

VOLUME FIVE OF TWELVE
2001-2500

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JAN 13 2011

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

S.C. Supreme Court

Alexander S Macauley, Circuit Judge
2000-CP 01 212

JOHN KENNEDY HUGHEY, #5055
Respondent/Petitioner,

V

STATE OF SOUTH CAROLINA,
Petitioner/Respondent,

APPENDIX

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1 YESTERDAY, RIGHT?

2 A YES, SIR

3 Q IT SAID THAT YOUR WIFE HAD GOTTEN SOME
4 DEPRESSION OVER SOME PROBLEMS YOU ALL WERE HAVING
5 THAT SORT OF THING?

6 A YES, SIR, I WAS THE PROBLEM

7 Q YOU WERE THE PROBLEM?

8 A YES, SIR

9 Q GOSH, I DON'T WANT TO EMBARRASS YOU OR ASK YOU
10 TOO MUCH OF A SENSITIVE QUESTION

11 A I WAS UNFAITHFUL

12 Q YOU WERE UNFAITHFUL?

13 A YES, SIR

14 Q WELL, YOU CONFESSED THAT TO HER, OBVIOUSLY?

15 A YES, SIR

16 Q AND IT HURTS YOU VERY DEEPLY, DOESN'T IT?

17 A YES, SIR

18 Q BUT YOU'RE AN HONEST MAN, AREN'T YOU?

19 A YES, SIR

20 Q YOU STRAYED AND YOU WERE A BIT DISHONEST IN
21 YOUR HEART BUT YOU COULDN'T LIVE WITH IT, COULD YOU?

22 A NO, SIR

23 Q THINGS ARE GOING TO GET BETTER, AREN'T THEY?

24 A THEY'VE BEEN BETTER FOR ABOUT TWENTY-SIX,
25 TWENTY-EIGHT YEARS AGO

1 Q THAT'S GREAT AND I APPRECIATE YOUR HONESTY
2 SHE'S OVER THAT DEPRESSION, ISN'T SHE?

3 A YES, SIR

4 Q WAY OVER IT AND YOUR ALLS MARRIAGE IS
5 STRONGER THAN EVER

6 A YES, SIR

7 Q WELL, I JUST WANT TO ASK YOU ONE OTHER --
8 COUPLE OF QUESTIONS, MR HILL, AND I APOLOGIZE, I
9 DIDN'T MEAN TO EMBARRASS YOU BY ANY SHAPE, FORM OR
10 FASHION, I HOPE YOU UNDERSTAND THAT, DO YOU?

11 A YES, SIR

12 Q I JUST WOULDN'T EVEN ASK IT BUT IT WAS ON THAT
13 QUESTION -- AND I APPRECIATE YOUR ONENESS MR
14 HILL, DURING THE LAST WEEK, BEFORE YOU EVER EVEN
15 HEARD FROM MR COPELAND THAT YOU HAD TO BE UP HERE
16 AND THAT SORT OF THING, DID YOU READ ANYTHING IN THE
17 NEWSPAPER ABOUT THIS CASE DURING THAT PERIOD OF
18 TIME?

19 A NO, SIR

20 Q YOU DID NOT

21 A NO, SIR

22 MR TINSLEY THAT'S ALL I HAVE
23 THANK YOU SO MUCH

24 EXAMINATION BY MR JONES

25 Q MR HILL, MY NAME'S TOWNES JONES, I'M YOUR

1 SOLICITOR AND PROSECUTOR IN THIS CASE THIS IS
2 MICHAEL COULTER, HE'S THE DEPUTY SOLICITOR AND HE'LL
3 BE PROSECUTING THE CASE, TOO WE'LL BOTH BE CALLING
4 WITNESSES AND PUTTING UP EVIDENCE IN THE CASE WE
5 REALIZE IT WAS SHORT NOTICE TO BRING YOU UP HERE AND
6 WE APPRECIATE YOU RESPONDING IN THE FASHION THAT YOU
7 HAVE I DON'T HAVE ANY QUESTIONS FOR HIM, YOUR
8 HONOR

9 THE COURT MR HILL, IF YOU'LL JUST
10 STEP OUTSIDE THERE WITH THE BAILIFF, WE'LL BRING YOU
11 BACK IN JUST A MINUTE
12 (JUROR #257 DOES AS INSTRUCTED)

13 THE COURT ANY REASON WHY THE JUROR
14 SHOULD NOT BE QUALIFIED?

15 MR JONES NO FOR THE STATE, YOUR
16 HONOR MR TINSLEY NO, YOUR HONOR

17 THE COURT ALL RIGHT, HE IS
18 QUALIFIED MR HILL, YOU ARE QUALIFIED TO SERVE AS
19 A JUROR IN THIS CASE IT DOESN'T MEAN THAT YOU'VE
20 BEEN SELECTED YET BUT IT DOES MEAN WE NEED FOR YOU
21 TO COME BACK AT 2 30 THIS AFTERNOON AT WHICH TIME
22 ALL THOSE WHO HAVE BEEN QUALIFIED WILL BE HERE TO
23 PARTICIPATE IN JURY SELECTION YOU MAY AT THAT TIME
24 BE SELECTED OR MAY NOT, THAT REMAINS TO BE SEEN
25 BUT I DID NEED FOR YOU TO, WHEN YOU COME BACK, TO

1 COME BACK PREPARED TO SERVE AND I NEED YOU TO
2 BRING WITH YOU CLOTHING AND OTHER BELONGINGS THAT
3 WILL ALLOW YOU TO BE COMFORTABLE FOR A PERIOD OF
4 ABOUT TEN DAYS FOR WHICH YOU WOULD BE SEQUESTERED,
5 IF YOU WERE SELECTED , SO WHEN YOU COME BACK, BRING
6 THOSE ITEMS WITH YOU, JUST LEAVE THEM IN YOUR
7 AUTOMOBILE OR IF SOMEONE BRINGS YOU BACK DOWN HERE,
8 THEY CAN'T WAIT FOR YOU AND, OF COURSE, IF YOU'RE
9 SELECTED, YOU'LL BE STAYING YOUR BELONGINGS WILL BE
10 TRANSFERRED TO A VAN TO BE TAKEN TO A MOTEL AND,
11 OF COURSE, IF YOU'RE NOT SELECTED, YOU'LL BE ABLE TO
12 TAKE THOSE BACK HOME WITH YOU

13 REMEMBER MY CAUTION, HOWEVER, CONTINUE NOT
14 DISCUSSING THE CASE WITHIN ANYBODY OF COURSE,
15 NATURALLY, YOU CAN TELL YOUR FAMILY WHAT THE
16 POTENTIAL IS, YOU JUST SIMPLY CAN'T DISCUSS THE CASE
17 ITSELF YOU CAN TELL THEM TO MAKE ARRANGEMENTS TO
18 COME BACK ABOUT WHAT YOU NEED TO TELL THEM

19 ALSO, DO NOT ALLOW YOURSELF TO BE EXPOSED TO
20 ANY TYPE OF MEDIA COVERAGE AND THAT WILL CONTINUE
21 FROM NOW ON, OKAY?

22 JUROR YES, SIR

23 THE COURT SO PLEASE BE BACK PREPARED TO BE
24 SELECTED, IF YOU ARE, AT TWO THIRTY THIS AFTERNOON
25 MS KING WILL GET YOUR PHONE NUMBER

1 (JUROR #257 EXITS COURTROOM)

2 (JUROR #257 IS QUALIFIED)

3 MR TINSLEY WHAT ABOUT MS HILL,
4 JUDGE?

5 THE COURT SHE'S NOT --

6 MR TINSLEY SHE DIDN'T SHOW?

7 THE COURT THEY'RE STILL TRYING TO
8 LOCATE MS HILL BUT SHE'S NOT HERE

9 MR TINSLEY OKAY YOUR HONOR, I'LL
10 USE THIS OPPORTUNITY TO MENTION THAT I'VE SPOKEN
11 WITH THE SOLICITOR ABOUT THE ORDER OF THE DRAW AND I
12 WANT TO CLARIFY A COUPLE OF POINTS

13 ARE WE GOING BY THE WAY THEY'VE
14 ALREADY BEEN DRAWN OR ARE WE GOING TO GO BY A MIXING
15 OF SHUFFLING OF THE NAMES, SO-TO-SPEAK?

16 THE COURT WELL, MY ROUTINE PRACTICE
17 IS TO SIMPLY DRAW IT IN THE SAME FASHION THAT WE
18 ALWAYS DRAW JURIES IN A CRIMINAL CASE AND THAT IS
19 YOU DRAW THEM OR STRIKE THEM IN THE ORDER THAT THEY
20 HAVE BEEN SELECTED THAT'S THE REASON WE HAVE MADE
21 A DRAWING IN ORDER TO VOIR DIRE INDIVIDUALLY THE
22 JURORS WE JUST SIMPLY DID NOT STRIKE THE JURORS AT
23 THE TIME THAT THEY WERE DRAWN AND VOIR DIRED UPON
24 THEIR QUALIFICATIONS TO AVOID HAVING TO SEQUESTER
25 EACH JUROR WHILE ADDITIONAL INDIVIDUAL VOIR DIRE

1 TAKES PLACE

2 MR TINSLEY YES, SIR WE'LL BE
3 MOVING -- MY ASSOCIATES ARE WORKING ON IT NOW
4 WE'LL BE MOVING THAT THEY BE RESHUFFLED SO-TO-SPEAK
5 SINCE WE'VE BEEN -- AND, OF COURSE, I AT THIS TIME
6 RENEW ALL THE PRIOR JURY MOTIONS INCLUDING THE
7 REFERENCE TO PANEL TWO AND THREE BUT SINCE WE HAD
8 TO GET READY AND GO FORWARD WITH THAT, WE FEEL THAT
9 THE CLIENT DESERVES THE BENEFIT OF THE RESHUFFLING
10 HERE'S MR McCALLUM NOW AND HE QUITE POSSIBLY HAS
11 OUR MOTION PREPARED

12 MR McCALLUM MADAM CLERK

13 MR TINSLEY AND I'LL DEFER TO HIM
14 TO ARGUE THE MOTION BUT AS I SAID, I RENEW ALL
15 PRIOR MOTION I DON'T WANT TO GET INTO AN AWKWARD
16 SITUATION WHEN THEY'RE CALLED UP AS, YOUR HONOR
17 KNOWS, THIS IS FOR MY GUIDANCE I'VE GOT A COUPLE
18 OF JURORS IN THAT LIST THAT I'M OBJECTING TO ON
19 VARIOUS BASIS ONE IS -- AND YOU'VE RUSSLED ON IT
20 BUT I WANT TO PRESERVE MY OBJECTION THAT WOULD BE
21 THE FIREMAN, THE --

22 THE COURT JUROR NUMBER FIFTY-NINE
23 AND NINETY-FIVE

24 MR TINSLEY FIFTY-NINE AND NINETY-
25 FIVE, MAYBE ONE OR TWO OTHERS ONE I THINK WAS

1 CONTAMINATED BY THE SOLICITOR ON THE "EXECUTION
2 STYLE KILLING" AND SO WHEN THEY'RE DRAWN UP IN ORDER
3 TO PRESERVE MY MOTION, BUT NOT TO ALIENATE THE JUROR
4 OR EMBARRASS ANYONE, I WOULD SUGGEST BECAUSE OF THE
5 WAY I READ THE CASES THAT, IF POSSIBLE, I COULD JUST
6 NOTE MY MOTION AT THAT POINT AND THEN RENEW IT AT
7 THE END OF THE SELECTION IF THAT WOULD SUIT YOUR
8 HONOR NOW

9 THE COURT I'M NOT SURE I'M
10 FOLLOWING WHAT YOU'RE SAYING YOU HAVE OBJECTED TO
11 THE QUALIFICATION OF A JUROR BEING IN THE PANEL?

12 MR TINSLEY SEVERAL OF THEM, YES

13 THE COURT I DON'T FIND IT TO BE
14 NECESSARY THAT YOU OBJECT IF THEY ARE CALLED -- OR
15 WHEN THEY'RE CALLED UP FROM THE AUDIENCE TO BE
16 SELECTED OR EXCUSED YOU'VE ALREADY OBJECTED, YOUR
17 OBJECTION IS NOTED ON THE RECORD, I'VE ALREADY RULED
18 THE OBJECTION

19 MR TINSLEY I'LL JUST DO THEM ALL
20 AT THE END THEN, YOUR HONOR, I'LL RENEW IT AT THAT
21 TIME

22 THE COURT YOU MAY

23 MR TINSLEY THANK YOU FOR YOUR
24 GUIDANCE AND, ALSO, WE HAD THAT MATTER FROM LAST
25 NIGHT ON MR MACK MR McCALLUM HAS BROUGHT TO MY

1 ATTENTION THAT WE WANTED SOME CLARIFICATION ON THAT,
2 ALSO

3 THE COURT WELL, I WAS WONDERING IF
4 ANYONE WAS INTENTIONALLY GOING TO PERHAPS INQUIRE OF
5 ANY EXPERT WHETHER OR NOT THAT CONDITION OR THE USE
6 OF THAT MEDICATION WOULD AFFECT THE JUROR'S ABILITY
7 TO SERVE AS A JUROR IN THE CASE I'VE HAD THE
8 OPPORTUNITY TO, OF COURSE, EXAMINE THE JUROR, SEE
9 THE JUROR, ASK QUESTIONS OF THE JUROR I SEE
10 ABSOLUTELY NOTHING OUT OF THE ORDINARY WITH THAT
11 JUROR I SAW NOTHING TO CONCERN ME NOR DID I SEE
12 ANYTHING THAT ON HIS FACE WOULD CONCERN ANYONE
13 NOW, I'M NOT AN EXPERT ON ANY TYPE OF CONDITION THAT
14 THE JUROR MAY SUFFER OR USE OF THE MEDICATION THAT
15 THE JUROR IS TAKING BUT THE FACT THAT THE JUROR
16 TAKES MEDICATION FOR SOME CONDITION WOULD NOT
17 AUTOMATICALLY DISQUALIFY THE JUROR UNLESS IT WOULD
18 SOMEWAY AFFECT THAT JUROR'S ABILITY TO PARTICIPATE
19 AND SERVE AS A JUROR IN THE CASE

20 I'VE SEEN THIS JUROR, I'VE LISTENED
21 TO THIS JUROR AND I AM NOT ON NOTICE OF ANYTHING
22 THAT WOULD INDICATE THAT JUROR'S INABILITY TO
23 COMPREHEND, UNDERSTAND FOCUS ON ISSUES THE JUROR
24 DID IT DURING THE INDIVIDUAL VOIR DIRE BUT IF
25 EITHER SIDE WISHES TO HAVE SOME EXPERT WITNESS

1 PROVIDE ANY INFORMATION OR TESTIMONY TO THE COURT
2 REGARDING THAT CONDITION AND ANY POSSIBILITY THAT IT
3 WOULD CAUSE THE JUROR NOT TO BE ABLE TO SERVE, I'LL
4 BE GLAD TO HEAR IT

5 MR McCALLUM YOUR HONOR, I THINK
6 THAT THE CASE LOG'S VERY CLEAR THAT THE ISSUE OF
7 COMPETENCY OF A WITNESS OR JUROR OR ANYONE THAT
8 APPEARS IN THE COURTROOM FOR ANY PURPOSE IS AN ISSUE
9 THAT'S REALLY WITHIN THE DISCRETION OF THE TRIAL
10 JUDGE I MIGHT SUGGEST TO HIS HONOR THAT --

11 THE COURT THAT'S WHAT I'M SAYING
12 THERE IS NOTHING THAT HAS BEEN SHOWN TO ME AND I'VE
13 SEEN THE WITNESS, I'VE HEARD THE WITNESS, I'VE ASKED
14 QUESTIONS OF THE WITNESS, THE WITNESS HAS RESPONDED
15 TO THOSE QUESTIONS CLEARLY IN MY VIEW SO WHAT I'M
16 SAYING IS, I DON'T SEE ANYTHING THAT WOULD REQUIRE
17 MY FINDING THE JUROR NOT TO BE COMPETENT WHAT I'M
18 SUGGESTING IS THAT IF YOU HAVE SOME DIFFERENT
19 OPINION BASED ON SOMETHING YOU SAW OR HEARD AND YOU
20 WANT TO OFFER SOMETHING ON THE POINT, I'D BE HAPPY
21 TO HEAR FROM YOU BUT IF YOU WANT ME TO DECIDE IT
22 BASED UPON WHAT I'VE SEEN AND HEARD, THEN I'VE
23 DECIDED

24 MR McCALLUM YOUR HONOR, WHAT THE
25 DEFENSE WOULD SUGGEST TO YOU AT THIS POINT IS, THE

1 DRUG THAT IS TAKEN IS CLEARLY FOR PEOPLE WHO SUFFER
2 FROM SCHIZOPHRENIA, ACCORDING TO THE LITERATURE
3 THAT'S BEEN GIVEN TO THE COURT IT APPEARS TO BE A
4 VERY POWERFUL AND POTENT DRUG BUT IN AN EFFORT TO
5 PROTECT THE JUROR, WE CERTAINLY WOULD NOT WANT TO
6 PUT THE JUROR IN A POSITION OF GOING THROUGH A
7 STRESSFUL SITUATION THAT MAY CAUSE A PROBLEM WITH
8 HIS OWN STABILITY, EITHER DURING THE TIME OF THE
9 TRIAL OR AFTER THE TRIAL IS COMPLETED

10 AND WHAT THE DEFENSE WOULD SUGGEST IS
11 PERHAPS FOR THE COURT TO INQUIRE OF THE WITNESS WHO
12 IS TREATING PHYSICIAN IS, HAVE THE COURT GIVE THAT
13 TREATING PHYSICIAN A CALL AND LET THE TREATING
14 PHYSICIAN RENDER SOME ADVICE OR OPINION AS TO
15 WHETHER OR NOT THIS JUROR MIGHT BE ABLE TO HANDLE
16 THIS KIND OF STRESS AND CONFIDENTLY HANDLE THE
17 SITUATION AND WE BELIEVE THAT'S IN THE COURT'S
18 DISCRETION

19 MR TINSLEY I BELIEVE HE SAID IT
20 WAS DR JOHNSON IN ANDERSON

21 THE COURT HE DID GIVE THE NAME I
22 DID ASK HIM THAT

23 MR McCALLUM WE JUST SUGGEST THAT
24 PERHAPS THE COURT WOULD INQUIRE, NOT ONLY FOR THE
25 PURPOSES OF A FAIR TRIAL, BUT ALSO FOR THE PURPOSES

1 OF PROTECTING THAT JUROR'S HEALTH AND WELFARE

2 THE COURT I'LL DO THAT IF I'M ASKED
3 TO ANYTHING FURTHER?

4 MR JONES NONE FOR THE STATE ON
5 THAT JUROR, YOUR HONOR OF COURSE, WE'VE GOT
6 MOTIONS WE WANT TO TAKE CARE OF WE JUST SOON GO
7 AHEAD AND DO THEM NOW, BUT THAT'S UP TO YOU

8 THE COURT LET ME ASK, MR TINSLEY,
9 I KNOW THAT THE FIRST JURY VENIRE, THE FIRST DRAWN

10 MR TINSLEY YES, SIR

11 THE COURT THERE WERE SIX, IT
12 APPEARED, JURORS THAT WERE EXCUSED FOR CAUSE BY THE
13 COURT IN THE INITIAL QUALIFICATION PROCESS OF THE
14 JURY IT APPEARS THAT THOSE JURORS' NUMBERS WERE
15 ONE ZERO FOUR, ONE FIFTY, ONE FORTY, ONE ZERO ONE,
16 SIXTY-FOUR AND ONE TWENTY-FOUR?

17 MR TINSLEY YES, SIR

18 THE COURT DOES YOUR --

19 MR TINSLEY ONE FORTY-ONE, ONE
20 SIXTY-FOUR, EIGHTY-ONE, ONE TWENTY-FOUR, IS THAT IT?

21 MR JONES WHAT WAS THAT NUMBER?

22 THE COURT YOU GOT YOUR LIST?

23 MR TINSLEY YEAH, I'VE GOT IT HERE

24 NOW

25 THE COURT ONE ZERO FOUR

1 MR TINSLEY ONE ZERO FOUR, CORRECT
2 THE COURT ONE FIFTY
3 MR TINSLEY YES, SIR
4 THE COURT ONE FORTY
5 MR TINSLEY YES, SIR
6 THE COURT ONE ZERO ONE
7 MR TINSLEY YES, SIR
8 THE COURT SIXTY-FOUR
9 MR TINSLEY YES, SIR
10 THE COURT AND ONE TWENTY-FOUR
11 MR TINSLEY WHAT ABOUT EIGHTY-ONE,
12 JUDGE THOSE NUMBERS ARE RIGHT BUT I ALSO HAD
13 EIGHTY-ONE WAS A FRIENDSHIP-TYPE SITUATION CHECK
14 YOUR NOTES AND SEE WHAT YOU'VE GOT ON EIGHTY-ONE
15 THE COURT THAT'S RIGHT EIGHTY-ONE
16 IS ONE OF THEM
17 MR TINSLEY YES, SIR
18 THE COURT AND ONE TWENTY-FOUR?
19 MR TINSLEY ONE TWENTY-FOUR, THAT'S
20 CORRECT, SIR
21 THE COURT AND I UNDERSTOOD THAT YOU
22 HAVE NO OBJECTION TO THOSE JURORS HAVING BEEN
23 EXCUSED?
24 MR TINSLEY THAT IS CORRECT, SIR
25 NO OBJECTION TO THOSE JURORS BEING EXCUSED

1 THE COURT I'M GOING TO TAKE ABOUT
2 FIVE MINUTES AND SEE IF WE CAN DETERMINE THE ISSUE
3 ON MR MACK, JUROR NUMBER THREE SEVENTEEN LET'S
4 TAKE ABOUT TEN MINUTES

5 (OFF THE RECORD)

6 THE COURT GENTLEMEN, LET ME ADDRESS
7 ONE POINT WITH YOU JUROR NUMBER TWO SEVENTY-EIGHT
8 HAS CALLED THIS MORNING, SHE HAS TALKED WITH MS
9 KING SHE HAS RELATED TO MS KING THAT SHE IS
10 DEVELOPING A STOMACH VIRUS SHE WOKE UP THIS
11 MORNING LIGHT HEADED, DIZZY, FEELING POORLY,
12 NAUSEATED, AND MS KING INQUIRED OF HER AS TO
13 WHETHER OR NOT SHE HAD BEEN TO THE DOCTOR AND SHE
14 HAD NOT SHE INDICATED THAT SHE MIGHT BE I SIMPLY
15 ASK THAT IF EITHER SIDE WISHES FOR ANY FURTHER
16 INQUIRY TO BE MADE REGARDING THE JUROR OF COURSE,
17 I CAN REQUIRE HER TO REPORT BUT I DON'T KNOW THAT
18 THAT'S A REASONABLE IDEA IF SHE REALLY IS, IN FACT,
19 SUFFERING FROM SOME TYPE OF VIRUS THAT MIGHT INFECT
20 OTHER MEMBERS OF THE PANEL I'LL LOOK TO EITHER
21 BOTH OR YOUR GUIDANCE ON WHAT YOU'D LIKE FOR ME TO
22 DO WITH THE JUROR

23 MR JONES THE STATE'S POSITION,
24 YOUR HONOR, WOULD BE TO, IF YOU WOULD CONSIDER THIS,
25 CREATE A STATUS FOR HER THROUGH THE CLERK THAT WE

1 WOULD CALL HER IF WE NEED HER AND WE WILL CALL HER
2 IF WE DON'T NEED HER IN OTHER WORDS, WHEN WE'RE
3 THROUGH SELECTING THE JURY, YOU CAN CALL HER AND SAY
4 THAT WE DON'T NEED HER AND IF SOMETHING HAPPENS AND,
5 WHICH I DON'T ANTICIPATE WILL, BUT THE WORST CASE
6 SCENARIO, WE GET TO THE POINT WHERE WE ABSOLUTELY
7 NEED ONE MORE JUROR TO GET THIS GOING AND SHE'S OUT
8 THERE AND FEELING -- IF WE COULD JUST CALL IF SHE'S
9 FEELING ALL RIGHT AT THAT POINT IN TIME BUT I HAVE
10 NO -- BUT IF YOU CHOOSE TO DISMISS HER AT THIS POINT
11 IN TIME, THAT'S FINE WITH THE STATE, TOO

12 THE COURT I'M TRYING TO -- WHAT'S
13 YOUR POSITION MR TINSLEY?

14 MR TINSLEY BY MY COUNT SHE'S
15 TWENTY-SEVEN IN THE LIST, I BELIEVE WE, BASICALLY,
16 SAY THAT SHE COULD BE ON SOLICITOR'S COMMENT STAND-
17 BY --

18 THE COURT YOU DISAGREE WITH HIS
19 POSITION? YOU WANT TO JUST WAIT AND LET'S SEE HOW
20 THAT DEVELOPS?

21 MR TINSLEY YES

22 THE COURT ALL RIGHT, WHAT'S THE
23 NEXT MATTER THAT NEEDS TO BE ADDRESSED?

24 MR GARRETT YOUR HONOR, HAS THE
25 COURT RULED UPON OUR MOTION -- YOU HAD TAKEN UNDER

1 ADVICEMENT OUR MOTION WITH REGARDS TO QUASHING OF
2 THE PANEL ON THE BASIS THAT THE COUNTY OF ABBEVILLE
3 HAS NOT PREPARED AN ORDINANCE WHEREIN THEY HAVE
4 ADOPTED THE ELECTION PROCESS BY COMPUTER AND WE
5 HAVE NOT HAD A RULING BY THE COURT ON THAT ISSUE
6 THAT'S THE FIRST, SECOND AND/OR THIRD PANELS WE WANT
7 THE COURT TO RULE ON OUR MOTION

8 THE COURT YOU KNOW WHY I HAVEN'T
9 RULED ON THAT YET?

10 MR GARRETT SIR?

11 THE COURT I SAID, YOU KNOW WHY I
12 HAVE NOT RULED ON THAT YET?

13 MR GARRETT NO, SIR

14 THE COURT WEREN'T YOU OR MR
15 McCALLUM NOT GOING TO CALL MS CHRISLEY AS A
16 WITNESS? I UNDERSTOOD THAT MR McCALLUM OR YOU SAID
17 THAT YOU WISHED TO CALL MS CHRISLEY AS A WITNESS IN
18 THE CASE

19 MR GARRETT WE CAN, YOUR HONOR

20 THE COURT WELL, IF YOU DON'T WISH
21 TO YOU DON'T HAVE TO, BUT THAT'S THE REASON I'VE NOT
22 RULED ON IT

23 MR GARRETT I UNDERSTAND MR
24 McCALLUM MAY BE DOING THAT RIGHT NOW I'M NOT
25 EXACTLY SURE WHERE MR McCALLUM IS

1 THE COURT I TAKE IT THEN YOU DON'T
2 WANT ME TO RULE ON IT

3 MR GARRETT NOT YET, YOUR HONOR

4 THE COURT WE CAN ADDRESS THAT
5 WHAT OTHER MOTIONS DO WE NEED TO ADDRESS?

6 MR GARRETT YOUR HONOR, WE HAVE A
7 MOTION, AND DEPENDING, OF COURSE, HOW HIS HONOR
8 RULES ON THAT MOTION, WE'VE GOT A MOTION HERE FOR A
9 RANDOM JURY DRAWING AS OPPOSED TO GOING POINT BY
10 POINT AS THEY HAVE BEEN DRAWN, ESPECIALLY UNDER THE
11 FACTS AND CIRCUMSTANCES OF THIS CASE WE HAVE -- IF
12 IT'LL PLEASE THE COURT

13 THE COURT YES, SIR

14 MR GARRETT YOUR HONOR, ON THE
15 BASIS OF OUR ARGUMENTS ON THE FIRST AND SECOND AND
16 THIRD PANELS, IT WOULD BE THE POSITION OF THE
17 DEFENSE BECAUSE IT'S ESPECIALLY SO THAT IN VIEW OF
18 THE FACT THAT WE DON'T HAVE THE STATUTORY FORTY BUT
19 INSTEAD HAVE LESS THAN THE STATUTORY FORTY WE FEEL
20 LIKE THAT NOT HAVING THE STATUTORY FOR FORTY
21 PREJUDICES THE DEFENSE IN THE FOLLOWING WAYS, YOUR
22 HONOR

23 FIRST, I'D LIKE TO POINT OUT THAT THE
24 NUMBER OF VENIREMAN THAT WERE DRAWN WAS ESTABLISHED
25 BY THE COURT, THE DEFENDANT HAD SUGGESTED A HIGHER

1 NUMBER, ALTHOUGH THE DEFENDANT DID NOT OBJECT TO THE
2 AMOUNT OR THE NUMBER THAT THE COURT, INITIALLY,
3 REQUESTED BUT THE COURT DID, IN FACT, DRAW
4 SOMEWHAT LESS THAN HAD BEEN REQUESTED BY THE
5 DEFENDANT IN AN EARLIER DISCUSSION THAT THREE
6 VENIRE POOLS WERE NOT MIXED PRIOR TO DRAWING THE
7 POTENTIAL JURORS --

8 THE COURT JUST A MINUTE, EXCUSE ME
9 IS MS HILL IN THE COURTROOM? MAY I ASK YOU TO STEP
10 OUTSIDE, PLEASE

11 (JUROR #257 DOES AS INSTRUCTED)

12 THE COURT EXCUSE ME GARRETT

13 MR GARRETT THE THREE POOLS WERE
14 NOT MIXED PRIOR TO THE DRAWING OF POTENTIAL JURORS
15 FOR EITHER VOIR DIRE QUALIFICATION OR IN THE PANEL
16 ONCE COLLECTED VOIR DIRE WAS COMPLETED ON THE
17 INITIAL TWO HUNDRED TWENTY-FIVE POOL, IT BECAME
18 OBVIOUS THAT INSUFFICIENT POOL REMAINED TO COMPLETE
19 THE QUALIFICATION AND SELECTIVE PROCESS IF THE
20 COURT WILL RECALL, IN CHAMBERS, THE SOLICITOR
21 SUGGESTED THAT THE ADDITIONAL POTENTIAL JURORS BE
22 SUMMONED AT THAT POINT, THE DEFENDANT OBJECTED TO
23 ANY ADDITIONAL POOL BEING SUMMONED WHICH, I'M
24 ASSUMING THAT OBJECTION WAS OVERRULED, ALTHOUGH IT
25 WAS NOT PLACED ON THE RECORD THE COURT INDICATED

1 IT HAD INTENDED TO GET SOME ADDITIONAL JURORS IN
2 THIS CASE

3 IT'S THE DEFENSE' PRESENT
4 UNDERSTANDING THAT THE COURT INTENDS TO CALL JURORS
5 FOR THE PANEL IN THE SAME ORDER AS ORIGINALLY DRAWN
6 FOR INDIVIDUAL VOIR DIRE AND FOR QUALIFICATION
7 YOU'VE INDICATED THAT TO US PREVIOUSLY
8 PROCEDURALLY AND SUCH TO THE DUE PROCESS UNDER THE
9 FIFTH, SIXTH, FOURTEEN AMENDMENTS OF THE UNITED
10 STATES CONSTITUTION AND THE CORRESPONDING PROVISIONS
11 OF THE SOUTH CAROLINA CONSTITUTION WITHIN TITLE
12 FOURTEEN OF THE SOUTH CAROLINA CODE OF LAWS AND
13 ORDINANCES OF ABBEVILLE COUNTY DEMANDS THAT THE
14 DEFENDANT BE ENTITLED TO THE ENTIRE VENIRE HAVING AN
15 EQUAL OPPORTUNITY TO BE CHOSEN FROM PANEL

16 THE PROCESS THAT THE COURT INTENDS TO
17 USE PLACES A MUCH GREATER STATISTICAL PROBABILITY
18 THAT JURORS FROM THE FIRST TWO HUNDRED TWENTY-FIVE
19 SUMMONS WILL BE IMPANELED THAN JURORS FROM EITHER
20 THE SECOND SEVENTY-FIVE PERSON PANEL OR THE TWENTY-
21 FIVE PERSON PANEL THE PURPOSE OF HAVING A PANEL TO
22 START WITH IS NOT ONLY TO INSURE THAT THERE WILL BE
23 A SUFFICIENT NUMBER QUALIFIED UNBIASED JURORS TO TRY
24 THE CASE BUT ALSO TO INSURE THAT THE DEFENDANT HAS A
25 FULL CROSS-SECTION OF THE COMMUNITY, OF ITS PEERS

1 AND THE FUNDAMENTAL FAIRNESS INHERENT AND RANDOM
2 JURY SELECTION IS PRESERVED

3 THE COURT AND CAMERA HAS INTIMATED
4 THAT ADDITIONAL JURORS WERE SUMMONED IN ORDER TO
5 PROTECT AND VALID THE DEFENDANT'S RIGHT TO BE TRIED
6 BY AN IMPARTIAL JURY OF ITS PEERS DEFENDANT
7 APPRECIATE THE COURT'S POSITION ON THAT, OBVIOUSLY
8 OBVIOUSLY, WE ARE IN FAVOR OF MOVING THIS TRIAL
9 FORWARD AT A DELIBERATE PACE, AS WELL HOWEVER,
10 USING THE REDUCED INITIAL PANEL AS BEING THE POOL
11 FOR WHICH THE TWENTY-SIX -- THE FIRST TWENTY-SIX
12 POTENTIAL JURORS WILL BE DRAWN ALLOWS THE SOLICITOR
13 TO CONTROL WHETHER ANY MEMBER OF THE SECOND OR THIRD
14 POOL WOULD EVEN BE POTENTIAL JURORS

15 ASSUMING TWO ALTERNATES ARE SELECTED
16 AND THE SOLICITORS EXERCISES NO PRE-EMPTORY STRIKES,
17 FROM THE DEFENDANT'S VIEW POINT, THIS IS NOT A FAIR
18 WAY TO SELECT POTENTIAL JURORS THE COURT IS WELL
19 AWARE OF SEVERAL CASE LAWS THAT REQUIRES THE
20 DEFENDANT TO EXHAUST ALL OF HIS STRIKES IN ORDER TO
21 PRESERVE OR APPEAL, IF ANY, ANY JURY SELECTION
22 ISSUES PREVIOUSLY RAISED ADDITIONALLY, THE
23 DEFENDANT MUST STRIKE ANY INDIVIDUAL JUROR WHICH WAS
24 OBJECTED TO DURING THE QUALIFICATION PROCESS IN
25 ORDER TO RETAIN THE ISSUE KNOWING THIS AND USING

1 THE POOL, EXCUSE ME, KNOWING THIS AND USING A POOL,
2 THE ORDER OF WHICH IS KNOWN THE SOLICITOR HAS A
3 TREMENDOUS ADVANTAGE OF STRATEGICALLY EXERCISING THE
4 STATES PRE-EMPTORY STRIKES THESE CIRCUMSTANCES
5 TAKEN TOGETHER SEVERELY LIMIT THE DEFENDANT'S
6 ABILITY TO EQUITABLY PARTICIPATE IN THE JURY
7 SELECTION PROCESS

8 SUBSTANTIVE EXCLUSION FROM THE
9 PROCESS OF SELECTION COMBINED WITH THE STATISTICAL
10 REMOVAL AT RANDOMNESS IS TANTAMOUNT TO PROCEDURAL
11 EXCLUSION FROM THE PROCESS THE DEFENDANT PROPOSES
12 THAT THE ONLY WAY TO NOW MAKE THE JURY SELECTION
13 PROCESS FAIR IS TO PUT ALL QUALIFIED VENIRE MEMBERS
14 IN A BAG SHAKEN UP AND DRAWN OUT GOING THROUGH EACH
15 STRIKE PROCEDURE ONE BY ONE TILL THE PANEL AND THREE
16 ALTERNATES ARE SEATED MOREOVER, THIS WILL IN NO
17 WAY ENCUMBER A PREJUDICE TO STATE IN FACT, THE
18 CAUSE SOLICITOR INITIALLY REQUESTED THE ADDITIONAL
19 POTENTIAL JURORS BE SUMMONED, HE COULD NOT NOW
20 POSSIBLY ARGUE PREJUDICE OR UNFAIRNESS, OR FOR THAT
21 MATTER EVEN DELAY BY HAVING THE SECOND AND THIRD
22 PANEL JURORS MEANINGFULLY INCLUDED IN THE PROCESS
23 AND HAVING AN EQUAL OPPORTUNITY FOR THEM TO BE
24 IMPANELED AT HIS REQUEST

25 YOUR HONOR, WE HAVE TRIED TO SIT DOWN

1 AND TRIED TO THINK ABOUT THIS IN A WAY WE CAN
2 EXPLAIN IT TO THE COURT LOOKING AT IT -- WE MAY DO
3 IT THROUGH BY LOOKING AT A GAME OF POKER DON'T
4 LIKE TO USE POKER IN TALKING ABOUT THESE KINDS OF
5 THINGS BUT IT MAKES AS ABOUT A GOOD OF ANALOGY TO
6 THE FACTS AND CIRCUMSTANCES TO THIS CASE AS WE CAN
7 SEE IT FROM THE DEFENDANT'S POINT OF VIEW IF EIGHT
8 PEOPLE WERE PLAYING FIVE CARD DRAW POKER OUT OF ONE
9 DECK, A DISTINCT POSSIBILITY EXIST THAT THERE WOULD
10 NOT BE ENOUGH CARDS IN A SINGLE DECK TO COMPLETE THE
11 HAND

12 IF A SECOND DECK WAS USED BUT ONLY
13 AFTER COMPLETION OF THE FIRST DECK, THE DEALER AND
14 PERSONS SEATED TO HIS RIGHT WOULD HAVE THE
15 POSSIBILITY OF DRAWING FIVE ACES WHILE THE PERSON
16 SEATED TO THE DEALER'S LEFT NEVER COULD BECAUSE
17 THERE WOULD ALWAYS BE ENOUGH CARDS IN THE FIRST DECK
18 FOR THE DRAW TO BE COMPLETED FROM IF ON THE OTHER
19 HAND THE TWO DECKS WERE SHUFFLED TOGETHER BEFORE THE
20 HAND WERE DEALT, ALL PLAYERS WOULD HAVE AN EQUAL
21 OPPORTUNITY TO BE DEALT OR DRAW FIVE ACES IN THIS
22 SITUATION, IN THIS CASE, THE SITUATION IS EVEN MORE
23 UNFAIRLY THAT WHAT THE ANALOGY ILLUSTRATES

24 HERE, THE SOLICITOR KNOWS ALL THE
25 CARDS IN HIS HANDS, MY HANDS OR THE DEFENSE HANDS,

1 WHICH CARDS HAVE ALREADY BEEN PLAYED, THE ORDER OF
2 THE CARDS LEFT IN THE DECK AND MANY OF THE SPECIFIC
3 CARDS THE DEFENSE IS OBLIGED TO DISCARD AS WELL AS
4 THE TOTAL NUMBER OF CARDS THE DEFENSE IS OBLIGATED
5 TO DISCARD AND IS SITTING TO OUR RIGHT GIVING HIM
6 THE ABILITY TO CONTROL WHETHER OR NOT WE CAN DRAWN
7 FROM THE SECOND DECK WE'RE NOT ASKING THE COURT TO
8 CALL THE GAME, JUST TO MISDEAL, SHUFFLE THE DECK AND
9 LET THE CARDS FALL WHERE THEY MAY

10 THE COURT I LIKE THAT ANALYSIS
11 ANY RESPONSE, SOLICITOR?

12 MR JONES BRIEFLY, YOUR HONOR, IF I
13 MIGHT JUDGE, AT THE OUTSET OF THE JURY
14 QUALIFICATION PROCESS WHEN WE BEGAN THAT PROCESS
15 ON FRIDAY, IF I RECALL, OF COURSE WE DIDN'T START
16 UNTIL FRIDAY BECAUSE WE HAD THE ISSUE OF THE
17 COMPETENCY TO DEAL WITH AND ONCE THE COURT DEALT
18 WITH THAT, WE BEGAN ADDRESSING THESE JURORS ON
19 FRIDAY I DISTINCTLY RECALL YOUR HONOR ASKING ALL
20 THE LAWYERS IF WE FELT THAT ONCE WE HAD MEMBERS FROM
21 THE PANEL THAT WE COULD BEGIN TO QUESTION ABOUT
22 THEIR DEATH PENALTY QUALIFICATION, THAT IS ONCE ALL
23 OF THE EXEMPTIONS, OR AT LEAST THOSE THAT WE THOUGHT
24 WE COULD ADDRESS HAD BEEN ADDRESSED, AND ONCE ALL OF
25 THOSE WHO HAD PROBLEMS WITH SERVING BE IT HEALTH OR

1 WHAT NOT, WERE ADDRESSED, SPECIAL NEEDS AND PROBLEMS
2 WERE ADDRESSED AND WE REDUCED OUR PANEL TO
3 APPROXIMATELY EIGHTY SOMETHING MEMBERS FROM TWO
4 HUNDRED SOMETHING TO EIGHTY SOMETHING, YOU ASKED US
5 AGAIN, YOU SAID, GENTLEMEN, AS I RECALL, I INTEND
6 THAT WE WILL BE STRIKING THIS JURY AS THE CLERK
7 RANDOMLY PULLS THE NAME FROM THE PANEL OF EIGHTY-ONE
8 FOR OUR DEATH PENALTY QUALIFICATION EXAMINATION FOR
9 OUR EXTENSIVE VOIR DIRE, DOES THAT SUIT EVERYONE
10 AND MY RECOLLECTION IS ALL THE LAWYERS SAID YES,
11 SIR, YOUR HONOR, YES, SIR, YOU MEAN WE'RE GOING TO
12 GO BACK OVER THIS LIST AS THEY ARE CALLED UP FOR
13 VOIR DIRE EXAMINATION IN THE SAME ORDER THAT THEY'RE
14 SELECTED BY THE CLERK OF COURT IN ORDER TO DETERMINE
15 THE GROUPS THAT YOU WILL PUT THEM IN, GROUP ONE,
16 GROUP TWO, GROUP THREE, THREE COMING AT ONE HOUR,
17 THREE COMING AT THE NEXT HOUR AND EVERYBODY
18 UNDERSTOOD THAT THAT'S WHAT YOU WERE ASKING IF IT
19 WAS ALL RIGHT WITH US AND EVERYBODY AGREED AND SAID
20 YES, SIR, YOUR HONOR WHAT WE'LL DO IS GO BACK AND
21 AFTER WE GET THEM QUALIFIED, IN THE ORDER THAT
22 THEY'RE QUALIFIED, WE'LL EXERCISE OUR PRE-EMPTORY
23 CHALLENGE AND YOU ASKED US AND WE ALL SAID, YES
24 THAT'S MY RECOLLECTION WE WOULD DO IT THAT WAY,
25 UNDERSTOOD

1 THE STATE'S POSITION IS IS THAT NOW
2 THAT THE DEFENSE HAS SEEN THAT DRAWING, THEY DON'T
3 WANT IT THAT WAY THEY DON'T LIKE THE WAY THE
4 JURORS -- THEY DON'T LIKE THE ORDER THEY DON'T
5 LIKE THE LOOKS OF THE ONES THAT THEY'RE GOING TO
6 HAVE TO CHOSE BETWEEN IN THE FIRST TWENTY-SEVEN
7 AND THEY'RE TRYING TO GET YOU TO GIVE THEM TWO BITES
8 AT THAT APPLE AND THEY HAVE ABSOLUTELY NO
9 CONSTITUTIONAL RIGHT, NO STATUTORY RIGHT AND NO
10 BASIC RIGHT OF FAIRNESS TO ARGUE YOU FOR ANY DEGREE
11 OF PERSUASIVENESS THAT YOU SHOULD DO THAT

12 AND, MOST IMPORTANTLY, THEY CAN'T
13 SHOW YOU ANY SUBSTANTIAL BIAS THAT THEY WILL SUFFER
14 BY NOT DOING IT FOR INSTANCE, WHEN THEY SAY THAT I
15 HAVE AN OPPORTUNITY AND THAT I KNOW WHO THEY'RE
16 GOING TO STRIKE, THAT'S NOT TRUE I DON'T KNOW
17 THEY'RE GOING TO STRIKE I HAVE NO IDEA WHO THEY'RE
18 GOING TO EXERCISE THEIR PRE-EMPTORY CHALLENGES
19 AGAINST ANY KNOWLEDGE THAT I'M GOING TO USE IN AN
20 EFFORT TO STRIKE THIS JURY IS GOING TO BE BASED ON
21 WHAT THOSE JURORS TOLD US WHEN THEY WERE ON THE
22 WITNESS STAND ABOUT -- JUDGE, WHAT I'M TRYING TO SAY
23 IS, I CAN'T BASE MY STRIKES ON AN ASSUMPTION AND I
24 ASSUME YOU'RE GOING TO ASK ME FIRST EVERY TIME I
25 THINK I REMEMBER IT WHEN WE WERE TALKING ABOUT IT

1 I SAID, JUDGE, ARE YOU GOING TO LET THE STATE STRIKE
2 ONE AND THEN SHIFT AND THE DEFENSE WILL STRIKE ONE,
3 AND THEN THE STATE WILL STRIKE ONE, THEN IT WILL BE
4 THE DEFENSE TURN TO GO FIRST NO, SIR, THE STATE
5 HAS TO EXERCISE ITS PRE-EMPTORY CHALLENGE EACH TIME
6 BEFORE I HAVE ANY IDEA WHAT THEY'RE GOING TO DO WITH
7 THESE JURORS YOU'RE GOING TO CALL OUT THE FIRST
8 ONE AND SAY, STATE, ARE YOU GOING TO PUT THEM ON OR
9 LEAVE THEM OFF, PUT THEM ON OR LEAVE THEM OFF AND
10 I DON'T HAVE ANY IDEA WHAT THEY'RE GOING TO DO WITH
11 EACH JUROR I HAVE TO MAKE A DECISION ON MY PRE-
12 EMPTORY CHALLENGES BEFORE YOU EVEN GET TO WHAT
13 THEY'RE GOING TO DO WITH IT

14 SO HOW IS HE ARGUING THAT I KNOW WHAT
15 THEY'RE GOING TO DO WHEN I'M GOING TO HAVE TO
16 EXERCISE MY CHALLENGES BEFORE WE EVEN KNOW WHETHER
17 THEY'RE GOING TO EXERCISE THEIRS THAT'S LUDICROUS
18 IT'S JUST NOT LOGICAL

19 SECONDLY, YOUR HONOR, THE ARGUE THAT
20 I KNOW THAT THEY'RE GOING TO HAVE TO USE TEN PRE-
21 EMPTORY CHALLENGES IN THE FIRST TWENTY-TWO I DON'T
22 KNOW WHAT THEY'RE GOING TO DO I'LL BE HONEST WITH
23 YOU RIGHT NOW, I'VE BEEN A LITTLE BIT SURPRISED BY
24 SOME OF THE THINGS THEY'VE DONE SO FAR AND CERTAINLY
25 EXPECT ADDITIONAL SURPRISES ALONG THE WAY I DON'T

1 KNOW EXACTLY WHAT THESE GUYS HAVE GOT PLANNED AND
2 IT'S JUST NOT FAIR OR SENSIBLE TO ARGUE TO YOU THAT
3 I DO

4 ADDITIONALLY, JUDGE, AS FAR AS THE
5 PANELS ARE CONCERNED AND THE FAIRNESS IN MIXING THEM
6 UP FIRST OF ALL, WE HAD OUR FIRST PANEL AND THE
7 KEY TO BEING FAIR AND THE KEY TO NOT PREJUDICING
8 THIS DEFENDANT'S EFFORT IN GETTING A REPRESENTATIVE
9 JURY OF THIS COUNTY AND A FAIR IMPARTIAL JURY IS
10 THAT NUMBER ONE THAT THE JURORS BE BROUGHT IN HERE,
11 BASED ON SOME RANDOM SELECTION PROCESS AND NUMBER
12 TWO, ONCE THEY'RE QUALIFIED, THAT THE ORDER OF THEIR
13 SELECTION BE IMPLEMENTED IN SOME RANDOM, UNBIASED
14 PROCESS BOTH OF THOSE PROCESSES WERE USED IN EACH
15 INSTANCE, I ARGUE TO YOU, BY THE CLERK OF COURT IN
16 THIS COUNTY

17 WITH REGARD TO THE FIRST TWENTY-SEVEN
18 JURORS THAT MAY BE SELECTED, TWENTY-SIX OF THOSE
19 JURORS COME FROM THE ORIGINAL PANEL MORE THAN
20 LIKELY, ALL TWELVE JURORS SEATED ON THIS JURY WILL
21 COME FROM THE ORIGINAL PANEL THIS DEFENDANT WILL
22 BE JUDGED BY A JURY OF HIS PEERS FROM THIS COUNTY
23 RANDOMLY SELECTED AND HIS LAWYERS WILL HAVE HAD
24 THIRTY DAYS TO RESEARCH THEM, TO FIND OUT WHAT THEY
25 NEED TO KNOW ABOUT THEM, TO DO WHATEVER IT IS THEY

1 WANT TO DO IN ADDITION TO THE QUESTIONS THEY'VE BEEN
2 ABLE TO ASK THEM HERE IN COURT THEY DON'T -- THE
3 SECOND TWO PANELS THAT THEY REFER TO, THERE'S A
4 NINETY-NINE POINT NINE PERCENT CHANCE THAT THE
5 SECOND TWO PANELS WILL NOT EVEN, IN THE ORIGINAL
6 SELECTION PROCESS, PARTICIPATE IN THE ULTIMATE GUILT
7 OR INNOCENCE OF THEIR CLIENT, AND PARTICULARLY IN
8 THE ULTIMATE LIFE OR DEATH SENTENCE OF THEIR CLIENT

9 IF THEY DO, I ARGUE TO YOU THERE IS
10 STILL NO PREJUDICE AND I'LL GET TO THAT REAL
11 QUICKLY BUT ORIGINALLY, WHAT I'M TRYING TO SAY TO
12 YOU, IS THAT THE FIRST PANEL WAS IMPANELED PROPERLY,
13 THE SECOND AND THIRD WAS IMPANELED PROPERLY
14 THEY'RE NOT ENTITLED THAT THE FIRST AND SECOND PANEL
15 BE MIXED IN ORDER TO GET THE SUBSTANTIVE DUE PROCESS
16 FAIR NON-PREJUDICE REPRESENTATION OF THE COMMUNITY
17 THAT THEY'RE ENTITLED TO THE FACT THAT THEY ARE
18 SELECTED RANDOMLY AND THEY WERE SELECTED IN SOME
19 ORDER CONSTITUTES THAT THEY INSURED THOSE RIGHTS,
20 YOUR HONOR

21 NOW, AGAIN, TO JUST -- AND I DON'T
22 ALWAYS CATCH EVERY ANGLE ON ALL POINTS, BUT I'M
23 TRYING TO, YOU KNOW, LOOK AT SOME OF THE ARGUMENTS
24 ON THE ONE HAND, THEY'RE TELLING YOU, JUDGE, DON'T
25 BRING THESE OTHER JURORS BECAUSE WE HAVEN'T HAD TIME

1 TO LEARN ANYTHING ABOUT THEM, AT LEAST PANELS TWO
2 AND THREE NOW THEY'RE SAYING MIX PANELS TWO AND
3 THREE IN THERE, WE WANT TO DRAW THOSE AND PUT THEM
4 ON THE ORIGINAL TWELVE WHEN IT'S VERY LIKELY NOW
5 THAT THEY WON'T EVEN SIT ON THE ORIGINAL TWELVE
6 I'M TALKING ABOUT ANYBODY FROM PANELS TWO AND THREE
7 NOW THEY WANT TO THROW EVERYBODY FROM PANELS TWO
8 AND THREE AND THERE APPEAR TO BE NINE OR TEN
9 POTENTIAL -- NINE OR TEN JURORS IN THE ELEVEN IN THE
10 GROUP OF THIRTY-SEVEN THAT WE HAD THAT WOULD
11 ORDINARILY NOT EVEN RESULT IN THEIR HAVING TO
12 CONSIDER THEM

13 AND, JUDGE, I'LL TELL YOU WHY THEY
14 WANT THAT THEY WANT THAT BECAUSE THEY'VE HAD A
15 CHANCE TO ACCESS WHICH JURORS THEY WANT AND THEY
16 DON'T LIKE THE FIRST DRAWING THEY DON'T LIKE THE
17 FIRST DRAWING, THAT'S THE BOTTOM LINE THEY THINK
18 THAT -- THEY DON'T LIKE IT, THEY DON'T LIKE THE
19 FIRST DRAWING AND THEY WANT ANOTHER SHOT AT IT AND
20 THAT'S NOT FAIR BECAUSE YOU GAVE THEM A CHANCE
21 FRIDAY YOU GAVE THEM A CHANCE TO SAY, LOOK, IF YOU
22 JUST WANT TO QUALIFY THEM AND MIX THEM UP LATER, WE
23 CAN DO THAT AND YOU KNOW WHY THEY DIDN'T TELL YOU
24 THAT? THEY DIDN'T TELL YOU THAT BECAUSE THEY DIDN'T
25 WANT TO DO IT THAT WAY, THEY WANTED TO DO IT THIS

1 WAY, THAT'S WHY AND NOW THEY'VE CHANGED THEIR MIND
2 BECAUSE THEY DON'T LIKE THE WAY THEY TURNED OUT AND
3 IT WOULDN'T BE FAIR TO SWITCH NOW, JUDGE

4 MR GARRETT IF IT'LL PLEASE THE
5 COURT, YOUR HONOR

6 THE COURT MR GARRETT

7 MR GARRETT YOUR HONOR, I DON'T
8 KNOW I DIDN'T KNOW THE COURT HAD EVEN INDICATED
9 THAT IT WAS GOING TO DO A SWITCH ON THIS THING I
10 THOUGHT THE COURT'S POSITION HAD BEEN PRETTY
11 CONSISTENT THAT YOUR INTENTION WAS TO DRAW AS THEY
12 CAME UP AT LEAST THAT WAS FROM THE INITIAL
13 CONVERSATION AND WE AGREE WITH SOLICITOR THAT'S WHAT
14 THE COURT SAID AND IN THE INITIAL PANEL, THAT WAS
15 BEFORE WE KNEW THAT WE WOULDN'T HAVE ENOUGH AT
16 THAT TIME, THERE WAS SEVENTY-FIVE, EIGHTY JURORS OUT
17 THERE, WE THOUGHT WE WOULD HAVE ENOUGH AND IF THAT
18 WAS THE STANDARD WAY THIS COURT HAS OPERATED
19 HISTORICALLY, THAT WOULD HAVE BEEN A FAIR WAY OF
20 DOING IT, WE COULDN'T COMPLAIN ABOUT THAT BUT THIS
21 HAS BEEN AN UNUSUAL CIRCUMSTANCE AND THIS HAS NOT
22 BEEN A SCHEME ON BEHALF OF THE DEFENSE OR SOME KIND
23 OF FUN THING THAT WE'RE DOING HERE THE CALLING OF
24 THE SECOND AND THIRD PANELS WERE NOT IN OUR LIKING
25 TO START WITH BUT IT WAS DONE AND THEY'RE HERE,

1 AND NOW THEY'RE A PART OF THIS PROCESS THE SECOND
2 AND THIRD PANEL ARE PART OF THE PROCESS

3 IT'S INTERESTING HOW THE SOLICITOR
4 CAN SAY HE KNOWS THAT NINETY-NINE PERCENT OF THE
5 JURORS ARE GOING TO COME FROM THE FIRST TWENTY-
6 SEVEN AGAIN, THAT GOES BACK TO OUR ARGUMENT, HE
7 MOST KNOW WHAT WE'RE GOING TO DO IF HE'S ABLE TO
8 ARTICULATE THAT SO WELL WITHOUT EVEN KNOWING, YOU
9 KNOW, WHAT WE INTEND TO DO IT'S VERY --

10 THE COURT I THINK HE'S JUST
11 COUNTING THE CHALLENGES AND THE NUMBER OF THE
12 JURORS, IT'S NOT HARD TO DO THAT MATH

13 MR GARRETT I UNDERSTAND, YOUR
14 HONOR, I UNDERSTAND THAT BUT BY THE SAME TOKEN,
15 FOR HIM TO BE ABLE TO TAKE AND MAKE THOSE KINDS OF
16 STATISTICAL POSITIONS OF NINETY-NINE PERCENT, THAT'S
17 PRETTY STRONG IN INDICATING THAT THE STATE KNOWS
18 WHAT OUR POSITION ON THOSE JURORS BASED UPON OUR
19 OBJECTIONS TO THEM BEING QUALIFIED AND WHAT NOT
20 DURING THE PROCESS

21 YOUR HONOR, WE ALSO TAKE THE POSITION
22 THAT THOSE JURORS FROM THE SECOND AND THIRD PANEL
23 HAVE A RIGHT TO BE INCLUDED IN THIS PROCESS
24 THEY'VE HAD TO COME OUT HERE AND BE APART OF ALL
25 THIS THEY HAD TO BE TAKEN AWAY FROM THEIR HOUSES,

1 THEIR HOMES AND THEIR JOBS AND THEY HAD TO BE -- AND
2 HAD TO BE HERE JUST A COUPLE OF DAYS AND THEN TO PUT
3 THEM THROUGH ALL THAT AND THEN EXCLUDE THEM FROM THE
4 PROCESS BECAUSE OF STATISTICAL ABILITY TO DO THAT
5 SEEMS TO ME TO VIOLATE THE CROSS-SECTION OF THE
6 ENTIRE COMMUNITY BEING INVOLVED IN THIS PROCESS
7 ESPECIALLY AFTER THEY HAD TO GO THROUGH THE PROCESS
8 IT SEEMS TO ME LIKE THEY OUGHT TO BE FAIRLY INCLUDED
9 IN THE PROCESS THAT'S FROM THE JURY POINT OF VIEW

10 YOUR HONOR, WE FEEL LIKE THE ORDER OF
11 THE DRAWING IS THAT THE SECOND AND THIRD POOLS WERE
12 NOT GIVEN THE OPPORTUNITY TO BE INCLUDED IN THIS --
13 WHAT WAS THE REASON FOR BRINGING THEM IN HERE IF
14 THEY'RE NOT GOING TO BE INCLUDED IN THE PROCESS
15 WHY WOULD WE DO THAT WE HAVE A FEELING -- THEY
16 NEEDED TO BE INCLUDED THE FAIREST WAY TO DO THAT
17 UNDER THESE CIRCUMSTANCES, AND AGAIN, THIS IS NOT
18 YOUR USUAL CIRCUMSTANCE WE'RE GOING WITH THIRTY-
19 SEVEN, AS I UNDERSTAND IT, WHICH IS STILL LESS THAN
20 FORTY WE'RE NOT REALLY HAPPY ABOUT THAT, WE PREFER
21 TO HAVE FORTY I'M ASSUMING THE COURT'S GOING TO GO
22 FORWARD BASED UPON THE COURT'S EARLIER STATEMENTS
23 BUT IF THE COURT'S GOING TO GO WITH THIRTY-SEVEN
24 INSTEAD OF FORTY, I'M ASSUMING THAT WE'RE GOING TO
25 HAVE LESS THAN THREE ALTERNATES, OF COURSE, WE'VE

1 MADE SOME CASES, THE COURT HAS DISCRETION TO DO THAT
2 IF THERE'S NO PREJUDICE SHOWN BUT THERE IS
3 PREJUDICE IN THIS CASE IF THOSE PANELS ARE NOT MIXED
4 FOR THE PURPOSE OF THIS SELECTION PROCESS

5 THE COURT OF COURSE THE REASON THAT
6 THE ADDITIONAL PANELS WERE DRAWN WAS, OBVIOUSLY,
7 BECAUSE WE HAD A DEFICIENT NUMBER OF JURORS
8 POTENTIALLY TO PARTICIPATE IN THE TRIAL OF THIS CASE
9 BASED UPON THE NUMBER OF JURORS THAT NEEDED TO BE
10 SELECTED AND THE NUMBER OF PRE-EMPTORY CHALLENGES
11 THAT COULD BE EXERCISED BY BOTH THE STATE AND BY THE
12 DEFENDANT AND, THEREFORE, PURSUANT TO 14-7-300 AND
13 14-7-160 I EXERCISE MY DISCRETION IN REQUIRING THAT
14 THE JURY COMMISSIONER SUMMON ADDITIONAL JURORS TO
15 PARTICIPATE IN THE EVENT IT WAS NECESSARY TO HAVE
16 ADDITIONAL JURORS TO COMPLETE JURY SELECTION

17 UNDERSTAND, AND THERE ARE AT LEAST
18 TWO RANDOM SELECTION PROCESSES INVOLVED ALREADY IN
19 THIS CASE THE FIRST WAS THE ORIGINAL PANEL THAT
20 WAS SELECTED BY A COMPUTER AT RANDOM FROM ALL THOSE
21 NAMES CONTAINED ON THE COMPUTER PROGRAM THOSE
22 BEING NAMES OF PERSONS WHO ARE REGISTERED VOTERS IN
23 ABBEVILLE COUNTY, THOSE PERSONS HAVING DRIVER'S
24 LICENSES IN ABBEVILLE COUNTY, AND THOSE PERSONS
25 HAVING IDENTIFICATION CARDS ISSUED BY THE SOUTH

1 CAROLINA DEPARTMENT OF TRANSPORTATION LIVING IN
2 ABBEVILLE COUNTY SO THE COMPUTER HAS RANDOMLY
3 SELECTED THAT FIRST PANEL THE COMPUTER DID THE
4 SAME THING WITH THE SECOND PANEL OF ONE HUNDRED EVEN
5 THOUGH IT WAS SEVENTY-FIVE AND AN ADDITIONAL TWENTY-
6 FIVE, THE COMPUTER IS STILL SELECTING THOSE JURORS
7 AT RANDOM FROM THOSE PERSONS AVAILABLE FOR SERVICE
8 IN ABBEVILLE COUNTY BASED UPON THE STATUTORY
9 REQUIREMENTS FOR JURY SERVICE OR AT LEAST THOSE
10 THAT ARE SUBJECT TO SELECTION SO WE ALREADY HAVE
11 ONE RANDOM SELECTION PROCESS ACCOMPLISHED WITH THE
12 ORIGINAL AND THE SECOND JURY VENIRE ITSELF

13 ONCE THOSE JURORS WERE SUMMONED TO
14 APPEAR, WE HAVE AN ADDITIONAL RANDOM SELECTION
15 PROCESS WITH REGARD TO THOSE PANELS BECAUSE AFTER
16 THE PANELS WERE QUALIFIED TO SERVE AS JURORS, THEY
17 WERE AGAIN PLACED -- THEIR NAMES PLACED IN CAPSULES,
18 THEY WERE AGAIN MIXED, AND THE CLERK DREW THOSE
19 NAMES AT RANDOM TAKING THE SLIP OUT OF THE CAPSULE
20 INDICATING THE NAME OF THE JUROR CONTAINED THEREIN
21 AND SO AGAIN, WE HAVE AN ADDITIONAL RANDOM SELECTION
22 PROCESS SO WITH REGARD TO THE CASE, WE'VE HAD AT
23 LEAST TWO RANDOM SELECTION PROCESSES ACCOMPLISHED
24 WITH RESPECT TO EACH PANEL

25 NOW UNDERSTAND THAT THE REASON THE

1 ADDITIONAL PANELS WERE DRAWN WAS BECAUSE THERE WERE
2 POTENTIALLY A DEFICIENT NUMBER OF JURORS TO ALLOW US
3 TO COMPLETE JURY SELECTION IN THIS CASE THE
4 SUMMONING OF THE ADDITIONAL JURORS WAS NOT FOR THE
5 PURPOSE OF GIVING THOSE JURORS THE PRIVILEGE OF
6 BEING ABLE TO PARTICIPATE IN THIS CASE, IF THEY WERE
7 CALLED UPON TO SERVE THE PURPOSE WAS TO HAVE
8 ADDITIONAL JURORS PRESENT IN THE EVENT THAT THEY
9 WERE NEEDED THAT'S THE REASON THAT THE LEGISLATURE
10 HAS SEEN FIT TO ALLOW TRIAL JUDGES TO SUMMON
11 ADDITIONAL JURORS SHOULD THE NEED BE NECESSARY
12 BECAUSE OF THE LACK OF A SUFFICIENT NUMBER IN THE
13 ORIGINAL JURY VENIRE

14 WHILE I APPRECIATE AND WHILE I LIKE
15 THE CREATIVE OF YOUR ARGUING THIS AGAIN WITH REGARD
16 TO COMPARING A POKER GAME WITH JURY SELECTION
17 PROCESS, I FIND THAT THE ONLY SIMILARITY IS THE FACT
18 THAT THERE IS SOME ODDS AND SOME GAMBLING IN THE
19 SELECTION PROCESS BUT I DO NOT FIND THAT, LIKE IN
20 POKER WHERE THERE ARE ACES IN THE DECK, I DON'T FIND
21 THAT IN JURY SELECTION WHERE WE'VE BEEN THROUGH THE
22 PROCESS THAT WE HAVE BEEN THROUGH AND EACH OF THESE
23 JURORS HAVE BEEN QUALIFIED TO SERVE, THAT THERE
24 AREN'T ANY ACES IN THIS DECK OR THERE ARE ANY TWO'S
25 IN THE DECK ALL THE JURORS ARE EQUAL IN MY EYES

1 AND EQUAL IN THE EYES OF THE LAW THEY HAVE EACH
2 BEEN QUALIFIED AND, OF COURSE, THEIR SELECTION HAS
3 BEEN DETERMINED RANDOMLY, ALTHOUGH THEY ARE NOT ON A
4 LIST IN SOME ORDER

5 SO BASED ON THE ARGUMENTS I'VE HEARD,
6 I FIND NO PREJUDICE WITH THE -- TO THE DEFENDANT
7 FOLLOW WITH MY ORIGINAL PLAN TO ENGAGE IN JURY
8 SELECTION BY THE ORDER ORIGINALLY MADE AND THAT IS
9 WHICH WAS DONE BY RANDOM SELECTION OF THE COURT IN
10 SETTING THOSE NAMES ON THE LIST AND IN ORDER FOR US
11 TO ENGAGE IN INDIVIDUAL VOIR DIRE SO I'M GOING TO
12 DENY YOUR MOTION FOR THE NOW REMAINING THIRTY-SEVEN
13 JURORS TO BE SHUFFLED AGAIN IN ORDER FOR JURY
14 SELECTION TO TAKE PLACE

15 MR GARRETT YOUR HONOR, COULD I
16 JUST BRING TWO POINTS? THE COURT'S RULED AND I
17 ACCEPT, OBVIOUSLY, THE COURT'S RULING I JUST WANT
18 TO POINT OUT ONE OTHER THING, YOUR HONOR IN YOUR
19 ANALYSIS ABOUT ALL JURORS ARE FAIR AND EQUAL IN THE
20 EYES OF THE LAW WE RESPECT THAT, AS WELL
21 HOWEVER, WITH REGARDS TO PRE-EMPTORY CHALLENGES IS
22 TO HELP THE DEFENSE MAKE SURE WE CAN KEEP IT THAT
23 WAY HOPING THAT THEY WILL ALL BE -- IF THAT WERE
24 THE CASE, WE WOULD ACCEPT THE FIRST TWELVE AND THAT
25 WOULD BE THE END OF INQUIRY THE PURPOSE OF PRE-

1 EMPTORIES IS STATISTICALLY AND PROCEDURALLY DESIGNED
2 TO MAKE SURE OF THAT PROCESS, TO MAKE SURE THAT THEY
3 ARE -- THROUGH THE HARD WORK OF THE STATE AND HARD
4 WORK OF THE DEFENSE I JUST WANTED THAT ON THE
5 RECORD

6 YOUR HONOR, ALSO ONE OTHER THING THAT
7 WE'VE DISCOVERED IN THE PROCESS OF THE SECOND OR
8 THIRD DRAW, APPARENTLY THE SHERIFF OF ABBEVILLE
9 COUNTY IS A COMMISSIONER WE WOULD FEEL LIKE THAT
10 WOULD BE HIGHLY INAPPROPRIATE, ESPECIALLY ON A
11 CAPITAL CASE, WHERE THE SHERIFF OF THE COUNTY, IN
12 WHICH HE'S BEING PROSECUTED, WOULD BE ON THAT JURY
13 COMMISSION FOR ANY REASON WE JUST WANTED THAT ALSO
14 ON THE RECORD

15 THE COURT THIS IS NOT A COUNTY,
16 CASE, IS IT?

17 MR GARRETT NO, SIR, YOUR HONOR
18 IT'S STATE OF SOUTH CAROLINA VERSUS HIM IT ARISES
19 OUT OF THE CITY BUT THE CITY IS IN THE COUNTY, YOUR
20 HONOR

21 THE COURT I UNDERSTAND BUT THE
22 SHERIFF IS NOT A PARTY TO THIS PARTICULAR CASE AND
23 THE SHERIFF IS NOT A WITNESS IN THIS CASE AND PLAYED
24 NO PART IN THE INVESTIGATION OF THIS CASE?

25 MR GARRETT TO MY KNOWLEDGE, YOUR

1 HONOR, I DON'T SEE -- AWARE OF ANY COUNTY OFFICER
2 WHO HAS ANY POSITION TO TESTIFY IN THIS CASE TO MY
3 KNOWLEDGE

4 THE COURT OF COURSE I'M AWARE THAT
5 THE PRE-EMPTORY CHALLENGES ARE EXERCISE FOR THE
6 PURPOSE OF REMOVING JURORS THAT EITHER HAVE
7 QUALIFIED, EITHER PARTY MAY FEEL SHOULD NOT SIT IN A
8 PARTICULAR SIT AND I RECOGNIZE THAT'S THE PURPOSE OF
9 THOSE PRE-EMPTORY CHALLENGES BUT ALL JURORS WHO
10 ARE ON THIS LIST HAVE BEEN QUALIFIED YOU MAY HAVE
11 SOME REASON FOR STRIKING A POTENTIAL JUROR, THAT'S
12 NOT SOMETHING I SHOULD BE CONCERNED WITH BUT AS
13 I'VE INDICATED AND AS I FIRMLY BELIEVE, I DO NOT
14 THINK THE PROCEDURE THAT I HAVE SET FORTH IS A
15 PROCEDURE THAT DENIES THE DEFENDANT OF ANY
16 FUNDAMENTAL FAIRNESS, ANY DUE PROCESS OR RESULTS IN
17 ANY PREJUDICE TO THE DEFENDANT

18 MR GARRETT THANK YOU, YOUR HONOR

19 MR JONES JUDGE, I THINK THEY DO
20 HAVE ANOTHER MOTION BUT BEFORE WE GO FORWARD AND I
21 HOPE YOU DON'T FEEL THAT BY SAYING THIS I'M BEING
22 FRIVOLOUS I'D JUST LIKE TO GO ON THE RECORD FOR
23 ONE INSTANCE AS FAR AS THE STATE'S POSITION IN
24 RESPONSE TO SOMETHING MR GARRETT SAID THAT
25 TRIGGERED MY THOUGHT PROCESS AND HAS BEEN A STRONGLY

1 HELD BELIEF BY ME SINCE I'VE BEEN THE SOLICITOR
2 HERE

3 I DON'T LIKE PRE-EMPTORY CHALLENGES
4 I THINK THAT ONCE JURORS ARE QUALIFIED, THEY'RE
5 QUALIFIED AND THEY OUGHT TO BE SEATED I HAVE OFTEN
6 ESPOUSED MY PERSONAL VIEW TO JURY PANELS THAT I JUST
7 AS SOON DO AWAY WITH PRE-EMPTORY CHALLENGES AND NOT
8 USE THEM I WILL SOLIDIFY TODAY MY POSITION AND
9 STATE THAT I'LL TAKE THE FIRST TWELVE AND NOT USE
10 ANY PRE-EMPTORY CHALLENGES IN THIS CASE IF THE
11 DEFENSE WILL AGREE TO DO THAT I'LL TAKE THE FIRST
12 TWELVE AND NOT EXERCISE ANY PRE-EMPTORY CHALLENGES
13 IN THIS CASE

14 THE COURT OF COURSE, YOU CAN DO
15 THAT WHETHER THEY AGREE TO OR NOT, IF YOU WISH

16 MR JONES IN A REAL EFFORT TO BE
17 FAIR, THOUGH, I'D WANT TO SEE THAT BOTH SIDES DID
18 IT YES, SIR

19 THE COURT WITHOUT HEARING ANY
20 ARGUMENT FROM THE DEFENSE, I DON'T ANTICIPATE THAT
21 THEY WOULD AGREE TO SUCH A SELECTION PROCESS AS
22 THAT BUT IF THEY WISH TO, THEY CAN DO IT WITHOUT
23 STATING IT FOR THE RECORD ALL RIGHT, WHAT ELSE?

24 MR TINSLEY PLEASE NOTE MY
25 OBJECTIONS AS PREVIOUSLY CITED FOR JURORS NUMBER

1 FIFTY-NINE, NINETY-FIVE, TEN, FIFTY-THREE, THREE
2 ZERO FIVE, THREE TWENTY-TWO AND THREE SEVENTEEN

3 THE COURT ALL RIGHT, YOU'RE GOING
4 TO HAVE TO GIVE ME THOSE AGAIN

5 MR TINSLEY YES, SIR, THAT'S NUMBER
6 FIFTY-NINE

7 THE COURT FIFTY-NINE, ALL RIGHT

8 MR TINSLEY FIFTY-NINE, RELATED TO
9 THE VICTIMS, NINETY-FIVE, HESSON IT'S OUR POSITION
10 HE WORKS IN THE CITY COURTHOUSE

11 THE COURT JUST TELL ME THEIR NAMES

12 MR TINSLEY TEN IS BATTLE, FIFTY-
13 FIVE IS DALY, THREE O FIVE IS BROWN

14 THE COURT THREE O FIVE?

15 MR TINSLEY THREE O FIVE IS BROWN

16 THE COURT OKAY

17 MR TINSLEY THREE TWENTY-TWO,
18 PIERCE, AND THREE SEVENTEEN, MACK AND, OF COURSE,
19 YOU WERE CHECKING ON THAT I WAS CURIOUS AS TO ---

20 THE COURT WELL, WE'VE NOT BEEN ABLE
21 TO GET AHOLD OF MR MACK, YET, BUT SHOULD BE
22 SHORTLY

23 MR TINSLEY OKAY

24 THE COURT WHAT'S THE NEXT MATTER
25 THAT NEEDS TO BE PRESENTED?

1 MR McCALLUM YOUR HONOR, AT THIS
2 TIME WE'D LIKE TO, IF I COULD, GO DOWNSTAIRS AND GET
3 THE CLERK FOR COUNTY COUNCIL AND GIVE HER A CHANCE
4 TO COME

5 THE COURT OKAY
6 (OFF THE RECORD)

7 THE COURT I NOTICED THAT MS HILL
8 HAS ARRIVED FINALLY DOES EITHER SIDE WISH TO GET
9 HER QUALIFIED OR EXCUSED OR WHAT'S THE WISH OF THE
10 STATE AND THE DEFENSE?

11 MR JONES THE STATE'S POSITION IS,
12 YOUR HONOR, SHE CAME IN LATE THE FIRST TIME YOU
13 ASKED HER TO BE HERE SHE SAID SHE HAD A DEPOSITION
14 AND NOW SHE'S LATE AGAIN TODAY I DON'T KNOW WHAT
15 HER REASON IS TODAY I FEEL A NEED TO GO THROUGH
16 THE QUALIFICATION PROCESS WITH HER

17 THE COURT SHE WAS ASLEEP TODAY
18 THAT WAS HER REASON SHE WAS ASLEEP

19 MR GARRETT I BEG THE COURT'S
20 INDULGENCE AS TO THE DEFENSE'S POSITION

21 MR TINSLEY I THINK WE SHOULD
22 QUALIFY MS HILL, YOUR HONOR THE ONLY REASON I
23 WOULD SAY OTHERWISE IS SHE HEARD TOO MUCH I MEAN -
24 - WELL, AS YOU SAID EARLIER, THE FIRST TWENTY-SIX
25 AREN'T BACK YET THAT WAS SEVERAL DAYS AGO, AND

1 WE'VE ALREADY HAD ONE OUT OF THE SECOND ELEVEN
2 SAYING SOMETHING ABOUT HEALTH PROBLEMS, SO I THINK
3 OUT OF AN ABUNDANCE OF CAUTION IT MAKES SOME SENSE,
4 AND IT, YOU KNOW, IF WE HAD FOUR OR FIVE, YOU KNOW,
5 ---

6 MR McCALLUM YOUR HONOR, AT THIS
7 TIME THE DEFENSE WOULD CALL MS CAROL A CHRISSLY,
8 CLERK OF THE COUNTY COUNCIL, TO THE STAND
9 (WITNESS PRESENTED AT 12 00 O'CLOCK NOON)

10 CLERK RAISE YOUR -- THE EVIDENCE
11 YOU SHALL GIVE THE COURT IN THE TRIAL OF THIS CASE
12 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
13 THE TRUTH, SO HELP YOU, GOD?

14 WITNESS I DO

15 DIRECT EXAMINATION BY MR McCALLUM

16 Q MS CHRISSLY, CAN YOU GIVE US YOUR FULL NAME
17 AND WHAT YOUR JOB TITLE IS?

18 A MY NAME IS CAROL A CHRISSLY, CAROL A
19 CHRISSLY, AND I CLERK AT THE COUNCIL FOR ABBEVILLE
20 COUNTY

21 Q AND THAT'S THE COUNTY COUNCIL OF ABBEVILLE
22 COUNTY?

23 A YES, SIR

24 Q AND THAT'S THE GOVERNING BODY OF ABBEVILLE
25 COUNTY, IS IT NOT?

1 A YES, SIR

2 Q MS CHRISSLY, IS PART OF YOUR REGULAR DUTY TO
3 PREPARE MINUTES OF COUNCIL MEETINGS?

4 A YES, SIR

5 Q CAN YOU TELL US HOW YOU DO THAT?

6 A WELL, WE TAPE THE MEETINGS ON OUR RECORDER AND
7 I TAKE THE MOTIONS DOWN ON A STENO PAD, AND THEN
8 WHEN I GO BACK I DO THE MINUTES THROUGH MY --
9 THROUGH THE RECORDER YOU KNOW, WE RECORD AND I DO
10 MY MINUTES --

11 Q SO AS YOU ---

12 A -- WITH THAT

13 Q SO AS YOU TYPE UP THE MINUTES YOU ARE ACTUALLY
14 LISTENING TO A REPLAY OF THE COUNCIL MEETING?

15 A EXACTLY YES, SIR

16 Q I'M GOING TO HAND YOU UP A SERIES OF WHAT
17 APPEAR TO BE MINUTES CAN YOU GO THROUGH THOSE VERY
18 BRIEFLY AND JUST TELL US WHAT MEETINGS THOSE COVER?
19 I, I MEAN THE DATES

20 A OH, OKAY DID YOU WANT ME TO READ THE
21 MINUTES?

22 Q NO, NOT YET WE MAY GET INTO SOME SPECIFIC
23 SECTIONS --

24 A OKAY

25 Q -- BUT IF YOU'D JUST TELL US WHAT DATES THOSE,

1 THOSE MINUTES COVER

2 A OH, OKAY THIS IS THE REGULAR MEETING OF
3 SEPTEMBER ELEVENTH, 1989, A SPECIAL MEETING OF
4 SEPTEMBER 21ST, 1989, AND A SPECIAL MEETING OF
5 SEPTEMBER 25TH, 1989

6 Q ARE THOSE EXACT COPIES OF THE ORIGINAL MINUTES
7 THAT YOU PREPARED?

8 A YES, SIR

9 Q ARE THOSE ORIGINAL MINUTES LOCATED IN YOUR
10 OFFICE?

11 A YES, SIR

12 Q AND DO YOU KEEP THOSE MINUTES IN THE REGULAR
13 COURSE OF YOUR DUTIES AS CLERK OF COURT, I MEAN
14 CLERK OF COUNCIL?

15 A YES, I DO

16 Q WERE THERE -- TO YOUR KNOWLEDGE WERE THERE ANY
17 OTHER MEETINGS HELD IN SEPTEMBER OF 1989 THAT WOULD
18 NOT BE REFLECTED IN THOSE MINUTES?

19 A NO, SIR

20 Q MS CHRISSLY, I THINK YOU HAVE PREVIOUSLY
21 REVIEWED THOSE MINUTES CAN YOU FIND ANY REFERENCE
22 ANYWHERE IN THERE OR DO YOU HAVE ANY INDEPENDENT
23 RECOLLECTION OF COUNTY COUNCIL AUTHORIZING THE CLERK
24 OF COURT TO DRAW JURIES BY RANDOM COMPUTER
25 SELECTION?

1 A NO, SIR

2 Q NOW, I UNDERSTAND THAT YOU AT MY REQUEST WROTE
3 A LETTER OCTOBER 20TH, 19 -- DATED OCTOBER 20TH,
4 1997, IS THAT CORRECT?

5 A YES, SIR

6 Q AND IS THAT LETTER A TRUTHFUL STATEMENT?

7 A YES

8 Q ALL RIGHT COULD YOU READ THAT TO US?

9 A UH-HUH (AFFIRMATIVE)

10 Q AND THAT'S COURT EXHIBIT 11 FOR THE BENEFIT OF
11 THE REPORTER

12 A "TO WHOM IT MAY CONCERN I HAVE REVIEWED THE
13 MINUTES OF COUNCIL RESOLUTIONS AND ORDINANCES FROM
14 1986 TO DATE AND CAN FIND NO INDICATION AUTHORIZING
15 THE USE OF A -- THE COMPUTER IN THE JURY SELECTION
16 PROCESS "

17 Q NOW, MS CHRISSLY, I UNDERSTAND THAT IN THE
18 SEPTEMBER 21ST, 1989, MEETING -- I WOULD REFER YOU
19 TO THE SECOND, FULL, LARGE PARAGRAPH OF THESE
20 MINUTES OF THAT MEETING COULD YOU BRIEFLY REVIEW
21 THOSE SO THAT WE MIGHT BE ABLE TO DISCUSS THEM?

22 A (WITNESS COMPLIES WITH REQUEST)

23 Q ALL RIGHT, HAVE YOU REVIEWED THOSE?

24 A YES, SIR

25 Q CAN YOU TELL US THE BASIC SUBJECT OF THAT

1 PORTION OF THE MEETING?

2 A PURCHASING THE COMPUTER FROM GREENWOOD COUNTY,
3 THE AS-400

4 Q OKAY AND THAT'S AN I B M TYPE COMPUTER THAT
5 THE COUNTY USES?

6 A I GUESS SO

7 Q YOU DON'T KNOW WHAT TYPE?

8 A NO, I DON'T

9 Q IS IT THE COMPUTER THAT ---

10 A IT'S THE COMPUTE -- YEAH

11 Q ALL RIGHT IS THAT THE COMPUTER THAT THE
12 COUNTY STILL USES TODAY? OR HAVE Y'ALL---

13 A I'M NOT SURE ON WHETHER THEY STILL USE IT
14 WE'RE UNDER SUBMITTED DATA RIGHT NOW, BUT I'M NOT
15 SURE WHETHER THEY STILL USE THE A-S

16 Q DO YOU HAVE AN INDEPENDENT RECOLLECTION OF
17 THAT SEPTEMBER 21ST, 1989, MEETING? DO YOU REMEMBER
18 IT IN YOUR OWN MIND?

19 A NO, NOT REALLY NOT THAT I RECALL

20 Q DO YOU HAVE ANY RECOLLECTION OF WHETHER OR NOT
21 USING A COMPUTER TO SELECT A JURY WAS DISCUSSED
22 DURING THAT MEETING?

23 A I DON'T RECALL

24 Q ALL RIGHT I UNDERSTAND YOU'VE BEEN KIND
25 ENOUGH TO PROVIDE ME WITH SOME ADDITIONAL DOCUMENTS

1 MR McCALLUM YOUR HONOR, AT THIS
2 TIME WE WOULD MOVE TO HAVE THE MINUTES FROM
3 SEPTEMBER ELEVENTH THROUGH THE SEPTEMBER 25TH
4 COUNCIL MEETINGS MADE A COURT EXHIBIT

5 THE COURT MOVED INTO EVIDENCE

6 MR COULTER NO OBJECTION, YOUR
7 HONOR

8 (REPORTER MARKED PERTINENT DOCUMENT AS COURT'S
9 EXHIBIT #21)

10 THE COURT THEY'RE ADMITTED

11 Q MS CHRISSLY, I'M HANDING UP TO YOU AN
12 UNSTAPLED FIVE PAGES WOULD YOU TELL ME WHAT THAT
13 IS? CAN YOU IDENTIFY THAT FOR US?

14 A IT'S THE GREENWOOD COUNTY COMPUTER PROPOSAL
15 THAT WE PROPOSED TO GREENWOOD COUNTY

16 Q AND YESTERDAY DID YOU PROVIDE THAT FOR ME?

17 A YES, SIR

18 Q ALL RIGHT ANYWHERE IN THAT PROPOSAL, DOES IT
19 DISCUSS THE SELECTION OF A JURY OR A PROGRAM FOR
20 SELECTION OF A JURY VENIRE AND I DIRECT YOUR
21 ATTENTION -- I BELIEVE IT'S ABOUT THE SECOND OR
22 THIRD PAGE OF THAT PROPOSAL

23 A UH-HUH (AFFIRMATIVE) UNDER WHERE IT SAYS,
24 SOFTWARE SYSTEMS PROVIDED BY GREENWOOD COUNTY WILL
25 BE AS FOLLOWS CIRCUIT COURT, FAMILY COURT,

1 PROGRAMS, FIVE THOUSAND, AND INSTALLED, THREE
2 HUNDRED DOLLARS AND THEN THEY HAVE JURY SELECTION,
3 PROGRAM'S ONE THOUSAND INSTALLATION, TWO HUNDRED
4 DOLLARS

5 Q AND ALSO I WOULD DIRECT YOUR ATTENTION TO THE
6 FIFTH PAGE, TOP PARAGRAPH COULD YOU READ THAT FOR
7 US HERE?

8 A "JURY SELECTION GREENWOOD COUNTY HAS
9 PERFORMED THE JURY SELECTION ON THE COMPUTER SINCE
10 THE APPROVAL BY COURT ADMINISTRATION " AND THEN IN
11 PARENTHESES, "WE WERE THE FIRST COUNTY APPROVED IN
12 THE STATE " END OF PARENTHESES "NOT ONLY DOES OUR
13 COMPUTER PROVIDE THE REQUIRED RANDOM SELECTION, BUT
14 ALSO PROVIDES IMMEDIATE PANNING OF THE JURORS VIA
15 OUR FAMILY COURT CHECK WRITING CAPABILITY THE
16 YEARLY REBUILD OF THE FILES ASSOCIATED WITH THE JURY
17 SYSTEM PREVENTS PERSONS FROM SERVING MORE THAN ONCE
18 EVERY TWO YEARS FOR CIRCUIT COURT JURY AND PREVENTS
19 SERVICE FOR THREE MONTHS AFTER SELECTION BY THE
20 MAGISTRATE COURT "

21 Q WHAT'S THE DATE OR THAT DOCUMENT?

22 A SEPTEMBER 20TH, 1989

23 Q IS THAT THE PROPOSAL THAT WAS DISCUSSED IN THE
24 SEPTEMBER 21ST, 1989, COUNCIL MEETING THAT WE SPOKE
25 ABOUT A FEW MOMENTS AGO?

1 A YES, SIR

2 Q OKAY AND THAT PROPOSAL JUST PUT THINGS IN
3 THE PROPER FRAMEWORK? THIS WAS A PROPOSAL BY
4 GREENWOOD COUNTY, CORRECT?

5 A THIS IS A PROPOSAL, PROPOSAL BY ABBEVILLE
6 COUNTY TO GIVE TO GREENWOOD COUNTY

7 Q TO GIVE TO GREENWOOD COUNTY?

8 A TO GREENWOOD COUNTY, YEAH, RIGHT

9 Q AND THE, THE, THE TALKING ABOUT "WE WERE THE
10 FIRST APPROVED TO USE COMPUTER SELECTION IN THE
11 STATE," THAT'S -- IS THAT ABBEVILLE COUNTY OR
12 GREENWOOD COUNTY THAT WAS THE FIRST APPROVED FROM
13 THE WAY YOU READ THIS DOCUMENT?

14 A I WAS LOOKING AT IT TO ABBEVILLE COUNTY

15 Q ALL RIGHT SO THAT IS A PROPOSAL FROM
16 GREENWOOD TO ABBEVILLE COUNTY, IS THAT CORRECT?

17 A TO ABBEVILLE COUNTY TO ABBEVILLE COUNTY,
18 GREENWOOD COUNTY WILL PROVIDE -- YEAH YES, SIR

19 Q AND MY UNDERSTANDING IS THAT THE COMPUTER WAS
20 IN GREENWOOD COUNTY AT THE TIME, WAS THAT CORRECT?

21 A YES, SIR

22 Q AND THAT ABBEVILLE COUNTY WAS LINKED, LINKED
23 VIA TELEPHONE LINE OR SOME METHOD OF COMMUNICATION?

24 A YES, SIR

25 Q DID YOU SEARCH YOUR RECORDS YESTERDAY FOR

1 DOCUMENTS RELATED TO THIS ISSUE OF COMPUTERS AND
2 JURY SELECTION?

3 A YES YES, SIR

4 Q ALL RIGHT WERE YOU ABLE TO FIND ANY DOCUMENT
5 THAT GAVE AN ACTUAL AUTHORIZATION TO THE CLERK OF
6 COURT OR TO THE ELECTION COMMISSION TO SWITCH OVER
7 TO USE A COMPUTER SYSTEM?

8 A I DIDN'T SEE ANYTHING

9 Q ALL RIGHT THIS IS REALLY A BUDGETARY
10 PROPOSAL, ISN'T IT? THIS IS HOW WE'RE GOING TO
11 SPEND OUR MONEY AND WHAT KIND OF COMPUTER SYSTEM
12 WE'RE GOING TO BUY, RIGHT?

13 A RIGHT

14 Q AND THIS IS THE PROPOSAL THAT WAS DISCUSSED IN
15 THE SEPTEMBER 21ST, 1989, MEETING?

16 A YES

17 MR McCALLUM YOUR HONOR, AT THIS
18 TIME I'D LIKE TO HAVE THE SEPTEMBER 20TH, 1989,
19 PROPOSAL MARKED AS COURT'S EXHIBIT 22

20 MR COULTER PLEASE, YOUR HONOR NO
21 OBJECTION

22 (REPORTER MARKS PERTINENT DOCUMENT AS COURT'S
23 EXHIBITS #22)

24 Q AND DID THAT PROPOSAL AND SUBSEQUENT COUNSEL
25 -- SUBSEQUENT COUNSEL ACTION RESULT IN AGREEMENT

1 BEING ENTERED INTO BETWEEN GREENWOOD COUNTY AND
2 ABBEVILLE COUNTY?

3 A YES, SIR

4 Q I'M PASSING YOU UP A -- WHAT APPEARS TO BE A
5 TEN-PAGE DOCUMENT CAN YOU IDENTIFY THAT FOR US?

6 A WELL, I'LL GOING TO READ THE FIRST PARAGRAPH
7 "THIS AGREEMENT" -- IT'S AN AGREEMENT -- "THIS
8 SEVENTH DAY OF NOVEMBER, 1989, BY AND BETWEEN THE
9 COUNTY OF GREENWOOD, SOUTH CAROLINA, HEREINAFTER
10 REFERRED TO AS GREENWOOD, AND THE COUNTY OF
11 ABBEVILLE, SOUTH CAROLINA, HEREINAFTER REFERRED TO
12 AS ABBEVILLE "

13 Q ALL RIGHT AND DOES THAT AGREEMENT PURPORT TO
14 ACCEPT AND SOLIDIFY THE PROPOSAL THAT WE'VE BEEN
15 TALKING ABOUT?

16 A YES, SIR

17 Q AND IS IT YOUR UNDERSTANDING THAT THE TWO
18 COUNTIES ENTERED INTO THIS AGREEMENT?

19 A YES, SIR

20 Q AND DID YOU -- YOU PROVIDED THIS DOCUMENT TO
21 ME YESTERDAY, DIDN'T YOU?

22 A YES, SIR

23 Q AND WHERE DID YOU OBTAIN THAT?

24 A IN A FILE IN MY DIRECTOR'S OFFICE HE HAS
25 MOST OF THE FILES

1 Q OKAY IN, IN THE COUNTY COUNCIL'S OFFICE?

2 A IN THE COUNTY COUNCIL OFFICE, RIGHT

3 MR McCALLUM YOUR HONOR, WE WOULD
4 SUBMIT THIS AS EXHIBIT -- COURT'S EXHIBIT 23

5 MR COULTER NO OBJECTION
6 (REPORTER MARKS PERTINENT DOCUMENT AS COURT'S
7 EXHIBIT #23)

8 Q DID YOU REVIEW THIS DOCUMENT YESTERDAY?

9 A NO, SIR

10 Q ALL RIGHT WOULD YOU LIKE TO TAKE A COUPLE OF
11 MINUTES AND FLIP THROUGH IT NOW?

12 A YES, SIR

13 Q AND LET ME TELL YOU SPECIFICALLY WHAT I'M
14 LOOKING FOR I'M LOOKING TO SEE IF THERE IS
15 ANYTHING IN THAT AGREEMENT WHERE ABBEVILLE COUNTY
16 COUNCIL AUTHORIZED THE CLERK OR THE ELECTION
17 COMMISSION TO BEGIN USING THE JURY -- THE RANDOM
18 COMPUTER JURY SELECTION SYSTEM

19 MR McCALLUM YOUR HONOR, IF YOU'D
20 LIKE TO TAKE A FEW MINUTES RECESS WHILE SHE REVIEWS
21 THIS?

22 THE COURT NO, SIR I WANT TO GET
23 THIS HEARING COMPLETED SO THAT WE CAN PROCEED IF
24 WE'RE ABLE TO I THOUGHT MAYBE YOU HAD BEEN
25 PROVIDED THIS INFORMATION THE WEEK BEFORE WE STARTED

1 THE HEARING

2 MR McCALLUM I'M SORRY, YOUR HONOR
3 SHE PROVIDED IT TO ME AND I ASSUMED IT HAD BEEN
4 REVIEWED I APOLOGIZE

5 Q MS CHRISSLY, DID YOU FIND ANYTHING TO THAT
6 EFFECT, AUTHORIZING THE CLERK OF COURT TO BEGIN
7 USING THE RANDOM COMPUTER 'SELECTION PROCESS'?

8 A NO, SIR, I DID NOT

9 Q MS CHRISSLY, UPON REVIEWING THIS PROPOSAL,
10 WOULD YOU AGREE THAT IT SAYS IT MAY TAKE UP TO TWO
11 YEARS TO BRING ALL THE DIFFERENT DEPARTMENTS AND
12 OFFICES UP ON LINE?

13 A YES, SIR

14 Q DID YOU AT MY REQUEST RESEARCH THE MINUTES AND
15 ORDINANCES OF ABBEVILLE COUNTY FOR 1989, 1990, AND
16 1991?

17 A YES, SIR

18 Q AND DURING THAT TWO-YEAR TIME PERIOD DID YOU
19 FIND ANYTHING INDICATING THAT COUNSEL AUTHORIZED THE
20 CLERK OR THE ELECTION COMMISSION TO SWAP OVER TO THE
21 COMPUTER SYSTEM FOR JURY SELECTION?

22 A NO, SIR

23 Q ALL RIGHT AND DID YOU CONTINUE TO REVIEW
24 THOSE RECORDS ON UP THROUGH THE 1990s TO THE PRESENT
25 DATE?

1 A YES, SIR

2 MR McCALLUM THANK YOU THAT'S ALL
3 I HAVE FOR THIS WITNESS, YOUR HONOR

4 CROSS EXAMINATION

5 BY MR COULTER

6 Q HEY, MS CHRISSLY, MY NAME IS MIKE COULTER
7 I'M THE DEPUTY SOLICITOR HERE

8 A YES, SIR

9 Q AND, AND I'D LIKE FOR YOU TO TAKE A LOOK AT
10 THIS DOCUMENTS ONCE AGAIN STARTING WITH COURT'S
11 EXHIBIT NUMBER 21 LET ME BACK UP I'M SHOWING YOU
12 COURT'S EXHIBIT NUMBER 21 THIS IS THE MINUTES

13 A RIGHT

14 Q OKAY MINUTES FROM SEPTEMBER

15 A YES, SIR

16 Q NOW, YOU SAY, AS I UNDERSTOOD IT, YOU TAPE
17 RECORD THE MEETINGS?

18 A RIGHT

19 Q AND THEN YOU TRANSCRIBE WHAT YOU THINK'S
20 IMPORTANT FROM THOSE MEETINGS?

21 A RIGHT

22 Q OKAY AND, OBVIOUSLY, FROM REVIEWING THAT,
23 WHAT YOU WRITE DOWN IN YOUR MINUTES IS CERTAINLY NOT
24 VERBATIM OF WHAT'S ON THE TAPE?

25 A NO

1 Q BY NO MEANS?

2 A NO

3 Q I MEAN THERE'S A LOT THAT'S DISCUSSED THAT
4 DOESN'T GO INTO THESE MINUTES?

5 A IF IT'S OF VALUE, I DO, BUT IF THEY'RE JUST
6 HEEHAWING BACK AND FORTH, I DON'T GET EVERY AH, AND
7 OH, AND YEAH OR THIS OR THAT I GET THINGS OF
8 IMPORTANCE AND NEEDS TO BE RECORDED, I DO PUT IT IN

9 Q OKAY WHAT YOU THINK IS IMPORTANT GOES INTO
10 THOSE MINUTES?

11 A RIGHT

12 Q BUT IT'S NOT VERBATIM?

13 A NO OH, NO

14 Q ALL RIGHT NOW, GOING TO, LET'S SEE,
15 SEPTEMBER 21ST IF YOU COULD, AND GOING TO THAT
16 SECOND FULL PARAGRAPH THAT WE DISCUSSED BEFORE --

17 A ALL RIGHT

18 Q -- TALKING ABOUT THE COMPUTER COMMITTEE --

19 A RIGHT

20 Q -- I'D LIKE YOU TO GO TO THE SENTENCE
21 DISCUSSING THAT STARTS OUT ROVING ADMINISTRATOR AND
22 READ THAT, PLEASE

23 A ALL RIGHT "ROVING ADMINISTRATOR, BERNARD
24 WELBORN, ADDRESSED COUNCIL BY SAYING, 'WHAT WE ARE
25 ASKING OF GREENWOOD COUNTY IS AN AGREEMENT OR

1 PROPOSAL TO EXTEND THE EXISTING COMPUTER SERVICES BY
2 USING THEIR SOFTWARE WHICH THEY ALREADY HAVE
3 DEVELOPED ' "

4 Q OKAY AND HE'S REFERRING SPECIFICALLY TO
5 WHAT'S BEEN MARKED AS COURT'S EXHIBIT NUMBER 22,
6 CORRECT?

7 A RIGHT

8 Q HE'S REFERRING TO THAT PROPOSAL?

9 A EXACTLY

10 Q ALL RIGHT AND IN REGARDS TO THAT PROPOSAL,
11 IF YOU'LL GO DOWN TO CLOSE TO THE LAST SENTENCE, THE
12 ONE BEGINNING V C MOORE ---

13 A ALL RIGHT VICE-CHAIRMAN MOORE

14 Q YES GO AHEAD AND READ THAT, PLEASE

15 A "VICE-CHAIRMAN MOORE MADE A MOTION THAT WE
16 ACCEPT GREENWOOD'S OFFER AND LET MR WELBORN HANDLE
17 THE PROCEDURES COUNCILMAN NIX SECONDS THE MOTION
18 MOTION PASSED UNANIMOUSLY

19 Q OKAY AND THE MOTION PASSED UNANIMOUSLY IS
20 THIS PARTICULAR PROPOSAL, COURT'S --(

21 A YES

22 Q -- EXHIBIT 22?

23 A YEAH

24 Q THIS PARTICULAR PROPOSAL WAS PASSED
25 UNANIMOUSLY BY THE COUNTY COUNCIL?

1 A RIGHT

2 Q OKAY AND IN PASSING THAT PROPOSAL, THEY
3 PASSED ON PAGE THREE FOR THAT COMPUTER SYSTEM TO BE
4 USED FOR JURY SELECTION

5 MR McCALLUM OBJECTION, YOUR HONOR
6 I DON'T THINK THAT THEY, THEY PASSED THAT IT BE USED
7 FOR JURY SELECTION THE PROPOSAL SAYS THAT THEY
8 PASSED PURCHASING A COMPUTER CAPABLE OF MAKING JURY
9 SELECTION I THINK THAT'S A VERY, VERY IMPORTANT
10 DISTINCTION

11 THE COURT WHAT'S YOUR ARGUMENT?
12 THE WITNESS CAN ANSWER IT IF SHE KNOWS THE ANSWER

13 A BEG YOUR PARDON?

14 Q IS ONE OF THE REASONS THAT THIS COMPUTER
15 SYSTEM WAS BEING PURCHASED FOR THE USE OF THAT
16 COMPUTER FOR JURY SELECTION?

17 A FOR THE USE OF THIS, YES---

18 MR McCALLUM OBJECTION, YOUR HONOR
19 IT'S CALLING, CALLING FOR THE WITNESS TO SPECULATE
20 AS TO THE REASONS COUNTY COUNCIL PASSED IT

21 MR COULTER JUDGE, IT SAYS IN
22 THIS---

23 THE COURT OVERRULED

24 MR COULTER THANK YOU

25 Q IN THIS PROPOSAL, DOES NOT COUNTY COUNCIL,

1 HAVING UNANIMOUSLY PASSED THIS PROPOSAL --

2 A RIGHT

3 Q -- SAID THAT THIS COMPUTER SYSTEM IS TO BE
4 USED FOR JURY SELECTION?

5 A "SOFTWARE SYSTEMS PROVIDED BY GREENWOOD COUNTY
6 TO BE AS FOLLOWS CIRCUIT COURT, THEN YOU HAVE
7 FAMILY COURT AND THE JURY SELECTION

8 Q JURY SELECTION THAT'S IN THAT FIRST PAGE?

9 A RIGHT

10 Q OR EXCUSE ME, IT'S ACTUALLY THE SECOND HERE
11 WE GO NEAR TO THE END OF THIS AND IT EVEN HAS A
12 PARAGRAPH THAT DISCUSSES JURY SELECTION, DOES IT
13 NOT?

14 A RIGHT

15 Q OKAY AND SO IN THAT PROPOSAL, APPROVED
16 UNANIMOUSLY BY COUNTY COUNCIL SEPTEMBER 21ST OF
17 1989, THEY AUTHORIZED USE OF THAT, THAT COMPUTER FOR
18 JURY SELECTION?

19 MR McCALLUM OBJECTION, YOUR HONOR
20 THE DOCUMENT SPEAKS FOR ITSELF

21 MR COULTER JUDGE ---

22 THE COURT I UNDERSTAND, AND YOU
23 CALLED THIS WITNESS HE'S GOT A RIGHT TO CROSS
24 EXAMINE HER IF SHE KNOWS THE ANSWER TO THE
25 QUESTION, SHE CAN ANSWER IT IF SHE DOESN'T, SHE

1 CAN SAY, "I DON'T KNOW " IT'S YOUR WITNESS

2 A NOW WHAT IS THE QUESTION, PLEASE?

3 Q I MEAN BASICALLY COUNTY COUNCIL IS SAYING THAT
4 THEY WANT THIS COMPUTER SYSTEM FOR THE CLERK OF
5 COURT TO BE ABLE TO USE IT FOR JURY SELECTION I
6 MEAN THAT'S WHAT IT SAYS, DOESN'T IT?

7 A WELL -- YOU KNOW

8 Q I MEAN YOU'RE NOT GOING TO BUY A COMPUTER FOR
9 THE PURPOSE OF JURY SELECTION AND TELL THE CLERK OF
10 COURT THEY CAN'T USE IT?

11 A WELL, THEY TELL HIM WHAT HE CAN'T AND WHAT HE
12 CAN YEAH

13 Q RIGHT AND THEY APPROVED THAT THIS COMPUTER
14 SYSTEM BE PURCHASED TO HELP THE CLERK OF COURT,
15 NANCY KING, DO JURY SELECTION?

16 A WELL, YES

17 Q OKAY

18 THE COURT WHAT WAS THAT?

19 A YEAH

20 Q THANK YOU, MS CHRISSLY AND NOT ONLY DID
21 THEY -- LET ME SEE LET ME SEE THE DOCUMENTS YOU
22 HAVE THANK YOU AND THEN, MS CHRISSLY, NOT ONLY
23 DID THEY APPROVE IN COURT'S EXHIBIT 22 THIS PROPOSAL
24 UNANIMOUSLY, THEY FOLLOWED THAT UP BY COURT'S
25 EXHIBIT NUMBER 23, THIS PARTICULAR AGREEMENT WHICH

1 AGAIN STATES IN THE BODY OF THAT, THAT PAPERWORK --
2 I BELIEVE IT'S ON PAGE -- HELP ME GET TO IT HERE
3 HERE YOU GO, RIGHT HERE ON PAGE TWO THAT'S THE
4 ACTUAL AGREEMENT AND AGAIN, IT DISCUSSES THE CLERK
5 OF COURT USING THE COMPUTER SYSTEM FOR JURY
6 SELECTIONS, DOES IT NOT?

