24 THE CLERK: What says the defense?

25 MR. CHANDLER: Please present Mr. Brown.

Jury Selection

1 THE CLERK: Thank you. You may be
2 seated, Mr. Brown.

3 112, Diane Nelson (black female).
4 What says the State?

5 SOLICITOR PASCOE: Please present
6 Ms. Nelson.

7 THE CLERK: What says the defense?

8 MR. CHANDLER: Please present
9 Ms. Nelson.

10 THE CLERK: You may be seated,
11 Ms. Nelson.

12 201, Mary McGowan (white female).
13 What says the State?

14 SOLICITOR PASCOE: Please present
15 Ms. McGowan.

16 THE COURT: What says the defense?

17 MR. CHANDLER: Please present
18 Ms. McGowan.

19 THE CLERK: You may be seated,
20 Ms. McGowan.

21 111, Ann Nelson (black female).
22 What says the State?

23 SOLICITOR PASCOE: Please present
24 Ms. Nelson.

25 THE CLERK: What says the defense?

Jury Selection

1 MR. CHANDLER: Please present
2 Ms. Nelson.

3 THE CLERK: You may be seated,
4 Ms. Nelson.

5 186, Sandra Watson (black female).
6 What says the State?

7 SOLICITOR PASCOE: Please excuse
8 Ms. Watson.

9 THE CLERK: You may return to your seat,
10 Ms. Watson.

11 178, Donald Tressell (white male).
12 What says the State? What says the State?

13 SOLICITOR PASCOE: Please present
14 Mr. Trussell.

15 THE CLERK: What says the defense?

16 MR. CHANDLER: Please excuse
17 Mr. Trussell from the trial of this case.

18 THE CLERK: You may return to your seat.

19 184, Shemeaca Walker (black
20 female). What says the State? 184, Shemeaca
21 Walker. What says the State?

22 SOLICITOR PASCOE: Please excuse
23 Ms. Walker.

24 THE CLERK: You may return to your seat,
25 Ms. Walker.

Jury Selection

1 200, Alaina Zorn (white female).

2 What says the State?

3 SOLICITOR PASCOE: I'm sorry, the last
4 name again?

5 THE CLERK: Zorn.

6 SOLICITOR PASCOE: Please present
7 Ms. Zorn.

8 THE CLERK: What says the defense?

9 MR. CHANDLER: Please excuse Ms. Zorn
10 from the trial of this case.

11 THE CLERK: You may return to your seat,
12 Ms. Zorn.

13 Sixty-two, Delphine Gidron (black
14 female). What says the State?

15 SOLICITOR PASCOE: Please present
16 Ms. Gidron.

17 THE CLERK: What says the defense?

18 MR. CHANDLER: Please seat Ms. Gidron.

19 THE CLERK: You may be seated in the
20 jury box, Ms. Gidron.

21 Eighty-eight, Mary Knotts (white
22 female). What says the State?

23 SOLICITOR PASCOE: Please present
24 Ms. Knotts.

25 THE CLERK: What says the defense?

Jury Selection

1 MR. CHANDLER: Please excuse Ms. Knotts
2 from the trial of this case.

3 THE CLERK: You may return to your seat,
4 Ms. Knotts.

5 Number 6, Edward Axson (white
6 male). What says the State?

7 SOLICITOR PASCOE: Please present
8 Mr. Axson.

9 THE CLERK: What says the defense?

10 MR. CHANDLER: Please excuse Mr. Axson
11 from the trial of this case.

12 THE CLERK: You may return to your seat,
13 Mr. Axson.

14 SOLICITOR PASCOE: May it please the
15 Court, Your Honor, just for clarification.

16 THE COURT: Yes.

17 SOLICITOR PASCOE: Defense have one and
18 State has three?

19 THE COURT: Yes.

20 SOLICITOR PASCOE: I just wanted to make
21 sure. Okay.

22 THE CLERK: 118, Latonia Pointer (black
23 female). What says the State?

24 SOLICITOR PASCOE: Please excuse
25 Ms. Pointer.

Jury Selection

1 THE CLERK: Okay. You may return to
2 your seat, Ms. Pointer.

3 Number 16, Keynna Bowman (black
4 female). What says the State?

5 SOLICITOR PASCOE: Please present
6 Ms. Bowman.

7 THE CLERK: What says the defense?

8 MR. CHANDLER: Please seat Ms. Bowman.

9 THE CLERK: You may be seated,
10 Ms. Bowman.

11 Ninety-one, Elton Loadholt (white
12 male). What says the State?

13 SOLICITOR PASCOE: Please present
14 Mr. Loadholt.

15 THE CLERK: What says the defense?

16 MR. CHANDLER: Please seat Mr. Loadholt.

17 THE CLERK: You may be seated,
18 Mr. Loadholt.

19 164, Alison Smoak (white female).
20 What says the State?

21 SOLICITOR PASCOE: Please present
22 Ms. Smoak.

23 THE CLERK: What says the defense?

24 MR. CHANDLER: Please seat Ms. Smoak.

25 THE CLERK: You may be seated,

Jury Selection

1 Ms. Smoak.

2 185, Jason Warner (white male).

3 What says the State?

4 SOLICITOR PASCOE: Please present

5 Mr. Warner.

6 THE CLERK: What says the defense?

7 MR. CHANDLER: Please seat Mr. Warner.

8 THE CLERK: You may be seated,

9 Mr. Warner.

10 Forty-seven, Ashley Davis (white
11 female). What says the State?

12 SOLICITOR PASCOE: Please present

13 Ms. Davis.

14 THE CLERK: What says the defense?

15 MR. CHANDLER: Please seat Ms. Davis.

16 THE CLERK: You may be seated,

17 Ms. Davis.

18 151, Geneva Sharrow (black female.)

19 What says the State?

20 MR. PASCOE: Please present Ms. Sharrow.

21 THE CLERK: What says the defense?

22 MR. CHANDLER: Please present Ms. -- I
23 mean, please seat Ms. Sharrow.

24 THE CLERK: You may be seated,

25 Ms. Sharrow.

Jury Selection

1 THE COURT: All right. One alternate,
2 please, two strikes for the defense, one for
3 State, please.

4 THE CLERK: Number 17, Jimmy Bradley
5 (black male). What says the State?

6 SOLICITOR PASCOE: Please present
7 Mr. Bradley.

8 THE CLERK: What says the defense?

9 MR. CHANDLER: Please seat Mr. Bradley.

10 THE COURT: Any matters regarding the
11 selection of the jury from the State?

12 SOLICITOR PASCOE: I don't believe so,
13 but could I have just one second?

14 THE COURT: You may.

15 SOLICITOR PASCOE: None from the State,
16 Your Honor. Thank you.

17 THE COURT: From the defense?

18 MR. CHANDLER: None from the defense,
19 Your Honor.

20 THE COURT: Very well. Ladies and
21 gentlemen, those of you who are in our
22 audience are now known as our remaining
23 jurors. Ladies and gentlemen, at the time
24 that you were sent your packet of information
25 you were also sent information regarding the

Jury Selection

1 call-back numbers. I'm going to ask you to
2 be so kind as to call that number after six
3 o'clock this evening, after six o'clock this
4 evening. And you will either be asked to
5 call back in again at another time or to
6 return to the court at a particular time for
7 the selection of our next jury.

8 Now, ladies and gentlemen, if you
9 don't have that number or concerned about it,
10 Miss Carmen's got them, a number of them in
11 the back, she'll be delighted to give those
12 to you on the way out. Please don't be shy.
13 If you were like me you would take two or
14 three of them so you could promptly lose a
15 couple of them and still have the number. So
16 please, ladies and gentlemen, please take
17 that number, be sure you have that number
18 because I do need you to call the juror
19 information line after, after six o'clock
20 this evening.

21 Now, that means you can call at
22 6:01, seven o'clock, if you were walking the
23 floor tomorrow morning call at 3:00 a.m., but
24 do give us until six o'clock to know what the
25 schedule's going to be tomorrow and to place

Jury Selection

1 the recording on the machine for you.

2 Ladies and gentlemen, those of you,
3 of course, who are remaining jurors I thank
4 you so very, very much for all that you have
5 given us, your time, your patience today as
6 we've gone through this process and I look
7 forward to seeing you later in the week. You
8 are free to go if you would do so quietly for
9 us.

10 (Whereupon, the jury panel is dismissed at
11 11:19 a.m.)

12 THE COURT: Counsel, let me see you just
13 a second.

14 (Whereupon, a bench conference was held off
15 the record in the presence of the jury but
16 out of the hearing of the jury.)

17 THE COURT: Ladies and gentlemen, I want
18 to give you just a little bit of instruction
19 because in a moment I'm going to dismiss you.
20 I know it's a little bit early for lunch, but
21 we're going to start this matter at two
22 o'clock today. We're going to get right into
23 the trial of this case.

24 But I do need to talk to you a
25 little bit about some preliminary matters.

Jury Selection

1 Now, ladies and gentlemen, first of all let
2 me share with you that before you leave today
3 we're going to show you, Miss Nell's going to
4 show you your jury room and how to come and
5 go from your jury room. And I'm going to ask
6 you to please be in your jury room at two
7 o'clock.

8 Secondly, ladies and gentlemen, I
9 want to talk to you a moment about your
10 seating and it's this: Mr. Bradley, you are
11 our alternate and because you are our
12 alternate if you would stay on that back row,
13 take any seat you want. You can change, you
14 can enjoy them all. Change and check the
15 vantage point from each and every one, but if
16 you'll just keep one of those seats it's so I
17 can keep up with you because you are our
18 alternate, that's the reason. It's not so
19 where we know to put the whoopee cushion. If
20 anything, it's so I know how to keep up with
21 you.

22 This seat that's closest to the
23 edge here on the front, that will be the seat
24 for your presiding juror, which is a good
25 segue into discussing the presiding juror.

Jury Selection

1 The presiding juror, ladies and
2 gentlemen, has three additional tasks. Our
3 law provides that there should be one of your
4 number who is the presiding juror. The
5 presiding juror will actually take physical
6 possession of the verdict form at the
7 conclusion of the case and will write the
8 verdict of the jury at the conclusion of the
9 jury's deliberation. The presiding juror is
10 also the -- presides in the jury room just to
11 be sure that each and every juror has an
12 opportunity to participate in those
13 deliberations. And finally, the presiding
14 juror is the jury spokesperson here in court.
15 What that means is, is that if the jury needs
16 to communicate with me for whatever reason,
17 the presiding juror would take that down in
18 writing, sign it, probably give it to Miss
19 Nell who will in turn give that to me. Those
20 are the additional tasks of the presiding
21 juror.

22 Now, ladies and gentlemen, when you
23 all return at 2:00 I'm going to ask you to
24 please select your own presiding juror and
25 then that person keep this seat close -- on

ry Selection

1 the front row closest to the door and that
2 way I can keep up with your presiding juror.
3 And when you have been selected as the
4 presiding juror, you can give me a note and
5 tell me, you can just tell Miss Nell or tell
6 me when you return to the courtroom or you
7 can just keep the seat and see if I figure it
8 out. Any one of those techniques is
9 perfectly fine. Just before the conclusion
10 of the case I do need you all to have your
11 presiding juror, and then that person, of
12 course, take and keep that seat throughout.

13 With regards to the other seats,
14 ladies and gentlemen, if you find a seat you
15 like, keep it; if not, get here early and get
16 another seat. There isn't any other assigned
17 seating and hopefully that will be helpful to
18 you.

19 Now, ladies and gentlemen, in a
20 moment I'm going to give you an instruction
21 that I will give you each and every time that
22 we leave each other and it's this: Do not
23 discuss this matter, do not allow anyone to
24 discuss it with you. I want you to
25 understand why I give you that instruction.

Jury Selection

1 Ladies and gentlemen, in a little while when
2 you return after lunch you're going to be
3 sworn in as the jury in this case. What that
4 means is, and we're going to talk a little
5 bit more about this, is that no one else will
6 be permitted to weigh the evidence, make the
7 findings of fact except you. That is an
8 awesome responsibility.

9 Ladies and gentlemen, this is
10 important, it is critical to your service as
11 a juror that you are able to listen open
12 mindedly to all of the evidence. That's the
13 reason that I give you the instruction do not
14 discuss this matter or allow anyone to
15 discuss it with you. It's to support your
16 ability to do that because, believe it or
17 not, the way that we are -- what do the kids
18 say? The way that we're wired, the way that
19 we're put together, if we begin to talk about
20 something it is our nature to begin to form
21 opinions about it. That's the reason for the
22 instruction, and that means even in your jury
23 room with your fellow jurors you will not
24 discuss this matter or allow them to discuss
25 it with you until the time for your

Jury Selection

1 deliberations has come. I promise you there
2 will be no question in your mind when that
3 time has come, because I will instruct you
4 now is the time to begin your deliberations.
5 So keep in mind that until that time has come
6 you must not discuss this matter or allow
7 anyone to discuss it with you.

8 Now, let me just tell you
9 Orangeburg is like Dorchester County, ladies
10 and gentlemen, we're a close county and we're
11 a small county and so if you happen to see
12 any of these folks, that means anyone who is
13 a witness or a participant or in any regard
14 associated with this case, you must not talk
15 to them, they must not talk to you, they must
16 not interact with you at all, at all.

17 Now, having said that, lawyers are
18 particularly always worried because lawyers,
19 by their very nature, are very gregarious
20 people, they always worry if jurors see them,
21 they don't say hello, the juror's going to
22 think they're being ugly and rude, not going
23 to like them, not going to like their client.

24 Well, ladies and gentlemen, please
25 understand if you see these lawyers around or

Jury Selection

1 any of these folks around, they don't even
2 say hello, they don't even acknowledge you,
3 trust me, they're not being rude, they're
4 just following my instruction. Because I can
5 assure you I would deal very harshly if any
6 of these folks interacted with you, because
7 it would be so very inappropriate. So
8 please, they're not being rude to you, please
9 understand that.

10 Now, ladies and gentlemen, also,
11 you know, don't do any Colombo throughout the
12 course of this trial, don't do any
13 investigation, don't go to the internet,
14 don't read, don't visit any sites, don't do
15 anything regarding this case because it is
16 important that you receive all of the
17 information from which you will make up your
18 mind here in court while court is in session.
19 And that means don't go to the internet to
20 get definitions of terms, don't -- you know,
21 don't try to do any investigations outside
22 this courtroom. Ladies and gentlemen, you
23 must make up your mind based on what you hear
24 in court while court is in session.

25 Also should anyone try to speak to

Jury Selection

1 you about this matter, I want you to report
2 them, get their name or get their description
3 and report that to me when you return to the
4 courtroom.

5 Now, ladies and gentlemen, when you
6 return at two o'clock, of course, you will
7 select your presiding juror and then when you
8 return to the courtroom you'll be sworn in as
9 the jury. I will have a few very preliminary
10 remarks to make to you and then we'll get
11 right into the trial of this case. So I
12 think that will give you an outline of how
13 we're going to be proceeding.

14 Have a wonderful lunch and get a
15 little bit of rest and I will look forward to
16 seeing you this afternoon at two o'clock.
17 And again be mindful do not discuss this
18 matter or allow anyone to discuss it with
19 you. If you'll go with Miss Nell to your
20 jury room.

21 (Whereupon, the jury is excused for lunch at
22 11:28 a.m.)

23 THE COURT: All right. Now, is there
24 anything further at this time from the State?

25 SOLICITOR PASCOE: No, ma'am, Your

1 Honor.

2 THE COURT: From the defense?

3 MR. CHANDLER: None from the defense,
4 Your Honor.

5 THE COURT: Very well. Ladies and
6 gentlemen, those of you who are in our
7 audience, of course, welcome and let me just
8 remind you that again Orangeburg is like
9 Dorchester County, St. George, Summerville,
10 very close-knit, small community. It is of
11 the utmost importance as you come and go from
12 the courthouse, please be mindful not to
13 interact with our jurors. Try not to have
14 any discussion about anything that might have
15 to do with this case while you're in their
16 presence. I know that calls on a lot of
17 cooperation from you, but I know I can count
18 on you for that.

19 The courthouse is small and at this
20 point we just don't have any way to really
21 isolate our jurors as they come and go from
22 the -- from their jury room. If you all
23 could help me in that regard I would be most
24 appreciative. Just sort of be -- just to
25 sort of be aware of who is in your presence.

1 I'm happy to -- I know I can, and the reason
2 I know I can, is because during our break
3 there was mixing of our jurors and
4 particularly family members and interested
5 folks and the like and there wasn't any sort
6 interaction, so I thank you so much for that
7 and ask for your continuing cooperation in
8 that regard.

9 Let me also say one more thing to
10 you. This is, of course -- at any time in
11 any case, be it civil or criminal, when there
12 is the death of someone involved and in this
13 instance the death of three members of a
14 family, it is especially sad. I need to ask
15 you to control your emotions and I want you
16 to understand why. It is of the utmost
17 importance that our jury is able to make up
18 their minds based on the evidence before them
19 and our law requires that that be done
20 without sympathy, passion and prejudice for
21 or against anyone.

22 Oft times, oft times it is very
23 difficult for particularly family members to
24 hear what oft times the evidence is in a
25 case. And if you find yourselves being

1 overcome with emotion, what I'm going to ask
2 you to do for us and for this process is to
3 just as quietly as you can exit the
4 courtroom. And there's a door in the middle
5 and there's a door on the side and our
6 bailiffs, our security will help you do that.
7 Don't worry about disturbing us up here,
8 because it's real important that if you feel
9 yourself overcome that you're able to step
10 outside the courtroom to collect yourself.

11 Oft times are people like, oh, my
12 gosh, the judge isn't going to want me to
13 move. You know, obviously like for the
14 courtroom to be still and people to be still
15 so that or jury's not distracted, but
16 certainly in that instance you feel free --
17 I'm trying to look at everybody -- feel free
18 if you need to, to -- to -- to step outside.

19 Any objection to my comment?

20 SOLICITOR PASCOE: No, ma'am.

21 THE COURT: From the defense?

22 MR. CHANDLER: No, Your Honor.

23 THE COURT: Very well. All right, then.
24 We will be in recess in this matter until two
25 o'clock. Thank you. Thank you, everyone.

1 (Lunch recess taken from 11:48 a.m. to
2 2:34 p.m.)

3 THE COURT: Let me just apologize to
4 everyone about our delay. We've just had
5 some unusual issues that we've had to deal
6 with right here and so I apologize for
7 keeping everyone waiting, but it was
8 absolutely essential. So I do apologize to
9 you. All right. You wanted to put something
10 on the record.

11 SOLICITOR PASCOE: Thank you, Your
12 Honor. I think it was Monday Mr. Chandler, I
13 can't remember if we put it on the record, we
14 talked about it in chambers, that he's going
15 to object to something in the coroner's
16 report down at the bottom. It's the opinion
17 of the coroner that all decedents were killed
18 instantly when the first impact took place.
19 I just wanted to put on the record that I am
20 not going to elicit any such testimony from
21 the coroner, Mr. Bonnette, with regards to
22 that opinion on his report.

23 THE COURT: And you'll just share that
24 with him so he'll understand not to offer
25 that.

1 SOLICITOR PASCOE: Yes, ma'am.

2 THE COURT: All right. Anything
3 further?

4 MR. CHANDLER: No, Your Honor. Thank
5 you.

6 THE COURT: Thank you. Very well. All
7 right. Now, who is going to swear in my
8 jury? Are you going to swear them in for me,
9 Charmen? Okay. Great. Let us have our
10 jury, please.

11 (Whereupon, the jury returns to the courtroom
12 at 2:35 p.m.)

13 THE COURT: All right. Ladies and
14 gentlemen, I surely hope that you all had a
15 very pleasant lunch. And at this time I'm
16 going to call on our clerk's office to please
17 swear you in as the jury in this case.

18 Charmen.

19 THE CLERK: If you will please stand and
20 raise your right hand.

21 (Whereupon, the jury is duly sworn.)

22 THE COURT: Is there anyone who failed
23 to take the oath? If so, would you please
24 stand. Fine. I find no one standing.

25 Now, ladies and gentlemen, the case

1 that we are about to try is the case of the
2 State of South Carolina v. Mr. Jimmy Taylor,
3 the defendant. What I will now say is
4 intended to serve as an introduction to the
5 trial of this case. These remarks are not
6 intended to be a charge on the law in this
7 case. I will instruct you on the law
8 applicable to this case at the end of the
9 trial before you retire to consider your
10 verdict. This is merely an explanation of
11 the procedure that we will be following so
12 that you may better understand what may be
13 happening during the trial.

14 Now, ladies and gentlemen, the
15 defendant is charged by three indictments
16 which have been filed in this case with the
17 crime of felony DUI, the elements of which
18 will be explained to you later.

19 Ladies and gentlemen, an indictment
20 is simply the charge by which the case is
21 brought into court. It is not in any sense
22 evidence of any of the allegations it
23 contains. The defendant, Mr. Taylor's pled
24 not guilty to this or to these indictments.
25 The State, therefore, has the burden of

1 proving each of the elements of each of the
2 indictments beyond a reasonable doubt and it
3 will be your duty, ladies and gentlemen, to
4 decide whether the State has met that burden.

5 Your purpose as jurors is to find
6 and to determine the facts. You are the sole
7 judges of the facts. Ladies and gentlemen,
8 ordinarily -- there is ordinarily no way to
9 correct an erroneous determination of the
10 facts by a trial jury. Ladies and gentlemen,
11 I want you to know that I respect that your
12 role in this process is to be the sole and
13 only determiners of the facts. Please know,
14 ladies and gentlemen, if at any time during
15 the course of this trial I make any comment
16 what you think might be a comment regarding
17 the facts, I ask you, I implore you to
18 disregard that comment, disregard that
19 thought in your minds because I can assure
20 you it will be my intention throughout the
21 course of this trial to make no comment about
22 the facts.

23 Ladies and gentlemen, you are to
24 determine the facts from the testimony you
25 hear and the other evidence which is

1 introduced into court. It is up to you to
2 determine the inferences which you feel may
3 properly be drawn from the evidence. It is
4 especially important, ladies and gentlemen,
5 that you perform your duty of determining the
6 facts diligently and conscientiously, again,
7 because ordinarily there is no way to correct
8 an erroneous determination of the facts by a
9 jury.

10 On the other hand and with equal
11 emphasis, the same law that makes you the
12 judges of the facts make me the judge of the
13 law. The law as given to you by the Court is
14 the only law that you may consider. You must
15 accept and follow the law as I give it to you
16 even though you may disagree with it. I
17 cannot tell you what the facts are and you
18 cannot disagree with me about what the law is
19 or should be. Your job is to take the law as
20 I give it to you and apply it to the facts as
21 you find them to be from the testimony of the
22 witnesses and any other evidence that is
23 introduced. After doing that you will render
24 your verdict, it will be a true and just
25 verdict under the solemn oath that you just

1 took as jurors.

2 Now, until I advise you to begin
3 your deliberations you must not discuss this
4 matter with anyone including your fellow
5 jurors, friends, family members and anyone
6 involved in this case. After the case is
7 submitted to you and you are instructed to
8 begin your deliberations, you must discuss it
9 only in the jury room with your fellow
10 jurors. As we talked before lunch, the
11 attorneys, the folks involved in this matter
12 have been advised that they are not to talk
13 to you at all. So if you happen to see
14 anyone involved in the case and they do not
15 even say hello, please understand they are
16 not being unfriendly, they are simply
17 following my instructions.

18 During this trial do not read,
19 listen to or watch any sort of news reports
20 about this case. I don't know that there
21 will be any sort of news reports about the
22 case, but in an abundance of caution, ladies
23 and gentlemen, I instruct you do not look at
24 any news reports, listen to any news reports,
25 read anything about this matter. And that,

1 of course, includes anything that may be in
2 the newspapers, on the internet, on the radio
3 or television. You must not consider
4 anything that you may have read or heard
5 about the case outside the court while court
6 is in session, whether before or during the
7 trial.

8 It is important that you keep an
9 open mind and that you not decide any issue
10 in the case until all of the evidence has
11 been presented, the parties have made their
12 closing arguments and I have instructed you
13 on the law applicable to this case. It is
14 your solemn responsibility to determine
15 whether the defendant is guilty or not guilty
16 and your verdict must be based solely on the
17 evidence as it is presented to you during
18 this trial and on the law as I will instruct
19 you during and at the close of the trial.

20 Now, in just a moment the solicitor
21 will make what is called an opening statement
22 in which he will explain to you the issues in
23 this case or at least what the solicitor
24 thinks the issues are in this case.

25 Following that Mr. Chandler will also make an

1 opening statement.

2 What the attorneys tell you during
3 their opening statement is not evidence in
4 this case. It is their contention as to what
5 the issues are. The evidence in this case
6 will be presented to you by the testimony of
7 sworn witnesses from this witness stand
8 and/or any exhibits that may be introduced
9 into evidence.

10 Now, ladies and gentlemen, from
11 time to time during the trial you may hear
12 one of the lawyers say something like, Your
13 Honor, I have an objection. Or I believe we
14 have a question of law, or a matter of law to
15 discuss with you. Or, Your Honor, may we
16 approach the bench. Something along those
17 lines..

18 Sometimes I may find it necessary
19 to excuse you from the courtroom for a short
20 while so that the attorneys and I may discuss
21 a matter of law. I want you to understand
22 what is going on, ladies and gentlemen.
23 We -- obviously you're learning that a trial
24 is a very structured activity. There are
25 certain rules that both sides must obey and

1 they're called the rules of evidence.

2 And sometimes I can when -- when
3 there's an objection I can ask them to
4 approach the bench so that I can have a very
5 short discussion with them, sometimes it may
6 be necessary for you to leave us and I want
7 you to know what's going on. I have to rule
8 on matters of evidence because those are
9 matters of law. Sometimes I need to be able
10 to have a discussion about what I'm hearing
11 in order to make that ruling.

12 I wouldn't want anything that I
13 would say to be taken by you as being a
14 comment on the facts in some form or fashion,
15 so in an abundance of caution I do that in
16 private so that nothing I would say could be
17 construed by you to be a comment on the
18 facts, as I do what I must do to have those
19 discussions.

20 So, ladies and gentlemen, if I ask
21 the lawyers to approach or if I ask you to
22 step to your jury room, I can assure you
23 these folks aren't trying to keep anything
24 from you, it's just to let me do that what I
25 must do.

1 Now, ladies and gentlemen, in
2 determining what the true facts are in this
3 case you must decide whether or not the
4 testimony of a witness is believable. It
5 will be my responsibility to rule as a matter
6 of law whether certain testimony's admissible
7 at all or not. But once the testimony is
8 admitted, whether or not you believe it is
9 solely for you to determine.

10 In deciding whether to believe a
11 witness you have the right to consider the
12 interest of the witness, the bias, the
13 prejudice, the opportunity for the witness to
14 have seen the matters and things about which
15 the witness may testify and, of course, the
16 way the witness acts on the witness stand.
17 You have the right to consider anything that
18 is in the record that will help you evaluate
19 the testimony of the witnesses, and that
20 means it is your duty to pay close attention
21 to the witnesses, observe them, listen to
22 them, pay close attention to the attorneys
23 and, of course, to the Court. Do not let
24 your thoughts wander, but give the strictest
25 attention to the testimony in this case so at

1 the end of all the testimony, the arguments
2 and the charge of the law you will then be in
3 a position to determine what the true facts
4 are, to apply the law to those facts and thus
5 render a true and just verdict.

6 Now, ladies and gentlemen, in this
7 matter I am going to ask you to pay the
8 closest attention as I've already done, but
9 oft times jurors want to know about taking
10 notes. Well, there is a debate that's
11 ongoing about the taking of notes and I want
12 to discuss with you what that is. There's a
13 real debate that goes on about the taking of
14 notes and there's a concern that a juror can
15 miss something as it's coming from the
16 witness stand as they take a note. There is
17 another concern, and that concern is that if
18 one witness -- I mean, if one juror has a
19 note and another juror has a note during
20 deliberations, then there could be an undue
21 amount of influence placed upon the note.

22 Ladies and gentlemen, the other
23 side of that argument is some people listen
24 with their hand, you know, I mean they're
25 note-takers and it helps them refresh their

1 recollection as they prepare to deliberate.
2 Ladies and gentlemen, I think both of those
3 in the appropriate circumstance have strong
4 weight, so this is where I have come down in
5 terms of policy. When trials are expected to
6 be of relatively short duration, then I ask
7 jurors to just listen very carefully and not
8 take notes. If a trial is anticipated to be
9 of more lengthy duration, then I certainly
10 provide for jurors to take notes.

11 Ladies and gentlemen, I am informed
12 that this is not anticipated to be a trial of
13 great duration and because of that I'm going
14 to ask that you not take notes. Now, I have
15 commented on the expected duration of this
16 trial. I want you to know that I in no way
17 demean the importance of it. Ladies and
18 gentlemen, this trial is of the utmost
19 importance to these parties, to our system.
20 I simply made that comment because I didn't
21 want you to be worried about my instruction
22 not to take notes.

23 Ladies and gentlemen, in order to
24 preserve everyone's rights I will give the
25 parties an opportunity to discuss with me

1 anything that I may have said.

2 SOLICITOR PASCOE: Nothing from the
3 State, Your Honor.

4 MR. CHANDLER: None from the defense,
5 Your Honor. Thank you, ma'am.

6 THE COURT: Thank you so much.

7 Ladies and gentlemen, I ask at this
8 time that you please draw close as we listen
9 to the opening statements of our attorneys.

10 Yes, Mr. Jeffries.

11 MR. JEFFRIES: May it please the Court,
12 Your Honor.

13 THE COURT: Yes, sir. The Court is
14 pleased.

15 MR. JEFFRIES: Good afternoon, ladies
16 and gentlemen. Ladies and gentlemen, on
17 October 21st, 2005 the defendant Jimmy Taylor
18 was driving his vehicle. This was a
19 champagne colored Chevrolet Trail Blazer.
20 You're going to hear that he was driving that
21 vehicle, this was shortly before eight
22 o'clock p.m. He was driving westbound in
23 Bamberg County here on Highway 70. You're
24 going to hear that he was driving carelessly,
25 you're going to hear that he was driving

Opening Statement by Mr. Jeffries

1 recklessly and you're going to hear that he
2 was driving drunk.

3 He lost control of his vehicle,
4 first left the road to the right side of the
5 road, abruptly turned back to the left,
6 crossed over the center line of traffic into
7 the oncoming traffic and collided with the
8 vehicle coming in the opposite direction
9 head-on. His vehicle then traveled off the
10 road into a field and came to a stop, came to
11 rest against a tree.

12 Because he was driving carelessly
13 and because he was driving recklessly and
14 because he was driving drunk, he killed
15 71-year-old George Neeley, 70-year-old Ann
16 Neeley and 41-year-old Mad or Madison Neeley.
17 That's what this case is about, ladies and
18 gentlemen.

19 Now, you're going to hear after
20 that first collision the Neeleys' vehicle,
21 which was a Ford Escort, it's blue in color,
22 the defendant's vehicle was champagne, kind
23 of a gold/silver color, you're going to hear
24 that Escort stayed in the road, now is turned
25 sideways in the lane of traffic. The power

Opening Statement by Mr. Jeffries

1 was knocked out so there's no lights on the
2 vehicle, sideways in the road, and the next
3 vehicle came down the road, ironically enough
4 also a Trail Blazer, this is a red Trail
5 Blazer driven by Mr. Jessie Glover, then
6 struck the vehicle again.

7 Now, you're going to hear testimony
8 that that first collision in all likelihood
9 killed the victims. But the second collision
10 might have also killed the victims or a
11 combination of the two collisions. That's
12 what the evidence is going to show, ladies
13 and gentlemen.

14 My name is Bryan Jeffries, I'll be
15 prosecuting this case on behalf of the State
16 and the First Circuit Solicitor's Office
17 along with the solicitor, David Pascoe. Also
18 seated at the State's table is Lance Corporal
19 Steve Pearrow of the South Carolina Highway
20 Patrol, he's the lead investigator in this
21 case. Ladies and gentlemen, seated behind
22 the State's table is the family, the
23 survivors of George, Ann and Mad Neeley.

24 Seated at the defense table is the
25 defendant Mr. Jimmy Taylor and he's

Opening Statement by Mr. Jeffries

1 represented by Everett Chandler. And as the
2 judge told you, he's charged, Mr. Taylor, of
3 three counts of felony DUI, felony driving
4 under the influence of death. The reason
5 there's three counts is there were three
6 people that were killed as a result of this
7 wreck, this collision, George, Ann and Mad
8 Neeley.

9 Ladies and gentlemen, before I talk
10 about more of the facts of this case I want
11 to talk to you about what that law is, how
12 it's defined. To tell you what felony DUI is
13 I first need to tell you what DUI is. DUI,
14 driving under the influence, is defined by
15 our code of laws as driving a vehicle on the
16 roads and streets of this state while under
17 the influence of drugs or alcohol to the
18 extent that one's faculties or abilities to
19 drive are impaired, appreciably and
20 materially impaired. And again it's felony
21 DUI in this case because there were three
22 people that were killed as a result of the
23 individual's inability to safely operate
24 their vehicle, so that's felony DUI and there
25 are three counts.

Opening Statement by Mr. Jeffries

1 Now, another matter of law that's
2 going to be important in this case and the
3 judge is going to instruct you at the close
4 of this case on causation or proximate cause.
5 It's important in this case because, as I
6 told you, there are two collisions. What
7 you're going to realize as you hear the
8 evidence in this case is that the defendant
9 is responsible for the death of these three
10 passengers, whether his collision, the first
11 collision which was a head-on collision
12 caused the death or whether or not the second
13 collision caused the death while they're in
14 the road basically in what I would call a
15 sitting duck position. Lights are out,
16 sideways in the road and a very dark road
17 ahead.

18 And it doesn't matter whether or
19 not the first collision or a second collision
20 killed the family because he is responsible
21 for setting in motion the chain of events
22 which caused the event because he was driving
23 drunk, he could not control his vehicle in a
24 safe manner on the roads of Orangeburg, the
25 Neeleys, the three passengers in the Ford

Opening Statement by Mr. Jeffries

1 Escort.

2 Now, the standard of proof in this
3 case in any county in this state, any state
4 in our country, is the defendant is innocent
5 until proven guilty beyond a reasonable
6 doubt. That's the State's burden to prove to
7 you beyond a reasonable doubt. Ladies and
8 gentlemen, that's a burden we understand,
9 it's a burden in this case we welcome. I
10 submit to you that evidence in this case is
11 going to leave you a lot more than just
12 firmly convinced of his guilt.

13 Just to give you a little more
14 facts in the case and the evidence that
15 you're going to hear. After the two
16 collisions, you're going to hear that
17 Mr. Jessie Glover, who was driving the second
18 Trail Blazer and the second collision, had
19 his wife in the vehicle, she was severely
20 injured, she was air lifted to the hospital
21 in Columbia. You're going to hear that
22 Mr. Jessie Glover, the driver of that second
23 Trail Blazer, was slightly injured so the
24 defendant himself was hurt and he had to be
25 taken to the Bamberg emergency room by EMS,

Opening Statement by Mr. Jeffries

1 by ambulance. And, of course, the three
2 passengers in the Ford Escort were all dead
3 at the scene.

4 When the defendant is taken to the
5 hospital they draw blood, as is the law in
6 this state when someone is suspected of
7 felony DUI, your blood is drawn, you're going
8 to hear toxicology, blood alcohol level was
9 taken, he came back at .12. Some of you may
10 know the legal inference level in our state
11 to infer someone is under the influence and
12 impaired is .08. So he was significantly
13 higher than the .08, he was at .12. That's
14 what you're going to hear in this case, that
15 the first was a front-end collision.

16 This isn't going to be a long trial
17 as the judge told it you, evidenced by a fact
18 we're starting on Wednesday.

19 And as the judge told you and I
20 have to reiterate, it's an important trial,
21 it's a very important trial. It's important
22 to the defendant. He's charged with three
23 serious offenses. This is his day in court.
24 It's important to the State of South Carolina
25 because this is our one and only opportunity

Opening Statement by Mr. Jeffries

1 to hold him responsible for his reckless
2 disregard for the safety of others and for
3 violating the laws of this state. Important
4 to the citizens of Orangeburg County and this
5 state who walk and drive our roads and it's
6 important to the survivors of the Neeley
7 family. And make no mistake, this is also
8 George, Ann and Mad's day in court.

9 At the close of this trial you're
10 going to be asked to render a verdict. The
11 word "verdict" comes from the Latin phrase
12 "to speak the truth." As I ask, all the
13 office ask, is that you listen to the
14 evidence, use your experience, use your
15 common sense and bring us back a verdict that
16 speaks the truth. I suggest if you do that,
17 the only truthful verdict that you could
18 render in this case is that you're guilty.

19 Thank you.

20 THE COURT: Mr. Chandler.

21 MR. CHANDLER: May it please the Court.

22 THE COURT: Yes, sir.

23 MR. CHANDLER: Mr. Pascoe, Mr. Jeffries,
24 members of the jury panel. I'm Everett
25 Chandler, I have a small practice in South

Opening Statement by Mr. Chandler

1 Carolina and I do represent Jimmy Taylor
2 sitting there at that table. There sitting
3 behind him is his family for support.

4 October the 21st, 2005 happened to
5 be State homecoming as well as county fair
6 going through Orangeburg County.

7 So Jimmy Taylor works on campus of
8 South Carolina State University, went with a
9 coworker to a location, had two drinks, after
10 having two drinks safely drove her into heavy
11 traffic back to the campus, called his wife,
12 said he was on his way home.

13 On his way home, which is in the
14 direction of Bamberg because he lives in
15 Williston, on his way home he was driving and
16 again he drove through a tremendous amount of
17 traffic, he drives and he gets on Highway 70
18 leaving the county of Orangeburg headed into
19 the county of Bamberg. And it's at that time
20 his back tire blows out. Tries to gain
21 control of his car, veers out in the road
22 trying to gain control of his car, he
23 overcorrects and slips or does a side impact
24 of the Ford Escort which the Neeley family
25 was traveling in.

Opening Statement by Mr. Chandler

1 It was at that time that their car
2 was placed in the middle of the road and my
3 client's vehicle did veer out on the side and
4 that's what it was. It was an accident. It
5 was an accident. He had two drinks, his tire
6 blew out and the evidence will show that as a
7 result of that that is the accident.

8 Ladies and gentlemen of the jury,
9 that's not all of the story. After finally
10 getting out of his vehicle, the family, or at
11 least one member of the Neeley family
12 actually checked to see if he was okay, got
13 out of the vehicle and checked.

14 And one thing that the State has
15 failed to show you is that evidence is also
16 going to show you that there was a vehicle
17 that came and that vehicle was traveling well
18 in excess and well over 14 to 15 miles over
19 the speed limit, and it was traveling so fast
20 that when they came up on that vehicle they
21 didn't stop, they were driving too fast to
22 stop, they were speeding in excess and they
23 crashed into that vehicle and they caused the
24 deaths of the Neeley family.

25 This case is not about a felony DUI

Opening Statement by Mr. Chandler

1 against my client Mr. Jimmy Taylor. This
2 case is about a reckless homicide which the
3 prosecution has failed to prosecute. This
4 case is about a wrongfully accused man.
5 That's what this case is about.

6 The truth of the matter is that
7 evidence is going to show that when looking
8 at the vehicle that was driven by the Neeley
9 family, there's not anyone sitting in the
10 driver's position. Nobody's sitting in the
11 driver's seat, which is consistent with the
12 idea that they got out of the car. They got
13 out of the car. In fact, the State's
14 evidence will show that that car was sitting
15 a significant amount of time for a puddle to
16 form. Why did the Neeleys get out of the car
17 to check on my client, why did they stay in
18 the car?

19 The evidence will also show that
20 nobody wore seat belts. In fact, the three
21 vehicles they had -- Mr. Taylor had on a seat
22 belt, Mr. Glover had on a seat belt and so
23 did his wife. No one in the Neeley family
24 had on a seat belt. You know why? Because
25 after the accident with my client they

Opening Statement by Mr. Chandler

1 removed their harnesses and they checked on
2 him.

3 So what happened? We had
4 Mr. Jessie Glover traveling at a high rate of
5 speed and total disregard of the life and the
6 safety of individuals, crashed into the
7 Neeleys. The evidence is going to show that.

8 And so, ladies and gentlemen, this
9 case is important to Mr. Jimmy Taylor. The
10 reason why this case is important is because
11 all he had was an accident. The evidence is
12 going to show that.

13 Throughout the course of this trial
14 we're going to ask you to do three things.
15 The first thing we're going to ask you to do
16 is listen very carefully to all of the
17 evidence that is presented in this case.
18 This case is extremely important to my client
19 Jimmy Taylor. As the State or as the
20 prosecution office has said, it's important
21 to them. And certainly this case is
22 important to the Neeley family.

23 The reason why this case would be
24 important to the Neeley family is that if
25 this case is going to be about the family

Opening Statement by Mr. Chandler

1 members that passed away, we're not here
2 getting the right person.

3 So, ladies and gentlemen of the
4 jury, I would ask first you listen carefully
5 to all of the evidence that's presented. And
6 the second thing we're going to ask that you
7 do is use your common sense or your everyday
8 experiences. As you know this morning you
9 were chosen from a panel of jurors to bring
10 your everyday experiences to look.

11 In this day and age, why wouldn't
12 they wear their seat belts? In this day and
13 age, what vehicle can move around with not
14 one person in the driver's seat? Those are
15 questions the State is going to have to
16 answer. In this day and age, what person has
17 two drinks and then all of a sudden their
18 ability to drive is materially and
19 appreciably impaired to the point that they
20 can't drive a vehicle? These are the
21 questions that you're going to be asked to
22 look at. We're going to ask that you use
23 your everyday experiences to bring to the
24 table.

25 And the third and final thing we

Opening Statement by Mr. Chandler

1 want you to do is we want you to come back
2 with a verdict that speaks the truth. But
3 the truth is not going to be anchored in
4 emotion, because it is a sad thing. There
5 were three precious lives that were lost, but
6 they weren't lost at the hands or the actions
7 of my client, they were lost in the hands and
8 actions of the individual whose independent
9 actions broke that chain of events.

10 If they had opportunity -- that car
11 set long enough for a puddle to form, they
12 had opportunity enough to get out of the
13 vehicle, but for Mr. Glover's negligence in
14 driving so fast that he couldn't stop and
15 driving so fast, too fast for conditions that
16 he collided with them that they would be here
17 today.

18 Ladies and gentlemen, we want you
19 to listen carefully to all of the facts in
20 this case so that you can come back with a
21 verdict that speaks the truth. Thank you so
22 much.

23 THE COURT: Thank you. All right. On
24 behalf of the State if you would please call
25 your first witness.

Jeffrey S. Neeley - Direct Exam by Mr. Jeffries

1 MR. JEFFRIES: Thank you, Your Honor.

2 If it please the Court.

3 THE COURT: Yes.

4 MR. JEFFRIES: State calls Jeff Neeley.

5 THE CLERK: Have a seat and state your
6 full name, please.

7 (Jeffrey S. Neeley, called as a witness,
8 having first been duly sworn, is examined and
9 testified as follows:)

10 THE WITNESS: Full name is Jeffrey S.
11 Neeley.

12 DIRECT EXAMINATION

13 BY MR. JEFFRIES:

14 Q. Mr. Neeley, where do you live?

15 A. Denmark, South Carolina.

16 Q. I'm going ask you to really keep your voice
17 up so the jury can hear and you also so the court
18 reporter can hear you. That was Denmark, South
19 Carolina?

20 A. Denmark.

21 Q. How long have you lived in Denmark?

22 A. Forty years.

23 Q. Four years?

24 A. Forty.

25 Q. Forty years, okay. You born and raised in

Jeffrey S. Neeley - Direct Exam by Mr. Jeffries

1 Denmark or raised in Denmark?

2 A. That's correct.

3 Q. How do you know George and Ann Neeley?

4 A. George was my father and Ann was my
5 stepmother.

6 Q. And Mad Neeley?

7 A. Was my brother.

8 Q. And what's Mad's full name?

9 A. Madison Griffin Neeley.

10 Q. And your father, Mr. Neeley, what was his
11 full name?

12 A. George Philip Neeley.

13 Q. Ann's name?

14 A. Ann Price Neeley.

15 Q. Do you know where they lived before they
16 died?

17 A. [REDACTED], Platville, at Holmes Bridge
18 on Edisto River.

19 Q. Okay. And do you remember the day they were
20 in this collision that resulted in their death?

21 A. I do.

22 Q. Did you know where they were going that
23 night?

24 A. I did not until after the fact. But I was
25 told that the person that helped my father and Ann at

Jeffrey S. Neeley - Direct Exam by Mr. Jeffries

1 their home was there that afternoon and I talked to
2 him the next day. He --

3 MR. CHANDLER: Objection, Your Honor.
4 Hearsay.

5 Q. Let me stop you there.

6 THE COURT: Sustained.

7 And, Mr. Neeley, it's very
8 difficult to keep your volume, I know,
9 sufficient, but see this young lady sitting
10 way back at the end in the purple jacket? I
11 need your voice to be able to project that
12 far. Thank you. And we're going to get you
13 some water.

