

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

Deadra L. Jefferson, Circuit Court Judge

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S.C. Supreme Court

FERRIS SINGLEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002314

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

COURT OF GENERAL SESSIONS
06-GS-10-0093/0094/0095

COPY

STATE OF SOUTH CAROLINA,)
PLAINTIFF)
vs.)
FERRIS GEIGER SINGLEY,)
DEFENDANT.)

 ~~ORIGINAL~~

TRANSCRIPT OF RECORD

MAY 1-2, 2006
CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, JUDGE.

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

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Attorney for the State.

KELLY K. SOLAR, ESQ.,
W. TED SMITH, ESQ.
Attorneys for the Defendant.

VIVIAN H. CROSS
OFFICIAL COURT REPORTER

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(DAY 1 OF TRIAL)

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STATE OF SOUTH CAROLINA VERSUS FERRIS GEIGER SINGLEYP R O C E E D I N G S

(11:55 A.M.)

(NOTE 1: STATE'S EXHIBITS 1 - 12 WERE PRE-MARKED FOR IDENTIFICATION PRIOR TO THE COMMENCEMENT OF TRIAL.)

THE COURT: ALL RIGHT, I BELIEVE THIS IS INDICTMENT 2006-GS-10-0093, THE STATE VERSUS FERRIS - IS IT GEEGER OR GEIGER?

MR. DURANT: I BELIEVE GEIGER, YOUR HONOR.

MS. SOLAR: GEIGER, YOUR HONOR.

THE COURT: GEIGER SINGLEY, AN INDICTMENT FOR KIDNAPPING. AND 0094, AN INDICTMENT FOR ARMED ROBBERY. AND 0095, AN INDICTMENT FOR BURGLARY FIRST DEGREE.

MR. SINGLEY IS PRESENT IN THE COURTROOM ALONG WITH HIS ATTORNEYS, MS. SOLAR AND MR.---

MS. SOLAR: TED SMITH, YOUR HONOR.

THE COURT: ---MR. SMITH, IS THAT CORRECT?

MR. SOLAR: CORRECT.

THE COURT: ALL RIGHT. AND I UNDERSTAND THERE ARE SOME MOTIONS ON A JACKSON VERSUS DENNO, IS THAT CORRECT?

MR. DURANT: THAT'S CORRECT, YOUR HONOR.

THE COURT: ALL RIGHT, SOLICITOR, YOU MAY PROCEED.

MR. DURANT: THANK YOU, YOUR HONOR. WE WOULD CALL PATRICK PONTIERI.

(WITNESS FORWARD.)

MR. DURANT: I GUESS WE NEED THE CLERK TO SWEAR HIM IN?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 THE COURT: OH, YES. I'M SORRY, I DIDN'T KNOW THE
2 CLERK...

3 WOULD YOU PLACE YOUR - STAND UP, SIR, AND PLACE YOUR
4 LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND.

5 (WHEREUPON, PATRICK PONTIERI WAS DULY SWORN AND
6 TESTIFIED AS FOLLOWS:)

7 THE COURT: THANK YOU, SIR. PLEASE SIT DOWN, STATE YOUR
8 FULL NAME AND SPELL YOUR LAST NAME FOR OUR COURT REPORTER,
9 PLEASE.

10 MR. PONTIERI: PATRICK PONTIERI P-O-N-T-I-E-R-I.

11 THE COURT: OKAY.

12 STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:

13 PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

14 Q AND WOULD YOU TELL THE JUDGE WHERE YOU WORK AND WHAT
15 YOUR RANK IS AND YOUR DUTIES AT THE NORTH CHARLESTON POLICE
16 DEPARTMENT?

17 A I'M A, UH - WORK FOR THE NORTH CHARLESTON POLICE
18 DEPARTMENT. I'M A SERGEANT - A ROAD SUPERVISOR ON THE
19 EVENING SHIFT.

20 Q ALL RIGHT. AND, UH, IN THAT REGARD, DID YOU HAVE AN
21 OPPORTUNITY TO PARTICIPATE IN THE ARREST OF THIS DEFENDANT ON
22 OCTOBER 2 OF 2005?

23 A I DID.

24 Q HE WAS ARRESTED AT SINGLEY LANE, I BELIEVE, IN
25 NORTH CHARLESTON?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 A YES, SIR.

2 Q UH - WERE YOU PRESENT WHEN HE WAS TAKEN INTO CUSTODY?

3 A YES, I WAS.

4 Q AND, UH, WHERE WAS HE WHEN HE WAS TAKEN INTO CUSTODY?

5 A THERE'S A - HE WAS INSIDE OF A, UH, TRAILER AT THE
6 CORNER OF SINGLEY AND SPRUCE, WHICH IS RIGHT ACROSS THE
7 STREET FROM MORNINGSIDE SCHOOL, UH, WHICH IS WHERE HE WAS
8 STAYING.

9 Q AND HOW DID YOU-ALL GET HIM OUT OF THE HOUSE - OR, THE
10 TRAILER?

11 A WE, UH - WE - WE HAD GAINED INFORMATION THAT THAT'S
12 WHERE HE WAS STAYING. UH, SET - HAD A PERIMETER SET UP. UH,
13 THE, UH, OFFICERS WERE ABLE TO SEE HIM THROUGH A, UH - ONE OF
14 THE WINDOWS. MY CANINE WAS ON - ON SCENE AS WELL.

15 UH, CANINE, UH, ORDERED HIM OUT OF THE RESIDENCE OR HE
16 WOULD SEND THE, UH - SEND THE CANINE IN.

17 Q AND, UH, DID THE DEFENDANT COMPLY AT THAT POINT?

18 A HE - HE DID. AFTER A COUPLE OF MINUTES, HE DID COME
19 OUT.

20 Q AND, UH, YOU WERE PRESENT WHEN HE CAME OUT OF THE HOUSE?

21 A YES, SIR, I WAS.

22 Q UH - HE WAS TAKEN INTO CUSTODY AT THAT TIME I BELIEVE?

23 A YES, SIR.

24 Q DID YOU HAVE AN OCCASION TO ADVISE HIM OF HIS MIRANDA
25 RIGHTS?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 A YES, SIR, I DID.

2 Q AND WHERE WAS THAT DONE?

3 A THAT WAS DONE, UH, RIGHT IN THE, UH - THE FRONT YARD OF
4 HIS TRAILER.

5 Q AND WHEN DID YOU DO THAT?

6 A IMMEDIATELY AFTER HE WAS, UH, TAKEN INTO CUSTODY.

7 Q AND WHAT DID YOU USE TO ADVISE HIM OF HIS MIRANDA
8 RIGHTS?

9 A I HAVE A, UH - A CARD, UH, THAT I USE. UH - IT'S YOUR,
10 UH, MIRANDA WARNINGS.

11 Q AND, UH - DID YOU READ EACH AND EVERY RIGHT TO HIM AS
12 IT'S PRINTED ON THAT CARD?

13 A I DID.

14 Q AND WOULD YOU READ THE - TO THE JUDGE - WHAT YOU READ
15 THE DEFENDANT AT THE TIME HE WAS TAKEN INTO CUSTODY?

16 A YES, SIR. I READ HIM:

17 ONE, YOU HAVE THE ABSOLUTE RIGHT TO REMAIN SILENT, AND
18 YOU DO NOT HAVE TO ANSWER ANY QUESTIONS OR GIVE A STATEMENT,
19 AND THIS FACT CANNOT BE USED AGAINST YOU.

20 TWO, IF YOU DO ANSWER QUESTIONS OR GIVE A STATEMENT,
21 ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT
22 OF LAW.

23 THREE, YOU HAVE THE RIGHT TO CONSULT WITH A LAWYER OF
24 YOUR CHOICE BEFORE YOU ANSWER QUESTIONS OR GIVE A STATEMENT,
25 AND ALSO HAVE HIM PRESENT WHILE YOU'RE BEING QUESTIONED.

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 FOUR, IF YOU WISH TO TALK TO A LAWYER OR HAVE HIM
2 PRESENT BUT ARE UNABLE TO AFFORD TO HIRE A LAWYER, ONE WILL
3 BE APPOINTED TO REPRESENT YOU FREE OF CHARGE.

4 FIVE, IF YOU DECIDE TO ANSWER QUESTIONS OR GIVE A
5 STATEMENT WITHOUT HAVING A LAWYER PRESENT REPRESENTING YOU,
6 YOU HAVE THE ABSOLUTE RIGHT DURING THIS INTERVIEW TO STOP
7 ANSWERING QUESTIONS AND TO REMAIN SILENT.

8 Q DID HE APPEAR TO UNDERSTAND WHAT YOU WERE TELLING HIM?

9 A HE DID.

10 Q DID HE EXHIBIT ANY CONFUSION AT ALL?

11 A NONE.

12 Q DID HE APPEAR TO BE, UH, IMPAIRED IN ANY MANNER THAT
13 WOULD PREVENT HIM FROM UNDERSTANDING WHAT YOU TOLD HIM?

14 A NO, SIR.

15 Q DID YOU THREATEN HIM IN ANY WAY TO GET HIM TO TALK TO
16 YOU?

17 A NO, SIR.

18 Q DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?

19 A NO, SIR.

20 Q DID YOU OFFER ANY LENIENCY TO GET HIM TO TALK TO YOU?

21 A NO, SIR.

22 Q UM - DID YOU ASK HIM ANYTHING AFTER YOU ADVISED HIM OF
23 HIS RIGHTS?

24 A I DID, SIR.

25 Q WHAT DID YOU ASK HIM?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 A I ASKED HIM WHERE THE - WHERE WAS THE MONEY THAT - THAT
2 YOU TOOK FROM YOUR MOTHER?

3 Q AND WHAT WAS HIS RESPONSE?

4 A HE SAID IT WAS GONE.

5 Q AND WHAT WAS YOUR RESPONSE TO THAT?

6 A I SAID, WHAT YOU MEAN? AND HE SAID, I SMOKED IT.

7 Q NOW, DID YOU BELIEVE THAT HE HAD SMOKED THAT MUCH CRACK?

8 A NO, SIR.

9 Q WHY NOT?

10 A IF HE HAD SMOKEN (SIC) THAT MUCH CRACK COCAINE WITHIN
11 THAT TIMEFRAME, UH, HE WOULD HAVE BEEN EXHIBITING SOME
12 OUTWARD, UH, APPEARANCE OF INTOXICATION.

13 Q NOW, WHO TRANSPORTED HIM AFTER HIS ARREST?

14 A UH, AFTER - AFTER HE WAS ARRESTED AND TRANSPORTED TO
15 THE CHARLESTON COUNTY DETENTION CENTER. THAT WAS BY
16 OFFICER KIKER.

17 Q OKAY. AND DID YOU ADVISE OFFICER KIKER THAT YOU HAD
18 ADVISED THE DEFENDANT OF HIS MIRANDA RIGHTS?

19 A YES, SIR, I DID.

20 Q I HAVE NOTHING FURTHER. COULD YOU PLEA- -- PLEASE
21 ANSWER ANYTHING MS. SOLAR MAY HAVE FOR YOU?

22 A YES, SIR.

23 MS. SOLAR: THE COURT'S INDULGENCE, YOUR HONOR?

24 THE COURT: YES, MA'AM.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, CROSS-EXAMINATION BY MS. SOLAR:

1 CONFERENCE, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:

4 PATRICK PONTIERI, CROSS-EXAMINATION BY MS. SOLAR:

5 Q SERGEANT PONTIERI, THERE IS NO QUESTION THAT MR. SINGLEY
6 WAS TAKEN INTO CUSTODY, CORRECT?

7 A THAT'S CORRECT. YES, MA'AM.

8 Q AND THAT'S BEFORE HE MADE ANY STATEMENTS TO YOU?

9 A THAT'S CORRECT.

10 Q OKAY. AND YOU TESTIFIED THAT YOU VERBALLY GAVE HIM HIS
11 MIRANDA WARNINGS?

12 A YES, MA'AM.

13 Q HE DIDN'T SIGN A WAIVER, DID HE?

14 A NO, MA'AM.

15 Q OKAY. YOU DIDN'T LET HIM READ WHAT HIS WARNINGS WERE?
16 IS THAT CORRECT?

17 A NO, MA'AM, I EXPLAINED THEM.

18 Q YOU EXPLAINED THEM, BUT YOU DIDN'T - YOU DIDN'T LET HIM
19 READ IT?

20 A NO, MA'AM.

21 Q OKAY. HOW LONG WAS HE IN CUSTODY, WOULD YOU SAY, BEFORE
22 YOU ALLEGEDLY MIRANDIZED HIM?

23 A UH - WITHIN A COUPLE MINUTES.

24 Q AND YOU ASKED HIM ABOUT THE MON- -- MONEY THAT WAS
25 ALLEGEDLY TAKEN FROM HIS MOTHER, CORRECT?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
PATRICK PONTIERI, CROSS-EXAMINATION BY MS. SOLAR:

1 A YES, MA'AM - YES, MA'AM.

2 Q OKAY. AND IN RESPONSE TO THAT QUESTION HE ANSWERED YOU?

3 A YES, MA'AM.

4 Q CORRECT?

5 A YES, MA'AM.

6 Q WAS ANYBODY A WITNESS TO YOUR MIR- -- ALLEGEDLY
7 MIRANDIZING HIM?

8 A YES, MA'AM.

9 Q WHO WITNESSED THAT?

10 A UH - OFFICER COBB WAS THERE AND - ALONG WITH SEVERAL
11 OTHER OFFICERS THAT WERE ON SCENE THAT HAD THE PERIMETER.

12 Q OKAY. WHERE WERE THE - WHERE WERE THEY IN RELATION TO
13 WHERE YOU WERE?

14 A UH, SPE- -- EXACTLY WHERE OFFICER COBB WAS STANDING, I
15 COULDN'T TELL YOU. BUT, I KNOW HE WAS IN CLOSE PROXIMITY
16 'CAUSE HIS DOG CONTINUED - WAS RIGHT THERE WITH US.

17 WHERE THE OTHER OFFICERS WERE STANDING AND WHO THEY
18 EXACTLY WERE, I COULDN'T - COULDN'T TELL YOU.

19 Q YOU NEVER WROTE A REPORT ABOUT THE INCIDENT, IS THAT
20 CORRECT?

21 A NO, MA'AM.

22 Q AND - SO, OBVIOUSLY, YOU DIDN'T WRITE THE REPORT ABOUT
23 ANY STATEMENTS THAT MR. SINGLEY MAY HAVE GIVEN, CORRECT?

24 A CORRECT.

25 Q OKAY. OR, OBVIOUSLY, GIVING MIRANDA TO HIM, CORRECT?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 A CORRECT.

2 Q I HAVE NOTHING FURTHER. THANK YOU.

3 THE COURT: THANK YOU, MS. SOLAR. SOLICITOR?

4 MR. DURANT: UH, WE WOULD CALL OFFICER TINA KIKER.

5 THE COURT: THANK YOU, OFFICER. YOU MAY STEP DOWN.

6 (WITNESS STEPPED DOWN.)

7 (WITNESS FORWARD.)

8 CLERK (MS. NELSON): PLEASE PLACE YOUR LEFT HAND ON THE
9 BIBLE AND RAISE YOUR RIGHT HAND.

10 (WHEREUPON, TINA KIKER WAS DULY SWORN AND TESTIFIED AS
11 FOLLOWS:)

12 CLERK (MS. NELSON): PLEASE BE SEATED.

13 THE COURT: SOLICITOR, YOU MAY PROCEED.

14 MR. DURANT: THANK YOU, YOUR HONOR.

15 STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:

16 TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

17 Q WOULD YOU PLEASE STATE YOUR NAME?

18 A TINA KIKER.

19 Q AND YOU ARE EMPLOYED BY NORTH CHARLESTON POLICE
20 DEPARTMENT, IS THAT CORRECT?

21 A YES, SIR.

22 Q UM - ON THE NIGHT - THE MORNING IN QUESTION, OCTOBER 2,
23 2005, YOU WERE ON DUTY, IS THAT CORRECT?

24 A YES, SIR.

25 Q AND DID YOU HAVE OCCASION TO TRANSPORT THE DEFENDANT,

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 FERRIS SINGLEY, TO SOMEWHERE SUBSEQUENT TO HIS ARREST?

2 A YES, SIR.

3 Q WHERE DID YOU TRANSPORT HIM?

4 A CHARLESTON COUNTY DETENTION CENTER.

5 Q OKAY. AND, UH, DID YOU RECEIVE ANY - WHAT INFORMATION
6 DID YOU RECEIVE THAT NIGHT CONCERNING WHETHER OR NOT HE HAD
7 BEEN ADVISED OF HIS MIRANDA RIGHTS?

8 A I WAS ORDERED TO RESPOND BACK TO THE SCENE, THAT THE
9 SUBJECT HAD BEEN LOCATED AND TAKEN INTO CUSTODY.

10 UPON ARRIVING BACK AT THE SCENE, I WAS BRIEFED BY MY
11 SERGEANT AS TO THE EVENTS THAT HAD TRANSPIRED. AND, I WAS
12 ADVISED AT THE TIME THAT THE DEFENDANT HAD BEEN ADVISED OF
13 HIS MIRANDA RIGHTS.

14 Q OKAY. AND THAT WOULD BE SERGEANT PONTIERI WHO JUST
15 TESTIFIED? IS THAT CORRECT?

16 A YES.

17 Q UH - NOW, DID YOU HAVE ANY CONVERSATION WITH THE
18 DEFENDANT WHILE YOU WERE TRANSPORTING HIM TO THE JAIL?

19 A YES.

20 Q OKAY. WAS HE SPEAKING COHERENTLY AT THE TIME?

21 A YES.

22 Q DID HE APPEAR TO UNDERSTAND WHAT WAS GOING ON?

23 A YES.

24 Q UH - WHAT WAS HIS MOOD AT THE TIME?

25 A UM - HE WAS TALKATIVE. UH, HE WAS APOLOGETIC. HE WAS

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 VERY COOPERATIVE.

2 Q DID YOU HAVE ANY DIFFICULTY IN UNDERSTANDING HIM?

3 A NO.

4 Q DID HE HAVE ANY DIFFICULTY UNDERSTANDING YOU?

5 A NO.

6 Q DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?

7 A NO.

8 Q DID YOU THREATEN HIM IN ANY WAY TO GET HIM TO TALK
9 TO YOU?

10 A NO.

11 Q DID YOU OFFER HIM LENIENCY TO GET HIM TO TALK TO YOU?

12 A NO.

13 Q WHAT DID YOU TALK TO HIM ABOUT?

14 A UM - I ASKED HIM ABOUT, UH, A STATEMENT THAT HIS MOTHER
15 HAD MADE TO ME CONCERNING, UM - A POSSIBLE MURDER OF - OF A
16 PERSON TWO DAYS BEFORE THIS EVENT TRANSPIRED.

17 AND HE STATED TO ME---

18 Q THIS - THIS IS SOMETHING THAT HE HAD---

19 A HE HAD STATED TO HER---

20 Q OKAY.

21 A ---INDICATING THAT HE HAD KILLED A PERSON TWO DAYS AGO,
22 AND THAT HE DIDN'T HAVE ANY PROBLEM KILLING HER.

23 Q OKAY.

24 A I ASKED HIM ABOUT THAT STATEMENT.

25 Q AND, UH, WHAT WAS HIS RESPONSE WHEN YOU ASKED HIM ABOUT

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 THAT STATEMENT?

2 A HIS RESPONSE WAS THAT THAT WAS UNTRUE. THAT HE WAS JUST
3 TRYING TO, UH, SCARE HER.

4 Q SCARE HIS MOTHER?

5 A YES.

6 Q OKAY. UM - DID YOU HAVE ANY OTHER CONVERSATION
7 WITH HIM?

8 A UM - I ASKED HIM ABOUT THE, UM - WHETHER OR NOT HE HAD -
9 OF THE - THE - THE MONEY. THE - WHAT HE HAD DONE WITH THAT.
10 AND HE SAID THAT HE HAD SMOKED IT.

11 Q OKAY. DID YOU ASK HIM ANYTHING ABOUT HOW HE'D GOTTEN
12 INTO THE HOUSE?

13 A YES, I DID. I ASKED HIM ABOUT THE POINT OF ENTRY. AND,
14 UH, HE STATED THAT HE HAD ENTERED, UH, THROUGH A BACK WINDOW.

15 Q OKAY. ANY OTHER CONVERSATION WITH HIM THEN?

16 A NONE THAT I - THAT I RECALL.

17 Q OKAY. COULD YOU PLEASE ANSWER ANY QUESTIONS THAT, UH,
18 MS. SOLAR MAY HAVE FOR YOU?

19 STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:

20 TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

21 Q OFFICER KIKER, HOW - FERRIS WAS IN CUSTODY WHEN YOU CAME
22 BACK ONTO THE SCENE, CORRECT?

23 A YES, MA'AM.

24 Q OKAY. WERE YOU - DID - WERE YOU - WERE YOU EVER AT
25 SINGLEY AVENUE?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 A UH - ONLY UPON RESPONDING BACK TO THE SCENE.

2 Q OKAY. SO YOU - THAT WAS THE FIRST TIME THAT YOU GOT
3 THERE?

4 A YES.

5 Q OKAY. AND, UM, HOW - DO YOU KNOW HOW LONG FERRIS HAD
6 BEEN IN CUSTODY PRIOR TO YOUR ARRIVING?

7 A NO, MA'AM, I DON'T.

8 Q AFTER ARRIVING, HOW LONG WAS IT THAT YOU TRANSPORTED
9 HIM?

10 A UM - I DON'T HAVE THAT INFORMATION AVAILABLE. AT THE
11 TIME, THERE - IT IS INDICATED ON THE INCIDENT REPORT THE TIME
12 OF ARREST THAT'S CALLED INTO OUR DISPATCHER, AND THEN THE
13 TIME THAT HE WAS ACTUALLY BOOKED INTO THE CHARLESTON COUNTY
14 JAIL.

15 Q YOU NEVER MIRANDIZED HIM, CORRECT?

16 A THAT'S CORRECT.

17 Q OKAY. SO HE NEVER SIGNED A WAIVER FOR YOU?

18 A NO.

19 Q AND HE NEVER READ ANY OF THE WARNINGS OR ANYTHING LIKE
20 THAT FOR YOU?

21 A NOT FOR ME.

22 Q BUT THERE WAS NO QUESTION THAT HE GAVE YOU SOME
23 STATEMENTS, CORRECT?

24 A THAT'S CORRECT.

25 Q THEY WERE INCRIMINATING, CORRECT?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 A CORRECT.

2 Q OKAY. AND THAT WAS AFTER YOU QUESTIONED HIM?

3 A (NO RESPONSE.)

4 Q IN OTHER WORDS, THESE WERE NOT JUST SPON- -- SPONTANEOUS
5 QUESTIONS---

6 A THEY WERE NOT SPONTANEOUS ANSWERS.

7 Q ---ANSWERS? OKAY. AFTER THE ARREST, YOU WROTE THE
8 REPORT?

9 A YES, MA'AM.

10 Q AND YOU - YOU WERE THE REPORTING OFFICER, SO YOU WROTE
11 THE ENTIRE REPORT?

12 A YES, MA'AM.

13 Q AND YOU DIDN'T ACTUALLY MAKE A MENTION OF THAT
14 CONVERSATION IN YOUR REPORT, CORRECT?

15 A I BELIEVE I MADE A - A MENTION OF THE, UH, THE BACK
16 WINDOW. HIM STATING THAT, UH - THE BACK WINDOW.

17 Q YOU DID NOT MENTION IN YOUR REPORT THAT YOU WERE THE ONE
18 WHO TRANSPORTED HIM?

19 A I AM UNSURE. I HAVE THE REPORT THOUGH.

20 Q YOU DIDN'T MAKE A MENTION IN YOUR REPORT THAT YOU EVER
21 MIRANDIZED HIM?

22 A I NEVER MIRANDIZED HIM. I NEVER MADE A MENTION ABOUT
23 THAT.

24 MS. SOLAR: THE COURT'S INDULGENCE.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 CONFERENCE, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 Q YOU NEVER WROTE IN YOUR REPORT ANY STATEMENT ABOUT WHAT
4 FERRIS MAY HAVE SAID ABOUT A KILLING TWO DAYS PRIOR, CORRECT?

5 A UM - WAS THAT - I DON'T HAVE THAT IN FRONT OF ME.

6 Q IF I SHOWED YOU A COPY OF THE REPORT, WOULD YOU BE
7 ABLE TO---

8 A YES, MA'AM.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED TO LOCATE
10 REPORT, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 MS. SOLAR: YOUR HONOR, MAY I APPROACH THE WITNESS?

13 THE COURT: YES, MA'AM.

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED BY JUDGE
15 JEFFERSON FOR A JUDGE TO JUDGE CONFERENCE, OFF THE RECORD.)

16 (WHEREUPON, COURT RESUMED.)

17 THE COURT: MR. BAILIFF, MAKE SURE NO JURORS COME IN.
18 ALL RIGHT, SIR?

19 THANK YOU. YOU MAY PROCEED, MS. SOLAR.

20 Q OFFICER KIKER, AFTER, UM, REVIEWING THE REPORT, CAN YOU
21 TELL ME WHETHER YOU MENTIONED ANYTHING ABOUT A CONVERSATION
22 WITH MR. SINGLEY---

23 A NO---

24 Q ---REGARDING---

25 A ---I DID NOT.

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

1 Q THANK YOU.

2 MS. SOLAR: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

3 THE COURT: WELL - WELL, WHAT WAS THE REST OF THE
4 QUESTION? REGARDING WHAT?

5 MS. SOLAR: REGARDING WHETHER, UM, HE HAD MADE A
6 STATEMENT ABOUT A PRIOR KILLING TWO DAYS EARLIER.

7 THE COURT: THANK YOU.

8 MS. SOLAR: THANK YOU.

9 (WHEREUPON, WITNESS BEGAN TO LEAVE THE WITNESS STAND.)

10 MR. DURANT: HOLD ON. WE GOT ONE - ONE FOLLOW-UP, IF
11 YOU WOULD.

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
13 CONFERENCE, OFF THE RECORD.)

14 (WHEREUPON, COURT RESUMED.)

15 STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:

16 TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

17 Q IF YOU WOULD, WOULD YOU TAKE THE EXHIBIT THAT WAS - HAS
18 BEEN PROVIDED TO YOU BY DEFENSE COUNSEL, AND READ THE JUDGE
19 THE LAST PARAGRAPH, PAGE TWO?

20 A YES, SIR. AFTER BEING TAKEN INTO CUSTODY, SERGEANT
21 PONTIERI VERBALLY ADVISED THE SUSPECT OF HIS MIRANDA
22 WARNINGS---

23 COURT REPORTER: COULD YOU SLOW DOWN, PLEASE?

24 A SORRY. AFTER BEING TAKEN INTO CUSTODY, SERGEANT
25 PONTIERI VERBALLY ADVISED THE SUSPECT OF HIS MIRANDA

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

1 WARNINGS, WHICH HE ACKNOWLEDGED AS UNDERSTANDING.

2 THE SUSPECT STATED THAT THE MONEY HE TOOK FROM HIS
3 MOTHER WAS GONE. WHEN ASKED WHAT HE MEANT, HE STATED THAT HE
4 SMOKED IT.

5 SUSPECT ALSO STATED THAT HE ENTERED THE RESIDENCE
6 THROUGH A BACK WINDOW.

7 SUSPECT WAS TRANSPORTED AND LODGED IN CHARLESTON COUNTY
8 DETENTION CENTER. SERGEANT PONTIERI WAS NOTIFIED---

9 Q OKAY. NOW, THE FIRST PART OF THAT SENTENCE - THE FIRST
10 PART OF THAT PARAGRAPH, HE WAS ADVISED OF HIS - HIS RIGHTS BY
11 SERGEANT PON- -- PONTIERI VERBALLY?

12 A CORRECT.

13 Q WHERE DID THAT INFORMATION COME FROM?

14 A THAT CAME FROM A BRIEFING AT THE SCENE FROM
15 SERGEANT PONTIERI TO MYSELF.

16 Q OKAY. BUT YOU WERE NOT ACTUALLY PRESENT WHEN HE READ
17 HIM HIS RIGHTS---

18 A THAT'S CORRECT.

19 Q ---IS THAT CORRECT? YOU - YOU WERE JUST ADVISED OF
20 THAT?

21 A THAT'S CORRECT.

22 Q NOW, THE SECOND PART OF IT, AS TO WHAT HE TOLD
23 SERGEANT - SERGEANT PONTIERI ABOUT WHERE HAD THE MONEY GONE -
24 WHERE WAS THE MONEY? HE SAID, GONE - SMOKED IT. WHERE'D
25 THAT INFORMATION COME FROM?

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

- 1 A THAT ALSO CAME FROM SERGEANT PONTIERI.
- 2 Q THAT WAS RELATED TO YOU BY SERGEANT PONTIERI I ASSUME?
- 3 A YES.
- 4 Q OKAY.
- 5 A BUT THAT - THAT WAS ALSO - HE MADE THE STATEMENT TO THAT
- 6 EFFECT INSIDE THE VEHICLE AS WELL.
- 7 Q OKAY. THEN YOU GO ON TO SAY, THE SUSPECT ALSO STATED
- 8 HE ENTERED THE RESIDENCE THROUGH A BACK WINDOW. WHERE DID
- 9 THAT - WHERE DID THAT STATEMENT COME FROM?
- 10 A THAT WAS INSIDE MY VEHICLE.
- 11 Q OKAY. AS YOU WERE TRANSPORTING HIM TO---
- 12 A YES,
- 13 Q AND THAT IS THE STATEMENT YOU JUST TESTIFIED TO---
- 14 A YES.
- 15 Q ---IS THAT CORRECT? AND IT'S TRUE YOU DIDN'T MENTION
- 16 ANYTHING ABOUT, UH, HIM DENYING THAT HE KILLED ANY SOME -
- 17 ANYONE---
- 18 A NO, I DIDN'T---
- 19 Q ---AND JUST TOLD HIS MOTHER THAT?
- 20 A ---AT THAT TIME, NO.
- 21 Q OKAY. DID HE SAY IT?
- 22 A DID HE?
- 23 Q DID HE MAKE THAT STATEMENT?
- 24 A YES, HE DID.
- 25 Q OKAY. BUT IT'S - IT'S NOT IN YOUR STATEMENT? YOU - OR,

STATE WITNESS AS TO JACKSON VERSUS DENNO MOTION:
TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

1 YOUR POLICE REPORT? YOU WOULD ACKNOWLEDGE THAT, CORRECT?

2 A THAT'S CORRECT.

3 Q OKAY. AND THEN HE WAS TRANSPORTED AND LODGED AT THE
4 CHARLESTON COUNTY DETENTION CENTER. YOU DID THAT, IS THAT
5 CORRECT?

6 A THAT'S CORRECT. UM, I TYPICALLY, IN - IN ALL MY
7 REPORTS, UH, TALK WITH THE PERSON AND, UH, YOU KNOW, THAT'S -
8 THAT'S HOW I GOT HIM TO TELL ME.

9 Q THANK YOU.

10 MR. DURANT: I DON'T HAVE ANYTHING FURTHER.

11 THE COURT: DO YOU HAVE ANYTHING IN RE-CROSS, MS. SOLAR?

12 MS. SOLAR: NO, YOUR HONOR.

13 THE COURT: OKAY. MA'AM, WOULD YOU HAND THAT TO THE
14 COURT REPORTER AND LET ME SEE THAT REPORT, PLEASE?

15 (WHEREUPON, DOCUMENT HANDED TO THE COURT.)

16 (WHEREUPON, COURT RESUMED.)

17 THE COURT: THANK YOU, YOU MAY STEP DOWN.

18 (WITNESS STEPPED DOWN.)

19 THE COURT: YOU - YOU DON'T MIND IF I LOOK AT THIS?

20 MS. SOLAR: NO, YOUR HONOR.

21 THE COURT: AND THESE ARE YOUR - YOUR - YOUR SCRIBBLINGS
22 ON IT?

23 MS. SOLAR: SORRY ABOUT THAT.

24 THE COURT: THAT'S QUITE ALL RIGHT.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR DOCUMENT

1 REVIEW, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 THE COURT: ALL RIGHT. ANYTHING FURTHER, SOLICITOR?

4 MR. DURANT: UH - NOTHING IN TERMS OF TESTIMONY,
5 YOUR HONOR.

6 THE COURT: ALL RIGHT. MS. SOLAR?

7 MS. SOLAR: YES, YOUR HONOR. OBVIOUSLY, FOR THAT - ANY
8 OF THOSE STATEMENTS - THERE ARE TWO SEPARATE STATEMENTS. FOR
9 THEM TO BE ADMISSIBLE, IT OBVIOUSLY HAS TO SHOW THAT THEY
10 WERE VOLUNTARILY GIVEN.

11 THERE'S NO QUESTION THAT FERRIS WAS IN CUSTODY. BOTH
12 OFFICERS TESTIFIED HE WAS IN CUSTODY. SO THAT'S NOT REALLY
13 AN ISSUE.

14 HE WAS ENTITLED TO HIS MIRANDA WARNINGS. THERE WAS NO
15 PROOF THAT THE MIRANDA WAS EVER GIVEN TO HIM. THERE ARE NO
16 WRITTEN WARNINGS, NO WAIVER, NO WRITTEN STATEMENT. HE DID
17 NOT GIVE A WRITTEN STATEMENT. HE - NOTHING SIGNED BY HIM.

18 THE STATE BEARS THE BURDEN TO SHOW THAT THERE IS A
19 WAIVER OF RIGHTS AND THAT IT WAS VOLUNTARILY, KNOWINGLY,
20 INTELLIGENTLY MADE.

21 AND, I DO NOT BELIEVE THAT THE STATE HAS PROVEN THIS.
22 THE - THEY - THAT - THAT - THAT HIS STATEMENTS WERE A RESULT
23 OF A - A VOLUNTARY - VOLUNTARILY AND WAIVING - KNOWINGLY
24 WAIVING HIS RIGHTS.

25 AND WE WOULD ASK THAT YOU RULE THAT THEY ARE

1 INADMISSIBLE.

2 THE COURT: ALL RIGHT. SOLICITOR?

3 MR. DURANT: JUST BRIEFLY, YOUR HONOR. THE
4 UNCONTRADICTED TESTIMONY BEFORE YOUR HONOR IS THAT HE WAS
5 VERBALLY ADVISED OF HIS RIGHTS UNDER MIRANDA, THAT HE
6 APPEARED TO UNDERSTAND WHAT WAS GOING ON.

7 UH - THAT, DESPITE BEING ADVISED OF HIS RIGHTS AND
8 UNDERSTANDING HIS - HIS RIGHTS, HE, UH, ELECTED TO ENGAGE IN
9 CONVERSATION WITH THE POLICE OFFICERS, BOTH ON THE SCENE AND
10 IN THE CAR ON THE WAY TO, UH - TO JAIL. AND, THAT HE, UH,
11 DID SO OF HIS OWN VOLITION, AND THAT HE WAS - IT WAS NOT THE
12 PRODUCT OF ANY THREAT, UNDO INFLUENCE, OR A PROMISE MADE ON
13 BEHALF OF THE POLICE OFFICERS.

14 I THINK CLEARLY, UH, IT - IT IS ADMISSIBLE. UM - AND A
15 JURY ISSUE AS TO WHETHER OR NOT THESE STATEMENTS WERE
16 VOLUNTARILY - WERE VOLUNTARY. BUT, THERE CERTAINLY IS
17 NOTHING IN THE RECORD WHICH WOULD INDICATE THAT THE
18 STATEMENTS WERE INVOLUNTARY.

19 THE COURT: ALL RIGHT. AND IT'S YOUR MOTION, MS. SOLAR.
20 YOU MAY RESPOND TO THAT.

21 MS. SOLAR: YOUR HONOR, I - I - I DON'T BELIEVE, UM,
22 THE STATE HAS PROVEN THAT THE MIRANDA WAS GIVEN, AND WE JUST
23 ASK THAT YOU FIND THAT HIS STATEMENTS WERE NOT VOLUNTARY.

24 THE COURT: ALL RIGHT. THANK YOU, MA'AM. I FIND, BY
25 THE PREPONDERANCE OF THE EVIDENCE AT THIS STAGE, THAT THE

1 STATEMENTS WERE GIVEN. THAT THE STATEMENTS WERE GIVEN
2 VOLUNTARILY. THAT THE STATEMENTS WERE GIVEN IN COMPLIANCE
3 WITH MIRANDA. THAT THERE WERE NO THREATS OR PROMISES OR
4 OFFERS OF LENIENCY OR HOPE OF REWARD IN ANY MANNER.

5 UM - I DO HAVE ONE QUESTION, THOUGH, SOLICITOR. THE
6 STATEMENT CONCERNING THE, UH - THE KILLING TWO DAYS PRIOR.
7 UM, I - PERHAPS I'M JUST ANTICIPATING A - AN ISSUE, BUT, UM,
8 WHAT - WHAT IS THE RELEVANCY OF THAT?

9 MR. DURANT: THAT IS BASICALLY WHAT HE TOLD THE MOTHER
10 AT THE TIME. AND I BELIEVE THE TESTIMONY WOULD BE THAT WHEN
11 HE ACCOSTED HER WITH THE KNIFE INSIDE OF THE HOUSE, HE SAID,
12 UH - HE - AND SHE CAN - SHE CAN TELL YOU BETTER THAN I CAN,
13 BUT - BUT IT ESSENTIALLY IS, DON'T SCREAM MAMA OR I'LL KILL
14 YOU. I GOT NOTHING TO LOSE, I KILLED A GUY YESTERDAY.

15 AND - AND - AND THAT'S WHERE SHE TOLD THE SAME THING TO
16 THIS POLICE OFFICER THAT NIGHT, AND THAT'S WHY THIS POLICE
17 OFFICER ASKED HIM ABOUT THAT.

18 AND THEN WHEN HE - SHE QUESTIONED HIM ABOUT THAT, HE
19 SAID THAT WASN'T TRUE, HE WAS JUST SAYING THAT TO SCARE HIS
20 MAMA.

21 THE COURT: I UNDERSTAND. YES, MA'AM?

22 MS. SOLAR: WELL, JUDGE, ACTUALLY - THAT WAS ACTUALLY MY
23 NEXT MOTION.

24 ONLY WITH RESPECT TO YOUR RULING. WE STILL ACTUALLY
25 OBJECT TO ANY STATEMENTS COMING IN.

1 BUT, WE WOULD ASK THAT YOU MAKE A MOTION - OR, A RULING
2 TO EXCLUDE ANY REFERENCE TO THAT STATEMENT COMING IN. UM -
3 SAYING THAT - QUOTE - HE KILLED SOMEBODY TWO DAYS AGO. UM -
4 OR - OR THE, UM, ALLEGED STATEMENT TO OFFICE KIKER, I WAS
5 TRYING TO SCARE MY MOTHER.

6 I MEAN, OBVIOUSLY, THE JURY COULD BELIEVE THAT THAT DID
7 HAPPEN, AND IT'S EXTREMELY PREJUDICIAL.

8 IT DOESN'T MAKE THESE CRIMES MORE OR LESS LIKELY TO HAVE
9 OCCURRED, AND I JUST THINK THEY'RE JUST TOO PREJUDICIAL. AND
10 I WOULD ASK THAT YOU RULE THAT - THAT ANY - ANY MAY (SIC) -
11 MENTION OF THAT BE EXCLUDED.

12 **THE COURT:** AND - AND I - I WILL TAKE THAT UNDER
13 ADVISEMENT. I REALIZE THAT'S A MOTION IN LIMINE, AND I WILL
14 ANALYZE THAT UNDER 403, 'CAUSE I KNOW WE WERE GONNA PARTIALLY
15 LISTEN TO THE MOTHER'S TESTIMONY CONCERNING AUTHENTICATION OF
16 THE LETTER ANYWAY.

17 SO, THANK YOU AND HERE IS YOUR COPY.

18 **MS. SOLAR:** THANK YOU, YOUR HONOR.

19 **THE COURT:** DO WE HAVE ALL OUR JURORS YET, MR. BAILIFF?
20 OR...

21 **BAILIFF:** WE HAVE THEM ALL OUTSIDE.

22 **THE COURT:** ALL OF THEM ARE OUTSIDE?

23 **BAILIFF:** YES.

24 **THE COURT:** ALL RIGHT. WELL, WE CAN, UH, SELECT OUR
25 JURY NOW. THAT'D BE THE - THE PRUDENT THING TO DO.

1 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
2 CONFERENCE, OFF THE RECORD.)

3 (WHEREUPON, COURT RESUMED.)

4 CLERK (MS. NELSON): THEY JUST HAVE HALF THE JURORS OUT
5 THERE. THERE'S NOT FORTY-EIGHT YET.

6 MR. DURANT: OH, OKAY.

7 CLERK (MS. NELSON): 4-B HASN'T FINISHED SELECTION YET.

8 MR. DURANT: OKAY.

9 THE COURT: THEY CAN LET 'EM STAY IN THE JURY---

10 CLERK (MS. NELSON): YES, YOUR HONOR.

11 THE COURT: ---ASSEMBLY ROOM UNTIL THEY ALL GET
12 TOGETHER. BECAUSE, YOU DON'T KNOW HOW LONG IT'S GONNA BE.

13 CLERK (MS. NELSON): OKAY.

14 THE COURT: ALL RIGHT. WELL, IT APPEARS WE DO NOT HAVE
15 ALL OF OUR JURORS YET. DO YOU WANT TO GO FORWARD WITH
16 ANOTHER MOTION, MS. SOLAR?

17 MS. SOLAR: I'M SORRY, YOUR HONOR? I WAS---

18 THE COURT: IT APPEARS WE ONLY HAVE HALF OF OUR JURORS
19 RIGHT NOW IS MY UNDERSTANDING.

20 MS. SOLAR: YES, SIR. WELL, FOR THE RECORD, I
21 UNDERSTAND THAT THE SOLICITOR - AND I'VE SPOKEN TO HIM - THAT
22 AS TO ANY LYLE EVIDENCE, HE IS NOT INTENDING ON INTRODUCING
23 ANY LYLE EVIDENCE EXCEPT MY CLIENT'S PRIOR DRUG USE OR DRUG
24 ADDICTION. AND I - I JUST WANT, FOR THE RECORD, THAT TO BE
25 CLEAR.

1 THE COURT: ALL RIGHT. SOLICITOR?

2 MR. DURANT: YOUR HONOR, I HAVE INSTRUCTED MS. SINGLEY
3 AND MR. VAN ALLEN TO MAKE NO NOTE - MENTION OF THE - THE
4 DEFENDANT'S PRIOR INCARCERATION FOR RAPE.

5 I'VE INSTRUCTED MY CLIENT - MY VICTIM NOT TO MENTION
6 ANYTHING ABOUT WHY HER SON WAS KICKED OUT OF THE HOUSE IN
7 APRIL OF THE YEAR THIS OFFENSE OCCURRED.

8 UH - AND, I HAVE NO INTENTION OF PUTTING ANYTHING IN,
9 OTHER THAN WHAT YOUR HONOR HAS ALREADY HEARD, IN TERMS - IN
10 TERMS OF WHAT THE DEFENDANT - WHAT CAME OUT OF THE
11 DEFENDANT'S OWN MOUTH OR BY HIS OWN HAND IN TERMS OF HIS DRUG
12 USE OR ANY THREATS THAT HE MAY HAVE MADE TO HIS MOTHER.
13 THINGS OF THAT NATURE.

14 THE COURT: ALL RIGHT. NOW, DOES THAT PROTECT THE
15 RECORD FOR YOU, MS. SOLAR?

16 MS. SOLAR: YES, YOUR HONOR. THE ONLY OTHER ONE I THINK
17 THAT WE CAN HANDLE WITHOUT HIS MOTHER - WITH - WITHOUT HIS
18 MOTHER PRESENT - PRESENT IS THE 911 TAPE.

19 THE COURT: ALL RIGHT.

20 MR. DURANT: AND IN THAT REGARD, YOUR HONOR, SHOULD I
21 JUST PLAY IT FIRST? OR I'LL - I'LL---

22 MS. SOLAR: I THINK THAT'LL BE FINE.

23 MR. DURANT: ---I'LL HAVE IT MARKED?

24 THE COURT: WELL, IT - FOR PURPOSES OF THIS HEARING, ARE
25 YOU SAYING IT'S AUTHENTIC FOR PURPOSES---

1 MS. SOLAR: YES, SIR.

2 THE COURT: ---OF THE HEARING?

3 MS. SOLAR: YES, SIR.

4 THE COURT: ALL RIGHT.

5 MR. DURANT: AND, UH, DO YOU HAVE ANY PROBLEM WITH
6 AUTHEN- -- I MEAN, OBVIOUSLY THE PERSON THAT IS ON THIS TAPE
7 WILL IDENTIFY HIS VOICE AND THE OTHER VOICE ON IT. AND -
8 AND, UH - I MEAN, THAT'LL BE IN THE TRIAL ASPECT OF IT.

9 MS. SOLAR: THAT'S FINE.

10 MR. DURANT: BUT - BUT, UH - BUT OTHER THAN THAT, UH -
11 GOODNESS. AS - I PROVIDED HER WITH THE CASSETTE TAPE. I'VE
12 BASICALLY HAD THAT PUT ON C-D FOR PURPOSES OF THIS TRIAL. DO
13 YOU HAVE ANY PROBLEM WITH THAT? DO I NEED TO AUTHENTICATE
14 THE C-D?

15 MS. SOLAR: NO, THAT'S FINE.

16 MR. DURANT: OKAY.

17 THE COURT: AND - AND - AND YOUR OBJECTION, MS. SOLAR,
18 SO I'LL UNDERSTAND, IS A 403 OBJECTION? OR...

19 MS. SOLAR: UM - WELL, IT'S - WE - IT'S HEARSAY. WE
20 BELIEVE IT'S PREJUDICIAL. WE ALSO BELIEVE IT'S IRRELEVANT.
21 AND, CUMULATIVE.

22 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
23 CONFERENCE, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 (WHEREUPON, STATE'S EXHIBIT NO. 13 WAS MARKED FOR

1 IDENTIFICATION.)

2 MR. DURANT: YOUR HONOR, I'VE HAD THIS MARKED AS A
3 STATE'S EXHIBIT 12 - IS THAT CORRECT?

4 COURT REPORTER: NO, SIR - THIRTEEN.

5 MR. DURANT: STATE'S EXHIBIT NUMBER THIRTEEN FOR
6 IDENTIFICATION.

7 THE COURT: ALL RIGHT, SIR.

8 (WHEREUPON, C-D OF 911 CALL WAS PLAYED FOR THE COURT.)

9 MR. DURANT: THAT'S IT, YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR.

11 MR. DURANT: IT'S HER MOTION. I GUESS---

12 THE COURT: YES, SIR. YES, MA'AM?

13 MS. SOLAR: YOUR HONOR, AFTER LISTENING TO THAT
14 RECORDING, I THINK THAT - IT WOULD BE - CERTAINLY IT'S
15 HEARSAY. MR. VAN ALLEN, WHO IS THE VOICE ON THE RECORDING,
16 DIDN'T WITNESS ANYTHING AND HE IS TELLING THIS 911 OPERATOR
17 WHAT HAPPENED. AND, OBVIOUSLY, HER SPEAKING IS ALSO HEARSAY.

18 BUT - BUT MORE IMPORTANTLY, I THINK, IS THAT IT'S
19 COMPLETELY INFLAMMATORY. YOU HEAR MRS. SINGLEY IN THE
20 BACKGROUND. SHE'S HYSTERICAL, AND I THINK THAT'S EXTREMELY
21 PREJUDICIAL.

22 IT'S ALSO IRRELEVANT. BOTH MR. VAN ALLEN AND
23 MRS. SINGLEY ARE ON THE WITNESS LIST. THEY'RE BOTH HERE TO
24 TESTIFY AND THEY BOTH CAN TESTIFY AS TO WHAT HAPPENED.

25 IT'S CUMULATIVE. THE TAPE DOESN'T ADD ANYTHING, ALL IT

1 DOES IS CREATE A WAY TO INFLAME THE JURY.

2 AND SO, WE WOULD ASK THAT YOU EXCLUDE THE USE OF THAT
3 TAPE.

4 THE COURT: ALL RIGHT. SOLICITOR?

5 MR. DURANT: YOUR HONOR, WITH REGARD TO - WITH REGARD TO
6 HER ISSUE REGARDING THE 911 TAPE, FIRST OF ALL WE WOULD
7 ARGUE - IN TERMS OF RELEVANCE - IT'S EXTREMELY RELEVANT.

8 IT'S RELEVANT, NUMBER ONE, THAT THE VICTIM IN THIS CASE
9 WAS JUST THE SUBJECT OF A TRAUMATIC INCIDENT.

10 UM - AND, IT IS ALSO RELEVANT AS TO WHO WAS THE
11 PERPETRATOR OF THAT INCIDENT - BEING HER SON.

12 UM - IT'S OBVIOUSLY MADE WHEN - AND WITH REGARD TO -
13 I'VE ALREADY - SHE MADE NO CRAWFORD ARGUMENT, WHICH IS TRUE
14 BECAUSE BOTH OF THE DECLARANTS ARE HERE AND AVAILABLE TO
15 TESTIFY.

16 NOW, WITH REGARD TO THE - THE HEARSAY ISSUE, YOUR HONOR,
17 I WOULD SAY, AS TO HER STATEMENTS - MRS. SINGLEY'S
18 STATEMENTS - THAT THEY WOULD BE ADMISSIBLE UNDER, UH,
19 803(2) OR (3), BEING THE EXCITED EVIDENCE EXCEPTION OR THE
20 EXIST - THEN EXISTING MENTAL, EMOTIONAL, OR PHYSICAL
21 CONDITION.

22 UH - IT'S OBVIOUSLY - FROM THE TAPE THAT THIS - THIS WAS
23 PHONED IN AND WE BELIEVE, FROM THE TESTIMONY AT THE TRIAL,
24 THAT THIS WAS PHONED IN RIGHT AFTER IT OCCURRED, WHILE MRS.
25 SINGLEY WAS STILL UNDER THE STRESS OF THIS EVENT.

1 UH - AND - AND IT'S QUITE APPARENT FROM LISTENING TO THE
2 TAPE THAT - THAT, UH, SHE WAS EXCITED AND, AS REQUIRED BY THE
3 RULE, WHILE SHE WAS UNDER THE STRESS AND EXCITEMENT CAUSED BY
4 THE EVENT OR CONDITION.

5 UH - LIKEWISE, I THINK IT COULD BE ADMISSIBLE UNDER, UH,
6 803(3), WHICH PROVIDES A STATEMENT OF THE DECLARANT'S THEN
7 EXISTING STATE OF MIND, EMOTION, SENSATION, OR PHYSICAL
8 CONDITION, UM, BUT NOT INCLUDING A STATEMENT OF MEMORY OR
9 BELIEF.

10 WITH REGARD TO MR. VAN ALLEN, I THINK ANYTHING SAID TO
11 HIM IS ADMISSIBLE UNDER, UH, 803(1). IT'S A PRESENT SENSE
12 IMPRESSION. BASICALLY, WHAT HE IS DOING - IT'S A HEARSAY ON
13 HEARSAY TYPE ANALYSIS, YOUR HONOR. AND BASICALLY WHAT HE IS
14 DOING IS RELAYING WHAT SHE TELLS HIM TO THE 911 OPERATOR.

15 UH - AND, 803(1) PROVIDES A PRESENT SENSE IMPRESSION. A
16 STATEMENT DESCRIBING OR EXPLAINING AN EVENT OR CONDITION MADE
17 WHILE THE DECLARANT WAS PERCEIVING THE EVENT OR THE CONDITION
18 OR IMMEDIATELY THEREAFTER.

19 AND AS I SAY, HE'S BASICALLY - HE - HE - HE WILL
20 TESTIFY - HE'S PRESENT, AVAILABLE TO TESTIFY. WILL IDENTIFY
21 HIS VOICE ON THE - ON THE TAPE. WILL IDEN- -- IDENTIFY
22 MS. SINGLEY'S VOICE ON THE TAPE. AND, BASICALLY WILL TESTIFY
23 THAT HE'S DOING NOTHING MORE THAN - THAN, YOU KNOW, RELAYING
24 THE INFORMATION THAT HE RECEIVED FROM HER TO THEM.

25 THE COURT: THANK YOU, SOLICITOR. MS. SOLAR?

1 **MS. SOLAR:** YOUR HONOR, YOU - YOU STILL HAVE TO GET PAST
2 RULE 403. I MEAN, IT'S HIGHLY PREJUDICIAL. YOU CAN HEAR HER
3 IN THE BACKGROUND, SHE IS SCREAMING.

4 AND MR. DURANT'S RIGHT, THEY'RE BOTH HERE TO TESTIFY AS
5 TO WHAT HAPPENED.

6 I MEAN, THIS - THIS - THERE IS NO NEED FOR THAT TAPE
7 SINCE THEY'RE BOTH HERE AND CAN BOTH TESTIFY.

8 UM - YOU KNOW, IT'S JUST INFLAMMATORY. THE - THE -
9 SHE'S HYSTERICAL IN THE BACKGROUND, AND I - I - I JUST THINK
10 YOU CAN'T GET AROUND RULE 403.

11 **THE COURT:** YES, MA'AM.

12 **MR. DURANT:** AND JUST BRIEFLY, IN RESPONSE TO THAT, I
13 DON'T KNOW WHAT THEIR DEFENSE IS IN THIS CASE, YOUR HONOR.
14 IT COULD VERY WELL BE THAT IT NEVER OCCURRED - THAT SHE MADE
15 THIS WHOLE THING UP BECAUSE HER MOM - THAT HIS MOM HAS
16 SOMETHING AGAINST HIM. I DON'T KNOW.

17 UM - I - I PREPARED MY - MY CASE, AND I THINK BASICALLY
18 THIS IS - IS DIRECTLY RELEVANT AS WHETHER THIS LADY SUFFERED
19 A TRAUMATIC EVENT, AND HE WAS THE ONE WHO COMMITTED THE - THE
20 OFFENSE.

21 UH - AND LIKE I SAID, IT WAS BASICALLY DONE AT A TIME
22 RIGHT AFTER IT OCCURRED WHEN THERE WAS NO MOTIVE ON HER PART,
23 NOR WAS - THERE'S NO EMPHASIS ON HER PART TO COME UP WITH A
24 LIE OR TO TELL A - A FIB OR ANYTHING LIKE THAT.

25 **THE COURT:** THANK YOU SOLICITOR AND MS. SOLAR. I - I

1 WOULD FIND THAT, UM, CLEARLY IT'S, UM, ADMISSIBLE UNDER, UM,
2 803(2), IF NOT 803(3) AS FAR AS THE, UM, VICTIM'S STATEMENT.
3 IT CLEARLY IS REALLY THE BEST EVIDENCE OF AN EXCITED
4 UTTERANCE WHEN YOU HAVE THE TAPED EXCITED UTTERANCE ITSELF.

5 I THINK MR., UM - I'M NOT SURE OF HIS NAME AGAIN - BUT
6 THE CALLER WOULD BE ADMISSIBLE UNDER 803(1). IT IS CLEARLY
7 RELEVANT UNDER 401, AND I DO NOT THINK THAT, UM, ITS
8 PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY DANGER OF
9 UNFAIR PREJUDICE.

10 SO, I WOULD FIND THAT IT WOULD, UH, BE ADMISSIBLE, UM,
11 UNDER A 403 ANALYSIS ALSO.

12 ALL OF THIS, OF COURSE, IS SUBJECT TO, UH,
13 AUTHENTICATION BY - BY EACH OF THE PARTIES ON THE TAPE. I
14 SAY BY EACH OF THE PARTIES, YOU HAVE THE 911 OPERATOR?

15 MR. DURANT: I ACTUALLY HAVE MR. VAN ALLEN, THE - THE
16 GUY THAT MADE THE CALL.

17 AND, I MEAN, MRS. - MRS. SINGLEY WILL BE HERE TOO, BUT I
18 WASN'T REALLY GONNA PLAY THE TAPE FOR HER, I WAS JUST
19 BASICALLY GONNA PUT IN THE TAPE. I MEAN I COULD, BUT I WAS
20 ONLY GONNA USE IT ONE TIME, AND THAT WOULD PROBABLY BE WITH
21 MR. VAN ALLEN.

22 UH - SO I MEAN, IN OTHER WORDS, I DON'T HAVE THE 911
23 OPERATOR, I GOT THE OTHER TWO PEOPLE---

24 THE COURT: ALL RIGHT.

25 MR. DURANT: ---ON THE OTHER SIDE.

JURY PANEL VOIR DIRE

1 **THE COURT:** OKAY. I - I THINK THAT'S SUFFICIENT.

2 **MR. DURANT:** OKAY.

3 **THE COURT:** YES, MA'AM?

4 **MS. SOLAR:** NOTHING - NOTHING FURTHER, YOUR HONOR.

5 **THE COURT:** ALL RIGHT. THANK YOU, MS. SOLAR. YES -
6 YES, SIR, MR. BAILIFF?

7 **BAILIFF:** ALL THE JURORS ARE HERE.

8 **THE COURT:** BOTH - FROM BOTH JUDGE DENNIS AND
9 JUDGE JEFFERSON?

10 **BAILIFF:** YES, SIR.

11 **THE COURT:** ALL RIGHT, SIR. UM - YOU CAN HAVE THEM COME
12 IN NOW. THANK YOU.

13 (WHEREUPON, JURY PANEL ENTERED THE COURTROOM AT
14 12:35 P.M.)

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
16 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
17 HEARING OF THE JURY PANEL, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED.)

19 **BAILIFF:** THAT'S ALL OF THEM.

20 **THE COURT:** IS THAT ALL OUR JURORS, MR. BAILIFF?

21 **BAILIFF:** ALL JURORS ARE HERE.

22 **THE COURT:** GOOD - I WAS GOING TO SAY GOOD MORNING,
23 LADIES AND GENTLEMEN OF THE JURY, BUT IT'S ALREADY A LITTLE
24 LATE FOR THAT. GOOD - GOOD AFTERNOON, LADIES AND GENTLEMEN
25 OF THE JURY. MY NAME IS KNOX MCMAHON. I AM A CIRCUIT JUDGE

JURY PANEL VOIR DIRE

1 FROM LEXINGTON, SOUTH CAROLINA, AND IT IS MY PRIVILEGE AND
2 PLEASURE TO BE ASSIGNED TO A TERM OF COURT IN GENERAL
3 SESSIONS IN CHARLESTON COUNTY THIS WEEK. AND I WILL BE IN
4 CHARLESTON COUNTY FOR ABOUT THE NEXT MONTH-AND-A-HALF.

5 WE ARE BEGINNING A JURY SELECTION PROCESS ON A CASE -
6 SOLICITOR, WOULD YOU CALL YOUR CASE FOR TRIAL, PLEASE, SIR?

7 MR. DURANT: YES, SIR, YOUR HONOR. THE STATE WOULD CALL
8 THE STATE VERSUS FERRY (SIC) - FERRIS GEIGER SINGLEY.

9 MR. SINGLEY IS INDICTED BY THE CHARLESTON COUNTY GRAND
10 JURY IN 2006-GS-10-0093 FOR KIDNAPPING, 0094 FOR ARMED
11 ROBBERY, AND 0095 FOR BURGLARY IN THE FIRST DEGREE.

12 THE COURT: ALL RIGHT. THANK YOU, SOLICITOR.

13 LADIES AND GENTLEMEN, WE ARE GOING TO SELECT THIS, UM,
14 TRIAL JURY FOR MR. SINGLEY. AND MR. - AND - MOMENTARILY.

15 AND HE HAS BEEN INDICTED BY THE CHARLESTON COUNTY GRAND
16 JURY. THE INDICTMENT IS NO MORE THAN A CHARGING PAPER. IT'S
17 A FORMAL DOCUMENT THAT BRINGS AN INDIVIDUAL BEFORE THE COURT.
18 IT IS NOT EVIDENCE IN ANY WAY IN THIS CASE.

19 I'M GONNA ASK YOU A SERIES OF QUESTIONS TO QUALIFY YOU
20 AS TO YOUR SERVICE ON THIS PARTICULAR CASE.

21 TO BEGIN WITH, SOLICITOR, WOULD YOU STAND AND INTRODUCE
22 YOURSELF AND ANY MEMBERS OF YOUR STAFF THAT MAY ASSIST IN THE
23 PROSECUTION OF THE CASE?

24 (WHEREUPON, BRUCE DURANT AND SUSAN HILLS STAND AND FACE
25 THE JURY PANEL.)

JURY PANEL VOIR DIRE

1 **MR. DURANT:** YES, SIR, YOUR HONOR. MY NAME IS
2 BRUCE DURANT. I'M A SENIOR ASSISTANT SOLICITOR HERE IN
3 CHARLESTON COUNTY. I'LL BE HANDLING THIS CASE ON BEHALF OF
4 THE STATE OF SOUTH CAROLINA.

5 BASICALLY, I'LL BE TRYING THIS CASE MYSELF. YOU MAY SEE
6 MS. SUSAN HILLS, UH, WHO IS - SHE'S A PARALEGAL IN OUR
7 OFFICE. SHE MAY BE ASSISTING ME THROUGHOUT THIS CASE.

8 ALSO, MY INVESTIGATOR, MATT CASEY, WHO IS NOT IN HERE
9 RIGHT NOW. BUT, UH, HE MAY BE HELPING THROUGHOUT THIS, UH -
10 TRIAL OF THIS CASE AS WELL.

11 UH - LET ME INTRO- -- INTRODUCE A COUPLE OF POLICE
12 OFFICERS, 'CAUSE THEY WILL BE TESTIFYING AND THE JUDGE WILL
13 ASK YOU THIS.

14 (WHEREUPON, TINA KIKER STANDS AND FACES THE JURY PANEL.)

15 **MR. DURANT:** THIS IS TINA KIKER. SHE IS WORKING FOR THE
16 NORTH CHARLESTON POLICE DEPARTMENT.

17 (WHEREUPON, PATRICK PONTIERI STANDS AND FACES THE JURY
18 PANEL.)

19 **MR. DURANT:** AND, PATRICK PONTIERI RIGHT HERE.

20 THEY WILL BOTH BE TESTIFYING IN THE CASE. 'CAUSE THE
21 JUDGE WILL BE ASKING ABOUT THEM AS WELL.

22 **THE COURT:** THANK YOU - THANK YOU MR. DURANT.

23 **MR. DURANT:** THANK YOU, YOUR HONOR.

24 **THE COURT:** IS ANY MEMBER OF THE JURY PANEL OR A
25 IMMEDIATE FAMILY MEMBER OR A CLOSE FRIEND EVER BEEN

JURY PANEL VOIR DIRE

1 REPRESENTED BY MR. DURANT OR ANY MEMBERS OF THE NINTH CIRCUIT
2 SOLICITOR'S OFFICE - THE CHARLESTON COUNTY SOLICITOR'S
3 OFFICE? IF SO, PLEASE STAND. OR SQUAT - I'M SORRY.

4 (NO RESPONSE FROM THE JURY PANEL.)

5 THE COURT: ANY MEMBER OF THE JURY PANEL OR A MEMBER OF
6 YOUR IMMEDIATE FAMILY OR CLOSE PERSONAL FRIEND WHO WAS
7 PROSECUTED BY THE NINTH CIRCUIT SOLICITOR'S OFFICE? IF SO,
8 PLEASE STAND. AND THOSE OF YOU WHO ARE STANDING, YOU CAN -
9 YOU CAN RAISE - RAISE YOUR HAND IF YOU NEED TO.

10 (NO RESPONSE FROM THE JURY PANEL.)

11 THE COURT: ALL RIGHT. AND MR. FERRIS GEIGER SING- --
12 SINGLEY. MR. SINGLEY, WOULD YOU PLEASE STAND? AND HIS
13 ATTORNEY IS MS. - MS. KELLY SOLAR. IF YOU'LL INTRODUCE
14 YOURSELF AND ANY MEMBERS OF YOUR STAFF?

15 (WHEREUPON, KELLY SOLAR, TED SMITH, AND FERRIS GEIGER
16 SINGLEY STOOD AND FACED THE JURY PANEL.)

17 MS. SOLAR: THANK YOU, YOUR HONOR. I'M KELLY SOLAR FROM
18 THE CHARLESTON COUNTY PUBLIC DEFENDER'S OFFICE.

19 UH - WITH ME IN THIS CASE IS MR. TED SMITH. HE'S ALSO
20 WITH THE CHARLESTON COUNTY PUBLIC DEFENDER'S OFFICE.

21 YOU SEE IN-BETWEEN US IS FERRIS SINGLEY.

22 THE COURT: THANK YOU. YOU MAY BE SEATED.

23 IS ANY MEMBER OF THE JURY PANEL OR A CLOSE PERSONAL -
24 OR, IMMEDIATE FAMILY OR A CLOSE PERSONAL FRIENDS (SIC) BEEN
25 REPRESENTED BY MS. SOLAR, MR. SMITH, OR ANY ATTORNEY WITH THE

1 CHARLESTON COUNTY SOLICITOR'S OFFICE? IF SO, PLEASE STAND.

2 (NO RESPONSE FROM THE JURY PANEL.)

3 THE COURT: ANY MEMBER OF THE JURY PANEL RELATED BY
4 BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OF THE DEFENDANT
5 IN THIS CASE, MR. FERRIS SINGLEY? IF SO, PLEASE STAND.

6 (NO RESPONSE FROM THE JURY PANEL.)

7 THE COURT: ANY MEMBERS OF THE JURY PANEL FORMER LAW
8 ENFORCEMENT EMPLOYEE? IF SO, PLEASE STAND.

9 YES, SIR? RIGHT HERE ON THE FRONT. YOUR - THIS
10 GENTLEMAN RIGHT HERE. YOUR NUMBER AND NAME, SIR?

11 MR. ROBERTSON: 197, TARIK ROBERTSON. I WORKED FOR
12 NORTH CHARLESTON P-D 2005. AUGUST 1ST TO OCTOBER 22ND.

13 THE COURT: ALL RIGHT, SIR. AND THE FACT THAT YOU
14 WORKED FOR THE NORTH CHARLESTON POLICE DEPARTMENT DURING THAT
15 PERIOD OF TIME, COULD YOU STILL BE A FAIR AND IMPARTIAL JUROR
16 TO BOTH THE STATE AND THE DEFENDANT IN THIS CASE?

17 MR. ROBERTSON: YES, SIR.

18 THE COURT: THANK YOU. YOU MAY SEATED.

19 YES, SIR? YOUR NUMBER AND NAME?

20 MR. HALE: YES, SIR, JUROR NUMBER 260.

21 THE COURT: NUMBER 260. AND YOUR NAME, SIR?

22 MR. HALE: BRIAN HALE.

23 THE COURT: MR. HALE. AND WHAT WAS YOUR EMPLOYMENT?

24 MR. HALE: DEPUTY SHERIFF. THAT WAS IN BILLINGS,
25 MONTANA, FROM '72 TO '75.

JURY PANEL VOIR DIRE

1 **THE COURT:** ALL RIGHT. AND THE FACT THAT YOU WAS (SIC)
2 A DEPUTY SHERIFF IN BILLINGS, MONTANA, IN - FROM '72 TO '75,
3 COULD YOU STILL BE A FAIR AND IMPARTIAL JUROR TO BOTH THE
4 STATE AND THE DEFENDANT IN THIS CASE?

5 **MR. HALE:** YES, SIR.

6 **THE COURT:** THANK YOU, SIR. I WOULD SAY YOU MAY BE
7 SEATED, BUT YOU MAY CONTINUE TO STAND.

8 THIS YOUNG LADY OVER HERE?

9 **MS. GETHERS:** IT'S RHONDA GETHERS, JUROR 259.

10 **THE COURT:** AND WHAT WAS YOUR EMPLOYMENT, MA'AM?

11 **MS. GETHERS:** I WORKED AS A DETENTION OFFICER AND A
12 DEPUTY SHERIFF FROM '92 TO '97.

13 **THE COURT:** AND WHERE WAS THAT AT, MA'AM?

14 **MS. GETHERS:** CHARLESTON COUNTY SHERIFF'S DEPARTMENT.

15 **THE COURT:** WHICH COUNTY?

16 **MS. GETHERS:** CHARLESTON COUNTY.

17 **THE COURT:** CHARLESTON COUNTY?

18 **MS. GETHERS:** UH-HUH.

19 **THE COURT:** AND THE FACT THAT YOU WERE EMPLOYED WITH THE
20 CHARLESTON COUNTY SHERIFF'S DEPARTMENT FROM '92 TO '95 (SIC),
21 COULD YOU STILL BE A FAIR AND IMPARTIAL JUROR TO BOTH THE
22 STATE AND THE DEFENDANT IN THIS CASE?

23 **MS. GETHERS:** YES, SIR.

24 **THE COURT:** THANK YOU, MA'AM. YOU MAY BE SEATED.

25 ARE THERE ANY OTHERS?

JURY PANEL VOIR DIRE

1 (NO FURTHER RESPONSE FROM JURY PANEL.)

2 THE COURT: ARE THERE ANY MEMBERS OF THE JURY PANEL
3 WHOSE IMMEDIATE FAMILY MEMBERS ARE EMPLOYED BY A LAW
4 ENFORCEMENT AGENCY? IS SO, PLEASE STAND.

5 ALL RIGHT. AND STARTING OVER HERE TO MY LEFT, YOUR
6 NUMBER AND NAME PLEASE?

7 MS. ERIKSEN: 74, PATRICIA ERIKSEN.

8 THE COURT: ALL RIGHT. AND, MS. ERIKSEN, WHAT FAMILY
9 MEMBER IS EMPLOYED?

10 MS. ERIKSEN: MY SISTER WORKS FOR THE POLICE DEPARTMENT
11 OUT OF STATE - IN ANOTHER STATE - IN THE TRAFFIC DIVISION.

12 THE COURT: THE FACT THAT YOUR SISTER IS EMPLOYED AS A
13 POLICE OFFICER IN A TRAFFIC DIVISION OUT OF STATE, COULD YOU
14 STILL BE A FAIR AND IMPARTIAL JUROR TO BOTH THE STATE AND THE
15 DEFENDANT IN THIS CASE?

16 MS. ERIKSEN: YES, I CAN.

17 THE COURT: THANK YOU, MA'AM, YOU MAY BE SEATED.

18 YES, MA'AM?

19 MS. DASEN: PATTY DASEN, 58 NUMBER (SIC). MY SON IS A
20 LIEUTENANT IN WALTERBORO POLICE DEPARTMENT.

21 THE COURT: AND THE FACT THAT YOUR SON IS A LIEUTENANT
22 WITH THE WALTERBORO POLICE DEPARTMENT, COULD YOU STILL BE A
23 FAIR AND IMPARTIAL JUROR TO BOTH THE STATE AND THE DEFENSE IN
24 THIS CASE?

25 MS. DASEN: I BELIEVE SO.

JURY PANEL VOIR DIRE

1 **THE COURT:** NOW, WHEN YOU - WHEN YOU SAY, I BELIEVE SO,
2 THAT MIGHT BE JUST SEMANTICS BETWEEN - BETWEEN ME AND YOU.

3 **MS. DASEN:** WELL, I MEAN, BECAUSE HE'S A COP DOESN'T
4 MEAN THAT I'M PREJUDICED.

5 **THE COURT:** THAT - NO, MA'AM, IT - IT DOESN'T. NOT AT
6 ALL. SO YOU COULD STILL BE FAIR AND IMPARTIAL---

7 **MS. DASEN:** YES.

8 **THE COURT:** ---TO BOTH THE STATE AND THE DEFENSE?

9 **MS. DASEN:** YES.

10 **THE COURT:** THANK YOU, MA'AM. YOU MAY BE SEATED.

11 YES, MA'AM?

12 **MS. COOPER:** BONNIE COOPER, 257. MY BROTHER'S A - WITH
13 THE CHARLESTON POLICE DEPARTMENT AND MY NIECE IS A PROBATION
14 AGENT.

15 **THE COURT:** ALL RIGHT. AND THE FACT THAT YOU HAVE A
16 BROTHER WITH THE CHARLESTON POLICE DEPARTMENT AND A NIECE
17 THAT IS A PROBATION AGENT, COULD YOU STILL BE A FAIR AND
18 IMPARTIAL JUROR TO BOTH THE STATE AND THE DEFENSE IN THIS
19 CASE?

20 **MS. COOPER:** YES, SIR.

21 **THE COURT:** THANK YOU, MA'AM. YOU MAY BE SEATED.

22 **(NO FURTHER RESPONSE FROM JURY PANEL.)**

23 **THE COURT:** ARE THERE ANY MEMBERS OF THE JURY PANEL THAT
24 BELONG TO ANY OF THE FOLLOWING CIVIC GROUPS: MOTHERS AGAINST
25 DRUNK DRIVING, KNOWN AS M.A.D.D.; PEOPLE AGAINST RAPE, KNOWN

JURY PANEL VOIR DIRE

1 AS P.A.R.; CITIZENS ADVOCATING DECENCY AND RETURN TO ETHICS,
2 KNOWN AS C.A.D.R.E; OR, PARENTS EMPOWERED TO SAVE TEENS,
3 KNOWN AS P.E.S.T.; OR, CITIZENS AGAINST VIOLENT CRIME, KNOWN
4 AS CAVE? IS ANY MEMBER OF THE JURY PANEL A MEMBER OF ANY OF
5 THOSE GROUPS? IF SO, PLEASE STAND.

6 (NO RESPONSE FROM THE JURY PANEL.)

7 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL, OR DO
8 YOU HAVE A CLOSE FAMILY MEMBER - OR, A - AN IMMEDIATE FAMILY
9 MEMBER OR A CLOSE PERSONAL FRIEND THAT HAS BEEN A VICTIM OF A
10 CRIME OF VIOLENCE WITHIN THE LAST FIVE YEARS? FOR EXAMPLE,
11 ARMED ROBBERY OR BURGLARY OR KIDNAPPING? IF SO, PLEASE
12 STAND.

13 YES, SIR? WOULD YOU - WOULD YOU COME FORWARD FOR ME,
14 PLEASE? AND THE ATTORNEYS MAY - MAY STEP FORWARD ALSO.

15 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH
16 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE
17 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT
18 THE BENCH.)

19 (WHEREUPON, BROADUS BUSBEE, JUROR NUMBER 29, CAME
20 FORWARD.)

21 THE COURT: HOW YOU DOING THIS AFTERNOON, SIR?

22 MR. BUSBEE: GOOD - I'M GOOD.

23 THE COURT: YOUR NUMBER AND JUROR? (SIC)

24 MR. BUSBEE: JUROR 29.

25 THE COURT: AND YOUR NAME?

JURY PANEL VOIR DIRE

1 **MR. BUSBEE:** BROADUS BUSBEE.

2 **THE COURT:** ALL RIGHT, SIR?

3 **MR. BUSBEE:** I'M A PHARMACIST AND - AND I WAS EMPLOYED
4 IN COLUMBIA TWO YEARS AGO OR THREE YEARS AGO. I WAS A VICTIM
5 OF ARMED ROBBERY. YOU KNOW, FORCED ME - HANDCUFFED AND MADE
6 TO LAY ON THE FLOOR. AND, UH....

7 **THE COURT:** AND YOU WERE THE VICTIM?

8 **MR. BUSBEE:** YES, SIR.

9 **THE COURT:** AND THIS OCCURRED IN COLUMBIA?

10 **MR. BUSBEE:** IN COLUMBIA.

11 **THE COURT:** ALL RIGHT, SIR. THE FACT THAT YOU WERE A
12 VICTIM OF SUCH A CRIME, COULD YOU STILL BE A FAIR AND
13 IMPARTIAL JUROR IN THIS CASE TO BOTH THE STATE AND THE
14 DEFENSE?

15 **MR. BUSBEE:** YES, SIR.

16 **THE COURT:** ALL RIGHT. GIVEN THE FACT THAT THIS
17 INVOLVES ALSO AN ARMED ROBBERY?

18 **MR. BUSBEE:** YES, SIR. I - YOU KNOW - I MEAN - I
19 MIGHT - I MEAN, I COULD BE THINKING THAT - I KNOW I COULD BE,
20 YOU KNOW, IMPARTIAL. IT'S JUST - YOU KNOW, I DO HAVE A HARD
21 - YOU KNOW, STRONG FEELINGS ABOUT IT. SO...

22 **THE COURT:** ALL RIGHT, SIR. I - I THINK I'M GONNA SET
23 YOU ASIDE ON THIS CASE, OKAY?

24 **MR. BUSBEE:** ALL RIGHT.

25 **THE COURT:** ALL RIGHT. NOW, DON'T SAY ANYTHING TO ANY

JURY PANEL VOIR DIRE

1 OF THE OTHER JURORS.

2 MR. BUSBEE: NO - OKAY.

3 THE COURT: I MEAN, YOU HAVE TO REMAIN UNTIL YOU'RE
4 EXCUSED. OKAY?

5 MR. BUSBEE: NO PROBLEM - OKAY.

6 MS. SOLAR: THANK YOU, YOUR HONOR.

7 MR. BUSBEE: THANK YOU, SIR.

8 (WHEREUPON, BROADUS BUSBEE, JUROR NUMBER 29, RETURNED TO
9 HIS SEAT.)

10 (WHEREUPON, BROADUS BUSBEE, JUROR NUMBER 29, WAS EXCUSED
11 FROM JURY SERVICE ON THIS CASE.)

12 THE COURT: YES, MA'AM?

13 MS. LEWIS: MAY I APPROACH THE BENCH?

14 THE COURT: SURE.

15 (WHEREUPON, TANYIA LEWIS, JUROR NUMBER 261, CAME
16 FORWARD.)

17 THE COURT: HELLO, HOW YOU THIS AFTERNOON?

18 MS. LEWIS: HI. I'M TANYIA LEWIS - I'M TANYIA LEWIS,
19 261. I CANNOT BE IMPARTIAL IN THIS. I WAS...(INAUDIBLE) I
20 COULDN'T DO IT.

21 THE COURT: AND - AND - AND TELL ME - TELL ME - TELL ME
22 WHAT THAT WAS?

23 MS. LEWIS: (INAUDIBLE)

24 COURT REPORTER: I'M SORRY, YOUR HONOR, I CAN'T HEAR
25 HER.

1 MS. LEWIS: (INAUDIBLE) I COULDN'T DO IT.

2 COURT REPORTER: I CAN'T HEAR ANY OF THAT.

3 MS. LEWIS: I COULDN'T DO IT.

4 THE COURT: BECAUSE YOU WERE A VICTIM?

5 MS. LEWIS: I WAS... (INAUDIBLE).

6 COURT REPORTER: I'M SORRY, NONE OF THAT IS ON RECORD -
7 I CAN'T UNDERSTAND IT.

8 THE COURT: ALL RIGHT. DO YOU THINK, BECAUSE OF THE
9 NATURE OF THE CHARGES---

10 MS. LEWIS: I - I COULDN'T DO IT... (INAUDIBLE)

11 THE COURT: ALL RIGHT. WELL, I'M GONNA SET YOU ASIDE ON
12 THIS PARTICULAR CASE, OKAY? DON'T SAY ANYTHING TO ANY---

13 MS. LEWIS: I WON'T.

14 THE COURT: ---TO ANY OTHER JURORS, AND JUST STAY HERE
15 UNTIL YOU'RE RELEASED TODAY, OKAY?

16 MS. LEWIS: OKAY. WHERE DO I GO?

17 THE COURT: JUROR 261. MA'AM, IF YOU'LL JUST GO STAND
18 BACK THERE IN THE BACK.

19 MS. LEWIS: OKAY.

20 THE COURT: YOU HAVE TO STAY IN HERE, OKAY?

21 MS. LEWIS: OKAY.

22 THE COURT: ALL RIGHT.

23 MS. LEWIS: THANKS.

24 THE COURT: UH-HUH.

25 (WHEREUPON, TANYIA LEWIS, JUROR NUMBER 261, RETURNED TO

1 HER SEAT.)

2 **CLERK (MS. NELSON):** THAT'S JUROR NUMBER 261?

3 (WHEREUPON, TANYIA LEWIS, JUROR NUMBER 261, WAS EXCUSED
4 FROM JURY SERVICE ON THIS CASE.)

5 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)

6 **THE COURT:** I'M GONNA CALL OUT A LIST OF NAMES OF
7 POTENTIAL WITNESSES IN THIS CASE. IF ANY OF THEM ARE
8 PRESENT, I'M GONNA ASK THEM TO STAND AND FACE THE JURY PANEL
9 WHEN - WHEN I CALL THEIR NAMES OUT.

10 AND THE QUESTION IS, DO YOU KNOW OR HAVE ANY CONNECTIONS
11 WITH ANY OF THE FOLLOWING, UM, STATE'S WITNESSES OR POTENTIAL
12 WITNESSES IN THIS CASE? BRENDA SINGLEY?

13 (NO RESPONSE FROM THE JURY PANEL.)

14 **THE COURT:** RICKY VAN ALLEN?

15 (NO RESPONSE FROM THE JURY PANEL.)

16 **THE COURT:** SERGEANT PATRICK PONTIERI? I BELIEVE HE
17 STOOD UP EARLIER ALSO.

18 (NO RESPONSE FROM THE JURY PANEL.)

19 **THE COURT:** OFFICER TINA KIKER?

20 (NO RESPONSE FROM THE JURY PANEL.)

21 **THE COURT:** OFFICER DARIN COBB?

22 (NO RESPONSE FROM THE JURY PANEL.)

23 **THE COURT:** OFFICER AL HALLMAN?

24 (NO RESPONSE FROM THE JURY PANEL.)

25 **THE COURT:** OFFICER TONYA MALLETT?

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: KATHY WILLIS?

3 (NO RESPONSE FROM THE JURY PANEL.)

4 THE COURT: CORPORAL DAVID FLEMING?

5 (NO RESPONSE FROM THE JURY PANEL.)

6 THE COURT: ETHEL SINGLEY? YES, MA'AM?

7 MS. MITCHUM: I WAS - GO AHEAD, I'LL LET YOU FINISH.

8 I - I KNOW SOMEONE.

9 THE COURT: ALL RIGHT. ETHEL SINGLEY?

10 (NO RESPONSE FROM THE JURY PANEL.)

11 THE COURT: TERESA SINGLEY?

12 (NO RESPONSE FROM THE JURY PANEL.)

13 THE COURT: ELAINE BOZMAN?

14 (NO RESPONSE FROM THE JURY PANEL.)

15 THE COURT: SHIRRESE BROCKINGTON?

16 (NO RESPONSE FROM THE JURY PANEL.)

17 THE COURT: ALL RIGHT, MA'AM. YOUR NUMBER AND NAME,
18 PLEASE?

19 MS. THAMES: JUDY THAMES, 226.

20 THE COURT: AND WHAT POTENTIAL WITNESS DO YOU KNOW?

21 MS. THAMES: ELAINE BOZMAN.

22 THE COURT: ALL RIGHT. THE FACT THAT YOU, UM - STEP -
23 STEP FORWARD FOR ME, PLEASE, MA'AM.

24 AND MA'AM, YOU - YOU CAN BEGIN WORKING YOUR WAY FORWARD
25 ALSO.

JURY PANEL VOIR DIRE

1 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH
2 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE
3 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT
4 THE BENCH.)

