

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Clifton Newman, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AHMAD JAMAL WILKINS,

APPELLANT

APPELLATE CASE NO. 2012-212387

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS #69 (VIDEO)
STATE'S # 71 (PHOTOGRAPH)
STATE'S # 110 (PHOTOGRAPH)
STATE'S # 112 (PHOTOGRAPH)
STATE'S # 114 (PHOTOGRAPH)
STATE'S # 119 (CD RECORDING)
STATE'S # 144 (AUDIO CD OF STATEMENT)

1 I talked to Thomas about "how do you know when
2 you get up because you're awakening." She had to get up
3 to unlock that door.

4 I know what time I got up today. I'm sure you
5 guys do, too. She got up to let him in at 3:55. They
6 hate that. They hate that.

7 But you know what? When she told them that in
8 February of 2009, February 20th to be exact, they liked
9 what she said on the second part of the statement, that he
10 was pacing around, that he said, "Oh, Lord, Oh, Lord," and
11 they just discounted the fact that he was in his house, in
12 his apartment at 3:55 and she was making phone calls to
13 him after that.

14 Now, Nicole told you she went to bed after that,
15 after she let him in. They hate that because they know
16 that he could not have been the one to murder her.

17 Now, they want to make a big deal about she's
18 the mother of his child, they were dating at that time.
19 And they got up here -- I mean, you saw her. When you
20 talk about demeanor, she didn't want to be here. She
21 didn't want to answer any questions earlier from
22 Ms. Campbell, she didn't really want to answer my
23 questions.

24 Do you know what I could tell about her? She
25 won't tell a lie for nobody. She's going to say what she

1 said, what she said in her statement twice, 3:55. She's
2 not going to lie for anybody. I could tell that.

3 Another reason I put you on this jury is because
4 I think each and every one of you has common sense. Each
5 and every one of you I feel has personal experience that
6 you could tell what's going on up there. She wasn't going
7 to lie for nobody.

8 They're not still dating. We've heard the
9 testimony in this case: Ahmad had other relationships,
10 Nicole Jones. You don't think Nicole Grimes knows all
11 about that now? Of course she does. She's not with him
12 anymore. She's not going to lie for anyone. But she was
13 interviewed and spoken to February 20th and she was pumped
14 full of information about this case.

15 Thomas and Reese talked to her, you heard the
16 phone call. They talked to Ahmad as well February 20th,
17 2009, and he told them that "Yeah, I delivered her some
18 cocaine somewhere the end of January, early February."
19 And then they booked him on an unrelated charge and
20 listened in. And they knew that the bench warrant was
21 coming. They knew they had something he could go to jail
22 on. Pump her full of information, let him call about
23 bond. "Am I getting out today? When am I coming home?
24 Oh, I don't know, but let's talk about this."

25 And they made a big deal about that. There's

1 going to be probably transcripts and everything, these
2 boards. I don't need 15 boards. I know what I heard. I
3 know what I've heard here. Pump her full of information
4 and let her ask him about it. And they're going to make a
5 big deal about that.

6 She is an alibi. They're going to have to
7 disprove that law, beyond a reasonable doubt, so listen to
8 what the judge says. They're going to have to disprove
9 that, an alibi in defense, beyond a reasonable doubt. You
10 have to overcome that to even listen to their case. An
11 alibi that they knew about, Thomas and Reese knew about
12 February 20th, 2009, they knew about that, they knew about
13 that.

14 Now Ahmad always told them that he didn't kill
15 Eboney. They didn't like that. They got phone records.
16 They've got a video. They had a video that we're going to
17 watch a little bit in a second.

18 And I know it's distracting and it's a little
19 discombobulated to be flipping this thing up, at least it
20 is for me, but it's all about the details. I'm trying to
21 bring the details to you, because I've watched that.
22 There are two days' worth of things happening on here.

23 And, you know, the State, they're going to water
24 down this. They want to talk about how much Investigator
25 Thomas had to swear in two affidavits to get a search

1 warrant, swear out to a magistrate and get a search
2 warrant for Ahmad's home to pull, you know, a jacket or a
3 hoodie, to pull some jeans, to pull some shoes. He needed
4 to swear it. And part of that was seeing another suspect
5 that they think matched Ahmad's description coming up the
6 hill at 4:20 past Eboney's apartment and going down at
7 4:56. But everything's running from this video because
8 it's the details. And I've watched this video. And the
9 video proves everything we're saying in this case. I'll
10 talk to you more about that.

11 But Ahmad always told them he didn't have
12 anything to do with her death. He did go down there to
13 deliver her some drugs, he did, but you heard the
14 interrogation.

15 And I don't know care what they call it, an
16 interview, an interrogation, I don't care. I know he was
17 handcuffed. I know he was being arrested. I know they
18 fed him lies to try to get him to confess to something
19 that he didn't have a part of. I know when they
20 interrogated him, they knew about 3:55.

21 Again, they like half of that. They like the
22 fact that he's pacing. They like the fact that he said,
23 "Oh, Lord." They knew about that and they still
24 persisted. They sat there and listened with it. And you
25 know what? Ahmad's chained to a table, having two

1 investigators -- and like I told you, they thought they
2 had their man. They were telling him they had their man.
3 They didn't want to hear what he had to say. They didn't
4 care. They thought they had their man in a case where
5 rape kits go missing, where bedding has not been tested,
6 that binds someone's feet that's been set on fire and
7 murdered, where bedding's been found in a dumpster that's
8 recently been emptied completely, discovered by an officer
9 that's been implicated in this case.

10 Now, he's not on trial, he's not on trial. He
11 may have a day one day where he has to be here and go
12 through what Ahmad --

13 MS. CAMPBELL: Objection, Your Honor.

14 THE COURT: The objection is sustained.

15 MR. SHEALEY: But these details cannot be
16 ignored. They cannot be ignored.

17 But Ahmad got up there and said, "Yeah, I did
18 lie. They didn't care what I said at that point" is what
19 I took of what he was saying there.

20 They had their man. They had their man and he
21 was pretty much rejecting everything they're saying. I
22 heard that, you heard it. Charged him with murder. "You
23 murderer. Tell us how you did it, son. You're a man of
24 the world, son. It's been too long, son."

25 "I'm not going to tell you anything. You got me

1 handcuffed to a table. I told you what I know."

2 He said the exact opposite of everything they're
3 telling him. "You don't want to believe what I have to
4 say, all right." They make a big deal about that, a man
5 that they're interrogating when they know he's got an
6 alibi. A man that they're interrogating when they know
7 his alibi that has him in home when Eboney is calling him.

8 Now you heard his testimony, he delivered her
9 some cocaine, some powder. He may have been wearing
10 gloves, he's not sure. You know, people wear gloves when
11 they're cold. People wear hats when they're cold. But
12 what he did tell you was that he did go in there that
13 night, brought her some powder, they both got high. He
14 also told you if he was wearing a glove, he certainly
15 would have taken it off to do powder.

16 I don't find any significance of this glove.
17 It's a red herring. It looks sexy.

18 Here's a glove on a crime scene. It also looks
19 sexy with feet being bound, bedding stripped and thrown in
20 a dumpster that's just been emptied, that's sexy, too. Do
21 something about it, look into it, test it. But they want
22 to test a glove.

23 And he told you he could have been wearing it,
24 he's not sure, could have been wearing it. But certainly
25 if he was wearing it that night, he would have taken it

1 off.

2 He told you he was high. He told you he was
3 high. So a man that is high is going in for -- forget the
4 fact that everything that we've heard in this case with
5 the fact that he could not have done this, just forget
6 that for a second. What in the world is the motive of a
7 man to kill a woman?

8 Are you going to say a drug deal gone bad? What
9 is the motive for such a deliberate heinous act that takes
10 preparation and thought, a man that's just high to be able
11 to take an accelerant in there? You have to be prepared
12 to remove smoke detectors, strip the bed, bind her with
13 it, wrap her with it, use that gasoline or accelerant, you
14 know, put it in the dumpster.

15 You know, drug deals gone back? People get shot
16 over drugs or whatever the scenario is. I don't know a
17 motive here. It doesn't matter.

18 But when they're trying to feed you their case,
19 think about that. When they're trying to water down this
20 time frame and get you away from the details, the details
21 which I'm telling you are so important in this case, think
22 about what in the world would be the motive.

23 Now, this is here for a reason. You guys are to
24 judge character. This witness box is close to you so you
25 can look people in the eye. Thomas sat here and told you,

1 you know, I want to make sure I got the right man. He sat
2 here and told you that, I want to make sure I got the
3 right man and ignore an alibi. I want to make sure I got
4 the right man, but I don't test key pieces of evidence. I
5 want to tell you that I make sure I got the right man when
6 I questioned him for over an hour.

7 I mean, Ahmad's had some bad luck, let me tell
8 you this, real bad luck, that the investigator's making
9 sure he's got the right man with all these pieces missing.

10 They're going to make a big deal about the
11 interrogation. They're going to talk about it and say
12 he's lying, chained to a desk in a tiny room knowing he's
13 getting booked for murder. He's lying to us, you know.
14 Ms. Campbell wants him to say, well, they're trying to pit
15 his words against him. Well, you told him that when
16 you're in there. What, you didn't expect him to tell the
17 truth? They know what they want. He got his man.

18 And you have to look at Thomas. Thomas knew
19 about the dumpsters. He told you that right here. He
20 knew they'd been recently been emptied. He got to get up
21 there and explain about this selective testing. He got to
22 explain about why he decided to test what he wanted. And,
23 you know, Rachel Grant was here and she told that that
24 conversation came down from him. They're paying the bill.
25 They used Richland County. That's not the county's

1 decision.

2 You heard that interrogation, the nature of it,
3 the voices raised, "Son, tell us. Tell us, son. A man of
4 the world. Tell us. Unburden your soul."

5 You heard the raised voices, Reese. I could
6 hardly hear him when he was up here.. Do you believe that?
7 Did you really believe that?

8 Now, see, they brought him here all the way from
9 federal prison, Patruan Hare. Patruan got up here, walked
10 up here, sat down, swore under oath. He didn't have any
11 reason to lie. He didn't have a downward departure. He's
12 going to get his benefit for being here today.

13 My brother asked him those questions. He's
14 going to get his benefit, and that's why he's here today.
15 He's hoping to get away from the decades that he has to
16 spend in Williamsburg Federal Correctional.

17 You know, hearing things -- let's get back to
18 him, though. The biggest thing about him is even with his
19 snitching, or trying to snitch, he didn't even do it
20 right. He lied the wrong way with his snitching. He's
21 saying all this detailed information that Ahmad's talking
22 about in the lonely days at Alvin S. Glenn Detention
23 Center to a guy that he thinks is an acquaintance of his,
24 that he's been seen in the presence with, about what these
25 guys think they have on him. They're talking about all

1 kinds of crazy stuff. Talking about, they're telling me
2 about shoe prints, telling me about cigarette butts,
3 telling me about accelerants. "Hey, man, what they got on
4 your case? Well, they've got no case. What you in here
5 for?"

6 Patruan goes back to his room and takes notes.
7 The next day, "Hey, man, did you know about that?" And
8 then he tried to use that.

9 But if you listened to Patruan, he said all
10 these things that Reese and Thomas had been accusing Ahmad
11 of. And you heard the recorded conversation and you also
12 heard -- or did not hear the first conversation.
13 Investigator Thomas told you that tape didn't work, it was
14 malfunctioning. And they're telling him all kinds of
15 stuff, and telling Nicole Grimes all kinds of stuff, and
16 they talked about what they're alleging with Patruan.

17 But it's key to note Patruan said, well, you
18 know, something about a wrong day or something. Patruan's
19 a liar. He's got all the benefit in the world to come in
20 here and use a way to try to spin something for you. He's
21 got every benefit. Judge his credibility, think about why
22 he's here. He wants to tell the truth. He wants to get
23 out of jail. He wants to get out of prison. He wants to
24 not do 15 more years.

25 Now, Ms. Praylow, we put her up. They know

1 about Praylow. Everyone knows about Praylow. People were
2 interviewed, the area was canvassed.

3 Now, she, as she told you, is sitting in Alvin
4 S. Glenn on a bench warrant. That case has already been
5 adjudicated.

6 MS. CAMPBELL: Objection, Your Honor.

7 THE COURT: The objection's sustained.

8 MR. SHEALEY: She has no reason to lie here.
9 She doesn't have any downward departure.

10 I would suggest that she didn't want to be here.
11 She told you the truth. She told you. She told you what
12 Eboney said at 11:30 right before the night that she was
13 murdered, what was going through her mind, who she was
14 concerned with. I can't make this stuff up. And if the
15 State gets up here and says that we're fabricating, I
16 can't make this stuff up. I look at discovery, we
17 investigate, but she had no -- she's not getting any kind
18 of benefit for being up here today.

19 In fact, she'll probably only get grief. Where
20 she's coming from, Bethel Bishop, if anyone knows that she
21 testified about anything, she's probably going to get a
22 whole lot of grief. She may get more than that. You
23 think the City of Columbia is going to do her any favors
24 next time they see her, be real nice to her? That's
25 negative.

1 Now, the first item that the defense moved into
2 evidence in the State's case are the maintenance records,
3 the service logs, four of these logs. Look at them.

4 You've heard discussion and testimony about
5 Idris Wilkins, Idris Wilkins who works at Bethel Bishop,
6 who worked there then, who works in maintenance. And
7 you'll note right here, it's Defense Exhibit D-2.

8 We all know that she was murdered February 3rd,
9 2009. The service record shows that Idris was in her
10 bathroom fixing a sink that was clogged, does not drain as
11 recently as January 22nd, 2009. The item, the murder
12 weapon in this case that had four people's profile, DNA
13 profiles on it, that Rachel Grant explained, Well, you
14 know -- and Investigator Thomas did as well -- with their
15 correlation to Ahmad was any paternally-related male. It
16 could be a brother, it could be a dad, an uncle.
17 January 22nd, 2009. And then more than that, look at
18 that.

19 So where the State's case is resting so much on
20 a DNA profile that had four profiles on it, but it's that
21 Y-filer testing that only tests for males, the Y
22 chromosome, and his brother serviced that apartment. And
23 there are pictures. It's not a big old bathroom, nothing
24 about this case is really great, but that could be
25 certainly his brother's DNA if you even give the Y-filer

1 testing any credence at all.

2 And the glove that's a sexy red herring for the
3 State has nothing do with this thing. I mean, you're
4 going to strangle somebody and leave your DNA on something
5 and leave a glove? You'd have to be wearing that glove.
6 And if so, then why wouldn't Eboney's DNA be on the glove?
7 She's excluded. It doesn't make any sense.

8 This is a planned, executed precision murder by
9 someone that carefully thought about it, that brought
10 gasoline to this poor girl's home, that had her key and
11 knew her, that most likely had some intimate act in a
12 bedroom and was looking to burn or get rid of evidence or
13 maybe place it in the hands of people that maybe wouldn't
14 test it -- for whatever reason it was not tested. This is
15 not the acts of a drug deal gone bad. This is not the
16 acts of a guy's that high on cocaine. This is massive
17 amounts of planning.

18 3:55. 3:55. And they know that. They know
19 where he was. In fact, they made a big deal -- and I was
20 so surprised they were trying this -- to get her to admit
21 that that was her number, Nicole Grimes. She said no.
22 You heard the testimony. This was Venchie Grimes, this
23 was Nicole Grimes brother and sister in Apartment 13.

24 Let's all be clear about this. Nicole and Ahmad
25 are in 25. Venchie and Nicole's sister are in 13. That

1 is their number.

2 They kept referencing this, and Ms. Campbell
3 kept asking about this, because of that number she left as
4 a contact information on her initial statement. She
5 didn't have her own phone. And on that jail phone
6 recording where they booked Ahmad on unrelated charges and
7 they pumped Nicole Grimes full of information to listen in
8 and hear what they had to say, that's where he's calling
9 her from, his baby momma's sister's house.

10 And if you look at the transcript and listen, he
11 says, "Hey, put your sister on the phone." That's the
12 first thing that he says, "Hey, put your sister on the
13 phone," and he starts talking to her, Nicole Grimes, after
14 the sister puts her on.

15 They tried hard, they tried real hard, and I
16 can't believe it, but they did to try to debunk an alibi
17 theory that's not convenient for them. The devil's in the
18 details. It is absolutely in the details.

19 I want to show you some more details.

20 Now, the video in this case is in evidence.
21 That means you guys can look at it and play with it the
22 same way I did for weeks. You guys can look at this and
23 analyze it, if you so choose.

24 Now, what was in A.L. Thomas' search warrants in
25 part is this information where a suspect on a video walks

1 up a hill. And you heard A.L. Thomas testify that "When I
2 got the video back, they determined when they're reviewing
3 it, SLED was brought in, that approximately it's four
4 hours slow. So anything going on at this time you got to
5 add four hours here."

6 The suspect walks up the hill, it's time stamped
7 20 minutes, that's really 4:20. The suspect walks down
8 the hill when we play this thing at 56 minutes after the
9 hour, that's really 4:56.

10 But when I was reviewing this, and I watched the
11 whole thing, I watched law enforcement show up, the fire
12 department, and you can do the exact same thing if you so
13 choose. And what's in evidence, the fire report about
14 when they arrive and when they leave was off. I got it
15 here on the video, time stamped 9:56.

16 And I kept on going and I kept on going and I
17 was like, wait a second. That's 1:56 and the fire
18 department's not here yet previous to this and then all of
19 a sudden I saw them coming. I thought, wait a minute,
20 that can't be right. That can't be right. So I say, you
21 know, the fire report is accurate. They know when they
22 came, they know when they leave, they call it in. So I go
23 on the video and look for the first fire personnel that
24 get there, and I showed it to you on the video, and their
25 report says 1:13. So I subtract Thomas's estimate of four

1 hours ahead from what I know to be what the fire
2 department say when they got there at 1:13 and I get a
3 difference of 43 minutes. Forty-three minutes. Thomas is
4 43 minutes fast in his estimation.

5 I want to double-check the math, so I did the
6 math, and I got here, time stamped 1310. I subtracted 43
7 minutes and I double-checked it, and you can do the exact
8 same thing, you can double-check to find out the real time
9 in this video.

10 I showed you the last time the last fire truck
11 was leaving is at Thomas time 5:10, time stamped 1310, but
12 when you subtract 43 minutes, that's 4:27. Then you look
13 at the fire report, that's what they say, too, 4:27, and
14 you adjust things, not that we need to adjust anything in
15 this case with an alibi that the State has to overcome
16 beyond a reasonable doubt, but it's the details, ladies
17 and gentlemen, it's the details.

18 So what they're saying on this sworn affidavit,
19 two of them, what they're saying on this case on the video
20 they showed you is that this suspect that walks up the
21 hill is really at 3:37 a.m. Well, we know Ahmad's at home
22 with Nicole Grimes by 3:55. Suspect walks down the hill.
23 The real time is 4:13. Even if you thought Thomas's time
24 was right -- and I -- you know, he wouldn't admit to that,
25 that time's not right -- you can't trust that. Because

1 here's the ultimate thing that we want to look at. And
2 this is all in evidence and you can look at it, pull the
3 records.

4 The last time Eboney called Ahmad is 4:13 and it
5 lasted from 4:13 to 4:14. So even if you want to believe
6 that this guy on the video was Ahmad, and even if you did
7 not believe the alibi, if you felt that the State had
8 disapproved that alibi beyond a reasonable doubt and
9 you're saying, all right, we're in the ball game now,
10 let's look at this, then that means that when he's ending
11 that conversation with Eboney, he's having a phone call
12 with her inside of the house. That doesn't make any
13 sense. He is not having a phone call with her while he's
14 inside of her apartment.. He is having that phone call
15 with her in his apartment, 25-H.

16 He didn't do this, he has an alibi. He
17 testified he did go visit her that night, they shared some
18 powder, was paid with oral sex. She said that "Company's
19 coming, I've got some more people coming," or whatever, he
20 left. She wanted something else. She wanted a little
21 more. He gets more powder, more drugs, whatever.

22 You know, Ahmad didn't really recall all the
23 exact times, but the phone records don't lie. 4:13.
24 Nicole Grimes came up and wasn't going to lie for anybody.

25 Now, as upsetting as it may be, and I'm not

1 saying that this isn't an uncomfortable conversation, but
2 if you consider what we observed here of this Columbia
3 Police Department cruiser -- and it's all in evidence --
4 sitting out there in front of her apartment with the
5 lights dimmed for this period of time, 27 minutes out
6 there -- I've never heard anything in the State's case
7 about a distress call, never heard anything in the State's
8 case about a 911 call early in the morning, about any
9 attacker trying to get in here or something like that, I
10 never heard that.

11 I found it so odd in this case when the rape kit
12 goes missing, we've got things that should be tested that
13 aren't, where you're performing search warrants on a man's
14 house and find no flammable liquids, no accelerants, no
15 anything, nothing in a man's house linking at all to the
16 victim, that this happened.

17 They arrived and the real time for that is 4:57
18 in the morning. You watch the video, the dumpsters being
19 emptied. That's significant to me. I watched the
20 dumpsters being emptied. Then all of a sudden this
21 material, this bedding that we know the killer came in
22 contact with, is discovered by Melron Kelly.

23 And I didn't like saying his name. I wish he
24 wasn't a part of this case because what they have here
25 today, oh, defense lawyer tactics and all this stuff, this

1 information came to light by looking at the details. I
2 wish it was some other dude. I wish it was not somebody
3 at the Columbia Police Department that we're being forced
4 to bring into this case. I don't like it because it makes
5 it seem less credible to you guys. It gives them some
6 fire for, Oh, these defense attorneys are so low and
7 they're going to smudge the name of an officer that's been
8 on the force for 12 years. I wish that wasn't the case.
9 I wish I never had to say Melron Kelly. I don't want to
10 say his name. I wish it was somebody else that I could be
11 talking about.

12 But the devil's in the details, ladies and
13 gentlemen, and we know Ahmad was at home with Nicole. We
14 know he was high, we know he went there that day, we know
15 he gave her some cocaine, and then she continued to call
16 him to try to get some more.

17 The State's made a big deal about initially, and
18 I think I kind of understood a little bit more as the case
19 went on, we already knew this, it's in evidence, is
20 Venchie Grimes' landline phone number, Building 13.
21 Nicole Grimes isn't going to lie for anybody.

22 (Pause.)

23 MR. SHEALEY: Again, I don't like doing this --
24 I've never done it before in a closing, I've never done
25 this before in a trial, I find it distracting, I'd rather

1 just talk to you -- but this case is about the details.

2 I'm going to play something for you here.

3 Now, I did what the City of Columbia I hope did.
4 Actually, I hope they maybe were just lazy on this case as
5 opposed to the alternatives. But here's their suspect,
6 here's what they played you. And if they didn't want to
7 play this, then don't play it, but here's what they played
8 you. Here's what was in two search warrants about this
9 time right here. And we know Ahmad is at home by 3:55.

10 (The video recording is played but not
11 transcribed.)

12 MR. SHEALEY: I'll show you Ahmad. Remember,
13 he's left-handed. There's somebody coming down the hill.
14 It almost looks -- he's on the phone talking with somebody
15 with the left hand. There he is, on the phone with his
16 left, his hair is longer back then. There he goes.

17 You know, this is a matter of minutes before
18 what was included in multiple search warrants in the
19 presence of an alibi.

20 This is Ahmad. This says at nine minutes Thomas
21 time, we'll go with it, 4:09, but in reality when you do
22 the math, it's 3:26 a.m. I went too far here.

23 3:26 a.m., ladies and gentlemen, is when Ahmad
24 went to Eboney's place, when he got high with her, he got
25 oral sex, and he left and made his way home. He made his

1 way home when Nicole Grimes got up from sleeping, let him
2 in at 3:55. Eboney continued to call him trying to get
3 some more, at 4:13 to 4:14 down here was the last
4 conversation they had.

5 (Video recording is concluded.)

6 MR. SHEALEY: Now, I know the City of Columbia
7 looked at that video the same way I looked at it. I know
8 they did. But the devil is in the details. And you know
9 what? The details are important.

10 Ahmad did not kill anybody. He is not a killer.
11 He's a small-time drug dealer that likes to get high. But
12 this is a prosecution of convenience, maybe for them a
13 prosecution of necessity -- I don't know -- but I do know
14 that both these investigators refused to look at alibi in
15 a case where everything was done the wrong way, where
16 things that should have been tested weren't done right.

17 And Ms. Campbell may get up here and say,
18 listen, these are professionals, they know what to test,
19 they know what not to test, but I know in your heart of
20 hearts you're wondering the same thing about the ligature
21 on her feet, about the bedding that's found in the
22 dumpster right after it's been emptied. I want these
23 answers. But when I look through these details, the
24 answer that comes out the most clear is Ahmad's innocence.
25 Even if he had to prove his innocence, that's what comes

1 out most clear. That is the details that I submit.

2 Because, ladies and gentlemen, this man's
3 innocent. This Ahmad Wilkins, he didn't do this. He
4 doesn't have to prove his innocence. He does not have to
5 disprove guilt. That's the standard. Even in light of
6 everything, the details that we see here, he could not
7 testify what he did in light of alibi, which the State's
8 going to have to overcome beyond a reasonable doubt,
9 beyond his own testimony even.

10 He came up here and told you what happened.
11 He's been waiting this whole time to do this. That man is
12 wrapped in a robe of righteousness according to our laws,
13 and that robe protects him and stays with him and follows
14 him and follows you to that deliberation room, and that's
15 the standard that you think of.

16 They must prove this case beyond a reasonable
17 doubt for there to ever be a conviction in this case.
18 They must prove to each and every one of you people that I
19 put on this jury because I believe you have common sense,
20 I believe you're intelligent folks, they must prove to
21 each and every one of you unanimously that he did this
22 beyond a reasonable doubt.

23 But before you can even consider that, they've
24 got to disprove beyond a reasonable doubt alibi, sworn
25 testimony, sworn testimony that she told, Nicole Grimes

1 told them then, she told them now. She's not trying to
2 protect that man. You-all are going to have to think
3 about that first.

4 Reasonable doubt is the burden, and they will
5 say that they welcome that burden, but I'm going to say
6 one thing. That burden that's on them, with all the power
7 of the State of South Carolina is what they have, on these
8 four corners sits power. They've got investigation power,
9 they've got people to look at facts and circumstances.
10 They have the power. But they have a burden, a heavy
11 burden to overcome, beyond a reasonable doubt.

12 And when they say they accept and welcome that
13 burden, if they say to you anything, slander any attorneys
14 here or any defense about what we were forced to show in
15 this case, any personal attacks, anything, any insinuation
16 about manipulation of anything, then they are running from
17 that burden. That is not what they are supposed to be
18 doing here. If you hear that, then you know they're
19 running from their burden. You deserve better if you ever
20 hear that in their reply to this closing.

21 Reasonable doubt is a doubt which causes
22 reasonable folks to hesitate to act. I've already told
23 you all this and you probably agree, each and every one of
24 you is a reasonable person. I didn't put any people that
25 I think weren't reasonable on this jury. If you hesitate

1 and they haven't met their burden and he remains innocent,
2 do you see any doubt in this case? Do you see any doubt
3 in this courtroom? That video will be in evidence. You
4 can't get away from doubt in this case. You can't
5 away from it.

6 Ahmad's innocent. He didn't do this. He has an
7 alibi. This case is crazy. I've never tried a case like
8 this before.

9 I hate saying Melron Kelly's name. I love
10 saying my client's name, though, Ahmad Wilkins. He's
11 innocent.

12 THE COURT: Ladies and gentlemen, I'm going to
13 have you go to the jury room for a short break.

14 Please do not discuss the case in any way.

15 (The jury left open court at approximately 4:00
16 p.m.)

17 THE COURT: We'll take about 10 minutes.

18 (A break was taken.)

19 THE COURT: All right. If you'll bring us the
20 jury, please.

21 (The jury came into open court at approximately
22 4:15 p.m.)

