

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

JAN 13 2011

Alexander S Macauley, Circuit Judge
2000 CP-01 212

S.C Supreme Court

JOHN KENNEDY HUGHEY, #5055
Respondent/Petitioner,

V

STATE OF SOUTH CAROLINA,
Petitioner/Respondent,

APPENDIX

ALAN WILSON
Attorney General

JOHN W McINTOSH
Chief Deputy Attorney General

DONALD J ZELENKA
Assistant Deputy Attorney General

Office of the Attorney General
P O Box 11549
Columbia, S C 29211
803 734 6305

COUNSEL FOR
PETITIONER/RESPONDENT

E CHARLES GROSE, Jr
Circuit Public Defender
8th Judicial Circuit
Suite 208 Park Plaza
600 Monument Street Box P 133
Greenwood, S C 29646
864 229 9505

TARA M SCHULTZ
8th Circuit Public Defenders Office
Laurens County Courthouse
100 Hillcrest Drive, Suite P
Laurens, S C 29320
864 984 8807

South Carolina Commission on
Indigent Defense Division of Appellate
Defense
P O Box 11589
Columbia, S C 29211 1589

COUNSEL FOR
RESPONDENT/PETITIONER

INDEX

INDEX	-	1
VOLUME I		
VOIR DIRE	-	2
COMPETENCY HEARING MOTION		13
DR. KATINA CLARDY WRIGHT (<i>IN CAMERA</i>)		
Direct Examination by the Defense	-	14
Cross Examination by the Solicitor	-	16
Redirect Examination by the Defense	-	22
Recross Examination by the Solicitor	-	35
Redirect Examination by the Defense	-	74
Recross Examination by the Solicitor	-	79
Redirect Examination by the Defense	-	81
DR. JAMES EVANS (<i>IN CAMERA</i>)		
Direct Examination by the Defense	-	81
Cross Examination by the Solicitor	-	83
Redirect Examination by the Defense	-	84
Recross Examination by the Solicitor	-	96
GLORIA WHITE HARRISON (<i>IN CAMERA</i>)		
Direct Examination by the Defense	-	135
Cross Examination by the Solicitor	-	141
DR. JAMES EVANS (<i>IN CAMERA</i>)		
Direct Examination by the Defense	-	168
Cross Examination by the Solicitor	-	180
Redirect Examination by the Defense	-	196
Examination by the Court	-	196
MOTIONS AND RULING	-	198
JURY ROLL CALL		212
VOIR DIRE	-	308
MOTION ON BRIAN DALY	-	345
VOIR DIRE EXCUSALS		361

CONTINUED COMPETENCY HEARING

DR. KATHRYN LEWIS (IN CAMERA)

Examination by the Court	413
Direct Examination by the Defense	415

VOIR DIRE	423
-----------	-----

PATTY GRIFFIN

Examination by the Court	423
Examination by the Defense	431
Direct Examination by the Solicitor	433

MARTHA CROCKETT

Examination by the Court	442
Examination by the Defense	449

ROBERT J ASHE

Examination by the Court	453
Examination by the Defense	459
Examination by the Solicitor	465

RALPH KOERBER

Examination by the Court	470
--------------------------	-----

LINDA MCCALL

Examination by the Court	479
Examination by the Defense	483
Examination by the Solicitor	484

STEVE WHITE

Examination by the Court	486
Examination by the Defense	490
Examination by the Solicitor	495

VOLUME II

WALTER FLEMING

Examination by the Court	501
Examination by the Defense	505

GINA NORRIS

Examination by the Court	508
Examination by the Defense	515
Examination by the Solicitor	516

DAVID HOBBY	
Examination by the Court	524
DANNY BROWN	
Examination by the Court	528
Examination by the Solicitor	536
Examination by the Defense	544
Re-examination by the Court	546
COLLOQUY	551
CURTIS LOMAX	
Examination by the Court	559
DUANNE HALL	
Examination by the Court	567
Examination by the Defense	576
Examination by the Solicitor	579
VICKY MCCLAIN	
Examination by the Court	582
Examination by the Defense	591
Examination by the Solicitor	594
JAMES KLUGH	
Examination by the Court	605
Examination by the Defense	612
Examination by the Solicitor	614
Re-Examination by the Court	621
Re-Examination by the Defense	625
MICHAEL TOMPKINS	
Examination by the Court	629
Examination by the Defense	636
Examination by the Solicitor	639
BRIAN CHRISLEY	
Examination by the Court	642
Examination by the Defense	648
JAMES S JONES, JR	
Examination by the Court	650
Examination by the Defense	658
Examination by the Solicitor	661

ROY DRAFT		
Examination by the Court	-	664
Examination by the Defense		673
Examination by the Solicitor	-	680
COLLOQUY		681
ROY DRAFT		
Further Examination by the Court		686
Further Examination by the Defense		690
MARTHA STONE		
Examination by the Court		693
Examination by the Defense	-	700
BARBARA THOMAS		
Examination by the Court		702
Examination by the Defense		711
Examination by the Solicitor	-	714
WILLIAM L HESSON		
Examination by the Court	-	717
Examination by the Defense		724
Re-Examination by the Court	-	735
SUSAN WILLIAMS		
Examination by the Court	-	738
Examination by the Defense	-	746
Examination by the Solicitor	-	749
BETTY GILLIAM		
Examination by the Court		757
FRANCES COWART		
Examination by the Court	-	762
Examination by the Defense		770
Examination by the Solicitor		771
JENNY CLARK		
Examination by the Court		781
Examination by the Defense		789
LINDA HAYNES		
Examination by the Court		791
Examination by the Defense		799

ALDENE LANGLEY	
Examination by the Court	803
Examination by the Defense	813
Examination by the Solicitor	818
Further Examination by the Defense	828
Further Examination by the Court	829
LEROY MILLS	
Examination by the Court	838
Examination by the Defense	849
EDDIE WILLIAMS	
Examination by the Court	858
Examination by the Solicitor	861
COLLOQUY ABOUT PRISON GUARD DALY	866
BRIAN DALY	
Examination by the Court	872
Examination by the Defense	882
Examination by the Solicitor	885
Further Examination by the Defense	894
SPENCER SORROW	
Examination by the Court	897
Examination by the Defense	906
Examination by the Solicitor	910
JAMES B JONES, JR.	
Examination by the Court	917
Examination by the Defense	924
Examination by the Solicitor	928
ANDREA BRAMLETT	
Examination by the Court	930
Examination by the Defense	939
Examination by the Solicitor	947
ADANELL TALLEY	
Examination by the Court	951
STANLEY ABERNATHY	
Examination by the Court	962
Examination by the Defense	970
Examination by the Solicitor	972

SOPHIA BATTLE	
Examination by the Court	976
Examination by the Defense	986
Examination by the Solicitor	994

VOLUME III

FRAN MORROW	
Examination by the Court	1005

WILLIAM HEATH BOWIE	
Examination by the Court	1022
Examination by the Defense	1028
Examination by the Solicitor	1032

DIANNE DOTSON	
Examination by the Court	1035

SANDRA LOTHRIDGE	
Examination by the Court	1044
Examination by the Defense	1051
Examination by the Solicitor	1056
Further Examination by the Defense	1066

BOBBY GARNER	
Examination by the Court	1069
Examination by the Defense	1086
Examination by the Solicitor	1091

CHESIREE LOMAX	
Examination by the Court	1102
Examination by the Defense	1110
Examination by the Solicitor	1114
Further Examination by the Defense	1121
Further Examination by the Court	1124

NANCY MURPHEY	
Examination by the Court	1138
Examination by the Defense	1149
Examination by the Solicitor	1149

L T CARTER	
Examination by the Court	1151
Examination by the Defense	1161
Examination by the Solicitor	1167
Further Examination by the Defense	1170
Further Examination by the Court	1170
Further Examination by the Defense	1176
Further Examination by the Court	1179
 HAROLD FREESE	
Examination by the Court	1186
Examination by the Defense	1193
Examination by the Solicitor	1198
 LINDA S CANFIELD	
Examination by the Court	1200
Examination by the Defense	1209
Examination by the Solicitor	1216
 WILLIAM SIMMONS	
Examination by the Court	1239
Examination by the Defense	1248
Examination by the Solicitor	1250
 WILLIAM J JONES	
Examination by the Court	1252
Examination by the Defense	1260
Examination by the Solicitor	1263
 MOTIONS	1267
 ADDITIONAL JURY VOIR DIRE AND EXCUSALS	1284
 MOTIONS	1481
	 VOLUME IV
NANCY S KING (<i>IN CAMERA</i>)	
Examination by the Solicitor	1502
Examination by the Defense	1518
 MOTIONS	1529

SHIRLEY J MCKINSEY (<i>IN CAMERA</i>)	
Examination by the Court	1533
Examination by the Defense	1545
Examination by the Solicitor	1547
Further Examination by the Court	1555
Further Examination by the Solicitor	1558
MARGARET CADE	
Examination by the Court	1561
Examination by the Defense	1563
Examination by the Solicitor	1564
CANDICE J CHARPING	
Examination by the Court	1568
Examination by the Solicitor	1571
Examination by the Defense	1579
Further Examination by the Court	1579
SUSAN W MCCAULEY	
Examination by the Court	1583
Examination by the Defense	1589
Examination by the Solicitor	1590
TYRONE C PEARSON	
Examination by the Court	1592
Examination by the Defense	1603
Examination by the Solicitor	1609
CHAUNCEY COVIN	
Examination by the Court	1622
Examination by the Defense	1631
Examination by the Solicitor	1633
Further Examination by the Court	1637
THOMAS A SOUTHERLAND	
Examination by the Court	1641
DOROTHY J ROUSEY	
Examination by the Court	1648
Examination by the Defense	1658
Examination by the Solicitor	1661
Further Examination by the Defense	1668
Further Examination by the Court	1668
Further Examination by the Solicitor	1674

CARLOS BROWN	
Examination by the Court	1677
Examination by the Defense	1684
Examination by the Solicitor	1687
Further Examination by the Court	1692
LINDA PAYNE MCELRATH	
Examination by the Court	1699
Examination by the Defense	1708
Further Examination by the Court	1713
WILLIE BELTON	
Examination by the Court	1716
Examination by the Defense	1727
Further Examination by the Court	1737
Further Examination by the Defense	1740
Examination by the Solicitor	1741
JAMES R LEE, JR	
Examination by the Court	1742
Examination by the Defense	1750
Examination by the Solicitor	1751
CHANDELL C BOGGS	
Examination by the Court	1752
Examination by the Defense	1763
Examination by the Solicitor	1770
HAYWOOD BLACK	
Examination by the Court	1773
Examination by the Defense	1784
Examination by the Solicitor	1787
JENNIFERN PIERCE	
Examination by the Court	1792
Examination by the Defense	1799
Examination by the Solicitor	1807
MR CARTER	
Examination by the Court	1815
MS MCCLAIN	
Examination by the Court	1816
CHARLES W BOWIE, JR	
Examination by the Court	1820

LUCIOUS PARNELL	
Examination by the Court	1824
JAMES L FREEMAN	
Examination by the Court	1831
Examination by the Defense	1837
AUDREY BANNISTER	
Examination by the Court	1839
Examination by the Defense	1845
Examination by the Solicitor	1850
TOMMY TURMAN	
Examination by the Court	1854
Examination by the Defense	1860
Examination by the Solicitor	1860
BESSIE D BRUCE	
Examination by the Court	1861
Examination by the Defense	1872
Examination by the Solicitor	1874
JIMMY GAINEY	
Examination by the Court	1881
CALVINE WASHINGTON	
Examination by the Court	1883
Examination by the Defense	1891
JAMES L FREEMAN	
Examination by the Court	1892
CHRISTOPHER L MACK	
Examination by the Court	1900
Examination by the Defense	1907
Examination by the Solicitor	1912
Further Examination by the Court	1914
MOTIONS	1917
GARY L ELLIS	
Examination by the Court	1937
Examination by the Defense	1945
Examination by the Solicitor	1947
Further Examination by the Court	1949

BOBBY CUTTER	
Examination by the Court	1952
RICHARD E BURTON	
Examination by the Court	1960
Examination by the Defense	- 1964
Examination by the Solicitor	1966
Further Examination by the Defense	- 1967
Further Examination by the Solicitor	1967
MAMIE LONDON	
Examination by the Court	1969
Examination by the Defense	1981
CALVIN HILL	
Examination by the Court	1984
Examination by the Defense	1998
Examination by the Solicitor	2002

VOLUME V

MOTIONS	2005
CAROL A CHRISSLY (<i>IN CAMERA</i>)	
Direct Examination by the Defense	2041
Cross Examination by the Solicitor	2053
Redirect Examination by the Defense	2060
Recross Examination by the Solicitor	2061
MOTION TO QUASH	2063
SONJI HILL (<i>IN CAMERA</i>)	
Examination by the Court	2071
Examination by the Defense	2082
Examination by the Solicitor	2087
SELECTION OF THE JURY	2096
OBJECTIONS TO JURY SELECTION	2108
EXHIBITS MARKED AND/OR INTRODUCED	2120
MOTIONS	2140
PROFERRED TESTIMONY OF MARCUS HARRIS	2143

MOTIONS	-	2158
JURY ENTERS COURTROOM AND OPENING REMARKS		2168
OPENING STATEMENT BY THE SOLICITOR		2181
OPENING STATEMENT BY THE DEFENSE		2191
MARCUS HARRIS		
Direct Examination by the Solicitor		2208
Cross Examination by the Defense		2221
CORPORAL PATRICK NEIL HENDERSON (<i>IN CAMERA</i>)		
Direct Examination by the Solicitor		2253
Examination by the Court		2258
Cross Examination by the Defense		2260
RULING		2268
ANGELA PATTERSON		
Direct Examination by the Solicitor		2273
Cross Examination by the Defense	-	2285
Redirect Examination by the Solicitor	.	2290
CORPORAL PATRICK NEIL HENDERSON		
Direct Examination by the Solicitor		2291
Cross Examination by the Defense	-	2328
Redirect Examination by the Solicitor	.	2336
LIEUTENANT BARRY NEW		
Direct Examination by the Solicitor		2338
Cross Examination by the Defense		2373
Re-presented		2437
CORPORAL MITCH CHRISTOPHER		
Direct Examination by the Solicitor		2389
Cross Examination by the Defense		2395
MICHAEL ADAMS		
Direct Examination by the Solicitor		2400
Cross Examination by the Defense		2405
MOTION TO RECONSIDER EXCLUSION OF EVIDENCE		2415

KEN GROGAN		
Direct Examination by the Solicitor		2453
Cross Examination by the Defense		2457
DR JOHN LEWALLEN		
Direct Examination by the Solicitor	-	2461
Cross Examination by the Defense	-	2467
CHARLTON COXE		
Direct Examination by the Solicitor	-	2468
Cross Examination by the Defense	-	2471
DAVID BLACK		
Direct Examination by the Solicitor	-	2475

VOLUME VI

BRETT WOODARD		
Direct Examination by the Solicitor	-	2527
Cross Examination by the Defense	-	2550
DAVID BLACK		
Cross examination by the Defense	-	2567
GLORIA HARRISON (IN CAMERA)		
Direct examination by the Defense		2625
Cross examination by the Solicitor		2629
RULING		
		2643
CORPORAL PATRICK NEIL HENDERSON		
Direct Examination by the Solicitor	-	2650
Cross Examination by the Defense		2652
JOHN BLACK		
Direct Examination by the Solicitor	-	2653
Cross Examination by the Defense	-	2661
NANCY SKARABA		
Direct Examination by the Solicitor		2676
Cross Examination by the Defense		2692
Redirect Examination by the Solicitor		2699

LINDA BROOME		
Direct Examination by the Solicitor		2701
Cross Examination by the Defense		2706
NANCY GOFF		
Direct Examination by the Solicitor		2709
Cross Examination by the Defense		2713
Redirect Examination by the Solicitor		2717
Recross Examination by the Defense		2718
EDDIE CLARK (<i>IN CAMERA</i>)		
Direct Examination by the Solicitor		2721
Cross Examination by the Defense		2728
Redirect Examination by the Solicitor		2842
Recross Examination by the Defense		2861
JERRY SLOAN (<i>IN CAMERA</i>)		
Direct Examination by the Solicitor		2740
Cross Examination by the Defense		2745
Redirect Examination by the Solicitor		2869
Recross Examination by the Defense		2878
Redirect Examination by the Solicitor		2882
ROBIN RUCKER (<i>IN CAMERA</i>)		
Direct Examination by the Solicitor		2750
Cross Examination by the Defense		2754
Redirect Examination by the Solicitor		2763
JOHN KENNEDY HUGHEY (<i>IN CAMERA</i>)		
Direct Examination by the Solicitor		2769
Cross Examination by the Defense		2773
BEVERLY KELLY		
Direct Examination by the Solicitor	.	2799
Cross Examination by the Defense		2803
Redirect Examination by the Solicitor	.	2808
Recross Examination by the Defense		2809
Redirect Examination by the Solicitor	.	2810
DAN DEFREESE		
Direct Examination by the Solicitor		2812
Cross Examination by the Defense		2828
Redirect Examination by the Solicitor	.	2833

EDDIE CLARK		
Direct Examination by the Solicitor	-	2842
Cross Examination by the Defense		2861
JERRY SLOAN		
Direct Examination by the Solicitor	-	2868
Cross Examination by Defense	-	2878
Redirect Examination by the Solicitor	-	2882
BERNICE JACKSON		
Direct Examination by the Solicitor	-	2885
Cross Examination by the Defense	-	2892
Redirect Examination by the Solicitor	-	2893
GEORGE MACK HARRIS		
Direct Examination by the Solicitor	-	2898
MOTIONS		2934
CHRIS JESSIE BURTON		
Direct Examination by the Solicitor		2944
Cross Examination by the Defense	-	2962
Redirect Examination by the Solicitor		2990
Recross Examination by the Defense		2993
GLORIA WHITE HARRISON		
Direct Examination by the Defense	-	2993

VOLUME VII

GLORIA WHITE HARRISON		
Cross Examination by the Solicitor		3026
JOHN KENNEDY HUGHEY		
Direct Examination by the Defense	-	3064
Cross Examination by the Solicitor		3163
Redirect Examination by the Defense		3244
DONALD GIRNDT		
Direct examination by the Defense		3253
Cross Examination by the Solicitor		3284
Redirect Examination by the Defense		3348
MOTIONS		3366
CLOSING ARGUMENTS BY THE SOLICITOR		3384

CLOSING ARGUMENTS BY THE DEFENSE	3413
JURY CHARGE	3444
EXCEPTIONS BY THE DEFENSE	3475
JURY REQUEST FOR FURTHER INSTRUCTIONS	3482
RECHARGE OF THE JURY	3483
EXCEPTIONS REITERATED	3491
VERDICT AND POLLING OF THE JURY	3495

VOLUME VIII

MOTIONS	3502
---------	------

PENALTY STAGE

EVIDENTIARY MATTERS	.	3508
MOTIONS		3562
OPENING STATEMENT BY THE COURT		3566
OPENING STATEMENT BY THE SOLICITOR		3570
OPENING STATEMENT BY THE DEFENSE		3576
STATEMENT BY THE COURT		3585
MOTIONS	.	3588
BARRY NEW		
Direct Examination by the Solicitor	.	3619
DR BRETT WOODARD		
Direct Examination by the Solicitor		3623
Cross Examination by the Defense		3650
ANITA KNEECE		
Direct Examination by the Solicitor		3659
Cross Examination by the Defense		3668

DAVID BLACK	
Direct Examination by the Solicitor	3677
Cross Examination by the Defense	3680
RUTH CONNOR	
Direct Examination by the Solicitor	3696
Cross Examination by the Defense	3699
DORIS BERNICE JACKSON	
Direct Examination by the Solicitor	3701
Cross Examination by the Defense	3718
MARCUS HARRIS	
Direct Examination by the Solicitor	3722
GEORGE ANTHONY HARRIS	
Direct Examination by the Solicitor	3734
Cross Examination by the Defense	3746
MACK HARRIS	
Direct Examination by the Solicitor	3748
ANTHONY WILSON	
Direct Examination by the Defense	3768
Cross Examination by the Solicitor	3793
Redirect Examination by the Defense	3801
Recross Examination by the Solicitor	3801
ANTHONY SCOTT HARRISON	
Direct Examination by the Defense	3803
Cross Examination by the Solicitor	3809
Redirect Examination by the Defense	3813
Recross Examination by the Solicitor	3814
Redirect Examination by the Defense	3816
JESSIE CHRISTOPHER BURTON	
Direct Examination by the Defense	3816
Cross Examination by the Solicitor	3827
NANCY LEIGH RAMEY	
Direct Examination by the Defense	3837
Cross Examination by the Solicitor	3844
REVEREND WENDALL M COX	
Direct Examination by the Defense	3849

GLORIA WHITE HARRISON	
Direct Examination by the Defense	3852
Cross Examination by the Solicitor	3881
Redirect Examination by the Defense	3896
JEFF YOUNGMAN	
Direct Examination by the Defense	3899
Cross Examination by the Solicitor	3933
Redirect Examination by the Defense	3953
Recross Examination by the Solicitor	3956
PAIGE TARR	
Direct Examination by the Defense	3955
Cross Examination by the Solicitor	3960
DR. JAMES EVANS	
Direct Examination by the Defense	3962
Cross Examination by the Solicitor	3989

VOLUME IX

DR. JAMES EVANS	
Redirect Examination by the Defense	4001
Recross Examination by the Solicitor	4002
Redirect Examination by the Defense	4003
EXAMINATION BY THE COURT	4005
MOTIONS	4010
CHARGE CONFERENCE	4013
FINAL ARGUMENTS BY THE ASSISTANT SOLICITOR	4025
FINAL ARGUMENTS BY THE SOLICITOR	4034
FINAL ARGUMENTS BY THE DEFENSE	4036
MOTIONS	4046
CHARGE OF THE COURT	4049
EXCEPTIONS BY THE DEFENSE	4066
VERDICT	4073

POLLING OF THE JURY	4074
MOTIONS	4080
SENTENCING	4087
PRE-TRIAL TRANSCRIPT DATED SEPTEMBER 19, 1997	4093
INDICTMENT	4110
DEFENDANT’S REQUEST TO CHARGE #10	4113
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #11	4116
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #12	4118
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #13	4120
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #14	4122
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #15	4124
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #16	4126
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #17	4128
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #18	4128
ADDENDUM TO DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #18	4132
STATE EXHIBIT #95 (PHOTO of VICTIM) ON FILE WITH COURT (Direct Appeal)	
CERTIFICATE OF COUNSEL ON DIRECT APPEAL OF RECORD	4134
[END OF DIRECT APPEAL RECORD ON APPEAL]	
MATTERS FROM STATE POST-CONVICTION RELIEF PROCEEDINGS	
<i>DIRECT APPEAL PLEADINGS</i>	
FINAL BRIEF OF APPELLANT	4135
FINAL BRIEF OF RESPONDENT	4189

FINAL REPLY BRIEF OF APPELLANT	4249
<u>STATE v JOHN K HUGHEY</u> , 339 S C 439, 529 S E 2d 721 (March 27, 2000)	4272
PETITION FOR REHEARING - APRIL 11, 2000	4288
ORDER DENYING PETITION FOR REHEARING, MAY 11, 2000	4296
STATE POST CONVICTION RELIEF PLEADINGS, TRANSCRIPTS AND ORDERS	
;	
APPLICATION FOR POST-CONVICTION RELIEF - OCTOBER 25, 2000	4298
STATE v HUGHEY - S C S Ct - STAY AND ASSIGNMENT ORDER TO JUDGE SAUNDERS - NOVEMBER 2, 2000	4307
APPOINTMENT OF COUNSEL HEARING TRANSCRIPT - NOVEMBER 13, 2000	4309
ORDER ON APPOINTMENT OF P C R COUNSEL - NOVEMBER 16, 2000	4315
;	
RETURN TO APPLICATION FOR POST-CONVICTION RELIEF - JANUARY 19, 2001	4323
MOTION HEARING TRANSCRIPT Ex Parte Hearings - APRIL 29, 2002	4365
ORDER DENYING REQUESTS TO CONDUCT ALL PROCEEDINGS WITH RESPECT TO APPLICANT'S REQUEST FOR EXPERT INVESTIGATION OR OTHER SERVICES, EX PARTE - JULY 26, 2002	4392
;	
ORDER GRANTING MOTION TO RECONSIDER ORDER DENYING REQUESTS TO CONDUCT ALL PROCEEDINGS WITH RESPECT TO APPLICANT'S REQUEST FOR EXPERT INVESTIGATIVE OR OTHER SERVICES EX PARTE - DECEMBER 19, 2002	4402
AMENDED APPLICATION FOR POST-CONVICTION RELIEF - DEC 15, 2006	4405
RETURN TO AMENDED APPLICATION - JANUARY 7, 2008	4411
HUGHEY V STATE, ORDER, S C S Ct AUGUST 17, 2007 ASSIGNING JUDGE MACAULAY, RESCINDING JUDGE SAUNDERS ASSIGNMENT	4468
ORDER OF CONTINUANCE AND FOR MRI JUNE 6, 2008	4469

APPLICANT'S TRIAL BRIEF WITH ATTACHMENTS - MARCH 31, 2008 4473

VOLUME X (4501)

RESPONDENTS' TRIAL BRIEF WITH ATTACHMENTS - MAY 2, 2008 4570

MAY 22, 2008 MOTION HEARING TRANSCRIPT 4637

EVIDENTIARY HEARING TRANSCRIPT - OCTOBER 13-15, 2008 4654

Index 4655

Witnesses - Robert Tinsley (11-122) Direct 4664

Jeff Yungman (123-153) Direct 4775
Cross 4792

Julia Perlotte (153-170) Direct 4806
Cross 4815
Re Direct 4821
Re Cross 4822

Martha Ann Stewart (170-180) Direct 4823
Cross 4829
Re-Direct 4831

Billy J Garrett, Jr (180-304) Direct 4833
Cross 4879
Re Direct 4931
Re Cross 4954

Robert Dudek (305-330) Direct 4958
Cross 4970
Re-Direct 4980

Paige [Tarr] Haas (330-365) Direct 4983

VOLUME XI (5001)

Paige [Tarr] Haas Cross 5005
Re Direct 5016

Dr Donna Schwartz-Watts (365-461) Direct 5018

	Cross	5094
	Re Direct	5110
Robert Tinsley, Sr (461-559)	Direct	5114
	Cross	5157
	Re-Direct	5182
CLOSING STATEMENTS		5184
	Mr Grose	5184
	Mr Zelenka	5194
	Mr Grose	5208

EXHIBITS FROM PCR EVIDENTIARY HEARING

APPLICANT'S PCR EXHIBITS

#P-1	Life in the Balance IX Workshop - Handling Your First Case	5212
#P-2	Life in the Balance IX Workshop - Understanding Mental Illness Through Images and Metaphors	5216
#P-3	Outline for Death Penalty Trial	5227
#P-4	Report of Terrence Harvard of 11/5/97	5228
#P-5	Authorization for Expenditure of Funds for Expert Services Dated 5/5/97	5229
#P-6	Affidavit of Paige Munn Tarr	5232
#P-7	Letter of June 17, 1997 and Release - Marlene Eckhardt to Paige Tarr	5245
#P-8	Faxed Statement of 12/9/97 Paige Tarr to Felicia/Robert with Bill and timesheets	5247
#P-9	Patrick B Harris Psychiatric Hospital Reply Notice of 8/21/97 & Subpoena	5252
#P-10	Statement from James R Evans, Ph D Dated 10/20/97 for psychological	5255
#P-11	Letter of 9/10/97 from Jeff Yungman to Robert Tinsley	5256
#P-12	Letter of 10/8/97 and Social History Evaluation Draft (5259) by Yungman	5257
#P-13	Letter and Bill Statement of 10/31/97 from Jeff Yungman to Robert Tinsley	5268

#P-14 Bill Statement of 10/14/97 from Katina Clardy Wright	5272
#P-15 Bill Statement of 11/3/97 from Dr Donald W Morgan	5274
#P-16 Jury Instruction Phase 2 Trial Notes of Robert Tinsley	5276
#P-17 Notice of Evidence in Aggravation of the Punishment - Notes of Tinsley	5278
#P-18 Possible Mitigation Witnesses Notes	5283
#P-19 Handwritten Notes of Robert Tinsley Re Jury Instruction Strategies	5284
#P-20 Handwritten Mitigation Notes	5285
#P-21 Draft Proposed Witness List for Defense	5287
#P-22 Note and Summary of Case Law RE Future Adaptability to Prison Life	5289
#P-23 Handwritten Notes of Robert Tinsley RE Paige Tarr, Denise DelaRue	5295
#P-24 Letter of 1/13/08 Billy J Garrett, Jr to S C Commission on Indigent Defense with timesheet	5296
#P-25 Article Death is Different - Your Approach to a Capital Case Must be Different, Too by Kevin McNalley	5299
#P-26 Memo 12/16/97 Tara Michelle Garrett to Randall Williams	5307
#P-27 Billy Garrett's Handwritten Notes from Meeting 3/6/97 with Family	5308
#P-28 Handwritten Notes from David Bruck Meeting	5310
#P-29 Handwritten Defendant's Possible Witness List	5311
#P-30 Booking Report of Hughey and Detention Center Records	5313
#P-31 Letter of 11/9/97 Jeff Yungman to Paige Tarr about concerns	5366
#P-32 Tarr Handwritten Notes Re Jim Evans and other matters	5368
#P-33 Tarr Mitigation Outline	5369
#P-34 Trial Notes of Paige Tarr about Conflict between counsel	5370

#P-35	Family Court Order of Commitment ,In Re John Kennedy Hughey, 10/6/1986	5371
#P-36	S C Department of Youth Services Plan for Services	5372
#P-37	S C D Y S - Reception and Evaluation Team Report	5373
#P-38	S C D Y S Interdisciplinary Treatment Team Summary (Feb 1987)	5376
#P-39	S C D Y S Interdisciplinary Treatment Team Summary (Sept 1987)	5378
#P-40	S C Vocational Rehabilitation Dept Functional Vocational Assessment Report (3/2/87)	5380
#P-41	S C D Y S R&E Social and Personal Adjustment Form	5383
#P-42	S C D Y S Behavior Reports and Write-ups (May 1987-Aug 1987)	5384
#P-43	S C D Y S Educational Progress Reports (Jan 1987 - Aug 1987)	5393
#P-44	Test of Basic Skills Results from May 1984	5410
#P-45	S C Basic Skills Assessment Program results from May 1984	5411
#P-46	S C D Y S Psychological Evaluation (Dr Siegel) 11/10/86	5412
#P-47	Curriculum Vitae of Dr Donna Schwartz-Watts	5416
#P-48	Psychiatric Evaluation Report of Dr Donna Schwartz-Watts 10/11/2008	5424
#P-49	Final Appellate Brief (Cover) (See App p 4135)	5435
#P-50	Final Reply Brief (Cover) (See App p 4249)	5436
#P-51	Tarr Notes from Phone Conversation with Dr Donald Morgan	5437
#P-52	Discovery Response	5438

RESPONDENT'S PCR HEARING EXHIBITS

#D-1	Defendant's Request to Charge Number 18 with handwritten notation of factors	5440
#D-2	Addendum to Defendant's Request to Charge Number 18 with notations	5442

PLEADINGS AND ORDERS

RESPONDENT'S POST HEARING MEMORANDUM OF LAW -
AUGUST 31, 2009 5444

VOLUME XII (5501)

APPLICANT'S POST HEARING MEMORANDUM - JUNE 8, 2009
(With attachments) 5622

APPLICANT'S POST HEARING REPLY BRIEF - DECEMBER 11, 2009 5840

ORDER GRANTING POST-CONVICTION RELIEF - FILED MAY 14, 2010 5921

APPLICANT'S RULE 59(e) MOTION TO ALTER OR AMEND THE JUDGMENT
MAY 28, 2010 5929

RESPONDENT'S MOTION TO ALTER OR AMEND JUDGMENT - MAY 28, 2010 5954

**ORDER DENYING RESPONDENT'S MOTION TO ALTER OR AMEND JUDGMENT
PURSUANT TO RULE 59(e)** 5969

2
1

1 YOU ARE NOT TO DISCUSS THIS CASE IN ANY FASHION
2 WHATSOEVER DURING THIS RECESS WE WILL BEGIN AT
3 ELEVEN A M IN THE MORNING HAVE A GOOD AFTERNOON
4 AND GOOD EVENING

5 (JURY EXITS COURTROOM)

6 THE COURT: ANY OTHER MATTERS THAT NEED
7 TO BE ADDRESSED BEFORE WE RECESS?

8 MR JONES: BRIEFLY, YOUR HONOR, YOU'VE
9 PROBABLY ALREADY CONSIDERED THIS, BUT IN THE EVENT
10 THAT YOU HAVEN'T, I WOULD ASK THAT YOU CONSIDER SOME
11 FORM OF RECREATION FOR THE JURY THIS AFTERNOON MAYBE
12 BETWEEN TWO AND FIVE OR THREE AND SIX POSSIBLY A
13 MOVIE OR MAYBE JUST A TRIP TO A MALL OR SOMETHING
14 LIKE THAT I DON'T KNOW IF YOU'VE EVER CONSIDERED
15 ANYTHING LIKE THAT I DON'T KNOW IF YOU FEEL IT
16 WOULD BE PROPER OR NOT BUT IF YOU DID FEEL IT WAS
17 PROPER AND YOU HADN'T CONSIDERED IT, I KNOW BOTH OF
18 THOSE OPTIONS EXIST WITHIN THE CITY OF GREENWOOD

19 THE COURT WELL, SOLICITORS, I DON'T
20 HAVE ANY PARTICULAR DIFFICULTY WITH IT THE ONLY
21 DIFFICULTY I FORESEE IS BEING ABLE TO KEEP THE JURY
22 FROM BEING EXPOSED TO WHATEVER MIGHT COME UP WHILE
23 THEY'RE OUT SOMEWHERE NOW ARRANGEMENTS HAVE
24 ALREADY BEEN MADE S L E D IS PERMITTED TO ALLOW
25 THEM TO WATCH MOVIES AND THINGS OF THAT NATURE

1 THEY HAVE -- OR SUPPOSE TO HAVE
2 ARRANGEMENTS SET UP FOR THAT TO BE ACCOMPLISHED
3 NOT NECESSARILY AT A MOVIE THEATER, BUT THEY CAN
4 RENT MOVIES THEY HAVE MADE ARRANGEMENTS FOR THEM
5 TO BE ABLE TO HAVE SOME ACCESS TO SOME FORM OF
6 ENTERTAINMENT OF COURSE THE S L E D CUSTODIANS
7 ARE INSTRUCTED AS TO WHAT TYPES OF MOVIES MUST BE
8 AVOIDED AND WHAT TYPES OF MOVIES ARE PERMITTED AND
9 THINGS OF THAT NATURE

10 MR JONES ALL RIGHT

11 THE COURT BUT SO FAR AS LETTING THEM,
12 YOU KNOW, GO SHOPPING AT THE MALL, I'M NOT CERTAIN
13 THAT THAT'S AN ARRANGEMENT THAT CAN BE MADE WITH ANY
14 DEGREE OF CERTAINTY THAT THEY WILL NOT BE EXPOSED TO
15 CERTAIN MATTERS THAT THEY SHOULD NOT BE EXPOSED TO

16 MR JONES I WAS NOT AWARE THEY HAD
17 ACCESS TO MOVIES I DON'T SEE ANY NEED TO GO TO A
18 MOVIE THEATRE

19 THE COURT: OKAY

20 MR JONES: SO WE'LL START BACK AT ELEVEN
21 WITH TESTIMONY IN THE MORNING?

22 THE COURT: ELEVEN A M IN THE MORNING

23 MR JONES: WE'LL PROCEED THEN, JUDGE --
24 I'LL TELL YOU FOR PLANNING PURPOSES, THE STATE WOULD
25 INTEND TO REINTRODUCE THE ENTIRE PORTION OF THIS

1 CASE IN CHIEF AND THE GUILT-INNOCENT PHASE BY WAY OF
2 MOTION BUT AT THIS POINT IN TIME, WE'RE
3 CONSIDERING ADDITIONAL TESTIMONY FROM FORENSIC
4 EXPERTS CONCERNING THE WAY IN WHICH -- IN THIS
5 SENTENCING PHASE CONCERNING THE WAY IN WHICH OUR
6 THEORY THAT THESE MURDERS WERE COMMITTED AND, OF
7 COURSE, THE WAY THAT THE VICTIMS WERE LEFT IN
8 OTHER WORDS, WE'RE GOING TO PUT UP MORE LIVE
9 TESTIMONY, WE INTEND TO, CONCERNING THE POSITION OF
10 THE BODIES OF THE VICTIMS, OF WHERE THEY WERE WHEN
11 THEY WERE SHOT, AND HOW THEY WERE LEFT WITH CERTAIN
12 MORE GRAPHIC PHOTOS IF YOU THINK WE NEED TO LOOK
13 OVER THOSE AGAIN ALSO INTEND TO INTRODUCE AUTOPSY
14 PHOTOS WITH THE PATHOLOGIST AGAIN LIVE AND IN
15 PERSON

16 SO TO GIVE YOU SOME KIND OF PREVIEW OF
17 WHERE WE INTEND TO BE BEGINNING AT ELEVEN WE'RE
18 GOING WITH THAT AND THEN, OF COURSE, WE'RE GOING
19 TO HAVE NO LESS THAN FOUR AND POSSIBLY SIX OR EIGHT
20 VICTIM IMPACT WITNESSES

21 THE COURT SOLICITOR, YOU HAVE THE
22 PHOTOGRAPHS OR OTHER TANGIBLE OBJECTS THAT YOU
23 INTEND TO OFFER DURING THE SENTENCING PHASE?

24 MR JONES I THINK WE HAVE EVERYTHING
25 EXCEPT THE AUTOPSY PHOTOS -- WE GOT THE AUTOPSY

1 PHOTOS

2 THE COURT WELL, LET'S DO THIS LET ME
3 ASK YOU AND DEFENSE COUNSEL TO GET TOGETHER AND LOOK
4 AT THOSE ITEMS AND I'LL ADDRESS ANY PARTICULAR
5 OBJECTION THAT THEY MIGHT HAVE, WHETHER IT BE TODAY
6 OR WHETHER IT BE TOMORROW BUT LET'S HAVE Y'ALL
7 LOOK AT THOSE SO WE CAN MAKE A DETERMINATION AS TO
8 WHETHER THERE ARE ANY OBJECTIONS OR NOT

9 MR JONES ALL RIGHT

10 THE COURT AND PERHAPS WE CAN GO AHEAD
11 AND HAVE THOSE MARKED AND IDENTIFIED

12 MR JONES I'D BE HAPPY TO DO THAT

13 MR COULTER YES, I'LL BE HAPPY TO DO
14 THAT

15 MR TINSLEY YOUR HONOR, I'M GOING TO BE
16 OBJECTING TO EACH AND EVERY ONE EACH OF THE ITEMS
17 THE SOLICITOR'S MENTIONED INCLUDING FURTHER LIVE
18 TESTIMONY, VICTIM IMPACT EVIDENCE, AND ALL THAT I
19 DON'T HAVE TIME TO DO IT NOW I NEED MY FULL
20 TWENTY-FOUR HOURS SO I'M NOT AVAILABLE TO LOOK AT
21 THESE PICTURES AT THIS TIME

22 THE COURT OKAY, WELL, THEN YOU CAN
23 OFFER THEM TOMORROW WHEN WE HAVE A HEARING

24 MR JONES YES, SIR

25 THE COURT COURT'S IN RECESS TILL ELEVEN

1 A M MR TINSLEY, LET THE RECORD REFLECT THAT YOU
2 HAVE MORE THAN TWENTY-FOUR HOURS

3 MR TINSLEY OH, I CAN LOOK AT THEM IN
4 THE NEXT TEN MINUTES

5 THE COURT THAT'S ALL RIGHT

6 (COURT IN RECESS)

***** END OF DAY 15 *****

REMAINDER OF THIS PAGE IS BLANK

TRANSCRIPT IS CONTINUED IN

VOLUME XII

PAGES 3506-3507

REPETATIVE TRANSCRIPT COVER PAGES
AND NOT REPRINTED

1 (DAY 16, TUESDAY, OCTOBER 28, 1997, 11 00 O'CLOCK
2 A M)

3 THE COURT THANK YOU BE SEATED ANY
4 MATTERS THAT NEED TO BE ADDRESSED BEFORE WE HAVE THE
5 JURY BROUGHT IN?

6 MR COULTER I MENTIONED TO THE COURT
7 THAT WE DO HAVE THREE WITNESSES THAT THE STATE WOULD
8 INTEND TO CALL THAT HAVE NOT BEEN ON THE ORIGINAL
9 WITNESS LIST PRESENTED TO THE COURT ANITA KNEECE,
10 GEORGIA SAMPLE, AND RUTH CONNER

11 THE COURT ALL RIGHT, LET ME HAVE THOSE
12 AGAIN, PLEASE

13 MR COULTER YES, SIR ANITA KNEECE,
14 K-N-E-E-C-E, GEORGIA SAMPLE, AND RUTH CONNER

15 MR TINSLEY OF COURSE WE OBJECT TO
16 THOSE ADDITIONS AT THIS TIME

17 THE COURT ON WHAT GROUND?

18 MR TINSLEY ON THE GROUNDS WE'RE SO FAR
19 INTO THE TRIAL NOW THIS SHOULD HAVE BEEN BROUGHT
20 OUT MUCH SOONER, YOUR HONOR, AND OBVIOUSLY THEY
21 WEREN'T MENTIONED TO THE JURY PANEL DURING THE FIRST
22 STAGE OF THE TRIAL

23 THE COURT SOLICITOR, WHY WAS THE
24 DEFENSE NOT NOTIFIED OF THESE WITNESSES BEFORE NOW?

25 MR COULTER YOUR HONOR, PRIMARILY,

1 THESE WITNESSES GO TO REFUTE SOME CONTENTIONS
2 PRESENTED BY THE DEFENSE ATRTORNEYS DURING THEIR
3 CASE IN CHIEF

4 MR TINSLEY REBUTTAL WOULD HAVE BEEN
5 THE RIGHT TIME

6 MR COULTER YOUR HONOR, ONE OF THE
7 PROBLEMS WE HAD IN PRESENTING ANY CREDIBLE REPLY WAS
8 THE FACT THAT IT WAS SUNDAY EVENING WHEN, IN FACT,
9 IT WAS OUR OPPORTUNITY TO HAVE REBUTTAL I'M SURE
10 THE COURT WOULD ALLOW US SOME SORT OF EXTENSION

11 BUT WE HAD A DIFFICULT TIME BEING ABLE TO
12 FIND PEOPLE AT THAT TIME TO BE ABLE TO COME IN HERE
13 AND TESTIFY I THINK OTHER WITNESSES FOR THIS PHASE
14 OF THE TRIAL, THIS IS THE PROPER TIME TO PRESENT
15 THEM AND IT IS IN DIRECT RESPONSE TO WHAT THE
16 DEFENSE PRESENTED

17 MR TINSLEY WHICH WOULD HAVE BEEN
18 PROPER IN REPLY BUT NOT IN THE AGGRAVATION PHASE OF
19 THE CASE THIS IS STRICTLY LIMITED TO AGGRAVATION
20 TO THE STATE'S POINT OF VIEW FROM THE WAY I
21 UNDERSTAND IT -- THE LAW

22 THE COURT WELL, THEY'RE LIMITED TO A
23 CIRCUMSTANCES OF AGGRAVATION, NOT CIRCUMSTANCES THAT
24 RELATE TO THE CRIME OR CIRCUMSTANCES THAT RELATE TO
25 THE CHARACTER OF THE DEFENDANT

1 MR COULTER YES, SIR, AND THESE GO --
2 SOME OF THEM GO TO THE WORK RECORDS OF THE VICTIM OF
3 THIS CASE, THE PRESENCE OF THE DEFENDANT AT THE
4 VICTIM'S WORK JUST HOURS BEFORE THE MURDER TOOK
5 PLACE WHICH HE SPECIFICALLY DENIED DURING THE
6 PRESENTATION OF THEIR CASE, AND HIS STATE OF MIND
7 JUST PREVIOUS TO THE ACTUAL COMMISSION OF THESE
8 MURDERS, HIS INTENTIONS -- HIS INTENT TO FIND SHEKA
9 JACKSON OF COURSE, OUR POSITION THAT INTENT WAS TO
10 CAUSE HER HARM

11 THE COURT OKAY HAS THAT -- HAS THE
12 SUBSTANCE OF EACH OF THESE WITNESSES TESTIMONY BEEN
13 PROVIDED TO THE DEFENSE?

14 MR COULTER I TRIED TO TALK TO MR
15 GARRETT THIS MORNING ABOUT SOME WORK RECORDS HE
16 DIDN'T WANT TO SEE THEM

17 THE COURT OKAY

18 MR COULTER SO IF THEY WANT TO HAVE
19 THEM, I'M CERTAINLY WILLING TO LET THEM KNOW WHAT
20 THE SUBSTANCE WILL BE BUT THEY HADN'T WANTED TO
21 TALK ABOUT --

22 MR TINSLEY WELL, HE DIDN'T MENTION
23 ANYTHING TO ME

24 MR COULTER WELL --

25 MR TINSLEY AND TO SAY OTHERWISE IS --

1 WOULD NOT BE TRUE

2 MR COULTER OH, I'M NOT SAYING THAT
3 THAT'S THE CASE, JUDGE MR TINSLEY'S BEEN WORKING
4 WITH OTHER PEOPLE BUT MR GARRETT AND MR McCALLUM
5 WERE HERE AT THE TABLE I DID TRY TO TALK TO THEM

6 THE COURT OKAY

7 MR TINSLEY WELL, YOUR HONOR, THE
8 PROBLEM WITH IT IS PHASE ONE TESTIMONY IT'S NOT
9 PHASE TWO TESTIMONY CLEARLY HAD THE OPPORTUNITY
10 THEY WAIVED IT THEY CAN'T RENEW IT NOW IT'S TOO
11 LATE IT DOESN'T GO TO CIRCUMSTANCES OF
12 AGGRAVATION, IT GOES TO PROOF OF THE STATE'S CASE
13 AND THEREFORE IT'S INAPPROPRIATE AND WE, OF
14 COURSE, OBJECT TO THAT AND WE HAVE SOME OTHER
15 MOTIONS AND OBJECTIONS AT THIS TIME ALSO

16 THE COURT: ALL RIGHT, WELL, I'LL JUST
17 ADDRESS THOSE MATTERS AS THE WITNESS TESTIFIES IF
18 YOU HAVE SOME OBJECTION TO THE TESTIMONY, YOU'LL
19 NEED TO MAKE IT

20 MR TINSLEY SO YOU'RE SAYING YOU'RE
21 GOING TO LET THESE THREE TESTIFY?

22 THE COURT: YES

23 MR TINSLEY THAT WOULD BE ABOVE OUR
24 OBJECTION, YOUR HONOR

25 THE COURT. I UNDERSTAND THAT

1 MR TINSLEY I THINK IT'S HIGHLY
2 IMPROPER AND, IN FACT, UNDULY PREJUDICIAL OUR
3 CLIENT IT VIOLATES BOTH PROCEDURE AND SUBSTANTIVE
4 LAW

5 THE COURT WELL, PERHAPS YOU CAN MAKE
6 THAT OBJECTION BECAUSE YOU KNOW WHAT THE WITNESS'S
7 TESTIMONY IS I DON'T KNOW WHAT --

8 MR TINSLEY NO, I DON'T -- I DON'T
9 KNOW

10 THE COURT I DON'T KNOW WHAT THE WITNESS
11 IS GOING TO TESTIFY TO AND THE SOLICITOR'S
12 INDICATED THAT NO ONE FROM THE DEFENSE SIDE WANTED
13 TO KNOW WHAT THEY WERE GOING TO TESTIFY TO SO I
14 DON'T KNOW HOW YOU CAN OBJECT --

15 MR TINSLEY THAT WAS FIVE MINUTES
16 BEFORE THE PROCEEDING, YOUR HONOR

17 THE COURT WELL --

18 MR GARRETT IF IT PLEASE THE COURT, I'D
19 LIKE TO ADDRESS THAT, JUDGE

20 THE COURT ALL RIGHT

21 MR GARRETT WE'RE IN THE PROCESS OF
22 HAVING A DISCUSSION ON THE LAW WHEN MR COULTER CAME
23 UP AND SAID, DO YOU WANT TO SEE THESE DOCUMENTS?
24 AND I SAID, NO, WE DON'T, NOT RIGHT NOW

25 THE COURT WELL, OF COURSE, THAT'S BEEN

1 THE POSITION AT OTHER TIMES DURING THIS TRIAL JUST
2 AS YESTERDAY WHEN I OFFERED TO HAVE THE DEFENSE AN
3 OPPORTUNITY TO SEE WHATEVER PICTURES OR OTHER
4 DOCUMENTS THE STATE INTENDED TO OFFER AND THE
5 DEFENSE DECLINED

6 OBVIOUSLY, I CAN'T MAKE YOU VIEW THAT
7 EVIDENCE IF YOU DON'T WANT TO VIEW IT THAT'S OKAY
8 I WAS JUST SIMPLY TRYING TO GIVE THE DEFENDANT AN
9 OPPORTUNITY TO BE ABLE TO SEE THAT EVIDENCE SO THAT
10 YOU COULD PREPARE FOR ANY RESPONSE OR APPLY TO ITS
11 ADMISSION SHOULD IT BE ADMITTED

12 IF YOU DON'T WANT TO SEE IT IT DOESN'T
13 MAKE ANY DIFFERENCE TO ME I JUST SIMPLY WANTED YOU
14 TO HAVE THAT OPPORTUNITY

15 MR TINSLEY YOUR HONOR --

16 THE COURT. NOW I'M GOING TO GIVE YOU --
17 RIGHT NOW WE'RE GOING TO TAKE A SHORT RECESS AND I'M
18 GOING TO HAVE THE STATE PROVIDE YOU WITH THOSE
19 WITNESSES AND THE SUBSTANCE OF THEIR STATEMENTS
20 AND THEY'RE GOING TO PROVIDE IT TO YOU

21 YOU CAN ACCEPT IT YOU CAN REJECT IT
22 YOU CAN LOOK AT IT YOU CAN NOT LOOK AT IT IT
23 DOESN'T MAKE ANY DIFFERENCE TO ME BUT I'M GOING TO
24 GIVE YOU THAT OPPORTUNITY RIGHT NOW SINCE IT WAS NOT
25 TAKEN AT THE TIME THAT THE SOLICITOR INDICATED HE

1 OFFERED IT

2 MR GARRETT THREE MINUTES AGO

3 THE COURT WELL, WHENEVER IT MIGHT HAVE
4 BEEN IT DOESN'T -- IF YOU NEEDED TIME TO DIGEST IT
5 YOU COULD ASK ME FOR TIME THE REJECTION OF THE
6 OPPORTUNITY TO LOOK AT IT OR TO HEAR OF IT IS WHAT
7 I'M REFERRING TO

8 MR GARRETT WELL --

9 THE COURT NOT HOW MUCH TIME YOU MIGHT
10 HAVE TO CONSIDER IT IF YOU DON'T HAVE TIME TO
11 CONSIDER IT AND THAT IS A PROBLEM AND THAT'S AN
12 OBJECTION, YOU CAN MAKE THAT OBJECTION

13 MR GARRETT WE JUST DID

14 THE COURT BUT I DON'T THINK YOU CAN
15 MAKE THAT OBJECTION WITHOUT HAVING CONSIDERED IT AND
16 REJECTING THE OPPORTUNITY IS WHAT I'M SAYING

17 MR GARRETT BUT, YOUR HONOR, THAT'S
18 WHAT WE'RE DOING

19 THE COURT WHAT?

20 MR GARRETT WE'RE QUESTIONING THAT
21 OPPORTUNITY

22 THE COURT WELL, I HAVE NOT HEARD SUCH A
23 REQUEST ALL I HEARD WAS AN OBJECTION TO THEM
24 OFFERING IT BECAUSE YOU DIDN'T KNOW OF IT BEFORE

25 MR GARRETT YOUR HONOR, IT SHOULD HAVE

1 BEEN GIVEN THIRTY DAYS BEFORE IT WAS GIVEN TO US
2 TWO MINUTES -- OR OFFERED TO US TWO OR THREE MINUTES
3 AGO WHILE WE WERE IN THE PROCESS OF HAVING A
4 DISCUSSION HERE

5 THE COURT WHERE IS THE LISTING OF THE
6 AGGRAVATING CIRCUMSTANCES OR EVIDENCE TO BE OFFERED
7 IN AGGRAVATION GIVEN PROVIDED TO THE DEFENSE?

8 MR COULTER I PROVIDED THAT TO ALLEN
9 THE COURT ALL RIGHT, I'M GOING TO TAKE
10 A SHORT BREAK PROVIDE THAT INFORMATION TO THE
11 DEFENDANT AND THEN WE'LL ADDRESS THAT ISSUE ONCE
12 THEY UNDERSTAND WHAT THE TESTIMONY WILL BE

13 MR JONES · YES, YOUR HONOR
14 THE COURT TAKE FIFTEEN MINUTES

15 (COURT IN RECESS)

16 THE COURT THANK YOU BE SEATED ALL
17 RIGHT, WHAT DO WE NEED TO ADDRESS BEFORE WE BRING
18 THE JURY IN?

19 MR JONES: JUDGE, IF I MIGHT, THE STATE
20 HAS PROVIDED THE DEFENSE WITH THE SYNOPSIS OF WHAT
21 WE WOULD ANTICIPATE THE FIRST WITNESSES THAT WE'RE
22 GOING TO CALL LET ME, IF I CAN, ATTEMPT TO INFORM
23 YOU IF YOU FEEL THE NEED FOR ADDITIONAL INFORMATION
24 CONCERNING A RULING AS TO WHETHER OR NOT THESE
25 WITNESSES SHOULD BE ALLOWED TO TESTIFY

1 BUT YOU'VE RULED, AND I'M READY TO CALL
2 THEM BUT IF YOU'RE CONSIDERING RULING ON WHETHER
3 OR NOT THESE WITNESSES AND THE BASIS FOR WHICH WE'RE
4 CALLING THEM IS ADMISSIBLE OR APPROPRIATE, THEN I'D
5 LIKE TO, YOU KNOW, GIVE YOU SOME MORE INFORMATION
6 THE COURT WELL, WHAT I'M SAYING IS,
7 OBVIOUSLY THE STATE'S REQUIRED TO PROVIDE THE
8 DEFENDANT WITH NOTICE OF EVIDENCE THEY'RE GOING TO
9 ARGUE IN AGGRAVATION AND IF THESE WITNESSES ARE
10 TESTIFYING AS TO THOSE CIRCUMSTANCES OR THAT
11 EVIDENCE THAT THE STATE INTENDS TO OFFER ON THOSE
12 POINTS OR THOSE ISSUES AND THAT INFORMATION HAS BEEN
13 PROVIDED TO THE STATE, THEN IT'S NOT ABSOLUTELY
14 NECESSARY, DEPENDING UPON WHAT TESTIMONY IS, THAT
15 THEY HAVE THE PARTICULAR WITNESSES NAMED PERHAPS
16 IF THEY KNOW IN ADVANCE WHAT THE EVIDENCE
17 WILL BE THAT IS GOING TO BE OFFERED AND IT IS
18 EVIDENCE IN AGGRAVATION RELATING TO A PARTICULAR
19 TOPIC OR SUBJECT, THEN THE DEFENDANT'S NOT
20 PREJUDICED IN ANY FASHION BUT IF THE -- OBVIOUSLY,
21 THE PURPOSE OF NOTICE IS TO HAVE BENEFIT OF THE
22 INFORMATION AND TO PREPARE FOR IT SO THAT YOU CAN
23 RESPOND TO IT SHOULD YOU NEED TO
24 SO MY NOT KNOWING WHAT THE EVIDENCE IS OR
25 WHAT THE TESTIMONY IS BUT ONLY HEARING THAT THERE'S

1 AN OBJECTION TO IT, I CAN'T POSSIBLY RULE ON IT
2 UNTIL I'VE HEARD IT OR KNOW WHAT IT IS BUT JUST
3 THE FACT THAT IT WAS -- THE WITNESS WAS NOT PROVIDED
4 UNTIL THIS MORNING DOES NOT NECESSARILY PREVENT THAT
5 WITNESS FROM TESTIFYING SO LONG AS THE DEFENSE HAD
6 KNOWLEDGE OF THE SUBJECT MATTER AND THE SUBSTANCE OF
7 THE EVIDENCE TO BE PRESENTED BY THAT WITNESS

8 MR JONES ALL RIGHT
9 THE COURT SO IF THERE'S SOME PROBLEM
10 WITH IT ALL I NEED TO DO IS -- Y'ALL NEED TO TELL ME
11 WHAT THEY INTEND TO TESTIFY TO AND HOW THAT IS
12 INFORMATION HAS BEEN PROVIDED TO THE DEFENSE, AND
13 THEN I'LL ADDRESS IT

14 MR JONES ALL RIGHT, SIR, LET ME
15 ATTEMPT TO PROVIDE THAT INFORMATION TO YOU FIRST
16 OF ALL DOCTOR BRETT WOODARD WOULD BE CALLED HE'S
17 THE PATHOLOGIST IN THE CASE, AND HE HAS A PHOTOGRAPH
18 THAT WE WOULD INTEND TO OFFER THROUGH HIM IN AN
19 EFFORT TO EXPLAIN THE NATURE OF THE INJURY AND THE
20 EXTENT OF THE INJURY

21 THE COURT THIS IS THE PATHOLOGIST?

22 MR JONES YES, SIR

23 THE COURT ARE YOU TELLING ME THEY
24 WEREN'T AWARE THAT HE WAS GOING TO BE CALLED AS A
25 WITNESS?

1 MR GARRETT OBJECTION, YOUR HONOR, TO
2 MR WOODARD WE DID HAVE KNOWLEDGE MR WOODARD WAS
3 HERE AND HAVE NO OBJECTION -- WE HAVE NO -- WE HAVE
4 OBJECTION TO THE PHOTOGRAPHS, BUT NOT ON THE SAME
5 GROUNDS

6 THE COURT WELL, I UNDERSTAND THAT NO,
7 I THOUGHT WE WERE TALKING ABOUT THESE THREE
8 WITNESSES THAT WE JUST WENT OVER NOTIFIED THEM THIS
9 MORNING

10 MR JONES ALL RIGHT, I'M GOING TO TAKE
11 THEM IN THE ORDER THAT I INTENDED TO CALL THEM AND
12 BRING THE PHOTOGRAPHS TO YOUR ATTENTION SINCE I KNOW
13 THEY OBJECT TO THEM

14 THE COURT OKAY, OKAY, YOU'RE JUST GOING
15 IN THE ORDER THAT YOU INTEND TO CALL THESE WITNESS

16 MR JONES YES

17 THE COURT OKAY

18 MR JONES JUDGE, I WOULD LIKE TO
19 PREFACE MY PRESENTATION TO YOU WITH A BRIEF QUOTE,
20 IF I MIGHT, FROM CASE LAW HERE --

21 MR GARRETT OBJECTION

22 MR JONES -- IN BOOTH, STATE VERSUS
23 BOOTH AND REITERATED, THE SUPREME COURT DISCUSSED
24 TWO TYPES OF VICTIM-IMPACT TESTIMONY DESCRIPTIONS
25 OF THE PERSONAL CHARACTERISTICS OF THE VICTIMS AND

1 THE EMOTIONAL IMPACT OF THE CRIMES ON THE FAMILY
2 AND SECONDLY, FAMILY MEMBERS OPINIONS AND
3 CHARACTERIZATIONS OF THE CRIME AND THE DEFENDANT
4 ALSO, YOUR HONOR, IN ESTELLE CASE, IN THE
5 SENTENCING PHASE OF CAPITAL CASE IS ESSENTIAL THAT
6 THE JURY HAVE IN CONSIDERATION ALL PERTINENT
7 INFORMATION ABOUT THE DEFENDANT WITH THOSE TWO
8 SUPREME COURT OPINIONS AND THE STATEMENTS PREFACING
9 MY ARGUMENT, I WOULD LIKE TO GO FORWARD WITH WHAT WE
10 INTEND TO SHOW

11 OF COURSE, THE NATURE OF THE CRIME AND
12 THE CHARACTER OF THE CRIME IS EXHIBITED BY THE
13 PHOTOGRAPHS AND I WILL HAND THEM TO THE COURT
14 AND THEY HAVE NOT BEEN NUMBERED FOR IDENTIFICATION
15 PURPOSES AND I WOULD SUGGEST THAT MAYBE WE DO THAT
16 NOW THERE ARE ONE, TWO, THREE, FOUR, FIVE, SIX,
17 SEVEN, EIGHT, NINE, TEN, ELEVEN, TWELVE, THIRTEEN,
18 FOURTEEN, FIFTEEN, SIXTEEN, SEVENTEEN PHOTOGRAPHS
19 THAT WE INTEND TO INTRODUCE AT THIS PHASE

20 I COULD EITHER HAND THEM TO YOU FOR
21 REVIEW AND --

22 THE COURT LET ME SEE

23 MR GARRETT YOUR HONOR, I'D ALSO
24 INDICATE THE MORE THAN SEVENTEEN BECAUSE THE EACH OF
25 THE LAWYER PHASES THERE ARE ONE, TWO, THREE, FOUR,

1 FIVE, SIX, SEVEN, EIGHT ON ONE FOUR ON ONE AND
2 ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT --
3 THERE ARE EIGHT ON ANOTHER

4 MR JONES JUDGE, WE HANDED YOU THE ONLY
5 ONES WE INTEND TO INTRODUCE AND THOSE WERE NOT
6 INCLUDED IN THE WE HAD INTRODUCED

7 MR TINSLEY I SAW THEM AND, OF
8 COURSE, I OBJECT TO ALL OF THEM

9 MR GARRETT THESE WERE THE ONES I WAS
10 GIVEN YESTERDAY AFTERNOON, THE ONES YOU INTENDED TO
11 OFFER INTO EVIDENCE AND THEY INCLUDED BLOW-UPS --
12 INDIVIDUAL BLOW-UPS OF THE VICTIMS

13 THE COURT AND THE -- WELL, DO YOU HAVE
14 -- LET ME LET YOU SEE THESE SO YOU'LL KNOW WHICH
15 ONES THAT HE'S HANDED ME

16 MR JONES YOUR HONOR, TOO, CAN WE GO
17 AHEAD AND HAVE THOSE MARKED SO WE CAN GO AHEAD AND
18 TALK ABOUT EACH ONE INDIVIDUALLY

19 THE COURT OKAY, MARK THEM FOR
20 IDENTIFICATION

21 MR JONES ALSO DO IT SO WE CAN TALK
22 ABOUT IT WITH A NUMBER THEY'RE MARKED, YOUR HONOR

23 MR JONES MIGHT WE -- AND I WOULD
24 REQUEST WHO IS GOING TO ARGUE FOR THE DEFENSE AND
25 WHO'S GOING TO ARGUE FOR THE STATE JUST TO STAND

1 HERE JUST SO WE CAN VIEW THEM TOGETHER --

2 THE COURT OKAY

3 MR JONES -- AND GET AS CLOSE TO YOU AS
4 POSSIBLE AND THAT WAY YOU WON'T HAVE TO BE PASSING
5 BACK AND FORTH

6 MR GARRETT CAN I JUST LOOK AT THEM
7 FIRST, SOLICITOR?

8 MR JONES OF COURSE

9 THE COURT OKAY, I HAVE PHOTOGRAPH
10 EXHIBIT NINETY-ONE, STATE'S

11 MR GARRETT YOUR HONOR, WE WOULD OBJECT
12 TO THIS ONE IT'S NOT IN SUBSTANTIALLY THE SAME
13 POSITION IT WAS FOUND THAT THIS BODY WAS FOUND
14 LYING FACE -- OR ON ITS SIDE IT ALSO HAD RIGOR
15 MORTIS SET IN WITH THE HANDS IN FRONT OF THE BODY
16 WHICH MIGHT SUGGEST SOMETHING OTHER THAN WHAT
17 OCCURRED

18 IN THIS PARTICULAR OCCASION, YOUR HONOR,
19 THESE PHOTOS CREATE ATTEMPTS TO SUGGEST A DECISION
20 ON IMPROPER BASIS COMMONLY BUT NOT NECESSARILY
21 EMOTIONAL YOUR HONOR, THIS IS A -- IS NOT A BLACK
22 AND WHITE PHOTOGRAPH BUT INSTEAD IS A COLOR ONE IT
23 IS CLEARLY VERY GRAPHIC, AND I'M SURE IN OUR REVIEW
24 WE CAN FIND SOMETHING LESS GRAPHIC THAN I THINK IN
25 SOME OF THE OTHER PHOTOGRAPHS THAT DEPICT THIS AREA

1 OF THE HEAD THAT'S LESS GRAPHIC THAN THIS ONE, FOR
2 SURE

3 ESPECIALLY WITH THE CHAIN IN THE MOUTH
4 AND THAT TYPE OF THING I DON'T THINK THERE'S BEEN
5 ANY QUESTION OF ANY POSTMORTEM REVIEWS IN THIS CASE
6 WHATSOEVER BY THE DEFENDANT

7 THE COURT: WELL, SEE, YOU HAVE ME AT A
8 DISADVANTAGE BECAUSE, AS I SAY, I DON'T KNOW WHAT
9 OTHER PHOTOGRAPHS MIGHT BE AVAILABLE SOLICITOR,
10 WHAT'S YOUR RESPONSE?

11 MR JONES YOUR HONOR, NUMBER ONE, THE
12 STATE'S POSITION IS IT DOESN'T MATTER WHETHER THE
13 PHOTOGRAPHS ARE AVAILABLE WHAT WE'RE INTERESTED IN
14 HERE IS INTRODUCING WHAT EVIDENCE THE STATE HAS THAT
15 WOULD INDICATE TO SHOW THE NATURE OF THIS CRIME
16 THIS JURY HAS A RIGHT TO KNOW EXACTLY WHAT TYPE
17 CRIME TOOK PLACE AND HOW THIS DEFENDANT LEFT THESE
18 VICTIMS AFTER HE KILLED THEM

19 THE COURT WELL, I UNDERSTAND THAT HIS
20 POSITION HIS IS THAT THESE PHOTOGRAPHS DON'T SHOW
21 HOW THE VICTIM WAS LEFT IN THESE PHOTOGRAPHS THE
22 BODY HAS BEEN MOVED

23 MR JONES JUDGE, IT'S BEEN MOVED BUT
24 THEY HAVEN'T BEEN AUTOPSIED AND THEY HAVEN'T BEEN
25 MOVED FROM THE SCENE BASICALLY THESE ARE

1 PHOTOGRAPHS THAT THE BODIES WERE JUST TURNED OVER
2 THE FACT THAT THEY WERE LEFT FACE DOWN AND THE FACT
3 THAT THEY WERE TURNED OVER TO BE PHOTOGRAPHED DOES
4 NOT MATERIALLY OR SUBSTANTIALLY CHANGE ---

5 THE COURT WELL, LET ME JUST DO THIS
6 WHAT IS THE PURPOSE OF STATE'S EXHIBIT NINETY-ONE,
7 WHAT IS THE STATE TRYING TO SHOW BY THE INTRODUCTION
8 OF THAT PHOTOGRAPH?

9 MR JONES THE SAME THING THAT WAS SHOWN
10 IN THE STATE VERSUS SHAW AND RHODES IT'S PHOTOS OF
11 THE BODY AT THE SCENE, WITH A CLOSEUP OF DISFIGURING
12 TO THE BREASTS AND PUBIC AREAS, GLASS REMOVED FROM
13 PUBIC AREA, AND A TAMPON FOUND AT THE SCENE --
14 ADMISSIBLE PHYSICAL TORTURE NOT ALLEGED AS AN
15 AGGRAVATING CIRCUMSTANCE WHAT WE'RE SHOWING IS
16 WHAT HE DID TO THESE HUMAN BEING'S BODIES WHEN HE
17 MURDERED THEM -- WHEN HE KILLED THEM WHAT HE
18 DID ---

19 THE COURT THAT'S WHAT I'M ASKING
20 YOU'RE OFFERING STATE'S EXHIBIT NINETY-ONE TO SHOW
21 THE WOUND TO THE FACE?

22 MR JONES CORRECT

23 THE COURT OKAY WHAT ABOUT STATE'S
24 EXHIBIT NINETY-TWO, WHAT IS DIFFERENT ABOUT NINETY-
25 TWO THAT THE STATE WOULD OFFER THAT IS NOT SHOWN IN

1 NINETY-ONE?

2 MR JONES WELL, IT -- NOTHING, YOUR
3 HONOR

4 THE COURT ALL RIGHT, DO YOU WANT
5 NINETY-ONE OR NINETY-TWO? NINETY-TWO SHOWS THE
6 HAND, BUT I DON'T SEE THE BENEFIT THERE

7 MR JONES: WE'LL TAKE NINETY-TWO, YOUR
8 HONOR

9 THE COURT YOU'RE OFFERING NINETY-TWO?

10 MR JONES YES, SIR

11 THE COURT YOU WITHDRAWING NINETY-ONE?

12 MR JONES WITHDRAWING NINETY-ONE

13 THE COURT ALL RIGHT, NINETY-ONE IS
14 WITHDRAWN NINETY-TWO IS -- YOU WANT TO HEAR -- YOU
15 WANT TO ARGUE --

16 MR GARRETT I DO, YOUR HONOR

17 THE COURT SIR?

18 MR GARRETT I'D LIKE TO ARGUE AS ALSO
19 AGAINST NINETY-TWO

20 THE COURT ALL RIGHT, ARGUE THAT

21 MR GARRETT YOUR HONOR, BECAUSE ALSO
22 AGAIN THIS IS -- THIS IS NOT IN THE POSITION THE
23 BODIES WERE LEFT THERE IS A PHOTOGRAPH OF JUST THE
24 HEAD, PROBABLY 131 -- LET'S SEE -- THEY'VE NOT SHOWN
25 YOU THAT PHOTOGRAPH -- BUT AGAIN, IN 132 IT'S VERY

1 GRAPHIC IT HAS THE CHAIN APPARENTLY IN THE CENTER
2 OF HER MOUTH, IT'S GOT HER HANDS UP AGAIN STILL,
3 IT'S IN THE -- THE SAME TYPE OF RIGOR MORTIS HAS SET
4 IN, YOUR HONOR

5 THE POSITION OF THE DEFENSE THAT IS
6 SOLELY, YOUR HONOR, HAS A TENDENCY TO SUGGEST A
7 DECISION ON IMPROPER BASIS COMMONLY BUT NOT
8 NECESSARILY AN EMOTIONAL ONE AGAIN, IT'S NOT BLACK
9 AND WHITE IT'S IN COLOR AND THERE IS, AGAIN, IN
10 THIS CASE NO TYPE OF TORTURE WHATSOEVER THAT IS BEEN
11 DONE TO THIS VICTIM

12 AND I DON'T THINK THE STATE'S ALLEGING
13 ANY TYPE OF TORTURE I THINK WHAT WE NEED TO DO IN
14 THIS CASE WOULD BE FIND THE LEAST GRAPHIC OF ALL OF
15 THEM YOU KNOW, THE FACT THAT SHE'S SHOT WITH A
16 SHOTGUN IS INDICATIVE THE PHOTOGRAPHS -- AS I
17 UNDERSTOOD, THE SOLICITOR IS GOING TO PUT IN ALL THE
18 EVIDENCE THAT HE HAD IN THE GUILT PHASE HE WAS GOING
19 TO PUT IN THE SENTENCING PHASE AND THERE ARE
20 PHOTOGRAPHS THERE SHOWING THAT HE SHOT HER IN THE
21 HEAD AND SHE'S BLEEDING FROM THE HEAD AND THOSE
22 PHOTOGRAPHS HAVE ALREADY BEEN ADMITTED INTO
23 EVIDENCE

24 THE COURT WHICH ONE YOU REFERRING TO?
25 MR GARRETT WHICH PHOTOGRAPHS AM I

1 REFERRING TO NOW?

2 THE COURT: WHICH PHOTOGRAPH ARE YOU
3 REFERRING TO THAT ALREADY BEEN ADMITTED INTO
4 EVIDENCE THAT SHOWS THE WOUND TO THE FACE TO MS
5 HARRIS? WHILE MR McCALLUM IS LOOKING FOR THAT
6 PHOTOGRAPH ---

7 MR JONES: JUDGE, I WILL SUGGEST TO THE
8 COURT THERE ARE NONE.

9 THE COURT YOU DON'T NEED TO SUGGEST IT
10 THAT WAS MY IMPRESSION ALL ALONG I DON'T REMEMBER
11 ADMITTING SUCH PHOTOGRAPH NOR DO I RECALL ONE BEING
12 OFFERED IT WOULD NOT HAVE BEEN APPROPRIATE IN THE
13 GUILT PHASE OF THE TRIAL

14 MR GARRETT YOUR HONOR, MAY I SHOW YOU
15 WHAT IS NOT MARKED, BUT IS ANOTHER GROUP OF
16 PHOTOGRAPHS WHICH WOULD BE THE LEAST GRAPHIC OF
17 THOSE THREE PHOTOGRAPHS THAT WE'VE SEEN THUS FAR?

18 THE COURT ALL RIGHT

19 MR GARRETT I HAND UP 131 -- THAT'S OUR
20 OLD NUMBERING -- IT DOESN'T SHOW THE HANDS IN THAT -
21 - ALTHOUGH IT DOES SHOW THAT SHE'S BEEN TURNED OVER
22 NOW AS OPPOSED TO THE OTHER POSITION OR THE
23 CONDITION SHE WAS LEFT, SHE'S BEEN TURNED OVER, AT
24 LEAST IT DOES NOT SHOW THE RIGOR MORTIS SET FORTH IN
25 THE HANDS AND IT INCLUDES JUST THE AREA WE'RE

1 TALKING ABOUT WHICH IS THE IMPACT TO THE EYE AREA

2 THE COURT THIS IS A PHOTOGRAPH THAT YOU
3 HAVE PROPOSED TO AND NOT OBJECT TO IF IT WERE
4 OFFERED INSTEAD OF NUMBER NINETY-TWO

5 MR GARRETT I WOULD -- YOUR HONOR, I
6 WOULD OBJECT TO ALL OF THEM BUT AS TO OF THE THREE
7 THAT THE COURT IS CONSIDERING, THAT IS THE LEAST
8 GRAPHIC OF THE THREE AND THE DEFENSE -- OUR
9 POSITION, YOUR HONOR, IS THAT THAT IS THE LEAST
10 GRAPHIC OF THOSE THREE

11 THE COURT BUT YOU WOULD OBJECT TO IT?

12 MR GARRETT SO OUR POSITION IS STILL
13 -- YEAH, I'D STILL OBJECT TO IT, YOUR HONOR

14 THE COURT OKAY

15 MR GARRETT STILL OUT POSITION NONE OF
16 THEM GO TO THE AGGRAVATION OF THIS CASE

17 THE COURT ALL RIGHT, EXHIBIT NINETY-TWO
18 IS ADMITTED OVER OBJECTION NOW, SOLICITOR, AS I
19 UNDERSTAND IT THE WITNESS WHO WILL BE --

20 MR JONES INTRODUCING THOSE
21 PHOTOGRAPHS ---

22 THE COURT -- OF WHICH NINETY-TWO WOULD
23 BE ADMITTED WILL TESTIFY THAT THIS IS THE CONDITION
24 THE BODY WAS FOUND AT THE TIME THE POLICE ARRIVED ON
25 THE SCENE, IT WAS SIMPLY TURNED OVER AND THE

1 PHOTOGRAPH TAKEN?

2 MR JONES CORRECT

3 THE COURT OKAY, NINETY-TWO IS ADMITTED
4 OVER OBJECTION ASSUMING THE PROPER FOUNDATION IS
5 LAID

6 MR GARRETT YOUR HONOR, I WOULD JUST
7 ASK THAT 131 BE MADE A COURT'S EXHIBIT NOW AND THAT
8 THAT BE ADDED TO OUR ---

9 THE COURT WE WILL ALL RIGHT, THE
10 PHOTOGRAPH NUMBERED 131 HANDED TO THE COURT BY THE
11 DEFENSE WILL BE MARKED AS A COURT'S EXHIBIT AND IT
12 RELATES TO STATE'S EXHIBIT NUMBER NINETY-TWO WHICH
13 HAD BEEN OFFERED BY THE STATE

14 MR GARRETT YOUR HONOR, THAT HAS BEEN
15 MARKED AS COURT'S EXHIBIT NUMBER THIRTY EIGHT, FOR
16 THE RECORD

17 THE COURT ALL RIGHT, EXHIBIT NINETY-
18 THREE, STATE'S FOR WHAT PURPOSE IS IT OFFERED,
19 SOLICITOR?

20 MR JONES IT'S, AGAIN, TO SHOW THE
21 LOCATION THAT THE BODY WAS LEFT BY THE DEFENDANT
22 THE BODY HAD JUST BEEN ROLLED OVER IT WAS
23 ESSENTIALLY THE SAME PLACE ON THE FLOOR IT SHOWS
24 THE LOCATION THAT THE BODY HAD BEEN LEFT AND IT
25 SHOWS, BASICALLY, THE POSITION OF THE BODY WHEN IT

1 WAS LEFT

2 THE COURT OKAY, IS THAT NOT ALSO SHOWN
3 IN STATE'S EXHIBIT EIGHTY-FIVE THAT WAS ADMITTED
4 DURING THE TRIAL OF THE CASE -- EIGHTY-FIVE OR
5 FIFTY-TWO, I'M NOT CERTAIN

6 MR JONES YES, SIR, IT IS EXCEPT FOR
7 THE FACT THAT YOU SEE THE SIDE AND BACK OF THE
8 VICTIM AS OPPOSED TO THE FRONT AND THE SIDE YOU
9 SEE THERE WAS A SIDE THAT YOU DIDN'T SEE IN ANY
10 OTHER PHOTOGRAPH

11 THE COURT DO YOU OBJECT TO NINETY-
12 THREE?

13 MR GARRETT WE DO, YOUR HONOR

14 THE COURT SUSTAIN THE OBJECTION
15 EXHIBIT NINETY-FOUR, STATE'S

16 MR JONES NINETY-FOUR STATE, YOUR
17 HONOR, SHOWS AN AREA OF WHAT IS CONTESTED BY THE TWO
18 OF BLOOD AND BRAIN MATTER ON THE BED OF THE VICTIM -
19 - THAT SHEKA JACKSON WAS FOUND ON IT'S BEING
20 OFFERED IN AN EFFORT TO SHOW THE NATURE AND
21 CIRCUMSTANCES OF THE CRIME COMMITTED, YOUR HONOR

22 THE COURT ALL RIGHT DEFENSE?

23 MR GARRETT YOUR HONOR, WE WOULD OBJECT
24 TO THIS AS WELL HE'S ALREADY GOT PHOTOGRAPHS OF
25 HER LYING ON THE BED AT ANOTHER ANGLE IT'S JUST

1 ANOTHER ANGLE, YOUR HONOR, OF THE SAME THING I
2 BELIEVE IS ALREADY IN EVIDENCE WE OBJECT TO IT
3 IT DOESN'T ADD ANYTHING

4 AGAIN, WE'RE NOT DENYING HE SHOT HER IN
5 THE HEAD WITH A SHOTGUN OBVIOUSLY, THERE'D BE
6 BLOOD AND THAT TYPE OF THING AGAIN, THIS IS IN
7 COLOR IT'S NOT BLACK AND WHITE AND WE FEEL LIKE
8 IT WOULD BE UNDULY PREJUDICIAL AND WOULD HAVE NO
9 PROBATIVE VALUE AS IT RELATES TO THE QUESTION AND
10 NATURE OF THE CRIME OBVIOUSLY, HE SHOT HE WITH A
11 SHOTGUN THE JURY'S FOUND HIM GUILTY OF SHOOTING
12 HER WITH A SHOTGUN WE DON'T SEE HOW THAT'S AIDING
13 IN ANY WAY IN THE FORM OF AN AGGRAVATION IF YOU'LL
14 LOOK AT STATE'S EXHIBIT EIGHTY-FIVE WHICH IS ALREADY
15 IN THE RECORD, WE SEE HOW THAT ADDS IN NO WAY TO THE
16 QUESTION OF AGGRAVATION

17 THE COURT: ALL RIGHT, I REFERRED TO
18 STATE'S EXHIBIT EIGHTY-FIVE EARLIER WHEN I WAS
19 REFERRING TO PHOTOGRAPH OF MS HARRIS THAT WAS --
20 EIGHTY-FIVE WAS PHOTOGRAPH OF MS JACKSON?

21 MR GARRETT YES

22 THE COURT HOLD IT --

23 MR GARRETT THE NUMBER OF THE
24 PHOTOGRAPH OF MS HARRIS THAT YOU REFERRED TO, YOUR
25 HONOR, DEPICTING HER LOCATION IN THE HALLWAY --

1 AND BESIDES, YOUR HONOR, IT DOESN'T ADD
2 ANYTHING IN AGGRAVATION AT ALL IN THE SCHEME OF
3 AGGRAVATION, AS THE STATUTE IS DESIGNED, TO LOOK AT
4 THE COURT ALL RIGHT, NINETY-FIVE'S
5 ADMITTED OVER OBJECTION NINETY-SIX IS WITHDRAWN
6 NINETY-SEVEN AND NINETY-EIGHT?