5 (WHEREUPON, JUDY THAMES, JUROR NUMBER 226, CAME
6 FORWARD.)

7 THE COURT: YES, MA'AM. YOU KNOW MS. - YOU SAY YOU KNOW
8 MS. BOZMAN?

9 MS. THAMES: IF IT'S THE SAME ONE I KNOW. SHE WORKS
10 FOR, UM - IN THE COURTHOUSE.

11 THE COURT: SHE WORKS IN THE COURTHOUSE?

12 MS. THAMES: UH-HUH. SHE WORKS IN THE R-M-C'S OFFICE.

13 THE COURT: THE R-M-C'S OFFICE? THE FACT - THE FACT
14 THAT YOU KNOW MS. BOZMAN - HOW - HOW DO YOU KNOW HER? HOW
15 CLOSE IS YOUR RELATIONSHIP?

16 MS. THAMES: UM, I'VE JUST KNOWN HER SINCE - FOR SEVEN
17 YEARS. AND HER MOTHER USED TO WORK WITH MY MOTHER, AND HER
18 HUSBAND WORKS ALSO IN THE STORE WITH MY HUSBAND.

19 THE COURT: WHO IS HER MOTHER?

20 MS. THAMES: BEULA HAZELWOOD (PHONETIC)... (INAUDIBLE)

21 COURT REPORTER: I'M SORRY?

22 MS. THAMES: (INAUDIBLE).

23 COURT REPORTER: YOUR HONOR, THERE'S - THERE'S A
24 MICROPHONE RIGHT IN THE MIDDLE THAT I MIGHT BE ABLE TO PICK
25 UP BETTER.

JURY PANEL VOIR DIRE

1 **THE COURT:** HERE?

2 **COURT REPORTER:** YES.

3 **THE COURT:** ALL RIGHT. JUST KIND OF TALK OVER HERE A
4 LITTLE BIT.

5 **MS. THAMES:** OKAY.

6 **THE COURT:** THE FACT THAT YOU KNOW MS. BOZMAN AND SHE'S
7 A POTENTIAL WITNESS IN THIS CASE, COULD YOU STILL BE A FAIR
8 AND IMPARTIAL JUROR TO BOTH THE STATE AND THE DEFENSE?

9 **MS. THAMES:** YES, SIR.

10 **THE COURT:** OKAY. ALL RIGHT, YOU MAY GO BACK TO YOUR
11 SEAT.

12 (WHEREUPON, JUDY THAMES, JUROR NUMBER 226, RETURNED TO
13 HER SEAT.)

14 **THE COURT:** YES, MA'AM?

15 **BAILIFF:** JUROR NUMBER 164.

16 (WHEREUPON, LESLIE MITCHUM, JUROR NUMBER 164, CAME
17 FORWARD.)

18 **THE COURT:** YES, MA'AM?

19 **MS. MITCHUM:** I'M THE RISK MANAGER FOR THE CITY OF NORTH
20 CHARLESTON, AND I KNOW ALL THE OFFICERS AND TONYA MALLETT,
21 WHO'S THE SUPERVISOR IN DISPATCH. I DEAL WITH THEM
22 REGULARLY.

23 **THE COURT:** THIS - THIS LADY IS THE RISK MANAGER FOR THE
24 CITY OF NORTH CHARLESTON AND KNOWS ALL THE POLICE OFFICERS
25 AND MS. - MRS. MALLETT.

JURY PANEL VOIR DIRE

1 MS. MITCHUM: THE DISPATCH SUPERVISOR.

2 THE COURT: THE DISPATCH?

3 MS. MITCHUM: I ADMINISTER WORKERS' COMP, AND I DEAL
4 WITH ALL OF THEM.

5 THE COURT: I THINK THE QUESTION IS, COULD YOU STILL BE
6 A FAIR---

7 MS. MITCHUM: I---

8 THE COURT: ---AND IMPARTIAL---

9 MS. MITCHUM: ---I CAN.

10 THE COURT: ---JUROR---

11 MS. MITCHUM: I CAN.

12 THE COURT: ---TO BOTH THE STATE AND THE DEFENSE---

13 MS. MITCHUM: UH-HUH.

14 THE COURT: ---IN THESE ACTIONS THAT HAVE BEEN FILED?

15 MS. MITCHUM: SURE.

16 THE COURT: YOU MAY HAVE A SEAT - YOU MAY HAVE A SEAT.

17 (WHEREUPON, LESLIE MITCHUM, JUROR NUMBER 164, RETURNED
18 TO HER SEAT.)

19 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)

20 THE COURT: WERE THERE ANY OTHERS, MR. BAILIFF?

21 (NO RESPONSE.)

22 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
23 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
24 HEARING OF THE JURY PANEL, OFF THE RECORD.)

25 (WHEREUPON, COURT RESUMED.)

JURY PANEL VOIR DIRE

1 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN OF THE
2 JURY, THE VICTIM IN THIS CASE - AND I CALLED HER NAME OUT
3 PREVIOUSLY - IS, UM - BRENDA SINGLEY. IS (SIC) ANY MEMBER OF
4 THE JURY PANEL HAVE ANY CONNECTION WITH BRENDA SINGLEY? IF
5 SO, PLEASE STAND.

6 **(NO RESPONSE FROM THE JURY PANEL.)**

7 **THE COURT:** DOES (SIC) THERE ANY MEMBER OF THE JURY
8 PANEL HAVE A, UM, IMMEDIATE FAMILY MEMBER OR CLOSE PERSONAL
9 FRIEND WHO WAS FORMERLY INCARCERATED OR NOW INCARCERATED AT A
10 STATE PENITENTIARY? IF SO, PLEASE STAND.

11 **THE COURT:** YES - YES, MA'AM? YOU CAN COME FORWARD,
12 PLEASE.

13 **(WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH**
14 **AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE**
15 **THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT**
16 **THE BENCH.)**

17 **BAILIFF:** 252.

18 **THE COURT:** THANK YOU, SIR.

19 **(WHEREUPON, PAMELA BELSER, JUROR NUMBER 252, CAME**
20 **FORWARD.)**

21 **THE COURT:** YES, MA'AM. YOUR NAME PLEASE?

22 **MS. BELSER:** PAMELA BELSER.

23 **THE COURT:** ALL RIGHT.

24 **MS. BELSER:** MY BROTHER IS PRESENTLY IN A LOT OF TROUBLE
25 WITH CHARLESTON COUNTY. AND I DON'T KNOW WHICH PUBLIC

JURY PANEL VOIR DIRE

1 DEFENDER WORKS WITH HIM. BUT, DUE TO ALL OF HIS
2 CIRCUMSTANCES, I DON'T - I DON'T FEEL THAT I COULD BE - I - I
3 DON'T FEEL THAT I'M THE RIGHT PERSON FOR, UM, A JURY IN - IN
4 THIS TRIAL.

5 THE COURT: BE - BECAUSE YOUR BROTHER---

6 MS. BELSER: BECAUSE I DON'T HAVE A LOT OF FAITH IN THE
7 JUSTICE SYSTEM. UM - ME AND MY DAD.

8 MR. DURANT: IF SHE DOESN'T THINK SHE CAN BE FAIR AND
9 IMPARTIAL, I WOULD ASK SHE BE EXCUSED.

10 THE COURT: YES, MA'AM - YES, SIR. YES, MA'AM, I'LL -
11 I'LL SET YOU ASIDE ON THIS TRIAL, OKAY?

12 MS. BELSER: OKAY.

13 THE COURT: ALL RIGHT. YOU CAN GO BACK AND HAVE A SEAT.
14 PLEASE DON'T SAY ANYTHING TO ANY OTHER JURORS---

15 MS. BELSER: OKAY.

16 THE COURT: ---OKAY? THANK YOU, MA'AM.

17 (WHEREUPON, PAMELA BELSER, JUROR NUMBER 252, RETURNED TO
18 HER SEAT.)

19 (WHEREUPON, PAMELA BELSER, JUROR NUMBER 252, WAS EXCUSED
20 FROM JURY SERVICE ON THIS CASE.)

21 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)

22 THE COURT: YES, MA'AM?

23 UNIDENTIFIED JUROR: CAN YOU REPEAT THAT QUESTION FOR
24 ME, PLEASE?

25 THE COURT: REPEAT THE QUESTION. THIS IS LIKE A TEST.

1 LET ME SEE.

2 DOES ANY MEMBER OF THE JURY PANEL HAVE AN IMMEDIATE
3 FAMILY MEMBER OR CLOSE PERSONAL FRIEND WHO IS OR WAS FORMERLY
4 INCARCERATED AT A STATE PENITENTIARY?

5 MS. CARTERPITCHELL: AT A STATE?

6 THE COURT: YES - YES, MA'AM. YOU - YOU MAY COME
7 FORWARD.

8 BAILIFF: NUMBER 39.

9 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH
10 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE
11 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT
12 THE BENCH.)

13 (WHEREUPON, WYNONA CARTERPITCHELL, JUROR NUMBER 39, CAME
14 FORWARD.)

15 MS. CARTERPITCHELL: I'M NOT SURE IT'S EVEN APPLICABLE,
16 IT'S BEEN SO LONG AGO.

17 THE COURT: THAT - THAT'S ALL RIGHT.

18 MS. CARTERPITCHELL: MY EX-BROTHER-IN-LAW WAS IN PRISON
19 IN TERRE HAUTE BECAUSE OF A - THE MAN ACT, I BELIEVE, IS WHAT
20 IT USED TO BE CALLED. THAT'S BEEN WELL OVER FORTY YEARS AGO.

21 THE COURT: OKAY. AND - AND TELL ME YOUR NAME AGAIN,
22 MA'AM?

23 MS. CARTERPITCHELL: I'M SORRY. WYNONA CARTERPITCHELL,
24 JUROR 39.

25 THE COURT: OKAY. AND THE FACT THAT IT'S YOUR - 'A' -

JURY PANEL VOIR DIRE

1 EX-BROTHER-IN-LAW, AND - 'B' - IT'S BEEN SO LONG AGO, COULD
2 YOU STILL BE A FAIR AND IMPARTIAL JUROR---

3 MS. CARTERPITCHELL: YES.

4 THE COURT: ---TO BOTH THE STATE AND THE DEFENSE---

5 MS. CARTERPITCHELL: YES.

6 THE COURT: ---IN THIS CASE?

7 MS. CARTERPITCHELL: YES.

8 THE COURT: THANK YOU, MA'AM. YOU CAN TO BACK AND HAVE
9 A SEAT.

10 MS. CARTERPITCHELL: THANK YOU.

11 (WHEREUPON, WYNONA CARTERPITCHELL, JUROR NUMBER 39,
12 RETURNED TO HER SEAT.)

13 BAILIFF: NUMBER 74.

14 (WHEREUPON, PATRICIA ERIKSEN, JUROR NUMBER 74, CAME
15 FORWARD.)

16 THE COURT: YES, MA'AM, YOUR NAME PLEASE AGAIN?

17 MS. ERIKSEN: PATRICIA ERIKSEN.

18 THE COURT: ERIKSEN - ALL RIGHT. AND WHAT IS YOUR
19 SITUATION?

20 MS. ERIKSEN: MY BROTHER-IN - EX-BROTHER-IN-LAW IS
21 RECENTLY RE- -- RELEASED FROM THE ADULT CORRECTIONAL
22 INSTITUTE IN - IN RHODE ISLAND, AND HE'S IN A HALF-WAY HOUSE
23 NOW. UM - HE WAS DRUNK DRIVING AND HE KILLED SOME - HE HIT
24 SOMEONE AND KILL 'EM.

25 THE COURT: NOW, THE FACT THAT IT'S YOUR EX- -- YOUR

JURY PANEL VOIR DIRE

1 EX-BROTHER-IN-LAW WAS IN THE PENITENTIARY IN RHODE ISLAND FOR
2 DRUNK DRIVING AND THERE WAS A FATALITY INVOLVED, COULD YOU
3 STILL BE A FAIR AND IMPARTIAL JUROR TO BOTH THE STATE AND THE
4 DEFENSE IN THIS CASE?

5 MS. ERIKSEN: YES, I COULD.

6 THE COURT: THANK YOU, MA'AM. YOU CAN GO BACK TO YOUR
7 SEAT.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
9 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
10 HEARING OF THE JURY PANEL, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)

13 THE COURT: DOES ANY MEMBER OF THE JURY PANEL HAVE ANY
14 RELIGIOUS OR PERSONNEL BELIEFS THAT YOU BELIEVE WOULD
15 INTERFERE WITH YOU SITTING IN JUDGEMENT OF OTHERS IN A
16 CRIMINAL CASE? IF SO, PLEASE STAND.

17 (NO RESPONSE FROM THE JURY PANEL.)

18 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL OR A
19 MEMBER OF YOUR IMMEDIATE FAMILY HAD A BAD EXPERIENCE - A
20 SIGNIFICANT BAD EXPERIENCE WITH A POLICE OFFICER WHICH WOULD
21 AFFECT YOUR ABILITY TO ACT AS A FAIR AND IMPARTIAL JUROR? IF
22 SO, PLEASE STAND.

23 YES, SIR. UM - IF YOU'LL COME FORWARD, PLEASE?

24 MR. POLK: I JUST HAVE A FEW QUESTIONS. BY
25 SIGNIFICANT---

JURY PANEL VOIR DIRE

1 **THE COURT:** NO - NO, SIR. IF YOU'D JUST COME FORWARD,
2 PLEASE?

3 AND - AND MA'AM, YOU - YOU CAN SIT BACK DOWN. YOU CAN
4 SIT BACK DOWN.

5 **BAILIFF:** NUMBER 188.

6 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH
7 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE
8 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT
9 THE BENCH.)

10 (WHEREUPON, ANDREW POLK, JUROR NUMBER 188, CAME
11 FORWARD.)

12 **THE COURT:** I - I DIDN'T WANT YOU TO ASK THE QUESTION IN
13 FRONT OF THE WHOLE PANEL.

14 **MR. POLK:** OH, THAT'S FINE.

15 **THE COURT:** THAT'S FINE, THEN. TELL ME YOUR NAME?

16 **MR. POLK:** ANDREW - I'M JUROR NUMBER 188.

17 **THE COURT:** ALL RIGHT. AND, UH, WHAT'S YOUR QUESTION?

18 **MR. POLK:** MY QUESTION WAS, WHAT DID YOU MEAN BY
19 SIGNIFICANT?

20 **THE COURT:** WELL, TELL ME WHAT'S IN YOUR MIND.

21 **MR. POLK:** WELL, I'VE ONLY GOTTEN ONE TICKET, AND THAT
22 WAS FOR RIDING MY BIKE WITHOUT A LIGHT ON IT. BUT, I HAD -
23 THE TWO POLICE OFFICERS KEPT CLAIMING THAT I HAD STOLEN THE
24 THING. AND I'D BEEN RIDING IT FOR ABOUT A YEAR. SO, UH, IT
25 TOOK ABOUT FIVE HOURS OF THEM JUST PRESSURING ME TO TELL ME

JURY PANEL VOIR DIRE

1 (SIC) WHO I WAS WORKING WITH AND ALL.

2 THE COURT: WELL, THAT WAS SIGNIFICANT TO YOU?

3 MR. POLK: YEAH.

4 THE COURT: YEAH. THE FACT THAT YOU - WHEN DID THIS
5 HAPPEN?

6 MR. POLK: ABOUT TWO YEARS AGO.

7 THE COURT: THE FACT THAT THIS EXPERIENCE OCCURRED TO
8 YOU, COULD YOU STILL BE A FAIR AND IMPARTIAL JUROR---

9 MR. POLK: YES.

10 THE COURT: ---TO BOTH THE STATE AND THE DEFENSE IN THIS
11 CASE?

12 MR. POLK: UH-HUH.

13 THE COURT: ALL RIGHT, SIR. YOU CAN GO BACK AND HAVE A
14 SEAT. APPRECIATE YOUR COMING FORWARD.

15 (WHEREUPON, ANDREW POLK, JUROR NUMBER 188, RETURNED TO
16 HIS SEAT.)

17 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
18 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
19 HEARING OF THE JURY PANEL, OFF THE RECORD.)

20 (WHEREUPON, COURT RESUMED.)

21 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)

22 THE COURT: IF THERE'S ANY JUROR WHO HAS SERVED
23 PREVIOUSLY AS A JUROR, WOULD THAT PREVIOUS JURY SERVICE IN
24 ANY WAY AFFECT THE WAY YOU WOULD VIEW OR JUDGE A PARTICULAR
25 CASE? IF SO, SO PLEASE STAND.

JURY PANEL VOIR DIRE

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: IS ANY JUROR AWARE OF ANY REASON
3 WHATSOEVER - ANY REASON WHATSOEVER YOU COULD NOT BE A FAIR
4 AND IMPARTIAL JUROR TO BOTH THE STATE AND THE DEFENDANT IN
5 THIS CASE? IF SO, PLEASE STAND.

6 YES, MA'AM? AND IF YOU'D - YOU'D COME FORWARD, PLEASE?

7 BAILIFF: NUMBER 269.

8 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH
9 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE
10 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT
11 THE BENCH.)

12 (WHEREUPON, ANTONIA RYERSON, JUROR NUMBER 269, CAME
13 FORWARD.)

14 THE COURT: HELLO. HOW ARE YOU, MA'AM?

15 MS. RYERSON: IT HAS TO DEAL WITH RAPE. IS BEEN...
16 (INAUDIBLE).

17 THE COURT: ALL RIGHT. WELL, THIS CASE DOES NOT INVOLVE
18 THAT CHARGE. THIS CASE INVOLVES ARMED ROBBERY, KIDNAPPING,
19 AND BURGLARY.

20 MS. RYERSON: OKAY.

21 THE COURT: NOW, THE QUESTION IS, CAN YOU BE A FAIR AND
22 IMPARTIAL JUROR IN A CASE INVOLVING ARMED ROBBERY,
23 KIDNAPPING, AND BURGLARY TO BOTH THE STATE AND TO THE
24 DEFENDANT?

25 MS. RYERSON: OKAY, I CAN DO THAT.

JURY PANEL VOIR DIRE

1 THE COURT: YOU - YOU - YOU ASSURE ME YOU CAN DO THAT?
2 MS. RYERSON: YES.
3 THE COURT: TELL ME YOUR NUMBER AND NAME?
4 MS. RYERSON: IT'S 269.
5 THE COURT: AND YOUR---
6 MS. RYERSON: 2 - 6 - 9.
7 THE COURT: ---AND YOUR NAME?
8 MS. RYERSON: TONI RYERSON.
9 THE COURT: AND - AND YOU ASSURE ME YOU COULD DO THAT?
10 MS. RYERSON: YES. IT'S JUST THAT ONE PARTICULAR---
11 THE COURT: OKAY.
12 MS. RYERSON: ---SITUATION THAT I COULDN'T DO IT.
13 THE COURT: ALL RIGHT, MA'AM. YOU CAN GO BACK AND HAVE
14 A SEAT.
15 (WHEREUPON, ANTONIA RYERSON, JUROR NUMBER 269, RETURNED
16 TO HER SEAT.)
17 (WHEREUPON, AUDIO TO ENTIRE JURY PANEL RESUMED.)
18 THE COURT: YES - YES, MA'AM. YOU CAN - YOU CAN SIT
19 BACK DOWN. THANK YOU, MA'AM.
20 ALL RIGHT. ANY OTHER - ANY OTHER QUESTIONS, SOLICITOR
21 OR MS. SOLAR?
22 MR. DURANT: NONE FOR THE STATE, YOUR HONOR.
23 MS. SOLAR: NONE FROM THE DEFENSE, YOUR HONOR.
24 THE COURT: ALL RIGHT. MADAME CLERK?
25 CLERK (MS. NELSON): YES, YOUR HONOR?

JURY SELECTION

1 THE COURT: STRIKES ARE TEN AND FIVE. CORRECT,
2 MS. SOLAR?

3 MS. SOLAR: YES, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 CLERK (MS. NELSON): LADIES AND GENTLEMEN, WHEN I CALL
6 YOUR NAME - WHEN YOUR NAME IS CALLED, I'D LIKE YOU TO COME UP
7 WITH ALL YOUR BELONGINGS AND HAVE - AND STAND RIGHT NEXT TO
8 THE PODIUM. TURN AND FACE THE PARTIES.

9 NUMBER 128, STEPHEN LANGLEY.

10 (JUROR FORWARD.)

11 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

12 MR. DURANT: PLEASE PRESENT MR. LANGLEY.

13 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

14 MS. SOLAR: COURT'S INDULGENCE.

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
16 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
17 HEARING OF THE JURY PANEL, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED.)

19 MS. SOLAR: PLEASE SEAT THIS JUROR.

20 CLERK (MS. NELSON): MR. JUROR, PLEASE HAVE A SEAT IN
21 THE JURY BOX. YOU HAVE BEEN SELECTED FOR THIS CASE.

22 BAILIFF: ORDER.

23 CLERK (MS. NELSON): JUROR NUMBER 18, BRIAN BOONE.

24 (JUROR FORWARD.)

25 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

JURY SELECTION

1 MR. DURANT: PLEASE PRESENT MR. BOONE.

2 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

3 MS. SOLAR: COURT'S INDULGENCE.

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
5 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
6 HEARING OF THE JURY PANEL, OFF THE RECORD.)

7 (WHEREUPON, COURT RESUMED.)

8 MS. SOLAR: PLEASE SEAT THIS JUROR.

9 CLERK (MS. NELSON): MR. JUROR, PLEASE HAVE A SEAT IN
10 THE JURY BOX.

11 JUROR NUMBER 13, WALTER KENNY BARNES.

12 (JUROR FORWARD.)

13 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

14 MR. DURANT: PLEASE PRESENT MR. BARNES.

15 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

16 MS. SOLAR: COURT'S INDULGENCE.

17 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
18 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
19 HEARING OF THE JURY PANEL, OFF THE RECORD.)

20 (WHEREUPON, COURT RESUMED.)

21 MS. SOLAR: PLEASE SEAT THIS JUROR.

22 CLERK (MS. NELSON): MR. JUROR, HAVE A SEAT IN THE
23 JURY BOX.

24 JUROR NUMBER 39, WYNONA CARTERPITCHELL.

25 (JUROR FORWARD.)

JURY SELECTION

1 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

2 MR. DURANT: PLEASE PRESENT MS. CARTERPITCHELL.

3 MS. SOLAR: COURT'S INDULGENCE.

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
5 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
6 HEARING OF THE JURY PANEL, OFF THE RECORD.)

7 (WHEREUPON, COURT RESUMED.)

8 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

9 CLERK (MS. NELSON): MADAME JUROR, YOU'VE BEEN EXCUSED.
10 PLEASE HAVE A SEAT - RETURN - RETURN TO YOUR SEAT.

11 JUROR NUMBER 210, RONNIE SMALLS.

12 (JUROR FORWARD.)

13 CLERK (MS. NELSON): STAND BACK AT THE PODIUM PLEASE,
14 MR. SMALLS.

15 MR. SMALLS: I'M SORRY?

16 CLERK (MS. NELSON): BACK AT THE PODIUM - THANK YOU.
17 WHAT SAY YOU FOR THE STATE?

18 MR. DURANT: PLEASE EXCUSE MR. SMALLS FROM THE TRIAL OF
19 THIS CASE.

20 CLERK (MS. NELSON): MR. JUROR, YOU'VE BEEN EXCUSED FROM
21 THE TRIAL. YOU MAY RETURN TO YOUR SEAT.

22 JUROR NUMBER 259, RHONDA GETHERS.

23 (JUROR FORWARD.)

24 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

25 MR. DURANT: PLEASE PRESENT MS. GETHERS.

JURY SELECTION

1 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

2 MS. SOLAR: COURT'S INDULGENCE.

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
4 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
5 HEARING OF THE JURY PANEL, OFF THE RECORD.)

6 (WHEREUPON, COURT RESUMED.)

7 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

8 CLERK (MS. NELSON): MADAME JUROR, YOU'VE BEEN EXCUSED.
9 PLEASE HAVE A SEAT.

10 JUROR NUMBER 206, AMY SHORE.

11 (JUROR FORWARD.)

12 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

13 MR. DURANT: PLEASE PRESENT MS. SHORE.

14 CLERK (MS. NELSON): AND FOR THE DEFENDANT?

15 MS. SOLAR: PLEASE SEAT THIS JUROR.

16 CLERK (MS. NELSON): MADAME JUROR, PLEASE HAVE A SEAT IN
17 THE JURY BOX.

18 JUROR NUMBER 71, MICHELLE DUGAN.

19 (JUROR FORWARD.)

20 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

21 MR. DURANT: PLEASE PRESENT MS. DUGAN.

22 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

23 MS. SOLAR: PLEASE SEAT THIS JUROR.

24 CLERK (MS. NELSON): MADAME JUROR, PLEASE HAVE A SEAT IN
25 THE JURY. (SIC)

JURY SELECTION

1 JUROR NUMBER 104, CAREY HUNTER.

2 (JUROR FORWARD.)

3 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

4 MR. DURANT: PLEASE PRESENT MS. HUNTER.

5 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

6 MS. SOLAR: COURT'S INDULGENCE.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
8 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
9 HEARING OF THE JURY PANEL, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 MS. SOLAR: PLEASE SEAT THIS JUROR.

12 CLERK (MS. NELSON): MR. JUROR, PLEASE HAVE A SEAT IN
13 THE JURY BOX.

14 JUROR NUMBER 96, JULIUS HALEY.

15 (JUROR FORWARD.)

16 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

17 MR. DURANT: PLEASE PRESENT MR. HALEY.

18 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

19 MS. SOLAR: COURT'S INDULGENCE.

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
21 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
22 HEARING OF THE JURY PANEL, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 MS. SOLAR: PLEASE SEAT THIS JUROR.

25 CLERK (MS. NELSON): MR. JUROR, PLEASE HAVE A SEAT IN

1 THE JURY BOX.

2 134, CATHY LOW.

3 (JUROR FORWARD.)

4 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

5 MR. DURANT: PLEASE PRESENT MS. LOW.

6 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

7 MS. SOLAR: COURT'S INDULGENCE.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
9 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
10 HEARING OF THE JURY PANEL, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

13 CLERK (MS. NELSON): MADAME JUROR, YOU'VE BEEN EXCUSED
14 FROM THE TRIAL OF THIS CASE. PLEASE RETURN TO YOUR SEAT.

15 261, TANYIA LEWIS. SORRY, YOUR HONOR, SHE WAS EXCUSED
16 FROM THE TRIAL OF THIS CASE.

17 MS. LEWIS: YES, I WAS.

18 THE COURT: YES, SHE WAS.

19 CLERK (MS. NELSON): NUMBER 133, DENNIS LOCKETT.

20 (JUROR FORWARD.)

21 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

22 MR. DURANT: PLEASE EXCUSE MR. LOCKETT FROM THE TRIAL IN
23 THIS CASE.

24 CLERK (MS. NELSON): MR. JUROR, YOU'VE BEEN EXCUSED FROM
25 TRIAL OF THIS CASE. PLEASE RETURN TO YOUR SEAT.

JURY SELECTION

1 NUMBER 37, GWYNNE CARTER.

2 (JUROR FORWARD.)

3 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

4 MR. DURANT: PLEASE PRESENT MS. CARTER.

5 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

6 MS. SOLAR: PLEASE SEAT THIS JUROR.

7 CLERK (MS. NELSON): MADAME JUROR, PLEASE HAVE A SEAT IN
8 THE JURY BOX.

9 237, FEDERICO WEIL.

10 (JUROR FORWARD.)

11 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

12 MR. DURANT: PLEASE EXCUSE THE JUROR FROM THE TRIAL OF
13 THIS CASE.

14 CLERK (MS. NELSON): MR. JUROR, YOU'VE BEEN EXCUSED FROM
15 THE TRIAL IN THIS CASE. PLEASE RETURN TO YOUR SEAT.

16 265, JOHN O'DONNELL.

17 (JUROR FORWARD.)

18 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

19 MR. DURANT: PLEASE PRESENT MR. O'DONNELL.

20 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

21 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

22 CLERK (MS. NELSON): MR. JUROR, YOU'VE BEEN EXCUSED FROM
23 THE TRIAL OF THIS CASE. PLEASE RETURN TO YOUR SEAT.

24 JUROR NUMBER 19, MOLLY BOREN.

25 (JUROR FORWARD.)

1 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

2 MR. DURANT: PLEASE PRESENT MS. BOREN.

3 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

4 MS. SOLAR: COURT'S INDULGENCE.

5 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
6 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
7 HEARING OF THE JURY PANEL, OFF THE RECORD.)

8 (WHEREUPON, COURT RESUMED.)

9 MS. SOLAR: PLEASE SEAT THIS JUROR.

10 CLERK (MS. NELSON): MADAME JUROR, PLEASE HAVE A SEAT IN
11 THE JURY BOX.

12 NUMBER 75, CYNTHIA EVANS.

13 (JUROR FORWARD.)

14 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

15 MR. DURANT: PLEASE PRESENT MS. EVANS.

16 CLERK (MS. NELSON): AND WHAT SAY YOU FOR THE DEFENDANT?

17 MS. SOLAR: COURT'S INDULGENCE.

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
19 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
20 HEARING OF THE JURY PANEL, OFF THE RECORD.)

21 (WHEREUPON, COURT RESUMED.)

22 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

23 CLERK (MS. NELSON): MADAME JUROR, PLEASE RETURN TO YOUR
24 SEAT. YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

25 NUMBER 172, THEODORE NELSON.

JURY SELECTION

1 (JUROR FORWARD.)

2 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

3 MR. DURANT: PLEASE PRESENT MR. NELSON.

4 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

5 MS. SOLAR: COURT'S INDULGENCE.

6 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
7 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
8 HEARING OF THE JURY PANEL, OFF THE RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 MS. SOLAR: PLEASE SEAT THIS JUROR.

11 CLERK (MS. NELSON): MR. JUROR, PLEASE HAVE A SEAT IN
12 THE JURY BOX.

13 NUMBER 107, NANCY CASE (SIC) - NANCY JACQUES.

14 (JUROR FORWARD.)

15 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

16 MR. DURANT: PLEASE PRESENT MS. JACQUES.

17 CLERK (MS. NELSON): WHAT SAY YOU FOR THE DEFENDANT?

18 MS. SOLAR: COURT'S INDULGENCE.

19 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
20 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
21 HEARING OF THE JURY PANEL, OFF THE RECORD.)

22 (WHEREUPON, COURT RESUMED.)

23 MS. SOLAR: PLEASE SEAT THIS JUROR.

24 CLERK (MS. NELSON): MADAME JUROR, PLEASE HAVE A SEAT IN
25 THE JURY BOX.

1 JUROR NUMBER 270, REID SILVER.
2 (JUROR FORWARD.)
3 MR. DURANT: PLEASE PRESENT MR. SILVER.
4 MS. SOLAR: PLEASE SEAT THIS JUROR.
5 CLERK (MS. NELSON): THANK YOU, YOUR HONOR - THANK YOU.
6 PLEASE HAVE A SEAT IN THE JURY BOX.
7 YOUR HONOR?
8 THE COURT: YES?
9 CLERK (MS. NELSON): WILL WE NEED AN ALTERNATE?
10 THE COURT: ONE. TWO AND ONE STRIKES.
11 CLERK (MS. NELSON): 109, MARK JARRELL.
12 (NO RESPONSE.)
13 CLERK (MS. NELSON): NUMBER 109, MARK JARRELL HERE?
14 (NO RESPONSE.)
15 CLERK (MS. NELSON): NUMBER 59, WANDA DAVIS.
16 (JUROR FORWARD.)
17 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?
18 MR. DURANT: PLEASE EXCUSE MS. DAVIS FROM THE TRIAL OF
19 THIS CASE.
20 CLERK (MS. NELSON): MADAME JUROR, PLEASE - YOU'VE BEEN
21 EXCUSED FOR THE TRIAL OF THIS CASE. PLEASE RETURN TO YOUR
22 SEAT.
23 NUMBER 58, PATRICIA DAS- -- DASEN.
24 (JUROR FORWARD.)
25 CLERK (MS. NELSON): WHAT SAY YOU FOR THE STATE?

JURY SELECTION

1 MR. DURANT: NO CHALLENGE, MADAME CLERK.

2 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

3 CLERK (MS. NELSON): MADAME CLERK (SIC) - MADAME JUROR,
4 YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE. PLEASE
5 RETURN TO YOUR SEAT.

6 NUMBER 197, TARIK ROBINSON (SIC) - ROBERTSON.

7 (JUROR FORWARD.)

8 CLERK (MS. NELSON): WHAT SAY YOU FOR THE---

9 MR. DURANT: NO CHALLENGE.

10 CLERK (MS. NELSON): ---ANY CHALLENGE FOR THE STATE?

11 MR. DURANT: NO CHALLENGE, MADAME CLERK.

12 MS. SOLAR: PLEASE EXCUSE THIS JUROR.

13 CLERK (MS. NELSON): PLEASE HAVE A SEAT IN THE JUR...

14 (SIC)

15 NUMBER 151, TERRENCE MCHALE.

16 (JUROR FORWARD.)

17 CLERK (MS. NELSON): ANY CHALLENGE FROM THE STATE?

18 MR. DURANT: NO, MA'AM.

19 CLERK (MS. NELSON): AND FOR THE DEFENSE?

20 MS. SOLAR: NO, YOUR HONOR. (SIC)

21 CLERK (MS. NELSON): PLEASE HAVE A SEAT IN THE JURY BOX.

22 YOU'VE BEEN SELECTED FOR THE TRIAL OF THIS CASE.

23 THE COURT: ANY MATTERS FROM THE STATE CONCERNING JURY
24 SELECTION PROCESS?

25 MR. DURANT: NO, YOUR HONOR.

1 **THE COURT:** FROM THE DEFENSE?

2 **MS. SOLAR:** NO, YOUR HONOR.

3 **THE COURT:** THANK YOU.

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
5 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE
6 HEARING OF THE JURY PANEL, OFF THE RECORD.)

7 (WHEREUPON, COURT RESUMED.)

8 **THE COURT:** ALL RIGHT. THOSE OF YOU OUT HERE BEYOND THE
9 RAIL THAT HAVE NOT BEEN SELECTED ON THE - THIS JURY PANEL,
10 YOU ARE EXCUSED - OR, MOMENTARILY I WILL EXCUSE YOU FOR THE
11 REMAINDER OF THE DAY.

12 I WILL ADVISE YOU THAT YOU MUST CALL YOUR JUROR HOT LINE
13 AFTER 1800 HOURS - AFTER SIX P.M. TONIGHT, PLEASE CALL YOUR
14 JUROR INFORMATION LINE FOR FURTHER INSTRUCTIONS CONCERNING
15 THE REMAINDER OF YOUR JURY SERVICE DUTY.

16 AND YOU ARE NOW RELEASED FOR THE REMAINDER OF TODAY.
17 THANK YOU VERY MUCH.

18 (WHEREUPON, REMAINDER OF JURY PANEL WAS RELEASED AT
19 1:20 P.M.)

20 **MR. DURANT:** MAY WE APPROACH, YOUR HONOR?

21 **THE COURT:** YES, SIR.

22 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
23 CONFERENCE IN THE PRESENCE OF THE JURY AND JURY PANEL WHILE
24 EXITING COURTROOM, BUT OUTSIDE THE HEARING OF THE JURY AND
25 JURY PANEL, OFF THE RECORD.)

JURY SELECTION

1 (WHEREUPON, COURT RESUMED.)

2 THE COURT: MADAME CLERK, WILL YOU SWEAR OUR JURY,
3 PLEASE?

4 CLERK (MS. NELSON): YES, YOUR HONOR. PLEASE HAVE THE
5 DEFENDANT STAND.

6 LADIES AND GENTLEMEN OF THE JURY, PLEASE STAND AND RAISE
7 YOUR RIGHT HANDS TO BE SWORN.

8 (WHEREUPON, THE SELECTED JURY AND ALTERNATE WERE JOINTLY
9 DULY SWORN AND ALL ANSWERED AFFIRMATIVELY.)

10 CLERK (MS. NELSON): THANK YOU - PLEASE BE SEATED.

11 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
12 CONSIDERING THE HOUR, WE ARE NOW GOING TO TAKE A - A LUNCH
13 BREAK.

14 NOW, UNTIL I ADVISE YOU TO BEGIN YOUR DELIBERATIONS, YOU
15 MUST NOT DISCUSS THIS CASE WITH ANYONE. OBVIOUSLY, YOU KNOW
16 NOTHING ABOUT THIS CASE AT THIS POINT BESIDES WHAT YOU HAVE
17 HEARD IN THIS COURTROOM DURING THE JURY SELECTION PROCESS.

18 AND WHEN I SAY YOU ARE NOT TO DISCUSS IT WITH ANYONE,
19 THAT INCLUDES YOUR FELLOW JURORS, YOUR FRIENDS, YOUR FAMILY
20 MEMBERS, YOUR LUNCH MATES, OR ANYONE INVOLVED IN THE CASE.

21 YOU CAN ONLY DISCUSS THE CASE AFTER IT IS SUBMITTED TO
22 YOU, AND YOU MUST ONLY DISCUSS IT IN THE JURY ROOM, WITH YOUR
23 FELLOW JURORS, AFTER IT HAS BEEN SUBMITTED TO YOU FOR YOUR
24 DELIBERATIONS.

25 THE ATTORNEYS, THE PARTIES IN THIS CASE HAVE BEEN

1 ADVISED THAT THEY ARE NOT TO TALK TO YOU AT ALL. SO, IF YOU
2 SEE ANYONE INVOLVED IN THE CASE COMING AND GOING FROM THE
3 COURTHOUSE AND THEY DO NOT EVEN SPEAK OR SAY HELLO, THEY ARE
4 NOT BEING UNFRIENDLY OR RUDE, THEY ARE JUST FOLLOWING MY
5 INSTRUCTIONS.

6 DURING THE TRIAL, DO NOT READ, LISTEN TO, OR WATCH ANY
7 NEWS REPORTS ABOUT THIS CASE. DO NOT DO ANY INDEPENDENT
8 INVESTIGATION, DO NOT DO ANY RESEARCH ON THE INTERNET OR
9 ANYTHING OF THAT NATURE. THIS INCLUDES ANYTHING THAT MAY BE
10 IN THE NEWSPAPERS OR ON THE INTERNET, RADIO, OR TELEVISION.

11 YOU MUST NOT CONSIDER ANYTHING YOU MAY HAVE HEARD OR
12 READ ABOUT THIS CASE OUTSIDE THE COURTROOM, WHETHER BEFORE OR
13 DURING THE TRIAL.

14 IT IS IMPORTANT THAT YOU KEEP AN OPEN MIND AND NOT
15 DECIDE ANY ISSUE IN THIS CASE UNTIL ALL OF THE EVIDENCE HAS
16 BEEN PRESENTED AND THE PARTIES HAVE MADE THEIR CLOSING
17 ARGUMENTS AND I HAVE INSTRUCTED YOU ON THE LAW IN THIS CASE.

18 CONSIDERING THE HOUR, I AM GOING TO RELEASE YOU TO BE
19 BACK IN YOUR JURY ROOM AT 2- -- 2:45 - AT 2:45.

20 THE BAILIFFS WILL SHOW YOU YOUR NEW HOME - THE JURY
21 ROOM - ON YOUR WAY OUT.

22 LADIES AND GENTLEMEN OF THE JURY, YOU ARE NOW EXCUSED
23 FOR LUNCH. PLEASE BE BACK PROMPTLY AT 2:45.

24 THANK YOU. IF YOU'LL GO WITH OUR BAILIFFS?

25 (WHEREUPON, JURY LEFT THE COURTROOM AT 1:27 P.M.)

1 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
2 CONFERENCE IN THE PRESENCE OF THE JURY AS THEY WERE LEAVING
3 THE COURTROOM, BUT OUTSIDE THE HEARING OF THE JURY, OFF THE
4 RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 THE COURT: ALL RIGHT, ANYTHING ELSE PRIOR TO THE BREAK?

7 MR. DURANT: NOT FROM THE STATE, YOUR HONOR.

8 MS. SOLAR: NOT FROM THE DEFENSE, YOUR HONOR.

9 THE COURT: ALL RIGHT. SEE YOU AT 2:30. THANK YOU.

10 MR. DURANT: THANK YOU.

11 (WHEREUPON, COURT RECESSED AT 1:29 P.M.)

12 (WHEREUPON, STATE'S EXHIBIT NOS. 14 AND 15 WERE MARKED
13 FOR IDENTIFICATION DURING THE LUNCH RECESS.)

14 (WHEREUPON, COURT RESUMED AT 2:37 P.M.)

15 THE COURT: SHERIFF, JUST SO YOU KNOW, I'VE STARTED A
16 NEW PRINCIPLE THIS WEEK.

17 CELL PHONES GO OFF, I CONFISCATE THEM AND I GIVE THEM TO
18 A BATTERED WOMEN'S SHELTER.

19 SHERIFF: YES, SIR.

20 THE COURT: UNLESS SOMEBODY WANTS TO RECOUP THEM BY
21 GOING TO JAIL. SO, UM, IF ANY GO OFF - NOT ONLY - I'LL TELL
22 THE JURY THAT I'LL CONFISCATE THEM. I DON'T TELL THEM WHAT I
23 DO WITH THEM, BECAUSE THAT - I DON'T WANT TO PREJUDICE ONE OF
24 THE PARTIES. BUT I WANT THEM CONFISCATED.

25 I KNOW THE BAILIFFS ARE VERY GOOD ABOUT---

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15

1 DEPUTY: YES, SIR.

2 THE COURT: ---KEEPING THEM OUT. BUT ANY OTHERS - AND
3 I - I DON'T MAKE ANY EXCEPTION TO THAT.

4 DEPUTY: YES, SIR.

5 THE COURT: ALL RIGHT, SIR. THANK YOU. WE'RE WAITING
6 ON MS. SINGLEY---

7 MR. DURANT: YES, SIR.

8 THE COURT: ---MR. SOLICITOR?

9 MR. DURANT: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. DURANT: I GUESS WE COULD GO AHEAD AND GET STARTED.
12 I'VE HAD THE DOCUMENTS IN QUESTION MARKED FOR IDENTIFICATION.
13 I WILL HAND THEM UP TO YOU.

14 THE COURT: ALL RIGHT.

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
16 CONFERENCE, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 MR. DURANT: AND I'LL HAND, UH, IT UP TO THE COURT.
19 THIS IS STATE'S EXHIBITS 14 AND 15 FOR IDENTIFICATION
20 PURPOSES.

21 (WHEREUPON STATE'S EXHIBITS 14 AND 15, MARKED FOR
22 IDENTIFICATION, WERE HANDED TO THE COURT.)

23 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR COURT'S
24 REVIEW OF DOCUMENTS.)

25 THE COURT: ALL RIGHT, SIR.

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15

1 MR. DURANT: YOUR HONOR, WITH REGARD TO THOSE PARTICULAR
2 EXHIBITS - STATE'S EXHIBITS 14 AND 15, YOUR HONOR - THE
3 TESTIMONY OF MS. BRENDA SINGLEY - AND, UH - AND I WILL
4 SUMMARIZE IF THE - THE COURT FEELS IT'S NECESSARY TO - TO PUT
5 UP HER TESTIMONY CONCERNING THE - THE LETTER, THAT IS FINE AS
6 WELL IF YOU WANT TO HAVE - TO DO SO WHEN SHE GETS HERE.

7 BUT, MS. SINGLEY STATED THAT KATHY WILLIS, THE ADDRESSEE
8 OF THAT LETTER, IS HER SISTER AND SHE LIVES IN NORTH
9 CAROLINA. AND SHE HAS EMPHYSEMA, AND IS IN VERY POOR HEALTH.

10 THAT SHE WAS CONTACTED BY HER SISTER, MS. WILLIS, UH,
11 AND ADVISED THAT FERRIS HAD WRITTEN HER A LETTER.

12 I'M NOT SURE WHETHER MS. SINGLEY HAD MS. WILLIS SEND IT
13 TO HER OR WHETHER MS. WILLIS JUST SENT IT TO HER OF HER OWN
14 ACCORD. BUT, SHE STATED THAT SHE RECEIVED THAT LETTER AND
15 THAT ENVELOPE, IN THE - IN THE MAIL A COUPLE OF DAYS AFTER
16 THAT CONVERSATION WITH MS. WILLIS.

17 SHE WOULD TESTIFY THAT, YOU KNOW, OBVIOUSLY, FERRIS
18 SINGLEY IS HER SON. HE LIVED OFF AND ON WITH HER ALL THE WAY
19 UP THROUGH HIS TWENTIES. THAT SHE IS WELL FAMILIAR WITH HIS,
20 UH, HANDWRITING. THAT SHE HAS RECEIVED LETTERS FROM HIM IN
21 THE PAST. AND, THAT THERE IS NO QUESTION BUT THAT THAT IS
22 HIS HANDWRITING.

23 ALSO, WITH REGARD TO - IT IS SIGNED FERRIS. IT'S - THE
24 ENVELOPE IS ADDRESSED FROM FERRIS SINGLEY. UH - AND IF THE
25 ISSUE IS AUTHENTICATION, YOUR HONOR, UH, WE WOULD BELIEVE

1 THAT, UH, UNDER RULE 901(B)(2), A NON-EXPERT OPINION OF
2 HAND- -- ON HANDWRITING - OBVIOUSLY, AS THE DEFENDANT'S
3 MOTHER, SHE IS WELL AWARE OF HER HANDWRITING - HIS
4 HANDWRITING, AND WOULD BE ABLE TO TESTIFY CONCERNING HER
5 RECOGNITION OF IT.

6 UH - IT'S NOT A HEARSAY DOCUMENT, YOUR HONOR. IT'S
7 SPECIFICALLY EXCLUDED FROM THE HEARSAY RULE UNDER, UH,
8 801(D)(2), AS AN ADMISSION - ADMISSION BY A PARTY OPPONENT.

9 UH - AND IT WOULD BE THE STATE'S POSITION THAT, UH -
10 THAT THE LETTER SHOULD COME IN IN ITS ENTIRETY.

11 THE COURT: ALL RIGHT. AND I UNDERSTAND, UM - AND I
12 HOPE I SAY YOUR NAME RIGHT - MS. SOLAR? IS THAT---

13 MS. SOLAR: YES, YOUR HONOR.

14 THE COURT: ---IS THAT CORRECT? I UNDERSTAND YOU WANTED
15 TO TAKE THAT TESTIMONY IN CAMERA?

16 MS. SOLAR: YES, SIR.

17 THE COURT: ALL RIGHT. UM - AND THAT - THAT SHOULDN'T
18 TAKE THAT LONG---

19 MR. DURANT: IT SH- ---

20 THE COURT: ---SOLICITOR, SO LET'S DO TAKE IT IN
21 CAMERA---

22 MR. DURANT: ---IT SHOULDN'T TAKE THAT LONG.

23 THE COURT: ---WHEN MS. SINGLEY GETS HERE. UM - MIGHT I
24 ASK WHAT HAPPENED TO THE---

25 MR. DURANT: I'LL - YOU'LL HAVE TO ASK---

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15

1 THE COURT: ---OTHER PART?

2 MR. DURANT: ---WE'LL HAVE TO ASK THE WITNESS,
3 YOUR HONOR---

4 THE COURT: ALL RIGHT.

5 MR. DURANT: ---'CAUSE I - I REALLY DON'T KNOW. THAT
6 WAS THE - THAT WAS THE - THE CONDITION IT WAS PRESENTED
7 TO ME.

8 THE COURT: ALL RIGHT. WELL, IF - IF YOU WOULD COVER
9 THAT. WERE THERE ANY OTHER AREAS, MS. SOLAR---

10 MS. SOLAR: SIR?

11 THE COURT: ---THAT WE DISCUSSED IN CAMERA FOR THIS
12 PARTICULAR WITNESS?

13 MS. SOLAR: FOR THIS PARTICULAR MOTION?

14 THE COURT: YES, MA'AM.

15 MS. SOLAR: NO, YOUR HONOR. WE WOULD JUST ASK THAT YOU
16 TAKE HER TESTIMONY IN CAMERA, AND THEN I'LL LAY OUT MY
17 ARGUMENT AS TO WHY THE LETTER SHOULDN'T BE ADMITTED.

18 THE COURT: ALL RIGHT.

19 MR. DURANT: AND SHE JUST WALKED IN, YOUR HONOR.

20 THE COURT: ALL RIGHT. IF YOU'LL HAVE HER COME AROUND?
21 AND, MADAME CLERK, IF YOU WOULD SWEAR THE WITNESS?

22 MR. DURANT: MRS. SINGLEY, COULD YOU COME AROUND AND
23 TAKE THE STAND, PLEASE, MA'AM?

24 MRS. SINGLEY: TAKE THE STAND?

25 MR. DURANT: YES, MA'AM. COULD YOU TAKE THE STAND UP

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 HERE?

2 (WITNESS FORWARD.)

3 MRS. SINGLEY: WHERE?

4 MR. DURANT: I THINK THAT SHE'LL JUST SHOW YOU WHERE
5 TO GO.

6 CLERK (MS. NELSON): I NEED YOU TO PLACE YOUR LEFT HAND
7 ON THE BIBLE AND RAISE YOUR RIGHT HAND PLEASE. RAISE YOUR
8 RIGHT HAND.

9 MRS. SINGLEY: I'M SO SORRY. YOU SAID LEFT. I'LL RAISE
10 MY RIGHT HAND.

11 CLERK (MS. NELSON): ALL RIGHT. BUT PLACE YOUR LEFT
12 HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND. YOU'VE GOT TO
13 DO BOTH AT THE SAME TIME. THANK YOU.

14 MRS. SINGLEY: I'M SORRY.

15 CLERK (MS. NELSON): THAT'S ALL RIGHT.

16 (WHEREUPON, BRENDA ANN PARKS SINGLEY WAS DULY SWORN AND
17 TESTIFIED AS FOLLOWS:)

18 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
19 NAME FOR THE RECORD, AND SPELL YOUR LAST NAME PLEASE.

20 MRS. SINGLEY: BRENDA ANN PARKS SING- -- SINGLEY.
21 S-I-N-G-L-E-Y.

22 AS TO MOTION TO ALLOW STATE'S EXHIBITS 14 AND 15:

23 BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

24 Q MS. SINGLEY, I'M GONNA ASK YOU A FEW QUESTIONS, AND
25 WE'RE GONNA - IT'S ALL GONNA BE REGARDING WHAT HAS BEEN

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 MARKED NOW AS STATE'S EXHIBIT NUMBER 14 FOR IDENTIFICATION.

2 I'D ASK YOU TO TAKE A LOOK AT THAT.

3 AND, STATE'S EXHIBIT NUMBER 15 FOR IDENTIFICATION. I'D
4 ASK YOU TO TAKE A LOOK AT THAT.

5 HAVE YOU SEEN THOSE DOCUMENTS BEFORE?

6 A YES, SIR.

7 Q AND WOULD YOU TELL THE JUDGE WHO THIS GENTLEMAN IS RIGHT
8 HERE?

9 A THAT'S MY SON.

10 Q AND WHAT'S HIS NAME?

11 A FERRIS SINGLEY.

12 Q AND HE IS ONE OF TWO CHILDREN OF YOURS, IS THAT CORRECT?

13 A YES, SIR.

14 Q WHERE DID FERRIS LIVE WHEN HE WAS COMING UP?

15 A HE LIVED AT - WITH MY HUSBAND AND I AT SPRUCE
16 STREET, NORTH CHARLESTON.

17 Q AND HOW LONG DID HE LIVE WITH YOU AND YOUR HUSBAND?

18 A 'TIL HIS EARLY TWENTIES.

19 Q OKAY. AND HAVE THERE BEEN OCCASIONS SINCE HIS EARLY
20 TWENTIES, UH, THAT HE'S ALSO LIVED WITH YOU?

21 A (NO RESPONSE.)

22 Q HAVE THERE BEEN OCCASIONS SINCE HIS EARLY TWENTIES
23 WHEN---

24 A YEAH, IN APRIL.

25 Q OKAY. APRIL OF 2005, IS THAT CORRECT?

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 A YES, SIR.

2 Q UM - ARE YOU FAMILIAR WITH HIS HANDWRITING?

3 A YES, SIR.

4 Q AND HOW ARE YOU FAMILIAR WITH HIS HANDWRITING?

5 A BECAUSE HE WROTE ME LETTERS WHEN HE WAS IN PRISON
6 BEFORE.

7 Q OKAY. AND HE'S ALSO YOUR CHILD, IS THAT CORRECT?

8 A YES, SIR.

9 Q HAVE YOU SEEN HIS HOMEWORK PAPERS BEFORE?

10 A HAVE I WHAT?

11 Q HAVE YOU SEEN HIS HOMEWORK PAPERS BEFORE?

12 A YES, SIR.

13 Q HAVE YOU SEEN HIS WRITING BEFORE?

14 A YES, SIR.

15 Q HAVE YOU SEEN HIS WRITING BEFORE ON A NUMBER OF
16 OCCASIONS?

17 A YES, SIR.

18 Q UM - NOW, YOU UNDERSTAND THAT, FOR PURPOSES OF THIS
19 HEARING, YOU CAN SAY YOU GOT LETTERS FROM HIM FROM PRISON,
20 BUT YOU CAN'T SAY THAT IN FRONT OF THE JURY. DO YOU
21 UNDERSTAND THAT?

22 A RIGHT. I DID GET LETTERS FROM HIM FROM PRISON.

23 Q OKAY. BUT YOU'VE GOTTEN - YOU'VE GOTTEN LETTERS FROM
24 HIM WHEN HE WAS INCARCERATED---

25 A YES, SIR.

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 Q ---IS THAT CORRECT?

2 A YES, SIR.

3 Q DO YOU UNDERSTAND THAT YOU CAN'T SAY THAT IN FRONT OF
4 THE JURY?

5 A RIGHT.

6 Q OKAY.

7 A BUT I'VE NEVER WROTE HIM BACK.

8 Q OKAY. UM - SO YOU ARE FAMILIAR WITH HIS HANDWRITING?

9 A YES, SIR.

10 Q NOW, HOW DID YOU GET THOSE - POSSESSION OF THOSE TWO
11 DOCUMENTS, STATE'S EXHIBITS 14 AND 15?

12 A MY SISTER, KATHY WILLIS, MAILED 'EM TO ME.

13 Q NOW, WHO IS KATHY WILLIS?

14 A SHE IS MY SISTER.

15 Q AND WHERE DOES KATHY WILLIS LIVE?

16 A NORTH CAROLINA.

17 Q AND WHAT IS MS. WILLIS' HEALTH SITUATION LIKE?

18 A SHE COULDN'T BE HERE BECAUSE SHE HAS EMPHYSEMA AND SHE'S
19 TRYING TO BREATHE TO LIVE.

20 Q OKAY. NOW, HOW DID YOU COME TO BE IN POSSESSION OF
21 THOSE TWO DOCUMENTS?

22 A SHE'S MAILED 'EM TO ME.

23 Q DID YOU ASK HER TO OR DID SHE---

24 A SHE OFFERED TO, YEAH.

25 Q ALL RIGHT.

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 A AND I SAID, YES, PLEASE MAIL 'EM TO ME.

2 Q OKAY. AND DO YOU RECALL WHEN IT WAS THAT YOU TALKED TO
3 HER ON THE PHONE?

4 A I CAN'T REMEMBER. IT WAS LIKE THE DAY AFTER SHE GOT THE
5 LETTER SHE CALLED ME.

6 Q OKAY. AND THAT LETTER IS DATED IN MARCH - MARCH 12 OF
7 2006, IS THAT CORRECT?

8 A YES, SIR.

9 Q UM - AND SHE MAILED THOSE DOCUMENTS TO YOU IN WHAT?

10 A IN AN ENVELOPE.

11 Q OKAY. AND WAS - DO YOU KNOW WHAT HAPPENED TO THE REST
12 OF THIS ENVELOPE?

13 A SHE CUT IT OFF---

14 Q SO---

15 A ---AND JUST SENT THAT PART THAT SHE THOUGH THAT I MIGHT
16 NEED THAT PART.

17 Q OKAY. AND THIS IS THE PART THAT THAT LETTER HAD
18 APPARENTLY COME IN?

19 A YES, SIR.

20 Q AND DO YOU RECOGNIZE THE HANDWRITING ON THIS ENVELOPE -
21 OR, PART- -- PARTIAL ENVELOPE, STATE'S EXHIBIT NUMBER 15?

22 A YES, SIR.

23 Q AND WHOSE HANDWRITING IS THAT?

24 A THE TOP ONE IS MY SON'S, AND THE BOTTOM IS MY SISTER'S.

25 Q OKAY. NOW, WHOSE HANDWRITING IS IT?

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

- 1 A THE TOP ONE? FERRIS SINGLEY---
- 2 Q YES.
- 3 A ---AND THE BOTTOM ONE IS KATHY WILLIS.
- 4 Q I KNOW KATHY WILLIS IS YOUR SISTER. WHO WROTE IT
- 5 THOUGH?
- 6 A THE TOP ONE IS MY SON, FERRIS SINGLEY.
- 7 Q I KNOW YOUR SON IS FERRIS SINGLEY.
- 8 A BUT WHAT---
- 9 Q LISTEN TO MY QUESTION. WHOSE HANDWRITING IS ON STATE'S
- 10 EXHIBIT 15, TOP AND BOTTOM?
- 11 A I DON'T UNDERSTAND. I JUST TOLD YOU THAT.
- 12 Q I UNDERSTAND WHOSE NAME IT IS, MA'AM.
- 13 A BUT---
- 14 Q BUT, WHEN YOU WRITE A LETTER TO SOMEONE AND YOU PUT IT
- 15 IN AN ENVELOPE AND YOU WRITE THEIR ADDRESS AND THE - AND THE
- 16 RETURN ADDRESS, WHO WROTE THAT ON - ON THE ENVELOPE?
- 17 A MY SISTER WROTE THE ENVELOPE. I - I DON'T---
- 18 Q SO SHE SENT A LETTER TO HERSELF IS WHAT YOU'RE SAYING?
- 19 A NO, SHE SENT IT TO ME.
- 20 Q I'M NOT TALKING ABOUT THE LETTER SHE SENT TO YOU.
- 21 A OH.
- 22 Q I'M TALKING ABOUT THIS - STATE'S EXHIBIT 15.
- 23 A I GUESS SHE SENT IT TO HERSELF. I - I - I DON'T
- 24 UNDERSTAND WHAT YOU WANT.
- 25 Q MY QUESTION IS THIS, MA'AM. UM - SO, IN - IN - NOW

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 DON'T LET ME PUT WORDS IN YOUR MOUTH. I JUST WANT YOU TO
2 EXPLAIN TO THE JUDGE HOW FERRIS COULD HAVE SENT A LETTER TO
3 YOUR SISTER WITH THAT LETTER IN IT WITHOUT WRITING YOUR
4 SISTER'S ADDRESS ON THE ENVELOPE.

5 A SO YOU WANT TO KNOW HOW HE GOT HER ADDRESS?

6 Q NO. I KNOW HE KNOWS HER ADDRESS. WHO WROTE THE ADDRESS
7 ON THE ENVELOPE?

8 A (NO RESPONSE.)

9 Q WHO WROTE THE ADDRESS ON THE ENVELOPE?

10 A MY SON, FERRIS.

11 Q OKAY. THAT'S ALL I'M ASKING YOU.

12 A I'M SORRY - I'M SORRY. MY SON, FERRIS WROTE THAT.

13 Q OKAY. AND THAT'S HIS NAME, CORRECT?

14 A AND THAT'S HIS NAME.

15 Q AND THAT YOUR SISTER'S NAME?

16 A AND THAT'S HIS HANDWRITING.

17 Q OKAY. THAT'S ALL I'M ASKING YOU.

18 A OKAY. I'M SORRY.

19 Q NOW, WITH REGARD TO STATE'S EXHIBIT NUMBER, UH - EXCUSE
20 ME - 14. THIS LETTER. DO YOU RECOGNIZE THE HANDWRITING---

21 A YES, I DO.

22 Q ---ON THE LETTER? AND WHOSE HANDWRITING IS THAT?

23 A IT'S MY SON'S, FERRIS SINGLEY'S HANDWRITING.

24 Q OKAY.

25 MR. DURANT: COURT'S INDULGENCE?

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

1 THE COURT: YES, SIR.

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
3 CONFERENCE, OFF THE RECORD.)

4 (WHEREUPON, COURT RESUMED.)

5 Q COULD YOU PLEASE ANSWER ANY QUESTIONS MS. SOLAR MAY HAVE
6 FOR YOU?

7 A YES, SIR.

8 THE COURT: MS. SOLAR?

9 MS. SOLAR: THANK YOU, YOUR HONOR.

10 AS TO MOTION TO ALLOW STATE'S EXHIBITS 14 AND 15:

11 BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

12 Q MS. SINGLEY, YOU TESTIFIED THAT FERRIS LIVED WITH YOU
13 UNTIL HE - HE WAS IN HIS TWENTIES?

14 A YES, SIR.

15 Q HE'S---

16 A MA'AM, I'M SORRY.

17 Q ---HE'S THIRTY-EIGHT-YEARS-OLD, CORRECT?

18 A YES.

19 Q BE THIRTY-NINE TOMORROW?

20 A THIRTY-NINE TOMORROW.

21 Q YES. UM - YOU'VE OBVIOUSLY HAD SOME DIFFICULTY IN YOUR
22 RELATIONSHIP WITH FERRIS, ISN'T THAT CORRECT?

23 A I DON'T UNDERSTAND WHAT YOU'RE SAYING - DIFFICULTY?

24 Q IN OTHER WORDS, YOUR RELATIONSHIP - MOTHER/SON
25 RELATIONSHIP - HAS BEEN DIFFICULT, CORRECT?

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

- 1 A NO. WE HAVE A GOOD RELATIONSHIP.
- 2 Q YOUR RELATIONSHIP FROM TODAY INTO THE PAST HAS BEEN
- 3 DIFFICULT?
- 4 A RIGHT.
- 5 Q OKAY. THANK YOU. AND IS IT FAIR TO SAY THAT YOU'RE NOT
- 6 VERY CLOSE TO HIM?
- 7 A WE USED TO BE.
- 8 Q IS IT FAIR TO SAY THAT YOU'RE NOT CLOSE TO HIM NOW?
- 9 A NO.
- 10 Q SO YOU ARE CLOSE TO HIM?
- 11 A NO.
- 12 Q YOU'RE NOT CLOSE TO HIM?
- 13 A NO.
- 14 Q YOU - YOU - WOULD IT BE FAIR TO SAY YOU DON'T HAVE THE
- 15 TYPICAL MOTHER/SON RELATIONSHIP?
- 16 A NO.
- 17 Q YOU DO HAVE THE TYPICAL MOTHER/SON RELATIONSHIP?
- 18 A WE DID, WE DON'T NOW.
- 19 Q YOU DO NOT NOW?
- 20 A NO.
- 21 Q OKAY. SINCE HE HAS BEEN AT THE JAIL FOR THIS CHARGE, HE
- 22 HAS NOT WRITTEN TO YOU, HAS HE?
- 23 A NO - NO.
- 24 MS. SOLAR: COURT'S INDULGENCE.
- 25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:
BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

1 CONFERENCE, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 MS. SOLAR: YOUR HONOR, WE HAVE NOTHING FURTHER.

4 THE COURT: THANK YOU. MS. SINGLEY, YOU MAY STEP DOWN.

5 MRS. SINGLEY: THANK YOU.

6 THE COURT: ANY- -- ANYTHING ON REDIRECT? I'M SORRY,
7 SOLICITOR.

8 MR. DURANT: NO, SIR, YOUR HONOR.

9 THE COURT: YOU MAY STEP DOWN.

10 (WITNESS STEPPED DOWN.)

11 MS. SOLAR: YOUR HONOR, MAY I APPROACH AND LOOK AT THAT
12 ENVELOPE?

13 THE COURT: YES, MA'AM - CERTAINLY.

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR DOCUMENT
15 REVIEW, OFF THE RECORD.)

16 (WHEREUPON, COURT RESUMED.)

17 MS. SOLAR: YOUR HONOR, WE HAVE A COUPLE OF PROBLEMS
18 WITH THIS LETTER. FIRST OF ALL, AUNT KATHY - WHO IS KATHY
19 WILLIS ON THE WITNESS LIST - SHE IS NOT HERE TO TESTIFY THAT
20 SHE RECEIVED THE LETTER. SHE'S NOT HERE TO BE CROSS-EXAMINED
21 ABOUT THE CIRCUMSTANCES OF RECEIVING IT, WHETHER SHE ACTUALLY
22 RECEIVED IT - WHETHER...

23 YOU KNOW, WE DON'T KNOW WHETHER MS. SINGLEY - MS. BRENDA
24 SINGLEY - THE LADY WHO JUST TESTIFIED - DRAFTED IT. WE DON'T
25 KNOW WHETHER IT'S BEEN ALTERED.

1 YOU KNOW, THIS IS NOT EVEN AN ENVELOPE. IT'S HALF OF
2 A - A HALF OF A - NOT EVEN HALF OF AN ENVELOPE.

3 YOU KNOW, I - I DON'T THINK THAT IT CAN BE SHOWED WHERE
4 THIS CAME FROM. AND THAT'S A HUGE PROBLEM THAT WE HAVE.

5 SECONDLY, AS TO HER IDENTIFYING, UM, FERRIS SINGLEY'S
6 HANDWRITING, UM, SHE TESTIFIED SHE'S NOT CLOSE TO HIM. HE
7 HAS NOT WRITTEN HER SINCE HE'S BEEN IN - AT - AT THE, UM,
8 JAIL.

9 I JUST - I DON'T THINK THAT THE, UH - THE STATE HAS
10 SATISFIED THE RULE 901 REQUIREMENT OF AUTHENTICATION, AND WE
11 WOULD ASK THAT YOU HOLD THAT THIS LETTER IS INADMISSIBLE.

12 **THE COURT:** THANK YOU, MS. SOLAR. MR. SOLICITOR?

13 **MR. DURANT:** YOUR HONOR, OBVIOUSLY SHE CAN ARGUE THAT
14 THE LETTER WAS FABRICATED. THAT GOES TO ITS WEIGHT, NOT TO
15 ITS ADMISSIBILITY.

16 UH - THE WITNESS TESTIFIED THAT THIS IS HER SON, AND
17 OBVIOUSLY SHE TESTIFIED THAT HE LIVED WITH HER UP THROUGH HIS
18 EARLY TWENTIES. UH, THAT HE GOT - SHE GOT LETTERS FROM HIM
19 WHILE HE WAS IN THE PENITENTIARY, AND THAT SHE RECOGNIZES HIS
20 HANDWRITING. AND, UH - AND, UH, TESTIFIED THAT THAT IS HIS
21 HANDWRITING.

22 SHE ALSO TESTIFIED TO CERTAIN CIRCUMSTANCES AS TO HOW
23 THE LETTER GOT INTO HER POSSESSION.

24 I DON'T THINK THERE IS ANY REQUIREMENT WITH REGARD TO
25 AUTHENTICATION THAT THE ADDRESSEE OF THE LETTER HAS TO BE

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:

1 PRESENT AS LONG AS THE - THE PERSON WHOM I'M INTRODUCING THE
2 LETTER THROUGH, UH - UH, HAS PERSONAL KNOWLEDGE OF THE - OF
3 THE PERSON'S HANDWRITING INVOLVED, PURSUANT TO RULE 90- --
4 EXCUSE ME - 901(B)(2).

5 UM - AND, OBVIOUSLY, THE - THE - THE LETTER IS, UM - IS
6 PROBATIVE AND, UH - AND, UH, HIGHLY RELEVANT.

7 THE COURT: YES, SIR. I THINK THE LETTER IS
8 AUTHENTICATED APPROPRIATELY BY THE WITNESS CONCERNING HER
9 SON'S WRITING GIVEN THE FACT THAT SHE HAS TESTIFIED THAT SHE
10 HAD RECEIVED LETTERS FROM HIM WHEN HE WAS IN PRISON BEFORE
11 WHEN HE WAS INCARCERATED. WHICH YOU HAVE ADVISED HER, AND
12 I KNOW YOU WILL ADVISE HER AGAIN, SOLICITOR, NOT TO GO
13 INTO THAT.

14 MR. DURANT: I WOULD APPRECIATE IT IF YOU COULD GIVE ME
15 A - JUST A COUPLE OF MINUTES BEFORE I PUT HER UP. I JUST
16 WANT TO STRESS THAT TO HER.

17 THE COURT: LET - LET ME ASK ONE FURTHER QUESTION
18 THOUGH. IS THERE ANYTHING IN THE SUBSTANCE OF THE LETTER
19 SPECIFICALLY, UM, YOU ALSO WANTED TO ADDRESS, MS. SOLAR?

20 MS. SOLAR: YES, YOUR HONOR, AS A MATTER OF FACT. GIVEN
21 YOUR RULING - AND ONLY GIVEN YOUR RULING, BECAUSE WE DO
22 OBJECT TO THE ADMISSIBILITY OF THIS LETTER - THE SECOND
23 SENTENCE OF THE LETTER - I HAVE MANAGED TO SCREW UP MY LIFE
24 ONCE AGAIN - WE WOULD ASK THAT THAT BE REDACTED AS PRIOR -
25 POSSIBLE PRIOR BAD ACTS - OR, EVIDENCE OF IT.

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:

1 **MR. DURANT:** YOUR HONOR, I MEAN, THE LETTER SAYS WHAT
2 THE LETTER SAYS, AND IT'S - THAT'S VERY VAGUE. AND I
3 CERTAINLY DON'T ASSUME - SEE THAT THAT CAN BE CONSTRUED AS A
4 PRIOR BAD ACT.

5 **THE COURT:** I AGREE IT'S VERY VAGUE, BUT I DON'T - I - I
6 WILL GRANT HER MOTION ONCE AGAIN. I - I DON'T THINK IT
7 NECESSARILY CHANGES - MAY - MAY I SEE IT VERY QUICKLY---

8 **MS. SOLAR:** YES, YOUR HONOR.

9 **THE COURT:** ---MS. SOLAR?

10 (WHEREUPON, LETTER HANDED UP TO THE COURT.)

11 **THE COURT:** I PERSONALLY THINK, IN THE GREATER SCHEME OF
12 THINGS, ON STATE'S EXHIBIT NUMBER 14, ONCE AGAIN, DOES NOT
13 SUBSTANTIALLY CHANGE THE NATURE OF THE LETTER AND I WILL
14 GRANT YOUR MOTION AS FAR AS REDACTING---

15 **MS. SOLAR:** THANK YOU, YOUR HONOR.

16 **THE COURT:** ---ON THOSE TWO WORDS. ANY- -- ANYTHING
17 FURTHER?

18 **MR. DURANT:** SO YOU ARE GOING TO GRANT THE - ARE WE
19 GOING TO REDACT THAT PARTICULAR EXHIBIT, YOUR HONOR?

20 **THE COURT:** YES, SIR - YES, SIR.

21 **MR. DURANT:** OKAY.

22 **THE COURT:** BUT WE NEED TO MAKE A COPY OF IT AND ENTER
23 THAT.

24 **MR. DURANT:** UH, MY ONLY - MY ONLY REQUEST OF SOMETHING
25 LIKE THAT, IF THE JURY IS NOT GOING TO GET THE ORIGINAL

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:

1 LETTER, I WOULD REQUEST AN INSTRUCTION AT THE TIME THAT THE
2 COURT, UH, REMOVED A PORTION OF THAT LETTER AT ITS OWN -
3 UNDER ITS OWN MOTION BECAUSE IT DIDN'T FEEL LIKE IT WAS
4 APPROPRIATE FOR THE JURY TO - TO - TO CONSIDER THAT. AND
5 THAT'S WHY WE'RE PUTTING IN A COPY AS OPPOSED TO THE
6 ORIGINAL.

7 THE COURT: YEAH, I WILL DO THAT. YES, SIR.

8 MR. DURANT: IF - IF YOU - IF - I CERTAINLY THINK
9 THAT'S - OTHERWISE, I - I - I THINK THEY KIND OF GET THE
10 OPINION THAT I'M TRYING TO PULL ONE OVER ON THEM.

11 THE COURT: NO, SIR. AND I DON'T - I DON'T WANT 'EM
12 SPECULATING FOR YOU OR AGAINST YOU, NOR FOR THE DEFENDANT NOR
13 AGAINST THE DEFENDANT IN THAT REGARD.

14 MR. DURANT: OKAY. IN THAT CASE, YOUR HONOR, UH, I WILL
15 HAVE SOMEONE GO AHEAD AND TAKE CARE OF THAT.

16 THE COURT: ANY- -- ANYTHING FURTHER AS FAR AS THAT'S
17 CONCERNED?

18 MS. SOLAR: NO, NOT AS FAR AS THAT'S CONCERNED.

19 THE COURT: AS FAR AS THE SUBSTANCE OF THE LETTER---

20 MS. SOLAR: NO, YOUR HONOR.

21 THE COURT: ---MS. SOLAR? ALL RIGHT.

22 MR. DURANT: AND, JUST SO WE'RE CLEAR, JUST THE PART -
23 I HAVE MANAGED TO SCREW UP MY LIFE ONCE AGAIN? THAT'S THE
24 PART WE WANT TO HAVE DE- -- DELETED?

25 THE COURT: NO - NO, SIR. JUST THE - ONCE AGAIN.

1 MR. DURANT: OH.

2 THE COURT: IT'S TWO WORDS.

3 MR. DURANT: OKAY.

4 THE COURT: I MEAN, HE'S---

5 MR. DURANT: THAT'S FINE.

6 THE COURT: ---IF HE'S IN THE CHARLESTON COUNTY JAIL
7 WHEN HE WROTE THIS LETTER, THE FIRST PART OF THAT SENTENCE
8 IS, UH - WOULD BE PRETTY ACCURATE I THINK.

9 IS THAT - IS THAT CORRECT, MS.---

10 MS. SOLAR: THAT'S CORRECT, YOUR HONOR.

11 THE COURT: OKAY.

12 MR. DURANT: AND WHAT I'LL DO IS, I'LL HAVE - UM, UM -
13 I'LL HAVE HER DO THAT ON THIS COPY AND WE'LL MAKE A COPY OF
14 THAT SO THAT THEY WON'T BE READING THROUGH THE REDACTION.

15 THE COURT: I - I UNDERSTAND. YES, SIR. ANYTHING
16 FURTHER BEFORE WE BRING IN OUR JURY?

17 MS. SOLAR: YOUR HONOR, THE ONLY OTHER THING IS THE
18 MOTION THAT I HAD MADE ABOUT EXCLUDING ANY REFERENCE TO THAT
19 STATEMENT THAT MR. SINGLEY ALLEGEDLY TOLD HIS MOTHER THAT HE
20 HAD KILLED SOMEBODY TWO DAYS IN THE PAST. BECAUSE---

21 THE COURT: WELL, I - I THINK THAT - I PERSONALLY - I
22 THINK THAT GOES TO THE ELEMENT OF, UH, THE ARMED ROBBERY AND
23 PUTTING HER IN FEAR. AND - AND I WILL - AND I HAD DONE THE
24 403 ANALYSIS ON THAT ALSO.

25 SO I - I THINK, IF - IF IT - IF IT - TESTIMONY COMES OUT

1 LIKE THAT, THAT BASED ON WHAT I'VE BEEN TOLD, I WILL ALLOW
2 THAT.

3 MS. SOLAR: THANK YOU, YOUR HONOR.

4 THE COURT: YES, MA'AM.

5 MR. DURANT: AND, YOUR HONOR, MAY I HAVE JUST TWO
6 MINUTES WITH THE VICTIM BEFORE WE BRING THE JURY OUT?
7 BECAUSE SHE'S GONNA BE THE FIRST WITNESS---

8 THE COURT: CERTAINLY.

9 MR. DURANT: ---AFTER OPENINGS---

10 THE COURT: CERTAINLY.

11 MR. DURANT: ---AND I WANTED TO MAKE SURE THAT SHE
12 UNDERSTANDS ONCE AND FOR ALL.

13 THE COURT: AND I GIVE A BRIEF OPENING CHARGE. IT'S
14 PROBABLY NOT AS BRIEF AS SOME JUDGES, 'CAUSE I'M NOT AS
15 FAMILIAR WITH IT AS SOME JUDGES SO IT MAY TAKE ME A LITTLE
16 LONGER. BUT I DO DO THAT.

17 I ALWAYS TELL, UM, TRIAL LAWYERS TOO THAT I HAVE
18 DUANE SHULERITIS. I CAN'T SIT STILL. AFTER A WHILE, I MAY
19 GET UP AND MOVE AROUND. IF IT INTERFERES WITH YOU-ALL'S
20 ABILITY TO TRY THE CASE, JUST PLEASE TELL ME AND I'LL MAKE MY
21 ADJUSTMENTS ACCORDINGLY.

22 MR. DURANT: IT WON'T - IT WON'T BOTHER ME, YOUR HONOR.
23 CAN I - IF I COULD HAVE JUST THREE MINUTES?

24 THE COURT: YES, SIR.

25 COURT REPORTER: JUDGE, DO YOU WANT THE ORIGINAL LETTER

MOTION TO ADMIT STATE'S EXHIBIT NOS. 14 AND 15:

1 AS A COURT'S EXHIBIT?

2 THE COURT: YES, MA'AM.

3 COURT REPORTER: OKAY.

4 THE COURT: THE - THE ORIGINAL WILL BE A COURT EXHIBIT
5 AND - CORRECT.

6 COURT REPORTER: STATE'S EXHIBIT 14 WILL THEN BE
7 REPLACED WITH THE REDACTED VERSION, AND THIS WILL BECOME
8 COURT'S EXHIBIT 1.

9 THE COURT: CORRECT.

10 (WHEREUPON, COURT'S EXHIBIT NO. 1 WAS ADMITTED INTO
11 EVIDENCE.)

12 (WHEREUPON, COURT RECESSED AT 3:00 P.M.)

13 (WHEREUPON, COURT RESUMED AT 3:04 P.M.)

14 MR. DURANT: THANK YOU, YOUR HONOR.

15 THE COURT: YES, SIR. ARE WE READY FOR THE JURY?

16 (NO RESPONSE.)

17 THE COURT: SOLICITOR?

18 MR. DURANT: YES, SIR.

19 THE COURT: MS. SOLAR?

20 MS. SOLAR: YES, YOUR HONOR.

21 THE COURT: MADAME BAILIFF, THERE IS A MR. BOONE ON THE
22 JURY. WOULD YOU PUT HIM IN THE FOREMAN'S CHAIR FOR ME,
23 PLEASE?

24 BAILIFF: YES, YOUR HONOR.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

OPENING ADDRESS BY THE COURT:

1 CONFERENCE, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 (WHEREUPON, JURY ENTERED THE COURTROOM AT 3:05 P.M.)

4 **THE COURT:** THANK YOU. THANK YOU, MR. BOONE, FOR
5 AGREEING TO SERVE AS THE FOREMAN OF OUR JURY.

6 I HAVE A FEW BRIEF OPENING REMARKS. BUT BEFORE I GET
7 STARTED, I NEGLECTED, WHEN THE ENTIRE PANEL WAS OUT HERE THIS
8 MORNING, TO INTRODUCE MY LAW CLERK, WHICH IS THE YOUNG MAN
9 THAT WILL BE IN AND OUT OF THE COURTROOM SITTING TO MY LEFT
10 EARLIER TODAY. MR. DRELTON CARSON. HIS FRIENDS CALL HIM
11 D. J., AND I DON'T KNOW ANYBODY THAT DOESN'T CALL DRELTON
12 D. J.

13 ALSO, WE HAVE OUR - OUR CLERK IN HERE THAT'LL BE WORKING
14 WITH US THIS WEEK. MS. NELSON THAT WORKS FOR YOU-ALL'S
15 CLERK'S OFFICE.

16 AND THEN THE COURT REPORTER - MY COURT REPORTER ASSIGNED
17 FOR THE WEEK IS MS. VIVIAN CROSS.

18 LADIES AND GENTLEMEN OF THE JURY, THE CASE WE'RE ABOUT
19 TO TRY IS THE CASE OF THE STATE VERSUS FERRIS G. SINGLEY, THE
20 DEFENDANT.

21 WHAT I'LL NOW SAY IS INTENDED TO SERVE AS AN
22 INTRODUCTION TO THE TRIAL OF THIS CASE. THESE REMARKS ARE
23 NOT A CHARGE ON THE LAW IN THIS CASE. I WILL INSTRUCT YOU ON
24 THE LAW APPLICABLE TO THIS CASE AT THE END OF THE TRIAL,
25 BEFORE YOU RETIRE TO CONSIDER YOUR VERDICT - YOUR VERDICT.

OPENING ADDRESS BY THE COURT:

1 THIS IS MERELY AN EXPLANATION OF THE PROCEDURE THAT WE WILL
2 FOLLOW IN THE TRIAL OF THIS CASE SO THAT YOU MAY BETTER
3 UNDERSTAND WHAT MAY BE HAPPENING.

4 THE DEFENDANT IS CHARGED BY INDICTMENTS FILED WITH THIS
5 COURT WITH THE CRIMES OF KIDNAPPING, ARMED ROBBERY, AND
6 BURGLARY IN THE FIRST DEGREE. THE ELEMENTS OF WHICH I WILL
7 EXPLAIN TO YOU LATER.

8 THESE INDICTMENTS ARE SIMPLY THE CHARGING PAPERS BY
9 WHICH THE CASE IS BROUGHT INTO COURT AND THEY ARE NOT IN ANY
10 SENSE EVIDENCE OF ANY OF THE ALLEGATIONS THEY CONTAIN.

11 THE DEFENDANT HAS PLED NOT GUILTY TO THESE INDICTMENTS.
12 THE STATE, THEREFORE, HAS THE BURDEN OF PROVING EACH OF THE
13 ELEMENTS OF THE INDICTMENTS BEYOND A REASONABLE DOUBT.

14 AND IT WILL BE YOUR DUTY, MR. FOREMAN AND LADIES AND
15 GENTLEMEN OF THE JURY, TO DECIDE WHETHER OR NOT THE STATE HAS
16 MET THAT BURDEN.

17 YOUR PURPOSE AS JURORS IS TO FIND AND DETERMINE THE
18 FACTS. YOU ARE THE SOLE JUDGES OF THE FACTS.

19 IF AT ANY TIME I MAKE ANY COMMENT REGARDING THE FACTS,
20 YOU MUST DISREGARD IT. YOU ARE TO DETERMINE THE FACTS FROM
21 THE TESTIMONY YOU HEAR AND ANY OTHER EVIDENCE INTRODUCED IN
22 THE COURT. IT IS UP TO YOU TO DETERMINE THE INFERENCES -
23 INFERENCES WHICH YOU FEEL MAY PROPERLY BE DRAWN FROM THE
24 EVIDENCE.

25 IT IS ESPECIALLY IMPORTANT THAT YOU PERFORM YOUR DUTY OF

OPENING ADDRESS BY THE COURT:

1 DETERMINING THE FACTS DILIGENTLY AND CONSCIENTIOUSLY.
2 BECAUSE, ORDINARILY, THERE IS NO WAY TO CORRECT AN ERRONEOUS
3 DETERMINATION OF THE FACTS BY A JURY.