23 THE BAILIFF: All jurors are seated, Your Honor.

24 THE COURT: All right. Ms. Campbell.

25 MS. CAMPBELL: May it please the Court.

1 THE COURT: Yes.

2 MS. CAMPBELL: Good afternoon.

3 The first thing I want to do, as Ms. Simpson
4 did, is thank you for your service in this case. It's
5 been a long week, you've had long hours. I've never had a
6 case where there's been so much sending the jury out,
7 keeping you back there, arguments, what's admissible one
8 minute, it may not be admissible --

9 MR. SHEALEY: Objection, Your Honor. It's
10 improper.

11 THE COURT: I couldn't hear what she said.
12 What did you say?

13 MS. CAMPBELL: I'm talking about they're having
14 to be sent back and forth to the jury room, Your Honor,
15 admissible at one point, not admissible later, things of
16 that nature like I've done.

17 THE COURT: What's the objection?

18 MR. SHEALEY: She's talking about having to send
19 the jury out and that's a negative inference and I think
20 it's improper.

21 THE COURT: The objection's overruled. You may
22 proceed.

23 MS. CAMPBELL: Thank you.

24 You've been forced to be back there for a good
25 bit of time, you've been sent in and out of this

1 courtroom. Please don't hold that against the State of
2 South Carolina, against the victim's family in this case,
3 against the citizens of Richland County who we're
4 representing. It was not intentional on our part. If
5 we've been sloppy or clumsy in our questioning this week,
6 it wasn't intentional. Please don't hold that against the
7 State.

8 Now, in every case as I'm getting ready for
9 trial, we try and anticipate what the defense is going to
10 be because we have all the information that we've shared
11 with the defense, and we look at the evidence, and we look
12 at it. And as I listened to Mr. May earlier this week
13 when he got up here and forcefully told you what you would
14 find in this case, what was interesting to me, remember he
15 kept saying ineptitude, inadequacy, incompetency. He told
16 you that Ms. Walker was lying to you, misrepresenting to
17 you what the evidence would prove. She can't be trusted.
18 He told you that there was things about this investigation
19 that shouldn't trust, the investigators are not to be
20 believed. Never once did he mention alibi. Never one did
21 he mention Melron Kelly. I guess they were waiting to see
22 how things played out.

23 Typically in a murder case, wrong guy, wrong ID,
24 eye witness misidentified the person. Or maybe it's a
25 self-defense case, the person didn't have a choice but to

1 act like they did. Or maybe it was just an accidental
2 shooting, it wasn't an intentional act that caused the
3 death. Or alibi.

4 But this case is unique, ladies and gentlemen,
5 because it's got a little bit of everything in it, more so
6 than any other case I've participated in. It's almost if
7 they just say it enough, it will make it true: He's not
8 guilty, he's innocent, Ahmad Wilkins. And it's kind of
9 what -- if you listen to the defendant's statements, what
10 he's done from the first, make the police prove it: If I
11 just keep saying it, it'll make it true.

12 Well, ladies and gentlemen, facts, evidence,
13 truth is a hard thing to overcome, and all the evidence in
14 this case points to one man and one man alone. As much as
15 they want to sit here -- and this is a great case because
16 first they accused the State, the prosecution, you can't
17 trust them. Then they attack the police, they didn't do
18 their job, they're inadequate, they're incompetent. Then
19 they attack the DNA, but then they come back and explain
20 it so it's okay because Rachel Grant, quote, unquote, is a
21 really nice person so I guess you're supposed to believe
22 her if you want to, but we'll attack her anyway.

23 But the people, the three people in this case
24 they attack more than anyone else are Melron Kelly, and I
25 submit that this has risen to a new level of offensive.

1 Investigator Kevin Reese, remember in the
2 opening, Oh, my gosh, he didn't make notes, can't believe
3 him. He's going to put his 20-however-many years of law
4 enforcement on the line to frame Ahmad Wilkins?

5 Investigator Thomas, Sergeant Thomas was
6 interesting. In cross-examination on Sergeant Thomas,
7 they didn't even have the courtesy or the respect --
8 that's how much they disdained everything in this case --
9 to address him by anything other than Thomas.

10 And if that just doesn't work, just bring up
11 some person who's never reported this to the police before
12 and accuse a narcotics agent, with a stellar career, of
13 murdering this woman.

14 The only link they can come up with is a woman
15 who is a known drug user in the area, who by her own
16 admission they don't like the police, and she comes up
17 here three years later and for the first time comes up
18 with this allegation, Oh, yeah, Melron Kelly, she was
19 scared of her (sic), she told me that night she thought he
20 was going to kill her. This threat that was so horrible
21 as she said, but how does she react when Eboney Williams
22 supposedly told her this? She walked off.

23 And if this was true, if Eboney Williams was
24 going around asking that crackhead for help, wouldn't she
25 have communicated that to someone else? Because according

1 to their information, Eboney Williams that night, after
2 relaying to this credible woman about how she was scared
3 for her life, then made a number of phone calls, but the
4 majority of them are her attempts to get guess who? Poor
5 pitiful Ahmad Wilkins who just happens to be unlucky
6 enough to be the person she has the last conversation with
7 on this earth. That's the defense.

8 And I submit, ladies and gentlemen, and I stake
9 this case on the credibility, the integrity of Melron
10 Kelly, of Kevin Reese, and of A.L. Thomas, because either
11 you believe Tasha Praylow and this allegation that she
12 apparently spread around the community or Ahmad Wilkins is
13 guilty.

14 Even Mr. May in his opening statement told you
15 if everything that Ms. Walker told you -- even though they
16 attack her, they appear not to like her, or any of the
17 rest of us -- if what she told you is true -- and I submit
18 we've proven not only what we told you in opening but way
19 beyond that -- then his client is guilty of murder. He
20 said that.

21 And I submit, ladies and gentlemen, we didn't
22 prove just a few things that Ms. Walker highlighted in
23 opening, we've proven way beyond that. And even more, the
24 defense chose to put up a case which only solidifies the
25 State.

1 They said how we wanted to distance ourselves
2 from this video. No one wants to distance themselves from
3 the video. Are the times debatable? Are those
4 approximate? He was told they were about four hours off?
5 Was it more or less? No matter what, nobody's going to
6 say that Ebone Williams strangled herself and then set
7 herself on fire after she was dead.

8 The officer told you they saw someone. Nobody
9 got up here and said, Yeah, that's Ahmad Wilkins, we can
10 identify him from that video. That's not credible and
11 that's not how these police officers work.

12 What they said was they saw someone back there.
13 And Ahmad Wilkins himself on his third or fourth version
14 of whatever he said even admits he knows how to go through
15 the cuts, he knows how to avoid the cameras, he's a drug
16 dealer.

17 And this case is unbelievable. It's kind of
18 like the art of confessing, Oh, I said I was a drug
19 dealer. Confess to the lesser crime so the jury will get
20 confused and won't convict him of the greater crime?

21 Well, ladies and gentlemen, I want to talk about
22 the details in this case. We're the one that presented
23 the details in the case. This is the video we presented.
24 This is the evidence we put forth. This is the testimony
25 we put up. The details, the credible relevant testimony

1 in this case, not baseless accusations that come out of
2 nowhere three years after the fact from somebody who never
3 told the police anything.

4 Well, I want to talk about the facts of this
5 case. Because the defense in this case knows that old
6 joke. It's a legal joke that I learned in law school, and
7 that's been a long time ago. And we talked about how a
8 preacher and a lawyer are walking down the street and it's
9 been raining the day before. And as they're walking down
10 the sidewalk they look down and there's a puddle, and in
11 the middle of the puddle the preacher looks down and he
12 sees a silver dollar. He looks at the attorney, he says,
13 Look, there's the silver dollar. And the attorney reaches
14 down and he picks up a stick and he starts stirring up the
15 water and the mud and silt and everything clouds it. It
16 can't be seen anymore. And the lawyer looks at the
17 preacher and he says, What silver dollar?

18 Well, ladies and gentlemen, I want to take this
19 opportunity to talk to you for a little while about the
20 cold hard facts, the truth about what this evidence shows
21 from back when this happened.

22 Now, you've heard from a number of witnesses in
23 this case, some lay witnesses, some otherwise. You first
24 heard from Marsha Portier. Basically she talked about how
25 she discovered everything, how she had to use a master key

1 from Roberto Santana. And, you know, they talk about the
2 accelerant in this case and where this happened and that
3 this had to be a planned, premeditated thing. Listen
4 carefully to the judge's charge. Murder does not call or
5 need premeditation. As Ms. Simpson told you, malice can
6 be formed the very moment the fatal blow is struck, just
7 before and at that moment.

8 And ladies and gentlemen, nobody's got up here
9 and said that this was not murder. This is a murder. It
10 doesn't get any worse than this.

11 And he also said what motive does he have? What
12 motive does he have to kill Eboney Williams? We don't
13 have to prove motive either. Listen to the judge.

14 But I submit, ladies and gentlemen, he explained
15 it all to Patruan Hare. This is the oldest motive in the
16 book. He went over there, he gave her some, she was
17 supposed to give it up, and she didn't. Nobody is going
18 to do that to him. He even bragged about it. And I'll
19 get back to that.

20 You heard from Roberto Santana. He was the
21 maintenance man who opened the door. And what information
22 was he able to give you? There are certain things kept
23 there on the property, certain things that people such as
24 Mr. Wilkins' brother would have access to, places where he
25 had worked before and would know where those things are.

1 The accelerant in this case, we can't tell you exactly
2 what it is. Is it paint thinner? Is it gasoline? Would
3 it have been available at that night to someone who knew
4 what they were looking for, someone like someone who had
5 been employed there before like Mr. Wilkins, someone whose
6 brother was a maintenance man out there?

7 And which, oh, when it doesn't work when they
8 throw everybody else under the bus -- remember, they kind
9 of threw Idris under the bus for a moment, too -- yes, he
10 did it -- on the back row -- the accelerant, nobody's
11 going to say that anyone took accelerant over there to
12 burn the body.

13 And, by the way, talking about how this was
14 premeditated, this is the perfect crime, this is all this,
15 and then they point to Melron Kelly, who's had training in
16 arson, who's had training in other things, this wasn't the
17 perfect crime because whoever set the fire didn't know
18 what they were doing. They know to remove the smoke
19 detectors, they knew to get an accelerant and set the body
20 on fire, but they didn't know if you close up the whole
21 place it's just going to burn out. So this isn't exactly
22 the perfect crime that someone trained would know how to
23 do. And I guess this is the same trained person who then
24 somehow by their omission -- and they took the board,
25 forgive me --

1 MR. SHEALEY: Objection, Your Honor. That's --
2 objection, Your Honor.

3 THE COURT: The objection's overruled.

4 MS. CAMPBELL: The dumpster, according to their
5 hours, is some time between 12:36 and 1 o'clock being
6 dumped and then their contention is then Melron Kelly went
7 and got the bedsheets that he stowed somewhere else and
8 dumped them in the dumpster so that he could then find
9 them to implicate him? Does this even make sense?

10 You know, my niece has this saying that when
11 people talk out of both sides of their mouth she calls it
12 double speak. They want it to be one way one day and then
13 the other.

14 How many times did he get up here in closing and
15 talk about this alibi? "You believe Nicole Grimes. She
16 would not lie." It's almost like if they just say it
17 enough, it makes it true. That's not how it works, and
18 thank goodness for you. Because you have to use your
19 common sense.

20 This is the mother of his child. She is
21 irrevocably linked to him for life. Is she going to help
22 him out? And I'll get to the phone calls in a minute.
23 They are so telling by not only what they say, but in what
24 they don't say. Because their whole theory is poor Ahmad
25 Wilkins could never tell the truth because the police had

1 it in for him. The police were questioning everybody in
2 Bethel Bishop, you heard all that.

3 And he's the one that terminated the first
4 interview because he didn't want to talk about it anymore.
5 He's the one that in the second interview is laughing.
6 He's so frightened of being chained that to table,
7 laughing -- you heard it, you heard his demeanor -- who by
8 his own admission, oh, may have lied about some stuff.

9 But he should have lied about some stuff because
10 these police officers, these two, the ones they keep
11 targeting along with Melron Kelly, had it in for him. And
12 then suddenly three years after the fact, he has been able
13 to remember things by his own testimony, things that this
14 week helped him with his testimony. Isn't that amazing?
15 That's his testimony.

16 Did you remember when I was asking him
17 questions? When I was asking questions, he had a hard
18 time. At times he just kind of looked at me like "I don't
19 know what I'm supposed to say at this point. I haven't
20 thought that one through." That's the person you're
21 supposed to believe? Because in order to acquit him -- he
22 chose to testify, he didn't have to -- you have to believe
23 this version, and of course he can now remember.

24 You also heard from Sean Grimes. And as much as
25 it's funny in that second interview, the recorded one we

1 played for you, remember how he distances himself from
2 them, from Cynthia Jackson and Sean Grimes? "I didn't go
3 over there, I would never hang out over there. I wouldn't
4 conduct any transactions, drug transactions over there."
5 And I'll go over his statement in a minute. That's his
6 baby's momma aunt and uncle. That's who, if you look at
7 the phone records -- and I'll get back to you -- he calls
8 that night repeatedly when he's not talking to Eboney.
9 And when he's not talking -- and I'll get back to that 786
10 number.

11 And why does he distance himself from them?
12 Because he's worried. Because what do they each tell you?
13 This is a series of phone calls, and this is all
14 corroborated by the phone records. Let's talk about those
15 details. They didn't talk about those that night, those
16 phone records which show the time period, the majority of
17 those calls between 3, 3:30, and the last call we heard
18 about is at 4:13. All those calls that are in that time
19 period corroborate what the Grimes told you. And what is
20 the last thing -- and he's stuck with this now -- Sean
21 Grimes says, "I'm going over to Eboney's," and that's the
22 last he sees of him that night until the next morning.

23 Cynthia Jackson who was over there, not sure
24 about the time period -- and they kind of abandon this
25 whole 1 o'clock, 2 o'clock thing now because they're at

1 now at 4 o'clock -- the phone calls give you the time
2 period, and you can look at it.

3 You also heard from Nicole Jones and basically
4 she was able to confirm what the phone number was. She
5 knew the defendant because she was also involved with him.

6 Nicole Grimes, she would never lie. How many
7 times did they say that in closing? It's kind of like,
8 again, just say it enough, it might make believable.

9 Nicole Grimes told you 3:55 a.m. That's in her
10 statement. And what is unique about that is they say, Oh,
11 you always remember what time you wake up. You always
12 remember things of that nature. The interview in which
13 Nicole Grimes finally comes forward with that information
14 is on the 20th of February, some 13 days later, but
15 miraculously she remembers this one night at 3:55 a.m.,
16 but oh, they never discussed the fact that he needed an
17 alibi for around 4 a.m. 3:55 a.m. She remembered that 13
18 days later.

19 And then they're like, Well, they like part of
20 what she said but not all of what she says. We don't make
21 up the witnesses. He chooses the witnesses. We can't
22 force them to tell the complete truth. Is she going to
23 help out the father of her child if she can? Is that
24 unreasonable? And I'll get back to the phone calls and
25 you can hear them talking about it. They never discussed

1 it, according to him, 3:55 a.m., because that's a problem
2 and he knows it. Because some time between 4 o'clock and
3 5:30, there's a lot going on because Eboney Williams was
4 killed and if someone, yes, who knows where to get
5 accelerant decides to burn her body, takes the bedding off
6 her bed -- and I'll get back to other bedding -- and sets
7 her on fire.

8 Nicole Grimes, and it was funny how they're
9 talking about how she said, Oh, he was pacing. Remember,
10 he was big to explain that, that when you do cocaine you
11 get really hyper. And then, you know, it's no big deal,
12 he said the words, "Oh, Lord." No, that's not what the
13 testimony was. The testimony was is that he's pacing back
14 and forth so badly, yelling, saying "Oh, no, Oh, my God,
15 Oh, my God, Oh, my God, Oh, my God," that she gets up out
16 of bed to go see. "What's the matter? Nothing. You go
17 back to bed." And he continues to pace for about an hour
18 and then he goes to the bed, and as she remembers this, it
19 was strange because he curled up with her in a fetal
20 position.

21 She also told you that after he got back to the
22 house, there were no phone calls. And you heard how she
23 became apprehensive on that phone when she found out that
24 he'd even been talking to Eboney. Don't you think she'd
25 notice if somebody's calling you in the middle of the

1 night? I asked her specifically, Did you make any phone
2 calls, did he make any phone calls, did you-all receive
3 any phone calls? No, not once he came back in. And the
4 records, the cell phone records -- and they just can't get
5 around that -- show repeated phone calls where he's
6 searching for help, for whatever.

7 Did he go home to 25-H at some point that night?
8 At some point he did before 1 o'clock the next day. Why
9 was he calling?

10 And remember, they made a big deal of 786-7765.
11 There's an hour or ten or twenty minute time after the
12 last phone call to Eboney where he doesn't make any phone
13 calls. He's busy. And then suddenly there's more phone
14 calls to other people in addition to 786-7765.

15 And it doesn't matter if that phone is at 25-H
16 or at 13 whatever; he's making the phone call, he's
17 looking for help.

18 Is he looking for Nicole? Is she really over
19 her sister's where she tends to be a lot?

20 The point's not where the phone is located. The
21 point is, is that he's making the phone calls, which by
22 his admission and her admission weren't being made. Look
23 at the phone records. The details are important.

24 Patruan Hare. He got up here, and they even
25 brought up a picture, they blew up a picture of the prison

1 where he lives. And he got up here and he's been
2 convicted of things before, manslaughter. He's been
3 convicted of drugs. He's doing 15 years. And he and the
4 defendant -- it's undisputed -- were in the same dorm
5 together. And by the defendant's own admission, he talked
6 to him. And what was really weird was when I asked the
7 defendant just today, "You talked to Patruan Hare, didn't
8 you? Yeah. So you told him those things? Yeah. And
9 what did you tell Patruan Hare?" And what makes Patruan
10 Hare credible is he told you about the details of what he
11 told him, what he admitted to and what he didn't admit to.

12 But I submit, ladies and gentlemen -- and who
13 else is he going to talk to but his old running buddy
14 while he's in jail? Who else is Ahmad Wilkins going to
15 talk to? He's confiding in him, even though he tries to
16 distance himself at some point, with the details that he's
17 able to tell you make him credible.

18 And they talk about how you can't believe him
19 because he's in prison because he's a drug dealer? You
20 can't believe him because he's a drug dealer, but that
21 doesn't affect Ahmad Wilkins in the least.

22 He tells him things like he used to chill with
23 her and his number was the last in her phone, said Eboney
24 called him to come chill with her. They were smoking and
25 shooting powder, it was late. He was trying to get some

1 sex, but he only got some bullshit, but he told her she
2 was going to do something, she done smoked and chewed up
3 all his shit. They started to argue, he choked the bitch,
4 but said it wasn't the same night that she ended up dead.
5 He choked her, but it wasn't the same night she ended up
6 dead. That was the testimony in front of you from Patruan
7 Hare. So he wanted to -- it's kind of like "I'm going to
8 brag about it, but I don't want say too much." Then he
9 talked about what the evidence was.

10 And then what's the final thing he told you was
11 significant: "Oh, well, there's a problem because my
12 DNA's on that ligature" -- the bathrobe, he even called it
13 the bathrobe thing, those were his words -- "but I can
14 explain that."

15 And then finally he was even angry at his girl
16 because she messed up his alibi. She said he actually
17 went out that night, and he was worried about that.

18 By the defendant's own admission, he told him
19 those things. And I submit, ladies and gentlemen, that
20 alone, regardless of everything else, is his admission of
21 what he did. Bragging, bragadocious to Patruan Hare.

22 So who else did you hear from? Christy Stover,
23 Dr. Bradley Marcus. Remember, they tried to ask Dr.
24 Marcus all these questions and things. The cause of death
25 is undisputed: Strangulation, then she was set on fire.

1 You heard custodians from phone records, jail
2 phone calls and things like that.

3 You also heard from a number of law enforcement
4 witnesses that are important in this case. You heard from
5 Larry Walker from the Columbia Police Department, Phillip
6 Joyner from the Columbia Fire Department -- this was a
7 joint investigation -- Agent Michael Moskal, how there was
8 no accelerant detected, but that that was not unusual
9 because of time, things of that nature, and because
10 sometimes it's just burned up in the fire.

11 You heard from Investigator Ricky Seals. And
12 what did he tell you, too? Because they talked a little
13 bit about how you can't convict him because we didn't test
14 for accelerant on his clothes which we got on the -- I
15 think it was two or three weeks later in the search
16 warrant -- clothes that were in a basket and appeared to
17 be washed and we didn't test them? Clothes, that even if
18 they had been doused -- and I submit that usually when
19 people are setting other people on fire, that they don't
20 douse themselves in accelerant -- even if we had tested
21 them, so much time had passed that by the expert,
22 Investigator Ricky Seals' own admission, it would have
23 evaporated, but you can't convict him because of that?

24 And this CSC kit, when was it tested? The CSC
25 kit would have known everything. But then at one point

1 they kind of abandoned this argument -- it wasn't the same
2 one -- and the testimony was that the individual packages
3 were sealed, as much as they tried to confuse it, and then
4 when it came back, according to Rachel Grant -- who they
5 like one minute and then don't the next -- it was still
6 sealed properly with her initials on it. No one had
7 altered or tampered with it.

8 Well, ladies and gentlemen, you don't even have
9 to worry about that resubmission on it because in the
10 initial submission, remember, she did the testing. And
11 what did she find in the testing on the CSC kit? It was
12 negative for any signs of any sexual assault. And then it
13 was later confirmed when it was later ordered that more
14 testing be done on that same kit by court order that it
15 was still negative. There wasn't any DNA, male DNA to
16 test on that. As much as they tried at the beginning of
17 this case make this into a rape kit, or rape case -- and
18 I'll get to the linens -- it's not. There is no evidence
19 before you. There is nothing to suggest that this is a
20 rape case, as much as they would like to make it one, just
21 as much as they would like to make the whole bedding in
22 the dumpster. Is it even related to this case? Did he go
23 out there and dump it after the trash by their own
24 admission was dumped at 12:30? Is it bedding from
25 somewhere else? Because, remember, you had at least part

1 of the bedding and you have pictures of the rest of it.
2 It was on her. And why was the bedding on her? Because
3 the person who was setting her on fire needed something
4 flammable around her to burn her up because they're
5 getting rid of the evidence. And if he left the window
6 open, he sure didn't care about the glove he left behind
7 because it was supposed to burn up with everything else.
8 His only mistake was not cracking the window.

9 You heard from Investigator Tammy Moore -- and
10 you'll have all the pictures back there. And the one
11 thing and the reason that glove did stand out as important
12 is Eboney Williams had her demons, she had her issues, she
13 had her addictions, but she kept a neat house. Her house
14 was orderly. You can even see through the soot that
15 everything's in place. And that's what caught the
16 attention of that glove, which ultimately coupled with the
17 ligature proved to be overwhelming -- not just beyond a
18 reasonable doubt -- evidence of who committed this crime.

19 You heard from a number of chain people. We
20 can't get in evidence unless we prove the chain is not
21 altered or tampered with.

22 And then you heard from Rachel Grant. And what
23 was she able to tell you? And you'll have the board back
24 there. And you have heard so much about this. They went
25 out and they hired an expert -- he was here a minute

1 ago -- at \$1500 a day to try to discredit Rachel Grant's
2 testimony. But I guess that didn't work because Rachel
3 Grant, who works for a laboratory who does all this
4 testing on a regular basis, who gets peer reviewed,
5 proficiency testing and everything, who testifies as to
6 her opinion, got up here and she told you what she was
7 able to tell you, the cigarette butts, they tested all of
8 them. They all came back with the victim's or another
9 unknown female's DNA on them. The beer can didn't have
10 any DNA on it. The other items that were tested, the most
11 probative items to be tested were the glove and the
12 ligature around her neck.

13 And all they talk about -- and it's kind of
14 funny -- all they keep saying -- and they said it over and
15 over again -- is that if they had just tested these other
16 items, the wrap around the feet, if they had just tested
17 the unrelated items in the dumpster then you could make a
18 decision? That DNA would prove something, but this DNA
19 that we did, you just ignore that? Because they are --
20 and talk about distancing yourself from the evidence.
21 They have come up and they attacked the DNA head on, they
22 attacked the DNA analyst, they've attacked her opinions
23 and her testimony just as they're going to impugn everyone
24 else in this case, and yet they want you to say they
25 should have tested something else that would prove

1 something? They don't think the DNA or the ligature
2 around her neck is probative of what happened?

3 And remember, the police in this case, as much
4 as they knew, phone records, information they got from the
5 Grimes, information they got from all the witnesses at the
6 scene, they waited on the DNA results. They didn't rush
7 to judgment to arrest this man. They wanted to make sure
8 they got the right guy. These people who they have
9 maliciously attacked, Melron Kelly, they did their job and
10 they waited on the DNA results.

11 And guess what? And what is the likelihood that
12 the DNA is not just on one item, either the glove or the
13 ligature, but oh, my God, this poor innocent man, his DNA
14 just happens to be on two crucial pieces of evidence found
15 at the crime scene, a left glove -- oh, he's left-handed.
16 And did he take it off that night when they were smoking
17 or snorting or doing whatever? They don't dispute that.
18 He thought it was going to burn up in the fire. He wasn't
19 worried about it. And that's not just him or another
20 paternally-related person, that's his DNA.

21 And then on top of that, it just happens that
22 the tie that was used to strangle the life out of Eboney
23 has his DNA or anyone paternally related to him. One
24 piece of evidence, both pieces of evidence point to guess
25 who? Ahmad Wilkins. The glove doesn't point to Idris or

1 Mr. Wilkins, Sr. They're coupled together. Look at all
2 the evidence.

3 Oh, and then -- I like this -- when he got up
4 there and said the struggle obviously took place in the
5 bedroom and then in order to move her body, someone tied
6 up her feet which is easier to move her that way. The
7 only evidence of any struggle in this case -- and look at
8 the pictures from her bedroom -- is in the living room
9 where everything's knocked off the shelves. Remember, the
10 stereo's on the floor, the discs are everywhere, whatever
11 you call them. There's evidence of struggle in this case
12 because Eboney Williams, she fought for her life.

13 Investigator Kevin Reese, A.L. Thomas, and
14 Lieutenant Scott McDonald talked to you a little bit about
15 the cell phone records. And you'll have all the cell
16 phone records back there, but they are in a convoluted
17 order.

18 So what do the cell phone records show? They're
19 absolutely right, the last phone call when she's alive is
20 at 4:13 to 4:14. You can look at her phone records at
21 that time. And when you look at these two records, there
22 are some calls that never made it through so they don't
23 register on his cell phone, just the number where she's
24 calling over and over and over, they're like one second or
25 two seconds, but they don't register, but the majority are

1 on here.

2 But if you look at his cell phone records, at
3 4:13 there is a 68-second call between -- admittedly by
4 everyone in this case -- Ahmad Wilkins and the victim. It
5 is the last time she ever answers the phone or makes a
6 phone call, at 4:13 that morning.

7 But then what's interesting in looking at his
8 calls is after that 4:13 time, then he makes two quick
9 calls back to guess whose house? The Jacksons. Is he
10 following up? Is he walking over there? Is he telling
11 them he's going to Eboney's? Is he trying to get in touch
12 with them? Not necessarily answered calls but two calls
13 back.

14 Then from 4:20:21 where there's this 24-second
15 call, which may have gone to voice mail and wasn't
16 answered or whatever, until 5:30 a.m., there are no calls.
17 And why is that significant, ladies and gentlemen?
18 Because that happens to be the time period we're talking
19 about. And if you notice on him, he's on the phone
20 constantly except for this time period.

21 And then he continues and he gets back on the
22 phone at 5:30 a.m. and makes a phone call to 786-7765.
23 Then he makes another phone call trying to get someone
24 else. Again, at 6:10, 786-7765. This is while, according
25 to Nicole's testimony and his testimony, he's in his home

1 asleep.

2 The next call at 6:18 is to 786-7765. Is he
3 looking for Nicole? Is he telling her he needs her? Is
4 he looking for Nicole's brother to help him get some
5 stuff? Does he need help? Does that disprove what he
6 says and what Nicole says about his alibi? And I won't
7 even talk about on his end. That alone --

8 And then you see again between 6:24 and 9:24,
9 there are no phone calls. I guess he needed some sleep.
10 He'd had a long night.