7 MR JONES YOUR HONOR, WE'D OPT FOR
8 NINETY-EIGHT AS OPPOSED TO NINETY-SEVEN AND IF
9 YOU'LL LOOK AT THE PHOTOGRAPH THERE, WHAT IS
10 DEPICTED THERE IS THE CRIME SCENE AS THE DEFENDANT
11 LEFT THERE, JUDGE, AND THE PHOTOGRAPH THE STATE
12 WOULD PREFER, NINETY-EIGHT, THERE'S WADDING, THERE'S
13 WADDING PRESENT THAT YOU CAN'T SEE IN THE OTHER
14 PHOTOGRAPH FROM THE SHOTGUN, AND THAT'S THE REASON
15 WE WANT THAT THERE, JUDGE

16 THIS IS THE -- WHEN WE GO TO THE
17 CHARACTER OF THE DEFENDANT IN THIS PHOTOGRAPH, THIS
18 IS WHAT HE LEFT THERE WITH A THREE YEAR OLD AND A
19 ONE YEAR OLD IN THE HOME THAT -- THOSE ARE THE
20 BRAINS OF THEIR MOTHER AND THIS MAN LEFT THOSE
21 CHILDREN IN THERE WITH THE BRAINS OF THEIR MOTHER ON
22 THE FLOOR AND THE JURY IS ENTITLED TO KNOW THE
23 CONDITION OF THE FLOOR WHEN HE LEFT THERE WHICH IT
24 SHOWS THE CONDITION OF THE CRIME, GOES TO THE
25 CHARACTER OF THE DEFENDANT, IT GOES TO THE NATURE OF

1 THE CRIME

2 MR GARRETT YOUR HONOR, I OBJECT TO
3 BOTH OF THOSE AS I UNDERSTOOD THE TESTIMONY, WHEN
4 THE BODY WAS LIFTED UP THERE WAS A SUCKING SOUND AND
5 THEN ITEMS CAME FROM THE HEAD AND FELL UPON THE
6 FLOOR SO THAT WAS SOMETHING DONE BY THE STATE WHEN
7 THEY REMOVED THE BODY FROM THE BED AREA THERE, AS I
8 RECALL THE TESTIMONY

9 ALSO, YOUR HONOR, IT'S CUMULATIVE WE'VE
10 ALREADY GOT A PICTURE OF HER HEAD DOWN IN A BLOODED
11 AREA THAT WAS ADMITTED INTO EVIDENCE EARLIER ON I
12 BELIEVE THAT WAS NUMBER EIGHTY-FIVE

13 THIS IS CLEARLY HORRIBLY GRAPHIC IT'S
14 ONLY DESIGNED TO ARISE PASSION AND/OR PREJUDICE
15 TRYING TO -- TRYING TO GET A DECISION ON IMPROPER
16 BASIS INCLUDING EMOTIONS THERE'S NOTHING FURTHER
17 IN AGGRAVATION, YOUR HONOR, WHATSOEVER

18 MR JONES YOUR HONOR --

19 MR GARRETT AND ALSO, THIS WAS NOT
20 THERE -- IF THE CHILDREN DID HAPPEN TO COME IN
21 THERE, THIS WAS NOT THERE

22 MR JONES JUDGE, THAT'S PRECISELY MY
23 POINT IF THE THREE YEAR OLD HAD COME IN THERE AND
24 ATTEMPTED TO HUG HIS MOTHER AROUND THE HEAD, THAT'S
25 WHAT WOULD HAVE COME OUT NOTHING DIFFERENT WAS --

1 WHEN SHE WAS ROLLED OVER -- AND QUITE FRANKLY,
2 JUDGE, A LARGE PORTION OF THAT WAS ALREADY OUT AS IS
3 DEPICTED IN THE PHOTOGRAPH YOU ALREADY ALLOWED IN
4 THE BRAIN MATTER WITH THE INITIAL BLAST
5 WAS THRUST OUT ONTO THE BED ABOVE WHERE HER HEAD
6 ULTIMATELY LANDED THE STATE'S POSITION IS, NOT
7 ONLY DID THAT BRAIN MATTER COME OUT ON THE BED
8 BEFORE IT LANDED ON THE FLOOR, BUT BEFORE HER HEAD
9 HIT THE FLOOR, OTHER BRAIN MATTER WAS COMING OUT AND
10 HIT THE FLOOR

11 THE COURT I'M GOING TO SUSTAIN THE
12 OBJECTION TO NINETY-SEVEN AND NINETY-EIGHT, NINETY-
13 NINE AND ONE HUNDRED

14 MR JONES YOUR HONOR, WE WOULD OPT TO
15 GO WITH BOTH ONE IS A DISTANT SHOT OF THE WOUND TO
16 MS HARRIS'S FACE, AND THE OTHER IS A CLOSE-UP
17 THESE PHOTOGRAPHS ARE ENTERED FOR A NUMBER OF
18 REASONS NUMBER ONE ---

19 THE COURT LET ME ASK YOU WANT WHICH?

20 MR JONES BOTH ONE'S A -- ONE GIVES
21 THE JURY THE OPPORTUNITY TO SEE THE LOCATION -- A
22 BETTER IDEA OF THE LOCATION ON THE FACE AND THE
23 OTHER GIVES THE JURY AN OPPORTUNITY TO ACCESS THE
24 PATHOLOGIST'S TESTIMONY CONCERNING HIS OPINION AS TO
25 THE DISTANCE THAT THE WOUND -- THE DISTANCE FROM

1 WHICH THE WOUND WAS AFFLICTED AND THE NATURE OF THE
2 WOUND IT GOES TO ASSIST HIM IN SHOWING THE JURY
3 WHAT INFORMATION HE HAD IN RENDERING HIS TESTIMONY

4 IT ALSO, JUDGE, ALLOWS THIS JURY TO SEE
5 THE NATURE OF THE INJURY IT WAS NOT DEPICTED IN
6 STATE'S EXHIBIT -- NINETY-ONE -- NINETY-TWO

7 THE COURT NINETY-TWO

8 MR JONES· YES, SIR THERE IS BLOOD
9 MATTER CONTAINED THERE THAT DOES NOT, IF YOU'LL
10 LOOK, JUDGE, THIS STATE'S EXHIBIT NINETY-TWO DOES
11 NOT GIVE THE JURY AN OPPORTUNITY TO FULLY APPRECIATE
12 THE NATURE OF THE WOUNDS YOUR HONOR, WHAT THE
13 DIFFERENCE BETWEEN NINETY-ONE -- I'M SORRY -- AND
14 THE ONES YOU'RE LOOKING AT ARE TWOFOLD, JUDGE

15 IT'S THE STATE'S POSITION THAT WHEN THE
16 INITIAL SHOT THAT MURDERED LUEVINIA HARRIS WAS SHOT,
17 THE DEFENDANT WAS ABLE TO VIEW WHAT HE DID TO HER
18 FACE THE RESULTING BLOOD AND THE RESULTING
19 DISFIGUREMENT AND THE RESULTING -- TO HER FACE, HE
20 VIEWED AND THEN HE WENT FORWARD AND USED THE SAME
21 WEAPON IN THE SAME TIME ON ANOTHER PERSON'S HEAD AND
22 FACE

23 THE SECOND ONE IS AN EFFORT TO ALLOW THIS
24 JURY TO UNDERSTAND EXACTLY HOW MUCH BLOOD HE COULD
25 HAVE SEEN COME OUT OF HER FACE AND ONTO THAT FLOOR

1 THE SIZE OF THE HOLE IN THE FRONT OF HER FACE ALLOWS
2 THEM TO UNDERSTAND THAT THAT BLOOD THAT HE -- THAT
3 WAS OUT OF HER FACE WITHIN MINUTES -- THAT HE HAD A
4 CHANCE TO VIEW THAT AND YET MADE A DECISION ABOUT
5 GOING FORWARD AND USING THE SAME WEAPON AGAIN ON THE
6 FACE OF ANOTHER HUMAN BEING IT GOES TO SHOW HIS
7 CHARACTER, JUDGE IT GOES TO SHOW HIS CHARACTER,
8 GOES TO SHOW THE CIRCUMSTANCES OF THE CRIME

9 THE COURT ALL RIGHT, WE'RE TALKING
10 ABOUT NINETY-NINE AND ONE HUNDRED NOW

11 MR JONES ALL RIGHT YES, SIR WHAT
12 I'M SAYING IS --

13 THE COURT NINETY-NINE AND ONE HUNDRED?

14 MR JONES YES, SIR, NINETY-NINE AND ONE
15 HUNDRED

16 THE COURT ALL RIGHT, MR GARRETT?

17 MR GARRETT YOUR HONOR, WE WOULD
18 OBJECT YOU'VE ALREADY ADMITTED INTO EVIDENCE
19 NUMBER NINETY-TWO AND FRANKLY, YOUR HONOR, THESE
20 TWO ARE CUMULATIVE OF THAT AGAIN, IT'S JUST
21 DESIGNED TO GET AS MANY GRUESOME PICTURES IN THIS
22 SENTENCING PHASE AS THE SOLICITOR CAN IN ORDER TO
23 TRY TO GET PASSIONS AND PREJUDICE AROUSED TO THE
24 POINT THAT HE CANNOT GET A FAIR TRIAL IN THIS CASE
25 CLEARLY, YOUR HONOR, YOU'VE ALREADY --

1 WE'VE GOT ONE THAT'S JUST CUMULATIVE THESE OTHER
2 TWO ARE ADDED AS FRANKLY CUMULATIVE FRANKLY, THE
3 COURT SHOULD TAKE AWAY NUMBER NINETY-TWO AND USE
4 NUMBER NINETY-NINE AS THE ONLY EVIDENCE IN THE CASE
5 AS BEING THE LEAST GRAPHIC AND I THINK THAT'S WHAT
6 WE SHOULD TRY TO DO IN THIS TYPE OF CASE IS TO ALLOW
7 TO BE THE LEAST GRAPHIC BUT STILL MAKE THE POINT

8 THE COURT: OKAY NINETY-NINE IS A
9 PHOTOGRAPH TAKEN AT AUTOPSY?

10 MR JONES YES, I BELIEVE -- YES, YES,
11 SIR IT IS, YOUR HONOR

12 THE COURT ALL RIGHT, NINETY-NINE IS
13 ADMITTED OVER OBJECTION ONE HUNDRED IS EXCLUDED
14 101?

15 MR GARRETT YOUR HONOR, HAVING ADMITTED
16 NUMBER NINETY-NINE, WILL THE COURT RECONSIDER
17 EXCLUDING NINETY-TWO, BECAUSE THAT'S AFTER RIGOR
18 MORTIS SENT IN, YOUR HONOR AND AGAIN, THAT'S
19 NOT ---

20 THE COURT I DON'T SEE HOW YOU CAN TELL
21 THERE'S ANY RIGOR MORTIS IN NINETY-TWO

22 MR GARRETT LOOK AT THE HAND, YOUR
23 HONOR

24 THE COURT I SEE A FINGER

25 MR GARRETT WELL, OBVIOUSLY --

1 THE COURT YOU MIGHT HAVE A DIFFERENT --
2 SIR?

3 MR GARRETT LET ME LOOK AT THAT PLEASE
4 THE COURT IT JUST LOOKS LIKE IT'S
5 LAYING ACROSS HER CHEST TO ME I COULDN'T TELL THAT
6 THAT'S WHAT IT WAS

7 MR GARRETT YOU SEE, YOUR HONOR -- IF
8 HIS HONOR WILL LOOK AT THE LEFT-HAND SIDE OF THE
9 PHOTOGRAPH, YOU CAN SEE THE ARM IS EXTENDED AND THE
10 HAND HAS TO BE COMING BACK WITH THE FINGERS HANGING
11 IN THAT POSTURE

12 THE COURT ALL RIGHT, WELL, THAT CAN BE
13 -- THAT CAN BE DEDACTED

14 MR GARRETT I UNDERSTAND THE COURT'S
15 WILL CUT THE PHOTOGRAPH

16 THE COURT WE WILL DEDACT THAT

17 MR GARRETT TO KEEP ALL THE HANDS OUT
18 OF IT

19 THE COURT I DON'T SEE ANY PROBLEM WITH
20 THE LEFT HAND THE RIGHT HAND I DIDN'T EVEN SEE
21 THAT MYSELF TILL YOU POINTED IT OUT SO THAT CAN BE
22 DEDACTED

23 MR GARRETT THANK YOU, YOUR HONOR

24 MR JONES: YOUR HONOR, AS FAR AS STATE'S
25 101 IN CONCERNED, THAT SHOWS THE BURNING STIPPLING

1 GUN POWDER PATTERN ON THE ARM OF MS HARRIS AGAIN
2 THAT'S THERE TO SHOW THE NATURE OF THE CRIME THAT
3 CHARACTERIZES THE FACT THAT HER ARM WAS UP IN A
4 DEFENSE POSTURE AND THAT THE -- THE HIGH-VELOCITY-
5 BLOOD SPATTER

6 THE COURT: ALL RIGHT MR GARRETT?

7 MR GARRETT BEG THE COURT'S INDULGENCE
8 LET ME MAKE SURE --

9 MR McCALLUM WE'RE TRYING TO MAKE SURE
10 WE HAVE THE RIGHT PHOTOGRAPH, YOUR HONOR IT DOES
11 NOT APPEAR THAT THAT PHOTOGRAPH WAS PROVIDED TO US

12 THE COURT WELL, WHERE IS IT?

13 MR GARRETT THANK YOU, YOUR HONOR I
14 BEG THE COURT'S INDULGENCE JUST ONE MOMENT YOUR
15 HONOR, WE OBJECT AGAIN TO 101 ENTIRELY ON THE SAME
16 CONDITION IT'S ALREADY BEEN TURNED OVER YOUR
17 HONOR, RIGOR MORTIS HAS ALREADY SET IN AND IT'S
18 NOT IN THE CONDITION IT WAS AT THE TIME OF THE
19 ALLEGED CRIME NOTHING OF PROBATIVE AS TO THE
20 CHARACTER OF THE DEFENDANT AND/OR AFTER THE
21 CIRCUMSTANCES CRIME, YOUR HONOR, IN THIS PARTICULAR
22 CIRCUMSTANCE

23 THE COURT 101 IS ADMITTED, ASSUMING ALL
24 THESE SUBJECT TO THE PROPER FOUNDATION BEING MADE,
25 UNLESS THERE'S NOT A FOUNDATION OBJECTION

1 MR JONES KNIFE WOUND TO THE CHEST IN
2 THE PICTURE, YOUR HONOR

3 THE COURT 102, 0895113 ON YOUR
4 COMPOSITE

5 MR McCALLUM IS THAT THE 113 CLOTHED OR
6 UNCLOTHED?

7 MR JONES IT'S CLOTHED
8 THE COURT CLOTHED, YES

9 MR GARRETT YOUR HONOR, IT WOULD BE THE
10 POSITION OF THE DEFENSE THAT THEY SHOULD ONLY
11 INDICATE AND ONLY HAVE ONE SUCH PHOTOGRAPH OF ANY
12 WOUND TO THE CHEST AND IT'S MY UNDERSTANDING
13 THEY'RE TRYING IT IN SEVERAL DIFFERENT SPOTS THEY
14 HAVE AT LEAST 101 AND 103 TO TRY TO GET KNIFE WOUNDS
15 IN IT WOULD BE THE POSITION OF THE DEFENSE THAT
16 THE -- ONLY ONE OF THOSE SHOULD COME INTO EVIDENCE

17 THE COURT: NOW 102 IS DIFFERENT FROM 101
18 NOW 101 IS AN ARM 102 IS A CHEST

19 MR GARRETT WHICH ONE IS -- OH, I'M
20 SORRY I'M SORRY, 102 AND 103 -- I'M SORRY -- WAS
21 THE TWO THAT I WAS DISCUSSING I APOLOGIZE

22 THE COURT. OKAY

23 MR GARRETT 102 AND 103 ARE THE TWO
24 KNIFE WOUNDS

25 THE COURT: ALL RIGHT, 102 IS ADMITTED

1 103 IS EXCLUDED 104 AND FIVE?

2 MR JONES AGAIN, YOUR HONOR, WE'D GO
3 WITH 104 AS OPPOSED TO 105 NO, I'M SORRY, 105,
4 YOUR HONOR, SHOWS THE BRUISING UNDER THE RIGHT EYE
5 THAT THE DOCTOR TESTIFIED EARLIER ABOUT THE TYPE OF
6 INSTRUMENT THAT COULD HAVE INFLICTED THE CIRCULAR
7 TYPE BRUISING BELOW THE RIGHT EYE JUDGE, THAT GOES
8 TO SHOW THE CIRCUMSTANCES OF THIS CRIME

9 WE'RE MAINTAINING THAT HE TOOK THIS
10 SHOTGUN AND STUCK IT BENEATH HER RIGHT EYE
11 INTIMIDATING HER WITH IT PRIOR TO HER DEATH CAUSING
12 HER GREAT ANXIETY, GREAT FEAR, GREAT HARM AND THAT
13 IS EVIDENCE OF THAT ACT AS WE MAINTAIN, JUDGE, IT
14 GOES TO SHOW THE CHARACTER OF THIS DEFENDANT HE
15 PUT A LOADED, COCKED SHOTGUN AND PUSHED SOMEBODY IN
16 THE FACE WITH IT, JUDGE AND THE SECOND PHOTOGRAPH,
17 AGAIN, JUDGE --

18 THE COURT WHAT DO YOU MEAN THE SECOND
19 PHOTOGRAPH?

20 MR JONES I'M SORRY

21 THE COURT YOU'RE OFFERING 105 YOU'RE
22 WITHDRAWING 104

23 MR JONES YOUR HONOR, I BELIEVE YOU
24 INTRODUCED A PHOTOGRAPH SUBSTANTIALLY LIKE 104
25 EARLIER, SO ---

1 THE COURT 104 IS EXCLUDED NOW 105,
2 ARE YOU FINISHED?

3 MR JONES YES, SIR

4 THE COURT ALL RIGHT, MR GARRETT, 105
5 MR JONES JUDGE, AS FAR AS 105, IF I
6 COULD ARGUE ONE CASE TO YOU?

7 THE COURT OKAY

8 MR JONES TWO PHOTOGRAPHS INTRODUCED AT
9 THE SENTENCING PHASE DEPICTED THE VICTIM'S BODY, ONE
10 IN COLOR, ONE IN BLACK AND WHITE WE FIND THAT
11 THESE WERE NOT UNDULY PREJUDICIAL THE PHOTOGRAPHS
12 OF THE VICTIM'S BODY ARE ADMISSIBLE IN THE
13 SENTENCING PHASE OF A CAPITAL TRIAL TO SHOW THE
14 CIRCUMSTANCE OF THE CRIME AND THE CHARACTER OF THE
15 DEFENDANT THE PHOTOGRAPHS ARE ADMITTED TO DEPICT
16 THE SHOTS TO THE VICTIM'S HEAD, THEY WERE FIRED AT
17 CLOSE RANGE AT THE CRIME SCENE THE COLOR
18 PHOTOGRAPH IS INTRODUCED TO SHOW THE DIFFERENCE
19 BETWEEN THE BLOOD THE VICTIM COUGHED UP AND THE
20 BLOOD FROM HER WOUND. AND THAT'S STATE VERSUS JAMES
21 MILLS TUCKER, II, A 1986 SOUTH CAROLINA CASE, YOUR
22 HONOR

23 THE COURT. WELL --

24 MR GARRETT WHILE WE CONTINUE TO
25 OBJECT, TO THE COURT'S INTRODUCTION, OF THE SHEKA --

1 NUMBER NINETY-FIVE YOUR HONOR, THIS IS ALSO THE
2 SAME THING IF YOU'LL LOOK AT THE -- THEY CAN GET
3 THIS IN THROUGH THIS ONE PHOTOGRAPH, YOUR HONOR,
4 BECAUSE IT'S CLEARLY DISPLAYED IN THE NINETY-FIVE --
5 EXCUSE ME -- YES, THE NUMBER NINETY-FIVE IS --

6 THE COURT: WELL, IS IT?

7 MR GARRETT YES, IT IS

8 THE COURT: IS IT?

9 MR JONES NOT FOR PURPOSES OF THIS
10 PATHOLOGIST'S TESTIMONY, YOUR HONOR, AND FOR THE
11 EMPHASIS OF THE JURY TO MAKE THE DETERMINATION IT
12 HAS BEEN CONTESTED IN THE TRIAL AS A MATTER OF
13 FACT, THE DEFENSE ATTORNEYS ARGUED THIS COULD HAVE
14 BEEN CAUSED BY I BELIEVE A MILLION ARTICLES IN THE
15 HOUSE WERE THE WORDS USED -- A MILLION ARTICLES --

16 THE COURT OKAY

17 MR JONES -- IN THE HOUSE WHICH CAUSES
18 INJURY AND NOW THE JURY NEEDS TO LOOK CLOSER TO IT
19 TO SEE IF ONE OF THOSE COULD HAVE BEEN ---

20 THE COURT ALL RIGHT, ANY FURTHER
21 ARGUMENT ON 105?

22 MR GARRETT YOUR HONOR, WE WOULD OBJECT
23 TO IT BUT IF THAT'S THE PURPOSE OF THEM SHOWING
24 IT, YOUR HONOR, WE WOULD ASK THAT THIS NINETY-FIVE
25 BE TAKEN OUT

1 THE COURT WELL, NINETY-FIVE IS OFFERED
2 TO SHOW SOMETHING DIFFERENT THAN WHAT 105 IS OFFERED
3 TO SHOW ALL RIGHT, 105 IS ADMITTED OVER OBJECTION
4 106?

5 MR JONES YES, YOUR HONOR, 106 DEPICTS
6 THE ENTRY WOUND TO THE SKULL OF SHEKA JACKSON, YOUR
7 HONOR AND IF YOU'LL NOTICE ON THERE, THERE ARE
8 MARKS AROUND THE ENTRY WOUND AND ONE PHOTOGRAPH IS
9 OFFERED TO SHOW THE NATURE OF THE WOUND, THE NATURE
10 OF THE CRIME, THE CHARACTER OF THE DEFENDANT

11 ALSO, FORENSICALLY, IT IS OFFERED TO GIVE
12 THE JURY AN UNDERSTANDING OF THE PATHOLOGIST'S
13 TESTIMONY CONCERNING THE STIPPLING AROUND THAT
14 WOUND YOU CAN SEE ON THE SKULL THERE THAT THE HEAD
15 HAD -- THE HAIR HAD TO BE SHAVEN AWAY IN ORDER FOR
16 THE PATHOLOGIST TO BE ABLE TO DETERMINE THE RANGE
17 FROM WHICH THE -- THE DISTANCE FROM WHICH THE SHOT
18 WAS FIRED THAT'S WHAT I'M SAYING

19 THE COURT ALL RIGHT

20 MR GARRETT OBJECTION, YOUR HONOR
21 YOUR HONOR, AS I UNDERSTOOD IT FROM CLOSING
22 STATEMENT THAT WE AGREED OR CONCEDED THAT THIS SHOT
23 WAS FOUR FEET AWAY SO IT WOULD SEEM TO ME NOT TO
24 BE APPLICABLE IN THE SENTENCING PHASE TO GO BACK AND
25 REHASH THAT TESTIMONY

1 AS I UNDERSTAND IT IN THE CLOSING
2 STATEMENT WE HAD CONCEDED THAT IT WAS A FOUR FOOT
3 SHOT AND TO ALLOW THIS WOULD BE FURTHER TRYING TO
4 GET BACK INTO THE GUILT PHASE OF THIS CASE THIS IS
5 IMPROPER, YOUR HONOR AGAIN, THESE PHOTOGRAPHS
6 INTEND TO SUGGEST A DECISION ON AN IMPROPER BASIS
7 YOUR HONOR, CLEARLY I CITE THE STATE
8 VERSUS ALEXANDER, STATE VERSUS PATRICK, ANYTHING --
9 YOUR HONOR, THERE'S NO POST ABUSE TO THIS BODY
10 WHATSOEVER THERE'S NOT POST MORTEM ABUSE TO THIS
11 BODY WHATSOEVER THIS IS A GRAPHIC HOLE IN THE
12 HEAD

13 IF YOU PUT THAT IN RELATIONSHIP TO WHAT
14 YOU'VE ALREADY ADMITTED INTO EVIDENCE, YOUR HONOR,
15 IT'S HIGHLY PREJUDICIAL TO THE DEFENDANT IN THIS
16 CASE AND IT CLEARLY OUTWEIGHS ANY PROBATIVE VALUE
17 THAT THE STATE HAS OFFERED IT ON ANY LEVEL TO EITHER
18 THE CHARACTER OF THE DEFENDANT AND/OR TO THE NATURE
19 OF THE CRIME

20 THE COURT ALL RIGHT, 106 IS ADMITTED
21 OVER OBJECTION 107'

22 MR JONES YES, YOUR HONOR, THAT'S BEING
23 OFFERED TO SHOW THAT THERE'S BLOOD SPATTER ON THE
24 ARM OF THE DEFENDANT INDICATING SOME TYPE -- THE
25 LOCATION OF THE ARM WHEN THE SHOT WAS FIRED WE'RE

1 MAINTAINING THAT'S THE LEFT ARM OF SHEKA JACKSON AND
2 THAT IT WOULD BE CONSISTENTLY PLACED WITH AND IF THE
3 DIRECTION OF THE MAJOR BLAST OF THE WOUND HITTING
4 THE HIGH-VELOCITY-BLOOD SPATTER THERE GOING TO,
5 AGAIN, GIVE THIS JURY AND UNDERSTANDING OF THE
6 NATURE OF THE CRIME, YOUR HONOR, TO SHOW THE
7 CIRCUMSTANCES OF THE CRIME, THE CIRCUMSTANCES
8 SURROUNDING THE CRIME AND WHERE HER HANDS WERE --

9 THE COURT ALL RIGHT

10 MR JONES -- WHEN SHE WAS SHOT
11 PATHOLOGIST WOULD USE THAT PHOTOGRAPH

12 THE COURT ALL RIGHT

13 MR GARRETT ARGUING, AGAIN, CUMULATIVE
14 WE'VE ALREADY GOT THESE SHOTS IN HERE OF HER AND HER
15 BODY -- CONDITION OF HER BODY IN THE PRIOR
16 PHOTOGRAPHS, YOUR HONOR AGAIN, IT'S NOT BLACK AND
17 WHITE AGAIN, IT'S GRAPHIC AND IT'S NOT USED TO
18 SHOW ANY PART OF THE CRIME SCENE OR ANY KIND OF POST
19 MORTEM ON -- WE'VE ALREADY ACKNOWLEDGED THAT HE'S
20 BEEN FOUND GUILTY OF MURDER IT DOESN'T GO THE
21 ANYTHING IN AGGRAVATION

22 THE COURT ALL RIGHT, OVERRULE THE
23 OBJECTION IT'S ADMITTED NOW AS TO PHOTOGRAPHS,
24 EXHIBITS OFFERED, STATE'S 107, 106, 105, 102, 101,
25 NINETY-NINE, NINETY-FIVE, NINETY-FOUR AND NINETY-TWO

1 I FIND BASED UPON THE ARGUMENTS AS PRESENTED BY THE
2 STATE THE PHOTOGRAPHS ARE OFFERED FOR THE PURPOSE OF
3 SHOWING THE CIRCUMSTANCES OF THE CRIME ITSELF AS
4 WELL AS ANY CHARACTERISTICS OF THE DEFENDANT THAT
5 THEY EACH MIGHT RELATE TO, PRIMARILY THE
6 CIRCUMSTANCES OF THE CRIMES THEMSELVES, I FIND THAT
7 THE APPROPRIATIVE VALUE OUTWEIGHS ANY PREJUDICIAL
8 AFFECT THOSE ARE ADMITTED ASSUMING THE PROPER
9 FOUNDATION IS LAID, UNLESS AGAIN, AS I'VE SAID,
10 THERE IS NO FOUNDATION OBJECTION IS THERE A
11 FOUNDATION OBJECTION?

12 MR TINSLEY ABSOLUTELY

13 MR GARRETT YES, YOUR HONOR, THERE IS A
14 FOUNDATION OBJECTION

15 THE COURT OKAY ALL RIGHT

16 MR JONES THE STATE UNDERSTANDS THAT
17 THE COURT THEN THEY WILL BE ADMITTED
18 SUBJECT TO THE PROPER FOUNDATION BEING LAID AT THE
19 TIME THEY ARE ACTUALLY OFFERED

20 MR TINSLEY PLEASE NOTE OUR OBJECTION,
21 YOUR HONOR THEY'RE CLEARLY EXCESSIVELY CUMULATIVE
22 THEY VIOLATE TAYLOR ITSELF, THE STATE CITED CASE AS
23 WELL AS THEIKELD AND RIDDLE AND AND NUMEROUS OTHER
24 CASES IN THIS STATE, AND TO ALLOW MORE THAN ONE OR
25 TWO IS CLEARLY IS DESIGNED TO INFLAME THE PASSIONS

1 OF THE JURORS

2 THE COURT OKAY, WHAT OTHER MATTERS DO
3 YOU WE NEED TO ADDRESS BEFORE WE HAVE THE JURY
4 BROUGHT IN?

5 MR JONES YES, YOUR HONOR, BRIEFLY, I
6 BRING TO THE COURT'S ATTENTION WITH REGARD TO THE
7 WITNESSES THAT WE INTEND TO CALL FIRST OF ALL I'LL
8 BRING THE COURT'S ATTENTION TO MS ANITA KNEECE
9 MS KNEECE IS A CO-WORKER OF SHEKA JACKSON MS
10 KNEECE WILL OFFERED BOTH AS A FACT WITNESS AND AS A
11 VICTIM'S IMPACT WITNESS, YOUR HONOR

12 WHAT MS KNEECE WILL TESTIFY TO IS THE
13 TYPE OF CO-WORKER SHEKA JACKSON WAS, THE TYPE OF
14 PERSON SHE WAS SHE WILL ALSO TESTIFY THAT SHE WAS
15 AT WORK ON THE LAST WEEK IN NOVEMBER LEADING UP TO
16 HER DEATH ON OCTOBER FOURTH JUDGE, SHE WILL
17 TESTIFY ALSO AS TO THE CHARACTER OF THE DEFENDANT IN
18 THAT WHILE SHE WAS AT WORK ON SUNDAY EVENING OCTOBER
19 -- FROM MIDNIGHT OF OCTOBER THIRD UNTIL EIGHT
20 O'CLOCK IN THE MORNING OF OCTOBER FOURTH, AT 2 00
21 A M

22 THE COURT: DECEMBER

23 MR JONES: DECEMBER, YOUR HONOR, I'M
24 SORRY DECEMBER -- DECEMBER THE FOURTH THAT THE
25 DEFENDANT ARRIVED AT HER WORK PLACE AROUND TWO A M

1 AND INSISTED ON SEEING SHEKA JACKSON WHEN HE WAS
2 TOLD SHE WASN'T THERE HE CAME BACK SOME TIME LATER
3 AND INSISTED ON COMING INTO THE WORK PLACE TO SEE
4 HER

5 SHE WAS THERE WHEN THIS OCCURRED AND
6 WITNESSED IT AND WOULD DESCRIBE HIS Demeanor AS
7 BEING AGITATED, AS BEING UPSET, AND THAT HE HAD TO
8 BE ESCORTED FROM THE WORK PLACE AT TWO A M ON
9 OCTOBER 4, 1997 AGAIN, INTRODUCE TO ADMIT INTO
10 EVIDENCE THE CHARACTER OF THIS DEFENDANT, THE STATE
11 OF MIND AT THE TIME OF THE CRIME, AND AS A VICTIM'S
12 IMPACT WITNESS WITH REGARD TO SHEKA JACKSON, THAT
13 SHE WAS SUPPOSE TO BE AT WORK THAT NIGHT BUT DIDN'T
14 COME IN

15 AND SHE'D ALSO TESTIFY THAT SHE WORKED
16 WITH HER ON THE SAME SHIFT FROM TWELVE MIDNIGHT TO
17 EIGHT A M THE WEEK PRIOR THE VICTIM-IMPACT
18 STATEMENT, YOUR HONOR, WOULD GO TOWARDS THINGS ABOUT
19 SHEKA JACKSON THAT SHE DID DURING HER LIFE INCLUDING
20 THE WEEK PRIOR TO HER DEATH

21 THE COURT ALL RIGHT

22 MR TINSLEY YOUR HONOR, WE WOULD OBJECT
23 TO HER BEING USED AS A WITNESS ON SEVERAL GROUNDS
24 FIRST OF ALL, SHE WAS NOT CITED BY THE STATE
25 PRELIMINARY SECOND OF ALL, WE ARE GOING TO OBJECT

1 TO ANY AND ALL VICTIM-IMPACT TESTIMONY UNDER CODE
2 SECTION 16-3-1550 WHICH EXCLUDES VICTIM-IMPACT
3 TESTIMONY IN A CAPITAL CASE

4 PROVISIONS OF THIS SECTION GO TO THE
5 DISPOSITION OF ANY OFFENSE WITHIN THE JURISDICTION
6 OF GENERAL SESSIONS COURT EXCLUDING ANY CRIMES WHICH
7 THE SENTENCE OF DEATH IS SOUGHT I CITE SECTION 16-
8 3-15-1560, IT'S A NOVEL ISSUE IN THE STATE OF SOUTH
9 CAROLINA CLEARLY IS AN ISSUE AND WE FEEL THAT
10 BASED UPON THAT, IT'S INAPPROPRIATE

11 AND ALSO POINT OUT THAT UNDER THE BOOTH
12 CASE STILL DEPENDING ON THE VICTIM'S FAMILY MEMBERS
13 AND FRIENDS AS TO THE CRIME, THE DEFENDANT, AND
14 APPROPRIATE PUNISHMENT, IT STILL ISN'T ADMISSIBLE
15 UNDER BOOTH AND SHOULD THE COURT DEEM VICTIM-
16 IMPACT TESTIMONY APPROPRIATE, THEN IT WOULD, OF
17 COURSE, REQUIRE LIMITATIONS AS DELINEATED BY THE
18 LAW

19 FURTHER, THE KNEECE TESTIMONY IS PHASE
20 ONE TESTIMONY IT SHOULD HAVE BEEN OFFERED IN REPLY
21 CLEARLY AS TO THE COMING TO THE JOB SIGHT AND THAT
22 SORT OF THING THE GUILT OF THE DEFENDANT HAS
23 ALREADY BEEN ESTABLISHED NOW TO REOPEN THAT DOOR,
24 TO GO BACK INTO THIS DURING THE CIRCUMSTANCES OF
25 AGGRAVATION PHASE OF THE CASE BY THE STATE IS

1 CLEARLY INAPPROPRIATE VIOLATES MY CLIENT'S
2 CONSTITUTIONAL RIGHT UNDER DUE PROCESS CLAUSE UNDER
3 THE UNITED STATES TITLED FOURTEENTH AMENDMENT
4 AND ADDITIONALLY, IT -- IT PRIMARILY
5 WOULD BE CLEARLY, CLEARLY IN HER TESTIMONY
6 INADMISSIBLE ON THOSE POINTS OF TESTIMONY NOW THE
7 VICTIM-IMPACT TESTIMONY, WHILE WE OBJECT TO THAT
8 ALSO, WOULD BE A SEPARATE ISSUE BUT CLEARLY TO PUT
9 IN EVIDENCE THAT MORE APPROPRIATELY SHOULD HAVE BEEN
10 OFFERED FIRST IN THE STATE'S CASE IN CHIEF, AND THEY
11 HAD A SECOND CHANCE WITH THEIR OPPORTUNITY TO REPLY,
12 WOULD BE PREJUDICIOUS AND INAPPROPRIATE AT THIS
13 TIME

14 MR GARRETT JUDGE, COULD I ADDRESS JUST
15 A FEW MORE ISSUES ON VICTIM IMPACT WHILE WE'RE
16 TALKING ABOUT IT?

17 THE COURT ALL RIGHT

18 MR GARRETT YOUR HONOR, IT WAS NOT
19 PROVIDED TO US THE ONLY VICTIM-IMPACT STATEMENT WE
20 RECEIVED IS THE ONE ON DORIS JACKSON SIXTEEN
21 THROUGH TWENTY IS LIMITATIONS RELEVANT TO EVIDENCE
22 AND THE SOLE GUIDE TO ADMISSIBILITY AS TO WHAT IS
23 ALLOWED IN AGGRAVATION YOUR HONOR, WE WOULD CITE
24 VARIOUS 40(M)(2)(d) TO THE HOMICIDE SECTION 5-54-36
25 CALIFORNIA THIRD, 163-1984-38 CALIFORNIA THIRD, 7-

1 62-1985 McCLAIN VERSUS TENNESSEE (403) AND ALSO,
2 YOUR HONOR, THE FOURTEENTH AMENDMENT IMPACT
3 TESTIMONY IS SIMPLY NOT ALLOWABLE IT WOULD BE OUR
4 POSITION, YOUR HONOR, IN THIS PHASE OF THE TRIAL
5 MR McCALLUM YOUR HONOR, THE McCLAIN V
6 TENNESSEE CASE REALLY DEALT WITH VICTIM-IMPACT
7 TESTIMONY UNDER THE EIGHTH AMENDMENT ANALYSIS --
8 EIGHTH AND FOURTEEN AMENDMENT THE RIDDLE CASE HERE
9 IN SOUTH CAROLINA DEALT WITH VICTIM IMPACT UNDER A
10 403 ANALYSIS

11 AS TO THE 403 ANALYSIS, YOUR HONOR, WE
12 BELIEVE THAT THIS EVIDENCE THAT THE STATE IS TRYING
13 TO PUT FORWARD -- THE PREJUDICIAL AFFECT DOES
14 SUBSTANTIALLY OUTWEIGH ANY PROBATIVE VALUE BUT IN
15 ADDITION TO THAT, YOUR HONOR, I THINK WE'RE PUTTING
16 FORTH WHAT IS A NOVEL ISSUE IN SOUTH CAROLINA THAT I
17 HAVE NOT BEEN ABLE TO FIND A CASE LAW ON IT, AND
18 THAT IS 16-3-20 PROVIDES FOR THOSE FACTORS WHICH ARE
19 TO BE CONSIDERED IN AGGRAVATION

20 NOW IT ALSO PROVIDES THAT ON THE
21 MITIGATION SIDE TO THE DEFENDANT, IT PROVIDES
22 CERTAIN ITEMS THAT ARE LISTED AND THEN SAYS ANY
23 OTHER ITEM WHICH IS RELEVANT IT DOES NOT SAY THAT
24 FOR THE STATE'S BENEFIT IT LIMITS WHAT ARE
25 AGGRAVATING CIRCUMSTANCES AND THEREFORE, YOUR

1 HONOR, WE BELIEVE THAT THE VICTIM-IMPACT TESTIMONY
2 BEING ALLOWED IN WOULD BE IN DIRECT VIOLATION OF 16-
3 3-20 AS AMENDED

4 THE COURT ALL RIGHT, I OVERRULE YOUR
5 OBJECTION ON THOSE GROUNDS WHAT'S NEXT?

6 MR JONES JUDGE, GEORGIA SAMPLE IS A
7 RECORD KEEPER AT THE MILL WHERE SHEKA JACKSON
8 WORKED WHAT SHE HAS IS A WORK RECORD THAT SHE
9 WOULD INTRODUCE SHOWING THAT SHE WORKED THE ENTIRE
10 WEEK THIRD SHIFT, TWELVE TO EIGHT, MONDAY THROUGH
11 FRIDAY THE WEEK PRECEDING HER DEATH SHE ALSO HAS A
12 FORM THAT THE VICTIM FILLED OUT FOR INSURANCE
13 PURPOSES SHE WOULD TESTIFY THAT THE VICTIM LISTED
14 HERSELF AS SINGLE ON THAT FORM AGAIN, GOING TO
15 SHOW THE CHARACTER OF THE VICTIM -- THIS IS VICTIM
16 IMPACT, TOO THIS JURY HAS A RIGHT TO KNOW THIS WAS
17 A SINGLE MOM SHE'S A VICTIM IN A CASE, A VICTIM'S
18 IMPACT, AND IS FACTUALLY BASED TESTIMONY, YOUR
19 HONOR

20 SECONDLY THEY ALSO HAVE A RIGHT TO KNOW
21 THIS ABOUT SHEKA JACKSON, WHEN SHE FILLED OUT THE
22 INSURANCE FORM SHE REQUESTED THAT ONLY HER TWO
23 CHILDREN BE COVERED THERE WAS NO MENTION OF
24 ANYBODY ELSE, INCLUDING THE DEFENDANT IN THIS CASE

25 MS SAMPLE WOULD TESTIFY THAT SHE WAS

1 NOTIFIED THAT SHEKA JACKSON WAS TOLD NO ADDITIONAL
2 COST TO INCLUDE ANY OTHER FAMILY MEMBERS IF YOU HAVE
3 THEM ON THIS INSURANCE POLICY AGAIN, THAT GOES TO
4 SHOW THIS JURY MORE ABOUT SHEKA JACKSON WHAT SHE
5 THOUGHT ABOUT, WHAT SHE DID, WHO SHE WAS A WEEK
6 BEFORE SHE DIED

7 MR TINSLEY YOUR HONOR, WE WOULD OBJECT
8 TO THAT TESTIMONY IT WAS PROPER IN THE STATE'S
9 CASE OR POSSIBLY IN THIS LINE ONCE AGAIN, IT'S
10 TOTALLY IMPROPER IN THIS PHASE IT DOES NOT GO TO
11 HER CHARACTER AT ALL IN FACT, IF THEY DISPUTED
12 COMMON LAW MARRIAGE THEY SHOULD HAVE DONE SO IN THE
13 OTHER STAGE THIS IS MORE -- A GREATER EXAMPLE OF
14 TRYING TO REHASH PHASE ONE INTO PHASE TWO

15 NOW TO PREJUDICE MY CLIENT CONTINUOUSLY
16 IN THIS MANNER IS -- DEEMING THIS TRIAL
17 FUNDAMENTALLY UNFAIR AND WE CLEARLY OBJECT TO THIS
18 EVIDENCE THAT THE STATE HAD THEIR OPPORTUNITY TO
19 ADMIT PLUS, IN ADDITION TO THAT, WE WOULD OBJECT
20 ON HEARSAY BASIS, WHATEVER -- THE LACK OF
21 FOUNDATION

22 BUT MAINLY BECAUSE IT'S JUST -- IT'S JUST
23 THE STATE OVERLOOKING OR WHATEVER THE CASE MAY HAVE
24 BEEN IN PHASE ONE, AND NOW TRYING TO CURE IT BOTH
25 WITH MS KNEECE AND MS SAMPLE AND THEREFORE, IT'S

1 CLEARLY INADMISSIBLE AT THIS STAGE OF THE
2 PROCEEDINGS

3 THE COURT WELL, I --

4 MR TINSLEY MAY I -- YOU KNOW, THE
5 STATE IS LIMITED EVIDENCE IN AGGRAVATION
6 CIRCUMSTANCES IN AGGRAVATION AS DELINEATED BY THE
7 STATUTE AND THEREFORE THIS TESTIMONY IS ALSO
8 INADMISSIBLE

9 THE COURT: SOLICITOR, HOW DOES THIS
10 TESTIMONY GO TOWARD THE CIRCUMSTANCES RELATING TO
11 THE CRIME OR THE CHARACTERISTICS OF THE DEFENDANT?
12 IS THAT THE BASIS YOUR OFFERED?

13 MR JONES: WELL, YOUR HONOR, IN ADDITION
14 I'M OFFERING WITH REGARD TO SHEKA JACKSON, THE JURY
15 HAS A RIGHT TO THE VICTIM-IMPACT TESTIMONY TO KNOW
16 ABOUT THE VICTIM DID THE VICTIM WORK? DID THE
17 VICTIM -- YOU KNOW, WAS THE VICTIM SINGLE OR
18 MARRIED? IN OTHER WORDS, I CONTEND THAT IN VICTIM'S
19 IMPACT TESTIMONY SHEKA JACKSON'S MOTHER CAN GET ON
20 THE STAND AND TELL THIS JURY WHAT SHE KNOWS ABOUT
21 HER -- WHAT SHE KNEW ABOUT HER DAUGHTER SHE CAN
22 TALK ABOUT THE PLANS THAT THEY HAD SHE CAN TALK
23 ABOUT --

24 THE COURT WE'RE NOT TALKING ABOUT MS
25 JACKSON WE'RE TALKING ABOUT MS SAMPLE

1 MR JONES YES, SIR, AND MS SAMPLE WILL
2 TESTIFY THE SHEKA JACKSON TOLD HER IN JUNE OF 1995
3 THAT SHE WAS A SINGLE MOM, ALL RIGHT? THE JURY HAS
4 A RIGHT TO KNOW ALL ABOUT SHEKA'S LIFE IN JUNE SHE
5 TOLD MS SAMPLE SHE WAS A SINGLE MOM AND THAT SHE
6 WANTED SOME INSURANCE AND THAT SHE WANTED THE
7 INSURANCE ON HERSELF AND HER TWO CHILDREN AND NO ONE
8 ELSE THAT TELLS THIS JURY WHAT SHEKA JACKSON'S
9 FRAME OF MIND WAS AND WHO SHE THOUGHT OF HERSELF IN
10 JUNE OF 1995

11 THE COURT I SUSTAIN THE OBJECTION TO
12 MS SAMPLE'S TESTIMONY WHAT'S NEXT?

13 MR JONES SHEKA JACKSON'S GRANDMOTHER,
14 RUTH CONNER, TESTIFYING THAT DURING THE WEEK PRIOR
15 TO HER DEATH SHE STAYED AT HOME, IN HER HOME, SHE
16 HAD ARRIVED THERE AT EIGHT O'CLOCK IN THE MORNING
17 AND WOULD BE WITH HER THROUGHOUT THE DAY MS
18 CONNER WOULD GO TO WORK AND COME BACK AT LUNCH AND
19 SHEKA WAS THERE EVERY DAY TAKING A NAP WITH THE
20 KIDS, HAVING FED THE KIDS SHE'S COME BACK AT THREE
21 AND SHEKA WAS THERE THAT WHOLE WEEK THAT SHE, YOU
22 KNOW, WOULD GO TO WORK AND COME HOME AND BE WITH
23 HER

24 THE COURT ALL RIGHT WHO'S GOING TO
25 HANDLE THAT?

1 MR TINSLEY YOUR HONOR, ONCE AGAIN THAT
2 WOULD BE TO IMPEACH THE CREDIBILITY OF MR HUGHEY
3 FROM PHASE ONE, AND WOULD BE IMPROPER ON THAT BASIS
4 SHE -- THEY HAD AN OPPORTUNITY TO PUT IT UP IN THE
5 CASE IN CHIEF OR IN REPLY

6 IT STRIKES ME THAT IT'S BEING OFFERED
7 BECAUSE HE SAID SHE WAS OFF THAT WEEK, ACCORDING TO
8 WHAT SHE TOLD HIM AND NOW IT APPEARS TO BE
9 OFFERING TO PROVE THAT SHE WORKED THAT WEEK

10 NOW THAT PART OF THAT TESTIMONY WOULD
11 CLEARLY BE INADMISSABLE AS AN UNFAIR ATTACK ON THE
12 CREDIBILITY OF MR HUGHEY AS MS KNEECE'S WOULD
13 ALSO, BY THE WAY AND FURTHER, IT WOULD -- SHE WAS
14 NOT LISTED AS A WITNESS EITHER AT THE BEGINNING AT
15 THE TRIAL

16 THE COURT: ALL RIGHT, OVERRULE YOUR
17 OBJECTION AS TO MS CONNER'S TESTIMONY WHAT ELSE?

18 MR JONES JUDGE, I'D LIKE TO KNOW IF
19 YOU WOULD ALLOW MS CONNER TO REMAIN IN THE
20 COURTROOM SHE'S THE GRANDMOTHER OF THE VICTIM
21 SHE WAS NOT ONE OF THE ONES THAT I HAVE MENTIONED
22 BEFORE, BUT I WOULD REQUEST THAT SHE NOT BE
23 SEQUESTERED DURING ANY TESTIMONY OF THE CASE

24 THE COURT WELL, ALL THE WITNESSES HAVE
25 BEEN

1 MR JONES AND I'M ASKING YOU TO AMEND
2 IT AT THIS POINT IN TIME

3 MR TINSLEY WE'RE KEEPING OURS OUT
4 BACK, JUDGE I'VE GOT -- THEY'VE GOT --

5 THE COURT ALL RIGHT

6 MR TINSLEY -- FOUR -- THEY'VE GOT FOUR
7 ALREADY HERE WE'VE GOT ONE, NOT COUNTING EXPERTS,
8 SEE

9 THE COURT I UNDERSTAND WE'RE GOING TO
10 SEQUESTER ANY OTHER WITNESSES, IF THEY ARE LISTED AS
11 A WITNESS

12 MR JONES ALL RIGHT JUDGE, I ONLY
13 HAVE ONE OTHER MATTER I'D LIKE TO BRING BEFORE THE
14 COURT JUDGE, I'D LIKE TO ASK YOU TO CONSIDER UNDER
15 A RECENT RULING IN STATE VERSUS RAYMOND PATTERSON,
16 NUMBER FIVE -- IT'S A 1997 RULING, SO I DON'T HAVE
17 THE CITE RIGHT HERE FOR YOU EXCEPT THAT IT'S A
18 SOUTHEASTERN SECOND 1997 RULING -- IN THAT CASE THE
19 TRIAL JUDGE DID NOT ERR IN PROHIBITING BOTH THE
20 SOLICITOR AND THE DEFENSE FROM ARGUING ABOUT
21 RELIGION OR IN THEIR OPENING STATEMENTS OR THEIR
22 CLOSING STATEMENTS

23 IT ALSO PROHIBITS THE DEFENSE FROM
24 REFERRING TO JOHN 8 2-11 OR ANY OTHER VERSE FOR THAT
25 MATTER, JUDGE AND I'D ASK YOU TO CONSIDER DOING

1 THAT I THINK IT'S PROPER I THINK IT'S
2 APPROPRIATE AND I'M ASKING YOU AHEAD OF TIME TO
3 ADMONISH BOTH US THAT IN OUR ARGUMENTS TO THIS JURY,
4 BOTH IN OPENING AND CLOSING, THAT WE'RE NOT TO REFER
5 TO RELIGION OR TO ANY GOD OR TO ANY BODY OF
6 RELIGION

7 AND I DO SO, YOUR HONOR, BASED ON THIS
8 FACT WE'RE DEALING IN MATTERS OF STATE HERE
9 STRICTLY MATTERS OF STATE WE'RE DEALING IN MATTERS
10 OF EVIDENCE WE'RE DEALING IN MATTERS OF DECISIONS
11 ABOUT JURY'S AND PUNISHMENT AND IT'S JUST -- IT'S
12 IRRELEVANT

13 THE COURT WHO WANTS TO HANDLE THAT?
14 MR TINSLEY YOUR HONOR, IT'S
15 INTERESTING THE SOLICITOR ARGUED THE DEATH'S IN VAIN
16 AND THAT SORT OF THING IN HIS CLOSE NOW I HAVE NOT
17 BUILT A RELIGIOUS ARGUMENT IN THIS CASE BY ANY
18 SHAPE, FORM, OR FASHION, AND DON'T INTEND TO BASE IT
19 ON THAT

20 BUT IF SOMETHING COMES OUT WITHIN -- YOU
21 KNOW, WITHIN CONTEXT, I DON'T SEE WHY THE STATE'S --
22 THE STATE WOULD WANT TO ELIMINATE BIBLICAL
23 CONSIDERATIONS IN A CASE LIKE THIS IT STRIKES ME
24 THAT THAT IS THE ULTIMATE AUTHORITY BUT I'M NOT
25 BUILDING A RELIGIOUS ARGUMENT, IF THAT'S WHAT HE'S

1 TRYING --

2 THE COURT YOU DON'T INTEND TO ARGUE
3 RELIGION UNLESS SOMETHING COMES OUT DURING THE
4 COURSE OF THE --

5 MR TINSLEY RIGHT

6 THE COURT -- TESTIMONY THAT MIGHT CAUSE
7 THAT TO SOMEHOW BECOME RELEVANT OR --

8 MR TINSLEY YES, SIR

9 THE COURT -- BECOME AN ISSUE?

10 MR TINSLEY YES, SIR

11 THE COURT OKAY

12 MR TINSLEY ALL RIGHT

13 THE COURT WELL, I'LL ADDRESS IT SHOULD
14 THE NEED ARISE THEN.

15 MR JONES ALL RIGHT

16 THE COURT WHAT ELSE?

17 MR JONES NOTHING FROM THE STATE

18 THE COURT ALL RIGHT, NOW HOW LONG DO
19 YOU ANTICIPATE YOUR FIRST WITNESS TO BE?

20 MR JONES I THINK WE CAN GET HIM UP AND
21 DOWN BY ONE-FIFTEEN

22 MR McCALLUM YOUR HONOR, WE HAVE -- THE
23 DEFENSE DOES HAVE ONE OR TWO POINTS WE LIKE TO MAKE
24 TO YOU BEFORE WE GET THE JURY BACK IN

25 THE COURT WHAT ARE THEY

1 MR McCALLUM YOUR HONOR, YESTERDAY WE
2 STATED SOME MOTIONS FOR NEW TRIAL WE HAVE SOME
3 ADDITIONAL BASIS WE WOULD LIKE TO ADD YOUR HONOR,
4 WE BELIEVE THAT THE DEFENDANT IS ENTITLED TO A NEW
5 TRIAL IN THAT HE WAS PREJUDICED IN THE GUILT PHASE
6 OF HIS TRIAL BY THE COURT'S REFUSAL TO CHARGE ON THE
7 ISSUE OF LARCENY THAT A PERSON WHO DOES TAKE AN ITEM
8 OF PERSONAL PROPERTY UNDER A REASONABLE BELIEF OF
9 OWNERSHIP WHETHER THAT BELIEF OF OWNERSHIP FACTUALLY
10 IS CORRECT OR NOT, AND WE DID SUBMIT THE CHARGE ON
11 THAT BASIS TO HIS HONOR

12 THE COURT I UNDERSTOOD THAT AND I
13 RULED ON IT I THOUGHT THAT HAD BEEN ADDRESSED DO
14 YOU WANT TO ADDRESS IT AGAIN?

15 MR McCALLUM YOUR HONOR, WE DON'T WANT
16 TO ADDRESS IT AGAIN WE JUST WANT TO MAKE A MOTION
17 FOR A NEW TRIAL ON THE GUILT/INNOCENCE PHASE ON THAT
18 BASIS WE WANT TO RENEW THAT OBJECTION, YOUR HONOR

19 THE COURT YOU WANT TO RENEW, OKAY HOW
20 MANY TIMES ARE WE GOING TO HAVE TO RENEW IT BEFORE
21 WE GET IT DOWN?

22 MR McCALLUM YOUR HONOR, WE BELIEVE
23 THAT THE -- THAT THE VERDICT OF THE JURY WAS BASED
24 ON AN IMPROPER INSTRUCTION IN THAT REGARD

25 THE COURT I UNDERSTAND THAT AND YOU

1 OBJECTED TO THAT SO WHY ARE WE NOW OBJECTING TO IT
2 AGAIN TODAY?

3 MR McCALLUM YOUR HONOR, AS I BELIEVE
4 IT'S INCUMBENT UPON US TO MOVE FOR A NEW TRIAL AT
5 THE CONCLUSION IF WE WISH TO PRESERVE THOSE RIGHTS

6 THE COURT I DON'T DISAGREE WITH THAT,
7 BUT I THOUGHT WE DID THAT YESTERDAY WE DID?

8 MR McCALLUM MY UNDERSTANDING WAS THAT
9 WE HAD NOT

10 THE COURT OKAY

11 MR GARRETT NOT SPECIFICALLY WE KEPT
12 THE RECORD OPEN, YOUR HONOR, TO GO INTO ANY
13 SPECIFICS THE COURT WOULD ALLOW US TO WE MADE A
14 GENERAL OBJECTION RELATING ALL PRIOR OBJECTIONS
15 REINCORPORATED WHICH IN HIS HONOR VIEW, I'M SURE
16 WOULD COVER THAT BUT WE WANTED TO CLEARLY
17 ARTICULATE THOSE ARGUMENTS AGAIN JUST FOR OUR COURT
18 RECORD, YOUR HONOR

19 THE COURT OKAY

20 MR GARRETT WE WILL BE BRIEF

21 THE COURT ALL RIGHT, THEY ARE IN THE
22 RECORD, AND I STILL ADHERE TO MY PREVIOUS RULING AND
23 DENY YOUR MOTION FOR NEW TRIAL BASED ON THAT GROUND
24 ALSO

25 MR McCALLUM SECONDLY, YOUR HONOR, THE

1 COURT REFUSED TO CHARGE THE JURY REGARDING OTHER
2 REASONABLE HYPOTHESES OR POSSIBILITIES WITH REGARD
3 TO CIRCUMSTANTIAL EVIDENCE AND WE WOULD ASK FOR A
4 NEW TRIAL ON THAT BASIS

5 THE COURT ALL RIGHT, MOTION DENIED
6 MR McCALLUM YOUR HONOR, ADDITIONALLY
7 ON THE CHARGE REGARDING MANSLAUGHTER, THE COURT
8 INITIALLY REFUSED TO CHARGE THE EXAMPLES THAT WE
9 GAVE

10 THE COURT PARAGRAPH SEVEN I BELIEVE IT
11 WAS IN HIS REQUEST NUMBER TEN

12 MR McCALLUM THAT'S CORRECT, YOUR
13 HONOR AND ONCE THE JURY CAME BACK AND THEN ASKED
14 FOR AN EXPLANATION OF MANSLAUGHTER, THE COURT AGAIN
15 REFUSED TO CHARGE THOSE EXAMPLES ALTHOUGH EXAMPLES
16 OF EXPRESSED AND IMPLIED MALICE WERE CHARGED TO THE
17 JURY ON THE MURDER SIDE OF -- ON THE OTHER SIDE

18 WE BELIEVE THAT THE COURT'S GIVING
19 EXAMPLES SUCH AS THE USE OF A DEADLY WEAPON IMPLYING
20 MALICE, ALTHOUGH THAT IS AN ABSOLUTELY CORRECT
21 CHARGE, WITHOUT GIVING EXAMPLES OF LEGAL
22 PROVOCATION, WAS FUNDAMENTALLY UNFAIR AND DID NOT
23 GIVE THE JURY ADEQUATE BACKGROUND FROM WHICH TO BASE
24 THEIR VERDICT

25 THE COURT MOTION FOR NEW TRIAL IS

1 DENIED BASED UPON THAT GROUND AGAIN

2 MR McCALLUM YOUR HONOR, THE OTHER
3 BASIS IS WE, OF COURSE, INCORPORATE ALL OUR PRIOR
4 OBJECTIONS RAISED THE COURT HAS RULED ON
5 THE COURT OKAY

6 MR MCCALLUM BUT SPECIFICALLY THE
7 FAILURE TO SUSTAIN THE DEFENSE'S OBJECTION TO MR
8 HARRIS'S TESTIMONY REGARDING HIS RETURN TO THE
9 HOUSE, THE CLEANING UP HIS WIFE'S BLOOD AND BONE
10 MATTER AND THINGS OF THAT NATURE, YOUR HONOR, WE
11 OBJECT TO THAT ON THE BASIS OF RELEVANCY THAT IT WAS
12 NOT RELEVANT TO THE GUILT/INNOCENCE PHASE OF THE
13 TRIAL

14 AND, YOUR HONOR, WE WOULD ASK FOR A NEW
15 TRIAL ON THAT BASIS SINCE THAT WAS SUCH EMOTIONALLY
16 IMPACTED AND WE BELIEVE THAT RAISED PREJUDICE AND
17 PASSIONS OF THE JURY ON TESTIMONY THAT WAS
18 IMPROPERLY ADMITTED OVER AN OBJECTION

19 THE COURT WELL, WHETHER OR NOT IT WAS
20 OBJECTED TO, OF COURSE, IT SPEAKS FOR ITSELF IN THE
21 RECORD BUT I DENY ANY MOTION BASED UPON THAT
22 GROUND

23 MR MCCALLUM THANK YOU, YOUR HONOR

24 MR JONES JUDGE, IN ANSWER TO YOUR
25 QUESTION, I BELIEVE -- I'VE TRIED TO GIVE YOU AN

1 OUTLINE OF WHAT I INTEND TO DO AND I ASK YOU TO
2 CONSIDER DOING IT BEFORE WE BREAK FOR LUNCH ONE IS
3 TO CALL OFFICER BARRY NEW TO INTRODUCE ONE
4 PHOTOGRAPH THAT HE WOULD TESTIFY -- TESTIFY THAT HE
5 FOUND SHEKA JACKSON BASICALLY IN THAT CONDITION WHEN
6 HE WAS IN THE HOME STATE'S EXHIBIT NUMBER -- AND
7 I'M CALLING HIM FOR THAT PURPOSE ALONE -- STATE'S
8 EXHIBIT NUMBER NINETY-FOUR, TO GET THIS PHOTOGRAPH
9 INTO EVIDENCE SO THAT THE DOCTOR CAN THEN USE IT IN
10 PRESENTING HIS TESTIMONY LAY A FOUNDATION FOR ITS
11 INTRODUCTION THAT'S BASICALLY WHAT I INTEND TO DO
12 WITH OFFICER NEW AND THAT'S THE ONLY THING I
13 INTEND TO DO WITH OFFICER NEW AT THIS TIME

14 THE COURT WELL, WE'VE MANAGED TO
15 EXHAUST THE MORNING WHAT I INTEND TO DO IS HAVE
16 THE JURY BROUGHT BACK I'LL GIVE THEM THE OPENING
17 INSTRUCTION I'LL ALLOW Y'ALL TO ENGAGE IN OPENING
18 --BRIEF OPENING STATEMENTS AND THEN WE WILL RECESS
19 FOR LUNCH AND RESUME THIS AFTERNOON

20 MR JONES ALL RIGHT, SIR

21 THE COURT OKAY, BRING THE JURY IN,
22 PLEASE

23 (JURY ENTERS COURTROOM AT 12 52 O'CLOCK P M)

24 THE COURT GOOD AFTERNOON, LADIES AND
25 GENTLEMEN, I APOLOGIZE FOR THE DELAY IN HAVING YOU

1 BROUGHT BACK, BUT THERE WERE A NUMBER OF MATTERS
2 THAT I HAD TO ADDRESS AND WHAT I PROPOSE THAT WE
3 DO NOW IS FOR ME TO MAKE A BRIEF OPENING STATEMENT
4 TO YOU ONCE THAT HAS BEEN ACCOMPLISHED THE LAWYERS
5 WILL MAKE A BRIEF OPENING STATEMENT PRIOR TO THE
6 ACTUAL RECEIVING OF EVIDENCE BUT BEFORE WE DO
7 RECEIVE ANY EVIDENCE WE WILL RECESS FOR LUNCH AND
8 THEN WE'LL COME BACK AND BEGIN WITH RECEIVING
9 EVIDENCE AFTER LUNCH

10 NOW AS YOU ARE WELL AWARE, THE DEFENDANT,
11 JOHN KENNEDY HUGHEY, IN THIS CASE HAS BEEN CONVICTED
12 OF THE CRIME OF MURDER IN TWO SEPARATE COUNTS OF THE
13 INDITEMENT WHICH YOU HAVE PREVIOUSLY CONSIDERED
14 THEREFORE, UNDER THE LAW WE MUST CONDUCT THIS
15 ADDITIONAL PROCEEDING TO DETERMINE THE PUNISHMENT
16 THAT THE COURT IS TO IMPOSE UPON THE DEFENDANT FOR
17 THOSE CRIMES OF MURDER

18 SOUTH CAROLINA LAW PROVIDES IN SECTION
19 16-3-20 AS FOLLOWS A PERSON WHO IS CONVICTED OF OR
20 WHO IS FOUND GUILTY OF MURDER MUST BE PUNISHED BY
21 DEATH OR BY LIVE IMPRISONMENT

22 THE SAME STATUE PROVIDES FURTHER IN A
23 SEPARATE SECTION THAT UPON CONVICTION OF A DEFENDANT
24 OF THE CRIME OF MURDER THE COURT SHALL CONDUCT A
25 SEPARATE SENTENCING PROCEEDING TO DETERMINE WHETHER

1 THE DEFENDANT SHOULD BE SENTENCED TO DEATH OR TO
2 LIFE IMPRISONMENT

3 AND FURTHER THAT STATUTE PROVIDES THAT
4 THE JURY SHALL CONSIDER STATUTORY AGGRAVATING AND
5 MITIGATING CIRCUMSTANCES AS WELL AS NON-STATUTORY
6 MITIGATING CIRCUMSTANCES WHICH MAY BE SUPPORTED BY
7 THE EVIDENCE IN THE CASE IN ARRIVING AT YOUR
8 DECISION

9 NOW IN THAT REGARD, AS YOU ARE AWARE, YOU
10 WILL BE EXPOSED TO TESTIMONY AND TO OTHER EVIDENCE
11 RELATING TO THOSE CIRCUMSTANCES OF AGGRAVATION AS
12 WELL AS THOSE CIRCUMSTANCES OF MITIGATION YOU WILL
13 HEAR TESTIMONY PERHAPS OTHER EVIDENCE RELATING TO
14 EITHER OR BOTH OF THOSE DURING THE SENTENCING PHASE
15 OF THE TRIAL

16 AS I HAVE PREVIOUSLY INDICATED TO YOU, AN
17 AGGRAVATING CIRCUMSTANCE IS A FACT, AN INCIDENT, A
18 DETAIL, OR AN OCCURRENCE WHICH MIGHT AGGRAVATE OR
19 TEND TO MAKE WORSE THE CRIME OF MURDER IT IS
20 SOMETHING WHICH MAY INCREASE THE ENORMITY OF OR ADD
21 TO THE INJURIOUS CONSEQUENCES OF THE CRIME OF MURDER
22 WHICH MAY SUPPORT THE IMPOSITION OF A DEATH SENTENCE
23 AS THE MORE APPROPRIATE FORM OF PUNISHMENT

24 A MITIGATING CIRCUMSTANCE IS A FACT, AN
25 INCIDENT, A DETAIL, OR AN OCCURRENCE WHICH MAY MAKE

1 LESS OR REDUCE THE SEVERITY OF THE CRIME OF MURDER
2 IT IS SOMETHING WHICH MAY BE CONSIDERED AS
3 MITIGATING OR IT'S EXTENUATING OR LESSING THE DEGREE
4 OF MORAL CAPABILITY FOR THE COMMISSION OF THE
5 OFFENSE OF MURDER IT IS NOT A JUSTIFICATION FOR
6 THE OFFENSE OF MURDER, BUT IS SOMETHING WHICH MAY
7 REDUCE THE DEGREE OF GUILT OF THE DEFENDANT AND
8 SUPPORT THE IMPOSITION OF THE LESS SEVERE FORM OF
9 PUNISHMENT, THAT BEING LIFE IMPRISONMENT

10 SO YOU WILL BE CONSIDERING ALL THAT
11 EVIDENCE WHEN THAT EVIDENCE IS OFFERED AND WHEN
12 THAT IS DONE EACH SIDE WILL AGAIN HAVE AN
13 OPPORTUNITY TO MAKE AN ARGUMENT OR FINAL SUMMATION
14 TO YOU AND UPON THE CONCLUSION OF THAT I WILL GIVE
15 YOU AND ADDITIONAL LEGAL INSTRUCTION THAT YOU WILL
16 APPLY TO THE FACTS AS YOU DETERMINE THEM TO BE IN
17 ORDER IN ARRIVING AT YOUR DECISION IN THIS CASE

18 SO PRESENTLY, I'M SIMPLY GOING TO ASK
19 THAT YOU PLEASE GIVE THE LAWYERS YOUR CAREFUL
20 ATTENTION AS THEY GIVE YOU THEIR BRIEF STATEMENTS
21 PRIOR TO THE RECEIVING OF EVIDENCE ONCE THEY HAVE
22 CONCLUDED WE WILL RECESS FOR LUNCH AND THEN RESUME
23 WITH THE CASE THIS AFTERNOON AFTER LUNCH AT WHICH
24 TIME WE WILL BEGIN WITH THE RECEPTION OF THAT
25 EVIDENCE OFFERED SOLICITOR

1 MR JONES THANK YOU, YOUR HONOR IF IT
2 PLEASE THE COURT PRIOR TO MY ADDRESSING THE JURY
3 COULD I APPROACH THE BENCH WITH DEFENSE COUNSEL FOR
4 JUST ONE MOMENT?

5 THE COURT. YES, SIR
6 (COUNSEL APPROACH THE BENCH)

7 MR JONES IF IT PLEASE THE COURT, YOUR
8 HONOR

9 THE COURT. SOLICITOR
10 OPENING STATEMENT BY MR JONES

11 MR FOREMAN, LADIES AND GENTLEMEN OF THIS
12 JURY, I SUGGEST TO YOU AN UNDERSTANDING OF HOW TOUGH
13 JURY DUTY IS IT'S TOUGH WORK YOU'VE WORKED HARD
14 YOU'VE GOT TOUGH WORK AHEAD OF YOU WHAT YOUR WORK
15 HAS RESULTED IN IS THAT BEFORE YOU TODAY AT THIS
16 TABLE IS A CONVICTED DOUBLE MURDERER A DOUBLE
17 MURDERER AND HE IS SO -- AND DON'T FORGET THIS --
18 HE IS SO BECAUSE OF WHAT HE DID, NOT WHAT YOU DID,
19 WHAT HE DID HE DID IT

20 YOUR VERDICT IS BASED ON THE EVIDENCE OF
21 HIS CRIME THE FACT THAT HE'S A MURDERER IS BECAUSE
22 OF WHAT HE DID THE FACT THAT HE'S A DOUBLE
23 MURDERER IS BECAUSE OF WHAT HE DID YOU LOOKED AT
24 THE EVIDENCE YOU DECIDED WHAT EVIDENCE WAS
25 BELIEVABLE YOU DECIDED WHO YOU BELIEVED ON THAT

1 WITNESS STAND YOU DECIDED WHO WAS TELLING YOU THE
2 TRUTH AND YOU DECIDED WHAT I ASKED YOU TO DO FROM
3 THE VERY BEGINNING MAKE SENSE OF IT MAKE COMMON
4 SENSE OF IT

5 YOU KNOW -- YOU KNOW IN YOUR GUT AND YOU
6 KNOW IN YOUR HEART EXACTLY WHAT HAPPENED YOU KNOW
7 AND YOU ARRIVED AT THE TRUTH IN SPITE OF THE FACT
8 THAT SHEKA JACKSON WASN'T HERE TO TELL YOU ABOUT IT
9 IN SPITE OF THE FACT THAT LUEVINIA HARRIS WASN'T
10 HERE TO TELL YOU ABOUT IT

11 NOW, LADIES AND GENTLEMEN, WE ARE AT THE
12 JUNCTURE -- WE'RE AT THE PLACE WHERE AFTER HAVING
13 DETERMINED THAT THE DEFENDANT IS A DOUBLE MURDERER
14 AND THAT IN AN EFFORT TO ACCOMPLISH HIS DOUBLE
15 HOMICIDE HE BURGLARIZED A LADY'S HOME HE BROKE
16 INTO HER HOME INTRUDING HER LIFE INTRUDING HER
17 RIGHT TO LIFE HER RIGHT TO LIVE HER RIGHT TO
18 BREATH AND TO EAT AND TO KISS AND TO TOUCH AND TO
19 HOLD HER BABIES

20 NOT ONLY IS YOUR JOB NOW, AND YOUR
21 DIFFICULT JOB, AND IT'S NOT EASY, IT'S TOUGH OH,
22 THERE IS AN EASY WAY YOU COULD GO BUT FOR JUSTICE
23 -- BUT FOR JUSTICE IT'S TOUGH

24 YOU WILL BE SHOWN EVIDENCE BY US THAT
25 WILL GIVE YOU A CHANCE TO ASSESS THE CHARACTER OF

1 THE DEFENDANT YOU WILL BE SHOWN EVIDENCE BY US
2 THAT WILL GIVE YOU A MORE CLEAR PICTURE OF THE CRIME
3 THAT HE COMMITTED

4 AND I MUST SAY TO YOU NOW, THAT THERE ARE
5 PHOTOGRAPHS THAT ARE GOING TO BE INTRODUCED OF SHEKA
6 JACKSON'S FACE THAT YOU HAVEN'T SEEN AND I SUGGEST
7 TO YOU THAT YOU SHOULD APPROACH VIEWING THEM, BUT
8 YOU SHOULD DO SO WITH AN UNDERSTANDING THAT IT IS AN
9 ANALYTICAL EFFORT THAT YOU APPROACH WHAT WE ARE
10 WANTING TO SHOW YOU WITH THE PHOTOGRAPHS OF SHEKA
11 JACKSON AND LUEVINIA HARRIS ARE WHAT THE DEFENDANT
12 DID TO THEM WHEN HE MURDERED THEM

13 WE'RE GOING TO SHOW YOU THAT WHEN HE SHOT
14 LUEVINIA HARRIS IN THE FACE AND LEFT THAT HOLE IN
15 THE FRONT OF HER FACE THAT BLOOD AND BONE SPATTERED
16 AND HE SAW IT, AND HE SAW WHAT A SHOTGUN TO
17 SOMEBODY'S FACE DOES TO THEIR FACE AND WHAT DID HE
18 DO AFTER HE SAW THAT? WE'RE GOING TO SHOW THAT HE
19 UNLOADED THE EMPTY SHELL THAT HE HAD BLOWN HER HEAD
20 RIGHT OPEN WITH LEAVING HER LAYING OF THE FLOOR
21 BLEEDING FROM A HOLE IN HER FACE THIS SIZE AND
22 YOU'RE GOING TO SEE THAT PHOTOGRAPH IN AN EFFORT TO
23 SHOW YOU WHAT HE SAW

24 AND THAT AFTER HE PUT HER ON THE FLOOR
25 LIKE THAT AND AFTER HE SAW WHAT CAME OUT OF HER

1 FACE, HE DID IT AGAIN TO ANOTHER HUMAN BEING HE
2 RUN AND PUT AND COCKED AND WENT IN THERE WITH THE
3 GUN AND DID IT AGAIN YOU TALK ABOUT -- TALK ABOUT
4 MEAN? YOU WANT TO TALK ABOUT SOMEBODY THAT KILLS
5 INNOCENT, DELICATE, CARING, LOVING HUMAN BEINGS?
6 - NOTHING BUT SELFISH, MEANNESS CAUSED
7 THESE CRIMES SELFISH, MEANNESS CAUSED THESE
8 CRIMES DIDN'T CARE ABOUT NOBODY ELSE DIDN'T CARE
9 ABOUT THOSE CHILDREN DIDN'T CARE ABOUT NOBODY
10 DIDN'T CARE ABOUT NO MAMAS DIDN'T CARE ABOUT NO
11 SONS OF OTHER LADIES DIDN'T CARE ABOUT NO HUSBANDS
12 OF OTHER LADIES DIDN'T CARE ABOUT COUSINS DIDN'T
13 CARE ABOUT AUNTS DIDN'T CARE ABOUT NOTHING EXCEPT
14 HIMSELF THERE'S A MEANNESS INSIDE OF HIM RESULTING
15 IN DEATH OF TWO BEAUTIFUL, LOVING HUMAN BEINGS
16 NOT ONLY TWO DEATHS, BUT THEIR
17 DISFIGUREMENT YOU'LL HAVE TO DECIDE WHETHER OR NOT
18 THEY HAVE THE RIGHT TO AN OPEN CASKET
19 MR TINSLEY OBJECTION, YOUR HONOR
20 MR JONES YOU'LL HAVE TO DECIDE --
21 THE COURT SUSTAIN THE OBJECTION
22 SOLICITOR, LET'S --
23 MR JONES ALL RIGHT, LET ME MOVE
24 FORWARD LET ME MOVE FORWARD
25 MR TINSLEY YOUR HONOR, I'M GOING TO

1 ASK FOR A CURATIVE INSTRUCTION

2 THE COURT: OKAY, LADIES AND GENTLEMEN OF
3 THE JURY IS ASKED TO DISREGARD THE LAST COMMENT MADE
4 BY THE SOLICITOR PUT IT OUT OF YOUR MINDS DO NOT
5 CONSIDER IT IN ANY FASHION

6 MR JONES: LADIES AND GENTLEMEN, LET ME
7 SUGGEST THIS TO YOU RIGHT NOW LET ME SUGGEST THIS
8 TO YOU RIGHT NOW UNDER THE LAW OF THIS STATE WE
9 HAVE A RIGHT TO CALL VICTIM-IMPACT WITNESSES AND
10 WE'RE GOING TO CALL VICTIM-IMPACT WITNESSES BECAUSE
11 NOT ONLY DO YOU HAVE A RIGHT TO KNOW AS MUCH AS YOU
12 CAN FIND OUT ABOUT THE DEFENDANT BEFORE SENTENCING,
13 ALL RIGHT? BOTH THE GOOD AND THE BAD YOU HAVE A
14 RIGHT TO UNDERSTAND AS MUCH AS YOU CAN ABOUT THE
15 CRIMES THAT HE COMMITTED AND HOW HE DID IT AND WHAT
16 HE DID

17 BUT YOU ALSO HAVE A RIGHT TO COME TO KNOW
18 THESE VICTIMS THEY ARE NOT HERE YOU HAVE A RIGHT
19 TO LEARN SOMETHING ABOUT THEM WE'RE GOING TO CALL
20 FAMILY MEMBERS TO TALK TO YOU ABOUT THESE VICTIMS
21 BECAUSE THEY WERE HUMAN BEINGS AND THEY WERE HERE
22 WITH US AND YOU HAVE A RIGHT TO KNOW THAT AND
23 WE'RE GOING TO INTRODUCE THAT

24 AND I'M SUGGESTING TO YOU, LADIES AND
25 GENTLEMEN, NOW I'M GOING TO SUGGEST TO YOU KNOW THAT

1 THE EVIDENCE WE'LL SHOW -- AND HEAR ME HERE, PLEASE
2 -- THE EVIDENCE WILL SHOW THAT THIS LAWYER, YOUR
3 SOLICITOR, IS NOT GOING TO MAKE ANY OF THEM DO
4 ANYTHING THAT'S WHAT THE EVIDENCE IS GOING TO
5 SHOW, I SUGGEST TO YOU

6 I AIN'T GOING TO MAKE THEM COME UP HERE
7 AND TESTIFY BEFORE YOU YOU WAIT AND SEE YOU
8 THINK I'M MAKING ANYBODY DO ANYTHING -- IF YOU THINK
9 I'M FORCING PEOPLE INTO THIS COURTROOM -- LET'S SEE
10 WHAT THE EVIDENCE SHOWS

11 AS YOUR SOLICITOR I'VE GOT A JOB TO DO
12 IF I OFFEND ANY OF YOU IN THE WAY THAT I DO IT, THEN
13 YOU'VE GOT A NUMBER OF OPTIONS AVAILABLE TO YOU
14 ONE OF WHICH IS NOT TO VOTE FOR ME BUT DON'T HOLD
15 IT AGAINST THESE PEOPLE --

16 MR TINSLEY OBJECTION, YOUR HONOR
17 THIS IS NOT A CAMPAIGN OR CAMPAIGN SPEECH

18 THE COURT I DON'T THINK THAT WAS THE
19 OBJECTION WE ADDRESSED EARLIER LET'S MOVE ON

20 MR JONES LADIES AND GENTLEMEN, AS I GO
21 FORWARD I AM INCUMBENT TO EXPLAIN TO YOU AT THIS
22 POINT IN TIME THAT THE EVIDENCE BEING PRESENTED IN
23 THIS CASE IS FOR YOUR CONSIDERATION IN DETERMINING
24 THE NATURE OF THE CRIME THAT WAS COMMITTED AND THE
25 IMPACT THAT IT HAS HAD ON THE VICTIM'S THEMSELVES

1 AND THE LIVING MEMBERS OF THEIR FAMILY THAT LEFT
2 BEHIND AND WHAT, IF ANY, ABSENCE SOCIETY MIGHT
3 SUFFER AS A RESULT OF WHAT THIS DEFENDANT HAS DONE

4 OPENING STATEMENT BY MR TINSLEY

5 MR TINSLEY YOUR HONOR, I'LL HAVE A
6 MOTION, BUT I RESERVE THE RIGHT TO MAKE IT AT THE
7 CONCLUSION OF MY OPENING STATEMENT

8 THE COURT ALL RIGHT

9 MR TINSLEY THANK YOU, YOUR HONOR, MAY
10 IT PLEASE THE COURT LADIES AND GENTLEMEN OF THE
11 JURY, MY NAME'S BOB TINSLEY I'M THE PUBLIC
12 DEFENDER ABBEVILLE COUNTY AND GREENWOOD COUNTY AND
13 I LIVE JUST ACROSS THE ABBEVILLE COUNTY LINE IN
14 GREENWOOD COUNTY I GREW UP IN GREENWOOD MY
15 MOTHER'S FROM GREENWOOD MY FATHER'S FROM HODGES
16 HE WAS AN OLD COUNTRY LAWYER AND MY BROTHER IS A
17 REAL ESTATE LAWYER OVER IN GREENWOOD

18 I WANT TO THANK YOU RIGHT NOW -- I
19 HAVEN'T TALKED TO YOU MUCH, BUT IF YOU REMEMBER I
20 WAS OVER THERE WHEN WE DID SPEAK TO YOU AND ASK SOME
21 QUESTIONS THEN AND I WANT YOU TO RECALL THAT I
22 ASKED YOU AT THAT TIME TO CONSIDER THE MITIGATING
23 CIRCUMSTANCES THAT MAY ARISE IN THIS CASE, AND ASKED
24 YOU TO KEEP AN OPEN MIND AND AN OPEN HEART
25 THROUGHOUT THE TRIAL OF THE CASE

1 NOW I DON'T WANT TO APPROACH THIS
2 SITUATION IN ANY OTHER MANNER THAN LOGIC AND REASON
3 I WANT TO TALK TO YOU JUST A SECOND ABOUT THE LAW
4 NOW THE LAW IS DESIGNED TO LIMIT IN THIS CASE
5 AGGRAVATING CIRCUMSTANCES AS STATUTORY DEFINED
6 PROVEN BEYOND A REASONABLE DOUBT I WAS A LITTLE
7 MORE EXPANSIVE AS THE MITIGATING CIRCUMSTANCES
8 BECAUSE THE LAW DOES IN DEED FAVOR LIFE AND THE
9 MITIGATING CIRCUMSTANCES ARE GIVEN WHAT EVER WEIGHT
10 THAT YOU DEEM APPROPRIATE IN THIS CASE OR IN ANY
11 OTHER CASE LIKE THIS THAT IS THE LAW AND
12 MITIGATING CIRCUMSTANCES VARY IN EVERY CASE
13 OF COURSE, THE SOLICITOR TALKED TO YOU
14 ABOUT THE INCIDENT I DON'T KNOW TO BELABOR THE
15 INCIDENT THAT MUCH I'LL REFER TO IT FROM TIME TO
16 TIME AND YOU WILL SEE SOME VERY EXPLICIT AND GORY
17 PICTURES AND THAT OFTEN HAPPENS IN HOMICIDE CASES
18 I DEAL WITH HOMICIDES ALL THE TIME IN THESE TWO
19 COUNTIES UNFORTUNATELY THINGS HAPPEN
20 FIRST OF ALL, I'D LIKE TO SAY THAT YOU
21 THE JURY HAVE SPOKEN YOU'VE RETURNED YOUR VERDICT
22 AND DULY RESPECT YOUR VERDICT AND DO NOT ARGUE WITH
23 ANY OF YOUR VERDICTS WHATSOEVER RESPECT YOUR
24 DECISIONS SO I CAN APPRECIATE YOUR POSITIONS IN
25 THIS CASE

1 I WANT TO EMPHASIS TO YOU AS YOU CONSIDER
2 AND DELIBERATE THIS CASE THAT THE TERM LIFE, AS IT
3 RELATES TO LIFE IN PRISON, IS TO BE GIVEN ITS
4 ORDINARY AND PLAIN MEANING AS WELL AS THE TERM
5 DEATH TO BE GIVEN ITS PLAIN AND ORDINARY MEANING

6 I'LL TELL YOU A STORY ABOUT THE DEFENDANT
7 HERE TODAY NOW YOU HEAR A LOT ABOUT PSYCHOLOGICAL
8 PROBLEMS PEOPLE HAVE IN ABUSIVE CHILDHOODS AND THAT
9 SORT OF THING THERE WILL BE EVIDENCE SUBMITTED TO
10 YOU ALONG THOSE LINES BUT IN ADDITION TO THAT, I
11 WANT YOU TO CONSIDER SOMETHING EVEN WORSE
12 SOMETHING EVEN WORSE SOMETHING THAT HAS TO DO WITH
13 MY DEFENDANT, JOHN KENNEDY HUGHEY, AND THE ORGANIC
14 BRAIN DAMAGE THAT HE SUFFERED FROM IT

15 NOW I'M NOT IN HERE MINIMIZING WHAT HE'S
16 DONE NONE WHATSOEVER WHAT HE DID WAS WRONG IT
17 WAS TERRIBLY WRONG AND I'M AS SYMPATHETIC TO THE
18 FAMILIES OF THE DECEASED AS ANYONE IT'S HORRIBLE,
19 BUT WHAT IS THE RIGHT PUNISHMENT?