14 Q. And without telling me what you were told,
15 where were they going that night?

16 A. Orangeburg County State Fair.

17 Q. And they were coming from Blackville, is that
18 where they lived?

19 A. Correct. That was the address.

20 Q. Right, okay. How old was Mr. George Neeley
21 at the time of his death?

22 A. Seventy-one.

23 Q. Seventy-one?

24 A. That's correct.

25 Q. And how about Ms. Ann Neeley?

Jeffrey S. Neeley - Direct Exam by Mr. Jeffries

1 A. Seventy.

2 Q. And Mad, how old was Mad?

3 A. Forty-one.

4 MR. JEFFRIES: Beg the Court's
5 indulgence.

6 THE COURT: All right.

7 Q. I don't have any questions for you,
8 Mr. Neeley. Please answer any questions Mr. Chandler
9 has.

10 MR. CHANDLER: We have no questions.

11 THE COURT: The witness may come down.
12 (Whereupon, the witness steps down from the
13 witness stand.)

14 THE COURT: Call your next witness,
15 please.

16 SOLICITOR PASCOE: The State calls
17 George Bonnette, please.

18 THE COURT: All right. If you would
19 come along, please, and be sworn.

20 (George Bonnette, called as a witness, having
21 first been duly sworn, is examined and
22 testified as follows:)

23 DIRECT EXAMINATION

24 BY SOLICITOR PASCOE:

25 Q. Good afternoon, Mr. Bonnette.

George Bonnette - Direct Exam by Solicitor Pascoe

1 A. Good afternoon.

2 Q. Where do you currently work, sir?

3 A. I am the emergency planner for the Office of
4 Emergency Services for Orangeburg County.

5 Q. And how long have you been the emergency
6 planner for Orangeburg County?

7 A. Between three and four years.

8 Q. Okay. And among your duties are you also the
9 deputy coroner for Orangeburg County?

10 A. Yes, I am.

11 Q. And how long have you been the deputy corner
12 for Orangeburg County?

13 A. A little over 11 years.

14 Q. What are your duties as the deputy coroner,
15 what do you do?

16 A. To respond to death scenes and make a
17 determination of the cause of death.

18 Q. Okay. And how many scenes have you been to
19 where you've had to make a determination of a cause
20 of death where someone's died in Orangeburg County?

21 A. In the neighborhood of 1,150. Could be a
22 couple more, could be a couple less.

23 Q. A lot?

24 A. Yeah.

25 Q. Over 1,150?

George Bonnette - Direct Exam by Solicitor Pascoe

1 A. Over 1,100.

2 Q. How many scenes have you been called to as a
3 deputy coroner now where a person has been killed in
4 an automobile accident?

5 A. Probably in the hundred plus.

6 Q. Okay. A hundred plus?

7 A. Yes, sir.

8 Q. Do you have -- other than your duties as
9 deputy coroner, what experience do you have in
10 emergency services?

11 A. I was an EMT for approximately I think 15
12 years, I belonged to and helped form what's called a
13 Star Team for Orangeburg County Emergency Services.

14 Q. Let me ask you now what is the Star Team?

15 A. Star Team is a group of individuals,
16 volunteers that respond to accidents to do
17 extrication of victims from vehicles. We respond to
18 high-level rescue and also to confined space.

19 Q. And how long were you a member of the Star
20 Team?

21 A. I helped form the Star Team back around 1985.

22 Q. Okay. So you're one of the founding people
23 for the Star?

24 A. Yes.

25 Q. How many scenes do you think you had to

George Bonnette - Direct Exam by Solicitor Pascoe

1 respond to as a member of the Star Team in Orangeburg.
2 County since 1985?

3 A. Oh, I'd say probably several hundred.

4 Q. Okay. Now, you testified that you've also
5 been an emergency medical technician or EMT?

6 A. Yes.

7 Q. Paramedic?

8 A. No, just basic EMT.

9 Q. How long were you an EMT again?

10 A. I got certified I think it was in '79 and I
11 think I did recertify again in '95, but I'm not sure
12 of the exact dates.

13 Q. Okay. So roughly around 15 to 16 years?

14 A. Fifteen, 16 years, yes.

15 Q. What were your duties as an EMT?

16 A. To respond to any emergency call that
17 required medical attention and to provide medical aid
18 to the individual, to stabilize them to get them to a
19 hospital.

20 Q. And what type of medical aid would you have
21 to render to people as an EMT in that 15-plus years?

22 A. Oh, I've done bandaging, I've done splinting,
23 I've -- just about anything you could name, spinal
24 immobilization.

25 Q. And did you have to undergo special training

George Bonnette - Direct Exam by Solicitor Pascoe

1 to become an EMT?

2 A. Yes.

3 Q. And what was that, just very briefly?

4 A. At that time it was the -- I do not remember
5 the hours, but it was a course I had to take and then
6 I had to spend a certain amount of time in the
7 hospital ER.

8 Q. Okay. And I've asked you, of course, about
9 how many cases you've gone to or automobile accidents
10 you have responded to as a coroner, as a Star Team
11 member. How many accidents have you had to respond
12 to as an EMT in that 15-plus years?

13 A. Oh, it was probably a hundred or so.

14 Q. And what types of injuries did you have to
15 treat at those type of scenes, specifically
16 automobile accidents?

17 A. Lacerations, contusions, fractures.

18 Q. And what was the common injury for a driver
19 or passenger in the front vehicle that struck
20 something head-on?

21 A. It would be normally a head injury at that
22 time.

23 Q. Hitting what?

24 A. Hitting the windshield.

25 Q. Let me ask you now specifically about Friday,

George Bonnette - Direct Exam by Solicitor Pascoe

1 October the 21st, 2005. Were you on duty as a deputy
2 coroner on call that Friday night?

3 A. Yes, I was.

4 Q. And did you receive a call that night?

5 A. Yes, I did.

6 Q. And where did you receive a call to go to
7 Mr. --

8 A. To Binniker Bridge Road, Highway 70,
9 Orangeburg side of the county line.

10 Q. And that is in Orangeburg County?

11 A. Yes, it is.

12 Q. Heading towards where?

13 A. Heading towards Denmark.

14 Q. Okay. In Bamberg County?

15 A. Yes.

16 Q. What time did you arrive at the scene
17 approximately? And you have some notes to assist
18 you, refresh your memory.

19 A. Yeah. I arrived at 8:49.

20 Q. Okay. And what did you do when you first got
21 to the scene and what were your findings with regards
22 to what you found?

23 A. When I first arrived at the scene I spoke to
24 the highway patrol, I spoke to other responders had
25 responded to the accident, was directed to the Ford

George Bonnette - Direct Exam by Solicitor Pascoe

1 Escort to where there were three fatalities.

2 Q. Okay. And, in fact, that's why you were
3 called to the scene because there were three
4 fatalities there?

5 A. That's why I was called to the scene, there
6 were three fatalities.

7 Q. What were your findings with regards to each
8 victim, how they were positioned in the vehicle?

9 A. Mr. Neeley, Mr. George Neeley was in the back
10 seat of the vehicle with his left leg over his right
11 leg crossed.

12 SOLICITOR PASCOE: In fact, if the
13 jurors can see them from there, Your Honor,
14 can I have him maybe turn and he can
15 demonstrate?

16 THE COURT: You may.

17 Q. Can't turn that much.

18 A. There you go.

19 Q. Okay. Okay. And what was his condition?

20 A. Mr. Neeley was deceased due to massive head
21 injuries, he had an open skull fracture in which part
22 of the brain was showing, massive body trauma, blunt
23 force trauma to the body and head.

24 Q. Okay. And before I forget, no one else was
25 deceased at the scene other than the three Neeleys,

George Bonnette - Direct Exam by Solicitor Pascoe

1 that's right?

2 A. Only those three.

3 Q. Mr. George Neeley, Mad Neeley and Ann Neeley?

4 A. Ann Neeley.

5 Q. Okay. Now, what was the condition of Mad
6 Neeley?

7 A. Mad Neeley was between the front and back --
8 between the two front seats with his head towards the
9 front and his feet at the back. He also had massive
10 blunt force trauma to the head and body.

11 Q. Okay. And what about Ms. Ann Neeley?

12 A. She was sitting in the front passenger seat
13 apparently thrown forward through the windshield in
14 which the windshield -- her head was through the
15 windshield up to approximately her shoulders, another
16 case of blunt force head and body trauma.

17 Q. Okay. And did you note or recall any damage
18 to the victims' blue Escort that night as well?

19 A. Yes.

20 Q. And what damage did you see to it?

21 A. There was damage, front-end damage, there was
22 also damage when I went around to the right rear, if
23 I remember.

24 Q. Did you document the approximate time of
25 death of the three victims?

George Bonnette - Direct Exam by Solicitor Pascoe

1 A. Yes. I had to -- I used I think the 911 call
2 at 7:55 as the time of death.

3 Q. And how did the victims, how were they taken
4 out of the vehicle that night?

5 A. All three victims had to be extricated.

6 Q. And explain what extricated means and why did
7 they have to be extricated?

8 A. All three were trapped in the vehicle to
9 where they could not have gotten out of the vehicle
10 themselves, even if they had been alive they could
11 not have gotten out of the vehicle.

12 Number one, we had to do a roof removal,
13 we took the roof off the car then we used equipment
14 to pry open the doors to get to the victims and take
15 them out as we could get -- we took them individually
16 out as we worked to each body.

17 Q. Yes, sir. And when the victims were finally
18 able to be extricated from the vehicle, where were
19 their bodies sent at that time?

20 A. They were sent to the morgue at Regional
21 Medical Center in Orangeburg.

22 Q. Okay. And you really touched on this, but
23 prior to Mad, George and Ms. Ann Neeley going to TRMC
24 to the morgue, you did assess the injuries that you
25 could actually see to their bodies?

George Bonnette - Direct Exam by Solicitor Pascoe

1 A. Yes.

2 Q. In general terms, what types of injuries did
3 they all suffer?

4 A. It's call blunt force trauma to the head and
5 body and also exsanguination, which means once they
6 hit the organs bled out, they had massive blood loss.

7 Q. Okay. And based again on your extensive
8 experience, how long does it take someone to die from
9 those injuries?

10 A. Less than minutes.

11 Q. Due to the severity of them?

12 A. Yes.

13 Q. You testified about the positioning of the
14 victims' bodies and examining their bodies in the
15 car. Do you remember anything else unusual that you
16 noted or made a mental note of with regard to a
17 finding in the car?

18 A. Yes. I noticed that one of Mr. George
19 Neeley's shoes, the one off of his right foot I think
20 it was -- appeared to be up in the front between the
21 seat and the gas pedal and the brake pedal.

22 Q. How many -- well, you've been to hundreds of
23 automobile accidents, I mean too many to even count.
24 How many where the passengers hit, hit the
25 windshield?

George Bonnette - Direct Exam by Solicitor Pascoe

1 A. I really don't know.

2 Q. A lot?

3 A. A lot.

4 Q. How many where a passenger's head went
5 through a windshield?

6 A. I have -- this is the first time I've had a
7 passenger go all the way through the windshield like
8 Ms. Neeley.

9 Q. Have you had others where heads have gone
10 through windshields?

11 A. I've had others where heads had hit the
12 windshield, I had others where -- I had one
13 particular one that sticks to my mind where the
14 actual person's head was in the glove compartment of
15 the car.

16 Q. Have you ever known of a case where someone's
17 head went through a windshield and they survived?

18 A. No, sir.

19 SOLICITOR PASCOE: Beg the Court's
20 indulgence, Your Honor.

21 THE COURT: All right.

22 Q. Thank you, Mr. Bonnette. Please answer any
23 questions that defense counsel, Mr. Chandler, has for
24 you.

25 THE COURT: Cross-examination.

George Bonnette - Cross-Exam by Mr. Chandler

1 MR. CHANDLER: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. CHANDLER:

5 Q. Mr. Bonnette, how are you doing?

6 A. Fine, sir.

7 Q. That's great. That's great. Mr. Bonnette, I
8 just have a few questions and we'll pick up on the
9 fact that you did, in fact, go to that scene; is that
10 correct?

11 A. Okay. Yes, sir.

12 Q. And you indicated now when you first observed
13 the Escort, where exactly was Mr. George Neeley
14 sitting?

15 A. He was sitting in the back seat behind the
16 driver's.

17 Q. And it is correct that you indicated that he
18 was sitting in a position as if he was with his leg
19 crossed?

20 A. He was sitting in an upright position with
21 his neck hyperextended back.

22 Q. It is true that you did indicate that his leg
23 was crossed?

24 A. Yes. Yes.

25 Q. Okay. And with respect to it, isn't it

George Bonnette - Cross-Exam by Mr. Chandler

1 correct also that you noticed his arm was stretched
2 out as if he was --

3 A. I would have to think back. His arm may have
4 been, but I don't right offhand remember.

5 Q. Right arm up and resting on a part of the
6 vehicle that had been crushed in from the passenger
7 side. Does that sound pretty accurate? That not
8 only was his leg crossed, but his arm was resting?

9 A. Okay. Resting to some extent, yes.

10 Q. But you did indicate that a shoe that he was
11 wearing, this person that was in the back seat, the
12 shoes was sitting in the front seat near the brake
13 pedal and the gas pedal?

14 A. That's what struck me as so odd, that the
15 force apparently had knocked his shoe off and threw
16 it up under the seat possibly to the front. I don't
17 know that, but I'm just saying.

18 Q. Wouldn't it be also possible in that scenario
19 that he could have been in the driver's seat and
20 after the first accident he could have moved to the
21 back seat and relaxed? How many people travel --

22 A. Not with the head injury that he had, an open
23 skull fracture with part of the brain coming out he
24 would not have been able to have gotten out of his
25 car or moved from one seat to the other.

George Bonnette - Cross-Exam by Mr. Chandler

1 Q. Mr. Bonnette.

2 A. Yes, sir.

3 Q. You indicated that Mr. George Neeley legs
4 were crossed and arm was resting on the -- on the
5 vehicle?

6 A. Right.

7 Q. How many accidents have you come where
8 somebody's in a moving vehicle and they're traveling
9 with their legs crossed, arms on the rest and no --
10 and no shoulder harness at all, legs crossed in a
11 relaxed position?

12 A. That I can't answer because I don't recall.

13 Q. All right. So, in fact, isn't it true also,
14 Mr. Bonnette, that because you didn't see anybody in
15 the front seat, because there was nobody in the
16 driver's seat, that you did a massive hunt for who
17 this extra driver was?

18 A. We did do a hunt in search for a possible
19 fourth victim person.

20 Q. Who was involved. Did you have dogs out
21 there?

22 A. No, we used the SLED Flare Unit.

23 Q. What else did you use in addition?

24 A. We used volunteers from the Search and Rescue
25 Team.

George Bonnette - Cross-Exam by Mr. Chandler

1 Q. Who else did you use?

2 A. Members of the fire departments that were
3 there and the Star Team, just individuals that were
4 volunteers that we knew to search.

5 Q. You also used a helicopter from SLED?

6 A. That's what I said, SLED with a Flare Unit.

7 Q. Is that what a Flare Unit is?

8 A. A Flare Unit is a unit that can shine down,
9 pick up bodies and so forth if they're lying out
10 hidden somewhere.

11 Q. So let me get this. Based on your testimony
12 you have someone sitting in the back seat?

13 A. Right.

14 Q. Their feet are in the seat and they're
15 slumped over in the middle. That's Mad; is that
16 correct?

17 A. Right.

18 Q. You have George who is sitting next to Mad,
19 his arm on the rest, legs folded?

20 A. Okay.

21 Q. That's correct. And then you have Miss Ann
22 who is in the front passenger?

23 A. Right.

24 Q. Through the front windshield?

25 A. Yes.

George Bonnette - Cross-Exam by Mr. Chandler

1 Q. No driver?

2 A. No driver.

3 Q. No driver?

4 A. No driver sitting in the car.

5 Q. No driver --

6 A. No one sitting in the driver seat.

7 Q. Absolutely.

8 A. Okay.

9 Q. Absolutely no one sitting in the driver seat.

10 A. Right.

11 Q. To the extent that you had to do a massive
12 hunt bringing in SLED to find out who this extra
13 driver is?

14 A. We wanted to make sure there was not a fourth
15 person.

16 Q. Yeah, but you had reason to believe that
17 there was, is that correct, because you had a car --

18 A. Yes. We thought there was because there was
19 no one in the driver's seat, we thought possibly that
20 person had been ejected out of the car and that is
21 what we were looking for.

22 Q. Okay.

23 MR. CHANDLER: No further questions.

24 THE COURT: Redirect?

25 SOLICITOR PASCOE: Thank you, Your

George Bonnette - Redirect Exam by Solicitor Pascoe

1 Honor.

2 REDIRECT EXAMINATION

3 BY SOLICITOR PASCOE:

4 Q. Mr. Bonnette, with regards to George Neeley
5 in the back seat, the positioning of his body, the
6 fact that he was killed with his legs like this.

7 A. Right.

8 Q. And I guess looking forward, what does that
9 tell you about the severity of the impact and how
10 quickly --

11 MR. CHANDLER: Objection, Your Honor. I
12 don't think he's been qualified to give an
13 opinion with regard to severity of impact,
14 impact trauma, crush tests, trajectories,
15 travel velocity. I think those are things
16 outside of any expertise.

17 Now, if he wants to qualify him for
18 that, we would be happy to hear the
19 qualification at this time.

20 THE COURT: Don't answer the question
21 until you've heard the question and I've
22 ruled on it. Okay. Now I want to hear the
23 question.

24 Q. What does that tell you about how quickly he
25 passed away?

George Bonnette - Redirect Exam by Solicitor Pascoe

1 THE COURT: Okay. Hold on.

2 SOLICITOR PASCOE: That has nothing to
3 do with --

4 THE COURT: Sustained.

5 Q. Okay. Let me ask you this: Let me show
6 you -- Mr. Chandler asked you questions about whether
7 Mr. Neeley could have been walking around the
8 vehicle.

9 A. Yes.

10 Q. And others could have been walking around the
11 vehicle. Do you remember that on direct?

12 A. Right.

13 THE COURT: Tell me what we're -- be
14 very mindful not to let the jury see the
15 photos.

16 Q. I'm going to show you what's been marked as
17 State's Exhibit 5, they're not in evidence, let me
18 ask you do you recognize these photos?

19 A. Yes, sir.

20 Q. Do they accurately depict the scene that
21 night of October 21st, 2005?

22 A. Yes, they do.

23 Q. The positioning of the victim's body?

24 A. Yes.

25 Q. The damage to the vehicle?

George Bonnette - Redirect Exam by Solicitor Pascoe

1 A. Yes.

2 Q. Would it assist you in talking to the jury
3 about the damage to the people, whether people could
4 have been walking around the vehicle?

5 A. Yes.

6 SOLICITOR PASCOE: I ask that State's
7 Exhibit 5 be admitted into evidence.

8 MR. CHANDLER: Without objection, Your
9 Honor.

10 THE COURT: Very well. State's
11 Exhibit 5 in evidence without objection, it
12 is a board that contains I can't tell how
13 many photographs.

14 SOLICITOR PASCOE: I'm sorry.

15 THE COURT: Five photographs.

16 SOLICITOR PASCOE: Five photographs.
17 Your Honor, if you want me to I can make them
18 A, B, C and D.

19 THE COURT: I think you need to if you
20 would be so kind. All right.
21 (Entered into evidence was State's Exhibit 5,
22 poster board with five photographs.)

23 SOLICITOR PASCOE: Can I ask
24 Mr. Bonnette to step down, Your Honor?

25 THE COURT: You certainly may.

George Bonnette - Redirect Exam by Solicitor Pascoe

1 Just remember, Mr. Bonnette, keep
2 your voice up because our court reporter has
3 to hear you and you won't have benefit of the
4 microphone.

5 Q. I'm going to let you stand on this side,
6 Mr. Bonnette, so Robin can hear you. I'm going to
7 show you what's been marked as State's Exhibit 5D.
8 Who is that right there?

9 A. That is Mrs. Neeley through the windshield.

10 Q. Okay. And as you testified on direct how do
11 people go through windshields, what type of
12 accidents?

13 A. Head-on.

14 Q. Head-on collisions?

15 A. Head on collisions.

16 Q. Explain to this jury how Ms. Neeley could
17 have been walking around after a head-on collision
18 after going through the windshield.

19 A. There was no way Ms. Neeley could have, she
20 was entrapped, her head.

21 MR. CHANDLER: Objection, Your Honor.

22 He has not been qualified to this extent. We
23 would ask the State stop this line of
24 questioning without qualifying him as an
25 expert in this field.

George Bonnette - Redirect Exam by Solicitor Pascoe

1 SOLICITOR PASCOE: He....

2 MR. CHANDLER: Permission to approach,

3 Your Honor.

4 THE COURT: Yeah, let me talk to you
5 all.

6 (Whereupon, a bench conference was held off
7 the record in the presence of the jury but
8 out of the hearing of the jury.)

9 MR. CHANDLER: Thank you, Your Honor.

10 Q. You can come back down. So based on your
11 vast experience you know of no way she could have
12 been walking around?

13 A. That's correct.

14 Q. All right. Let me ask you this: I'm showing
15 you now State's Exhibits 5, specifically look at D
16 again, the damage to the front door.

17 A. Right.

18 Q. And C, the damage to the passenger door.

19 A. Right.

20 Q. Do you know of any way that the driver or
21 Ms. Neeley who is through the windshield from the
22 first impact --

23 MR. CHANDLER: Objection, Your Honor.

24 Q. Or through the windshield, I'll leave it at
25 that.

George Bonnette - Redirect Exam by Solicitor Pascoe

1 THE COURT: Don't answer until I've
2 heard the question.

3 SOLICITOR PASCOE: Thank you.

4 Q. Could exit the vehicle and walk around?

5 THE COURT: All right.

6 Q. Do you know of any way?

7 A. No, sir.

8 THE COURT: Mr. Bonnette, you can't
9 answer when I ask you not to.

10 SOLICITOR PASCOE: I'm sorry, Your
11 Honor. I thought you said all right.

12 THE COURT: No, I didn't.

13 THE WITNESS: I thought you finished.

14 THE COURT: No. Is there an objection?

15 MR. CHANDLER: The objection is that
16 these are presumptions regarding assumptions
17 that were required requiring opinion
18 information that would have to come from an
19 expert which has not been elicited, but in
20 essence the State is trying to circumvent it.

21 THE COURT: Sustained.

22 MR. CHANDLER: Thank you, Your Honor.

23 SOLICITOR PASCOE: For clarification can
24 I ask the question?

25 THE COURT: Sure.

George Bonnette - Redirect Exam by Solicitor Pascoe

1 Q. Do you know of any way anybody could have
2 gotten out of the front passenger door or front
3 driver's side door from the damage to this vehicle?

4 THE COURT: That's a different question.

5 MR. CHANDLER: Yes, it is, Your Honor.

6 THE COURT: Any objection?

7 MR. CHANDLER: Not to a yes or no
8 answer, no, Your Honor.

9 THE COURT: It is a yes or no question.

10 MR. CHANDLER: Thank you.

11 THE COURT: Yes. But it is a yes or no
12 question.

13 Q. Yes or no?

14 A. All right. What was your question so I'll
15 make sure I say yes or no correctly.

16 Q. Someone who has been to hundreds of
17 automobile accidents.

18 A. Right.

19 Q. Is there any way with the damage to the front
20 door here, front driver's side, front passenger door
21 that a person could exit those doors?

22 A. There is no way.

23 Q. Thank you.

24 SOLICITOR PASCOE: Thank you, Your
25 Honor. That's all I have. Thank you.

George Bonnette - Recross-Exam by Mr. Chandler

1 THE COURT: Recross?

2 MR. CHANDLER: Okay.

3 RECROSS-EXAMINATION

4 BY MR. CHANDLER:

5 Q. Mr. Bonnette, you're not trained in accident
6 reconstruction, are you?

7 A. No, I'm not.

8 Q. Okay. No further questions.

9 THE COURT: Very well. Is this witness
10 free to leave?

11 SOLICITOR PASCOE: Thank you. Yes,
12 ma'am.

13 THE COURT: Any objection? You are free
14 to go.

15 (Whereupon, the witness steps down from the
16 witness stand.)

17 THE COURT: Call your next witness,
18 please.

19 SOLICITOR PASCOE: Thank you, Your
20 Honor.

21 Thanks, Mr. Bonnette.

22 State calls Lynne Drawdy.

23 THE COURT: If you would come along,
24 please, and be sworn.

25

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 (Lynne Drawdy, called as a witness, having
2 first been duly sworn, is examined and
3 testified as follows:)

4 THE CLERK: Have a seat. State your
5 full name and spell your last.

6 THE WITNESS: Okay. Name's Lynne
7 Drawdy, D-r-a-w-d-y.

8 DIRECT EXAMINATION

9 BY SOLICITOR PASCOE:

10 Q. Let that mic get a little closer to you.

11 Good afternoon, Ms. Drawdy.

12 A. Hello.

13 Q. And speak up so the jurors can hear you as
14 well as the court reporter, Robin, okay?

15 A. Okay.

16 Q. Do you live in Orangeburg County?

17 A. Yes, sir. I live in Cope.

18 Q. Good. Where is Cope?

19 A. It's between Orangeburg and Bamberg.

20 Q. And do you work anywhere right now?

21 A. I work part-time at Community Bank Shares.

22 Q. And do you also volunteer with emergency
23 services in Orangeburg County?

24 A. Yes, sir. I'm a volunteer firefighter and
25 first responder for Edisto Volunteer Fire Department.

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 Q. How long you been with the fire department in
2 Edisto?

3 A. Since 2002.

4 Q. Okay. And how long have you been a first
5 responder?

6 A. Since 2003.

7 Q. And tell the jury what a first responder is,
8 what your duties are as a first responder.

9 A. We give basic first aid, evaluate the
10 situation, give information to EMS, we can do CPR, we
11 can get vital signs to communicate, kind of triage
12 the patient to see what kind of service they might
13 need, what kind of help.

14 Q. And did you have to undergo any special
15 training to become a first responder?

16 A. Yes, sir. I did.

17 Q. What was that, Ms. Drawdy?

18 A. DOT first responder course.

19 Q. Department of Transportation?

20 A. Yes, sir.

21 Q. What area do you cover as a first responder?

22 A. We cover a five-mile radius of our area,
23 downtown Cope, we also do mutual aid with other
24 communities in our area.

25 Q. Okay. I want to ask you some questions now

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 about Friday, October the 21st, 2005. Do you
2 remember that night?

3 A. Yes, sir.

4 Q. Okay. How well do you remember it?

5 A. Very well.

6 Q. Okay. Did you receive a call that night as a
7 first responder?

8 A. Yes, sir.

9 Q. What were you doing at the time you received
10 the call?

11 A. We were at the fair, my family was at the
12 fair.

13 Q. Here in Orangeburg County?

14 A. Yes, sir.

15 Q. And approximately what time did you receive
16 the call that night?

17 A. It was 7:59.

18 Q. P.m.? Obviously that night.

19 A. Yeah.

20 Q. What was the call for?

21 A. It was for vehicle accident with entrapment
22 on Highway 70 near 332 intersection.

23 Q. Okay. And what did you do?

24 A. We immediately left the fair and responded.

25 Q. How long did it take you to get there,

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 approximately?

2 A. Approximately ten minutes.

3 Q. Okay. How did you get there?

4 A. In our personal vehicle. We have emergency
5 lights and flashers.

6 Q. And when you got to the scene, what did you
7 observe and do at the scene?

8 A. I observed the vehicles in different
9 positions that had been wrecked. And when I got out
10 somebody there said check on the driver of the SUV
11 because it was chaos, nobody had been able to get
12 there yet because we had gotten there, you know,
13 before emergency services was there.

14 Q. Did you already -- were you told what the
15 condition of the Neeleys were?

16 A. Yes, sir.

17 Q. So you didn't need to check on them as a
18 first responder, correct?

19 A. Correct.

20 Q. So where did you go?

21 A. I went straight to the SUV that was off the
22 road, it was up against a tree, the back end facing
23 the roadway.

24 Q. Okay.

25 MR. CHANDLER: Without objection, Your

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 Honor.

2 THE COURT: Very well. State's
3 Exhibit 2 in evidence. Likewise designate
4 the photos A, B, C and D.

5 SOLICITOR PASCOE: Yes, ma'am.

6 Absolutely.

7 (Entered into evidence was State's Exhibit 2,
8 six photographs of defendant's vehicle on
9 poster board.)

10 Q. And I'm going to show you what's been marked
11 as State's Exhibit 2 already in evidence. But do you
12 recognize -- do you recognize the vehicle?

13 A. Yes, sir.

14 Q. Is that the vehicle you went to, to go check
15 on the person at the vehicle?

16 A. Yes, sir.

17 Q. You testified it rested up against a tree?

18 SOLICITOR PASCOE: I'm just going to
19 publish it to the jury, Your Honor.

20 THE COURT: Very well.

21 Q. When you walked up to the vehicle in State's
22 Exhibit 2, this photograph, what did you observe?

23 A. I observed the driver of the vehicle on the
24 ground laying with his feet toward the driver's door,
25 his head away, right driver's door area.

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 Q. I'll tell you, let you pick whichever one
2 might be able to show where, probably A. Can you --
3 if you could kind of stand up, speak up real loud. .

4 A. His feet were approximately here, his head
5 was back this area.

6 Q. Okay.

7 THE COURT: Yes.

8 Q. Can you show it to Mr. Chandler?

9 A. Sure. His feet were in this area right
10 here -- I'm shaking -- and his head was away from it
11 laying on his back.

12 Q. Thank you. And were you able to -- what, if
13 anything, did you notice as you got near to him?

14 A. When I approached the rear of the vehicle I
15 noticed a strong odor of alcohol.

16 Q. Was there anybody else around the silver SUV?

17 A. Not at that moment.

18 Q. And when did you first notice a strong odor
19 of alcohol?

20 A. When I reached the rear, approximately the
21 bumper area walking up to the patient.

22 Q. And did the odor get any stronger?

23 A. Yes, sir. As I got closer.

24 Q. As you got closer to who?

25 A. The patient, the victim.

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 Q. How close did you end up getting to the
2 person, the patient?

3 A. I was within six inches of his face
4 eventually.

5 Q. What exactly did you ask him to do?

6 A. I asked, "Sir, are you all right? Are you
7 hurt anywhere?"

8 Q. How did he appear? Was he coherent,
9 incoherent?

10 A. Not totally coherent. I would not say
11 totally coherent.

12 Q. Okay. And what happened then with the
13 person?

14 A. About the time I got down to check in, the
15 EMT arrived and we worked on him together to
16 stabilize his neck and check for any other injuries,
17 any visible injuries.

18 Q. How long was this person in your presence
19 during this time, the person, the patient?

20 A. The patient, a good five to ten minutes.

21 Q. Five to ten minutes?

22 A. Five to ten.

23 Q. And obviously he wasn't under arrest or in
24 custody at this time, right?

25 A. No, sir.

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 Q. Did he ever say anything in your presence
2 about whether he consumed any alcohol that night?

3 A. Yes, sir.

4 Q. And what did he say?

5 MR. CHANDLER: Objection, Your Honor.

6 THE COURT: Let me have you approach.

7 SOLICITOR PASCOE: Yes, ma'am.

8 (Whereupon, a bench conference was held off
9 the record in the presence of the jury but
10 out of the hearing of the jury.)

11 THE COURT: Ladies and gentlemen,
12 there's a matter that I need to discuss
13 outside your presence. If you would please
14 step to your jury room. Do not discuss this
15 matter and do not allow anyone to discuss it
16 with you. We will be with you shortly.
17 (Whereupon, the jury retires to the jury room
18 at 3:41 p.m.)

19 SOLICITOR PASCOE: Would you like me to
20 first elicit the testimony now outside the
21 presence of the jury and then hear the
22 objection?

23 THE COURT: Okay.

24 SOLICITOR PASCOE: It's up to you.

25 THE COURT: I don't know that it makes a

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 whole lot of difference, I really don't.

2 SOLICITOR PASCOE: Okay, it doesn't.

3 THE COURT: You've asked her, she said
4 there's a statement about drinking and she's
5 fixing to --

6 SOLICITOR PASCOE: Yeah, okay.

7 THE COURT: She said yes, and she's
8 fixing to talk about it.

9 SOLICITOR PASCOE: Yes.

10 THE COURT: Yes, sir.

11 MR. CHANDLER: Your Honor, and I was
12 just -- in an abundance of caution I do not
13 recall any -- in Rule 5 material that I've
14 been provided, any statements made by my
15 client, and if they can show it to me that we
16 received it or in any report. And, Your
17 Honor, I think you understand the nature of
18 any representation and how it was brought on,
19 it may even be a mistake on my part, but just
20 in an abundance of caution I would just like
21 to see that the evidence that was provided
22 with respect to that particular statement.

23 THE COURT: Hold on one second. Let me
24 just take a quick look.

25 MR. CHANDLER: Yes, ma'am.

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 THE COURT: If I may.

2 MR. CHANDLER: Yes, ma'am.

3 THE COURT: If you would address,
4 please, for me Rule 5(a)(2).

5 MR. CHANDLER: Beg the Court's
6 indulgence.

7 THE COURT: Certainly.

8 MR. CHANDLER: Yes, Your Honor, and we
9 would just require any statement she made be
10 provided to us.

11 THE COURT: Very well. After her
12 testimony if you have any statements, be they
13 oral, written or otherwise, you must provide
14 them to the defense.

15 SOLICITOR PASCOE: Absolutely. I just
16 want to put on the record there are no
17 written statements, this was an oral
18 statement and --

19 THE COURT: Very well.

20 SOLICITOR PASCOE: Okay.

21 THE COURT: All right. Well, you will
22 need to provide that then.

23 SOLICITOR PASCOE: Yes, ma'am.

24 THE COURT: I don't really want to stop
25 the trial for you to do that, but I will --

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 you all will need to disclose that to
2 counsel, any oral statements.

3 SOLICITOR PASCOE: Maybe I should just
4 do it now before she even -- yeah, can I do
5 that? Because he's going to hear it anyway.

6 THE COURT: Okay. Yeah. Yeah, exactly.
7 Good for you for doing that. It's really
8 early, but I think it's of benefit to counsel
9 to have that done early. Yes.

10 MR. CHANDLER: Okay. Thank you, Your
11 Honor.

12 SOLICITOR PASCOE: Thank you, Your
13 Honor.

14 THE COURT: Thank you. Let us have the
15 jury, please.

16 THE BAILIFF: Just a moment, Judge.

17 THE COURT: Sure.

18 (Whereupon, the jury returns to the courtroom
19 at 3:47 p.m.)

20 THE COURT: Very well. You may proceed.

21 SOLICITOR PASCOE: Thank you, Your
22 Honor.

23 Q. Ms. Drawdy, just few more questions. What,
24 if anything, did the person say to you in your
25 presence whether he had consumed any alcohol that

Lynne Drawdy - Direct Exam by Solicitor Pascoe

1 night?

2 A. He was asked if he had any alcohol to drink
3 that night and he responded yes.

4 Q. What, if anything, did he say with regards to
5 the accident?

6 A. He was asked if he remembered what happened
7 and he stated that he thought he hit a deer.

8 Q. Okay. And the person that you treated that
9 night who you smelled that odor of alcohol from, who
10 admitted to drinking that night, do you see him in
11 the courtroom?

12 A. Yes, sir.

13 Q. If you could point him out for the jury.

14 A. He's in the gray suit.

15 Q. Next to his attorney, Mr. Chandler?

16 A. Yes, sir.

17 Q. And this information about specifically
18 defendant's odor, that you smelled alcohol on him,
19 did you tell anybody about that that night at the
20 scene?

21 A. Yes, sir. Reported it to the Highway
22 Patrolman Pearrow.

23 Q. Right there at the State's table?

24 A. Yes, sir.

25 Q. Thank you. Answer any questions Mr. Chandler

Lynne Drawdy - Cross-Exam by Mr. Chandler

1 has for you. Thank you.

2 THE COURT: Cross-examination.

3 MR. CHANDLER: Just brief cross, Your
4 Honor.

5 THE COURT: Yes.

6 CROSS-EXAMINATION

7 BY MR. CHANDLER:

8 Q. You indicated on direct that when you came
9 upon my client, Mr. Jimmy Taylor, that he wasn't
10 totally coherent?

11 A. Not fully.

12 Q. And that was your testimony, that he was not
13 totally coherent?

14 A. Correct.

15 Q. Or not fully --

16 A. Not fully coherent.

17 Q. Actually he didn't volunteer information
18 about having drinks, you asked him and he responded;
19 is that correct?

20 A. He was asked and responded.

21 Q. Even though he wasn't totally coherent?

22 A. Correct.

23 Q. And you -- and normally you would just be
24 concerned with stabilizing his condition and treating
25 him?

Lynne Drawdy - Cross-Exam by Mr. Chandler

1 A. Correct.

2 Q. No further questions.

3 THE COURT: All right. Any redirect?

4 SOLICITOR PASCOE: No, ma'am. Thank
5 you, Your Honor.

6 THE COURT: And is this witness free to
7 leave?

8 MR. CHANDLER: Yes, ma'am. We have no
9 need for her.

10 THE COURT: You are free to go.

11 (Whereupon, the witness steps down from the
12 witness stand.)

13 THE COURT: Now, ladies and gentlemen,
14 we're going to take a short afternoon break.
15 I know you all just had a little short break,
16 but we didn't get that break, so we're going
17 to take a very short break. I'm going to try
18 to keep it close to ten minutes.

19 Be mindful not to discuss this
20 matter or allow anyone to discuss it with
21 you. We'll try to start back, oh, just about
22 probably five after 4:00. Thank all so much.
23 Did I say do not discuss this matter or allow
24 anyone to discuss it with you? I think I
25 did.

1 (Whereupon, the jury retires to the jury room
2 at 3:54 p.m.)

3 THE COURT: All right. Thank you.
4 Enjoy your break, ladies and gentlemen.

5 Anything from the State or defense?

6 SOLICITOR PASCOE: No.

7 MR. CHANDLER: Nothing from the defense.
8 Thank you, Your Honor.

9 (Recess, from 3:54 p.m. to 4:03 p.m.)

10 THE COURT: Anything from the State
11 before we bring the jury out?

12 SOLICITOR PASCOE: Nothing from the
13 State.

14 THE COURT: From the defense?

15 MR. CHANDLER: Nothing from the defense,
16 Your Honor.

17 THE COURT: Very well. Let us have the
18 jury, please.

19 (Whereupon, the jury returns to the courtroom
20 at 4:03 p.m.)

21 MR. JEFFRIES: Thank you, Your Honor.
22 May it please the Court.

23 THE COURT: Call your next witness,
24 please.

25 MR. JEFFRIES: State would call Jessie

Jessie Glover - Direct Exam by Mr. Jeffries

1 Glover.

2 (Jessie Glover, called as a witness, having
3 first been duly sworn, is examined and
4 testified as follows:)

5 THE CLERK: Have a seat. State your
6 full name and spell your last.

7 THE WITNESS: Okay. Full name is Jessie
8 Glover.

9 DIRECT EXAMINATION

10 BY MR. JEFFRIES:

11 Q. How do you spell your last name, Mr. Glover?

12 A. G-l-o-v-e-r.

13 Q. I'm going to ask you to really raise your
14 voice, first of all, so the court reporter can hear
15 you, more important so the jury can hear you.

16 A. Okay.

17 Q. They need to hear everything you say.

18 Where do you live, Mr. Glover?

19 A. Denmark.

20 Q. And were you living in Denmark back in 2005?

21 A. Yeah.

22 Q. What county is that?

23 A. Bamberg.

24 Q. Let me first ask you if you know the
25 defendant, Mr. Jimmy Taylor?

Jessie Glover - Direct Exam by Mr. Jeffries

1 A. No.

2 Q. Did you know George or Ann Neeley?

3 A. Yeah, I knew George.

4 Q. How did you know Mr. George Neeley?

5 A. Just living in Denmark.

6 Q. Okay. Y'all weren't close friends?

7 A. Yeah, we knew each other pretty well. He
8 would come by my place.

9 Q. Did you all -- would you visit in each
10 other's homes? I mean, were you all close like that?

11 A. No.

12 Q. Okay. Did you know Mr. Neeley's son, Mad
13 Neeley?

14 A. Yeah.

15 Q. Okay. Same situation, knew him through
16 Mr. Neeley?

17 A. He knew my daughter and he's been at my house
18 several times.

19 Q. Okay. Let me ask you, what type of car were
20 you driving back in October 2005?

21 A. A Trail Blazer.

22 Q. What color was it?

23 A. Kind of burgundy.

24 Q. Okay. Let me ask you, do you have
25 opportunity to come to Orangeburg from time to time?

Jessie Glover - Direct Exam by Mr. Jeffries

1 A. Yeah, pretty regular.

2 Q. And how do you come when you come to
3 Orangeburg, what roads do you use?

4 A. Highway 70.

5 Q. Okay. Let me ask you to describe that road,
6 Highway 70. As you're approaching Bamberg at night,
7 describe what the lighting is like out there.

8 A. There's no lighting.

9 Q. Are there -- is it -- would you describe it
10 as a country road or businesses on the side of the
11 road?

12 A. Country road.

13 Q. So there's not very much light out there?

14 A. No.

15 Q. Are there many houses on the road?

16 A. No, not in that area.

17 Q. Okay. Let me take you back specifically to
18 October 21st, 2005, the night of this collision
19 between 7:30 and eight o'clock. Did you have
20 occasion to be in Orangeburg?

21 A. Yeah. I was going to eat supper with my son
22 and daughter-in-law.

23 Q. Okay. And did you eat supper with them?

24 A. No.

25 Q. Okay. Were you on your way to Orangeburg?

Jessie Glover - Direct Exam by Mr. Jeffries

1 A. Yeah.

2 Q. Who were you with that night?

3 A. My wife Gloria.

4 Q. And were you driving the vehicle that you
5 just described, the red Trail Blazer?

6 A. Yeah.

7 Q. And who was driving the vehicle?

8 A. I was.

9 Q. Had you had anything to drink that night?

10 A. No. I quit drinking back in August a year
11 before that.

12 Q. All right. What -- let me take you right
13 before this collision took place. What was your wife
14 doing in the car while you were driving?

15 A. Just sitting in the passenger seat.

16 Q. And do you remember how she was positioned?
17 Was she facing forward or side?

18 A. I couldn't answer that.

19 Q. Let me ask you, eight o'clock, was it dark
20 outside or was it still light?

21 A. Yeah, dark.

22 Q. And I want you to tell this jury what
23 happened on Highway 70 that night on October 21st,
24 2005.

25 A. Okay. I was leaving home and it was a car in

Jessie Glover - Direct Exam by Mr. Jeffries

1 front of me, he was driving 45, 50 and 60, never kept
2 the same speed so I waited till I got to a
3 straightaway where I could pass him and I did. And I
4 got back in my lane and set my cruise on and --

5 Q. Let me stop you right there. When you -- you
6 said you set your cruise on, so at that point did you
7 take your foot off the gas or how does that work?

8 A. Yeah.

9 Q. Okay. And you don't put -- you wouldn't have
10 your foot on the brake either?

11 A. No.

12 Q. Continue with what happened after that.

13 A. And like I said, I set the cruise and I rode
14 about another mile and came up on this -- something
15 in the road, didn't look like no car, just looked
16 like a big something. And I cut my wheel hard to the
17 left, I didn't have time to hit the brakes, and I
18 still evidently must have had the cruise on because I
19 went up there in the cotton field a good ways. By
20 that time bouncing over the cotton thing, that's what
21 woke me up, then I mashed the brake, stopped the car.

22 Q. You say woke you up. You feel like you might
23 have lost consciousness?

24 A. Yeah, I know I did.

25 Q. Okay. You kind of -- let me ask you right

Jessie Glover - Direct Exam by Mr. Jeffries

1 before you said you kind of came to, do you recall
2 hitting the object?

3 A. Yeah, I knew I hit it.

4 Q. Okay. But you said you were also turning
5 left as you hit it?

6 A. As soon as I saw it I turned left, tried to
7 miss it, but I was too close to it.

8 Q. Did you see any lights on this object?

9 A. There was no lights.

10 Q. Did you see -- were you able to make out what
11 it was before you struck the object?

12 A. No. No, I didn't.

13 Q. Okay. And I think you testified you didn't
14 have an opportunity to put brakes on?

15 A. No.

16 Q. Did your cruise control release or was it
17 still on?

18 A. I couldn't answer that, but it must have been
19 on to have been going across that field.

20 Q. You drove across the field a good ways?

21 A. Yeah.

22 Q. Beyond where you hit this object?

23 A. Yeah. Yeah.

24 Q. As you're out here in the field, where does
25 your car eventually come to rest? Is it out in the

Jessie Glover - Direct Exam by Mr. Jeffries

1 open or against a tree?

2 A. In the cotton field.

3 Q. Okay. And when did you first realize it was
4 a car that you had hit?

5 A. I was opening -- I tried to wake my wife up,
6 she wouldn't wake up, so I opened my door to go
7 around and someone came down in the field and told me
8 that there was three people in the other car that was
9 passed away.

10 Q. And were they also treating your wife at that
11 time?

12 A. Yeah. I went -- I went around and woke her
13 up finally and they put her on a stretcher and took
14 her to the thing.

15 Q. And it was about that time they told you
16 about the three deceased in the other vehicle?

17 A. Yeah.

18 Q. Now, were you injured? What were your
19 injuries?

20 A. I was just bruised up. I wasn't -- they
21 didn't check me at all at the wreck.

22 Q. So you weren't transported from the
23 collision?

24 A. No. They was worried about her.

25 Q. Do you know -- did you know at that time what

Jessie Glover - Direct Exam by Mr. Jeffries

1 your wife's injuries were?

2 A. No, not really. I know she hit the
3 windshield with her head and she was kind of out of
4 it.

5 Q. And she was transported. How was she
6 transported?

7 A. By chopper.

8 Q. By helicopter, chopper?

9 A. Yeah.

10 Q. Did you remain at the scene after she was
11 transported?

12 A. Yeah. I had to get a ride to Columbia.
13 Finally called somebody to come get me.

14 Q. That's where they transported her?

15 A. Yeah.

16 Q. And did you have the opportunity to go see
17 that vehicle where the three deceased were in?

18 A. Yeah. I walked over there and looked at
19 them, see if I recognized them.

20 Q. Did you recognize them?

21 A. No, I didn't.

22 Q. You testified that you know all three of
23 them, but you didn't recognize them?

24 A. I knew Phil and Mad, but I knew her but not
25 as much, not as well as I did the other two.

Jessie Glover - Direct Exam by Mr. Jeffries

1 Q. When you say Phil, you know his full name?

2 A. No. I just knew Phil Neeley, all I ever
3 knew.

4 Q. Okay. So you did not recognize them as the
5 Neeleys?

6 A. No.

7 Q. When did you become aware that it was the
8 Neeleys' vehicle?

9 A. The next day my daughter called me at the
10 hospital in Columbia and told me did I know who it
11 was and I told them no. That's when she told me who
12 it was.