11 The jail phone call, you heard what went on, and
12 this is on the 20th of February in 2009. I just want to
13 highlight a few things. This call will be recorded and
14 subject to monitoring at any time. They're advised of
15 that every single time they make a phone call. And how do
16 we know whether he knew that or not? By his own admission
17 when he says, "I ain't talking about this." I'll get to
18 that in a minute.

19 "Guess what these mother fuckers charged me
20 with? What? Simple assault from 2006. Are you serious?"

21 And more than that, you'll have the actual
22 recording back there. Did you note his demeanor? He's
23 laughing. It's funny to him. He's just been questioned
24 about a murder and he's thinking it's funny that he's in
25 jail on simple assault.

1 "Are you serious? Man, I swear to God on
2 everything I love. I go to bond court in the morning.
3 What the hell? I'm sitting here crying and shit. Man,
4 simple assault, cous'."

5 That's his reaction when he has just been
6 questioned about his participation in a murder, which by
7 his own admission, he -- and I can't remember -- and you
8 remember, you just heard from him -- if he said he didn't
9 remember it back then or it'd come back to him back then,
10 he didn't tell them, for whatever reason he didn't relate
11 it to the police.

12 Then it goes on. He's talking about -- "they
13 just told me they're talking about -- yeah, it's cleared
14 up. Okay, let me go. These niggas trying to get me"--
15 and that's referring to the investigators -- "talking
16 about take a DNA test or you're going to jail. I said,
17 'Book me then, nigga.' They talking about, 'Man, can I
18 get your daddy to talk to you? Your brother, he's
19 downstairs. Can they convince you?' I said, 'Man, they
20 can't convince me to do shit.' I said, 'I ain't doing
21 nothing.'"

22 It goes on. "Man, I didn't kill no-damn-body."
23 And that's consistent.

24 "Take a DNA test? Why? You go (sic) something
25 to hide? He says, 'No, I ain't got a damn thing to

1 prove.' " Those are his words. You hear them. They're
2 recorded.

3 Referring to "Reese, yeah, the older black dude,
4 not the red one. 'Cause when I went down there, they
5 didn't show me shit but the motherfucking phone records.
6 How did that bitch get your motherfucking phone number?"
7 That's Nicole.

8 "How did who get my number? Eboney. That's
9 what I told them. I don't know if Sean called her from my
10 phone or what. 'Cause she kept calling. Did you see how
11 many times she called the damn number? No. They ain't
12 show you?"

13 Wilkins: "They hadn't shown me shit. They was
14 just like, Uh, when did you talk to her? Did you talk to
15 her such-and-such? And I said, 'No, I ain't talked to
16 her.' " Right out of his mouth. This is 13 days, two
17 weeks. "No, I didn't talk to her." He knows he didn't
18 want anything to do with that.

19 "Thirty fucking calls. They weren't even that
20 long, they were like three minutes, one minute, whatever.
21 They ain't showed me. The last time she called your phone
22 was like 4:15 in the morning." So that's significant.

23 "They didn't ask me, they didn't show me
24 anything." Again, "The last time was at 4:15 in the
25 morning."

1 That's significant. You know why she's asking
2 about that, Nicole? Because she knows that she's supposed
3 to be giving him an alibi for that.

4 It goes on. "I told them when I talked to her
5 it was the end of January or the beginning of February.
6 And then I said, 'That's what you want to get from me,
7 mother fucker?' They talking shit, blase, blase. My
8 daddy came in there. I told my daddy, I was like, 'Fuck
9 that. I ain't saying shit. I don't know nothing about,
10 you know what I'm saying? Period.' "

11 And then right at the end, remember he got a
12 warning there's only a minute left.

13 "Let me tell you this before you hang up."
14 That's from the female. That's going to be Nicole.

15 "You know they showed me a picture. . Huh?
16 Hello? Hello? Yes. You know they showed me a picture of
17 that damn glove." Even Nicole Grimes knows that's a
18 problem.

19 They call back because he's worried. Remember,
20 he's making these phone calls.

21 "Hello. You said, 'Do I know what?' Uh -- they
22 took a picture of what? The glove. Which one? The one
23 you -- that you said you lost. The glove? Uh-huh. I'm
24 telling you -- you know I ain't -- look. Okay. Anyway, I
25 ain't talking about that shit over the phone. That's it."

1 He didn't want to talk about the glove. He knows it's
2 being recorded. He knows the glove's problematic because
3 it didn't burn in the fire. Evidence of guilt?

4 Then the police continue their investigation,
5 the DNA testing's done, they do their job, they confirm
6 before they arrest anybody. This is before they even
7 heard of Patruan Hare.

8 So they move on. They arrest him in February of
9 2011. At that point they advise him of his rights, as
10 they should. You'll have the advice of rights back there
11 because his constitutional rights were observed in this
12 case, and they should be. The police did their job in
13 this case.

14 And it's interesting to me that he sat there and
15 talked about how they raised their voice at him, and, you
16 know, this was a different person on the stand. Well,
17 it's a different world when you're talking to people.
18 Nobody raised their voice or anything.

19 Were there some cuss words used? Yes, at times.
20 Were they getting him to try to tell the truth, try to say
21 something?

22 And, again, what does he tell the police about
23 it? I'm just highlighting a few things.

24 They're talking about when they were at Sean's
25 house, "Tell us about that, when she called you. She

1 might have called you on Sean's phone, their home phone or
2 something."

3 "Reese: She might have called you on a
4 combination of his phone and your phone, waiting on you to
5 bring the package. Do you recall? No. Do you recall any
6 of that? Oh, no, not that she was calling him for me.
7 No. She called the house and then they'd tell her to
8 stop. Then she starts calling because you got a phone.
9 She starts calling your phone. No."

10 He doesn't even hesitate. It's not that, "I
11 don't remember what could have happened." And he goes
12 back and forth, but he knows when he needs to deny it.
13 Because at this some point, remember, he doesn't know what
14 the evidence shows. He doesn't have any clue what all
15 they had, so he knows his best course is to deny.

16 And I submit, ladies and gentlemen, at this
17 point he's under arrest for murder. He's cut off. The
18 fact that he's her drug dealer, that's no longer something
19 to make them shut up. He is facing a murder charge. And
20 according to them he is frightened, he just doesn't know
21 what to do, because just automatically everyone would do
22 that.

23 If somebody is charged with murder, they better
24 come off what they know implicating someone else. But he
25 didn't want to do that. He just wants to continue to

1 deny, deny, and if he says it enough, it might make it
2 true.

3 Remember, they didn't ask him about how he got
4 over there. And at this point is there information about
5 the video that they related to him? So he wants to
6 distance himself from that because he doesn't know what it
7 might show.

8 "So how do you deliver your narcotics? How
9 would you go over there and how would you meet with her?

10 "I'd knock on the door and she'd come to the
11 door and give me the money.

12 "Which door would you knock on?

13 "The front door.

14 "How many times did you go around to the other
15 door?

16 "None that I can recall, not to her back door.
17 I done been to the door next door, a girl's house who
18 lives next door to her, to visit another girl."

19 I guess it's a different girl.

20 So he's hedging. It's almost like, Well, they
21 might be able to recognize me, they put me near from the
22 standpoint of the next-door neighbor's house. Not the
23 back door.

24 And why is the back door significant? Because
25 he knows he left it open.

1 Oh, and the defense got up here and told you
2 that it's unequivocal that the back door was locked and
3 the front door and who had a key and who didn't.

4 And it's kind of ironic he argues that he could
5 have had a key, when he then talks about how he left his
6 own keys -- so obviously there's two sets of keys for he
7 and Nicole -- so did he either get a set of keys to leave
8 out the front door -- does that matter in this case? Did
9 he have a master key which he had access to through his
10 brother who he's close with by his own admission? Could
11 that be the case? Or did he just go out the back door?

12 And look at the pictures. The rod in the back
13 door -- you know, the one you put down in the sliding
14 glass door to make sure it can't open, to keep it locked
15 up -- it's up, it's not gone, it's not in place. And what
16 does that note? The back door's open. The testimony, the
17 credible testimony in this case is that they didn't know
18 whether the back door was -- they were honest about it --
19 locked or unlocked.

20 "Yeah, actually I went in the front, but we was
21 out back and nobody can be in your mouth.

22 "Again, we're just trying to reiterate and
23 trying to refresh your memory. It's been a minute. How
24 often do you go over Sean Grimes' house?"

25 And this is significant.

1 "I ain't been over there none since."

2 He didn't go back after the night of the murder
3 for whatever reason.

4 "I'm talking about before then, the same time
5 period.

6 "Oh, probably three times a week.

7 "Three times a week?"

8 And then he goes back to saying none. And he
9 goes on and on and on.

10 And then they talked about how -- they suggested
11 or even asked him, "Why would your fingerprints be there?
12 They wouldn't. Why would your shoe prints be there? It
13 wouldn't."

14 The best defense is just to deny. Admit the art
15 of confessing error, Oh, I maybe be a drug dealer, but I'm
16 not a murderer. And I submit that you can go through all
17 this over and over; deny, deny, deny. In his own
18 statement he repeated it, "I wasn't there. I hadn't been
19 in it since the summer of 2008. I only went to the front
20 door to deal drugs," which is interesting for a drug
21 dealer, especially by his own testimony here today.

22 And finally, ladies and gentlemen, you have the
23 defense case. What did they tell you? They put up Steve
24 Lambert, who you judge for yourself. Does he have
25 something to gain or lose, to try to just make things a

1 little bit better or a little bit worse? Whatever. The
2 DNA, according to the defendant himself, is his, but he
3 can explain it. They even throw the brother under the
4 bus, or throw somebody else.

5 And who else did they put up, Ms. Praylow? We
6 talked about her.

7 And then you heard from the defendant himself.
8 And what did he tell you? Suddenly miraculously three
9 years later having seen all the evidence in the case,
10 having heard all the testimony in the case, he remembers.
11 And he's able to remember something that doesn't even work
12 in his newest version, I submit, ladies and gentlemen.
13 But suddenly he can remember things. And yeah, you're
14 supposed to believe him, because to find him not guilty
15 you have to. But it just wasn't convenient for him to say
16 anything before, he didn't remember, whatever. You
17 recall.

18 I submit, ladies and gentlemen, he is not
19 credible. By his own testimony, he said he waited to hear
20 things this week to do his testimony. That's what he
21 said.

22 This case is about credibility. And I beg you,
23 judge Sergeant Thomas, judge Lieutenant Kelly, judge
24 Investigator Reese because either they are lying and Ahmad
25 Wilkins is this unfortunate pitiful victim, or as Mr. May

1 told you in his opening, if we've proved what we said we
2 were going to, he is guilty of murder. And I'll submit,
3 ladies and gentlemen, in this case, in this courtroom, in
4 this courthouse, the evidence of his guilt -- and as much
5 as he wishes he could just say it ain't true -- is
6 overwhelming credibility.

7 On February 3rd, Eboney Williams was trying to
8 get drugs, and she shouldn't. I mean, I kind of wonder,
9 then, too, because it's a conflict to say bad things about
10 Eboney. The oldest defense in the world is just attack
11 the victim. Who cares if he killed Eboney Williams?
12 Because ultimately his defense boils down to he can point
13 the finger to a stellar officer or he can point the finger
14 at his brother or he can point the finger anywhere else.
15 But who cares? Is Eboney Williams even worth it for you?
16 Do you really care?

17 I submit, ladies and gentlemen, no one -- I
18 don't care what addiction you suffer from, I don't care
19 what mental illness you suffer from -- deserves to be
20 strangled in her own home and then set on fire to destroy
21 the evidence. Don't fall for that one.

22 And finally, at the very end, it boils down to,
23 Well, yeah, he probably did it. But, ladies and
24 gentlemen, it's just reasonable doubt.

25 I submit, ladies and gentlemen, this case just

1 doesn't leave you firmly convinced of the defendant's
2 guilt, he is guilty as charged. By their own admission in
3 their opening statement we proved our case, as we have,
4 that he is guilty of murder. All we ask is that you hold
5 him responsible for his choices.

6 Because he chose when she laughed at him, or for
7 whatever reason he decided to kill her, and it was up
8 close and personal. He tied knots so tight that it ripped
9 the hair out of her head. And she fought for her life.
10 She fought hard. She had trauma to both sides of her
11 head. She tried to live, but Ahmad Wilkins -- and he was
12 high and he was out of control -- he is responsible. All
13 we ask is that you hold him so.

14 Thank you.

15 THE COURT: Let's stand for a moment.

16 (Pause.)

17 THE COURT: All right.. Madam Forelady, members
18 of the jury, you've heard the testimony, evidence, and
19 arguments that the State and the defense had. I will now
20 explain to you the law that applies to this case.

21 Under the Constitution and laws of South
22 Carolina, you are the finders of the facts in this case.
23 I do not have the right to pass upon the facts or even to
24 express any opinion that I might have as to them. Because
25 this is a matter solely for you, the jury, to determine.

1 As jurors, then, it is your duty to determine the effect,
2 the value, the weight, and the truth of the evidence
3 presented during this trial.

4 In evaluating the evidence, please remember that
5 questions posed by counsel and arguments of counsel are
6 not evidence. The evidence consists of testimony from
7 witnesses which you have heard from the -- from this
8 stand, this witness stand, and exhibits that have been
9 introduced into evidence.

10 You are also the judges, the sole judges, of the
11 credibility, that is, the believability of witnesses who
12 have testified and of the evidence which has been
13 presented in this case.

14 In passing upon credibility, you may take into
15 consideration many things such as the demeanor or manner
16 of testifying, whether the witness had reason to be biased
17 or prejudiced, and/or whether a witness' testimony was
18 contradicted on the one hand, or supported and
19 corroborated on the other hand. All these things you will
20 consider, bearing in mind that you should give the
21 defendant the benefit of any reasonable doubt.

22 It becomes your duty as jurors to analyze and to
23 evaluate the evidence and determine that evidence which
24 convinces you of its truth.

25 Now, the Rules of Evidence ordinarily do not

1 permit witnesses to testify to opinions or conclusions.
2 An exception to this rule exists for witnesses we call
3 expert witnesses, a witness who by education and
4 experience has become expert in some art, science, or
5 calling, may state an opinion as to the relevant and
6 material matter in which the witness claims to be an
7 expert and may also state the reason for the opinion. You
8 should consider any expert opinion received in evidence,
9 and like any other evidence, give it the weight that you
10 think that it deserves.

11 There are two types of evidence which are
12 generally presented during a trial: Direct evidence and
13 circumstantial evidence.

14 Direct evidence is the testimony of a person who
15 claims to have actual knowledge of a fact, such as an eye
16 witness. It is evidence which immediately establishes the
17 main fact to be proved.

18 Circumstantial evidence is proof of a chain of
19 facts and circumstances indicating the existence of a
20 fact. It is evidence which immediately establishes
21 collateral facts from which the main fact may be inferred.
22 Circumstantial evidence is based on inference and not on
23 personal knowledge or observation.

24 The law makes absolutely no distinction between
25 the weight or value to be given either direct or

1 circumstantial evidence, nor is a greater degree of
2 certainty required of circumstantial evidence than of
3 direct evidence.

4 You should weigh all of the evidence in this
5 case. After weighing all of the evidence, if you are not
6 convinced of the defendant's guilt beyond a reasonable
7 doubt, you must find the defendant not guilty.

8 As a trial judge, it is my responsibility to
9 preside over the trial of this case and to rule upon the
10 admissibility of the evidence offered during this trial.
11 You are to consider only the testimony which has been
12 presented from the witness stand, together with any
13 exhibits which have been made a part of record in this
14 case.

15 I have the additional duty to charge you the law
16 applicable to this case. And as the presiding judge, I am
17 the sole judge of the law of this case. It is your duty
18 as jurors to accept as correct and apply the law as I now
19 state it to you and then reach your verdict.

20 And finally I charge you in this regard, you
21 should not be concerned with what you think the law ought
22 to be, but rather what I charge you that the law is.

23 Now, the fact that the defendant was arrested,
24 charged, and indicted is not evidence in this case and
25 cannot be considered as evidence of guilt in this case.

1 Nor does it create any presumption or inference of guilt.
2 The indictment is simply the formal written instrument
3 which contains the charge made against the defendant. An
4 indictment is the formal document by which this case is
5 brought into court.

6 The defendant has pled not guilty to the charge
7 in the indictment and that plea places the burden on the
8 State to prove the defendant guilty.

9 A person charged with committing a criminal
10 offense in South Carolina is never required to prove
11 himself innocent. I charge you that it is an important
12 rule of the law that the defendant in a criminal trial, no
13 matter what the seriousness of the charge may be, will
14 always be presumed to be not guilty of the crime for which
15 the indictment was issued unless guilt has been proven by
16 evidence satisfying you of that guilt beyond a reasonable
17 doubt.

18 This presumption of innocence does not end when
19 you begin your deliberations, but it accompanies the
20 defendant throughout the trial until you reach a verdict
21 of guilt based on evidence satisfying you of that guilt
22 beyond a reasonable doubt.

23 The presumption of innocence is like a robe of
24 righteousness placed about the shoulders of the defendant
25 which remains with the defendant until it has been

1 stripped from the defendant by evidence satisfying you of
2 the defendant's guilt beyond a reasonable doubt.

3 The presumption of innocence is not a mere legal
4 theory, it's not just a legal phrase, it is a substantial
5 right to which every defendant is entitled unless you, the
6 jury, are satisfied from the evidence of the defendant's
7 guilt beyond a reasonable doubt. The State must prove the
8 defendant guilty beyond a reasonable doubt.

9 So what is a reasonable doubt in the law? A
10 reasonable doubt is a doubt which makes an honest, sincere
11 juror in search of the truth to hesitate to act. Proof
12 beyond a reasonable doubt must therefore be proof of such
13 a convincing character that a reasonable person would not
14 hesitate to rely and act upon it in the most important of
15 his or her own affairs.

16 Proof beyond a reasonable doubt can also be
17 described as proof that leaves you firmly convinced of the
18 defendant's guilt.

19 Now, there are very few things in this world
20 that we know with absolute certainty. And in criminal
21 cases, the law does not require proof that overcomes every
22 possible doubt. If based on your consideration of the
23 evidence you are firmly convinced that the defendant is
24 guilty, then you must find him guilty.

25 If, on the other hand, you think there is a real

1 possibility that he is not guilty, you must then give him
2 the benefit of the doubt and find him not guilty.

3 The defendant is charged with the murder of
4 Eboney Williams. In order to prove the defendant guilty
5 of murder, the State must prove beyond a reasonable doubt
6 that the defendant killed another person, Eboney Williams,
7 with malice aforethought.

8 Malice is hatred, ill will, or hostility towards
9 another person. It is the intentional doing of a wrongful
10 act without just cause or excuse and with an intent to
11 inflict an injury or under circumstances that the law will
12 infer an evil intent.

13 Malice aforethought does not require that malice
14 exists for any particular time before the act is
15 committed, but malice must exist in the mind of the
16 defendant just before and at the time that the act is
17 committed. Therefore, there must be a combination of the
18 previous evil intent and the act.

19 Malice aforethought may be express or inferred.
20 These terms "express" and "inferred" do not mean different
21 kinds of malice but merely the manner in which malice may
22 be shown to exist; that is, either by direct evidence or
23 by inference from the facts and circumstances which are
24 proved.

25 Express malice is shown when a person speaks

1 words which express hatred or ill will for another or when
2 the person prepared beforehand to do the act which was
3 later accomplished; for example, lying in wait for a
4 person or any other acts of preparation going to show that
5 the deed was within the defendant's mind would be express
6 malice. Malice may be inferred from conduct showing a
7 total disregard for human life.

8 Now, a statement alleged to have been made by
9 the defendant has been admitted into evidence in this
10 case. While the Court has determined that the statement
11 is admissible, I instruct you that you make the ultimate
12 decision of whether or not the defendant made the
13 statement.

14 If the defendant did make the statement, you
15 must determine whether the statement was made by the
16 defendant voluntarily and of his own free will. This
17 means that the statement was not caused by pressure,
18 force, fear, threats, coercion, or intimidation, or by
19 hope, or a promise of leniency, or a reward of any kind.
20 In determining whether the statement was voluntarily, you
21 should consider both the characteristics of the defendant
22 and the details of the questioning.

23 Some of the factors that you must consider are
24 the age of the defendant, the defendant's education or
25 lack of education, the defendant's mental ability or

1 capacity, the defendant's I.Q. or intelligence, the
2 defendant's background and environment, place and length
3 of detention, the nature of the questioning, and the
4 advice, or lack thereof, to the defendant of his
5 constitutional rights, including but not limited to the
6 right to remain silent, that any statement can be used
7 against him in a court of law, the right to have a lawyer
8 present, that if he could not afford a lawyer a lawyer
9 would be appointed to represent him without any cost, and
10 that he could stop making a statement at any time.

11 You must consider all of the surrounding
12 circumstances before you give any weight to an alleged
13 statement.

14 The State has the burden of proving beyond a
15 reasonable doubt that the alleged statement was voluntary.
16 If you determine that it was, you may give the statement
17 any further consideration you may deem proper. You must
18 decide what weight, if any, should be given to an alleged
19 statement. If you determine the alleged statement was not
20 the free and voluntarily statement of the defendant, you
21 should not consider the statement at all.

22 The mere presence at the scene is not sufficient
23 to prove someone guilty of a crime. The burden is on the
24 State to prove every element of the crime charged. If you
25 find after reviewing all of the evidence that the State

1 has proved that the defendant was only present at the
2 scene of a crime and they have not proved beyond a
3 reasonable doubt any other participation in the crime,
4 then you must find the defendant not guilty. The law is
5 that proof of -- at the scene of the crime is not
6 sufficient to find someone guilty.

7 Now, I charge you that voluntary intoxication is
8 never an excuse or a defense to a crime. A person who
9 voluntarily renders himself intoxicated is no less
10 responsible for his acts while in such a condition. If a
11 person involuntarily drinks intoxicants, liquors, drugs,
12 and becomes intoxicated and if while in that condition
13 commits an act which would be a crime if the person -- if
14 it had been committed by a sober person, the fact of
15 drunkenness would not relieve the intoxicated person from
16 responsibility. Involuntary intoxication is not an excuse
17 for, or a defense, to a crime.

18 The defendant has raised the defense of alibi.
19 In order to establish an alibi, it must be shown that the
20 defendant was at another specified place at the time the
21 crime was committed and that it was, therefore, impossible
22 for the defendant to have been at the scene of the crime.
23 Mere denial of presence at the scene of a crime does not
24 constitute an alibi. There is no burden on the defendant
25 to prove an alibi. The burden is on the State to prove

1 beyond a reasonable doubt that the defendant was actually
2 present at the scene of the crime, actually participated
3 in it and was not somewhere else; in other words, the
4 State has the burden of disproving the defendant's alibi
5 defense.

6 Madam Forelady and members of the jury, you have
7 been selected by both the State and the defendant to be
8 fair and impartial jurors. It is your duty then in your
9 joint deliberations to determine the truth in this case,
10 giving the defendant the benefit of every reasonable doubt
11 on each and every issue. And from the facts which you
12 determine to be true, you take and apply the law which I
13 have just given to you and thus arrive at a verdict which
14 speaks the truth of this case.

15 I have told you the standards you have to apply
16 to the charge of murder. I will give you a copy of these
17 instructions in written form and you may refer to them
18 during your deliberations to guide your decision making.
19 You must consider the instructions as a whole and not
20 follow some and ignore others. Please return the
21 instructions to the Court at the time the verdict is
22 rendered.

23 You've heard the evidence and now you have heard
24 the law. Whatever your charge as -- whatever your verdict
25 as to the charge, Madam Forelady, you will indicate it by

1 writing the words "guilty" or "not guilty" on the back of
2 the indictment under a name -- under the word "verdict,"
3 you will sign and date it.

4 Now, the mere fact that I state one verdict
5 before the other is not any indication as to what the
6 Court thinks the verdict should be; simply one must be
7 stated before the other.

8 Remember that although the foreperson is the
9 only juror who writes the verdict, it is not hers alone.
10 The verdict has to be unanimous.

11 Madam Forelady, you're not authorized to write
12 the verdict until all of you have agreed as to what the
13 verdict should be.

14 So now, ladies and gentlemen, I'm going to send
15 you to your jury room, all of you except the two
16 alternates who were selected, and that's assuming that
17 all -- each of the first 12 jurors are able to continue
18 and participate in the deliberations.

19 If for any reason any of the first -- any one of
20 the first or any two or any of the first 12 cannot
21 participate in the deliberations, please let me know at
22 this time.

23 (No response.)

24 THE COURT: All right. So, therefore, while the
25 jury returns to the jury room, the two alternates will

1 stay with us.

2 But do not begin to discuss the case until you
3 have received a copy of this jury charge, including the
4 indictment, and all of the exhibits in this case. Once
5 you receive these things, that will be your signal to
6 begin your deliberations. Once you begin your
7 deliberations, you will deliberate until you have reached
8 a verdict, at which time you'll knock on the door, advise
9 the bailiffs, and we will bring you out to receive your
10 verdict.

11 So please go to your jury room at this time.

12 (The jury left open court at approximately 5:32
13 p.m.)

14 THE COURT: All right. Mr. Richmond and
15 Mr. Downs, we've picked 14. As you know, it's been a long
16 trial, so we have to have some alternates. Quite often
17 something will happen to one of the first 12 and we have
18 to plug an alternate in. Otherwise, if we drop below 12,
19 we have declare a mistrial and start the case all over
20 again. So rather than run that risk, we pick extra jurors
21 called alternates.

22 And since the first 12 made it, we will not be
23 able to allow you-all to participate in the deliberations,
24 so your services have come to an end. And I want to
25 certainly thank you-all for your time, effort, and

1 THE COURT: That's per my Newman's rules that,
2 you know, you have to clarify all of these technical
3 things before we get to this point in the trial.

4 MR. MAY: Okay.

5 THE COURT: So where is that disc?

6 MS. SIMPSON: The disc in evidence is already in
7 with the evidence is my understanding. I don't know about
8 the other disc.

9 THE COURT: So if they decide they want to play
10 the disc, look at it, they have to come here. Maybe
11 you-all can continue resolving that by the time they make
12 that request, if they make that request.

13 MR. SHEALEY: Yes, Your Honor. Thank you.

14 (WHEREUPON, the jury began deliberations at
15 approximately 5:56 p.m.)

16 (A break was taken while the jury was in
17 deliberations.)

18 THE COURT: The jury's Question No. 1: May we
19 get a computer to review data on CD?

20 No. 2, Can we get written transcripts of phone
21 calls?

22 No. 3, May we get written witness statements
23 from police?

24 No. 4, May we get written interview of
25 Mr. Wilkins and police investigators?

1 What says the State?

2 MS. CAMPBELL: Your Honor, as far as No. 1 goes,
3 we can send the computer back. We've got a clean
4 computer.

5 No. 2 through 4, my understanding is that -- I
6 don't know the defense's position on sending the
7 transcripts back.

8 MR. MAY: Unfortunately, I think they have to
9 listen to them because the transcripts aren't in evidence.

10 THE COURT: The question is, Can we get written
11 transcripts of phone calls? May we get written witness
12 statements from police? May we get written interview of
13 Mr. Wilkins and police investigators?

14 MR. MAY: None of that's in evidence.

15 MS. CAMPBELL: The answer to the last three is
16 no, those aren't allowed to go back.

17 MR. MAY: And I think that the answer to the
18 first one is that because we don't have an agreed-upon
19 computer, it has to be out there.

20 MS. CAMPBELL: But they just say the information
21 on disc. We don't know which disc to send a disc. So we
22 can send the computer back and see if that applies to what
23 they want.

24 MR. MAY: Or ask what disc they want to see.
25 Because if they want to see the disc, then they have to

1 come out here and they can play it.

2 THE COURT: How many discs did you all put in
3 evidence?

4 MR. MAY: Three.

5 MS. CAMPBELL: There's the jail calls, there's
6 the recording of the defendant's statement, and then
7 there's the video.

8 THE COURT: Well, do you have the --

9 MS. CAMPBELL: We have a clean computer, Your
10 Honor, we always use.

11 THE COURT: Do you have the disc that
12 Mr. Shealey was using?

13 MS. CAMPBELL: There is no disc that Mr. Shealey
14 used.

15 MR. SHEALEY: Your Honor, the thing about this
16 case is that's there's software which was provided in
17 discovery and the entire video is on two discs. That's
18 what we were provided.