7 A THEY'RE BUYING A LICENSE THEY'RE CHARGING
8 APPLICABLE TO EACH PROGRAM OR ITS COSTS THEY'RE
9 JUST LISTING PRICES HERE AND THE SELECTION OF MORE
10 OF A -- RIGHT

11 Q SURE AND THEY'RE PURCHASING SOFTWARE FOR THE
12 COMPUTER?

13 A RIGHT

14 Q RIGHT AND ONE OF THE SOFTWARE ITEMS THAT
15 THEY PURCHASED WAS JURY SELECTION?

16 A YES, SIR

17 Q OKAY AND COUNTY COUNCIL DIDN'T PURCHASE THE
18 JURY SELECTION PROGRAM FOR IT NOT TO BE USED?

19 A NO, I WOULDN'T THINK SO

20 Q THAT WOULDN'T MAKE ANY SENSE?

21 A NO

22 Q AND WHAT THEY WERE DOING IS THEY WERE
23 APPROVING THIS FINAL AGREEMENT --

24 A RIGHT

25 Q -- OF WHAT HAD ALREADY BEEN APPROVED IN

1 COURT'S EXHIBIT 22 --

2 A RIGHT

3 Q -- FOR THE PURPOSE OF MS KING AS CLERK OF
4 COURT TO USE THAT COMPUTER SYSTEM FOR JURY
5 SELECTION?

6 A YES

7 MR COULTER OKAY THANK YOU
8 NOTHING FURTHER FROM THE STATE THANK YOU, MS
9 CHRISSLY

10 MR McCALLUM JUST TWO QUESTIONS,
11 YOUR HONOR

12 REDIRECT EXAMINATION BY MR McCALLUM

13 Q IF COUNTY COUNCIL HAD AUTHORIZED OR
14 DIRECTED A DEPARTMENT TO BEGIN USING A NEW PROCEDURE
15 IN CONDUCTING ITS BUSINESS, WOULD THAT BE THE KIND
16 OF THING THAT YOU WOULD NOTE IN YOUR MINUTES IN YOUR
17 REGULAR COURSE OF DOING THE MINUTES?

18 A IF THEY WOULD HAVE SINGLED THAT OUT, THAT ONE
19 THING, YEAH, SURE

20 Q AND DOES COUNTY COUNCIL APPROVE THE MINUTES AT
21 THE NEXT MEETING OR AT SOME SUBSEQUENT MEETING?

22 A YES, AT THE NEXT MEETING

23 Q AND TO YOUR KNOWLEDGE HAVE EACH OF THE -- EACH
24 OF THE MINUTES THAT HAVE BEEN INTRODUCED INTO
25 EVIDENCE, WERE THOSE APPROVED BY COUNTY COUNCIL

1 EITHER WITHIN THEMSELVES OR AT SOME SUBSEQUENT
2 MEETING?

3 A RIGHT RIGHT YES, SIR

4 MR McCALLUM THANK YOU THAT'S ALL
5 I HAVE

6 MR COULTER JUST ONE FOLLOW-UP,
7 JUDGE, IF I COULD

8 RE CROSS EXAMINATION BY MR COULTER

9 Q EVEN THOUGH YOU DIDN'T SPECIFICALLY STATE ANY
10 MENTION IN YOUR MINUTES ABOUT THEM APPROVING JURY
11 SELECTION BY THE CLERK OF COURT, AGAIN, YOU DID
12 REFERENCE SPECIFICALLY IN YOUR MINUTES THAT THE
13 PROPOSED AGREEMENT BY -- TO GREENWOOD COUNTY
14 COUNCIL, COURT'S EXHIBIT NUMBER 22 --

15 A RIGHT

16 Q -- WAS APPROVED UNANIMOUSLY?

17 A RIGHT

18 Q OKAY AND THAT WAS APPROVED UNANIMOUSLY BY
19 THE COUNTY COUNCIL?

20 A YES, SIR

21 MR COULTER OKAY THAT'S ALL I
22 HAVE THANK YOU

23 THE COURT MS CHRISSLY, DO I
24 UNDERSTAND FROM THOSE EXHIBITS THAT HAVE BEEN
25 INTRODUCED THAT YOU'VE BEEN REFERRING TO THAT THERE

1 WAS ALSO SOME MONIES APPROPRIATED FOR THE PURPOSE OF
2 PAYING FOR THE JURY SELECTION SYSTEM?

3 WITNESS YES, SIR

4 THE COURT AND IS THAT DONE ON A
5 YEARLY BASIS?

6 A (NO RESPONSE)

7 THE COURT DOES COUNCIL BUDGET
8 MONIES TO PAY FOR THAT PARTICULAR PROGRAM AND THE
9 CLERK USING THAT COMPUTER FOR JURY SELECTION?

10 WITNESS I DON'T KNOW

11 THE COURT YOU DON'T KNOW?

12 WITNESS NO, I'M NOT SURE

13 THE COURT WELL, WHERE WOULD THE
14 MONIES COME FROM THAT THE CLERK WOULD USE TO PAY FOR
15 JURY SELECTION PROCESSES --

16 WITNESS THAT OTHER JUDICIAL

17 THE COURT -- IN ORDER TO CARRY OUT
18 HER OTHER DUTIES?

19 WITNESS THERE'S AN ITEM FOR OTHER
20 JUDICIAL IN THE BUDGET, I GUESS MAYBE THAT'S THE
21 ITEM

22 THE COURT AND THE COUNTY COUNCIL
23 APPROVES OF THE MONIES THAT ARE APPROPRIATED TO THE
24 CLERK FOR THOSE PURPOSES?

25 WITNESS YES, SIR

1 THE COURT ANYTHING ELSE?

2 MR McCALLUM NO, YOUR HONOR

3 THE COURT THANK YOU, MA'AM YOU

4 MAY STEP DOWN

5 (WITNESS STEPS DOWN AT 12 25 O'CLOCK P M)

6 THE COURT ANYTHING FURTHER?

7 MR McCALLUM NO, YOUR HONOR, WE'LL

8 -- I THINK THE COURT HAS A GOOD

9 UNDERSTANDING OF OUR ARGUMENT AND

10 WE'LL REST WITH WHAT IT IS

11 THE COURT YES I CERTAINLY DO HAVE

12 A VERY GOOD UNDERSTANDING OF THE ARGUMENT LET ME

13 BE CERTAIN THAT I UNDERSTAND THE BASIS FOR THE

14 MOTION TO QUASH I THINK IT WOULD BE THE SAME FOR

15 BOTH PANELS OR THREE PANELS AS YOU REFER TO WAS

16 THE MOTION TO QUASH BASED UPON THE FAILURE TO COMPLY

17 WITH 14-7-140, WHICH IS USE OF THE COMPUTER?

18 MR McCALLUM THAT IS ONE PORTION OF

19 IT, YOUR HONOR

20 THE COURT ALL RIGHT AND FAILURE

21 TO COMPLY WITH 14-7-220, FAILURE TO GIVE NOTICE AND

22 HAVE THE SELECTION PROCESS IN AN OPEN AND PUBLIC

23 LOCATION?

24 MR McCALLUM THAT IS ALSO CORRECT,

25 YOUR HONOR

1 THE COURT WAS THERE ANOTHER ---

2 MR McCALLUM WELL, THE THIRD -- THE
3 SECOND ONE, THE NOTICE ISSUE, I THINK, WAS --
4 APPLIES TO BOTH THE FIRST PANEL AS WELL AS THE
5 SECOND AND THIRD PANELS

6 THE COURT WELL, I THINK THEY BOTH
7 APPLY TO ALL THE PANELS, DON'T THEY?

8 MR McCALLUM THEY DO, YOUR HONOR,
9 BUT, YOU KNOW, WE WERE NOT EVEN INFORMED -- WE WERE
10 IN YOUR CHAMBERS WHEN THE SECOND AND THIRD PANELS
11 WERE DRAWN IS MY RECOLLECTION

12 THE COURT WELL, I DON'T KNOW
13 EXACTLY WHERE YOU WERE, BUT YOU'RE NOT -- YOU'RE NOT
14 TELLING ME THAT YOU DID NOT KNOW THAT YOU WERE
15 INFORMED BY THE COURT THAT I WAS ORDERING THE CLERK
16 TO DRAW THAT ADDITIONAL PANEL, ARE YOU?

17 MR McCALLUM YES BUT WE DID NOT
18 KNOW THAT IT WAS GOING TO BE DONE IMMEDIATELY I
19 MEAN YOU SAID THAT YOU WERE GOING TO DO THAT AND WE
20 WERE STILL IN THERE DISCUSSING OTHER MATTERS NEXT
21 THING WE KNEW, HERE COMES THE LIST BACK TO US

22 THE COURT WELL, I TOLD YOU THAT I
23 WAS GOING TO ORDER THE CLERK TO DRAW THAT ADDITIONAL
24 PANEL

25 MR McCALLUM THAT IS CORRECT, YOUR

1 HONOR

2 THE COURT WELL, YOU UNDERSTOOD THE
3 IMMEDIACY OF THE NEED?

4 MR McCALLUM YES, SIR I MEAN
5 WE'RE TALKING IMMEDIACY, A COUPLE OF MINUTES VERSUS
6 IMMEDIACY, A COUPLE OF HOURS WE WERE NOT AWARE
7 THAT THE CLERK WAS GOING DOWNSTAIRS TO DRAW THE
8 NUMBERS AT THE TIME THAT SHE DID SO

9 THE COURT OKAY

10 MR McCALLUM THAT'S MY POINT

11 THE COURT THE EXACT TIME?

12 MR McCALLUM YEAH

13 THE COURT ALL RIGHT WELL, JUST
14 FOR MY INFORMATION AND EDIFICATION, YOU DIDN'T THINK
15 THAT SHE WAS GOING TO DO IT THIS WEEK OR SOME OTHER
16 FUTURE TIME?

17 MR McCALLUM NO, I THOUGHT ---

18 THE COURT A TEN-DAY NOTICE OR
19 ANYTHING LIKE THAT?

20 MR McCALLUM NO I THOUGHT,
21 THOUGH, THAT WE WOULD HAVE NOTICE THAT IT WAS GOING
22 TO BE -- GOING TO BE DONE, AND CERTAINLY, WE WERE
23 NOT AWARE THAT THE SHERIFF WAS GOING TO PARTICIPATE
24 IN THAT PROCESS

25 THE COURT OKAY AND YOU UNDERSTAND

1 WHY THE SHERIFF PARTICIPATED?

2 MR McCALLUM MY UNDERSTANDING IS
3 THE PROBATE JUDGE WAS UNAVAILABLE, AND IN ADDITION,
4 I BELIEVE THE AUDITOR, PERHAPS, WAS UNAVAILABLE
5 BUT IN ANY CASE, TWO OF THE REGULAR JURY
6 COMMISSIONERS WERE UNAVAILABLE AT THAT PRECISE TIME
7 THAT THE CLERK WISHED TO DRAW THE NAMES

8 THE COURT ALL RIGHT AND YOU
9 UNDERSTAND THAT MS KING THEN FOLLOWED THE STATUTE
10 IN PROVIDING FOR THOSE PERSONS NAMED IN THE STATUTE
11 WHO ARE TO PARTICIPATE IN THE ABSENCE OF ONE OF
12 THOSE OTHER JURY COMMISSIONERS?

13 MR McCALLUM THAT IS MY
14 UNDERSTANDING, YOUR HONOR WE JUST FEEL THAT THE
15 SHERIFF IS AN INAPPROPRIATE PERSON IN A CRIMINAL
16 MATTER

17 THE COURT BECAUSE OF BIAS?

18 MR McCALLUM BECAUSE OF HIS LAW
19 ENFORCEMENT BIAS

20 THE COURT WELL, I ASSUME THE
21 LEGISLATURE TOOK THAT INTO ACCOUNT WHEN THEY ENACTED
22 THAT STATUTE, SINCE HE OBVIOUSLY WOULD BE
23 PARTICIPATING IN JURY SELECTION AS THEY HAVE DEEMED
24 IT APPROPRIATE IF SOMEONE'S NOT AVAILABLE ALL
25 RIGHT WELL, WITH REGARD TO YOUR MOTION TO QUASH

1 EACH VOIR DIRE BASED UPON § 14-7-140, I FIND THE
2 EVIDENCE CLEARLY INDICATES THAT COUNTY COUNCIL HAS
3 APPROVED THE CLERK USING A COMPUTER SELECTION
4 PROCESS FOR JURY SELECTION IN THIS COUNTY, AND,
5 THEREFORE, I FIND THE MOTION TO QUASH BASED UPON
6 THAT GROUND SHOULD BE DENIED I ALSO FIND THAT YOUR
7 MOTION TO QUASH BASED UPON FAILURE TO COMPLY WITH
8 14-7-220 WHICH REQUIRES NOTICE AND THE JURY
9 SELECTION DRAWING TO BE -- TO OCCUR OPEN AND IN
10 PUBLIC IN THE CLERK'S OFFICE, I FIND THAT THE MERE
11 IRREGULARITY IN THE TIME AND THE MANNER OF THE
12 DRAWING OF A JURY PANEL DOES NOT REQUIRE THE
13 QUASHING OF THAT PANEL WITHOUT A SHOWING OF MORE
14 AS I RECALL IT FROM ALL THE EVIDENCE THAT'S BEEN
15 PRESENTED TO THE COURT THAT THE DEFENSE COUNSEL WAS
16 WELL AWARE OF AT LEAST THE APPROXIMATE TIME AT WHICH
17 TIME THE DRAWING WOULD BE HELD THERE WAS NO
18 REQUEST AT ANY TIME AS TO ANY PANEL THAT IT NOT BE
19 ACCOMPLISHED WITHOUT DEFENSE COUNSEL BEING PRESENT
20 TO VIEW OR TO PARTICIPATE IN SOME FASHION BY BEING
21 PRESENT IF YOU WISH TO, AND THAT YOU HAD ACTUAL
22 NOTICE THAT THE PANEL WAS TO BE DRAWN AND HAD
23 SUFFICIENT OPPORTUNITY TO LET THE COURT KNOW OR THE
24 CLERK KNOW THAT YOU WISHED TO BE PRESENT WHEN THAT
25 DRAWING WAS TO TAKE PLACE

1 THERE HAS BEEN NO SHOWING WHATSOEVER OF ANY
2 IMPROPER INFLUENCE OF ANY JUROR -- JURY COMMISSIONER
3 IN THAT SELECTION PROCESS THERE HAS BEEN NO
4 PREJUDICE OR NO DETRIMENT TO THE DEFENDANT SHOWN
5 THERE HAS BEEN NO SHOWING OF ANY DENIAL OF
6 FUNDAMENTAL FAIRNESS OR LACK OF DUE PROCESS THE
7 DRAWING TOOK PLACE IN THE COURTHOUSE IN AN OFFICE
8 SIMILAR TO THE CLERK'S OFFICE IT SIMPLY WAS NOT
9 ACTUALLY IN THE CLERK OF COURT'S OFFICE ITSELF
10 BECAUSE IT WAS ACCOMPLISHED BY THE USE OF THE
11 COMPUTER WHICH IS IN AN OFFICE LOCATED HERE IN THE
12 COURTHOUSE SIMPLY RIGHT DOWN THE HALL FROM THE
13 ACTUAL CLERK'S OFFICE THERE WAS NO DENIAL OF ANY
14 ADMITTANCE TO THAT ROOM THE DOOR WAS OPEN THE
15 COMMISSIONERS WERE PRESENT THERE WERE OTHER PEOPLE
16 COMING AND GOING I FIND THAT SUFFICIENT UNDER THE
17 STATUTE TO BE OPEN AND PUBLIC AND IN COMPLIANCE WITH
18 THE INTENT OF THE LEGISLATURE IN PASSING THAT
19 STATUTE

20 SO FAR AS THE NOTICE IS CONCERNED, WITH REGARD
21 TO THE INITIAL JURY PANEL, I FIND THAT THAT IS
22 SIMPLY AN IRREGULARITY NO PREJUDICE HAS BEEN
23 SHOWN, AND, THEREFORE, THE MOTION SHOULD BE DENIED
24 IN QUASHING THAT PANEL SO FAR AS THE -- ANY NOTICE
25 REQUIREMENT FOR THE SECOND PANELS, I FIND THAT THOSE

1 -- THOSE PANELS AND THAT PANEL WERE DRAWN PURSUANT
2 TO § 14-7-300 AND 14-7-160 WHICH PERMITS THE TRIAL
3 COURT WHERE NECESSARY TO REQUIRE THAT THE JURY
4 COMMISSIONERS DRAW ADDITIONAL JURORS WHERE THE
5 ORIGINAL PANEL IS NOT SUFFICIENT TO ACCOMPLISH A
6 JURY SELECTION FOR THAT TERM OF COURT THAT WAS
7 DONE UNDER THOSE CIRCUMSTANCES, THEREFORE, I FIND
8 THAT YOUR MOTION SHOULD BE DENIED ON THAT GROUND
9 ALSO WAS THERE ANY OTHER GROUND THAT I HAVE FAILED
10 TO ADDRESS?

11 MR McCALLUM NO, YOUR HONOR WE
12 THANK THE COURT FOR ITS RULING NOTING OUR EXCEPTION
13 BUT, YOUR HONOR, FOR THE RECORD WOULD LIKE TO JUST
14 STATE TO THE COURT IF COUNSEL OR DEFENDANT IS NOT
15 PRESENT AT THE ACTUAL SELECTION, IT IS NEARLY
16 IMPOSSIBLE TO PROVE ANY PREJUDICE FROM THAT
17 SELECTION SINCE WE HAVE NO IDEA OF WHAT WENT ON IN
18 THAT SELECTION, ALTHOUGH WE, WE FEEL SURE THAT MS
19 KING AS CLERK OF COURT HANDLED THAT APPROPRIATELY

20 THE COURT WELL, THAT'S WHAT I'M
21 SAYING THERE'S BEEN NO SHOWING MADE DO YOU HAVE
22 ANY INDICATION OR ANY INKLING OR ANY SCINTILLA OF
23 EVIDENCE THAT THAT JURY SELECTION PROCESS WAS NOT
24 CONDUCTED IN ITS REGULAR COURSE AND PROPERLY?

25 MR McCALLUM NO, YOUR HONOR, WE

1 DON'T

2 THE COURT OKAY AND, THEREFORE, NO
3 PREJUDICE HAS BEEN SHOWN ALSO, AS I INDICATED
4 EARLIER, YOU COULD HAVE REQUESTED -- IF YOU THOUGHT
5 PERHAPS IT WOULD NOT BE CARRIED OUT PROPERLY, AS
6 YOU'VE INDICATED YOU DIDN'T, OF COURSE, YOU COULD
7 HAVE REQUESTED TO BE PRESENT, AND THAT REQUEST
8 OBVIOUSLY WOULD HAVE BEEN, BEEN GRANTED OKAY,
9 ANYTHING FURTHER BEFORE WE RECESS FOR LUNCH? ARE
10 THERE OTHER MATTERS WE NEED TO ADDRESS?

11 MR TINSLEY THE ONLY THING WAS
12 MS HILL THAT I CAN THINK OF

13 THE COURT OH, EXCUSE ME WE'VE GOT
14 TO BRING MS HILL BACK IN AND WE'LL, OF COURSE,
15 QUALIFY HER ASK MS HILL TO COME IN
16 (OFF THE RECORD)

17 THE COURT MS HILL, LET ME ASK YOU,
18 IF YOU WILL, JUST PLEASE COME OVER AND HAVE A SEAT
19 RIGHT HERE IN THIS -- IN THIS CHAIR I APOLOGIZE
20 FOR THE DELAY IN BEING ABLE TO ASK YOU SOME
21 QUESTIONS, BUT WE HAD SOME MATTERS WE HAD TO
22 ADDRESS, AND BECAUSE OF YOUR TARDINESS IN REPORTING
23 WE WERE INVOLVED IN OTHER MATTERS BEFORE I COULD
24 TALK WITH YOU AS YOU KNOW, YOU'VE BEEN SUMMONED,
25 YOU RECEIVED A SUMMONS TO APPEAR FOR THE PURPOSE OF

1 POTENTIALLY SERVING AS A JUROR IN THE TRIAL OF THE
2 CASE OF THE STATE VERSUS JOHN KENNEDY HUGHEY, AND
3 YOU WERE ASKED TO COMPLETE A JUROR QUESTIONNAIRE
4 DID YOU COMPLETE THAT QUESTIONNAIRE?

5 MS HILL YES, SIR

6 THE COURT AND ARE THE ANSWERS IN
7 THAT QUESTIONNAIRE CORRECT?

8 MS HILL YES, SIR

9 THE COURT WELL, LET ME ASK FOR YOU
10 -- WILL YOU PLEASE RAISE YOUR RIGHT HAND DO YOU
11 SOLEMNLY SWEAR THE TESTIMONY YOU'RE ABOUT TO GIVE
12 WILL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
13 THE TRUTH, SO HELP YOU, GOD?

14 MS HILL YES, SIR

15 (JUROR #259 PRESENTED AT 12 47 O'CLOCK P M)

16 EXAMINATION BY THE COURT

17 Q THANK YOU THE QUESTIONS ARE CORRECT?

18 A YES, SIR

19 Q HAVE YOU HAD ANY TYPE OF EXPOSURE TO ANY TYPE
20 OF MEDIA COVERAGE OR CONVERSATIONS ABOUT THE CASE?

21 A YES, SIR

22 Q AND WHAT TYPE OF EXPOSURE HAVE YOU HAD?

23 A WHEN IT FIRST HAPPENED IT CAME ACROSS THE T V
24 AND I WAS STAYING IN GREENWOOD THEN AND I WAS ON
25 MY WAY TO WORK AT APPLEBEE'S AT THE TIME I JUST

1 SAW IT BRIEFLY

2 Q HAVE YOU HEARD ANYTHING ABOUT IT RECENTLY?

3 A NO, NOT RECENTLY IT'S DONE DIED DOWN A LOT

4 Q AND IS THERE ANYTHING THAT YOU HAVE PREVIOUSLY
5 HEARD OR READ ABOUT THE CASE THAT MIGHT PREVENT YOU
6 FROM BEING FAIR?

7 A NO, SIR

8 Q OKAY ARE YOU NOW A CITIZEN AND RESIDENT OF
9 ABBEVILLE --

10 A YES, SIR

11 Q -- COUNTY AND THE UNITED STATES?

12 A YES, SIR

13 Q ARE YOU ABLE TO READ, WRITE AND UNDERSTAND AND
14 SPEAK THE ENGLISH LANGUAGE?

15 A YES, SIR

16 Q DO YOU HAVE AT LEAST A SIXTH-GRADE EDUCATION
17 OR ITS EQUIVALENT?

18 A YES, SIR

19 Q DO YOU HAVE ANY MENTAL OR PHYSICAL DISABILITY
20 WHICH WOULD PREVENT YOU FROM BEING ABLE TO SERVE AS
21 A JUROR?

22 A NO, SIR

23 Q HAVE YOU BEEN CONVICTED OF A CRIME THAT
24 CARRIES A PUNISHMENT OF MORE THAN A YEAR?

25 A NO, SIR

1 Q ARE YOU A DEPUTY CLERK OF COURT, A STATE
2 CONSTABLE, A SHERIFF OR DEPUTY SHERIFF OR PROBATE
3 JUDGE OR COUNTY COMMISSIONER OR ARE YOU EMPLOYED IN
4 THE WALLS OF THE COURTHOUSE?

5 A NO, SIR

6 Q HAVE YOU SERVED AS A JUROR IN THE CIRCUIT
7 COURT DURING THE LAST THREE CALENDAR YEARS, AND THIS
8 YEAR IS ONE OF THEM?

9 A NO, SIR

10 Q THE STATE LAW PROVIDES THAT YOU MAY BE EXEMPT
11 FROM SERVICE IT DOESN'T MEAN YOU'RE DISQUALIFIED
12 IT MEANS YOU CAN SERVE IF YOU WANT TO EVEN IF AN
13 EXEMPTION APPLIES TO YOU ARE YOU SIXTY-FIVE YEARS
14 OF AGE OR OLDER?

15 A NO, SIR

16 Q DO YOU HAVE A CHILD OR CHILDREN LESS THAN
17 SEVEN?

18 A YES, SIR

19 Q YOU DO?

20 A I HAVE A LITTLE GIRL

21 Q AND WHAT IS HER AGE?

22 A SHE'S SIX AND A HALF

23 Q SIX AND A HALF?

24 A UH-HUH (AFFIRMATIVE)

25 Q AND DOES SHE STAY AT HOME DURING THE DAY?

1 A YES, SIR NO, SHE'S AT SCHOOL DURING THE DAY

2 Q SHE'S AT SCHOOL? WHAT TIME DOES SHE GET OUT?

3 A THREE

4 Q AT THREE? AND WHO PICKS HER UP?

5 A SHE COMES HOME OFF THE BUS AND FROM THERE MY
6 MOM GET OFF THE BUS

7 Q AND IF YOU WERE SELECTED TO SERVE AS A JUROR
8 IN THIS CASE, WOULD YOU HAVE ADEQUATE MEANS FOR YOUR
9 CHILD TO BE CARED FOR IF YOU WERE SEQUESTERED AND
10 WEREN'T AT HOME FOR SEVEN DAYS TO ---

11 A YES, SIR

12 Q I MEAN SEVEN DAYS TO TEN DAYS?

13 A YES, SIR MY AUNT COULD TAKE CARE OF HER

14 Q OKAY SO YOU COULD HAVE SOMEBODY WHO COULD
15 TAKE CARE OF YOUR CHILD?

16 A YES, SIR

17 Q YOU UNDERSTAND THAT'S AN EXEMPTION? IN OTHER
18 WORDS, YOU GET TO MAKE THE DECISION IF YOU HAVE A
19 CHILD OR CHILDREN LESS THAN SEVEN, I CAN'T MAKE YOU
20 SERVE IF YOU DON'T WANT TO, BUT IF YOU HAVE ADEQUATE
21 MEANS FOR YOUR CHILD TO BE CARED FOR, THEN YOU CAN
22 STAY

23 A OKAY

24 Q ARE YOU WILLING TO STAY?

25 A YES, SIR

1 Q OKAY ARE YOU A FULL-TIME STUDENT?

2 A NO, SIR

3 Q DO YOU HAVE ANY OTHER REASON WHY YOU COULD NOT
4 SERVE AS A JUROR, THAT IS SOME REASON THAT WOULD
5 POSE A HARDSHIP ON YOU?

6 A NO, SIR

7 Q YOU DO NOT? OKAY NOW, AS I INDICATED TO YOU
8 AND AS YOU KNOW, THE DEFENDANT IN THIS CASE IS
9 CHARGED WITH THE CRIME OF MURDER, AND UNDER CERTAIN
10 CIRCUMSTANCES THE STATE IS PERMITTED TO SEEK THE
11 DEATH PENALTY WHEN A PERSON IS CHARGED WITH THE
12 CRIME OF MURDER IT DOESN'T HAVE TO OCCUR IN ALL
13 CIRCUMSTANCES, BUT THE JURY MAKES THAT DECISION IF
14 THE LAW PERMITS THAT TO BE DONE THE JURY WOULD
15 DECIDE WHETHER OR NOT A PERSON SHOULD BE SENTENCED
16 TO DEATH OR SENTENCED TO LIFE DO YOU UNDERSTAND
17 THAT?

18 A YES, SIR

19 Q IN THIS CASE THE DEFENDANT IS MR JOHN HUGHEY
20 THAT'S MR HUGHEY SEATED NEXT TO MR TINSLEY WHO'S
21 SEATED AT THE TABLE DO YOU KNOW MR HUGHEY OR MR
22 TINSLEY?

23 A I DON'T KNOW MR TINSLEY BUT I KNOW MR
24 HUGHEY

25 Q YOU KNOW MR HUGHEY?

1 A YES, SIR

2 Q DO YOU KNOW MEMBERS OF HIS FAMILY?

3 A I WENT TO SCHOOL WITH HIS SISTER, YES

4 Q AND WOULD THE FACT THAT YOU KNOW MR HUGHEY OR
5 SOME MEMBER OF HIS FAMILY, WOULD THAT INTERFERE IN
6 YOUR ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
7 SELECTED?

8 A NO, SIR

9 Q IN THIS CASE THE STATE HAS CHARGED HIM WITH
10 MURDER IN THE DEATH OF TESHEKA JACKSON AND LUEVINIA
11 HARRIS THEY ALSO CHARGED HIM WITH COMMITTING THE
12 CRIME OF BURGLARY IN ENTERING THE RESIDENCE OF MS
13 HARRIS AND MS JACKSON WITH THE INTENT TO COMMIT A
14 CRIME AND THEY ALLEGE WHILE HE WAS THERE HE
15 COMMITTED MURDER HE KILLED MS JACKSON AND MS
16 HARRIS THEY ALSO ALLEGE THAT HE COMMITTED THE
17 CRIME OF LARCENY IN TAKING MS JACKSON'S AUTOMOBILE
18 AND, OF COURSE, AS TO EACH OF THOSE CHARGES HE HAS
19 ENTERED A PLEA OF NOT GUILTY DO YOU UNDERSTAND
20 THAT PLEA OF NOT GUILTY PLACES UPON THE STATE THE
21 BURDEN OF PROVING THEIR ALLEGATIONS BEYOND A
22 REASONABLE DOUBT?

23 A YES, SIR

24 Q DO YOU UNDERSTAND THE BURDEN IS NOT UPON MR
25 HUGHEY TO PROVE THAT HE'S NOT GUILTY OR TO PROVE

1 THAT HE'S INNOCENT?

2 A YES, SIR

3 Q YOU UNDERSTAND THAT?

4 A YES, SIR

5 Q DO YOU KNOW OR DID YOU KNOW MS JACKSON OR MS
6 HARRIS OR ANY MEMBER OF THEIR FAMILIES?

7 A YES, SIR

8 Q AND WHO DO YOU KNOW IN THOSE FAMILIES?

9 A I KNOW TESHEKA WE WAS IN HIGH SCHOOL
10 TOGETHER AND I KNOW MS LUEVINIA SHE USED TO
11 WORK WITH MY AUNT A LONG TIME AGO

12 Q DO YOU KNOW ANY OF THESE FOLKS SITTING OVER
13 HERE BEHIND THE SOLICITOR'S TABLE?

14 A I KNOW MR MACK AND I KNOW MARCUS AND THEM,
15 BUT I DON'T KNOW THEM

16 Q AND WOULD YOUR PRIOR RELATIONSHIP WITH MS
17 HARRIS AND MR JACKSON OR YOUR PRESENT RELATIONSHIP
18 AND KNOWLEDGE OF ANY OF THESE OTHER FAMILY MEMBERS,
19 WOULD THAT INTERFERE WITH YOUR ABILITY TO BE FAIR
20 AND IMPARTIAL IF YOU WERE SELECTED?

21 A NO, SIR

22 Q DO YOU KNOW ANYTHING ABOUT THE CASE OTHER THAN
23 WHAT YOU SAW OR HEARD ABOUT IT SOMETIME AGO?

24 A NO, SIR

25 Q DO YOU BELIEVE YOU COULD BE FAIR AND IMPARTIAL

1 IF YOU WERE SELECTED?

2 A YES, SIR

3 Q ALL RIGHT, NOW, IN A CASE OF WHERE A DEFENDANT
4 IS CHARGED WITH THE CRIME OF MURDER, AS I INDICATED
5 TO YOU, UNDER CERTAIN CIRCUMSTANCES THE STATE MAY
6 ASK THAT THAT PERSON BE SENTENCED TO DEATH IF THEY
7 ARE CONVICTED OR FOUND GUILTY AND, OF COURSE, IT
8 WOULD BE NECESSARY THAT THEY BE FOUND GUILTY OF
9 MURDER BEFORE YOU COULD EVEN CONSIDER BUT IN
10 ADDITION TO BEING FOUND GUILTY OF MURDER, IT WOULD
11 ALSO BE NECESSARY THAT SOME OTHER AGGRAVATING
12 CIRCUMSTANCE BE PROVEN BEYOND A REASONABLE DOUBT IN
13 ADDITION TO THE MURDER BEFORE A JURY COULD EVEN
14 CONSIDER IMPOSING A DEATH SENTENCE NOW, IN A CASE
15 LIKE THAT IT'S TRIED IN TWO SEPARATE STAGES, AND THE
16 FIRST STAGE OF THE TRIAL RELATES TO THE ISSUE OF
17 GUILT AND IF, AND ONLY IF, THE JURY FINDS THAT
18 PERSON GUILTY BEYOND A REASONABLE DOUBT OF MURDER
19 AND ANOTHER AGGRAVATING CIRCUMSTANCE PROVEN WOULD WE
20 EVER EVEN GO TO THE SECOND STAGE OF THE TRIAL, WHICH
21 WOULD BE THE PENALTY PORTION OF THE TRIAL NOW, IF
22 YOU WERE SELECTED TO PARTICIPATE IN SUCH A CASE,
23 WOULD YOU BE WILLING TO LISTEN CAREFULLY AND
24 CONSIDER ALL THE EVIDENCE RELATED TO THE ISSUE OF
25 GUILT?

1 A YES, SIR

2 Q AND IF YOU WERE CONVINCED BEYOND A REASONABLE
3 DOUBT THAT IT SUPPORTED THE VERDICT OF GUILTY, WOULD
4 YOU FIND THAT PERSON GUILTY?

5 A YES, SIR

6 Q IF YOU HAD A REASONABLE DOUBT ABOUT IT, WOULD
7 YOU FIND THAT PERSON NOT GUILTY?

8 A YES, SIR

9 Q WHAT WOULD YOU DO?

10 A I WOULD SAY THEY WAS GUILTY WITH THE EVIDENCE
11 IF THE EVIDENCE LEADS TO THEM BEING GUILTY, THEY'RE
12 GUILTY

13 Q THAT'S WHAT I'M SAYING IF YOU'RE CONVINCED

14 --

15 A OKAY

16 Q -- BEYOND A REASONABLE DOUBT THAT THE EVIDENCE
17 SUPPORTS THAT VERDICT, YOU COULD FIND HIM GUILTY?

18 A YES, SIR

19 Q WELL, WHAT IF YOU'RE NOT CONVINCED BEYOND A
20 REASONABLE DOUBT, WHAT WOULD YOU DO?

21 A I WOULD PLEAD HIM NOT GUILTY

22 Q YOU WOULD FIND HIM NOT GUILTY?

23 A YES, SIR

24 Q OKAY NOW, I WANT YOU TO ASSUME JUST FOR THE
25 MOMENT THAT YOU'VE PARTICIPATED IN THE CASE AND

1 YOU'VE LISTENED TO ALL THE EVIDENCE AND YOU AND YOUR
2 FELLOW JURORS HAVE FOUND THAT PERSON GUILTY OF
3 MURDER BEYOND A REASONABLE DOUBT YOU'VE FOUND HIM
4 GUILTY AND ASSUME ALSO THAT YOU ALSO FOUND SOME
5 OTHER ADDITIONAL AGGRAVATING CIRCUMSTANCE IN
6 ADDITION TO THE MURDER ITSELF IN THAT EVENT WE'D
7 GO TO THE SECOND STAGE OF THE TRIAL LIKE I TOLD YOU,
8 AND IN THAT STAGE IS WHERE THE JURY DECIDES WHAT THE
9 APPROPRIATE SENTENCE SHOULD BE BEFORE YOU DECIDE
10 THAT, HOWEVER, THERE WOULD BE ADDITIONAL EVIDENCE
11 OFFERED AND THAT EVIDENCE WOULD BE OFFERED IN WHAT'S
12 CALLED IN AGGRAVATION OF PUNISHMENT AND IN
13 MITIGATION OF PUNISHMENT NOW, WHAT I MEAN BY
14 AGGRAVATION AND MITIGATION IS THAT THERE WOULD BE
15 EVIDENCE OFFERED WHICH MIGHT TEND TO SHOW WHY THE
16 DEATH PENALTY WAS APPROPRIATE IN THE CASE AND
17 THERE WOULD BE EVIDENCE OFFERED WHICH MIGHT TEND TO
18 SHOW WHY THE DEATH PENALTY WAS NOT APPROPRIATE IN
19 THE CASE, WHY A LIFE SENTENCE WAS MORE APPROPRIATE
20 NOW, WOULD YOU BE WILLING AND ABLE TO CAREFULLY
21 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE BEFORE YOU
22 ARRIVED AT YOUR DECISION AS TO THE PROPER SENTENCE?
23 A YES, SIR
24 Q AND IF, AFTER YOU CONSIDERED ALL THAT
25 ADDITIONAL EVIDENCE, YOU THOUGHT IT WAS APPROPRIATE

1 UNDER THE CIRCUMSTANCES, WOULD YOU BE ABLE TO
2 SENTENCE A PERSON TO DEATH?

3 A YES, SIR

4 Q WOULD YOU ALSO BE ABLE TO SENTENCE A PERSON TO
5 LIFE IN PRISON?

6 A YES, SIR

7 Q AND YOU COULD CONSIDER EACH OF THOSE OPTIONS
8 DEPENDING UPON THE FACTS?

9 A (NODS HEAD AFFIRMATIVELY)

10 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
11 OPINION AS TO HOW YOU THINK THIS CASE OUGHT TO BE
12 RESOLVED?

13 A NO, SIR

14 Q DO YOU HAVE ANY REASON WHY YOU COULD NOT BE A
15 FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED IN
16 THIS CASE?

17 A NO, SIR

18 Q WOULD THE FACT THAT YOU ARE ACQUAINTED WITH
19 MEMBERS OF THE JACKSON AND HARRIS FAMILY OR WOULD
20 THE FACT THAT YOU ARE ACQUAINTED WITH MR HUGHEY,
21 WOULD IT INTERFERE IN YOUR ABILITY TO SENTENCE MR
22 HUGHEY TO DEATH IF YOU THOUGHT THE CIRCUMSTANCES
23 WARRANTED SUCH A CONCLUSION?

24 A NO, SIR

25 Q SO YOU COULD SENTENCE MR HUGHEY TO DEATH IF

1 YOU THOUGHT THE CIRCUMSTANCES WERE APPROPRIATE?

2 A IF THE EVIDENCE POINTED TO HIM DOING THE
3 CRIME, YES, SIR

4 Q NOW, IF YOU WERE SELECTED, AS I INDICATED
5 EARLIER, YOU WOULD BE SEQUESTERED AND YOU KNOW
6 WHAT THAT MEANS?

7 A YES, SIR

8 Q IN OTHER WORDS, YOU WOULDN'T BE GOING HOME
9 DURING THE TRIAL YOU'D GO TO A MOTEL UNTIL WE'RE
10 THROUGH

11 A YES, SIR

12 Q WOULD THAT FACT INTERFERE IN YOUR -- OR WOULD
13 THAT FACT IMPOSE ANY UNREASONABLE HARDSHIP ON YOU OR
14 A HEALTH RISK?

15 A NO, SIR

16 Q WOULD YOU BE WILLING TO ACCEPT THAT
17 INCONVENIENCE IF YOU WERE SELECTED?

18 A YES, SIR

19 THE COURT OKAY ANSWER ANY
20 QUESTIONS THE LAWYERS HAVE FOR YOU

21 EXAMINATION BY MR TINSLEY

22 Q GOOD AFTERNOON, MS HILL HOW ARE YOU DOING?

23 A JUST FINE

24 Q MS HILL, I NOTICED THAT YOU WERE SITTING IN
25 THE COURTROOM A LITTLE EARLIER AND SOME

1 CONVERSATIONS WERE GOING ON BETWEEN THE JUDGE AND
2 THE LAWYERS ON VARIOUS POINTS OF LAW DID YOU HEAR
3 SOME OF THAT?

4 A WHEN THEY WERE TALKING?

5 Q YES

6 A THE ONLY THING I HEARD WAS WHEN THE LAWYER,
7 THE OTHER LAWYER WAS HERE WITH THE --

8 Q RIGHT

9 A -- BLUE SUIT ON, THE ONLY THING I HEARD, HE
10 ASKED SOME QUESTIONS ABOUT SOME, SOME MOTIONS HE
11 WANTED TO TALK OVER THAT'S ALL I REMEMBER I WAS
12 JUST WAKING UP, TO TELL YOU THE TRUTH

13 Q SO YOU WERE JUST ---

14 A WOKE ME UP, YES, SIR

15 Q SO HOW LONG HAD YOU BEEN SITTING THERE WHEN
16 THEY WERE TALKING?

17 A I WOULD SAY ABOUT THREE MINUTES, I GUESS

18 Q ABOUT THREE MINUTES?

19 A I GUESS MAYBE THAT LONG

20 Q AND DID YOU HEAR ANYTHING THAT -- ABOUT ANY OF
21 THESE MOTIONS YOU MENTIONED?

22 A MOTIONS? NO THE ONLY THING I HEARD WAS HE
23 WANT TO -- THE JUDGE WANT TO CLEAR UP SOME MOTIONS
24 AND HE HAD SENT SOMEBODY, SO THAT'S ALL I HEARD,
25 REALLY, TO PAY ANY ATTENTION TO WHEN THE JUDGE GOT

1 LOUD, THAT'S WHEN I SAT UP A LITTLE BIT

2 Q WHEN DID YOU FIND OUT YOU WERE GOING TO BE ---

3 A SUNDAY MORNING

4 Q SUNDAY MORNING?

5 A YES, SIR

6 Q BUT YOU -- YOU FOUND OUT SUNDAY MORNING BUT

7 YOU WEREN'T HERE MONDAY

8 A I HAD A DEPOSITION TO DO IN GREENVILLE WITH MY

9 LAWYER, G P CALLISON

10 Q WITH MR CALLISON?

11 A YES, SIR

12 Q HE'S YOUR LAWYER?

13 A YES, SIR I HAVE A LAWSUIT GOING ON

14 Q UH-HUH (AFFIRMATIVE) WELL, DO YOU KNOW MR

15 GARRETT?

16 A GARRETT? NO, I DON'T KNOW HIM

17 Q WELL, WAS MR CALLISON YOUR LAWYER, FAMILY

18 LAWYER, AND YOUR LAWYER FOR THE LAST FEW YEARS?

19 A NOW, HE'S JUST MY LAWYER HE'S NOT MY

20 FAMILY'S

21 Q BUT HAS HE BEEN YOUR LAWYER?

22 A YEAH, SINCE NINETY -- HE HANDLED A CASE FOR ME

23 BACK IN '92

24 Q DID YOU KNOW THAT HE AND MR GARRETT WERE

25 PARTNERS BACK THEN?

1 A NO, SIR, I DIDN'T KNOW THAT

2 Q APPROXIMATELY THAT TIME?

3 A NO, SIR, I DIDN'T KNOW THAT

4 Q WOULD THAT PUT YOU IN AN AWKWARD POSITION
5 KNOWING THAT NOW?

6 A NO, SIR, BECAUSE I DON'T KNOW MR GARRETT NOW

7 Q OKAY OKAY I UNDERSTAND

8 A OKAY

9 Q JUST WANT YOU TO UNDERSTAND EVERYTHING JUST SO
10 YOU WON'T HAVE AN AWKWARD POSITION

11 A YES, SIR

12 Q AND KNOWING THESE PARTIES, THE VARIOUS ONES,
13 INCLUDING MY CLIENT, JOHN HUGHEY, WOULD THAT PUT YOU
14 IN AN AWKWARD POSITION?

15 A NO, SIR

16 Q SO YOU WOULDN'T FEEL ANY UNDUE PRESSURE TO
17 VOTE ONE WAY OR THE OTHER IN THIS CASE?

18 A NO, SIR

19 Q AND IN THE LAST WEEK, TEN DAYS, DID YOU READ
20 ANY NEWSPAPER ARTICLES THEN ON THIS CASE?

21 A NO, SIR

22 Q DID YOU HEAR ANYBODY TALKING ABOUT IT?

23 A NO, SIR I BARELY STAY AT HOME

24 Q YOU STAY AT HOME?

25 A I BARELY STAY HOME AND LOOK AT A NEWSPAPER I

1 DON'T GET A NEWSPAPER

2 Q OKAY AND, NOW, YOU STATED THAT IF THE
3 EVIDENCE OF THE CRIME WAS PROVEN YOU COULD GIVE THE
4 DEATH PENALTY, RIGHT?

5 A YES, SIR

6 Q WELL, YOU WOULD STILL CONSIDER THE LIFE
7 SENTENCE, WOULDN'T YOU?

8 A YES, SIR, I WOULD CONSIDER A LIFE SENTENCE

9 Q I MEAN YOU WOULD FACTOR IN THE GOOD POINTS
10 OFFERED IN FAVOR OF MR HUGHEY, WOULD YOU NOT?

11 A IF THE EVIDENCE POINT TO MR HUGHEY BEING
12 GUILTY AND IF THE JUDGE IS ASKED FOR A DEATH PENALTY
13 OR THE JURY IS ASKED FOR THE DEATH PENALTY, I WOULD
14 GO ALONG WITH THE DEATH PENALTY

15 Q OH, YOU WOULD?

16 A YES, SIR

17 Q SO IF HE'S PROVED GUILTY OF MURDER, YOU WOULD
18 ALWAYS VOTE FOR THE DEATH PENALTY?

19 A NO, I'D VOTE BOTH WAYS IT DOESN'T -- YOU
20 KNOW

21 Q YOU ---

22 A BOTH WAYS DEATH PENALTY, LIFE SENTENCE
23 THIS IS THE SAME

24 Q SO IF HE'S PROVEN GUILTY OF TWO -- IF YOU AND
25 YOUR FELLOW JURORS FIND HIM GUILTY OF TWO MURDERS

1 AND AGGRAVATING CIRCUMSTANCES, IS THERE JUST ONE
2 SENTENCE THAT YOU WOULD GIVE?

3 A I'D RECOMMEND THE DEATH PENALTY

4 Q YOU WOULD RECOMMEND THE DEATH PENALTY?

5 A YES, SIR

6 Q AND YOU'RE SURE OF THAT?

7 A YES, SIR

8 Q OKAY THANK YOU SO MUCH

9 EXAMINATION BY MR JONES

10 Q MS HILL, MY NAME'S TOWNES JONES I'M YOUR
11 SOLICITOR HERE IN ABBEVILLE

12 A HELLO

13 Q THIS IS MIKE COULTER AND HE'S YOUR DEPUTY
14 SOLICITOR HERE IN ABBEVILLE WE'LL BE PRESENTING
15 EVIDENCE IN THE CASE I KNOW THE JUDGE HAS ASKED
16 YOU SOME QUESTIONS AND THE LAWYER'S ASKED YOU
17 QUESTIONS, AND NOW I'M GOING TO ASK YOU QUESTIONS,
18 TOO, AND I'M JUST TRYING TO FIND OUT YOU SAID THAT
19 IF HE'S CONVICTED OF THE MURDERS, TWO MURDERS AND A
20 BURGLARY, THAT IF THE JUDGE -- A JURY WOULD FIND HIM
21 GUILTY, IF YOU WERE ON A JURY AND FOUND HIM GUILTY
22 OF MURDER -- YOU REALIZE BEFORE YOU COULD SENTENCE
23 HIM TO DEATH OR TO LIFE YOU HAVE TO FIND AN
24 AGGRAVATING CIRCUMSTANCE, TOO? DID YOU UNDERSTAND
25 THE JUDGE WHEN HE TOLD YOU THAT?

1 A NO, SIR, BECAUSE HE KIND OF CONFUSED ME A
2 LITTLE BIT

3 Q OKAY WELL, I JUST WANT TO TRY TO CLEAR IT UP
4 FOR YOU AND THIS IS ---

5 A OKAY

6 Q I'M GOING TO TRY I DON'T KNOW IF I CAN, BUT
7 I'M GOING TO TRY IF YOU'RE ON THE JURY AND Y'ALL
8 FIND SOMEBODY GUILTY OF MURDER AND MURDER AND
9 BURGLARY, AND YOU SAY, "JUDGE, WE FOUND HIM GUILTY
10 OF THE MURDERS AND WE ALSO FOUND THAT THESE WERE BAD
11 MURDERS AN AGGRAVATED CIRCUMSTANCE EXISTS "

12 THE JUDGE SAYS, "OH, YOU FOUND AN
13 AGGRAVATING CIRCUMSTANCE? WHAT WAS IT?"

14 AND THE JURY SAYS, "BURGLARY BROKE
15 IN THE HOUSE AND KILLED THEM "

16 "OKAY, WELL, NOW, LADIES AND
17 GENTLEMEN OF THE JURY, YOU CAN SENTENCE HIM TO DIE,
18 TO DEATH, OR YOU CAN SENTENCE HIM TO LIFE BECAUSE
19 YOU FOUND THAT AGGRAVATING CIRCUMSTANCE, YOU CAN
20 SENTENCE HIM TO BOTH OF THEM " ALL RIGHT? NOT
21 BOTH EITHER ONE

22 A EITHER ONE

23 Q EITHER ONE ONE OF THE TWO AND SO DO YOU
24 UNDERSTAND WHAT THE JURY HAS TO DO TO DECIDE WHICH
25 ONE TO SENTENCE HIM TO?

1 A YES, SIR

2 Q WHAT?

3 A WE HAVE TO GO THROUGH THE EVIDENCE AND FIND
4 OUT IF HE WAS AGGRAVATED, JUST LIKE HE CAME IN AND
5 HE WAS FIGHTING OR WHATEVER HE BROKE INTO THE
6 HOUSE I UNDERSTAND THAT PART

7 Q WELL, DO YOU UNDERSTAND THAT AT THAT POINT IN
8 TIME ---

9 A YOU CAN GIVE IT TO HIM

10 Q WHAT?

11 A THE DEATH PENALTY

12 Q YOU CAN AND WHAT ELSE CAN YOU GIVE HIM?

13 A EITHER ONE

14 Q ALL RIGHT AND DO YOU UNDERSTAND THAT AT THAT
15 POINT IN TIME THAT HE HAS A CHANCE TO EXPLAIN TO YOU
16 WHY YOU SHOULDN'T GIVE HIM THE DEATH PENALTY? THAT
17 HE CAN PUT UP THE EVIDENCE AND SAY ALL KINDS OF
18 THINGS THAT'S CALLED EVIDENCE IN MITIGATION OR
19 EVIDENCE AS TO WHY I SHOULDN'T GET THE DEATH
20 PENALTY EVEN THOUGH YOU FOUND ME GUILTY, EVEN
21 THOUGH I DID IT, YOU KNOW I DID IT, THERE ARE SOME
22 REASONS HERE YOU NEED TO SEE THERE'S SOME THINGS
23 YOU NEED TO KNOW ABOUT ME BEFORE YOU SENTENCE ME TO
24 DEATH WOULD YOU CONSIDER THOSE? WOULD YOU LOOK AT
25 THOSE THINGS THAT HE WOULD BE ASKING YOU TO LOOK AT?

1 WOULD YOU GIVE THEM FAIR CONSIDERATION?

2 A YES, SIR

3 Q YOU WOULD?

4 A YES, SIR

5 Q AND IF YOU FOUND THAT THOSE THINGS ABOUT HIM
6 WERE THE KIND OF THINGS THAT WERE ENOUGH FOR YOU TO
7 GIVE HIM A LIFE SENTENCE INSTEAD OF DEATH, COULD YOU
8 GIVE HIM A LIFE SENTENCE IN THAT SITUATION?

9 A I FEEL LIKE THIS, MR JONES IF HE WAS IN A
10 SITUATION TO WHERE HE HAD TO DO SOMETHING, HE COULD
11 HAVE THOUGHT FIRST IF YOU THINK ABOUT SOMETHING,
12 YOU WON'T DO IT SO I'D HAVE TO GO WITH MY FIRST
13 DECISION

14 Q FIRST BEING WHAT?

15 A WHICH BEING THE AGGRAVATED EVIDENCE WOULD BE
16 MURDER

17 Q AND?

18 A DEATH PENALTY

19 Q OKAY

20 THE COURT MS HILL, IF YOU'D JUST
21 STEP OUTSIDE FOR JUST A MINUTE, I'LL BRING YOU BACK
22 (JUROR #259 EXITS THE COURTROOM)

23 THE COURT ANY REASON WHY SHE SHOULD
24 NOT BE DISQUALIFIED?

25 MR JONES NONE ON THE PART OF THE

1 STATE, YOUR HONOR

2 MR TINSLEY NO, YOUR HONOR

3 THE COURT OKAY SHE IS

4 DISQUALIFIED

5 MR JONES BECAUSE SHE WOULD ALWAYS

6 GIVE THE DEATH PENALTY THAT'S WHY SHE'S

7 DISQUALIFIED

8 THE COURT OH, YEAH

9 (JUROR #259 RE-ENTERS THE COURTROOM)

10 THE COURT MS HILL, WE'RE GOING TO

11 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE,

12 SO YOU CAN LEAVE AND YOU WON'T NEED TO COME BACK,

13 BUT WE APPRECIATE YOU COMING DOWN WHEN YOU WERE

14 ASKED TO THANK YOU

15 (JUROR #259 IS EXCUSED)

16 (JUROR #259 EXITS THE COURTROOM)

17 THE COURT MR TINSLEY, DO YOU AGREE

18 THAT SHE WAS DISQUALIFIED -- DO YOU AGREE SHE WAS

19 DISQUALIFIED BECAUSE SHE INDICATED IN THE CASE AS

20 REPRESENTED TO HER SHE WOULD ALWAYS IMPOSE THE DEATH

21 PENALTY?

22 MR TINSLEY YES, SIR

23 THE COURT WHICH IS THE FACTS OF

24 THIS PARTICULAR CASE, THAT IS, ALLEGATION, TWO

25 MURDERS AND A BURGLARY?

1 MR TINSLEY YES, SIR

2 THE COURT OKAY ALL RIGHT,
3 ANYTHING FURTHER BEFORE WE RECESS FOR LUNCH?

4 MR JONES YOUR HONOR, JUST BRIEFLY,
5 AS FAR AS -- WE HAVE THE ENTIRE PANEL COMING BACK AT
6 TWO-THIRTY?

7 THE COURT TWO-THIRTY

8 MR JONES AND THEY'LL BE SEATED, I
9 ASSUME, ON THIS SIDE?

10 THE COURT WELL, WE CAN SEAT THEM ON
11 THE OTHER SIDE I MEAN EITHER ONE

12 MR JONES I'D RATHER HAVE AT LEAST
13 THESE FAMILY MEMBERS AVAILABLE FOR JURY SELECTION
14 THEY WON'T BE DIRECTLY PARTICIPATING IN IT, BUT I
15 WANT THEM TO BE PRESENT AND I DIDN'T -- I KNOW THERE
16 WAS SOME CONCERN ABOUT THEM BEING SO CLOSE TO WHERE
17 ---

18 THE COURT YEAH WE'LL JUST HAVE --
19 THEY CAN STAY THERE WE'LL JUST HAVE THE JURY PANEL
20 SEATED ON THE -- MY RIGHT

21 MR JONES I'LL TELL YOU WHAT,
22 JUDGE I COULD HAVE THEM OVER HERE I COULD HAVE
23 THIS GROUP OVER HERE

24 THE COURT OKAY

25 MR JONES ALL RIGHT AND THE JURY

1 PANEL COULD SIT WHERE THEY ALWAYS DO

2 THE COURT ALL RIGHT WELL, BRING

3 THEM WHERE YOU ORDINARILY SEAT THEM EITHER ONE

4 MR JONES ALL RIGHT AND THE NEXT

5 BRIEF QUESTION I HAD WAS ARE YOU GOING TO ASK EACH

6 INDIVIDUAL JUROR TO EITHER STAND UP OR PARADE -- OR

7 WALK DOWN HERE OR HOW DO YOU -- WHAT IS YOUR

8 METHODOLOGY?

9 THE COURT YOU MEAN FOR STRIKING?

10 MR JONES YES, SIR

11 THE COURT OH, WE'LL BRING THEM DOWN

12 IN FRONT

13 MR JONES ONE AT A TIME?

14 THE COURT ONE AT THE TIME THAT'S

15 RIGHT

16 MR JONES WELL, THEN, I DON'T HAVE

17 ANYTHING ELSE

18 MR TINSLEY NOTHING FROM THE

19 DEFENSE

20 THE COURT ALL RIGHT COURT'S IN

21 RECESS UNTIL TWO-THIRTY

22 (RECESS FOR LUNCH UNTIL 2 50 O'CLOCK P M)

23 THE COURT THANK YOU PLEASE BE

24 SEATED GOOD AFTERNOON, LADIES AND GENTLEMEN OF THE

25 JURY PANEL AS YOU ARE AWARE, THE REASON THAT YOU

1 ARE NOW BACK IS FOR US TO BE ABLE TO ENGAGE IN
2 ACTUAL JURY SELECTION TO SELECT THE JURY THAT WILL
3 ACTUALLY BE PARTICIPATING IN THE TRIAL OF THIS CASE,
4 SO WE DO SINCERELY APPRECIATE YOUR REPORTING BACK
5 AND WE APPRECIATE YOUR BEING PATIENT AND
6 UNDERSTANDING WITH US AS WE GO THROUGH THIS PROCESS
7 OF SELECTING THE JURY

8 NOW, THE FIRST MATTER THAT WE'LL NEED
9 TO ADDRESS BEFORE WE BEGIN IS TO SIMPLY HAVE THE
10 CLERK AGAIN CALL THE ROLE OF THE JURY PANEL AND ASK
11 THOSE OF YOU WHO HAVE RETURNED AND WHO HAVE
12 PREVIOUSLY BEEN QUALIFIED TO SERVE AS JURORS TO
13 PLEASE STAND WHEN YOUR NAME IS CALLED SO THAT WE MAY
14 BE CERTAIN THAT EACH QUALIFIED JUROR HAS REPORTED
15 BACK SO PLEASE STAND AS YOUR NAME IS CALLED SO
16 THAT WE MAY BE CERTAIN THAT ALL OF YOU ARE PRESENT

17 CLERK PATTY P GRIFFIN ROBERT L
18 ASHE -- ROBERT J ASHE STEVE M WHITE GINA M
19 NORRIS DUANE HALL MICHAEL THOMPCKINS JAMES S
20 JONES, JUNIOR RORY J DRAFT SANDRA J LOTHBRIDGE
21 BARBARA P THOMAS SUSAN L WILLIAMS FRANCES P
22 COWART ALDENE LANGLEY RYAN DALY SPENCER G
23 SORROW JAMES B JONES, JUNIOR ANDREA BRAMLETT
24 STANLEY ABERNATHY SOPHIA BATTLE WILLIAM H
25 BOWIE BOBBIE L GARNER CHESIREE E LOMAX

1 HAROLD A FREESE LINDA S CANFIELD WILLIAM L
2 HESSON WILLIAM J JONES SHIRLEY J MCKENZIE
3 TYRON C PEARSON CHAUNCEY COVIN DOROTHY J
4 ROUSEY CARLOS D BROWN CHANDELL C BOGGS
5 HEYWARD J BLACK, JUNIOR JENNIFER N PIERCE
6 AUBREY J BANNISTER CHRISTOPHER L MACK CALVIN
7 L HILL

8 THE COURT ALL RIGHT IT APPEARS
9 THAT EACH OF THE JURORS WHO HAVE PREVIOUSLY BEEN
10 QUALIFIED HAVE REPORTED PROMPTLY AND HAVE RESPONDED
11 TO THE ROLL CALL AND BEFORE WE BEGIN WITH JURY
12 SELECTION, LET ME ASK IF THERE IS ANY JUROR WHOSE
13 CIRCUMSTANCES HAVE CHANGED SINCE THE LAST TIME THAT
14 WE QUESTIONED YOU REGARDING YOUR ABILITY TO SERVE AS
15 A JUROR IN THIS CASE HAS ANYONE'S CIRCUMSTANCES
16 CHANGED OR ANY ANSWERS TO ANY OF THE QUESTIONS THAT
17 YOU WERE ASKED PREVIOUSLY CHANGED SINCE WE LAST
18 TALKED WITH YOU? IS THERE ANY JUROR WHO IS PRESENT
19 WHO IS NOT ABLE NOW TO SERVE AS A JUROR IF CALLED
20 UPON TO BE SELECTED IN THIS CASE? IF SO, PLEASE
21 INDICATE SO ALL RIGHT IT APPEARS THAT ALL JURORS
22 ARE ABLE TO SERVE ANY OTHER MATTERS THAT WE NEED
23 TO ADDRESS BEFORE WE BEGIN WITH JURY SELECTION?

24 MR JONES NONE ON THE PART OF THE
25 STATE, YOUR HONOR

1 MR TINSLEY NO, YOUR HONOR
2 THE COURT ALL RIGHT, LADIES AND
3 GENTLEMEN, WE ARE GOING TO BEGIN NOW STRIKING THE
4 JURY THAT WILL PARTICIPATE IN THE TRIAL OF THIS
5 CASE WHAT WE'RE GOING TO ASK THAT YOU DO AS YOUR
6 NAME IS CALLED, PLEASE SIMPLY COME FORWARD I WOULD
7 ASK -- YOU'LL SEE TWO MICROPHONES RIGHT HERE IN
8 FRONT OF THE CLERK AT THE DESK IF YOU'LL JUST
9 SIMPLY COME DOWN AND STAND BETWEEN THOSE TWO
10 MICROPHONES, LOOK TOWARDS THE BACK OF THE ROOM, AND
11 EACH SIDE WILL HAVE AN OPPORTUNITY TO HAVE YOU
12 SEATED OR TO HAVE YOU EXCUSED SO IF YOU ARE ASKED
13 TO BE SEATED, YOU WILL BE HAVING A SEAT OVER HERE IN
14 THIS JURY BOX IF YOU ARE EXCUSED, I WOULD ASK THAT
15 YOU SIMPLY PLEASE RETURN TO YOUR PLACE BACK IN THE
16 COURTROOM WHERE YOU ARE NOW SO AS YOUR NAME IS
17 CALLED, PLEASE SIMPLY COME FORWARD AND YOU'LL BE
18 INSTRUCTED AS TO WHETHER YOU ARE TO BE SEATED IN THE
19 JURY PANEL OR WHETHER YOU ARE TO BE EXCUSED BEFORE
20 YOU DO THAT, SOLICITOR, LET ME SEE YOU AND MR
21 TINSLEY OR GARRETT OR WHOEVER
22 (SIDEBAR CONFERENCE)

23 THE COURT ALL RIGHT, PLEASE LISTEN
24 UP AS YOUR NAME IS CALLED, AND WHEN IT IS CALLED,
25 PLEASE SIMPLY COME FORWARD AND STAND BETWEEN ME AND

1 THE MICROPHONES AND YOU'LL BE INSTRUCTED AS TO
2 WHETHER YOU ARE TO BE SEATED OR EXCUSED BEFORE WE
3 CALL THE FIRST NAME, LET ME SIMPLY ASK ONE MORE
4 TIME IS THERE ANY JUROR'S CIRCUMSTANCES WHO HAVE
5 BEEN CHANGED -- THAT HAVE CHANGED THAT WOULD PREVENT
6 YOU FROM BEING ABLE TO SERVE IF SELECTED?

7 APPARENTLY NONE THANK YOU

8 CLERK PATTY P GRIFFIN WHAT SAY YE
9 FOR THE STATE?

10 MR JONES WE WOULD EXCUSE MS
11 GRIFFIN FROM THIS TRIAL

12 CLERK MS GRIFFIN, YOU'RE EXCUSED
13 FROM THE TRIAL OF THIS CASE ROBERT J ASHE WHAT
14 SAY YE FOR THE STATE?

15 MR JONES WE ACCEPT MR ASHE
16 PLEASE PRESENT HIM

17 CLERK WHAT SAY YE FOR THE DEFENSE?

18 MR TINSLEY PLEASE SEAT MR ASHE

19 CLERK MR ASHE, YOU MAY TAKE YOUR
20 SEAT IN THE JURY BOX STEVE M WHITE WHAT SAY YE
21 FOR THE STATE?

22 MR JONES WE ACCEPT MR WHITE
23 PLEASE PRESENT HIM

24 CLERK WHAT SAY YE FOR THE DEFENSE?

25 MR TINSLEY PLEASE EXCUSE MR WHITE

1 FROM THE TRIAL OF THIS CASE
2 CLERK GINA M NORRIS WHAT SAY YE
3 FOR THE STATE?
4 MR JONES WE WOULD HAVE TO EXCUSE
5 MS NORRIS AT THIS TIME
6 CLERK DUANNE O HALL WHAT SAY YE
7 FOR THE STATE?
8 MR JONES WE ACCEPT MR HALL
9 PLEASE PRESENT HIM
10 CLERK WHAT SAY YE FOR THE DEFENSE?
11 MR TINSLEY PLEASE EXCUSE MR HALL
12 FROM THE TRIAL OF THIS CASE
13 CLERK MICHAEL THOMPkins WHAT SAY
14 YE FOR THE STATE?
15 MR JONES WE ACCEPT MR THOMPkins
16 PLEASE PRESENT HIM
17 CLERK WHAT SAY YE FOR THE DEFENSE?
18 MR TINSLEY PLEASE EXCUSE MR
19 THOMPkins FROM THE TRIAL OF THIS CASE
20 CLERK JAMES S JONES, JUNIOR WHAT
21 SAY YE FOR THE STATE?
22 MR JONES WE ACCEPT MR JONES
23 PLEASE PRESENT HIM
24 CLERK WHAT SAY YE FOR THE DEFENSE?
25 MR TINSLEY PLEASE SEAT MR JONES

1 CLERK RORY J DRAFT WHAT SAY YE
2 FOR THE STATE?
3 MR JONES WE ACCEPT MR DRAFT
4 PLEASE PRESENT HIM
5 CLERK WHAT SAY YE FOR THE DEFENSE?
6 MR TINSLEY PLEASE EXCUSE MR DRAFT
7 FROM THE TRIAL OF THIS CASE
8 CLERK SANDRA J LOTHBRIDGE WHAT
9 SAY YE FOR THE STATE?
10 MR JONES WE ACCEPT MS LOTHBRIDGE
11 PLEASE PRESENT HER
12 CLERK WHAT SAY YE FOR THE DEFENSE?
13 MR TINSLEY PLEASE SEAT MS
14 LOTHBRIDGE
15 CLERK BARBARA P THOMAS WHAT SAY
16 YE FOR THE STATE?
17 MR JONES WE ACCEPT MS THOMAS
18 PLEASE PRESENT HER
19 CLERK WHAT SAY YE FOR THE DEFENSE?
20 MR TINSLEY PLEASE SEAT MS THOMAS
21 CLERK SUSAN L WILLIAMS WHAT SAY
22 YE FOR THE STATE?
23 MR JONES WE ACCEPT MS WILLIAMS
24 PLEASE PRESENT HER
25 CLERK WHAT SAY YE FOR THE DEFENSE?

1 MR TINSLEY PLEASE SEAT MS
2 WILLIAMS
3 CLERK FRANCES P COWART WHAT SAY
4 YE FOR THE STATE?
5 MR JONES WE ACCEPT MS COWART
6 PLEASE PRESENT HER
7 CLERK WHAT SAY YE FOR THE DEFENSE?
8 MR TINSLEY PLEASE SEAT MS COWART
9 CLERK ALDENE LANGLEY WHAT SAY YE
10 FOR THE STATE?
11 MR JONES WE ACCEPT MS LANGLEY
12 PLEASE PRESENT HER
13 CLERK WHAT SAY YE FOR THE DEFENSE?
14 MR TINSLEY PLEASE EXCUSE MS
15 LANGLEY FROM THE TRIAL OF THIS CASE
16 CLERK RYAN DALY WHAT SAY YE FOR
17 THE STATE?
18 MR JONES WE ACCEPT MR DALY
19 PLEASE PRESENT HIM
20 CLERK WHAT SAY YE FOR THE DEFENSE?
21 MR TINSLEY PLEASE SEAT MR DALY
22 CLERK SPENCER G SORROW WHAT SAY
23 YE FOR THE STATE?
24 MR JONES WE ACCEPT MR SORROW
25 PLEASE PRESENT HIM

1 CLERK WHAT SAY YE FOR THE DEFENSE?
2 MR TINSLEY PLEASE EXCUSE MR
3 SORROW FROM THE TRIAL OF THIS CASE
4 CLERK JAMES B JONES, JUNIOR WHAT
5 SAY YE FOR THE STATE?
6 MR JONES WE ACCEPT MR JONES
7 PLEASE PRESENT HIM
8 CLERK WHAT SAY YE FOR THE DEFENSE?
9 MR TINSLEY PLEASE EXCUSE MR JONES
10 FROM THE TRIAL OF THIS CASE
11 CLERK ANDREA BRAMLETT WHAT SAY YE
12 FOR THE STATE?
13 MR JONES WE ACCEPT MS BRAMLETT
14 PLEASE PRESENT HER
15 CLERK WHAT SAY YE FOR THE DEFENSE?
16 MR TINSLEY PLEASE SEAT MS
17 BRAMLETT
18 CLERK STANLEY ABERNATHY WHAT SAY
19 YE FOR THE STATE?
20 MR JONES WE ACCEPT MR ABERNATHY
21 PLEASE PRESENT HIM
22 CLERK WHAT SAY YE FOR THE DEFENSE?
23 MR TINSLEY PLEASE EXCUSE MR
24 ABERNATHY FROM THE TRIAL OF THIS CASE
25 CLERK SOPHIA BATTLE WHAT SAY YE

1 FOR THE STATE?

2 MR JONES WE ACCEPT MS BATTLE

3 PLEASE PRESENT HER

4 CLERK WHAT SAY YE FOR THE DEFENSE?

5 MR TINSLEY PLEASE EXCUSE MS

6 BATTLE FROM THE TRIAL OF THIS CASE

7 CLERK WILLIAM H BOWIE WHAT SAY

8 YE FOR THE STATE?

9 MR JONES WE ACCEPT MR BOWIE

10 PLEASE PRESENT HIM

11 CLERK WHAT SAY YE FOR THE DEFENSE?

12 MR TINSLEY PLEASE SEAT MR BOWIE

13 CLERK BOBBIE L GARNER WHAT SAY

14 YE FOR THE STATE?

15 MR JONES PLEASE EXCUSE MR GARNER

16 FROM THE TRIAL OF THIS CASE

17 CLERK CHESIRE E LOMAX WHAT SAY

18 YE FOR THE STATE?

19 MR JONES PLEASE EXCUSE MR LOMAX

20 FROM THE TRIAL OF THIS CASE

21 CLERK HAROLD A FREESE WHAT SAY

22 YE FOR THE STATE?

23 MR JONES WE ACCEPT MR FREESE

24 PLEASE PRESENT HIM

25 CLERK WHAT SAY YE FOR THE DEFENSE?

1 MR TINSLEY PLEASE SEAT MR FREESE
2 CLERK LINDA S CANFIELD WHAT SAY
3 YE FOR THE STATE?

4 MR JONES WE ACCEPT MS CANFIELD
5 PLEASE PRESENT HER

6 CLERK WHAT SAY YE FOR THE DEFENSE?

7 MR TINSLEY PLEASE SEAT MS
8 CANFIELD

9 CLERK WILLIAM L HESSON WHAT SAY
10 YE FOR THE STATE?

11 MR JONES WE ACCEPT MR HESSON
12 PLEASE PRESENT HIM

13 CLERK WHAT SAY YE FOR THE DEFENSE?

14 MR TINSLEY PLEASE EXCUSE MR
15 HESSON FROM THE TRIAL OF THIS CASE

16 CLERK WILLIAM J JONES WHAT SAY
17 YE FOR THE STATE?

18 MR JONES WE ACCEPT MR HESSON
19 PLEASE PRESENT HIM I MEAN MR JONES I'M SORRY
20 MR JONES

21 CLERK WHAT SAY YE FOR THE DEFENSE?

22 MR TINSLEY PLEASE SEAT MR JONES

23 THE COURT ALL RIGHT, NOW FOR THE
24 FIRST ALTERNATE

25 CLERK WHAT SAY YE FOR THE STATE?

1 MR JONES WE ACCEPT MR HESSON
2 PLEASE PRESENT HIM OR MR JONES SORRY JONES
3 CLERK WHAT SAY YE FOR THE DEFENSE?
4 MR TINSLEY PLEASE SEAT MR JONES
5 THE COURT NOW FOR THE FIRST
6 ALTERNATE
7 CLERK SHIRLEY JO MCKENZIE WHAT
8 SAY YE FOR THE STATE?
9 MR JONES PLEASE EXCUSE MS
10 MCKENZIE FROM THIS TRIAL
11 CLERK TYRONE C PEARSON WHAT SAY
12 YE FOR THE STATE?
13 MR JONES ACCEPT MR PEARSON
14 PLEASE PRESENT HIM
15 CLERK WHAT SAY YE FOR THE DEFENSE?
16 MR TINSLEY PLEASE SEAT MR
17 PEARSON
18 CLERK MR PEARSON, YOU MAY TAKE
19 YOUR SEAT TO THE LEFT OF THE JURY CHAUNCEY COVIN
20 THE COURT THIS WILL BE FOR THE
21 SECOND ALTERNATE
22 CLERK WHAT SAY YE FOR THE STATE?
23 MR JONES PLEASE EXCUSE MR COVIN,
24 PLEASE, MA'AM
25 CLERK DOROTHY J ROUSEY WHAT SAY

1 YE FOR THE STATE?

2 MR JONES WE ACCEPT MS ROUSEY

3 PLEASE PRESENT HER

4 CLERK WHAT SAY YE FOR THE DEFENSE?

5 MR TINSLEY PLEASE EXCUSE MS

6 ROUSEY FROM THE TRIAL OF THIS CASE

7 CLERK CARLOS D BROWN WHAT SAY YE

8 FOR THE STATE?

9 MR JONES WE ACCEPT MR BROWN

10 PLEASE PRESENT HIM

11 CLERK WHAT SAY YE FOR THE DEFENSE?

12 MR TINSLEY PLEASE EXCUSE MR BROWN FROM THE TRIAL

13 OF THIS CASE

14 CLERK CHANDELL P BOGGS WHAT SAY

15 YE FOR THE STATE?

16 MR JONES WE ACCEPT MS BOGGS

17 CLERK WHAT SAY YE FOR THE DEFENSE?

18 MR TINSLEY PLEASE SEAT MS BOGGS

19 THE COURT JUST A MINUTE BEFORE YOU

20 DO THAT, PLEASE LET ME SEE THE SOLICITOR AND

21 DEFENDANT PARTIES A MINUTE

22 (SIDEBAR CONFERENCE)

23 THE COURT THIS WILL BE FOR THE

24 THIRD ALTERNATE

25 CLERK HEYWARD J BLACK, JUNIOR

1 WHAT SAY YE FOR THE STATE?

2 MR JONES PLEASE EXCUSE MR BLACK
3 FROM THIS TRIAL

4 CLERK JENNIFER N PIERCE WHAT SAY
5 YE FOR THE STATE?

6 MR JONES WE ACCEPT MS PIERCE
7 PLEASE PRESENT HER

8 CLERK WHAT SAY YE FOR THE DEFENSE?

9 MR TINSLEY PLEASE EXCUSE MS
10 PIERCE FROM THE TRIAL OF THIS CASE

11 CLERK AUBREY J BANNISTER WHAT
12 SAY YE FOR THE STATE?

13 MR JONES WE ACCEPT MR BANNISTER
14 PLEASE PRESENT HIM

15 CLERK WHAT SAY YE FOR THE DEFENSE?

16 MR TINSLEY PLEASE EXCUSE MR
17 BANNISTER FROM THE TRIAL OF THIS CASE

18 CLERK CALVIN L HILL WHAT SAY YE
19 FOR THE STATE?

20 MR JONES WE ACCEPT MR HILL
21 PLEASE PRESENT HIM

22 CLERK WHAT SAY YE FOR THE DEFENSE?

23 MR TINSLEY PLEASE SEAT MR HILL

24 THE COURT LADIES AND GENTLEMEN,
25 THOSE OF YOU WHO HAVE BEEN SELECTED ARE GOING TO BE

1 ASKED TO PLEASE GO TO THE JURY ROOM FOR A FEW
2 MOMENTS I'VE GOT A COUPLE OF MATTERS I'LL NEED TO
3 ADDRESS BEFORE WE CAN GO FURTHER SO PLEASE GO TO
4 THE JURY ROOM WITH THE BAILIFF WE'LL BRING YOU
5 BACK SHORTLY DO NOT DISCUSS THE CASE IN ANY
6 FASHION WHILE YOU'RE THERE

7 (JURY EXITS COURTROOM AT 3 25 O'CLOCK P M)

8 THE COURT ARE THERE ANY MATTERS
9 THAT NEED TO BE ADDRESSED BEFORE WE EXCUSE THE
10 REMAINING JURORS?

11 MR JONES NONE FROM THE STATE, YOUR
12 HONOR

13 MR TINSLEY NONE FROM THE DEFENSE,
14 YOUR HONOR

15 THE COURT OKAY LADIES AND
16 GENTLEMEN, THOSE OF YOU WHO WERE NOT SELECTED TO
17 SERVE IN THE TRIAL OF THE CASE, WE DO SINCERELY
18 APPRECIATE YOUR PARTICIPATION IN THIS PROCESS I
19 KNOW THAT THE PROCESS PERHAPS AT SOMETIME SEEMED T
20 BE TEDIOUS FOR YOU WE CAN UNDERSTAND THAT BUT WE
21 DO SINCERELY APPRECIATE YOUR PATIENCE AND
22 UNDERSTANDING WHILE WE ENGAGE IN THAT PROCESS

23 IT WAS A PROCESS THAT IS NECESSARY
24 FOR US TO INSURE THAT A JURY IS SELECTED THAT CAN BE
25 FAIR AND IMPARTIAL FOR THE PURPOSE OF THE TRIAL OF

1 THIS CASE, AND THAT IS WHAT THE PROCESS IS DESIGNED
2 TO ACCOMPLISH, AND I BELIEVE THAT WE HAVE
3 ACCOMPLISHED THAT IN THIS CASE SO WE DO SINCERELY
4 APPRECIATE YOUR WILLINGNESS TO SERVE IF CALLED UPON
5 IT IS NOT NECESSARY THAT YOU REMAIN WITH US ANY
6 FURTHER, NOR WILL IT BE NECESSARY THAT YOU REPORT
7 BACK FOR ANY FURTHER JURY DUTY SO YOU MAY BE
8 EXCUSED AT THIS TIME AND, AGAIN, LET ME THANK YOU
9 FOR YOUR WILLINGNESS TO SERVE
10 (REMAINDER OF JURY PANEL EXITS)

11 THE COURT ALL RIGHT, ARE THERE ANY
12 MATTERS THAT WE NEED TO ADDRESS PRIOR TO THE JURY
13 BEING SWORN?

14 MR JONES NONE FOR THE STATE, YOUR
15 HONOR

16 MR TINSLEY YES, YOUR HONOR AS TO
17 JUROR NUMBER 59, MR DRAFT, I WOULD OBJECT ON THE
18 PREVIOUSLY STATED REASONS RELATED TO HIS KINSHIP AS
19 WE'VE DISCUSSED PREVIOUSLY I OBJECT IN THE GENERAL
20 -- IN THE ACTUAL JURY OF TWELVE ALSO TO NUMBER 10,
21 MS BATTLE, BASED UPON MY ONGOING OBJECTION,
22 TAINTED, BIASED, WENT TO THE FUNERAL AND THAT SORT
23 OF THING AS PREVIOUSLY CITED AND I OBJECT TO
24 NUMBER 95 OF COURSE, THESE ARE ALL ONES THAT I
25 USED STRIKES ON THAT I FELT LIKE THE COURT SHOULD

1 HAVE DISQUALIFIED FOR CAUSE 95, THAT'S UNDER THE -
2 - BOTH BIAS IN THE COURTROOM AT THE FIRE DEPARTMENT
3 AND FINALLY, TWO ALTERNATES, NUMBER 305 AND 322, MR
4 GRIMES, MS PIERCE, BECAUSE THE SOLICITOR HAD THE
5 THREE HARRISES AND THE JACKSONS STAND, "CAN YOU GIVE
6 THE VICTIMS A FAIR TRIAL?" AND I PREVIOUSLY STATED
7 THAT THE TWO PARTIES ARE THE STATE OF SOUTH CAROLINA
8 AND MR HUGHEY THEREBY, IT WAS IMPROPER AND
9 TAINTED, THOSE TWO

10 THE COURT ALL RIGHT LET THE
11 RECORD REFLECT THAT PRIOR TO JURY SELECTION, WITH
12 REGARD TO JUROR NUMBER 36 ON THE LIST, HIS ACTUAL
13 JUROR NUMBER WAS 317 IT WAS REQUESTED BY DEFENSE,
14 IT WAS REQUESTED OF THE COURT, THAT I MAKE INQUIRY
15 OF THAT JUROR'S TREATING PHYSICIAN FOR A PARTICULAR
16 CONDITION THAT HE SUFFERED FROM TO INQUIRE OF THE
17 PHYSICIAN WHETHER OR NOT IT WOULD BE ADVISABLE FOR
18 THAT JUROR TO SERVE IN THE TRIAL OF THIS PARTICULAR
19 CASE I MADE THAT INQUIRY AND THE PHYSICIAN
20 INDICATED THAT HE WOULD NOT RECOMMEND THAT JUROR
21 SERVE THAT WAS MADE AWARE TO LAWYERS FOR BOTH
22 SIDES, AND I UNDERSTOOD AT THAT TIME THAT NEITHER
23 SIDE HAD ANY OBJECTION TO THAT JUROR BEING EXCUSED
24 FOR CAUSE IS THAT CORRECT?

25 MR JONES THE STATE HAD NO

1 OBJECTION, YOUR HONOR

2 MR TINSLEY THAT'S CORRECT, SIR

3 THE COURT ALL RIGHT ANY OTHER
4 MATTERS WE NEED TO ADDRESS BEFORE WE HAVE THE PANEL
5 SWORN?

6 MR JONES NONE FOR THE STATE, YOUR
7 HONOR

8 MR TINSLEY YOUR HONOR, WE DID HAVE
9 THE SEQUESTRATION ISSUE WE CAN DO IT NOW OR AFTER
10 THE JURY IS SWORN WE'RE COMFORTABLE THAT WAY

11 MR JONES YOUR HONOR, THAT BRINGS
12 ONE THING TO MIND, IF YOU WILL A QUESTION WHEN
13 YOU BRING THEM OUT TO BE SWORN, WILL -- DO YOU
14 ANTICIPATE THAT WE WOULD THEN PROCEED WITH YOUR
15 INSTRUCTIONS AND OUR OPENING STATEMENTS AND THE
16 CALLING OF WITNESSES?

17 THE COURT SURE

18 MR JONES ALL RIGHT WELL, COULD I
19 REQUEST, NUMBER ONE, I THINK WE DO NEED TO ADDRESS
20 THE SEQUESTRATION ISSUE NOW AND, NUMBER TWO, I WOULD
21 REQUEST A -- IF YOU WOULD CONSIDER THIS I KNOW YOU
22 GAVE US THE TIME BEFORE WE SELECTED THE JURY WE'RE
23 ON -- WE'RE MAKING PRETTY GOOD TIME I'D LIKE TEN
24 MINUTES BEFORE I OPEN

25 THE COURT ALL RIGHT, SIR I'LL

1 GRANT YOU THAT TIME

2 MR JONES ALL RIGHT

3 THE COURT ALL RIGHT, LET'S TAKE --
4 WHAT?

5 MR JONES AND, AND THE
6 SEQUESTRATION MOTION WE'RE PREPARED TO GO FORWARD
7 ON IT NOW

8 THE COURT OKAY MR GARRETT? MR
9 -- WHO'S HANDLING THAT FOR THE DEFENSE?

10 MR McCALLUM YOUR HONOR, IN ORDER
11 TO ASSURE THAT THE DEFENDANT IS AFFORDED THE
12 OPPORTUNITY TO CONFRONT WITNESSES AS PROVIDED BY THE
13 FIFTH, SIXTH, FOURTEENTH AMENDMENTS OF THE UNITED
14 STATES CONSTITUTION AS WELL AS THE CORRESPONDING
15 SOUTH CAROLINA CONSTITUTIONAL PROVISIONS, YOUR
16 HONOR, WE WOULD REQUEST THAT THE COURT FIND AN ORDER
17 -- AN ORDER TO PROTECT THE DEFENDANT'S RIGHT THAT
18 POTENTIAL WITNESSES IN THIS CASE BE SEQUESTERED FROM
19 THE COURTROOM THE REASON FOR THAT IS THAT IT IS
20 VERY DIFFICULT FOR A DEFENDANT OR HIS COUNSEL TO
21 MAKE A THOROUGH AND COMPLETE CROSS EXAMINATION OF
22 MULTIPLE WITNESSES WHO ARE TESTIFYING TO THE SAME OR
23 SIMILAR FACTUAL SITUATIONS WHENEVER THEY'VE HAD THE
24 OPPORTUNITY TO LISTEN TO EACH OTHER'S TESTIMONY AND,
25 THEREBY, IMPROPERLY CORROBORATE EACH OTHER'S

1 TESTIMONY AND IT TENDS TO REFRESH YOUR
2 RECOLLECTION BASED ON ANOTHER WITNESS' TESTIMONY
3 RATHER THAN THEIR RECOLLECTION OF THE EVENTS OR, OR
4 FACTS AND ISSUES THAT ARE BEING INQUIRED INTO OF
5 THAT WITNESS IN MAKING THIS MOTION, YOUR HONOR, WE
6 ARE VERY COGNIZANT OF THE VICTIM'S RIGHTS ACT AS IT
7 HAS BEEN COMMONLY CALLED IN SOUTH CAROLINA I
8 BELIEVE THAT'S § 3-15-3-16 (1976) CODE IT'S
9 1631505, I BELIEVE, IS THE BEGINNING OF THAT ACT
10 BUT, YOUR HONOR, THAT ACT DOES PROVIDE UNDER
11 SUBSECTION 1631535 -- I'M SORRY, YOUR HONOR I
12 BELIEVE THAT'S THE SUMMARY REPORT SECTION IN ANY
13 CASE, YOUR HONOR, THE ACT PROVIDES IN PERTINENT PART
14 THAT UNLESS THE COURT MAKES A FINDING THAT IT WOULD
15 BE INAPPROPRIATE FOR A POTENTIAL WITNESS OR
16 VICTIM/WITNESS TO BE IN A COURTROOM FOR THE REASONS
17 THAT I STATED, THE ACT DOES GIVE THEM THE RIGHT TO
18 ATTEND WE'RE ASKING THE COURT TO MAKE THAT RULING,
19 TO UNDERSTAND THE DIFFICULT POSITION WITH ESPECIALLY
20 IN THE PENALTY PHASE OF THIS TRIAL POTENTIALLY, YOUR
21 HONOR, WHERE THE VICTIMS WOULD BE ABLE TO FEED --
22 QUOTE, VICTIMS OR WITNESSES BE ABLE TO FEED OFF OF
23 EACH OTHER'S TESTIMONY AND THEREBY PRESENT THE
24 DEFENSE WITH AN INSURMOUNTABLE TASK OF CROSS
25 EXAMINATION AND SELF-CORROBORATION BETWEEN THESE

1 WITNESSES

2 THE COURT MR COULTER?

3 MR COULTER YOUR HONOR, IN REGARDS
4 TO SEQUESTRATION, WE HAVE NO PROBLEM WITH MOST OF
5 THE WITNESSES BEING SEQUESTERED, KEPT OUT OF THE
6 COURTROOM WE DO -- WE WOULD REQUEST THAT THE
7 ABBEVILLE POLICE DEPARTMENT'S REPRESENTATIVE,
8 LIEUTENANT BARRY NEW, WHO ACTED AS THE PRIMARY
9 OFFICER WITH ABBEVILLE POLICE DEPARTMENT, BE ALLOWED
10 TO STAY IN THE COURTROOM AND SECONDLY, YOUR HONOR,
11 WE WOULD ASK THAT ---

12 THE COURT EXCUSE ME IS THERE ANY
13 OBJECTION TO LIEUTENANT NEW REMAINING?

14 MR GARRETT I, I, I DON'T HAVE ANY
15 OBJECTION TO LIEUTENANT NEW, HIM BEING THE
16 COORDINATING OFFICER, I ASSUME IN THIS CASE AND,
17 AND I DON'T HAVE ANY -- AND, FURTHER, WE DON'T HAVE
18 ANY OBJECTION TO AN, AN EXPERT FROM EITHER SIDE
19 BEING, BEING ALLOWED TO COME AND GO IN THE COURTROOM
20 EITHER, YOUR HONOR

21 THE COURT OKAY

22 MR COULTER WE'LL AGREE WITH THAT,
23 NO PROBLEM WITH THE EXPERTS EITHER THE OTHER
24 PROBLEM IS, OF COURSE, THE, THE VICTIMS WE WOULD
25 ASK THAT ALL FOUR AND POSSIBLY FIVE IF MR

1 JACKSON -- IF HE'S ABLE TO COME BACK, AND SHEKA'S
2 MOTHER, THAT THE FOUR AND FIVE VICTIMS BE ALLOWED TO
3 STAY IN THE COURTROOM DURING THE PROCEEDINGS THE
4 SOUTH CAROLINA STATE LEGISLATURE PASSED A, A NEW
5 VICTIM'S RIGHTS LAWS THAT WENT INTO EFFECT ON
6 OCTOBER FIRST OF 1997 UNDER § 16-3-15-10 OF THAT
7 PARTICULAR LAW AGREES THAT VICTIM MEANS A PERSON WHO
8 SUFFERS DIRECT OR THREATENED PHYSICAL, PSYCHOLOGICAL
9 OR FINANCIAL HARM AS A RESULT OF THE COMMISSION OR
10 ATTEMPTED COMMISSION OF A CRIMINAL OFFENSE AS
11 DEFINED IN THIS SECTION

12 VICTIM ALSO INCLUDES A PERSON'S
13 SPOUSE, PARENT, CHILD, OR THE LAWFUL REPRESENTATIVE
14 OF A VICTIM WHO IS, A, DECEASED SO, YOUR HONOR, WE
15 WOULD ARGUE THAT EACH AND EVERY ONE OF THOSE POINTED
16 OUT ARE VICTIMS AS IS SET FORTH BY THE SOUTH
17 CAROLINA STATE LEGISLATURE AND FURTHERMORE, UNDER
18 THAT SAME SECTION THAT WAS APPROVED EFFECTIVE
19 OCTOBER FIRST, § 16-3-15-50(B), WHICH SPECIFICALLY
20 STATES THAT A PERSON MAY NOT BE -- MAY NOT BE
21 SEQUESTERED FROM A PROCEEDING ADJUDICATING AN
22 OFFENSE OF WHICH HE WAS A VICTIM SO I THINK IT'S
23 PRETTY CLEAR THAT THE SOUTH CAROLINA LEGISLATURE
24 INTENDED FOR PEOPLE WHO ARE VICTIMS AS I JUST
25 DEFINED TO BE ALLOWED TO STAY IN THE COURTROOM AND

1 NOT BE SUBJECT TO SEQUESTRATION

2 THE COURT ALL RIGHT GIVE ME THE
3 NAMES OF EACH OF THE FAMILY MEMBERS AND THEIR
4 CONNECTION TO THE DECEDENTS

5 MR COULTER YES, SIR FIRST IS
6 GEORGE MACK HARRIS THAT IS THE HUSBAND OF LUEVINIA
7 HARRIS

8 THE COURT ALL RIGHT

9 MR COULTER BERNICE JACKSON WHO IS
10 THE MOTHER OF TESHEKA JACKSON NEIL JACKSON IS THE
11 FATHER OF TESHEKA

12 THE COURT UH-HUH (AFFIRMATIVE)

13 MR COULTER ANTHONY HARRIS, WHO IS
14 THE SON OF LUEVINIA HARRIS, AS WELL AS MARCUS
15 HARRIS, ALSO BEING THE SON OF LUEVINIA HARRIS

16 THE COURT ALL RIGHT

17 MR TINSLEY ALONG THOSE LINES, YOUR
18 HONOR, I'M OF THE OPINION THAT MR HARRIS AND MS
19 JACKSON ARE CERTAINLY ENTITLED TO STAY AND I -- AS
20 A CLOSE-KIN REPRESENTATIVE TYPE OF A SITUATION AND
21 I ALSO WOULD SUBMIT THAT OUR ONLY EXCEPTION WOULD BE
22 GLORIA HARRISON, MR HUGHEY'S CLOSEST RELATIVE
23 NOW, ALL THREE OF THESE INDIVIDUALS ARE OBVIOUSLY
24 NAMED AS WITNESSES ALONG WITH THE HARRIS SONS
25 HOWEVER, UNDER CODE SECTION -- THE SAME CODE

1 SECTION, SUBSECTION (C), A VICTIM WHO WISHES TO BE
2 PRESENT FOR ANY PLEA, TRIAL OR SENTENCING MUST
3 NOTIFY THE PROSECUTING AGENCY OR SUMMARY COURT JUDGE
4 OF HIS DESIRE TO BE PRESENT, AND THIS NOTIFICATION
5 MAY BE INCLUDED IN THE WRITTEN VICTIM IMPACT
6 STATEMENT AND I'M PRETTY SURE MS JACKSON'S FILED
7 ONE AND I DON'T HAVE ANY PROBLEM WITH MR HARRIS
8 STAYING I THINK OUT OF FAIRNESS, A FAIRNESS
9 APPROACH, CLEARLY IF HE'S, HE'S, HE'S, HE'S
10 ENTITLED, IN MY OPINION, TO STAY AND WE WOULD
11 CONCEDE AS TO MR HARRIS AND MS JACKSON, AND
12 FURTHER ASK THAT MS HARRISON BE ALLOWED TO STAY AS
13 OUR ONE OF THE CLOSEST OF KIN TO KIND OF EXTENUATING
14 -- EXTENDED CLOSE MEMBER OF THE FAMILY

15 THE COURT ANYTHING FURTHER?

16 MR COULTER ONLY THAT I CAN ASSURE
17 YOU, JUDGE, THAT BOTH ANTHONY HARRIS AND MARCUS
18 HARRIS MADE IT VERY CLEAR TO OUR AGENCY, THE
19 PROSECUTING AGENCY, THAT -- OF THEIR WISH TO BE HERE
20 AND PRESENT FOR THE TRIAL REGARDLESS OF ANY WRITTEN
21 NOTIFICATION

22 THE COURT WELL, I UNDERSTAND I
23 DON'T -- I DON'T THINK IT REQUIRES WRITTEN NOTICE TO
24 REQUEST TO BE PRESENT IF YOU ARE PRESENT AND THE
25 SOLICITOR'S AWARE OF IT THAT'S JUST SIMPLY FOR THE

1 BENEFIT OF THE SOLICITOR SO THE SOLICITOR WILL KNOW
2 WHO WISHES TO BE PRESENT AND THE COURT WILL KNOW WHO
3 WISHES TO BE PRESENT

4 MR TINSLEY I THINK THE DISTINCTION
5 IS AT LEAST ONE IF NOT BOTH OF THESE GENTLEMEN ARE
6 SUBSTANTIVE PHASE ONE AND PHASE TWO WITNESSES I
7 WOULD ASSUME THAT MR HARRIS MAY VERY WELL BE ALSO
8 AND POSSIBLY MS JACKSON BUT WE ARE WAIVING THE
9 REQUEST FOR THEM TO BE SEQUESTERED BECAUSE OF THE
10 FACT THAT THEY ARE -- WE, WE, WE CONSIDER THEM
11 CLEARLY, YOUR HONOR, THE CLOSEST OF KIN TO THE TWO
12 DECEASED PARTIES AND ALONG THOSE LINES, WE
13 CERTAINLY COULD SEE BUT, BUT SINCE THE YOUNG
14 HARRISES AND OTHER RELATIVES ARE, ARE FACT WITNESSES
15 AND, INDEED, WITNESSES, PHASE ONE AND/OR TWO,
16 WHATEVER THE CASE MAY BE, WE WOULD -- WE WOULD
17 SUBMIT THAT, THAT IT WOULD NOT BE APPROPRIATE UNDER
18 THE RULES OF SEQUESTRATION TO EXTEND THAT PRIVILEGE
19 TO, TO THOSE INDIVIDUALS AS WELL

20 THE COURT OH ---

21 MR COULTER WITH THAT BEING SAID,
22 YOUR HONOR, I'D JUST POINT OUT TO THE COURT THAT --
23 WELL, MARCUS IS OUR FIRST WITNESS, SO THAT
24 ELIMINATES THE NEED TO EXCUSE HIM, AND ANTHONY IS
25 NOT A WITNESS IN THE GUILT/INNOCENCE PHASE, SO IF

1 THAT WILL HELP YOU IN A DECISION AND THEY'VE
2 CONCEDED TO ALLOW MR HARRIS AND MS JACKSON TO
3 STAY

4 THE COURT OKAY ALL RIGHT I'LL
5 LOOK AT THE -- I'LL LOOK AT THE STATUTE WHEN WE TAKE
6 OUR BREAK AND THEN I'LL LET YOU KNOW THE RULING WHEN
7 WE COME BACK BEFORE WE RECESS LET ME ASK THE
8 S L E D AGENTS THAT WILL BE ACTING AS CUSTODIANS
9 FOR THE JURY PANEL TO COME AROUND AND BE SWORN
10 (S L E D AGENTS COME BEFORE THE BENCH)

11 THE COURT ALL RIGHT, LET ME BE SURE
12 WE'VE GOT -- WHO WE'VE GOT WE'VE GOT NATALIE
13 TALBOT WE'VE GOT BOBBY BROWN WE'VE GOT RUSS --
14 RUSSELL RICE WE'VE GOT ALICE SHEALEY WE'VE GOT
15 DONNA WHAM AND WE'VE GOT RHETT DREHER AND SANDY
16 TEMPLETON IS NOT PRESENT BUT WILL BE, SO WE'LL SWEAR
17 HIM AT THE TIME THAT HE COMES

18 CLERK PLEASE RAISE YOUR RIGHT HAND
19 TO BE SWORN DO EACH OF YOU SWEAR THAT YOU WILL
20 KEEP THE JURY IN THE APPOINTED HOUSING, THAT YOU
21 WILL ALLOW NO PERSON TO SPEAK TO THEM WITHOUT LEAVE
22 OF THE COURT, THAT YOU WILL NOT SPEAK TO THEM
23 REGARDLESS -- REGARDING THIS CASE, NOR PERMIT THEM
24 TO SPEAK WITH ANOTHER ABOUT THIS CASE, THAT YOU WILL
25 PRESENT THEM AT THIS COURT AT THE APPOINTED TIME AND

1 SEE THAT -- TO THEIR CARE AND SAFETY WHILE THEY ARE
2 IN YOUR CHARGE, SO HELP YOU, GOD?

3 (S L E D AGENTS) I DO

4 CLERK THANK YOU

5 THE COURT ALL RIGHT THANK YOU
6 ALL RIGHT, WE'LL TAKE ABOUT TEN-MINUTES BEFORE WE
7 BEGIN

8 (COURT RECESSED AT 3 40 O'CLOCK P M)

9 THE COURT THANK YOU BE SEATED
10 ALL RIGHT, GENTLEMEN, WITH REGARD TO THE
11 SEQUESTRATION MOTION SPECIFICALLY RELATING TO FAMILY
12 MEMBERS OF THE DECEASED, SINCE THE DEFENDANTS DO NOT
13 OBJECT TO MR HARRIS REMAINING AND MS JACKSON
14 REMAINING, AND BECAUSE THE SOLICITOR HAS REPRESENTED
15 THAT --

16 MR COULTER MARCUS

17 THE COURT -- MARCUS HARRIS WILL BE
18 THE FIRST WITNESS AND ANTHONY HARRIS WILL NOT BE A
19 WITNESS IN THE GUILT PHASE OF THE TRIAL, I'M GOING
20 TO DENY YOUR MOTION TO SEQUESTER THOSE WITNESSES
21 DURING -- AT LEAST DURING THE GUILT PHASE OF THIS
22 TRIAL AND MS HARRISON, OF COURSE, IS ALLOWED TO
23 REMAIN ALSO

24 MR TINSLEY AND OUR EXPERT, MR
25 GERNT?

1 THE COURT WELL, THERE WAS NO
2 OBJECTION TO EXPERTS AS I UNDERSTAND IT

3 MR TINSLEY NO OBJECTION, YOUR
4 HONOR

5 MR COULTER JUDGE, WE DID HAVE A
6 NUMBER OF STIPULATIONS THAT IF YOU WANTED THEM READ
7 INTO THE RECORD NOW ---

8 THE COURT OKAY OKAY

9 MR COULTER WE ALSO HAD
10 APPROXIMATELY EIGHTY PIECES OF EVIDENCE, EIGHTY-
11 FIVE, THAT HAVE BEEN -- MOST OF WHICH HAVE BEEN
12 AGREED UPON IF YOU WANTED THOSE READ INTO THE RECORD
13 OR SIMPLY INTRODUCED AS WE GO ALONG EITHER WAY IS
14 FINE

15 THE COURT WELL, THEY -- THEY'VE
16 ALREADY BEEN MARKED?

17 MR COULTER YES

18 THE COURT WE'VE GOT ONE THROUGH
19 WHAT?

20 (EXHIBITS 1 THROUGH 85 HAVE BEEN MARKED AS STATE'S
21 EXHIBITS AND ENTERED INTO THE RECORD WITH THE
22 EXCEPTION OF NUMBERS 5, 9, 60, 61, 62, 79, 80, 81,
23 84 AND 85 NUMBERS 12 AND 78 WERE LEFT OPEN AND DO
24 NOT CORRESPOND TO AN EXHIBIT, AS FOLLOWS)

25 MARKED FOR INDENTIFICATION ONLY, STATE'S

1	5	DIAGRAM OF HARRIS HOME
2	9	ATM RECEIPT DATED 12/4/95
3	60	ONE (1) PHOTOGRAPH OF PASSENGER COMPARTMENT
4		OF MITSUBISHI
5	61	ONE (1) PHOTOGRAPH OF BLEACH IN SEAT OF
6		PASSENGER COMPARTMENT OF MITSUBISHI
7	62	ONE (1) PHOTOGRAPH OF ITEMS FOUND IN BAG ON
8		PASSENGER SEAT
9	79	DISTANCE PATTERNS
10	80	NATIONSBANK STATEMENT (NANCY GOFF)
11	81	STICKER PRICE FROM CAR
12	84	ONE (1) PHOTOGRAPH OF MS HARRIS WITH
13		PHONE IN FOREGROUND
14	85	ONE (1) PHOTOGRAPH OF MS JACKSON WITH
15		HEAD ON FLOOR
16		INTRODUCED AND ADMITTED, STATE'S
17	1	OVERHEAD DIAGRAM OF CRIME SCENE AREA
18	2	ONE (1) PHOTOGRAPH OF ENTRANCE TO
19		CRIME SCENE
20	3	ONE (1) PHOTOGRAPH OF HARRIS RESIDENCE
21		WITH TRUCK TO THE RIGHT
22	4	ONE (1) PHOTOGRAPH OF HARRIS HOME WITH
23		WHITE TRAILER TO LEFT
24	6	ONE (1) INSTAMATIC PHOTOGRAPH OF LEFT SIDE
25		OF WHITE TRAILER

1	7	ONE (1) INSTAMATIC PHOTOGRAPH OF BICYCLE
2		FROM REAR
3	8	ONE (1) INSTMATIC PHOTOGRAPH OF BICYCLE
4	10	ONE (1) PHOTOGRAPH OF KNIFE IN HALLWAY
5	11	EMPTY BOX OF SHOTGUN SHELLS
6	12	OPEN, NO EXHIBIT
7	13	DIAGRAM OF AREA BETWEEN ABBEVILLE AND
8		ANDERSON
9	14	SUICIDE NOTE
10	15	CONSENT TO SEARCH DEFENDANT'S HOME
11	16	ONE (1) PHOTOGRAPH OF FRONT DOOR OF
12		HARRIS RESIDENCE
13	17	ONE(1) PHOTOGRAPH OF INSIDE OF HARRIS
14		HOME LOOKING FROM LIVING ROOM BACK TO
15		FRONT DOOR
16	18	ONE (1) PHOTOGRAPH OF DOOR KNOB OF FRONT
17		DOOR
18	19	ONE (1) PHOTOGRAPH OF LATCH ON FRONT DOOR
19	20	ONE (1) PHOTOGRAPH OF BROKEN FRAME ON
20		FRONT DOOR
21	21	ONE (1) PHOTOGRAPH OF LIVING ROOM LOOKING
22		TOWARD KITCHEN
23	22	ONE (1) PHOTOGRAPH OF LIVING ROOM LOOKING
24		TOWARD SECOND BEDROOM
25	23	ONE (1) PHOTOGRAPH LOOKING FROM LIVING

- 1 ROOM DOWN HALLWAY TOWARD SECOND BEDROOM
- 2 24 ONE (1) PHOTOGRAPH LOOKING DOWN HALLWAY
- 3 FROM SECOND BEDROOM
- 4 25 ONE (1) CLOSE-UP PHOTOGRAPH OF BROKEN LATCH
- 5 ON SECOND BEDROOM DOOR
- 6 26 ONE (1) CLOSE-UP PHOTOGRAPH OF BROKEN LATCH
- 7 ON SECOND BEDROOM DOOR
- 8 27 ONE (1) PHOTOGRAPH OF SECOND BEDROOM WITH
- 9 BED ON RIGHT
- 10 28 ONE (1) PHOTOGRAPH OF SECOND BEDROOM WITH
- 11 BED ON LEFT
- 12 29 ONE (1) PHOTOGRAPH OF DOOR TO BATHROOM IN
- 13 SECOND BEDROOM
- 14 30 ONE (1) PHOTOGRAPH OF BATHROOM FROM HALLWAY
- 15 DOOR
- 16 31 ONE (1) PHOTOGRAPH OF KNIFE
- 17 32 ONE (1) KNIFE
- 18 33 ONE (1) PHOTOGRAPH LOOKING FROM LIVING
- 19 ROOM INTO KITCHEN
- 20 34 ONE (1) PHOTOGRAPH OF FLOOR FROM LIVING ROOM
- 21 INTO KITCHEN WITH BLOOD DROPS
- 22 35 ONE (1) PHOTOGRAPH OF LEFT SIDE OF KITCHEN
- 23 36 ONE (1) PHOTOGRAPH OF CHAIR TURNED OVER IN
- 24 KITCHEN
- 25 37 ONE (1) PHOTOGRAPH OF TABLE WITH BROKEN VASE

- 1 38 ONE (1) PHOTOGRAPH OF LEAF IN BROKEN VASE
- 2 39 ONE (1) PHOTOGRAPH OF RIGHT SIDE OF KITCHEN
- 3 LEADING TO HALLWAY TO MASTER BEDROOM
- 4 40 ONE (1) PHOTOGRAPH OF SNAPPED TELEPHONE LINE
- 5 41 ONE (1) PHOTOGRAPH OF PHONE ON FLOOR IN
- 6 KITCHEN
- 7 42 ONE (1) PHOTOGRAPH OF BLOOD DROPS ON KITCHEN
- 8 FLOOR NEXT TO CHAIR
- 9 43 ONE (1) PHOTOGRAPH OF HALLWAY LEADING TO
- 10 MASTER BEDROOM WITH BODY OF MS HARRIS WITH
- 11 CURTAIN PARTIALLY OPEN
- 12 44 ONE (1) PHOTOGRAPH OF HALLWAY LEADING TO
- 13 MASTER
- 14 BEDROOM WITH BODY OF MS HARRIS
- 15 45 ONE (1) PHOTOGRAPH OF HALLWAY LOOKING FROM
- 16 MASTER BEDROOM TO KITCHEN
- 17 46 ONE (1) PHOTOGRAPH OF MASTER BEDROOM LOOKING
- 18 TOWARD DOOR
- 19 47 ONE (1) PHOTOGRAPH OF SHOTGUN AND SHELL ON
- 20 FLOOR OF MASTER BEDROOM
- 21 48 SHOTGUN
- 22 49 SHOTGUN SHELL FROM THE FLOOR
- 23 50 ONE (1) PHOTOGRAPH OF SHELL IN CHAMBER OF
- 24 SHOTGUN
- 25 51 SHOTGUN SHELL FROM CHAMBER

1	52	ONE (1) PHOTOGRAPH OF BED OF MASTER BEDROOM
2		WITH LEGS OF TESHEKA JACKSON
3	53	ONE (1) PHOTOGRAPH OF PHONE IN MASTER
4		BEDROOM
5	54	ONE (1) PHOTOGRAPH OF PHONE IN MASTER
6		BEDROOM WITH RECEIVER ON THE FLOOR
7	55	ONE (1) PHOTOGRAPH OF FRONT OF MITSUBISHI
8	56	ONE (1) PHOTOGRAPH OF BACK OF MITSUBISHI
9	57	ONE (1) PHOTOGRAPH OF DRIVER SIDE DOOR
10		OF MITSUBISHI
11	58	ONE (1) PHOTOGRAPH OF ARM REST ON DRIVERS
12		SIDE DOOR
13	59	ONE (1) PHOTOGRAPH OF BACKSEAT OF
14		MITSUBISHI
15	63	ONE (1) PHOTOGRAPH OF BACK SIDE OF HARRIS
16		HOME
17	64	ONE (1) PHOTOGRAPH OF SHOTGUN HOLE TO
18		EXTERIOR OF HARRIS HOME
19	65	ONE (1) PHOTOGRAPH OF SHOTGUN HOLE TO SHOWER
20		CURTAIN
21	66	ONE (1) PHOTOGRAPH OF SHOTGUN HOLE TO SHOWER
22		CURTAIN WITH PROBE EXTENDED
23	67	ONE (1) PHOTOGRAPH OF SHOTGUN HOLE TO BATHTUB
24	68	ONE (1) CLOSE-UP PHOTOGRAPH OF SHOTGUN HOLE
25		IN BATHTUB

1 69 ONE (1) PHOTOGRAPH OF BLOOD DROP ON INSIDE OF
2 DOOR IN BATHROOM
3 70 ONE (1) PHOTOGRAPH OF BATHROOM WALL WITH
4 BLOOD DROPS
5 71 ONE (1) PHOTOGRAPH OF BAG NEXT TO COUCH IN
6 MASTER BEDROOM
7 72 ONE (1) PHOTOGRAPH OF SHOTGUN SHELL IN BAG
8 IN MASTER BEDROOM
9 73 SHOTGUN SHELL FROM BAG IN MASTER BEDROOM
10 74 ONE (1) ATM CARD IN THE NAME OF TESHEKA
11 JACKSON
12 75 ONE (1) DRIVERS LICENSE IN THE NAME OF
13 TESHEKA JACKSON
14 76 ONE (1) STILL SHOT OF ANDERSON ATM
15 TRANSACTION
16 77 ONE (1) STILL SHOT OF ANDERSON ATM
17 TRANSACTION
18 78 OPEN, NO EXHIBIT
19 TRANSACTION
20 82 BUCKSHOT AND WADDING FROM MS HARRIS
21 83 BUCKSHOT AND WADDING FROM MS JACKSON

22 *****

23 MR COULTER ONE THROUGH EIGHTY-
24 FIVE I WOULD SAY APPROXIMATELY TEN OF THOSE HAVE
25 ONLY BEEN MARKED FOR IDENTIFICATION AT THIS POINT,

1 BUT THE OTHER APPROXIMATELY SEVENTY-FIVE, AS I
2 UNDERSTAND IT, HAVE BEEN STIPULATED TO AND HAVE
3 ALREADY BEEN MARKED AS EVIDENCE

4 THE COURT ALL RIGHT LET'S DO
5 THIS WE'VE GOT EIGHTY-FIVE TOTAL EXHIBITS TO BE
6 OFFERED BY THE STATE?

7 MR COULTER YES, SIR

8 THE COURT AND GIVE ME THOSE THAT
9 HAVE NOT BEEN AGREED TO BY THE DEFENSE

10 MR COULTER ALL RIGHT NUMBER 5
11 HAS BEEN MARKED FOR I D NUMBER 9 HAS BEEN MARKED
12 FOR I D 12 HAS BEEN LEFT OPEN THERE IS NO
13 CORRESPONDING PIECE OF EVIDENCE FOR 12

14 THE COURT OKAY

15 MR COULTER NUMBER 60, 61 AND 62 ---

16 THE COURT WHAT WAS IT? 60, 61 AND
17 62?

18 MR COULTER HAVE BEEN MARKED FOR
19 I D 79 AND 80 HAVE BEEN MARKED FOR I D 78 IS
20 ALSO A SPOT THAT'S BEEN LEFT OPEN 81 IS FOR I D
21 84 AND 85 ARE FOR I D

22 THE COURT ALL RIGHT SO THERE ARE
23 A TOTAL OF EIGHT-FIVE NUMBERS TWO OF THOSE NUMBERS
24 DO NOT CORRESPOND TO AN ACTUAL EXHIBIT, THOSE
25 NUMBERS BEING 12 AND 78 EXHIBITS NUMBERED 5, 9,

1 60, 61, 62, 79, 80, 81, 84 AND 85 HAVE NOT BEEN
2 AGREED TO BY THE DEFENSE, IS THAT RIGHT?