13 Q. Okay. Did you -- obviously you had the
14 opportunity to see the damage to your car that night,
15 you already referenced the -- well, let me ask you,
16 what was the damage to your vehicle?

17 A. I couldn't tell that night. I wasn't even
18 worried about the car that night.

19 Q. Okay. Did you ultimately eventually find out
20 what the damage was?

21 A. Yeah.

22 Q. And describe what some of the damage was to
23 your car.

24 A. It was all on the front end.

25 Q. Okay. Any damage to the windshield?

Jessie Glover - Direct Exam by Mr. Jeffries

1 A. Yeah, where her head hit the windshield.

2 Q. Did it shatter or crack or what did it do?

3 A. No, it just made a big impression in the
4 windshield.

5 Q. Okay. Let me show you -- let me show you
6 what's depicted in State's Exhibit Number 3 for
7 identification, I believe at this point, ask you if
8 you recognize what's depicted?

9 A. Yeah.

10 Q. What is that?

11 A. That's my Trail Blazer.

12 Q. And do these four photos accurately and
13 fairly depict your vehicle after the collision?

14 A. Yeah.

15 MR. JEFFRIES: Your Honor, at this time
16 I'd ask to move State's Exhibit Number 3 into
17 evidence and with the understanding I'll do
18 the A, B, C, D.

19 THE COURT: Any objection?

20 MR. CHANDLER: Without objection, Your
21 Honor.

22 THE COURT: Very well. State's
23 Exhibit 3 in evidence without objection, A,
24 B, C and D, photographs.

25

Jessie Glover - Direct Exam by Mr. Jeffries

1 (Entered into evidence was State's Exhibit 3,
2 poster board with photographs of Glover
3 vehicle.)

4 Q. Let me specifically ask you about State's
5 Exhibit Number 3A. Is this the impression you're
6 testifying about?

7 A. Yeah.

8 MR. JEFFRIES: If I could publish it to
9 the jury, Your Honor.

10 THE COURT: Very well.

11 Q. And have you look at State's Exhibit 3D. Is
12 this the front end damage you're referring to?

13 A. Yeah.

14 Q. Mr. Glover, what were the -- what did you
15 find out were the full extent of your wife's
16 injuries?

17 A. Probably the next afternoon.

18 Q. And what were her injuries?

19 A. She had problems with her neck, she broke her
20 hand and foot and she was just bruised up all over.

21 Q. Now, let me ask you, were you charged with
22 any infractions for your part in that collision?

23 A. No.

24 Q. And the collision you had with that object in
25 the road, you indicated you didn't know what it was,

Jessie Glover - Direct Exam by Mr. Jeffries

1 did you later find out where you hit the Neeley
2 vehicle?

3 A. Do what now?

4 Q. Did you later find out where you hit the
5 Escort that the Neeleys were in?

6 A. Yeah.

7 Q. What part of the vehicle did you hit?

8 A. The side.

9 Q. And do you remember what color the Neeleys'
10 car was, whether it was dark or light?

11 A. No, I couldn't.

12 Q. Based on the condition?

13 A. Yeah, because it didn't even look like a car.

14 MR. JEFFRIES: Beg the Court's
15 indulgence.

16 Q. Please answer any questions Mr. Chandler
17 might have. I don't have any more questions.

18 A. Okay.

19 THE COURT: Cross-examination.

20 MR. CHANDLER: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CHANDLER:

23 Q. Mr. Glover, you indicated on direct that you
24 did not have anything to drink; is that correct?

25 A. You said what?

Jessie Glover - Cross-Exam by Mr. Chandler

1 Q. You didn't have anything to drink?

2 A. No.

3 Q. And you said that on direct?

4 A. Yeah. I quit drinking back in August the
5 year before that.

6 Q. After the accident did any of the authorities
7 ask you to take a blood alcohol test at all?

8 A. No.

9 Q. Okay. You indicated that you set your car on
10 cruise control. What speed did you set it for?

11 A. Sixty.

12 Q. You set it for 60. Would you be surprised
13 then at the collision if someone told you you were
14 traveling between 67 to 69 miles per hour?

15 A. Couldn't be.

16 Q. Couldn't be, there's no way?

17 A. No.

18 Q. Okay.

19 A. There's been a lot of accidents on that road
20 and the patrols ride that road regular.

21 MR. CHANDLER: Your Honor, I would ask
22 that he be responsive to the questions that
23 we ask him.

24 THE COURT: Very well. Yes, sir. If
25 you would be mindful of that, just answer the

Jessie Glover - Cross-Exam by Mr. Chandler

1 question that he's asked.

2 THE WITNESS: Okay.

3 Q. Was your wife -- did you observe your wife
4 wearing a seat belt or a safety harness?

5 A. No.

6 Q. She was not?

7 A. Did not.

8 Q. She was not wearing a seat belt.

9 Based on your own statements, you were
10 traveling a vehicle down this country road and you
11 could not stop, you could not stop the vehicle safely
12 or to avoid the accident. You were traveling at a
13 speed where you could not stop the vehicle safely to
14 avoid the accident; isn't that correct?

15 A. I didn't see -- I didn't see the vehicle in
16 the road.

17 Q. At some point you saw it though?

18 A. Yeah, at the time I got to it.

19 Q. By the time you got to it you were traveling
20 too fast to avoid the accident; is that correct? You
21 say you tried to avoid it and couldn't?

22 A. Once I saw it I turned left.

23 Q. But you could not avoid it?

24 A. No.

25 Q. Okay.

Jessie Glover - Cross-Exam by Mr. Chandler

1 A. Because you couldn't see it.

2 Q. Anyone charge you with reckless driving as a
3 result of this?

4 A. No.

5 Q. Anybody charge you with driving too fast for
6 conditions?

7 A. No.

8 Q. Anybody charge you with speeding?

9 A. No.

10 Q. Anybody charge you with reckless homicide?

11 A. No.

12 MR. CHANDLER: No further questions.

13 THE COURT: Very well. Redirect?

14 MR. JEFFRIES: No more questions, Your
15 Honor. May he be excused?

16 THE COURT: Very well. Is this witness
17 free to leave?

18 MR. JEFFRIES: Please, Your Honor.

19 THE COURT: Okay. You are free to go.
20 (Whereupon, the witness steps down from the
21 witness stand.)

22 THE COURT: Please call your next
23 witness.

24 MR. JEFFRIES: State calls Lance
25 Corporal Steve Pearrow.

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 THE COURT: Yes, sir. Please come along
2 and be sworn.

3 (Lance Corporal Steven Pearrow, called as a
4 witness, having first been duly sworn, is
5 examined and testified as follows:)

6 DIRECT EXAMINATION

7 BY MR. JEFFRIES:

8 Q. Lance Corporal Pearrow, where are you
9 employed?

10 A. South Carolina Highway Patrol.

11 Q. How long have you been there?

12 A. Eleven years.

13 Q. Is that your full extent of law enforcement?

14 A. Yes.

15 Q. Been with highway patrol for 11 years. And
16 were you employed as a highway patrolman back in
17 October 2005?

18 A. Yes.

19 Q. And specifically on October 21st of 2005 did
20 you become involved with a collision on Highway 70?

21 A. Yes, I did.

22 Q. And did you respond to that location?

23 A. Yes, I did.

24 Q. What area were you coming from when you
25 responded?

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by Mr. Jeffries

1 A. We were coming out of Santee area.

2 Q. And where on Highway 70 did you respond?

3 A. It's Highway 70 between the Bamberg County
4 line and South Carolina Highway 332.

5 Q. Okay. Is that in Orangeburg County?

6 A. Yes, it is.

7 Q. What time did you receive a call from
8 dispatch as to this collision? And you're referring
9 to your notes, your investigative reports? The
10 TR310, the actual accident report there, is that to
11 refresh your memory?

12 A. Yes. Notification here says eight o'clock.

13 Q. And what time did you arrive on the scene?

14 A. 8:48.

15 Q. All right. You said you were coming from the
16 Santee area?

17 A. Correct.

18 Q. When you got there were there already highway
19 patrol personnel on the scene?

20 A. Yes, there was.

21 Q. What other agencies, if you recall, were on
22 the scene?

23 A. Orangeburg County EMS, Emergency Services,
24 local fire department were all there.

25 Q. And when you arrived on the scene what did

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 you observe, what type of collision did it appear to
2 be?

3 A. Appeared to be a three car. It was a
4 three-car collision, we knew that, involving two
5 Trail Blazers and a Ford Escort.

6 Q. And were you aware of anyone being hurt?

7 A. Yes.

8 Q. Tell me the fatalities that you're aware of.

9 A. Three.

10 Q. Were there other individuals treated that
11 were not deceased?

12 A. Yes.

13 Q. And was EMS out there doing that treatment?

14 A. Yes.

15 Q. And I think we've heard previously was there
16 also extrication of the deceased?

17 A. Yes.

18 Q. To your knowledge, were any of the
19 individuals involved, the drivers, transported for
20 treatment?

21 A. Yes.

22 Q. And who, if anyone, was that?

23 A. At the scene was just one and that was the
24 driver, a Jimmy Taylor.

25 Q. And let me just ask you, any animals, deer on

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 the scene?

2 A. No.

3 Q. And did you speak to the other officers who
4 were already on the scene and the other personnel as
5 when you got there?

6 A. Yes.

7 Q. To get basically a general idea of what
8 happened?

9 A. Correct.

10 Q. And did you have the opportunity to --
11 describe first of all what three vehicles we're
12 dealing with. You said there were two Trail Blazers?

13 A. Two Trail Blazers and a Ford Escort.

14 Q. And what color were the Trail Blazers?

15 A. One was a champagne, like a beige, one was
16 red, the other was blue, the Escort was blue.

17 Q. Okay. And you indicated that there was an
18 individual in a red Chevrolet. Did you have the
19 opportunity to speak to him?

20 A. I did. He was out of the car when I spoke to
21 him, but yes, I did.

22 Q. And is that Mr. Glover who just testified?

23 A. Correct.

24 Q. And so you did have the opportunity to speak
25 to him?

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by Mr. Jeffries

1 A. Yes.

2 Q. Did you smell any alcohol or anything on him?

3 A. No.

4 Q. Describe how the two collisions appeared to
5 take place through your investigation.

6 A. Appeared to take place -- we had one
7 vehicle -- I don't know if you want me to list them
8 as one, two and three or go by the names.

9 Q. If you would list them as one, two and three
10 and tell me what one, two and three are.

11 A. Okay. Okay. Unit one would have been the
12 Ford Escort the -- with the three fatalities. The
13 second vehicle would have been Mr. Glover's Trail
14 Blazer and the third vehicle would have been -- would
15 have been Mr. Jessie Glover's Trail Blazer.

16 Q. Okay. And would it assist you to see the
17 diagram of the collision, or more specifically would
18 it assist you --

19 A. Yes.

20 Q. -- to use State's Exhibit 1B and 1A?

21 MR. CHANDLER: Your Honor.

22 THE COURT: Yes.

23 MR. CHANDLER: Just for point of
24 clarification, and I don't want to interrupt,
25 but he said that one, two and three were both

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Glover's Trail Blazer. Is it clarified?

2 Okay. All right.

3 THE COURT: Okay. All right.

4 Q. Let me first ask you what's -- do you

5 recognize State's Exhibit 1B?

6 A. Yes.

7 Q. What do you recognize that as?

8 A. That is the second collision.

9 Q. And it's a diagram. Do you know what of?

10 A. Of Highway 70.

11 Q. Okay. And who actually made this diagram?

12 A. I did.

13 Q. And has it been blown up from what you did?

14 A. Yes, it has.

15 MR. JEFFRIES: At this time I'd ask to
16 enter State's Exhibit 1B into evidence.

17 THE COURT: Any objection?

18 MR. CHANDLER: Without objection, Your
19 Honor.

20 THE COURT: Without objection. What is
21 on the back? Is that --

22 SOLICITOR PASCOE: Get that in, too.

23 Q. I would now address 1A -- I'm sorry, 2A. No,
24 it is 1A. Let me ask you if you recognize what is
25 depicted in Exhibit 1A?

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by Mr. Jeffries

1 A. That is my drawing of collision one.

2 Q. Does it fairly and accurately depict the
3 diagram and the way the accident happened on
4 October 21st, 2005?

5 A. Yes, it does. Yes.

6 MR. JEFFRIES: At this time I would move
7 to enter State's Exhibit 1A into evidence.

8 THE COURT: Any objection?

9 MR. CHANDLER: Without objection, Your
10 Honor.

11 THE COURT: Very well.

12 (Entered into evidence was State's Exhibit
13 1A, drawing of collision one.)

14 (Entered into evidence was State's Exhibit
15 1B, diagram of Highway 70.)

16 Q. I think we have a pointer over here, if you
17 would use this pointer. And you've already told us
18 which vehicles are number one and two. If you could
19 just go over that real quick.

20 A. Yeah, we'll do that one more time. Unit
21 number one here, which would be the Ford Escort of
22 the Neeley family. Okay. Unit number two, which is
23 this vehicle here, is Mr. Jimmy Taylor's vehicle.

24 Q. Well, just tell me what happened in this
25 collision first.

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by Mr. Jeffries

1 A. Okay. Basically Bamberg, Orangeburg over
2 here, all right, east and west. The Ford Escort unit
3 number one traveling eastbound towards Orangeburg,
4 unit number two traveling westbound towards Bamberg
5 line. Vehicle left the shoulder of the road where
6 all four tires completely left the shoulder of the
7 road and overcorrection. In an overcorrection on any
8 type of surface other than a road, a lot of times
9 you're going to lose control. Loss of control, comes
10 back across the westbound lane into the eastbound
11 lane into the path of unit number one where the
12 collision occurred.

13 Q. And if you would, just follow down and tell
14 us what happened.

15 A. Unit number two left the roadway and then
16 struck a tree in the wood line.

17 Q. Unit number two would have been the vehicle
18 Mr. Taylor was in?

19 A. That's correct.

20 Q. And to follow from that, first tell me what
21 happened with the Ford Escort number one after that
22 first collision because now it's in a different
23 position.

24 A. Right. When the vehicle struck, somehow it
25 was spun around in the collision, in the original

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by Mr. Jeffries

1 collision. And then some time later unit number
2 three, which was Mr. Glover's vehicle, was also
3 traveling westbound -- correction, eastbound towards
4 Orangeburg striking unit number one which pushed unit
5 number one off the roadway. And the third car, the
6 Trail Blazer unit number three, left the road and
7 this was into the cornfield that he spoke about.

8 Q. Let me ask you, through your investigation
9 are you aware of whether or not the lights would have
10 remained on unit one after that first collision, the
11 power so to speak?

12 A. Well, we found the battery laying outside the
13 car at the scene so there was no power to the car
14 because the battery was knocked out.

15 Q. And would that indicate there's no light?

16 A. No light. No battery power, no light.

17 Q. For this vehicle coming down to see?

18 A. Right. And everything is sideways, so any
19 type of the reflecters that were on, the taillights
20 or the fog lights on the front were unseen.

21 Q. And describe this stretch of road here on
22 Highway 70.

23 A. It's very rural, there's nothing much out
24 there. I know some of you may be familiar with it,
25 some not. But especially, I mean, just about all of

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Highway 70 two miles outside of -- two or three miles
2 off of 301 you get to farmland and woodland.

3 Q. No streetlights?

4 A. No streetlights, not in this general area,
5 no.

6 Q. Any houses kind of up on the road that would
7 provide light?

8 A. No, sir.

9 Q. Any businesses that would provide light?

10 A. No.

11 Q. Have a seat down right there.

12 A. (The witness complies.)

13 Q. Thank you.

14 Now, did you determine what, if
15 anything, was the cause of the -- that first or the
16 second vehicle, vehicle number two, Mr. Taylor's
17 vehicle, from leaving the road, was that a driving
18 infraction when he left? What, if any, were driving
19 infractions?

20 A. Leaving the shoulder of the road and then
21 being on the wrong side of the road.

22 Q. Both of those would have been summonable
23 offenses, so to speak?

24 A. Correct.

25 Q. Driving infractions?

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 A. Correct.

2 Q. And Mr. Glover that testified, what, if
3 anything, driving infraction would he have been
4 summoned for, if at all?

5 A. None.

6 Q. And now let me ask you why was the second
7 Trail Blazer driven by Mr. Glover, why was he
8 determined not to be at fault in that collision?

9 A. We had a straight ahead movement, plus he
10 wasn't the cause of the collision.

11 Q. And let me ask you this. Let me ask you
12 about the tires. What, if anything, would you expect
13 to find through your investigation on the defendant's
14 vehicle if he had a flat tire that had blown out
15 before he overcorrected, before he veered off to the
16 right and overcorrected, what would you expect to
17 find?

18 A. In my experience there's been two different
19 types of tires that can go. One tire falls straight
20 down the rim, the second the tire gets chewed up. If
21 the tire gets chewed up, normally going to see a
22 gouge mark from the rim going from the asphalt to the
23 ground and vice-versa.

24 The second one you want to look at is if
25 a tire runs off the road and it is inflated, it's

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by Mr. Jeffries

1 going to leave -- basically the width of the tire
2 will be the width of the -- what's left on the road.
3 Where if it's a blown tire, of course the tire goes
4 flat. The tire goes flat, it's a lot wider, so
5 you're going to have a wider path that left the road
6 leaving -- leaving a wider path on that.

7 Q. Did you find any of that in this case?

8 A. No.

9 Q. Was there any indication that he had a flat
10 tire before?

11 A. No.

12 Q. Before he left the road?

13 A. No.

14 Q. Or when he crossed the center line?

15 A. No.

16 Q. Now, let me ask you about Mr. Taylor at the
17 scene. Did he receive any injuries, to your
18 knowledge?

19 A. Yes.

20 Q. And how was he treated?

21 A. Mr. Taylor?

22 Q. Mr. Taylor.

23 A. Mr. Taylor was transported to -- by ambulance
24 to Bamberg emergency room.

25 Q. And let me go back for just a second. The

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Neeleys' vehicle, are you aware of what gear it was
2 in after the collision?

3 A. Fifth.

4 Q. It was in fifth gear. It wasn't park?

5 A. That's a manual transmission, fifth gear.

6 Q. And what would that indicate?

7 A. That it was going fast enough to gear up to
8 fifth gear.

9 Q. And if the vehicle had been -- when it was
10 disabled in the road, if it had been placed in park,
11 what would it look like?

12 A. Usually neutral with the emergency brake
13 pulled up, freedom in the gear box.

14 Q. And it wasn't in that, that state?

15 A. No.

16 Q. All right. Back to Mr. Taylor. Did you have
17 the opportunity to go to the hospital where he was
18 that night?

19 A. I did.

20 Q. Why did you go to the hospital?

21 A. Mainly to make sure the interviews were done.
22 We try to interview all the parties and the second we
23 had received information from the EMS and some
24 firefighters that they had smelled alcohol.

25 Q. Okay. So was he suspected of committing any

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 certain offense?

2 A. Not until after I got there.

3 Q. Being that you had heard or you were told
4 that he may have smelled of alcohol, what, if any,
5 offense were you investigating?

6 A. Felony DUI.

7 Q. And so you went to the hospital. Did you
8 speak to Mr. Taylor?

9 A. I did.

10 Q. Where did you speak to him?

11 A. In one of the emergency room treatment rooms.

12 Q. Approximately what time was that that you
13 spoke to him?

14 THE WITNESS: Beg your pardon, Judge,
15 let me....

16 THE COURT: Okay.

17 A. I'm guessing 11:30, 11:40.

18 Q. Is that an approximation?

19 A. Yes, sir.

20 Q. And the collision you indicated earlier
21 happened, or you got the call approximately what
22 time?

23 A. Eight o'clock, 8:00 p.m.

24 Q. So this was between three and a half and four
25 hours later that you spoke to Mr. Taylor?

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 A. Correct. Correct.

2 Q. And was he under arrest when you spoke to
3 him?

4 A. No.

5 Q. Was he in custody when you spoke to him?

6 A. No, sir.

7 MR. JEFFRIES: Beg the Court's
8 indulgence.

9 THE COURT: All right.

10 Q. Now, notwithstanding the fact that he may
11 have been kept by hospital personnel for his
12 injuries, was he in custody of the South Carolina
13 Highway Patrol?

14 A. No.

15 Q. Was he free to leave as far as you were
16 concerned?

17 A. Yes.

18 Q. And because he was suspected of felony DUI
19 what, if anything, did you advise him of?

20 A. His Miranda rights after he was being advised
21 that an investigation was being started.

22 Q. When would you have told him of his Miranda
23 rights?

24 A. Immediately.

25 Q. And specifically what do you tell him?

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 A. Normally in the best case scenario -- I have
2 it in my pocket, so normally we try to read it out so
3 that nothing is missed. Even after 11 years I can
4 still miss something. May I? Yes?

5 Q. If you would go ahead.

6 A. It is as follows: You have right to remain
7 silent. Anything you say can and will be used
8 against you in a court of law. You have the right to
9 talk to an attorney and have him or her present with
10 you while you are being questioned. If you cannot
11 afford to hire an attorney, one will be appointed to
12 represent you before any questioning if you want.
13 You can decide at any time to exercise these rights
14 and not answer any questions or make statements. Do
15 you understand these rights as I have explained to
16 you? Having these rights in mind, do you wish to
17 talk to us now?

18 Q. Okay. Let me show you what's been labeled
19 State's Exhibit 6, ask you if you recognize this?

20 A. It's a black and white copy of what I just
21 read.

22 Q. Is that an exact copy of your card, in fact?

23 A. Yes.

24 MR. JEFFRIES: At this time, Your Honor,
25 I'd ask to admit State's Exhibit Number 6

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by Mr. Jeffries

1 into evidence.

2 THE COURT: Any objection?

3 MR. CHANDLER: Without objection, Your
4 Honor.

5 THE COURT: Very well.

6 (Entered into evidence was State's Exhibit 6,
7 Suspect's Rights/Miranda Warning card.)

8 Q. If he wasn't under arrest and he wasn't in
9 custody, why did you read him his rights?

10 A. Habit. Something I always do.

11 Q. And did you read it just like you read it
12 just now?

13 A. Yes, I did.

14 Q. Did he appear to understand what you were
15 saying?

16 A. Yes, he did.

17 Q. Did he appear to be intoxicated at all?

18 A. Yes.

19 Q. Through your experience you've had
20 opportunities to observe individuals under the
21 influence of alcohol --

22 A. Yes.

23 Q. -- and other drugs?

24 Could you understand what he was saying,
25 his responses?

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 A. Yes.

2 Q. Did he agree tell you what happened?

3 A. Yes.

4 Q. Who, if anyone, was present during your
5 conversation with Mr. Taylor?

6 A. For the most part it was just me and
7 Mr. Taylor. Every now and again a nurse would come
8 in.

9 Q. And tell the Court what he told you.

10 A. Ah....

11 Q. Tell the jury what he told you.

12 A. He stated -- I asked him if he recalled what
13 happened. He stated he hit a tree, nothing else.

14 Q. Did you inquire as to whether or not he had
15 been drinking?

16 A. Yes.

17 Q. And what did he say about that?

18 A. He said he had been.

19 Q. Did he tell you what he had to drink?

20 A. He said he had several Bacardi mixers with
21 some buddies on the river.

22 Q. Let me ask you, did you speak to anyone to
23 verify his story as to where he had been and what he
24 had to drink or specifically where he had been?

25 A. Where he had been, yes.

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Q. Who did you talk to?

2 A. I spoke with his wife that night.

3 Q. And did you confirm what he told you?

4 A. Yes.

5 Q. Did he tell you anything else?

6 A. No.

7 Q. Now, you indicated that you went to the
8 hospital to speak with him to investigate the -- the
9 collision. Did you have the opportunity to do
10 anything else involving Mr. Taylor?

11 A. I advised him of that blood was going to be
12 drawn.

13 Q. And what's the procedure and how does that
14 happen?

15 A. In a felony DUI case or any DUI case there is
16 a form by SLED that's Blood Collection Form that has
17 to be in an advisement of rights that has to be read
18 and then blood can be drawn. In a felony DUI they
19 cannot refuse to give blood.

20 Q. And did you take his blood?

21 A. Lab tech or a nurse did.

22 Q. How does that happen? Describe how the nurse
23 takes his blood. Are you there for that?

24 A. I request it. The advisement of rights was
25 read to -- read to him and then we wait on a nurse or

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 lab tech to come down. Kits, we have kits, sealed
2 kits that are taken out, she draws the blood, it is
3 put into my possession and it was sealed and we
4 actually by law have to stand in the room while the
5 blood's being drawn.

6 Q. Is that how it happened that night?

7 A. Yes, it did.

8 Q. Who actually provided the kit?

9 A. I believe I did. We all have the kits, but I
10 think I came in with the kit actually.

11 Q. What do you do with the kit after the blood
12 is drawn?

13 A. It is sealed.

14 Q. And what do you do with it after you leave
15 the hospital and it's in your possession?

16 A. It is -- well, on a good day you can take it
17 straight to SLED, on a bad day it has to be put into
18 refrigeration.

19 Q. Where is this refrigerator?

20 A. At troop seven headquarters in Orangeburg.

21 Q. Is it a secure refrigerator?

22 A. It is.

23 Q. How is it secured?

24 A. It is left unlocked, small refrigerator is
25 left unlocked until the first sample's put in, once

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 that first sample's put in it is locked.

2 Q. Was the blood sample you had in your
3 possession the entire time before you put it in the
4 refrigerator?

5 A. Yes.

6 Q. And did you ever handle that blood sample
7 again?

8 A. No.

9 Q. Anything unusual in the handling of that
10 blood sample?

11 A. No.

12 Q. And what ultimately happens to the blood
13 sample, why do you collect it?

14 A. It is taken by the evidence custodian and
15 taken to SLED for analysis.

16 Q. And what is SLED? Tell the jury what that
17 is.

18 A. South Carolina Law Enforcement Division.

19 Q. Okay. Did you -- while it was in your
20 custody, in your possession, did you ever tamper with
21 the seal?

22 A. No.

23 Q. Or in any way damage it?

24 Let me back up real quick on the -- you
25 indicated that you confirmed Mr. Glover's story about

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 where he had been by talking to his wife?

2 A. I talked to his wife; she had explained to me
3 that he had made a phone call, called her, told her
4 he was on his way home.

5 Q. What time did he make that phone call stating
6 that he was on his way home? I'm sorry, Mr. Taylor,
7 I think I said Mr. Glover.

8 A. 7:15 p.m.

9 Q. Okay. All right.

10 MR. JEFFRIES: Beg the Court's
11 indulgence.

12 THE COURT: Yes, sir.

13 Q. Now, did you arrest Mr. Glover the night of
14 this collision?

15 A. No.

16 Q. I'm sorry, Mr. Taylor. Did you arrest
17 Mr. Taylor the night of this collision?

18 A. No, I did not.

19 Q. And did you -- are you aware if your agency
20 received a toxicology report back from SLED?

21 A. Yes.

22 Q. And at some point were you able to make a
23 determination -- strike that.

24 Did you continue to investigate this
25 case?

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 A. Yes.

2 Q. What did you continue -- what did you do in
3 the following days?

4 A. We were able to interview, try to find, you
5 know, look for witnesses, anybody that may have
6 witnessed anything, measurements in the roadway,
7 pictures. We met with the MAIT Team for several days
8 after the accident, after the collision took place.

9 Q. And you indicated, you testified earlier
10 about the flat tire and the road marks. Is that what
11 you mean by going back to mark the road, take
12 measurements?

13 A. No. That was probably done that night.
14 Matter of fact, I knew it would be done that night.
15 This is width of lane one, width of lane two, total
16 width of the road, asphalt to asphalt, those type of
17 measurements, speed limit signs with dates on, that
18 sort of stuff.

19 Q. And you had come back the next couple of days
20 to do those?

21 A. Right.

22 Q. What, if any, other agency -- what, if any,
23 other part of your agency would have been involved
24 with the investigation?

25 A. The MAIT Team was called out.

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Q. What does the MAIT Team do, what is their
2 function?

3 A. MAIT Team is a reconstruction part of South
4 Carolina Highway Patrol that comes out and
5 investigates fatalities.

6 Q. And did they investigate this case?

7 A. Yes, they did.

8 Q. And don't tell me what the findings were, but
9 after they made their findings did you have the
10 opportunity to amend your report to reflect it?

11 A. Yes.

12 Q. And did you have any other involvement in the
13 case before preparing it for trial?

14 A. I'm sorry?

15 Q. Did you have any other involvement with the
16 investigation of the case other than preparing it for
17 trial in the last couple weeks?

18 A. No. Once the MAIT Team took over, no.

19 Q. And the individual that you spoke to at the
20 hospital and took his blood, the individual who told
21 you that he was drinking earlier that night, do you
22 see him in the courtroom?

23 A. Yes, I do.

24 Q. And would you point him out for the jury?

25 A. Yes, here.

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Jeffries

1 Q. For the Court?

2 MR. JEFFRIES: Your Honor, may the
3 record reflect he's identified the defendant?

4 THE COURT: Yes.

5 MR. JEFFRIES: Beg Court's indulgence.

6 Q. That's all the questions I'd have. Answer
7 any questions Mr. Chandler has.

8 THE COURT: Yes, cross-examination.

9 MR. CHANDLER: Thank you, Your Honor.

10 THE COURT: Yes.

11 CROSS-EXAMINATION

12 BY MR. CHANDLER:

13 Q. Lance Corporal, you indicated with regard to
14 these tests, did you do any tests or any measurements
15 with regard to checking to see if there was a blowout
16 on the tire, whether it was a tire -- you did all
17 this explanation about tire blowouts, did you do the
18 measurements you were talking about?

19 A. The measurements on the roadway, then leaving
20 the roadway, yes.

21 Q. I'm talking about with regard to the findings
22 about whether or not there would be a blowout of the
23 tire or not.

24 A. Yes.

25 Q. You mean you did measurements of the width of

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 the --

2 A. The only measurements I would have taken
3 would have been when the car left the shoulder of the
4 road.

5 Q. So the answer is you didn't do any
6 measurements regarding the width of the tire which
7 was your prior statement regarding this blowout; is
8 that correct?

9 A. I don't remember saying I measured any tires.

10 Q. You talked about that you would use the
11 measurement of tires to determine whether or not
12 there was a blowout. Did you -- did you make any
13 measurements of tires?

14 A. The only thing that was measured on there was
15 the width of the tire --

16 Q. Did you --

17 A. -- to put onto the measurement on the -- off
18 the side of the road.

19 Q. Did you measure it for the purposes of a
20 blowout, Lance Corporal?

21 A. No.

22 Q. So your testimony regarding the blowout, you
23 didn't even do any tests regarding that; isn't that
24 correct?

25 A. The only measurements taken was the

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 measurement from the tire to the shoulder of the
2 road.

3 Q. Did you do any tests with regard to blowouts?

4 A. Yes. It had to be done from that tire.

5 Q. You did the tests?

6 A. The tire that -- the original tire that left
7 the roadway, the one that we're talking about, the
8 width of that tire to the width of the mark left on
9 the shoulder of the road, yes, that was done by me.

10 Q. You performed that test?

11 A. Yes. Yes.

12 Q. And so you -- there's specifically then in
13 your report some statement about that there was no
14 blowout of this -- my client didn't have any blowout?

15 A. I would have to go through and see, but
16 why --

17 Q. Isn't it true you didn't make any statements
18 regarding a blowout?

19 A. Correct.

20 Q. That is correct?

21 A. Correct.

22 Q. When -- you indicated that you went to --
23 well, let's -- let's -- let's stay with this. You
24 did on the scene, you did look at the tires; isn't
25 that correct?

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 A. Yes. Yes.

2 Q. And you did look at the tires of the vehicle
3 that my client was driving; isn't that correct?

4 A. Yes.

5 Q. And on those vehicles you did find that the
6 rear right tire was -- had complete damage to it?

7 A. Missing, yes. Completely knocked off the
8 vehicle.

9 Q. Completely just --

10 A. Right.

11 Q. Would complete damage be --

12 A. Yes, sir.

13 Q. Would complete damage to the rim be an
14 accurate statement?

15 A. Yes, sir.

16 Q. Okay. And with regard to your investigation,
17 how do you keep -- I mean, this is a lot of
18 information that you're -- you're accumulating, how
19 do you keep an accurate account of this information?

20 A. Not everything that I do is written down, no.

21 Q. Okay. Not everything you do is written down?

22 A. Right.

23 Q. So we wouldn't know if you did it or not?

24 A. Correct.

25 Q. But for the things that you do write down it

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 is correct, it is true that you do keep notes?

2 A. Yes.

3 Q. And you keep notes at the time that you find
4 something?

5 A. Yes.

6 Q. So if you look at my client's rear tire you
7 would say that there would be complete damage to the
8 rear --

9 A. It's on the fatality report, yes.

10 Q. But wouldn't you also keep it on your notes?

11 A. I believe I did, yes.

12 Q. Yes. Right rear deflated, detached, complete
13 damage to the rim?

14 A. You found it faster than I did.

15 Q. I'll just -- for the purposes I'm going to
16 hand you --

17 A. I've got it.

18 Q. Okay. All right. Well, let me -- let me
19 hand you this. I'm going to hand you this. Let me
20 get it marked.

21 (Marked for identification was Defendant's
22 Exhibit 1, field notes.)

23 (Marked for identification was Defendant's
24 Exhibit 2, field notes.)

25 Q. All right. I'm first going to hand you what

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 has been marked as Defendant's Exhibit Number 1.

2 What is that?

3 A. These are my sketch notes, field notes.

4 Q. I mean, it's not the original, but does it
5 fairly and accurately represent the notes that you
6 took --

7 A. Yes.

8 Q. -- in your investigation?

9 A. Uh-huh.

10 Q. I'm now going to hand you what's been marked
11 as Defendant's Exhibit Number 2. What are those?

12 A. The same thing. Same thing.

13 Q. They're your field notes and they would
14 fairly and accurately represent the notes that you
15 took in your investigation of this case?

16 A. Correct.

17 Q. Okay.

18 MR. CHANDLER: At this time, Your Honor,
19 we would like to enter this as defense
20 evidence 1 and 2.

21 MR. JEFFRIES: Without objection.

22 THE COURT: Very well. Defendant's
23 Exhibits 1 and 2 in evidence without
24 objection.

25

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 (Entered into evidence was Defendant's
2 Exhibit 1, field notes.)

3 (Entered into evidence was Defendant's
4 Exhibit 2, field notes.)

5 MR. CHANDLER: Thank you, Your Honor.

6 Q. Lance Corporal, you indicated that you had
7 opportunity to speak with my client at the hospital?

8 A. Yes.

9 Q. And it was at that time that you asked him
10 what he had to drink?

11 A. Correct.

12 Q. Now, on direct examination you indicated that
13 my client said that he had several drinks?

14 A. Correct.

15 Q. However, I'm going to hand you Defendant's
16 Exhibit Number 2, I know you have it in front of you,
17 but where it indicates drinks, it doesn't indicate
18 that he said two shots of Bacardi?

19 A. Correct.

20 Q. So now which would be more accurate, Lance
21 Corporal, the notes that you are taking while you're
22 speaking to my client or your recollection now as
23 you're trying to make a felony DUI case against my
24 client?

25 A. Probably the written.

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 Q. The written would be more accurate?

2 A. Yes, sir.

3 Q. So you say several, but you write down two?

4 A. Correct.

5 Q. Okay. So which one is it? What did he say?

6 A. It's the same thing as I said. I

7 investigate, not write everything down, things may be

8 written down other than what is being spoken at the

9 scene. So, I mean, it's -- I mean, for this right

10 here I have no reason.

11 Q. You have no reason?

12 A. No.

13 Q. It's right here. So he didn't say several,

14 he said two; didn't he?

15 A. No, he said several, but what I've got

16 written down is different.

17 Q. Okay. Also with regard to Defendant's

18 Exhibit Number 2, looks like you looked at the tires

19 of my client's, this indicated as a brown Trail

20 Blazer. With regard to RR or right rear, what did

21 you indicate?

22 A. Right rear deflated, detached, complete

23 damage to rim.

24 Q. Okay. Lance Corporal, I'm going to show you

25 what you already testified to and I think this is

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 State's Exhibit 1A and it is in reference to --

2 A. Want me to step back here?

3 Q. Okay, yeah, if you don't mind. Where was
4 that nifty stick thing?

5 A. You want these?

6 Q. I'll hold it up while we talk.

7 A. Okay.

8 Q. With regard to the collision path that --
9 with regard to the first incident, vehicle number two
10 being my client's, vehicle number one being that of
11 the victim; is that correct?

12 A. Correct.

13 Q. You indicated that the -- that the vehicle
14 was at some point disabled, at some point it was
15 disabled?

16 A. What vehicle?

17 Q. Vehicle number one. Isn't that correct, you
18 said --

19 A. Yeah, after the first collision.

20 Q. Yeah, so after the first collision. So after
21 the first collision that if it was, in fact, going --
22 they were traveling in fifth gear and struck, it was
23 disabled? It was disabled?

24 A. Correct, yes.

25 Q. And so -- so even if another car, while the

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 clients were in there, either way struck them, it
2 would still be in fifth gear?

3 A. Correct.

4 Q. Okay. How long have you been with Highway
5 Patrol?

6 A. Eleven years.

7 Q. Okay. And if -- as a highway patrolman for
8 11 years have you ever witnessed a speeding case?

9 A. Yes.

10 Q. If somebody was traveling, let's say,
11 anywhere from 12 to 14 miles above the speed limit,
12 would normally they be arrested or charged if they
13 were clocked for speeding or if you could prove that?

14 A. Yes.

15 Q. What if somebody was speeding at a rate in
16 excess of the speed limit and there was an object on
17 the road and they were driving too fast to avoid the
18 object, under those circumstances isn't it true that
19 they would normally be charged with driving too fast
20 for conditions?

21 A. Along with other circumstances, yes.

22 Q. Yes. And if, in fact, somebody was driving
23 at a speed in excess of the speed limit, within 12 to
24 14 miles in excess of the speed limit and struck a
25 person or struck a vehicle and someone was either

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 injured or hurt, wouldn't reckless driving in certain
2 circumstances would also be appropriate?

3 A. Well, speed doesn't necessarily just
4 constitute reckless driving, there's got to be some
5 other factors in there.

6 Q. What about the inability to avoid an accident
7 based on the high speed?

8 A. Yeah.

9 Q. That would?

10 And what if someone was killed, wouldn't
11 reckless homicide then be an appropriate charge?

12 A. Could be, yes.

13 Q. Okay.

14 MR. CHANDLER: Beg the Court's
15 indulgence.

16 THE COURT: Yes, sir.

17 Q. While you were on the scene, Lance Corporal,
18 did you have an opportunity to observe the bodies?

19 A. Yes.

20 Q. Yes. And please, if you don't mind, could
21 you give us the location of the bodies based on your
22 observation?

23 A. Well, when I was there at the time as far as
24 the identities we didn't know, so I'm not going to be
25 able to help you out as far as --

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 Q. We don't need to know just --

2 A. The only one I could help you out with was
3 the front passenger seat which was -- which was the
4 female, the rest at that time when I was there before
5 I left from there to go to the hospital we didn't
6 know the identity.

7 Q. All right. But not as to identity, but as to
8 position of the bodies, was there a body behind the
9 driver's seat?

10 A. No.

11 Q. And because of that actually indicated we
12 didn't know who the driver is in your report?

13 A. Initially, yes.

14 Q. Because you didn't know?

15 A. Right.

16 Q. Is it possible for a car to travel at fifth
17 gear down the street with no driver sitting in the
18 driver's seat?

19 A. No.

20 Q. Where were the other bodies positioned, Lance
21 Corporal?

22 A. I know that we know that there were two in
23 the back seat and one in the front seat partially
24 ejected through the windshield.

25 Q. Did you see any pairs of legs in the front

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 seat?

2 A. We initially had saw to where the legs were
3 crossed and it appeared to be where they were over
4 the center console facing that way and that's --
5 that's when at that time we said we're not -- at this
6 time we did not know who the driver was because we
7 could not even initially place a driver behind the
8 wheel of the car. So the only thing that we're --
9 I'm sorry.

10 Q. No, you go ahead.

11 A. But as far as the positions of the bodies, I
12 know that they were tarped when I got there and their
13 pictures were taken, but we knew we had enough --
14 let's see how I could put it. Where they were
15 located we could not put one in the driver's seat.
16 Where the legs and the bodies were located we could
17 not put one in the driver's seat.

18 Q. Lance Corporal, going back to your
19 statements, I mean your notes versus your collision
20 report, could there be some things that you observed
21 you saying that were in the notes but not in your
22 collision report?

23 A. Yes.

24 Q. And could there be some things that you
25 observed and you saw that was not in your -- in your

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 collision report, but not in your notes?

2 A. Correct.

3 Q. And could there be some things that you just
4 didn't write down?

5 A. Correct.

6 Q. But you recollect?

7 A. Correct.

8 Q. Okay.

9 MR. CHANDLER: Beg Court's indulgence.

10 THE COURT: Yes, sir.

11 (Mr. Chandler conferring with Mr. Taylor.)

12 Q. Lance Corporal, when you talked to my client
13 did you inform him that as a result of the accidents
14 that occurred or the multiple collisions that
15 occurred that three people were killed?

16 A. No.

17 Q. When you told him that he was being
18 investigated for felony DUI, did you at that time
19 even tell him that three people were even injured, or
20 seriously injured?

21 A. Yes. I told him how many vehicles were
22 involved and how many people were involved.

23 Q. Okay. But you didn't tell him there were
24 these three fatalities?

25 A. No.

Lance Corporal Steven Pearrow - Cross-Exam
by Mr. Chandler

1 MR. CHANDLER: Just quickly, I'm
2 hurrying. No further questions.

3 THE COURT: Very well. All right.
4 Redirect?

5 MR. JEFFRIES: Very briefly, Your Honor.

6 THE COURT: All right.

7 REDIRECT EXAMINATION

8 BY MR. JEFFRIES:

9 Q. Mr. Chandler asked you about several
10 different scenarios in which someone would be charged
11 for reckless driving, reckless homicide. Under this
12 set of circumstances, would an individual in
13 Mr. Glover's situation be charged with reckless
14 homicide or reckless driving?

15 A. No.

16 Q. And why is that?

17 A. He didn't cause the collision.

18 Q. And let me also ask you -- Mr. Chandler asked
19 you about this tire blowout and why -- whether or not
20 you checked the tires. First of all, if there was
21 any indication of a tire blowout, would that be in
22 your report?

23 A. Yes.

24 Q. And you spoke to Mr. Taylor at the hospital.
25 Did he tell you anything about a tire blowout?

Lance Corporal Steven Pearrow - Redirect Exam
by Mr. Jeffries

1 A. No.

2 Q. But he could tell you he was down at the
3 river drinking; is that right?

4 A. Correct.

5 Q. He could tell you he thought he hit a -- he
6 just knew he hit a tree?

7 A. Correct.

8 Q. And he told you when he called his wife?

9 A. He told me he called his wife; I don't know
10 if he gave me a specific time.

11 Q. He told you he called his wife?

12 A. Yes.

13 Q. Did he say anything about a tire blowout?

14 A. No.

15 Q. In fact, when was the first time you've heard
16 anything about a tire blowout?

17 A. Today.

18 Q. Now, he also -- going back to that tire
19 blowout or the tire damage, let me refer to State's
20 Exhibit Number 1A and ask you where is vehicle number
21 one -- come on down.

22 A. (The witness complies.)

23 Q. Where is vehicle number one striking vehicle
24 number two?

25 A. On the side, right side.

Lance Corporal Steven Pearrow - Redirect Exam
by Mr. Jeffries

1 Q. And would this be the rear tire of the
2 damage?

3 A. Yes.

4 Q. Was that wheel actually knocked off?

5 A. Yes.

6 Q. And to your -- through your investigation was
7 that as a result of this collision?

8 A. Yes.

9 Q. That's all I have.

10 THE COURT: All right. Recross?

11 MR. CHANDLER: Thank you, Your Honor.

12 THE COURT: Yes. Recross-examination.

13 RECROSS-EXAMINATION

14 BY MR. CHANDLER:

15 Q. You just -- isn't it true that you just
16 indicated that there's some things that you saw that
17 you observed that you hadn't even put in your
18 collision report?

19 A. Correct.

20 Q. And so it is possible that there's a number
21 of things that he said, my client said to you that
22 you didn't put in your collision report or that you
23 didn't put in your notes; isn't that correct?

24 A. Correct.

25 Q. Okay. No further questions.

1 THE COURT: Very well. All right.
2 You'll stay with us. Come on down.
3 (Whereupon, the witness steps down from the
4 witness stand.)

5 THE COURT: Ladies and gentlemen, that
6 will conclude the work that we are going to
7 do today. And when you go home this evening,
8 let's review. Yes, you can tell whomever is
9 curious, you can say I reported for the jury
10 selection this morning, I was selected to
11 serve on the jury and it is a criminal as
12 opposed to a civil matter. But beyond that,
13 ladies and gentlemen, you must not discuss
14 this matter or allow anyone to discuss it
15 with you. But don't you take any upset, put
16 it on the judge. Don't let them get upset
17 with you, let them get upset with me.