20 I TELL YOU ABOUT A YOUNG MAN WHO GREW UP
21 IN A HOME WITH SEVEN KIDS MOTHER IS DOLLY MAE
22 WELL, DOLLY MAE, THE PERSON, FIRST WAS A GOOD WOMAN
23 SHE WAS A GOOD WOMAN A SIMPLE WOMAN DOLLY
24 PARTICULARLY A BRIGHT WOMAN, BUT A GOOD WOMAN
25 SOMEHOW OR ANOTHER SHE GOT INVOLVED, TIED UP WITH A

1 MAN -- A WHITE MAN AND THEY HAD THREE CHILDREN
2 THE THREE OLDEST

3 AND LATER SHE BECAME THE WIFE OF JOHN
4 HENRY HUGHEY, WHO LATER CHANGED HIS NAME TO JOHN
5 HENRY SMITH, AS YOU'VE HEARD JOHN HENRY HUGHEY
6 AND THEY HAD FOUR KIDS AND THE THIRD OF WHICH WAS
7 JOHN KENNEDY HUGHEY, THE SIXTH OF THE SEVEN

8 WELL, MR. HUGHEY WAS BAD TO DRINK HE'D
9 GO OFF AND WORK CONSTRUCTION SEVERAL DAYS A WEEK OR
10 MOST OF THE WEEK AND THEN COME BACK ON THE WEEKEND
11 AND WHILE HE WHUPPED JOHN FROM TIME TO TIME, HIS
12 PRIMARY ABUSE WAS NOT AIMED AT JOHN, BECAUSE JOHN
13 HENRY WAS BOZO AND THEY CALLED JOHN KENNEDY LITTLE
14 BOZO HIS PRIMARY ABUSE WAS AIMED AT THE THREE
15 OLDER CHILDREN AND DOLLY MAE HUGHEY, HIS WIFE

16 BUT JOHN, THE NEXT TO THE YOUNGEST,
17 COMING ALONG AND HE'S WATCHING THIS HE'S WATCHING
18 THIS MAN AND HE'S WATCHING THIS MAN, AND I SUBMIT
19 TO YOU THAT YOU WILL HEAR TESTIMONY -- AND YOU'VE
20 ALREADY HEARD TESTIMONY THAT THIS IS JOHN HENRY
21 SMITH'S GUN -- JOHN HENRY HUGHEY SMITH I SUBMIT TO
22 YOU THAT YOU WILL HEAR TESTIMONY OF HIS VIOLENT ACTS
23 OBSERVED BY MR HUGHEY AS A CHILD

24 BUT THE PRIMARY TURNING POINT BEGAN WHEN
25 MR HUGHEY WAS FOUR YEARS OLD A DRUNKEN JOHN HENRY

1 SMITH JUMPED IN THE CAR JOHN KENNEDY HUGHEY GOT IN
2 THE CAR WITH HIM HE POPS IT IN REVERSE, FLOORED
3 THE CAR, AND OUT SWUNG JOHN KENNEDY HUGHEY AND
4 PEELED ALL THE WAY AROUND BACK TO HIS SKULL

5 THAT WAS THE FIRST OF APPROXIMATELY SIX
6 SERIOUS HEAD TRAUMAS SUFFERED BY JOHN KENNEDY
7 HUGHEY LEADING TO THE ORGANIC BRAIN DAMAGE THE
8 PHYSICAL BRAIN DAMAGE NOT THE PSYCHOLOGICAL AND
9 EMOTIONAL THAT HE ALSO SUFFERED

10 AND I WANT YOU TO CONSIDER THESE THINGS
11 IN THE CONTEXT OF THIS CASE WHAT MAKES UP THE
12 INDIVIDUAL CHARACTERISTICS OF THE DEFENDANT NOT AN
13 EXCUSE ABOUT WHAT HE DID, BUT THE REASONS HE FINDS
14 HIMSELF IN THIS SITUATION TODAY THE REASONS AND
15 I APPRECIATE YOUR CONSIDERATION

16 BUT HE WALKS ALONG WITH AN IQ OF EIGHTY
17 BORDERLINE INTELLECTUAL FUNCTIONING AND YOU'LL HEAR
18 SOME ADDITIONAL TESTIMONY AND I -- BELIEVE ME, I'M
19 GOING TO TRY TO KEEP IT AS SHORT AS POSSIBLE IT'S
20 GOT TO COVER SOME POINTS I KNOW WE'RE ALL READY TO
21 GO THIS IS SO CRUCIAL AND I ASK YOU TO KEEP AN
22 OPEN MIND AND AN OPEN HEART AND AN OPEN SOUL
23 LISTEN AS WE GO

24 AND AS WE COME ALONG IN LIFE AND HIS
25 DADDY IS DETERIORATING PRETTY BADLY, THE KIDS ARE

1 KIND OF -- OVER THREE -- ARE KIND OF GETTING A
2 LITTLE OLDER AND GETTING OUT, FINDS HIMSELF LATER ON
3 IN THE HOUSE OVER ON MAPLE STREET IT'S JOHN HENRY
4 SMITH, IT'S DOLLY MAE HUGHEY, AND JOHN KENNEDY
5 HUGHEY, AND OCCASIONALLY THE OTHER SIBLINGS WOULD
6 VISIT OR ONE MIGHT COME OVER AND STAY FOR A WHILE --
7 DONNY, DOROTHY

8 SO HE'S LIVING OVER THERE IN THIS HOME
9 AND MR SMITH -- MR. SMITH HUGHEY I CALL HIM -- HAS
10 RECEIVED A VERY SERIOUS HEAD INJURY HIMSELF ON A
11 CONSTRUCTION JOB AND HE IS DEBILITATED QUITE A
12 BIT SO THE HOUSEHOLD REALLY AT THIS TIME IS JOHN
13 KENNEDY HUGHEY AND HIS MOM, MS DOLLY MAE HUGHEY

14 AND JOHN IS SUFFERING FROM HIS OWN
15 LIMITATIONS AND DURING THIS TIME HE MEETS MS
16 JACKSON THAT SORT OF THING BEGINS BEFORE THEY HAD
17 THE CHILDREN AND THEN HIS LIFE TAKES A DRAMATIC
18 TURN FOR THE WORSE

19 IN SEPTEMBER OF '91 HIS MOTHER IS OVER AT
20 HIS SISTER RUBY'S HOUSE MOWING THE LAWN THIS IS
21 THE WOMAN WHO HAS TAKEN CARE OF THIS YOUNG MAN, IS
22 THE ONE HE LEANS ON FOR WHAT LITTLE SUPPORT HE'S
23 GOT AND A DRUNK FELLOW RUNS OFF THE ROAD AND HITS
24 HER AND KILLS HER RIGHT THERE ON THAT LAWNMOWER --
25 SISTER'S FRONT YARD THE EMOTIONAL SUPPORT OF JOHN

1 KENNEDY HUGHEY IS GONE

2 AND NOW YOU HAVE A MAN WHO FUNCTIONS AS A
3 THIRTEEN YEAR OLD, SEVENTH GRADE LEVEL AND YOU'LL
4 HEAR THE EXPERTS NOW YOU HAVE A MAN UNDER THESE
5 LIMITATIONS HIS DADDY NO HELP TO HIM HIS DADDY
6 SITS AT THE WINDOW AND WAITS FOR HIS MAMA TO COME
7 HOME TILL HE DIES A YEAR LATER

8 BUT JOHN, EVEN THOUGH HE'S GOTTEN
9 ABSOLUTELY NO COUNSEL OR HELP WITH THIS MATTER,
10 TRIES TO THE BEST OF HIS ABILITY TO CONTINUE HIS
11 LIFE AND HERE HE IS, LO AND BEHOLD, HAVING A
12 COUPLE OF KIDS WITH SHEKA JACKSON

13 SHE'S A YOUNG GIRL AND HE'S A YOUNG
14 MAN WHEN THIS TRAGEDY OCCURRED IN '95 HE WAS
15 TWENTY-SIX YEARS OF AGE THE MENTALITY OF A
16 THIRTEEN YEAR OLD

17 NOW WHEN HIS MOTHER DIED IN '91, SO FOUR
18 YEARS SOONER, HE WAS TWENTY-TWO STILL FUNCTIONING
19 AT A VERY ELEMENTARY LEVEL RESULTS OF HIS HEAD
20 INJURIES, TOTAL PICTURE

21 AND YOU WILL HEAR POSTTRAUMATIC STRESS,
22 THE BEREAVEMENT PROCESS, THE LACK OF ANY HELP FOR
23 THE YOUNG MAN AT THAT POINT IN HIS LIFE WHEN HE'S
24 REALLY -- EVEN THOUGH THERE WERE GOOD -- GOOD
25 PARTS WITH THE TWO CHILDREN THAT HE AND SHEKA HAD

1 TOGETHER, HIS LIFE TOOK ANOTHER NEGATIVE TURN

2 ALL OF THIS WILL BE EXPLAINED TO YOU

3 AND I'LL COME BACK TO IT IN THE END I JUST SUBMIT
4 TO YOU THE YOU NEED TO SEE BOTH SIDES OF THE COIN IN
5 THIS MATTER AND I UNDERSTAND WHAT MAKES THIS YOUNG
6 MAN UP AS AN INDIVIDUAL

7 NOW AS WE GO FORWARD IN THE TRIAL OF
8 PHASE TWO, I ASK YOU TO KEEP AN OPEN MIND, REALIZE
9 THE OPENNESS OF THE MITIGATION AND THE LAW ALLOWS
10 YOU TO RETURN A VERDICT OF LIFE IF YOU FIND NO
11 MITIGATION, NONE WHATSOEVER, ZERO, YOU CAN STILL --
12 YOU COULD FIND ALL THE AGGRAVATION IN THE WORLD, ALL
13 KINDS OF AGGRAVATION, AND THIS -- YOU KNOW, MURDER
14 IS AGGRAVATED YOU WILL FIND SOME MITIGATION I
15 SUBMIT TO YOU

16 BUT SHOULD YOU FIND NONE, THE LAW STILL
17 ALLOWS YOU TO CONSIDER AND RECOMMEND A SENTENCE OF
18 LIFE A SENTENCE OF LIFE IN PRISON THE LAW STILL
19 ALLOWS IT IF YOU FIND ALL KINDS OF AGGRAVATION AND
20 ZERO MITIGATION BUT I SUBMIT TO YOU IN THIS CASE
21 YOU WILL CERTAINLY BE ABLE TO FIND MITIGATION IN THE
22 CASE OF JOHN KENNEDY HUGHEY

23 I'M NOT GOING TO KEEP YOU ANY LONGER I
24 APPRECIATE YOUR CONSIDERATION I THANK YOU FOR THE
25 OPPORTUNITY TO SPEAK FOR MY CLIENT, PARTICULARLY IN

1 LIGHT OF HIS LIMITED CAPACITIES TO DO SO HIMSELF
2 ALTHOUGH HE TOOK THE STAND, AND HE NEVER DENIED THE
3 KILLINGS, I ASK YOU TO CONSIDER THAT HE NEVER GOT
4 UP AND SAID, NO, I DIDN'T -- I WASN'T THERE I
5 DIDN'T KILL THEM I DIDN'T DO ANYTHING WRONG

6 WELL, GRANTED HE TOLD HIS VERSION TO THE
7 BEST OF HIS ABILITY AS TO WHAT HAPPENED AT IT ALL
8 HAPPENED SO FAST, AS HE TESTIFIED TO SO I ASK YOU
9 TO RESOLVE ANY REASONABLE DOUBTS IN HIS FAVOR TO
10 CONSIDER THE OPTION OF RECOMMENDING THE LIFE
11 SENTENCE IN THIS CASE

12 AND I SUBMIT TO YOU THAT WHEN YOU HEAR
13 ALL OF THE EVIDENCE, ALL OF THE TESTIMONY, AND A
14 DEATH SENTENCE TO MR HUGHEY WON'T BRING ANYBODY
15 BACK AND I SUBMIT TO YOU WHEN YOU PUT ASIDE
16 EVERYTHING ELSE AND APPLY YOUR GOOD JUDGEMENT TO THE
17 WHOLE CIRCUMSTANCES INCLUDING ANY AND ALL
18 MITIGATION, CONSIDERING THE NATURE OF THE
19 RELATIONSHIP OF THE PARTIES, AND ALL THE
20 CIRCUMSTANCES, I SUBMIT TO YOU THAT A LIFE SENTENCE
21 IS THE PROPER RECOMMENDATION IN THIS CASE

22 NOW I APPRECIATE YOUR OPEN MINDEDNESS,
23 YOUR OBJECTIVITY, AND YOUR CONSIDERATION IN THIS
24 MATTER THANK YOU

25 THE COURT LADIES AND GENTLEMEN, AS I

1 INDICATED TO YOUR EARLIER, WE'RE GOING TO EXCUSE YOU
2 NOW FOR LUNCH BUT LET ME TELL YOU ONE ADDITIONAL
3 THING BEFORE I DO EXCUSE YOU FOR LUNCH

4 YOU WILL RECALL DURING THE TRIAL OF THIS
5 CASE I HAVE -- OR AT LEAST I BELIEVE THAT I HAVE
6 TOLD YOU THAT DURING THE COURSE OF THE TRIAL THERE
7 MAY BE SOME OBJECTION TO THE ADMISSION OF SOME
8 PARTICULAR PIECE OF EVIDENCE THERE MAY BE SOME
9 OBJECTION TO SOME ARGUMENT OR STATEMENT MADE BY A
10 LAWYER WHEN THE LAWYER IS ADDRESSING THE JURY AND
11 UNDERSTAND WHEN THOSE OBJECTIONS ARE MADE THAT'S
12 SOMETHING THAT I MUST RULE ON AS TO THE OBJECTION

13 KEEP IN MIND, HOWEVER, THAT YOU ARE NOT
14 IN ANY WAY TO CONSIDER THOSE OBJECTIONS OR THE
15 RULINGS THAT I MAKE IN ANY WAY IN ARRIVING AT YOUR
16 DECISION YOU ARE SIMPLY TO BASED YOUR DECISION
17 SOLELY UPON THE EVIDENCE THAT IS RECEIVED DURING THE
18 COURSE OF THE TRIAL AND DURING THE COURSE OF THIS
19 PARTICULAR PROCEEDING THAT IS HOW YOU WILL MAKE
20 YOUR DECISION BASED UPON THAT EVIDENCE

21 YOU ARE NEVER PERMITTED TO BASED YOUR
22 DECISION UPON ANY BIAS OR PREJUDICE OR PASSION OR
23 CAPRICE OR ANY OTHER ARBITRARY FACTOR YOUR
24 DECISION IN THIS CASE MUST BE BASED SOLELY UPON THE
25 EVIDENCE RECEIVED DURING THE COURSE OF THIS HEARING,

1 WHETHER IT BE WITNESSES TESTIMONY OR BY THE
2 INTRODUCTION OF SOME OTHER TYPE OF PHYSICAL EXHIBIT

3
4 DURING THE COURSE OF THE TRIAL, AS YOU
5 KNOW, LAWYERS ARE PERMITTED AS CERTAIN TIMES TO
6 ADDRESS THE JURY AND MAKE COMMENTS TO THE JURY THE
7 LAWYERS ARE PERMITTED TO ARGUE THE CASE TO THE JURY
8 THAT IS THEY'RE PERMITTED TO DISCUSS THEIR VIEW OF
9 THE EVIDENCE AND THEIR OPINIONS ABOUT THE EVIDENCE
10 AND WHAT THAT EVIDENCE MIGHT SUPPORT OR WHAT THAT
11 EVIDENCE MIGHT NOT SUPPORT

12 THEY'RE PERMITTED TO ARGUE TO YOU THAT
13 THE EVIDENCE SUPPORTS A PARTICULAR DECISION OR THE
14 EVIDENCE SUPPORTS SOME OTHER DECISION OR DOES NOT
15 SUPPORT A PARTICULAR DECISION AND THAT'S
16 PERMITTED THE LAWYERS ARE PERMITTED TO MAKE THOSE
17 ARGUMENTS TO YOU

18 AS I'VE INDICATED TO YOU EARLIER,
19 HOWEVER, THE LAWYERS ARGUMENTS OR THE LAWYERS
20 STATEMENTS ARE NOT EVIDENCE IN THE CASE AND YOU
21 ARE NOT AT ANY TIME TO CONSIDER THE ARGUMENTS OR THE
22 STATEMENTS OF THE LAWYERS AS BEING ANY EVIDENCE THAT
23 YOU WILL CONSIDER IN ARRIVING AT YOUR DECISION

24 YOU, OF COURSE, SHOULD LISTEN TO WHAT THE
25 LAWYERS TELL YOU IN THOSE STATEMENTS BECAUSE THEY

1 WILL SIMPLY BE TRYING TO ARGUE TO YOU THEIR POSITION
2 IN THE CASE AND WHAT THE EVIDENCE SUPPORTS OR DOES
3 NOT SUPPORT AND PERHAPS YOU MAY AGREE OR DISAGREE
4 WITH THE LAWYER'S POSITION AS TO THAT MATTER

5 BUT KEEP IN MIND AT ALL TIMES THAT YOUR
6 DECISION IN THIS CASE MUST NOT BE BASED UPON BIAS,
7 PREJUDICE, OR CAPRICE OR ANY ARBITRARY FACTOR, BUT
8 IT MUST BE -- AND IT MAY NOT BE BASED UPON THE
9 LAWYER'S ARGUMENTS OR STATEMENTS YOUR DECISION IN
10 THIS CASE MUST BE BASED SOLELY UPON THE EVIDENCE
11 RECEIVED DURING THIS HEARING AND THE LAW THAT WILL
12 BE PROVIDED YOU THAT IS APPLICABLE TO THE EVIDENCE
13 AS YOU DETERMINE IT TO BE IN ORDER TO ARRIVE AT YOUR
14 DECISION IN THE CASE

15 AND, OF COURSE, AS I'VE INDICATED, YOUR
16 DECISION IS SIMPLY ONE THAT IS FAIR AND JUST BASED
17 UPON YOUR VIEW OF THE EVIDENCE AND YOUR APPLICATION
18 OF THE LAW TO THAT EVIDENCE AS YOU DETERMINE IT TO
19 BE

20 SO WITH THAT IN MIND, HAVE A GOOD LUNCH
21 AS SOON AS YOU HAVE COMPLETED YOUR LUNCH THEY'LL
22 BRING YOU BACK TO THE JURY ROOM, AND THEN WE WILL
23 BEGIN WITH ACTUALLY RECEIVING EVIDENCE AT THAT TIME
24 HAVE A GOOD LUNCH

25 (JURY LEAVES COURTROOM AT 1 28 O'CLOCK P M)

1 THE COURT ARE ALL THE JURORS OUT? ALL
2 RIGHT, MR TINSLEY
3 MR TINSLEY YOUR HONOR, AT THIS POINT I
4 MOVE FOR A MISTRIAL OF PHASE TWO OF THIS CASE
5 STATE VERSUS REED IN THIS VERY COURTHOUSE HAS TOLD
6 THE SOLICITOR NOT TO SAY THE THINGS HE SAID THE
7 OPEN CASSET, THE EASY WAY OUT I REFER THE COURT TO
8 STATE VERSUS REED
9 THE COURT WAIT A MINUTE, PLEASE, MR
10 TINSLEY BEFORE YOU DO THAT, LET ME GET MR JONES
11 BACK IN HERE
12 MR TINSLEY WELL, I THOUGHT HIS LEAVING
13 LIKE THAT WAS HIGHLY UNUSUAL, PARTICULARLY RIGHT IN
14 FRONT OF THE JURY
15 AGENT (INAUDIBLE BY REPORTER)
16 MR TINSLEY WELL --
17 THE COURT JUST A MINUTE LET ME SEND
18 AND GET HIM BACK
19 THE REPORTER I DID NOT HEAR WHAT THAT
20 LADY SAID
21 THE COURT SHE SAID HE HAD TO MOVE HIS
22 CAR THAT IT WAS BLOCKING A S L E D AGENT BUT THE
23 JURY IS WALKING TO LUNCH THEY'RE NOT GOING IN AN
24 AUTOMOBILE
25 MR TINSLEY MY QUESTION IS WHY DIDN'T

1 HE JUST MENTION THAT TO YOUR HONOR AND THEN HE
2 WOULDN'T HAVE HAD TO RUN OUT IN FRONT OF THE JURY
3 THE COURT I DON'T KNOW BUT LET ME GET
4 HIM BACK HERE BEFORE WE ADDRESS ANY OF THOSE MATTERS
5 SO THAT HE CAN HEAR WHAT YOU'RE SAYING

6 SOLICITOR, MR TINSLEY'S GOT SOME MOTION
7 AND ARGUMENT HE'D LIKE TO MAKE I THOUGHT YOU'D
8 WANT TO BE HERE TO HEAR THAT

9 MR JONES YES, SIR THANK YOU

10 MR TINSLEY I MOVE FOR A MISTRIAL IN
11 PHASE TWO OF THE CASE, YOUR HONOR AS LIMITED TO
12 PHASE TWO IN THIS MOTION BASED UPON SOLICITOR'S
13 IMPROPER ARGUEMENTS HE WAS WARNED IN STATE VERSUS
14 REED IN THIS VERY COURTROOM TO NOT MAKE THOSE KIND
15 OF ARGUMENTS, QUOTE SPECIFICALLY "THE EASY WAY OUT,"
16 AND SPECIFICALLY "THE OPEN CASKET "

17 THOSE COMMENTS ARE INAPPROPRIATE AND
18 THEREFORE -- EVEN THOUGH I DID OBJECT IN A TIMELY
19 FASHION AND RESERVED THE RIGHT TO MAKE THIS MOTION
20 AT THIS TIME AND THE COURT RULED IN MY FAVOR ON
21 THAT AND ALSO GAVE A CURATIVE INSTRUCTION, I THINK
22 COUPLED WITH HIS COMMENT ON THE EVIDENCE IN PHASE --
23 TOWARDS THE END OF PHASE ONE WHERE HE WENT "HUM"
24 WHEN MR GARRETT WAS CROSSING MR GIRNDT I THINK
25 COUPLED -- THAT CLEARLY MR HUGHEY IS NOT BEING

1 AFFORDED A FAIR TRIAL BY THE PROSECUTOR IN THIS
2 CASE

3 MR JONES WELL, JUDGE, FIRST OF ALL, I
4 DON'T REVIEW THE REED CASE IN A SIMILAR FASHION MY
5 REVIEW OF THAT CASE IS THAT THE SUPREME COURT HAS
6 RULED THAT THAT STATEMENT IS NOT REVERSIBLE ERROR
7 THAT THE STATEMENT CONCERNING, THE SOLICITOR DID NOT
8 ERR IN TELLING THE JURY NOT TO TAKE THE EASY WAY
9 OUT

10 WHERE THEY SAID I WAS WRONG IS WHEN I
11 TOLD THEM THEY HAD TO HAVE THE COURAGE TO DO THE
12 RIGHT THING WHEN I SUGGESTED IT TOOK COURAGE,
13 GUTS, AND DETERMINATION THAT I WAS PUTTING THEM IN A
14 POSITION OF ADDRESSING THEIR OWN CHARACTER BUT
15 THEY SAID IT WAS OKAY TO REFER TO, TO NOT TAKING THE
16 EASY WAY OUT AND EVEN ALLOW THE USAGE OF THE TERM,
17 "THEY SHOULDN'T COP OUT " SO THE REED CASE DOES NOT
18 PROHIBIT THAT LANGUAGE, YOUR HONOR, ON PART OF THE
19 SOLICITOR

20 AND ALTHOUGH I DON'T HAVE THE SPECIFIC
21 CITE ON THE CASE -- I READ LAST NIGHT AND I'LL GET
22 IT FOR YOU OVER THE LUNCH BREAK -- THE SOLICITOR CAN
23 REFER TO OPEN CASKETS AND THAT'S BEEN RULED AS NOT
24 ERROR I'VE GOT -- I WOULDN'T HAVE SAID THAT IF I
25 HADN'T HAVE READ THAT LAST NIGHT IN THE CASE LAW --

1 SOUTH CAROLINA CASE LAW

2 THE COURT WELL, I UNDERSTAND THAT THERE
3 MAY BE SOME CASES I DON'T KNOW SPECIFICALLY
4 THERE MAY BE SOME CASES THAT DID NOT REVERSE THE
5 CASE BASED UPON THE FACT THAT THOSE PARTICULAR FACTS
6 WERE REFERRED TO BUT UNDERSTAND THAT IF I AT ANY
7 TIME FEEL THAT ANY ARGUMENT MADE BY A LAWYER GETS
8 CLOSE TO THE LINE ON THE ISSUE OF ARGUING PASSION OR
9 PREJUDICE OR CAPRICE -- AND I UNDERSTAND IN THE HEAT
10 OF ARGUMENT OR BATTLE YOU MAY HAVE A TENDENCY TO SAY
11 THINGS THAT PERHAPS YOU DON'T HAVE THE OPPORTUNITY
12 TO LOOK BACK AND REFLECT ON AND, OF COURSE, I CAN,
13 HOPEFULLY, JUDGE THAT MORE OBJECTIVELY THAN CAN THE
14 PERSON ACTUALLY ENGAGING IN THE ARGUMENT AND
15 THAT'S THE REASON THAT I TRY TO PAY CAREFUL
16 ATTENTION TO THE ARGUMENTS MADE BY THE LAWYERS

17 IF I FEEL AT ANY TIME THAT IT GETS CLOSE
18 TO THE POINT OF APPEALING TO ANY PREJUDICE OR
19 PASSION OR CAPRICE OF THE JURY, THEN I'M GOING TO
20 SUSTAIN ANY OBJECTION TO THAT AND I WILL DO THAT
21 WHETHER OR NOT IT CONSTITUTES A REVERSIBLE ERROR ON
22 MY PART TO ADMIT IT IF I FEEL IT NOT APPROPRIATE
23 OR IN ANY WAY UNFAIR, I'M GOING TO SUSTAIN SUCH AN
24 OBJECTION AND PROHIBIT THAT TYPE OF ARGUMENT

25 I DO, HOWEVER, FEEL IN THIS PARTICULAR

1 CASE THAT I HAVE INSTRUCTED THE JURY THAT THEY'RE
2 NOT TO CONSIDER THE LAWYER'S ARGUMENTS IN ANY
3 FASHION IN ARRIVING AT THEIR DECISION THEY'RE NOT
4 TO BASE ANY DECISION UPON THE PASSION, PREJUDICE, OR
5 CAPRICE IN ANY WAY OR ANY OTHER ARBITRARY FACTOR

6 AND I BELIEVE THAT THE INSTRUCTION GIVEN
7 THE JURY GIVES THEM A CLEAR UNDERSTANDING AS TO
8 THEIR DUTY AND OBLIGATION IN THIS CASE AND I DON'T
9 FEEL THAT ANY COMMENT OR STATEMENT BY THE SOLICITOR
10 AROUSE TO THE LEVEL THAT WOULD PROHIBIT THIS JURY
11 FROM FAIRLY CONSIDERING THE EVIDENCE TO BE RECEIVED
12 AND RENDER A VERDICT BASED UPON THAT EVIDENCE

13 AND THEREFORE FIND THAT THE COMMENTS UP
14 TO THIS POINT HAVE NOT RESULTED IN ANY PREJUDICE TO
15 THE DEFENDANT THAT WOULD RESULT IN GRANTING THE
16 DEFENDANT'S MOTION FOR A MISTRIAL, AND THEREFORE
17 DENY THAT MOTION

18 MR TINSLEY YOUR HONOR, MY SECOND
19 MOTION IS TO HAVE THE COURTROOM CLEARED THERE WAS
20 OBVIOUSLY SNICKERING GOING ON DURING MY OPENING
21 STATEMENT AS OBSERVED BY SEVERAL PARTIES AND THAT
22 IS HIGHLY IMPROPER, YOUR HONOR

23 THE COURT OKAY

24 MR TINSLEY AND TOTALLY PREJUDICIAL

25 THE COURT ALL RIGHT, I'LL ADDRESS IT

1 LET ME SAY THIS FOR ALL SPECTATORS, WHETHER THEY
2 HAPPEN TO BE MEMBERS OF THE FAMILY OF THE JACKSON'S
3 OR THE HARRIS'S OR THE HUGHEY'S OR ANYBODY ELSE THAT
4 HAPPENS TO BE HERE, AS A SPECTATOR IN THIS CASE
5 UNDERSTAND THAT A JURY HAS AN OBLIGATION AND A DUTY
6 TO BE ABLE TO CAREFULLY CONSIDER ALL EVIDENCE
7 RECEIVED DURING THE TRIAL OF THIS CASE IN ORDER
8 FOR THEM TO FAIRLY CONSIDER THAT EVIDENCE IT'S
9 IMPORTANT THAT THEY BE ABLE TO FAIRLY CONSIDER IT IN
10 THE CONTEXT IN WHICH IT IS GIVEN WITHOUT BENEFIT OF
11 ANY PERHAPS REACTIONS, WHETHER IT BE BY LAWYERS,
12 WHETHER IT BE BY SPECTATORS, WHETHER IT BE BY FAMILY
13 MEMBERS OR EVEN COURT PERSONNEL THE JURIES MUST
14 GIVE GREAT ATTENTION TO DETAIL AND GIVE CAREFUL
15 ATTENTION TO WITNESSES AS THEY TESTIFY THE JURY
16 WILL DECIDE WHAT EVIDENCE THEY WILL ACCEPT, WHAT
17 EVIDENCE THEY WILL REJECT IT IS UNFAIR TO A JURY
18 PANEL SITTING HERE AND SELECTED FOR THAT PURPOSE TO
19 HAVE REACTIONS FROM THE PUBLIC OR REACTIONS FROM
20 SPECTATORS IN THE COURTROOM REGARDING EVIDENCE THAT
21 IS RECEIVED

22 I CAN RECOGNIZE FULLY THAT THERE ARE
23 PERSONS IN THIS COURTROOM THAT HAVE GREAT FEELINGS
24 ABOUT THIS CASE THEY HAVE FEELINGS ABOUT HOW THIS
25 CASE SHOULD BE RESOLVED THEY HAVE FEELING AS TO

1 WHAT A JURY'S DECISION SHOULD BE BUT UNDERSTAND
2 THAT IS A DECISION FOR THE JURY IT IS NOT A
3 DECISION FOR US OR FOR SPECTATORS
4 SO PLEASE KEEP IN MIND -- AND I'M SIMPLY
5 GIVING YOU THIS WARNING IN ADVANCE, AND I PERHAPS
6 SHOULD HAVE ADDRESSED IT EARLIER -- BUT I'LL GIVE
7 YOU THIS WARNING IN ADVANCE, IF THERE IS ANY
8 REACTION, IF THERE IS ANY PERSON IN THIS COURTROOM
9 THAT FEELS THAT THEY CANNOT CONTROL THEIR EMOTIONS
10 RELATING TO TESTIMONY OR EVIDENCE THAT WILL BE
11 RECEIVED DURING THIS PROCEEDING, UNDERSTAND THAT YOU
12 MUST NOW EXCUSE YOURSELF FROM ANY FURTHER PRESENCE
13 HERE IN THE COURTROOM BECAUSE ANY OUTBURST, ANY
14 DISPLAYS OF EMOTION, ANY REACTIONS TO ANY TESTIMONY
15 OR ARGUMENTS OF THE LAWYERS OR EVIDENCE RECEIVED
16 WILL NOT IN ANY WAY BE TOLERATED
17 THE JURY HAS A DIFFICULT ENOUGH DECISION
18 TO MAKE WITHOUT THE BENEFIT OF BEING DISTRACTED BY
19 PERSONS IN THE COURTROOM EXPRESSING THEIR OWN
20 OPINIONS OR VIEWS ABOUT THE EVIDENCE OR ANY MATTERS
21 THAT OCCUR HERE IN THE COURTROOM
22 SO PLEASE KEEP THAT IN MIND AND LET ME
23 SAY FROM THE OUTSET IF THERE IS ANY PERSON THAT DOES
24 NOT FEEL FOR WHATEVER REASON THAT YOU CANNOT SIT
25 HERE DURING THIS PROCEEDING, THAT YOU CANNOT

1 MAINTAIN DECORUM AND CONTROL YOUR EMOTIONS, AND FEEL
2 AT ANY TIME THAT YOU HAVE TO REACT TO EVIDENCE, I'M
3 GOING TO ASK YOU AT THIS TIME TO PLEASE LEAVE AND DO
4 NOT MAKE YOURSELF PRESENT HERE AT ANY FURTHER STAGE
5 OF THIS TRIAL

6 SO PLEASE KEEP THAT IN MIND I DO NOT
7 WANT TO HAVE TO ADDRESS THAT AGAIN LATER ON
8 BECAUSE IF I DO I'LL HAVE TO HANDLE IT IN A
9 DIFFERENT FASHION THAN THE MANNER IN WHICH I'M
10 HANDLING AT THIS TIME

11 SO WITH THAT SAID, COURT'S IN RECESS
12 UNTIL 2 45

13 MR TINSLEY WHERE IS JURY, YOUR HONOR,
14 EATING TODAY, YOUR HONOR?

15 THE COURT THEY'RE AT THE VILLAGE GRILL
16 TWO-FORTY-FIVE

17 MR TINSLEY THE VILLAGE GRILL

18 (COURT IN RECESS)

19 (COURT RECONVENES AT 3 00 O'CLOCK P M)

20 THE COURT THANK YOU BE SEATED ANY
21 MATTERS TO BE ADDRESSED BEFORE THE JURY'S BROUGHT
22 IN?

23 MR JONES IF IT PLEASE THE COURT, YOUR
24 HONOR I'D LIKE TO MOVE AT THIS TIME THAT THE -- TO
25 INTRODUCE ALL THE EVIDENCE THAT WAS ADMITTED BY YOUR

1 HONOR IN THE FIRST PHASE OF THIS TRIAL IN THE
2 GUILT/INNOCENCE PHASE I'D LIKE TO MOVE THAT IT BE
3 INTRODUCED AND MADE A PART OF THE RECORD FOR THE
4 SECOND TRIAL AT THIS POINT IN TIME

5 THE COURT ALL RIGHT MR TINSLEY

6 MR TINSLEY YOUR HONOR, WITH THE
7 EXCEPTION OF PREVIOUSLY OBJECTED TO EXHIBITS THAT
8 WERE INTRODUCED OVER THE OBJECTION, WE WOULD HAVE NO
9 OBJECTION TO THAT INTRODUCTION AND, IN FACT, WOULD
10 -- WOULD REQUEST THAT OURS BE INCLUDED ALSO AT THIS
11 POINT, SUBJECT TO PRIOR OBJECTIONS ON THE PIECES
12 THAT WERE ADMITTED

13 THE COURT ALL RIGHT, ALL EVIDENCE
14 OFFERED IN THE GUILT PHASE OF THE TRIAL IS ADMITTED
15 SUBJECT TO ANY PREVIOUS OBJECTION MADE

16 MR JONES JUDGE, IN THAT REGARD I WOULD
17 LIKE JUST SO THAT I COULD -- SO THE JURY WOULD KNOW
18 THAT IT HAS BEEN INTRODUCED, TO MAKE THAT MOTION IN
19 THEIR PRESENCE

20 THE COURT YOU MAY

21 MR JONES OR AT LEAST HAVE YOU INSTRUCT
22 THEM THAT THE MOTION HAS BEEN MADE, HAVE YOU
23 INSTRUCT THEM THAT ALL OF THE EVIDENCE IN THE FIRST
24 TRIAL HAS BEEN INTRODUCED AND ADMITTED INTO EVIDENCE
25 IN THIS PHASE OF THE CASE

1 THE COURT YOU MAY

2 MR JONES ALL RIGHT, SIR

3 THE COURT AND I WILL SIMPLY SAY THAT IT
4 IS ADMITTED THE DEFENDANT ALREADY HAVING STATED
5 HIS POSITION AS TO THE OBJECTION PREVIOUSLY MADE
6 BEING RENEWED AND REMAINING

7 MR JONES YOUR HONOR, I'D LIKE TO PASS
8 UP FOR YOUR EWDIFICATION AT THIS TIME A COPY OF A
9 STATEMENT GIVEN BY KATRINA HORTON, A WITNESS THAT WE
10 LOCATED OVER LUNCH AS TO THE DEFENDANT'S CHARACTER,
11 A FORMER GIRLFRIEND OF THE DEFENDANT, AND JOHNNY MAE
12 DAVETTE, A FORMER GIRLFRIEND OF THE DEFENDANT ONE
13 OF WHICH, MS JOHNNY MAE DAVETTE HAS A CHILD BY THE
14 DEFENDANT WE PROVIDE THE DEFENSE WITH A COPY OF
15 THE SYNOPSIS OF THOSE STATEMENTS

16 THE COURT ALL RIGHT, MR TINSLEY

17 MR TINSLEY YOUR HONOR, WE WOULD
18 CLEARLY OBJECT TO THESE STATEMENTS AND WITNESSES AND
19 GO BACK TO THE FACT THEY ARE LATE IN COMING THE
20 WAY I UNDERSTAND THE RULING ON IT, ANY OFFERED IN
21 AGGRAVATION HAD TO BE PROVIDED TO THE DEFENSE WELL
22 BEFORE TRIAL AND THIS IS -- YOU KNOW, INTO THE
23 PHASE TWO IT'S UNDULY PREJUDICIAL, IT'S ROUND-UP
24 TESTIMONY IT'S OFFERED TO -- AT AN IMPROPER STAGE
25 IN THE PROCEEDING IF IT WERE TO COME IN, WHICH I

1 WOULD HAVE OBJECTED TO IN PHASE ONE, IT WOULD HAVE
2 BEEN MORE APPROPRIATE TO COME IN AT PHASE ONE
3 AND TO ADMIT THIS KIND OF -- THESE KINDS
4 OF STATEMENTS AT THIS POINT WOULD SO UNDULY
5 PREJUDICE THE DEFENDANT THAT THERE IS -- IT'S CLEAR
6 THAT HE COULD NOT RECEIVE A FAIR TRIAL I MEAN, HE
7 DID NOT, IN FACT, SHOOT THESE WOMEN HE DID NOT, IN
8 FACT -- HE HAS NOT, IN FACT, BEEN CONVICTED ON
9 THESE

10 THIS IS JUST CLEARLY, CLEARLY DESIGNED TO
11 INFLAME THE PASSIONS IT'S NOT A LISTED MATTER OF
12 STATUTORY AGGRAVATION AND WE FEEL WE HAVEN'T HAD A
13 CHANCE TO RESEARCH, REVIEW, INTERVIEW, LOCATE
14 DISPUTING WITNESSES

15 THE STATE IS NOT ENTITLED IN THE
16 AGGRAVATION PHASE TO KEEP ADDING THESE TYPE THINGS
17 THEY'RE ADDING PARTICULARLY THESE TWO WITNESSES IN
18 ADDITION TO THE THREE THEY TRIED TO ADD THIS
19 MORNING, TWO OF WHICH THEY WILL BE ADDING OVER OUR
20 OBJECTION, AND TO ADD THESE TWO AT THIS TIME WOULD
21 CLEARLY DENY FUNDAMENTAL FAIRNESS TO MR HUGHEY

22 THE COURT ALL RIGHT, SOLICITOR, WHAT IS
23 THE REASON THAT THESE WITNESSES OR THE SUBSTANCE OF
24 THEIR TESTIMONY HAVE NOT BEEN PREVIOUSLY PROVIDED?
25 IT BEING OFFERED AS A CIRCUMSTANTIAL AGGRAVATION?

1 MR JONES NUMBER ONE, YOUR HONOR, WE
2 PREVIOUSLY NOTIFIED THE DEFENSE THAT WE DID INTEND
3 TO INTRODUCE PRIOR BAD ACTS OF THE DEFENDANT AS TO
4 HIS CHARACTER THAT'S IN OUR NOTICE AND
5 CIRCUMSTANCES IN AGGRAVATION

6 THE COURT WELL, I UNDERSTAND THAT BUT
7 THAT'S SORT OF A BROAD, GENERAL CATEGORY, WOULDN'T
8 YOU AGREE?

9 MR JONES YES, SIR, BUT WE WERE NOT
10 REQUIRED AND ARE NOT UNDER THE RULED OF NOTIFYING
11 HIM THE NAMES OF ANY WITNESSES THAT WE INTEND TO
12 CALL IN THIS PHASE -- IN THE PENALTY PHASE
13 ACTUALLY, YOU KNOW, THE RULES THAT WE REQUIRE TO
14 GIVE THEM NAMES OF WITNESSES BEFORE THEY TESTIFY IS
15 ONE THAT IS IN THE JUDGE'S DISCRETION ON THAT
16 STANDPOINT

17 WE'RE NOT REQUIRED TO GIVE THEM THESE
18 SPECIFIC INSTANCES, YOUR HONOR, BUT LET ME POINT
19 THIS OUT WE DIDN'T HAVE THEM WE DIDN'T FIND
20 THESE PEOPLE UNTIL TODAY I MEAN LITERALLY, I CAN
21 RON DAVENPORT TO THE WITNESS STAND AND HE CAN
22 EXPLAIN TO YOU WHAT PROCESS HE WENT THROUGH THIS
23 MORNING IN LOCATING THESE WITNESSES

24 IF THE COURT IS INTERESTED, AND IN
25 FAIRNESS, IF A PERSON HAD KNOWN ABOUT THESE

1 WITNESSES WHEN THESE LAWYERS MET WITH HIM OVER A
2 YEAR AGO IS THE DEFENDANT THEY KNEW WHAT PRIOR BAD
3 ACTS WE WERE GOING TO INTRODUCE HE KNEW -- THESE
4 ARE TWO WOMEN THAT HE DATED, ONE OF WHICH HE HAS A
5 CHILD BY, DURING THE TIME THAT HE WAS HAVING
6 CHILDREN BY THE VICTIM IN THIS CASE, SHEKA

7 THEY BOTH HAVE STATED THAT HE DREW A GUN
8 ON THEM THEY BOTH HAVE STATED AS TO HIS BAD
9 CHARACTER AND TO HOW THEY FEEL ABOUT HIS PROPENSITY
10 FOR VIOLENCE ALL OF THESE THINGS GO TO HIS
11 CHARACTER, YOUR HONOR, WHICH IS CLEARLY ADMISSABLE
12 IN THIS PHASE I MEAN, WE'RE NOT TALKING ABOUT A
13 LOT OF EVIDENCE HERE.

14 THE COURT I UNDERSTAND WHAT WE'RE
15 TALKING ABOUT

16 MR JONES. OKAY

17 THE COURT. WHAT I'M SAYING IS THE
18 PURPOSE OF THE STATUTE REQUIRING THE DEFENDANT TO BE
19 PUT ON NOTICE AS TO WHAT EVIDENCE THE STATE WOULD
20 OFFER IN AGGRAVATION OBVIOUSLY IS TO GIVE THE
21 DEFENDANT A CHANCE TO BE ABLE TO REASONABLY RESPOND
22 TO THAT INFORMATION SO IF YOU JUST TELL THE
23 DEFENDANT, WELL, WE'RE GOING TO BRING UP ANYTHING
24 THAT YOU'VE EVER DONE BAD, THAT REALLY DOESN'T PUT
25 HIM ON NOTICE OF ANYTHING

1 IF YOU'RE GOING TO GIVE HIM NOTICE OF A
2 SPECIFIC INCIDENT WHERE HE'S PULLED A SHOTGUN OR
3 SIMILAR FACTS THAT MIGHT BE SIMILAR TO THOSE
4 INVOLVING THIS CASE, THEN OBVIOUSLY IF YOU SAY,
5 WELL, WE HAVE A WITNESS TO TESTIFY IN JULY OF 1995
6 THAT YOU PULLED A GUN ON HER AND THREATENED HER
7 THEN THE DEFENDANT HAS AN OPPORTUNITY TO RESPOND TO
8 THAT EVIDENCE BY LOCATING ANY OTHER WITNESS THAT
9 MIGHT HAVE KNOWLEDGE OF THAT PARTICULAR INCIDENT,
10 AND HE CAN RESPOND TO THE -- TO THAT EVIDENCE

11 HE CAN'T RESPOND TO IT -- REASONABLY
12 RESPOND TO IT IF HE HAS NOTICE OF IT FIVE MINUTES
13 BEFORE IT'S TO BE OFFERED THAT'S WHAT CONCERNS ME

14 MR JONES YES, SIR, WELL --

15 THE COURT AND I THINK -- I THINK -- I
16 UNDERSTAND THAT YOU'RE NOT REQUIRED AND I'M NOT
17 SAYING THAT YOU'RE REQUIRED TO LIST EVERY SPECIFIC
18 BAD ACT OR EVERY SPECIFIC PIECE OF EVIDENCE AND THE
19 TESTIMONY RELATING TO IT YOUR NOT REQUIRED TO GIVE
20 THEM THAT INFORMATION IN ADVANCE BUT THE PURPOSE
21 OF THE NOTICE OF REQUIREMENT IS TO GIVE THEM AN
22 OPPORTUNITY TO BE ABLE TO RESPOND

23 IN A CASE SUCH AS THIS OR IN EVIDENCE
24 SUCH AS THIS, YOU DON'T HAVE THAT OPPORTUNITY IF YOU
25 DON'T KNOW THE SUBSTANCE OF THAT EVIDENCE OR THE

1 TESTIMONY OF THAT WITNESS

2 THAT BEING THE CASE, THERE WOULD BE NOT
3 REASON THE INTENT OF THE NOTICE OF REQUIREMENT
4 WOULD NEVER BE COMPLIED WITH BECAUSE YOU COULD JUST
5 SIMPLY SAY WE'RE GOING TO PUT UP EVERYTHING WE KNOW
6 THAT'S BAD AND THAT DOESN'T HELP THAT DOESN'T
7 NOTIFY THE DEFENDANT OF ANYTHING SPECIFICALLY

8 MR JONES NO, SIR, BUT -- AND IF YOU
9 WILL ALLOW ME JUST BRIEFLY --

10 THE COURT SURE

11 MR JONES -- PRESENT YOU MY POSITION
12 YOU MAY HAVE RECALLED DURING THE GENERAL VOIR DIRE
13 OF THIS JURY I WAS MAKING NOTES ABOUT PARTICULAR
14 JURORS, ONE OF WHICH SAID, "THE DEFENDANT THREATENED
15 MY SISTER I CAN'T SERVE ON THIS CASE BECAUSE HE
16 THREATENED MY SISTER " I DIDN'T KNOW ANYTHING ABOUT
17 THAT PERSON UNTIL SHE SAID THAT I MEAN, I CAN'T GO
18 OUT AND SCOUR THIS COUNTY LOOKING FOR ALL THE PEOPLE
19 THAT HE'S THREATENED OR TRIED TO HARM

20 THE COURT IS THAT WHO THIS WITNESS IS?

21 MR JONES NO, SIR, BUT IN THAT SAME
22 FRAME, I DIDN'T HAVE THIS INFORMATION I DIDN'T
23 WITHHOLD INFORMATION FROM THEM I DIDN'T HAVE THE
24 INFORMATION ABOUT THESE WITNESSES

25 THE COURT OKAY

1 MR JONES I DIDN'T KNOW -- I DIDN'T
2 BEGIN TO GATHER ENOUGH EVIDENCE ON THIS DEFENDANT
3 UNTIL HE TOOK THE STAND AND BEGAN TELLING US ABOUT
4 PRIOR MARRIAGES HE ADMITTED THAT HE HAD A PRIOR
5 MARRIAGE WITH A PRIOR CHILD I DIDN'T KNOW ABOUT
6 THAT I DON'T KNOW ALL ABOUT HIM I FOUND OUT SOME
7 WHEN HE TOOK THE STAND AND WE BEGAN INVESTIGATING
8 FROM THAT POINT IN TIME AND WE FOUND THEM TODAY

9 IN OTHER WORDS, I CAN UNDERSTAND HOW THE
10 COURT COULD RULE THAT IF I WITHHELD THIS INFORMATION
11 THE STATE SHOULD NOT BE ALLOWED TO PRESENT IT BUT
12 WHEN WE CONTINUALLY INVESTIGATE THE CHARACTER OF
13 THIS DEFENDANT AND LEARNED THESE THINGS ALONG THE
14 WAY, AND WE GIVE THEM THE INFORMATION
15 INSTANTANEOUSLY TO OUR FINDING OUT ABOUT IT, THEN I
16 THINK WE OUGHT TO BE ALLOWED TO PRESENT IT BECAUSE
17 IT DOES GO TO HIS CHARACTER

18 CLEARLY IT'S ADMISSABLE EVIDENCE WHAT
19 WE'RE TALKING ABOUT NOW IS THE TIMELINESS OF IT
20 AND WHAT I'M SUGGESTING TO THE COURT THAT SHOULD THE
21 STATE BE PENALIZED SIMPLY BECAUSE WE FOUND OUT
22 SOMETHING LATE -- WHAT IF SOMEBODY COMES IN -- I
23 DON'T MEAN TO GET INTO WHAT IF'S -- BUT WHAT I'M
24 SUGGESTING IS IN THIS INSTANCE, YOUR HONOR, WE DID
25 NOT HAVE THIS INFORMATION

1 YOU CAN QUESTION THESE INDIVIDUALS AS TO
2 WHEN THEY WERE CONTACTED AND BY WHOM THEY WERE
3 CONTACTED FOR THE FIRST TIME AND I ASSURE YOU THAT
4 THEY WILL TELL YOU UNDER OATH, TODAY WAS THE FIRST
5 TIME THEY GOT A NOTICE FROM US AND WE DIDN'T KNOW
6 ABOUT IT UNTIL HE TOOK THE STAND AND TOLD US THAT HE
7 HAD A CHILD BY ANOTHER WOMAN

8 IT WAS THEN THAT WE STARTED LOOKING INTO
9 THAT, JUDGE I DIDN'T KNOW HE HAD OTHER CHILDREN
10 OUT THERE BEFORE THIS TRIAL STARTED AND WHEN WE
11 FOUND THE ONE WITH THE OTHER CHILDREN, SOMEHOW WE
12 GOT NOTICED ABOUT THE OTHER ONE BECAUSE I THINK
13 THEY KNEW ABOUT EACH OTHER BASED ON --I'M NOT SURE
14 EXACTLY HOW WE FOUND THE ONE THAT DOESN'T HAVE A
15 CHILD BY HIM BUT WE DIDN'T KNOW ABOUT HER, I DON'T
16 THINK, UNTIL WE FOUND THE ONE THAT DID HAVE THE
17 CHILD

18 THE COURT IS THAT JOHNNY MAE DAVETTE?

19 MR JONES YES, YOUR HONOR

20 THE COURT AND YOU'RE SAYING THAT YOU
21 DIDN'T -- YOU'D NEVER HEARD OF JOHNNY MAE DAVETTE,
22 DIDN'T KNOW ANYTHING ABOUT THIS RELATIONSHIP WITH
23 THE DEFENDANT UNTIL TODAY?

24 MR JONES UNTIL HE TESTIFIED THAT HE
25 HAD A CHILD BY ANOTHER WOMAN

1 THE COURT WELL, HOW DID THAT GIVE YOU
2 THAT INFORMATION SINCE -- IF HE DIDN'T MENTION HER
3 NAME?

4 MR JONES I TURNED TO MY INVESTIGATOR
5 AND SAID, LOOK, THERE'S SOMEBODY OUT THERE THAT HE'S
6 GOT A KID BY I WANT TO KNOW IF HE'S SUPPORTING
7 THAT KID, IF HE'S GIVING THAT KID ANY MONEY, AND HOW
8 HE TREATED THAT BOY. AND THEY -- I DON'T KNOW WHAT
9 -- WHAT -- WHAT METHOD THEY USED TO LOCATE HER BUT
10 WE FOUND HER AS A RESULT OF INVESTIGATION

11 THE COURT DID YOU ASK SOME MEMBER OF
12 THE JACKSON OR HARRIS FAMILY IF THEY KNEW OF THAT
13 RELATIONSHIP?

14 MR HARRIS I REMEMBER HE USED TO GO

15 MR JONES HUH?

16 MR HARRI JOHNNY MAE DAVETTE

17 MR JONES YOU REMEMBER HE USE TO GO
18 WITH HER?

19 MR HARRIS YES

20 MR JONES DID YOU KNOW HE HAD CHILDREN
21 BY HER?

22 MR HARRIS YES

23 MR JONES DID YOU TELL ME THAT BEFORE
24 TODAY?

25 MR HARRIS NO, SIR

1 THE COURT WELL, I UNDERSTAND BUT
2 THAT'S WHAT I'M TALKING ABOUT, SOLICITOR THIS IS -
3 - THIS IS INFORMATION THAT'S AVAILABLE TO THE STATE
4 OBVIOUSLY MONTHS AGO

5 MR JONES AND THE DEFENSE

6 MR TINSLEY WELL --

7 MR JONES. IN OTHER WORDS --

8 THE COURT. YOUR MISUNDERSTAND ME THE
9 PURPOSE OF A NOTICE OF WHAT EVIDENCE THE STATE
10 INTENDS TO OFFER IN AGGRAVATION --

11 MR JONES YES, SIR

12 THE COURT -- THE PURPOSE OF THAT NOTICE
13 IS TO GIVE THE DEFENSE THE OPPORTUNITY TO BE ABLE TO
14 RESPOND TO IT IF THEY WISH TO

15 MR JONES RIGHT

16 THE COURT IF THEY DON'T KNOW OF IT THEN
17 THEY CAN'T DEVELOP THEIR RESPONSE TO IT OR DETERMINE
18 WHAT WITNESSES THEY NEED TO RESPOND OBVIOUSLY, THE
19 DEFENDANT'S NOT ON NOTICE JUST TO BRING EVERYBODY
20 THAT MIGHT POTENTIALLY BE A WITNESS IN THIS CASE
21 DEPENDING UPON WHAT THE STATE SHOWED

22 IF THAT WERE THE CASE, THERE WOULD BE NO
23 REQUIREMENT OF NOTICE TO THE DEFENDANT, BECAUSE YOU
24 WOULD -- IT WOULD JUST SIMPLY BE AS CASES USED TO BE
25 TRIED, THE STATE WOULD PUT UP WHATEVER THEY HAD AND

1 THE DEFENSE WOULD RESPOND TO IT IF THEY COULD

2 MR JONES WELL, JUDGE, IN MY ARGUMENT
3 I'D LIKE TO CITE THE CASE OF GREY VERSUS NETHERLAND
4 THE DEFENDANT DOES NOT HAVE A FEDERAL CONSTITUTIONAL
5 RIGHT TO NOTICE THE EVIDENCE THAT THE STATE INTENDS
6 TO INTRODUCE TO PROVE IN THE PENALTY PHASE THAT THE
7 DEFENDANT COMMITTED A PRIOR MURDER OR PRIOR BAD ACT
8 THAT'S A 1996 CASE, JUDGE IT'S FEDERAL LAW IT'S
9 UNITED STATES SUPREME COURT CASE, 116 SUPREME COURT
10 2074, A 1996 CASE

11 YOUR HONOR, AGAIN, IT'S NOT INFORMATION
12 THAT WE HAD IN OUR POSSESSION AND IT'S NOT
13 INFORMATION THAT WE WOULD HAVE NECESSARILY -- WE
14 NOTICED THEM THAT WE INTENDED TO GO FORWARD WITH
15 PRIOR BAD ACTS ON THE PART OF THE DEFENDANT WE --

16 THE COURT I CAN APPRECIATE THAT

17 MR JONES YES, SIR

18 THE COURT I ASSUME THAT WHEN YOU NOTICE
19 SOMEONE THAT YOU'RE GOING TO INTRODUCE EVIDENCE OF
20 PRIOR BAD ACTS YOU KNOW WHAT PRIOR BAD ACTS YOU
21 INTEND TO OFFER YOU DIDN'T?

22 MR JONES WELL, I KNEW THAT WE HAD
23 SOME I KNEW THAT WE HAD A PRIOR CRIMINAL RECORD
24 THAT HE HAD COMMITTED, YES, SIR AND I KNEW THAT --
25 I DIDN'T KNOW OF THESE SPECIFIC PRIOR BAD ACTS, YOUR

1 HONOR I DID KNOW OF HIS PRIOR RECORD AND I KNEW
2 THAT THE VICTIM'S MOTHER OF TESHEKA JACKSON HAD
3 INDICATED THAT HE WAS ABUSIVE TO HER THAT HE WAS
4 PHYSICALLY VIOLENT AND MEAN TO HER DAUGHTER AND I
5 FELT IN HER TESTIMONY IN THAT REGARD WOULD BE
6 ADMITTED

7 I DID NOT KNOW ABOUT ANOTHER MARRIAGE --
8 ANOTHER WOMAN WHO HAD -- WHO HE HAD HAD A CHILD
9 WITH AND WHEN I FOUND OUT ABOUT THAT I MADE AN
10 EFFORT TO LOCATE THAT PERSON I FOUND OUT ABOUT
11 THAT THROUGH THE DEFENSE, NOT THROUGH ANY
12 INVESTIGATION ON THE PART OF THE STATE OR ANY
13 STATE'S WITNESSES, YOUR HONOR

14 YOU KNOW, THEY BROUGHT THAT TO OUR
15 ATTENTION AND WHEN THEY DID WE PURSUED IT JUST
16 AS THAT -- JUST AS THAT PARTICULAR JUROR BROUGHT
17 SOMETHING TO OUR ATTENTION WE LOOKED INTO THAT
18 WE DON'T HAVE ANYTHING -- WE DON'T HAVE ANYTHING
19 THAT WE'RE GOING TO PROVIDE BUT WE LOOKED INTO IT
20 AND I FEEL THAT IF WE HAD FOUND SOMETHING THERE,
21 YOUR HONOR WOULD APPRECIATE THE CIRCUMSTANCES
22 SURROUNDING THE STATE'S DISCOVERY OF THAT
23 INFORMATION IT'S THE SAME HERE

24 AND, JUDGE, LET ME, IN CLOSING, SUGGEST
25 TO YOU THIS, THAT YOU CONSIDER THESE CIRCUMSTANCES

1 AND THAT YOU CONSIDER THAT THE STATE WOULD ALLOW
2 BOTH OF THESE LAWYERS TO TALK WITH BOTH OF THESE
3 WITNESSES EXTENSIVELY BEFORE THEY GO ON THE WITNESS
4 STAND IN AN EFFORT TO DETERMINE -- AND WE'LL PROVIDE
5 TO THEM THE EXACT TIME, THE EXACT DATE -- AND AS A
6 MATTER OF FACT, ONE OF THE WITNESS HAD TESTIFIED
7 THAT SHE WENT TO COURT ABOUT THE ASSERTION THAT MADE
8 THAT HE DREW A SHOTGUN ON HER, AND THAT IN COURT HE
9 DIDN'T SHOW SO WE'RE LOOKING TO SEE IF THERE'S ANY
10 CITY COURT RECORD IN 1989 INVOLVING A POSSIBLE
11 PRODUCING A WEAPON OR SHOWING A WEAPON IN A FRAY
12 WHAT WE'RE TRYING -- WHAT I'M TRYING TO DO IS TO
13 PROVIDE CIRCUMSTANCES, YOU KNOW, SURROUNDING THE
14 SITUATION AND, JUDGE, YOU KNOW, I'M JUST -- YOU
15 KNOW, IN AN EFFORT TO TRY TO -- I JUST THINK IT'S
16 RELATIVE INFORMATION

17 THE COURT OH, I DON'T DISPUTE THAT IT'S
18 RELEVANT AT ALL THERE'S A LOT OF INFORMATION THAT
19 WOULD ALWAYS BE RELEVANT BUT IF THE DEFENDANT'S
20 NOT NOTIFIED OF IT, IT WOULD NOT BE ADMISSABLE

21 MR JONES WELL --

22 THE COURT THAT'S THE POINT

23 MR JONES NOTIFY THAT THE STATE HAD IN
24 ITS POSSESSION AND I CAN APPRECIATE WHEN YOU SAY
25 THE STATE SHOULD WORK HARDER AND BEEN MORE -- MORE

1 APT AT COLLECTING RELEVANT INFORMATION AND WE
2 POSSIBLY SHOULD HAVE

3 THE COURT WELL, YOU UNDERSTAND, I THINK
4 THERE'S TWO -- TWO QUESTIONS TO BE ANSWERED THE
5 FIRST, OF COURSE, IS WHEN THE STATE DERIVED THE
6 INFORMATION AT WHAT POINT IN TIME DID YOU HAVE
7 BENEFIT OF THAT INFORMATION OR DID IT COME TO YOUR
8 ATTENTION, BECAUSE THAT'S ONLY THE FIRST QUESTION

9 IF IT CAME TO YOUR ATTENTION TODAY, THAT
10 OBVIOUSLY WOULD INDICATE THAT YOU DIDN'T WITHHOLD
11 IT YOU DIDN'T PROHIBIT THE DEFENSE FROM HAVING
12 KNOWLEDGE OF IT OR PROVIDING ME INFORMATION OF IT
13 BUT THE SECOND QUESTION HAS TO BE ANSWERED IS THE
14 PURPOSE OF THAT NOTIFICATION AND THE PURPOSE IS TO
15 GIVE THE DEFENDANT AN OPPORTUNITY TO RESPOND TO IT
16 IN A CASE LIKE THIS

17 THAT'S WHY THERE IS THAT NOTIFICATION
18 REQUIREMENT AND THAT'S THE REASON I'M SAYING -- SO
19 YOU'VE GOT TWO QUESTIONS DID YOU KNOW OF IT BEFORE
20 NOW AND IF YOU DID NOT DOES IT GIVE THE DEFENSE
21 ADEQUATE TIME TO RESPOND SO I THINK BOTH OF THOSE
22 QUESTIONS HAVE TO BE ADDRESSED BEFORE SUCH
23 INFORMATION CAN BE ADMITTED

24 MR JONES WELL, AS TO THE SECOND PART,
25 YOUR HONOR, I DON'T BELIEVE THE STATUTE REQUIRES

1 THAT WE GIVE THEM NAMES OR SPECIFIC DATES OF PRIOR
2 BAD ACTS I DON'T THINK THE NOTICE REQUIRES US TO
3 DO THAT

4 THE COURT WELL, I THINK IT DEPENDS ON
5 THE CIRCUMSTANCES OBVIOUSLY, AS STATED, THERE'S AN
6 INTENT -- THERE'S A PURPOSE FOR THAT INTENT
7 NOTIFYING SOMEONE THAT YOU'RE GOING TO INTRODUCE
8 PRIOR BAD ACTS, I MEAN, WHERE DOES THAT -- WHAT DOES
9 THAT TELL THE DEFENDANT? DOES THAT MEAN
10 CONVICTIONS? DOES THAT MEAN EVERYBODY THAT'S KNOWN
11 HIM SINCE HE WAS A CHILD AND IS GOING TO TESTIFY
12 SOMETHING THAT HE DID WRONG?

13 I MEAN, CERTAINLY YOU WOULD AGREE THAT
14 THE DEFENDANT SHOULD HAVE NOTICE OF THAT TYPE OF
15 EVIDENCE SPECIFICALLY AS OPPOSED TO JUST A GENERAL
16 CATEGORY, WE'RE GOING TO INTRODUCE ANYTHING THAT
17 CONSTITUTES A BAD ACT THAT YOU'VE DONE IN YOUR LIFE
18 THAT REALLY DOESN'T GIVE THE DEFENDANT NOTICE, DOES
19 IT? DO YOU THINK?

20 AND YOU MAY DISAGREE WITH ME YOU MAY
21 FEEL THAT IS SUFFICIENT NOTICE I GUESS BEFORE THAT
22 -- THIS INFORMATION NEEDS TO SPECIFICALLY BE
23 PROVIDED TO THE DEFENSE I'LL HAVE TO DO SOME
24 FURTHER RESEARCH TO MAKE A DETERMINATION AS TO
25 WHETHER OR NOT IT SHOULD BE ADMITTED BUT I WANT

1 THE INFORMATION, THE SPECIFIC INFORMATION, TIME,
2 PLACE, LOCATION, WHO, WHAT, WHEN, WHERE BE PROVIDED
3 TO THE DEFENSE SO THAT THEY HAVE THE INFORMATION

4 MR JONES ALL RIGHT

5 MR TINSLEY YOUR HONOR, THEY DIDN'T --
6 YOU KNOW, WE HAVE -- THEY CAN'T USE HIS JUVENILE
7 RECORD, FOR INSTANCE THEY NEVER PROVIDED THAT
8 BEFORE THE TRIAL AND THAT LANGUAGE IS VERY SPECIFIC
9 THEY CANNOT GO INTO ANYTHING IN THE JUVENILE RECORD
10 BECAUSE IT WASN'T PROVIDED THEY CANNOT -- THE
11 LANGUAGE OF THE STATUTE IS --

12 THE COURT WELL, BUT -- YOU KNOW, OF
13 COURSE THE STATUTE SPECIFICALLY SAYS JUVENILE
14 RECORDS --I MEAN ---

15 MR JONES WE'RE NOT GOING TO TRY TO USE
16 HIS JUVENILE RECORDS

17 MR TINSLEY AND THAT'S JUST ONE
18 EXAMPLE, YOUR HONOR BUT THIS IS SO DAMNING TO THE
19 DEFENDANT THAT THE STATE CANNOT SIT THERE -- AND BY
20 THE WAY, WAS THE SOLICITOR NOT LISTENING IN VOIR
21 DIRE? IS THAT THE PROBLEM WHEN JUROR PHILLIPS CAME
22 TO THE FRONT AND SAID SHE HAD A CHILD BY THE
23 DEFENDANT DID HE NOT HEAR THAT?

24 THE COURT WELL, OF COURSE, NEITHER ONE
25 OF THESE ARE MS PHILLIPS

1 MR TINSLEY I KNOW THEY AREN'T BUT
2 THEN HIS ARGUMENT ABOUT HE WAS PUT ON NOTICE WHEN HE
3 TOOK THE STAND IF ABSURD AND IT DOESN'T PASS ANY
4 TEST BECAUSE HE COULD HAVE BEEN AT THE VERY LEAST
5 NOTIFIED AT THAT POINT

6 MR JONES I DON'T KNOW WHAT -- GO
7 AHEAD

8 MR TINSLEY SO, YOU KNOW, YOUR HONOR, I
9 DON'T CARE WHAT HE COMES WITH ON THIS ISSUE, IT'S
10 BOTH SUBSTANTIVE AND A VIOLATION OF MY CLIENT'S
11 RIGHTS

12 THE COURT OKAY, HAS THE INFORMATION
13 ALREADY BEEN PROVIDED THEM, OR DO YOU HAVE OTHER
14 INFORMATION YOU NEED TO PROVIDE?

15 MR JONES IT'S BEEN PROVIDED I ASKED
16 MR DAVENPORT AND MR HODGES TO SPECIFICALLY STATE
17 THE DATES AND LOCATION I DON'T KNOW IF THAT WAS
18 INCLUDED ON WHAT I GAVE THEM BECAUSE I PASSED YOU MY
19 COPY, JUDGE BUT I ASKED THAT THEY INCLUDE -- AND
20 ASK THAT THE SPECIFIC STATEMENTS BE INCLUDED, AND I
21 ASKED THAT THEY INCLUDE THE SPECIFIC DATE, THE YEAR,
22 DATE, AND LOCATION AND IF THE WITNESSES KNEW ABOUT
23 IT

24 MR TINSLEY WAIT A MINUTE SHOULD THE
25 COURT CONSIDER IT -- I MEAN THESE ARE GENERAL WE

1 WOULD NEED AT LEAST A WEEK IN CONTINUANCE TO PURSUE
2 THIS MATTER, CLEARLY THIS WOULD BE THE KIND OF
3 THING, OF COURSE, THAT WE WOULD NEED TO GO OUT AND
4 GET THE PEOPLE THAT HE WAS WITH WHEN THESE
5 ALLEGATIONS WERE MADE, THAT SORT OF THING, AND DO IN
6 DEPTH RESEARCH INTO THE FACTS -- THE VERY FACTS
7 SURROUNDING THE CASE.

8 OF COURSE, YOUR HONOR, WE GO WAY BEYOND
9 THAT THE STATUTE IS CLEAR THERE'S NO NEED IN OUR
10 ESTIMATION TO GO BEYOND THE STATUTE WHICH SAYS,
11 "ONLY SUCH EVIDENCE AND AGGRAVATION OF THE STATE IS
12 INFORMED THE DEFENDANT IN WRITING BEFORE THE TRIAL "

13 AND THAT'S CLEARLY YOUR OBSERVATION OF
14 SOME BROAD GENERAL CHARACTERIZATION OF PRIOR BAD
15 ACTS OR SOMETHING THIS DOES NOT COVER SOMETHING
16 SPECIFIC AS THIS IS INTENDED TO DO IN THIS CASE
17 AND THEREFORE, IT IS CLEARLY -- IT IS PROCEDURALLY
18 BARRED BEFORE YOU GO THE ANY SUBSTANTIVE

19 THE COURT SOLICITOR, DO YOU HAVE ANY
20 IDEA THAT YOU WOULD LIKE TO HAVE THOSE WITNESSES
21 CALLED TODAY OR THAT WE WOULD BE ABLE TO GET TO THEM
22 AT SOME POINT TODAY?

23 MR JONES JUDGE, THEY WOULD BE -- IT
24 DEPENDS ON HOW LATE WE WORK, BUT --

25 THE COURT OKAY, WELL, THEY WON'T BE

1 CALLED TODAY

2 MR JONES ALL RIGHT YES, THEY WOULD

3 NOT BE

4 THE COURT OKAY

5 MR JONES AND, JUDGE, JUST IN AN EFFORT

6 TO, YOU KNOW, BRIEFLY RESPOND I WAS NOT HERE

7 DURING A LOT OF THE GENERAL JURY VOIR DIRE I WAS

8 OUT OF THE ROOM JUST FOR YOUR EDIFICATION, I'M

9 JUST TELLING YOU I WASN'T HERE FOR EVERY SINGLE

10 BIT OF THAT

11 MR JONES THE ONLY INTERACTION I HAD

12 WITH JURORS ON THIS DEFENDANT ARE THE ONES WHO SAID

13 THAT SOME COUSIN OF HERS HAD BEEN THREATENED BY HIM

14 I DIDN'T KNOW THERE WAS A JUROR WHO HAD ACTUALLY HAD

15 A CHILD BY HIM THAT'S NEWS TO ME NOW AND I'M

16 INTERESTED IN WHICH JUROR -- THE JUROR WHO'S

17 TESTIFIED THAT SHE HAD A CHILD BY THIS DEFENDANT, OR

18 THE JUROR -- I DIDN'T KNOW I DID NOT KNOW THAT

19 MR TINSLEY I'M NOT CRITICIZING THE

20 SOLICITOR I'M JUST POINTING OUT THAT REGARDLESS OF

21 WHO'S IN THE ROOM, IT'S INCUMBENT UPON THE STATE TO

22 MEET THE BURDEN OF PROOF AND IF THEY'RE TRYING TO

23 USE THIS NOW TO MEET THE BURDEN OF PROOF AS AN

24 AGGRAVATED CIRCUMSTANCE, AND THEN MAKE THAT OTHER

25 ARGUMENT, IT'S HIGHLY INCONSISTENT

1 THE COURT WELL, I CAN UNDERSTAND THAT
2 THERE COULD BE INFORMATION THAT MIGHT BE DEVELOPED
3 VERY RECENTLY SOMETHING MAY COME UP THE QUESTION
4 IS WHETHER OR NOT THAT INFORMATION WAS ALREADY
5 AVAILABLE IF SOME DILIGENT RESEARCH HAD BEEN DONE ON
6 THAT SUBJECT

7 MR TINSLEY IT WAS

8 THE COURT WELL, I'LL CONSIDER THE
9 MATTER BEFORE I ISSUE A FINAL ORDER ANY REASON WHY
10 WE CANNOT BRING THE JURY IN NOW AND BEGIN THE PHASE
11 OF THIS TRIAL?

12 MR JONES THE STATE'S READY, YOUR
13 HONOR

14 THE COURT. BRING THEM IN, PLEASE

15 MR TINSLEY THE ONLY QUESTION I HAD WAS
16 DOES MR GARRETT NEED TO GO DO FURTHER RESEARCH ON
17 THAT ISSUE AT THIS POINT?

18 MR GARRETT THE FACTS ARE THE FACTS

19 THE COURT WELL, I WOULD RECOMMEND THAT
20 AS SOON AS YOU COULD FIND OUT SINCE YOU DON'T KNOW
21 WHAT I MIGHT DO ABOUT IT BUT I UNDERSTOOD THAT MR
22 TINSLEY WAS GOING TO BE HANDLING THIS PHASE OF THE
23 TRIAL

24 MR TINSLEY YES, SIR, I AM

25 MR GARRETT EACH OF US HAVE

1 RESPONSIBILITY HERE AS WELL, YOU HONOR, BUT IF THE
2 COURT'S GOING TO CONSIDER ALLOWING THAT EVIDENCE I'M
3 GOING TO HAVE TO GO AND LOOK INTO IT

4 THE COURT WELL, I'D LOOK INTO IT BUT
5 I DIDN'T UNDERSTAND THAT, BECAUSE I THOUGHT IN THE
6 GUILT PHASE, AND I UNDERSTOOD THAT WAS YOUR
7 RESPONSIBILITY AND THE PENALTY PHASE WAS GOING TO BE
8 MR TINSLEY'S

9 MR TINSLEY IT IS
10 THE COURT BUT NOW Y'ALL TELL ME Y'ALL
11 TELL ME BOTH AND ALL OF YOUR HAVE RESPONSIBILITY FOR
12 BOTH

13 MR GARRETT NO, YOUR HONOR, I'LL BE
14 HAPPY TO CLARIFY IT FOR YOU

15 THE COURT OKAY

16 MR GARRETT STATE JUST PUT US ON NOTICE
17 YESTERDAY THAT THEY INTENDED TO GO BACK AND TO
18 QUESTION TRIANGULATION AND ALL THESE THINGS AS IT
19 RELATED TO THE BLOOD -- THE TESTIMONY TO THE BLOOD
20 SPLATTER AND THAT TYPE OF THING AND THAT WOULD BRING
21 MR GIRNDT BACK AND THAT IS MY AREA OF
22 RESPONSIBILITY IN THIS CASE

23 THE COURT OKAY

24 MR GARRETT SO THAT'S WHY I'M ASSISTING
25 AT THIS LEVEL AND WE'RE WORKING TOWARDS THAT

1 THE COURT AND YOU DON'T HAVE AN
2 INVESTIGATOR?

3 MR GARRETT I DON'T HAVE AN
4 INVESTIGATOR, NO

5 THE COURT OKAY

6 MR TINSLEY WE'VE USED AN INVESTIGATOR
7 IN THIS CASE

8 THE COURT I KNOW THAT, YES, SIR
9 THAT'S THE REASON I ASKED

10 MR TINSLEY HE'S NO LONGER -- HE'S NO
11 LONGER WITH US AS HE'S TAKEN ANOTHER JOB

12 THE COURT THANK YOU BRING THE JURY
13 IN, PLEASE

14 (JURY ENTERS THE COURTROOM AT 3 25 O'CLOCK P M)

15 MR TINSLEY YOUR HONOR, CAN WE HAVE A
16 BRIEF SIDE BAR?

17 THE COURT YES, SIR

18 (COUNSEL AT SIDE BAR)

19 THE COURT GOOD AFTERNOON LADIES AND
20 GENTLEMAN WE ARE READY TO BEGIN WITH THE RECEPTION
21 OF EVIDENCE IN THE SENTENCING PHASE OF THIS TRIAL
22 OF COURSE, THE STATE WILL PROCEED FIRST, SO PLEASE
23 GIVE THEM YOUR ATTENTION

24 MR JONES IF IT WOULD PLEASE THE COURT,
25 YOUR HONOR, I WOULD LIKE TO AT THIS TIME MOVE BEFORE

1 THE COURT AND THE JURY TO INTRODUCE ALL OF THE
2 EVIDENCE, ALL OF THE PHYSICAL EVIDENCE, AND ALL OF
3 THE TESTIMONY THAT WAS ADMITTED AND -- ADMITTED
4 THROUGH YOUR HONOR AND INTRODUCED INTO EVIDENCE IN
5 THIS CASE AND IT BE MADE A PART OF THE RECORD OF
6 THIS SECOND PHASE OF THIS TRIAL AT THIS POINT IN
7 TIME

8 (ALL EXHIBITS MARKED AND ENTERED INTO THE GUILT-
9 INNOCENCE PORTION OF THE TRIAL ARE AGAIN ENTERED
10 INTO THE RECORD OF THIS PHASE II)

11 THE COURT ALL RIGHT, IT IS ADMITTED
12 SUBJECT TO ANY OBJECTION THAT WAS MADE BY ANY
13 COUNSEL FOR EITHER SIDE

14 MR JONES THANK YOU, YOUR HONOR

15 THE COURT ALL RIGHT

16 MR JONES I NOW CALL BARRY NEW TO THE
17 STAND PLEASE COME AROUND

18 THE CLERK THE EVIDENCE YOU SHOULD GIVE
19 THE COURT AND JURY IN THE TRIAL OF THIS CASE SHALL
20 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
21 TRUTH, SO HELP YOU, GOD?

22 (WITNESS PRESENTED AT 3 26 O'CLOCK P M)

23 DIRECT EXAMINATION

24 BY MR JONES

25 Q I BELIEVE YOU PREVIOUSLY TESTIFIED IN THIS

1 CASE THAT YOU WERE ONE OF THE FIRST OFFICERS ON THE
2 SCENE ON DECEMBER 4, 1995, IS THAT CORRECT?

3 A YES, SIR

4 Q AND I BELIEVE YOU ALSO TESTIFIED THAT YOU
5 WALKED IN TO THE HOME OF LUEVINIA AND MACK HARRIS
6 AND THAT YOU WALKED OVER TWO INNOCENT CHILDREN AND
7 PROCEEDED TO THE BACK BEDROOM, IS THAT CORRECT?

8 A YES, SIR, I DID

9 Q I'M GOING TO HAND YOU THIS PHOTOGRAPH, STATE'S
10 EVIDENCE 99 -- I'M SORRY, 94, AND ASK YOU IF YOU
11 RECOGNIZE WHAT IS DEPICTED IN THAT PHOTOGRAPH

12 A YES, SIR, I DO

13 Q ALL RIGHT, IS IT A FAIR AND ACCURATE
14 REPRESENTATION OF WHAT YOU SAW IN THE BACK BEDROOM
15 OF MACK AND LUEVINIA'S -- MACK AND LUEVINIA HARRIS'S
16 HOME ON DECEMBER 4, 1995?

17 A YES, SIR, IT IS

18 MR JONES YOUR HONOR, WE WOULD OFFER
19 THIS PHOTOGRAPH INTO EVIDENCE AT THIS TIME

20 MR TINSLEY OBJECTION, YOUR HONOR,
21 HEARSAY

22 THE COURT IT'S SUBMITTED

23 EXAMINATION CONTINUED

24 BY MR JONES

25 Q NOW, WHAT --

1 MR TINSLEY NO FOUNDATION AS WELL

2 EXAMINATION CONTINUED

3 BY MR JONES

4 Q WERE YOU PRESENT IN THE HOME, DID YOU OBSERVE
5 WHAT WAS FOUND IN THE BACK BEDROOM?

6 A- YES, SIR, I WAS

7 Q BASICALLY, WHAT DID YOU SEE IN THE BACK
8 BEDROOM?

9 A I SAW THE VICTIM, TESHEKA JACKSON LAYING ON
10 THE BED -- ON THE BED WITH AN OBVIOUS WOUND TO THE
11 HEAD I SAW BLOOD, OTHER MATTER ABOUT THE DRESSER
12 AND THE BED AND THE COVER AREA I HAD TO GO
13 DIRECTLY BY HERE TO GET TO AN AREA TO CHECK AND SEE
14 IF POSSIBLY THE DEFENDANT WAS STILL IN THE HOME

15 Q DOES THAT PHOTOGRAPH ACCURATELY AND REASONABLY
16 DEPICT THE ARTICLES THAT YOU OBSERVED ON THAT DATE
17 AND AS YOU OBSERVED IT AT THAT TIME?

18 A YES, SIR, THE BODY IS EXACTLY PLACED LIKE IT
19 WAS WHEN I INITIALLY FOUND IT, YES, SIR

20 Q ALL RIGHT WHAT DO YOU SEE TO THE -- IN THAT
21 PHOTOGRAPH ON THE BED NEXT TO THE VICTIM'S BODY?

22 A IT APPEARS TO BE BLOOD, POSSIBLE BRAIN MATTER,
23 AND SOME WHITE BONE FRAGMENT

24 Q WAS IT THERE WHEN YOU WALKED IN TO THE HOME
25 AND YOU OBSERVED THE BEDROOM ON DECEMBER 4, 1995?

1 A YES, SIR, THAT'S EXACTLY THE WAY IT WAS AS
2 IT'S DEPICTED IN THE PICTURE

3 Q AND YOU FOUND --

4 MR TINSLEY OBJECTION, YOUR HONOR, I'D
5 LIKE TO SEE THE PICTURE BEFORE IT'S PUBLISHED
6 THE COURT. YOU'VE NOT SEEN THIS?

7 MR TINSLEY I'M NOT SURE YES, SIR,
8 I'VE SEEN IT

9 **EXAMINATION CONTINUED**

10 **BY MR JONES:**

11 Q AND WASN'T THAT ABOUT THE SIZE THAT YOU
12 DEPICTED IN HERE TO BE THE RED, BLOOD MATTER AREA,
13 IT WAS ABOUT THE SAME SIZE WHEN YOU SAW IT AS IT IS
14 IN THE PHOTOGRAPH?

15 A YES, SIR

16 Q AND THIS WAS BEFORE ANYBODY HAD ARRIVED ON THE
17 SCENE TO COLLECT EVIDENCE OR TO ATTEND TO THE BODY,
18 IS THAT CORRECT?

19 A YES, SIR, MYSELF AND OFFICER -- CORPORAL
20 HENDERSON WERE THE ONLY PEOPLE THAT WENT INTO THAT
21 AREA OF THE HOME PRIOR TO
22 S L E D 'S ARRIVAL AND THE PROCESSING OF THE SCENE

23 MR JONES NO FURTHER QUESTIONS

24 MR TINSLEY NO QUESTIONS

25 THE COURT YOU MAY STEP DOWN

1 (WITNESS EXITS STAND AT 3 29 O'CLOCK P M)

2 MR JONES I CALL DOCTOR BRETT WOODARD
3 TO THE STAND

4 THE CLERK THE EVIDENCE YOU SHOULD GIVE
5 THE COURT AND THE JURY IN THE TRIAL OF THIS CASE
6 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
7 THE TRUTH, SO HELP YOU GOD?

8 THE WITNESS I WILL

9 (WITNESS PRESENTED AT 3 30 O'CLOCK P M)

10 **DIRECT EXAMINATION**

11 **BY MR JONES.**

12 Q STATE YOUR NAME FOR THE RECORD

13 A DOCTOR BRETT H WOODARD

14 Q AND YOU'VE PREVIOUSLY TESTIFIED IN THIS TRIAL,
15 IS THAT CORRECT?

16 A YES, I HAVE

17 Q AND DID YOU CONDUCT AN AUTOPSY UPON THE PERSON
18 OF ONE LUEVINIA HARRIS?

19 A YES, I DID

20 Q AND DID YOU CONDUCT AN AUTOPSY UPON THE PERSON
21 OF ONE TESHEKA JACKSON?

22 A YES, I DID

23 Q I WANT TO HAND YOU STATE'S EXHIBIT 99 AND ASK
24 YOU IF YOU RECOGNIZE THAT PHOTOGRAPH

25 A THIS REPRESENTS A PICTURE THAT I EITHER TOOK

1 OR CAUSED TO BE TAKEN AT THE TIME OF THE AUTOPSY OF
2 MRS LUEVINIA HARRIS

3 Q ALL RIGHT, AND WHAT IS DEPICTED IN THE
4 PHOTOGRAPH?

5 A THIS IS A PICTURE OF HER FACE AS I SAW IT AT
6 THE TIME OF AUTOPSY, AND HAS MY IDENTIFYING NUMBER
7 IN THE PICTURE BENEATH HER CHIN

8 MR JONES ALL RIGHT, SO IF I COULD,
9 YOUR HONOR, WE OFFER THIS INTO EVIDENCE AT THIS
10 TIME

11 MR TINSLEY MAY I SEE IT, PLEASE? YOUR
12 HONOR, WE OBJECT ON PREVIOUSLY STATED GROUNDS AND AS
13 WELL AS AN ADDITIONAL GROUND THAT IT'S HEARSAY

14 THE COURT. IT'S ADMITTED

15 EXAMINATION CONTINUED

16 BY MR JONES

17 Q DOCTOR, IF YOU WOULD STEP DOWN, I WANT TO ASK
18 YOU TO POINT OUT OF WHAT IS DEPICTED IN THIS
19 PHOTOGRAPH AND WHAT I WANT TO ASK YOU IS I WANT
20 TO ASK YOU WHAT IS THIS DARK AREA HERE IN THE MIDDLE
21 OF -- OF THE REDDISH AREA UNDERNEATH THE LEFT EYE OF
22 LUEVINIA HARRIS?

23 A THIS REPRESENTS HER LEFT CHEEK AND THIS
24 REPRESENTS THE SHOTGUN WOUND TO THE LEFT CHEEK
25 IMMEDIATELY BENEATH THE LEFT EYE

1 Q AND DID YOU EXAMINE THAT WOUND CLOSELY IN AN
2 EFFORT TO DETERMINE IF THERE WERE OTHER INJURIES
3 AROUND THE FACE IN ADDITION TO THE WOUND BENEATH THE
4 CHEEK THERE?

5 A YES, I DID

6 Q- AND WHAT DID YOU FIND AROUND THE WOUND BENEATH
7 THE CHEEK?

8 A BENEATH THE CHEEK I ONLY FOUND TEARING OR
9 SHREDDING OF THE TISSUE ON THE UPPER EYELID I
10 FOUND A SMALL AMOUNT OF STIPPLING INJURY TO THE
11 UPPER EYELID

12 Q NOW, AGAIN, IN THE CENTER OF THE WOUND, WHAT
13 DOES THE DARK AREA REPRESENT?

14 A THIS REPRESENTS THE ACTUAL HOLE THAT WENT
15 THROUGH INTO THE SINUS AND EVENTUALLY LED TO THE
16 BRAIN

17 Q ALL RIGHT AND DID YOU MEASURE THE SIZE OF
18 THAT HOLE?

19 A YES, I DID

20 Q AND WHAT WAS THE SIZE OF THE HOLE IN HER FACE?

21 MR TINSLEY I OBJECT TO HIS READING,
22 ALTHOUGH HE CAN USE IT TO THE LIMITED PURPOSE TO
23 REFRESH HIS MEMORY, BUT TO READ SPECIFICALLY IN
24 ORDER TO BOLSTER HIS TESTIMONY IS AN IMPROPER USAGE
25 OF THE DOCUMENT

1 THE COURT ALL RIGHT, OF COURSE, YOU
2 UNDERSTAND THE DOCUMENT IS NOT IN EVIDENCE?

3 MR JONES· YES, SIR

4 THE COURT: SO HE MAY NOT READ THE
5 DOCUMENT, BUT OBVIOUSLY, HE MAY REFER TO IT IF HE
6 NEEDS TO TO REFRESH HIS MEMORY OF WHAT HE DID DURING
7 THE COURSE OF THIS PROCEDURE

8 MR JONES DON'T READ, BUT IF YOU NEED
9 TO REFRESH YOUR MEMORY, REVIEW AND THEN TESTIFY, ALL
10 RIGHT, SIR?

11 THE WITNESS ALL RIGHT

12 EXAMINATION CONTINUED

13 BY MR JONES

14 Q DO YOU KNOW WHAT THE DIAMETER OF THAT HOLE
15 THAT YOU'RE REFERRING TO THERE, THE DARK AREA, IN
16 STATE'S EXHIBIT NO 99 IS?

17 A YES, IT WAS ONE-AND-ONE-HALF INCHES BY ONE-
18 AND-ONE-QUARTER INCHES IN DIMENSION

19 Q DOCTOR, I WANT TO ASK YOU WHAT TYPE OF
20 BLEEDING WOULD THIS INJURY CAUSE, BEGINNING WITH THE
21 INSTANT IT WAS INFLICTED UPON A PERSON?

22 A IT WOULD PRODUCE MASSIVE BLEEDING

23 Q AND IF YOU WERE WATCHING THAT WOUND BEING
24 INFLICTED, IF YOU SAW IT INFLICTED, WHAT BASICALLY
25 WOULD YOU SEE AS YOU WITNESSED THE INFLICTION OF

1 THIS WOUND?

2 A YOU WOULD SEE BLOOD POUR FORTH FROM THIS HOLE

3 Q ALL RIGHT, SO YOU -- NOW, DID YOU MAKE AN
4 EFFORT TO DETERMINE THE DISTANCE FROM WHICH MS
5 HARRIS WAS SHOT BASED ON ANY INJURY, INCLUDING
6 STIPPLING AND POWDER BURNS AROUND HER IN ADDITION TO
7 HAVING EXAMINED TEST PATTERNS AND FINDS THAT WAS
8 PRESENTED TO YOU?

9 MR TINSLEY OBJECTION, YOUR HONOR,
10 THAT'S PHASE I, ASKED AND ANSWERED I CONTINUE MY
11 OBJECTION THERE'S NO NEED TO TRY THE FIRST PHASE
12 AGAIN

13 THE COURT OVERRULE THE OBJECTION

14 EXAMINATION CONTINUED

15 BY MR JONES

16 Q HE OVERRULED THE OBJECTION, YES, YOU CAN
17 ANSWER THAT

18 A YES, I DID I UTILIZED ALL THOSE FEATURES,
19 THE TEST PATTERNS, THE FINDING OF STIPPLING, OF
20 LOOKING FOR THE PRESENCE OF POWDER, AND LOOKING FOR
21 THE SHOTGUN WADDING MATERIAL IN THE WOUND TRACK
22 ITSELF IN AN EFFORT TO DETERMINE THE RANGE OF FIRE
23 OR THE APPROXIMATE RANGE OF FIRE

24 Q DID YOU ALSO HAVE AN OPPORTUNITY TO TAKE THIS
25 PHOTOGRAPH, STATE'S EXHIBIT NO 101?

1 A YES, I TOOK OR CAUSED TO HAVE TAKEN THIS
2 PHOTOGRAPH OF HER LEFT ARM

3 Q THAT'S MS HARRIS'S LEFT ARM?

4 A MRS HARRIS'S LEFT ARM

5 Q AND ---

6 A - AGAIN, WITH MY IDENTIFYING NUMBER

7 Q AND WHAT IS PRESENTED ON THAT PHOTOGRAPH?

8 A THIS REPRESENTS BLOOD SPATTER -- HIGH VELOCITY
9 OF BLOOD SPATTER ON THE INNER SURFACE FROM THE AREA
10 OF THE MUSCLE IN FRONT OF THE ARM DOWN THROUGH THE
11 BOLT OF THE ARM AND EXTENDING ALONG THE FOREARM

12 MR JONES YOUR HONOR, WE OFFER STATE'S
13 EVIDENCE 101 IN THE RECORD

14 MR TINSLEY SAME OBJECTION AS THE PRIOR
15 OBJECTION, YOUR HONOR

16 THE COURT IT'S ADMITTED

17 EXAMINATION CONTINUED

18 BY MR JONES

19 Q YOU'RE SAYING THAT THERE'S A HIGH VELOCITY OF
20 BLOOD SPATTER ON THE INSIDE OF THE ARM OF MS
21 HARRIS?

22 A YES, IT IS

23 Q AND BASED ON YOUR FORENSICS EXAMINATION
24 PROVIDED, FROM WHAT SOURCE DID THAT BLOOD GET ON HER
25 ARM?

1 A IT WOULD HAVE COME FROM THE ENTRANCE WOUND
2 THAT WAS SHOWN IN THE PREVIOUS PICTURE

3 Q AT WHAT DISTANCE WOULD HER ARM HAVE BEEN, IN
4 YOUR OPINION, FROM THE WOUND?

5 A SOMEWHERE IN THE RANGE OF SIX TO TWELVE INCHES
6 FROM THE WOUND AT THE TIME THE WOUND WAS CAUSED

7 Q AND WHAT DISTANCE, IN YOUR OPINION BASED ON
8 YOUR FORENSICS EXAMINATION OF THE WOUND AND THE TEST
9 PATTERNS OF THE GUN, WOULD THE END OF THE BARREL OF
10 THE GUN HAVE BEEN FROM THE ENTRY WOUND LOCATION?

11 A APPROXIMATELY THREE FEET

12 Q DOCTOR, DID YOU HAVE AN OPPORTUNITY TO CONDUCT
13 AN AUTOPSY FROM THE BODY OF SHEKA JACKSON?

14 A YES, I DID

15 Q AND WHEN DID YOU DO THAT?

16 A I DID IT ON THE 5TH OF DECEMBER, 1995

17 Q I HAND YOU STATE'S EVIDENCE NO 102 AND ASK
18 YOU IF YOU RECOGNIZE THAT PHOTOGRAPH AND WHAT'S
19 DEPICTED IN IT?

20 A YES, SIR, THIS IS A PICTURE THAT I TOOK OR
21 CAUSED TO HAVE TAKEN AT THE AUTOPSY, AND REPRESENTS
22 A STAB WOUND WHICH I IDENTIFIED IN THE FRONT PART OF
23 THE CHEST -- UPPER CHEST OF THE VICTIM

24 MR JONES YOUR HONOR, WE OFFER THIS
25 INTO EVIDENCE AT THIS TIME

1 MR TINSLEY PREVIOUS GROUNDS AND
2 OBJECTIONS, YOUR HONOR

3 THE COURT IT'S ADMITTED

4 EXAMINATION CONTINUED

5 BY MR JONES

6 Q- ARE THE -- IS HER CLOTHING REPRESENTED ON --
7 ON THERE ALSO?

8 A YES, IT IS THIS REPRESENTS A SHIRT THAT SHE
9 HAD

10 Q AND IS THAT THE CONDITION WITH WHICH YOU
11 RECEIVED SHEKA JACKSON'S BODY AS WELL AS THE
12 CLOTHES?

13 A THAT IS CORRECT

14 Q DOCTOR, I WANT TO ASK YOU CONCERNING THIS
15 INJURY, CAN YOU TELL US WHETHER OR NOT THIS WOUND
16 AND THIS INJURY WOULD HAVE CAUSED PAIN TO SHEKA
17 JACKSON?

18 A YES, IT WOULD HAVE

19 Q CAN YOU QUANTIFY THAT PAIN?

20 A IT WOULD HAVE BEEN A MODERATE-TO-SEVERE PAIN,
21 BECAUSE THE CUT WENT DOWN TO THE SURFACE OF THE
22 UNDERLYING BONE, THE LAYER OF THE -- ABOVE THE BONE
23 KNOWN AS THE PERIOSTEUM WAS CUT

24 Q AND WOULD IT HAVE CONTINUED TO CAUSE PAIN
25 AFTER INFLICTION OF --

1 A YES, IT WOULD

2 Q AND WOULD IT CAUSE BLEEDING?

3 A YES, IT WOULD

4 Q IF YOU WOULD STEP DOWN AND POINT TO THIS JURY,
5 TO THE -- AS PRECISELY AS YOU CAN TO THE LOCATION ON
6 ME WHERE THAT WOUND WOULD HAVE BEEN AFFLICTED UPON
7 MS JACKSON

8 A IT WOULD HAVE BEEN BENEATH THE NOTCH IN THE
9 BREAST PLATE, APPROXIMATELY BELOW THE SOLICITOR'S
10 UPPER SHIRT BUTTON HERE, JUST A LITTLE BIT TO THE
11 RIGHT OF THE CENTER.

12 Q I'LL HAND YOU STATE'S EVIDENCE -- I'LL HAND
13 YOU THIS PHOTOGRAPH AND ASK YOU IF YOU RECOGNIZE
14 WHAT'S DEPICTED IN THERE

15 A YES, THIS IS A PHOTOGRAPH THAT I TOOK OR
16 CAUSED TO HAVE TAKEN OF MS JACKSON'S LEFT ARM

17 Q AND DO YOU RECOGNIZE IT AND RECOGNIZE WHAT'S
18 DEPICTED THERE?

19 A YES, AGAIN, IT'S IDENTIFIED WITH MY
20 IDENTIFYING NUMBER AND THIS REPRESENTS THE LEFT
21 SLEEVE AREA OF THE -- WHAT WOULD BE THE ANATOMIC
22 BACK OF THE ARM OR THE UPPER HAND SIDE OF THE ARM IN
23 THE GENERAL AREA OF THE UPPER WRIST, THE LOWER
24 FOREARM

25 MR JONES NOW WE OFFER THIS PHOTOGRAPH

1 INTO EVIDENCE AT THIS TIME

2 MR TINSLEY OBJECTION ON SAME GROUNDS,
3 YOUR HONOR

4 THE COURT IT'S ADMITTED

5 EXAMINATION CONTINUED

6 BY MR JONES

7 Q NOW YOU SAY THAT WAS SHEKA'S LEFT ARM, DOCTOR?

8 A THAT'S CORRECT

9 Q AND YOU STATE YOU EXAMINED THAT AREA BECAUSE
10 OF WHAT WAS ON HER ARM THAT YOU NOTICED, AGAIN, WHAT
11 WAS THAT?

12 A THERE IS BRAIN MATERIAL, THE WHITE MATERIAL
13 WHICH IS CAUGHT IN THE FOLD OF THE SLEEVE

14 Q COME DOWN AND POINT THAT OUT, PLEASE, FOR THE
15 JURY

16 A THERE IS BRAIN MATERIAL THAT'S CAUGHT IN THE
17 FOLD OF THE SLEEVE WHERE THE MATERIAL CHANGES FROM A
18 STRETCHY MATERIAL TO A MORE COMMON CLOTH MATERIAL
19 IT'S CAUGHT IN THE AREA OF THE FOLD OF THE SLEEVE OR
20 THE FOLD OF THE SHIRT THERE IS BRAIN MATERIAL THAT
21 IS CAUGHT IN THE FOLD OF THE SLEEVE OR THE MATERIAL
22 CHANGES AND IN THE FOLD OF THE SHIRT THERE'S BRAIN
23 MATERIAL THAT'S CAUGHT IN THE FOLD OF THE SLEEVE --

24 MR TINSLEY YOUR HONOR --

25 MR JONES JUST POINT IT OUT JUST

1 POINT OUT --

2 MR TINSLEY WHY IS HE REPEATING THAT?

3 THE COURT HE WAS TAKING IT IN STEPS

4 BUT THE TESTIMONY NEED NOT BE REPEATED YOU JUST

5 NEED TO SHOW THE JURY THE PHOTOGRAPH IN SEVERAL

6 STEPS SO THAT THEY CAN ALL SEE IT

7 EXAMINATION CONTINUED

8 BY MR JONES

9 Q DOCTOR, I WANT TO HAND YOU THIS PHOTOGRAPH AND
10 ASK YOU IF YOU RECOGNIZE THIS

11 A THIS IS A PICTURE THAT I TOOK OR CAUSED TO
12 HAVE TAKEN AT THE TIME OF THE AUTOPSY OF MS
13 JACKSON AGAIN, IT IS IDENTIFIED WITH MY
14 IDENTIFYING NUMBER

15 Q AND WHAT IT DEPICTED IN THE PHOTOGRAPH?

16 A THIS IS THE WOUND OF ENTRANCE TO THE RIGHT
17 TEMPLE SIDE OF THE HEAD WHEN THE HAIR HAS BEEN
18 REMOVED BY SHAVING

19 Q AND WHY DID YOU SHAVE THE HAIR AND REMOVE IT?

20 A SO THAT I COULD SEE THE COMPLETE AND ENTIRE
21 PATTERN OF THE WOUND, THE STIPPLING THAT MAY BE
22 PRESENT ASSOCIATED WITH THE WOUND

23 MR JONES YOUR HONOR, WE OFFER THIS
24 PHOTOGRAPH AS EVIDENCE 106

25 MR TINSLEY YOUR HONOR, WE OBJECT ON

1 ALL PREVIOUSLY STATED GROUNDS

2 THE COURT IT'S ADMITTED

3 EXAMINATION CONTINUED

4 BY MR JONES

5 Q DOCTOR, DID YOU HAVE A CHANCE TO COMPLETELY
6 AND FULLY EXAMINE THE ENTRANCE WOUND TO SHEKA -- TO
7 SHEKA'S HEAD?

8 A YES, I DID

9 Q AND DID YOU, AT THE SAME TIME, HAVE AN
10 OPPORTUNITY TO EXAMINE THE EXIT WOUND?

11 A YES, I DID

12 Q IF YOU WOULD COME DOWN AND POINT OUT WHAT'S
13 REFERRED TO THE STIPPLING AND TELL US AGAIN WHAT
14 STIPPLING IS AROUND THE WOUND?