19 What they have on that clean computer is only
20 half of the video footage. And so when we agreed upon
21 what they could -- whatever they entered in, you know,
22 they put into evidence the actual disc, that's fine as
23 long as it's the entire video is what we said.

24 Both sides used that same machine which had
25 everything on it. There's a little bit of malfunction

1 with the State's presentation and I got it on mine, they
2 did it, I used it.

3 I don't care as long as whatever goes back there
4 has everything on it. Or I don't care if they want to
5 watch it in here up on the screen and then we'll play with
6 it.

7 I mean, I'd want a clean computer, but I also
8 want it to be something that's the entire video that was
9 stipulated to coming in.

10 We don't object to the video coming in as long
11 as it's everything is what we said. And what I viewed
12 before they got everything back in the jury room was not
13 everything. It was half. And if they only have one disc,
14 it's probably disc one, and they've got to have disc two
15 as well.

16 THE COURT: Well, have you-all looked at disc
17 two? Has the State reviewed disc two to dispute whether
18 or not it's the video of the scene?

19 MS. CAMPBELL: No, sir, I haven't seen what he's
20 talking about.

21 MR. SHEALEY: It all comes from them.

22 MS. CAMPBELL: We gave them everything we had.

23 MR. SHEALEY: This all came from them.

24 But I know what was on the video that they had
25 available is not everything.

1 It gets to some parts of the daylight hours of
2 February 3rd, but it does not even get to when law
3 enforcement shows up at all on the scene. It cuts off.
4 And I would suggest it's because the second half, disc
5 two, hasn't been put on the computer.

6 THE COURT: Is there anything on those discs in
7 your hand other than what was at the scene? Do you have
8 it doctored with any of your figures, your time versus
9 Thomas time or whatever that is?

10 MR. SHEALEY: Of course not. This is simply
11 everything they gave us.

12 THE COURT: Well, I don't know. That's my
13 question.

14 MR. SHEALEY: No, sir. No, sir. This is
15 everything they gave us in its entirety, which we all
16 played from the same machine.

17 THE COURT: I've heard that part.

18 MR. SHEALEY: As an officer of the court, that's
19 exactly what they gave us.

20 THE COURT: All right.

21 MS. CAMPBELL: Your Honor, my concern is that
22 they've already got the disc back there that was in
23 evidence. That was what we had. We put it in. That's
24 what's in evidence. I would be very concerned if we sent
25 back two new discs and they're like, What are these now?

1 THE COURT: Well, they haven't looked at
2 anything. They don't have anything to look at them on.
3 They just have the disc. They don't have anything.

4 MS. CAMPBELL: Your Honor, my concern would be
5 us suddenly sending back two new discs and saying, These
6 are better than what you've got. I just don't want that
7 to be --

8 THE COURT: Well, if they were to come out to
9 watch a disc, they would have to watch the same thing that
10 was used during the trial, which apparently would be
11 Mr. Shealey's disc because he used it throughout the
12 trial.

13 MS. CAMPBELL: I believe Mr. Shealey used a hard
14 drive off his computer.

15 MR. SHEALEY: And what is on my computer is the
16 entirety of this, no more, no less.

17 If they look at the computer and they play
18 through just like I did, they would see as well that not
19 all of the video footage was on that clean computer.

20 So, Judge, I guess I would say if they want to
21 upload it all and put it on there and we can look at it
22 and try sending it back, or if they want to view -- if we
23 can have them look at that machine and only look at the
24 video. If they want to take anything else off the laptop
25 or the desktop of that screen, that's fine. Both sides

1 used that machine and, you know.

2 MS. CAMPBELL: Or we could just tell them if
3 they want to view the video, they need to come out here
4 and we can show it to them.

5 THE COURT: And what would they view?

6 MS. CAMPBELL: I guess whatever you tell them,
7 Your Honor.

8 THE COURT: So what's the difference between
9 them coming out here and viewing whatever I tell them to
10 as opposed to sending those back there?

11 MS. CAMPBELL: The only thing I would have a
12 problem, Your Honor, at this point would be sending back
13 new discs like, Oh, this is something we didn't send back
14 the first time, and that is an inference like, Oh, we
15 didn't get the whole thing, whereas if we say If you want
16 to view the video, you have to come back here, it just
17 looks like they have to come out here.

18 THE COURT: I mean, there's not a special
19 marking on that that says it's coming from Shealey versus
20 Campbell.

21 Well, apparently they're going to be back there
22 a few hours. Why don't you-all watch them now and satisfy
23 yourselves as to where they're from.

24 MS. CAMPBELL: And, Your Honor, as far as them
25 starting on the other information on the disc, can we go

1 ahead and send back the clean computer? Because they can
2 listen to that.

3 MR. SHEALEY: I mean, as long -- if they want
4 to listen to the audio stuff, I mean, we don't have any
5 objection to that until we get this video thing figured
6 out.

7 MS. CAMPBELL: We can send that back. At least
8 they can start on that.

9 THE COURT: All right. Do you have a separate
10 computer watch that?

11 MS. CAMPBELL: Yes, sir.

12 THE COURT: All right.

13 MS. CAMPBELL: That they can play the audio on.
14 We can send that back, Your Honor.

15 As far as the other three questions, I think
16 that we just need to advise them that those are not in
17 evidence.

18 THE COURT: Well, they have all the evidence.
19 If it's not in evidence, they don't get it. We discussed
20 before sending the evidence back that there's some problem
21 that you-all needed to work out between these discs, but
22 if Shealey used the disc throughout the trial, as far as
23 I'm concerned it's in evidence.

24 MS. CAMPBELL: Okay.

25 THE COURT: All right. So what do you have to

1 send back?

2 MS. CAMPBELL: I have the clean computer to send
3 back to them so they can start playing the discs.

4 THE COURT: So they're going to play everything
5 on the same computer?

6 MS. CAMPBELL: They can.

7 THE COURT: The audio?

8 MS. CAMPBELL: The audio.

9 THE COURT: Well, why don't you-all just scan
10 that and satisfy yourselves and send everything back there
11 at the same time?

12 MS. CAMPBELL: We can do that, but this sounds
13 weird, Judge, but this video has been very difficult for
14 us to do anything, and Mr. Shealey knows what I'm talking
15 about it. It doesn't just download.

16 MR. SHEALEY: I mean, it just was very hard to
17 download the thing. We had to get special export just to
18 upload it to that old computer. But those are the three
19 discs that we got, we all have used, and that's what I
20 used the entirety of this trial. And it covers from the
21 very beginning to when they pulled it, all the way to the
22 end when law enforcement leaves. It's the complete thing.

23 THE COURT: Well, you didn't offer your enhanced
24 whatever into evidence, so you're stuck with those discs,
25 either those discs or the ones that are already back

1 there.

2 MS. CAMPBELL: Your Honor, if you'd just give us
3 ten minutes to review this just to make sure that it is
4 what it is, then we can just send it back.

5 THE COURT: All right.

6 MR. SHEALEY: And I guess the only thing I would
7 say is if they can download all that on that system, then
8 we'll just look at it before it goes back.

9 MS. CAMPBELL: We can't download anything, not
10 from these discs.

11 MR. SHEALEY: Well, whatever you-all do with it,
12 then.

13 THE COURT: I'm going to bring the jury out and
14 let them know that we'll send the disc player back there
15 for them to view the stuff, view it on, and also tell them
16 that they cannot get any written transcripts of everything
17 because everything's already in evidence.

18 So let's bring them in.

19 (The jury came into open court at approximately
20 8:03 p.m.)

21 THE BAILIFF: The jurors are seated, Your Honor.

22 THE COURT: All right. Madam Forelady, members
23 of the jury, you're sent four questions out.

24 The first one says, May we get a computer to
25 review data on CD?

1 Yes, we'll send a computer back for you to
2 review the data on CD.

3 The second question, Can we get written
4 transcripts of phone calls?

5 The answer is no, you have received all of the
6 evidence. The computer is being sent back, but the CDs
7 are in evidence, but you cannot receive any additional
8 evidence in the form of written transcripts.

9 So that would reply to No. 3 as well in which
10 you ask for written witness statements from police, May we
11 get written interview of Mr. Wilkins and police
12 investigators?

13 You have all of the evidence. You can't get any
14 more evidence. During the course of the week you were
15 receiving evidence. All the evidence was introduced and
16 sent back to you. We can't -- there is no other evidence
17 to send to you. You have it, and you're to decide the
18 case based on the law and based on the evidence presented
19 during the trial.

20 But a computer will be sent back for you to be
21 able to review whatever data is already in evidence. But
22 you cannot get more evidence in the form of written
23 transcripts.

24 All right. That will give you a little reprieve
25 from the jury room.

1 Please return to the jury room. If you have any
2 additional questions, please put them in writing.

3
4 THE FOREPERSON: Your Honor, some of the jurors
5 would like rubber gloves to examine evidence.

6 THE COURT: Sure.

7 You have that around here somewhere?

8 MS. CAMPBELL: Yes, we'll get it, Judge.

9 THE COURT: All right. We'll send a box of
10 gloves back.

11 Okay. Thank you-all.

12 (The jury left open court at approximately 8:07
13 p.m.)

14 (WHEREUPON, the jury resumed deliberations at
15 approximately 8:07 p.m.)

16 THE COURT: Any additions or exceptions to the
17 instructions?

18 MS. CAMPBELL: No, sir.

19 MR. MAY: No, sir.

20 THE COURT: All right.

21 MS. CAMPBELL: Your Honor, as far as sending the
22 discs back?

23 THE COURT: Yes.

24 MS. CAMPBELL: Can we just send them back with
25 the caveat that sometimes one disc works better than the

1 other so we're sending these back just if you want them?
2 I don't know how else to -- I'm trying to just not act
3 like that all of a sudden we're sending back new evidence.

4 THE COURT: Well, what do you want me to tell
5 them, that we have two discs for them?

6 MS. CAMPBELL: I'm just trying not to give
7 emphasis to the fact that, you know, the disc is already
8 back there with them and now we're sending back two new
9 discs, or just send it back with the computer with no
10 explanation, that's fine.

11 MR. SHEALEY: Your Honor, if it's downloaded on
12 the computer --

13 MS. CAMPBELL: It's not downloaded. You just
14 asked that we send back the disc.

15 MR. SHEALEY: The second disc?

16 MS. CAMPBELL: The second disc works.

17 MR. SHEALEY: Judge, I think part of the -- the
18 way this footage -- and right now it's playing with
19 nothing in it. And the way this footage downloaded,
20 that's the same thing that we had to do to get it to play
21 on our laptop, we had to actually download it to a
22 machine. And it's playing with nothing in it right now,
23 which is what we had to do all through trial is we had to
24 download all the footage to a machine and it comes from
25 these two discs. So right now it's playing only the first

1 disc which has been downloaded to this machine, and so
2 that's the issue.

3 I'm not sure this is going to be the type of
4 thing that you can pop a disc in and just run the
5 software. Obviously they'd have to download it to get it
6 to play. We had to download discs one and two to get it
7 to play. So that's kind of what's going on.

8 What's being played here is just what's on the
9 hard drive of this machine because I've got disc two in my
10 hand. So I think that's the problem.

11 So if that's the way it has to be played, then
12 I'd suggest if they want to download this, whoever
13 downloaded it in the first place -- and it was beyond my
14 powers. We got it on our machine so we could view it.
15 But if they want to get someone to download this disc on
16 there, then of course we have no objection as long as the
17 entire disc is able to be viewed versus just half.
18 Because when you put disc two into here, it just not
19 playing the entire thing.

20 I mean, if they want to look at our machine and
21 bring it back there, they can make sure that nothing else
22 is exposed on the desktop. I don't think they have, you
23 know -- basically it's a clean desktop, it's fine, and we
24 can clean that up however they want with the instruction
25 that no one's to look at anything but this.

1 MS. CAMPBELL: Unh-unh, no.

2 MR. SHEALEY: Or I think right now the safest
3 thing may be to just bring them out and maybe play
4 whatever they want to play. They can have it on the
5 screen. That way we don't have to worry about laptops or
6 anything like that.

7 THE COURT: Well, figuring out how a jury is to
8 review evidence presented during the trial is not the role
9 of the Court, it's the role of the lawyers, and you put it
10 in what we send you-all for the trial, that if there is
11 anything that you intend or you submit any type video
12 evidence that you want the jury to consider, that you must
13 introduce, stipulate, get some form of a consensus with
14 the Court prior to deliberations so that the jury will be
15 able to review whatever evidence you want them to view in
16 the jury room. But the nature of jury deliberations and
17 the jury's access to evidence is that once they go back to
18 deliberate, they should have everything that you want them
19 to have, not continue with the piecemeal of feeding them
20 more information and going through what we're going
21 through in this case.

22 MR. SHEALEY: I mean, if they can upload the
23 second half of the video on that machine, then we're fine
24 with it. They got the first part on there.

25 THE COURT: If the jury has the evidence and

1 they're playing videos, tapes, whatever, if they want to
2 talk about it during the course of their deliberation,
3 that's the reason for giving it to them as opposed to
4 bringing them out here in some sterile environment and
5 having them watch a video.

6 How many hours is it? The police were there for
7 how many hours?

8 MR. SHEALEY: It's a long video, Judge. It
9 starts on the 2nd and it goes all the way from -- I mean,
10 it is over 24 hours.

11 THE COURT: It's a 24-hour video. So you're
12 saying to bring them out here for us to let them watch
13 something for 24 hours?

14 MR. SHEALEY: Yes, that does sound --

15 THE COURT: You know, whatever evidence you want
16 the jury to consider during their deliberations you put in
17 evidence, you send it to them. You know, they may not to
18 watch it for 24 hours. They may want -- some juror may
19 have some specific concern and can fast forward to
20 whatever point in the video that they want to observe.

21 MR. SHEALEY: Then, Your Honor, I'll just ask if
22 they can try to upload the rest of the video. And if they
23 can do that, we'll send that machine back.

24 (WHEREUPON, The Court's Exhibit No. 4 was marked
25 for purposes of the record.)

1 THE COURT: And I think it's totally unfair to
2 the jury. They've been here for five days and they're
3 deliberating and you-all still are fooling around with the
4 evidence. They're ready to decide the case. They're
5 stuck. They have no means of viewing whatever evidence
6 you want them to view. That means you don't want them to
7 have it. If you wanted them to have it, you'd put it in
8 during the trial and send it back there so they can have
9 it during their deliberations, not have you spend time
10 trying to recreate something to get to them during their
11 deliberations. They've been deliberating for two hours
12 and we're still figuring out how they're going to get it.

13 (Pause.)

14 MS. CAMPBELL: It's ready to go.

15 THE COURT: All right. So are you-all in
16 agreement as to what they're going to get?

17 MR. MAY: Yes, Your Honor.

18 MS. CAMPBELL: Yes, Your Honor.

19 THE COURT: All right. It's a matter of record,
20 they're in agreement as to sending the computer back.

21 (WHEREUPON, proceedings were at ease while the
22 jury was deliberating.)

23 THE COURT: I understand there is a verdict.
24 Bring in the jury.

25

1 (The jury came into open court at approximately
2 10:43 p.m.)

3 THE BAILIFF: The jury's present, Your Honor.

4 THE COURT: Madam Forelady, if you'd stand for
5 me.

6 You have reached a verdict?

7 THE FOREPERSON: Yes, Your Honor, we have a
8 unanimous verdict.

9 THE COURT: All right. If you'll pass it to the
10 bailiff.

11 Thank you. You may be seated.

12 And the defendant will rise.

13 You may publish the verdict.

14 THE CLERK: This State versus Ahmad Jamal
15 Wilkins, 2011-GS-40-4656, indictment for murder. The jury
16 finds the defendant guilty, signed by the foreperson on
17 April 13th, 2012.

18 Madam Forelady, is this the verdict of the
19 entire jury?

20 THE FOREPERSON: Yes, it is.

21 THE CLERK: Thank you.

22 THE COURT: Is any individual polling requested?

23 MR. MAY: Yes, sir.

24 THE COURT: Madam Clerk, if you will poll each
25 juror individually.

1 THE CLERK: Ladies and gentlemen of the jury,
2 I'm going to ask you two questions. Please respond yes or
3 no to both questions. You do not have to stand up,
4 please.

5 Juror No. 280, was this your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Is it still your verdict?

8 THE JUROR: Yes.

9 THE CLERK: 253, was this your verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: 171, was this your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: 98, was this your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 THE JUROR: Yes.

21 THE CLERK: 251, was this your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 THE JUROR: Yes.

25 THE CLERK: 44, was this your verdict?

1 THE JUROR: Yes.
2 THE CLERK: Is it still your verdict?
3 THE JUROR: Yes.
4 THE CLERK: 99, was this your verdict?
5 THE JUROR: Yes.
6 THE CLERK: Is it still your verdict?
7 THE JUROR: Yes.
8 THE CLERK: 138, was this your verdict?
9 THE JUROR: Yes.
10 THE CLERK: Is it still your verdict?
11 THE JUROR: Yes.
12 THE CLERK: 43, was this your verdict?
13 THE JUROR: Yes.
14 THE CLERK: Is it still your verdict?
15 THE JUROR: Yes.
16 THE CLERK: 248, was this your verdict?
17 THE JUROR: Yes.
18 THE CLERK: Is it still your verdict?
19 THE JUROR: Yes.
20 THE CLERK: 296, was this your verdict?
21 THE JUROR: Yes.
22 THE CLERK: Is it still your verdict?
23 THE JUROR: Yes.
24 THE CLERK: 71, was this your verdict?
25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: The jury's been polled, Your Honor.

4 THE COURT: All right. The jury has been
5 polled. The verdict was the unanimous verdict of the
6 jury.

7 Any post-trial motions?

8 MR. MAY: Your Honor, we do have several. We'd
9 ask for the ten-day rule to be able to formulate them in
10 writing and submit them to you instead.

11 THE COURT: What says the State?

12 MS. CAMPBELL: Whatever you decide, Your Honor.
13 I believe it's customary to go ahead and make the motions
14 now.

15 THE COURT: All right. You can make the motions
16 now, you can submit whatever you would like to submit, and
17 I can rule on them at a later time after you've had the
18 benefit of ten days to formally make the motions, but we
19 will otherwise proceed to sentencing.

20 MR. MAY: Yes, sir.

21 Your Honor, then just cursory, we'd make a
22 motion for a new trial, a judgment notwithstanding the
23 verdict. We'd ask for -- Your Honor, we'd renew all
24 pretrial motions, all objections, all motions made within
25 the trial. We'd renew all mistrial motions, specifically

1 the Brady violations, specifically the Riddle violation,
2 specifically being precluded from offering a sur-rebuttal.
3 Your Honor, that goes directly to the right of the
4 defendant presenting a complete and full defense which was
5 precluded in this case.

6 Your Honor, we'd again renew all motions, ask
7 for the judge to give a directed verdict at this time, or
8 in the alternative, a new trial.

9 THE COURT: All right. Ms. Campbell.

10 MS. CAMPBELL: May it please the Court, Your
11 Honor.

12 I believe these are all issues they brought up
13 before you before. We respectfully ask that you just deny
14 their motions at this time.

15 THE COURT: All right. Well, if I'm going to
16 give you ten days to formally make the motions, then I
17 will need to give you an opportunity to do all that before
18 I consider them, but the jury having found the defendant
19 guilty, we will proceed to sentencing.

20 MR. MAY: Yes, Your Honor.

21 THE COURT: Ladies and gentlemen, I want to
22 thank you for your hard work in this case. You didn't
23 volunteer, you were drafted. I'm sure several weeks ago
24 you-all probably had no clue that you would find yourself
25 in this position this week here in Richland County, but

1 has his family. I think it says a lot for him.

2 I don't know if his father wishes to speak to
3 you.

4 THE COURT: Before I hear from the -- and I'll
5 be happy to hear from any and everyone who wants to speak,
6 but first let me hear from the State.

7 MR. MAY: Yes, sir.

8 MS. CAMPBELL: May it please the Court, Your
9 honor.

10 As far as his prior record goes, it starts back
11 in 1991 -- and I'll only read the convictions -- with a
12 burglary second and grand larceny conviction. Then in
13 1992, had a grand larceny of a vehicle conviction. In
14 1993, a use of vehicle without consent conviction. His
15 next conviction was in 1995, a parole revocation. Then in
16 1999, an unlawful carrying of a weapon.

17 In the year 2000, he was convicted of assault
18 and battery of a high and aggravated nature and strong arm
19 robbery. Then starting in 2003 -- he did an active
20 sentence on that, Your Honor. In 2003, he was convicted
21 of possession of crack cocaine, for which he received an
22 active sentence. Then in 2005, he's convicted again of
23 possession of crack cocaine.

24 In 2008, he was convicted of possession of
25 marijuana. In 2009, he was convicted of three counts of

1 fraudulent check. In 2010, he was convicted of burglary
2 in the third degree, for which he also received an active
3 sentence.

4 Your Honor, I believe that you've heard all the
5 facts and I don't think anything else needs to be said
6 about those.

7 I would ask permission to just ask the victim's
8 mother if she'd like to be heard.

9 THE COURT: What's the date of the offense for
10 the burglary third degree?

11 MS. CAMPBELL: The last burglary in the third
12 degree, Your Honor, the conviction date was January 21st.

13 THE COURT: The date of the offense?

14 MS. CAMPBELL: The date of offense, Your Honor
15 -- I'm sorry -- it was 4-29 of 2009.

16 Your Honor, at the appropriate time the victim's
17 mother would like to be heard briefly.

18 THE COURT: All right. Certainly.

19 MS. CAMPBELL: May it please the Court, Your
20 Honor.

21 THE COURT: Yes.

22 THE WITNESS: Beg the Court's indulgence, Your
23 Honor. She's a little overwhelmed.

24 THE COURT: All right.

25 (Pause.)

1 crack, 2005 crack, 2007 marijuana, 2009 fraudulent check,
2 2010 burglary third degree, 2009 murder, conviction here
3 today in 2012.

4 At the time of this offense was he on probation
5 or parole?

6 MS. CAMPBELL: I believe -- it's my
7 understanding he was, Your Honor.

8 THE COURT: For? He was on what? What was his
9 status?

10 MS. CAMPBELL: At the time of his arrest, I know
11 he was on parole. I think he was on parole from the
12 burglary conviction in 2010.

13 MR. MAY: But the offense happened in 2009.

14 MS. CAMPBELL: After this murder occurred, yes,
15 two months after.

16 THE COURT: So at the time of the murder was he
17 on probation, parole, pending charges?

18 MS. CAMPBELL: No, sir, not that I'm aware of.

19 THE COURT: Well, Mr. May, Mr. Shealey, I've
20 heard your comments about what a great guy Mr. Wilkins is,
21 what a joy he's been for you-all to represent, how helpful
22 he's been in preparing the defense that you-all presented.

23 The jury has listened to that defense as well as
24 the State's evidence and found him guilty and I'm
25 sentencing him despite what I would -- I was not surprised

1 that his father would feel or believe as he does. I'm
2 sentencing him based on the jury's finding of guilty of
3 murder, guilty of killing this young lady, and guilty of
4 burning her body, guilty of committing one of the most
5 heinous crimes that anyone can commit. So I'm not
6 sentencing that good person that you-all are referring to.

7 He seems to have a reasonable degree of
8 intelligence, being able to match wits with the officers
9 as he did. He seemed to be able to match wits with the
10 Solicitor through her stern interrogation,
11 cross-examination. So often as it goes with all of us,
12 there is some good and there is some bad, so I'm not
13 sentencing that good person that you-all saw. I'm
14 sentencing the bad person that Eboney Williams saw that
15 night.

16 When a person is committed -- is convicted of
17 murder, there's a minimum sentence of 30 years up to a
18 maximum penalty of life imprisonment. Depending upon the
19 aggravating circumstances associated with the murder, then
20 the offense can call for the death penalty.

21 The State did not seek to charge any aggravating
22 circumstances in this case. There's no charge of torture,
23 arson, various other possible offenses that might have
24 been associated with murder, but those are factors that I
25 am compelled to consider as part of the sentence.

1 And considering what is now over a 20-year
2 history of continuous criminal activity by Mr. Wilkins,
3 culminating in murdering this young lady and setting her
4 body on fire, he deserves no mercy at all from the Court,
5 none whatsoever, and I will extend none to him.

6 It's the sentence of the Court that you are
7 committed to the State Department of Corrections for life.

8 Good luck to you, sir.

9 And, Madam Forelady, if you all will stick
10 around in the back for just a moment.

11 We're adjourned.

12 (WHEREUPON, The Court's Exhibit No. 5 was marked
13 for purposes of the record.)

14 (The proceedings were concluded.)

15 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

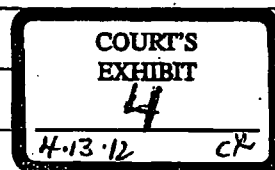
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① May we get a computer to review data on CD?

② Can we get written transcripts of phone calls?

③ May we get written ^{witness} statements from police?

④ May we get written interview of Mr. Wilkins & police investigators?



ORIGINAL

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF RICHLAND)

State of South Carolina,)
)
 PLAINTIFF,)
)
 -VS-) MOTION
) FOR NEW TRIAL
) 2011-GS-40-04656
)
 Ahmad Jamal Wilkins,)
)
 DEFENDANT.)
 _____)

BEFORE THE HONORABLE CLIFTON NEWMAN, JUDGE

JUNE 1, 2012

COLUMBIA, SOUTH CAROLINA

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

Kathryn Luck Campbell, Esq.
 Meghan Walker, Esq.
 Nicole M. Simpson, Esq.
 For the State

Brian Shealey, Esq.
 Luke Shealey, Esq.
 James May, Esq.
 For the Defendant

REMA K. GANTT THOMAS
 CIRCUIT COURT REPORTER

1 THE COURT: The defense's motion, Mr.
2 Shealey.

3 MR. SHEALEY: Thank you, Your Honor, may
4 it please the Court. I would note that there are
5 two affidavits that we provided the State that would
6 also be part of the record before Your Honor. One
7 is regards to the issue you had us look at, us being
8 in compliance with Rule 3.1, the rule of
9 professional conduct.

10 That's before you, as well, the affidavit.
11 On the last point, the defense's brief in our motion
12 for a new trial regarding the Jones hearing, the DNA
13 issue, just as a reference point, Your Honor. We
14 can start wherever you would like. If you want me
15 to start from the top of my brief, I'll be happy to
16 do that.

17 THE COURT: Okay.

18 MR. SHEALEY: Thank you, Your Honor. Your
19 Honor, this is defense's motion for a new trial
20 based on a number of issues that arose throughout
21 the course of the trial. A brief was submitted.
22 Both sides had a chance to look at, as well as Your
23 Honor.

24 The first issue I'd like to present before
25 the Court, that we're requesting a new trial in this

1 case. As we're all aware, there were three defense
2 witnesses -- Tasha Prioleaux, Sierra Austin, and
3 Dawn Young. All were allowed to have their
4 testimony proffered, and all these witnesses were
5 used or attempted to be used by the defense to help
6 support their theory connecting Melron Kelly and the
7 allegation that he has something to do with this
8 murder.

9 Your Honor allowed -- after hearing all
10 the proffered testimony, allowed Ms. Tasha Prioleaux
11 to testify in the defense's case in chief. The
12 substance of her testimony was that, you know, on
13 the early morning hours in question or the night in
14 question that the victim told her that Melron Kelly
15 was going to be killed.

16 Your Honor, we attempted to also put in
17 our case in chief Ms. Austin's testimony -- Ms.
18 Sierra Austin -- that she was told by the victim
19 that she was pregnant, that it belonged to Melron
20 Kelly shortly before her death, and also Ms. Dawn
21 Davis Young, who has said that the victim came to
22 her sometime before the victim's death asking
23 questions about "How do deal with messing around
24 with an officer?"

25 This was denied in respect to Ms. Austin

1 and Ms. Dawn Davis Young for us to present them in
2 our case in chief. Your Honor, we feel that we
3 should have been allowed to get into that and have
4 their testimony before the jury under the Sixth and
5 Fourteenth Amendments of the United States
6 Constitution in order to present a full and complete
7 defense, also under Kyles v. Whitley, given the fact
8 that all of these witnesses came from the
9 investigator notes or law enforcement notes.