3 MR GARRETT THAT'S CORRECT

4 THE COURT ALL OTHER EXHIBITS MARKED
5 BETWEEN THE NUMBERS OF 1 AND 85 ARE ADMITTED WITHOUT
6 OBJECTION BY THE DEFENSE?

7 MR GARRETT BEG THE COURT'S
8 INDULGENCE YOUR HONOR, OUR PURPOSE IN DOING THAT
9 WAS TO IDENTIFY ANY AREAS OF CONCERN IMMEDIATELY AS
10 WE RAISE THOSE AREAS OF CONCERN WE'VE MARKED ALL
11 THESE EXHIBITS IN A COMMON SCHEME SO THAT THEY WILL
12 HAVE THE SAME NUMBERS THAT WE HAVE WE DON'T WANT
13 TO AT THIS TIME TO AGREE TO THE ADMISSION OF ALL
14 THOSE ITEMS INTO EVIDENCE AT THIS TIME WITHOUT GOING
15 THROUGH PIECE BY PIECE

16 MR TINSLEY MOST OF THEM WE AGREE
17 TO IF WE -- SHOULD THEY COME INTO EVIDENCE BUT WE
18 RESERVE THE RIGHT IF SOMETHING SHOULD POP UP ON ANY
19 PARTICULAR PIECE -- I DON'T THINK IT WILL IS WHAT
20 I'M TELLING YOU, AND YOU DON'T EITHER, DO YOU?

21 MR COULTER NO, I, I DON'T -- I
22 DON'T ANTICIPATE IT BUT I WANT TO PROTECT OUR
23 RIGHTS

24 THE COURT OKAY SO, THEN, WE DO
25 NOT HAVE ANY STIPULATION OR AGREEMENT AS TO ANY

1 EXHIBITS?

2 MR COULTER AS TO THEIR NUMBERING,
3 WE DO, BUT AS NOT AS TO THEIR ADMISSIBILITY

4 THE COURT WELL, WE DON'T NEED TO
5 AGREE TO THE NUMBERS

6 MR TINSLEY I, I, I DISAGREE WITH
7 THAT, YOUR HONOR I THINK WE DO ALL I'M ASKING IS
8 THAT BEFORE IT'S ACTUALLY PUBLISHED OR, OR, OR SHOWN
9 -- AND TELL ME IF YOU DISAGREE WITH ME, MR GARRETT
10 -- THAT WE JUST GET A FINAL OPPORTUNITY TO LOOK AT
11 IT AND, OF COURSE, WE DID ---

12 THE COURT WELL, MAYBE I
13 MISUNDERSTAND I THOUGHT THAT'S WHAT Y'ALL DID LAST
14 WEEK

15 MR TINSLEY WE DID

16 THE COURT I THOUGHT WE WENT THROUGH
17 ALL OF THOSE --

18 MR TINSLEY WE DID

19 THE COURT -- EXHIBITS AND Y'ALL
20 DECIDED WHICH ONES YOU HAD NO OBJECTION TO AND WHICH
21 ONES YOU HAD CONCERN ABOUT, AND I INDICATED THAT I
22 WOULD SUGGEST YOU GO AHEAD AND MARK THOSE ITEMS FOR
23 ADMISSION THAT YOU DID AGREE TO --

24 MR TINSLEY RIGHT

25 THE COURT -- AND THOSE THAT YOU DID

1 NOT AGREE TO, MARK FOR IDENTIFICATION AND WE WOULD
2 ADDRESS THOSE ISSUES WHEN THE TIME AROSE

3 MR TINSLEY AND I AGREE WITH THAT
4 I THINK THAT IS THE CASE

5 THE COURT WELL, THEN YOU AND MR
6 GARRETT, NEED TO DISCUSS IT BECAUSE APPARENTLY Y'ALL
7 HAVE A DIFFERENT UNDERSTANDING OF WHAT WAS TO BE
8 AGREED ON

9 MR TINSLEY DO YOU SEE ANYTHING
10 ELSE GOING ON? ALL RIGHT

11 MR GARRETT THERE IS NO STIPULATION,
12 YOUR HONOR, WITH THE EXCEPTION OF THE COMMONALITIES
13 OF THE NUMBERS AT THIS TIME

14 THE COURT OKAY ALL RIGHT

15 MR TINSLEY THEN WE'LL NEED TO ---

16 MR GARRETT THERE ARE THREE OTHER
17 STIPULATIONS, THOUGH, THAT WE DO AGREE ON

18 MR COULTER YES AT THE LAST CHECK
19 I THOUGHT WE HAD AGREED ON THESE THREE ---

20 THE COURT WELL, LET ME HEAR THEM SO
21 WE'LL KNOW WHETHER THEY ARE OR NOT

22 MR COULTER YES, SIR WHAT HAS
23 BEEN MARKED AS NUMBER 49 AND I'M NOT SURE HOW TO
24 REFER TO IT ANY FURTHER THAN THAT BUT THE SHOTGUN,
25 IT HAS BEEN STIPULATED THAT THE DEFENDANT'S FATHER,

1 JOHN HENRY SMITH, DID, IN FACT, OWN THAT SHOTGUN

2 MR GARRETT THAT'S TRUE

3 THE COURT ALL RIGHT SO YOU DO ---

4 MR GARRETT SO WE WOULD NOT REQUIRE

5 THE S L E D AGENT TO COME IN AND SHOW THAT IT WAS

6 TITLED OR, OR IN HIS NAME SO WE AGREE THAT THAT'S

7 -- IS THAT YOUR NUMBER FORTY -- MINE LOOKS LIKE --

8 MINE LOOKS LIKE 48

9 MR COULTER I'M SORRY 48

10 THE COURT ALL RIGHT SO EXHIBIT

11 48, BEING A SHOTGUN, IS TO BE ADMITTED WITHOUT

12 OBJECTION AND STIPULATED THAT THE OWNERSHIP OF THAT

13 WEAPON WAS JOHN KENNEDY HUGHEY, SENIOR?

14 MR GARRETT HIS FATHER HIS NAME

15 IS --

16 MR COULTER JOHN HENRY SMITH

17 MR GARRETT -- JOHN HENRY SMITH

18 THE COURT OH, I'M -- EXCUSE ME

19 JOHN HENRY SMITH, OKAY

20 MR COULTER THAT'S CORRECT

21 MR TINSLEY YOUR HONOR?

22 THE COURT SIR?

23 MR TINSLEY ONE FURTHER QUESTION

24 IN THE SEQUESTRATION ORDER, AND I'M GETTING SCOTT

25 HARRISON IN THE BACK RIGHT NOW, ARE YOU RULING THAT

1 IF THEY'RE NOT PHASE ONE WITNESSES THEY CAN STAY OR
2 -- I, I NEED TO GET SOME CLARIFICATION ON THAT
3 HE'S POSSIBLE ONE OR TWO, SO WE'RE GOING TO TAKE MR
4 HARRISON INTO THE BACK NOW

5 MR GARRETT ANTHONY'S BEEN LISTED
6 AS A STATE'S WITNESS

7 THE COURT I UNDERSTOOD THAT, THAT
8 MARCUS HARRIS WILL BE CALLED AS A WITNESS IN THE
9 GUILT PHASE OF THIS TRIAL?

10 MR COULTER CORRECT

11 THE COURT I UNDERSTAND THAT ANTHONY
12 HARRIS WILL NOT BE CALLED AS A WITNESS IN THE GUILT
13 PHASE OF THIS TRIAL

14 MR COULTER CORRECT

15 THE COURT HE MAY BE CALLED AS A
16 WITNESS IN THE PENALTY PHASE OF THIS TRIAL SHOULD WE
17 GET TO THAT POINT

18 MR GARRETT IF WE GET THERE

19 THE COURT OKAY

20 MR GARRETT SCOTT HARRISON, YOUR
21 HONOR IS -- HARRISON

22 MR TINSLEY ONE OF OUR WITNESSES

23 THE COURT YES, SIR

24 MR GARRETT HE IS A WITNESS LISTED
25 BY THE STATE IN THE GUILT PHASE THEN HE WOULD HAVE

1 TO BE UNDER THE SEQUESTRATION ORDER AS I UNDERSTAND
2 IT?

3 THE COURT AND HE'S WHAT RELATION?
4 MR JONES DEFENDANT'S BROTHER-IN-
5 LAW

6 MR TINSLEY MAYBE THE CONFUSION IS
7 THAT BOTH SIDES HAVE HIM LISTED

8 MR JONES THAT WOULD BE DOUBLE THE
9 REASON FOR HIM TO BE -- NOT TO BE IN THIS COURTROOM
10 I HAVEN'T ASKED HIM TO STAY IN THE COURTROOM

11 THE COURT OKAY THEN HE'S -- HE'LL
12 BE SEQUESTERED THE ONLY -- THE ONLY -- THE ONLY --
13 THE ONLY POTENTIAL WITNESSES THAT ARE NOT TO BE
14 SEQUESTERED ARE MR HARRIS, MS JACKSON, ANTHONY
15 HARRIS, MARCUS HARRIS, GLORIA HARRISON, AND I
16 BELIEVE THAT'S ALL

17 MR JONES YOUR HONOR, THEIR EXPERT
18 THE COURT AND, WELL, AND THE EXPERT
19 IS ---

20 MR TINSLEY INCLUDING ALL EXPERTS
21 THE COURT RIGHT

22 MR TINSLEY I'M CLEAR I JUST HAD
23 TO GET A COUPLE OUT BEFORE WE GOT GOING, JUDGE

24 MR JONES THEY SAID ONE EXPERT
25 THEY SAID ONE EXPERT EACH I MEAN REALLY WHEN WE

1 ARGUED EXPERTS, MY UNDERSTANDING WAS THEY ONE -- TO
2 BE ASKING FOR ONE EXPERT FROM EACH SIDE

3 MR TINSLEY OH, NO NO OH, NO
4 NO

5 MR JONES WELL ---

6 MR TINSLEY EXCEPT EXPERTS, WE
7 SAID

8 THE COURT WELL, WELL, I, I DIDN'T
9 UNDERSTAND THAT WAS A BONE OF CONTENTION IS IT?

10 MR JONES WELL, BASICALLY -- NO
11 AS A MATTER OF FACT, IT REALLY DON'T MATTER TO ME
12 WHO THEY BRING IN HERE

13 THE COURT OKAY

14 MR GARRETT WE'LL BEING THEM BACK
15 IN THEN

16 THE COURT YOU MEAN AS FAR AS THE
17 EXPERTS ARE CONCERNED?

18 MR JONES YES, SIR AS FAR AS
19 EXPERTS ARE CONCERNED EXPERTS

20 MR GARRETT OKAY , EXPERTS I'M
21 GLAD YOU MADE THAT CLEAR

22 MR COULTER JUDGE, UNLESS I
23 MISUNDERSTOOD AGAIN, I THINK THERE ARE TWO FURTHER
24 STIPULATIONS THAT HAVE BEEN AGREED UPON

25 THE COURT ALL RIGHT

1 MR COULTER THE SECOND ONE BEING,
2 AS I UNDERSTAND IT, THE DEFENSE HAS, IN FACT,
3 CREATED ABBEVILLE COUNTY AS THE CORRECT VENUE

4 MR TINSLEY TRUE
5 THE COURT ALL RIGHT

6 MR COULTER NUMBER THREE IS THAT
7 THE DEFENSE WOULD NOT REQUIRE ANY SHOWING OF THE
8 CHAIN ON THE BODIES OF MS LUEVINIA HARRIS AND MS
9 TESHEKA JACKSON FROM THE SITE OF THE MURDER TO THE
10 FORENSIC PATHOLOGIST FOR AN AUTOPSY

11 THE COURT ALL RIGHT

12 MR GARRETT THAT IS CORRECT

13 MR TINSLEY CORRECT

14 THE COURT OKAY ALL RIGHT THOSE
15 THREE STIPULATIONS

16 MR JONES JUDGE, ONE LAST THING, AND
17 I APOLOGIZE FOR WAITING THIS LATE TO BRING IT TO
18 YOUR ATTENTION, BUT IT JUST SLIPPED MY MIND
19 YESTERDAY AND AGAIN TODAY WHEN YOU READ OUT -- IN
20 FACT, I BELIEVE YOU HAD A COPY AND SOMEHOW YOUR COPY
21 DIDN'T INCLUDE TWO CHARGES THAT ARE ON THE ORIGINAL
22 THOSE CHARGES ARE A TRANSACTION CREDIT CARD FRAUD,
23 COUNTS FIVE AND SIX OF THE INDICTMENT THEY'RE NOT
24 ---

25 THE COURT OH, I WAS LOOKING AT

1 THIS THIS IS NOT IT?

2 MR JONES I'M SORRY

3 THE COURT OKAY

4 MR JONES REINDICTED HE WAS

5 REINDICTED IN SOMETIME THIS PAST YEAR, WASN'T IT?

6 LET'S SEE OKAY, THE REINDICTMENT -- LET ME SEE,

7 JUDGE I CAN TELL YOU WHEN IT WAS REINDICTED THIS

8 WAS REINDICTED IN -- I'M SORRY -- MARCH OF '96, AND

9 THE ORIGINAL INDICTMENT WAS IN JANUARY OF '96 SO

10 WE CAME BACK IN MARCH AND WE ADDED TWO COUNTS OF

11 TRANSACTION CREDIT CARD FRAUD

12 THE COURT AND HE'S BEEN ARRAIGNED

13 ON THIS? HAVE I GOT A COPY OF THAT INDICTMENT

14 CERTIFIED?

15 MR JONES LET ME MAKE SURE DID

16 Y'ALL GET A COPY OF THE REINDICTMENT, A CERTIFIED

17 COPY OF THE REINDICTMENT INVOLVING THE TRANSACTION

18 CREDIT CARD FRAUD?

19 MR GARRETT WHAT'S YOUR NUMBER,

20 TOWNES?

21 MR COULTER 22096GS01

22 MR GARRETT MARCH 1996 IS CURRENT

23 11396 ALLEN WORTH

24 MR JONES EXCUSE ME WEISS

25 3/11/96

1 MR GARRETT 3/11/96 IS THIS THE
2 REINDICTMENT?

3 MR JONES YES THE ORIGINAL
4 INDICTMENT WAS IN JANUARY OF '96 THE
5 REINDICTMENT'S IN MARCH OF '96

6 MR GARRETT WHAT WAS THE DIFFERENCE
7 BETWEEN THE TWO BOOKINGS?

8 MR JONES THERE'S AN ADDITIONAL TWO
9 COUNTS, COUNTS FIVE AND SIX

10 MR GARRETT FOR OUR RECORD, YOUR
11 HONOR, WE DID NOTICE THAT HIS HONOR DID NOT MENTION
12 THOSE TWO WE WERE UNDER THE IMPRESSION, THE
13 HOPEFUL IMPRESSION, THAT THE SOLICITOR WOULD NOT GO
14 INTO THOSE OTHER TWO MATTERS, YOUR HONOR IT IS OUR
15 INFORMATION THAT THE JURY DID NOT HEAR ANYTHING
16 ABOUT THOSE OTHER TWO CHARGES DURING THE SELECTION
17 PROCESS SO WE WOULD TAKE THE POSITION THAT BECAUSE
18 THE STATE DID NOT MAKE A CONTEMPORANEOUS OBJECTION
19 PRIOR TO THE SELECTION PROCESS, THAT THEY HAVE NOW
20 WAIVE THOSE TWO CHARGES AND THAT THOSE ARE NOT
21 PROPER TO GO BEFORE OUR TRIAL JURY AT THIS TIME

22 THE COURT STATE THAT AGAIN THE
23 STATE WAIVED WHAT?

24 MR GARRETT BY THE STATE NOT MAKING
25 A CONTEMPORANEOUS OBJECTION TO HIS HONOR'S FAILURE

1 TO CITE COUNTS FIVE AND COUNT SIX IN THE COURT'S
2 INSTRUCTIONS TO THE JURY, IT'S THE POSITION OF THE
3 DEFENSE THAT THEY HAVE WAIVED THEIR RIGHT NOW TO
4 PROCEED ON THOSE TWO CHARGES THEY SHOULD HAVE MADE
5 A CONTEMPORANEOUS OBJECTION AND NOW WE, WE, WE'VE
6 DRAWN AND QUARTERED AND EMPANELED THE JURY AND NOW
7 THEY'RE WANTING TO TRY TO BRING THOSE TWO BACK WE
8 THOUGHT THEY HAD DECIDED TO WAIVE THOSE WE DIDN'T
9 HEAR ANY CONTEMPORANEOUS OBJECTION TO THE COURT NOT
10 MENTIONING -- MENTIONING THAT WE WERE UNDER THE
11 IMPRESSION THAT THAT'S WHAT HAD OCCURRED

12 THE COURT WELL, OF COURSE, I DIDN'T
13 MENTION IT BECAUSE I DIDN'T KNOW IT I DIDN'T HAVE
14 IT I HAD A -- I WAS SENT A COPY OF THE INDICTMENT,
15 AND THE INDICTMENT I WAS SENT A COPY OF DID NOT
16 CONTAIN THOSE TWO COUNTS OF COURSE, EVEN IF THE
17 STATE ELECTED NOT TO GO FORWARD ON THOSE -- THOSE
18 TWO COUNTS PRESENTLY IN THE TRIAL OF THE GUILT
19 PHASE, THEY WOULD STILL BE PERMITTED TO OFFER
20 EVIDENCE OF THOSE FACTS IN THE SENTENCING PHASE
21 SHOULD WE GET TO THAT POINT WHAT -- WHAT'S THE
22 POSITION OF THE STATE?

23 MR JONES WELL, JUDGE, I WILL TELL
24 YOU THAT IF IT IS THE COURT'S VIEW THAT IT WOULD BE
25 IN THE BEST INTEREST OF, OF JUSTICE FOR THE STATE TO

1 WITHDRAW THOSE TWO CHARGES AND WITHHOLD PRESENTING
2 ANY EVIDENCE OF THOSE TWO CHARGES UNTIL AND IF WE
3 ARRIVE AT THE PUNISHMENT PHASE, I WOULD AGREE WITH
4 IT I WOULD ASK THE COURT, THOUGH, THAT THOSE --
5 THOSE CHARGES INVOLVE EVIDENCE CONCERNING THE
6 DEFENDANT'S ACTIONS IMMEDIATELY AFTER THE CRIME WAS
7 COMMITTED, AND WE FEEL THAT THOSE ACTIONS ARE
8 EVIDENCE THAT THE STATE WOULD WANT TO INTRODUCE SO
9 WHAT I'M SUGGESTING AND ASKING YOU IS THAT WE DON'T
10 HAVE ANY PROBLEM WITH NOT GOING FORWARD ON THOSE TWO
11 CHARGES IN THE GUILT/INNOCENCE PHASE OF THIS TRIAL
12 I DO NOT WANT TO BE PROHIBITED FROM INTRODUCING
13 EVIDENCE OF THOSE CHARGES FOR THE PURPOSE OF, OF
14 GIVING THE JURY EVIDENCE OF THE DEFENDANT'S ACTIONS
15 IMMEDIATELY AFTER THE CRIME WAS COMMITTED

16 THE COURT WELL, WOULD THEY BE
17 OFFERED TO PROVE THE IDENTITY OF THE DEFENDANT AS
18 THE PERPETRATOR OF THE OFFENSE?

19 MR JONES YES, SIR

20 THE COURT WELL, IT WOULD BE -- IT
21 WOULD -- THAT, THAT EVIDENCE WOULD BE ADMISSIBLE FOR
22 THAT PURPOSE

23 MR JONES ALL RIGHT I WOULD ---

24 THE COURT I MEAN ASSUMING IT
25 RELATED TO SOME, SOME ELEMENT OF THE OFFENSE OR

1 MOTIVE OR --

2 MR JONES YES, SIR,

3 THE COURT -- ANY OTHER ELEMENT THAT
4 MIGHT BE NECESSARY FOR THE STATE TO PROVE

5 MR GARRETT WELL, WE'RE NOT
6 CONTESTING THE IDENTITIES, THE PERSON

7 THE COURT WELL, WELL, PERHAPS YOU
8 AREN'T, BUT THAT IS SOMETHING THAT THE STATE HAS TO
9 PROVE THEY HAVE ELEMENTS TO PROVE AND THEY CAN
10 PROVE THEM AS THEY SEE FIT AT LEAST THAT'S THE WAY
11 I, I VIEW IT

12 MR JONES THE STATE'S POSITION IS,
13 JUDGE, WE WILL NOT GO FORWARD ON THOSE TWO CHARGES
14 IN THE GUILT/INNOCENCE PHASE OF THIS TRIAL BECAUSE
15 WE -- BECAUSE WE DIDN'T -- WE DIDN'T GIVE YOU AN
16 INDICTMENT THAT HAD THOSE TWO CHARGES ON IT AT THE
17 BEGINNING OF THE -- OF THE JURY SELECTION PROCESS
18 WE DO NOT ASK YOU TO INCLUDE THOSE TWO CHARGES AS
19 CRIMES THAT HE IS ON TRIAL FOR IN THE
20 GUILT/INNOCENCE PHASE OF THIS TRIAL

21 THE COURT ALL RIGHT, ANY OTHER
22 MATTERS WE NEED TO ADDRESS BEFORE WE HAVE THE --
23 HAVE THE JURY BROUGHT BACK AND SWORN?

24 MR GARRETT NOTHING

25 MR JONES JUDGE, I WOULD JUST POINT

1 OUT TO YOU -- AND AGAIN, I MAY BE A LITTLE BIT LATE
2 WITH THIS AND IF IT IS, IT'S BECAUSE I CAN ONLY PUT
3 SO MUCH STUFF UP HERE AT ONCE I WOULD ANTICIPATE
4 THAT MARCUS HARRIS WOULD BE TESTIFYING ABOUT
5 EVIDENCE THAT WE CONTEND IS ADMISSIBLE BECAUSE IT'S
6 RES GESTAE THESE WERE STATEMENTS MADE BY HIS
7 DECEASED MOTHER, LUEVINIA JACKSON, THE OTHER
8 DECEASED VICTIM, TESHEKA JACKSON, ON THE PHONE WITH
9 HIM WITHIN MINUTES, WITHIN SECONDS PRIOR TO BOTH OF
10 THEM BEING MURDERED AND HE WILL TESTIFY ABOUT
11 STATEMENTS THAT THEY MADE TO HIM AND ABOUT THE
12 IDENTITY OF THE PERPETRATOR AND THOSE SORTS OF
13 THINGS AND IF WE'RE GOING TO HAVE TO PROFFER THAT
14 EVIDENCE OUTSIDE THE PRESENCE OF THE JURY, YOU MAY
15 OR MAY NOT WANT TO DO IT NOW THAT'S WHAT I'M
16 BRINGING UP IT DOESN'T MATTER TO ME WHETHER WE GO
17 WITH THE OPENING AND CALL THE FIRST WITNESS AND GET
18 TO THAT POINT AND THEN ASK THEM TO STEP OUT AND DO
19 IT OR IF WE DO IT NOW WE DO CONTEND THE STATEMENTS
20 THAT WE'RE GOING TO OFFER THROUGH HIM -- AND THEY'RE
21 STATEMENTS THAT ARE MADE BY BOTH DECEASED VICTIMS TO
22 HIM CONCERNING WHAT WAS GOING ON IN THEIR HOME
23 SECONDS PRIOR TO THEIR DEATH

24 THE COURT IS THE STATE -- I MEAN --
25 EXCUSE ME -- IS THE DEFENDANT INTENDING TO OBJECT TO

1 THE TESTIMONY OF MARCUS HARRIS IN THAT RESPECT?

2 MR GARRETT YES, YOUR HONOR, WE
3 ARE IT'S HEARSAY WE DO WANT, OF COURSE, TO
4 CONFIRM THOSE STATEMENTS THEY'RE ATTEMPTING TO WE
5 HAVE BEEN PROVIDED, YOUR HONOR, WITH A VOLUNTARY
6 STATEMENT AND OUR CONCERN, OF COURSE, WOULD BE,
7 ONE, THAT IT IS HEARSAY, AND, SECONDLY, IS THAT THE
8 STATEMENT REMAINS THE SAME OBVIOUSLY WE'VE NOT
9 SURE WHAT THEY CAN SAY TODAY BUT WE WOULD OBJECT
10 TO IT BECAUSE IT'S HEARSAY AND AS TO SECONDS, I
11 WOULD SAY, YOUR HONOR, APPARENTLY, THERE WAS A CALL
12 PLACED AT TWELVE-OH -- TWELVE O'CLOCK AND THAT ENDED
13 AT TWELVE-OH-TWO AND THEN THE -- MS LUEVINIA
14 HARRIS WAS ALIVE AT TWELVE-OH-FOUR BECAUSE SHE MADE
15 ANOTHER CALL, A PHONE CALL TO 911 TO AN ANGELA
16 PATTERSON, THE DISPATCH SO AS TO THE QUESTION OF
17 SECONDS, YOUR HONOR, I WOULD SAY MORE, MORE, MORE IN
18 TERMS OF MINUTES, JUST TO LET THE COURT KNOW THAT
19 THERE WOULD BE AN OBJECTION

20 THE COURT OKAY WELL, HOW FAR DO
21 YOU BELIEVED THAT WE CAN GET INTO MR HARRIS'
22 TESTIMONY BEFORE WE'LL REACH THAT STAGE? IS IT
23 GOING TO BE THE VERY FIRST THING?

24 MR JONES YES, SIR I BASIC -- I
25 WILL JUST ASK HIM ABOUT HIS BACKGROUND AND GET RIGHT

1 INTO THE PHONE CALL

2 THE COURT OKAY AND YOU DON'T HAVE
3 ANY OTHER WITNESS THAT CAN BE CALLED PRIOR TO HIM?
4 YOU WISH TO BEGIN WITH MR HARRIS?

5 MR JONES YES, SIR I CAN GET TO
6 THE POINT WITH HIM QUICKLY I THINK WE'RE TALKING
7 ABOUT A FIFTEEN-MINUTE DISCUSSION WITH MR HARRIS
8 FIVE MINUTES FOR ME AND THE QUESTIONS ABOUT WHAT
9 THEY SAID

10 THE COURT ALL RIGHT WELL, THEN,
11 LET'S DO THAT THEN

12 MR JONES ALL RIGHT COME AROUND,
13 MR HARRIS, AND BE SEATED

14 THE CLERK THE EVIDENCE YOU SHALL
15 GIVE THE COURT IN THE TRIAL IN THIS CASE SHALL BE
16 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
17 TRUTH, SO HELP YOU, GOD?

18 WITNESS I DO

19 (WITNESS PRESENTED AT 4 25 O'CLOCK P M)

20 DIRECT EXAMINATION BY MR JONES

21 Q MR HARRIS, YOUR MOTHER'S LUEVINIA HARRIS?

22 A SHE IS

23 Q DID YOU CALL HER ON DECEMBER THE FOURTH, 1995?

24 A I DID

25 Q DO YOU REMEMBER ABOUT WHAT TIME YOU CALLED

1 HER?

2 A OH, BETWEEN -- I GOT BACK FROM JOGGING, SO
3 BETWEEN TEN-THIRTY AND ELEVEN O'CLOCK

4 Q OKAY DO YOU REMEMBER WHAT YOU SAID TO HER?

5 A YEAH, OKAY, I CAME IN FROM JOGGING I KNOW I
6 HADN'T TALKED TO MY MOM SINCE THANKSGIVING, AND SO I
7 CAME IN -- I CAME IN FROM JOGGING AND I CAME
8 UPSTAIRS AND I CALLED MY MOM

9 Q ALL RIGHT WHERE WERE YOU WHEN YOU CALLED
10 HER?

11 A I WAS IN -- I WAS IN OKLAHOMA CITY

12 Q ALL RIGHT WHAT'S THE DIFFERENCE IN THE TIME
13 ZONES BETWEEN HERE AND THERE?

14 A AN HOUR DIFFERENCE WE -- SOUTH CAROLINA IS
15 AN HOUR AHEAD OKLAHOMA CITY IS AN HOUR BACK

16 Q OKAY SO WHEN YOU SAY YOU CALLED HER BETWEEN
17 TEN-THIRTY AND ELEVEN OKLAHOMA TIME, WHAT TIME WOULD
18 IT HAVE BEEN BACK HERE WHEN YOU CALLED HER?

19 A IT WOULD HAVE BEEN AN HOUR AHEAD IF IT --
20 BECAUSE IF, IF AT TEN, ELEVEN HERE ELEVEN THERE,
21 TWELVE HERE

22 Q OKAY AND TELL US WHAT CONVERSATION YOU HAD
23 WITH HER BEGINNING WITH THE TIME SHE PICKED UP THE
24 TELEPHONE

25 A WELL, I, I CALLED LIKE -- SEE, I HADN'T TALKED

1 TO HER SINCE THANKSGIVING, SO I CALLED HER WHEN I
2 GOT BACK FROM JOGGING AND SHE PICKED UP THE PHONE
3 -- AND USUALLY WHEN I TALK TO MOM, YOU KNOW, SHE'D
4 BE HAPPY TO HEAR FROM ME BECAUSE WE HADN'T TALKED --
5 YOU KNOW, WE DIDN'T TALK MUCH ALL THE TIME SO WHEN
6 I CALLED IN, YOU KNOW, I COULD HEAR THAT HER VOICE
7 WAS DOWN

8 I SAID, "MA, WHAT'S WRONG WITH YOU?" LIKE
9 THAT

10 SAID, 'WHAT'S WRONG?'

11 SHE SAID -- SHE SAID, "JOHN VISITED WITH A
12 GUN " SHE SAID THAT JOHN HUGHEY WAS THERE IN
13 ABBEVILLE AT MY MOM AND DAD'S HOUSE WITH A GUN

14 Q UH-HUH (AFFIRMATIVE)

15 A AND THEN I SAID, "DO YOU WANT ME TO ASK HIM TO
16 LEAVE, MOM?"

17 SHE SAID, "WAIT A MINUTE HE'S TALKING TO
18 SHEKA "

19 I SAID, "MOM, DO YOU WANT ME TO ASK HIM TO
20 LEAVE?"

21 SHE SAID -- SHE SAID, "YEAH "

22 I SAID, "WELL, PUT SHEKA ON THE PHONE, THEN "

23 SHE SAID, "HOLD ON A MINUTE " SHE SAID,

24 "SHEKA?" AND SHEKA ANSWERED MY MOTHER AND SHEKA
25 CAME TO THE PHONE

1 I SAID, 'WHAT'S UP, CUZ?'

2 SHE SAID, "HOW YOU DOING?"

3 I SAID, "I'M DOING ALL RIGHT " I SAID,

4 "SHEKA, HAS JOHN GOT A GUN THERE?"

5 SHE SAY, "YEAH "

6 I SAY, "HE GOT A GUN IN THE HOUSE?"

7 SHE SAY, "YEAH "

8 I SAID, "PUT HIM ON THE PHONE, THEN " I SAID,

9 "PUT HIM ON THE PHONE "

10 AND THEN SHE SAY, "JOHN, JOHN " HE SAID

11 SOMETHING TO HER SHE SAID, "MARCUS WANT TO TALK TO

12 YOU " AND SHE CAME BACK ON THE PHONE AND TOLD ME --

13 SHE SAID, "CUZ, HE SAY HE DIDN'T WANT TO TALK TO

14 YOU "

15 I SAID, "OKAY " I SAID, "OKAY " I SAID,

16 "FINE " I SAID, "WELL, CUT THE SPEAKER PHONE ON,

17 THEN," YOU KNOW, MY DAD'S SPEAKER PHONE AT THE HOUSE

18 AT THE TIME SO SHE PUT ME ON THE SPEAKER PHONE

19 SO SHE COULDN'T GET THE SPEAKER PHONE TO WORK I

20 SAID, "WHAT'S WRONG?"

21 SHE SAID, "I CAN'T GET IT TO WORK, CUZ " LIKE

22 THAT

23 I SAID, "YOU CAN'T GET IT TO WORK?"

24 SHE SAID, "NO "

25 I SAID, "WELL," -- I SAID, "HANG THE PHONE UP

1 AND I'LL CALL BACK I'LL CALL RIGHT BACK " I SAID,
2 "WHEN I CALL BACK YOU MASH THE SPEAKER PHONE YOU
3 MASH THE VOICE ASSISTANCE IN ORDER TO GET THE
4 SPEAKER PHONE TO WORK "

5 SO SHE SAID, "OKAY "

6 SO SHE HUNG THE PHONE UP AND IT WASN'T ABOUT
7 TEN SECONDS I DIALED, YOU KNOW, MY DAD'S NUMBER,
8 1/803/459-8341 I CALLED HIS NUMBER SO SHEKA HIT
9 THE SPEAKER PHONE, AND WHEN SHE HIT THE SPEAKER
10 PHONE I SAID, "HELLO?"

11 AND I HEARD MY MOTHER LUEVINIA SAID, "HELLO "

12 I SAID, "CAN Y'ALL HEAR ME?"

13 SHE SAID, "YEAH "

14 I SAY, "JOHN?"

15 HE SAID, "HUH?"

16 I SAID, "HOW YOU DOING?"

17 HE SAID, "OKAY " HE SAID, "OKAY " LIKE THAT

18 I SAID, "LISTEN, MAN," I SAID, "YOU'VE GOT A
19 GUN AT MY MOM'S HOUSE YOU GOT TO LEAVE, MAN " I
20 SAID, "YOU'VE GOT TO LEAVE MY MOM'S HOUSE "

21 SO I HEARD SOME TUSSLING GOING ON AND THEN I
22 HEARD LUEVINIA SAY, "JOHN," SAID, "JOHN, JUST
23 LEAVE " SAID, "LEAVE, JOHN " SAID, "JUST LEAVE "

24 Q LET ME ASK YOU RIGHT THERE, MR HARRIS AT
25 THAT POINT IN TIME AND THE SEVERAL MINUTES BEFORE

1 THEN WHEN YOU FIRST CALLED YOUR MOM, HOW WOULD YOU
2 DESCRIBE HER VOICE, HER DEMEANOR, IN TERMS OF, OF
3 WHAT YOU COULD TELL ABOUT HER WHILE YOU WERE
4 TALKING?

5 A START BACK OVER, MR JONES, AND SLOW DOWN

6 Q ALL RIGHT DURING THE TIME THAT YOU WERE
7 TALKING TO YOUR MAMA, DESCRIBE TO ME -- DO YOU KNOW
8 WHAT DEMEANOR MEANS FOR ---

9 A EXPLAIN IT TO ME SO I CAN GET A BETTER
10 UNDERSTANDING OF WHAT IT ---

11 Q DESCRIBE WHAT HER STATE OF -- STATE OF MENTAL
12 AND EMOTIONAL AND BEING WAS AS YOU COULD GRASP IT ON
13 THE PHONE

14 A OKAY WELL, WHEN I FIRST CALLED HER, YOU
15 KNOW, SHE WAS KIND OF SCARED, YOU KNOW SHE WAS
16 LIKE -- SHE WAS LIKE, "WELL, JOHNNY HERE WITH A
17 GUN," YOU KNOW

18 Q YEAH

19 A LIKE THAT SHE WAS KIND OF SCARED A LITTLE
20 BIT I KNOW SHE WAS CONCERNED ABOUT SOMETHING, YOU
21 KNOW, LIKE HE HAD BEEN IN THE HOUSE

22 Q SO HER STATE OF MIND WAS SCARED AND CONCERNED?

23 A YEAH SHE WAS SCARED AND CONCERNED

24 Q ALL RIGHT HOW -- WHAT ELSE DID YOU NOTICE
25 ABOUT HER STATE OF MIND AS YOU TALKED TO HER?

1 A WELL, WHILE THE TIME THAT JOHNNY -- SHE WAS
2 TALKING AND I WAS ASKING HER, I SAID -- AND TELLING
3 HIM TO LEAVE, SHE TOLD ME TO HOLD ON A MINUTE, YOU
4 KNOW SHE -- WELL, MY MOM, SHE'S A REAL NICE LADY
5 AND SHE TRIED TO KEEP THE PEACE DOWN SO SHE WAS
6 SAYING -- SHE WAS SAYING HOLD ON SHE SAID, "HOLD
7 ON A MINUTE " SHE SAID, "HOLD ON "

8 I SAID, "OKAY " I SAID, "WAIT A MINUTE, DID
9 YOU TELL HIM TO" -- I SAID, "DID YOU TELL JOHN TO
10 LEAVE?" AND SHE SAID -- AFTER I ASKED HER TWICE,
11 SHE TOLD ME YEAH THEN I GOT SHEKA ON THE PHONE
12 BUT AS IN TERMS OF HOW I PERCEIVED HER TO BE AT THE
13 TIME, SHE WAS KIND OF SCARED AND CONCERNED, YOU
14 KNOW, IN THE HOUSE WHEN HE -- WHEN HE -- WHEN HE WAS
15 IN THERE WITH HER

16 Q ALL RIGHT AND JUST BEFORE YOU HUNG UP WITH
17 HER, WHAT WAS HER CONDITION THEN, JUST BEFORE YOU
18 HUNG UP WITH YOUR MOM?

19 A OKAY AS TALKING TO SHEKA OR WHEN SHEKA GOT
20 ON THE PHONE?

21 Q WHEN SHE GOT BACK ON THE PHONE

22 A WHEN SHEKA GOT ON THE PHONE?

23 Q YOUR MOM

24 A I DON'T -- I DON'T FOLLOW YOU

25 Q BEFORE YOU HUNG UP YOUR PHONE, RIGHT BEFORE

1 YOU HUNG UP YOUR PHONE --

2 A UH-HUH (AFFIRMATIVE)

3 Q -- THE LAST TIME WITH YOUR MOM'S PRESENCE,
4 WHAT WAS HER STATE? WHAT WAS HER EMOTIONAL STATE?

5 A WELL, THEN, LIKE I SAID, I HAD TOLD MOM TO PUT
6 SHEKA ON THE PHONE

7 Q YEAH

8 A AND THEN SHE HAD, YOU KNOW, TOLD SHEKA TO COME
9 TO THE PHONE SO SHE WAS STILL -- FROM MY
10 UNDERSTANDING SHE WAS -- SHE WAS STILL, YOU KNOW,
11 CONCERNED ---

12 Q ALL RIGHT

13 A TO THE FACT, I MEAN, AND SCARED WHEN SHE TOLD
14 SHEKA TO COME TO THE PHONE

15 Q WHAT WAS SHEKA'S STATE OF MIND DURING THAT
16 PERIOD OF TIME?

17 A SHE WAS KIND OF, YOU KNOW, SCARED AND
18 CONCERNED ALSO WHEN I -- WHEN I TALKED TO HER SHE
19 WAS KIND OF SCARED

20 MR GARRETT I OBJECT YOUR HONOR,

21 I

22 OBJECT ---

23 A CONCERNED ALSO

24 MR GARRETT OBJECT TO HIS

25 TESTIMONY, SCARED AND CONCERNED YOU KNOW, IF THEY

1 VOICED AN OPINION TO HIM THAT THEY WERE SCARED AND
2 CONCERNED, THAT'S ONE THING, BUT JUST TO SAY THAT
3 THEY SOUNDED SCARED AND CONCERNED, YOUR HONOR, THAT
4 WOULD BE HIGHLY PREJUDICIAL IN THIS CASE, ESPECIALLY
5 IN THE HEARSAY CIRCUMSTANCE

6 THE COURT WELL, YOU CAN DESCRIBE
7 THE TONE OF THE VOICE AND THE SOUND OF THE VOICE

8 WITNESS DESCRIBE THE SOUND AND TONE
9 OF VOICE?

10 THE COURT SURE

11 A WELL, LIKE I SAID, WHEN, WHEN SHEKA GOT ON THE
12 PHONE, SHE WAS TALKING A WHOLE LOT MORE SLOWLY THAN
13 WHAT SHE USUALLY TALKS I MEAN SHE WOULD -- SHE'S
14 GOING TO BE EXCITED TO HEAR AND TALK TO ME, TOO, BUT
15 SHE WASN'T EXCITED THEN SHE WAS -- LIKE I SAID,
16 YOU KNOW, SHE WAS TALKING A WHOLE LOT SLOWER, YOU
17 KNOW, KIND OF CAUTIOUS, YOU KNOW, ABOUT WHAT WAS
18 GOING ON I MEAN SHE WAS LIKE, "WELL, YOU KNOW,
19 YEAH, HE DO HAVE A GUN IN HERE, YOU KNOW " LIKE
20 THAT THAT'S, THAT'S THE WAY SHE SOUNDED

21 Q WELL, GO AHEAD AND TELL THE ---

22 MR GARRETT OBJECT, YOUR HONOR,
23 AGAIN WHAT SHE HAD TO SAY, YOUR HONOR, THAT'S ONE
24 ISSUE AND HOW SHE MIGHT HAVE FELT IS, IS TOTALLY
25 ANOTHER IT'S HIS PERCEPTIONS OF THEM, YOUR HONOR,

1 AND NOT HER PERCEPTIONS NECESSARILY AND THAT'S A
2 PROBLEM

3 THE COURT WHICH, WHICH, WHICH
4 STATEMENT ARE YOU OBJECTING TO AS HE RESPONDED?

5 MR GARRETT WHEN HE SAYS THAT SHE
6 SOUNDED CAUTIOUS

7 THE COURT OH

8 MR GARRETT YOU KNOW, IF HE WANTS
9 TO SAY SHE TALKED LOW, THAT'S ONE THING, BUT WHEN HE
10 -- WHEN HE -- WHEN HE ADDS THE ADJECTIVE "CAUTIOUS"
11 THAT'S -- WE WOULD OBJECT TO THAT TYPE OF TESTIMONY

12 THE COURT ALL RIGHT

13 Q GO AHEAD

14 A WELL, WHAT I MEAN BY CAUTIOUS LIKE THAT SHE
15 WAS KIND OF -- SHE WAS SCARED AT THE TIME AND SHE --
16 I FELT THEN AT THE TIME -- THE REASON WHY I SAY
17 CAUTIOUS IS BECAUSE SHE -- SHE DIDN'T WANT ANY MORE
18 AGGRAVATION SHE DIDN'T WANT MAYBE AT THAT TIME,
19 SHE DIDN'T WANT JOHN TO MAYBE DO ANYTHING TO HER
20 THAT'S WHAT I MEAN BY CAUTIOUS

21 Q WELL, WHAT DID SHE SAY ---

22 MR GARRETT OBJECTION

23 A WHAT DID SHE SAY?

24 THE COURT ALL RIGHT, JUST A MINUTE
25 SOLICITOR, YOU UNDERSTAND HE IS NOT GOING TO BE ABLE

1 TO TESTIFY TO THAT

2 MR JONES YES, SIR AND, AND I ---

3 Q YOU CAN'T TESTIFY AS TO WHAT SHE THOUGHT DO

4 YOU UNDERSTAND THAT? YOU CAN'T TESTIFY AS TO WHAT

5 SHEKA THOUGHT AND WHAT YOUR MAMA THOUGHT --

6 A RIGHT

7 Q -- UNLESS THEY SAID, "I THINK HE'S GOING TO

8 KILL ME "

9 A OKAY

10 Q OKAY? IF THEY SAID THAT, YOU CAN TESTIFY TO

11 WHAT THEY SAID, OKAY?

12 A RIGHT

13 THE COURT OR IF THEY SAID THEY WERE

14 SCARED, IF THEY SAID THEY WERE UPSET, IF THEY SAID

15 THEY WERE EXCITED, YOU MAY TESTIFY TO THAT

16 WITNESS OKAY

17 THE COURT BUT YOU CAN'T -- YOU

18 CAN'T TESTIFY AS TO WHAT THEY WERE THINKING --

19 WITNESS OKAY

20 THE COURT -- UNLESS THEY STATED

21 THAT TO YOU

22 WITNESS OKAY

23 Q SO GO AHEAD AND TELL ME WHAT ELSE THEY SAID

24 A WHAT WHO SAID, MR JONES?

25 Q WELL, I INTERRUPTED YOU YOU WERE EXPLAINING

1 TO US WHILE YOU WERE TALKING ON THE PHONE THAT SHEKA
2 CAME TO THE PHONE AND THEN YOU CALLED BACK AND YOU
3 GOT THE SPEAKER PHONE AND SOMEBODY MASHED THE BUTTON
4 FOR THE SPEAKER PHONE FOR YOU TO SPEAK TO SOMEONE?

5 A RIGHT OKAY WHEN I CALLED BACK --, WHEN I
6 CALLED BACK, SHEKA HIT THE BUTTON ON THE SPEAKER
7 PHONE THAT'S HOW YOU GET IT ACTIVATED AND I
8 ASKED COULD EVERYBODY HEAR ME AND THEY SAID THEY
9 COULD HEAR ME AND I SAID, "HOW'S EVERYBODY DOING?"
10 THEY SAID, "OKAY "

11 OKAY, THEN AFTER, AFTER I ASKED THAT, I SPOKE
12 TO JOHN I SAID, "JOHN?"

13 HE SAID, "HUH?"

14 I SAID, "HOW YOU DOING?"

15 HE SAID, "OKAY "

16 I SAID, "LISTEN " I SAID, "IF YOU HAVE A GUN
17 IN MY MOM'S HOUSE YOU HAVE TO LEAVE " WHEN I SAID
18 THAT I HEARD SOME TUSSLING GOING ON

19 AND THEN I HEARD MY MOM SAY, "JOHN, JUST
20 LEAVE LEAVE, JOHN JUST LEAVE " THEN SHE SAID,
21 "CALL THE POLICE CALL THE POLICE "

22 Q WHAT WAS THE TONE OF HER VOICE, THE TONE OF
23 HER VOICE, WHEN SHE SAID, "CALL THE POLICE, CALL THE
24 POLICE"?

25 A LIKE FRANTIC

1 Q OKAY NOW, WHAT ELSE WAS SAID BY ANYBODY
2 THERE?

3 A NOTHING ELSE WAS SAID AFTER SHE SAID, "CALL
4 THE POLICE, CALL THE POLICE," I HUNG THE PHONE UP
5 AND I CALLED THE 911 DISPATCH IN OKLAHOMA CITY

6 Q ALL RIGHT

7 A I CALLED 911 DISPATCH AND I TOLD THEM WHAT MY
8 PROBLEM WAS AS FAR AS IN OKLAHOMA CITY I SAID,
9 "WELL, LISTEN, I'VE GOT A -- I'VE GOT A DOMESTIC
10 DISPUTE IN, IN ABBEVILLE, SOUTH CAROLINA, WHERE I'M
11 FROM " I SAID, "CAN YOU GET ME TO THE DISPATCH IN
12 ABBEVILLE, SOUTH CAROLINA?" SO SHE GOT ME TO THE
13 DISPATCH THERE SO I WAS TALKING TO THE DISPATCHER
14 I SAID -- I SAID, "HELLO " SHE SAID -- WELL, I SAY,
15 "HELLO " I SAID, "MY NAME IS MARCUS HARRIS " I
16 TOLD HER WHO I WAS AT THAT TIME AFTER I TOLD HER
17 WHO I WAS ---

18 Q WHAT WAS YOUR EMOTIONAL STATE WHEN YOU TOLD
19 HER WHO YOU WAS WHEN YOU CALLED -- WHO YOU WERE WHEN
20 YOU CALLED THE ABBEVILLE DISPATCHER AND TALKED TO
21 THEM?

22 A I WAS -- I WAS SCARED BECAUSE I THOUGHT, YOU
23 KNOW, MAYBE SOMEONE HURT MY MOM OR SOMETHING WOULD
24 HAPPEN TO MY MOTHER

25 Q WHAT DID YOU TELL THE DISPATCHER?

1 A I TOLD THE DISPATCHER -- I SAY, "LISTEN," I
2 SAID -- I SAID, "THERE'S BEEN A DOMESTIC DISPUTE OR
3 SOMETHING AT, AT 401 RITCHIE STREET " I SAID -- I
4 SAID, "COULD YOU CALL THERE?"

5 SHE SAID, "I ALREADY HAVE A UNIT THERE " SHE
6 TOLD ME

7 SO THEN I COULD HEAR THE POLICEMEN AT MY MOM'S
8 HOUSE, MY MOM AND DAD'S HOUSE THEY SAID THEY WAS
9 IN THE HOUSE AND THEY SAID, "LOOKS LIKE ONE" --
10 THEY, THEY, THEY SAID, "LOOKS LIKE ONE DOWN WITH A
11 GUNSHOT WOUND TO THE HEAD " THEN HE PROCEEDED
12 FORWARD BY SAYING, "IT LOOKS LIKE TWO DOWN WITH
13 GUNSHOT WOUNDS TO THE HEAD " SO THE DISPATCHER TOLD
14 ME -- NOW, I COULD HEAR THEM ON MY PHONE, THE
15 DISPATCH AND WHATEVER THEY COMMUNICATED WITH THE
16 POLICEMEN AND THE DISPATCHER I COULD HEAR THEM
17 WHILE I WAS ON THE PHONE IN OKLAHOMA CITY

18 Q UH-HUH (AFFIRMATIVE)

19 A SO HE SAID LIKE -- THEY SAID, "THE, THE SECOND
20 ONE LIKE GUNSHOT WOUND TO THE HEAD " THAT'S WHAT HE
21 SAID

22 SO SHE TOLD ME -- SHE SAID, "WELL, SIR," SAID,
23 "YOU'VE GOT TO CALL BACK THERE HAVE BEEN AN
24 EMERGENCY " SO I HUNG THE PHONE UP AND I PACKED MY
25 CLOTHES UP AND I PROCEEDED, YOU KNOW, TO COME ON UP

1 HERE TO OKLAHOMA CITY

2 Q OKAY AND DURING YOUR CONVERSATION WITH THE
3 DISPATCHER, AGAIN, WHAT WAS YOUR STATE OF MIND, YOUR
4 STATE OF WELL BEING AT THAT TIME?

5 A WELL I WAS SCARED I WAS SCARED OH, BY --
6 AT THAT TIME I WAS ASKING HER -- I SAID, "SEE IF
7 LUEVINIA HARRIS IS ALL RIGHT SEE IF LUEVINIA
8 HARRIS IS ALL RIGHT " AND SHE WOULDN'T ANSWER MY
9 QUESTIONS

10 Q OKAY

11 MR JONES THAT'S ALL I HAVE, JUDGE
12 AND THAT'S OUR PROFFER WITH REGARD TO HIS TESTIMONY
13 CONCERNING THE STATEMENTS OF LUEVINIA HARRIS AND
14 SHEKA HARRIS

15 THE COURT OKAY

16 MR JONES AND SHEKA JACKSON

17 MR GARRETT THE POSITION OF THE
18 DEFENSE, YOUR HONOR, IS THAT THOSE ---

19 THE COURT YOU, YOU MAY STEP DOWN
20 (WITNESS STEPS DOWN)

21 MR GARRETT NOT PART OF RULE 803, 1
22 OR 2

23 THE COURT THAT'S YOUR OBJECTION?

24 MR GARRETT YES, YOUR HONOR

25 THE COURT ALL RIGHT I FIND BASED

1 UPON THE TESTIMONY AS PROFFERED, IT APPEARS TO ME TO
2 FALL CLEARLY WITHIN THE EXCEPTIONS CONTAINED IN RULE
3 803, SOUTH CAROLINA RULES OF EVIDENCE, SUBPARAGRAPH
4 (1), (2) AND/OR (3)

5 MR JONES YOUR HONOR, IN THAT
6 REGARD OUR SECOND WITNESS IS MISS ANGELA PATTERSON
7 SHE'S THE DISPATCHER AND WE WOULD INTEND TO
8 INTRODUCE THE STATEMENTS THAT SHE HAD FROM -- THE
9 STATEMENTS THAT SHE HEARD FROM LUEVINIA HARRIS AS AT
10 THE TIME SHE WAS SHOT SHE WAS ON THE PHONE WITH
11 LUEVINIA HARRIS, AND THE STATEMENT THAT SHE HEARD
12 FROM MR ANTHONY HARRIS -- MARCUS HARRIS

13 MR GARRETT CAN WE ADDRESS THE
14 FIRST MATTER FIRST AND THEN THE SECOND ONE, YOUR
15 HONOR?

16 THE COURT SURE

17 MR GARRETT AS TO THE FIRST MATTER,
18 YOUR HONOR, WE WOULD RAISE ALSO 4-3 OBJECTION,
19 PREJUDICE OUTWEIGHS ANY PROBATIVE VALUE, AND AS TO
20 -- AS TO THIS -- TO THE NEW MATTER THAT HE'S -- HE
21 JUST RAISED, WE WOULD ALSO MAKE A HEARSAY OBJECTION
22 TO THAT AS WELL MR HARRIS, ALSO, WHEN HE WAS
23 TALKING ABOUT WHAT THE DISPATCHER HAD TO SAY, YOUR
24 HONOR, THAT WOULD BE OUR POSITION THAT THAT WAS
25 HEARSAY THE QUESTION OF -- ALSO, YOUR HONOR, WE

1 WOULD LIKE A LIMITING INSTRUCTION FROM THE COURT, IN
2 THE EVENT THE COURT DECIDES TO ALLOW HIM TO TESTIFY,
3 AS I UNDERSTAND YOUR RULE, JUDGE, THAT TO DO
4 PRECISELY WHAT YOU TOLD HIM NOT TO DO -- TO NOT DO
5 AS YOU TOLD HIM NOT TO DO IN THAT HE NOT GO INTO
6 USING THOSE WORDS AS, AS HE WAS DOING DURING THE
7 DIRECT TESTIMONY --DURING HIS DIRECT BY THE
8 SOLICITOR

9 THE COURT THE, THE DISPATCHER THAT
10 YOU'RE REFERRING TO, THE DISPATCHER CONVERSATION, IS
11 THAT THE DISPATCHER THAT YOU'RE CALLING AS A
12 WITNESS?

13 MR JONES I BELIEVE HE'S REFERRING
14 TO THE CONVERSATION THAT MR HARRIS HEARD FROM
15 POLICE OFFICERS WHO WERE ON THE SCENE CONCERNING ONE
16 DOWN AND TWO DOWN ISN'T THAT ---

17 THE COURT THAT'S NOT THE DISPATCH
18 MR JONES NO, SIR THAT WAS AN
19 OFFICER ON THE SCENE WHOSE COMMUNICATIONS WITH THE
20 DISPATCHER

21 WERE PASS -- WERE TO THE DISPATCHER --

22 THE COURT SURE

23 MR JONES -- AND SINCE HE WAS ON
24 THE TELEPHONE WITH THE DISPATCHER RIGHT THEN AND
25 SHE'S IN A ROOM WHERE IT'S BEING ECHOED, HE HEARD

1 SO HE HEARD THE OFFICERS THE DISPATCHER DIDN'T SAY
2 ANYTHING HIS CONVERSATION WITH THE DISPATCHER WAS,
3 "PLEASE GET SOMEONE OVER TO MY HOUSE PLEASE GET
4 SOMEONE TO CHECK ON MY MOM " THAT'S WHAT HE SAID TO
5 THE DISPATCHER AND SHE HEARD THAT SHE ALSO HEARD
6 THE CONVERSATION WITH LUEVINIA HARRIS IF YOU RULE
7 THAT HE SHOULDN'T TESTIFY CONCERNING THE COMMENTS
8 THAT HE HEARD THE OFFICER MAKE ON THE SCENE, WE'LL
9 INSTRUCT HIM NOT TO GO INTO THE COMMENTS THAT HE
10 HEARD THE OFFICERS MAKE ON THE SCENE

11 THE COURT WELL, I UNDERSTAND
12 WELL, I -- I'M ONLY GOING TO RULE ON THOSE THINGS
13 THAT YOU'RE OFFERING AND THEY'RE OBJECTING TO
14 THERE'S NO POINT IN ME RULING ON EVIDENCE THAT I
15 DON'T KNOW IF THERE'S GOING TO BE AN OBJECTION TO
16 IT

17 MR GARRETT WE DO OBJECT, YOUR
18 HONOR, TO OFFICERS' STATEMENTS AS DOUBLE HEARSAY
19 WHERE ---

20 THE COURT I UNDERSTAND WELL, I
21 WANT TO FIND OUT IF THEY'RE GOING TO OFFER IT FIRST

22 MR JONES YES, WE ARE

23 THE COURT YOU'RE GOING TO OFFER IT?

24 MR JONES YES, SIR

25 THE COURT ALL RIGHT, I THINK IT'S

1 PRESENT SENSE IMPRESSION THE STATEMENT MADE BY AN
2 INDIVIDUAL AT THE TIME OF, OF AN EVENT UNDER THE
3 INFLUENCE OF THAT EVENT

4 MR GARRETT THE POLICE OFFICERS,
5 YOUR HONOR? IS THAT --

6 THE COURT YOU'RE TALKING ABOUT
7 POLICE OFFICERS WHO WERE RESPONDING TO THE SCENE
8 DISPATCH CALLED THEY SEE A BODY THEY STATE,
9 "WE'VE GOT ONE DOWN, GUNSHOT TO THE HEAD?"

10 MR GARRETT RIGHT

11 THE COURT YOU DON'T THINK THAT'S A
12 STATEMENT AS TO A MEMORY, DO YOU? I MEAN IF THEY
13 ARRIVE ON THE SCENE, THEY WALK IN THE HOUSE, THEY
14 MAKE A STATEMENT BASED UPON THEY'VE SEEN, I WOULD
15 SAY THAT'S A PRESENT SENSE IMPRESSION

16 MR GARRETT BEST EVIDENCE RULE,
17 YOUR HONOR, WILL REQUIRE THE OFFICERS TO TESTIFY TO
18 WHAT THEY SAID

19 MR JONES THEY WILL

20 THE COURT I, I, I WOULDN'T AGREE
21 WITH THAT

22 MR JONES YOU WOULDN'T IF THEY WERE
23 TESTIFYING?

24 THE COURT I WOULDN'T AGREE THAT THE
25 BEST EVIDENCE RULE PROHIBITS THAT TESTIMONY, BUT ARE

1 YOU CALLING THE OFFICERS TO TESTIFY? I MEAN ARE
2 THEY -- ARE THEY WITNESSES IN THIS CASE? I WOULD
3 ASSUME THEY ARE

4 MR JONES YES, SIR

5 THE COURT OKAY I OVERRULE YOUR
6 OBJECTION

7 MR GARRETT THANK YOU

8 MR JONES WOULD YOU LIKE FOR ME TO
9 PROFFER MISS PATTERSON'S TESTIMONY IF I AN GET TO
10 IT?

11 THE COURT UNLESS WE CAN AGREE AS TO
12 WHAT IT IS

13 MR JONES ASK MISS PATTERSON TO
14 STEP IN HERE

15 THE COURT I MEAN I THOUGHT PERHAPS
16 THESE WITNESSES HAD STATEMENTS THAT THEY HAD
17 PREVIOUSLY MADE THAT WERE REDUCED TO WRITING THAT
18 WERE PROVIDED TO THE DEFENSE

19 MR JONES THEY HAVE

20 MR GARRETT YOUR HONOR, THERE IS IN
21 REGARD TO MISS PATTERSON, YOUR HONOR

22 THE COURT OKAY WELL, DO WE -- CAN
23 WE -- DO WE KNOW WHAT SHE'S GOING TO TESTIFY TO?

24 MR JONES YES, SIR

25 THE COURT OKAY

1 MR JONES CAN YOU AGREE --
2 BASICALLY, HOLD ON NOT VERBATIM, YOUR HONOR, BUT
3 CERTAINLY WITHIN THE GENERAL SCOPE, YOU WANT ME TO
4 READ INTO THE TESTIMONY WHAT'S BEEN PROVIDED TO THE
5 DEFENSE?

6 THE COURT WELL, I WANT YOU TO READ
7 INTO THE TESTIMONY WHAT WAS PROVIDED TO THE DEFENSE
8 THAT YOU INTEND TO OFFER FROM THIS WITNESS THAT YOU
9 BELIEVE IS NOT EXCLUDED OR UNDER THE HEARSAY RULE

10 MR JONES ALL RIGHT, SIR "I, I
11 DID RECEIVE A CALL FROM AN M C I OPERATOR STATING
12 SHE HAD AN EMERGENCY CALL FROM OKLAHOMA CITY
13 CALLER IDENTIFIED HIMSELF AS MRS , MRS HARRIS' SON
14 AND STATED TO SEND THE POLICE TO 401 RITCHIE STREET
15 HE WAS VERY EXCITED I EXPLAINED THE POLICE WERE ON
16 THE SCENE HE STATED THAT HIS MOTHER HAD CALLED HIM
17 AND SAID SOMEONE HAD A GUN AND SHE NEEDED POLICE
18 IMMEDIATELY I ASKED HIM WHO SUPPOSEDLY HAD THE GUN
19 AND HE SAID JOHN KENNEDY HUGHEY I INFORMED MY
20 OFFICERS OF THIS THEY WERE ON THE SCENE AND STATED
21 THEY SAW NO ACTIVITY OUTSIDE THE RESIDENCE AND BEGAN
22 TO PROCEED TO MAKE ENTRY CALLER HEARD THIS HE
23 STATED TO BUST DOWN THE DOOR I DID NOT RELAY THIS
24 INFORMATION TO MY OFFICERS I ASKED THE CALLER WHO
25 SHOULD BE IN THE RESIDENCE HE SAID HIS MOTHER,

1 MRS HARRIS, SHEKA JACKSON, HER TWO SMALL CHILDREN,
2 AND JOHN KENNEDY HUGHEY I ASKED HIM THE AGES OF
3 THE CHILDREN AND HE STATED THEY WERE AROUND TWO OR
4 THREE OR FOUR YEARS OLD I RELATED THIS INFORMATION
5 TO THE OFFICERS THE OFFICERS GAINED ENTRY AT THIS
6 TIME BY THE WAY OF THE DOOR WHICH WAS LEFT UNLOCKED
7 LIEUTENANT NEW THEN STATED HE HAD ONE DOWN, SEND
8 E M S , 10-75 RESCUE WAS DISPATCHED CODE 3-6-15-1
9 AT THIS TIME MRS HARRIS' SON ASKED IF HIS MOTHER
10 WAS OKAY I TOLD HIM I COULD NOT GIVE OUT ANY
11 INFORMATION HE COULD CALL BACK AT A LATER TIME
12 BECAUSE I NEEDED TO MONITOR THE SITUATION I GAVE
13 HIM THE PHONE NUMBER THE M C I OPERATOR WAS STILL
14 ON THE LINE AT THIS TIME CORPORAL HENDERSON DID
15 ADVISE THAT THERE WAS ANOTHER VICTIM I ASKED WHERE
16 THE VICTIMS WERE INJURED, AND THE POLICE OFFICER
17 STATED THAT IT APPEARED BOTH VICTIMS' INJURIES WERE
18 TO THE HEAD I" -- THAT'S ALL OH I'M SORRY,
19 YOUR HONOR "I RECEIVED A PHONE CALL TO SEND POLICE
20 TO 401 RITCHIE STREET NOW THE CALLER WAS A FEMALE
21 AND EXTREMELY AGITATED I WROTE THE ADDRESS DOWN
22 CORPORAL HENDERSON WAS AT THE DISPATCH DESK " THIS
23 CONCERNS A CONVERSATION WITH MRS LUEVINIA HARRIS
24 "I ASKED THE CALLER WHAT THE PROBLEM WAS AND SHE
25 STATED JUST GET THE POLICE OVER HERE NOW AT THIS

1 TIME THE CALLER LAID THE PHONE DOWN AND SAID TO
2 SOMEONE IN THE BACKGROUND, 'DON'T SHOOT THAT GUN IN
3 HERE ' I DID HEAR ANOTHER VOICE IN THE BACKGROUND,
4 BUT I COULD NOT MAKE ANYTHING OUT CALLER REPEATED,
5 'DON'T SHOOT THAT GUN ' AT THIS TIME I HEARD A POP
6 THERE WAS A PAUSE AND I HEARD ANOTHER POP I HEARD
7 NO OTHER ACTIVITY AFTER THAT I KEPT THE LINE
8 OPEN " THAT'S, THAT'S WHAT WE WOULD OFFER

9 THE COURT ALL RIGHT

10 MR GARRETT YOUR HONOR?

11 THE COURT OBJECTION AND GROUND?

12 MR GARRETT YOUR HONOR, WE OBJECT
13 ON THE GROUND OF HEARSAY, YOUR HONOR NUMBER ONE,
14 WE'RE NOT SURE WHEN THIS VOLUNTARY STATEMENT WAS
15 MADE IT'S NOT DATED IT'S NOT TIMED THIS IS A
16 STATEMENT MADE BY SOMEONE SOMETIME AFTER THE --
17 AFTER THE EVENT WE DON'T KNOW WHEN IT WAS MADE,
18 YOUR HONOR, SO IN ORDER FOR IT TO BE RELIABLE, IT
19 WOULD BE OUR POSITION THAT THERE HAS TO BE SOME,
20 SOME CLOSENESS IN TIME TO WHEN THIS STATEMENT WAS
21 MADE

22 THE COURT WHAT'S THE WITNESS' NAME?

23 MR GARRETT ANGELA PATTERSON

24 MR JONES ANGELA PATTERSON, YOUR
25 HONOR

1 THE COURT MS PATTERSON THIS IS
2 MS PATTERSON'S STATEMENT IT'S BEEN REDUCED TO
3 WRITING THAT STATEMENT'S NOT GOING TO BE ADMITTED
4 MS PATTERSON'S TESTIMONY IS GOING TO BE ADMITTED AS
5 TO HER RECOLLECTION AS TO WHAT OCCURRED ON THE DATE
6 THAT THESE EVENTS OCCURRED THAT SHE HAS REDUCED TO
7 WRITING AT A LATER TIME SHE'S NOT GOING TO READ
8 HER STATEMENT SHE'S GOING TO TESTIFY BASED UPON
9 HER RECOLLECTION, I WOULD ASSUME

10 MR JONES THAT'S CORRECT

11 MR GARRETT AND THAT WOULDN'T
12 PREVENT US, YOUR HONOR, FROM CROSS EXAMINING HER
13 WITH REGARD TO PRIOR INCONSISTENT STATEMENTS BASED
14 UPON THIS STATEMENT?

15 THE COURT NO, ABSOLUTELY NOT

16 MR GARRETT THANK YOU, YOUR HONOR

17 THE COURT ALL RIGHT OVERRULE YOUR
18 OBJECTION ON THE GROUND OF HEARSAY ADMISSIBLE
19 PURSUANT TO 803, 1 AND 2 ALL RIGHT, ANYTHING
20 FURTHER BEFORE WE BRING THE JURY IN?

21 MR JONES NO, YOUR HONOR

22 MR GARRETT NO

23 THE COURT ANYTHING? ALL RIGHT,
24 LET'S ASK THE JURY TO COME IN ASK MR JAMES S
25 JONES TO TAKE THE FOREPERSON'S SEAT JAMES S

1 JONES

2 (JAMES S JONES IS SELECTED AS FOREMAN OF THE JURY)

3 MR GARRETT YOUR HONOR, WE WOULD
4 ASK THAT THE SOLICITOR TO BE REQUIRED TO USE GENERIC
5 TERMS, YOUR HONOR, INSTEAD OF MORE HOSTILE TERMS,
6 CRIME SCENE AND THAT TYPE OF THING, MORE, MORE
7 GENERIC TERMS AS OPPOSED TO -- HOMICIDE AS OPPOSED
8 TO MURDER, THOSE TYPE OF THINGS, IN THE PRESENTATION
9 BEFORE THE JURY

10 THE COURT WHAT'S THE SOLICITOR'S
11 POSITION?

12 MR JONES JUDGE, I, I DON'T THINK
13 THAT THERE'S ANY, ANY, ANY RULE ---

14 THE COURT JUST A MINUTE HOLD THE
15 JURY UP JUST A MINUTE, PLEASE

16 MR JONES JUDGE, HE'S CHARGED WITH
17 MURDER HE'S CHARGED WITH MURDER HE'S BEEN
18 INDICTED FOR MURDER AND HE'S BEEN ARRESTED FOR
19 MURDER, AND NOW WE'VE GOT A, A MURDER TRIAL GOING
20 ON AND I CAN'T IMAGINE WHAT, WHAT RULE OR WHAT,
21 YOU KNOW, WHAT STANDARDS OF FAIRNESS WE WOULD BE
22 IMPLEMENTING IF WE PREVENTED ME FROM REFERRING TO
23 THEIR DEATHS AS MURDERS OR FROM REFERRING TO VICTIMS
24 AS VICTIMS, YOU KNOW

25 THE COURT YOU'RE REFERRING TO THE

1 TWO DECEDENTS?

2 MR JONES YES, SIR

3 THE COURT OKAY REQUEST DENIED

4 MR GARRETT THANK YOU, YOUR HONOR

5 THE COURT ALL RIGHT, BRING THEM IN,

6 PLEASE, SIR

7 (JURY RE-ENTERS COURTROOM AT 4 47 O'CLOCK P M)

8 THE COURT GOOD AFTERNOON AGAIN,

9 LADIES AND GENTLEMEN LET ME AGAIN THANK YOU

10 SINCERELY FOR YOUR PATIENCE AND UNDERSTANDING

11 THERE ARE A NUMBER OF MATTERS THAT FROM TIME TO TIME

12 WILL ARISE THAT I WILL NEED TO ADDRESS AND, OF

13 COURSE, WE WILL TRY TO ADDRESS THOSE AS EFFICIENTLY

14 AS WE CAN BUT UNDERSTAND THAT DURING THE COURSE OF

15 THE TRIAL THERE MAY BE TIMES WHERE IT WILL BE

16 NECESSARY THAT WE EXCUSE YOU SO THAT I CAN ADDRESS

17 SOME MATTER AND ONCE WE HAVE CONCLUDED WITH THOSE

18 MATTERS THEN WE WILL, OF COURSE, COME BACK TO

19 CONTINUE WITH THE TRIAL OF THE CASE SO WE

20 APPRECIATE YOUR UNDERSTANDING IN THAT REGARD

21 MR JONES, YOU HAVE BEEN SELECTED AS THE

22 FOREPERSON OF THIS JURY, AND THE PURPOSE OF YOUR

23 SELECTION IN THAT CAPACITY IS FOR YOU TO SERVE AS

24 THE SPOKESPERSON FOR THE JURY AND IF, DURING THE

25 COURSE OF THIS TRIAL, SOMETHING ARISES THAT NEEDS TO

1 BE BROUGHT TO MY ATTENTION, YOU OR SOME FELLOW JUROR
2 HAS SOME DIFFICULTY OR PROBLEM OR QUESTION, IF
3 YOU'LL LET ONE OF THE BAILIFFS KNOW, THEY'LL DIRECT
4 THOSE COMMENTS TO ME AND I WILL TRY TO ASSIST YOU IN
5 WHATEVER WAY THAT I CAN TO ALLEVIATE THAT PROBLEM OR
6 TO ANSWER THAT QUESTION IT WILL ALSO BE YOU WHO
7 WILL PRESIDE OVER THE DELIBERATIONS WHEN THE JURY IS
8 ASKED TO BEGIN THOSE DELIBERATIONS AND THAT, OF
9 COURSE, WILL NOT BE UNTIL THE END OF THE TRIAL AFTER
10 ALL THE EVIDENCE HAS BEEN RECEIVED AND YOU HAVE BEEN
11 INSTRUCTED AS TO THE LAW BUT WHEN THAT TIME COMES
12 YOU WILL BE ASKED TO PRESIDE OVER THAT PROCESS
13 SIMPLY TO SEE THAT IT'S CARRIED OUT IN AN ORDERLY
14 FASHION AND IT WILL ALSO BE YOU WHO WILL ACTUALLY
15 WRITE THE DECISION OF THE JURY, WHATEVER THAT
16 DECISION MAY BE, REGARDING THE CHARGES SET FORTH IN
17 THIS PARTICULAR INDICTMENT THAT I HAVE PREVIOUSLY
18 EXPLAINED TO YOU NOW, THAT DOESN'T MEAN THAT THE
19 FOREPERSON IS ANY MORE IMPORTANT THAN ANY OF YOU
20 OTHER JURORS IT JUST SIMPLY MEANS THAT SOME PERSON
21 HAS TO BE ASSIGNED THOSE PARTICULAR DUTIES AND, OF
22 COURSE, I HAVE APPOINTED MR JONES AS THAT PERSON
23 SO HE WILL SERVE AS THE FOREPERSON OF THIS JURY, BUT
24 ALL OF YOU ORIGINAL TWELVE JURORS WILL HAVE AN EQUAL
25 SAY AND EQUAL VOICE AND AN EQUAL VOTE IN WHAT YOUR

1 ULTIMATE DECISION WILL BE AFTER YOU HAVE CONSIDERED
2 ALL THE EVIDENCE AND APPLIED THE LAW

3 NOW, WE HAVE THREE ALTERNATE JURORS, AND THE
4 PURPOSE OF YOUR BEING SELECTED IS FOR YOU TO TAKE
5 THE PLACE OF AN ORIGINAL JUROR IF ONE SHOULD BE
6 CALLED AWAY THE REASON THAT WE HAVE THREE IS
7 SIMPLY BECAUSE OF THE NATURE OF THE CASE AND THE
8 DURATION OF THE TRIAL IT MAY BE NECESSARY AT SOME
9 POINT TO HAVE MORE THAN ONE ALTERNATE JUROR, OR ONE
10 ORIGINAL JUROR OR MORE THAN ONE MAY BECOME ILL
11 AND, THEREFORE, WE HAVE ALTERNATE JURORS TO TAKE THE
12 PLACE OF ONE OF THOSE ORIGINAL TWELVE JURORS IN THE
13 EVENT THAT SOME UNFORESEEN CIRCUMSTANCE SHOULD
14 PREVENT ONE OF THOSE JURORS FROM BEING ABLE TO
15 SERVE SO WE APPRECIATE YOUR SERVICE AS WELL
16 UNDERSTAND THAT YOU WILL NOT BE PARTICIPATING IN
17 DELIBERATIONS IF, AT THE END OF THE TRIAL, ALL OF
18 THE ORIGINAL TWELVE JURORS ARE ABLE TO PARTICIPATE
19 IN THAT FUNCTION BUT IT IS IMPORTANT THAT YOU PAY
20 JUST AS CAREFUL ATTENTION AS THE ORIGINAL TWELVE
21 JURORS BECAUSE IT DOES QUITE OFTEN OCCUR FROM TIME
22 TO TIME, FOR ONE REASON OR ANOTHER, ONE OF THESE
23 ORIGINAL JURORS MAY BE CALLED AWAY, AND IN THAT
24 EVENT YOU, AS ALTERNATE JURORS, MAY BE CALLED UPON
25 TO PARTICIPATE SO WE DO APPRECIATE YOUR SERVICE

1 JUST AS WE DO THAT OF THE ORIGINAL TWELVE JURORS

2 AND, MR FOREMAN, YOU WILL ALWAYS BE OCCUPYING

3 THAT SEAT THAT YOU ARE IN THE ALTERNATE JURORS

4 WILL ALWAYS BE OCCUPYING THESE THREE SEATS HERE THAT

5 YOU ARE PRESENTLY IN INSOFAR AS THE OTHER SEATS

6 ARE CONCERNED, YOU MAY -- OTHER JURORS MAY SIT

7 ANYWHERE YOU'D LIKE TO IF YOU LIKE THE SEAT THAT

8 YOU'RE PRESENTLY IN YOU MAY, SIMPLY AMONG

9 YOURSELVES, DECIDE THAT'S WHERE YOU'D LIKED TO SIT

10 OTHERWISE, THEY WILL SIMPLY BE APPORTIONED ON A

11 FIRST-COME, FIRST-SERVE BASIS WHEN YOU REPORT BACK

12 TO THE COURTROOM IF YOU WILL PLEASE STAND SO THAT

13 THE CLERK MAY SWEAR YOU IN

14 THE CLERK LADIES AND GENTLEMEN OF

15 THE JURY, IF YOU WILL PLEASE RAISE YOUR HANDS TO BE

16 SWORN YOU SHALL WELL AND TRULY TRY AND TRUE

17 DELIBERANCE MAKE BETWEEN THE STATE OF SOUTH CAROLINA

18 AND THE PRISONER AT THE BAR AND A TRUE VERDICT

19 RENDER IN THE CASE NOW FOR TRIAL, SO HELP YOU, GOD

20 PLEASE INDICATE BY SAYING, "I WILL "

21 JURORS I WILL

22 THE CLERK THANK YOU YOU MAY BE

23 SEATED

24 THE COURT LADIES AND GENTLEMEN, AS

25 YOU ARE WELL AWARE, YOU HAVE BEEN SELECTED YOUR

1 PURPOSE IS TO PARTICIPATE IN THE TRIAL OF THE CASE
2 OF THE STATE VERSUS JOHN KENNEDY HUGHEY YOU WILL
3 BE CALLED UPON TO CONSIDER EVIDENCE THAT WILL BE
4 OFFERED DURING THE TRIAL OF THE CASE THAT EVIDENCE
5 WILL COME BY WAY OF WITNESSES THAT MAY TESTIFY FROM
6 THE WITNESS STAND THERE ALSO MAY BE SOME OTHER
7 TYPE OF EVIDENCE ADMITTED, WHETHER IT BE PHOTOGRAPHS
8 OR DOCUMENTS OR OTHER TYPES OF PHYSICAL EXHIBITS
9 BUT AT THE CONCLUSION OF THE TRIAL, WHEN ALL OF THAT
10 EVIDENCE HAS BEEN RECEIVED IN THE CASE, YOU WILL BE
11 INSTRUCTED BY ME AS TO THE LAW, AND YOU WILL GO BACK
12 INTO THE JURY ROOM AND YOU WILL BEGIN YOUR
13 DELIBERATIONS AND THROUGH THAT PROCESS YOU WILL BE
14 CALLED UPON TO CONSIDER ALL OF THAT EVIDENCE, TO
15 DECIDE WHAT YOU BELIEVE THE TRUE FACTS TO BE, AND
16 THEN APPLY THE LAW AS I WILL HAVE GIVEN IT TO YOU AT
17 THE CONCLUSION OF THIS TRIAL IN ORDER TO ARRIVE AT
18 YOUR DECISION IN THIS CASE

19 AS JURORS SELECTED FOR THAT PURPOSE,
20 IT IS YOUR EXCLUSIVE DUTY TO DETERMINE WHAT THE
21 FACTS ARE AND YOU DO THAT THROUGH YOUR OWN
22 EXAMINATION AND EVALUATION OF ALL OF THE TESTIMONY
23 AND OTHER EVIDENCE RECEIVED DURING THE COURSE OF THE
24 TRIAL YOU WILL DECIDE WHAT WEIGHT, VALUE AND
25 EFFECT TO GIVE TO ANY PARTICULAR WITNESS' TESTIMONY

1 OR TO ANY PARTICULAR PORTION OF A WITNESS'
2 TESTIMONY YOU WILL ALSO DECIDE WHAT WEIGHT, VALUE
3 AND EFFECT TO GIVE TO ANY OTHER EVIDENCE THAT MIGHT
4 BE RECEIVED DURING THE COURSE OF THE TRIAL YOUR
5 DUTY, OF COURSE, IS TO SIMPLY FAIRLY CONSIDER ALL OF
6 THAT EVIDENCE, TO APPLY THE LAW TO THE FACTS AS YOU
7 DETERMINE THOSE FACTS TO BE IN ORDER TO ARRIVE AT A
8 FAIR AND JUST VERDICT THAT IS YOUR DUTY AND
9 OBLIGATION

10 NOW, AS YOU ARE ALSO WELL AWARE, THIS
11 IS A CRIMINAL CASE NOW, PRIOR TO YOUR BEING
12 SELECTED AND DURING THAT PROCESS THAT RESULTED IN
13 YOUR SELECTION, YOU HAVE HEARD A LOT OF LEGAL TERMS
14 YOU HAVE BEEN ASKED A LOT OF QUESTIONS YOU HAVE
15 BEEN TOLD THAT THE DEFENDANT IN THIS CASE IS CHARGED
16 WITH SPECIFIC CRIMES THAT HAVE BEEN SET FORTH IN THE
17 INDICTMENT YOU HAVE ALSO BEEN TOLD THAT THE STATE
18 HAS ASKED TO SEEK THE DEATH PENALTY IN THIS CASE IF
19 THE DEFENDANT IS FOUND GUILTY OF THE CRIME OF
20 MURDER UNDERSTAND THAT THE ONLY REASON THAT WE
21 DISCUSSED PUNISHMENT AT ALL WAS SIMPLY TO FIND OUT
22 IF YOU COULD BE QUALIFIED AS A JUROR AND YOU COULD
23 CONSIDER ALL FORMS OF VERDICTS IN THE GUILT PHASE
24 AND BOTH FORMS OF PUNISHMENT IN THE SENTENCING
25 PHASE UNDERSTAND RIGHT NOW WE ARE IN THE FIRST

1 PHASE OF THAT TRIAL YOUR ATTENTION AND YOUR
2 CONCERN WILL BE TO DECIDE WHETHER OR NOT THE
3 DEFENDANT HAS BEEN PROVEN GUILTY OF THE CRIMES
4 ALLEGED AGAINST HIM BY THE STATE YOU ARE NOT IN
5 ANY WAY AT THIS POINT TO CONCERN YOURSELF WITH ANY
6 TYPE OF PUNISHMENT THERE WILL BE NO EVIDENCE
7 RECEIVED ON THAT ISSUE

8 YOUR SOLE OBJECTIVE AND YOUR SOLE
9 DUTY IN THIS PARTICULAR PORTION OF THE TRIAL IS TO
10 DETERMINE WHETHER OR NOT HIS GUILT HAS BEEN PROVEN
11 BEYOND A REASONABLE DOUBT THIS IS A CRIMINAL CASE,
12 AS YOU KNOW, AND CRIMINAL CASES WHICH ARE BROUGHT
13 INTO THIS COURT, THAT IS, THE GENERAL SESSIONS COURT
14 WHICH IS THE CRIMINAL SIDE OF THE CIRCUIT COURT,
15 THOSE CHARGES ARE BROUGHT HERE BY WAY OF AN
16 INDICTMENT AND THE INDICTMENT IS SIMPLY THAT LEGAL
17 DOCUMENT THAT I REFERRED TO PRIOR TO YOUR BEING
18 SELECTED IN THAT INDICTMENT THE STATE SETS FORTH
19 THE ALLEGATIONS AGAINST A DEFENDANT THE STATE
20 ALLEGES IN THAT INDICTMENT WHAT THEY ACCUSE THE
21 DEFENDANT OF HAVING DONE BY WAY OF A CRIMINAL
22 OFFENSE THIS INDICTMENT IS NOT EVIDENCE IN THE
23 CASE YOU WILL NOT CONSIDER THIS INDICTMENT IN ANY
24 WAY AS BEING ANY EVIDENCE AGAINST THE DEFENDANT IN
25 THIS CASE AS I HAVE SAID, THE INDICTMENT SIMPLY

1 SERVES TO BRING A PERSON CHARGED INTO THIS COURT
2 THAT IS THE METHOD BY WHICH THEY ARE BROUGHT HERE
3 THE INDICTMENT ALSO SERVES TO PROVIDE NOTICE TO THE
4 DEFENDANT AS TO WHAT THE STATE IS ALLEGING THAT HE
5 HAS DONE BY WAY OF COMMISSION OF A CRIMINAL OFFENSE
6 OR OFFENSES

7 NOW, IN THIS INDICTMENT THE STATE IS
8 ALLEGING IN COUNT ONE THAT JOHN KENNEDY HUGHEY DID
9 IN ABBEVILLE COUNTY ON OR ABOUT DECEMBER THE FOURTH
10 OF 1005, WITH MALICE AFORETHOUGHT, KILL ONE TESHEKA
11 JACKSON ALSO IN COUNT TWO OF THE INDICTMENT THE
12 STATE IS ALLEGING AN ADDITIONAL COUNT OF MURDER
13 ALLEGING ON DECEMBER THE FOURTH OF 1995 THAT THE
14 DEFENDANT DID, WITH MALICE AFORETHOUGHT, KILL ONE
15 LUEVINIA H HARRIS

16 FURTHER, IN THE INDICTMENT IN COUNT
17 THREE OF THE INDICTMENT, THE STATE IS ALLEGING THAT
18 JOHN KENNEDY HUGHEY DID COMMIT THE OFFENSE OF
19 BURGLARY, ALLEGING THAT ON DECEMBER THE FOURTH OF
20 1995, HE DID WILLFULLY AND UNLAWFULLY ENTER THE
21 RESIDENCE OF TESHEKA JACKSON AND LUEVINIA HARRIS
22 WITHOUT THEIR CONSENT AND WITH THE INTENT TO COMMIT
23 A CRIME THEREIN, AND ADDITIONAL ALLEGATIONS ARE
24 ALLEGED

25 THEY ALSO ALLEGE IN COUNT FOUR OF THE

1 INDICTMENT THAT HE COMMITTED THE OFFENSE OF LARCENY
2 IN TAKING, STEALING, AND CARRYING AWAY PERSONAL
3 PROPERTY BELONGING TO TESHEKA JACKSON AS I'VE
4 SAID, THAT INDICTMENT IS NOT EVIDENCE IT SIMPLY
5 SERVES TO PUT THE DEFENDANT ON NOTICE AS TO WHAT THE
6 STATE IS ALLEGING THAT HE HAS DONE BY WAY OF
7 COMMISSION OF THESE CRIMINAL OFFENSES

8 NOW, AS TO EACH OF THE COUNTS OF THAT
9 INDICTMENT, AS TO ALL OF THE CHARGES CONTAINED IN
10 THIS INDICTMENT, THE DEFENDANT HAS ENTERED A PLEA OF
11 NOT GUILTY THAT PLEA OF NOT GUILTY PLACES UPON THE
12 STATE THE BURDEN OF PROVING ALL OF THE ALLEGATIONS
13 SET FORTH IN THE INDICTMENT THE BURDEN OF PROVING
14 ALL OF THE ESSENTIAL ELEMENTS THAT MAKE OF THE
15 OFFENSES OF MURDER, OF BURGLARY, OF LARCENY, THE
16 STATE BEARS THE BURDEN OF PROVING ALL THOSE
17 ESSENTIAL ELEMENTS IN EACH OF THOSE CRIMES BEYOND A
18 REASONABLE DOUBT BEFORE A JURY COULD RETURN A
19 VERDICT OF GUILTY AS TO ANY ONE OR MORE OF THOSE
20 SEPARATE OFFENSES AS SET FORTH IN THE INDICTMENT
21 UNDER THE CONSTITUTION OF THIS STATE THE BURDEN IS
22 NEVER UPON A DEFENDANT OR A PERSON ACCUSED OF HAVING
23 COMMITTED SOME CRIME TO PROVE THAT THEY ARE NOT
24 GUILTY

25 THE LAW PRESUMES A PERSON TO BE

1 INNOCENT, AND THAT PRESUMPTION OF INNOCENCE REMAINS
2 WITH EVERY DEFENDANT, AND IT REMAINS WITH THIS
3 DEFENDANT, FROM THE MOMENT OF HIS ARREST THROUGHOUT
4 THE COURSE OF THE CRIMINAL PROCESS AND EVEN
5 THROUGHOUT THE COURSE OF THIS TRIAL THAT
6 PRESUMPTION OF INNOCENCE WILL REMAIN WITH MR HUGHEY
7 EVEN WHEN YOU GO BACK INTO YOUR JURY ROOM TO BEGIN
8 YOUR DELIBERATIONS IN THIS CASE THAT PRESUMPTION
9 OF INNOCENCE WILL REMAIN WITH HIM THERE AND ALWAYS
10 UNLESS YOU TWELVE JURORS DETERMINE THAT HE IS NO
11 LONGER ENTITLED TO THAT PRESUMPTION OF INNOCENCE
12 THAT IS, AFTER YOU HAVE CONSIDERED ALL OF THE
13 EVIDENCE IN THE CASE, IF YOU DETERMINE THAT HIS
14 GUILT HAS BEEN PROVEN BEYOND A REASONABLE DOUBT,
15 THEN AND ONLY THEN MAY YOU RETURN A VERDICT OF
16 GUILTY AND THAT PRESUMPTION OF INNOCENCE WOULD BE
17 REMOVED BY YOU

18 IT IS YOUR DUTY AS JURORS SELECTED IN
19 THIS CASE TO LISTEN CAREFULLY THROUGHOUT THE COURSE
20 OF THE TRIAL DO NOT LET YOUR MINDS WANDER DO NOT
21 BE THINKING ABOUT OTHER PLACES THAT YOU WOULD RATHER
22 BE OR THAT YOU WOULD PREFER TO BE IT'S EXTREMELY
23 IMPORTANT THAT YOUR MINDS AND YOUR ATTENTION BE HERE
24 WITH THIS CASE IT'S EXTREMELY IMPORTANT THAT YOU
25 PAY CAREFUL ATTENTION THROUGHOUT THE COURSE OF THE

1 TRIAL FROM THE BEGINNING UNTIL THE END

2 NOW, THE WAY THE TRIAL WILL PROCEED
3 IS THAT SHORTLY THE LAWYERS ARE GOING TO STAND
4 BEFORE YOU THERE ARE TWO TIMES DURING THE TRIAL OF
5 A CRIMINAL CASE THAT LAWYERS ARE PERMITTED TO
6 ADDRESS THE JURY (THAT IS AT THE BEGINNING OF THE
7 TRIAL AND AGAIN AT THE CONCLUSION OF THE TRIAL AFTER
8 ALL OF THE EVIDENCE HAS BEEN RECEIVED

9 AT NO TIME ARE YOU TO CONSIDER THE
10 STATEMENTS OF LAWYERS AS BEING ANY EVIDENCE IN THE
11 CASE THE ONLY EVIDENCE THAT YOU WILL CONSIDER IN
12 ARRIVING AT YOUR DECISION IN THIS CASE IS EVIDENCE
13 WHICH IS RECEIVED DURING THE COURSE OF THE TRIAL,
14 EITHER BY WAY OF WITNESSES TESTIFYING OR BY THE
15 INTRODUCTION OF SOME OTHER TYPE OF EXHIBIT, PHYSICAL
16 EXHIBIT, DOCUMENT, OR THE LIKE YOU SHOULD,
17 HOWEVER, LISTEN CAREFULLY TO WHAT THE LAWYERS TELL
18 YOU IN THEIR OPENING STATEMENTS BECAUSE THOSE
19 OPENING STATEMENTS WILL SERVE TO PROVIDE YOU WITH A
20 BASIC UNDERSTANDING AS TO WHAT THIS CASE IS ABOUT SO
21 THAT YOU'LL HAVE SOME CONTEXT IN WHICH TO PLACE THE
22 EVIDENCE THAT WE WILL BEGIN RECEIVING SHORTLY
23 THEREAFTER BOTH SIDES WILL BE ABLE TO MAKE AN
24 OPENING STATEMENT

25 ONCE THOSE OPENING STATEMENTS HAVE

1 BEEN CONCLUDED, WE WILL THEN BEGIN RECEIVING
2 EVIDENCE AS I HAVE TOLD YOU, THE STATE HAS THE
3 BURDEN OF PROOF THEY WILL GO FORWARD FIRST IN
4 THEIR PRESENTATION THEY WILL PRESENT EVIDENCE BY
5 WAY OF WITNESSES AND OTHERWISE ONCE THE STATE HAS
6 CONCLUDED IN THEIR PRESENTATION, THE DEFENSE WILL
7 HAVE THE SAME OPPORTUNITY TO PRESENT EVIDENCE BY WAY
8 OF WITNESSES' TESTIMONY AND OTHERWISE KEEP IN
9 MIND, AS I HAVE PREVIOUSLY STATED, THE BURDEN IS NOT
10 UPON THE DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR
11 TO PROVE THAT HE IS INNOCENT BECAUSE IN MANY
12 INSTANCES THAT MAY NOT BE POSSIBLE THEREFORE, IF
13 THE DEFENDANT DOES NOT TESTIFY, IF THE DEFENDANT
14 DOES NOT OFFER EVIDENCE, YOU MAY NOT CONSIDER THAT
15 IN ANY FASHION WHATSOEVER IN YOUR DECISION IN THIS
16 CASE NEVERTHELESS, THE OPPORTUNITY IS PROVIDED FOR
17 BOTH SIDES TO OFFER EVIDENCE

18 ONCE ALL OF THAT EVIDENCE HAS BEEN
19 RECEIVED THE LAWYERS WILL AGAIN STAND BEFORE YOU,
20 AND AGAIN THEY WILL MAKE WHAT ARE CALLED FINAL
21 ARGUMENTS OR SUMMATIONS NOW, AGAIN THOSE
22 STATEMENTS OF THE LAWYERS ARE NOT TO BE CONSIDERED
23 EVIDENCE THE PURPOSE OF THOSE STATEMENTS IS TO
24 GIVE THE LAWYERS AN OPPORTUNITY TO DISCUSS THE
25 EVIDENCE WITH YOU THAT YOU HAVE SEEN OR HEARD

1 THROUGH THAT DISCUSSION OF EVIDENCE THEY WILL EACH
2 BE TRYING TO PERSUADE YOU THAT YOU SHOULD ARRIVE AT
3 A PARTICULAR VERDICT OBVIOUSLY, THAT VERDICT FORM
4 WOULD DEPEND UPON WHICH LAWYER IS ARGUING THAT CASE
5 BEFORE YOU ONCE THE LAWYERS HAVE CONCLUDED IN
6 THEIR FINAL ARGUMENTS OR FINAL SUMMATIONS, I WILL
7 THEN GIVE YOU THE INSTRUCTION AS TO THE LAW I WILL
8 EXPLAIN TO YOU THE LAW THAT IS APPLICABLE IN A CASE
9 OF THIS NATURE YOU WILL THEN BE ASKED TO GO BACK
10 INTO YOUR JURY ROOM TO BEGIN YOUR DELIBERATIONS
11 THROUGH THAT PROCESS, EXERCISING YOUR OWN GOOD
12 JUDGMENT AND COMMON SENSE, YOU WILL CONSIDER ALL THE
13 EVIDENCE

14 YOU WILL DECIDE WHAT YOU FOUND TO BE
15 CREDIBLE YOU WILL REJECT WHAT YOU FIND NOT TO BE
16 CREDIBLE IN DOING SO YOU WILL DECIDE WHAT YOU
17 BELIEVE THE TRUE FACTS TO BE AS THEY RELATE TO THIS
18 PARTICULAR CASE ONCE YOU DECIDE WHAT THOSE TRUE
19 FACTS ARE, YOU WILL THEN APPLY THE LAW AS I WILL
20 HAVE GIVEN IT TO YOU AT THE CONCLUSION OF THIS TRIAL
21 IN ORDER TO ARRIVE AT YOUR DECISION IN THIS CASE

22 ALL THAT WE ARE ASKING FOR YOU TO DO
23 THROUGHOUT THE COURSE OF THIS TRIAL IS TO PAY
24 CAREFUL ATTENTION FROM THE BEGINNING UNTIL THE END
25 WHILE YOU ARE MAKING UP YOUR MINDS OR FORMULATING

1 YOUR OPINIONS AS TO WHAT YOU BELIEVE THE ULTIMATE
2 OUTCOME OR DECISION SHOULD BE UNTIL ALL OF THAT
3 EVIDENCE HAS BEEN RECEIVED, UNTIL YOU HAVE BEEN
4 INSTRUCTED AS TO THE LAW, AND UNTIL YOU HAVE BEEN
5 ASKED TO GO BACK TO BEGIN YOUR DELIBERATION THAT
6 IS THE PROCESS THAT IS DESIGNED FOR YOU TWELVE
7 JURORS TO DECIDE A FAIR AND JUST VERDICT LET ME
8 THANK YOU IN ADVANCE FOR YOUR PARTICIPATION IN THE
9 TRIAL OF THIS CASE LET ME THANK YOU IN ADVANCE FOR
10 YOUR CAREFUL ATTENTION THROUGHOUT THE COURSE OF THIS
11 TRIAL PLEASE GIVE THE LAWYERS YOUR ATTENTION NOW
12 AS THEY GIVE YOU THEIR OPENING STATEMENTS

13 MR JONES MAY IT PLEASE THE COURT,
14 YOUR HONOR?

15 THE COURT SOLICITOR

16 OPENING STATEMENT BY MR JONES

17 GOOD AFTERNOON, MR FOREMAN AND THE LADIES AND
18 GENTLEMEN OF THIS JURY, AT THE OUTSET I FEEL
19 COMPELLED TO TELL YOU THAT WE DO APPRECIATE YOUR
20 PATIENCE BECAUSE OBVIOUSLY YOU HAVE EXERCISED DUE
21 PATIENCE UNTIL THE TIME OF THIS MORNING, AND YOU'LL
22 PROBABLY BE CALLED UPON TO EXERCISE IT THROUGHOUT
23 THE COURSE OF THE NEXT SIX OR SEVEN OR EIGHT OR NINE
24 OR TEN DAYS BUT I ASSURE YOU THAT WE ARE MOVING
25 DELIBERATELY, AND I ASSURE YOU THAT AS WE ATTEMPT TO

1 DO THIS JOB, WE WILL DO SO DELIBERATELY AND I'M
2 TALKING ABOUT MYSELF AS YOUR SOLICITOR, AND THIS IS
3 MICHAEL COULTER, WHOM I INTRODUCED YOU TO EARLIER
4 HE'S YOUR DEPUTY SOLICITOR EACH OF US WILL BE
5 CALLING WITNESSES TO THIS WITNESS STAND, AND WHEN
6 JUDGE COLE TELLS YOU THAT YOU ARE THE JUDGES OF THE
7 WITNESSES AND YOU ARE THE JUDGES OF THE TRUTH AND
8 YOU ARE THE JUDGES OF THE FACTS, IT'S SO THAT'S
9 GONNA BE YOUR JOB TO DECIDE WHAT THE TRUTH IS AND
10 AS HE TELLS YOU IN DOING SO, YOU CAN USE YOUR COMMON
11 SENSE YOU CAN USE YOUR GOD GIVEN TALENTS YOU CAN
12 USE ANY EXPERIENCE THAT YOU HAVE HAD IN YOUR LIFE
13 THAT YOU USE EVERY DAY IN THE SENSE OF WHETHER
14 SOMEBODY IS BEING HONEST IN DECIDING WHETHER OR NOT
15 YOU WILL BELIEVE WHAT SOMEBODY IS TELLING YOU ABOUT
16 WHAT HAPPENED AND WHAT THEY REMEMBER AND WHAT THEY
17 SAW

18 YOU SEE, YOU CAN USE -- YOU CAN USE
19 YOUR OWN ABILITY TO JUDGE THE TRUTH, AND YOU CAN USE
20 YOUR OWN COMMON SENSE, AND YOU CAN USE YOUR OWN
21 EDUCATION, AND YOU CAN USE YOUR OWN EXPERIENCES
22 WHEN I MENTIONED WHO'S TELLING THE TRUTH, THERE'S A
23 LEGAL TERM OF ARGUMENT THE JUDGE WILL MENTION TO
24 YOU, AND THAT'S CALLED THE CREDIBILITY OF A WITNESS
25 IS THAT WITNESS CREDIBLE?