18 Again, if anybody -- anybody work
19 third shift, second shift? Good. Don't work
20 tonight now, I want you all to rest.

21 And please do not read anything
22 about this matter, do not listen to any
23 reports about this matter, that includes,
24 let's see, radio, the television and now I
25 have to say the internet, and the internet.

1 You must receive all of the information from
2 which you will make up your mind regarding
3 this matter here in court while court is in
4 session.

5 Have a lovely evening and I will
6 see you in the morning, ladies and gentlemen,
7 at 9:30. At 9:30. Have a good evening and
8 you can go this way and go with the bailiffs.

9 Those of you that are in the
10 courtroom, please give our jurors a little
11 bit of time to leave before you exit the
12 courtroom.

13 (Whereupon, the jury is excused at 5:11 p.m.)

14 THE COURT: Thank you. All right.
15 Anything from the State before we conclude
16 for this evening?

17 SOLICITOR PASCOE: Thank you, Your
18 Honor. Can I make one quick motion? You
19 don't have to rule on it today.

20 THE COURT: Sure.

21 SOLICITOR PASCOE: I would object to any
22 more references by either side, State or
23 defense, to reckless homicide, reckless
24 driving, speeding. What the laws are with
25 regards to those crimes I think that it's

1 irrelevant to this case, it's prejudicial to
2 the State and it invokes third-party guilt on
3 the part of Mr. Glover, Jessie Glover.

4 The defense can make their point
5 that an intervening cause may have caused
6 their deaths and accidents without having to
7 get into what the laws are of reckless
8 homicide, reckless driving and things like
9 that.

10 THE COURT: It's so very difficult for
11 me to rule in a vacuum. If you would be so
12 kind as to object at the time that they are
13 made.

14 SOLICITOR PASCOE: Okay.

15 THE COURT: But let me get you to
16 approach.

17 SOLICITOR PASCOE: And you're right, and
18 that's why I wanted to....

19 (Whereupon, a bench conference was held off
20 the record.)

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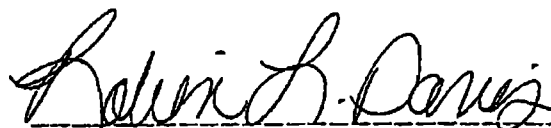
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Davis, Certified Shorthand Reporter and Registered Merit Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 31st day of October 2007.


Robin L. Davis, CSR, RMR

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 : CASE NOS. 2005-GS-38-2141,
COUNTY OF ORANGEBURG) 2142, 2143

STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
 Plaintiff,)
) JURY TRIAL - VOLUME III
 -versus-)
) May 3, 2007
JIMMY R. TAYLOR,)
 Defendant.) Orangeburg, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein, Judge; and Jury

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

David Pascoe, Esquire
Bryan Jeffries, Esquire
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STATE'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-4	Photographs of the Collision Scene	50	298
S-7	Blood Sample Kit	266	271
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DEFENDANT'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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1 (May 3, 2007.)

2 THE COURT: Please be seated, everyone.
3 All right. Anything from the State before we
4 bring the jury out?

5 SOLICITOR PASCOE: No, Your Honor.

6 THE COURT: From the defense?

7 MR. CHANDLER: None from the defense,
8 Your Honor.

9 THE COURT: Very well. Let's have the
10 jury, please.

11 (Whereupon, the jury returns to the courtroom
12 at 10:17 a.m.)

13 THE COURT: Good morning, ladies and
14 gentlemen. Let me begin by telling you that
15 I apologize for keeping you in your jury room
16 this morning. The reason is, is that there
17 were some things that needed to be tended to
18 with an eye towards expediting your time
19 here, so while you were cooling your heels or
20 waiting, it is an eye towards expediting
21 matters, believe it or not, to limit your
22 time.

23 And, ladies and gentlemen, I need
24 to ask of you whether or not any of you had
25 occasion to see the *Times and Democrat* this

1 morning, either the newspaper itself or on
2 the internet. If you had occasion to see the
3 *Times and Democrat*, please raise your hand.
4 Nobody looked at the *Times and Democrat* this
5 morning because you were getting ready to run
6 into court this morning first thing? And
7 that means either the newspaper itself or the
8 internet. Very well. Thank you so much,
9 ladies and gentlemen.

10 At this time we will continue with
11 the State's case. If you'd call your next
12 witness.

13 MR. JEFFRIES: Thank you, Your Honor,
14 may it please the Court. State calls Regina
15 Guinyard.

16 (Marked for identification was State's
17 Exhibit 7, blood sample kit.)

18 (Regina Guinyard, called as a witness, having
19 first been duly sworn, is examined and
20 testified as follows:)

21 DIRECT EXAMINATION

22 BY MR. JEFFRIES:

23 Q. Good morning, Ms. Guinyard.

24 A. Morning.

25 Q. Where are you currently working? Are you

Regina Guinyard - Direct Exam by Mr. Jeffries

1 working right now?

2 A. I'm working at Barnwell County Hospital.

3 Q. And where did you work before Barnwell County
4 Hospital?

5 A. Bamberg County Hospital.

6 Q. Bamberg County Hospital.

7 I'm going to ask you to try to speak
8 real loud so the jury can hear and you also so the
9 court reporter can hear you. Where were you working
10 back in October 2005?

11 A. Bamberg County Hospital.

12 Q. And where specifically in the hospital were
13 you working?

14 A. In the laboratory.

15 Q. And what did you do at the hospital?

16 A. Drew blood, phlebotomy and ran different
17 tests on blood and everything. I was a medical lab
18 technologist.

19 Q. Okay. And as a lab technologist did you have
20 the opportunity to take blood from individuals who
21 were suspected of any criminal wrongdoing?

22 A. Yes.

23 Q. And specifically individuals who may have
24 been charged with DUI, did you have the opportunity
25 to take blood from them?

1 A. Yes.

2 Q. And in a situation where an individual is --
3 in this case a patient comes to the emergency room to
4 have blood drawn, what, if anything -- let me ask
5 you, who was with them in a situation like that? Do
6 they come alone or who else would be with them?

7 A. Usually the highway patrol or -- just the
8 highway patrol.

9 Q. And is it the highway patrol or other law
10 enforcement agencies that actually request you to
11 take a blood sample?

12 A. Yes.

13 Q. And explain how you would take a blood sample
14 when requested by law enforcement.

15 A. They would bring in their own little case or
16 kit for me to draw the blood with and it has -- it
17 has its own tube and everything in it. All I have to
18 do is draw the blood, fill out the paperwork and seal
19 it up, hand it back to the highway patrol.

20 Q. Okay. And are you trained in taking blood?

21 A. Yes.

22 Q. What kind of training have you had?

23 A. I have a degree in medical lab technology and
24 that's part of my training, that's part of the degree
25 program and everything.

Regina Guinyard - Direct Exam by Mr. Jeffries

1 Q. And I think you just kind of indicated this,
2 but what do you do with the blood after it's drawn?

3 A. After it's drawn I label it, I seal it up and
4 put it back in the kit that they give me and hand it
5 back to the highway patrol.

6 Q. When you say "they," is that the highway
7 patrol?

8 A. Yes.

9 Q. They give you the kit?

10 A. Yes.

11 Q. Okay. And describe, if you would, the seal
12 that you're talking about.

13 A. Well, the seals.-- the seals, they go over
14 the tube and the -- they go over the tube, they go
15 over the container, everything that's in it, it's a
16 seal that only the SLED people I guess have to open,
17 so once I close it, that's it.

18 Q. And with regards to how you draw the blood,
19 you don't do -- what do you use in order to draw the
20 blood, do you just insert the needle?

21 A. Yes, sir. I use Betadine instead of alcohol
22 and I insert the needle into the vein, fill up the
23 gray tube and that's it.

24 Q. What's the reason you don't use alcohol?

25 A. Sometimes alcohol can rub off into the test.

Regina Guinyard - Direct Exam by Mr. Jeffries

1 Q. Okay. And who keeps the blood afterward,
2 after you take it?

3 A. The highway patrol.

4 Q. And let me show you what's been labeled
5 State's Exhibit Number 7 for identification. Let me
6 ask you if you recognize State's Exhibit Number 7?

7 A. Uh-huh. Yes, sir.

8 Q. And specifically the box inside State's
9 Exhibit Number 7, you recognize that?

10 A. Yes, sir.

11 Q. What is that?

12 A. That's -- that's the container that I put
13 everything in afterwards and the seal that's on -- on
14 there is the evidence seal that I have to initial and
15 once I close it up that's it, nobody can open it up
16 after that.

17 Q. And who is the individual subject that blood
18 was taken in that case?

19 A. Jimmy R. Taylor.

20 MR. JEFFRIES: Your Honor, at this time
21 I would ask to move State's Exhibit Number 7
22 into evidence.

23 MR. CHANDLER: Without objection, Your
24 Honor.

25 THE COURT: Very well. State's

Regina Guinyard - Direct Exam by Mr. Jeffries

1 Exhibit 7 in evidence without objection.

2 (Entered into evidence was State's Exhibit 7,

3 blood sample kit.)

4 Q. And let me ask you a couple other things
5 about that container. Does it indicate who drew the
6 blood?

7 A. Yes.

8 Q. And who drew the blood?

9 A. I did, Regina Guinyard.

10 Q. Does it indicate what highway patrol was
11 present for that, who took custody?

12 A. Yes, sir.

13 Q. Who was that?

14 A. S. J. Pearrow.

15 Q. Pearrow, okay.

16 And does it indicate the date it was
17 taken?

18 A. Yes, sir.

19 Q. When was that?

20 A. 10/21/05.

21 Q. Did you draw this blood as you just described
22 to the jury is your usual practice?

23 A. Yes.

24 Q. Anything unusual about the blood draw?

25 A. No, sir.

1 Q. And although that State's Exhibit Number 7 is
2 no longer sealed on the box, was it sealed after you
3 put the blood in it?

4 A. Yes, sir.

5 Q. I'll take that back from you.

6 A. (The witness complies.)

7 Q. Does it indicate what time the blood was
8 drawn?

9 A. Yes, sir.

10 Q. What time was it drawn?

11 A. 11:41 p.m.

12 Q. And that's on what date again?

13 A. 10/21/05.

14 Q. And once you actually sealed the package and
15 gave it to law enforcement, did you have any other
16 opportunity to handle the package?

17 A. No, sir.

18 Q. And have you seen it before today since then?

19 A. No, sir.

20 Q. Now, did you know Mr. Jimmy Taylor?

21 A. No, sir.

22 Q. Did you know the officer that came to have
23 the blood drawn?

24 A. No, sir.

25 Q. After you took the blood from the subject

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1 Mr. Taylor, did you, or the officer present, either
2 of you, try to tamper with the packaging in any way?

3 A. No, sir.

4 Q. And did you try to open it in any way after
5 it was sealed?

6 A. No, sir.

7 Q. Did you see the officer try to open it or
8 tamper with it?

9 A. No, sir.

10 Q. That's all I'd have. Please answer any
11 questions Mr. Chandler might have.

12 MR. CHANDLER: No questions from the
13 defense, Your Honor.

14 THE COURT: Very well. Thank you. Is
15 this witness free to leave?

16 MR. CHANDLER: Yes, ma'am.

17 THE COURT: Very well. Thank you. You
18 are free to go.

19 (Whereupon, the witness steps down from the
20 witness stand.)

21 THE COURT: Call your next witness,
22 please.

23 MR. JEFFRIES: State calls First
24 Sergeant Richard Taylor.

25

1 (First Sergeant Richard Taylor, called as a
2 witness, having first been duly sworn, is
3 examined and testified as follows:)

4 DIRECT EXAMINATION

5 BY MR. JEFFRIES:

6 Q. Where are you employed?

7 A. With the South Carolina Highway Patrol.

8 Q. And what is your -- how long you been with
9 the highway patrol?

10 A. Seventeen years.

11 Q. And what's your current title, your job
12 position?

13 A. I'm first sergeant with the highway patrol.
14 I oversee the operations for Orangeburg and Calhoun
15 County for the highway patrol.

16 Q. Okay. And are you also involved with
17 evidence preservation in some way for the highway
18 patrol?

19 A. I am. I am the evidence custodian for this
20 post.

21 Q. And let me ask you, in general does the
22 highway patrol have the occasion to take blood
23 samples from individuals?

24 A. We do.

25 Q. Under what circumstances does the highway

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 patrol take blood samples?

2 A. In investigating collisions where we try to
3 determine impairment, we charge subjects with driving
4 under the influence.

5 Q. And I say the highway patrol takes samples.
6 Y'all don't actually draw the samples, do you?

7 A. No, sir. We direct that they be drawn by a
8 person.

9 Q. By personnel at hospitals or emergency rooms?

10 A. That's correct.

11 Q. And when you're taking a blood sample, what
12 are you trying to determine?

13 A. Impairment.

14 Q. What, if anything, would cause impairment?

15 A. Alcohol and/or drugs.

16 Q. And after you have the blood drawn by trained
17 personnel, what, if anything, do you do with the
18 samples in order to have them tested?

19 A. The samples are taken to the South Carolina
20 Law Enforcement Division for analysis.

21 Q. And between the time that the samples are
22 actually taken to South Carolina Law Enforcement
23 Division also known as SLED and they're in the
24 custody of the highway patrol, where are they kept?

25 A. We have a refrigerator at the post

1 headquarters where only samples, either blood or
2 urine samples are placed in, it's locked with the
3 evidence in it, but that's all it's used for is to
4 put blood and urine samples in.

5 Q. So you say this refrigerator is locked?

6 A. That's correct.

7 Q. Who has access to it?

8 A. I have. As the evidence custodian I'm the
9 only one that has access to that.

10 Q. And how do these samples get to SLED after
11 they're taken out of the refrigerator?

12 A. I either give it back to the investigating
13 officer or I, as the evidence custodian, take it
14 myself to SLED.

15 Q. And when you receive these blood samples,
16 what kind of condition are they in, how are they
17 packaged?

18 A. They're sealed with an integrity seal. The
19 box they speak of, SLED provides those boxes to us
20 for this purpose and they are sealed by the officer
21 with the integrity seal on it, when I get it it's
22 sealed with that integrity seal, chain of custody is
23 placed with it in the refrigerator.

24 Q. And describe this integrity seal. How is it
25 different from regular tape?

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 A. It's stronger than regular tape and it's also
2 marked "Evidence Do Not Remove." Well, that nature,
3 it's clearly marked as an evidence seal and it's
4 stronger than regular tape so you'd actually have
5 to -- you'd actually have to put some effort in
6 removing it or cutting it or whatever.

7 Q. Is it fairly obvious whether somebody has
8 tampered with or torn open that seal?

9 A. Yes, sir.

10 Q. What, if any, other markings are on the kit
11 itself?

12 A. The name of the person the sample was drawn
13 from, the date, the time, the investigating officer,
14 generally the charges and if the officer knows the
15 case number, which is our evidence case number, then
16 that's placed on there also. But just to identify
17 that particular package as where it's from and what
18 for.

19 Q. Okay. Let me ask you specifically, did you
20 have the opportunity to take a blood sample or come
21 into custody of a blood sample kit involving the
22 subject Jimmy Taylor?

23 A. I did.

24 Q. And where, first of all, did you receive that
25 sample from?

1 A. I received it from the refrigerator. It was
2 placed in a refrigerator and I took it out of the
3 refrigerator at the headquarters.

4 Q. When did you take it out of the refrigerator?

5 A. I believe on October 24th I removed it and
6 took it to SLED.

7 Q. And are you aware of when it was placed in
8 the refrigerator?

9 A. On October 22nd.

10 Q. And who placed it in there?

11 A. Trooper Pearrow did.

12 Q. And was that refrigerator secured when you
13 removed it?

14 A. It was.

15 Q. And was the kit itself secured?

16 A. It was.

17 Q. And how was it secured?

18 A. It was secured in the box with the integrity
19 seal still in place.

20 Q. And what, if any, markings would have been
21 specifically on this kit?

22 A. On that kit would have had Jimmy Taylor's
23 name, Trooper Pearrow's name, the date of the -- the
24 date and time of the blood draw, I believe it -- and
25 what it was being investigated for.

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 Q. And when you received this blood kit on the
2 subject Jimmy Taylor, was there any sign of tampering
3 on it?

4 A. No, sir.

5 Q. How would you know if there was any tamper?

6 A. The integrity seal would have to be broken.
7 It would be obvious, it's not a piece of tape you can
8 take off a corner and put it back, it's stronger than
9 that. The integrity seal would actually have to be
10 torn and be very obvious.

11 Q. What did you do with that blood sample kit
12 after you took custody from the refrigerator?

13 A. I took that to SLED for analysis.

14 Q. When you take it to SLED, how do you actually
15 submit it to them?

16 A. Submit it to their evidence custodian,
17 actually take the paperwork to their evidence
18 custodian, they fill out the paperwork, the box stays
19 in my possession the whole time. Once they print
20 out, you know, their analysis request they attach it
21 to a bag, they hand me a bag, I place the box with
22 the samples inside the bag and then it's sealed, it's
23 heat sealed for when I suppose the chemist gets it.

24 Q. Do you do anything to memorialize actually
25 submitting that kit into the -- with SLED?

1 A. I do, yes, sir.

2 Q. What do you do?

3 A. Once it's heat sealed by them I place my
4 initials on the heat seal with the date and then I
5 sign as the sealing official and date it on the bag,
6 so actually the heat seal so if it's -- if that's
7 broken it would be obvious also.

8 Q. And when you -- this bag that you are
9 describing that you -- they put it in, who provides
10 that bag?

11 A. SLED does.

12 Q. Okay. And when you -- while you had this
13 blood sample kit before you submitted it to SLED, did
14 you tamper with it or try to open it?

15 A. No, sir.

16 Q. Did you see where it had been tampered with
17 or opened by anyone else?

18 A. No, sir.

19 Q. Was it in the same condition that you
20 received it from the refrigerator when you turned it
21 over to SLED?

22 A. It was.

23 Q. Other than you then put it in this bag and
24 heat sealed it, or they did?

25 A. That's correct.

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 Q. In your presence?

2 A. That's correct.

3 Q. And it stayed in your custody the entire time
4 before you submitted it into the -- where did you
5 submit it?

6 A. They -- they have I guess a big refrigerator
7 themselves, they call it the tox box, and once I
8 initial there I put it straight in the toxicology box
9 for them to remove for analysis.

10 Q. Did you ever have the opportunity to possess
11 that sample after you dropped it in that tox box?

12 A. No, sir.

13 Q. Let me show you State's Exhibit Number 7 and
14 ask you if you recognize what's in this package
15 that's already in evidence?

16 A. That's correct. That's the box that contains
17 samples from Jimmy Taylor. That's the actual SLED
18 box. It's crushed, but it's empty.

19 Q. What's it contained in?

20 A. That's actually the bag that they provide at
21 SLED with the heat seal at top with my initials up
22 there, that's how it's heat sealed and my signature
23 and date when I sealed it.

24 Q. You indicated those are your initials. What
25 letters are on there?

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 A. W. R. T. for William R. Taylor.

2 Q. Also what is notated?

3 A. The date, 10/24/05.

4 Q. Okay. Is it in the same condition as when
5 you submitted it to SLED, or what's different?

6 A. No, sir. It's empty. The box is actually --
7 I mean, it's a box, it has the samples in there.
8 Obviously the integrity seal has been broken but, no,
9 it's empty now.

10 Q. Okay. And from October 24th when you
11 submitted the blood sample kit to SLED and the tox
12 box, have you had to handle, have you seen that kit
13 that I just showed you before today?

14 A. No, sir.

15 MR. JEFFRIES: Beg the Court's
16 indulgence.

17 THE COURT: Yes.

18 Q. Please answer any questions Mr. Chandler
19 might have.

20 THE COURT: Cross-examination.

21 MR. CHANDLER: No questions from the
22 defense, Your Honor.

23 THE COURT: All right. Very well. Is
24 this witness free to leave?

25 SOLICITOR PASCOE: Yes.

First Sergeant Richard Taylor - Direct Exam
by Mr. Jeffries

1 THE COURT: You are free to go.

2 (Whereupon, the witness steps down from the
3 witness stand.)

4 THE COURT: Please call your next
5 witness.

6 SOLICITOR PASCOE: State calls
7 Lieutenant Dixon, Your Honor.

8 THE COURT: Sir, if you would come
9 along, please, and be sworn.

10 (Lieutenant Ricky Dixon, called as a witness,
11 having first been duly sworn, is examined and
12 testified as follows:)

13 DIRECT EXAMINATION

14 BY SOLICITOR PASCOE:

15 Q. Good morning, Lieutenant.

16 A. Good morning.

17 Q. Do you need this?

18 A. If I need a copy of the report?

19 Q. Just take this now and keep it.

20 Where do you work, Lieutenant?

21 A. South Carolina Highway Patrol.

22 Q. And how long have you been with the South
23 Carolina Highway Patrol?

24 A. Approximately 22 years.

25 Q. What are your current duties with the highway

Lieutenant Ricky Dixon - Direct Exam
by Solicitor Pascoe

1 patrol?

2 A. Supervisor of the costal MAIT Unit in
3 Charleston.

4 Q. As a lieutenant you are the supervisor?

5 A. Yes, sir.

6 Q. How long have you been a lieutenant with the
7 MAIT Unit?

8 A. About four years and three months.

9 Q. Okay. And how long have you been with the
10 MAIT Unit altogether?

11 A. Eleven years.

12 Q. And tell the jury what does MAIT stand for?

13 A. It's the Multidisciplinary Accident
14 Investigation Team.

15 Q. What are the duties and the jobs of the MAIT
16 Team?

17 A. We're called to particular collisions at the
18 will of the highway patrol. We're a support division
19 of the highway patrol. Whenever there's a serious
20 crash or a significant crash where there's questions
21 about what happened, we're called in to determine
22 further than the field troopers are able to do at
23 times to try to make analysis of collisions.

24 Q. And what, if any, special training do you
25 have to be a MAIT Team member?

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by Solicitor Pascoe

1 A. I've been through a number of courses that
2 are collision specific. Starting in 1990, and I'm
3 sorry, 1988 I went to a specialized collision
4 investigation course. In 1989 I went through
5 advanced collision investigation and collision
6 reconstruction. Then again in 1995 when they started
7 the MAIT program they sent us back through the series
8 of training which included at-scene investigation,
9 technical collision investigation, traffic accident
10 reconstruction, computer-aided diagramming,
11 accelerometer training, forensic mapping, which is
12 the process of using a total station to map and
13 diagram our collision scene, several software program
14 training programs, photography, tire and lamp
15 forensics and examination, commercial vehicle and
16 accident reconstruction, pedestrian and bicycle
17 collision reconstruction, tire damage analysis
18 course, several training conferences that I won't
19 list, just different multiple topics on each one,
20 motorcycle collision investigation, biomechanics for
21 accident reconstruction, low speed collision
22 analysis, applied physics for traffic accident
23 reconstruction, damage and energy relationship in
24 collision reconstruction, traffic occupant protection
25 strategies, advanced traffic accident reconstruction

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by Solicitor Pascoe

1 collision prediction with WINsmack and WINcrash,
2 advanced collision reconstruction, forensic mapping
3 again, another advanced collision investigation
4 course, collision reconstruction again through a
5 different university, through Texas A & M.

6 Q. You have extensive experience and education
7 in accident reconstruction, correct?

8 A. Yes, sir. Approximately 2,100 hours of
9 training.

10 Q. All right. A lot of training?

11 A. Yes.

12 Q. And actually train yourself, do you not, to
13 other members every now and then?

14 A. Yes, sir. I'm in charge of the highway
15 patrol's collision investigation training program,
16 did some instruction for three years for Texas A & M.

17 Q. Yes, sir. How many automobile accidents have
18 you investigated in your 22 years as a highway
19 patrolman in general?

20 A. Approximately a thousand, give or take a
21 hundred or so.

22 Q. How many have you investigated as a member of
23 the MAIT Team specifically?

24 A. 350.

25 Q. How many of those 350 involve fatalities?

Lieutenant Ricky Dixon - Direct Exam
by Solicitor Pascoe

1 A. Probably 300, 325 of them.

2 Q. So the vast majority. Why is that?

3 A. That's primarily what we're called to do is
4 investigate fatal collisions that -- where criminal
5 charges could rise to a serious charge, felony DUI,
6 reckless homicide cases.

7 Q. Have you testified as an expert in the courts
8 of South Carolina with regards to collision
9 reconstruction?

10 A. Yes, sir. I have.

11 Q. And how many times?

12 A. Probably five, six maybe.

13 Q. And as part of collision reconstruction you
14 determine how the accident occurred as well as the
15 impact it had on the passengers of the vehicle?

16 A. Yes, sir.

17 SOLICITOR PASCOE: Okay. Your Honor, at
18 this time I'd ask that Lieutenant Dixon be
19 admitted as an expert in collision
20 reconstruction.

21 THE COURT: First of all, is there any
22 voir dire?

23 MR. CHANDLER: Your Honor, just with
24 respect to one question.

25 VOIR DIRE EXAMINATION

Lieutenant Ricky Dixon - Direct Exam
by Solicitor Pascoe

1 BY MR. CHANDLER:

2 Q. The solicitor asked whether or not when you
3 talk about the impact on the passengers you're
4 talking about how the bodies were thrown or how their
5 physiological impact that they --

6 A. We have studied both. In this particular
7 collision it was more about the motion of the bodies
8 in the collision.

9 Q. So you would not claim to have any medical
10 knowledge that would be able to talk about the
11 physical effect that any impact would have on them?

12 A. I have had training in biomechanics and
13 kinetics.

14 Q. Are you a licensed physician?

15 A. No, sir. I'm not.

16 MR. CHANDLER: For the specific purposes
17 of --

18 THE COURT: Collision reconstruction.

19 SOLICITOR PASCOE: Thank you, Your
20 Honor.

21 THE COURT: Let me share with the jury
22 what's just happened.

23 SOLICITOR PASCOE: Yes, ma'am.

24 THE COURT: Ladies and gentlemen, I want
25 to tell you what's just occurred so you can

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by Solicitor Pascoe

1 hopefully better follow where we are in this
2 part of our process. Normally under -- you
3 are so tall.

4 THE WITNESS: I'm sorry. You need me to
5 move?

6 THE COURT: No, you're doing fine.

7 Ladies and gentlemen, normally
8 under our rules of evidence folks, people,
9 witnesses are not allowed to testify
10 regarding their opinions, but there is an
11 exception to this rule and that rule is when
12 by virtue of someone's knowledge, training,
13 experience they have developed an expertise
14 within a particular area with a particular
15 sometimes profession, sometimes a particular
16 area, they are allowed to testify regarding
17 their opinions.

18 Ladies and gentlemen, we'll talk
19 more about this when I give you the
20 concluding instruction, but I did want you to
21 know that I have just qualified this witness
22 as an expert in the area of collision
23 reconstruction. And what that means is, is
24 that he is allowed to testify regarding his
25 opinions within that expertise. We'll talk

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1 more about that in the concluding
2 instruction.

3 I would tell you that the reason
4 for expert testimony is to help you
5 understand the evidence, of course, and not
6 for the purpose of controlling your judgment,
7 but again I'll give you a little more
8 instruction when I give you the concluding
9 instruction on the law.

10 SOLICITOR PASCOE: Thank you, Your
11 Honor.

12 MR. CHANDLER: Your Honor, permission to
13 approach.

14 THE COURT: Yes, of course.
15 (Whereupon, a bench conference was held off
16 the record in the presence of the jury but
17 out of the hearing of the jury.)

18 THE COURT: Ladies and gentlemen,
19 there's a matter, a very short matter that I
20 need to take up outside your presence. I'm
21 going to ask you to step to your jury room.
22 We will not be -- ladies and gentlemen, we
23 won't be five minutes. Please do not discuss
24 this matter or allow anyone to discuss it
25 with you.

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by Solicitor Pascoe

1 (Whereupon, the jury retires to the jury room
2 at 10:44 a.m.)

3 THE COURT: All right. Yes. It is my
4 understanding we just want to clarify
5 something.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: That the additional testing
8 that I heard about on Monday, as I understand
9 it, Solicitor Pascoe, did not occur; is that
10 right?

11 SOLICITOR PASCOE: Did it occur? I
12 don't want to mislead the Court and if it
13 did --

14 THE COURT: Just ask him, that's the
15 best way.

16 SOLICITOR PASCOE: Did it occur, just
17 yes or no?

18 THE WITNESS: It was not completed, no.

19 SOLICITOR PASCOE: It was not. But you
20 know not to go into anything about that
21 anyway if you know anything about it,
22 correct?

23 THE WITNESS: Yes, sir.

24 SOLICITOR PASCOE: Okay.

25 MR. CHANDLER: Thank you, Your Honor.

1 THE COURT: There's also a sensitivity,
2 you know, that from cross-examination of
3 Mr. Chandler the crossover between the
4 accident reconstruction and the medical part.

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: And you're aware of that as
7 well?

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: You be the accident
10 collision reconstructionist, but do not delve
11 into the medical part of it. If you have any
12 question you can stop and just say I'm
13 concerned about answering this and the
14 lawyers will approach, okay?

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: All right.

17 (Recess, from 10:47 a.m. to 10:49 a.m.)

18 THE COURT: Okay.

19 (Marked for identification was State's
20 Exhibit 8, videotape)

21 (Marked for identification was State's
22 Exhibit 9, toxicology report.)

23 THE COURT: Ready? It's going to play?

24 MR. JEFFRIES: It's going to play. That
25 dog will hunt.

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by Solicitor Pascoe

1 THE COURT: Let's have the jury.

2 MR. CHANDLER: I would --

3 THE COURT: Run, get them. Tell her,
4 I'm sorry, a quick issue.

5 MR. CHANDLER: Your Honor, it's my
6 understanding that this video is graphic and
7 I understand that the solicitor is
8 instructing the family that he is going to
9 play it at the end of the testimony, but I
10 don't want to in the middle of the video, in
11 the middle of this testimony, to create
12 any -- you know, create any situation where
13 the family has to get up in the middle of
14 testimony and start --

15 THE COURT: I do understand.

16 MR. CHANDLER: Yes.

17 THE COURT: Let me -- how long do you
18 anticipate his testimony will be? Because
19 here's -- before you go into that we could
20 take our break.

21 SOLICITOR PASCOE: That's what I think
22 we should do.

23 THE COURT: We'll take our morning break
24 then the family will -- indicate to them
25 their morning break will be a little bit

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1 longer when we come back.

2 SOLICITOR PASCOE: That will be the last
3 thing I do. I have no more questions, all I
4 have is the video then we'll take our break.

5 THE COURT: Then I'll say we'll take our
6 morning break then for the family's purposes.
7 If they do not wish to be in, then they can
8 leave and then when we return in between the
9 witnesses, if they want to kind of come back
10 in quietly, maybe just a few at a time so
11 it's not disruptive, we can keep going.
12 Great.

13 SOLICITOR PASCOE: Thank you, Your
14 Honor.

15 MR. CHANDLER: Thank you.

16 THE COURT: Now let's have the jury.
17 (Whereupon, the jury returns to the courtroom
18 at 10:53 a.m.)

19 THE COURT: Thank you. All right,
20 ladies and gentlemen. At this time we will
21 continue with the witness and his testimony.

22 Mr. Pascoe.

23 SOLICITOR PASCOE: Thank you, Your
24 Honor.

25 THE COURT: Yes.

Lieutenant Ricky Dixon - Direct Exam
by Solicitor Pascoe

1 BY SOLICITOR PASCOE:

2 Q. Lieutenant, you were on call the night of
3 Friday October 21st, 2005?

4 A. Yes, I was.

5 Q. And what were called upon to do?

6 A. I was called to a collision on Highway 70,
7 South Carolina Highway 70 in Orangeburg County for a
8 collision that involved several vehicles.

9 Q. Okay. And approximately how long after the
10 accident did you go to the scene?

11 A. I can only estimate about an hour and a half
12 to two hours.

13 Q. Okay. And was the defendant already gone
14 from the scene by the time you get there?

15 A. He was.

16 Q. The Glovers were already gone, the people in
17 the red Blazer?

18 A. They were.

19 Q. What about the victims, the Neeleys, were
20 they still --

21 A. The victims were still positioned in their
22 vehicle.

23 Q. Specifically why were you called to the
24 scene?

25 A. Possibility of a felony DUI or felony driving

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by Solicitor Pascoe

1 under the influence charge, it's a mandatory call-out
2 for our unit to be called to the collision.

3 Q. Okay. What did you and the rest of your MAIT
4 Team, as you, the supervisor, do at the scene that
5 night?

6 A. We arrived at the scene, we meet with the
7 supervisor who is in charge of the collision
8 investigation scene. At this collision it was
9 Lieutenant Filyaw with the highway patrol here in
10 Orangeburg. Upon arriving we discuss with them the
11 issues that they need for us to look at. In this
12 particular collision it was to document the scene and
13 look at the collision for vehicle dynamics or how the
14 collision occurred.

15 Q. How long did you stay at the scene that
16 night?

17 A. We probably cleared the scene somewhere in
18 the neighborhood of about 2:30 in the morning.

19 Q. So you were there --

20 A. Probably four and a half, five hours.

21 Q. Four and a half to five hours. And what
22 exactly are you trying to determine at the scene?

23 A. We're trying to determine the cause of the
24 collision, how the collision -- this -- this -- this
25 scenario involved two separate collisions so it was

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by Solicitor Pascoe

1 our job to determine how the two collisions occurred,
2 what caused -- what led to the first collision and
3 then how the second collision occurred.

4 Q. Okay. And were you able to reach a
5 conclusion as to how the collisions occurred based on
6 your experience and expertise?

7 A. Yes, sir. We were.

8 Q. And very -- let me ask you, do you recognize
9 State's Exhibit 4 for ID?

10 A. Yes, sir. I do.

11 Q. What do you recognize those to be?

12 A. Photographs from the collision scene.

13 Q. And those accurately depict the collision
14 scene that night of October 21st?

15 A. Yes, sir. They do.

16 Q. Will they assist you in going over with the
17 jury your findings that night about how the
18 collisions occurred?

19 A. Yes, sir.

20 SOLICITOR PASCOE: I'd ask State's
21 Exhibit 4 be admitted into evidence, Your
22 Honor.

23 THE COURT: Any objection?

24 MR. CHANDLER: Without objection.

25 THE COURT: Very well.

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1 (Entered into evidence was State's Exhibit 4,
2 photographs of the collision scene.)

3 THE COURT: And are you going to --
4 let's designate, of course, the photographs
5 A, B, C, D, E and F.

6 SOLICITOR PASCOE: Yes, ma'am.

7 THE COURT: Because there are six
8 photographs.

9 SOLICITOR PASCOE: A through H, Your
10 Honor. Four-A through H.

11 Q. And you've had an opportunity to look at
12 State's Exhibit 3 that's in evidence, 5, and 1A and
13 1B, correct?

14 A. Yes, sir.

15 Q. And will they assist you as well in going
16 over with the jury how the accident occurred?

17 A. Yes, they would.

18 Q. Okay. As well as State's Exhibit 2?

19 A. Yes, sir.

20 Q. Okay.

21 SOLICITOR PASCOE: Could I have
22 Lieutenant Dixon to step down, Your Honor?

23 THE COURT: Yes. Just remember to keep
24 your voice up because you won't have the
25 microphone.

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1 THE WITNESS: I don't think that will be
2 a problem, Your Honor.

3 Q. Lieutenant, I'm going to have you stand on
4 this side so your voice will go towards the court
5 reporter.

6 And using, if you could, the State's
7 Exhibits, particularly 1 as well as any photos you
8 find relevant, if you could go over with the jury
9 what your findings were as to how the collisions
10 occurred that night.

11 A. The vehicle listed on this diagram as vehicle
12 number two --

13 THE COURT: Let me stop you right there,
14 because I am worried that as you explain, we
15 need to be able to hang you from the ceiling
16 because it's very difficult. I think, if I
17 may, the only place I know in this courtroom
18 that works without blocking a juror is going
19 to be right here.

20 SOLICITOR PASCOE: On this side?

21 THE COURT: I think so. And let me tell
22 you, I've got a pointer so that you don't
23 have -- here you go.

24 SOLICITOR PASCOE: You're right, too.

25 THE COURT: Here you go, Solicitor

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1 Pascoe, just so that you all don't have to be
2 right up on the board, you can point to it.

3 SOLICITOR PASCOE: Yeah. How does this
4 work?

5 THE COURT: Is it a gifted and talented
6 pointer? See the little red triangle?

7 SOLICITOR PASCOE: Yeah, that's cool.

8 THE COURT: Okay.

9 SOLICITOR PASCOE: Stand over here.
10 Should I put the diagram over here?

11 THE COURT: You know, it's better if you
12 put the diagram, believe it or not, right
13 here, right there. There you go. And you
14 all can both stand on this side.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Help me, my jurors that are
17 on this side, it's extremely important that
18 you're able to see. Please don't be shy. If
19 you cannot see, please let me know, those --
20 particularly those of you that are on that
21 side, but all of you must be able to see and
22 hear. Raise your hand, raise two hands if
23 you cannot see. Okay. Great. Thank you.

24 Q. Okay. If you could now, sir, go over with
25 the jury how the collisions occurred that night.

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1 A. Okay. Vehicle two, the vehicle on this
2 diagram listed as vehicle two, was the vehicle
3 identified as Mr. Taylor's vehicle. And as he's
4 traveling west on South Carolina Highway 70 he leaves
5 the roadway to the right side of the road and tracks
6 back onto the roadway while the vehicle is starting
7 to rotate.

8 The vehicle -- as he comes back onto the
9 road making this left turn motion coming back onto
10 the road, his vehicle starts to rotate around, and
11 this is called a yaw, and it rotates around that
12 center axis that goes up to the vehicle. And by
13 leaving a yaw, it's very important of that
14 terminology, because it allows us to do a speed
15 analysis on the vehicle when he comes back onto the
16 road.

17 And as he travels back across Highway 70
18 here, when he gets across the center line crossing
19 the eastbound lane, he's struck in the right rear
20 side around the tire, right rear tire by the vehicle
21 identified on here as vehicle number one which is the
22 Neeley vehicle, the Ford Escort.

23 Then Mr. Taylor's vehicle travels
24 further down and goes into the woods on the
25 southbound shoulder or, I'm sorry, the south shoulder

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1 of the roadway and the Neeleys' vehicle at that point
2 moves through past this impact with two and then
3 rotates slightly to about 90 degrees to where the
4 vehicle's sitting in the roadway with the front of
5 the vehicle facing into the woods down on this side
6 of the road and the rear -- rear, of course, facing
7 north on that diagram as it's positioned.

8 Q. Okay. And does State's Exhibit 2 accurately
9 depict where the vehicle came to a rest, defendant's
10 Blazer?

11 A. Yes, sir. It does.

12 Q. Okay. If you could now maybe discuss the
13 next collision. Well, let me ask you this: Where
14 does the victims' vehicle, the Neeleys' vehicle end
15 up stopping in the roadway after the first collision?

16 A. Approximately the position that it's shown on
17 the second diagram where the front of the vehicle is
18 facing south in the roadway and the rear of the
19 vehicle facing to the -- or the rear of the vehicle
20 to the north as it's positioned in diagram number two
21 here in that position facing at a little bit of an
22 angle, not truly north and south, it's at a little
23 bit of an angle.

24 Q. How far after the impact with the defendant's
25 vehicle did the Neeleys' Escort travel?

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1 A. I don't have those numbers available to me
2 right now.

3 Q. Are they up here?

4 A. I don't know if we have them or not.

5 Q. Okay. And was it 100 feet?

6 A. No, sir. It wasn't very far at all.

7 Q. How far was it, I mean, just the general --

8 A. Fifteen feet maybe.

9 Q. Okay.

10 A. It stayed in close proximity to the
11 collision.

12 Q. So let me ask you what, if any, significance
13 is there that the Neeleys' vehicle did not travel far
14 after striking defendant's vehicle?

15 A. When you're looking at momentum and when we
16 calculate the speeds of a crash you have, every
17 vehicle comes into a collision with a certain amount
18 of weight because of the weight of the vehicle and
19 occupants. And then as a result of the speed it
20 gives a vehicle a particular amount of momentum as it
21 travels down the highway.

22 The easiest way to try to convey this to
23 you in simple terms is I weigh 300 pounds, if I'm
24 walking at ten miles an hour, that gives me
25 300 pounds or 3,000 pounds mile per hour. If a

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1 vehicle -- if a smaller person, Mr. Pascoe weighs
2 150 pounds.

3 Q. Thank you for that. I appreciate that.
4 Closer to 190, but thank you.

5 A. I gave myself a few pounds. He would have to
6 be -- he would have to be traveling twice the amount
7 of speed that I am to have the same amount of
8 momentum.

9 So in this particular collision the
10 Chevrolet Trail Blazer driven by Mr. Taylor travels
11 across and has a frontal impact, the side of his
12 vehicle, to the front of the Neeley vehicle which is
13 in essence, even though it's struck in the side, the
14 way that it's moving is like a head-on crash because
15 of the direction of that car. It's not like it's a
16 T-bone, even though that's the way the damage looks
17 because the vehicles come across in this direction.

18 And the Neeley vehicle, the Escort's
19 traveling this direction, it's like a head-on with
20 the vehicle dynamics. And the fact that there wasn't
21 a lot of post impact travel, this vehicle was able --
22 I'm sorry, let me turn this back around.

23 Q. Yes, sir.

24 A. The Taylor vehicle through the motion of that
25 vehicle already moving in that direction was able to

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1 move on through the collision, but the Neeleys'
2 vehicle was almost stopped, very little post impact
3 travel, which indicates the vehicles were -- had a
4 like -- I'm not going to say had the same momentum,
5 but the momentum analysis was not complete, we didn't
6 do that, but they had a similar momentum coming into
7 the collision.

8 Okay. Does that answer that question?

9 Q. So how significant impact would it take since
10 they came to almost a virtual stop?

11 A. It's a very significant impact for the Neeley
12 vehicle because they stopped at the location of
13 impact.

14 Q. Okay. And indeed in State's Exhibit 2, can
15 you point out for the jury, you can use the pointer,
16 where the Neeleys struck the defendant's vehicle?

17 A. The Neeley vehicle struck defendant's vehicle
18 in this area, the right rear area of the Trail
19 Blazer.

20 Q. And, of course, as you testified to, the
21 Trail Blazer kept going as the Neeleys stopped?

22 A. Yes, sir.

23 Q. Now, go ahead and describe for the jury what
24 happened on the second collision. And first question
25 I have for you is why were the Neeleys in this

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1 position before the second collision?

2 A. The Neeleys were in this position because the
3 car, the vehicle was disabled as a result of the
4 first collision. The electrical system of the
5 vehicle was damaged, there were no lights on in the
6 vehicle, the vehicle was poised like this as a result
7 of the first collision where they came to rest in the
8 eastbound lane of Highway 70.

9 Q. Caused by the collision from the car in
10 State's Exhibit 2?

11 A. Yes, sir.

12 Q. Okay. Go ahead, sir, if you could.

13 A. The vehicle was positioned in the roadway in
14 the same position as they ended up after the first
15 collision which was facing down to the south in the
16 roadway at a little bit of an angle. And this
17 diagram depicts it very well, that it wasn't straight
18 up and down in the roadway.

19 So when the collision occurred with the
20 second vehicle, the Glover vehicle or the Trail
21 Blazer, it struck it near the right rear tire of the
22 vehicle causing the vehicle to -- causing the number
23 three vehicle, or the Glover vehicle, to travel off
24 to the north into a field of cotton and causing the
25 Neeley vehicle to rotate back off onto the shoulder

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1 and come at a final rest on the shoulder adjacent to
2 the eastbound lane on the south side of the highway
3 facing eastbound.

4 Q. Looking at State's Exhibit 3, where is the
5 damage and where did Jessie Glover strike the
6 victims' vehicle? As far as on his car, where did he
7 strike?

8 A. The primary impact was near the left front of
9 the Trail Blazer. You can see the damage is most
10 severe right along the left headlight of the vehicle.
11 It travels across the entire front because as the
12 vehicles collided, as this vehicle collided with the
13 Escort, that was the Neeley vehicle, the vehicles
14 came into full contact, full flush, the whole side of
15 the Neeley vehicle came into contact with this
16 vehicle. As the Neeley vehicle rotated off to the
17 shoulder, this vehicle was able to clear and move
18 north into the field to the north of the collision
19 site.

20 Q. And as a result of the impact that the
21 Glover -- Mr. and Mrs. Glover suffered, why did
22 Mrs. Glover's head hit the windshield here?

23 A. It was a frontal impact. I don't -- I'm not
24 sure about the restraint, but she was able -- her
25 head came into the windshield because I know she had

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1 to be treated for an injury.

2 Q. And you testified it's because there was a
3 frontal impact?

4 A. Yes, sir.

5 Q. What happens in frontal impacts, particularly
6 if they're unrestrained?

7 A. People move forward.

8 Q. Now, the fact that the Glovers' vehicle had a
9 frontal impact with the victims, correct?

10 A. Yes, sir.

11 Q. The fact they got to keep on moving, the fact
12 that there was movement or energy in the vehicle,
13 what significance does that have or how does that
14 contrast with the way the Neeleys came to a quick
15 stop?

16 A. I'm not sure I understand exactly what you're
17 asking.

18 Q. Well, is it better when you have a frontal
19 impact, is it more safe?

20 MR. CHANDLER: Leading, Your Honor.

21 SOLICITOR PASCOE: I need some leg room
22 with the question though.

23 THE COURT: All right. I'm listening.
24 Let me hear the question.

25 Don't answer the question.

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1 A. Yes, sir.

2 Q. Is it better for the passenger in a vehicle
3 on a frontal impact when the vehicle continues to
4 move as opposed to coming to a dead stop? And if so,
5 why?