10 None of these witnesses were not spoken to
11 by law enforcement. Some of the investigators were
12 not called to trial, like Investigator Mendez and
13 other investigators. But this information that we
14 had Investigator Bobby Watkins look at and interview
15 these people, and this information that came to us
16 were all names that were listed in discovery, Your
17 Honor.

18 And we feel that we could have used them
19 to attack the integrity of the investigation and
20 also to lend credibility, more credibility, to Tasha
21 Prioleaux under our defense's ability to have a
22 complete and full defense for Mr. Ahmad Wilkins.
23 So, Your Honor, that's our argument as far as, you
24 know, we were denied having them testify in our case
25 in chief.

1 Once the State put on a reply, they put on
2 Lt. Melron Kelly to stand -- you know, testimony was
3 elicited from him that he had no personal
4 relationship at all with the victim in this case.

5 Your Honor, at that point in time,
6 especially under the ability to present a full and
7 complete defense under the Sixth and Fourteenth
8 Amendments, we do believe we should have been
9 allowed to, in the Court's discretion I understand,
10 but especially since testimony was elicited at that
11 point that Melron Kelly had no personal relationship
12 with the victim.

13 Ms. Sierra Austin and Dawn Davis Young
14 should have been allowed to go and refute that claim
15 as the proffered testimony was already before Your
16 Honor that in fact they were told by the victim,
17 especially Ms. Austin, that she had been impregnated
18 by Melron Kelly, had a personal relationship, and
19 also from Ms. Dawn Davis Young that the victim had
20 asked her about messing around with an officer,
21 although her testimony did not name Mr. Melron
22 Kelly.

23 So we feel that for our case in chief, we
24 should have been allowed to present that evidence in
25 order to be effective, in order to present a full

1 and complete defense, and certainly after on reply
2 the existence of any personal relationship was
3 basically, you know, eradicated in the minds of the
4 jury if they are to believe Melron Kelly. And we
5 should have been able to refute that with
6 information that was already before the Court.

7 THE COURT: All right.

8 By the State, Ms. Campbell?

9 MS. CAMPBELL: May it please the Court,
10 Your Honor. We would ask that you stand by your
11 earlier rulings. We feel like they were correct in
12 this case. Your Honor, an additional case that's
13 not cited in our brief is State versus Garcia, if I
14 may approach.

15 THE COURT: Yes, ma'am.

16 MS. CAMPBELL: Thank you.

17 Your Honor, the State's contention is your
18 rulings were correct. As far as what hearsay
19 exception they think this would come in under, State
20 versus Garcia does give some guidance in that way.

21 Your Honor, we did have a full hearing
22 that fleshed out basically the extent of the
23 testimony. The testimony from the two witnesses
24 that were excluded was somewhat remote in time, that
25 sometime prior they allege. And these witnesses --

1 and I don't think the defense is going to claim that
2 any of this information was given to the State
3 during the course of their investigation.

4 The names kept up in the investigation,
5 but specifically they did not disclose any of the
6 information, which they suddenly came up with when
7 their investigator talked to them, to any
8 investigative officers from the Columbia Police
9 Department.

10 The information that was excluded by you,
11 Your Honor, was remote in time. Specifically, it
12 didn't go to the victim's state of mind at the time.
13 Basically, it was just casting aspersions which were
14 already cast at Melron Kelly, alleging that the
15 victim claimed he had impregnated her. STOP

16 The testimony at trial and the
17 uncontroverted testimony was that the victim wasn't
18 even pregnant at the time. In addition to that,
19 these witnesses had never come forward with any of
20 this information to police officers or to anyone
21 else until in fact contacted by the defense
22 counsel's investigator some month or two before when
23 the case actually was prepared to go to trial.

24 Your Honor, I don't know under what
25 hearsay exception they think that that should come

1 in. You did allow in, Your Honor, the present-sense
2 impression testimony from the one witness that was
3 the night before. That did go to the jury.

4 The State then was allowed to just put up
5 Mr. Melron Kelly specifically to address that issue
6 that was brought up by that witness in front of the
7 jury. We limited it to that. There was no new
8 information that was gotten in that part.

9 And it would simply be a collateral issue
10 at best whether or not these witnesses now claim
11 that they had some knowledge from the victim
12 herself, which would also be hearsay and not
13 admissible, as to a relationship that she claimed to
14 have with some officer and/or evidence that Mr.
15 Melron Kelly knew she was pregnant with his baby.
16 Respectfully, Your Honor, based on your previous
17 rulings, we would just ask that their motion be
18 denied.

19 THE COURT: All right, any response by the
20 defense?

21 MR. SHEALEY: Your Honor, if you have any
22 particular questions, I'd be happy to answer them.
23 I would just generally say that certainly in
24 response to Officer Kelly and that he had no
25 personal relationship, I think, constitutionally

1 speaking --

2 THE COURT: Well, he said he knew the
3 child from another apartment complex, that he knew
4 them well, or that he -- I didn't get the sense of
5 this no relationship.

6 MR. SHEALEY: Yes, Your Honor. I guess
7 what I mean is a personal romantic-type
8 relationship, is what I'm speaking of. And it was
9 made clear on his direct testimony to Ms. Campbell
10 that he had -- that did not exist in this case.

11 THE COURT: Well, what evidence do you
12 have that his testimony was incorrect?

13 MR. SHEALEY: Well, we had Ms. Sierra
14 Austin, and her proffered testimony was that the
15 victim told her that she had become pregnant by
16 Melron Kelly. That would have directly contradicted
17 what he said on that stand.

18 THE COURT: How is that testimony
19 admissible other than everything comes in under the
20 integrity of the investigation -- ability of the
21 defense to just lump everything as admissible under
22 questioning the integrity of the investigation?

23 MR. SHEALEY: Well, Your Honor --

24 THE COURT: Specifically, how would that
25 be admissible?

1 MR. SHEALEY: Specifically, the rules of
2 evidence. I think at that time, we were suggesting
3 to the Court 803(3), the existing mental, emotional,
4 or physical condition. So when the victim is
5 describing to Sierra Austin her physical condition,
6 her pregnancy, I think that would be an exception.

7 Therefore, what we were asked to have put
8 in our case in chief concerning Ms. Sierra Austin is
9 that she was pregnant, her physical condition that
10 was explained by the victim to one of her good
11 friends, Sierra Austin, and that the father as far
12 as legitimacy was Mr. Melron Kelly. So I think --

13 THE COURT: When was that in relation to
14 her death?

15 MR. SHEALEY: Sir?

16 THE COURT: When was that in relation to
17 when she was killed?

18 MR. SHEALEY: It was sometime right
19 before. I think the weeks before, I think was when
20 she was talking about being pregnant. And I think
21 that would have been --

22 THE COURT: That she was pregnant at the
23 time of her death?

24 MR. SHEALEY: That's the information we
25 had from Ms. Sierra Austin, yes, Your Honor. And

1 that rule we feel would be an appropriate exception
2 to allow for us to put Ms. Sierra Austin up on in
3 our case in chief.

4 And certainly once Mr. Melron Kelly said
5 that he had no romantic involvement at all with the
6 victim, we feel, requested or denied, and certainly
7 Ms. Sierra Austin to refute that claim as it was
8 coming from the victim describing her pregnancy.

9 THE COURT: Would we then leave the murder
10 trial, and then you would be chasing these other
11 facts unrelated to whether Mr. Wilkins killed the
12 victim?

13 MR. SHEALEY: No, Your Honor. I think her
14 pregnancy would be a motive for Melron Kelly to
15 commit such an act.

16 THE COURT: How is that?

17 MR. SHEALEY: Well, because, Your Honor,
18 it would have been an affair outside of a marriage.
19 It would have been a motive where you impregnate
20 somebody else.

21 As you know, we have three witnesses on
22 this subject that would talk about, you know, the
23 victim having questions about messing around with an
24 officer, the suggestion being obviously for the jury
25 that she may be trying to out Mr. Melron Kelly,

1 expose that relationship.

2 That would have been a motive in this case
3 that we were not allowed to proceed under. It's one
4 thing for Ms. Prioleaux to say directly that, you
5 know, the victim say it was Melron Kelly. But it's
6 another thing to be able to explain that. And I
7 think we should have been allowed to under 803(3),
8 Your Honor.

9 And certainly after, you know, on direct
10 Ms. Campbell elicited information from him that he
11 had no romantic relationship at all, therefore no
12 motion to do such a thing, whereas we had Sierra
13 Austin, who had already testified to their romantic
14 relationship, this information coming from the
15 victim describing her pregnancy, and if we do see
16 that pregnancy, maybe Melron Kelly as the gentleman
17 that impregnated her.

18 And I feel that certainly should have been
19 allowed to come out after he planted that claim,
20 and, of course, notwithstanding all the
21 constitutional protections, a full and complete
22 defense, but certainly I think --

23 THE COURT: Your view of a full and
24 complete defense that in effect a trial should be
25 just open game for anything that might cast doubt on

1 the State's case?

2 MR. SHEALEY: Your Honor, I believe that
3 they were going to be witnesses to a motive for
4 Melron Kelly to have committed such an act. We were
5 allowed one. We weren't allowed Ms. Austin or Ms.
6 Young. And I think to support the theory that he
7 had impregnated the victim in this case and would
8 have given him a motive for such an action.

9 THE COURT: And how is any of that
10 supported by current case law in this state?

11 MR. SHEALEY: Your Honor, I think current
12 case law is in Kyles v. Whitley. Certainly, if you
13 attack the integrity of the investigation, I think
14 it's relevant.

15 THE COURT: We kind of went line by line
16 in Kyles v. Whitley during the course of that trial.
17 It seems as if you all read everything into this
18 Kyles v. Whitley which allows any and everything
19 that you wish to present as a defense to be
20 admissible under Kyles v. Whitley.

21 MR. SHEALEY: Your Honor, I think --

22 THE COURT: Regardless of all other rules
23 of evidence and rules of procedure.

24 MR. SHEALEY: We do believe that it
25 certainly would have been relevant to the issue at

1 hand. And I know you were cautioning us. I think
2 that frequently this is an error to connect Melron
3 Kelly to the death of the victim.

4 I think that and consideration of the rest
5 of the facts in the case that I'm sure we'll bring
6 up later. But you were here and we're all for some
7 of the other issues in this case that indicated
8 somebody else doing this other than our client. I
9 think it was relevant.

10 I think, you know, at the time that we
11 were arguing to have these three witnesses testify
12 that we did not object to any kind of third-party
13 guilt considerations. However, I think it would
14 have gone past what they reference in their brief in
15 response to our motion for a new trial about
16 remoteness and this kind of thing, because all this
17 stuff is happening within I would say a week or
18 weeks of her death, the victim's death, whereas
19 those remote cases are well past the act, well
20 before the act.

21 I think it's certainly relevant also in
22 proper impeachment, as well, when Ms. Campbell
23 elicited from Melron Kelly that he had no romantic
24 relationship with the victim.

25 THE COURT: All right, Ms. Campbell?

1 MS. CAMPBELL: Respectfully, Your Honor,
2 we did argue third-part guilt, and we also stand by
3 State versus Garcia, third-party guilt, and all your
4 prior rulings.

5 THE COURT: What about State versus Garcia
6 that's relevant to these issues? What in this case
7 you just handed up to me?

8 MS. CAMPBELL: Your Honor, it just talks
9 about present sense impression. And I think it just
10 basically talks about what the rule actually allows,
11 and that's the extent of it, Your Honor.

12 Respectfully, Your Honor, for them to get
13 up and argue that what may or may not have been said
14 prior to, which is not supported by any of the
15 physical evidence or anything else, would go
16 directly to third-party guilt.

17 THE COURT: In this case, Garcia, I think
18 we talked about it in the course of the ruling in
19 which I allowed this limited testimony. Are you
20 familiar with this case, Mr. Shealey?

21 MR. SHEALEY: No, Your Honor, not
22 directly. I was just presented it.

23 THE COURT: All right. Just take a moment
24 and look at it. The case seems relatively simple.
25 The appellant in this case, the defendant at the

1 trial, was charged with killing his girlfriend. He
2 maintained that the shooting was an accident.

3 There were no witnesses to the killing.
4 And the State presented witnesses who testified that
5 shortly before her death, she said she was scared of
6 him and also testified that he had kicked her some
7 weeks or a week before her death.

8 And the issue on appeal was whether or not
9 the statements of her having told someone that he
10 had kicked her in the stomach shortly before her
11 death, whether that was admissible under the
12 state-of-mind exception.

13 And the conviction was reversed because
14 the Court improperly allowed -- the testimony that
15 she was fearful of him was admissible, but the
16 reason for being fearful -- that she was fearful of
17 him, that was admissible. But the reason for her
18 being fearful -- that is, because he had kicked her
19 in the stomach -- should not have been admitted as
20 part of the state-of-mind exception.

21 So these prior details of a victim of a
22 killing being fearful, those prior details would be
23 inadmissible. And any competent testimony in this
24 case is used to get a conviction -- by the defense -
25 - to get a conviction reversed. The defense in this

1 case seems to be saying that all of this should have
2 been admitted or may be admitted.

3 The Court in this case got it all wrong,
4 and that all of the prior fear and reasons for the
5 fear and all of that should be admissible testimony
6 under the state-of-mind exception or some other
7 integrity of the investigation exception or some
8 other theory.

9 MR. SHEALEY: Your Honor, may it please
10 the Court. I certainly agree with the ruling
11 allowing Ms. Prioleaux to testify as she did, and I
12 wouldn't talk about their brief.

13 But the Garcia case and how it relates to
14 Ms. Sierra Austin, now that I've had a chance to
15 look at it, the Court here is saying that while the
16 present state of the declarant's mind is admissible
17 as an exception to hearsay, the reason for the
18 declarant's state of mind or the reason for the
19 communication would not be.

20 I think, you know, what we would certainly
21 want to have Ms. Sierra Austin discuss is the simple
22 fact that the victim told her she was pregnant and
23 that it was by Melron Kelly. I think that will be
24 permissible under this Garcia case, Your Honor.

25 THE COURT: You'll be connecting dots from

1 all these snippets of information that the
2 investigator gathered. One person says, "How do you
3 get out of a relationship with an officer?" Another
4 one says, "I'm pregnant from this officer." And
5 then the third one says, "This officer is coming to
6 kill me."

7 MR. SHEALEY: I think the Garcia case
8 would have allowed the information to come from Ms.
9 Sierra Austin as far as testimony about the victim
10 being pregnant and pregnant by Melron Kelly. I
11 think it's essential to the defense of our case as
12 far as establishing a motive.

13 And I think it would have been permissible
14 per Garcia under this rule. Your Honor, I think we
15 argued this at trial. But I would also like to
16 suggest to the Court strongly that this would have
17 admissible -- and I'm talking about at this point
18 time in Sierra Austin, who's saying, you know, the
19 victim said, "I'm pregnant by Melron Kelly."

20 Under 803-19, representation concerning
21 personal family history, specifically concerning a
22 person's birth, adoption -- get legitimacy as far as
23 who the father was. I think there would also be an
24 argument that --

25 THE COURT: So the case would kind of go

1 into a paternity issue of an unknown pregnancy?

2 MR. SHEALEY: I think that the pregnancy
3 issue would be essential to the defense's case to
4 establishing motive for Melron Kelly to do the act.
5 And the defense's theory is that someone other than
6 our client did this act, and it's Melron Kelly.

7 THE COURT: Third-party guilt?

8 MR. SHEALEY: I think -- is it pigeonholed
9 into third-party guilt, Your Honor? I think, you
10 know, a lot that we have -- and I know you're maybe
11 not wanting to hear this case from me. But I think
12 it's Kyles v. Whitley as far as attacking the
13 integrity of the investigation.

14 THE COURT: You all just continually
15 mention Kyles v. Whitley. And I guess it's
16 sometimes applied, but you seem to think it applies
17 to any and everything.

18 MR. SHEALEY: Well, Your Honor, I think
19 it's especially relevant in this case because
20 Investigator Reese was told about Melron Kelly being
21 a suspect. I think his response on the stand, when
22 Mr. May was cross-examining him, was after -- yes,
23 he was told about it.

24 "Well, what did you do with that?" "Well,
25 I did the same thing I would if they told me you,

1 Mr. May, were a suspect. I'd do investigative
2 work."

3 So I think when information like that
4 comes to light, as well as the commotion, for
5 instance, about Investigator Thomas, who was well
6 aware of certain events in this case, like the
7 dumpsters being emptied, he watched the video.

8 He knew that there was material coming
9 from this victim's bedroom that the murderer would
10 have had to have removed. And he knew the dumpsters
11 had been emptied prior to arrival as he investigated
12 this case. And he answered affirmatively to me,
13 "Yes, I was aware of that."

14 So I think as we think about this case
15 holistically, yes, a lot of this is integrity of the
16 investigation. But how it relates to Sierra Austin,
17 I think that under the Garcia case, it should have
18 been allowed, not necessarily describing why the
19 statement was made but to talk about the pregnancy,
20 especially after the reply case by the State
21 refuting any personal relationship.

22 Sierra Austin was directly on point in
23 establishing a personal relationship as it concerned
24 the pregnancy and was more essential to our defense
25 because it also provides a motive.

1 THE COURT: In the Garcia case, Garcia was
2 the person convicted of murder. He's talking about
3 evidence in relation to him. He killed her, yes,
4 but it was an accident. And here they're presenting
5 all these prior issues and incidences to refute his
6 contention that this was an accidental killing.

7 And the Court says, "Well, he didn't get a
8 fair trial because of all these miscellaneous
9 things." In this case, we don't have -- Mr.
10 Wilkins' testimony was not about all these prior
11 incidences of what Mr. Wilkins may have done in
12 relation to this person but some third party.

13 So to that extent, Garcia is not really
14 directly on point, just the principle within it. We
15 have where the defendant had previously supposedly
16 done these things to the victim. You're wanting to
17 pull in some relationships with third parties.

18 All right, Mr. Shealey, were you still
19 saying, or are we through?

20 MR. SHEALEY: Your Honor, I'd be happy to
21 continue you. I think you understand our position.
22 And we feel Sierra Austin and Ms. Dawn Davis Young
23 should have been allowed to come in in our case in
24 chief, especially under 803(3).

25 The Garcia case is somewhat different. In

1 that case, the defendant was having similar to the
2 discussion here. We have independent third-party
3 witnesses who are, as you know, they were friends
4 with the victim.

5 I do believe that this could have come in
6 in our case in chief, not to explain why she said it
7 but just to put out there this pregnancy issue,
8 which goes to our claim in this case that someone
9 else other than Ahmad did this, Melron Kelly.

10 THE COURT: That someone else other than -
11 - in any and every case where the defendant pleads
12 not guilty, that means that someone else did it.

13 MR. SHEALEY: Yes, Your Honor.

14 THE COURT: That's always the defense that
15 "I didn't do it, someone else did it."

16 MR. SHEALEY: Yes, Your Honor.

17 THE COURT: So the question is does that
18 mean if your defense is someone else did, whether
19 there are limits which you can try to cast doubts on
20 the State's case in your effort to prove that
21 someone else did it other than the person on trial.

22 MR. SHEALEY: Yes, Your Honor.

23 THE COURT: And I'm trying to get a firm
24 grasp on that. I'm really still not connecting with
25 your claims, and also I have some questions as to

1 the right of the defense to do it in this manner.

2 That's where the professional
3 responsibility aspect of it kicks in and the limits
4 to which the defense should be able to go in
5 presenting a defense
6 -- if there are limits.

7 And what is the responsibility of the
8 Court to control this, lay down rules regarding it,
9 and to respond when these limits are exceeded.
10 Otherwise, how can a jury ever be expected to decide
11 a case if there are no rules and reasonable
12 limitations connected with it?

13 MR. SHEALEY: I think it may be
14 appropriate right now to address what we're talking
15 about. You asked us to look at the Rules of
16 Professional Conduct 3.1. Would you like to hear
17 from us at this time? I think it may be helpful.

18 THE COURT: If we're through -- I'm not
19 sure all that you wish to argue in regard to your
20 motion for a new trial, all that's ancillary to it.
21 But whatever you want to argue, I'm fine to hear it.

22 MR. SHEALEY: Yes, Your Honor. Just for
23 the record, I'd say that while we just touched upon
24 the number one issue, and we, of course, go into
25 two, three, and the rest of the issues, but I think

1 at this time it may be helpful, as you are asking
2 these questions, for us to address 3.1.

3 THE COURT: All right.

4 MR. SHEALEY: May it please the Court,
5 Judge, you did ask us to be prepared to defense this
6 and why it was not a violation of Rule 3.1 as to our
7 allegation. We took this very seriously, and I did
8 contact John Freeman, the former president of USC
9 Law School, an expert in ethics, because I was
10 concerned.

11 And I did discuss this with him. He did
12 prepare an affidavit which I have for you. It
13 should be up there, and I've made it a Court
14 exhibit. We took this very seriously. We did bring
15 this claim.

16 It was clear during the trial, so we put
17 up Natasha Prioleaux and she said that the victim
18 told her Kelly was coming to kill her. I would note
19 before I start this analysis that there was never
20 any objection at that time by the State or concern
21 by the Court about that. But I can understand that
22 you have thought it more now and asked us to --

23 THE COURT: Of course, I thought about it
24 then. But, you know, I don't want to ever do
25 anything during the course of the trial to have an

1 impact or shield your efforts to defend your client
2 by interjecting threats regarding professional
3 responsibility. And, of course, in some instances
4 it has to be done, but there's a balancing that has
5 to take place.

6 MR. SHEALEY: Yes, sir. And Professor
7 Freeman has helped me analyze the situation.
8 Basically what you look at in the interval, when you
9 talk about this rule as to whether a lawyer has made
10 a claim in good faith.

11 And the test is, per the rule, per
12 Professor Freeman, who said the rule was required of
13 lawyers. However, if they inform themselves about
14 the facts of their clients' cases, any applicable
15 law, and determine that they can make a good faith
16 argument in support of their client's position.

17 So when I think about we did in this case,
18 we informed ourselves about the facts of the case by
19 receiving the discovery in this case that was
20 provided to us by the State, which included the
21 names of Natasha Prioleaux, Sierra Austin, Dawn
22 Davis Young.

23 We then sent our licensed investigator who
24 used to be employed by Richland County and he was a
25 military investigator to interview these people to

1 see what they had to said. And it really was a
2 revelation to us when we got statements and heard
3 what Natasha Prioleaux and the others had to say.

4 We did then did our duty, and we brought
5 them into our office to interview them ourselves to
6 see if all these people were credible, because this
7 is a wild accusation that we've never encountered
8 before. We found them to be extremely credible. I
9 think when they took the stand, it was clear they
10 didn't want to be here, and they told what they had
11 to say.

12 So we felt like we did try to see if we
13 were actually -- ourselves about the case to see it
14 fit these facts. And some of the other things that
15 I think helped corroborate the claims by Natasha
16 Prioleaux, and Sierra Austin, and Ms. Young are the
17 fact, as my brother had mentioned, Investigator
18 Reese was told.

19 And he admitted on the stand that "Yes, we
20 were advised that Melron Kelly was a suspect, and we
21 didn't take it seriously." It was brought out in
22 the testimony of the investigators that Investigator
23 Kelly, who was not a part of the crime scene at that
24 time, was at the crime scene, even though he was a
25 narcotics agent at the time, that he was the one who

1 went out to the dumpster that had been on video
2 emptied 30 minutes prior to police's arrival there,
3 and said, "Hey, guys, I found some relevant evidence
4 in this case."

5 It was a comforter, and that was
6 collected. It was something that only the killer
7 could have put out in the dumpster, and it was never
8 tested for some reason. The one thing that the
9 killer touched was never tested for DNA or semen or
10 anything.

11 Also, you remember there was an issue of
12 the rape kit in this case being lost in this case,
13 going missing, as evidenced in Rachel Grant's notes.
14 And we made that a big issue and tried to get as
15 much chain as possible. This was turned over
16 throughout the trial.

17 And there was no marked police patrol car
18 outside the victim's house right around the time
19 when this alleged incident would have occurred. So
20 all of these things that we looked at in this case,
21 we took in the totality when considering the
22 credibility of these witnesses, and we found them to
23 be very credible.

24 And as Professor Freeman states in the
25 affidavit, he finds that our efforts in this case

1 were completely in good faith and that we are immune
2 from any kind of charges under 3.1 based on his
3 conversations with me and what I told him about this
4 case.

5 So we did take it very seriously, and I
6 think that is a general analysis. Professor Freeman
7 goes on to what you just said. The reason why you
8 didn't challenge the defense about in the middle of
9 the trial is because you didn't want to kill a
10 representation in the middle of a trial.

11 And Professor Freeman on section seven of
12 his affidavit says that "These judgments by members
13 of the bar which are made in good faith," as he
14 believes ours are, "should be given considerable
15 deference," because otherwise it would focus on our
16 bar references when picking or hiring us to defend a
17 crime.

18 And if we start to do that, start to think
19 about "Is this going to get me in trouble? Should I
20 really do this?" and we're not providing a complete
21 and full defense, we're not doing our best for him.

22 And I think it was really our duty to
23 present these claims against Mr. Kelly as they were
24 presented to us from the evidence. And to not do so
25 would be a PCR, it would be malpractice, I think.

1 I'd also ask you to draw your attention to
2 comment three of the Rule 3.1, which I think
3 encompasses and acknowledges what I'm saying,
4 because if the lawyer's obligations under this rule
5 are subordinate to federal or state constitutional
6 law, then how is a defendant in a criminal matter to
7 be of assistance of counsel in presenting the claim?

8 So I think the rule envisions that this --
9 although we all strive to be as professional and as
10 ethical as we can be, I think the rule envisions a
11 situation where even so that you can comply with
12 federal constitutional and state constitutional
13 requirements to defend a man that there's going to
14 be a case where maybe you're not sure.

15 It's certainly not this case. We are
16 certainly sure of what our defenses say. If there's
17 a case where you're not sure, you still need to go
18 forward on that claim to do your best in defending
19 the client in a criminal matter. So I think the
20 rule envisions that.

21 I don't believe personally we acted in bad
22 faith. I think we had a duty to defend this man the
23 way we did. Otherwise, I think it would be a PCR.
24 I think Professor Freeman has given us some sound
25 backing and some sound guidance.

1 And I've never really even thought about
2 the rule the way that I have now. But it does give
3 me comfort in my actions. So I do think that we did
4 defend this man, Mr. Wilkins, ethically.

5 I understand Your Honor's concern, but I
6 hope that we have eased some of your concerns on
7 this. Taking the case in the totality of the
8 circumstances, I think we had a duty to defend this
9 man the way we did.

10 THE COURT: Well, typically these are the
11 issues involved in abuse of process, the misconduct
12 during criminal trials. They're usually attacks by
13 the defense against the State, against the
14 prosecutor, claiming some ethical breach that
15 deprives the defendant of their constitutional right
16 to a fair trial because the prosecutors are
17 considered ministers of justice whose duty is not
18 merely just to get a conviction but to ensure that a
19 just result comes out of the criminal proceeding.
20 Not just toward the prosecution claiming that they
21 are just trying to get a conviction as opposed to
22 doing justice. So there isn't a lot of case law or
23 studies dealing with that in relation to the
24 defense.

25 There are some dealing with the State,

1 particularly a study recently done by the Santa
2 Clara University Law School on the issue involving
3 abuses by the prosecution and the number of innocent
4 people in prison as a result of that abuse.

5 But it just doesn't go merely toward the
6 prosecution. It also goes as direction of the
7 defense. And the question of at what point does the
8 integrity of the adjudicatory process get
9 high-jacked or can get high-jacked by just anything
10 goes to win or to lose a case.

11 And we've had recently where a mistrial
12 was declared in a case where one of the -- I think
13 the defendant claimed some romantic relationship
14 with the prosecutor or a key witness, or something.

15 It resulted in a case having to be a
16 mistrial, and that was maybe three or four months
17 ago, I believe. And then in this case, we're in the
18 process of a trial, and then sort of out of left
19 field the claim comes that the killer isn't the
20 defendant.