4 ON THE OTHER HAND, AND WITH EQUAL EMPHASIS, THE SAME LAW
5 THAT MAKES YOU THE JUDGES OF THE FACTS MAKES ME THE JUDGE OF
6 THE LAW.

7 THE LAW AS GIVEN BY THE COURT IS THE ONLY LAW YOU
8 MAY CONSIDER. YOU MUST ACCEPT AND FOLLOW IT, EVEN THOUGH YOU
9 MAY DISAGREE WITH IT. I CANNOT TELL YOU WHAT THE FACTS ARE
10 AND YOU CANNOT DISAGREE WITH ME ABOUT WHAT THE LAW IS OR
11 SHOULD BE.

12 YOUR JOB IS TO TAKE THE LAW AS I GIVE IT TO YOU AND
13 APPLY IT TO THE FACTS AS YOU FIND THEM FROM THE TESTIMONY OF
14 THE WITNESSES AND ANY OTHER EVIDENCE THAT IS INTRODUCED.

15 AFTER DOING THAT, YOU WILL RENDER YOUR VERDICT - A TRUE
16 AND JUST VERDICT UNDER THE SOLEMN OATH THAT YOU TOOK JUST
17 PRIOR TO YOUR LUNCH BREAK AS JURORS.

18 UNTIL I ADVISE YOU TO BEGIN YOUR DELIBERATIONS, YOU MUST
19 NOT DISCUSS THIS CASE WITH ANYONE, INCLUDING YOUR FELLOW
20 JURORS, FRIENDS, FAMILY MEMBERS AND ANYONE INVOLVED IN THIS
21 CASE.

22 AFTER THE CASE IS SUBMITTED TO YOU, YOU MUST DISCUSS IT
23 ONLY IN THE JURY ROOM WITH YOUR FELLOW JURORS. THE
24 ATTORNEYS, AS I HAVE TOLD YOU, AND PARTIES IN THIS CASE HAVE
25 BEEN ADVISED THAT THEY ARE NOT TO TALK TO YOU AT ALL. SO, IF

OPENING ADDRESS BY THE COURT:

1 YOU SEE ANYONE INVOLVED IN THIS CASE AND THEY DO NOT EVEN SAY
2 HELLO, THEY ARE NOT BEING UNFRIENDLY, THEY ARE JUST FOLLOWING
3 MY INSTRUCTIONS.

4 THROUGHOUT THIS TRIAL, DO NOT READ, LISTEN TO, OR WATCH
5 ANY NEWS REPORTS ABOUT THIS CASE. THIS INCLUDES ANYTHING
6 THAT MAY BE IN THE NEWSPAPERS OR ON THE INTERNET, RADIO, OR
7 TELEVISION. YOU MUST NOT CONSIDER ANYTHING YOU MAY HAVE READ
8 AND HEARD ABOUT THE CASE OUTSIDE OF THIS COURTROOM, WHETHER
9 BEFORE OR DURING THE TRIAL.

10 IT IS IMPORTANT THAT YOU KEEP AN OPEN MIND AND NOT
11 DECIDE ANY ISSUE IN THE CASE UNTIL ALL THE EVIDENCE HAS
12 BEEN - HAS BEEN PRESENTED, THE PARTIES HAVE MADE THEIR
13 CLOSING ARGUMENTS, AND I HAVE INSTRUCTED YOU ON THE LAW IN
14 THIS CASE.

15 IT IS YOUR SOLEMN RESPONSIBILITY TO DETERMINE THE GUILT
16 OR THE INNOCENCE OF THE DEFENDANT, AND YOUR VERDICT MUST BE
17 BASED SOLELY ON THE EVIDENCE AS IT IS PRESENTED TO YOU IN
18 THIS TRIAL AND ON THE LAW AS I INSTRUCT YOU DURING AND AT THE
19 CLOSE OF THE TRIAL.

20 NOW, IN JUST A FEW MOMENTS THE SOLICITOR WILL MAKE WHAT
21 IS CALLED AN OPENING STATEMENT IN WHICH THE SOLICITOR WILL
22 EXPLAIN TO YOU THE ISSUES IN THIS CASE. OR, AT LEAST WHAT
23 THE SOLICITOR THINKS THE ISSUES ARE IN THE CASE.

24 THE ATTORNEY FOR THE DEFENDANT - MS. SOLAR - MAY ALSO
25 MAKE AN OPENING STATEMENT, ALTHOUGH SHE IS NOT REQUIRED TO DO

OPENING ADDRESS BY THE COURT:

1 SO.

2 WHAT THE ATTORNEYS TELL YOU DURING THEIR OPENING
3 STATEMENTS IS NOT EVIDENCE IN THE CASE, IT IS ONLY THEIR
4 CONTENTION AS TO WHAT THE ISSUES ARE.

5 THE EVIDENCE IN THIS CASE WILL BE PRESENTED TO YOU BY
6 THE TESTIMONY OF THE SWORN WITNESSES FROM THIS WITNESS STAND
7 AND/OR BY EXHIBITS THAT MAY BE INTRODUCED INTO EVIDENCE.

8 FROM TIME TO TIME DURING THE TRIAL, YOU MAY HEAR ONE OF
9 THE ATTORNEYS SAY SOMETHING LIKE: YOUR HONOR, I BELIEVE WE
10 HAVE A QUESTION OF LAW OR A MATTER OF LAW TO DISCUSS WITH
11 YOU. OR, YOUR HONOR, MAY WE APPROACH THE BENCH? OR
12 SOMETIME, I MYSELF MIGHT FIND IT NECESSARY TO EXCUSE YOU FROM
13 THE COURTROOM FOR A SHORT WHILE SO THE ATTORNEYS AND I CAN
14 DISCUSS A MATTER OF LAW.

15 THE REASON FOR THIS IS BECAUSE YOU ARE THE JUDGES OF THE
16 FACTS IN THIS CASE. AND SOMETIMES, WHEN I AM DISCUSSING
17 MATTERS OF LAW WITH THE ATTORNEYS, IT MAY BE NECESSARY FOR ME
18 TO MAKE SOME COMMENT AS TO THE FACTS IN CONNECTION WITH
19 RULING ON WHETHER OR NOT A PARTICULAR LAW APPLIES.

20 I AM NOT SUPPOSED TO TELL YOU WHAT I THINK THE FACTS
21 ARE. SO, I WILL EXCUSE YOU FROM THE COURTROOM WHILE THESE
22 DISCUSSIONS TAKE PLACE SO THAT I WILL IN NO WAY - SO THAT YOU
23 WILL IN NO WAY BE INFLUENCED BY ANYTHING THAT I MIGHT SAY OR
24 DO IN CONNECTION WITH THE FACTS.

25 IN DETERMINING WHAT THE TRUE FACTS ARE IN THIS CASE, YOU

OPENING ADDRESS BY THE COURT:

1 MUST DECIDE WHETHER OR NOT THE TESTIMONY OF THE WITNESSES IS
2 BELIEVABLE. IT WILL BE MY RESPONSIBILITY TO RULE AS A MATTER
3 OF LAW AS TO WHETHER CERTAIN TESTIMONY IS ADMISSIBLE AT ALL
4 OR NOT. BUT ONCE THE TESTIMONY IS ADMITTED, WHETHER OR NOT
5 YOU BELIEVE IT IS SOLELY FOR YOU TO DETERMINE.

6 IN DECIDING WHETHER TO BELIEVE A WITNESS, YOU HAVE A
7 RIGHT TO CONSIDER THE INTEREST OF ANY WITNESS, THE BIAS OF
8 ANY WITNESS, THE PREJUDICE OF ANY WITNESS, THE OPPORTUNITY
9 FOR THE WITNESS TO HAVE SEEN THE MATTERS AND THINGS ABOUT
10 WHICH THE WITNESS MAY TESTIFY, AND THE WAY THE WITNESS ACTS
11 ON THE WITNESS STAND.

12 YOU HAVE A RIGHT TO CONSIDER ANYTHING THAT IS IN THE
13 RECORD THAT WILL HELP YOU EVALUATE THE TESTIMONY OF THE
14 WITNESSES. THAT MEANS THAT IT IS YOUR DUTY TO PAY CLOSE
15 ATTENTION TO THESE WITNESSES, TO OBSERVE THE WITNESSES, TO
16 LISTEN TO THE WITNESSES, AND TO PAY CLOSE ATTENTION TO THE
17 ATTORNEYS AND TO THE COURT. DON'T LET YOUR THOUGHTS WANDER
18 BUT GIVE STRICT ATTENTION TO THE TESTIMONY IN THE CASE SO
19 THAT AT THE END OF ALL THE TESTIMONY, AFTER THE ARGUMENTS OF
20 COUNSEL AND THE CHARGE ON THE LAW BY THE COURT, YOU WILL THEN
21 BE IN A POSITION TO DETERMINE WHAT THE TRUE FACTS ARE AND TO
22 APPLY THE LAW TO THOSE FACTS AND THUS RENDER A TRUE AND JUST
23 VERDICT.

24 IT IS YOUR ADDED DUTY, MR. FOREMAN, TO PRESIDE IN THE
25 JURY ROOM AND BE THE JURORS' - JURY'S SPOKESPERSON HERE IN

1 COURT. IT WILL ALSO BE YOUR DUTY TO WRITE THE VERDICT, BUT I
2 WILL GIVE YOU FURTHER INSTRUCTIONS ABOUT THAT AT THE
3 CONCLUSION OF THE CASE.

4 I HAVE SEVERAL RULES AND REGULATIONS I, UM, FOLLOW IN MY
5 COURTROOM. MANY JUDGES HAVE THE SAME, SIMILAR, DIFFERENT - I
6 DON'T KNOW.

7 I DON'T ALLOW SHORTS, I DON'T ALLOW FLIP-FLOPS, I DON'T
8 ALLOW HALTER-TOPS, I DON'T ALLOW BAGGY CLOTHES. I BELIEVE
9 THE COURTHOUSE IS A PLACE OF HONOR AND RESPECT. IT HAS
10 NOTHING TO DO WITH ME PERSONALLY, IT HAS TO DO WITH OUR
11 SYSTEM OF JUSTICE.

12 AND I LIKE TO TELL PEOPLE THAT UP FRONT SO THAT A DAY OR
13 TWO INTO THE TRIAL AND I HAVE SOMEONE COME IN AND DOES NOT
14 KNOW WHAT THE RULES ARE, I DON'T WANT TO ADMONISH HIM OR HER
15 AT THAT TIME.

16 SO, I WOULD ASK THAT ALL JURORS AND ALL SPECTATORS - IT
17 GOES FOR THAT TOO - WOULD ATTIRE THEMSELVES APPROPRIATELY.

18 GENERALLY, TESTIMONY RUNS ABOUT AN HOUR,
19 HOUR-AND-A-HALF, TO TWO HOURS OF SITTING.

20 NOW, THE BEST WAY I KNOW HOW TO TELL YOU IS, WHEN I WANT
21 TO TAKE A BREAK, I CAN PRETTY MUCH TAKE A BREAK. YOU-ALL
22 HAVE TO FOCUS YOUR - YOUR ABILITIES ON THE WITNESS STAND.
23 YOU-ALL'S TIME, YOU-ALL'S COMFORT IS IMPORTANT TO ME. IF
24 ANYONE NEEDS A BREAK, GET MY ATTENTION, GET THE ATTENTION OF
25 ONE OF OUR FINE BAILIFFS, AND WE WILL TAKE A BREAK. THAT IS

OPENING ADDRESS BY THE COURT:

1 VERY IMPORTANT TO ME SO YOU CAN KEEP YOURSELF FOCUSED AND
2 YOUR UNDIVIDED ATTENTION ON THESE WITNESSES THAT MAY BE
3 TESTIFYING.

4 THE OTHER THING IS, I LIKE TO WORK. I TELL PEOPLE,
5 BEFORE I STARTED COLORING MY HAIR, I WOULD WORK UNTIL
6 NINE-THIRTY, TEN O'CLOCK AT NIGHT IN A COURTROOM. NOW THAT
7 I'VE STARTED COLORING MY HAIR, I CAN'T SEEM TO KEEP THOSE
8 HOURS ANYMORE. I DO LIKE TO WORK 'TIL SIX OR SIX-THIRTY IN
9 THE EVENING. HOWEVER, I KNOW PEOPLE HAVE COMMITMENTS WITH
10 CHILDREN OR MEETINGS AND SUCH LIKE THAT. I'M HOMELESS - I'M
11 AWAY FROM HOME. I DON'T MIND WORKING 'TIL SIX OR SIX-THIRTY
12 AT NIGHT.

13 IN OUR AFTERNOON BREAK, IF YOU GET A CONSENSUS,
14 MR. FOREMAN, AMONG THE JURY OF HOW LATE YOU-ALL WOULD BE
15 WILLING TO WORK AND THERE ARE STILL WITNESSES AVAILABLE THAT
16 CAN TESTIFY BEFORE YOU, I ASSURE YOU WE'LL ACCOMMODATE YOUR
17 TIME.

18 IF SOMEONE NEEDS TO LEAVE EARLY FOR, LIKE I SAY, CHILD
19 CARE, MEETINGS, WHATEVER OTHER PURPOSE, YOU JUST TELL ME AND
20 THAT - THAT IS NO PROBLEM AT ALL.

21 AGAIN, IF YOU CAN'T HEAR, YOU CAN'T DETERMINE WHAT THE
22 FACTS ARE. GET OUR ATTENTION - CUP YOUR EAR, DO SOMETHING IN
23 THAT MANNER.

24 ALL RIGHT, SOLICITOR, YOU MAY NOW ADDRESS THE JURY.

25 MR. DURANT: THANK YOU, YOUR HONOR. GOOD AFTERNOON,

OPENING ARGUMENTS BY THE STATE, MR. DURANT:

1 LADIES AND GENTLEMEN. I'VE ALREADY HAD AN OPPORTUNITY TO
2 INTRODUCE MYSELF, I'M BRUCE DURANT. I AM WITH THE
3 SOLICITOR'S OFFICE HERE. AND, IT IS MY JOB TO REPRESENT THE
4 STATE OF SOUTH CAROLINA IN THIS CASE, AGAINST THE DEFENDANT,
5 FERRIS SINGLEY, WHO'S SEATED AT THAT TABLE WITH HIS COUNSEL.

6 ON OCTOBER THE 2ND OF LAST YEAR - EARLY MORNING, DARK
7 OUTSIDE - FERRIS SINGLEY BROKE INTO A HOUSE AT SPRUCE
8 AVENUE IN NORTH CHARLESTON.

9 APPARENTLY, HE MOVED A STEPLADDER FROM THE GARAGE, PUT
10 IT UP UNDER A BEDROOM WINDOW IN THE BACK OF THE HOUSE,
11 CRAWLED THROUGH THE BEDROOM WINDOW, AND GAINED ENTRY INTO THE
12 HOME.

13 THE LADY THAT LIVED AT THAT HOUSE WASN'T HOME AT THE
14 TIME. BUT, SHE CAME HOME AT ABOUT TWO O'CLOCK IN THAT
15 MORNING, AND MR. SINGLEY WAS STILL IN THE HOUSE.

16 SHE UNLOCKED THE FRONT DOOR, LOCKED THE FRONT DOOR
17 BEHIND HER, TURNED TO WALK TO HER BEDROOM TO GO TO BED. AND
18 THE WAY HER HOUSE IS SITUATED, SHE'S GOT TO WALK THROUGH -
19 THE FRONT DOOR GOES INTO THE LIVING ROOM. SHE'S GOT TO WALK
20 THROUGH THE LIVING ROOM, THROUGH THE DINING ROOM, INTO THE
21 HALLWAY, AND TO HER BEDROOM.

22 BUT AS SHE WALKED FROM THE LIVING ROOM INTO THE DINING
23 ROOM, HE JUMPED OUT FROM THE HALLWAY WITH A BUTCHER KNIFE.
24 PUT THE BUTCHER KNIFE TO HER THROAT, AND THREATEN TO KILL HER
25 IF SHE DIDN'T GIVE HIM ALL OF HER MONEY.

OPENING ARGUMENTS BY THE STATE, MR. DURANT:

1 SHE STILL HAD HER PURSE WITH HER AND WAS ABLE TO FUMBLE
2 THROUGH HER PURSE AND GET OUT ABOUT TWO HUNDRED DOLLARS THAT
3 SHE HAD IN HER WALLET, AND SHE GAVE IT TO HIM.

4 HE WAS MAKING HER SWEAR THAT SHE HAD NO OTHER MONEY IN
5 THE HOUSE WHILE SHE WAS SITTING THERE BEGGING FOR HIM NOT TO
6 KILL HER OR HURT HER.

7 HE TOOK HER INTO THE BEDROOM, MADE HER LAY FACE DOWN ON
8 THE BED, BOUND HER HANDS BEHIND HER BACK WITH SOME TAPE AND
9 SOME ARTICLES OF CLOTHING. HE GAGGED HER BY TYING ANOTHER
10 ARTICLE OF CLOTHING AROUND HER HEAD, AND HE LEFT OUT OF THE
11 BACK DOOR OF THE HOUSE.

12 BUT, THE THING THAT MAKES THIS CASE A LITTLE BIT UNUSUAL
13 IS THAT THE LADY HE DID THIS TO - BRENDA SINGLEY - IS HIS OWN
14 MOTHER.

15 AND THE EVIDENCE WILL SHOW THAT HE IS SO ADDICTED TO
16 CRACK COCAINE, THAT HE HAS SUCH AN URGE TO GET CRACK COCAINE,
17 THAT HE WOULD DO ANYTHING, INCLUDING BREAKING INTO HIS
18 MOTHER'S HOME, THREATENING HER WITH A KNIFE, AND ROBBING HER.

19 BUT IT DIDN'T TAKE 'EM THAT LONG TO CATCH HIM,
20 BECAUSE, OF COURSE, THEY KNEW WHO IT WAS - IT WAS HER OWN
21 SON. HE WAS CAUGHT ABOUT TWO HOURS LATER LIVING IN A - A -
22 A - A TRAILER OWNED BY THE FAMILY - WITHIN THE FAMILY. AND
23 HE WAS ARRESTED - NOT A BLOCK AWAY FROM WHERE HE'D DONE THIS
24 TO HIS MAMA.

25 AS A RESULT OF WHAT HE DID THAT NIGHT, HE WAS CHARGED

OPENING ARGUMENTS BY THE DEFENSE, MS. SOLAR:

1 WITH ARMED ROBBERY, HE WAS CHARGED WITH KIDNAPPING, HE WAS
2 CHARGED WITH BURGLARY IN THE FIRST DEGREE.

3 ONCE YOU'VE HEARD THE EVIDENCE IN THIS CASE, YOU WILL BE
4 CONVINCED BEYOND A - ANY DOUBT THAT HE IS GUILTY OF EACH OF
5 THOSE OFFENSES AND WILL HAVE NO ALTERNATIVE BUT TO FIND HIM
6 SO GUILTY. THANK YOU.

7 THE COURT: THANK YOU, SOLICITOR. MS. SO- -- SOLAR, YOU
8 MAY NOW ADDRESS THE JURY.

9 MS. SOLAR: THANK YOU, YOUR HONOR. IF I CAN MOVE THE
10 BOARD? LET ME MOVE THIS SO I CAN SEE YOU.

11 GROWING UP, I USED TO WATCH A LOT OF TV. AND, UM, I
12 ESPECIALLY LIKED COMEDY - AND I STILL DO. AND ONE OF THE
13 THINGS THAT YOU SEE VERY OFTEN IN THE COMEDIES - AND YOU SEE
14 THESE IN THE DRAMAS AS WELL, BUT ESPECIALLY IN THE COMEDIES -
15 IS WHEN THE WRITERS WOULD PUT IN A SCENE WHERE YOU HAVE
16 SOMEBODY OVERHEARING SOMEONE ELSE.

17 AND WHAT IS HAPPENING IS THAT IT SOUNDS LIKE ONE THING,
18 BUT IN ACTUALITY - AND THE AUDIENCE KNOWS - THAT THE
19 CHARACTERS ARE TALKING ABOUT SOMETHING COMPLETELY DIFFERENT.

20 THE TV SHOW - ACTUALLY, THREE'S COMPANY COMES TO MIND.
21 I USED TO LIKE THAT TV SHOW, AND THEY USED TO LEARN THAT
22 LESSON OVER AND OVER AGAIN. THEY WOULD LISTEN IN AND
23 COMPLETELY MISUNDERSTAND WHAT WAS HAPPENING... AND THEY REALLY
24 NEVER LEARNED A LESSON.

25 WHAT SEEMS SO OBVIOUS TO THE PERSON LISTENING IS, IN

1 FACT, NOT WHAT IS HAPPENING EXACTLY. AND IT'S FUNNY TO
2 WATCH. AND IT'S FUNNY TO WATCH BECAUSE IT'S NOT REAL. BUT
3 THE LESSON IS VERY REAL.

4 OFTEN HIDDEN BEHIND WHAT IS IN FRONT OF US AND SEEMS SO
5 OBVIOUS LIES THIS OTHER TRUTH. THE TRUTH OF WHO SOMEONE IS,
6 THE TRUTH OF WHAT A SITUATION REALLY IS, AND THE TRUTH OF
7 WHAT'S REALLY GOING ON - WHAT MIGHT HAVE - REALLY BE
8 HAPPENING OR HAVE HAPPENED.

9 AND THAT'S WHAT I ASK YOU TO THINK ABOUT - ESPECIALLY
10 TODAY AND TOMORROW.

11 THE TRIAL THAT IS BEING PRESENTED IN FRONT OF YOU IS
12 ACTUALLY GONNA BE A FAIRLY SHORT ONE. AND THAT'S A LITTLE
13 BIT ODD, GIVEN THE SERIOUS NATURE OF THE CHARGES.

14 THIS IS A VERY IMPORTANT TRIAL. IT'S IMPORTANT TO
15 FERRIS SINGLEY. HE SITS AT THAT TABLE AN INNOCENT MAN. HE
16 IS INNOCENT IN THE EYES OF THE LAW - HE IS PRESUMED INNOCENT.

17 THE STATE HAS THE BURDEN TO PROVE THIS CASE TO YOU
18 BEYOND A REASONABLE DOUBT AS TO EACH AND EVERY ELEMENT OF
19 EACH AND EVERY CHARGE.

20 NOW, BEYOND A REASONABLE DOUBT, THAT'S A VERY HIGH
21 STANDARD. THAT'S THE WAY IT IS IN ALL CRIMINAL CASES. IT'S
22 A HIGH STANDARD, AND IT SHOULD BE.

23 YOU AS THE JURY - AS THE JUDGE TOLD YOU AND WILL TELL
24 YOU - ARE THE DECIDERS OF THE FACTS. YOU-ALL LISTEN TO THE
25 EVIDENCE. YOU DECIDE WHAT HAPPENED THAT EVENING AND THE

BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 CIRCUMSTANCES SURROUNDING IT. THAT'S YOUR DUTY, AND THAT'S
2 AN ENORMOUS RESPONSIBILITY.

3 YOU HAVE TAKEN AN OATH TO WELL AND TRULY TRY THIS CASE.
4 AND THAT IS A VERY SERIOUS THING. SO, I ASK THAT YOU LISTEN
5 TODAY AND TOMORROW TO THE EVIDENCE PRESENTED AND THINK ABOUT
6 IT. AND IN DOING SO, THINK ABOUT THE THINGS THAT WE LEARN IN
7 THOSE COMEDIES. THINGS ARE NOT ALWAYS WHAT THEY MAY
8 INITIALLY APPEARED TO BE.

9 THE COURT: THANK YOU, MS. SOLAR.

10 MS. SOLAR: THANK YOU.

11 THE COURT: SOLICITOR, YOU MAY CALL YOUR FIRST WITNESS.

12 MR. DURANT: THANK YOU, YOUR HONOR. THE STATE WOULD
13 CALL BRENDA SINGLEY.

14 THE COURT: MS. SINGLEY, COME AROUND PLEASE.

15 (WITNESS FORWARD.)

16 CLERK (MS. NELSON): PUT YOUR LEFT HAND ON THE BIBLE AND
17 RAISE YOUR RIGHT HAND PLEASE.

18 (WHEREUPON, BRENDA ANN PARKS SINGLEY WAS DULY SWORN AND
19 TESTIFIED AS FOLLOWS:)

20 CLERK (MS. NELSON): PLEASE BE SEATED. AND STATE YOUR
21 FULL NAME FOR THE RECORD, PLEASE.

22 MRS. SINGLEY: THANK YOU. BRENDA ANN SINGLEY.

23 BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

24 Q COULD YOU TELL THE JURY HOW OLD YOU ARE, MS. SINGLEY?

25 A I'M FIFTY-NINE.

1 Q ARE YOU CURRENTLY MARRIED?

2 A I WAS, BUT MY HUSBAND DIED. AUGUST WOULD BE FIVE YEARS
3 AGO WITH A HEART ATTACK. WE WERE MARRIED THIRTY-FIVE YEARS.

4 Q AND, UM - DID YOU AND MR. SINGLEY HAVE ANY CHILDREN
5 TOGETHER?

6 A WE HAD TWO SONS.

7 Q AND WHAT WERE THEIR NAMES?

8 A UH - THE OLDEST ONE IS FERRIS SINGLEY, AND THE YOUNGER
9 WAS - YOUNGEST ONE IS BRIAN SINGLEY.

10 Q AND WOULD YOU TELL US - POINT OUT TO THE JURY WHO -
11 WHERE FERRIS - OR, IS FERRIS IN THE COURTROOM?

12 A YES, SIR. MY SON'S SITTING OVER THERE.

13 Q THIS ONE SITTING AT THE TABLE---

14 A YES, SIR.

15 Q ---WITH THE WHITE SHIRT AND TIE?

16 A YES, SIR.

17 Q HOW OLD IS FERRIS NOW?

18 A HE'S THIRTY-EIGHT. HE'LL BE THIRTY-NINE TOMORROW.

19 Q I BELIEVE YOU GOT IN TROUBLE WITH THE LAW ONE TIME
20 YOURSELF IN 1999---

21 A YES, SIR.

22 Q ---IS THAT CORRECT? AND YOU WERE CONVICTED OF FORGERY?

23 A YES, SIR.

24 Q ARE YOU CURRENTLY EMPLOYED?

25 A UH - NO.

- 1 Q WHAT DO YOU DO TO SUPPORT YOURSELF NOW?
- 2 A I GET AN INCOME FROM WHERE MY HUSBAND DIED.
- 3 Q OKAY. WHERE DID YOUR HUSBAND WORK WHEN HE WAS ALIVE?
- 4 A HE WORKED AT THE SHIPYARD.
- 5 Q OKAY. UM - DO YOU DO ANYTHING ELSE TO SUPPLEMENT YOUR
- 6 INCOME NOW?
- 7 A I HELP A FRIEND OF MINE CLEAN A COUPLE OF HOUSES MAYBE
- 8 TWO DAYS A WEEK.
- 9 Q WHERE DO YOU LIVE?
- 10 A I LIVE AT SPRUCE STREET IN NORTH CHARLESTON.
- 11 Q AND HOW LONG HAVE YOU LIVED AT THAT ADDRESS?
- 12 A THIRTY-FIVE YEARS.
- 13 Q AND WHO OWNS THAT HOUSE?
- 14 A MY HUSBAND AND I OWNED IT TOGETHER.
- 15 Q AND HE PASSED AWAY---
- 16 A YES, SIR.
- 17 Q ---IS THAT CORRECT?
- 18 A YES, SIR. AUGUST THE 23RD OF 2001.
- 19 Q AND WHO IS THE PERSONAL REPRESENTATIVE OF HIS ESTATE?
- 20 A ME.
- 21 Q NOW, YOU OWNED HALF OF THE HOUSE OUTRIGHT, IS THAT
- 22 CORRECT?
- 23 A YES, SIR.
- 24 Q DID HE HAVE A WILL WHEN HE PASSED AWAY?
- 25 A NO. I HAD TO PAY A LAWYER AND GO THROUGH PROBATE.

1 Q AND, UH, DO YOU KNOW WHAT THE OWNERSHIP INTERESTS IN
2 THAT HOUSE ARE NOW? DO YOU KNOW WHAT THE PERCENTAGES ARE?

3 A NO.

4 Q BUT YOU DON'T DISPUTE THAT FERRIS HAS A - A FRACTIONAL
5 INTEREST IN THE HOUSE?

6 A I THINK HE DOES.

7 Q WERE YOU LIVING AT THAT ADDRESS ON OCTOBER THE 2ND OF
8 LAST YEAR?

9 A YES, SIR.

10 Q AND WERE YOU LIVING WITH ANYONE ELSE AT THE TIME?

11 A NO, SIR.

12 Q NOW, I UNDERSTAND - HOW LONG DID FERRIS LIVE WITH YOU
13 WHEN HE WAS COMING UP?

14 A UP UNTIL HIS EARLY TWENTIES.

15 Q AND DID HE LIVE WITH YOU BRIEFLY IN 2005?

16 A YES, SIR.

17 Q WHEN DID - WHEN?

18 A APRIL THE 1ST, FOR THREE WEEKS.

19 Q OKAY. AND I BELIEVE YOU ENDED UP PUTTING HIM OUT OF THE
20 HOUSE, IS THAT CORRECT?

21 A YES, SIR. I HAD TO PUT HIM OUT.

22 Q HAD HE LIVED IN YOUR HOUSE SINCE APRIL OF 2005?

23 A NO, SIR.

24 Q DID HE HAVE PERMISSION TO BE IN YOUR HOUSE SINCE
25 APRIL OF 2005?

- 1 A NO, SIR.
- 2 Q OKAY. DO YOU KNOW WHETHER OR NOT HE STILL HAD A KEY TO
3 YOUR HOUSE?
- 4 A HE SAID HE LOST IT.
- 5 Q NOW, GOING BACK TO THAT MORNING -- OCTOBER THE TWO -
6 THE 2ND - DO YOU RECALL - WHERE HAD YOU BEEN EARLIER THAT
7 EVENING?
- 8 A UH - SOME FRIENDS OF MINE, WE MEET ONE NIGHT A WEEK, ON
9 FRIDAY NIGHT, AT THE SAND SHACK ON ASHLEY PHOSPHATE ROAD.
- 10 Q AND THAT IS WHERE YOU HAD BEEN?
- 11 A YES, SIR.
- 12 Q AND HOW DID YOU GET THERE AND BACK?
- 13 A TAXI CAB. 'CAUSE I DON'T DRIVE AND DRINK.
- 14 Q DID YOU HAVE ANYTHING TO DRINK THAT NIGHT?
- 15 A I HAD THREE RUM AND DIET COKES.
- 16 Q AND HOW LONG WERE YOU AT THE SAND SHACK THAT NIGHT?
- 17 A LIKE FOUR OR FIVE HOURS. MY GIRLFRIENDS AND I MEET
18 THERE ONE NIGHT A WEEK.
- 19 Q WERE YOU INTOXICATED?
- 20 A NO, SIR.
- 21 Q DO YOU RECALL WHAT TIME IT WAS WHEN YOU GOT HOME THAT
22 NIGHT?
- 23 A IT WAS BETWEEN TWO AND TWO-THIRTY.
- 24 Q AND THIS IS IN THE MORNING, RIGHT?
- 25 A YES, SIR.

1 Q IT WAS OBVIOUS DARK AT THE TIME?

2 A YES, SIR.

3 Q WHAT DID YOU DO WHEN THE CAB DROPPED YOU OFF AT YOUR
4 HOUSE?

5 A I WENT INSIDE MY HOUSE AND I LOCKED MY FRONT DOOR LIKE I
6 ALWAYS DO. AND I TURNED OFF THE PORCH LIGHT. AND I WAS
7 GOING - I WAS IN THE LIVING ROOM AND I - I WAS GOING TO THE
8 DINING ROOM BECAUSE THAT LIGHT WAS ON.

9 AND SOMEBODY JUMPED BEHIND ME - MY SON DID - FERRIS
10 JUMPED BEHIND ME AND PUT A KNIFE TO MY THROAT. AND HE SAYS,
11 MAMA, IF YOU SCREAM I'LL KILL YOU.

12 Q AND WHEN YOU SAY YOUR SON, YOU MEAN WHO?

13 A FERRIS SINGLEY.

14 Q DID HE HAVE PERMISSION TO BE IN YOUR HOUSE THAT NIGHT?

15 A NO, SIR.

16 Q WHAT DID HE DO WITH THE KNIFE?

17 A HE PUT IT TO MY THROAT.

18 Q AND THEN, WHAT DID HE SAY WHEN HE PUT IT TO YOU - PUT
19 THE KNIFE TO YOUR THROAT?

20 A HE JUST SAID, MAMA, IF YOU SCREAM, I'LL KILL YOU.

21 Q DID HE SAY ANYTHING ELSE?

22 A HE SAID, IT DOESN'T MATTER BECAUSE - HE SAID, I'M GOING
23 TO PRISON ANYWAY BECAUSE, HE SAID, I JUST KILLED SOMEBODY
24 YESTERDAY.

25 MS. SOLAR: OBJECTION, YOUR HONOR.

BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 A AND I ASKED HIM WHY---

2 MS. SOLAR: OBJECTION, YOUR HONOR.

3 MR. DURANT: HOLD ON JUST A SECOND.

4 THE COURT: WAIT - WAIT JUST A MINUTE, MS. SINGLEY. LET
5 ME - WHEN SOMEBODY OBJECTS, LET - LET ME RULE ON IT, OKAY?

6 MS. SINGLEY: OKAY. I'M SORRY.

7 THE COURT: YES, MA'AM. AND THE BASIS OF YOUR
8 OBJECTION?

9 MS. SOLAR: THE REASONS PREVIOUS - PREVIOUSLY STATED.

10 THE COURT: PREVIOUSLY STATED?

11 MS. SOLAR: YES, SIR.

12 THE COURT: ALL RIGHT. AND I'LL RE- -- REAFFIRM MY
13 RULINGS ON THAT.

14 MS. SOLAR: THANK YOU.

15 THE COURT: YES, MA'AM. THANK YOU. YOU MAY CONTINUE.

16 MR. DURANT: THANK YOU.

17 Q YOU MAY CONTINUE. WHAT DID HE SAY?

18 A HE SAID, IT DOESN'T MATTER ANYWAY BECAUSE I'M GOING BACK
19 TO PRISON. HE SAID, BECAUSE I JUST KILLED SOMEBODY
20 YESTERDAY.

21 AND I WAS HYSTERICAL AND I ASK HIM, WHY? HE SAID,
22 BECAUSE THEY GOT IN HIS WAY.

23 Q WHAT DID HE WANT?

24 A HE WANTED - HE WANTED MONEY.

25 Q DID YOU HAVE ANY MONEY?

1 A YES, SIR. I HAD SOME BILL MONEY ON ME.

2 Q WHERE WAS THAT?

3 A IN MY WALLET - PUT BACK IN MY WALLET SO I'D KNOW NOT TO
4 SPEND IT.

5 Q WHAT DID YOU DO WITH THE MONEY THAT YOU HAD?

6 A THE TWO HUNDRED?

7 Q IN YOUR WALLET, YEAH.

8 A THE - MY SON WANTED IT. HE SAID, GIVE ME ALL YOUR
9 MONEY.

10 Q AND WHAT DID YOU DO?

11 A I GIVE IT TO HIM. (SIC)

12 Q AND THIS WAS WHILE HE STILL HAD THE KNIFE ON YOU?

13 A YES, SIR. AND HE MADE ME SWEAR THAT WAS EVERY PENNY I
14 HAD ON ME - WHICH IT WAS.

15 Q AND WHAT WERE YOU DOING WHILE HE WAS DOING THIS?

16 A WELL, I WAS SHAKING. I WAS SCARED TO DEATH.

17 Q DID YOU ASK - WHAT WERE YOU ASKING HIM TO DO - IF
18 ANYTHING?

19 A I JUST ASKED HIM, WHAT'S HE DOING HERE? WHAT ARE YOU
20 DOING HERE?

21 Q DID YOU THINK HE WAS GOING TO HURT YOU?

22 A YES, I DID, BECAUSE HIS EYES WERE WILD.

23 Q DID YOU ASK HIM NOT TO HURT YOU?

24 A YES, I DID. I HAD TO BEG HIM LIKE A DOG NOT TO KILL ME.

25 Q AND WHAT DID HE DO?

BRENDA ANN PARKS SINGLEY, DIRECT EXAMINATION BY MR. DURANT:

1 A HE TOLD ME - HE - HE TOLD ME TO GO TO MY BEDROOM AND GET
2 ON MY BED. AND I WENT IN THERE AND I LAID ON MY BACK. AND
3 HE CAME IN THERE WITH THE KNIFE. AND HE SAID, MAMA, GET ON
4 YOUR STOMACH. AND THEN HE TIED ME UP IN MY BED.

5 Q HE TIED YOU UP IN YOUR BED?

6 A YES. AND I WAS SCARED - SO SCARED.

7 Q WHAT DID HE TIE YOU UP WITH? DO YOU REMEMBER?

8 A HE TIED ME WITH PANTYHOSE, WITH PAJAMAS, AND SOME KIND
9 OF TAPE.

10 Q DO YOU REMEMBER HIM DOING ANYTHING WITH THE PHONES IN
11 THE HOME?

12 A YES. YEAH, HE TOOK ALL THE PHONES OUT THE HOUSE (SIC)
13 AND THREW 'EM OUTSIDE.

14 Q THESE ARE LIKE CORDLESS TELEPHONES?

15 A YES, SIR. BUT HE DIDN'T KNOW I HAD MY CELL PHONE IN MY
16 PURSE, OR HE WOULD-A GOT IT TOO.

17 Q SO WHAT DID HE DO AFTER HE TIED YOU UP ON THE BED?

18 A HE OPENED THE DOOR - THE BACK DOOR - LIKE HE WAS GONNA
19 LEAVE, BUT HE DIDN'T LEAVE. HE CAME BACK. I WAS TOO SCARED
20 TO MOVE, SO HE CAME BACK TO MAKE SURE THAT I WAS TIED UP.

21 Q AND WERE YOU STILL TIED UP AT THE TIME?

22 A I WAS. YES, SIR, I WAS TOO SCARED TO MOVE. I WAS JUST
23 TOO SCARED TO MOVE.

24 Q AND THEN WHAT DID HE DO AFTER HE CAME BACK?

25 A HE TOLD ME - HE SAID, GIVE ME TWENTY MINUTES BEFORE YOU

1 CALL THE COPS BECAUSE I KNOW YOU'RE GONNA CALL 'EM.

2 Q AND THEN WHAT DID HE DO?

3 A THEN HE LEFT.

4 Q HOW DID HE LEAVE?

5 A THE BACK DOOR I THINK, 'CAUSE THE FRONT DOOR WAS STILL
6 LOCKED.

7 Q WHAT DID YOU DO AFTER HE LEFT THE SECOND TIME?

8 A I LAID THERE FOR LIKE MAYBE TEN, FIFTEEN MINUTES,
9 BECAUSE I WAS TOO SCARED TO MOVE.

10 Q AND THEN WHAT DID YOU DO? WERE YOU ABLE TO GET---

11 A I GOT ONE ARM LOOSE. WITH THE RIGHT HAND, I GOT ONE ARM
12 LOOSE.

13 Q DO YOU REMEMBER WHAT HE TIED YOUR HANDS UP WITH?

14 A NO, I DON'T REMEMBER. I THINK IT WAS PANTYHOSE THAT WAS
15 ON MY BED AND SOME OLD TAPE.

16 Q WHAT DID YOU DO WHEN YOU GOT YOUR HAND LOOSE?

17 A I - I - I GOT MY PHONE OUT MY PURSE (SIC) AND I TRIED TO
18 CALL 911 TWICE BUT IT WOULDN'T GO THROUGH.

19 Q WHAT DO YOU MEAN, IT WOULDN'T GO THROUGH?

20 A IT - IT JUST HAD A BEEPING NOISE.

21 Q SO WHAT DID YOU DO?

22 A SO I OPENED THE FRONT DOOR AND I WENT OUTSIDE IN THE
23 STREET AND I WAS SCREAMING FOR SOMEBODY TO HELP ME.

24 Q AND WERE YOU AT THIS - WERE YOU UPSET AT THE TIME?

25 A SIR?

1 Q WERE YOU UPSET AT THE TIME?

2 A I WAS HYSTERICAL THAT - THAT MY OWN CHILD COULD TRY TO
3 KILL ME.

4 Q WHERE DID YOU GO?

5 A I WENT NEXT DOOR TO THE VAN ALLEN'S, AND RICKY VAN ALLEN
6 CAME TO THE DOOR. THEN I HOLLERED AND SCREAMED FOR RICKY TO
7 CALL THE POLICE. I TOLD HIM THAT FERRIS TRIED TO KILL ME.

8 Q AND DID HE CALL THE POLICE FOR YOU?

9 A YES, SIR.

10 Q OR, CALLED 911 I SHOULD SAY?

11 A I THINK - I DON'T KNOW IF HE CALLED 911 OR THE REGULAR
12 NUMBER.

13 Q WHERE WERE - DO YOU REMEMBER OFFICER KIKER COMING TO
14 YOUR HOUSE THAT NIGHT?

15 A YES, I DO.

16 Q WHERE WERE YOU WHEN SHE - SHE CAME TO THE HOUSE?

17 A I THINK I WAS OUTSIDE BY MY CAR.

18 Q WERE YOU PHYSICALLY INJURED AT ALL?

19 A I HAD A CUT ON MY ARM, BUT I DON'T KNOW HOW IT HAPPENED.
20 I WAS SO SCARED I JUST DIDN'T KNOW - IT'S JUST A LITTLE SCAR,
21 BUT I JUST DIDN'T KNOW HOW IT HAPPENED.

22 Q WAS AN AMBULANCE CALLED?

23 A YES, SIR.

24 Q AND WERE YOU TAKEN TO THE HOSPITAL?

25 A YES, SIR.

1 Q DO YOU KNOW WHY? WAS IT---

2 A BECAUSE---

3 Q ---WAS IT BECAUSE OF THE CUT OR WAS IT BECAUSE OF OTHER
4 REASONS?

5 A ---IT WAS ANOTHER REASON.

6 Q AND WHAT WAS THAT?

7 A BECAUSE I WAS HYSTERICAL, AND THEY SAID MY BLOOD
8 PRESSURE WAS 191 OVER 170, AND THEY WAS SCARED THAT I WAS
9 GONNA HAVE A STROKE. AND THEY WERE TRYING TO CLAM ME DOWN,
10 BUT I COULDN'T.

11 Q WHERE WERE YOU TAKEN TO THE HOSPITAL?

12 A SAINT FRANCIS.

13 Q DID YOU HAVE TO STAY THERE OVERNIGHT?

14 A NO, SIR. I WAS THERE LIKE THREE OR FOUR HOURS.

15 Q DID YOU RETURN HOME THAT NIGHT?

16 A NO, SIR. I SPENT THE NIGHT WITH A FRIEND OF MINE.

17 Q AND WHEN DID YOU RETURN HOME AFTER THAT?

18 A THE NEXT DAY - LATE THE NEXT AFTERNOON.

19 Q WERE YOU ABLE TO DETERMINE HOW FERRIS HAD GOTTEN IN YOUR
20 HOUSE?

21 A (NOD.)

22 Q HOW?

23 A HE GOT A SMALL ALUMINUM LADDER OUT THE GARAGE (SIC) AND
24 PUT IT TO THE SIDE WINDOW IN THAT BEDROOM.

25 Q CRAWLED THROUGH THE BEDROOM WINDOW?

1 A YEAH. HE TOLD ME HOW HE GOT IN.

2 Q I BELIEVE YOU ALREADY TESTIFIED THAT...

3 MR. DURANT: COURT'S INDULGENCE FOR JUST ONE MOMENT.

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
5 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
6 HEARING OF THE JURY, OFF THE RECORD.)

7 (WHEREUPON, COURT RESUMED.)

8 MR. DURANT: CAN WE STEP UP FOR A SECOND?

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
10 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
11 HEARING OF THE JURY, OFF THE RECORD.)

12 (WHEREUPON, COURT RESUMED.)

13 Q FERRIS, OF COURSE, IS YOUR CHILD. IS THAT CORRECT?

14 A YES, SIR.

15 Q AND HOW LONG DID HE ACTUALLY LIVE WITH YOU WHEN HE WAS
16 COMING UP?

17 A UNTIL HE WAS IN HIS EARLY TWENTIES.

18 Q AND YOU ALSO SAID HE LIVED WITH YOU BRIEFLY IN
19 APRIL OF---

20 A IN APRIL---

21 Q ---2005?

22 A ---FOR THREE WEEKS.

23 Q AS HIS MOTHER, ARE YOU FAMILIAR WITH HIS HANDWRITING?

24 A YES, SIR.

25 Q AND YOU'VE RECEIVED LETTERS FROM FERRIS IN THE PAST?

- 1 A YES, SIR.
- 2 Q I'M HANDING YOU WHAT'S PREVIOUSLY BEEN MARKED AS STATE'S
- 3 EXHIBITS NUMBER FOURTEEN AND STATE'S EXHIBITS NUMBER -
- 4 STATE'S EXHIBIT NUMBER FIFTEEN. I ASK YOU TO TAKE A LOOK AT
- 5 THOSE AND SEE IF YOU RECOGNIZE THOSE DOCUMENTS?
- 6 A YES, HIS HANDWRITING. IT'S HIS HANDWRITING.
- 7 Q WHAT ARE THOSE DOCUMENTS?
- 8 A THIS IS A LETTER THAT HE WROTE TO MY SISTER IN
- 9 NORTH CAROLINA.
- 10 Q AND WHO IS YOUR SISTER IN NORTH CAROLINA?
- 11 A KATHY WILLIS.
- 12 Q AND, WHAT IS THE STATE OF KATHY'S HEALTH CURRENTLY?
- 13 A SHE IS SICK.
- 14 Q WITH WHAT?
- 15 A SHE HAS EMPHYSEMA---
- 16 Q IS SHE - GO AHEAD.
- 17 A ---AND SHE TRIES EVERY DAY TO BREATHE, AND IT'S HARD FOR
- 18 HER TO BREATHE. SHE'S ON OXYGEN, AND SHE CAN'T - SHE CAN'T BE
- 19 UPSET BECAUSE IT WOULD KILL HER.
- 20 Q IS SHE ABLE TO TRAVEL?
- 21 A NO, SIR.
- 22 Q NOW, HOW DID YOU GET THAT LETTER?
- 23 A SHE SENT IT TO ME.
- 24 Q OKAY. DID YOU ASK HER TO OR DID SHE JUST SEND IT TO
- 25 HER - YOU HERSELF?

1 A I ASKED HER TO MAIL IT TO ME.

2 Q OKAY. HOW ABOUT STATE'S EXHIBIT NUMBER FIFTEEN? WHAT
3 IS THAT?

4 A THAT'S HIS HANDWRITING.

5 Q AND THAT IS THE ENVELOPE THAT THAT LETTER CAME IN?

6 A YES - YES, SIR.

7 Q AND THAT'S - BOTH THE LETTER AND THE ENVELOPE IS
8 ADDRESSED TO YOUR SISTER? IS THAT CORRECT?

9 A YES, SIR.

10 Q WHEN DID YOU GET THAT FROM KATHY?

11 A THE DAY THAT SHE GOT IT, SHE CALLED ME AND TOLD ME THAT
12 SHE GOT A LETTER FROM MY SON. AND I ASK HER, I SAID, WILL -
13 WILL YOU KEEP IT AND WILL YOU MAIL IT TO ME? SO THE DAY
14 AFTER THAT SHE PUT IT IN THE MAIL.

15 Q AND SHE GOT - YOU GOT BOTH OF THOSE DOCUMENTS IN THE
16 MAIL RIGHT AFTER THAT---

17 A YES, SIR.

18 Q ---PHONE CONVERSATION?

19 A IN THE SAME DATE.

20 Q OKAY - ALL RIGHT.

21 MR. DURANT: YOUR HONOR, AT THIS POINT WE WOULD OFFER
22 STATE'S EXHIBITS FOURTEEN AND FIFTEEN INTO EVIDENCE. ALSO BY
23 AGREEMENT, AND WITH THE COURT'S DIRECTION, WE ARE OFFER -
24 OFFERING A COPY OF STATE'S EXHIBIT NUMBER FOURTEEN AS OPPOSED
25 TO THE ORIGINAL LETTER FOR REASONS THAT I UNDERSTAND YOUR

1 HONOR - YOUR HONOR WILL INSTRUCT THE JURY CONCERNING.

2 THE COURT: ALL RIGHT. STATE'S FOURTEEN IN ITS REDACTED
3 FORM AND FIFTEEN IN EVIDENCE, SUBJECT TO YOUR CONTINUING
4 OBJECTIONS, MS. SOLAR.

5 MS. SOLAR: THANK YOU, YOUR HONOR.

6 (WHEREUPON, STATE'S EXHIBIT NO. 14 WAS ADMITTED INTO
7 EVIDENCE.)

8 (WHEREUPON, STATE'S EXHIBIT NO. 15 WAS ADMITTED INTO
9 EVIDENCE.)

10 THE COURT: AND MAY I SEE STATE'S FOURTEEN?

11 MR. DURANT: YES, SIR, YOUR HONOR.

12 THE COURT: THANK YOU. MR. FOREMAN, LADIES AND
13 GENTLEMEN OF THE JURY, I HAVE ALLOWED STATE'S FOURTEEN TO BE
14 INTRODUCED INTO EVIDENCE FOR YOUR CONSIDERATION.

15 YOU WILL BE RECEIVING THIS COPY, AND NOT THE ORIGINAL.
16 A COPY IS PROVIDED INSTEAD OF THE ORIGINAL DOCUMENT BECAUSE I
17 HAVE DETERMINED THAT PORTIONS OF THE ORIGINAL STATE'S
18 EXHIBIT FOURTEEN IS NOT PROPER EVIDENCE FOR YOUR
19 CONSIDERATION IN THIS CASE.

20 THAT BEING SO, I HAVE REDACTED - OR, REMOVED - CERTAIN
21 PORTIONS OF THE EXHIBIT. AND WHEN YOU HAVE AN OPPORTUNITY TO
22 LOOK AT IT, MR. FOREMAN, LADIES AND GENTLEMEN, YOU WILL SEE
23 WHERE THERE IS, UM - A - A GAP IN - IN LIKE THE THIRD
24 SENTENCE OF THIS PARTICULAR DOCUMENT.

25 THE FACT THAT I HAVE REDACTED PORTIONS OF STATE'S

1 EXHIBIT FOURTEEN SHOULD NOT BE CONSIDERED BY YOU FOR ANY
2 PURPOSE DURING YOUR DELIBERATIONS - THAT REDACTION PART. FOR
3 THE STATE, AGAINST THE STATE, FOR THE DEFENDANT, OR AGAINST
4 THE DEFENDANT AS FAR AS THE REDACTED PORTION IS CONCERNED.

5 AND AGAIN, WHATEVER WEIGHT AND VALUE IS ENTIRELY UP TO
6 YOU, MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY.

7 Q CAN YOU USE THIS INSTEAD?

8 (WHEREUPON, DOCUMENT HANDED TO THE WITNESS.)

9 MR. DURANT: MAY I PUBLISH IT TO THE JURY, YOUR HONOR?

10 THE COURT: YES - YES, SIR.

11 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED WHILE ELMO WAS
12 SET UP.)

13 Q THIS WOULD BE STATE'S EXHIBIT NUMBER FOURTEEN. IF YOU'D
14 TURN AROUND AND TAKE A LOOK AT THAT STATE'S EXHIBIT
15 NUMBER FOURTEEN? THAT IS THE LETTER YOU RECEIVED FROM YOUR -
16 AUNT KATHY?

17 A YES, SIR.

18 THE COURT: AND, MS. SINGLEY, WHEN YOU - WHEN YOU TURN
19 YOUR BACK TO THE JURY, YOU HAVE TO KEEP YOUR VOICE UP BECAUSE
20 YOUR VOICE IS AWAY FROM THE MICROPHONE. OKAY?

21 MS. SINGLEY: I UNDERSTAND, SIR.

22 THE COURT: ALL RIGHT. SO JUST KEEP YOUR - KEEP YOUR
23 VOICE UP AS MUCH AS YOU CAN.

24 A YES, SIR. THAT IS THE LETTER THAT MY SISTER SENT TO ME.

25 (WITNESS CRYING.)

1 Q DO YOU-ALL NEED ADDITIONAL TIME?

2 A (NOD.)

3 Q THIS WOULD BE STATE'S EXHIBIT NUMBER FIFTEEN. IN THE
4 UPPER LEFT-HAND CORNER OF THAT DOCUMENT, THAT IS YOUR SON?

5 A YES, SIR.

6 Q THAT IS HIS HANDWRITING?

7 A YES, SIR - YES, SIR.

8 Q AND - AND KATHY WILLIS WOULD BE THE AUNT YOU PREVIOUSLY
9 DISCUSSED, IS THAT CORRECT?

10 A YES, SIR.

11 Q SHE LIVES IN TARHILL, NORTH CAROLINA?

12 A YES, SIR.

13 Q THANK YOU.

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
15 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
16 HEARING OF THE JURY, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 (WHEREUPON, STATE'S EXHIBIT NO. 16 WAS MARKED FOR
19 IDENTIFICATION.)

20 Q MS. SINGLEY, I HAND YOU WHAT'S NOW BEEN MARKED AS
21 STATE'S EXHIBIT NUMBER SIXTEEN FOR IDENTIFICATION. SEE IF
22 YOU RECOGNIZE THAT FLOOR PLAN THERE.

23 A YES. IT'S THE FLOOR PLAN OF MY HOUSE.

24 Q OKAY. THAT'S NOT TO SCALE, OF COURSE, BUT DOES IT
25 ACCURATELY REFLECT HOW THE ROOMS RELATE TO ONE ANOTHER AND

1 WHERE THE FRONT OF YOUR HOUSE IS---

2 A YES, SIR.

3 Q ---AND THE BACK OF THE HOUSE AND THINGS OF THAT NATURE?

4 A YES, SIR.

5 MR. DURANT: YOUR HONOR, WE WOULD OFFER STATE'S EXHIBIT
6 SIXTEEN AT THIS TIME FOR DEMONSTRATIVE PURPOSES IF THERE'S NO
7 OBJECTION.

8 THE COURT: MS. - MS. SOLAR, ANY OBJECTIONS?

9 MS. SOLAR: NO OBJECTION, YOUR HONOR.

10 THE COURT: ALL RIGHT. STATE'S SIXTEEN IN EVIDENCE,
11 WITHOUT OBJECTION.

12 (WHEREUPON, STATE'S EXHIBIT NO. 16 WAS ADMITTED INTO
13 EVIDENCE.)

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
15 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
16 HEARING OF THE JURY, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 Q MS. SINGLEY. I'M GONNA ASK YOU TO STEP DOWN JUST BRIEFLY
19 IF I COULD? IF YOU CAN COME AROUND HERE?

20 (WHEREUPON, WITNESS STEPPED DOWN FROM THE WITNESS STAND
21 AND AROUND TO THE FRONT OF THE WITNESS STAND.)

22 Q AND THIS IS THE LASER POINTER. IF YOU HIT RIGHT THERE -
23 AND CAN YOU SEE THAT LITTLE DOT? THAT IT'S POINTING FOR YOU?
24 JUST HIT RIGHT THERE WHERE THAT LITTLE THING... CAN YOU -
25 CAN YOU PRESS IT DOWN? PRESS IT DOWN. THERE YOU GO, DO YOU

1 SEE WHERE THAT DOT IS? PRESS IT DOWN. YOU'VE GOT TO KEEP IT
2 HOLDING LIKE THAT.

3 A OKAY.

4 Q OKAY. NOW YOU KNOW - KNOW HOW TO WORK THAT?

5 A NO, I DON'T KNOW HOW TO WORK IT.

6 Q WILL YOU TELL - WILL YOU TELL THE LADIES AND GENTLEMEN
7 OF THE JURY WHERE YOUR FRONT DOOR IS ON YOUR HOUSE? THIS IS
8 A FLOOR PLAN TO YOUR HOUSE AT SPRUCE AVENUE?

9 A RIGHT - RIGHT THERE, SIR. THAT DOOR.

10 Q OKAY. THAT'S YOUR FRONT DOOR? NOW, IN FRONT OF THAT,
11 OF COURSE, WILL BE SPRUCE AVENUE, IS THAT CORRECT?

12 A SPRUCE STREET.

13 Q SPRUCE STREET, I'M SORRY.

14 THE COURT: SOLICITOR, CAN SHE TURN A LITTLE BIT TOWARDS
15 THE JURY AND LOOK AT THE CHART SO HER VOICE...

16 MR. DURANT: YEAH.

17 Q WHY DON'T YOU - WHY DON'T YOU COME AROUND HERE? THERE
18 YOU GO. AND THEN THEY CAN - THEY CAN HEAR.

19 NOW, IF YOU WOULD, TELL THE JURY WHERE YOU WENT WHEN YOU
20 CAME IN THAT NIGHT.

21 A WERE IS THE RED BUTTON? OH.

22 Q OKAY, YOU GOT IT? RIGHT THERE. THERE'S YOUR - DO YOU
23 SEE THE RED DOT?

24 A OKAY.

25 Q SHOW 'EM - WHERE DID YOU GO?

- 1 A IN THE LIVING ROOM.
- 2 Q RIGHT.
- 3 A I LOCKED MY DOORS - I PUT THE DEADBOLT ON IT.
- 4 Q OKAY. AND THEN WHERE DID YOU GO?
- 5 A THEN I WENT INTO THE DINING ROOM. THE LIGHT WAS ON IN
- 6 THERE.
- 7 Q AND WHERE IS THE LIGHT SWITCH IN THE DINING ROOM?
- 8 A (INDICATING WITH LASER POINTER.)
- 9 Q AS - AS YOU'RE GOING INTO THE DINING ROOM?
- 10 A AS YOU GO INTO THE DINING ROOM, IT'S ON THE - ON THE
- 11 RIGHT HAND SIDE.
- 12 Q OKAY. SO IT'D BE - SO, IF YOU GO INTO THE DINING -
- 13 LIVING ROOM INTO THE DINING ROOM, THE LIGHT IS ON - THE
- 14 SWITCH IS ON THE RIGHT-HAND SIDE - THIS SIDE, IS THAT
- 15 CORRECT?
- 16 A YES, SIR.
- 17 Q WHAT DID YOU DO WHEN YOU GOT INTO THE DINING ROOM?
- 18 A I WAS GONNA CUT THE LIGHT OUT, BUT MY SON CAME UP BEHIND
- 19 ME WITH THE---
- 20 Q WHICH WAY WHEN HE CAME UP FROM BEHIND YOU? HE CAME FROM
- 21 THIS DIRECTION? IS THAT CORRECT?
- 22 A YES, SIR.
- 23 Q OKAY. AND WHERE WERE YOU WHEN HE PUT THE KNIFE TO YOUR
- 24 THROAT?
- 25 A I WAS IN THE DINING ROOM.

- 1 Q RIGHT IN HERE IN THIS AREA?
- 2 A YES, SIR.
- 3 Q AND THAT'S WHERE HE TOOK THE MONEY?
- 4 A THAT'S WHERE HE TOOK THE MONEY.
- 5 Q AND WHEN HE TOOK YOU BACK - MADE YOU GO BACK TO YOUR
- 6 BEDROOM, WHERE DID HE TAKE YOU? IS THAT THIS BEDROOM OR THIS
- 7 BEDROOM?
- 8 A THE TOP BEDROOM.
- 9 Q OKAY. AND THAT'S WHERE YOUR BED WAS?
- 10 A YES, SIR.
- 11 Q AND THAT'S WHERE HE TIED YOU UP, IS THAT CORRECT?
- 12 A YES, SIR - YES.
- 13 Q AND LATER, WHEN YOU WENT BACK TO CHECK - THIS IS - YOU
- 14 SAID HE LEFT OUT THE BACK DOOR?
- 15 A BACK DOOR.
- 16 Q AND THAT'S THIS DOOR HERE? CORRECT?
- 17 A YES, SIR.
- 18 Q OKAY. AND YOU ALSO SAID THAT YOU SAW A LADDER UNDER A
- 19 WINDOW. DO YOU RECALL WHICH WINDOW THAT WAS? WAS IT IN THIS
- 20 BEDROOM OR THIS BEDROOM?
- 21 A NO, THE OTHER BEDROOM.
- 22 Q THIS BEDROOM? WAS IT THE SIDE ONE OR THE BACK ONE?
- 23 A IT WAS THE SIDE WINDOW.
- 24 Q OKAY. AND, UM, I THINK THAT'S PRETTY MUCH ALL I WANTED
- 25 TO ASK YOU. YOU CAN KILL THAT AND RESUME YOUR SEAT, PLEASE.

BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

1 A HERE OR THERE? HERE?

2 Q RIGHT THERE. I'M ALMOST THROUGH, OKAY?

3 (MR. DURANT GETTING KNIFE FROM ATTORNEY'S TABLE.)

4 A OF GOD, I CAN'T TAKE CAN'T IT.

5 MR. DURANT: WOULD YOU MARK THIS FOR IDENTIFICATION,
6 PLEASE, MA'AM?

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
8 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
9 HEARING OF THE JURY, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 (WHEREUPON, STATE'S EXHIBIT NO. 17 WAS MARKED FOR
12 IDENTIFICATION.)

13 Q MS. SINGLEY, I KNOW YOU DON'T WANT TO, BUT I WANT YOU TO
14 TAKE A LOOK AT STATE'S EXHIBIT NUMBER SEVENTEEN---

15 A THAT'S---

16 Q ---AND TELL THE JURY IF YOU RECOGNIZE THAT KNIFE.

17 A YES. THAT WAS THE KNIFE HE HAD AT ME.

18 Q THANK YOU VERY MUCH. COULD YOU PLEASE ANSWER ANY
19 QUESTIONS THAT DEFENSE COUNSEL MAY HAVE FOR YOU?

20 MS. SOLAR: COURT'S INDULGENCE.

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
22 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
23 HEARING OF THE JURY, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

- 1 Q MRS. SINGLEY YOU HAVE TWO CHILDREN, CORRECT?
- 2 A YES, I DO.
- 3 Q FERRIS AND BRIAN?
- 4 A YES, I DO.
- 5 Q AND FERRIS IS THE OLDEST?
- 6 A YES.
- 7 Q OKAY. AND WHERE - WHERE DOES BRIAN LIVE?
- 8 A RIGHT NOW HE'S SOMEWHERE IN CENTRAL FLORIDA IN THE
- 9 PHOENIX HOUSE TO GET OFF DRUGS.
- 10 Q AND I'M SORRY, I DIDN'T HEAR WHAT YOU SAID.
- 11 A HE'S IN CENTRAL FLORIDA SOMEWHERE IN A PLACE CALLED
- 12 PHOENIX HOUSE.
- 13 Q AND THAT'S A DRUG REHABILITATION?
- 14 A I THINK SO.
- 15 Q BUT YOU'RE NOT SURE?
- 16 A NO, BECAUSE I DON'T KNOW WHERE IT IS.
- 17 Q CAN YOU TELL ME, UM - THAT NIGHT YOU SAID THAT - THE
- 18 NIGHT OF OCTOBER 2ND - OCTOBER 1ST/OCTOBER 2ND, YOU WERE AT A
- 19 PLACE CALLED SAND SHACK, CORRECT?
- 20 A YES. ON OCTOBER THE 2ND, YES.
- 21 Q OKAY. AND - WELL, TELL ME WHAT KIND OF PLACE THAT IS.
- 22 A WELL, IT'S LIKE WHERE THEY HAVE A BAND. YOU DANCE, YOU
- 23 KNOW, AND HAVE A GOOD TIME WITH SOME FRIENDS.
- 24 Q OKAY. IT'S A BAR?
- 25 A IT'S A DECENT PLACE. IT - YEAH, IT'S A BAR, BUT IT'S -

1 IT'S A DECENT PLACE.

2 Q OKAY. WHERE IS THAT?

3 A IT'S ON ASHLEY PHOSPHATE ROAD, RIGHT BY FRANKIE'S FUN
4 PARK.

5 Q OKAY. HOW MANY PEOPLE - HOW MANY OF YOUR FRIENDS WERE
6 YOU WITH DID YOU - DID YOU SAY?

7 A IT WAS EIGHT OF US THAT NIGHT - EIGHT WOMEN.

8 Q OKAY. AND WHAT TIME DID YOU COME HOME?

9 A LIKE I SAID, BETWEEN TWO AND TWO-THIRTY.

10 Q OKAY. I'M SORRY, DID YOU - I - I - DID YOU TESTIFY WHAT
11 TIME YOU LEFT TO GO TO THE SAND SHACK?

12 A THE TAXI CAB DRIVER PICKED ME UP AT NINE O'CLOCK.

13 Q AND YOU TESTIFIED THAT YOU HAD THREE DRINKS, CORRECT?

14 A YES - YES.

15 Q THREE RUM AND COKES?

16 A YES. I LIMIT MYSELF TO WHAT I DRINK, YES. I ONLY GO
17 OUT ON THE WEEKENDS.

18 Q AND DO YOU - DO YOU NORMALLY STAY OUT THAT LATE ON
19 FRIDAY NIGHTS?

20 A YEAH, BECAUSE I DON'T - I CAN SLEEP LATE ON SATURDAY
21 MORNINGS.

22 Q THE NIGHT THAT THIS ALLEGEDLY OCCURRED, YOU KNEW THAT -
23 WHEN YOU CAME HOME, YOU KNEW THAT FERRIS WANTED MONEY,
24 CORRECT?

25 A YES.

1 Q OKAY. YOU KNEW - YOU KNEW HE HAD A DRUG PROBLEM?

2 A (NO RESPONSE.)

3 Q YOU KNOW HE HAD A DRUG PROBLEM?

4 A NO, I DIDN'T KNOW HE HAD A DRUG PROBLEM - NO.

5 Q ISN'T IT TRUE THAT YOU WERE ACTUALLY FAMILIAR WITH HIS
6 CRACK ADDICTION?

7 A WHAT DO YOU MEAN BY THAT?

8 Q ISN'T IT TRUE THAT YOU KNEW THEN THAT HE DID HAVE A
9 CRACK ADDICTION? A DRUG PROBLEM?

10 A WELL I GUESS SO, HIS EYES WERE WILD. I TOOK IT FOR
11 GRANTED THAT HE WAS ON DRUGS.

12 Q I'M SORRY? SAY THAT AGAIN?

13 A I SAID, I TOOK IT FOR GRANTED HE WAS ON DRUGS BECAUSE
14 HIS EYES WERE WILD.

15 Q AND ISN'T IT TRUE THAT HE'S ACTUALLY HAD A DRUG PROBLEM
16 FOR A FEW YEARS NOW - TO YOUR KNOWLEDGE?

17 A WHEN HE WAS YOUNG---

18 Q IN FACT---

19 A ---WHEN HE WAS YOUNGER.

20 Q OKAY. YOU TOLD THE POLICE THAT NIGHT, WHEN FERRIS WAS
21 IN THE HOUSE, THAT HE HAD A KNIFE WITH HIM? ISN'T THAT
22 CORRECT?

23 A YES, HE DID.

24 Q OKAY. AND YOU GAVE A STATEMENT TO THE POLICE THAT NIGHT
25 AS TO WHAT HAPPENED. ISN'T THAT CORRECT?

1 A YES, I DID.

2 Q AND IN YOUR STATEMENT YOU NEVER SAID THAT HE PUT A KNIFE
3 TO YOUR THROAT, ISN'T THAT CORRECT?

4 A YES, I DID. HE DID PUT THE KNIFE TO MY THROAT.

5 Q BUT YOU DIDN'T TELL THE POLICE THAT THAT NIGHT, ISN'T
6 THAT CORRECT?

7 A (NO RESPONSE.)

8 Q I HAVE A COPY OF - OF YOUR STATEMENT. WOULD IT HELP YOU
9 IF YOU LOOKED AT IT?

10 A I WAS HYSTERICAL. HE PUT THE KNIFE TO MY THROAT.

11 Q OKAY. BUT YOU DIDN'T TELL THE POLICE THAT?

12 A I DON'T REMEMBER - I DON'T REMEMBER.

13 Q OKAY.

14 A I WAS HYSTERICAL.

15 Q YOU TESTIFIED THAT BEFORE HE LEFT YOU THAT NIGHT HE TOLD
16 YOU TO WAIT TWENTY MINUTES BEFORE CALLING THE POLICE.
17 CORRECT?

18 A YES.

19 Q OKAY.

20 A HE SAID, GIVE ME TWENTY MINUTES BEFORE YOU CALL THE
21 COPS, BECAUSE I KNOW YOU'RE GONNA DO IT.

22 Q AFTER HE LEFT, YOU TESTIFIED THAT YOU WAITED A FEW
23 MINUTES BECAUSE YOU WERE THINKING HE MIGHT COME BACK.
24 CORRECT?

25 A HE DID COME BACK. WASN'T NO THINKING, HE DID COME BACK.

1 Q BUT THAT'S WHY YOU WAITED, ISN'T THAT CORRECT?

2 A THAT'S RIGHT. THAT'S WHY I WAS TOO SCARED TO MOVE.

3 Q OKAY. YOU TESTIFIED ALSO ON DIRECT THAT AFTER YOUR
4 HUSBAND DIED, THE PROPERTY, UM, THAT HE OWNED PASSED THROUGH
5 PROBATE TO YOU AND YOUR SONS. ISN'T THAT CORRECT?

6 A (NO RESPONSE.)

7 Q WELL, LET ME ASK YOU THIS. YOU AND YOUR HUSBAND OWNED
8 THAT HOUSE, CORRECT?

9 A YES.

10 Q OKAY. AND WHEN HE DIED, YOU WERE A PERSONAL
11 REPRESENTATIVE FOR HIS ESTATE?

12 A YES. IT WENT THROUGH PROBATE.

13 Q IT WENT THROUGH PROBATE. AND AFTER GOING THROUGH
14 PROBATE, YOU TESTIFIED THAT FERRIS ACTUALLY INHERITED PART OF
15 THAT PROPERTY. ISN'T THAT CORRECT?

16 A WELL, I GUESS SO.

17 Q YOU WERE THE PERSONAL REPRESENTATIVE, CORRECT?

18 A YES, I AM.

19 Q OKAY. AND SO YOU WOULD OBVIOUSLY KNOW THAT THE PROPERTY
20 WAS TRANSFERRED TO BOTH YOU AND TO YOUR SONS?

21 A THE PAPER SAYS ME - BRENDA SINGLEY. IT DOESN'T SAY
22 FERRIS SINGLEY OR BRIAN SINGLEY.

23 Q THE PAPER YOU'RE TALKING ABOUT IS THE DEED OF
24 DISTRIBUTION?

25 A THE PAPER THAT I HAVE THAT GIVE ME - GIVES ME THE LEGAL

1 RIGHT TO THE PROPERTY.

2 Q DO YOU REMEMBER SIGNING WHAT'S CALLED A DEED OF
3 DISTRIBUTION?

4 A I DON'T KNOW WHAT YOU'RE---

5 Q AS - AS PERSONAL REPRESENTATIVE---

6 A ---I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

7 Q ---DO YOU REMEMBER SIGNING PAPERS AS A PERSONAL
8 REPRESENTATIVE?

9 A I DID AT MY LAWYER'S OFFICE.

10 Q OKAY. IF I GAVE YOU A COPY OF THE DEED, WOULD YOU -
11 WOULD YOU BE ABLE TO TELL ME WHAT THE DEED - WHAT THE
12 DISTRIBUTION OF THE PROPERTY IS?

13 A I'LL BE GLAD TO LOOK AT IT.

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
15 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
16 HEARING OF THE JURY, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 MS. SOLAR: YOUR HONOR, MAY I APPROACH THE WITNESS?

19 THE COURT: YES, MA'AM.

20 Q MRS. SINGLEY, CAN YOU GO TO THE SECOND PAGE AT THE TOP?
21 ISN'T IT TRUE THAT YOU SIGNED THE DEED OF DISTRIBUTION?

22 A YES.

23 Q OKAY. CAN YOU PLEASE GO TO THE FIRST PAGE AS WELL? AND
24 I - I WOULD DIRECT YOU TO THE MIDDLE PART OF THE PAGE. CAN
25 YOU TELL ME WHO THAT PROPERTY ON SPRUCE STREET BELONGS TO?

1 WHO HAS AN INTEREST IN THAT PROPERTY?

2 A I DO, FERRIS DOES, AND BRIAN DOES.

3 Q THANK YOU. MRS. SINGLEY, YOU TESTIFIED ON DIRECT THAT
4 YOU WERE CONVICTED IN 1999 FOR FORGERY, CORRECT?

5 A I - YES.

6 Q OKAY.

7 A I MADE A MISTAKE, YES.

8 Q OKAY. AND IN THAT MISTAKE YOU SIGNED THE NAME OF
9 SOMEBODY ELSE ON THE CHECK, CORRECT?

10 A YES.

11 MR. DURANT: YOUR HONOR, THIS IS GOING A LITTLE FAR
12 AFIELD. OBJECTION---

13 A BUT I HAD HIS PERMISSION TO DO IT.

14 MR. DURANT: ---OB- -- OBJECTION, YOUR HONOR.

15 THE COURT: YES, SIR. YES, MA'AM, I DON'T THINK WE GO
16 INTO FACTS OF THE UNDERLYING---

17 MS. SOLAR: OKAY, I WITHDRAW THAT QUESTION.

18 THE COURT: ---CONVICTION, MS. - MS. SOLAR.

19 MS. SOLAR: THANK YOU, YOUR HONOR.

20 THE COURT: THANK YOU.

21 Q MRS. SINGLEY, YOU'VE BEEN ON DISABILITY FOR ABOUT TEN
22 YEARS, ISN'T THAT CORRECT?

23 A NO, I HAVEN'T BEEN ON DISABILITY FOR TEN YEARS.

24 Q YOU HAVE, UM - YOU HAVE NOT BEEN RECEIVING A DISABILITY
25 CHECK?

BRENDA ANN PARKS SINGLEY, CROSS-EXAMINATION BY MS. SOLAR:

1 A NOT FOR TEN YEARS.

2 Q OKAY. FOR SOME YEARS?

3 A SINCE MY HUSBAND DIED FIVE - AUG- -- AUGUST WILL BE FIVE
4 YEARS.

5 Q OKAY. SO YOU'VE BEEN---

6 A YES.

7 Q ---RECEIVING A DISABILITY CHECK FOR FIVE YEARS?

8 A UNDER HIM, YES.

9 Q OKAY. AND THIS HAS TO DO WITH WHOSE DISABILITY?

10 A I GOT IT UNDER MY HUSBAND BECAUSE I HAVE A BAD BACK.

11 Q OKAY. SO YOU'VE BEEN RECEIVING DISABILITY FOR A BAD
12 BACK?

13 A YES.

14 Q OKAY. AND YOU'VE ALSO TESTIFIED THAT YOU CLEAN HOUSES
15 AS WELL, CORRECT?

16 A I HELP A FRIEND OF MINE TWO DAYS A WEEK BECAUSE I HAVE
17 TO MAKE ENDS MEET - TO PAY BILLS.

18 Q ISN'T IT TRUE THAT THE BUSINESS IS ACTUALLY YOUR
19 BUSINESS?

20 A NO, IT'S NOT.

21 MS. SOLAR: THE COURT'S INDULGENCE?

22 THE COURT: YES, MA'AM.

23 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
24 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
25 HEARING OF THE JURY, OFF THE RECORD.)

1 (WHEREUPON, COURT RESUMED.)

2 MS. SOLAR: WE HAVE NOTHING FURTHER, YOUR HONOR.

3 THE COURT: THANK YOU, MS. SOLAR. SOLICITOR, ANY
4 REDIRECT?

5 MR. DURANT: JUST A COUPLE, YOUR HONOR.

6 BRENDA ANN PARKS SINGLEY, REDIRECT EXAMINATION BY MR. DURANT:

7 Q UM, YOU REMEMBER GIVING A STATEMENT TO OFFICER KIKER
8 THAT NIGHT, CORRECT?

9 A YES, SIR.

10 Q AND THAT WAS IN THE BACK OF THE AMBULANCE?

11 A YES, SIR.

12 Q AND, UH, YOU TOLD HER AT THE TIME THAT YOU CAME - CAME
13 HOME ABOUT TWO O'CLOCK, CORRECT?

14 A YES, SIR.

15 Q AND YOU TOLD HER THAT HE WAS IN THE HOUSE WHEN YOU CAME
16 HOME?

17 A YES, SIR.

18 Q AND YOU TOLD HER THAT HE WAS IN THE HALLWAY NEAR THE
19 DINING ROOM AND HAD A BUTCHER KNIFE IN HIS HAND, CORRECT?

20 A YES HE DID - YES, SIR.

21 Q OKAY. AND YOU TOLD HER THAT HE SAID, MAMA, DON'T SCREAM
22 OR I'LL HAVE TO KILL YOU?

23 MS. SOLAR: OBJECTION, YOUR HONOR. THIS IS LEADING.

24 THE COURT: YES, MA'AM, BUT I - I MEAN---

25 MR. DURANT: YOUR HONOR, I THINK, UH, THE ENTIRE - UH,

1 JUST IN TERMS OF LEADING, BUT - BUT IN TERMS OF THE ACTUAL
2 QUESTIONS INVOLVED, I THINK HER ENTIRE STATEMENT NEEDS TO
3 COME IN PURSUANT TO RULE 106.

4 THE COURT: MS. - MS. SOLAR, DO YOU---

5 MS. SOLAR: COURT'S INDULGENCE.

6 THE COURT: ---DO YOU HAVE A POSITION ON THAT?

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

8 THE COURT: YES, MA'AM.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
10 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
11 HEARING OF THE JURY, OFF THE RECORD.)

12 (WHEREUPON, COURT RESUMED.)

13 MS. SOLAR: WE HAVE NO OBJECTION, YOUR HONOR.

14 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY INTRODUCE THE
15 STATEMENT.

16 MR. DURANT: OKAY. LET ME JUST MARK IT. THIS WOULD BE
17 STATE'S EXHIBIT NUMBER EIGHTEEN.

18 (WHEREUPON, PLAINTIFF'S EXHIBIT NO. 18 WAS MARKED FOR
19 IDENTIFICATION.)

20 THE COURT: STATE'S EXHIBIT NUMBER EIGHTEEN IS A
21 TWO-PAGE STATEMENT?

22 MR. DURANT: TWO-PAGE STATEMENT OF BRENDA SINGLEY, IN
23 EVIDENCE, I BELIEVE, WITHOUT OBJECTION, YOUR HONOR.

24 THE COURT: STATE'S EXHIBIT EIGHTEEN, TWO-PAGE STATEMENT
25 OF MS. SINGLEY, IN EVIDENCE WITHOUT OBJECTION.

1 (WHEREUPON, STATE'S EXHIBIT NO. 18 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q AND YOU'VE, OF COURSE, SEEN THAT STATEMENT. CAN YOU
4 READ THAT STATEMENT?

5 A CAN I READ IT?

6 Q YEAH, CAN YOU READ IT?

7 A (NO RESPONSE.)

8 Q YOU DIDN'T WRITE THAT STATEMENT, THAT WAS WRITTEN BY
9 DETECTIVE - OFFICER KIKER, IS THAT CORRECT?

10 A I THINK SO, YES, SIR.

11 Q AS YOU TOLD HER WHAT HAPPENED IN THE BACK OF THE - THE
12 AMBULANCE, IS THAT CORRECT?

13 A YES, SIR.

14 Q IF YOU CAN'T READ IT, THAT'S FINE. WE'LL LET JUDGE
15 (SIC) - LET THE JURY READ IT.

16 A LET - I CAN'T. LET THE JURY READ IT. I CAN'T READ
17 THIS.

18 Q OKAY.

19 MR. DURANT: OR, MAY I PUBLISH IT TO THE JURY,
20 YOUR HONOR?

21 THE COURT: YES, SIR.

22 MR. DURANT: THIS IS THE STATEMENT OF BRENDA SINGLEY,
23 SPRUCE AVENUE. DATE OF BIRTH, . FIFTY-EIGHT-
24 YEARS-OLD. IN REFERENCE TO AN INCIDENT WHICH OCCURRED AT
25 SPRUCE AVENUE ON OR ABOUT OCTOBER 2ND AT ABOUT TWO

1 O'CLOCK IN THE MORNING. THIS STATEMENT IS GIVEN - GIVEN AT
2 TWO-FIFTY-SEVEN A.M. THAT MORNING.

3 IT SAYS, I CAME HOME AT TWO A.M. HE WAS IN THE HOUSE
4 WHEN I CAME HOME. HE WAS IN THE HALLWAY NEAR THE DINING
5 ROOM. HE HAD A BUTCHER KNIFE IN HIS HAND. HE SAID, MAMA,
6 DON'T SCREAM OR I'LL HAVE TO KILL YOU. I SAID, PLEASE DON'T
7 KILL ME. HE SAID, MAMA, I NEED ALL YOUR MONEY. HE SAID HE
8 KILLED SOMEONE TWO DAYS AGO BECAUSE THEY GOT IN HIS WAY. HE
9 TOLD ME TO GET IN MY BED, ON MY STOMACH. HE TIED ME UP, HE
10 PUT SOMETHING OVER MY MOUTH, AND SAID GIVE ME TWENTY MINUTES
11 BEFORE YOU CALL THE POLICE. HE LEFT, THEN CAME BACK ONE TIME
12 TO CHECK ON ME. I DIDN'T MOVE. I HEARD THE DOOR OPEN A
13 SECOND TIME. I FIGURED HE WAS GONE. I GOT UP OUT OF THE
14 BED. I WENT OUTSIDE AND SCREAMED FOR HELP. I TRIED TO CALL
15 911, BUT IT WOULDN'T GO THROUGH. THEN I WENT NEXT DOOR TO MY
16 NEIGHBOR'S HOUSE.

17 YOU WERE ASKED, HOW MUCH MONEY DID YOUR SON TAKE? YOU
18 ANSWERED, TWO HUNDRED DOLLARS.

19 YOU WERE ASKED, DO YOU KNOW WHO DID THIS? ANSWER, MY
20 SON, FERRIS SINGLEY.

21 Q THAT'S YOUR STATEMENT?

22 A YES, SIR.

23 Q AND THAT WAS GIVEN---

24 A YES, SIR.

25 Q ---AN HOUR AFTER, IS THAT CORRECT?

BRENDA ANN PARKS SINGLEY, REDIRECT EXAMINATION BY MR. DURANT:

1 A YES, SIR.

2 Q AND YOU DON'T DISPUTE THAT YOUR SON, FERRIS SINGLEY, HAS
3 SOME LEGAL INTEREST IN THAT - THE PREMISES YOU LIVE IN, IS
4 THAT CORRECT?