6 THE COURT: All right. I'll allow that.

7 Yeah, you may proceed.

8 A. The faster a vehicle stops -- if I understand
9 your question, when the Neeley vehicle was struck
10 head-on or struck with a -- the faster the vehicle
11 stops, the more forces applied through the bodies in
12 the car and through the car because it's -- the
13 faster you stop, the more abrupt everything happens
14 in a car.

15 In other words, if you strike something
16 and you're able to move through more gradually, then
17 everything is less severe on you. But if you hit
18 something and you stop very abruptly, it's going to
19 be more dangerous to the occupants in the car. Is
20 that a good answer?

21 Q. Yes, sir. Yes, sir.

22 SOLICITOR PASCOE: Your Honor, with your
23 permission I'll hold these. Before I get
24 into that I'm going to hold these over here,
25 is that okay, I'm going to hold them like

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1 this?

2 THE COURT: As long as the jury can see.
3 Maybe you could just prop them on the table,
4 it may be high enough.

5 SOLICITOR PASCOE: Yeah, that's fine.

6 THE COURT: Very well. Great. All
7 right. Can everyone see? If you can't see,
8 raise your hand. Very well. Great.

9 Q. Point out for the jury the damage to the
10 Neeleys' Escort as a result of the impact with
11 Mr. Glover when Mr. Glover struck him when they were
12 disabled in the road.

13 A. The photograph labeled C on this exhibit, you
14 can see the right side of the vehicle, the right side
15 of the Escort and how much damage there is along the
16 right side of that vehicle which is as a result of
17 the second impact with the Glover Trail Blazer.

18 Q. Now, point out the damage to the Escort as a
19 result of the impact with the defendant, Mr. Taylor's
20 vehicle, which disabled him in the road.

21 A. In photograph D you can see here along the
22 front left corner of the vehicle significant damage
23 along that front left fender or quarter panel. And
24 this photograph illustrates the damage, it's
25 opposite -- it's on the opposite side, so we can very

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1 clearly say it belongs to the first and the second
2 goes into the left front corner of that Ford Escort.

3 Q. What about also on the passenger side?

4 A. On the passenger side because of the --
5 because of the direction of the -- the defendant was
6 traveling going from the Escort's left to right, it
7 went all the way across the front of the vehicle
8 which created a significant amount of damage also to
9 the right side, to the right front of the vehicle.
10 It's a total -- damaged the entire front of the
11 vehicle. More significantly to the left front, but
12 all the way across the front of the vehicle.

13 Q. As a result of the -- the damage caused to
14 the vehicle in the first impact with the defendant
15 when he crossed the center line, could anybody get
16 out of the front door?

17 MR. CHANDLER: Objection, Your Honor.

18 SOLICITOR PASCOE: I'm talking about the
19 structure of the vehicle, I'm not talking....

20 THE COURT: With that clarification.

21 MR. CHANDLER: I think that clarifies
22 it.

23 THE COURT: Very well.

24 Q. Could anybody get out of the front door?

25 A. The front door should have been pinned from

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1 the first collision.

2 Q. And could anybody get out of the passenger
3 door, front passenger door?

4 A. It's not likely that they could have gotten
5 out of that either from the frontal collision or the
6 first collision.

7 Q. Okay. And what is your opinion, based on
8 your expertise, with regards to the impacts of when
9 Ms. Neeley went through the windshield?

10 MR. CHANDLER: Objection, Your Honor.

11 Again that's regard to a matter which I think
12 we've already discussed before.

13 SOLICITOR PASCOE: No.

14 (Whereupon, a bench conference was held off
15 the record in the presence of the jury but
16 out of the hearing of the jury.)

17 THE COURT: Ladies and gentlemen, I need
18 you to please step to your jury room. Do not
19 discuss this matter or allow anyone to
20 discuss it with you. There's a matter which
21 I must take up outside your presence.

22 (Whereupon, the jury retires to the jury room
23 at 11:12 a.m.)

24 THE COURT: All right. Yes.

25 MR. CHANDLER: May it please the Court.

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1 THE COURT: Yes.

2 MR. CHANDLER: Your Honor, based on the
3 analysis that MAIT had done before and the
4 scientific study and the measurements that
5 they have made, they fell short in the
6 initial investigation to speak of in their
7 report any momentum or any effect that any
8 individual accident had on any of the
9 passengers in the vehicle.

10 Of course after hearing, of course
11 the defense in an effort to negotiate this
12 matter shared with them the possibility of
13 our defense, they went to initiate or trying
14 to move forward to have a particular momentum
15 study that would try to bifurcate the effects
16 of the separate collisions on each of the
17 members of the -- or passengers in the
18 vehicle or the driver and the passengers of
19 the vehicle.

20 Unfortunately they tried to
21 initiate this study the weekend before this
22 trial would start. It would be at that time
23 that we would, of course, make objections on
24 these scientific studies without our ability
25 to also have individuals who could also

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1 discuss any impact or momentum effects.

2 Your Honor, at the beginning of
3 this trial, as you know, there was a
4 consensus and even prior to this testimony
5 that the State would not go into any matters
6 which would regard to any momentum of any of
7 the passengers in the vehicle with respect to
8 any individual collision, and that is the
9 nature of the questioning which the -- which
10 the solicitor is heading into and so that is
11 the nature of our objection, Your Honor.

12 THE COURT: Okay. Yes, sir.

13 SOLICITOR PASCOE: Your Honor, that's
14 just not accurate at all. The study has
15 nothing to do with that question. That
16 question would be asked no matter what in any
17 felony DUI trial. He is an expert on
18 collision reconstruction which includes, as
19 he testified to, the effect that impacts have
20 on passengers of the vehicle, which direction
21 they go and everything else. I'm not asking
22 him how she died which was the --

23 THE COURT: Medical part.

24 SOLICITOR PASCOE: Any medical part
25 whatsoever, no, ma'am. But he can testify in

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1 his expert opinion as to how victims end up
2 where they are and the direction they go as a
3 result of impacts, that's --

4 MR. CHANDLER: Your Honor, they fell
5 short of doing that in the initial report.
6 That was the reason why the initial momentum
7 study was going to be done, because they
8 didn't --

9 THE COURT: Do you have the report?

10 MR. CHANDLER: Yes, ma'am.

11 THE COURT: Let me see it.

12 SOLICITOR PASCOE: But that has nothing
13 to do with this other study he's talking
14 about. I don't understand what he's talking
15 about.

16 MR. CHANDLER: The reality of it, Your
17 Honor, is they would always say they died as
18 a result of these collisions because they
19 couldn't bifurcate it. And when they heard
20 the defense, then they went to MAIT to see if
21 they could find a way. They say they have
22 this momentum study, so they always fell
23 short of answering the specific question that
24 the prosecutor is answering, they couldn't do
25 it through the study and now they're trying

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1 to do it in the backdoor.

2 SOLICITOR PASCOE: If his only
3 defense -- I know he's got four or five of
4 them, if his only defense was he wasn't
5 drunk, I would still ask that question of
6 Lieutenant Dixon. I'm still going to go into
7 with Lieutenant Dixon the effects of the
8 movement, the impact on the people inside the
9 car, the directions they moved. So I don't
10 think his objection is correct at all.

11 THE COURT: Well, here's where we are.
12 My understanding was that as of Monday this
13 case was in a particular posture. It was in
14 a particular posture based on the MAIT
15 reports, the MAIT position at that point.
16 And then there was this discussion about a
17 momentum test that could be done, wasn't
18 done, could be done and was it going to be
19 done or testified to. That's what I know.
20 That's what I know.

21 The question is whether or not
22 prior to doing the momentum test whether or
23 not the MAIT Team was able to differentiate
24 between impact, collision number one and
25 collision number two and what would have

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1 happened to the folks inside as a result of
2 the first collision and then as a result of
3 the second collision.

4 Now, what Mr. Chandler is telling
5 me is that -- is that the report that he was
6 provided, I gather pursuant to Rule 5, did
7 not differentiate between the two collisions
8 and that that was the reason for the momentum
9 report or the momentum study.

10 SOLICITOR PASCOE: And that's not true.

11 THE COURT: You're telling me no, no,
12 no. So what I need to do is see -- I just
13 need to see the report and see --

14 MR. CHANDLER: In addition, Your Honor,
15 I just want to add on Saturday I specifically
16 spoke to Bryan Jeffries, he said when he
17 heard our defense they said, no, we could do
18 a study to address that, so this goes
19 specifically to the issue of differentiating
20 which collision caused it, but we'll --

21 SOLICITOR PASCOE: That's just not
22 accurate. I'm not saying he's trying to, but
23 I think there's some miscommunication or
24 whatnot. I would have asked that question on
25 him because it's all based on his findings

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1 that October 21st, the direction of the
2 people, it just has nothing to do with the
3 momentum report ever.

4 THE COURT: Okay. Let me see the report
5 and then I might -- I just may take the
6 testimony in camera, but let me see the
7 report.

8 Do you have your report?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Let me see your report.
11 Absolutely.

12 SOLICITOR PASCOE: No offense, it really
13 doesn't take an expert to really answer that
14 question.

15 (Pause in proceedings.)

16 THE COURT: All right. Let me tell you
17 what I have done. I've gone through the
18 report and notice that in the introduction
19 that when there is reference to the folks
20 inside the car, that the language says that
21 all three of these occupants sustained fatal
22 injuries as a result of one of these two
23 collisions. And certainly in the
24 introduction, and then in the roadway
25 examination and then in the passenger

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1 reference to the folks inside it, says as to
2 each of the individuals that they sustained
3 fatal injuries as a result of this collision.
4 And it does not distinguish, in this portion
5 of the report doesn't differentiate between
6 each of the collisions.

7 MR. CHANDLER: Which one.

8 THE COURT: However, I note that as you
9 go on in the report, that the analysis, it
10 appears to me that the analysis when it gets
11 into the mathematical discussion of the
12 inertia and the like, if you will, talks in
13 terms of the interaction between the vehicles
14 themselves, the front impact, the rear
15 impact.

16 I would ask of you whether or not
17 that's the portion of the report that
18 encompasses the testimony that you would
19 elicit regarding the differentiation between
20 the two collisions?

21 SOLICITOR PASCOE: Absolutely, yes,
22 ma'am. It has to do with his findings as a
23 result of that night on October 21st and
24 nothing else.

25 THE COURT: Let me hear that. I want to

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1 hear that in camera.

2 SOLICITOR PASCOE: Okay.

3 THE COURT: In other words, while
4 initially in the discussion portion it does
5 appear to place these two collisions
6 together, it appears that they are separated
7 in the scientific discussion. So I'll hear
8 you.

9 MR. CHANDLER: Okay.

10 THE COURT: Let me hear the testimony.

11 BY SOLICITOR PASCOE:

12 Q. And, sir, Lieutenant, based solely on your
13 findings that night on October 21st, the early
14 morning hours of the 22nd, do you have an expert
15 opinion as to what caused Ms. Neeley to go through
16 the windshield the night of October 21st?

17 A. Yes, sir. I do.

18 Q. And what is that expert opinion?

19 A. The forces from the first collision, the
20 frontal collision that would have the motion, all the
21 forces going forward in that first collision.

22 THE COURT: Where in the report? Where
23 in this report is that information?

24 SOLICITOR PASCOE: See, that's just --

25 THE COURT: I'll hand it back to him.

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1 Q. Or maybe you could point to information that
2 proves that expert opinion, is what I'm getting at,
3 the study.

4 THE COURT: Foundation.

5 Q. Yeah, the foundation. Just go ahead.

6 A. Through specific information in the report,
7 it's not listed in that report.

8 Q. Okay.

9 A. When you look at the -- when you look at the
10 collision, the first collision, you look at the
11 dynamics of the second collision, not the dynamics as
12 far as speed calculation, the report clearly
13 indicates that we had some problems in the post
14 impact movement of the vehicles trying to determine
15 the post impact speeds, which you have to be able to
16 determine to develop impact speeds.

17 The question --

18 THE COURT: And that's because of the
19 field.

20 A. The field, the cotton field, we could have
21 estimated that, but the numbers would have just been
22 an estimation, we would have reverse engineered it,
23 which is what the attempt was later, was because of
24 the SDM data we could have come back and calculated
25 the speeds until we got to the speeds that we knew

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1 were present, which we didn't do.

2 But the question about the -- about the
3 forces are simply a dynamics question, what kind of
4 forces are applied in the first collision versus what
5 kind of forces are applied in the second collision.
6 The first collision the forces are applied towards
7 the front of the Escort, the second collision the
8 forces are applied to the side of the Escort.

9 While it's not specifically addressed in
10 the report, these were determinations that we made,
11 were able to make just by the -- viewing the
12 collision. After having seen as many collisions as
13 we've seen, the frontal collision, there's no motion
14 in the second collision that would put the passenger
15 through the windshield of the car. And that was the
16 question that was asked of me by Mr. Pascoe.

17 Q. And you reached that expert opinion on
18 October 22nd, the next morning, you knew that she had
19 gone through the windshield in the first impact?

20 A. We felt like she had gone through the
21 windshield on the first impact that night, yes, sir.

22 THE COURT: What, if any -- I think I'll
23 let you cross-examine because I want you to
24 develop this portion of his testimony fully.

25

Lieutenant Ricky Dixon - In Camera Cross-Exam
by Mr. Chandler

IN CAMERA CROSS-EXAMINATION

1

2 BY MR. CHANDLER:

3 Q. Lieutenant, you're indicating that these
4 analyses, the analytical data was present but the
5 summary of the analytical data was not -- not
6 presented in the report?

7 A. I'm sorry. Reword that, please.

8 Q. You talked about the studies.

9 A. Yes.

10 Q. The damage to the vehicle based on the first
11 and the second collision.

12 A. Yes.

13 Q. You said that there were -- these analyses
14 were present?

15 A. Analyses as far as site analysis. When
16 you're able to look at the two vehicles, just by
17 looking at the two vehicles to determine how the
18 vehicles collided, how the first vehicles collided,
19 then the second and third vehicles collided, that's
20 all just through the visual observation of the
21 vehicles.

22 There's no -- you say analyses, because
23 we discussed the limitations of our ability to do a
24 momentum analysis. We're limited on being able to do
25 that, but not limited on being able to determine how

Lieutenant Ricky Dixon - In Camera Cross-Exam
by Mr. Chandler

1 things happen in the collisions.

2 Q. Earlier you indicated that there was -- that
3 the specific conclusion that you're deriving today
4 was not included in the report.

5 A. We look at a number of things that we don't
6 always hook into the report, but, no, what you're
7 asking me is this specific topic was not included in
8 the report.

9 Q. That's correct.

10 A. Yes, sir.

11 Q. But you're saying the analysis that would
12 lead you to get there is in the report?

13 A. It's available to us through our photographs
14 and documentation of the scene.

15 Q. So what you're basically saying is you can
16 reanalyze the report or reanalyze the information
17 contained in the report and come back with this
18 scientific conclusion?

19 A. He's asking an opinion based on our report.

20 Q. Absolutely.

21 A. Which includes photographs of the collision
22 and photographs of the vehicles. He's asking a
23 question if we can make a determination on how
24 something might have happened in a particular
25 collision based on that report.

Lieutenant Ricky Dixon - In Camera Cross-Exam
by Mr. Chandler

1 Q. Absolutely.

2 A. The information is contained in the report,
3 but the analysis is not in the conclusions of the
4 report.

5 Q. I see. I see. And so in essence any
6 scientific opinion or analysis or summary with regard
7 to the specific question was not offered earlier or
8 it was not offered in the report?

9 A. It was not produced in the initial report,
10 no.

11 Q. Okay. Raw data is in the report?

12 A. There's a lot of information and data that's
13 in the report.

14 Q. So raw data is in the report, but now you're
15 going to present the scientific conclusion and the
16 methodology to evaluate that raw data. Are we there?

17 A. We're not really offering any scientific
18 data; he's asking an opinion as to how that person
19 might have moved in the vehicle. That can be done
20 without regards to specific momentum analysis.

21 MR. CHANDLER: Your Honor, two separate
22 points.

23 THE COURT: Yes.

24 MR. CHANDLER: First of all, with regard
25 to this line of questioning.

1 THE COURT: Yes.

2 MR. CHANDLER: I think he's made it
3 clear that if there's going to be any
4 evidence of an expert that's going to be
5 presented or presented at trial, that
6 certainly the defense would have an
7 opportunity or should have the opportunity to
8 know that there's going to be an opinion
9 derived. And just by giving the defense a
10 pile of data or even data that's maybe not
11 within our expertise, we would have the
12 knowledge to be able to analyze and then also
13 present, should not be held responsible for
14 any expert opinion that comes out of raw
15 data.

16 And so we would ask that that line
17 of testimony be excluded just on the basis
18 because I think that the lieutenant has made
19 it clear that his conclusions, his opinion
20 and even this entire line of analysis was not
21 even included in the information that was
22 provided to the defense and that -- and the
23 second, Your Honor, and the reality of it is
24 that this has been -- the State presented to
25 me that they weren't going down this road.

1 SOLICITOR PASCOE: That's not true.

2 THE COURT: Go ahead.

3 MR. CHANDLER: I talked to Bryan
4 Jeffries with the solicitor's office and he
5 indicated that they said that they couldn't
6 do what they're now saying what they have.
7 Beg the Court's indulgence.

8 THE COURT: Sure.

9 MR. CHANDLER: Your Honor, they're
10 indicating now that -- I was told that they
11 couldn't do it and it would require a
12 momentum study. Now they're trying to
13 present it. We would ask that this line of
14 questioning be excluded on that basis, Your
15 Honor. Thank you.

16 THE COURT: Thank you so much.

17 Is this your original report?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Mr. Pascoe, this report, is
20 this the report that was provided pursuant to
21 the Rule 5?

22 SOLICITOR PASCOE: I'm quite -- yes,
23 ma'am.

24 THE COURT: All right. And for our
25 record what is the relationship between what

1 you have just testified to regarding the
2 position of the passengers and a momentum
3 study, isn't that what it's called? Am I
4 calling it by the right name?

5 SOLICITOR PASCOE: Yes.

6 THE WITNESS: Yes, ma'am. Momentum
7 study or analysis.

8 THE COURT: What is that relationship?

9 THE WITNESS: The momentum analysis
10 gives a speed and will definitively define
11 direction and when we discuss direction
12 thrust and principal directional force and
13 the directions that the bodies would move.
14 And delta V, which is the change of velocity
15 that a body or a vehicle experiences in the
16 collision, and since the bodies are a part of
17 that, they're encapsulated, they become a
18 part of that system.

19 We were not able, because of what
20 we discussed earlier on the post momentum or
21 the post impact movement of vehicles, to
22 determine momentum, but through experience
23 and training we can discuss to a degree of
24 certainty how bodies would move in the
25 vehicle.

1 And as Mr. Pascoe, with the
2 question that he had asked, you know, how
3 would that body move in the first collision
4 and because of the frontal collision and the
5 forces involved, we know that that body's
6 going to move forward without respect to
7 doing a momentum analysis study.

8 We know that in the second
9 collision it was a side impact, so we know
10 that the bodies are going to move in a
11 particular direction in the second impact as
12 well. And without -- without respect to a
13 momentum analysis.

14 SOLICITOR PASCOE: May I point one thing
15 out with regards to evidence? And correct me
16 if I'm wrong, but let's assume Lieutenant
17 Dixon had absolutely nothing to do with this
18 case, okay? But I still -- I could bring him
19 in here, get him qualified as an expert and
20 show him photographs, ask him to look at the
21 MAIT Team report and I could have asked him
22 that question if he could answer it, okay?

23 My point being, even if he had
24 nothing to do with this case I could have
25 asked him that question as an expert.

1 THE COURT: Yeah. And I don't think
2 that that -- as I understand the issue, the
3 concern that Mr. Chandler has is whether or
4 not this question and this line of
5 questioning about the position of the
6 passengers can be -- can be differentiated
7 between first impact and the second impact
8 without the momentum study.

9 SOLICITOR PASCOE: Sure.

10 THE COURT: And what he is concerned
11 about is that, as I'm hearing his concern,
12 his concern is that he believes that -- that
13 that testimony went out the window with the
14 lack of the momentum study.

15 SOLICITOR PASCOE: And the expert just
16 said it clearly can.

17 THE COURT: Exactly. Now, here's what I
18 want you all -- here's the only piece of
19 this. Of course I don't want counsel to be
20 misled and that's the only piece of this I
21 have any concern about remaining.

22 SOLICITOR PASCOE: And our
23 understanding --

24 THE COURT: Because --

25 SOLICITOR PASCOE: I'm sorry.

1 THE COURT: And I do want you to speak
2 to it because the report -- and I think I do
3 want to mark the original report as the
4 Court's Exhibit.

5 SOLICITOR PASCOE: Okay.

6 THE COURT: On the issue of what was
7 disclosed pursuant to Rule 5, because Rule 5,
8 under Rule 5(a)(1)(D) states that at the
9 request of a defendant the prosecution shall
10 permit the defendant to inspect and copy any
11 results or reports of -- the applicable
12 language -- of scientific tests or
13 experiments which are within the possession,
14 custody and control of the prosecution.
15 That's what this report would be.

16 SOLICITOR PASCOE: Yes, ma'am.

17 THE COURT: What isn't referred to is
18 the obligation of the solicitor under Rule 5
19 to offer up the -- the opinions itself as it
20 is required under the civil rules and I would
21 refer to Rule 5(a)(1)(D) and (b)(1)(B). So I
22 note those portions of the rule.

23 Now, the only -- of course I become
24 very concerned because I don't -- I certainly
25 don't want you lawyers to have

1 miscommunications but, yes, sir, your
2 position is that --

3 SOLICITOR PASCOE: Our understanding was
4 our discussions with Mr. Chandler was that I
5 wasn't going to put a highway patrolman up
6 there, ask them how are they going to die.
7 I'm going to tell you right now I'm not even
8 going to ask that question. I've asked the
9 lieutenant this: Do you have an expert
10 opinion as to the types of injuries occupants
11 in that type of collision would suffer. And
12 his opinion is they would either die or
13 serious bodily injury.

14 But, you know, I don't want to
15 necessarily go there because our -- our
16 opinion is under the law, of course, it
17 doesn't matter under the law if you put
18 somebody in that position, someone else kills
19 them, they can still be found guilty of
20 felony DUI. But again, our understanding is
21 I'm not going to ask a highway patrolman how
22 the victims died and that's why I didn't do
23 that with the coroner.

24 THE COURT: The medical testimony.

25 SOLICITOR PASCOE: That's right.

1 THE COURT: The medical portion of it.

2 Okay. Yes, sir.

3 MR. CHANDLER: Your Honor, the issue in
4 addition, the concern that we have in
5 addition to the specifics of whether or not
6 the analysis was done, because all this is
7 under the cloud of preparation, you know, we
8 come into this trial being prepared.

9 THE COURT: Yes.

10 MR. CHANDLER: The question was that can
11 they prove that it was differentiated, that
12 they could lay out which accident caused the
13 death. I was told by State's counsel that
14 they couldn't unless they did a momentum
15 study, and now the State is presenting the
16 evidence that said otherwise. With that
17 reliance on that, of course, Your Honor, we
18 would have -- in preparation for that
19 understanding that this type of testimony
20 wasn't going to be brought forward, we was
21 prepared and we shared with the State that we
22 would, of course, ask, request a continuance
23 based on the rules that you've indicated if
24 they're going to include a study to that --
25 in that instance.

1 And now they're saying -- so the
2 State represents that they can't determine
3 it, after talking to the MAIT Team they say
4 that they can't do it without the momentum
5 study and now they're presenting evidence to
6 the extent that they can.

7 THE COURT: Who made that representation
8 to you?

9 MR. CHANDLER: That would be Bryan
10 Jeffries, the assistant solicitor.

11 THE COURT: It's your statement
12 Mr. Jeffries made a representation to you
13 that the MAIT Team was unable to
14 differentiate between which of the accidents
15 caused the death --

16 MR. CHANDLER: Yes.

17 THE COURT: -- without the momentum
18 study.

19 MR. CHANDLER: Without the momentum
20 study, yes. And told me that they were going
21 to do the momentum study. And I told them
22 then we would be moving for either a
23 suppression of the evidence based on --
24 suppression of the study or a request for a
25 continuance. And it was at that time that

1 they come to the Court, Your Honor,
2 indicating that they're just not going to
3 bring that evidence.

4 I understand your concern and I
5 certainly follow -- I'm following the rule on
6 this but, Your Honor, this is really a matter
7 of protecting the constitutional rights of my
8 client.

9 THE COURT: Oh, I do understand. I
10 understand.

11 MR. CHANDLER: Yes. Yes.

12 THE COURT: I see -- there are a couple
13 of issues, number -- the first issue is
14 whether or not a MAIT Team member could
15 testify regarding which of these accidents,
16 given the area of impact, would have most
17 probably moved the bodies in which direction.
18 That's one issue.

19 The other issue is an issue of
20 which of the accidents caused the death. I
21 actually see that as two different issues.
22 And this would be the Court's ruling and I'm
23 going to note your exception even before we
24 get there.

25 I will allow this witness to

1 testify based on his examination, based on
2 his measurements, based on his foundation
3 from having been in -- the work that was
4 done, based on his experience that a -- that
5 a collision that happened to the front of a
6 vehicle would move passengers in a particular
7 direction and that what he found on the scene
8 was consistent with that and that a collision
9 to another portion of the car, which I
10 understand one was to the front, one was to
11 the side and that the movement of the
12 passengers as he found them was consistent
13 with the frontal impact or the side impact.

14 I think that is a different issue
15 than the issue of the forces and based on a
16 momentum and based on the forces at hand,
17 which of the forces caused -- caused death.
18 But that's a different issue. And as I am
19 understanding, only because I had occasion
20 many, many years ago to actually have experts
21 calculate the G forces, calculate the
22 momentum and could actually -- to quantify
23 the amount of pressure and force on the human
24 body under a particular set of circumstances,
25 that's a different issue than the force or

1 the location, the direction that a body would
2 go given a particular kind of impact and
3 whether or not that was consistent with what
4 this witness actually saw on the scene.

5 I hope that's -- noting your
6 exception for the record, but I do see them
7 as two different things and they are two
8 different things.

9 MR. CHANDLER: Thank you.

10 SOLICITOR PASCOE: Yes, ma'am.

11 THE COURT: Is that clear?

12 SOLICITOR PASCOE: I think so.

13 THE COURT: I look as though I have
14 confused you beyond all measure,
15 Mr. Jeffries, but I will allow that because
16 he can't testify regarding the pressure and
17 that -- that in and of itself is simply
18 testimony of what it is. Where did he find
19 the bodies and were they consistent with
20 frontal impact or side impact.

21 And we're going to take a comfort
22 break.

23 Yes, sir.

24 SOLICITOR PASCOE: Go ahead.

25 THE COURT: Go ahead.

1 MR. CHANDLER: And that is the -- that's
2 the -- that's the limits within the testimony
3 of the expert? You've set the parameters of
4 the testimony?

5 THE COURT: Yes. Having said that he
6 doesn't have to use these those words, but
7 those are the topics that he can certainly go
8 into.

9 SOLICITOR PASCOE: Again, the direction
10 of the victims, consistent with or
11 inconsistent with the types of impacts they
12 suffered.

13 THE COURT: If I may, I think that's
14 what he just testified to.

15 SOLICITOR PASCOE: That's exactly right.
16 Let me tell you this: I don't have too many
17 more questions, and I say that because the
18 video will be the last thing.

19 THE COURT: So we'll go ahead and then
20 we'll take our morning break and I'll explain
21 to the jury just that way, that we did not
22 take our morning break, that we continued to
23 work and we will now take our morning break.

24 SOLICITOR PASCOE: Thank you.

25 MR. CHANDLER: And Your Honor?

1 THE COURT: Yes.

2 MR. CHANDLER: One more thing. I
3 remember that you did instruct the jurors not
4 to -- earlier not to read the newspaper or
5 any trial publicity, *Times and Democrat*, and
6 you asked them this time and so during this
7 break I would just ask that you remind them
8 not to read the paper.

9 THE COURT: During the break?

10 MR. CHANDLER: During the break or at
11 any time afterwards.

12 THE COURT: We don't have a newspaper in
13 the jury room?

14 THE BAILIFF: No.

15 THE COURT: Okay.

16 MR. CHANDLER: You know, when they go
17 for lunch or when they go home.

18 THE COURT: Remind me at lunch.

19 MR. CHANDLER: Okay.

20 THE COURT: It shouldn't be in the jury
21 room. Okay. Let's have the jury.

22 (Whereupon, the jury returns to the courtroom
23 at 11:56 a.m.)

24 THE COURT: Good. Thank you, ladies and
25 gentlemen. At this time we will continue

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By Mr. Pascoe

1 with the direct examination.

2 Yes.

3 SOLICITOR PASCOE: Thank you, Your
4 Honor.

5 BY SOLICITOR PASCOE:

6 Q. Lieutenant, in your expert opinion what
7 caused Ms. Neeley to go through the front windshield
8 of the Ford Explorer?

9 A. The Ford Escort?

10 Q. Ford Escort, I'm sorry.

11 A. The frontal collision with the initial
12 collision with Mr. Taylor's Trail Blazer.

13 Q. Okay. No doubt about it in your expert
14 opinion?

15 A. No, sir. Not doubt about it.

16 MR. CHANDLER: Asked and answered, Your
17 Honor.

18 THE COURT: Yes. I'll allow him just to
19 sort of direct him back to where we were.

20 SOLICITOR PASCOE: Thank you.

21 Q. And describe, if you could, just how severe
22 the first collision was for the Ford Escort.

23 A. The first collision, as is evidenced by the
24 damage to the Ford Escort and to the right side of
25 the Chevy Trail Blazer, was significant damage. It

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1 was a very severe impact.

2 Q. Okay. And can you render an expert opinion
3 as to the -- the effect both impacts, the first and
4 the second impact, have on the driver Mad Neeley and
5 how his body would move with inside the car?

6 A. The first collision is certainly going to
7 move him forward, then the second collision from the
8 right side is going to move him towards the right.
9 And because of the angle the Escort is at that time
10 can move him to the rear as well, so it could move
11 him slightly to the front in the first collision and
12 to the right rear on the second collision.

13 Q. So is the position that you found Mr. Mad
14 Neeley in, and he is in A, photograph 5A?

15 A. Yes, sir.

16 Q. Would that be consistent or inconsistent with
17 the two collisions?

18 A. It could be consistent with both collisions.

19 Q. The combination of both of those?

20 A. The combination, yes.

21 Q. And the position that you found Mr. George
22 Neeley in who is in B in the back seat.

23 A. Yes, sir.

24 Q. Is that consistent or inconsistent with both
25 collisions?

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1 A. It could be consistent with both collisions.
2 He's going to move forward in the front collision,
3 you would expect him to move to the right as the
4 vehicle rotates, you can settle back into a position.

5 Q. And there's a video the jurors can see, but
6 then Mr. Neeley was wedged in, in the back seat?

7 A. He was in a position in the back seat where
8 he -- I wouldn't necessarily say wedged in, but it
9 wasn't a lot of room for him to move about in that
10 rear seat.

11 Q. Before I forget, and I showed you State's
12 Exhibit Number 4, these are the photos of the road
13 that night?

14 A. Yes, sir.

15 Q. Could you point out the significance for the
16 juror -- jury using State's Exhibit 4 as far as what
17 you found that night?

18 A. Can I stand up?

19 Q. Yes, sir.

20 A. Because I can't reach the top photographs.

21 Q. Yes, sir.

22 A. Photograph A you can see where the -- move a
23 little bit closer, you can see -- you can see the
24 marks coming back onto the -- the tracks coming back
25 onto the roadway from Mr. Taylor's vehicle and then

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1 on photograph C you can see the marks as they've come
2 back onto the vehicle -- back onto the roadway
3 traveling into the eastbound lane.

4 And then the next photograph, it's taken
5 from the opposite direction, you can see the
6 photograph where there's some marks skidding into
7 that impact location. Mr. Taylor's vehicle would
8 have been coming towards you and the Neeley vehicle
9 would have been traveling in the direction that the
10 photograph is taken.

11 And then these other photographs show
12 the collision area in a little bit just greater
13 detail and some of the debris and marks on the
14 roadway.

15 Q. From the many accident scenes that you've
16 been to, how many where someone actually went through
17 the front windshield?

18 A. Maybe seven, eight.

19 Q. How many survived?

20 A. Never seen a survivor that went through the
21 windshield.

22 Q. What, if any, violations or duties imposed by
23 law did the defendant break in driving that silver
24 SUV that night?

25 A. Failed to maintain control of his vehicle, he

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1 crossed the center line into the opposing lane, into
2 the eastbound lane at a minimum.

3 Q. What, if any, evidence did you find at all of
4 a blown tire at the scene?

5 A. I found no evidence at the scene of a blown
6 tire. The marks on the roadway that lead back from
7 the shoulder that I just showed the jury where the
8 vehicle rotates back off the shoulder indicate
9 that -- there's no indication of any kind of tire
10 failure on that point, because a tire will leave a
11 very distinctive mark, a vehicle that's rotating in
12 that direction leaves a very distinctive mark, it's
13 curved, has striations or little dark stripes that go
14 across from the rotation of the tires.

15 And all of those are present in those
16 leading marks coming into the collision, all four
17 tires are marking slightly. The leading edge, which
18 would be the right side, tires leave heavier marks
19 because as the vehicle rotates around, when you
20 ride -- you know, when you make that left turn your
21 body tends to lean a little bit to the right, that's
22 because of the forces as you turn are moving into the
23 right in what we call a lateral acceleration which is
24 not that important, but that's the reason you move
25 over because the forces are moving, so as the vehicle

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1 is rotating around in that direction the forces are
2 applied to those right side wheels.

3 And from the evidence that you discussed
4 or that are in the photographs, they are consistent
5 with tires that are still properly inflated, have not
6 had any damage prior to an impact.

7 Q. You would be able to tell if there had been a
8 blown tire?

9 A. Yes, sir.

10 Q. Okay. There's no evidence that there was a
11 blown tire in the vehicle in State's Exhibit 2?

12 A. Yes, sir.

13 Q. None?

14 A. Yes, sir. No damage.

15 Q. Indeed the damage to the wheel in State's
16 Exhibit 2 was caused by what?

17 A. An impact. Impact with the Escort in the
18 first collision.

19 Q. And, sir, I'm going to show you what's been
20 marked as State's Exhibit Number 8. You can read
21 that if you want. Do you recognize the contents of
22 that video?

23 A. Copy of video, State v. Jimmy Taylor, our
24 number -- State v. Jimmy Taylor, our case number is
25 CL-029-05.

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1 Q. Does that video accurately depict the video
2 that was taken that night of the crash scene?

3 A. Yes, it will.

4 Q. Okay.

5 SOLICITOR PASCOE: I don't believe
6 there's any objection, we ask that State's
7 Exhibit be admitted into evidence.

8 MR. CHANDLER: No objection.

9 THE COURT: Very well.

10 SOLICITOR PASCOE: The last thing I was
11 going do, Your Honor, is play the video.

12 THE COURT: Ladies and gentlemen, I know
13 you all had your morning break while we
14 worked, but we didn't get one, so with your
15 indulgence we need to take a little morning
16 break, but we're going to keep it short,
17 we're going to keep it to ten minutes
18 everyone.

19 So I'm going to ask you to please
20 step to your jury room. Do not discuss this
21 matter or allow anyone to discuss it with
22 you. There's -- I just checked with
23 Miss Nell to be sure there isn't a newspaper,
24 *Times and Democrat* is not in the jury room.
25 It's not there, is it? No. Okay. Very

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1 well. Enjoy your break. Y'all don't have
2 like chocolate-covered doughnuts or anything
3 in there either, do you? Darn. Thank you.
4 We'll be about ten minutes.

5 (Whereupon, the jury retires to the jury room
6 at 12:05 p.m.)

7 (Entered into evidence was State's Exhibit 8,
8 videotape.)

9 THE COURT: All right. Anything before
10 we take our break?

11 SOLICITOR PASCOE: No, ma'am. Thank
12 you, Judge Goodstein.

13 THE COURT: Ten minutes everybody.

14 MR. CHANDLER: Nothing from the defense.
15 (Recess, from 12:06 p.m. to 12:27 p.m.)

16 THE COURT: All right. Anything from
17 the State before we bring the jury out?

18 SOLICITOR PASCOE: No, just a reminder
19 we're going to my a fairly graphic video.

20 THE COURT: May I just admonish everyone
21 in the courtroom, if you think it may be more
22 than you wish to view, please exit now. If
23 not, if you find yourself -- become overcome,
24 if you'll just ease out as best you can will
25 be fine. All right.

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1 SOLICITOR PASCOE: I'm going to have my
2 technical specialist press the play button.
3 I don't even know where the play button is.

4 THE COURT: Is this our substitute?

5 SOLICITOR PASCOE: Yeah.

6 THE COURT: I thought it was
7 Mr. Clariday.

8 SOLICITOR PASCOE: And B. J., can you
9 make sure the volume's down? That it's down?
10 (Whereupon, the jury returns to the courtroom
11 at 12:28 p.m.)

12 THE COURT: All right. Yes.

13 SOLICITOR PASCOE: Your Honor, at this
14 time we just ask that we now publish the
15 video for the jury, State's Exhibit I believe
16 is it 8, Robin? State's Exhibit 8.

17 THE COURT: Very well. Does it have --
18 it doesn't have any audio?

19 SOLICITOR PASCOE: It does have some
20 volume, Your Honor. There's no narrative, no
21 specific narrative to it, but in an abundance
22 of caution....

23 (Videotape, State's Exhibit 8, played for the
24 Court and jury.)

25 SOLICITOR PASCOE: Your Honor, can I

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1 have the lieutenant come down and kind of
2 narrate for the jury what they're seeing at
3 certain times?

4 THE COURT: My concern -- let me see
5 you.

6 SOLICITOR PASCOE: I'm not going to let
7 him just run, I'll ask him what is that, what
8 is that.

9 THE COURT: Yeah.

10 SOLICITOR PASCOE: We can talk while
11 it's playing. We can talk while it's
12 playing, keep letting them look.

13 (Whereupon, a bench conference was held off
14 the record in the presence of the jury but
15 out of the hearing of the jury.)

16 SOLICITOR PASCOE: May it please the
17 Court. We've shown the video both sides
18 wanted the jury to see. They will have the
19 entire video if they want to look at it
20 later, but we can stop it now.

21 THE COURT: Very well. Thank you.

22 BY SOLICITOR PASCOE:

23 Q. That accurately depicts what you found that
24 night?

25 A. Yes, it does.

Lieutenant Ricky Dixon - Direct Exam
By Mr. Pascoe

1 Q. What you testified to today in front of the
2 jury?

3 A. Yes, it does.

4 Q. That's all I have, Lieutenant. Answer any
5 questions Mr. Chandler has for you.

6 MR. CHANDLER: May it please the Court.

7 THE COURT: Cross-examination.

8 MR. CHANDLER: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. CHANDLER:

11 Q. Lieutenant, the analysis of the moving of the
12 bodies inside the vehicle, more specifically the
13 Escort that had the -- where the Neeley family were
14 passengers and, of course, there was one driver, that
15 analysis and the -- that you provided in your
16 testimony is based -- or is it fair to say that it's
17 based on the assumption that the occupants of the
18 Escort were not wearing any restraints on either the
19 first collision or the second collision?

20 A. That's correct.

21 Q. And it is not based on the presumption that
22 the occupants were wearing restraints on the first
23 collision but not wearing restraints on the second
24 collision?

25 A. It's based on them being unrestrained in both

Lieutenant Ricky Dixon - Cross-Exam by Mr. Chandler

1 collisions.

2 Q. Okay.

3 MR. CHANDLER: Beg the Court's
4 indulgence.

5 THE COURT: Certainly.

6 (Marked for identification was Defendant's
7 Exhibit 3, download from airbag module SDM.)

8 Q. Lieutenant, I'm handing you what is -- I'm
9 handing you what has previously been marked as
10 Defendant's Exhibit Number 3. Would you tell me what
11 that is or do you recognize it?

12 A. I do. It's a download from an airbag module
13 SDM.

14 Q. Okay. And that report is -- does it indicate
15 which vehicle that report would be?

16 A. It indicates it to be a -- it's got a vehicle
17 identification number on it.

18 Q. Okay.

19 A. I don't see a year, make or model on it.

20 Q. Okay. Well, just for your records -- could
21 you just for the record, could you indicate the VIN
22 number on there?

23 A. Yes. It's 1GNDS13S042269843.

24 Q. Now, that number would be the number of
25 the -- of the vehicle driven by Mr. Glover?

Lieutenant Ricky Dixon - Cross-Exam by Mr. Chandler

1 A. Yes, sir.

2 Q. Okay. Based on your records?

3 A. Yes, sir.

4 Q. Okay. And is this information, information
5 that you would normally do in your MAIT investigation
6 of the accident scenes?

7 A. When they're available. They're not
8 available on all vehicles. And two of the three
9 vehicles in this collision it was available.

10 Q. Okay. And we're looking at now the Trail
11 Blazer that was driven by Mr. Jessie James Glover?

12 A. Yes, sir. The second collision.

13 Q. The second collision, that's correct?

14 A. The second collision.

15 Q. I'm handing you -- in that report on the
16 second page could you describe what that graph is?

17 A. The graph shows the engine speed and graphs
18 it out approximately five seconds prior to impact, it
19 shows the vehicle speed flow and brake switch.

20 Q. Okay. And before we move forward, and is
21 this -- is this report a fair and accurate copy of
22 the report that you've already provided to the State
23 and defense with regard to your investigation of
24 that?

25 A. Yes, sir. For the record, this is page A73

Lieutenant Ricky Dixon - Cross-Exam by Mr. Chandler

1 of our report, of the MAIT report.

2 Q. Okay.

3 MR. CHANDLER: Your Honor, at this time
4 we ask that this record be entered.

5 SOLICITOR PASCOE: I would object to the
6 report going in, but I have no objections to
7 him testifying as to anything that's in the
8 report. The report would be cumulative, but
9 he can testify.

10 MR. CHANDLER: Absolutely.

11 THE COURT: On that basis, yes.

12 Q. With respect to that particular graph, are
13 there any summaries with respect to the speed that go
14 directly to the point with the speed, the
15 pre-collision speed that was -- that vehicle was
16 traveling in?

17 A. Yes, sir. It does.

18 Q. And what would that -- what would that
19 summary be?

20 A. The -- in this particular vehicle the module
21 records approximately five seconds of data prior to
22 the collision, and the vehicle speed as indicated on
23 this report is 69 miles an hour down to 67. So 67 to
24 69 miles an hour in the five seconds prior to impact.

25 Q. So five seconds prior to impact this vehicle

Lieutenant Ricky Dixon - Cross-Exam by Mr. Chandler

1 was traveling between 69 and 67 miles per hour?

2 A. Yes, sir.

3 Q. Okay. No further questions.

4 THE COURT: Any redirect?

5 SOLICITOR PASCOE: None, Your Honor.

6 Thank you.

7 THE COURT: Is this witness free to
8 leave?

9 SOLICITOR PASCOE: Yes, ma'am, from the
10 State.

11 THE COURT: Very well.

12 MR. CHANDLER: Yes. Yes, ma'am.

13 THE COURT: You are free to go.

14 (Whereupon, the witness steps down from the
15 witness stand.)

16 (Whereupon, a bench conference was held off
17 the record in the presence of the jury but
18 out of the hearing of the jury.)

19 THE COURT: Call your next witness,
20 please.

21 MR. JEFFRIES: Thank your, Your Honor.
22 May it please the Court.

23 THE COURT: Yes.

24 MR. JEFFRIES: State calls Agent Landrum
25 of the South Carolina Law Enforcement

Lieutenant Ricky Dixon - Cross-Exam by Mr. Chandler

1 Division.

2 THE COURT: All right. Come along,
3 please, and be sworn.

4 (Agent Brandon Landrum, called as a witness,
5 having first been duly sworn, is examined and
6 testified as follows:)

7 DIRECT EXAMINATION

8 BY MR. JEFFRIES:

9 Q. It's Brandon, I think I might have said Brad.
10 It's Brandon Landrum?

11 A. Yes, sir.

12 Q. Where are you employed, Mr. Landrum?

13 A. South Carolina Law Enforcement Division, also
14 known as SLED.

15 Q. What do you do for SLED?

16 A. I'm a forensic toxicologist.

17 Q. If you would describe for the jury and for
18 the Court your educational background.

19 A. I received my bachelor's of science in
20 biology with a minor in chemistry from Winthrop
21 University. I then went on to Charlotte to receive
22 my certification as a medical technologist from
23 Carolina College of Health Sciences, then proceeded
24 to take my national board certification by the
25 American Society of Clinical Pathologists to be

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 certified as a medical technologist.

2 Q. And with regards to forensic toxicology, what
3 formal education or training have you had in that
4 area?

5 A. I've participated in our in-house, year-long
6 training which includes running 1,000 blood alcohol
7 tests that have been previously run by other analysts
8 and then my results have to be within 5 percent of
9 the results that have been reported out. Upon
10 completion of that we also have written exams and
11 oral exams in the analysis of alcohol tests and
12 interpretation of those -- of alcohol.

13 Upon completion of that then we go
14 further and do drug testing -- well, do training in
15 drug testing, running drug screens, things like that
16 and then doing oral exams also with that to the
17 interpretation of drugs.

18 Upon completion of that I've also been
19 hazardous material certified in order to be a part of
20 the weapons of mass destruction mobile lab segment of
21 the state, and I have attended several courses
22 involving alcohol and drugs, the impairing effects of
23 those different drugs and alcohol. One course I
24 attended -- was at the South Carolina Academy of --
25 well, the South Carolina Criminal Justice Academy

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 where we had what we call a wet lab where they dose
2 several different people with different levels of
3 alcohol and then have them come out and do some field
4 sobriety tests to show what the impairing effects are
5 on people at different levels, different alcoholic
6 levels.