15 A STIPPLING IS THE INJURY TO THE SKIN WHERE
16 PIECES OF METAL AND POWDER THAT COME OUT OF THE GUN
17 BARREL AT THE SAME TIME, IN THE CASE OF THE SHOTGUN
18 THE PELLETS COME OUT, COME OUT WITH ENOUGH WEIGHT
19 AND FORCE THAT THEY ACTUALLY PRODUCE LITTLE TEARS OR
20 BRUISES IN THE SKIN AND THIS IS NOT REMOVED BY
21 WASHING, SCRUBBING, OR SHAVING ACTION

22 Q SO IT BURNS INTO THE SKIN THEN?

23 A IT ACTUALLY HITS THE SKIN AND INJURES THE SKIN
24 BY IMPACT

25 Q BRUISE IT?

1 A BRUISE IT

2 Q POINT OUT THOSE STIPPLING AREAS THAT YOU
3 LOCATED ON THIS WOUND AND WHAT DO YOU USE THESE
4 STIPPLING PATTERNS FOR DETERMINING

5 A TO ASSIST IN DETERMINING THE DISTANCE THAT THE
6 END OF THE BARREL WAS FROM THE VICTIM AT THE TIME
7 THE WEAPON WAS DISCHARGED

8 Q ALL RIGHT, IF YOU WOULD -- ALL RIGHT, I WANT
9 TO HAND YOU THIS PHOTOGRAPH AND ASK YOU IF YOU CAN
10 RECOGNIZE WHAT'S DEPICTED THERE

11 A THIS IS A PICTURE, AGAIN, OF MS JACKSON WITH
12 MY IDENTIFYING NUMBER THIS REPRESENTS HER RIGHT
13 CHEEK AND EYE AREA WHERE I FOUND A CONTUSION OR
14 BRUISE WITH THE CURVE PATTERN THAT I SPOKE OF

15 Q TO THE RIGHT CHEEK?

16 A TO THE RIGHT CHEEK IMMEDIATELY BENEATH THE
17 OUTER CORNER OF THE RIGHT EYE

18 Q BUT THIS IS NOT DEPICT HER ENTIRE FACE, DOES
19 IT?

20 A NO, IT DOES NOT

21 MR JONES AND I'D LIKE TO INTRODUCE
22 THIS INTO EVIDENCE, YOUR HONOR, AS STATE'S EXHIBIT
23 NO 105

24 MR TINSLEY YOUR HONOR, WE OBJECT ON
25 ALL PREVIOUSLY STATED GROUNDS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT IT'S ADMITTED

EXAMINATION CONTINUED

BY MR JONES

Q DOCTOR, IF YOU WOULD, POINT OUT TO THE JURY
THE CIRCULAR -- SEMI-CIRCULAR BRUISING THAT YOU
SPOKE OF EARLIER

A THERE WERE TWO SEMI-CIRCULAR LINES ONE --

Q WHICH -- HOW -- BUT, WHERE IS THE BRUISING
ACTUALLY DEPICTED? WHAT AREA DID THE BRUISING --

A THE BRUISING IS A LARGER AREA IN THE SEMI-
CIRCULAR LINE

Q UH-HUH

A IT'S OVER THE ENTIRE AREA OF THE CHEEKBONE OR
THE BOTTOM OF THE EYE -- BONE OF THE EYE

Q DOCTOR, WHAT TYPE FORCE WITH WHATEVER OBJECT
INFLICTED THAT BRUISING WOULD BE NECESSARY TO CAUSE
A BRUISE OF THAT NATURE?

A IT WOULD TAKE A SEVERE FORCE

Q AND DO YOU HAVE A MEDICAL OPINION AS TO
WHETHER THIS BRUISE WAS INFLICTED BEFORE DEATH OR
AFTER DEATH?

A IT WAS INFLICTED BEFORE DEATH

Q BEFORE DEATH, ALL RIGHT NOW, DOCTOR, WHAT IS
THAT BRUISE CONSISTENT WITH ANY PIECE OF EVIDENCE
THAT YOU HAVE EXAMINED AND VIEWED AND LOOKED AT

1 THROUGH THE COURSE OF THE TRIAL?

2 A IT'S CONSISTENT WITH THE BARREL END OF THE
3 SHOTGUN

4 Q AND, OF COURSE, WHAT CHEEK IS THIS TO SHEKA
5 JACKSON'S CHEEK?

6 A THIS IS HER RIGHT CHEEK

7 Q AND LET ME ASK YOU, WHEN THAT ENTRY WAS
8 INFLICTED WOULD IT HAVE BEEN PAINFUL?

9 A YES, IT WOULD HAVE

10 Q AND CAN YOU QUANTIFY THAT PAIN?

11 A IT WOULD HAVE BEEN A MODERATE TO SEVERE PAIN

12 Q AND WOULD THE PAIN HAVE PERSISTED FROM THE
13 TIME THAT THE INJURY WAS INFLICTED?

14 A YES, IT WOULD HAVE PERSISTED FOR A TIME PERIOD
15 AFTER IT WAS INFLICTED

16 Q NOW WHAT DID YOU HAVE TO DO TO DETERMINE WHEN
17 THIS BRUISING TOOK PLACE AND THE EXTENT OF THE
18 BRUISING DURING THE COURSE OF YOUR AUTOPSY? WHAT
19 EFFORT DID YOU GO TO TO EXAMINE AND ASCERTAIN THE
20 NATURE OF THIS INJURY?

21 A I DID A DISSECTION OR A CUT INTO THE TISSUES
22 OF THE FACE SO THAT I COULD EXAMINE THE DEPTH OR HOW
23 DEEP TOWARD THE BONE THE BRUISING ACTUALLY OCCURRED

24 Q AND HOW DEEP TOWARDS THE BONE DID THE BRUISING
25 ACTUALLY OCCUR?

1 A IT WENT ALL THE WAY TO THE BASE OF THE TISSUES
2 NEXT TO THE BONE

3 Q EXPLAIN TO THE -- POINT OUT THE INJURY AGAIN
4 FOR THE JURY, PLEASE DOCTOR, I WANT TO ASK YOU IF
5 PRIOR TO CONDUCTING YOUR AUTOPSY OF SHEKA JACKSON
6 YOU HAD AN OPPORTUNITY TO VIEW THE FRONT PART OF HER
7 FACE?

8 A YES, I DID

9 Q I HAND YOU THIS PHOTOGRAPH AND ASK YOU IF YOU
10 RECOGNIZE WHAT'S DEPICTED IN IT

11 A THIS IS A PHOTOGRAPHIC DEPICTION OF HOW HER
12 FACE WOULD LOOK AT THE TIME THAT I WAS PREPARING TO
13 PERFORM THE AUTOPSY

14 Q THIS PHOTOGRAPH WAS NOT TAKEN BY YOU?

15 A NO, IT WAS NOT TAKEN BY ME OR CAUSED TO BE
16 TAKEN BY ME

17 Q IS IT A FAIR AND ACCURATE REPRESENTATION OF
18 THE WAY YOU VIEWED SHEKA JACKSON ON DECEMBER 5,
19 1995?

20 A YES, IT IS

21 MR JONES YOUR HONOR, I WOULD LIKE TO
22 OFFER THIS INTO EVIDENCE PREPARING FOR THE PURPOSE
23 OF THE DOCTOR TESTIFYING FROM IT AND I HAVE THE
24 WITNESS AVAILABLE THAT ACTUALLY TOOK THE PHOTOGRAPH
25 TO GIVE ME THE FOUNDATION FOR HAVING TAKEN IT

1 ALTHOUGH I THINK I'VE ESTABLISHED A SUFFICIENT
2 FOUNDATION BASED ON HIS TESTIMONY HERE STATE'S
3 EVIDENCE NINETY-FIVE

4 MR TINSLEY I WILL POINT OUT THAT IT'S
5 HEARSAY COMING THROUGH THIS WITNESS I CITE ALL
6 PRIOR GROUNDS STATED, AND IN PARTICULAR THE FACT
7 THAT THE -- THAT WE'RE GETTING INTO THE CUMULATIVE
8 AREA AS THE FASHION AND LABORATORY AREA I THINK
9 CLEARLY THAT IS AN INADMISSABLE PICTURE

10 THE COURT IT'S ADMITTED

11 MR JONES THANK YOU, JUDGE

12 EXAMINATION CONTINUED

13 BY MR JONES

14 Q DOCTOR, IF YOU WOULD, PLEASE COME DOWN AND
15 TELL US FROM THE EXAMINATION OF TESHEKA JACKSON WHAT
16 IT WAS THAT YOU WERE ABLE TO DETERMINE ABOUT THIS
17 PHOTOGRAPH?

18 A THIS SHOWED US THE EXIT WOUND OR WHERE THE
19 SHOTGUN BLAST EXITED OR LEFT THE HEAD IN THE --
20 MAINLY IN THE LEFT-EYE AREA, BUT SLIGHTLY TOWARD THE
21 CENTER OF THE FACE THE EXIT WOUND WHERE THE SHOTGUN
22 BLAST LEFT THE HEAD.

23 Q WHAT'S LOCATED IN THIS AREA HERE?

24 A THAT REPRESENTS HER LEFT EYE WHICH HAS BEEN
25 PUSHED OUT AND OFF TO THE SIDE BY THE BLASTING

1 Q BUT YOU WERE ABLE TO VIEW THE EXIT WOUND IN
2 HERE, IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q SHOW ME EXACTLY WHERE YOU DETERMINED THE EXIT
5 WOUND TO BE IS THAT NORMALLY WHERE SHEKA'S LEFT
6 EYE WOULD HAVE BEEN?

7 A THAT'S THE AREA OF THE LEFT EYE STRETCHING A
8 LITTLE BIT TOWARD THE BRIDGE OF THE NOSE OR WHERE
9 THE TOP PART OF THE NOSE WOULD BE

10 Q SHOW ME WHERE THE RIGHT EYE IS AND WHERE WOULD
11 HER LEFT EYE HAVE BEEN AND WHERE IS HER LEFT EYE?
12 AND, OF COURSE, WERE YOU ABLE TO THOROUGHLY EXAMINE
13 HER IN AN EFFORT TO DETERMINE THE COURSE THE
14 PROJECTORY FROM THE ENTRANCE WOUND TO THE EXIT WOUND
15 AND THE PATH AND THE FORCE AND BLASTING MATERIALS
16 TOOK THROUGH HER BRAIN?

17 A YES, I WAS

18 Q IF YOU WOULD, USING THIS PHOTOGRAPH, STATE'S
19 EXHIBIT NUMBER NINETY-FIVE, USING THIS PHOTOGRAPH
20 AND YOUR RECOLLECTION OF YOUR EXAMINATION OF STATE'S
21 EXHIBIT NUMBER 106, USING THIS PHOTOGRAPH STATE'S
22 EXHIBIT 107 OF SHEKA'S LEFT ARM, AND USING THIS
23 PHOTOGRAPH STATE'S EXHIBIT NINETY-FOUR DEPICTING
24 SHEKA'S ON THE BED WITH THE RED MATTER TO THE LEFT,
25 IS THAT CORRECT?

1 A YES, TO THE LEFT

2 Q ALL RIGHT, WHAT DOES THIS MATTER ON THE LEFT
3 HERE TELL YOU FORENSICALLY, THIS BLOOD MATTER AND
4 AREA ON THE LEFT HERE, TELL YOU FORENSICALLY ABOUT
5 SHEKA JACKSON'S POSITION ON THIS BED WHEN SHE WAS
6 SHOT INITIALLY?

7 MR TINSLEY OBJECTION, YOUR HONOR,
8 PROPER FOUNDATION HAS NOT BEEN LAID

9 THE COURT WELL, LAY THE FOUNDATION, IF
10 YOU CAN

11 EXAMINATION CONTINUED

12 BY MR JONES

13 Q LET ME ASK YOU THIS -- RETURN TO THE STAND
14 HAVE YOU EXAMINED THE, THROUGH THIS PHOTOGRAPH, THE
15 MATTER DEPICTED ON THE BED THERE?

16 A YES, I HAVE

17 Q WHAT DOES IT APPEAR TO BE TO YOU?

18 A IT APPEARS TO BE BLOOD AND BRAIN MATTER

19 Q AND HOW DOES IT APPEAR TO HAVE GOTTEN THE WAY
20 IT IS?

21 A IT HAS BEEN FORCED BY A GREAT DEAL OF FORCE
22 FROM THE BODY ONTO THAT BED SHEET

23 Q AND WOULD YOU REFER TO IT AS A HIGH-VELOCITY-
24 BLOOD SPATTER?

25 A PORTIONS OF THIS --

1 MR TINSLEY OBJECTION, YOUR HONOR, HE'S
2 NOT QUALIFIED TO TESTIFY TO THOSE FACTS

3 THE COURT OVERRULED

4 EXAMINATION CONTINUED

5 BY MR JONES

6 Q- GO AHEAD

7 A I WOULD REFER TO THIS AS HIGH-VELOCITY-BLOOD
8 DEBRIS, YES

9 Q I WANT TO HAND YOU DEFENSE EXHIBIT NUMBER
10 FORTY AND ASK YOU IF YOU RECOGNIZE TO WHAT THAT
11 APPEARS TO BE

12 A YES, THIS REPRESENTS WHAT APPEARS TO BE A
13 BLOOD SPATTER ON A MIRROR

14 Q ALL RIGHT, AND WHAT APPEARS TO BE DEPICTED IN
15 DEFENSE EXHIBIT NUMBER THIRTY-NINE?

16 A THIS REPRESENTS, AGAIN, A MIRROR, DRESSER, AND
17 THE EDGE OF A BED IN THE BEDROOM

18 Q DO YOU SEE THINGS THAT APPEAR TO BE SIMILAR
19 DEPICTED IN STATE'S EXHIBIT NUMBER NINETY-FOUR AND
20 DEFENSE EXHIBIT THIRTY-NINE WITH REGARD TO THE BED?

21 A YES, YOU SEE THE BOTTOM OF THE BED IN D-39,
22 CANNONBALL TYPE POSTERS WITH A DRESSER AND THE
23 MIRROR BEYOND IT AND STATE'S EXHIBIT NINETY-FOUR I
24 SEE THE SAME CANNONBALL END OF A BED AND THE EDGE OF
25 A SIMILAR WOOD DRESSER

1 Q ALL RIGHT, SIR, AND WHAT ABOUT THE BEDSPREAD?
2 DO YOU NOTICE --

3 A THE BEDSPREAD IN BOTH PICTURES IS OF A SIMILAR
4 PATTERN AND COLOR

5 Q ALL RIGHT, AND WHAT CAN YOU TELL US THEN ABOUT
6 THE -- WHAT'S DEPICTED ON THE MIRROR IN STATE -- IN
7 DEFENSE EXHIBIT NUMBER FORTY, WHAT DOES THAT APPEAR
8 TO BE TO YOU AGAIN?

9 A THIS IS HIGH-VELOCITY-BLOOD SPATTER

10 Q ALL RIGHT, AND YOU SAY IT APPEARS TO BE
11 LOCATED ON THE MIRROR, IS THAT CORRECT?

12 A THAT'S CORRECT

13 MR TINSLEY YOUR HONOR, THOSE HAVE NOT
14 BEEN ADMITTED INTO EVIDENCE WE HAVE NO OBJECTION,
15 YOUR HONOR, TO DEFENSE FORTY AND DEFENSE THIRTY-NINE
16 BEING ADMITTED INTO EVIDENCE THEY WERE MARKED
17 SIMPLY FOR IDENTIFICATION PURPOSES

18 MR JONES I APOLOGIZE, YOUR HONOR, I
19 THOUGHT THEY HAD BEEN ADMITTED I -- I'D OFFER THEM
20 INTO EVIDENCE OR WOULD CONCEDE OR NOT OBJECT TO THE
21 DEFENSE OFFERING THEM INTO EVIDENCE

22 THE COURT THEY'VE NOT BEEN ADMITTED?

23 MR GARRETT THEY HAVE NOT, YOUR HONOR

24 MR TINSLEY IMPROPER PUBLICATION, YOUR
25 HONOR

1 THE COURT WELL, WHERE DID THEY COME
2 FROM?

3 MR TINSLEY THEY'VE BEEN MARKED FOR
4 IDENTIFICATION

5 THE COURT WELL, MR TINSLEY'S INDICATED
6 AN OBJECTION TO THE PUBLICATION DO YOU HAVE ANY
7 OBJECTION TO THE ADMISSION? MR GARRETT SAYS HE
8 DIDN'T OBJECT TO IT WHAT IS THE PLEASURE?

9 MR JONES SHE SAYS THEY HAVE BEEN
10 ADMITTED, YOUR HONOR

11 THE COURT WELL, THAT'S THE REASON I
12 ASKED WHERE THEY CAME FROM I DIDN'T THINK THE
13 COURT REPORTER WOULD HAVE ANY EXHIBIT THAT HAD NOT
14 ALREADY BEEN ADMITTED

15 MR JONES I LOOKED AT THE BACK AND IT
16 APPEARED TO BE NOT TO BE FOR IDENTIFICATION
17 PURPOSES IT SAYS DEFENSE EXHIBIT THIRTY-NINE AND
18 FORTY

19 THE REPORTER THEY WERE ADMITTED

20 THE COURT OKAY, THEY'RE IN

21 EXAMINATION CONTINUED

22 BY MR JONES

23 Q WHAT APPEARS TO BE DEPICTED ON THE LEFT-HAND
24 SIDE OF DEFENSE EXHIBIT FORTY?

25 A THERE'S AN EDGE OF A FAN AND THEN A WOODEN BAR

1 THAT WOULD REPRESENT THE EDGE OF THE MIRROR

2 Q ALL RIGHT AND DOCTOR, WHAT I WANT YOU TO DO
3 NOW, YOU TESTIFIED THAT YOU DID EXAMINE SHEKA
4 JACKSON'S ENTRY WOUND AND EXIT WOUND, IS THAT
5 CORRECT?

6 A- THAT IS CORRECT

7 Q BASED ON YOUR EXAMINATION OF STATE'S EXHIBIT
8 NINETY-FIVE AND 106, IF YOU WOULD, SHOW THIS JURY
9 USING MY HEAD AS THE PROFILE THE ENTRY WOUND AND THE
10 APPROXIMATE -- WHAT YOU FOUND TO BE THE DIRECTION
11 THROUGH YOUR HEAD THAT THE PELLETS TOOK

12 A (DOES AS INSTRUCTED) THE ENTRY WOUND WOULD BE
13 IN THIS PORTION OF HAIR ON THE SOLICITOR ABOVE THE
14 EAR, SLIGHTLY IN FRONT OF THE EAR AND ANGLED SO THAT
15 IT PROJECTED TOWARDS THE FRONT THE EXIT WOUND
16 WOULD BE IN THIS AREA WHERE MY FINGER IS NOW ON THE
17 SOLICITOR IN THE AREA OF THE LEFT EYE REACHING TO
18 THE BRIDGE OF THE NOSE

19 SO IT WOULD BE GOING SLIGHTLY DOWN AS THE HEAD
20 WOULD BE IN A NORMAL POSITION, AND GOING FROM THE
21 VICTIM'S RIGHT SIDE TOWARD THE VICTIM'S LEFT SIDE
22 FROM THE POSTERIOR TOWARD THE BACK TOWARD THE FRONT
23 OF THE VICTIM

24 Q ALL RIGHT, NOW BASED ON YOUR EXAMINATION OF
25 THAT WOUND AND THE DIRECTION IT TOOK AND BASED ON

1 YOUR EXAMINATION OF HER ARM AS DEPICTED IN STATE'S
2 PHOTOGRAPH -- STATE'S EVIDENCE NUMBER 107, DO YOU
3 HAVE AN OPINION AS TO WHERE HER ARM WOULD HAVE BEEN
4 -- HER LEFT ARM WOULD HAVE BEEN WHEN THE INJURY WAS
5 CAUSED?

6 A- THE LEFT ARM WOULD HAVE BEEN SOMEWHERE BETWEEN
7 SIX AND TWELVE INCHES AWAY FROM HER BODY OR THE --
8 EXCUSE ME, THE AREA OF HER LEFT EYE, BRIDGE OF HER
9 NOSE AT THE TIME THE INJURY WAS CAUSED

10 Q ALL RIGHT, AND AT THE TIME THE INJURY WAS
11 CAUSED, BASED ON YOUR EXAMINATION OF STATE'S EXHIBIT
12 NUMBER NINETY-FOUR THE PHOTOGRAPH DEPICTING SHEKA ON
13 THE BED, WHERE WOULD THE AREA OF THE BLOOD MASS HAVE
14 BEEN IN RELATION TO HER HEAD WHEN SHE WAS SHOT?

15 A THE BLOOD MASS WOULD HAVE BEEN, AGAIN,
16 SOMEWHERE IN THE RANGE OF SIX TO TWELVE INCHES FROM
17 THE EXIT WOUND, THE EYE, AT THE TIME THAT THE SHOT
18 OCCURRED

19 Q TAKE YOUR HAND AND STEP AROUND AND SHOW ME, IF
20 YOU CAN, WHERE IT WOULD HAVE BEEN APPROXIMATELY

21 A IT WOULD HAVE BEEN APPROXIMATELY IN THIS AREA
22 IN FRONT OF THE ARM AND IT COULD HAVE BEEN BELOW
23 THE ARM IF THE ARM WAS AT SIX INCHES, IT COULD HAVE
24 BEEN BELOW THE ARM BY AS MUCH AS SIX INCHES, OR THE
25 ARM COULD HAVE BEEN SITTING ON THE QUILT AT THE TIME

1 THE SHOT OCCURRED WITH THE HEAD NO MORE THAN TWELVE
2 INCHES AWAY

3 Q ALL RIGHT NOW BASED ON YOUR EXAMINATION OF
4 THE STIPPLING TO THE SKULL OF SHEKA JACKSON, THE
5 STIPPLING PATTERN AND THE WOUND, BASED ON YOUR
6 EXAMINATION OF THE NUMBER SIX SHOT OF BALLISTIC
7 PATTERNS THAT YOU EXAMINED, DO YOU HAVE AN OPINION
8 AS TO THE DISTANCE OF THE BARREL OF THE GUN FROM THE
9 HEAD OF SHEKA JACKSON WHEN SHE WAS SHOT?

10 A IT WAS NO MORE THAN TWO FEET BUT IT COULD
11 HAVE BEEN AS CLOSE AS A FOOT I COULD NOT SEE
12 POWDER, BUT POWDER COULD HAVE BEEN CONCEALED BY THE
13 HAIR

14 Q BASED ON YOUR EXAMINATION OF HER AND THIS
15 PHOTOGRAPH, STATE'S EXHIBIT NUMBER NINETY-FOUR,
16 ASSUMING THAT I REPRESENT HER IN THIS POSITION, DO
17 YOU HAVE AN OPINION AS TO WHERE THE SHOT WAS FIRED
18 FROM?

19 A IT WOULD HAVE HAD TO HAVE BEEN FIRED FROM THE
20 RIGHT SIDE OF THE PICTURE FROM BEHIND OR
21 BESIDE/BEHIND HER MUCH AS I'M STANDING BUT BACK SO
22 THAT I WOULD HOLD THE END OF THE BARREL AT LEAST TWO
23 FEET -- BETWEEN A FOOT AND TWO FEET FROM THE END OF
24 HER HEAD AT THE TIME THE WEAPON WAS DISCHARGED

25 Q ALL RIGHT, WOULD YOU GET THAT AND DO THAT,

1 PLEASE, TO DEMONSTRATE?

2 MR TINSLEY OBJECT YOUR HONOR

3 THE COURT HE'S DEMONSTRATING HIS
4 TESTIMONY, YOU OBJECT TO THAT?

5 MR TINSLEY THE QUESTION IS QUALIFIED
6 IN THE AREA OF BLOOD SPATTERING THAT'S THE ISSUE
7 AND I RELATE TO TRIANGULATION BLOOD SPATTER THAT HE
8 WAS NEVER QUALIFIED AS AN EXPERT IN THOSE AREAS,
9 YOUR HONOR

10 THE COURT OVERRULE THE OBJECTION

11 THE WITNESS THE END OF THE WEAPON WOULD
12 HAVE BEEN BACK HERE BETWEEN ONE AND TWO FEET BACK --
13 I DON'T HAVE A RULER DEPUTY SOLICITOR WENT TO GET
14 ONE IT WOULD HAVE BEEN BETWEEN ONE FOOT AND TWO
15 FOOT AT THE TIME THE WEAPON -- THE END OF THE BARREL
16 WOULD HAVE BEEN -- THE TIME THE WEAPON WAS
17 DISCHARGED?

18 EXAMINATION CONTINUED

19 BY MR JONES

20 Q AND ARE YOU REPRESENTING NOW AN ACCURATE ANGLE
21 AS YOU EXAMINE THE ENTRY AND EXIT WOUND TO HER?

22 A YES, I AM

23 Q IS THAT CORRECT?

24 A YES A LITTLE HIGHER WITH THE END OF THE
25 RULER A LITTLE HIGHER THAN THAT FROM HERE TO HERE

1 Q ALL RIGHT, BUT IN ORDER TO GET THAT ANGLE
2 YOU'VE GOT TO STEP UP ON SOMETHING TO BE COMFORTABLE
3 WITH THE GUN, RIGHT?

4 A I WOULD, YES

5 Q ON ME

6 A- THAT'S CORRECT

7 Q DID YOU SEE ANYTHING THAT SOMEONE COULD HAVE
8 BEEN STANDING ON WHEN THE SHOT WAS FIRED BASED ON
9 THE ANGLE THAT YOU'VE REVIEWED THIS IN STATE'S
10 EXHIBIT NUMBER NINETY-FOUR?

11 A ONLY THE BED

12 Q DOCTOR, I'D LIKE TO ASK YOU ALSO IF -- TO TAKE
13 A LOOK AT THIS PHOTOGRAPH AND ASK YOU IF YOU
14 RECOGNIZE WHAT'S DEPICTED THERE

15 A YES, THIS IS A PHOTOGRAPH OF MRS HARRIS AND
16 IT IS NOT A PHOTOGRAPH THAT I CAUSED TO BE TAKEN

17 Q AND WHAT DOES IT SHOW OF MS LUEVINIA HARRIS?

18 A IT SHOWS MS HARRIS BEFORE SHE WAS CLEANED FOR
19 ANY AUTOPSY PHOTOGRAPHS

20 Q IS IT A FAIR AND --

21 MR TINSLEY WHAT NUMBER WOULD THAT BE?

22 MR JONES NUMBER NINETY-TWO

23 EXAMINATION CONTINUED

24 BY MR JONES

25 Q IS IT A FAIR AND ACCURATE REPRESENTATION OF

1 WHAT YOU SAW MS HARRIS PRIOR TO CONDUCTING YOUR
2 AUTOPSY?

3 A YES, IT IS

4 MR JONES YOUR HONOR, WE WOULD OFFER
5 THIS INTO EVIDENCE AT THIS TIME

6 THE COURT SO ADMITTED

7 MR JONES YOUR HONOR, WE OFFER STATE'S
8 EXHIBIT NUMBER NINETY-TWO

9 MR TINSLEY YOUR HONOR, THERE WAS A
10 DEDACTION MATTER IN THIS ONE TOO AS WELL AS MY
11 OBJECTION ON HEARSAY AND THE OTHER PREVIOUSLY STATED
12 GROUNDS

13 MR JONES I WITHDRAW THIS ONE --

14 THE COURT OKAY

15 MR JONES -- AT THIS POINT IN TIME
16 CAN WE GIVE THIS TO YOU, JUDGE, THAT MAYBE YOU'LL
17 WANT TO GET SOMEBODY TO WORK ON THAT

18 THE COURT OKAY

19 MR JONES ANSWER ANY QUESTIONS THESE
20 LAWYERS HAVE FOR YOU

21 CROSS EXAMINATION

22 BY MR GARRETT

23 Q GOOD AFTERNOON YOU HAVE EXAMINED ALL THE
24 EVIDENCE, DOCTOR, HAVE YOU NOT AT THE SCENE?

25 A I'VE SEEN A MULTITUDE OF PICTURES AND SOME

1 OTHER PHYSICAL EVIDENCE FROM THE SCENE, YES

2 Q CAN YOU IDENTIFY FOR US THEN DEFENDANT'S
3 EXHIBIT FORTY-ONE, THIRTY-SIX, THIRTY-FOUR, AND
4 THIRTY-FIVE?

5 A FORTY-ONE APPEARS TO BE THE EDGE OF A DRESSER
6 SOMEWHERE NEAR THE BED I CAN SEE THE BED IN THE
7 BACKGROUND JUST BEYOND THE DRESSER DEFENDANT'S
8 THIRTY-SIX IS, AGAIN, PICTURES OF HIGH-VELOCITY
9 SPATTER ON SOME PIECE OF GLASS DEFENDANT'S THIRTY-
10 FOUR, AGAIN, HIGH-VELOCITY SPATTER ON WHAT APPEARS
11 TO BE -- I CAN'T -- I THINK IT'S A REVCO FILM
12 PACKET AND THIRTY-FIVE, AGAIN, REPRESENTS HIGH-
13 VELOCITY SPATTER AGAIN ON A MIRROR

14 Q AND THIS -- WOULD THIS BE ALL HIGH-VELOCITY
15 SPATTER IN RELATION TO MISS SHEKA JACKSON?

16 A IN THAT ROOM, YES

17 Q AND ARE THOSE ALSO PICTURES NECESSARY FOR YOU
18 TO BE ABLE TO MAKE THE OPINION THAT YOU'RE MAKING
19 HERE TODAY IN THE COURTROOM?

20 A THEY SUPPORT THAT OPINION

21 Q ALL RIGHT ARE YOU THE SAME DOCTOR WHO SAID
22 THAT THE ENTRY WOUND WAS TO THE BACK OF THE HEAD?

23 A I SAID IT WAS BEHIND THE EAR IT'S IN FRONT

24 MR GARRETT YOUR HONOR, WE MOVE AT THIS
25 TIME TO INTRODUCE DEFENSE EXHIBITS FORTY-ONE,

1 THIRTY-SIX, THIRTY-FOUR, AND THIRTY-FIVE TO BE PART
2 OF THE FOUNDATION UPON WHICH HE WAS TESTIFYING

3 MR JONES NO OBJECTION, YOUR HONOR

4 THE COURT THEY'RE ADMITTED

5 EXAMINATION CONTINUED

6 BY MR GARRETT

7 Q NOW HAVE YOU DONE THE TRIANGULATION PROCESS?

8 A ON THIS PARTICULAR CASE?

9 Q YES

10 A NO, I HAVE NOT

11 Q AND TO YOUR KNOWLEDGE DID ANY OFFICER ANY --

12 S L E D OFFICER DO THE TRIANGULATION PROCESS IN

13 THIS PARTICULAR CASE?

14 A NOT TO MY KNOWLEDGE

15 Q IF THEY HAD -- IF THEY WANTED TO THEY COULD

16 HAVE, COULDN'T THEY?

17 A YES, I WOULD THINK SO

18 Q ALL RIGHT, AND GENERALLY THAT'S DONE, ISN'T

19 IT?

20 A I CAN'T ANSWER THAT QUESTION

21 Q YOU DON'T KNOW WHETHER THAT'S GENERALLY DONE

22 OR NOT?

23 A I DON'T KNOW WHAT S L E D 'S PROCEDURES ARE,

24 WHAT THEY'RE STANDARD PROCEDURES ARE, SO I CAN'T

25 ANSWER FOR S L E D

1 Q I KNOW THE SOLICITOR WAS ON HIS KNEES YOU'RE
2 NOT SUGGESTING IN ANY WAY THAT SHEKA JACKSON WAS ON
3 HER KNEES, WERE YOU, DOCTOR?

4 A NO

5 Q AND, IN FACT, YOU HAD TO BE -- IN FACT, HER
6 HEAD HAD TO BE AT LEAST ABOVE THE DRESSER AT THE
7 TIME OF THE SHOT, DIDN'T IT?

8 A IT HAD TO BE UP TO TWELVE INCHES ABOVE THE
9 BLOOD SPATTER ON THE BED

10 Q OKAY, WHICH WOULD ALSO SAY THAT IT WOULD HAVE
11 TO BE AT LEAST ABOVE THE TOP OF THE DRESSER IN ORDER
12 FOR THERE TO BE BLOOD ON HERE, WOULDN'T IT?

13 A YES, I WOULD THINK IT WAS

14 Q SHE WASN'T LYING DOWN ON THE BED, WAS SHE?

15 A SHE WAS NOT LYING ON HER FACE ON THE BED, NO

16 Q AND DO YOU KNOW HOW MANY INCHES FROM THE --
17 HAVE YOU STUDIED THIS AND DETERMINED HOW MANY INCHES
18 FROM THE SURFACE OF THE BED TO THE TOP OF THE CHEST
19 OF DRAWERS THERE, HAVE YOU DETERMINED HOW MUCH
20 DISTANCE THERE IS BETWEEN THOSE TWO?

21 A NO, I DO NOT KNOW

22 Q HAVE YOU DONE AN ACCURATE INVESTIGATION OF ALL
23 OF THE MEASUREMENTS AND DETAILS TO BE ABLE TO COME
24 TO YOUR CALCULATIONS?

25 A I MADE NO SPECIFIC CALCULATIONS

1 Q YOU'VE NEVER BEEN TO THE SCENE?

2 A THAT'S CORRECT

3 Q HAVE YOU STUDIED ALL THE TRIANGULATION AREAS
4 THAT YOU HAVE TO BE ABLE TO USE TO BE ABLE TO DRAW A
5 CONCLUSION AS TO THE EXACT PROJECTION OF THE SHOT
6 HITTING THE HEAD AND THAT THE SPATTER AS A RESULT OF
7 THAT?

8 A ONLY IN THE RELATIONSHIP TO THE PICTURES I'VE
9 BEEN SUPPLIED

10 Q AND WHAT DEGREE OF SPATTER IS THERE?

11 A THERE'S A SEVERE DEGREE OF SPATTER ON THE
12 BEDSPREAD

13 Q WHAT -- I'M TALKING ABOUT UP ON THE -- I'M
14 TALKING ABOUT ON TOP OF THE DRESSER AND ON THE
15 MIRROR ITSELF, WHAT'S THE DEGREE OF SPATTER AT THAT
16 POINT, DO YOU KNOW?

17 A AGAIN, I'VE ONLY SEEN THE PICTURES I CAN'T
18 ANSWER THAT TRUTHFULLY

19 Q HAVE NOT CONDUCTED ANY TESTS TO DETERMINE WHAT
20 THE DEGREE OF SPATTER WAS?

21 A NO, I HAVE NOT

22 Q NOW, YOU INDICATED THAT THERE WAS A --
23 SOMETHING CONSISTENT WITH A BARREL HITTING OF THE
24 FACE, IS THAT CORRECT?

25 A THAT'S CORRECT

1 Q AND IF CERTAIN PERSONS WERE INVOLVED IN A
2 FIGHT WITH A GUN, THAT COULD BE CONSISTENT WITH HOW
3 THAT OCCURRED, IS THAT RIGHT?

4 A IT COULD BE

5 Q THAT DOESN'T SUGGEST THAT SOMEBODY'S JUST
6 STAYING THERE AND SOMEBODY'S HITTING SOMEBODY IN THE
7 FACE WITH A GUN, DOES IT?

8 A IT DOESN'T ESTABLISH THAT

9 Q THEY COULD BE FIGHTING AND AS A RESULT OF THE
10 FIGHT THAT GETS -- THAT HAPPENS TO ONE SIDE OR THE
11 OTHER?

12 A THAT'S CORRECT

13 Q IS THAT RIGHT?

14 A THAT'S CORRECT

15 Q AND IT'S ONLY CONSISTENT WITH THAT, ISN'T IT,
16 DOCTOR? I MEAN, IT COULD BE OTHER THINGS YOU'VE
17 ALREADY TESTIFIED TO THAT BEFORE IN THIS COURTROOM
18 THAT'S NOT NECESSARILY WHAT IT WAS

19 A THAT'S CORRECT

20 Q AND THAT WAS YOU SAID MODERATE/SEVERE PAIN?

21 A THAT'S CORRECT

22 Q AND WE DISCUSSED EARLIER ALSO THAT IF SOMEBODY
23 HAD HAD THAT AT 2 02 -- AT 2 02 IF SOMEBODY HAD HAD
24 THAT YOU WOULD HAVE PROBABLY KNOWN ABOUT IT, THEY'D
25 BEEN COMPLAINING ABOUT IT, WOULDN'T THEY? THEY

1 WOULDNT BE ON THE PHONE TALKING AND TALKING IN
2 CONVERSATION ABOUT HOW YOU DOING CUZ OR SOMETHING
3 LIKE THAT, WOULD THEY?
4 A I WOULDNT THINK SO, NO
5 Q THEY WOULD BE IN SEVERE/MODERATE PAIN
6 A- I AGREE
7 Q OKAY, AND THEY PROBABLY WOULD BE INDICATING
8 THAT TO SOMEBODY, I'M IN PAIN, SOMEBODY'S HIT ME WITH
9 A GUN, I'M HURTING, WOULDNT THEY?
10 A I WOULD THINK SO
11 Q AND YOU ALSO HAVE AGREED, HAVE YOU NOT,
12 DOCTOR, THAT IF A FIGHT STARTED AT 12 02 AND DEATH
13 OCCURRED SOME TIME RIGHT AFTER 12 04 THAT IT'S VERY
14 POSSIBLE THAT THAT DAMAGE COULD HAVE BEEN DONE
15 DURING THAT TWO AND A HALF MINUTE SPAN OF TIME?
16 A YES, IT COULD
17 Q IN YOUR LAST TESTIMONY YOU TESTIFIED THE DEATH
18 OF BOTH OF THESE PERSONS WAS INSTANTANEOUS, DID YOU
19 NOT?
20 A THAT IS CORRECT
21 Q AND ALSO IN YOUR FIRST TESTIMONY YOU INDICATED
22 THAT THE DISTANCE OF WOUND AS TO MS HARRIS WAS TWO
23 FEET, DO YOU RECALL THAT?
24 A I BELIEVE I STATED THAT IT WAS THREE OR LESS
25 Q THREE OR LESS?

1 A FOR MS HARRIS

2 Q OH, YOU DON'T RECALL SAYING TWO FEET?

3 A NO, I DON'T

4 Q OKAY, YOU SAID THREE OR LESS SO ARE YOU
5 GOING NOW WITH THREE FEET?

6 A- WELL, I BELIEVE I'VE GONE WITH THREE FEET ALL
7 ALONG

8 Q WELL, FOR BOTH OF THEM?

9 A NO, MS HARRIS

10 Q OH, AND YOU MADE THAT UPON THESE DISTANCE
11 PATTERNS THAT WE TALKED ABOUT LAST TIME?

12 A AND THE INJURIES THAT I FOUND ON THE BODY

13 Q AND THE INJURIES

14 A YEAH

15 Q AND WE TALKED ABOUT HOW TO DO THAT PROPERLY
16 HOW DID YOU DO THAT? WHAT'S THE CORRECT WAY OF
17 DETERMINING DISTANCE FROM BODY?

18 A THE BEST MATERIAL WOULD BE PIGSKIN

19 Q WHAT'S THE NEXT BEST METHOD?

20 A BLOTTER PAPER.

21 Q AND WHY DO WE DO BLOTTER PAPER?

22 A BECAUSE IT MORE SIMULATES THE SKIN

23 Q AND DOES THE PAPER THAT WAS USED IN THIS
24 CASE ---

25 A IT WAS CLOTH

1 Q -- DUPLICATE THAT ON CLOTH?

2 A IT WILL, BUT IT HAS SOME INHERENT

3 INACCURACIES

4 Q SO REALLY THE TEST THAT YOU'RE TALKING ABOUT

5 THAT YOU COULD REALLY HAVE AN EXACT REPRESENTATION

6 OF WHAT OCCURRED YOU DIDN'T DO, DID YOU, DOCTOR?

7 A NO, I DID NOT

8 Q YOU'RE NOT -- NOBODY AT S L E D DID THAT?

9 A TO MY KNOWLEDGE THEY DIDN'T

10 Q I WANT TO ASK YOU ABOUT THIS KNIFE INJURY AS

11 PART OF THE TIME LINE YOU SAID THERE WAS SOME

12 BLEEDING FROM THAT KNIFE WOUND?

13 A YES, THERE WAS.

14 Q ALL RIGHT, AND THAT KNIFE WOUND OCCURRED AT OR

15 ABOUT -- SUPPOSE SOMEBODY'S CUT WITH A KNIFE WHEN

16 THE PHONE RINGS AT 12 02, OR THERE'S A DISCUSSION

17 BETWEEN 12 00 AND 12 02, DO YOU THINK THEY'D BE

18 TALKING AND SAYING THINGS LIKE, HOW YOU DOING CUZ,

19 WHAT'S GOING ON, AND THAT TYPE OF THING?

20 A WELL, I THINK THEY WOULD BE IN PAIN

21 Q THEY WOULD BE IN PAIN, WOULD THEY NOT?

22 A YES, THEY WOULD

23 Q SEVERE TO MODERATE PAIN?

24 A YES

25 Q WHICH YOU'VE INDICATED?

1 A YES

2 Q SO IS IT ALSO POSSIBLE THAT THAT CUT COULD
3 HAVE GOT -- COULD HAVE OCCURRED WITHIN THE TWO AND A
4 HALF MINUTES OF THE FIGHT?

5 A YES, IT COULD.

6 MR GARRETT NOTHING FURTHER FOR THIS
7 WITNESS THANK YOU, DOCTOR

8 (WITNESS STEPS DOWN AT 4 18 O'CLOCK P M)

9 THE COURT YOU MAY STEP DOWN

10 MR JONES MAY THE DOCTOR RETURN TO HIS
11 PRACTICE?

12 THE COURT ANY OBJECTION TO THE WITNESS
13 BEING EXCUSED?

14 MR JONES NO, YOUR HONOR

15 THE COURT YOU MAY

16 MR JONES CALL ANITA KNEECE TO STAND, YOUR HONOR
17 ANITA KNEECE

18 THE CLERK THE EVIDENCE YOU SHOULD GIVE
19 THE COURT AND JURY IN THE TRIAL OF THIS CASE SHALL
20 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
21 TRUTH, SO HELP YOU, GOD?

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

23 DIRECT EXAMINATION

24 BY MR JONES

25 Q PLEASE STATE YOUR NAME FOR THE RECORD

1 A ANITA KNEECE

2 Q IF YOU WILL, SPEAK UP

3 A ANITA KNEECE

4 Q WHERE DO YOU LIVE, MS KNEECE?

5 A I LIVE IN GREENWOOD, SOUTH CAROLINA

6 Q- WOULD YOU TELL HOW YOU SPELL YOUR LAST NAME?

7 A K-N-E-E-C-E

8 Q MS KNEECE, ARE YOU MARRIED?

9 A YES, SIR

10 Q YOU HAVE CHILDREN?

11 A YES, SIR

12 Q HOW MANY CHILDREN DO YOU HAVE?

13 A THREE

14 Q AND THEIR AGES?

15 A SEVENTEEN, SIXTEEN, AND FOURTEEN

16 Q AND WHERE DO YOU WORK?

17 A I WORK AT GREENWOOD PLANT NUMBER FIVE

18 Q AND WHAT DO YOU DO THERE?

19 A I'M PRESENTLY A SHIFT LEADER

20 Q AND WHAT DO YOUR DUTIES ENTAIL AS SUCH?

21 A I OVERSEE THE DAY SHIFT THIS IS MY JOB AT

22 THE PRESENT TIME

23 Q AND WHAT DOES THE DAY SHIFT DO IN YOUR

24 DEPARTMENT?

25 A THEY INSPECT CLOTH

1 Q ALL RIGHT ON DECEMBER THE 4TH -- EARLY
2 MORNING HOURS OF DECEMBER THE 4TH, 1995, WHERE WERE
3 YOU WORKING?

4 A I WAS WORKING AT GREENWOOD PLANT NUMBER FIVE,
5 BUT I WAS ON A DIFFERENT JOB

6 Q- AND WHAT WAS YOUR JOB AT THAT TIME?

7 A WEAVER AND INVENTORY CLERK

8 Q OKAY, NOW WHAT SHIFT DID YOU WORK ON THAT DAY?

9 A THIRD

10 Q AND WAS THAT SUNDAY NIGHT OR MONDAY MORNING?

11 A IT WAS SUNDAY NIGHT, BUT IT WAS MONDAY MORNING
12 AFTER 12 00 O'CLOCK.

13 Q SO YOU WENT TO WORK AT 12 00 MIDNIGHT?

14 MR TINSLEY OBJECTION, YOUR HONOR,
15 LEADING

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q WHAT TIME DID YOU GO IN TO WORK?

19 A TWELVE O'CLOCK MIDNIGHT

20 Q OKAY, AND HOW LONG WERE YOU SUPPOSE TO WORK ON
21 THAT --

22 A EIGHT HOURS

23 Q WHEN YOU GOT OFF WORK, WHAT DAY WOULD IT BE
24 AND WHAT TIME WOULD IT BE?

25 A MONDAY MORNING AT EIGHT A M

1 Q AND DECEMBER WHAT?

2 A I'M NOT SURE THE FOURTH, I THINK

3 Q ALL RIGHT NOW, DID YOU WORK WITH SHEKA

4 JACKSON?

5 A YES, SIR

6 Q- OKAY, AND HOW DID YOU WORK WITH HER? DID

7 Y'ALL WORK TOGETHER?

8 A NOT VERY CLOSELY I WORKED IN THE OFFICE

9 SHE WORKED OUT IN THE WEAVE ROOM

10 Q AND WHAT WOULD SHE DO OUT IN THE WEAVE ROOM?

11 A SHE CREELED

12 Q AND WHAT'S CREELING?

13 A IT -- YOU HAVE BIG PACKAGES OF FILLING THAT'S

14 GOT TO BE PUT ON THE LOOMS IN ORDER FOR THEM TO RUN

15 AND THAT'S WHAT -- SHE PUT THOSE FILLING PACKAGES ON

16 THE LOOMS

17 Q HOW MUCH DO THEY WEIGH?

18 A FROM EIGHT TO TWELVE POUNDS A PIECE

19 Q AND HOW MANY OF THOSE PACKAGES WOULD SHE HAVE

20 TO PUT ON DURING THE COURSE OF AN EIGHT HOUR SHIFT?

21 A OH, GOSH -- SHE HAD A BUGGY THAT WOULD HOLD

22 SIXTY OF THOSE PACKAGES OF FILLING AND SHE

23 PROBABLY WENT THROUGH ABOUT EIGHT, NINE, OR TEN OF

24 THEM A NIGHT

25 Q SO AS MANY AS SIX HUNDRED OF THOSE THINGS SHE

1 WOULD DO DURING THE COURSE OF A -- HER JOB?

2 A YES, SIR

3 Q WHAT KIND OF WORKER WAS SHE?

4 A A GOOD WORKER

5 Q DID YOU EVER HAVE ANY PROBLEMS WITH HER?

6 A NO, SIR

7 Q WHAT KIND OF PERSON DID YOU FIND HER TO BE AS

8 A CO-WORKER?

9 A I THOUGHT SHE WAS A SWEET LITTLE GIRL

10 Q AND THAT WAS HER EXPERIENCE WITH HER?

11 A YES, SIR

12 Q HOW LONG DID YOU HAVE TO WORK WITH HER AND TO

13 BE IN THE SAME DEPARTMENT AS HER?

14 A SEVERAL MONTHS

15 Q DO YOU REMEMBER ON DECEMBER THE 4TH AFTER YOU

16 STARTED YOUR SHIFT SOMEBODY COMING BY LOOKING FOR

17 HER?

18 A YES, SIR

19 Q WAS SHE AT WORK THAT NIGHT?

20 A NO, SIR

21 Q WHAT TIME DID SOMEBODY COME BY LOOKING FOR

22 HER?

23 A ONE-THIRTY, TWO O'CLOCK

24 Q A M ?

25 A A M

1 Q DO YOU RECOGNIZE THE PERSON IN THE COURTROOM
2 THAT CAME TO GREEN -- YOU'RE LOCATED IN GREENWOOD?

3 A YES, SIR

4 Q THAT CAME TO GREENWOOD LOOKING FOR SHEKA
5 JACKSON AT 1 30 OR 2 00 A M IN THE MORNING?

6 A- YES, SIR

7 Q POINT HIM OUT TO THE JURY

8 A RIGHT THERE

9 Q YOU REMEMBER HIM?

10 A YES, SIR

11 Q DID YOU KNOW HIM BEFORE THAT DAY

12 A NO, SIR

13 Q WELL, TELL THE JURY WHAT THAT PERSON WANTED
14 WHEN HE CAME BY LOOKING FOR SHEKA

15 A HE JUST SAID HE WANTED TO SEE TESHEKA I TOLD
16 HIM SHE WASN'T AT WORK HE WAS REAL PERSISTENT HE
17 THOUGHT SHE WAS AT WORK

18 MR GARRETT OBJECTION, YOUR HONOR

19 MR JONES WHAT DID HE SAY TO YOU?

20 THE COURT SUSTAINED

21 EXAMINATION CONTINUED

22 BY MR JONES

23 Q TELL US NOW WHAT HE SAW, BUT WHAT YOU SAW --
24 WHAT HE SAID TO YOU JUST TELL THE JURY WHAT -- HOW
25 IT TRANSPIRED WHAT HAPPENED?

1 A HE SAID HE WANTED TO SEE TESHEKA I TOLD HIM
2 SHE'S NOT THERE HE SAID, YES, SHE IS HERE I WANT
3 TO SEE HER AND HE CAME ON IN THE DOOR AFTER I HAD
4 HIM, YOU KNOW, YOU CAN'T COME IN HERE

5 Q WHAT HAPPENED THEN?

6 A- THEN I WENT AND GOT MY SUPERVISOR AND HE
7 TALKED WITH HIM

8 Q AND WHAT DID YOUR SUPERVISOR SAY TO HIM?

9 A THE WEAVE ROOM'S A LOUD PLACE YOU CAN'T HEAR
10 IN THERE BUT EVIDENTLY, I WOULD SAY HE TOLD HIM TO
11 LEAVE BECAUSE --

12 MR TINSLEY OBJECTION, YOUR HONOR

13 EXAMINATION CONTINUED

14 BY MR JONES

15 Q WHAT HAPPENED AFTER YOUR SUPERVISOR LEFT TO
16 TALK TO HIM?

17 A HE LEFT

18 Q ALL RIGHT NOW BASED ON -- DID YOU HAVE TO
19 TELL HIM TO LEAVE ONCE OR TWICE?

20 A I TOLD HIM A COUPLE OF TIMES, BUT HE DIDN'T
21 GO HE CAME ON IN AND WENT TO THE RIGHT AFTER YOU
22 GO IN TO THE WEAVE ROOM

23 Q ALL RIGHT HOW WOULD YOU DESCRIBE HIS
24 DEMEANOR DURING THE PERIOD OF TIME THAT YOU WERE IN
25 HIS PRESENCE?

1 A HE WAS ANXIOUS AND INSISTENT ON GETTING IN
2 THERE

3 Q OKAY

4 A REAL DETERMINED

5 Q DETERMINED?

6 A- YES, SIR

7 Q AND DID YOU HAPPEN TO ATTACH SPECIFIC
8 SIGNIFICANCE TO THAT INCIDENT A DAY OR SO LATER
9 AFTER YOU HAD TALKED TO HIM?

10 A WHEN I CAME TO WORK THE NEXT NIGHT AT 12 00
11 O'CLOCK THE SUPERVISOR ON THE SECOND SHIFT TOLD
12 ME ---

13 MR TINSLEY OBJECTION, YOUR HONOR
14 THE COURT OKAY DON'T TESTIFY AS TO
15 WHAT SOMEONE ELSE TOLD YOU

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q DID -- THE NEXT DAY, WHAT DID YOU COME TO KNOW
19 ABOUT SHEKA?

20 MR TINSLEY OBJECTION, YOUR HONOR

21 EXAMINATION CONTINUED

22 BY MR JONES

23 Q DID SHEKA EVER COME BACK TO WORK WITH YOU
24 AFTER THAT DAY?

25 A NO, SIR

1 Q AND WERE YOU AWARE OF THAT?

2 A YES, SIR

3 Q AND AS A RESULT OF HER NEVER COMING BACK, DID
4 YOU ATTACH ANY SIGNIFICANCE TO WHAT HAD OCCURRED
5 BETWEEN ONE-THIRTY AND TWO A M ON DECEMBER 4, 1995?

6

7 A I JUST KNEW THAT SHE -- TESHEKA GOT KILLED

8 Q OKAY NOW LET ME ASK YOU, WHAT SHIFT HAD YOU
9 BEEN WORKING THE PREVIOUS WEEK?

10 A THIRD SHIFT

11 Q AND WHO HAD YOU BEEN WORKING WITH THE PREVIOUS
12 WEEK?

13 A TESHEKA WORKED THE PREVIOUS WEEK

14 Q DID SHE WORK EVERY DAY THE PREVIOUS WEEK, TO
15 YOUR RECOLLECTION?

16 A YES, SIR

17 Q BETWEEN TWELVE A M AND EIGHT A M ?

18 A YES, SIR

19 Q DID YOU WORK MONDAY?

20 A YES, SIR

21 Q TUESDAY?

22 A YES, SIR

23 Q WEDNESDAY?

24 A YES, SIR

25 Q THURSDAY?

1 A YES, SIR

2 Q AND FRIDAY?

3 A YES, SIR

4 Q AND SHE WAS THERE?

5 A YES, SIR

6 MR JONES ANSWER ANY QUESTIONS THAT
7 THESE LAWYERS HAVE

8 CROSS EXAMINATION

9 BY MR TINSLEY

10 Q NOW, MS KNEECE, COULD I GET YOU TO DESCRIBE
11 MR HUGHEY'S APPEARANCE ON THAT NIGHT?

12 A YOU WANT TO KNOW WHAT HE WAS WEARING OR
13 SOMETHING?

14 Q YES

15 A HE HAD ON A JACKET AND BASEBALL CAP

16 Q WHAT ABOUT THE LENGTH OF HIS HAIR?

17 A I DON'T REMEMBER SEEING HIS HAIR

18 Q YOU DON'T REMEMBER SEEING HIS HAIR?

19 A NO, HE HAD ON A CAP

20 Q HAD ON A CAP?

21 A CAP WITH THE THING HANGING DOWN

22 Q OKAY SO -- BUT HOW ARE YOU SO ABLE TO
23 RECOGNIZE HIM TODAY?

24 A I DON'T KNOW I THOUGHT -- I WASN'T SURE I
25 WOULD RECOGNIZE HIM BUT WHEN I SAW HIM, I KNEW

1 THAT'S WHO IT WAS

2 Q AND WHEN DID YOU TALK TO THE SOLICITOR ABOUT
3 ALL OF THAT?

4 A THIS MORNING

5 Q THIS MORNING?

6 A- YES, SIR

7 Q OKAY AND YOU DON'T KNOW WHAT THE NATURE OF
8 THE RELATIONSHIP WAS BETWEEN JOHN HUGHEY AND SHEKA
9 JACKSON, DO YOU?

10 A NO, SIR

11 Q AND DID YOU KNOW THAT HE'S THE FATHER OF THEIR
12 TWO CHILDREN?

13 A NO, SIR

14 Q YOU DIDN'T?

15 A (SHAKES HEAD NEGATIVELY)

16 Q AND YOU, OF COURSE, WERE -- YOU, OF COURSE,
17 WERE FRIENDS TO THE JACKSONS, RIGHT?

18 A AT WORK, YES

19 Q AND DID MR HUGHEY COME IN THERE WITH A GUN OR
20 ANYTHING THAT NIGHT?

21 A I DIDN'T SEE A GUN

22 Q YOU DIDN'T SEE A GUN?

23 A NO, SIR

24 Q AND AS A MATTER OF FACT, YOU DIDN'T SEE THIS
25 GUN, DID YOU?

1 A NO, SIR

2 Q AND -- AND MS KNEECE, DO YOU HAVE A CRIMINAL

3 RECORD?

4 A NO, SIR

5 Q NONE AT ALL?

6 A- I HAD -- I WROTE SOME BAD CHECKS ONE TIME, BUT

7 OTHER THAN THAT, NO

8 Q YOU DID WRITE SOME FRAUDULENT CHECKS?

9 A YES, SIR

10 Q OKAY AND -- SO YOU'VE BEEN CONVICTED OF

11 FRAUDULENT CHECKS, HAVEN'T YOU?

12 A YES, SIR

13 Q OKAY AND YOU WERE -- YOU ARE HERE TODAY TO

14 TESTIFY ON BEHALF OF THE STATE OF SOUTH CAROLINA?

15 A YES, SIR

16 Q BUT YOU DON'T KNOW WHAT HAPPENED OVER HERE IN

17 ABBEVILLE THE NEXT DAY, DO YOU?

18 A NO, SIR

19 Q AND YOU DIDN'T OBSERVE THAT, DID YOU?

20 A I'M SORRY?

21 Q YOU DIDN'T OBSERVE WHAT HAPPENED, DID YOU?

22 A WHAT HAPPENED HERE?

23 Q HERE

24 A NO, SIR

25 Q IN FACT, HAD YOU EVER BEEN TO MS JACKSON'S

1 HOME OR ANYTHING?

2 A NO, SIR

3 Q AND HAD YOU EVER BEEN TO MS HARRIS'S HOME

4 OVER HERE IN ABBEVILLE?

5 A NO, SIR

6 Q- AND MS KNEECE, YOU DIDN'T EVER SEE MS

7 JACKSON AND MR HUGHEY TOGETHER, DID YOU?

8 A NO, SIR

9 Q SO YOU REALLY CAN'T TESTIFY ABOUT THEIR

10 RELATIONSHIP IN MUCH DETAIL, CAN YOU?

11 A NO, SIR

12 MR TINSLEY THANKS SO MUCH

13 MR JONES NO FURTHER QUESTIONS

14 THE COURT YOU MAY STEP DOWN

15 (WITNESS EXITS STAND AT 4 30 O'CLOCK P M)

16 MR JONES SHE WORKED THIRD SHIFT LAST

17 NIGHT, I'D ASK YOU TO EXCUSE HER AND LET HER GO HOME

18 AND BE BACK AT EIGHT O'CLOCK

19 THE COURT ANY OBJECTION?

20 MR TINSLEY NO OBJECTION, YOUR HONOR

21 THE COURT YOU MAY BE EXCUSED THANK

22 YOU

23 MR TINSLEY I DO HAVE A POINT I WOULD

24 LIKE TO RAISE AT THIS TIME, YOUR HONOR

25 THE COURT LADIES AND GENTLEMEN, LET ME

1 PLEASE ASK YOU TO GO TO YOUR JURY ROOM I'LL BRING
2 YOU BACK IN JUST A MOMENT

3 (JURY EXITS THE COURTROOM AT 4 31 O'CLOCK P M)

4 MR TINSLEY THIS IS A PERFECT EXAMPLE
5 OF THE SURPRISE NATURE OF THIS AND INAPPROPRIATENESS
6 AND INADMISSABILITY OF THIS WITNESS'S TESTIMONY
7 FIRST OF ALL I ASK THE SOLICITOR, I CALL AND SAY HAS
8 SHE --

9 THE COURT: JUST A MINUTE, PLEASE

10 MR TINSLEY -- HAS SHE GOT A CRIMINAL
11 RECORD CLEARLY I'M ENTITLED TO IMPEACH HE SAID,
12 I DON'T KNOW I DON'T THINK SO BUT IF I HAD A
13 CRIMINAL RECORD I WOULD HAVE KNOWN SPECIFICALLY WHAT
14 YOU'RE ASKING

15 SURE, I WENT FISHING I DIDN'T HAVE ANY
16 CHOICE BUT TO GO FISHING IN THAT SITUATION AND SHE
17 ADMITTED TO BAD CHECKS WHICH SHE DIDN'T THINK SHE
18 HAD A CRIMINAL RECORD, SO I PURSUED IT BUT I --
19 YOU KNOW, THAT'S THE WHOLE POINT

20 THE POINT IS ON THESE ANITA KNEECE'S AND
21 ADDITIONALLY SOME WITNESS BY THE NAME OF CONNER, OF
22 COURSE, YOU KNOCKED SAMPLE OUT, WITH NO NOTICE AND
23 ALL THAT AND NO COPY OF THE CRIMINAL RECORDS AND
24 THAT SORT OF THING, IT MAKES IT AWFULLY DIFFICULT TO
25 CROSS I HOPE THE COURT CAN APPRECIATE MY POSITION

1 ON THAT MATTER

2 THE COURT YOU ASKED THE PROSECUTOR FOR
3 A COPY OF THE CRIMINAL HISTORY ON THE WITNESS?

4 MR TINSLEY OF ANY AND ALL WITNESSES
5 THAT THEY'VE GOT

6 THE COURT SOLICITOR, WHAT ABOUT THAT?

7 MR GARRETT OBJECTION

8 THE COURT AND I UNDERSTAND THAT YOU
9 MIGHT NOT HAVE KNOWN IT BUT THE POINT IS IT HAS TO
10 BE CHECKED I MEAN, BECAUSE THAT INFORMATION IS
11 AVAILABLE TO THE STATE YOU HAVE THE CRIMINAL
12 HISTORY CAPABILITY, AND THAT'S THE REASON THEY
13 REQUEST IT, AND THE STATE HAS TO PROVIDE IT

14 MR JONES GUYS, LET ME GET SOMEBODY TO
15 RUN A CHECK ON HER RIGHT NOW

16 THE COURT LET'S DO THAT AND ON ANY
17 OTHER WITNESSES --

18 MR JONES RIGHT

19 THE COURT -- THE STATE INTENDS TO CALL
20 IF THAT HAS NOT BEEN PROVIDED TO THE DEFENDANT

21 MR JONES YES AND I WOULD ALSO OFFER
22 THAT IF SHE HAS A RECORD THAT IS DIFFERENT THAN WHAT
23 SHE SAYS, THAT THEY BE ALLOWED TO CALL HER AND
24 QUESTION HER ABOUT IT SHE'S STILL HERE I ASKED
25 THEM TO KEEP HER HERE AND WE'RE RUN IT ON THE OTHER

1 WITNESSES

2 THE COURT YEAH, WE NEED TO DO THAT,
3 CERTAINLY

4 MR JONES. AND ALSO, YOU KNOW, I KNOW --
5 MR TINSLEY, I MEANT TO LET YOU KNOW THIS, I ALSO --
6 WHEN I TOLD HIM I TOLD HIM I DIDN'T KNOW, I SAID ASK
7 AND SEE I DON'T KNOW AND HE ASKED HER AND SHE
8 TOLD HIM BASICALLY, YOU KNOW, I DON'T KNOW -- BUT
9 ANYWAY, I THINK UNDER THE NEW RULE I DON'T HAVE A
10 PROBLEM CHECKING ON PEOPLE SOMEBODY CAN HELP YOU
11 WITH IT

12 MR McCALLUM SHE'S IMPEACHABLE

13 THE COURT UNDER THE NEW RULE OF WHAT?
14 I DON'T KNOW WHAT YOU'RE REFERRING TO

15 MR JONES YOU'RE RIGHT, YOUR HONOR, IF
16 SHE IS TO HAVE A CONVICTION FOR A FRAUDULENT CHECK
17 IS IMPEACHABLE THE JUDGE HAS SAID THAT I'VE GOT TO
18 LAY A FOUNDATION, SO I AM GOING TO CALL THEM

19 I'LL TELL YOU THIS I'LL GO AHEAD AND DO
20 IT NOW AND WE CAN GO OVER THE PHOTOGRAPHS OR
21 WHATEVER I'LL PUT HIM IN BETWEEN THE NEXT WITNESS
22 I'VE GOT THE GRANDMOTHER, WHO I REALLY WANT TO BE
23 ABLE TO GET HOME SHE'S TIRED SHE'S BEEN UP HERE
24 ALL DAY

25 BUT THIS OTHER LADY'S GOT TO BE AT WORK

1 AT EIGHT O'CLOCK TONIGHT, THAT'S THE REASON I'M
2 CALLING THEM OUT OF ORDER SHE'S NOT GOING TO BE
3 ABLE TO STAND MUCH OF THESE PHOTOGRAPHS BOOM, BOOM
4 AND ALL AND THE GRANDMOTHER IS TIRED THE JUDGE
5 SAYS, TOO, I'VE GOT TO CONNECT UP

6 THE COURT LET ME EXPLAIN THAT I
7 UNDERSTOOD THAT DOCTOR WOODARD WAS GOING TO BE THE
8 FIRST WITNESS

9 MR JONES YES

10 THE COURT AND I UNDERSTOOD THAT PERHAPS
11 YOU WANTED TO SHOW HIM EXHIBIT SEVENTY -- OR NINETY-
12 TWO WHICH WAS A PHOTOGRAPH OF MS HARRIS WHICH I
13 UNDERSTOOD PURSUANT TO PRIOR HEARINGS, WAS TAKEN AT
14 THE SCENE WHEN THE OFFICERS ARRIVED TO INVESTIGATE
15 THE MATTER THAT THE ONLY DIFFERENCE IN HER CONDITION
16 AT THE TIME THE PHOTOGRAPH WAS TAKEN WAS THAT SHE
17 HAD BEEN TURNED OVER BUT IT WAS A CORRECT AND FAIR
18 DEPICTION OF WHAT THE FIRST OFFICER VIEWED UPON
19 ARRIVING AT THE SCENE OF THIS INC AND A PHOTOGRAPH
20 OF HER BODY WAS TAKEN AT THAT TIME

21 IT WAS PERMISSIBLE FOR THE DOCTOR TO USE
22 THE PHOTOGRAPH TO TESTIFY FROM SO LONG AS, AND THE
23 SOLICITOR INDICATED THAT IT WOULD BE -- THE
24 FOUNDATION WOULD BE LAID BY THE PERSON TAKING THE
25 PHOTOGRAPH OR SOME OTHER PERSON WHO ARRIVED AT THE

1 SCENE FIRST AND COULD IDENTIFY THAT THAT WAS, IN
2 FACT, THE WAY THE BODY WAS FOUND WHEN THEY ARRIVED
3 PURSUANT TO THE CALL SO THAT WAS THE FOUNDATION
4 THAT I WAS REFERRING TO
5 MR JONES. YES, SIR, AS WELL AS TO
6 STATE'S EVIDENCE NINETY-FIVE, ALSO
7 THE COURT: THE POINT BEING THAT WHILE
8 DOCTOR WOODARD COULD USE THESE PHOTOGRAPHS TO
9 TESTIFY AS TO HIS FINDINGS OF INJURIES, THEY ARE A
10 CORRECT DEPICTION OF WHAT HE SAY, BUT THEY ARE NOT
11 NECESSARILY A CORRECT DEPICTION OF THE WAY THE
12 BODIES WERE FOUND AT THE SCENE AND THE WAY THAT THEY
13 WERE LEFT BY THE DEFENDANT THAT HAD TO BE
14 ESTABLISHED BY SOME OTHER WITNESS ALL RIGHT, WHO'S
15 THE NEXT WITNESS?
16 MR JONES MR DAVID BLACK WE'RE JUST
17 RUNNING THOSE RECORDS ON THIS LADY AND THE OTHER
18 WITNESS
19 THE COURT WELL, WE CAN CONTINUE WHILE
20 THAT'S BEING DONE
21 MR JONES YES
22 THE COURT ALL RIGHT BRING THE JURY
23 BACK, PLEASE
24 (JURY RE-ENTERS THE COURTROOM AT 4 39 O'CLOCK P M)
25 MR JONES CALL DAVID BLACK TO THE

1 STAND

2 THE CLERK THE EVIDENCE YOU SHOULD GIVE
3 THE COURT AND JURY IN THE TRIAL OF THIS CASE SHALL
4 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
5 TRUTH, SO HELP YOU, GOD?

6 THE WITNESS YES, MA'AM

7 THE CLERK BE SEATED, PLEASE

8 (WITNESS PRESENTED AT 4 40 O'CLOCK P M)

9 DIRECT EXAMINATION

10 BY MR JONES

11 Q WILL YOU PLEASE STATE YOUR NAME?

12 A MY NAME IS DAVID WARREN BLACK

13 Q HAVE YOU TESTIFIED PREVIOUSLY IN THE FIRST
14 PHASE OF THIS TRIAL, IS THAT CORRECT?

15 A YES, SIR, I DID

16 Q I WANT TO HAND YOU STATE'S EXHIBIT NUMBER
17 NINETY-FIVE AND ASK YOU IF YOU RECOGNIZE WHAT IS
18 DEPICTED IN THAT PHOTOGRAPH?

19 A YES, SIR, I DO

20 Q WERE YOU PRESENT WHEN THAT PHOTOGRAPH WAS
21 TAKEN OR --

22 A YES, SIR, I WAS

23 Q OKAY AND WAS THAT PHOTOGRAPH -- WHEN WAS
24 THAT PHOTOGRAPH TAKEN?

25 A THIS WAS AFTER THE DECEASED, MS SHEKA

1 JACKSON, WAS PULLED OR LIFTED UP FROM THE BED AND
2 PLACED INSIDE A BODY BAG THIS WAS DONE SO WE COULD
3 DOCUMENT THE INJURY TO HER IN THE POSITION SHE WAS
4 IN WITH HER FACE FACING THE BED WE COULD NOT GET
5 DOWN LOW ENOUGH TO TAKE THE PHOTOGRAPHS PROPERLY
6 SO WE HAD TO LIFT HER AND PLACE HER INSIDE THE BODY
7 BAG AND WHERE WE, AT THAT POINT IN TIME, TOOK --
8 DOCUMENTED THE EXIT WOUND TO HER FACE

9 Q ALL RIGHT DID YOU MOVING HER FROM THE
10 POSITION SHE WAS FOUND, FACE DOWN, TO THE POSITION
11 THAT YOU TOOK THAT PHOTOGRAPH IN, FACE UP IN THE
12 BODY BAG, SUBSTANTIALLY ALTER THE CONDITION OF HER
13 FACE?

14 A NO, SIR, IT DID NOT

15 Q AND IS THAT AN ACCURATE REPRESENTATION OF THE
16 WAY YOU FOUND HER ON DECEMBER 4, 1995?

17 A YES, SIR, IT IS

18 MR JONES I'LL INTRODUCE THIS INTO
19 EVIDENCE AT THIS POINT IN TIME

20 MR TINSLEY OBJECTION RENEWED ON PRIOR
21 GROUNDS

22 THE COURT ALL RIGHT

23 EXAMINATION CONTINUED

24 BY MR JONES

25 Q I'LL HAND YOU STATE'S EVIDENCE NINETY-TWO,

1 PLEASE DO YOU RECOGNIZE WHAT'S DEPICTED IN THAT?

2 A YES, SIR, I DO

3 Q AND WHAT IS IT?

4 A THIS IS THE FRONT PHOTOGRAPH OF MS HARRIS AS
5 WE -- SHE WAS IN THE HALLWAY DUE TO THE NARROWNESS
6 OF THE HALL AND TO DOCUMENT, AGAIN, THE ENTRY WOUND
7 TO HER LEFT CHEEK, WE, AGAIN, HAD TO PICK HER UP,
8 PLACE HER INSIDE OF A BODY BAG AND PHOTO -- MOVE HER
9 OUT OF THE NARROW HALL TOWARDS CLOSER TO THE KITCHEN
10 AREA WHERE WE COULD DOCUMENT THE INJURIES TO HER
11 FACE

12 Q IS THAT A FAIR AND ACCURATE REPRESENTATION OF
13 THE WAY YOU FOUND HER ON DECEMBER 4, 1995?

14 A YES, SIR, IT IS

15 Q AND MOVING HER FROM ON HER SIDE FACE DOWN WITH
16 HER BACK FACE UP, DID YOU IN ANY WAY SUBSTANTIALLY
17 ALTER THE EVIDENCE DEPICTED THERE IN THAT
18 PHOTOGRAPH?

19 A NO, SIR

20 Q DID YOU IN ANY WAY SUBSTANTIALLY ALTER THE
21 CONDITION OF THE FRONT PART OF HER FACE?

22 A NO, SIR

23 MR JONES YOUR HONOR, WE OFFER THIS
24 INTO EVIDENCE AT THIS TIME

25 MR McCALLUM LET ME LOOK AT THAT,

1 PLEASE, SIR HAS IT BEEN DEDACTED

2 MR JONES IT HAS BEEN DEDACTED

3 MR TINSLEY SAME PRIOR OBJECTIONS, YOUR
4 HONOR

5 THE COURT IT'S ADMITTED

6 MR JONES: ANSWER ANY QUESTIONS THESE
7 LAWYERS HAVE FOR YOU, PLEASE

8 CROSS EXAMINATION

9 BY MR GARRETT

10 Q BRIEFLY, MR BLACK, OF COURSE, AFTER YOU HAD
11 CHANGED THE LOCATION OF THE BODY, WAS IT NOT THAT
12 THESE PHOTOGRAPHS WERE TAKEN?

13 A AS FAR AS MRS JACKSON, SHE WAS STILL ON THE
14 BED IN THE BODY BAG

15 Q RIGHT

16 A SHE WAS NOT IN THE ORIGINAL POSITION AS OTHER
17 PHOTOGRAPHS DEPICTED AS FAR AS MRS HARRIS, NO,
18 SHE WAS NOT IN THE HALL DUE TO THE NARROWNESS OF THE
19 HALL COULD NOT -- I AND THE PHOTOGRAPHER AGENT BLACK
20 FIT AND PROPERLY PHOTOGRAPH HER SO WE ROLLED HER,
21 PUT HER IN THE BODY BAG, MOVED HER FROM THE HALLWAY
22 DOWN TO THE KITCHEN AREA WHERE WE HAD BETTER ROOM
23 WHICH WE COULD WORK

24 Q MS JACKSON'S FACE WAS NOT EXPOSED WHEN IT WAS
25 LYING DOWN WASN'T IT -- IN OTHER WORDS, IN ORDER

1 TO SEE THE FACE YOU WOULD HAVE TO PULL IT UP AND
2 MOVE IT AND LOOK AT IT, WOULDN'T YOU?

3 A THAT IS CORRECT

4 Q AND MS HARRIS WAS LYING DOWN IN SUCH A WAY AS
5 HER FACE WAS NOT NECESSARILY EXPOSED AT THE SAME
6 TIME, IS THAT CORRECT?

7 A THAT IS CORRECT

8 Q AND YOU DIDN'T -- THERE IS A SCIENTIFIC TEST
9 CALLED TRIANGULATION WHERE YOU TAKE THE PARAMETERS
10 AND STRINGS AND YOUR BLOOD SPATTER -- YOUR BLOOD
11 SPATTERING AND DETERMINE THE DEGREES AND KNOW
12 EXACTLY WHERE THE HEAD WAS AT THE TIME OF THE SHOT

13 A YES, SIR, WITHIN A REASONABLE FACSIMILE, YES,
14 SIR

15 Q THERE'S A GOOD SCIENCE ON THAT, IS THERE NOT?

16 A YES, SIR

17 Q AND WAS THAT PERFORMED, WAS THAT PARTICULAR
18 TRIANGULATION PERFORMED IN THIS CASE?

19 A NO, IT WAS NOT

20 Q WAS THAT BECAUSE IT WAS A DOMESTIC HOMICIDE
21 AND THE ASSAILANT AND/OR THE PERSON WHO BELIEVED TO
22 BELIEVED HAD COMMITTED THE CRIME WAS ALREADY KNOWN?

23 A IT WAS NOT DONE BECAUSE IT WAS A DOMESTIC
24 HOMICIDE TO ME WORKING THE SCENE, WE HAD ADEQUATE
25 PHOTOGRAPHS TO DOCUMENT THE SCENE AS WE SAW IT AND

1 THE INJURIES TO THE TWO VICTIMS AND IT WASN'T
2 BECAUSE WE HAD AN IDEA OF WHO THE SUSPECT WAS

3 I JUST FELT THAT IT APPEARED TO ME TO BE A
4 DOUBLE MURDER AND IT WAS PROPERLY DOCUMENTED AS
5 SUCH I DIDN'T FEEL A BLOOD-SPATTER EXAMINATION WAS
6 -- WOULD NECESSARILY BE INVOLVED THE END RESULT IS
7 THE SAME

8 Q I UNDERSTAND BUT NO TRIANGULATION WAS DONE
9 TO KNOW THE EXACT AND/OR A GOOD FACSIMILE OF WHERE
10 THE HEAD WAS AND WHERE THE WEAPON WAS AT THE TIME OF
11 THE SHOT?

12 A NO, SIR

13 MR GARRETT THANK YOU

14 THE WITNESS YES, SIR

15 MR JONES NO FURTHER QUESTIONS

16 THE COURT YOU MAY STEP DOWN

17 MR JONES ANY OBJECTION TO THE WITNESS
18 BEING EXCUSED?

19 MR GARRETT NO OBJECTION, YOUR HONOR

20 THE COURT YOU MAY LEAVE THANK YOU

21 THE WITNESS THANK YOU

22 (WITNESS EXITS STAND AT 4 46 O'CLOCK P M)

23 MR JONES YOUR HONOR, MY NEXT WITNESS
24 IS THE GRANDMOTHER OF TESHEKA JACKSON SHE'S IS
25 BACK, BUT WE'RE TRYING TO EXERCISE SOME RESEARCH

1 WITH REGARD TO HER TESTIMONY AT THIS POINT IN TIME
2 THE COURT YOU NEED TO TAKE UP OUTSIDE
3 THE PRESENCE OF THE JURY?

4 MR JONES YES, SIR

5 THE COURT OKAY LADIES AND GENTLEMEN,
6 PLEASE GO TO YOUR JURY ROOM I'LL BRING YOU BACK
7 SHORTLY

8 (JURY EXITS COURTROOM AT 4 47 O'CLOCK P M)

9 MR JONES YOUR HONOR, THE MATTER THAT
10 I'D ASK YOU TO CONSIDER AT THIS TIME IS TAKING US
11 INTO -- AT THIS TIME TO PROCEED WITH VICTIM'S IMPACT
12 WITNESSES, SHEKA JACKSON'S GRANDMOTHER AND MOTHER,
13 LUEVINIA HARRIS'S SONS AND HUSBAND

14 WE HAVE PRESENTED A NUMBER OF PHOTOGRAPHS
15 TO YOUR HONOR THAT WE WOULD INTEND TO INTRODUCE
16 THROUGH THOSE WITNESSES WE ALSO HAVE A VIDEOTAPE
17 TAKEN BY MS BERNICE JACKSON THE VICTIM -- MOTHER OF
18 THE VICTIM, DEPICTING THE VICTIM AND HER CHILDREN --
19 BOTH VICTIMS AND THE CHILDREN, ABOUT A MINUTE-AND-A-
20 HALF TAPE THAT SHE WAS PRESENT

21 JUDGE, AND WE OFFER THESE PHOTOGRAPHS
22 THROUGH THESE VICTIM-IMPACT WITNESSES THAT WE HAVE
23 WE FEEL LIKE THEY ARE RELEVANT UNDER THE CURRENT LAW
24 IN THE STATE VERSUS ROCHELLE, STACY JOHNSON AND
25 STACY JAMES TUCKER PHOTOGRAPHS WERE ADMITTED AS

1 VICTIM'S IMPACT EVIDENCE TO SHOW SOMETHING OF THE
2 VICTIM'S LIFE IT SHOWED THE VICTIM AT DIFFERENT
3 PLACES ON VACATION, CHRISTMAS DECORATIONS IN
4 VICTIM'S YARD, VICTIM AT HOME WITH HER GODCHILD,
5 VICTIM FISHING

6 - THESE ARE PHOTOGRAPHS OF SHEKA JACKSON AT
7 VARIOUS TIMES IN HER LIFE, THE ONES THAT YOU VIEWED,
8 YOUR HONOR THEY START WITH HER AS A YOUNG GIRL AND
9 THEY GO THROUGH HER ADOLESCENCE, HER YOUNG
10 ADULTHOOD, AND HER MOTHERHOOD THEY DEPICT HER IN
11 VARIOUS LOCATIONS WE ALSO HAVE A PHOTOGRAPH OF MS
12 LUEVINIA HARRIS DEPICTING HER --

13 THE COURT: MR TINSLEY, HAVE YOU SEEN

14 --

15 MR TINSLEY YES

16 THE COURT: -- THE PHOTOGRAPHS?

17 MR TINSLEY YES, I'VE SEEN THEM

18 THE COURT. IS THERE AN OBJECTION TO
19 THOSE PHOTOGRAPHS?

20 MR TINSLEY SOME APPEAR TO BE
21 CUMULATIVE, YOUR HONOR HOWEVER, IT'S -- VICTIM-
22 IMPACT TESTIMONY WHICH YOU THINK SHOULD BE
23 DISALLOWED UNDER 16-3-1550, BUT OBVIOUSLY THE STATE
24 GETS IN THEIR PICTURES OF THIS SORT OF THING, WE
25 RESERVE THE RIGHT TO INTRODUCE THE SAME SORT OF

1 PICTURES OF THE DEFENDANT

2 THE COURT TELL ME WHY IT'S EXCLUDED ON
3 THE 16-3-1550

4 MR TINSLEY WELL, WE'VE BEEN OVER THIS
5 ISSUE THE VICTIM-IMPACT EVIDENCE IN A CAPITAL CASE
6 16-3-1510 AND 1560 RAISES THE ISSUE THAT IT'S NOT
7 APPROPRIATE AND DURING THE LEGISLATURE IN THE COURT
8 MR MAICHAVICH (PHONETIC), HE SAYS -- BEAR WITH ME
9 ONE SECOND, YOUR HONOR -- HE SAYS THAT WHETHER THE
10 SOUTH CAROLINA LEGISLATURE TENDED SUCH EVIDENCE IN
11 CAPITAL TRIALS IS NOT A ISSUE

12 THE VICTIMS AND WITNESS BILL OF RIGHTS
13 SOUTH CAROLINA CODE SPECIFICALLY EXCLUDES CAPITAL
14 CASES FROM IT'S PROVISIONS CONCERNING VICTIM IMPACT
15 AND SENTENCING THE PROVISIONS OF THIS SECTION
16 GOVERN THE DISPOSITION WILL GAIN DEFENSE WITHIN THE
17 JURISDICTION OF GENERAL SESSIONS COURT EXCLUDING ANY
18 CRIME WHICH THE SENTENCE OF DEATH IS SOUGHT IN ANY
19 CASE WHICH INVOLVES AN IDENTIFIED VICTIM WHOSE
20 WHEREABOUTS ARE KNOWN

21 SOUTH CAROLINA CODE 16-3-1558, HAD THE
22 LEGISLATURE INTENDED SUCH EVIDENCE TO BE ADMITTED IN
23 CAPITAL CASES, IT MAKES LITTLE SENSE WE HAVE TO
24 SPECIFICALLY EXCLUDED VICTIM-IMPACT STATEMENTS IN
25 CAPITAL CASES THE ACT, PASSED IN '84 WAS PRECLUDED

1 AND WAS NOT IN RESPONSE TO ANY CONSTITUTIONAL
2 PROHIBITIONS RAISED BY THAT CASE

3 TO DATE, THE STATUTORY PROVISIONS HAVE
4 NOT BEEN HAVE NOT BE RAISED AS THE REASON TO
5 PROHIBIT SUCH TESTIMONY IN A CAPITAL CASE AND WE
6 ARE, OF COURSE, RAISING THEM HERE TODAY

7 THE COURT: YOU'RE JUST SAYING THEN THAT
8 IT'S NOT PERMITTED BECAUSE THE STATUTE DOESN'T
9 PROVIDE FOR IT?

10 MR TINSLEY WE'RE SAYING THAT TO PERMIT
11 THE VICTIM-IMPACT EVIDENCE IN A CAPITAL CASE IN
12 SOUTH CAROLINA -- IN THE STATE OF SOUTH CAROLINA IS
13 PROHIBITED BY STATUTE

14 THE COURT: IT'S PROHIBITED BY 16-3-1550?

15 MR TINSLEY AND ALL THE OTHER STATUTES
16 THAT ARE -- I THINK I MENTIONED, 16-3 --

17 THE COURT OKAY

18 MR TINSLEY -- COLLECTIVELY

19 THE COURT DOES THE STATE WISH TO
20 RESPOND?

21 MR JONES. YOUR HONOR, MY RESEARCH HAS
22 INDICATED THAT SINCE 1993 AND BEFORE, IN 1992,
23 McCLAIN VERSUS TENNESSEE WAS THE ORIGINATING CASE,
24 IS THAT THIS EVIDENCE IS EXACTLY WHAT IS ADMISSABLE
25 PHOTOGRAPHS OF THE VICTIM, TESTIMONY FROM THEIR

1 FAMILY MEMBERS IS VICTIM-IMPACT EVIDENCE

2 I REALIZE THAT PRIOR TO '90 THERE WAS
3 SOME QUESTION AS TO PRIOR TO 1990, BUT CLEARLY THE
4 SUPREME COURT HAS RULED THAT THIS TYPE OF EVIDENCE
5 IS ADMISSABLE AND THAT THE PHOTOGRAPHS ARE
6 ADMISSABLE AS WELL AS THE TESTIMONY FROM INDIVIDUAL
7 FAMILY MEMBERS CONCERNING THE AFFECT OF THE CRIME
8 UPON THEM AND THE LOSS THAT THEY HAVE EXPERIENCED AS
9 A RESULT OF THE LIVES THAT THE DEFENDANT TOOK FROM
10 THEM

11 THE COURT OKAY, OVERRULE THE OBJECTION
12 ON THE GROUND THAT THE STATUTES PROHIBITS

13 MR TINSLEY YOUR HONOR, PLEASE NOTE OUR
14 EXCEPTION WE JUST FEEL THAT SOUTH CAROLINA LAW
15 GIVES ADDITIONAL PROTECTION TO THE DEFENDANT

16 THE COURT ALL RIGHT, THEN WHAT ABOUT
17 THE PHOTOGRAPHS? DO YOU HAVE ANY SPECIFIC OBJECTION
18 TO THE PHOTOGRAPHS UNDERSTANDING OF OVERRULING YOUR
19 OBJECTION TO THE ADMISSION OF THE VICTIM-IMPACT
20 EVIDENCE?