21 The killer is an officer in the police
22 department that's responsible for investigating this
23 case. So it's a rather shocking allegation that
24 just can't be ignored. It has to be looked into, to
25 some extent at least. Of course, this is not a

1 disciplinary proceeding.

2 I'm here concerning the case itself and
3 not concerning whether it all crossed the line. And
4 the question would not be for me to decide. The
5 question in these instances is whether there's some
6 duty or at what point it becomes the duty of the
7 Court to present the matter to a disciplinary body
8 for investigation and for a determination of whether
9 or not some violation was made. So it's not my
10 intent at all
11 to --

12 MR. SHEALEY: And that's fine.

13 THE COURT: -- decide the issue yes or no.
14 It is an important issue, and it's one in which
15 everyone should be aware of the limits or the
16 possibility of going beyond the limits, in which you
17 go beyond representing a client to being in a
18 position of being forced to represent yourself or
19 defend yourself as opposed to defending the client.

20 And likewise, this affidavit from
21 Professor Freeman I guess is one of the type that he
22 probably prepares when he is asked by a disciplinary
23 board to defend someone or to give some opinion for
24 their use.

25 I've gotten them from him before in civil

1 cases where lawyers are fighting over ethical issues
2 in the middle of a trial. But we'll put that issue
3 aside. I just want to make it clear that this is
4 not a disciplinary proceeding.

5 I certainly understand and appreciate the
6 limit that defense counsel are often put in in
7 trying to vigorously represent a person while at the
8 same time being obligated to stay within the rules.

9 It is interesting that the rule that
10 certainly puts a lot of limits on the lawyer in a
11 civil case seemed to carve out an exception to some
12 degree -- it carves out an exception to some degree
13 under 3.3 -- is that B? -- about a criminal
14 proceeding -- 3.1. We'll leave that issue as it is.
15 The State has no role in that issue. So we'll move
16 beyond that point.

17 MR. SHEALEY: Thank you, Your Honor.

18 THE COURT: All right.

19 MR. SHEALEY: May it please the Court, I
20 can move on and address number two. Your Honor,
21 this issue regards once the State put Melron Kelly
22 in reply to our case, right before that, Ms.
23 Campbell alerted the defense to the fact that she --
24 it just became aware to her that there was an
25 Internal Affairs investigation -- had Melron Kelly

1 on the stand.

2 When cross-examined about that, he said,
3 "I self-reported." However, Your Honor, pursuant to
4 the violation, pursuant to Brady v. Maryland, Riddle
5 v. Ozmint, Kyles V. Whitley, Your Honor, this would
6 have been essential if we had had this advance.

7 And whether it was self-reported or not,
8 and even if the information that the State has right
9 now is that there never was anything done about it,
10 if there was a name on a piece of paper, we would be
11 entitled to it -- certainly, an Internal Affairs
12 investigation regarding misconduct in office
13 regarding Melron Kelly relating to the death of
14 Ebony Williams.

15 Your Honor, Kyles v. Whitley, you know,
16 speaks to the point that an individual prosecutor
17 has a duty to learn of any favorable evidence, notes
18 -- acting law on the government's behalf in this
19 case, including police.

20 The Supreme Court rejects the notion that
21 the prosecutor should not be accountable for
22 information only known to police or that they give
23 them some kind of special leeway. In this case,
24 Your Honor, police knew about the Internal Affairs
25 investigation.

1 It should have been made available to
2 defense counsel once anybody is charged with the
3 death of Ebony Williams. It could have been used
4 for impeachment. It could have been used in
5 cross-examination.

6 And it undermines the confidence in the
7 verdict in this case, as Kyles v. Whitley notes,
8 when a piece of information like this is not turned
9 over, especially in light of all the different
10 points that we were showing that Melron Kelly had a
11 part to play in the death of Ebony Williams.

12 And I don't know what -- I don't know if
13 there was anything generated. I never found any
14 supplemental report. They don't just not go into
15 it. I know they investigated.

16 And my understanding of Internal Affairs
17 is that they are separate and apart from. They were
18 an objective, neutral department that would look
19 into a matter, even if there was a self-report, and
20 investigate any claims.

21 Your Honor, I think that could have -- I
22 certainly think not having information and not
23 having the ability to use the in our defense
24 undermines confidence in the verdict. And I think,
25 even though Ms. Campbell may have only found out

1 about it right before she put up Lt. Melron Kelly on
2 the stand in reply, I think there's always a duty by
3 the prosecution, as outlined in Kyles v. Whitley,
4 Brady, and Riddle, to find out this information.

5 Good faith, bad faith, it does not matter.
6 And this, Your Honor, changed the outcome of the
7 verdict. I can't anticipate exactly what the jury
8 would have thought of that information. I don't
9 know what the information is.

10 I don't know if there's a file or not. I
11 tend to think that there probably a big file in
12 Internal Affairs that we have never been privy to,
13 ever; other than having knowledge that there is an
14 Internal Affairs self-report, if you will.

15 But certainly having that, we should have
16 had that.. Anybody charged with murder in this case
17 should have had that and had access to it under
18 Kyles v. Whitley, Brady, and Riddle, Your Honor.
19 And I think not having it undermines the confidence
20 in the verdict.

21 I think it's a due process violation. It
22 does not allow the defense under the Sixth and
23 Fourteenth Amendment to be able to present a full
24 and complete defense, certainly given the other
25 elements of the case that the defense was pointing

1 towards Melron Kelly.

2 THE COURT: All right, response by the
3 State?

4 MS. SIMPSON: May it please the Court?
5 Your Honor, this matter came to our attention during
6 the course of the defense's case. We then got Lt.
7 Kelly in here and talked to him prior to him coming
8 to court, as I told them on the day when I told them
9 all this information. He did check in Internal
10 Affairs.

11 There are no documents. There's nothing
12 he turned over. He self-reported several months
13 after this murder occurred because he had heard a
14 rumor. He did it out of the abundance of caution.
15 There was no follow-up, as I informed them of that
16 day.

17 There was no follow-up that they explored
18 on the stand as far as anything else being done in
19 this case. He merely did it out of an abundance of
20 caution. And there is nothing that could be turned
21 over.

22 It's my understanding he checked with the
23 office. There's no documentation, there's nothing
24 else, other than what was told to them, and what was
25 brought out on the stand, and what they

1 cross-examined him on.

2 I do not know how this could in any way
3 affect the verdict in this case, because they have
4 been sent all that information ahead of time. Had
5 they informed us of their intent to accuse -- Your
6 Honor, we'd submit a basis claim -- against Capt. --
7 he's now Capt. Kelly, Your Honor -- we would have
8 explored this at an earlier time.

9 However, we were not aware of it. As soon
10 as we became aware of it, we turned it over. There
11 is nothing else to be had. Your Honor, they keep
12 talking about -- they're talking about Brady, and
13 Kyles v. Whitley, and everything, Your Honor. There
14 is State versus Patricia Kennerly, which is a 1999
15 opinion.

16 THE COURT: Spell that name again.

17 MS. SIMPSON: Kennerly, Your Honor. If I
18 may approach, I can hand you a copy.

19 THE COURT: All right.

20 MS. SIMPSON: Which does outline a Brady
21 and a Kyles v. Whitley analysis as done by our
22 Supreme Court. It's subsection B, I believe, Your
23 Honor.

24 THE COURT: K-E-N-N-E-R-L-Y.

25 MS. SIMPSON: Your Honor, there's nothing

1 else that can be turned over. I don't know how this
2 would be material in any way to guilt in this case.
3 And, respectfully, Your Honor, we'd ask you that you
4 deny this motion, as well.

5 THE COURT: All right, Mr. Shealey?

6 MR. SHEALEY: May it please the Court,
7 Your Honor. Your Honor, in all due respect, the
8 Kennerly case, which is from our South Carolina
9 Court of Appeals; the Kyles v. Whitley case, United
10 States Supreme Court, makes no excuses for
11 information that could -- that undermines confidence
12 in a verdict -- that has not been provided.

13 And the Whitley case, in this case, is
14 directly on point, Your Honor. It does -- and if
15 you would indulge me, Your Honor, the United States
16 Supreme Court will reject suggested alternatives
17 under which some favorable evidence is not disclosed
18 to the prosecutor until after trial.

19 This is regarding the prosecutor's, you
20 know, mandate basically to people acting on the
21 government's behalf -- in the case, including police
22 -- to bring forth favorable evidence to the
23 defendant.

24 But the Supreme Court rejects any
25 situation, one, where the government would not be

1 held accountable for evidence known only to police
2 and investigators and not to the prosecutor, which
3 is in this case; or, two, where you give an
4 uncertain degree of further leeway, the government
5 cannot avoid responsibility for knowing when the
6 suppression of evidence has come to portend such an
7 effect on a trial's outcome as to destroy confidence
8 in the trial's result.

9 This means that a prosecutor anxious about
10 tacking too close to the wind will disclose a
11 favorable piece of evidence. This is as it should
12 be. Such disclosure will serve to justify trust in
13 the prosecutor as the representative of a
14 sovereignty whose interest in a criminal prosecution
15 is not that it shall win the case, but that justice
16 shall be done.

17 And, two, it will tend to preserve the
18 criminal trial as distinct from the prosecutor's
19 private deliberations, as the chosen form for
20 ascertaining the truth about criminal accusations.
21 No one here is saying that Ms. Campbell knew of
22 these in advance.

23 However, it is here duty to discover this
24 information. And, as the Court has noted, a
25 sensational claim regarding Melron Kelly is much,

1 much, much less sensational given the totality of
2 what was brought before the Court.

3 However, any criminal defendant, Your
4 Honor, including, of course, Ahmad Wilkins, should
5 have had information and should have been sought by
6 the prosecution regarding an Internal Affairs
7 investigation by law enforcement. Your know, our
8 independent investigation in this case, which really
9 stemmed from witnesses that the Columbia Police
10 Department had already interviewed, those are the
11 people we spoke to.

12 They knew about this. Ms. Campbell stated
13 that Melron Kelly self-reported and that he says
14 that there is no information in Internal Affairs.
15 Nothing was done, you know. Your Honor, I think if
16 we had information regarding this -- and I think any
17 file in the prosecutor's office regarding this case
18 should have had a note regarding Melron Kelly, a
19 self-report, to make anything that was challenged
20 regarding his involvement in this case credible.

21 It should be disclosed. However,
22 considering what was presented to the jury, even
23 what was not presented and what is only in this
24 report, I think an Internal Affairs investigation or
25 self-report, if anything was done -- if his name was

1 even written down -- it should have been turned
2 over.

3 I think that we could have ostensibly
4 attacked the integrity of the investigation, could
5 have confronted Investigators Reese and Thomas about
6 it and other investigators in this case that the
7 State may have chosen to call.

8 And I think that information, that
9 knowledge, in front of the jury, again, not having
10 that information, undermines the confidence in this
11 verdict. And I think that's what Kyles v. Whitley
12 says.

13 And the prosecution, even if they only
14 found out about it right before they put him up, it
15 is their duty to find out these things. And I
16 think, given the gravity of this claim, it had to
17 have been unearthed by this office, by the
18 prosecutor.

19 And without it, I think it undermines the
20 confidence in the verdict. And that's why we're
21 requesting a new trial on that violation pursuant to
22 Brady, Riddle, and Kyles v. Whitley.

23 THE COURT: And do you know of any cases
24 that exist addressing the issue of discoverability
25 of Internal Affairs reports or Internal Affairs

1 investigations, or anything similar to that?

2 MR. SHEALEY: Your Honor, I think the
3 defense should be made to distinguish the fact that
4 Melron Kelly works for the Columbia Police
5 Department versus just a different person. I don't
6 think there is any necessary added protection in
7 that.

8 I think someone in law enforcement found
9 out, and the investigators in this case knew about
10 the self-report, if the investigators had found out
11 after another person had told somebody that, you
12 know, there's talk about someone else doing that and
13 they investigated that.

14 I think the defense's standpoint on this
15 issue, Judge, is that when it came to investigation
16 into a suspect and, you know, whether it was done by
17 them or not, that should have been made to come
18 forward.

19 And I think given the fact that all the
20 information we had pointing towards Melron Kelly, as
21 powerful or not as it may be, for the Court or
22 society, for the prosecution certainly, should have
23 been disclosed to us.

24 I don't distinguish Internal Affairs
25 versus -- and to answer your question, I don't know

1 of any case law on point. This is such a novel set
2 of facts, I don't know if there would be.

3 But as of right now, what I've heard is
4 that Melron Kelly per Ms. Campbell says there's
5 nothing up there. I don't know if there is or not,
6 Your Honor.

7 I just know that the information about a
8 self-report even would have been helpful in this
9 case as far as asking questions of law enforcement
10 and investigators in this case that they could not
11 have denied.

12 I think the jury never heard that. It was
13 never brought to their attention until the reply
14 case when we were made privy to a self-report
15 situation. I think that --

16 THE COURT: What else do you want to know
17 about it? What else would you want to tell the jury
18 about it?

19 MR. SHEALEY: I think just taking what
20 Melron Kelly says on the face of it, that "I self-
21 reported, and they did nothing. There's nothing up
22 there," would have been powerful.

23 But, Your Honor, I would say this, if we
24 had known about the self-report, certainly we would
25 have subpoenaed any Internal Affairs investigation,

1 any file regarding the allegation of someone else
2 being linked as a suspect to the death of Ebony
3 Williams.

4 We certainly would have done that. We
5 could have done some fact-finding. I don't know
6 what's in that file. I do not know what's in that
7 file, other than what they tell me, that there is no
8 file.

9 However, just the knowledge of that should
10 have disclosed. And I think it could have been
11 helpful in front of the jury, especially given the
12 sensational nature of this situation.

13 THE COURT: Okay. Was Kelly listed as a
14 witness?

15 MR. SHEALEY: Yes, Your Honor.

16 THE COURT: All right, anything on this,
17 any response?

18 MS. CAMPBELL: No, sir.

19 THE COURT: All right, what other issues?

20 MR. SHEALEY: Your Honor, number three of
21 defendant's motion for a new trial regarding the
22 chain documentation that was provided as the file
23 was ongoing. Your Honor, we made a number of
24 specific chain requests asking for this information
25 filed with the Court, pre-trial.

1 We renew our Rule 5 and Riddle motions.
2 We specifically ask for this information because
3 there was -- in the defense's position, we believe
4 it's the truth -- in Rachel Grant's notes a rape kit
5 that went gone for a period of time there.

6 And we were trying to desperately look for
7 information about where it went. Your Honor, you
8 ruled that there was sufficient chain. However,
9 this chain evidence was presented to us, some of it,
10 in the middle of trial on an issue that we had been
11 seeking information on for a long time.

12 I believe that it is a discovery violation
13 under Rules 5 and 6, (inaudible) versus Maryland,
14 because we weren't able to actively review it. I
15 noticed that, you know, some of the chain
16 information that was coming was signed and undated.

17 And this is not something that should be
18 dropped in the middle of trial. Chain is chain.
19 It's real simple. And some of this was forthcoming
20 right in the middle of trial, and it shouldn't have
21 been that way, Your Honor.

22 We feel had we had what was presented to
23 us in the middle of trial weeks in advance as we
24 requested, we could have investigated it and looked
25 at the issue more probatively. However, since we

1 were not, we feel that we weren't able to present a
2 defense, and we feel it's a violation, a discovery
3 violation, that merits a new trial.

4 THE COURT: All right, by the State?

5 MS. SIMPSON: Thank you, may it please the
6 Court. And, Your Honor, I'll try to be brief.
7 Essentially, the defense had the opportunity to
8 review the evidence prior to trial.

9 They initially refused that opportunity.
10 However, they came back the next day and extensively
11 viewed the evidence, inspected it, which is what the
12 State is required to do under Rule 5, is provide the
13 defense either a copy of or an opportunity to
14 inspect the evidence.

15 And in this case, we did. And on that
16 evidence, all of the chain information is documented
17 on the physical evidence itself. The defense had
18 all that prior to trial.

19 Additionally, Your Honor, at trial the
20 defense did not stipulate to any of the chain, not
21 just the rape kit but all of the chain. And so the
22 State was prepared and did in fact present each and
23 every witness necessary to establish the chain of
24 custody on each item of evidence that was actually
25 introduced at trial.

1 And upon presenting each and every
2 witness, the defense had a full and complete
3 opportunity to cross-examine those witnesses, and
4 they did avail themselves to that. I believe they
5 questioned several of them extensively about the
6 chain.

7 We also in the middle of that, Your Honor,
8 provided them additional chain information which
9 they referred to unsigned and undated. However,
10 that is inaccurate, as it was signed, it is
11 documented.

12 But at the end of the day, all that
13 information that was provided in the middle of trial
14 was merely duplicative to the stuff that they had
15 the opportunity to review before trial.

16 Additionally, Your Honor, we didn't just
17 provide it and they were forced to go forward with
18 their cross-examination. You gave them an
19 opportunity to review the materials that we provided
20 to them before they continued their cross-
21 examination.

22 So they had that opportunity as well, so
23 there was no prejudice in that respect. They were -
24 - each witness was available to answer any questions
25 they had. And I think correctly, Your Honor, you

1 ruled that chain was sufficiently established, and
2 in order to do that, we must prove that the evidence
3 itself was not tampered or altered with in any way.
4 We complied with that.

5 Additionally, Your Honor, the only item of
6 evidence -- and it's my understanding that they did
7 dispute the chain -- was the rape kit. And the
8 defense kind of throughout the trial and even during
9 the testimony and through the questions of the
10 witnesses mischaracterized it as misunderstands
11 exactly what the testimony was, whatever it may be,
12 as being lost and that because it was lost, it was
13 tampered with or altered with by Kelly or by the
14 Columbia Police Department on behalf of Kelly with
15 respect to the allegations or their contention of a
16 sexual relationship or romantic relationship or the
17 third-party guilt issues that Kelly -- Capt. Kelly -
18 -- actually committed the murder.

19 Your Honor, it was disclosed to the
20 defense prior to trial that the rape kit itself had
21 been misplaced at some point prior to. However
22 misplaced, it was not lost. At all times, which was
23 testified to at trial, that rape kit was, number
24 one, individually packaged and sealed properly, and
25 that it was in the CPD evidence room.

1 Essentially, Your Honor -- and they
2 brought this out through Rachel Grant, I think they
3 testified several times, because she's key here.
4 First of all, they kind of focused on the
5 loss/misplace. Initially, the rape kit was tested.

6 This is prior to any contention that it
7 was misplaced, whatever the case may be. No semen
8 was identified, which would make it relevant, I
9 guess. I submit that it doesn't. But no semen was
10 ever identified at that time.

11 All the evidence went back. The evidence
12 was retested or requested that it be retested, which
13 it was. And at that point, Rachel Grant didn't
14 receive it in a box with other items of evidence.

15 But when she got it back, it in fact --
16 which she testified to -- was properly sealed and
17 packaged. It even had her signature, her markings
18 from the last time that she had handled the
19 evidence.

20 And I probably ought to go more
21 extensively into what happened itself. Essentially,
22 I guess the question is whether we violated any
23 discovery rules in this case, and I submit we did
24 not. The defense had this information prior to
25 trial, the ability to cross-examine them at all

1 times. So --

2 THE COURT: All right. Considering that
3 this is a murder case, what's the relevance of the
4 rape kit?

5 MS. SIMPSON: Your Honor, the State's
6 position is that it is not relevant. There were no
7 allegations of sexual assault or misconduct in this
8 case, be it through Dr. Marcus, the pathologist,
9 which also testified that she was not pregnant,
10 which is what the defense elicited, as well as just
11 no allegations of sexual assault.

12 This even romantic relationship or
13 whatever may have happened that the defense has come
14 up with, there's nothing to support that, Your
15 Honor. So the State stands by that even if there
16 were issues, no prejudice resulted, there were no
17 violations on behalf of the State, and that we
18 complied.

19 THE COURT: All right, Mr. Shealey.

20 MR. SHEALEY: Thank you, Your Honor, may
21 it please the Court. Your Honor, again, number
22 three is just in regards to the rape kit. We're not
23 challenging chain of every item of evidence. Ms.
24 Simpson does recall correctly that we did have an
25 opportunity to view the evidence in the case.

1 At that time, the rape kit was not there.
2 It was being -- I think it was in possession of
3 Richland County because we had asked to have it
4 tested again. However, we did leave that day
5 because they requested that we were to -- there was
6 no -- Ms. Moore, Susan Moore was not there. There
7 was no -- Investigator Thomas was not there.

8 We weren't comfortable digging through the
9 evidence. They presented a form where they said we
10 could have done it if we did challenge any chain,
11 which we weren't about to do.. So we did come back
12 at a later date.

13 I think that's beyond the point, Your
14 Honor. The point of the rape kit was basically it
15 went missing. It was described as lost in Rachel
16 Grant's bench notes. Your Honor, one of the reasons
17 we asked to have it retested was because even though
18 it didn't have any spermatozoa in it, it could have
19 been tested for the presence of DNA.

20 When it went missing, the reasoning behind
21 having it retested was to see if it was even Ebony
22 Williams' rape kit. When it was retested, it was
23 tested -- it was run under Yfiler kit, which just
24 looks for the presence of male DNA. When they did
25 that, no male DNA was found.

1 This was done maybe a month before the
2 trial at my request. However, by not testing it
3 under any other form of DNA or run other than
4 Yfiler, you also don't know if there's any female
5 DNA present.

6 Therefore, you can't say that kit was
7 exactly Ebony Williams' kit. The kit actually came
8 back after it was lost for four months. However --

9 THE COURT: Considering your claims,
10 testimony of oral sex the night or the morning the
11 young lady died, how would that prove or disprove
12 anything in relation to this murder case?

13 MR. SHEALEY: The reason the rape kit
14 really became a part of this case from a defense
15 perspective, Your Honor, is because of Rachel
16 Grant's notes that it was lost, and it could not
17 retrieved for about approximately four months.

18 At that point, the defense wanted it to be
19 tested to see if it was even Ebony Williams' rape
20 kit. So when it was actually tested on a Yfiler, it
21 didn't test to see if it was Ebony's. Therefore, we
22 were not -- we didn't feel confident it actually was
23 hers.

24 We were looking for confidence that what
25 had been lost had been found. That's why the rape

1 kit became an issue in this case, and that's why we
2 had made specific requests for the chain
3 information, all of it, in advance of trial on the
4 rape kit issue.

5 And even though we had sent the requests,
6 documents were provided to us in the middle of the
7 trial. It became a big issue because we were
8 alleging that it was lost and intentionally removed
9 -- intentionally -- and that what came back was not
10 actually Ebony's Williams' rape kit, not her
11 specimen.

12 That's why we required and demanded all
13 the chain in advance. And what was provided to us
14 in the middle of trial, the defense felt was
15 inadequate and was a violation of Rule 5, Brady.

16 THE COURT: Okay, what's the next point of
17 contention?

18 MR. SHEALEY: Yes, Your Honor. Your
19 Honor, number four of the defense's motion for a new
20 trial is in regards to Investigator McDonald. He
21 was qualified as an expert in cell phone tower
22 tracking, basically, the idea and the science behind
23 pinpointing someone's whereabouts based on their
24 cell phone.

25 None of this -- none of the charts, data,

1 or anything -- were provided in discovery in this
2 case. We had no information about any of the
3 presentation that was there.

4 THE COURT: Whose whereabouts did he
5 pinpoint through their cell phone?

6 MR. SHEALEY: He got up and testified to
7 the whereabouts of our client being that he was
8 within the vicinity. Your Honor, we always request
9 any materials that are expert in nature to be
10 provided to the defense.

11 We feel entitled under Brady, under
12 Riddle. This kind of information should have been
13 just subject to our cross-examination on reply. It
14 was never provided and was used with data and other
15 information that, you know, the defense should have
16 been able to have the opportunity to hire an expert
17 to look it for potentially impeachment.

18 THE COURT: It's undisputed that he was in
19 the vicinity. He was there in the complex. He
20 lived in the complex.

21 MR. SHEALEY: Yes, Your Honor. The data
22 in question -- I'm also not an expert. But if I had
23 hired an expert, I could have potentially used the
24 data that they used to maybe look at it a different
25 way. Maybe it purports to show our alibi, exactly

1 what we're talking about, with the data that they
2 generated, which we do not have.

3 THE COURT: And the alibi, again, is what?

4 MR. SHEALEY: That he was at home at the
5 time of the murder, by the time they allege that he
6 did this murder, per the witness that we heard, his
7 girlfriend. So, Your Honor, by not having any of
8 that expert information used by the State in their
9 case, not having their raw data for us to actually
10 be able to hire an expert of our own in that field
11 is a discovery violation, and it warrants a mistrial
12 and a new trial.

13 THE COURT: These last two things, this
14 makes me think of where there are unlimited
15 resources, or seemingly there must be unlimited
16 resources in Richland County and no other place in
17 the state where the defense can follow this trail
18 and follow that trail through experts on issues or
19 undisputed issues or issues that prove or doesn't
20 prove anything in relation to what a person is on
21 trial for.

22 Of course, that's one the concerns that I
23 certainly have during my tenure here regarding the
24 wasting of taxpayers' resources where the
25 defendant's right to a fair trial is not defended or

1 where the State's resources are wasted. That's on
2 that point.

3 What's the next one?

4 MR. SHEALEY: Your Honor, may it please
5 the Court, point number five is regarding the
6 Patruan Hare issue --

7 THE COURT: Patruan Hare.

8 MR. SHEALEY: -- the State witness that
9 was incarcerated with our client and testified in an
10 incriminating fashion regarding what he admitted to
11 him, killing the victim that night. In general, if
12 you recall, there was originally pre-trial motion by
13 the State to remove defense counsel from the case,
14 period, based on their alleged concern of a conflict
15 of interest in that Brian Shealey represented
16 Patruan Hare at the same time, that there was
17 overlap, as he represented Ahmad Wilkins.

18 And Your Honor denied the State's motion
19 at that time, saying this wasn't a PCR or similar
20 issue that he'd be concerned with our client in that
21 regard. But it was denied at that time, and, you
22 know, the motion was, to the best of my
23 understanding, that this issue shouldn't be taken
24 up, especially because as we argued that motion, it
25 came out that Mr. Shealey -- Brian Shealey -- did

1 not know that Patruan Hare had gone to the City of
2 Columbia Police Department and cooperated with them
3 by the statement against Mr. Wilkins until that
4 statement was turned over about a month prior to
5 this trial.

6 Patruan Hare never told Mr. Shealey. The
7 State turned it over about a month prior to this
8 trial. If we had known at the time -- and should
9 have known at the time -- the first thing he would
10 have done was a conflict of interest, because
11 clearly he can't represent these people at that the
12 same time.

13 But once that was turned over, we then
14 were aware of it. But the bottom line is that was
15 your pre-trial motion. This is an issue that
16 shouldn't have been gotten into in your pre-trial
17 ruling. And Ms. Campbell elicited from Patruan Hare
18 very early on that "Who was your lawyer at the time
19 you did this?" "Well, it was Brian Shealey."

20 And we objected. We asked for a mistrial.
21 And we again state the fact that the jury was made
22 aware of this is really just a personal attack by
23 the prosecution on the defense saying essentially
24 that we will use one client against another. And
25 that's the type of lawyers we are.

1 This is their defense, so believe what
2 they say with a serious grain of salt. They'll do
3 anything at a specific time to help a client, which
4 is clearly improper, clearly inappropriate.

5 You sustained our objection as a violation
6 of your pre-trial ruling. But the bell was rung.
7 The jury was made aware of that. And we just find
8 that particularly egregious and think that a
9 mistrial should have been granted at the time and
10 that a new trial should be granted for that reason,
11 just because of the personal attack.

12 It really limits his right to effective
13 assistance of counsel if the jury thinks that Brian
14 Shealey will be using Patruan Hare against Ahmad
15 Wilkins in doing that. It's just unconscionable,
16 and we think that is a strong basis for a new trial.

17 THE COURT: All right, Ms. Walker.

18 MS. WALKER: Thank you, Your Honor. Mr.
19 Shealey is -- Mr. Luke Shealey -- is right on one
20 point. We did bring this to the Court's attention
21 before the trial started.