1 THE CREDIBILITY YOU ARE THE SOLE
2 JUDGES OF THE CREDIBILITY OF THE WITNESSES THAT TAKE
3 THE STAND IN OTHER WORDS, I BELIEVE WHAT THEY
4 SAID DOES IT MAKE SENSE? HAVE THEY GOT A REASON
5 FOR TESTIFYING THE WAY THEY DID? YOU CAN ASK
6 YOURSELF THAT WHEN YOU'RE DECIDING WHAT THEIR
7 CREDIBILITY IS I'M NOT GOING TO GO INTO ANY MORE
8 AREAS OF LAW RIGHT NOW

9 WHAT I WANT TO TRY TO TELL YOU IS
10 WHAT WE INTEND TO SHOW AND PROVE IN THIS CASE, BUT I
11 WOULD URGE YOU BEFORE I GET TO THAT POINT I WOULD
12 URGE YOU NEVER LOSE TOUCH AND SIGHT OF YOUR COMMON
13 SENSE IT'S YOURS AND YOU GOT A RIGHT TO EXERCISE
14 IT IN EVALUATING WHAT MAKES SENSE AND WHAT IS TRUE

15 NOW, IN THIS CASE, WE'RE GONNA SHOW
16 AND ATTEMPT TO PROVE TO YOU A NUMBER OF THINGS AS I
17 WILL OUTLINE RIGHT NOW LUEVINIA HARRIS, WHO WAS
18 MURDERED ON DECEMBER THE 4TH, 1995, WAS A FORTY-
19 EIGHT-YEAR-OLD WOMAN WITH TWO SONS AND A HUSBAND
20 SHE LIVED IN THIS COUNTY ON RITCHIE STREET, 401
21 RITCHIE STREET, IN HER HOME WITH HER HUSBAND, AND IF
22 YOU DON'T KNOW WHERE RITCHIE STREET, IF YOU KNOW
23 WHERE GREENVILLE STREET IS HERE IN ABBEVILLE? TO
24 GET TO RITCHIE STREET, YOU GO OUT MAIN AND YOU TAKE
25 A RIGHT AT GREENVILLE STREET AND GO DOWN AND AT

1 GREENVILLE ELEMENTARY IS UP -- UP AT -- YOU GO DOWN
2 TO THE BOTTOM OF GREENVILLE ELEMENTARY IS JUST UP,
3 AND RITCHIE STREET IS THE FIRST STREET YOU GET TO ON
4 GREENVILLE BEFORE YOU GET TO GREENVILLE
5 ELEMENTARY, YOU TAKE A LEFT IT'S THE -- JUST
6 BEFORE YOU GET TO GREENVILLE ELEMENTARY, THERE'S
7 RITCHIE STREET ON YOUR LEFT THAT'S WHERE LUEVINIA
8 HARRIS LIVED WITH HER HUSBAND MACK HARRIS HER TWO
9 SONS HAD MOVED ONE TO ATLANTA AND ONE OUT IN THE
10 MIDWEST, OKLAHOMA, AND THEY WERE WORKING OUT THERE,
11 HER TWO SONS AND SHE WAS LIVING AT HOME WITH HER
12 HUSBAND ON RITCHIE STREET, 401, AT THE VERY END OF
13 RITCHIE STREET, AT THE VERY END IT DEAD ENDS WHERE
14 THEY LIVED THE STREET DEAD ENDS, AND THEY LIVED AT
15 THE VERY DEAD END OF RITCHIE STREET IN A MOBILE HOME
16 THAT THEY LIVED IN

17 NOW, LUEVINIA WAS TESHEKA JACKSON'S
18 SECOND COUSIN TESHEKA, WHO WAS ALSO MURDERED ON
19 DECEMBER 4TH, 1995 BY THE DEFENDANT, WAS HER SECOND
20 COUSIN, TWENTY-TWO YEARS OLD SHE HAD TWO CHILDREN
21 A ONE-YEAR-OLD AND A THREE-YEAR-OLD, AND THEY WERE
22 THERE WITH HER YOU SEE, TESHEKA AND LUEVINIA BEING
23 SECOND COUSINS WOULD FROM TIME TO TIME SPEND TIME
24 TOGETHER, AND TESHEKA HAD ASKED TO SPEND SUNDAY
25 NIGHT WITH LUEVINIA AND MACK AND SHE BROUGHT HER

1 CHILDREN OVER, AND SHE SPEND SUNDAY NIGHT AND WHEN
2 SHE GOT UP MONDAY MORNING, SHE WAS STILL THERE WITH
3 LUEVINIA AND HER TWO CHILDREN

4 BY THE WAY, WE WILL SHOW AND ATTEMPT
5 TO PROVE TO YOU THAT THE DEFENDANT RECOGNIZES HIS
6 PATERNITY OF THOSE TWO CHILDREN THE DEFENDANT
7 FATHERED TESHEKA'S TWO CHILDREN AND THAT TESHEKA
8 HAD GONE OVER TO LUEVINIA'S HOUSE TO SPEND THE NIGHT
9 WITH HER SUNDAY NIGHT AND TO SPEND THE DAY WITH HER
10 MONDAY MORNING, AND THAT AROUND ELEVEN O'CLOCK THAT
11 MORNING, MONDAY MORNING, LUEVINIA'S HUSBAND, MACK --
12 I MENTIONED TO YOU MACK HARRIS WAS LIVING THERE WITH
13 HER THEY WERE LIVING THERE ALONE HE LEFT TO GO
14 TO THE POST OFFICE AROUND ELEVEN O'CLOCK THAT
15 MORNING, AND WE WILL SHOW AND ATTEMPT TO PROVE TO
16 YOU THAT SHORTLY AFTER HE LEFT, THE DEFENDANT BUSTED
17 DOWN THE FRONT DOOR HE KNOCKED IN THE FRONT DOOR
18 OF THAT HOME AND WENT IN WITH A SHOTGUN, A SINGLE-
19 SHOT SHOTGUN, AND HE BEGAN TO -- WE WILL SHOW AND
20 ATTEMPT TO PROVE TO YOU THAT AT THAT POINT IN TIME -
21 - HOLD THOSE TWO WOMEN CAPTIVE ALONG WITH THOSE TWO
22 CHILDREN IN THAT RESIDENCE

23 AND DURING THE COURSE OF HIS STAY
24 THERE, WE WILL SHOW AND ATTEMPT TO PROVE TO YOU THAT
25 LUEVINIA'S SON, MARCUS, MARCUS HARRIS, THE ONE

1 LIVING OUT WEST, HAPPENED TO CALL HIS MOTHER AND SAY
2 "HELLO" AROUND TWELVE O'CLOCK AND WHEN HE CALLED,
3 SHE ANSWERED THE PHONE HE SAID, "MOM, HOW YOU
4 DOING?" AND WE WILL SHOW AND ATTEMPT TO PROVE TO
5 YOU THAT THE CONVERSATION WAS ONE WHERE HE ASKED,
6 "WHAT'S WRONG?"

7 AND SHE SAID, "JOHN HUGHEY IS OVER
8 HERE WITH A GUN, AND I CAN'T GET HIM TO LEAVE "

9 AND HE SAID, "MAMA, PUT HIM ON THE
10 PHONE I'LL TELL HIM TO GO," AND THAT MARCUS
11 COULDN'T GET HIM ON THE PHONE BUT THEN MARCUS THEN
12 SAID, "MAMA, HANG UP I'LL CALL BACK AND YOU PRESS
13 THE SPEAKER PHONE BUTTON " THEY HAVE A SPEAKER
14 PHONE ON THEIR PHONE "AND HE CAN HEAR ME AND HE'LL
15 KNOW I'M ON THE OTHER LINE "

16 AND SHE DID AND MARCUS CALLED BACK
17 AND THEY HIT THE SPEAKER PHONE, AND MARCUS SAID,
18 "JOHN KENNEDY HUGHEY, YOU GET OUT OF THERE WITH THAT
19 GUN LEAVE MY MAMA ALONE'" AND WHEN HE WAS SAYING
20 THAT AND WHEN HE GOT NO -- NO RESPONSE FROM THE
21 DEFENDANT INDICATING HE WOULD LEAVE AND LEAVE THEM
22 ALONE, AND WHEN HE RECOGNIZED THAT HE HAD TO ACT AND
23 ACT QUICKLY, MARCUS DID, HE SAID, "MAMA, PLEASE CALL
24 THE POLICE I'M GONNA CALL THE POLICE HANG UP
25 I'LL CALL THE POLICE "

1 AND HE DID HE CALLED THEM HE
2 CALLED THE DISPATCH OUT WEST, AND HE GOT THEM TO
3 CALL THE ABBEVILLE DISPATCH AND NINE-ONE-ONE BECAUSE
4 HE DIDN'T KNOW THE NUMBER HE CALLED THE ABBEVILLE
5 DISPATCH, AND MARCUS CALLED THERE IMMEDIATELY WITHIN
6 A MINUTE OF GETTING OFF THE PHONE WITH HIS MAMA
7 AND HE TALKED TO THE GIRL AT THE DISPATCH, AND WE
8 WILL ATTEMPT TO SHOW AND PROVE TO YOU THAT THE GIRL
9 IN THE DISPATCH SAID, "I'VE ALREADY GOT SOMEBODY OUT
10 THERE, AND I'M ONE THE LINE "

11 AND HE SAID, "IT'S MY MAMA PLEASE
12 MAKE SURE SHE'S ALL RIGHT "

13 AND WHILE THE DISPATCH WAS TALKING TO
14 LUEVINIA HARRIS, AND LUEVINIA HARRIS SAID, "THERE'S
15 A MAN OVER HERE WITH A GUN, AND I CAN'T GET HIM TO
16 LEAVE "

17 AND THE GIRL IN DISPATCH SAID -- SHE
18 HEARD LUEVINIA SAY, "DON'T YOU SHOOT THAT GUN IN
19 HERE' DON'T YOU SHOOT THAT GUN IN HERE' "

20 AND THEN THE DISPATCHER HEARD, "POW' "
21 AND THE PHONE DROPPED AND LUEVINIA DROPPED

22 AND THEN WE WILL SHOW AND ATTEMPT TO
23 PROVE TO YOU THAT THIS DEFENDANT, AFTER SHOOTING
24 LUEVINIA HARRIS FROM TWELVE INCHES WITH A SHOTGUN IN
25 THE HEAD, IN THE EYE, JUST ABOVE THE EYE IN THE HEAD

1 AT EXECUTION RANGE, HE THEN UNLID, UNLID, PITCHED
2 THAT GUN AND PULLED THAT SHELL OUT BECAUSE IT'S A
3 SINGLE-SHOT SHOTGUN -- YOU GOT TO RELOAD IT TO
4 SHOOT AGAIN YOU GOT TO TAKE THE SHELL OUT, THROW
5 IT ON THE FLOOR, AND GET YOUR NEXT SHELL OUT AND PUT
6 IT IN AND RE-COCK IT AND MARCH OVER TO YOUR NEXT
7 VICTIM TO SHOOT

8 AND AS THE DISPATCHER WAS STILL ON
9 THE PHONE AS IT DROPPED TO THE FLOOR, WITHIN A
10 MATTER OF FIVE TO SIX SECONDS, SHE HEARD, POW'"
11 NOTHING IN BETWEEN THEN, THE TWO GUN SHOTS THEN
12 SILENCE AND THE DEFENDANT HAD SHOT TESHEKA IN THE
13 BACK OF THE HEAD, IN THE BACK OF THE HEAD ABOUT SIX
14 INCHES AWAY AS SHE KNELT ON THE BED IN THE BEDROOM
15 ON THE BED AND THEN HE THREW DOWN HIS MURDER
16 WEAPON

17 I LEFT OUT ONE THING TO Y'ALL, AND
18 WHILE HE WAS IN THAT HOUSE HE ALSO SHOT THAT SHOTGUN
19 AT THE OTHER END OF THE TRAILER WE SUBMIT TO YOU
20 AND WILL SHOW AND ATTEMPT TO PROVE THAT AT THE OTHER
21 END, HE ACTUALLY -- I SUBMIT TO YOU AND WE WILL SHOW
22 AND ATTEMPT TO PROVE THAT AFTER HE KICKED IN THAT
23 FRONT DOOR -- I TOLD YOU ABOUT THAT -- HE KICKED IN
24 THE BEDROOM DOOR ON ONE END OF THE TRAILER TRYING TO
25 GET TO TESHEKA SHE RAN IN THE BEDROOM, IN THE

1 BEDROOM WHERE SHE STAYED WITH HER CHILDREN THAT
2 NIGHT HE KICKED THAT BEDROOM DOOR IN, AND THROUGH
3 THAT BEDROOM THERE'S A LITTLE BATHROOM THAT YOU GO
4 IN FROM THE BEDROOM SO YOU COME IN THE FRONT DOOR,
5 AND THEN YOU'VE GOT THE BEDROOM DOOR, AND THEN
6 YOU'VE GOT THE BATHROOM DOOR

7 WHEN YOU'RE COMING IN THE FRONT DOOR,
8 HERE'S THE BEDROOM DOOR, AND THE BATHROOM DOOR OPENS
9 THAT WAY, AND YOU CAN COME INTO THAT BATHROOM FROM
10 THE BEDROOM WHEN HE LOOKED IN THE BEDROOM, SHE HAD
11 RUN IN THE BATHROOM HE KICKED THAT DOOR OPEN AND
12 SHOT AND MISSED AND WENT UP -- WENT UP TO THE TOP
13 SHE RAN THROUGH, AND HE CHASED HER BACK THROUGH THE
14 HOUSE THAT'S WHEN LUEVINIA HAD GOTTEN ON THE PHONE
15 TO THE POLICE, WAS TRYING TO GET THE POLICE, AND
16 THAT'S WHEN TESHEKA RAN BACK TO THE OTHER BEDROOM
17 SHE THEN RAN BACK TO TESHEKA'S BEDROOM, I MEAN TO
18 LUEVINIA'S BEDROOM AT THE OTHER END OF THE TRAILER
19 AND THAT'S WHEN HE WENT BACK AND WALKED BACK, AND
20 THAT'S WHEN HE TURNED AND LUEVINIA GOT ON THE PHONE
21 AND CALLED FOR HELP

22 NOW, I'M GONNA SUBMIT TO YOU THAT
23 AFTER HE HAD DONE THIS, COMMITTED THESE MURDERS, HE
24 THREW HIS GUN DOWN ON THE FLOOR, AND HE WENT AND GOT
25 IN TESHEKA'S CAR, AND HE DROVE AWAY HE LEFT THOSE

1 TWO WOMEN THERE FOR DEAD AND LEFT THOSE TWO
2 CHILDREN HE GOT IN THAT CAR AND HE DROVE UP TO
3 ANDERSON AND HE TOOK TESHEKA'S CREDIT CARD AND HE
4 WENT IN THERE AND GOT SOME MONEY OUT OF THE MACHINE,
5 THE MACHINE THERE WHERE YOU CAN USE THOSE A T M
6 MACHINES TO GET THE MONEY OUT HE GOT THIRTY
7 DOLLARS CASH, AND HE DROVE IN HER CAR OVER TO
8 GEORGIA, HALL COUNTY GEORGIA, WHERE HIS SISTER
9 LIVED, AND HE WENT OVER THERE AND TOOK SOME DEGREE
10 OF SAFETY WITH HIS SISTER UNTIL THE AUTHORITIES
11 COULD GET OVER THERE AND ARREST HIM FOR THIS DOUBLE
12 HOMICIDE

13 THAT'S WHAT WE'RE GONNA ATTEMPT TO
14 SHOW AND PROVE TO YOU AND WITH THE EVIDENCE, AND I
15 WOULD APPRECIATE YOUR PATIENCE AND YOUR -- AND YOUR
16 FAIRNESS IN LISTENING TO THE WITNESSES AS THEY
17 TESTIFY ABOUT WHAT HAPPENED AND WHAT THEY SAW AND
18 WHAT THEY KNOW AND THEN YOU SEE IF WHAT I'VE SAID
19 TO YOU MEASURES UP, AND THEN YOU SEE IF THESE
20 CHARGES MEASURE UP AND THEN I SUGGEST TO YOU, YOU
21 SEE -- YOU SEE -- YOU SEE WHAT WE'VE GOT HERE AND
22 YOU SEE WHAT WE'RE DEALING WITH HERE YOU SEE AND
23 YOU WILL SEE YOU WILL SEE IN VIVID REALITY WHAT
24 WE'RE DEALING WITH HERE

25 YOU WILL SEE, LADIES AND GENTLEMEN,

1 THAT WE WILL SHOW AND ATTEMPT TO PROVE TO YOU THAT
2 LUEVINIA HARRIS WAS MURDERED FOR NO OTHER REASON
3 THAN TRYING TO MAINTAIN THE AUTHORITY IN HER HOME
4 AND CALLING THE POLICE TO HELP HER DO IT WE WILL
5 SHOW AND ATTEMPT TO PROVE TO YOU THAT LUEVINIA
6 HARRIS DIDN'T RUN OUT THE DOOR AND LEAVE THOSE
7 CHILDREN AND THAT TWENTY-TWO YEAR OLD COUSIN OF HERS
8 IN THERE TO FEND FOR THEMSELVES, BUT THAT SHE TRIED
9 TO CALL THE POLICE TO COME AND HELP HER STOP THIS
10 MURDER AND SHE DIED AND THAT'S THE ONLY THING SHE
11 DIED FOR WAS HAVING -- WE WILL SHOW AND ATTEMPT TO
12 PROVE TO YOU THAT SHE HAD THE -- THAT THAT'S WHAT
13 SHE WAS DOING THAT THAT'S WHAT SHE WAS DOING YOU
14 DECIDE WHAT THAT IS YOU DECIDE WHAT THAT IS

15 MR GARRETT MAY IT PLEASE THE
16 COURT, YOUR HONOR?

17 THE COURT MR GARRETT

18 OPENING STATEMENT BY MR GARRETT

19 MR FOREMAN, LADIES AND GENTLEMEN OF
20 THE JURY, MY DEEPEST CONDOLENCES ARE WITH THIS
21 FAMILY, THE HARRIS FAMILY AND TESHEKA JACKSON AND
22 HER FAMILY I CAN'T TELL YOU HOW DEEPLY SORRY I AM
23 FOR THEIR DEATHS, BUT I'LL TELL YOU THIS THAT THE
24 DEATH THAT YOU HEARD JUST DESCRIBED IS NOT FACTUAL
25 AND SO, AS WE BEGIN THIS CASE, I WANT TO DO A FEW

1 THINGS BEFORE I START BUT I DON'T WANT TO BE LEFT
2 WITH THE IMPRESSION IN YOUR MIND THAT WHAT YOU HAVE
3 JUST BEEN TOLD IS A FACTUAL ACCOUNT OF WHAT HAPPENED
4 BECAUSE AFTER YOU'VE HARD ALL THE EVIDENCE, YOU WILL
5 SEE THAT THERE WAS NO SUCH THING AS SOMEBODY COMING
6 IN, BREAKING IN A DOOR, HAVING A GUN FIGHT INSIDE
7 THE HOUSE AT THE BEGINNING OF THIS EPISODE THAT'S
8 NOT THE WAY THIS THING HAPPENED IT SIMPLY DIDN'T
9 HAPPEN THAT WAY I'M SORRY FORENSIC EVIDENCE WILL
10 SUGGEST THAT IT WAS TOTALLY DIFFERENT

11 I WANT TO TALK TO YOU A LITTLE BIT
12 BEFORE I DO, I WANT TO -- I WANT TO INTRODUCE MR
13 TINSLEY LADIES AND GENTLEMEN, THIS IS ROBERT
14 TINSLEY MR TINSLEY HAS BEEN OUR PUBLIC DEFENDER
15 IN GREENWOOD AND ABBEVILLE COUNTY FOR A NUMBER OF
16 YEARS HE'S GONNA RETIRE NOW, AND THIS IS HIS LAST
17 CASE WE'RE PROUD TO HAVE HIM AS OUR PUBLIC
18 DEFENDER I SERVED ON THE PUBLIC DEFENDER BOARD OF
19 GREENWOOD, AND IT'S JUST ALWAYS A PLEASURE TO HAVE
20 HIM WORKING OUT HERE TAKING CARE OF THOSE PEOPLE WHO
21 CANNOT AFFORD A LAWYER HE'S DONE THAT FOR EIGHT
22 YEARS NOW WE APPRECIATE WORKING WITH HIM, AND WE
23 APPRECIATE HIS GOOD HELP WE ALSO HAVE MR ED
24 McCALLUM MR McCALLUM IS A LAWYER FROM MY OFFICE
25 I'M AN ATTORNEY, BILLY GARRETT, AND I WORK OUT OF

1 GARRET, WHITE AND McCALLUM AND ASSOCIATES IN
2 GREENWOOD, SOUTH CAROLINA I HAD BEEN APPOINTED TO
3 THIS CASE, AND I'M PROUD TO BE OF ASSISTANCE TO THE
4 COURT, JUDGE COLE, HIS STAFF, OUR COURT REPORTER I
5 APPRECIATE ALL THE GOOD WORK THAT THEY HAVE DONE

6 WE'VE BEEN HERE FOR TEN DAYS, AND
7 WE'VE BEEN WORKING DILIGENTLY MAYBE YOU FOLKS
8 HAVEN'T SEEN US WORKING DILIGENTLY, BUT WE HAVE I
9 APPRECIATE THEM BEING HERE IN THE ADMINISTRATION OF
10 JUSTICE IT'S VERY IMPORTANT THAT THEY'RE HERE
11 THE CLERK OF COURT AND HER STAFF HAVE BEEN EXCELLENT
12 THIS WEEK ALL OF OUR BAILIFFS AND ALL OF OUR STAFF
13 THAT HELP ORGANIZE THE WORK THAT NEEDS TO BE DONE
14 FOR THE COURT IT'S JUST SO SERIOUSLY IMPORTANT
15 THAT WE HAVE ALL OF THESE PEOPLE TO HELP US, AND I
16 APPRECIATE THEM BEING HERE

17 MORE IMPORTANTLY, I APPRECIATE YOU
18 FOLKS BEING HERE TAKING TIME AWAY FROM YOUR HOMES
19 AND YOUR JOBS AND YOUR BUSINESSES AND YOUR FAMILIES
20 TO COME HEAR THIS CASE OUR FOUNDING FATHERS MANY,
21 MANY YEARS AGO FOUND IT NECESSARY -- THANK GOD THEY
22 DID -- FOUND IT NECESSARY TO PUT A BODY OF TWELVE
23 PEOPLE BETWEEN THE POWER OF THE GOVERNMENT ON THE
24 ONE HAND AND THE SMALL PERSON ON THE OTHER BECAUSE
25 IF WE DIDN'T HAVE A JURY, IF WE DIDN'T HAVE A SYSTEM

1 OF JUSTICE, THE GOVERNMENT WOULD TELL YOU THE WAY IT
2 IS AND THAT'S JUST THE WAY IT IS AND THAT'S THE
3 RIGHT WE BELIEVE MANY OTHER COUNTRIES IN THE WORLD
4 ARE TRYING TO COPY OUR METHOD OF JUSTICE

5 THE RIGHT TO A TRIAL BY JURY IS ONE
6 OF THE MOST PRECIOUS RIGHTS THAT EACH OF US ENJOY,
7 AND I APPRECIATE YOU BEING HERE AND HELPING US
8 PRESERVE THOSE RIGHTS AND VALUES

9 NOW, I WANT TO TALK WITH YOU A LITTLE
10 BIT ABOUT JOHN HUGHEY THIS YOUNG MAN IS CHARGED
11 WITH A VERY SERIOUS CRIME HE'S CHARGED IN THIS
12 CASE WITH TWO MURDERS, A BURGLARY AND A GRAND
13 LARCENY NOW, LADIES AND GENTLEMEN, I'M NOT GONNA
14 STAND UP HERE AND TELL YOU THAT MY CLIENT'S NOT
15 GUILTY OF SOMETHING, NOT HARDLY

16 I WANT TO TALK WITH YOU ABOUT THAT,
17 AND THEN I WANT TO TALK TO YOU A LITTLE BIT ABOUT
18 THE FACTS BUT IN ORDER FOR YOU TO UNDERSTAND WHAT
19 THE LEGAL DEFINITIONS OF MURDER ARE AND WHAT
20 VOLUNTARY MANSLAUGHTER IS, IT IS IMPORTANT FOR ME TO
21 BEGIN AND TRY TO TALK WITH YOU ABOUT WHAT MURDER IS
22 IN FACT AND THEN WHAT VOLUNTARY MANSLAUGHTER IS
23 YOU PROBABLY HEARD MANY, MANY OTHER STATES HAVE
24 DIFFERENT KINDS OF WAYS OF LOOKING AT MURDER
25 MURDER IN THE FIRST DEGREE, MURDER IN THE SECOND

1 DEGREE, MURDER IN THE THIRD DEGREE IT IS A METHOD
2 BY WHICH WE ARE ATTEMPTING TO LOOK AT MURDER

3 MURDER BEING HORRIBLE AS IT CAN
4 POSSIBLY BE, THAT'S THE WORST TYPE OF MURDER, IS
5 CALLED -- IS KILLING SOMEONE WITH MALICE
6 AFORETHOUGHT LIKE SOME PEOPLE HAVE SAID,
7 PREMEDITATED MURDER, THE WORST KIND OF MURDER, AND
8 THAT'S THE WORST TYPE OF MURDER THAT THERE IS, OKAY
9 IN SOUTH CAROLINA WE HAVE SOMETHING THAT'S BELOW
10 THAT I'VE PREPARED A BRIEF CHART THAT MIGHT HELP
11 ME EXPLAIN THIS TO YOU AGAIN, I MENTIONED THIS TO
12 YOU, I ASKED YOU TO REMEMBER WHAT THE JUDGE TOLD YOU
13 ON QUESTIONS OF LAW, AND HE'S THE ONE WHO TELLS YOU
14 WHAT THE LAW IS REMEMBER WHEN TELLS YOU WHAT THE
15 LAW IS, BUT I WANTED TO TALK WITH YOU A MOMENT, IF I
16 COULD, ABOUT THE LAW OF MURDER THAT'S WHAT THE
17 SOLICITOR AND HIS DOCUMENTS ALLEGED

18 I WANT TO TALK FIRST ABOUT WHAT A
19 HOMICIDE IS BECAUSE YOU FOLKS ARE GONNA BE HEARING A
20 LOT OF WORDS, AND I WANT TO TALK WITH YOU A LITTLE
21 BIT ABOUT THOSE WORDS SO YOU'LL UNDERSTAND THOSE
22 WORDS WHEN YOU HEAR THEM HOMICIDE IS DEFINED AS
23 THE KILLING OF ONE PERSON BY ANOTHER THAT'S NOT
24 EITHER LAWFUL OR UNLAWFUL THAT'S JUST THE KILLING
25 OF ONE PERSON BY ANOTHER SO IF YOU'VE HEARD THAT

1 SOMEBODY HAS COMMITTED A HOMICIDE, THEN SOMEONE HAS
2 TAKEN ANOTHER PERSON'S LIFE ARE THERE JUSTIFIABLE
3 TYPE OF HOMICIDES? YES, THERE ARE

4 SELF DEFENSE IF YOU'RE IN A
5 SITUATION AND SOMEBODY TRIES TO KILL YOU AND YOU
6 DEFENSE YOURSELF AND YOU KILL THEM, THAT'S A
7 JUSTIFIABLE HOMICIDE

8 IN ACTS OF WAR, IF YOU'RE CALLED TO
9 GO TO SERVE YOUR COUNTRY IN VIETNAM OR WHEREVER YOU
10 MUST GO, YOU HAVE A RIGHT TO KILL SOMEONE FOR THAT
11 CIRCUMSTANCE IS THAT A JUSTIFIABLE KILLING? YES,
12 IT IS

13 AN EXECUTION THE STATE HAS A RIGHT
14 TO EXECUTE PEOPLE IS THAT A LAWFUL KILLING? YES,
15 IT IS THE STATE HAS A RIGHT TO DO THAT IF YOU'RE
16 ACTING WITHOUT CRIMINAL NEGLIGENCE YOU HAVE AN
17 ACCIDENT AND SOMEBODY GETS HURT YOU WEREN'T
18 NEGLIGENCE AND SOMEBODY GETS KILLED, IT'S STILL A
19 HOMICIDE AND IT'S STILL JUSTIFIABLE

20 MURDER IS A TYPE OF HOMICIDE, BUT
21 IT'S A DIFFERENT KIND MURDER IS THE KILLING OF ANY
22 PERSON WITH MALICE AFORETHOUGHT IT IS THE WORST
23 FORM OF MURDER THAT THERE IS IN SOUTH CAROLINA
24 INSTEAD OF HAVING A MURDER SECOND OR A MURDER THIRD
25 DEGREE, THERE'S SOMETHING A LITTLE DIFFERENT WE

1 HAVE SOMETHING CALLED VOLUNTARY MANSLAUGHTER WHICH
2 IS BELOW MURDER IT SAYS IT IS A KILLING COMMITTED
3 UNDER HEAT OF PASSION AROUSED BY LEGAL -- LEGALLY
4 ADEQUATE PROVOCATION IT IS CONSIDERED TO BE
5 WITHOUT MALICE, AND THAT IS MANSLAUGHTER

6 AND THAT'S IMPORTANT FOR YOU -- FOR
7 YOU TO UNDERSTAND THAT THERE MUST NOT BE SIMPLY THE
8 INTENT TO KILL FOR THAT MAY BE PRESENT IN A CASE OF
9 MANSLAUGHTER YOU CAN HAVE A PERSON WHO INTENDS TO
10 KILL ANOTHER PERSON AND THAT IS STILL MANSLAUGHTER
11 PROVIDED THAT THE INTENT TO KILL ACCOMPANIED WITH
12 MALICE IS THE DISTINGUISHING ELEMENT BETWEEN MURDER
13 AND MANSLAUGHTER SO THE POINT HERE IS THAT IN
14 ORDER TO HAVE VOLUNTARY MANSLAUGHTER, YOU CAN'T HAVE
15 MALICE, AND MORE IMPORTANTLY, MALICE IS DONE AWAY
16 WITH BECAUSE OF THE HEAT OF PASSION AROUSED BY THE
17 LEGALLY ADEQUATE PROVOCATION ALSO, JUST FOR YOUR
18 EDIFICATION AND JUST FOR YOUR KNOWLEDGE, THERE'S
19 ALSO KIND OF LIKE A THIRD DEGREE OF MURDER IN SOUTH
20 CAROLINA, SOMETHING CALLED INVOLUNTARY MANSLAUGHTER

21 INVOLUNTARY MANSLAUGHTER IS DEFINED
22 AS THE UNINTENTIONAL KILLING OF ANOTHER WITHOUT
23 MALICE THAT WOULD BE YOUR LOWEST DEGREE IN SOUTH
24 CAROLINA, BUT I WANTED YOU TO HAVE A -- BEGINNING TO
25 HAVE AN UNDERSTANDING OF WHAT WE ARE TALKING ABOUT

1 IN THE DEFENSE POSTURE IN THIS CASE

2 NOW, IN THE INDICTMENT, OUR SOLICITOR
3 FOR THE EIGHTH JUDICIAL CIRCUIT HAS CHARGED JOHN IN
4 TWO COUNTS WITH MURDER AS TO TESHEKA JACKSON AND AS
5 TO LUEVINIA HARRIS, AND LADIES AND GENTLEMEN, THIS
6 IS SIMPLY A CHARGE IT IS A CHARGE IF HE WERE TO
7 WRITE, IF THE SOLICITOR HAD WRITTEN ON HERE GUILTY
8 OF VOLUNTARY MANSLAUGHTER, WE WOULDN'T BE HERE
9 TODAY THIS CASE WOULD BE OVER THAT'S THE KEY
10 WE'RE GUILTY OF VOLUNTARY MANSLAUGHTER WE'RE NOT
11 GUILTY OF MURDER THIS CASE IS NOT A MURDER CASE
12 IT IS A CASE OF MANSLAUGHTER

13 LET'S TALK ABOUT IT KEEP IN MIND
14 THAT THE BURDEN OF PROOF IN THE ENTIRE CASE IS UPON
15 THE SOLICITOR SO DURING THE PROCESS OF THIS
16 WEIGHING OF EVIDENCE, OUR FOUNDING FATHERS KNEW IT
17 WAS IMPORTANT TO HAVE A GROUP OF JURORS BECAUSE
18 THOSE JURORS CAN LISTEN TO THE CASE AND BASED UPON
19 OUR COMMON SENSE, UNDERSTAND THE FACTS AND
20 CIRCUMSTANCES AMONG PEOPLE THIS IS NOT A SITUATION
21 WHERE SOMEBODY BREAKS INTO SOMEBODY'S HOUSE, LADIES
22 AND GENTLEMEN, AND KILLS SOMEBODY THIS IS A
23 FAMILY THIS IS A FAMILY SITUATION HERE JOHN
24 KENNEDY HUGHEY IS THE COMMON LAW HUSBAND OF TESHEKA
25 JACKSON THESE KIDS IN THIS HOUSE WERE HIS

1 CHILDREN MS LUEVINIA WAS HIS COUSIN, AND I SAY TO
2 YOU, LADIES AND GENTLEMEN, THERE'S NOT -- THERE
3 WASN'T -- THERE WAS NOT A NICER PERSON THAN MS
4 LUEVINIA HARRIS, AND FRANKLY BECAUSE OF HER
5 GOODNESS, SHE GOT KILLED IN THIS EPISODE SHE WAS
6 TRYING TO COUNSEL WITH THESE PEOPLE, AND THERE WAS A
7 BAD SITUATION THAT OCCURRED AND I'M GOING TO TALK
8 TO YOU ABOUT THE FACTS OF THAT IN A MINUTE, BUT ONLY
9 AFTER -- ONLY AFTER THE FIGHT WAS STARTED NOT BY MY
10 CLIENT BUT INSTEAD WAS STARTED BY TESHEKA JACKSON

11 NOW, IN THE EVENT THAT YOU DETERMINE
12 THAT THERE IS A -- THE SOLICITOR HAS NOT PROVEN
13 MURDER BEYOND A REASONABLE DOUBT, THEN IT'S YOUR
14 SWORN RESPONSIBILITY TO LOOK AS BETWEEN MURDER AND
15 VOLUNTARY MANSLAUGHTER AND COME BACK WITH A VERDICT
16 THAT SPEAKS THE TRUTH, AND THAT'S WHAT I WANT YOU TO
17 EXAMINE DURING THE TRIAL OF THIS CASE WE'RE NOT
18 SAYING HE'S NOT GUILTY WHAT WE'RE SAYING IS THIS
19 THING HAPPENED SO QUICK UNDER A HEAT OF PASSION
20 AFTER LEGAL PROVO -- LEGAL PROVOCATION THAT RESULTS
21 IN HIS INSTEAD OF BEING GUILTY OF THE MOST SERIOUS
22 CRIME OF MURDER, HE IS ONLY GUILTY OF THE CRIME OF
23 MANSLAUGHTER

24 NOW, YOU HEARD OUR SOLICITOR SUGGEST
25 TO YOU SOME FACTS IT'S KIND OF INTERESTING IN HIS

1 OPENING STATEMENT HE SAID, "I FORGOT TO LET YOU KNOW
2 ABOUT THE BREAKING IN OF THE DOOR AND SHOOTING A GUN
3 IN THE OTHER BEDROOM AROUND THE BEDROOM " NOW, YOU
4 FOLKS DON'T KNOW WHAT I'M TALKING ABOUT YET IN THIS
5 TRAILER BECAUSE Y'ALL HAVEN'T SEEN THE ACTUAL LAY OF
6 THE TRAILER DIDN'T HAPPEN THAT WAY, AND I WILL
7 TELL YOU, LADIES AND GENTLEMEN, THAT WHEN YOU
8 EXAMINE THE EVIDENCE IN THIS CASE YOU WILL SEE THE
9 FOLLOWING THINGS I'M GONNA GIVE YOU A TIME LINE
10 BECAUSE I THINK IT'S VERY IMPORTANT DURING OUR CROSS
11 EXAMINATION OF THE STATE'S WITNESSES THAT YOU LISTEN
12 TO THE TIME LINE THE TIME LINE IS VERY CRUCIAL
13 THE STATE WOULD HAVE -- HAVE YOU BELIEVE THAT JOHN
14 GOT THERE AT OR ABOUT ELEVEN O'CLOCK JOHN'S
15 POSITION IS THAT HE GOT THERE A LITTLE EARLIER THAN
16 ELEVEN, BUT WE'RE NOT GOING TO ARGUE AND QUIBBLE
17 OVER THE POINT JOHN HAD COME THERE THAT DAY FOR
18 THE PURPOSE OF GOING WITH HIS WIFE, COMMON LAW WIFE,
19 AND MS LUEVINIA HARRIS AND HIS TWO CHILDREN -- THIS
20 IS A MONDAY THEIR PURPOSE WAS TO GO TO ANDERSON TO
21 GO TO THE MITSUBISHI AND WORK ON HER SUNROOF ON A
22 NEW CAR THAT THEY HAD PURCHASED WHEN I SAY THEY
23 HAD PURCHASED, HE HAD GIVEN HER MONEY AND HAS
24 HISTORICALLY GIVEN HER MONEY FOR ITEMS AND THINGS
25 THAT SHE BUYS INCLUDING THIS CAR THE DOWN PAYMENT,

1 FOR INSTANCE, WAS GIVEN TO HER BY -- GIVEN TO HER BY
2 HIM, THE EVIDENCE WILL SHOW

3 NOW, WHAT HAPPENED WAS IS THERE WAS
4 A PROBLEM THAT HAD OCCURRED BETWEEN THE TWO OF THEM
5 APPARENTLY FRIDAY NIGHT BEFORE THEY HAD SPENT THE
6 NIGHT TOGETHER AT -- AT TESHEKA JACKSON'S HOUSE

7 THEY HAD ALL SPENT THE NIGHT TOGETHER THERE JOHN,
8 HIS WIFE TESHEKA, AND THEIR TWO CHILDREN THEY HAD

9 A GREAT EVENING, HAD A GREAT TIME ON FRIDAY ON

10 SATURDAY FOR WHATEVER REASON, MS JACKSON DECIDES

11 SHE'S GONNA GO AND SEE A FELLOW BY THE NAME OF

12 MICHAEL ADAMS AND, IN FACT, SPENT SATURDAY NIGHT

13 WITH A NAME BY THE NAME OF MICHAEL ADAMS WITH HER

14 CHILDREN PRESENT JOHN, OF COURSE, WAS UPSET ABOUT

15 THAT HOWEVER, HE GOT OVER HIS UPSETNESS WITH THAT

16 THEY HAD TALKED ABOUT IT LATE SUNDAY EVENING

17 MONDAY IT WAS OKAY THINGS HAD CALMED DOWN THEY

18 WERE GOING TOGETHER TO GET THE CAR WORKED ON JOHN

19 ARRIVED HE RODE HIS BICYCLE OVER THERE ACTUALLY,

20 IT WASN'T HIS BICYCLE IT WAS HIS BROTHER'S

21 BICYCLE, DONNIE DONNIE HAS A BICYCLE HE'S GOT A

22 BROTHER NAMED DONNIE HE RODE HIS BICYCLE OVER

23 THERE AT THE TIME HE DID NOT HAVE A DRIVER'S

24 LICENSE HOWEVER, HE DID HAVE A KEY TO TESHEKA'S

25 CAR, AND TESHEKA HAD A KEY TO HIS CAR TESHEKA --

1 I'M SORRY IF I DID NOT PRONOUNCE HER NAME
2 CORRECTLY, IT IS TESHEKA, BUT OFTENTIMES THEY CALL
3 HER SHEKA

4 NOW, ASK HE GOT THERE, THE EVIDENCE
5 WILL SHOW, THEY HAD A CASUAL CONVERSATION, AND THEN
6 ALL OF THE SUDDEN SOME DISRUPTION BEGAN BETWEEN THE
7 TWO OF THEM OVER THE FACT THAT SHE HAD SPENT THE
8 NIGHT WITH THIS OTHER FELLOW, AND MS LUEVINIA
9 HARRIS, THE KIND PERSON THAT SHE WAS, INVITED THEM
10 IN FOR A CUP OF COFFEE TO TALK ABOUT IT SO THEY GO
11 IN, AND THEY SIT DOWN, AND THEY TALK ABOUT IT THEY
12 TALK ABOUT THE FACT THAT SHE WAS SEEING THIS OTHER
13 PERSON THAT WASN'T A GOOD THING IF THEY WERE GONNA
14 TRY TO KEEP THEIR RELATIONSHIP TOGETHER THAT
15 WASN'T GOOD FOR HER CHILDREN TO BE IN THE PRESENCE
16 OF THAT OTHER MAN THOSE KINDS OF THINGS WERE
17 DISCUSSED THE KIDS WERE ACTUALLY LAID DOWN TO REST
18 AND GO TO BED THEY HAD ALREADY LAID DOWN IN THE
19 UPPER BEDROOM THEY WERE -- THEY WERE RESTING SO
20 WHILE THESE FOLKS WERE TALKING ABOUT IT, THEY WERE
21 GONNA FINISH THEIR LUNCH -- FINISH LUNCH, THEN THEY
22 WERE GONNA GO ON TO ANDERSON AS THEY HAD PLANNED
23 THE EVIDENCE WILL SHOW THAT AT OR ABOUT ELEVEN
24 FIFTY-SIX, A PHONE CALL WAS RECEIVED BY MS LUEVINIA
25 HARRIS

1 NOW, I WANT Y'ALL TO UNDERSTAND
2 SOMETHING I WANT Y'ALL TO THINK ABOUT SOMETHING
3 WHEN WE TALK ABOUT COMMON SENSE SUPPOSE YOU HAVE
4 BROKEN INTO SOMEBODY'S HOUSE NOW YOU HAVE SHOT UP
5 A DOOR YOU THINK SOMEBODY'S GONNA TALK TO YOU CALM
6 ON THE TELEPHONE? LUEVINIA HARRIS RECEIVED A CALL
7 FROM HER SON AT ELEVEN FIFTY-SIX THEY TALK FROM
8 ELEVEN FIFTY-SIX TO ELEVEN FIFTY-NINE FOR THREE
9 MINUTES DURING WHICH TIME THERE IS SOME DISCUSSION
10 ABOUT A GUN THERE IS SOME DISCUSSION ABOUT AN
11 ARGUMENT, BUT THEY WERE CALM ABOUT IT, AND THERE WAS
12 NOBODY FORCING OR THREATENING OR HURTING ANYBODY AT
13 ALL IT'S JUST NOT THE CASE THERE WAS A
14 DISCUSSION OF A GUN, AND THEN THERE WAS MARCUS
15 HARRIS SAYING, "LEAVE --YOU SHOULD LEAVE OUR HOUSE
16 IF YOU HAVE A GUN YOU SHOULD LEAVE " THEN ALL OF
17 A SUDDEN THERE WAS FIGHTING BREAKS OUT THE FIGHT
18 HAS TO BREAK OUT AT TWELVE-O-TWO THIS IS IMPORTANT
19 TIMING BECAUSE NOT ONLY DID MARCUS HARRIS CALL ONE
20 TIME, HE THEN CALLED BACK A SECOND TIME TO TALK TO
21 HIS MOTHER, ACTUALLY TO GET THEM ON SPEAKER PHONE SO
22 THEY COULD ALL TALK

23 IT'S AT THIS POINT THAT TESHEKA
24 BECOMES VERY AGITATED, VERY MAD BECAUSE NOW NOT ONLY
25 DID MS LUEVINIA KNOW ABOUT HER SLEEPING AROUND WITH

1 THIS OTHER FELLOW, NOW ALL OF THE SUDDEN MARCUS, HER
2 COUSIN'S GONNA HEAR ABOUT IT SHE BECAME IRATE SHE
3 THREW A VASE, AND YOU'LL SEE THE PICTURES OF THIS
4 SHE THREW A VASE SHE THREW A KNIFE, AND THEN SHE
5 GOT A BIG BUTCHER KNIFE, AND SHE CAME AT MR HUGHEY
6 MR HUGHEY BEING A SMALLER PERSON THAN SHE IS, SHE
7 CAME AT HIM WITH THE KNIFE THEY STRUGGLED AND THEY
8 FOUGHT IN THE PROCESS SHE GETS CUT HE GETS CUT
9 HE RUNS OUT THE DOOR, AND IN THEIR CAR HE PICKS UP
10 THE SHOTGUN THAT HAD BEEN THERE THREE MONTHS THAT
11 THEY KNOW THEY BOTH OWN IT'S BEEN THERE
12 THEY'RE FIGHTING TO THE DOOR, HOLLERING AT EACH
13 OTHER HE GOES AND HE GETS THE GUN AND HE COMES IN
14 AND THEN YOU GOT A FIGHT SHE'S GOT A KNIFE AND
15 HE'S GOT A GUN THEY FIGHT AT THE DOOR THE
16 EVIDENCE WILL SHOW IT HOW DO WE KNOW THAT?
17 BECAUSE THEY HAD ALREADY FIGHTING IN THE KITCHEN
18 THERE WAS ALREADY -- THE FIGHT HAD ALREADY OCCURRED
19 IN THE KITCHEN THERE WAS ALREADY BLOOD, DROPS OF
20 BLOOD YOU WILL SEE THAT THROUGH THE FORENSIC
21 EXPERT THERE WERE DROPLETS OF BLOOD EVEN ABOUT THE
22 KITCHEN THAT FIGHT WENT FROM THERE IT WENT TO
23 THE FRONT DOOR OF THE TRAILER THEY WERE FIGHTING
24 THERE WHEN HE CAME IN, THEY WERE FIGHTING THERE
25 THEY WERE FIGHTING OVER THE GUN THE GUN WENT OFF

1 IT SHOT A HOLE IN THE BATHROOM THEN THERE WAS A FI
2 -- WELL, THEY WERE RUNNING AROUND THE HOUSE AND
3 FIGHTING, AND THEN THE GUN GOES OFF AGAIN AND IT
4 KILLS MS LUEVINIA HARRIS, ACTUALLY, AT THE TIME
5 THAT TESHEKA AND LUEVINIA WERE CROSSING EACH OTHER
6 IN THE HALL WE'VE GOT A FIGHT AREA IN THE HALL,
7 AND IN THE PROCESS OF ATTEMPTING TO SHOOT TESHEKA,
8 MS LUEVINIA HARRIS WAS KILLED AND THAT IS
9 HORRIBLY TRAGIC BECAUSE SHE'S TOTALLY INNOCENT, AND
10 THE LAW IN THIS STATE SAYS IF YOU WERE INTENDING TO
11 KILL SOMEONE IN THE HEAT OF PASSION AFTER SUFFICIENT
12 LEGAL PROVOCATION, THEN YOU'RE GUILTY OF
13 MANSLAUGHTER SO HE'S GUILTY OF MANSLAUGHTER AS
14 AGAINST MS LUEVINIA HARRIS AS WELL AS HE'S GUILTY
15 OF MANSLAUGHTER AGAINST TESHEKA BUT IT HAPPENED,
16 AND BY THE ONLY EVIDENCE, YOU WILL SEE THAT IT
17 HAPPENED WITHIN THIRTY SECONDS BECAUSE THE FIGHT
18 STARTED AT TWELVE-O-TWO MS LUEVINIA HARRIS IS
19 ALIVE AND ON THE TELEPHONE AT TWELVE-O-FOUR, AND
20 YEAH, SHE IS CALLING THE POLICE TO COME -- COME
21 BECAUSE WHY? THEY'RE OVER IN THE FRONT PART OF THE
22 HOUSE FIGHTING THE GUN'S GOING OFF THEY'RE STILL
23 FIGHTING SHE'S AT THE BACK END -- SHE'S IN THE
24 BACK BEDROOM ON THE PHONE SAYING, "DON'T SHOOT THAT
25 GUN IN HERE DON'T SHOOT THAT GUN IN HERE " AND AS

1 SHE COMES OUT, SHEKA'S RUNNING BY HER, AND AS HE
2 FIRES AT ONE HE HITS THE WRONG ONE THEN HE SHOOTS
3 SHEKA THEN HE LEAVES BUT IT HAPPENED IN A HEATED
4 EXCHANGE BETWEEN THE TWO OF THEM, AND THEREFORE,
5 LADIES AND GENTLEMEN, THE CHARGE OF MURDER IS
6 IMPROPER HE DIDN'T GO OVER THERE TO KILL ANYBODY
7 THAT WAS NOT HIS INTENTION HE DIDN'T WANT TO GO
8 OVER THERE AND HURT ANYBODY IT'S SOMETHING THAT
9 GOT OUT OF HAND AND GOT OUT OF HAND AFTER LEGAL
10 PROVOCATION, HER COMING AT HIM WITH A KNIFE
11 THEY'RE FIGHTING, AND WHEN YOU HAVE A GUN AND WHEN
12 YOU HAVE A KNIFE IN A FIGHT, PEOPLE ARE GONNA GET
13 HURT, AND THAT'S WHAT HAPPENED IT'S A HORRIBLE
14 SITUATION, BUT IT DOES NOT RISE TO THE LEVEL OF
15 MURDER IT IS MANSLAUGHTER, AND SHOULD HE BE
16 PUNISHED FOR TWO COUNTS OF MANSLAUGHTER?
17 ABSOLUTELY AND, LADIES AND GENTLEMEN, I SUBMIT TO
18 YOU THAT IN THIS CASE AND AS WE PRESENT THE
19 EVIDENCE, I WANT YOU TO HOLD TO THE SOLICITOR TO THE
20 STATEMENT OF THE CASE THAT HE MADE THAT -- THAT MY
21 CLIENT HELD THESE PEOPLE HOSTAGE THAT'S JUST NOT
22 WHAT HAPPENED HOW WOULD HE HOLD SOMEBODY A HOSTAGE
23 AND LET THEM CALL UP THEIR -- THEIR SON OR HAVE THE
24 SON CALL BACK TWICE NOT ONCE, TWICE IF YOU'RE
25 HOLDING SOMEBODY HOSTAGE, HOW YOU GONNA HOLD

1 SOMEBODY HOSTAGE AND LET THEM CALL THE POLICE? IT
2 WASN'T A FIGHT WITH HER THE FIGHT HERE WASN'T
3 BETWEEN JOHN AND MS LUEVINIA MS LUEVINIA LIKED
4 JOHN SHE CALLED HIM JOHN JOHN, THE EVIDENCE WILL
5 SHOW THEY HAD A GOOD FRIENDLY RELATIONSHIP, AND
6 SHE WAS A GOOD PERSON, AND HER DEATH WAS TRAGIC MY
7 CLIENT SHOULD PAY FOR THAT, BUT HE SHOULD PAY FOR IT
8 ONLY TO THE LEVEL THAT THE LAW SAYS HE SHOULD HAVE
9 TO PAY FOR IT HE SHOULDN'T HAVE TO PAY BEYOND THAT
10 LEVEL THERE'S BEEN ENOUGH DEATH IN THIS CASE,
11 LADIES AND GENTLEMEN THERE'S BEEN ENOUGH DEATH
12 HERE

13 I ASK THAT YOU KEEP AN OPEN MIND
14 BECAUSE THERE'S TWO SIDES TO THIS CASE SHOULD YOU
15 FIND IN THIS CASE THAT DOUBLE MURDERS, DOUBLE
16 MANSLAUGHTERS OCCURRED, THEN THERE WILL NO LONGER BE
17 ANY NEED FOR US TO DISCUSS A SECOND PHASE ON THE
18 OTHER HAND, AFTER HEARING ALL THE EVIDENCE, YOU
19 DETERMINE THAT MURDER HAS OCCURRED, THEN THERE WILL
20 BE A NEED TO HAVE A SUBSEQUENT DISCUSSION BUT I
21 SUBMIT TO YOU THAT THIS ENTIRE KILLING, HOMICIDE,
22 THAT IT'S NOT MURDER BUT INSTEAD IT'S MANSLAUGHTER
23 OCCURRED WITHIN A THIRTY SECONDS IN THE HEAT OF
24 PASSION AND AFTER A LEGAL PROVOCATION THANK YOU

25 THE COURT SOLICITOR?

1 MR JONES CALL MARCUS HARRIS TO THE
2 STAND PLEASE, YOUR HONOR COME AROUND, MR HARRIS
3 CLERK THE EVIDENCE YOU SHOULD GIVE
4 THE COURT AND JURY IN THE TRIAL OF THIS CASE SHALL
5 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
6 TRUTH SO HELP YOU GOD?

7 WITNESS IT WILL

8 (WITNESS PRESENTED AT 5 45 O'CLOCK P M)

9 DIRECT EXAMINATION BY MR JONES

10 Q PLEASE STATE YOUR NAME FOR THE RECORD

11 A MARCUS HARRIS

12 Q AND WHAT'S YOUR MAMA'S NAME?

13 A LUEVINIA H HARRIS

14 Q WHAT'S YOUR DADDY'S NAME?

15 A GEORGE MACK HARRIS

16 Q WHERE DID THEY LIVE ON -- ON DECEMBER THE 4TH,
17 1995?

18 A 401 RITCHIE STREET HERE IN ABBEVILLE, SOUTH
19 CAROLINA

20 Q WHERE IS RITCHIE STREET?

21 A IT'S LIKE YOU INDICATED YOU GO DOWN PAST THE
22 POST OFFICE ON GREENVILLE STREET, AND BEFORE YOU GET
23 TO GREENVILLE STREET ELEMENTARY SCHOOL, THE FIRST
24 LEFT TURN WHICH IS RITCHIE STREET YOU MAKE THAT
25 TURN ON RITCHIE AND THEN THERE'S ANOTHER TURN ON

1 RITCHIE WITH A DEAD END ON RITCHIE STREET

2 Q DID YOU GROW UP THERE?

3 A YES

4 Q AND WHERE DID YOU GO TO SCHOOL?

5 A WENT TO SCHOOL AT GREENVILLE ELEMENTARY

6 SCHOOL WENT TO HEAD START FIRST, GREENVILLE STREET

7 ELEMENTARY, THEN ABBEVILLE HIGH

8 Q DID YOU FINISH SCHOOL AT ABBEVILLE HIGH?

9 A YES I DID

10 Q AND AFTER FINISHING ABBEVILLE HIGH SCHOOL,

11 WHAT DID YOU DO?

12 A I JOINED THE UNITED STATES NAVY

13 Q AND HOW LONG DID YOU STAY IN THE NAVY?

14 A I STAYED IN THE NAVY THE TERM OF MY ENLISTMENT

15 WHICH WAS FOUR YEARS

16 Q WHERE DID YOU SERVE DURING YOUR TIME OF

17 ENLISTMENT?

18 A PORT MAGOO CALIFORNIA N A S PORT MAGOO,

19 CALIFORNIA

20 Q OKAY AND WHAT WAS YOUR LEVEL OR YOUR RANK

21 DURING THE COURSE OF YOUR STAY IN THE NAVY?

22 A I WAS AN AIRMAN E-3

23 Q AND WHAT WERE YOUR DUTIES UP THERE?

24 A I -- GOING TO BOOT CAMP -- AFTER BOOT CAMP,

25 GOING TO N A S , PORT MAGOO, AS AN AVIATION

1 ELECTRICIAN BEFORE THAT I WAS A PLANE CAPTAIN AND
2 GOT DUAL QUAD ON F-14'S AND F-18'S TO LAUNCH THE
3 AIRCRAFT PILOTS THERE AT THE BASE AT N A S PORT
4 MAGOO THE FIGHTER PILOTS, IT WAS A TEST EVALUATION
5 SQUADRON SO THAT WAS MY -- THAT WAS MY JOB A
6 PLANE CAPTION AND AN AVIATION ELECTRICIAN

7 Q ALL RIGHT, SIR AND -- AND AFTER YOU LEFT THE
8 NAVY, WHERE -- WHAT EMPLOYMENT DID YOU ENGAGE IN?

9 A I ENGAGED IN EMPLOYMENT THERE AT TINKER AIR
10 FORCE BASE IN OKLAHOMA CITY, OKLAHOMA FILLED
11 OUT -- FILLED OUT AN APPLICATION THERE, GOT HIRED TO
12 DO AVIATION ELECTRICIAN THERE AS A CIVIL SERVICE
13 EMPLOYEE

14 Q ALL RIGHT AND ON DECEMBER 4TH OF 1995, WHERE
15 WERE YOU LIVING?

16 A OKLAHOMA CITY, OKLAHOMA

17 Q ALL RIGHT AND WHEN WAS THE LAST TIME YOU'D
18 BEEN HOME TO ABBEVILLE TO VISIT YOUR PARENTS?

19 A LET ME THINK IT WAS JULY OF '95, JULY 4TH OF
20 '95

21 Q NOW, DO YOU KNOW OR DID YOU KNOW TESHEKA
22 JACKSON?

23 A YES SHE WAS MY COUSIN

24 Q OKAY AND YOU KNOW THE DEFENDANT IN THIS
25 CASE, JOHN KENNEDY HUGHEY?

1 A YES I DO

2 Q AND HOW DID YOU KNOW JOHN KENNEDY HUGHEY?

3 A WELL, HE WAS GOING WITH MY COUSIN, SHEKA

4 THEY WERE GOING TOGETHER

5 Q ALL RIGHT AND DO YOU KNOW WHETHER OR NOT

6 YOUR COUSIN SHEKA HAD HAD ANY CHILDREN AS A RESULT

7 OF HER RELATIONSHIP WITH THIS DEFENDANT, JOHN

8 KENNEDY?

9 A YES YES THEY HAD TWO LITTLE BOYS

10 Q DO YOU KNOW HOW OLD THEY WERE?

11 A AT THE TIME THIS HAPPENED IN DECEMBER, '95,

12 THEY BOTH ONE, AND THEIR OLD -- THEIR OLDEST SON WAS

13 THREE

14 Q OKAY LET ME ASK YOU THIS DO YOU KNOW

15 WHETHER OR NOT THERE IS A DIFFERENT TIME ZONE FOR

16 WHERE YOU LIVE IN OKLAHOMA CITY AS THERE IS HERE

17 NOW?

18 A YES IT IS

19 Q NOW, WHAT IS THE DIFFERENCE IN THE TIME

20 BETWEEN OKLAHOMA CITY AND ABBEVILLE, SOUTH CAROLINA?

21 A THIS IS EASTERN TIME SO THAT WOULD MAKE THE

22 EASTERN TIME ZONE IS SOUTH CAROLINA, GEORGIA, NORTH

23 CAROLINA, WHAT-NOT IT'S A HOUR AHEAD OF OKLAHOMA

24 TIME

25 Q OKAY SO IF IT'S TEN MINUTES TO SIX HERE IN

1 ABBEVILLE, WHAT TIME IS IT ON OKLAHOMA CITY?

2 A TEN MINUTES TILL FIVE

3 Q ALL RIGHT WELL, I WANT TO ASK YOU DID YOU
4 HAVE OCCASION TO CALL YOUR MAMA ON DECEMBER 4TH,
5 1995?

6 A YES I DID

7 Q AND WHAT WAS THE REASON YOU CALLED?

8 A I JUST CALLED TO SEE HOW SHE WAS DOING

9 Q WHEN WAS THE LAST TIME YOU HAD TALKED TO HER
10 BEFORE THAT DAY?

11 A I HAD TALKED TO HER ABOUT THANKSGIVING OF '95

12 Q OKAY AND AGAIN, YOU CALLED HER JUST TO TALK
13 TO HER?

14 A YES, TO SEE HOW SHE WAS DOING

15 Q WHERE WERE YOU WHEN YOU CALLED HER?

16 A I WAS IN OKLAHOMA CITY, OKLAHOMA

17 Q WERE YOU ---

18 A I WAS AT MY HOME

19 Q AT HOME?

20 A YES

21 Q OKAY WHAT TIME DID YOU CALL?

22 A IT WAS BETWEEN THE HOURS OF TEN AND ELEVEN

23 Q WHICH TIME?

24 A OKLAHOMA TIME

25 Q SO IT WOULD HAVE BEEN BETWEEN ELEVEN AND

1 TWELVE ABBEVILLE TIME?

2 A YES

3 Q WHO ANSWERED THE PHONE WHEN YOU CALLED?

4 A MY MOTHER ANSWERED THE PHONE

5 Q ALL RIGHT I'D LIKE YOU TO TELL THIS JURY
6 WHAT THE CONVERSATION WAS BETWEEN YOU AND YOUR
7 MOTHER FROM THE BEGINNING OF HER ANSWERING THE
8 PHONE, AND ONLY TELL US WHAT IT WAS THAT SHE SAID,
9 OKAY?

10 A WHEN I HAD CALLED MY MAMA FROM OKLAHOMA CITY,
11 I HAD GOT BACK FROM JOGGING AND I CAME IN THE
12 HOUSE AND CALLED MY MOTHER, AND SHE PICKED UP THE
13 PHONE AND USUALLY WHEN I CALL MY MOM, YOU KNOW,
14 SHE BE HAPPY TO SEE ME, BUT AT THIS TIME, YOU KNOW,
15 SHE WAS -- SHE WASN'T SO HAPPY AND I ASKED HER
16 WHAT WAS WRONG WITH HER, AND SHE TOLD ME THEN THAT
17 JOHN HUGHEY HAD A GUN AT THE HOUSE IN OUR HOME THERE
18 IN ABBEVILLE, HERE IN ABBEVILLE

19 Q WELL, WHAT DID YOU SAY WHEN SHE TOLD YOU THAT?

20 A I SAY, "HE HAVE A GUN?"

21 SHE SAY, "YES "

22 AND THEN I TOLD HER, I SAID, "LISTEN, MOM " I
23 SAID, "MOM, DO YOU WANT ME TO TELL HIM TO LEAVE?"

24 AND SHE SAY HE WAS TALKING TO SHEKA

25 I SAID, "MOM, DO YOU WANT ME TO ASK JOHN TO

1 LEAVE?"

2 AND SHE SAID, "YEAH " THEN I TOLD HER TO PUT
3 SHEKA ON THE PHONE SO SHE CALLED SHEKA

4 SHE CAME TO THE PHONE, AND I SAID, "SHEKA "
5 FIRST OF ALL I ASKED HER HOW SHE WAS DOING, AND SHE
6 SAID SHE WAS OKAY

7 AND THEN I SAID, "DO JOHN HAVE A GUN IN THE
8 HOUSE?"

9 SHE SAID, "YEAH, HE HAD A GUN "

10 I SAID, 'WELL, PUT JOHN ON THE PHONE "

11 SO SHE CALLED JOHN SHE CALLED HIM TWICE
12 SHE SAID, "JOHN, MARCUS WANTS TO TALK TO YOU " HE
13 SAID SOMETHING, AND THEN SHE TOLD ME, SHE SAID,
14 "CAUSE HE SAID HE DON'T WANT TO TALK TO YOU "

15 I SAID, "OKAY CUT THE SPEAKER PHONE ON "

16 SO WHEN I TOLD HER TO CUT THE SPEAKER PHONE
17 ON, SHE DON'T KNOW HOW TO OPERATE IT SHE TRIED TO
18 ACTIVATE IT, BUT IT COULDN'T GET ACTIVATED SO I
19 TOLD HER SINCE SHE COULDN'T GET THE SPEAKER PHONE
20 ON, I SAID HANG ON THE PHONE I SAID -- I SAID I
21 TALKED -- I SAID, "HANG ON THE PHONE AND I'LL CALL
22 YOU BACK "

23 Q ALL RIGHT HOW WERE YOU FEELING AT THIS POINT
24 IN TIME? WHAT WAS YOUR STATE OF MIND?

25 A WELL, I WAS SCARED BECAUSE MY MOM AND SHEKA

1 WAS AT THE HOUSE AND JOHN WITH THE GUN I WAS
2 SCARED

3 Q ALL RIGHT WHEN YOU TALKED YOUR MOM, CAN YOU
4 DESCRIBE HER DEMEANOR OR HER STATE OF EMOTION AS YOU'
5 WERE ABLE TO ASSESS IT ON THE TELEPHONE?

6 MR GARRETT OBJECTION, YOUR HONOR
7 I WOULD OBJECT, YOUR HONOR, AND TAKE THE POSITION,
8 YOUR HONOR, THAT THAT'S HEARSAY HE CAN ASK THE
9 QUESTION AS TO WHAT SHE MIGHT HAVE SAID, BUT NOT HER
10 STATE OF MIND, YOUR HONOR HE CAN'T READ HER MIND
11 THAT'S HEARSAY

12 THE COURT HE MAY TESTIFY AS TO WHAT
13 SHE SAID

14 MR GARRETT THANK YOU, YOUR HONOR
15 WITNESS SHE TOLD ME THAT ---

16 MR JONES I WOULD ASK YOU TO
17 TESTIFY -- TO TELL US THE TONE OF HER VOICE THE
18 TONE OF HER VOICE, YOUR HONOR THAT'S MY QUESTION

19 THE COURT YOU MAY ASK YOUR
20 QUESTION

21 WITNESS THE TONE OF HER VOICE? IT
22 WAS --

23 MR GARRETT OBJECTION, YOUR HONOR

24 WITNESS SHE WAS -- SHE WAS ---

25 MR GARRETT OBJECTION, YOUR HONOR

1 THE COURT JUST A MINUTE JUST A
2 MINUTE

3 MR GARRETT YOUR HONOR, AS TO THE
4 TONE OF THE VOICE, ARE WE EITHER TALKING HIGH OR LOW
5 HERE? I MEAN, I'M -- I'M CONCERNED THAT THE -- THE
6 SOLICITOR IS ATTEMPTING TO ---

7 THE COURT I'M GONNA ALLOW HIM TO
8 DESCRIBE THE MANNER IN WHICH SHE RESPONDED TO ANY
9 QUESTION HE ASKED HER

10 MR GARRETT THANK YOU, YOUR HONOR
11 PLEASE NOTE OUR OBJECTION

12 DIRECT EXAMINATION CONTINUED BY MR JONES

13 A MAY I ANSWER THE QUESTION?

14 Q YES, SIR

15 A THE TONE OF HER VOICE, IT WAS LIKE -- IT WAS A
16 LOW TONE LIKE SHE WAS SCARED

17 Q ALL RIGHT BASED ON HER VOICE TONE AND
18 TALKING TO YOU, THAT'S THE IMPRESSION THAT YOU GOT
19 OF HER VOICE, IS THAT CORRECT?

20 A RIGHT

21 Q ALL RIGHT NOW, I INTERRUPTED YOU BEFORE YOU
22 STATED WAS THE PHONE HUNG UP?

23 A NO IT WASN'T HUNG UP

24 Q I MEAN, WHEN YOU SAID, "PUT ON THE SPEAKER
25 PHONE," TELL US WHAT ---

1 A NO I WAS TALKING TO HER ON THE -- ON THE
2 RECEIVER

3 Q ALL RIGHT WHAT I WANT TO ASK YOU TO DO IS
4 TELL US WHAT HAPPENED NEXT?

5 A OKAY AFTER I TOLD HER TO PUT SHEKA ON THE
6 PHONE, AND I ASKED SHEKA DID JOHN HAVE A GUN AND SHE
7 TOLD ME YEAH, HE DID, I TOLD SHEKA TO TELL JOHN TO
8 GET ON THE PHONE I TOLD HER TO ACTIVATE THE
9 SPEAKER PHONE SHE COULDN'T ACTIVATE THE SPEAKER
10 PHONE SO I TOLD HER TO TELL JOHN TO GET ON THE
11 PHONE, TO TELL JOHN TO COME TO THE PHONE SO SHE
12 CALLED JOHN TWICE SHE TOLD JOHN THAT I WANTED TO
13 TALK TO HIM JOHN TOLD HER THAT HE DID NOT WANT TO
14 TALK TO ME SO SHE CAME -- SHE CAME UP -- SHE TOLD
15 ME ON THE PHONE, SHE SAID, "WELL, CUZ, HE DON'T WANT
16 TO SPEAK TO YOU ON THE PHONE "

17 I SAID, "OKAY CUT THE SPEAKER PHONE ON "

18 Q WHY DID YOU WANT THE SPEAKER PHONE ON?

19 A SO I COULD TELL -- HE DIDN'T WANT TO COME TO
20 THE PHONE SO I COULD TELL HIM IF HE HAD A GUN IN MY
21 HOUSE TO LEAVE MY HOME

22 Q ALL RIGHT SO YOU WANTED HIM TO BE ABLE TO
23 HEAR YOUR VOICE?

24 A RIGHT I WANTED HIM TO HEAR WHAT I HAD TO SAY
25 TO HIM

1 Q WITHOUT PICKING UP THE RECEIVER?

2 A RIGHT

3 Q ALL RIGHT WHY DID YOU WANT HIM OUT OF YOUR
4 HOUSE WITH THAT GUN?

5 A BECAUSE MY MOM AND SHEKA -- MY MOM WAS SCARED,
6 AND -- AND HE WASN'T -- HE ACTED -- SHE HAD NEVER --
7 HE HAD NEVER HAD A WEAPON IN MY HOME SO I ASKED MY
8 MOTHER, "HE HAVE A GUN THERE," AND I KNOW SHE WAS
9 SCARED I TOLD HIM HE HAD TO LEAVE

10 Q ALL RIGHT WHAT DID YOU DO NEXT?

11 A OKAY WHEN -- WHEN SHE WAS ON THE PHONE AND
12 SHE TRIED TO GET JOHN TO THE PHONE AND HE DIDN'T GET
13 ON THE PHONE, I TOLD HER, SINCE SHE COULDN'T GET THE
14 PHONE ACTIVATED AND HE WON'T COME TO THE TELEPHONE,
15 I TOLD HER TO HANG UP AND I WOULD HANG UP AND I
16 WOULD CALL HER RIGHT BACK SO I DID THAT I HUNG
17 UP THE PHONE I CALLED BACK HOME SHE HIT THE
18 SPEAKER PHONE I SAY, "HELLO "

19 I HEARD MY MOM AND SHEKA SAY, "HELLO " THEN I
20 SAID, "CAN EVERYBODY HEAR ME?" THEY SAID THEY COULD
21 HEAR ME

22 AFTER I SAID THAT, I CALLED JOHN'S NAME I
23 SAY, "JOHN "

24 HE SAY, "HUH?"

25 I SAID, "HOW YOU DOING?"

1 HE SAID, "OKAY," LIKE THAT

2 I SAY, "JOHN, IF YOU HAVE A GUN IN MY MOTHER'S
3 HOUSE " I SAY, "YOU HAVE TO LEAVE " WHEN I TOLD
4 JOHN THAT, I HEARD SOME CUSSING GOING ON

5 THEN I HEARD MY MOM SAY, "JOHN, JUST LEAVE "
6 SHE SAID, "LEAVE, JOHN'" SHE SAID, "JUST LEAVE
7 CALL THE POLICE CALL THE POLICE'"

8 SO I HUNG THE PHONE UP, CALLED DISPATCH IN
9 OKLAHOMA CITY NINE-ONE-ONE AND TOLD HER TO GET ME
10 THROUGH THE DISPATCH IN ABBEVILLE, SOUTH CAROLINA
11 SHE DID THAT, AND I -- WHEN THE DISPATCH GOT ON THE
12 PHONE IN SOUTH CAROLINA, I WAS ASKING HER, I SAID,
13 "MY NAME IS MARCUS HARRIS " I SAY THAT MY MOTHER --
14 THERE'S BEEN A DISPUTE ON 401 RITCHIE STREET AND MY
15 MOTHER AND MY COUSIN SHEKA WAS THERE, AND MY MOTHER
16 TOLD ME THAT JOHN HUGHEY HAVE A GUN IN THE HOUSE I
17 SAY, "YOU NEED TO SEND A UNIT OVER THERE "

18 SHE SAID, "WE ALREADY HAVE A UNIT THERE " SO
19 AT HOME AT ABBEVILLE, I WAS IN OKLAHOMA, AND AT HOME
20 IN ABBEVILLE I TOLD HER THAT THE POLICE WERE
21 ALREADY THERE

22 Q HOW COULD YOU HEAR THAT?

23 A OKAY I HAD THE RECEIVER I COULD HEAR THE
24 POLICEMAN, I GUESS, TALKING THROUGH THE
25 COMMUNICATIONS THAT THEY WHICH WAS A WALKIE TALKIE

1 TO THE DISPATCH SO I COULD HEAR THE DISPATCH ON
2 THE PHONE I COULD POLICE WHAT THEY WERE SAYING
3 THROUGH THE DISPATCH ON THE TELEPHONE

4 Q ALL RIGHT

5 A SO I HEARD THE POLICEMAN SAY OR THE OFFICER IN
6 THE HOUSE SAY THEY WAS IN THE HOUSE AND SAY, "ONE
7 DOWN WITH LIKE GUNSHOT WOUND TO THE HEAD " THEN HE
8 PAUSED THEN HE SAID AGAIN, HE SAID, "TWO DOWN WITH
9 LIKE GUNSHOT WOUNDS TO THE HEAD " SO THE DISPATCH
10 TOLD ME THERE HAD BEEN AN EMERGENCY AND I HAD TO
11 CALL BACK SO I HUNG THE PHONE UP, PACKED MY
12 CLOTHES UP, AND THEN MY FRIEND OZELL LITTLETON CAME
13 FROM OKLAHOMA CITY TO 401 RITCHIE STREET TO MY HOUSE
14 HERE IN SOUTH CAROLINA

15 Q YOU DROVE FROM OKLAHOMA TO HERE? DURING THE
16 TIME THAT YOU TALKED TO -- TO SHEKA, DID YOU HAVE AN
17 IMPRESSION OF -- OF THE TONE OF HER VOICE BASED ON
18 YOUR CONVERSATION WITH HER?

19 A DID I HAVE AN IMPRESSION OF THE TONE OF HER
20 VOICE?

21 Q YES

22 A YES I DID

23 Q WHAT WAS IT?

24 A LIKE SHE WAS SCARED

25 Q AND AGAIN, HOW LONG AFTER YOU HUNG UP THE

1 TELEPHONE FROM CALLING YOUR MAMA THE SECOND TIME DID
2 IT TAKE YOU TO CALL E M S IN KANSAS CITY?

3 A CALL NINE-ONE-ONE?

4 Q IN OKLAHOMA CITY I'M SORRY

5 A HOW LONG DID IT TAKE ME TO CALL NINE-ONE-ONE
6 AFTER I HUNG UP THE PHONE THE LAST TIME?

7 Q YES, SIR

8 A I DON'T KNOW FOUR SECONDS BECAUSE I DIALED
9 NINE-ONE-ONE

10 Q SO YOU DID IT IMMEDIATELY?

11 A IMMEDIATELY, YES

12 Q YOU HUNG UP THE PHONE AND CALLED THE E M S
13 IMMEDIATELY?

14 A YES

15 MR JONES ANSWER ANY QUESTIONS
16 THESE LAWYERS HAVE

17 CROSS EXAMINATION BY MR GARRETT

18 Q MR HARRIS, LET ME ASK YOU YOU SAID THAT YOU
19 HAD BEEN HOME IN JULY TO SEE YOUR MOM?

20 A YES

21 Q AND Y'ALL HAD A FOURTH OF JULY GET TOGETHER?

22 A YES

23 Q AND, OF COURSE, JOHN WAS THERE, WASN'T HE?

24 A NO HE WASN'T

25 Q YOU DON'T RECALL HIM BEING THERE?

1 A HE WASN'T THERE

2 Q WHAT ABOUT TESHEKA?

3 A SHE WASN'T THERE

4 Q THEY DIDN'T COME BY?

5 A NO

6 Q WERE YOU THERE THE ENTIRE TIME?

7 A YES

8 Q WHAT TIME DID YOU ARRIVE?

9 A IN OKLAHOMA -- IN SOUTH CAROLINA?

10 Q YEAH ON YOUR JULY THE 4TH VACATION?

11 A WELL, I GOT THERE PRIOR TO JULY 4TH THAT WAS

12 THE TIME FRAME I WAS THERE I GOT THERE ON JULY

13 1ST

14 Q HOW LONG WERE YOU THERE?

15 A HOW LONG WAS I AT HOME?

16 Q YES, SIR

17 A I GOT THERE ON A THURSDAY I THINK I LEFT

18 AFTER THE FOURTH

19 Q DID YOU SEE TESHEKA AT ANY TIME?

20 A YEAH I SEEN HER

21 Q YOU SAW HER?

22 A YES

23 Q DID YOU SEE THE CHILDREN?

24 A NO I DIDN'T SEE THE CHILDREN

25 Q ALL RIGHT WHERE DID YOU SEE TESHEKA AT?

1 A SHEKA -- I SEEN SHEKA WHEN I FIRST GOT TO TOWN
2 WHEN MY LITTLE -- WHEN MY GIRLFRIEND FIRST GOT HERE,
3 THAT'S WHEN I SEEN SHEKA I SEEN HER DOWN BY MARY'S
4 BARBER SHOP

5 Q OKAY AND WHAT ABOUT THE YEAR BEFORE? DID
6 Y'ALL HAVE FAMILY HOLIDAYS THEN?

7 A YEAH

8 Q ON JULY THE 4TH?

9 A YEAH

10 Q WAS JOHN THERE THE YEAR BEFORE?

11 A I DIDN'T COME ON THE YEAR BEFORE THEN

12 Q OKAY HAVE YOU EVER BEEN THERE WHEN Y'ALL
13 WERE HAVING A FAMILY OCCASION AND JOHN WAS THERE?

14 A YEAH HE WAS THERE ONE TIME BEFORE

15 Q AND DO YOU RECALL WHEN THAT WAS?

16 A NO I DON'T

17 Q OKAY BUT IT WAS COMMON KNOWLEDGE THAT HE AND
18 SHEKA WERE BOYFRIEND AND GIRLFRIEND?

19 A YEAH

20 Q AND THOSE WERE THERE TWO CHILDREN TOGETHER?

21 A YES

22 Q ALL RIGHT NOW, I WANT TO TALK WITH YOU ABOUT
23 THE TIMING PRECISELY WE HAVE EXAMINED PHONE
24 RECORDS OF YOUR CALLS FROM OKLAHOMA CITY, AND DO YOU
25 AGREE THAT THE TIME THERE WAS TEN FIFTY-SIX AND YOU

1 TALKED TO YOUR MOM ON THE TELEPHONE FOR THREE
2 MINUTES?

3 A LIKE I TOLD YOU IT WAS BETWEEN THE HOURS OF
4 TEN AND ELEVEN

5 Q YOU ARE MARCUS HARRIS OF 125 NORTHEAST,
6 OKLAHOMA CITY, OKLAHOMA?

7 A NO I'M NOT

8 Q ALL RIGHT WHAT IS YOUR NUMBER?

9 A MY NUMBER? I'M MARCUS HARRIS OF 725 NORTHEAST
10 SEVENTEEN

11 Q ALL RIGHT I'M SORRY I COULDN'T READ IT
12 BECAUSE ONE OF THE TENS HAD BEEN MARKED OUT IS
13 YOUR NUMBER 405-521-0522?

14 A YES IT IS

15 Q ALL RIGHT DID YOU GET A BILL FOR YOUR
16 SERVICES FOR THE MONTH AFTER THAT, THE PHONE
17 SERVICE?

18 A YES

19 Q ALL RIGHT AND I HAND YOU -- COULD YOU
20 IDENTIFY ANY OF THESE DOCUMENTS? IS THAT A COPY OF
21 YOUR PHONE BILL FOR THAT PERIOD OF TIME?

22 A YEAH THIS IS RIGHT HERE I DON'T KNOW I
23 DON'T KNOW LET ME LOOK AT THIS RIGHT HERE I
24 DON'T KNOW WHAT THAT IS

25 Q ALL RIGHT

1 A I DON'T KNOW WHAT THIS IS

2 Q YOU AGREE THAT THAT'S ---

3 A THESE ARE -- YEAH

4 Q THAT IS CORRECT? THAT ONE PAGE RIGHT THERE AT
5 LEAST?

6 A I GUESS I MEAN, I DON'T KNOW WHAT THAT
7 MEANS MY BILL THEY SEND ME DOESN'T LOOK LIKE THIS

8 Q OKAY IT DOESN'T LOOK LIKE THAT AT ALL?

9 A NO

10 Q THAT IS YOUR NAME THOUGH AT THE TOP?

11 A YES, MARCUS HARRIS

12 Q YOUR NUMBER?

13 A YES

14 Q ALL RIGHT DOES IT INDICATE CALLS WERE MADE
15 FROM YOUR HOUSE THERE TO ABBEVILLE TO YOUR MOM'S
16 HOUSE?

17 A DOES IT INDICATE WHAT NOW?

18 Q DOES IT INDICATE THAT YOU MADE A CALL TO YOUR
19 MOM'S HOUSE THERE AT TEN FIFTY-SIX?

20 A IT DOESN'T HAVE -- THEY GOT MY NUMBER HERE,
21 BUT IT SAYS RIGHT HERE AT TEN FIFTY-SIX A M
22 ABBEVILLE SOUTH CAROLINA FOR 803-459-8 -- THAT'S MY
23 MOM'S NUMBER THERE

24 Q ALL RIGHT YOU CALLED YOUR MOM THEN FROM YOUR
25 HOUSE AT WHAT TIME EXACTLY BASED ON YOUR STATEMENT?

1 A I DON'T KNOW 'CAUSE THIS IS NOT MY STATEMENT

2 Q ALL RIGHT YOU SAID YOU CALLED SOMETIME
3 BETWEEN TEN AND ELEVEN OKLAHOMA TIME?

4 A RIGHT

5 Q ALL RIGHT AND THAT IS YOUR -- ARE YOU
6 DISAGREEING THEN THAT YOU CALLED YOUR MOM AT THAT
7 NUMBER ON THERE, TEN FIFTY-SIX ---

8 A THIS IS MY -- THIS IS MY NUMBER ON HERE, BUT
9 THIS IS NOT MY STATEMENT MY STATEMENT DOESN'T LOOK
10 LIKE THIS

11 MR GARRETT OH, I UNDERSTAND

12 MR JONES MAY IT PLEASE THE COURT,
13 YOUR HONOR? WE HAVE NOT BEEN PROVIDED WITH THE
14 COPIES OF THESE DOCUMENTS AND, OF COURSE, AT THE
15 APPROPRIATE TIME WOULD ASK THAT WE BE ALLOWED BUT
16 IF I COULD SEE IT FOR A MINUTE, IF I COULD JUST LOOK
17 AT IT FOR A MINUTE

18 THE COURT ALL RIGHT LET HIM SEE
19 THE EXHIBIT

20 MR JONES THEY DIDN'T -- THEY
21 DIDN'T SHOW US THESE AHEAD OF TIME

22 THE COURT OKAY WELL, THERE IT IS

23 MR JONES YOUR HONOR, THAT'S ALL
24 RIGHT I'VE VIEWED THE DOCUMENT I SEE WHAT THE
25 DOCUMENT CONTAINS IT CONTAINS INFORMATION I -- I

1 -- BUT THAT'S ALL RIGHT I'LL LET HIM PROCEED WITH
2 HIS EXAMINATION

3 THE COURT OKAY

4 CROSS EXAMINATION CONTINUED BY MR GARRETT

5 Q DO YOU -- DO YOU DISPUTE THEN THAT YOU CALLED
6 YOUR MOM'S HOUSE SOMEWHERE BETWEEN TEN AND ELEVEN
7 O'CLOCK OKLAHOMA TIME?

8 A RIGHT

9 Q YOU DO DISPUTE THAT?

10 A WELL, I DID CALL HER AT THAT TIME

11 Q OKAY AND IF OUR DOCUMENTS -- THE SOLICITOR'S
12 DOCUMENTS AND OUR DOCUMENTS SHOW THAT IT WAS AT TEN
13 FIFTY-SIX OKLAHOMA TIME, WOULD YOU DISPUTE THAT?

14 A WELL, WHAT -- WHAT IS THIS DOCUMENT? YOU'RE
15 GONNA HAVE TO SHOW ME WHAT YOU -- WHAT IS THIS?

16 Q THAT'S YOUR PHONE BILL

17 A OKAY

18 Q IT MAY NOT BE IN THE FORM THAT YOU'VE SEEN IT,
19 BUT IT'S YOUR PHONE BILL

20 A OKAY

21 Q DO YOU AGREE WITH THAT, THEN, THAT YOU -- THE
22 FIRST CALL IS FOR THREE MINUTES, AND IT -- AND IT
23 LASTED

24 FOR ---

25 A WELL, I CAN'T AGREE 'CAUSE THIS IS NOT -- THIS

1 IS NOT MY ACTUAL PHONE BILL I DON'T KNOW WHAT THIS
2 IS I MEAN, YOU MAY HAVE GOT SOME NUMBERS THROWN
3 OUT OF NOWHERE I MEAN, I DON'T KNOW MAYBE -- IF
4 -- IF -- IF I HAD MY ORIGINAL PHONE BILL HERE, THEN
5 I COULD ELABORATE WITH YOU AND TELL YOU YES OR KNOW,
6 YOU KNOW, FROM WHAT I'M SEEING FROM MY PHONE BILL

7 Q DID YOU BRING YOUR PHONE BILL WITH YOU BY
8 CHANCE?

9 A NO I DIDN'T

10 Q ALL RIGHT NOW, ON THAT DOCUMENT, DOES IT
11 SUGGEST THAT ANOTHER CALL IS MADE JUST SHORTLY
12 THEREAFTER THAT SIMILAR TO YOUR TESTIMONY THAT YOU
13 CALLED BACK AND TALKED FROM TWELVE UNTIL TWELVE-O-
14 TWO?

15 A SAY THAT AGAIN

16 Q DOES IT SUGGEST THAT YOU CALLED BACK AND YOU
17 CALLED AT TWELVE O'CLOCK FOR TWO MINUTES UNTIL
18 TWELVE-O-TWO?

19 A WELL, YOU GOT ON THIS RIGHT HERE FROM WHAT I'M
20 SEEING WHAT YOU GOT HIGHLIGHTED?

21 Q YES, SIR

22 A YOU -- I GUESS IT SAYS ONE TWO IT SAYS ONE,
23 12/4, TEN FIFTY-SIX A M , ABBEVILLE, SOUTH CAROLINA,
24 803-459-8341, D3 0 72 WHAT IS, I MEAN, WHAT IS --
25 WHAT IS THIS?

1 Q ALL RIGHT LET'S -- LET'S WORK -- WORK AT IT
2 AND LOOK AT IT

3 A OKAY

4 MR GARRETT OKAY?

5 THE COURT EXCUSE ME JUST A MINUTE
6 LET -- LET -- LET'S TAKE UP ONE MATTER OUTSIDE THE
7 PRESENCE OF THE JURY LADIES AND GENTLEMEN, LET ME
8 ASK YOU TO PLEASE GO TO THE JURY ROOM, AND I'LL
9 BRING YOU BACK IN JUST A MINUTE IT SHOULDN'T TAKE
10 JUST A SHORT PERIOD OF TIME

11 (JURORS EXIT THE COURTROOM AT 6 08 O'CLOCK P M)

12 THE COURT ALL RIGHT WITH REGARD -
13 - LET ME SEE THAT DOCUMENT, PLEASE SIR WITH REGARD
14 TO THE DOCUMENT, I UNDERSTAND, MR GARRETT, WHAT
15 YOU'RE TRYING TO ACCOMPLISH, BUT IT'S PLAINLY
16 OBVIOUS THAT THIS WITNESS DOES NOT KNOW WHAT THIS
17 DOCUMENT IS, DOES NOT KNOW WHO GENERATED IT, DOES
18 NOT KNOW WHO PREPARED IT, DOES NOT KNOW ANYTHING
19 ABOUT IT IF HE HAD HIS PHONE BILL, OBVIOUSLY, HE
20 COULD -- HE COULD PERHAPS ANSWER THE QUESTIONS
21 YOU'RE GOING TO ASK WHAT I -- THE REASON I HAVE
22 SENT THE JURY OUT IS TO SIMPLY FIND OUT CAN THE
23 STATE AND THE DEFENSE AGREE THAT THIS IS AN ACCURATE
24 REFLECTION OF A PHONE BILL OR PHONE CHARGES AND
25 PHONE CALLS MADE FROM THIS WITNESS' TELEPHONE TO MS

1 HARRIS' RESIDENCE ON THE DAY IN QUESTION? THAT WAY,
2 IF THE WITNESS -- IF THIS WITNESS CAN BE ASSURED
3 THAT THIS IS A CORRECT REFLECTION, THEN HE CAN
4 ANSWER THESE QUESTIONS OTHERWISE, WE'RE GONNA BE
5 HERE ALL NIGHT TRYING TO DETERMINE WHETHER OR NOT
6 THIS DOCUMENT IS CORRECT, AND THIS WITNESS OBVIOUSLY
7 CANNOT VERIFY THAT

8 MR JONES HE CAN'T, YOUR HONOR, AND
9 WAS HANDLING HIMSELF REAL WELL UNDER CROSS
10 EXPLAINING THAT TO MR GARRETT, AND I WAS INTERESTED
11 TO SEE JUST HOW FAR MR GARRETT WOULD GO IN TRYING
12 TO GET HIS CASE INTO OUR WITNESSES BUT WHAT I'M
13 TRYING TO SAY IS, YEAH I'LL TALK TO HIM AND SEE IF
14 WE CAN LOOK AT IT AND VERIFY IT AND SEE IF WE CAN --
15 AND I DON'T WANT TO CAUSE HIM TO SAY ANYTHING AS A
16 WITNESS THAT HE DOESN'T FEEL COMFORTABLE WITH I
17 MEAN ---

18 THE COURT WELL, I WANT YOU TO
19 UNDERSTAND THAT HE DOES NOT HAVE TO SAY THAT THIS IS
20 CORRECT WHAT I'M TRYING TO FIND OUT IS IF YOU AND
21 MR GARRETT WOULD AGREE THAT THIS WAS OBTAINED FROM
22 PHONE RECORDS REFLECTING CALLS THEN MAYBE THIS
23 WITNESS WILL SAY, "WELL, I DON'T -- YES, I DON'T
24 HAVE ANY REASON TO DISPUTE THAT "

25 MR JONES RIGHT

1 THE COURT HE JUST DOESN'T KNOW
2 ABOUT THIS DOCUMENT BECAUSE IT'S NOT HIS AND HE'S
3 NOT SEEN IT

4 MR JONES EXACTLY AND THAT'S WHAT
5 I NEED IS AN OPPORTUNITY TO --

6 THE COURT OKAY

7 MR JONES -- DISCUSS WITH THE
8 WITNESS THAT BECAUSE I DON'T WANT TO ASK HIM TO DO
9 ANYTHING THAT ---

10 THE COURT I UNDERSTAND THAT ALL
11 RIGHT MR GARRETT, DO YOU OBJECT TO THAT OR ---

12 MR GARRETT ABSOLUTELY NOT, YOUR
13 HONOR HE CAN SPEAK WITH HIM ABOUT IT

14 MR TINSLEY YOUR HONOR, THIS IS ---

15 THE COURT IS THAT OKAY WITH YOU?

16 OKAY OKAY WELL, WAIT JUST A MINUTE I GOT MR
17 TINSLEY UP

18 MR TINSLEY THIS WAS THE
19 INFORMATION GIVEN TO US BY THE STATE

20 THE COURT THIS DOCUMENT HERE?

21 MR TINSLEY YES

22 MR GARRETT YES THAT WAS GIVEN US
23 BY THE STATE THAT'S WHAT WE'RE TALKING ABOUT

24 THE COURT WELL, THEN, YOU DO AGREE
25 THAT THESE ARE HIS PHONE CHARGES AND PHONE CALLS

1 MADE?

2 MR COULTER JUDGE, I DON'T THINK
3 THAT'S THE QUESTION THE QUESTION IS TALKING TO MR
4 HARRIS ABOUT WHETHER OR NOT ---

5 THE COURT WELL, I UNDERSTAND, BUT I
6 ASSUME THAT HE KNOWS I MEAN, I WOULD ASSUME THAT
7 THIS WITNESS KNOWS THAT Y'ALL HAD PROVIDED THAT
8 DOCUMENT ABOUT HIS PHONE CALLS TO THE DEFENSE AND
9 THAT THESE ARE ACCURATE --

10 MR JONES HE DOESN'T KNOW THAT
11 THE COURT -- UNLESS HE'S ---

12 MR JONES HE DOESN'T KNOW THAT WE
13 PROVIDED THAT DOCUMENT

14 THE COURT OKAY SO YOU HAVEN'T
15 ASKED HIM ABOUT IT? DOES THAT LOOK CORRECT?

16 MR JONES NO, SIR

17 THE COURT OKAY WELL, LET'S DO
18 THAT AND SEE IF HE CAN AGREE

19 MR GARRETT WITHOUT OBJECTION

20 THE COURT BEFORE WE GET BACK WITH
21 THE WITNESS, LET ME HAVE THE CLERK SWEAR MR
22 TEMPLETON IN HE'S AN ADDITIONAL AGENT THAT WILL BE
23 A CUSTODIAN FOR THE JURORS

24 CLERK THE EVIDENCE YOU SHOULD GIVE
25 THE COURT ---

1 THE COURT NO, MA'AM HE'S GONNA BE
2 A CUSTODIAN

3 CLERK OH I'M SORRY, JUDGE I'M
4 SORRY I APOLOGIZE DO YOU SWEAR THAT YOU WILL
5 KEEP THE JURY AT THE APPOINTED HOUSING, THAT YOU
6 WILL ALLOW NO PERSON TO SPEAK TO THEM WITHOUT LEAVE
7 OF THE COURT, THAT YOU WILL NOT SPEAK WITH THEM
8 REGARDING THIS CASE NOR PERMIT THEM TO SPEAK WITH
9 ANOTHER ABOUT THIS CASE, THAT YOU WILL PRESENT THEM
10 AT THIS COURT AND AT THE APPOINTED TIME AND SEE TO
11 THEIR CARE AND SAFETY WHILE THEY ARE IN YOUR CHARGE
12 SO HELP YOU GOD?

13 MR TEMPLETON I DO

14 CLERK YOUR HONOR, HE'S PROPERLY
15 SWORN

16 THE COURT OKAY THANK YOU ALL
17 RIGHT NOW, WHAT HAVE WE RESOLVED REGARDING THE
18 EXAMINATION OF THIS WITNESS?

19 MR JONES YOUR HONOR, MY
20 UNDERSTANDING IS MARCUS HARRIS WILL BE WILLING TO
21 STATE FROM THE STAND THAT THIS DOCUMENT PROBABLY
22 ACCURATELY REFLECTS THE CALLS THAT HE MADE TO HIS
23 MOM ON DECEMBER THE 4TH, 1995

24 THE COURT OKAY

25 MR JONES ALTHOUGH IT'S NOT THE

1 BILL THAT HE PROBABLY HAS

2 THE COURT I UNDERSTAND

3 MR JONES AND LET ME POINT OUT ONE
4 THING JUST FOR EVERYBODY'S KNOWLEDGE I TALKED WITH
5 MR COULTER, AND THESE DOCUMENTS WERE PROVIDED BY US
6 TO THE DEFENSE UNFORTUNATELY, IN THE SOLICITOR'S
7 OFFICE AND ALL OF OUR SOLICITORS, THEY WERE COPIED
8 BY MY SECRETARY THEY WERE GIVEN TO US BY EDDIE --
9 BY A S L E D AGENT AND COPIED BY MY SECRETARY AND
10 PASSED STRAIGHT TO THE DEFENSE WITHOUT EVER GIVING
11 US AN OPPORTUNITY TO VIEW THEM AND LOOK AT THEM SO
12 WE -- WE SEE THEM FOR THE FIRST TIME TODAY WE
13 NEVER GOT A SHOT I JUST WANT YOU TO ---

14 THE COURT DO YOU NEED -- YOU NEED A
15 DOCUMENT CONTROL EXPERT

16 MR JONES WELL, THAT'S RIGHT AND
17 WITH ALL THE MONEY WE GOT IN THE SOLICITOR'S OFFICE,
18 I'M SHOCKED THAT I DON'T HAVE ONE YES, SIR, THAT'S
19 EXACTLY WHAT I NEED

20 THE COURT ALL RIGHT WE'RE READY
21 FOR THE JURY THEN?

22 MR GARRETT YES, YOUR HONOR

23 THE COURT ASK THEM TO COME BACK IN,
24 PLEASE

25 BAILIFF JUDGE, THEY WANT TO KNOW

1 CAN THEY HAVE A PENCIL AND PAD OF PAPER TO TAKE
2 NOTES ON

3 THE COURT NO THEY CAN'T BUT I'LL
4 -- I'LL TELL THEM THAT WHEN THEY COME BACK WAIT --
5 WAIT JUST ONE MINUTE BEFORE YOU DO THAT LET -- LET
6 ME ADDRESS ONE ISSUE ABOUT THE JURY'S ACCOMMODATIONS
7 AND SUPPER AND TRANSFER OF CLOTHES I UNDERSTAND
8 THAT THE BELONGINGS OF THE JURORS ARE STILL IN THE
9 VEHICLES AND, OF COURSE, THE AGENTS NEEDS TO MAKE
10 ARRANGEMENTS FOR THOSE CLOTHES TO BE TRANSFERRED TO
11 VANS AND ALSO THEY HAVE TO MAKE ARRANGEMENTS TO HAVE
12 THEM CHECKED IN THE MOTEL AND -- AND SUPPER SO
13 THEY'RE GONNA NEED A LITTLE TIME TO ACCOMPLISH THOSE
14 THINGS DO YOU ANTICIPATE THIS WITNESS' TESTIMONY
15 BEING HOW MUCH LONGER?

16 MR GARRETT TWENTY MINUTES, YOUR
17 HONOR, FIFTEEN, TWENTY MINUTES

18 THE COURT OKAY WHAT I THOUGHT WE
19 MIGHT DO IS AFTER THIS WITNESS, SIMPLY CONCLUDE FOR
20 THE EVENING SO THAT THEY CAN HAVE THE JURY AND THEIR
21 BELONGINGS INTRODUCED TO THE MOTEL AND HAVE SUPPER
22 AND, OF COURSE, IT WON'T BE -- WE WON'T HAVE THAT
23 PROBLEM AFTER THIS EVENING

24 MR GARRETT WITHOUT OBJECTION FROM
25 THE DEFENSE, YOUR HONOR

1 THE COURT OKAY OKAY ASK THE
2 JURY TO COME BACK, PLEASE
3 (JURORS RE-ENTER THE COURTROOM AT 6 20 O'CLOCK P M)
4 THE COURT LADIES AND GENTLEMEN, I
5 UNDERSTAND THE BAILIFF HAS INDICATED SOME OF YOU
6 HAVE INQUIRED ABOUT WHETHER OR NOT YOU'RE PERMITTED
7 TO TAKE NOTES DURING THE COURSE OF THE TRIAL YOU
8 ARE NOT THERE ARE DIFFERENT THEORIES AND DIFFERENT
9 THOUGHTS ON THE PROPRIETY OF TAKING NOTES AND NOT
10 TAKING NOTES, BUT GENERALLY, IT'S BELIEVED THAT
11 WHERE YOU HAVE TWELVE JURORS WITH TWELVE BRAINS,
12 YOU'RE GOING TO BE PUTTING THOSE THOUGHTS TOGETHER
13 AND SHARING THOSE THOUGHTS IF
14 -- IF YOU SPEND TIME TAKING NOTES DURING THE COURSE
15 OF THE TRIAL YOU MIGHT MISS SOMETHING THAT YOU
16 OTHERWISE WOULD HAVE SEEN DURING THE COURSE OF THE
17 TRIAL, PART OF YOUR DUTY WHEN YOU GO BACK TO
18 DELIBERATE IS GOING TO BE TO JUDGE THE CREDIBILITY
19 OF WITNESSES, AND ONE OF THE FACTORS THAT YOU'LL BE
20 CONSIDERING IN JUDGING THE CREDIBILITY OF WITNESSES
21 IS THE Demeanor OF THE WITNESS, THAT IS, HOW THE
22 WITNESS APPEARED AS THE WITNESS TESTIFIED FROM THE
23 WITNESS STAND AND IF YOU'RE SPENDING TIME LOOKING
24 DOWN TAKING NOTES, YOU MIGHT MISS SOMETHING THAT
25 OTHERWISE MIGHT BE IMPORTANT OF COURSE, SOME

1 PEOPLE PREFER TO TAKE NOTES SOME PEOPLE DO NOT,
2 BUT IN ANY EVENT, IT'S NOT APPROPRIATE IN THIS
3 PARTICULAR CASE AND IN MOST CASES TO TAKE NOTES OR
4 TO ALLOW THE JURY TO TAKE NOTES AND, THEREFORE, IT
5 IS NOT PERMITTED SO I HOPE THAT THAT WILL NOT BE
6 ANY DIFFICULTY FOR ANY OF YOU, BUT I'M CERTAIN THAT
7 AT THE CONCLUSION OF THE TRIAL AFTER ALL OF THE
8 EVIDENCE HAS BEEN RECEIVED AND AFTER YOU TWELVE
9 JURORS ARE ABLE TO PUT YOUR COLLECTIVE HEADS
10 TOGETHER, THAT YOU WILL BE ABLE TO RECALL THE
11 TESTIMONY AND ARRIVE AT A FAIR DECISION WITHOUT THE
12 BENEFIT OF HAVING TAKEN NOTES DURING THE TRIAL

13 ANOTHER REASON THAT NOTE TAKING IS
14 NOT PERMITTED IS SIMPLY BECAUSE SOMETIME SOME JUROR
15 WILL TAKE NOTES SOME OTHER JUROR MAY NOT, AND THEN
16 WHEN YOU GO BACK TO DELIBERATE, THE JUROR THAT
17 DIDN'T TAKE NOTES MIGHT TEND TO RELY ONE THAT DID IN
18 ORDER TO DECIDE WHAT A FACT WAS AND THAT WOULD NOT
19 BE FAIR, AND IT SHOULD NOT BE PERMITTED SO THERE
20 ARE TWELVE OF YOU TO SHARE YOUR IDEAS, AND I'M
21 SATISFIED THAT AT THE END YOU CAN ARRIVE AT A FAIR
22 DECISION IN THE CASE WITHOUT THE BENEFIT OF NOTE
23 TAKING SO PLEASE ALSO FOLLOW THAT INSTRUCTION DO
24 NOT IN ANY FASHION TAKE ANY NOTES DURING THE COURSE
25 OF THE TRIAL THANK YOU MR GARRETT

1 CROSS EXAMINATION CONTINUED BY MR GARRETT

2 Q MR HARRIS, YOU'VE HAD TO TAKE TIME OUT TO
3 REVIEW THE DOCUMENTS, AND IS THAT DOCUMENT AN
4 ACCURATE REFLECTION OF YOUR PHONE CALLS MADE FROM
5 YOUR HOUSE?

6 A WELL, NOT THE ACTUAL BILL, BUT IT DO SHOW AN
7 ACCURATE TIME FOR MY CALLS

8 Q OKAY

9 A OKAY

10 MR GARRETT YOUR HONOR, I MOVE AT
11 THIS TIME TO HAVE THIS MARKED AS DEFENSE EXHIBIT #1
12 (REPORTER MARKED PERTINENT DOCUMENT, TELEPHONE
13 RECORD, AS DEFENSE EXHIBIT #1)

14 MR JONES NO OBJECTION, YOUR HONOR
15 THE COURT IT'S ADMITTED

16 MR GARRETT THANK YOU

17 CROSS EXAMINATION CONTINUED BY MR GARRETT

18 Q NOW, MR HARRIS, NOW -- NOW RETURNING BACK TO
19 THAT DOCUMENT, WE WERE TALKING ABOUT THE DISTINCTION
20 BETWEEN OKLAHOMA TIME AND SOUTH CAROLINA TIME WHAT
21 TIME DOES YOUR PHONE RECORD INDICATE THAT YOU CALLED
22 YOUR MOM THE FIRST TIME ON THE 4TH?

23 A TEN FIFTY-SIX

24 Q AND IN SOUTH CAROLINA TIME, WHAT TIME WOULD
25 THAT BE?

1 A THAT WOULD BE ELEVEN FIFTY-SIX

2 Q SO AT ELEVEN FIFTY-SIX SOUTH CAROLINA TIME,
3 YOU CALLED YOUR MOM, AND HOW LONG DOES THAT BILL
4 REFLECT OR THAT DOCUMENT REFLECT THAT YOU SPOKE TO
5 YOUR MOM?

6 A THREE MINUTES

7 Q ALL RIGHT THEN DOES IT INDICATE THAT YOU
8 CALLED BACK AGAIN?

9 A YES

10 Q AND AT WHAT TIME DID YOU CALL BACK AGAIN?

11 A ELEVEN O'CLOCK OKLAHOMA TIME

12 Q AND THAT WOULD BE WHAT TIME SOUTH CAROLINA
13 TIME?

14 A TWELVE O'CLOCK SOUTH CAROLINA TIME

15 Q ALL RIGHT AND HOW LONG DOES IT INDICATE YOU
16 TALKED ON THE TELEPHONE?

17 A TWO MINUTES

18 Q ALL RIGHT SO YOU WERE ON THE PHONE WITH YOUR
19 MOM, TESHEKA, AND OTHER PERSONS THERE IN THE HOME UP
20 AND UNTIL TWO -- EXCUSE ME -- TWELVE-O-TWO, IS THAT
21 CORRECT?

22 A SAY AGAIN?

23 Q YOU WERE ON THE PHONE WITH YOUR MOM, OTHERS ON
24 THE TELEPHONE, TESHEKA, JOHN, AND -- AND YOURSELF ON
25 THE SPEAKER PHONE AS YOU'VE INDICATED UP AND UNTIL

1 ABOUT TWELVE-O-TWO

2 A WELL, I WAS TALKING TO MY MOM AND SHEKA

3 Q OKAY

4 A JOHNNY GET ON THE PHONE I TOLD HER TO
5 ACTIVATE THE SPEAKER PHONE

6 Q I UNDERSTAND THE SECOND TIME YOU CALLED HER

7 A TWELVE-O-TWO?

8 Q YES, SIR

9 A SOUTH CAROLINA TIME?

10 Q YES, SIR

11 A YES, SIR

12 Q OKAY NOW, LET ME ASK YOU THIS SO WE'RE
13 TALKING BASICALLY YOU GOT TO TALK TO YOUR MOM ABOUT
14 FIVE MINUTES THERE FROM ELEVEN FIFTY-SIX TO ELEVEN
15 FIFTY-NINE THAT WAS THE FIRST CONVERSATION THAT
16 YOU HAD

17 A YEAH

18 Q SHEKA DIDN'T KNOW HOW TO USE THE PHONE, IS
19 THAT RIGHT?

20 A RIGHT

21 Q ALL RIGHT AND YOU CALLED HER AND GAVE HER
22 INSTRUCTIONS THEN ON HOW TO ANSWER THE PHONE THE
23 SECOND CALL

24 A I TOLD HER TO MASH THE BUTTON, YES

25 Q ALL RIGHT NOW, DID JOHN IN ANY WAY PREVENT

1 YOUR MOM OR SHEKA FROM USING THE TELEPHONE?

2 A WELL, THEY USED THE TELEPHONE I DON'T KNOW
3 IF HE PREVENTED IT OR NOT, BUT THEY GOT ON THE
4 PHONE

5 Q AND THAT TELEPHONE IS LOCATED WHERE? WHICH
6 PHONE? IT WAS YOUR DAD'S PHONE THAT HAS THE SPEAKER
7 PHONE CAPABILITY? WHERE WAS THAT LOCATED IN THE
8 HOME?

9 A IT WAS IN THE KITCHEN HALLWAY

10 Q IN THE KITCHEN HALLWAY?

11 A YES

12 Q OKAY AND ---

13 A WELL, ACTUALLY -- IN THE -- IN THE KITCHEN,
14 BUT THE HALLWAY IS THERE SO ACTUALLY IT WAS IN THE
15 KITCHEN

16 Q IN THE KITCHEN?

17 A YES

18 Q ALL RIGHT AND AT LEAST AT ONE POINT YOUR MOM
19 WAS ON THE PHONE THE FIRST TIME?

20 A YES

21 Q SO TESHEKA CAME AND TALKED WITH YOU ON THE
22 PHONE, IS THAT CORRECT?

23 A RIGHT

24 Q AND WHEN YOU TALKED TO THEM AND ASKED THEM TO
25 ASK TESHEKA HOW SHE WAS, TESHEKA SAID THAT SHE WAS

1 OKAY, CUZ?

2 A SHE SAID YEAH

3 Q ALL RIGHT SHE DIDN'T TELL YOU THAT JOHN WAS
4 PREVENTING HER FROM GETTING ON THE PHONE IN ANY
5 FASHION, DID SHE?

6 A NO

7 Q ALL RIGHT NOW, THEN YOU WANTED TO CALL BACK
8 AND TALK WITH HER BECAUSE IF THERE WAS A GUN THERE
9 YOU WANTED TO MAKE SURE THAT JOHN LEFT YOUR HOUSE,
10 CORRECT?