21 MR TINSLEY IT APPEARS TO BE CUMULATIVE
22 AS TO THESE ON MRS HARRIS, YOUR HONOR IT APPEARS
23 TO BE ABOUT THE SAME AGE IN ALL OF THEM IN FACT,
24 TWO OF THEM SHE'S WEARING THE SAME CLOTHES TWO OF
25 THEM ARE DUPLICATES ONE SMALL ONE'S IN A FRAME

1 AND SO I WOULD SAY THERE WOULD BE NO NEED TO ADMIT
2 MORE THAN THREE AT THE VERY MOST EITHER THE FRAME
3 OR THE SMALLER VERSION ONE OF THE ONES IN THE RED-
4 STRIPED SHIRT AND POSSIBLY ONE IN THE BLUE SHIRT

5 MR JONES: THAT'S FINE WITH US, YOUR
6 HONOR WHAT WE WANTED TO DO WAS WE WANTED TO WAS WE
7 WANTED TO LET THE JURY SEE THIS PHOTOGRAPH AS
8 DEPICTED IN THE FRAME

9 THE COURT: OKAY

10 MR JONES: AND WE'VE GOT A SMALL ONE WE
11 WANT TO ADMIT INTO EVIDENCE OF THE SAME PICTURE HE
12 WANTS TO KEEP THIS ONE OF HIS WIFE AND THIS
13 ONE IS ---

14 THE COURT OKAY ANY OBJECTION TO THAT
15 METHOD? NO, THEY HAVE A LARGER PICTURE SO THE JURY
16 CAN SEE ---

17 MR TINSLEY NOT TO THAT MATTER -- NOT
18 TO THAT MATTER OF PRESENTATION WHILE PRESERVING OUR
19 OVERALL OBJECTION CERTAINLY WE WANT MR HARRIS TO
20 HAVE HIS -- BUT NOT TELL THE JURY I MEAN, IN OTHER
21 WORDS, INTRODUCE THE SMALLER PHOTO AND SHOW THE BIG
22 ONE WOULD BE OKAY AND START IT AS SOMETHING LIKE A
23 BIGGER PICTURE OF THE LITTLE ONE OR SOMETHING LIKE
24 THAT DO YOU SEE WHAT I'M SAYING?

25 THE COURT YOU DON'T WANT THERE TO BE

1 ANY REFERENCE THAT MR HARRIS WANTS HIS PHOTOGRAPH
2 BACK?

3 MR TINSLEY RIGHT

4 THE COURT IS THAT WHERE WE'RE GOING?

5 OKAY WELL, IS THERE ANY -- I DON'T SEE THE
6 NECESSITY OF THAT YOU JUST SIMPLY WANT TO SHOW
7 THEM THE LARGE PICTURE, BUT THE SMALL ONE IS GOING
8 TO BE ADMITTED?

9 MR JONES RIGHT

10 THE COURT OKAY AND WHICH OTHER
11 PHOTOGRAPHS DO YOU WISH TO ADMIT?

12 MR JONES OF MS HARRIS?

13 THE COURT YES

14 MR JONES OR ALL?

15 THE COURT WELL, MS HARRIS RIGHT NOW

16 MR JONES MS HARRIS, THERE'S A
17 PHOTOGRAPH OF HER STANDING IN HER HOME, SITTING IN
18 HER HOME AND STANDING IN HER HOME I SEE THAT -- WE
19 CAN LEAVE THIS ONE OUT, THE ONE -- TWO STANDINGS --
20 THESE ARE THE THREE WE WANT TO PUT IN

21 THE COURT THE SMALL ONE IS THE ONE YOU
22 WOULD OFFER IN LEU OF THE FRAME?

23 MR JONES YES, SIR

24 THE COURT ALL RIGHT, MR TINSLEY, YOU
25 HAVE NO ADDITIONAL OBJECTION TO EITHER THE BLUE

1 BLOUSE OR THE RED AND WHITE STRIPED BLOUSE BEING
2 OFFERED OR BEING ADMITTED?

3 MR TINSLEY NO, NOT OTHER THAN MY
4 INITIAL OBJECTION, YOUR HONOR

5 THE COURT. I UNDERSTAND THE STATUTORY
6 OBJECTION THE STATUTORY OBJECTION?

7 MR TINSLEY YES, SIR, THE OBJECTION TO
8 THE VICTIM-IMPACT EVIDENCE BEING OFFERED AT ALL

9 THE COURT. OKAY

10 MR TINSLEY YES

11 THE COURT. ALL RIGHT, EITHER ONE THIS
12 ONE AND EITHER ONE OF THESE

13 MR TINSLEY YOU'RE GOING TO LET TWO IN?

14 THE COURT YES

15 MR TINSLEY YES

16 THE COURT TWO YOU HAVE NO OBJECTION
17 TO TWO BEING ADMITTED ON ANY OTHER BASIS?

18 MR TINSLEY WE DON'T HAVE ANY OTHER
19 OBJECTIONS

20 THE COURT ALL RIGHT, THEN WHAT ABOUT
21 THE PHOTOGRAPHS OF MS JACKSON

22 MR TINSLEY I SEE THEM I DON'T SEE
23 -- THEY APPEAR TO BE SOMEWHAT CUMULATIVE THEMSELVES,
24 YOUR HONOR I WOULD THINK SOME REDUCTION WOULD BE
25 APPROPRIATE AS TO THEM, OF COURSE, BEYOND MY INITIAL

1 VICTIM-IMPACT OBJECTION I WOULD JUST SAY MY ONLY
2 FURTHER OBJECTION IS CUMULATIVE

3 THE COURT WELL, SOLICITOR, IS IT
4 NECESSARY FOR ALL OF THEM TO BE ADMITTED? CAN WE
5 SHOW -- I UNDERSTAND YOU WANT TO SHOW VARIOUS
6 ASPECTS OF HER LIFE AND THAT'S OKAY, BUT JUST SO
7 LONG AS THEY'RE NOT ---

8 MR JONES YOUR HONOR, THE PERSON WE'D
9 LIKE TO INTRODUCE SHOWS HER AS APPROXIMATELY AS A
10 TWO YEAR OLD

11 THE COURT ALL RIGHT ANY OBJECTION TO
12 THAT ONE?

13 MR TINSLEY NO OBJECTION

14 THE COURT OKAY

15 MR JONES YOUR HONOR, THE NEXT ONE WE
16 WOULD LIKE TO INTRODUCE SHOWS HER AS APPROXIMATELY A
17 TEN YEAR OLD IN THE COMPANY OF HER THREE OR FOUR
18 YEAR OLD BROTHER

19 THE COURT ALL RIGHT ANY OBJECTION?

20 MR TINSLEY NO OBJECTION, YOUR HONOR

21 MR JONES THE NEXT ONE SHOWS HER ON
22 VACATION IN FLORIDA AS ABOUT A TWELVE YEAR OLD AGAIN
23 WITH HER BROTHER

24 THE COURT FINE

25 MR TINSLEY I WOULD SAY THAT JUST ONE

1 WITH THAT -- WITH THE BROTHER, YOUR HONOR

2 MR JONES. DIFFERENT TIMES, DIFFERENT

3 STAGES IN HER LIFE --

4 THE COURT: OKAY, OVERRULE THE OBJECTION

5 ADMITTED

6 MR JONES: THE NEXT ONE IS A DISTANT

7 SHOT OF HER IN THE SNOW DURING THE WINTER OUTSIDE OF

8 HER HOME AT APPROXIMATELY SIXTEEN YEARS OF AGE

9 MR TINSLEY NO ADDITIONAL

10 THE COURT: ADMITTED THERE IS NO

11 OBJECTION

12 MR JONES THE NEXT ONE IS A PHOTOGRAPH

13 OF HER WITH HER MOTHER TOGETHER, YOU KNOW, IN HER

14 EARLY TWENTIES, LATE TEENS THE NEXT ONE --

15 THE COURT MR TINSLEY?

16 MR TINSLEY NO ADDITIONAL GROUNDS, YOUR

17 HONOR

18 THE COURT OKAY

19 MR JONES THE NEXT ONE, YOUR HONOR, IS

20 A GROUP PHOTO WITH HER, HER MOTHER, HER FATHER, AND

21 HER BROTHER ON THE COUCH

22 MR TINSLEY YOUR HONOR, WE OBJECT TO

23 THIS ONE IT'S CUMULATIVE THERE'S ALREADY A

24 COUPLE IN THERE WITH HER BROTHER ALONG WITH HER

25 MOTHER, THAT SORT OF THING ARE ALREADY IN

1 MR JONES WELL, JUDGE, MY ARGUMENT IS
2 SHE'S NOT WITH HER --

3 THE COURT OVERRULED OVERRULED ADMIT
4 IT

5 MR JONES AND, YOUR HONOR, AS FAR AS
6 -- THIS PHOTOGRAPH IS ONE OF HER AND HER MOTHER IS
7 SHOWING OF THE AFFECTION THAT THE TWO OF THEM HAD
8 FOR EACH OTHER

9 MR TINSLEY OBJECT ON THAT ONE, YOUR
10 HONOR THERE'S ALREADY ONE IN ABOUT THE SAME AGE --

11 MR GARRETT CUMULATIVE CUMULATIVE

12 MR TINSLEY CUMULATIVE ABOUT THE SAME
13 AGE THIS ONE IS OVERLY EXPRESSIVE DESIGNED TO
14 PREJUDICE THE JURY, AND IT'S PREJUDICIAL IMPACT
15 WOULD OUTWEIGH PROBATIVE VALUE

16 THE COURT OVERRULED ADMIT IT

17 MR JONES YOUR HONOR, THIS ONE IS A
18 PHOTOGRAPH OF HER WITH HER CHILD AS A MOTHER IN
19 MOTHERHOOD

20 THE COURT THAT'S HER CHILD?

21 MR JONES YES

22 MR TINSLEY I HAVE NO ADDITIONAL
23 OBJECTIONS

24 THE COURT ALL RIGHT, YOU CAN ADMIT IT

25 MR JONES THIS IS HER WITH THE OTHER

1 CHILD

2 THE COURT WELL, IS IT THE SAME CHILD
3 DIFFERENT TIME?

4 MR JONES SAME CHILD

5 THE COURT ALL RIGHT, LET'S JUST DO ONE

6 MR JONES DO ONE?

7 THE COURT ONE OR THE OTHER SUSTAINED

8 OBJECTION CUMULATIVE

9 MR JONES THE OTHER ONE WAS THE SAME
10 CHILD, ALSO

11 THE COURT SUSTAINED OBJECTION
12 CUMULATIVE

13 MR JONES SO WHAT WE'VE GOT HERE, YOUR
14 HONOR, AS I COUNT THEM, ONE TWO YEAR OLD, ONE IS A
15 TEN YEAR OLD, ONE IS A TWELVE YEAR OLD, ONE IS A
16 FIFTEEN YEAR OLD WITH MOTHER, ONE IS FAMILY, ONE
17 ALONE IN THE SNOW, ONE EMBRACING AND HUGGING --
18 KISSING MOTHER, AND ONE HOLDING CHILD

19 THE COURT OKAY MARK THOSE, PLEASE
20 OKAY, TELL HIM JUST TO WAIT A FEW MINUTES AND WE'LL
21 BE RIGHT WITH HIM

22 MR JONES WHO WAS IT, JUDGE?

23 THE COURT ONE OF THE JURORS OR SOME
24 NUMBER HAVE REQUESTED TO TAKE A SMOKE BREAK SO I
25 TOLD THEM JUST TO WAIT FOR US TO GET THROUGH AND

1 WE'LL PROVIDE THEM THAT OPPORTUNITY

2 I UNDERSTAND YOU ALSO HAVE A VIDEOTAPE
3 THAT YOU WISH TO OFFER? ALL RIGHT, MR TINSLEY,
4 I'LL HEAR YOU ON THAT

5 MR TINSLEY THE ONLY GROUND THAT WE
6 WOULD HAVE TO EXCLUDE THAT, YOUR HONOR, IS BASIC
7 OPPOSITION TO VICTIM IMPACT THAT WE'VE ALREADY
8 STATED ON THE RECORD

9 THE COURT ALL RIGHT OVERRULE THE
10 OBJECTION

11 MR JONES IT'S ABOUT A MINUTE-AND-A-
12 HALF

13 THE COURT OKAY ANYTHING ELSE THAT WE
14 NEED TO ADDRESS?

15 MR JONES NOT THAT THE STATE CAN THINK
16 OF, YOUR HONOR

17 THE COURT ALL RIGHT, WE'RE GOING TO
18 TAKE TEN MINUTES AND ALLOW THOSE JURORS WHO WANT TO
19 GO SMOKE TO SMOKE, AND THEN WE'LL COME BACK AND
20 CONTINUE LET ME ASK EVERYONE TO REMAIN SEATED OR
21 STILL WHILE THE JURY IS ESCORTED TO THE SMOKING
22 ROOM WE'LL BE AT EASE WHILE THE JURY IS TAKING
23 THEIR BREAK

24 (RECESS)

25 THE COURT ARE WE READY FOR THE JURY?

1 MR TINSLEY WE'RE WAITING FOR ONE MORE,
2 YOUR HONOR DEFENSE IS READY

3 THE COURT READY FOR THE JURY

4 MR JONES YES, STATE'S READY

5 THE COURT BRING THEM IN

6 (JURY RE-ENTERS THE COURTROOM AT 5 29 O'CLOCK P M)

7 THE COURT ALL RIGHT, THE JURY'S

8 PRESENT YOU MAY PROCEED

9 MR JONES CALL RUTH CONNER TO THE
10 STAND

11 THE CLERK THE EVIDENCE YOU SHOULD GIVE
12 THE COURT AND THE JURY IN THE TRIAL IN THIS CASE
13 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
14 THE TRUTH, SO HELP YOU GOD?

15 THE WITNESS YES

16 THE CLERK BE SEATED

17 (WITNESS PRESENTED AT 5 30 O'CLOCK P M)

18 DIRECT EXAMINATION

19 BY MR JONES

20 Q PLEASE STATE YOUR NAME FOR THE RECORD

21 A MY NAME IS RUTH CONNER

22 Q MS CONNER, WHERE DID YOU GROW UP?

23 A I GREW UP IN ABBEVILLE COUNTY IN A LITTLE
24 PLACE THEY CALL ANTRYVILLE, SOUTH, CAROLINA

25 Q MS CONNER, MAY I ASK YOU THE YEAR OF YOUR

1 BIRTH?

2 A BORN IN 1924 -- 1924 THE FOURTH OF APRIL,
3 1924

4 Q AND YOUR GRANDDAUGHTER -- ONE OF YOUR
5 GRANDDAUGHTERS, WAS HER NAME TESHEKA JACKSON?

6 A- YES, SHE WAS

7 Q I WANT TO ASK YOU IF DURING THE LAST WEEK OF
8 HER LIFE -- DURING THE LAST WEEK OF HER LIFE, WHO
9 DID SHE LIVE WITH?

10 A SHE LIVED WITH ME AND HER GRANDDAD

11 Q ALL RIGHT, WHERE IS YOUR ADDRESS? WHERE DO
12 YOU LIVE?

13 A I LIVE 104 PIPPEN STREET, ABBEVILLE

14 Q AND DO YOU RECALL THE LAST WEEK OF HER LIFE?

15 A YES, I RECALL IT REAL GOOD, BECAUSE SHE WORKED
16 THAT WEEK AND SHE WOULD GO TO WORK 11 30 IN THE
17 NIGHT GET OFF AROUND EIGHT -- SHE'D GET TO MY
18 HOUSE AT 8 25 AND I KEPT HER TWO KIDS WHILE SHE
19 WORKED SHE WOULD COME FROM WORK I WOULD GO TO
20 WORK AT NINE O'CLOCK COME BACK AT LUNCH TIME AND
21 SHE AND THE KIDS WOULD BE TAKING A NAP AND IN THE
22 AFTERNOONS SHE'D GET UP AND PLAY WITH THE KIDS FOR A
23 WHILE AND THEN SHE WOULD GO BACK TO BED
24 SOMETIMES SHE WOULD GO OUT BUT SHE BE BACK IN TIME
25 TO GO BACK TO BED AROUND SEVEN-THIRTY EVERY NIGHT

1 Q AND THEN SHE WOULD GET UP AND GO IN TO WORK?

2 A ELEVEN O'CLOCK. I DIDN'T HAVE TO WAKE HER UP
3 SHE DID IT BY HERSELF EVERY NIGHT

4 Q AND THAT IS WHAT SHE DID DURING THE WEEK PRIOR
5 TO HER DEATH?

6 A THAT'S RIGHT

7 Q NOW, HOW WOULD YOU DESCRIBE THE RELATIONSHIP
8 THAT YOU HAD WITH YOUR GRANDDAUGHTER, SHEKA JACKSON?

9 A JUST LIKE A CHILD OF MINE JUST LIKE SHE'S A
10 SWEET CHILD

11 Q HOW HAS HER DEATH IMPACTED YOUR LIFE?

12 A IT MAY BE SOMETHING I'LL NEVER GET OVER

13 Q CAN YOU TELL THIS JURY WHAT, IF ANYTHING, YOU
14 MISS ABOUT HER?

15 A PRETTY MUCH EVERYTHING BUT SHE WAS JUST LIKE
16 A CHILD OF MINE, TOO I KNOW THE SATURDAY BEFORE
17 SHE GOT KILLED, LUEVINIA AND I WAS GOING TO
18 GREENWOOD SHE COULD COME, BUT SHE WAS GOING TO A
19 BALL GAME SHE WOULDN'T DROP HER BECAUSE SHE WAS
20 GOING TO LEAVE HER CAR AT HOME WE WENT TO
21 GREENWOOD, SO I DIDN'T SEE SHEKA ANY MORE

22 AND SUNDAY NIGHT SHE CALLED ME AND TOLD ME
23 SHE'S GOING TO SPEND THE NIGHT WITH LUEVINIA AND
24 SHE AND LUEVINIA WERE GOING TO MONDAY MORNING TAKE
25 HER CAR DOWN TO ANDERSON TO GET IT FIXED I NEVER

1 DID SEE HER NO MORE

2 Q DID SHE -- DID SHE DO ANYTHING TO HELP YOU
3 AROUND YOUR HOUSE AT ALL?

4 A OH, YEAH ALWAYS SHE HELPED CLEAN SHE
5 HELPED COOK, WASH, AND EVERYTHING

6 MR JONES ANSWER ANY QUESTIONS THESE
7 LAWYERS HAVE FOR YOU, PLEASE

8 CROSS EXAMINATION

9 BY MR TINSLEY

10 Q GOOD EVENING, MS CONNER

11 A UH-HUH

12 Q MS CONNER, DID YOU, OF COURSE, KNOW THE
13 DEFENDANT JOHN HUGHEY? DO YOU KNOW HIM?

14 A YES

15 Q AND IS HE THE FATHER OF SHEKA'S TWO CHILDREN?

16 A AS FAR AS I -- YES, HE IS

17 Q AND DID HE USED TO WASH YOUR CAR?

18 A WASH MY CAR?

19 Q YES, MA'AM

20 A HE WASHED MY CAR ABOUT THREE TIMES, I GUESS

21 Q AND DID YOU AND JOHN HUGHEY AT ONE TIME WORK
22 TOGETHER TO GET SHEKA A NEON AUTOMOBILE?

23 A THE WAY THAT CAR COME IN -- HE BOUGHT -- HE
24 SAID HE BOUGHT THE CAR FOR SHEKA AND THE KIDS

25 Q HE DID?

1 A THAT'S WHAT HE SAID AND THEN WHEN HE COME --
2 HE TOOK THE CAR FROM SHEKA THAT'S WHY SHE HAD TO
3 GO ASK ME TO SIGN FOR IT TO GET ANOTHER CAR TO GO TO
4 WORK BECAUSE SHE HAD GOT THIS JOB IN GREENWOOD
5 Q AND THE KIDS ARE LIVING WITH YOU NOW?
6 A - NO, THEY WERE LIVING WITH THEIR GRANDMAMA
7 Q EXCUSE ME?
8 A THEY'RE LIVING WITH SHEKA'S MOTHER NOW
9 Q THEY'RE WITH HER NOW?
10 A I KEEP THEM SOME ON THE WEEKEND
11 Q THEY WERE WITH YOU?
12 A THEY WERE
13 Q YES, MA'AM AND DO YOU RECALL ON AN OCCASION
14 AT YOUR CHURCH WHERE JOHN HUGHEY DROVE YOUR
15 HUSBAND'S TRUCK DOWN THERE TO THE CHURCH?
16 A ONE OR TWO TIMES WHEN WE HAD COMMUNION ON THE
17 FIFTH SUNDAY HE DID THAT ABOUT TWICE
18 Q DOES THAT HELP WITH THE COMMUNION FOOD?
19 A NOT THE COMMUNION FOOD, THE OUTSIDE FOOD
20 Q OH
21 A HE WASN'T IN NO CHURCH
22 Q OKAY BUT HE DID HELP DRIVE THE TRUCK --
23 A THE ONLY THING HE DID WAS HELP POUR DRINKS AT
24 THE CHURCH OUTSIDE MY HUSBAND, HE WOULD MAKE
25 DRINKS AND HE WOULD HELP SHEKA SHEKA WOULD HOLD

1 THE GLASS, HE WOULD POUR IT IN THE GLASS THAT'S
2 ALL HE DID

3 MR TINSLEY THANK YOU SO MUCH, MS
4 CONNER

5 THE COURT MS CONNER, YOU MAY STEP
6 DOWN THANK YOU

7 MR JONES YOUR HONOR, I'D ASK THAT MS
8 CONNER BE ALLOWED TO LEAVE THE BUILDING AND GET SOME
9 REST SHE'S BEEN UP HERE ALL MORNING

10 THE COURT ANY OBJECTION TO HER BEING
11 EXCUSED?

12 MR TINSLEY CERTAINLY NOT, YOUR HONOR

13 THE COURT YOU MAY THANK YOU
14 (WITNESS EXITS STAND AT 5 37 O'CLOCK P M)

15 MR JONES CALL BERNICE JACKSON

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

20 (WITNESS PRESENTED AT 5 37 O'CLOCK P M)

21 DIRECT EXAMINATION

22 BY MR JONES

23 Q PLEASE STATE YOUR NAME FOR THE RECORD

24 A DORIS BERNICE JACKSON

25 Q MS JACKSON, YOU ARE SHEKA JACKSON'S MOTHER?

1 A YES, I AM

2 Q I WANT TO ASK YOU, MS JACKSON, IF YOU HAD AN
3 UNDERSTANDING WITH YOUR DAUGHTER IN JUNE/JULY OF
4 1995 WHAT HER HOPES, DESIRES, ASPIRATIONS WERE AT
5 THAT TIME FOR HER LIFE?

6 MR TINSLEY YOUR HONOR, I'LL CAUTION ON
7 HEARSAY AT THIS POINT

8 THE COURT OVERRULE THE OBJECTION

9 THE WITNESS PRIOR TO JUNE SHEKA WAS
10 WORKING AT KENTUCKY FRIED CHICKEN, AND SHE WASN'T
11 MAKING ENOUGH MONEY AND SHE WANTED -- SHE ALWAYS
12 SAID SHE WANTED HER A NICE CAR, A NICE HOUSE, AND BE
13 ABLE TO TAKE CARE OF HER OWN CHILDREN AND I TOLD
14 HER I SAID, WELL, IF YOU'RE GOING TO WORK, YOU NEED
15 TO WORK WHERE YOU'RE GOING TO MAKE MONEY FOR THE
16 HOURS YOU'RE GOING TO PUT IN

17 AND I ASKED HER DID SHE WANT A JOB IN THE
18 MILL? SHE SAY IT DON'T MATTER AS LONG AS IT'S
19 PAYING GOOD MONEY AND I TOLD HER I HAD CONNECTIONS
20 AND I WOULD TRY TO GET -- GET HER A JOB OVER AT THE
21 MILL IN GREENWOOD

22 AND I KNEW THE PERSONNEL MANAGER AND I
23 CALLED HIM THEY WERE GETTING READY TO GO TO TWELVE
24 HOURS AND I HE TOLD ME TO TELL HER TO COME BY TO
25 FILL OUT AN APPLICATION SHE DID AND HE GAVE HER

1 A JOB IN JUNE

2 AND SHE STARTED WORKING BY THE TIME SHE
3 GOT THE JOB, YOU KNOW, SHE FELT LIKE SHE WAS GOING
4 TO STAY THERE, SO SHE WENT AND GOT HER A CAR SHE
5 WAS GOING TO GET SITUATED WITH THE CAR AND THEN SHE
6 WAS GOING TO SAVE SOME MONEY AND GET HER SOMEWHERE
7 TO LIVE

8 EXAMINATION CONTINUED

9 BY MR JONES

10 Q AND DO YOU KNOW WHAT HER FEELINGS WERE
11 CONCERNING HER MARRIAGE STATUS AT THAT POINT? WHAT
12 DID SHE WANT TO DO WITH HER LIFE AS FAR AS THAT IS
13 CONCERNED?

14 A SHE -- SHE DIDN'T REALLY TALK TOO MUCH ABOUT
15 GETTING MARRIED BECAUSE HER RELATIONSHIP WITH JOHN
16 SHE HAD TOLD ME IT WAS OFF AND I KNEW IT WAS OFF
17 AND ON ALL THE TIME AND I HAD TOLD HER THAT SHE
18 NEEDED TO FIND HER SOMEBODY THAT WAS GOING TO TREAT
19 HER RIGHT AND TAKE HER SOMEWHERE SHE DIDN'T EVEN
20 KNOW WHAT A REAL DATE WAS AND FAR AS I KNOW, SHE
21 WAS LOOKING FOR THAT SOMEBODY

22 Q ALL RIGHT NOW, DO YOU -- DO YOU KNOW WHETHER
23 SHE WAS AFFORDED SOME INSURANCE WITH HER NEW JOB
24 THAT SHE GOT AT THE MILL?

25 A WAS SHE -- PARDON?

1 Q AFFORDED INSURANCE WAS SHE AFFORDED ANY TYPE
2 OF INSURANCE WITH THE NEW JOB THAT SHE GOT AT THE
3 MILL?
4 A BENEFITS YOU TAKE WHEN YOU FIRST GET HIRED
5 Q NOW ARE YOU FAMILIAR WITH THE BENEFITS THAT
6 SHE HAD?
7 A I KNEW SHE HAD INSURANCE ON HERSELF AND THE
8 CHILDREN
9 Q NOW, I WANT TO ASK YOU, WHERE WAS SHEKA BORN?
10 A SHEKA WAS BORN IN ABBEVILLE, AT ABBEVILLE
11 MEMORIAL
12 Q AND I WANT TO ASK YOU IF YOU CAN RECOGNIZE
13 WHAT'S DEPICTED HERE, STATE'S EXHIBIT 109 WHAT IS
14 THIS?
15 A THIS IS SHEKA WHEN SHE WAS EIGHTEEN MONTHS OLD
16 IN 1975
17 Q WHO TOOK THAT PHOTOGRAPH?
18 A MY BROTHER-IN-LAW DID THAT THEY WERE BABY
19 SITTING FOR US WHEN WE GOT MARRIED AND THEY TOOK
20 THAT PICTURE WHILE WE WERE GONE FOR THE WEEKEND
21 Q AND DOES THAT THE PHOTOGRAPH GIVE YOU AN
22 INDICATION OF THE KIND OF CHILD SHE WAS?
23 A YES SWEET CHILD THAT WAS MY BABY THAT
24 WAS MY HEART
25 Q STATE'S EXHIBIT NUMBER 110, WHAT'S THAT DEPICT

1 THERE?

2 A THIS IS SHEKA AND HER LITTLE BROTHER, O J

3 Q HER BROTHER?

4 A YEAH

5 Q HOW MUCH YOUNGER IS HE THAN HER?

6 A- EIGHT YEARS APART

7 Q SO SHE'S HIS OLDER SISTER? BIG SISTER?

8 A YEAH

9 Q WHAT KIND OF BIG SISTER WAS SHEKA TO HER
10 BROTHER?

11 A SHE HAD HIM SPOILED ROTTEN WHENEVER HE
12 WANTED SOMETHING AND HE DIDN'T GET IT FROM ONE OF
13 US, HE WENT TO HIS SISTER

14 Q DO YOU KNOW ABOUT THE RELATIONSHIP THAT THEY
15 HAD?

16 A YES

17 Q I WANT TO HAND YOU STATE'S EXHIBIT 111
18 WHAT'S THAT A PHOTOGRAPH OF?

19 A THIS IS SHEKA AND O J IN FLORIDA AT DISNEY
20 WORLD ONE SUMMER

21 Q SHEKA AND HER LITTLE BROTHER AT DISNEY WORLD?

22 A RIGHT

23 Q HOW DID THEY GET DOWN THERE?

24 A MY SISTER -- MY OLDER SISTER TOOK THEM ALONG
25 WITH HER CHILDREN

1 Q DO YOU REMEMBER HOW OLD SHEKA WAS IN THAT
2 PICTURE, MA'AM?

3 A I THINK SHE WAS ABOUT FOURTEEN

4 Q FOURTEEN?

5 A THIRTEEN OR FOURTEEN, I THINK

6 Q- AND SO HER LITTLE BROTHER WOULD HAVE BEEN HOW
7 OLD?

8 A BEEN ABOUT EIGHT

9 Q I WANT TO ASK YOU IF YOU RECOGNIZE WHAT'S
10 DEPICTED IN STATE'S EXHIBIT 112

11 A THIS IS SHEKA PLAYING IN THE SNOW

12 Q WHO TOOK THAT PICTURE, DO YOU KNOW?

13 A I DID THAT PICTURE WAS TAKEN IN 1988, I
14 BELIEVE WE HAD JUST MOVED IN THAT HOUSE THE YEAR
15 PRIOR TO IT AND IT SNOWED

16 Q WHO'S SHE PLAYING WITH OUT THERE?

17 A WE ALL WERE OUT THERE SHEKA AND HER FATHER
18 AND ME AND O J

19 Q WAS SHE THE KIND OF GIRL THAT LIKED TO PLAY?

20 A YEAH

21 Q THAT'S EXHIBIT 113 WHAT'S IN THAT
22 PHOTOGRAPH?

23 A THIS IS ME AND SHEKA IN 1991 AT OLAN MILLS

24 Q OLAN MILLS?

25 A UH-HUH

1 Q HOW OLD WAS SHE IN THAT PHOTOGRAPH?

2 A SHE WAS NINE -- EIGHTEEN -- EIGHTEEN, THE YEAR
3 SHE GRADUATED

4 Q I'M GOING TO HAND YOU STATE'S EXHIBIT NUMBER
5 114 AND ASK YOU WHAT IN THAT PHOTOGRAPH

6 A SHEKA, ME, O J , AND NEIL

7 Q SHEKA, YOU, O.J , AND NEIL THAT'S SHEKA,
8 YOU, HER LITTLE BROTHER AND WHO? WHO'S HE?

9 A HER FATHER NEIL IS HER FATHER

10 Q IS HE IN THE COURTROOM TODAY?

11 A YES, HE IS

12 Q WOULD YOU TELL THIS JURY WHAT IMPACT SHEKA'S
13 DEATH HAS HAD ON YOUR HUSBAND, HER FATHER?

14 A HE DIDN'T WANT TO COME TO COURT BECAUSE HE
15 DIDN'T WANT TO -- HE CAN'T STAND TALKING ABOUT SHEKA
16 BECAUSE HE BOTHER HIM SO BAD THEIR RELATIONSHIP
17 WAS A GOOD ONE, AND HE MISSES HIS DAUGHTER DEARLY

18 Q DID HE WANT TO TESTIFY TODAY?

19 A NO, HE DID NOT HE CAN'T DO IT

20 Q WHAT'S DEPICTED IN STATE'S EXHIBIT 115?

21 A ME AND SHEKA STANDING IN THE LIVING ROOM I
22 HAD BOUGHT OUTFITS EXACTLY ALIKE FOR THE TWO OF US
23 AND WE TOOK PICTURES

24 Q AND WHAT ARE YOU DOING TO SHEKA IN THAT
25 PICTURE?

1 A HUGGING AND KISSING

2 Q I'M GOING TO HAND YOU STATE'S EXHIBIT 116 AND
3 ASK WHAT'S DEPICTED IN THAT PHOTOGRAPH?

4 A THIS IS TESHEKA AND HER OLDEST SON, DEVONTE
5 MUST HAVE BEEN ABOUT FIVE OR SIX MONTHS OLD

6 Q I'D LIKE YOU TO TELL THE JURY, IF YOU WOULD,
7 OF WHAT KIND OF MOTHER SHEKA WAS TO HER SONS

8 A I OFTEN TOLD SHEKA SHE WAS A BETTER MOTHER
9 THAN I WAS NO MATTER WHEN YOU SAW SHEKA, YOU SAW
10 THOSE TWO CHILDREN THE ONLY PLACE SHE DIDN'T GO
11 WITH THOSE CHILDREN WAS TO WORK

12 WHENEVER YOU SAW SHEKA, FIRST YOU TAYE, THEN
13 KIVIAS CAME AND YOU SAW SHEKA TAKE HIM SHE ALSO
14 CAME INTO THE HOUSE SHE WOULD COME IN WITH ONE CAR
15 SEAT AND HAVE TO GO BACK OUTSIDE AND GET ANOTHER CAR
16 SEAT AND I TOLD HER, I SAID, "GIRL, I DON'T KNOW
17 HOW YOU DO IT SHE WAS ALWAYS THERE FOR THOSE
18 CHILDREN "

19 Q DID YOU AT MY REQUEST PROVIDE ME WITH A
20 VIDEOTAPE THAT YOU HAPPEN TO HAVE TAKEN OF TESHEKA?

21 A YES, I DID

22 Q AND IT'S NOW STATE'S EXHIBIT NUMBER 118 LET
23 ME ASK YOU TO TELL ME WHO TOOK THIS VIDEOTAPE?

24 A I DID I HAD --

25 Q MA'AM?

1 A I HAD RECEIVED A CAMCORDER FOR CHRISTMAS
2 DECEMBER OF '94, AND I WAS JUST PLAYING AROUND WITH
3 IT AND SHE AND LUEVINIA CAME OVER TO THE HOUSE
4 BECAUSE MY MOTHER WAS IN THE HOSPITAL AND THEY HAD
5 THE BOYS SO THEY COULDN'T TAKE THEM UP AND THEY
6 CAME OVER TO THE HOUSE FOR A WHILE BEFORE GOING BACK
7 TO ABBEVILLE AND --

8 Q SO -- GO AHEAD

9 A I HAD THE CAMERA READY TO GO, SO I JUST GOT IT
10 OUT

11 Q SO LUEVINIA IS ON THIS TAPE ALSO?

12 A YES, SHE IS

13 Q LUEVINIA HARRIS?

14 A RIGHT

15 Q AND SHE --

16 A AND SHEKA -- LUEVINIA, SHEKA, AND THE BOYS

17 Q AND THE BOYS?

18 MR JONES YOUR HONOR, WE'D LIKE TO
19 PRESENT THIS TAPE AT THIS TIME

20 THE COURT YOU MAY

21 MR JONES YOUR HONOR, I'D LIKE ---

22 THE COURT GET IT STARTED AND STOP THE
23 PICTURE SO I CAN BE CERTAIN EVERYBODY CAN SEE ALL
24 RIGHT CAN EVERYONE SEE THE SCREEN? CAN EVERYONE
25 SEE THE PICTURE? OKAY

1 Q WHO IS THAT ON THE CAMERA NOW?

2 A THAT'S LUEVINIA

3 Q LUEVINIA?

4 A YES

5 (VIEWING VIDEOTAPE 5 50 - 5 55 O'CLOCK P M)

6 Q- MS JACKSON, I'D LIKE TO ASK YOU NOW TO TELL
7 THIS JURY OF ANYTHING THAT YOU'D LIKE TO CONCERNING
8 THE IMPACT THAT THE MURDER OF YOUR DAUGHTER HAS HAD
9 ON YOUR LIFE AND YOUR FAMILY'S LIFE

10 A THIS MURDER HAS TURNED MY LIFE AND MY FAMILY'S
11 LIFE UPSIDE-DOWN, INSIDE-OUT WE LOST TWO MEMBERS
12 OF OUR FAMILY IT'S LIKE I LOST TWO SISTERS AND MY
13 MOTHER LOST TWO DAUGHTERS

14 LUEVINIA WAS THE FIRST COUSIN, BUT SHE WAS
15 LIKE A SISTER AFTER HER MOTHER DIED MY MOTHER TOLD
16 HER THAT SHE WOULD BE HER MOTHER SO WE SPENT A LOT
17 OF TIME DOWN THERE SHEKA WAS MY DAUGHTER, BUT SHE
18 WAS LIKE MY SISTER SHE WAS MY FRIEND BOTH OF
19 THEM WERE MY FRIEND I COULD TALK TO EITHER ONE OF
20 THEM I MISS BOTH OF THEM I LOVE BOTH OF THEM

21 I JUST -- WHEN I CLOSE MY EYES I CAN SEE BOTH
22 OF THEM THERE'S NOT A DAY GO BY I DON'T THINK
23 ABOUT THEM I CAN'T CRY LIKE I WANT FOR SHEKA
24 BECAUSE I'M GRIEVING FOR LUEVINIA AND I CAN'T
25 GRIEVE FOR LUEVINIA BECAUSE I'VE GOT TO CRY FOR

1 SHEKA

2 IF YOU DON'T HAVE A CHILD THEN YOU DON'T KNOW
3 WHAT I'M TALKING ABOUT IF YOU HAVEN'T LOST A CHILD
4 YOU DON'T KNOW WHAT I'M TALKING ABOUT I USE TO GO
5 AROUND TO PEOPLE WHO HAD LOST SOMEBODY AND TELL
6 THEM, I KNOW HOW YOU FEEL BUT IF YOU HAVEN'T LOST
7 A CHILD, YOU DON'T KNOW HOW I FEEL YOU CAN
8 SYMPATHIZE WITH ME

9 I GOT A HOLE IN MY HEART IT FEELS LIKE IT
10 JUST WILL NOT HEAL IT HURTS, JUDGE AND NO AMOUNT
11 OF COMFORTING CAN HELP IT

12 THEN I'VE GOT THESE TWO SMALL CHILDREN THAT
13 I'VE GOT TO RAISE FOR MY DAUGHTER I LOOK AT THEM
14 AND I THINK ABOUT YOUR MAMA WOULD HAVE LOVED TO SEE
15 YOU DO THIS OR DO THAT AND I'D JUST HAVE TO
16 COMFORT THEM AND WHEN ONE COMES TO YOU AND TELLS
17 YOU SHEKA DEAD, THEN YOU GOT TO SIT THERE AND TRY TO
18 TELL THAT CHILD, YES, SHEKA DEAD, BUT IF YOU LIVE
19 RIGHT MAYBE YOU'LL GET TO SEE HER ONE DAY

20 THEY SEE A POLICE CAR GO BY THEIR HOUSE, THEY
21 SAY, "SOMEBODY GOT SHOT, SOMEBODY DEAD " THEN YOU
22 GOT TO ASK THEM WHY YOU SAY THAT THEN THEY SHUT
23 DOWN THE OLDEST ONE WILL SIT DOWN SOMETIME AND
24 SAY, "SHEKA GOT CUT "

25 MR TINSLEY YOUR HONOR, I OBJECT TO

1 CONTINUING WITHOUT QUESTIONS

2 THE COURT OVERRULED

3 THE WITNESS AND THEN YOU GOT TO SIT
4 DOWN AND WONDER HOW MUCH DOES THIS CHILD REMEMBER
5 AND AT NIGHT WHEN THEY CRY I HAVE TO BE THERE FOR
6 THEM AND TRYING TO RAISE CHILDREN AT FORTY IS NOT
7 EASY

8 I SEE WHY THEY SAY HAVE THEM WHILE YOUR YOUNG
9 BECAUSE NOW YOU -- THE THINGS I HAVE TO DO FOR THEM
10 I THOUGHT I HAD PUT IT ALL BEHIND ME AND IT'S
11 REALLY HARD YOU HAVE TO START ALL OVER

12 AND WHEN I TAKE CARE OF THEM I THINK ABOUT
13 THESE ARE MY DAUGHTER'S CHILDREN AND MY
14 DAUGHTER -- WHAT SHE WANTED TO DO FOR THEM AND I
15 THINK BACK ON MY COUSIN AND I THINK ABOUT TIMES WHEN
16 I WANTED TO TALK TO HER AND SHE'D SAY, OH, BON,
17 DON'T BE LIKE THAT BON SHE WAS EVERYBODY'S
18 FRIEND SHE SAW YOU ON THE STREET AND SHE DIDN'T
19 KNOW YOU, SHE'D SPEAK TO YOU

20 SOMETIMES SHE'D BE RIDING IN THE CAR WITH ME,
21 SHE'D HOLLER OUT THE WINDOW TO SPEAK TO SOMEBODY SHE
22 KNEW AND I WOULD SAY, "DON'T BE HOLLERING OUT MY
23 WINDOW LIKE THIS "

24 SHE SAID, "WELL, I WANT TO SPEAK TO
25 EVERYBODY " SHE WAS JUST THAT TYPE OF PERSON

1 ALWAYS WITH A SMILE THERE'S SO MANY THINGS I COULD
2 SAY ABOUT HER AND I MISS HER SO MUCH

3 AND I LOOK AT MY MOM AND SHE'S GETTING UP IN
4 AGE, AND SHE'S GOT SHEKA'S PICTURE ON THE WALL AND
5 SHE CONSTANTLY TALKS ABOUT HOW SHE MISS SHEKA SHE
6 WANTS TO FIND A JOB AT SEVENTY-THREE BECAUSE SHE'S
7 TIRED OF SITTING AT THE HOUSE BECAUSE WHEN SHE --
8 IF SHE'S TALKING ABOUT SHEKA, SHEKA SAT THERE AND
9 BALANCED HER CHECKBOOK SHE COULD SIT THERE AND DID
10 THIS OR DID THAT WE ALL MISS HER

11 WHEN WE GET TOGETHER FOR FAMILY DINNERS AND
12 ALL THE NIECES AND NEPHEWS ARE THERE, THERE'S ONE
13 SPOT MISSING AND IT'S SHEKA AND EVERYBODY KNOWS
14 IT AND IT'S JUST HARD YOU JUST HAVE TO GO IN
15 ANOTHER ROOM AND TRY TO THINK ABOUT SOMETHING ELSE

16 BUT THE HURT THAT I FEEL, THE HURT THAT MY
17 FAMILY FEELS -- AND WHEN I TRY TO TALK TO MY HUSBAND
18 ABOUT HIS DAUGHTER, HE CAN'T TALK BACK I TOLD HIM
19 LAST NIGHT, I SAID, YOU GOT TO LET IT OUT YOU GOT
20 TO TALK SOMETIME AND I THINK I TALK ABOUT IT TOO
21 MUCH

22 BUT HE KILLED MY DAUGHTER, BUT HE CAN'T KILL
23 HER MEMORY I WILL ALWAYS HAVE HER MEMORY AND I
24 MISS HER SO MUCH, BECAUSE SHE WOULD BE THERE FOR ME
25 AND THE ONE TIME WHEN SHE NEEDED ME TO BE THERE FOR

1 HER, I WASN'T THERE FOR HER SHE CALLED ME THAT
2 EVENING AND SHE SAID, MOM, I CAN'T GO HOME, SHE
3 SAID, BECAUSE JOHN HIT ME BUT JOHN HAD HIT HER
4 TIMES AND TIMES BEFORE

5 MR TINSLEY OBJECTION, YOUR HONOR

6 THE COURT OVERRULED

7 THE WITNESS BUT FOR SOME REASON
8 SOMETHING IN HER HEART TOLD HER THIS TIME IT WAS
9 DIFFERENT BUT SHE DIDN'T LET HER MOTHER KNOW IT
10 WAS DIFFERENT I DIDN'T DETECT IT WAS DIFFERENT
11 SHE KEPT A LOT OF THINGS FROM ME I KEEP THINGS
12 FROM MY MOTHER I'M SURE EVERYBODY KEEPS THINGS
13 FROM THEIR PARENTS BECAUSE YOU'VE GOT TO BE YOUR OWN
14 PERSON AND THAT'S WHAT SHE WAS TRYING TO DO, BE
15 HER OWN PERSON

16 THE THINGS SHE WANTED ME TO KNOW SHE TOLD AND
17 I TRIED NOT TO PRY, BUT I TRIED TO TALK TO HER AS A
18 MOTHER WOULD TALK TO HER DAUGHTER AND TELL HER WHAT
19 SHE SHOULD AND SHOULD NOT WANT OUT OF LIFE AND I
20 TOLD HER THAT SHE SHOULD ONLY WANT THE BEST AND
21 SOMETIMES NOW IT BOTHERS ME, DID I TELL HER THE
22 RIGHT THING? WAS SHE TRYING TO DO WHAT I TOLD HER
23 TO DO? DID I CAUSE THIS?

24 I'M BLAMING MYSELF HERE KNOWING ALL THE TIME
25 THIS CHILD HAD A MIND OF HER OWN, BUT BECAUSE SHE

1 DIDN'T GO ON AND DO THE THINGS THAT I THOUGHT SHE
2 SHOULD DO IT BOTHERED ME THEN TO LOSE A CHILD AND
3 HAVE TO GO THROUGH HER PERSONAL POSSESSIONS AND SEE
4 I'M DOING WHAT YOU TOLD ME TO DO, MAMA I JUST
5 DIDN'T TELL YOU I WAS DOING IT

6 SHE HAD EVERY CHECK SHE HAD EVER GOT FROM THE
7 TIME SHE STARTED WORKING SHE WORKED MAYBE TWO
8 WEEKS AT DENNY'S CORNER THEN SHE WENT TO KENTUCKY
9 FRIED CHICKEN AND SHE WORKED A COUPLE OF MONTHS
10 THEN SHE WAS AT GREENWOOD MILLS FOR LIKE SIX MONTHS
11 SHE HAD EVERY CHECK LAID RIGHT THERE THE
12 CHILDREN'S BIRTH CERTIFICATES, IMMUNIZATION CARDS, I
13 DIDN'T HAVE TO SEARCH FOR NOTHING SHE HAD IT ALL
14 IN A BOX WAITING ON ME AND THAT HURT BECAUSE
15 THIS WAS LIKE PRE-PREPARATION AND SHE DIDN'T EVEN
16 KNOW IT

17 AND IT'S JUST LITTLE THINGS THAT COME UP AND
18 IT HURTS SO BAD WHEN YOU CAN'T GO TO HER AND TELL
19 HER, "I UNDERSTAND I'M HERE FOR YOU " I CAN'T
20 CALL HER ON THE PHONE SHE CAN'T CALL ME ON THE
21 PHONE

22 SHE HAD GOTTEN TO THE PLACE WHERE SHE WOULD
23 CALL ME ANY TIME OF THE WEEK DEPENDING ON WHAT SHIFT
24 I WAS ON AND SAY, "WHAT YOU DOING?"

25 AND I SAID, "WELL, I'M ASLEEP, SHEKA, I WORKED

1 LAST NIGHT ' SHE SAID, "OH, YOU ON THIRD?"

2 BECAUSE I -- AT THAT TIME I WAS ROTATING EVERY
3 FOUR WEEKS AND IT'S HARD FOR THEM TO KEEP UP WITH
4 WHAT SHIFT I'M ON ONCE SHE FOUND OUT WHAT SHIFT I
5 WAS ON SHE WOULD CALL ME AND WE WOULD TALK AND I
6 MISS THOSE PHONE CALLS

7 I CAN'T STAND TO BE AROUND MY GIRLFRIENDS NOW
8 THEY'VE GOT DAUGHTERS MY DAUGHTER'S AGE IT HURTS
9 BECAUSE I SEE THE BOND BETWEEN THEM THAT I DON'T
10 HAVE ANYMORE MY NIECES COME AROUND -- AND JUST THE
11 OTHER SUNDAY MY NEPHEW GOT MARRIED AND WE WAS ALL
12 OUT THERE, AND THE NIECES WAS AROUND THEIR MOTHER,
13 AND I FELT OUT OF PLACE BECAUSE I DIDN'T HAVE MY
14 CHILD ALL I HAD WAS HER CHILDREN AND THE HURT
15 GOES ON AND ON AND ON

16 AND I JUST TALK AND I TALK SOMETIMES THEY
17 SAY PEOPLE GET TIRED OF HEARING ME TALK BUT IT'S
18 IN ME AND I HAVE TO LET IT OUT BECAUSE THAT'S ALL
19 I'VE GOT IS HER MEMORY AND HER CHILDREN THEY'RE
20 GROWING UP NOW AND THE THINGS THEY SAY I SAY, "OH,
21 SHE WOULD LOVE TO HEAR YOU SAY THAT "

22 AND I KEEP ALL HER PICTURES DISPLAYED THEY
23 LOOK AT THE PICTURES AND THEY SAY, "THAT'S MY MOM
24 RIGHT THERE "

25 I SAY, "YEAH, THAT IS YOUR MAMA, BUT I'M GOING

1 TO BE YOUR MAMA FOR A WHILE " I SAID, 'BUT SHE WILL
2 ALWAYS BE YOUR MOTHER '

3 AND THE OLDEST ONE HAS TAUGHT THE YOUNGEST ONE
4 WHAT HIS MOTHER'S NAME IS AND WHO HIS MOTHER IS
5 AND I TOLD THEM I'M THEIR G-MAMA, AND THEY CALL ME
6 G-MAMA AND LIFE WILL NEVER BE THE SAME FOR THEM

7 AND THEN FOR HER BROTHER O J -- I SAID, O J ,
8 I SAID, "YOU GOING TO GO TO COURT TOMORROW AND
9 TESTIFY?"

10 HE SAID, "NO, I CAN'T DO THAT, MOM, I MISS
11 SHEKA SO MUCH "

12 HE SAID, "I CAN'T DO THAT " AND A LOT OF
13 TIMES HE ASKED FOR STUFF AND HE DON'T GET IT AND HE
14 SAY, IF SHEKA WAS HERE SHE'D GIVE TO ME I MISS MY
15 SISTER

16 AND IT'S HARD THIS IS A HURT THAT I WOULDN'T
17 WISH ON MY WORST ENEMY I WOULDN'T WANT NOBODY TO
18 FEEL THE PAIN THAT I FEEL FOR LOSING MY DAUGHTER
19 BECAUSE OF SOMEBODY ELSE

20 AND THEN -- I DIDN'T CAUSE THIS ON ME JOHN
21 CAUSED THIS ON ME HE DID THIS TO US HE TORE OUR
22 FAMILY UP IF HE HAD NOT DID WHAT HE DID WE
23 WOULDN'T BE SITTING HERE TODAY HE HAS INTERFERED
24 WITH EVERYBODY'S LIFE THAT'S IN HERE, BECAUSE
25 EVERYBODY HAD TO COME, STOP WHAT THEY WERE DOING TO

1 BE HERE TODAY AND IF HE HAD NOT MADE THAT MOVE, WE
2 WOULDN'T BE HERE AT ALL

3 MR JONES ANSWER ANY QUESTIONS THESE
4 LAWYERS HAVE FOR YOU

5 CROSS EXAMINATION

6 BY MR TINSLEY

7 Q MS JACKSON, YOU'RE STILL GRIEVING FOR
8 DAUGHTER'S LOSS, ARE YOU NOT? YOU STILL GRIEVE --
9 IN THE GRIEVING PROCESS?

10 A I WILL ALWAYS GRIEVE MY DAUGHTER

11 Q HAVE YOU RECEIVED ANY COUNSELING, MS JACKSON,
12 FOR YOUR GRIEF?

13 A I DID

14 Q AND HAS YOUR SON, O J , RECEIVED ANY
15 COUNSELING?

16 A NO, HE HASN'T

17 Q HE HASN'T MS JACKSON, DO YOU RECALL OR KNOW
18 WHETHER JOHN EVER GOT ANY INSURANCE FOR HIM AND
19 TESHEKA?

20 A I WOULDN'T KNOW

21 Q YOU WOULDN'T KNOW?

22 A LIKE I SAY, SHE DIDN'T TELL ME EVERYTHING

23 Q I SEE AND DO YOU RECALL JOHN EVERY SPENDING
24 THE NIGHT WITH Y'ALL?

25 A ONE OCCASION I TOOK HIM ON A BUS TRIP TO

1 ALABAMA, I BELIEVE IT WAS, AND I LET HIM STAY HE
2 STAYED DOWNSTAIRS AND WE WERE UPSTAIRS
3 Q WHAT ABOUT A SHOPPING TRIP TO NORTH CAROLINA,
4 DO YOU RECALL THAT?
5 A YEAH, THAT'S THE TRIP I'M TALKING ABOUT
6 SORRY, I SAID ALABAMA
7 Q IT WAS NORTH CAROLINA?
8 A YES, IT WAS
9 Q AND JOHN IS THE FATHER OF THESE TWO KIDS, IS
10 HE NOT?
11 A HE MOST DEFINITELY IS
12 Q AND HAVE YOU GOT THOSE KIDS NOW? I BELIEVE
13 YOU TESTIFIED THAT YOU DID
14 A YES, I DO
15 Q NOW IN THE FILM THAT YOU SAW, MS JACKSON,
16 WHICH ONE WAS LUEVINIA HOLDING, WAS IT --
17 A THE BABY
18 Q SO THAT WOULD BE KIVIAS
19 A KIVIAS
20 Q KIVIAS?
21 A RIGHT
22 Q DID YOU SAY -- I'M SORRY, I DIDN'T HEAR YOUR
23 ANSWER TO THE --
24 A KIVIAS
25 Q NO, THE PRIOR QUESTION

1 A WHAT WAS THE FIRST?

2 Q WHICH ONE WAS MS JACKSON -- EXCUSE ME, MS
3 HARRIS HOLDING?

4 A KIVIAS

5 Q OKAY, I'M SORRY, I'M SORRY, I APOLOGIZE SHE
6 WAS HOLDING KIVIAS?

7 A RIGHT

8 Q AND TAYE WAS THE OTHER BABY?

9 A RIGHT

10 Q AND WHEN WERE THEY BORN?

11 A TAYE WAS BORN NOVEMBER 17, 1992 KIVIAS WAS
12 BORN OCTOBER 30, 1994

13 Q DID JOHN HUGHEY GO TO THE HOSPITAL WHEN THEY
14 WERE BORN?

15 A YES, HE DID

16 Q HE DID AND WAS HE THERE WHEN THEY WERE BORN?

17 A YES, HE WAS

18 Q AND DO YOU KNOW THE HUGHEY FAMILY?

19 A I DON'T REALLY KNOW THEM, NO

20 Q YOU DON'T?

21 A I KNEW HIS FATHER FROM MY CHILDHOOD

22 Q YOU DID?

23 A YES

24 Q AND DID YOU HAVE OCCASION TO OBSERVE HIM?

25 A I SAW HIM AROUND TOWN I STOPPED BY THERE ONE

1 DAY AND I TALKED TO HIM BUT I WASN'T AROUND HIM
2 THAT MUCH

3 Q AND HIS MOTHER, MAY HUGHEY?

4 A I DIDN'T KNOW HER

5 Q YOU DIDN'T KNOW HER?

6 A- NO, I DIDN'T

7 Q ARE YOU FAMILIAR WITH HOW AND WHEN SHE DIED?

8 A YES, I AM

9 Q AND DID YOU KNOW JOHN HUGHEY AND DID YOU
10 OBSERVE SOME OF THE GRIEF THAT HE HAD UPON HIS
11 MOTHER'S DEATH?

12 A I DON'T THINK I SAW JOHN DURING THAT TIME I
13 SENT HER FLOWERS, BUT I DIDN'T GO AROUND

14 Q SO -- AND I BELIEVE YOU DESCRIBED THAT THEY
15 MAY HAVE BEEN OFF AND ON AGAIN IS WHAT -- MAYBE THEY
16 WERE OFF AT THAT TIME, IS THAT POSSIBLE?

17 A I BELIEVE AT THAT TIME THEY MIGHT HAVE BEEN
18 ON, BECAUSE I SENT THE FLOWERS

19 Q AND IS IT FAIR TO SAY THAT THEY HAD THEIR
20 RELATIONSHIP BACK ABOUT TEN YEARS AGO?

21 A NINETEEN YEARS, SOMEWHERE IN THERE, YES

22 MR TINSLEY THAT'S ALL, MS JACKSON

23 THE COURT YOU MAY STEP DOWN THANK

24 YOU

25 (WITNESS EXITS STAND AT 6 05 O'CLOCK P M)

1 MR JONES YOUR HONOR, THE STATE WILL
2 CALL MARCUS HARRIS TO THE STAND

3 THE CLERK THE EVIDENCE YOU SHOULD GIVE
4 THE COURT AND JURY IN THE TRIAL IN THIS CASE SHALL
5 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
6 TRUTH, SO HELP YOU, GOD?

7 THE WITNESS IT WILL
8 (WITNESS PRESENTED AT 6 05 O'CLOCK P M)

9 DIRECT EXAMINATION

10 BY MR COULTER

11 Q MARK, TELL THE JURY YOUR NAME

12 A MARCUS HARRIS

13 Q MARK, AS YOU TESTIFIED, YOU WERE THE VERY
14 FIRST WITNESS?

15 A RIGHT

16 Q WHAT'S YOUR FATHER'S NAME?

17 A SAY THAT AGAIN?

18 Q WHAT'S YOUR FATHER NAME?

19 A GEORGE MACK HARRIS

20 MR TINSLEY NO OBJECTION CAN WE JUST
21 MOVE THAT T V ? IT'S RIGHT BETWEEN MR HARRIS AND
22 MYSELF THANK YOU SO MUCH

23 THE COURT OH, SURE

24 EXAMINATION CONTINUED

25 BY MR COULTER

1 Q YOUR FATHER'S GEORGE MACK HARRIS?

2 A EXACTLY

3 Q AND DID HE HAVE A BROTHER?

4 A YES

5 Q AND HIS NAME IS?

6 A GEORGE ANTHONY HARRIS

7 Q ANY OTHER BROTHERS AND SISTERS?

8 A WELL, HE HAD A HALF SISTER WHOSE NAME WAS
9 MILDRED JACKSON

10 Q AND YOUR MOTHER'S NAME WAS LUEVINIA?

11 A YES

12 Q I THINK YOU TESTIFIED BEFORE YOU GREW UP HERE
13 IN ABBEVILLE AT 401 RITCHIE STREET?

14 A THAT'S EXACTLY RIGHT

15 Q TELL THE JURY, IF YOU WOULD, WHAT TYPE OF
16 RELATIONSHIP YOU HAD WITH MARCUS AND MILDRED

17 A WELL, WE WAS LIKE BROTHERS AND SISTERS
18 WHEREVER YOU SEE HER YOU'LL SEE HER AND MY -- ME AND
19 MY BROTHER TOGETHER LIKE I SAY, WE WERE LIKE
20 BROTHERS AND SISTERS YOU KNOW, SHE MEANT THE WORLD
21 TO ME TO TELL YOU THE TRUTH, I WOULD DO FOR HER
22 WHAT I WOULD DO FOR MYSELF AND IT'S LIKE SHE MEANT
23 THE WORLD TO ME

24 HER AND MY DAD RAISED US WHEN DAD WOULD BE
25 AT WORK OUR MOM WOULD BE THERE WITH US DID A WHOLE

1 LOT FOR US NOW GROWING UP, YOU KNOW, AS FAR AS I
2 CAN REMEMBER, ELEMENTARY SCHOOL, MIDDLE SCHOOL, HIGH
3 SCHOOL, YOU KNOW, SHE WOULD ALWAYS PARTICIPATE IN
4 THE ACTIVITIES THAT WE HAD

5 Q YOU WERE THE YOUNGEST, MARCUS?

6 A I WAS THE YOUNGEST, EXACTLY

7 Q HOW MUCH YOUNGER THAN --

8 A I THINK IT WAS A YEAR-AND-TWO-MONTHS YOUNGER
9 THAN HER BROTHER

10 Q AND AS YOU GREW UP AND MOVED AWAY, DID YOU
11 CALL REGULARLY?

12 A YEAH, I CALL THEM UP PRETTY REGULARLY FIRST
13 AND FOREMOST, LIKE I SAID, WHEN I JOINED THE NAVY
14 BACK IN '89 SHE DIDN'T WANT ME TO LEAVE BECAUSE I
15 WAS THE YOUNGEST BUT, YOU KNOW, AS I'M TALKING
16 HER, YOU KNOW, I TOLD HER, YOU KNOW, SHE HAD TO
17 REALIZE THAT EVEN THOUGH I'M THE YOUNGEST THAT I'VE
18 GOT TO LIVE A LIFE OF MY OWN, YOU KNOW

19 AND, YOU KNOW -- YOU KNOW, ME AND MY MOM, I
20 LOVED HER SO MUCH THAT I WOULD CALL -- I WOULD TRY
21 TO COME HOME AT LEAST TWICE -- ABOUT THREE TIMES --
22 EVERY TWO OR THREE WEEKS JUST TO SEE HOW SHE WAS
23 DOING, YOU KNOW, BECAUSE I MISSED HER SO MUCH
24 (WITNESS IS CRYING) AND --

25 Q DID YOU HAVE A CHANCE TO VISIT REGULARLY AFTER

1 YOU LEFT?

2 A WELL, BEING THAT I WAS IN -- WHEN I WENT TO
3 BOOT CAMP IN SAN DIEGO AND FROM SAN DIEGO I WENT TO
4 -- FROM SAN DIEGO OUT OF BOOT CAMP WE HAD TWO WEEKS
5 LEAVE AND I CAME HOME, YOU KNOW, I SEEN HER THEN
6 THEN I LATER FOUND OUT DURING MY APPRENTICE SCHOOL I
7 WAS GOING TO PORT MUGU THAT'S LIKE TEN MILES NORTH
8 OF MALIBU

9 YOU KNOW, BEING ON THE WEST COAST, YOU KNOW, I
10 WAS TRYING TO GET HOME AT LEAST EVERY FIVE, SIX
11 MONTHS, YOU KNOW, TO SEE HER, MY DAD, AND MY BROTHER
12 IF MY BROTHER WASN'T OVERSEES AND EVERYTHING SO I
13 TRIED TO LEAVE -- LIKE TWO OR THREE TIMES A YEAR
14 BEING THAT I WAS SO FAR AWAY

15 BUT I'D USUALLY CALL REGULARLY, YOU KNOW, TO
16 SEE HOW MY DAD WAS DOING, TO SEE IF SHE CHECKED
17 ON -- SEE HOW BRO WAS DOING HE BEING IN GERMANY OR
18 WHEREVER HE WAS, YOU KNOW

19 Q AFTER YOU WERE IN CALIFORNIA, WHERE DID YOU GO
20 FROM THERE?

21 A WELL, I -- AFTER CALIFORNIA -- AFTER I
22 COMPLETED MY FOUR YEARS IN THE NAVY, CAME -- WENT TO
23 OKLAHOMA CITY ON THE HOUSING DEVELOPMENT JOB BEING A
24 PROJECT MANAGER BUT THAT FELL THROUGH, SO I
25 DECIDED TO HIT ON MY AIRCRAFT EXPERIENCE AS BEING AN

1 AVIATION ELECTRICIAN FOR THE NAVY FOR FOUR YEARS
2 SINCE IT WAS A GREAT OPPORTUNITY TO APPLY FOR
3 THE ELECTRICIAN JOB AT TINKLER AIR FORCE BASE
4 WORKING ON VARIOUS FLIGHT SYSTEMS AND ENGINE BOXES
5 THAT GO ON THE NAVY AND AIR FORCE AIRCRAFT SO
6 AFTER THAT I DECIDED TO MOVE TO OKLAHOMA CITY TO
7 WORK AT TINKLER AIR FORCE BASE IN CIVIL SERVICE

8 Q BEING ANY CLOSER, WERE YOU ABLE TO MAKE ANY
9 MORE VISITS TO HOME?

10 A WELL, THERE AGAIN, I WOULD TRY TO MAKE IT HOME
11 AT LEAST THREE OR FOUR TIMES, YOU KNOW THEN I WAS
12 ONLY ABOUT 15 HOURS CLOSER TO THE HOUSE BUT, YOU
13 KNOW, OF BEING, YOU KNOW, LIKE 36 HOURS FROM THE
14 HOUSE DRIVING BUT I WOULD TRY TO MAKE IT HOME AS
15 LITTLE AS I COULD, BEING IN OKLAHOMA

16 Q TELL THIS JURY, IF YOU WOULD, MARCUS, WHAT
17 KIND OF LOSS YOUR MOTHER'S MURDER HAS HAD ON YOUR
18 FAMILY

19 A WELL MY FAMILY -- WELL, FIRST AND FOREMOST ME,
20 THEN I'LL TALK ABOUT MY FAMILY LIKE I SAID, MY
21 MOTHER WAS LIKE A SISTER TO ME SHE MEANT THE WORLD
22 TO ME YOU KNOW, SHE DID LOT OF STUFF FOR HER --
23 FOR ME AND MY BROTHER AND MY FATHER

24 IT'S TRULY A GREAT LOSS YOU KNOW, SOMEONE
25 WHOSE BEEN A MOTHER -- YOU KNOW, THAT MOTHER LOVE IS

1 A LOVE, YOU KNOW, I CAN'T HARDLY EXPLAIN YOU KNOW,
2 I LOVE MY DADDY, TOO, BUT, YOU KNOW, THAT MOTHER
3 LOVE MEANS A LOT -- IT MEANT A LOT TO ME

4 LIKE I SAID, WHEN GROWING UP, WHETHER IT'S
5 FROM, YOU KNOW, WAKING US UP IN THAT OLD BLUE AND
6 WHITE STORAGE TRAILER Y'ALL HAVE SEEN -- YOU KNOW,
7 GETTING US READY FOR SCHOOL IN THE MORNING GOING TO
8 ELEMENTARY SCHOOL -- FROM GETTING US UP -- AND AT
9 THE TIME WE DIDN'T HAVE HARDLY ANY WATER IN THE
10 HOUSE SHE WOULD GET UP AND GET THE WATER FOR US
11 AND GET US UP

12 "ANTHONY, YOU KNOW, YOU AND MARCUS GET UP, GET
13 READY TO GO TO SCHOOL," YOU KNOW SHE WOULD GET US
14 UP AND WASH OUR FACE AND SHE WOULD COOK TOAST IN
15 THE MORNING, LIKE I SAID, COOKED BREAKFAST FOR US
16 WHETHER IT WAS, YOU KNOW, TOAST OR SPAM OR TREET
17 WHATEVER IT WAS, YOU KNOW, SHE WOULD DO THAT, YOU
18 KNOW

19 A LOT OF TIMES WE WOULD BE LATE FOR SCHOOL
20 WE'LL SAY, MA, YOU KNOW, WE DON'T WANT TO EAT
21 BREAKFAST THIS MORNING, WE GOT TO GO TO SCHOOL SHE
22 WOULD STOP US AND SAY, MARCUS, YOU HAVE TO EAT
23 SOMETHING YOU'LL BE HUNGRY FOR CLASS, YOU KNOW

24 BUT DOING THAT -- DOING THAT FOR US, YOU KNOW,
25 SHE DID THAT EVEN, YOU KNOW, CLEAR THROUGH HIGH

1 SCHOOL LIKE BEING IN THE NAVY COMING HOME, YOU
2 KNOW, I WOULDN'T TELL HER WHEN I COME HOME AND
3 WHEN I COME HOME, YOU KNOW, AND SHE WOULD SEE ME
4 (WITNESS STARTS CRYING AND CONTINUES
5 THROUGHOUT REST OF HIS TESTIMONY) AND WE'D WOULD
6 TALK AND WHEN I'D COME HOME SHE'D START CRYING
7 BECAUSE SHE HASN'T SEEN ME BUT I TRY TO COME HOME,
8 YOU KNOW, LIKE I DID YOU KNOW, I STARTED GETTING A
9 CUSTOM WHEN SHE FIRST SEE ME CRYING, YOU KNOW
10 SHE'D CRY ALL THE TIME
11 I STARTED GETTING ANGRY OVER HER CRYING AND I
12 SAY, "MA, YOU KNOW, I COME HOME," YOU KNOW, "I COME
13 TO THE DOOR "
14 SHE'D SAY, "HEY, MARCUS, HOW ARE YOU DOING?"
15 I'D SAY, "ALL RIGHT " SHE'D BE CRYING BEFORE
16 I LEAVE AND I'LD SAY, "WHEN I GET READY TO LEAVE YOU
17 CAN'T BE CRYING NOW SO YOU CAN'T CRY WHEN I LEAVE
18 SHE'S THAT WAY, 'I AIN'T GOING TO CRY I
19 AIN'T GOING CRY WHEN YOU LEAVE " I SAID, OKAY
20 LIKE I SAID, WE -- WHEN THIS STUFF HAPPENED TO
21 HER, YOU KNOW, LIFE LOST SOME OF ITS LUSTER TO ME
22 LET ME TELL YOU WHAT I MEAN I WOULD DO THINGS -- I
23 DO THINGS NOW AND I CAN BE HAPPY, YOU KNOW, I THINK
24 ABOUT MY MOM AND I GET SAD -- GET SAD EVER SINCE -
25 - EVEN BEFORE 1995 THAT A DAY THAT WENT PASSED I

1 EVERY DAY

2 BRO CALLS, HE SAYS, "BROTHER, YOU THINK ABOUT
3 MAMA AND DADDY?"

4 I SAID, "YEAH, I THINK ABOUT THEM I THINK
5 GOOD ABOUT THEM, YOU KNOW "

6 SHE WOULD -- LIKE I SAID, THAT MOTHER LOVE IS
7 SOMETHING AND I KNOW IF WE LIVE LONG ENOUGH WE'LL
8 SEE PEOPLE WE LOVE DIE AND THE REASON I SAID THAT
9 IS, YOU KNOW, I COULD UNDERSTAND IF MY MOM HAD A
10 LIFE-THREATENING DISEASE, YOU KNOW, AND DIED OF A
11 HEART ATTACK OR SOMETHING, BUT SHE WAS FORTY-EIGHT
12 YEARS OLD WHEN SHE GOT KILLED WASN'T NOTHING WRONG
13 WITH HER THERE WAS NOTHING WRONG WITH HER SHE HAD
14 ALL HER HEALTH AND STRENGTH

15 AND SHE HAD ENOUGH STRENGTH FOR ANYBODY, YOU
16 KNOW, TO LEARN? MY MOTHER GOT GUNNED DOWN, SHOT IN
17 THE FACE, AND MY MOTHER'S FACE -- IT TEARS ME UP,
18 MAN IT TEARS ME UP YOU DON'T THINK ABOUT EVERY
19 DAY, YOU KNOW AND MY BROTHER COME HOME AND HE'S
20 GOING TO LOOK AT MY DADDY AND I COME HOME AND LOOK
21 AT WHAT'S THERE

22 I SEE POPEYE CHICKEN BOXES AND FAST FOODS
23 YOU KNOW, SHE WOULD COOK MEALS MORE THAN THREE TIMES
24 A DAY SO WHEN I WOULD COME HOME, YOU KNOW, I WOULD
25 TELL HER, YOU KNOW, COOK FOR ME SHE WOULD COOK

1 EXACTLY WHAT I WANT SHE WOULD DO THAT SHE'D DO
2 THAT FOR ANYBODY

3 BUT I'M GOING TO TELL YOU, THOSE OF YOU THAT
4 STILL HAVE YOUR MOTHER, YOU KNOW, AND FATHER BUT I'M
5 SPEAKING OF YOUR MOTHER, YOU KNOW, TELL YOU MOTHER
6 THAT YOU LOVE THEM, YOU KNOW, AND DO WHAT SHE TELLS
7 YOU TO DO REGARDLESS OF THE SITUATION WHETHER IT
8 BE -- BECAUSE I TELL YOU, THAT'S ONE THING I DON'T
9 REGRET, YOU KNOW, ABOUT DOING FOR MY MOTHER AND
10 BEING THERE FOR HER ALL THE TIME, WHETHER IT WAS
11 DOING SOMETHING FROM OKLAHOMA, YOU KNOW, SENDING A
12 LITTLE CHANGE HOME TO HER, BECAUSE -- COMING HOME
13 DOING THINGS FOR HER BECAUSE SHE COULDN'T DRIVE SO
14 I WOULD TELL HER ALL THE TIME, I SAID, "MOM, YOU
15 KNOW, I SAID, I'M COMING HOME, YOU KNOW, I'LL BE
16 GLAD TO -- AND I'D DRIVE HOME, I SAID, YOU KNOW,
17 I'LL GET A RENT-A-CAR AND WHEN I GET THERE WE'LL DO
18 WHATEVER YOU WANT TO DO THAT'S WHAT I'M COMING
19 HOME FOR, YOU KNOW, TAKING YOU WHEREVER YOU WANT TO
20 GO, YOU KNOW, WE'LL DO THAT, NO MATTER SHE'D SAY,
21 OKAY, SAY OKAY

22 AND THEN, YOU KNOW, LIKE I SAID, I GOT A
23 CUSTOM TO HER CRYING ABOUT ME LEAVING SHE WOULD
24 STILL CRY, BUT EVERY TIME, YOU KNOW, I'D BACK OUT OF
25 THE YARD, SHE'D WALK ME TO THE DRIVEWAY AND SHE'D

1 LOOK AT ME NOT TO LOOK AT MY REAR VIEW MIRROR UNTIL
2 I GET OUT OF SIGHT SHE'D BE RIGHT THERE, YOU KNOW,
3 LOOKING THERE

4 BUT THIS IS TRULY, TRULY BEEN A BIG
5 DEVASTATION TO MY LIFE YOU KNOW, JOHN CAUSED US A
6 LOT OF SORROW -- A LOT OF PEOPLE SORROW, YOU KNOW,
7 THAT KNEW MY MOM -- THAT KNEW HER A LOT OF PEOPLE
8 SORROW YOU KNOW, AND SITTING HERE GIVING THIS
9 TESTIMONY AND JOHN, YOU KNOW WHAT I'M SAYING, SHE
10 WAS IN THE RIGHT -- WRONG PLACE AT THE RIGHT --
11 WRONG PLACE AT THE WRONG TIME IN HER OWN HOME

12 THAT'S TOUGH TO HEAR SHE WAS IN HER OWN
13 HOME KNOWING THAT SHE WAS IN HER OWN HOME GETTING
14 GUNNED DOWN AT WHERE SHE WAS I COULDN'T DO A DOG
15 LIKE THAT DOG -- YOU KNOW PEOPLE PUT DOGS TO SLEEP
16 LIKE THAT, YOU KNOW, PUT A GUN TO THEIR HEAD AND
17 PULL THE TRIGGER I COULDN'T DO A DOG LIKE THAT

18 BUT I TELL Y'ALL, YOU KNOW, AS FAR AS YOUR
19 MOM, YOUR MOTHER, IF YOU STILL HAVE THEM, DO WHAT
20 YOUR MOMS SAY TO DO AND NEVER MISS A DAY, TELLING
21 HER YOU LOVE HER TELL YOUR MOTHER YOUR LOVE HER
22 MAKE A TESTIMONY, YOU KNOW, OF A MOTHER

23 YOU KNOW, YOU NEVER KNOW -- YOU KNOW, GROWING
24 UP, YOU KNOW, I TELL YOU ALL, YOU KNOW, GROWING UP
25 WHEN YOUR BORN TILL YOUR ABOUT TEN OR ELEVEN YEARS

1 OLD, YOU KNOW, MOST CHILDREN THEY DON'T KNOW THE
2 SIGNIFICANCE OF BEING -- YOU KNOW, THE SIGNIFICANCE
3 OF A MOTHER WHAT I MEAN BY THAT IS, YOU KNOW, YOU
4 GROW UP -- YOU KNOW, YOU JUST WANT TO PLAY YOU DO
5 THINGS, YOU KNOW, YOU DON'T REALLY THINK, YOU KNOW,
6 REALLY THINK ABOUT WHO MOM REALLY IS

7 NOW SOME KIDS DO SOME KIDS DO, YOU KNOW
8 BUT I WOULD SAY FROM LIKE ELEVEN YEARS OLD -- ELEVEN
9 YEARS OLD ON UP, YOU KNOW, PEOPLE DO -- THEY KNOW
10 RIGHT FROM WRONG REGARDLESS WHAT THE SITUATION MAY
11 BE, THEY KNOW RIGHT FROM WRONG, YOU KNOW I FEEL
12 LIKE, YOU KNOW, ME BEING FROM THE AGE OF TEN, ELEVEN
13 TO EIGHTEEN WHEN I WENT TO THE NAVY, YOU KNOW, AND I
14 STAYED WITH MY MAMA, YOU KNOW, NOT TOO MUCH AFTER
15 BEING EIGHTEEN YEARS OF AGE, YOU KNOW, I WAS
16 CHEATED

17 YOU KNOW, I SEE MY FRIENDS, YOU KNOW, WITH
18 THEIR MOMS A LOT OF GUYS, YOU KNOW, I KNOW THAT
19 PLAYED FOOTBALL, YOU KNOW, SIGNED THEIR LUCRATIVE
20 CONTRACTS HAVING THEIR MOMS STILL WITH THEM, I SAID,
21 MAN, IF THAT WOULD HAVE BEEN IN THEIR SPOT, YOU
22 KNOW, THE ONLY PERSON I'D HAVE TO LEAVE, YOU KNOW,
23 IS PROBABLY MY DAD AND MY BROTHER, YOU KNOW YOU
24 LOOK AT A GUY ON T V , YOU KNOW, HI, MOM THAT'S
25 THE KIND OF STUFF THAT BOTHERS ME KNOWING I AIN'T

1 GOT NO MOM NO MORE

2 YOU KNOW, IT'S REALLY -- IT'S REALLY TOUGH ON
3 AN INDIVIDUAL IT'S REALLY TOUGH ON AN INDIVIDUAL
4 ALL THIS STUFF, YOU KNOW, THAT HAPPENED, YOU KNOW,
5 TO LIKE MY MOM AND IT IS INHUMANE IT'S NOT RIGHT
6 IT'S JUST NOT RIGHT

7 AND IT'S BEEN A BIG DAMPER ON MY LIFE YOU
8 KNOW, LIKE I SAID, LIFE LOST SOME OF ITS LUSTER IT
9 DON'T MATTER WHAT I DO, WHAT I SAY, YOU KNOW,
10 WHETHER I WON A MILLION DOLLARS OR FIFTY DOLLARS,
11 YOU KNOW, I WOULD ALWAYS TRY TO, YOU KNOW, DO FOR MY
12 MOM, GIVE HER MONEY, GIVE HER GIFTS, YOU KNOW IT'S
13 JUST TOUGH IT'S REALLY TOUGH, LIKE I SAID, ON MY
14 FAMILY, YOU KNOW ON MY FAMILY AND MY MOM'S
15 FRIENDS, IT'S TREMENDOUSLY TOUGH TREMENDOUSLY
16 TOUGH

17 MR COULTER ALL RIGHT THANK YOU
18 ANSWER THESE QUESTIONS THAT THEY HAVE

19 MR TINSLEY I HAVE NO QUESTIONS FOR MR
20 HARRIS

21 THE COURT YOU MAY STEP DOWN
22 (WITNESS EXITS STAND AT 6 21 O'CLOCK P M)

23 MR JONES I CALL ANTHONY HARRIS TO THE
24 STAND

25 THE CLERK THE EVIDENCE YOU SHOULD GIVE

1 THE CLERK THE EVIDENCE YOU SHOULD GIVE
2 THE COURT AND JURY IN THE TRIAL OF THIS CASE SHALL
3 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
4 TRUTH, SO HELP YOU, GOD?

5 THE WITNESS YES, MA'AM
6 (WITNESS PRESENTED AT 6 53 O'CLOCK P M)

7 DIRECT EXAMINATION

8 BY MR JONES

9 Q PLEASE STATE YOUR NAME FOR THE RECORD

10 A GEORGE ANTHONY HARRIS

11 Q AND YOUR MOTHER IS?

12 A LUEVINIA LUEVINIA HARRIS (CRYING)

13 Q LET ME ASK YOU THIS DID YOU COME TO THE
14 TRIAL FROM THE VERY FIRST DAY?

15 A SIR?

16 Q DID YOU COME TO THE TRIAL ON THE VERY FIRST
17 DAY?

18 A YES, SIR

19 Q SO YOU'VE BEEN HERE SINCE WHEN?

20 A SINCE OCTOBER THE THIRTEENTH

21 Q WHERE DO YOU LIVE NOW?

22 A 11 GEORGIA ROAD

23 Q WHAT DO YOU DO OVER THERE?

24 A I'M A ACCOUNT REPRESENTATIVE FOR AT&T

25 Q DID ANYONE FROM THE SOLICITOR'S OFFICE OR THE

1 STATE OF SOUTH CAROLINA FORCE YOU TO COME IN HERE
2 AND TESTIFY TODAY?

3 A NO, SIR

4 Q WHY ARE YOU HERE TODAY?

5 A I WANT TO TELL THESE PEOPLE ABOUT MY MAMA
6 ABOUT HER LIFE

7 Q ALL RIGHT, TELL THESE PEOPLE ABOUT YOUR
8 MOTHER

9 A YES, SIR

10 Q TELL THEM HOW HER DEATH HAS IMPACTED YOUR
11 LIFE

12 A LIKE I SAY, EVERY DAY, YOU KNOW I WAS DOING
13 PRETTY GOOD FOR A WHILE MISSING MY MOM, MY MOM,
14 YOU KNOW, TELL HER EVERYTHING I'M ALL RIGHT LET
15 ME TELL YOU, SHE WOULDN'T -- MY MAMA WOULDN'T HURT
16 NOBODY AND JOHN KNOW THAT JOHN KNOW THAT

17 THIS IS A BIG LOSS I MEAN YOU KNOW, MY
18 DAD, HE SAID, "ANTHONY, YOU NEED TO GO TO THE
19 DOCTOR YOU KNOW, YOU NEED TO GO TO THE DOCTOR "

20 I SAID, "WHY DID YOU SAY THAT?"

21 HE SAID, MY HEART, BECAUSE I HAD AN IRREGULAR
22 HEARTBEAT AND STUFF THAT

23 I WAS DOING GOOD, YOU KNOW, AND I TOLD MY MOM,
24 SHE SAID, ANTHONY -- I SAID, "I'M TIRED OF WORKING
25 IN THIS MILL " I SAID, "ME, I'VE GRADUATED FROM

1 SCHOOL I'VE GOT TO DO SOMETHING ELSE WITH MY
2 LIFE " AND I SAID, NEVER HAVE STOPPED SHE SAY,
3 WHAT YOU MEAN? I SAY, "WELL, I'M JUST TIRED OF
4 WORKING IN THE MILL I SAY, I WANT TO DO SOMETHING
5 ELSE WITH MY LIFE I SAY, I WANT TO MAKE YOU AND
6 DAD HAPPY
7 SHE SAY, "WELL, Y'ALL DO MAKE US HAPPY " SHE
8 SAY, Y'ALL DON'T GET ME NO TROUBLE LIKE A LOT OF
9 OTHER CHILDREN I SAY, "WELL, I JUST WANT TO MAKE
10 SOMETHING OUT OF MYSELF "
11 AND SHE SAY, WELL, ANTHONY -- I SAY, I WANT TO
12 GO IN THE ARMY SHE SAY, ANTHONY, YOU THINK THAT'S
13 WHAT YOU WANT TO DO? I SAID, YEAH, MA, THAT'S WHAT
14 I WANT TO DO SO SHE SAY, ANTHONY, IF YOU THINK
15 THAT'S WHAT YOU WANT TO DO, SHE SAID, JUST PRAY ON
16 IT I PRAYED ON IT AND I JUST WENT INTO THE ARMY
17 I STARTED MAKING RANK PRETTY FAST I MADE
18 SERGEANT IN TWO YEARS AND I -- COULD CALL HOME ANY
19 TIME YOU DO SOMETHING, ANY LITTLE THING I CALLED
20 BACK AND TELL HER IT WOULDN'T MATTER WHAT IT WAS,
21 I JUST CALLED TO TELL HER
22 AND SHE BOUGHT ME THIS JACKET RIGHT HERE FOR
23 ME MAKING SERGEANT AND I TOLD HER SHE DIDN'T HAVE
24 TO DO THAT BUT TO MAKE A LONG STORY SHORT, I SIT
25 THERE EVERY NIGHT EVER SINCE THIS HAPPENED -- AND MY

1 BROTHER CALLED ME, HE SAID, "ANTHONY, YOU NEED TO
2 GET HOME "

3 I SAID, "WHY?"

4 HE SAID, "THERE'S BEEN A SHOOTING AT THE
5 HOUSE "

6 I SAID, "WELL, WHAT'S WRONG?"

7 HE SAID, "THERE'S BEEN A SHOOTING AT THE
8 HOUSE I THINK YOU SHOULD GET HOME "

9 SO I GOT IN THE CAR AND TOOK OFF AND IN
10 SOUTH CAROLINA I COME TO FIND OUT THAT MY MOM WAS
11 KILLED I DIDN'T KNOW WHO -- I THOUGHT -- I HAD A
12 FEELING WHO IT WAS, YOU KNOW I CAME HERE I
13 DIDN'T KNOW THIS WOULD BE THIS HARD

14 BUT I JUST STOOD THERE AND I THINK ABOUT ALL
15 THE THINGS MY MOM DID WITH US LIKE MY BROTHER
16 SAID, SHE'D TAKE US DOWNTOWN AND MAKE SURE WE HAD --
17 I SAID, YOU KNOW, MOM, YOU KNOW -- TALKING ABOUT MY
18 COUSIN CHRIS -- SAID YOU KNOW ANYBODY ELSE GOT, YOU
19 KNOW, THESE GOOD THINGS?

20 I SAID, "BUT YOU DON'T HAVE TO -- YOU AND DAD
21 DON'T HAVE TO WORRY ABOUT GETTING US THAT STUFF "

22 SHE SAY, WHY? I SAY, WELL, WE DON'T NEED THAT
23 STUFF AS LONG AS WE GOT EACH OTHER I SAY, A LOT
24 OF PEOPLE THAT GOT EVERYTHING DON'T HAVE THE LOVE
25 THAT OUR FAMILY HAS "

1 AND THOUGH WE WENT THROUGH A WHOLE LOT OF
2 STUFF, SHE STILL CARED ABOUT US AND SHE WAS ALWAYS -
3 -IF SHE DIDN'T HAVE SOMETHING SHE WOULD TO DOWN TO
4 HER LAST PENNY JUST TO MAKE SURE HER BOYS HAD IT --
5 WAS DRESSED RIGHT, WAS DRESSED DECENT
6 - WE WASN'T RICH, AND WE DIDN'T HAVE EVERYTHING,
7 BUT WE WAS HAPPY AND WE KNOW -- WE THANK GOD EVERY
8 DAY FOR OUR MOM AND DAD AND EVEN TO THIS DAY, A
9 LOT OF STUFF THAT I WANTED TO DO I DON'T DO NO MORE
10 AND WHEN I TRY TO BE HAPPY, WHEN I TRY TO LAUGH I
11 THINK ABOUT DOING STUFF AND I START THINKING ABOUT
12 MY MOM I CAN'T DO IT ANYMORE
13 THAT'S THE ONE REASON WHY I GOT OUT OF THE
14 ARMY THAT'S ONE REASON WHY I GOT OUT OF THE ARMY
15 BECAUSE EVERY TIME I'D TRY -- WHEN I WAS IN THE
16 MILITARY -- WHEN I WAS IN THE ARMY I STAYED IN IT
17 BECAUSE I WANTED TO PLEASE -- I WANTED TO PLEASE MY
18 MOM AND MY DAD MOM AND DAD, THAT'S ALL I WANTED TO
19 DO
20 WHEN I TOLD HER I THAT I WAS GOING TO THE
21 PERSIAN GULF, I SAID I MIGHT BE ON THE FRONT LINE
22 OVER THERE I HAD TO MAKE ONE OF THE BIGGEST
23 DECISIONS OF MY LIFE, THAT'S TO CALL AND TELL MY MOM
24 THAT I MIGHT NOT COME BACK BECAUSE I THINK SHE
25 WAITING

1 I SAY, MOM, YOU KNOW I WANT YOU TO DO THIS,
2 YOU KNOW, INSTEAD OF -- THIS IS GOING TO BE GRATUITY
3 PAY YOU KNOW, YOU GET A CERTAIN AMOUNT OF MONEY
4 THAT YOU GET WITHIN SEVENTY-TWO HOURS IF SOMETHING
5 HAPPENS TO SOMEONE IN YOUR FAMILY, I SAID, THIS IS
6 WHAT YOU'VE GOT TO DO I SAID, YOU GOT TO HOLD
7 YOURSELF TOGETHER NOW YOU TELL HER SHE CAN CRY ON
8 THE PHONE SHE'S REAL EMOTIONAL I TAKE A LOT OF
9 EMOTION AFTER HER

10 Q DID YOU HEAR THE VIDEOTAPE THAT WAS PLAYED
11 EARLIER OF YOUR MOM?

12 A YES, SIR

13 Q DID YOU HEAR HER LAUGHING? IS THAT PART OF
14 HER PERSONALITY? WAS THAT KIND OF THE WAY SHE WAS?

15 A EVERYBODY KNEW THAT EVERYBODY KNEW WHO THE
16 TYPE OF PERSON LUEVINIA WAS EVERYBODY BLACK
17 WHITE EVERYBODY KNEW WHAT TYPE OF PERSON MY MAMA
18 WAS AND JOHN KNOWS JOHN KNOWS

19 I'LL TELL YOU SOMETHING -- I WANT TO TELL
20 Y'ALL SOMETHING, IN '95 -- JUNE, '95, JOHN COULD
21 TELL YOU HISSELF HE CAME TO MY HOUSE, MY MAMA
22 SAID, "I LOVE THAT BOY " HE KNOWS HE KNOWS MY
23 MAMA LOVED HIM

24 YEAH, HIS MOM GOT KILLED I'LL TELL YOU
25 SOMETHING, SHE CALLED GERMANY AND TOLD ME, SAID --

1 SHE CALLED US BOTH CRYING -- SHE SAID, "ANTHONY,
2 GUESS WHAT?"

3 I SAID, "WHAT'S WRONG?"

4 SHE SAID, 'DOLLY GOT KILLED BY A DRUNK
5 DRIVER '

6 I SAID, "WHAT?"

7 SHE CALLED ME CRYING SHE CALLED ME CRYING

8 I SAID, "MAMA, IS JOHN ALL RIGHT?"

9 SHE JUST ANSWERED ME, "HE'S ALL RIGHT WE'RE
10 TAKING CARE OF HIM "

11 I SAID, "TELL HIM I LOVE HIM " I SAID, "TELL
12 HIM I LOVE HIM " THIS SAME PERSON THIS SAME
13 PERSON I USED TO PLAY WITH HE KNOW IT ALL OF THEM
14 KNOW IT

15 I'M TIRED OF HEARING THESE LIES IT WOULD
16 TAKE A LOT FOR ME TO SIT THERE AND LISTEN TO IT
17 BECAUSE IT'S ALL LIES AND JOHN KNOW IT'S LIES
18 GLORIA KNOWS IT WAS ALL OF THEM KNOW IT

19 WE AIN'T NO STRANGERS WE ARE NO STRANGERS TO
20 THIS, AND THEY KNOW -- THEY KNOW WHAT TYPE OF PERSON
21 OF LUEVINIA WAS SHE SAID, "MAN, JOHN" -- WHEN I
22 CAME HOME JUNE LATE JUNE OR JULY, '95 -- SHE SAID,
23 "JOHN, YOU WANT ANYTHING ELSE TO EAT?"