22 Mr. Brian Shealey never brought it to our
23 attention that he represented Patruan Hare, even
24 though he knew that Patruan Hare did give a
25 statement in this case and had the dates and times

1 on which he gave that statement.

2 Upon our own investigation, Your Honor,
3 using our archives, we realized that Mr. Shealey
4 represented Mr. Hare and Mr. Wilkins simultaneously.
5 And out of an abundance of caution, Your Honor --
6 and I know Luke Shealey says he doesn't understand
7 why we were concerned about this -- we were
8 concerned in terms of preserving all of the
9 defendant's rights in this trial, Your Honor.

10 At that point, you then advised Mr.
11 Wilkins of possible issues with this. Mr. Wilkins
12 stood up and on record waived any conflicts at that
13 point in time. So for them to now at this point
14 come in and say now it's an issue, it's something
15 that they've already waived and said there was no
16 issue before the trial.

17 Your Honor's pre-trial ruling -- and I
18 think what you said exactly, Your Honor, was this
19 could be something that cuts both ways. This could
20 be something adverse to the State. This could be
21 something adverse to the defense.

22 At no point did Ms. Campbell on her direct
23 examination of Patruan Hare ever attack Mr. Shealey
24 or anyone else that was representing Mr. Wilkins
25 during the trial. She asked him questions regarding

1 his stay at Alvin S. Glenn and conversation that he
2 had with Mr. Wilkins in which Mr. Wilkins admitted
3 to having killed the victim in this case, Your
4 Honor.

5 At that point on cross-examination -- and
6 we addressed this issue pre-trial as well -- Mr.
7 Shealey said, "I'm not going to cross-examine him.
8 I'm not going to attack his credibility. I'll send
9 my twin brother to do it."

10 He then goes in there and attacks his
11 credibility, attacks the statements that he gave.
12 And we learned, I think at that point too, when
13 Brian Shealey says that he was not aware of any of
14 those statements, that Brian Shealey before pleading
15 Patruan Hare guilty on those crimes met with him and
16 his federal attorney in holding.

17 He had his federal attorney come over and
18 explain some things to him before he even pled
19 guilty. Once they attack his credibility and talk
20 about his guilty pleas and talked about any sort of
21 recommendations or benefits that he was getting by
22 any federal or state agency regarding prosecution at
23 that point in time, on redirect Ms. Campbell then
24 asked him who his attorney was.

25 He said it was Brian Shealey. They

1 objected. You sustained their objection, and you
2 told the jury to disregard it, Your Honor. I think
3 that that -- yes, at their request, Your Honor. I
4 think that their request for a new trial on that
5 ground should be denied.

6 THE COURT: Yes, sir?

7 MR. SHEALEY: Just briefly as to that.
8 We're talking about two pretty distinct issues in my
9 mind. One issue raised pre-trial was the right for
10 Mr. Wilkins to have a conflict-free trial that they
11 brought up.

12 And I think we all kind of went with that
13 because it's so unusual that -- successful in
14 getting a life sentence for him to have worried
15 about a conflict pre-trial. But that was one issue.

16 You made sure there were no conflicts.
17 Really when it came to light for Mr. Shealey when
18 that statement was turned over, he had no idea. But
19 Mr. Wilkins was prepared to go forward. You
20 questioned him with defense counsel.

21 However, the other issue is whether the
22 jury gets to know and gets the inference from Ms.
23 Campbell, "Who was your lawyer then, Patruan?"
24 "Brian Shealey.". It's not appropriate for them to
25 know even whether he's okay going forward conflict-

1 free because it's an attack on counsel.

2 It's an attack on their effective
3 representative to say, "Yes, they represented
4 Patruan Hare. And the interesting thing is that
5 Brian Shealey" -- with Investigator Thomas. They
6 got a statement from Patruan Hare -- they gave him a
7 deal -- to hurt Mr. Wilkins.

8 And the jury now just thinks that Brian
9 Shealey knew about that. That's a separate issue of
10 whether Mr. Wilkins has a conflict-free trial. And
11 that is what we're getting to, you know, the fact
12 that I don't Your Honor envisioned it being elicited
13 that Brian Shealey is both their lawyers and help to
14 elicit information with Patruan and the City of
15 Columbia against Mr. Wilkins.

16 I don't think you ever envisioned that.
17 It came out, we objected, and you sustained it. We
18 asked for a mistrial. You denied that. But for the
19 jury to know that makes us look like sleazy defense
20 lawyers, and it makes us less effective in their
21 eyes, especially in the light that we are bringing a
22 claim, as you have noted, so shocking and so
23 sensational, which it is.

24 They're not going to believe that claim,
25 knowing that we're the type of lawyers that are

1 going to represent Patruan on one day to hurt him,
2 Mr. Wilkins -- represent Mr. Wilkins and attack
3 Patruan the next. So that is an attack on counsel
4 that we believe merits a new trial.

5 THE COURT: All right, any response, Ms.
6 Walker?

7 MS. WALKER: I don't have anything else to
8 say, Your Honor.

9 THE COURT: All right, we'll move to the
10 next one.

11 MR. SHEALEY: Your Honor, number six is
12 the issue regarding Rachel Grant's testimony. Your
13 Honor, she was the DNA analyst for Richland County
14 that the State used in this case to analyze the DNA.

15 There are two key pieces of evidence in
16 this case, the neck ligature that actually was used
17 to strangle Ms. Ebony Williams, and also the glove
18 in this case that came into play. Your Honor,
19 considering the glove, the data that was provided --
20 and as you know, the defense hired a DNA expert.

21 Ms. Rachel Grant was qualified as the
22 State's DNA expert. But the data which was run
23 could not eliminate as a contributor Mr. Ahmad
24 Wilkins from the glove.

25 And regarding the neck ligature, you know,

1 the defendant's DNA or any paternally related male
2 cannot be eliminated as a contributor to the neck
3 ligature. Your Honor, DNA as a science has come
4 into the foreview in the past 15 or 20 years.

5 There are experts that testify to it.
6 There are all types, and Ms. Campbell knows as well
7 as anybody else there are all types of strong DNA
8 hits, lesser DNA hits, or weak DNA hits.

9 Ms. Grant testified and it is in the
10 transcript, and what we have of Steve Lambert's
11 affidavit is the transcript, direct, cross,
12 redirect, and recross of Rachel Grant in its
13 entirety. And, you know, she freely admits this is
14 not a strong DNA case.

15 THE COURT: And Steve Lambert is?

16 MR. SHEALEY: That's our expert, Your
17 Honor.

18 THE COURT: He testified in the case? He
19 testified?

20 MR. SHEALEY: Yes, Your Honor.

21 THE COURT: All right.

22 MR. SHEALEY: Your Honor, our issue on
23 point number six is that, first of all, Ms. Campbell
24 elicited testimony, and she had a board which she
25 used and was able to show it to the jury, saying

1 that our client's DNA was present.

2 Your Honor, DNA is very scientific. A
3 good DNA case, a DNA report can say this person's
4 DNA to a fourteenth quadrillionth. I mean, it's
5 very detailed. In this case, it was not so great.
6 It was that our client's DNA could not be eliminated
7 as a contributor.

8 Your Honor, Ms. Campbell's board when she
9 tried to use it was objected to as being introduced
10 into evidence instead of the fact it said DNA was
11 present. And then she moved into her direct
12 examination of Rachel Grant.

13 And the portions of the transcript which
14 are included in the affidavit by Dr. Steve Lambert
15 go over Ms. Grant indicating DNA is present on the
16 neck ligature and DNA is present on the glove. Your
17 Honor, the data does not support this.

18 The fact that the term "present" was even
19 used in this trial is a Riddle violation, Your
20 Honor. It takes the report itself, which talks
21 about Ahmad Wilkins could not be eliminated or any
22 paternally related male concerning the neck ligature
23 could not be eliminated or excluded, to presence.

24 It takes to it a whole nother level of
25 inclusion on DNA. And, yes, there are DNA cases

1 that take it to that next level. This was not one
2 of them. This is a science. So, Your Honor --

3 THE COURT: Was that the question or the
4 witness' response to the question, that DNA is
5 present?

6 MR. SHEALEY: Your Honor, it's in the
7 affidavit. There are a number of instances where
8 Rachel Grant responds to questioning as DNA is
9 present, and it's all over it. And this --

10 THE COURT: What's her response, that it
11 was present?

12 MR. SHEALEY: Yes, Your Honor.

13 THE COURT: All right.

14 MR. SHEALEY: Her testimony is that his
15 DNA is present when actually it should have been
16 more scientifically talking about it, as she did in
17 her report, saying his DNA could not be excluded.
18 There's a mixture. Any paternally related male
19 could be not excluded as well on that neck ligature.

20 And it took it to the next level. And,
21 one, that's Riddle violation, the State taking it to
22 another level on inclusion when the science and the
23 data suggest that you've got to say what it is.

24 Say what you mean, and mean what you say.
25 The jury, they're not scientists, nor am I. But I

1 retained a scientist, as the State has as well used
2 a scientist on the DNA issue.

3 And it was shocking when the testimony was
4 that his DNA was present, it was present, it was
5 present, because to the jury it became not just a
6 case where his DNA can't be excluded nor any
7 paternally related male.

8 But in their lay minds, it is present.
9 He's touching this, he's there, he did this, when
10 the data does not support that, Your Honor. So in
11 that sense, it's a Riddle violation. We have never
12 had any knowledge that Ms. Campbell was going to go
13 up there and subvert the science and say that the
14 DNA is present when the report says something
15 entirely different.

16 And also, Your Honor, you know, in the
17 transcript we object to the board going up. You
18 sustained that objection, but she's still allowed to
19 show it to the jury. Ms. Grant goes into her
20 testimony of the DNA's presence.

21 Mr. May tried to rehabilitate her to that
22 extent. But at that point in time, she's sticking
23 to her guns and saying that the DNA is present, "Oh,
24 yes, it's present." Your Honor, after the testimony
25 was concluded, we asked for a White, Council, Jones

1 hearing.

2 Your Honor, as you know, that line of
3 cases speaks to, you know, Rule 702, expert
4 testimony, and the trial judge is the gatekeeper.
5 Qualifications of a witness considers also
6 reliability. Your Honor, we didn't object to her
7 being qualified as an expert.

8 Her qualifications are there. What we
9 objected to was the reliability part when she, as
10 Mr. May so helpfully put in the trial, testified and
11 she went off the reservation.

12 She went so far left field of what the
13 science is in this matter that we felt the need to
14 have a White, Council, Jones hearing and try to
15 allow you to hear the testimony of Dr. Stephen
16 Lambert so you could address the issue of what just
17 happened.

18 The affidavit from Dr. Lambert supports
19 how she should have been able to testify. This is a
20 science. Your Honor, I'll make the sloppy analogy,
21 you know, of this is mathematicians talking about
22 numbers. And we all know two plus two is four.

23 Ms. Grant testified that two plus two is
24 three and a half. And it's not -- it's outside the
25 field of what she can testify that. And is why we

1 requested after her testimony a White, Council,
2 Jones hearing, which at that time was not granted,
3 Your Honor.

4 And given how far off she went in giving
5 the number crunch and what "present" means to a lay
6 jury versus "cannot be excluded," these terms are so
7 far apart. And to be honest with you, to a jury it
8 means the world. And we think because of that, our
9 denial of a White, Council, Jones hearing after her
10 testimony is a basis for a new trial, Your Honor,
11 respectfully.

12 THE COURT: All right.

13 MS. CAMPBELL: May it please the Court,
14 Your Honor?

15 THE COURT: Yes.

16 MS. CAMPBELL: I understand that they
17 didn't like her testimony. But to ask for a White
18 hearing after they've already admitted that she is
19 qualified, and at this point I don't believe they're
20 challenging any of the reliability of the science
21 itself.

22 And their own expert testified that it was
23 done properly and the report was proper. Their
24 argument seems to be even though the defendant in
25 his own testimony admitted to being there that night

1 and kind of explained away why his DNA would be
2 found there, that they have "taken this to another
3 level of inclusion."

4 Your Honor, we would just ask -- they've
5 asked you to look at Rachel Grant's testimony. We
6 also ask that you consider reviewing Steve Lambert's
7 testimony, specifically on cross-examination as to
8 his agreeing with the results and everything it
9 meant.

10 Your Honor, in that we also crossed him on
11 guidelines that are used by most forensic labs as
12 far as what can be reported in the different -- as
13 being included versus excluded and what that
14 terminology meant.

15 And, specifically, Your Honor, under 3.6,
16 comparison of DNA typing results, the known
17 individual cannot be excluded. And in the
18 guidelines which he admitted prevailed, it says
19 "i.e. is included," if I may approach, Your Honor?

20 THE COURT: You may.

21 MS. CAMPBELL: And for him to now say that
22 he was surprised or there's some Riddle violation
23 because it includes his client is simply misleading,
24 at best, Your Honor. In addition to that, Your
25 Honor, as far as the physical argument, there is no

1 basis for a White argument as you found during the
2 trial.

3 At that point, they concede that the
4 science is in fact good and reliable. Their own
5 expert gets up there and testifies, and they did
6 have their own expert, which further makes this less
7 of an issue, Your Honor, that the science that was
8 used was reliable in everything, that she was
9 competent to do the testing.

10 It merely was semantics about how he would
11 have worded it, how he put it in. He also admitted
12 that he had never even done the type of testing that
13 was done by Ms. Grant, where she is qualified to do
14 it.

15 In addition to that, he had been trained
16 by the person who reviewed the report, Dr. Gray
17 Amick, who's here in the courtroom, Your Honor, and
18 concurred with their findings, Your Honor.

19 So I don't know how at any point this
20 would be any more other than an argument over
21 semantics on what verbiage was used, whether it was
22 included, or it matches, or it's consistent with.
23 Those are his testimony.

24 Mr. Shealey acts as if he's never seen DNA
25 testimony DNA. Typically, that is how it is

1 presented in court, and I'm sure he is aware of
2 that. . Respectfully, Your Honor, we feel like there
3 is no Riddle violation.

4 In addition to that, we feel like there's
5 been no argument of motion that a White or Council
6 hearing after she has already been qualified with
7 the consent of the defense would not be appropriate.
8 And, respectfully, Your Honor, we'd ask that you
9 deny the motion.

10 THE COURT: All right, Mr. Shealey.

11 MR. SHEALEY: Your Honor, I think he tried
12 and I think what Dr. Lambert in the affidavit, he
13 only disagrees with the DNA report, cannot be
14 excluded or any paternally related male. The reason
15 we asked for a White, Council, Jones hearing was the
16 fact that she did not say that.

17 It's her testimony that is objectionable,
18 saying to a lay jury the DNA is present when it's
19 not in the DNA report. She testified to something
20 different from what's in her report. And I think
21 Ms. Campbell, who has been around a long time, knows
22 the harmful effect of saying to a jury it's present
23 versus just he cannot be excluded.

24 And I think that is more than -- I'm not
25 trying to play semantics here. I think in the minds

1 of the jury that is outside of what Ms. Grant should
2 have been able to testify to. There are DNA cases
3 where, you know, you can say, "His DNA is present
4 here."

5 Astoundingly, pinpointing numbers
6 indicating someone as being present, this is not
7 that kind of case. So Dr. Lambert and the defense
8 has no problem with the DNA report. We just have a
9 problem with her not testifying to the report and
10 saying to a lay jury DNA was present, his DNA was
11 present, versus he can't be excluded.

12 That's when her reliability issue comes
13 into play, because had she said "based on raw data"
14 and not just her DNA report, she could have said,
15 "Therefore, I believe his DNA is present." You
16 know, we would have challenged her on the stand as
17 far as her qualifications as an expert under that
18 reliability prong.

19 However, that was not in the report. We
20 only learned about it when Ms. Campbell held up a
21 board that had Ahmad Wilkins' DNA present, which we
22 objected to, that she tried to produce and also when
23 Ms. Grant testified that his DNA was present, which
24 is at odds with what she can testify to given the
25 data and given her own report.

1 So, yes, Your Honor, that's why we feel
2 it's a Riddle violation. We were not aware of Ms.
3 Campbell saying it's present. The data does not
4 support it. And that's why, when she said that, we
5 have to question her reliability.

6 And that's why we asked Your Honor, as the
7 trial judge, the gatekeeper, pursuant to this line
8 of cases that I cited, to consider her reliability
9 at that stage.

10 THE COURT: All right. I notice you
11 handed up to me a transcript that's about 90 pages -
12 - 89 pages. And all of this is the direct and cross
13 of the witness that we're now talking about?

14 MR. SHEALEY: Yes, Your Honor. In Dr.
15 Lambert's affidavit, he has pulled excerpts from the
16 transcript which are what is in question here about
17 the use of the word "present" to a lay jury is
18 outside what the Court said and outside what the
19 data can support.

20 THE COURT: All right. I want to take a
21 few minutes and read over his affidavit. So we'll
22 take about a ten-minute break.

23 (Court in recess.)

24 THE COURT: All right, I've read this
25 over. What else do you have, Mr. Shealey?

1 MR. SHEALEY: Your Honor, after that last
2 point, that is our brief. Those are the points that
3 we're asking for a new trial based on. That
4 concludes it.

5 THE COURT: All right.

6 MR. SHEALEY: Unless you want to go into
7 more on that last issue.

8 THE COURT: Anything else by the State?

9 MS. CAMPBELL: No, sir.

10 THE COURT: Well, regarding the last
11 issue, in looking at what Ms. Campbell handed up to
12 me, it's a comparison of DNA type results. The
13 following determinations can be made upon comparison
14 of evidentiary and known DNA typing results.

15 The first bullet, "The known individual
16 cannot be excluded -- is included as a possible
17 contributor to the DNA obtained from an evidentiary
18 item." The second possibility, "The person can be
19 excluded as a possible contributor." Third, "It's
20 inconclusive or undeterminable." Fourth, "The
21 typing results for multiple evidentiary items are
22 consistent or inconsistent with originating from a
23 common source."

24 All right, your argument, Mr. Shealey is
25 that if the person cannot be excluded as a possible

1 contributor that an expert witness should be
2 precluded from testifying that that means that
3 person is included?

4 MR. SHEALEY: No, my argument in regards
5 to this issue was the data. And even if, pursuant
6 to what Ms. Campbell, he's excluded but not
7 necessarily having to be included, so by saying he
8 could be included as a profile mixture. What was
9 specified to was present. He's present on it, he's
10 present, he's present.

11 And I think that if Ms. Grant had
12 testified to what she wrote up in her report, I
13 would have no reason to question her reliability and
14 asking you as the gatekeeper to have a White,
15 Council, Jones hearing. But because she testified
16 to him being present, I think that is outside of
17 what she could have testified under the science in
18 this.

19 I think Dr. Lambert's affidavit speaks to
20 that. And simply what we're requesting and what we
21 feel should have happened at that time when she said
22 "present" at the conclusion of her testimony was to,
23 you know, outside the presence of the jury have the
24 Court have the ability to question her and also the
25 defense expert, Dr. Lambert, on that issue.

1 THE COURT: And in the end, then strike
2 her testimony?

3 MR. SHEALEY: What I had requested is a --
4 what we requested, the defense, was a -- is what
5 White says, you know -- reliable. The defense would
6 have raised the issue, and we did at that time, that
7 we felt she was unreliable given that she testified
8 to it as being present when the data does not
9 support that.

10 And then we would ask outside the presence
11 of the jury for you to be able to gauge her
12 reliability and potentially act on that if you felt
13 one way or the other. Because that process was
14 never allowed, that was the basis for our mistrial
15 motion and our basis in the brief for a new trial on
16 not having that hearing based on the unreliability
17 of what she testified to only in regards to her
18 comment regarding the "present."

19 We have no complaints with the data, no
20 complaints with the report. Our expert has no issue
21 with the report itself. It's just when she goes
22 from the report to what she testified to in that
23 term, it's a term of art, "present." DNA is very
24 powerful, Judge, especially powerful in the eyes of
25 a jury, and it makes a world of difference.

1 THE COURT: All right, what about that,
2 Ms. Campbell?

3 MS. CAMPBELL: Your Honor, he takes one
4 word out of the entirety of what she testified to.
5 She testified over and over again, cannot be
6 excluded, as per her report, he cannot be excluded.
7 And as the guidelines that we just handed up to you,
8 it means he is included.

9 That was her testimony, whether he was
10 present, included. We're talking semantics here.
11 In addition, Your Honor, during the testimony -- and
12 they would then have the right to a White hearing.
13 I don't know how they would underline the underlying
14 science or anything else.

15 But what remedy they chose, they didn't
16 even object when she was testifying and saying the
17 word "presence," not once in the cites -- and I
18 haven't had a chance to review the whole thing --
19 did they object to her saying "present" or anything
20 like that that I found in just the affidavit that
21 was presented by Steve Lambert.

22 In addition to that, Your Honor, there's
23 always going to be typically different experts. And
24 that's the reason they're qualified as experts,
25 which they did not object to, to have a right to

1 come in and give an opinion. Her opinion was
2 consistent with what her report said, by their own
3 expert's testimony.

4 I don't have a transcript of that, Your
5 Honor, but we'll make it available to the Court.
6 But his testimony was, is that he agreed with her
7 report, he agreed with everything else. And even in
8 his own affidavit here, he says, "The conclusions --
9 are present in this mixture."

10 He uses the word "present." That's on the
11 second page -- third page, excuse me, Your Honor --
12 in the bottom paragraph after he cites where she
13 testified. So whether or not you want to say DNA
14 allele, DNA, however you want to put it, he used the
15 word they're present.

16 The fact that they get up here and -- over
17 basically how it's presented, plus they had the
18 opportunity to cross-examine her extensively, which
19 they did, about any terminology used, as well as
20 they then put up an expert.

21 And his own testimony was to refute some
22 or whatever she said. So it's not like they did not
23 have any means. And even with that, we're just
24 arguing semantics here -- included, present, however
25 you want to put it. He uses the same terminology in

1 his affidavit which disputes it. I don't know what
2 else to say.

3 THE COURT: All right. Anything else on
4 this case from either side?

5 MS. CAMPBELL: No, sir.

6 MR. SHEALEY: No, Your Honor.

7 THE COURT: How long was this trial? Was
8 it a week?

9 MS. CAMPBELL: I believe we got a verdict
10 at ten-something on a Friday night -- 9:30 or 10:00,
11 something like that.

12 THE COURT: We spent quite a bit of time
13 in pre-trial on matters, ferreting things out. It
14 was a lengthy trial. I guess deliberations were --
15 what time did they get the case on Friday, the jury?

16 MS. CAMPBELL: Around 6:00.

17 THE COURT: Six, and then deliberated for
18 three hours or so?

19 MS. CAMPBELL: Three and a half hours,
20 yes, sir.

21 THE COURT: Okay.

22 MS. CAMPBELL: Maybe four.

23 THE COURT: Most of these issues were
24 thoroughly hashed out. We took our time in making
25 the various rulings and considering everything

1 presented by the State and the defense to ensure
2 that the defendant got a fair trial and that the
3 jury got the case and could decide the case based on
4 the evidence.

5 Particularly with this DNA, the last
6 point, there was extensive cross-examination. I
7 don't know what I could have done any differently,
8 other than if there's some motion in limine to
9 preclude the witness from using a particular term of
10 being present or giving some other -- preclude her
11 from interpreting what it all meant to her based on
12 what she wrote in her report.

13 Aside from that, the question regarding
14 the weight that the weight should give to the
15 testimony based on what she wrote versus what she
16 testified to, considering the extensive cross-
17 examination by Mr. May, the other evidence presented
18 by the defense to refute all of that.

19 I also recall the State having a reply
20 witness that the State did not put up. I think the
21 jury got the benefit of perhaps even more evidence
22 than they needed to have the benefit of. I'm still
23 not entirely sold on the fact that allowing the
24 defense to introduce the testimony of the one
25 witness who I did at that time, excluded after

1 hearing all the proffer, having her testify that the
2 victim told her what she said the victim told her
3 and then her response to that, particularly
4 considering the status of that witness who was
5 brought here from jail who is an admitted drug
6 abuser.

7 But, nevertheless, she was allowed to
8 testify. Allowing that gave the defendant the
9 benefit of perhaps having the jury consider evidence
10 of third-party guilt where it appears to me that the
11 only evidence regarding that was based on
12 speculation, and suspicion, and rumor as opposed to
13 I still haven't heard any evidence that's really
14 worthy of a jury hearing. And perhaps they
15 shouldn't have even heard what that lady had to say.
16 What was her name, again?

17 MR. SHEALEY: Natasha Prioleaux.

18 THE COURT: Ms. Prioleaux, yes.

19 But, all in all, I think the defendant had
20 the benefit of a fair and impartial trial, and the
21 defense had a full opportunity to present whatever
22 defense that the defendant reasonably should have
23 been able to present. And I'm not going to tamper
24 with the jury's verdict.

25 My ruling stands on all the issues and all

1 the rulings that I made during the course of the
2 trial, and I deny the motion for a new trial.

3 MR. SHEALEY: Thank you, Your Honor.

4 MR. SHEALEY: Thank you, Judge.

5 THE COURT: Thank you all.

6 MS. CAMPBELL: Thank you, Judge.

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Warrant Number: K643755

The State of South Carolina,)
)
)

vs.)
)
)

Ahmad Jamal Wilkins,)
Defendant.)

MOTION FOR DISCOVERY
AND DISCLOSURE OF EVIDENCE

RICHLAND COUNTY
FILED
2011 FEB -4 PM 3:17
JEANETTE MCBRIDE
C.C. JUDGE

TO: DANIEL E. JOHNSON, SOLICITOR, FIFTH JUDICIAL CIRCUIT

The above-named Defendant would, through his counsel, respectfully request the following information:

1) Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the Defendant whether before or after arrest in response to interrogation by any person then known to the Defendant to be a prosecution agent;

2) A copy of Defendant's prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution;

3) Any books, papers documents, photographs, tangible objects, building or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;

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4) Any results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial;

5) Any relevant written or recorded statements made by any witnesses, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statements made by any witnesses;

6) The names and addresses of any witnesses who have given written or oral statements of information concerning the incident(s) in question;

7) A copy of the original incident report and any supplemental reports produced by the arresting or investigation agency;

8) Any other information or evidence within the knowledge or possession of the State that tends to indicate the innocence of the Defendant, or that tends to mitigate any punishment should he be found guilty;

9) Demand is made that any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, SCRCrimP.

10) The defendant hereby asserts his Fifth Amendment right to remain silent and does not wish to be questioned in the absence of counsel, pursuant to *McNeil v. Wisconsin*, 111 S.Ct. 220 (1991), and *Edwards v. Arizona*, 451 U.S. 477 (1981), the United States Constitution, Amendments

Five and Fourteen, and the South Carolina Constitution, Art. I § 12.

This information is requested pursuant to Rules 5 and 6, SCRCrimP.

This information is further requested pursuant to *Brady v. Maryland*, 373 U.S. 83, 10 L.E.2d 215 83 S.Ct. 1194 (1963), along with the following cases: *Crane v. Kentucky*, 476 U.S. 683 (1986), *U.S. v. Bagley*, 473 U.S. 667 (1986), *U.S. v. Agurs*, 427 U.S. 97, 49 L.E.2d 342, 96 S.Ct. 2392 (1976), *Giglio v. U.S.*, 405 U.S. 150, 92 S.Ct. 763 (1972), *Napue v. Illinois*, 360 U.S. 264 (1958), *Goodwin v. Metts*, 885 F.2d 157 (4th Cir. 1989), *McDowell v. Dixon*, 858 F.2d 945 (4th Cir. 1988), *Chavis v. N.C.*, 637 F.2d 213 (4th Cir. 1980), *Norris v. Slayton*, 540 F.2d 1241 (4th Cir. 1976), *State v. Jackson*, 396 S.E.2d 101 (S.C. 1989), *State v. Osborne*, 361 S.E.2d 256 (S.C. Ct. App. 1986), *State v. Mixon* 274 S.E.2d 406 (S.C. 1981).

Furthermore, this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law and fundamental fairness guaranteed by the South Carolina Constitution Art. I §§ 3 and 14, and Amendments Six and Fourteen to the United States Constitution.