5 A NO, I DON'T DISPUTE THAT.

6 Q OKAY. DOES HE HAVE A - A POSSESSORY INTEREST IN THAT
7 PLACE? DID HE ACTUALLY LIVE THERE?

8 A HE LIVED THERE---

9 Q I'M NOT TALKING ABOUT IN APRIL. DID HE LIVE THERE IN
10 OCTOBER OF 2005?

11 A NO, SIR, HE DID NOT.

12 Q AND HE DIDN'T LIVE THERE BECAUSE YOU HAD PUT HIM OUT OF
13 THE HOUSE, CORRECT?

14 A THAT'S RIGHT. IN APRIL, YES, SIR.

15 Q OKAY. AND HE HAD NOT LIVED THERE SINCE APRIL?

16 A NO, SIR.

17 Q AND SINCE APRIL YOU HAVE LIVED THERE WITH WHOM?

18 A BY MYSELF. I LIVE BY MYSELF.

19 Q THANK YOU.

20 MR. DURANT: I HAVE NOTHING FURTHER OF THIS WITNESS.

21 THE COURT: THANK YOU. ANY RE-CROSS?

22 MS. SOLAR: NO, YOUR HONOR.

23 THE COURT: THANK YOU. MS. SINGLEY, YOU MAY STEP DOWN.

24 (WITNESS STEPPED DOWN.)

25 MR. DURANT: THE STATE WOULD CALL---

BRENDA ANN PARKS SINGLEY, REDIRECT EXAMINATION BY MR. DURANT:

1 THE COURT: NO, WE'RE GONNA TAKE A QUICK BREAK---

2 MR. DURANT: OKAY.

3 THE COURT: ---SOLICITOR. MR. FOREMAN, LADIES AND
4 GENTLEMEN OF THE JURY, WE'RE GONNA TAKE ABOUT A
5 FIFTEEN-MINUTE BREAK.

6 I REMIND YOU THAT DURING THE BREAK YOU ARE NOT TO
7 DISCUSS THIS CASE WITH ANYONE, INCLUDING YOUR FELLOW JURORS.

8 I WOULD ASK YOU, MR. FOREMAN, IF YOU WOULD GET A
9 CONSENSUS FOR ME ON HOW LATE YOU-ALL WILL ALLOW ME TO WORK
10 TONIGHT.

11 AND REMEMBER TO KEEP AN OPEN MIND ABOUT THIS CASE UNTIL
12 I INSTRUCT YOU TO BEGIN YOUR DELIBERATIONS.

13 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, YOU MAY
14 NOW GO WITH THAT BAILIFF.

15 (WHEREUPON, JURY LEFT THE COURTROOM AT 4:16 P.M.)

16 THE COURT: ALL RIGHT, COURT WILL BE IN RECESS FIFTEEN
17 MINUTES.

18 MR. DURANT: THANK YOU, YOUR HONOR.

19 THE COURT: YES, SIR.

20 (WHEREUPON, COURT RECESSED AT 4:17 P.M.)

21 (WHEREUPON, COURT RESUMED AT 4:30 P.M.)

22 THE COURT: PLEASE BE SEATED. READY FOR OUR JURY,
23 SOLICITOR?

24 MR. DURANT: YES, SIR, YOUR HONOR.

25 THE COURT: MS. SOLAR?

1 MS. SOLAR: YES, YOUR HONOR.

2 THE COURT: MR. BAILIFF, WOULD YOU BRING US OUR JURY,
3 PLEASE?

4 (WHEREUPON, JURY ENTERED THE COURTROOM AT 4:31 P.M.)

5 BAILIFF: JURORS ARE ALL SEATED, YOUR HONOR.

6 THE COURT: THANK YOU, MADAME BAILIFF. MR. FOREMAN, DID
7 YOU-ALL COME UP WITH A CONSENSUS OF HOW LATE YOU'D BE WILLING
8 TO WORK?

9 JURY FOREMAN: YES, YOUR HONOR. FIVE-THIRTY.

10 THE COURT: ALL RIGHT, SIR, THAT'S FINE. SOLICITOR, YOU
11 MAY CALL YOUR NEXT WITNESS.

12 MR. DURANT: THANK YOU, YOUR HONOR. THE STATE WOULD
13 CALL RICKY VAN ALLEN.

14 THE COURT: MR. VAN ALLEN, COME ON, PLEASE.

15 (WITNESS FORWARD.)

16 CLERK (MS. NELSON): SIR, WILL YOU PLACE YOUR LEFT HAND
17 ON THE BIBLE AND RAISE YOUR RIGHT HAND PLEASE?

18 (WHEREUPON, RICKY VAN ALLEN WAS DULY SWORN AND TESTIFIED
19 AS FOLLOWS:)

20 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
21 NAME FOR THE RECORD AND SPELL YOUR LAST PLEASE.

22 MR. VAN ALLEN: RICKY VAN ALLEN - V-A-N, A-L-L-E-N.

23 RICKY VAN ALLEN, DIRECT EXAMINATION BY MR. DURANT:

24 Q GOOD AFTERNOON, MR. VAN ALLEN. COULD YOU TELL THE JURY
25 HOW OLD YOU ARE?

1 A FORTY-THREE.

2 Q AND WHERE ARE YOU EMPLOYED?

3 A DANIEL SUGGS (PHONETIC) - SUGGS TRUCK LEASING.

4 Q AND WHAT DO YOU DO WITH---

5 A HE'S A MECHANIC.

6 Q HOW LONG HAVE YOU BEEN WORKING WITH DANIEL SUGGS?

7 A FOR ONE YEAR.

8 Q AND COULD YOU TELL THE JURY WHERE YOU LIVED IN
9 OCTOBER OF 2005?

10 A SPRUCE STREET. IT - WHICH IS MORNINGSSIDE
11 SUBDIVISION.

12 Q OKAY. AND WHERE IS THAT HOUSE LOCATED IN RELATION TO
13 MS. BRENDA SINGLEY'S HOME?

14 A RIGHT NEXT DOOR.

15 Q AND HOW LONG HAD YOU LIVED AT THAT ADDRESS?

16 A TWENTY-FIVE, TWENTY-SIX YEARS.

17 Q AND YOU DON'T LIVE THERE ANY LONGER---

18 A NO, SIR.

19 Q ---IS THAT CORRECT?

20 A NO.

21 Q BUT YOU WERE LIVING THERE ON OCTOBER 2 OF 2005?

22 A YES, SIR.

23 Q OKAY. AND DO YOU RECALL HOW YOU WERE AWAKENED IN THE
24 EARLY MORNING OF OCTOBER 2, 2005?

25 A YES, SIR, I REMEMBER.

1 Q COULD YOU TELL THE JURY ABOUT THAT?

2 A WELL, I WAS SLEEPING REAL GOOD UNTIL MS. SINGLEY COME TO
3 MY DOOR, BANGING ON IT, HOLLERING - CALL THE POLICE, CALL THE
4 POLICE. MY SON TRIED TO MURDER ME.

5 MS. SOLAR: OBJECTION. THIS IS HEARSAY, YOUR HONOR.

6 MR. DURANT: YOUR HONOR, I---

7 THE COURT: YES, MA'AM. I WILL ALLOW IT UNDER 803,
8 UM---

9 MR. DURANT: OKAY.

10 THE COURT: ---803(2)?

11 MR. DURANT: TWO, I BELIEVE.

12 Q AND, UH, WHAT DID YOU DO WHEN YOU HEARD HER HOLLERING
13 OUT THERE?

14 A I GOT UP, I TOLD HER TO HOLD ON A MINUTE, LET ME GET MY
15 CLOTHES ON. THEN I OPENED UP THE DOOR AND I LET HER COME IN.
16 I GOT ON THE TELEPHONE, I CALLED 911.

17 Q WHAT WAS HER STATE OF MIND AT THE TIME?

18 A SHE WAS FRANTIC, CRYING, UPSET.

19 Q AND, UH, DID SHE - WAS SHE ABLE TO TELL YOU WHAT HAD
20 HAPPENED?

21 A SHE JUST TOLD ME THAT HER SON TRIED TO MURDER HER.

22 Q AND DO YOU RECALL WHICH SON SHE SAID?

23 A FERRIS.

24 Q WHAT DID YOU DO WHEN SHE TOLD YOU WHAT HAD HAPPENED?

25 A I GOT ON THE TELEPHONE AND I WAS ON THE PHONE WITH THE

1 911 DISPATCHER WHILE I WAS TALKING - TALKING TO HER, TRYING
2 TO GET INFORMATION.

3 Q OKAY. SO YOU WERE TALKING TO 911 OPERATOR AND SHE WAS
4 TELLING YOU THE SAME - WHAT HAPPENED AT THE SAME TIME? YOU
5 WERE KIND OF PASSING IT ON?

6 A RIGHT - EXACTLY.

7 Q OKAY.

8 A TRYING TO LISTEN TO ONE PERSON AND ANOTHER PERSON AT THE
9 SAME TIME.

10 Q OKAY.

11 MR. DURANT: YOUR HONOR, WITH THE COURT'S PERMISSION,
12 I'D LIKE TO PLACE WHAT'S PREVIOUSLY BEEN MARKED AS STATE'S
13 EXHIBIT NUMBER THIRTEEN INTO THE C-D PLAYER AND PLAY JUST
14 ENOUGH OF IT FOR MR. VAN ALLEN TO BE ABLE TO IDENTIFY HIS
15 VOICE.

16 THE COURT: ALL RIGHT, SUBJECT TO PREVIOUS OBJECTIONS.

17 MS. SOLAR: THANK YOU, YOUR HONOR.

18 THE COURT: YES, MA'AM.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTEEN WAS PLACED
20 IN C-D PLAYER AND PLAYED IN PART IN THE PRESENCE OF THE
21 JURY.)

22 Q YOU RECOGNIZE THAT VOICE THERE?

23 A YES, SIR. THAT'S ME.

24 Q OKAY. AND THAT VOICE - THE FEMALE VOICE IN THE
25 BACKGROUND - WHOSE VOICE WAS THAT?

1 A UH - 911 DISPATCHER.

2 Q OKAY. I'M NOT TALKING ABOUT THE ONE YOU WERE TALKING -
3 TALKING TO ON THE PHONE, BUT THE ONE IN THE BACKGROUND.

4 A OH, THAT WAS BRENDA SINGLEY.

5 Q OKAY. AND, UM - YOU'VE HEARD THIS---

6 A YES, SIR.

7 Q ---CALL BEFORE, HAVE YOU NOT?

8 A YES, SIR.

9 Q AND DOES THIS RECORDING ACCURATELY REFLECT YOUR
10 TELEPHONE CONVERSATION WITH THE 911 OPERATOR---

11 A YES, SIR.

12 Q ---THAT MORNING?

13 MR. DURANT: YOUR HONOR, AT THIS TIME WE WOULD OFFER
14 STATE'S EXHIBIT THIRTEEN INTO EVIDENCE.

15 THE COURT: STATE'S THIRTEEN'S IS INTO EVIDENCE, SUBJECT
16 TO DEFENSE PREVIOUS OBJECTIONS.

17 MS. SOLAR: THANK YOU, YOUR HONOR.

18 (WHEREUPON, STATE'S EXHIBIT NO. 13 WAS ADMITTED INTO
19 EVIDENCE.)

20 MR. DURANT: PERMISSION TO PLAY THE REMAINDER OF THE
21 TAPE, YOUR HONOR?

22 THE COURT: YES, SIR.

23 MR. DURANT: THANK YOU, YOUR HONOR.

24 (WHEREUPON, REMAINDER OF STATE'S EXHIBIT NUMBER THIRTEEN
25 WAS PLAYED IN THE PRESENCE OF THE JURY.)

1 Q AND THAT WAS WHEN THE POLICE ARRIVED---

2 A YES, MA'AM (SIC).

3 Q ---IS THAT CORRECT?

4 A THAT'S CORRECT.

5 Q YOU HAD MENTIONED SOMETHING IN THE CALL ABOUT SHE HAD
6 TIED - BEEN TIED UP?

7 A RIGHT.

8 Q DO YOU - WHAT DO YOU REMEMBER ABOUT THAT?

9 A SHE WAS TIED UP WITH GARMENTS AROUND HER WRISTS.

10 Q OKAY. ANYTHING AROUND HER NECK THAT YOU REMEMBER?

11 A NO, I DON'T THINK SO.

12 Q YOU ALSO INDICATED SHE WAS BLEEDING ON THE TAPE, DIDN'T
13 YOU?

14 A YEAH, SHE HAD LIKE A LITTLE SMALL MINOR CUT ON HER ARM.

15 Q OKAY. THANK YOU. COULD YOU PLEASE ANSWER ANY QUESTIONS
16 THAT, UH, MS. SOLAR MAY HAVE FOR YOU?

17 THE COURT: YES, MA'AM?

18 MS. SOLAR: THANK YOU, YOUR HONOR.

19 RICKY VAN ALLEN, CROSS-EXAMINATION BY MS. SOLAR:

20 Q MR. VAN ALLEN, YOU SAID THAT YOU SAW HER WRISTS TIED?

21 A YES, MA'AM.

22 Q CAN YOU TELL ME WHAT IT WAS TIED WITH?

23 A UH - UH, GARMENTS.

24 Q GARMENTS? OKAY. THAT'S IT, JUST GARMENTS? WAS THERE
25 TAPE THERE AS WELL?

1 A YOU KNOW - I MEAN, I SEEN THE GARMENTS AROUND HER WRIST,
2 BUT I REALLY COULDN'T TELL WHETHER THERE WAS ANY TAPE THERE
3 OR NOT.

4 Q THANK YOU.

5 MS. SOLAR: NO FURTHER QUESTIONS.

6 THE COURT: THANK YOU, MR. VAN - OH, ANYTHING ON
7 REDIRECT, SOLICITOR?

8 MR. DURANT: NO, SIR, YOUR HONOR. I'D ASK THAT
9 MR. VAN ALLEN BE EXCUSED IF THERE'S NO OBJECTION.

10 MS. SOLAR: NO OBJECTION, YOUR HONOR.

11 THE COURT: THANK YOU. MR. VAN ALLEN, YOU MAY STEP DOWN
12 AND YOU MAY BE EXCUSED.

13 MR. VAN ALLEN: OKAY.

14 (WITNESS EXCUSED.)

15 THE COURT: SOLICITOR, YOU MAY CALL YOUR NEXT WITNESS.

16 MR. DURANT: THE STATE WOULD CALL TINA KIKER.

17 THE COURT: OFFICER KIKER, COME AROUND, PLEASE.

18 (WITNESS FORWARD.)

19 CLERK (MS. NELSON): PLACE YOUR LEFT HAND ON THE BIBLE
20 AND RAISE YOUR RIGHT HAND PLEASE.

21 (WHEREUPON, TINA KIKER WAS DULY SWORN AND TESTIFIED AS
22 FOLLOWS:)

23 CLERK (MS. NELSON): PLEASE BE SEATED. SPEAK - PLEASE,
24 UH, STATE YOUR FULL NAME, SPELL YOUR LAST NAME FOR THE
25 RECORD.

TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 MS. KIKER: MY NAME IS TINA KIKER - K-I-K-E-R.

2 TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

3 Q ALL RIGHT. COULD YOU TELL THE JURY WHERE YOU'RE
4 EMPLOYED, MS. KIKER?

5 A I WORK FOR THE, UH, NORTH CHARLESTON POLICE DEPARTMENT.

6 Q AND HOW LONG HAVE YOU BEEN WITH THE---

7 A A LITTLE OVER FOUR YEARS NOW.

8 Q WHAT ARE YOUR CURRENT DUTIES?

9 A ROUTINE PATROL.

10 Q WERE YOU DOING THE SAME THING IN OCTOBER OF 2005?

11 A YES, I WAS.

12 Q IN THAT CAPACITY, DID YOU HAVE AN OCCASION TO RESPOND TO
13 A CALL AT SPRUCE IN THE EARLY MORNING OF OCTOBER 2 - 2ND
14 OF 2005?

15 A YES, I DID.

16 Q AND, UH, IS THAT ADDRESS LOCATED IN THE CITY OF
17 NORTH CHARLESTON?

18 A IT IS.

19 Q AND IS IT ALSO IN THE COUNTY OF CHARLESTON?

20 A YES.

21 Q DO YOU RECALL WHAT TIME IT WAS WHEN YOU ARRIVED AT THE
22 SCENE?

23 A APPROXIMATELY TWO-THIRTY - A LITTLE AFTER TWO-THIRTY.

24 Q WAS IT DARK AT THE TIME?

25 A IT WAS.

1 Q WERE YOU THE FIRST OFFICER TO ARRIVE?

2 A NO, YOUR HONOR - NO, SIR.

3 Q ALL RIGHT. DO YOU RECALL WHO - WHO ELSE WAS THERE?

4 A UH - CORPORAL FLEMING AND, UH, HIS TRAINEE AT THE TIME,
5 YVONNE VAUGHN.

6 Q OKAY. I HAND YOU WHAT'S PREVIOUSLY BEEN MARKED AS
7 STATE'S EXHIBIT NUMBER TWELVE, AND ASK IF YOU RECOGNIZE THAT
8 PHOTOGRAPH?

9 A YES, IT'S A - YES, I DO.

10 Q AND WHAT IS THAT?

11 Q IT'S AN AERIAL PHOTOGRAPH OF THE AREA - THE MORNINGSIDE
12 AREA - PARTICULARLY SPRUCE STREET AND SINGLEY.

13 Q OKAY. AND DOES THAT, UH, PHOTOGRAPH FAIRLY AND
14 ACCURATELY DEPICT THE BUILDINGS AND STREETS AS THEY - IN THE
15 AREA OF SPRUCE STREET IN NORTH CHARLESTON?

16 A YES, IT DOES.

17 MR. DURANT: DO YOU HAVE ANY OBJECTION?

18 MS. SOLAR: NO, YOUR HONOR.

19 MR. DURANT: WE WOULD OFFER STATE'S, UH - WHAT'S THE
20 NUMBER ON THAT?

21 THE COURT: TWELVE.

22 MR. DURANT: IS IT TWELVE, YOUR HONOR?

23 THE COURT: I THOUGHT THAT'S WHAT YOU SAID.

24 MR. DURANT: OKAY. YEAH, STATE'S TWELVE. WE WOULD
25 OFFER STATE'S TWELVE INTO EVIDENCE AT THIS TIME.

1 **THE COURT:** ALL RIGHT. STATE'S TWELVE IN EVIDENCE
2 WITHOUT OBJECTION?

3 **MS. SOLAR:** YES, YOUR HONOR.

4 **THE COURT:** ALL RIGHT. THANK YOU.

5 (WHEREUPON, STATE'S EXHIBIT NO. 12 WAS ADMITTED INTO
6 EVIDENCE.)

7 Q WHAT DID YOU DO WHEN YOU ARRIVED AT THE SCENE? OR, WHAT
8 DID YOU OBSERVE WHEN YOU ARRIVED AT THE SCENE?

9 A WHEN I ARRIVED ON SCENE, I OBSERVED MS. SINGLEY STANDING
10 IN HER DRIVEWAY, NEAR HER VEHICLE.

11 Q AND WHAT WAS HER MENTAL OR EMOTIONAL STATE AT THE TIME?

12 A SHE WAS EXTREMELY UPSET. SHE WAS CRYING, SHE HAD
13 DIFFICULTY BREATHING. UM, SHE WAS UNABLE AT THAT TIME TO
14 COMMUNICATE WHAT HAD HAPPENED.

15 Q DID YOU NOTICE ANY PHYSICAL - PHYSICAL INJURIES?

16 A UH, THERE WAS A SMALL CUT ON HER ARM.

17 Q WAS SHE EVENTUALLY ABLE TO TELL YOU WHAT HAPPENED?

18 A AS FAR AS THE INCIDENT IN---

19 Q YES.

20 A OH - YES.

21 Q OKAY. AND WHAT DID YOU DO AFTER SHE TOLD YOU WHAT HAD
22 HAPPENED?

23 A UM---

24 Q IN TERMS OF DID YOU CALL ANY - CALL ANYBODY OR...

25 A WELL, LIKE I SAID - LIKE I SAID EARLIER,

1 CORPORAL FLEMING WAS ALSO ON THE SCENE. OUR SUPERVISOR WAS
2 NOTIFIED OF THE SITUATION. HE RESPONDED ON THE SCENE. E-M-S
3 RESPONDED TO THE SCENE.

4 Q OKAY. DID YOU CALL E-M-S---

5 A YES.

6 Q ---YOURSELF?

7 A UH-HUH.

8 Q WHAT DID YOU DO AFTER E-M-S ARRIVED?

9 A UM - E-M-S ARRIVED AND, UH, WANTED TO EVALUATE HER. AT
10 THE TIME THAT I MADE CONTACT WITH HER, SHE HAD A PAIR OF
11 JOGGING PANTS TIED AROUND ONE OF HER WRISTS, AND SHE HAD A
12 PAIR OF ELVIS PAJAMA PANTS TIED AROUND HER NECK.

13 THESE ITEMS WERE REMOVED TO FACILITATE E-M-S'S
14 EVALUATION OF HER---

15 Q OKAY.

16 A ---PHYSICAL CONDITION.

17 Q BUT THOSE ITEMS WERE ACTUALLY TIED AROUND HER WHEN YOU
18 ARRIVED?

19 A YES, THEY WERE.

20 Q AND...

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
22 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
23 HEARING OF THE JURY, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 (WHEREUPON, STATE'S EXHIBIT NOS. 19 AND 20 WERE MARKED

1 FOR IDENTIFICATION.)

2 Q I'M HANDING YOU WHAT'S PREVIOUSLY BEEN MARKED AS STATE'S
3 EXHIBIT NUMBER NINETEEN FOR IDENTIFICATION PURPOSES. DO
4 THESE LOOK FAMILIAR TO YOU?

5 A YES. THOSE ARE THE JOGGING PANTS.

6 Q AND THOSE WERE TIED WHERE?

7 A AROUND HER WRIST.

8 Q OKAY. AND WITH REGARD TO - THIS WOULD BE STATE'S
9 EXHIBIT NUMBER TWENTY. I'LL SHOW THESE TO YOU AND ASK IF YOU
10 RECOGNIZE THAT ITEM?

11 A YES. THOSE ARE THE ELVIS PAJAMA PANTS.

12 Q AND WHERE WERE THESE?

13 A THEY WERE AROUND HER NECK.

14 Q TIED AROUND HER NECK?

15 A UH-HUH.

16 Q I SEE ON BOTH OF THESE EXHIBITS THERE APPEAR TO BE SOME
17 PIECES OF TAPE AS WELL. DO YOU---

18 A WHEN - YES. WHEN WE REMOVED THE JOGGING PANTS, SHE HAD
19 ALSO WRAPPED AROUND HER WRIST PIECES OF MEDICAL TAPE.

20 Q OKAY. AND THOSE WERE REMOVED FOR WHAT PURPOSE?

21 A TO FACILITATE E-M-S'S EVALUATION. ENABLE THEM TO TAKE
22 BLOOD PRESSURE, PULSE, AND THOSE SORTS OF THINGS.

23 Q DID YOU - WERE YOU - DID YOU SIT WITH HER IN THE
24 AMBULANCE?

25 A I DID.

1 Q THEN WHAT DID YOU DO IN THE AMBULANCE WHILE YOU WERE
2 SITTING THERE WITH HER?

3 A ATTEMPTING TO GET HER TO CALM DOWN ENOUGH TO TAKE A
4 WRITTEN STATEMENT FROM HER.

5 Q AND DID YOU TAKE A WRITTEN STATEMENT FROM HER?

6 A YES, I DID.

7 Q AND THAT WOULD PREVIOUSLY BE WHAT'S BEEN MARKED AS
8 STATE'S EXHIBIT NUMBER EIGHTEEN, IS THAT CORRECT?

9 A YES.

10 Q OKAY. THAT'S A COPY OF IT. DID YOU EVER HAVE OCCASION
11 TO LOOK AT THE RESIDENCE - THE EXTERIOR OF THE RESIDENCE THAT
12 NIGHT?

13 A YES. ONCE WE ASCERTAINED WHAT HAD ACTUALLY HAPPENED
14 FROM HER, WE BEGAN TO SURVEY THE SCENE. WE WERE TRYING TO,
15 UH, YOU KNOW, LOCATE ANY ADDITIONAL EVIDENCE.

16 Q OKAY. DID YOU NOTICE ANYTHING - UH, WERE YOU ABLE TO
17 DETERMINE A POSSIBLE POINT OF ENTRY?

18 A UM - AT THAT TIME, THE POSSIBLE POINT OF ENTRY - I
19 NOTICED A SMALL STEPLADDER OUTSIDE OF A BACK WINDOW AT THE
20 REAR OF THE RESIDENCE.

21 Q OKAY. AND, UH, DO YOU KNOW IF A WEAPON WAS LOCATED
22 ANYWHERE?

23 COURT REPORTER: I'M SORRY? DO YOU KNOW WHAT?

24 Q DO YOU KNOW IF A WEAPON WAS LOCATED ANYWHERE INSIDE THE
25 HOUSE?

TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 A INSIDE THE HOUSE, YES. WE LOCATED A - A BUTCHER'S KNIFE
2 WITH A WOODEN HANDLE ON THE FOOT OF THE BED.

3 Q ON THE WHERE?

4 A FOOT OF MS. SINGLEY'S BED - IN HER BEDROOM.

5 Q OKAY. AND THAT WOULD BE - I'LL SHOW YOU WHAT'S
6 PREVIOUSLY BEEN MARKED AS STATE'S EXHIBIT NUMBER SEVENTEEN,
7 AND ASK IF YOU RECOGNIZE THAT ITEM?

8 A YES.

9 Q THAT WAS WHERE IN THE---

10 A ON - ON THE FOOT OF HER BED, IN HER BEDROOM.

11 Q DOES CRIME - DID CRIME SCENE RESPOND TO THE INCIDENT AS
12 WELL?

13 A YES, IT DID.

14 Q WHERE DID YOU GO?

15 A WHERE DID I GO?

16 Q THAT EVENING, AFTER THE - THE AMBULANCE LEFT?

17 A UH - ONCE CRIME SCENE RESPONDED, I, UH - WE COLLECTED
18 THE EVIDENCE AND THEN I FOLLOWED MS. SINGLEY TO THE HOSPITAL.

19 Q DID YOU COLLECT THE EVIDENCE, OR DID YOU GO THROUGH WITH
20 OFFICER HALLMAN?

21 A I WENT THROUGH WITH OFFICER - OFFICER HALLMAN. I
22 DIDN'T---

23 Q OKAY. INSIDE THE HOUSE?

24 A CORRECT.

25 Q UM - AND THEN YOU WENT WHERE?

TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 A AND THEN I WENT TO SAINT FRANCIS TO OBTAIN ADDITIONAL
2 INFORMATION FROM MS. SINGLEY.

3 Q WHILE AT SAINT FRAN- -- SAINT FRANCIS, UM, WHAT
4 INFORMATION DID YOU RECEIVE CONCERNING THE POSSIBLE
5 WHEREABOUTS OF THE VICTIM'S SON, FERRIS SINGLEY?

6 A MS. SINGLEY - MS. BRENDA SINGLEY STATED THAT SHE DIDN'T
7 KNOW THE WHEREABOUTS OF HER SON, FERRIS. HOWEVER---

8 Q DID YOU OBTAIN SOME INFORMATION AS TO WHERE HE MAY BE?

9 A YES. SHE GAVE ME A PHONE NUMBER FOR SISTER,
10 ETHEL SINGLEY.

11 Q AND BASED UPON THAT, WHAT LOCATION DID YOU LEARN?

12 A SINGLEY.

13 Q AND WHERE IS SINGLEY IN RELATION TO WHERE
14 MRS. SINGLEY LIVED?

15 A IT'S LITERALLY AROUND THE CORNER.

16 Q WHAT DID YOU DO WITH THAT INFORMATION ONCE YOU OBTAINED
17 IT?

18 A I RELAYED THAT INFORMATION TO MY SERGEANT.

19 Q THAT WOULD BE SERGEANT---

20 A SERGEANT PONTIERI.

21 Q OKAY. WHO WAS STILL AT THE SCENE, IS THAT CORRECT?

22 A CORRECT.

23 Q NOW, WHEN DID YOU LEARN THAT THE DEFENDANT HAD BEEN
24 TAKEN INTO CUSTODY?

25 A UH - MY SERGEANT CONTACTED ME.

1 Q WHERE WERE YOU AT THE TIME?

2 A I WAS STILL AT THE HOSPITAL.

3 Q OKAY. AND WHAT WERE YOU INSTRUCTED TO DO?

4 A I WAS INSTRUCTED TO RESPOND BACK TO THE SCENE AND TAKE
5 CUSTODY OF - OF THE, UH, DEFENDANT.

6 Q OKAY. UM - AND WHEN YOU RESPONDED BACK, WHERE DID YOU
7 GO?

8 A I WENT TO SINGLEY.

9 Q WHAT DID YOU OBSERVE - OR, WHAT HAPPENED WHEN YOU GOT TO
10 SINGLEY?

11 A WHEN I ARRIVED, I OBSERVED, UH, THE DEFENDANT ON THE
12 GROUND, UH, IN FRONT OF THE TRAILER AT SINGLEY.

13 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO TALK TO
14 SERGEANT PONTIERI?

15 A I DID. HE BRIEFED ME ON THE SITUATION BEFORE I TOOK
16 CUSTODY.

17 Q DO YOU KNOW WHETHER OR NOT THE DEFENDANT HAD BEEN
18 ADVISED OF HIS MIRANDA RIGHTS?

19 A I WAS TOLD BY SERGEANT PONTIERI THAT HE HAD.

20 Q WHAT DID YOU DO WHEN YOU ARRIVED ON THE SCENE? WHAT
21 DID - WHERE WERE YOU? WHAT DID SERGEANT PONTIERI WANT YOU
22 TO DO?

23 A TAKE THE CUSTODY OF THE SUSPECT AND TRANSPORT HIM TO
24 CHARLESTON COUNTY DETENTION CENTER.

25 Q OKAY. AND DID YOU DO THAT?

1 A YES, I DID.

2 Q AND DID YOU HAVE ANY CONVERSATION WITH HIM WHILE YOU
3 WERE TRANSPORTING HIM?

4 A I DID.

5 Q WHAT WAS HIS, UM - WAS HE SPEAKING COHERENT?

6 A YES, HE WAS.

7 Q WHAT WAS HIS STATE OF MIND AT THE TIME?

8 A HE WAS, UM, VERY COOPERATIVE. HE WAS, UH, A LITTLE -
9 I'M GONNA SAY APOLOGETIC. UM - UM, AND, UH, VERY
10 COOPERATIVE.

11 Q DID YOU HAVE ANY DIFFICULTY UNDERSTANDING HIM?

12 A NO.

13 Q DID HE HAVE ANY DIFFICULTY UNDERSTANDING YOU?

14 A NO.

15 Q DID, UH, YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO
16 YOU?

17 A NO.

18 Q DID YOU THREATEN HIM IN ANY WAY TO GET HIM TO TALK TO
19 YOU?

20 A NO.

21 Q DID YOU OFFER HIM LENIENCY TO GET HIM TO TALK TO YOU?

22 A NO.

23 Q WHAT DID YOU TALK TO HIM ABOUT?

24 MS. SOLAR: YOUR HONOR, I OBJECT AT THIS POINT.

25 THE COURT: YES, MA'AM. SUBJECT TO PRIOR OBJECTIONS,

1 I'LL REAFFIRM MY PREVIOUS RULING.

2 MS. SOLAR: THANK YOU, YOUR HONOR.

3 THE COURT: YES, MA'AM - YES, MA'AM.

4 Q AND WHAT DID YOU TALK TO HIM ABOUT?

5 A UM - I ASKED HIM FOR CLARIFICATION ON THE STATEMENT THAT
6 MS. SINGLEY SAID - THAT SHE LINKED TO HIM ABOUT KILLING
7 SOMEONE TWO DAYS AGO.

8 Q OKAY. THAT STATE - THE STATEMENT THAT SHE SAID HE HAD
9 MADE, THAT WAS IN HER WRITTEN STATEMENT---

10 A THAT'S CORRECT.

11 Q ---IS THAT CORRECT? AND WHAT WAS HIS RESPONSE WHEN YOU
12 ASKED HIM ABOUT THAT?

13 A HE STATED THAT THAT WAS NOT TRUE. THAT, UH, HE JUST
14 DID - TOLD HER THAT TO SCARE HER.

15 Q UH - DID YOU ASK HIM ANYTHING ELSE?

16 A I ASKED HIM, UM - ABOUT THE - HIS POINT OF ENTRY.
17 WHERE - WHERE HE HAD ACTUALLY ENTERED THE RESIDENCE. AND,
18 UH, HE STATED, THROUGH THE BACK WINDOW.

19 MR. DURANT: COURT'S INDULGENCE FOR JUST ONE MOMENT?

20 THE COURT: YES, SIR.

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
22 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
23 HEARING OF THE JURY, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 Q OFFICER KIKER, I HAND YOU WHAT'S PREVIOUSLY BEEN MARKED

1 AS STATE'S EXHIBITS ONE THROUGH ELEVEN. I'D ASK YOU TO LOOK
2 THROUGH THOSE. SEE IF YOU RECOGNIZE THOSE PHOTOGRAPHS.

3 (WITNESS REVIEWING PHOTOGRAPHS.)

4 A YES.

5 Q AND DO EACH OF THOSE - ALL OF THOSE PHOTOGRAPHS FAIRLY
6 AND ACCURATELY DEPICT THE PREMISES AT SINGLEY - EXCUSE
7 ME, SPRUCE - AS YOU FOUND IT ON THE EARLY MORNING OF
8 OCTOBER 2, 2005?

9 A YES, ALL EXCEPT FOR ONE. THE CLOTHING ON THE BACK OF
10 THE CAR, WHICH IS WHERE I PLACED IT.

11 Q OKAY.

12 MR. DURANT: YOUR HONOR, AT THIS TIME WE WOULD OFFER
13 STATE'S EXHIBITS ONE THROUGH ELEVEN INTO EVIDENCE.

14 MS. SOLAR: WE HAVE NO OBJECTION. YOUR HONOR.

15 THE COURT: STATE'S ONE THROUGH ELEVEN INTO EVIDENCE
16 WITHOUT OBJECTION.

17 (WHEREUPON, STATE'S EXHIBIT NOS. 1 THROUGH 11 WERE
18 ADMITTED INTO EVIDENCE.)

19 MR. DURANT: THANK YOU.

20 Q COULD USE STEP DOWN AND...

21 (WHEREUPON, WITNESS STEPPED DOWN FROM THE WITNESS STAND
22 AND AROUND TO THE FRONT OF THE WITNESS STAND.)

23 Q IF YOU WOULD, THIS IS STATE'S EXHIBIT ONE - NUMBER ONE.
24 COULD YOU PLEASE TELL THE JURY WHAT THIS IS A PICTURE OF?
25 AND THIS IS THE BUTTON TO PUSH.

TINA KIKER, DIRECT EXAMINATION BY MR. DURANT:

1 A THANKS.

2 Q OKAY.

3 A OKAY, THIS IS SPRUCE. IT'S MS. SINGLEY'S
4 RESIDENCE. THIS IS HER VEHICLE---

5 COURT REPORTER: COULD YOU STAND CLOSER TO THE
6 MICROPHONE?

7 MS. KIKER: I'M SORRY.

8 A THIS IS HER VEHICLE THERE.

9 THE COURT: AND MS. - OFFICER, YOU MAY HAVE TO KEEP YOUR
10 VOICE UP A LITTLE BIT.

11 MS. KIKER: OKAY.

12 Q YEAH. WHY DON'T YOU - WHY DON'T YOU STAND OVER HERE,
13 EVEN BETTER, AND TALK INTO THE - INTO THE MICROPHONE?

14 A THAT THERE IS MS. SINGLEY'S RESIDENCE, SPRUCE.
15 THAT'S HER VEHICLE WHERE SHE WAS STANDING - PROXIMITY - WHEN
16 I ARRIVED.

17 THE CLOTHING THERE IS WHAT I MOVED OFF OF HER TO
18 FACILITATE THE EVALUATION BY E-M-S.

19 AND LOCATED HERE ON THE GROUND - IF YOU CAN KIND OF SEE
20 IT - IS A PIECE OF WHITE MEDICAL TAPE.

21 Q OKAY. DO YOU KNOW WHERE MR. VAN ALLEN'S HOUSE IS?

22 A UM, I BELIEVE IT MIGHT HAVE - I'M NOT SURE WHICH SIDE HE
23 LIVES ON, BUT IT WOULD HAVE BEEN---

24 Q BUT IT'S EITHER THE LEFT SIDE---

25 A ---CORRECT, RIGHT NEXT DOOR.

1 Q ---OR THE RIGHT SIDE? OKAY. I'M NOW REFERRING TO
2 STATE'S EXHIBIT NUMBER TWO.

3 A THAT IS A CLOSE-UP PHOTOGRAPH OF WHAT I JUST POINTED
4 OUT, THE WHITE PIECE OF MEDICAL TAPE THERE ON THE GROUND.

5 Q OKAY. STATE'S EXHIBIT NUMBER THREE?

6 A THOSE ARE THE GARMENTS THAT I REMOVED FROM - THOSE ARE
7 PAJAMA PANTS FROM AROUND HER NECK, THE JOGGING PANTS FROM
8 AROUND HER WRIST, AND THE WHITE MEDICAL TAPE ALSO THAT WAS
9 UNDERNEATH THE JOGGING PANTS.

10 Q OKAY. AND THAT WAS - HER WRISTS WERE BOUND WITH THE
11 TAPE, AND THEN THE - THE JOGGING PANTS WERE OVER THAT---

12 A CORRECT.

13 Q ---IS THAT CORRECT? UM - AND WHO PUT THOSE ITEMS ON THE
14 CAR?

15 A I DID.

16 Q STATE'S EXHIBIT NUMBER FOUR?

17 A THIS IS MS. SINGLEY'S BEDROOM.

18 Q STATE'S EXHIBIT NUMBER FIVE?

19 A CLOSE-UP SHOT OF HER BED. THIS IS WHERE SHE STATED SHE
20 WAS LYING ON HER STOMACH.

21 Q OKAY. STATE'S EXHIBIT NUMBER SIX?

22 A THAT IS THE BUTCHER'S KNIFE THAT WE LOCATED, THAT
23 MS. SINGLEY STATED HE USED TO, UH, THREATEN HER.

24 Q AND THAT IS WHERE IT WAS LOCATED---

25 A THAT WAS---

1 Q ---WHEN YOU WENT INSIDE THE RESIDENCE?

2 A ---EXACTLY.

3 Q OKAY. AND STATE'S EXHIBIT NUMBER SEVEN?

4 A THAT'S A CLOSE-UP PHOTOGRAPH OF THE BUTCHER'S KNIFE.

5 Q STATE'S EXHIBIT EIGHT?

6 A THAT IS THE EXTERIOR OF MS. SINGLEY'S RESIDENCE. THAT
7 IS ONE OF THE CORDLESS PHONES THAT, UH, SHE STATED HE REMOVED
8 FROM THE RESIDENCE.

9 Q STATE'S EXHIBIT NINE?

10 A ANOTHER PHOTOGRAPH - THERE'S - THE - THE CELL PHONE -
11 OR, LIKE THE CORDLESS PHONE THERE. THERE'S ANOTHER ONE
12 LOCATED THERE, IF YOU CAN KIND OF MAKE THAT OUT.

13 Q OKAY. MIGHT BE ABLE TO SEE - UH, THIS - NEXT IS STATE'S
14 EXHIBIT TEN. THAT'S A CLOSE-UP OF THE---

15 A THAT'S A CLOSE-UP OF THE WHITE - WHITE CORDLESS PHONE.

16 Q AND STATE'S EXHIBIT ELEVEN?

17 A CLOSE-UP OF THE BLACK CORDLESS PHONE THAT WAS LOCATED
18 BY IT.

19 Q OKAY. AND FINALLY, STATE'S EXHIBIT NUMBER TWELVE?

20 A THAT'S THE AERIAL PHOTOGRAPH OF THE MORNINGSIDE AREA.
21 THIS IS SPRUCE STREET HERE, AND SINGLEY. MS. SINGLEY'S
22 RESIDENCE IS HERE UNDER THIS KIND OF CLUMP OF TREES. AND THE
23 TRAILER WHERE WE LOCATED MR. SINGLEY WAS RIGHT THERE.

24 Q OKAY. THANK YOU. YOU MAY RETURN TO YOUR SEAT.

25 (WHEREUPON, WITNESS RETURNED TO WITNESS STAND.)

TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 Q WOULD YOU PLEASE ANSWER ANY QUESTIONS MS. SOLAR MAY HAVE
2 FOR YOU?

3 MS. SOLAR: MAY IT PLEASE THE COURT?

4 THE COURT: YES, MA'AM.

5 TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

6 Q OFFICER KIKER, YOU TESTIFIED THAT YOU CAME - UH,
7 RESPONDED TO THE SCENE AROUND TWO-THIRTY?

8 A THAT'S CORRECT.

9 Q OKAY. AND THIS ALLEGEDLY OCCURRED AROUND TWO O'CLOCK?

10 A CORRECT.

11 Q OKAY. WHEN YOU ARRIVED ON THE SCENE, YOU SAID
12 CORPORAL FLEMING AND SOMEBODY ELSE WAS THERE. WHO WAS THAT?

13 A YVONNE VAUGHN, WHO WAS A TRAINEE AT THE TIME.

14 Q A TRAINEE - OKAY. AND WHAT HAD CORPORAL FLEMING DONE TO
15 SECURE THE SCENE?

16 A AT THAT TIME, UM, I DON'T KNOW WHAT MEASURES HE HAD
17 TAKEN TO SECURE THE SCENE. YVONNE VAUGHN, WHO WAS, YOU
18 KNOW - YOU KNOW, THAT OF A TRAINEE STATUS, WAS ATTEMPTING TO
19 GET THE INITIAL INFORMATION FROM MS. SINGLEY.

20 Q OKAY. SO CORPORAL FLEMING - FLEMING AND THE TRAINEE
21 THAT WAS WITH HIM, THEY WERE TALKING TO MRS. SINGLEY?

22 A THE TRAINEE WAS TALKING TO MS. SINGLEY.

23 Q OKAY. SO SHE WAS TALKING TO AN OFFICER, AT LEAST IN
24 TRAINING?

25 A YES.

1 Q AND---

2 A WELL - I'M SORRY, THAT'S NOT CORRECT. THE OFFICER WAS
3 TALKING TO HER.

4 Q OKAY. YOU WERE CONSIDERED THE REPORTING OFFICER TO THE
5 SCENE, CORRECT?

6 A YES.

7 Q OKAY. AND WHAT THAT MEANS IS, WHEN YOU GET TO AN
8 INCIDENT LOCATION, YOU ASSESS THE SITUATION TO DETERMINE WHAT
9 IS NEEDED, CORRECT?

10 A YES.

11 Q OKAY. DID YOU - WERE YOU THE ONE WHO CALLED CRIME SCENE
12 OUT TO THE HOUSE?

13 A I AM NOT, UM, AUTHORIZED TO CALL CRIME SCENE. IT WOULD
14 BE MY SERGEANT'S OR MY SUPERVISOR'S RESPONSIBILITY.

15 Q OKAY. BUT YOU ARE AWARE, OBVIOUSLY, THAT
16 CORPORAL HALLMAN - UH, THAT CRIME SCENE DID RESPOND,
17 CORRECT?

18 A YES.

19 Q DID YOU TALK TO HIM THAT NIGHT?

20 A YES.

21 Q OKAY. AND DO YOU - ARE YOU - DO YOU KNOW IF HE TALKED
22 TO MRS. SINGLEY THAT NIGHT?

23 A I'M UNAWARE OF WHETHER OR NOT HE - HE SPOKE TO HER.

24 Q WHEN YOU ARRIVED ON THE SCENE, CAN YOU TELL ME WHERE
25 MRS. SINGLEY WAS?

1 A WHEN I ARRIVED ON THE SCENE, SHE WAS STANDING BY HER CAR
2 IN THE DRIVEWAY.

3 Q OKAY. AND YOU SPOKE TO HER AT THAT POINT?

4 A YES.

5 Q AND AFTER SPEAKING TO HER, DID YOU GO THROUGH THE HOUSE?

6 A INITIALLY, NO. UM, WHEN I FIRST ARRIVED, SHE WAS SO
7 HYSTERICAL AND SO UPSET THAT WE WERE UNABLE TO GET ANY USEFUL
8 INFORMATION FROM HER.

9 UM, AS I STATED BEFORE, THE TRAINEE WAS ATTEMPTING TO
10 GATHER INFORMATION. MS. SINGLEY WAS UNABLE TO PRO- --
11 PROVIDE ANY USEFUL INFORMATION.

12 UM - WE ALLOWED MS. SINGLEY TO, UH, SMOKE A CIGARETTE,
13 CALM DOWN A LITTLE BIT BEFORE WE COULD GET AN ACCURATE
14 DEPICTION OF WHAT HAPPENED.

15 Q AFTER THAT, DID YOU LOOK THROUGH THE HOUSE?

16 A YES. WE WENT INTO THE - THE RESIDENCE TO SURVEY WHAT
17 HAD HAPPENED.

18 Q DID YOU GO INTO THE BEDROOM?

19 A YES.

20 Q AND YOU SAW A KNIFE ON THE BED?

21 A NO, NOT INITIALLY.

22 Q AT WHAT POINT DID YOU SEE A KNIFE ON THE BED?

23 A UM - IT WASN'T UNTIL A LITTLE LATER. WE HAD ALREADY,
24 UM, INSTITUTED A - A DOG SEARCH - A CANINE SEARCH, UH,
25 LOOKING FOR THE SUSPECT AND A POSSIBLE WEAPON.

1 Q AND SO, INITIALLY, YOU DIDN'T SEE A KNIFE ON THE BED?

2 A NO. HER BEDROOM AT THAT - AT THAT TIME WAS IN A - A
3 STATE OF DISARRAY. IT WAS, UH, DIFFICULT TO LOCATE AT THAT
4 TIME.

5 Q I'M SORRY, CAN YOU SAY THE LAST AGAIN?

6 A I SAID, IT WAS DIFFICULT AT THAT TIME.

7 Q AND WHEN THE CANINE CAME, YOU-ALL LOCATED THE KNIFE ON
8 THE BED?

9 A THE - I'M NOT SURE WHAT THE TIMEFRAME WAS. THE CANINE,
10 UH, TEAM IS - YOU KNOW, BEGAN A SEARCH. THEY WENT INTO
11 ANOTHER DIRECTION. THEY LOCATED A KNIFE, WHICH WAS NOT THE
12 KNIFE.

13 AND WHILE I WAS STILL INSIDE THE RESIDENCE, UM, AFTER ME
14 GOING THROUGH THE RESIDENCE, WE THEN LOCATED THE KNIFE.

15 Q AND THIS IS THE KNIFE THAT YOU'RE TALKING ABOUT?

16 A YES.

17 Q AND THIS IS THE KNIFE THAT YOU TESTIFY THAT YOU, UM, SAW
18 ON THE BED?

19 A YES.

20 Q OKAY. AND ARE YOU AWARE IF ANY FINGERPRINTS WERE TAKEN
21 FROM THE KNIGHT?

22 A I DON'T KNOW.

23 Q DO YOU - ARE YOU AWARE IF ANY FINGERPRINTING WAS DONE AT
24 THE HOUSE?

25 A I DON'T KNOW.

1 Q OKAY. YOU TESTIFIED THAT YOU TOOK A STATEMENT FROM
2 MRS. SINGLEY?

3 A YES.

4 Q AND THAT WAS AT THE HOSPITAL?

5 A NO, THAT WAS IN THE BACK OF THE AMBULANCE BEFORE SHE WAS
6 TRANSPORTED.

7 Q OKAY. AND AT THE SAME TIME, WOULD IT BE FAIR TO SAY
8 EVERYBODY WAS TRYING TO LOCATE FERRIS?

9 A CORRECT.

10 Q OKAY. AND SHE WAS ABLE TO GIVE YOU, UM, SOME
11 INFORMATION AS TO WHERE HE MIGHT BE FOUND?

12 A NO, NOT AT THAT TIME.

13 Q SHE WAS ABLE TO DO THAT AT THE HOSPITAL?

14 A SHE - YES.

15 Q OKAY. AFTER COMING BACK FROM THE HOSPITAL, YOU WERE THE
16 OFFICER WHO TRANSPORTED FERRIS TO THE DETENTION CENTER?

17 A CORRECT.

18 Q OKAY. AND YOU TESTIFIED ON DIRECT THAT HE MADE
19 STATEMENTS TO YOU?

20 A YES.

21 Q OKAY. AND THEY WERE IN RESPONSE TO YOUR QUESTIONING
22 HIM?

23 A THAT'S CORRECT.

24 Q OKAY. AND THEY INVOLVED - THERE WERE STATEMENTS
25 INVOLVING WHAT HAD HAPPENED?

TINA KIKER, CROSS-EXAMINATION BY MS. SOLAR:

1 A (NO RESPONSE.)

2 Q CORRECT?

3 A CORRECT.

4 Q AND YOU WOULD AGREE THAT THE STATEMENTS THAT HE
5 ALLEGEDLY GAVE YOU WERE PRETTY IMPORTANT STATEMENTS?

6 A SOMEWHAT.

7 Q YOU TESTIFIED THAT HE SAID THAT HE HAD GOTTEN IN - INTO
8 THE HOUSE THROUGH A REAR BEDROOM WINDOW?

9 A CORRECT.

10 Q YOU WOULD AGREE THAT THAT IS A PIECE OF INFORMATION THAT
11 WOULD BE IMPORTANT, CORRECT?

12 A CORRECT.

13 Q OKAY. AND, OBVIOUSLY, YOU WERE - YOU'VE BEEN A POLICE
14 OFFICER FOR A GOOD WHILE. HOW LONG HAVE YOU BEEN A POLICE
15 OFFICER?

16 A FOUR YEARS AND APPROXIMATELY FOUR MONTHS.

17 Q OKAY. AND YOU WENT TO THE POLICE ACADEMY?

18 A CORRECT.

19 Q OKAY. AND SO YOU KNOW THE IMPORTANCE OF A POLICE
20 REPORT, CORRECT?

21 A CORRECT.

22 Q OKAY. AND YOU WROTE A POLICE REPORT?

23 A CORRECT.

24 Q OKAY. AND YOU WERE TAUGHT, AT THE POLICE ACADEMY, THAT
25 EVERYTHING YOU PUT IN THE POLICE REPORT IS IMPORTANT?

1 A CORRECT.

2 Q BECAUSE IT CAN BE USED LATER IN A TRIAL - SUCH AS
3 TODAY - CORRECT?

4 A CORRECT.

5 Q OKAY. AND YOU - THE POLICE REPORT THAT YOU WROTE WAS
6 WRITTEN IMMEDIATELY AFTER THIS INCIDENT---

7 A THE---

8 Q ---CORRECT?

9 A ---THE ENTIRE INCIDENT.

10 Q THE ENTIRE INCIDENT, CERTAINLY. WITHIN A DAY?

11 A ABSOLUTELY.

12 Q OKAY. AND NOWHERE IN YOUR REPORT DID YOU MENTIONED THE
13 STATEMENTS THAT FERRIS ALLEGEDLY SAID TO YOU IN THE CAR?

14 A THE ONE THAT I CONSIDERED IMPORTANT AT THAT TIME WAS THE
15 POINT OF ENTRY, WHICH WAS THE BACK WINDOW---

16 Q YOU---

17 A ---AND I DID MENTION THAT AT THE VERY LAST PARAGRAPH OF
18 MY STATEMENT. OH - I'M SORRY, MY POLICE REPORT.

19 Q ---YOU DID NOT MENTION ANYTHING ABOUT THE PREVIOUS
20 KILLING, CORRECT?

21 A I DID NOT.

22 Q OKAY.

23 MS. SOLAR: COURT'S INDULGENCE.

24 THE COURT: YES, MA'AM.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

1 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
2 HEARING OF THE JURY, OFF THE RECORD.)

3 (WHEREUPON, COURT RESUMED.)

4 MS. SOLAR: NO FURTHER QUESTIONS, YOUR HONOR.

5 THE COURT: THANK YOU. ANYTHING ON REDIRECT, SOLICITOR?

6 MR. DURANT: VERY BRIEFLY, YOUR HONOR.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
8 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
9 HEARING OF THE JURY, OFF THE RECORD.)

10 (WHEREUPON, STATE'S EXHIBIT NO. 21 WAS MARKED FOR
11 IDENTIFICATION.)

12 (WHEREUPON, COURT RESUMED.)

13 TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

14 Q I HAND YOU WHAT'S BEEN MARKED AS STATE'S TWENTY-ONE FOR
15 IDENTIFICATION AND ASK IF YOU RECOGNIZE THAT?

16 A THAT'S MY INCIDENT REPORT.

17 Q OKAY. AND THAT IS THE SECOND PAGE OF YOUR REPORT?

18 A THAT'S CORRECT.

19 Q WHAT DID YOU STATE IN YOUR REPORT, IN THE LAST
20 PARAGRAPH?

21 A WOULD YOU LIKE ME TO READ IT?

22 Q YES.

23 A AFTER BEING TAKEN INTO CUSTODY, SERGEANT PONTIERI
24 VERBALLY ADVISED THE SUSPECT OF HIS MIRANDA WARNINGS, WHICH
25 HE ACKNOWLEDGED UNDERSTANDING.

1 THE SUSPECT STATED THAT THE MONEY HE TOOK FROM HIS
2 MOTHER WAS GONE. WHEN ASKED WHAT HE MEANT, HE STATED THAT HE
3 SMOKED IT.

4 SUSPECT ALSO STATED THAT HE ENTERED THE RESIDENCE
5 THROUGH A BACK WINDOW.

6 SUSPECT WAS TRANSPORTED TO MORRIS - CHARLESTON COUNTY
7 DETENTION CENTER---

8 Q OKAY. AND YOU WERE THE REPORTING OFFICER IN THIS CASE,
9 IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q SO WHEN YOU REPORT, YOU REPORT THINGS THAT YOU OBSERVED,
12 AND ALSO THINGS THAT WERE TOLD TO YOU, IS THAT CORRECT?

13 A THAT'S CORRECT.

14 Q OKAY. FOR EXAMPLE, THE CONVERSATION BETWEEN THE
15 DEFENDANT AND OFFICER PONTIERI, WERE YOU A WITNESS TO THAT?

16 A NO, I WAS NOT.

17 Q BUT - HOW DID YOU LEARN OF THAT CONVERSATION?

18 A WHEN I ARRIVED ON SCENE - UH, WHEN I RESPONDED BACK FROM
19 THE HOSPITAL TO THE SCENE TO TAKE CUSTODY OF THE SUSPECT, I
20 WAS BRIEFED ON MY ARRIVAL BY SERGEANT PONTIERI.

21 Q SO THAT'S WHERE THAT INFORMATION CAME FROM?

22 A CORRECT.

23 Q THEN YOU WENT ON TO SAY THAT WHILE YOU - THAT - YOU WENT
24 ON TO SAY THAT HE'D MADE THE STATEMENT THAT HE'D GOTTEN IN
25 THROUGH THE BACK WINDOW?

TINA KIKER, REDIRECT EXAMINATION BY MR. DURANT:

1 A THAT'S CORRECT.

2 Q UH - WHO DID HE MAKE THAT STATEMENT TO?

3 A HE MADE THAT TO ME.

4 Q AND THAT'S THE ONE YOU TESTIFIED TO ON DIRECT
5 EXAMINATION---

6 A THAT'S CORRECT.

7 Q ---IS THAT CORRECT? AND THAT'S WHILE YOU WERE TAKING
8 HIM TO THE JAIL?

9 A THAT'S CORRECT.

10 Q AND IT'S TRUE THAT YOU DIDN'T - DIDN'T HAVE ANYTHING IN
11 HERE ABOUT, UH, HIM SAYING THAT - THE THING HE TOLD HIS MAMA
12 ABOUT KILLING SOMEONE WAS NOT TRUE, HE WAS JUST SAYING THAT
13 TO SCARE HER. IS THAT CORRECT?

14 A THAT'S CORRECT.

15 Q THAT'S NOT IN THERE?

16 A NO.

17 Q WE CAN AGREE THAT THAT - IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q DID IT HAPPEN?

20 A HE SAYS NO.

21 Q HUH?

22 A HE SAYS THAT IT NEVER HAPPENED.

23 Q NO, I MEAN DID - DID HIS CONVERSATION EVER HAPPEN?

24 A OH, DID THE CONVERSATION HAPPEN? YES, THE CONVERSATION
25 HAPPENED.

1 Q OKAY. IT JUST DIDN'T GET WRITTEN IN?

2 A NO.

3 Q OKAY. THANK YOU.

4 MR. DURANT: I HAVE NOTHING FURTHER.

5 THE COURT: RE-CROSS?

6 MR. DURANT: OH, THERE'S ONE OTHER THING.

7 Q UH, THE INFORMATION YOU - CONCERNED WHERE THE DEFENDANT
8 MAY BE DID NOT COME FROM BRENDA SINGLEY, DID IT?

9 A NO, IT DID NOT.

10 Q IT CAME FROM ANOTHER RELATIVE?

11 A THAT'S CORRECT.

12 Q THANK YOU.

13 THE COURT: RE-CROSS?

14 MS. SOLAR: NO, YOUR HONOR.

15 THE COURT: THANK YOU, OFFICER. YOU MAY STEP DOWN.

16 SOLICITOR, YOU MAY CALL YOUR NEXT WITNESS.

17 (WITNESS STEPPED DOWN.)

18 MR. DURANT: YOUR HONOR, WE WOULD CALL DARIN COBB.

19 THE COURT: MR. - MR. COBB---

20 MR. DURANT: YOUR HONOR, HE'S A CANINE OFFICER AND HE'S
21 GOT HIS DOG WITH HIM AT THIS TIME.

22 THE COURT: ALL RIGHT, SIR. MR. COBB, COME AROUND,
23 PLEASE.

24 MR. COBB: ALL RIGHT, SIR.

25 (WITNESS FORWARD.)

DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

1 CLERK (MS. NELSON): PLACE YOUR LEFT HAND ON THE BIBLE
2 AND RAISE YOUR RIGHT HAND, SIR.

3 (WHEREUPON, DARIN ALBERT COBB WAS DULY SWORN AND
4 TESTIFIED AS FOLLOWS:)

5 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
6 NAME FOR THE RECORD, PLEASE.

7 MR. COBB: MY NAME IS DARIN ALBERT COBB.

8 DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

9 Q COULD YOU TELL THE JURY WHERE YOU'RE EMPLOYED?

10 A I'M EMPLOYED WITH THE NORTH CHARLESTON POLICE
11 DEPARTMENT.

12 Q AND HOW LONG HAVE YOU BEEN WITH NORTH CHARLESTON?

13 A A LITTLE BETTER THAN SEVEN YEARS NOW.

14 Q AND WHAT ARE YOUR CURRENT DUTIES?

15 A I AM A, UH, CANINE HANDLER FOR THE, UH, CANINE UNIT.

16 Q AND WERE YOU DOING THE SAME THING IN OCTOBER OF 2005?

17 A YES, I WAS.

18 Q OKAY. AND WHO IS THAT BEHIND YOU?

19 A UH - THIS IS MY PARTNER, CANINE LANDO (PHONETIC). WE'VE
20 BEEN TOGETHER FOR THREE-AND-A-HALF YEARS NOW.

21 Q OKAY. IN YOUR CAPACITY AS A CANINE COMMANDING OFFICER,
22 DID YOU HAVE AN OCCASION TO RESPOND TO A - A BURGLARY/ROBBERY
23 AT, UH, SPRUCE IN THE CITY OF NORTH CHARLESTON ON
24 OCTOBER 2, 2005?

25 A YES, I DID.

DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

1 Q DO YOU RECALL, UH, WHAT YOU DID WHEN YOU ARRIVED AT THE
2 SCENE THAT EVENING?

3 A I REMEMBER I ENCOUNTERED THE, UH, VICTIM IN THE, UH,
4 DRIVEWAY. SHE WAS SPEAKING WITH OFFICER KIKER.

5 Q WERE YOU ABLE TO, UH, DETERMINE WHAT HAD HAPPENED?

6 A YES. I - I OVERHEARD THE, UH, VICTIM EXPLAINING TO
7 OFFICER KIKER THAT HER SON HAD ROBBED HER AND TIED HER UP.
8 I, UM - SHE STILL HAD SOME TYPE OF TAPE I THINK AROUND HER
9 ARMS.

10 Q OKAY. UH - SO YOU - DID YOU KNOW THE SON'S NAME?

11 A YES. UH - THE VICTIM IN THIS CASE GAVE US, UH, HER
12 SON'S NAME AND BASIC DESCRIPTION.

13 Q OKAY. DID SHE KNOW WHICH DIRECTION THE - THE DEFENDANT
14 HAD LEFT IN?

15 A NO. UH - I WANTED TO TRY TO, UH - TO TRACK THE
16 INDIVIDUAL, BUT I DIDN'T HAVE A STARTING POINT. AND THERE -
17 AT THIS - AT THIS POINT, THERE WERE A LOT OF OFFICERS AROUND
18 THE RESIDENCE.

19 SO, I TOOK MY DOG TO AN AREA WHERE I THOUGHT IT WAS LESS
20 LIKELY THAT OTHER PEOPLE HAD WALKED, AND I TASKED THE DOG,
21 WHICH BASICALLY MEANS I PUT THE DOG ON A LONG LEASH AND I
22 TOLD HIM TO SEARCH FOR A TRACK. WHICH, ESSENTIALLY, IS
23 GROUND DISTURBANCE.

24 Q OKAY. AND, UH, DID LANDO PICK UP A TRACK?

25 A YES, HE DID. UH, HE PICKED UP A TRACK, UH, NEAR THE

DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

1 CORNER OF SPRUCE AND MORNINGSIDE.

2 Q DO YOU HAVE ANY WAY OF KNOWING WHETHER OR NOT THAT WAS,
3 UH, THE TRACK OF THE DEFENDANT?

4 A NO, I HAD NO WAY OF KNOWING.

5 Q OKAY.

6 A I JUST KNEW THAT HE WAS TRACKING GROUND DISTURBANCE. IT
7 COULD HAVE BEEN ANYBODY.

8 Q OKAY. YOU WERE BASICALLY TAKING A SHOT IN THE DARK?

9 A TAKING A SHOT IN THE DARK IS BETTER THAN NOT TRYING AT
10 ALL.

11 Q SURE - I UNDERSTAND. ANY - IN ANY EVENT, WHERE DID THE
12 TRACKS LEAD YOU TO?

13 A UH - LANDO TRACKED DOWN MORNINGSIDE, ACROSS RIVERS, TO
14 THE EAST SIDE OF RIVERS AVENUE, THROUGH A JUNKYARD AREA, AND
15 ON THROUGH RICH STREET, THROUGH A TRAIN YARD, OUT ONTO -
16 THROUGH A - THROUGH ANOTHER WAREHOUSE AREA, ONTO PIGGLY
17 WIGGLY DRIVE. EVENTUALLY WINDING UP IN A WOODED AREA WHERE
18 LANDO TRACKED UP TO TWO HOMELESS PEOPLE LIVING IN THE WOODS.

19 Q OKAY. SO THAT, BASICALLY, YOU TRACKED A COUPLE OF - ONE
20 OF THE HOMELESS GUYS PROBABLY?

21 A YES. I - I BELIEVE SO, YES.

22 Q OKAY. IN ANY EVENT, DID YOU INTERVIEW THOSE GUYS?

23 A UH - JUST LONG ENOUGH TO IDENTIFY THEM AND DETERMINE
24 THAT THEY WERE NOT THE SUSPECT THAT I WAS LOOKING FOR.

25 Q OKAY. NOW, WHAT DID YOU DO WHEN YOU DETERMINED THAT YOU

DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

1 WERE ON A FALSE TRACK, SO TO SPEAK?

2 A WELL, AFTER ENCOUNTERING THOSE TWO INDIVIDUALS AND
3 CONCLUDING THAT THEY WERE NOT THE INDIVIDUAL I WAS LOOKING
4 FOR, I - I DID ALLOW LANDO TO CONTINUE A TRACK OUT OF THE
5 WOODED AREA. THERE WAS A PATH LEADING OUT TOWARDS RIVERS
6 AVENUE.

7 AND UPON REACHING AT RIVERS AVENUE, I CALLED THE TRACK
8 AND SAID THAT I JUST COULDN'T FIND HIM.

9 Q OKAY. WHEN YOU CALL THE TRACK, DOES THAT MEAN---

10 A I - I ENDED THE TRACK. I - I NOTIFIED THE DISPATCHER
11 THAT I WAS NO LONGER ATTEMPTING TO, UH, TRACK THE SUSPECT.

12 Q OKAY. UM - WHAT DID YOU DO AFTER YOU CANCELLED THE
13 TRACK?

14 A UH - I BEGAN WALKING BACK TOWARDS SPRUCE STREET, WHERE I
15 HAD LEFT BY CRUISER.

16 Q AND, UH - WHAT DID YOU LEARN WHILE YOU WERE ON THE WAY
17 BACK TOWARDS SPRUCE STREET?

18 A I HEARD, UH, RADIO TRAFFIC INDICATING THAT THE FAMILY
19 MEMBER INDICATED THAT THE SUSPECT WOULD PROBABLY BE LOCATED
20 IN A VACANT RESIDENCE - A TRAILER - AT THE CORNER OF SPRUCE
21 AND, UM, SINGLEY I THINK IT IS. SINGLEY LANE, I THINK.

22 NO,

23 Q AND WHAT DID YOU DO WHEN YOU, UH, GOT THAT RADIO TRACK?

24 A I PROCEEDED, UH, TO THAT LOCATION ON FOOT WITH, UH,
25 CANINE LANDO. UH, THERE WERE ALREADY, UH, MULTIPLE OFFICERS

DARIN ALBERT COBB, DIRECT EXAMINATION BY MR. DURANT:

1 THERE WHO HAD SET A PERIMETER AROUND THE HOUSE.

2 Q UH - COULD YOU DETERMINE WHETHER OR NOT THE TRAILER WAS
3 OCCUPIED?

4 A UH, THE FIRST THING I DID WAS I, UH - I KNOCKED ON THE
5 DOOR WITH NO RESPONSE. I GAVE CANINE WARNINGS. AGAIN, NO
6 RESPONSE. AT WHICH TIME I HAD - I INSTRUCTED LANDO - THE
7 CANINE - TO SNIFF THE DOOR.

8 PART OF OUR TRAINING IS - IS YOU CAN PRESENT A DOOR TO A
9 DOG AND HE CAN TAKE A SNIFF AND DETERMINE WHETHER OR NOT
10 THERE'S SOMEBODY ON THE OTHER SIDE.

11 CANINE LANDO ALERTED TO THE, UH, DOOR - THE DOOR AND
12 BEGAN BARKING, TRYING TO SCRATCH AT THE DOOR.

13 Q THE FRONT DOOR OF SINGLEY LANE?

14 A YES.

15 Q OKAY. ANYBODY SEE ANYTHING INSIDE THE RESIDENCE?

16 A AFTER LANDO BEGAN BARKING AND I ADVISED THAT - I
17 INDICATED THAT HE INDICATED THERE WAS SOMEONE INSIDE THE
18 TRAILER, UM, I HEARD OVER THE RADIO THAT AN OFFICER HAD
19 OBSERVED SOMEONE MOVING IN THE TRAILER - INSIDE THE TRAILER
20 ON THE FAR LEFT CORNER.

21 UM - AT THAT TIME, I REALIZED THAT THE, UH, FRONT WINDOW
22 TO THE LEFT OF THE FRONT DOOR WAS UNLOCKED. I OPENED THE
23 DOOR AND I---

24 Q YOU OPENED THE DOOR OR THE WINDOW?

25 A OH, I MEAN - I'M SORRY, I OPENED THE WINDOW.

1 Q WHAT DID YOU DO WHEN YOU OPENED THE WINDOW?

2 A I, UH, CALLED CANINE WARNINGS THROUGH THE WINDOW AND
3 ADVISED THAT WHOEVER WAS IN THE TRAILER, YOU'RE UNDER ARREST.
4 SPEAK TO ME NOW OR I'M GONNA SEND THE DOG.

5 AT WHICH - AT WHICH TIME, THE DEFENDANT CAME TO THE
6 DOOR, UNLOCKED IT, WALKED OUTSIDE, AND WAS TAKEN INTO
7 CUSTODY.

8 Q AND THE DEFENDANT BEING MR. SINGLEY HERE?

9 A YES.

10 Q DO YOU RECALL WHAT TIME IT WAS WHEN HE WAS TAKEN INTO
11 CUSTODY?

12 A UM - A LITTLE AFTER FOUR - I THINK IT WAS FOUR-TWELVE IN
13 THE MORNING.

14 Q AND LET ME JUST SHOW YOU ONE...

15 MR. DURANT: CAN WE HAVE STATE'S EXHIBIT TWELVE UP? I
16 BELIEVE.

17 COURT REPORTER: WHICH ONE?

18 MR. DURANT: STATE'S TWELVE.

19 COURT REPORTER: THE TOP ONE.

20 MR. DURANT: CAN WE GET THE STATE'S TWELVE ON THE SCREEN
21 PLEASE?

22 (WHEREUPON STATE'S EXHIBIT NO. 12 WAS DISPLAYED ON THE
23 SCREEN FOR THE BENEFIT OF THE JURY.)

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
25 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE

1 HEARING OF THE JURY, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 Q COME ON AROUND SO YOU - YOU WON'T BE BLINDED. I KNOW
4 THAT'S KIND OF TOUGH.

5 A RIGHT.

6 (WHEREUPON, WITNESS STEPPED DOWN FROM THE WITNESS STAND
7 AND AROUND TO THE FRONT OF THE WITNESS STAND.)

8 Q AND IF YOU WOULD - THIS IS A LASER POINTER - COULD YOU
9 JUST POINT OUT, UH, TO THE JURY - AND IF YOU WOULD, KIND OF
10 TURN AROUND SO YOU'RE FACING THEM AND THEY CAN SEE YOU.

11 A OKAY.

12 Q DO YOU RECALL WHERE SPRUCE IS?

13 A THE INCIDENT LOCATION ON SPRUCE WAS RIGHT ABOUT HERE. I
14 THINK THAT'S THE RESIDENCE.

15 Q OKAY. AND WHERE IS SINGLEY LANE?

16 A SINGLEY IS - OKAY, HOPEFULLY I COULD FIND IT -
17 SINGLEY IS HERE. IT'S THIS TRAILER AT THE CORNER, SO
18 IT'S PROBABLY FOUR OR FIVE HOUSES AWAY FROM THE INCIDENT
19 LOCATION.

20 Q OKAY. WHERE DID THE TRACK TAKE YOU OFF TO INITIALLY
21 THAT - THAT YOU WERE FOLLOWING?

22 A OKAY.

23 Q WHICH DIRECTION?

24 A I - LIKE I SAID, I DIDN'T HAVE A STARTING POINT. SO, I
25 TOOK IT - MY BEST GUESS AT WHICH DIRECTION I THOUGHT HE MAY

1 HAVE GONE, AND I TASKED LANDO FOR A TRACK HERE, AND HE
2 TRACKED DOWN MORNINGSIDE, ACROSS RIVERS---

3 Q ALL RIGHT.

4 A ---TOWARDS THE TRAIN YARD. AND EVENTUALLY, I MADE MY
5 WAY COMING BACK IN FROM THIS OPPOSITE DIRECTION.

6 Q OKAY. AND WHEN YOU SAY LANDO ALERTED TO THE FRONT DOOR,
7 WHERE'S THE FRONT DOOR OF THE TRAILER AT?

8 A THE FRONT DOOR IS RIGHT WHERE THAT LIGHT IS.

9 Q OKAY. AND THAT - THAT FACES - WHAT'S ACROSS THE STREET
10 FROM THAT?

11 A IT'S MORNINGSIDE MIDDLE SCHOOL, AT SINGLEY I THINK
12 THE ADDRESS IS.

13 Q OKAY. AND THAT WINDOW THAT YOU YELLED THROUGH IS ALSO
14 ON THE SAME SIDE OF THAT HOUSE?

15 A YES, IT IS. IT'S JUST TO THE LEFT OF THE FRONT DOOR.

16 Q OKAY. YOU CAN TAKE YOUR SEAT. THANK YOU.

17 (WHEREUPON, WITNESS RETURNED TO WITNESS STAND.)

18 Q DO YOU RECALL WHO ELSE MAY HAVE BEEN THERE WHEN THE
19 DEFENDANT WAS TAKEN INTO CUSTODY?

20 A UH---

21 Q POLICE - POLICE OFFICER WISE.

22 A POLICE OFFICER WISE? SERGEANT PONTIERI, UH---

23 Q DID YOU HEAR SERGEANT PONTIERI DO ANYTHING WITH, UH,
24 REGARD TO THE DEFENDANT WHEN HE WAS TAKEN INTO CUSTODY?

25 A UH - WHEN I WAS WALKING BACK TO PUT MY CANINE IN THE

DARIN ALBERT COBB, CROSS-EXAMINATION BY MS. SOLAR:

1 CAR, I HEARD HIM OVER ADVISING MIRANDA WARNINGS AS I
2 WALKED BY.

3 Q OKAY. AND ADVISING MIRANDA WARNINGS TO THE DEFENDANT,
4 MR. SINGLEY?

5 A YES, SIR.

6 Q THANK YOU. WOULD YOU PLEASE ANSWER ANY QUESTIONS THAT
7 MS. SOLAR MAY HAVE FOR YOU?

8 THE COURT: MS. SOLAR?

9 MS. SOLAR: THANK YOU.

10 DARIN ALBERT COBB, CROSS-EXAMINATION BY MS. SOLAR:

11 Q OFFICER COBB, VERY BRIEFLY, YOU ARRIVED ON THE SCENE AT
12 TWO-THIRTY IN THE MORNING, CORRECT?

13 A TWO-THIRTY - TWO-TWENTY-SEVEN, TWO-THIRTY, AROUND THAT
14 TIMEFRAME.

15 Q OKAY. AND, UM, MR. SINGLEY - FERRIS - WAS ARRESTED AT
16 ABOUT A LITTLE AFTER FOUR O'CLOCK IN THE MORNING, CORRECT?

17 A YES, MA'AM.

18 Q OKAY.

19 MS. SOLAR: I HAVE NO FURTHER QUESTIONS.

20 THE COURT: THANK YOU. UM - ANY REDIRECT?

21 MR. DURANT: NO, SIR.

22 THE COURT: THANK YOU, OFFICER. YOU MAY STEP DOWN.

23 MR. DURANT: I'D ASK THAT OFFICER COBB BE EXCUSED.

24 THE COURT: AND YOU MAY BE EXCUSED, OFFICER---

25 MS. SOLAR: NO OBJECTION.

PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 THE COURT: ---WITHOUT OBJECTION.

2 MR. COBB: THANK YOU.

3 THE COURT: THANK YOU, SIR.

4 (WITNESS EXCUSED.)

5 MR. DURANT: THE STATE WOULD CALL PATRICK PONTIERI.

6 (WITNESS FORWARD.)

7 THE COURT: COME AROUND, MR. PONTIERI.

8 MR. PONTIERI: THANK YOU.

9 CLERK (MS. NELSON): PUT YOUR LEFT HAND ON THE BIBLE AND
10 RAISE YOUR RIGHT HAND, SIR.

11 (WHEREUPON, PATRICK PONTIERI WAS DULY SWORN AND
12 TESTIFIED AS FOLLOWS:)

13 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
14 NAME FOR THE RECORD AND SPELL YOUR LAST NAME, PLEASE.

15 MR. PONTIERI: PATRICK PONTIERI - P-O-N-T-I-E-R-I.

16 PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

17 Q WHERE ARE YOU EMPLOYED, SERGEANT PONTIERI?

18 A CITY OF NORTH CHARLESTON POLICE DEPARTMENT.

19 Q AND HOW LONG HAVE YOU BEEN WITH N-C-P-D?

20 A APPROXIMATELY ELEVEN YEARS.

21 Q WHAT ARE YOUR CURRENT DUTIES?

22 A I AM A, UH, ROAD SUPERVISOR IN THE SOUTH BUREAU, ON THE
23 EVENING SHIFT.

24 Q AND WHAT WERE YOU DOING IN OCTOBER OF 2005?

25 A I WAS THE, UH, ROAD SUPERVISOR FOR THE MID- -- MIDNIGHT

PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 SHIFT IN THE NORTH BUREAU.

2 Q IN THAT CAPACITY, DID YOU HAVE AN OCCASION TO RESPOND TO
3 SPRUCE ON THE EARLY MORNING OF OCTOBER THE - 2, 2005?

4 A I DID.

5 Q DO YOU RECALL WHAT TIME IT WAS WHEN YOU ARRIVED?

6 A NO, SIR, I DON'T - NOT OFFHAND.

7 Q OKAY. UH - WAS THE VICTIM STILL THERE WHEN YOU ARRIVED?

8 A YES, SHE WAS.

9 Q WHAT WAS GOING ON WHEN YOU GOT THERE?

10 A UH - WHEN I - WHEN I GOT THERE, I, UH, - THE, UH -
11 OFFICER KIKER WAS WITH THE VICTIM, TAKING CARE OF HER, AND,
12 UH, I SPOKE TO MY CORPORAL - CORPORAL FLEMING, WHO, UH, WAS
13 BRIEFING ME ON WHAT WAS GOING ON, UH, AT - AT THAT RESIDENCE
14 AT THAT TIME.

15 Q UH - DO YOU KNOW WHETHER THE CRIME SCENE UNIT WAS
16 CALLED THAT EVENING?

17 A YES, THEY WERE. I CALLED THEM.

18 Q OKAY. THAT WAS DONE AT YOUR REQUEST?

19 A YES.

20 Q OKAY. UH - BASED UPON YOU-ALL'S INVESTIGATION AT THE
21 SCENE, WERE - DID YOU-ALL KNOW WHO THE SUSPECT WAS?

22 A WE DID. WE LEARNED WHO HE WAS.

23 Q OKAY. AND YOU LEARNED THAT FROM WHOM?

24 A FROM - FROM HIS - FROM HIS MOTHER, THE VICTIM.

25 Q OKAY. AND THE SUSPECT, OF COURSE, WAS HER SON, IS THAT

1 CORRECT?

2 A THAT IS CORRECT.

3 Q UM - WHAT EFFORTS DID YOU-ALL MAKE TO TRY TO LOCATE HIM?

4 A WHAT - WHAT WE DID WAS, UM - UM - I LET OFFICER COBB DO
5 HIS, UH - DO HIS TRACK WITH HIS CANINE. UH, AND WE ATTEMPTED
6 TO FIND ANYBODY OR ANYONE THAT CAN TELL US WHERE THE SUSPECT
7 MAY HAVE GONE, UH, AFTER HE FLED THE RESIDENCE, UH, THAT
8 NIGHT.

9 Q AND LATER THAT MORNING DO YOU - DID YOU OBTAIN SOME
10 INFORMATION CONCERNING HIS POSSIBLE WHEREABOUTS?

11 A YES, WE DID.

12 Q AND WHERE - WHERE - WHAT WAS THAT INFORMATION?

13 A WELL, OFFICER KIKER, WHO WAS DOWN AT THE, UH - AT THE
14 HOSPITAL WITH THE VICTIM, UH, HAD NOTIFIED, UH, NOTIFIED -
15 I - NOTIFIED US THAT, UH, SHE HAD GAINED INFORMATION THAT HE
16 MAY BE IN A VACANT TRAILER, WHICH WAS AT THE CORNER OF SPRUCE
17 AND, UM - AND SINGLEY.

18 Q OKAY. UH - WHAT DID YOU DO WHEN YOU OBTAINED THAT
19 INFORMATION?

20 A UH - WE GOT ALL - I GOT ALL MY OFFICERS TOGETHER AND,
21 UH, RESPONDED TO THAT - TO THAT TRAILER AND SET UP A, UH,
22 PERIMETER, UH, TO ENSURE THAT IF HE WAS INSIDE AND IF HE RAN
23 OUT WE COULD CONTAIN HIM.

24 Q UM - WAS THE CANINE UNIT BROUGHT OVER AS WELL?

25 A YES, HE - HE WAS. I BROUGHT CANINE AS WELL.

PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 Q UM - AND WAS THE DEFENDANT INSIDE THAT RESIDENCE?

2 A HE EVENTUALLY WAS LOCATED INSIDE THAT RESIDENCE,
3 YES, SIR.

4 Q AND WHAT DID - YOU WERE PRESENT WHEN HE CAME OUT THE
5 FRONT DOOR?

6 A YES, I WAS.

7 Q AND WHAT DID YOU-ALL DO WHEN HE CAME OUT THE FRONT DOOR?

8 A UH - HE WAS INFORMED THAT HE WAS UNDER ARREST AND TO
9 STEP OUT OF THE TRAILER, WHICH HE DID. HE CAME OUT.

10 UH, AS HE CAME DOWN THE STEPS, HE WAS TAKEN TO THE
11 GROUND ON THE - ON THE RIGHT-HAND SIDE. UH, HE WAS, UH,
12 GIVEN A, UH - A QUICK PAT-DOWN FOR WEAPONS, HANDCUFFED, AND,
13 UM, HE WAS A- -- ARRESTED AT THAT TIME.

14 Q OKAY. AND WHAT DID YOU DO AFTER HE WAS ARRESTED?

15 A UH - I VERBALLY GAVE HIM HIS, UH, MIRANDA WARNINGS.

16 Q WHAT ARE MIRANDA WARNINGS?

17 A HIS MIRANDA WARNINGS ARE HIS CONSTITUTIONAL RIGHTS.

18 Q OKAY. WITH REGARD TO SPEAKING TO THE POLICE OFFICERS?

19 A THAT - THAT'S CORRECT.

20 Q DID YOU USE ANY - DID YOU USE ANY PARTICULAR THING TO
21 ADVISE HIM OF HIS RIGHTS?

22 A YES, I DID.

23 Q AND WHAT WAS THAT?

24 A I HAVE A CARD, UH, THAT I USE THAT HAS THE, UH, MIRANDA
25 WARNINGS ON IT.

PATRICK PONTIERI, DIRECT EXAMINATION BY MR. DURANT:

1 Q OKAY. AND WOULD YOU DEMONSTRATE - USING THAT CARD,
2 DEMONSTRATE TO THE JURY HOW YOU WENT ABOUT ADVISING THE
3 DEFENDANT OF HIS RIGHTS?

4 A YES, SIR. ONE, YOU HAVE THE ABSOLUTE RIGHT TO REMAIN
5 SILENT AND YOU DO NOT HAVE TO ANSWER ANY QUESTIONS OR GIVE A
6 STATEMENT, AND THIS FACT CANNOT BE USED AGAINST YOU.

7 TWO, IF YOU DO ANSWER QUESTIONS OR GIVE A STATEMENT,
8 ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT
9 OF LAW.

10 THREE, YOU HAVE A RIGHT TO CONSULT WITH A LAWYER OF YOUR
11 CHOICE BEFORE YOU ANSWER QUESTIONS OR GIVE A STATEMENT AND
12 ALSO HAVE HIM PRESENT WHILE YOU'RE BEING QUESTIONED.