7 Q. And as a forensic toxicologist for State Law
8 Enforcement Division, did you have the opportunity to
9 analyze blood and other substances to determine
10 alcohol content?

11 A. Yes, I do.

12 Q. And how many opportunities have you had to
13 analyze blood for that -- for the presence of alcohol
14 in the bloodstream?

15 A. Roughly right around a thousand give or take
16 a couple -- a couple hundred or a hundred or two.

17 Q. And have you had the opportunity to testify
18 in courts here in South Carolina as an expert?

19 A. Yes, I have.

20 Q. How many times have you been offered as an
21 expert?

22 A. Roughly five to six times.

23 Q. Have you ever been refused as an expert?

24 A. No, I have not.

25 MR. JEFFRIES: Your Honor, at this time

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 I'd ask to offer Agent Landrum as an expert
2 in the field of forensic toxicology.

3 THE COURT: Do you have any voir dire?

4 MR. CHANDLER: None at all. Without
5 objection.

6 THE COURT: Very well. So qualified.
7 You may proceed.

8 MR. JEFFRIES: Thank you, Your Honor.

9 Q. Agent Landrum, let's start with alcohol in
10 general. What type of drug is alcohol?

11 A. Alcohol is a central nervous system
12 depressant, we refer to it as a CNS depressant.

13 Q. And how does it affect one's ability
14 specifically to drive?

15 A. When ability to drive -- it's a central
16 nervous system depressant. Some of the effects that
17 you would see as low as a 0.05 percent is you're
18 going to start seeing your fine motor skills start to
19 go a little bit. It's what we call your inhibitions
20 are going to be the -- are going to go. Your last
21 learned things are going to be the first ones to go,
22 just because where the drug affects the person in the
23 brain.

24 Part of the other things that your level
25 increases, say, around a .08 you're going to start

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 having trouble with multitasking such as driving.
2 When you're driving you have to look at your side
3 view mirrors, your rearview mirror, have to keep the
4 car in the same lane, you have to keep the car at a
5 constant speed, there's a lot of different things
6 that you don't really think about you doing all at
7 once when driving a car, but once you have alcohol on
8 board, or ethanol is what we would refer to as, the
9 drinking alcohol, that's going to be some of the
10 things that are going to be affected by alcohol.

11 You're also going to have at even higher
12 levels, around a .1, start getting dizziness, some
13 confusion, some drowsiness. And then as you get on
14 higher up then you can actually go into some health
15 issues.

16 Q. And the term "impairment," what does that
17 mean?

18 A. Impairment is basically how the drug or
19 alcohol affects your ability to perform different
20 tasks.

21 Q. And what, if any, effect does alcohol
22 impairment have on one's vision?

23 A. Some of the things that you have is there's
24 been studies that have shown as low as a .03 on up to
25 about a .05 you can have difficulty adjusting to

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 darkness and light. Say if you're driving down the
2 road and you're -- and it's at night, then when a car
3 comes by and you have lights flashing it's going to
4 be hard from you to adjust from the dark -- it's
5 going to take longer for you to adjust from the dark
6 from that light going back and then from the light
7 going back to the dark.

8 Q. And how can alcohol impairment affect your
9 attention span?

10 A. As far as you're going -- it's also going to
11 I call it decrease, but it's actually -- say you're
12 driving down the road, you see a stop sign in front
13 of you, without alcohol on board you'll be able to --
14 it might take you ten seconds or -- just as a random
15 number to stop at the stop sign. You're -- at that
16 same distance with alcohol on board, it's going to
17 take longer for you to -- it's going to affect
18 your -- the time that you process information, it's
19 going to take longer for you to process the
20 information with alcohol on board.

21 So if you see that stop sign at that
22 same distance, it's going to take you to see that
23 stop sign and by the time it hits your memory and
24 then for you to -- your mind to tell your body to
25 stop, it's going to take longer for you to come to a

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1 stop in the instance with alcohol on board.

2 Q. Is that the same -- you hear the term
3 "reaction time," is that what you're speaking of?

4 A. Yes.. It's going to increase your reaction
5 time. Another thing is a kid runs out in front of
6 you, it's going to -- your reaction time is going to
7 be increased, it's going to take you longer to stop
8 with that kid running out in front of you with
9 alcohol on board compared to without alcohol on
10 board.

11 Q. You often hear of individuals driving under
12 the influence, impaired, weaving or swerving. How
13 does alcohol affect that, why is that?

14 A. Well, like I said, alcohol is a central
15 nervous system depressant so it's going to cause
16 you -- the divided attention tasks, which I mentioned
17 earlier, it's going to affect those, it's going to
18 cause you to -- it's going to cause you to have to
19 focus more to do several different things, and with
20 the alcohol on board it's causing -- for lack of a
21 better word, it's impairing your ability to do
22 several things at one -- at once and continue. Sort
23 of like standing between the same two lines, you have
24 to do several different things or process several
25 different things through your memory in order to stay

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 within those two lines.

2 Q. And, Agent Landrum, as a chemical analyst
3 with expertise in toxicology, do you determine blood
4 alcohol content on a regular basis?

5 A. Yes, I do.

6 Q. And is that requested by different law
7 enforcement agencies?

8 A. Yes. We get requests from law enforcement
9 agencies and coroners and pathologists, do several
10 types of tests, and alcohol testing is one of those.

11 Q. When I say "blood alcohol level," what is
12 that? Explain that to the jury, what that is.

13 A. Blood alcohol level is basically the
14 concentration of alcohol, or ethanol in this case, in
15 your blood system which goes out through -- flows
16 throughout your body and mainly through your brain,
17 so the alcohol concentration is basically just the
18 level or the amount of alcohol or ethanol that is
19 actually in your blood system.

20 Q. And how does alcohol consumption affect your
21 blood alcohol level?

22 A. I guess basically if you don't consume
23 alcohol, you're not going to have any ethanol in your
24 system, whereas as you consume ethanol your blood
25 alcohol level or your concentration is going to

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 increase as you consume more alcohol.

2 Q. And is it accurate to say that in determining
3 whether someone is impaired, their ability to drive a
4 vehicle, in determining that you can look at their
5 blood alcohol level in order to determine whether or
6 not they can safely operate a vehicle?

7 A. Yes. There's been several studies done over
8 the course of the years that have actually had
9 people -- they've dosed people, sort of how we -- how
10 the course I was in, but they dose people with
11 different alcohol concentrations in their system then
12 they have them perform different tests. And there's
13 actually been some studies where they put them in
14 driving simulators to see how they respond to
15 different things that take place while driving a car.

16 Q. And when you receive blood sample kits from
17 different law enforcement agencies, how are they
18 generally packaged?

19 A. Generally they're packaged in a sealed what
20 we call a blood urine collection kit. They're
21 usually package sealed and then when I receive them
22 they're in what we call a heat-sealed pouch which is
23 what we provide down in log-in and they are initialed
24 and sealed with a date on it.

25 Q. Let me show you what's been labeled as

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 State's Exhibit 7 and entered into evidence and ask
2 you if you recognize that?

3 A. Yes.

4 Q. What do you recognize that as?

5 A. This is the evidence pouch that I received on
6 10/24 of '05 with the -- well, the box has been
7 flattened to conserve space now, but it had -- it's
8 what contained the blood samples that I received for
9 testing in this case.

10 Q. And where did you receive it from?

11 A. I picked it up in what we call our tox box,
12 which is basically a refrigerator with sort of like I
13 refer it to as a post-office-box-type door on it like
14 the blue ones that you see on the corner, you have to
15 pull the handle down, drop the evidence in. But our
16 department is the only department for the tox box
17 with a key to unlock it and open it up and take the
18 evidence out.

19 Q. So it's totally secure?

20 A. Yes, sir.

21 Q. Who all has the opportunity to retrieve those
22 objects?

23 A. Just the people within our -- within my
24 department.

25 Q. And more specifically the actual blood kit

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 that was in the plastic bag, what condition was it
2 in?

3 A. It was sealed upon receipt.

4 Q. And how was it sealed? I think you kind of
5 spoke to it a couple seconds ago.

6 A. It has an evidence label -- well, one side of
7 the case already has a label on it that is closed
8 from the manufacturer and then the officer would put
9 an evidence label over the other end that's open and
10 that was sealed, and then upon my receiving it I'd
11 inspect to make sure it's sealed before doing any
12 testing.

13 Q. So when you receive it, it's sealed not only
14 in the bag, but also the item inside the kit itself
15 is sealed; is that correct?

16 A. Yes, sir.

17 Q. And inside that kit is the actual blood
18 sample?

19 A. Yes.

20 Q. And was the bag in normal condition?

21 A. Yes, it was.

22 Q. And was there any sign of tampering on either
23 the bag or the seal of the kit?

24 A. No, there was not.

25 Q. How would you know if there was tampering?

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 A. Upon receiving we look for any cuts or tears
2 along the bag and we make sure that the heat seal is
3 still intact upon receiving it. And if there's
4 anything that looks like it's been tampered with,
5 then we have to report it to our supervisor and then
6 they do an investigation to figure out why the seal
7 was broken to figure out where the tampering came
8 from.

9 Q. And there was no tampering in this case?

10 A. No, there was not.

11 Q. What information is listed on the packaging
12 there?

13 A. On this package it says name of subject,
14 Jimmy R. Taylor; offense is felony DUI, date of
15 incident is 10/21/05, time is 19:45, county is
16 Orangeburg, investigating officer is Lance Corporal
17 Sergeant Pearrow, department is the South Carolina
18 Highway Patrol, and the date blood drawn was
19 10/21/05 with a time of 11:41 p.m. And it says
20 location of drawing, Bamberg County Hospital and the
21 blood was drawn by -- I can't pronounce the first
22 name, Guinyard I believe.

23 Q. Okay. And when you receive that and it's in
24 proper condition, what do you then do with the blood
25 kit, the blood sample kit?

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 A. Upon receiving it, I inventory it to see
2 what's in it because, like I said, these are blood
3 urine collection sets, I didn't know if I was going
4 to get blood and urine or just blood, so I inventory
5 on it. If it has a seal on it, the seal is secure on
6 the tube, then I perform the analysis that is
7 requested by the agent of the -- the officer of the
8 agency that's submitting the evidence.

9 Q. And before you tell me about your analysis,
10 tell me what, if anything, do you do with the
11 original seal on the package that it came from, the
12 law enforcement agency?

13 A. I'll leave that intact. I try to -- when
14 I -- I leave it -- I break -- the take the samples
15 out of the box and I break down the box to get rid of
16 any excess, you know, just I guess cardboard or
17 whatever so it doesn't take up as much room in my --
18 we have a separate refrigerator that's secure for
19 only us to get access to so it doesn't take up a
20 whole lot of space within that sealed, secure
21 refrigerator.

22 Q. And after you do your testing, your chemical
23 analysis, do you maintain that bag?

24 A. Yes, I do.

25 Q. And obviously before you saw it here in court

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 it was in whose possession?

2 A. It was in -- once we finish with the case,
3 what we call breaking down the bag, we take the label
4 off the tube that it was submitted in that way we
5 have some type of documentation of how the tube was
6 labeled, break down -- well, flatten the box out and
7 then we seal it up, initial that -- our lab seal,
8 because every time we cut into the bag we have to
9 reheat seal it and then initial the heat seal and
10 then we -- once it's -- the case is complete then we
11 put it in a file, in a file cabinet.

12 Q. Describe for the jury in general how you go
13 about testing these substances for their alcohol
14 concentration.

15 A. Once we get the sample we allocate out an
16 amount of the sample and that's -- into a vial, that
17 vial has internal standard which is our reference.
18 We're able to calculate how much alcohol was in that
19 sample. I guess what else are you asking?

20 Q. That would be -- that would be what I was
21 asking.

22 And were you able to determine a blood
23 alcohol level on this subject, Jimmy Taylor, on
24 October -- from October 21st, 2005?

25 A. Yes. The alcohol concentration I got was a

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 0.12 percent weight per volume.

2 MR. JEFFRIES: And beg the Court's
3 indulgence on this TV.

4 THE COURT: Yes.

5 Q. And again what was that level?

6 A. 0.12 percent weight per volume.

7 Q. 0.12 percent?

8 A. Yes, sir.

9 Q. And are you aware of the state level for
10 inference to determine someone being impaired, too
11 impaired to drive on the streets and roads of the
12 state?

13 A. Yes. It's 0.08 percent weight per volume.

14 Q. And I think you testified earlier, at what
15 percent is someone affected by alcohol, someone's
16 driving affected by alcohol?

17 A. The *Journal of the American Medical*
18 *Association* has come up with a study that says as low
19 as a 0.05 percent you can be impaired. A lot of
20 other studies have shown the 0.08 that you're also
21 going to be impaired. With the different levels you
22 don't -- once you reach another level you don't --
23 whatever impairing effect you had don't disappear
24 just because you reach another level, the impairment
25 just increases as the level increases.

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1 Q. All right. So 0.05 represents what?

2 A. The Journal of the American Medical
3 Association.

4 Q. Agent Landrum, let me show you what's been
5 labeled as State's Exhibit Number 9 for
6 identification, ask you if you recognize that?

7 A. Yes, sir. It's the original report.

8 Q. And who did that report?

9 A. I performed the analysis and -- on this
10 report.

11 Q. Who is the subject on that report?

12 A. Jimmy R. Taylor.

13 Q. Okay.

14 MR. JEFFRIES: At this time, Your Honor,
15 I'd ask to move State's Exhibit Number 9 into
16 evidence.

17 MR. CHANDLER: I would like to see it
18 just for a second, Your Honor.

19 THE COURT: Certainly. Of course.

20 MR. CHANDLER: Without objection, Your
21 Honor.

22 THE COURT: Very well.

23 (Entered into evidence was State's Exhibit 9,
24 toxicology report.)

25 Q. And again what does it reflect as the results

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 of your analysis?

2 A. 0.12 percent weight per volume.

3 Q. I think you testified earlier at some point
4 there are health concerns. At what level are there
5 major health concerns as your blood alcohol level
6 increases?

7 A. At a 0.35 you can start having -- you can go
8 into a coma and even death. At a 0.45 pretty much
9 everybody, well, the majority of people do die due to
10 the high concentration of alcohol causing your
11 respiratory system to be depressed so much that
12 you're unable to get oxygen to the body.

13 Q. In this case .12 is the level. And is it
14 fair to say that at a 0.12 that's more, or actually
15 exactly 50 percent higher than the inference level
16 for the state of South Carolina for someone to be
17 impaired?

18 A. Yes, sir.

19 Q. Let's talk about times with reference to when
20 someone is drinking and when someone stops drinking
21 as to when the blood alcohol level is taken. Explain
22 to the jury how your blood alcohol level can increase
23 or decrease over time.

24 A. As you first start consuming alcohol your
25 body is taking in the -- you know, it gets into your

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1 gastrointestinal tract and then it's absorbed and
2 then after -- studies have shown anywhere from an
3 hour to an hour and a half and when you start
4 eliminating the alcohol out your body it's pulled
5 into your urine, so therefore anywhere from an hour
6 to an hour and a half, that's when your elimination
7 rate is greater than the amount that you're taking --
8 that your body is taking in.

9 So, therefore, roughly like I say, an
10 hour after you eliminate 0.015 percent weight per
11 volume an hour after you stop drinking.

12 Q. And let me give you a hypothetical. If in
13 this case the collision took place somewhere near
14 approximately 7:55 p.m. and the blood was not drawn
15 until approximately 11:40 p.m., approximately three
16 hours and 15 minutes after the collision the blood
17 was drawn, could that level have been significantly
18 higher based on that?

19 A. It could have been higher. There's some
20 factors that go into play with that. That's assuming
21 the person had an empty stomach and the person had
22 stopped drinking an hour prior to the accident, then
23 your level could have been 0.015 times three, it's
24 roughly 0.045, so you add that .12, so you roughly
25 could have a 0.165 percent weight per volume assuming

Agent Brandon Landrum - Direct Exam by Mr. Jeffries

1 all those factors are true.

2 Q. And in that scenario, assuming those factors,
3 it could have been as high as what was that?

4 A. 0.165.

5 Q. Even at the .12 that's at least -- I keep
6 saying at least -- exactly 50 percent higher than
7 what the legal limit is; is that correct?

8 MR. CHANDLER: Objection, Your Honor.

9 There's no such thing as a legal limit.

10 There's an inference level. We would not --

11 THE COURT: Sustained.

12 Q. That's at least 50 percent higher than what
13 the legal inference is or legal inference level here
14 in South Carolina; is that correct?

15 A. Yes, sir.

16 Q. And again, how long does it take before your
17 blood alcohol level starts to decrease after one's
18 consumed alcohol, assuming they don't continue to
19 consume alcohol?

20 A. Roughly an hour, hour to an hour and a half.

21 Q. That's all I would have, Agent Landrum.
22 Please answer any questions Mr. Chandler might have.

23 THE COURT: All right.

24 Cross-examination.

25 MR. CHANDLER: Thank you, Your Honor.

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

CROSS-EXAMINATION

1
2 BY MR. CHANDLER:

3 Q. Agent Landrum, how are you doing this
4 afternoon?

5 A. Doing good.

6 Q. I just have a few questions. This scenario
7 that the prosecutor's office has presented to you,
8 this would be just a best-case scenario under the
9 circumstances that you just highlighted?

10 A. Yes, sir.

11 Q. Yeah, that would be nothing to eat and would
12 have to be an hour before you had a drink; is that
13 correct?

14 A. Correct.

15 Q. When you talk about .12, you're really
16 talking about .12 of a hundred, aren't you?

17 A. Yes.

18 Q. When you talk about blood alcohol level?

19 A. Yes.

20 Q. So we're really talking about .0012, aren't
21 we?

22 A. No, sir. That is 0.12 percent which is
23 0.12 grams per deciliter.

24 Q. Let's go back to it. We talk about it, we
25 know about the vial of blood being taken, I think

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

1 everybody's familiar with the amount that's normally
2 taken, let's talk about this test that you did. You
3 indicated that there was an amount of the sample.

4 A. Correct.

5 Q. But what is your methodology, what do you
6 use? Do you do a microliter or you do one and one
7 half milligram?

8 A. We use -- talking about when we pipe that off
9 the sample?

10 Q. Yes, when you test it.

11 A. We use 200 microliters of the sample is what
12 we use to pipe it out.

13 Q. So how many drops would that be probably?

14 A. About 20 maybe. I'd have to -- actually I'd
15 have to go back and actually do a drop by drop. We
16 don't do a drop by drop, we actually use a -- it's
17 measured with a syringe so we don't do drop by drops.

18 Q. And there's some tests through the State Law
19 Enforcement Division where you do a micrometer which
20 is actually less than two drops, isn't it?

21 A. For alcohol testing?

22 Q. Absolutely, yeah, for blood. Yeah, for
23 toxicology testing.

24 A. No, sir. Not for -- you're talking about for
25 doing alcohol testing?

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

1 Q. Absolutely.

2 A. No, sir. Our protocol states we use 200
3 microliters per sample to do our analysis.

4 Q. You said that's about how many drops now?

5 A. That's about 20.

6 Q. Twenty. So really you don't use the entire
7 vial, so of this vial you use about 20 drops to test
8 it?

9 A. Yes, sir.

10 Q. Okay. And that would be .12 percent?

11 A. Yes, sir.

12 Q. Okay. With regard to the effect, you spent a
13 lot of time, of course we looked at the best case
14 scenario, but hadn't eaten an hour before you had
15 your drink, but going back to the effect you spent a
16 lot of time talking about the effect that alcohol use
17 would have on individuals at certain levels and it
18 was presuming certain levels that you had.

19 Isn't it true, though, I mean that
20 wouldn't the effect of alcohol level, wouldn't that
21 effect that it had on a person really depends on
22 their body size and their composition?

23 A. No, sir. The alcohol or ethanol is one of
24 the few drugs, because ethanol is a drug that we
25 actually have studies on to show that you can take a

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

1 200-pound man and a 100-pound woman or 200-pound man
2 and a 100-pound man and you can get them both to that
3 .12 or say that .1 alcohol level, they're going to
4 have -- that .1 is going to have the same impairing
5 effects on that person. Where the body difference
6 comes in is how much they have to drink to get to
7 that level. A 200-pound man's going to have to drink
8 more to get to that .1 level than a 100-pound man
9 would, but the impairing effects are going to be the
10 same as a .1 on anybody.

11 Q. What about with respect to experience, a
12 seasoned drinker, would the effects at least --
13 you're saying the effects of a .12 would be the same
14 on a seasoned drinker, an alcoholic, as it would be
15 with a first-time drinker?

16 A. Yes, sir. What you -- think about -- when a
17 lot of people think about effects or they think about
18 someone being drunk, they look at the outwardly
19 appearance, someone stumbling, not being able to walk
20 straight, things like that.

21 The difference with a seasoned person
22 and an inexperienced person, you can have two people,
23 a seasoned drinker and an inexperienced sitting in
24 this courtroom in a chair both at a .12, or we'd say
25 a .1, let's keep it at a .1. Well, the inexperienced

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

1 person might be having trouble staying in the chair
2 whereas the seasoned person is able to stay in that
3 chair not being able to fall out. But if you give
4 them the same type of multitasking jobs such as
5 driving a car, or say you have them both driving a
6 car and a kid running out in the street, it's going
7 to take them both the same amount of time to react to
8 that and they're still going to have the same
9 impairment level.

10 Impairment deals more with the inside,
11 how your body functions and your mind works and
12 things like that. When I think about how people say
13 drunk, it's more or less how people see you outwardly
14 and not necessarily what you see inwardly.

15 Q. I mean, certainly wouldn't the outward
16 disposition of somebody also would tend to show how
17 the effect of alcohol would have on them? I mean,
18 are you trying to say that -- well, let me ask you
19 that question first and then I'll move forward.

20 A. Okay. Basically, and this is one of the
21 things that when I participate in what we call our
22 wet lab where they dose people at different levels,
23 we actually had two people that were at .1, one
24 person was not quite as experienced person whereas
25 the other one was.

Agent Brandon Landrum - Cross-Exam by Mr. Chandler

1 When we -- you know, the people that are
2 experienced, you learn sort of, well, I might need to
3 lean up against the bar or something like that a
4 little bit longer to stay straight, you learn little
5 tricks on how to, you know, stay balanced and things
6 like that too for the outwardly appearance.

7 But when we gave them sort of the field
8 sobriety test and things like that, they both did
9 equally -- they perform them the same, that's the
10 person that was having trouble standing straight up
11 without moving compared to the person who was
12 standing relatively still.

13 Q. And so it would be your testimony that really
14 a .12 or a .08 or a .05, is what it is, a .05?

15 A. Yes.

16 Q. Okay. No further questions.

17 THE COURT: Very well. Redirect?

18 MR. JEFFRIES: Just one question, Your
19 Honor.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. JEFFRIES:

23 Q. Mr. Chandler asked you about how much blood
24 is taken out of the sample in order to test it.

25 A. Yes.

Agent Brandon Landrum - Redirect Exam by Mr. Jeffries

1 Q. In your experience, your expertise, does it
2 make any difference, is it going to affect your
3 examination by taking more or less of the sample as
4 far as determining blood alcohol level?

5 A. No. The way we -- the way our methodology or
6 way it's set up to do the testing is we use 200
7 microliters on all our samples. First we calibrate
8 our instruments with set -- from a set concentration,
9 we do a five-point calibration curve which goes from
10 a .01 all the way up to a .04, we use those using
11 those same 200 microliters to those standards. We
12 calibrate our instruments so we know the instruments
13 reading this .1 is a .1 or a .4 is a .4 and then we
14 run check standards to make sure that's how it works.

15 The theory behind the instrumentation is
16 called Henry's law, which is basically you have
17 whatever's in your sample which is in the liquid
18 portion of the vial is going to be equal to the head
19 space portion or the air above it.

20 Our vials, we put our 200 microliters in
21 with our internal standard, the vials are then sealed
22 and we'll have a stopper put in their seal, the
23 sample's then put onto the instrument, the vials are
24 heated so that you have an equilibrium of -- by
25 Henry's law. You have a proportional amount of

Agent Brandon Landrum - Redirect Exam by Mr. Jeffries

1 whatever you're looking for, in this case ethanol,
2 you have a proportional amount that's in the liquid
3 layer that's going to be in that air space above it.

4 The needle goes down, it -- it takes out
5 a set amount of that air or that head space volume
6 and then injects it on to the instrument which goes
7 through a process through the instrument and then it
8 comes off, it is detected, it does a ratio from what
9 our internal standard is to what our -- well, in this
10 case ethanol level would have been and then it does a
11 mathematical equation to give you this is what your
12 level is.

13 Q. Thank you.

14 MR. JEFFRIES: Nothing further, Your
15 Honor.

16 MR. CHANDLER: Just one question.

17 THE COURT: Sure.

18 RE CROSS-EXAMINATION

19 BY MR. CHANDLER:

20 Q. Just to clarify the testimony because I don't
21 want this to be deceptive, which reading did you find
22 the blood alcohol for my client, was it this one or
23 this one?

24 A. It was that one.

25 Q. Okay.

1 THE COURT: All right. Is this witness
2 free to leave?

3 MR. JEFFRIES: Please, Your Honor, may
4 he be excused?

5 THE COURT: Very well. You are free to
6 go.

7 (Whereupon, the witness steps down from the
8 witness stand.)

9 THE COURT: Ladies and gentlemen, it's
10 lunchtime. And during the lunch break,
11 ladies and gentlemen, please be mindful not
12 to discuss this matter or allow anyone to
13 discuss it with you.

14 And I'm going to ask you to please
15 be back in your jury room ready to continue
16 with this matter at 2:45. 2:45. It gives
17 you a little over an hour.

18 Do not read anything, do not listen
19 to anything about this matter. Remember that
20 you must -- and that of course includes
21 newspaper, internet, you must receive the
22 information from which you will make up your
23 mind here in court while court is in session.

24 Have a very good lunch. I'll see
25 you at a quarter to 3:00, 2:45.

1 (Whereupon the jury is excused for lunch at
2 1:30 p.m.)

3 THE COURT: All right. Very well. How
4 many additional witnesses are there?

5 SOLICITOR PASCOE: We're going to
6 consult at lunch, Your Honor, but I think
7 we're going to rest right after when we get
8 back, and if we do that we can do it outside
9 of the presence of the jury, take up all the
10 motions if you want to.

11 THE COURT: I would like to do that
12 then. I'd ask you guys to be back here then
13 right at -- can you make it 2:30?

14 SOLICITOR PASCOE: Okay.

15 THE COURT: Just an hour, but can you
16 manage that, do you think? Is that okay?

17 MR. CHANDLER: Yes, ma'am. It is.

18 THE COURT: I remember your witness
19 list. I think I recall three witnesses; is
20 that right?

21 MR. CHANDLER: Yes. I think we've
22 amended it, but if it's not --

23 THE COURT: Okay.

24 MR. CHANDLER: -- it may be two or
25 three, Your Honor.

1 THE COURT: Two or three?

2 MR. CHANDLER: Two or three.

3 THE COURT: I'm not going to hold you to
4 it I just was getting an approximate. All
5 right. You all have a good lunch.

6 MR. CHANDLER: Thank you.

7 (Lunch recess taken from 1:31 p.m. to
8 2:51 p.m.)

9 THE COURT: All right. Did you all
10 review your witness list to see if you were
11 going to call any?

12 SOLICITOR PASCOE: I think we're going
13 to rest, Your Honor.

14 THE COURT: You are going to rest?

15 SOLICITOR PASCOE: Yeah.

16 THE COURT: Very well. All right. What
17 I'll do is, of course, when the jury comes in
18 you'll, of course, rest on the record, but
19 that will allow us to address the motions.

20 Yes, sir.

21 MR. CHANDLER: Your Honor, at this time
22 the defense would ask for a directed verdict
23 in the light of the evidence presented by the
24 State of South Carolina in the most favorable
25 position of the State of South Carolina.

1 It's our motion that they have not met all
2 the necessary elements for the offense of
3 felony DUI on all three counts and so we
4 would ask that you direct a verdict of not
5 guilty on all three counts.

6 More specifically, with respect
7 to -- as a part of the elements required
8 under felony DUI that the State is required
9 to indicate that the act or neglect must be
10 the proximate cause of death or great bodily
11 injury.

12 The State has -- first of all, the
13 State has failed in this investigation to
14 perform an autopsy which would have given and
15 provided evidence specifically to show what
16 actually caused the death of each and
17 every -- each and every occupant in the
18 Escort or each and every member of the Neeley
19 family and they failed to do so, thus despite
20 testimony with regard to the direction that
21 they may have been thrown, that the State
22 failed to present any evidence to show what
23 actually caused the death of those
24 individuals. On that basis we would make our
25 motion for directed verdict.

1 THE COURT: Thank you so much,
2 Mr. Chandler.

3 MR. CHANDLER: Thank you.

4 THE COURT: I would respectfully deny
5 your motion and would note that there is
6 evidence and find that there is evidence on
7 each and every element of the offense. Of
8 course it's not for the Court to weigh the
9 evidence, it's for the Court to ascertain
10 whether or not there is evidence on each
11 element from which the jury could reasonably
12 find guilt, and do find that there is
13 evidence existing on each and every element.

14 Okay. Very well. Are you ready to
15 proceed?

16 MR. CHANDLER: Yes, Your Honor. And, in
17 fact, our client is going to testify.

18 THE COURT: He's going to testify?

19 MR. CHANDLER: Yes, ma'am.

20 THE COURT: Very well. Counsel, I ask
21 your opinion whether or not you think it is
22 appropriate to examine a defendant who is
23 making the choice to testify with regards to
24 his right to testify and his right not to
25 testify?

1 MR. CHANDLER: I think just in an
2 abundance of caution, Your Honor, if you
3 could do so.

4 THE COURT: Absolutely. Thank you.
5 Thank you so much.

6 Mr. Taylor, raise your right hand
7 and please be sworn.

8 THE CLERK: Raise your right hand,
9 Mr. Taylor. Raise your right hand.
10 (Whereupon, the defendant is duly confirmed.)

11 THE DEFENDANT: Am I allowed to use the
12 term confirm versus swear?

13 THE CLERK: Affirm?

14 THE COURT: Yes, sir. What our
15 statutory provisions talk about oaths,
16 Mr. Taylor, what it says is, is that the
17 Court or whomever is administering an oath
18 use words, use words that would impress upon
19 the person answering the questions the urgent
20 need to be truthful. That's what the, if you
21 will, the standard is. Confirm I gather is
22 the word that for you meets with perhaps
23 religious beliefs, but...and you're
24 comfortable with that term; is that right?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Very well. And, of course,
2 I just ask in an abundance of caution you do
3 understand, of course, the urgent need to be
4 truthful?

5 THE DEFENDANT: Most definitely, Your
6 Honor.

7 THE COURT: And if you were not truthful
8 of course then your statements could be
9 punishable by perjury.

10 THE DEFENDANT: Right.

11 THE COURT: Very well. Here is what it
12 says, I just happened to turn to it. It says
13 before testifying every witness shall be
14 required to declare that the witness will
15 testify truthfully by oath or affirmation
16 administered in a form calculated to, here's
17 the term, awaken the witness' conscience.

18 THE DEFENDANT: All right.

19 THE COURT: And impress the witness'
20 mind with the duty to do so.

21 Very well. I'm satisfied that your
22 desire for the term confirm absolutely will
23 do. All right. Very well.

24 Now, Mr. Taylor, I actually have a
25 checklist, I'm sort of looking for that. And

1 what I would say is to ask you or tell you
2 that at this juncture of the trial we will
3 now turn to your case, your defense and that
4 it is important, of course, that you
5 understand that you have the right to testify
6 in your trial. You have the right not to
7 testify in your trial, that your right to
8 choose not to testify, of course, is borne
9 out of your Fifth Amendment right which is
10 applicable to you by the United States and
11 the South Carolina constitutions.

12 And, of course, if you choose to
13 testify then if you have convictions of
14 offenses, criminal offenses within the last
15 ten years then it is -- it is possible that
16 those convictions could be admitted for the
17 sole purpose of -- on the issue of
18 credibility or truthfulness. And if you have
19 been in the past convicted of a crime which
20 involves the telling of truthfulness or
21 non-truthfulness, then irrespective of the
22 ten years that that could be brought out as
23 well. And that -- and also -- and, of
24 course, the Court would make the
25 determination of whether or not such

1 impeachment would be allowed.

2 In the event that you chose not to
3 testify, then I would instruct the jury in my
4 final charge that they could not consider
5 your decision not to testify in any regard.
6 In fact, they couldn't even discuss it in the
7 jury room because, you see, that is your
8 constitutional right and the burden is and
9 remains on the State of South Carolina. You
10 don't have the burden to prove anything. The
11 burden again is, and remains, on the State.

12 And just to be very clear the Fifth
13 Amendment says, of course, that no person
14 shall be compelled in any criminal case to be
15 a witness against himself.

16 Now, of course, that means that you
17 cannot be required to testify in this case.
18 Of course you have the right to testify in
19 your own behalf, but no one can make you
20 testify. This is a personal right, your
21 Fifth Amendment right is a personal right and
22 no one, no one can waive this right but you.

23 If you decide, of course, to
24 testify, as I've already said, you'll be
25 subject to the same rules that govern other

1 witnesses and you may be examined and
2 cross-examined on any relevant issue in the
3 case. And if you decide -- well, let me add
4 we talked about the fact that if you have
5 convictions involving dishonesty or false
6 statement or for crimes punishable by
7 imprisonment for more than a year and the
8 Court determined that the probative value of
9 admitted evidence outweighs its prejudicial
10 effect, the solicitor would be able to
11 introduce that portion of your record to
12 attack your credibility on those issues.

13 If you decide to testify this
14 decision on your part must be freely,
15 voluntarily and intelligently made with
16 knowledge of the protections given to you by
17 the Fifth Amendment and the consequences of
18 your decision to testify.

19 And if you decide not to testify I
20 would instruct the jurors that they cannot
21 give the fact that you did not testify any
22 consideration whatsoever, and that there is
23 to be absolutely no prejudice to you because
24 you did not testify or you chose not to
25 testify. This is a matter left entirely up

1 to you.

2 Now, you can -- you should -- and I
3 know that you have been speaking with
4 Mr. Chandler, with your attorney, and you --
5 obviously you may talk to family and friends
6 or anyone else that you deem appropriate, but
7 you do know, you do understand, Mr. Taylor,
8 that the final decision will be left entirely
9 up to you. In other words, you seek other
10 people's guidance, their advice, but, if you
11 will, at the end of the day the decision must
12 be yours.

13 And do you have any questions about
14 what I have just explained to you?

15 THE DEFENDANT: Your Honor?

16 THE COURT: Yes.

17 THE DEFENDANT: Without being cruel in
18 it all, no intent, all law that pertains to
19 me, the only request is that it is applicable
20 to all.

21 THE COURT: Oh, indeed.

22 THE DEFENDANT: A perjury is a perjury,
23 yes, ma'am.

24 THE COURT: Indeed. Indeed. Yes,
25 indeed. And so -- and I would ask if you

1 have understood what I've just explained?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right, sir. And do you
4 have any questions about what we just talked
5 about?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: All right, sir. And have
8 you had a chance to talk with Mr. Chandler?
9 I don't ask what you've discussed, I just
10 want to know that you've had the opportunity
11 to discuss with him --

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: -- whether to testify or not
14 to testify?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: You had that opportunity
17 today?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Very well. Do you need --
20 would you care to talk to him any more about
21 this decision whether or not to testify?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: All right, sir. And are you
24 prepared to make your decision at this time
25 whether you wish to testify?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And tell me what is that
3 decision?

4 THE DEFENDANT: It is the desire to
5 testify.

6 THE COURT: Thank you, Mr. Taylor.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Very well. All right.

9 Anything further from the State before we
10 bring the jury -- I'm so sorry, you may be
11 seated. You may be seated.

12 Anything further before we bring
13 the jury out?

14 SOLICITOR PASCOE: Your Honor, I would
15 ask if Mr. Chandler could get me the dates of
16 birth, maybe the Social Security numbers of
17 the other laywitnesses other than Mr. Taylor
18 that are going to testify so we can run raps.

19 THE COURT: Okay.

20 SOLICITOR PASCOE: We'll do that while
21 we're going though.

22 THE COURT: I understand.

23 SOLICITOR PASCOE: The only thing I want
24 to do is I want to make sure with Robin that
25 everything is in, all the exhibits.

1 THE COURT: You all located the exhibit
2 that went missing I think that the witness
3 left with it?

4 MR. JEFFRIES: There's a little barbeque
5 sauce on it, but it's all right.

6 THE COURT: Very well, all right. Very
7 well. Okay. Great. Anything before we
8 bring the jury out?

9 SOLICITOR PASCOE: No, Your Honor.
10 Thank you.

11 THE COURT: All right. From the
12 defense? You ready to go?

13 MR. CHANDLER: Yes, Your Honor.

14 THE COURT: Very well. Let's have the
15 jury.

16 (Whereupon, the jury returns to the courtroom
17 at 3:04 p.m.)

18 THE COURT: On behalf of the State.

19 SOLICITOR PASCOE: May it please the
20 Court.

21 THE COURT: Yes.

22 SOLICITOR PASCOE: At this time, Your
23 Honor, State rests.

24 THE COURT: Very well. Ladies and
25 gentlemen, let me explain to you that what

1 has just occurred is that you've now heard
2 the witnesses and received the exhibits which
3 you will from the State in the State's case
4 in chief.

5 And we'll now turn to the defense.

6 MR. CHANDLER: Thank you, Your Honor.
7 The defense calls Lance Corporal Pearrow.

8 THE COURT: Very well. You've already
9 been sworn.

10 THE WITNESS: Right.

11 THE COURT: Keep your voice up.

12 MR. CHANDLER: Yes, ma'am.

13 (Lance Corporal Steven Pearrow, called as a
14 witness, having previously been duly sworn,
15 is examined and testified as follows:)

16 DIRECT EXAMINATION

17 BY MR. CHANDLER:

18 Q. Lance Corporal Pearrow, I understand that
19 earlier you indicated that you did go on the scene of
20 the two collisions on October the 21st, 2005?

21 A. Correct.

22 Q. And isn't it true that you did observe all
23 three vehicles?

24 A. Yes.

25 Q. And you did do a collision summary report

Lance Corporal Steven Pearrow - Direct Exam
by Mr. Chandler

1 that indicated all, or at least some of the things
2 that you observed on that day?

3 A. Correct.

4 Q. And among those things you did observe the
5 blue -- I mean, excuse me, the Ford Escort that was
6 where the Neeley family or the victims in this
7 particular case were the occupants?

8 A. Correct.

9 Q. And in addition to that, in your collision
10 summary report you indicate that after the first
11 collision the vehicle driven -- or where the Neeleys
12 were the occupants was repositioned and actually was
13 there for a period of time?

14 A. Correct.

15 Q. And a period of time, actually long enough
16 for a puddle to form from the fluids that were
17 leaking?

18 A. Correct.

19 Q. Okay. No further questions.

20 THE COURT: Very well.

21 Cross-examination?

22 MR. JEFFRIES: Nothing from the State,
23 Your Honor.

24 THE COURT: Very well. You may come
25 back down.

Alisha McCottry - Direct Exam by Mr. Chandler

1 (Whereupon, the witness steps down from the
2 witness stand.)

3 THE COURT: Yes, sir. If you would
4 please call your next witness.

5 MR. CHANDLER: Okay. Defense calls
6 Ms. Alisha McCottry.

7 THE COURT: Ms. Alisha McCottry.
8 (Alisha McCottry, called as a witness, having
9 first been duly sworn, is examined and
10 testified as FOLLOWS:)

11 DIRECT EXAMINATION

12 BY MR. CHANDLER:

13 Q. Ms. McCottry, how do you know the defendant
14 Mr. Jimmy Taylor?

15 A. Jimmy Taylor and I went to school at South
16 Carolina State together about 25 years ago.

17 Q. And on October the 21st, 2005 were you still
18 in contact with Mr. Taylor?

19 A. No. Well, not at that particular time. I
20 had traveled to Orangeburg for South Carolina State
21 homecoming.

22 Q. Okay.

23 A. And made a call that I was going to be there
24 and we agreed to sit down and talk.

25 Q. Okay. And that was on or about October 21st,

Alisha McCottry - Direct Exam by Mr. Chandler

1 2005?

2 A. Yeah.

3 Q. So that was during South Carolina State
4 homecoming?

5 A. Yes.

6 Q. Okay. How was the traffic around that time
7 in Orangeburg?

8 A. Awful.

9 Q. Awful? Very busy?

10 A. Yes, terribly busy.

11 Q. Okay. All right. And so did, in fact, you
12 and Mr. Taylor have an opportunity to meet and sit
13 down?

14 A. Yeah. We agreed to meet and we sat down and
15 we talked for about an hour and a half.

16 Q. Okay. Where exactly -- tell me how were you
17 able -- well, where exactly did you go?

18 A. Okay. I went to the campus and I parked my
19 car where I met with Jimmy and we agreed to go to the
20 Edisto Gardens on the left side by the lake and we
21 sat there and talked.

22 Q. Okay. In addition to talking, what, if
23 anything else, did you do?

24 A. Well, we did go to the liquor store and we
25 got some rum and then we got a 20-ounce Coke and two

Alisha McCottry - Direct Exam by Mr. Chandler

1 cups of ice.

2 Q. Okay. And do you recall how many, if any,
3 drinks did my client, Mr. Jimmy Taylor, have during
4 that time that you were talking about?

5 A. No more than two.

6 Q. No more than two?

7 A. Uh-huh.

8 Q. Okay. After -- how long were you guys there?

9 A. About an hour and a half to two hours. No
10 more than that.

11 Q. No more than that?

12 A. Because I had other obligations and he stated
13 that he needed to get home because his wife was sick.

14 Q. Okay. And tell me, what happened after you
15 finished drinking and talking I presume at the lake?

16 A. Jimmy drove me back to South Carolina State
17 where he made sure that I was securely in my car and
18 he went home and I went to my girlfriend's.

19 Q. What's the distance between the lake and
20 South Carolina State?

21 A. I'm not sure of the exact mileage, but I want
22 to say anywhere from maybe five to four miles.

23 Q. Okay. And in that five or four miles
24 approximately how many, if any, red lights would you
25 have had to go through?

Alisha McCottry - Direct Exam by Mr. Chandler

1 A. Oh, I would say anywhere from five to six.

2 Q. And you said the traffic during this time was
3 awful?

4 A. Yes.

5 Q. At any time, Ms. McCottry, were you ever
6 concerned about Mr. Taylor's ability to operate the
7 vehicle? You did ride with him; is that correct?

8 A. Right.

9 Q. Were you ever concerned about his ability to
10 operate the motor vehicle that you were traveling in?

11 A. Not at all.

12 Q. And had you been -- had you been concerned
13 about it, would you have even got in the vehicle with
14 him?

15 A. No.

16 Q. And so tell me about his demeanor there. Was
17 his clothes disheveled?

18 A. Pardon me?

19 Q. I mean, please describe his demeanor around
20 that time.

21 A. What, that was the --

22 Q. His faculties, yeah.

23 A. The driving? He was in -- I mean, I didn't
24 have any reason to be concerned.

25 Q. Okay.

Alisha McCottry - Direct Exam by Mr. Chandler

1 A. When I heard about what had happened I --
2 that was just unbelievable to me that it did happen.

3 Q. Why was it unbelievable?

4 A. Because I knew he was -- he was -- he was in
5 condition to drive home, otherwise we would not have
6 had those drinks. Because I knew he had to drive
7 home.

8 Q. And what about his -- what, if anything,
9 about his physical condition made you comfortable
10 with riding with him?

11 A. He was -- he was fine.

12 Q. He was fine?

13 A. Yeah.

14 Q. Specifically --

15 A. Not -- you know, just his normal self, not
16 giddy, not out of control. He was in control of the
17 situation.

18 Q. Okay. All right.

19 MR. CHANDLER: Beg the Court's
20 indulgence.

21 THE COURT: Yes.

22 Q. No further questions. Please answer any
23 questions that the prosecution may have.

24 THE COURT: Cross-examination.

25 MR. JEFFRIES: Thank you, Your Honor.

Alisha McCottry - Cross-Exam by Mr. Jeffries

1 THE COURT: Uh-huh.

2 CROSS-EXAMINATION

3 BY MR. JEFFRIES:

4 Q. Ms. McCottry?

5 A. McCottry.

6 Q. How are you doing?

7 A. Good.

8 Q. My name is Bryan Jeffries, I'm with the
9 solicitor's office. I just want to ask you a couple
10 questions.

11 A. Okay.

12 Q. You said you've known the defendant for 25
13 years?

14 A. Yes.

15 Q. And you all are friends, is that safe to say?

16 A. Yes.

17 Q. You indicated that you were drinking with
18 Mr. Taylor; is that correct?

19 A. Right.

20 Q. And y'all were drinking Bacardi --

21 A. Yes.

22 Q. -- that you had bought from the liquor store
23 that day?

24 A. Uh-huh.

25 Q. And do you know if he was drinking -- or you

Alisha McCottry - Cross-Exam by Mr. Jeffries

1 wouldn't know if he was drinking before you met with
2 him, would you?