24 JOHN SAID, "NO, MA'AM "

25 I SAID, "JOHN, YOU BETTER GO IN THERE AND GET

1 YOU SOME CHICKEN THERE'S SOMETHING ELSE FOR YOU IN
2 THERE TO EAT NOW YOU WANT SOMETHING TO EAT YOU'D
3 BETTER GO IN THERE AND EAT " I SAID, 'YOU KNOW MOM
4 WILL FEED YOU "

5 HE SAID, "I KNOW "

6 JOHN WAS SITTING THERE PLAYING WITH THE BOYS
7 AT THAT TIME HE WAS, HE WAS PLAYING WITH THE BOYS
8 AND I -- JOHN -- SHE OFFERED HIM, SHE TOLD HIM TO
9 COME IN THERE AND GET SOMETHING TO EAT HE'D KNOW
10 ANYTIME HE CAME SHE WAS WELCOME -- HE WAS WELCOME

11 I SAID, JOHN -- I SAID, "JOHN, PLEASE,
12 MAN, WHATEVER YOU DO DON'T PUT YOUR HAND ON MY
13 COUSIN WE'RE ALL RIGHT AS LONG AS YOU DON'T PUT
14 YOUR HAND ON MY COUSIN " SO ONE NIGHT -- ONE DAY
15 ABOUT JUNE, '95 --

16 MR TINSLEY OBJECTION, YOUR HONOR

17 MR JONES DON'T GO INTO ANYTHING ---

18 THE COURT SUSTAINED

19 EXAMINATION CONTINUED

20 BY MR JONES

21 Q TELL THE JURY -- YOU'VE TOLD US ALOT, BUT I
22 WANT YOU TO SUM UP TELL THE JURY WHAT YOU MISS THE
23 MOST ABOUT YOUR MAMA

24 A MY MOM'S COOKING I MISS THAT CALLING HOME.
25 THERE'S JUST A VOID SOMETIME I WILL GET IN THE

1 HOUSE BY MYSELF AND I WAIT FOR MY DAD TO LEAVE OR MY
2 BROTHER TO COME HOME, EVERY WEEK, I TOLD MY MAMA, I
3 SAID, "MOM, AS LONG I'M STATIONED OVER TEN HOURS
4 AWAY," I SAID, "I'LL BE THERE TO SEE YOU "

5 EVERY WEEKEND I WOULD COME HOME FROM FORT
6 ROOKER, ALABAMA, TO SEE MY MOM MY FRIENDS, MY
7 COUSINS, THEY ALWAYS ASK ME, THEY SAY, "MAN, YOU
8 STILL IN THE MILITARY?"

9 I GO, "YEAH, I STILL IN THE MILITARY "

10 THEY SAY, "YOU BE HOME SO MUCH IT DOESN'T LOOK
11 LIKE IT "

12 I SAID, "AS LONG AS MY MOM AND DAD IS HERE I'M
13 GOING TO BE UP THAT ROAD YOU DON'T HAVE TO WORRY
14 ABOUT THAT "

15 BUT I MISS PLAYING WITH HER WE USE TO SIT
16 THERE AND WRESTLE AND STUFF SHE TELL ME TO PUT HER
17 DOWN AND STUFF "ANTHONY, ANTHONY, PUT ME DOWN
18 BEFORE YOU DROP ME, YOU KNOW "

19 AND THEN ME AND HER AND MARCUS WERE STANDING
20 IN THE MIDDLE OF THE FLOOR AND MARCUS AND MOM KISSED
21 ME, AND THEN ME AND MARCUS WOULD KISS LUEVINIA, OUR
22 MAMA THEN ME AND MY MAMA WOULD KISS MARCUS AND
23 HE'D GO IN THE SERVICE AND THEN WE JUST STOPPED
24 PLAYING WITH EACH OTHER AND THAT'S -- THAT'S ONLY
25 BEEN MAYBE ABOUT SIX OR SEVEN MONTHS BEFORE THAT

1 HAPPENED

2 BUT WITH THAT MY MOM WANTED TO GO TO -- SHE
3 HADN'T SAW MY GRANDDADDY IN ABOUT TWO YEARS, AND I
4 TOOK HER TO ILLINOIS TO SEE HER GRANDDADDY ON THE
5 SAME DAY WE LEFT, THE SAME DAY MY DADDY LOST HIS --
6 THE SAME DAY MY UNCLE WAS BEING BURIED MY COUSIN'S
7 SHELBY'S DAD WAS BEING BURIED

8 SO MY MAMA, SHE DIDN'T WANT TO GO TO ILLINOIS,
9 SHE WANTED TO GO TO OKLAHOMA SO SHE HAD MARCUS --
10 I SAID, "MOM, YOU WANT TO GO SEE MARCUS?" SHE'D
11 SAY, "NO, I WANT TO GO SEE MY DADDY "

12 AND SO MY DAD SAY, ANTHONY, WELL, SHE DON'T
13 WANT TO GO HE SAID, JUST WAIT TILL CHRISTMAS TIME
14 HE SAID, JUST WAIT TILL CHRISTMAS -- THIS WAS
15 DECEMBER, '95 -- HE SAID JUST WAIT TILL CHRISTMAS

16 I SAID, WELL -- I SAID, "DAD, WE AIN'T
17 GUARANTEED TO BE HERE CHRISTMAS " I NEED TO TAKE
18 HER -- I SAID, "I THINK I NEED TO TAKE HER " I
19 THANK GOD I FOLLOWED MY MIND ON THAT, BECAUSE I TOOK
20 HER

21 I SAID, "MOM, WHAT'S WRONG?"

22 SHE SAID, "I WAS WORRIED ABOUT MACK " WE WERE
23 IN ILLINOIS AND SHE WORRIED ABOUT YOU DAD AND WE
24 LEFT THERE KNOWING THAT DAD, I WAS JUST HURT ALL THE
25 WAY UP THE ROAD, BECAUSE HE WAS ALREADY HURT AND I

1 BROUGHT HIM BACK AND NINE DAYS LATER -- NINE OR TEN
2 DAYS LATER WE ANOTHER FUNERAL IN THE SAME FUNERAL
3 HOME, AND THIS TIME MY MAMA WAS THERE

4 YOU KNOW, I WAS SITTING THERE WATCHING PEOPLE
5 COME IN THE FUNERAL HOME LOOKING AT MY MOM WHILE I
6 SIT THERE FROM THE TIME THEY BROUGHT MY MAMA UP TILL
7 THE TIME THEY CLOSED THE CASKET THEY COULDN'T KEEP
8 ME AWAY TO GO EAT I TOLD HER I WASN'T LEAVING

9 AND JUST ME AT THE FUNERAL HOME HE SAY, "SON,
10 YOU GOT TO LEAVE HERE BECAUSE YOU CAN'T STAY YOU
11 GOT TO LEAVE AFTER THE FUNERAL

12 I SAY, "I'M NOT GOING ANYWHERE " I SAID, "MY
13 MAMA'S NOT GOING TO BED WITH ME " I SAID, "I'M
14 GOING TO SLEEP OTHERWISE IN THE FUNERAL HOME RIGHT
15 HERE " I SAID -- BUT I SAID, "THEY CAN GO HOME "

16 IT'S TOO MUCH, MAN YOU GO HOME AND YOU LOOK
17 IN THE REFRIGERATOR WHERE MY MOM USED TO KEEP MY
18 DADDY MY DAD, HE'S RIGHT I WEAR THIS COAT,
19 THAT'S ONE WEEKEND THAT I DID NOT COME HOME

20 I TOLD HER -- I ASKED HER -- AND SHE SAID "I
21 WANT YOU TO BUY ME A LEATHER COAT FOR CHRISTMAS "

22 I SAID, "MOM, I'LL BUY YOU A COAT "

23 I SAID, "DO YOU REALLY WANT A COAT?"

24 SHE SAID, "YEAH, I WANT A COAT " SO I DIDN'T
25 GET THE COAT FOR HER AT THAT TIME MAYBE ABOUT TWO

1 DAYS AFTER I WAS GOING TO GET IT FOR HER FOR
2 CHRISTMAS

3 I WENT TO J C PENNEY'S THAT NIGHT, WHEN SHE
4 WAS IN THE FUNERAL HOME I LEFT THE CAR I HAD SOME
5 MONEY IN MY POCKET IT COST ABOUT TWO HUNDRED AND
6 SOMETHING DOLLARS AND THAT COAT IS MY MOM'S
7 COAT, MY MOM SAID, "WELL, ANTHONY, I WANT ME A
8 LEATHER COAT," SO -- SHE SAY SHE WANTED A LEATHER
9 COAT WITHOUT THE SLITS BECAUSE SHE DIDN'T WANT NO
10 AIR -- COLD AIR, YOU KNOW, GETTING ON HER BACK END
11 BACK THERE

12 SO I SAID, "I'LL GET YOU ONE LIKE THAT "
13 AND IT REALLY KILLS YOU, YOU KNOW, IF YOU
14 BRING A COAT -- A LEATHER COAT TO THE FUNERAL HOME
15 AND YOU PUT IT IN THE CASKET WITH HER AND THEN YOU
16 TRY TO MAKE SURE THAT SHE'S NOT GOING TO LEAVE
17 SOMETHING BEHIND

18 AND I KEPT SNEAKING STUFF ALL IN MY JACKET AND
19 STUFF LIKE HER PARTIAL PLATE, HER RING, AND I
20 THINK OF SOMETHING SHE'D LIKE, AND I'D SNEEK IT IN
21 THE CASKET

22 I SAID, "I DON'T KNOW THEY LOWER THE PLATFORM
23 OF THE CASKET BECAUSE I HAD PUT SO MUCH STUFF DOWN
24 AND I WAS SNEAKING STUFF IN THE CASKET DIDN'T
25 NOBODY WHAT I WAS PUTTING IN THE CASKET

1 NOBODY KNOWED WHAT I WAS PUTTING IN THE
2 CASKET BECAUSE I TOLD MY MAMA, I WHISPERED IN HER
3 EAR, WHILE SHE WAS IN THE CASKET? I SAY, "WELL,
4 MAMA, WHEN GOD GET READY TO GIVE YOU SOMETHING TO
5 EAT," I SAID, "YOUR PARTIAL PLATE WITH BE RIGHT HERE
6 UP "

7 I PUT HER GLASSES IN THERE I BOUGHT HER
8 GLASSES ON HER -- FOR HER BIRTHDAY

9 I JUST SAID I'M GOING TO CALL YOU, AND SO I
10 CALL HER, YOU KNOW AND I'M AT THE HOUSE WAITING
11 FOR DADDY TO LEAVE, AND I SAID, "GOD, GOD, PLEASE,
12 I'LL BE BEGGING, I'LL BE BEGGING GOD, I SAID, "GOD,
13 YOU KNOW, YOU BROUGHT BACK LAZARUS AND STUFF " I
14 SAY THAT ALL THE TIME I SAID, I'M IN THE HOUSE BY
15 MYSELF," I SAID, "PLEASE, LET MY MAMA COME "

16 AND THEN I WAKE UP IN THE MORNING AND I'LL BE
17 KNOCKING ON THE DOOR, BECAUSE MY MOM ALWAYS COME TO
18 THE DOOR AND I'LL BE KNOCKING ON THAT DOOR, JUST
19 KNOCKING ON THAT DOOR JUST HOPING AND PRAYING THAT
20 MY MOM WOULD COME THROUGH THE DOOR JUST HOPING
21 THAT GOD BRING MY MAMA BACK JUST SO SHE'LL OPEN THAT
22 DOOR FOR ME

23 MR JONES THANK YOU YOU CAN ANSWER
24 ANY QUESTIONS

25

CROSS EXAMINATION

1 BY MR TINSLEY

2 Q MR HARRIS, WHEN JOHN TOOK THE STAND, HE
3 DIDN'T DENY KILLING YOUR MAMA, DID HE?

4 A THAT HE DID DO IT?

5 Q HE DIDN'T DENY KILLING YOUR MOTHER, DID HE?

6 A NO, SIR

7 Q AND YOUR MAMA WAS A GOOD CHRISTIAN WOMAN?

8 A THAT'S RIGHT

9 Q AND HER HEART WAS FILLED WITH FORGIVENESS,
10 WASN'T IT?

11 A YES

12 Q AND JOHN NEVER WAS REALLY THE SAME AFTER HIS
13 MOTHER'S DEATH, WAS HE?

14 A THAT'S WHY MY MAMA WAS THERE I KNOWED SHE
15 COULDN'T FEEL IT -- COULDN'T TAKE HER PLACE, BUT SHE
16 TRIED TO FILL THE SPACE

17 MR TINSLEY THAT'S ALL, MR HARRIS

18 THE COURT YOU MAY STEP DOWN

19 THE WITNESS THANK YOU

20 THE COURT ALL RIGHT, LADIES AND

21 GENTLEMEN, WE'LL TAKE A SHORT BREAK BEFORE WE GO

22 FURTHER I'M GOING TO ASK YOU TO PLEASE GO TO YOUR

23 JURY ROOM AND, OF COURSE, YOU'RE NOT TO DISCUSS

24 THE CASE I'LL BRING YOU BACK IN A FEW MINUTES

25 (JURY EXITS AT 6 38)

1 THE COURT ALL RIGHT, TAKE TEN MINUTES
2 (RECESS)

3 THE COURT ALL RIGHT, READY FOR THE
4 JURY?

5 MR JONES: STATE'S READY, YOUR HONOR

6 THE COURT: BRING THEM IN, PLEASE

7 (JURY REENTERS COURTROOM AT 6 53 O'CLOCK P M)

8 THE COURT: THE JURY IS PRESENT YOU MAY
9 PROCEED

10 MR JONES IF IT PLEASE THE COURT, YOUR
11 HONOR, THE STATE WILL NOW CALL ITS LAST WITNESS TO
12 THIS PHASE OF THE TRIAL, MR MACK HARRIS

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

17 THE WITNESS IT IS

18 THE CLERK BE SEATED

19 (WITNESS PRESENTED AT 6 53 O'CLOCK P M)

20 DIRECT EXAMINATION

21 BY MR JONES

22 Q MR HARRIS, MAY I REFER TO YOU AS MACK?

23 A YES, SIR

24 Q I WANT TO ASK YOU AT THE OUTSET, HAVE I OR
25 ANYBODY FROM THE SOLICITOR'S OFFICE FORCED YOU TO

1 COME INTO THIS COURTROOM AND TESTIFY ABOUT ANYTHING
2 IN THIS TRIAL?

3 A NO, SIR

4 Q HAS ANYBODY REPRESENTING THE STATE OF SOUTH
5 CAROLINA FORCE YOU TO COME TO THIS COURTROOM AND
6 TESTIFY ABOUT ANYTHING IN THIS TRIAL?

7 A NO, SIR

8 Q WHY ARE HERE IN THIS COURTROOM TODAY?

9 A THE DEFENSE GOT ME IN HERE TODAY

10 Q ALL RIGHT MORE SPECIFICALLY WHO?

11 A JOHN HUGHEY HE'S THE REASON I'M HERE TODAY

12 Q I WANT TO ASK YOU, MACK, IF YOU RECOGNIZE THIS
13 PHOTOGRAPH?

14 A YES, I DO

15 Q WHO IS THAT IN THERE?

16 A THAT'S MY WIFE, LUEVINIA

17 Q WHEN WAS THIS PHOTOGRAPH TAKEN OF LUEVINIA?

18 A THAT'S THE LATE PART OF 1995

19 Q WOULD THAT SHOW WHAT SHE LOOKED LIKE IN THE
20 LAST YEAR OF HER LIFE?

21 A FOR THE LAST YEAR OF HER LIFE

22 Q WHEN YOU LOOK AT THAT PICTURE, WHAT DO YOU SEE
23 IN THAT PICTURE, MACK? LET ME HAND YOU A COPY OF
24 IT WHAT DO YOU SEE IN THAT PICTURE, MACK?

25 A MEMORIES NOTHING BUT MEMORIES

1 Q CAN YOU TELL US WHO ELSE IS IN THAT PICTURE,
2 MACK?

3 A IT'S A LOVELY PERSON A BEAUTIFUL PERSON
4 PERSON THAT LOVED LIFE MORE THAN ANYTHING ELSE IN
5 LIFE

6 MR JONES: YOUR HONOR, I WANT TO OFFER
7 THE SMALL VERSION OF THIS PICTURE INTO EVIDENCE AT
8 THIS TIME, STATE'S EXHIBIT 108

9 THE COURT. IT'S ADMITTED

10 MR TINSLEY I OBJECT

11 EXAMINATION CONTINUED

12 BY MR JONES

13 Q MACK, DID YOU HAVE ANOTHER PHOTOGRAPH YOU
14 WANTED TO SHARE WITH US OF LUEVINIA?

15 A THIS ONE'S TAKEN IN '92

16 Q WHAT'S SHE DOING IN THAT PHOTOGRAPH?

17 A AT THIS TIME SHE'S STANDING UP WITH THE
18 CHILDREN -- SOME OF THE GRANDCHILDREN ON THE OTHER
19 SIDE OF THE HOUSE -- ON THE OTHER SIDE OF THE ROOM
20 SHE WAS JUST THAT WAY, YOU KNOW REALLY SHE WOULD
21 JUST PLAY AND TEASING WITH THEM

22 Q DID YOU TAKE THAT PHOTOGRAPH?

23 A YES, I TOOK THAT ONE

24 Q MACK, DID YOU HEAR THE VIDEOTAPE THAT WAS
25 PLAYED THAT CAPTURED YOUR WIFE ON THE CAMERA THERE?

1 A YES, SIR

2 Q AND DID YOU HEAR HER LAUGHING IN THAT TAPE?

3 A YES, SIR

4 Q DID SHE DO THAT VERY OFTEN?

5 A ALL THE TIME

6 Q TELL THE JURY WHAT YOU LOVE MOST ABOUT HER

7 A LUEVINIA WAS ALWAYS THERE FOR ME SHE WAS MY
8 BEST FRIEND SHE WAS MY MATE SHE WAS MY
9 FINANCIER SHE WAS WIFE I'D LIKE TO TELL YOU A
10 LITTLE ABOUT LUEVINIA YOU KNOW, I'VE HEARD
11 TESTIMONIES STILL, YOU KNOW, NOBODY EVER TELLS YOU
12 ABOUT LUEVINIA YOU STILL DON'T KNOW WHAT KIND OF
13 PERSON SHE IS -- WAS SHE WAS THE TYPE OF PERSON
14 THAT LOVED LIFE

15 I IMAGINE SOME OF YOU SAW HER WALKING UP THE
16 STREET SOME TIME SHE LOVED LIFE SHE ALWAYS
17 CHERISHED Y'ALLS LIVES BEFORE SHE CHERISHED HER OWN
18 LIFE SHE LOVED Y'ALL PROBABLY MENTIONED THAT SHE
19 LOVED YOU SHE'S WAS THE TYPE OF PERSON THAT WHEN
20 YOU TAKE HER TO THE GROCERY STORE SHE'D GO IN THERE
21 AND YOU KNOW YOU WAS THERE FOR QUITE A WHILE,
22 BECAUSE SHE WAS THE TYPE OF PERSON IF SHE -- IF SHE
23 MEETS YOU IN THE GROCERY STORE SHE'S GOING TO SIT
24 AND TALK WITH YOU AIN'T NO WAY IN THE WORLD THAT
25 YOU WOULDN'T HAVE KNOWN THAT YOU HAD EVER HER IN THE

1 GROCERY STORE

2 SHE LOVED EVERYBODY NOTHING IN THE WORLD
3 THAT SHE WOULDN'T DO FOR ANY FOR ANY OF YOU SHE
4 WAS AT TYPE OF PERSON TO WALK DOWN THE STREET, SHE'D
5 MEET PEOPLE -- I MEAN, SHE DIDN'T ANY ENEMIES
6 EVERYBODY WAS HER FRIEND SHE WOULDN'T THINK THAT
7 NOBODY WOULD DO ANYTHING TO HURT HER BECAUSE SHE WAS
8 JUST THAT TYPE OF PERSON IF YOU HAD OF KNOWN HER,
9 YOU KNOW, IT WOULD BE A WHOLE LOT EASIER FOR ME TO
10 EXPLAIN TO YOU

11 WE HAD AN AQUARIUM SHE STARTED AN AQUARIUM -
12 - A FISH AQUARIUM SHE WAS THE TYPE OF PERSON WHERE
13 IF ONE LITTLE FISH DIED SHE WOULD CRY SHE WOULD
14 REALLY CRY IF ONE OF THOSE FISH WOULD EVEN LOOK
15 LIKE THEY WAS DEAD, I DON'T KNOW HOW IN THE WORLD
16 SHE DID IT, BUT, YOU KNOW, SHE TAKE THAT FISH OUT OF
17 THAT AQUARIUM AND SOMETIMES SHE -- I SEEN HER NURSE
18 THE FISH BACK TO LIFE. I MEAN, YOU KNOW, JUST MAKE
19 IT GET WELL I DON'T KNOW -- I JUST DON'T KNOW
20 HOW SHE DID THOSE THINGS

21 MOST TIMES, YOU KNOW, LIKE I GO TO WORK, JUST
22 LEAVE HER THERE I WAS WORKING -- I WAS WORKING ON
23 SECOND SHIFT SHE WAS WORKING ON SECOND SHIFT FOR A
24 WHILE, AND WE -- I WENT ON A TWELVE-HOUR SHIFT I
25 HAD ONE OF THOSE REVOLVING DAY JOBS WHEN YOU GOT

1 TWELVE HOURS YOU HAVE A DAY SHIFT, YOU HAVE A NIGHT
2 I COULD HAVE GOTTEN A PROMOTION TO GET SOME
3 PRETTY GOOD JOBS ON NIGHT SHIFT BUT THAT'S WHERE
4 WE STAYED SHE DIDN'T WANT TO STAY THERE ALONE AT
5 NIGHT SO I GAVE -- YOU KNOW, I GAVE THE NIGHT -- I
6 GAVE THE DAY SHIFT -- I JUST KEPT THE DAY SHIFT
7 BECAUSE THE NIGHT SHIFT WOULD HAVE GIVEN ME A GOOD
8 JOB AND I WAS TO GIVE -- YOU KNOW, BE HOME WITH
9 HER AND HEARD ALL ABOUT IT IF SHE DIDN'T GET
10 KILLED SHE MIGHT BE THERE

11 SHE WAS A VERY SPECIAL PERSON SHE WOULD SEE
12 ANY OF YOU ANYWHERE SHE WOULD SPEAK TO YOU SHE'D
13 TALK WITH YOU EVERYBODY LOVED HER SHE WAS A GOOD
14 MOTHER SHE LOVED HER CHILDREN I THINK SHE LOVED
15 THOSE CHILDREN MORE THAN ANYTHING IN LIFE I REALLY
16 DO I BELIEVE THOSE TWO CHILDREN IS WHAT SHE REALLY
17 LIVED FOR SHE WAS ALWAYS THERE FOR ME WE HAD OUR
18 UPS AND DOWNS I'M NOT GOING TO TELL YOU THAT
19 THERE'S, YOU KNOW, THAT EVERYTHING WAS PEACHES AND
20 CREAM ALL THE TIME WE HAD NOTHING TO REALLY -- YOU
21 KNOW, HURT, JUST WANTED IT TO LAST A LONG TIME

22 Q WHAT EFFECT HAS HER MURDER HAD ON YOUR LIFE?

23 A JOHN HUGHEY DIDN'T JUST KILL LUEVINIA JOHN,
24 KILLED LUEVINIA, ME, AND MY BOYS YOU'D KILLED US
25 ALL I WORK IN CALHOUN FALLS AND WHEN I GET OFF

1 WORK AT NIGHT, I DON'T WANT TO COME HOME I DON'T
2 HAVE NOTHING TO GO THERE FOR AT THE TIME WHEN THIS
3 FIRST HAPPENED THAT, YOU KNOW, I WAS OVER THE SHOCK
4 SOME (WITNESS IS CRYING)

5 OVER AT WAL-MART THEY HAVE, YOU KNOW, OUTSIDE
6 THEY HAVE PEOPLE SELLING COLLARDS AND THINGS I
7 WANTED TO PICK A BUNCH OF COLLARDS TO TAKE HOME AND
8 SAY, OOPS, I DON'T HAVE NOBODY TO COOK THESE
9 COLLARDS FOR ME

10 I DON'T HAVE A LIFE YOU KNOW, A COUPLE DAYS
11 WHEN ALL OF THIS IS OVER MY CHILDREN ARE GOING BACK,
12 YOU KNOW, TO THEIR LIVES MARCUS IS GOING BACK TO
13 OKLAHOMA ANTHONY'S GOING BACK TO ATLANTA I'M
14 GOING TO BE RIGHT BACK THERE AGAIN ALL BY MYSELF

15 BUT I IMAGINE Y'ALL -- Y'ALL WILL BE GETTING
16 READY FOR YOUR HOLIDAYS THANKSGIVING'S COMING UP
17 CHRISTMAS IS COMING UP IT MEANS A LOT TO Y'ALL
18 Y'ALL'S THOUGHT ABOUT IT Y'ALL -- Y'ALL PLANNING
19 IT Y'ALL THINKING ABOUT THAT NOW ME? I DON'T
20 HAVE NO MORE HOLIDAYS LEFT

21 YOU KNOW, I'M A DIABETIC I HAVE CHOLESTEROL
22 PROBLEMS I FEEL LIKE Y'ALL, YOU KNOW, THANKSGIVING
23 AND CHRISTMAS, THAT'S COMING UP TO Y'ALL Y'ALL CAN
24 ENJOY THANKSGIVING DINNER EAT YOUR CHRISTMAS
25 DINNER I KNEW Y'ALL WOULD DO THAT -- I KNOW Y'ALL

1 WOULD

2 BUT I COULDN'T EAT THANKSGIVING DINNER WITH
3 Y'ALL I COULDN'T EAT CHRISTMAS DINNER WITH Y'ALL
4 I'D LOVE TO I WOULD REALLY LIKE THE FOOD BECAUSE
5 I KNOW Y'ALL HAVE SOME GOOD FOOD THE REASON I
6 COULDN'T DO THAT IS BECAUSE MY FOOD WAS PREPARED IN
7 A VERY SPECIAL WAY, LOW CHOLESTEROL, NO FAT, LESS
8 SALT, DIFFERENT WAY MY WIFE PREPARED THIS MEAL FOR
9 ME SHE GOT SO THAT SHE ATE THE -- YOU KNOW, THE
10 SAME THING THAT I WOULD EAT I MEAN, NO SALT, NO
11 FAT OR NOTHING

12 YOU KNOW, THAT'S WHY I SAY TO YOU, I'D HAVE TO
13 REFUSE YOUR ALL'S DINNER BECAUSE, YOU KNOW, I DON'T
14 HAVE ANYBODY TO COOK -- COOK FOR ME I'LL GET THERE
15 NOW SOMETIMES I'LL -- I DO THE BEST I CAN YOU
16 KNOW, PREPARING FOOD -- BECAUSE I DON'T HAVE
17 NOBODY TO DO IT, YOU KNOW

18 Q MACK, LET ME ASK YOU THIS QUESTION -- I WANT
19 TO ASK YOU THIS QUESTION THE DEFENSE ASKED ABOUT
20 YOUR WIFE, LUEVINIA, BEING A FORGIVING WOMAN WOULD
21 SHE FORGIVE THIS DEFENDANT FOR WHAT HE DID TO SHEKA
22 JACKSON?

23 A NO, SIR

24 Q WOULD SHE FORGIVE THIS DEFENDANT FOR WHAT HE
25 DID TO HER?

1 A NO, SIR

2 MR JONES ANSWER ANY QUESTIONS THEY
3 MIGHT HAVE

4 MR TINSLEY NO QUESTIONS, YOUR HONOR
5 THE COURT YOU MAY STEP DOWN

6 (WITNESS EXITS STAND AT 7 09 O'CLOCK P M)

7 THE COURT LET ME SEE YOU AND MR
8 TINSLEY

9 (COUNSEL AT SIDE BAR)

10 THE COURT ALL RIGHT, LADIES AND
11 GENTLEMEN, WE'RE GOING TO RECESS FOR THE EVENING I
12 UNDERSTAND THEY'VE MADE ARRANGEMENTS FOR YOUR
13 SUPPER WE'LL START AT NINE O'CLOCK IN THE MORNING
14 KEEP IN MIND YOU'RE STILL NOT TO DISCUSS THE CASE IN
15 FASHION HAVE A GOOD EVENING WE'LL SEE YOU AT
16 NINE O'CLOCK IN THE MORNING

THE COURT ALL THE JURORS OUT? ANY
MATTERS WE NEED TO ADDRESS BEFORE RECESS?

MR JONES YOUR HONOR, NO, NOT FROM THE
STATE

MR TINSLEY I WOULD MOVE TO RENEW ALL
PRIOR PHASE II MOTIONS AT THIS TIME

MR JONES JUDGE, THERE SEEMS LIKE THERE
WAS SOMETHING THAT I THOUGHT WE MIGHT PUT ON THE
RECORD SOMETHING REGARDING SOME PHOTOGRAPHS OR

SOMETHING I'LL TRY TO RECALL IT IT WAS SOMETHING
I THOUGHT WE DID OUTSIDE THE PRESENCE OF THE COURT
REPORTER THAT MAYBE SHOULD HAVE BEEN ON THE RECORD
SOME VIEWING OF EVIDENCE OR WHAT I'M THINKING ABOUT
IF I THINK OF IT I'LL --

THE COURT WELL, IF YOU'RE TALKING THE
PHOTOGRAPHS THAT WERE OFFERED REGARDING MS JACKSON'S
LIFE AND MS HARRIS'S PHOTOGRAPHS, THAT WAS DONE
HERE, BUT THE COURT REPORTER GOT ALL THAT DOWN

MR JONES OKAY, I THINK MAYBE -- I
THINK IT WAS

THE COURT AND THAT'S THE REASON I
ADDRESSED WHICH WAS BEING OFFERED AND WHETHER THERE
WAS ANY OBJECTION MR TINSLEY STATED HIS
OBJECTIONS WHERE THEY WERE APPROPRIATE

MR JONES I APOLOGIZE THAT HELPED ME
RECALL IT, JUDGE IT HAD TO DO WITH THE CRIMINAL
RECORDS OF THE WITNESS WHO WROTE BAD CHECKS

THE COURT MS KNEECE?

MR JONES YES, MS KNEECE IF WE COULD
GO ON RECORD STATING THAT THE DEFENSE VIEWED HER
CRIMINAL RECORD PROVIDED FOR THEM, AND THEY CHOSE
NOT TO RECALL HER OR QUESTION HER ANYMORE ABOUT IT
WITHOUT OBJECTION

MR TINSLEY WE HAD A LOT MORE

FRAUDULENT CHECKS THAN I THOUGHT, BUT I CHOSE NOT TO RECALL HER BECAUSE I THOUGHT IT WOULDN'T SERVE ANY GOOD FOR MY CLIENT, YOUR HONOR

THE COURT WELL, I DON'T REMEMBER SPECIFICALLY WHAT HER TESTIMONY WAS I THOUGHT SHE DID SAY THAT SHE HAD SEVERAL FRAUDULENT CHECKS OR A NUMBER OF FRAUDULENT CHECKS

MR TINSLEY SHE HAD LIKE TWENTY OR SOMETHING BUT I -- THE SOLICITOR'S RIGHT, YOUR HONOR, I'M NOT GOING TO RECALL HER I'M NOT GOING TO RECALL HER

MR JONES JUST WANTED TO MAKE THAT ON THE RECORD, YOUR HONOR IN THE EVENT THAT THAT RECORD SHOULD BECOME SOMETHING THAT'S REVIEWED AT SOME POINT IN TIME -- THAT CRIMINAL RECORD OR CRIMINAL HISTORY

THE COURT ALL RIGHT, SO THE RECORD WAS PROVIDED MR TINSLEY YOU HAVE NO OTHER FURTHER NEED FOR THAT WITNESS OR THE RECORD ITSELF?

MR TINSLEY NO, SIR, YOUR HONOR, I DON'T IT'S JUST AN EXAMPLE OF THAT PROBLEM I POINTED OUT EARLIER, THAT'S ALL THANK YOU

THE COURT ALL RIGHT OKAY, COURT'S IN RECESS UNTIL NINE O'CLOCK IN THE MORNING

END OF DAY 16

PAGES 3759-3760

REPETATIVE TRANSCRIPT COVER PAGES
AND NOT REPRINTED

1 (DAY 17, WEDNESDAY, OCTOBER 28, 1997, 9 00 O'CLOCK
2 A M)

3 THE COURT ALL RIGHT, ANY MATTERS THAT
4 NEED TO BE ADDRESSED BEFORE WE BRING THE JURY IN?

5 MR JONES THE PHOTOGRAPHS, YOUR
6 HONOR, THE DEFENSE HAS SHOWN US SOME THEY INTEND TO
7 INTRODUCE, WE HAVE OBJECTIONS TO SEVERAL OF THEM
8 WE'D LIKE TO IMPOSE AT THIS TIME

9 THE COURT OKAY

10 MR JONES THE ONES THAT WE OBJECT TO
11 ARE -- I BELIEVE THAT THERE ARE TWO OF THE
12 DEFENDANT'S MOTHER, AND WE WOULD SAY THAT WOULD BE
13 CUMULATIVE AND THEY CAN CHOOSE BETWEEN ONE OF THOSE
14 THERE'S ONE OF A GRAVE SITE AND THEN ANOTHER OF A
15 GRAVE SITE

16 I BELIEVE THESE -- EACH ONE REPRESENTS
17 -- ONE REPRESENTS THE GRAVE SITE OF HIS MOTHER,
18 ONE REPRESENTS THE GRAVE SITE OF HIS FATHER AND WE
19 WOULD OBJECT BASED ON THE PREJUDICIAL NATURE OF
20 THOSE

21 I MEAN, IF YOU YOU NEED TO PUT
22 PHOTOGRAPH -- THERE'S A PHOTOGRAPH OF HIS FATHER
23 THEY WANT TO INTRODUCE AND THE PHOTOGRAPH OF HIS
24 MOTHER THAT THEY WANT TO INTRODUCE IS FINE THE
25 GRAVES, IN ADDITION, ARE NOT PROBATIVE AND WOULD NOT

1 BE PROPERLY RELEVANT TO THIS JURY, SO WE WOULD
2 OBJECT TO THOSE

3 HE HAS TWO OF HIM WITH THE VICTIM IN
4 THIS CASE, SHEKA JACKSON WE ASK THAT ONE OF THEM -
5 - ACTUALLY, WE'LL OBJECT TO BOTH OF THEM BASED ON --
6 BUT IF YOU ARE INCLINED TO LET ONE IN -- LET ANY IN,
7 THAT WE WOULD ASK THAT ONE BE LET IN THAT REGARD,
8 YOUR HONOR AND THEN, OF COURSE, THERE'S ONE WITH
9 HIS FATHER, WE DON'T OBJECT TO THAT

10 THE COURT LET'S DO THIS, GO AHEAD AND
11 MARK THOSE THAT YOU DON'T OBJECT TO, AND THEN WE'LL
12 GET THE ONES THAT YOU DO

13 MR JONES ALL RIGHT

14 MR TINSLEY WE'LL TAKE ONE OF HIS
15 MOTHER OUT

16 THE COURT LET ME SEE THOSE THAT HAVE
17 BEEN MARKED THAT THERE IS NO OBJECTION TO ALL
18 RIGHT, THERE'S NO OBJECTION TO DEFENDANT'S FORTY-
19 TWO, FORTY-THREE, AND FORTY-FOUR

20 MR JONES CORRECT

21 THE COURT AND THE STATE OBJECTS TO
22 THE OTHER THREE PHOTOS TWO OF THOSE SHOWING THE
23 DEFENDANT AND MS JACKSON, AND THE THIRD SHOWING THE
24 DEFENDANT AT A GRAVE SITE, IS THAT RIGHT?

25 MR JONES YES, IT IS THE ONE AT THE

1 GRAVE SITE

2 THE COURT WHAT IS THE RELEVANCE OF
3 THOSE THREE?

4 MR TINSLEY THE RELEVANCE OF THOSE
5 THREE -- AND I'D BE WILLING TO TAKE OUT, BY THE WAY,
6 YOUR HONOR, THE SMALL ONE ---

7 THE COURT OKAY ALL RIGHT, THEN THE
8 TWO

9 MR TINSLEY -- THE RELEVANCE OF THIS
10 PICTURE OF THEM TOGETHER BASICALLY JUST GOES TO SHOW
11 THE RELATIONSHIP, THE BETTER TIMES, AND GOES TO THE
12 INDIVIDUAL CHARACTERISTICS OF MR HUGHEY AS, YOU
13 KNOW, HAVING HAD THIS RELATIONSHIP WITH HER THE
14 OTHER ONE IS -- GOES -- WILL RELATE TO HIS
15 BEREAVEMENT/PTS DUTY AS RELATES TO HIS MOTHER AT THE
16 GRAVEYARD, YOUR HONOR, WHICH WE WILL HEAR MORE
17 TESTIMONY ON THIS AFTERNOON SO BASICALLY ---

18 THE COURT WELL, I MEAN, HOW DOES THIS
19 PHOTOGRAPH OF A GRAVE SITE GOING TO ESTABLISH THAT?

20 MR TINSLEY YOUR HONOR, THE TESTIMONY
21 WILL BE THAT HE SUFFERED, BECAME VERY SOLITARY, AND
22 SUFFERED FROM PTS AFTER HIS MOTHER'S DEATH THIS
23 PICTURE IS OFFERED TO REINFORCE THAT, TO SHOW THAT
24 HE WAS BASICALLY IN SUCH A STATE OF BEREAVEMENT THAT
25 HE WAS UNABLE TO COPE LATER ON WITH THE STRESS THAT

1 HE DEALT WITH

2 THE COURT WELL, I UNDERSTAND THERE'LL
3 BE TESTIMONY TO THAT, BUT HOW DOES THAT PHOTOGRAPH
4 OF A GRANITE MARKER ESTABLISH THAT, IS WHAT I'M
5 SAYING

6 MR TINSLEY YOUR HONOR, THERE WILL BE
7 TESTIMONY THAT HE BECAME VERY SOLITARY, THAT HE
8 WOULD WANT TO GO OFF AND BE BY HIMSELF EVEN HIS
9 FAMILY PERCEIVED HIM THIS WAY HE NEVER COULD
10 OVERCOME HIS MOTHER'S DEATH AND THAT HE WOULD
11 BASICALLY WAS IN SEARCH OF HIS MOTHER EVEN THOUGH
12 SHE WAS DEAD

13 THE COURT ALL RIGHT, WELL, I'M GOING
14 TO ALLOW THE PHOTOGRAPH OF THE DEFENDANT AND MS
15 JACKSON I SUSTAIN THE OBJECTION TO THE GRAVE
16 MARKER PHOTOGRAPH

17 MR TINSLEY THERE'S ALSO A BRIEF FILM
18 THAT I'VE SHOWN TO SOLICITOR COULTER OF HIM AND
19 SHEKA AT A PARTY -- A BIRTHDAY PARTY A PART THAT I
20 WOULD HAVE MR BURTON TESTIFY PROBABLY AS TO SHEKA'S
21 BEING THERE AND THEM BEING TOGETHER AND JUST SHOW
22 BRIEFLY THE PART WITH MR HUGHEY PLAYING "PIN THE
23 TAIL ON THE DONKEY WITH THE KIDS I'VE SHOWN IT TO
24 SOLICITOR COULTER

25 MR JONES YOUR HONOR, I WILL OBJECT

1 AS TO THE RELEVANCE OF THAT PORTION WHAT IS THE
2 PURPOSE OF SHOWING THE JURY THE DEFENDANT WITH HIS
3 KIDS, THAT'S WHAT I ASK WHAT'S THE RELEVANCE AND
4 WHAT'S THE PURPOSE?

5 MR TINSLEY IT'S A GROUP OF KIDS
6 IT'S A BIRTHDAY PARTY IT SHOWS -- IT GOES TO SHOW
7 THE INDIVIDUAL CHARACTERISTICS OF MR HUGHEY THIS
8 IS DATED APRIL 9, 1991, AT THE BIRTHDAY PARTY THIS
9 WAS BEFORE HIS MOTHER'S DEATH HAVING OCCURRED IN
10 SEPTEMBER OF '91 AND IT SHOWS A YOUNG MAN WHO'S
11 SOCIALIZING AND HAD CERTAIN SKILLS --

12 THE COURT I'LL ADMIT IT OVERRULE
13 OBJECTION

14 MR JONES ARE THEY HIS CHILDREN, YOUR
15 HONOR?

16 THE COURT I UNDERSTOOD THAT THERE
17 WERE OTHER CHILDREN, BUT HIS CHILDREN WERE IN THE
18 VIDEO WAS THAT --

19 MR TINSLEY YEAH, BUT THEY'RE NOT
20 HIGHLIGHTED AT ALL

21 THE COURT SIR?

22 MR TINSLEY THEY'RE NOT HIGHLIGHTED
23 AT ALL THE KIDS ARE ALL IN THE BACKGROUND AND
24 I'LL SHOW THE SOLICITOR AND I'VE ALREADY SHOWN THE
25 SOLICITOR

1 THE COURT WOULD YOU SAY HE'S
2 INTERACTING WITH HIS CHILDREN BUT OTHERS ARE THERE,
3 OR NOT?

4 MR TINSLEY RIGHT HE'S -- HE'S
5 INTERACTING AT A BIRTHDAY PARTY A CHILD
6 S-TWO-YEAR-OLD-BIRTHDAY PARTY AND IT WILL COME IN
7 THROUGH MR BURTON WHO TOOK THE FILM WHO OBSERVED
8 HIM AT THAT TIME AND HIS PARTICIPATION WITH THE KIDS
9 AND THAT SORT OF THING

10 THE COURT AND THE DEFENDANT'S
11 CHILDREN ARE IN THE SAME --

12 MR TINSLEY THEY'RE NOT IN THE
13 PICTURE WERE THEY EVEN AT THE PARTY? THEY TELL ME
14 THEY'RE NOT AT THE PARTY

15 THE COURT WELL --

16 MR TINSLEY HIM AND SHEKA WERE
17 TOGETHER AT THE PARTY AND HE WAS WITH A NUMBER OF
18 OTHER CHILDREN

19 THE COURT WHAT'S THE RELEVANCE OF
20 THAT THEN?

21 MR TINSLEY THE RELEVANCE OF IT IS
22 GOES TO BETTER TIMES BETWEEN HE AND SHEKA, PRE-1991
23 -- PRE-SEPTEMBER 17, 1991

24 THE COURT THE VIDEO IS OFFERED TO
25 SHOW HE AND THE DECEDENT, MS JACKSON, IS THAT --

1 MR TINSLEY WELL, THEY'RE IN THE
2 VIDEO AND I CAN GO FORWARD AND SHOW THAT PART TOO
3 I BASICALLY WAS JUST SHOWING HIS INDIVIDUAL
4 CHARACTERISTICS AS AN INDIVIDUAL AND HOW HE
5 INTERACTED WITH OTHER PEOPLE

6 THE COURT ALL RIGHT, I'LL ADMIT IT
7 OVERRULE OBJECTION OKAY, WHAT ELSE?

8 MR TINSLEY THAT'S ALL FROM US

9 MR JONES WE DON'T HAVE ANYTHING ELSE
10 TO OBJECT TO AT THIS POINT IN TIME, JUDGE

11 THE COURT BRING THE JURY IN
12 (JURY ENTERS AT 9 20)

13 THE COURT GOOD MORNING LADIES AND
14 GENTLEMEN

15 THE JURY GOOD MORNING

16 THE COURT AS YOU WILL RECALL WHEN WE
17 RECESSED YESTERDAY EVENING THE STATE HAD CONCLUDED
18 THEIR PRESENTATION OF EVIDENCE THAT THEY WILL
19 PRESENT AT THIS STAGE OF THE PROCEEDINGS SO WE
20 WILL NOW PROCEED WITH THAT TO BE OFFERED BY THE
21 DEFENDANT MR TINSLEY

22 MR TINSLEY THANK YOU SO MUCH, YOUR
23 HONOR MAY IF PLEASE THE COURT, I CALL TONY WILSON
24 TO THE STAND

25 THE CLERK THE EVIDENCE YOU SHOULD

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 THE WITNESS YES

5 THE CLERK BE SEATED

6 (WITNESS PRESENTED AT 9 21 O'CLOCK A M)

7 DIRECT EXAMINATION

8 BY MR TINSLEY

9 Q STATE YOUR NAME, PLEASE

10 A ANTHONY WILSON

11 Q I'M GOING TO HAVE TO ASK YOU TO SPEAK UP I
12 CAN BARELY HEAR YOU

13 A ANTHONY WILSON

14 Q REPEAT YOURSELF, PLEASE

15 A ANTHONY WILSON

16 Q AND WHAT DO THEY CALL YOU?

17 A TONY

18 Q TONY TONY, HOW OLD ARE YOU?

19 A THIRTY-EIGHT

20 Q YOUR THIRTY-EIGHT WHERE ARE YOU FROM?

21 A ABBEVILLE

22 Q AND DO YOU KNOW THIS MAN HERE?

23 A YES, SIR

24 Q WHO IS HE?

25 A THAT'S MY HUSBAND

1 Q WHAT'S HIS NAME?

2 A FRANK WILSON

3 Q AND DO YOU WORK, TONY?

4 A YES, SIR

5 Q WHERE DO YOU WORK?

6 A I WORK AT MOHAWK

7 Q DID YOU WORK LAST NIGHT?

8 A YES, SIR

9 Q DID YOU JUST GET OFF AT EIGHT O'CLOCK?

10 A I GOT OFF AT SEVEN O'CLOCK

11 Q SEVEN THIS MORNING?

12 A UH-HUH

13 Q AND WHERE DO YOU LIVE?

14 A I LIVE ON BROWN STREET

15 Q AND DO YOU HAVE ANY CHILDREN?

16 A YES, I DO

17 Q HOW MANY CHILDREN DO YOU HAVE?

18 A I HAVE THREE

19 Q AND YOUR MOTHER WAS WHO?

20 A DOLLY HUGHEY

21 Q DOLLY MAY HUGHEY?

22 A YES, SIR

23 Q AND WHO WAS YOUR FATHER?

24 A ALAN CARLYLE

25 Q ALAN CARLYLE?

1 A YES

2 Q NOW YOUR FATHER WAS NOT JOHN HENRY HUGHEY

3 SMITH?

4 A NO

5 Q YOU HAD A DIFFERENT FATHER?

6 A YES

7 Q BUT DO YOU KNOW THE DEFENDANT, JOHN KENNEDY

8 HUGHEY?

9 A YEAH

10 Q HOW DO YOU KNOW HIM?

11 A HE'S MY BROTHER

12 Q TECHNICALLY WOULD HE BE YOUR HALF BROTHER

13 OR---

14 A MY HALF BROTHER

15 Q RIGHT, Y'ALL HAD THE SAME MOTHER?

16 A YEAH

17 Q BUT YOU DIDN'T HAVE THE SAME FATHER?

18 A THAT'S RIGHT

19 Q NOW, DESCRIBE YOUR FAMILY -- YOUR CHILDHOOD

20 FAMILY FOR THE JURY, PLEASE

21 A WELL, WE HAD A FAT ONE A REAL FAT ONE

22 Q BEFORE YOU GO INTO THAT, TELL US WHO ALL WAS

23 IN IT

24 A IT WAS SEVEN CHILDREN

25 Q YOU WERE WHAT -- WHAT ORDER -- WHAT WERE YOU?

- 1 A I'M THE OLDEST
- 2 Q YOU THE OLDEST? WHAT ABOUT JOHN KENNEDY?
- 3 A HE'S THE YOUNGEST BOY
- 4 Q AND OVERALL HE WAS?
- 5 A NEXT TO THE YOUNGEST
- 6 Q SO THE YOUNGEST SON, AND THEN HE'S THE SIXTH
- 7 OF SEVEN, IS THAT RIGHT?
- 8 A YES
- 9 Q NOW DESCRIBE YOUR FATHER
- 10 A MY FATHER?
- 11 Q YES
- 12 A I REALLY DIDN'T KNOW HIM THAT WELL
- 13 Q WHY NOT?
- 14 A BECAUSE HE WAS WHITE
- 15 Q BECAUSE HE WAS WHITE?
- 16 A YEAH
- 17 Q DID HE LIVE IN THE HOME?
- 18 A NO
- 19 Q NOW HOW MANY OF YOUR SIBLINGS WAS HE THE
- 20 FATHER OF?
- 21 A THREE OF THEM
- 22 Q AND WHATEVER HAPPENED TO HIM, DO YOU KNOW?
- 23 A HE DIED
- 24 Q DID HE RAISE Y'ALL?
- 25 A NO

1 Q SO HE MERELY FATHERED THE OLDEST THREE
2 CHILDREN?

3 A YES

4 Q BY YOUR MOTHER?

5 A YES

6 Q - ALL RIGHT, AT WHAT POINT DID MR HUGHEY COME
7 INTO THE PICTURE?

8 A WHAT YOU MEAN?

9 Q WELL, WHEN DID MR HUGHEY AND MS DOLLY MAY
10 GET TOGETHER, DO YOU REMEMBER?

11 A OH, THANK GOD, I DON'T KNOW I WAS YOUNG

12 Q YOU WERE YOUNG? WELL, AT SOME POINT, DO YOU
13 RECALL HIM MOVING IN WITH YOUR MOTHER?

14 A YES

15 Q AND DID THEY PROCEED TO HAVE ANY CHILDREN?

16 A THEY HAD FOUR

17 Q NOW YOUR FATHER -- YOUR STEPFATHER WAS MR
18 JOHN HUGHEY, RIGHT?

19 A YES

20 Q AND HE WAS A BLACK MAN, CORRECT?

21 A YES

22 Q SO JOHN KENNEDY WOULD HAVE BEEN THE THIRD OF
23 THE SECOND GROUP OF FOUR?

24 A THE WHAT?

25 Q THE THIRD CHILD OF THEIR FOUR

1 A YEAH, HE WAS THE THIRD CHILD

2 Q ALL RIGHT, NOW I WANT TO ASK YOU NOW, MS
3 WILSON, WHAT KIND OF A TREATMENT DID YOU RECEIVE
4 FROM YOUR STEPFATHER?

5 A HE HATED ME

6 Q HE HATED YOU?

7 A YES

8 Q WHAT DO YOU MEAN BY THAT? WHAT DID HE DO TO
9 YOU?

10 A HE DID EVERYTHING HE COULD TO US, HE DID IT
11 HE HATED US BECAUSE WE WASN'T HIS WE WAS WHITE --
12 HALF WHITE HE HATED US AND HE TOOK IT OUT ON US

13 Q WELL, DESCRIBE SOME OF THINGS THAT HE DID TO
14 Y'ALL

15 A HE WOULD BEAT US HE WOULDN'T LET US EAT FOOD
16 SOMETIMES HE WOULD RUN US OUT OF THE HOUSE WITH A
17 GUN YOU KNOW, WHATEVER HE COULD DO TO US, HE DID

18 Q NOW WHEN YOU SAY US, WHO DO YOU MEAN BY THAT?

19 A ME AND MY SISTER AND MY BROTHER

20 Q YOU TALKING ABOUT THE FIRST THREE OF Y'ALL?

21 A YEAH

22 Q AND WHAT KIND OF WORK DOES HE DO?

23 A WHO?

24 Q JOHN HENRY?

25 A CONSTRUCTION

1 Q DESCRIBE THAT WORK

2 A HE WOULD DRIVE THOSE BIG THINGS, YOU KNOW

3 Q AND DID HE DRINK?

4 A YES

5 Q DESCRIBE AN AVERAGE WEEK WITH YOUR STEPFATHER
6 AS YOU WERE GROWING UP

7 A HE WOULD COME HOME EVERY FRIDAY DRUNK

8 Q WAS HE HOME THROUGH THE WEEK?

9 A HE WOULD GO OFF AND WORK SOMETIMES, YOU KNOW

10 Q DID HE WORK IN ABBEVILLE OR ELSEWHERE?

11 A HE WOULD GO OFF AND WORK BUT HE DID -- HE
12 LIKE CALHOUN FALLS, PLACES LIKE THAT

13 Q BUT HE WAS --

14 A GREENWOOD

15 Q IS IT FAIR TO SAY THAT HE WAS USUALLY GONE
16 THROUGH THE WEEK AND SOMETIMES HE WAS THERE?

17 A YEAH

18 Q WHAT ABOUT THE WEEKENDS?

19 A HE'D COME HOME ON FRIDAY EVENINGS

20 Q HE WOULD?

21 A YES

22 Q AND DESCRIBE THE WEEKENDS THAT WOULD THEN
23 OCCUR

24 A HE WOULD COME HOME DRUNK MOST OF HIS MONEY
25 WOULD BE GONE HIM AND MY MAMA WOULD FUSS AND FIGHT

1 ALL WEEKEND

2 Q WELL, DID HE -- WOULD HE STRIKE ANYONE?

3 A THAT'S ALL HE DID THEY'D FIGHT ALL THE TIME
4 THEY'D JUST FIGHT

5 Q WOULD SHE START THE FIGHTS?

6 A SHE WOULD ASK HIM FOR SOME MONEY, YOU KNOW, TO
7 BUY GROCERIES AND STUFF

8 Q AND WAS JOHN -- AT SOME POINT WAS JOHN BORN
9 INTO THE FAMILY?

10 A WAS HE BORN -- YEAH

11 Q WAS HE BORN AT THIS POINT?

12 A YEAH

13 Q WAS HE IN THE HOUSE THOUGH?

14 A YEAH

15 Q AND WHERE DID Y'ALL LIVE?

16 A WE LIVED A LOT OF PLACES

17 Q AND GIVE US SOME EXAMPLES

18 A WE LIVED ON THE OLD GREENVILLE HIGHWAY WE
19 LIVED OVER HERE ON PINCKNEY STREET WE LIVED ON 300
20 MAPLE STREET WE LIVED IN LEVEL LAND A LOT OF
21 PLACES

22 Q I ASK YOU, TONY, DID YOUR FATHER TREAT THE
23 YOUNGER FOUR AS BADLY AS HE TREATED THE OLDER THREE?

24 A NO

25 Q AND DO YOU KNOW WHY?

1 A THEY WAS HIS

2 Q WAS HE A BETTER FATHER TO THEM?

3 A YES, HE WAS

4 Q WAS HE A GOOD FATHER TO THEM?

5 A HE WASN'T A GOOD FATHER AT ALL

6 Q HE WASN'T A GOOD FATHER TO ANYBODY?

7 A NO, HE WASN'T

8 Q ALL RIGHT, DID HE EVER STRIKE YOU?

9 A YES

10 Q AND DESCRIBE HOW HE STRUCK YOU

11 A I MEAN, HE WOULD PICK UP ANYTHING TO HIT YOU

12 WITH YOU KNOW, A STICK HE DIDN'T CARE WHAT IT

13 WAS THAT'S JUST THE WAY HE WAS

14 Q WAS JOHN PRESENT TO SEE THIS?

15 A YES

16 Q DID HE WHOOP JOHN ANY, OR DO YOU KNOW?

17 A YEAH, HE WHOOPED ON ALL OF THEM, YOU KNOW

18 BUT HE WOULD REALLY GET ON US

19 Q THE OLDER THREE?

20 A YEAH

21 Q WELL, LATER ON YOU WERE ABLE TO -- YOU GOT

22 OVER IT, DIDN'T YOU?

23 A YEAH

24 Q AND WHAT DID YOU DO?

25 A I LEFT HOME

1 Q IS THAT WHEN YOU MARRIED MR WILSON?

2 A YES

3 Q AND YOU'VE BEEN WITH MR WILSON EVER SINCE?

4 A YES

5 Q NOW, CAN YOU DESCRIBE MR JOHN HENRY'S
6 DRINKING?

7 A HE WAS AN ALCOHOLIC HE DRANK ALL THE TIME

8 Q HE WAS?

9 A YES

10 Q NOW I'D LIKE TO TAKE YOU BACK TO JOHN HENRY'S
11 -- JOHN KENNEDY'S YOUTH WITH JOHN HENRY DO YOU
12 RECALL AN EVENT IN THE EARLY '70'S THAT OCCURRED TO
13 JOHN?

14 A YES, WHEN HE GOT HIS HEAD CUT OPEN

15 Q CAN YOU DESCRIBE THAT -- WHAT HAPPENED? WERE
16 YOU THERE?

17 A YES, I WAS

18 Q AND WHERE DID THIS OCCUR?

19 A WHERE?

20 Q WHERE

21 A HE WAS AT HOME

22 Q AND YOUR RESIDENCE THEN WAS LOCATED?

23 A ON OLD GREENVILLE

24 Q TELL US WHAT HAPPENED THAT DAY

25 A WELL, YOU KNOW, HIM AND MY MAMA WAS FUSSING

1 AND ARGUING, AND HE RUN AFTER HER TO GET IN THE CAR
2 TO LEAVE --

3 Q WAS HE DRINKING?

4 A YES, HE WAS DRUNK HE WAS DRINKING -- TO
5 LEAVE, SO MY BROTHER, JOHN, WANTED TO GO WITH HIM
6 SO HE RUN TO GET IN THE CAR WITH HIM, AND HE JERKED
7 THE CAR IN REVERSE REAL FAST AND THAT'S WHEN JOHN
8 FELL OUT AND THE BOTTOM PART OF THE DOOR CUT HIS
9 HEAD OPEN

10 Q DESCRIBE WHAT HAPPENED NEXT

11 A WE RUN OUT THERE TO PICK HIM UP AND I COULDN'T
12 TOUCH HIM

13 Q WHY COULDN'T YOU TOUCH HIM?

14 A HIS WHOLE HEAD WAS CUT OPEN I COULDN'T -- I
15 COULDN'T MOVE HIM

16 Q DESCRIBE THE NATURE OF THE WOUND

17 A I MEAN, IT WAS CUT ALL OPEN YOU SAW ALL THAT
18 WHITE STUFF

19 Q DID YOU SEE HIS SKULL?

20 A YES

21 Q AND ABOUT HOW OLD WAS JOHN KENNEDY AT THAT
22 TIME?

23 A HE WAS A LITTLE BOY ABOUT FOUR OR FIVE

24 Q HE WAS?

25 A YEAH

1 Q AND DID THEY TAKE HIM TO THE HOSPITAL?

2 A HE HAD TO STAY AT THE HOSPITAL THEY DID
3 EMERGENCY SURGERY ON HIM

4 Q THEY DID?

5 A YEAH

6 Q AND AS FAR AS THE SURGERY, DID HE STAY IN THE
7 HOSPITAL?

8 A YES, HE WAS IN THERE FOR A WHILE

9 Q AND LATER ON HE CAME BACK HOME?

10 A YES

11 Q WAS HE -- DID Y'ALL CARE FOR HIM WHEN HE CAME
12 BACK HOME?

13 A YES

14 Q NOW DURING LATER YEARS, WERE YOU AWARE OF ANY
15 OTHER HEAD INJURIES THAT HE SUFFERED?

16 A YES, HE HAD TWO MORE

17 Q YOU'RE AWARE OF TWO OF THEM?

18 A YES

19 Q AND DESCRIBE ONE OF THOSE, PLEASE

20 A I THINK THE NEXT ONE WAS HE GOT HIT WITH A
21 GOLF CLUB THING RIGHT HERE IN HIS FACE

22 Q AND THE OTHER ONE?

23 A HE WAS IN A CAR WRECK AND HE HIT HIS HEAD ON
24 THE WINDSHIELD

25 Q I NOTICE THAT HE'S GOT A LOT OF SCARS ON HIS

1 HEAD IS THIS BIG ONE FROM THE ACCIDENT AT AGE
2 FOUR?

3 A YEAH

4 Q AND THIS LITTLE ONE, IS IT POSSIBLY FROM THE
5 ACCIDENT LATER ON?

6 A - YEAH

7 Q WHAT ABOUT -- WHAT ABOUT AN INCIDENT WITH A
8 TRACTOR, DO YOU RECALL ANYTHING ON THAT?

9 A A TRACTOR?

10 Q YES

11 A NO

12 Q WELL ---

13 A PULPWOOD TRUCK?

14 Q PULPWOOD TRUCK, EXCUSE ME

15 A YEAH

16 Q WHAT WAS THAT ABOUT?

17 A HIS DADDY WOULD GET DRUNK AND HE WOULD USE TO
18 DO THAT PULPWOOD, HAUL THAT PULPWOOD ON THOSE BIG
19 TRUCKS, AND HE WOULD MAKE JOHN KENNEDY DRIVE THE
20 TRUCK AND THEY HAD A BAD WRECK HE WRECKED --
21 WRECKED THE TRUCK

22 Q WELL, HOW OLD WAS JOHN KENNEDY?

23 A HE WAS A LITTLE BOY YOU KNOW, HE COULDN'T
24 TOUCH THE PEDALS, BOZO DID THAT HE JUST DROVE IT

25 Q BOZO DID THAT?

1 A YEAH

2 Q IS THAT WHAT ---

3 A THAT'S WHAT HE WOULD DO WITH HIM, YOU KNOW

4 Q HE WOULD MAKE HIS -- JOHN KENNEDY DRIVE THE

5 VEHICLE EVEN THOUGH HE WAS JUST A CHILD?

6 A YES, HE DID

7 Q AND THIS WAS -- NOW BOZO WAS WHO?

8 A JOHN'S FATHER? THAT'S WHAT WE CALLED HIM

9 Q WHY DID YOU CALL HIM BOZO?

10 A EVERYBODY JUST CALLED HIM BOZO I WOULDN'T

11 KNOW

12 Q NOW, DURING YOUR YOUTH IN THE HOME WITH MR

13 JOHN HENRY, DID -- I THINK YOU'VE ALREADY TESTIFIED

14 THAT HE HIT YOU AND PARTICULARLY YOUR TWO FULL

15 SIBLINGS AND YOUR MOTHER, IS THAT CORRECT?

16 A YES

17 Q AND HOW LONG DID THIS GO ON?

18 A IT -- I MEAN, YOU KNOW, IT WENT ON ALL THE

19 TIME TILL SHE GOT KILLED

20 Q TILL WHO GOT KILLED

21 A MY MOTHER

22 Q WHEN DID THAT HAPPEN?

23 A WHEN DID MY MOTHER GET KILLED?

24 Q RIGHT

25 A SEPTEMBER 19

1 Q WHAT YEAR

2 A '91 -- '92 -- ONE OF THOSE I DON'T REMEMBER

3 THAT'S BEEN A LONG TIME

4 Q 9-19 --

5 A YEAH

6 Q SEPTEMBER, '92? ALL RIGHT, TELL US WHAT

7 HAPPENED NEXT

8 A WHEN MY MAMA GOT KILLED?

9 Q YES, PLEASE

10 A A DRUNK DRIVER RAN THROUGH THE YARD AND HIT

11 HER

12 Q AND WHERE DID THIS OCCUR?

13 A AT MY SISTER'S HOUSE

14 Q AT YOUR SISTER'S HOUSE?

15 A YES

16 Q I WANT TO COME BACK TO THIS AND ASK YOU SOME

17 QUESTIONS ABOUT THIS IN A MINUTE BUT FIRST --

18 MR TINSLEY MAY I APPROACH, YOUR

19 HONOR?

20 THE COURT YOU MAY

21 EXAMINATION CONTINUED

22 BY MR TINSLEY

23 Q I'LL HAND YOU A PICTURE MS WILSON, DO YOU

24 RECOGNIZE THAT PICTURE?

25 A YES, I DO

1 Q AND HOW DO YOU RECOGNIZE THAT PICTURE?

2 A BECAUSE THIS IS AT MY HOUSE

3 Q WHO TOOK THAT PICTURE?

4 A I DID

5 Q WHAT IS IT A PICTURE OF?

6 A MY BROTHER AND SHEKA

7 Q YOUR BROTHER AND SHEKA?

8 A YES

9 Q FROM APPROXIMATELY WHEN?

10 A WHEN?

11 Q APPROXIMATELY

12 A I DON'T REMEMBER ABOUT THREE YEARS AGO

13 MAYBE

14 Q SEVERAL YEARS AGO?

15 A YEAH

16 MR TINSLEY YOUR HONOR, I WILL OFFER

17 THIS AS DEFENDANT'S ID EXHIBIT SEVENTEEN, COURT'S

18 EXHIBIT THIRTY-TWO INTO EVIDENCE AT THIS TIME

19 THE COURT IT'S ADMITTED

20 MR JONES NO OBJECTION, YOUR HONOR,

21 TO THAT PHOTOGRAPH

22 EXAMINATION CONTINUED

23 BY MR TINSLEY

24 Q NOW, DID YOU, MS WILSON, HAVE OCCASION TO

25 OBSERVE SHEKA AND JOHN TOGETHER?

1 A YES, I DID

2 Q AND CAN YOU DESCRIBE TO US WHAT YOU OBSERVED?

3 A I MEAN, IT WAS -- THEY GOT ALONG GOOD TO ME

4 Q THEY DID?

5 A THEY CAME OVER TO MY HOUSE ALL THE TIME, YOU

6 KNOW

7 Q WELL, NOW, WAS THERE A DIFFERENCE AFTER

8 SEPTEMBER 19, 1991, OR NOT?

9 A A DIFFERENCE? WHAT DO YOU MEAN?

10 Q IN JOHN'S BEHAVIOR?

11 A YES, YES, YES THERE WAS

12 Q DESCRIBE HIS RELATIONSHIP WITH YOUR MOTHER

13 A HIM AND MY MOTHER GOT ALONG GOOD, YOU KNOW

14 THAT WAS HER BABY, YOU KNOW THAT WAS HER BABY BOY

15 THEY LOVED EACH OTHER

16 Q WELL, HOW DID HE FEEL TOWARDS HER?

17 A HE LOVED HIS MAMA

18 Q WERE THEY PARTICULARLY CLOSE?

19 A YES, BECAUSE HE WAS IN THE HOUSE HERE, YOU

20 KNOW, EVERYBODY ELSE HAD GONE

21 Q SO WHEN SHE WAS KILLED HE WAS STILL LIVING AT

22 HOME?

23 A YES

24 Q OKAY AND WHAT HAD HAPPENED TO JOHN HENRY AT

25 THAT POINT?

1 A HIS FATHER?

2 Q YES

3 A I THINK HE LOST HIS MIND BECAUSE HE DRANK
4 MORE YOU KNOW, HE WOULD WALK THE STREETS I MEAN,
5 YOU KNOW, HE JUST COULDN'T TAKE IT

6 Q SO LIVING OVER AT 300 MAPLE STREET AFTER
7 SEPTEMBER, 1991, WAS JOHN HENRY, JOHN KENNEDY, AND
8 WILLIE MAY?

9 A WILLIE MAY?

10 Q I MEAN, DOLLY MAY

11 A YES

12 Q DOLLY MAY

13 A YES

14 Q AND THOSE WERE THE THREE THAT WERE LIVING
15 THERE?

16 A YES

17 Q UP UNTIL YOUR MOTHER'S DEATH?

18 A YES

19 Q THE OTHER CHILDREN HAD LEFT THE HOME?

20 A YES

21 Q NOW, DURING THE YEARS AFTER HIS ACCIDENT --
22 WE'RE TALKING ABOUT JOHN KENNEDY'S ACCIDENT -- DID
23 HE EVER COMPLAIN ABOUT ANY PROBLEMS SUCH AS
24 HEADACHES AND THAT SORT OF THING?

25 A YEAH, HE USE TO HAVE A LOT OF HEADACHES

1 Q HE DID?

2 A YEAH

3 Q NOW, DID HE -- WHAT OTHER OBSERVATIONS DID YOU
4 HAVE OF HIM DURING THOSE YEARS AFTER HIS MOST
5 SERIOUS INJURY?

6 A WITH HIS HEAD?

7 Q RIGHT

8 A WELL, YOU KNOW, HE WAS ASHAMED OF HIS HEAD
9 HE DIDN'T LIKE PEOPLE TO SEE HIS HEAD, YOU KNOW HE
10 WOULD KEEP CAPS ON HIS HEAD, YOU KNOW

11 Q GROW HIS HAIR OUT?

12 A YEAH, GROW HIS HAIR LONG

13 Q HE DID? OKAY WOULD IT BE FAIR TO
14 CHARACTERIZE DOLLY MAY AS JOHN'S EMOTIONAL SUPPORT
15 OR ---

16 A YES

17 Q AND HOW DID HE TREAT HIS MOTHER?

18 A HE LOVED HIS MAMA

19 Q HOW DID HE TREAT HER?

20 A HE TREATED HER GOOD YOU KNOW, THEY WOULD DO
21 THINGS TOGETHER MY MAMA USE TO LOVE TO MOVE THE
22 FURNITURE EVERY WEEK SHE WOULD MOVE THE FURNITURE
23 AND THEY WOULD DO IT TOGETHER

24 Q I SEE AND ADDITIONAL AND EVENTUALLY JOHN
25 HENRY DIED, DID HE NOT?

1 A A YEAR LATER

2 Q A YEAR AFTER YOUR MOTHER DIED?

3 A YES

4 Q AND GETTING BACK TO YOUR MOTHER'S DEATH,
5 DESCRIBE WHAT YOU OBSERVED JOHN'S BEHAVIOR AFTER HIS
6 MOTHER'S DEATH

7 A WELL, HE CHANGED, YOU KNOW JUST KIND OF LIKE
8 HE DIDN'T CARE ABOUT HIMSELF NO MORE

9 Q AND WHAT WERE SOME OF THE THINGS THAT HE DID?

10 A WHAT HE DID? I MEAN, MY BROTHER USE TO BE A
11 SNAPPY DRESSER HE DIDN'T CARE HOW HE DRESSED

12 Q AFTER YOUR MOTHER'S DEATH?

13 A YES, I MEAN, HE USE TO KEEP LONG FINGER NAILS
14 YOU KNOW, HE WAS JUST THAT -- AND HE ALWAYS USED TO
15 LIFT WEIGHTS HE HAD A GOOD BODY HE LOST A LOT OF
16 WEIGHT IN HIS FACE

17 Q DID HE ISOLATE HIMSELF OR ANYTHING LIKE THAT?

18 A YES, HE STAYED AWAY FROM US, YOU KNOW I SAW
19 HIM ON THE HOLIDAYS AND STUFF LIKE THAT, BUT, YOU
20 KNOW ---

21 Q AFTER YOUR MOTHER'S DEATH, DID ANY OF YOU
22 CHILDREN RECEIVE ANY COUNSELING OR PSYCHOLOGICAL
23 TREATMENT?

24 A NO

25 Q YOU DIDN'T? YOU DIDN'T RECEIVE ANY?

- 1 A DID THEY RECEIVE ANY?
- 2 Q DID YOU RECEIVE ANY?
- 3 A I WENT FOR A LITTLE WHILE NOT LONG
- 4 Q YOU DID RECEIVE SOME?
- 5 A A LITTLE BIT, YES
- 6 Q WHAT ABOUT JOHN KENNEDY?
- 7 A NO, HE DIDN'T
- 8 Q AND DID HE SHOW ANY STRANGE BEHAVIOR AFTER HIS
- 9 MOTHER'S DEATH?
- 10 A STRANGE?
- 11 Q RIGHT
- 12 A YOU KNOW, HE'D WRITE THINGS ON THE MIRRORS AT
- 13 THE HOUSE YOU KNOW, HE WOULD DO STUFF LIKE THAT
- 14 Q WRITE ON ---
- 15 A ABOUT HIS MAMA, YOU KNOW
- 16 Q HE WROTE STUFF ON THE MIRRORS AT HIS HOME?
- 17 A YES, ON THE MIRRORS, YES
- 18 Q THINGS LIKE WHAT, FOR EXAMPLE?
- 19 A THE DAY SHE WAS BORN, THE DAY SHE DIED, THAT
- 20 HE LOVE HER STUFF LIKE THAT
- 21 Q DID YOU EVER SEE HIM TALKING TO HER OR TO
- 22 HIMSELF OR THE SORT OF THING?
- 23 A NO, BUT HE WOULD TELL ME THAT HE WOULD HEAR
- 24 THINGS IN THE HOUSE, YOU KNOW, TALKING
- 25 Q NOW, JOHN AND SHEKA DID HAVE TWO SONS

1 TOGETHER, CORRECT?

2 A YES

3 Q AND THEY WOULD COME OVER TO YOUR HOUSE, THAT
4 SORT OF THING?

5 A YES

6 Q - AND, MRS WILSON, DO YOU RECOGNIZE THIS ITEM
7 WHICH WOULD BE STATE'S EXHIBIT FORTY-EIGHT?

8 A YES, I DO

9 Q HOW DO YOU RECOGNIZE IT?

10 A HIS DADDY GAVE HIM THAT GUN

11 Q AND DID HIS DADDY OWN IT FIRST?

12 A YES

13 Q HAVE YOU EVER SEEN HIS DADDY WITH IT?

14 A YES, I HAVE

15 Q DESCRIBE THAT, PLEASE

16 A BECAUSE HE WOULD SHOOT IT ALL THE TIME

17 Q DID HE -- YOU SAY HE WOULD SHOOT IT ALL THE
18 TIME?

19 A YEAH

20 Q SHOOT IT WHERE?

21 A HE SHOT AT ME WITH IT ONE TIME

22 Q SHOT AT WHO?

23 A SHOT AT ME WITH IT

24 Q DID HE HIT YOU?

25 A NO, HE DIDN'T

1 Q DESCRIBE THAT DESCRIBE THAT IN DETAIL

2 A I CAUGHT HIM WITH ANOTHER WOMAN AND I TOLD MY
3 MOM, SO HE GOT MAD

4 Q WHEN HE GOT HOME?

5 A YES

6 Q DID HE -- WHAT DID YOU DO? WHAT DID YOU DO?
7 TELL US WHAT HAPPENED

8 A WHAT DID I DO?

9 Q YES

10 A HE TOLD ME I WAS LYING I TOLD HIM, "NO, HE
11 WAS THE LIAR "

12 Q WHAT HAPPENED NEXT?

13 A HE SAID HE WAS GOING TO KILL ME SO HE --

14 Q WAS JOHN KENNEDY AROUND?

15 A WE ALL WAS THERE

16 Q SO HE SAW THIS?

17 A YES

18 Q WHAT HAPPENED NEXT?

19 A HE GOT THAT GUN AND HE RAN -- RAN ME AROUND
20 THE HOUSE AND I JUST RAN

21 Q DID YOU RUN OUTSIDE OR WHAT?

22 A YES, WE RAN AROUND THE HOUSE

23 Q AND DID HE ACTUALLY FIRE THE GUN?

24 A YES, HE DID

25 Q AND DESCRIBE HIS MOOD AT THAT TIME -- HIS

1 BEHAVIOR -- JOHN HENRY'S

2 A I REMEMBER WHEN HE GOT LIKE THAT THAT MAN WAS
3 CRAZY YOU KNOW, HE WOULD DO ANYTHING THAT'S THE
4 WAY HE WAS

5 Q SO ON THE WEEKENDS AS YOU GOT OLDER WHAT DID
6 YOU DO WHEN HE WOULD COME HOME?

7 A AS I GOT OLDER I WOULD LEAVE

8 Q WHERE WOULD YOU GO?

9 A ANYWHERE YOU KNOW, I'D JUST LEAVE I
10 WOULDN'T BE HERE

11 Q WELL, DID HE CALL YOU NAMES AND STUFF OR DID
12 HE -- AS YOU GOT OLDER DID HE HIT YOU LESS OR WHAT?

13 A HIT US LESS? YES, HE HIT US LESS BECAUSE WE
14 STARTED FIGHTING BACK

15 Q AND DID HE CALL YOU NAMES AND THAT SORT OF
16 THING?

17 A YES, HE WOULD CALL US HALF WHITE, YOU KNOW,
18 ALL THOSE THINGS HE DIDN'T CARE WHAT HE SAID

19 Q AND DURING THIS PERIOD OF TIME, WAS JOHN
20 KENNEDY EXPOSED TO THIS REPEATEDLY?

21 A YES, HE WAS

22 Q AND HE WOULD ACTUALLY HAVE JOHN DRIVE THE
23 PULPWOOD TRUCK FOR HIM?

24 A YES, HE DID

25 Q AND HE'S THE ONE WHO WAS DRIVING THE VEHICLE

1 WHEN JOHN GOT SWUNG OUT AND CUT HIS HEAD?

2 A YES

3 Q NOW, MS WILSON, DID -- HOW DO YOU FEEL ABOUT
4 YOUR BROTHER, JOHN KENNEDY HUGHEY -- YOUR HALF
5 BROTHER?

6 A I LOVE MY BROTHER

7 Q YOU DO?

8 A YES, I DO

9 Q WOULD YOU DESCRIBE HIS LIFE AND THINGS HE'S
10 GONE THROUGH VERY BRIEFLY

11 A HIS LIFE? HE HAS HAD A HARD LIFE HE -- I
12 MEAN, HE SAW A LOT OF TERRIBLE THINGS THAT HIS
13 FATHER DID, YOU KNOW HE CAME UP HARD, YOU KNOW
14 HE DIDN'T HAVE A MAN I COULD SAY AS A FATHER,
15 BECAUSE I DON'T KNOW WHAT THAT WAS BUT ANYWAY, I
16 MEAN, I LOVE HIM AND I DON'T KNOW WHAT ELSE TO
17 SAY HE'S JUST HAD A HARD TIME

18 Q ARE YOU SAYING THAT HE NEVER HAD A POSITIVE
19 MALE ROLE MODEL, THAT SORT OF THING?

20 A I WOULDN'T CALL NO MAN LIKE THAT NOTHING
21 POSITIVE

22 Q IN YOUR OPINION HAS ALL THAT AFFECTED JOHN,
23 AND IN PARTICULARLY, THE DEATH OF HIS MOTHER?

24 A YES

25 Q WOULD YOU DESCRIBE JOHN AS HAVING SUFFERED AN

1 ABUSIVE CHILDHOOD?

2 A YES

3 Q AND, IN PARTICULAR, MR JOHN HENRY WAS VIOLENT
4 TOWARDS MISS DOLLY MAY?

5 A YES, HE WAS

6 Q - NOW, FINALLY, MS WILSON, DID YOU EVER SEE MR
7 JOHN HENRY SHOOT THAT RIFLE OR ANY OTHER GUN INSIDE
8 THE HOUSE?

9 A YES, I DID

10 Q AND HOW MANY TIMES?

11 A I SAW HIM SHOT IT IN THERE ONCE

12 Q WHERE DID HE SHOOT?

13 A WHERE DID HE SHOOT? IN THE WALL

14 Q SHOT INTO THE WALL?

15 A YES

16 MR TINSLEY THANK YOU SO MUCH
17 ANSWER ANY QUESTIONS THE SOLICITOR MIGHT HAVE

18 CROSS EXAMINATION

19 BY MR JONES

20 Q GOOD MORNING, MS WILSON

21 A GOOD MORNING

22 Q I JUST HAVE A FEW QUESTIONS FOR YOU THE
23 FIRST ONE IS, I HOPE YOU'LL UNDERSTAND THAT WE ALL
24 ARE SYMPATHETIC TO WHAT YOU HAD TO GO THROUGH
25 GROWING UP, AND CERTAINLY I'M GLAD THAT YOU'VE BEEN

1 ABLE TO DEAL WITH IT -- YOUR CHILDHOOD YOU
2 UNDERSTAND THAT WE ALL ARE SYMPATHETIC WITH THAT,
3 DON'T YOU?

4 A YES

5 Q AND DO YOU UNDERSTAND THAT ALL OF US HAD
6 DIFFICULT TIMES GROWING UP, THAT NOBODY'S LIFE IS
7 PERFECT?

8 A YES

9 Q I MEAN, WE ALL GOT -- YOU KNOW, SOME PROBLEMS
10 HERE TODAY, YOU UNDERSTAND THAT?

11 A YES

12 Q OKAY LET ME ASK YOU, YOU SAY YOUR THIRTY-
13 EIGHT AND YOUR MARRIED AND THAT YOU HAVE CHILDREN?

14 A YES

15 Q HOW MANY CHILDREN DO YOU HAVE?

16 A THREE

17 Q AND ARE THEY IN SCHOOL?

18 A I HAVE TWO GROWN DAUGHTERS AND A FIVE YEAR OLD
19 AT HOME

20 Q AND DOES YOUR HUSBAND WORK?

21 A YES

22 Q LET ME ASK YOU ABOUT THE NEXT CHILD -- YOUR
23 FULL -- YOUR NEXT FULL SIBLING WOULD THAT BE A
24 DAUGHTER OR BROTHER

25 A I HAVE THREE GIRLS

- 1 Q I'M SORRY, YOUR NEXT BROTHER OR SISTER?
- 2 A OH, MY SIBLING?
- 3 Q YES
- 4 A HE'S A BOY
- 5 Q YOU HAVE, I BELIEVE, TWO OR THREE FULL
- 6 BROTHERS AND SISTERS AND THEN THREE HALF BROTHERS
- 7 AND SISTERS, IS THAT RIGHT?
- 8 A IT'S THREE OF US THERE'S FOUR OF THEM
- 9 Q OKAY, SO YOU HAVE TWO --
- 10 A TWO
- 11 Q -- FULL AND THEY ARE BOTH SISTERS OR BROTHERS?
- 12 A ONE BOY AND ONE GIRL
- 13 Q AND THE BOY IS WHO?
- 14 A DONNY
- 15 Q DONNY?
- 16 A DONNY
- 17 Q AND WHERE IS HE?
- 18 A HE'S IN JAIL
- 19 Q AND THE OTHER SISTER?
- 20 A MY SISTER, RUBY
- 21 Q AND WHERE IS SHE?
- 22 A SHE'S SUPPOSED TO BE UP HERE
- 23 Q WHERE DOES SHE LIVE?
- 24 A SHE'S STAYS DOWN ON CEDAR SPRINGS ROAD
- 25 Q DOES SHE HAVE -- DOES SHE WORK OR HAVE FAMILY?

1 A YES

2 Q SHE WORK ---

3 A WORKS WITH ME

4 Q WORKS WITH YOU?

5 A YES

6 Q IN WHAT KIND OF BUSINESS?

7 A WE WORK AT MOHAWK

8 Q AND THEN YOU HAVE FOUR HALF BROTHERS AND

9 SISTERS

10 A YES

11 Q AND THEN ONE IN THE COURTROOM HERE TODAY, MS

12 HARRIS?

13 A YES

14 Q SHE'S YOUR HALF SISTER?

15 A YES

16 Q AND SHE WORKS, DOESN'T SHE?

17 A YEAH, I RECKON I MEAN, THEY LIVE OUT OF

18 TOWN I DON'T SEE HER THAT MUCH

19 Q SHE LIVES OVER IN GAINESVILLE?

20 A YES

21 Q HER HUSBAND -- SHE'S MARRIED WITH CHILDREN?

22 A YES

23 Q WOULDN'T YOU CHARACTERIZE HER LIFE AS

24 SUCCESSFUL?

25 A YES

1 Q I MEAN, SHE'S GOT A CONSIDERABLE AMOUNT WEALTH
2 AND HAPPINESS?

3 A YES

4 Q AND HER OTHER SISTER

5 A BARBARA

6 Q IS SHE MARRIED?

7 A NO, SHE'S NOT

8 Q IS SHE WORKING?

9 A YES

10 Q AND WOULD YOU CONSIDER HER LIFE HERE AS
11 SUCCESSFUL?

12 A SHE'S HAVING A HARD TIME

13 Q BUT SHE'S WORKING?

14 A YES

15 Q AND THEN THE OTHER CHILD?

16 A DOROTHY

17 Q HOW'S SHE DOING?

18 A SHE'S ALL RIGHT

19 Q SHE'S ALL RIGHT?

20 A YEAH, I RECKON

21 Q SO OUT OF SEVEN, FIVE ARE DOING PRETTY GOOD?

22 A YES

23 Q AND SO YOU ARE LIVING PROOF THAT, IN FACT,
24 WITH HARD WORK, PERSEVERANCE, COMMITMENT TO CERTAIN
25 THINGS, YOU CAN, IN FACT, TURN YOUR LIFE INTO

1 SOMETHING GOOD AND POSITIVE?

2 A YES, BUT I HAVE HELP

3 Q ALL RIGHT WELL, AS FAR AS HELP GOES, WOULD
4 YOU AGREE THAT IT BEGINS WITH YOU, SELF HELP?

5 A YES

6 Q - AND WOULD YOU ALSO AGREE, MS WILSON, THAT ONE
7 OF THE THINGS THAT WE NEED MORE OF IN THIS WORLD OF
8 ADULTS IS ACCEPTING RESPONSIBILITY FOR YOURSELF AND
9 YOUR OWN ACTIONS?

10 A YES

11 Q AND SO YOU DO AGREE THAT MORE OF THAT WE HAVE
12 THE BETTER OFF WE ARE, ALL OF US?

13 A YES

14 Q WHEN YOU ARE ABLE TO ACCEPT RESPONSIBILITY FOR
15 YOU OWN ACTIONS IN YOUR OWN LIFE?

16 A UH-HUH

17 Q MA'AM?

18 A YES

19 Q ONE LAST AREA I WOULD LIKE TO ASK ABOUT, MS
20 WILSON, AND THAT WAS YOU MENTIONED THAT YOU HAD
21 OBSERVED THE RELATIONSHIP BETWEEN YOUR BROTHER AND
22 THE DEFENDANT AND SHEKA JACKSON?

23 A YES

24 Q AND DID YOU SEE THEM TOGETHER DURING THE
25 SUMMER OF 1995?

1 A '95 -- YEAH, THEY WOULD COME OVER TO MY HOUSE
2 YOU KNOW, I WOULD FIX DINNER FOR HOLIDAYS AND THEY'D
3 COME OVER

4 Q AND SO JUST BEFORE SHE WAS DEAD THEY WOULD
5 COME OVER TO YOUR HOUSE?

6 A - YEAH, SHEKA COME TO MY LITTLE GIRL'S BIRTHDAY
7 PARTY -- BARBECUE, YOU KNOW

8 Q RIGHT, BARBECUE, WHICH WAS AN INDICATION THAT
9 WHEN SHE WOULD BRING THE CHILDREN SHE WOULD BRING
10 FROM WHERE SHE WAS STAYING WITH HER GRANDMOTHER?