13 FOUR, IF YOU WISH TO TALK TO A LAWYER AND HAVE HIM
14 PRESENT, BUT ARE UNABLE TO AFFORD TO HIRE A LAWYER, ONE WILL
15 BE APPOINTED TO REPRESENT YOU FREE OF CHARGE.

16 FIVE, IF YOU DECIDE TO ANSWER QUESTIONS OR GIVE A
17 STATEMENT WITHOUT HAVING A LAWYER PRESENT REPRESENTING YOU,
18 YOU HAVE THE ABSOLUTE RIGHT DURING THIS INTERVIEW TO STOP
19 ANSWERING QUESTIONS AND TO REMAIN SILENT.

20 Q UM - SO YOU READ HIM THE RIGHTS JUST AS THEY WERE
21 PRINTED ON THAT CARD, IS THAT CORRECT?

22 A YES, SIR, I DID.

23 Q DID HE APPEAR TO UNDERSTAND WHAT YOU WERE TALKING TO
24 HIM---

25 A YES, HE DID.

1 Q ---TALKING ABOUT?

2 A YES, HE DID.

3 Q DID HE EXHIBIT ANY CONFUSION?

4 A NONE WHATSOEVER.

5 Q DID HE APPEAR COHERENT?

6 A YES, HE DID.

7 Q UM - DID HE APPEAR TO BE SO UNDER THE INFLUENCE OF
8 ANYTHING THAT HE DIDN'T KNOW WHAT WAS GOING ON?

9 A NO, SIR, NOT AT ALL.

10 Q DID YOU THREATEN HIM IN ANY WAY TO GET HIM TO TALK TO
11 YOU?

12 A NO, I DID NOT.

13 Q DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?

14 A NO, I DID NOT.

15 Q DID YOU OFFER HIM LENIENCY TO GET HIM TO TALK TO YOU?

16 A NO, I DID NOT.

17 Q DID YOU HAVE - WHEN YOU ADVISED HIM OF HIS RIGHTS, WAS
18 IT YOUR UNDERSTANDING THAT HE UNDERSTOOD WHAT YOU WERE
19 TALKING ABOUT?

20 A YES, IT WAS MY UNDERSTANDING THAT HE DID.

21 Q AND DID YOU ASK HIM ANYTHING AFTER YOU ADVISED HIM OF
22 HIS RIGHTS?

23 A YES, I DID ASK HIM.

24 Q WHAT DID YOU ASK HIM?

25 A I ASKED HIM WHERE WAS THE MONEY HE TOOK FROM HIS MOTHER?

1 Q AND WHAT WAS HIS RESPONSE?

2 MS. SOLAR: YOUR HONOR, I OBJECT. I'D ASK YOU TO
3 RECOGNIZE OUR CONTINUING OBJECTION.

4 THE COURT: YES, MA'AM, I - I RECOGNIZE YOUR CONTINUING
5 OBJECTION---

6 MS. SOLAR: THANK YOU.

7 THE COURT: ---MS. SOLAR, AND I'LL REAFFIRM MY, UM - MY
8 PRIOR RULINGS.

9 MS. SOLAR: THANK YOU, YOUR HONOR.

10 MR. DURANT: THANK YOU, YOUR HONOR.

11 THE COURT: YES, MA'AM. YES, SIR, YOU MAY CONTINUE.

12 Q SO YOU'VE ASKED HIM ABOUT THE MONEY. AND WHAT WAS HIS
13 RESPONSE?

14 A HE SAID IT WAS - HE SAID IT WAS GONE.

15 Q AND WHAT DID YOU SAY?

16 A I SAID, WHAT DO YOU MEAN? AND HE SAID, I SMOKED IT.

17 Q DID YOU BELIEVE HIM?

18 A NO, I DID NOT BELIEVE HIM.

19 Q WHY?

20 A WITHIN THAT TIMEFRAME, IF HE HAD SMOKED THAT MUCH CRACK
21 COCAINE - WITHIN THE TWO-HOUR TIMEFRAME - I DON'T - I THINK
22 THAT HE WOULD HAVE GIVEN ME A WHOLE LOT MORE INTOXICATION
23 LEVEL THAN HE DID. NOT - NOT TWO HUNDRED DOLLARS WORTH OF
24 CRACK COCAINE.

25 Q AND YOU WERE AWARE THAT HE HAD TAKEN TWO HUNDRED

PATRICK PONTIERI, CROSS-EXAMINATION BY MS. SOLAR:

1 DOLLARS, RIGHT?

2 A YES, I WAS.

3 Q ALL RIGHT. AND DID YOU TRANS- -- WHO TRANSPORTED THE
4 DEFENDANT TO JAIL?

5 A UH - OFFICER KIKER DID.

6 Q OKAY. AND DID YOU ADVISE OFFICER KIKER THAT, UH, YOU
7 HAD READ THE DEFENDANT HIS MIRANDA RIGHTS?

8 A YES, SIR, I DID THAT.

9 Q OKAY. COULD YOU PLEASE ANSWER ANY QUESTIONS THAT, UH,
10 MS. SOLAR MAY HAVE?

11 A YES, SIR.

12 MS. SOLAR: MAY IT PLEASE THE COURT?

13 THE COURT: YES, MA'AM.

14 PATRICK PONTIERI, CROSS-EXAMINATION BY MS. SOLAR:

15 Q SERGEANT PONTIERI, YOUR INVOLVEMENT IN THIS CASE, UM,
16 BEGAN WHEN YOU RESPONDED TO SINGLEY AVENUE, CORRECT?

17 A UH, WHEN - NO, MA'AM. I ACTUALLY - INITIALLY, WHEN I
18 FIRST RESPONDED AT - UH, WHEN MY OFFICERS CALLED FOR ME -
19 WAS, UH, OVER TO THE SPRUCE STREET ADDRESS OF THE VICTIM.

20 Q OKAY. AND SO YOU ORIGINALLY - WHAT TIME DID YOU COME ON
21 THE SCENE?

22 A MA'AM, I DON'T RECALL.

23 Q WAS OFFICER COBB THERE? WHEN YOU ARRIVED?

24 A I - I BELIEVE OFFICER COBB WAS ON THE SCENE WHEN I
25 ARRIVED, AND HE HAD ALREADY STARTED, UH, WITH HIS - WITH HIS

1 CANINE TRYING TO PICK UP A TRACK.

2 Q OKAY. AND OFFICER KIKER WAS THERE AS WELL?

3 A OH, YES - YES, MA'AM.

4 Q OKAY. WHEN YOU WERE INVOLVED IN ARRESTING FERRIS, WAS
5 ANYBODY INVOLVED WITH YOU? PHYSICALLY INVOLVED WITH THAT?

6 A UH - THERE WERE OTHER OFFICERS WITH ME, YES, MA'AM, AT
7 THE FRONT DOOR. UH - I KNOW OFFICER COBB WAS WITH ME. AND
8 THERE ARE - WERE OTHER OFFICERS, AND I - I DON'T KNOW WHO THE
9 OTHER OFFICERS WERE.

10 Q OKAY. YOU WERE A SERGEANT WITH THE POLICE DEPARTMENT,
11 CORRECT?

12 A YES, MA'AM.

13 Q OKAY. AND SO, YOU WERE IN THE - ACTUALLY IN A
14 SUPERVISORY POS- -- POSITION, CORRECT?

15 A THAT'S CORRECT.

16 Q YOU - DID YOU - YOU TESTIFIED YOU'D BEEN IN POLICE WORK
17 FOR ABOUT ELEVEN YEARS?

18 A ACTUALLY, I'VE HAVE BEEN IN POLICE WORK, UH - UH - ABOUT
19 FOURTEEN YEARS.

20 Q OKAY. YOU NEVER WROTE A REPORT IN THIS CASE---

21 A NO, MA'AM---

22 Q ---ISN'T THAT TRUE?

23 A ---I DID NOT.

24 Q OKAY. EVEN THOUGH YOU WERE VERY INVOLVED WITH THIS
25 CASE - ESPECIALLY IN THE ARREST - YOU NEVER WROTE THE REPORT?

1 A NO, MA'AM.

2 Q OKAY. AND YOU TESTIFIED THAT FERRIS MADE SOME
3 STATEMENTS TO YOU, CORRECT?

4 A THAT'S CORRECT.

5 Q AND YOU NEVER WROTE THAT DOWN?

6 A NO, I DID NOT.

7 Q OKAY. NOT - NOT IN ANY INCIDENT REPORT?

8 A (NO RESPONSE.)

9 Q CORRECT?

10 A THAT'S CORRECT, YES.

11 Q AND NOT IN ANY SUPPLEMENTAL REPORT AS WELL?

12 A THAT'S CORRECT.

13 Q OKAY. AND WHEN YOU TALKED TO FERRIS, HE TOLD YOU - UM,
14 ALLEGEDLY - THAT HE TOOK MONEY FROM HIS MOTHER, CORRECT?

15 A CORRECT. YES, MA'AM.

16 Q ALL RIGHT. AND IT WAS ABOUT TWO HUNDRED DOLLARS?

17 A YES, MA'AM.

18 Q AND YOU TES- -- YOU TESTIFIED THAT HE TOLD YOU THAT HE
19 SMOKED IT?

20 A YES, MA'AM.

21 Q OKAY. AND YOU UNDERSTOOD THAT TO MEAN HE SMOKED IT WITH
22 DRUGS?

23 A YES - YES, MA'AM.

24 Q OKAY. DO YOU KNOW THE TIME THAT FERRIS WAS ARRESTED?

25 A UH - NO, MA'AM. UM - IT - IT IS INDICATED ON OUR

PATRICK PONTIERI, REDIRECT EXAMINATION BY MR. DURANT:

1 DISPATCH RECORDS THOUGH.

2 Q WOULD YOU SAY IT WAS PROBABLY AROUND AFTER FOUR O'CLOCK
3 IN THE MORNING? IS THAT ACCURATE?

4 A YES, THAT'S, UH - YES.

5 Q OKAY. AND THAT WAS ABOUT AN HOUR-AND-A-HALF AFTER, UM,
6 MRS. SINGLEY CALLED THE POLICE?

7 A. YES, MA'AM.

8 Q OKAY.

9 MS. SOLAR: THE COURT'S INDULGENCE?

10 THE COURT: YES, MA'AM.

11 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
12 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
13 HEARING OF THE JURY, OFF THE RECORD.)

14 (WHEREUPON, COURT RESUMED.)

15 MS. SOLAR: NO FURTHER QUESTIONS, YOUR HONOR.

16 THE COURT: THANK YOU. ANYTHING ON REDIRECT, SOLICITOR?

17 MR. DURANT: VERY BRIEFLY.

18 PATRICK PONTIERI, REDIRECT EXAMINATION BY MR. DURANT:

19 Q AND YOU DIDN'T WRITE A REPORT BECAUSE YOU'RE A SERGEANT,
20 RIGHT?

21 A WELL, WHAT - WHAT - NOT JUST BECAUSE I'M A SERGEANT.
22 IT'S, UM - I'M THE SUPERVISOR ON THE SCENE. UM, WHEN I SPEAK
23 TO MY OFFICERS, WHO ARE THE, UH, OFFICER WHO IS RESPONSIBLE
24 FOR THE - FOR THE INCIDENT, UM, I RELAY MY INFORMATION THAT -
25 AND MY INVOLVEMENT IN MY CA- -- IN THAT CASE TO MY OFFICERS.

PATRICK PONTIERI, REDIRECT EXAMINATION BY MR. DURANT:

1 MY OFFICERS THEN TURN AROUND AND DOCUMENT THAT IN
2 THEIR - IN THEIR INCIDENT REPORT.

3 Q AND YOU TASKED OFFICER KIKER TO WRITE THE REPORT IN THIS
4 CASE?

5 A THAT'S - THAT IS CORRECT.

6 Q AND---

7 A SHE IS THE INITIAL OFFICER.

8 Q ---AND, IN FACT, YOU TOLD HER ABOUT THE STATEMENT THAT
9 MR. SINGLEY HAD MADE, CORRECT?

10 A THAT IS CORRECT.

11 Q AND THAT FACT APPEARS IN HER POLICE REPORT, IS THAT
12 CORRECT?

13 A YES - YES, IT DOES.

14 Q THANK YOU.

15 MR. DURANT: I HAVE NOTHING FURTHER, YOUR HONOR.

16 THE COURT: RE-CROSS?

17 MS. SOLAR: NO, YOUR HONOR.

18 THE COURT: THANK YOU, OFFICER, YOU MAY STEP DOWN.

19 MR. PONTIERI: THANK YOU, SIR.

20 (WITNESS STEPPED DOWN.)

21 THE COURT: THAT'S PRETTY GOOD TIMING.

22 MR. DURANT: YEAH, PRETTY GOOD TIMING.

23 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
24 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
25 HEARING OF THE JURY, OFF THE RECORD.)

1 (WHEREUPON, COURT RESUMED.)

2 THE COURT: ALL RIGHT, MR. FOREMAN, LADIES AND GENTLEMEN
3 OF THE JURY, WE ARE NOW GOING TO TAKE OUR BREAK FOR THE
4 EVENING.

5 I REMIND YOU THAT DURING THE BREAK, YOU ARE NOT TO
6 DISCUSS THE CASE WITH ANYONE. THIS INCLUDES YOUR FELLOW
7 JURORS, YOUR FRIENDS, YOUR FAMILIES. IT'S LIKE WHEN I GO
8 HOME AT NIGHT - WHEN I AM HOME - THE FIRST THING THEY SAY IS,
9 WHAT HAPPENED TODAY, WHAT WENT ON TODAY? AND YOU CANNOT TALK
10 ABOUT THE FACTS OF THE CASE.

11 YOU CAN TELL FOLKS, OF COURSE, YOU HAVE BEEN SELECTED
12 FOR A JURY. BUT, YOU CANNOT TALK ABOUT THE FACTS OF THE CASE
13 OR ANYONE - OR TALK WITH ANYONE INVOLVED IN THE CASE OR
14 ANYONE ELSE.

15 IF ANYONE TRIES TO TALK TO YOU ABOUT THE CASE, PLEASE
16 NOTIFY THE COURT IMMEDIATELY.

17 AGAIN, DO NOT READ, WATCH, OR LISTEN TO ANY NEWS REPORTS
18 ABOUT THIS TRIAL.

19 DO NOT DO ANY INDEPENDENT INVESTIGATION OR ANY RESEARCH
20 ON THE INTERNET ABOUT THIS TRIAL.

21 REMEMBER TO KEEP AN OPEN MIND ABOUT THIS CASE UNTIL I
22 INSTRUCT YOU TO BEGIN YOUR DELIBERATIONS.

23 AND WITH THAT, LADIES AND GENTLEMEN, I WOULD ASK THAT
24 YOU RETURN TO YOUR JURY ROOM AT 0-9-3-0 - NINE-THIRTY A.M. IN
25 THE MORNING. IF YOU'D PLEASE BE PROMPT.

1 UM - AND YOU ARE NOW EXCUSED. HAVE A PLEASANT EVENING.

2 (WHEREUPON, JURY LEFT THE COURTROOM AT 5:33 P.M.)

3 **THE COURT:** SOLICITOR, YOU HAVE ONE MORE WITNESS?

4 **MR. DURANT:** ONE MORE WIT- -- WITNESS AND I INTEND TO
5 REST, YOUR HONOR.

6 **THE COURT:** ALL RIGHT, SIR. ANY OTHER - ANY OTHER
7 MATTERS WE NEED TO TAKE UP THIS EVENING?

8 **MR. DURANT:** UM - JUST FOR PLANNING PURPOSES - AND I'M -
9 I'M NOT GOING TO HOLD YOU THIS.

10 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
11 CONFERENCE REGARDING MATTERS OTHER THAN THIS CASE, OFF THE
12 RECORD.)

13 (WHEREUPON, COURT RESUMED.)

14 **THE COURT:** ALL RIGHT. AND, SOLICITOR, DO YOU HAVE - DO
15 YOU HAVE ANY RESEARCH AT ALL ON THE ISSUE OF THE, UH,
16 POSSESSORY VERSES PROPRIETARY INTEREST IN THE RESIDENCE?

17 **MR. DURANT:** UH - SOME, YOUR HONOR, WHICH I WILL - WHICH
18 I WILL HAND UP. AND IT'S ADMITTEDLY VERY BRIEF, BECAUSE I
19 JUST FOUND OUT ABOUT THIS TODAY WHEN I SAW HER WITNESS LIST.

20 BUT, UH, AND I'LL HAND THIS TO YOU. UH - THIS IS
21 BASICALLY A BLURB FROM, UH, THE SOUTH CAROLINA, UM, ENCY- --
22 LEGAL ENCYCLOPEDIA THEY STARTED DOING. UH - THIS IS SUPREME
23 COURT VERSUS MICHAEL COFFIN.

24 THIS INVOLVED A SITUATION, BASICALLY---

25 **THE COURT:** THAT'S ON THE LEASE ON THE TRAILER?

1 **MR. DURANT:** YEAH, THAT'S THE LEASE ON THE TRAILER. AND
2 THEN I HAVE A COUPLE OF OUT OF STATE CASES. UH, ONE IS A
3 TEXAS CASE, UH, INVOLVING A, UH - SOMEONE THAT WAS A LEGAL
4 TITLE OWNER ON THE PREMISES.

5 UH - AND ONE IS A MARYLAND CASE, UM, WHICH I'LL JUST
6 HAND UP.

7 I REALLY EVEN HADN'T - HADN'T HAD A CHANCE TO READ ALL
8 OF THOSE.

9 **THE COURT:** DO YOU HAVE A COPY OF THESE, MS...

10 **MS. SOLAR:** I DO NOT, YOUR HONOR.

11 **MR. DURANT:** I'M SORRY, JUDGE.

12 **THE COURT:** I - I'LL GET YOU A - COPIES MADE NOW AND
13 YOU CAN BE LOOKING OVER THIS TONIGHT.

14 **MS. SOLAR:** THANK YOU, YOUR HONOR.

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
16 CONFERENCE, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 **THE COURT:** AND SHE'LL BRING IT BACK IN TO YOU. SEE
19 YOU-ALL AT NINE-THIRTY IN THE MORNING.

20 **MS. SOLAR:** THANK YOU.

21 **MR. DURANT:** OKAY. THANK YOU, JUDGE.

22 **MS. SOLAR:** THANK YOU, JUDGE.

23 **THE COURT:** PLEASE BE PROMPT - THANK YOU.

24 **COURT REPORTER:** CAN YOU-ALL WAIT TO MAKE SURE THAT I
25 HAVE THE EXHIBITS?

1 **THE COURT:** MR. SOLICITOR AND MS. SOLAR, CAN YOU-ALL
2 MAKE SURE THE COURT REPORTER HAS THE EXHIBITS?

3 **MR. DURANT:** OKAY. YES, SIR; WE WILL BEFORE WE GET OUT
4 OF HERE.

5 **THE COURT:** JUST WAIT.

6 (WHEREUPON, COURT RECESSED AT 5:35 P.M.
7 ON MAY 1, 2006.)

8 (WHEREUPON, COURT RESUMED AT 9:40 A.M.
9 ON MAY 2, 2006.)

10 **THE COURT:** SOLICITOR, ANYTHING BEFORE WE BRING IN THE
11 JURY?

12 **MR. DURANT:** I DON'T BELIEVE SO, YOUR HONOR?

13 **THE COURT:** ALL RIGHT. MS. SOLAR?

14 **MS. SOLAR:** NO, YOUR HONOR.

15 **THE COURT:** THANK YOU. MADAME BAILIFF, WOULD YOU BRING
16 US OUR JURY, PLEASE?

17 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED WHILE WAITING
18 FOR THE JURY, OFF THE RECORD.)

19 (WHEREUPON, COURT RESUMED.)

20 **BAILIFF:** WE'RE WAITING ON ONE, YOUR HONOR.

21 **THE COURT:** YES, MA'AM.

22 (WHEREUPON, JURY ENTERED THE COURTROOM AT 9:42 A.M.)

23 **BAILIFF:** ALL PRESENT, YOUR HONOR.

24 **THE COURT:** THANK YOU, MR. BAILIFF. MR. FOREMAN, LADIES
25 AND GENTLEMEN OF THE JURY, GOOD MORNING. I HOPE YOU ALL HAD

AL HALLMAN, DIRECT EXAMINATION BY MR. DURANT:

1 A PLEASANT EVENING. WE ARE NOW CONTINUING WITH THE
2 PRESENTATION OF THE CASE BY THE, UH, STATE.

3 SOLICITOR, YOU MAY CALL YOUR NEXT WITNESS.

4 MR. DURANT: THANK YOU, YOUR HONOR. THE STATE WOULD
5 CALL AL HALLMAN.

6 (WITNESS FORWARD.)

7 CLERK (MS. NELSON): GOOD MORNING, SIR. WOULD YOU PLACE
8 YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND?

9 (WHEREUPON, AL HALLMAN WAS DULY SWORN AND TESTIFIED AS
10 FOLLOWS:)

11 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
12 NAME FOR THE RECORD.

13 MR. HALLMAN: AL HALLMAN.

14 AL HALLMAN, DIRECT EXAMINATION BY MR. DURANT:

15 Q SERGEANT HALLMAN, COULD YOU PLEASE TELL THE JURY WHERE
16 YOU'RE EMPLOYED?

17 A YES, SIR. THE CITY OF NORTH CHARLESTON POLICE
18 DEPARTMENT.

19 Q AND HOW LONG HAVE YOU BEEN WITH NORTH CHARLESTON?

20 A ABOUT EIGHTEEN-AND-A-HALF YEARS.

21 Q AND WHAT DO YOU DO - CURRENTLY DO FOR THE CITY OF
22 NORTH CHARLESTON?

23 A I'M CURRENTLY THE SUPERVISOR OF THE FORENSIC
24 INVESTIGATIONS UNIT.

25 Q AND HOW LONG HAVE YOU BEEN DOING THAT?

AL HALIMAN, DIRECT EXAMINATION BY MR. DURANT:

1 A I'VE BEEN DOING FORENSICS FOR ABOUT TWELVE-AND-A-HALF
2 YEARS.

3 Q OKAY. AND, UH, IN THAT CAPACITY, DID YOU HAVE AN
4 OPPORTUNITY TO BE DISPATCHED TO SPRUCE IN THE CITY OF
5 NORTH CHARLESTON ON OCTOBER 2 OF 2005?

6 A YES, I DID.

7 Q UH - IN REFERENCE TO WHAT?

8 A IN REFERENCE TO AN ARMED ROBBERY.

9 Q UH - WHAT TIME WAS IT WHEN YOU ARRIVED?

10 A I WAS NOTIFIED AT APPROXIMATELY ZERO-TWO-THIRTY IN THE
11 MORNING, AND I ARRIVED APPROXIMATELY TWO-FORTY-FIVE IN THE
12 MORNING.

13 Q OKAY. UH - DID YOU HAVE AN OCCASION - HOW - WHAT DID
14 YOU DO WHEN YOU ARRIVED AT THE SCENE?

15 A ONCE I GOT ON THE SCENE, I MET WITH THE OFFICERS ON
16 SCENE - SPECIFICALLY, PATROLMAN KIKER. AND, BASICALLY, GOT A
17 SYNOPSIS OF WHAT HAD TRANSPIRED.

18 I WAS ADVISED THAT A YOUNG LADY HAD BEEN ROBBED AT
19 KNIFEPOINT BY HER SON, AND THAT SHE HAD BEEN BOUND WITH SOME
20 KIND OF TAPE AND THAT THERE WERE SEVERAL PHONES THAT WERE
21 INSIDE THE RESIDENCE HAD BEEN THROWN OUTSIDE.

22 Q DID YOU ACTUALLY HAVE AN OCCASION TO TALK TO THE VICTIM?

23 A NO. THE VICTIM WAS NOT THERE. THE VICTIM HAD ALREADY
24 BEEN TRANSPORTED TO THE HOSPITAL UPON MY ARRIVAL.

25 Q WERE YOU AWARE THAT A BURGLARY HAD BEEN INVOLVED AS

1 WELL?

2 A NO, I WAS NOT.

3 Q WERE YOU AWARE THAT THE SON DID NOT LIVE AT THAT HOUSE?

4 A NO.

5 Q AND WAS YOUR PROCESSING OF THE CRIME SCENE BASED UPON
6 THE INFORMATION YOU WERE PROVIDED BY THE UNIFORMED OFFICERS?

7 A YES, IT WAS. THE SCENE WAS PROCESSED IN ACCORDANCE WITH
8 A STANDARD ARMED ROBBERY.

9 UH - I BASICALLY EXAMINED THE INTERIOR AND THE EXTERIOR
10 OF THE RESIDENCE. UH - A KNIFE WAS FOUND ON THE BED IN THE
11 VICTIM'S BEDROOM.

12 AS I HAVE PREVIOUSLY SAID, THERE WERE TWO PHONES ON THE
13 GROUND OUTSIDE THE RESIDENCE.

14 THERE WAS A VEHICLE PARKED IN THE DRIVEWAY. AND ON THE
15 TRUNK OF THE VEHICLE WERE TWO ARTICLES OF CLOTHING AND
16 SEVERAL STRANDS OF, UH - I GUESS MEDICAL TAPE OR SOMETHING
17 LIKE SMALL CLEAR TAPE. AND THERE WERE ALSO SEVERAL STRANDS
18 OF TAPE ON THE GROUND.

19 Q DID YOU MAKE ANY EFFORTS TO TRY TO, UH, ASCERTAIN THE
20 POINT OF ENTRY TO THE HOUSE?

21 A NO, SIR. IT WAS, UH, PRETTY MUCH UNDERSTOOD AT MY TIME
22 THAT THE SON LIVED WITH THE MOTHER AND THEREFORE THERE
23 WOULDN'T BE---

24 Q WERE YOU TOLD THAT OR DID YOU ASSUME IT?

25 A NO, I ASSUMED THAT ONCE I WAS TOLD THAT THE SON ROBBED

1 THE MOTHER BASICALLY.

2 Q OKAY. SO YOU DIDN'T PROCESS THIS AS A BURGLARY SCENE?

3 A NO. AND I WAS - AND THERE WAS NO, UH, INDICATION THAT A
4 BURGLARY HAD BEEN COMMITTED TO MY PRESENCE.

5 Q OKAY. AND YOU WEREN'T TOLD THAT?

6 A NO.

7 Q UM - DID YOU COLLECT ANY EVIDENCE?

8 A YES, I DID. I PHOTOGRAPHED THE SCENE - THE EXTERIOR OF
9 THE SCENE AND THE INTERIOR OF THE SCENE TO DOCUMENT THE
10 EVIDENCE AS IT WAS LOCATED INITIALLY.

11 THEN I COLLECTED THE TWO PHONES AND I COLLECTED THE
12 KNIFE OFF THE BED. THE TWO ARTICLES OF CLOTHING, AND SEVERAL
13 STRANDS OF THE TAPE THAT I PREVIOUSLY MENTIONED.

14 Q HAND YOU WHAT'S PREVIOUSLY BEEN MARKED AS STATE'S
15 EXHIBITS ONE THROUGH ELEVEN IN EVIDENCE AND ASK, ARE THOSE
16 THE PHOTOGRAPHS YOU TOOK?

17 (WITNESS REVIEWING PHOTOGRAPHS.)

18 A YES, THEY ARE.

19 Q OKAY. I NOTICED THAT ALL OF THOSE PHOTOGRAPHS WERE
20 EITHER FROM INSIDE THE RESIDENCE OR IN FRONT OF THE
21 RESIDENCE, IS THAT CORRECT?

22 A THAT - THAT IS CORRECT.

23 Q DID YOU EVER GO AROUND THE SIDE OF THE RESIDENCE OR THE
24 BACK OF THE RESIDENCE?

25 A NO, SIR, I DID NOT.

AL HALLMAN, DIRECT EXAMINATION BY MR. DURANT:

1 Q OKAY. OKAY, I HAND YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT NUMBER NINETEEN, I BELIEVE, AND ASK IF YOU CAN
3 RECOGNIZE THAT ITEM?

4 A YES. THAT'S A BLACK PAIR OF PANTS THAT WAS ON THE TRUNK
5 OF THE VEHICLE THAT I MENTIONED WAS IN THE DRIVEWAY.

6 Q AND THAT'S ALSO DEPICTED IN THE PHOTO YOU TOOK - STATE'S
7 EXHIBIT NUMBER THREE, IS THAT CORRECT?

8 A YES.

9 Q IS THAT ITEM IN SUBSTANTIALLY THE SAME CONDITION NOW AS
10 WHEN YOU RECOVERED IT?

11 A YES, IT IS.

12 Q ALSO, WITH REGARD TO STATE'S EXHIBIT NUMBER TWENTY, I
13 BELIEVE, DO YOU RECOGNIZE THAT ITEM?

14 A YES. THAT IS ALSO AN ARTICLE OF CLOTHING THAT WAS ON
15 THE TRUNK. I HAD PREVIOUSLY LISTED THAT AS A SHIRT ON OUR
16 EVIDENCE FORM BECAUSE, WHEN I COLLECTED IT, I - I IMMEDIATELY
17 DID NOT EXAMINE IT. I JUST COLLECTED IT AND BAGGED IT AT THE
18 SCENE.

19 IT WAS LATER DESCRIBED - OR, IT WAS LATER DISCOVERED IT
20 IS A PAIR OF PANTS AND NOT A SHIRT.

21 Q WITH THE PICTURES OF ELVIS ON IT, RIGHT?

22 A WITH THE PICTURES OF ELVIS, YES, SIR.

23 Q OKAY. AND, UH, THAT IS ALSO DEPICTED IN STATE'S EXHIBIT
24 NUMBER THREE, IS THAT CORRECT?

25 A THAT IS CORRECT.

AL HALIMAN, DIRECT EXAMINATION BY MR. DURANT:

1 Q AND IS THAT ITEM IN SUBSTANTIALLY THE SAME CONDITION NOW
2 AS WHEN YOU RECOVERED IT?

3 A YES, SIR.

4 Q HAND YOU NOW WHAT'S BEEN MARKED AS STATE'S EXHIBIT
5 NUMBER SEVENTEEN AND ASK IF YOU CAN RECOGNIZE THAT ITEM?

6 A YES. THIS IS THE KNIFE THAT I COLLECTED FROM THE
7 VICTIM'S BEDROOM, OFF HER BED.

8 Q OKAY. AND, UH, HOW DO YOU KNOW THAT?

9 A BECAUSE IT'S SEALED WITH EVIDENCE TAPE AND THERE'S AN
10 EVIDENCE STICKER WITH MY WRITING AND MY NAME ON IT.

11 Q OKAY. AND WHERE DO - WAS THAT NOTE (SIC) - LIFE (SIC) -
12 KNIFE LOCATED INSIDE THE RESIDENCE?

13 A ON THE VICTIM'S BED.

14 Q OKAY. THERE'S ALSO A PICTURE OF THAT IN THE PHOTOGRAPHS
15 YOU TOOK AS WELL, IS THAT CORRECT?

16 A YES, SIR, IT IS. GIVE ME JUST A MINUTE. STATE'S
17 EXHIBIT NUMBER SEVEN.

18 Q OKAY. AND IS THAT ITEM IN SUBSTANTIALLY THE SAME
19 CONDITION NOW AS IT WAS WHEN YOU RECOVERED IT?

20 A YES, IT IS.

21 Q OKAY.

22 MR. DURANT: YOUR HONOR, AT THIS TIME WE WOULD OFFER
23 STATE'S NINETEEN - SEVENTEEN, NINETEEN. AND TWENTY INTO
24 EVIDENCE IF THERE'S NO OBJECTION.

25 THE COURT: MS. SOLAR?

1 MS. SOLAR: NO OBJECTION, YOUR HONOR.

2 THE COURT: STATE'S SEVENTEEN, NINETEEN, AND TWENTY IN
3 EVIDENCE WITHOUT OBJECTION.

4 (WHEREUPON, STATE'S EXHIBIT NO. 17 WAS ADMITTED INTO
5 EVIDENCE.)

6 (WHEREUPON, STATE'S EXHIBIT NO. 19 WAS ADMITTED INTO
7 EVIDENCE.)

8 (WHEREUPON, STATE'S EXHIBIT NO. 20 WAS ADMITTED INTO
9 EVIDENCE.)

10 Q WITH REGARD TO STATE'S EXHIBIT NUMBER SEVENTEEN, THE
11 KNIFE, DID YOU MAKE ANY EFFORT TO LIFT THE PRINTS FROM THAT
12 KNIFE?

13 A YES, I DID. I PROCESSED THE KNIFE ONCE I RETURNED BACK
14 TO THE POLICE DEPARTMENT USING A CYANOACRYLATE FUMING, OR,
15 COMMONLY KNOWN AS SUPER GLUE FUMING. NO PRINTS WERE
16 DEVELOPED ANYWHERE ON THE KNIFE, AND THERE WERE NO PRINTS
17 SUBSEQUENTLY RECOVERED FROM THE KNIFE.

18 Q IS THAT A METHOD GOOD FOR DEVELOPING PRINTS ON - ON THE
19 BLADE PART OR THE HANDLE PART?

20 A THE BLADE.

21 Q OKAY. WELL, SOMEBODY DOESN'T USUALLY HANDLE THE BLADE
22 WHEN THEY HANDLE A KNIFE, DO THEY?

23 A THIS IS - THIS IS TRUE.

24 Q UH - HOW ABOUT THE - THE COMPOSITION OF THE HANDLE OF
25 THAT KNIFE? WHAT IS THE COMPOSITION OF THE HANDLE?

AL HALLMAN, DIRECT EXAMINATION BY MR. DURANT:

1 A THE HANDLE IS MADE OF WOOD. AND COMMONLY WHEN WE WOULD
2 PROCESS WOOD FOR LATENT PRINTS, WE USE A CHEMICAL PROCESS
3 CALLED NYNHYDRIN. NYNHYDRIN REACTS TO THE AMINO ACIDS LEFT
4 BY A PERSON'S HANDS.

5 AND THE REASON THAT THE WOODEN HANDLE IN THIS CASE WAS
6 NOT PROCESSED WITH NYNHYDRIN IS BECAUSE WOOD-HANDLED KNIVES
7 ARE COMMONLY HANDLED BY MANY, MANY PEOPLE.

8 IT'S VERY SIMILAR TO CURRENCY. WE'VE - I'VE PROCESSED
9 MANY, MANY, MANY, MANY DOLLAR BILLS OVER MY TIME. AND
10 BECAUSE OF THE FACT THAT MANY, MANY PEOPLE HANDLE IT, THE
11 AMINO ACIDS FROM EACH HAND, IT STAYS WITHIN THAT CONTEXT.
12 AND IF YOU PROCESS IT WITH NYNHYDRIN, THE WHOLE THING WOULD
13 TURN COMPLETELY PURPLE AND THERE WILL BE NO PRINTS THERE.

14 SO WE DIDN'T - I DID NOT PROCESS THE WOODEN HANDLE OF
15 THE KNIFE ONLY BECAUSE IT'S COMMON KNOWLEDGE THAT MANY, MANY
16 PEOPLE HANDLE KNIVES AND, UH, IT WOULD HAVE PROBABLY TURNED
17 COMPLETELY PURPLE AND WE WOULD HAVE HAD A PURPLE KNIFE THEN.

18 Q UM, DID YOU DUST THE HOUSE ITSELF FOR PRINTS?

19 A NO, I DID NOT.

20 Q AND WHY NOT?

21 A BECAUSE AS - AS I STATED EARLIER, I WAS UNDER THE
22 ASSUMPTION THAT THE SON LIVED WITH THE MOTHER AND THAT HIS
23 PRINTS WOULD CERTAINLY BE INSIDE THE RESIDENCE SO IT WOULD
24 HOLD NO EVIDENTIARY VALUE.

25 Q AND YOU DID FIND OUT SOME TIME LATER THAT HE DIDN'T

AL HALLMAN, CROSS-EXAMINATION BY MS. SOLAR:

1 ACTUALLY LIVE THERE, IS THAT CORRECT?

2 A I FOUND THAT OUT APPROXIMATELY TWO WEEKS AGO WHEN I ALSO
3 FOUND OUT THAT A BURGLARY HAD BEEN COMMITTED.

4 Q OKAY. BECAUSE YOU WEREN'T TOLD THAT?

5 A THAT'S CORRECT.

6 Q WOULD YOU PLEASE ANSWER ANY QUESTIONS THAT, UH,
7 MS. SOLAR MAY HAVE FOR YOU?

8 MS. SOLAR: MAY IT PLEASE THE COURT?

9 THE COURT: YES, MA'AM.

10 AL HALLMAN, CROSS-EXAMINATION BY MS. SOLAR:

11 Q CORPORAL HALLMAN, YOU WORK FOR THE POLICE DEPARTMENT'S
12 FORENSICS SERVICES?

13 A YES, MA'AM.

14 Q OKAY. AND YOU'VE BEEN A - IN LAW ENFORCEMENT FOR
15 EIGHTEEN YEARS YOU TESTIFIED THEN?

16 A A LITTLE OVER EIGHTEEN, YES, MA'AM.

17 Q OKAY. AND SPECIFICALLY IN THAT DEPARTMENT TWELVE YEARS?

18 A YES, MA'AM.

19 Q OKAY. AND YOUR JOB IS TO ASSESS WHAT EVIDENCE NEEDS TO
20 BE COLLECTED, RIGHT?

21 A THAT'S CORRECT.

22 Q OKAY. AND THE REASON YOU DO THAT IS BECAUSE THE
23 EVIDENCE AT A CRIME SCENE WILL TELL THE STORY OF WHAT
24 HAPPENED - GENERALLY?

25 A GENERALLY, THAT'S CORRECT.

1 Q OKAY. AND YOU TESTIFIED THAT YOU RESPONDED TO THE SCENE
2 ALMOST IMMEDIATELY?

3 A PRETTY MUCH, YES, MA'AM. ONCE---

4 Q WITHIN A HALF-HOUR?

5 A YES.

6 Q OKAY. AND WHEN YOU GOT THERE, YOU DIDN'T THINK THAT
7 THIS WAS A BURGLARY, AS YOU TESTIFIED?

8 A NO, I HAD NO KNOWLEDGE THAT A BURGLARY HAD BEEN
9 COMMITTED.

10 Q CORRECT. BECAUSE YOU HAD FOUND OUT THIS WAS REGARDING A
11 MOTHER AND SON?

12 A THAT'S CORRECT.

13 Q OKAY. YOU DIDN'T - YOU TESTIFIED YOU DIDN'T FIND ANY
14 FINGERPRINTS ON THE KNIFE, CORRECT?

15 A CORRECT.

16 Q OKAY. UM - AND THAT THE KNIFE WAS FOUND IN THE BED?

17 A YES, MA'AM.

18 Q AND YOU DIDN'T CHECK FOR FINGERPRINTS ON ANY OF THE
19 WINDOWS?

20 A NO.

21 Q OKAY. OR ON THE DOOR?

22 A NO.

23 Q OR THE LADDER?

24 A NO. I DIDN'T KNOW THAT THE LADDER EXISTED AT THE TIME.

25 Q OKAY. DID YOU - DID YOU HAVE AN OCCASION TO TAKE ANY

AL HALLMAN, CROSS-EXAMINATION BY MS. SOLAR:

1 PICTURES OF MRS. SINGLEY THAT EVENING?

2 A NO. SHE WAS GONE FROM THE SCENE WHEN I ARRIVED.

3 Q OKAY. AND YOU WEREN'T ASKED TO GO TO THE HOSPITAL TO
4 TAKE ANY PICTURES OF HER?

5 A NO, I WAS NOT.

6 Q OKAY. DID YOU TAKE ANY PICTURES OF ANY MEDICAL TAPE
7 OR - OR THE ROLL OF MEDICAL TAPE?

8 A NO, JUST THE TAPE THAT I FOUND OUTSIDE ON THE GROUND AND
9 THE TAPE THAT WAS ATTACHED TO THE BLACK PANTS.

10 Q ALL RIGHT.

11 MS. SOLAR: COURT'S INDULGENCE.

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
13 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
14 HEARING OF THE JURY, OFF THE RECORD.)

15 (WHEREUPON, COURT RESUMED.)

16 MS. SOLAR: NO FURTHER QUESTIONS, YOUR HONOR.

17 MR. DURANT: I HAVE NOTHING ON REDIRECT, YOUR HONOR.
18 I'D ASK THAT, UH, OFFICER HALLMAN BE EXCUSED IF THERE'S NO
19 OBJECTION.

20 MS. SOLAR: NO OBJECTION.

21 THE COURT: THANK YOU, MS. SOLAR. OFFICER, YOU MAY BE
22 EXCUSED.

23 MR. HALLMAN: THANK YOU, YOUR HONOR.

24 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED.

25 (WITNESS EXCUSED.)

1 THE COURT: SOLICITOR, YOU MAY CALL YOUR NEXT WITNESS,
2 SIR.

3 MR. DURANT: THE STATE WOULD REST, YOUR HONOR.

4 THE COURT: ALL RIGHT. MADAME FORELADY, THE -
5 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, THERE ARE
6 SOME, UM, LEGAL ISSUES I MAY HAVE TO TAKE UP THAT MAY TAKE A
7 FEW MOMENTS. THE STATE HAS NOW RESTED.

8 I'M GONNA ASK YOU TO GO TO YOUR JURY ROOM MOMENTARILY.
9 AGAIN, DO NOT DISCUSS THIS CASE. DO NOT DISCUSS THIS CASE
10 WITH YOUR FELLOW JURORS. PLEASE REMEMBER TO KEEP AN OPEN
11 MIND UNTIL ALL THE EVIDENCE HAS BEEN PRESENTED, THE CLOSING
12 STATEMENTS BY THE ATTORNEYS, THE CHARGE ON THE LAW BY THE
13 COURT.

14 YOU MAY NOW GO WITH THE BAILIFF TO YOUR JURY ROOM.

15 (WHEREUPON, JURY LEFT THE COURTROOM AT 9:55 A.M.)

16 THE COURT: MS. SOLAR, DO YOU HAVE ANY MOTIONS?

17 MS. SOLAR: YES, YOUR HONOR. WE MAKE A MOTION FOR A
18 DIRECTED VERDICT.

19 UH - THE STATE, IT - IT, UM, HAS FAILED TO PRODUCE
20 SUFFICIENT EVIDENCE TENDING TO PROVE MY CLIENT'S GUILT ON ANY
21 THREE OF THESE CHARGES.

22 SPECIFICALLY AS TO THE BURGLARY, THROUGH THE TESTIMONY
23 YOU HEARD, THAT HE IS PART OWNER OF THE HOUSE. UM -
24 OBVIOUSLY, THE ELEMENT OF CONSENT TO ENTER, UM, HAS NOT AN
25 ESTABLISHED. UM - THAT HAS NOT BEEN PROVEN. UM - YOU KNOW,

1 THE MOTHER TESTIFIED THAT, UM, YOU KNOW, SHE'D KICKED HIM OUT
2 AFTER THREE WEEKS.

3 UM - IT'S OUR - IT'S OUR BELIEF THAT SHE DOESN'T HAVE A
4 RIGHT TO KICK HIM OUT. THERE WAS NO ORDER OF PROTECTION.
5 UM, SHE - HE - HE HAD A RIGHT TO BE IN THAT HOUSE. UH,
6 THIS WAS - THIS WAS NOT A LANDLORD/TENANT SITUATION. UM,
7 THERE WAS NO ORDER OF PROTECTION. THERE WAS NO TRESPASS
8 NOTICE. UH, THIS WAS, FOR ALL INTENTS AND PURPOSES, HIS
9 HOUSE AS WELL. UM - HE OWNED IT, AND, UM, THE ELEMENT OF
10 CONSENT TO ENTER HAS NOT BEEN MET.

11 UM - AND AS TO ALL THREE OF THESE CHARGES, UH, THE
12 EVIDENCE MERELY RAISES A SUSPICION OF GUILT, YOUR HONOR, AND
13 WE ASK THAT YOU GRANT THE MOTION FOR A DIRECTED VERDICT.

14 THE COURT: ALL RIGHT. SOLICITOR, I'LL BE GLAD TO HEAR
15 FROM YOU.

16 MR. DURANT: YOUR HONOR, UH, OBVIOUSLY, WITH REGARD TO
17 THE ARMED ROBBERY AND THE KIDNAPPING, UH, I BELIEVE THE
18 EVIDENCE SPEAKS FOR ITSELF. I THINK THERE'S AMPLE EVIDENCE
19 TO SUPPORT SENDING THIS - PRESENTING THOSE CHARGES TO THE
20 JURY IN THIS CASE.

21 I WOULD SUBMIT, FOR REASONS STATED IN THOSE CASES THAT I
22 PREVIOUSLY PASSED UP TO THE COURT, AS WELL AS THE - THE ONES
23 I PASSED UP YESTERDAY, THAT THE, UH - THE OFFENSE OF
24 BURGLARY - BURGLARY HAS BEEN MADE OUT AS WELL, DESPITE THE
25 DEFENDANT'S, UH, FRACTIONAL OWNERSHIP IN THE HOUSE.

DEFENSE MOTIONS BY MS. SOLAR:

1 UH - THE CASES ARE QUITE UNIFORM IN THAT THEY CATEGORIZE
2 BURGLARY AS A CRIME AGAINST POSSESSION AS - AS OPPOSED TO A
3 CRIME AGAINST OWNERSHIP.

4 THE UNCONTROVERTED TESTIMONY IN THIS CASE IS THAT
5 MS. SINGLEY WAS IN POSSESSION OF THAT HOME. THAT THAT HOUSE
6 WAS HER DWELLING. THAT SHE HAD PUT MR. SINGLEY OUT OF THE
7 HOUSE IN APRIL OF THAT YEAR. UH - THAT HE HAD NOT LIVED WITH
8 HER FOR OVER SIX MONTHS. THAT HE BROKE INTO THE HOUSE
9 WITHOUT HER CONSENT OR PERMISSION AND PERFORMED THE ACTS
10 WHICH MS. SINGLEY TESTIFIED THAT HE - HE COMMITTED ON THE
11 WITNESS STAND YESTERDAY.

12 CERTAINLY, EVEN UNDER THE DEFINITION OF ENTRY WITHOUT
13 CONSENT IN 16-11-310, I BELIEVE IT IS - IT DEFINES ENTRY
14 WITHOUT CONSENT AS ENTRY, UH, WITHOUT THE CONSENT OF PERSON
15 IN - IN RIGHTFUL POSSESSION OF THE PREMISES.

16 AND, UH, I BELIEVE THAT, UH, THE ONLY EVIDENCE IN THIS
17 CASE WAS THAT WAS MRS. SINGLEY AND THIS - THIS DEFENDANT DID
18 NOT HAVE HER CONSENT TO ENTER THE HOME.

19 THE COURT: ALL RIGHT, UH---

20 MS. SOLAR: JUDGE, MAY I RESPOND TO THAT?

21 THE COURT: YES, MA'AM.

22 MS. SOLAR: THE - I - I - I DON'T BELIEVE THE STATE HAS
23 PROVEN WHETHER MS. SINGLEY HAD SOLE POSSESSION OF THE HOUSE.

24 IN FOUR OF THE FIVE CASES THAT THE SOLICITOR HANDED UP
25 TO YOU, AT LEAST - WELL, IN PARHAM VERSUS MARYLAND - OR, THE

1 STATE OF MARYLAND, IN THIS PARTICULAR CASE THESE ARE ALL
2 DISTINGUISHABLE BY THE WAY - IN THIS PARTICULAR CASE, THE
3 VICTIM WAS PURCHASING THE PROPERTY IN HER - IN HER OWN - IN
4 HER OWN NAME. THE APPELLANT'S NAME WAS NOT ON THE TITLE.

5 THAT'S NOT THE WAY IT IS HERE. HE IS ON THE TITLE. HE
6 OWNS TWELVE-POINT-FIVE PERCENT OF THAT HOUSE.

7 IN CALHOUN VERSUS OKLAHOMA, THERE WAS AN ORDER OF
8 PROTECTION THAT WAS PROHIBITING THE DEFENDANT FROM VISITING
9 THE HOUSE.

10 IN THE STATE V. COFFIN, IN THAT PARTICULAR CASE, THE,
11 UH - THE APPELLATE WAS ON THE LEASE AS A VISITOR. THE, UM,
12 VICTIM WAS THE ONLY PERSON ON THE LEASE - THE ONLY NAME ON
13 THE LEASE.

14 HERE, UH, THAT'S NOT - THAT'S NOT THE CASE AT ALL.

15 IN, UM, TEXAS V. DAVIS THERE WAS A COURT ORDER THAT GAVE
16 THE VICTIM EXCLUSIVE POSSESSION OF THE RESIDENCE. THAT'S NOT
17 WHAT WE HAVE HERE. AT LEAST IT HASN'T BEEN PROVEN.

18 THERE IS NO ORDER OF PROTECTION. THERE'S NO TRESPASS
19 NOTICE. THERE'S NO RESTRAINING ORDER. HE HAD A RIGHT TO
20 THE - NOT ONLY THE INTEREST OR THE OWNERSHIP IN THAT HOUSE,
21 BUT TO THE POSSESSION OF THAT HOUSE.

22 AT ONE POINT HE HAD A KEY. MOTHER TESTIFIED HE LOST THE
23 KEY. HE WASN'T - THE KEY WASN'T TAKEN AWAY FROM HIM, HE LOST
24 IT. I COULD LOSE THE - THE KEY TO MY HOUSE. THAT DOESN'T
25 MEAN I'D LOSE POSSESSION OF THE HOUSE.

DEFENSE MOTIONS BY MS. SOLAR:

1 YOUR HONOR, I DON'T THINK THAT HAS BEEN ESTABLISHED, AND
2 I - I WOULD ASK THAT YOU GRANT A MOTION FOR A DIRECTED
3 VERDICT ON THAT PARTICULAR CHARGE, AS WELL AS THE OTHERS.

4 **MR. DURANT:** AND IF I JUST MIGHT RESPOND BRIEFLY TO
5 THAT, YOUR HONOR?

6 I THINK PROBABLY THIS NORTH CAROLINA CASE IS MOST
7 RELEVANT IN RESOLVING THIS ISSUE. IN THREE - ON PAGE THREE
8 IT SAYS, THE DEFENDANT'S EMPHASIS ON THE ISSUE OF OWNERSHIP
9 OF THE DWELLING HOUSE HERE IS MISPLACED. WE HAVE STATED THAT
10 THE REASON FOR PROHIBITING THE OFFENSE OF FIRST-DEGREE
11 BURGLARY IS TO PROTECT THE HABITATION OF THE MEN, WHERE THEY
12 REPOSE AND SLEEP FROM MEDITATED HARM.

13 WE HAVE ALSO HELD THAT THE BURGLARY - THAT IN BURGLARY
14 CASES OCCUPATION OR POSSESSION OF A DWELLING IS EQUIVALENT TO
15 OWNERSHIP, AND ACTUAL OWNERSHIP OF THE PREMISES NEED NOT BE
16 PROVED.

17 THESE HOLDINGS RECOGNIZE THAT THE INQUIRY RELEVANT TO
18 THE ELEMENT OF THE CRIME IS WHETHER THE PREMISES IS THE
19 DWELLING OF ANOTHER, NOT WHETHER IT IS OWNED BY ANOTHER.

20 **THE COURT:** OKAY.

21 **MR. DURANT:** THE TRIAL COURT WAS NOT REQUIRED TO GIVE
22 ANY INSTRUCTION CONCERNING THE OWNERSHIP OF THE HOUSE, AS THE
23 CONCEPT OF TITLE IS NOT CONTROLLING IN ASCERTAINING WHETHER
24 THE OFFENSE HAS BEEN COMMITTED.

25 **THE COURT:** AND I'M NOT - I'M NOT SURE WHERE YOU'RE

1 READING FROM, SOLICITOR.

2 MR. DURANT: THAT IS, UH, IN THE NORTH CAROLINA CASE,
3 YOUR HONOR. SUPREME COURT VERSUS HAROLD. IT IS ON PAGE
4 THREE, UNDER HEAD NOTE THREE.

5 THE COURT: NO WONDER I COULDN'T FIND IT. I WAS IN A
6 DIFFERENT STATE. YES, I SEE WHERE YOU'RE READING FROM.

7 ALL RIGHT, ANYTHING FURTHER?

8 (NO RESPONSE.)

9 THE COURT: AS TO THE, UM, ARMED ROBBERY AND THE
10 KIDNAPPING, I WOULD RESPECTFULLY, UM, DENY THE MOTION FOR THE
11 DIRECTED VERDICT.

12 AS TO THE BURGLARY FIRST DECREE, I FIND, UM, BASED ON
13 THE TESTIMONY, THAT THE VICTIM AND HER HUSBAND - WHO I
14 BELIEVE THE TESTIMONY WAS, PASSED AWAY IN AUGUST OF '01 - HAD
15 LIVED AT SPRUCE AVENUE DURING THE COURSE OF THEIR
16 MARRIAGE.

17 THAT THE VICTIM AND HER HUSBAND JOINTLY OWNED
18 SPRUCE AVENUE RESIDENCE AS HUSBAND AND WIFE.

19 THAT UPON THE HUSBAND'S DEATH IN AUGUST OF 2001, THE
20 WIFE REMAINED IN - THE VICTIM WIFE REMAINED IN SOLE
21 POSSESSION OF THE PROPERTY, AND THE HUSBAND'S INTEREST WAS
22 SUBJECT TO THE INTESTATE LAWS OF SOUTH CAROLINA, HE HAVING
23 PASSED AWAY WITHOUT A WILL.

24 THAT THE VICTIM WAS APPOINTED PERSONAL REPRESENTATIVE OF
25 THE ESTATE OF THE HUSBAND.

1 THAT THE VICTIM AND HER HUSBAND HAD TWO CHILDREN - BRIAN
2 AND THE DEFENDANT, FERRIS, IN THIS MATTER.

3 THAT BRIAN AND FERRIS HAVE A LEGAL INTEREST IN THE
4 PROPERTY BY VIRTUE OF THEIR FATHER'S DEATH, BUT THEY HAD NO
5 POSSESSORY INTEREST IN THE PROPERTY.

6 THAT AS OF TODAY, FERRIS IS THIRTY-NINE YEARS OF AGE AND
7 HAS NOT LIVED WITH HIS MOTHER SINCE HIS EARLY TWENTIES,
8 EXCEPT FOR AN APPROXIMATE THREE-WEEK PERIOD IN APRIL OF 2005.

9 THAT THE VICTIM MOTHER EVICTED THE DEFENDANT IN APRIL OF
10 2005. I DO NOT MEAN TO IMPLY OR INFER THAT THAT EVICTION WAS
11 ANY WAY CARRIED OUT THROUGH ANY TYPE OF LEGAL PROCESS.

12 THAT THE DEFENDANT - SHE TESTIFIED THAT THE DEFENDANT
13 HAD NO PERMISSION TO BE AT THE RESIDENCE.

14 I FURTHER FIND THAT THE MANNER OF ENTRY - THAT IS, THAT
15 THE DEFENDANT SECURED A STEPLADDER FROM AN OUTSIDE SHED, PUT
16 THE LADDER UP AGAINST A BACK WINDOW AND ENTERED THE RESIDENCE
17 THROUGH THE WINDOW - IS ALSO INDICATIVE OF THE DEFENDANT'S
18 LACK OF A POSSESSORY OR OCCUPYING INTEREST.

19 BASED ON MY REVIEW, THE LAW OF BURGLARY WAS DESIGNED FOR
20 THE PURPOSE OF PROTECTING THE HABITATION AND THUS OCCUPANCY
21 OR POSSESSION RATHER THAN OWNERSHIP IS THE TEST.

22 NOT ONLY THE NORTH CAROLINA CASE OF STATE VERSUS HAROLD,
23 325 S.E.2D 219, BUT ALSO STATE VERSUS COFFIN, A SOUTH
24 CAROLINA CASE, 502 S.E.2D 98, IN WHICH - IN WHICH JUSTICE
25 MOORE WRITES AND CITES THE TERM - FROM 16-11-311(A) - THE

DEFENSE MOTIONS BY MS. SOLAR:

1 TERM ENTRY - ENTER A BUILDING WITHOUT CONSENT IS STATUTORILY
2 DEFINED TO MEAN TO ENTER A BUILDING WITHOUT THE CONSENT OF
3 THE PERSON IN UNLAWFUL (SIC) - IN LAWFUL POSSESSION.

4 THERE HAS BEEN NO CLAIM THAT THE DEFENDANT WAS A PERSON
5 ALSO IN LAWFUL POSSESSION. AND AT THIS STAGE, I MUST LOOK AT
6 THE EVIDENCE TO DETERMINE WHETHER THERE IS ANY DIRECT OR
7 SUBSTANTIAL CIRCUMSTAN- -- CIRCUMSTANTIAL EVIDENCE THAT
8 REASONABLY TENDS TO PROVE THE GUILT OF THE ACCUSED OR FROM
9 WHICH HIS GUILT MAY FAIRLY AND LOGICALLY BE DEDUCED.

10 BASED ON MY UNDERSTANDING OF THE LAW, INCLUDING THE, UH,
11 STANDARDS FOR DIRECTED VERDICT, I WOULD RESPECTFULLY DENY THE
12 DEFENDANT'S MOTION FOR DIRECTED VERDICT ON THE, UH, BURGLARY.

13 MS. - MS. SOLAR, ARE YOU READY TO GO FORWARD?

14 MS. SOLAR: YES...

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
16 CONFERENCE, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 MS. SOLAR: YOUR HONOR, MAY WE APPROACH?

19 THE COURT: YES, MA'AM.

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
21 CONFERENCE, OFF THE RECORD.)

22 (WHEREUPON, COURT RESUMED.)

23 THE COURT: WHY DON'T WE JUST BE AT EASE?

24 MR. DURANT: OKAY.

25 THE COURT: AND - AND YOU-ALL JUST - YOU-ALL JUST LET ME

1 KNOW WHEN YOU'RE READY.

2 MS. SOLAR: OKAY.

3 MR. DURANT: THANK YOU.

4 MS. SOLAR: THANK YOU, YOUR HONOR.

5 THE COURT: ALL RIGHT, COURT WILL---

6 MR. DURANT: YOU MAY - I DON'T KNOW, YOU MAY WANT TO
7 SEND WORD IN TO THE JURY THAT WE'RE WAITING ON A WITNESS SO
8 THEY WON'T GET ALL ANTSY.

9 THE COURT: COURT WILL BE AT EASE UNTIL A WITNESS
10 ARRIVES.

11 MADAME BAILIFF, IS THERE ANY SMOKERS?

12 BAILIFF: ONE IS.

13 THE COURT: ALL RIGHT. IF THEY WANT TO SMOKE OR GET
14 SOME - OR GET SOME FRESH AIR---

15 BAILIFF: OKAY.

16 THE COURT: ---THE NON-SMOKERS CAN GET SOME FRESH AIR.
17 WE'LL BE AT EASE.

18 (WHEREUPON, COURT RECESSED AT 10:10 A.M.)

19 (WHEREUPON, COURT RESUMED AT 10:42 A.M.)

20 THE COURT: YES, SIR, SOLICITOR, DO YOU HAVE A MOTION?

21 MR. DURANT: I DON'T HAVE A MOTION, YOUR HONOR, BUT THE
22 WITNESS HAS JUST ARRIVED AND MY INVESTIGATOR IS GONNA TALK TO
23 HER BRIEFLY.

24 BUT, WE WERE WONDERING IF YOUR HONOR COULD, UH, PERHAPS
25 QUESTION THE DEFENDANT AS TO - REGARDING HIS RIGHT TO TESTIFY

COURT'S EXAMINATION OF FERRIS G. SINGLEY AS TO RIGHT TO TESTIFY:

1 SO WE WOULDN'T HAVE TO SEND THE JURY OUT AGAIN---

2 THE COURT: ALL RIGHT.

3 MR. DURANT: ---UM, AFTER THE WITNESS - HER WITNESS DOES
4 TESTIFY.

5 THE COURT: ALL RIGHT. MR. - MR. SINGLEY, WOULD YOU
6 PLEASE RISE? MADAME CLERK, WOULD YOU PLACE MR. SINGLEY UNDER
7 OATH PLEASE?

8 CLERK (MS. NELSON): PLEASE RAISE YOUR RIGHT HAND, SIR.

9 (WHEREUPON, FERRIS GEIGER SINGLEY WAS DULY SWORN AND
10 TESTIFIED AS FOLLOWS:)

11 THE COURT: MR. SINGLEY, YOU UNDERSTAND YOU STAND
12 INDICTED AND CHARGED WITH KIDNAPPING, ARMED ROBBERY, AND
13 BURGLARY IN THE FIRST DEGREE---

14 MR. SINGLEY: YES, YOUR HONOR.

15 THE COURT: ---CORRECT?

16 MR. SINGLEY: YES, YOUR HONOR.

17 THE COURT: AND WE ARE NOW IN THE PROCESS OF, UM, YOUR
18 JURY TRIAL FOR THOSE THREE OFFENSES, AND THE STATE HAS RESTED
19 ITS CASE. AND YOU NOW HAVE AN OPPORTUNITY TO PRESENT
20 EVIDENCE ON YOUR BEHALF. YOU UNDERSTAND THAT?

21 MR. SINGLEY: YES, SIR.

22 THE COURT: AS PART OF THAT EVIDENCE, YOU HAVE THE
23 ABSOLUTE CONSTITUTIONAL RIGHT TO TESTIFY IN YOUR OWN BEHALF.

24 MR. SINGLEY: YES, SIR.

25 THE COURT: AND THAT DECISION IS SOLELY YOUR DECISION

COURT'S EXAMINATION OF FERRIS G. SINGLEY AS TO RIGHT TO TESTIFY:

1 AND YOUR DECISION ALONE.

2 IF YOU CHOOSE NOT TO TESTIFY, I WILL CHARGE THE JURY
3 THAT THEY MAY IN NO WAY CONSIDER YOUR FAILURE TO TESTIFY AS A
4 FACTOR IN ANY WAY DURING THEIR DELIBERATIONS OF YOUR GUILT OR
5 INNOCENCE ON THESE CHARGES. DO YOU UNDERSTAND THAT,
6 MR. SINGLEY?

7 MR. SINGLEY: YES, SIR.

8 THE COURT: HAVE YOU HAD A ADEQUATE OPPORTUNITY TO
9 DISCUSS THIS CONSTITUTIONAL RIGHT WITH YOUR ATTORNEYS,
10 MS. SOLAR AND MR. SMITH?

11 MR. SINGLEY: YES, SIR.

12 THE COURT: DO YOU NEED ANY ADDITIONAL TIME TO DISCUSS
13 YOUR DECISION OF WHETHER OR NOT YOU WISH TO TESTIFY WITH YOUR
14 ATTORNEYS - EITHER MS. SOLAR OR MR. SMITH?

15 MR. SINGLEY: NO, SIR.

16 THE COURT: DO YOU HAVE ANY QUESTIONS FOR THE COURT
17 CONCERNING YOUR RIGHT - YOUR ABSOLUTE RIGHT - TO TESTIFY IN
18 THIS CASE BEFORE THE JURY?

19 MR. SINGLEY: NO, SIR. I UNDERSTAND IT FULLY.

20 THE COURT: ALL RIGHT, SIR. SO HAVE YOU, UH, MADE A
21 DECISION AS TO WHETHER OR NOT YOU WISH TO TESTIFY IN THIS
22 CASE?

23 MR. SINGLEY: I DON'T WISH TO.

24 THE COURT: AND YOU - YOU DO NOT WISH TO?

25 MR. SINGLEY: NO, SIR.

COURT'S EXAMINATION OF FERRIS G. SINGLEY AS TO RIGHT TO TESTIFY:

1 THE COURT: ALL RIGHT, SIR. AND YOU UNDERSTAND - AND I
2 COULD HAVE ASKED THIS QUESTION BEFORE I ASKED THAT LAST ONE -
3 THAT IF YOU WERE TO TESTIFY - AND I DON'T KNOW WHAT CRIMINAL
4 HISTORY YOU HAVE, IF ANY - THAT POTENTIALLY THE SOLICITOR
5 COULD USE THAT AGAINST YOU AS FAR AS IT GOES TO THE ISSUE OF
6 CREDIBILITY?

7 MR. SINGLEY: YES, SIR, I UNDERSTAND.

8 THE COURT: YOU UNDERSTAND THAT. AND YOU'VE ALSO
9 DISCUSSED THAT WITH YOUR ATTORNEYS?

10 MR. SINGLEY: YES, SIR.

11 THE COURT: AND YOU DO NOT NEED ANY FURTHER TIME TO MAKE
12 THAT DECISION?

13 MR. SINGLEY: NO, SIR.

14 THE COURT: AND THAT DECISION THAT YOU HAVE MADE NOT TO
15 TESTIFY IS YOUR DECISION, MR. SINGLEY?

16 MR. SINGLEY: YES, SIR, YOUR HONOR.

17 THE COURT: AND THAT DECISION IS FREELY AND VOLUNTARILY
18 AND INTELLIGENTLY MADE?

19 MR. SINGLEY: YES, SIR, IT IS.

20 THE COURT: THANK YOU, MR. SINGLEY. YOU MAY HAVE A
21 SEAT.

22 MR. SINGLEY: YOU'RE WELCOME.

23 THE COURT: ANYTHING FURTHER, SOLICITOR?

24 MR. DURANT: NOT FROM ME, YOUR HONOR.

25 THE COURT: MS. SOLAR?

1 **MS. SOLAR:** NO, YOUR HONOR.

2 **THE COURT:** AND WE HAVE OUR WITNESS?

3 **MR. DURANT:** SHE IS HERE, YOUR HONOR. SHE'S OUT IN THE
4 HALL.

5 **THE COURT:** ALL RIGHT. ARE WE READY FOR THE JURY?

6 **MR. DURANT:** YES, I PRESUME SO. LET ME - LET ME JUST
7 CHECK REAL QUICKLY.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED TO CHECK ON
9 WITNESS READINESS, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 **THE COURT:** READY, SOLICITOR?

12 **MR. DURANT:** YES, SIR, YOUR HONOR.

13 **THE COURT:** MS. SOLAR?

14 **MS. SOLAR:** YES, SIR.

15 **THE COURT:** MADAME CLERK, WOULD YOU BRING US OUR JURY
16 PLEASE?

17 (WHEREUPON, JURY ENTERED THE COURTROOM AT 10:47 A.M.)

18 **BAILIFF:** ALL SEATED, YOUR HONOR.

19 **THE COURT:** THANK YOU, MR. BAILIFF. MR. FOREMAN, LADIES
20 AND GENTLEMEN OF THE JURY, WE ARE NOW CONTINUING WITH THE
21 PRESENTATION OF THE EVIDENCE. MS. SOLAR?

22 **MS. SOLAR:** THANK YOU, YOUR HONOR. THE DEFENSE CALLS
23 TERESA SINGLEY.

24 **THE COURT:** COME AROUND, PLEASE MA'AM.

25 **(WITNESS FORWARD.)**

TERESA LOU SINGLEY, DIRECT EXAMINATION BY MS. SOLAR:

1 CLERK (MS. NELSON): GOOD MORNING. PLACE YOUR LEFT HAND
2 ON THE BIBLE AND RAISE YOUR RIGHT HAND PLEASE.

3 (WHEREUPON, TERESA LOU SINGLEY WAS DULY SWORN AND
4 TESTIFIED AS FOLLOWS:)

5 CLERK (MS. NELSON): PLEASE BE SEATED. STATE YOUR FULL
6 NAME FOR THE RECORD, PLEASE.

7 MS. TERESA SINGLEY: TERESA LOU SINGLEY.

8 TERESA LOU SINGLEY, DIRECT EXAMINATION BY MS. SOLAR:

9 Q MRS. SINGLEY, COULD YOU TELL ME HOW OLD YOU ARE?

10 A THIRTY-TWO.

11 Q AND WHAT IS YOUR RELATION TO FERRIS SINGLEY?

12 A HIS DAD AND MY FATHER ARE BROTHERS.

13 Q SO HE'S YOUR COUSIN?

14 A CORRECT.

15 Q AND THAT WOULD OBVIOUSLY MAKE BRENDA SINGLEY YOUR AUNT?

16 A CORRECT.

17 Q WHERE ARE YOU CURRENTLY WORKING?

18 A WAL-MART.

19 Q OKAY. IN CHARLESTON?

20 A NO. NEWBERRY.

21 Q OKAY. CAN YOU TELL ME WHERE YOU WERE WORKING IN - AT
22 THE END OF 2002 THROUGH JUNE OF 2003?

23 A UM - I WAS WORKING WITH BRENDA.

24 Q OKAY, DOING WHAT?

25 A CLEANING HOUSES.

TERESA LOU SINGLEY, CROSS-EXAMINATION BY MR. DURANT:

1 Q AND WAS THIS A BUSINESS?

2 A YES, IT WAS.

3 Q WHO WAS THE OWNER OF THAT BUSINESS?

4 A BRENDA.

5 Q HOW DO YOU KNOW THAT?

6 A I WORKED WITH HER.

7 Q WHERE DID YOU GET YOUR PAYCHECK FROM?

8 A UM - I RECEIVED CASH FROM HER.

9 Q AND HOW DID YOU GET BACK AND FORTH TO WORK?

10 A I RODE WITH HER IN A WORK VAN.

11 Q OKAY. WHEN YOU SAY A WORK VAN, WHY DO YOU SAY THAT?

12 A WELL, IT WAS A LARGE VAN AND THE BACK SEAT WAS OUT OF
13 IT AND IT HAD ALL THE CLEANING PRODUCTS IN THERE. THE VACUUM

14 AND---

15 Q OKAY. AND THIS WAS IN THE BEGINNING OF 2003?

16 A YES - THAT'S RIGHT.

17 MS. SOLAR: I HAVE NOTHING FURTHER.

18 THE COURT: SOLICITOR?

19 TERESA LOU SINGLEY, CROSS-EXAMINATION BY MR. DURANT:

20 Q AND, UH, THAT WAS OVER THREE YEARS AGO OF COURSE,
21 CORRECT?

22 A THAT'S RIGHT.

23 Q OKAY. AND - ALMOST FOUR YEARS AGO, CORRECT?

24 A NO.

25 Q ALL RIGHT. AND YOU DON'T EVEN LIVE AROUND HERE NOW,

1 CORRECT?

2 A I DO NOT LIVE HERE NOW, NO.

3 Q AND YOU DON'T KNOW WHETHER MS. SINGLEY CLEANS HOUSES
4 NOW, DO YOU? OF YOUR OWN PERSONAL---

5 A I FEEL PRETTY SURE OF IT.

6 Q DID - DO YOU KNOW - HAVE YOU SEEN - HAVE YOU BEEN BY HER
7 HOUSE?

8 A NOT IN A WHILE, NO.

9 Q HAVE YOU SEEN THE WORK VAN OUT IN FRONT OF HER HOUSE?

10 A UH - NO.

11 Q OKAY.

12 (PHOTOGRAPH HANDED TO WITNESS.)

13 Q DO YOU RECOGNIZE THIS AS BEING HER HOUSE?

14 A YES, I DO.

15 Q SEE A WORK VAN THERE?

16 A NO, I DO NOT.

17 Q AND THERE'S NO QUESTION THAT SHE USED TO DO THAT,
18 CORRECT?

19 A THAT'S RIGHT.

20 Q AND ARE YOU AWARE OF HER BACK PROBLEMS?

21 A NO, I'M NOT.

22 Q OKAY. AND...

23 MR. DURANT: COURT'S INDULGENCE JUST A MOMENT?

24 THE COURT: YES, SIR.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

TERESA LOU SINGLEY, REDIRECT EXAMINATION BY MS. SOLAR:

1 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
2 HEARING OF THE JURY, OFF THE RECORD.)

3 (WHEREUPON, COURT RESUMED.)

4 Q UH - AND YOU ARE NOT RELATED TO MS. SINGLEY BY BLOOD, IS
5 THAT CORRECT?

6 A THAT'S CORRECT.

7 Q OKAY. YOU'RE RELATED THROUGH YOUR - I GUESS YOU WOULD
8 BE HER NIECE-IN-LAW, IS THAT CORRECT?

9 A THAT'S RIGHT.

10 Q OKAY. WOULD I BE SAFE IN SAYING THAT THERE IS SOME
11 ANIMOSITY BETWEEN MS. SINGLEY AND HER IN-LAWS?

12 A UM - SOMEWHAT.

13 Q THANK YOU.

14 MR. DURANT: I HAVE NOTHING FURTHER, YOUR HONOR.

15 THE COURT: ANYTHING ON REDIRECT, MS. SOLAR?

16 MS. SOLAR: YES, YOUR HONOR.

17 TERESA LOU SINGLEY, REDIRECT EXAMINATION BY MS. SOLAR:

18 Q TERESA, OBVIOUSLY YOU KNOW THAT YOUR UNCLE DIED?

19 A (NO RESPONSE.)

20 Q FERRIS' FATHER, CORRECT?

21 A YES.

22 Q OKAY. AND WHEN YOU WERE WORKING WITH BRENDA, FERRIS'
23 FATHER HAD DIED, CORRECT?

24 A THAT'S CORRECT.

25 MS. SOLAR: NOTHING FURTHER.

TERESA LOU SINGLEY, REDIRECT EXAMINATION BY MS. SOLAR:

1 MR. DURANT: I HAVE NOTHING ELSE, YOUR HONOR.

2 THE COURT: THANK YOU, UH - THANK YOU, MS. SINGLEY. YOU
3 MAY STEP DOWN.

4 (WITNESS STEPPED DOWN.)

5 THE COURT: MS. SOLAR, YOU MAY CALL YOUR NEXT WITNESS.

6 MS. SOLAR: YOUR HONOR, THE DEFENSE RESTS.

7 THE COURT: ALL RIGHT. AND YOU RENEW YOUR MOTIONS FOR
8 THE RECORD?

9 MS. SOLAR: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT. MOTIONS ARE SO NOTED AND I
11 REAFFIRM MY RULINGS, UNLESS YOU HAVE ANY NEW MATTERS THAT YOU
12 WANT TO PUT ON THE RECORD---

13 MS. SOLAR: NO, YOUR HONOR.

14 THE COURT: ---MS. SOLAR? ALL RIGHT. ARE - MAY - WILL
15 YOU-ALL APPROACH THE BENCH PLEASE?

16 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
17 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
18 HEARING OF THE JURY, OFF THE RECORD.)

19 (WHEREUPON, COURT RESUMED.)

20 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE JURY,
21 WE HAVE NOW COME TO THE POINT OF THE TRIAL THAT ALL THE
22 EVIDENCE, ALL THE WITNESSES THAT ARE GONNA TESTIFY BEFORE YOU
23 IN THIS MATTER HAVE DONE SO. ALL THE EXHIBITS HAVE BEEN
24 INTRODUCED AND ALL.

25 SO NOW WE'RE AT THE POINT OF THE TRIAL OF THE CLOSING

PRE-CLOSING ARGUMENTS ADDRESS TO JURY BY THE COURT:

1 ARGUMENTS TO YOU BY THE ATTORNEYS FOR THEIR RESPECTIVE SIDES.

2 THESE ARE TRUE ARGUMENTS, UNLIKE THE OPENING STATEMENTS.
3 THEY MAY ARGUE THE FACTS AND THEY MAY ARGUE ANY INFERENCES
4 DRAWN FROM THE FACTS.

5 I ALWAYS ADVISE THE, UM - THE, GALLERY - I CAN'T CONTROL
6 THE, UM, OUTSIDE DOOR - BUT, I ALWAYS ADVISE THE GALLERY,
7 WHEN AN ATTORNEY IS ADDRESSING THE JURY OR THE COURT IS
8 ADDRESSING THE JURY, I DON'T ALLOW PEOPLE TO GO IN AND OUT.

9 I ASK YOU TO GIVE THE ATTORNEYS YOUR UNDIVIDED ATTENTION
10 DURING THEIR CLOSING ARGUMENTS TO YOU.

11 AFTER THE CLOSING ARGUMENTS BY THE ATTORNEYS, I WILL
12 THEN CHARGE YOU THE LAW THAT YOU WILL APPLY IN THIS
13 PARTICULAR CASE, AND THEN YOU WILL RETIRE TO YOUR
14 DELIBERATIONS TO RENDER A VERDICT IN THIS MATTER.

15 SO, UM, AGAIN, FOR THOSE IN THE GALLERY, YOU MAY LEAVE
16 BETWEEN ARGUMENTS OR YOU MAY LEAVE AFTER THE ARGUMENTS, PRIOR
17 TO MY CHARGE TO THE JURY. BUT, WHILE AN ATTORNEY IS
18 ADDRESSING THE JURY, I DO NOT ALLOW PEOPLE TO COME IN AND OUT
19 OF THE COURTROOM.

20 AS I SAY, I CAN'T REALLY CONTROL THEM COMING IN, I DON'T
21 LIKE TO LOCK THE DOORS.

22 AND SO, MS. SOLAR, YOU MAY ADDRESS THE JURY. AND PLEASE
23 GIVE HER YOUR UNDIVIDED ATTENTION.

24 MS. SOLAR: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
25 COURT?

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 THE COURT: YES, MA'AM.

2 DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

3 BRENDA SINGLEY IS A MOTHER. SHE'S A MOTHER OF A MAN
4 WITH A SERIOUS DRUG ADDICTION.

5 BRENDA SINGLEY IS ALSO A VICTIM. SHE'S A VICTIM OF A
6 THEFT WHEN HER SON, FERRIS, STOLE MONEY FROM HER THE NIGHT OF
7 OCTOBER 2ND 2005 FOR DRUGS. BUT MORE THAN THAT THE STATE HAS
8 NOT PROVEN TO YOU.

9 THERE IS NO QUESTION HERE THAT FERRIS HAS A SERIOUS DRUG
10 PROBLEM. AND HE'S HAD IT OR A WHILE. HIS MOTHER KNOWS THAT.
11 THE POLICE KNEW THAT. FERRIS TOLD SERGEANT PONTIERI THAT HE
12 WAS SMOKING THE MONEY AWAY.

13 BUT THE QUESTION IS, DID HE COMMIT THE TERRIBLE CRIMES
14 THAT HE'S BEING CHARGED WITH? ARMED ROBBERY? BURGLARY?
15 KIDNAPPING?

16 IS HIS MOTHER'S TESTIMONY - WHEN YOU SAW HER YESTERDAY
17 ON THE STAND - IS HIS MOTHER'S TESTIMONY AS TO WHAT HAPPENED
18 THAT NIGHT, IS IT FACT? OR, IS THERE SOMETHING BEHIND THAT
19 TESTIMONY?

20 I WOULD SUBMIT TO YOU, LADIES AND GENTLEMEN, THAT HER
21 EMOTIONS ARE EXAGGERATED. THEY'RE MANIPULATIVE.

22 THINK ABOUT THIS. THIS IS HER SON - THIS IS HER CHILD.
23 SHE RAISED HIM, HE'S NOT A STRANGER. AND THIS INCIDENT
24 HAPPENED EIGHT MONTHS AGO. IS THE CRYING AND THE SHAKING
25 THAT YOU SAW YESTERDAY, IS THAT A RESULT OF FEAR OR IS IT A

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 RESULT OF EMBARRASSMENT, UTTER FRUSTRATION, ANGER IN HOW HE
2 GREW UP? AND HOW HIS LIFE IS TODAY? AND HOW HE DARED TO
3 STEAL FROM HER?

4 SO, WHAT DOES SHE DO? LOOK BEHIND WHAT SHE'S SAYING TO
5 YOU AND THINK ABOUT HER POSITION.

6 SHE'S A VERY ANGRY WOMAN, AND SHE'S SICK OF HER SON.
7 SHE'S SICK OF HIS PROBLEM, SHE'S SICK OF THE DRUGS. AND
8 SHE'S SICK OF THE DRUGS FROM BOTH SONS BECAUSE THEY
9 APPARENTLY BOTH HAVE PROBLEMS. AND SHE'S MAD THAT FERRIS
10 STOLE MONEY FROM HER.

11 ALL OF THAT LEAD TO EXAGGERATED EMOTIONS, WHICH
12 LEAD TO EXAGGERATED RESPONSES - AND INCONSISTENT RESPONSES.
13 MANIPULATIVE RESPONSES.

14 THAT'S TRUE AS TO THE RESPONSES THE NIGHT OF OCTOBER 2ND
15 OF LAST YEAR, AND THAT'S TRUE OF HER RESPONSES YESTERDAY ON
16 THE STAND.

17 AND I - AND I WANT TO TALK TO YOU A LITTLE BIT ABOUT THE
18 EXAGGERATED RESPONSES AND SOME OF THE INCONSISTENCIES.

19 MRS. SINGLEY GOT UP ON THAT STAND YESTERDAY AND SHE TOLD
20 YOU THAT FERRIS CAME AT HER WITH A KNIFE TO HER THROAT. AND
21 SHE WAS CRYING ABOUT THAT. SHE SAID THAT YESTERDAY - EIGHT
22 MONTHS AFTER THIS INCIDENT OCCURRED. SHE DIDN'T TELL THE
23 POLICE THAT THAT NIGHT. SHE DIDN'T - SHE DIDN'T WRITE THAT
24 DOWN IN HER STATEMENT. OR, OFFICER KIKER DIDN'T PUT THAT
25 DOWN IN HER STATEMENT. SHE DIDN'T TELL THE POLICE.

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 WELL, YOU COULD SAY SHE WAS DISTRAUGHT, SHE WAS IN THE
2 AMBULANCE. YOU KNOW, SHE COULDN'T REMEMBER THE DETAILS.
3 CERTAINLY OFFICER KIKER TESTIFIED, WHEN WE GOT THERE SHE WAS
4 SO DISTRAUGHT WE COULDN'T GET OUT OF HER WHAT HAD HAPPENED.

5 ISN'T IT INTERESTING, THOUGH, THAT THIRTY MINUTES PRIOR
6 TO WHEN OFFICER KIKER GOT THERE, SHE - BRENDA RUNS TO HER
7 NEIGHBOR'S TO CALL 911? SHE CAN'T GET THAT STORY OUT FAST
8 ENOUGH.

9 YOU HEARD THE 911 TAPE. SHE'S IN THE BACKGROUND YELLING
10 TO RICHARD VAN ALLEN EXACTLY WHAT HAPPENED. YELLING -
11 YELLING. AND RICHARD VAN ALLEN CAN'T KEEP UP FAST ENOUGH TO
12 TELL THE 911 OPERATOR.

13 SHE HAD NO PROBLEMS TELLING ANYONE THAT NIGHT WHAT
14 HAPPENED. WHEN THE POLICE CAME, SHE TURNED IT ON A LITTLE
15 BIT, AND ALL OF A SUDDEN SHE WAS OUT OF CONTROL EMOTIONALLY.
16 BUT SHE DIDN'T FAIL TO TELL THE POLICE THAT NIGHT - THAT
17 NIGHT THAT FERRIS PUT A KNIFE TO HER THROAT BECAUSE SHE WAS
18 DISTRAUGHT, SHE DIDN'T TELL THEM BECAUSE FERRIS DID NOT PUT
19 THE KNIFE TO HER THROAT.