3 A. Well, he came down from his office, so I
4 would hope he was not drinking.

5 Q. But you don't know?

6 A. I'm not sure, no.

7 Q. And you don't know if he had anything to
8 drink after he left you?

9 A. No, I don't.

10 Q. Let me ask you, what happened to the bottle
11 after y'all finished drinking at the river?

12 A. I left it with him.

13 Q. You left it with him?

14 A. Yes.

15 Q. Okay. Were you aware of what his blood
16 alcohol level was that night?

17 A. Well, not until I got here.

18 Q. You didn't know it was a .12, but you know
19 now?

20 A. I know now.

21 Q. Are you aware he told law enforcement
22 officers he hit a deer that night?

23 A. No, I'm not aware of that.

24 Q. What time did he -- what time did he drop you
25 off?

Alisha McCottry - Cross-Exam by Mr. Jeffries

1 A. Oh, 6:30. 6:30. I know it was before 7:00.

2 Q. Sometime between 6:30 and 7:00?

3 A. Yes.

4 Q. So you can't say what he was doing after he
5 dropped you off between 6:30 and let's say 7:55?

6 A. No.

7 Q. You're not testifying that you do know where
8 he was or what he was doing?

9 A. No.

10 Q. And it's your testimony that you left that
11 bottle with him, you didn't take it?

12 A. Right.

13 Q. That's all I'd have. Thank you.

14 A. Uh-huh.

15 THE COURT: All right. Redirect?

16 MR. CHANDLER: None at all.

17 THE COURT: Very well. Is this witness
18 free to leave?

19 MR. CHANDLER: Yes, she is.

20 THE COURT: You are free to go.

21 (Whereupon, the witness steps down from the
22 witness stand.)

23 THE COURT: If you'd call your next
24 witness.

25 MR. CHANDLER: Okay. Defense calls

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Mr. Jimmy Taylor.

2 (Jimmy R. Taylor, called as a witness, having
3 first been confirmed, is examined and
4 testified as follows:)

5 DIRECT EXAMINATION

6 BY MR. CHANDLER:

7 Q. Mr. Taylor, where do you live?

8 A. In Williston, South Carolina.

9 Q. Okay. And how long have you been living in
10 Williston, South Carolina?

11 A. Born and raised there after doing time in the
12 military and minus times of being in school, so I
13 guess out of 54 years I probably lived there about 40
14 maybe.

15 Q. Forty years?

16 A. Forty-plus years.

17 Q. You say the time that you were in school. In
18 the military first. Where did you serve in the
19 military?

20 A. U. S. Navy about nine years.

21 Q. Nine years. And with regard to school, where
22 did you go to school?

23 A. Aiken Technical College for about a year and
24 a half and transferred from there to South Carolina
25 State University.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. Okay. What kind of work do you do,
2 Mr. Taylor?

3 A. Currently economic development manager at the
4 university at the Small Business Development Center.

5 Q. What do you do there at the Small Business
6 Development Center?

7 A. We consult small businesses or individuals
8 that are considering establishing a business or
9 individuals that are in business and that are
10 desiring to expand their current business.

11 Q. And when you consult, to what extent is this
12 consultation, how does this consultation go?

13 A. We assist them with accumulating data, with
14 demographics, do a feasibility study, see if there is
15 a demand for the product or service that a business
16 owner or an entrepreneur may be considering to bring
17 to the area. We are -- it is given under us to cover
18 some seven counties in the area, but we aren't
19 limited to just the seven counties.

20 Q. So you serve counties outside of Orangeburg
21 as well?

22 A. Yes, sir.

23 Q. Okay. And on October the 21st, 2005 were you
24 also working in that capacity on the campus of South
25 Carolina State University?

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 A. Yes, sir.

2 Q. Okay. What was going on around that time,
3 October the 21st, 2005?

4 A. It was the homecoming weekend for South
5 Carolina State University.

6 Q. And normally how is the traffic there?

7 A. Congested.

8 Q. Congested?

9 A. Yes, sir. So you understand, the fair was
10 going on also.

11 Q. Okay. So you had State homecoming and you
12 had the Orangeburg state fair or Orangeburg County
13 Fair?

14 A. Yes, sir.

15 Q. Okay.

16 A. County fair.

17 Q. And so all of that worked to congest the
18 traffic which you were talking about?

19 A. Yes, sir.

20 Q. Do you know Ms. Alisha McCottry?

21 A. Yes, sir.

22 Q. And how do you know her?

23 A. From 1980 when I transferred from Aiken
24 Technical College to South Carolina State University
25 she assisted me in filling out my class schedule.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 And, in fact, briefed me to the university really.

2 Q. Okay. And by October the 21st, 2005 were you
3 still in contact with Ms. McCottry?

4 A. No, sir. There was a period of maybe ten
5 years since she and I had spoken and I may have been
6 back at the school for a number of months before she
7 even became aware of the fact that I was back. And
8 as it has been previously stated, when it was known
9 that I was back on campus then with her coming to
10 town then I was notified and again arrangements were
11 made for her and I to sit down and talk.

12 Q. Okay. Matter of fact, did you sit down and
13 talk?

14 A. Yes, we did, sir.

15 Q. Okay. Mr. Taylor, you live in Williston,
16 South Carolina, and you work on the campus of South
17 Carolina State, that's what you previously stated?

18 A. That's correct, sir.

19 Q. What route do you normally travel to go from
20 Williston to South Carolina State University?

21 A. Back road from Williston to Blackville, past
22 the Farmers' Market at the stop sign, make a right,
23 next block make a left which would bring me to
24 Highway 70 and there's a country road right there on
25 the left and I make that left and proceed on Highway

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 70 toward 301.

2 Q. And how often do you travel on Highway 70,
3 every day?

4 A. Five days a week, sir, to and fro.

5 Q. And for how many years? Five days a week for
6 how many years?

7 A. Since about 2000.

8 Q. Since about 2000. So from 2000 --

9 A. Allow me to correct that, sir. Every day --
10 allow me time to correct that. Every day maybe for
11 about three years because prior to then I come over
12 only as needed.

13 Q. Okay.

14 A. Yes, sir.

15 Q. So for three years you traveled Highway 70?

16 A. Yes, sir.

17 Q. Familiar with the road?

18 A. Yes, sir.

19 Q. Starting coming from Williston which is where
20 you live --

21 A. Yes, sir.

22 Q. -- to Orangeburg heading in that direction,
23 Williston to Orangeburg, and that route consequently
24 would be also the same route that was traveled by the
25 Neeleys as well as traveled by Mr. J. J. Glover,

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 please describe the road as you approach what was now
2 known as the scene of the accident.

3 A. Due to the fact that I've oftentimes traveled
4 the road early mornings when there is much dew or
5 late in the evenings returning, it is an accepted
6 fact that the highway is dangerous, so I personally
7 has driven it cautiously. Does that answer your
8 question, sir?

9 Q. I was asking you to describe the road, but,
10 certainly, okay. You drive it cautiously.

11 A. It's a winding road. It's a winding road,
12 hills and climbs, curves. It is to be driven
13 cautiously.

14 Q. Now, as you approach -- if you were leaving
15 Williston, as you're approaching the scene of the
16 accident, is the road straight or is it a winding
17 road right as you approach the --

18 A. Traveling from the Denmark way?

19 Q. Yeah, from Denmark there. Yes, from
20 Williston.

21 A. Excuse me. Traveling from Denmark way and
22 you're speaking of at the area where the incident may
23 have happened at?

24 Q. Yes.

25 A. There is an area of distortion.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. Okay.

2 A. 'Cause there's an incline and a slight curve
3 to the right coming from the Denmark way.

4 Q. And as a result of that, does it have a -- is
5 the line marked with just regular dotted lines or are
6 there double or bar lines or a single bar?

7 A. No passing zone.

8 Q. No passing.

9 Just from that direction no passing?

10 A. Yes, sir. From that way, yes, sir.

11 Q. Which would indicate that grade that you were
12 talking about?

13 A. Yes, sir.

14 Q. Okay. Thank you. And what's the speed limit
15 on that road?

16 A. Fifty-five to my recollection, sir.

17 Q. Fifty-five.

18 Moving back to October the 21st, you
19 said that you, in fact, had opportunity to meet with
20 Ms. Alisha McCottry.

21 A. Yes, sir.

22 Q. Did, in fact, you meet at -- where did you
23 meet? I don't --

24 A. The office where I work at is located in the
25 School of Business.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. Okay.

2 A. And there is a one-way street west, west of
3 the building. Actually it is between the School of
4 Business and this auxilliary building that has been
5 just recently purchased from Claflin which has been
6 in operation for about a year and a half, maybe three
7 years now, and the highway there.

8 So Sister McCottry had stated I meet
9 her, or she was parked there, and she could come and
10 park in that area.

11 Q. Is that what happened?

12 A. Yes, sir.

13 Q. And so how did you -- both of you get to the
14 lake or the waterfront?

15 A. We drove in my vehicle.

16 Q. And who actually drove the vehicle?

17 A. Jimmy Taylor, sir.

18 Q. Okay. Okay. All right. And once you were
19 there what, if anything, did you do?

20 A. We had two drinks apiece.

21 Q. Two drinks?

22 A. Excuse the expression. Yes, sir. Yes, sir.

23 Q. Okay. You had two drinks.

24 And afterwards what did you do with the
25 bottle of Bacardi afterwards?

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 A. Prior to Sister McCottry and I departing, I
2 sealed the cap real well, twisted the package real
3 well and placed it behind me on the back seat.

4 Q. Okay.

5 A. And assured her it would not be touched.
6 That's it.

7 Q. And -- and what, if -- then after that how
8 did you -- what happened after that?

9 A. Well, it has also been stated by Sister
10 McCottry --

11 Q. Just answer my questions specifically.

12 A. Excuse me. Yes, sir. A phone call come in
13 and there were prior arrangements to meet a
14 girlfriend and she was calling to remind her and it
15 was time to depart.

16 We, in turn, left the Edisto Garden,
17 drove her back to the location from where her --
18 where her car was parked at, she in turn departed the
19 car, I assisted her in getting into her car, she
20 drove off.

21 Q. And then you proceeded to drive back?

22 A. In route to home.

23 Q. Okay. All right. And what direction did you
24 take then?

25 A. Russell Street to 301, made a right, traveled

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 on out 301 heading toward Highway 70, made the right
2 turn on Highway 70 proceeding toward home.

3 Q. Mr. Taylor, while you -- after drinking those
4 two drinks with Ms. McCottry, were you intoxicated?

5 A. No, sir. No, sir. Adamantly not.

6 Q. Okay. And did you feel like you could not
7 operate or maneuver your vehicle, or did you feel
8 like it was limited by the result of drinking those
9 two drinks?

10 A. No, sir.

11 Q. And what happened while you were on your way
12 down -- what, if anything, happened while you were on
13 Highway 70 headed home?

14 A. Repeat your question again, sir.

15 Q. What, if anything, happened while you were on
16 Highway 70 headed home?

17 A. What if? Well, something did and from
18 recollection and it was stated --

19 MR. JEFFRIES: Objection to anything
20 that was stated, Your Honor.

21 THE COURT: Yes. That would be hearsay.

22 MR. CHANDLER: Okay.

23 THE WITNESS: Oh, no. No.

24 THE COURT: If you would be so kind as
25 to not testify to what someone said to you.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Yes, you may proceed. Ask him a
2 question.

3 THE WITNESS: May I clarify that?

4 Q. Mr. Taylor --

5 MR. CHANDLER: "It was stated" is a
6 common word choice that he uses to start off
7 his sentences, Your Honor, so I'm going to
8 instruct Mr. Taylor.

9 Q. Mr. Taylor, you just answer the questions.
10 I've noticed that that's the way you start your
11 sentences, but I need you to specifically answer me.

12 A. Yes, sir.

13 MR. CHANDLER: In fact, Your Honor, that
14 used to throw me off too.

15 Q. Specifically answer the questions.

16 A. Yes, sir.

17 Q. What happened when you were traveling on
18 Highway 70?

19 A. There is the appearance as though I had a
20 right rear tire blowout.

21 Q. And who gave you that appearance?

22 A. I heard and felt -- I heard and I felt that.

23 Q. What did you hear?

24 A. Thump. And felt it.

25 Q. Well, and what did you do as a result of it?

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 A. At that moment the vehicle veered to the
2 left.

3 Q. Uh-huh.

4 A. That's when I entered the bushes.

5 Q. Uh-huh.

6 A. Where the trees are.

7 Q. What happened after you find yourself in the
8 trees?

9 A. Realizing that an accident had occurred,
10 after evaluating myself still being able to move, my
11 window was down. I released the seat belt and I
12 began to proceed out of the window.

13 Q. Okay. And did you get out of the window?
14 You got out of your vehicle?

15 A. Yes.

16 Q. And what happened after that?

17 A. As I was crawling out of the window there was
18 a lady in front of a vehicle that was parallel to
19 Highway 70 standing in front of this car and the
20 headlights were on her, she was asking me, "Sir, are
21 you all right?"

22 Q. And what, if anything --

23 A. She say she has already called the rescue
24 squad, they are on their way and for me to lie down
25 and be still.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. And what did you do as a result of that?

2 A. Lie down and remain still.

3 Q. You mentioned that there was a lady that
4 spoke to you. Can you describe that lady?

5 A. White-haired lady, she was wearing a red --
6 looked like a red pullover or sweater, but there was
7 a blouse under it. It is distinguishable because the
8 collar of the blouse was over the red garment that
9 she was wearing.

10 Q. And -- okay. So you indicated that this lady
11 that you described told you to lay down and be still
12 and you did that?

13 A. Yes, sir.

14 Q. What, if anything, happened after that? What
15 happened after that?

16 A. While dying down on my back with my head
17 toward the highway I heard this fast moving vehicle
18 coming through.

19 Q. Now, what is -- after hearing that sound,
20 what was your next memory?

21 A. Lord have mercy. That was the next thought,
22 sir.

23 Q. Okay. And what happened after that?

24 A. Rescue workers come and they attended to me.

25 Q. Do you recall saying anything to the rescue

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 workers?

2 A. Beg pardon, sir?

3 Q. Do you recall saying anything to the
4 emergency personnel who spoke to you or attempted to?

5 A. I was asked my name, I was asked where I was
6 coming from, I was asked where I was going, I was
7 asked what year it is.

8 Q. Okay. But other than what you were asked,
9 what did you say to them?

10 A. Those were the questions that was answered.
11 I was -- I'm coming from Edisto Gardens in route to
12 where? Williston.

13 Q. Okay.

14 A. Have you been drinking, Mr. Taylor? Yes.
15 How many did you have? Two. What time did you leave
16 or what year is it? Who is the president?

17 Q. Okay. So they were asking --

18 A. Are you on any medication? Are you allergic
19 to anything?

20 Q. Did you have -- after being treated by the
21 EMT or the emergency service personnel, where --
22 where were you taken?

23 A. Bamberg County Hospital.

24 Q. Okay. Is that when you had the opportunity
25 to meet with Lance Corporal Pearrow?

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 A. To be perfectly honest with you, I'm unable
2 to identify him visually as being who the officer was
3 that was spoken with, but I do remember that name.

4 Q. Okay.

5 A. But, yes, sir, should he be the same
6 gentleman that come there that evening then, yes,
7 sir.

8 Q. Well, in the -- with the officer of that
9 name, did you have any interaction with him?

10 A. Yes, sir. It is recalled.

11 Q. And as you recall that -- do you recall that

12 A. Yes, sir. Yes, sir. Yes, sir. I recall
13 that.

14 Q. Okay. All right. Mr. Taylor, while
15 speaking -- were you informed in your interaction
16 with the lance corporal that -- that someone had
17 been -- that there had been any fatalities, that
18 people died in the accident?

19 A. No, sir. No, sir.

20 Q. What happened? What happened at the
21 hospital? What was the nature --

22 A. What transpired between --

23 Q. Yeah, between you and the trooper.

24 A. Where was I coming from, where was I going.

25 Q. So he was asking the same questions?

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 A. Yes, sir. How fast was I traveling, had I
2 had --

3 MR. JEFFRIES: Your Honor, he continues
4 to talk about what everybody else told him
5 and it's clearly hearsay.

6 THE COURT: Yes. Sustained.

7 MR. CHANDLER: Yes. Absolutely.

8 Q. Mr. Taylor, you can't say what they say.
9 Give me the answers -- you give -- if we ask them,
10 just give answers, it's a different way.

11 A. Yes, sir. Thank you. Bear with me. And I
12 appreciate you all bringing it to the correction.

13 Q. I certainly understand.

14 A. I speak like that, all right.

15 Q. Okay.

16 A. Officer Pearrow --

17 Q. Did you share with Officer Pearrow how many
18 drinks you had?

19 A. Yes, sir.

20 Q. What else did you share with Officer Pearrow
21 while you were interacting with him at the Bamberg
22 Hospital?

23 A. Where I consumed two drinks at, the
24 approximate time in which I was there and where I was
25 headed.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. What, if anything, with regard to how the
2 accident happened did you share with Officer Pearrow?

3 A. He was encouraged -- he was encouraged to
4 check my right rear tire and --

5 Q. Wait a minute. You say he was encouraged.
6 Does that mean that you encouraged him?

7 A. Yes, sir.

8 Q. You encouraged him to check. Why would you
9 encourage him to check your right rear tire?

10 A. Because that was what happened.

11 Q. You shared that with Lance Corporal Pearrow?

12 A. Definitely.

13 Q. So you told him to check your right rear tire
14 because you had a blowout?

15 A. In addition to check the steering system on
16 our vehicle.

17 Q. You believe something was wrong with the
18 steering system as well?

19 A. It was either off and it was stated to be --

20 Q. Who stated?

21 A. I'm stating that.

22 MR. CHANDLER: Just a second.

23 MR. JEFFRIES: Same objection. He's
24 eliciting hearsay in that case.

25 THE COURT: Yes. Sustained.

Jimmy R. Taylor - Direct Exam by Mr. Chandler

1 Q. What, if anything, did you share with Officer
2 Pearrow with regard to the accident?

3 A. Officer Pearrow were informed to also check
4 the steering system to our vehicle.

5 Q. Did you inform him of anything else?

6 A. I had called my wife, I informed him that I
7 had called my wife to let her know that I was on my
8 way home.

9 MR. CHANDLER: Beg the Court.

10 THE COURT: Yes.

11 Q. No further questions. Please answer any
12 questions that the prosecution may have.

13 THE COURT: Cross-examination.

14 MR. JEFFRIES: Yes, Your Honor, beg the
15 Court's indulgence.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. JEFFRIES:

19 Q. Good afternoon, Mr. Taylor.

20 A. How you doing, sir?

21 Q. Good. Thank you. Is it fair to say it takes
22 less than a half hour to get from South Carolina
23 State to where this collision occurred on Highway 70?

24 A. Yes, sir. Yes, sir.

25 Q. And you correct me if I'm wrong, but

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 listening to your testimony on examination, I don't
2 recall you at any point indicating that you hit that
3 Ford Escort which was a front side collision, head-on
4 collision, you don't recall that direct?

5 A. No, sir.

6 Q. Now, you've been here this week listening to
7 the testimony and listening to all the witnesses,
8 including Ms. McCottry, you've had the benefit of
9 hearing all that; is that right?

10 A. Yes, sir.

11 Q. It is your contention, your testimony, how
12 did this damage happen to your car if you didn't hit
13 those individuals? This type of damage is not caused
14 by hitting a tree, is it?

15 A. That is a very good question.

16 Q. You don't know what happened, is that --

17 A. When that incident come to our knowledge it
18 was on the following week.

19 Q. What's your license tag number, what was it
20 back then, do you recall?

21 A. Net and Dray (phonetic).

22 Q. Is this your vehicle?

23 A. Yes, sir.

24 Q. And this damage in State's Exhibit Number 2,
25 specifically down here, 2F, you don't recall how that

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 happened to your vehicle?

2 A. I'm in the driver seat, sir.

3 Q. I'm asking you if you recall --

4 A. That incident happened on the right side of
5 the vehicle.

6 Q. Do you recall how that damage took place to
7 your vehicle?

8 A. It has been shared with you, sir, no.

9 Q. Okay. And that is your vehicle?

10 A. It has the appearance of being our vehicle,
11 yes, sir.

12 Q. Thank you. You would agree that nobody was
13 with you after you dropped Ms. McCottry off back at
14 South Carolina State before this collision. You're
15 alone; is that correct?

16 A. No, sir. There's a young lady that was
17 walking and I picked her up and drove her around the
18 block, spoke very, very well and nicely to her and
19 put her out and drove on.

20 Q. When this collision took place, when you
21 recall these pops and you end up in the field in the
22 woods, who was with you?

23 A. No one else, sir.

24 Q. Okay. When was this person in your vehicle
25 that you're talking about?

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 A. This is on the way out of Orangeburg on 301.

2 Q. You picked somebody up on the road?

3 A. I picked someone up that was walking, yes,
4 sir.

5 Q. All right. Now, you testified on direct that
6 this road, this stretch of highway on Highway 70,
7 it's windy; is that correct?

8 A. Yes, sir.

9 Q. It's curvey; is that correct?

10 A. Yes, sir.

11 Q. It's dangerous?

12 A. Yes, sir.

13 Q. And this was at nighttime; is that correct?

14 A. Yes, sir.

15 Q. But yet still you chose to drive after you
16 had liquor drinks on this dangerous, curvey, windy
17 road; is that correct?

18 A. After I had two drinks.

19 Q. Now, Mr. Chandler asked you about being at
20 the Bamberg ER and the officer that was with you and
21 asked you about Lance Corporal Pearrow, but you don't
22 recognize him? You don't remember him?

23 A. It was stated that to look at him now and
24 identify him as in being Officer Pearrow that
25 evening, that's what was said, sir. Yeah, that's

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 what I meant.

2 Q. I apologize, maybe I didn't -- I'm asking you
3 what you said. Did you say you do not recall seeing
4 Lance Corporal Pearrow?

5 A. No, sir. I did not state that I do not
6 recall seeing him.

7 Q. You don't recognize him?

8 A. Thank you. To place the name with the face.

9 Q. Okay.

10 A. Thank you, sir.

11 Q. But you do recall somebody coming to your
12 vehicle after the collision, you remember exactly
13 what they were wearing, some kind of red and white
14 outfit, you recall that?

15 A. Actually, sir. It wasn't stated that someone
16 came to my vehicle of whom I identified, it was
17 stated as I was crawling out of the window of my car
18 there was a lady standing on the shoulder of the road
19 in front of the vehicle that they may have been
20 driving. I didn't say they approached me where I was
21 at.

22 Q. I'm sorry. Your testimony was you recall
23 what that person was wearing?

24 A. Yes, sir.

25 Q. But you don't recall Lance Corporal Pearrow?

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 A. No, sir.

2 Q. Okay. So you admit you were drinking the
3 night of this collision; is that correct?

4 A. Yes, sir.

5 Q. Even though this was a windy, curvey,
6 dangerous road, you chose to drive it after drinking
7 a couple of liquor drinks is your testimony?

8 A. Yes, sir.

9 Q. You indicate you got off work at
10 approximately what time?

11 A. I'm under the impression about 3:30 when I
12 left the office, sir.

13 Q. You're under the impression. I mean, you
14 believe it was three o'clock or approximately?

15 A. Thereabouts, yes, sir.

16 Q. Okay. And you went to the river after --
17 after meeting with Ms. McCottry you went to the river
18 to have drinks; is that correct?

19 A. No, sir.

20 Q. You didn't go and have drinks with
21 Ms. McCottry?

22 A. Not in the order that you just stated, sir.

23 Q. You tell me the order.

24 A. Okay. We proceeded to the package store,
25 left the package store.

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 Q. And is it safe to say you testified on direct
2 the only reason y'all stopped drinking was 'cause she
3 had to go because she had to meet an appointment with
4 another person?

5 A. No, sir. Our time together was stopped. It
6 wasn't stated that we -- that that discontinued our
7 drinking.

8 Q. Okay. Mr. Taylor, you would agree that when
9 you crossed the center line you indicated it was a
10 double center line where there's no passing; is that
11 correct?

12 A. No, sir.

13 Q. To cross the center line is reckless, would
14 you agree with me, into oncoming traffic?

15 A. According to the law, yes, it is.

16 Q. And you are aware that the damage on your
17 vehicle in State's Exhibit Number 2, your Chevy
18 Pathfinder, champagne color, is to the right rear of
19 the vehicle; is that correct?

20 A. Yes, sir.

21 Q. And this is the left side, the driver's side
22 up here; is that correct?

23 A. Yes, sir.

24 Q. That you indicate you had to climb out the
25 window to escape; is that correct?

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 A. Yes, sir.

2 Q. You don't recall telling Lance Corporal
3 Pearrow you had several drinks?

4 A. Did not.

5 Q. And you don't recall telling Lance Corporal
6 Pearrow that you thought you hit a deer?

7 A. Did not.

8 Q. Do you recall telling Lance Corporal Pearrow
9 you had several drinks down at the river?

10 A. Did not.

11 Q. Do you remember telling Lance Corporal
12 Pearrow that all you remember was hitting a tree; is
13 that correct?

14 A. Did not.

15 Q. You didn't tell him all you did was hit a
16 tree?

17 A. Did not.

18 Q. Did you testify on direct that's what
19 happened?

20 A. That wasn't a question to me did I just hit a
21 tree.

22 Q. Okay. You recall earlier this week a young
23 lady named Lynne Drawdy testified, testified that she
24 came and spoke with you and smelled alcohol on you
25 and she was the one that told you that rescue

Jimmy R. Taylor - Cross-Exam by Mr. Jeffries

1 emergency personnel was on the way. Do you recall
2 that?

3 A. No, sir.

4 Q. You don't recall that happening this week?

5 A. I recall the young lady that stood here and
6 said that she smelled alcohol on me from the
7 bumper -- from the time she approached my bumper to
8 where I was at. Actually, sir, if you recall --

9 Q. Just answer my question. Do you recall that?

10 A. No.

11 Q. You recall her testimony?

12 A. I recall her testimony.

13 Q. Thank you. At this point do you now realize
14 that you hit a car, that Ford Escort, and killed
15 three people, do you realize that now?

16 A. No, sir.

17 Q. Okay. Is it safe to say you remember what's
18 convenient for you to remember, is that an
19 appropriate conclusion?

20 A. Not for me, sir.

21 Q. And let me show you one other thing. This
22 photo in State's Exhibit Number 5D, person hanging
23 out that window, she's not wearing this red colorful
24 outfit you described, is she?

25 A. No, sir.

Jimmy R. Taylor - Redirect Exam by Mr. Chandler

1 Q. That's all I had. Thank you, Mr. Taylor.

2 THE COURT: Redirect?

3 MR. CHANDLER: Okay.

4 REDIRECT EXAMINATION

5 BY MR. CHANDLER:

6 Q. First of all, with regard to Ms. Lynne Drawd:
7 that -- the EMS personnel person that you -- that the
8 State indicates came to speak with you, when she
9 attended -- when she attended to you, was she telling
10 you that help was on the way or that EMS was on the
11 way?

12 A. No, sir.

13 Q. And what makes you sure of that?

14 A. Because the testimony that I have given in
15 regards to the person and what they are wearing and
16 where they were located at is correct.

17 Q. Okay. So the person who told you help was on
18 the way, they were not attending you?

19 A. That's not the person whom I'm speaking of.

20 Q. Okay. All right. Now, with regard to
21 this -- your description of what this white-haired
22 lady who was in the vehicle who told you that help
23 was on the way, was she wearing a red outfit?

24 A. Not a red outfit, sir, it was like a pullover
25 sweater over and it has been described over a -- I

Jimmy R. Taylor - Redirect Exam by Mr. Chandler

1 can only state a white blouse. I know the collar of
2 the blouse was white.

3 Q. Okay.

4 A. That was identifiable.

5 Q. All right. Okay. Good enough.

6 THE COURT: Any recross?

7 MR. JEFFRIES: None, Your Honor.

8 THE COURT: Very well. You may come
9 down.

10 (Whereupon, the witness steps down from the
11 witness stand.)

12 THE COURT: Call your next witness,
13 please.

14 MR. CHANDLER: Defense rests, Your
15 Honor.

16 THE COURT: Very well. Will there be
17 any reply or rebuttal?

18 SOLICITOR PASCOE: Can we talk about
19 that, Your Honor?

20 THE COURT: Sure.

21 (Whereupon, a bench conference was held off
22 the record in the presence of the jury but
23 out of the hearing of the jury.)

24 THE COURT: Ladies and gentlemen, you
25 have now heard the witnesses and received the

1 evidence which you will in this case. What
2 remains for us is my charge on the law and
3 after the arguments of counsel.

4 Ladies and gentlemen, there's an
5 old rule -- I have to tell you there's an ol
6 rule that one ought not argue and charge
7 after four o'clock. Let me tell you why
8 that's so. We -- there are matters which I
9 must take up outside your presence and then
10 in order to attend to those matters as well
11 as the argument and the charge you would
12 probably receive this matter around six
13 o'clock in the evening. That's why that's
14 sort of the old -- that's what the old
15 judges, older judges tell the younger judges
16 when you start. And that's why, because, of
17 course, you get a little bit concerned about
18 the jury receiving a case for their
19 deliberations at the conclusion of a day
20 where they've been at it all day.

21 With that in mind, ladies and
22 gentlemen, we're going to do what we need to
23 do this evening and then when you return in
24 the morning this is what you can anticipate.
25 You will hear the argument of counsel and

1 then my charge or instruction on the law.
2 And then you will receive this case for your
3 deliberations.

4 Even though, ladies and gentlemen,
5 you have now heard the witnesses and received
6 the exhibits, you are not prepared to
7 deliberate because you have not heard the
8 arguments of counsel, you have not heard my
9 charge on the law; therefore, you are not
10 prepared to deliberate. So I will continue
11 to advise you do not -- what is that Allie
12 McBeal? It's like, say it with me. You are
13 not prepared to deliberate; therefore, do not
14 discuss this matter or allow anyone to
15 discuss it with you.

16 You will go home this evening. I
17 assure you the curiosity is going to be
18 heightened. Remember, put it on the judge
19 that you cannot discuss this matter or allow
20 anyone to discuss it with you. Don't you
21 take any upset, but put it on the judge.

22 Ladies and gentlemen, when you have
23 been discharged from the service on this jury
24 by me, and there will be no question in your
25 mind when that time has come, then you will

1 be at liberty to talk about this matter. But
2 we'll -- I'll give you some instructions
3 specifically about that.

4 So until that time you must not --
5 when you're home this evening, do not talk
6 about this matter, do not allow anyone to
7 talk about it with you.

8 Remember, do not read anything, do
9 not listen to anything about this case, that
10 means the radio, the television, the
11 newspaper and the internet, and the internet,
12 so please keep that in mind, particularly the
13 local newspaper please do not read it, ladies
14 and gentlemen.

15 All right. We will start in the
16 morning at 9:30 with the arguments and then
17 the charge. Have a very pleasant evening.
18 If you'll go with your bailiffs to your jury
19 room.

20 Ladies and gentlemen, if you'll
21 give our jurors just a few minutes to vacate.
22 (Whereupon, the jury is excused at 3:56 p.m.)

23 THE COURT: All right. Motions.

24 MR. CHANDLER: Your Honor, at this time
25 we would renew our motion for a directed

1 verdict. Again, all the information in to
2 the jury given the light most favorable to
3 the State, the State has failed to
4 specifically provide information with regard
5 to direct cause based on their failure to
6 provide a licensed physician to attest to the
7 actual cause of death, this case goes
8 directly -- the fourth element under DUI
9 death on all three counts would go towards
10 the cause of death. State has failed to
11 provide that by way of having the scientific
12 opinion with regard to that and on that basis
13 we would request a directed verdict of not
14 guilty on all three counts.

15 THE COURT: Thank you so much. And I
16 would respectfully deny your motion for the
17 reasons stated earlier. I do find that
18 there's evidence on each and every element of
19 each of the indictments and it's not
20 incumbent upon the Court to weigh the
21 evidence, but to determine whether or not
22 there is evidence which exists on each and
23 every element from which the jury could
24 reasonably determine guilt. And on that
25 basis I would respectfully deny your motion,

1 noting your exception thereto.

2 And if you all would come with me,
3 please, and give us an opportunity on an
4 informal basis to go over the charge I will
5 receive your recommendations, your requested
6 charges and we'll go over the charge and the
7 we'll do that in a more formal way tomorrow.
8 Thank you.

9 MR. CHANDLER: Okay. Thank you, Your
10 Honor.

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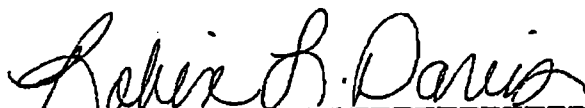
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Davis, Certified Shorthand Reporter and Registered Merit Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 8th day of November 2007.


Robin L. Davis, CSR, RMR

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
: CASE NOS. 2005-GS-38-2141,
COUNTY OF ORANGEBURG) 2142, 2143

STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
Plaintiff,)
) JURY TRIAL - VOLUME IV
-versus-)
) May 4, 2007
JIMMY R. TAYLOR,)
Defendant.) Orangeburg, South Carolina

B E F O R E:
The Honorable Diane S. Goodstein, Judge; and Jury

A P P E A R A N C E S:
David Pascoe, Esquire
Bryan Jeffries, Esquire
For the Plaintiff

Everett Chandler, Esquire
For the Defendant

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COURT'S EXHIBITS:

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C-3	MAIT Team Report	442	
C-4	May 3, 2007 Times and Democrat	442	
C-5	May 4, 2007 Times and Democrat	442	

1 (Friday, May 4, 2007.)

2 (Marked for purposes of the record was
3 Court's Exhibit 3, MAIT Team report.)

4 (Marked for purposes of the record was
5 Court's Exhibit 4, the *Times and Democrat*,
6 May 3, 2007.)

7 (Marked for purposes of the record was
8 Court's Exhibit 5, the *Times and Democrat*,
9 May 4, 2007.)

10 THE COURT: Anything before we bring the
11 jury out from the State?

12 SOLICITOR PASCOE: No, Your Honor.

13 THE COURT: From the defense, anything
14 before we bring the jury out?

15 MR. CHANDLER: None from the defense,
16 Your Honor.

17 THE COURT: Very well. All right.

18 MR. CHANDLER: Yes, Your Honor, it is.
19 Yes, it is. There was additional trial
20 publicity and I handed it to the court
21 reporter for the purposes of just marking for
22 the record as we did the other one that we
23 referred to.

24 THE COURT: I don't know that we marked
25 that one for the record. You may want to do

1 that, but I don't know -- did we get that one
2 too?

3 MR. CHANDLER: Yes, ma'am. Yes, ma'am.

4 THE COURT: All right.

5 MR. CHANDLER: And I would just like for
6 them to be instructed --

7 SOLICITOR PASCOE: I'll tell you what,
8 can I approach?

9 THE COURT: I will inquire just as I did
10 yesterday, I'll be happy to.

11 (Whereupon, the jury returns to the courtroom
12 at 10:07 a.m.)

13 THE COURT: Good morning, ladies and
14 gentlemen. Ladies and gentlemen, as I asked
15 you yesterday, let me ask you again today,
16 did you read either the newspaper, the hard
17 copy of the newspaper or the internet the
18 *Times and Democrat*? If so, please raise your
19 hands. I find no hands raised. So from
20 that, ladies and gentlemen, I would
21 understand that no one on our jury has read
22 either the *Times and Democrat* in the hard
23 form, newspaper form, or on the internet. If
24 you have, please stand. And I find no one
25 standing.

1 Let's talk about the closing
2 arguments. In a moment you're going to hear
3 the closing arguments of the attorneys. You
4 will first hear from Mr. Pascoe in his
5 closing argument and then you're going to
6 hear from Mr. Chandler in his closing
7 argument and then you will hear the argument
8 from Mr. Pascoe in his final argument. And
9 once those arguments are concluded there will
10 be a very short break, you will understand it
11 when we reach that point, and then I will
12 deliver the charge or the instruction to you.
13 That will take 25 minutes or so and then
14 there will be another very short break which
15 I will explain to you when we reach that
16 point and then, ladies and gentlemen, you
17 will receive this case for your
18 deliberations.

19 I ask at this time that you please
20 draw close as we listen to the closing
21 arguments of our attorneys.

22 Mr. Pascoe.

23 SOLICITOR PASCOE: May it please the
24 Court.

25 THE COURT: Yes, sir, Solicitor.

Closing Argument by Solicitor Pascoe

1 SOLICITOR PASCOE: Mr. Foreman, ladies
2 and gentlemen of the jury, good morning. I
3 want to start off by thanking each and every
4 one of you for your service this week. It's
5 often said that jury duty is one of the most
6 important duties that you can perform for
7 your country, and I certainly concur with
8 that. Your service is important not only to
9 the defendant, to the State of South
10 Carolina, to the Neeley family. So I want to
11 thank you again for doing your jobs this
12 week.

13 Because the fact of the matter is,
14 we all have our jobs to do in this courtroom.
15 It's the State's job under the Code of Ethics
16 to be ministers of justice. It's the defense
17 counsel's job to represent his client. It's
18 the judge's job to administer the law. It's
19 your job, most important of all, to render a
20 verdict. Whether your verdict is guilty or
21 not guilty, as long as it speaks the truth no
22 one will ever be able to question it.

23 The fact that you were called, the
24 most important thing you've done up to now is
25 you took an oath. You took an oath on

Closing Argument by Solicitor Pascoe

1 Wednesday that you would put aside any bias
2 or prejudice that you may have either against
3 the State of South Carolina or the defense
4 and base your verdict, your truthful verdict
5 on just two things: The evidence and the
6 law. Not on assertions, not on fiction, but
7 on the evidence and the law.

8 What I'm going to do is I'm going
9 to probably take less than ten more minutes
10 of your time and I'm going to talk to you a
11 little bit about the law in the case. Then
12 defense counsel is going to get up here,
13 present closing argument, then I'm going to
14 get one more opportunity to get up here, talk
15 to you about the facts.

16 As I go over the law with you let
17 me give you one caveat, which is if I ever
18 say anything that contradicts the law that
19 Judge Goodstein tells you, you take the law
20 according to Judge Goodstein, not according
21 to Pascoe. Just like you're the sole triers
22 of the facts in this case, she's the sole
23 trier of the law.

24 And the first thing I want to talk
25 to you about is, of course, the law of felony

Closing Argument by Solicitor Pascoe

1 driving under the influence. Let me get this
2 here so you can see it. In South Carolina
3 it's unlawful to drive a motor vehicle under
4 the influence of alcohol causing one to do an
5 act forbidden by law, or neglect any duty
6 imposed by law, and the illegal act or
7 neglect causes the death of another. You
8 can't drive a motor vehicle under the
9 influence of alcohol then cross the center
10 line and cause an accident which kills
11 someone. That's felony DUI. You cross the
12 center line and kill someone. If you cross
13 the center line and put someone in a position
14 where another accident comes and kills them,
15 you're guilty of felony DUI. It's as simple
16 as that.

17 You heard a lot of evidence about
18 inferences in South Carolina under our laws.
19 Some of you probably heard about it before
20 you even became jurors. Well, in South
21 Carolina if a person's blood alcohol level is
22 .08 or higher, there is a permissive
23 inference that the defendant was under the
24 influence of alcohol. As you heard testimony
25 in this case the defendant's blood alcohol

Closing Argument by Solicitor Pascoe

1 level was a .12. That's 50 percent higher
2 than the permissive inference in South
3 Carolina.

4 The judge is going to charge you
5 about causation, which I kind of touched on a
6 little bit in the felony DUI law. But what
7 does causation mean? Causing someone to die.
8 In a homicide case, ladies and gentlemen, one
9 who inflicts the injury on another is deemed
10 by law to be guilty of homicide where the
11 injury contributes immediate --
12 immediately -- or immediately to the death of
13 another. The fact that other causes also
14 contribute to death does not relieve the
15 actor of responsibility.

16 In other words, under our laws --
17 if you think about it, it's common sense. If
18 you put someone in a position of danger and
19 they end up dying because of that, you're
20 guilty. That's the law and it's common
21 sense. If vehicle one -- the driver of
22 vehicle one is under the influence of alcohol
23 and crosses the center line striking vehicle
24 number two leaving them in the middle of the
25 road, even if for some reason you believe

Closing Argument by Solicitor Pascoe

1 they're alive but another vehicle comes and
2 strikes them and kills them, the person in
3 vehicle number one is guilty of felony DUI
4 because he put them in that danger, in that
5 position of danger.

6 And let me tell you what else isn't
7 a defense under our laws. Contributory
8 negligence. The contributory negligence of
9 the victim or another party will not break
10 the causal chain between the defendant's
11 wrongful act and the ultimate harm in a
12 criminal case. In other words, the mere fact
13 that the victims weren't wearing seat belts
14 is not a defense. The fact that Mr. Glover
15 hit them later and may or may not have been
16 speeding is not a defense to a felony DUI or
17 any crime in South Carolina. They're great
18 tools in trying to take a jury's focus away
19 from the evidence on the defendant, but
20 they're not defenses.

21 And the judge is also going to
22 charge you, she's mandated by law to charge
23 you on the lesser offense of just a simple
24 DUI. And the reason for that is as you
25 recall from the defendant's testimony, he

Closing Argument by Solicitor Pascoe

1 claims that the victims' vehicle never even
2 struck his car. Well, if you believe that,
3 that he wasn't at fault in the accident, that
4 he didn't cross the center line, that the
5 victims never even struck his car, then he
6 can only be guilty of simple DUI. But as we
7 know, that's not supported by the evidence.

8 And when you focus on the
9 defendant, you focus on the evidence -- when
10 you focus on the defendant -- and there are
11 two types of evidence, both of which exist in
12 this case and both are equal under the law.
13 There's direct evidence and circumstantial
14 evidence. Direct evidence is evidence that a
15 witness hears, sees, touches, smells.

16 An example of this would be Lynne
17 Drawdy's testimony, I could smell the strong
18 odor of alcohol on the defendant when I
19 approached him. Jessie Glover's testimony,
20 that when I approached the victims' vehicle
21 it didn't even look like a car. It was so
22 mangled in the middle of the road it didn't
23 even look like a car. Those are examples of
24 direct evidence.

25 Circumstantial evidence is where

Closing Argument by Solicitor Pascoe

1 you can infer something from the
2 circumstances, it's a chain of events that
3 proved the existence of a fact. An example
4 of circumstantial evidence in this case is
5 the fact the defendant had a .12 blood
6 alcohol level. George Bonnette, the deputy
7 coroner's testimony, the type of injuries the
8 victims, the Neeleys suffered, they would
9 have died immediately. Those are examples of
10 circumstantial evidence. Again direct and
11 circumstantial evidence are all equal under
12 the law.

13 The judge will also tell you that
14 as the triers of the facts you, and you
15 alone, assess the credibility of each and
16 every witness in this case. And when you
17 assess -- and when you assess the credibility
18 of the witness you can believe all, some, or
19 absolutely none of what a witness told you.
20 And when you assess the credibility of the
21 witnesses, all I ask is that you use your
22 everyday life experiences. You know when
23 somebody's telling the truth, you know when
24 somebody's lying from your everyday life
25 experiences.

Closing Argument by Solicitor Pascoe

1 And some other factors that you can
2 consider in determining the credibility of
3 the witnesses is what was the demeanor of the
4 witness on the witness stand. Was the
5 witness forthright or hesitant. Was the
6 witness' testimony consistent. Very
7 importantly, was the witness' testimony
8 corroborated by the evidence in the case.
9 And also did the witness have a reason to be
10 biased or prejudiced. In other words, does
11 the witness have a reason to lie to the jury.

12 The final legal phrase I want to
13 talk to you about is proof beyond a
14 reasonable doubt. As Mr. Jeffries told you
15 in his opening statement, we absolutely
16 relish the opportunity after over 18 months
17 to come into this courtroom and prove the
18 defendant's guilt beyond a reasonable doubt.
19 The standard of proof certainly isn't
20 impossible, because people are acquitted and
21 convicted in this country each and every day.
22 Rather the phrase means exactly as it sounds.
23 It's not proof beyond any doubt, it's not
24 proof beyond all possible doubt, it's just
25 proof beyond a reasonable doubt.

Closing Argument by Solicitor Pascoe

1 The simple fact of the matter is we
2 have doubts about everything in this world.
3 Some may doubt whether the earth revolves
4 around the sun, but you have to ask yourself
5 is it reasonable. In essence what proof
6 beyond a reasonable doubt means is after I
7 look at all the evidence together, if you're
8 firmly convinced, just firmly convinced of
9 the defendant's guilt you must find him
10 guilty. And I submit the evidence in this
11 case leaves you much, much, much more than
12 firmly convinced.

13 In closing I want to thank you for
14 your attention as you have been up here. You
15 have been a tremendous attentive jury,
16 unbelievably attentive during the whole
17 trial. Thank you. I'm sure you're going to
18 give Mr. Chandler the same degree of
19 attention you've given me in his closing
20 argument.

21 All I ask is that during his
22 closing argument you keep an open mind and
23 give me one more opportunity to come up here
24 and talk to you about the facts in this case.
25 Thank you.

Closing Argument by Mr. Chandler

1 THE COURT: Thank you.

2 Mr. Chandler.

3 MR. CHANDLER: Thank you. May it please
4 the Court.

5 THE COURT: Yes, sir.

6 MR. CHANDLER: Members of the jury
7 panel, good morning. On October the 21st,
8 2005 my client, Jimmy Taylor, was working.
9 And this day was especially busy in his work
10 area because he works at South Carolina State
11 University where it was during their
12 homecoming. And during their homecoming the
13 traffic was busy, it's congested, in addition
14 to that he got in contact with a friend and
15 was scheduled to meet with that friend. They
16 met at a waterfront somewhere near Edisto
17 Garden and it was at that time that both of
18 their testimonies were that they had two
19 drinks. Just two drinks. And I think the
20 testimony was also that it was two mixed
21 drinks.

22 After having those drinks he safely
23 drove her back to the campus of South
24 Carolina State University, maneuvered through
25 several intersections safely driving,

Closing Argument by Mr. Chandler

1 according to her had he not been safely
2 driving based on her observation she wouldn't
3 have gotten in the car with him. He drove
4 her to that intersection -- I mean, he drove
5 her to the campus, let her out and proceeded
6 on. He even had opportunity to pick up
7 someone else, safely drive them to another
8 part of town and proceed on.