11 A SHE WAS WITH ME SHE CAME WITH LUEVINIA THAT
12 DAY TO MY HOUSE

13 Q WHAT DID YOU UNDERSTAND BECAUSE THEY WERE
14 LIVING APART DURING THE SUMMER OF 1995 AND RIGHT ON
15 UP TO HER DEATH SHE WAS LIVING APART ---

16 A SHEKA WAS AT MY MAMA'S HOUSE A LOT, YOU KNOW
17 AND I MEAN, SHE WAS SLEEPING THERE, SO I DON'T KNOW
18 WHAT WAS THE PROBLEM I MEAN, I WOULD GO OVER THERE
19 -- I'M RESPONSIBLE FOR THE HOUSE -- AND I WOULD GO
20 OVER THERE AND SHE WOULD BE THERE

21 Q YES

22 A YEAH

23 Q WELL, THEN YOU'RE HERE TO TELL US THAT YOU ARE
24 FAMILIAR WITH YOUR BROTHER'S RELATIONSHIPS WITH
25 WOMEN?

1 MR TINSLEY OBJECTION, YOUR HONOR

2 THE WITNESS WITH WOMEN?

3 MR JONES WITH WOMEN YOU'RE TELLING

4 ME ---

5 MR TINSLEY OBJECTION, YOUR HONOR

6 THE WITNESS I DIDN'T SAY THAT I

7 DIDN'T SAY THAT

8 EXAMINATION CONTINUED

9 BY MR JONES

10 Q DID YOU TELL ME OR DID YOU INDICATE AND I ASK
11 YOU NOW, THAT IT IS YOUR BELIEF THAT YOUR BROTHER
12 HAD A MONOGAMOUS RELATIONSHIP, THAT HE WAS -- THAT
13 THEY WERE -- THAT HE AND SHE -- HE AND SHEKA JACKSON
14 WERE LIVING TOGETHER DURING THE SUMMER OF 1995 ALL
15 THE WAY INTO HER DEATH, IS THAT WHAT YOU'RE TELLING
16 ME?

17 A I SAID WHEN I GO OVER THERE THEY WOULD BE
18 SPENDING NIGHT TOGETHER SOMETIMES, YOU KNOW AND I
19 WOULD GET ON THEM, YOU KNOW, ABOUT THAT

20 THE COURT LET ME SEE YOU AND MR
21 TINSLEY

22 THE WITNESS THAT'S RIGHT

23 EXAMINATION CONTINUED

24 BY MR JONES

25 Q WELL, THEN LET ME ASK YOU THIS WHAT YOU'RE

1 SAYING IS THAT YOU SAW HER OVER THERE SOME, BUT
2 YOU'RE NOT HERE TO TRY TO GIVE OR TELL THIS JURY
3 ANYTHING ABOUT THE RELATIONSHIP CONCERNING WHETHER
4 THEY WERE LIVING TOGETHER OR NOT?

5 A NO, I'M NOT

6 Q YOU'RE NOT GOING TO DO THAT, ARE YOU?

7 A NO

8 Q ALL RIGHT

9 RE-DIRECT EXAMINATION

10 BY MR TINSLEY

11 Q JUST TWO QUESTIONS, MS WILSON AS FAR AS YOU
12 KNOW, JOHN NEVER GOT ANY HELP FROM COUNSELORS FOR
13 HIS PROBLEMS FROM HIS YOUTH OR FROM HIS MOTHER'S
14 DEATH?

15 A NO, HE DID NOT

16 Q AND THE SOLICITOR ASKED YOU ABOUT YOUR OTHER
17 BROTHERS AND SISTERS AND THEIR SUCCESSFULNESS
18 WELL, NONE OF HAD THE HEAD TRAUMA THAT JOHN HAD, DID
19 THEY?

20 A NO, THEY DIDN'T

21 MR TINSLEY THAT'S ALL

22 RE-CROSS EXAMINATION

23 BY MR JONES

24 Q WHEN YOU TALKED ABOUT GETTING THE COUNSELING
25 AND GETTING THE HELP --

1 A UH-HUH

2 Q -- AGAIN, THAT WAS SOMETHING THAT YOU DECIDED
3 TO DO TO TAKE RESPONSIBILITY FOR YOURSELF AND YOUR
4 OWN SITUATION, CORRECT?

5 A NO, I WAS TOLD I WAS TO DO IT

6 Q AND YOU DIDN'T TELL HIM TO?

7 A THE LAWYERS MADE US DO IT

8 Q YOU DIDN'T TELL HIM TO DO IT?

9 A IT WAS JUST FOR THE TWO PEOPLE THAT SAW MOM
10 WHEN SHE GOT KILLED

11 Q ALL RIGHT, SO YOU'RE TELLING ME THAT HE DIDN'T
12 HAVE ANY CHOICE TO DECIDE WITH TO GET COUNSELING OR
13 NOT?

14 A WHERE WAS WE GOING TO GET THE MONEY FROM? WE
15 COULDN'T AFFORD IT

16 MR JONES THAT'S ALL

17 THE COURT YOU MAY STEP DOWN

18 (WITNESS EXITS STAND AT 10 01 O'CLOCK A M)

19 MR TINSLEY I CALL SCOTT HARRISON TO
20 THE STAND

21 THE CLERK THE EVIDENCE YOU SHOULD
22 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
23 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
24 THE TRUTH, SO HELP YOU, GOD?

25 THE WITNESS I DO

1 (WITNESS PRESENTED AT 10 02 O'CLOCK A M)

2 DIRECT EXAMINATION

3 BY MR TINSLEY

4 Q MR HARRISON, I'LL ASK YOU TO SPEAK UP
5 STATE YOUR NAME, PLEASE

6 A ANTHONY SCOTT HARRISON

7 Q AND WHERE ARE YOU FROM?

8 A GAINESVILLE, GEORGIA

9 Q WHERE ARE YOU FROM ORIGINALLY?

10 A TOCCOA, GEORGIA

11 Q AND DID YOU GO TO SCHOOL?

12 A YES

13 Q WHERE DID YOU GO TO SCHOOL?

14 A STEPHENS COUNTY HIGH SCHOOL

15 Q DID YOU GO TO COLLEGE?

16 A NOT A COLLEGE A UNIVERSITY

17 Q AND WHILE YOU WERE AT LANDER COLLEGE
18 UNIVERSITY DID YOU MEET JOHN HUGHEY?

19 A NO, NOT AT THAT TIME

20 Q WHERE DID YOU MEET JOHN HUGHEY?

21 A IN GAINESVILLE, GEORGIA

22 Q AND APPROXIMATELY WHEN WAS THAT?

23 A BACK IN '84

24 Q AND DID HE, INDEED, INTRODUCE YOU TO YOUR
25 SISTER GLORIA -- I MEAN, HIS SISTER GLORIA?

1 A YES, SIR

2 Q AND WHAT HAPPENED BETWEEN YOU AND GLORIA?

3 A WE STARTED A RELATIONSHIP

4 Q AND SUBSEQUENTLY HOW FAR DID THE RELATIONSHIP
5 EXTEND?

6 A IT EXTENDS TO FOURTEEN YEARS OF MARRIAGE

7 Q ANY CHILDREN?

8 A FOUR

9 Q AND DURING THIS TIME DID YOU HAVE OCCASION TO
10 OBSERVE JOHN KENNEDY HUGHEY?

11 A FROM TIME TO TIME

12 Q FROM TIME TO TIME?

13 A YES

14 Q DESCRIBE JOHN KENNEDY HUGHEY BEFORE SEPTEMBER
15 19, 1991

16 A WHAT DO YOU MEAN BY DESCRIBE?

17 Q WELL, I MEAN, BY DESCRIBE, I MEAN, TELL US
18 ABOUT HIS ATTITUDE TOWARDS YOU HOW DID HE TREAT
19 YOU

20 A WELL, HE ALWAYS TREATED ME -- HE LOOKED AT ME
21 AS SORT OF LIKE A BIG BROTHER TO HIM

22 Q DID HE --

23 A HE RESPECTED ME, RESPECTED MY WIFE AND MY
24 KIDS WHEN HE WAS AROUND WE DIDN'T HAVE NO PROBLEM
25 WITH HIM

1 Q DID HE COME VISIT Y'ALL IN GAINESVILLE?

2 A FROM TIME TO TIME, YES

3 Q AND DID HE SUBSEQUENTLY HAVE A RELATIONSHIP
4 WITH MS JACKSON?

5 A YES

6 Q - AND THEY EVENTUALLY HAD TWO KIDS?

7 A UH-HUH

8 Q DID SHE COME TO GAINESVILLE, TOO?

9 A WHEN THEY CAME THEY WAS ALWAYS TOGETHER THEM
10 AND THE BOYS

11 Q WELL, I ASK YOU -- IN NO WAY TO DESCRIBE IT,
12 BUT LATER ON THEY -- DID THEY HAVE TWO SONS?

13 A YES

14 Q AND WHAT HAPPENED IN SEPTEMBER, 1991?

15 A HIS MOTHER GOT KILLED

16 Q AND BASED UPON YOUR PERSONAL OBSERVATIONS, DID
17 YOU NOTICE ANY CHANGE IN JOHN AFTER THAT?

18 A A LITTLE

19 Q AND DESCRIBE THAT

20 A WELL, HE KIND OF GOT OFF TO HIMSELF A LITTLE
21 BIT, QUITE, WOULDN'T TALK AS MUCH

22 Q HE GOT TO HIMSELF?

23 A NO, HE WAS DISTANT FROM THE FAMILY

24 Q HAD YOU HAD OCCASION TO OBSERVE HE AND HIS
25 MOTHER TOGETHER?

1 A UH-HUH

2 Q AND DID THEIR RELATIONSHIP APPEAR TO BE A
3 CLOSE ONE?

4 A YES

5 Q YOU CAN'T?

6 A NO, THEY WAS REAL LOVING MOTHER AND SON
7 RELATIONSHIP

8 Q DID HER DEATH APPEAR TO YOU TO AFFECT JOHN
9 VERY DEEPLY?

10 A YES, IT DID

11 Q NOW, MR HARRISON, DID JOHN HAVE OCCASION TO
12 HELP YOU WITH SOME WORK AROUND YOUR HOME, THAT SORT
13 OF THING?

14 A YES, SIR, WHEN HE WAS -- WHEN HE WOULD COME
15 DOWN AND I WAS THERE OUT IN THE YARD CUTTING GRASS
16 OR CLEANING MY GUTTERS, STUFF LIKE THAT, HE WOULD
17 HELP OUT

18 Q HE WOULD?

19 A (WITNESS NODS HEAD)

20 Q DID YOU FIND HIM TO BE HELPFUL TO YOU IN THE
21 INSTRUCTION PROJECTS OR ANYTHING LIKE THAT?

22 A YES, WE ALL GOT TOGETHER ON THE WEEKEND AND
23 PUT A NEW ROOF ON HIS MOTHER'S HOUSE AND STUFF IT
24 WAS A FAMILY THING

25 Q A FAMILY THING? OKAY AND DID YOU KNOW JOHN

1 HENRY SMITH TO ANY EXTENT?

2 A YES, SIR

3 Q AND CAN YOU DESCRIBE HIS BEHAVIOR?

4 A WELL, HE WAS A GOOD FATHER DRUNK A LITTLE
5 BIT - SOMETIMES TOO MUCH

6 Q - BUT DID YOU OBSERVE THE WAY HE TREATED MS
7 DOLLY MAY HUGHEY?

8 A NO, SIR

9 Q OR HIS THREE OLDEST CHILDREN?

10 A NO

11 Q I BEG THE COURT'S INDULGENCE FOR A MINUTE
12 AND DID ALSO Y'ALL DO A CONSTRUCTION PROJECT FOR A
13 SISTER'S HOUSE?

14 A YEAH, HIS SISTER RUTH

15 Q RUTH?

16 A YEAH

17 Q AND DESCRIBE THAT, PLEASE

18 A IT WAS ANOTHER FAMILY THING EVERYBODY
19 PITCHED IN AND HELPED THEM BUILD THE HOUSE

20 Q DID JOHN KNOW SOMETHING ABOUT SHINGLING AND
21 THAT SORT OF THING?

22 A YES, SIR, HE DOES A LOT OF ROOFING WORK

23 Q DID HE HELP IN THAT AREA?

24 A YES, SIR

25 Q AND DID HE HELP YOU AT YOUR HOUSE SOME WITH

1 SOME SHINGLING EVER OR --

2 A NO

3 Q HE DIDN'T?

4 A UH-UH

5 Q BUT HE HELPED ON THESE TWO FAMILY PROJECTS?

6 A YES

7 Q WOULD HE MOSTLY DO THE ROOFING WORK OR WHAT,
8 DO YOU KNOW?

9 A MOSTLY THE ROOF

10 Q MOSTLY THE ROOFING?

11 A YEAH

12 Q AND HE DID IT AS A VOLUNTEER, RIGHT?

13 A UH-HUH

14 Q AND YOU OBVIOUSLY WEREN'T A PART OF THE
15 IMMEDIATE FAMILY, SO YOU DIDN'T SEE THE -- OR KNOW
16 ABOUT THE HEAD INJURIES AND THAT SORT OF THING --

17 A NO, SIR

18 Q -- FIRST HAND KNOWLEDGE? YOU BASICALLY MET
19 GLORIA IN '84, RIGHT?

20 A YES, SIR

21 Q AND WHEN WAS THE FIRST TIME YOU VISITED THE
22 HUGHEY HOME, DO YOU RECALL?

23 A IT WAS SOMETIME DURING THAT YEAR I CAN'T
24 EXACTLY RECALL

25 MR TINSLEY ANSWER ANY QUESTIONS THE

1 SOLICITOR MIGHT HAVE

2 CROSS EXAMINATION

3 BY MR JONES

4 Q GOOD MORNING, MR HARRISON

5 A HOW YOU DOING?

6 Q I'M ALL RIGHT HOW YOU DOING?

7 A OKAY

8 Q SO YOU PLAY BALL AT LANDER?

9 A USE TO

10 Q USE TO, RIGHT I MEAN, YOU PLAYED FOR THEM IN
11 THE CIVIC CENTER?

12 A YES

13 Q YOU DIDN'T PLAY IN THAT NEW GYM THEY HAVE?
14 HAVE YOU SEEN THE NEW GYM?

15 A NO, SIR

16 Q MR HARRISON, LET ME ASK YOU A COUPLE THINGS
17 YOU'RE MARRIED TO THE DEFENDANT'S SISTER, RIGHT?

18 A YES, SIR

19 Q AND HER NAME IS --

20 A GLORIA HARRISON

21 Q -- GLORIA AND SHE'S OLDER THAN YOU?

22 A UH-HUH

23 Q DO YOU KNOW HOW MUCH OLDER?

24 A THREE YEARS, I THINK

25 Q THREE YEARS OLDER AND Y'ALL MET IN '84?

1 A YES

2 Q AND MARRIED WHEN AFTER THAT?

3 A '85

4 Q '85 SO FROM '85 TO 1991 Y'ALL LIVED WHERE?

5 A WE LIVED IN GEORGIA

6 Q IN GEORGIA?

7 A UH-HUH

8 Q YOU LIVED IN GAINESVILLE?

9 A YES, SIR

10 Q DURING THAT PERIOD OF TIME?

11 A UH-HUH

12 Q WOULD Y'ALL COME OVER HERE VERY OFTEN?

13 A YES

14 Q DURING THAT PERIOD OF TIME?

15 A UH-HUH

16 Q YOU DID? SO YOU WERE THERE IN THE HOME TO

17 SEE JOHN AND HIS PARENTS?

18 A YES

19 Q YOU SAW THEM?

20 A UH-HUH

21 Q AND WHAT WAS IT DURING THAT PERIOD OF TIME

22 THAT BOTHERED YOU MOST OR TROUBLED YOU MOST ABOUT

23 THE DEFENDANT?

24 A WHAT DO YOU MEAN?

25 Q WHAT WAS IT THAT BOTHERED YOU MOST OR TROUBLED

1 YOU MOST ABOUT HIS BEHAVIOR FROM 1985 TO 1991?

2 A NOTHING NOT AT THAT TIME

3 Q OKAY, NOTHING, RIGHT?

4 A RIGHT

5 Q YOU WEREN'T CONCERNED ABOUT HIM AND NEITHER

6 WAS ANYBODY ELSE?

7 A YES

8 Q NOW, IN 1992, WHAT WAS IT THAT BOTHERED YOU

9 MOST OR TROUBLED YOU MOST ABOUT HIS BEHAVIOR?

10 A WELL, AT THAT TIME I DIDN'T HARDLY SEE HIM

11 MUCH THINGS CHANGED

12 Q SIR?

13 A DIDN'T HARDLY SEE HIM MUCH

14 Q WELL, WOULD YOU SEE HIM ANY TIME?

15 A OFF AND ON EITHER WHEN WE WOULD COME UP OR

16 HE WAS -- THEY COME TO US

17 Q AND WHEN HE WOULD COME UP -- WHEN YOU WOULD

18 COME UP OR THEY WOULD COME DOWN, WHAT BOTHERED YOU

19 MOST OR TROUBLED YOU MOST ABOUT HIS BEHAVIOR?

20 A NOTHING HE WAS A STILL ACTING THE SAME

21 WASN'T NO STRANGE BEHAVIOR ABOUT HIM --

22 Q OKAY

23 A -- AS FAR AS I COULD SEE

24 Q IN 1993, DURING THAT YEAR, WHAT BOTHERED YOU

25 MOST OR TROUBLED YOU MOST ABOUT HIS BEHAVIOR?

1 A NOTHING

2 Q IN 1994, WHAT WAS IT THAT YOU NOTICED THAT
3 BOTHERED YOU MOST OR TROUBLED YOU MOST ABOUT HIS
4 BEHAVIOR?

5 A NOTHING

6 Q LET ME ASK YOU, MR HARRISON, WOULD YOU SAY
7 THAT YOU HAVE HAD A FAIRLY NORMAL LIFE?

8 A UH-HUH

9 Q SIR?

10 A YES

11 Q DO YOU BELIEVE IN PRINCIPLE THAT PEOPLE SHOULD
12 BE RESPONSIBLE FOR THEIR OWN ACTIONS AND WHAT THEY
13 DO?

14 A YES

15 Q AND DO YOU ALSO BELIEVE THAT PEOPLE -- THOSE
16 OF US -- PEOPLE ON EARTH HERE, THAT THE QUICKEST WAY
17 WE COULD GET IN TROUBLE IS START BLAMING PEOPLE FOR
18 WHAT WE DO?

19 A YES

20 Q I MEAN, IF YOU WANTED TO, YOU COULD BLAME YOUR
21 MAMA AND YOUR DADDY FOR JUST ABOUT ANYTHING,
22 COULDN'T YOU?

23 A NOT NOW I CAN'T

24 Q WELL, REALISTICALLY YOU SHOULDN'T, SHOULD YOU?

25 A RIGHT

1 Q YOU SHOULD ACCEPT SERVICE FOR WHAT YOU DO
2 YOURSELF, RIGHT?

3 A YES

4 MR JONES THANK YOU, SIR

5 RE-DIRECT EXAMINATION

6 BY MR TINSLEY

7 Q AS FAR AS YOU KNOW, MR HARRISON, MR HUGHEY
8 HAS NOT DENIED --

9 MR JONES LEADING QUESTION, YOUR
10 HONOR

11 THE COURT REPHRASE IT

12 EXAMINATION CONTINUED

13 BY MR TINSLEY

14 Q DO YOU KNOW WHETHER OR NOT MY HUGHEY HAS
15 DENIED ANY RESPONSIBILITY AND GUILT IN THESE
16 KILLINGS?

17 A NO, SIR

18 Q AND DID YOUR FATHER BEAT YOU AS A CHILD?

19 A YES, SIR

20 Q DID HE BEAT YOU TO THE POINT OF ABUSE?

21 A YES, SIR

22 Q HE DID?

23 A UH-HUH

24 Q AND HAS A SHOT A SHOTGUN IN THE HOUSE WHEN YOU
25 WERE A KID?

1 A NO, SIR

2 Q DID YOU SEE HIM BEAT YOUR MOTHER?

3 A NO, SIR

4 Q AND WOULD YOU CONSIDER THE ENVIRONMENT OF
5 GUNS, ALCOHOL, AND CONSTANT BEATINGS A NORMAL THING?

6 A NO

7 MR TINSLEY THAT'S ALL THANK YOU

8 MR JONES RE-CROSS, YOUR HONOR, AM I

9 CONFINED TO THE QUESTIONS HE ASKED?

10 THE COURT GO AHEAD AND ASK HIM THE

11 QUESTION

12 MR JONES ALL RIGHT, SIR

13 RE-CROSS EXAMINATION

14 BY MR JONES

15 Q NOW, YOU DID TALK TO THE DEFENDANT ON MONDAY,

16 THE DAY AFTER HE HAD MURDERED TESHEKA JACKSON AND

17 THE DAY OF HE MURDERED TESHEKA JACKSON

18 MR TINSLEY OBJECTION, YOUR HONOR

19 BEYOND THE SCOPE

20 THE COURT WELL, LET ME HEAR THE

21 QUESTION, THE ENTIRE QUESTION FIRST

22 EXAMINATION CONTINUED

23 BY MR JONES

24 Q YOU DID TALK TO HIM ON THAT DAY, DIDN'T YOU?

25 A YES, SIR

1 Q AND HE DENIED, AS A MATTER OF FACT, YOU WILL
2 KNOW THAT HE SAID TO YOU ON THAT DAY THAT HE HAD
3 DROVE SHEKA OVER, HIS GIRLFRIEND, OVER TO
4 GAINESVILLE TO SEE A RELATIVE WHO HAD AIDES THERE IN
5 GAINESVILLE HOSPITAL, THAT'S WHAT HE WAS DOING OVER
6 THAT HE TOLD YOU THAT, DIDN'T HE?

7 A HE DIDN'T SAY GAINESVILLE

8 Q WELL, WHY DID HE TELL YOU HE WAS OVER AT YOUR
9 HOUSE? WHAT WAS HE DOING OVER IN GEORGIA? WHAT DID
10 HE TELL YOU ABOUT THAT?

11 A WELL, WHAT HE SAID IS HE HAD -- TOOK SOMEBODY
12 TO THE HOSPITAL BECAUSE THEY HAD AIDES, JUST LIKE
13 YOU SAID

14 Q RIGHT DID YOU ASK HIM WHAT HE WAS DOING OVER
15 THERE, CORRECT?

16 A YEAH

17 Q DID YOU ASK HIM WHY HE WAS AT YOUR HOUSE?

18 A UH-HUH

19 Q AND THEN YOU ASKED HIM HOW, WHEN YOU FOUND OUT
20 -- WHEN YOU LATER FOUND OUT THAT SHEKA HAD BEEN
21 MURDERED AND THAT LUEVINIA HAD BEEN MURDERED, YOU
22 ASKED HIM HOW IT HAPPENED, AND HE WOULDN'T TELL YOU
23 ACTUALLY HOW IT HAPPENED, WOULD HE?

24 A YES

25 Q HE WOULD NOT, WOULD HE?

1 A HE WOULD NOT

2 Q DID HE MENTION TO YOU THAT HE WANTED TO TALK
3 TO A LAWYER BEFORE HE TALKED TO ANY OF US?

4 MR TINSLEY OBJECTION, YOUR HONOR

5 THE COURT SUSTAINED

6 MR JONES NO FURTHER QUESTIONS

7 RE-DIRECT EXAMINATION

8 BY MR TINSLEY

9 Q AT THAT POINT HE WAS IN A -- TRIED TO COMMIT
10 SUICIDE, RIGHT?

11 A YES, SIR

12 Q AND HE ADMITTED LATER ON KILLINGS AT HIS
13 HOUSE? A UH-HUH, YES, SIR

14 MR TINSLEY THAT'S ALL

15 THE COURT YOU MAY STEP DOWN

16 (WITNESS STEPS DOWN AT 10 17 O'CLOCK A M)

17 MR TINSLEY DEFENSE CALLS CHRIS
18 BURTON TO THE STAND, YOUR HONOR

19 THE CLERK THE EVIDENCE YOU SHOULD
20 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
21 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
22 THE TRUTH, SO HELP YOU, GOD?

23 (WITNESS PRESENTED AT 10 18 O'CLOCK A M)

24 DIRECT EXAMINATION

25 BY MR TINSLEY

1 Q GOOD MORNING, MR BURTON

2 A MORNING

3 Q STATE YOUR NAME, PLEASE

4 A JESSIE CHRISTOPHER BURTON

5 Q AND HOW OLD ARE YOU, MR BURTON?

6 A THIRTY-ONE

7 Q MR BURTON, WHERE DO YOU LIVE?

8 A ROUTE THREE, CEDAR SPRINGS ROAD, ABBEVILLE

9 Q YOU FROM ABBEVILLE?

10 A YES

11 Q AND MR BURTON, DO YOU THE DEFENDANT, JOHN
12 HUGHEY?

13 A YES

14 Q HOW DO YOU KNOW HIM?

15 A I KNOW HIM AS A FRIEND, AND HE'S MY WIFE'S
16 FIRST COUSIN

17 Q AND YOU WERE ALSO RELATED TO SHEKA JACKSON, IS
18 THAT CORRECT?

19 A YES, SIR

20 Q SHEKA WAS YOUR COUSIN?

21 A YES

22 Q NOW, FOR A PERIOD OF TIME YOU AND -- I THINK
23 YOU TESTIFIED EARLIER IN THIS CASE THAT MR HUGHEY
24 WOULD HELP YOU ON VARIOUS JOBS AND PROJECTS, IS THAT
25 CORRECT?

1 A YES

2 Q CAN YOU DESCRIBE THAT TO US?

3 A WE WAS ADDING ON TO THE HOUSE, AND HE WAS
4 HELPING ME, YOU KNOW, DO THE SHINGLE WORK, THE
5 ROOFING WORK AND A LOT OF TIMES HE'D HELP ME CUT
6 THE GRASS AND STUFF. AND I HAD BROKE MY ARM HE WAS
7 TAKING CARE OF A LOT MY YARD WORK FOR ME

8 Q AND DID -- DURING THE TIME THAT YOU KNEW HIM,
9 COULD YOU DESCRIBE SOME OF THE GOOD CHARACTERISTICS
10 OF JOHN HUGHEY?

11 A WELL, HE WAS ALWAYS THERE FOR ME LIKE I
12 SAID, I BROKE MY ARM AND I WAS IN A CAST FOR TWELVE
13 WEEKS I COULDN'T WEED EAT OR CUT GRASS OR NOTHING
14 HE WAS THERE FOR ME HE CUT GRASS FOR ME HE MAKE
15 SURE, YOU KNOW, EVERYTHING WAS OKAY HE ALWAYS ASK
16 MY WIFE IF SHE NEEDED ANYTHING DONE HE WAS THERE
17 FOR ME, YOU KNOW

18 Q DID HE COME OVER OFTEN DURING THAT PERIOD WHEN
19 YOUR ARM WAS BROKEN?

20 A YEAH, HE COME OVER WHEN HE HAD A WAY DOWN
21 BECAUSE I COULDN'T --

22 Q YOU LIVED ---

23 A I COULDN'T -- I COULDN'T DRIVE OR NOTHING AT
24 THAT TIME I HAD BROKE MY ARM REAL BAD

25 Q IT WAS A SERIOUS BREAK?

1 A YES

2 Q BUT HE WOULD COME DOWN AND HELP YOU OUT AROUND
3 THE HOUSE

4 A YEAH, HE WOULD HELP ME OUT HE WOULD ASK MY
5 WIFE, YOU KNOW, DID SHE NEED ANYTHING

6 Q - AND DID HE -- DID YOU EVER SEE HIM WITH SHEKA
7 JACKSON?

8 A YEAH, A LOT YOU KNOW, WHEN -- MOST THE TIME
9 I SAW THEM TOGETHER WOULD BE LIKE ON MY DAYS OFF
10 LIKE EVERY THREE WEEKS

11 Q AND LATER ON THEY HAD TWO CHILDREN TOGETHER?

12 A YES

13 Q WELL, HOW MANY CHILDREN HAVE YOU GOT?

14 A TWO A LITTLE BOY AND A GIRL ONE EIGHT AND
15 ONE THREE

16 Q AND BACK IN '91 DID YOU HAVE OCCASION TO HAVE
17 A BIRTHDAY PARTY YOUR THE SON?

18 A YEAH, JUSTIN, YEAH

19 Q JUSTIN?

20 A YEAH, JUSTIN BURTON

21 Q TWO YEAR OLD BIRTHDAY PARTY?

22 A YES

23 Q HIS BIRTHDAY'S APRIL --

24 A LET'S SEE, MY DADDY'S THE EIGHTH -- BY DAD IS
25 THE NINTH, MY SON IS THE EIGHTH

- 1 Q THE PARTY WAS ON THE NINTH, I BELIEVE?
- 2 A UH-HUH
- 3 Q OF '91?
- 4 A UH-HUH
- 5 Q THIS WAS, OF COURSE, BEFORE SEPTEMBER OF '91
- 6 DID YOU HAVE OCCASION, MR BURTON, TO FILM SOME OF
- 7 THIS BIRTHDAY PARTY?
- 8 A YES
- 9 Q AND WHO WERE SOME OF THE PEOPLE THERE?
- 10 A MY MOTHER, MY WIFE, JOHN
- 11 Q JOHN HUGHEY?
- 12 A YES
- 13 Q HE WAS THERE?
- 14 A YES
- 15 Q AND DESCRIBE WHAT JOHN HUGHEY WAS DOING
- 16 A WHEN, AT THE BIRTHDAY PARTY?
- 17 Q RIGHT
- 18 A JUST GETTING ALONG WITH EVERYBODY JUST
- 19 TALKING TO EVERYBODY
- 20 Q WAS HE PLAYING WITH THE KIDS, THAT SORT OF
- 21 THING?
- 22 A YEAH
- 23 Q WHAT ABOUT SHEKA, WAS SHE AT THAT BIRTHDAY
- 24 PARTY?
- 25 A YEAH

1 Q AND ALL THE RELATIVES -- FRIENDS AND
2 RELATIVES?

3 A YEAH

4 Q I'M GOING TO ASK YOU, MR BURTON, TO STAND UP,
5 PLEASE I'M GOING TO PLAY THIS TAPE AND I'M GOING
6 TO ASK YOU IF YOU CAN IDENTIFY IT STAND RIGHT HERE
7 SO EVERYBODY CAN SEE

8 MR JONES IF IT PLEASE THE COURT,
9 YOUR HONOR, COULD I ASK THAT AT LEAST THE WITNESS
10 ADVISE US OF THE YEAR THAT THIS TOOK PLACE

11 MR TINSLEY IT'S ALREADY ESTABLISHED
12 APRIL 9, '91 GO AHEAD HAVE A SEAT HAVE A SEAT

13 MR JONES I JUST WANT TO KNOW THE
14 YEAR THIS TOOK PLACE

15 THE COURT ALL RIGHT, LAY THE
16 FOUNDATION BEFORE YOU SHOW THE TAPE

17 EXAMINATION CONTINUED

18 BY MR TINSLEY

19 Q AS I WAS ASKING YOU, MR BURTON, THIS WAS
20 JUSTIN'S SECOND BIRTHDAY PARTY?

21 A YEAH

22 Q AND THAT WAS -- HE WAS BORN IN WHAT YEAR?

23 A '89

24 Q SO THIS WOULD HAVE BEEN IN '91, IS THAT
25 CORRECT?

1 A LET'S SEE, LET ME GET IT RIGHT HE WAS BORN
2 IN -- I'M GOING TO SAY '89 I'VE GOT IT -- ALL
3 THESE DATES ---

4 Q YOU SAID HE WAS EIGHT?

5 A YEAH

6 Q SO '89 WAS EIGHT YEARS AGO, RIGHT? SO THIS
7 BIRTHDAY PARTY WAS HIS SECOND, IS THAT CORRECT?

8 A YES

9 Q SO, I'VE ALREADY ASKED YOU IF IT WAS ON APRIL
10 THE NINTH, RIGHT?

11 A YEAH

12 Q SO IT WOULD HAVE BEEN THE YEAR OF?

13 A YES, YES

14 Q WHAT YEAR?

15 A '91

16 Q '91?

17 A YEAH

18 Q DO YOU RECALL TAKING THE FILM OF THE BIRTHDAY
19 PARTY?

20 A YES

21 Q OKAY

22 MR JONES THANK YOU, YOUR HONOR

23 EXAMINATION CONTINUED

24 BY MR TINSLEY

25 Q I'M GOING TO ASK YOU TO STAND UP AND STAND

1 RIGHT BESIDE THE T V HERE SO THESE FOLKS OVER HERE
2 CAN SEE AND ALL THE WAY DOWN HERE AND I'M GOING TO
3 PLAY THIS AND ASK YOU TO IDENTIFY THE PEOPLE IN IT
4 THAT YOU SEE JUST A BRIEF PART OF IT I'LL STOP
5 IT FOR JUST A SECOND IT'S JUST A LITTLE BIT OFF
6 OKAY

7 (VIEWING VIDEO TAPE)

8 Q WHO IS THAT?

9 A THAT'S CHERYL THAT'S MY SISTER --

10 Q THAT'S YOUR SISTER?

11 A THAT'S MY SISTER-IN-LAW

12 Q WHAT ARE THEY PLAYING?

13 A PIN THE TAIL ON THE DONKEY

14 Q PIN THE TAIL ON THE DONKEY SO WHO'S THAT
15 COMING UP?

16 A JOHN, JOHN HUGHEY

17 Q JOHN HUGHEY? SO HAVE THE KIDS BEEN PINNING
18 THE TAIL ON THE DONKEY UP TO THIS POINT?

19 A YES

20 Q WHO'S THAT TALKING?

21 A THAT'S MY BROTHER

22 Q THAT'S YOUR BROTHER AND THAT'S YOUR WIFE?

23 A YEAH, THAT'S MY WIFE

24 Q SO THAT WAS -- NOW WHO'S THAT COMING UP NEXT?

25 A THAT'S MY OTHER SISTER

1 Q THAT'S YOUR OTHER SISTER AND SHE'S GOING TO
2 PLAY A GAME?

3 MR TINSLEY YOUR HONOR, I'M NOT GOING
4 TO OFFER THIS INTO EVIDENCE THIS IS FOR
5 DEMONSTRATIVE PURPOSES, BECAUSE IT'S MR BURTON'S
6 MEMORABILIA

7 THE COURT ALL RIGHT

8 EXAMINATION CONTINUED

9 BY MR TINSLEY

10 Q NOW, MR BURTON, ABOUT HOW MANY PEOPLE WERE AT
11 THAT PARTY?

12 A ABOUT TWENTY -- FIFTEEN, TWENTY

13 Q AND THERE WERE A NUMBER OF CHILDREN, IS THAT
14 RIGHT?

15 A YES

16 Q THAT WAS BEFORE JOHN'S CHILDREN WERE BORN,
17 CORRECT?

18 A YEAH

19 Q AND DID HE INTERACT WITH THE KIDS?

20 A YEAH

21 Q PLAY WITH THE KIDS?

22 A YES

23 Q HOW DID HE TREAT THE KIDS?

24 A LIKE HIS OWN I MEAN, AS FAR AS MY KIDS, HE
25 WAS TREATING THEM LIKE HIS OWN

1 Q AND WAS HE -- DID YOU FIND HIM TO BE HELPFUL
2 AT THE PARTY?

3 A YEAH

4 Q WAS HIS ATTITUDE GOOD?

5 A YEAH, IT WAS

6 Q NOW THIS WAS BEFORE HIS MOTHER'S DEATH,
7 CORRECT?

8 A YEAH, HIS MOTHER WAS ON THIS TAPE, TOO

9 Q SHE'S ON THAT TAPE TOO? WHO ELSE WERE SOME
10 PEOPLE ON THAT TAPE?

11 SHEKA, HER BROTHER O J , MY FAMILY, MY MOTHER,
12 HIS MOTHER -- JOHN'S MOTHER, MY MOTHER-IN-LAW

13 Q THAT'S A VERY LENGTHY TAPE, IS IT NOT?

14 A YES

15 Q CAN YOU TELL ME APPROXIMATELY HOW LONG THAT
16 TAPE RUNS?

17 A I REALLY DON'T KNOW I DON'T KNOW HOW MANY
18 HOURS IT'S ON

19 Q A COUPLE HOURS THOUGH? AND BASICALLY THE
20 PRIMARY EMPHASIS OF THE TAPE IS THE BIRTHDAY PARTY?

21 A YES

22 Q NOW THE WEEK OF DECEMBER 4, '95, DO YOU RECALL
23 THE DAY AS TUESDAY?

24 A YES

25 Q DESCRIBE WHAT YOU RECALL

LP ME

WE

HE

HE

R

UT

TARTED

M HOME

TH

'K?

ROM

'OTING

JURY?

BEFORE

NOT

1 THAT I KNEW OF, YOU KNOW AND EVERY TIME I ASKED
2 HIM FOR SOMETHING OR MY WIFE ASKED HIM OR MY MAMA OR
3 MY DAD ASKED HIM -- YOU KNOW, HE DIDN'T EXCHANGE
4 WORDS HE JUST COME OVER WE NEED TO HELP CUT
5 WOOD, JOHN, COME ON AND HE COME

6 Q - DID HE CHANGE ANY AFTER '91, AFTER HIS
7 MOTHER'S DEATH, TO YOUR PERSONAL OBSERVATION?

8 A YEAH, HE STARTED GETTING HIMSELF INTO A LITTLE
9 TROUBLE AFTER -- YOU KNOW -- HE HAD GOT TO WHERE
10 HE'D BE HARDHEADED ABOUT SOME THINGS, YOU KNOW

11 Q DID HE TAKE HIS MOTHER'S DEATH HARD?

12 A YEAH, THAT -- I WANT TO SAY THAT'S THE FIRST
13 TIME I EVER SAY HIM CRY YOU KNOW, HE CRIED -- HE
14 CRIED THEN HE CRIED, YOU KNOW HE CRIED

15 Q AND YOU DIDN'T WITNESS ANY OF THE HEAD
16 INJURIES OR ANYTHING HE SUFFERED, DID YOU?

17 A NO

18 Q OF COURSE, YOU CAN SEE THE SCARS YOU'VE
19 HEARD TALK ABOUT IT, IS THAT RIGHT?

20 A YEAH

21 MR TINSLEY THANK YOU SO MUCH, MR
22 BURTON ASK ANY QUESTIONS THE SOLICITOR MIGHT HAVE

23 CROSS EXAMINATION

24 BY MR JONES

25 Q YES, MR BURTON, YOU DID TESTIFY IN THE OTHER

1 PART OF THIS TRIAL, RIGHT, THE FIRST PART?

2 A YEAH

3 Q WHEN DID YOU FIRST BECOME ACQUAINTED WITH THE
4 DEFENDANT? WHEN DID YOU FIRST COME TO KNOW HIM,
5 SPEND TIME WITH HIM? WHAT YEAR?

6 A- I WAS -- I WAS LIKE IN NINTH GRADE

7 Q NINTH GRADE

8 A ABOUT FIFTEEN, SIXTEEN YEARS AGO

9 Q BACK IN THE FIRST PART OF 1980?

10 A ABOUT '81, SOMEWHERE IN THERE

11 Q OKAY

12 A '80-'81, SOMETHING LIKE THAT I CAN'T
13 REMEMBER

14 Q SO YOU KNEW HIM IN SCHOOL?

15 A I WAS OLDER -- OLDER THAN JOHN

16 Q RIGHT

17 A I DIDN'T GO TO SCHOOL WITH HIM

18 Q WHEN DID YOU FIRST START HAVING A FRIENDSHIP
19 WITH HIM WHERE YOU AND HE WOULD SEE EACH OTHER AND
20 TALK WITH EACH OTHER?

21 A WHEN I STARTED DATING MY WIFE -- MY WIFE I
22 MARRIED HER

23 Q DO YOU RECALL WHEN THAT WAS?

24 A YEAH, HE WOULD COME OVER AND STUFF

25 Q RIGHT WHEN WAS THAT?

1 A ABOUT '81 -- SOMEWHERE IN THERE I CAN'T
2 REMEMBER EXACT DATES

3 Q WELL, WHAT I'M TRYING TO ASK YOU IS HOW LONG
4 YOU'VE KNOWN HIM THAT'S WHAT I'M TRYING TO FIGURE
5 OUT

6 A- ABOUT -- I'VE BEEN KNOWING HIM SINCE HE WAS
7 LITTLE BUT I'VE ACQUAINTED -- YOU KNOW, AS FAR AS
8 TALKING TO HIM, IT'S BEEN ABOUT -- HAD TO BE ABOUT
9 '81

10 Q SO WOULD IT BE FAIR TO SAY THAT IN 1989-1990
11 YOU KNEW HIM REAL WELL?

12 A YEAH, I WOULD

13 Q YOU KNEW WHO HE WAS HANGING AROUND WITH AND
14 WHAT HE WAS DOING?

15 A PRETTY MUCH

16 Q SIR?

17 A YEAH, PRETTY MUCH I MEAN, AS FAR AS WHEN I
18 WAS AROUND HIM

19 Q AND WHAT WAS IT THAT BOTHERED YOU MOST ABOUT
20 HIS -- WHAT WAS IT THAT CONCERNED YOU THE MOST ABOUT
21 HIS BEHAVIOR DURING THAT PERIOD OF TIME, 1989-1990?

22 A WHETHER I WAS CONCERNED ABOUT WHAT HE WAS
23 DOING WRONG?

24 Q YEAH, WHAT WAS IT ABOUT HIM THAT CONCERNED YOU
25 THE MOST? WHAT ABOUT HIS BEHAVIOR THAT CONCERNED

1 THE MOST IN 1989 --

2 A I DIDN'T -- I DIDN'T CARE NOTHING ABOUT HIM
3 DRIVING HIS LICENSE WAS GONE

4 Q OKAY

5 A AND I STAYED ON HIM

6 Q - YOU DID? SO YOU DIDN'T WANT HIM DRIVING?

7 A I DIDN'T CARE NOTHING ABOUT IT I STAYED ON
8 HIM ABOUT IT IF I CAUGHT HIM UP ON THE WHEEL OF
9 THE CAR I'D GET ON HIM

10 Q YOU MENTIONED THAT IN 1991 AT THE BIRTHDAY
11 PARTY THAT HE WAS GOOD TO THE CHILDREN THERE, IS
12 THAT RIGHT?

13 A RIGHT

14 Q DID HE BRING HIS CHILDREN TO THE PARTY?

15 A NOT THAT I REMEMBER I DON'T THINK THE KIDS
16 WERE EVEN BORN YET I COULD BE WRONG I DON'T KNOW
17 HOW OLD HIS OLDEST SON IS

18 Q WAS THAT -- THAT'S WHAT I'M ASKING YOU I'M
19 ASKING YOU DID HE BRING HIS CHILDREN TO THAT PARTY?

20 A I CAN'T REMEMBER I CAN'T REMEMBER I REALLY
21 DON'T KNOW WHAT HIS AGE OF HIS SON WOULD HAVE BEEN
22 I MEAN --

23 Q WHICH SON ARE YOU TALKING ABOUT?

24 A -- THE OLDEST ONE THEY CALL HIM TAYE I
25 THINK THEY CALL HIM TAYE

1 Q THE OLDEST SON WITH WHO?

2 A WITH SHEKA

3 Q WELL, I'M NOT TALKING ABOUT THOSE CHILDREN
4 THEY WEREN'T BORN THEN

5 A OH, ALL RIGHT

6 Q I'M TALKING ABOUT HIS OTHER SON

7 A OH, OH, OH, OH, I KNOW WHAT YOU'RE TALKING
8 ABOUT NOW THE ONE ---

9 Q WHAT AM I TALKING ABOUT THEN?

10 A THE OTHER SON HE GOT, OKAY THE ONE HE GOT BY
11 -- I CAN'T THINK OF HER NAME I CAN'T THINK OF THE
12 GIRL'S NAME

13 Q DO YOU KNOW WHEN HE WAS BORN?

14 A I KNOW WHO YOU'RE TALKING ABOUT

15 Q WHEN WAS THAT SON BORN?

16 A I DON'T KNOW WHEN HE WAS BORN

17 Q THAT SON WAS ALIVE IN 1991?

18 A YEAH

19 Q SIR?

20 A YEAH

21 Q OKAY

22 A I MEAN, I KNOW WHO YOU'RE TALKING NOW

23 Q WELL, DID THAT SON COME TO THE BIRTHDAY PARTY
24 WITH HIM? SIR?

25 A I DIDN'T SEE THAT ONE, NO

1 Q HE DIDN'T BRING HIS SON TO THE BIRTHDAY PARTY?

2 A NOT THAT ONE JOHN WASN'T ALLOWED AROUND THAT

3 ONE I MEAN ---

4 Q WHO WOULDN'T ALLOW HIM AROUND THAT SON?

5 A THE GIRL'S FAMILY, I GUESS

6 MR TINSLEY OBJECTION, YOUR HONOR

7 THE COURT OVERRULED

8 EXAMINATION CONTINUED

9 BY MR JONES

10 Q NOW, WHAT ABOUT -- NOW, I DON'T WANT TO ASK

11 YOU ABOUT THAT SON

12 A OKAY

13 Q AND I ONLY WANT TO ASK YOU ABOUT THE TWO

14 CHILDREN THAT HE HAD WITH SHEKA BUT I WANT TO ASK

15 YOU ABOUT THE RELATIONSHIP WITH THE OTHER SON HE HAD

16 THAT WAS BORN BETWEEN THE TWO HE HAD WITH SHEKA

17 MR TINSLEY OBJECTION, YOUR HONOR, HE

18 DOESN'T HAVE ANOTHER SON

19 MR JONES WELL, OTHER CHILD

20 THE WITNESS I DON'T KNOW ABOUT NO

21 OTHER CHILD

22 THE COURT ASK HIM IF HE KNOWS OF A

23 CHILD, AND THEN WE'LL SEE IF THIS IS THE ONE THE

24 WITNESS IS TALKING ABOUT

25 EXAMINATION CONTINUED

1 BY MR JONES

2 Q DO YOU KNOW OF ANOTHER CHILD THAT HE HAD?

3 A I JUST KNEW THE TWO WITH SHEKA AND THE OLD ONE
4 -- THE ONE WITH THE OTHER GIRL THAT WAS IT I
5 DIDN'T KNOW NOTHING ABOUT NO OTHER CHILD?

6 Q SO YOU DON'T KNOW ANYTHING ABOUT ANOTHER
7 CHILD?

8 A NO, SIR

9 Q SO AFTER 1991, WHAT WAS THE MOST TROUBLING
10 CHARACTERISTIC ABOUT THE DEFENDANT THAT YOU OBSERVED
11 THAT CONCERNED YOU -- THAT YOU WERE CONCERNED ABOUT?

12 A JUST THE DRIVE

13 Q THE DRIVE AFTER 1991 THEN -- ALL RIGHT, SO
14 YOU SAID BETWEEN '89 AND '90 AND BEFORE '91 IT WAS
15 HIS DRIVING, CORRECT?

16 A WHAT DO YOU MEAN?

17 Q BEFORE 1991 -- I ASKED YOU A MINUTE AGO --
18 BEFORE 1991, 1989, 1990, 1991, WHAT WAS THE MOST
19 TROUBLING THING ABOUT HIM THAT BOTHERED YOU? WHAT
20 CONCERNED YOU MOST ABOUT HIS PERSONALITY?

21 A DIDN'T NOTHING BOTHER ME TILL AFTER '91 I
22 MEAN, I DIDN'T -- I DIDN'T HAVE NO PROBLEMS WITH
23 HIM

24 Q EVERYTHING WAS FINE UP TO '91?

25 A YEAH

1 Q AND AFTER '91, YOU'RE SAYING THE MOST
2 TROUBLING THING ABOUT HIS PERSONALITY THAT CONCERNED
3 YOU WAS HIS DRIVING?

4 A YEAH, EVERY TIME I SAW HIM HE WAS DRIVING
5 UNDER SUSPENSION

6 Q RIGHT BUT THAT WAS THE ONLY THING THAT
7 CONCERNED YOU?

8 A MORE THAN ANYTHING I JUST STAYED ON HIM
9 ABOUT THAT

10 Q I BELIEVE YOU TESTIFIED ON THE RECORD THE
11 OTHER DAY THAT -- I'M JUST ASKING HIM NOW -- DID YOU
12 NOT SAY THAT BEFORE 1991 HE DIDN'T BOTHER NOBODY, IS
13 THAT RIGHT?

14 A NOT THAT I KNOW OF WHEN HE WAS AROUND ME HE
15 DIDN'T BOTHER NOBODY

16 Q WHEN HE WAS AROUND YOU HE DIDN'T BOTHER
17 NOBODY?

18 A UU-UH

19 Q I SEE AND AFTER 1991 HE STARTED GETTING IN A
20 LITTLE TROUBLE AND WAS HARDHEADED AND THAT'S WHAT
21 YOU'RE REFERRING TO THERE IS HIS DRIVING? THAT'S
22 WHAT YOU'RE REFERRING TO?

23 A YEAH

24 Q AND THAT'S ALL YOU'RE REFERRING TO?

25 A THE ONLY THINGS THAT WAS BOTHERING ME WAS HIS

1 DRIVING THOSE WERE THE THINGS HE WAS DOING, WAS
2 THE DRIVING I SEEN HIM DRIVING A CAR, WE'D GET ON
3 HIM

4 Q SO YOU DIDN'T NOTICE ANY DISTINCT DIFFERENCE
5 IN HIS PERSONALITY AFTER 1991 OTHER THAN YOU TOLD
6 HIM NOT TO DRIVE, HE HAD LOST HIS LICENSE, AND HE
7 INSISTED ON DRIVING EVEN THOUGH HE'D LOST IT?

8 A YES

9 Q IS THAT RIGHT?

10 A YES

11 Q WELL, NOW, LET ME ASK YOU SOMETHING, MR
12 BURTON DO YOU CONSIDER YOURSELF A FAIRLY NORMAL
13 PERSON WITH A PRETTY NORMAL LIFE?

14 A YEAH

15 Q AND DO YOU ADHERE TO THE PRINCIPLE THAT IF WE
16 WANT TO WE CAN JUST ABOUT BLAME ANYBODY FOR WHAT
17 HAPPENS TO US, IF WE WANT TO?

18 A WELL -- YOU SAYING --

19 Q WELL, LET ME ASK YOU THIS WAY DO YOU BELIEVE
20 THAT AS HUMAN BEINGS AND AS ADULTS WE SHOULD TAKE
21 RESPONSIBILITY FOR OUR OWN ACTIONS?

22 A YES

23 Q YOU DO?

24 A YEAH

25 MR JONES I DON'T HAVE ANY FURTHER

1 QUESTIONS

2 MR TINSLEY NO RE-DIRECT, YOUR HONOR

3 THE COURT YOU MAY STEP DOWN

4 (WITNESS STEPS DOWN AT 10 43 O'CLOCK A M)

5 MR TINSLEY YOUR HONOR, AT THIS TIME

6 I WOULD ASK FOR A SHORT BREAK

7 THE COURT ALL RIGHT, LADIES AND

8 GENTLEMEN, WE'LL TAKE A SHORT BREAK BEFORE WE

9 CONTINUE FURTHER LET ME ASK YOU TO PLEASE GO TO

10 YOUR JURY ROOM, BUT DO NOT DISCUSS THE CASE IN ANY

11 FASHION WE'LL BRING YOU BACK AFTER THAT BREAK

12 (JURY EXITS COURTROOM AT 10 44 O'CLOCK A M)

13 THE COURT WE'LL BE IN RECESS FOR

14 ABOUT TEN MINUTES

15 (COURT IN RECESS)

16 THE COURT READY FOR THE JURY?

17 MR JONES YES

18 THE COURT BRING THEM IN, PLEASE

19 (JURY REENTERS COURTROOM AT 11 09 O'CLOCK A M)

20 THE COURT SOLICITOR, LET ME SEE YOU

21 AND MR TINSLEY FOR JUST A SECOND BEFORE WE START

22 (COUNSEL AT SIDE BAR)

23 THE COURT ALL RIGHT, MR TINSLEY

24 MR TINSLEY CALL NANCY RAMEY TO THE

25 STAND, YOUR HONOR MS RAMEY, COME AROUND PLEASE

1 (WITNESS PRESENTED AT 11 10 O'CLOCK A M)

2 THE CLERK THE EVIDENCE YOU SHOULD
3 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
4 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
5 THE TRUTH, SO HELP YOU, GOD?

6 THE WITNESS YES

7 THE CLERK BE SEATED

8 DIRECT EXAMINATION

9 BY MR TINSLEY

10 Q STATE YOUR NAME, PLEASE

11 A NANCY LEIGH RAMEY

12 Q I ASK YOU TO SPEAK UP PLEASE

13 A NANCY RAMEY

14 Q MS RAMEY, WHERE WERE YOU BORN?

15 A IN ANDERSON, SOUTH CAROLINA?

16 Q HOW OLD ARE YOU?

17 A FORTY-SIX

18 Q HOW LONG HAVE YOU LIVED IN ABBEVILLE?

19 A FOR ABOUT TWENTY SOME YEARS

20 Q AND WHO DID YOU MARRY?

21 A HARRY RAMEY

22 Q AND WHO WAS HIS SISTER -- HALF SISTER?

23 A WHO -- WHO'S HALF SISTER?

24 Q RIGHT

25 A OR MY SISTER?

- 1 Q WHO'S YOUR SISTER?
- 2 A DOLLY, DOLLY HUGHEY
- 3 Q SHE WAS YOUR SISTER?
- 4 A SHE WAS MY SISTER
- 5 Q DOLLY MAY HUGHEY WAS YOUR SISTER?
- 6 A THAT'S RIGHT
- 7 Q NOW, DID YOU HAVE OCCASION TO KNOW DOLLY MAY'S
- 8 HUSBAND JOHN HENRY HUGHEY SMITH?
- 9 A YES, I DID
- 10 Q AND HOW DID YOU KNOW HIM?
- 11 A HE WAS MY BROTHER-IN-LAW
- 12 Q AS SUCH DID YOU -- OR DO YOU KNOW JOHN KENNEDY
- 13 HUGHEY?
- 14 A YES, I DO HE'S MY NEPHEW
- 15 Q AND DID YOU KNOW HIS BROTHERS AND SISTERS?
- 16 A YES, I DO
- 17 Q NOW, DURING THE TIME THAT YOUR SISTER DOLLY
- 18 AND JOHN HENRY WERE MARRIED, DID YOU HAVE OCCASION
- 19 TO VISIT IN THEIR HOME?
- 20 A YES, I HAVE
- 21 Q DID THEY VISIT IN YOURS?
- 22 A YES
- 23 Q NOW DESCRIBE JOHN HENRY SMITH AND HIS
- 24 BEHAVIOR, PLEASE
- 25 A WELL, HE WAS A GOOD PERSON, AND THEN HE WOULD

- 1 DRINK AND HE WAS VIOLENT PERSON
- 2 Q SO IT WAS KIND OF LIKE HE WAS ALL RIGHT WHEN
- 3 HE WAS SOBER?
- 4 A THAT'S RIGHT
- 5 Q BUT HOW OFTEN DID YOU DRINK, DO YOU KNOW?
- 6 A NO, I DIDN'T
- 7 Q DID YOU EVER SEE HIM DRINK?
- 8 A YES, I HAVE
- 9 Q WHEN HE DRANK, WHAT DID HE DO?
- 10 A WELL, HE WAS MEAN, VIOLENT TOWARD, YOU KNOW,
- 11 TOWARD MY SISTER
- 12 Q DID YOU EVER SEE HIM HIT YOUR SISTER?
- 13 A YES, I HAVE
- 14 Q ON MORE THAN ONE OCCASION?
- 15 A YES, I HAVE
- 16 Q WHAT ABOUT HIS THREE OLDEST CHILDREN, HOW DID
- 17 HE TREAT THEM IN COMPARISON TO THE FOUR YOUNGEST --
- 18 HIS STEPCHILDREN VERSUS HIS FULL CHILDREN?
- 19 A NOT VERY GOOD, NO, HE DIDN'T
- 20 Q HOW DID HE TREAT THEM?
- 21 A WELL, THEY JUST -- I DON'T KNOW WHAT HE DID --
- 22 YOU KNOW, HE DIDN'T TREAT THEM LIKE HE TREATED HIS
- 23 OWN YOU KNOW, HE WAS SORT OF MEAN TO THEM
- 24 Q WELL, WERE YOU THERE BACK IN THE EARLY '70'S
- 25 AT THEIR HOME WHEN JOHN WAS INVOLVED IN AN ACCIDENT?

1 A YES, I WAS

2 Q CAN YOU DESCRIBE THAT FOR US?

3 A WELL, THAT'S WHEN HE HAD BEEN ON ONE OF HIS
4 DRINKING SPREES, AND HE JUMPED IN THE CAR AND HE --
5 JOHN FELL OUT AND HE RAN OVER HIM

6 Q SO WHO HAD BEEN DRINKING?

7 A BOTH OF -- JOHN HENRY HUGHEY

8 Q AND WHAT HAPPENED NEXT?

9 A THAT'S -- WHEN HE RAN OVER HIM, AFTERWARD?

10 Q RIGHT

11 A THEN THEY -- YOU KNOW, THEY TOOK HIM TO
12 ANDERSON HOSPITAL

13 Q AND WAS HE BLEEDING?

14 A YES, HE WAS

15 Q DESCRIBE THE NATURE OF THE INJURY THAT YOU
16 OBSERVED

17 A WELL, HE -- I DON'T KNOW, BUT HIS SKIN ON THE
18 SIDE OF HIS HEAD BACK -- YOU KNOW, AS FAR AS I COULD
19 SEE, YOU KNOW, IT WAS PRETTY BAD YOU KNOW, IT WAS
20 TOUCH AND GO FOR A FEW DAYS

21 Q HE ALMOST DIED?

22 A WELL, I DON'T KNOW -- I DON'T KNOW, YOU KNOW,
23 BUT IT WAS TOUCH AND GO FOR FORTY-EIGHT HOURS I DO
24 KNOW THAT

25 Q NOW, BACK IN APRIL OF 1991 THERE WAS A

1 BIRTHDAY PARTY FOR JUSTIN'S BIRTHDAY, IS THAT
2 CORRECT?

3 A THAT'S RIGHT

4 Q AND WHERE WAS THAT PARTY?

5 A AT MY HOME

6 Q DID YOU OBSERVE JOHN KENNEDY HUGHEY THEN?

7 A YEAH, HE WAS THERE

8 Q WAS HE PARTICIPATING IN THE PARTY?

9 A YES, HE WAS

10 Q AND DID HE PLAY WITH THE KIDS AT THE PARTY?

11 A YES

12 Q AND HAVE YOU EVER SEEN HIM WITH SHEKA?

13 A YES, I HAVE, ON A NUMBER OF OCCASIONS

14 Q DID YOU EVER SEE HIM WITH SHEKA AND THEIR TWO
15 CHILDREN?

16 A YES, THEY'RE -- WHERE I WORK AT IS A FAST
17 FOOD AND THEY HAD -- THEY WOULD COME SAY LIKE ON A
18 MONDAY OR TUESDAY AND THEM AND THE KIDS WOULD SIT
19 DOWN AND EAT, YOU KNOW AND WHEN WE WASN'T BUSY,
20 YOU KNOW, WE'D BE ALL OUT THERE, YOU KNOW, PLAYING
21 WITH THE CHILDREN AND THINGS AND THEN THEY WOULD
22 LEAVE

23 Q OKAY SO YOU HAVE SEEN THEM TOGETHER?

24 A YES, I HAVE

25 Q AND HOW DID JOHN KENNEDY HUGHEY TREAT YOU AS

1 YOUR -- AS HIS AUNT?

2 A AS HIS AUNT?

3 Q UH-HUH

4 A HE TREATED ME WITH RESPECT HE ALWAYS TREATED
5 ME NICE

6 Q DID HE EVER HELP YOU WITH ANYTHING?

7 A YES, EVERY YEAR ABOUT THIS TIME HE GENERALLY -
8 - HIM AND MY BOYS GENERALLY GO AND -- YOU KNOW, THEY
9 WOULD HELP GET HIM -- GET WOOD AND STUFF -- HAUL
10 WOOD AND STUFF

11 Q GET YOU READY FOR THE WINTER?

12 A THAT'S RIGHT

13 Q AND DID JOHN HELP YOU IN OTHER WAYS?

14 A YES, HE HAS

15 Q OKAY NOW, DO YOU REMEMBER BACK IN SEPTEMBER
16 OF 1991 THE DEATH OF YOUR SISTER?

17 A YES, I DO

18 Q TELL US WHAT HAPPENED

19 A WELL, HE -- MY SISTER WAS RAN OVER BY A DRUNK
20 DRIVER

21 Q WHAT WAS SHE DOING AT THE TIME

22 A SHE WAS AT HER DAUGHTER'S HOUSE OUT MOWING
23 GRASS

24 Q AND SHE GOT RUN OVER AND KILLED?

25 A GOT RAN OVER AND KILLED

1 Q AND DID THAT SEEM TO AFFECT JOHN IN ANY WAY?

2 A YES, IT DID

3 Q IN WHAT WAY DID THAT AFFECT JOHN?

4 A WELL, I DON'T KNOW, BUT HE JUST -- IT JUST
5 CHANGED HIM

6 Q IT DID? HOW DID HE REACT TO HER DEATH
7 IMMEDIATELY? AT THE TIME OF THE DEATH WHAT DID IT
8 DO TO JOHN?

9 A I DON'T KNOW

10 Q CAN YOU RECALL WHO WAS LIVING IN THE HOUSE AT
11 300 MAPLE STREET AT THE TIME OF HER DEATH?

12 A WELL, HE WAS, AND HIS FATHER

13 Q AND HIS MOTHER UNTIL SHE DIED?

14 A YEAH

15 Q NOW AFTER SHE DIED, WHO WAS LIVING OVER THERE?

16 A WELL, HE WAS AND BOTH -- HIS FATHER

17 Q OKAY

18 A I SAW THEM BOTH GO INSIDE

19 Q THAT'S FINE HOW MUCH LONGER DID HE LIVE?

20 A HE DIDN'T -- HE LIVED FOR ABOUT A YEAR OR TWO
21 AFTER SHE DIED, I THINK

22 Q AND JOHN GOT THIS BIG SCAR FROM THE ACCI-
23 DENT---

24 A ACCIDENT FROM THE CAR

25 Q AND ABOUT HOW OLD WAS HE, DO YOU RECALL?

1 A HOW OLD HE WAS?

2 Q DO YOU RECALL?

3 A NO, I DON'T, BUT --

4 Q HE WAS A SMALL CHILD?

5 A HE WAS A -- HE WAS ABOUT -- I'D SAY ABOUT TWO
6 OR THREE, SOMEWHERE ALONG THERE

7 Q AND HE WAS HELPFUL AND RESPECTFUL TO YOU?

8 A YES, HE WAS

9 MR TINSLEY THANK YOU SO MUCH, MS
10 RAMEY

11 CROSS EXAMINATION

12 BY MR JONES

13 Q GOOD MORNING, MS RAMEY

14 A MORNING

15 Q I'M TRYING TO MAKE A CONNECTION HERE SO IF I
16 DON'T GET IT RIGHT, I APOLOGIZE, BUT DO YOU HAVE A
17 DAUGHTER THAT'S MARRIED TO CHRIS BURTON?

18 A YES, I DO

19 Q OKAY AND THAT'S WHY THE BIRTHDAY PART WAS AT
20 YOUR PLACE?

21 A THAT'S RIGHT

22 Q OKAY

23 A MY GRANDSON

24 Q YES, MA'AM WOULD YOU SAY THAT YOU KNOW THIS
25 DEFENDANT, JOHN HUGHEY, THAT YOU KNOW HIM AS WELL AS

1 ANY AUNT WOULD KNOW THEIR NEPHEW?

2 A I WOULD THINK SO

3 Q AND TELL ME WHAT IT IS ABOUT HIM -- HIS
4 CHARACTER TRAITS OR HIS PERSONALITY OF HIS BEHAVIOR
5 THAT BOTHERED YOU THE MOST ABOUT HIM BEFORE 1991?
6 CAN YOU SAY?

7 A BEFORE 1991?

8 Q YES, MA'AM

9 A I DON'T KNOW

10 Q WELL, HOW ABOUT AT THE BIRTHDAY PARTY, THERE
11 IN 1991, I BELIEVE YOU SAID HE WAS GOOD TO THE KIDS
12 THEN?

13 A YES, HE WAS

14 Q DID YOU KNOW KIARA NICOLE DEVETTE (PHONETIC)
15 BORN IN OCTOBER OF '89?

16 A NO, I DID NOT

17 Q YOU DIDN'T KNOW THAT CHILD?

18 A NO, I DID NOT

19 Q YOU DIDN'T KNOW THAT HE HAD A CHILD BORN IN
20 1989?

21 MR TINSLEY OBJECTION, YOUR HONOR

22 THE COURT SUSTAINED

23 EXAMINATION CONTINUED

24 BY MR JONES

25 Q DO YOU KNOW HOW MANY CHILDREN YOUR NEPHEW HAS?

1 MR TINSLEY OBJECTION, YOUR HONOR
2 THE COURT SUSTAINED
3 THE WITNESS TWO -- TWO I KNOW OF

4 EXAMINATION CONTINUED

5 BY MR JONES

6 Q THAT'S IT?

7 A TWO

8 Q THAT'S IT, AS FAR AS YOU KNOW?

9 A AS FAR AS I KNOW, YEAH

10 Q WHICH TWO DO YOU KNOW OF?

11 A THE TWO HE HAVE BY SHEKA

12 Q WHAT WAS IT ABOUT HIM AFTER 1991 THAT CAUSED
13 YOU TO BE MOST CONCERNED ABOUT HIS PERSONALITY OR
14 HIS BEHAVIOR?

15 A I DON'T KNOW IT WAS JUST DIFFERENT

16 Q WELL, WOULD YOU TRY TO BE A LITTLE BIT MORE
17 SPECIFIC

18 A HE JUST --

19 Q I DON'T KNOW --

20 A HE JUST WASN'T THE SAME

21 Q OKAY, WHAT ABOUT HIM WASN'T THE SAME?

22 A WELL, I DON'T -- HE JUST -- I DON'T KNOW HE
23 JUST WASN'T THE SAME --

24 Q UH-HUH

25 A -- AFTER HIS MOTHER'S DEATH

1 Q WELL, YOU WOULD AGREE THAT ALL OF US ARE NOT
2 THE SAME AFTER OUR PARENTS PASS ON, WOULDN'T YOU?

3 A YEAH, I AGREE

4 Q I MEAN, WE ALL LOSE SOMETHING WHEN THAT
5 HAPPENS, DON'T WE? RIGHT?

6 A RIGHT

7 Q THAT WE CAN'T REPLACE?

8 A THAT'S RIGHT

9 Q WHAT I'M ASKING YOU IS, WHAT IS THE -- OTHER
10 THAN THAT WAS DIFFERENT ABOUT HIM AFTER 1991?

11 A I -- I -- I DON'T KNOW I JUST CAN'T -- I
12 JUST DON'T KNOW I CAN'T PUT MY HANDS ON IT BUT
13 HE WAS JUST DIFFERENT IT WAS JUST LIKE SOMEBODY
14 TOOK SOME -- I DON'T KNOW, OUT OF HIM, YOU KNOW

15 Q WELL, YOU DO AGREE THAT THE TWO CHILDREN HE
16 HAS WITH SHEKA JACKSON WERE AFTER 1991, WEREN'T
17 THEY?

18 A AFTER?

19 Q YES, MA'AM, ONE WAS BORN IN 1992 AND ONE WAS
20 BORN IN 1994, YOU WOULD AGREE TO THAT, WOULD YOU
21 NOT?

22 A I'M TRYING TO FIGURE OUT THE DATES

23 Q WELL, THE ONE BORN IN NOVEMBER OF '92 WOULD
24 HAVE BEEN THREE YEARS OLD WHEN SHEKA WAS MURDERED

25 A OH, OKAY

1 Q THE ONE BORN IN OCTOBER OF '94 WOULD HAVE BEEN
2 ABOUT THIRTEEN-FOURTEEN MONTHS OLD WHEN SHEKA WAS
3 MURDERED THERE IN THE HOUSE DOES THAT HELP YOU?

4 A YEAH

5 Q SO WHATEVER HIS PROBLEMS WERE AFTER 1991, THEY
6 DIDN'T PREVENT HIM FROM ENGAGING IN THE ACTIVITIES
7 THAT WE ENGAGE IN TO PRODUCE CHILDREN, DID HE?

8 A NO

9 Q AND THEY DIDN'T PREVENT HIM FROM DOING JUST
10 ABOUT ANYTHING HE WANTED TO DO, DID HE?

11 A I DON'T KNOW

12 Q WELL, LET ME ASK YOU THIS QUESTION, MS RAMEY
13 DO YOU AGREE THAT ONE OF THE MOST FUNDAMENTAL
14 PRINCIPLES THAT OUR SOCIETY IS BASED ON AND THAT WE
15 AS ADULTS CAN ADHERE TO, IS THAT WE MUST FIRST
16 ACCEPT RESPONSIBILITY FOR OUR OWN ACTIONS?

17 A THAT'S TRUE

18 Q WE HAVE TO, IN ORDER TO BE RESPONSIBLE ADULTS
19 AND HUMAN BEINGS IN THIS SOCIETY WE HAVE, TAKE AND
20 ACCEPT RESPONSIBILITY FOR WHAT WE DO OURSELVES,
21 DON'T WE?

22 A YES, WE DO, ACCORDING TO WHAT IT IS

23 MR JONES THANK YOU, MA'AM

24 MR TINSLEY YOU CAN STEP DOWN, MS

25 RAMEY

1 (WITNESS STEPS DOWN AT 11 27 O'CLOCK A M)

2 MR TINSLEY I CALL REVEREND COX TO
3 THE STAND REVEREND, COME AROUND AND TAKE THE STAND
4 PLEASE RIGHT AROUND IN FRONT OF THE CLERK

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 THE CLERK BE SEATED

11 (WITNESS PRESENTED AT 11 29 O'CLOCK A M)

12 MR JONES YOUR HONOR, MAY A APPROACH?

13

14 (COUNSEL APPROACH THE BENCH)

15 DIRECT EXAMINATION

16 BY MR TINSLEY

17 Q STATE YOUR NAME, PLEASE, SIR

18 A MY NAME IS REVEREND WENDALL M COX

19 Q AND WHERE DO YOU PREACH, SIR?

20 A NEW FRIENDSHIP MISSIONARY BAPTIST CHURCH,
21 HONEA PATH

22 Q AND DO YOU RECOGNIZE JOHN KENNEDY HUGHEY HERE
23 TODAY?

24 A YES, I DO

25 Q AND WHERE HAVE YOU SEEN HIM BEFORE, SIR?

1 A WELL, I'VE SEEN HIM IN OUR CHURCH
2 CONGREGATION AND ALSO IN HIS MOTHER'S HOME, THE
3 LATE MS DOLLY -- HIS MOTHER

4 Q YES, SIR AND DID YOU, IN FACT, WORK HER
5 FUNERAL OR HELP THE FAMILY THROUGH THAT PERIOD?

6 A YES, I DID EULOGIZE HER, I BELIEVE, BACK IN
7 1991

8 Q DO YOU RECALL THE EVENTS SURROUNDING HER
9 DEATH, SIR?

10 A YES, I DO

11 Q COULD YOU DESCRIBE THAT, SIR?

12 A WELL, I RECEIVED A TELEPHONE CALL, I BELIEVE,
13 BACK IN 1991 FROM ONE OF THE SISTERS THAT HER MOTHER
14 HAD BEEN KILLED -- HIT BY A DRIVER AND I CAME DOWN
15 TO ABBEVILLE TO THE FAMILY HOME AND VISITATION,
16 TALKED TO THE FAMILY CONCERNING HER DEATH, FUNERAL
17 ARRANGEMENTS, AND OTHER TYPE OF INFORMATION

18 Q WERE THEY MEMBERS OF YOUR CHURCH?

19 A THAT'S CORRECT

20 Q THE HUGHEY FAMILY?

21 A THAT'S RIGHT

22 Q AND WHAT ABOUT MS DOLLY MAY HUGHEY, WAS SHE A
23 MEMBER OF YOUR CHURCH?

24 A YES, SHE WAS A FAITHFUL MEMBER IN OUR CHURCH

25 Q AND COULD YOU DESCRIBE FROM YOUR OBSERVATIONS,

1 REVEREND, THE AFFECT AND IMPACT THAT THIS DEATH HAD
2 UPON THE HUGHEY FAMILY, AND IN PART JOHN KENNEDY
3 HUGHEY?

4 A WELL, IT WAS AMENDED, TAKE AWAY FROM THE
5 HUGHEY FAMILY SINCE THE YOUNG MAN'S FATHER HAD BEEN
6 DECEASED AND MS HUGHEY PLAYED A VERY IMPORTANT ROLE
7 IN THE FAMILY IN DECISIONS AND MORAL SUPPORT AND
8 FAMILY SUPPORT AND IT WAS A GREAT LOSS TO THE
9 FAMILY AND IT WAS JUST ONE OF THOSE THINGS WHERE
10 IT TOOK AWAY A LOT FROM THE FAMILY AND ALSO FROM
11 JOHN

12 Q YES AND, REVEREND, DID YOU HAVE OCCASION TO
13 SEE MR HUGHEY FROM TIME TO TIME IN YOUR CHURCH
14 CONGREGATION?

15 A YES, I DID

16 Q DID HE EVER COME WITH MISS SHEKA AND THEIR TWO
17 CHILDREN?

18 A YES -- WELL, HE WAS THERE WITH A YOUNG LADY
19 AND TWO CHILDREN

20 Q YES, SIR YES, SIR AND YOU -- AND DO YOU
21 RECALL PRIOR TO THAT, REVEREND, HIM COMING TO CHURCH
22 WITH HIS MOTHER?

23 A THAT'S CORRECT

24 Q THROUGH THE YEARS

25 A YES

1 MR TINSLEY THANK YOU SO MUCH YOU
2 MAY ANSWER THE SOLICITOR'S QUESTIONS

3 MR JONES I DON'T HAVE ANY QUESTIONS

4
5 THE COURT YOU MAY STEP DOWN THANK
6 YOU

7 (WITNESS STEPS DOWN AT 12 00 O'CLOCK NOON)

8 MR TINSLEY CALL GLORIA HARRISON TO
9 THE STAND

10 THE CLERK THE EVIDENCE YOU SHOULD
11 GIVE THE COURT AND JURY 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 PRESENTED AT 12 01 O'CLOCK P M)

15 DIRECT EXAMINATION

16 BY MR TINSLEY

17 Q STATE YOUR NAME, PLEASE

18 A GLORIA WHITE HARRISON

19 Q MRS HARRISON, ARE YOU COMFORTABLE UP THERE?

20 A I'LL BE OKAY

21 Q YOUR LEGS ARE KIND OF SHORT, I NOTICED

22 A I'M OKAY

23 Q I BELIEVE YOU TESTIFIED IN THE FIRST PHASE OF
24 THIS CASE?

25 A YES, I DID

- 1 Q AND, MS HARRISON, YOU UNDERSTAND THAT THIS IS
2 THE MITIGATION PHASE OF THE CASE, IS THAT CORRECT?
- 3 A YES
- 4 Q NOW, MS HARRISON, HOW OLD ARE YOU?
- 5 A I'M THIRTY-THREE
- 6 Q AND WHO'S YOUR HUSBAND?
- 7 A SCOTT HARRISON
- 8 Q AND WHO INTRODUCED YOU TO YOUR HUSBAND?
- 9 A MY BROTHER, JOHN
- 10 Q AND HOW MANY CHILDREN DO YOU HAVE?
- 11 A WE HAVE FOUR
- 12 Q AND WHERE DO YOU LIVE?
- 13 A GAINESVILLE
- 14 Q AND DO YOU WORK?
- 15 A YES
- 16 Q I BELIEVE YOU SAID EARLIER IT'S IN INDUSTRIAL
17 MANUFACTURING, THAT SORT OF THING?
- 18 A YES, HUMAN RESOURCES, TRAINING
- 19 Q WHAT'S THE NAME OF THE COMPANY?
- 20 A AVERY DENNISON
- 21 Q YOU'RE GOING TO HAVE TO SPEAK UP
- 22 A I'M SORRY, AVERY DENNISON
- 23 Q NOW, WHO WERE YOUR PARENTS?
- 24 A JOHN HUGHEY AND DOLLY HUGHEY
- 25 Q AND WHERE DID YOU LIVE AS A CHILD?

1 A WE LIVED ON THE OLD IVA HIGHWAY, ROUTE TWO OLD
2 GREENVILLE HIGHWAY, AND I REMEMBER WAY OUT IN THE
3 COUNTRY I DON'T REMEMBER THE ADDRESS

4 Q SO YOU MOVED AROUND A GOOD BIT?

5 A YES

6 Q AND LATER WHERE DID Y'ALL ULTIMATELY MOVE TO?

7 A 201 EAST PINCKNEY STREET AND 300 MAPLE STREET

8 Q AND DESCRIBE THE MAKEUP OF YOUR FAMILY -- YOUR
9 CHILDHOOD FAMILY

10 A WELL, I HAVE TWO OLDER SISTERS AND ONE OLDER
11 BROTHER AND THEN THERE'S MYSELF AND I HAVE TWO
12 SISTERS UNDER ME AND ONE BROTHER UNDER ME

13 Q SO YOU WERE RIGHT IN THE MIDDLE?

14 A YES

15 Q AND TECHNICALLY, YOUR FIRST THREE SIBLINGS ARE
16 HALF BROTHERS AND SISTERS, RIGHT?

17 A YES

18 Q AND THEY SHARED YOUR MOTHER, CORRECT?

19 A YES

20 Q Y'ALL HAVE -- ALL SEVEN OF YOU HAD THE SAME
21 MOTHER?

22 A YEAH

23 Q DESCRIBE YOUR MOTHER, PLEASE

24 A SHE WAS THE SOLE SUPPORT FOR ALL OF US

25 Q SHE WAS THE SUPPORT DID YOU SAY?

1 Q SHE WAS THE SUPPORT DID YOU SAY?

2 A YES

3 Q OKAY NOW, DO YOU RECOGNIZE THIS PICTURE?

4 A YES

5 Q AND WHAT'S IT A PICTURE OF?

6 A THAT'S OUR MOM

7 Q THAT'S A PICTURE OF YOUR MOM?

8 A YES

9 MR TINSLEY YOUR HONOR, I PUBLISH
10 DEFENDANT'S EXHIBIT FORTY-THREE AT THIS TIME

11 MR JONES NO OBJECTION, YOUR HONOR

12 EXAMINATION CONTINUED

13 BY MR TINSLEY

14 Q AND YOUR MOTHER WAS THE WIFE OF WHO?

15 A YOU MEAN HER FIRST?

16 Q WHAT WAS THE FIRST SITUATION?

17 A WELL, SHE WAS FIRST MARRIED TO ALAN CARLYLE,
18 OUR FATHER

19 Q AND HE WAS THE WHITE MAN WE HEARD TALK OF?

20 A YES

21 Q DO YOU RECALL HIM?

22 A YES, HE WAS AN ANTRYVILLE, LEVEL LAND MAN

23 Q DID Y'ALL NOT SPEND ANY TIME WITH HIM OR DID
24 YOU?

25 A NO

1 Q SO HE REALLY WASN'T MARRIED IN THE SENSE THAT
2 HE WAS IN THE HOME, HE WAS STRICTLY THE PARENT OF
3 THE THREE CHILDREN?

4 A YES

5 Q NOW DID YOUR MOTHER RECEIVE FINANCIAL SUPPORT
6 FROM HIM?

7 A NO

8 Q DID SHE RECEIVE MORAL, SPIRITUAL SUPPORT FROM
9 HIM?

10 A NO

11 Q OKAY NOW, DURING THE COURSE OF TIME, DID
12 THEY SEVER THEIR RELATIONSHIP COMPLETELY?

13 A I'M SORRY?

14 Q DID THEY END THEIR RELATIONSHIP?

15 A YES

16 Q AND AT SOME POINT DESCRIBE THE -- HER MARRIAGE
17 TO JOHN HENRY HUGHEY SMITH NOW, WHAT DID YOU KNOW
18 HIM BY, FIRST?

19 A MY FATHER?

20 Q YES

21 A MY DAD

22 Q HIS NAME?

23 A JOHN HENRY HUGHEY

24 Q AT SOME POINT DID HE CHANGE HIS NAME?

25 A YES

1 Q AND WHEN WAS THAT, APPROXIMATELY?

2 A I DON'T REMEMBER WHEN

3 Q WAS IT AFTER Y'ALL WERE ALL BORN?

4 A YEAH

5 Q NOW, I'LL ASK YOU TO LOOK AT DEFENDANT'S
6 EXHIBIT FORTY-TWO WHAT IS THAT A DEPICTION OF?

7 A IT'S WHEN WE HAD A FAMILY GATHERING FOR
8 CHRISTMAS AND THAT WAS MY MOM'S BIRTHDAY

9 Q WAS SHE A CHRISTMAS BIRTHDAY?

10 A YES, HER BIRTHDAY WAS ON CHRISTMAS

11 Q IT WAS? AND WHO WERE SOME OF THE PEOPLE IN
12 THE PICTURE?

13 A MY MOTHER, MY TWO DAUGHTERS, MY NEPHEWS, MY
14 AUNT, MY BROTHER, AND MY FATHER

15 Q AND IS YOUR FATHER THE MAN IN THE BACK?

16 A YEAH

17 Q OKAY ON THAT PARTICULAR OCCASION, HAD HE
18 BEEN DRINKING?

19 A YES

20 MR TINSLEY YOUR HONOR, I PUBLISH
21 DEFENDANT'S FORTY-TWO

22 MR JONES WITHOUT OBJECTION, YOUR
23 HONOR

24 EXAMINATION CONTINUED

25 BY MR TINSLEY

1 Q NOW, GLORIA, DID YOUR FATHER ALWAYS DRINK?

2 A YES

3 Q NOW I THINK THERE'S BEEN SOME TESTIMONY THAT
4 HE BECAME VIOLENT WHEN HE DRANK IS THERE ANY TRUTH
5 TO THAT?

6 A YES, HE DID

7 Q DID YOU OBSERVE THAT?

8 A YES

9 Q WHAT ARE SOME OF THE THINGS THAT HE DID?

10 A WELL, IT WAS WHERE HE -- HE ALWAYS HAS HAD A
11 GOOD JOB ALWAYS AND IT WAS WHERE HE'D GO OFF,
12 HE'D WORK THROUGH THE WEEK ALWAYS MADE GOOD MONEY
13 BUT THEN HIS DOWNFALL WAS HIS WOMEN AND HIS DRINKING
14 HABITS

15 THEN WHEN HE COME HOME ON THE WEEKEND OR
16 WHENEVER HE DID COME HOME, IT WAS WHERE HE'D ALWAYS
17 -- EVERY TIME MOM WOULD ASK HIM OR TELL HIM SHE
18 NEEDS THE MONEY TO GO BUY SOMETHING FOR US OR
19 WHATEVER, HE'D ALWAYS GET ANGRY AT HER AND MAD AT
20 MAMA ALL THE TIME AND THEN HE'D TAKE IT OUT ON
21 EVERYBODY ALL THE TIME

22 Q WELL, DID HE TAKE IT OUT ON JOHN FROM TIME TO
23 TIME?

24 A HE TOOK IT OUT ON ALL OF US

25 Q WELL, THERE'S ALSO BEEN SOME TESTIMONY THAT HE

1 WAS ROUGHER ON THE THREE OLDEST THEY WOULD BE HIS
2 STEPCHILDREN, IS THAT CORRECT?

3 A YES, HE WAS

4 Q AND HOW DID HE TREAT THOSE THREE?

5 A REAL CRUCIAL

6 Q REALLY?

7 A YEAH, HE WAS CRUCIAL TO THEM

8 Q HE WAS?

9 A YEAH

10 Q AND WHAT ARE SOME EXAMPLES OF THAT?

11 A I REMEMBER WHEN WE WERE STAYING ON THE OLD
12 GREENVILLE HIGHWAY WE WAS LIVING IN A MOBILE HOME,
13 AND HE GOT HIS RIFLE -- AT THAT TIME HE GOT HIS
14 RIFLE AND HE GOT IT AND HE JUST STARTED SHOOTING
15 UP IN THE CEILING AND HIM AND MAMA GOT IN A FIGHT
16 AND HE SHOT AGAIN AND WE RAN AND GOT MR ASHCRAFT
17 TO CALL THE POLICE FOR US

18 Q YOU DID?

19 A UH-HUH

20 Q NOW, WAS THAT THIS GUN OR A DIFFERENT ONE?

21 A IT WAS A DIFFERENT ONE THEN

22 Q SO DURING THE YEARS DID HE POSSESS A NUMBER OF
23 DIFFERENT WEAPONS?

24 A YES, HE DID

25 Q NOW, WAS JOHN ABLE TO OBSERVE THE MANNER IN

1 WHICH HE TREATED YOUR MOTHER?

2 A YES

3 Q AND DID HE FURTHER OBSERVE THE WAY HE TREATED
4 THE OLDER THREE CHILDREN?

5 A YES

6 Q OKAY NOW, I WANT TO TAKE YOU AT THIS TIME TO
7 THE EARLY '70'S DO YOU RECALL AN INCIDENT WHERE
8 JOHN'S HEAD WAS INJURED?