20 AND WHAT ABOUT THE FACT THAT SHE CALLED THE POLICE AT -
21 THE POLICE ARE CALLED AT TWO O'CLOCK IN THE MORNING. WE GOT
22 THAT. THAT WAS WHEN THE - THE - THE 911 DISPATCHER TOOK
23 THE - TOOK THE, UH, PHONE CALL. AND THAT'S WHEN THE PHONE
24 CALL CAME TO THE OFFICERS.

25 OFFICER KIKER TOLD YOU SHE RESPONDED AT TWO-THIRTY.

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 OFFICER KIKER TESTIFIED, WHEN SHE SAW BRENDA SHE HAD THE
2 ELVIS PANTS WRAPPED AROUND HER NECK AND SHE WAS STILL
3 PARTIALLY BOUND WITH HER WRISTS.

4 ISN'T IT A LITTLE BIT STRANGE THAT MRS. SINGLEY KEPT
5 HERSELF IN A BOUND POSITION FOR THIRTY MINUTES? AND WHAT DID
6 SHE DO IN THIRTY MINUTES?

7 SHE HOPPED OFF THE BED, RAN TO THE NEIGHBOR'S, CALLED
8 911, CAME BACK TO THE - TO HER HOUSE, AND WAS TALKING TO THE
9 POLICE. ALL THROUGHOUT THAT TIME SHE KEPT HERSELF BOUND LIKE
10 THAT - WITH PANTS AROUND HER NECK AND THE OTHER CLOTHING
11 AROUND HER WRIST.

12 WHY WOULD SHE DO THAT? IS IT FOR EVERYONE TO SEE?

13 NOT ONLY COULD SHE NOT HAVE BEEN BOUND THAT MUCH, BUT
14 ISN'T IT OBVIOUS THAT SHE SORT OF PLAYED UP THE ORDEAL A
15 LITTLE? ISN'T IT OBVIOUS THAT SHE'S EXAGGERATED WHAT SHE
16 COULD EXAGGERATE? IT'S MANIPULATIVE.

17 AND WHAT ABOUT THE HOUSE ITSELF? LET'S TALK ABOUT THE
18 PROPERTY. YOU SAW HER WHEN I QUESTIONED HER WHO OWNED THAT
19 PROPERTY. SHE DID NOT ADMIT THAT FERRIS WAS PART OWNER, THAT
20 HE INHERITED FROM HIS FATHER. IN FACT, WHEN I SUGGESTED TO
21 HER, ISN'T IT TRUE THAT FERRIS OWNS PART OF THAT PROPERTY,
22 SHE SAID - QUOTE - THE TITLE IS IN MY NAME.

23 I HAD TO SHOW HER THE DEED BEFORE SHE WOULD ADMIT, YES,
24 FERRIS AND HER OTHER SON OWN PART OF THE PROPERTY. WHO -
25 SHE - IT'S NOT AS THOUGH SHE DIDN'T KNOW THAT. SHE WAS THE

1 PERSONAL REPRESENTATIVE OF THE ESTATE. SHE SIGNED HER NAME.
2 SHE KNEW THAT HE OWNED PART OF THE PROPERTY. DON'T LET HER
3 FOOL YOU.

4 I'M NOT SUGGESTING THAT SHE'S NOT A VICTIM, BUT A LOT OF
5 THE WAY THAT SHE ANSWERED WAS IN A WAY THAT WOULD SERVE HER
6 PURPOSE.

7 AND WHAT ABOUT THIS? SHE'S ON DISABILITY FOR HER BACK.
8 THAT MEANS SHE GETS PAID BECAUSE SHE CANNOT WORK. NOW I
9 ASKED HER, AND ONE OF THE FIRST THINGS SHE SAID WAS, WELL,
10 IT'S FROM MY HUSBAND AND HE HAD A DISABILITY AND I'M
11 RECEIVING THAT.

12 WELL, WHAT REALLY CAME OUT? SHE'S RECEIVING DISABILITY
13 FOR HER BACK. AND SHE HESITATED TO ADMIT THAT.

14 WHY? BECAUSE SHE WORKS, AND THAT IS DISHONEST. AND,
15 SHE WORKS AS A HOUSEKEEPER AS WELL. THAT'S PHYSICAL LABOR
16 WITH A PHYSICAL DISABILITY. AND SHE ADMITTED - SHE ADMITTED,
17 WHEN I QUESTIONED HER, THAT SHE WORKED TWO DAYS A WEEK JUST
18 TO SUPPLEMENT, YOU KNOW, HER INCOME JUST TO MAKE ENDS MEET.

19 SHE'S THE BOSS, AND IT IS HER BUSINESS.

20 NOT ONLY IS SHE DISHONEST BECAUSE SHE IS GETTING
21 DISABILITY AND WORKING, BUT SHE'S TRYING TO MINIMIZE ALL OF
22 IT SO THAT SHE DOESN'T LOOK DISHONEST.

23 AND WHAT ABOUT THAT FORGERY ON HER CRIMINAL RECORD?
24 BRENDA SINGLEY IS NOT AS SQUEAKY CLEAN AS SHE WANTS YOU TO
25 BELIEVE THAT SHE IS.

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 OKAY, WHAT ABOUT ALL OF THE OTHER TESTIMONY - THE
2 OFFICERS? OFFICER KIKER TESTIFIED, SERGEANT PONTIERI TES- --
3 TESTIFIED. AND THEY SAY THAT FERRIS TALKED TO THEM. WHAT
4 DID HE TALK TO THEM ABOUT?

5 FERRIS TOLD THEM HE CAME THROUGH A WINDOW, HE TOOK THE
6 MONEY FROM HIS MOTHER. UM - HE TOLD OFFICER KIKER, WELL, I
7 WAS TRYING TO INTIMIDATE HER BY TELLING HER I'D KILLED
8 SOMEBODY TWO DAYS AGO. BUT THAT'S NOT TRUE, I WAS JUST
9 INTIMIDATING HER.

10 AND HE TOLD SERGEANT PONTIERI THAT HE USED MONEY FOR
11 DRUGS.

12 THAT'S ALL THEY REALLY KNOW. THE POLICE WERE NOT THERE
13 WHEN ALL OF THIS TOOK PLACE. THEY CANNOT TELL YOU WHAT
14 HAPPENED. ALL THEY CAN TELL YOU IS, MONEY WAS TAKEN. FERRIS
15 APPEARED - APPEARS THAT HE CAME THROUGH A WINDOW, AND THAT HE
16 SAID HE'D USED MONEY FOR DRUGS. AND FERRIS IS THE ONE WHO
17 TOLD THEM THAT.

18 ALL OF THE OTHER INFORMATION THAT THEY GOT CAME FROM
19 BRENDA SINGLEY. BRENDA SINGLEY, WHO HAS HER OWN AGENDA.

20 GIVEN ALL OF THAT, LET'S TALK ABOUT THE THREE CHARGES
21 THAT FERRIS IS FACING.

22 AS TO ARMED ROBBERY - AND THAT IS, AND THE JUDGE WILL
23 CHARGE YOU - ROBBERY WITH A WEAPON OR THE THREAT OF A USE OF
24 A WEAPON.

25 THERE'S NO QUESTION THERE WAS A KNIFE IN THE ROOM - NO

1 QUESTION. THE QUESTION IS, WAS THAT KNIFE - WAS THAT KNIFE
2 USED IN THE THEFT TO ELEVATE IT TO AN ARMED ROBBERY?
3 CERTAINLY NOT.

4 BECAUSE, THINK ABOUT THIS. DOES IT MAKE SENSE FOR
5 FERRIS TO HAVE LEFT A KNIFE IN A BED, OR ON A BED IN THE
6 BEDROOM WHERE HIS MOTHER WAS IF THAT WAS A WEAPON THAT HE
7 WAS - USED AN ARMED ROBBERY? THAT DOESN'T MAKE ANY SENSE.
8 NONE WHATSOEVER.

9 HE WAS STEALING FROM HIS MOTHER - STEALING MONEY. HE
10 WAS NOT ARMED ROBBING HER.

11 AND WHEN YOU THINK OF KIDNAPPING, WHAT DO YOU NORMALLY
12 THINK OF? STRANGERS, ABDUCTIONS? YOU DON'T THINK OF THIS.
13 THIS WASN'T A KIDNAPPING.

14 AFTER FERRIS LEFT THAT NIGHT, MRS. SINGLEY WAITED. SHE
15 TOLD YOU SHE WAS AFRAID - SHE SAYS SHE WAS AFRAID. SHE TOLD
16 YOU SHE WAITED. SHE PURPOSEFULLY WAITED. SHE SAID, YOU
17 KNOW, I THOUGHT HE COULD BE COMING BACK. AND WHEN I SAID,
18 YOU THOUGHT HE COULD BE COMING BACK? SHE SAID, AND HE DID
19 COME BACK.

20 SO SHE WAS PURPOSEFULLY WAITING. SHE COULD HAVE HOPPED
21 UP AT ANY TIME, WHICH SHE EVENTUALLY DID. SHE - IT WAS HER
22 CHOICE TO SIT AND WAIT UNTIL HE LEFT, GOT OUT OF THE HOUSE,
23 AND SO THAT SHE COULD RUN AND GET HELP. THIS WAS NOT A
24 KIDNAPPING.

25 AND WHAT ABOUT THE BURGLARY? BURGLARY IS ENTRY INTO A

DEFENSE CLOSING ARGUMENTS BY MS. SOLAR:

1 DWELLING, WITHOUT CONSENT OF THE OWNER, WITH THE INTENT TO
2 COMMIT A CRIME.

3 THE STATE HAS NOT PROVEN THIS TO YOU. THEY HAVE FAILED
4 TO PROVE THE ELEMENT OF CONSENT OF THE OWNER.

5 WHY? BECAUSE FERRIS IS PART OWNER OF THAT PROPERTY.
6 YOU CAN'T BURGLARIZE ONE'S OWN HOME.

7 WELL YOU SAY, HE CAME THROUGH A WINDOW. THERE'S NO
8 QUESTION HE WAS UP TO MISCHIEF THAT NIGHT, BUT HE - YOU - YOU
9 HEARD BRENDA TESTIFY HE LOST A KEY.

10 BUT HE HAS A RIGHT TO BE IN HIS OWN HOME. AND AS MUCH
11 AS HIS MOTHER HATES IT - AND SHE DOES HATE IT - HE INHERITED
12 PART OF - PART OF THAT HOME.

13 SHE SAYS SHE KICKED HIM OUT, DOES SHE HAVE A RIGHT TO
14 KICK HIM OUT? SHE IS NOT THE SOLE OWNER OF THAT PROPERTY,
15 AND SHE DID NOT HAVE A RIGHT TO KICK HIM OUT.

16 BOTH OF THEM OWNED A - OWN THE PROPERTY. HE AT ONE
17 POINT HAD A KEY. SHE DIDN'T TAKE A KEY AWAY FROM HIM. SHE
18 DIDN'T HAVE A COURT ORDER AGAINST HIM. HE WAS NOT UNDER ANY
19 TRESPASS NOTICE OR RESTRAINING ORDER.

20 THIS WAS HIS HOUSE, AND HE COULD ENTER IT ANY WAY HE
21 WANTED TO ENTER IT. I CAN BREAK A WINDOW IN MY OWN HOUSE AND
22 THEN - AND CLIMB IN THE WINDOW AND THAT IS NOT A BURGLARY.

23 AND EVEN THE POLICE THOUGHT THAT. CORPORAL HALLMAN -
24 THE GENTLEMAN WHO TESTIFIED EARLIER TODAY - HE'S THE CRIME
25 SCENE INVESTIGATOR AND IT'S HIS JOB TO ASSESS THE SITUATION.

1 HIS JOB TO ASSESS WHAT EVIDENCE IS TO BE COLLECTED.

2 HE'S BEEN WORKING AS AN OFFICER FOR OVER EIGHTEEN YEARS
3 AND AS A CRIME SCENE INVESTIGATOR FOR OVER TWELVE. HE'S A
4 PROFESSIONAL. HE KNOWS WHAT HE'S DOING. HE KNOWS THAT WHAT
5 HE COLLECTS CAN VERY WELL TELL A STORY.

6 HE DIDN'T INVESTIGATE THIS CASE LIKE IT'S A BURGLARY.
7 HE DIDN'T DUST FOR PRINTS ON THE WINDOW AND ANYTHING THAT
8 WOULD SHOW A BREAK-IN OR THE DOOR OR THE PHONES. HE DIDN'T
9 INVESTIGATE IT AS IF IT WERE A BURGLARY BECAUSE HE DIDN'T
10 THINK IT WAS A BURGLARY.

11 HE SAID, THERE IS NO INDICATION - THIS IS A QUOTE -
12 THERE WAS NO INDICATION THAT A BURGLARY HAD TAKEN PLACE.
13 WHY? BECAUSE IT WASN'T A BURGLARY.

14 AT THE START OF THE TRIAL I ASKED YOU TO THINK
15 ABOUT WHAT SOMETIMES AT FIRST SEEMS SO OBVIOUS. IN YOUR
16 DELIBERATIONS, I ASK YOU TO THINK BEYOND WHAT BRENDA SINGLEY
17 SAID TO HOW SHE SAID IT AND HOW SHE APPEARED ON THAT STAND.
18 WHEN THE PROS- -- PROSECUTOR WAS QUESTIONING HER, HOW SHE
19 APPEARED.

20 WHEN I STARTED TO QUESTION HER, HOW SHE APPEARED? SHE
21 WENT FROM CRYING AND EMOTIONAL TO MAD AND RESENTFUL.
22 MANIPULATION.

23 THINK OF WHO SHE IS. SHE IS A WOMAN WITH TWO SONS. ONE
24 IN FLORIDA WHO SHE THINKS IS IN SORT - SHE KNOWS HE HAS A
25 DRUG PROBLEM, SHE THINKS HE'S IN DRUG TREATMENT SOMEWHERE.

1 SHE'S NOT SURE. AND THE OTHER SON'S HERE IN CHARLESTON, WITH
2 A SERIOUS DRUG ADDICTION. AN ADDICTION THAT LED HIM TO TAKE
3 MONEY FROM HER.

4 SHE'S A FRUSTRATED WOMAN. SHE'S IRRITATED, AND SHE'S
5 ANGRY. AND SHE IS A WOMAN - BASED ON EVERYTHING YOU HAVE
6 HEARD TODAY AND EVERYTHING THAT YOU HEARD YESTERDAY - SHE'S A
7 WOMAN WHO EXAGGERATES WHEN IT SUITS HER PURPOSE. AND SHE'S
8 ONE WHO CONVENIENTLY FORGETS OR MINIMIZES OR DOESN'T
9 UNDERSTAND WHEN IT DOESN'T SUIT HER PURPOSE.

10 AND THE STATE HAS OVERCHARGED HER SON, AND THAT'S WHAT
11 SHE WANTS.

12 BUT, YOU ARE HERE, LADIES AND GENTLEMEN, AS THE JURY,
13 SWORN TO LOOK AT THE CASE PRESENTED IN FRONT OF YOU TO DECIDE
14 THE FACTS AND TO DECIDE - DECIDE IF THE STATE HAS PROVEN -
15 HAS PROVEN FERRIS SINGLEY'S GUILT AS TO BURGLARY BEYOND A
16 REASONABLE DOUBT. AS TO ARMED ROBBERY BEYOND A REASONABLE
17 DOUBT. AND, AS TO KIDNAPPING BEYOND A REASONABLE DOUBT. AND
18 THEY HAVE NOT.

19 FERRIS SINGLEY IS GUILTY OF STEALING FROM HIS MOTHER. A
20 LARCENY. STEALING FROM HIS MOTHER TO GET DRUGS - NOTHING
21 MORE.

22 I ASK THAT YOU THINK ABOUT THE EVIDENCE THAT HAS BEEN
23 PRESENTED. THINK ABOUT THE WITNESSES - HOW THEY TESTIFIED.
24 CREDIBILITY - THINK ABOUT CREDIBILITY AND MOTIVE AND
25 DISCUSS THAT. AND WHEN YOU DO, YOU WILL DETERMINE THAT

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 FERRIS SINGLEY IS NOT GUILTY OF ARMED ROBBERY. HE IS NOT
2 GUILTY OF THE BURGLARY, AND HE IS NOT GUILTY OF KIDNAPPING.

3 THANK YOU.

4 THE COURT: THANK YOU, UH - THANK YOU, MS. SOLAR.
5 AGAIN, IF ANYONE FROM THE GALLERY WANTS TO LEAVE, THEY MAY DO
6 SO AT THIS TIME. WHILE THE SOLICITOR IS ADDRESSING THE JURY,
7 I DO NOT ALLOW ANYONE TO LEAVE.

8 SOLICITOR, YOU MAY ADDRESS THE JURY.

9 MR. DURANT: THANK YOU, YOUR HONOR.

10 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
11 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
12 HEARING OF THE JURY, OFF THE RECORD.)

13 (WHEREUPON, COURT RESUMED.)

14 STATE CLOSING ARGUMENTS BY MR. DURANT:

15 LADIES AND GENTLEMEN, THIS WILL BE MY LAST OPPORTUNITY
16 TO ADDRESS YOU BEFORE YOU RETIRE TO YOUR JURY ROOM AND ARRIVE
17 AT A VERDICT IN THIS CASE - TO DELIBERATE AND ARRIVE AT THE
18 VERDICT IN THIS CASE. DETERMINE THE TRUTH OF WHAT WENT ON AT
19 THAT HOUSE - SPRUCE - ON OCTOBER THE 2ND OF 2005.

20 THAT IS YOUR ROLE. THAT'S WHAT THE JUDGE WILL TELL YOU
21 YOUR ROLE IS. YOU ARE THE FINDERS OF THE FACTS IN THIS CASE.
22 IT IS UP TO YOU TO TELL WHAT IS - TO DETERMINE WHAT IS THE
23 TRUTH.

24 THIS IS NOT A WHO-DONE-IT. YOU KNOW, OFTEN TIMES THAT'S
25 WHAT THE JURY HAS TO DO IN A CRIMINAL CASE. THEY HAVE TO

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 DECIDE WHETHER THE GUY THAT'S ON THE TRIAL IS THE GUY THAT
2 ACTUALLY COMMITTED THE CRIME. COMMITTED THE CRIME FOR WHICH
3 HE'S BEING TRIED. WELL, THAT'S NOT AN ISSUE IN THIS CASE.

4 WHATEVER HAPPENED THAT NIGHT, WE KNOW HE DID IT. HIS
5 MOTHER SAID HE DID IT. HE TOLD PONTIERI HE DID IT. HE TOLD
6 KIKER HE DID IT. SOMETHING THAT, UM, MS. SOLAR FAILED TO
7 MENTION IN HER CLOSING, HE WROTE HIS AUNT AND ADMITTED IT.

8 SO, WE KNOW WE'VE GOT THE RIGHT -- THE RIGHT PERSON. YOU
9 DON'T NEED TO BOTHER YOURSELF ABOUT THAT. ONLY THING YOU
10 HAVE TO CONCERN YOURSELF WITH AS JURORS -- AS -- WITH AS A JURY
11 IS, DID IT HAPPEN? DID HE BREAK INTO HIS MAMA'S HOUSE,
12 THREATEN HIS MAMA WITH A KNIFE, ROB HER, CONFINED HER, OR DID
13 SHE MAKE THE WHOLE THING UP? IT'S THAT SIMPLE.

14 AND IF YOU THINK THAT THAT'S WHAT SHE DID, THEN YOU GO
15 BACK THERE AND YOU LET HIM GO.

16 BUT IF YOU USE YOUR COMMON SENSE, THAT'S NOT THE
17 CONCLUSION YOU COME TO IN THIS CASE.

18 THE ONLY WAY YOU COULD REACH THAT CONCLUSION IN THIS
19 CASE IS THAT YOU WOULD HAVE TO BELIEVE NOT JUST HER --
20 MS. SINGLEY -- BUT SHE IN CONJUNCTION WITH OFFICER KIKER, AND
21 IN CONJUNCTION MR. -- WITH MR. RICKY VAN ALLEN, AND IN
22 CONJUNCTION WITH SERGEANT PONTIERI, ALL GOT TOGETHER AND
23 CONSPIRED AND MADE UP THIS STORY TO PUT HER SON IN PRISON.

24 TO BELIEVE THAT YOU WOULD HAVE TO BELIEVE THAT IN THE
25 SPACE OF JUST A FEW MOMENTS -- A FEW MINUTES -- AND WE'RE NOT

1 TALKING - MS. SOLAR INDICATES THAT SHE CALLED THE POLICE AT
2 TWO AND THEY DIDN'T GET THERE 'TIL TWO-THIRTY.

3 THE ONLY EVIDENCE YOU HAVE IN THIS CASE IS THAT THEY
4 ARRIVED WHEN THE 911 CALL WAS BEING MADE. YOU CAN HEAR
5 MR. VAN ALLEN ON THE TAPE AS THE POLICE ARRIVE AND SAYING,
6 THE POLICE ARE HERE. IT WAS NO THIRTY MINUTES.

7 YOU'D HAVE TO BELIEVE THAT IN THAT PERIOD OF TIME THAT
8 SHE MADE UP THIS ENTIRE STORY. THAT SHE STAGED THE CRIME
9 SCENE. THAT SHE TIED HERSELF UP WITH THE TAPE AND CLOTHING.
10 THAT SHE CUT HERSELF WITH THE KNIFE. THAT SHE WORKED HERSELF
11 INTO A STATE OF HYSTERIA THAT ALL THE WITNESSES SAID THAT SHE
12 WAS IN AND THAT YOU HEARD ON THAT TAPE.

13 THAT SHE HAD TO INVOLVE MR. VAN ALLEN IN HER NEFARIOUS
14 SCHEME. THAT SHE WOULD HAVE HAD TO HAVE GOTTEN WITH OFFICER
15 KIKER AND SERGEANT PONTIERI AND COUNSELED THEM TO COMMIT
16 PERJURY ON HER BEHALF. THAT SHE HAD TO FABRICATE THIS LETTER
17 FROM AUNT KATH- -- TO AUNT KATHY. AND, THAT SHE HAD COME IN
18 THIS COURTROOM YESTERDAY AND LIED TO YOU UNDER OATH ABOUT
19 WHAT HAPPENED.

20 NOW, IF YOU BELIEVE ALL OF THAT, LADIES AND GENTLEMEN,
21 YOU GO BACK THERE AND FIND HIM NOT GUILTY.

22 BECAUSE, IF YOU USE YOUR COMMON SENSE, THERE'S ONE
23 VERSION OF WHAT WENT ON THAT NIGHT THAT MAKES SENSE AND
24 THAT'S WHAT YOU HEARD ON THIS WITNESS STAND FROM MS. SINGLEY.

25 BECAUSE, THE FACT OF THE MATTER IS, HE'S A CRACK DEALER.

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 HE'S A CRACK ADDICT, AND JUST LIKE ANY OTHER CRACK ADDICT,
2 HIS LIFE REVOLVES AROUND ONE THING AND ONE THING ONLY. AND
3 THAT IS, WHERE THE NEXT ROCK IS COMING FROM. OR, WHERE THE
4 MONEY TO BUY THE NEXT ROCK IS COMING FROM.

5 TO HIM, THAT'S NOT HIS MOTHER, THAT IS A MARK. THAT IS
6 A WAY FOR HIM TO GET HIS NEXT ROCK.

7 HE KNOWS WHERE HIS MOM LIVES. HE KNOWS SHE'S AN EASY
8 MARK. HE IS FAMILIAR WITH THE HOUSE. HE KNOWS ABOUT THE
9 LADDER IN THE GARAGE.

10 HE GOES TO THE GARAGE, GETS THE LADDER, PUTS IT UNDER
11 THE BEDROOM WINDOW, AND CRAWLS THROUGH THE WINDOW.

12 AS - OFFICER KIKER SAW THE LETTER, MRS. SINGLEY SAVED
13 THE LETTER. AND HE ADMITTED TO OFFICER KIKER THAT HE CLIMBED
14 THROUGH THE WINDOW.

15 AND HE DOES THAT - DID THAT TO STEAL. HE WAS LOOKING
16 FOR SOMETHING - EITHER CASH OR SOMETHING THAT HE COULD
17 CONVERT TO CASH QUICKLY - TO BUY CRACK - PERIOD.

18 AND HE HEARS HIS MOM COME HOME IN THE CAB, AND HE GOES
19 INTO THE KITCHEN AND GRABS THIS.

20 (HOLDING UP KNIFE.)

21 AND HE GETS IN THE LIVING - DINING ROOM AND HE LIES IN
22 WAIT. BECAUSE, DOG-GONE IT, HE'S GONNA GET HIS MONEY.

23 THAT KNIFE THAT SHE TESTIFIED ABOUT, THAT THE POLICE
24 FOUND ON HER BED WHERE SHE WAS TIED UP.

25 SO HE ACCOSTS HIS MOTHER, HE BESETS (SIC) - BESIEGES HER

1 WHEN SHE WALKS INTO THAT DINING ROOM. THREATENS HER WITH
2 THAT KNIFE. THREATENS TO KILL HER IF SHE SCREAMS.

3 AND WAS HE GOING TO DO IT? PROBABLY NOT. IT DOESN'T
4 MAKE ANY DIFFERENCE, SHE THOUGHT HE WAS GONNA DO IT.

5 AND SHE (SIC) MAKES HIM GIVE HER (SIC) - GIVE HIM THE
6 ONLY MONEY SHE'S GOT - THE TWO HUNDRED DOLLARS IN HER
7 POCKETBOOK.

8 AND I DON'T KNOW WHAT HAPPENED TO HIS (SIC) MONEY.
9 MAYBE HE SMOKED IT UP LIKE HE TOLD IT TO - TO OFFICER
10 PONTIERI. MAYBE HE OWED HIS DEALER. MAYBE HE HID THE MONEY
11 IN THE HOUSE. HE KNEW THAT THE COPS COULDN'T BE TOO FAR
12 BEHIND HIM. BUT, WE KNOW HE HAD THE MONEY, AND WE KNOW HE
13 HAD THE MONEY NOT BECAUSE SHE SAID SO BUT BECAUSE HE
14 TOLD PONTIERI HE HAD TAKEN THE MONEY.

15 AND, HE TOLD HIS AUNT KATHY - IF YOU DON'T ALREADY KNOW
16 BY NOW, I'VE GOT TO SMOKING CRACK AGAIN. BACK IN OCTOBER
17 2005 I BROKE INTO BRENDA'S HOUSE AND ROBBED HER WITH A KNIFE
18 TO GET MORE DRUG MONEY. I NEED YOU TO SEE IF SHE WILL LISTEN
19 TO YOU AND AGREE TO A FAIRLY LIGHT PRISON SENTENCE, SAY FIVE
20 TO TEN YEARS AND DRUG COUNSELING.

21 IF YOU DON'T WANT TO BELIEVE IT BECAUSE SHE SAID SO,
22 BELIEVE IT BECAUSE HE SAID SO.

23 NOW, AFTER HE ROBBED HIS MOTHER, HE TOOK THAT CLOTHING,
24 THAT TAPE, AND BOUND HER HANDS BEHIND HER BACK AND HE GAGGED
25 HER AND HE LEFT HER ON THE BED. AND WE KNOW THAT NOT BECAUSE

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 SHE TELLS YOU THAT, BUT BECAUSE OFFICER KIKER SAW HER LIKE
2 THAT AND MR. VAN ALLEN SAW HER LIKE THAT. THEY CORROBORATED
3 EVERYTHING SHE SAID.

4 NOW, I'D LIKE TO ALSO ADDRESS THE ELEMENTS OF THIS CASE,
5 AND I'D LIKE TO START WITH BURGLARY. COULD YOU PUT THAT ON
6 THE SCREEN FOR ME, PLEASE?

7 (SLIDES BEGUN ON THE SCREEN FOR THE BENEFIT OF THE
8 JURY.)

9 THE DEFENDANT IS CHARGED WITH BURGLARY FIRST DEGREE.
10 THOSE ARE THE ELEMENTS OF BURGLARY FIRST DEGREE THAT THE
11 JUDGE WILL BE CHARGING.

12 ALL BURGLARIES REQUIRE AN ENTRY. IT DOESN'T HAVE TO BE
13 A BREAKING AND ENTERING, IT JUST HAS TO BE AN ENTERING.

14 OF A DWELLING. A DWELLING IS A PLACE WHERE SOMEONE
15 NORMALLY LIVES AND ABIDES.

16 HAS TO BE WITHOUT CONSENT. WELL, SHE CERTAINLY
17 TESTIFIED THAT FERRIS HAD LIVED WITH HER BRIEFLY IN APRIL
18 AND SHE PUT HIM OUT IN APRIL AND THAT HE WAS NOT LIVING
19 WITH HER NOR DID HE HAVE CONSENT TO BE WITH HER THAT - IN -
20 AT THE HOUSE THAT NIGHT.

21 AND, THAT THERE WAS AN INTENT TO COMMIT A CRIME IN THE
22 DWELLING.

23 TO FIND A BURGLARY IN THE FIRST DEGREE, YOU HAVE TO FIND
24 - BEYOND A REASONABLE DOUBT - JUST ONE OF THOSE THINGS AT THE
25 BOTTOM. IT DOESN'T HAVE TO BE ALL OF 'EM, JUST ONE.

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 IF YOU FIND THE FIRST FOUR AND ANY ONE OF THE ONES AT
2 THE BOTTOM, IT'S A BURGLARY IN THE FIRST DEGREE. THAT IT
3 OCCURRED AT NIGHTTIME, OR THAT MR. FERRIS SINGLEY WAS ARMED
4 WITH A DEADLY WEAPON, OR THAT HE USED OR THREATENED TO USE
5 THE DEADLY WEAPON, OR THAT HE DISPLAYED WHAT APPEARED TO BE A
6 KNIFE, OR THAT HE CAUSED PHYSICAL INJURY TO A PERSON NOT
7 PARTICIPATING IN THE BURGLARY.

8 I WOULD SUBMIT TO YOU THAT HE DID ALL OF THOSE THINGS.
9 BUT, YOU DON'T HAVE TO FIND THAT HE DID ALL OF 'EM, YOU JUST
10 HAVE TO FIND THAT HE DID ANY ONE OF 'EM AND IT'S BURGLARY IN
11 THE FIRST DEGREE.

12 NOW THE BIG ISSUE - THE ISSUE THAT SHE RAISES - THE
13 DEFENSE RAISES - IS THAT HE CAN'T BE GUILTY OF BURGLARY, HE
14 HAD A PARTIAL OWNERSHIP INTEREST IN THIS HOUSE.

15 WELL, NOTHING COULD BE FURTHER FROM THE TRUTH, LADIES
16 AND GENTLEMAN. BURGLARY IS A CRIME AGAINST POSSESSION. IT'S
17 NOT A CRIME AGAINST OWNERSHIP. IN THE LAW OF BURGLARY, ENTRY
18 WITHOUT CONSENT MEANS TO ENTER WITHOUT THE CONSENT OF THE
19 PERSON IN LAWFUL POSSESSION. OWNERSHIP HAS NOTHING TO DO
20 WITH IT.

21 FOR EXAMPLE, IF I WERE TO LEASE AN APARTMENT TO YOU,
22 THERE IS NO QUESTION THAT I WOULD BE THE LEGAL OWNER OF THAT
23 APARTMENT. DOES THAT GIVE ME A RIGHT TO - WITHOUT YOUR
24 PERMISSION OR CONSENT - GO INTO YOUR APARTMENT AND STEAL YOUR
25 STEREO AND SELL IT FOR CRACK?

1 WELL, HE HAS NO MORE RIGHT TO GO IN HIS MOTHER'S HOUSE
2 THAN I WOULD HAVE TO GO IN YOUR APARTMENT. BECAUSE, SHE IS
3 THE ONE IN RIGHTFUL POSSESSION OF THAT HOUSE. HE DID NOT
4 LIVE THERE. THERE HAS BEEN NO TESTIMONY THAT HE LIVED THERE.
5 AND, HE HAD NO RIGHT TO POSSESSION IN THAT HOUSE WHEN HIS
6 MOTHER KICKED HIM OUT IN APRIL.

7 AND, BY GOING IN THERE IN THE NIGHTTIME AND HOLDING HER
8 AT - AT BAY WITH A WEAPON AND ROBBING HER, HE IS GUILTY OF
9 BURGLARY IN THE FIRST DEGREE AND I DON'T CARE IF HE OWNED THE
10 ENTIRE - ENTIRE HOUSE.

11 ARMED ROBBERY. PRETTY SIMPLE, ROBBERY ARMED WITH A
12 DEADLY WEAPON. I BELIEVE THE JUDGE WILL CHARGE YOU THAT A
13 KNIFE IS A DEADLY WEAPON. THE QUESTION IS, WAS THERE A
14 ROBBERY?

15 THOSE ARE THE ELEMENTS OF ROBBERY. TAKING AND CARRYING
16 AWAY THE PERSONAL PROPERTY - IN THIS CASE, CASH - FROM THE
17 PERSON OR IMMEDIATE PRESENCE OF ANOTHER - IN THIS CASE, HIS
18 MOTHER - WITH THE INTENT TO DEPRIVE - I.E., STEAL IT -
19 THROUGH THE USE OF VIOLENCE, FORCE, OR INTIMIDATION.

20 BY HOLDING THIS KNIFE - THAT KNIFE - TO HIS MOTHER'S
21 THROAT AND THREATENING TO KILL HER, BY ANY DEFINITION THAT'S
22 ARMED ROBBERY.

23 FINALLY, KIDNAPPING. YOU KNOW, KIDNAPPING'S A LITTLE
24 BIT DIFFERENT IN SOUTH CAROLINA. EVERYBODY WHO WATCHES TV
25 AND THINKS THAT KIDNAPPING IS HOLDING SOMEONE FOR RANSOM,

1 THAT IS NOT THE CASE. AND - AT LEAST IN SOUTH CAROLINA THAT
2 IS NOT THE CASE.

3 THESE ARE THE ELEMENTS. BASICALLY, THE CRUX OF THE
4 WHOLE OFFENSE OF KIDNAPPING IS UNLAWFUL CONFINEMENT. WHEN
5 YOU CONFINE SOMEONE AGAINST THEIR WILL, WITHOUT THE AUTHORITY
6 OF LAW, IT IS KIDNAPPING IN THIS STATE. IT DOESN'T REQUIRE
7 YOU - THAT YOU HAVE TO SEIZE AND CONFINE AND INVEIGLE AND
8 DECOY AND KIDNAP AND ABDUCT OR - AND CARRY AWAY. ANY ONE OF
9 THOSE, WITHOUT AUTHORITY OF LAW, IS KIDNAPPING.

10 SO, WHEN HE BINDS AND GAGS HIS MOTHER AND LEAVES HIS
11 MOTHER ON THE BED, THAT'S KIDNAPPING. HE HAS DEPRIVED HER OF
12 HER FREEDOM. HE HAS HELD HER HOSTAGE, BASICALLY, AND HE HAS
13 DONE SO WITHOUT ANY AUTHORITY OF LAW. AND, LADIES AND
14 GENTLEMEN, THAT IS KIDNAPPING.

15 THE ONLY THING WE ASK OF YOU AS JURORS IS TO BRING YOUR
16 COMMON SENSE INTO THIS COURTROOM. AND THAT'S ALL THAT I'M
17 ASKING YOU TO DO IN THIS CASE.

18 BECAUSE, I KNOW THAT IF YOU DO THAT, YOU WON'T HAVE ANY
19 PROBLEM GOING BACK THERE AND REACHING A VERDICT IN THIS CASE.
20 AND, YOU WON'T HAVE ANY PROBLEM FINDING THE DEFENDANT GUILTY
21 FOR BURGLARIZING HIS MOTHER'S HOME, AND ROBBING HER AT
22 GUNPOINT (SIC), AND KIDNAPPING AND CONFINING HER AND BINDING
23 HER - TYING HER UP IN HER OWN HOME.

24 AND YES SHE'S EMOTIONAL - AS EVEN ANY ONE OF YOU WOULD
25 BE EMOTIONAL. IT'S HER OWN SON.

STATE'S CLOSING ARGUMENTS BY MR. DURANT:

1 **THE COURT:** THANK YOU, SOLICITOR. AGAIN, IF ANYONE
2 WANTS TO LEAVE THE COURTROOM PRIOR TO THE CHARGE OF THE JURY,
3 YOU MAY DO SO AT THIS TIME.

4 **MS. SOLAR:** YOU HONOR, MAY WE APPROACH?

5 **MR. DURANT:** YOUR HONOR, CAN WE APPROACH JUST BRIEFLY?

6 **THE COURT:** YES, SIR.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH
8 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
9 HEARING OF THE JURY, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 **THE COURT:** MR. - MR. - MR. FOREMAN, LADIES AND
12 GENTLEMEN OF THE JURY, WILL YOU GO TO YOUR JURY ROOM
13 MOMENTARILY? DO NOT DISCUSS THE CASE AMONG YOURSELVES.
14 REMEMBER TO KEEP AN OPEN MIND 'TIL I SUBMIT THE CASE FOR YOUR
15 DELIBERATIONS. THANK YOU.

16 (WHEREUPON, JURY LEFT THE COURTROOM AT 11:26 A.M.)

17 **THE COURT:** I GUESS I ASSUMED, WHEN YOU-ALL SAID YOU
18 WERE READY TO CHARGE---

19 **MS. SOLAR:** I'M SORRY. I - I---

20 **THE COURT:** ---THAT YOU HAD - I MEAN, READY TO CLOSE,
21 YOU - THAT'S QUITE ALL RIGHT - THAT YOU HAD NO, UM, REQUESTS
22 TO CHARGE.

23 **MS. SOLAR:** I'M SORRY, YOUR HONOR. I - I DIDN'T EVEN
24 THINK ABOUT IT UNTIL---

25 **THE COURT:** ALL RIGHT.

1 MS. SOLAR: ---YOU ACTUALLY STARTED THE CLOSING.

2 THE COURT: NO - NO - NO APOLOGY NEEDED. BUT IF YOU
3 THINK SO, I ACCEPT IT.

4 MS. SOLAR: OKAY.

5 THE COURT: BUT, DO YOU HAVE PARTICULAR CHARGES YOU WANT
6 ME TO CHARGE?

7 MS. SOLAR: YOUR HONOR, I JUST WAS - WAS GONNA ASK YOU
8 TO CHARGE STRONG ARMED ROBBERY. IT IS A LESSER INCLUDED.

9 I THINK THAT THERE IS EVIDENCE THAT THE, UH, JURY COULD
10 BELIEVE THAT THIS WAS THEFT WITHOUT - OR, ROBBERY WITHOUT THE
11 USE OF THE KNIFE.

12 JUST BECAUSE THERE IS A PRESENCE - THE PRESENCE OF THE
13 KNIFE IN THE BEDROOM DOES NOT MEAN THAT IT WAS NECESSARILY
14 USED. AND I THINK THE JURY COULD BELIEVE THAT.

15 MR. DURANT: AND AS I STATED, YOUR HONOR, I WOULD
16 OBJECT.

17 I THINK THE ONLY EVIDENCE IN THE CASE IS THAT HE USED A
18 KNIFE TO ROB HER. AND, UH, ANYTHING ELSE ON THE JURY'S PART
19 WOULD BE COMPLETE AND UTTER SPECULATION. UH - AND THERE'S NO
20 EVIDENCE TO SUPPORT A LESSER INCLUDED OFFENSE.

21 THE COURT: YES, SIR. AND I - I THINK, UM, THE JURY IS
22 EITHER GOING TO BELIEVE THE EVENT OCCURRED, BASED ON THE
23 TESTIMONY OF THE VICTIM, MS. SINGLEY - IF THEY FIND SHE'S A
24 VICTIM - OR THEY'RE GONNA BELIEVE THE EVENT DID NOT OCCUR.

25 AND I THINK IT'S EITHER, UM - I THINK IT'S EITHER GUILTY

1 OR NOT GUILTY ON, UM, ON EACH CHARGE.

2 MS. SOLAR: YOUR HONOR, I THINK - I THINK A JURY COULD
3 BELIEVE - IN TERMS OF THE ARMED ROBBERY - THAT THERE WAS A
4 ROBBERY WITHOUT - WITHOUT THE USE OF A WEAPON IN THE ACTUAL
5 ROBBERY. UM...

6 THE COURT: NOT - NOT UNLESS THEY SPECULATE. BASED ON
7 THE TESTIMONY OF THE VICTIM, THERE'S NO - THERE'S NO OTHER
8 STORY. THE - THE ONLY OTHER STORY FOR THEM IS THAT SHE'S
9 INCREDIBLE - THAT SHE IS NOT WORTHY OF BELIEF.

10 MS. SOLAR: YES, YOUR HONOR. AND WE JUST ASK THAT YOU
11 NOTE OUR REQUEST FOR THE RECORD.

12 THE COURT: YES, MA'AM. THANK - THANK YOU, MA'AM.

13 MS. SOLAR: THANK YOU.

14 THE COURT: THIS IS, UH, THE VERDICT FORM. LET ME SHOW
15 THIS - IF YOU-ALL WOULD LOOK AT THIS? I USUALLY DON'T SENT
16 THE INDICTMENTS IN.

17 MR. DURANT: ARE YOU GOING TO CHARGE THE, UH, DEFINITION
18 IN 16-11-310 AS TO ENTRY WITHOUT CONSENT? IT'S JUST
19 BASICALLY THE ONE THAT SAYS ENTRY WITHOUT CONSENT MEANS
20 ENTRY, UM - ENTRY WITHOUT THE CONSENT OF THE PERSON IN LAWFUL
21 POSSESSION, I BELIEVE IS HOW IT'S DEFINED.

22 MS. SOLAR: IS THAT IN THE BURGLARY - BURGLARY STUFF?

23 MR. DURANT: THAT'S IN THE - THAT'S IN THE DEFINITION
24 SECTION TO THE BURGLARY STATUTE, WHICH IS THE ONE RIGHT
25 BEFORE BURGLARY FIRST DEGREE.

1 MS. SOLAR: OKAY.

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR REVIEW OF
3 DOCUMENT.)

4 THE COURT: NO, SIR. BUT I WILL - I'LL CHARGE IT RIGHT
5 OUT OF COFFIN.

6 MR. DURANT: OKAY.

7 THE COURT: WHICH IS THE LANGUAGE RIGHT OUT OF - RIGHT
8 OUT OF 16-11-310.

9 MR. DURANT: RIGHT. THAT'D - I BELIEVE THAT ONE - I
10 THINK THE ONLY DIFFERENCE IS THAT BUILDING INSTEAD OF
11 DWELLING.

12 THE COURT: DO YOU-ALL HAVE ANY OBJECTIONS TO THE FORM
13 OF THE VERDICT, BESIDES---

14 MS. SOLAR: NO, YOUR HONOR.

15 MR. DURANT: NO - NO.

16 THE COURT: ---THE LESSER INCLUDED OFFENSE OF ARMED
17 ROBBERY?

18 MR. DURANT: NO, YOUR HONOR.

19 MS. SOLAR: NONE - NONE.

20 THE COURT: ALL RIGHT.

21 MS. SOLAR: THANK YOU.

22 MR. DURANT: THANK YOU, YOUR HONOR.

23 THE COURT: MADAME BAILIFF, COULD YOU BRING US OUR JURY,
24 PLEASE?

25 (WHEREUPON, JURY ENTERED THE COURTROOM AT 11:33 A.M.)

1 **BAILIFF:** ALL SEATED, YOUR HONOR.

2 **THE COURT:** THANK YOU, MR. BAILIFF. MR. FOREMAN, LADIES
3 AND GENTLEMEN OF THE JURY, THE INDICTMENTS IN THIS CASE
4 ALLEGE SEVERAL DIFFERENT OFFENSES AGAINST THE DEFENDANT. THE
5 CHARGES ARE, 2006-GS-10-0094, AN INDICTMENT FOR ARMED
6 ROBBERY. 2006-GS-10-0095, AN INDICTMENT FOR BURGLARY. AND,
7 2006-GS-10-0093, AN INDICTMENT FOR KIDNAPPING.

8 EACH INDICTMENT CHARGES A SEPARATE AND DISTINCT OFFENSE.
9 YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON THE EVIDENCE
10 AND THE LAW APPLICABLE TO IT, UNINFLUENCED BY YOUR DECISION
11 AS TO ANY OF THE OTHER INDICTMENTS.

12 THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY OR
13 ALL OF THE OFFENSES CHARGED.

14 YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY
15 OR NOT GUILTY FOR EACH INDICTMENT.

16 I REMIND YOU THAT THE FACT THE DEFENDANT WAS ARRESTED,
17 CHARGED, AND INDICTED IN THIS CASE IS NOT EVIDENCE IN THIS
18 CASE AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT IN
19 THIS CASE. NOR DOES - NOR DOES IT CREATE ANY PRESUMPTION OR
20 INFERENCE OF GUILT.

21 THIS DOCUMENT - THE INDICTMENTS - ARE SIMPLY THE FORMAL
22 WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGES MADE AGAINST
23 THE DEFENDANT. IT IS THE FORMAL DOCUMENT BY WHICH THIS CASE
24 IS BROUGHT BEFORE THE COURT.

25 PRESUMPTION OF INNOCENCE. THE DEFENDANT HAS PLEAD NOT

1 GUILTY TO THESE INDICTMENTS, AND THAT PLEA PUTS THE BURDEN ON
2 THE STATE TO PROVE THE DEFENDANT GUILTY.

3 A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN
4 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF INNOCENT.
5 I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF THE LAW THAT A
6 DEFENDANT IN A CRIMINAL TRIAL - NO MATTER WHAT THE
7 SERIOUSNESS OF THE CHARGE MAY BE - WILL ALWAYS BE PRESUMED TO
8 BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENTS WERE
9 ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING
10 YOU OF GUILT BEYOND A REASONABLE DOUBT.

11 THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU
12 BEGIN YOUR DELIBERATIONS, BUT IS A - BUT IT ACCOMPANIES THE
13 DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF
14 GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A
15 REASONABLE DOUBT.

16 THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
17 RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE DEFENDANT
18 WHICH REMAINS WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED
19 FROM THE DEFENDANT BY EVIDENCE SATISFYING YOU OF THE
20 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

21 THE PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY.
22 IT IS NOT JUST A LEGAL PHASE. IT IS A SUBSTANTIAL RIGHT TO
23 WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY, ARE
24 SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A
25 REASONABLE DOUBT.

CHARGES ON THE LAW BY THE COURT:

1 I INSTRUCT YOU AND EMPHASIZE THAT THE FACT THE DEFENDANT
2 DID NOT TESTIFY IS NOT A FACTOR TO BE CONSIDERED BY YOU IN
3 ANY WAY IN YOUR DELIBERATIONS AND IN YOUR CONSIDERATION ON
4 THE QUESTION OF THE GUILT OR THE INNOCENCE OF THE DEFENDANT.
5 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER.

6 A DEFENDANT HAS THE CONSTITUTIONAL RIGHT TO REMAIN
7 SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT BE
8 CONSIDERED BY YOU IN YOUR DELIBERATIONS.

9 I REPEAT - UNDER YOUR OATH, YOU ARE TO DRAW NO
10 CONCLUSIONS WHATSOEVER FROM THE FACT THAT THE DEFENDANT IN
11 THIS CASE DID NOT TESTIFY. THE FACT THAT THE DEFENDANT DID
12 NOT TESTIFY SHOULD NOT EVEN BE DISCUSSED IN THE JURY ROOM.

13 THE BURDEN OF PROOF - AS I HAVE STATED TO YOU - IS ON
14 THE STATE. THE DEFENDANT IS NOT REQUIRED TO PROVE HIS
15 INNOCENCE. THE BURDEN OF PROOF REMAINS ON THE STATE TO PROVE
16 GUILT BEYOND A REASONABLE DOUBT.

17 THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY
18 BEYOND A REASONABLE DOUBT.

19 SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES
20 WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A
21 FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE
22 GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE.

23 IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE
24 POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT.
25 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU

1 FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.

2 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW
3 WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES
4 NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.

5 IF, BASED IN YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE
6 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIMES
7 CHARGED, YOU MUST FIND THE DEFENDANT GUILTY.

8 IF, ON THE OTHER HAND, YOU THINK THERE IS A REAL
9 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE
10 THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT
11 GUILTY.

12 I REMIND YOU THAT DURING THIS TRIAL YOU AND I HAVE
13 CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY
14 RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE AND I
15 ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE
16 EVIDENCE OFFERED DURING THE TRIAL.

17 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE
18 YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE
19 RECORD IN THIS CASE DURING THE TRIAL, YOU MUST DISREGARD THAT
20 TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS
21 BEEN PRESENTED FROM THIS WITNESS STAND, AND ANY EXHIBITS
22 WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE.

23 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
24 APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE
25 SOLE JUDGE OF THE LAW OF THIS CASE. AND IT IS YOUR DUTY AS

CHARGES ON THE LAW BY THE COURT:

1 JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU.

2 IF YOU ALREADY HAVE AN IDEA AS TO WHAT THE LAW IS OR
3 WHAT THE LAW OUGHT TO BE, AND IT DOES NOT AGREE WITH WHAT I
4 NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE
5 YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS
6 I STATE IT TO YOU.

7 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE
8 JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A
9 CASE.

10 A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR
11 MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE.

12 SINCE YOU, THE JURY, ARE THE SOLE JUDGES OF THE FACTS IN
13 THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING
14 THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY
15 OF EVIDENCE OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING
16 THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY
17 OPINION ABOUT THE FACTS IN THIS CASE.

18 THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE
19 FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE
20 JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE
21 THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE
22 PRESENTED DURING THIS TRIAL.

23 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY
24 PRESENTED DURING A TRIAL. DIRECT EVIDENCE AND CIRCUMSTANTIAL
25 EVIDENCE.

CHARGES ON THE LAW BY THE COURT:

1 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS
2 TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS.
3 IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO
4 BE PROVED.

5 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND
6 CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS
7 EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM
8 WHICH THE MAIN FACT MAY BE INFERRED.

9 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE, AND NOT
10 ON PERSONAL KNOWLEDGE OR OBSERVATION. THE LAW MAKES
11 ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE
12 GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A
13 GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
14 EVIDENCE THAN OF DIRECT EVIDENCE.

15 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER
16 WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE
17 GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST
18 FIND THE DEFENDANT NOT GUILTY.

19 NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF
20 WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY
21 SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS
22 TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH
23 EVIDENCE CON- -- CONVINCES YOU OF ITS TRUTH.

24 IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE
25 TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER

CHARGES ON THE LAW BY THE COURT:

1 SEVERAL WITNESSES. OR, SEVERAL WITNESSES OVER ONE.

2 YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND
3 REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME
4 WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS
5 ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS
6 ENTIRETY.

7 YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO
8 YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS
9 CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF THE
10 WITNESS WHILE ON THE WITNESS STAND.

11 LADIES AND GENTLEMEN, A - A STATEMENT ALLEGED TO HAVE
12 BEEN MADE BY THE DEFENDANT HAS BEEN ADMITTED INTO EVIDENCE IN
13 THIS CASE. WHILE THE COURT HAS DETERMINED THAT THE STATEMENT
14 IS ADMISSIBLE, I INSTRUCT YOU THAT YOU MAKE THE ULTIMATE
15 DECISION OF WHETHER OR NOT THE DEFENDANT MADE THE STATEMENT.

16 IF THE DEFENDANT DID MAKE THE STATEMENT, YOU MUST
17 DETERMINE WHETHER THE STATEMENT WAS MADE BY THE DEFENDANT
18 VOLUNTARILY AND OF HIS OWN FREE WILL. THIS MEANS THAT THE
19 STATEMENT WAS NOT CAUSED BY PRESSURE, FORCE, FEAR, THREATS,
20 COERCION, OR INTIMIDATION, OR BY HOPE OR A PROMISE OF
21 LENIENCY OR A REWARD OF ANY KIND.

22 IN DETERMINING WHETHER A STATEMENT WAS VOLUNTARY, YOU
23 SHOULD CONSIDER BOTH THE CHARACTERISTICS OF THE DEFENDANT AND
24 THE DETAILS OF THE QUESTIONING.

25 SOME OF THE FACTORS THAT YOU MUST CONSIDER ARE: THE AGE

1 OF THE DEFENDANT. THE DEFENDANT'S EDUCATION OR LACK OF
2 EDUCATION. THE DEFENDANT'S MENTAL ABILITY OR CAPACITY. THE
3 DEFENDANT'S I-Q OR INTELLIGENCE. THE DEFENDANT'S BACKGROUND
4 AND ENVIRONMENT. THE PLACE AND LENGTH OF DETENTION. THE
5 NATURE OF THE QUESTIONING. AND, THE ADVICE OR LACK THEREOF
6 TO THE DEFENDANT OF HIS CONSTITUTIONAL RIGHTS. INCLUDING BUT
7 NOT LIMITED TO THE RIGHT TO REMAIN SILENT, THAT ANY STATEMENT
8 COULD BE USED AGAINST HIM IN A COURT OF LAW, THE RIGHT TO
9 HAVE A LAWYER PRESENT, THAT IF HE COULD NOT AFFORD A LAWYER,
10 A LAWYER WOULD BE APPOINTED TO REPRESENT HIM WITHOUT ANY
11 COST, AND THAT HE COULD STOP MAKING A STATEMENT AT ANY TIME.

12 YOU MUST CAREFULLY CONSIDER ALL OF THE SURROUNDING
13 CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO AN ALLEGED
14 STATEMENT.

15 THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE
16 DOUBT THAT ANY ALLEGED STATEMENT WAS VOLUNTARY. IF YOU
17 DETERMINE IT WAS, YOU MAY GIVE THE STATEMENT ANY FURTHER
18 CONSIDERATION THAT YOU DEEM PROPER.

19 YOU MUST DECIDE WHAT WEIGHT - IF ANY - SHOULD BE GIVEN
20 TO THE ALLEGED STATEMENT.

21 IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT THE FREE
22 AND VOLUNTARY STATEMENT OF THE DEFENDANT, YOU SHOULD NOT
23 CONSIDER THE STATEMENT AT ALL.

24 LADIES AND GENTLEMAN, AS I SAID, THERE ARE THREE
25 SEPARATE INDICTMENTS IN THIS CASE.

1 THE FIRST INDICTMENT - I WILL NOW CHARGE YOU THE LAW
2 APPLICABLE TO ARMED ROBBERY.

3 THE DEFENDANT IS CHARGED WITH ARMED ROBBERY. IN ORDER
4 TO PROVE THIS OFFENSE, THE STATE MUST FIRST PROVE, BEYOND A
5 REASONABLE DOUBT, THAT THE DEFENDANT TOOK PERSONAL PROPERTY
6 FROM THE PERSON OR PRESENCE OF ANOTHER.

7 PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS WITHIN
8 THE PERSON'S REACH, INSPECTION, OBSERVATION, OR CONTROL SO
9 THAT THE PERSON COULD, IF NOT OVERCOME WITH VIOLENCE OR
10 PREVENTED BY FEAR, KEEP POSSESSION OF THE PROPERTY.

11 THE STATE MUST ALSO PROVE BEYOND A REASONABLE DOUBT THAT
12 THE DEFENDANT CARRIED THE PROPERTY AWAY, INTENDING TO
13 PERMANENTLY DEPRIVE THE OWNER OF THE PROPERTY AND TO KEEP THE
14 PROPERTY FOR THE DEFENDANT'S OWN USE.

15 THE SLIGHTEST REMOVAL OF THE PROPERTY OR THE COMPLETE
16 POSSESSION OF THE PROPERTY - EVEN FOR AN INSTANCE - BY THE
17 DEFENDANT IS SUFFICIENT TO SHOW A TAKING AND CARRYING AWAY OF
18 THE PROPERTY.

19 THE TAKING AND CARRYING AWAY OF THE PROPERTY MUST HAVE
20 BEEN DONE WITH VIOLENCE OR BY PUTTING THE OWNER OF THE
21 PROPERTY IN FEAR OF VIOLENCE.

22 FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT
23 THAT THE DEFENDANT WAS ARMED WITH A DEADLY WEAPON DURING THE
24 ROBBERY.

25 A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR SUBSTANCE

1 WHICH IS LIKELY TO CAUSE DEATH OR GREAT BODILY HARM. WHETHER
2 AN INSTRUMENT HAS BEEN USED AS A DEADLY WEAPON DEPENDS ON THE
3 FACTS AND CIRCUMSTANCES OF EACH CASE.

4 THE FOLLOWING ARE - ARE EXAMPLES OF INSTRUMENTS WHICH
5 MAY BE DEADLY WEAPONS. A PISTOL, A SHOTGUN, A RIFLE, A DIRK,
6 A DAGGER, A KNIFE, A SLINGSHOT, METAL KNUCKLES, A RAZOR,
7 GASOLINE, A FIRE BOMB OR A MOLOTOV COCKTAIL, AND LIGHTER
8 FLUID.

9 THAT IS THE CHARGE AS TO THE ELEMENTS OF ARMED ROBBERY.

10 NEXT, AS TO THE ELEMENTS OF BURGLARY IN THE FIRST
11 DEGREE. THE DEFENDANT IS CHARGED WITH FIRST-DEGREE BURGLARY.

12 THE STATE MUST FIRST PROVE, BEYOND A REASONABLE DOUBT,
13 THAT THE DEFENDANT ENTERED A DWELLING WITHOUT CONSENT.

14 A DWELLING IS ANY BUILDING OR PORTION OF A BUILDING IN
15 WHICH A PERSON ORDINARILY SLEEPS.

16 A BUILDING CONSTRUCTED AS A DWELLING THAT HAS NEVER BEEN
17 OCCUPIED CANNOT BE CONSIDERED A DWELLING FOR PURPOSES OF
18 BURGLARY. BUT, A BUILDING IS A DWELLING EVEN IF THE
19 RESIDENTS ARE TEMPORARILY ABSENT FROM THE BUILDING.

20 THE TERM, ENTER A BUILDING WITHOUT CONSENT, IS
21 STATUTORILY DEFINED TO MEAN TO ENTER A BUILDING WITHOUT THE
22 CONSENT OF THE PERSON IN LAWFUL POSSESSION.

23 IN ORDER TO PROVE THAT THE DEFENDANT ENTERED THE
24 DWELLING, THE STATE DOES NOT HAVE TO SHOW THAT THE
25 DEFENDANT'S ENTIRE BODY ENTERED THE DWELLING. THE SMALLEST

1 ENTRY IS SUFFICIENT.

2 NEXT, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT
3 THAT THE DEFENDANT INTENDED TO COMMIT A CRIME - EITHER A
4 FELONY OR A MISDEMEANOR - AT THE TIME OF THE ENTRY.

5 THE MERE ENTRY INTO A DWELLING WITHOUT CONSENT IS NOT
6 BURGLARY. IF THE INTENT TO COMMIT - TO COMMIT A CRIME IS
7 FORMED AFTER THE ENTRY, IT IS NOT BURGLARY.

8 ON THE OTHER HAND, IF THE DEFENDANT INTENDED TO COMMIT A
9 CRIME AT THE TIME OF THE ENTRY, IT IS A BURGLARY EVEN IF THE
10 INTENT WAS ABANDONED AFTER THE ENTRY. IT DOES NOT MATTER
11 THAT THE INTENDED CRIME WAS NOT COMPLETED.

12 INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE DEFENDANT
13 AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
14 REASONABLY INFER INTENT.

15 FINALLY, THE STATE MUST PROVE, BEYOND A REASONABLE
16 DOUBT, THAT - ONE OF THE FOLLOWING:

17 NUMBER ONE - WHILE ENTERING, WHILE IN THE DWELLING, OR
18 WHEN FLEEING, THE DEFENDANT WAS ARMED WITH A DEADLY WEAPON OR
19 EXPLOSIVE.

20 AGAIN, A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR
21 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT BODILY
22 HARM.

23 WHETHER AN INSTRUMENT HAS BEEN USED AS A DEADLY WEAPON
24 DEPENDS ON THE FACTS AND CIRCUMSTANCES OF EACH CASE.

25 OR, NUMBER TWO - WHEN ENTERING, WHILE IN THE DWELLING,

1 OR WHEN FLEEING, THE DEFENDANT USED OR THREATENED TO USE A
2 DEADLY WEAPON.

3 OR, NUMBER THREE - WHEN ENTERING, WHILE IN THE DWELLING,
4 OR WHEN FLEEING, THE DEFENDANT CAUSED PHYSICAL INJURY TO
5 ANYONE NOT PARTICIPATING IN THE CRIME.

6 OR, NUMBER FOUR - WHEN ENTERING, WHILE IN THE DWELLING,
7 OR WHEN FLEEING, THE DEFENDANT DISPLAYED WHAT WAS OR APPEARED
8 TO BE A KNIFE, PISTOL, REVOLVER, RIFLE, MACHINE GUN, OR OTHER
9 FIRE ARM.

10 OR, NUMBER FIVE - THE DEFENDANT ENTERED OR REMAINED IN
11 THE DWELLING IN THE NIGHTTIME. NIGHTTIME IS THE PERIOD
12 BETWEEN SUNSET AND SUNRISE DURING WHICH THERE IS NOT ENOUGH
13 DAYLIGHT TO RECOGNIZE A PERSON'S FACE EXCEPT BY ARTIFICIAL
14 LIGHT OR MOONLIGHT.

15 THAT IS THE CHARGE AS TO BURGLARY IN THE FIRST DEGREE.

16 THE NEXT CHARGE IS KIDNAPPING. THE ELEMENTS AS TO
17 KIDNAPPING. THE DEFENDANT IS CHARGED WITH KIDNAPPING.

18 THE STATE MUST PROVE, BEYOND A REASONABLE DOUBT, THE
19 DEFENDANT KNOWINGLY AND UNLAWFULLY SEIZED, CONFINED,
20 INVEIGLED, DECOYED, KIDNAPPED, ABDUCTED, OR CARRIED AWAY
21 ANOTHER PERSON WITHOUT AUTHORITY OF LAW.

22 TO DO A THING UNLAWFULLY IS TO DO IT WILLFULLY AGAINST
23 THE LAW.

24 KNOWINGLY MEANS WITH KNOWLEDGE - CONSCIOUSLY - NOT
25 ACCIDENTALLY.

CHARGES ON THE LAW BY THE COURT:

1 SEIZE MEANS TO TAKE HOLD OF SUDDENLY OR FORCIBLY.

2 CONFINE MEANS TO LIMIT, RESTRICT, OR ENCLOSE WITHIN
3 BOUNDS, IMPRISON, OR SHUT OR KEEP IN.

4 KIDNAP IS TO REMOVE A PERSON AGAINST HIS WILL BY
5 UNLAWFUL FORCE OR BY FRAUD.

6 ABDUCT MEANS TO CARRY OFF SECRETLY OR BY FORCE FOR AN
7 ILLEGAL PURPOSE.

8 CARRIED AWAY MEANING - MEANS TO REMOVE.

9 THE STATE DOES NOT HAVE TO PROVE THAT THE DEFENDANT DID
10 ALL OF THESE THINGS. INSTEAD, IF YOU FIND BEYOND A
11 REASONABLE DOUBT THAT THE DEFENDANT DID ANY OF THESE THINGS,
12 YOU MAY FIND THE DEFENDANT GUILTY OF KIDNAPPING.

13 SOMETHING DONE WITHOUT AUTHORITY OF LAW IS SOMETHING
14 WHICH THE LAW DOES NOT SANCTION, PERMIT, ALLOW, CONDONE, OR
15 PROVIDE JUSTIFICATION FOR.

16 THE KIDNAPPING DOES NOT HAVE TO BE FOR ANY PERSONAL OR
17 MONETARY GAIN, FOR ANY ILLEGAL PURPOSE, BUT MAY BE FOR ANY
18 REASON WHATSOEVER.

19 INTENT. IN ORDER TO ESTABLISH CRIMINAL LIABILITY,
20 CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL STATE
21 REQUIRED TO BE PROVEN BY THE STATE FOR A PARTICULAR CRIME
22 MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR
23 CRIMINAL NEGLIGENCE.

24 CRIMINAL INTENT MUST BE PROVED BY THE STATE BEYOND A
25 REASONABLE DOUBT.

1 CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE
2 DETERMINED BY THE JURY FROM THE CIRCUMSTANCES SURROUNDING THE
3 SITUATION.

4 THERE IS NO WAY TO PROVE INTENT TO A MATHEMATICAL
5 CERTAINTY. THERE IS NO WAY MEDICAL SCIENCE CAN DISSECT A
6 PERSON'S BRAIN AND DETERMINE WHAT THE PERSON HAD IN MIND. SO
7 THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE
8 CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU MAKE
9 YOUR DETERMINATION OF WHETHER OR NOT THE ELEMENT REQUIRING
10 INTENT WAS PRESENT.

11 IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT AND
12 POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY INFERENCE
13 IN THE SAME WAY AS ANY OTHER FACT - BY TAKING INTO
14 CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE FACTS AND
15 CIRCUMSTANCES OF THE CASE.

16 CRIMINAL INTENT AS A MENTAL STATE - A CONSCIOUS
17 WRONGDOING. IT IS UP TO YOU TO DETERMINE WHAT THE DEFENDANT
18 INTENDED TO DO, BASED ON THE CIRCUMSTANCES SHOWN TO HAVE
19 EXISTED.

20 CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO
21 ACT. IT MAY ARISE FROM RECKLESSNESS OR AN INDIFFERENCE TO
22 DUTY, OR TO CONSEQUENCES THAT IS CONSIDERED BY THE LAW TO BE
23 THE EQUIVALENT OF CRIMINAL INTENT.

24 MADAME CLERK, WOULD YOU HAND THIS FORM TO THE FOREMAN
25 FOR ME PLEASE?

CHARGES ON THE LAW BY THE COURT:

1 (VERDICT FORM HANDED TO JURY FOREMAN.)

2 THE COURT: MR. FOREMAN, I WAS GONNA GO OVER THIS FORM
3 WITH YOU WHILE I - WHILE I EXPLAIN IT TO YOU.

4 THIS IS - AS YOU SEE, THERE IS A CAPTION ON IT -
5 STATE OF SOUTH CAROLINA VERSUS FERRIS G. SINGLEY, AND IT'S
6 EN- -- IT'S ENTITLED, VERDICT FORM.

7 THERE ARE TWO POSSIBLE VERDICTS AS TO EACH INDICTMENT
8 WHICH YOU MAY FIND IN THIS CASE.

9 I HAVE LISTED IT AS COUNT ONE, COUNT TWO, AND COUNT
10 THREE, ALTHOUGH THEY ARE ACTUALLY SEPARATE INDICTMENTS. AND
11 I HAVE LISTED THEM ALPHABETICALLY. UM - ARMED ROBBERY,
12 BURGLARY IN THE FIRST DEGREE, AND KIDNAPPING.

13 YOU, UH - THERE IS NO SIGNIFICANCE - NUMBER ONE, THERE
14 IS NO SIGNIFICANCE WHATSOEVER IN THE ORDER IN WHICH I STATE
15 THESE POSSIBLE VERDICTS. IT IS SIMPLY THAT ONE MUST BE
16 STATED FIRST.

17 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, YOUR
18 VERDICT MUST BE A UNANIMOUS VERDICT AS TO - AS TO EACH
19 CHARGE - AS TO EACH INDICTMENT, WHETHER IT BE GUILTY OR NOT
20 GUILTY.

21 AND IF YOU WILL NOTICE - UNDER ARMED ROBBERY FOR
22 EXAMPLE - WE THE JURY, BY UNANIMOUS CONSENT, FIND THE
23 DEFENDANT - AND FIRST IS LISTED GUILTY OF ARMED ROBBERY AND
24 SECOND IS LISTED NOT GUILTY OF ARMED ROBBERY. IF THE JURY
25 UNANIMOUSLY FINDS THAT THE DEFENDANT IS NOT GUILTY OF ARMED

CHARGES ON THE LAW BY THE COURT:

1 ROBBERY, I WOULD ASK THAT YOU CHECK NOT GUILTY OF ARMED
2 ROBBERY AND ALSO CIRCLE NOT GUILTY OF ARMED ROBBERY.

3 IF, ON THE OTHER HAND, YOU FIND THE STATE HAS PROVEN ITS
4 CASE AS TO ARMED ROBBERY BEYOND A REASONABLE DOUBT, YOU WOULD
5 CHECK GUILT - GUILTY OF ARMED ROBBERY. CHECK TO THE LEFT AND
6 CIRCLE THAT.

7 YOU WOULD DO THAT FOR THE ARMED ROBBERY, FOR THE
8 BURGLARY IN THE FIRST DEGREE, AND ALSO FOR THE KIDNAPPING.

9 WHEN THE JURY AGREES ON THE VERDICT, MR. FOREMAN - ON
10 THE VERDICT AS TO ALL THREE - I WOULD ASK YOU TO SIGN YOUR
11 NAME AS FOREPERSON, THEN KNOCK ON THE JURY ROOM DOOR, INFORM
12 THE BAILIFF THAT YOU HAVE REACHED A VERDICT, AND AT THAT TIME
13 WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

14 I HAVE TO GIVE THE ATTORNEYS AN OPPORTUNITY TO COMMENT
15 ON ANYTHING I MAY HAVE OR MAY NOT HAVE COVERED WITH YOU
16 DURING MY CHARGE TO YOU. SO, I ASK YOU IF YOU WOULD LEAVE
17 THAT FORM ON THE JURY RAIL AT THIS TIME. I'M GOING TO ASK
18 YOU TO GO TO YOUR JURY ROOM MOMENTARILY. DO NOT BEGIN YOUR
19 DELIBERATIONS UNTIL YOU HAVE RECEIVED THE EXHIBITS AND BEEN
20 NOTIFIED TO DO SO BY THE BAILIFF OR THE CLERK.

21 THANK YOU MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY.
22 YOU MAY NOW GO TO THE JURY ROOM.

23 (WHEREUPON, JURY LEFT THE COURTROOM AT 12:02 P.M.)

24 **THE COURT:** ANY EXCEPTIONS OR ADDITIONS BY THE STATE?

25 **MR. DURANT:** NO, SIR, YOUR HONOR.

EVIDENCE AND VERDICT FORM TO JURY:

1 **THE COURT:** DEFENSE?

2 **MS. SOLAR:** NO, YOUR HONOR.

3 **THE COURT:** SUBJECT - SUBJECT TO YOUR LESSER INCLUDED
4 CHARGE---

5 **MS. SOLAR:** THAT'S CORRECT - THAT'S CORRECT,
6 YOUR HONOR.

7 **THE COURT:** ---ON STRONG-ARM ROBBERY? ALL RIGHT. IF
8 YOU-ALL WILL GET THE EXHIBITS AND - MR. BAILIFF, I WANT THE
9 JURY FORM - VERDICT FORM TO GO IN ALSO.

10 (WHEREUPON, EXHIBITS WERE REVIEWED AND VERIFIED BY
11 ATTORNEYS. EXHIBITS AND VERDICT FORM WERE PRESENTED TO THE
12 JURY FOR DELIBERATIONS TO BEGIN AT 12:05 P.M.)

13 (WHEREUPON, COURT RECESSED AT 12:05 P.M.)

14 (WHEREUPON, TERRENCE MCHALE, JUROR NUMBER 151 - THE JURY
15 ALTERNATE - WAS GREETED BY THE COURT, THANKED FOR SERVICE,
16 AND RELEASED FROM FURTHER SERVICE IN THIS CASE AT 12:07 P.M.,
17 OUTSIDE THE COURTROOM, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED AT 12:30 P.M.)

19 **THE COURT:** WE HAVE A - A NOTE FROM THE JURY THAT SAYS,
20 CAN WE GET A WRITTEN EXPLANATION OF THE LAW FOR KIDNAPPING
21 AND CONFINE? KIDNAPPING BEING, UH, QUOTATED (SIC) - IN
22 QUOTATION MARKS, AND CONFINED IN QUOTATION MARKS. SIGNED BY
23 THE FOREMAN.

24 AND MY ANSWER - MY PROPOSED ANSWER BEING - NO, I AM NOT
25 ALLOWED TO GIVE YOU WRITTEN COPIES. HOWEVER, IF YOU - IF YOU

1 CHOOSE, I WILL BE HAPPY TO RECHARGE YOU THE LAW OF
2 KIDNAPPING.

3 MS. SOLAR: THAT'S FINE.

4 MR. DURANT: THAT'S FINE. I DON'T THINK THAT DEFINITION
5 OF CONFINE IS A VERY GOOD ONE ANYWAY.

6 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
7 CONFERENCE/DRAFT REPLY TO JURY FROM THE COURT, OFF THE
8 RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 THE COURT: AND WHAT I HAVE WRITTEN - SOLICITOR AND
11 MS. SOLAR - IS, I AM NOT ALLOWED TO GIVE YOU WRITTEN CHARGES.
12 HOWEVER, I WILL - I WILL RECHARGE YOU ON THE LAW OF
13 KIDNAPPING IF YOU CHOOSE. LET ME KNOW IF YOU WANT TO BE
14 RECHARGED ON THIS ISSUE. AND MY SIGNATURE. ANY OB- -- ANY
15 OBJECTIONS?

16 MR. DURANT: NO, SIR, YOUR HONOR.

17 THE COURT: MS. SOLAR?

18 MS. SOLAR: NO, YOUR HONOR.

19 THE COURT: GIVE THAT TO THE BAILIFF TO GIVE TO THE
20 JURY, PLEASE. OH, HERE'S THE BAILIFF RIGHT HERE. I'M SORRY.

21 (WHEREUPON, THE COURT'S ANSWER TO THE JURY WAS PROVIDED
22 TO THE JURY AT 12:32 P.M.)

23 (WHEREUPON, COURT RECESSED AT 12:32 P.M.)

24 (WHEREUPON, COURT WAS NOTIFIED THE JURY HAD REACHED A
25 VERDICT AT 12:38 P.M.)

1 (WHEREUPON, COURT RESUMED AT 12:41 P.M.)

2 **CLERK (MS. NELSON):** THE COURT WILL COME TO ORDER.

3 **THE COURT:** THANK YOU, PLEASE BE SEATED.

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
5 CONFERENCE, OFF THE RECORD.)

6 (WHEREUPON, COURT RESUMED.)

7 **THE COURT:** ALL RIGHT, SOLICITOR, ANYTHING BEFORE WE
8 RECEIVE OUR VERDICT?

9 **MR. DURANT:** NOTHING FOR THE STATE, YOUR HONOR.

10 **THE COURT:** MS. SOLAR?

11 **MS. SOLAR:** NO, YOUR HONOR.

12 **THE COURT:** MR. - MR. BAILIFF, WOULD YOU BRING US OUR
13 JURY, PLEASE?

14 (WHEREUPON, JURY ENTERED THE COURTROOM AT 12:42 P.M.)

15 **THE COURT:** ALL RIGHT, SIR. MR. - MR. FOREMAN, I
16 UNDERSTAND THE JURY HAS REACHED A VERDICT?

17 **JURY FOREMAN:** YES, YOUR HONOR.

18 **THE COURT:** ALL RIGHT, SIR. WOULD YOU PASS IT TO THE
19 TO THE BAILIFF, PLEASE?

20 (WHEREUPON, VERDICT HANDED TO THE COURT.)

21 **THE COURT:** ALL RIGHT. THE VERDICT APPEARS TO BE IN
22 PROPER FORM. MADAME CLERK, WOULD YOU PUBLISH THE VERDICT
23 PLEASE?

24 **CLERK (MS. NELSON):** DEFENDANT STAND. CASE NUMBER
25 2006-GS-10-0093, 0094, AND 0095. THE STATE OF SOUTH CAROLINA

VERDICT:

1 VERSUS FERRIS G. SINGLEY, DEFENDANT.

2 WE THE JURY, BY UNANIMOUS CONSENT, ON THE COUNT OF ARMED
3 ROBBERY, FIND THE DEFENDANT GUILTY OF ARMED ROBBERY.

4 ON COUNT TWO, BURGLARY IN THE FIRST DEGREE, WE THE JURY
5 UNANIMOUSLY - BY UNANIMOUS CONSENT, FIND THE DEFENDANT GUILTY
6 OF BURGLARY IN THE FIRST DEGREE.

7 COUNT THREE, KIDNAPPING. WE THE JURY, BY UNANIMOUS
8 CONSENT, FIND THE DEFENDANT NOT GUILTY OF KIDNAPPING.

9 SIGNED, THE FOREPERSON, BRIAN BOONE, MAY 2ND 2006, COUNTY
10 OF CHARLESTON.

11 MR. FOREPERSON, LADIES AND GENTLEMEN OF THE JURY, IF
12 THIS IS YOUR VERDICT, PLEASE RAISE YOUR RIGHT HAND.

13 (ALL HANDS RAISED.)

14 CLERK (MS. NELSON): THANK YOU.

15 THE COURT: LET THE RECORD REFLECT ALL HANDS WERE
16 RAISED.

17 SOLICITOR, ANY MATTERS FOR THE JURY BEFORE THEY'RE
18 RELEASED?

19 MR. DURANT: NONE FOR THE STATE, YOUR HONOR.

20 THE COURT: MS. SOLAR?

21 MS. SOLAR: YOUR HONOR, WE'D ASK THAT YOU TO POLL THE
22 JURY.

23 THE COURT: ALL RIGHT. MADAME CLERK?

24 CLERK (MS. NELSON): YES, YOUR HONOR. LADIES AND
25 GENTLEMEN, AS YOUR NAME IS CALLED, PLEASE STAND UP - PLEASE

VERDICT:

1 STAND SO THAT I MAY ASK YOU TWO QUESTIONS.

2 THE FIRST, IS YOUR VERDICT - IS THIS YOUR VERDICT?

3 AND THE SECOND, IS THIS STILL YOUR VERDICT?

4 JUROR NUMBER 104, CAREY HUNTER. IS THIS YOUR VERDICT?

5 MR. HUNTER: YES, IT IS.

6 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

7 MR. HUNTER: YES, IT IS.

8 CLERK (MS. NELSON): THANK YOU. JUROR NUMBER 270,
9 REID SILVER. IS THIS YOUR VERDICT?

10 MR. SILVER: YES, IT IS.

11 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

12 MR. SILVER: YES, IT IS.

13 CLERK (MS. NELSON): THANK YOU. NUMBER 71, MICHELLE
14 DUGAN. IS THIS YOUR VERDICT?

15 MS. DUGAN: YES, IT IS.

16 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

17 MS. DUGAN: YES, IT IS.

18 CLERK (MS. NELSON): THANK YOU. 128, STEPHEN LANGLEY.
19 IS THIS YOUR VERDICT?

20 MR. LANGLEY: YES, IT IS.

21 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

22 MR. LANGLEY: YES, IT IS.

23 CLERK (MS. NELSON): THANK YOU. 151 (SIC) - 13,
24 WALTER BARNES. IS THIS YOUR VERDICT?

25 MR. BARNES: YES, IT IS.

VERDICT:

1 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

2 MR. BARNES: YES, MA'AM.

3 CLERK (MS. NELSON): 172, THEODORE NELSON. IS THIS YOUR
4 VERDICT?

5 MR. NELSON: YES, IT IS.

6 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

7 MR. NELSON: YES, IT IS.

8 CLERK (MS. NELSON): THANK YOU. 107, NANCY JACQUES. IS
9 THIS YOUR VERDICT?

10 MS. JACQUES: YES, IT IS.

11 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

12 MS. JACQUES: YES, IT IS.

13 CLERK (MS. NELSON): 19, MOLLY BOREN. IS THIS YOUR
14 VERDICT?

15 MS. BOREN: YES, IT IS.

16 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

17 MS. BOREN: YES, IT IS.

18 CLERK (MS. NELSON): 37, GWYNNE CARTER. IS THIS YOUR
19 VERDICT?

20 MS. CARTER: YES, IT IS.

21 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

22 MS. CARTER: YES, IT IS.

23 CLERK (MS. NELSON): 96, JULIUS HALEY. IS THIS YOUR
24 VERDICT?

25 MR. HALEY: YES, THAT IS.

1 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

2 MR. HALEY: YES, IT IS.

3 CLERK (MS. NELSON): THANK YOU. 206, AMY SHORE. IS
4 THIS YOUR VERDICT?

5 MS. SHORE: YES, IT IS.

6 CLERK (MS. NELSON): IS IT STILL YOUR VERDICT?

7 MS. SHORE: YES, IT IS.

8 CLERK (MS. NELSON): THANK YOU. MR. FOREPERSON, BRIAN
9 BOONE, IS THIS YOUR VERDICT?

10 MR. BOONE: YES, IT IS.

11 CLERK (MS. NELSON): IS THIS STILL YOUR VERDICT?

12 MR. BOONE: YES, IT IS.

13 CLERK (MS. NELSON): THANK YOU, SIR.

14 THE COURT: ALL RIGHT, MS. SOLAR, THE JURY APPEARS TO
15 HAVE BEEN POLLED AND THE VERDICT APPEARS UNANIMOUS AS TO ALL
16 COUNTS.

17 ANY OTHER MATTERS FOR THE JURY PRIOR TO THEIR RELEASE?

18 MS. SOLAR: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT. YOU MAY BE SEATED. MR. FOREMAN,
20 LADIES AND GENTLEMEN OF THE JURY, I DO NOT COMMENT ON THE
21 VERDICT THAT A JURY RETURNS IN ANY CASE. HOWEVER, I WILL
22 COMMENT ON YOUR WORK ETHIC AND YOUR ATTENTION TO THE MATTERS
23 AT HAND AND HOW YOU GAVE ALL THE PARTIES YOUR UNDIVIDED AND
24 INDIVIDUAL ATTENTION DURING THE TRIAL OF THIS CASE.

25 AND I THANK YOU PERSONALLY FOR YOUR SERVICE AND YOUR

1 SERVICE TO YOUR COMMUNITY.

2 I DON'T HAVE REAL GREAT NEWS, EXCEPT TO TELL YOU YOU
3 MUST CALL YOUR JUROR HOT LINE AFTER EIGHTEEN HUNDRED HOURS
4 TONIGHT - AFTER SIX P.M. TONIGHT, PLEASE CALL THE JUROR
5 INFORMATION LINE.

6 AND WITH THAT, MR. FOREMAN, LADIES AND GENTLEMEN OF THE
7 JURY, YOU ARE NOW EXCUSED FOR THE REMAINDER OF THE DAY.
8 THANK YOU.

9 (WHEREUPON, JURY LEFT THE COURTROOM AND WAS EXCUSED FOR
10 THE BALANCE OF THE DAY AT 12:48 P.M.)

11 **THE COURT:** YES, MA'AM, MS. SOLAR?

12 **MS. SOLAR:** THANK YOU, YOUR HONOR. I JUST WANT TO RENEW
13 MY MOTION FOR A DIRECTED VERDICT, RENEWAL ALL OF MY PREVIOUS
14 MOTIONS AND OBJECTIONS, AND MAKE A MOTION FOR A NEW TRIAL
15 BASED ON ALL PREVIOUSLY MADE OBJECTIONS AND MOTIONS.

16 **THE COURT:** YES, MA'AM. AND ALL - ALL MOTIONS ARE
17 CERTAINLY NOTED FOR THE RECORD. AND I WOULD RECONFIRM ALL MY
18 RULINGS AND REASONINGS AT THE TIME, AND I WOULD RESPECTFULLY
19 DENY YOUR MOTION FOR A NEW TRIAL. ANY OTHER MATTERS?