11 A RIGHT

12 Q ALL RIGHT NOW, YOU, OF COURSE, WEREN'T
13 THERE

14 A NO NO I WAS IN OKLAHOMA

15 Q ALL RIGHT AND YOU DIDN'T HEAR ANY GUNSHOTS
16 OR ANYTHING LIKE THAT, DID YOU?

17 A NO

18 Q ALL RIGHT AND WAS ANY TYPE OF GUN DESCRIBED
19 TO YOU AS BEING PRESENT IN THE HOUSE?

20 A MY MOM TOLD ME THERE WAS A GUN IN THERE HE
21 HAD HAD A GUN IN THE HOUSE

22 Q ALL RIGHT NOW, DID YOU GIVE A VOLUNTARY
23 STATEMENT IN THIS MATTER ON 12/5/95 AT ELEVEN FIFTY-
24 ONE A M ?

25 A SAY AGAIN?

1 Q DID YOU GIVE A VOLUNTARY STATEMENT --

2 A YES

3 Q -- ABOUT THIS MATTER AND GIVE IT TO SOMEONE ON
4 12/5/95 AT ELEVEN FIFTY-ONE A M ?

5 A YEAH DOWN AT THE POLICE DEPARTMENT, YES

6 MR GARRETT ALL RIGHT AND IN THAT
7 STATEMENT ---

8 MR JONES YOUR HONOR, IF HE'S GONNA
9 ASK HIM ABOUT THE STATEMENT, THE RULES PROVIDE THAT
10 THE WITNESS BE ALLOWED TO HAVE A COPY OF THE
11 STATEMENT FROM MR GARRETT FOR WHATEVER LINE AND
12 PAGE HE'S TALKING ABOUT, IF HE'S GONNA ASK HIM ABOUT
13 STATEMENTS THAT HE MADE

14 THE COURT OKAY

15 MR GARRETT I'M ASKING GENERALLY
16 FIRST, AND THEN I'LL GO -- GO TO A MORE SPECIFIC
17 TOPIC

18 THE COURT WELL -- WELL, HE CAN ASK
19 HIM IF HE RECALLS HAVING MADE SUCH A STATEMENT, AND
20 THEN IF HE WANTS TO USE THAT STATEMENT, HE CAN
21 PROVIDE HIM WITH A COPY

22 MR GARRETT ALL RIGHT

23 CROSS EXAMINATION CONTINUED BY MR GARRETT

24 Q AND IN YOUR DISCUSSION WITH THE PERSON -- BY
25 THE WAY, WHOM DID YOU GIVE THIS STATEMENT TO WHEN

1 YOU GOT HERE?

2 A A POLICE OFFICER ME AND MY BROTHER WENT DOWN
3 TO THE POLICE DEPARTMENT AND TALKED TO CHIEF
4 RUSSELL, AND WE SUBMITTED STATEMENTS THEN

5 Q OKAY WERE YOU AWARE OR DID YOU HAVE
6 KNOWLEDGE THAT JOHN HAD OWNERSHIP OF A GUN?

7 A NO

8 Q ALL RIGHT WERE YOU AWARE OR DID YOU HAVE
9 KNOWLEDGE THAT TESHEKA HAD A SHOTGUN IN THE TRUNK OF
10 HER CAR, HER MITSUBISHI?

11 A NO NO

12 Q ALL RIGHT YOU HAD BEEN GONE, I GUESS, SINCE
13 JULY THEN, IS THAT RIGHT?

14 A YES

15 Q HADN'T BEEN HOME SINCE JULY?

16 A JULY, '95

17 Q ALL RIGHT AND THIS IS UP INTO DECEMBER?

18 A RIGHT

19 Q ALL RIGHT NOW, WHEN YOU CALLED BACK THE
20 SECOND TIME AND YOU WERE TALKING TO THEM, WHEN JOHN
21 SAID HE WAS OKAY, IS THAT CORRECT? JOHN SAID, "I'M
22 OKAY"?

23 A YEAH

24 Q ALL RIGHT THEN WHAT DID YOU SAY TO HIM?

25 A SAY WHAT?

1 Q AFTER HE TOLD YOU HE WAS OKAY, DID YOU
2 INDICATE AT THAT POINT THAT A TUSSLE, I THINK WAS
3 YOUR TESTIMONY ---

4 A NO I SAID THAT I ASKED JOHN -- AFTER I ASKED
5 HIM WAS HE OKAY, I ASKED HIM IF HE HAD A GUN IN MY
6 HOUSE I TOLD HIM HE HAD TO LEAVE AFTER I SAID
7 THAT, A TUSSLE THEN I HEARD A TUSSLE GOING ON,
8 THEN I HEARD MY MOM SAY, "JOHN, JUST LEAVE " SHE
9 SAID, "LEAVE, JOHN, JUST LEAVE " AND SHE TOLD ME TO
10 "CALL THE POLICE CALL THE POLICE "

11 Q ALL RIGHT YOU HEARD A TUSSLE GOING ON?

12 A YES

13 Q OKAY AND DID YOU HEAR CONVERSATION AS TO WHO
14 WAS HAVING THE TUSSLE? WAS THE TUSSLE WITH YOUR MOM
15 OR WAS THE TUSSLE WITH TESHEKA?

16 A I DON'T KNOW BECAUSE THERE'S A -- THEY WAS
17 AWAY FROM THE SPEAKER PHONE THE SPEAKER PHONE WAS
18 IN THE KITCHEN AREA AND THEY WAS OFF FROM IT I
19 DON'T KNOW WHO WAS WHERE

20 Q BUT THE SPEAKER PHONE, THE AUDIENCE FOR THE
21 SPEAKER PHONE WAS IN THE KITCHEN AREA WHERE YOU --

22 A RIGHT

23 Q -- SAID IT WAS LOCATED?

24 A YES IT WAS IN THE KITCHEN AREA

25 Q DID YOU HEAR BY CHANCE A -- A VASE BEING

1 THROWN?

2 A WHAT YOU MEAN A VASE?

3 Q A VASE WITH FLOWERS IN IT?

4 A NO I DIDN'T

5 Q DID YOU HEAR ANY SOUNDS LIKE THAT?

6 A NO

7 Q YOU JUST HEARD TUSSLING?

8 A YES

9 Q HEARD YOU MAMA SAY, "CALL THE POLICE CALL
10 THE POLICE "

11 A RIGHT

12 Q WHICH YOU DID, IS THAT CORRECT?

13 A I CALLED NINE-ONE-ONE

14 Q ALL RIGHT AND YOU DON'T KNOW IN YOUR OWN
15 RIGHT WHO STARTED THAT FIGHT OR WHO STARTED THAT
16 TUSSLE, DO YOU?

17 A NO

18 Q OKAY BUT YOUR MOM WAS ABLE TO TALK WHILE
19 SOMEBODY ELSE WAS TUSSLING, IT SOUNDS LIKE?

20 A YES

21 Q DO YOU AGREE WITH THAT?

22 A YES SHE WAS -- SHE WAS TELLING ME TO CALL
23 THE POLICE

24 Q ALL RIGHT I BEG THE COURT'S INDULGENCE IN
25 DIRECT TESTIMONY, WHEN YOU CALLED THE DISPATCHER,

1 DID YOU TELL THEM THAT THERE WAS A DOMESTIC DISPUTE
2 GOING ON?

3 A I TOLD THEM -- SEE, I THINK I DID -- I THINK I
4 DID TELL THEM THAT THERE WAS A DOMESTIC DISPUTE
5 GOING ON

6 Q AND YOU SAID A DOMESTIC FIGHT WAS GOING ON AT
7 MY HOUSE GET THE POLICE OVER THERE?

8 A YEAH

9 Q AT LEAST INITIALLY THAT WAS THE FIRST THING?

10 A WELL, I TOLD THEM THAT, YOU KNOW, I TOLD THEM
11 THAT -- I TOLD THEM THAT JOHN HUGHEY WAS IN MY HOUSE
12 WITH A GUN I TOLD THEM MY MOM WAS THERE AND SHEKA
13 WAS THERE

14 MR GARRETT ALL RIGHT THANK YOU
15 I HAVE NO FURTHER QUESTIONS

16 THE COURT SOLICITOR?

17 MR JONES NO FURTHER QUESTIONS

18 THANK YOU, MR HARRIS

19 THE COURT YOU MAY STAND DOWN

20 THE COURT LADIES AND GENTLEMEN OF

21 THE JURY PANEL, WE'RE GOING TO RECESS AT THIS TIME

22 FOR THE EVENING BECAUSE YOU HAVE SOME MATTERS THAT

23 YOU NEED TO ATTEND TO I KNOW THAT SOME OF YOU HAD

24 SOMEONE BRING YOU DOWN HERE WITH YOUR BELONGINGS AND

25 OTHERS BROUGHT YOUR BELONGINGS YOURSELVES, AND

1 THOSE, I ASSUME, ARE IN YOUR AUTOMOBILES WHO HAS
2 NOT ALREADY TURNED OVER THEIR BELONGINGS TO A FAMILY
3 MEMBER TO BE HANDED OVER TO YOUR CUSTODIANS? YOU
4 HAVE OR HAVE NOT?

5 JUROR HAVE NOT

6 THE COURT YOU HAVE NOT OKAY LET
7 ME SEE THOSE WHO HAVE OR DO YOU KNOW? ALL RIGHT
8 EVERYBODY THAT'S -- YOU KNOW? OKAY MS TALBERT
9 KNOWS, SO IT WON'T BE NECESSARY THAT WE KNOW WHAT
10 WE'RE GOING TO DO, WE'RE GOING TO RECESS AT THIS
11 TIME LET ME INTRODUCE SOME PEOPLE TO YOU WE HAVE
12 NATALIE TALBERT, BOBBY BROWN, RUSTY RICE, ELLIS
13 SHEALY, DONNA WHAM SHE'S -- SHE'S THIRD SHIFT
14 RED DREHR AND SANDY TEMPLETON NOW, THESE ARE
15 OFFICERS WITH THE SOUTH CAROLINA LAW ENFORCEMENT
16 DIVISION, AND THESE ARE FOLKS THAT WILL BE ASSISTING
17 YOU DURING THE COURSE OF THIS TRIAL THEY WILL BE
18 YOUR CUSTODIANS IN OTHER WORDS, THEY ARE GOING TO
19 BE LOOKING AFTER YOU AND ASSISTING YOU DURING THE
20 COURSE OF THE TRIAL AS WE TRAVEL BACK AND FORTH FROM
21 THE COURTHOUSE TO YOUR MOTEL THEY WILL ALSO BE
22 ACCOMPANYING YOU WHEN YOU GO TO HAVE MEALS, AND THEY
23 WILL BE ASSISTING YOU WITH ANY PROBLEM OR DIFFICULTY
24 THAT MIGHT ARISE SHOULD SOMETHING COME UP WHILE YOU
25 ARE IN SEQUESTRATION LET ME CAUTION YOU, AND THEY

1 WILL BE FOLLOWING THIS INSTRUCTION AND SEEING THAT
2 IT IS COMPLIED WITH, BUT LET ME TELL YOU THAT YOU
3 ARE NOT PERMITTED IN ANY WAY TO DISCUSS THIS CASE IN
4 ANY FASHION WITH ANY PERSON AND NOT EVEN AMONG
5 YOURSELVES, THAT IS, WITH YOUR FELLOW JURORS AS I
6 TOLD YOU AT THE BEGINNING OF THE TRIAL,
7 DELIBERATIONS OR DISCUSSIONS MAY NOT TAKE PLACE
8 UNTIL AFTER ALL OF THE EVIDENCE HAS BEEN RECEIVED,
9 YOU'VE BEEN INSTRUCTED AS TO THE LAW, AND YOU'VE
10 BEEN ASKED TO BEGIN YOUR DELIBERATIONS THAT'S THE
11 PROCESS THAT IS DESIGNED FOR YOU TO ARRIVE AT YOUR
12 FAIR AND JUST VERDICT SO IN THE MEANTIME, YOU ARE
13 NOT PERMITTED TO TALK ABOUT THE CASE IN ANY FASHION,
14 AND AS I SAY, YOU CAN'T EVEN DISCUSS WITH YOUR
15 FELLOW JURORS WHAT HAS GONE ON IN THE TRIAL OF THIS
16 CASE YOU'RE ONLY PERMITTED TO DO THAT AT THE
17 CONCLUSION SO YOU CAN TALK ABOUT OTHER THINGS THAT
18 YOU LIKE TO AND GET TO KNOW EACH OTHER, BUT YOU MAY
19 NOT DISCUSS THIS CASE IN ANY FASHION

20 YOU WILL ALSO NOT BE ALLOWED TO BE
21 EXPOSED TO ANY TYPE OF MEDIA COVERAGE THAT MIGHT
22 RELATE TO THE CASE SO IF YOU WISH TO READ THE
23 NEWSPAPER, YOU MAY YOUR CUSTODIANS WILL BE LOOKING
24 AT THE NEWSPAPER TO BE CERTAIN THAT THERE IS NO --
25 NO ARTICLE APPEARING IN THE PAPER ABOUT THIS CASE

1 ANY TELEVISION THAT YOU WISH TO WATCH, THE AGENTS
2 WILL BE TAKING CARE OF THAT FOR YOU THERE WILL
3 ALSO BE PROVISIONS MADE TO WATCH MOVIES OR THINGS OF
4 THAT NATURE, BUT IT WILL BE UNDER THE SUPERVISION OF
5 THESE AGENTS WHO WILL BE WITH YOU AT ALL TIMES SO
6 SHOULD YOU HAVE SOME PROBLEM, SIMPLY LET THEM KNOW
7 IF IT, AND THEY'LL RELATE THOSE COMMENTS TO BE, AND,
8 AGAIN, I'LL TRY TO ASSIST YOU IN EVERY WAY THAT I
9 CAN TO HAVE YOUR SERVICE BE COMFORTABLE AND NOT POSE
10 ANY PROBLEMS FOR YOU

11 NOW, RIGHT NOW WE'RE GOING TO EXCUSE
12 YOU AS I SAY FOR THE EVENING WE WILL BRING YOU
13 BACK YOU'LL BE BACK HERE BY NINE O'CLOCK IN THE
14 MORNING DURING THE OVERNIGHT RECESS, AGAIN, DON'T
15 DISCUSS THE CASE, AND LET THE AGENTS KNOW IF YOU
16 HAVE ANY DIFFICULTY OR PROBLEMS THEY WILL BE
17 TAKING YOU TO THE MOTEL THEY WILL ALSO BE TAKING
18 YOUR CLOTHES BY WAY OF VAN TO THE MOTEL SO YOU
19 WILL NEED TO GO WITH THESE AGENTS AT THIS TIME DOWN
20 TO YOUR AUTOMOBILES, GET YOUR BELONGINGS, TURN THEM
21 OVER TO THE AGENTS THEY WILL TAKE THOSE TO THE
22 MOTEL BY WAY OF VANS AND, OF COURSE, THEY WILL ALSO
23 PROVIDE TRANSPORTATION FOR YOU BACK AND FORTH FROM
24 IN YOUR DELIBERATIONS THAT'S THE PROCESS THAT IS
25 DESIGNED FOR YOU TO ARRIVE AT YOUR FAIR AND JUST

1 VERDICT SO IN THE MEANTIME, YOU ARE NOT PERMITTED
2 TO TALK ABOUT THE CASE IN ANY FASHION, AND AS I SAY,
3 YOU CAN'T EVEN DISCUSS WITH YOUR FELLOW JURORS WHAT
4 HAS GONE ON IN THE TRIAL OF THIS CASE YOU'RE ONLY
5 PERMITTED TO DO THAT AT THE CONCLUSION SO YOU CAN
6 TALK ABOUT OTHER THINGS THAT YOU LIKE TO AND GET TO
7 KNOW EACH OTHER, BUT YOU MAY NOT DISCUSS THIS CASE
8 IN ANY FASHION

9 YOU WILL ALSO NOT BE ALLOWED TO BE
10 EXPOSED TO ANY TYPE OF MEDIA COVERAGE THAT MIGHT
11 RELATE TO THE CASE SO IF YOU WISH TO READ THE
12 NEWSPAPER, YOU MAY YOUR CUSTODIANS WILL BE LOOKING
13 AT THE NEWSPAPER TO BE CERTAIN THAT THERE IS NO --
14 NO ARTICLE APPEARING IN THE PAPER ABOUT THIS CASE
15 ANY TELEVISION THAT YOU WISH TO WATCH, THE AGENTS
16 WILL BE TAKING CARE OF THAT FOR YOU THERE WILL
17 ALSO BE PROVISIONS MADE TO WATCH MOVIES OR THINGS OF
18 THAT NATURE, BUT IT WILL BE UNDER THE SUPERVISION OF
19 THESE AGENTS WHO WILL BE WITH YOU AT ALL TIMES. SO
20 SHOULD YOU HAVE SOME PROBLEM, SIMPLY LET THEM KNOW
21 IF IT, AND THEY'LL RELATE THOSE COMMENTS TO BE, AND,
22 AGAIN, I'LL TRY TO ASSIST YOU IN EVERY WAY THAT I
23 CAN TO HAVE YOUR SERVICE BE COMFORTABLE AND NOT POSE
24 ANY PROBLEMS FOR YOU

25 NOW, RIGHT NOW WE'RE GOING TO EXCUSE

1 YOU AS I SAY FOR THE EVENING WE WILL BRING YOU
2 BACK YOU'LL BE BACK HERE BY NINE O'CLOCK IN THE
3 MHE COURTHOUSE TO THE MOTEL

4 NOW, IS THERE ANY JUROR WHO HAS AN
5 AUTOMOBILE HERE THAT YOU DO NOT WISH TO BE LEFT
6 PARKED HERE OUTSIDE THE COURTHOUSE? AND YOU DO NOT
7 WISH FOR IT TO REMAIN HERE? DO YOU WANT SOMEBODY TO
8 COME PICK IT UP? DO YOU HAVE SOMEBODY THAT CAN DO
9 THAT? OKAY LET THE AGENTS KNOW THEY'LL MAKE
10 THOSE KIND OF ARRANGEMENTS FOR YOU AND ASSIST YOU IN
11 WHATEVER WAY THAT THEY CAN TO MAKE YOUR SERVICE
12 COMFORTABLE THANKS AGAIN FOR YOUR PATIENCE AND
13 UNDERSTANDING

14 (JURY EXITS COURTROOM AT 6 30 O'CLOCK P M)

15 MR GARRETT IS THERE GOING TO BE
16 SOME TESTIMONY, YOUR HONOR?

17 THE COURT I DON'T KNOW I THOUGHT
18 YOU WERE GOING TO TELL ME WHAT YOU WANTED TO DO, BUT
19 WE CAN'T -- I DON'T WANT ANYBODY TO LEAVE UNTIL THE
20 JURY IS ESCORTED AWAY FROM THE COURTHOUSE

21 MR COULTER WE'RE PREPARED TO
22 PROFFER SOME TESTIMONY THAT WILL COME BRISKLY IN THE
23 MORNING, BUT IF YOUR HONOR'S WILLING TO HEAR IT NOW,
24 WE WON'T WAIT UNTIL MORNING

25 THE COURT HOW LONG WILL THAT TAKE?

1 MR McCALLUM I WOULD SUSPECT
2 PROBABLY NOT MORE THAN 20 MINUTES OF TESTIMONY
3 THE COURT OKAY, LET'S HEAR IT
4 CLERK DO YOU SWEAR THAT THE
5 EVIDENCE YOU SHALL GIVE THE COURT TO BE THE TRUTH,
6 THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
7 YOU GOD

8 WITNESS I DO
9 (WITNESS IS PRESENTED AT 6 40 O'CLOCK P M)

10 DIRECT EXAMINATION BY MR COULTER

11 Q GO AHEAD AND GIVE THE COURT REPORTER YOUR FULL
12 NAME

13 A CORPORAL PATRICK NEIL HENDERSON

14 Q AND CORPORAL HENDERSON, DID YOU WORK WITH
15 ABBEVILLE BACK IN DECEMBER OF '95?

16 A YES, SIR

17 Q AND ON DECEMBER 4TH, 1995, WERE YOU CALLED TO
18 THE SCENE OF MURDER AT 401 RITCHIE STREET?

19 A YES, SIR

20 Q ALL RIGHT, AND DID YOU, IN FACT, GO INTO THE
21 CRIME SCENE --

22 A YES, SIR

23 Q -- THAT DAY?

24 A YES, SIR

25 Q AND AT SOME POINT DID YOU COME TO RECOGNIZE

1 EITHER THE VICTIMS OF THE TWO SHOOTINGS?

2 A I RECOGNIZED ONE

3 Q AND WHAT WAS HER NAME?

4 A KEISHA JACKSON

5 Q AND AFTER YOU SAW MS JACKSON DEAD, AT THAT
6 TIME, DID YOU HAVE SUSPICIONS AS TO WHO MIGHT HAVE
7 BEEN THE SHOOTER?

8 A YES, SIR

9 Q ALL RIGHT, AND WHY WAS THAT?

10 A ON THE DAY BEFORE I WAS CALLED TO SECOND
11 STREET ON AN ASSAULT CALL THAT HAPPENED PRIOR THE
12 SUBJECT HAD ALREADY LEFT THE AREA WHEN I GOT OVER
13 THERE TALKING WITH MS JACKSON

14 Q OKAY, WAIT A SECOND YOU REPORTED ON DECEMBER
15 4TH FOR THE MURDER

16 A YES, SIR

17 Q OKAY, AND ON DECEMBER 3RD, THE DAY BEFORE, YOU
18 REPORTED TO ANOTHER CALL?

19 A YES, SIR

20 Q OKAY, AND THIS CALL INVOLVED WHO?

21 A MR JOHN KENNEDY HUGHEY AND KEISHA JACKSON

22 Q AND WHAT WAS THE NATURE OF THE CALL THAT YOU
23 REPORTED TO?

24 A IT WAS A DOMESTIC ASSAULT

25 Q OKAY, AND ABOUT WHAT TIME WAS THAT CALL

1 A 12 30

2 Q SO YOU WERE REPORTING TO THIS DOMESTIC CALL?

3 A YES, SIR

4 Q AND FROM THE TIME THAT CALL CAME IN, ABOUT HOW
5 LONG DID IT TAKE YOU TO REPORT TO THE SCENE?

6 A WITHIN FIVE MINUTES

7 Q AND YOU RECALL WHERE THIS WAS THAT YOU MET MS
8 JACKSON?

9 A ON SECOND STREET AT HER GRANDMOTHER'S
10 RESIDENCE I BELIEVE

11 Q AND WHO WAS ALL AROUND ONCE YOU HAD GOTTEN UP
12 THERE TO THE GRANDMOTHER'S RESIDENCE?

13 A WHEN I ARRIVED TO THE SCENE MS JACKSON WAS
14 STANDING OUT BESIDE HER VEHICLE WITH ONE OF HER
15 SMALL KIDS, AND THAT'S THE ONLY PERSON THAT WAS
16 THERE AT THAT TIME

17 Q AND THAT VEHICLE, THAT WAS THE MITSUBISHI
18 GALLANT?

19 A YES, SIR

20 Q ALL RIGHT, AND WHEN YOU STARTED TO TALK WITH
21 HER DO YOU REMEMBER HER DEMEANOR?

22 A SHE WAS SCARED

23 Q SCARED?

24 A YES, SIR

25 Q AND THIS WAS WITHIN FIVE MINUTES OF THE CALL

1 CAOMING IN?

2 A WITHIN FIVE MINUTES

3 Q ALL RIGHT, AND DID YOU ASK HER WHAT HAD
4 HAPPENED?

5 A YES, SIR, I HAD ASKED HER WHAT HAD HAPPENED
6 SHE TOLD ME THAT ---

7 MR GARRETT OBJECTION, YOUR HONOR
8 WE OBJECT TO ANYTHING SHE SAID AS BEING HEARSAY

9 THE COURT THAT'S WHY HE'S
10 PROFFERING IT I UNDERSTOOD THAT YOU WERE GOING TO
11 OBJECT TO IT I'LL ADDRESS THAT ISSUE, BUT THAT'S
12 WHY IT'S BEING PROFFERED OUTSIDE THE JURY'S
13 PRESENCE, SO WE CAN DECIDE IF IT SHOULD BE

14 MR GARRETT I UNDERSTAND I'M JUST
15 COVERING MY RECORD, YOUR HONOR

16 EXAMINATION CONTINUED BY MR COULTER

17 Q I'M SORRY ONCE AGAIN,

18 MR GARRETT DIDN'T WANT TO WAIVE
19 IT

20 THE COURT SIR?

21 MR GARRETT I SAID I DIDN'T WANT TO
22 WAIVE IT

23 THE COURT OKAY

24 EXAMIATION CONTINUED BY MR COULTER

25 Q WHAT DID SHE SAY?

1 A OKAY, SHE HAD TOLD ME THAT SHE HAD STAYED WITH
2 A FRIEND THAT NIGHT, THE NIGHT BEFORE SHE CAME
3 OVER AND WAS SUPPOSED TO MEET WITH MR HUGHEY IN
4 REFERENCE TO HIM PICKING UP THE KIDS AND HE CAME
5 OVER AND SHE TOLD HIM, "YOU CAN HAVE THE KIDS," AND
6 SHE WENT INSIDE THE VEHICLE TO GET ONE OF THE KIDS
7 OUT OF THE CAR SEAT IN THE BACK SEAT, AND WHEN SHE
8 WAS IN THERE MR HUGHEY, ACCORDING TO MS JACKSON,
9 HE HIT HER IN THE BACK OF THE HEAD, TURNED AND RAN
10 UP THE STREET AND STOP AND HOLLARED, "YOU BITCH
11 I'LL KILL YOU I'LL KILL BOTH OF YOU "

12 Q OKAY, AND THAT WAS WITHIN 24 HOURS OF WHEN YOU
13 REPORTED THE VERY NEXT DAY SHE WAS MURDERED?

14 A YES, SIR

15 Q AND THIS WAS WITHIN FIVE MINUTES OF THE
16 INITIAL CALL, SECOND CALL?

17 A YES, SIR YES, SIR

18 Q YOU SAID SHE WAS SCARED WHEN YOU TALKED TO
19 HER?

20 A YES, SIR

21 Q DID YOU HAVE ANY ADVICE FOR HER AFTER YOU HAD
22 TAKED TO HIM ABOUT THAT ASSAULT FROM THE DEFENDANT,
23 MR HUGHEY?

24 A YES, SIR, I ADVISED HER OF THE SAFE HOME THAT
25 I WOULD DO EVERYTHING IN MY POWER TO GET HER OUT OF

1 ABBEVILLE UNTIL THE NEXT DAY AT FOUR O'CLOCK THAT
2 SHE COULD SIGN A WARRANT SHE STATED THAT SHE WAS
3 GOING TO LEAVE AND GO TO A FRIEND'S HOUSE IN
4 GREENWOOD

5 Q THE PLACE THAT YOU REPORTED, THE GRANDMOTHER'S
6 HOUSE, DID YOU UNDERSTAND THAT TO BE HER HOUSE?

7 A I UNDERSTOOD IT TO BE HER HOUSE WHERE SHE WAS
8 STAYING

9 Q AND YOU HAD TOLD HER SHE BETTER NOT STAY
10 THERE?

11 A OH, YEAH

12 Q OKAY ALL RIGHT, THAT'S ALL I HAVE TO PROFFER
13 OF THIS PARTICULAR WITNESS OTHER THAN WAS THERE
14 ANOTHER OFFICER WHO REPORTED THERE AT THE SCENE?

15 A AFTER I MADE THE INITIAL CONTACT, LEAUTENANT
16 NEW DID COME TO THE SCENE

17 MR COULTER THAT'S ALL I HAVE TO
18 PROFFER

19 EXAMINATION BY THE COURT

20 Q LET ME BE SURE I UNDERSTAND YOU'RE SAYING
21 THAT MS JACKSON SAID THAT THE DEFENDANT SAID, "I'LL
22 KILL YOU I'LL KILL BOTH OF YOU "

23 A YES, SIR

24 Q YOU DIDN'T HEAR THAT YOURSELF?

25 A NO, SIR IT WAS COMING FROM MS JACKSON

1 MR GARRETT YOUR HONOR, MAY I
2 ADDRESS THE ISSUE OF HEARSAY AGAIN, YOUR HONOR, IT'S
3 FAR REMOVED IT'S FIVE MINUTES AND WE DON'T KNOW
4 HOW LONG IT HAD BEEN SINCE THERE WAS ANY ALTERCATION
5 BETWEEN THE PARTIES OR NOT THIS IS NOT AN EXCITED
6 UTTERANCE CIRCUMSTANCE I'M LIMITED I'M TRYING TO
7 FIGURE OUT HOW THEY INTEND TO GET AROUND THE HEARSAY
8 PROBLEM HERE, IN THAT IT IS NOT AN EXCITED
9 UTTERANCE AND FURTHER, YOUR HONOR, THE INFORMATION
10 WOULD SHOW THAT THERE WAS, IN FACT, A MAN IN THE CAR
11 WITH THEM WHEN THIS ALLEDGEDLY HAPPENED THE
12 STATE'S WITNESS' NAME IS MICHAEL ADAMS HE'S BEEN
13 LISTED AS THE STATE'S WITNESS, AND HE HAS GIVEN A
14 STATEMENT ABOUT WHAT OCCURRED, AND SO THE BEST
15 EVIDENCE OF IT WOULD BE TO HAVE AN ACTUAL EYE
16 WITNESS TO A TIME THAT IT ACTUALLY HAPPENED THAN TO
17 HAVE THIS OFFICER TESTIFY AS TO WHAT HE RECALLS HER
18 SAYING WE WOULD OBJECT TO WHAT HE SAYS SHE SAID
19 ABOUT THAT INCIDENT, ESPECIALLY WHEN IT WAS OUTSIDE
20 OF ANY EXCITED UTTERANCE

21 THE COURT SOLICITOR, IS MR ADAMS
22 GOING TO TESTIFY ABOUT THIS PARTICULAR ALTERCATION
23 BETWEEN HE, THE DEFENDANT AND MS JACKSON THAT WAS
24 LATER REPORTED TO THIS OFFICER

25 MR COULTER HE WILL

1 THE COURT ALL RIGHT, ANYTHING ELSE?

2 MR COULTER YOUR HONOR, THE ONLY
3 OTHER TESTIMONY THAT I PROFFER WILL BASICALLY DEAL
4 WITH THE SAME CHARACTER AS WHAT CORPORAL HENDERSON
5 TESTIFIED

6 THE COURT THE SAME INCIDENT

7 MR COULTER THAT'S EXACTLY RIGHT

8 THE COURT YOU WANT TO ASK HIM

9 ANYTHING?

10 CROSS EXAMINATION BY MR GARRETT

11 Q YOU DON'T KNOW WHAT TIME THE INCIDENT TOOK
12 PLACE, DID YOU?

13 A NO, SIR

14 Q AND HAD MICHAEL ADAMS ALREADY LEFT THE
15 PREMISES BY THE TIME YOU GOT THERE?

16 A YES, SIR

17 Q AND YOU WERE AT GRANDMOTHER'S HOUSE?

18 A YES, SIR

19 Q AND THE ONLY PERSON THERE WAS ONE OF THE
20 CHILDREN?

21 A YES, SIR

22 Q DO YOU KNOW WHAT HAPPENED TO THE OTHER CHILD?

23 A NO, I DO NOT

24 Q AND YOU DON'T KNOW THE PRECISE TIME OF THE
25 ALTERCATION THAT HAPPENED EARLIER THAT AFTERNOON OR

1 EARLIER THAT MORNING, DO YOU?

2 A NOT PRECISELY

3 Q NOW, THE INCIDENT REPORT WAS SIGNED BY YOU ON
4 MONDAY, IS THAT CORRECT?

5 A CORRECT, THE NEXT MORNING WHEN IT CAME IN

6 Q THE NEXT MORNING WHEN YOU CAME IN?

7 A YES, SIR

8 Q AND YOU HAD INDICATED AND TOLD HER THAT SHE
9 NEEDED TO GO SEE THE JUDGE AT OR ABOUT FOUR O'CLOCK
10 THAT AFTERNOON, IS THAT CORRECT?

11 A CORRECT

12 Q AND YOU ISSUED AN ARREST WARRANT OR HAD ONE
13 ISSUED AT WHAT TIME?

14 A I BELIEVE ONE WAS ISSUED AFTER THE INCIDENT ON
15 RITCHIE STREET TOOK PLACE

16 Q SO THE WARRANT FOR THE ASSAULT AND BATTERY
17 CHARGE THAT YOU BROUGHT AGAINST MR HUGHEY ACTUALLY
18 WAS SIGNED BY THE JUDGE AFTER THE INCIDENT ON
19 RITCHIE STREET, IS THAT CORRECT?

20 MR COULTER YOUR HONOR, I'M GOING TO
21 OBJECT I DON'T KNOW WHAT THIS HAS TO DO WITH THE
22 PROFFER HE JUST WANTS TO BE ABLE TO TRY TO GET
23 THIS UP

24 THE COURT I UNDERSTAND WHERE ARE
25 YOU GOING WITH THAT MR GARRETT?

1 MR GARRETT IT GOES TO THE QUESTION
2 OF THE WARRANT THAT WAS ISSUED WE WANT TO MAKE
3 SURE THE WARRANT WAS ISSUED AND MY CLIENT'S ARREST
4 WAS ISSUED SUBSEQUENT TO THE RITCHIE STREET
5 CIRCUMSTANCE AND NOT BEFORE IT GOES TO MOTIVATION
6 OF THE OFFICER

7 THE COURT MOTIVATION OF THE
8 OFFICER?

9 MR GARRETT WHO'S TESTIFYING
10 THE COURT OKAY, ANYTHING ELSE YOU
11 WANT TO ASK HIM ABOUT THAT?

12 MR GARRETT NO, SIR

13 THE COURT ANYTHING FURTHER?

14 MR COULTER NO, SIR, YOUR HONOR

15 THE COURT OKAY, STEP DOWN I'LL
16 CONTEMPLATE THAT ISSUE AND RULE ON THAT FIRST THING
17 IN THE MORNING WHAT ELSE?

18 MR COULTER JUDGE, THAT WAS IT
19 OTHER THAN ARGUING IT I MEAN IT'S THE STATE'S
20 POSITION THAT THIS REGARDLESS OF -- IT'S RES GESTAE
21 AGAIN ONCE AGAIN IT'S RES GESTAE AND IT GOES TO --
22 NOT ONLY IS IT RES GESTAE, BUT IT GOES TO -- NOT
23 ONLY IS IT RES GESTAE, BUT IT GOES DIRECTLY TO
24 MOTIVE AND ABSENCE OF THE STATE OR ACRONY IT GOES
25 DIRECTLY AND * OF WHAT THE DEFENSES ARE HE TRIED TO

1 PRESENT HERE IN OPENING STATEMENTS IN THE
2 STATEMENT HE SAID IT'S CLEARLY WITHIN THE ADMISSIBLE
3 RULES OF EVIDENCE UNDER BOTH THOSE PARTIUCULAR BASES

4 *

5 THE COURT YOU BELIEVE IT SHOULD BE
6 ADMITTED UNDER A(0)(3)(1)(2) AND (3)?

7 MR COULTER CORRECT

8 THE COURT OKAY AND ---*

9 MR GARRETT MAKE WE ALLOW AN
10 ARGUMENT ON THIS?

11 THE COURT YOU MAY

12 MR GARRETT RULE 404, YOUR HONOR,
13 OTHER CRIMES OR ERRONEOUS ACTS, EVIDENCE OF OTHER
14 CRIMES OF ERRONEOUS ACTS IS NOT ADMISSIBLE THROUGH
15 THE CHARACTER OF A PERSON, AND IN ORDER TO SHOW
16 ACTIONS CONFORMING TO * HOWEVER ADMISSIBLE TO SHOW
17 MOTIVE EXISTANCE OF A COMMON SCHEME OR PLAN, THE
18 ABSENCE OF * ACCIDENT OR INTENT

19 YOUR HONOR, IT CLEARLY HERE ---

20 THE COURT THEY ARE CLAIMING THE
21 MOTIVE IS INTENT

22 MR GARRETT I UNDERSTAND CLEARLY
23 THEY HAVE A, CLEARLY THEY HAVE A OFFICER, I MEAN A
24 LIVE WITNESS WHO WAS THERE WHO KNOWS WHAT HAPPENED
25 BETWEEN MR HUGHEY AND TESHEKA AT THE TIME IN

1 QUESTIONS, AND FOR THE OFFICER TO COME IN AND
2 REDUNDANTLY AND EXPERTLY SAY THESE STATEMENTS WERE
3 MADE BY HER AS IT RELATED TO THAT, WE THINK, YOUR
4 HONOR, WOULD PREJUDICE THE DEFENDANT BY HAVING HIM
5 COME IN ALSO AND SAYING THE SAME THING THE BEST
6 EVIDENCE OF IT IS SOMEBODY WHO'S THERE, WHO ACTUALLY
7 OBSERVED IT AND ACTUALLY HEARD IT CLEARLY IT'S NOT
8 IN THE RES GESTAE THE OFFICER DOESN'T EVEN KNOW
9 WHAT TIME THIS THING HAPPENED THE ARGUMENT OF THE
10 PROBLEM HAPPENING HE'S NOT IDENTIFIED WHETHER IT
11 HAPPENED AT TEN O'CLOCK THAT MORNING AND SHE CALLED
12 AT ELEVEN OR TWELVE LATER THAT AFTERNOON THERE'S
13 BEEN NO ESTABLISHMENT OF ANY RES GESTAE AS TO WHEN
14 THE THING ACTUALLY OCCURRED

15 SO IT WOULD BE OUR POSITION THAT IT
16 CLEARLY IS NOT AN EXCITED UTTERANCE, AND CLEARLY,
17 YOUR HONOR, THE PROBATIVE VALUE OF THAT STATEMENT
18 WOULD BE OUTWEIGHED BY THE PREJUDICIAL IMPACT UPON
19 THE DEFENDANT, ESPECIALLY IF THEY ARE GOING TO GET
20 IT IN ANYWAY TO THE TESTIMONY OF A LIVE WITNESS WHO
21 WAS THERE

22 MR COULTER YOUR HONOR, I FURTHER
23 POINT OUT IN REGARDS TO REG GESTAE, I'M AWARE OF THE
24 U S COURT OF APPEALS CASE UPTON VERSUS THE UNITED
25 STATES WHERE IT STATED THE ADMISSION OF STATEMENT AS

1 PART OF RES GESTAE WAS UPHELD WHERE IT WAS MADE
2 ELEVEN HOURS AFTER THE ALLEGED ---

3 THE COURT OH, I KNOW THERE'S NO
4 MAGIC ABOUT THE AMOUNT OF TIME PASSING FROM THE TIME
5 OF THE STATEMENT OR THE TIME OF THE EVENT THAT
6 DEPENDS UPON THE CIRCUMSTANCES IN ANY PARTICULAR
7 CASE I'LL TAKE IT UNDER ADVISEMENT

8 MR GARRETT THANK YOU, YOUR HONOR
9 THE COURT ALL RIGHT, ANYTHING
10 FURTHER BEFORE WE RECESS

11 MR COULTER NO, YOUR HONOR
12 THE COURT OKAY, COURT'S IN RECESS
13 UNTIL NINE A M LET'S BE CERTAIN THAT THE JURY HAS
14 ALL LEFT THE PREMISES BEFORE WE HAVE EVERYONE LEAVE
15 (WITNESS STEPS DOWN AT 6 58 O'CLOCK P M)
16 (COURT IN RECESS UNTIL NEXT MORNING)

17
18 ***** END OF DAY TEN *****

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TRANSCRIPT CONTINUED IN

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REPETATIVE TRANSCRIPT COVER PAGES
AND NOT REPRINTED

1 (DAY 11, OCTOBER 23, 1997, 9 00 O'CLOCK A M)

2 THE COURT WE NEED THE SOLICITOR
3 ONE THING WE'RE GOING TO HAVE TO UNDERSTAND ABOUT
4 THIS SCHEDULE NOW WE'VE GOT A JURY AND THE
5 S L E D 'S BRINGING THEM BACK AND THEY'RE HERE
6 EARLY AND WHEN WE SET A TIME TO BEGIN, WE'RE GOING
7 TO HAVE TO BEGIN AND WHEN SET THIS TIME TO BEGIN,
8 THAT DOOR'S GOING TO BE SHUT PEOPLE AREN'T GOING
9 TO BE ABLE TO KEEP COMING IN AND OUT I THOUGHT
10 THAT HAD BEEN EXPLAINED TO EVERYBODY THE JURY'S
11 GOING -- I'M NOT GOING TO KEEP THEM SITTING BACK
12 HERE WHILE WE, YOU KNOW, FIDDLE AROUND WHEN I TELL
13 THEM TO BE BACK AT NINE, THEY'RE GOING TO BE BACK AT
14 NINE, I EXPECT EVERYBODY WHO WANTS TO PARTICIPATE IN
15 THIS CASE TO BE IN THIS COURTROOM AND READY TO GO,
16 OKAY?

17 MR JONES ALL RIGHT

18 THE COURT AS FAR AS SPECTATOR'S ARE
19 CONCERNED, I MEAN, THIS COURTHOUSE IS OPENED AT
20 EIGHT O'CLOCK OR EIGHT-THIRTY THERE'S NO REASON IN
21 THE WORLD WHY THEY CAN'T BE SITTING IN THESE SEATS
22 BY NOW

23 ANYTHING FURTHER THAT NEEDS TO BE ADDRESSED
24 BEFORE WE HAVE THE JURY BROUGHT BACK?

25 MR JONES NOTHING FROM THE STATE, YOUR

1 HONOR

2 MR GARRETT WE HAD A MOTION YESTERDAY TO THE
3 EXCLUSION OF EVIDENCE

4 THE COURT I'M GETTING READY TO ADDRESS THAT
5 I'VE CONSIDERED WITH THE MATTER WITH THE STATE TO
6 THE TESTIMONY OF THE TWO OFFICERS THAT THE STATE HAS
7 OFFERED TO TESTIFY TO STATEMENTS MADE BY THE
8 DECEDENT JACKSON REGARDING STATEMENTS SHE MADE THAT
9 SHE ALLEGES THE DEFENDANT MADE AND I'VE CONSIDERED
10 THAT FACT CAREFULLY AND I'M NOT CONVINCED, UNDER THE
11 CIRCUMSTANCES, THAT WOULD FALL UNDER 803, AND I'M
12 GOING TO SUSTAIN TO THAT STATEMENT OF THAT OFFICER
13 I'M NOT EXCLUDING IT UNDER LYLE, IT MAY COME IN
14 DURING THE TRIAL OF THE CASE IT MAY EVEN COME IN
15 BY THESE OFFICERS UNDER SOME OTHER CIRCUMSTANCE, BUT
16 NOT AS OFFERED

17 MR COULTER YES, SIR, I UNDERSTAND THAT
18 WHAT I'M TRYING TO -- WHAT I'M GOING TO TRY TO
19 UNDERSTAND IS IN REGARDS TO THEIR TESTIMONY THAT
20 IS THAT'S THE EXCLUSIVE REASON, IS THAT IT, THE
21 EXCLUSIVE REASON WHY SHE WAS AT MS HARRIS'S HOUSE
22 THAT VERY NEXT DAY AND I UNDERSTAND YOUR EXCLUDING
23 HER STATEMENT TO THE OFFICERS, I'M ASSUMING THAT
24 THEY COULD GO INTO THE FACT THAT THEY, IN FACT, WERE
25 CALLED TO THE SCENE IN REGARDS TO MS JACKSON AND

1 THAT IT WAS THEIR ADVICE THAT SHE FIND SOME OTHER
2 PLACE TO STAY I'M NOT GOING TO TRY TO EXPLAIN THAT
3 TO THE JURY, BUT I WOULD ASSUME --

4 THE COURT WELL, AS I UNDERSTOOD IT, I
5 MEAN, IT MIGHT BE JUST THE ORDER IN WHICH YOU
6 PRESENTED IT AS I UNDERSTOOD IT, THERE'S ANOTHER
7 WITNESS WHO'S GOING TO TESTIFY ABOUT THAT INCIDENT
8 BECAUSE IF HE'S GOING TO SET UP THE FACTS OF THAT
9 INCIDENT, OBVIOUSLY THAT OCCURRED BEFORE THESE
10 OFFICERS RESPONDED

11 MR COULTER THAT'S CORRECT

12 THE COURT SO THERE'S REALLY NO
13 REASON -- IF YOU WANT TO DO IT IN THE ORDER THAT IT
14 OCCURRED, YOU COULD SIMPLY CALL THAT WITNESS AND
15 THEN PERHAPS THE OFFICER'S TESTIMONY WOULD FIT WITH
16 IT BUT AT THIS POINT, I'M JUST NOT SATISFIED THAT
17 THAT FITS IN WITH -- INTO 803 (1) AND (2)

18 MR COULTER BACK TO THE INCIDENT
19 ITSELF AM I GOING TO BE ALLOWED TO GO INTO THE
20 FACT THAT THE OFFICERS REPORTED TALKING WITH MS
21 JACKSON ON DECEMBER 3RD AND THE RESULTS OF THE
22 DISCUSSION, IT WAS ADVISED THAT SHE FIND SOME OTHER
23 PLACE TO STAY?

24 THE COURT AND SOMEBODY ELSE IS GOING
25 TO LINK THAT THAT'S WHY SHE WAS AT MS HARRIS'S

1 HOME?

2 MR COULTER YES, SIR

3 THE COURT I MEAN, IT WILL BE

4 ESTABLISHED WHY SHE WAS THERE, SHE WAS STAYING

5 THERE YOU SEE, I DON'T KNOW WHAT THE FACTS ARE

6 MR COULTER YES, SIR

7 THE COURT THEN THAT, OBVIOUSLY,

8 WOULD BE ADMISSIBLE

9 MR COULTER THANK YOU, JUDGE

10 THE COURT ANYTHING FURTHER?

11 MR GARRETT YOUR HONOR, WE WOULD

12 OBJECT TO IT BEING ADMISSIBLE EVEN FOR THAT PURPOSE

13 BECAUSE BY THEIR OWN TESTIMONY HE SAID THAT HE TOLD

14 HER -- SHE TOLD HIM SHE WAS GOING TO GREENWOOD TO

15 SPEND THE NIGHT WITH A FRIEND WHEN, IN FACT, SHE

16 DIDN'T GO TO GREENWOOD TO SPEND THE NIGHT WITH A

17 FRIEND OBVIOUSLY, SHE WENT TO MS HARRIS'S HOUSE

18 SO WE WOULD OBJECT TO -- IT'S NOT CLEAR AND

19 CONVINCING EVIDENCE UNDER LYLE EXCEPTION OR ANY --

20 THE COURT IT'S NOT COMING IN UNDER

21 LYLE RIGHT NOW I MEAN, I DON'T THINK IT'S OFFERED

22 UNDER LYLE

23 MR GARRETT OR ANY KIND OF PRIOR BAD

24 ACTS OF MR HUGHEY I'M NOT SURE EXACTLY HOW

25 THEY'RE TRYING TO OFFER IT

1 THE COURT THEY'RE OFFERING TO
2 ESTABLISH WHY MS JACKSON HAPPENED TO BE AT -- WHAT
3 THEY'RE TELLING ME IS THEY'RE OFFERING TO SHOW WHY
4 MS JACKSON WAS RESIDING AT MS HARRIS'S HOME AT
5 THIS TIME ON THE THIRD AND FOURTH OF DECEMBER, WHY
6 SHE WAS THERE I MEAN, THIS THING DIDN'T OCCUR IN A
7 VACUUM THERE'S OBVIOUSLY BACKGROUND THAT BRINGS
8 THESE PEOPLE TOGETHER UNDER THESE CIRCUMSTANCES

9 MR GARRETT BUT THE OFFICER'S NOT
10 THE PARTY WHO WOULD SAY THAT THAT'S WHY THEY WERE
11 TOGETHER AT MS HARRIS'S HOUSE THAT WOULD BE
12 SOMEBODY IN THE HARRIS FAMILY --

13 THE COURT AS I UNDERSTAND IT, HE'S
14 NOT GOING TO SAY THAT'S WHY THEY WERE THERE HE'S
15 GOING TO SAY THAT HE RECOMMENDED SHE FIND A PLACE TO
16 STAY AND SOMEBODY ELSE IS GOING TO SAY THAT'S WHERE
17 SHE FOUND THE PLACE ANYTHING FURTHER? BRING THE
18 JURY IN

19 (JURY ENTERS THE COURTROOM AT 9 12 O'CLOCK A M)

20 THE COURT GOOD MORNING, LADIES AND
21 GENTLEMEN I HOPE THAT YOU HAD A GOOD EVENING LAST
22 NIGHT AND THAT YOU GOT EVERYTHING SQUARED AWAY
23 WITHOUT ANY DIFFICULTY

24 AS YOU KNOW, WHEN WE RECESSED
25 YESTERDAY EVENING THE STATE HAD BEGUN PRESENTING

1 THEIR CASE AND WE ARE CONTINUING WITH THAT THIS
2 MORNING

3 MR JONES IF IT PLEASES THE COURT,
4 YOUR HONOR, WE CALL ANGELA PATTERSON TO THE STAND
5 IF SOMEONE WOULD, PLEASE, ASK MS PATTERSON TO COME
6 IN

7 THE CLERK THE EVIDENCE YOU SHOULD
8 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
9 SHOULD BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING
10 BUT THE TRUTH, SO HELP YOU, GOD

11 (WITNESS PRESENTED AT 9 13 O'CLOCK A M)

12 DIRECT EXAMINATION BY MR JONES

13 Q PLEASE STATE YOUR NAME FOR THE RECORD

14 A ANGELA PATTERSON

15 Q MS PATTERSON, WHERE DO YOU WORK?

16 A ABBEVILLE POLICE DEPARTMENT

17 Q I'M GOING TO ASK YOU TO, PLEASE, TRY TO SPEAK
18 UP A LITTLE BIT IF YOU WOULD, THERE'S A MICROPHONE
19 THERE -- GET COMFORTABLE BUT TRY TO UTILIZE IT IF
20 YOU CAN OKAY? HOW LONG HAVE YOU WORKED THERE?

21 A FOUR YEARS

22 Q AND WHAT'S YOUR JOB?

23 A I'M A DISPATCHER

24 MR JONES JUDGE, IF I MIGHT, JUST
25 TO---

1 THE COURT IS THAT TURNED UP? WHERE
2 IS THE CONTROLS TO THESE MIKES? (REFERRING TO
3 MICROPHONE)

4 (OFF THE RECORD)

5 BY MR JONES

6 Q ABOUT FOUR YEARS?

7 A YES, SIR

8 Q WHAT IS YOUR JOB THERE AT THE POLICE
9 DEPARTMENT?

10 A I'M A DISPATCHER I AM THE SUPERVISOR OF
11 COMMUNICATIONS

12 Q AND AS A DISPATCHER FOR THE POLICE DEPARTMENT,
13 WHAT ARE SOME OF THE DUTIES WITH YOUR JOB THAT YOU
14 DO?

15 A WE DISPATCH POLICE, SEND FIRE TRUCKS TO A
16 FIRE, E M S AND ALOT OF BOOKKEEPING, PAPERWORK,
17 COURTS

18 Q HOW DO YOU GO ABOUT DISPATCHING POLICE AND
19 FIRE PERSONNEL THAT SORT OF THING, HOW DO YOU GO
20 ABOUT DISPATCHING? HOW DO YOU DO THAT? EXPLAIN TO
21 US WHAT YOU DO

22 A WE GET THE INITIAL CALL WE TAKE THE
23 INFORMATION THAT'S NEEDED AND WE GO TO THE RADIO AND
24 DISPATCH THE APPROPRIATE UNITS AND TELL THEM WHERE
25 TO GO AND WHAT THE PROBLEM IS

1 Q WHEN YOU SAY YOU GET THE INITIAL CALL, HOW DO
2 YOU GET A CALL, HOW DOES IT COME INTO YOU?

3 A BY PHONE

4 Q AND WHAT NUMBER WOULD SOMEBODY DIAL TO GET TO
5 YOU AS A DISPATCHER?

6 A 459-2133

7 Q SO YOU'RE NOT ON THE 911 SYSTEM?

8 A NO, SIR

9 Q NOW, WERE YOU WORKING IN THIS CAPACITY WITH
10 THE ABBEVILLE POLICE DEPARTMENT BACK ON DECEMBER
11 FOURTH OF 1995?

12 A YES, SIR

13 Q AND WERE YOU WORKING THE FIRST SHIFT ON THAT
14 DAY?

15 A YES, SIR

16 Q DO YOU RECALL IT WAS A MONDAY?

17 A YES, SIR

18 Q NOW, LET ME ASK YOU THIS AT THAT TIME, DID
19 YOU HAVE ANY KIND OF RECORDING DEVICES THERE AT THE
20 DISPATCH TO RECORD YOUR INCOMING CALLS?

21 A NO, SIR

22 Q AND DID YOU HAVE ANY KIND OF RECORDING DEVICES
23 THAT WOULD RECORD COMMUNICATIONS BETWEEN YOU AND ANY
24 OFFICERS THAT YOU WOULD DISPATCH?

25 A NO, SIR

1 Q SO YOU HAVE NO TAPE RECORDING PROCESS BY WHICH
2 TO PRESERVE COMMUNICATIONS THAT YOU WOULD HAVE AS A
3 DISPATCHER?

4 A NO, SIR

5 Q BUT WOULD YOU BE ABLE TO HAVE AUDIO
6 COMMUNICATION WITH SOMEONE WHO CALLED INTO YOU?

7 A YES, SIR

8 Q AND WOULD THE PERSON WHO CALLED INTO YOU, IF
9 THE COMMUNICATIONS THAT YOU WERE HAVING WITH THE
10 OFFICERS YOU DISPATCHED AS A RESULT OF THAT CALL,
11 WERE LOUD ENOUGH TO BE ABLE TO HEAR THE
12 COMMUNICATION BETWEEN YOU AND THE OFFICERS?

13 A YES, SIR

14 Q NOW, DO YOU RECALL RECEIVING AN INCOMING CALL
15 AT SOME TIME JUST AFTER TWELVE NOON ON DECEMBER
16 FOURTH, 1995?

17 A YES, SIR

18 Q TELL US THE NATURE OF THE CALL YOU RECEIVED

19 A IT WAS A FEMALE AND STATED SHE NEEDED ME TO
20 SEND THE POLICE DOWN TO 401 RICHEY STREET NOW

21 Q NOW, CAN YOU TELL US WHAT -- HOW DID YOU
22 PERCEIVE HER STATE OF VOICE IN HER COMMUNICATION?

23 A SHE WAS EXTREMELY AGITATED, YOU COULD TELL SHE
24 WAS UPSET, A LOT OF EMOTION IN HER VOICE

25 Q NOW, LET ME ASK YOU THIS, MS PATTERSON,

1 BEFORE I GO FORWARD HAVE YOU RECEIVED TRAINING FOR
2 YOUR WORK?

3 A YES, SIR

4 Q AND AS SUCH, HAVE YOU RECEIVED TRAINING ABOUT
5 WHAT INFORMATION YOU'RE TRYING TO GET FROM AN
6 INDIVIDUAL?

7 A YES, SIR

8 Q WHAT ARE SOME OF THE THINGS THAT YOU'RE
9 THINKING ABOUT THAT YOUR DUTIES REQUIRE YOU TO DO
10 WHEN YOU GET A CALL COMING IN FROM SOMEBODY WHO SAID
11 THEY NEED HELP, THEY NEED THE POLICE WHAT GOES
12 THROUGH YOUR MIND, WHAT DOES YOUR TRAINING PUT YOU
13 IN A MIND SET TO BEGIN TO DO AT THAT POINT IN TIME?

14 A THE FIRST THING WOULD BE TO FIND OUT WHERE
15 THEY WERE NEEDED, WHO WAS NEEDED, THE POLICE OR FIRE
16 OR RESCUE, WHO WAS NEEDED, WHERE THEY'RE NEEDED AND
17 WHAT THE PROBLEM IS

18 Q THAT'S WHAT YOUR PRIORITIES ARE IS AT THAT
19 POINT IN TIME, IS THAT CORRECT?

20 A RIGHT

21 Q DID YOU DO THAT IN THIS INSTANCE?

22 A YES, SIR

23 Q AS YOU WERE DETERMINING WHO WAS NEEDED AND
24 WHERE THEY WERE NEEDED AND WHAT THE PROBLEM WAS,
25 WERE YOU WRITING ANYTHING DOWN OR WERE YOU LOGGING

1 THAT IN?

2 A I WRITE IT DOWN

3 Q AND SO DID -- WHO WAS NEEDED?

4 A POLICE

5 Q AND WHERE WERE THEY NEEDED?

6 A 401 RICHEY STREET

7 Q DID YOU DETERMINE WHAT THE PROBLEM WAS?

8 A NO

9 Q FROM THAT CALL?

10 A NO

11 Q YOU DID NOT AS TO THAT CALL, TELL US AGAIN
12 EXACTLY WHAT THE STATEMENT WAS THAT THE CALLER MADE
13 TO YOU

14 A GET THE POLICE DOWN TO 401 RICHEY STREET NOW

15 Q IF YOU WOULD, TO THE BEST OF YOUR
16 RECOLLECTION, JUST GO THROUGH AND EXPLAIN TO THIS
17 JURY WHAT YOU WERE ABLE TO HEAR DURING THE COURSE OF
18 THAT CALL

19 A AFTER THAT INITIAL STATEMENT I SAID, 401
20 RICHEY STREET AND SHE SAID, YES, AND I SAID, WHAT'S
21 THE PROBLEM THERE, MA'AM, AND SHE SAID, JUST GET THE
22 POLICE DOWN HERE, NOW AND I HEARD SOMETHING LIKE
23 SHE HAD LAID THE PHONE DOWN OR IT WAS DISTANT AND
24 AWAY FROM HER MOUTH AND I HEARD HER SAY, DON'T SHOOT
25 THAT GUN IN HERE AND I HEARD SOMETHING ELSE IN THE

1 BACKGROUND, SOME OTHER VOICE, BUT I COULDN'T MAKE IT
2 OUT AND THEN SHE REPEATED, DON'T SHOOT THAT GUN IN
3 HERE

4 Q WHAT WAS THE TONE OF HER VOICE THEN?

5 A EXCITED, DEMANDING, EXTREMELY UPSET

6 Q GO AHEAD

7 A AFTER SHE SAID THAT THE SECOND TIME, THERE WAS
8 A SMALL LULL AND THEN I HEARD A GUNSHOT PROBABLY
9 FOUR TO FIVE, SIX SECONDS, I HEARD ANOTHER GUNSHOT

10 Q LET ME ASK YOU THIS BETWEEN THE TIME YOU
11 HEARD THE FIRST GUNSHOT AND THE TIME YOU HEARD THE
12 SECOND GUNSHOT, WHAT DID YOU HEAR IN THE WAY OF
13 VOICES?

14 A ABSOLUTELY NOTHING

15 Q WHAT DID YOU HEAR IN THE WAY OF SCUFFLING?

16 A NOTHING

17 Q WHAT DID YOU HEAR IN THE WAY OF FIGHTING?

18 A NOTHING

19 Q AND TELL US AGAIN, IF YOU WOULD, FIND IT IN
20 YOUR MIND, I'M GOING TO ASK YOU TELL US THE FIRST
21 GUNSHOT AND HOW MUCH TIME THERE WAS BETWEEN THAT ONE
22 AND THE SECOND ONE

23 A I HEARD THE FIRST GUNSHOT AND THERE WAS
24 APPROXIMATELY FIVE OR SIX SECONDS LATER AND I HEARD
25 ANOTHER GUNSHOT

1 Q IF YOU WOULD, IF YOU COULD, GO THROUGH AND
2 GIVE US A VOICE REENACTMENT OF WHAT THE FIRST
3 GUNSHOT SOUNDED LIKE AND THEN YOU PAUSE IN THAT
4 PERIOD OF TIME THAT YOU FELT LIKE YOU WERE ON THE
5 PHONE AND THEN GIVE US A VOICE REENACTMENT OF THE
6 SECOND GUNSHOT

7 A START WITH THE GUNSHOT

8 Q YES

9 A BAAM' (10 SECONDS PAUSE) BAAM'

10 Q NOW, AFTER THE SECOND GUNSHOT, WHAT DID YOU DO
11 OR WHAT DID YOU HEAR, WHAT HAPPENED WHILE YOU WERE
12 THERE?

13 A NOTHING

14 Q WHAT WAS GOING THROUGH YOUR MIND AT THAT POINT
15 IN TIME?

16 A I THOUGHT -- I SAID THAT SOUNDED LIKE GUNSHOT
17 THE OFFICERS WERE ON THEIR WAY

18 Q SO YOU HAVE ALREADY DISPATCHED THE OFFICERS?

19 A THERE WAS AN OFFICER IN THE DISPATCH WITH ME
20 WHEN THE CALL CAME IN

21 Q AND WHEN WAS IT THAT THAT OFFICER LEFT THE
22 DEPARTMENT?

23 A WHEN HE HEARD ME SAY 401 RICHEY STREET
24 EVIDENTLY, HE COULD HEAR SOME OF THE -- SHE WAS
25 SPEAKING SO LOUDLY THAT HE COULD HEAR SOME -- AND HE

1 GOT UP TO LEAVE AND THAT'S WHEN I HEARD THE FIRST
2 ONE AND I THOUGHT THAT SOUNDED LIKE GUNSHOT AND HE
3 WAS ON HIS WAY

4 Q ALL RIGHT GO AHEAD AND TELL US WHAT HAPPENED
5 NEXT

6 A AFTER THE SECOND GUNSHOT?

7 Q YES

8 A I KEPT THE LINE OPEN THINKING THAT I COULD
9 HEAR SOMETHING, ANYTHING BECAUSE I KNEW WHAT IT WAS
10 AND I JUST THOUGHT ANYTHING WOULD BE HELPFUL

11 Q WHEN YOU SAY YOU KNEW WHAT IT WAS -- GO AHEAD

12 A I KNEW THAT IT WAS A GUNSHOT AND I KNEW THAT
13 IT WAS JUST TOO QUIET I ADVISED THE OFFICERS AS
14 FAST AS I COULD OF WHAT WAS GOING ON TO TRY TO MAKE
15 THEM AWARE OF THE SITUATION

16 AND THEN I GOT A -- I BELIEVE THE OFFICERS GOT
17 ON THE SCENE AND I GOT ANOTHER CALL, AN OPERATOR
18 ASSISTANCE CALL FROM MCI THE OPERATOR SPOKE WITH
19 ME FIRST AND STATED THAT SHE HAD A HARRIS SUBJECT ON
20 THE PHONE THAT NEEDED THE POLICE AT 401 RICHEY
21 STREET HE GOT ON THE LINE -- THE OPERATOR WAS
22 STILL ON THE LINE -- HE GOT ON THE LINE AND TOLD ME
23 THAT HE NEEDED THE POLICE DOWN THERE NOW HE WAS
24 VERY EXCITED, UPSET, TO SAY THE LEAST, AND I TOLD
25 HIM I SAID, SIR, I'VE GOT SOMEONE THERE NOW AND I

1 SAID, WHAT IS THE PROBLEM THERE?

2 HE SAID THAT HIS MOTHER HAD JUST CALLED
3 HIM AND THAT THERE WAS SOMEBODY THERE WITH A GUN

4 AND I SAID WHO IS SUPPOSEDLY THERE, SIR,
5 AND HE TOLD ME THAT MS HARRIS'S MOTHER, TESHEKA
6 JACKSON, JOHN KENNEDY HUGHEY AND HER TWO SMALL
7 CHILDREN

8 AND I SAID, THEY'RE IN THE RESIDENCE NOW?

9 HE SAID, YES, HE JUST GOT OFF THE PHONE
10 WITH HIS MOTHER WHILE I'M TRYING TO GET THIS, ALL
11 HE'S TELLING ME IS GET THEM THERE, HURRY, TELL ME
12 WHAT'S GOING ON, GET THEM THERE QUICK

13 AND I SAID WHAT ARE THE AGES OF THE
14 CHILDREN -- SMALL CHILDREN AND HE SAID THEY'RE ABOUT
15 TWO, THREE OR FOUR YEARS OLD, IN OTHER WORDS, VERY
16 SMALL CHILDREN

17 WHEN HE TOLD ME THIS, I RELAYED ALL THE
18 INFORMATION TO MY OFFICERS OVER THE RADIO I USED
19 NAMES, EVERYTHING, BUT I WANTED THEM TO BE AWARE OF
20 WHAT THEY WERE GOING INTO, EVEN ABOUT THE SMALL
21 CHILDREN

22 Q RIGHT HAD THEY GONE IN AT THAT POINT IN
23 TIME?

24 A I DON'T BELIEVE THEY'D GONE IN AT THAT TIME
25 AND I WAS SPEAKING WITH THE SON, HE CAN HEAR THE

1 RADIO TRAFFIC, WHAT I'M TELLING THEM AND WHAT THE
2 OFFICER'S ARE SAYING BACK TO ME OVER THE PHONE AND
3 HE WAS LIKE, TELL THEM TO JUST BUST DOWN THE DOOR,
4 JUST TELL THEM TO GET IN THERE I DIDN'T ADVISE
5 THIS BUT I THINK SHORTLY AFTER THAT OFFICERS STATED
6 THEY WERE IN THE RESIDENCE AND THEN AN OFFICER,
7 LIEUTENANT NEW, CAME OVER THE RADIO AND STATED THAT
8 HE NEEDED E M S THAT HE HAD ONE DOWN AT 10-75 WHICH
9 IS A POLICE CODE FOR SHOOTING

10 I DISPATCHED E M S AND I BELIEVE BEFORE
11 I COULD EVEN DISPATCH THE E M S , CORPORAL HENDERSON
12 CAME OVER THE RADIO AND STATED THAT HE HAD ONE DOWN,
13 ALSO AND I ASKED THEM AT THIS TIME WHAT WERE THE -
14 - WHERE WERE THE INJURIES AT AND THEY STATED IT WAS
15 TO THE HEAD FOR BOTH VICTIMS

16 I DISPATCHED E M S TO TWO, YOU KNOW, TWO
17 GUNSHOT WOUNDS TO THE HEAD AND TOLD THEM TO STANDBY
18 A DISTANCE FROM THE RESIDENCE UNTIL THE POLICE COULD
19 CLEAR THE SCENE AT THIS TIME, I'M STILL SPEAKING -
20 - I'VE STILL GOT THE OTHER LINE OPEN FROM MR
21 HARRIS I'VE NOT HEARD ANYTHING THE WHOLE TIME I
22 KEPT -- WE HAD TWO PHONES IN THE DISPATCH, I KEPT
23 THIS ONE HERE AND MR HARRIS HERE AND STILL ANSWERED
24 THE RADIO

25 AT THIS TIME, MR JACKSON -- UH, MR HARRIS IS

1 ON THE PHONE AND HE WANTS -- IS MY MOTHER OKAY? IS
2 EVERYTHING OKAY? TELL ME WHAT'S GOING ON AND I
3 JUST TOLD HIM THAT HE WOULD HAVE TO -- I COULDN'T
4 RELEASE ANY INFORMATION AND THAT HE WILL HAVE TO
5 CALL BACK LATER AND I GAVE HIM THE PHONE NUMBER
6 AND HE HUNG UP I ALSO HUNG UP THE OTHER PHONE THAT
7 WAS CONNECTED FROM WHERE MS HARRIS HAD CALLED,
8 BECAUSE I FELT LIKE I NEEDED TO PUT ALL MY EFFORTS
9 INTO THE DISPATCH FROM THE E M S SO I DISCONNECTED
10 THAT LINE, ALSO

11 Q NOW, YOU MENTIONED THAT WHEN MR HARRIS,
12 MARCUS HARRIS, CALLED YOU HAD ON THE OTHER LINE AND
13 HE STATED -- DID YOU ASK HIM ABOUT THE NAMES OF THE
14 INDIVIDUALS THAT WERE THERE?

15 A YES, SIR

16 Q WAS THERE ANY OTHER INFORMATION THAT YOU TRIED
17 TO GET FROM HIM OR THAT HE GAVE TO YOU VOLUNTARILY
18 IN AN EFFORT TO ASSIST YOUR OFFICERS AS THEY WOULD
19 ARRIVE AT THE SCENE?

20 A I ASKED HIM WHO HAD THE GUN AND HE SAID JOHN
21 KENNEDY HUGHEY

22 Q AND, OF COURSE, YOU WERE WANTING TO LET YOUR
23 OFFICERS KNOW THAT THERE MAY BE SOMEONE THERE WITH A
24 GUN AND TO PROCEED CAUTIOUSLY, IS THAT CORRECT?

25 A THAT'S CORRECT

1 MR JONES ASK ANY QUESTIONS MR TINSLEY MAY
2 HAVE

3 CROSS-EXAMINATION BY MR GARRETT

4 Q MAY IT PLEASE THE COURT? GOOD MORNING, MS
5 PATTERSON

6 A GOOD MORNING

7 Q MS PATTERSON, AS I UNDERSTAND IT THEN, YOU
8 RECEIVED A CALL FROM MS LUEVINIA HARRIS AT 12 04
9 O'CLOCK

10 A YES, SIR

11 Q AND WHEN YOU TALKED WITH HER, OF COURSE, YOU
12 TALKED WITH HER, HOW MANY SECONDS WOULD YOU SAY YOU
13 THOUGHT THERE WERE BEFORE YOU HEARD THE SHOT?

14 A FIFTEEN SECONDS

15 Q AND THE POLICE ARRIVED THERE AT 12 05 O'CLOCK,
16 IS THAT CORRECT?

17 A YES, SIR

18 Q SO MR HUGHEY WAS NOT ON THE SCENE WHEN THEY
19 ARRIVED?

20 A NO, SIR, NOT AS FAR AS I KNOW

21 Q NOW, SO SOMEWHERE BETWEEN 12 04 15 AND
22 12 04 05, WHICH IS FORTY-FIVE SECONDS, MR HUGHEY
23 LEFT THE PREMISES, IS THAT CORRECT? HE WASN'T THERE
24 WHEN THEY GOT THERE, IS THAT RIGHT?

25 A YES, SIR

1 Q NOW, IN LOOKING OVER -- AS I UNDERSTAND IT,
2 THERE'S NOT TYPE OF RECORDING -- YOU DON'T HAVE THAT
3 IN ABBEVILLE, WE DON'T HAVE ANY RECORDING
4 CAPABILITIES?

5 A NO, SIR

6 Q NOR DO YOU HAVE 911?

7 A NO, SIR

8 Q SO THE PHONE CALL THAT WAS MADE WAS DIALED A
9 DIRECT NUMBER? YOU HAVE TO ACTUALLY CALL YOUR
10 ACTUAL NUMBER TO GET THERE?

11 A YES, SIR

12 Q AND THAT'S FOR FIRE AND THAT'S FOR POLICE AND
13 THAT'S FOR EVERYBODY?

14 A UM-HMM

15 Q ALL RIGHT AND SHE WAS ABLE TO, OF COURSE,
16 TELL YOU WHERE SHE WANTED YOU THE COME

17 A YES, SIR

18 Q YOU ASKED HER THAT AND SHE SPECIFICALLY TOLD
19 YOU THAT

20 A RIGHT

21 Q YOU USED THE WORD EXTREMELY AGITATED IN YOUR
22 STATEMENT, IS THAT RIGHT?

23 A YES, SIR

24 Q AND IS THAT YOUR BEST RECOLLECTION OF YOUR
25 THOUGHTS ON HOW SHE WAS REACTING AT THAT TIME?

1 A YES, SIR, THAT'S IT

2 Q ALL RIGHT SHE SAID TO YOU OR YOU HEARD OR
3 SAY, "DON'T SHOOT THAT GUN "

4 A YES, SIR AT NO TIME DID YOU HEAR HER SAY
5 DON'T SHOOT ME WITH THAT GUN OR DON'T KILL ME WITH
6 THE GUN OR DON'T HURT ME WITH THE GUN?

7 A NO, SIR

8 Q YOU JUST HEARD HER SAY, "DON'T SHOOT THAT GUN
9 IN THE HOUSE "

10 A DON'T SHOOT THAT GUN IN HERE

11 Q DON'T SHOOT THAT GUN AND THEN YOU HEARD A POP
12 AND THEN SECONDS PASSED, AWHILE AGO YOU SAID FOUR,
13 FIVE OR SIX SECONDS PASSED AND THEN YOU HEARD
14 ANOTHER POP AND THEN YOU HEARD NOTHING ELSE

15 A RIGHT

16 Q CAN YOU IDENTIFY THIS DOCUMENT AND TELL ME
17 WHAT THIS KIND OF DOCUMENT IS?

18 A IT'S A DISPATCH LOG SHEET

19 Q WHAT IS A DISPATCH LOG SHEET?

20 A THIS IS WHAT WAS LOGGED WITH EVERY ACTIVITY
21 WHERE THE POLICE OFFICER ARE, EVERY TIME THEY CALL
22 OUT OF THE CAR, EVERY TIME WE GET A CALL, ANY TIME
23 THEY GET ON THE SCENE, ANY TIME THEY LEAVE THE
24 SCENE, WE WRITE DOWN THE TIME

25 Q ARE TIMES IMPORTANT?

1 A VERY

2 Q AND SO IT'S CRITICAL THAT YOU PUT DOWN EXACT
3 TIMES AS BEST AS YOU CAN?

4 A YES, SIR

5 Q ALL RIGHT

6 MR GARRETT YOUR HONOR, I MOVE TO MARK AND
7 ENTER INTO EVIDENCE THE ABBEVILLE POLICE DEPARTMENT
8 COMMUNICATION LOG FOR 12/04/1995

9 THE COURT ANY OBJECTION, SOLICITOR?

10 MR JONES NO, SIR

11 (REPORTER MARKS PERTINENT DOCUMENT AS STATE'S
12 EXHIBIT #86)

13 BY MR GARRETT

14 Q DID YOU, IN THE PROCESS OF YOUR
15 RESPONSIBILITIES OF THE JOB, ARE YOU THE PERSON WHO
16 KEEPS THIS COMMUNICATION LOG?

17 A YES, I AM

18 Q AND IS THAT YOUR WRITING FOR THE DATE IN
19 QUESTION?

20 A YES, SIR

21 Q AND WHAT TIME DID YOU SAY YOU RECEIVED THE
22 CALL?

23 A 12 04

24 Q AND WHAT TIME DID YOU SAY THE POLICE ARRIVED
25 ON THE SCENE?

1 A 12 05

2 Q SO YOU HAD TALKED TO MS HUGHEY FOR AT LEAST
3 FIFTEEN SECONDS, FROM 12 04 TO 12 04, FIFTEEN
4 SECONDS AND THAT THE POLICE HAD ARRIVED AT 12 05
5 THEY WERE ON THE SCENE THERE AT 12 05 MR HUGHEY
6 WAS ALREADY GONE

7 NOW, WHEN YOU SAID THAT SHE SAID, GET THE
8 POLICE OVER HERE NOW, DID SHE INDICATE IT WAS A
9 DOMESTIC DISPUTE?

10 A NO

11 Q SHE DIDN'T SAY WHAT TYPE OF DISPUTE, JUST GET
12 THE POLICE OVER HERE NOW?

13 A YES, SIR

14 Q NOW, WHEN MARCUS CALLED YOU AND HE BEGAN
15 TALKING WITH YOU, DID HE INDICATE THIS WAS A
16 DOMESTIC DISPUTE AT THE HOUSE?

17 A HE JUST SAID THAT THERE WAS SOMEONE THERE THAT
18 HAD A GUN

19 Q DID HE INDICATE IT WAS A DOMESTIC DISPUTE?

20 A NO

21 Q YOU DON'T RECALL THAT?

22 A NO

23 Q HE JUST SAID SOMEONE WAS THERE WITH A GUN

24 A RIGHT

25 MR GARRETT I HAVE NO FURTHER QUESTIONS

1 THANK YOU, MS PATTERSON

2 RE-DIRECT EXAMINATION BY MR JONES

3 Q MS PATTERSON, I WANT TO ASK YOU TO LOOK AT
4 ANOTHER LOG SHEET AND ASK YOU -- ANOTHER PIECE OF
5 PAPER AND ASK YOU IF YOU CAN IDENTIFY THAT, PLEASE
6 LOOK AT IT AS LONG AS YOU NEED

7 MR GARRETT YOUR HONOR, WE OBJECT

8 EXAMINATION CONTINUED BY MR JONES

9 Q DO YOU RECOGNIZE IT AT ALL?

10 A YES, SIR

11 THE COURT LET ME SEE THE EXHIBIT, PLEASE
12 IS THIS RESPONSE TO ANYTHING BROUGHT OUT ON CROSS?

13 MR JONES NO, SIR, I WAS JUST --

14 THE COURT SUSTAIN THE OBJECTION

15 MR GARRETT THANK YOU, YOUR HONOR

16 MR JONES MS PATTERSON, THANK YOU FOR YOUR
17 TESTIMONY I DON'T HAVE ANY OTHER QUESTIONS

18 THE COURT YOU MAY STEP DOWN

19 (WITNESS STEPS DOWN AT 9 36 O'CLOCK A M)

20 MR COULTER YOUR HONOR, THE STATE WILL CALL
21 CORPORAL NEAL HENDERSON TO THE STAND

22 THE CLERK THE EVIDENCE YOU SHOULD GIVE THE
23 COURT AND JURY IN THE TRIAL OF THIS CASE SHOULD BE
24 THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
25 TRUTH, SO HELP YOU, GOD

1 (WITNESS PRESENTED AT 9 37 O'CLOCK A M)

2 DIRECT EXAMINATION BY MR COULTER

3 Q GO AHEAD AND TELL THE JURY YOUR FULL NAME

4 A PATRICK NEAL HENDERSON

5 Q PLEASE SPEAK UP IF YOU COULD, OKAY CORPORAL

6 HENDERSON, YOU'RE WITH THE ABBEVILLE POLICE

7 DEPARTMENT?

8 A YES, SIR

9 Q HOW LONG HAVE YOU BEEN WITH THE POLICE

10 DEPARTMENT?

11 A FIVE YEARS, SINCE '92

12 Q AND, OF COURSE, YOU WERE WORKING WITH THE

13 POLICE DEPARTMENT ON DECEMBER FOURTH OF 1995?

14 A YES, SIR

15 Q AND ON DECEMBER FOURTH OF '95 DID YOU HAVE THE

16 OPPORTUNITY TO GO TO 401 RICHEY STREET?

17 A YES, SIR

18 Q DO YOU REMEMBER ABOUT WHAT TIME THAT WAS?

19 A JUST RIGHT AFTER TWELVE O'CLOCK

20 Q JUST BEFORE GOING OUT TO 401 RICHEY STREET, DO

21 YOU REMEMBER WHERE YOU WERE?

22 A YES, SIR, I WAS SITTING AT THE DISPATCHER

23 COUNTER BESIDE THE DISPATCHER FIXING TO RELIEVE HER

24 SO SHE COULD GO TO LUNCH

25 Q THAT DISPATCH WAS?

1 A SERGEANT ANGIE PATTERSON

2 Q AND THIS WAS JUST BEFORE NOON?

3 A YES, SIR

4 Q AND AS YOU WERE SITTING THERE AT DISPATCH,
5 TELL THE JURY WHAT TOOK PLACE

6 A GOT A PHONE CALL, SERGEANT PATTERSON ANSWERED
7 THE PHONE AND ALL I COULD TELL WHEN SHE PICKED UP
8 THE PHONE WAS SPEAKING WITH A SUBJECT I HEARD LOUD
9 VOICES AND THEN I HEARD CONVERSATION WITH THE
10 PERSON SERGEANT PATTERSON SAID --

11 MR GARRETT OBJECTION, YOUR HONOR, IT'S
12 HEARSAY

13 THE COURT OVERRULED

14 THE WITNESS SERGEANT PATTERSON SAID, YOU
15 NEED THE POLICE AT 401 RICHEY STREET, WHAT'S THE
16 PROBLEM? AT THAT POINT, I LOOKED AT HER, STARTED TO
17 GET UP AND I HEARD A LOUD POP -- TO ME IT SOUNDED
18 LIKE A GUNSHOT -- AT THAT TIME, I LEFT THE DISPATCH
19 AREA, WENT TOWARDS MY PATROL UNIT AND DURING THAT
20 TIME SERGEANT PATTERSON CALLED ME, SHE TOLD ME SHE
21 HEARD A SECOND NOISE THAT SOUNDED AS IF IT WAS A
22 GUNSHOT AT THAT TIME WHEN I GOT TO MY PATROL
23 VEHICLE WAS HEADING TOWARDS RICHEY STREET THE
24 OTHER OFFICER THAT WAS ON DUTY THAT DAY WAS
25 LIEUTENANT NEW AND I RELAYED TO HIM THAT INFORMATION

1 TO HAVE HIM MEET ME OVER THERE ON RICHEY STREET

2 Q SO IF I UNDERSTAND CORRECTLY, CORPORAL, YOU
3 WERE SITTING THERE NEXT TO MS PATTERSON WHEN YOU
4 HEARD THIS FIRST GUNSHOT?

5 A YES, SIR

6 Q AND THAT'S WHEN YOU STARTED TO LEAVE OUT OF
7 THE POLICE DEPARTMENT?

8 A YES, SIR

9 Q NOW, AS YOU WERE LEAVING THE POLICE
10 DEPARTMENT, HOW WERE YOU ABLE TO COMMUNICATE WITH
11 ANGIE PATTERSON?

12 A I HAD MY MIKE ON AND SHE RELAYED THAT TO ME

13 Q WALKIE TALKIE RADIO?

14 A RIGHT

15 Q AND SO YOU WERE ABLE TO TALK TO HER OVER YOUR
16 RADIO AS YOU WERE LEAVING THE POLICE DEPARTMENT?

17 A YES, SIR

18 Q SO BEFORE YOU EVEN GOT TO THE PATROL CAR, SHE
19 CALLED YOU OVER THE RADIO AGAIN?

20 A YES, SIR

21 Q AND SHE TOLD YOU WHAT?

22 A SHE HEARD A SECOND LOUD POP THAT SOUNDED LIKE
23 A GUNSHOT

24 Q SO AS SOON AS YOU HEARD THAT FIRST GUNSHOT
25 THAT'S WHEN YOU STARTED OFF TO 401 RICHEY STREET?

1 A YES, SIR

2 Q AS YOU'RE HEADING TO 401 RICHEY STREET, AS I
3 UNDERSTAND, YOU TRIED TO CONTACT ANOTHER OFFICER?

4 A YES, SIR, I CONTACTED LIEUTENANT NEW

5 Q LIEUTENANT NEW DID YOU KNOW LIEUTENANT NEW'S
6 WHEREABOUTS --

7 A NO, SIR

8 Q -- AT THAT TIME, DID YOU KNOW WHERE HE WAS?

9 A NO

10 Q AND LET ME SHOW YOU THIS DIAGRAM, REFERRING TO
11 STATE'S ONE, DOES THIS APPEAR FAMILIAR TO YOU?

12 A YES, SIR

13 Q IS THAT AN ACCURATE PICTURE OVERHEAD OF THE
14 RICHEY STREET AREA?

15 A YES, SIR

16 MR COULTER YOUR HONOR, I ASK THAT STATE'S
17 ONE BE ADMITTED INTO EVIDENCE AT THIS TIME

18 MR GARRETT YOUR HONOR, I HAVE NO OBJECTION
19 TO IT BEING ADMITTED INTO THIS EVIDENCE AT THIS
20 TIME

21 THE COURT IT'S ADMITTED

22 (STATE'S EXHIBIT #1 IS ADMITTED AT THIS TIME)

23 EXAMINATION CONTINUED BY MR JONES

24 Q CAN YOU SHOW THE JURY, PLEASE, ON STATE'S

25 EXHIBIT NUMBER ONE THE ROUTE THAT YOU TOOK FROM THE

1 POLICE DEPARTMENT TO 401 RICHEY

2 A I CAME FROM THE POLICE DEPARTMENT DOWN TWENTY
3 WHICH WOULD BE GREENVILLE STREET A POST OFFICE
4 SITS RIGHT ALONG THIS AREA RIGHT HERE WHERE ELLIS
5 IS I CAME DOWN AND MADE A LEFT ONTO RICHEY OFF OF
6 GREENVILLE STREET

7 Q YOU MADE A LEFT DOWN TO RICHEY

8 A RIGHT THIS IS RICHEY HERE, IF YOU GO DOWN
9 AND DEAD END THIS WAY, IT TAKES A RIGHT AND GOES
10 DOWN 401 SITS DOWN HERE AT THE END OF THAT RIGHT
11 THERE (INDICATING)

12 Q THAT RIGHT THERE?

13 A YEAH

14 Q NOW, 401 RICHEY STREET, THAT'S A TRAILER?

15 A YES, SIR

16 Q ARE THERE MORE THAN ONE TRAILER THERE?

17 A YES, SIR, THERE'S ONE TRAILER HERE, AND
18 THERE'S ONE THAT SITS RIGHT IN FRONT OF IT

19 Q WHAT'S THE ONE RIGHT IN FRONT OF IT USED FOR?

20 A A STORE STRUCTURE

21 Q AND 401 RICHEY STREET, THE RESIDENCE, IS IT
22 THE FURTHEST TRAILER

23 A YES, SIR

24 Q NOW, AS YOU ARRIVED, WERE ANY OTHER OFFICERS
25 THERE AT 401 RICHEY STREET?

1 A YES, SIR, LIEUTENANT NEW WAS ALREADY THERE--

2 Q ALREADY THERE

3 A -- GETTING OUT OF HIS PATROL CAR

4 Q HE WAS JUST GETTING OUT OF THE PATROL VEHICLE?

5 WERE THERE ANY OTHER OFFICERS WHO HAD ARRIVED

6 A NOT AT THAT TIME

7 Q AND AS YOU WERE APPROACHING THE HOUSE, DID ANY

8 OFFICERS ARRIVED?

9 A ANOTHER OFFICER ARRIVED SHORTLY

10 Q IF YOU'LL TAKE THIS PENCIL, I'D ASK YOU WITH

11 THE COURT'S PERMISSION, IF YOU COULD DRAW IN THE

12 TRAILER FOR 401 RICHEY STREET

13 THE COURT ANY OBJECTIONS?

14 MR GARRETT YOUR HONOR, NOTING THAT IT'S NOT

15 TO SCALE AS TO THE EXACT LOCATION, WE HAVE NO

16 OBJECTION TO HIM GENERALLY GIVING AN IDENTIFICATION

17 TO THE AREA BUT IT'S NOT TO SCALE

18 THE COURT OKAY

19 EXAMINATION CONTINUED BY MR COULTER

20 Q IF YOU COULD, CORPORAL, DRAW IN THE TWO AREAS,

21 THE APPROXIMATE LOCATION OF THE TWO TRAILERS SO AS

22 YOU'RE ARRIVING AND AS YOU'RE APPROACHING THE HOME,

23 THAT'S WHEN THE THIRD OFFICER ARRIVED?

24 A YES, SIR

25 Q AND WHAT DID YOU DO AS YOU APPROACHED 401

1 RICHEY STREET?

2 A LIEUTENANT NEW TOLD ME TO GO AROUND TO THE

3 REAR OF THE TRAILER AND COVER IT AND HE AND

4 PATROLMAN KNAPP WENT TO THE FRONT OF THE TRAILER

5 Q AND HOW LONG DID YOU STAY THERE IN THE BACK?

6 A I WENT AROUND TO THE REAR OF IT AND I COULD

7 HEAR LIEUTENANT NEW KNOCKING ON THE SIDE OF THE

8 TRAILER I COULD HEAR A BABY INSIDE CRYING AT

9 THAT TIME, LIEUTENANT NEW COME ACROSS HIS RADIO AND

10 TOLD ME THAT THE FRONT DOOR WAS OPEN AND THAT HIM

11 AND PATROLMAN KNAPP WERE FIXING TO ENTER INTO THE

12 TRAILER

13 Q WAS THERE ANY WAY IN OR OUT OF THAT TRAILER ON

14 THE BACKSIDE?

15 A YES, SIR, THERE WAS A BACK DOOR WHERE I WAS

16 AT, I WAS AT THE -- CLOSEST TO THE VEHICLES AT THAT

17 END OF THE TRAILER I COULD SEE ALL THE WAY TO THE

18 OTHER END, THERE WAS A DOOR THERE, BUT THERE WAS A

19 LARGE DROP-OFF

20 Q SO YOU WERE COMING IN THE BACK DOOR?

21 A YES, SIR

22 Q SO LIEUTENANT NEW, AS I UNDERSTAND, CALLED YOU

23 TO COME INSIDE?

24 A YES, SIR, HE WENT INSIDE AND HE COME ACROSS

25 HIS RADIO AND TOLD ME TO COME INSIDE, HE HAD ONE

1 DOWN, ONE VICTIM DOWN

2 Q TELL ME WHAT YOU SAW AS YOU WENT INTO THE
3 TRAILER

4 A AS I WENT INTO THE TRAILER I COULD SEE A MALE
5 JUVENILE ON THE COUCH TO MY LEFT AND BACK TOWARD THE
6 BEDROOM AREA I COULD HEAR A BABY CRYING

7 Q I'D ASK YOU TO TAKE A LOOK AT WHAT'S BEEN
8 MARKED AS STATE'S EXHIBIT 5 FOR IDENTIFICATION
9 TAKE A LOOK AT THAT AND TELL ME IF THAT APPEARS TO
10 BE A FAIR REPRESENTATION OF THE TRAILER AT 401
11 RICHEY STREET

12 A YES, SIR, THE ONLY THING IS THE FRONT DOOR
13 SWINGS THE WRONG WAY

14 Q SWINGS THE WRONG WAY, OKAY

15 A YES, SIR

16 Q YOUR HONOR, WE MOVE TO HAVE THIS ADMITTED INTO
17 EVIDENCE AS STATE'S EXHIBIT NUMBER FIVE

18 MR GARRETT WE ARE GOING TO HAVE OBJECTIO TO
19 IT WE HAVE OUR REASONS FOR THAT AND WE NEED TO
20 DISCUSS THAT

21 THE COURT LET ME SEND THE JURY OUT TO
22 DISCUSS THEIR OBJECTION LADIES AND GENTLEMEN,
23 PLEASE GO TO YOUR JURY ROOM, DO NOT DISCUSS THE
24 CASE, WE'LL BRING YOU BACK IN
25 (JURY EXITS COURTROOM AT 9 48 O'CLOCK A M)

1 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF
2 THE JURY)

3 THE COURT ALL RIGHT WHAT'S THE
4 NATURE OF THE OBJECTION

5 MR GARRETT YOUR HONOR, WE HAVE NO
6 OBJECTION TO THEM USING THAT AS A DEMONSTRATIVE TOOL
7 TO EXPLAIN THE GENERAL LAYOUT OF THE PROPERTY
8 HOWEVER, IT IS CRUCIAL IN THIS CASE, THE SOLICITOR
9 IN HIS OPENING STATEMENT TALKED ABOUT SHOOTING
10 PEOPLE AT TWELVE INCHES AND THAT TYPE OF THING, AND
11 THIS CLEARLY IS NOT AN ACCURATE REFLECTION OF THE
12 AREA IN QUESTION

13 I NOTE HERE THAT IT IS INDICATED IT
14 IS NOT TO SCALE ONE OF OUR MAIN CONCERNS, YOUR
15 HONOR, IS RIGHT HERE THERE IS A HALLWAY THAT IS
16 LOST HERE COMPLETELY IN THIS DRAWING IT LOOKS AS
17 IF, THOUGH, THE KITCHEN GOES ALL THE WAY TO THIS
18 POINT RIGHT HERE AND YOU HAVE A WASHER AND A DRYER
19 AND THAT'S SIMPLY NOT THE CASE THE AREA IN THERE
20 HAS LOST THREE OR FOUR FEET THAT ARE SIGNIFICANT

21 ONE VICTIM IS LYING IN THIS AREA HERE
22 IN FRONT OF THIS DOOR RIGHT HERE, THIS IS THE DOOR
23 TO THE BEDROOM THE OTHER VICTIM, OF COURSE, IS IN
24 THIS DOUBLE BED THIS DISTANCE RIGHT HERE IS
25 ACTUALLY LONGER AND WE THINK THAT THAT WOULD --

1 BECAUSE DISTANCE IS GOING TO BE A QUESTION AS THE
2 FIGHT AND VOLUNTARY VERSUS MURDER -- WE FEEL LIKE,
3 YOUR HONOR, THAT WOULD BE UNFAIR TO THE DEFENSE TO
4 HAVE THAT IMPROPER REPRESENTATION OF THAT ALSO
5 BECAUSE THE DOOR IS SWINGING THE WRONG WAY, YOUR
6 HONOR, THAT WOULD ALSO, IN THE CASE OF BURGLARY,
7 THIS IS THE DOOR THAT THEY'RE REFERRING TO, AND THEY
8 SHOULD HAVE, OF COURSE, THE DOOR SWINGING IN THE
9 RIGHT DIRECTION

10 THE COURT OBVIOUSLY, THAT COULD BE
11 CORRECTED VERY SIMPLY SO FAR AS THE ACCURACY AS TO
12 SCALE, I DON'T KNOW HOW THAT COULD BE CORRECTED
13 WITHOUT ANOTHER DRAWING BEING DONE

14 MR COULTER YOUR HONOR, WE CAN GO
15 AHEAD AND WHITE OUT THE DOOR I HAD HOPED TO BE
16 ABLE TO DO THAT AND MAKE IT SWING THE CORRECT WAY

17 MR GARRETT I DON'T HAVE ANY
18 PROBLEM WITH THAT I'D RATHER HE DO THAT AND MAKE
19 THAT CORRECT I DON'T THINK YOU CAN CORRECT THIS
20 PROBLEM AND THAT'S WHY I DON'T WANT IT ADMITTED INTO
21 EVIDENCE IF HE WANTS TO USE IT FOR DEMONSTRATIVE
22 PURPOSES, YOUR HONOR, MAKE HIS POINTS WITH THE JURY,
23 IT WOULD BE HELPFUL FOR THE JURY TO UNDERSTAND IT
24 BUT NOT AS EVIDENCE

25 THE COURT DO YOU WANT TO BE HEARD?

1 MR COULTER YOUR HONOR, I WOULD
2 OF COURSE THIS IS NOT TO SCALE, AND IT'S CLEARLY
3 NOTED HERE WE WOULD LIKE TO HAVE THIS INTRODUCED
4 INTO EVIDENCE AND IF ADMITTED, WE WOULD MOVE TO HAVE
5 THE JURY ALLOWED TO GO TO THE CRIME SCENE SO IF
6 THERE'S ANY DISCREPANCY IN THIS VERSUS THE CRIME
7 SCENE, THEY'RE GOING TO BE ABLE TO SEE IT FIRST
8 HAND I THINK THAT WOULD BE VERY HELPFUL TO THE
9 JURY

10 THE COURT WELL, AND IT MAY I'M
11 GOING TO SUSTAIN THE OBJECTION TO THAT BEING EXHIBIT
12 SINCE IT IS NOT A REPRESENTATIVE -- A CORRECT
13 REPRESENTATION OF THE SCALE OF THAT TRAILER IT MAY
14 BE USED BY THE WITNESS TO DEMONSTRATE HIS TESTIMONY
15 AND IF YOU HAVE ANOTHER DRAWING WITH THE CORRECT
16 SCALE, IT WOULD NOT BE OBJECTIONABLE I WOULDN'T
17 IMAGINE

18 MR GARRETT IT WOULDN'T BE

19 MR COULTER WELL, WE'D STILL MOVE
20 TO HAVE THE JURY ALLOWED TO GO TO THE CRIME SCENE

21 THE COURT I'LL ADDRESS THAT AT THE
22 -- YOU MEAN AT SOME POINT DURING THE TRIAL?

23 MR COULTER YES, SIR

24 THE COURT I'LL ADDRESS THAT AT THE
25 APPROPRIATE TIME

1 MR COULTER YOUR HONOR, WE DO HAVE
2 ONE OTHER ISSUE TO BRING UP NOW OUTSIDE THE PRESENCE
3 OF THE JURY

4 THE COURT OKAY

5 MR COULTER I'D LIKE TO HAND THIS -
6 - THIS CORPORAL HENDERSON TAKES US THROUGH THE HOME
7 TO INTRODUCE THE PHOTOGRAPHS OF VICTIMS IN THIS CASE
8 AS THEY WERE FOUND JUST AFTER NOON ON DECEMBER
9 FOURTH, AND, OF COURSE, I DON'T KNOW WHAT OBJECTION
10 THEY HAVE SOME OF THEM ARE ALREADY MARKED AND SOME
11 OF THEM --

12 THE COURT TELL ME THE NUMBERS
13 WHAT NUMBERS ARE THEY?

14 MR COULTER YOUR HONOR, THESE ARE
15 NUMBERS FORTY-FOUR, FIFTY-TWO, EIGHTY-FOUR AND
16 EIGHTY-FIVE

17 THE COURT FORTY-FOUR, FIFTY-TWO,
18 EIGHTY-FOUR AND EIGHTY-FIVE?

19 MR COULTER CORRECT

20 THE COURT MR GARRETT, DO YOU HAVE
21 IDENTICAL COPIES OF THE STATE'S PHOTOGRAPHS THEREOF?

22 MR GARRETT YOUR HONOR, WE HAVE --
23 WE'RE TRYING TO IDENTIFY NUMBER ONE TWENTY-SEVEN

24 MR McCALLUM THEY'RE NUMBERED
25 DIFFERENTLY, YOUR HONOR

1 THE COURT I THOUGHT THAT'S WHAT YOU
2 ALL DID, GOT TOGETHER AND AGREED TO NUMBER
3 EVERYTHING THE SAME SO THAT WE'LL BE REFERRING TO
4 THE SAME EXHIBIT

5 MR COULTER I'VE GOT THEM RIGHT
6 HERE, JUDGE

7 THE COURT I KNOW, THAT'S WHY I
8 THOUGHT YOU WERE SHOWING THEM LOOK AT THESE
9 PHOTOGRAPHS THAT HE'S GOT IN HIS HANDS AND SEE IF
10 YOU OBJECT TO THOSE FOUR

11 MR GARRETT YOUR HONOR, WE WOULD
12 TAKE THE POSITION THAT ONLY ONE OF EACH OF THESE
13 ENTERED, YOUR HONOR WE WOULD HAVE --

14 THE COURT WELL, I UNDERSTAND
15 THEY'RE ONLY OFFERING ONE OF EACH PHOTOGRAPH

16 MR GARRETT WELL, WHAT I'M --

17 THE COURT YOU'VE GOT FORTY-FOUR,
18 FIFTY-TWO, EIGHTY-FOUR AND EIGHTY-FIVE

19 MR GARRETT WE WOULD HAVE NO
20 OBJECTION TO FIFTY-TWO YOUR HONOR, WE WOULD HAVE
21 NO OBJECTION TO FORTY-FOUR, WE WOULD OBJECT TO
22 EIGHT-FIVE AND WE WOULD OBJECT TO EIGHT-FIVE

23 THE COURT LET ME SEE EIGHTY-FOUR
24 AND EIGHTY-FIVE I UNDERSTAND FORTY-FOUR IS NOT
25 OBJECTED TO AND FIFTY-TWO IS NOT OBJECTED TO

1 MR GARRETT THAT'S CORRECT, YOUR
2 HONOR

3 THE COURT THE GROUNDS FOR OBJECTION
4 TO EIGHTY-FOUR, WHICH IS THE SAME PERSON SHOWN IN
5 FORTY-FOUR EIGHTY-FIVE IS THE SAME PERSON SHOWN IN
6 FIFTY-TWO, WHAT'S YOUR OBJECTION TO THOSE TWO
7 PHOTOGRAPHS?