9 Unfortunately while he was on his
10 way home in a route that he's very familiar
11 with, Highway 70, on his way home he hears a
12 blowout and it's his tire. And immediately
13 because of the blowout he loses control of
14 his vehicle and he crosses over the center
15 line into the lane of traffic of a blue
16 Escort where the occupants were the Neeley
17 family. It was at that time that, after the
18 vehicle struck the side impact, his car was
19 thrown into the woods, their car was disabled
20 sitting on the road.

21 Trooper indicates that the vehicle
22 was there sufficient amount of time for a
23 puddle to form on the roadway. And during
24 that time when the puddle was forming on the
25 roadway one of the occupants, Ms. Ann Neeley,

Closing Argument by Mr. Chandler

1 got out of the vehicle and she stood and she
2 checked on Mr. Taylor. And he described her
3 as a person who was wearing a white shirt
4 with -- a white in color shirt with some type
5 of red type sweater or garment. She
6 instructed him to lay down and he did so.
7 Said shortly after that he heard the sound of
8 a fast moving vehicle and it came, and in his
9 way and in his own way, he said he heard the
10 hit.

11 What we do know is that Jessie
12 James Glover was headed down Highway 70 and
13 based on the State, the Government's own
14 information, based on their own test, he was
15 traveling at a rate of 69 miles per hour in a
16 55-miles-per-hour zone. Sixty-nine miles per
17 hour in a 55-mile-per-hour zone he was
18 traveling. And even based on his own
19 testimony when he finally saw the vehicle,
20 when he finally came up on the vehicle he was
21 driving too fast to be able to avoid it.

22 A scenario which the investigating
23 officer said could possibly be too fast for
24 conditions, in a scenario when someone drives
25 too fast, when they can't avoid an accident,

Closing Argument by Mr. Chandler

1 in a scenario where disregard for safety,
2 where they were speeding, in the scenario
3 where he said that depending on what the
4 facts is that could be reckless driving and
5 that's what Jessie James Glover did. He ran
6 into that vehicle.

7 But during the time before Jessie
8 James Glover even came to the vehicle, the
9 individuals in that car had an opportunity to
10 unstrap their harness. And the part about
11 that is -- that actually is a saving grace
12 for Mr. Jimmy Taylor, is that on the video
13 you see the family sitting in the vehicle in
14 a relaxed manner. They're sitting in a
15 relaxed manner. Who sits in the car while
16 it's traveling with their leg folded?
17 They're sitting relaxed, arm on the rest,
18 harnesses off. They were waiting.

19 According to Ms. Neeley when she
20 spoke to my client, Jimmy Taylor, she said
21 that help was on its way. They were waiting
22 on them. What was happening? There was an
23 intervening cause.

24 And the solicitor's right. He put
25 a lot of law up there, but I promise you you

Closing Argument by Mr. Chandler

1 would be served well to listen to the law
2 that's presented by the judge, because there
3 is a way that the negligence of Jessie James
4 Glover can supersede and intervene in this
5 case and that is that if it breaks the chain.

6 There is no question that we're not
7 even arguing that by virtue of that blown
8 tire that Jimmy Taylor's vehicle disabled the
9 vehicle of the Neeleys. Not even a question.
10 But they had opportunity to get out of the
11 car, they had opportunity to check on
12 Mr. Taylor, and then they also had the
13 opportunity to get back in the car and wait
14 with their harnesses off, with their seat
15 belts off. And as a result of that there was
16 a negligence, there was a disregard of
17 another party who ran into them and caused
18 the death of all three occupants.

19 Throughout the course of this trial
20 and at the beginning of this trial we asked
21 you to do three things. The first thing was
22 that we asked that you listen carefully to
23 all of the evidence that's been presented.
24 As it's been said time and time again this
25 case is extremely important to Mr. Taylor and

Closing Argument by Mr. Chandler

1 his family and his loved ones. Likewise this
2 case is extremely important to the
3 prosecutors for whatever reason and to
4 finally know or to try to figure out to what
5 was the really -- what really happened on the
6 night of the incident, what really caused the
7 death of the Neeley family, this case is
8 extremely important to the Neeley family as
9 well. So you've been listening carefully.
10 We appreciate that.

11 And this case although
12 straightforward, it has taken three days, and
13 to gain your attention -- you've been
14 extremely attentive and certainly my client,
15 Jimmy Taylor, appreciates that and that was
16 the first thing.

17 The second thing that we asked you
18 to do was to use your common sense or your
19 everyday experiences. And in using your
20 everyday experiences in evaluating the
21 evidence that would come forward.

22 The judge will tell you that Jimmy
23 Taylor is presumed innocent. He doesn't have
24 to present any defense here. In fact, he
25 comes in with the robe of righteousness until

Closing Argument by Mr. Chandler

1 sufficiently the solicitor's office can
2 remove that robe. And so he does not have to
3 present a case, but when he does he presents
4 the truth. So look at the evidence that's
5 presented.

6 The State wants to tell you, you
7 know what? We know the reason why, we know
8 he's guilty because we can prove that he was
9 driving under the influence. And so we bring
10 in the lance corporal who says, yes, I was
11 there. I went to speak to him and I talked
12 to him and he said to me that he had several
13 drinks. Is that true, several drinks? Yes,
14 several drinks. You have notes that you take
15 contemporaneously or at the same time that
16 you interviewed him? Yes, that's correct.
17 Well, what did you put on the note? Two
18 drinks. So what did he say, what you wrote
19 down at the same time he was talking or what
20 you remember some time before when you do
21 your collision report? What I did later on,
22 not what I wrote down. The several drinks.

23 That's not evidence. Use your
24 common sense. Which would be true? What did
25 Jimmy Taylor say? And because the trooper

Closing Argument by Mr. Chandler

1 conveniently forgets that, he also forgets
2 the fact that when he went to talk to Jimmy
3 Taylor, did not tell him what happened, just
4 told him that we're going to arrest you for
5 felony DUI, he's saying, well -- surprisedly
6 he tells him I had a blowout. You know,
7 check the steering wheel, check the tire. I
8 had a blowout.

9 So I asked the trooper, well,
10 didn't you indicate the tire, the right rear
11 deflated, detached, completely damaged to the
12 rear? Yes, yes, yes. But that wasn't caused
13 by a blowout, that was caused by something
14 else. But did you do the test? No.

15 Again, presumption of innocence.
16 Jimmy Taylor doesn't have to prove anything,
17 but it is -- it is incumbent on the State to
18 prove that he's guilty beyond a reasonable
19 doubt.

20 And so on this Defense Exhibit
21 Number 1 it indicates right rear deflated,
22 detached, complete damage to the rim. And
23 everybody who talks about it, they dance
24 around and they talk about it and said, well,
25 we did measurements. Did you do a specific

Closing Argument by Mr. Chandler

1 test that would determine whether or not
2 there was a blowout? No. Use your everyday
3 experiences.

4 The State went through great
5 lengths to bring in witness after witness
6 after witness to bring this blood alcohol
7 level. And they brought an expert in here to
8 tell you that, oh, well, it doesn't really
9 matter because no matter what your size is
10 your blood alcohol is this. .12 blood
11 alcohol level.

12 The judge is going to tell you that
13 the inference level for intoxication, the
14 permissive inference level you're permitted
15 to infer, but you don't have to, you can take
16 into account all of the evidence that exists,
17 you're permitted to infer that he was under
18 the influence but you don't have to.

19 Well, what other evidence was
20 presented? Remember Ms. McCottry, his friend
21 that he met with? She saw him. She said, I
22 would not have got in the car with him, not
23 with this heavy traffic, not during this time
24 of the year. We have the Orangeburg County
25 Fair, we have South Carolina State

Closing Argument by Mr. Chandler

1 homecoming. If he could not operate the
2 vehicle safely, I wouldn't have gotten in the
3 vehicle with him. He was not impaired. His
4 ability to drive was not materially and
5 appreciably impaired.

6 Well, why did he wreck? What
7 happened? It was a blowout. And his -- all
8 he did was try to manage his vehicle after
9 the tire blew out and he lost control.

10 The evidence didn't show that he
11 saw evidence of weaving right before the car
12 veered across. Evidence didn't even show
13 that all of a sudden it was like if somebody
14 was asleep, kind of just over a period of
15 time slowly drifted and then slowly drifted
16 back. No, it was sudden just like a blowout
17 would be. Boom. A pop as Jimmy Taylor said.
18 Goes out, he overcorrects, side impact.
19 That's the testimony. He goes into the tree
20 and the vehicle is disabled. Use your
21 everyday experiences.

22 They have to show that in addition
23 to the fact -- or they have to show that in
24 addition to Jimmy Taylor driving under the
25 influence, that's not all, not for this

Closing Argument by Mr. Chandler

1 charge, that he did some act forbidden by
2 law. But as we know he neglected a duty
3 that's imposed by law. But that's not what
4 happened. It was an accident. What is an
5 accident but an accident? It's not a neglect
6 of duty, it's not a -- it's not a direct
7 violation of any law, it is an accident.
8 That's what they're required to show, beyond
9 a reasonable doubt. When you are firmly
10 convinced that this happened, where you won't
11 hesitate to act on the facts.

12 ★ And finally the most contested
13 issue that we have is that the act
14 proximately caused that, Mr. Taylor's act
15 proximately caused the accident and also
16 proximately caused the death of the Neeley
17 family. Each occupant in the vehicle, you
18 have three indictments. There's no evidence
19 to that effect.

20 Not once did the State provide a
21 licensed medical physician or any licensed
22 medical personnel who did the first autopsy.
23 How do you determine cause of death? Are you
24 supposed to pull it out of air, are you
25 supposed to speculate? The law requires that

Closing Argument by Mr. Chandler

1 you find a cause of death. No autopsy. They
2 don't present an autopsy, but instead, well,
3 I've seen it in my many years and can't even
4 say which accident -- truly say which
5 accident caused the death. Well, the result
6 of multiple in situations like this.

7 That's not what you're here for.
8 This is the life of Jimmy Taylor, it cannot
9 be left for just mere speculation. Use your
10 everyday experiences, please.

11 And finally they -- the State is
12 left with dealing with an inconvenient truth.
13 The reality is that no matter how many
14 experts that they put out there, no matter
15 how many people that they can try to think of
16 different ways or different designs or try to
17 input evidence towards what happened, they're
18 left with the inconvenient truth. And you've
19 seen it on the video.

20 And by the way, the video is here
21 for you to watch, it's in its entirety and
22 it's the State's own evidence, they included
23 it. In its entirety you can watch any part
24 of it that you want to, all of it if you want
25 to and you will see when you look at that

Closing Argument by Mr. Chandler

1 vehicle that the position of the bodies,
2 there is no driver. Why would there not be a
3 driver? Why wouldn't there be a driver?
4 Because in the final collision the occupants
5 of that vehicle moved around. Why did they
6 move? Because there had just been an
7 accident. They had just checked on Jimmy
8 Taylor, they had just gotten out and they had
9 gotten back in the vehicle.

10 Well, why would they get back in
11 the vehicle? Maybe because it's the middle
12 of the night. Maybe because you're out there
13 in the middle of nowhere and what's the
14 safest place to be and maybe because you
15 would assume that anybody who is traveling on
16 the road where it's 55 miles per hour, that
17 they would drive 55 miles per hour and not
18 come on to you in a speed where they're not
19 able to avoid the accident, as Jessie James
20 Glover indicated. Couldn't avoid the
21 accident.

22 So that's what happened. And
23 that's what broke the chain. That's where
24 the defective equipment that my client had,
25 the blown tire, that's where the accident

Closing Argument by Mr. Chandler

1 that was caused where that vehicle was
2 disabled, that's where the chain is, that's
3 where the causation is going because now you
4 have a negligent act on the part of Jessie
5 James Glover.

6 The State goes through great
7 detail, oh, well, the battery got knocked
8 out. Look at it. Look at the hood. You'll
9 see it, look at it. Look at -- look at the
10 evidence that's presented to you. This case
11 is important. Play that video over and over
12 again, look at the evidence, look at the slow
13 movement and look at where things are placed.
14 We're not making it up, it's on the video.

15 Finally, all of these elements that
16 the State have to prove, they have to prove
17 beyond a reasonable doubt as I said. And a
18 reasonable doubt is the kind of doubt to make
19 you hesitate to act. You have to be firmly
20 convinced, as I said before, of the guilt of
21 my client for each and every element.

22 Now, as we look at that, and again
23 I shared with you the concept of this
24 inconvenient proof that the State took great
25 pleasure in, oh, well, you looked at these

Closing Argument by Mr. Chandler

1 pictures, we don't see any red -- reddish
2 sweater that you say you saw. Why would
3 Jimmy Taylor even mention that? Why would
4 Jimmy Taylor even say something like that?
5 Because it's the truth.

6 In this video during the day the
7 SLED MAIT Team actually took a video of that
8 blue Escort. And on that video of that blue
9 Escort you're going to see not at nighttime,
10 but the contents of -- you're going to see
11 the contents of that blue Escort.

12 (Playing video.)

13 MR. CHANDLER: What is that? What is
14 that? Mr. Taylor's been here asserting his
15 innocence and that -- just as that red
16 sweater sits there in that blue Escort which
17 was worn by the same lady that was kind
18 enough to check on him, the same lady along
19 with her family members who were wrongfully
20 killed by the negligent act of J. J. Glover,
21 one of the saddest things that could happen
22 was that now Jimmy Taylor is going to be
23 punished and found guilty because of the act
24 of someone else.

25 The third and final thing that I

Closing Argument by Mr. Chandler

1 asked you to do was not to come back with a
2 verdict just for Jimmy Taylor, not come back
3 with a verdict for the State whose job is to
4 seek justice and not to come back with a
5 verdict just for the family who really wants
6 to know what the truth was behind what
7 happened to their loved ones. But I ask for
8 you to come back with a verdict that speaks
9 the truth. And the reality is that a
10 conviction of Jimmy Taylor on felony DUI
11 death on each and every -- for each and every
12 victim in this case does not serve justice
13 and it does not serve the memory of the
14 Neeley family.

15 There was someone who was involved,
16 they didn't take his blood test. They
17 testified, you saw them, South Carolina
18 Highway Patrol MAIT Team testified that he
19 was driving in excess 14 miles over the speed
20 limit, 69 miles per hour. He was not even
21 charged with speeding. He admitted on the
22 stand that he was driving too fast where he
23 could not avoid the accident. They did not
24 even charge him with too fast for condition.

25 Those are the rules, those are

Closing Argument by Mr. Chandler

1 the -- the laws or his neglect to follow the
2 laws that are forbidden by the State. Those
3 are the duties that he had failed to follow.
4 The wrong man is here. And I told you this
5 case is really about the wrongfully accused
6 being on trial. The State can't prove
7 proximate cause because the chain was broken.
8 It was broken when Ann Neeley got out of her
9 vehicle, it was broken when they waited on
10 someone to come and sit in the vehicle safety
11 from outside and from the elements and it was
12 broken when J. J. Glover came and traveled at
13 an enormous rate of speed and killed all
14 three occupants. That's what happened.
15 That's the truth.

16 The judge is going to hand you
17 verdict forms. And in your deliberations if
18 you feel like my client -- if you have
19 problems with the fact that, you know what,
20 Chandler, .12, that's high. I don't -- I
21 don't feel comfortable with it and I believe
22 that he was driving under the influence, but
23 you know what, I don't -- the State has
24 failed to provide evidence towards proximate
25 cause. Included on the verdict form is your

Closing Argument by Mr. Chandler

1 opportunity to say, you know what? He's not'
2 guilty of felony DUI death, but he is guilty
3 of DUI because of his blood alcohol level.

4 It's our position that it's just
5 not enough to have a .12. In fact, as the
6 expert talked about, that the blood -- the
7 enormous -- I said the fatal or the dangerous
8 blood alcohol level was a .35. But it wasn't
9 a .30, not a .25, not a .20, not a .19, 18,
10 17, 16, not a .15, not a .14, a .13, but just
11 a .12. But if you feel, you know, I still
12 believe that he was guilty of driving under
13 the influence, you will have that
14 opportunity.

15 I hesitate to leave because as the
16 State -- they get two times in front of you,
17 they get to speak before and they get to
18 speak afterwards, respond to what I say. And
19 as I stand here representing not only
20 Mr. Taylor, but the community that supports
21 him, it's hard to sit down. It's hard to sit
22 down because I know what happened there that
23 night. It's hard to sit down. And again,
24 you take that with you. In fact, you take
25 that with you, you look at every part of it.

Closing Argument by Mr. Chandler

1 But it's hard to sit down because I
2 know that it is very difficult to stand up
3 for the truth when everything is coming down
4 around you and he's being ridiculed for
5 talking about that red shirt when the
6 pictures didn't even support it. The
7 pictures didn't support it. You saw that she
8 was wearing a white shirt. But look at that
9 red shirt. That red sweater in that blue
10 Escort. That's not evidence presented by the
11 defense. That's evidence presented by the
12 State.

13 Members of the jury panel, we're
14 asking you not to come back with a verdict
15 for Mr. Taylor, not a verdict for the State,
16 not a verdict for the Neeley family, but a
17 verdict that speaks the truth. You swore to
18 do that. And we're counting on you. Thank
19 you so much.

20 THE COURT: Thank you.

21 Yes, sir.

22 SOLICITOR PASCOE: May it please the
23 Court. If I could have just one minute to
24 set up a little bit.

25 THE COURT: Yes, sir.

Closing Argument by Solicitor Pascoe

1 SOLICITOR PASCOE: Thank you.

2 (Pause in proceedings.)

3 SOLICITOR PASCOE: Thank you, Your
4 Honor.

5 THE COURT: Yes, sir.

6 SOLICITOR PASCOE: This case is about
7 accountability, it's about accepting
8 responsibility for your actions. It's not a
9 case about evil. I've been a prosecutor for
10 14 years. I've prosecuted evil. It's not
11 even a case about an act of malice. And then
12 although I submit that I am somewhat
13 disturbed by some of the assertions thrown
14 out by the defendant in this case and the
15 fact that he will not accept responsibility
16 for his actions, it's not even a case about a
17 bad person. No one is saying that
18 Mr. Taylor's a bad person.

19 But what Mr. Taylor did was bad.
20 What Mr. Taylor did was wrong. Because of
21 Mr. Taylor's actions, three people, George,
22 Ann and Mad Neeley lost their lives. Because
23 of his actions this family suffered a
24 tremendous loss on October the 21st, 2005 and
25 they have been hurting every day for 18

Closing Argument by Solicitor Pascoe

1 months. The defendant doesn't want to accept
2 responsibility for what he did and the pain
3 that he's caused in this courtroom, so I ask
4 that you do your job and you hold him
5 responsible for what he did.

6 There's an old expression, facts
7 are stubborn things. Facts are stubborn
8 things. And the stubborn facts in this case
9 dictate not just beyond a reasonable doubt,
10 but beyond any doubt whatsoever that the
11 defendant is guilty of felony DUI. Any doubt
12 whatsoever.

13 And what I'm going to do in just a
14 minute, and I'm going to talk to you about
15 those stubborn facts of guilt. But first I
16 want to put some things to rest right now,
17 which is the State of South Carolina, we have
18 the sole burden of proof in this case, the
19 defense didn't have to say a word, they
20 didn't have to call one witness. Once they
21 do start throwing out assertions, once they
22 do put up witnesses, it's subject to scrutiny
23 just like anything else.

24 First and foremost assertions,
25 things we say as attorneys, are not evidence.

Closing Argument by Solicitor Pascoe

1 They are not evidence. The only thing you
2 can consider for your verdict is what you
3 find to be credible from this witness stand
4 and what you get to take back with you. But
5 the defense wants you to base your verdict on
6 assertions. Assertions like Mr. Chandler's
7 opening and just now in his closing and with
8 the defendant's testimony that Ms. Ann Neeley
9 was walking around and in the opening she
10 actually walked up to him to check on him.
11 There is absolutely no evidence whatsoever of
12 that. Zero. None. And I'm going to discuss
13 that even more later on. None whatsoever.
14 The only evidence is there is no way anybody
15 was walking around after that first impact.

16 And you're going to have the
17 pictures as well as the video. But just use
18 your common sense. You didn't need an expert
19 like Dixon or a coroner with over 30 years of
20 experience like George Bonnette to tell you.
21 After the frontal impact and the front door
22 and the side door were jammed, after
23 Ms. Neeley went through the windshield,
24 because the only evidence in this case, the
25 only evidence in this case is that she went

Closing Argument by Solicitor Pascoe

1 through the windshield in the first impact,
2 the frontal collision. She wasn't walking
3 around. That's an assertion. There's no
4 evidence. None. It is totally contradicted
5 by the only evidence in this case. And we
6 didn't need an expert to tell us that. You
7 know that from your own common sense. No one
8 could have survived that first impact.

9 Assertions like he just mentioned
10 in his closing and again in his opening,
11 there's no evidence of a driver in the
12 wreckage. There's no evidence of a driver in
13 the wreckage. That's not the evidence.
14 That's not true.

15 The expert witness, Lieutenant
16 Dixon, told you that Mad Neeley was
17 consistent with the driver of the vehicle,
18 that the position of his body was consistent
19 with two collisions. The first collision
20 throwing him violently forward and to the
21 back and spinning the body, the back side of
22 his body to the left because the vehicle then
23 started spinning left, Ms. Neeley going
24 through the windshield and being wedged
25 through the windshield where she can't even

Closing Argument by Solicitor Pascoe

1 move.

2 The second collision coming,
3 striking it on the back right side, spinning
4 the vehicle again to the left, this time
5 moving Mad Neeley's body again to the left.
6 He told you that the position of Mad Neeley's
7 body is consistent with the driver of the
8 vehicle. That's the expert opinion, that's
9 the only evidence in this case.

10 Just assertions. That's what they
11 want you to base your verdict on, not on the
12 evidence. But worst of all they want you to
13 base your verdict on absolute fiction.

14 But the irony is that the
15 defendant's own case, even with the fiction
16 in the case, it proves the defendant's guilt.
17 The first witness they called, Ms. McCottry,
18 Alisha McCottry, they put her on the witness
19 stand, what does she tell us? How does she
20 help the defendant? The defendant whose
21 wife, by the way, we learned is sick at home,
22 picks up Ms. McCottry, buys a bottle of rum
23 and takes her to the river down at Edisto
24 Gardens to drink. I don't see how that helps
25 him.

Closing Argument by Solicitor Pascoe

1 Now, she claims he only had two,
2 two drinks. Well, first how do we know what
3 size the drinks were? Second, how do you
4 remember that, what somebody else had to
5 drink two years ago or 18 months ago? And
6 more importantly, I submit two drinks is
7 enough obviously to make somebody impaired.
8 But let's assume for the sake of argument
9 that Ms. McCottry is telling the truth,
10 because I think for the most part she was
11 very honest, very honest on that witness
12 stand.

13 Let's assume she was telling the
14 truth the defendant only had the two drinks.
15 She testified that he dropped her off at
16 approximately 6:30 at SC State and that he
17 still had the bottle of rum. Why did it take
18 him an hour and 25 minutes to get to Highway
19 70? So the question is, what was he doing
20 with that bottle of rum for an hour and 25
21 minutes?

22 We know the bottle of rum wasn't at
23 the scene, the vehicle was inspected, we know
24 it wasn't in the car on Highway 70. They
25 would loved to have that bottle of rum and

Closing Argument by Solicitor Pascoe

1 brought it in here before you. What was he
2 doing with that bottle of rum for an hour and
3 25 minutes? Was he drinking it with the
4 other woman that he picked up before he went
5 home? An hour and 25 minutes with a bottle
6 of rum. We know what he was doing with it.
7 Proof beyond a reasonable doubt.

8 Their own witness Ms. McCottry, if
9 you believe her, is evidence that the
10 defendant was drinking and she's evidence
11 that the defendant got impaired that night.
12 Their own witness is evidence against him.

13 And then we have the defendant's
14 own testimony where we had in my opinion the
15 quote of the entire trial and I wrote it
16 down. I personally drive Highway 70
17 cautiously. It is to be driven cautiously.
18 Well, having a blood alcohol level of at
19 least .12, and I say at least because you
20 heard from the expert his blood alcohol
21 level, he had four hours for his blood
22 alcohol level to start going down before they
23 drew his blood. So it was at least .12.

24 That's not driving Highway 70
25 cautiously. Driving right off the shoulder

Closing Argument by Solicitor Pascoe

1 is not driving cautiously, crossing the
2 center line is certainly not driving Highway
3 70 cautiously.

4 Then we have the defendant who
5 can't describe what Trooper Pearrow looked
6 like on the night of October the 21st, even
7 though Trooper Pearrow is in front of him for
8 a considerable amount of time talking with
9 him and right in front of him. But somehow
10 after 18 months of having the video --

11 MR. CHANDLER: Objection, Your Honor,
12 arguing facts that's not in evidence.

13 SOLICITOR PASCOE: I don't know what
14 he's --

15 THE COURT: Let me hear what you're
16 talking about.

17 (Whereupon, a bench conference was held off
18 the record in the presence of the jury but
19 out of the hearing of the jury.)

20 SOLICITOR PASCOE: Eighteen months of
21 the defense having discovery in this case and
22 he comes in here and --

23 THE COURT: Is there an objection to
24 that?

25 MR. CHANDLER: Yes, it is, Your Honor.

Closing Argument by Solicitor Pascoe

1 THE COURT: Sustained.

2 SOLICITOR PASCOE: And to think about
3 this case and now he comes in here and all of
4 a sudden can describe a woman with white hair
5 wearing the red sweatshirt asking if he's
6 okay in the middle of her vehicle. Absolute
7 nonsense, totally contradicted by all the
8 evidence in this case. Absolute nonsense.
9 Totally contradicted by all the evidence in
10 this case, trying to even infer when he was
11 on the witness stand that it was Ms. Neeley
12 checking on him.

13 I mean, this goes borderline malice
14 getting on this witness stand and lying.
15 That's just not right. I assure you that
16 wasn't Ms. Neeley. You know that from your
17 common sense, you know that from the expert,
18 you know that from the forum.

19 The problem with this defendant,
20 ladies and gentlemen, is that he's had 18
21 months to think about his case. Eighteen
22 months to go over it with his lawyers.
23 Eighteen months to come up with every single
24 possible defense that he could think of and
25 he's done it. He has come up with every

Closing Argument by Solicitor Pascoe

1 possible defense you could have. He's come
2 up with a shotgun defense just hoping that
3 one of them's going to stick.

4 The first one is I wasn't drunk, I
5 wasn't impaired. Well, we know that's not
6 going to fly because he reeks of alcohol at
7 the scene, he's got a .12 blood alcohol level
8 and he's driving all over the road.

9 Well, you know what? If you
10 believe I'm drunk, it's Jessie Glover's
11 fault. He was speeding. It's Jessie
12 Glover's fault. The problem with that is all
13 the evidence in this case is, is that the
14 defendant struck the victim, that the
15 defendant struck them with a violent frontal
16 impact leaving them in the middle of the road
17 probably dying then. All the evidence is
18 it's the defendant's fault that he put them
19 in that place of danger.

20 So okay, well, that's not going to
21 work. I had a flat tire. First time he's
22 ever said it in this courtroom, I had a flat
23 tire, a blown tire. Well, a bunch of
24 problems with that one. First of all,
25 there's absolutely no evidence whatsoever of

Closing Argument by Solicitor Pascoe

1 having a blown tire. Second, both Trooper
2 Pearrow and the expert Lieutenant Dixon,
3 Lieutenant Dixon told you there was no blown
4 tire at the scene. He told you if the tire
5 had blown he would know it. He told you that
6 the damage caused to the defendant's right
7 rear wheel was from that violent impact of
8 the victim's vehicle slamming into it. He
9 told you the markings on the road, the tire
10 marks left by the defendant's vehicle, the
11 directions in which the vehicles traveled
12 were totally inconsistent with a blown tire.
13 Totally inconsistent with it.

14 But you know what his biggest
15 problem is? That even if you believe it, if
16 you believe the defendant is driving under
17 the influence and had a blown tire, even if
18 you believe that his faculties were not such
19 that you could control the vehicle and he
20 crossed the center line, he's still guilty of
21 felony driving under the influence. If he
22 can't manage that vehicle like a reasonable
23 person because he's under the influence, he's
24 still guilty and he knows that.

25 He's been in here, he's listened to

Closing Argument by Solicitor Pascoe

1 the law, so have no fear I have a fourth
2 defense because that one's not going to work.
3 My fourth defense, victims never hit my car.
4 On the witness stand I don't recall them ever
5 hitting my car. I don't recall them hitting
6 my car. I might have been driving under the
7 influence, I might have crossed the center
8 line, but they didn't hit my car so I'm just
9 guilty of DUI.

10 Ladies and gentlemen, if you
11 believe that please believe him when he says
12 that he wasn't impaired and find him not
13 guilty. Please find him not guilty if you
14 believe that story. To find him guilty of
15 DUI would be an insult to that family. It
16 would be an insult --

17 MR. CHANDLER: Objection, Your Honor.

18 SOLICITOR PASCOE: -- to justice.

19 MR. CHANDLER: Objection, Your Honor.

20 THE COURT: Sustained.

21 SOLICITOR PASCOE: And then the worst
22 defense of all, he comes into this courtroom
23 and says it's the victims' fault. It's the
24 victims' fault. Blame the dead people. They
25 stop in the middle of the road to get out to

Closing Argument by Solicitor Pascoe

1 check on him and then get back in their
2 vehicle in the middle of the road sideways
3 and get hit by another vehicle. Absolute
4 nonsense, not supported by any piece of
5 evidence whatsoever.

6 All these defenses are what I call
7 the octopus defense. If you know anything
8 about an octopus, it doesn't have the teeth
9 of the shark or even the bark of the dog, all
10 it has is an ink sac and when it gets in
11 trouble, when something's coming up on it, it
12 lets that ink out to muddy the waters, make
13 it cloudy. The octopus is still there, but
14 it muddies the waters long enough to get
15 away.

16 If you look through the mud in this
17 case and the clouds and the diversions in
18 this case you'll find the truth and the truth
19 is that the defendant is guilty of felony
20 DUI. What he did on October the 21st was
21 wrong and he hurt those families.

22 The judge is going to tell you that
23 there are very few things in this world we
24 know with absolute certainty. And in
25 criminal cases the State doesn't have to

Closing Argument by Solicitor Pascoe

1 prove the defendant's guilt beyond any and
2 all certainty. But I submit if there is ever
3 a case where that's done, it's this one.

4 Let's look at those stubborn facts
5 of guilt real fast. First the question, of
6 course, is was the defendant under the
7 influence. Absolutely the defendant was
8 influence under the influence of alcohol.
9 Lynne Drawdy, the first responder, she told
10 you that she detected a strong odor of
11 alcohol. He admitted to drinking. He was so
12 drunk that he didn't even know that night
13 what he had hit.

14 Doesn't say anything to her about
15 somebody coming out and something if I'm
16 okay. In fact, he says I think I hit a deer.
17 Nothing about a blown tire. Does that sound
18 like he's impaired? I think I hit a deer.
19 No blown tire that night. He hasn't had 18
20 months to think about it. No woman's checked
21 on me that night. He hasn't had 18 months to
22 think about it. I think a hit a deer.

23 Trooper Pearrow goes and sees him
24 at the scene, strong odor of alcohol, the
25 defendant appeared intoxicated. He knows

Closing Argument by Solicitor Pascoe

1 when somebody's intoxicated. The defendant
2 admitted to drinking Bacardi mixers. Then
3 you have the fact the defendant was driving
4 erratically, his poor driving. He's off the
5 shoulder, crosses the center line. Evidence
6 of being impaired while driving a motor
7 vehicle.

8 And then we have the testimony of
9 Special Agent Brandon Landrum from SLED. The
10 defendant's -- excuse me, the defendant's
11 blood alcohol level is .12 percent. And,
12 ladies and gentlemen, that is the best case
13 scenario for this defendant because you heard
14 Agent Landrum. He told you that that blood
15 test was done almost four hours after the
16 accident, so he would have been coming down
17 from that alcohol for a minimum of three
18 hours, a minimum of three hours, so his blood
19 alcohol level at the time of the accident was
20 probably much closer to at least .165. Twice
21 the permissible inference. .165. Twice the
22 permissible inference. Best case scenario is
23 it was only .12.

24 And he also told you that at .05
25 that's when people begin to feel the effects

Closing Argument by Solicitor Pascoe

1 of alcohol. And we know the defendant was
2 feeling the effects of alcohol because of the
3 second element. The defendant violated the
4 duties imposed by a driver under our laws.
5 He was driving recklessly, he was driving off
6 the shoulder, he overcorrected his vehicle,
7 he was driving in the wrong lane, he crossed
8 the center lane.

9 So then the last question is did
10 the defendant cause the deaths of Ann, Mad
11 and George Neeley. Absolutely the defendant
12 caused the deaths of Ann, 70-year-old Ann
13 Neeley, 71-year-old George Neeley and
14 41-year-old Mad Neeley.

15 You heard the testimony of Trooper
16 Pearrow how the defendant's vehicle crossed
17 the center line, the victims struck it
18 head-on. He knew that from his own
19 experience there was no blown tire. He told
20 you just how severe a crash this was.

21 You heard from the expert
22 Lieutenant Ricky Dixon the accident
23 reconstruction expert, he told you the
24 defendant went right -- let me see. That the
25 defendant drove off the road back onto the

Closing Argument by Solicitor Pascoe

1 road, overcorrected, crossed the center line
2 and that the victims' front vehicle, the
3 front part of the vehicle slammed into the
4 defendant's and the victims came to almost a
5 complete stop.

6 Highway speed. He told you that
7 that was a very severe impact. The only
8 thing that vehicle did after it hit him was
9 go no more than 15 feet and swing this way to
10 the right. From that frontal impact he told
11 you as an expert Ms. Neeley went through the
12 windshield. The entire front of the car is
13 destroyed, disabled to where the lights are
14 out. Look at the damage to the front
15 driver's side door, to the front passenger
16 side door. He told you that was caused by
17 the frontal impact. Ain't nobody going to
18 get out of there.

19 He told you how severe this impact
20 was, how Mad Neeley would have slammed
21 forward and gone back and spun to the right.
22 He told you how the victim George Neeley in
23 the back would have been slammed violently
24 forward and back and had to be extricated
25 from the vehicle because of the first impact.

Closing Argument by Solicitor Pascoe

1 Eight people he's known to go through a
2 windshield, none have survived.

3 I'm not going to show it to you
4 again because you're going to have it back
5 there and I'm getting tired of even having to
6 show that photo. Look at Ms. Ann Neeley.
7 You realize the violence of that first
8 collision. It was so bad she's not even
9 really cut, she went through that thing like
10 a bullet through a wall. Like a bullet
11 through a wall, because of that first impact
12 because he decided to get drunk and drive.

13 Then you heard from Deputy Coroner
14 George Bonnette. Eleven years he's been the
15 deputy coroner, 15-plus years an EMT, 20-plus
16 years a member of the Star Team. He told you
17 Ms. Neeley went through the windshield on the
18 frontal impact. He told you the vehicle was
19 in such damage from the frontal impact the
20 victims had to be extricated. He told you
21 that their injuries were such that they died
22 immediately. But at least they didn't
23 suffer.

24 Because the defendant on
25 October 21st, 2005 chose to drink and drive

Closing Argument by Solicitor Pascoe

1 he took their loved ones. Today he doesn't
2 want to be held responsible. He's had 18
3 months to come up with these five defenses;
4 he thinks that one of them is going to stick.
5 Prove him wrong.

6 I have never had to serve as a
7 juror before and I cannot imagine what it's
8 like to have to sit there and not be able to
9 say a word. But the irony is that soon
10 you're going to have the most powerful voice
11 in this courtroom and soon you are going to
12 deliver the most important message in this
13 courtroom. And with one word you can let the
14 defendant know that the truth matters in this
15 courtroom. With one word you can let the
16 defendant know that he will be held
17 accountable for his bad act and with one word
18 you can let the defendant know that the lives
19 of Mad, George and Ann Neeley mean something.
20 And that one word is guilty.

21 On behalf of the State of South
22 Carolina as your solicitor I respectfully ask
23 that you find the defendant guilty of three
24 counts of felony DUI. Thank you.

25 THE COURT: Thank you, sir.

1 Now the first break that I talked
2 about, just stand up where you are, stretch a
3 minute. In Beaufort County they call it a
4 comfort break. Does anybody need a comfort
5 break? Got a couple comfort breaks. Let me
6 tell you how we're going to be proceeding.
7 We are going to be at your leisure. When you
8 have finished your comfort break, knock on
9 the door and say we are ready.

10 Of course you have not heard my
11 instruction on the law so you are not
12 prepared to deliberate. Let me reiterate;
13 therefore, that you must not discuss this
14 matter or allow anyone to discuss it with
15 you. You knock on the door when your comfort
16 break is concluded. If you'll go to your
17 jury room.

18 (Whereupon, the jury retires to the jury room
19 at 11:09 a.m.)

20 THE COURT: Ladies and gentlemen, if you
21 all exercise your comfort break, which I'm
22 happy for you to do, please do not go far
23 because once I begin the instruction on the
24 law no one will be allowed to enter the
25 courtroom because I must have quiet for the

1 jury. Very well. Thank you.

2 We'll take a short break. We'll be
3 at -- we'll wait for our jury.

4 (Recess, from 11:10 a.m. to 11:21 a.m.)

5 THE COURT: All right. Anything before
6 we bring the jury out from the State?

7 SOLICITOR PASCOE: No, Your Honor.

8 THE COURT: From the defense anything
9 before we bring the jury out?

10 MR. CHANDLER: Not from the defense.

11 Thank you, Your Honor.

12 THE COURT: Very well. Let us have the
13 jury, please. We will lock the courtroom
14 when the charge begins so that there are no
15 distractions.

16 (Whereupon, the jury returns to the courtroom
17 at 11:21 a.m.)

18 THE COURT: Ladies and gentlemen, you
19 have now heard the witnesses, received the
20 evidence, heard the arguments of counsel.
21 The time is -- has come for me to instruct
22 you on the law applicable to this case.

23 Ladies and gentlemen, the
24 indictments in this case allege several
25 different offenses against the defendant

Jury Charge

1 Mr. Taylor. The charges, the indictments are
2 as follows: First indictment is for felony
3 driving under the influence causing death.
4 The second indictment is for felony driving
5 under the influence causing death. The third
6 indictment is for felony driving under the
7 influence causing death. Each indictment
8 charges a separate and distinct offense. You
9 must decide each indictment separately on the
10 evidence and the law applicable to it
11 uninfluenced by your decision as to any other
12 indictment. The defendant may be convicted
13 or acquitted on any or all offenses charged.
14 You will be asked to write a separate verdict
15 for each indictment.

16 Ladies and gentlemen, Mr. Jimmy
17 Taylor, the defendant in this case, has pled
18 not guilty to each of these indictments. The
19 plea of not guilty places upon the State the
20 burden to prove Mr. Taylor guilty of each
21 indictment before he can be convicted of that
22 indictment.

23 A person charged with committing a
24 criminal offense in South Carolina is never
25 required to prove himself or herself

Jury Charge

1 innocent. I charge you that it is an
2 important rule of the law that a defendant
3 charged in a criminal trial, no matter what
4 the seriousness of the charge may be, will
5 always be presumed to be innocent of the
6 crime for which the indictment was issued
7 unless guilt has been proven by evidence
8 satisfying you of that guilt beyond a
9 reasonable doubt.

10 This presumption of innocence does
11 not end when you begin your deliberation, but
12 it accompanies the defendant throughout the
13 trial until you reach a verdict of guilt.
14 based on evidence satisfying you of that
15 guilt beyond a reasonable doubt. The
16 presumption of innocence is like a robe of
17 righteousness which is placed about the
18 shoulders of the defendant which remains with
19 him until it has been stripped from him, from
20 the defendant, by evidence satisfying you of
21 his guilt beyond a reasonable doubt.

22 The presumption of innocence is not
23 merely -- it is not a mere legal theory, it
24 is not just a legal phrase. It is a
25 substantial right to which every defendant is

Jury Charge

1 entitled unless you, the jury, are satisfied
2 from the evidence of the defendant's guilt
3 beyond a reasonable doubt.

4 What then is reasonable doubt in
5 the law? A reasonable doubt is the kind of
6 doubt that would cause a reasonable person to
7 hesitate to act.

8 The State has the burden of proving
9 the defendant guilty beyond a reasonable
10 doubt. The State maintains the burden of
11 proving the defendant guilty beyond a
12 reasonable doubt as to each of the
13 indictments. Some of you may have served as
14 jurors in civil cases where you were told
15 that it is only necessary to prove that a
16 fact is more likely true than not true, such
17 as by the greater weight or the preponderance
18 of the evidence. In criminal cases the
19 State's proof must be more powerful than
20 that, it must be beyond a reasonable doubt.
21 Proof beyond a reasonable doubt is proof that
22 leaves you firmly convinced of the
23 defendant's guilt.

24 There are very few things in this
25 world that we know with absolute certainty

Jury Charge

1 and in criminal cases the law does not
2 require proof that overcomes every possible
3 doubt. If, based on your consideration of
4 the evidence, you are firmly convinced that
5 the defendant is guilty of the crime charged
6 in the indictment that you are considering,
7 you must find the defendant guilty of that
8 charge in the indictment. If, on the other
9 hand, you think there is a real possibility
10 that the defendant is not guilty, you must
11 give the defendant the benefit of the doubt
12 and find him not guilty.

13 Ladies and gentlemen, you will go
14 through this analysis for each of these three
15 indictments.

16 Ladies and gentlemen, I remind you
17 that during this trial you and I have certain
18 duties to perform. As the trial judge it is
19 my responsibility to preside over the trial
20 of this case and I also have the duty to rule
21 on the admissibility of the evidence offered
22 during the trial. If there was any testimony
23 ordered stricken -- I don't recall that, but
24 in an abundance of caution I charge you that
25 if there was testimony ordered stricken from

Jury Charge

1 the record in this case you must disregard
2 that testimony. You are to consider only the
3 testimony which has been presented from this
4 witness stand, any exhibits which have been
5 made a part of the record in this case, they
6 will be with you in your jury room.

7 Ladies and gentlemen, I have the
8 additional duty to charge you the law
9 applicable to this case. As the presiding
10 judge I am the sole judge of the law of this
11 case and it is your duty as jurors to accept
12 and apply the law as I now state it to you.
13 If you already have any idea as to what the
14 law is or you believe you have an opinion
15 about what you think the law ought to be,
16 should be, and it does not agree with what I
17 now tell you the law is, you must abandon
18 your idea because you are sworn by your oath
19 to accept and apply the law exactly as I now
20 state it to you.

21 Ladies and gentlemen, in every case
22 tried in this case before a jury, the jury
23 becomes the sole and exclusive judge of the
24 facts in a case. A trial judge cannot
25 intimate, state, comment on or make any

Jury Charge

1 statement to a trial jury about the facts in
2 a case. Since you, the jury, are the sole
3 judge of the facts in this case, you
4 mustn't -- you are not to infer from what I
5 have said during the progress of this trial
6 in ruling on the admissibility of evidence or
7 otherwise, or anything that I say to you now
8 during the course of this instruction to you,
9 that I have any opinion about the facts in
10 this case. The law does not allow me to have
11 an opinion about the facts in this case. I
12 have no opinion about the facts in this case.
13 This is a matter solely for you, the jury, to
14 determine.

15 As jurors it is your duty to
16 determine the effect, the value, the weight,
17 and the truth of the evidence presented
18 during this trial.

19 Now, ladies and gentlemen, I want
20 to talk about the two types of evidence that
21 are generally presented during a trial. One
22 is called direct evidence, the other is
23 called circumstantial evidence. Direct
24 evidence is the testimony of a person who
25 claims to have actual knowledge of a fact,

Jury Charge

1 such as an eyewitness. It is evidence, which
2 immediately establishes the main fact to be
3 proved. Circumstantial evidence is proof of
4 a chain of facts and circumstances indicating
5 the existence of a fact. It is evidence
6 which immediately establishes collateral
7 facts from which the main fact may be
8 inferred. Circumstantial evidence is based
9 on inference and not on personal knowledge or
10 observation.

11 The law makes absolutely no
12 distinction between the weight or value to be
13 given to either direct or circumstantial
14 evidence, nor is a greater degree of
15 certainty required of circumstantial evidence
16 than of direct evidence. You should weigh
17 all of the evidence in the case. After
18 weighing all the evidence, if you are not
19 convinced of the guilt of the defendant
20 beyond a reasonable doubt you must find the
21 defendant not guilty.

22 Necessarily, ladies and gentlemen,
23 you must determine the credibility of
24 witnesses who have testified in this case.
25 Credibility simply means believability. It

Jury Charge

1 becomes your duty, as jurors, to analyze and
2 to evaluate the evidence and to determine
3 which evidence convinces you of its truth.

4 In determining the believability,
5 the credibility of witnesses who have
6 testified in this case, you may believe one
7 witness over several witnesses or several
8 witnesses over one witness. You may believe
9 a part of the testimony of a witness and
10 reject the remaining part of the testimony of
11 the same witness. You may believe the
12 testimony of a witness in its entirety or you
13 may reject the testimony of a witness in its
14 entirety. You may consider whether any
15 witness has exhibited to you any interest,
16 bias, prejudice or other motive in this case.
17 You may also consider the appearance and the
18 manner of a witness while on the witness
19 stand.

20 Ladies and gentlemen, we talked a
21 little bit about expert witnesses during the
22 course of the trial. I'm going to talk to
23 you a little bit more about that now. Ladies
24 and gentlemen, our rules of evidence
25 ordinarily do not permit witnesses to testify