20 **MS. SOLAR:** NO, YOUR HONOR.

21 **THE COURT:** SOLICITOR?

22 **MR. DURANT:** YOUR HONOR, IF - IF YOU GIVE ME JUST TWO
23 MORE SECONDS, I'LL BE DONE WITH THE SENTENCE SHEETS. SO...

24 **THE COURT:** AND, MS. SOLAR, IS THERE ANY REASON SENTENCE
25 WOULD NOT - CANNOT BE IMPOSED AT THIS TIME?

1 **MS. SOLAR:** NO, YOUR HONOR.

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED WHILE WAITING
3 FOR SENTENCE SHEETS, OFF THE RECORD.)

4 (WHEREUPON, COURT RESUMED.)

5 **MR. DURANT:** MAY I APPROACH, YOUR HONOR?

6 **THE COURT:** YES, SIR.

7 (WHEREUPON, SENTENCING SHEETS HANDED TO THE COURT.)

8 **THE COURT:** ALL RIGHT, SOLICITOR, I'LL BE GLAD TO HEAR
9 FROM YOU.

10 **MR. DURANT:** YOUR HONOR, BY WAY OF PRIOR RECORD - I
11 DON'T HAVE ANYTHING ELSE. OBVIOUSLY, THERE ARE THE FACTS.
12 THE COURT IS WELL AWARE OF THE FACTS OF THIS CASE.

13 BY WAY OF PRIOR RECORD, MR. SINGLEY BEGAN HIS CRIMINAL
14 CAREER IN 1984 WITH MARIJUANA POSSESSION.

15 1986 HE WAS CONVICTED OF BURGLARY SECOND DEGREE AND
16 CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND FORGERY.

17 IN 1991, HE WAS CONVICTED OF RESISTING ARREST AND
18 RECKLESS DRIVING.

19 1992 HE'S CONVICTED OF FAILURE TO STOP FOR A BLUE LIGHT
20 AND PEEPING TOM. TRESPASSING IN '92.

21 PEEPING TOM AGAIN IN 1994.

22 PRETTY LARCENY IN 1996, COMMON LAW ROBBERY IN 1996.

23 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND GRAND
24 LARCENY IN 1997, AND HE RECEIVED A TEN-YEAR SENTENCE ON THAT
25 OFFENSE.

1 WAS OUT OF PRISON FOR LESS THAN A YEAR AT THE TIME HE
2 COMMITTED THE PRESENT OFFENSES.

3 THE STATE DID FILE AND SERVE A NOTICE OF INTENTION TO
4 SEEK A PENALTY OF LIFE WITHOUT PAROLE. I BELIEVE IT'S BEEN
5 FILED WITH THE CLERK'S OFFICE, YOUR HONOR, BUT I WILL HAND UP
6 A COPY TO YOU.

7 IT WAS SERVED ON THE DEFENDANT ON, UH, APRIL 19 OF 2005
8 AND ON THE PUBLIC DEFENDER'S OFFICE AS WELL.

9 (WHEREUPON, DOCUMENT HANDED TO THE COURT.)

10 MR. DURANT: I DO NOT BELIEVE THE VICTIM DESIRES TO
11 ADDRESS THE COURT, YOUR HONOR.

12 THE COURT: ALL RIGHT. ANYTHING FURTHER, SOLICITOR?

13 MR. DURANT: NO, SIR, YOUR HONOR.

14 THE COURT: MS. SOLAR---

15 MS. SOLAR: YOUR HONOR---

16 THE COURT: ---I'D BE GLAD TO HEAR FROM YOU, MA'AM.

17 MS. SOLAR: ---THANK YOU, YOUR HONOR. FERRIS IS
18 ACTUALLY THIRTY-NINE-YEARS-OLD . IS HIS BIRTHDAY.
19 IT'S UNFORTUNATE THAT WE ARE HERE TODAY.

20 YOU HEARD HIS RECORD. HE'S HAD A DRUG ADDICTION SINCE
21 HE WAS THIRTEEN-YEARS-OLD. THAT'S A LONG TIME.

22 HE GREW UP IN A - AND HIS CHILDHOOD WAS VERY DIFFICULT.
23 HE SAID THAT HE WAS - THEY WERE VERY POOR. HE SAID HE CAME
24 FROM AN ABUSIVE HOUSEHOLD, AND THAT OF A DRUG USER.

25 WHEN HE CAME HOME FROM PRISON, IT WAS A - LIKE THE

SENTENCING PHASE:

1 SOLICITOR TOLD YOU - AN EIGHT - EIGHT-AND-A-HALF-YEAR PRISON
2 SENTENCE. HE GOT BACK INTO DRUGS.

3 I THINK THAT HE, YOU KNOW, FOUND IT VERY STRESSFUL TO BE
4 OUT WITHOUT A JOB, WITHOUT A DRIVER'S LICENSE, AND JUST BEING
5 ACCLIMATED AGAIN TO BEING OUT FROM PRISON.

6 UM - THIS INCIDENT, I - I BELIEVE IT WAS PURE
7 DESPERATION ON HIS PART. HE'S ALWAYS TOLD ME - AND I BELIEVE
8 HIM - HE NEVER WAS INTENDING ON HURTING HIS MOTHER. I CAN
9 TELL YOU HE'S REMORSEFUL.

10 HIS FAMILY IS HERE. HIS AUNT ETHEL IS HERE AND HER
11 DAUGHTER AND I THINK - I THINK HIS COUSIN.

12 HE'S BEEN IN JAIL TWO HUNDRED AND TWELVE DAYS, AND HE
13 UNDERSTANDS THIS IS A LIFE SENTENCE. BUT, IF YOU WOULD NOTE
14 THAT FOR THE RECORD?

15 AND I BELIEVE THAT - HE WOULD NOT WANT TO ADDRESS YOU,
16 BUT I BELIEVE HIS AUNT ETHEL WOULD.

17 **THE COURT:** YES, MA'AM. I'LL BE GLAD TO HEAR FROM HER.
18 COME AROUND - COME AROUND HERE, MS. - SINGLEY? IS THAT HER
19 NAME?

20 **MS. SOLAR:** YES, YOUR HONOR, MS. SINGLEY.

21 **THE COURT:** MS. SINGLEY. JUST STEP UP TO THE PODIUM AND
22 JUST STATE YOUR NAME FOR THE RECORD.

23 **MS. ETHEL SINGLEY:** MY NAME IS ETHEL REBECCA SINGLEY,
24 FERRIS' FATHER'S SISTER. AND, WHILE I DO BELIEVE THAT FERRIS
25 DID MAKE SOME MISTAKES AND THAT HE IS GUILTY, UM, I - I JUST

1 FEEL STRONGLY THAT, UM - HE DOESN'T - AND IT'S - I GUESS - I
2 JUST STATE MY OPINION THAT, UM, HE NEEDS HELP.

3 UM - I DON'T KNOW THAT HE WOULD GET THAT HELP IN PRISON,
4 BUT I DON'T KNOW THAT A LIFE SENTENCE WOULD BE ANY HELP TO
5 HIM AT ALL. AND I WOULD BEG THE COURT FOR MERCY ON HIS PART.

6 THE COURT: THANK YOU FOR BEING HERE, MS. SINGLEY. YOU
7 UNDERSTAND, UNDER THIS PARTICULAR STATUTE, ALL I CAN IMPOSE
8 IS A LIFE SENTENCE?

9 MS. ETHEL SINGLEY: I DO - I DO UNDERSTAND.

10 THE COURT: I HAVE NO DISCRETION IN THAT MATTER. BUT
11 THANK YOU FOR BEING HERE.

12 MS. ETHEL SINGLEY: ALL RIGHT, YOUR HONOR.

13 THE COURT: IT'S VERY IMPORTANT TO HAVE FAMILY.
14 ANYTHING FURTHER, MS. SOLAR?

15 MS. SOLAR: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. AND I FIND THAT THE APPROPRIATE
17 NOTICE WAS FILED UNDER 17-25-45. THAT WRITTEN NOTICE WAS
18 GIVEN BY THE SOLICITOR TO THE DEFENDANT AND THE DEFENDANT'S
19 COUNSEL NOT LESS THAN TEN DAYS BEFORE TRIAL.

20 FURTHER - SOLICITOR, FOR THE RECORD, DO YOU HAVE A COPY
21 OF THE PRIOR CONVICTION FOR CRIMINAL SEXUAL CONDUCT IN THE
22 FIRST DEGREE?

23 MR. DURANT: I DO, YOUR HONOR. I'M SORRY, I SHOULD HAVE
24 GIVEN THAT TO YOU. IF I CAN FIND IT.

25 (WHEREUPON, DOCUMENT HANDED TO THE COURT.)

1 **THE COURT:** ALL RIGHT. AND I HAVE BEEN HANDED UP A COPY
2 OF 97-GS-10-0764, THE STATE VERSUS FERRIS GEIGER SINGLEY,
3 INDICTMENT FOR CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE,
4 TRUE BILLED. IT APPEARS THAT HE PLED GUILTY TO THAT CHARGE
5 10-21 OF '97, AND RECEIVED A SENTENCE OF, UH, TEN YEARS - IN
6 CHARLESTON COUNTY. THAT WOULD BE A PRIOR MOST SERIOUS
7 OFFENSE UNDER 17-25-45.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
9 CONFERENCE, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 **THE COURT:** ALL RIGHT. I'M GONNA MAKE THE NOTICE AND
12 THE ACKNOWLEDGMENT OF SERVICE ON BOTH THE DEFENDANT AND THE -
13 AN AGENT OF THE PUBLIC DEFENDER'S OFFICE, AND THE PRIOR
14 INDICTMENT AND SENTENCING SHEET COURT'S EXHIBITS FOR PURPOSES
15 OF THE RECORD.

16 **MR. DURANT:** THANK YOU, YOUR HONOR.

17 **THE COURT:** ON INDICTMENT 2006-GS-10-0094, COUNTY OF
18 CHARLESTON, STATE OF SOUTH CAROLINA VERSUS FERRIS GEIGER
19 SINGLEY, INDICTMENT FOR ARMED ROBBERY. THE SENTENCE IS -
20 UNDER 17-25-45, THE DEFENDANT IS COMMITTED TO THE STATE
21 DEPARTMENT OF CORRECTIONS FOR A SENTENCE OF LIFE WITHOUT THE
22 POSSIBILITY OF PAROLE.

23 I HAVE PUT ON HERE - I'VE NOTED, MS. SOLAR, IF THERE IS
24 ANY SUCH THING AS CREDIT FOR JAIL TIME UNDER THIS TYPE OF
25 SENTENCE, I HAVE SO INDICATED.

SENTENCING PHASE:

1 ON INDICTMENT 2006-GS-10-0095, STATE VERSUS FERRIS
2 GEIGER SINGLEY, HAVING BEEN FOUND GUILTY OF BURGLARY IN THE
3 FIRST DEGREE, A MOST SERIOUS VIOLENT OFFENSE UNDER 17-25-45,
4 AGAIN THE SENTENCE IS THE DEFENDANT BE COMMITTED TO THE STATE
5 DEPARTMENT OF CORRECTIONS FOR A DETERMINATE TERM OF LIFE
6 WITHOUT THE POSSIBILITY OF PAROLE. THAT IS TO RUN CONCURRENT
7 WITH THE PREVIOUSLY IMPOSED ARMED ROBBERY SENTENCE.

8 THERE IS CREDIT FOR JAIL TIME IF - IF THAT IS
9 APPROPRIATE.

10 THANK YOU. AND GOOD LUCK TO YOU, MR. SINGLEY.

11 (WHEREUPON, DEFENDANT WAS ESCORTED FROM THE COURTROOM.)

12 **THE COURT:** MADAME COURT REPORTER, MAKE THOSE COURT'S
13 EXHIBITS.

14 **COURT REPORTER:** DO YOU WANT THOSE INDIVIDUALLY?

15 **THE COURT:** YES, MA'AM.

16 **COURT REPORTER:** OKAY. AND I'LL MAKE THE NOTE - THE
17 JURY NOTE A COURT'S EXHIBIT AS WELL?

18 **THE COURT:** YES. DO YOU HAVE THAT? HAS THAT BEEN
19 RETURNED TO YOU?

20 **COURT REPORTER:** I HAVEN'T LOOKED AT THE EXHIBITS YET.

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
22 CONFERENCE, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 **COURT REPORTER:** YES, SIR. OKAY - TWO, THREE, FOUR,
25 FIVE, SIX.

SENTENCING PHASE:

1 (WHEREUPON, COURT'S EXHIBIT NO. 2 WAS ADMITTED INTO
2 EVIDENCE.)

3 (WHEREUPON, COURT'S EXHIBIT NO. 3 WAS ADMITTED INTO
4 EVIDENCE.)

5 (WHEREUPON, COURT'S EXHIBIT NO. 4 WAS ADMITTED INTO
6 EVIDENCE.)

7 (WHEREUPON, COURT'S EXHIBIT NO. 5 WAS ADMITTED INTO
8 EVIDENCE.)

9 (WHEREUPON, COURT'S EXHIBIT NO. 6 WAS ADMITTED INTO
10 EVIDENCE.)

11 (WHEREUPON, COURT ADJOURNED.)

12 *****END OF REQUESTED TRANSCRIPT*****
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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT REPORTER FOR THE NINTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF ALL PROCEEDINGS RECORDED AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR CHARLESTON COUNTY, SOUTH CAROLINA, ON THE 1ST AND 2ND DAYS OF MAY 2006.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

OCTOBER 31, 2006


VIVIAN H. CROSS
CIRCUIT COURT REPORTER

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Ferris G. Singley 211565
 Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2011-CP-10-4113

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

BY

JULIE
CLERK OF COURT

2011 JUN 10 AM 9:32

F
F
F**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River C.I. / S.C. Dept of Corrections
2. Name and location of Court which imposed sentence Chas Co Gen Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-10-0094 Armed Robbery
 - (b) 2006-GS-10-0095 Burglary 1st degree
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 5-2-2006 life w/o Parole
 - (b) 5-2-2006 life w/o Parole

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. South Carolina Supreme Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Conviction affirmed
- ii. Conviction affirmed
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. May 2011
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of Counsel
- (b) Ineffective assistance of Appeal Counsel
- (c) Due Process Violations / Conflict of interest

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See attached Pages
- (b) See attached Pages
- (c) See attached Pages

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. SC Court of appeals on direct appeal
 - ii. SC Court of appeals for rehearing
 - iii. SC Supreme Court on writ of certiorari
 - iv. _____

(b) the name and location of the Court in which each was filed:

- i. SC Court of appeals
- ii. " "
- iii. SC Supreme Court
- iv. _____

(c) the disposition thereof:

- i. Conviction affirmed for Burg 1st degree
- ii. Same as above ↑
- iii. Conviction affirmed for Burg 1st degree

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. may 2011
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- No
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. ~~_____~~
- ii. ~~_____~~
- iii. ~~_____~~
- (b) the proceedings in which each ground was raised:
- i. ~~_____~~
- ii. ~~_____~~
- iii. ~~_____~~
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) These issues are suppose to be Chall-
- (b) enged on Post Conviction relief.
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. Kelly Solar Chas County Public Defenders office
 - ii. _____
 - iii. SC Commission on indigent defense
- (b) the proceedings at which each such attorney represented you:
- i. Trial and sentencing
 - ii. _____
 - iii. on direct appeal etc

19. State clearly the relief you seek in filing this application:

To have Convictions overturned and new trial ordered

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Ferris Smith

SWORN to and subscribed before me this 7th
day of June, 2011.

Susan H. Frye (L.S.)
Notary Public

My Commission Expires

March 5, 2018

My Commission Expires: _____

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

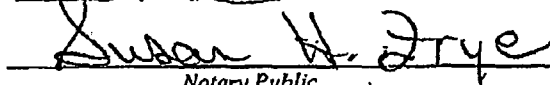
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Applicant

SWORN or affirmed to and subscribed before me this

4th day of June, 2011.



Notary Public

My Commission Expires

My Commission Expires: _____ March 5, 2018

10 A Ineffective assistance of Counsel: The applicant was denied effective assistance of

Counsel in violation of the Sixth amendment to the U.S. Constitution. The applicant was provided with deficient representation by his attorney in that the conduct of his attorney was objectively unreasonable under the circumstances, Strickland v.

Washington 466 U.S. 668 (1984). The outcome of the applicant's trial was prejudicial, and it is reasonably probable that the outcome would have been different had Counsel's performance not been deficient, Strickland 466 U.S. at 694, defense Counsel was ineffective in her performance.

11 B: Ineffective assistance of appeal Counsel. The PER applicant was represented on direct appeal by the SC division of appellate defense and he received a letter

Sight of this office, the date for your petition for rehearing was not calendared and the deadline passed before we caught the error". This letter was in reference to the writ of Certiorari before the SC Supreme Court to look at the SC Court of appeals affirming his conviction for Burglary 1st degree. This is clearly ineffective assistance of appeal Counsel.

11.c: Conflict of interest / due process: The Judge Knox McMahon has a daughter named Sara Cobb who previously worked at the Charleston County Solicitor's office and he failed to inform the PCR applicant of this fact. Next the defense attorney Kelly K. Solar previously was

on the staff of the Charleston County Solicitor's office

against a female victim and faced life in prison without the possibility of parole, and his attorney never informed him of her having been an advocate for female victims thus creating a conflict of interest and denying the applicant a fair trial.

based on these allegations the convictions should be overturned and ~~the~~ ^(S) a new trial ordered.

Submitted this ____ day of ____
2011.

Terris G. Bragley

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
Ferris G. Singley, #211565,	)	2011-CP-10-4113
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the Application for post-conviction relief filed June 10, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the January 2006 term of the Charleston County Grand Jury for burglary – 1st degree (2010-GS-10-0095) and armed robbery (2006-GS-10-0094). Kelly Solar, Esquire, represented the Applicant. The Applicant proceeded to trial on May 1-2, 2006, after which a jury found him guilty as indicted. The Honorable R. Knox McMahon sentenced the Applicant to confinement for life without parole (LWOP) for each offense.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. Joseph L. Savitz, III, Esquire, of the South Carolina Commission on Defense, represented Applicant on appeal. Following full briefing by both sides, the Supreme Court of South Carolina affirmed the conviction and sentence. State v. Singley, Op. No. 26954 (S.C. Sup. Ct. filed April 4, 2011). The Remittitur was issued on April 20, 2011.

Attached herewith and incorporated herein by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, the trial transcript, Final Brief of Appellant, Final Brief of Respondent, Brief of Petitioner, Brief of Respondent, the Supreme Court's opinion affirming the conviction and sentence, and the Remittitur dated April 20, 2011.

II.

In his application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
2. Ineffective assistance of appellate counsel.
3. Due process violations / conflict of interest in that
 - a. Judge McMahon's daughter previously worked at the Charleston County Solicitor's Office.
 - b. Kelly Solar was previously part of a victim's advocacy for women group through the Attorney General's Office.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant alleges ineffective assistance of appellate counsel. A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to

appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

The Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent contends that the Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this allegation.

V.

Applicant alleges two conflicts of interest in that Judge McMahon's daughter previously worked at the Charleston County Solicitor's Office and Kelly Solar was previously part of a victim's advocacy for women group through the Attorney General's Office. Respondent submits that these claims are without merit and requests an evidentiary hearing to resolve these allegations.

VI.

Respondent denies each allegation that is not expressly admitted, qualified, or explained.

VII.

WHEREFORE, having made its Return, the Respondent requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MATTHEW J. FRIEDMAN
Assistant Attorney General

By: Matthew A. Friedman
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

March 15, 2012.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

FERRIS G. SINGLEY, #211565

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

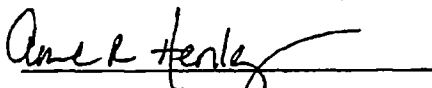
2011-CP-10-4113

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Bonum Sam Wilson, III., Esquire
 PO Box 13177
 Charleston, SC 29422

DATED this 15th day of March 2012


 Anne R. Henley, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) Court of Common Pleas
3 _____) Case No. 2011-CP-10-4113
4 FERRIS SINGLEY,)
5 Plaintiff,)
6 vs.) Transcript of Record
7 STATE OF SOUTH CAROLINA,)
8 Defendant.)
9 _____) DATE: June 16, 2014

10 B E F O R E:

11 The Honorable Deadra L. Jefferson

12
13 A P P E A R A N C E:

14 Rodney D. Davis
15 Attorney for the Plaintiff

16 Ashleigh R. Wilson
17 Attorney for the Defendant

18 Karen V. Andersen, RMR, CRR
19 Circuit Court Reporter

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EXAMINATION

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KELLY SOLAR

Direct By Ms. Wilson 18

Cross By Mr. Davis 26

Re-Direct By Ms. Wilson 33

BRUCE DURANT

Direct By Ms. Wilson 35

1 THE COURT: This is Ferris G. Singley vs. The
2 State of South Carolina, 2011-CP-10-4113. It's before the
3 Court on an application of post-conviction relief filed on
4 June 10th of 2011. State filed its return on March 19th of
5 2012. The applicant is represented by Rodney Davis. The
6 State is represented by Ms. Wilson.

7 Is the applicant ready to proceed?

8 MR. DAVIS: Yes, Your Honor.

9 THE COURT: Is the State ready to proceed?

10 MS. WILSON: Yes, Your Honor.

11 THE COURT: Okay.

12 MR. DAVIS: Thank you, Your Honor. I would call
13 Ferris Singley.

14 THE COURT: Sir, if you will stand at counsel table
15 to be sworn and raise your right hand.

16 FERRIS GEIGER SINGLEY,

17 having been duly sworn, testifies as follows:

18 THE COURT: State your full name for the record,
19 spelling your last name for the court reporter.

20 MR. SINGLEY: Ferris Geiger Singley, S-i-n-g-l-e-y.

21 THE COURT: You may proceed, Mr. Davis.

22 DIRECT EXAMINATION

23 BY MR. DAVIS:

24 Q. Mr. Singley, you are currently incarcerated at
25 Broad River; is that correct?

1 A. Yes, sir.

2 Q. And for convictions of what?

3 A. Burglary first and armed robbery.

4 Q. And was that pursuant to a guilty verdict at
5 trial?

6 A. Yes, sir.

7 Q. And who was your trial attorney?

8 A. Kelly Solar.

9 Q. Do you have some complaints about her performance
10 during her representation of your case?

11 A. Yes, sir.

12 Q. Let's start with, do you recall what judge you were
13 in front of for your trial?

14 A. I was before Judge Knox McMahon.

15 Q. Was there some issue that you wished Ms. Solar
16 would have addressed dealing with Mr. McMahon -- or Judge
17 McMahon being the trial judge?

18 A. Yes, sir. The day of the trial, the day it
19 started, May 1st of '06, I came in and sat down and
20 Ms. Solar told me that Judge McMahon had a daughter that had
21 previously worked for the Charleston County Solicitor's
22 Office, that she hadn't worked there at that time. And I
23 told her that I didn't want him to preside over the trial.
24 She told me that she wasn't going to ask him to recuse
25 himself because she felt he would do a good job. We kind of

1 went back and forth about it. And that was the end of that,
2 basically.

3 Q. That issue was never raised in the courtroom on the
4 record?

5 A. No, sir.

6 Q. Trial began, and is it fair to say that this is an
7 eyewitness case?

8 A. What do you mean, someone seeing me?

9 Q. Uh-huh.

10 A. Yes, sir.

11 Q. And the prime eyewitness was your mother; is that
12 correct?

13 A. Yes, sir.

14 Q. In addition to her testimony -- well, let's start
15 there. Your mother testified, correct?

16 A. Yes, sir.

17 Q. Was there some issue about her whereabouts in close
18 relation to the same time of the alleged incident that you
19 discussed with Ms. Solar to investigate?

20 A. What do you mean her whereabouts? As related to
21 her statement versus what she testified to?

22 Q. Yes, sir. Was there some issue about her
23 whereabouts that was a discussion between you and Ms. Solar
24 that you wished for her to investigate?

25 A. I don't understand the question.

1 Q. Were there taxi records that you wanted Ms. Solar
2 to investigate?

3 A. Yeah, about maybe halfway through that day, my
4 mother testified that she had taken a taxi, basically
5 leading the jury to believe that she didn't drink and drive.
6 I told Ms. Solar -- we were keeping notes back and forth.

7 And I asked Ms. Solar if she could ask the judge for a
8 continuance or get her investigator or someone to go check
9 the taxi records that my mom supposedly took. I knew she
10 left the house because I saw her drive away in her car. So
11 I knew she was lying. And I asked Ms. Solar to try to get
12 these records to prove she was lying to impeach her. And
13 this was never done.

14 Q. As to other evidence in your case, was there, in
15 fact, an alleged statement by you that was admitted into
16 evidence?

17 A. There were several statements that were admitted
18 into evidence.

19 Q. Was --

20 A. One that I supposedly -- well, not supposedly, one
21 that I said to Sergeant Pontieri the night I was arrested,
22 or that morning, concerning the money that was supposedly
23 taken from my mother at knifepoint. And then another
24 statement that Officer Kiker says I made to her on the way
25 to the jail.

1 Q. Was there a pretrial hearing conducted to determine
2 the admissibility of these statements?

3 A. Yes, sir. There was a Jackson vs. Denno hearing
4 conducted. And the State called two police officers to
5 testify, Sergeant Pontieri, who supposedly gave me my
6 Miranda warnings that morning when I was arrested, and
7 Officer Kiker. I was never allowed to testify. I was never
8 asked if I wanted to testify by my attorney.

9 Q. Let's pause there for a second. Before we get to
10 you testifying or not at the Denno hearing, who did the
11 State call as witnesses to testify?

12 A. Sergeant Pontieri, which was the arresting officer,
13 and Officer Kiker, who was, I guess, the officer that
14 transported me to the jail. It was her case, basically.

15 Q. Did Ms. Solar have the opportunity to cross-examine
16 those officers?

17 A. Yes, sir, she did.

18 Q. Was there a line of questioning dealing with
19 contradictory stories that you wished for her to inquire
20 about?

21 A. Yes, sir. The contradiction came in when Sergeant
22 Pontieri testified at the Jackson vs. Denno hearing. He
23 testified that he had Mirandized me within a minute or two
24 after I was arrested. Ms. Solar, on cross-examination,
25 asked him who was in the vicinity whenever he supposedly

1 gave me my warnings. And he said there were several
2 officers there. One of them he could remember was his
3 canine officer, because his dog kept trying to stop -- I
4 mean, basically, he was saying the dog was there. And he
5 said that his canine officer was standing right beside him.

6 Well, later on in the trial, as Ms. Solar was
7 cross-examining the canine officer about the events that
8 took place, she asked him if he remembered Sergeant Pontieri
9 Mirandizing me. And he said, yes, he did. He said he
10 remembered overhearing him giving me my warning as he left
11 out of the trailer to go put his dog up.

12 I felt that Ms. Solar could have called the canine
13 officer to the stand when he was -- when Sergeant Pontieri
14 identified him as the one being there. And then this could
15 have been an issue where the judge could have looked at it
16 and said, well, the sergeant said he was standing right
17 there, the officer said he was coming out of the trailer
18 putting his dog up, that could have been enough of a
19 contradiction to believe our side instead of the sergeant
20 saying that he gave me my warnings.

21 Q. Were you called to testify at the Denno hearing?

22 A. No, sir. No one ever told me I could testify.

23 Q. If you had been called to the stand, what would
24 your testimony have been about whether you were given
25 Miranda warnings or not?

1 A. I would have testified that when I came out of the
2 trailer and they arrested me, put handcuffs on me, laid me
3 facedown in the grass, and only thing that he ever said to
4 me was, don't look at them, they couldn't stand me because I
5 robbed my mother. No one ever Mirandized me. No one ever
6 told me anything about any warnings.

7 Q. Had you told Mrs. Solar previously that you were
8 not given the Miranda?

9 A. Yes, sir.

10 Q. Did the judge ultimately allow these statements to
11 be presented to the jury?

12 A. Yes, sir. He found by a preponderance of the
13 evidence or uncontradicted testimony that I had been given
14 my warnings and that the statements were going to be allowed
15 in. And I felt that that was kind of -- kind of wrong,
16 because if you find by uncontradicted testimony, then
17 there's nothing to contradict it, because no one ever
18 allowed me to testify.

19 Q. During the trial before the jury, was there a
20 reference to the fact that you were incarcerated?

21 A. Yes, sir.

22 Q. Did you have a complaint about Ms. Solar's conduct
23 during that issue?

24 A. Yes, sir. During -- excuse me. I'm sorry. During
25 the Jackson vs. Denno hearing, my mother -- no. The hearing

1 to allow the letter in, my mother testified. And she had
2 testified that she knew my writing because I had sent her
3 letters from prison and so on. Well, the prosecutor told
4 the judge that he would -- told her that they couldn't say
5 her or the other witness, Mr. Van Allen, couldn't say
6 anything about me, my previous incarceration for rape. And
7 the judge even made sure the prosecutor understood and
8 stressed this to my mother, not to mention anything about me
9 being in prison prior to this trial.

10 During my mother's testimony, there was a point
11 where Ms. Solar objected to the statements coming in about I
12 had killed someone the day before trying to scare my mother.
13 Well, right behind that objection -- the judge overruled it.
14 And right behind that objection, the prosecutor asked a
15 question again. And my mother states that I said it didn't
16 matter because I was going back to prison anyway.

17 This was a very -- I think it was a very crucial
18 part in the trial because the jury became aware then that I
19 had a prior record, that I had been in prison before. And I
20 think it had a pretty big outcome on the trial, because now
21 they are looking at me as a person who has a record, been in
22 prison, versus someone that they don't know whether I've
23 ever been in trouble or not.

24 Q. Did Ms. Solar move for a mistrial?

25 A. No, sir. She never even did anything. There was

1 no nothing. We didn't talk about it or anything. It was
2 left alone and the trial went on.

3 Q. Did she ask the Court to give a curative
4 instruction?

5 A. No, sir, she never addressed it to the Court at
6 all.

7 Q. You just referenced a letter. Was there a letter
8 introduced in the trial against you?

9 A. Yes, sir, there was the letter introduced that I
10 had written to my aunt in North Carolina, my mother's
11 sister. When Ms. Solar came and seen me, the first thing we
12 talked about was she told me I was facing life without
13 parole, which I already knew. And she said the only thing
14 that may keep me from getting life without parole is that
15 the victim was my mother.

16 So I think another time or the time after that when
17 she came to see me, we were talking about, you know, how we
18 could help me, or whatever. And I told her that my mother's
19 sister, who lives in North Carolina, her and my mother
20 weren't really, really close, because my mother had --
21 whatever, you know, they had fallen out, kind of. And I
22 said, I could probably write her and see if she could talk
23 to my mother and agree to a lenient sentence and maybe some
24 drug counseling. And so she said okay.

25 Well, I needed the zip code. So Ms. Solar provided

1 me with a zip code. I wrote the letter basically how my
2 mother said things went, you know, trying not to aggravate
3 my mother anymore. And the letter came back to the
4 prosecutor. While I was telling Ms. Solar about writing
5 this letter and getting some help, she never told me about
6 the downside of this, never explained about the
7 prosecutor -- if the letter came back to the prosecutor, how
8 much it would hurt me and all. She encouraged me to write
9 it and she gave me the zip code, and I wrote it. And then
10 it came back in the prosecutor's hands.

11 Q. Did Ms. Solar attempt to block the admission of the
12 letter?

13 A. There was a hearing, and she argued against it for
14 a little bit, and even argued authenticating it as far as my
15 aunt being on the witness list. And, eventually, they let
16 my mother say that it was my handwriting. And I even went
17 so far as asked Ms. Solar to give them three samples of
18 handwriting, one from me and two other from someone else to
19 let my mother pick it out. And I knew she couldn't, or I
20 was pretty sure she couldn't.

21 Q. While you were in jail awaiting trial, did you
22 write to your mother?

23 A. Oh, no. No. No, sir.

24 Q. Did she visit you or did you visit -- did she visit
25 you while you were in jail?

1 A. No, sir.

2 Q. At the end of the State's case, did you have
3 discussions with Ms. Solar about whether there was going to
4 be a defense case presented?

5 A. Yes. We discussed whether I was going to testify
6 or not. And I told Ms. Solar I wanted to testify. And she
7 said that she didn't want me to testify because my record
8 would kill me, that the prosecutor would use it and pretty
9 much, you know, slaughter me on the stand. And this was
10 done without even asking the judge what crimes he would let
11 in, what prior convictions, what he was going to allow the
12 State to use. And so, I mean, I never had adequate advice
13 on testifying.

14 Q. What was your understanding if you testified about
15 whether the State could inquire into your prior record or
16 not?

17 A. I understood that if they went into my prior
18 record, the judge would have to -- the judge would have to
19 look at the prior convictions, see how old they were, and
20 decide which ones they would allow the State to use to try
21 to impeach me or try to make me look bad. And I didn't
22 understand why this wasn't done before I was given advice
23 not to testify.

24 Q. Did you follow that advice?

25 A. Yes, sir, I did. And I stood up and told the judge

1 that I didn't want to testify, that it was, you know, my own
2 decision. And, I mean, yeah, I did, I followed that
3 advice.

4 Q. And why is it that you did not testify?

5 A. Because my attorney advised me not to, saying my
6 prior record would kill me.

7 Q. Was any -- were any witnesses called by the
8 defense?

9 A. One, my cousin, Teresa.

10 Q. And for what purpose was she called?

11 A. I really don't know. I mean, I think we were going
12 to try to impeach my mother, but it really backfired. I
13 don't know what they talked about, if she ever talked to her
14 before she put her on the stand. But it really backfired
15 because once the prosecutor got her on the stand, she used
16 the fact that she was my father's, you know, on my father's
17 side of the family, that her and my mother didn't get along
18 very well and there was some animosity there. And he really
19 made it look a lot better for his side. Really made us look
20 bad.

21 Q. Did you have any input on whether your aunt was
22 called to testify or not?

23 A. You mean my cousin?

24 Q. I'm sorry, your cousin. I apologize.

25 A. I mean, I told her my aunt, my cousin and -- well,

1 my aunt and my two cousins, maybe she could talk to them to
2 see if there's anything they could testify to that would
3 help us. But as far as that, no.

4 Q. In addition to your testimony that that testimony
5 was more harmful than helpful, what other consequence did
6 you face by actually presenting a defense witness?

7 A. Well, I mean, we didn't get to close last. And the
8 jury was able to listen to what the prosecutor had last.
9 And I think that it's like if I'm listening to someone and
10 then I listen to someone else, you know, the last thing you
11 hear is what's really going to be fresh in your mind, even
12 though both things happened right there together. You know,
13 I think there would have been a better chance with us
14 closing last, along with them not really hearing how bad
15 Teresa hurt us. You know, we would have been able to close
16 last and that would have been the last thing they heard
17 before they went in there.

18 MR. DAVIS: Your Honor, can I have just a moment?

19 Thank you, Your Honor. No other questions at this
20 time.

21 THE COURT: Any questions for the witness?

22 CROSS-EXAMINATION

23 BY MS. WILSON:

24 Q. Mr. Singley, do you recall how many times you met
25 with Ms. Solar before you went to trial?

1 A. Maybe, I don't know, five or six maybe, somewhere
2 along there.

3 Q. And when you met with her, did you go over the
4 discovery materials she received from the State?

5 A. What do you mean?

6 Q. The evidence against you, the statements?

7 A. Yeah, yeah, we went over that the last couple of
8 times.

9 Q. And did she talk to you about what possible
10 defenses she could present on your behalf at trial?

11 A. She really said she didn't have a defense. She
12 said we had to come up with something.

13 Q. Did you give her any leads or people to
14 investigate, potential witnesses or anything?

15 A. I gave her one witness, John Preston, that had been
16 staying at the trailer with me. And I told her we could use
17 him if she can find him. I told her how to find him, where
18 to find him, and told her that he would be a witness that
19 could testify to what I told him I was going in the house
20 for originally. He was staying in the trailer with me at
21 the time I was living in the house.

22 Q. And was it your decision to proceed to trial?

23 A. No, it wasn't. It was the State's decision. They
24 served a notice on me and forced us to go to trial.

25 Q. It was your testimony today that you did enter your

1 mother's home; is that correct?

2 A. Yes, ma'am.

3 Q. And do you also recall the Court advising you of
4 your right to testify and that the State could use your
5 prior convictions to possibly impeach you if you took the
6 stand and all that during your trial? Do you recall the
7 Court talking to you about that?

8 A. I don't recall that. I recall him asking me if it
9 was my decision to testify. Yes, ma'am. I don't remember
10 if he said about the record or not. He probably did, but I
11 don't -- you know --

12 Q. You mean the trial judge?

13 A. Yes, ma'am. Yes, ma'am.

14 MS. WILSON: Beg the Court's indulgence.

15 Thank you.

16 THE COURT: Any redirect?

17 MR. DAVIS: No, Your Honor.

18 THE COURT: Any further witnesses from the
19 applicant?

20 MR. DAVIS: Just a moment. No, ma'am. No, Your
21 Honor.

22 THE COURT: State may proceed.

23 MS. WILSON: May it please the Court. The State
24 will call Ms. Kelly Solar.

25 THE COURT: Ms. Solar, if you would come to the

1 stand.

2 KELLY SOLAR,

3 having been duly sworn, testifies as follows:

4 THE COURT: State your full name for the record,
5 spelling your last name for the court reporter.

6 MR. SINGLEY: Kelly Solar, S-o-l-a-r:

7 THE COURT: You may proceed.

8 DIRECT EXAMINATION

9 BY MS. WILSON:

10 Q. Ms. Solar, how long have you been practicing law?

11 A. About 15 years.

12 Q. Can you tell us about how much of your practice has
13 been doing criminal work?

14 A. 15 years.

15 Q. And do you recall around when you were appointed to
16 represent Mr. Singley, or how far before trial?

17 A. Yes. Let's see. The trial was, I think, in May.

18 And -- well, the date that he was arrested until his
19 trial -- let me see. I was assigned probably a month later.
20 But let me just quickly check here. He was arrested October
21 of 2005. We went to court, I think, May of 2006.

22 Q. Okay. And do you recall how many times you met
23 with him before you went to trial? Was it frequent enough
24 to --

25 A. Yes, absolutely.

1 Q. Did you file Brady or Rule 5 motions on his behalf?

2 A. I did.

3 Q. And did you review the materials you received with
4 him?

5 A. I did.

6 Q. Did you talk to him about the elements of the
7 charges he was facing and what the State had to prove?

8 A. I did.

9 Q. Did you talk to him about his version of the facts?

10 A. Yes.

11 Q. And can you recount that for the Court?

12 A. Well, we actually talked -- he pretty much told me
13 that he had gone into her house and done exactly --
14 essentially what the State had said he had done. You know,
15 for a long time I was pursuing a plea, but we couldn't get
16 an offer other than life. So, like he said, we were forced
17 to go to trial.

18 Q. Did you talk to him about possible defenses you
19 could present at trial; and if so, what did you come up
20 with?

21 A. Well, he wanted to pursue -- we talked about a
22 couple of different defenses, intoxication. Of course,
23 that's not a defense. He said he had been using drugs prior
24 to the incident. But what we ultimately decided to present
25 was the defense that this was not an armed robbery; it was

1 just a theft.

2 There was the burglary issue. He owned 12 percent
3 of the house, so we were going to say, you know, you can't
4 burglarize your own house. And then the kidnapping was not
5 a kidnapping. Ultimately, it was not guilty. But our
6 defense was that just he took money from his mother, but it
7 was not armed and it wasn't a burglary.

8 Q. Okay. And could you briefly characterize the
9 State's evidence against Mr. Singley?

10 A. Really, it all boiled down to his mother. It was
11 really not much more. They had conversation. She saw him.
12 He called her. You know, really, she was the main witness.

13 Q. Did he give you any potential witnesses or leads to
14 investigate?

15 A. He did. He did. You know, for a long time we were
16 basically trying to get his family members to help talk to
17 his mother. You know, I think we spoke to her, or at least
18 through the solicitor. She was not at all interested in
19 helping.

20 Teresa Singley, who was the one person we put on
21 the stand, he had written to me and told me that he wanted
22 me to talk to her. They had worked together. His mother
23 was collecting disability and he wanted to show that she was
24 working while collecting disability. And Teresa was the
25 person that we could put on the stand to show that.

1 And so, you know, I have a lot of letters from him.
2 And when I would get a letter, I would write down some
3 things to do, and I would give it to my investigator to
4 investigate. So we talked to her.

5 We talked to Kathy Willis, which is one of his
6 aunts. There's another Aunt Ethyl. I will have to look
7 through my notes. I don't remember.

8 But there was that issue, John Preston. I can tell
9 you this has been eight years ago. I think it's been, yeah,
10 eight years ago, 2006. I believe that -- there's a note in
11 my file that shows that I asked my investigator to look for
12 John Preston. But -- and usually, in general, when I have
13 my investigator do something, either I write him a note or
14 give it to him, or I will do it through an e-mail. I can't
15 find any result of that investigation. Our e-mails actually
16 only go back to 2007, so I have no idea. I don't know what
17 happened to it. I don't know if it's a dead end. I don't
18 have that information.

19 Q. Okay. And did you feel like you had ample time to
20 prepare for trial?

21 A. I did.

22 Q. And you testified it was strategy just to show that
23 it wasn't a kidnapping, he stole some money, he wasn't
24 armed?

25 A. Correct.

1 Q. Okay. Did you speak with Mr. Singley about the
2 judge's daughter working at the Solicitor's Office? And if
3 you did, what were your talks with him?

4 A. You know, I really can't remember that. I may
5 have. But it's one of those things where we couldn't -- I
6 just couldn't see asking -- it was probably -- I just wasn't
7 going to ask him to recuse himself, or I couldn't see doing
8 that in every case that was before him. However, actually,
9 I really don't remember that at all. I can tell you that if
10 he was adamant about making that motion, I would have done
11 it. I would have told the judge, you know, that he wants me
12 to make this motion, and I would have done it. I can't
13 imagine ignoring him and just not doing it, but I don't
14 recall that.

15 Q. And did you also talk to him about looking into
16 whether or not his mother took a taxi home from wherever she
17 was that night?

18 A. He did mention just now that he told me during the
19 trial. I don't -- I don't remember that. It would have
20 been to discredit her, to show that she drinks and drives.
21 I mean, essentially -- I don't remember that. And I just
22 heard it just now. And I was looking through notes to see
23 if I had written something down about it. I don't know. I
24 don't remember.

25 Q. If he told you something like that, he wanted you

1 to look into it, it's your general practice you would have
2 looked into it before trial?

3 A. Yeah, I would have if I felt -- well, he didn't
4 tell me until during the trial, is what he said. I don't
5 know. There might be a note in the file. I wasn't able to
6 go through it that quickly, but I just heard that just
7 now.

8 Q. Okay. And did you make any motions or challenge
9 his statement, the statements that he made to police at the
10 start of trial? Can you kind of recount for the Court your
11 arguments with regard to that?

12 A. Yes. Let's see. The Jackson vs. Denno, and there
13 was a sergeant, Sergeant Pontieri, who said that he had
14 given him his Miranda rights, and that Ferris admitted he
15 took the money, he smoked it. And I tried to get that
16 excluded.

17 And then the officer, I think it was Officer Kiker,
18 who transported him to the Charleston Police Department, and
19 she testified that he said the statement about, "I killed
20 somebody two days earlier, I could kill you," to his mother.
21 He said, "That wasn't true, I really didn't kill anybody. I
22 did that -- I said that to scare her."

23 So I made the motion to have those excluded,
24 because he wasn't Mirandized. But even furthermore, I
25 think -- I read this -- the transcript. I think I also made

1 the motion that if the jury heard that he said he had killed
2 somebody two days prior, I said that would be prejudicial,
3 and was trying to get that whole thing thrown out, just
4 because it would be prejudicial if the jury believed that
5 that could be true.

6 Q. Now, did you talk to Mr. Singley about testifying
7 during the Jackson vs. Denno? And do you think that would
8 have been helpful?

9 A. I don't -- I don't remember. But I do know that --
10 I do know if I thought it would be helpful, I would have,
11 but I don't recall that.

12 Q. There has been some testimony from Mr. Singley
13 about you advising him to write his aunt, and his aunt sent
14 the letter to the prosecutor. Do you know anything about
15 that?

16 A. I think that he wrote me a letter saying he was
17 going to write to his aunt, but I certainly would not have
18 told him to confess to anything in that. In fact, he wrote
19 me a letter -- I never would have done that. And I
20 probably -- if I did tell him, it would be just, get in
21 touch with your aunt and have your aunt talk to your mom.

22 There is a letter that he sent to me that he wanted
23 to send to the solicitor directly that had a lot of
24 incriminating things in it. And I told him, I appreciate
25 this, but we will save this for mitigation, do not send that

1 to the solicitor. So I never would have told him to
2 confess. At the very most, I would have just said, write
3 your aunt a letter and see if she can talk to your mom. But
4 I don't recall -- I don't recall that very well either.

5 Q. And do you recall what your advice was to
6 Mr. Singley about taking the stand during trial?

7 A. I'm sure I told him not to.

8 Q. But did you also talk to him about ultimately it is
9 his decision, but that was just your advice and he just
10 accepted it?

11 A. Yes. And the judge goes over that as well. But,
12 yeah, I don't think that was that much of a question about
13 it. He didn't question my advice, so I didn't think he had
14 any issues with that.

15 Q. And he testified today about you should have
16 brought out what he considered inconsistencies in two
17 officers' statements, where one officer said this officer
18 was around when I was given Miranda and he was standing
19 nearby, and that same officer said he was walking by and
20 overheard Miranda. Did you think that was an inconsistency
21 worth bringing out during the Jackson vs. Denno?

22 A. No.

23 MS. WILSON: Beg the Court's indulgence.

24 Thank you.

25 THE COURT: Any cross-examination of the witness?

1 MR. DAVIS: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. DAVIS:

4 Q. Ms. Solar, I think you already testified, but the
5 main witness in this case was my client's mother; is that
6 correct?

7 A. Yes.

8 Q. She's the only eyewitness to the alleged crime?

9 A. Correct.

10 Q. So her credibility was key in this trial?

11 A. Yes.

12 Q. Other than Teresa, who you hoped would be able to
13 testify about my client's mother working and also collecting
14 disability, did you attempt any other way to get information
15 about that fact, that she was working while collecting
16 disability?

17 A. Everything Ferris -- pretty much everything Ferris
18 asked me to do, I did. I would have known no other way to
19 show that. Well, what she was -- what Teresa said was that
20 she owned her own business and Teresa worked for her. And
21 so Teresa was an employee, got up and said, I actually
22 worked for her, even though she was considered disabled.
23 But, no, no, we didn't talk about any other ways to get that
24 out. I don't recall that.

25 Q. Is it fair to say then that your strategy, trial

1 strategy that it was a theft, not a kidnapping/armed
2 robbery, the next best witness to my client's mother would
3 be my client?

4 A. Say that one more time.

5 Q. If your strategy is that it was a theft and not an
6 armed robbery or kidnapping or burglary, you've got my
7 client's mother who is an eyewitness to the events, and
8 Mr. Singley. So he would be the next best witness?

9 A. Sure. Yeah.

10 Q. But along those lines, it was your advice for him
11 not to testify, right?

12 A. Uh-huh.

13 Q. Had you not presented any witnesses, you would have
14 gotten last argument?

15 A. Uh-huh.

16 Q. You talked to him about that?

17 A. I don't recall. I do know that I would have talked
18 to him about the witnesses that we were going to have. I
19 don't think I told him we would have gotten last -- I don't
20 remember.

21 Q. But in any event, while the Court did a colloquy
22 with him about his right to testify, there was no hearing on
23 what, if any, prior record could be used against him if he
24 were to testify; was there?

25 A. I don't recall that. No, I don't think so. I

1 don't -- I really don't think that was ever going to be an
2 issue for us. I don't think he ever intended -- you know,
3 it's news to me that he wanted to testify. I think from the
4 beginning, we thought that record will come out, it doesn't
5 look good. But I don't think that was ever an issue. So I
6 don't think we had a hearing about that.

7 Q. He has an extensive prior record. That's why he
8 was served with life without parole notice, right?

9 A. Correct.

10 Q. Whatever advice you gave him about testifying or
11 not, it would have been helpful to have the judge's ruling
12 on his prior record as well?

13 A. Uh-huh.

14 Q. And forgive me, you don't -- as far as Judge
15 McMahon in general recusing himself, you don't recall that
16 being an issue in general, or you don't recall it in this
17 specific case?

18 A. I actually -- I don't recall that in this specific
19 case. I don't recall him saying, I really don't want to do
20 this in front of him. I don't remember that.

21 Q. Were you aware that Judge McMahon's daughter was
22 employed at the 9th Circuit Solicitor's Office?

23 A. Yes, but I think not at that time.

24 Q. Do you have a recollection of during that time
25 frame Judge McMahon recusing himself on other cases upon

1 request?

2 A. I don't think so. Bruce might be able to tell you,
3 but I don't remember him ever doing that. Otherwise, he
4 would be doing it -- he wouldn't be hearing any cases in
5 Charleston County. But I don't remember him ever recusing
6 himself for that specific issue. Although I don't think he
7 would have his -- well, his daughter wasn't there, so it
8 wouldn't have mattered.

9 Q. In addition to my client's mother, this letter has
10 been discussed. That was evidence against my client in this
11 trial, correct, the letter?

12 A. Yes.

13 Q. And his statements were evidence used against my
14 client in this trial, correct?

15 A. The oral statements?

16 Q. Correct.

17 A. Yes.

18 Q. And you attempted to block both of those?

19 A. Correct.

20 Q. Now, as to the -- as to his statements, you did not
21 call any witnesses during the Denno hearing, did you?

22 A. No.

23 Q. And as to the letter, I think you -- you testified
24 about another letter that was intended to go to the
25 Solicitor's Office?

1 A. That's -- yeah, between the two of us, he sent that
2 to me.

3 Q. He sent that to you, was intending to maybe send
4 the same letter to the Solicitor's Office; is that right?

5 A. Yes.

6 Q. Do you recall whether that was before or after the
7 letter to his aunt?

8 A. I don't -- well, I don't know. I don't remember.
9 The reason I mentioned that letter was to say, I would
10 never -- you know, if he had said, I'm going to contact my
11 aunt, see if she will talk to my mom, that's essentially
12 what I would have expected. I would not have expected him
13 to confess anything in the letter. That -- you know, so I'm
14 just telling you, I would not have -- I wouldn't have
15 offered that. I would have not had that. I would have told
16 him, don't write a letter, the same way I told him, I wrote
17 him a letter back saying, I'm not giving this letter to the
18 solicitor, we can use it for mitigation purposes, but not
19 for, you know, to take it and use it against you.

20 Q. But as far as the solicitor's letter, you
21 specifically told him not to do it, correct?

22 A. Not to submit that particular letter, yes. I
23 didn't see -- I don't believe I saw the letter that he sent
24 to his aunt.

25 Q. And, in fact, this -- well, you testified that you

1 would have warned him about don't send anything. That
2 discussion never happened, though, because you didn't see
3 what he was going to send to --

4 A. Correct, yeah.

5 Q. You did provide the zip code for him to be able to
6 send the letter?

7 A. If I did, if he says, I probably looked it up
8 online and gave it to him. I don't remember.

9 Q. When his mother testified in front of the jury and
10 blurted out something to the effect of that, you know, he
11 would go back to prison, when that was testified to, there
12 was no contemporaneous objection on your part?

13 A. No. I don't recall where -- can you give me a --

14 THE COURT: She did object. I have that portion of
15 the record. There is a contemporaneous objection. It's
16 page --

17 MS. WILSON: 113?

18 THE COURT: 113, Line 22.

19 MR. DAVIS: Thank you, Your Honor.

20 BY MR. DAVIS:

21 Q. Was a mistrial requested?

22 A. No.

23 Q. Or a curative instruction?

24 A. No.

25 MR. DAVIS: Your Honor, if I can have just a

1 moment, please.

2 BY MR. DAVIS:

3 Q. Last question, I believe, Ms. Solar. The effort to
4 show that this was simply a theft, not any more serious
5 crimes, and to get there to attack his mother's credibility,
6 you, of course, cross-examined her?

7 A. Uh-huh.

8 Q. And called Teresa in an attempt to discredit her as
9 well?

10 A. Right, in addition to pointing out the issue of the
11 burglary and that he owned part of the house and something
12 about the knife, where the knife was found, and there was
13 some sort of issue. So I was trying to hit every one of
14 those charges.

15 Q. As to Teresa's testimony, how much time was spent
16 with her preparing for the testimony before she was called?

17 A. I don't recall. I'm sure we talked -- I mean, we
18 talked to -- my investigator talked to her. All we really
19 needed was to show that she was part of a business that
20 Brenda owned, his mother owned. But, obviously -- well, not
21 obviously. I wouldn't have put her on the stand had he not
22 asked her. He was the one who wanted us to pursue that
23 line, to show that his mother had been -- is not completely
24 truthful, that she was receiving disability and she was
25 working at the same time. So we pursued that. And we put

1 Teresa on the stand to show that she was receiving
2 disability and she owned her own business at the same time.
3 So that was to show that she was dishonest. Go ahead.

4 Q. During the prep for her testimony, would you have
5 anticipated and gone over with her cross-examination
6 questions from the State that they would likely ask?

7 A. I'm sure, but I don't recall. I don't recall that
8 at all. I imagine I would have, but it's been so long. I
9 don't recall.

10 Q. Fair to say her testimony did not come across as
11 planned?

12 A. Because the State showed that she had a reason not
13 to be honest? Well, I mean, that's not good. But at the
14 same time, I think we also showed -- well, you know, we also
15 tried to show that she was -- that Brenda was dishonest.
16 So, you know, put it in front of the jury and see what
17 happens.

18 MR. DAVIS: Thank you, Ms. Solar. No other
19 questions, Your Honor.

20 THE COURT: Any redirect?

21 MS. WILSON: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. WILSON:

24 Q. Ms. Solar, it's your testimony today that you were
25 able to elicit the testimony that you wanted from the

1 defendant's cousin Teresa; is that correct?

2 THE COURT: I'm sorry, I didn't hear the question.

3 Will you repeat it?

4 BY MS. WILSON:

5 Q. Were you able to elicit the testimony that you

6 wanted from Ms. -- from Teresa, the defendant's cousin that

7 you called as a witness?

8 A. Yes, we got what we wanted from her.

9 Q. And with regard to this letter that the defendant
10 sent to his aunt, you didn't -- as far as you know, you
11 didn't see the letter before he sent it; is that correct?

12 A. No, I didn't see it. That is correct.

13 Q. So you didn't have any opportunity to say, you
14 know, don't send that your aunt; is that correct?

15 A. No, I think -- that's correct.

16 Q. And with regard to objecting to Mr. Singley's
17 mother's testimony about him saying, you know, I'm already
18 going to jail, or whatever that was referenced by the Court
19 on Page 113, you had already objected to that in the
20 pretrial hearing; is that correct?

21 A. Yes, yes.

22 Q. And so when you made that second objection, you
23 were renewing your objection?

24 A. Exactly, exactly.

25 Q. And did you think you had a basis for a mistrial or

1 any request for a curative instruction?

2 A. No, not at that time.

3 MS. WILSON: Nothing from the State.

4 THE COURT: You may step down.

5 Does the State have any further witnesses?

6 MS. WILSON: Briefly, can I beg the Court's
7 indulgence for one second?

8 THE COURT: Sure.

9 MS. WILSON: Your Honor, briefly, the State will
10 call Mr. Bruce Durant.

11 THE COURT: Mr. Durant, if you come forward and be
12 sworn.

13 BRUCE DURANT,
14 having been duly sworn, testifies as follows:

15 THE COURT: State your full name for the record,
16 spelling your last name for the court reporter.

17 MR. SINGLEY: Bruce Durant, D-u-r-a-n-t.

18 DIRECT EXAMINATION

19 BY MS. WILSON:

20 Q. Were you the solicitor that was prosecuting
21 Mr. Singley?

22 A. I am.

23 Q. And from your recollection, did Judge McMahon's
24 daughter have any involvement in your prosecution of this
25 case?

1 A. Absolutely none.

2 Q. And do you recall if she was in your office at the
3 time?

4 A. I know Sarah was in our office at some point. I
5 don't know if it coincided with the trial of this case or
6 not. From what Mr. Singley said, it did not. I think he
7 indicated she had already left by the time we tried this
8 case.

9 MS. WILSON: Thank you.

10 THE COURT: Any questions for the witness?

11 MR. DAVIS: No, ma'am.

12 THE COURT: Thank you, sir. You may step down.

13 (Whereupon the witness is excused.)

14 THE COURT: Anything further from the State?

15 MS. WILSON: Nothing further from the State.

16 THE COURT: Any rebuttal testimony from the
17 applicant?

18 MR. DAVIS: No, Your Honor.

19 THE COURT: Glad to hear any argument.

20 MR. DAVIS: Thank you, Your Honor. May it please
21 the Court.

22 We are going to ask that you grant our request for
23 post-conviction relief. The basis of which being that we
24 think that there are significant errors during this trial by
25 Mr. Singley's trial counsel that would have affected the

1 outcome of the trial. It would have been different except
2 for these errors.

3 Judge, here's the way I kind of summarize it in my
4 head. That, ultimately, there were three major components
5 that led to this conviction: Statement by Mr. Singley;
6 letter by Mr. Singley; and then his mother's testimony. I
7 will take them in that order.

8 The statements, you've heard testimony about the
9 Denno hearing. There was some issues -- I will not rehash
10 them, you heard testimony -- but there was issues about
11 contradictory statements from police officers that was not
12 fully inquired on or argued by Ms. Solar.

13 THE COURT: When you say not fully inquired on, I
14 guess I'm a little confused by that. The State only has to
15 prove by a preponderance of the evidence. It's still up to
16 the jury to decide whether the statements are actually made
17 or not. I read the trial transcript. She fully
18 cross-examined him regarding inconsistencies. So I'm trying
19 to figure out what is it she didn't do.

20 MR. DAVIS: As to -- let me see if I get the names
21 right -- Pontieri and Kiker, my client is complaining about
22 Officer Cobb, who is a canine officer, and while that was
23 touched upon --

24 THE COURT: Do you really think he was going to
25 come in and say something different other than his

1 colleagues?

2 MR. DAVIS: We have in the Rule 5 in discovery that
3 Pontieri's testimony is different than Officer Cobb's report
4 and different than Officer Cobb's testimony during the
5 trial. So, yes, they were inconsistent statements.

6 THE COURT: That's still not my question. Did you
7 think he was going to come to trial and say he didn't
8 Mirandize them, or did you think he was going to say there
9 was a problem with the report and he's now supplementing his
10 testimony?

11 MR. DAVIS: No. He testified at trial that he was
12 in a different location than Pontieri did. So he did
13 testify in contradiction at the trial. So he did, but it
14 was later in front of the jury, not during Denno.

15 THE COURT: Would it really have made a difference?
16 The judge still would have said it's a factual issue for the
17 jury to resolve; right?

18 MR. DAVIS: Quite possibly, Your Honor.

19 THE COURT: No, that's what would have happened.
20 If one's saying, I gave Miranda, and another said, I wasn't
21 there, it isn't up to the judge to resolve it.

22 MR. DAVIS: Certainly. You are absolutely correct.
23 The more important issue about the Denno hearing is that
24 while Mr. Singley could have been called as a witness, he
25 was not called as a witness.

1 THE COURT: Tell me what difference that would have
2 made.

3 MR. DAVIS: He would have testified he was not
4 given Miranda.

5 THE COURT: And do you really think the Court would
6 have given that a whole lot of weight, where there was a
7 factual dispute as to whether it happened or it didn't
8 happen?

9 MR. DAVIS: Here's why it's important. We are
10 playing Monday morning quarterback because it was not
11 presented.

12 THE COURT: No, we've had enough experience in
13 these trials to know -- and these type cases -- to know, and
14 I've heard enough of them, and you've presented enough of
15 them, I would say, and you probably would be constrained to
16 agree with me that in 99.9 percent of Jackson vs. Denno
17 hearings where a defendant testifies, I was not Miranda, how
18 much weight does the Court really give that? It's a
19 self-serving statement. We --

20 MR. DAVIS: Present --

21 THE COURT: Unless there's some independent
22 corroborative proof, like a video, audio, something
23 independent that's not subjective that says it didn't
24 happen, because we assume the defendant is going to say, I
25 wasn't Mirandized. It is going to be a self-serving

1 statement.

2 MR. DAVIS: But then what it could have set up is
3 now he has that in the Denno, even if it was ruled -- if
4 Ms. Solar's motion was ruled against, they now have that
5 presented. They could then decide whether to present that
6 in front of the jury later or not, which goes into a later
7 argument about

8 THE COURT: Couldn't use Jackson vs. Denno
9 in-camera hearing to present to jury.

10 MR. DAVIS: No. He could decide whether to testify
11 later or not. It would be another factor in his decision to
12 whether to testify in front of the jury, because now he's
13 going through the process once, faced cross-examination in
14 the pretrial hearing. You know, we do this for a living.
15 Most of the witnesses --

16 THE COURT: Your client has extensive history in
17 the system.

18 MR. DAVIS: Not to testify.

19 THE COURT: He's not a novice. Based on the
20 statements he made during his testimony, I can tell he's not
21 a novice. This is nothing new to him.

22 MR. DAVIS: He certainly tells you -- he helped out
23 quite a bit in preparing for this hearing. So we would
24 argue that the failure to call him at the hearing was
25 another -- basically, I want to show several instances in

1 where a different route should have been taken in setting up
2 ineffectiveness. And then the totality of this goes to the
3 fact that this case, again, really comes back to credibility
4 of his mother who testified.

5 So we would argue that the handling of the Denno
6 hearing, as I've already just elaborated on, was
7 ineffective. That in of itself may not affect the outcome,
8 but it's one of several things I'm going to talk about here
9 in a moment that we believe in its totality would have.

10 The letter, the letter was certainly used against
11 him at trial. I believe the undisputed evidence is that for
12 him to be able to send the letter, Ms. Solar assisted by
13 providing address, zip code. She testified had she known
14 the contents, she would have suggested otherwise to not do
15 that. But there's the point, is there was not a full
16 discussion about this. In that whether the solicitor's
17 letter came before or after the letter to his aunt, there
18 was not a discussion of the negative ramifications;
19 certainly the positive ones, hey, if we can get the family
20 on our side, great. But there was no lengthy discussion.

21 We've already talked about Mr. Singley being smart.
22 And had there been a discussion about, here's how this can
23 come back and hurt you, like with the solicitor's letter, it
24 wouldn't have happened. So the omission of a discouragement
25 by Ms. Solar in the letter ended up coming back at trial to

1 hurt him.

2 That then, with those two things, if they had been
3 dealt with differently, then it comes back to the mother's
4 credibility. And all the other things that Mr. Singley has
5 testified to really go to that issue, that had the reference
6 to him being in prison before been suppressed, had Teresa
7 not been called because she was not fully prepped to deal
8 with the State's cross-examination, then they would have
9 kept closing last argument, and that testimony would not
10 have been in against him.

11 Had there been a hearing on what prior record could
12 be used to impeach or not prior to him giving up his
13 constitutional right to testify. He is the next best
14 witness. Ms. Solar agrees to that. There were two people
15 that were in the house when whatever happened happened. The
16 mother testified. And her credibility was attempted to be
17 attacked, but only minimally. And Mr. Singley did not have
18 a fair and full due process to decide whether to testify or
19 not. He assumed that all of his record would come in
20 against him. And that was his testimony.

21 And, in fact, a hearing was not done to determine
22 that. That's essential for a witness or for a defendant to
23 decide whether to testify or not.

24 THE COURT: What was his record?

25 MS. WILSON: Your Honor, it's in the transcript on

1 Page 280.

2 MR. DAVIS: There we go. Thank you.

3 THE COURT: You may continue.

4 MR. DAVIS: Yes, ma'am. Just a moment. Well, I
5 will continue that.

6 So the next best evidence to attack her credibility
7 could have been Mr. Singley's testimony. But assuming that
8 any and all of his prior record would have come in, that was
9 the advice he received from Mr. Solar. He did not testify.
10 No hearing was conducted on that.

11 Judge, what we have here, we would argue, is no one
12 fatality to the trial, but we would argue that these several
13 instances where two options were available, and the option
14 taken caused harm to Mr. Singley's case. Even the calling
15 of Teresa in which Ms. Solar said, well, that's the avenue
16 that Mr. Singley wanted to pursue, that's ultimately her
17 decision, who to call and what questions to ask.

18 These errors in a cumulative way affected the
19 outcome of this trial. So that we believe we've met our
20 burden to show that she was ineffective on several decisions
21 and discussions throughout the process, and that the
22 cumulative effect of these decisions led to an outcome that
23 would otherwise have been different had she performed
24 effectively.

25 And so for those reasons, we would ask you to grant

1 our motion for relief.

2 THE COURT: Ms. Wilson.

3 MS. WILSON: Thank you, Your Honor.

4 THE COURT: You're welcome.

5 MS. WILSON: Your Honor, it's the State's position

6 that you should deny and dismiss this application for

7 ~~post-conviction relief without prejudice.~~

8 THE COURT: You mean with prejudice.

9 MS. WILSON: With prejudice. Thank you, Your

10 Honor.

11 With regard to Mr. Singley's allegation about
12 counsel should have filed a motion and recused Judge McMahon
13 based on his daughter's prior work at the Solicitor's
14 Office, the State would just submit that allegation is
15 without merit because Mr. Singley has not proven that there
16 was a basis for his recusal.

17 Also, Your Honor, Ms. Solar said that she didn't
18 recall that conversation with Mr. Singley. And that had he
19 requested it, she would have certainly -- she likely would
20 have done it. Also, Your Honor, it's unlikely that Judge
21 McMahon would recuse himself from every case in Charleston
22 based on the fact that his daughter worked at the
23 Solicitor's Office at some point in time.

24 With regard to the allegation about Ms. Singley not
25 challenging Mr. -- that Ms. Solar didn't challenge

1 Mr. Singley's statement to the police, the record reflects
2 there was a Jackson vs. Denno hearing. Mr. Singley made
3 several statements to the police which Ms. Solar challenged.
4 And also, he makes this allegation about her challenging the
5 statements made by the two police officers, one police
6 officer saying he was walking passed when Miranda was given,
7 and the other police officer saying that that same officer
8 was standing nearby. Regardless, Your Honor, both
9 statements say that the defendant was given Miranda. And so
10 as Ms. Solar testified, she didn't see a need to go further
11 into that inconsistency, or what was alleged to be an
12 inconsistency by Mr. Singley today.

13 Also, with regard to Mr. Singley not testifying
14 during his Jackson vs. Denno hearing, Ms. Solar testified
15 that she didn't think it would be helpful. And even without
16 his testimony, she was able to argue to the Court on Page 22
17 that there was no proof that Miranda was given. And so it's
18 the State's position his testimony wasn't necessarily for
19 her to fully litigate that issue before the Court.

20 Also, the next issue, Your Honor, is with regard to
21 the reference on Page 13 by his mother of him -- his
22 statement about his prior incarceration. And the record
23 reflects that it was objected to by Ms. Solar on Page 13.
24 And that issue had already been ruled on by the Court in a
25 prior hearing. And she adequately preserved it for appeal.

1 And Ms. Solar gave credible testimony today that she didn't
2 see a basis for moving to file a motion for a mistrial or
3 moving to have the Court give a curative instruction on
4 that based off that testimony.

5 Also, with regard to Mr. Singley's allegation about
6 the letter to his aunt that was ultimately used against him,
7 Ms. Solar testified she didn't tell him to write a letter to
8 his family confessing to the crimes. And also, that she
9 didn't see the letter before it was sent to try to stop it
10 or prevent the applicant from sending it. But, Your Honor,
11 even without having that letter at trial, they had the
12 testimony of his mother and his own oral statements that he
13 made to police.

14 And with regard to Mr. Singley's testimony about
15 taking the stand, he was advised by the Court of his right
16 to testify. He told the Court that he didn't want to
17 testify. And he was also aware from his talks with
18 Ms. Solar that his prior record could be used against him
19 and probably would likely be used against him. And he told
20 the Court that it was his decision not to testify. So we
21 just think that that allegation is also without merit.

22 Lastly, his allegation about calling the cousin as
23 a witness at trial, Ms. Solar testified that she pursued the
24 line of questioning about his mother being on disability and
25 working at the same time, as the applicant's requested. And

1 that ultimately, she got the testimony that she wanted from
2 his cousin, Teresa, on the stand.

3 Also, Your Honor, the State would just submit that
4 it's pretty clear that Ms. Solar's representation of
5 Mr. Singley was adequate, considering that she obtained an
6 acquittal on one of the serious charges that Mr. Singley was
7 facing, the kidnapping charge.

8 Also, Your Honor, I would just like to remind the
9 Court that hindsight is not the standard that we use here.
10 That's prohibited by the Supreme Court in the case
11 Strickland v. Washington. Also, Your Honor, cumulative
12 error is not the standard that the Court in South Carolina
13 has adopted when looking at errors in post-conviction
14 relief.

15 Your Honor, we ask that you look at each individual
16 allegation to determine if that individual allegation
17 affected the outcome in this proceeding. And we just ask
18 that you deny the defense's application.

19 THE COURT: When considering an application for
20 post-conviction relief, the applicant has the burden of
21 proving that his counsel was ineffective and that but for
22 those errors, the outcome of the trial would have been
23 different, and that the lack of professional performance is
24 sufficient to undermine the Court's confidence in the
25 outcome of the proceedings.

1 I find, based on what has been presented to the
2 Court, that the applicant has failed to meet his burden of
3 proof. I will take them in the order that he's raised them.
4 And they may be a little out of order. If it is, I
5 apologize.

6 First we will deal with the recusal. There's
7 absolutely no basis for Judge McMahon to have recused
8 himself in this matter. Even if the motion had been made --
9 and it's not whether the motion would have been made, it's
10 really if the motion would have been successful. Because to
11 make a motion that's superfluous, doesn't really make one
12 bit of difference one way or another. Doesn't amount to
13 prejudice.

14 There was absolutely no basis for Judge McMahon to
15 have recused himself. There's no testimony in the record
16 that she had any involvement with this case, tangentially or
17 directly. The testimony is that she had already left the
18 Solicitor's Office at the time this case was litigated. And
19 the standard for recusal is whether the Court has some extra
20 judicial information that would cause them to be biased or
21 prejudiced in a matter. And there is absolutely -- the
22 record is void of that. There's no indication that Judge
23 McMahon ever had any discussions with his daughter about
24 this case, that she had any involvement in this case, had
25 ever been involved in litigating this case. So there would

1 have been absolutely no basis for recusal.

2 And, quite frankly, you know, there are only 49 of
3 us. We know each other very well. And I know Judge McMahon
4 well enough that you would not have had to make a motion for
5 recusal. If he even remotely thought his daughter had some
6 involvement in this case, he would have raised the issue
7 himself, and would have brought it to counsel's attention,
8 and would have given the defendant an opportunity to move
9 for recusal.

10 So based on what is in this record, there would
11 have been no reason for Judge McMahon to recuse himself. So
12 there is no merit to that argument.

13 Regarding the investigation of the taxi records,
14 I've reviewed the victim's testimony in this case. And she
15 testified that she had taken a taxi ride. She didn't --
16 basically, had had three drinks that night, but it was her
17 general practice that she would not drink and drive, that
18 there was no -- that Ms. Solar did not pursue getting the
19 taxi records to have impeached her credibility. The
20 defendant -- well, the applicant cannot just make a bald
21 assertion that she failed to do something without having
22 some proof that it would have borne out something. So the
23 record is void of the actual taxi records themselves,
24 whether they would have proven what he said they would have
25 proven.

1 And, frankly, in Charleston, I'm not sure a taxi
2 company -- really, do they even keep those kinds of records?
3 I'm just not sure of that, especially the time lapse between
4 when this incident is alleged to have occurred and when the
5 trial actually took place. So he doesn't just get to say
6 Ms. Solar didn't get the records. I need the records to see
7 if the records show what he says they would have shown to be
8 able to impeach his mother. So, you know, just a bald
9 assertion along those lines is not sufficient to meet a
10 burden of proof by a preponderance of the evidence.

11 And I will get to -- because Ms. Solar did
12 effectively pursue impeachment of the victim's credibility,
13 and I think quite successfully with what she had to work
14 with. So I really don't know that the taxi records, if they
15 even existed, would have made a difference in this case.
16 And there's been no proof to support that.

17 Now, we will then move to the fact that she did
18 request a Jackson vs. Denno hearing, that it was held, that
19 it was preserved for the record. There's contravening
20 testimony as to whether the defendant was Mirandized or not.
21 Based on my review of this record, frankly, this testimony
22 would not have made a hill of beans of difference. Him
23 getting on the stand and saying, I wasn't Mirandized, I can
24 tell you, the judge would have given very little to no
25 weight. We would have assumed it was self-serving and in

1 hindsight, he would have said he wasn't Mirandized.

2 However, you are then left with the statements of
3 officers in some aspects as to how logistically this Miranda
4 took place. And that is not for a court to resolve. At a
5 Jackson vs. Denno, the standard is by a preponderance of the
6 evidence. It's a very low threshold. The Court is only the
7 gatekeeper. It is then for the jury to decide whether, in
8 fact, the statements were made by beyond a reasonable doubt.
9 It's for them ultimately to determine if, in fact, the
10 statements were actually made, and whether -- and a part of
11 that assessment is whether Miranda was given. And so the
12 Court clearly instructed the jury regarding that. And it
13 was ultimately up to them, as the fact finders, as to
14 whether, in fact, the defendant actually made these
15 statements.

16 And that line of questioning regarding
17 inconsistency was fully explored by Ms. Solar. So what has
18 been raised is not sufficient to undermine the Court's
19 confidence in the outcome of the proceedings. Because,
20 ultimately, it's for the jury to determine beyond a
21 reasonable doubt, considering all of those factors, whether
22 he was Mirandized, his level of education, all of those
23 things that go into that whole assessment by a jury as to
24 whether statements were actually made or not.

25 Now, there has been testimony regarding -- and,

1 actually, what the applicant testified to was that his
2 mother made statements about him going back to jail anyway,
3 regarding something about him having written letters to her
4 from -- him writing letters to her from prison. But really,
5 frankly, that testimony, as he presented it, is completely
6 out of context. What his mother testified to was at Page
7 113, starting -- I will start at Line 20. He just said:
8 Mama, if you scream, I'll kill.

9 Did he is anything else?

10 He said: It doesn't matter because, he said, I'm
11 going to prison anyway, because I just killed somebody
12 yesterday.

13 At which Line 25, Ms. Solar objected. And the
14 Court stopped the witness so that he could rule on the
15 objection. And Ms. Solar stated the basis. And the Court
16 then made reference to the in-camera hearing and history on
17 the issue and relied on his previous ruling.

18 There was a full hearing on that issue. And the
19 statement that was made -- I guess I need to -- because
20 there are different layers of this issue and I need to make
21 sure I address each of them.

22 First, there would have been no basis for a
23 curative instruction. It would not have been granted.
24 There was certainly no basis for a mistrial. So Ms. Solar
25 was not defective or deficient in her performance by not

1 making either of those objections.

2 As the testimony was presented, it was part of the
3 res gestae of the incident. It wouldn't have been excluded.
4 There's no other way for his mother to explain what happened
5 that night other than to say what he said to her. And as I
6 read the transcript, it was not offered for its truth, but
7 offered as part of the threats that he made to her regarding
8 that he was going to do her harm as he -- as to her
9 allegation that he was robbing her.

10 So based on my review of the transcript, there
11 would have been no basis for a curative instruction or a
12 mistrial. The judge had already considered the matter
13 pretrial, and it would have come in. There's no way to have
14 excluded that statement. You would have really eclipsed the
15 State's ability to present their case, which they are
16 entitled to do in its full context. So there would have
17 been no basis to have -- he certainly would not have been
18 entitled to any Miranda warnings before he made a statement
19 to his mother.

20 And, again, it wasn't offered to prove that he had
21 killed somebody that night, or the night before, but offered
22 in the context of the threats he would have articulated
23 toward his mother with the use of a deadly weapon, that
24 being a knife, in the process of robbing her, which is one
25 of the elements the State is required to prove.

1 So I really do not see in the record any basis for
2 the exclusion of that testimony. So, Ms. Solar certainly
3 would not have fallen below any objective standard under
4 professional norms in her performance, because she clearly
5 preserved the issue for appeal.

6 We then move to whether he was advised of his right
7 to testify and whether he would have preserved last
8 argument. Ms. Wilson is correct, the standard is not
9 hindsight. The standard is what was counsel equipped with
10 at the time of the proceeding. And I have reviewed the
11 applicant's record. It is extensive. Counsel is correct
12 that it is at Page 280 of the transcript. And just my brief
13 cursory review of it, at least -- there are at least four
14 impeaching offenses. And it would have decimated his
15 credibility. It would have really nullified any testimony
16 he would have provided.

17 And so in terms of strategy and in terms of
18 professional judgment, I cannot in any way see how it would
19 have, under the circumstances, been improper for Ms. Solar
20 to have advised him that it was not a prudent decision to
21 testify. Quite frankly, I think the State would have
22 welcomed him testifying. They would have enjoyed decimating
23 his credibility with his convictions.

24 And just briefly at Page 280, he had a 1984 for
25 marijuana possession, which would not have come in. He had

1 a burglary second degree, however, which would have come in.
2 It would have been referred to as a felony, not as a
3 burglary, which in some instances may have been more
4 damaging to him than referring to it as a burglary.

5 He had a resisting arrest and a reckless driving.
6 Neither one of those would have come in, or the blue light
7 or the peeping Tom or the trespassing. But he had a petty
8 larceny, a common law robbery, all of which would have come
9 in irregardless of punishment. And so, there were
10 sufficient convictions that the State could have used to
11 impeach his credibility.

12 Now, having made that observation, Mr. Singley is
13 not new to the system. None of these things, I think, come
14 as any surprise to him, nor do I think that he was somehow
15 under-informed or not informed regarding the significance of
16 these convictions. I find Ms. Solar's testimony credible,
17 that she would have gone over this stuff with him. And,
18 frankly, even her emphatic response, no, I would not, I did
19 not tell him, I did not advise him to testify, which I think
20 was prudent advice under the circumstances.

21 But at Page 223 of the transcript, the Court very
22 clearly goes over these issues with Mr. Singley. Starting
23 at Page 223, regarding the State having rested its case and
24 it was his turn to present evidence, starting at Line 19, he
25 responds: Yes, sir. As part of that evidence, you have an

1 absolute constitutional right to testify on your own behalf.

2 Yes, sir.

3 And that decision is solely your decision and your
4 decision alone. If you choose not to testify, I will charge
5 the jury that they may in no way consider your failure to
6 testify as a factor in any way during their deliberation of
7 your guilt or innocence on these charges. Do you understand
8 that, Mr. Singley?

9 Yes, sir.

10 And I think what is even more dispositive of this
11 question: Have you had an adequate opportunity to discuss
12 this constitutional right with your attorneys, Ms. Solar and
13 Mr. Smith?

14 Yes, sir.

15 Do you need any additional time to discuss your
16 decision of whether or not you wish to testify with your
17 attorney, either with Ms. Solar or Mr. Smith?

18 And his answer was: No, sir.

19 And that certainly would have been the time for him
20 to have raised that issue if he had some concerns about what
21 convictions would or would not have been used against him.

22 And then even more dispositive of the question: Do
23 you have any questions for the Court concerning your right,
24 your absolute right to testify in this case before the jury?

25 Mr. Singley: No, sir; I understand it fully.

1 Which certainly would have been his opportunity to
2 ask the Court, well, by the way, I would like to know before
3 I make this decision what offenses will be used against me
4 to impeach my credibility.

5 And he says: All right, sir. You have made a
6 decision as to whether or not you wish to testify in this
7 case?

8 I do not wish to.

9 And you did not wish to?

10 No, sir.

11 The Court then goes on, without me reading all of
12 it and just for sake of brevity and time, to explain to him.
13 Because he says: All right. Sir, do you understand -- and
14 I would have asked this question before I asked the last
15 one -- that if you were to testify, and I don't know what
16 criminal history you have, if any, that potentially the
17 solicitor could use that against you as far as it goes to
18 the issue of credibility?

19 Yes, sir, I understand.

20 You understand that? And you've also discussed
21 that with your attorneys?

22 Yes, sir.

23 And do you need any further time to make that
24 decision?

25 No, sir.

1 And that decision that you make -- and that
2 decision that you have made not to testify is your decision,
3 Mr. Singley?

4 Yes, sir, Your Honor.

5 And then he goes on asking him about whether it's
6 free and voluntarily. Certainly, if he had any questions
7 about it, he could have raised them at that time. He could
8 have said, you know, I'm not really clear; I need to know
9 what record before I can make a fully informed decision.
10 And he never raises it.

11 And I do not perceive, based on Mr. Singley's
12 testimony, nor on this record, that he had any
13 misapprehension as to what his rights were, what he was
14 entitled to. It certainly was not his first contact with
15 the system. And so, I think he had a full discussion with
16 Ms. Solar about his record, how the State could use it to
17 impeach his credibility.

18 And on the outside chance that he didn't
19 understand, he had more than four opportunities to address
20 it with the Court, and failed to do so, and was rather
21 steadfast in his responses to the Court regarding his
22 ability to testify on his own behalf and the waiver of that
23 right, knowing that the State had the ability to impeach his
24 credibility.

25 Now, as regards to the letter he wrote to his aunt,

1 I find Ms. Solar's testimony credible, that she would have
2 encouraged him to write the letter if, in fact, it could
3 soften his mother's stance and assist in his lessening the
4 effects of the prosecution or taking -- her taking a softer
5 stance on the prosecution toward him.

6 But I could not imagine under the circumstances,
7 nor do I find it remotely credible, that a lawyer would
8 advise a client to confess in a letter, knowing that you
9 lose any expectation of privacy once you mail a letter, and
10 that your statements could be used against you. I just --
11 it just really -- it's just not credible to this Court. And
12 I do not find that testimony credible.

13 And then there's, again, another layer to this
14 issue. You cannot hold your attorney accountable for
15 something that you mail without having given them full and
16 ample opportunity to review it. You mailed other things to
17 her. You could have mailed that letter to her before you
18 sent it to your aunt. So, I do not find it credible somehow
19 that Ms. Solar failed to advise you in some way, didn't tell
20 you not to write the letter.

21 There's some things that just strains common sense.
22 And you don't send something where you admit to something
23 and then blame your lawyer that they didn't tell you not to
24 do it. Somebody who would come into the system for a
25 first-time, maybe a 15-, 16-year-old, a 17-year-old being

1 charged as an adult, but not a grown person fully advised
2 with life experience. It just strains credulity, especially
3 where you had another letter you gave to her and asked her
4 to review it. And she gave you very good advice, which is,
5 no, we will hold this for mitigation, we are not going to
6 send it to the State because it really could hurt you, it
7 could work to your disadvantage.