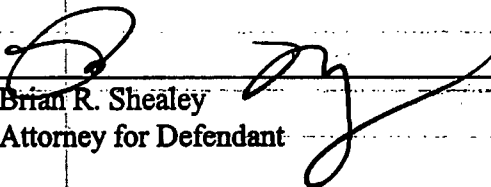
WHEREFORE, Defendant prays:

(a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such materials and information at a specific time and place to be fixed by the Court.

(b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this document.

(c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the

Defendant.



Brian R. Shealey
Attorney for Defendant

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 4 day of February, 2011

**STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)**

IN THE COURT OF GENERAL SESSIONS
Warrant Number: K643755

The State of South Carolina,)

vs.

Ahmad Jamal Wilkins,)
Defendant.)

CERTIFICATE OF SERVICE

JEANNE I. W. McBRIDE
C. O. P&G S.

2011 FEB -4 PM 3:17

**RICHLAND COUNTY
FILED**

I certify that on this date I served the Motion for Discovery and Disclosure of Evidence in this case on The State of South Carolina by delivering a copy of this motion to the State's attorney of record by delivering said copy to his office located at The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving it with his clerk or other person of authority at said office.


Deborah J. Zaidman
Paralegal

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 1 day of February, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Warrant Number: K643755

The State of South Carolina,)
)
)

vs.)
)
)

Ahmad Jamal Wilkins,)
Defendant.)

MOTION TO COMPEL DISCOVERY AND
DISCLOSURE OF EVIDENCE

RICHLAND COUNTY
FILED
11 MAR 15 PM 2:36
JEANETTE N. MCBRIDE
C.J.P.S.

The above-captioned defendant, through his attorney, Brian R. Shealey, hereby moves that the Court enter an Order directing that the State of South Carolina comply with a previously filed Motion for Discovery and Disclosure of Evidence in the above-captioned matter. In support of this motion defendant would show that:

1. He was arrested in Richland County on or about February 2, 2011 and charged with Murder;

2. On February 4, 2011 defendant filed and served a Motion for Discovery and Disclosure of Evidence in the above-captioned case.

3. As of the date of this motion the State of South Carolina has not complied with the above-referenced Motion for Discovery and Disclosure of Evidence in the following respects:

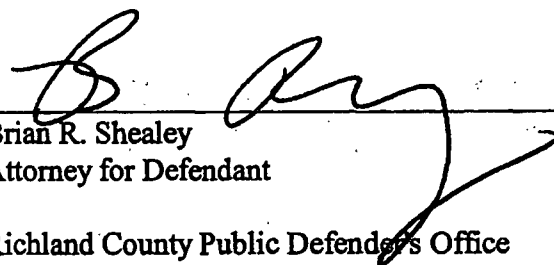
a. On February 4, 2011 defendant filed and served a Motion for Discovery and Disclosure of Evidence in the above-captioned case, and to date defendant has not received discovery.

4. Rule 5 (a)(3), SCRCrimP. directs that the State comply with discovery requests within thirty (30) days.

5. More than thirty (30) days have passed since the filing of the Motion for Discovery and Disclosure of Evidence in this case.

6. Rule 5 (d) (2), SCRCrimP: provides that this Court may fashion a number of remedies to correct any failure to comply with the provisions the Rules of Criminal Procedure relating to discovery.

NOW THEREFORE attorney for defendant moves that this Court conduct a hearing regarding the status of discovery in this case and enter such Order regulating discovery as it deems appropriate under the facts of this case.



Brian R. Shealey
Attorney for Defendant

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 15 day of March, 2011

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS

Warrant Number: K643755

The State of South Carolina,)
)
)
)

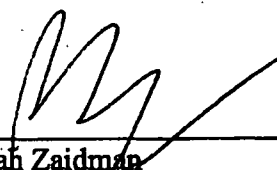
vs.)
)
)
)

Ahmad Jamal Wilkins,)
Defendant.)

CERTIFICATE OF SERVICE

FILED
 11 MAR 15 PM 3:40
 JENNIFER W. MCBRIDE
 C.C.P. & G.S.

I certify that on this date I served the Notice of Motion and Motion to Compel Discovery and Disclosure of Evidence in the above-captioned case on The State of South Carolina by delivering copies of these documents to the State's attorney of record, Assistant Solicitor Luck Campbell, by delivering said copies to her office located at The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving them with her clerk or other person of authority at said office.


 Deborah Zaidman
 Paralegal

Richland County Public Defender's Office
 P.O. Box 192
 Columbia, South Carolina 29202
 (803) 765-2592

Columbia, South Carolina

This 15 day of March, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Warrant Number: K643755

The State of South Carolina,)

-vs.

Ahmad Jamal Wilkins,
Defendant.

**MOTION TO COMPEL DISCOVERY AND
DISCLOSURE OF EVIDENCE**

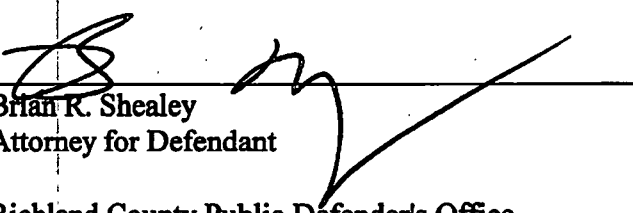
FILED
RICHLAND COUNTY
2012 FEB 21 AM 9:30
JEANETTE W. McBRIDE
C.C. BY AND FOR G.S.

The above-captioned defendant, through his attorney, Brian R. Shealey, hereby moves that the Court enter an Order directing that the State of South Carolina comply with a previously filed Motion for Discovery and Disclosure of Evidence in the above-captioned matter. In support of this motion defendant would show that:

1. He was arrested in Richland County on or about February 2, 2011 and charged with Murder;
2. On February 4, 2011 defendant filed and served a Motion for Discovery and Disclosure of Evidence in the above-captioned case.
3. As of the date of this motion the State of South Carolina has not complied with the above-referenced Motion for Discovery and Disclosure of Evidence in the following respects:
 - a. On February 4, 2011 defendant filed and served a Motion for Discovery and Disclosure of Evidence in the above-captioned case and to date, defense has not received all discovery.
4. Rule 5 (a)(3), SCRCrimP. directs that the State comply with discovery requests within thirty (30) days.
5. More than thirty (30) days have passed since the filing of the Motion for Discovery and Disclosure of Evidence in this case.

6. Rule 5 (d) (2), SCRCrimP. provides that this Court may fashion a number of remedies to correct any failure to comply with the provisions the Rules of Criminal Procedure relating to discovery.

NOW THEREFORE attorney for defendant moves that this Court conduct a hearing regarding the status of discovery in this case and enter such Order regulating discovery as it deems appropriate under the facts of this case.



Brian R. Shealey
Attorney for Defendant

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 22 day of February, 2012

**STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)**

IN THE COURT OF GENERAL SESSIONS
Warrant Number: K643755

The State of South Carolina,

vs.

Ahmad Jamal Wilkins,
Defendant.

CERTIFICATE OF SERVICE

JEANETTE W. McBRIDE
C.C.P. & G.S.
Imp

2012 FEB 21 AM 9:31

RICHLAND COUNTY
FILED
and

I certify that on this date I served the Notice of Motion and Motion to Compel Discovery and Disclosure of Evidence in the above-captioned case on The State of South Carolina by delivering copies of these documents to the State's attorney of record, Assistant Solicitor Luck Campbell, by delivering said copies to her office located at The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving them with her clerk or other person of authority at said office.


Deborah Zaidman
Paralegal

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 21 day of February, 2012

The State of South Carolina,)

vs.)

Ahmad Wilkins,)
Defendant.)

MOTION FOR NEW TRIAL

RICHLAND COUNTY
FILED
12 APR 20 PM 1:17
JEANETTE W. McBRIDE
C.C.P. & S.S.

The Defendant was convicted of murder on April 13th, 2012. He was sentenced to life imprisonment. Defendant now moves for a new trial and renews all previous motions and objections to specifically include 1) Defendant being precluded from calling Sierra Austin and Dawn Davis-Young in their case in chief and also in Sur Rebuttal to the State's Reply case, 2) the State's failure to disclose State Witness Melron Kelly's investigation by the Columbia Police Department's Internal Affairs and also the defense's limited ability to cross examine Melron Kelly on his relationship with the victim, 3) the State's failure to provide to Defense proper chain documentation in compliance with *Riddle* and *Brady*, 4) the State's failure to turn over expert McDonald's cell phone tower information before his testimony, 5) the State's improper pitting of Patruan Hare against Defendant through the use of defense counsel, as well as 6) the State's improper use of witness Rachel Grant with the defense precluded from having a *White, Council, Jones* Hearing on the matter.

1. The Court did not allow Defense to Call Sierra Austin or Dawn Davis-Young in their Case in Chief nor in Sur Rebuttal to the State's Reply.

The defense planned to call Sierra Austin and Dawn Davis-Young to testify to the fact that the victim told 1) Ms. Austin that she was pregnant by Officer Melron Kelly shortly before her death and 2) Ms. Davis-Young that she had questions about how to deal with messing around with an officer. The Defense was initially allowed to proffer this testimony but was not allowed to call these witnesses in their case in chief. The preclusion of these witnesses' testimony prohibited defense counsel from presenting a full and complete defense for Mr. Wilkins under the 6th and 14th Amendments to the United States Constitution, as well as it prevented the

defense from attacking the ostensible integrity of the investigation pursuant to *Kyles v. Whitley*, 1197 549 U.S. 419 (1995).

By not being allowed to call Sierra Austin and Dawn Davis-Young to testify, defendant was not allowed to present a full and complete defense under the 6th and 14th Amendments to the United States Constitution; their testimony would have linked Melron Kelly to having a personal relationship with the victim in this case and could have given more credence to the testimony of Tasha Praylow, who testified in defense's case in chief that on the night of the victim's murder that the victim told her that "Melron Kelly was coming to kill her." Also, after the State's Reply elicited testimony from witness Melron Kelly that he had no personal relationship with the victim, the defense was severely limited in their cross examination of Melron Kelly, over objection, and were not allowed in Sur Rebuttal to call Sierra Austin or Dawn Davis-Young to contradict the testimony of Melron Kelly, that he in fact did have a personal relationship with the victim. Based on the court's ruling, twice prohibiting the defense from calling Sierra Austin and Dawn Davis-Young to testify, as well as severely limiting the line of cross examination of Melron Kelly, the Defendant was denied the ability to present a full and complete defense under the 6th and 14th Amendments of the United State's Constitution, as well as the ability to attack the integrity of the State's investigation under *Whitley*, 549 U.S. 419.

2. The State violated *Brady and Riddle* by Failing to Disclose Melron Kelly's Investigation by Internal Affairs into the Death of Ebony Williams.

The State called Melron Kelly as a reply witness, and only moments before his testimony did they inform the Defense of the fact that Mr. Kelly had been investigated by Columbia Police Department's Internal Affairs for the death of the victim, Ebony Williams. This incredibly late disclosure is a discovery violation at its most rank, and is in stark violation to the ideology behind *Brady v. Maryland*, 373 U.S. 83 (1963), *Riddle v. Ozmint*, 631 S.E.2d 70 (2006), and *Whitley*, Id. The defense should have been provided this internal affairs investigation well before the trial, but never was, and simply disclosing before the testimony of Melron Kelly that he has

1198 been investigated for the death of Ebony Williams, when the defense's case in chief was focused at showing evidence that Melron Kelly was involved in the murder of the Victim, Ebony Williams, mandates a new trial.

3. The State Failed to Timely Disclose Proper Chain Documentation Pursuant to *Brady*, *Riddle*, and South Carolina Rules of Criminal Procedure 5 and 6.

The defense made several specific pretrial motions demanding proper chain documentations as required pursuant to South Carolina Rules of Criminal Procedure 5 and 6, as well as *Brady v. Maryland*, 373 U.S. 73. The Rape Kit in this case was "lost" for four months in this case and the defense theory was that it had been intentionally removed, destroyed or tampered with as it could have linked Officer Melron Kelly to the victim. Proper chain documentation was never provided regarding the rape kit before trial, but during trial some undated but incomplete chain documentation was provided in regards to the rape kit; as this documentation was unable to be investigated thoroughly due to its disclosure in the middle of trial, this is in violation of *Brady*, *Riddle* and the South Carolina Rules of Criminal Procedure 5 and 6, as well as Defense's specific pretrial motions on the matter, and thus a new trial must be granted.

4. The State Failed to Disclose Expert Materials That They Used in Their Case in Chief, Which is in Violation of *Brady* and *Riddle*.

The State qualified Investigator McDonald as an expert from the Richland County Sheriff's Department to give an opinion as to cell phone tower tracking to show that Defendant was within the immediate vicinity of the Victim around the time of her death based on phone records. None of the charts and data used or generated by this expert and used by the State were ever turned over prior to trial in violation of *Brady* and *Riddle, Id.*; therefore, the defense was unable to review the materials or hire an expert of their own to testify to the matter. Through the use of this blatant discovery violation, the defense was unable to present a full and complete defense in accord with the 6th and 14th Amendments to the United States Constitution, and therefore a new trial must be granted.

5. The State improperly pitted Patruan Hare against Defense Counsel to Attack the Personal Integrity of Defense Counsel. 1199

The State called Patruan Hare to testify in their case in chief. The substance of his testimony was that Defendant disclosed intimate details about the murder of Ebony Williams that only the murderer could have known. Over previously sustained pretrial defense objections on the issue, the State improperly elicited from Mr. Hare that at the time he was cooperating with the Columbia Police Department in this matter, that he was also simultaneously being represented by defense counsel. This elicited statement was highly improper and was used in an attempt to personally discredit defense counsel to try to demonstrate to the jury that defense counsel routinely works against its own client's interest, or just in an attempt to generally attack the integrity and ethics of defense counsel in front of the jury. This line of questioning was an intentional act by the State, and one that was previously ruled as improper by the Court in pretrial motions, and therefore a mistrial must be granted.

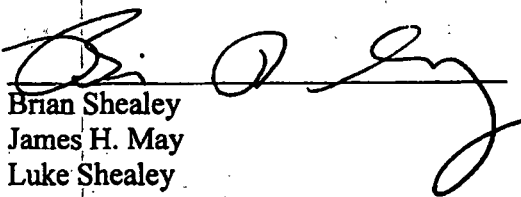
6. Defense was Denied a *White, Council, Jones* hearing after Rachel Grant testified outside and against the standards of her profession.

State Witness Rachel Grant was qualified as an expert in DNA in this case. Pursuant to Rachel Grant's DNA Report, which was provided in discovery, Defendant's DNA could not be eliminated as a contributor to the glove found in the victim's apartment, and Defendant's DNA or any paternally related male can not be eliminated as a contributor to the neck ligature that was used to ultimately strangle the victim. Rachel Grant simply testified against the accord and standards of her profession as a forensic DNA analyst when she stated in court that Defendant's DNA was "present" on the murder weapon. The defense was so floored at this gross misstatement of science in open court, being so at odds with the standards of her profession, that defense counsel immediately objected and requested a *White, Council, Jones* Hearing so as the Court could assess the reliability of what was just testified. *State v. White*, 676 S.E.2d 684 (2009), *State v. Council*, 335 S.C. 1 (1999), *State v. Jones*, 273 S.C. 723 (1979).

The trial court is the gatekeeper for determining if the expert testimony meets a reliability

1200 threshold for the jury's ultimate consideration. *White*, 676 S.E.2d 684. Once Rachel Grant misstated the science in open court, and at the request of defense counsel, a *White, Council, Jones* Hearing should have been granted so that the trial court could have listened to testimony from defense expert Dr. Stephen Lambert, so the Court could properly gauge the reliability of Ms. Grant's statement that Defendant's DNA was "present" on the murder weapon. This request for a reliability hearing on this matter was denied by the Court, and as such a new trial must be granted.

7. All other motions and objections made throughout the trial not mentioned in the brief but reflected in the record.



Brian Shealey
James H. May
Luke Shealey
Attorneys for Defendant

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

Columbia, South Carolina

This 20 day of April, 2012

1201
11/11/11
46556

STATE OF SOUTH CAROLINA)
COUNTY OF Richland County)
The State)
-vs-)
Ahmad Wilkins)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

**STATE'S RESPONSE TO
DEFENSE MOTION FOR A NEW TRIAL**

Indictment Numbers: 2011-GS-40-4656

(K643755)

Defendant, through his counsel, moved for a new trial based on six grounds. The State asserts that the Court properly ruled on the evidence in question and respectfully request that the Defendant's Motion for a New Trial **BE DENIED**.

A. Defendant's Request for a New Trial based on the Exclusion of Remote and Improper Hearsay Evidence and Evidence of Third Party Guilt Should Be Denied.

Defendant request a new trial based on the Court's ruling precluding the defense from calling Sierra Austin and Dawn Davis-Young in their case in chief and also in Surrebuttal. "The trial court has broad discretion in determining the relevancy of evidence and its decision to admit or exclude evidence will not be reversed on appeal absent an abuse of that discretion and a showing of prejudice." State v. Cope, 385 S.C. 274, 286, 684 S.E.2d 177, 183 (2009). The ability to call witnesses in Surrebuttal is left in the sole discretion of the Trial Court. See State v. Watson, 353 S.C. 620, 579 S.E.2d 148 (Ct. App. 2003). The Court's exclusion of this evidence was proper because the evidence is remote and constitutes improper hearsay and inadmissible

JEANETTE M. GREGG
C.P. 15
2012 APR 30 PM 4:07
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RICHLAND COUNTY

evidence of third party guilt. Defendant has also failed to demonstrate that the Court abused its discretion in failing to allow this testimony.

Evidence offered by a defendant as to the commission of the crime by another is limited to facts inconsistent with the defendant's own guilt and to facts that raise a reasonable inference as to his innocence. See Cope, 385 S.C. 274, 684 S.E.2d 177 (2009); Miller v. State, 379 S.C. 108, 665 S.E.2d 596 (2008); State v. Rice, 375 S.C. 302, 352 S.C. 409 (2008), *overruled on other grounds*; State v. Beckham, 334 S.C. 302, 519 S.E.2d 606 (1999); State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941); State v. Mansfield, 343 S.C. 66, 538 S.E.2d 257 (Ct. App. 2000). Evidence which can have no other effect than to cast a bare suspicion upon another is not admissible. *Id.* Here, the defense sought to introduce evidence that it claims supports the fact that Lieutenant Melron Kelly, an officer with the Columbia Police Department, killed the victim, Ebony Hayes, and not the Defendant. The Defendant proffered the testimony of Sierra Austin ("Austin"), Dawn Young ("Young"), and Tasha Praylow ("Praylow").

The Court allowed Praylow to testify before the jury that on the night of the incident, Ebony Hayes told her that "Kelly was coming to kill her." She also testified that she asked Investigator Kevin Reese whether Kelly was a suspect and he informed her that he was not a suspect. She further claimed that she did not provide the information to law enforcement regarding the statement that Ebony allegedly made to her on the night of her death. According to her own testimony, the first time she told anyone was a week prior to trial and that the information was provided to the defense. In Reply the State introduced testimony from Investigator Reese who testified that he never spoke with Praylow.

In his motion, Defendant admits that the purpose of the testimony of Sierra Austin and Dawn Young would have been to bolster the credibility of the defense witness, Tasha Praylow.

The State submits that the Court's exclusion of the testimony was proper and Defendant's request for a new trial on this ground should be denied. The substance of the proffered testimony was inadmissible as improper hearsay and evidence of third party guilt. Contrary to the defense position, the excluded testimony did not hinder Defendant's ability to question the integrity of the investigation, nor was it relevant for purposes of an analysis under Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). Furthermore, it was irrelevant and any probative value – the State submits there was none – was substantially outweighed by the danger of unfair prejudice, confusion of the issues, and would have served to mislead the jury.

B. Defendant's Requests for a New Trial on Grounds of Rule 5; Riddle, and Brady Violations are Without Merit and Should Be Denied.

I. Internal Affairs Investigation

Defendant request a new trial based on the State's failure to disclose the alleged Internal Affairs investigation into Lieutenant Melron Kelly. The State was unaware of any investigation involving Lieutenant Kelly as related to this case or any other case. Once the State learned of a possible investigation from the defense, it exercised due diligence in obtaining information from the Columbia Police Department. The State emphasizes that it was unaware of any investigation and did not learn of this until the defense brought up false and slanderous allegations against Lieutenant Kelly during the course the trial. Importantly, there was no Internal Affairs investigation into Lieutenant Kelly. The information revealed that Lieutenant Kelly chose to self-report to Internal Affairs that there was a rumor "on the street" that he was involved in the death of Ebony Williams. No further investigation conducted by Columbia Police Department Internal Affairs. This rumor is neither material nor exculpatory. Furthermore, the defense was aware of the information even though the State had no knowledge of it and therefore, suffered no prejudice. The Court stated on the record that the State went over and above the requirements of

Rule 5 and Brady and that there were no discovery violations. The Defendant's motion on this ground should be denied.

II. Chain of Custody

Defendant also request a new trial based on the State's failure to disclose chain of custody information. Defense counsel requested to review the evidence and the State complied with this request. The complete chain of custody was clearly indicated on each package that defense counsel reviewed. Rule 5 of the South Carolina Rules of Criminal Procedures requires the State to furnish a copy or allow the defense to inspect evidence. The State complied with all the requirements of Rule 5 in this case. Defense counsel had the opportunity to view the chain documentation on the evidence packaging prior to trial. Additionally, during trial the State called every witness in the chain and defense counsel had a full and complete opportunity to cross-examine each witness. During trial the State also turned over additional chain documentation that was merely duplicative of the information on the evidence that defense counsel had the opportunity to review prior to trial. Contrary to Defendant's contention, information related to chain was both dated and complete. The Court allowed the defense additional time to review the information before continuing its cross-examination of chain witnesses.

The only item of evidence that defense counsel disputed the chain of custody was the rape kit. Defendant mischaracterizes the evidence as being "lost" and thus, supporting its contention that it was intentionally removed, destroyed, or tampered with as a result of actions by or in support of Lieutenant Kelly. Prior to trial the State fully disclosed that the rape kit was misplaced in the Columbia Police Department Evidence Room. The integrity of the rape kit and its testing was addressed through the live testimony of each witness in the chain and defense counsel had the ability to question each of those witnesses. Furthermore, the testimony from

these witnesses revealed that at no time was the rape kit compromised, tampered with or altered in any way. With respect to the importance of the rape kit to this case and Defendant's "theory," the testing was performed by Rachel Grant prior to the rape kit being misplaced in the Columbia Police Department's evidence room and no semen was identified. In sum, nothing in this case supported Defendant's contention that a sexual assault occurred. Because the State complied with the discovery rules and Defendant suffered no prejudice, Defendant's motion on this ground should be denied.

III. PowerPoint Presentation

Defendant also request a new trial based on the State's failure to disclose the PowerPoint presentation created by Lieutenant Scott McDonald. Lieutenant McDonald created a PowerPoint presentation based on the phone records that were provided in discovery to the defense. All information and data presented in the PowerPoint was provided to the defense in both hard copy and electronic format. Furthermore, the State notified defense counsel via e-mail that Lieutenant McDonald had created a PowerPoint and that they were welcome to view at their convenience. Defense counsel never availed themselves of this opportunity. As a result, Defendant's motion on this ground should be denied.

C. Defendant's Request for New Trial for the State's Question to Patruan Hare Regarding Representation Should Be Denied Since it Does Not Constitute a Ground for a New Trial.

Defendant request a new trial based on the State's question of witness Patraun Hare ("Hare"). During re-direct examination the State asked Hare who is attorney was when he pled guilty to his Richland County charges. The State through a pretrial motion brought to the Court's attention that there was a potential conflict of interest in violation of the Rules of Professional Conduct. The Court heard arguments on the issue and ruled that as long as the

Defendant waived any potential conflict that the trial may proceed with Brian Shealey as one of the attorneys of record for the Defendant. However, the Court cautioned the defense and Defendant that it could potentially "work against the defense." Defendant was advised by the Court and waived any conflict prior to trial.

The State did not illicit any testimony on direct examination regarding prior representation of Hare by Brian Shealey. It was only after the defense cross-examined Hare and attacked his credibility regarding prior plea bargains, convictions, and testimony in other cases that the State questioned him as to his representation. Defendant objected to the question, and the Court sustained the defense's objection. ~~The State did not inquire further into this matter.~~ Additionally, the Defendant requested that the statement be struck from the record and the Court granted this request. There were no further objections regarding this matter. Defendant's motion for new trial on this ground should be denied.

D. Defendant's Request for New Trial on the Basis that He Was Denied a *White, Council, Jones* Hearing After Rachel Grant Testified Should Be Denied.

Defendant request a new trial based on the Court's denial of a hearing on expert testimony pursuant to White, Council, Jones. Rachel Grant testified as a State's expert witness regarding DNA. See State v. White, 682 S.C. 265, 676 S.E.2d 684 (2009); State v. Council, 335 S.C. 1, 515 S.E.2d 508 (1999); State v. Jones, 273 S.C. 723, 259 S.E.2d 120 (1979). The defense did not request a hearing pursuant to White prior to her testimony nor did they object to her qualification as an expert witness. It was only after Rachel Grant testified that the defense requested a hearing, which is improper. The cases cited by the Defendant stand for the proposition that the Court's role, in part, is to serve as the gatekeeper to determine the admissibility of the evidence. The Court must determine and ensure "the proposed expert testimony meets a reliability threshold for the jury's ultimate consideration." White, 682 S.C.

265, 676 S.E.2d 684 (2009). The reliability prong of the Court's test refers to the underlying scientific, technical, or other subject matter in which the witness testifies. The subject matter of Rachel Grant's testimony was DNA and the Court, without objection from the defense, qualified Rachel Grant as an expert in that field.

Essentially, the defense has proposed new procedures for presenting expert testimony at trial and would have the Court become a finder of fact and determine the weight and credibility of an expert's testimony rather than just the admissibility of the evidence at trial. Such a proposal would require the Court to invade the sole province of the jury as the finders of fact. The defense has failed to provide any law to support or any basis for its position that a hearing was required after Rachel Grant testified and that the denial of such hearing is an insufficient basis for a new trial. Thus, the State submits that this claim is without merit and Defendant's Motion for New Trial on this ground should be denied.

Based on the information provided herein, the State respectfully submits that Defendant's Motion for a New Trial should be DENIED.


Kathryn Luck Campbell
Assistant Solicitor
Fifth Judicial Circuit

This 30 day of April, 2012
Columbia, South Carolina

WITNESSES

✓(S) AL THOMAS – Columbia Police
Department

ARREST WARRANT NUMBER

K643755

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

OCT 06 2011

VERDICT

GUILTY

Foreperson of Petit Jury

Date:

4/13/12

DOCKET NO. 2011GS4004656

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2011

42

THE STATE

vs.

Ahmad Jamal Wilkins

**Indictment for
MURDER**

SC Code: 16-03-0010

CDR Code: 0116

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

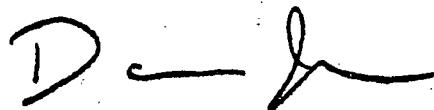
INDICTMENT

At a Court of General Sessions, convened on OCTOBER 5, 2011,
the Grand Jurors of Richland County present upon their oath:

MURDER

That Ahmad Jamal Wilkins did in Richland County, on or about February 3, 2009, willfully, feloniously, and intentionally kill the victim, EBONY WILLIAMS, with malice aforethought, either express or implied, by means of Strangulation, and the victim did die as a proximate result thereof on or about February 03, 2009 in Richland County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Ahmad Jamal Wilkins

AKA:

Race: Sex: M Age: 36

DOB: SS#:

Address:

City, State, Zip: Columbia, SC 29203

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4004656

A/W#: K643755

Date of Offense: 2/3/2009

S.C. Code § 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, Luck

SC Bar# 13009

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk

Court Reporter:

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2127

Sentence Date: April 13, 2012

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 5th, 2014

Susan B. Hackett

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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DEC 05 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Clifton Newman, Circuit Court Judge

ORIGINAL

RECEIVED

DEC 05 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AHMAD JAMAL WILKINS,

APPELLANT

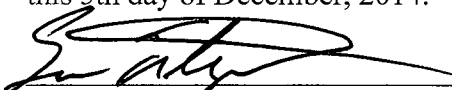
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William Edgar Salter, III, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5th day of December, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of December, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022