8 MR GARRETT YOUR HONOR, ONE REASON
9 IS CUMULATIVE, YOUR HONOR THEY'RE SHOWING THE
10 LOCATION OF THE VICTIMS, YOUR HONOR, THAT WOULD BE
11 CUMULATIVE THEY CAN DO THAT IN THE FIRST
12 PHOTOGRAPHS WE'VE NOT OBJECTED TO TO ALLOW THEM TO
13 PUT IN THE MULTIPLE PHOTOGRAPHS, YOUR HONOR, IT
14 WOULD PREJUDICE THE DEFENDANT, YOUR HONOR, AND CAUSE
15 PASSIONS AND PREJUDICES BECAUSE OF THE BLOOD AND THE
16 GORE AND THAT TYPE OF THING ONE OF THEM HAS GOT
17 HER LAYING OVER WITH HER PANTS DOWN AND WE THINK
18 THAT WOULD BE INAPPROPRIATE FOR THE JURY TO SEE THAT
19 AND IT'S REALLY NOT NECESSARY

20 THE COURT WELL, LET ME GIVE YOU MY
21 VIEW OF WHAT THAT IS YOU MIGHT WANT TO LOOK AT
22 THAT AGAIN I DON'T BELIEVE HER PANTS ARE DOWN, I
23 THINK THEY'RE OVERALLS AND THE TOP IS FLIPPED
24 THEY'RE NOT -- HER CLOTHES ARE ON WHAT'S THE
25 NECESSITY FOR EIGHTY-FOUR AND EIGHTY-FIVE IF FORTY-

1 FOUR AND FIFTY-TWO ARE ADMITTED?

2 MR COULTER YOUR HONOR, I BELIEVE
3 BOTH EIGHTY-FOUR AND EIGHTY-FIVE SHOW SOMETHING THAT
4 ARE NOT INCLUDED IN THE OTHER TWO EXHIBITS THEY DO
5 SHOW A DIFFERENT ANGLE IN REGARDS TO MS HARRIS ONE
6 FROM THE FRONT AND ONE FROM THE BACK WITH REGARDS
7 TO MS JACKSON IT SHOWS A WHOLE VIEW OF THE BODY AND
8 HOW SHE WAS ACTUALLY LEFT BY THE DEFENDANT SHORTLY
9 AFTER NOON THAT DAY

10 I THINK THEY ARE PROBATIVE I DON'T
11 THINK THEY'RE PREJUDICIAL THEY SHOW EXACTLY HOW
12 THE DEFENDANT LEFT THESE VICTIMS THAT DAY AND I
13 THINK IT'S IMPORTANT FOR THE JURY TO GET THEIR
14 PERSPECTIVES UP HOW THESE BODIES WERE LEFT FOR THE
15 PURPOSES OF SHOWING HOW THIS CRIME WAS COMMITTED
16 BOTH OF THESE ARE GOING TO BE USED IN TERMS OF
17 EXPERTS LATER ON DOWN THE LINE TO SHOW THE POSITIONS
18 OF THE BODY AND WHERE, IN FACT, THE SHOTS HAD BEEN
19 FIRED FROM BOTH OF THEM ARE PROBATIVE FOR PURPOSES
20 OF SHOWING THIS JURY EXACTLY WHAT HAPPENED

21 MR GARRETT MAY I RESPOND, YOUR
22 HONOR

23 THE COURT IF YOU NEED TO

24 MR GARRETT FOR SOME OTHER WITNESS
25 MAYBE THEY WOULD BECOME PROBATIVE OR MAYBE IN THE

1 SENTENCING PHASE IT WOULD BECOME PROBATIVE BUT NOT
2 FOR THE LOCATION OF THE BODIES FOR THE PURPOSE OF
3 WHICH HE'S TRYING TO USE THIS WITNESS TO ESTABLISH
4 IN THIS CASE, AT THIS LEVEL, AT THIS STAGE

5 MR COULTER JUDGE, I JUST DON'T SEE
6 HOW THOSE PARTICULAR TWO PHOTOGRAPHS BEING PROTESTED
7 HERE ARE UNDULY PREJUDICIAL I MEAN THERE ARE A
8 NUMBER OF PHOTOGRAPHS THERE ARE DOZENS OF
9 PHOTOGRAPHS THAT SHOW VERY GRAPHIC DETAILS OF THIS
10 CRIME

11 THE COURT I UNDERSTAND THAT WHAT
12 IS IT ABOUT EIGHTY-FOUR THAT YOU -- THAT REQUIRES
13 THE PHOTOGRAPH THAT'S NOT REFLECTED IN FORTY-FOUR
14 I UNDERSTAND IT'S A DIFFERENT ANGLE, BUT WHAT IS IT
15 THAT ---

16 MR COULTER ONE OF THE THINGS THAT
17 IT DOESN'T SHOW, YOUR HONOR, IS GOING TO BE VERY
18 IMPORTANT THE KEY I BELIEVE IN THIS CASE IS EIGHT-
19 FOUR SHOWS THE PHONE, THE POSITION OF THE PHONE IN
20 RELATION TO THE BODY AS OPPOSED TO WHAT IS SHOWN IN
21 FORTY-FOUR WHICH DOES NOT SHOW THE PHONE AND, OF
22 COURSE, WE -- IT'S BEEN ALLEGED SHE'S ON THE PHONE
23 AND I THINK THAT'S GOING TO END UP BEING AN
24 IMPORTANT FACTOR

25 THE COURT OVERRULE THE OBJECTION

1 MR GARRETT YOUR HONOR, MAY I?

2 THE COURT YES, YOU MAY

3 MR GARRETT JUST TO RESPOND

4 THERE'S ANOTHER PHOTOGRAPH OF THE PHONE, IF THAT'S

5 WHAT HE'S TRYING TO SHOW, WITHOUT THE BODY IN IT

6 THE COURT WELL, AS HE INDICATED,

7 THE PURPOSE OF THAT PHOTOGRAPH IS TO SHOW THE PHONE

8 IN RELATION TO THE BODY AND IF YOU HAD ANOTHER

9 PHOTOGRAPH WITH ONLY THE PHONE IN IT, IT WOULDN'T

10 SHOW THAT RELATIONSHIP

11 MR GARRETT I THINK IT MAY HAVE HER

12 BUTTOCKS OR HER LEGS IN IT IT'S NOT ONE THAT I

13 THINK HE'S MARKED

14 THE COURT I'D BE HAPPY TO LOOK IT

15 IF YOU NEED FOR ME TO

16 MR GARRETT YOUR HONOR, WHICH

17 VICTIM IS HE REFERRING TO, WHICH VICTIM IS HE

18 REFERRING TO WHEN HE SAID HE'S TRYING TO SHOW THE

19 LOCATION OF THE PHONE

20 THE COURT MS HARRIS

21 MR GARRETT MS HARRIS?

22 THE COURT I BELIEVE IT'S MS

23 HARRIS

24 MR COULTER THAT IS CORRECT

25 MR GARRETT I THOUGHT THAT WAS

1 REFLECTED IN THAT FIRST PHOTOGRAPH

2 MR COULTER NO, SIR

3 THE COURT NO, IT'S NOT WHERE ARE
4 THOSE PHOTOGRAPHS, PLEASE?

5 MR COULTER I'M SORRY, RIGHT HERE

6 MR GARRETT YOUR HONOR, THERE'S A
7 PREVIOUSLY MARKED NUMBER ONE TWENTY-EIGHT ON HIS
8 ORIGINAL THIS IS ONE HE HAS NOT MARKED AS A PIECE
9 OF EVIDENCE, IT SHOWS THEIR FEET AND IT SHOWS THE
10 LOCATION OF THE PHONE BEING LESS GRAPHIC DEPICTING
11 THE VICTIM

12 MR COULTER YEAH, I MEAN, I KNOW
13 THE PHOTOGRAPH, JUDGE, BUT THAT'S NOT THE ONE I'M
14 TRYING TO ADMIT IF THEY WANT TO ADMIT IT, THEY
15 CAN I'M SHOWING ONE --

16 THE COURT I UNDERSTAND I'VE
17 OVERRULED THE OBJECTION

18 MR COULTER THANK YOU

19 MR GARRETT PLEASE NOTE OUR
20 EXCEPTION FOR THE RECORD YOUR HONOR, CAN I HAVE
21 THIS MARKED AS DEFENDANT'S EXHIBIT --

22 THE COURT YOU MAY

23 MR GARRETT -- NUMBER THREE DO
24 YOU WANT THAT ADMITTED AS A COURT'S EXHIBIT OR A
25 DEFENDANT'S EXHIBIT?

1 MR GARRETT AS A COURT'S EXHIBIT,
2 YOUR HONOR THAT'S WHAT WE WERE PROFFERING AS
3 OPPOSED TO THE MORE GRAPHIC PICTURE THAT HE -- IN
4 YOUR MOTION -- OUR MOTION TO KEEP IT OUT
5 (REPORTER MARKS PERTINENT PHOTOGRAPH AS COURT'S
6 EXHIBIT #3)

7 THE COURT LET'S BE CERTAIN WE HAVE
8 -- PHOTOGRAPH NUMBER FORTY-FOUR AND FIFTY-TWO ARE
9 NOT OBJECTED TO EIGHTY-FOUR AND EIGHTY-FIVE ARE
10 OBJECTED TO AND THE DEFENSE HAS OFFERED COURT'S
11 EXHIBIT NUMBER --

12 REPORTER TWENTY-FOUR

13 THE COURT -- TWENTY-FOUR AS AN
14 ALTERNATIVE TO STATE'S EXHIBIT NUMBER EIGHTY-FOUR

15 MR COULTER YOUR HONOR, I ASSUME WE
16 HAVE BUT I'M JUST ASKING THAT THE I D BE TAKEN OFF
17 AND ACTUALLY MOVED INTO EVIDENCE

18 THE COURT THEY ARE ADMITTED
19 OVERRULE OBJECTION ANYTHING FURTHER BEFORE WE
20 BRING THE JURY BACK IN?

21 MR COULTER NO, YOUR HONOR

22 MR GARRETT NOTHING FOR THE
23 DEFENSE, YOUR HONOR

24 (JURY RE-ENTERS COURTROOM)

25 THE COURT LADIES AND GENTLEMEN, LET

1 ME REMIND YOU OF ONE THING BEFORE WE GO FURTHER AND
2 THAT IS DURING THE COURSE OF THE TRIAL FROM TIME-TO-
3 TIME THERE WILL BE MATTERS THAT I WILL NEED TO
4 ADDRESS MANY OF THOSE MATTERS MIGHT RELATE TO THE
5 ADMISSION OF SOME PIECE OF EVIDENCE AND I WILL
6 DETERMINE WHETHER OR NOT SOMETHING SHOULD BE
7 ADMITTED OR SOMETHING SHOULD BE EXCLUDED PLEASE
8 KEEP IN MIND THAT YOU ARE NOT TO CONSIDER THAT FACT
9 IN ANY WAY YOU DON'T TRY TO SPECULATE AS TO WHAT
10 WE'RE HAVING DISCUSSIONS ABOUT WHEN YOU ARE NOT
11 PRESENT YOU SIMPLY CONSIDER THE EVIDENCE THAT IS
12 ADMITTED DURING THE TRIAL OF THE CASE AND DO NOT
13 SPECULATE IS THERE SOMETHING ELSE THAT MIGHT BE
14 ADMITTED OR OFFERED THAT I HAVE NOT ALLOWED TO BE
15 ADMITTED INTO EVIDENCE SO PLEASE KEEP THAT IN MIND
16 DURING THE COURSE OF THE TRIAL YOU'RE NOT TO
17 SPECULATE AS TO OTHER MATTERS, YOU'RE SIMPLY TO
18 RENDER A DECISION BASED UPON THE EVIDENCE THAT IS
19 RECEIVED DURING THE COURSE OF THE TRIAL

20 EXAMINATION CONTINUES BY MR COULTER

21 Q CORPORAL, LET'S BACK UP JUST FOR ONE SECOND
22 AND LOOK AT STATE'S EXHIBIT NUMBER ONE I'D ASK YOU
23 TO LOOK AT THESE TWO PHOTOGRAPHS AND I'LL ASK YOU
24 ARE THOSE TRUE AND ACCURATE DEPICTIONS OF THE AREA
25 AROUND 401 RICHEY STREET?

1 A YES, SIR

2 Q ALL RIGHT

3 MR GARRETT WITHOUT OBJECTION TO
4 THOSE TWO

5 MR COULTER WE MOVE TO INTRODUCE
6 THESE AS STATE'S EXHIBIT TWO AND FOUR

7 THE COURT THEY'RE ADMITTED
8 (STATE'S EXHIBITS TWO AND FOUR ARE ADMITTED WITHOUT
9 OBJECTION)

10 MR COULTER YOUR HONOR, I ALSO ASK
11 PERMISSION TO PUBLISH THESE TO THE JURY

12 THE COURT YOU MAY
13 (JURY RE-ENTERS COURTROOM AT 10 05 O'CLOCK A M)
14 EXAMINATION CONTINUES BY MR COULTER

15 Q NOW, CORPORAL HENDERSON, LOOKING AT STATE'S
16 EXHIBIT NUMBER TWO THIS PARTICULAR PHOTOGRAPH, COULD
17 YOU PLEASE POINT TO THE JURY WHAT AREA ON STATE'S
18 EXHIBIT ONE THIS REFLECTS, WHAT THIS SHOWS?

19 A IT SHOWS BOTH THE TRAILERS, 401 AND THE NEXT
20 DOOR TRAILER TO THEM

21 Q HEADING INTO 401 RICHEY HOME?

22 A YES, SIR

23 Q WHICH TRAILER IS THE ACTUAL RESIDENCE?

24 A THE BACK ONE THE BROWN-TRIMMED TRAILER

25 Q THIS IS STATE'S EXHIBIT NUMBER FOUR, TAKE A

1 LOOK AT THAT COULD YOU POINT AND SHOW THE JURY
2 WHAT THIS PHOTOGRAPH SHOWS IN RELATION TO STATE'S
3 EXHIBIT NUMBER ONE?

4 A THE CAMERAMAN IS STANDING HERE AND IT IS SHOT
5 BACK IN THIS DIRECTION

6 Q WHICH OF THESE TRAILERS IS THE ONE FOR
7 STORAGE?

8 A THE ONE WITH THE BLUE WOOD SHUTTERS AND
9 THAT'S THE ONE I HAVE MY FINGER ON?

10 A RIGHT

11 Q AND THE BROWN ON IS THE RESIDENCE?

12 A RIGHT

13 Q NOW, GOING BACK TO NOW WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT NUMBER FIVE FOR IDENTIFICATION THE
15 DIAGRAM OF 401 RICHEY STREET AND THE RESIDENCE YOU
16 HAD MENTIONED YOU HAD GONE IN THERE AT THE DIRECTION
17 OF LIEUTENANT NEW?

18 A CORRECT

19 Q AND YOU HAD MENTIONED AT ONE POINT THERE WAS A
20 PROBLEM WITH THE FRONT DOOR ON THIS DIAGRAM?

21 A YES, SIR

22 Q HAS THAT BEEN CORRECTED NOW? IT'S SWINGING
23 THE RIGHT WAY?

24 A IT SWINGS OUT FROM THE TRAILER

25 Q IF YOU'LL JUST -- LET ME ASK YOU, YOU GO IN --

1 NOW, AS YOU CAME IN TO THE RESIDENCE, TELL THE JURY,
2 PLEASE, WHAT YOU SAW

3 A ON MY WAY IN I SEEN A MALE JUVENILE SITTING ON
4 THIS COUCH I WAS STANDING IN THIS AREA AND I HEARD
5 ANOTHER JUVENILE CRYING FROM BACK IN THIS AREA

6 Q ALL RIGHT AFTER YOU SAW THE CHILD ON THE
7 COUCH, WHERE DID YOU HEAD TO NEXT?

8 A LIEUTENANT NEW WAS STANDING IN THIS AREA,
9 PATROLMAN KNAPP WAS STANDING HERE, LIEUTENANT NEW
10 SAID I HAVE ONE DOWN IN THIS HALLWAY AREA HE
11 DIRECTED PATROLMAN KNAPP TO STAY WITH THE JUVENILES
12 AND ME AND HIM STARTED DOWN THE HALLWAY

13 Q AND DESCRIBE FOR THE JURY, PLEASE, WHAT YOU
14 SAW AS YOU WENT DOWN THAT HALLWAY

15 A AS WE WENT DOWN THE HALLWAY, WE SEEN A BODY
16 LAYING IN THIS AREA HERE -- HEAD TOWARDS THE WASHER
17 AND DRYER MACHINE WITH THE LEGS KIND OF RIGHT HERE
18 AT THE BACK DOOR AREA LIEUTENANT NEW WENT DOWN,
19 STEPPED OVER THAT BODY AS I APPROACHED THAT BODY,
20 I REACHED DOWN TO FEEL FOR A PULSE, I NOTICED AROUND
21 THE HEAD AREA A POOL OF BLOOD FORMING TWO HAND SIZES
22 -- TWO HAND SIZES STARTING I COULD VISUALLY SEE
23 THE BLOOD ACTUALLY POOL AT THAT TIME I TOLD
24 LIEUTENANT NEW, I SAID I COULDN'T FEEL NO PULSE HE
25 HAD ALREADY CALLED FOR AN AMBULANCE PRIOR TO MY

1 COMING INTO THE RESIDENCE

2 WE STEPPED OVER THAT BODY, THE ONE THROUGH
3 THAT BEDROOM AREA, IMMEDIATELY WE COULD SEE WE WAS
4 GOING TO HAVE TROUBLE CLEARING IT BECAUSE THERE WAS
5 A BATHROOM HERE AND A CLOSET HERE LIEUTENANT NEW
6 WAS IN FRONT OF ME, HE WAS IN THE DRESSER AREA, AS
7 HE WENT AND CHECKED THE CLOSET, I WAS STANDING WITH
8 MY GUN DRAWN COVERING HIM FOR ANYBODY THAT WAS IN
9 THE BATHROOM

10 Q IS THAT WHAT YOU MEAN BY CLEARING IT?

11 A RIGHT, CLEARING IT FOR SOMEBODY THAT MIGHT
12 HAVE BEEN THERE SO, YOU KNOW, WHOEVER DID IT WAS
13 STILL THERE LIEUTENANT NEW SAID I HAVE ANOTHER
14 VICTIM

15 AT THAT TIME I CALLED DISPATCH TO TELL
16 THEM TO NOTIFY E M S THAT THEY HAVE TWO PEOPLE DOWN
17 INSTEAD OF ONE LIEUTENANT NEW CHECKED THE CLOSET
18 AND I WAS STILL COVERING THE BATHROOM AREA WE WENT
19 THEN AND COVERED THE BATHROOM AREA, IT WAS A SMALL
20 AREA, NOT FEASIBLE FOR BOTH OF US TO GET IN THERE
21 TO MOVE AROUND BECAUSE WE'D BE IN EACH OTHER'S WAY
22 AND WE WAS TAUGHT BACK IN TRAINING WE DIDN'T WANT TO
23 MESS UP ANY CRIME SCENE AREA SO I STOOD RIGHT HERE
24 AT THIS DRESSER THE WHOLE TIME WHILE HE CLEARED

25 Q WERE YOU ABLE TO VIEW THE SECOND PERSON IN THE

1 BEDROOM?

2 A YEAH, I COULD SEE HER ON THE BED

3 Q DID YOU RECOGNIZE THE FIRST PERSON THAT YOU
4 FOUND DOWN IN THE HALLWAY?

5 A NO, SIR

6 Q WERE YOU ABLE TO RECOGNIZE THE SECOND VICTIM
7 IN THE BEDROOM ON THE BED?

8 A YES, SIR

9 Q AND WHO WAS THAT?

10 A TESHEKA JACKSON

11 Q ALL RIGHT NOW, YOU HAD DESCRIBED THE FIRST
12 BODY DOWN AT THE END OF THE HALLWAY

13 A YES, SIR

14 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER FORTY-FOUR IS THAT TRUE AND
16 ACCURATE AS TO WHAT YOU SAW?

17 A YES, SIR

18 Q AND, IF YOU COULD, DESCRIBE FOR THE JURY
19 PLEASE WHAT VIEW THAT PHOTOGRAPH'S BEING TAKEN FROM,
20 IF YOU COULD POINT THAT OUT ON STATE'S EXHIBIT
21 NUMBER FIVE FOR IDENTIFICATION

22 A THAT VIEW'S TAKEN JUST IN THE KITCHEN AREA
23 THERE'S A HALLWAY HERE IT'S TAKEN DOWN THE HALLWAY
24 TOWARDS THE BEDROOM

25 Q AND AS YOU ARRIVED AND CHECKED FOR PULSE, YOU

1 SAID BLOOD WAS JUST POOLING AT THAT TIME?

2 A YES, SIR

3 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT NUMBER EIGHTY-FOUR, IS THAT ALSO A FAIR AND
5 ACCURATE DEPICTION OF THAT SAME BODY YOU SAW IN THE
6 HALLWAY?

7 A YES, SIR

8 Q PLEASE DESCRIBE FOR THE JURY WHAT ANGLE THIS
9 PHOTOGRAPH IS BEING TAKEN FROM?

10 A THAT'S TAKEN FROM THE BEDROOM AREA THE
11 DRESSER THERE IS ON THE RIGHT OF THE BODY TAKEN BACK
12 UP THE HALLWAY

13 Q YOU'VE COME TO LEARN THAT THIS BODY WAS MS
14 LUEVINIA HARRIS?

15 A LATER ON

16 Q THIS HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER
17 FIFTY-TWO, IS THIS ACCURATE TO WHAT YOU SAW THAT
18 DAY?

19 A YES, SIR

20 Q AND THIS IS THE BODY OF WHO?

21 A TESHEKA JACKSON

22 Q IF YOU COULD, PLEASE SHOW THE JURY IN RELATION
23 TO STATE'S EXHIBIT FOR IDENTIFICATION NUMBER FIVE,
24 WHAT VIEW THIS PHOTOGRAPH WAS TAKEN FROM?

25 A SHE'S LAYING ACROSS THE BED WITH HER HEAD AREA

1 DOWN AND THOSE CURTAINS YOU SEE ARE THE CURTAINS
2 OVER THE CLOSET DOORWAY

3 Q STATE'S EXHIBIT NUMBER EIGHTY-FIVE IS THAT
4 ALSO ANOTHER PHOTOGRAPH OF MS JACKSON?

5 A YES, SIR

6 Q PLEASE DESCRIBE AGAIN WHAT VIEW THIS
7 PHOTOGRAPH IS BEING TAKEN FROM?

8 A THIS IS TAKEN FROM THE DOORWAY STANDING RIGHT
9 HERE AT THE DRESSER BACK THIS DIRECTION

10 Q AND THE WOUNDS YOU SAW TO MS HARRIS AND MS
11 JACKSON, WHERE WOULD THEY BE?

12 A BOTH APPEARED TO BE TO THE HEAD AREA

13 Q WERE YOU FINALLY ABLE TO CLEAR THIS BEDROOM
14 THAT MS JACKSON WAS FOUND IN?

15 A YES, SIR

16 Q AND AFTER YOU CLEARED THAT BEDROOM, WHAT WAS
17 YOUR NEXT STEP?

18 A THE NEXT STEP, I CAME FROM THE BEDROOM AND
19 WENT BACK UP THE HALLWAY, LIEUTENANT NEW FOLLOWED
20 I MET WITH PATROLMAN KNAPP IN THE KITCHEN AREA I
21 GOT THE JUVENILE OFF THE COUCH, WENT TO THE BEDROOM
22 AREA, GOT THE OTHER JUVENILE, WE EXITED THE TRAILER

23 Q YOU AND PATROLMAN KNAPP HAD TAKEN THE TWO
24 CHILDREN OUT OF THE HOME?

25 A YES, SIR

1 Q AT THAT POINT, WAS THE SCENE AT 401 RICHEY
2 SEALED?

3 A YES, SIR

4 Q ARE YOU AWARE WHETHER OR NOT S L E D WAS
5 CALLED TO PROCESS THE SCENE?

6 A YES, SIR

7 Q SO AT THAT POINT ONCE THE SCENE WAS CLEARED
8 AND THE SCENE WAS SEALED, WHAT WERE YOU DOING IN THE
9 MEANTIME WHILE S L E D ARRIVED?

10 A PRIOR TO THE TIME RIGHT AFTER WE LEFT, WE HAD
11 THE KIDS OUTSIDE, THE CHIEF HAD CAME AND WE PUT OF
12 THEM IN HIS VEHICLE AND CALLED -- WE TOOK THEM INTO
13 PROTECTIVE CUSTODY AND CALLED D S S TO COME AND
14 WHILE WE WAS WAITING ON THEIR OFFICIALS TO ARRIVE, I
15 CAN'T TELL YOU AN EXACT TIME WHEN BUT IN BETWEEN
16 THAT AND THE TIME THAT MR HARRIS RETURNED TO THE
17 RESIDENCE WAS WITHIN FIFTEEN MINUTES IT WAS, YOU
18 KNOW, PRETTY QUICK BUT I CAN'T SAY EXACTLY HOW
19 QUICK

20 Q SO WITHIN FIFTEEN OR TWENTY MINUTES YOU
21 CLEARED THE SCENE, MR GEORGE MACK HARRIS ARRIVED?

22 A YES, SIR YES, SIR AT THAT TIME, MYSELF AND
23 LIEUTENANT NEW AND PATROLMAN KNAPP WAS AROUND
24 TOWARDS THE BACK AREA OF 401 RICHEY STREET I COULD
25 HEAR A LOUD VOICE IT SOUNDED LIKE SOMEONE WAS

1 TRYING TO GO INTO THE TRAILER AT THAT TIME WE RUN
2 BACK AROUND AND MR HARRIS WAS ASKING, WHAT'S GOING
3 ON? WHAT'S GOING ON? WE GOT HIM OUTSIDE AND I THINK
4 THE CHIEF OF POLICE HAD TOLD HIM WHAT HAD HAPPENED

5 Q LET ME STOP YOU THERE YOU HAD MENTIONED THAT
6 YOU RECOGNIZED THE VICTIM TESHEKA JACKSON

7 A RIGHT

8 Q HAD YOU WITHIN THE TWENTY-FOUR HOURS PRIOR TO
9 REPORTING TO THIS SCENE AT 401 RICHEY STREET ON
10 DECEMBER FOURTH, HAD YOU HAD AN OPPORTUNITY TO TALK
11 WITH MS JACKSON

12 A THE DAY BEFORE AT 12 30 O'CLOCK IN THE
13 AFTERNOON

14 Q ON DECEMBER THIRD?

15 A YES, SIR

16 Q WHAT DAY OF THE WEEK WOULD THAT BE?

17 A IT WAS ON A SUNDAY

18 Q LET ME HAND YOU THIS PIECE OF PAPER DO YOU
19 RECOGNIZE WHAT THAT IS?

20 A YES, SIR IT'S A DISPATCH CALL LOG

21 Q DO POLICE OFFICERS OF ABBEVILLE POLICE
22 DEPARTMENT HAVE PARTICULAR NUMBERS ASSIGNED TO THEM?

23 A YES, SIR

24 Q DO YOU SEE ON THERE WHERE YOUR NUMBER IS PUT
25 DOWN ON THE DISPATCH LOG?

1 A YES, SIR

2 Q AND YOUR NUMBER IS WHAT?

3 A TWO TWELVE

4 MR COULTER YOUR HONOR, I'D ASK THIS BE
5 MARKED AT THIS TIME FOR IDENTIFICATION I BELIEVE,
6 YOUR HONOR, THIS WILL BE STATE'S EIGHTY-SIX FOR
7 IDENTIFICATION

8 (REPORTER MARKS PERTINENT DOCUMENT AS STATE'S
9 EXHIBIT #86 FOR IDENTIFICATION)

10 MR GARRETT EIGHTY-SIX?

11 REPORTER YES

12 EXAMINATION CONTINUES BY MR COULTER

13 Q LOOKING BACK AT STATE'S EXHIBIT NUMBER EIGHTY-
14 SIX FOR IDENTIFICATION, WAS ANOTHER OFFICER THERE
15 WITH YOU WHEN MEETING WITH TESHEKA JACKSON ON
16 DECEMBER THIRD?

17 A YES, SIR, LIEUTENANT NEW

18 Q LIEUTENANT NEW

19 A THE CALL WAS AT 2 03

20 Q AND, AGAIN, THIS IS AT WHAT TIME ON THAT
21 SUNDAY?

22 A 12 27

23 Q AND AS A RESULT OF MEETING WITH MS JACKSON ON
24 DECEMBER THIRD, THE DAY BEFORE YOU REPORTED TO THE
25 CRIME SCENE AT 401 RICHEY, DID YOU ADVISE HER AS TO

1 ANY PLACE SHE OUGHT TO STAY SUNDAY NIGHT?

2 A YES, SIR, I ADVISED HER OF A SAFE HOME AND SHE
3 DIDN'T -- SHE TOLD ME SHE HAD A PLACE IN GREENWOOD
4 TO STAY AND THAT SHE WOULD FEEL MORE COMFORTABLE
5 GOING OVER THERE AND STAYING

6 Q AND YOU ADVISED HER NOT TO STAY AT HOME THAT
7 NIGHT, THAT SUNDAY?

8 A CORRECT, CORRECT YES, SIR

9 Q AND WHERE WERE YOU REPORTING TO ON DECEMBER
10 THIRD, WAS THAT HER HOME?

11 A THAT WAS HER GRANDMOTHER'S RESIDENCE

12 Q DID YOU UNDERSTAND THAT'S WHERE SHE STAYED?

13 A I UNDERSTOOD THAT'S WHERE SHE LIVED

14 Q SPECIFICALLY LOOKING, IF YOU COULD, ON STATE'S
15 EXHIBIT NUMBER EIGHT-SIX, IF YOU CAN TELL ME WHAT
16 HOME IT WAS THAT HER GRANDMOTHER AND TESHEKA STAYED
17 AT THAT YOU REPORTED TO ON THAT SUNDAY?

18 A 110 SECOND STREET

19 Q 110 SECOND STREET, ALL RIGHT NOW, WHEN YOU
20 REPORTED THEN ON MONDAY, YOU WENT TO THE HOME, YOU
21 RECOGNIZED TESHEKA FROM THAT DAY BEFORE?

22 A YES, SIR

23 Q AND WHEN YOU HAD MET WITH TESHEKA THAT DAY
24 BEFORE, WAS SHE AT AN AUTOMOBILE?

25 A YES, SIR, SHE WAS STANDING BESIDE HER

1 AUTOMOBILE

2 Q AND LET ME HAND YOU STATE'S FIFTY-FIVE AND
3 FIFTY-SIX DO THOSE APPEAR TO BE PHOTOGRAPHS OF THE
4 VEHICLE SHE WAS AT?

5 A YES, SIR

6 Q AND YOU SAW HER WITH THIS VEHICLE ON SUNDAY,
7 DECEMBER THIRD?

8 A YES, SIR

9 THE COURT JUST A MINUTE

10 MR GARRETT OBJECTION, YOUR HONOR

11 THE COURT THEY'VE NOT BEEN ADMITTED

12 YET

13 MR COULTER YOUR HONOR, I'D MOVE TO

14 HAVE THESE ADMITTED, I'M SORRY

15 MR GARRETT FIFTY-FIVE, JUST GIVE

16 US A SECOND I WANT TO MAKE SURE WE'VE GOT THE SAME

17 NUMBER WE HAVE NO OBJECTION, YOUR HONOR, TO THEM,

18 WE JUST WANT TO MAKE SURE WE'VE GOT THE PHOTOS

19 THE COURT THEY ARE ADMITTED WITHOUT

20 OBJECTION

21 EXAMINATION CONTINUED BY MR COULTER

22 Q WHEN YOU REPORTED TO THE 401 RICHEY STREET ON
23 DECEMBER FOURTH AND FOUND THE BODIES IN THE TRAILER,
24 WAS THIS CAR DEPICTED IN STATE'S EXHIBIT FIFTY-FIVE
25 AND FIFTY-SIX AT THAT RESIDENCE?

1 A NO, SIR

2 Q AND KNOWING THAT CAR WASN'T AT THE RESIDENCE,
3 DID YOU, AS AN OFFICER, DO SOMETHING AS FAR AS
4 DISPATCH GOES?

5 A YES, SIR I ADVISED CHIEF AND LIEUTENANT NEW
6 WHAT KIND OF VEHICLE SHE DROVE AND THEY IMMEDIATELY
7 WENT TO THE COMPUTER AND GOT THE TAG NUMBER AND
8 BOLO'D THAT VEHICLE

9 Q WHAT'S B O L O ?

10 A BE ON THE LOOKOUT FOR, PUT IT OVER THE
11 COMPUTER IN ALL SURROUNDING AGENCIES TO BE ON THE
12 LOOKOUT FOR IT

13 Q LATER ON DECEMBER FOURTH, THE DAY YOU HAD GONE
14 TO 401 RICHEY STREET AND FOUND THE BODIES, DID YOU
15 HAVE AN OPPORTUNITY -- DID YOU DISCOVER THE
16 DEFENDANT LATER THAT DAY HAD BEEN FOUND IN GEORGIA?

17 A YES, SIR

18 Q AND DID YOU ACCOMPANY ANYONE TO GO TO GEORGIA?

19 A YES, SIR, MYSELF, CHIEF RUCKER AND EDDIE
20 PARTIN FROM S L E D

21 Q AND DO YOU REMEMBER WHAT SHERIFF'S DEPARTMENT
22 IT WAS THAT YOU WENT TO?

23 A HALL COUNTY IN GAINESVILLE, GEORGIA

24 Q AND WERE YOU ABLE THEN TO PICK UP THE
25 DEFENDANT AND BRING HIM BACK TO SOUTH CAROLINA?

1 A YES, SIR

2 Q WAS THERE AN AUTOMOBILE ALSO TAKEN FROM
3 GEORGIA BACK TO SOUTH CAROLINA?

4 A YES, SIR

5 Q WHAT AUTOMOBILE WAS THAT?

6 A THE ONE IN THE PICTURES YOU JUST SHOWED

7 Q FIFTY-FIVE AND FIFTY-SIX?

8 A YES, SIR

9 Q THE SAME VEHICLE THAT YOU HAD SCENE TESHEKA
10 WITH ON DECEMBER THIRD?

11 A YES, SIR

12 Q WHICH WAS BROUGHT BACK FROM GEORGIA, THIS CAR?

13 A YES, SIR

14 Q NOW, AFTER THIS CAR -- SHEKA'S CAR WAS BROUGHT
15 BACK FROM GEORGIA, DID YOU HAVE AN OPPORTUNITY WITH
16 AGENT CLARK TO LOOK INTO THIS CAR?

17 A THE FOLLOWING DAY WE DID

18 Q AND LET ME HAND YOU WHAT'S BEEN MARKED FOR
19 IDENTIFICATION AS EXHIBIT NINE CAN YOU IDENTIFY
20 THIS?

21 A YES, SIR, IT'S AN ATM RECEIPT FOUND IN THE
22 VEHICLE

23 Q ON DECEMBER THE FIFTH?

24 A DECEMBER THE FIFTH

25 Q THE DAY AFTER YOU HAD GONE TO THE SCENE AND

1 FOUND THE BODIES?

2 A CORRECT

3 Q THIS WAS FOUND IN THIS MITSUBISHI?

4 A YES, SIR

5 MR COULTER YOUR HONOR, WE'D MOVE TO
6 INTRODUCE STATE'S EXHIBIT NINE

7 MR GARRETT WITHOUT OBJECTION, YOUR
8 HONOR

9 THE COURT IT'S ADMITTED
10 (STATE'S EXHIBITS #9 IS ADMITTED)

11 EXAMINATION CONTINUED BY MR COULTER

12 Q AND IF YOU COULD LOOK AT STATE'S EXHIBIT NINE
13 AS ATM RECEIPT, COULD YOU PLEASE TELL THE JURY AT
14 WHAT TIME AND WHAT DATE THAT TRANSACTION TOOK PLACE?

15 A ON 12/4 OF '95 AT 12 35

16 Q 12 35?

17 A IN THE AFTERNOON

18 Q AND THIS IS THE SAME DAY AS YOU HAD GONE TO
19 THE TRAILER AND FOUND THE BODIES?

20 A YES, SIR

21 Q ABOUT HOW LONG AFTER YOU HAD FIRST GONE TO
22 THAT TRAILER AND THIS ATM TRANSACTION TAKES PLACE?

23 A THIRTY MINUTES

24 Q AND YOU FOUND THIS IN THE CAR THE VERY NEXT
25 DAY?

1 A YES, SIR

2 Q NOW, THE SAME DAY YOU FOUND THIS ATM RECEIPT
3 IN THE CAR, DID YOU ALSO HAVE THE CHANCE TO GO BACK
4 TO THE SCENE AT 401 RICHEY WHERE THE BODIES WERE
5 FOUND?

6 A YES, SIR

7 Q AND DID YOU HAVE AN OPPORTUNITY TO LOOK
8 FURTHER AROUND THE RESIDENCE?

9 A YES, SIR

10 Q AND WHAT WERE YOU ABLE TO FIND?

11 A BEHIND THE STORAGE TRAILER, WE FOUND A BLACK
12 TEN SPEED BICYCLE

13 Q LET'S GO BACK TO STATE'S EXHIBIT NUMBER ONE
14 COULD YOU SHOW THE JURY THE APPROXIMATE LOCATION YOU
15 FOUND THIS BIKE?

16 A RIGHT IN THIS AREA RIGHT HERE

17 Q ON THE SIDE FURTHEST FROM THE RESIDENCE?

18 A YES, SIR

19 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER SIX
20 AND COULD YOU DESCRIBE FOR THE JURY THAT PHOTOGRAPH?

21 THE COURT EXCUSE ME JUST A MINUTE
22 ANY OBJECTION?

23 MR GARRETT WITHOUT OBJECTION, YOUR
24 HONOR, TO SIX, SEVEN AND EIGHT

25 (STATE'S EXHIBITS 6, 7 AND 8 ARE ADMITTED)

1 EXAMINATION CONTINUED BY MR COULTER

2 Q PLEASE DESCRIBE FOR THE JURY WHAT THAT
3 PHOTOGRAPH IS?

4 A THIS IS THE BACK OF THE STORAGE TRAILER HERE,
5 THERE'S A WOODS LINE THAT RUNS DOWN THROUGH HERE
6 WHERE'S IT TAKEN -- WHERE IT'S SHOT, WOODS ARE
7 BEHIND IT

8 Q AND REFERRING TO STATE'S EXHIBIT NUMBER FOUR,
9 WHAT SIDE OF THE TRAILER WE TALKING ABOUT?

10 A THIS SIDE IT'S NOT IN THE PICTURE

11 Q THE SIDE NOT IN THE PICTURE LOOKING AT
12 STATE'S EXHIBIT SEVEN AND EIGHT, PLEASE DESCRIBE
13 THOSE FOR THE JURY

14 A THIS IS THE BICYCLE THAT WAS FOUND BEHIND THE
15 STORAGE TRAILER IN THE WOODED AREA

16 Q LOOKING BACK AT THE EXHIBIT, POINT TO THE
17 APPROXIMATE LOCATION WHERE THAT BIKE WAS FOUND

18 A IT WAS ABOUT MID-WAYS DOWN THE TRAILER ON THE
19 LEFT

20 Q IS THAT ABOUT WHERE MY FINGER'S POINTING?

21 A YES, SIR

22 Q DID YOU HAVE AN OPPORTUNITY TO GO TO AN
23 AUTOPSY LATER ON AFTER YOU FOUND THE BODIES AT 401
24 RICHEY STREET?

25 A YES, SIR, THAT WAS THE NEXT DAY IN THE MORNING

1 TIME I WENT TO BOTH AUTOPSIES

2 Q AND YOU WERE GIVEN SOME ITEMS FROM DR
3 WOODARD?

4 A YES, SIR, I WAS GIVEN ALL THE PERSONAL ITEMS,
5 CLOTHING AND EVIDENCE THAT HE TOOK FROM THE BODIES

6 Q AND YOU LATER TURNED THAT OVER TO S L E D FOR
7 ANALYSIS?

8 A YES, SIR

9 MR COULTER THANK YOU ANSWER ANY
10 QUESTIONS DEFENSE COUNSEL MAY HAVE

11 CROSS-EXAMINATION BY MR GARRETT

12 Q OFFICER, NOW AS I UNDERSTAND IT THEN,
13 INITIALLY YOU WERE THERE AT 12 04 WHEN THE CALL CAME
14 IN TO DISPATCH --

15 A YES, SIR

16 Q -- ALONG WITH MS PATTERSON --

17 A YES, SIR

18 Q -- THE DISPATCH AGENT AND I NOTED IN YOUR
19 DIRECT TESTIMONY THAT YOU SAID THAT FROM WHERE YOU
20 WERE AT, YOU HEARD LOUD VOICES AND THEN A POP

21 A YES, SIR

22 Q SO YOU HEARD MORE THAN ONE PERSON -- FROM
23 WHERE YOU WERE AT, YOU HEARD MORE THAN ONE PERSON
24 HOLLERING OR TALKING WHILE MS PATTERSON WAS ON THE
25 PHONE WITH MS LUEVINIA?

1 A I HEARD A LOUD VOICE, VOICES I COULDN'T
2 DISTINGUISH BETWEEN HOW MANY IT WAS OR WHATEVER IT
3 WAS JUST LOUD AND I COULD HEAR THAT IT WAS PERSONS
4 Q PERSONS ALL RIGHT AND THAT WAS 12 04 AND
5 YOU'VE GIVEN US THE DIAGRAM OF THE DIRECTION THAT
6 YOU TOOK LEAVING DIRECTLY FROM THE POLICE DEPARTMENT
7 AND THE POLICE DEPARTMENT, FIRE DEPARTMENT AND ALL
8 THAT AND THE DISPATCHER IS ALL TOGETHER, IS THAT
9 RIGHT?
10 A CORRECT
11 Q AND YOU LEFT DIRECTLY FROM THERE AND YOU WENT
12 TO THE SCENE HOW MANY -- DO YOU HAVE AN ESTIMATE
13 OF TIME IT WOULD HAVE TAKEN YOU TO GET THERE?
14 A WITHIN A MINUTE
15 Q WITHIN SIXTY SECONDS TOTAL?
16 A YES, SIR
17 Q FROM THE DIRECTION YOU CAME IN YOUR
18 AUTOMOBILE, DID YOU HAPPEN TO SEE THAT WHITE
19 MITSUBISHI LEAVING THE AREA?
20 A NO, SIR
21 Q SO WHEN YOU ARRIVED UPON THE SCENE, SOMEWHERE
22 BETWEEN 12 04 AND 12 05, IT HAD ALREADY LEFT?
23 A YES, SIR
24 Q DID YOU LEAVE AT 12 05 -- I MEAN, DID YOU
25 ARRIVE AT 12 05, IS THAT ABOUT THE TIME YOU GOT

1 THERE ON THE SCENE?

2 A YES, SIR

3 Q AND MR NEW HAD ALREADY -- WHAT WAS YOUR
4 TESTIMONY AS TO MR NEW?

5 A HE WAS PULLING UP GETTING OUT OF HIS VEHICLE
6 WE WERE VIRTUALLY THERE AT THE SAME TIME

7 Q I GOT YOU NOW, WHEN YOU SAID YOU WENT INTO
8 THE HALLWAY, THIS IS A MOBILE HOME AS I UNDERSTAND
9 IT, IS THAT CORRECT?

10 A YES, SIR

11 Q OF COURSE, THIS DRAWING IS NOT TO SCALE DO
12 YOU HAVE ANY IDEA WHY IT'S NOT DRAWN TO SCALE FOR
13 US?

14 A NO

15 Q AND COULD YOU TELL US THE APPROXIMATE WIDTH OF
16 THE HALLWAY?

17 A THREE FEET

18 Q SO THE WIDTH OF THE HALLWAY IS APPROXIMATELY
19 THE AREA?

20 A IS THIS THREE FEET THIS AREA RIGHT THERE --

21 Q RIGHT DOWN HERE?

22 A YES

23 Q ALL RIGHT AND WOULD IT BE DIFFICULT FOR TWO
24 PEOPLE WALK SIDE-BY-SIDE IN THAT AREA? SAY TWO
25 PEOPLE MAYBE THE SIZE OF YOU

1 A YES, SIR

2 Q IT'D BE KIND OF DIFFICULT YOU'RE GOING TO
3 HAVE TO TURN SIDWAYS OR WHATEVER IT IS IN A
4 MOBILE HOME AND SOMEWHAT CRAMPED QUARTERS

5 A YES

6 Q AND MS HARRIS -- SHOULDN'T THERE BE A DOOR
7 HERE DEPICTING THE DOOR TO THE BEDROOM?

8 A YES, SIR

9 Q AND THIS IS THE AREA TESHEKA JACKSON WAS
10 FOUND, IS THAT CORRECT?

11 A YES, SIR

12 Q ON THIS BED, THAT'S WHAT YOU'VE TESTIFIED TO

13 A YES, SIR

14 Q THERE SHOULD BE A DOOR, DOES THAT DOOR TURN IN
15 OR DO YOU KNOW HOW THAT DOOR TURNS? DOES IT TURN
16 THATAWAY OR DOES IT TURN THATAWAY?

17 A I DON'T KNOW

18 Q DO YOU RECALL WHICH WAY IT WENT? WAS THE DOOR
19 OPEN --

20 A YES, SIR

21 Q -- WHEN YOU CAME IN? OKAY SO THE DOOR WAS
22 OPEN IN THE PICTURES THAT YOU'VE SHOWN US, MS
23 JACKSON WAS LAYING AT OR ABOUT TO THIS DOOR AREA, IS
24 THAT RIGHT?

25 A CORRECT

1 Q AND, OF COURSE, MS JACKSON WAS THERE IN THE
2 BED IN THAT AREA, IS THAT RIGHT?

3 A CORRECT

4 Q AND WERE THERE TWO PHONES IN THE AREA?

5 A I REMEMBER ONE IN THE HALLWAY AND LIEUTENANT
6 NEW CHECKED THE PHONE IN THE BEDROOM AREA

7 Q SO YOU HAD ONE PHONE IN THE BEDROOM AREA AND
8 YOU HAD ONE PHONE HERE IN THE KITCHEN AREA

9 THE COURT EXCUSE ME, MR GARRETT
10 YOU MIGHT WANT TO STEP ON THAT SIDE SO SOME OF THESE
11 JURORS BEHIND YOU CAN SEE WHAT YOU'RE POINTING TO

12 MR GARRETT JUDGE, I APPRECIATE YOU
13 POINTING THAT OUT TO ME THANK YOU, I APOLOGIZE
14 EXAMINATION CONTINUED BY MR GARRETT

15 Q LET ME JUST TOUCH BASE WITH YOU AGAIN MAKE
16 SURE THESE FOLKS UNDERSTOOD WHAT WE WERE TALKING
17 ABOUT THERE SHOULD BE A DOOR RIGHT HERE WHICH
18 WOULD BE THE BACK FURTHEST BEDROOM, THE MASTER
19 BEDROOM, THERE SHOULD BE A DOOR RIGHT HERE

20 A CORRECT

21 Q THAT'S WHERE MS HARRIS BACK WAS LAYING, BACK
22 OF HER BACK, NECK AREA, WAS LAYING AT OR ABOUT THIS
23 DOOR, IS THAT RIGHT?

24 A CORRECT

25 Q AND, OF COURSE, MS JACKSON WAS ON THE BED

1 WE'VE TALKED ABOUT -- THIS REALLY DOESN'T DEPICT THE
2 HALL AREA AT ALL, DOES IT?

3 A RIGHT, THERE'S A HALL --

4 Q ISN'T THERE A HALLWAY THAT GOES -- IS PRETTY
5 LONG THERE?

6 A THE HALLWAY

7 Q EVEN IN THE PICTURES THEMSELVES THAT YOU'VE
8 SHOWN, THERE IS A HALLWAY IN THERE

9 A YES, SIR

10 Q IT DOESN'T SHOW THE HALLWAY HERE, IT JUST
11 SHOWS THE WASHER AND DRYER

12 A RIGHT

13 Q AND SO THERE'S A PHONE IN THE BEDROOM, AS YOU
14 RECALL, AND THEN THERE WAS A PHONE HERE ON THE WALL
15 AT OR ABOUT THE KITCHEN AREA

16 A YES

17 Q BEFORE YOU START THE HALL

18 A YES, SIR

19 Q AND THE CHILDREN, OF COURSE, THEY WERE BACK
20 HERE ONE CHILD WAS ON THE COUCH WHEN YOU CAME IN?

21 A YES, SIR

22 Q AND THE OTHER CHILD WAS IN ONE OF THE TWO TWIN
23 BEDS?

24 A YES, SIR

25 Q AND YOU KNEW JOHN TOO, DIDN'T YOU?

1 A YES, SIR

2 Q AND JOHN WASHED YOUR TRUCK AND CARS AND THINGS
3 FROM TIME-TO-TIME?

4 A YES, SIR

5 Q AND DID YOU SECURE THE SCENE ALONG WITH
6 OFFICER NEW AND OFFICER KNAPP IN ORDER TO TURN IT
7 OVER TO S L E D ?

8 A AFTER I LEFT THE SCENE WITHIN TWENTY MINUTES
9 OF IT HAPPENING AND SHE CALLED IN OTHER OFFICERS AND
10 IT WAS SECURE

11 Q WERE YOU GOING INTO THE BOLO'ING OF THE CARS,
12 IS THAT --

13 A RIGHT, THE POLICE DEPARTMENT

14 Q NOW, I WANT TO TALK TO YOU A MINUTE ABOUT THE
15 BICYCLE THAT YOU FOUND IS THAT A BICYCLE THAT YOU
16 HAD SEEN MR HUGHEY ON BEFORE OR DO YOU RECALL?

17 A I DON'T RECALL EVER SEEING HIM ON IT

18 Q DONNIE, HIS BROTHER?

19 A HIS BROTHER'S BIKE

20 Q THAT WAS HIS BROTHER'S BICYCLE THEN?

21 A YES, SIR

22 Q HAVE YOU ALL GOT THE BICYCLE BY THE WAY?

23 A YES, SIR

24 Q DID YOU SECURE THE BICYCLE?

25 A INITIALLY, YES, SIR, I DID

1 Q DO YOU HAVE ANY IDEA WHERE OUR BICYCLE OR
2 BICYCLE IS IN THIS CASE?

3 A RIGHT NOW?

4 Q YES, SIR

5 A I DON'T KNOW WHERE IT IS RIGHT NOW

6 Q ALL RIGHT NOW, THE BICYCLE YOU SAID IT WAS
7 FOUND AND IT WAS LOCATED IN AN AREA BESIDE THE OTHER
8 TRAILER THAT WAS BESIDE THIS TRAILER, IS THAT
9 CORRECT?

10 A IT WAS RIGHT IN FRONT OF IT BEHIND THE ONE IN
11 FRONT OF IT

12 Q AND I NOTICED THAT IN THE TAPING OF THE SCENE,
13 YOU ALL ARE SUPPOSED TO TAPE THE ENTIRE SCENE OF A
14 CRIME SCENE, AREN'T YOU?

15 A YES, SIR

16 Q I NOTICED THAT THE AREA THAT YOU DISCOVERED
17 THE BICYCLE WAS, IN FACT, OUTSIDE OF THE CRIME
18 SCENE

19 A YES, SIR, IT WAS

20 Q IT WAS OUTSIDE OF THE TAPED AREA, IS THAT
21 CORRECT?

22 A YES, SIR

23 Q AND DO YOU KNOW WHAT TIME THE BICYCLE WAS PUT
24 THERE OR FOR WHAT PURPOSE IT WAS PUT THERE?

25 A WHAT TIME THE BICYCLE WAS PUT?

1 Q YES

2 A NO, SIR

3 Q AND YOU FOUND OUT SOMETIME SUBSEQUENTLY, IS
4 THAT CORRECT?

5 A ON THE FIFTH, THE NEXT DAY

6 Q THE FOLLOWING DAY?

7 A YES, SIR

8 MR GARRETT I BEG THE COURT'S INDULGENCE,
9 YOUR HONOR, FOR JUST A MOMENT

10 EXAMINATION CONTINUED BY MR GARRETT

11 Q NOW, OF COURSE, WHEN YOU FOUND THE CHILDREN,
12 THEY WERE NOT HARMED OR INJURED WERE THEY?

13 A NO, SIR

14 Q AND THE BICYCLE ITSELF, WERE ANY
15 FINGERPRINTING OR ANY KIND OF WORK DONE ON THAT
16 PARTICULAR BICYCLE?

17 A I DON'T THINK SO

18 Q YOU JUST TOOK IT UP, SECURED IT, AND TOOK IT
19 TO WHEREVER IT'S SITTING NOW?

20 A CORRECT I DON'T KNOW IF IT'S STILL THERE OR
21 NOT I TURNED IT OVER TO THE CHIEF AND HE PUT IN A
22 ROOM AT THE POLICE DEPARTMENT

23 MR GARRETT THANK YOU THAT'S ALL
24 I HAVE

25 RE-DIRECT EXAMINATION BY MR COULTER

1 Q ONE REDIRECT, YOUR HONOR CORPORAL, LOOKING
2 BACK AT STATE'S EXHIBIT NUMBER ONE, YOU HAD
3 INDICATED -- I THINK YOU HAD INDICATED --THANK YOU -
4 -YOU HAD COME DOWN GREENVILLE STREET, WHICH IS
5 TWENTY?

6 A YES, SIR

7 Q WHAT DOES GREEVILLE STREET DO JUST AS YOU GO
8 THIS DIRECTION TOWARDS ANDERSON AS YOU HIT RICHEY
9 STREET

10 A RIGHT THERE ON THE RIGHT THERE'S A SCHOOL
11 DISTRICT THERE'S A HILL AND IT DROPS OFF

12 Q SO AFTER YOU GET PAST RICHEY, THERE'S A DROP
13 OFF?

14 A YES, SIR

15 MR COULTER THANK YOU I HAVE
16 NOTHING FURTHER

17 THE COURT YOU MAY STAND DOWN
18 THANK YOU

19 (WITNESS STEPS DOWN AT 10 42 O'CLOCK A M)

20 MR COULTER YOUR HONOR, THE STATE
21 WILL CALL LIEUTENANT BARRY NEW TO THE STAND
22 (WITNESS PRESENTED AT 10 43 O'CLOCK A M)

23 THE CLERK THE EVIDENCE YOU SHOULD
24 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
25 SHOULD BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT

1 THE TRUTH SO HELP YOU, GOD

2 DIRECT EXAMINATION BY MR COULTER

3 Q LIEUTENANT NEW, COULD YOU TELL THE JURY YOUR
4 FULL NAME

5 A YES IT'S BARRY K NEW, JURISDICTION

6 Q AND YOU'VE BEEN WITH THE ABBEVILLE POLICE
7 DEPARTMENT FOR HOW LONG?

8 A OVER TEN YEARS

9 Q AND, OF COURSE, YOU WERE WITH THEM BACK IN
10 DECEMBER OF 1995?

11 A YES, SIR

12 Q LET'S GO BACK TO DECEMBER 3RD, 1995, DO YOU
13 REMEMBER WHAT DAY THAT WAS?

14 A YES, SIR, I BELIEVE THAT WAS A SUNDAY

15 Q AND IF I COULD, LET ME HAND WHAT'S BEEN MARKED
16 AS STATE'S EXHIBIT NUMBER EIGHTY-SIX FOR
17 IDENTIFICATION, DO YOU RECOGNIZE THAT DOCUMENT?

18 A YES, SIR, IT'S OUR COMMUNICATIONS LOG FOR
19 DECEMBER 3RD, '95

20 Q ALL RIGHT AND IN YOUR JOB AS LIEUTENANT AT
21 THE ABBEVILLE POLICE DEPARTMENT YOU HAVE SUPERVISORY
22 DUTY?

23 A YES, SIR AT THAT TIME, I WAS SUPERVISOR OF
24 COMMUNICATIONS AND OF PATROL

25 Q AND IN THE COURSE OF YOUR SUPERVISORY ROLE,

1 YOU ALSO KEEP RECORDS OR DOCUMENTS REGARDING
2 DISPATCH?

3 A YES, SIR, ALL COMMUNICATIONS ARE LOGGED

4 Q NOW, ON DECEMBER 3RD OF 1995, WERE YOU CALLED
5 OUT TO MEET WITH A TESHEKA JACKSON?

6 A YES, SIR, I RESPONDED AS A BACK-UP OFFICER TO
7 CORPORAL HENDERSON AT 12 23 TO 110 SECOND STREET TO
8 A DOMESTIC CALL

9 Q AND YOUR NUMBER IS WHAT?

10 A TWO ZERO THREE

11 Q AND CORPORAL HENDERSON IS WHAT NUMBER?

12 A TWO TWELVE

13 Q AND DOES THAT PARTICULAR DOCUMENT REFLECT THAT
14 CALL?

15 A YES, SIR, IT DOES

16 MR COULTER YOUR HONOR, I MOVE TO
17 HAVE THIS DISPATCH LOG INTRODUCED INTO EVIDENCE AS
18 STATE'S EXHIBIT NUMBER EIGHTY-THREE

19 MR GARRETT YOUR HONOR, MAY WE HAVE
20 A MINUTE?

21 THE COURT LADIES AND GENTLEMEN, LET
22 ME ASK YOU TO PLEASE GO TO YOUR JURY ROOM AND I'LL
23 BRING YOU BACK IN JUST A MINUTE

24 (JURY EXITS COURTROOM AT 10 46 O'CLOCK)

25 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF

1 THE JURY)

2 THE COURT ALL RIGHT, MR GARRETT

3 MR GARRETT YOUR HONOR, THERE'S A

4 SECTION ON THERE, YOUR HONOR, THAT IS HEARSAY AS

5 JOHN K HUGHEY WAS NOTED ON THE RECORDS, JOHN K

6 HUGHEY THE OFFICER TESTIFIED THAT IT WAS A

7 DOMESTIC DISPUTE AND THEN IT SAYS -- IT DOESN'T SAY

8 ANYTHING IN HERE ABOUT BEING A DOMESTIC DISPUTE AND

9 IT SAYS JOHN K HUGHEY AND IT SAYS REFERENCE TO 95-

10 1-4-6-7 NOW, WE WOULD OBJECT TO IT ON THE BASIS OF

11 HEARSAY AND, YOUR HONOR, AGAIN THEY'RE ATTEMPTING

12 TO USE THIS TO TRY TO SHOW SOME TYPE OF PRIOR BAD

13 ACT AGAINST MR HUGHEY AND, OF COURSE, WE TAKE THE

14 POSITION THAT THAT'S NOT CLEAR AND CONVINCING

15 EVIDENCE ESPECIALLY, AGAIN, WHEN THEY HAVE AN

16 INDIVIDUAL WHO WAS THERE ON THE SCENE WHEN THIS

17 ALLEGEDLY OCCURRED

18 THEY'RE ATTEMPTING TO GET THIS

19 EVIDENCE IN TO THE BUSINESS RECORD EXCEPTION OR

20 WHATEVER TYPE OF EXCEPTION THEY'RE DOING IT AND

21 THEY'RE TRYING TO USE IT FOR THE PURPOSE OF

22 ESTABLISHING A PRIOR BAD ACT OF MR HUGHEY AS TO MS

23 TESHEKA JACKSON AND WE TAKE POSITION, YOUR HONOR,

24 THAT THE PREJUDICE OF WHAT THEY'RE ATTEMPTING TO DO

25 OUTWEIGHS ANY PROBATIVE VALUE, AND FURTHER, YOUR

1 HONOR, HE'S INDICATED A DOMESTIC DISPUTE AND THEN
2 NOW THEY'RE TO GET IN AND SAY REFERENCE JOHN K
3 HUGHEY

4 THE COURT OF COURSE, I DON'T KNOW
5 WHAT'S GOING ON IN THE MIND OF THE SOLICITOR, BUT
6 I'M ONLY ASSUMING THEY'RE TRYING TO OFFER IT TO SHOW
7 A PRIOR BAD ACT THEY'RE JUST TRYING TO OFFER IT TO
8 SHOW THERE WAS A CALL MADE IS THAT WHERE WE ARE?

9 MR COULTER YES, SIR, YOUR HONOR

10 THE COURT WELL, IN THAT EVENT, IS
11 IT REALLY NECESSARY FOR THIS TO EVEN BE ADMITTED
12 SINCE THE OFFICERS HAVE TESTIFIED TO THAT FACT THAT
13 IT'S NOT DISPUTED

14 MR COULTER YOUR HONOR, I THINK IT
15 COOPERATES HIS TESTIMONY THAT'S WHY WE'RE PUTTING
16 IT IN

17 THE COURT I UNDERSTAND YOU'RE
18 SAYING IT'S A BOLSTERING EVIDENTIARY MATTER?

19 MR COULTER NOT BOLSTERING, I THINK
20 IT COOPERATES I MEAN I GUESS THAT'S THE DIFFERENCE
21 IN THE TWO TERMS BUT IT CERTAINLY -- I MEAN, THIS IS
22 THE POINT THEY'VE GOT ONE PERSON -- WE'RE GOING TO
23 BRING IN ONE PERSON BY THE NAME OF MIKE ADAMS IT'S
24 A LOT EASIER FOR THEM TO CALL ONE PERSON A LIAR
25 VERSUS THREE AND I'VE GOT TWO OFFICERS WHO ARE

1 GOING TO SAY THAT THIS TOOK PLACE THAT TESHEKA
2 JACKSON SAID THIS IS WHAT HAPPENED AND I THINK IT'S
3 PROPER TO PUT IT IN AND I DON'T UNDERSTAND IT'S
4 THE BEST EVIDENCE IN REGARDS TO TESTIMONY OBJECTION
5 THEY MAKE I'VE NEVER HEARD OF SUCH A THING

6 THE COURT I WANT YOU TO UNDERSTAND,
7 I DON'T THINK THAT THE BEST EVIDENCE REALLY IS
8 APPLICABLE TO THAT OBJECTION I WOULDN'T EXCLUDE IT
9 BECAUSE OF THAT REASON

10 MR COULTER YES, SIR AND ALL I'M
11 TRYING TO DO IS SHOW -- WE'RE TALKING ABOUT RES
12 GESTAE IN TERMS OF THE STATEMENT BUT YOU ALSO HAVE
13 RES GESTAE IN TERMS OF AN EVENT AND YOU HAD
14 MENTIONED ALREADY TODAY THE FACT THAT THINGS DON'T
15 HAPPEN IN A VACUUM I THINK IT'S VERY IMPORTANT FOR
16 THE STATE TO BE ABLE TO EXPLAIN HOW THIS WHOLE
17 SEQUENCE OF EVENTS TOOK PLACE

18 I MEAN THE DEFENSE HAS THE VICTIM,
19 LUEVINIA JACKSON, BASICALLY ASKING THE DEFENDANT
20 COME IN FOR TEA AND COOKIES JUST BEFORE THIS MURDER
21 TOOK PLACE AND THAT'S ABSOLUTELY NOT THE CASE

22 THE COURT IS THERE ANY EVIDENCE OF
23 THAT?

24 MR COULTER HE SAID THEY CAME IN
25 AND ASKED HIM TO HAVE SOME COFFEE I MEAN, THIS IS

1 A --

2 THE COURT WELL, LAY THE PROPER
3 FOUNDATION FOR THE DOCUMENT

4 MR COULTER I THOUGHT I HAD
5 ESTABLISHED INTO THE RECORD BEFORE THAT

6 THE COURT WELL, HE'S GOT TO
7 ESTABLISH THAT THAT IS A LOG THAT'S PREPARED AND
8 KEPT IN THE ORDINARY COURSE OF BUSINESS HE CAN
9 EXPLAIN HOW IT'S PREPARED, WHO PREPARES IT AND HOW
10 IT'S DONE AND HOW IT'S KEPT, WHERE IT'S KEPT

11 MR GARRETT YOUR HONOR, WE WOULD
12 REQUEST THAT IF THEY WANT TO ESTABLISH THAT THIS
13 OFFICER WENT TO THE LOCATION TO TALK TO MS TESHEKA
14 JACKSON THROUGH THE BEST -- I MEAN, THROUGH THE
15 BUSINES RECORDS EXCEPTION, YOUR HONOR, STILL WE WANT
16 THE NAME OF MR HUGHEY ERASED ON THAT DOCUMENT
17 BECAUSE OF THE PREJUDICE OF THAT WHETHER YOU LET IT
18 IN UNDER THE BUSINESS RECORD EXCEPTION AND/OR ANY
19 OTHER EXCEPTION, THE PREJUDICE OF THAT OUTWEIGHS ANY
20 PROBATIVE VALUE SUGGESTING A PRIOR BAD ACT

21 THE COURT I DON'T BELIEVE THAT IT
22 SUGGESTS ANYTHING EXCEPT THEY RESPONDED TO A CALL
23 INVOLVING THOSE TWO PEOPLE IT DOESN'T REFERENCE
24 WHAT IT WAS ABOUT SO I DON'T THINK THERE'S ANY
25 PREJUDICE IN IT ATTEMPTING TO PROVE ---

1 MR GARRETT HE'S TESTIFIED IT'S A
2 DOMESTIC DISPUTE, YOUR HONOR

3 THE COURT WELL, HIS TESTIMONY IS
4 DIFFERENT THAN THIS DOCUMENT THIS DOCUMENT DOES
5 NOT REFLECT THERE WAS A DOMESTIC DISPUTE IT
6 REFLECTS THAT THERE WAS A CALL MADE AND THAT
7 SOMEBODY RESPONDED AND THE REFERENCE TO THE CALL
8 THAT WAS MADE INVOLVED MS JACKSON AND MR HUGHEY
9 IT DOESN'T SAY THAT IT WAS A DOMESTIC DISPUTE OR CAT
10 IN A TREE OR ANYTHING ELSE

11 THE WITNESS YOUR HONOR, I CALL A
12 CODE 10-82 JUST ON THE SECOND OR THIRD BLOCK THERE
13 1082 IS A DOMESTIC CALL

14 THE COURT I SEE, OKAY

15 THE WITNESS THAT IS JUST A STANDARD
16 DOMESTIC CALL, NO MORE, NO LESS

17 MR GARRETT NOW, I ALSO POINT OUT,
18 JUDGE, THAT HE ALREADY DESCRIBED THAT DISPUTE AND
19 THE DEFENDANT HAD NO OBJECTION --

20 THE COURT I UNDERSTAND GO AHEAD
21 AND LAY YOUR FOUNDATION

22 EXAMINATION CONTINUED BY MR COULTER

23 MR COULTER LIEUTENANT NEW, IF YOU
24 COULD, PLEASE DESCRIBE FOR THE COURT WHAT IT IS THAT
25 YOU HAVE IN YOUR HAND AND HOW THAT'S ACTUALLY FILLED

1 OUT?

2 THE WITNESS AGAIN, THIS IS A
3 COMMUNICATIONS LOG THAT IS KEPT ON A DAILY BASIS BY
4 SHIFT, BY CALENDAR DATE AND DATE FOR THE YEAR, THE
5 SHIFT INDICATED ON THE TOP IT'S FILLED OUT AT THE
6 TOP WHO'S ON SHIFT, WHO THE DISPATCHER IS AND WHO
7 THE SUPERVISOR IS AT THE END OF A SHIFT I RECEIVE
8 THIS AND LOG IT IN AND KEEP IT TO MY RECORDS AS THE
9 SUPERVISOR'S COMMUNICATION AT THE TIME

10 MR COULTER AND THIS PARTICULAR
11 DOCUMENT, FOR IDENTIFICATION, IS STATE'S EXHIBIT
12 EIGHTY-SEVEN THIS REFLECTS WHAT DAY?

13 THE WITNESS DECEMBER 3RD, 1995

14 MR COULTER AND THE DISPATCHER IS
15 WHO?

16 THE WITNESS THE DISPATCHER IS ANGIE
17 PATTERSON

18 MR COULTER AND THE SUPERVISOR IS?

19 THE WITNESS MYSELF

20 MR COULTER AND THEN YOU WOULD HAVE
21 COLLECTED AT THE END OF THE DAY?

22 THE WITNESS YES, SIR, THEY'RE KEPT
23 IN NUMERICAL ORDER BY THE DATE, BY THE SHIFT

24 MR COULTER AND YOU KEEP THESE
25 EVERY DAY?

1 THE WITNESS YES, SIR

2 MR COULTER AND THESE LOGS ARE KEPT
3 EVERY DAY?

4 THE WITNESS THIS IS ACTUALLY THE
5 DOCUMENT THAT I MAKE MY DAILY REPORT OFF OF AND IT'S
6 ACTUALLY TRUE ACCOUNT OF WHAT HAPPENS ON THAT ENTIRE
7 SHIFT WHICH IS AN EIGHT HOUR PERIOD THIS ONE BEING
8 FROM SEVEN IN THE MORNING TO THREE IN THE AFTERNOON

9 MR COULTER AND YOU FILE THAT AND
10 KEEP THAT RECORD ALONG WITH YOUR DAILY REPORT?

11 THE WITNESS YES, SIR

12 MR COULTER YOUR HONOR, WE WOULD
13 OFFER IT INTO EVIDENCE

14 THE COURT AND THE DISPATCHER'S THE
15 ONE THAT MAKES THOSE ENTRIES?

16 THE WITNESS YES, SIR, THEN I
17 APPROVE IT AT THE END OF THE SHIFT AND LOG IT IN AND
18 STORE IT

19 THE COURT AND THE ENTRIES ARE MADE
20 CONTEMPORANEOUS WITH THE CALL BEING MADE?

21 THE WITNESS YES, SIR, AT THE SAME
22 TIME

23 THE COURT MR GARRETT?

24 MR GARRETT YOUR HONOR, WE WOULD
25 JUST ARGUE AGAIN, IT'S DOUBLE HEARSAY, YOUR HONOR

1 SHE'S DOING SOMETHING NOW, SOMEBODY ELSE TOLD HER,
2 IT'S NOT NECESSARILY AT THE TIME OF THE EVENT, IT'S
3 NOT BEEN ESTABLISHED AT THE TIME OF THE EVENT THAT
4 SHE'S CALLING ABOUT -- MS JACKSON'S CALLING ABOUT
5 WITH REGARDS TO IT COMING IN UNDER THE BUSINESS
6 EXCEPTION, YOUR HONOR, IT'S OUR POSITION THAT,
7 ALTHOUGH IT COULD PROBABLY COME IN UNDER THE
8 BUSINESS EXCEPTION THE HEARSAY RULE, IN THIS CASE,
9 YOUR HONOR, THE PREJUDICE FAR OUTWEIGHS ANY
10 PROBATIVE VALUE AND THE COURT NOT ALLOW IT'S
11 ENTRANCE AT THIS TIME

12 THE COURT OVERRULE THE OBJECTION
13 IT'S ADMITTED BRING THE JURY BACK IN, PLEASE
14 (JURY RE-ENTERS COURTROOM AT 10 54 O'CLOCK A M)
15 EXAMINATION CONTINUES BY MR COULTER

16 Q IF YOU COULD LOOK AT WHAT'S NOW STATE'S
17 EXHIBIT NUMBER EIGHTY-SIX

18 A YES, SIR

19 Q AGAIN, FOR THE JURY, CAN YOU TELL THEM WHAT
20 THAT STATE'S EXHIBIT NUMBER EIGHTY-SIX IS?

21 A IT'S A DISPATCHER'S COMMUNICATIONS LOG FOR THE
22 DAY OF DECEMBER 3RD, 1995 FROM 7 00 A M TO 3 00
23 P M

24 Q ALL RIGHT, AND IS IT NOTED AT THE TIME THAT
25 DECEMBER 3RD, ON THAT SUNDAY, THE CALL THAT YOU HAD

1 REPORTED TO AROUND 12 30 OR SO?

2 A YES, SIR I RESPONDED AS BACK-UP TO CORPORAL
3 HENDERSON ON A DOMESTIC CALL AT 110 SECOND STREET,
4 THE COMPLAINANT INFORMATION ON THE CALL SHEET

5 Q WHO WAS THE COMPLAINANT FOR THAT CALL?

6 A THE COMPLAINANT ON THAT CALL WAS TESHEKA
7 JACKSON AND IT LISTS HER PHONE NUMBER

8 Q AND WHAT WAS -- I'M SORRY, THE RESIDENCE,
9 AGAIN, THAT YOU RESPONDED TO WAS?

10 A 110 SECOND STREET

11 Q OKAY, DID YOU UNDERSTAND TESHEKA JACKSON LIVED
12 AT 110 SECOND STREET?

13 A YES, SIR I KNEW THAT THAT WAS HER
14 GRANDMOTHER'S RESIDENCE

15 Q AND YOU WERE CALLED TO 110 SECOND STREET IN
16 REGARDS -- WHO WERE THE TWO INVOLVED THAT YOU
17 RESPONDED TO?

18 MR GARRETT OBJECTION, YOUR HONOR

19 MR COULTER WHO WERE THE TWO
20 PARTIES?

21 MR GARRETT OBJECTION

22 THE COURT YOU'RE ASKING HIM TO
23 REFER TO THE EXHIBIT OR HIS KNOWLEDGE?

24 MR COULTER I THINK BOTH, YOUR
25 HONOR

1 THE COURT OVERRULED

2 EXAMINATION CONTINUED

3 A THE CALL CAME OUT, I MONITORED IT AND I
4 RESPONDED ---

5 Q I'M ONLY ASKING FOR THE PARTIES

6 A THE PARTIES INVOLVED WERE TESHEKA JACKSON AND
7 JOHN K HUGHEY

8 Q AND THIS WAS AT WHAT TIME?

9 A THE CALL CAME OUT AT 12 23

10 Q 12 23 ON DECEMBER 3RD?

11 A YES, SIR

12 Q NOW, LET'S GO FORWARD TO DECEMBER 4 OF 1995
13 DID YOU RESPOND TO A CALL AT ABOUT THAT SAME TIME
14 THE VERY NEXT DAY?

15 A YES, SIR

16 Q WHAT CALL DID YOU RESPOND TO?

17 A POSSIBLE SHOOTING CALL, DOMESTIC CALL

18 Q AT ABOUT WHAT TIME WAS THAT?

19 A THAT WAS AROUND 12 00 O'CLOCK

20 Q AND WHAT WAS THE ADDRESS THAT YOU WERE
21 RESPONDING TO?

22 A IT WAS 401 RICHEY STREET

23 Q LET'S LOOK, IF YOU COULD, TO STATE'S EXHIBIT
24 NUMBER ONE AND COULD YOU TELL THE JURY, PLEASE,
25 WHERE YOU WERE WHEN YOU HAD RECEIVED THAT CALL TO GO

1 TO 401 RICHEY STREET?

2 A YES, SIR, I WAS ON NICHOLS STREET, WHICH IS
3 HERE OFF OF MAIN STREET OR HIGHWAY 28, JUST ABOVE
4 THE CIVIC CENTER VISITING A FRIEND WHO JUST HAD A
5 CHILD I WAS IN HIS YARD

6 Q AFTER YOU RECEIVED THE CALL, HOW DID YOU GET
7 THERE TO 401 RICHEY STREET?

8 A I PROCEEDED BACK DOWN TO NORTH MAIN, TOOK A
9 LEFT ON NORTH MAIN, AND WENT APPROXIMATELY HALF
10 BLOCK, A BLOCK, TOOK A RIGHT ONTO HARRISBURG,
11 PROCEEDED DOWN HARRISBURG, TOOK A RIGHT ONTO RICHEY
12 STREET THEN PROCEEDED ONTO RICHEY STREET TO THE
13 SCENE, TO THIS LOCATION, 401

14 Q WAS THERE ANYBODY ELSE THERE AT THE SCENE WHEN
15 YOU ARRIVED?

16 A NO, SIR, I WAS THE FIRST ONE THERE

17 Q WHEN YOU ARRIVED THERE AT THE SCENE, DID YOU
18 NOTICE ANY WHITE MITSUBISHI CAR?

19 A NO, SIR, I DIDN'T

20 Q GOING BACK TO HOW YOU ARRIVED HERE AT
21 HARRISBURG AND RICHEY, COULD YOU DESCRIBE THE AREA
22 OF THIS ROADWAY JUST PAST THIS INTERSECTION OF
23 RICHEY?

24 A YES, SIR AS SOON AS YOU MAKE THE TURN ONTO
25 RICHEY, THERE'S A VERY STEEP GRADE IN THE TURN, A

1 DOWNGRADE JUST PAST THERE, IN THIS AREA

2 Q ARE YOU ABLE TO SEE THE ROADWAY FROM THIS
3 INTERSECTION GOING DOWN HARRISBURG?

4 A ABOUT TWO LENGTHS INTO THIS TURN, A VEHICLE
5 WOULD BE OUT OF SIGHT OF ME MAKING THE TURN ONTO
6 RICHEY

7 Q SO AS YOU ARRIVED THERE THOUGH AT 401 RICHEY,
8 NOBODY ELSE WAS ON THE SCENE?

9 A NO, SIR

10 Q AS YOU ARRIVED AT THE HOME, WHAT DID YOU DO?

11 A OFFICER HENDERSON ARRIVED RIGHT BEHIND ME WITH
12 OFFICER KNAPP RIGHT BEHIND HIM WE PROCEEDED TO
13 COVER THE EXTERIOR OF THE HOME, NOT KNOWING EXACTLY
14 WHAT WE HAD, WE JUST WENT UP VERY CAUTIOUSLY I HAD
15 CORPORAL HENDERSON COVER THE REAR OF THE HOME,
16 OFFICER KNAPP AND MYSELF COVERED THE FRONT OF THE
17 HOME, WE PROCEEDED TO TRY TO GAIN ENTRY OR GET
18 SOMEONE TO THE DOOR

19 Q WERE YOU IN COMMUNICATION WITH THE DISPATCHER
20 AT THIS TIME?

21 A YES, SIR, WE ALL WERE

22 Q LET ME SHOW YOU, TO SAVE SOME TIME, SOME
23 PHOTOGRAPHS, STATE'S EXHIBIT THREE, SIXTEEN,
24 NINETEEN, TWENTY, TEN AND FORTY-SEVEN IF YOU'LL
25 JUST LOOK THROUGH THOSE PLEASE AND TELL ME WHETHER

1 THOSE ARE TRUE AND ACCURATE PICTURES OF WHAT YOU SAW
2 ON DECEMBER 4TH, 1995

3 A YES, SIR, THEY ARE

4 MR GARRETT WITHOUT OBJECTION, YOUR
5 HONOR, TO THREE, SIXTEEN, NINETEEN, TWENTY AND
6 FORTY-SEVEN IS THAT RIGHT?

7 MR COULTER TWENTY, TEN AND FORTY-
8 SEVEN

9 MR GARRETT AND FORTY-SEVEN, YOUR
10 HONOR

11 MR COULTER CORRECT

12 THE COURT THEY'RE ADMITTED WITHOUT
13 OBJECTION THOSE ARE ALL PHOTOS?

14 MR COULTER CORRECT

15 EXAMINATION CONTINUES BY MR COULTER

16 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER THREE
17 IF YOU'LL JUST TAKE A QUICK LOOK AT THAT

18 A YES, SIR

19 Q ALL RIGHT, POINTING TO STATE'S EXHIBIT NUMBER
20 ONE, JUST SHOW THE JURY PLEASE WHAT ANGLE THIS
21 PHOTOGRAPH IS?

22 A THAT ANGLE IS TAKEN FROM THE DRIVEWAY AREA
23 SHOWING THE FRONT AND, I GUESS, THE EAST SIDE OF THE
24 TRAILER AT 401

25 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER

1 SIXTEEN

2 A YES, SIR

3 Q AND ASK YOU IF YOU'LL TAKE A LOOK AT THAT
4 NOW, IF YOU COULD, IF YOU COULD PLEASE REFERENCE
5 THAT AND DESCRIBE TO THE JURY WHAT ANGLES THAT SHOWS
6 ON STATE'S EXHIBIT NUMBER FIVE

7 A YES, SIR, THAT'S A PICTURE'S TAKEN FROM
8 APPROXIMATELY THIS POSITION, PREVALENT TO THE FRONT
9 DOOR

10 Q LOOKING AT STATE'S EXHIBIT NUMBER FIVE, FOR
11 IDENTIFICATION, DOES THAT DIAGRAM ACCURATELY SHOW
12 HOW THE FRONT DOOR OPENED?

13 A YES, SIR, IT WAS ALSO A SCREEN DOOR

14 Q NOW, AS YOU APPROACHED THE FRONT DOOR, WHO WAS
15 WITH YOU?

16 A OFFICER KNAPP

17 Q AND CORPORAL HENDERSON, YOU DIRECTED HIM TO DO
18 WHAT?

19 A COME TO THE REAR OF THE HOUSE BECAUSE I DIDN'T
20 KNOW IF THERE WERE ANY POSSIBLE ESCAPE ROUTES SHOULD
21 THERE BE SOMEONE IN THE HOUSE, JUST THE COVER THE
22 REAR

23 Q AND WHO WAS LEADING INTO THE HOUSE?

24 A I WAS LEADING

25 Q AND DESCRIBE FOR THE JURY PLEASE WHAT YOU

1 FOUND AS YOU STARTED TO ENTER THE HOME AT 401 RICHEY
2 STREET

3 A CAME THROUGH THE FRONT DOOR AS YOU HAD IN THE
4 PICTURE THERE, HOPPED ON THE SIDE OF THE TRAILER,
5 CALLED NUMEROUS TIMES FOR SOMEONE TO COME AND ANSWER
6 THE DOOR

7 Q DID YOU NOTICE ANYTHING ABOUT THE DOOR AT THE
8 TIME?

9 A NOT AT THAT POINT, THE SCREEN DOOR WAS CLOSED

10 Q WHAT WAS THE POSITION OF THE FRONT DOOR, THE
11 MAIN DOOR?

12 A I FOUND IT TO BE OPENED AS I OPENED THE
13 SCREEN DOOR, TO KNOCK REALLY LOUDER, POSSIBLY ON THE
14 DOOR, I NOTICED THAT THE FRONT DOOR WAS OPENED
15 APPROXIMATELY TWO INCHES OR THREE INCHES

16 Q AND AS YOU WERE KNOCKING LOUDER ON THIS DOOR,
17 DID YOU NOTICE ANYTHING INSIDE THE RESIDENCE?

18 A NO, I DIDN'T AS I KNOCKED, THE DOOR CAME
19 OPEN AND I NOTICED THAT WERE OBVIOUS PRY MARKS MARKS
20 ON THE DOOR CLOSURE AREA WHERE THE LOCK IS THERE
21 WAS OBVIOUS DAMAGE DONE THERE

22 Q AND THIS WAS TO THAT FRONT DOOR?

23 A YES, SIR

24 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER NINE
25 PLEASE DESCRIBE FOR THE JURY WHAT THAT PHOTOGRAPH

1 SHOWS

2 A THAT IS THE DOOR KNOB AREA OF THE FRONT DOOR

3 Q AND THIS IS STATE'S EXHIBIT NUMBER TWENTY,

4 WHAT DOES THIS SHOW?

5 A THAT'S THE AREA THAT -- THE FRAME AREA WHERE

6 THE STRIKE PLATE WAS ON THAT SAME DOOR AND THE

7 SCREEN DOOR JUST BEHIND IT

8 Q DO YOU SEE WHERE THAT STRIKE PLATE WAS?

9 A IT'S RIGHT HERE

10 Q WHERE WAS THE STRIKE PLATE?

11 A THE STRIKE PLATE WAS NOT IN ITS POSITION IT

12 WAS ON THE FLOOR

13 Q SO AFTER YOU NOTICED THIS BROKEN FRAME OF THE

14 DOOR ON STATE'S EXHIBIT 20, DO YOU NOTICE ANYTHING

15 INSIDE THE RESIDENCE?

16 A AS I OPENED THE DOOR, THE DOOR WAS OBSTRUCTED

17 BY SOMETHING I PUSHED IT A LITTLE BIT HARDER AND

18 THERE WAS A KNIFE LAYING IN THE FOYER AREA OR JUST

19 INSIDE THE FRONT DOOR TO THE RIGHT, ACTUALLY THE

20 DOOR MOVED IT JUST A SMALL DISTANCE AS THE DOOR WAS

21 GOING OVER TOP OF IT

22 Q THIS IS STATE'S EXHIBIT NUMBER TEN IS THAT

23 WHAT YOU JUST DESCRIBED FOR THE JURY?

24 A YES, SIR, IT IS

25 Q AND POINT TO STATE'S EXHIBIT NUMBER FIVE AND

1 SHOW THE JURY THE APPROXIMATE LOCATION OF THIS KNIFE
2 SHOWN IN STATE'S EXHIBIT #10

3 A AS I OPENED THE DOOR, THE KNIFE WOULD HAVE
4 BEEN IN APPROXIMATELY THIS POSITION I BELIEVE THEY
5 PUSHED IT BACK AS THE DOOR COMPLETELY OPENED TO
6 ABOUT THIS POSITION

7 Q WHAT YOU DESCRIBED IN STATE'S EXHIBIT TEN IS
8 JUST INSIDE THE FRONT DOOR?

9 A YES, SIR, THAT IS

10 Q NOW, DO YOU NOTICE ANY MOVEMENT INSIDE THE
11 HOUSE AFTER YOU WERE ABLE TO GET THAT DOOR OPEN?

12 A NO, SIR, WE DIDN'T WE CALLED A CROSS COVER
13 OFFICER KNAPP WAS ON ONE SIDE OF THE DOOR I WAS ON
14 THE OVER HE WAS COVERING INWARD OR TO MY LEFT OF
15 THE TRAILER AND I WAS COVERING HIS OPPOSITE I SAW
16 NO MOVEMENT IN THE BACK

17 Q WHAT ARE YOU REFERRING TO AS THE BACK?

18 A HE WAS AT THIS POSITION I WAS AT THIS
19 POSITION AT THAT POINT I COULD OPEN THE SCREEN
20 DOOR AND CAUSED IT TO STAY OPEN WITH A CLOSURE IT
21 HAD A LITTLE CLIP SLIDING OVER ON THE SCREEN DOOR
22 CLOSURE AND LEFT IT OPEN SO WE HAD A CLEAR WORKING
23 AREA HE WAS COMING AROUND THAT AREA HE WAS
24 COVERING HE COULD SEE THIS AREA I COULD SEE
25 ALMOST INTO THE BATHROOM AREA HERE AND I COULD SEE

1 THIS AREA THIS DOOR WAS PARTIALLY OPENED

2 Q AND YOU WERE BOTH ABLE TO CLEAR THOSE TWO
3 AREAS?

4 A YES, SIR, AND THEN I MADE THE DECISION TO
5 ENTER THE TRAILER

6 Q PLEASE TELL THE JURY WHAT YOU FOUND AS YOU
7 ENTERED THE TRAILER THROUGH THE FRONT DOOR

8 A AS I ENTERED THE TRAILER, I KIND OF SWUNG
9 AROUND TO COVER THIS AREA I DIDN'T SEE ANYTHING I
10 THEN COVERED THE BATHROOM AND THEN OFFICER KNAPP
11 CLEARED THE BEDROOM I OPENED THE DOOR THE REST OF
12 THE WAY, OF COURSE, WITH GUNS DRAWN CLEARED - - KIND
13 OF LIKE YOU SEE ON TV, I GUESS YOU'D SAY, LOOKING
14 FOR ANY SUSPECT, ANY MOVEMENT IN THE HOUSE AFTER
15 WE CLEARED THE BEDROOM, THERE WAS TWO JUVENILES
16 SITTING ON THE COUCH HERE WATCHING TELEVISION, THE
17 TV WAS ON

18 Q YOU FOUND TWO YOUNG CHILDREN WATCHING
19 TELEVISION?

20 A THEY WERE SITTING ON THE COUCH DRINKING
21 SOMETHING

22 Q AND AS YOU ENTERED, YOU SAW THE CHILDREN THERE
23 ON THE COUCH WHAT DID YOU DO?

24 A I HAD A PRETTY GOOD AREA HERE THAT I COULD SEE
25 WAS CLEAR AT THAT POINT, I COULD SEE ALMOST TO

1 THIS DOOR I FELT PRETTY COMFORTABLE WITH THAT I
2 CALLED OFFICER HENDERSON IN, HE'S A LITTLE MORE
3 EXPERIENCED THAN I IN THIS TYPE OF SITUATION HE
4 CAME IN AND ASSISTED ME IN CLEARING THE REST OF THE
5 HOUSE

6 AT THAT POINT, I DIRECTED THE JUVENILES TO GO
7 TO THE REAR BEDROOM THE YOUNGER ONE PARTICULARLY
8 WAS BEGINNING TO CRY I HAD OFFICER HENDERSON, I
9 TOLD HIM, "YOU STAY WITH THESE KIDS DON'T LET THEM
10 GO OUTSIDE TAKE THEM TO THE BACK BEDROOM "

11 Q YOU SAID THAT TO WHO?

12 A OFFICER HENDERSON -- I MEAN, OFFICER KNAPP

13 Q AND DID YOU TRY TO TALK WITH EITHER OF THE
14 SMALL CHILDREN?

15 A I DID I ASKED THEM, I SAID, Y'ALL OKAY? THEY
16 INDICATED THAT THEY WERE THE OLDER ONE INDICATED
17 THAT HE WAS AND THEY WERE JUST KIND OF QUIET AT THAT
18 POINT I THINK IT WAS JUST PROBABLY OF ME TELLING
19 HIM TO GO TO THE BEDROOM WITH THE OFFICER,
20 EVERYTHING'S GOING TO BE OKAY

21 I SAID, WHERE IS YOUR MOTHER? THE
22 OLDER JUVENILE INDICATED TO THE REAR HE SAID
23 NOTHING BUT HE INDICATED JUST BY POINTING TO THE
24 REAR OF THE TRAILER THEY WERE SEATED HERE HE
25 POINTED TOWARDS THIS AREA

1 Q SO NOW YOU'RE WITH CORPORAL HENDERSON GOING
2 TOWARDS THE BACK OF THE TRAILER?

3 A YES, SIR

4 Q AND IF YOU COULD, PLEASE DESCRIBE FOR THE JURY
5 WHAT YOU FOUND AS YOU WERE GOING TOWARDS THAT BACK
6 OF THE TRAILER

7 A AS WE WERE GOING TOWARDS THAT AREA, OUT IN THE
8 AREA HERE PROTRUDED A LITTLE BIT SO WE HAD TO KIND
9 OF GO AROUND IT THERE WAS AN IRONING BOARD SITTING
10 IN THIS AREA HERE THE EDGE OF THIS WALL, WHERE WE
11 FELT OR ENGAGED THE WALL AGAIN, USING THE WALL FOR
12 COVER, I WAS PEAKING AROUND THE WALL TO SEE WHAT WAS
13 ACTUALLY THERE AT THAT POINT, I SAW MS HARRIS'S
14 BODY LAYING IN THIS DOORWAY IN FRONT OF THE WASHER-
15 DRYER AREA

16 BEFORE I GOT TO THAT AREA, I NOTICED THAT THIS
17 TABLE WAS SOMEWHAT DISTURBED THERE WAS SOME ITEMS
18 TURNED OVER ON THE TABLE THE TELEPHONE THAT WAS IN
19 THIS AREA WAS STRUNG DOWN THE HALL AND NEAR MS
20 HARRIS'S BODY

21 Q WHEN YOU SAY - - DID YOU THEN APPROACH MS
22 HARRIS?

23 A YES, WE DID AT THAT POINT, I CALLED FOR
24 E M S AND ADVISED DISPATCH THAT I HAD ONE VICTIM
25 DOWN

1 Q AND AFTER YOU CALLED DISPATCH TO TELL THEM YOU
2 HAD ONE VICTIM DOWN, THAT BEING MS HARRIS, DID YOU
3 THEN PROCEED INTO THE BEDROOM?

4 A YES, WE DID

5 Q TELL THE JURY, PLEASE, WHAT YOU FOUND ONCE
6 YOU'D GONE INTO THE MASTER BEDROOM

7 A CORPORAL HENDERSON WAS DIRECTLY BEHIND ME
8 COVERING ME, PROCEEDED DOWN THE HALLWAY UNTIL I GOT
9 TO MS HARRIS'S BODY, TOLD HIM THAT I WAS GOING IN
10 THERE TO CHECK IT AT THAT POINT, I STEPPED OVER
11 MRS HARRIS'S BODY AND ENTERED THE BEDROOM AT THAT
12 POINT, I WAS KEEPING - - WE WERE KEEPING EYE CONTACT
13 WITH EACH OTHER, JUST PEAKING AT EACH OTHER HE
14 KNELT DOWN TO CHECK PULSE OF MS HARRIS AND ADVISED
15 ME THAT HE HAD NONE

16 AT THAT POINT, I SAID I'VE GONE
17 SOMEBODY ELSE, ANOTHER BODY IN THE BEDROOM, WE'VE
18 GOT SOMEBODY ELSE DOWN AT THAT POINT, HE AGAIN
19 CALLED FOR E M S AND SAID WE'VE GOT A SECOND BODY
20 DOWN IT APPEARS TO BE GUNSHOT WOUNDS

21 Q YOU WERE ABLE TO CLEAR THAT SECOND BEDROOM?

22 A YES, SIR, I WAS THE ONLY AREA REALLY NEEDING
23 CLEARING WAS THE CLOSET IT WAS A HANGING DOOR LIKE
24 DRAPES OR SOMETHING THERE IN THIS AREA, THIS DOOR
25 WAS CLOSED TO THIS BATHROOM INITIALLY, MS

1 JACKSON'S BODY WAS LAYING HERE WITH HER LEGS OVER
2 THE BED, HER UPPER TORSO WAS DOWN TOWARDS THE FLOOR
3 I WENT AROUND THE DRESSER AREA AND WAS ABLE TO CLEAR
4 THIS CLOSET IT WAS KIND OF DIM I WAS ABLE TO GET
5 TO THE LIGHT TO CLEAR IT AND THE EXIT WAS HERE,
6 CORPORAL HENDERSON WAS COVERING ME HERE I THEN
7 OPENED THE DOOR AND CLEARED THE BATHROOM ONCE I
8 OPENED THE DOOR TO THE BATHROOM EVERYTHING WAS
9 PRETTY MUCH EXPOSED I DIDN'T NEED TO REALLY CLEAR
10 IT ANY FURTHER I DID GO IN AND JUST LOOK AROUND

11 Q DID YOU TAKE THE OPPORTUNITY AFTER THE ROOM
12 WAS CLEARED TO CHECK MS JACKSON'S PULSE?

13 A NO, SIR

14 Q WHY?

15 A SHE WAS OBVIOUSLY DECEASED DUE TO HER INJURY

16 Q AND THAT INJURY WAS?

17 A A GUNSHOT WOUND TO THE FACE, TO THE HEAD

18 Q AND FROM WHAT YOU SAW, THERE WAS NO NEED TO
19 CHECK HER PULSE?

20 A NO, SIR, IT WAS VERY -- A VERY BAD WOUND

21 Q NOW, AFTER YOU CLEARED THE BEDROOM AND NOTICED
22 THE TWO BODIES, WHERE DID YOU GO AFTER THAT?

23 A KNOWING THAT WE HAD CHECKED ALL THE AREA, I
24 DIRECTED OFFICER HENDERSON TO GO TAKE THE JUVENILES
25 OUTSIDE I THEN JUST SLOWLY WALKED OUT BEHIND HIM

1 JUST LOOKING AROUND TO MAKE SURE THAT EVERYTHING WAS
2 STILL IN PLACE AND NOTHING HAD BEEN DISTURBED JUST
3 MAKING A MENTAL NOTE OF WHAT WAS WHERE BACKED OUT
4 OF THE TRAILER AND SECURED THE DOOR

5 Q JUST ONE THING I'D LIKE TO GO BACK ON WHEN
6 YOU WERE IN THE MASTER BEDROOM AFTER YOU CLEARED THE
7 ROOM AND DECIDED NOT TO TAKE MS JACKSON'S PULSE,
8 DID YOU NOTICE ANY WEAPONS IN THAT MASTER BEDROOM?

9 A YES, SIR, I DID I NOTICED A SINGLE-SHOT
10 SHOTGUN LAYING LONGWAYS BETWEEN THE COUCH AND BED IN
11 THIS AREA

12 Q THIS IS STATE'S EXHIBIT NUMBER FORTY-SEVEN, IS
13 THAT A TRUE AND ACCURATE DEPICTION OF WHERE YOU
14 FOUND THAT WEAPON, THAT SHOTGUN?

15 A YES, SIR, THE SHOTGUN HAD A SHOT SHELL IN IT

16 Q I BELIEVE THIS HAS ALREADY BEEN INTRODUCED,
17 YOUR HONOR

18 WAS THIS THE FIRST BED THAT WAS THE SAME TYPE
19 THAT MS JACKSON WAS ON?

20 A YES, SIR

21 Q I'LL HAVE YOU TAKE A LOOK AT STATE'S EXHIBIT
22 FORTY-EIGHT DOES THIS APPEAR TO BE THE SAME WEAPON
23 THAT YOU FOUND THAT DAY ON DECEMBER 4TH IN WHAT'S
24 DEPICTED IN THIS PHOTOGRAPH, STATE'S EXHIBIT FORTY-
25 SEVEN?

1 A YES, SIR, IT IS

2 MR COULTER YOUR HONOR, WE MOVE TO
3 HAVE WHAT'S BEEN MARKED AS FORTY-EIGHT INTRODUCED
4 INTO EVIDENCE AT THIS TIME

5 MR GARRETT WITHOUT OBJECTION, YOUR
6 HONOR, FOR THE WEAPON BEING INTRODUCED

7 THE COURT IT'S ADMITTED
8 EXAMINATION CONTINUES BY MR COULTER

9 Q IF YOU COULD, LIEUTENANT NEW, ARE YOU FAMILIAR
10 WITH THIS TYPE OF WEAPON?

11 A YES, SIR, I AM

12 Q DO YOU KNOW WHAT GAUGE THAT WEAPON IS?

13 A TWENTY GAUGE

14 Q AND, IF YOU COULD, COULD YOU DEMONSTRATE VERY
15 BRIEFLY HOW THAT PARTICULAR WEAPON, STATE'S EXHIBIT
16 NUMBER FORTY-EIGHT, OPERATES?

17 A YES, SIR, IT'S A SINGLE SHOT WEAPON THIS IS
18 CALLED A BRIDGE OPENING SEE, IF YOU CLOSE THE
19 WEAPON IN THAT MANNER, OPEN THE WEAPON BY PUSHING A
20 BUTTON ON THE FRONT OF THE TRIGGER GUARD, THE SHELL
21 CASING IS PLACED INTO THE CHAMBER AREA OF THE BARREL
22 AND THEN IT IS CLOSED YOU HAVE TO COCK THE WEAPON
23 IN THAT MANNER AND THEN PRESS THE TRIGGER FOR IT TO
24 FIRE

25 Q SO AFTER YOU FIRE THAT WEAPON, STATE'S EXHIBIT

1 NUMBER FORTY-EIGHT, TELL THE JURY WHAT YOU NEED TO
2 DO TO BE ABLE TO FIRE A SECOND SHOT

3 A ONCE IT'S FIRED IT'S IN THIS POSITION EXACTLY,
4 AND THEN YOU HAVE TO DEPRESS THE RELEASE BUTTON,
5 OPEN THE CHAMBER AND REMOVE THE SHELL CASING

6 Q AND THEN TO FIRE ANOTHER SHOT?

7 A YOU HAVE TO PHYSICALLY GET ANOTHER SHELL
8 CASING, A NEW ROUND, PLACE IT IN THE CHAMBER, CLOSE
9 IT, COCK IT AND THEN FIRE IT

10 Q LIEUTENANT NEW, DO YOU KNOW WHO JOHN HENRY
11 SMITH IS?

12 A YES, SIR

13 Q WHO IS THAT?

14 A THAT IS THE DEFENDANT'S FATHER

15 Q THE DEFENDANT'S FATHER?

16 A YES, SIR

17 MR COULTER YOUR HONOR, I'D ASK THE
18 STIPULATION AGREED TO BE PUBLISHED TO THE JURY

19 THE COURT YOU MAY

20 EXAMINATION CONTINUES BY MR COULTER

21 Q AND THAT STIPULATION, AS I UNDERSTAND IT, WAS
22 THAT THIS PARTICULAR WEAPON, STATE'S EXHIBIT NUMBER
23 FORTY-EIGHT, BELONGS TO THE FATHER OF THE DEFENDANT,
24 JOHN HENRY SMITH

25 A YES, SIR, THE SERIAL NUMBER THAT WAS PROVIDED

1 TO REGULATORY SERVICES OF S L E D , AND THEY
2 RETURNED THAT THE OWNER OF THE GUN WAS, IN FACT, MR
3 SMITH

4 THE COURT LADIES AND GENTLEMEN,
5 WHAT HAS BEEN STATED AS A STIPULATION A
6 STIPULATION IS SIMPLY AN AGREEMENT OF FACT THAT
7 MEANS THAT BOTH SIDES HAVE AGREED THAT THAT IS A
8 FACT IN THE CASE YOU NEED NOT CONSIDER THE
9 EVIDENCE IN DETERMINING WHETHER OR NOT THAT HAS BEEN
10 ESTABLISHED BOTH SIDES AGREE THAT THAT IS A FACT
11 WHICH YOU MAY ACCEPT THAT FACT WHICH HAS BEEN
12 STIPULATED TO IS THE FACT THAT THIS WEAPON DID
13 BELONG TO THE DEFENDANT'S FATHER, JOHN HENRY SMITH
14 EXAMINATION CONTINUES BY MR COULTER

15 Q AFTER YOU WERE ABLE TO CLEAR THE SCENE AT 401
16 RICHEY STREET AND GET THE CHILDREN OUT OF THE HOME,
17 WHAT WERE YOU DOING NEXT AS YOU WAITED FOR S L E D
18 TO ARRIVE?

19 A WE CALLED FOR S L E D AND WE CALLED FOR CHIEF
20 RUCKER TO COME TO THE SCENE WE WANTED TO SECURE
21 THE EXTERIOR OF THE SCENE WE BEGAN TO TAPE IT OFF
22 AND KIND OF CORDED IT OFF

23 Q AFTER YOU HAD CORDED IT OFF, THE SCENE, DID
24 YOU HAVE AN OPPORTUNITY TO TALK WITH GEORGE MACK
25 HARRIS?

1 A I DIDN'T INITIALLY CHIEF RUCKER AND CORPORAL
2 HENDERSON WERE THERE AND THEY TOLD HIM - - I WAS AT
3 THE REAR OF THE TRAILER WHEN MR HARRIS ARRIVED
4 CHIEF RUCKER AND CORPORAL HENDERSON MET MR HARRIS
5 ON THE OTHER SIDE OF THE TRAILER

6 Q ABOUT HOW LONG IS THIS AFTER MR HARRIS
7 ARRIVED AFTER YOU SECURED THE SCENE?

8 A SOMEWHERE BETWEEN -- LESS THAN FIFTEEN
9 MINUTES, IT WAS A SHORT PERIOD OF TIME

10 Q AFTER YOU SECURED THE SCENE AFTER MR HARRIS
11 ARRIVED, DID YOU HAVE AN OPPORTUNITY TO GO TO THE
12 HOME OF THE DEFENDANT, JOHN KENNEDY HUGHEY?

13 A I DID

14 Q IS HE THE ONLY ONE WHO STAYS IN THE HOME?

15 A I'M NOT FAMILIAR WITH WHO STAYS THERE I'M
16 JUST FAMILIAR THAT THAT WAS HIS RESIDENCE

17 Q WHAT BROUGHT YOU TO HIS RESIDENCE?

18 A WE WERE GOING TO CHECK HIS RESIDENCE, SECURE
19 HIS RESIDENCE WITH OFFICER, TO GET A SEARCH WARRANTY
20 FOR HIS PERSON

21 Q WHO CALLED YOU THERE?

22 A I WAS ADVISED SOME OTHER PEOPLE HAD COME IN,
23 THEY HEARD THE CALL GO OUT, THEY COME IN TO ASSIST
24 US, SOME OTHER OFFICERS TOLD THEM THEY WERE GOING
25 TO GO SECURE THAT AREA CORPORAL CHRISTOPHER

1 ARRIVED PRIOR TO ME ARRIVING THERE AND WAS
2 ATTEMPTING TO SECURE THE HOUSE SO THAT NO ONE COULD
3 LEAVE IF THERE HAD BEEN SOMEONE INSIDE

4 Q LET ME HAND YOU WHAT'S BEEN MARKED STATE'S
5 EXHIBIT FIFTEEN DO YOU RECOGNIZE THAT DOCUMENT?

6 A YES, SIR

7 Q WHO WAS THE OFFICER NOTED ON THAT DOCUMENT?

8 A CORPORAL CHRISTOPHER

9 MR COULTER YOUR HONOR, WE MOVE TO
10 INTRODUCE THIS AS STATE'S EXHIBIT NUMBER FIFTEEN

11 MR GARRETT WITHOUT OBJECTION, YOUR
12 HONOR

13 THE COURT IT'S ADMITTED
14 EXAMINATION CONTINUES BY MR COULTER

15 Q WERE YOU PRESENT WHEN CORPORAL CHRISTOPHER
16 FILLED THAT PARTICULAR DOCUMENT OUT?

17 A YES, SIR, I WAS

18 Q AND WERE YOU PRESENT ALSO WHEN HE READ THIS
19 DOCUMENT?

20 A YES, SIR

21 Q WHO DID HE READ IT TO?

22 A HE READ IT IN THE PRESENCE OF ANTHONY WILSON
23 AND NANCY SHEDD

24 Q AND THIS IS IN REGARDS TO WHAT ADDRESS?

25 A TO 300 MAPLE STREET

1 Q AND THIS DOCUMENT IS WHAT?

2 A THIS IS OUR DEPARTMENTAL DEFENSE SEARCH
3 AUTHORIZATION FORM IT'S ON DEPARTMENT LETTERHEAD
4 IT'S A FORM THAT WE GET WHEN WE ASK SOMEONE IF THEY
5 MAY SEARCH THEIR PROPERTY, THE PREMISE, WITH THEIR
6 PERMISSION AND THEY EITHER SIGN IT OR WON'T SIGN
7 IT IF THEY DON'T SIGN IT, WE HAVE TO DO A SEARCH
8 WARRANT

9 Q AND IS THIS SIGNED?

10 A IT IS

11 Q AS A RESULT OF THIS CONSENT SEARCH AS STATE'S
12 EXHIBIT NUMBER FIFTEEN, DID YOU HAVE AN OPPORTUNITY
13 TO GO INTO THIS RESIDENCE THAT WAS OCCUPIED BY THE
14 DEFENDANT?

15 A YES, SIR, I DID I INITIATED THE SEARCH OF
16 THE HOUSE

17 Q AND AFTER HAVING GONE INTO THE HOME, DID YOU,
18 IN FACT, GO INTO A BEDROOM IN THE HOME?

19 A I DID

20 Q AND WHOSE BEDROOM DID YOU UNDERSTAND THAT TO
21 BE?

22 A I UNDERSTOOD IT TO BE THE DEFENDANT'S BEDROOM

23 Q ALL RIGHT AND LET ME HAND YOU WHAT'S BEEN
24 MARKED AS STATE'S EXHIBIT NUMBER ELEVEN

25 A YES, SIR

1 MR COULTER WE MOVE TO HAVE STATE'S
2 EXHIBIT ELEVEN MOVED INTO EVIDENCE, YOUR HONOR I
3 UNDERSTAND IT'S WITHOUT OBJECTION

4 MR GARRETT YOUR HONOR, WE'D LIKE
5 TO JUST HEAR WHAT'S HIS FOUNDATION FOR WHERE HE
6 FOUND IT WE PROBABLY WON'T HAVE ANY OBJECTION TO
7 IT WE JUST WANT TO KNOW THE PLACE WHERE HE FOUND
8 IT BEFORE HE LAYS FOUNDATION

9 THE COURT STATE WHERE YOU FOUND IT
10 THE WITNESS WE FOUND IT IN A
11 DRESSER IN WHAT I BELIEVE TO BE THE DEFENDANT'S
12 BEDROOM

13 THE COURT ANY OBJECTION?

14 MR GARRETT NO OBJECTION, YOUR
15 HONOR

16 THE COURT IT'S ADMITTED

17 EXAMINATION CONTINUED BY MR COULTER

18 Q THIS WAS FOUND A DRESSER IN HIS BEDROOM?

19 A YES, SIR I ENTERED THE HOUSE AND INITIATED A
20 SEARCH SEARCHED THE OPEN AREAS OF THE BEDROOM
21 WHICH INCLUDED, I BELIEVE, A SMALL CLOSET, UNDER THE
22 BED AREA, ANYWHERE WHERE A PERSON MIGHT POSSIBLY BE
23 HIDING AT THAT TIME, I JUST LOOKED QUICKLY OVER
24 THE ROOM LOOKED ON THE DRESSER ONE OF THE
25 DRAWERS TO THE DRESSER WAS PARTIALLY CRACKED OPEN

1 ABOUT TWO OR THREE INCHES I NOTICED THIS BOX WAS
2 DOWN AT THE EDGE OF THE DRESSER POINTING UP IN THAT
3 MANNER I RECOGNIZED IT AS A FEDERAL SHOTGUN SHELL
4 BOX, WHICH IS THE SAME TYPE OF AMMO OR SHOT SHELL
5 THAT WAS USED AND WAS FOUND AT THE SCENE

6 Q THIS BOX AGAIN, THIS IS FEDERAL?

7 A YES, SIR, IT'S A FEDERAL GAME LOAD TWENTY
8 GAUGE SHOTGUN SHELL BOX, SEVEN-EIGHTHS OUNCE SHOT,
9 SEVEN AND A HALF NUMBER SHOT

10 Q LIEUTENANT NEW, I'D ASK YOU TO TAKE A LOOK AT
11 STATE'S EXHIBIT THIRTEEN ASK YOU IF THAT'S A
12 REASONABLE STATEMENT OF THE AREA BETWEEN ABBEVILLE
13 AND ANDERSON?

14 A YES, SIR, IT IS

15 MR COULTER YOUR HONOR, STATE WOULD
16 MOVE TO HAVE STATE'S EXHIBIT THIRTEEN ADMITTED TO
17 EVIDENCE

18 MR GARRETT WITHOUT OBJECTION, YOUR
19 HONOR, AS TO STATE'S EXHIBIT THIRTEEN

20 THE COURT IT'S ADMITTED

21 EXAMINATION CONTINUED BY MR COULTER

22 Q LET'S FIRST, LIEUTENANT NEW, GO BACK TO
23 STATE'S EXHIBIT NUMBER ONE AND IF YOU WOULD,
24 DESCRIBE THE QUICKEST WAY FROM 401 RICHEY STREET TO
25 ANDERSON, THE CITY OF ANDERSON

1 A GETTING OUT OF TOWN, THE QUICKEST ROUTE WOULD
2 BE TO COME FROM THE RESIDENCE AT 401, COME DOWN
3 RICHEY STREET THIS WAY, TAKE A RIGHT FROM
4 HARRISBURG, GO DOWN TO HIGHWAY TWENTY AND THEN TURN
5 LEFT NORTHBOUND TOWARDS ANDERSON, HIGHWAY TWENTY TO
6 GREENVILLE STREET

7 Q DOWN TWENTY?

8 A YES, SIR

9 Q AND THEN REFERRING TO STATE'S EXHIBIT
10 THIRTEEN, IF YOU COULD SHOW THAT ROUTE ON TWENTY
11 FROM ABBEVILLE TO ANDERSON

12 A THIS MAP WOULD BE OF THE DOWNTOWN AREA, THAT
13 WOULD BE OUT, HIGHWAY 20 HERE

14 Q GO AHEAD AND SHOW THE JURY THE QUICKEST WAY
15 FROM ABBEVILLE ON HIGHWAY 20 TO ANDERSON ON WHAT'S
16 BEEN MARKED AS STATE'S EXHIBIT THIRTEEN

17 A THE QUICKEST WAY IS TO GO OUT HIGHWAY 20 TURN
18 LEFT AT COLD SPRING'S STORE ONTO HIGHWAY 201 WHERE
19 IT TURNS INTO 185 AT THIS POINT IT COMES UP,
20 INTERSECTS HERE WITH 284, THEN COMES ACROSS OVER TO
21 HIGHWAY 28 WHICH COMES UP HERE AND THEN ON INTO
22 ANDERSON

23 Q ARE YOU FAMILIAR WITH PEARLMAN DAIRY ROAD IN
24 ANDERSON?

25 A YES, SIR, IT'S ALSO 28 BY-PASS

1 Q 28 BY-PASS?

2 A YES, SIR

3 Q AND THAT ROUTE THAT YOU JUST SHOWED THE JURY,
4 WOULD THAT INTERSECT WITH THAT ROAD?

5 A YES, SIR IT'S THE FIRST BIG INTERSECTION YOU
6 COME TO WHEN YOU COME INTO ANDERSON THERE AT WHAT
7 YOU USED TO BE SKY CITY, THERE'S A PRODUCE STAND ON
8 THE LEFT

9 Q AND IS THERE ANY BANKS AT THIS LOCATION UP
10 HERE ON PEARLMAN DAIRY ROAD?

11 A NOT AT THAT LOCATION BUT APPROXIMATELY, MAYBE
12 MILE UP AT ANOTHER INTERSECTION, THERE'S SOME BANKS
13 FIRST CITIZEN'S, THERE'S A HESS STATION, FIRST
14 CITIZEN'S BANK PIZZA HUT, TEXACO STATION AND A
15 BURGER KING

16 Q AND IS THERE AN ATM MACHINE AT THAT FIRST
17 CITIZEN'S BANK AT PEARLMAN DAIRY ROAD?

18 A YES, SIR

19 Q AND DID YOU HAVE AN OPPORTUNITY RECENTLY TO
20 DRIVE THE ROUTE BETWEEN 401 RICHEY STREET AND THE
21 ATM MACHINE AT PEARLMAN DAIRY ROAD?