8 Now, I got a little ahead of myself, but I'm going
9 to come back. Very clearly, even though the applicant
10 alleges that there's certain things that Ms. Solar failed to
11 do regarding the credibility of the victim in this case,
12 I've read her cross-examination. She effectively impeached
13 the credibility of the victim with what she had to work
14 with, one of which was a conviction, which she used to
15 impeach her at Page 136 and 137. That she fully explored,
16 even without the testimony of Teresa, the cousin, her work
17 history, whether she was receiving a disability check,
18 whether she was actually working as well. So she fully
19 explored all of that with the victim, that being the
20 applicant's mother, on the stand. And I think to the extent
21 that was within her ability, effectively did that.

22 Now, as regards the testimony of Teresa, again, you
23 cannot complain when you are the architect of your own
24 dilemma. When you request something and your lawyer honors
25 it, believing, of course, that something beneficial will be

1 elicited from the witness, you cannot then, in hindsight,
2 when things don't turn out the way you anticipate, complain.
3 No matter how much you prep a witness, you cannot control
4 with any certainty how a witness is going to testify.

5 If I were to recall how many times people testified
6 in-camera one way and testified totally differently in front
7 of the jury, it is too many times to count. And when I say
8 totally oppositely of how they have testified in-camera,
9 made me almost wish I ruled differently lots of times,
10 because they just testified totally differently. Facts that
11 you never heard come out later. And you think, I just heard
12 all of this in-camera, how can this possibly be totally
13 different? But people do it every day.

14 So when someone requests of their lawyer, almost
15 really demands of their lawyer that a person testify because
16 they are fixated on the credibility of a witness, in other
17 words, I want to show them my mother is dishonest, if she's
18 getting money from the government and she's working, and the
19 witness is called and the lawyer successfully elicits that
20 information, you can't then really control completely with
21 any certainty how the witness is going to testify on
22 cross-examination. No matter how much you prepare them, you
23 really, in real life situations, cannot control or
24 anticipate how the flow of testimony will come out.

25 And so Ms. Solar testified, and I find credible,

1 that what she had designed to elicit from Teresa's
2 testimony, she was able to procure, which is corroboration
3 of the fact that she was receiving some form of disability
4 from the government and working. And so to that extent,
5 that that was the goal and that that was requested by the
6 applicant, I do not find that her performance was deficient
7 in that regard.

8 Now, and with the breadth of this record, I do not
9 find the defendant's testimony would have been beneficial,
10 nor does it undermine my confidence in the outcome of the
11 proceedings, in other words, taking into account what he
12 would have said based on his testimony, that it would have
13 made any appreciable difference in the outcome of this
14 trial. In fact, I think it would have worked to his
15 detriment, and would not have been beneficial to him.

16 And I do find, and I think it is an accurate
17 observation, that apparently the strategy that Ms. Solar
18 employed was effective in that there was an acquittal on the
19 kidnapping charge. So, clearly, the jury believed that he
20 couldn't basically kidnap somebody or in -- there's some
21 portion of it they did not find credible, and they acquitted
22 him on the kidnapping charge.

23 The hard part about this case, and what is very
24 difficult, and I don't think any defense lawyer could have
25 sufficiently have undermined it or overcome this hurdle, was

1 the testimony of a mother testifying against her biological
2 child that he had robbed her at knifepoint, that she was
3 sufficiently terrified of her own child, that he was -- he
4 had, in fact, threatened her life, and that he was capable
5 of taking it.

6 Even reading the cold record, it's chilling. And I
7 do not know how chilling it would have been in person. I've
8 never met Ms. Singley, so I don't know how credible she
9 comes across in person, but I know that her testimony on a
10 cold record was compelling. I think it's very hard to
11 overcome a parent saying, my child robbed me at knifepoint,
12 under any circumstances. I don't care if they had 20
13 convictions, if they were the worst grifter that ever was on
14 the earth. I just think it's just a hard hurdle to
15 overcome. So that's really what you are left with.

16 Irregardless of this letter, irregardless of
17 Teresa's testimony, it really comes down to whether the jury
18 believed Ms. Singley or not. And even with those things
19 that Ms. Solar was able to impeach her with, and it's a fine
20 line in impeaching a victim, and I think Ms. Solar walked it
21 have gingerly. Because it can come across as attacking a
22 witness, which also could be counter-productive. And I
23 think she very effectively negotiated that line in attacking
24 Mr. Singley's mother's credibility in this case.

25 But, ultimately, the jury, when it comes down to

1 it, either believed her or they didn't. And there was
2 sufficient evidence in the record even regarding her having
3 fled the house after basically having been tied up on her
4 own bed during this incident to have corroborated this
5 incident.

6 So based on what has been presented to the Court,
7 I'm denying the motion, the application for post-conviction
8 relief. I find the applicant has failed to meet his burden
9 of proof.

10 Ms. Wilson will prepare a proposed order for the
11 Court within 20 days of today. A copy of that will be sent
12 to Mr. Davis. I'm giving her leave to make any findings of
13 fact and conclusions of law consistent with this record.
14 And if Mr. Davis wants to make any additions to it, he
15 certainly is welcome to share those with Ms. Wilson.

16 And the Court certainly -- usually she's very
17 generous in that, and usually incorporates those things that
18 counsel requests. And if there's something y'all can't
19 work out, I'm certain you will bring it to my attention.
20 And I will determine at that time if it is to be included or
21 not.

22 MS. WILSON: Thank you, Your Honor.

23 (End of transcript.)

24

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1 CERTIFICATE OF REPORTER

2

3 I, Karen V. Andersen, Registered Merit Reporter

4 certified Realtime Reporter, and Notary Public for the State

5 of South Carolina at Large, do hereby certify that the

6 foregoing transcript is a true, accurate and complete

7 Transcript of Record of the proceedings.

8 I further certify that I am neither related to nor

9 counsel for any party to the cause pending or interested in

10 the events thereof.

11 Witness my hand, I have hereunto affixed my official

12 seal this 13th day of November, 2014, at Charleston,

13 Charleston County, South Carolina.

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17 
Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

2011-CP-10-4113

Ferris Geiger Singley, #211565,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

FILED
2014 SEP 30 PM 4:26
JULIE J. ARMSTRONG
CLERK OF COURT

Presiding Judge: Hon. Deadra L. Jefferson
 Applicant's Attorney: Rodney Davis, Esquire
 Respondent's Attorney: Ashleigh R. Wilson, Esquire
 Trial Counsel: Kelly Solar, Esquire
 Date of Hearing: June 16, 2014
 Court Reporter: Karen V. Andersen

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 10, 2011. The Respondent made its Return on or about March 15, 2012. An evidentiary hearing on the matter was convened on June 16, 2014¹ at the Berkeley County Courthouse. The Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Also present and testifying was Kelly Solar, Esquire and Bruce Durant, Esquire. This Court had before it the trial transcript, the Charleston County Clerk of Court records, the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, the Respondent's Return, and the Applicant's appellate records.

¹ This matter was originally scheduled to be heard on May 20, 2014; however, due to a death in Mr. Davis' family the matter was continued. The matter was rescheduled at a time convenient for the parties and heard in Berkeley County with their consent to avoid any further delay in the disposition of the PCR.

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PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. The Applicant was indicted at the January 2006 term of the Charleston County Grand Jury for Armed Robbery² (2006-GS-10-0094), Burglary-First Degree³ (2006-GS-10-0095), and Kidnapping⁴ (2006-GS-10-0093). He was represented by Kelly Solar, Esquire.

On May 1, 2006, the Applicant proceeded to trial and was found guilty by a jury of Armed Robbery and Burglary-First Degree. The Applicant was acquitted of Kidnapping. The Honorable R. Knox McMahon sentenced the Applicant to concurrent terms of life imprisonment without parole for Armed Robbery and Burglary.

A Notice of Appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Robert Dudek, Esquire, and Joseph L. Savitz, Esquire of the South Carolina Office of Appellate Defense, perfected the appeal. In a published opinion, the South Carolina Court of Appeals affirmed the Applicant's convictions and sentences on May 6, 2009. See State v. Singley, 383 S.C. 441, 679 S.E.2d 538 (Ct. App. 2009). The Applicant filed a Petition for Rehearing which was denied on June 29, 2009. The Applicant filed a Petition for Writ of Certiorari in the South Carolina Supreme Court. The Supreme Court affirmed the Applicant's convictions and sentences in a published opinion, State v. Singley, Op. No. 26954 (S.C. Sup. Ct.

² Armed Robbery is a violent, most serious felony punishable by imprisonment "for a mandatory minimum term of not less than ten [(10)] years or more than thirty [(30)] years, no part of which may be suspended or probation granted. A person convicted under this subsection is not eligible for parole until the person has served at least seven [(7)] years of the sentence." S.C. CODE ANN. § 16-11-330(A) (2005); S.C. CODE ANN. § 16-1-60 (2005); S.C. CODE ANN. § 17-25-45 (2005).

³ "Burglary in the first degree is a [violent, most serious] felony punishable by life imprisonment. For purposes of this section, 'life' means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen [(15)] years." S.C. CODE ANN. § 16-11-311(B) (2005); S.C. CODE ANN. § 16-1-60 (2005); S.C. CODE ANN. § 17-25-45 (2005).

⁴ Kidnapping is a violent, most serious felony punishable by imprisonment for a term of thirty (30) years. S.C. CODE ANN. § 16-3-910 (2005); S.C. CODE ANN. § 16-1-60 (2005); S.C. CODE ANN. § 17-25-45 (2005).

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April 4, 2011). See State v. Singley, 392 S.C. 270, 709 S.E.2d 603 (2011). The Remittitur was issued on April 20, 2011.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
2. Ineffective assistance of appellate counsel.
 - a. Date for petition for rehearing in reference to the writ of certiorari before the S.C. Supreme Court to look at the S.C. Court of Appeals affirming his conviction for Burglary 1st degree was not calendared; deadline passed before error caught.
3. Due process violation and conflict of interest.
 - a. Failure to disclose that Judge Knox McMahon's daughter worked at the Solicitor's office.
 - b. Solar used to be an advocate for female victims and the victim was female.

At the hearing, Applicant proceeded solely on the following allegations:

1. Ineffective assistance of counsel.
 - a. Counsel failed to move to recuse Judge Knox McMahon because his daughter worked for the solicitor's office.
 - b. Counsel failed to investigate the taxi records to determine whether the victim took a taxi home as she testified.
 - c. Counsel failed to highlight inconsistencies in the police officers' statements during the Jackson v. Denno hearing.
 - d. Counsel failed to call the Applicant as a witness during the Jackson v. Denno hearing.
 - e. Counsel failed to move for a mistrial when the victim testified about the Applicant being incarcerated.
 - f. Counsel failed to advise the Applicant of the risk of writing letters to his family.
 - g. Counsel failed to provide adequate advice regarding the Applicant's right to testify at trial.
 - h. Counsel was ineffective for calling the Applicant's cousin as a witness at trial.

This Court finds the Applicant failed to present any testimony or evidence regarding any other claims raised his application, therefore, this Court finds all allegations other than those presented at the hearing are deemed abandoned by the Applicant.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. CODE ANN. § 17-27-80 (2003).

Summary of the Testimony

The Applicant was present and testified he was represented at trial by Kelly Solar. The Applicant testified he met with counsel five (5) or six (6) times prior to trial. He testified he reviewed the evidence with counsel and discussed possible defenses. He testified counsel told him that he did not have a defense and that they had to "come up with something." The Applicant testified he provided one (1) witness to his attorney, John Preston, who was at the trailer with him, who Counsel said they could use if they could find him. The Applicant also testified that he provided Counsel leads for witness statements that Counsel did not investigate.

The Applicant testified he went to trial before Judge McMahon. He testified the day of trial, he was told by Counsel that Judge McMahon's daughter used to work at the Solicitor's Office. He testified Counsel told him that Judge McMahon would not recuse himself as trial judge and that Counsel would not move to recuse Judge McMahon because she thought he would do a good job. The Applicant also complained that this issue was not raised on the record.

The Applicant testified he made statements to police and had a Jackson v. Denno hearing prior to trial. He testified the State called two officers, specifically, the arresting officer and transporting officer, to testify. The Applicant testified Counsel cross-examined the officers, but

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did not allow him to testify during the hearing and did not ask whether he wanted to testify about the inconsistencies in determining whether he was Mirandized. He testified the officers gave different statements about who was in the vicinity when Miranda warnings were given. He testified he told Counsel that he was not given Miranda warnings by police and that Counsel should have called the canine officer to testify about the discrepancies. He further testified that he was not aware he could testify and if given the opportunity he would have testified that he was not Mirandized. He testified the court allowed his statement to be admitted into evidence.

The Applicant testified his mother, the victim, was an eyewitness in his case and testified against him at trial. He testified there was an issue about the accuracy of his mother's whereabouts before the burglary and robbery. He testified he wanted a continuance to allow Counsel an opportunity to investigate taxi records because he thought his mother was lying about taking a taxi home in order to avoid drinking and driving. The Applicant testified he saw her in her car that night driving away and he wanted to use this inconsistency to impeach her. He testified that Counsel failed to use these inconsistencies to impeach his mother's testimony. The Applicant further testified he asked Counsel to request a continuance to look into the taxi records and she failed to do so.

The Applicant also testified trial counsel should have objected to his mother's reference to his being incarcerated during the *in camera* hearing regarding his letter to his aunt. He testified during the hearing about the admissibility of the letter he wrote to his aunt and his mother's comment about the Applicant being in jail in connection to the threat he made to scare his mother that he had killed someone the day before. To this comment, he testified the Solicitor asked a question and his mother said "that it didn't matter because he was going back to jail anyway." The Applicant testified Counsel did not address this issue and should have moved for a

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mistrial or asked for a curative instruction. He testified this statement affected the jury and prejudiced him because they knew he had a record.

The Applicant testified the State introduced a letter he wrote to his mother's sister in North Carolina. The Applicant testified Counsel "encouraged" him to write his aunt and maybe as a result he would not get life in prison without parole because the victim was his mother. He further testified that it was his hope that his aunt would help him with his mom in a desire for leniency. He testified Counsel provided him with his aunt's zip code but the letter he wrote his aunt was ultimately given to the Solicitor's Office. He testified Counsel never explained that the letter he wrote could have gone to the Solicitor's Office or the implications of writing the letter. The Applicant testified Counsel unsuccessfully argued against the admissibility of the letter at the hearing.

The Applicant testified he spoke with Counsel about whether or not he should take the stand at trial and was advised of his right to testify. He testified Counsel did not want him to take the stand because she thought the Solicitor would use his prior convictions and the letter to "destroy" him at trial. The Applicant testified he did not have adequate advice on testifying at trial. He testified he understood that if he took the stand to testify the Court would have to evaluate the age and type of his prior convictions to see what the State could use against him at trial, which was not done prior to him informing the court that he did not wish to testify. He further testified that Counsel failed to request a ruling by the court on the admissibility of his prior convictions and as a result he did not know which, if any, prior convictions could be used to impeach him before he made the decision to testify or not.

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He testified he was advised by the court of his right to testify and he told the court it was his decision not to testify, but did not remember any other questions.

Lastly, the Applicant testified he did not know why Counsel called his cousin as a witness at trial because it backfired. He testified he thought it was to impeach his mother. He testified he told Counsel his aunt and cousin may be able to help impeach his mother. The Applicant testified his cousin's testimony was more harmful than helpful and he lost last argument as a result.

Kelly Solar, Esquire, was present and testified she was appointed to represent the Applicant about a month after he was arrested. She testified she has spent the last fifteen (15) years and her entire practice in criminal law. She testified she met with the Applicant frequently prior trial. Counsel testified she discussed with the Applicant the discovery material she received from the State, the elements of the charges he was facing, the range of penalty, possible defenses, what the State was required to prove to convict him, and the Applicant's version of the facts. Counsel testified the Applicant's version of the facts was exactly as the State had alleged. She testified the Applicant admitted his guilt to her and she tried to pursue a guilty plea, but the State would not offer anything other than a plea to life in prison without the possibility of parole. She further testified that as a result of this posture of the case they went to trial.

Counsel testified she discussed the lack of possible defenses like voluntary intoxication, which was no defense with the Applicant. She testified they ultimately decided to argue at trial that because the Applicant was not armed, the armed robbery was just a "theft" and that since the Applicant owned twelve percent (12%) of the victim's home there was no burglary, and, ultimately, there was no kidnapping. However, Counsel testified, consequently the Applicant owned the part of the home where the knife was found. Counsel testified the State's evidence

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against the Applicant consisted mainly of the Applicant's mother's testimony and her credibility was key at trial.

Counsel testified the Applicant gave her potential witnesses and leads to investigate. She testified they were trying to get the Applicant's family to speak with the Applicant's mother but that this attempt was not successful and the Applicant's mother was not interested in helping the Applicant. Counsel testified the Applicant told her he wanted to call his cousin Teresa Singley at trial to show his mother was working while collecting disability and to impeach his mother's credibility. Counsel testified Teresa testified at trial that she worked for the Applicant's mother even though the mother collected disability. She testified she was able to elicit the testimony they wanted from Teresa at trial, just that she was part of the business the Applicant's mother owned. Counsel testified she did not recall how much time she spent with Teresa before she testified at trial but that her investigator had spoken with her prior to trial. She testified she put her on the stand to testify because the Applicant wanted to pursue a line of questioning to show his mother was dishonest but that they did not discuss any other avenues of impeaching her and that she would not have called her had the Applicant not "insisted" on it. Counsel recalled that the State impeached Teresa, but her testimony still showed that Brenda was dishonest. Counsel testified that based on the lapse of time, she could not recall whether she prepared Teresa for cross-examination but that she was sure she did. Counsel testified she did not recall if she discussed with the Applicant that they would get last argument if he did not call any witnesses at trial.

She testified she also spoke with the Applicant's two aunts, Kathy Willis and Ethel Singley. Counsel testified she has a note in her file that she asked her investigator to look for a guy named Preston the Applicant wanted to call as a witness, but she was unable to locate the result of that investigation in her file due to the passage of time or the possibility that the lead

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was a dead end. Counsel testified she did not recall the Applicant asking her to move for a continuance at trial to investigate the taxi records and she just heard that allegation for the first time at this hearing. She testified if she had felt the taxi records would have been helpful to the Applicant at trial—no different than if she could show that Brenda drank and drove—she would have looked into it and that when the Applicant wrote her, she did what he asked. She further testified that the Applicant did not mention the taxi records to her until during the trial.

Counsel testified she did not recall speaking with the Applicant about moving to recuse Judge McMahon because of his daughter, but may have. She testified she did not see a basis to move to recuse Judge McMahon solely based on that and that she was not sure whether she had moved to recuse Judge McMahon on other trials upon request. She testified if the Applicant had been adamant about her moving to recuse Judge McMahon she would have done it. She further testified that her records do not reflect any such request from the Applicant and she has no recollection of it. Counsel testified she did not think Judge McMahon's daughter was employed with the Solicitor's Office at the time of the Applicant's trial.

Counsel testified she moved to suppress the Applicant's statements on the basis that the responding officers failed to Mirandize the Applicant and the Applicant would be prejudiced if the jury heard about the Applicant saying he killed someone. Additionally, Counsel testified that the statement was not true and was made only to scare the victim. Counsel clarified that she objected *in limine* once to the admission of the Applicant's statement that he had killed someone the day before and renewed her objection contemporaneously with the admission of the statement. She testified she saw no basis to move for a curative instruction or mistrial. She testified she did not recall if she talked to the Applicant about testifying during the Jackson v. Denno hearing, but if she thought it would have been helpful she would have called the

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Applicant to testify. Counsel also testified it would not have been helpful to bring out during the Jackson v. Denno hearing inconsistencies in the officers' statements about who was in the vicinity when the Applicant was given his Miranda warnings.

Counsel testified the Applicant once sent her a letter that he wanted to send to the Solicitor's Office, but she advised him against it. She further testified that she advised him that that information should be held for mitigation. She testified she would have looked up the Applicant's aunt's zip code online and given it to him but she would never tell the Applicant to confess to the crime in a letter. Counsel testified she told the Applicant to talk to his aunt about speaking with his mother and she did not tell the Applicant to confess to anything in a letter to his aunt. Counsel testified she never saw the letter the Applicant sent to his aunt before it was sent and never had the opportunity to advise the Applicant against sending the letter.

Counsel testified she spoke with the Applicant about taking the stand and she was "sure" she advised him not to testify at trial. She testified that the judge reviewed the Applicant's right to testify and questioned him, told him that it was ultimately the Applicant's decision, and that the Applicant did not seem to question her advice at the time. She testified she did not recall a hearing regarding which of the Applicant's prior convictions would come out at trial if he took the stand. Counsel also testified that no hearing on the Applicant's specific "extensive" prior record was conducted and that the judge never made a ruling on the admissibility of the Applicant's record. Counsel testified she never knew the Applicant wanted to take the stand and it was not an issue at trial. She testified that it was "news" to her that the Applicant wanted to testify because his extensive record would certainly have come out during the trial which would be "damaging" and it was her advice for the Applicant not to testify.

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Lastly, Bruce Durant, Esquire testified he was the Solicitor assigned to prosecute the Applicant's case. He testified Judge McMahon's daughter did not have any involvement in the prosecution of the Applicant's case and that he did not recall McMahon's daughter being in the Solicitor's Office at the time of the Applicant's trial. He further testified that she had already left employment in the Solicitor's Office when this case was tried.

Ineffective Assistance of Counsel

I. Standard

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 622, 300 S.E.2d 482, 483 (1983)). Where the Applicant alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler, 286 S.C. at 442; 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 686, 104 S. Ct. at 2064).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. See Strickland at 690, 104 S. Ct. at 2066. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. See id. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel.

First, the applicant must prove that counsel's performance was deficient. See *id.* at 117-18, 386 S.E.2d at 625. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." *Id.* at 117, 386 S.E.2d at 625 (citing *Strickland*, 466 U.S. at 668, 104 S. Ct. at 2052). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625 (citing *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068).

This Court finds that Counsel is a trial practitioner who has extensive experience in the trial of serious offenses. This Court finds Counsel provided credible testimony at the evidentiary hearing, while the Applicant's testimony was not credible. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, Counsel discussed the pending charges, the range of penalty, the elements of the charges and what the State was required to prove, the Applicant's constitutional rights, the Applicant's version of the facts, and possible defenses or lack thereof.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that the Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. *State v. Pendergrass*, 270 S.C. 1, 5, 239 S.E.2d 750, 752 (1977); *Strickland*, 466 U.S. at 687-88, 104 S. Ct. 2052, 2064-65; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814 (citing *Strickland*, 466 U.S. at

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687-88, 104 S. Ct. at 2064-65; Turner v. Bass, 753 F.2d 342, 348 (4th Cir. 1985), *rev'd on other grounds*; Turner v. Murray, 106 S. Ct. 1683 (1986); Marzullo v. Maryland, 561 F.2d 540, 543 (4th Cir. 1977)). This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds particularly telling the fact that Counsel obtained for the Applicant an acquittal on the Kidnapping charge he was facing. This Court finds that Counsel's representation did not fall below an objective standard of reasonableness."

Recusal of Judge McMahon

The Applicant asserts Counsel was ineffective for failing to move to recuse Judge Knox McMahon as trial judge because his daughter worked at the Solicitor's Office. This Court finds this allegation is without merit. Pursuant to Canon 3(E)(1)(a) of Rule 501, SCACR, a judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. State v. Jackson, 353 S.C. 625, 627, 578 S.E. 2d 744, 745 (Ct. App. 2003). In South Carolina, it is not enough for a party to allege bias or prejudice; a party seeking disqualification of a judge must show some evidence of bias or prejudice. Brailsford v. Brailsford, 380 S.C. 443, 451, 669 S.E. 2d 342, 346 (Ct. App. 2008); Jackson, 353 S.C. at 627, 578 S.E. 2d at 745; Rule 501, SCACR; Rule 501, Canon 3(E)(1)(a), SCACR.

A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party. Murphy v. Murphy, 319 S.C. 324, 331, 461 S.E. 2d 39, 42 (1995). Such bias must stem from an extrajudicial source and result in decisions based on information other than what the judge learned from his participation in the case. Reading v. Ball, 291 S.C. 492, 494, 354 S.E.2d 397, 398 (Ct. App. 1987). "It is not enough for the party seeking

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disqualification to simply allege bias. *Id.* The party seeking disqualification must show some evidence of bias or prejudice. If there is no evidence of judicial bias or prejudice, a judge's failure to disqualify himself will not be reversed on appeal. Mallett v. Mallett, 323 S.C. 141, 145-46, 473 S.E. 2d 804, 807-08 (Ct. App. 1996); Roper v. Dynamique Concepts, Inc., 316 S.C. 131, 139, 447 S.E. 2d 218, 222-23 (Ct. App. 1994), Koon v. Fares, 379 S.C. 150, 156, 666 S.E. 2d 230, 234 (2008).

Alleged bias or prejudice requiring a judge to recuse himself or herself must stem from an extra-judicial source and result in a decision based on information other than what the judge learned from his or her participation in the case as a judge. Canon 3(E)(1)(a), SCACR: Jackson, 353 S.C. at 627, 578 S.E. 2d at 745. A motion to recuse may not be predicated on the judge's rulings in the case before him or on rulings in a related case, nor on his demonstrated tendency to rule in any particular manner, or on a particular judicial leaning or attitude derived from his experience on the bench. Mallett, 323 S.C. at 145-46, 473 S.E. 2d at 807-08 (citing U.S. v. Grinnell Corp., 384 U.S. 563, 86 S. Ct. 1698 (1966); Berger v. U.S., 255 U.S. 22, 31, 41, S. Ct. 230, 232 (1921)). The fact a trial judge ultimately rules against a litigant is not proof of prejudice by the judge, even if it is later held that the judge committed error in his rulings. Mallett, 323 S.C. at 147, 473 S.E. 2d at 808 (citing Reading, 291 S.C. at 494, 354 S.E. 2d at 398).

This Court finds the Applicant has failed to show a basis for Counsel to move to recuse Judge McMahon as trial judge. This Court finds further the Applicant has failed to carry his burden of showing Judge McMahon's daughter worked at the Solicitor's Office during the time of his trial or had any involvement in the prosecution of his case. This Court finds the Applicant has presented no evidence to show prejudice or bias existed. This Court further finds that if Judge McMahon thought that his daughter was involved in the matter, it is likely he would have

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raised the issue *sua sponte* at trial and unlikely he would have recused himself. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to move to recuse Judge McMahon at trial.

B. Failure to Investigate

The Applicant alleges Counsel was ineffective for failing to investigate the taxi records to see whether his mother, the victim, took a taxi home prior to the incident in order to avoid drinking and driving as she claimed. (Tr. 112: 12-13, 139: 12). Additionally, the Applicant complains that Counsel failed to investigate a possible witness, John Preston, who he alleges was at the trailer with him at the time in question. This Court finds these allegations are without merit.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App., 2012), *overruled on other grounds*, Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22, 123 S. Ct. 2527, 2535 (2003).

Our Courts have repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the

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PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). The Applicant's mere speculation as to what a witness' testimony would have been by itself, cannot satisfy the Applicant's burden of showing prejudice. Id. (citing Glover, 318 S.C. at 498-99, 458 S.E.2d at 540). See Edwards, 392 S.C. at 457, 710 S.E.2d at 65. ("So long as a defendant's attorney conducts a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient."); Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006) (citing Strickland, 466 U.S. at 691, 104 S. Ct. at 2066) ("Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.").

I. Failure to Investigate Taxi Records

This Court finds the Applicant has failed to show what an investigation by Counsel into taxi records would have yielded and this Court will not speculate as to the result of such investigation. Counsel provided credible testimony that she would have investigated the evidence had she thought it was helpful to the Applicant's case. This Court also finds Counsel for the Applicant was able to adequately impeach the credibility of the victim at trial without this evidence. At trial, Counsel impeached the victim's credibility with the fact that the victim had been convicted of Forgery and was receiving disability for her back while also working for a cleaning business. (Tr. 137:3-10, 138:5-17). Further, this Court notes that, had Counsel obtained the taxi records, it is unlikely the receipts in question would have shown what the Applicant was looking for in order to impeach his mother. Moreover, the Applicant has failed to provide this

Court with any actual records tending to prove his assertions at the PCR hearing. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to investigate the victim's taxi records.

iii. Failure to Investigate Witness

This Court finds the Applicant has failed to show what an investigation by Counsel into the potential witness, John Preston, would have yielded and this Court will not speculate as to the result of such investigation. Counsel provided credible testimony that she would have investigated this witness had she thought he was helpful to the Applicant's case and that her notes in her file indicated that she did, in fact, have her investigator look into the potentiality of calling John Preston to testify on the Applicant's behalf. Ultimately, the Applicant has failed to produce the putative witness and present his purportedly beneficial testimony at the PCR hearing. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). Thus, this Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to investigate a potential witness.

iv. Failure to Request Continuance to Investigate

The Applicant alleges Counsel was ineffective for failing to request a continuance in order to investigate the taxi records as possible impeachment evidence against the victim. This Court finds this allegation is without merit.

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The grant or denial of a continuance is within the sound discretion of the trial judge and is reviewable on appeal only when an abuse of discretion appears from the record. Plyler v. Burns, 373 S.C. 637, 650, 647 S.E.2d 188, 195 (2007) (citing Bridwell v. Bridwell, 279 S.C. 111, 112, 302 S.E.2d 856, 858 (1983)). See Hudson v. Blanton, 282 S.C. 70, 74, 316 S.E.2d 432, 434 (Ct. App. 1984) (noting a moving party must show the absence of some material evidence and due diligence on his part to obtain such evidence to justify a continuance). Cf. Beasley v. Kerr-McGee Chem. Corp., 273 S.C. 523, 532, 257 S.E.2d 726, 730 (1979) (finding a movant failed to show due diligence to justify a continuance when he had eight months from filing of the complaint until trial to prepare). See State v. Lytchfield, 230 S.C. 405, 411, 95 S.E.2d 857, 860-61 (1957) (no abuse of discretion in denial of the motion to continue on the ground of witness absence). Cf. State v. Lunsford, 318 S.C. 241, 243, 456 S.E.2d 918, 920 (1995); State v. Patterson, 290 S.C. 523, 351 S.E.2d 853 (1986) (no dismissal or mistrial when, after receiving discovery material, defense counsel allowed time to review material during break in trial and before examination of witnesses continued).

This Court finds that Counsel's testimony that had the Applicant requested she investigate the taxi records, she would have obeyed his request is credible and finds the Applicant's testimony that he asked Counsel to investigate the taxi records and she refused is not credible. As noted above, the Applicant has failed to produce the favorable evidence at the PCR hearing. This Court fails to discern how producing this evidence would have been beneficial to the Applicant at trial. Moreover, this Court finds that even had Counsel requested a continuance, the trial judge likely would have denied that request. The record reflects that Counsel was well prepared to proceed with trial and in the light most favorable to the Applicant he did not mention this matter until after the trial had progressed. The record further reflects that had trial counsel

perceived this information to be beneficial there was sufficient time to procure it prior to the Applicant's mother's testimony, thereby eliminating the necessity of a continuance request. Thus, this Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to request a continuance to investigate.

D. Failure to Effectively Conduct Jackson v. Denno Hearing

The Applicant alleges Counsel was ineffective for failing to challenge the officer's testimony during the Applicant's Jackson v. Denno hearing. The Applicant also alleges Counsel was ineffective for failing to call the Applicant as a witness during the Applicant's Jackson v. Denno hearing. Ultimately, the Applicant complains that his statements were admitted into evidence. This Court finds these allegations are without merit.

i. Jackson v. Denno Standard

In Jackson v. Denno, the United States Supreme Court declared it axiomatic that a defendant in a criminal case is entitled to an independent evidentiary hearing to determine the voluntariness of statements made by the defendant prior to the submission of such statements to the jury. See Jackson v. Denno, 378 U.S. 368, 376-77, 84 S. Ct. 1774, 1781-82 (1964). Thus, where there is conflicting evidence about a statement, the court must first make a finding as to the validity of the statement. "[A] defendant is entitled to a 'reliable determination as to the voluntariness of his [statement] by a tribunal other than the jury charged with deciding his guilt or innocence.'" State v. Parker, 381 S.C. 68, 84, 671 S.E.2d 619, 627 (Ct. App. 2008); State v. Fortner, 266 S.C. 223, 226, 222 S.E.2d 508, 510 (1976); State v. Miller, 375 S.C. 370, 381, 652 S.E.2d 444, 450 (Ct. App. 2007)).

"In order to introduce into evidence a confession arising from custodial interrogation, the State must prove [to the court] by a preponderance of the evidence that the statement was made

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freely and voluntarily, and taken in compliance with Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). The jury must determine whether the statement was freely and voluntarily given beyond a reasonable doubt.” State v. Miller, 375 S.C. 370, 378, 652 S.E.2d 444, 448 (Ct. App. 2007) (citing State v. Smith, 268 S.C. 349, 354, 234 S.E.2d 19, 21 (1977); State v. Washington, 296 S.C. 54, 55–56, 370 S.E.2d 611, 612 (1988)). See State v. Creech, 314 S.C. 76, 86–87, 441 S.E.2d 635, 640–41 (Ct. App. 1993); State v. Howard, 296 S.C. 481, 488, 374 S.E.2d 284, 287 (1988) (citing State v. Doby, 273 S.C. 704, 258 S.E.2d 896 (1979)) (“The trial court must examine the “totality of the circumstances” surrounding a statement to determine whether the statement is voluntary. . . . A trial court’s decision will not be disturbed absent an error of law.”); State v. Moses, 390 S.C. 502, 512, 702 S.E.2d 395, 400 (2010) (citing State v. Goodwin, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009)).

ii. **Failure to Effectively Cross Examine Witnesses**

Initially, this Court clarifies that the Applicant alleges that Counsel was ineffective for failing to effectively challenge the admission of various statements made by the Applicant during his Jackson v. Denno hearing. The Applicant made three (3) statements to the officers involved in his detention and arrest: (1) Officer Pontieri testified that the Applicant stated he “smoked” the money he took from his mother (Tr. 8:1–6); (2) Officer Kiker testified that the Applicant stated to his mother “that he had killed a person two (2) days ago, and that he didn’t have any problem killing her.” (Tr. 13:14–22); (3) Officer Kiker testified the Applicant stated he had entered the house through a back window (Tr. 14:13–14).

The Applicant specifically argues that Counsel was ineffective for failing to emphasize the inconsistencies in where the officers were standing when the Applicant was allegedly Mirandized during her cross examination. This Court finds Counsel effectively highlighted the

officers' vague memories of the logistics. (Tr. 10:6-18). Counsel also effectively cross examined Officer Kiker that she never Mirandized the Applicant and failed to record certain logistical facts in her report. (Tr. 16:10-23). Additionally, the Applicant's statements were not offered to prove the truth of the matter asserted—that he smoked crack or killed someone in the days prior to the burglary—but were offered to prove elements of the offense of Armed Robbery and First Degree Burglary, entering a dwelling without consent and placing the victim in fear by threats and use of a dangerous instrument or weapon. See S.C. CODE ANN. § 16-11-311, -330(A) (2005). This Court further finds that Counsel requested the Jackson v. Denno hearing and made contemporaneous objections to the admission of the Applicant's statements at trial. (Tr. 113:22-25; 114:1-14; 161:24-25, 162:1-2; 192:25-193:11). Therefore, this Court finds Counsel preserved this issue for appellate review. Additionally, this Court finds that the Applicant has failed to show any basis for Counsel to request a mistrial or curative instruction. See Section F., Below. This Court further finds that the Applicant's statements became part of the *res gestae* of the incident and were found by the trial court to be admissible at trial. See id. Therefore, counsel performed as required by requesting and having a Jackson v. Denno and making a contemporaneous objection at trial thereby preserving the issue for appellate review.

This Court finds Counsel adequately challenged the introduction of the Applicant's statements prior to trial and preserved error for appellate review. The record reflects Counsel thoroughly cross-examined both of the State's witnesses during the hearing. Counsel elicited testimony from both police officers about how the Applicant was not read his Miranda warnings; did not sign a waiver of rights form; did not provide a written statement; and was not allowed to read his Miranda rights before giving a statement. (Tr. 9:10-20; 10:19-25; 11:1; 15:15-21). Counsel also argued that the State provided no proof that the Applicant was given Miranda

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warnings and the Applicant did not sign a written statement or waiver form. (Tr. 22:7-24). Ultimately, this Court finds Counsel effectively impeached the officers, but the evidence showed that the Applicant was, in fact Mirandized, whether witnesses to the Miranda warnings were either physically standing closely or passing by.

Even though this Court need not address the Applicant's argument that the Applicant was prejudiced at trial by Counsel's failure to call and question witnesses during his Jackson v. Denno hearing, this Court finds that Counsel was able to effectively cross-examine officers Pontieri and Kiker and attack and highlight their vague recollections and reports, ultimately throwing into question whether the State had proven beyond a reasonable doubt that the Applicant made a post-Miranda statement freely, voluntarily, knowingly, and intelligently. (Tr. 173: 12-21; 194: 23-25; 195: 1-9, 20-25; 196: 1-12). Therefore, this Court finds no prejudice resulted from Counsel's performance at the Applicant's Jackson v. Denno hearing or in regards to the admission of the Applicant's statements.

iii. Failure to Call Witnesses

This Court also finds Counsel was not ineffective for failing to call the Applicant and the canine officer, Officer Cobbs, as witnesses during the Applicant's Jackson v. Denno hearing.

Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1996); Underwood v. State, 309 S.C. 560, 562, 425 S.E.2d 20, 22 (1992); Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 778-79 (1992) (finding counsel's decision not to call witnesses reasonable where their testimony would have been of no value to the case and witnesses were not credible). Courts must be wary of second-guessing counsel's trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not

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ineffective assistance of counsel; Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992) (citing Goodson v. U.S., 564 F.2d 1071 (4th Cir. 1977)).

Counsel provided credible testimony that she did not think the Applicant's testimony about not being given Miranda warnings would have been helpful. This Court finds Counsel's observations were valid and it is unlikely the Applicant's testimony would have been necessary or beneficial during the hearing. This Court finds that the only conceivable argument the Applicant could have made during his purported testimony would be that he simply was not Mirandized. This Court further finds that Counsel was able to elicit the substance of this assertion without calling the Applicant to testify. This Court finds further the Applicant was not prejudiced by Counsel's failure to call him as a witness at the hearing considering the preponderance standard pretrial and that ultimately the voluntariness of his statement is to be decided beyond a reasonable doubt by the jury at trial not the trial judge. This Court further finds that counsel was effective in raising these inconsistencies before the jury and arguing that the State had failed to meet its burden of proof in that regard. This Court finds the Applicant has failed to carry his burden of proving Counsel's performance during the Applicant's Jackson v. Denno hearing was deficient in any way.

Moreover, "[A] PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." Bannister, 333 S.C. at 303, 509 S.E.2d at 809 (1998) (citing Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992)). The Applicant's mere speculation as to what a witness' testimony would have been by itself, cannot satisfy the Applicant's burden of showing prejudice. Id. (citing Glover, 318

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S.C. at 498-99, 458 S.E.2d at 540). See Edwards, 392 S.C. at 457, 710 S.E.2d at 65 ("So long as a defendant's attorney conducts a reasonable investigation, including interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient."); Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006) (citing Strickland, 466 U.S. at 691, 104 S. Ct. at 2066) ("Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.").

Although this Court need not reach the issue of whether the Applicant was prejudiced by Counsel's performance, the Applicant specifically argues that the lack of other proof that he was Mirandized augments Counsel's failure to call the Applicant and the canine officer to testify. The Applicant argues that had Counsel called the Applicant and canine officer to testify during the hearing, the testimony would have verified the Applicant's story and provided independent corroborating proof that the Applicant was not Mirandized and, ultimately, would have affected his decision whether to testify on his own behalf at trial. Thus, the Applicant argues, based on the compounded nature of Counsel's errors, he was prejudiced. This Court finds the Applicant has failed to meet his burden of proving Counsel was ineffective such that the Applicant was prejudiced by Counsel's errors. This Court finds that even if Counsel would have called witnesses to testify during the Jackson v. Denno hearing, in light of the lesser burden of proof it is doubtful the trial court would have determined that the Applicant's statements were inadmissible, independent from the jury's determination of whether the State proved the Applicant freely, voluntarily, knowingly, and intelligently made a post-Miranda statement beyond a reasonable doubt. Moreover, the Applicant has failed to present the favorable testimony proving to the PCR Court that the Applicant was not Mirandized. See Bannister, 333 S.C. at 303, 509 S.E.2d at 809 (1998) (citing Pauling v. State, 331 S.C. 606, 503 S.E.2d 468

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(1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992)). Therefore, this Court finds no prejudice resulted from Counsel's performance at the Applicant's Jackson v. Denno hearing or in regards to the admission of the Applicant's statements.

E. Failure to Object, Move for Mistrial, or Curative Instruction

The Applicant alleges Counsel was ineffective for failing to object or move for a mistrial when the victim referred to the Applicant being incarcerated at trial. This Court finds this allegation is without merit and Counsel adequately challenged the admission of this statement by the victim at trial.

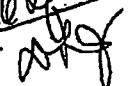
Although the decision is vested in the sound discretion of the trial court, a mistrial is proper only where it is dictated by "manifest necessity" or "the ends of public justice." Whether a mistrial is manifestly necessary is a fact specific inquiry. "It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge." A trial judge's decision to grant or deny a mistrial will not be reversed on appeal absent an abuse of discretion amounting to an error of law.

State v. Rowlands, 343 S.C. 454, 457-58, 539 S.E.2d 717, 719 (Ct. App. 2000) (citations omitted). See State v. Baum, 355 S.C. 209, 214-15, 584 S.E.2d 419, 422 (2003); State v. Bantan, 387 S.C. 412, 417, 692 S.E.2d 201, 203-04 (2010) (State v. Beckham, 334 S.C. 302, 310, 513 S.E.2d 606, 610 (1999); State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000) ("The granting of a motion for mistrial is an extreme measure that should be taken only when the incident is so grievous the prejudicial effect can be removed in no other way. A mistrial should be granted only when absolutely necessary and a defendant must show both error and resulting prejudice to be entitled to a mistrial"); see also Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 444, 345-46 (1991) (counsel's failure to request curative instruction upon admission of evidence

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of applicant's prior bad acts to show criminal propensity or poor character constituted deficient performance).

The record reflects the victim testified at trial that the Applicant put a knife to her throat and said "I'm going to prison anyway because- he said -I just killed someone yesterday." (Tr. 113:21-24, 114:18-20). This Court finds and the record reflects Counsel objected to this statement by the victim prior to the beginning of trial. Counsel moved to exclude this statement by the victim because its probative value is substantially outweighed by the danger of unfair prejudice to the Applicant. (Tr. 25:1-11). The Court ruled the victim's statement was admissible and Counsel preserved error and contemporaneously objected to the statement when made by the victim during the trial. (Tr. 93:17-25; 94:1-3; 113:21-25-114:1-14). Counsel also provided credible testimony that the admission of the statement was not a basis to move for a mistrial or to request a curative instruction. This Court finds Counsel's performance was not deficient and she adequately challenged the admissibility of this statement by the victim and preserved the issue for appellate review. The record also reflects Counsel made certain to have excluded other pieces of evidence that referred to the Applicant's past incarceration under Rules 403 and 404(b), SCRE. (Tr. 81: 18-25; 82:1-5; 90:7-25; 91:1-15). This Court finds the Applicant failed to carry his burden of proving Counsel was ineffective for failing to move for a mistrial or request a curative instruction based on this statement by the victim at trial. See Geter v. State, 305 S.C. 365, 367-68, 409 S.E.2d 344, 345-46 (1991) (although the PCR court found Counsel's performance deficient for failing to object to evidence of the Applicant's prior bad acts under Rule 404(b), SCRE and State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923), the error was harmless because evidence of the Applicant's guilt was overwhelming); State v. Freiburger, 366 S.C. 125, 1

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135-36, 620 S.E.2d 737, 742 (2005) (finding no prejudice to PCR applicant from speculative comment that he was stationed at Fort Leavenworth military prison):

Moreover, this Court finds that it is unlikely the testimony in question would not have been excluded as an impermissible reference to a prior bad act, as the trial record reflects that the statements were admitted as part of the *res gestae* of the crime and admitted to establish an element of the offense charged. See Rule 404(b), SCRE; State v. Blackburn, 271 S.C. 324, 327-28, 247 S.E.2d 334, 336-37 (1978) ("In order to qualify as a part of the *res gestae*, a statement must be substantially contemporaneous with the litigated transaction and be the spontaneous utterance of the mind while under the active, immediate influence of the event."); State v. Dennis, 321 S.C. 413, 417-18, 468 S.E.2d 674, 676-77 (1996) (citing State v. Kelley, 319 S.C. 173, 460 S.E.2d 368 (1995)) (same); State v. King, 334 S.C. 504, 512-13, 514 S.E.2d 578, 582-83, (1999) (citing State v. Adams, 322 S.C. 114, 122, 470 S.E.2d 366, 370-71 (1996)) ("The *res gestae* theory recognizes evidence of other bad acts may be an integral part of the crime with which the defendant is charged, or may be needed to aid the fact finder in understanding the context in which the crime occurred."); see also, State v. Gagum, 328 S.C. 560, 563 & n.2, 492 S.E.2d 822, 823 & n.2 (1997) (citing State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923); State v. Bolden, 303 S.C. 41, 43, 398 S.E.2d 494, 495, n.1 (1990)) ("While there are times when evidence may be admissible under *Lyle* and Rule 404(b) and the *res gestae* exception, the *res gestae* exception is properly viewed as independent of *Lyle*—that is, some evidence that would be inadmissible under *Lyle* and Rule 404(b) would be admissible as part of the *res gestae*"). In addition, the Applicant's statements are more aligned with non-hearsay admissions rather than inadmissible character evidence and statements offered for their truth.

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This Court finds the Applicant was not prejudiced because it is unlikely a mistrial would have been granted based on this testimony. This Court also finds it is unlikely a curative instruction would have been beneficial to the Applicant since curative instructions at times tend to highlight errors to the jury. See Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000) (citing Stokes, 308 S.C. 546, 419 S.E.2d 778 (1992)) (finding valid strategy not to request curative instruction "because they tend to bring into focus precisely the item the objector has kept out"). Accordingly, this Court can discern no deficiencies in Counsel's performance in this regard; therefore, this Court finds the Applicant was not prejudiced. This Court finds the Applicant has failed to carry his burden of proving Counsel's performance was ineffective in this regard.

F. Failure to Advise Regarding Letters

The Applicant alleges Counsel was ineffective for failing to advise the Applicant about the risk of writing incriminating letters to his family. This Court finds this allegation is without merit. The record reflects Counsel challenged the admission of an incriminating letter the Applicant wrote to his aunt prior to trial which was used against the Applicant by the State at trial. (Tr. 79:22-93). This Court finds Counsel provided credible testimony that she told the Applicant to write his aunt to seek leniency and to request that she speak with his mother, the victim. This Court does not find credible the Applicant's testimony that he was "encouraged" by Counsel to write a letter to his aunt confessing to the crime. This Court finds Counsel should not be held accountable for a letter sent by the Applicant that she did not see or know about prior to it being sent by mail. This Court finds Counsel had no obligation to advise the Applicant not to mail incriminating letters to his family members. This Court finds it was common sense for the Applicant to know sending incriminating statements by mail would not be beneficial especially

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when Counsel testified the Applicant showed her another letter he had written and intended to send to the Solicitor's Office and she advised him not to send it. Further, the record reflects that the Applicant's aunt forwarded his letter to the victim. (Tr. 121: 22-23). This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to advise the Applicant of the risks associated with writing incriminating or inculpatory letters to family members.

E. Failure to Advise Regarding Right to Testify

The Applicant alleges Counsel failed to provide adequate advice regarding his right to testify at trial. The Applicant specifically argues that based on the totality of the record and Counsel's cumulative errors concerning admission of the Applicant's statements at the Jackson v. Denno hearing, the Applicant was not fully informed in deciding whether to testify that he was not Mirandized and his statement was not voluntarily made. This Court finds this allegation is without merit and the Applicant was adequately advised by the court and trial counsel of the risks associated with testifying at trial. The record reflects the court advised the Applicant of the following: his constitutional right to testify on his own behalf, that the decision to testify at trial was solely his decision, that the court would tell the jury they could not hold his silence against him if he did not testify at trial, and that if he were to testify, the Solicitor could potentially use any criminal history he had against him to attack his credibility. (Tr. 223:8-25; 224:1-7; 225:1-10). The record reflects the Applicant told the court he discussed his right to testify with Counsel, he did not need any additional time with Counsel to discuss testifying, had no further questions for the court or his attorneys, he understood his right to testify, and he decided not to take the stand. (Tr. 224:8-25; 225:1-22). The record reflects the Applicant freely, voluntarily, knowingly, and intelligently waived his right to testify at trial.

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This Court also finds Counsel advised the Applicant of the risks associated with testifying at trial. Counsel provided credible testimony that she advised the Applicant not to take the stand based on his extensive prior criminal record. This Court finds Counsel provided valid advice to the Applicant regarding taking the stand since the Applicant's criminal record was extensive and included at least four (4) impeaching offenses—Forgery in 1986, Burglary-Second Degree in 1986, Petit Larceny in 1996, and Common Law Robbery in 1996. (Tr. 280:13-25). See Rule 609, SCRE. This Court finds the Applicant's prior history would have significantly compromised his credibility before the jury at trial, especially in light of the similarity of the offenses. Further, even if the trial court limited impeachment to the convictions without specific reference to the actual offenses, the fact that he had a record would have significantly impaired his credibility making the risk of exposure to the State's questioning an inviable option. This Court finds the Applicant has failed to carry his burden of proving counsel was ineffective for failing to provide adequate advice regarding the Applicant's right to testify at trial. Thus, this Court can discern no prejudice resulting from the Applicant's decision not to testify and Counsel's alleged errors.

This Court also finds that the Applicant's assignment of error to Counsel's failure to request a ruling on the admissibility of specific convictions is without merit. This Court finds that the Applicant was not new to the system, was not under-informed of the criminal process, was able to ask his attorney about the ruling, and was able to request a formal ruling from the court at least four (4) times. Rather, the record reflects that the Applicant fully understood each aspect of his right to testify and the benefits associated with exercising that right. Moreover, the Applicant has failed to present any proof that his testimony would have made a difference at trial. Returning to the Applicant's argument that because of Counsel's compound failures, he

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chose not to testify that he was not Mirandized prior to giving his statements and was, therefore, prejudiced, this Court finds that the Applicant ultimately was not prejudiced by Counsel's failure to elicit this particular testimony at trial. As mentioned above, this Court finds Counsel effectively cross-examined the reporting officers and, ultimately, the jury was able to determine whether the State met its burden of proving the Applicant's statements were freely and voluntarily made beyond a reasonable doubt. Therefore, this Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to advise the Applicant of his right to testify.

G. Ineffective Examination of a Witness

The Applicant alleges Counsel was ineffective for calling his cousin Teresa Singley as a witness at trial. This Court finds this allegation is without merit.

Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1996); Underwood v. State, 309 S.C. 560, 562, 425 S.E.2d 20, 22 (1992); Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 778-79 (1992) (finding counsel's decision not to call witnesses reasonable where their testimony would have been of no value to the case and witnesses were not credible). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992) (citing Goodson v. U.S., 564 F.2d 1071 (4th Cir. 1977)).

Counsel provided credible testimony that she pursued a line of questioning with Teresa Singley about the Applicant's mother working while receiving disability with the hopes of impeaching the victim at the Applicant's request. Counsel testified she would not have called

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Singley to testify for the defense had the Applicant not insisted she do so. This Court finds Counsel was not deficient for calling Singley to testify at trial. The record reflects Counsel elicited the testimony from Singley that she was seeking and the Applicant has failed to show how he was prejudiced by Singley's testimony. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for calling Teresa Singley as a witness at trial.

This Court also finds the Applicant has failed to show how any alleged deficiencies by Counsel affected the outcome of his proceeding. Specifically, the Applicant has provided the Court no proof that Counsel did not adequately prepare the witness and that last argument would have influenced the outcome of his case. Further, the Applicant may not now complain of his requested course of representation. "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Strickland, 466 U.S. at 693, 104 S. Ct. at 2067. "Even if a defendant shows that particular errors of counsel were unreasonable, therefore, the defendant must show that they actually had an adverse effect on the defense," Id. "It is not enough for the defendant to show that the errors had some conceivable effect on the outcome of the proceeding." Id.

II. Failure to Establish Prejudice

Moreover, this Court finds there exists overwhelming evidence of the Applicant's guilt, which precludes the Applicant from showing Counsel's performance could have affected the result of the Applicant's trial. The presence of overwhelming evidence of guilt negates any claim that Counsel's performance could have reasonably affected the result of the defendant's trial. Franklin v. Catoe, 346 S.C. 563, 570 n.3, 552 S.E.2d 718, 722 n.3 (2001). At trial, the State presented the following as evidence of the Applicant's guilt: the Applicant's mother, the victim, who testified the Applicant put a knife to her throat, told her to give him all her money, tied her

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to a bed with tape and pantyhose, and took all the phones in her house (Tr. 113:3-24); the victim's neighbor who testified the victim came to his house in the middle of the night and told him the Applicant tried to kill her (Tr. 147:2-4, 21-23); and the Applicant's statements to police in which he admitted to entering the victim's home through a back window and smoking the money taken from the victim (Tr. 162:4-18; 193:12-25; 194:1-2). This Court finds the Applicant has failed to carry his burden of proving prejudice resulted from Counsel's performance at trial.

At the evidentiary hearing, the Applicant argued that he was prejudiced based on hindsight and Counsel's cumulative errors. The Applicant neglects to argue the proper standard as articulated in Strickland and South Carolina's PCR jurisprudence. Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test specifically that Counsel failed to render reasonably effective assistance under prevailing professional norms. See Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in her representation of the Applicant. The Applicant failed to show that Counsel's performance was deficient. Therefore, this Court need not address whether the Applicant was prejudiced by Counsel's representation. See id. Moreover, this Court finds Counsel's representation was effective based on her ability to obtain an acquittal on one of the Applicant's charges. Therefore, the Applicant's complaints concerning Counsel's performance are without merit and are denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application and not specifically addressed in this Order, this Court finds Applicant failed to present any evidence regarding such

allegations. Accordingly, this Court finds the Applicant abandoned such allegations. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

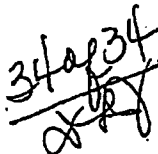
1. That the application for post-conviction relief be denied and dismissed with prejudice;
- and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 25th day of Sept., 20 14



Deadra L. Jefferson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina.

340234


STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
 STATE VS.
 AKA: FARRIS GEIGER SINGLEY
 Race: W., Sex: M Age: 39
 Address: _____
 City, State, Zip _____
 DL# _____ SID# 461967

INDICTMENT/CASE#: 0094
 AWW#: 06 -GS- 1021624
 Date of Offense: 10/2/05
 S.C. Code §: 16-11-330 (4)
 CDR Code #: 011319
☐ CASE RESTORED
☐ SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: ARMED ROBBERYIn violation of § 16-11-330 (4) of the S.C. Code of Laws, bearing CDR Code # 011319
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ 17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 212 DAYS under the Probation Act not to exceed _____ years (LWOP)
 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. IN JAIL 212 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$ 100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$ 35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 37.5
TOTAL		\$ 128.75

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: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.
PRESIDING JUDGE Tha M. M. M.Judge Code: 2111415Sentence Date: 2 MAY 06

Clerk of Court/ Deputy Clerk

Court Reporter: Vicki Cross

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

DBD-2005-10-05084

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

T. KIKER, NCPD

OCA# 2005-037377

ARREST WARRANT NUMBER

K-021624

OCTOBER 3, 2005

ACTION OF GRAND JURY
FILED

Foreperson of Grand Jury
[Signature]
JAN 13 2006

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-10-0094

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JANUARY TERM 2006

THE STATE

VS.

FERRIS GEIGER SINGLEY

Indictment for

ARMED ROBBERY

JOSE J. MISTRONG
CLERK OF COURT
BY *[Signature]*

2005 JAN 13 AM 11:06

FILED

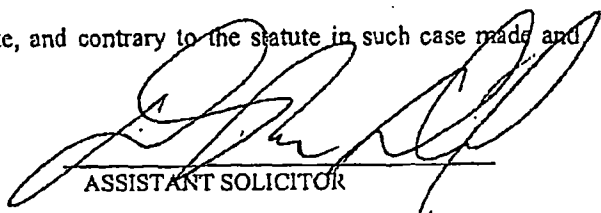
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on January 9, 2006, the Grand Jurors of Charleston County present upon their oath:

That Ferris Geiger Singley did in Charleston County on or about October 2, 2005 at _____ Avenue, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a knife, take and carry away goods and/or monies from the person or immediate presence of Brenda Singley, with the intent to permanently deprive her of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

K- 021624

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTONTHE STATE
against

FERRIS GEIGER SINGLEY

Y-DRIVER

ARRESTED SC 29406

M Sex: SC Race: W Height: 00 Weight: 115
DOB: 10/13/85 NCPI Agency ORI#: Prosecuting Agency: KIKERProsecution: ARMED ROBBERYOffense: Code/Ordinance Sec: 16-11-330 Offense Code: This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.Signature of Judge (L.S.)Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Ferris Geiger Singley
on 10/13/05Signature of Constable/Law Enforcement Officer RETURN WARRANT TO: STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTON

AFFIDAVIT

PFC BRAZELTON

Personally appeared before me the affiant FERRIS GEIGER SINGLEY who
being duly sworn deposes and says that defendant FERRIS GEIGER SINGLEY
did within this county and state on 10-02-05 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CHARLESTON)
in the following particulars:
DESCRIPTION OF OFFENSE:
ARMED ROBBERY
16-11-330I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTONAffiant's Address 4900 LACROSS RD
NORTH CHARLESTON, SC 29405
Affiant's Telephone 843-554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on 10-02-05 defendant FERRIS GEIGER SINGLEY
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of CHARLESTON) as set forth below:DESCRIPTION OF OFFENSE:
ARMED ROBBERY
16-11-330Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.Sworn to and subscribed October 3, 2005
on Signature of Issuing Judge (L.S.)
Judge Code: 5749/PHI
Judge's Address 3841 LEEDES AVENUE
N CHARLESTON, SC 29405
Judge's Telephone 843-529-7482
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge

Baldwin

on

OCT 03 2005

Type and Amount:

100,000

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defense Attorney:

Decision:

2005 OCT 03

Judge

on

by

(Indicate jury trial, bench trial, or jury trial with judge presiding)

Disposition:

Sentence:

JURORS

CHECKLIST

30M. CRT. CASE #

943702

OW CASE #

5106

REPORT GROUP

0139

DISP. CODE

WITNESSES

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

YOU MUST REPORT FOR ARRANGEMENT OR
FILED ON THE CHARGE HEREIN TO THE
COURT OF GENERAL SESSIONS LOCATED IN
THE CHARLESTON COUNTY JUDICIAL CENTER
100 BROAD STREET, CHARLESTON, SC 29401
OCT 03 2005 2:00 PM
IF YOU DO NOT
REPORT, AN ARREST WARRANT WILL BE ISSUED
FOR YOUR ARREST

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

OCA# 2005037377
PFC. T. M. Kiker

Personally appeared before me, a magistrate of this County, one *Pfc Blazek*
who first being duly sworn, deposes and says that (name of the defendant)

FERRIS GEIGER SINGLEY

did within this County and State on the 2nd day of October
2005, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
ARMED ROBBERY
16-11-330

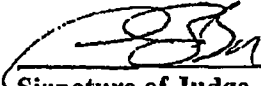
The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On October 2, 2005 at approximately 0200 hours., while at _____ Avenue, located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant Ferris Geiger Singley, did commit the offense of ARMED ROBBERY in violation of section 16-11-330 of the South Carolina Code of Laws as amended. In that the defendant Ferris Geiger Singley did willfully, unlawfully, and feloniously, take, steal, and carry away two hundred dollars in cash from the victim Brenda Singley.

Facts to establish the aforesaid are that, on October 2nd, 2005 at approximately 0200 hours, the defendant brandished a silver in color butcher's knife with a brown wooden handle, and demanded money from the victim. The defendant then threatened to kill the victim if she screamed. The defendant took approximately two hundred dollars in cash from the victim and left the residence.

Further facts to establish the aforesaid are that a silver in color butcher's knife with a brown wooden handle was located on the victim's bed. The victim also provided a written statement. Brenda Singley and PFC T. M. Kiker are witnesses to prove the same. All this was done against the law peace and dignity of the State of South Carolina..

Sworn to and Subscribed before me,
this _____ day of OCT 03 2005,
2005.


Signature of Judge


(AFFIANT)

Address: 4900 Lacrosse Road
North Charleston, SC 29406
Phone: 843-554-5700

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

CHARLESTON

STATE

VS.

AKA:

Race:

Sex:

Age:

Address:

City, State, Zip

DL#

SID#

INDICTMENT/CASE#:

AWH#:

Date of Offense:

S.C. Code §:

CDR Code #:

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said Indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary First Degreein violation of §16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0101719☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ 17-25-43The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of LWOP 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. 212 JAIL TIME

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$100.00
\$100	\$
\$12	\$
\$500	\$
\$25	\$25.00
\$100	\$
\$50	\$
\$40/ea	\$
\$	\$3.75
\$	\$128.75

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:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

DBD-2005-10-05084

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

T. KIKER, NCPD

OCA# 2005-037377

DOCKET NO. 2006-GS-10-2095

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JANUARY TERM 2006

THE STATE

VS.

FERRIS GEIGER SINGLEY

ARREST WARRANT NUMBER

K-021625

OCTOBER 3, 2005

TALENTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury

VERDICT

Indictment for

BURGLARY FIRST DEGREE

Foreperson of Petit Jury

Date:

FILED
2006 JAN 13 AM 11:06
JULIE A. ANDERSON
CLERK OF COURT
BY *[Signature]*

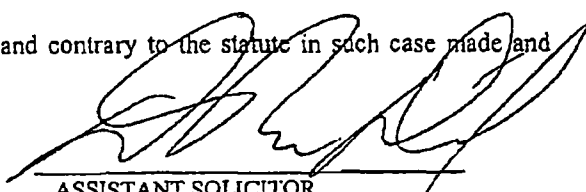
STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on January 9, 2006 the Grand Jurors of Charleston County present upon their oath:

That Ferris Geiger Singley did in Charleston County on or about October 2, 2005 enter the dwelling of Brenda Singley located at _____ Avenue, without consent and with the intent to commit a crime therein. That, in addition, said entry or remaining occurred in the nighttime, and/or the defendant was armed with a deadly weapon or explosive, and/or the defendant caused physical injury to a person not participating in the crime, and/or the defendant used or threatened to use a dangerous instrument, and/or the defendant displayed what appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, in violation of Section 16-11-311 of the South Carolina Code of Laws, 1976, as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

K- 021625

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
CHARLESTONTHE STATE
against

FERRIS GEIGER SINGLEY

Address: DRIVE
N CHARLESTON SC 29406Phone: SSN:Sex: M Race: W Height: 6'0" Weight: 215DL State: SC DL #: 008394307DOB: 5-2-67 Agency ORI #: NCPDProsecuting Agency: KIRKProsecuting Officer: BURGLEY 1STOffense: BURGLEY 1STCode/Ordinance Sec. 16-11-311 Offense Code: This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.Date: Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant Ferris Geiger Singley
on 10/3/05Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:

Form Approved by
SC Attorney General
April 21, 2005
SOCA 618

AFFIDAVIT

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTONPersonally appeared before me the affiant PFC BRAZELTON who
being duly sworn deposes and says that defendant FERRIS GEIGER SINGLEY
did within this county and state on 10-02-05 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CHARLESTON)In the following particulars:
DESCRIPTION OF OFFENSE:BURGLARY 1ST

16-11-311

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTONAffiant's Address 4900 LACROSS RDNORTH CHARLESTON, SC 29405Affiant's Telephone 843-554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10-02-05 defendant FERRIS GEIGER SINGLEY
did violate the criminal laws of the State of South Carolina (or ordinance of☒ County/ ☐ Municipality of CHARLESTON) as set forth below:

DESCRIPTION OF OFFENSE:

BURGLARY 1ST

16-11-311

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.Sworn to and subscribed before
October 3, 2005on)Judge's Address 3841 LEEDS AVENUEN CHARLESTON, SC 29405Judge's Telephone 843-529-7482Issuing Court: ☒ Magistrate ☐ Municipal ☐ CircuitJudge Code: 5749/RHJ

ORIGINAL

BAIL set by

Judge

OCT 03 2005

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defense Attorney:

Decision:

Judge

on

by

(Indicate jury trial, bench trial, or non-jury trial)

Disposition:

Sentence:

JURORS

OFFICIALS

SDM. CRT. CASE #

ON CASE #

REPORT GROUP

DISP. CODE

WITNESSES

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

YOU MUST REPORT FOR ARRANGEMENT OR
 PLEA ON THE CHARGE HEREIN TO THE
 COURT OF GENERAL SESSIONS LOCATED IN
 THE CHARGE SECTION COUNTY JAIL LOCATED IN
 100 PRISON STREET, C-4000
 OCT 09 2005 2:00 PM
 REPORT. AN ARREST WARRANT WILL BE ISSUED
 FOR VIOLATION.

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

OCA# 2005037377
PFC. T. M. Kiker

Personally appeared before me, a magistrate of this County, one PFC Brenda Singley
who first being duly sworn, deposes and says that (name of the defendant)

FERRIS GEIGER SINGLEY

did within this County and State on the 2nd day of October
2005 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
BURGLARY, FIRST DEGREE
VIOLATION OF SECTION 16-11-311

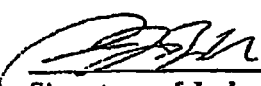
The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on October 2, 2005, at approximately 02000 hours, while at Spruce Avenue, located within the City of North Charleston, County of Charleston, and State of South Carolina, the defendant, one Ferris Geiger Singley, did commit the offense of **BURGLARY, FIRST DEGREE**, in violation of section 16-11-311 of the South Carolina Code of Laws of 1976, as amended. In that the defendant, Ferris Geiger Singley, did willfully, unlawfully, and feloniously enter the residence of Brenda Singley, during hours of darkness, by means of an unlocked window, with the intent to commit a crime therein.

Facts to establish the aforesaid are that the defendant did enter the residence located at Spruce Avenue by forcing open a window located in the rear of the residence. The defendant climbed onto a small step ladder and entered the residence. Once inside, the defendant robbed the victim of approximately 200.00 in cash, while brandishing a butcher's knife. The defendant then tied the victim up and fled the residence.

Brenda Singley and PFC T. M. Kiker are witnesses to prove the same. All done against the form of the Statute and against the law, peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me
this 03 day of OCT 2005
2005.


Signature of Judge

PFC Brenda Singley
(AFFIANT)

Address: 4900 Lacross Rd
N. Charleston, S.C. 29405

Phone: _____

Westlaw Delivery Summary Report for DURANT,LANELLE C

Date/Time of Request: Wednesday, February 4, 2015 11:07 Central
Client Identifier: SCAD
Database: SC-CS
Citation Text: 709 S.E.2d 603
Lines: 328
Documents: 1
Images: 0

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Westlaw

709 S.E.2d 603
392 S.C. 270, 709 S.E.2d 603
(Cite as: 392 S.C. 270, 709 S.E.2d 603)

H

Supreme Court of South Carolina.
The STATE, Respondent,
v.
Ferris Geiger SINGLEY, Petitioner.

No. 26954.
Heard Feb. 15, 2011.
Decided April 4, 2011.

Background: Defendant was convicted in a jury trial in the Circuit Court, Charleston County, R. Knox McMahon, J., of burglary and armed robbery. Defendant appealed. The Court of Appeals, 383 S.C. 441, 679 S.E.2d 538, affirmed. Defendant petitioned for writ of certiorari, which was granted.

Holding: The Supreme Court, Hearn, J., held that defendant's ownership interest in home did not preclude conviction for burglary.

Affirmed.

West Headnotes

[1] Criminal Law 110 ↪ 753.2(3.1)

110 Criminal Law110XX Trial110XX(F) Province of Court and Jury in General110k753 Direction of Verdict110k753.2 Of Acquittal110k753.2(3) Insufficiency of Evidence110k753.2(3.1) k. In general. Most Cited Cases

The trial court must grant a motion for directed verdict of acquittal when the State fails to produce any evidence of the crime charged.

[2] Burglary 67 ↶767 Burglary67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k7 k. Ownership or possession of building. Most Cited Cases

Defendant's ownership interest in home did not preclude, as a matter of law, conviction for burglary stemming from incident involving home; burglary was a crime against possession and habitation, not a crime against ownership, although defendant had an undivided right to possess the home equal to that of his mother by virtue of his ownership interest, the mere holding of title to property was not dispositive of whether defendant could be convicted of burglarizing the home as the core of a dwelling constituting one's home for burglary purposes was the expectation of peace and security therein, and defendant had left the home without protest at the request of his mother and taken up residence elsewhere, only to return six months later and enter the home through a window. Code 1976, § 16-11-311(A)(3).

[3] Burglary 67 ↶767 Burglary67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k7 k. Ownership or possession of building. Most Cited Cases

One cannot commit the offense of burglary by breaking into his own home, although the person must be in lawful possession of the home. Code 1976, § 16-11-311(A)(3).

[4] Burglary 67 ↶267 Burglary67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k2 k. In general. Most Cited Cases**Burglary 67 ↶7**67 Burglary

67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k7 k. Ownership or possession of building. Most Cited Cases

Burglary laws protect an interest separate and apart from ownership, the right to be safe and secure in one's home.

12:07 PM

[5] Burglary 67 767 Burglary67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k7 k. Ownership or possession of building. Most Cited Cases

The proper test for determining whether a defendant's ownership interest in a dwelling precludes a burglary conviction is whether, under the totality of the circumstances, a burglary defendant had custody and control of, and the right and expectation to be safe and secure in, the dwelling burglarized; if so, he is a person in lawful possession and cannot be convicted of burglary, but if not, the jury must then determine whether the alleged victim had this interest and whether the defendant invaded it. Code 1976, § 16-11-311(A)(3).

[6] Burglary 67 767 Burglary67I Offenses and Responsibility Therefor67k1 Nature and Elements of Offenses67k7 k. Ownership or possession of building. Most Cited Cases

The inquiry into whether a defendant has a sufficient possessory interest in a dwelling so as to preclude a burglary conviction for entry into that dwelling is highly factual. Code 1976, § 16-11-311(A)(3).

****603** Chief Appellate Defender Robert M. Dudek, Senior Appellate Defender Joseph L. Savitz, III, South Carolina Commission on Indigent Defense, both of Columbia, for Petitioner.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, Assistant Attorney General Deborah R.J. Shupe, Office of the Attorney General, all of Columbia, Solicitor Scarlett Anne Wilson, of Charleston, for Respondent.

Justice HEARN.

271** Ferris Geiger Singley was convicted of burglary and armed robbery in an incident involving a home which he jointly owned with *604** his mother and brother. On appeal, Singley argues his first degree burglary conviction must be reversed because of his ownership interest in the house. We granted ***272** certiorari to review the decision of the court of appeals, which affirmed Singley's conviction. We likewise affirm and find ownership does not preclude a burglary conviction as a matter of law, and we take this opportunity to expand upon the reasoning of the court of appeals.

FACTUAL/PROCEDURAL BACKGROUND

By virtue of intestate succession, Singley inherited a 12.5 percent interest in his childhood home from his father in August

2001. His brother owns an additional 12.5 percent, and his mother owns the remaining 75 percent. Singley remained in the house until his early twenties, and then returned again in April 2005. He resided there for three weeks, until his mother “put him out” of the house. He did not return his key to his mother, telling her that he had lost it. As between Singley and his mother, Singley did not have permission to return to the house. It was not until one night in early October 2005, some six months later, that he did so.

On that night, Singley's mother was at a bar with friends, returning home at approximately 2:30 am. While she was out of the house, Singley entered through a back window after climbing a small stepladder. When she returned, Singley jumped out from behind her and put a knife to her throat. He threatened to kill her if she screamed, and then demanded money from her. After she complied with his requests, he forced her into her bedroom and tied her to the bed using jogging pants, medical tape, and pajamas. He threw her telephone out the window and ordered her to wait twenty minutes before attempting to find help. Once she was sure Singley had left and would not return, his mother freed herself from her restraints and went to a neighbor's house to call the police. Police arrested Singley at his residence, which was around the corner from his mother's house.

Singley was indicted for first degree burglary, armed robbery, and kidnapping. Singley moved for a directed verdict on all charges. As to the burglary charge, Singley argued that because he is a part owner of the house and there was no order of protection or similar legal instrument divesting him of his right to enter it, the State failed to prove that he entered the house without the consent of a person in lawful possession. *273 In essence, he argued that because he was a person in lawful possession, he could enter freely without his mother's consent. The circuit court denied Singley's motion. The jury found Singley guilty of burglary and armed robbery, but it acquitted him of kidnapping. The circuit court sentenced Singley to consecutive sentences of life without parole. On appeal to the court of appeals, Singley challenged only his burglary conviction. State v. Singley, 383 S.C. 441, 441, 679 S.E.2d 538, 539 (Ct.App.2009). He repeated the arguments he made at the directed verdict stage that one cannot commit burglary by breaking into one's own dwelling. Id. The court of appeals affirmed, holding that Singley's mother was the sole possessor of the dwelling when the burglary occurred, and therefore her consent was needed to enter. Id. at 447, 679 S.E.2d at 542.

ISSUE PRESENTED

Singley raises one issue on appeal: does his ownership interest in the home preclude a conviction of burglary as a matter of law?

STANDARD OF REVIEW

[1] The trial court must grant a motion for directed verdict of acquittal when the State fails to produce any evidence of the crime charged. State v. Parris, 363 S.C. 477, 481, 611 S.E.2d 501, 502 (2005). At that juncture, the court is concerned only with the existence of evidence, not its weight. Id. at 481, 611 S.E.2d at 502–03. “If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case properly submitted to the jury.” Id. at 481, 611 S.E.2d at 503. We will view all evidence in the light most favorable to the State. Id.

**605 LAW/ANALYSIS

[2] Singley argues that because he has an ownership interest in the house without any legal impediment to his right to possess, he cannot be guilty of burglary as a matter of law. We disagree.

*274 The statute for first degree burglary provides, in pertinent part, “A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and ... the entering or remaining occurs in the nighttime.” S.C.Code Ann. § 16–11–311(A)(3) (2003). It goes on to define entering without consent in part as,

"[t]o enter a building without the consent of the person in lawful possession." *Id.* § 16-11-310(3)(a). The code provides no further guidance. Singley only challenges the possession element of burglary. More specifically, he only argues his ownership interest insulates him from a conviction of burglary; he does not contend he had consent from his mother to enter the home, and he does not allege his mother did not have a possessory interest in it.

We have maintained consistently for well over one hundred years that burglary is a crime against possession and habitation, not a crime against ownership. *State v. Clamp*, 225 S.C. 89, 102, 80 S.E.2d 918, 924 (1954); *State v. Alford*, 142 S.C. 43, 45, 140 S.E. 261, 262 (1927); *State v. Trapp*, 17 S.C. 467, 471 (1882). In those cases, we held that the victim listed in the indictment need not be the owner of the dwelling burglarized; it is sufficient that the alleged victim was the occupant and possessor of the dwelling. See *Clamp*, 225 S.C. at 102, 80 S.E.2d at 924; *Alford*, 142 S.C. at 45, 140 S.E. at 262; *Trapp*, 17 S.C. at 472.^{FN1} The focus accordingly was on the victim's possessory interest, and the defendant's ownership or possession of the dwelling was not an issue. The same is true for the cases from other jurisdictions relied upon by the court of appeals in its decision. See *Murphy v. State*, 238 Ga. 725, 234 S.E.2d 911, 914 (1977) ("The defendant contends that the state failed to prove that the dwelling was entered 'without authority' of the owner. The state proved that the dwelling was entered without authority from the victim, the lawful *275 occupant. This was sufficient to allow the case to go to the jury for decision..."); *State v. Harold*, 312 N.C. 787, 325 S.E.2d 219, 222 (1985) (finding that although the state did not prove the victim owned the house in question, it did show she lived there for five months prior to the incident and she was occupying it on the night of the incident).

FN1. *Trapp* is very much a product of its time. There, the issue was whether a woman could have a sufficient possessory interest in a dwelling. *Trapp*, 17 S.C. at 468-69. It was actually conceded that the woman was the legal owner of the property in question, *id.* at 472, and her name was listed in the indictment as the victim, *id.* at 469. The argument on appeal was that the husband was the "domiciliary proprietor," and therefore only he could have a sufficient possessory interest to support a conviction of burglary. *Id.* at 468-69. The Court rejected this argument. *Id.* at 472.

We have had only one previous opportunity to address the *defendant's* interest in the burglarized premises under section 16-11-310(3)(a). In *State v. Coffin*, 331 S.C. 129, 502 S.E.2d 98 (1998), the defendant moved into his girlfriend's mobile home; in accordance with her lease, he was approved as a visitor, and the landlord affixed a copy of his driver's license to the lease with the notation that he was "a legal qualified person living in that mobile home." *Id.* at 130-31, 502 S.E.2d at 98-99. The defendant did not sign the lease himself, although he did pay rent on occasion. *Id.* at 131, 502 S.E.2d at 99. According to the Court, the defendant's girlfriend "threw him out" of the house and refused to let him back in following an argument. *Id.* He later returned, pried open the front door, murdered his girlfriend, and stabbed her companion. *Id.* On appeal of his conviction of burglary, the defendant alleged that he was a person in lawful possession of the mobile home and therefore did not need his girlfriend's consent to enter. *Id.* We rejected that argument:

This evidence supports the inference [defendant] was a guest in [his girlfriend's] home and she was entitled to terminate [defendant's] lawful possession by evicting him as she did before the stabbings occurred. Accordingly, this evidence presents**606 a jury issue whether appellant was in lawful possession of the mobile home at the time of the stabbings.

Id. at 132, 502 S.E.2d at 99.

In *Coffin*, the facts demonstrated that the defendant did not have an absolute right to possess the property. Instead, his rights were dependent solely on his girlfriend's good graces. Here, it appears Singley did have an undivided right to possess the home equal to that of his mother by virtue of his ownership interest in it. See *Watson v. Little*, 224 S.C. 359, 365, 79 S.E.2d 384, 387

(1953) (holding tenants in common have equal rights to possess the whole of the property, *276 regardless of their fractional ownership shares); see also *S.C. Juris. Cotenancy § 9* (citing *Rabb v. Aiken*, 7 S.C.Eq. (2 McCord) 118 (1827)) (stating when two or more beneficiaries inherit the property of an intestate, they take as tenants in common). However, we believe that the mere holding of title to property is not dispositive of whether the owner can be convicted of burglarizing it.

[3][4] It is axiomatic that “one cannot commit the offence of burglary by breaking into his own home.” *Trapp*, 17 S.C. at 470. However, the concept of what is one’s “own home” must be examined in light of the very purpose behind the law of burglary. “The law of burglary is primarily designed to secure the sanctity of one’s home, especially at nighttime, when peace, solitude and safety are most desired and expected.... To preserve this security and this sanctity the law has created safeguards and imposed severe penalties on their infringement.” *State v. Brooks*, 277 S.C. 111, 112–13, 283 S.E.2d 830, 831 (1981). Therefore, our burglary laws protect an interest separate and apart from ownership: the right to be safe and secure in one’s home. See also *People v. Smith*, 142 Cal.App.4th 923, 48 Cal.Rptr.3d 378, 384 (2006) (noting the difference between possessory right under the burglary statute and family law); *State v. McMillan*, 158 N.H. 753, 973 A.2d 287, 292 (2009) (“[W]hile the defendant had some proprietary interest in the apartment as a co-lessee, this fact did not automatically give him license to enter under [the burglary statute].... [T]he entry here interfered with the security and safety of the occupant, thus implicating the very interests the burglary statute was designed to protect.”); *State v. Lilly*, 87 Ohio St.3d 97, 717 N.E.2d 322, 327 (1999) (“Because the purpose of burglary law is to protect the dweller, we hold that custody and control, rather than legal title, is dispositive. Thus, in Ohio, one can commit a trespass and burglary against property of which one is the legal owner if another has control or custody of that property.”). Thus the core of a dwelling constituting one’s home for burglary purposes is the expectation of peace and security therein. Mere ownership does not automatically confer this status on a person. That ownership interest must be examined in light of who possesses that expectation of sanctity in the dwelling.

*277 [5][6] Therefore, the proper test is whether, under the totality of the circumstances, a burglary defendant had custody and control of, and the right and expectation to be safe and secure in, the dwelling burglarized. See *McMillan*, 973 A.2d at 292 (“We ... conclude that holding a legal interest in property ... is not dispositive on the issue of license or privilege. Consistent with the majority of jurisdictions that have confronted this issue, we believe that the fact finder must look beyond legal title and evaluate the totality of the circumstances in determining whether a defendant had license or privilege to enter.”). If so, he is a person in lawful possession and cannot be convicted of burglary. If not, the jury must then determine whether the alleged victim had this interest and whether the defendant invaded it. We wish to emphasize that this is an inherently fact-intensive inquiry. In the end, while an ownership interest is probative of whether the defendant was a person in lawful possession, it is not dispositive. ^{FN2} It is instructive**607 that our statutes do not define burglary in terms of who owns the property, but rather in light of who possesses it. If section 16–11–310(3)(a) defined “without consent” as “to enter a building without consent of the lawful owner,” our inquiry would be very different. Instead, the General Assembly specifically couched burglary in terms of possession.

^{FN2} For example, a defendant may not have a sufficient possessory interest where he is the lessor of certain property he owns or a court has issued an order of protection preventing the defendant from entering a dwelling in which he has an ownership interest. In both of those situations, there is some legal impediment that prevents the defendant from exercising his right to possess the property in question. In the situation before us, the defendant retained his legal right to enter the property, but he may have acceded his right to possess it as a *home*—with the attendant safety, security, peace, and privacy—to another individual.

In this case, we are concerned only with whether Singley had the requisite interest in the home. Viewed in the light most favorable to the State, the facts of this case warranted the submission of the case to the jury. A reasonable jury could conclude that Singley did not have any expectation of peace and security in the dwelling at issue nor custody and control of it, despite his

ownership interest. He left with little protest when his mother requested he leave, took up residence *278 elsewhere, and did not return until six months later when he was required to enter through a back window. Therefore, the jury could find that the home was not Singley's "own home" for burglary purposes. Accordingly, the court of appeals correctly held the circuit court did not err in denying Singley's motion for a directed verdict of acquittal.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals. Once again, we wish to emphasize that the inquiry into whether a defendant has a sufficient possessory interest in the dwelling burglarized is highly factual. A defendant's ownership interest in the dwelling will not preclude a conviction of burglary *as a matter of law*. Rather, the jury must determine whether, under the totality of the circumstances, the defendant used the dwelling in such a manner that it could be said to be his own home, therefore making him a person in lawful possession.

TOAL, C.J., PLEICONES, BEATTY and KITTREDGE, JJ., concur.

S.C., 2011.

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