22 A YES, SIR, I DID

23 Q APPROXIMATELY HOW LONG DID IT TAKE YOU TO GET
24 FROM 401 RICHEY STREET TO THAT ATM MACHINE?

25 A IT TOOK TWENTY-EIGHT MINUTES

1 Q ABOUT HOW FAST WERE YOU GOING?

2 A I WAS GOING SIXTY-FIVE TO SEVENTY

3 Q HOW MANY MINUTES?

4 A TWENTY-EIGHT

5 MR COULTER IF YOU COULD, ANSWER
6 ANY QUESTIONS DEFENSE COUNSEL MAY HAVE

7 CROSS-EXAMINATION BY MR GARRETT

8 Q IF MR HUGHEY WAS AT THE ATM MACHINE AT 12 35
9 AND HE HAD LEFT THE PREMISES AT LEAST BY 12 05 THEN
10 HE HAD THIRTY MINUTES TO DRIVE, IS THAT CORRECT?

11 A APPROXIMATELY, YES, SIR

12 Q AND YOU WERE RUNNING SIXTY-FIVE AND SEVENTY
13 AND IT TOOK YOU TWENTY-EIGHT MINUTES

14 A YES, SIR

15 Q IS THAT NORMAL? I MEAN, DO YOU ALL NORMALLY
16 DRIVE AT SIXTY-FIVE OR SEVENTY OR WAS THERE A
17 PARTICULAR REASON FOR YOU TO DRIVE SIXTY-FIVE TO
18 SEVENTY ON THIS PARTICULAR OCCASION WHEN YOU WERE
19 DOING YOUR TEST?

20 A YES, SIR, WE DID TESTING ON THAT ROUTE, I DID
21 IT IN A PATROL CAR

22 Q YES

23 A I ADVISED THE CHIEF THAT WE WERE DOING A TEST
24 GOING FROM ONE AREA TO THE OTHER IN CASE THERE WERE
25 ANY PROBLEMS WITH HIGHWAY PATROL POSSIBLY WITH OUR

1 SPEEDING IN THAT AREA WE ADVISED THEM WE WERE
2 DOING AN INVESTIGATION IN THIS MURDER

3 I DROVE IT ON ONE OCCASION THAT SPEED LIMIT,
4 OF COURSE, OCCURRING REGULAR TRAFFIC WAS IN THE AREA
5 TOOK A LITTLE LONGER THAN THAT

6 Q HOW LONG DID IT TAKE YOU WHEN YOU DID THAT
7 TEST?

8 A IT WAS THIRTY -- RIGHT AT THIRTY-FIVE MINUTES

9 Q AND DID YOU STAY WITHIN THE SPEED LIMITS AT
10 THAT TIME?

11 A APPROXIMATELY

12 Q SO IT TAKES SOMEWHERE BETWEEN THIRTY AND
13 THIRTY-FIVE MINUTES TO GET THERE IF YOU'RE RUNNING
14 THE AVERAGE SPEED LIMITS?

15 A IN NORMAL TRAFFIC SITUATION, YES, SIR

16 Q NOW, LET'S GO BACK THE NEXT THING THAT YOU
17 TALKED ABOUT IN REVERSE WAS THAT BOX THAT YOU FOUND
18 AT MR HUGHEY'S HOME, IS THAT CORRECT?

19 A YES, SIR

20 Q AND THIS BOX IS A BOX OF FEDERAL SHELLS, IS
21 THAT CORRECT?

22 A YES, SIR, I RECOGNIZED IT

23 Q IT WAS AN EMPTY BOX OF FEDERAL SHELLS?

24 A YES, SIR

25 Q AND THAT BOX OF SHELLS WAS FOUND IN A DRESSER?

1 A YES, SIR

2 Q AND THOSE ARE SEVEN AND A HALVES, ARE THEY
3 NOT?

4 A I BELIEVE SO, YES, SIR

5 Q WERE ALL THE BULLETS FOUND ON THE SCENE SEVEN
6 AND A HALVES?

7 A I'M NOT FAMILIAR WITH THAT, I DIDN'T PROCESS
8 THE SCENE

9 Q YOU DIDN'T PROCESS THE SCENE, SO SOME OF THEM
10 MAY HAVE BEEN SEVEN AND A HALF, SOME OF THEM MAY
11 HAVE BEEN SIXES, YOU DON'T KNOW?

12 A I'M NOT AWARE, SIR

13 Q YOU'VE NOT STUDIED THAT SINCE THEN?

14 A NO, SIR

15 Q NOW, NOBODY OBJECTED FROM THE HUGHEY FAMILY TO
16 COOPERATING WITH YOU TO GO INTO THE HOME WHERE MR
17 HUGHEY WAS LIVING AT THE TIME, DID THEY?

18 A NO, SIR

19 Q THEY WERE COOPERATIVE WITH YOU AND HELPED YOU
20 DO THAT?

21 A YES, SIR, THEY WERE CURIOUS AS TO WHAT WAS
22 GOING ON AND THEY VERY HELPFUL IN LETTING US GO INTO
23 THE RESIDENCE

24 Q NOW, LET'S GET BACK TO THE SCENE OF COURSE,
25 YOU DIDN'T HEAR ANY TYPE OF TELEPHONIC OR AUDIO

1 COMMUNICATION BETWEEN ANYBODY OTHER THAN TO GO TO
2 THE SCENE, IS THAT CORRECT?

3 A NO, SIR, I HEARD SERGEANT PATTERSON WHEN SHE
4 COMMUNICATED TO CORPORAL HENDERSON THAT SHE BELIEVED
5 SHE HEARD A SECOND SHOT

6 Q AND SENT HIM ON THE WAY BUT YOU COULDN'T
7 HEAR WHAT SHE WAS HEARING AT THE TIME?

8 A NO, SIR, I COULDN'T

9 Q YOU GOT TO THE SCENE AND YOU WERE THE FIRST
10 ONE THERE ON THE SCENE?

11 A YES, SIR

12 Q AND, OF COURSE, YOU WERE VERY CAUTIOUS AFTER
13 HEARING THE CALL OF THE GUNSHOTS, YOU HAD TO BE VERY
14 CAUTIOUS IN YOUR APPROACH?

15 A YES, SIR, THE CALL WENT OUT AS WHAT WE CALL A
16 TEN SEVENTY-FIVE

17 Q ALL RIGHT, GUNSHOT

18 A WHICH IS A GUNSHOT, POSSIBLE SHOOTING I WAS
19 ALERTED VERY INITIALLY TO BE CAUTIOUS AND GET THERE
20 AS QUICK AS I COULD SO I WENT WITHOUT ANY
21 HESITATION DIRECTLY TO THE SCENE AS I ARRIVED, I
22 WAS EXTRA CAUTIOUS I HEARD HER TELL - - HEARD
23 SERGEANT PATTERSON TELL CORPORAL HENDERSON THAT SHE
24 THINKS SHE HEARD - -

25 Q THOUGHT SHE HEARD A SECOND SHOT

1 A - - SECOND SHOT, YES, SIR

2 Q NOW, WHEN YOU GOT THERE, YOU SAID THE SCREEN
3 DOOR WAS CLOSED

4 A YES, SIR

5 Q SO NOBODY HAD OPENED THE SCREEN DOOR AND PUT
6 THE THING OUT TO MAKE IT HOLD LIKE YOU DID A LITTLE
7 LATER?

8 A NO, SIR

9 Q IT WAS COMPLETELY SHUT?

10 A YES, SIR

11 Q WAS THERE ANY JIMMYING OR ANY TYPE OF PROBLEM
12 WITH THAT SCREEN DOOR?

13 A THE SCREEN DOOR WAS INTACT

14 Q THEN WHEN YOU LOOKED IN, YOU SAID THE DOOR WAS
15 OPEN TWO TO THREE INCHES?

16 A YES, SIR, APPROXIMATELY

17 Q IS THAT CORRECT?

18 A APPROXIMATELY, YES, SIR

19 Q AND THEN YOU BEGAN YOUR APPROACH FIRST YOU
20 WEREN'T REALLY TRYING TO EXAMINE EVIDENCE AT THAT
21 TIME, YOU WERE MORE CONCERNED ABOUT SECURING THE
22 LOCATION, PROTECTING YOURSELF AND YOUR OFFICERS, I'M
23 ASSUMING

24 A CORRECT

25 Q OR PERSONS WHO MIGHT BE IN THERE

1 A CORRECT

2 Q YOU SAID YOU KNOCKED

3 A KNOCKED ON THE EXTERIOR OF THE TRAILER

4 INITIALLY, TO THE SIDE OF THE DOOR PRETTY STERNLY

5 IT SHOULD HAVE BEEN SUFFICIENT ENOUGH FOR ANYONE IN

6 THE TRAILER TO HAVE HEARD IT MADE THE DECISION TO

7 OPEN THE SCREEN DOOR AND HAVE OFFICER KNAPP HOLD THE

8 DOOR WE INITIATED A KNOCK ON THE DOOR, I REALIZED

9 IT WAS OPEN, I TURNED AND LOOKED JUST BRIEFLY,

10 KNOCKED A LITTLE LOUDER, KNOCKED A LITTLE HARDER,

11 AND IT CAME OPEN

12 Q AND AS YOU WENT IN, YOU SAW - - THERE MAY BE

13 SOME CONFLICT IN TESTIMONY I WANT YOU TO TRY TO

14 CLEAR THIS UP FOR US A LITTLE BIT WASN'T ONE OF

15 THE CHILDREN IN THE BED AND ONE OF THE CHILDREN ON

16 THE SEAT AND THE TV WAS ON WHEN YOU FIRST CAME IN?

17 A NO, SIR WHEN I CAME IN, THEY WERE BOTH ON

18 THE COUCH

19 Q WHO CAME IN FIRST? WHO WAS IN THE HOUSE

20 FIRST?

21 A I CAME IN FIRST, OFFICER KNAPP CAME IN SECOND,

22 THEN I CALLED CORPORAL HENDERSON IN AFTER I DIRECTED

23 THE CHILDREN TO GO TO THE BEDROOM

24 Q OKAY NOW, SO WHEN MR HENDERSON CAME IN, ONE

25 OF THE CHILDREN MIGHT HAVE BEEN IN THE BED, THE

1 YOUNGER OF THE TWO MIGHT HAVE BEEN IN THE BED?

2 A AS WE CAME IN, AS I STATED, IT WAS KIND OF
3 LIKE YOU SEE ON TV, GUNS BLAZING I GUESS YOU'D SAY,
4 WE WERE COVERING OURSELVES ONE OF THE CHILDREN,
5 THE YOUNGER CHILD BEGAN TO CRY I ADVISED THAT
6 EVERYTHING WAS OKAY, SAW THAT THEY WERE OKAY,
7 DIRECTED THEM TO GO WITH THE OFFICER

8 Q TO SECURE THOSE TO A SAFE LOCATION?

9 A YES, SIR HAD NO WHERE ELSE TO PUT THEM OTHER
10 THAN SECURE THEM WITH AN OFFICER IN THE REAR WHO
11 COULD COVER AND PROPERLY PROTECT THEM AS BEST WE
12 COULD ONE OF THEM WENT IMMEDIATELY I DIDN'T
13 REALLY PAY ATTENTION TO WHETHER THE OTHER ONE WENT
14 OR NOT WE THEN WERE STILL JUST CONCENTRATING ON
15 THE REAR OF THE TRAILER IN THE REAR AREA WAS
16 COVERED

17 Q SO YOU ALL BASICALLY WERE PUSHING THE CHILDREN
18 BACK IN THIS AREA TO MAKE SURE EVERYTHING WAS CLEAR
19 AT THE SCENE AND THEN YOU TURNED YOUR CONCERNS TO
20 THIS AREA

21 A I CAME ACROSS HERE AND WAS TRYING TO GET AN
22 ANGLE THAT I COULD SEE THIS DOWN HERE BUT I COULDN'T
23 BECAUSE IT WAS OBSTRUCTED WHEN I GOT TO THIS
24 POINT, I COULD SEE THERE WAS A VICTIM DOWN BETWEEN
25 THE TWO -- GOING FROM THIS AREA TO THIS AREA IS WHEN

1 I DIRECTED OFFICER KNAPP TO SECURE THE CHILDREN FOR
2 ME AND OFFICER HENDERSON WAS COMING IN AT THAT
3 POINT AFTER THE FIRST ONE BEGAN TO GET UP AND GET
4 TO MOVING, HE WAS CRYING BACK IN HERE CORPORAL
5 HENDERSON CAME DIRECTLY BACK DOWN AND TOLD HIM WHAT
6 WE WERE GOING TO DO, WE WERE GOING TO SECURE THE
7 REAR OF THE TRAILER, SEARCH IT AND SEE WHAT ELSE WE
8 COULD FIND

9 Q YOU FOUND A KNIFE IN AND ABOUT THIS AREA RIGHT
10 HERE?

11 A YES, SIR, BETWEEN THIS DOOR AND THIS DOOR

12 Q AND WHO OWNS THE KNIFE?

13 A I HAVE NO IDEA

14 Q WERE FINGERPRINTS DONE ON THE KNIFE?

15 A I'M NOT AWARE IF THEY WERE

16 Q BUT THERE WAS A KNIFE RIGHT THERE AT THE DOOR?

17 A YES, SIR

18 Q DID YOU ALL SEARCH RIGHT OUTSIDE THE RESIDENCE
19 THERE?

20 A LOOKING AROUND AS WE APPROACHED TO LOOK AT THE
21 OTHER TRAILER, WHICH RUNS THIS WAY, THIS AREA -- I
22 LOOKED UNDER THE TRAILER WE COULD SEE THAT -- THIS
23 TRAILER WAS ON A VERY STEEP GRADE

24 Q IN OTHER WORDS, IT WOULD BE DOWN LIKE THIS?

25 A YES, SIR, IT'S VERY STEEP THIS END OF THE

1 TRAILER --

2 Q WOULD BE LOW TO THE GROUND

3 A -- LOW TO THE GROUND, THIS END IS PROBABLY

4 EIGHT TO TEN FOOT OFF --

5 Q HIGHER UP? I GOT YOU, IN ORDER TO KEEP LEVEL

6 A YES, SIR

7 Q SO THE LAY OF THE LAND SLOPES DOWN IN THIS

8 DIRECTION

9 A YES, SIR, VERY STEEP

10 Q NOW, YOU FOUND THIS KNIFE HERE AND WHEN YOU

11 WENT IN, YOU INDICATED THAT THIS ROOM WAS IN

12 DISARRAY THIS TABLE WAS MOVED?

13 A THE COFFEE TABLE WAS -- THE ITEMS ON THE

14 COFFEE TABLE WERE TURNED OVER I'M SORRY, THE

15 KITCHEN TABLE THE COFFEE TABLE WAS IN THAT -- IN

16 THAT AREA

17 Q WHAT ABOUT CHAIRS? I NOTICED THERE'S NO

18 CHAIRS IN THIS PARTICULAR PHOTOGRAPH WERE THE

19 CHAIRS UPRIGHT OR WERE THEY TURNED OVER? THE BEST

20 YOU CAN RECALL

21 A THE CHAIRS WERE JUST PUSHED BACK OUT OF THE

22 WAY AS I RECALL

23 Q YOU DON'T RECALL THEM BEING LAID OVER, THEY

24 MAY HAVE BEEN, YOU JUST DON'T RECALL?

25 A I DON'T RECALL THAT BEING OVER, NO, I DON'T

1 RECALL THAT

2 Q I UNDERSTAND ALL RIGHT, DID YOU HAPPEN TO
3 SEE A SILVER KNIFE ON THE TABLE ITSELF AT THE TIME
4 YOU WERE COMING IN?

5 A NO, SIR THE ONLY KNIFE I SAW WAS THE ONE AT
6 THE DOORWAY

7 Q DID YOU SEE A VASE THAT HAD BEEN BROKEN, A
8 VASE OR A VÂSE THAT HAD BEEN BROKEN?

9 A NO, SIR

10 Q AND WERE THERE ALL TYPES OF GLASS AND THINGS
11 AND CEREALS AND THAT TYPE OF THING ALL OVER THE
12 FLOOR IN THE AREA ALL THE WAY THROUGH HERE?

13 A NO, SIR

14 Q YOU DIDN'T SEE THOSE?

15 A NO, SIR

16 Q THERE MAY BE THERE, YOU --

17 A THERE WAS DIRTY-LIKE DISHES FROM MAYBE THEY
18 HAD A MEAL BEFORE OR SOMETHING BEFORE I DON'T
19 KNOW, IN THE AREA OF THE SINK AND THERE WAS SOME
20 OTHERS ON THE TABLE, BUT I DON'T RECALL WHAT THEY
21 WERE

22 Q I UNDERSTAND YOUR CONCERN REALLY WASN'T AT
23 THAT POINT GATHERING EVIDENCE OR LOOKING FOR
24 PARTICULARS YOU WERE JUST LOOKING AT THE GENERAL
25 SCENE AT THAT TIME?

1 A YES, SIR

2 Q IT MAY BE THERE IF THE PHOTOGRAPHS FROM
3 S L E D SHOW ALL THIS, YOU WOULDN'T DISPUTE THE
4 PHOTOGRAPHS?

5 A NO, SIR

6 Q I WANT TO TALK TO YOU A LITTLE BIT ABOUT THE
7 WIDTH OF THIS HALL IT'S BEEN TESTIFIED TO AS
8 APPROXIMATELY THREE FEET, IS THAT ABOUT RIGHT? DO
9 YOU AGREE WITH THAT?

10 A YES, SIR

11 Q AND YOU HAD TO STEP OVER MS JACKSON TO GET
12 BACK INTO THE BACK BEDROOM, IS THAT CORRECT?

13 A MS HARRIS, YES

14 Q I'M SORRY, MS HARRIS TO GET TO THE BACK
15 BEDROOM WHERE MS JACKSON WAS, IS THAT CORRECT?

16 A YES, SIR

17 Q AND IT'S TRUE, SHE WAS AT OR NEAR THIS
18 ENTRANCE RIGHT HERE THERE'S NO DOOR DRAWN ON THAT
19 BUT THERE IS, IN FACT, A DOOR -- EXCUSE ME, A DOOR
20 RIGHT HERE, RIGHT?

21 A YES, SIR, THERE WAS A DOOR GOING INTO ROOM
22 WHICH WAS OPEN COMPLETELY BEHIND THE EDGE OF THIS
23 COUCH THERE WERE SEVERAL BOXES, SHOE BOXES, GROCERY
24 BAGS IN THIS AREA RIGHT HERE

25 Q BEHIND THE DOOR OR IN FRONT OF THE DOOR?

1 A THE DOOR WAS COMPLETELY OPEN AGAINST THE WALL
2 -- COMPLETELY STANDING OPEN

3 Q ALL RIGHT

4 A IT COULDN'T HAVE BEEN CLOSED, EVIDENTLY,
5 BECAUSE OF THE LEGS

6 Q AND IF THE S L E D PICTURES SHOW OTHERWISE,
7 YOU WOULD NOT DISPUTE THE S L E D PICTURES AGAIN
8 YOUR MAIN CONCERN IS GETTING IN THERE AND SECURING
9 THE SCENE, MAKING SURE NOBODY ELSE HAD ANY WEAPONS
10 AND THAT TYPE OF THING?

11 A YES, SIR

12 Q SO IF THERE'S SOME DISPUTE THERE, YOU WOULDN'T
13 OBJECT OR DISAGREE WITH THE PHOTOGRAPHS AS EXIST
14 THAT WERE MADE THAT PARTICULAR DAY?

15 A NO, SIR, I WON'T

16 Q THANK YOU NOW, THE DAY BEFORE ON THOSE
17 COMMUNICATION LOGS ON THE 12/3, WHAT IS A 10-82?

18 A A DOMESTIC CALL

19 Q A DOMESTIC CALL?

20 A YES, SIR

21 Q DID YOU KNOW JOHN? DO YOU KNOW JOHN?

22 A YES, SIR

23 Q JOHN'S WASHED YOUR CARS AND TRUCKS FROM TIME-
24 TO-TIME?

25 A YES, SIR

1 Q DID YOU KNOW JOHN'S FATHER?

2 A YES, SIR

3 Q AND WAS HIS FATHER NAMED JOHN HUGHEY?

4 A NO, JOHN HENRY SMITH

5 Q ALL RIGHT AT ONE TIME, DO YOU KNOW WHAT HIS

6 NAME WAS BEFORE IT WAS JOHN HENRY SMITH?

7 A I RECALL IT BEING SOMETHING DIFFERENT

8 Q HE CHANGED HIS NAME AT SOME POINT IN HIS LIFE?

9 A I RECALL SOMETHING LIKE THAT

10 Q IS HE DECEASED NOW?

11 A YES, SIR

12 Q DO YOU KNOW HOW HE DIED?

13 A NO, SIR, I DON'T RECALL

14 Q AND DID YOU KNOW JOHN'S MOM?

15 A YES, SIR, I DID

16 Q AND WHAT WAS HER NAME?

17 A I CAN'T RECALL HER NAME I'M JUST FAMILIAR

18 WITH HER I TALKED WITH HER ON OCCASION

19 Q YOU HAD KNOWN HER?

20 A YES, SIR

21 Q AND IS SHE ALIVE NOW?

22 A NOW?

23 Q YEAH

24 A NO, SIR

25 Q WAS SHE KILLED?

1 MR COULTER OBJECTION IRRELEVANT

2 THE COURT SUSTAINED

3 EXAMINATION CONTINUED BY MR GARRETT

4 Q DID YOU TAKE ANY PHOTOGRAPHS OF MR HUGHEY'S
5 ROOM WHEN YOU WENT IN?

6 A NO, SIR

7 Q DO YOU RECALL SEEING WRITINGS OR ANYTHING ON
8 THE MIRROR IN HIS ROOM?

9 A I SAW SOME PICTURES THERE WAS ALOT OF STUFF
10 ON THE DRESSER

11 Q WAS THE ENERGY ON AT THE TIME WHEN YOU WENT IN
12 OR WAS THE ENERGY OFF IN THAT HOME?

13 A I DON'T RECALL THE ROOM WAS LIT, I DON'T
14 RECALL CUTTING THE LIGHT ON IT WAS DAYTIME YOU
15 KNOW, IT WAS BRIGHT

16 Q THE ROOM WAS LIT?

17 A IT WAS LIT BUT I DON'T REMEMBER WHETHER IT WAS
18 -- I THINK THE WINDOWS WERE OPEN AND IT WAS PLENTY
19 LIGHT ENOUGH TO SEE IN

20 Q NOW, YOU DID ARRIVE ON THE SCENE THEN AT 12 05
21 AS YOUR LOG INDICATES?

22 A APPROXIMATELY, YES, SIR

23 Q WHEN YOU SAY, APPROXIMATELY, WHY WOULD YOU SAY
24 APPROXIMATELY?

25 A IT WASN'T EXACTLY AT 12 05 POSSIBLY IT COULD

1 HAVE BEEN 12 05 RIGHT AT 12 06

2 Q DO YOU ALL BREAK IT DOWN INTO MINUTES OR HOW
3 DO YOU --

4 A IN SECONDS, NO, SIR, JUST MINUTES

5 Q YOU DON'T BREAK IT DOWN INTO SECONDS, YOU
6 BREAK IT DOWN INTO MINUTES

7 A YES, SIR THE CLOCK THAT THE DISPATCHER GOES
8 BY IS RIGHT THERE ON THE RADIO PANEL

9 Q OKAY, SO THEY CAN PRETTY WELL SEE EXACTLY WHAT
10 IT IS, TIMEWISE?

11 A YES, SIR

12 Q SO WHEN YOU REPORTED IN AND SHE INDICATED
13 12 05 THAT WOULD BE A -- DID YOU HAVE TO REPORT AS
14 SOON AS YOU GOT ON THE SCENE? DID YOU SAY
15 SOMETHING LIKE THIS IS MY NUMBER AND I'M ON THE
16 SCENE?

17 A YES, SIR

18 Q SO SHE WRITES IT DOWN?

19 A I WOULD TYPICALLY CALL CENTRAL, WHICH IS
20 DISPATCH, 2-0-3, 10-23 ON THE SCENE

21 Q I GOT YOU I BEG THE COURT'S INDULGENCE, YOUR
22 HONOR, JUST A MOMENT

23 MR GARRETT THAT'S ALL I HAVE AT
24 THIS TIME OF THIS WITNESS, YOUR HONOR

25 MR COULTER NOTHING

1 THE COURT YOU MAY STAND DOWN

2 (WITNESS STEPS DOWN AT 11 41 O'CLOCK A M)

3 THE COURT LADIES AND GENTLEMEN,

4 WE'RE GOING TO TAKE A SHORT BREAK BEFORE WE GO,

5 FIRST, I'M GOING TO ASK YOU TO PLEASE GO TO THE JURY

6 ROOM AND WE'LL BRING YOU BACK IN A FEW MINUTES

7 (JURY EXITS COURTROOM AT 11 42 O'CLOCK A M)

8 (OFF THE RECORD)

9 THE COURT ARE WE READY FOR THE
10 JURY?

11 MR COULTER YES, SIR

12 THE COURT BRING THEM IN

13 (JURY RE-ENTERS COURTROOM AT 12 O'CLOCK NOON)

14 THE COURT ALL RIGHT, THE JURY'S
15 PRESENT, YOU MAY PROCEED

16 MR COULTER THANK YOU, YOUR HONOR

17 THE STATE WILL CALL CORPORAL MITCH CHRISTOPHER TO

18 THE STAND

19 (WITNESS PRESENTED AT 12 01 O'CLOCK P M)

20 THE CLERK THE EVIDENCE YOU SHOULD

21 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE

22 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT

23 THE TRUTH, SO HELP YOU, GOD

24 THE WITNESS YES, MA'AM

25 (WITNESS MITCH CHRISTOPHER PRESENTED AT 12 00

1 O'CLOCK NOON)

2 DIRECT EXAMINATION BY MR COULTER

3 Q WOULD YOU PLEASE TELL THE JURY YOUR NAME

4 A I'M CORPORAL MITCH CHRISTOPHER

5 Q AND CORPORAL, YOU'RE WITH ABBEVILLE P D ?

6 A YES, SIR

7 Q HOW LONG HAVE YOU BEEN WITH THE POLICE
8 DEPARTMENT?

9 A GOING ON EIGHT YEARS NOW

10 Q EIGHT?

11 A YES, SIR

12 Q AND YOU WERE WITH ABBEVILLE POLICE DEPARTMENT
13 BACK IN DECEMBER OF 1995?

14 A YES, SIR, I WAS

15 Q CAN YOU TAKE US BACK TO DECEMBER 4, 1995? DO
16 YOU REMEMBER RECEIVING WORD OF A KILLING AT 401
17 RICHEY STREET AROUND 12 00 O'CLOCK ON DECEMBER 4TH
18 OF 1995?

19 A YES, SIR, I DID

20 Q WERE YOU TOLD, DID YOU DO ANYTHING -- WHAT
21 WERE YOU TRYING TO DO AFTER YOU FOUND OUT ABOUT THIS
22 PARTICULAR SHOOTING?

23 A ACTUALLY, I HEARD THE CALL COME OUT OVER A
24 SCANNER, AND I IMMEDIATELY GOT IN THE VEHICLE AND
25 WENT TO THE SCENE I FIGURED THEY WERE PROBABLY

1 GOING TO NEED SOME HELP

2 Q AFTER YOU WENT TO THE SCENE, WHAT WERE YOU
3 GOING TO DO?

4 A AS SOON AS I GOT THERE, CHIEF RUCKER MET ME AT
5 THE DRIVEWAY I DIDN'T GO ALL THE WAY DOWN TO THE
6 TRAILER HE ASKED IF I KNEW THE DEFENDANT, MR
7 KENNEDY I TOLD HIM I DID

8 Q MR HUGHEY?

9 A SIR?

10 Q MR HUGHEY?

11 A YES, SIR

12 Q YOU SAID THAT YOU DID?

13 A YES, SIR

14 Q AND WHAT DID YOU DO?

15 A HE TOLD ME TO GO HOME AND GET MY UNIFORM ON
16 AND GO FIND MR HUGHEY

17 Q DO YOU KNOW WHERE THE DEFENDANT LIVES?

18 A YES, SIR, I DO

19 Q DID YOU TRY TO GO UP TO THAT HOUSE?

20 A YES, SIR, I DID

21 Q DID YOU GO TO THE FRONT DOOR OF THAT HOUSE?

22 A YES, SIR

23 Q WHAT DID YOU DO ONCE YOU GOT UP THERE TO THE
24 FRONT DOOR?

25 A I KNOCKED ON THE DOOR -- I SAW A NOTE ON THE

1 DOOR TO START WITH, AND I READ IT THEN I KNOCKED ON
2 THE DOOR AND I GOT NO ANSWER

3 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT FOURTEEN JUST LOOK AT IT, DOES THIS APPEAR
5 TO BE THAT SAME NOTE THAT YOU FOUND?

6 A YES, SIR

7 MR COULTER YOUR HONOR, THE STATE
8 WOULD MOVE TO INTRODUCE THIS NOTE INTO EVIDENCE AS
9 STATE'S EXHIBIT NUMBER THIRTEEN

10 MR GARRETT WITHOUT OBJECTION
11 DOES IT HAVE BOTH THE FRONT AND THE BACK? WITHOUT
12 OBJECTION, YOUR HONOR

13 THE COURT IT'S ADMITTED

14 EXAMINATION CONTINUED BY MR COULTER

15 Q LOOKING AT THIS NOTE, THERE'S WRITING ON BOTH
16 SIDES, CORRECT?

17 A YES, SIR

18 Q AND WHEN YOU APPROACHED THE HOUSE, WHAT SIDE
19 DID YOU SEE?

20 A THIS SIDE RIGHT HERE THAT I'M READING RIGHT
21 NOW

22 Q AND IF YOU COULD, GO AHEAD AND READ THAT
23 PARTICULAR SIDE FOR THE JURY

24 A IT'S ADDRESSED TO SOMEBODY NAMED CHRIS "I'M
25 GOING OVER BY JABBO'S HOUSE IF I'M NOT THERE, COME

1 BY THE CARWASH IF I'M NOT THERE, I HAVE MADE IT
2 BACK HOME IT'S SIGNED, "JOHN "

3 Q DID YOU DO ANYTHING ABOUT THAT NOTE AT THAT
4 TIME?

5 A NO, SIR

6 Q AFTER YOU READ THAT NOTE, WHAT DID YOU DO?

7 A I READ, JUST LIKE I SAID, THE FRONT PART OF
8 THE NOTE I THOUGHT THAT'S ALL THERE WAS AFTER
9 THEN I WENT STRAIGHT TO JABBO'S HOUSE I KNEW WHERE
10 JABBO LIVED

11 Q OKAY, DID YOU FIND HIM AT JABBO'S HOUSE?

12 A NO, SIR I GOT OUT AND KNOCKED ON THE DOOR
13 JABBO, BY THE WAY, IS JIMMY TINCH I KNOCKED ON HIS
14 DOOR AND THERE WAS NO ANSWER THERE

15 Q AFTER YOU WENT TO JABBO'S HOUSE, DID YOU HAVE
16 A CHANCE TO GO BACK TO THE DEFENDANT'S HOUSE?

17 A YES, SIR

18 Q ABOUT HOW LONG AFTER THE FIRST HOUSE?

19 A FIVE OR TEN MINUTES

20 Q AND DID YOU GO BACK UP TO THE FRONT DOOR?

21 A YES, SIR

22 Q WHAT DID YOU DO THIS TIME THAT YOU WENT BACK
23 UP TO THE FRONT DOOR?

24 A THE NOTE I THOUGHT MIGHT BE IMPORTANT THAT 'S
25 THE REASON I WENT BACK TO THE HOUSE TO SEE ABOUT

1 THIS NOTE AGAIN BECAUSE I DIDN'T KNOW WHERE IT WAS
2 WROTE I KNEW IT WAS WRITTEN BY JOHN BECAUSE HIS
3 NAME'S ON IT AND IT'S AT HIS HOUSE I TOOK THE NOTE
4 OFF, I TURNED AROUND AND LOOKED AT THE BACK SIDE,
5 THAT'S WHEN I READ THE BACK SIDE OF THE NOTE

6 Q AND WAS IT IN THE SAME POSITION YOU FOUND IT
7 WHEN YOU FIRST ARRIVED?

8 A YES, SIR

9 Q WILL YOU PLEASE READ FOR THE JURY WHAT'S ON
10 THE BACK OF THAT PARTICULAR PIECE OF PAPER?

11 A ON THE BACK OF IT SAYS, "AS OF THIS MORNING I
12 WILL BE DEAD LOVE YOU ALL PLEASE TAKE CARE OF MY
13 KIDS JOHN K "

14 Q JOHN K?

15 A YES, SIR

16 Q AGAIN, YOU KNOW THE DEFENDANT, JOHN KENNEDY
17 HUGHEY?

18 A YES, SIR

19 Q AND DID YOU TAKE THAT NOTE AT THAT TIME?

20 A I DID

21 Q AND AFTER YOU TOOK THAT NOTE, DID ANYBODY ELSE
22 ARRIVE THERE AT THE HOME?

23 A I IMMEDIATELY CALLED LIEUTENANT NEW

24 Q AND WHAT HAPPENED AFTER YOU CALLED LIEUTENANT
25 NEW?

1 A HE CAME TO THE RESIDENCE AND THAT'S WHEN I
2 TURNED IT OVER TO HIM BOTH FAMILY MEMBERS STARTED
3 SHOWING UP AT ABOUT THE SAME TIME LIEUTENANT NEW
4 DID WE GOT THEM TO SIGN THE CONSENT SEARCH FORM

5 Q YOU HAD THEM SIGN THE CONSENT FORM TO SEARCH
6 THE HOME?

7 A YES, SIR

8 Q THAT'S STATE'S EXHIBIT NUMBER FIFTEEN?

9 A YES, SIR

10 Q AND YOU READ THAT FORM TO AN ANTHONY WILSON?

11 A YES, SIR, I DID

12 Q AND THEY COOPERATED AND SAID THAT YOU ALL
13 COULD GO IN THE HOUSE AND LOOK AROUND?

14 A YES, SIR

15 MR COULTER YOUR HONOR, I'D LIKE TO
16 BE ABLE TO PASS STATE'S EXHIBIT FOURTEEN TO THE
17 JURY

18 THE COURT YOU MAY

19 MR GARRETT WITHOUT OBJECTION, YOUR
20 HONOR

21 MR COULTER CORPORAL, ANSWER ANY
22 QUESTIONS DEFENSE COUNSEL MAY HAVE

23 MR GARRETT YOUR HONOR, I WILL
24 RESERVE THE QUESTIONING UNTIL THE JURY'S HAD A
25 CHANCE TO READ THE DOCUMENT

1 MR COULTER JUDGE, MAY I ASK ONE
2 MORE QUESTION OF THIS WITNESS

3 THE COURT YOU MAY
4 EXAMINATION CONTINUED BY MR COULTER

5 Q CORPORAL, ABOUT HOW LONG AFTER -- YOU SAID
6 THAT FIRST YOU ARRIVED AT 401 RICHEY STREET,
7 CORRECT?

8 A YES

9 Q ABOUT HOW LONG WAS IT FROM THE TIME YOU
10 ARRIVED THERE AT THE SCENE OF THE SHOOTING UNTIL YOU
11 FOUND THIS NOTE, STATE'S EXHIBIT FOURTEEN?

12 A I'D SAY APPROXIMATELY THIRTY TO FORTY-FIVE
13 MINUTES

14 MR GARRETT IF IT'LL PLEASE THE
15 COURT, YOUR HONOR

16 THE COURT MR GARRETT
17 CROSS-EXAMINATION BY MR GARRETT

18 Q NOW, MR CHRISTOPHER, AS I UNDERSTAND IT, THIS
19 WAS A NOTE THAT WAS ATTACHED TO A DOOR?

20 A YES, SIR

21 Q AND THE NOTE THAT YOU SAW THAT WAS DISPLAYED
22 TO YOU WAS CHRIS, I'M GOING OVER BY SABO'S WHO'S
23 SABO?

24 A JABBO

25 Q JABBO, I'M SORRY WHO'S JABBO?

1 A THAT'S JIMMY TINCH

2 Q JIMMY TINCH?

3 A YES, SIR

4 Q IF NOT THERE, CAME BY CARWASH, IF NOT THERE, I
5 HAVE MADE IT BACK HOME, JOHN

6 A YES, SIR

7 Q SO THAT'S WHAT WAS DISPLAYED ON THE DOOR?

8 A YES, SIR

9 Q THIS FAMILY, HAVE THEY HISTORICALLY LEFT NOTES
10 ON THEIR DOORS, HAVE YOU EVER BEEN BY THERE BEFORE
11 AND SEEN WHERE NOTES WERE ON THE DOOR BEFORE?

12 A NO

13 Q IS THERE ACTUALLY A NAIL OUT THERE FOR THE
14 HANGING OF NOTES?

15 A I DON'T RECALL IF THERE'S A NAIL THERE BUT I
16 DON'T IF IT'S FOR HANGING NOTES OR NOT

17 Q DO YOU NOTE WHAT DATE THIS NOTE WAS WRITTEN?

18 A WHAT DATE?

19 Q YES DO YOU KNOW WHAT IT WAS WRITTEN IN
20 RELATION TO?

21 A NO, SIR

22 Q JUST A NOTE THAT YOU FOUND ATTACHED TO THE
23 DOOR?

24 A THAT'S RIGHT

25 Q SO IT COULD HAVE BEEN THERE FOR MONTHS?

1 A NOT LIKELY

2 Q WEEKS?

3 A NOT LIKELY

4 Q DAYS?

5 A NOT LIKELY

6 Q WHY?

7 A JUST THE SHAPE IT WAS IN, THE WEATHER

8 Q WEATHER? IS THIS AN ENCLOSED PORCH?

9 A NO, SIR

10 Q IT'S AN OPEN PORCH?

11 A OPEN PORCH

12 Q DOES IT RAIN RIGHT ON THE DOOR, IS THERE AN

13 OVERHANG OVER IT?

14 A THERE'S AN OVERHANG

15 Q HOW LONG WIDE IS THAT OVERHANG ON MAPLE STREET

16 WHERE HE LIVES?

17 A SIX, EIGHT FEET

18 Q SO YOU'RE THAT IF IT RAINED, IT WOULD HAVE

19 RAINED UP ONTO THE DOOR?

20 A NOT NECESSARILY NOT NECESSARILY

21 Q WOULD THIS BE TWO SEPARATE NOTES IF THEY WERE

22 BOTH SIGNED ON TWO SEPARATE DAYS OR DO YOU KNOW?

23 A I DON'T KNOW

24 Q JUST A NOTE THAT YOU FOUND ON THE DOOR, DON'T

25 KNOW WHEN IT WAS SIGNED, IN RELATION TO WHAT AND

1 THE PART, "AS OF THIS MORNING I WILL BE DEAD, LOVE
2 YOU ALL, PLEASE TAKE CARE OF MY KIDS " THAT WASN'T
3 THE PART THAT WAS SHOWING ON THE FRONT, WAS IT?

4 A NO, SIR

5 Q WHEN YOU ASKED FOR THAT CONSENT TO SEARCH,
6 THEY GAVE YOU THAT, DIDN'T THEY? I MEAN, THE
7 FAMILY, JOHN'S FAMILY, THEY COOPERATE WITH YOU
8 FULLY?

9 A YES, SIR

10 Q DID YOU ALSO GO INTO THE HOUSE?

11 A YES, SIR

12 Q WAS THE ENERGY ON OR NOT?

13 A OFF

14 Q IT WAS OFF

15 A AS FAR AS I CAN TELL YOU

16 Q DID YOU ALL SEARCH HIS ROOM?

17 A WE SEARCHED THE ENTIRE HOUSE

18 Q DID YOU FIND ANY OTHER DOCUMENTS THE YOU TOOK
19 WITH YOU?

20 A NO

21 Q YOU SEARCHED THE ENTIRE HOUSE AND THERE WERE
22 NO OTHER WRITINGS OR ANYTHING LIKE THAT IN THE
23 ENTIRE HOUSE?

24 A NONE THAT I CAN RECALL

25 Q AND DID YOU ALSO EXAMINE THAT DRESSER DRAWER?

1 A NO, SIR, LIEUTENANT NEW DID THAT I WAS IN
2 THERE WHILE HE DID IT

3 Q WAS THERE ANYTHING IN THAT DRAWER OTHER THAN
4 THAT BOX?

5 A CLOTHES, STUFF LIKE THAT I WASN'T SURE

6 Q CLOTHES AND STUFF LIKE THAT DID YOU SEE ANY
7 PICTURES OF THE TWO OF THEM TOGETHER OR ANYTHING
8 LIKE THAT OR ANY OTHER EVIDENCE IN THERE WHATSOEVER?

9 A THERE WAS PICTURES OF THEM OF JOHN AND HIS
10 GIRLFRIEND

11 Q YOU KNOW JOHN?

12 A YEAH

13 Q AND YOU KNOW HIS GIRLFRIEND

14 A YEAH

15 Q SEEN THEM TOGETHER BEFORE?

16 A YEAH

17 MR GARRETT BEG THE COURT'S
18 INDULGENCE NO FURTHER QUESTIONS, YOUR HONOR

19 MR COULTER NOTHING

20 THE COURT STEP DOWN

21 (WITNESS DISMISSED AT 12 15 O'CLOCK P M)

22 MR COULTER YOUR HONOR, THE STATE
23 WILL CALL MICHAEL ADAMS TO THE STAND

24 (WITNESS PRESENTED AT 12 16 O'CLOCK P M)

25 THE CLERK THE EVIDENCE YOU SHALL

1 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
2 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT
3 THE TRUTH, SO HELP YOU, GOD

4 DIRECT EXAMINATION BY MR COULTER

5 Q IF YOU'LL SPEAK LOUDLY PLEASE AND TELL THE
6 JURY YOUR WHOLE NAME

7 A MY NAME'S MICHAEL ADAMS

8 Q AND MIKE, WHERE YOU LIVING?

9 A I LIVE IN EDGEFIELD

10 Q EDGEFIELD?

11 A YES

12 Q YOU ALWAYS LIVED IN EDGEFIELD?

13 A YES

14 Q DID YOU KNOW SHEKA JACKSON?

15 A YES

16 Q WHAT WAS YOUR RELATIONSHIP WITH SHEKA?

17 A WE HAD STOPPED BEING BOYFRIEND AND GIRLFRIEND

18 Q IF YOU RECALL, MICHAEL, WHEN YOU HAD FIRST
19 STARTED DATING TESHEKA?

20 A YES

21 Q ABOUT WHEN WAS THAT?

22 A FEBRUARY OR MARCH

23 Q OF 1995?

24 A RIGHT

25 Q DID YOU HAVE A PRETTY STABLE RELATIONSHIP WITH

1 MS JACKSON?

2 A YES

3 Q AFTER A FEW MONTHS OF DATING, HAD IT BECOME
4 SERIOUS?

5 A YES

6 Q WERE YOU DATING ANYBODY ELSE AT THAT TIME?

7 A NO, I WASN'T

8 Q WERE YOU FAMILIAR WITH A PRIOR RELATIONSHIP
9 THAT THE DEFENDANT JOHN KENNEDY HUGHEY?

10 A WE NEVER REALLY DISCUSSED IT

11 Q BUT YOU KNEW ABOUT IT?

12 A YES

13 Q SHE HAD TWO CHILDREN

14 A RIGHT

15 Q LET'S GO BACK, IF YOU WOULD, TO DECEMBER 3,
16 1995, IT WAS A SUNDAY DO YOU REMEMBER BEING AT
17 SHEKA'S GRANDMOTHER'S HOUSE?

18 A YES

19 Q ABOUT WHAT TIME WAS THAT ON THAT SUNDAY?

20 A BETWEEN 10 00 AND 12 00 O'CLOCK

21 Q AND DO YOU REMEMBER THE DEFENDANT COMING UP TO
22 YOU WHILE YOU WERE THERE AT HER GRANDMOTHER'S HOUSE?

23 A RIGHT

24 Q DO YOU SEE THAT PERSON HERE IN THE COURTROOM?

25 A YES, I DO

1 Q POINT HIM OUT FOR THE JURY, PLEASE SITTING
2 OVER HERE BETWEEN MR TINSLEY AND MR GARRETT, THE
3 TWO ATTORNEYS --

4 A RIGHT

5 Q -- IN THE MIDDLE

6 A UM-HMM

7 Q HE CAME UP TO YOU WHILE YOU WERE SITTING
8 THERE?

9 A YES

10 Q WHAT WERE YOU SITTING AT?

11 A I WAS SITTING IN MY CAR

12 Q YOUR CAR?

13 A RIGHT

14 Q WHERE WAS TESHEKA?

15 A SHE WAS IN THAT CAR

16 Q TELL ME WHAT HAPPENED AS YOU WERE THERE AT THE
17 CAR

18 A HE CAME UP, THEY WAS TALKING AND HE ASKED ME A
19 FEW QUESTIONS AND I TOLD HER, WELL -- HE ASKED IF WE
20 WERE DATING AND I SAID THAT'S NOT ANY OF HIS
21 BUSINESS, HIS CONCERN, YOU KNOW

22 Q WHEN HE TALKING AND ASKING YOU QUESTIONS, HOW
23 WAS HE ASKING YOU?

24 A HE WAS CALM

25 Q AND HE WAS ASKING QUESTIONS ABOUT WHAT?

1 A ABOUT WERE WE DATING

2 Q AND WHAT DID YOU TELL ME HIM?

3 A I TOLD HIM THAT WASN'T HIS CONCERN

4 Q AND AFTER YOU TOLD HIM IT WASN'T HIS CONCERN,

5 --

6 A ABSOLUTELY

7 Q WHAT HAPPENED?

8 A I NOTICED THAT'S WHEN HE PUSHED HER AND THAT'S

9 WHEN I GOT OUT THE CAR

10 Q AND AS YOU GOT OUT OF THE CAR, WHAT WERE YOU

11 GOING TO DO?

12 A I WAS GOING TO PROTECT HER

13 Q DID THE DEFENDANT STAY THERE?

14 A NO, HE LEFT

15 Q WHAT HE'D DO?

16 A HE WENT DOWN THE STREET ABOUT A HUNDRED YARDS

17 Q AND DID HE SAY ANYTHING AS HE WAS LEAVING?

18 A YES

19 Q WHAT DID HE SAY?

20 A HE SAID HE WAS GOING TO KILL BOTH OF US

21 Q SO AS HE WAS RUNNING DOWN THE STREET --

22 A RIGHT

23 Q -- HE SAID HE WAS GOING TO KILL BOTH OF YOU?

24 A RIGHT

25 Q AND THIS WAS THERE AT HER GRANDMOTHER'S HOUSE?

1 A CORRECT

2 Q ON THAT SUNDAY

3 A UM-HMM

4 Q IS THAT THE ONLY THING HE SAID?

5 A THAT'S ALL

6 Q DID HE JUST RUN AWAY?

7 A YES

8 Q DID HE STAY AROUND IN THAT AREA AT ALL AFTER
9 THAT?

10 A NOT THAT I KNOW BECAUSE AFTER THAT SHE WAS
11 GOING IN THE HOUSE TO CALL THE POLICE AND THAT'S
12 WHEN HE TOOK ON OFF TO THE WOODS OR WHEREVER HE
13 WENT

14 Q AFTER THAT HE WAS GONE

15 A YES

16 Q AGAIN, THAT'S SUNDAY, DECEMBER 3RD, ABOUT
17 NOON?

18 A RIGHT

19 Q WHERE DID YOU UNDERSTAND TESHEKA'S HOME TO BE?

20 A AT HER GRANDPARENTS

21 Q RIGHT THERE WHERE YOU ALL WERE AT

22 A RIGHT

23 Q AND WHENEVER Y'ALL DATED, WHERE WOULD YOU PICK
24 HER UP?

25 A WELL, IF I CAME OVER THERE, IT'D BE RIGHT

1 THERE AT HER GRANDMOTHER'S

2 Q SO WHENEVER YOU PICKED HER UP TO GO ON A DATE,
3 YOU'D GO TO HER GRANDMOTHER'S HOUSE?

4 A RIGHT

5 Q YOU SAID THAT HE HAD GONE UP THE STREET AND
6 SHE WENT AND CALLED THE POLICE?

7 A YES

8 Q DID YOU STAY THERE?

9 A I STAYED FOR A LITTLE WHILE AND THEN I LEFT

10 Q WERE YOU STILL THERE WHEN THE POLICE WERE
11 THERE?

12 A NO

13 Q YOU'D ALREADY TAKEN OFF?

14 A YES

15 Q YOU WENT BACK HOME?

16 A YES

17 MR COULTER ANSWER ANY QUESTIONS
18 DEFENSE COUNSEL MAY HAVE

19 MR GARRETT IF IT'LL PLEASE THE
20 COURT

21 THE COURT MR GARRETT

22 CROSS-EXAMINATION BY MR GARRETT

23 Q WHEN WAS THE LAST TIME, PRIOR TO THAT THAT YOU
24 SPENT WITH HER, THAT YOU AND SHE HAD BEEN OUT ON A
25 DATE?

1 A I CAN'T RECALL

2 Q WAS IT MORE THAN A WEEK BEFORE THAT?

3 A YES, WE HAD BEEN OUT LIKE A WEEK OR TWO
4 BEFORE

5 Q A WEEK OR TWO BEFORE?

6 A YES

7 Q ARE YOU AWARE THAT SHE SPENT MONDAY NIGHT WITH
8 JOHN?

9 A NO, I WASN'T

10 Q TUESDAY NIGHT WITH JOHN?

11 A NO, I WASN'T

12 Q WEDNESDAY NIGHT WITH JOHN?

13 A NO, I WASN'T

14 Q THURSDAY?

15 A NO

16 Q FRIDAY?

17 A NOPE

18 Q WHAT TIME DID YOU PICK HER UP SATURDAY?

19 A I CAN'T RECALL IT WAS THAT AFTERNOON I KNOW

20 Q DID YOU PICK HER UP ALONE?

21 A YES

22 Q WHERE WERE THE CHILDREN?

23 A THE CHILDREN WERE WITH US

24 Q SO YOU PICKED HER UP WITH THE CHILDREN

25 A RIGHT

1 Q WHERE DID Y'ALL GO?

2 A WE JUST WENT OUT

3 Q WENT OUT WHERE?

4 A TO A MOVIE, TO DINNER

5 Q WHERE, GREENWOOD OR --

6 A YES

7 Q -- AUGUSTA --

8 A GREENWOOD

9 Q -- GREENWOOD? WHERE DID YOU ALL GO TO

10 DINNER?

11 A RYAN'S

12 Q RYAN'S WHEN YOU ALL LEFT DINNER, WHERE'D YOU

13 GO?

14 A THAT'S WHEN WE WENT TO THE MOVIE

15 Q WHEN YOU LEFT THE MOVIE, WHERE'D YOU GO?

16 A JUST OUT

17 Q WHERE'S OUT?

18 A NOWHERE IN PARTICULAR

19 Q WELL, DID Y'ALL JUST GO OUT AND STAY OUT ALL

20 NIGHT WITH YOU AND THOSE TWO CHILDREN -- HER AND THE

21 CHILDREN?

22 A NO, WE DIDN'T

23 Q WHERE'D YOU ALL GO?

24 A WENT BACK TO MY HOUSE

25 Q WHERE'S YOUR HOUSE?

1 A IN EDGEFIELD

2 Q DO YOU LIVE ALONE?

3 A NO, I DON'T

4 Q WHO DO YOU LIVE WITH?

5 A MY PARENTS

6 Q SO SHE'S WITH YOU AT YOUR PARENT'S HOME WITH

7 THE TWO CHILDREN?

8 A RIGHT

9 Q WHERE DID YOU ALL SPEND THE NIGHT?

10 A SHE SPENT THE NIGHT AT MY HOUSE

11 Q DID Y'ALL SLEEP IN THE SAME ROOM?

12 A NO, WE DIDN'T

13 Q WHERE'D SHE SLEEP?

14 A SHE SLEPT IN MY ROOM

15 Q WHERE'D YOU SLEEP?

16 A I SLEPT ON THE COUCH

17 Q WHAT ABOUT CHILDREN?

18 A THEY SLEPT WITH HER

19 Q THEY SLEPT WITH HER?

20 A RIGHT

21 Q WHAT TIME DID YOU ALL GET IN?

22 A I CAN'T RECALL THAT

23 Q ARE YOU SUGGESTING THAT YOU ALL WERE HAVING

24 SEXUAL RELATIONS?

25 MR COULTER OBJECTION, YOUR HONOR,

1 WHAT'S THE RELEVANCE OF THAT?

2 MR GARRETT YOUR HONOR, WE'RE
3 ALLEGING COMMON LAW MARRIAGE HERE

4 MR JONES JUDGE, IF WE CAN ARGUE
5 THE POINT OUTSIDE THE PRESENCE OF THE JURY IF WE
6 NEED TO, I THINK -- IF YOU SEE THE NEED FOR AN
7 ARGUMENT

8 THE COURT I DON'T I'M GOING TO
9 OVERRULE THE OBJECTION RIGHT NOW

10 EXAMINATION CONTINUED BY MR GARRETT

11 Q WERE YOU ALL HAVING SEXUAL RELATIONS?

12 Q NO, WE WASN'T

13 Q NEVER HAD AN --

14 A NO, WE WASN'T

15 Q -- SEXUAL RELATIONSHIP WITH HER? NOW, DID YOU
16 GIVE A STATEMENT TO LAW ENFORCEMENT?

17 A YES, I DID

18 Q WOULD YOU LOOK AT THAT STATEMENT, PLEASE? IS
19 THAT A COPY OF A STATEMENT YOU GAVE LAW ENFORCEMENT?

20 A YES, IT IS

21 Q WERE YOU TELLING THE TRUTH WHEN YOU GAVE THAT
22 STATEMENT TO LAW ENFORCEMENT?

23 A SURE DID

24 Q NOW, WHEN YOU WERE GIVING A STATEMENT TO LAW
25 ENFORCEMENT, YOU WERE GIVING THEM A COMPLETE

1 STATEMENT, WERE YOU NOT?

2 A I WAS GIVING THEM WHAT I CAN REMEMBER

3 Q AND YOU DIDN'T TELL THEM AT THAT TIME THAT
4 JOHN GOT OUT OF THE CAR -- I MEAN, JOHN THREATENED
5 TO KILL BOTH OF YOU, DID YOU?

6 A LIKE I SAID, I COULDN'T RECALL EVERYTHING THAT
7 MOMENT

8 Q DID YOU?

9 A LIKE I SAID --

10 Q DID YOU PUT IT IN YOUR STATEMENT, SIR?

11 A NO, I DIDN'T

12 Q YOU DIDN'T, DID YOU? YOU DIDN'T THINK THAT
13 WAS IMPORTANT TO TELL THE POLICE

14 A I DIDN'T THINK OF IT AT THE TIME

15 Q YOU DIDN'T THINK ABOUT THAT AT THE TIME?

16 A NO, I DIDN'T

17 Q YOU THOUGHT ABOUT WHEN, AFTER YOU PREPARED FOR
18 THIS CASE OR WHEN?

19 A I THOUGHT ABOUT IT BEFORE THEN

20 Q AND YOU DIDN'T COME BACK AND MAKE A
21 MODIFICATION OF THAT STATEMENT, DID YOU?

22 A NO, I DIDN'T

23 Q SO THEN YOU DECIDED -- YOU REMEMBERED THAT AT
24 WHAT TIME?

25 A THAT'S WHEN I WAS SUBPOENAED AND I GAVE

1 ANOTHER STATEMENT, THAT'S WHEN I REMEMBERED

2 Q YOU GAVE ANOTHER STATEMENT?

3 A VOCAL

4 Q VOCAL?

5 A YES

6 Q YOU HAVEN'T GIVEN ANOTHER WRITTEN STATEMENT,
7 HAVE YOU?

8 A NO, I HAVEN'T

9 Q WHAT KIND OF WORK DO YOU DO, SIR? WHAT KIND
10 OF WORK DO YOU DO?

11 A I WORK AT FUJI'S

12 Q YOU WORK AT FUJI'S?

13 A YES, I DO

14 MR GARRETT BEG THE COURT'S
15 INDULGENCE, YOUR HONOR

16 EXAMINATION CONTINUED BY MR GARRETT

17 Q YOU DIDN'T TRY TO FILE ANY KIND OF REPORT
18 AGAINST JOHN FOR THREATENING TO KILL YOU, DID YOU?

19 A NO, I DIDN'T

20 Q AND YOU LEFT THE SCENE, IS THAT CORRECT?

21 A YES

22 Q DID YOU TELL HIM THE FACT THAT YOU WERE DATING
23 HIS WIFE WAS NONE OF HIS CONCERN?

24 A HIS WIFE?

25 Q YEAH

1 A I DIDN'T KNOW ANYTHING ABOUT A WIFE

2 Q SHE DIDN'T WANT TO TALK TO YOU ABOUT JOHN
3 HUGHEY, DID SHE?

4 A NO, SHE DIDN'T

5 Q IT WASN'T DISCUSSED, WAS IT?

6 A NO

7 Q SO AS FAR AS YOU KNOW, JOHN DIDN'T KNOW ABOUT
8 YOU EITHER?

9 A NO

10 Q SHE WASN'T TELLING YOU ABOUT JOHN SHE MIGHT
11 NOT HAVE BEEN TELLING JOHN ABOUT YOU NOW, WAS
12 THERE SOME DISCUSSION ABOUT PICKING UP ONE OF THE
13 CHILDREN AT THAT TIME?

14 A EXCUSE ME

15 Q WAS THERE A DISCUSSION ABOUT JOHN AND SHEKA
16 ABOUT HIM TAKING ONE OF THE TWO OR BOTH OF THE
17 CHILDREN WITH HIM DURING THAT DISCUSSION THERE AT
18 YOUR CAR?

19 A WELL, I DON'T KNOW BECAUSE I WASN'T --
20 LISTENING TO WHAT THEY WERE DISCUSSING BECAUSE I
21 UNDERSTAND HE'S THE FATHER OF THE CHILDREN AND I
22 WASN'T GOING TO INTERFERE WITH THAT

23 Q SO YOU WEREN'T PAYING ATTENTION TO THAT?

24 A NO, I WASN'T

25 Q DID HE HIT HER?

1 A I NOTICED WHEN HE PUSHED HER
2 Q PUSHED HER?
3 A YEAH
4 Q BUT HE DIDN'T HIT HER HE DIDN'T HIT HER, DID
5 HE?
6 A HE PUSHED HER -- I DON'T KNOW WHY HE PUSHED
7 HERE
8 Q HOW DID HE PUSH HER?
9 A HE PUSHED HER INTO MY AUTOMOBILE
10 Q HOW DID HE PUSH HER?
11 A HARD, SHOVING
12 Q WASN'T HE TAKING -- WASN'T HE TAKING THE SEAT
13 OF THE CAR AT THAT TIME?
14 A NO, SHE WAS
15 Q AND WHERE WAS HE AT IN RELATION TO HER TAKING
16 THE SEAT OUT?
17 A HE WAS STANDING BY THE DOOR
18 Q AND WASN'T HE TRYING TO HELP HER WITH THE SEAT
19 GETTING IT OUT?
20 A NO
21 Q WHERE WAS THE CHILD AT?
22 A THE CHILD HAD GOTTEN OUT OF THE CAR
23 Q AND THEY WERE TRYING TO GET THE SEAT OUT
24 A RIGHT
25 Q ALL RIGHT AND THEN HE CAME OVER AND TALKED

1 TO YOU?

2 A NO, HE DIDN'T COME OVER AND TALK TO ME

3 Q WHERE DID HE GO?

4 A HE STAYED ON THE OTHER SIDE TALKING ABOUT
5 SHEKA

6 Q HE ASKED Y'ALL A QUESTION

7 A THAT'S RIGHT

8 Q AND THEN HE LEFT AND WALKED UP THE ROAD

9 A AFTER HE THREATENED --

10 Q WAIT A MINUTE NOW NOW, YOU'RE SAYING HE
11 THREATENED THERE IN THE CAR

12 A AFTER HE PUSHED HER, THAT'S A THREAT TO ME

13 Q HE THREATENED TO KILL YOU ALL IN THE CAR, TOO?

14 A NO, HE DIDN'T AFTER HE RAN DOWN THE STREET,
15 THAT'S WHEN HE SAID IT

16 Q THEN HE DECIDED TO DO THAT

17 A THAT'S RIGHT

18 Q YOU JUST FAILED TO TELL THE POLICE ABOUT THAT,
19 DIDN'T YOU?

20 A UH-HUH (AFFIRMATIVE)

21 Q DIDN'T YOU?

22 A YES, I DID

23 MR GARRETT THANK YOU NO FURTHER
24 QUESTIONS

25 MR COULTER I HAVE NOTHING

1 THE COURT YOU MAY STEP DOWN

2 (WITNESS IS DISMISSED AT 12 28 O'CLOCK P M)

3 THE COURT HOW LONG IS THE NEXT

4 WITNESS?

5 MR JONES CAN WE APPROACH THE

6 BENCH, YOUR HONOR?

7 (COUNSEL APPROACH THE BENCH)

8 THE COURT LADIES AND GENTLEMEN, AT

9 THIS TIME WE'RE GOING TO RECESS FOR LUNCH I

10 UNDERSTAND THAT ARRANGEMENTS HAVE BEEN MADE FOR YOU

11 ALL TO EAT LUNCH TODAY THERE WILL BE A PLACE

12 PROVIDED FOR YOU WHERE YOU WILL BE WITH EACH OTHER

13 BUT SEPARATE FROM ANYONE ELSE KEEP IN MIND MY

14 PREVIOUS CAUTION YOU'RE NOT TO DISCUSS THIS CASE

15 IN ANY FASHION WHILE YOU ARE AT LUNCH HAVE A GOOD

16 LUNCH, AS SOON AS YOU HAVE CONCLUDED WITH THAT,

17 WE'LL BRING YOU BACK AND CONTINUE WITH THE TRIAL

18 (JURY EXITS COURTROOM AT 12 29 O'CLOCK P M)

19 ALL THE JURORS OUT? COURT'S IN RECESS

20 UNTIL 1 45

21 MR JONES ARE WE GOING TO ARGUE

22 THEN?

23 THE COURT WE'LL ARGUE NOW, IF YOU

24 WANT GO AHEAD

25 MR JONES JUDGE, BASICALLY THE

1 STATE'S POSITION IS IS THAT WE WOULD ASK YOU TO
2 RECONSIDER YOUR EXCLUSION OF OFFICER NEW'S TESTIMONY
3 AND OFFICER CHRISTOPHER'S TESTIMONY CONCERNING THE
4 DECEASED VICTIM'S STATEMENT TO THEM ON DECEMBER 3RD,
5 APPROXIMATELY TWENTY-FOUR HOURS BEFORE HER DEATH
6 THAT THE DEFENDANT IN THIS CASE HAD TOLD HER AND
7 STATED TO HER, THAT HE WAS GOING TO KILL HER

8 AND THE REASON WE ASK YOU TO
9 RECONSIDER IS TWO-FOLD FIRST OF ALL, WE STILL
10 BELIEVE THAT IS RES GESTAE OF THIS CRIME, THE CRIME
11 OF MURDER AND LET ME TRY TO GIVE YOU A FACTUAL
12 BASIS FOR THAT THE OFFICER'S TESTIFIED THAT THEY
13 WENT THERE AROUND SOMETIME BETWEEN 11 30 AND 12 30
14 ON DECEMBER 3RD AND WHEN THEY GOT THERE SHE HAD
15 CLAIMED THAT HER BOYFRIEND HAD HIT HER, PUSHED HER,
16 AND SHE WAS AFRAID AND FEARFUL FOR HER LIFE AT
17 THAT POINT IN TIME, IN HER MIND, HER LIFE WAS
18 THREATENED THE OFFICER'S ADVISED HER THAT THERE
19 WAS A SAFE HOUSE AVAILABLE, THEY TESTIFIED TO THAT
20 SO THEY'RE TESTIFYING THAT THEY PERCEIVED THE
21 SITUATION IS ONE WHERE SHE NEEDED TO LEAVE THE
22 SAFETY OF HER OWN AND HER GRANDMOTHER'S AND GET TO A
23 PLACE QUICK TO PROVIDE PROTECTION FOR AN INDIVIDUAL
24 WHO'S LIFE WAS ENDANGER

25 UNFORTUNATELY, SHE CHOSE NOT TO TAKE THAT

1 ROUTE AND GO WITH THE OFFICERS, BUT ADVISED THEM
2 THAT SHE HAD A LOCATION THAT SHE COULD FEEL SECURE
3 IN AND HOPEFULLY SAFE IN AND SHE WOULD GO THERE SO
4 IN HER MIND, SHE WAS DOING WHAT SHE NEEDED TO DO TO
5 PROTECT HER LIFE SHE WENT TO MACK HARRIS AND
6 LEUVINIA HARRIS'S HOUSE AND STAYED WITH THEM THAT
7 NIGHT AND GOT UP WITH THEM THE NEXT DAY AND WAS
8 MURDERED WITHIN AN HOUR OF THE APPEARANCE OF THE
9 DEFENDANT AT THAT LOCATION

10 AGAIN, WE'RE TALKING ABOUT A
11 SITUATION HERE WHERE THIS IS A -- ANYTHING SHE'S
12 SAYING DURING THAT PERIOD OF TIME TO ANYBODY SHE'S
13 TALKING TO, COULD BE CONSIDERED RES GESTAE BASED ON
14 HER STATE OF MIND SHE CLEARLY INDICATES TO THESE
15 OFFICERS THAT SHE WAS AFRAID FOR HER LIFE SHE
16 CLEARLY INDICATES SHE HAD BEEN THREATENED BY THE
17 DEFENDANT, AND IN FACT, AS TIME TOLD, SHE SHOULD
18 HAVE BEEN AND SHE WAS AND SHE WAS KILLED

19 SO THE FACTS RIGHT THEN AND THERE
20 WOULD GIVE CREDENCE AND RISE TO THE EXISTENCE OF THE
21 TYPE OF SITUATION THAT YOU NEED TO DETERMINE WHETHER
22 IT IS A RES GESTAE STATEMENT IT'S CLOSE ENOUGH IN
23 TIME, THE SURROUNDING CIRCUMSTANCES WOULD CERTAINLY
24 GIVE RISE TO THE ONE THAT SHE FELT WAS ENDANGER

25 SECOND REASON, YOUR HONOR, THAT WE

1 WOULD ASK YOU TO RECONSIDER IS THAT IT HAS BEEN
2 TESTIFIED TO BY ONE WITNESS BEFORE THIS JURY IN
3 OTHER WORDS, ONE WITNESS TESTIFIED WHAT THE
4 DEFENDANT SAID TO HIM ALREADY, IT'S BEFORE THE
5 JURY SO IT'S NOT AN OF WHETHER THE STATEMENT IS
6 RELEVANT NOW WE'RE DEALING WITH THE CREDIBILITY OF
7 THE WITNESSES WHO SAY WHAT THE DEFENDANT SAID SO
8 WE'RE NOT DEALING ANY MORE WITH WHETHER IT'S
9 RELEVANT AND WHETHER IT'S ADMISSIBLE AS AN EXCEPTION
10 TO THE HEARSAY RULE IT'S NOT IT'S ADMISSIBLE FOR
11 THE JURY, WE'RE JUST DEALING WITH NOW WITH AN EFFORT
12 TO CLARIFY THE CREDIBILITY OF THE WITNESSES WHO HEAR
13 THE STATEMENT

14 THE COURT WELL, YOU STILL ARE
15 DEALING WITH THE QUESTION OF WHETHER OR NOT IT'S
16 HEARSAY AND THERE'S SOME EXCEPTION TO IT
17 OBVIOUSLY, IT'S RELEVANT NO MATTER WHO MIGHT HAVE
18 STATED IT I CAN UNDERSTAND THE RELEVANCE PART OF
19 IT THE QUESTION IS WHETHER OR NOT IT'S ADMISSIBLE
20 BASED UPON AN EXCEPTION TO THE HEARSAY RULE BECAUSE
21 STILL IT'S HEARSAY NO MATTER HOW MANY PEOPLE
22 TESTIFIED TO IT THE FIRST STATEMENT IS WHAT'S
23 BEING OFFERED, THAT'S THE HEARSAY QUESTION THAT HAS
24 TO BE DETERMINED

25 MR JONES RIGHT AND WE WOULD ASK

1 YOU TO, CONSIDERING THE FATALITY OF THE
2 CIRCUMSTANCES NOW AS EVIDENCE HAS BEEN PRESENTED
3 BEFORE YOU CONCERNING WHAT THE OFFICERS HEARD FROM
4 HER, WHAT THE OFFICERS RECOMMENDATIONS WERE FOR HER
5 AND WHAT SHE DID IN RESPONSE TO THOSE
6 RECOMMENDATIONS AND THEN WHAT ULTIMATELY HAPPENED TO
7 HER WITHIN TWENTY-FOUR HOURS OF THE TIME THIS
8 STATEMENT WAS MADE BY THE DEFENDANT IN CONSIDERING
9 WHETHER OR NOT THESE OFFICERS WOULD BE TESTIFYING TO
10 SOMETHING THAT WAS RES GESTAE

11 THE COURT IS THERE SOME SIGNIFICANCE
12 TO WHAT HAPPENS TO HER AT SOME SUBSEQUENT TIME AS TO
13 WHETHER OR NOT ANY PREVIOUS STATEMENT BECOMES PART
14 OF THE RES GESTAE?

15 MR JONES WELL, YES, SIR, AS FAR AS
16 THE TIMING IS CONCERNED WHAT WE'RE LOOKING FOR IS
17 HER STATE OF MIND AND WHETHER OR NOT SHE WAS
18 ACTUALLY HAD REASON TO BELIEVE THAT SHE SHOULD BE IN
19 FEAR OF HER LIFE AND WHETHER OR NOT SHE FELT THAT
20 HARM WAS COMING TO HER IN OTHER WORDS, IS SHE SO
21 CONCERNED ABOUT HERSELF AND HER STATE OF MIND THAT
22 WHAT SHE WAS SAYING WOULD NOT HAVE BEEN MADE UP WITH
23 SOME ULTERIOR MOTIVE AND THE FACT THAT SHE WAS
24 MURDERED WITHIN TWENTY-FOUR HOURS, YOU KNOW, GOES TO
25 SHOW THAT HER FEAR THAT WE'RE CLAIMING SHE HAD AT

1 THE TIME IS THE FEAR THAT SHE HAD FOR HER LIFE WAS
2 REASONABLE, WAS JUSTIFIED, AND WAS, IN FACT, THE
3 TRUTH I MEAN, THAT'S THE ARGUMENT WE WOULD MAKE TO
4 YOU AS TO WHY WHAT HAPPENED TO HER IS IMPORTANT IN
5 CONSIDERING WHETHER OR NOT THE STATEMENT MADE BY HER
6 WOULD FALL WITHIN RES GESTAE

7 THE COURT WELL, I UNDERSTAND BUT I DON'T
8 THINK SOMETHING THAT OCCURS LATER CAN BE USED TO
9 ESTABLISH THE ADMISSABILITY OF THE STATEMENT SHE
10 MADE PRIOR IN ORDER TO DISPROVE THAT SHE MADE IT FOR
11 SOME ULTERIOR MOTIVE YOU'RE SAYING IT SHOULD BE
12 ADMITTED BECAUSE LATER THE EVENTS SO THAT SHE COULD
13 NOT HAVE MADE IT UP, BUT THE QUESTION IS WHETHER HER
14 STATE OF MIND WAS AT THE TIME A STATEMENT WAS MADE
15 OR WHETHER OR NOT IT FALLS UNDER 8031 OR 2, IT WOULD
16 BE THE RES GESTAE

17 MR JONES YES, SIR WELL, THERE IS
18 ADDITIONAL EVIDENCE THAT HAS BEEN PRESENTED SINCE
19 YOU MADE YOUR RULING FROM MR ADAMS, WHO STATES THAT
20 SHE HAD REASON TO BE FEARFUL AT THAT POINT IN TIME
21 BASED ON WHAT THE DEFENDANT DID TO HER HE'S
22 TESTIFIED THAT SHE WAS PUSHED SHE WAS SHOVED AND
23 THIS MAN WOULD INQUIRING ABOUT HER RELATIONSHIP WITH
24 ANOTHER MALE FRIEND THAT SHE HAD OBVIOUSLY BEEN WITH
25 OVERNIGHT AND RETURNING TO HER HOME HE'S TESTIFIED

1 THAT THE DEFENDANT WAS INQUIRING ABOUT THEIR
2 RELATIONSHIP, WAS EXPRESSING NOT ONLY ANGER BUT
3 VIOLENCE TOWARDS HER AT THE TIME THAT HE WAS THERE
4 AND THAT WITHIN MINUTES OF THE TIME THAT SHE WAS --
5 EXPERIENCED THIS VIOLENCE AND EXPERIENCED THESE
6 THREATS AND TOLD THE POLICE ABOUT THEM

7 SO YOU'VE GOT ADDITIONAL TESTIMONY
8 THAT COOPERATES WHAT THE POLICE SAY SHE SAID FROM A
9 WITNESS WHO WAS THERE AND WITNESSED WHAT OCCURRED
10 NOT JUST A STATEMENT BUT THE ACTIONS AND VIOLENCE
11 THAT OCCURRED IN OTHER WORDS, YOU'VE GOT A WITNESS
12 WHO'S TESTIFIED TO YOU THAT SHE WAS PUSHED AND SHE
13 WAS HIT HE SAW IT AND THAT SHE WAS THREATENED
14 AND HE WAS INQUIRING AS TO THE RELATIONSHIP OF THE
15 VICTIM AND ANOTHER MALE FRIEND THAT SHE WAS WITH
16 AGAIN, GIVING RISE TO RES GESTAE FROM THAT INCIDENT

17 THE COURT MR GARRETT?

18 MR COULTER COULD I JUST ADD --

19 THE COURT YES, SIR

20 MR COULTER ONE THING TO THAT, YOUR
21 HONOR

22 THE COURT YES, SIR

23 MR COULTER AND THAT IS I'M GOING
24 TO BE TALKING ABOUT RES GESTAE OF THE STATEMENT
25 ITSELF AND THE RES GESTAE OF EVENTS -- AND I THINK

1 THAT'S SOMETHING THAT THE SOLICITOR HAD ELUDED TO --
2 AND I KNOW YOUR HONOR IS FAMILIAR WITH THE *STATE VS*
3 *KENNETH WILLIAMS* IN A 1996 CASE WHICH TALKS ABOUT
4 THE SEQUENCE OF EVENTS AND EXPLAINS HOW THINGS
5 HAPPENED AND THAT'S EXACTLY WHY WE'RE ATTEMPTING
6 TO SHOW THIS IS TO EXPLAIN HOW THIS HAPPENED AS
7 OPPOSED TO SOMEONE COMING OVER AND HAVING THIS
8 DISCUSSION WITH COFFEE THIS WAS A SITUATION WHERE
9 ON SUNDAY HER LIFE WAS THREATENED ON MONDAY, IT
10 WAS CARRIED OUT AND IT'S IMPOSSIBLE TO SHOW -- TO
11 TAKE THAT IN ONE VACUUM WITHOUT BEING ABLE TO SHOW
12 ONE VERSUS THE OTHER

13 THE FIRST EVENT IS WHAT LED TO THE
14 SECOND EVENT AND IT'S A SEQUENCE OF EVENTS AND
15 JUST IN *KENNETH WILLIAMS* SUPREME COURT REFERS TO, I
16 BELIEVE, *STATE VS ADAMS*, WHICH WAS A SUPREME COURT
17 OPINION WRITTEN BY JUSTICE TOAL WHICH GOES INTO
18 GREAT DETAIL ABOUT RES GESTAE OF EVENTS AS TOLD IN
19 HIS STATEMENT AND I THINK THAT'S ONE OF THE
20 BIGGEST REASONS WE'RE TRYING TO PUT THIS INTO
21 EVIDENCE, IN PARTICULAR, WITH THESE OFFICERS

22 THE COURT I'LL READ THOSE TWO CASES
23 DURING THE LUNCH RECESS MR GARRETT

24 MR GARRETT YOUR HONOR, IF IT'LL
25 PLEASE THE COURT, THIS IS IMPROPER BOLSTERING THEY

1 HAVE WHAT THEY SAY HAVE ALREADY BY A PERSON WHO WAS
2 THERE ALLEGEDLY WHICH TESTIFIED AS TO WHAT HE SAW
3 NOW THEY'RE TRYING TO USE -- THEY'RE TRYING TO GET
4 OVER ON TOP OF THAT AND COME IN AND HAVE OTHER
5 OFFICERS SAY, NOW WHAT DID SHE HAVE TO SAY ABOUT IT
6 IT'S OUR POSITION, YOUR HONOR, THAT THAT WOULD BE
7 IMPROPER

8 YOUR HONOR, IF THEY'RE ALLEGING A
9 CRIMINAL ACT AGAINST MY CLIENT THEN THE EVIDENCE
10 THAT THEY SUGGEST MUST BE CLEAR AND CONVINCING, YOUR
11 HONOR SO WE WOULD HAVE SOME QUESTIONS ABOUT THAT
12 AND ALSO IN THIS FURTHER THREAT THAT WAS CONTRARY TO
13 THAT STATEMENT HE HAD GIVEN LAW ENFORCEMENT OFFICERS
14 AT THE TIME ABOUT WHAT HE SAID OCCURRED SO,
15 OBVIOUSLY, IT'S NOT CLEAR AND CONVINCING I MEAN
16 IT'S ABSOLUTE ASKEW AS TO WHETHER OR NOT SOMEBODY
17 THREATENED TO KILL HIM I MEAN, IT SEEMS TO ME LIKE
18 IF SOMEONE THREATENED TO KILL THIS MAN AND SHEKA
19 THAT THAT INFORMATION WOULD HAVE BEEN PUT INTO A
20 POLICE STATEMENT THAT HE GAVE AT THE TIME BUT IT
21 WASN'T IT COMES UP NOW AFTER THIS INCIDENCE OR AT
22 THE TRIAL

23 IT WOULD BE THE POSITION OF THE DEFENSE THAT
24 IT'S IMPROPER BOLSTERING IT DOESN'T FIT THE
25 ACCEPTIONS IT IS HEARSAY AND IT IS A CRIMINAL ACT

1 AND FOR THEM TO COME IN THERE, THEY'RE GOING TO HAVE
2 TO SHOW CLEAR AND CONVINCING EVIDENCE IN THAT REGARD
3 AND THEY HAVEN'T DONE THAT IN THIS CASE

4 THE COURT WELL, OF COURSE, CLEAR
5 AND CONVINCING EVIDENCE OF A FACT CAN BE ESTABLISHED
6 WHETHER OR NOT THE CREDIBILITY OF A WITNESS IS
7 INTACT BUT CLEAR AND CONVINCING EVIDENCE OF THE ACT
8 ITSELF COULD BE ESTABLISHED BY SOME OTHER WITNESS
9 WHO IS CREDIBLE AND WHOSE CREDIBILITY HAS NOT BEEN
10 ATTACKED TO STATE, YES, IN FACT, SOME OTHER PERSON
11 REPORTED THE SAME THING THAT THE WITNESS, MR ADAMS,
12 HAS REPORTED AND THAT IS A POLICE OFFICER WHO HAS NO
13 INTEREST IN THE CASE WHO WOULD TESTIFY AND STATE
14 THAT THE VICTIM HERSELF MADE THE SAME STATEMENT TO
15 HIM SO THAT EVIDENCE COULD VERY WELL GIVE RISE TO
16 CLEAR AND CONVINCING EVIDENCE OF THE FACT OF THE
17 STATEMENT

18 MR McCALLUM YOUR HONOR, IF I MAY
19 VERY BRIEFLY

20 THE COURT YES, SIR

21 MP McCALLUM BUT THAT EVIDENCE IS
22 HEARSAY EVIDENCE

23 THE COURT I UNDERSTAND IT'S
24 HEARSAY THERE'S A LOT OF THINGS THAT ARE HEARSAY
25 WE'RE TALKING ABOUT EXCEPTIONS TO THE HEARSAY, I

1 KNOW IT'S HEARSAY I RECOGNIZE THAT FULLY

2 MR McCALLUM YES, YOUR HONOR, BUT

3 IN ORDER FOR IT TO BE RELIABLE HEARSAY THE BASIC

4 TEST FOR THE EXCEPTIONS IS THAT THERE'S SOMEWHAT OF

5 AN ISSUE OF RELIABILITY AND UNDER 801 1 AND 2,

6 WHICH IS REALLY THE RES GESTAE'S CODIFIED SINCE WE

7 ADOPTED THE FEDERAL RULES IN SOUTH CAROLINA, THE

8 STATE HAS FAILED TO ESTABLISH ANY TIME LENGTH

9 BETWEEN THE ACTS THAT MR KENNEDY IS ACCUSED OF

10 DOING AT THE CAR AND THE TIME THAT THE DECLARANT

11 MADE THE STATEMENT TO THE POLICE OFFICER AND THERE

12 WAS TIME FOR THE DECLARANT TO MAKE A REFLECTION AND

13 TO MODIFY HER MEMORY AND MAKE THIS STATEMENT TO THE

14 POLICE OFFICER WHICH WAS NOT A PRESENT SENSE

15 IMPRESSION OR AN EXCITED UTTERANCE

16 THE COURT I BELIEVE MR ADAMS SAID

17 IT OCCURRED SOMETIME BEFORE 12 00 AND THE OFFICERS

18 TESTIFIED, AND THE EVIDENCE SHOWS, THAT THEY HAD THE

19 REPORT FROM HER AT 12 05 MAYBE

20 MR McCALLUM HE ALSO TESTIFIED,

21 YOUR HONOR, THAT HE WENT BACK TO HER HOUSE AND

22 STAYED FOR SOME PERIOD OF TIME AND LEFT BEFORE THE

23 POLICE OFFICERS ARRIVED SO THERE'S OBVIOUSLY SOME

24 GAP IN THERE FOR HER TO REFLECT ON WHAT HAD HAPPENED

25 AND CHANGED HER MIND

1 THE COURT WELL, OF COURSE, A GAP
2 FOR REFLECTION MIGHT BE, YOU KNOW, IN TEN SECONDS
3 IT MIGHT BE A DAY SO THE GAP REALLY IS NOT
4 NECESSARILY IMPORTANT IN THE DETERMINATION AS TO
5 WHETHER OR NOT IT FALLS WITHIN THE RES GESTAE
6 EXCEPTION I UNDERSTAND YOUR ARGUMENTS I'LL TAKE
7 IT UNDER ADVISEMENT WHY DON'T YOU RECESS UNTIL
8 1 45

9 (COURT IS IN RECESS AT 12 34 O'CLOCK P M)

10 (OFF THE RECORD)

11 (COURT RECONVENES AT 2 05 O'CLOCK P M)

12 THE COURT LET'S ADDRESS THE ISSUE
13 OF THE STATE'S REQUEST TO RECALL AT LEAST ONE OF THE
14 OFFICERS TO TESTIFY REGARDING A STATEMENT MADE BY
15 THE DECEDENT JACKSON REFERENCING THE DEFENDANT'S
16 STATEMENT THAT HE WAS GOING TO KILL THEM BOTH,
17 REFERRING TO MS JACKSON AND TO MR ADAMS

18 I'VE HAD A CHANCE TO REVIEW THOSE
19 CASES CITED BY THE STATE OF COURSE THE FIRST CASE
20 WAS WILLIAMS AND, MR COULTER, I KNOW IN THAT CASE -
21 - THAT CASE STOOD FOR THE PROPOSITION THAT EVIDENCE
22 OF ANOTHER OR EVIDENCE OF OTHER MISCONDUCT WAS
23 ADMISSIBLE AS PART OF THE RES GESTAE IF IT OCCURRED
24 CONTEMPORANEOUSLY WITH OR AS PART AND PARTIAL TO THE
25 CRIME CHARGED WELL, UNDERSTAND THAT I'VE ALWAYS

1 AGREED WITH YOU ON THAT I'VE NEVER DISAGREED THAT
2 THAT MIGHT NOT BE PART AND PARTIAL OF A CRIME
3 CHARGED HERE THE ISSUE IS NOT WHETHER OR NOT THAT
4 MISCONDUCT IS ADMISSIBLE, THE ISSUE IN THIS CASE IS
5 HOW IS THAT TO BE ESTABLISHED AND THAT'S THE REASON
6 I HAD SOME CONCERN ABOUT IT WHEN THE FIRST TIME IT
7 WAS OFFERED BY WAY OF THE OFFICERS TESTIFYING WHERE
8 THE PERIMETERS OR THE TIME CAPSULE HAD NOT BEEN
9 ESTABLISHED

10 NOW, SINCE MR ADAMS HAS TESTIFIED,
11 THE TIME CAPSULE HAS BEEN ESTABLISHED, AS I RECALL
12 IT AND WHAT MR ADAMS TESTIFIED TO IS THAT
13 SOMETIME BETWEEN 12 00 AND 2 00, HE AND SHEKA
14 JACKSON WERE ON SECOND STREET AT THEIR AUTOMOBILE
15 AND THAT THE DEFENDANT APPEARED AND THEY HAD SOME
16 DISCUSSION OR ALTERCATION THAT OCCURRED AND MR
17 ADAMS TESTIFIED THAT AT THAT TIME, THE DEFENDANT
18 SAID I'LL KILL YOU BOTH AND THEN SHEKA WENT IN THE
19 HOUSE TO CALL THE POLICE

20 NOW, THE POLICE HAVE ALREADY
21 TESTIFIED THAT, IN FACT, THEY DID RECEIVE THAT CALL
22 AND THEY RESPONDED TO THE CALL AND WHEN THEY
23 RESPONDED TO THE CALL, THEY TALKED WITH TESHEKA
24 JACKSON REGARDING THAT INCIDENT SO THAT NARROWS
25 THE TIME CAPSULE DOWN CONSIDERABLY, AND BASED UPON

1 THAT NARROWING OF THAT TIME CAPSULE, I BELIEVE THAT
2 THE STATEMENT OF SHEKA JACKSON WOULD BE ADMISSIBLE
3 UNDER 803 1 AND 2

4 MR COULTER THANK YOU, YOUR HONOR
5 THE COURT AND I NOTE THE EXCEPTION
6 OF THE DEFENDANT TO THAT RULING ANY OTHER MATTERS
7 WE NEED TO ADDRESS BEFORE THE JURY IS BROUGHT IN?

8 OH, LET ME ADDRESS ONE OTHER MATTER
9 WITH REGARD TO THAT I UNDERSTAND THAT -- SOLICITOR
10 YOU HAD INDICATED THAT YOU WISH TO CALL MR NEW AND
11 MR HENDERSON ON THAT POINT

12 MR COULTER YES, SIR

13 THE COURT WHAT I'M GOING TO PERMIT
14 -- I'M NOT GOING TO SIMPLY PERMIT FOR HOWEVER MANY
15 NUMBERS OF PEOPLE THAT MIGHT HAVE HEARD THAT
16 STATEMENT IF AN OFFICER RESPONDED TO THAT CALL, HE
17 TOOK A STATEMENT FROM MS JACKSON, HE MADE AN
18 INCIDENT REPORT, I WOULD ASSUME, OF THAT RESPONSE, -
19 -

20 MR COULTER HE DID

21 THE COURT -- THAT WOULD BE THE
22 OFFICER THAT WOULD BE PERMITTED TO TESTIFY AS TO
23 THAT FACT

24 MR COULTER THANK YOU, YOUR HONOR

25 MR GARRETT YOUR HONOR, WE WOULD

1 ASK THE COURT FOR A JURY INSTRUCTION THAT VIOLENCE
2 OF THE DEFENDANT NOT BE IMPLIED BY THAT BECAUSE AS I
3 UNDERSTAND IT, THEY'RE TALKING ABOUT AN EXCITED
4 UTTERANCE OF THE PRESENT SENSE IMPRESSION AND THAT'S
5 WHAT YOU LET IT IN UNDER

6 WE TAKE THE POSITION THAT YOU CANNOT
7 ARGUE THAT TO SUGGEST VIOLENCE OF MY CLIENT IMPLIED
8 IN THAT TESTIMONY USED IT FOR OTHER REASONS

9 THE COURT NO, SIR, I THINK THEY'RE
10 OFFERING TO SHOW THE DEFENDANT'S MOTIVE AND INTENT
11 IN THIS CASE

12 MR GARRETT WELL, THEY'RE TO PARTS
13 TO THIS DILEMMA AS I SEE IT, YOUR HONOR, THERE'S TWO
14 SEPARATE ISSUES ONE GOES TO MOTIVE INTENT TO A
15 MURDER THE OTHER, AS I SEE IT, GOES TO THE
16 QUESTION OF DOMESTIC VIOLENCE ASSAULT AND BATTERY
17 I SEE IT AS TWO SEPARATE THINGS AND, AS I UNDERSTAND
18 IT, ARE YOU GOING TO ALLOW BOTH OF THOSE THINGS TO
19 COME IN UNDER THAT EXCEPTION?

20 THE COURT WELL, YOU KNOW, I'M NOT
21 SURE EXACTLY WHAT YOU'RE ASKING ME TO DO, BUT THE
22 STATE IS OFFERING TO SHOW MOTIVE INTENT IN THIS CASE
23 AS RELATES TO THIS OFFENSE AND THE JURY WILL DECIDE
24 WHETHER OR NOT THAT IT'S PROVITIVE ON THAT POINT
25 THAT'S A QUESTION OF FACT FOR THE JURY IF I START

1 TELLING THEM HOW THEY SHOULD CONSIDER THAT EVIDENCE,
2 THEN I WOULD BE CUNNING UPON THE FACTS, IT SEEMS TO
3 ME, UNLESS YOU CAN EXPLAIN TO ME HOW SOME
4 INSTRUCTION WOULD ASSIST THEM ON THAT POINT

5 MR GARRETT OUR CONCERN IS THAT
6 YOU'RE ALLOWING, AS I UNDERSTAND IT, AS A
7 PRECEDENT, --

8 MR McCALLUM PREJUDICANT

9 MR GARRETT -- EITHER ONE, I'M NO
10 SURE WHICH ONE, YOU SAID YOU'RE GOING TO LET IT
11 UNDER BOTH UNDER THE EXCITED UTTERANCE RULE, IS THAT
12 RIGHT?

13 THE COURT I THINK IT FITS UNDER
14 EITHER

15 MR GARRETT OR THE PRESENT SENSE
16 IMPRESSION AND THERE'S TWO PARTS TO THAT ONE
17 PART IS AS IT RELATES THE ACTUAL ALTERCATION BETWEEN
18 THE TWO OF THEM THE PUSHING OR THE SHOVING, AS I
19 UNDERSTOOD IT FROM MR ADAMS' TESTIMONY IT WAS A
20 PUSHING

21 THE COURT ALL RIGHT

22 MR GARRETT NOW, IF WE GO TO THE
23 POLICE DEPARTMENT'S STATEMENT OF WHAT SHE ALLEGEDLY
24 SAYS, THEY'RE SAYING THAT HE HIT HER, WHICH IS
25 DIFFERENT FROM WHAT MR ADAMS TESTIFIED TO

1 THE COURT LET ME SAY THIS AS I
2 UNDERSTOOD IT, THAT WAS THE LAST THING THAT THE
3 DEFENDANT SAID HE SAID THAT AND LEFT SO IT SHOWS
4 NO INTENT AS TO THAT PARTICULAR ALTERCATION BECAUSE
5 AT THE TIME THE STATEMENT WAS MADE, THAT ALTERCATION
6 HAD ALREADY OCCURRED AND ENDED

7 MR GARRETT RIGHT

8 THE COURT AND HE LEFT

9 MR GARRETT RIGHT

10 THE COURT SO IT OBVIOUSLY WOULD NOT
11 SHOW ANY INTENT AS TO THAT ALTERCATION THE
12 ALTERCATION HAD OCCURRED BEFORE THE STATEMENT WAS
13 MADE

14 MR GARRETT THAT'S RIGHT SO WE'RE
15 GOING TO LIMIT THAT TESTIMONY TO JUST THAT HE
16 THREATENED TO KILL HER? OR ARE YOU GOING TO LET
17 THEM GET INTO THE FACT THAT SHE SAID HE PUSHED ME,
18 HE DID THIS, HE DID THIS, AND HE --

19 THE COURT OH, NO NO, NO, NO,
20 ABSOLUTELY -- NO, NO, NO AS I UNDERSTOOD WHAT
21 THEY'RE OFFERING IS TO OFFER THE POLICE OFFER TO
22 TESTIFY THAT THE DECEDENT JACKSON TOLD THEM THAT THE
23 DEFENDANT SAID I'M GOING TO KILL YOU BOTH AND I
24 UNDERSTAND THAT THAT IS THE EXTENT TO WHICH THEY ARE
25 ASKING TO HAVE THAT WITNESSED RECALL, IS THAT RIGHT

1 MR COULTER?

2 MR COULTER THAT'S EXACTLY RIGHT

3 THE COURT SO HIS TESTIMONY WOULD BE
4 LIMITED AS TO THAT STATEMENT AND THAT STATEMENT
5 ONLY

6 MR COULTER EXACTLY, YES, SIR

7 MR GARRETT I JUST WANT TO MAKE
8 SURE WE'RE CLEAR ON THE POINT, YOUR HONOR, AS IT
9 RELATES OUR POSITION IS IT NOW, INSTEAD OFFERING
10 TALKING PRESENCE SENSE IMPRESSION AND EXCITED
11 UTTERANCE, THEY'RE GOING DOWN INTO THE SECTION OF
12 TRYING TO USE IT FOR MOTIVE TO ESTABLISH MOTIVE IN
13 THE CASE, THAT ANALYSIS NEEDS TO BE DONE UNDER 404
14 AS OPPOSED TO 803 AND 803 --

15 MR TINSLEY 801

16 MR GARRETT 801

17 THE COURT I DON'T DISAGREE WITH
18 THAT IT GOES TO SHOW MOTIVE AND INTENT WHICH IS
19 WHAT 404 ALLOWING TESTIMONY IS DESIGNED TO BE
20 ADMITTED IT

21 MR GARRETT WE WOULD CITE, YOUR
22 HONOR, THIS PIERCE CASE I'M SURE HIS HONOR IS
23 AWARE -- *STATE VS HOUGH*, H-O-U-G-H, OPINION NUMBER
24 24548 FILED ON JANUARY 13, 1997 I'M NOT
25 PRONOUNCING THAT RIGHT YOUR HONOR, AS WE

1 UNDERSTAND IT, IT HAS TO BE CLEAR AND CONVINCING
2 EVIDENCE AND BECAUSE THERE SEEMS TO BE CONFLICT AS
3 TO WHAT WAS SAID BOTH IN THE INCIDENT REPORT AS TO
4 WHAT SHE SAID WAS SAID AND THERE ALSO, YOUR HONOR,
5 WAS ALLEGEDLY A LATER WITNESS WHERE SHE MADE ANOTHER
6 STATEMENT TO A LATER WITNESS WHICH WAS DIFFERENT
7 FROM THE STATEMENTS THAT WE'VE GOT HERE

8 SO WE'VE GOT -- IN THIS PARTICULAR
9 INSTANCE, I'VE GOT THREE DIFFERENT STATEMENTS THAT
10 SHE ALLEGEDLY MADE SO IF YOU LOOK AT THAT IN THE
11 TOTALITY OF THE CIRCUMSTANCES ON THIS CASE, IT IS
12 CLEAR, YOUR HONOR, THAT IF WE LOOK AT IT AS
13 PROBATIVE VALUE, IT'S PROBATIVE VALUE BECOMES LESSER
14 AND LESSER AND LESSER BECAUSE WE'VE GOT ALL THESE
15 CONFLICTING STATEMENTS THAT ALLEGEDLY WERE MADE
16 VERSUS THE PREJUDICE THAT THE DEFENDANT'S GOING TO
17 BEAR BASED UPON THIS BEING ALLOWED INTO EVIDENCE

18 THE COURT I UNDERSTAND IT'S
19 PREJUDICIAL AND MOST EVERYTHING THE STATE'S GOING TO
20 OFFER IN THIS CASE IS GOING TO BE, IN SOME FASHION,
21 PREJUDICIAL TO THE DEFENDANT THEY INTEND IT TO BE
22 SO OR OTHERWISE THEY WOULD NOT HAVE CHARGED HIM WITH
23 THE OFFENSE OR BE OFFERING THIS EVIDENCE IN SUPPORT
24 OF IT BUT THE QUESTION'S WHETHER OR NOT THE
25 PREJUDICIAL EFFECT OUTWEIGHS ITS PROBATIVE VALUE AND

1 I DO NOT FIND THAT TO BE THE CASE WITH RESPECT TO
2 THIS EVIDENCE

3 MR GARRETT THANK YOU, YOUR HONOR
4 PLEASE NOTE OUR EXCEPTION FOR OUR COURT RECORD

5 THE COURT NOW, LET ME ADDRESS THIS
6 ISSUE WITH YOU SINCE YOU BROUGHT IT UP YOU'RE
7 INDICATING THEY'RE OTHER CONFLICTING STATEMENTS
8 YOU UNDERSTAND THAT I CAN ONLY CONSIDER WHAT I KNOW
9 ABOUT AND I RECOGNIZE THAT SOMETIMES WHEN WE GET
10 INVOLVED IN THE TRIAL OF THE CASE, WE INTEND TO
11 ASSUME THAT THE OTHER PARTY OR THE JUDGE OR SOME
12 OTHER PERSON MIGHT KNOW WHAT WE KNOW AND YOU HAVE
13 TO UNDERSTAND AND KEEP IN MIND, I AM LIMITED BY THE
14 EVIDENCE THAT'S PRESENTED THAT IS ALL I KNOW ABOUT
15 THE CASE IS WHAT IS PRESENTED HERE DURING THE TRIAL

16 MR JONES YOUR HONOR, CAN WE PASS
17 UP THE INCIDENT REPORT TO YOU PERTAINING TO THIS
18 SITUATION SO THAT YOU CAN REVIEW IT WE'LL BE HAPPY
19 TO MAKE IT A COURT'S EXHIBIT IF YOU SEE THE
20 NECESSITY OF THAT

21 THE COURT NOW WHO PREPARED THIS
22 REPORT?

23 MR JONES MR NEW, BARRY NEW WAS
24 THE OFFICER THAT TOOK THE STATEMENT BUT HE DIDN'T
25 ACTUALLY TYPE THE REPORT THE REPORT WAS TYPED BY

1 OFFICER HENDERSON -- A CLERK

2 THE COURT BUT THIS IS HIS REPORT?

3 MR COULTER YES, SIR

4 THE COURT I SEE WHERE IT'S GOT

5 HENDERSON NEW AS THE REPORTING OFFICER SO MR NEW
6 IS GOING TO BE TESTIFYING IF HE RESPONDED TO THE
7 CALL THAT HE TALKED WITH MS JACKSON, THAT SHE TOLD
8 HIM AND I UNDERSTAND YOU'RE ONLY ASKING THAT THAT
9 PARTICULAR STATEMENT BE ADMITTED AS TO SHE TOLD HIM,
10 "I'M GOING TO GET YOU, I'M GOING TO GET BOTH OF YOU,
11 I'LL KILL YOU '

12 MR COULTER YES, SIR

13 THE COURT THAT'S THE EXTENT OF HIS
14 TESTIMONY?

15 MR JONES YOUR HONOR, WE'RE GOING
16 TO ASK HIM, DID YOU HAVE AN INCIDENT REPORT PREPARED
17 AND DID YOU PUT THAT IN THE INCIDENT REPORT ON THE
18 DAY IN QUESTION

19 THE COURT BUT YOU'RE NOT OFFERING -
20 -

21 MR JONES NO, NOT OFFERING, JUST
22 ASKING HIM IF HE PUT IT IN THE INCIDENT REPORT

23 MR GARRETT YOUR HONOR, IN THIS
24 CASE AS WELL, WE FEEL LIKE IT'S THE BURDEN UPON THE
25 STATE TO PROVE CLEAR AND CONVINCING EVIDENCE WHEN

1 THEY'RE GOING INTO THE MOTIVE AND THE INTENT PHASE
2 AND ARGUING THOSE ISSUES AND IN THEIR OWN
3 STATEMENT THEY HAVE TESHEKA ALLEGEDLY TALKING TO
4 SOMEONE ELSE LATER THAT EVENING AND THEN SHEKA SAID,
5 MIKE, GET OUT OF THE CAR AND JOHN RUN UP THE STREET
6 AND YELLED HE WAS GOING TO BURY THEM TOGETHER, THOSE
7 BEING DIFFERENT STATEMENTS ONE SAYS BURY TOGETHER,
8 ONE SAYS GOING TO KILL BOTH OF YOU AND THEN HIS
9 STATEMENT HERE IS, "I'M GOING TO GET YOU, I'M GOING
10 TO GET BOTH OF YOU, I'LL KILL YOU " AND SO WHAT WE
11 HAVE HERE, YOUR HONOR, IS AT LEAST THREE DIFFERENT
12 STATEMENTS THAT ARE INCONSISTENT

13 THE COURT ARE THEY INCONSISTENT OR
14 ARE THEY DIFFERENT WORDING?

15 MR GARRETT I THINK THEY'RE
16 INCONSISTENT I'LL KILL YOU IS DIFFERENT THAN I'LL
17 KILL BOTH OF YOU YOU KNOW, WE'VE GOT A PROBLEM
18 HERE WE'RE NOT SURE EXACTLY WHAT WAS SAID SHE'S
19 NOT HERE, THE PROBATIVE VALUE IS OUTWEIGHED HERE I
20 MEAN BY THE PRESENCE YOU'VE GOT THREE SEPARATE --
21 BUT IT'S NOT CLEAR AND CONVINCING BY THE STATE'S OWN
22 CASE

23 THE COURT LET ME ASK YOU THIS IN
24 ORDER FOR ME TO BE CLEARLY CONVINCED, DOES THE STATE
25 TO WISH TO OFFER ANY OTHER EVIDENCE ON THE POINT, DO

1 YOU WISH TO OFFER THE TESTIMONY OF THE OFFICER
2 BEFORE WE --

3 MR JONES YES, SIR I'LL CALL
4 OFFICER NEW

5 MR GARRETT CHADE PATTERSON, JUDGE,
6 JUST FOR THE RECORD AS TO WHO MADE THE OTHER
7 STATEMENT WHICH WAS SOMETIME LATER ON

8 THE COURT I'LL LET YOU PUT IN
9 ANYTHING YOU'D LIKE ON THAT POINT YOU CAN DO IT
10 THROUGH A WITNESS OR IF YOU HAVE SOMETHING ELSE THAT
11 NEEDS TO BE PUT IN IN SOME OTHER FASHION THEN I'LL
12 ALLOW YOU TO DO SO

13 (WITNESS BARRY NEW RE-PRESENTED AT 2 16 O'CLOCK
14 P M)

15 THE COURT MR NEW, YOU'VE
16 PREVIOUSLY BEEN SWORN AND YOU REMAIN UNDER OATH

17 THE WITNESS YES, SIR

18 MR JONES WHEN YOU RESPOND TO AN
19 INCIDENT SOMETIME AFTERNOON ON DECEMBER 3RD OF 1995
20 WHEREIN TESHEKA JACKSON INDICATED TO YOU AN INCIDENT
21 THAT HAD OCCURRED JUST PRIOR TO THAT, DID YOU ASK
22 HER WHAT HAD HAPPENED?

23 THE WITNESS YES, SIR

24 MR JONES AND WHAT DID SHE TELL YOU
25 TO THE BEST OF YOUR RECOLLECTION THAT THIS DEFENDANT

1 HAD SAID TO HER?

2 THE WITNESS SHE SAID THAT THERE HAD
3 BEEN A DOMESTIC ARGUMENT TO START WITH AND THAT HE
4 HAD STRUCK HER AND THAT HE HAD RAN AWAY FROM THE
5 AREA THREATENING AS HE WAS LEAVING THE AREA

6 MR JONES DID YOU PREPARE THIS
7 INCIDENT REPORT?

8 THE WITNESS YES

9 MR JONES WHAT STATEMENTS DID
10 SHE --

11 MR GARRETT OBJECTION, YOUR HONOR
12 NOW HE'S TESTIFYING TO THE DOCUMENT ITSELF AS
13 OPPOSED TO HIS OWN KNOWLEDGE

14 THE COURT WELL, AS I UNDERSTOOD IT,
15 HE JUST ASKED HIM IF HE PREPARED THAT REPORT

16 MR GARRETT I UNDERSTAND BUT NOW
17 HE'S GOING TO LOOK AT IT TO SEE WHAT WAS SAID WE'D
18 LIKE TO HAVE THE RIGHT TO FULLY CROSS-EXAMINE
19 WITHOUT HIM LOOKING AT THE DOCUMENT DURING THE
20 PROCESS HE RECALLS IT FROM PERSONAL RECOLLECTION
21 OR HE'S GOING TO HAVE TO GO BACK THE THE DOCUMENT

22 THE COURT I'LL OVERRULE THE
23 OBJECTION THAT'LL HAVE TO BE SOMETHING IN MAKING MY
24 DECISION OR RULING IN THE MATTER BUT YOU'LL BE ABLE
25 TO CROSS-EXAMINE HIM ON IT IF YOU WISH TO

1 MR GARRETT YES, SIR

2 MP JONES DO YOU REMEMBER WHAT SHE
3 TOLD YOU THE DEFENDANT SAID TO HER AS HE WAS
4 LEAVING?

5 THE WITNESS YES, SIR, SHE SAID "HE
6 RAN UP THE STREET", QUOTE, AND SHOUTED BACK THAT I'M
7 GOING TO KILL YOU, I'M GOING TO KILL BOTH OF YOU

8 MR JONES THAT'S WHAT YOU RECALL
9 HER SAYING?

10 THE WITNESS YES, SIR SHE SAID
11 THAT THERE WERE A NUMBER OF THREATS BUT THAT'S WHAT
12 SHE TOLD US THAT HE SAID HE WAS THREATENING WHEN
13 HE WENT AWAY

14 MR JONES HE SAID, I'LL KILL YOU,
15 I'M GOING TO KILL BOTH OF YOU

16 THE WITNESS YES, SIR

17 MR JONES ALL RIGHT DID YOU PASS
18 THAT INFORMATION ON TO ANY OTHER INDIVIDUAL -- LET
19 ME ASK YOU THIS WHO ELSE WAS PRESENT AT THE SCENE
20 WHEN SHE MADE THAT STATEMENT TO YOU ABOUT WHAT THE
21 DEFENDANT HAD SAID TO HER?

22 THE WITNESS AT THE SCENE WAS
23 CORPORAL HENDERSON, MYSELF, MS JACKSON AND ONE OF
24 THE CHILDREN SHE WAS STILL IN THE PROCESS OF
25 GETTING SOME ITEMS IN AND OUT OF HER VEHICLE IN THE

1 DRIVEWAY IN THE HOUSE

2 MR JONES DID YOU MAKE NOTES OF
3 WHAT SHE HAD SAID?

4 THE WITNESS NO, SIR AT THAT POINT
5 WHEN SHE MADE THAT STATEMENT, I BEGAN TO GO LOOK FOR
6 HIM TO POSSIBLY QUESTION HIM ABOUT WHAT HAD
7 HAPPENED I LEFT AT THAT POINT

8 MR JONES WAS ANY OF YOUR WORK
9 PRODUCT, AND I HAND YOU THIS DOCUMENT, AND ASK YOU
10 IF YOU CAN REVIEW IT AND SEE WHAT IT IS

11 THE WITNESS YES, SIR

12 MR JONES WAS YOUR INVESTIGATION
13 AND YOUR WORK PRODUCT INSTRUMENTAL IN PRODUCING THAT
14 DOCUMENT?

15 THE WITNESS YES, SIR

16 MR JONES AND WHAT WAS IT?

17 THE WITNESS IN THAT BOTH OFFICER
18 HENDERSON -- CORPORAL HENDERSON AND MYSELF TOOK THE
19 INFORMATION AND ATTEMPTED TO INVESTIGATE IT FURTHER
20 BY TRYING TO LOCATE THE DEFENDANT WITHOUT SUCCESS
21 AND THEN OFFICER HENDERSON FURTHER STAYED ON THE
22 SCENE AS ADVISED HER, AS HE STATED EARLIER, SHE
23 NEEDED TO FIND ANOTHER PLACE TO STAY THAT NIGHT

24 MR JONES DID YOU TELL THE CLERK
25 WHAT TO PUT IN THAT DOCUMENT?

1 THE WITNESS YES, SIR, IT WAS
2 HANDWRITTEN FIRST CORPORAL HENDERSON ACTUALLY
3 WROTE THE DOCUMENT, THE HANDWRITTEN PART, AND IT WAS
4 JUST TYPED OUT

5 MR JONES ANSWER ANY QUESTIONS THAT
6 MR GARRETT HAS FOR YOU

7 MR GARRETT WELL, IN FACT, YOUR
8 DOCUMENT HERE, YOUR INCIDENT REPORT DOESN'T SAY WHAT
9 YOU JUST SAID THAT YOU RECALL HER SAYING

10 THE WITNESS CORRECT SHE SAID HE
11 MADE SEVERAL THREATS, ONE OF WHICH BEING WHAT I
12 STATED

13 MR GARRETT WELL, HERE YOU SAY YOU
14 SAID SHE SAID, 'I'M GOING TO GET YOU, I'M GOING TO
15 GET YOU, I'M GOING TO GET BOTH OF YOU, I'LL KILL
16 YOU,' OKAY, AND THEN YOU ALSO INDICATE HE HIT THE
17 VICTIM IN THE BACK OF THE HEAD WITH HIS FIST DID
18 YOU DO ANY INVESTIGATION OF THE BACK OF HER HEAD?

19 THE WITNESS I DID NOT

20 THE COURT MR GARRETT, JUST A
21 MINUTE FOR MY BENEFIT, WHAT DOCUMENT ARE YOU
22 REFERRING TO?

23 MR GARRETT TO THE INCIDENT REPORT
24 THE COURT HIS INCIDENT REPORT?

25 THE WITNESS YES, SIR

1 T-E COURT OKAY, OKAY

2 MR GARRETT I'M SORRY, YOUR HONOR
3 IF THAT HAD BEEN MARKED OR -- IT WILL BE, I THOUGHT
4 YOU HAD ANOTHER ONE IT JUST DIDN'T LOOK THE SAME
5 FROM THERE IT'S THE SAME

6 MR JONES I THOUGHT WE WEREN'T
7 SUPPOSED TO ASK HIM ABOUT THE HITTING AND ALL THAT
8 I THOUGHT YOU JUST WANTED US TO FOCUS ON WHAT THE
9 STATEMENT WAS BY THE DEFENDANT, THAT'S THE REASON I
10 DIDN'T ASK HIM

11 THE COURT WELL, THAT'S ALL I SAID I
12 WOULD PERMIT THE STATE TO ASK THIS WITNESS BEFORE
13 THE JURY I'M NOT GOING TO LIMIT HIS CROSS-
14 EXAMINATION OF COURSE, IF HE WANTS TO EXAMINE HIM
15 ON THOSE OTHER STATEMENTS WHEN THE JURY'S PRESENT,
16 THAT'LL BE UP TO HIM

17 MR JONES RIGHT

18 MR GARRETT I DON'T, YOUR HONOR
19 MY POINT WAS SIMPLY TO POINT OUT THAT IT'S NOT CLEAR
20 AND CONVINCING IF IT'S NOT CLEAR AND CONVINCING AS
21 TO THE HITTING INCIDENT, WHICH WAS ALLEGED TO BE
22 SOMETHING DIFFERENT A PUSH BY MR ADAMS, THAT AGAIN
23 THE PROBATIVENESS OF IT BECOMES LESSER AND LESSER
24 SO YOUR STATEMENT TODAY AS TO HOW YOU RECALL IT
25 VERSUS WHAT YOU WROTE DOWN ON THAT EVENING ARE NOT

1 THE SAME ARE THEY?

2 THE WITNESS I DID NOT ACTUALLY
3 WRITE THAT REPORT I HEARD WHAT SHE SAID WHICH
4 IS --

5 MR GARRETT DO YOU HAVE SOME NOTES
6 THAT YOU WROTE?

7 THE WITNESS NO, SIR, I DIDN'T TAKE
8 ANY NOTES I WAS RESPONDING AS BACKUP TO CORPORAL
9 HENDERSON

10 MR GARRETT SO YOU'RE REMEMBERING
11 THIS THEN FROM DECEMBER OF 1995?

12 THE WITNESS YES, SIR

13 MR GARRETT SO YOU DON'T REALLY
14 RECALL SPECIFICALLY WHAT SHE TOLD YOU AT THAT TIME,
15 DO YOU, BACK IN 1995?

16 THE WITNESS YES, SIR, I DO

17 MR GARRETT WELL, IS THIS
18 INCONSISTENT WITH WHAT YOU HAVE IN YOUR REPORT?
19 WHICH ONE IS TRUE, WHAT DID SHE SAY, DID YOU SAY SHE
20 SAID OR WHAT YOU ALL PUT IN YOUR REPORT?

21 THE WITNESS SHE STATED THAT AS HE
22 WAS LEAVING, HAD GONE UP THE STREET, HAD RAN UP THE
23 STREET, QUOTE, "I'M GOING TO KILL BOTH OF YOU, I'M
24 GOING TO KILL YOU" SHE SAID A LOT OF THREATS --
25 SHE HAD ACTUALLY STATED A LOT OF THREATS THAT HE HAD

1 MADE GOING UP THE STREET

2 MR GARRETT DID YOU PUT THAT IN
3 YOUR REPORT?

4 THE WITNESS NO, SIR, I DIDN'T
5 OFFICER HENDERSON, CORPORAL HENDERSON WAS MAKING THE
6 REPORT

7 MR GARRETT DID YOU ALSO SIGN OFF ON
8 THIS REPORT?

9 THE WITNESS YES, SIR

10 MR GARRETT DID YOU REVIEW IT AFTER
11 IT WAS PUT DOWN?

12 THE WITNESS YES, SIR

13 MR GARRETT YOU DIDN'T MAKE ANY
14 CHANGES ON IT BACK THEN, DID YOU?

15 THE WITNESS NO, SIR, BECAUSE THAT
16 WAS THE GIST OF WHAT THE THREATS WERE

17 MR GARRETT NOW, IT'S THE GIST OF
18 WHAT THE THREATS WERE THEY'RE DIFFERENT THAN WHAT
19 YOU ACTUALLY PUT DOWN YOU DO HAVE A COPY OF WHAT
20 YOU SAID AT THAT TIME, DON'T YOU?

21 THE WITNESS YES, SIR, I READ IT

22 MR GARRETT YOU READ IT?

23 THE WITNESS YES, SIR

24 MR GARRETT WHERE DOES IT SAY I'M
25 GOING TO KILL BOTH OF YOU?

1 THE WITNESS IT SAYS I'M GOING TO
2 GET BOTH OF YOU

3 MR GARRETT THAT'S DIFFERENT
4 BETWEEN GETTING SOMEBODY AND KILLING THEM, ISN'T IT?

5 THE WITNESS YES, SIR, BUT THE LAST
6 STATEMENT WAS I'M GOING TO KILL YOU

7 MR GARRETT I'M GOING TO KILL YOU

8 THE WITNESS YES, SIR

9 MR GARRETT IT WASN'T THE BOTH OF
10 YOU, IT WAS KILL YOU, IS THAT RIGHT? WE'RE NOT SURE
11 WHO HE WAS TALKING TO, I'M GOING TO KILL YOU, ARE
12 YOU?

13 THE WITNESS YES, SIR, SHE INDICATED
14 THAT HE WAS TALKING TO HER AND HE FRIEND

15 MR GARRETT I HAVE NO FURTHER
16 QUESTIONS AT THIS TIME

17 THE COURT YOU MAY STEP DOWN GIVE
18 THE COURT REPORTER THAT EXHIBIT PLEASE -- COURT'S
19 EXHIBIT, TWENTY-FIVE THIS IS A DIFFERENT ONE

20 MR GARRETT THAT'S THE SAME ONE

21 THE COURT I JUST HAD ONE MARKED

22 MR GARRETT THIS IS THE SOLICITOR'S
23 THEN, WHOSE DOCUMENT IS ---

24 THE COURT I'M NOT SURE BUT I WAS
25 HANDED ONE BY THE SOLICITOR ANYTHING FURTHER BY

1 THE STATE?

2 MR JONES NOTHING, YOUR HONOR

3 THE COURT ANYTHING FURTHER BY THE
4 DEFENSE?

5 MR GARRETT OFFICER HILL TOOK HIS
6 STATEMENT FROM CHADE PATTERSON I THOUGHT HE WAS
7 STILL ON THE STAND, SIR I BEG THE COURT'S
8 INDULGENCE JUST FOR A MOMENT ON THIS ISSUE, YOUR
9 HONOR WE HAVE A WITNESS WHO WAS PRESENT AT THE
10 TIME THAT THIS ALLEGED STATEMENT WAS MADE YOUR
11 HONOR, MY WITNESS IS NOT PRESENT, SHE'S STILL IN
12 GREENWOOD

13 WITHOUT OFFERING TESTIMONY, YOUR
14 HONOR, WE WOULD JUST LIKE FOR THE COURT, IN CAMERA
15 HEARING, ANOTHER STATEMENT ALLEGEDLY MADE AND THIS
16 IS A VOLUNTARY STATEMENT GIVEN TO THE ABBEVILLE
17 POLICE DEPARTMENT TO AN OFFICER SERGEANT HILL FROM A
18 CHADE, C-H-A-D-E, PATTERSON DATED 12/7/95 AT 1800
19 HOURS WHEREIN THERE'S ANOTHER STATEMENT THAT APPEARS
20 TO BE EVEN DIFFERENT THAN THE STATEMENTS ALREADY

21 THE COURT IS THAT THE WITNESS THAT
22 YOU WANTED TO CALL?

23 MR GARRETT NO, YOUR HONOR I HAVE
24 AN INDEPENDENT WITNESS WHO WAS THERE AT THE SCENE
25 I'LL JUST HAND THIS UP

1 T-E COURT WELL, DO YOU WISH TO
2 RESERVE TIME IN MAKING THAT DECISION UNTIL YOU'RE
3 ABLE TO HAVE THAT WITNESS TESTIFY?

4 MR GARRETT I WISH YOU WOULD, YOUR
5 HONOR SHE WILL BE BACK SHE'S BEEN HERE
6 THROUGHOUT THE TRIAL, WE JUST ASKED HER TO TALK TO A
7 PARTICULAR PERSON AND HAVE THAT PERSON AVAILABLE
8 I'M NOT SURE WHERE THE ORIGINAL OF THAT ONE IS, I
9 WOULD ASSUME THE SOLICITOR'S OFFICER HAS THE
10 ORIGINAL OF THE STATEMENT

11 THE COURT YOU DON'T HAVE ANY
12 OBJECTION TO THIS BEING ADMITTED AS A COURT'S
13 EXHIBIT?

14 MR JONES NO, SIR

15 THE COURT DO YOU WANT TO MAKE A
16 COPY OF IT SO YOU CAN HAVE YOURS BACK?
17 (PERTINENT DOCUMENT IS MARKED AS COURT'S EXHIBIT
18 #26)

19 NOW, WHILE THE JURY'S ABSENT, LET'S
20 ADDRESS THE ISSUE OF THE WITNESS THAT WOULD BE
21 CALLED THAT MIGHT BE PROVIDING SOME TESTIMONY AS TO
22 A STATEMENT MADE BY THE DEFENDANT

23 MR JONES YOUR HONOR, I'M SORRY, I
24 WAS TRYING TO READ THIS STATEMENT

25 THE COURT YOU MAY GO AHEAD AND READ

1 IT

2 MR JONES OKAY, JUDGE, I'VE READ

3 IT

4 THE COURT ANY OTHER MATTERS WE NEED
5 TO ADDRESS ON THAT POINT? WE'LL HAVE TO RESERVE
6 UNTIL THEY HAVE THE WITNESS THEY HAVE ANOTHER
7 WITNESS THEY'D LIKE TO CALL THAT'S NOT RIGHT AT THIS
8 MOMENT AVAILABLE

9 MR JONES ALL RIGHT LET ME TRY TO
10 CLEAR SOMETHING UP, JUDGE THAT'S FINE I MIGHT
11 CAN HELP GET THE WITNESS HERE MY UNDERSTANDING IS
12 -- IT'S CHADE PATTERSON, IT'S A YOUNG MAN, RIGHT,
13 AND IT'S YOUR NEPHEW AND HE'S WORKING RIGHT NOW,
14 WHERE? AT VILO'S SO WE CAN TRY TO GET HIM HERE
15 AS A MATTER OF FACT, I MIGHT WANT TO CALL HIM AS A
16 WITNESS IN THE TRIAL

17 THE COURT DID HE MAKE A WRITTEN
18 STATEMENT?

19 MR JONES I'M SORRY, I THOUGHT THAT
20 WAS THE ONE --

21 MR GARRETT THIS IS CHADE
22 PATTERSON I T-UGHT IT WAS A FEMALE IT'S C-H-A-
23 D-E THIS PERSON HAS A MADE STATEMENT THAT'S THE
24 STATEMENT I JUST HANDED UP TO YOU THE PERSON WE'RE
25 TALKING ABOUT HAS NOT MADE A SWORN STATEMENT TO

1 ANYBODY ABOUT IT IT'S AN INDEPENDENT WITNESS THAT
2 I'M NOT SURE IF THE SOLICITOR'S AWARE OF IT OR NOT
3 THE COURT THAT'S WHAT I WAS ASKING
4 IF IT WAS A WITNESS WHO HAD NOT MADE A STATEMENT OR
5 NOT MADE A WRITTEN STATEMENT?

6 MR GARRETT IT IS
7 THE COURT THEN I'LL RESERVE RULING
8 ON THAT UNTIL THE DEFENSE HAS HAD AN OPPORTUNITY TO
9 HAVE THAT WITNESS PRESENT TO PROVIDE TESTIMONY ON
10 THAT ISSUE

11 NOW, WHAT ABOUT THE NEXT ISSUE WHICH
12 IS THE CALLING OF THE WITNESS REGARDING A STATEMENT
13 MADE BY THE DEFENDANT SHORTLY BEFORE HIS BEING TAKEN
14 INTO CUSTODY?

15 MR COULTER THAT IS THE NEXT ONE WE
16 HAVE

17 THE COURT THAT'S RIGHT ARE WE
18 GOING TO ADDRESS THAT ISSUE BEFORE WE BRING THE
19 WITNESS IN TO TESTIFY AND THE JURY BEING PRESENT?

20 MR COULTER YES, SIR

21 MR GARRETT THE DEFENSE IS READY TO
22 ADDRESS THAT ISSUE

23 THE COURT PRESENT IT FOR THE
24 RECORD, PLEASE

25 MR COULTER DO YOU WANT US TO

1 PROFFER THIS TESTIMONY OF THE WITNESS OR JUST THE
2 BASIS?

3 MR GARRETT UNNECESSARY

4 THE COURT I WANT YOU TO TELL ME
5 WHAT YOU'RE GOING TO DO OR WHAT YOU WISH TO DO AND
6 THEN WE'LL LET THE DEFENSE RESPOND TO IT

7 MR COULTER YES, SIR THE STATE
8 WOULD NEXT TO INTEND TO CALL OFFICER KEN GROGAN OF
9 THE HALL COUNTY SHERIFF'S DEPARTMENT IN GAINESVILLE,
10 GEORGIA

11 IT'S THE STATE'S POSITION THAT HE
12 WILL PRESENT TESTIMONY HAVING GONE TO THE HOME OF
13 THE DEFENDANT'S SISTER HE WENT THERE WITH THE
14 UNDERSTANDING THAT THE DEFENDANT WAS IN THE HOME HE
15 WAS THERE TO CALL THE VICTIM OUT OF THE HOME HE
16 WAS ABLE TO GET THE DEFENDANT ON THE PHONE INSIDE
17 HIS SISTER'S HOUSE HE IDENTIFIED HIMSELF AS KEN
18 GROGAN OF THE HALL COUNTY SHERIFF'S DEPARTMENT TO
19 WHICH HE RESPONDED, AS I UNDERSTAND IT, SOMETHING TO
20 THE EFFECT, THE DEFENDANT SAID I SHOT THEM, IT WAS
21 AN ACCIDENT, SOMETHING OF THAT NATURE IT WAS -- HE
22 MADE THAT STATEMENT IN RESPONSE TO KEN GROGAN HAVING
23 INTRODUCED HIMSELF AS A MEMBER OF THE HALL COUNTY
24 SHERIFF'S DEPARTMENT

25 SHORTLY THEREAFTER, AS I UNDERSTAND

1 IT, THE DEFENDANT CAME OUT OF THE HOME AND SURRENDER
2 TO THE AUTHORITIES

3 THE COURT AND SO THE STATE'S
4 POSITION IS THAT THE DEFENDANT AT THAT TIME WAS NOT
5 IN CUSTODY NOR WAS THE STATEMENT MADE IN RESPONSE TO
6 ANY INTERROGATION BY LAW ENFORCEMENT OFFICERS?

7 MR COULTER YES, YOUR HONOR

8 THE COURT AND THE STATEMENT WAS
9 VOLUNTARY?

10 MR COULTER YES, YOUR HONOR

11 THE COURT DOES THE DEFENSE OPPOSE
12 THAT REQUEST?

13 MR GARRETT NO, YOUR HONOR WE
14 WOULD JUST NOTE FOR THE RECORD WE DO FEEL LIKE AT
15 THE TIME THESE STATEMENTS WERE MADE, MR HUGHEY WAS
16 IN A DECOMPENSATED STATE HOWEVER, YOUR HONOR, IT'S
17 OUR INFORMATION THAT, UNLESS HE WAS INTERROGATED OR
18 UNLESS HE WAS IN CUSTODY, IT'S MIRANDA RIGHTS WERE
19 NOT NECESSARY AND, THEREFORE, HE MADE A VOLUNTARY
20 STATEMENT THAT IT WOULD BE ADMISSIBLE

21 THE COURT AND DO YOU AGREE THAT IT
22 WAS VOLUNTARY AT LEAST TO THE EXTENT THAT IT WAS A
23 PRODUCT OF HIS OWN FREE WILL AND WAS NOT THE RESULT
24 OF ANY PRESSURE OR COERCION BY LAW ENFORCEMENT
25 OFFICERS?

1 MR GARRETT YES, WE DO, YOUR HONOR
2 WE JUST ALSO WISH TO NOTE THOUGHT, HOWEVER, WE DO
3 FEEL LIKE AT THE TIME THE STATEMENT WAS MADE, HE
4 JUST APPARENTLY ATTEMPTED TO COMMIT SUICIDE, WAS
5 BLEEDING AT THAT TIME HE WAS A REAL HEIGHTENED
6 STATE OF MENTAL DIFFICULTY AND WE JUST WANTED THAT
7 TO BE NOTED FOR THE RECORD HOWEVER, HE WAS STILL
8 IN SPITE OF THAT, IT WAS VOLUNTARY

9 THE COURT SO YOU DO NOT CONTEST THE
10 VOLUNTARINESS YOU AFREE IT WAS NOT MADE IN
11 RESPONSE TO INTERROGATION BY OFFICERS AND HE WAS NOT
12 IN CUSTODY?

13 MR GARRETT THAT'S CORRECT

14 THE COURT ANYTHING FURTHER NOW
15 BEFORE WE BRING THE JURY IN?

16 MR COULTER NOT FOR THE STATE
17 (JURY RE-ENTERS THE COURTROOM AT 2 32 O'CLOCK P M)

18 THE COURT GOOD AFTERNOON, LADIES
19 AND GENTLEMEN WE'RE A LITTLE BIT LATE IN HAVING
20 YOU BROUGHT BACK BUT WE WERE ADDRESSING SOME MATTERS
21 THAT HOPEFULLY WILL NOT HAVE TO BE ADDRESSED AT
22 ANOTHER TIME THAT IT MIGHT HAVE BEEN SO IT SIMPLY
23 MIGHT EXPEDITE THE PROCESS IN SOME FASHION SO WE
24 APPRECIATE YOUR PATIENCE AND UNDERSTANDING IN
25 ALLOWING US TO CONSIDER THOSE MATTERS AT THIS TIME

1 MR COULTER

2 MR COULTER THANK YOU, YOUR HONOR
3 THE STATE WILL CALL OFFICER KEN GROGAN TO THE STAND
4 (WITNESS PRESENTED AT 2 35 O'CLOCK P M)

5 THE CLERK THE EVIDENCE YOU SHOULD
6 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
7 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT
8 THE TRUTH, SO HELP YOU, GOD

9 THE WITNESS I DO

10 DIRECT EXAMINATION BY MR COULTER

11 Q IF YOU COULD, PLEASE TELL THE JURY YOUR NAME

12 A I'M KEN GROGAN

13 Q AND WHAT AGENCY DO YOU WORK WITH?

14 A I'M CAPTAIN OF THE HALL, H-A-L-L, COUNTY
15 SHERIFF'S OFFICE IN GAINESVILLE, GEORGIA

16 Q AND CAPTAIN GROGAN, AS CAPTAIN, YOU HAVE --
17 LET ME ASK YOU THIS LET'S JUST GO BACK TO DECEMBER
18 4, 1995 DO YOU RECALL A BOLO BEING PUT OUT IN
19 REGARDS TO A CAR THAT HAD LEFT ABBEVILLE, SOUTH
20 CAROLINA?

21 A YES

22 Q AND DO YOU REMEMBER OR RECALL WHAT TYPE OF CAR
23 IT WAS THAT THE BOLO WAS PUT OUT FOR?

24 A IT WAS A MITSUBISHI, WHITE IN COLOR, I
25 BELIEVE

1 Q AND WHAT AREA OF GAINESVILLE WERE THEY
2 FOCUSING ON -- AND AGAIN, BOLO'S WHAT?

3 A IT'S A LOOKOUT WE HAD A LOOKOUT THAT CAME
4 FROM SOUTH CAROLINA A LOOKOUT ON THE VEHICLE IN
5 THE EASTERN PART OF HALL COUNTY, HARMONY CHURCH ROAD
6 AREA

7 Q HARMONY CHURCH ROAD AS A RESULT OF THIS
8 BOLO, WAS YOUR OFFICE ABLE TO FIND THIS CAR?

9 A YES

10 Q DO YOU RECALL WHERE EXACTLY IT WAS THAT YOU
11 LOCATED THIS CAR?

12 A IT WAS FOUND AT A RESIDENCE ON HARMONY CHURCH
13 ROAD

14 Q DO YOU KNOW APPROXIMATELY WHAT TIME THIS CAR
15 FOUND?

16 A IT WAS AROUND 3 00 P M

17 Q ONCE THE CAR WAS FOUND, WHAT DID YOUR
18 DEPARTMENT DO?

19 A WE HAD SEVERAL OFFICERS RESPOND TO THE SCENE
20 MYSELF, I RESPONDED AND TOOK A POSITION BEHIND THE
21 RESIDENCE ON AN ADJACENT ROAD WITH -- THE LOOKOUT
22 SAID THAT THERE WAS A SUSPECT WANTED IN A DOUBLE
23 HOMICIDE THAT WAS OCCUPYING THE VEHICLE WE,
24 BASICALLY, SURROUNDED THE HOUSE WE HAD ONE SIDE OF
25 THE HOUSE WE COULDN'T REALLY SECURE

1 Q AND AS A CAPTAIN, DO YOU HAVE CERTAIN DUTIES?
2 DO YOU HAVE SPECIAL TALENT IN REGARDS TO THESE TYPES
3 OF SITUATIONS?

4 A YES, I AM THE COMMANDER OF THE S W A T TEAM
5 AND HOSTAGE NEGOTIATION AND I WAS THE PRIMARY
6 NEGOTIATOR ON OUR S W A T TEAM

7 Q AS A PART OF THAT DUTY, WHAT DID YOU DO IN
8 REGARD TO THIS SITUATION AT HARMONY CHURCH ROAD?

9 A I MADE CONTACT WITH A MAN THAT TOLD ME HIS
10 NAME WAS JOHN HUGHEY IN THE RESIDENCE VIA A CELLULAR
11 PHONE I USED MY CELLULAR PHONE IN MY CAR

12 Q LET ME ASK YOU WHEN YOU WERE THERE AT THE
13 RESIDENCE, DID YOU SEE THE CAR THAT THE BOLO WAS
14 SENT OUT ON?

15 A YES

16 Q DID YOU BRING YOUR INCIDENT REPORT WITH YOU?

17 A YES

18 Q IF YOU COULD, IF YOU'LL TAKE THAT OUT LET ME
19 SHOW THIS PHOTOGRAPH WHICH HAS BEEN PREVIOUSLY
20 MARKED AS STATE'S EXHIBIT NUMBER FIFTY-SIX IF
21 YOU'LL TAKE A LOOK AT THAT TAG, IS THAT THE SAME
22 VEHICLE THAT WAS AT THE HARMONY CHURCH ROAD
23 RESIDENCE?

24 A YES THE EXACT VIEW I SAW, IT WAS IN A
25 CARPORT

1 Q SAME AS STATE'S EXHIBIT FIFTY-FIVE?

2 A YES

3 Q SO THIS WAS THE CAR THAT TIPPED YOU TO GO TO
4 HARMONY CHURCH ROAD?

5 A YES

6 Q AND YOU WERE ABLE TO GET THE DEFENDANT ON THE
7 PHONE, ON THE CELLULAR PHONE, FROM INSIDE THE HOUSE?

8 A YES

9 Q AND WHAT DID YOU DO ONCE YOU GOT THE DEFENDANT
10 ON THE PHONE?

11 A I IDENTIFIED MYSELF AS KEN GROGAN WITH THE
12 HALL COUNTY SHERIFF'S OFFICE I CALLED MR HUGHEY
13 BY HIS FIRST NAME, THAT'S ONE OF THE THINGS YOU DO
14 IN NEGOTIATIONS I SAID, JOHN, WE NEED YOU TO COME
15 OUT AND HE JUST OUT OF THE BLUE JUST SAID, I
16 KILLED THEN, IT WAS AN ACCIDENT, THE GUN WENT OFF
17 AND I SAID, AT THAT POINT, IF IT'S AN ACCIDENT, YOU
18 NEED TO COME OUT AND TELL YOUR SIDE

19 WE SPENT TWO OR THREE, THREE OR FOUR,
20 EVEN UP TO FIVE MINUTES TALKING ABOUT THE NEED FOR
21 HIM TO COME OUT ONCE HE -- HE FINALLY SAID HE
22 WOULD COME OUT I NOTIFIED THE OFFICERS THAT WERE
23 AROUND THE HOUSE HE WAS COMING OUT

24 Q YOU SAID THIS WAS -- YOU TALKED TO HIM FOR A
25 COUPLE MINUTES AFTER HE TOLD YOU THAT HE KILLED THEM

1 THAT IT AS AN ACCIDENT, THE GUN WENT OFF?

2 A RIGHT

3 Q AND DID YOU WATCH HIM COME OUT OF THE HOUSE?

4 A YES, I DID

5 Q TELL ME WHAT YOU NOTICED ABOUT HIM AS HE WAS
6 COMING OUT OF THE HOUSE

7 A I NOTICED A LOT OF BLOOD ON HIS ARMS

8 Q APPEAR TO BE FRESH?

9 A YES

10 Q AND AFTER HE CAME OUT OF THE HOUSE WE WAS THEN
11 ARRESTED?

12 A YES, HE WAS TAKEN INTO CUSTODY BY OUR
13 OFFICERS

14 Q ARE YOU AWARE WHETHER OR NOT HE THEN WAS
15 TRANSPORTED TO THE HOSPITAL FOR TREATMENT?

16 A I'M NOT -- I REALLY DON'T KNOW

17 Q DID IT APPEAR THAT HE NEEDED THERE?

18 A OH, YES, I FELT LIKE HE NEEDED TREATMENT

19 MR COULTER ANSWER ANY QUESTIONS
20 THE DEFENSE COUNSEL MAY HAVE

21 CROSS-EXAMINATION BY MR GARRETT

22 Q IN YOUR TRAINING, OF COURSE, PEOPLE IN THAT
23 STATE OF MIND ARE, GENERALLY, UPSET?

24 A YES

25 Q AND PART OF YOUR TRAINING IS TRY TO GET THEM

1 SETTLED DOWN --

2 A MINIMIZE

3 Q -- TALK ABOUT THINGS AS LOGICALLY AS YOU CAN

4 A SETTLE THEM DOWN AND MINIMIZE

5 Q AT THE POINT THAT YOU WERE TALKING TO HIM, HAD
6 HIS WRISTS BEEN CUT YET?

7 A I DON'T KNOW

8 Q AND WHEN HE CAME OUT HE WAS, IN FACT,
9 BLEEDING?

10 A YES

11 Q IS THERE ANY KIND OF BANDAGE OVER HIS ARM?

12 A I JUST REMEMBER SEEING A LOT OF BLOOD I
13 DON'T REMEMBER ANY BANDAGES

14 Q WAS HE ABUSIVE TO ANYBODY?

15 A NO

16 Q OTHER THAN TO HIMSELF --

17 A YES

18 Q -- APPARENTLY DID Y'ALL HAVE A CHANCE TO TAKE
19 POSSESSION OF THAT VEHICLE?

20 A THE VEHICLE WAS TAKEN INTO POSSESSION, NOT BY
21 ME JUST TO CLARIFY THINGS, AFTER HE WAS TAKEN INTO
22 CUSTODY I LEFT THE SCENE I'M NOT ONE OF THE
23 INVESTIGATORS

24 Q YOU'RE IN CHARGE OF THE S W A T TEAM

25 A RIGHT

1 Q SO IT WAS TURNED OVER TO THE INVESTIGATORS?

2 A YES

3 Q YOU HAVE ANY OF YOUR INVESTIGATORS AVAILABLE?

4 A I'M SURE WE HAVE SOME INVESTIGATORS AVAILABLE

5 Q I'M TALKING ABOUT HERE --

6 A NOT WITH ME TODAY

7 Q -- BROUGHT UP TO GREENWOOD

8 A NOT WITH ME TODAY I KNOW THERE'RE SEVERAL

9 ARE UNDER SUBPOENA, I'M SORRY

10 Q SEVERAL ARE UNDER SUBPOENA?

11 A YES

12 Q WHAT I'M TRYING TO GET, I DIDN'T KNOW WHETHER

13 OR NOT -- DID YOU EVER EVEN LOOK AT THE CAR, THE

14 INSIDE OF THE CAR, ANYTHING LIKE THAT?

15 A NO, I SAW IT FROM THE REAR END OF THE CAR

16 MR GARRETT THANK YOU, YOUR HONOR

17 BEG THE COURT'S INDULGENCE ONE MOMENT

18 EXAMINATION CONTINUED BY MR GARRETT

19 Q IN FACT, IS IT TRUE THAT YOU RECEIVED A CALL

20 FROM GLORIA HARRISON ABOUT HIM BEING THERE?

21 A I DON'T REMEMBER RECEIVING A CALL SOMEONE

22 CAME OUT OF THE RESIDENCE WHEN WE GOT THERE AND

23 TALKED TO ANOTHER ONE OF OUR OFFICERS

24 Q LARGER OR TALLER BLACK FELLOW? DO YOU RECALL

25 WHETHER HE WAS WHITE OR BLACK?

1 A I WAS AT THE REAR OF THE RESIDENCE AND THE
2 DRIVEWAY GOES FROM THE SIDE KIND OF DOWN TOWARDS THE
3 FRONT OF THE RESIDENCE AND I REALLY COULDN'T TELL
4 I WAS MAINLY CONCERNED WITH KEEPING MY EYES ON THE
5 HOUSE

6 Q RIGHT AND TALKING, OF COURSE, ON YOUR CELL
7 PHONE UNTIL HE CAME OUT

8 A RIGHT

9 Q YOU WERE ELSEWHERE AND WASN'T THERE AN OFFICER
10 OUT THERE MAYBE IN FRONT OF THE HOUSE?

11 A YES

12 Q AND WAS ONE OF THE HARRIS'S CAME DOWN AND
13 ACTUALLY WAS TALKING TO ONE OF YOUR ---

14 A SOMEBODY DID, YES

15 Q WERE YOU IN COMMUNICATION WITH THEM ON THE
16 TELEPHONE OR THE RADIO?

17 A THE RADIO

18 Q SO THAT MIGHT HAVE OCCURRED, YOU'RE JUST NOT
19 SURE WHETHER HE DID OR NOT?

20 A RIGHT, RIGHT

21 Q SO WITHIN FIVE MINUTES OF YOUR BEGINNING YOUR
22 DISCUSSION HE WAS OUT AND IN YOUR POSSESSION AND IN
23 YOUR CUSTODY?

24 A YES

25 Q DID YOU ALL TURN HIM OVER TO SOMEBODY ELSE FOR

1 HIM TO BE TRANSPORTED TO THE HOSPITAL FOR STITCHES?

2 A I DON'T KNOW WHEN HE WAS HANDCUFFED, I LEFT

3 SCENE I HAD ACCOMPLISHED MY JOB

4 MR GARRETT THANK YOU, SIR

5 MR COULTER NOTHING FURTHER

6 THE COURT YOU MAY STEP DOWN ANY

7 OBJECTION TO THE WITNESS BEING EXCUSED?

8 MR GARRETT NONE, YOUR HONOR

9 MR COULTER NOT FOR THE STATE

10 THE COURT YOU MAY BE EXCUSED

11 (WITNESS IS EXCUSED AT 2 44 O'CLOCK P M)

12 MR COULTER THE STATE WILL CALL DR

13 LEWALLEN TO THE STAND

14 (WITNESS JOHN COURTLAND LEWALLEN PRESENTED AT 2 45

15 O'CLOCK P M)

16 THE CLERK THE EVIDENCE YOU SHOULD

17 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE

18 SHOULD BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT

19 THE TRUTH, SO HELP YOU, GOD

20 THE WITNESS YES

21 DIRECT EXAMINATION BY MR COULTER

22 Q GOOD AFTERNOON, DOCTOR COULD YOU GIVE THE

23 JURY YOUR FULL NAME, PLEASE

24 A YES, I'M DR JOHN COURTLAND LEWALLEN

25 Q AND DR LEWALLEN, WHERE DO PRACTICE?

1 A I'M AN EMERGENCY PHYSICIAN IN GAINESVILLE,
2 GEORGIA PRACTICING AT NORTHEAST GEORGIA MEDICAL
3 CENTER

4 Q THAT'S IN HALL COUNTY?

5 A YES, SIR

6 Q LET'S JUST GO RIGHT BACK TO DECEMBER 4TH OF
7 1995 DO YOU RECALL THAT DAY TREATING DEFENDANT
8 JOHN KENNEDY HUGHEY?

9 A YES, SIR, I DO

10 Q AND WERE YOU ABLE TO LOCATE HIS MEDICAL
11 RECORDS IN REGARDS TO HIS TREATMENT?

12 A YES, SIR

13 Q TELL ME HOW MR HUGHEY WAS BROUGHT TO YOU

14 A YOU HAVE MY RECORDS MR HUGHEY WAS BROUGHT
15 INTO OUR EMERGENCY DEPARTMENT BY HALL COUNTY E M S ,
16 SO THE AMBULANCE IS HALL COUNTY ACCOMPANIED BY HALL
17 COUNTY SHERIFF'S OFFICERS THE HISTORY GIVEN WAS
18 THAT HE HAD A SUICIDE ATTEMPT, HE CUT HIS WRISTS AS
19 WELL AS POSSIBLY INGESTED A NUMBER OF OTHER
20 SUBSTANCES

21 Q SO WHEN HE WAS BROUGHT IN HE WAS CLEARLY UNDER
22 ARREST?

23 A YES, SIR, HE WAS

24 Q THE HALL COUNTY SHERIFF'S DEPARTMENT HAD HIM
25 IN CUSTODY?

1 A YES, SIR

2 Q SO HE WAS BROUGHT INTO YOU AS AN ATTEMPTED
3 SUICIDE AND THE INJURY YOU NOTED WAS WHAT?

4 A THE INJURY THAT I ADDRESSED MAINLY WAS
5 LACERATIONS TO THE BOLAR OR THE DOWN SIDE OF HIS
6 LEFT WRIST HE ALSO HAD REPORTEDLY INGESTED SOME
7 OTHER SUBSTANCES, ALTHOUGH I COULD NOT, FROM MY
8 EXAM, DETECT ANY EVIDENCE OF ANY POISONING OR
9 INGESTION

10 Q SO YOU WERE MAINLY CONCERNED WITH THE CUT TO
11 THE LEFT WRIST?

12 A YES, SIR, I EXAMINED THE PATIENT COMPLETELY
13 LOOKING FOR ANY SIGN THAT HE HAD INGESTED ANY
14 POISONS THE PATIENT WAS STABLE, ALERT AND NOTED
15 STRESS, SO WE MAINLY ADDRESSED THE LACERATION TO THE
16 WRIST

17 Q IN EXAMINING THE DEFENDANT, DID YOU NOTICE ANY
18 OTHER CUTS THAN THE ONE ON HIS LEFT WRIST?

19 A NO, SIR, I DID NOT

20 Q AND THIS CUT ON THE LEFT WRIST, DID HE TELL
21 YOU HOW, IN FACT, HE RECEIVED THAT?

22 A HE REPORTED TO THE NURSE AND ALSO TO ME THAT
23 IT WAS SELF-INFLICTED WOUND

24 Q AND WAS THIS WOUND, IN FACT, CONSISTENT WITH A
25 SELF-INFLICTED WOUND?

1 A YES, SIR, IT WAS

2 Q COULD YOU JUST SHOW THE JURY, IF YOU WOULD
3 WITH MY WRIST, EXACTLY HOW THAT CUT LOOKED

4 A HE HAD A LACERATION THAT EXTENDED TRANSVERSELY
5 ACROSS THE BOLAR PORTION OF THE WRIST THIS IS THE
6 BOLAR PORTION THAT TRANSECTED TWO OF THE TENDONS
7 ONE IS CALLED THE PALMARIS LONGUS TENDON IF YOU
8 PULL YOUR WRIST AND BEND IT BACKWARDS THE TENDON
9 RIGHT IN THE MIDDLE THAT YOU CAN FEEL, A VERY
10 SUPERFICIAL TENDON, IS THE PALMARIS LONGUS HE ALSO
11 HAD CUT THE TENDON TO WHAT WE BELIEVE WAS PROBABLY
12 THE FLEXOR TENDON TO THE FOURTH FINGER HOWEVER, HE
13 STILL HAD FUNCTION OF THE FOURTH FINGER SO HE HAD
14 LACERATIONS OF TWO TENDONS

15 Q SO HE HAD LACERATED TWO TENDONS BUT THE CUT
16 WAS STRAIGHT ACROSS?

17 A YES, SIR

18 Q AND HE CAME TO YOU WITH NO OTHER WOUNDS TO HIS
19 HAND WHATSOEVER?

20 A NO, SIR

21 Q DID YOU HAVE AN OPPORTUNITY TO CHECK HIS RIGHT
22 HAND?

23 A YES, SIR

24 Q NO WOUNDS WERE THERE?

25 A NO, SIR

1 Q WAS HE, IN FACT -- YOU WERE ABLE TO SEW HIM
2 UP?

3 A YES, SIR AFTER I CONSULTED OUR PLASTIC
4 SURGEON BECAUSE WE TYPICALLY DO NOT DO FLEXOR TENDON
5 REPAIRS, TYPICALLY THAT GOES TO THE PLASTIC SURGEONS
6 OR THE HAND SURGEONS WE FELT THAT IT WOULD BE
7 BETTER, IN THIS CASE, THE REPAIR BE DONE ON A
8 DELAYED BASIS AND SO WE JUST REPAIRED THE WOUND
9 AND HAD HIM REFERRED TO A HAND SURGEON FOR SECONDARY
10 REPAIR AT A LATER DATE, WHICH IS COMMON PRACTICE

11 Q DID IT BECOME NECESSARY TO TREAT HIM FOR
12 INGESTION OF ANY OF THE SUBSTANCES?

13 A NO, SIR, IT DID NOT AFTER WE REPAIRED THE
14 WOUND, BECAUSE THERE WAS STILL THIS HISTORY OF A
15 POSSIBLE INGESTION, EVEN THOUGH WE HAD NO EVIDENCE
16 OF THAT, I CONTACTED DR LEN ZOLLER, WHO'S AN
17 INTERNAL MEDICINE SPECIALIST IN OUR COMMUNITY WHO IS
18 THE JAIL PHYSICIAN WHO WORKS WITH HALL COUNTY JAIL
19 AND IS THE PHYSICIAN FOR THE CORRECTIONAL SYSTEM WHO
20 CAME OVER, EXAMINED THE PATIENT AND AT THE
21 CONCLUSION OF HIS EXAMINATION FELT THAT THE PATIENT
22 WAS OKAY AND COULD BE OBSERVED IN THE HALL COUNTY
23 JAIL WITH THE NURSES WATCHING HIM AND HE WAS TAKEN
24 THERE

25 Q NOW, IF SOMEONE HAD INGESTED CHEMICALS, WOULD

1 THE STEP HAVE BEEN TO PUMP HIS STOMACH?

2 A YES, SIR, THAT WOULD BE ONE OF THE TREATMENTS

3 Q AND WAS IT NECESSARY TO PUMP THE DEFENDANT'S
4 STOMACH?

5 A PER DR ZOLLER'S EXAMINATION, HE STATES AT THE
6 TIME THAT HE SAYS IT WOULD BE NECESSARY TO PUMP THE
7 PATIENT'S STOMACH THE PATIENT THEN CHANGED HIS
8 STORY AND SAID THAT THERE WAS NO INGESTION SINCE
9 HE HAD NO PHYSICAL EVIDENCE, AN INGESTION WAS NOT
10 NECESSARY TO PUMP HIS STOMACH

11 Q AND WHAT TYPE OF PHYSICAL THINGS WOULD YOU BE
12 LOOKING FOR TO SEE IF HE INGESTED ANY?

13 A WELL, THE THINGS THAT WE REPORTED THAT HE HAD
14 INGESTED WERE CLOROX, WHICH IS A BLEACH AND SHOULD
15 HAVE A STRONG ODOR THAT YOU SHOULD BE ABLE TO SMELL
16 SOMETHING APPROACHING METHYLATE OR MERCUROCHROME,
17 WHICH IF YOU HAD INGESTED OR DRUNK ANY SUFFICIENT
18 POINT, THERE OUGHT TO BE SOME STAINING ABOUT THE
19 MOUTH AND ON THE TONGUE, AND THEN THE OTHER
20 SUBSTANCE WAS REPORTEDLY A RAT POISONING, WHICH YOU
21 KNOW THAT TYPICALLY IS A SUBSTANCE CALLED WARFARIN
22 WHICH CAUSES BLEEDING IN THE RAT'S BRAIN AND SO WE
23 DID BLOOD STUDIES TO SEE IF THERE WAS ANY ALTERATION
24 IN HIS BLOOD CLOTTING STUDIES AND THERE WERE NONE
25 Q SO EVEN THOUGH YOU REPORTED THIS, THERE'S

1 ABSOLUTELY NO PHYSICAL SIGNS OF HAVING INGESTED
2 THESE THINGS?

3 A NO, SIR, THERE WERE NOT

4 MR COULTER THANK YOU ANSWER ANY QUESTIONS
5 DEFENSE COUNSEL MAY HAVE

6 CROSS-EXAMINATION BY MR GARRETT

7 Q DID MR HUGHEY COOPERATE WITH YOU?

8 A YES, SIR, HE DID

9 Q WAS HE SOMEWHAT SUBDUED?

10 A TO THE BEST OF MY RECOLLECTION, YES, SIR

11 Q AND DID YOU COMFORT HIM AND TELL HIM THAT HE
12 PROBABLY WOULDN'T DIE FROM THE CUT?

13 A YES, SIR

14 Q WAS HE BLEEDING -- IS THAT A PRETTY BAD PLACE
15 TO CUT YOURSELF?

16 A IT CAN, BUT IF YOU GET DEEP ENOUGH,
17 FORTUNATELY, THE TENDONS, MOST OF THE TIME, WILL
18 STOP THE LACERATION BEFORE IT GETS DEEP ENOUGH INTO
19 THE MAJOR BLOOD VESSELS MOST OF THE TIME THE
20 BLEEDING'S FAIRLY MINOR

21 Q SO IT WAS MINOR BLEEDING?

22 A YES, SIR, TO THE BEST OF MY RECOLLECTION
23 THERE WAS NO EVIDENCE OF ANY MAJOR BLOOD LOSS, HE
24 WAS NOT IN SHOCK OR ANYTHING

25 Q DID YOU DO A FULL BODY EXAMINATION FROM HEAD

1 TO TOE?

2 A YES, SIR \

3 Q YOU DID?

4 A YES, SIR

5 Q CHECKING EVERY AREA, EVERY PART OF HIS BODY,
6 ORIFICE?

7 A I DIDN'T CHECK EVERY ORIFICE, NO, SIR

8 Q DO Y'ALL TAKE ANY PHOTOGRAPHS OF THE WORK THAT
9 YOU DO OR ANYTHING LIKE THAT?

10 A NO, SIR, WE DID NOT

11 MR GARRETT THANK YOU, DOCTOR,
12 THAT'S ALL I HAVE

13 MR COULTER THANK YOU

14 THE COURT YOU MAY STEP DOWN, THANK
15 YOU ANY OBJECTION TO THE WITNESS BEING EXCUSED?

16 MR GARRETT NONE FOR THE DEFENSE,
17 YOUR HONOR

18 MR COULTER NONE FOR THE STATE,
19 YOUR HONOR

20 (WITNESS WAS EXCUSED AT 2 50 O'CLOCK P M)

21 MR COULTER YOUR HONOR, WE CALL
22 CHARLTON COXE TO THE STAND, OFFICER CHARLTON COXE
23 (WITNESS CHARLTON COXE PRESENTED AT 2 51 O'CLOCK
24 P M)

25 THE CLERK THE EVIDENCE YOU SHOULD

1 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
2 SHOULD BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT
3 THE TRUTH, SO HELP YOU, GOD

4 THE WITNESS YES, SIR

5 DIRECT-EXAMINATION BY MR COULTER

6 Q PLEASE TELL THE JURY YOUR FULL NAME

7 A CHARLTON WAYNE COXE

8 Q AND OFFICER COXE, YOU'RE WITH THE ABBEVILLE
9 POLICE DEPARTMENT?

10 A YES, SIR, I AM

11 Q HOW LONG HAVE YOU BEEN WITH THEM?

12 A THREE YEARS, NOVEMBER 7TH

13 Q AND, OF COURSE, YOU WERE WITH ABBEVILLE P D
14 BACK IN DECEMBER OF 1995

15 A YES, SIR, I WAS

16 Q DO YOU REMEMBER HAVING AN OPPORTUNITY ON
17 DECEMBER OF 1995 TO INVENTORY A WHITE MITSUBISHI
18 CAR?

19 A YES, SIR, I DO

20 Q LET ME SHOW YOU THIS DOCUMENT DO YOU
21 RECOGNIZE THAT DOCUMENT?

22 A YES, SIR, THIS IS AN INVENTORY OF THE VEHICLES
23 THAT WE DO AT THE POLICE DEPARTMENT

24 Q LET ME SHOW YOU THIS PHOTOGRAPH, STATE'S
25 EXHIBIT NUMBER FIFTY-SIX IS THAT THE SAME CAR THAT

1 YOU INVENTORIED ON DECEMBER 5TH?

2 A YES, SIR, IT IS

3 Q AND ABOUT WHAT TIME DID YOU INVENTORY THIS
4 CAR?

5 A THE TIME ON THE INVENTORY SHEET SHOWS ZERO
6 THREE HUNDRED, WHICH IS THREE A M , SIR

7 Q ALL RIGHT, AND I HAND YOU -- JUST ONE SECOND -
8 -I HAND YOU STATE'S NUMBERED EXHIBIT SEVENTY-FOUR
9 AND SEVENTY-FIVE WILL YOU TAKE A QUICK LOOK AT
10 THOSE DO THOSE CORRESPOND WITH WHAT YOU HAVE ON
11 YOUR INVENTORY LIST?

12 A YES, SIR YES, THEY DO

13 MR COULTER YOUR HONOR, I'D MOVE TO
14 HAVE THESE TWO ITEMS, SEVENTY-FOUR AND SEVENTY-FIVE
15 MOVED INTO EVIDENCE

16 MR GARRETT YOUR HONOR, WITHOUT
17 OBJECTION TO ITEM SEVENTY-FOUR AND SEVENTY-FIVE

18 THE COURT THEY'RE ADMITTED WHICH
19 IS WHICH?

20 MR COULTER SEVENTY-FOUR, YOUR
21 HONOR, IS AN ATM CARD, SEVENTY-FIVE A DRIVER'S
22 LICENSE

23 (STATE'S EXHIBITS NUMBERS 74 AND 75 WERE ENTERED
24 INTO THE RECORD)

25 EXAMINATION CONTINUED BY MR COULTER

1 Q AND, IF YOU COULD, ON ITEM SEVENTY-FOUR, IF
2 YOU COULD TELL THE JURY WHAT THAT IS

3 A THIS IS A NATIONS BANK ATM CARD, AUTOMATIC
4 TELLER MACHINE CARD WHICH WAS FOUND IN THE VEHICLE

5 Q DOES THAT ATM CARD HAVE A NAME ON IT?

6 A YES, SIR, IT DOES IT SAYS TESHEKA L
7 JACKSON

8 Q AND YOU FOUND THAT IN THE CAR?

9 A YES, SIR, WHICH IS ANNOTATED IN MY INVENTORY
10 SHEET

11 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER
12 SEVENTY-FIVE WOULD YOU TELL THE JURY WHAT THAT IS?

13 A THIS IS A SOUTH CAROLINA'S DRIVER LICENSE

14 Q AND THAT IS WHOSE DRIVER'S LICENSE?

15 A TESHEKA JACKSON'S

16 Q AND THAT WAS ALSO FOUND IN THAT WHITE
17 MITSUBISHI?

18 A YES, SIR, IT WAS

19 MR COULTER ANSWER ANY QUESTIONS
20 DEFENSE COUNSEL MAY HAVE

21 CROSS-EXAMINATION BY MR GARRETT

22 Q YOU FOUND THESE DRIVER'S LICENSE AND THIS ATM
23 CARD IN THE GLOVE COMPARTMENT, IS THAT CORRECT?

24 A YES, SIR, IT IS

25 Q IS THIS PHOTOGRAPH AN ACCURATE REFLECTION OF

1 THE CONDITION OF THE GLOVE COMPARTMENT ON THE
2 EVENING IN QUESTION WHEN YOU DID YOUR SEARCH?

3 A TO THE BEST OF MY RECOLLECTION, YES, SIR

4 Q AND I WANT YOU TO LOOK -- TELL YOU WHAT, LET
5 ME HAVE THIS MARKED DEFENDANT'S EXHIBIT

6 (REPORTER MARKS PERTINENT DOCUMENT AS STATE'S
7 EXHIBIT #3)

8 Q I WANT YOU TO LOOK AT THAT CAN YOU TELL ME
9 ABOUT THE KEYS THAT YOU USED TO UNLOCK THE GLOVE
10 COMPARTMENT?

11 A THERE WAS A SET OF KEYS THAT WAS IN THE CAR
12 I WAS DIRECTED TO DO THE INVENTORY SEARCH

13 Q WHAT DID YOU DO WITH THE KEYS?

14 A THEY WERE LEFT WITH THE VEHICLE

15 Q DO YOU KNOW WHATEVER HAPPENED TO THE KEYS
16 THEMSELVES?

17 A NO, SIR, ALL I WAS DIRECTED TO DO WAS DO THE
18 INVENTORY ON THE VEHICLE, SIR

19 Q LOOKING AT THAT, DO YOU RECALL HOW LARGE THAT
20 SET OF KEYS WERE?

21 A THIS BY THE LOOKS, IT WAS, I'D SAY, QUITE
22 LARGE NOT QUITE LARGE, IT WAS RATHER LARGE

23 Q DO YOU RECALL HAVING TO FIGURE OUT WHICH KEY
24 WOULD FIT THE GLOVE COMPARTMENT?

25 A YES, SIR

1 Q SO THERE WERE KEYS TO MORE THAN ONE CAR THERE?

2 A I DON'T KNOW IF THERE WAS ANY TWO OTHER
3 VEHICLES I JUST HAD TO FIND THE CORRECT KEY TO
4 OPEN THE GLOVE BOX

5 Q THERE MAY HAVE BEEN OTHER KEYS TO OTHER
6 VEHICLES

7 A THERE MAY HAVE

8 Q WHERE ARE THE KEYS? WHO WOULD NOW?

9 A MY HIGHER-UPS

10 Q YOUR HIGHER-UPS, OKAY BUT THOSE ARE THE KEYS
11 THAT YOU USED THAT PARTICULAR DAY THAT WERE WITH THE
12 CAR AND WHEN YOU LEFT THE CAR AFTER YOU DID YOUR
13 INVENTORY, WHAT DID YOU DO WITH THE STUFF THAT YOU
14 TOOK OUT OF THE CAR?

15 A I DIDN'T TAKE ANYTHING OUT OF THE CAR THE
16 ONLY THING I TOOK OUT OF THE CAR WAS THE -- I
17 BELIEVE, THE DRIVER'S LICENSE AND THE ATM CARD
18 WHATEVER ELSE WAS TAKEN FOR EVIDENCE BY THE OFFICER
19 WHO DID THAT MY MAIN JOB IS INVENTORYING THE CAR
20 IT IS JUST TO WRITE DOWN EXACTLY WHAT IS IN THE
21 VEHICLE, SIR

22 Q DID YOU TAKE ANY STEPS TO DO AN ANALYSIS OF
23 THE TRUCK AREA?

24 A YES, SIR

25 Q YOU DID AN INVENTORY?

1 A YES, SIR, IT'S ON THE SHEET, SIR

2 Q DID YOU DO ANY TYPE FINGERPRINTING OF THE ---

3 A NO, SIR, ON THE INVENTORY OF THE VEHICLE ALL I
4 DO IS -- I DON'T DO ANY FINGERPRINTING OR ANY CRIME
5 PROCESSING OR ANYTHING LIKE THAT ALL I DO IS WRITE
6 DOWN WHAT'S IN THE VEHICLE AT THE TIME THAT I'M
7 DOING THE INVENTORY, SIR

8 MR GARRETT OKAY, I BEG THE COURT'S
9 INDULGENCE

10 THE COURT WHAT NUMBER IS THAT
11 PHOTOGRAPH?

12 THE WITNESS SIR, IT'S EXHIBIT
13 NUMBER THREE

14 EXAMINATION CONTINUED BY MR GARRETT

15 Q DID YOU TAKE THESE PHOTOGRAPH OF THE VEHICLE?

16 A NO, SIR, I DID NOT ALL IS DO IS INVENTORY
17 THE VEHICLE

18 Q DO YOU HAVE ANY IDEA WHO TOOK THOSE
19 PHOTOGRAPHS?

20 A NO, SIR, I DO NOT

21 Q IF IT WERE DONE BY YOUR AGENCY, WOULD YOU KNOW
22 IT?

23 A YES, SIR IF SOMEONE WAS DOING IT WHILE I WAS
24 THERE, I WOULD KNOW IT

25 Q AND APPARENTLY IT WASN'T DONE BY THE ABBEVILLE

1 POLICE DEPARTMENT?

2 A I'M UNSURE OF THAT, SIR

3 MR GARRETT NOTHING FURTHER FOR

4 THIS WITNESS

5 MR COULTER NOTHING FURTHER

6 THE COURT STEP DOWN

7 (WITNESS IS EXCUSED AT 2 59 O'CLOCK P M)

8 MR COULTER YOUR HONOR, THE STATE

9 WOULD CALL AGENT DAVID BLACK

10 (WITNESS DAVID BLACK PRESENTED AT 3 00 O'CLOCK P M)

11 THE CLERK THE EVIDENCE YOU SHOULD

12 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE

13 SHOULD BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT

14 THE TRUTH SO HELP YOU GOD?

15 THE WITNESS YES, MA'AM, IT WILL

16 DIRECT EXAMINATION BY MR COULTER

17 Q IF YOU COULD, GIVE THE JURY YOUR NAME, PLEASE

18 A MY NAME IS DAVID WARREN BLACK, B-L-A-C-K

19 Q AND YOU WORK WITH WHAT AGENCY?

20 A I WORKED WITH THE SOUTH CAROLINA LAW

21 ENFORCEMENT DIVISION, BETTER KNOWN AS S L E D I'M

22 ASSIGNED TO THE LATENT PRINT CRIME SCENE DEPARTMENT

23 Q AND HOW LONG HAVE YOU BEEN WITH S L E D ?

24 A WITH S L E D , I'VE BEEN WITH THEM ALMOST SIX

25 YEARS WITH THE SAME UNIT AND PRIOR TO S L E D , I

1 WAS WITH THE RICHLAND COUNTY SHERIFF'S OFFICE FOR
2 APPROXIMATELY SEVEN YEARS

3 Q WHAT WERE YOUR DUTIES WITH THE RICHLAND COUNTY
4 SHERIFF'S DEPARTMENT?

5 A WITH RICHLAND COUNTY SHERIFF'S DEPARTMENT, MY
6 FIRST FOUR YEARS WITH THE UNIFORM PATROL DIVISION,
7 ANSWERING AS FIRST RESPONDER, HANDLING WHATEVER
8 CALLS THAT MAY COME DOWN THE PIKE, AND MY LAST THREE
9 YEARS I WAS ASSIGNED TO THE FORENSIC SCIENCE
10 DEPARTMENT WHICH HAD THE SAME DUTIES THAT I NOW HAVE
11 WITH S L E D IN THE LATENT PRINT CRIME SCENE
12 DEPARTMENT

13 Q AND YOU'VE BEEN WITH, AS I UNDERSTOOD YOUR
14 TESTIMONY, DEPARTMENT NOW FOR SIX YEARS?

15 A APPROXIMATELY SIX YEARS, YES

16 Q SO THAT'S A TOTAL OF NINE YEARS WITH THAT TYPE
17 OF WORK?

18 A THAT IS CORRECT

19 Q COULD YOU GIVE THE JURY, PLEASE, AN IDEA OF
20 THE EXTENT OF YOUR EDUCATION?

21 A YES, SIR I HAVE AN ASSOCIATE OF ARTS DEGREE
22 IN CRIMINAL JUSTICE FROM FLORENCE-DARLINGTON
23 TECHNICAL COLLEGE I THEN TRANSFERRED TO THE
24 UNIVERSITY OF SOUTH CAROLINA WHERE I COMPLETED BY
25 STUDIES AND RECEIVED A BACHELOR'S OF SCIENCE DEGREE

1 IN CRIMINAL JUSTICE WITH A MINOR IN SOCIOLOGY

2 UPON BEING HIRED WITH THE RICHLAND COUNTY
3 SHERIFF'S DEPARTMENT, I ATTENDED THE SOUTH CAROLINA
4 CRIMINAL JUSTICE ACADEMY WHERE I'M CERTIFIED AS A
5 BASIC LAW ENFORCEMENT OFFICER I'VE ALSO BEEN TO
6 THE BASIC FINGERPRINTING EXAMINER COURSE, WHICH I'M
7 A CERTIFIED FINGERPRINT EXAMINER WITH THE ACADEMY
8 MR BRUCE JERNIGAN I'VE ALSO ATTENDED THE
9 DETECTIVE LEVEL TRAINING COURSES AT THE CRIMINAL
10 JUSTICE ACADEMY, LAW ENFORCEMENT PHOTOGRAPHY COURSES
11 AT THE CRIMINAL JUSTICE ACADEMY, WHICH WERE TAUGHT
12 BY MR JOHN WILLIAMS AND ALSO BY MR BILL FLOYD AND
13 OTHER INSTRUCTORS

14 I'VE ALSO ATTENDED -- RECEIVED TRAINING
15 FROM THE FEDERAL BUREAU OF INVESTIGATION IN ADVANCED
16 LATENT TECHNIQUES TAUGHT BY SPECIAL AGENT DWAYNE
17 JOHNSON WITH THE FEDERAL BUREAU OF INVESTIGATION
18 I'VE ALSO ATTENDED THE FBI ACADEMY IN QUANTICO,
19 VIRGINIA, WHERE I RECEIVED TRAINING FOOTWEAR AND
20 TIRETREAD EXAMINATION BY MR BILL BOZIAK WHO'S AN
21 AGENT WITH THE FBI AND A LEADING AUTHORITY IN THAT
22 FIELD

23 I'VE ALSO RECEIVED TRAINING FROM MR GARY
24 FINLEY WITH THE GEORGIA BUREAU OF INVESTIGATION AND
25 CRIME SCENE RECONSTRUCTION AND DOCUMENTATION --

1 EMPHASIS IN BLOOD-SPATTER EXAMINATION I'VE ALSO
2 RECEIVED TRAINING FROM MR RON SMITH, WHO'S THE
3 DIRECTOR OF LATENT PRINTS WITH THE MISSISSIPPI CRIME
4 LAB IN ADVANCED PALM PRINT IDENTIFICATION I'VE
5 ALSO RECEIVED TRAINING FROM THE DADE COUNTY,
6 FLORIDA, LAW ENFORCEMENT AND CRIME SCENE
7 RECONSTRUCTION WITH THE MR TEDDY WILSON WITH BLOOD-
8 SPATTER EXAMINATION

9 I ALSO HAVE BEEN AN APPRENTICE WITH SEVERAL
10 AGENTS WITH THE STATE LAW ENFORCEMENT DIVISION SUCH
11 AS SPECIAL AGENT LARRY GAINEY, SPECIAL AGENT JOHN
12 CHRISTY, AND SPECIAL AGENT STEVE BARRETT, WHO
13 THEMSELVES HAVE TESTIFIED AS EXPERTS IN THIS FIELD
14 IN THIS FIELD OF WORK YOU ATTEND SCHOOLS BUT YOU
15 ALSO HAVE TO TRAIN WITH OTHER EXPERIENCED EXAMINERS
16 TO BECOME PROFICIENT IN YOUR FIELD

17 I'M ALSO A MEMBER OF THE INTERNATIONAL
18 ASSOCIATION OF IDENTIFICATION WHICH IS A
19 PROFESSIONAL ORGANIZATION THAT KEEPS UP-TO-DATE WITH
20 TRAINING AND THE GRADED DIFFERENT BOOKS WITH THE
21 VARIOUS FIELDS OF CRIME SCENE INVESTIGATION, CRIME
22 SCENE RECONSTRUCTION, LATENT FINGERPRINT PROCESSING
23 AND DOCUMENTATION AND ALSO WITH MATTERS OF FOOTWEAR
24 AND TIRETREAD I HAVE ALSO TESTIFIED AS EXPERT IN
25 VARIOUS AREAS OF THE COURTS OF THIS STATE DURING

1 THAT TIME

2 Q HAVE YOU, IN FACT, BEEN QUALIFIED -- HAVE YOU
3 TESTIFIED IN THE CIRCUIT COURTS OF THIS STATES
4 PREVIOUSLY?

5 A YES, SIR, I HAVE

6 Q APPROXIMATELY HOW MANY TIMES?

7 A IN ALMOST NINE YEARS OF TESTIMONY IN LATENT
8 PRINTS, APPROXIMATELY SEVENTY-FIVE TO EIGHTY TIMES
9 ALONE IN THE AREAS AS FAR AS THE CRIME SCENE
10 INVESTIGATION, CRIME SCENE RECONSTRUCTION, ALSO
11 DEALING WITH BLOOD SPATTER EXAMINATION APPROXIMATELY
12 TWO DOZEN TIMES, AND THE YEAR OF FOOTWEAR AND TIRE
13 TREAD, AGAIN, APPROXIMATELY TWO DOZEN TIMES

14 Q AND EACH ONE OF THOSE TIMES THAT YOU TESTIFIED
15 IN THOSE FOUR OR FIVE DIFFERENT AREAS, WERE YOU
16 QUALIFIED BY THE COURTS AS AN EXPERT IN THOSE AREAS?

17 A YES, SIR, I WAS

18 MR COULTER YOUR HONOR, THE STATE
19 WOULD MOVE TO HAVE AGENT BLACK ADMITTED AS AN EXPERT
20 FOR PURPOSES OF CRIME SCENE PROCESSING
21 RECONSTRUCTION, FOOTWEAR IMPRESSION, LATENT PRINT
22 EXAMINATION, AND BLOOD SPATTER

23 MR GARRETT WITHOUT OBJECTION, YOUR
24 HONOR

25 THE COURT HE IS SO QUALIFIED IN

1 EACH OF THOSE FIELDS AND WILL BE PERMITTED TO
2 EXPRESS OPINIONS WITH REGARD TO THE FACTS OF MATTER
3 IN THOSE FIELDS
4 BY MR COULTER

5 Q THANK YOU AGENT BLACK, IN THE COURSE OF YOUR
6 DUTIES WITH S L E D , DID YOU HAVE AN OPPORTUNITY TO
7 RESPOND TO A HOMICIDE HERE IN ABBEVILLE, 401 RICHEY
8 STREET BACK IN DECEMBER OF 1995?

9 A YES, SIR, I DID

10 Q ALL RIGHT, AND DO YOU RECALL, APPROXIMATELY,
11 WHEN YOU ARRIVED AT THE SCENE OF 401 RICHEY STREET
12 IN ABBEVILLE

13 A WE -- WHEN I SAY, WE, MYSELF AND AGENT JOHN
14 BLACK, WHO WAS MY PARTNER THAT DAY AND NO RELATION
15 TO ONE OTHER, RECEIVED THE INITIAL CALL AT TWELVE
16 TWENTY P M , OR THAT AFTERNOON WHEN WE RECEIVED
17 THE INITIAL CALL FROM THE ABBEVILLE POLICE
18 DEPARTMENT FROM A DISPATCHER, WHO INFORMED US THAT
19 THEY WERE REQUESTING OUR ASSISTANCE ON A DEATH
20 INVESTIGATION, BUT SHE DID NOT HAVE COMPLETE
21 INFORMATION FOR US I NEEDED SOME INFORMATION TO
22 MAKE A DETERMINATION WHAT OTHER PERSONNEL THAT I MAY
23 NEED TO TAKE TO HELP PROPERLY PROCESS THE SCENE
24 ABOUT TWENTY MINUTES LATER WE GOT THAT INFORMATION
25 AND ALSO AGENT SKRABA WITH THE SEROLOGY DNA UNIT

1 ALSO RESPONDED WITH AGENT JOHN BLACK AND MYSELF WE
2 ARRIVED ON THE SCENE IT WAS ABOUT AN HOUR AND A
3 HALF LATER

4 Q SO YOU WOULD HAVE GOTTEN THERE AROUND TWO
5 O'CLOCK?

6 A APPROXIMATELY TWO O'CLOCK

7 Q AND, AGAIN, WITH YOU WAS JOHN BLACK, AGENT
8 JOHN BLACK, AND AGENT NANCY SKRABA?

9 A THAT IS CORRECT

10 Q WHEN YOU GO INTO A CRIME SCENE, WHAT IS IT
11 THAT YOU DO WHEN YOU FIRST BEGIN PROCESSING THAT
12 AREA?

13 A WHEN WE ARRIVED ON THE CRIME SCENE WE WERE
14 FIRST MET BY CHIEF RUCKER AND OTHER OFFICERS AND
15 ALSO SPECIAL AGENT EDDIE CLARK, WHO'S THE FIELD
16 AGENT OF THIS AREA THEY GAVE US SOME PRELIMINARY
17 INFORMATION WHEN WE WENT TO THE RESIDENCE, WE
18 NOTICED IT WAS A SINGLE-WIDE TRAILER WE DID A
19 GENERAL WALK THROUGH OF THE TRAILER

20 THE PURPOSE OF THE WALK THROUGH IS TO IDENTIFY
21 ANY EVIDENCE, PROBATIVE EVIDENCE, AND JUST TO SEE
22 EXACTLY WHAT WE HAVE AND KIND OF FORMULATE A GAME
23 PLAN AS FAR AS WHAT ARE WE GOING TO DO ONCE THE
24 WALK THROUGH WAS COMPLETE, WE THEN BEGAN DOCUMENTING
25 THE CRIME SCENE

1 WE DOCUMENTED THE CRIME SCENE BY USING
2 PHOTOGRAPHS THESE ARE BOTH GENERAL PHOTOGRAPHS AND
3 ALSO BY CLOSE-UP PHOTOGRAPHS THAT SHOW -- TO GET A
4 BETTER CLOSE-UP VIEW OF THE ITEM THAT WE WERE
5 CONCERNED WITH AND ALSO THE SCENE WAS DOCUMENTED
6 WITH A DIAGRAM NOT TO SCALE

7 Q LET ME SHOW YOU WHAT'S ALREADY BEEN SHOWN AS
8 STATE'S EXHIBIT NUMBER FIVE FOR IDENTIFICATION IF
9 YOU'LL TAKE A LOOK AT THAT, DOES THAT APPEAR TO BE
10 THE HOME AT 401 RICHEY STREET?

11 A YES, SIR, IT DOES
12 (STATE'S EXHIBIT #5 WAS MARKED FOR IDENTIFICATION
13 ONLY)

14 Q WHAT'S THE FIRST AREAS THAT YOU STARTED TO
15 DOCUMENT WITH PHOTOGRAPHS IN YOUR PROCESSING OF THE
16 CRIME SCENE?

17 A WOULD YOU LIKE ME TO STEP DOWN AND POINT THIS
18 OUT?

19 Q YEAH, IF YOU COULD, WITH PERMISSION --

20 A MAY I STEP DOWN YOUR HONOR?

21 THE COURT SURE PLEASE DO IT ON
22 THE OTHER SIDE OF THE CHART SO THAT ALL THE JURORS
23 WILL BE ABLE TO SEE THE CHART

24 THE WITNESS THIS IS THE LOCATION AT
25 401 RICHEY STREET THIS IS A SINGLE-WIDE MOBILE

1 HOME TRAILER WHERE I'M POINTING TO NOW IS THE
2 FRONT DOOR TO THE RESIDENCE AS YOU APPROACH THE
3 FRONT DOOR OF THE RESIDENCE, THE FRONT DOOR WAS,
4 WHEN WE ARRIVED THERE, WAS PUSHED CLOSED NEAR THE
5 DOOR HANDLE OF THE FRONT DOOR YOU COULD SEE A RED
6 SUBSTANCE, WHICH APPEARED TO ME TO BE BLOOD AND YOU
7 COULD ACTUALLY SEE WHAT APPEARED TO BE SOME RIDGES
8 THAT COULD POSSIBLY HAVE BEEN FINGERPRINT-TYPE
9 RIDGES

10 ALSO NOTED AT THE FRONT DOOR WAS A BROKEN
11 FRAME WHERE THE LOCK COMES INTO THE RECESS OF THE
12 DOOR AND THE ACTUAL STRIKE PLATE ONCE YOU OPENED
13 THE DOOR WAS ACTUALLY ON THE FLOOR HERE IN THE
14 THRESHOLD OF THE DOORWAY

15 Q LET ME GO AHEAD AND SHOW YOU STATE'S EXHIBIT
16 SIXTEEN AND THAT'S THE PHOTOGRAPH OF THE FRONT
17 DOOR AT 401 RICHEY STREET?

18 A YES, SIR, THIS IS THE FRONT DOOR IT'S A
19 STORM DOOR OF THE RESIDENCE IT WOULD BE, AGAIN,
20 RIGHT HERE ON THE RESIDENCE

21 Q NOW, IF YOU COULD TAKE A QUICK LOOK AT THIS
22 AND IF YOU WOULD, SHOW THE JURY WHAT YOU'RE TALKING
23 ABOUT IN REGARDS TO THAT DOOR?

24 THE COURT WHICH EXHIBIT ARE YOU
25 REFERRING TO?

1 THE WITNESS STATE'S EXHIBIT

2 NINETEEN

3 EXAMINATION CONTINUED BY MR COULTER

4 Q IF YOU COULD DESCRIBE WHAT THAT PHOTOGRAPH
5 DEPICTS, PLEASE

6 A WHAT THIS PHOTOGRAPH DEPICTS IS THE INSIDE
7 FRONT DOOR THE INSIDE FRONT DOOR WAS OPENED, WE
8 HAD THE STORM DOOR THAT WAS CLOSED THE ACTUAL DOOR
9 TO THE RESIDENCE, WHICH WAS OPENED, WHICH IS
10 INDICATED HERE, AND YOU COULD SEE WHERE NEAR THE
11 KNOB BOLT THAT ACTUALLY GOES INTO THE FRAME, THE
12 FRAME AREA WAS BENT AND ALSO PRESENT ON THAT FRAME
13 WAS A RED SUBSTANCE THAT APPEARED TO BE BLOOD

14 Q AND WHERE IS THAT SUBSTANCE YOU'RE TALKING
15 ABOUT?

16 A YOU HAVE SOME HERE BETWEEN KNOB AND THE ACTUAL
17 BOLT AND THEN RIGHT ABOVE IT HERE ON THE FRAME ALSO
18 WHERE IT IS BENT

19 Q THAT'S WHERE MY FINGER'S POINTING?

20 A YES, SIR, THAT IS CORRECT

21 Q WERE YOU ABLE TO PROCESS THIS PARTICULAR
22 ASPECT OF THE DOOR?

23 A YES, SIR THE LAST THING THAT WE DO IN
24 PROCESSING A CRIME SCENE IS PROCESSING FOR LATENT
25 PRINTS THE REASON BEHIND THIS IS ANYTHING THAT'S

1 PROCESSED AT THE SCENE WITH LATENT PRINTS, ANY OTHER
2 EVIDENCE THAT MAY HAVE SOME PROBATIVE VALUE WILL BE
3 DESTROYED BY USING THOSE METHODS, WHETHER IT BE THE
4 ACTUAL FINGERPRINT POWDER OR SOME OTHER CHEMICALS
5 THAT WE MAY USE SO IT'S THE LAST THING THAT WE DID
6 WAS TO PROCESS THE RESIDENCE FOR LATENT PRINTS

7 AFTER DOCUMENTING THE FORCEABLE ENTRY TO THE
8 FRONT DOOR AND DOCUMENTING SHOWING THE RED SUBSTANCE
9 ON THE DOOR AND ALLOWING, I BELIEVE, AGENT SKRABA
10 MAY HAVE COLLECTED A SWAB FROM THIS AREA, OF THE
11 SUBSTANCE WE THEN PROCESSED IT FIRST WITH BLACK
12 POWDER TO SEE IF ANY FINGERPRINTS COULD BE
13 DEVELOPED NONE WERE DEVELOPED BUT WE THEN
14 PROCESSED THIS AREA WITH A CHEMICAL KNOWN AS AMIDO
15 BLACK AMIDO BLACK IS A PROTEIN DYE STAIN IT'S
16 BEEN USED IN THE HOSPITALS FOR A LONG TIME FOR
17 SEROLOGICAL PURPOSES IN BLOOD -- THAT'S PROTEIN --
18 AND WHAT THE STAIN WILL DO, IT'S A TWO-PART PROCESS
19 YOU HAVE A WORK SOLUTION AND A RINSING SOLUTION IT
20 WILL STAIN PROTEIN A BLUISH BLACK COLOR IN THE
21 AREAS THAT WE INDICATED WHERE WE COULD SEE WHAT
22 APPEARED TO BE RIDGES OF BLOOD, IT DID STAIN A
23 BLUISH-BLACK COLOR IT INDICATED SOMEONE HAD
24 TOUCHED THAT AREA OR CAME IN CONTACT WITH THAT AREA
25 BUT AN IDENTIFIABLE PRINT WAS NOT DEVELOPED

1 Q ALL RIGHT, AND WHAT DO YOU MEAN BY AN
2 IDENTIFIABLE PRINT?

3 A BY IDENTIFIABLE PRINT, IT MEANS YOU CAN
4 IDENTIFY THIS PRINT POSITIVELY TO SOMEONE IF YOU
5 LOOK AT YOUR FINGERS AND YOUR PALMS ON YOUR HANDS,
6 YOU HAVE LINES THESE LINES ARE RAISED PORTIONS OF
7 SKIN AND THESE RAISED PORTIONS OF SKIN ARE RIDGES

8 I KNOW MY GRANDDADDY'S A FARMER AND WHAT HELPS
9 ME BEST RELATE TO IT IS WHEN HE'S PLOWING HIS FIELD
10 AND THE DISC IS CUTTING INTO THE GROUND, THAT DISC
11 IS DEVELOPING FURROWS AND ROWS AND YOU HAVE LIKE
12 MOUNTAINS WHERE YOU HAVE A PEAK AND IT GOES DOWN TO
13 A VALLEY WELL, ON TOP OF THAT ROW, THAT PEAK,
14 YOU'VE GOT MINUTE SWEAT POORS THAT ARE CONSTANTLY
15 EXUDING PERSPIRATION PERSPIRATION, NINETY-NINE
16 PERCENT OF IT, IS WATER AND THE OTHER ONE PERCENT
17 BEING HALF ORGANIC MATERIALS AND THE OTHER HALF
18 BEING INORGANIC MATERIALS DEPOSIT ON THESE RIDGES
19 AND WHEN THE RIDGE MAY TOUCH SOMETHING, IT MAY
20 TRANSFER THAT PRINT TO THAT SURFACE WHEN I SAY
21 MAY, YOU HAVE TO REMEMBER A LATENT IS FRAGILE IT'S
22 A RANDOM TOUCHING MOTION SO IN TAKING THAT IN
23 CONCEPT, YOU MAY LEAVE AN IDENTIFIABLE PRINT OR YOU
24 MAY NOT IT MAY JUST SIMPLY SHOW THE TOUCHING AND
25 THAT IS ALL

1 Q SO EVERY TIME YOU TOUCH SOMETHING, YOU THEN
2 NECESSARILY ALWAYS LEAVE A PRINT?

3 A NO, YOU DO NOT

4 Q AND CERTAINLY THEN, YOU WOULDN'T NECESSARILY
5 ALWAYS LEAVE AN IDENTIFIABLE PRINT?

6 A THAT IS CORRECT

7 Q AND WHAT YOU FOUND WAS, AS I UNDERSTAND IT, ON
8 THE DOOR IS JUST A PARTIAL PRINT, NOT ENOUGH TO BE
9 ABLE TO BE IDENTIFIED?

10 A THAT IS CORRECT

11 Q STICKING WITH THE DOOR, HERE IS THE STATE'S
12 EXHIBIT NUMBER TWENTY IF YOU COULD EXPLAIN TO THE
13 JURY WHAT THAT IS

14 A YES, SIR IN THIS PHOTOGRAPH YOU CAN SEE THE
15 STORM DOOR AND BEHIND THE STORM DOOR, YOU CAN SEE
16 THE BROKEN FRAME AND YOU CAN ACTUALLY SEE THE OUTLAY
17 OF THE BROKEN FRAME WHERE THE STRIKE PLATE -- THIS
18 IS WHERE THE BOLT WOULD GO INTO WHERE IT ONCE WAS
19 AND THE STRIKE PLATE WAS FOUND BELOW ON THE FLOOR AS
20 YOU STEP INTO THE THRESHOLD OF THE RESIDENCE

21 Q WHAT DID THE CONDITION OF THAT FRONT DOOR AND
22 A BROKEN FRAME AND THE STRIKE PLATE ON THE GROUND OR
23 ON THE FLOOR OF THAT THRESHOLD OF THAT HOME INDICATE
24 TO YOU?

25 A THAT SOME FORCE WAS USED TO GAIN ENTRANCE INTO

1 THAT RESIDENCE FORCIBLE ENTRY WAS USED TO GET INTO
2 THE RESIDENCE TO -- NOT THE STORM DOOR, BUT THE DOOR
3 DIRECTLY BEHIND IT WHICH WOULD BE THE DOOR -- WHAT I
4 REFER TO AS THE FRONT DOOR

5 Q NOW, AFTER YOU'D EXAMINED THE FRONT DOOR, THE
6 BROKEN FRAME, THE STRIKE PLATE ON THE GROUND, WHERE
7 DID YOU NEXT THEN BEGIN TO DOCUMENT?

8 A AS YOU STEP INTO THE ACTUAL RESIDENCE, TO THE
9 RIGHT, YOU HAD A BEDROOM WHICH IS HERE ALSO ALMOST
10 TO THE RIGHT IN ABOUT A ONE TO TWO O'CLOCK POSITION
11 WAS THE BATHROOM

12 AS I STEPPED INTO THE DOOR AND WENT
13 TOWARDS THE RIGHT AND LOOKED ON THE FLOOR I SAW A
14 KNIFE AND ON THE KNIFE TOWARDS THE TIP, AGAIN,
15 APPEARED TO BE BLOOD ON THE TIP AND BY REFLECTING
16 LIGHT ON THE KNIFE, ON THE BLADE OF THE KNIFE, I
17 COULD SEE A FOOTWEAR IMPRESSION, THE OUT SOLE OF A
18 SHOE, JUST A BOTTOM OF THE SHOE THE PART OF THE
19 SHOE THAT COMES IN CONTACT WITH THE SURFACE OF THE
20 GROUND IF YOU'RE RUNNING OR WALKING I DOCUMENTED
21 THOSE ITEMS

22 THE DOOR FRAME TO THE BEDROOM AT THE END OF
23 THE TRAILER WAS ALSO BROKEN

24 Q LET ME ASK YOU TO STOP FOR JUST ONE SECOND
25 LET'S TALK ABOUT, IF YOU COULD, LOOK AT STATE'S

1 EXHIBIT NUMBER TEN DESCRIBE, AGAIN, FOR THE JURY
2 WHAT THAT SHOWS

3 A STATE'S EXHIBIT TEN, AGAIN, SHOWS THE KNIFE
4 THAT I'M REFERRING TO THAT WAS ON THE FLOOR AS YOU
5 STEP INTO THE RESIDENCE AND TURN TO THE RIGHT TO
6 THE LEFT OF THE KNIFE WOULD BE THE ENTRANCE LEADING
7 INTO THE BATHROOM IN FRONT OF THE KNIFE WOULD BE
8 THE BEDROOM THAT HAD THE BROKEN FRAME AT THE
9 DOORWAY

10 Q AND DOES MY FINGER POINT TO THE ENTRANCE OF
11 THE BATHROOM?

12 A YES, SIR, IT IS

13 Q AND WHAT WERE YOU ABLE TO VISIBLY SEE ON THE
14 KNIFE BLADE?

15 A ON THE KNIFE BLADE ITSELF NEAR THE TIP OF THE
16 KNIFE APPEARED TO BE BLOOD ON THE TIP OF THE KNIFE
17 AND ALSO ON THE KNIFE BLADE ITSELF WAS AN OUT SOLE
18 DESIGN IMPRESSION FROM A SHOE

19 Q TO SAVE A LITTLE BIT OF TIME, AGENT BLACK, I'D
20 LIKE YOU TO JUST -- IF YOU COULD GO THROUGH THESE
21 PHOTOGRAPHS QUICKLY AND TELL ME WHETHER OR NOT,
22 WITHOUT DISCUSSING THEM, WHETHER OR NOT THOSE ARE
23 TRUE AND ACCURATE PICTURES OF WHAT YOU SAW ON
24 DECEMBER 4, 1995?

25 A YES, SIR, THEY ARE

1 Q THEY ARE TRUE AND ACCURATE?

2 A YES, SIR, THEY ARE

3 MR JONES IF IT'LL PLEASE THE
4 COURT

5 THE COURT SIR

6 MR JONES I'M JUST GOING TO SUGGEST
7 THAT WHILE WE TEND TO THIS HOUSEKEEPING THIS WITNESS
8 WILL PROBABLY BE ON THE STAND FOR ABOUT AN HOUR SO
9 MAYBE WE COULD GIVE THE JURY A BREAK NOW AND COME
10 BACK

11 THE COURT WE HAVEN'T BEEN GOING
12 LONG ENOUGH TO HAVE A BREAK

13 MR COULTER I'M ALMOST THROUGH,
14 YOUR HONOR WE'RE JUST TRYING TO MAKE SURE OUR
15 NUMBERS ARE ALL CONSISTENT

16 (OFF THE RECORD)

17 EXAMINATION CONTINUED BY MR COULTER

18 Q MR BLACK, YOU HAD JUST DESCRIBED GOING TO THE
19 RIGHT FROM THE FRONT DOOR WITH THE KNIFE IN WHAT
20 APPROXIMATE LOCATION ON THAT DIAGRAM?

21 A APPROXIMATELY IN THIS AREA HERE,
22 APPROXIMATELY

23 Q AND THAT WAS IN FRONT OF BOTH THE DOOR TO THE
24 BATHROOM AND TO THIS BEDROOM WITH THE TWIN BEDS

25 A THAT IS CORRECT, SIR

1 Q AND IF YOU COULD, DESCRIBE FOR THE JURY THE
2 CONDITION OF THE DOOR LEADING INTO THIS BEDROOM WITH
3 THE TWIN BEDS

4 A THE FRAME, AGAIN, WHERE THE BOLT FROM THE KNOB
5 GOING INTO THE STRIKE PLATE, THAT AREA OF THE FRAME
6 WAS CRACKED THE STRIKE PLATE WAS HANGING ON AND
7 WAS SEPARATED FROM -- SOMEWHAT FROM THE FRAME AND
8 ONLY REMAINED ATTACHED BY ONE NAIL AND FOUND NEAR
9 THE KNIFE WAS A BLACK SCREW, BUT I DON'T KNOW IF THE
10 BLACK SCREW WENT TO THE FRONT DOOR OR TO THIS
11 BEDROOM DOOR I'M NOT SURE

12 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER TWENTY-
13 FIVE AND TWENTY-SIX ARE THOSE, IN FACT,
14 PHOTOGRAPHS OF WHAT YOU JUST DESCRIBED ON THAT DOOR
15 FRAME?

16 A YES, SIR ONE IS AN ORIENTATION PHOTOGRAPH
17 WHICH IS TO MY RIGHT AND THE PHOTOGRAPH TO MY LEFT
18 IS A CLOSE-UP SHOWING THAT WITH A PIECE OF SCALE
19 TAPE IF IT WAS DEEMED NECESSARY TO ENLARGE THE
20 PHOTOGRAPH, THE ACTUAL SIZE, IT COULD BE DONE SO
21 FROM THE NEGATIVE

22 THE COURT ANY OBJECTION?

23 MR GARRETT NO OBJECTION, YOUR
24 HONOR

25 THE COURT ADMITTED

1 EXAMINATION CONTINUED BY MR COULTER

2 Q CAN YOU PLEASE DESCRIBE FOR THE JURY WHERE
3 THAT WAS LOCATED ON THAT BEDROOM DOOR?

4 A YES, SIR AGAIN, ON THIS DOOR FRAME TO THIS
5 BEDROOM WHERE THE TWIN BEDS WERE LOCATED AND IT'S,
6 AGAIN, WHERE THE BOLT FROM THE KNOB GOES INTO THE
7 DOOR FRAME WHERE THE STRIKE PLATE IS

8 Q AND THE CONDITION OF THIS STRIKE PLATE ON THE
9 DOOR LEADING INTO THAT BEDROOM, WHAT DID THAT
10 INDICATE TO YOU?

11 A AGAIN, WITH THE CONDITION OF THE STRIKE PLATE,
12 THE BROKEN FRAME, AGAIN, FORCE WAS USED TO PUSH THIS
13 DOOR OPEN

14 Q I ASK YOU TO TAKE A LOOK AT TWENTY-SEVEN
15 THROUGH TWENTY-NINE, IF YOU COULD JUST DESCRIBE IT
16 VERY BRIEFLY WE MOVE TO HAVE TWENTY-FIVE THROUGH
17 TWENTY-NINE ADMITTED INTO EVIDENCE?

18 THE COURT ANY OBJECTION?

19 MR GARRETT WITHOUT OBJECTION

20 THE COURT ADMITTED

21 EXAMINATION CONTINUED BY MR COULTER

22 Q AND IF YOU COULD, DESCRIBE FOR THE JURY WHAT
23 THESE THREE PHOTOGRAPHS ARE?

24 A THE THREE PHOTOGRAPHS SHOW AS YOU STEP INTO
25 THE BEDROOM YOU HAVE A TWIN BED DIRECTLY IN FRONT

1 OF YOU TO THE LEFT YOU HAVE A DRESSER AGAIN,
2 TOWARDS YOUR LEFT, YOU HAVE ANOTHER TWIN BED AND
3 BEHIND THAT, THAT IS A CLOSET ON THE OTHER SIDE OF
4 THE DRESSER AND THE OTHER SIDE OF THE DRESSER IN
5 FRONT OF THE TWIN BED IS A DOORWAY AND THIS
6 DOORWAY ALSO LEADS INTO THIS HALL BATHROOM

7 Q SO HOW MANY WAYS ARE THERE TO GET INTO THAT
8 BEDROOM?

9 A TO GET INTO THE BEDROOM THERE ARE TWO
10 DIFFERENT AVENUES THAT YOU CAN GET IN

11 Q WHICH ONE WAS THE ONE WITH THE BROKEN LOCK?

12 A THE ONE WITH THE BROKEN STRIKE PLATE, BROKEN
13 FRAME, WAS THE ONE DIRECTLY BEHIND THE FRONT DOOR
14 AND ACROSS FROM THE FRONT BATHROOM ENTRANCE

15 Q AND THEN THE OTHER WAY WAS THROUGH --

16 A YOU HAVE TO GO THROUGH THE BEDROOM OR GO
17 THROUGH THE BATHROOM TO GAIN ACCESS TO EITHER ONE

18 Q RIGHT AGENT, WHEN YOU HAD FIRST -- BEFORE
19 YOU EVEN DOCUMENTED THIS I THINK YOU HAD INDICATED
20 YOU HAD DONE A WALK THROUGH?

21 A YES, SIR, WE DID

22 Q AND BASED ON YOUR WALK THROUGH, HOW MANY
23 GUNSHOTS WERE YOU CONCERNED WITH AT THAT TIME?

24 A AT THAT TIME, BASED ON THE WALK THROUGH TWO
25 WHEN I WALKED THROUGH THE RESIDENCE IN THE HALLWAY

1 HERE NEAR THIS ENTRANCE TO WHAT I REFER TO AS THE
2 MASTER BEDROOM ON THE OPPOSITE END OF THE TRAILER
3 FROM THE FRONT DOOR, WAS THE BODY OF MRS HARRIS
4 AS YOU WALKED INTO THE BEDROOM ON THE DOUBLE BED WAS
5 THE BODY OF THE DECEASED MRS JACKSON ON THE FLOOR
6 AT THE FOOT OF THE BED WAS A SHOTGUN NEAR THE
7 SHOTGUN WAS A VENT BY THE VENT WAS A FIRED SHOTGUN
8 SHELL LATER, AFTER DOCUMENTING THE SHOTGUN AND THE
9 INJURIES TO THE TWO DECEASED VICTIMS, WE OPENED THE
10 SHOTGUN AND A FIRED SHOTGUN SHELL WAS STILL IN THE
11 BARREL AND AT THAT TIME WE HAD EACH VICTIM, FROM
12 WHAT WE COULD TELL, HAD RECEIVED ONE GUNSHOT TO
13 THEIR PERSON AND WE HAD TWO FIRED SHELLS ALONG
14 WITH THE SHOTGUN

15 Q SO YOU HAD TWO PEOPLE WITH GUNSHOT WOUNDS AND
16 TWO SHELLS?

17 A THAT IS CORRECT

18 Q SO BASED ON THIS INITIAL PROCESSING OF THE
19 SCENE ON DECEMBER 4TH, OTHER THAN PHOTOGRAPHING THIS
20 BATHROOM THAT LEADS INTO THE TWIN BEDROOM, DID YOU
21 ANY OTHER PROCESSING OF THAT AREA?

22 A NO, SIR, WE DID NOT

23 Q LET ME SHOW YOU STATE'S EXHIBIT THIRTY-ONE

24 A YES

25 Q CAN YOU IDENTIFY THAT?

1 A YES, SIR, I CAN

2 MR COULTER I MOVE TO HAVE STATE'S
3 EXHIBIT THIRTY-ONE INTRODUCED INTO EVIDENCE

4 MR GARRETT WITHOUT OBJECTION
5 THE COURT ADMITTED

6 THE WITNESS STATE'S EXHIBIT THIRTY-
7 ONE IS A KNIFE THAT I'M REFERRING TO AGAIN THAT WAS
8 FOUND IN THE FRONT ENTRANCE WAY OF THE RESIDENCE
9 BETWEEN THE BEDROOM AND THE HALL BATHROOM IT SHOWS
10 THE KNIFE IN QUESTION YOU CAN SEE AT THE TIP OF
11 THE KNIFE BLOOD YOU CAN ALSO SEE SOME OF THE
12 FOOTWEAR IMPRESSION ON THE KNIFE BLADE ALONG WITH
13 THE SCREW THAT I WAS REFERRING TO EARLIER

14 EXAMINATION CONTINUED BY MR COULTER

15 Q AGAIN, YOU DON'T KNOW WHERE THAT SCREW CAME
16 FROM?

17 A NO, SIR, I DO NOT AND THE REASON FOR THAT,
18 THE STRIKE PLATE AND WHATEVER WAS HOLDING THE STRIKE
19 PLATE ON THE FRONT DOOR, I COULD NOT FIND -- YOU
20 KNOW, WHERE THERE WAS A NAIL OR SCREW THERE
21 DETERMINE WHETHER OR NOT IF THAT SCREW CAME FROM THE
22 FRONT DOOR OR WHETHER OR NOT IT CAME FROM THE
23 BEDROOM DOOR

24 Q I'LL HAND YOU WHAT'S BEEN MARKED AS STATE'S
25 EXHIBIT NUMBER THIRTY-TWO AND ASK IF YOU CAN

1 IDENTIFY THAT

2 A YES, SIR, I CAN STATE'S EXHIBIT THIRTY-TWO
3 IS THE KNIFE THAT WAS ON THE SCENE IT BEARS THE
4 S L E D LAB NUMBER, AN ITEM NUMBER AND MY INITIALS,
5 BWB

6 MR COULTER WE MOVE TO HAVE STATE'S
7 EXHIBIT THIRTY-TWO INTRODUCED INTO EVIDENCE

8 MR GARRETT WITHOUT OBJECTION, YOUR
9 HONOR

10 THE COURT IT'S ADMITTED

11 EXAMINATION CONTINUED BY MR COULTER

12 Q AND STATE'S EXHIBIT THIRTY-TWO IS THE SAME
13 KNIFE DEPICTED IN STATE'S THIRTY-ONE PHOTOGRAPH?

14 A YES, SIR, IT IS

15 Q NOW, AS YOU WENT THROUGH YOUR PHOTOGRAPH
16 DOCUMENTING OF THE BATHROOM, WHERE NEXT WOULD YOU
17 HAVE BEGUN YOUR DOCUMENTATION?

18 A AFTER FINISHING WITH THE GENERAL PHOTOGRAPHS
19 AND DOCUMENTATION WE HAD HERE ON THIS END OF THE
20 HOME, WE THEN PROCEEDED INTO THE LIVING ROOM AREA,
21 INTO THE KITCHEN AREA OF THE RESIDENCE

22 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER TWENTY-
23 FOUR ACTUALLY, TWENTY-ONE THROUGH TWENTY-FOUR AND
24 SEVENTEEN

25 MR COULTER I MOVE TO INTRODUCE,

1 YOUR HONOR, SEVENTEEN, TWENTY-ONE THROUGH TWENTY-
2 FOUR STATE'S EXHIBIT

3 MR GARRETT WITHOUT OBJECTION, YOUR
4 HONOR

5 THE COURT THEY'RE ADMITTED

6 EXAMINATION CONTINUED BY MR COULTER

7 Q NOW, IF YOU COULD, IF YOU'LL TAKE A QUICK LOOK
8 AT TWENTY-FOUR COULD YOU, PLEASE, DESCRIBE FOR THE
9 JURY WHAT AREA THIS PHOTOGRAPH SHOWS

10 A YES, SIR THE PHOTOGRAPH TAKEN WOULD HAVE
11 BEEN AGENT BLACK STANDING HERE APPROXIMATELY IN THE
12 AREA OF THE FRONT DOOR OF THIS BEDROOM HE WAS
13 PHOTOGRAPHING BACK TOWARDS THE FRONT DOOR, WHICH YOU
14 SEE TO THE LEFT IN THE PHOTOGRAPH AND, ALSO, YOU
15 SHOULD SEE PHOTOGRAPHING INTO THE LIVING ROOM WHICH
16 YOU CAN SEE A LAMP AND THE COUCH AND ALSO ON THE
17 FLOOR HERE NEAR THE WALL OF THE BATHROOM LEADING
18 INTO THE LIVING ROOM WAS A RELIGIOUS PLAQUE AND ALSO
19 A WASHCLOTH NEAR THAT PLAQUE AND ON THAT
20 WASHCLOTH, WHICH WAS A MULTI-COLOR, MULTI-STRIPED,
21 WERE BLOOD STAINS

22 Q STATE'S EXHIBIT TWENTY-FOUR IN LOOKING BACK
23 FROM THAT BEDROOM THAT HAD THE BROKEN FRAME AND
24 LATCH

25 A THAT IS CORRECT, SIR

1 Q STATE'S EXHIBIT TWENTY-THREE, IF YOU'LL TAKE A
2 LOOK AT THAT AND DESCRIBE WHAT THAT IS FOR THE JURY

3 A STATE'S EXHIBIT TWENTY-THREE IS STANDING ON
4 THE OPPOSITE END OF THE COUCH PHOTOGRAPHING BACK
5 TOWARDS THE FRONT DOOR IT'S JUST GETTING A
6 DIFFERENT VIEW, A DIFFERENT PERSPECTIVE, TRYING TO
7 DOCUMENT THE SCENE FULLY FROM DIFFERENT DIRECTIONS
8 AND DIFFERENT ANGLES

9 Q AND THAT'S LOOKING BACK AT THE BEDROOM WITH
10 THE BROKEN FRAME?

11 A YES, SIR, IT IS THAT IS CORRECT

12 Q I'M SHOWING YOU STATE'S EXHIBIT TWENTY-ONE AND
13 IF YOU COULD DESCRIBE THAT FOR THE JURY

14 A YES, SIR STATE'S EXHIBIT TWENTY-ONE IS
15 STANDING APPROXIMATELY IN THE AREA OF THIS WALL TO
16 THE BATHROOM AND THE CHAIR THAT'S RIGHT INSIDE THE
17 LIVING ROOM IF YOU STEP IN, YOU CAN SEE A GENERAL
18 PHOTOGRAPH SHOWING MOST OF THE LIVING ROOM
19 INCLUDING, IN THE BACKGROUND, THE KITCHEN TABLE
20 AND NEAR THIS CHAIR WAS A BLACK HAT -- A NIKE HAT,
21 IT HAD THE NIKE EMBLEM ON IT

22 THE COURT WHAT NUMBER IS THAT
23 YOU'RE SHOWING NOW, SOLICITOR?

24 MR COULTER TWENTY-ONE, YOUR HONOR

25 EXAMINATION CONTINUED BY MR COULTER

1 Q AND LOOKING AT STATE'S TWENTY-TWO, DOES THAT
2 SHOW YOU ANOTHER ANGLE OF THAT LIVING ROOM?

3 A YES, SIR, IT DOES AGAIN, THIS WOULD BE
4 STANDING SOMEWHERE IN THE AREA OF THE OPPOSITE SIDE
5 OF THE COUCH NEAR -- TOWARDS THE KITCHEN

6 PHOTOGRAPHING BACK TOWARDS THIS CHAIR AND THIS
7 CORNER AND, AGAIN, NEAR THE CHAIR IS THE BALL CAP

8 Q THIS IS STATE'S EXHIBIT NUMBER SEVENTEEN, IF
9 YOU WOULD TAKE A LOOK AT THAT IS THAT ALSO A
10 PHOTOGRAPH OF THE LIVING ROOM AREA?

11 A YES, SIR, IT IS IT IS LOOKING IN THE AREA
12 NEAR THIS TV, AGAIN, NEAR THE KITCHEN AREA
13 PHOTOGRAPHING BACK TOWARDS THE FRONT DOOR AND WHAT
14 YOU CAN SEE NEAR THIS AREA OF THE CHAIR AND THE
15 BATHROOM WALL AND THE LIVING ROOM COME TOGETHER,
16 AGAIN, IS THE WASHRAG, STRIPED MULTI-COLORED, AND IT
17 HAD BLOOD STAINS ON THE WASHRAG, WASHCLOTH

18 Q AND THAT'S LOOKING BACK TOWARDS THE FRONT DOOR
19 WITH THE BROKEN FRAME?

20 A CORRECT THE FRONT DOOR WITH THE BROKEN FRAME
21 WHERE THE KNIFE WAS LOCATED

22 Q I'LL HAVE YOU TAKE A LOOK AT WHAT'S BEEN
23 MARKED AS THIRTY-THREE THROUGH FORTY-TWO, YOU'VE
24 LOOKED AT THESE PHOTOGRAPHS OF THE KITCHEN?

25 A YES, SIR

1 MR COULTER YOUR HONOR, I MOVE TO
2 HAVE THIRTY-THREE THROUGH FORTY-TWO ADMITTED INTO
3 EVIDENCE

4 MR GARRETT WITHOUT OBJECTION, YOUR
5 HONOR

6 THE COURT ADMITTED, THIRTY-THREE
7 THROUGH FORTY-TWO

8 EXAMINATION CONTINUED BY MR COULTER

9 Q TAKE A LOOK AT STATE'S THIRTY-THREE AND, IF
10 YOU COULD, DESCRIBE FOR THE JURY WHAT THIS SHOWS ON
11 THE DIAGRAM

12 A STATE'S EXHIBIT THIRTY-THREE SHOWS LEAVING THE
13 LIVING ROOM GOING TO THE KITCHEN AREA SEEING THE
14 DINING ROOM TABLE ON THE FLOOR WERE SOME BLACK
15 MARBLES, AND WHAT WE FOUND ON THE FLOOR ALSO WAS
16 LIKE A BROKEN VASE OR IT WAS WHITE CERAMIC AND WE
17 TOOK THAT THOSE MARBLES WERE INSIDE OF THAT VASE
18 YOU COULD SEE ANOTHER PLANT THAT HAD BEEN KNOCKED
19 DOWN THAT WAS ON THE KITCHEN TABLE AND, ALSO, WHERE
20 CHAIRS HAD BEEN MOVED WERE KNOCKED DOWN AROUND THE
21 KITCHEN TABLE AND IT APPEARED EITHER -- WHERE SOME
22 OF THE BLOOD SPATTERED THAT SOMEONE HAD WALKED
23 THROUGH THERE THE BLOOD DROPS THAT WERE ON THE
24 FLOOR AND THAT'S WHAT THAT INDICATED

25 Q SO AS YOU LOOKED INTO THE KITCHEN AT THE FLOOR