9 A YES

10 Q CAN YOU DESCRIBE WHAT HAPPENED?

11 A WELL, IT WAS WHERE WHEN WE LIVED ON THE OLD
12 GREENVILLE HIGHWAY, DAD -- HE HAD BEEN DRINKING THAT
13 DAY HE WAS DRUNK HE WENT OUT AND WHEN HE GOT
14 READY TO LEAVE, JOHN WAS THERE WITH HIM AND WHEN
15 HE GOT INTO THE CAR -- IT WAS A CHEVY SS WHEN HE
16 GOT INTO IT HE FLING IT DOWN AND JOHN KENNEDY FELL
17 OUT THE DOOR WHEN HE GOT TO BACK UP HE FELL OUT
18 THE DOOR WHEN HE FELL OUT THE DOOR THE POINT OF
19 THE DOOR CUT HIS HEAD WIDE OPEN

20 Q AND WHAT HAPPENED NEXT, IF YOU RECALL?

21 A I REMEMBER WHEN I RAN IN THE DOOR AND I RAN I
22 WAS JUST SCREAMING, MAMA, MAMA, JOHN KENNEDY'S GOT
23 HURT HE REALLY GOT HURT AND BOZO IS GOING TO
24 KILL JOHN KENNEDY AND THAT'S WHEN THEY CAME OUT
25 AND THEY RUSHED HIM TO THE HOSPITAL

1 Q THEY RUSHED HIM TO THE HOSPITAL?

2 A UH-HUH

3 Q AND DO YOU RECALL HOW LONG HE WAS IN THE
4 HOSPITAL?

5 A IT WAS A LONG TIME

6 Q AND DID HE -- DID HE HAVE A SEVERE HEAD
7 INJURY?

8 A YES

9 Q AND LATER ON THROUGH THE YEARS DO YOU RECALL
10 ANY OTHER HEAD TRAUMAS SUFFERED BY YOUR BROTHER?

11 A I REMEMBER ONE TIME HE FELL OFF THE TRACTOR
12 HE HAD GOT ON -- WE HAD SOME FARM EQUIPMENT -- IS
13 WHERE HE HAD GOT ON A TRACTOR AND WHEN HE WENT
14 DOWN ON THE HILL HE WAS SITTING ON IT AND HE FELL
15 OFF

16 Q I SEE

17 A AND THE TRACTOR KEPT GOING

18 Q DID HE HIT HIS HEAD?

19 A UH-HUH

20 Q DO YOU REMEMBER ANY OTHER INCIDENTS OR
21 ACCIDENTS HAPPENING TO YOUR BROTHER?

22 A I REMEMBER WHEN HE WAS UP ON THE PULPWOOD
23 TRUCK WE HAD, AND HE WAS SNIFFING GASOLINE AND I
24 REMEMBER HE FELL ASLEEP OUT THERE ON THE TRUCK AND
25 HE FELL OFF

- 1 Q DID HE HIT HIS HEAD THAT TIME?
- 2 A WHEN HE FELL OFF
- 3 Q AND OLD ABOUT WAS HE THEN?
- 4 A ABOUT SIX YEARS OLD
- 5 Q NOW ANY OTHER SUCH INCIDENTS THAT YOU RECALL?
- 6 A OTHER THAN THE ACCIDENT UP OFF OF THE ROAD
- 7 THAT TAKES YOU -- THE ROAD THAT TAKES INTO ANDERSON
- 8 WHEN WE ALL HAD A --
- 9 Q TWENTY-EIGHT OR -- TWENTY-EIGHT OUT HERE OR
- 10 THROUGH THE COUNTRY THROUGH DUE WEST?
- 11 A IT WAS THROUGH THE COUNTRY
- 12 Q OKAY
- 13 A AND WE ALL HAD A BAD ACCIDENT THEN
- 14 Q WAS HE IN THE CAR?
- 15 A ALL OF US WERE, YES
- 16 Q WAS HE INJURED?
- 17 A YES
- 18 Q NOW, DO YOU RECALL ANY FURTHER SUCH INCIDENTS?
- 19
- 20 A THAT'S ALL I REMEMBER
- 21 Q THAT'S ALL YOU RECALL?
- 22 A UH-HUH
- 23 Q NOW, ADDITIONALLY, MS HARRISON, YOU
- 24 EVENTUALLY MOVED OUT OF THE HOME, CORRECT?
- 25 A YES

1 Q AND DO YOU RECALL WHAT YEAR THAT WAS?

2 A I DON'T REMEMBER

3 Q WHILE YOU WERE GROWING UP WITH JOHN, DID HE
4 HAVE ANY MEDICAL COMPLAINTS FROM TIME TO TIME?

5 A HE WAS ALWAYS COMPLAINING ABOUT HAVING LIKE
6 MIGRAINE HEADACHES HE ALWAYS COMPLAINED ABOUT
7 HAVING HEADACHES

8 Q HE DID?

9 A UH-HUH, YES

10 Q DID HE EVER LOSE FOCUS, THAT SORT OF THING?

11 A WHAT DO YOU MEAN LOSE FOCUS?

12 Q LIKE TO BLACK OUT OR ANYTHING LIKE THAT?

13 A YES, HE'S HAD SEVERAL BLACKOUTS

14 Q WAS THAT AFTER THE MAJOR TRAUMA OF HIS YOUTH
15 AT THE AGE OF FOUR?

16 A YES

17 Q NOW, BACK IN EARLY '90-'91, WHERE WAS JOHN
18 LIVING?

19 A WITH MY MAMA

20 Q 300 MAPLE STREET?

21 A YES

22 Q AND AT THAT TIME YOUR FATHER WAS STILL ALIVE,
23 CORRECT?

24 A YES

25 Q AND THAT WAS THE THREE OF THEM LIVING OVER ON

1 MAPLE?

2 A YES

3 Q NOW, DESCRIBE THE NATURE OF JOHN'S
4 RELATIONSHIP WITH HIS MOTHER YOU'VE ALREADY TALKED
5 ABOUT HIS FATHER SOME LET'S TALK ABOUT HIS MOTHER
6 NOW

7 A WELL, HIM AND MOM -- THERE WAS A BONDAGE
8 BETWEEN THOSE TWO THAT WORDS ALONE CAN'T DESCRIBE
9 IT IT WAS A BLESSING WHERE EVERYONE LOVE TO HAVE A
10 MOTHER/SON RELATIONSHIP LIKE THAT THEY HAD

11 Q WELL, CAN YOU DESCRIBE THE -- SOME OF THINGS
12 THAT SHE DID FOR HIM?

13 A WELL, THEY GET OFF OF WORK -- WHEN SHE GET OFF
14 OF WORK THEY GO PLACES TOGETHER THEY COME DOWN TO
15 MY HOUSE BEFORE AND IT WAS SORT OF BEING LIKE A
16 MOTHER, A FRIEND, AND ANYTHING ELSE

17 Q AND BASED UPON YOUR OBSERVATIONS, WHAT ARE
18 SOME OF THINGS THAT HE DID FOR HER -- THAT JOHN
19 KENNEDY DID FOR DOLLY MAY?

20 A HE TOOK CARE OF MAMA, BECAUSE AT THAT TIME DAD
21 HAD HAD A SEVERE ACCIDENT WHEN HE HAD THE PLATE PUT
22 IN HIS HEAD

23 Q HE DID? YOUR DAD DID?

24 A YES

25 Q STOP FOR A MINUTE AND DESCRIBE THAT SITUATION

1

2 A HE WAS ON ONE OF HIS CONSTRUCTION JOBS AND HE
3 HAD RAN INTO THE BACK HOE, IT POPPED HIS HEAD, AND
4 HE HAD TO HAVE THIS STEEL OR METAL PLATE THING PUT
5 IN HIS HEAD AND IT WAS WHERE HE'D HAVE CONSTANT
6 SEIZURES OVER, AND OVER, AND OVER

7 Q DID HE STOP DRINKING?

8 A NO

9 Q AND WHEN DID HE DIE?

10 A HE DIED THE YEAR AFTER MOM

11 Q NOW, LET'S GO BACK TO SEPTEMBER, 1991 WE'VE
12 HEARD SOME TESTIMONY ABOUT YOUR MOTHER'S DEATH
13 TELL US ABOUT THAT

14 A ON THAT DAY I GOT A PHONE CALL FROM MY SISTER
15 SHE CALLED ME AND SHE TOLD ME MAMA WAS DEAD AND I
16 DIDN'T BELIEVE HER WHEN WE CAME UP AND WENT DOWN
17 THERE AND SHE WAS DEAD

18 Q WHERE WAS -- WHERE WAS SHE WHEN SHE WAS
19 KILLED?

20 A AT MY SISTER'S HOUSE

21 Q DESCRIBE THE NATURE OF HER DEATH

22 A SHE WAS CUTTING GRASS FOR MY SISTER

23 Q WHICH SISTER?

24 A RUBY

25 Q OKAY

1 A AND A DRUNK DRIVER LOST CONTROL HE HAD SIX
2 KIDS ON A FORD TRUCK HE HIT MY MAMA AND HE BROKE
3 EVERY BONE IN HER BODY AND HE KILLED HER IN MY
4 MAMA'S FRONT YARD -- IN MY SISTER'S FRONT YARD

5 Q SHE DIED INSTANTLY?

6 A YES

7 Q AND WHO WITNESSED IT, DO YOU KNOW?

8 A MY SISTER, RUBY AND MY SISTER -- RIGHT AFTER
9 IT HAD HAPPENED, MY SISTER ANTHONY

10 Q ALSO KNOWN AS TONY?

11 A YES

12 Q SO SHORT FOR ANTHONY IS TONY?

13 A YES

14 Q SO ANTHONY IS A LITTLE BIT OF AN UNUSUAL NAME
15 FOR A FEMALE, ISN'T IT? I MEAN, USUALLY IT'S A MALE
16 NAME

17 A I GUESS

18 Q BUT TONY --

19 A UH-HUH

20 Q -- IS WHAT SHE GOES BY?

21 A RIGHT, THAT'S WHAT SHE GOES BY

22 Q RIGHT, TONY DID TONY AND RUBY GET SOME
23 COUNSELING FOR WHAT HAPPENED?

24 A THEY DID

25 Q HOW DID YOUR MOTHER'S DEATH AFFECT YOU?

1 A IT'S JUST -- IT'S STILL HARD TO BELIEVE RIGHT
2 NOW
3 Q DID IT SHOCK YOU?
4 A YEAH, I WAS IN DENIAL FOR A LONG TIME
5 Q HOW DID IT AFFECT THE FAMILY?
6 A IT WAS LIKE IT ALMOST DESTROYED THE FAMILY
7 Q WELL, DESCRIBE THE FAMILY BEFORE AND AFTER
8 A BEFORE WHEN YOU REFERRED TO LIKE HALF SISTER
9 AND HALF BROTHER, WE DIDN'T BELIEVE IN THAT WE
10 FELT LIKE OUR MOM WAS THE FAMILY OF ALL OF US BUT
11 THEN WHEN WE LOST HER, IT'S LIKE WE DRIFTED
12 Q DRIFTED APART?
13 A YES
14 Q WELL, NOW, WHAT YOU SAY ISN'T TOTALLY TRUE
15 BECAUSE YOUR DADDY SAW A DISTINCTION BETWEEN THE
16 FIRST THREE AND THE LAST FOUR, DIDN'T HE?
17 A WHAT DO YOU MEAN?
18 Q HE TREATED Y'ALL -- THE FIRST THREE A LITTLE
19 DIFFERENT FROM THE LAST FOUR, DIDN'T HE?
20 A HE DID
21 Q NOW HE DIDN'T ACCEPT RUBY, TONY AS HIS OWN,
22 DID HE?
23 A HE DIDN'T
24 Q AND WHAT WAS THE OTHER ONE'S NAME -- THE OTHER
25 -- DONNY?

1 A DONNY, YEAH, MY FATHER --

2 Q HE DIDN'T ACCEPT HIM EITHER, DID HE?

3 A NO, MY FATHER DIDN'T BUT AS FAR AS OUR
4 MOTHER, WE ALL FELT LIKE WE WERE ONE, OTHER THAN
5 HIM

6 Q DESCRIBE THE DIFFERENCE BETWEEN THE WAY HE
7 TREATED THE OLDER THREE AND THE YOUNGER FOUR

8 A WELL, WHEN HE WASN'T DRINKING HE WOULD GO, HIM
9 AND MOM, WE SOMETIMES RODE TO GREENWOOD, HE WOULD
10 BUY FOR US WHAT HE WOULDN'T BUY FOR THEM HE WOULD
11 -- HE DID HE DID MORE FOR US THAN HE DID FOR THEM
12 AND IF THEY EVEN TRIED TO ASK HIM FOR SOMETHING,
13 HE'D JUST BE SO CRUEL TO THEM

14 Q DID HE EVER CALL THEM NAMES?

15 A YES HE WAS JUST REALLY CRUCIAL (SIC) TO
16 THEM

17 Q HE WAS? NOW, AFTER YOUR MOTHER'S DEATH YOU
18 SAY YOU DRIFTED APART -- THE FAMILY DRIFTED APART?

19 A YES

20 Q WELL, BEFORE HER DEATH WERE Y'ALL A CLOSE
21 FAMILY?

22 A YES

23 Q AND DESCRIBE THE NATURE OF SOME OF THE THINGS
24 YOU DID AND THAT SORT OF THING

25 A WE ALWAYS -- WHEN THE HOLIDAYS CAME IT WOULD

1 BE WHEREVER WE'RE GOING TO HAVE IT AT RUBY'S HOUSE
2 THIS TIME THIS TIME WE'RE GOING TO HAVE IT AT
3 SNOOKY'S -- TONY'S HOUSE -- WE CALL HER SNOOKY --
4 TONY'S HOUSE THEN WE'RE GOING TO HAVE IT AT MY
5 HOUSE WE ALWAYS WENT AROUND AND TOOK TURNS WHERE
6 THE WHOLE FAMILY GOT TOGETHER ALL MY AUNTS WOULD
7 GO OVER TO THEIR HOUSE IT'S JUST ONE BIG HAPPY
8 FAMILY

9 Q HOW OFTEN?

10 A ON THE HOLIDAYS ON THE HOLIDAYS WE WERE
11 THERE AT ONE OR ANOTHER'S HOUSE

12 Q HOW ABOUT ON SUNDAYS AND THINGS LIKE THAT?

13 A YEAH, MAMA ALWAYS COOKED A SUNDAY DINNER

14 Q SUNDAY DINNER?

15 A ALWAYS

16 Q WELL, ABOUT HOW MANY PEOPLE WOULD COME EAT AT
17 THE TABLE?

18 A A LOT WE HAVE A LARGE FAMILY

19 Q THERE'D BE A LOT OF -- A LOT OF PEOPLE EATING?

20 A YEAH, MY RELATIVES CAME FROM HONEA PATH,
21 ANTREVILLE, DUE WEST AND ABBEVILLE

22 Q ALL RIGHT, NOW, YOU'VE TESTIFIED THAT JOHN AND
23 DOLLY MAY SUPPORTED EACH OTHER QUITE A BIT

24 A THEY DID

25 Q AND LET'S TALK SPECIFICALLY ABOUT JOHN KENNEDY

1 NOW FOR A MINUTE AND HIS RELATIONSHIP WITH YOUR
2 MOTHER AND HOW HER DEATH AFFECTED HIM CAN YOU
3 COMMENT ON THAT?

4 A YES, BECAUSE I NOTICED HE CHANGED IT WAS
5 WHERE HE BECAME -- HE WAS THE SAME GENTLEMAN HE
6 USE TO BE FULL OF LIFE YOU KNOW, WHEN YOU CAN JUST
7 LOOK AT SOMEBODY AT SEE THAT THEY'VE GOT LIFE BUT
8 THEN WHEN WE LOST MAMA, HE STARTED BECOMING DISTANT
9 HE WOULDN'T COME TO SEE US AND BE THE SAME JOHN HE
10 USE TO BE IT'S LIKE -- IT'S SORT OF LIKE WHEN HE'S
11 REACHING OUT BUT HE DON'T KNOW WHICH WAY TO REACH
12 OUT

13 Q NOW I BELIEVE THAT TONY AND RUBY GOT SOME
14 COUNSELING, SOME HELP AFTER THE DEATH, IS THAT
15 RIGHT?

16 A THEY DID

17 Q HOW ABOUT JOHN?

18 A NO

19 Q HE DIDN'T?

20 A NO

21 Q AND DID YOU?

22 A NO, I DIDN'T, BUT IT'S WHERE, WITH ALL THAT
23 HAPPENED, I FEEL LIKE I NEED TO

24 Q HOW ABOUT -- YOU WERE MARRIED TO SCOTT, RIGHT?

25

1 A YES

2 Q AND WERE YOU ABLE TO LEAN ON HIM, SO TO SPEAK?

3

4 A YES

5 Q NOW, YOU SAID THAT JOHN CHANGED GIVE US SOME
6 EXAMPLES OF THAT, IF YOU CAN

7 A WELL, LIKE I SAID, IT WAS WHERE WHEN HE USE TO
8 COME DOWN WE USE TO JUST TALK AND KID AND HAVE FUN
9 AND, YOU KNOW, IT WAS MOSTLY WHERE HE WOULD BRING
10 THE SMILE AND THE LAUGH TO US OR BY COMING DOWN
11 THERE AND SAYING SOME LITTLE SILLY THINGS THEY HAD
12 DONE

13 BUT THEN AFTERWARDS IT WAS WHERE HE WAS SORT
14 OF LIKE RUNNING FROM US I NOTICED WHEN HE CAME
15 DOWN HERE IS WHEN HE WAS SAYING THAT HE WANTED TO
16 START A NEW LIFE DOWN HERE THEY WANTED TO MAKE A
17 NEW START AND IT'S LIKE HE'S RUNNING FROM THE
18 TRUTH

19 Q THE TRUTH BEING HIS MOTHER'S DEATH?

20 A YES

21 Q AND, NOW, DID HE BECOME WITHDRAWN OR ANYTHING
22 LIKE THAT?

23 A HE DID

24 Q JOHN WAS NEVER THE DRUG USER TYPE OR ANYTHING
25 LIKE THAT, WAS HE?

1 A NO

2 Q BUT HE DRANK MORE OR STARTED DRINKING AFTER
3 HER DEATH OR WHAT?

4 A WELL, HE'D DRINK SOME BEFORE BUT THEN THERE
5 AFTER, I THINK HE WAS TURNING INTO DAD HE WAS
6 DRINKING MORE AND MORE AND MORE

7 Q AND SO HE -- HE NEVER TURNED TO DRUGS, BUT HE
8 DID START TO DRINK PRETTY HEAVY?

9 A SOME

10 Q FOR A WHILE OR CONTINUES TO OR WHAT?

11 A WHEN THAT HAPPENED TO MOM THAT'S WHEN HE WAS
12 DRINKING MORE

13 Q WHAT ABOUT THIS STATE'S EXHIBIT FORTY-EIGHT,
14 THIS SHOTGUN DO YOU RECOGNIZE THIS?

15 A YEAH

16 Q HOW DO YOU RECOGNIZE IT?

17 A THAT WAS MY DAD'S

18 Q AND WHEN DID YOUR DAD USE IT?

19 A WHENEVER HE GOT REAL DRUNK AND MAD

20 Q DID HE GO HUNTING WITH IT?

21 A NO

22 Q NOW AFTER YOUR MOTHER'S DEATH AND YOUR
23 FATHER'S ACCIDENT, HOW LONG DID YOUR FATHER LIVE?

24 A HE LIVED FOR ABOUT A YEAR AFTER MOM PASSED
25 AWAY

1 Q OKAY, DESCRIBE HIS BEHAVIOR DURING THAT YEAR

2 A HE BECAME WITHDRAWN EVERY TIME I COME HOME
3 HE ALWAYS SITTING THERE IN THE SAME CHAIR WAITING
4 FOR MOM TO COME HOME FROM WORK AND HE'D SAY, DOLLY
5 WILL BE HERE IN A LITTLE BIT AND IT WAS WHERE HE'D
6 START CRYING

7 AND THEN HE JUST WOULD GET TO WHERE WHEN HE
8 DIDN'T HAVE ANY MONEY, HE JUST WALK UP AND DOWN THE
9 ROAD AND ASKED SOMEBODY, YOU GOT A QUARTER? YOU GOT
10 FIFTY CENTS? JUST TO GET HIM ENOUGH MONEY TO GO GET
11 HIM A DRINK AND THAT'S WHAT HE WOULD DO, JUST
12 DRINK MORE AND MORE AND MORE

13 Q BUT HE DID COME HOME AFTER SHE WAS ALREADY
14 DEAD?

15 A YES

16 Q NOW, IT WAS JUST HIM AND JOHN LIVING IN THE
17 HOUSE THEN, IS THAT RIGHT?

18 A YES

19 Q HOW WAS JOHN REACTING TO YOUR DAD?

20 A IT WAS HIM -- HE WAS CALM AND IT WAS LIKE
21 JOHN WAS SOMEBODY LOOKING FOR AN ANSWER HE WAS
22 LOOKING FOR SOMEONE TO BE MOM

23 Q DID YOU EVER HEAR HIM TRY TO TALK WITH YOUR
24 MOTHER OR ANYTHING LIKE THAT?

25 A I DON'T REMEMBER HIM EVER TALKING TO HER

1 Q BUT YOUR DADDY YOU DID?

2 A MY DAD DID

3 Q HOW ABOUT ANY TALKING TO YOURSELF AND THAT
4 SORT OF THING?

5 A WELL, JOHN, HE'D ALWAYS SAY THAT BEING IN THE
6 HOUSE HE COULD HEAR DIFFERENT THINGS HE WOULD SAY
7 THAT IT SOUNDED JUST LIKE MAMA WALKING THROUGH THE
8 HOUSE

9 Q NOW, GLORIA, YOU -- I'LL HAND YOU DEFENDANT'S
10 SEVENTEEN, AND ASK YOU IF YOU RECOGNIZE THAT
11 PICTURE?

12 A YES

13 Q AND WHO IS IN THAT PICTURE?

14 A JOHN KENNEDY AND SHEKA

15 Q JOHN KENNEDY AND SHEKA?

16 A YES

17 Q AND I ASK YOU ON DEFENDANT'S FORTY-FIVE, CAN
18 YOU RECOGNIZE THAT PICTURE?

19 A YES

20 Q WHO'S IN THAT PICTURE?

21 A JOHN KENNEDY AND SHEKA

22 Q AND DEFENDANT'S FORTY-FOUR, WHO IS THAT A
23 PICTURE OF, IF YOU CAN SAY?

24 A THAT'S MY LITTLE NEPHEW

25 Q JOHN AND SHEKA'S SON?

1 A YES

2 Q I'M GOING TO ASK YOU TO BE STRONG FOR US AND
3 I'M NOT GOING TO ASK YOU ANY QUESTIONS ABOUT THEIR
4 RELATIONSHIP OR ANYTHING LIKE THAT, BUT THOSE ARE
5 THEIR TWO CHILDREN TOGETHER?

6 A YES

7 Q AND WERE YOU -- WERE YOU -- ARE YOU ABLE TO
8 TELL THIS COURT IF JOHN HAS EVER HELPED YOU WITH
9 ANYTHING OR ANYTHING LIKE THAT?

10 A SCOTT, YES MY BROTHER'S ALWAYS BEEN THERE
11 FOR ME AS WELL, WE SHARE A BOND TOGETHER WE
12 ALWAYS HAVE AND WE ALWAYS WILL

13 Q AND DID HE COME OVER TO GEORGIA FROM TIME TO
14 TIME?

15 A YES, UH-HUH

16 Q AND YOU PREVIOUSLY TESTIFIED THAT YOU CAME
17 OVER THIS WAY WHEN YOU HAD AN OPPORTUNITY ON THE
18 WEEKENDS, THAT SORT OF THING?

19 A YES

20 Q NOW IF YOU WANT TO SIP, GO AHEAD I WON'T
21 MAKE YOU HOLD THAT CUP NOW, GLORIA, DID JOHN EVER
22 ASSIST Y'ALL IN ANY WORK?

23 A YES

24 Q AT Y'ALL'S HOUSE?

25 A YES

1 Q AND DID HE HELP HIS MOTHER AROUND THE HOUSE
2 WHEN Y'ALL WERE GONE AND HE WAS LEFT OVER THERE?

3 A YES

4 MR TINSLEY AT THIS TIME I'D OFFER
5 DEFENDANT'S FORTY-FOUR, SEVENTEEN, AND FORTY-FIVE
6 INTO EVIDENCE

7 MR JONES WITHOUT OBJECTION, YOUR
8 HONOR

9 THE COURT THEY'RE ADMITTED

10 MR TINSLEY AND PUBLISH TO THE JURY

11 THE COURT YOU MAY

12 EXAMINATION CONTINUED

13 BY MR TINSLEY

14 Q NOW, GLORIA, WHAT WAS SOME OF THE THINGS THAT
15 JOHN DID AROUND 300 MAPLE STREET TO ASSIST HIS
16 MOTHER?

17 A WELL, AGAIN, WITH THE YARD WORK HE WOULD
18 RAKE THE LEAVES UP AND GET READY -- START PREPARING
19 FOR THE WINTER SHE WOULD TAKE ALL HER SUMMER STUFF
20 DOWN AND PUT HER WINTER STUFF UP SHE'D CHANGE
21 CURTAINS AND EVERYTHING HE'D HELP HER DO THAT
22 SHE'D TAKE ALL THE ASHES AND STUFF OUT OF THE BUCK
23 STOVE AND GET READY FOR THE WINTER ANYTHING MAMA
24 NEEDED

25 Q AND HE WOULD ASSIST HER IN DOING THAT?

1 A YEAH, HE'D ALWAYS SAY -- HE COME OVER, MAMA,
2 YOU NEED TO GO ANYWHERE?" THERE WERE TIMES WHERE
3 THEY NEEDED TAKE MOM WHEREVER THEY NEEDED TO GO

4 Q WELL, IF ONE OF THE BROTHERS OR SISTERS NEEDED
5 SOMEONE TO HELP THEM, WHO WOULD THEY CALL?

6 A MOM

7 Q AND IF THEY NEEDED SOME MANUAL LABOR DONE, WHO
8 WOULD THEY CALL?

9 A JOHN KENNEDY

10 Q AND WOULD HE HELP THEM?

11 A HE ALWAYS HAS

12 Q SO HE WAS VERY HELPFUL?

13 A YES

14 Q AND CAN YOU REMEMBER ANY SPECIFIC ACT OF
15 GOODNESS OR KINDNESS THAT YOU'VE OBSERVED YOUR
16 BROTHER DO?

17 A WELL, I CAN -- I CAN REMEMBER WHEN I USED TO
18 WORK AS A SECURITY PERSON IT WAS WHERE WHEN WE WAS
19 GROWING UP, DOWN AT THAT WAL-MART WHEN WE WAS GOING
20 OUT OF THE STORE, HE SAW THIS ELDERLY LADY, SHE WAS
21 WALKING, CARRYING HER BAGS, AND HE SAID, HERE GLORIA
22 TAKE THESE BAGS, I NEED TO GO HELP THIS WOMAN LADY

23

24 SO WHEN HE WENT OVER TO HELP HER OUT TO HER
25 CAR AND TAKE HER STUFF, THE MANAGER, KEN AT THAT

1 TIME, HE SAW WHAT HE DID, AND HE INTRODUCED A NEW
2 POSITION TO WAL-MART BECAUSE OF WHAT HE DID

3 Q IS THAT RIGHT?

4 A YES

5 Q ANY OTHER INSTANCE THAT YOU REMEMBER?

6 A HE ALWAYS HAS BEEN WILLING TO HELP ANYBODY
7 AND THIS IS -- I CAN REMEMBER ONE TIME WHEN I WAS
8 ABOUT -- ABOUT THIRTEEN YEARS OLD, I WE HAD SOME
9 LITTLE PUPPIES AND I HAD PICKED OUT MY FAVORITE ONE
10 AND I COME HOME THAT DAY AND WHEN I GOT OFF
11 THE BUS SOMEBODY HAD HIT MY LITTLE PUPPY AND JOHN
12 KENNEDY HE CAME UP AND GOT HOLD OF THE PUPPY AND HE
13 TOOK IT AND HE JUST PAMPERED MY PUPPY AND HE TOOK IT
14 AND SAID HE HAS TO GOING TO THE GRAVE SO HE WENT
15 AND HE BURIED IT FOR ME AND WE HAD A LITTLE
16 FUNERAL FOR MY LITTLE PUPPY

17 Q WHAT ABOUT HELPING WASH CARS OR CHANGE OIL OR
18 CHANGE FLAT TIRES, ANYTHING LIKE THAT? DO YOU
19 RECALL ANY OF THOSE TYPE THINGS?

20 A OH, EVERY TIME HE COME DOWN HE ALWAYS RIDE ME
21 ABOUT DID HE CHANGE THAT OIL? IF YOU DON'T YOU'RE
22 GOING TO TEAR YOUR CAR UP HE ALWAYS GETS ON ME
23 ABOUT THAT EVERY TIME ALL THE TIME

24 Q SO YOU ARE ABLE, CERTAINLY, TO TESTIFY HERE
25 TODAY THAT THERE'S CERTAINLY A GOOD SIDE TO JOHN

1 KENNEDY HUGHEY?

2 A YES

3 Q NOW BEFORE 1991, WOULD IT BE FAIR TO SAY THAT
4 THAT GOODNESS WAS MORE PREVALENT?

5 A YES, HE WAS A MORE GOOD PERSON THEN

6 Q DID HE BECOME VERY SOMBER AND ISOLATED AFTER
7 YOUR MOTHER'S DEATH?

8 A HE JUST BECAME WITHDRAWN

9 Q BUT HE KNEW SHEKA BEFORE AND AFTERWARDS AND
10 I BELIEVE YOU TESTIFIED THAT SHE WAS LIKE A SISTER-
11 IN-LAW TO YOU, IS THAT RIGHT?

12 A YES

13 Q AND YOU CERTAINLY ARE SADDENED BY HER LOSS,
14 ARE YOU NOT?

15 A WHEN I WENT TO HER FUNERAL, I COULDN'T BELIEVE
16 -- IT'S STILL HARD TO BELIEVE RIGHT NOW THAT SHE'S
17 STILL NOT HERE IT'S JUST TOO HARD TO BELIEVE

18 Q AND WHAT ABOUT MS LUEVINIA HARRIS? NOW, TAKE
19 A PAUSE AND JUST GET A SIP OF WATER IF YOU NEED TO
20 I BELIEVE YOU TESTIFIED THAT --

21 A I CAN STILL REMEMBER HER ALWAYS WALKING WITH
22 HER LITTLE BOYS, MARCUS AND ANTHONY, ALL THE TIME
23 EVERY TIME I SEE HER -- I CAN REMEMBER WHEN WE ALL
24 GREW UP WE'D GO OVER THERE WE'D ALWAYS PLAY, YOU
25 KNOW, HIDE-AND-SEEK OR TAG WE ALWAYS PLAYED

1 TOGETHER ALL THE TIME

2 HER MOM, YOU KNOW, WAS A COOK I HAVE TO GIVE
3 IT TO THEM THEY WERE THE COOKS SO BETWEEN THEM
4 AND THEIR COOKING AND US RUNNING AROUND OUTSIDE
5 GETTING INTO WHATEVER WE COULD I COULDN'T -- YOU
6 KNOW -- I COULDN'T --

7 Q SO YOU WERE DEEPLY SADDENED BY THEIR DEATHS?

8 A WHEN I WENT TO HER FUNERAL -- WHEN I LOOKED AT
9 HER, I SAID, "WAIT A MINUTE, IS THIS MY MOM?"

10 Q YOUR MAMA OR DO YOU YOUR GODMOTHER

11 A IT REMINDED ME OF MY MOM

12 Q THAT REMINDED YOU OF THAT?

13 A YES, IT DID

14 Q AND, ONE SECOND, MS HARRISON, WHEN YOU SAW
15 YOUR BROTHER ON DECEMBER 4, 1994, WAS HE HIMSELF?

16 A WHEN HE WAS OUT THERE HE WAS JUST REAL -- I
17 COULD TELL SOMETHING WAS WRONG, BUT I DIDN'T KNOW
18 WHAT IT WAS BUT THEN WHEN I GOT BACK, THAT WAS
19 THEN WHEN HE WAS CRYING AND I KNEW THEN WHAT WAS
20 WRONG

21 Q AND, MS HARRISON, YOU LOVE YOUR BROTHER?

22 A YES

23 Q AND YOU WANT TO KEEP YOUR BROTHER?

24 A YES

25 Q AND YOU REALIZE WHAT HE DID WAS HE DID WAS

1 TERRIBLY WRONG?

2 A YES LIFE CAN DEAL SOME CRAZY THINGS

3 Q AND HE'S NOT DENYING --

4 MR JONES LEADING QUESTION, YOUR

5 HONOR I'M GOING TO HAVE TO OBJECT

6 THE COURT DON'T LEAD HER

7 EXAMINATION CONTINUED

8 BY MR TINSLEY

9 Q IN THIS COURTROOM FOR THE LAST TWO WEEKS, YOUR
10 BROTHER HAS NOT DENIED KILLING THOSE TWO LADIES, HAS
11 HE?

12 A NO, HE HASN'T

13 MR TINSLEY THANK YOU SO MUCH
14 ANSWER ANY QUESTIONS THE SOLICITOR MIGHT HAVE

15 CROSS EXAMINATION

16 BY MR JONES

17 Q MS HARRISON, ON DECEMBER 4, 1995, THIS
18 DEFENDANT TOLD YOU OVER AND OVER AND OVER AGAIN IT
19 WAS AN ACCIDENT, IT WAS AN ACCIDENT, IT WAS AN
20 ACCIDENT, DIDN'T HE?

21 A WHEN HE WAS TALKING ABOUT MISS LUEVINIA, YES

22 Q SO ARE YOU TELLING US THEN THAT ON DECEMBER 4
23 IN YOUR ALL'S HOME HE DESCRIBED TO YOU HOW HE WENT
24 AROUND AND GOT ON THE BED AND TOOK STATE'S EXHIBIT
25 NUMBER FORTY-EIGHT, THE SHOTGUN, AND SHOT SHEKA

1 RIGHT HERE IN THE HEAD AT THIS ANGLE? DID HE
2 DESCRIBE THAT TO YOU OVER THERE?

3 A I DON'T REMEMBER THAT

4 Q YOU DON'T REMEMBER THAT?

5 A NO, I DON'T

6 Q YOU DON'T REMEMBER HIM TELLING YOU THAT IT WAS
7 AN ACCIDENT, THAT SHEKA WAS STRUGGLING WITH THE GUN
8 AND IT WENT OFF?

9 A I DON'T REMEMBER

10 Q YOU DON'T REMEMBER? YOU DON'T REMEMBER
11 LEARNING THAT YOUR SISTER-IN-LAW --

12 MR TINSLEY OBJECTION, YOUR HONOR,
13 PHASE ONE CROSS

14 THE COURT OVERRULED

15 EXAMINATION CONTINUED

16 BY MR JONES

17 Q WE ARE TALKING ABOUT THE DEATH OF SHEKA,
18 AREN'T WE?

19 A YES

20 Q YOU DID SAY THAT YOU STILL COULDN'T QUITE -- I
21 BELIEVE YOUR WORDS WERE "YOU CAN'T QUITE BELIEVE
22 THAT SHEKA IS DEAD "?

23 A NO, I CAN'T

24 Q ALL RIGHT AND THIS IS BECAUSE YOU JUST DON'T
25 QUITE UNDERSTAND HOW SHE DIED?

1 A I JUST CAN'T BELIEVE SHE'S GONE SEE, THAT
2 WAS A GIRL I LOVED ALSO

3 Q ALL RIGHT LET ME ASK YOU ABOUT ANOTHER GIRL
4 DO YOU KNOW MISS JOHNNIE MAY DEVETTE (PHONETIC)?

5 MR TINSLEY OBJECTION, YOUR HONOR
6 THE COURT OVERRULED

7 EXAMINATION CONTINUED

8 BY MR JONES

9 Q DO YOU KNOW A MISS JOHNNIE MAY DEVETTE?

10 A YES

11 Q AND DO YOU TREAT HER LIKE YOU WOULD A SISTER-
12 IN-LAW?

13 A WHAT DO YOU MEAN DO I -- I DON'T UNDERSTAND
14 YOUR QUESTION

15 Q IS YOUR RELATIONSHIP WITH HER LIKE A SISTER-
16 IN-LAW?

17 A NO

18 Q DO YOU KNOW HER DAUGHTER KIARA NICHOLE LEVETTE
19 BORN ON OCTOBER 2, 1989?

20 A I KNOW OF HER, BUT I DON'T KNOW WHEN SHE WAS
21 BORN

22 Q AND YOU KNOW OF HER AND WHAT RELATIONSHIP DO
23 YOU HAVE WITH HER?

24 A WELL, THAT -- MY NIECE

25 Q AND DO YOU KNOW TIARA SADE DEVETTE (PHONETIC)

1 BORN ON JULY 20, 1992?

2 A NO

3 Q YOU DON'T KNOW TIARA SADE DEVETTE BORN JULY
4 20, 1992?

5 A NO

6 Q DO YOU KNOW AQUATA (PHONETIC) -- DO YOU KNOW
7 LACHINA OPHNY (PHONETIC)?

8 A NO

9 Q YOU DON'T KNOW LACHINA OPHNY?

10 A NO

11 Q AND YOU'VE NEVER MET --

12 MR TINSLEY OBJECTION RELEVANCE

13 THE COURT WELL, YOU GOING TO
14 ESTABLISH SOME RELEVANCE TO IT DEPENDING IF SHE DOES
15 KNOW THESE INDIVIDUALS?

16 MR JONES YES, SIR

17 THE COURT OKAY OVERRULED

18 EXAMINATION CONTINUED

19 BY MR JONES

20 Q DO YOU KNOW AQUATA MYSTIQUE OPHNY (PHONETIC)
21 BORN AUGUST 6, 1995?

22 A NO

23 Q YOU DON'T KNOW THAT BABY?

24 A NO

25 Q AND YOU DON'T TREAT HER AS A NIECE?

1 A I DON'T KNOW HER

2 Q AND YOU DON'T TREAT KIARA NICHOLE DEVETTE'S
3 SISTER, TIARA SADE DEVETTE, AS A NIECE, DO YOU?
4 BORN IN 1992 -- JULY 20, 1992

5 A I DON'T KNOW HER

6 Q WELL, DO YOU KNOW YOUR BROTHER?

7 A YES

8 Q OKAY AND YOU KNOW HIM WELL, DON'T YOU?

9 A YES

10 Q ALL RIGHT WHEN WAS THE FIRST BLACKOUT THAT
11 YOU RECALL HE HAD?

12 A I CAN REMEMBER ONE WAS AT MY HOUSE

13 Q UH-HUH WHEN WAS IT?

14 A I CAN'T REMEMBER WHEN

15 Q WELL, I MEAN, LAST DECEMBER OR --

16 A I CAN'T REMEMBER SO MUCH HAS HAPPENED SO
17 MUCH HAS GONE ON I CAN'T REMEMBER ALL THE STUFF --

18 Q AND WHAT DID YOU DO AS THE RESULT OF THAT
19 BLACKOUT?

20 A RIGHT WHEN HE BLACKED OUT I LET HIM LAY THERE
21 AND STAY ASLEEP

22 Q IS THAT THE FIRST ONE YOU REMEMBER HIM HAVING?

23 A THEN

24 Q DID YOU TAKE HIM TO THE HOSPITAL?

25 A NO

1 Q WHEN WAS THE SECOND ONE YOU REMEMBER HIM
2 HAVING -- THE SECOND BLACKOUT?

3 A THAT WAS ON -- I CAN'T REMEMBER WHO ALL -- WHO
4 ALL CAME UP THAT WEEKEND AT MOM'S HOUSE

5 Q SO HE HAD A BLACKOUT HERE IN ABBEVILLE?

6 A AT MY MOM'S HOUSE

7 Q HOW LONG DID THAT LAST?

8 A I DON'T REMEMBER EXACTLY HOW LONG

9 Q WELL, IT WAS ONE OF THESE BLACKOUTS YOU'RE
10 TALKING ABOUT?

11 A YES

12 Q WHO -- WAS YOUR MOM STILL ALIVE THEN?

13 A NO

14 Q SHE HAD DIED?

15 A YES

16 Q SO IT WAS AFTER 1991?

17 A YES

18 Q AND DID YOU TAKE HIM TO THE HOSPITAL AS A
19 RESULT OF THE BLACKOUT?

20 A NO

21 Q AS A MATTER OF FACT, ACCORDING TO THE
22 BLACKOUTS THAT YOU'RE TALKING ABOUT, HE'S NEVER BEEN
23 TREATED MEDICALLY FOR THEM, HAS HE?

24 A NO

25 Q SO THERE'S BEEN NO MEDICAL ATTENTION THAT'S

1 BEEN GIVEN TO THESE BLACKOUTS THAT YOU'RE TELLING US
2 ABOUT, RIGHT?

3 A YES, HE DIDN'T HAVE ANY

4 Q WHAT MEDICAL ATTENTION?

5 A I MEAN, THERE WASN'T ANY MEDICAL ATTENTION,
6 BUT YES, HE HAD THEM

7 Q YOUR NOT SUGGESTING TO THIS JURY THAT WHEN HE
8 DROVE OVER TO YOUR HOUSE BETWEEN 12 30 IN THE
9 AFTERNOON ON DECEMBER 4, 1995, THAT HE WAS UNDER THE
10 INFLUENCE OF A BLACKOUT?

11 A I DIDN'T SAY THAT

12 Q I'M ASKING YOU YOU'RE NOT SUGGESTING THAT
13 EITHER, ARE YOU?

14 A NO, NO

15 Q I KNOW YOU DIDN'T SAY IT YOUR NOT SUGGESTING
16 THAT THOUGH, ARE YOU?

17 A NO

18 Q AS A MATTER OF FACT, YOU KNOW THAT HE WAS NOT
19 EXPERIENCING A BLACKOUT ON THAT DAY, DON'T YOU?

20 A THAT DAY WHEN HE WAS AT MY HOUSE HE DIDN'T

21 Q WELL, DID HE SAY ANYTHING TO YOU THEN ABOUT,
22 GOSH, I HAD A BLACKOUT EARLIER WHEN I WAS OVER AT
23 LUEVINIA'S HE DIDN'T TELL YOU THAT?

24 A NO

25 Q YOU MENTIONED YOUR BROTHER'S RELATIONSHIP --

1 WHAT IS HIS RELATIONSHIP WITH YOUR NIECE -- WITH HIS
2 DAUGHTER KIARA NICHOLE DEVETTE?

3 A YOU MEAN WHAT'S THEIR RELATIONSHIP?

4 Q YES

5 A WELL, FOR THE PAST COUPLE OF YEARS THERE
6 HASN'T BEEN A RELATIONSHIP

7 Q HOW DOES KIARA NICHOLE DEVETTE GET SUPPORT
8 FROM YOUR BROTHER? HOW DOES SHE GET FINANCIAL
9 SUPPORT?

10 A AT THE TIME THAT HE WAS WORKING HE WOULD GIVE
11 JOHNNIE MAY MONEY

12 Q THROUGH A COURT ORDER?

13 A WELL, HE GOES THROUGH A COURT ORDER -- HE'S
14 UNDER A COURT ORDER

15 Q RIGHT

16 A BUT I CAN REMEMBER SEVERAL TIMES WHEN HE'D
17 GIVEN HER MONEY

18 Q AND DID YOU KNOW HE WOULD ALSO GIVE SUPPORT
19 FOR TIARA SADE DEVETTE BORN JULY 20, 1992?

20 A I DIDN'T KNOW THAT

21 Q YOU DIDN'T KNOW THAT?

22 A NO

23 Q WELL, THEN THERE ARE APPARENTLY SOME THINGS
24 THAT YOU DON'T KNOW ABOUT YOUR BROTHER?

25 A ABOUT THOSE KIDS

1 Q YOU DON'T KNOW ABOUT THEM?

2 A NO

3 Q RIGHT ALL RIGHT ARE YOU SUGGESTING THEN
4 THAT THAT IS THE ONLY THING YOU DON'T KNOW ABOUT
5 YOUR BROTHER?

6 A - WELL, NOBODY KNOWS EVERYTHING ABOUT ANYBODY

7 Q WELL, I'M TALKING ABOUT CHILDREN HERE, NOT --
8 YOU KNOW, WHAT YOU DO IN THE SHOWER, RIGHT?

9 A UH-HUH

10 Q I WANT TO ASK YOU, YOU MENTIONED THAT YOU KNOW
11 SOME DISCERNMENT -- DIFFERENCES BETWEEN YOUR BROTHER
12 AFTER 1991 BETWEEN THE TIME THAT HE WAS -- THE WAY
13 HE ACTED IN -- BEFORE 1991 AND THE WAY THAT HE ACTED
14 AFTER YOU SAID THAT HE BECAME DISTANT HE
15 WOULDN'T COME SEE US AND HE JUST WAS NOT THE WAY
16 THAT HE USE TO BE, RIGHT?

17 A RIGHT

18 Q WAS HE DISTANT WITH HIS CHILDREN?

19 A I CAN'T EXACTLY PINPOINT HOW HE WAS WITH HIS
20 KIDS DURING THE TIME THEY WERE TOGETHER --

21 Q UH-HUH

22 A -- WITH SHEKA

23 Q UH-HUH

24 A BUT AS FAR AS THEM BEING AT HOME WHEN THEY
25 WERE AT MY HOUSE --

1 Q UH-HUH

2 A -- HE DIDN'T SEEM LIKE HE WAS DISTANT AWAY
3 FROM THOSE KIDS THINGS WERE MORE LIKE MAYBE HE WAS
4 TURNING TO THEM

5 Q UH-HUH

6 A BUT HE JUST WASN'T THE SAME

7 Q WASN'T THE SAME?

8 A NO

9 Q WHAT WAS THE MOST -- PARDON ME FOR ONE MINUTE
10 -- JUST ONE MINUTE A COUPLE OF QUESTIONS ABOUT
11 SOME OF THE THINGS YOU TOLD US ON DIRECT

12 EXAMINATION WHEN YOUR BROTHER WAS INJURED BACK
13 WHEN HE WAS FOUR YEARS OLD, YOU WERE WHAT, ABOUT
14 THREE -- OR I MEAN, ABOUT SEVEN OR EIGHT THEN?

15 A I DON'T REMEMBER HOW OLD I WAS AT THE TIME HE
16 INJURED HIS HEAD

17 Q WELL -- ALL RIGHT, HOW MUCH OLDER ARE YOU THAN
18 HE IS?

19 A FIVE YEARS

20 Q SO IS HE WAS FOUR YOU WERE NINE, IS THAT A
21 FAIR STATEMENT, MS HARRISON?

22 A YES, ABOUT NINE

23 Q TRY TO REMEMBER, IF YOU CAN, DO YOU REMEMBER
24 WHO TOOK HIM TO THE HOSPITAL?

25 A MY MOM, MY DAD -- I CAN'T REMEMBER IF MY AUNT

1 WENT OR NOT

2 Q NOW, I WANT TO ASK YOU SOMETHING BASICALLY
3 YOU AND YOUR BROTHER EXPERIENCED THE SAME HOUSEHOLD
4 GROWING UP, DIDN'T YOU?

5 A YES

6 Q YOU EXPERIENCED THE SAME CONDITIONS,
7 ENVIRONMENT, BASICALLY, DIDN'T YOU?

8 A YES

9 Q NOW WOULDN'T YOU CONSIDER YOURSELF RATHER
10 SUCCESSFUL PERSON?

11 A WHAT DO YOU MEAN WHEN YOU SAY SUCCESSFUL?

12 Q YOU HAVE A HUSBAND?

13 A YES

14 Q YOU'RE MARRIED?

15 A YES

16 Q YOU HAVE CHILDREN?

17 A YES

18 Q THEY'RE HEALTHY?

19 A YES

20 Q THEY'RE WELL FED?

21 A YES

22 Q WELL EDUCATED?

23 A YES

24 Q THEY'RE NOT DEPRIVED OF ANY OF THE CREATURE
25 COMFORTS WITHIN YOUR HOME CONCERNING HEAT AND

1 CLOTHING AND COMFORT?

2 A NO, THEY'RE NOT

3 Q AND YOU DON'T HAVE ANY PROBLEMS GETTING ALONG
4 WITH PEOPLE?

5 A NO, I LOVE EVERYBODY

6 Q AND YOUR BUSINESS IS JUST THAT, PEOPLE --
7 COMMUNICATING WORK, THAT SORT OF --

8 A WELL, YEAH, UH-HUM

9 Q WELL, IS IT OR ISN'T IT?

10 A WORK, YES

11 Q YOU'RE SUCCESSFUL AT WORK, ARE YOU NOT?

12 A I THINK SO

13 Q YOUR PROMOTED?

14 A YES

15 Q IN A RESPONSIBLE POSITION?

16 A YES

17 Q WITH A SIGNIFICANT, SUBSTANTIAL INCOME?

18 A WELL -- THEN WHERE I'M LIVING CONSIDERED --
19 THE COST OF LIVING DOWN HERE IS MUCH HIGHER THAN IT
20 IS HERE

21 Q WELL, I'M NOT ASKING YOU WHAT YOU MAKE MY
22 QUESTION WAS, DO YOU CONSIDER YOURSELF SUCCESSFUL
23 AND YOU ASKED ME WHAT I MEANT BY THAT AND I TO ASK
24 YOU SEVERAL OTHER QUESTIONS SO THOSE ARE THE
25 THINGS THAT I'M REFERRING TO WHEN I SUGGEST THAT YOU

1 MIGHT CONSIDER YOURSELF SUCCESSFUL SO I ASK THE
2 QUESTION AGAIN, DO YOU CONSIDER YOURSELF SUCCESSFUL?

3

4 A YES, IN THAT WAY, YES

5 Q THANK YOU FOR ANSWERING THE QUESTION

6 A YOU ARE WELCOME

7 Q NOW, AS AN ADULT, DO YOU BELIEVE THAT ONE OF
8 THE MOST RESPONSIBLE AND ONE OF THE MOST INTEGRAL
9 PARTS OF OUR SOCIETY FUNCTIONING, CIVILIZED, IS THE
10 WE AS ADULTS ACCEPT AND TAKE RESPONSIBILITY FOR OUR
11 ACTIONS?

12 A I DO WE SHOULD AND THAT APPLIES TO
13 EVERYBODY

14 Q YOUR RIGHT AS ADULTS WE MUST

15 A EVERYBODY

16 Q EVERYBODY

17 A IN THAT IF YOU TAKE LIFE YOU GOT TO
18 REMEMBER --

19 Q OH, ARE YOU SAYING -- ARE YOU TRYING TO
20 SUGGEST HERE NOW THAT ANY ACTIONS ON ANYBODY'S PART
21 IN THIS PROCEEDING ARE ANYTHING OTHER RESPONSE TO
22 YOUR BROTHER'S ACTIONS?

23 A I'M SORRY?

24 Q WHOSE ACTIONS ARE YOU SUGGESTING INITIATED
25 THIS PROCEEDING THAT YOU'RE TESTIFYING IN RIGHT NOW?

1 MR TINSLEY OBJECTION, YOUR HONOR, HE
2 DIDN'T LET HER FINISH ANSWERING THE FIRST QUESTION
3 AND THEN HE ASKED HER THIS HIGHLY PREJUDICIAL AND
4 IMPROPER QUESTION

5 THE COURT DID YOU NOT COMPLETE THE
6 ANSWER TO THE INITIAL QUESTION THEN?

7 THE WITNESS WELL, IT WAS SORT OF LIKE
8 CONJUNCTION HE KIND OF --

9 THE COURT PLEASE ANSWER THE INITIAL
10 QUESTION

11 MR JONES I'LL REPHRASE

12 EXAMINATION CONTINUED

13 BY MR JONES

14 Q ARE YOU SUGGESTING THAT YOU'RE IN THIS
15 COURTROOM TODAY FOR ANY OTHER REASON THAN THIS MAN'S
16 ACTIONS ON DECEMBER 4, 1995?

17 MR TINSLEY OBJECTION, YOUR HONOR,
18 THAT WASN'T THE PRIOR QUESTION THAT SHE NEVER HAD A
19 CHANCE TO ANSWER

20 THE COURT ASK THE OTHER -- PRIOR
21 QUESTION FIRST THEN YOU CAN GET TO THAT HE
22 SUGGESTED THAT SHE WASN'T ABLE TO ANSWER THE INITIAL
23 QUESTION THAT YOU ASKED BEFORE THAT

24 MR JONES THAT IN ESSENCE IS THE
25 INITIAL QUESTION, YOUR HONOR THAT'S WHAT I WAS

1 TRYING TO -- THE QUESTION THAT I WAS TRYING TO
2 FORMULATE IN MY EFFORT

3 MR TINSLEY THAT'S WHAT HE
4 INTERRUPTED HER WITH, YOUR HONOR, WHEN SHE WAS
5 TRYING TO
6 ANSWER --

7 THE COURT WELL, WHAT WAS THE PREVIOUS
8 QUESTION?

9 MR TINSLEY THE PREVIOUS QUESTION HAD
10 TO DO WITH THE RESPONSIBILITY OF ADULTS IN SOCIETY

11 THE COURT OKAY, ALL RIGHT, AFTER
12 THAT --

13 MR TINSLEY AND SHE TRIED TO ANSWER
14 THE QUESTION

15 THE COURT ALL RIGHT, ASK HER THAT
16 QUESTION AGAIN LET HER ANSWER THEN GO ON TO THE
17 NEXT

18 EXAMINATION CONTINUED

19 BY MR JONES

20 Q YOU DO AGREE THAT AS ADULTS HERE ON EARTH THE
21 ONLY WAY THAT WE ARE ABLE TO MAINTAIN A CIVIL, LAW-
22 ABIDING SOCIETY IS THAT IF WE AS ADULTS DO WHAT WE
23 MUST DO AS ADULTS AND ACT IN RESPONSIBILITY AND
24 DIRECT RESPONSIBILITY TO OUR ACTIONS?

25 THE WITNESS IS THAT THE QUESTION THAT

1 I WAS ANSWERING TO?

2 THE COURT HE'S SIMPLY ASKING YOU IF
3 YOU AGREE OR DISAGREE WITH THAT STATEMENT

4 THE WITNESS WELL, EVERYONE'S
5 RESPONSIBLE FOR THE THINGS THEY DO

6 EXAMINATION CONTINUED

7 BY MR JONES

8 Q AND YOU'RE NOT SUGGESTING THAT YOU OR ANYBODY
9 ELSE THAT'S IN THIS COURTROOM TODAY OTHER THAN
10 BECAUSE OF THE ACTIONS OF THIS DEFENDANT ON DECEMBER
11 4, 1995, ARE YOU?

12 A WELL, THEIR ACTIONS

13 MR JONES NO FURTHER QUESTIONS,
14 JUDGE

15 RE-DIRECT EXAMINATION

16 BY MR TINSLEY

17 Q WHAT DID YOU MEAN BY THAT LAST RESPONSE? DID
18 YOU UNDERSTAND THE QUESTION?

19 A SORT OF

20 Q AND LET ME PHRASE IT A LITTLE DIFFERENT WHY
21 ARE YOU HEAR TODAY?

22 A BECAUSE OF WHAT HAPPENED ON DECEMBER THE
23 FOURTH

24 Q RIGHT AND YOU DON'T DISPUTE THAT YOUR
25 BROTHER IS RESPONSIBLE?

1 A YEAH

2 Q BUT YOU ALSO ARE HERE TO ADD --

3 MR JONES LEADING QUESTION, YOUR
4 HONOR

5 THE COURT DON'T LEAD HER

6 EXAMINATION CONTINUED

7 BY MR TINSLEY

8 Q YOU'RE ALSO HERE FOR WHAT REASON?

9 A WELL, FOR PART OF WHAT HE DONE AND PART OF
10 WHAT ELSE HAPPENED

11 Q YOU MEAN LIKE TO YOUR MOTHER AND THAT SORT OF
12 THING?

13 MR JONES LEADING, YOUR HONOR

14 THE COURT DON'T LEAD HER

15 THE WITNESS I'M HERE BECAUSE OF MY
16 BROTHER THAT'S MY FAMILY

17 EXAMINATION CONTINUED

18 BY MR TINSLEY

19 Q AND YOU'RE NOT TRYING TO DENY WHAT HE DID?

20 MR JONES LEADING, YOUR HONOR

21 MR TINSLEY I WITHDRAW

22 THE WITNESS I UNDERSTAND

23 MR JONES LEADING QUESTION, YOUR

24 HONOR THE COURT HE'S WITHDRAWING THE

25 QUESTION

1 MR JONES AND I HAVE NO FURTHER ON
2 RE-CROSS

3 THE COURT OKAY, YOU MAY STEP DOWN
4 (WITNESS STEPS DOWN AT 12 34 O'CLOCK P M)

5 MR TINSLEY MAY I BEG THE COURT'S
6 INDULGENCE FOR JUST ONE MINUTE

7 (JURY EXITS ROOM AT 12 35 O'CLOCK P M)

8 THE COURT THE COURT IS IN RECESS
9 UNTIL TWO O'CLOCK LET ME SEE THE SOLICITOR AND MR
10 TINSLEY BEFORE YOU GO

11 (COURT IN RECESS)

12 THE COURT THANK YOU BE SEATED ANY
13 MATTERS THAT NEED TO BE ADDRESSED BEFORE WE BRING
14 THE JURY IN?

15 MR JONES NO, YOUR HONOR

16 THE COURT BRING THEM IN, PLEASE

17 (JURY RE-ENTERS COURTROOM AT 2 05 O'CLOCK P M)

18 THE COURT GOOD AFTERNOON, LADIES AND
19 GENTLEMEN AS YOU KNOW WHEN WE RECESSED FOR LUNCH
20 THE DEFENSE WAS STILL IN THE PROCESS OF PRESENTING
21 THEIR EVIDENCE IN THIS PHASE OF THE TRIAL SO WE'LL
22 CONTINUE WITH THAT THIS AFTERNOON MR TINSLEY

23 MR TINSLEY THANK YOU, YOUR HONOR, IF
24 IT PLEASE THE COURT CALL JEFF YOUNGMAN TO THE
25 STAND, YOUR HONOR

1 THE CLERK THE EVIDENCE YOU SHOULD
2 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
3 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
4 THE TRUTH, SO HELP YOU, GOD?

5 (WITNESS PRESENTED AT 2 05 O'CLOCK P M)

6 DIRECT EXAMINATION

7 BY MR TINSLEY

8 Q STATE YOUR NAME, PLEASE

9 A JEFF YOUNGMAN

10 Q AND MR YOUNGMAN, WHAT DO YOU DO?

11 A I'M A SOCIAL WORKER

12 Q AND DESCRIBE YOUR EDUCATION, PLEASE

13 A I HAVE A BACHELOR'S DEGREE FROM OHIO STATE

14 AND I HAVE TWO MASTERS DEGREES FROM TULANE

15 UNIVERSITY ONE IN SOCIAL WORK AND ONE IN PUBLIC

16 HEALTH

17 Q AND AS SUCH HAVE YOU WORKED IN THESE FIELDS?

18 A YES, SIR, I'VE WORKED AS A PROFESSIONAL SOCIAL

19 WORKER FOR SIXTEEN AND A HALF YEARS

20 Q WHERE DO YOU WORK NOW?

21 A I'M CURRENTLY THE ACTING DIRECTING OF CAROLINA

22 YOUTH DEVELOPMENT CENTER IN NORTH CHARLESTON, SOUTH

23 CAROLINA

24 Q AND HAVE YOU BEEN QUALIFIED AS AN EXPERT TO

25 TESTIFY IN THE AREA OF SOCIAL WORK IN THE COURTS OF

1 THIS STATE?

2 A YES, SIR, I HAVE

3 Q AND IN OTHER STATES?

4 A YES, SIR

5 Q AND APPROXIMATELY HOW MANY TIMES HAVE YOU
6 TESTIFIED IN COURTS IN SOUTH CAROLINA?

7 A I TESTIFIED ONCE PREVIOUSLY IN SOUTH CAROLINA
8 IN THIS CAPACITY, AND I COULDN'T EVEN GUESS HOW MANY
9 TIMES IN LOUISIANA AS AN EXPERT IN SOCIAL WORK
10 MATTERS AND CHILD ABUSE MATTERS

11 Q WOULD YOU SAY IT WAS HUNDREDS -- A HUNDRED
12 TIMES OR WHAT?

13 A PROBABLY BETWEEN TWO AND THREE HUNDRED TIMES

14 MR TINSLEY YOUR HONOR, AT THIS TIME
15 I WOULD OFFER MR YOUNGMAN AS AN EXPERT IN THE AREA
16 OF SOCIAL INVESTIGATION

17 THE COURT ANY OBJECTION TO HIM BEING
18 QUALIFIED IN THAT FIELD?

19 MR JONES YOUR HONOR, AS I UNDERSTAND
20 IT HE'S BEING OFFERED AS AN EXPERT IN THE AREA OF
21 SOCIAL INVESTIGATIONS AND WORK?

22 THE COURT SOCIAL WORK

23 MR JONES SOCIAL WORK?

24 THE COURT LET ME SEE ALL YOU JUST A
25 MINUTE

1 (COUNSEL AT SIDE BAR)

2 EXAMINATION CONTINUED

3 BY MR TINSLEY

4 Q MR YOUNGMAN, CAN YOU DESCRIBE YOUR BACKGROUND
5 IN THIS AREA OF WORK THAT I'VE ASKED YOU ABOUT?

6 A YES, SIR, FOR SEVEN YEARS I WAS IN CHILD
7 PROTECTION IN LOUISIANA I WAS AN INVESTIGATOR FOR
8 CHILD-ABUSE CASES THEN I WAS A SUPERVISOR OF A
9 UNIT THEN I WAS A SUPERVISOR OF A WHOLE PARISH OR
10 COUNTY OFFICE

11 I ALSO WAS DIRECTOR OF A CRISIS SHELTER AND
12 WORKED IN THE SCHOOL SYSTEM AND NOW I'M CURRENTLY,
13 LIKE I SAID, ACTING DIRECTOR OF CAROLINA YOUTH
14 DEVELOPMENT CENTER WE HAVE NINE DIFFERENT PROGRAMS
15 TO WORK WITH CHILDREN AND ADULTS

16 Q AND IN THAT CAPACITY HAVE YOU HAD OCCASION TO
17 INVESTIGATE SOCIALLY THE MAKEUP OF INDIVIDUALS AND
18 THEIR FAMILIES?

19 A YEAH, THE -- PROBABLY THE PRIMARY BUILDING
20 BLOCK OF SOCIAL WORK OR TO MAKE ANY DECISIONS
21 REGARDING SOMEBODY IN ORDER TO TREAT THEM OR TO
22 INTERVENE FOR THEM IN SOCIAL WORK IS BY DOING A
23 SOCIAL-WORK ASSESSMENT OR A SOCIAL-WORK EVALUATION
24 I DETERMINE IF THEY'RE INTERCHANGEABLE

25 IN ORDER TO PROVIDE A TREATMENT PLAN FOR

1 ANYBODY, ADULT OR CHILD, YOU HAVE TO GO BACK INTO
2 THEIR BACKGROUND AND SEE WHAT WENT ON WITH THEM IN
3 ORDER TO BRING THEM TO THE PLACE THEY ARE NOW SO
4 THAT YOU CAN DECIDE -- YOU CAN LOOK AT WHY THEY MAKE
5 THE DECISIONS THEY DO, WHY THEY ACT THE WAY THEY DO

6 Q AND AS SUCH HAVE YOU ---

7 A (COUGHING)

8 Q DO YOU HAVE COLD, MR YOUNGMAN?

9 A YES, YES, SIR, I DO

10 Q AND AS SUCH A LINE OF WORK, HAVE YOU TESTIFIED
11 IN COURT AS TO SUCH SOCIAL BACKGROUNDS AND
12 HISTORIES?

13 A YES, SIR

14 MR TINSLEY YOUR HONOR, AT THIS TIME
15 I OFFER MR YOUNG AS AN EXPERT IN THE AREA OF SOCIAL
16 WORK

17 THE COURT SOLICITOR, YOU GOT ANY
18 QUESTIONS YOU WANT TO ASK HIM ABOUT HIS
19 QUALIFICATIONS?

20 MR JONES NOT ABOUT HIS
21 QUALIFICATIONS, JUDGE

22 THE COURT ALL RIGHT

23 MR JONES WITH REGARD TO ANY
24 OBJECTION I MIGHT HAVE HIM BEING OFFERED AND
25 PRESENTED AND QUALIFIED AS AN EXPERT IN THE AREA OF

1 SOCIAL WORK, I HAVE NONE

2 THE COURT ALL RIGHT, HE IS SO

3 QUALIFIED

4 EXAMINATION CONTINUED

5 BY MR TINSLEY

6 Q ARE YOU LICENSED FOR STATE OF SOUTH CAROLINA?

7 A YES, SIR, I AM

8 Q AND, MR YOUNGMAN, DESCRIBE AGAIN YOUR

9 EDUCATION

10 A A BACHELORS DEGREE AND TWO MASTERS DEGREES IN

11 SOCIAL WORK AND PUBLIC HEALTH

12 Q AND DESCRIBE YOUR HISTORY OF EMPLOYMENT,

13 PLEASE

14 A WELL, PRIOR TO ENTERING GRADUATE SCHOOL IN

15 SOCIAL WORK I WAS A POLICE OFFICER IN NEW ORLEANS

16 FOR TWO YEARS THEN WENT TO GRADUATE SCHOOL AND

17 FROM THERE, AS I SAID, I WAS A CHILD ABUSE -- CHILD

18 PROTECTION INVESTIGATOR, SUPERVISOR, MANAGER, AND

19 THEN MANAGER CRISIS INTERVENTION UNIT -- OR CRISIS

20 INTERVENTION SHELTER, WORKED IN THE SCHOOL SYSTEM,

21 AND WORKED FOR CAROLINA YOUTH DEVELOPMENT CENTER

22 Q AND BASICALLY THAT'S WHAT YOU'RE DOING NOW?

23 A YES, SIR

24 Q AND WERE YOU CONTACTED AND ASKED TO DO ANY

25 SOCIAL HISTORY EVALUATION FOR MR JOHN KENNEDY

1 HUGHEY?

2 A YES, I WAS

3 Q AND WHAT WAS THE PURPOSES OF SUCH A
4 INVESTIGATION?

5 A IN THIS CASE THERE WERE FOUR REAL PURPOSES
6 ONE WAS TO DETERMINE IF MR HUGHEY HAD BEEN MAL-
7 TREATED AS A CHILD AND WHAT AFFECT THAT HAD ON HIS
8 DECISION-MAKING POWERS HAD HE HAD HEAD TRAUMA AS A
9 CHILD AND AN ADULT, AND IF THAT MADE ANY DIFFERENCE
10 IN HIS DECISION MAKING AND THE DEATH OF HIS
11 MOTHER, WHAT AFFECT THAT HAD ON JOHN KENNEDY'S --
12 JOHN KENNEDY HUGHEY'S BEHAVIOR AND HIS DECISION
13 MAKING

14 Q OKAY

15 A AND THEN --

16 Q LET'S BACK UP FOR A SECOND AND TALK ABOUT THE
17 FIRST ONE I BELIEVE YOU STATED THAT THAT WAS IN
18 THE AREA OF MAL-TREATMENT, IS THAT CORRECT?

19 A YES, SIR

20 Q AND BASICALLY, IN THAT RESPECT WHAT TYPE OF
21 DATA GATHERING -- INFORMATION GATHERING DID YOU
22 PURSUE?

23 A I'D HAVE TO REFER TO MY NOTES I REVIEWED A
24 NUMBER OF DIFFERENT THINGS TO MAKE THIS EVALUATION
25 I REVIEWED ALL OF MR HUGHEY'S SCHOOL RECORDS FROM

1 THE ABBEVILLE COUNTY SCHOOL DISTRICT I REVIEWED
2 ALL HIS MEDICAL RECORDS FROM NORTHEAST GEORGIA
3 MEDICAL CENTER, ANDERSON HOSPITAL, AND ABBEVILLE
4 COUNTY MEMORIAL HOSPITAL, AS WELL AS THE ABBEVILLE
5 COUNTY HEALTH DEPARTMENT

6 I LOOKED AT A NOTEBOOK OF MR HUGHEY'S THAT
7 WAS FOUND AT HIS RESIDENCE AT 300 MAPLE AND I
8 INTERVIEWED MR HUGHEY I INTERVIEWED HIS SISTER
9 ANTHONY, HIS BROTHER DONNY RAY, HIS SISTER RUBY, HIS
10 AUNT NANCY RAMEY, HIS SISTER DOROTHY, HIS SISTER
11 GLORIA, AND HIS SISTER BARBARA IN DOING ALL THIS I
12 DEVELOPED A CHRONOLOGY OF MR HUGHEY'S LIFE UP UNTIL
13 THE TIME -- UP UNTIL THE TIME I SPOKE WITH HIM

14 Q AND SUBSEQUENTLY, OF COURSE, I GUESS YOU
15 INTERPRETED THOSE FINDINGS AND ARRIVED AT A
16 PROFESSIONAL OPINION?

17 A YES, SIR

18 Q NOW, THE KIND OF THING THAT YOU LOOKED INTO IN
19 THE MEDICAL AREA, WOULD THOSE INCLUDE REPORTS OF
20 HEAD TRAUMA, X-RAYS, WOULD YOU DESCRIBE THOSE,
21 PLEASE?

22 A YES, SIR, I REVIEWED ALL HIS MEDICAL
23 INFORMATION AND IN TALKING TO THE FAMILY HAVE COME
24 UP WITH AT LEAST FIVE DIFFERENT OCCASIONS WHERE MR
25 HUGHEY SUFFERED SOME SORT OF A HEAD TRAUMA AND WAS

1 TAKEN TO THE HOSPITAL

2 IN 1973 HE FELL OUT OF A CAR DRIVEN BY HIS
3 FATHER IN 1976 HE FELL OFF A TRACTOR IN 1981 HE
4 WAS HIT IN THE HEAD WITH A SHOVEL IN 1994 HE WAS
5 IN AN AUTOMOBILE ACCIDENT WHERE HE SUFFERED HEAD
6 TRAUMA IN 1995 ANOTHER AUTOMOBILE ACCIDENT WITH
7 HEAD TRAUMA AND ALSO IN '95 HE WAS HIT IN THE HEAD
8 WITH A GOLF CLUB -- AN IRON

9 Q AND THAT WAS THE SAME YEAR AS THE CRIMES FOR
10 WHICH HE'S ON TRIAL -- THOSE LAST COUPLE, RIGHT?

11 A THEY WERE IN '95

12 Q RIGHT AND, MR YOUNGMAN, YOU FURTHER EVEN
13 LOOKED INTO THE HISTORY OF HIS PARENTS AND THAT SORT
14 OF THING, DID YOU NOT?

15 A YES, I DID

16 Q WOULD YOU -- WOULD IT BE FAIR TO SAY THAT YOU
17 DID A THOROUGH AND EXHAUSTIVE RESEARCH IN THESE
18 AREAS?

19 A I THINK I DID I SPOKE TO EVERY MEMBER OF HIS
20 FAMILY THAT I WAS ABLE TO CONTACT AND IN THESE
21 KIND OF SOCIAL WORK EVALUATIONS, THE BEST PEOPLE TO
22 TALK TO ARE THE PEOPLE CLOSEST TO HIM

23 Q AND IN SO DOING, MR YOUNGMAN, DID YOU -- WERE
24 YOU, INDEED, ABLE TO SPEAK WITH THESE FOLKS?

25 A YES, SIR

1 Q AND LET'S BACK UP FOR A MINUTE AND TALK FOR A
2 MINUTE ABOUT SOME OF YOUR FINDINGS AS RELATE TO JOHN
3 KENNEDY HUGHEY AND HIS FAMILY HISTORY CAN YOU
4 ELABORATE ON THAT?

5 A YES, SIR LET'S GO BACK -- YOU HAVE TO LOOK
6 AT THE FACT THAT THERE REALLY WERE TWO SORT OF
7 DISTINCT FAMILIES IN JOHN KENNEDY'S FAMILY THERE
8 WAS THE OLDER FAMILY THAT WAS THE FATHER WAS ALAN
9 CARLYLE AND THE MOTHER AND THEN THE LATER FOUR
10 CHILDREN WHOSE FATHER WAS MR HUGHEY OR MR SMITH
11 HE CHANGED HIS NAME AT ONE POINT

12 FROM EVERYBODY I SPOKE TO, IT CERTAINLY
13 APPEARED THAT MR HUGHEY/MR SMITH WAS AN ALCOHOLIC,
14 WAS EXTREMELY VIOLENT MAN, AND TOOK THAT VIOLENCE --
15 TOOK HIS RAGE OUT ON THE CHILDREN AND HIS WIFE
16 THERE WERE A NUMBER OF INSTANCES REPORTED TO ME
17 WHERE HE BEAT HIS WIFE AND WHERE THE CHILDREN HAD TO
18 INTERVENE TO TRY TO STOP HIM FROM BEATING HIS WIFE

19 AND THERE WERE CERTAINLY OTHER INCIDENTS WHERE
20 GUN -- A SHOTGUN, AND SHOOT IT OFF IN THE HOUSE --
21 WHATEVER HOUSE THEY WERE LIVING IN I THINK THEY
22 LIVED IN PROBABLY FIVE DIFFERENT LOCATIONS OVER THE
23 COURSE OF MR HUGHEY'S CHILDHOOD HE ALSO WOULD
24 TAKE HIS RAGE OUT NOT ONLY ON HIS WIFE BUT ON HIS
25 CHILDREN HE WHOOPED -- WAS ONE OF TERMS -- WOULD

1 WHOOP OR BEAT THE CHILDREN, WOULD LEAVE BRUISES ON
2 THEM

3 AND WHEN I ASKED WHAT THEY USED -- WHAT HE
4 USED ON THEM, THE REPLIES VARIED FROM BELTS, TO
5 STRAPS, TO ANYTHING HE COULD GET HIS HANDS ON, TO
6 TREE LIMBS, WHATEVER, IT DIDN'T REALLY MATTER

7 I THINK AT THE TIME MR SMITH WAS IN SUCH A
8 STATE THAT HE DIDN'T CARE WHAT HE USED HE JUST
9 USED IT THE CHILDREN REACTED DIFFERENTLY TO THESE
10 BEATINGS THE OLDER THREE WAS REPORTED TO ME WOULD
11 HIDE OUT IN THE WOODS ON THE WEEKENDS WHEN HE CAME
12 HOME BECAUSE OF THEIR FEAR OF GETTING BEAT

13 Q WAS THERE A DISTINCTION IN THE MANNER THAT HE
14 TREATED THE THREE OLDER STEPCHILDREN VERSUS THE FOUR
15 YOUNGER FULL CHILDREN OF HIS?

16 A YES, SIR, ALL THE CHILDREN AGREED THAT HE
17 TARGETED HIS MOST SEVERE BEATINGS TO THE OLDER
18 CHILDREN CERTAINLY THE YOUNGER CHILDREN OBSERVED
19 THESE BEATINGS AND KNEW WHAT COULD POSSIBLY COME
20 THEIR WAY, I THINK

21 AND MR JOHN KENNEDY HUGHEY WOULD WHERE IF HE
22 DIDN'T RUN INTO THE WOODS, IT'S BEEN REPORTED BY A
23 DIFFERENT -- NUMBER OF DIFFERENT SIBLINGS THAT HE AT
24 THE AGE OF -- LET ME GET THIS RIGHT -- SIX TO EIGHT,
25 AT LEAST, DECIDED -- OR DIDN'T DECIDE -- TOOK TO

1 INHALING GASOLINE FUMES OR HUFFING, AS IT'S KNOWN,
2 AS A WAY TO DEAL WITH THE BEATINGS THAT HE WOULD
3 RECEIVE OR IN THE TREATMENT HIS MOTHER AND HIS
4 SIBLINGS RECEIVED

5 Q AND WHAT ARE THE IMPLICATIONS OF THAT?

6 A THE LATEST STUDIES DONE BY THE -- THAT I'VE
7 READ DONE BY THE TEXAS ALCOHOL AND SUBSTANCE ABUSE
8 COMMISSION INDICATES THAT USE OF INHALANTS OVER A
9 PERIOD OF TIME COULD CAUSE SEVERE COGNITIVE
10 IMPAIRMENT IT'S HARD TO SAY WITH A COUGH

11 Q HE DOESN'T HAVE A LONG HISTORY OF DRUG ABUSE
12 OR ANYTHING LIKE THAT?

13 A THAT THE INHALING WAS, FROM ALL REPORTS,
14 PROBABLY BETWEEN ONE TO TWO YEARS IN LENGTH

15 Q AND IS IT YOUR OPINION THAT IT WAS DONE TO
16 COPE WITH HIS FATHER'S BEHAVIOR?

17 A YES, SIR, THAT SEEMS TO BE THE CASE

18 Q AND FURTHER, WERE YOU ABLE TO STUDY MR
19 HUGHEY'S SCHOOL RECORDS AND THAT SORT OF THING?

20 A YES, I DID

21 Q AND FROM STUDYING THOSE RECORDS, WERE YOU ABLE
22 TO ARRIVE AT AN IQ FOR MR HUGHEY?

23 A THE REPORTS THAT I READ SAID HE HAD AN 80 IQ,
24 WHICH IS ON THE BOTTOM END OF THE LOW AVERAGE RANGE
25 OF INTELLIGENCE

1 Q AND WHAT -- DO YOU KNOW WHAT WOULD BE
2 CONSIDERED RETARDED?

3 A IT -- BETWEEN 75 AND 79 STARTS THE BORDERLINE
4 MENTALLY RETARDED

5 Q HE'S RIGHT ON THAT EDGE?

6 A YES, SIR

7 Q AND THAT FACT, ALONG WITH THE TREATMENT FROM
8 HIS FATHER AND HIS -- WELL, LET ME ASK YOU THIS
9 FIRST, SIR HIS EDUCATION WAS SOMEWHAT LIMITED
10 ALSO, WAS IT NOT?

11 A YES, SIR ALTHOUGH HE HAD AN 80 IQ WHICH
12 WOULD INDICATE THAT HE COULD POSSIBLY GET SPECIAL
13 EDUCATION --DEPENDING ON THE SCHOOL DISTRICT I
14 DON'T KNOW EXACTLY WHAT ABBEVILLE DOES BUT HE
15 DIDN'T -- ACCORDING TO THE RECORDS, HE RECEIVED NO
16 SPECIAL EDUCATION AND HE DROPPED OUT OF SCHOOL AT
17 AGE SIXTEEN, I BELIEVE I THINK HE WAS IN THE TENTH
18 GRADE

19 Q THE FOUNDATION OF THAT IQ OF 80 AND HIS
20 EDUCATION AND HIS FATHER'S ABUSE, WOULD THAT LEAD
21 YOU TO ANY CONCLUSIONS CONCERNING MR HUGHEY'S SELF
22 ESTEEM AND THAT SORT OF THING?

23 A WELL, CERTAINLY LACK OF SUCCESS IN SCHOOL IS A
24 -- SOMETHING THAT INDICATES LOW-SELF ESTEEM OR CAN
25 BRING ABOUT LOW-SELF ESTEEM AND IN ALL THE STUDIES

1 I'VE READ DEALING WITH CHILD ABUSE AND CHILD
2 NEGLECT, THE RESULT OF BEING ABUSED AS A CHILD IS
3 LOW-SELF ESTEEM, YES

4 Q AND CAN YOU, FROM YOUR WORK IN THE MATTER
5 DESCRIBE HIS RELATIONSHIP WITH HIS MOTHER?

6 A ACCORDING TO ALL FAMILY MEMBERS ACROSS THE
7 BOARD, HE, OF ALL THE CHILDREN, HE HAD THE CLOSEST
8 AND MOST SPECIAL RELATIONSHIP WITH HIS MOTHER HE
9 WAS -- ONE OF HIS SIBLINGS REFERRED TO HIM AS A
10 MAMA'S BOY, NOT IN EFFECT THAT HE WAS IN ANY WAY NOT
11 MASCULINE, BUT THE FACT THAT HE DID EVERYTHING FOR
12 HIS MOTHER AND HE WAS WITH HIS MOTHER AT ALL TIMES

13 Q OKAY

14 A AND SHE WAS -- SHE WAS VIRTUALLY HIS EMOTIONAL
15 SUPPORT

16 Q HIS MOTHER?

17 A YES, SIR

18 Q AND IN FURTHER INVESTIGATION DID YOU DISCOVER
19 INFORMATION ABOUT HIS MOTHER'S DEATH?

20 A YES, SIR, I DID

21 Q AND IN SO DOING, WERE YOU ABLE TO DETERMINE
22 HOW SHE DIED?

23 A YES, SIR, ACCORDING TO THE FAMILY SHE WAS
24 STRUCK BY A DRUNKEN DRIVER WHILE MOWING HER
25 DAUGHTER'S LAWN

1 Q AND AS SUCH WERE YOU FURTHER ABLE TO
2 INVESTIGATE IT'S AFFECT, HER DEATH'S AFFECT, ON JOHN
3 KENNEDY HUGHEY?

4 A YES, SIR, IT WAS FAIRLY EVIDENT THAT MR
5 HUGHEY'S TEMPERAMENT, DEMEANOR, ACTIONS, DECISION-
6 MAKING POWER, EVERYTHING CHANGES REMARKABLY ONCE HIS
7 MOTHER PASSED AWAY OR WAS KILLED, ACTUALLY

8 Q WHAT WOULD BE SOME OF THE SYMPTOMS OF THIS?

9 A HE WAS WITHDRAWN HE HAD SOME AUDITORY
10 HALLUCINATIONS IN THAT HE FELT THAT HE COULD HEAR
11 HIS MOTHER IN THE HOUSE HE WOULD NOT LISTEN TO
12 WHAT OTHER PEOPLE SAY, WOULD NOT TAKE ADVICE, WOULD
13 NOT TAKE CHANCES TO GET SOME HELP HE WAS EASILY
14 PROVOKED HE STARTED DRINKING HEAVILY HE ALSO
15 WOULD NOT GO TO HIS SISTER'S HOUSE WHERE THE
16 INCIDENT OCCURRED

17 Q WHERE THE DEATH OF HIS MOTHER OCCURRED?

18 A YES, SIR YES, SIR

19 Q HE WOULD NOT GO OVER THERE?

20 A HE COULD NOT BRING HIMSELF TO GO TO THE HOUSE

21 Q AND WHAT'S THAT A SIGN OF?

22 A WELL, ALL THOSE THINGS PUT TOGETHER CERTAINLY
23 INDICATE TO ME IN MY EXPERIENCE -- WELL, LET ME
24 PREFACE THAT

25 Q GO AHEAD

1 A IN MY CURRENT POSITION AS DIRECTOR OF CAROLINA
2 YOUTH DEVELOPMENT CENTER, WE HAVE A RESIDENTIAL
3 PROGRAM FOR CHILDREN, EMOTIONALLY DISTURBED CHILDREN
4 THAT HAVE BEEN ABUSED AND NEGLECTED AND WE ALSO
5 HAVE AN EMERGENCY SHELTER FOR CHILDREN WHO'VE BEEN
6 ABUSED OR NEGLECTED WHO AREN'T NECESSARILY
7 EMOTIONALLY DISTURBED WHEN I REVIEWED THEIR
8 RECORDS, A NUMBER OF THE SAME KIND OF BEHAVIORS THAT
9 I SAW AS I WAS GATHERING INFORMATION ON MR HUGHEY
10 WERE THE SAME KIND OF INFORMATION I -- I SEE ON
11 THESE CHILDREN NOT ALL OF THESE, BUT A GOOD NUMBER
12 OF THESE CHILDREN HAVE BEEN DIAGNOSED AS POST-
13 TRAUMATIC STRESS DISORDER AND AS I WAS GETTING
14 THIS INFORMATION -- AND SO I'M FAMILIAR WITH THAT
15 DIAGNOSIS AND THE DSM FORM, AND KNOW WHAT TO LOOK
16 FOR, WHEN I REVIEWED THE INFORMATION ON MR HUGHEY,
17 EVERYTHING THAT I FOUND OUT ABOUT HIM WAS CONSISTENT
18 WITH WHAT I'VE SEEN BEFORE IN POST-TRAUMATIC STRESS
19 DISORDER

20 Q WHAT'S THE DSM FORM?

21 A IT'S THE DIAGNOSTIC TOOL THAT THE MENTAL
22 HEALTH PROFESSION USES TO DO DIAGNOSES

23 Q NOW WOULD IT BE FAIR TO SAY THAT MR HUGHEY
24 SHOWS ALL THE SYMPTOMS OF POST-TRAUMATIC STRESS
25 DISORDER?

1 A YES, SIR

2 Q AND AS SUCH WOULD THE TRAUMATIC -- WHAT WOULD
3 THE TRAUMATIC EVENT HAVE BEEN?

4 A THE DEATH OF HIS MOTHER THAT -- IN THE -- IN
5 THE DSM FORM UNDER POST-TRAUMATIC STRESS DISORDER,
6 ONE OF THE FACTORS THAT CAN CAUSE THIS IS THE SUDDEN
7 ONSET OF A DEATH OF A LOVED ONE AND IT CERTAINLY
8 SEEMS TO BE THE CASE HERE IN MR HUGHEY

9 Q AND -- YOU NEED YOUR WATER?

10 A NO, I'M OKAY THANK YOU

11 Q I'LL GET YOU SOME MORE IF YOU NEED IT

12 A OKAY

13 Q NOW, BACK IN -- AT AGE FOUR, TALKING ABOUT THE
14 FIRST HEAD INJURY, THAT WOULD APPEAR TO BE QUITE
15 POSSIBLY THE MOST SEVERE HEAD INJURY OR THE MOST
16 SERIOUS ACCIDENT WERE YOU ABLE TO LOOK INTO THAT?

17 A OF THE SIX, THAT WAS THE ONLY ONE WHERE HE WAS
18 HOSPITALIZED FOR A LENGTH OF TIME IT WAS FOR SIX
19 DAYS AND THEY HAD TO -- THEY HAD TO OPERATE ON
20 HIM FROM THE HOSPITAL RECORDS IT INDICATED THAT
21 PART OF HIS SCALP HAD ACTUALLY BEEN PEELED AWAY FROM
22 HIS HEAD AND THEY HAD TO DO SURGICALLY TO REATTACH
23 THE SCALP AND TO CLOSE UP THE WOUND

24 Q SO IT ACTUALLY WENT RIGHT DOWN TO HIS SKULL?

25 A THAT'S -- FROM THE RECORDS THAT'S WHAT THEY

1 INDICATE, YES, SIR

2 Q AND IN THAT PERIOD OF HOSPITALIZATION WAS
3 FOLLOWED BY A PERIOD OF RECOVERY, IS THAT CORRECT?

4 A I ASSUME SO, YES I HAVE NO RECORD OF THAT

5 Q NOW, WE'LL GO ON INTO THE OTHER -- OTHER
6 MATTERS CONCERNING THE HEAD TRAUMAS SHORTLY, BUT I
7 WANT TO TAKE YOU BACK NOW TO THE -- TO THE HOME LIFE
8 OF MR JOHN KENNEDY HUGHEY AS A CHILD IN FACT, AS
9 IT RELATES TO THAT FIRST HEAD TRAUMA, IT WAS HIS
10 DADDY WHO BASICALLY CAUSED THAT, WASN'T IT?

11 A ACCORDING TO THE FAMILY, MR SMITH WAS
12 INTOXICATED HE GOT INTO HIS VEHICLE, HAD BEEN
13 FIGHTING WITH HIS WIFE, HE HAD GOT INTO HIS CAR TO
14 DRIVE AWAY JOHN KENNEDY HUGHEY GOT IN ON THE
15 PASSENGER'S SIDE AS MR SMITH WENT IN REVERSE OR
16 POPPED IT INTO REVERSE THE CAR JUMPED THE
17 PASSENGER DOOR FLIPPED OPEN AND THEN JOHN KENNEDY
18 HUGHEY FELL OUT

19 Q AND THAT'S WHEN HE WAS INJURED?

20 A YES, SIR

21 Q NOW, WOULD YOU CHARACTERIZE HIS POOR HOME LIFE
22 AS A RESULT OF MR SMITH OR HUGHEY'S BEHAVIOR AS
23 BEING PART OF A DYSFUNCTIONAL FAMILY?

24 A YEAH, I WOULD -- THAT'S SAFE TO SAY, SURE
25 I'VE HANDLED, OVER MY CAREER AS A SOCIAL WORKER, I

1 DON'T KNOW HOW MANY CHILD-ABUSE CASES I'VE HANDLED
2 BETWEEN INVESTIGATING AND SUPERVISING AND RARELY
3 DO I GET TO ONE WHERE THE -- ONE OF THE PARENTS IS
4 ACTUALLY SHOOTING OFF A GUN IN THE HOUSE OR CHASING
5 PEOPLE AROUND WITH GUNS AND KNIFES AND STUFF
6 CERTAINLY ABUSE AND NEGLECT OCCURS FREQUENTLY, BUT
7 TO THAT EXTENT I DON'T SEE THAT VERY OFTEN

8 Q IN YOUR INVESTIGATION IN THE MATTER, LOOKING
9 SPECIFICALLY INTO JOHN HENRY HUGHEY SMITH'S HISTORY,
10 WERE YOU ABLE TO DISCOVER ANYTHING REMARKABLE THERE?

11 A I'M NOT -- I'M NOT SURE WHAT YOU'RE ASKING

12 Q ARE THERE ANY HISTORY OF MENTAL ILLNESS, THAT
13 SORT OF THING?

14 A OH, FOR JOHN KENNEDY HIMSELF?

15 Q NO, FOR HIS DAD

16 A NOT -- WELL, HIS FATHER AT ONE POINT IN HIS
17 LIFE WAS HIT BY A BACKHOE THAT CAUSED HIM TO HAVE
18 SEIZURES DISORDERS BUT IN LOOKING AT OTHER FAMILY
19 MEMBERS ON HIS FATHER'S SIDE, TWO OF HIS FATHER'S
20 BROTHERS, MR HUGHEY'S UNCLES, WERE COMMITTED TO A
21 MENTAL HOSPITAL TWO OTHERS COMMITTED SUICIDE

22 SO THERE IS SOME -- ALTHOUGH I DIDN'T HAVE THE
23 LUXURY OF VIEWING THOSE RECORDS FROM FAMILY
24 MEMBERS, IT WOULD SEEM TO INDICATE THERE IS SOME
25 MENTAL HEALTH ISSUES ON HIS SIDE OF THE FAMILY OR

1 HIS FATHER'S SIDE

2 Q AND DID MR JOHN HENRY HUGHEY SMITH'S EPISODES
3 OF VIOLENCE TEND TO COORDINATE WITH OR COINCIDE WITH
4 HIS DRINKING?

5 A THAT'S THE WAY THE FAMILY REPORTS IT WELL,
6 IT APPEARS THAT, ACCORDING TO THE FAMILY, WHENEVER
7 HE WAS HOME FROM HIS WORK -- HE WORKED OFF OUT OF
8 STATE OFTEN DOWN IN FLORIDA OR IN GEORGIA -- WHEN HE
9 GOT HOME HE WOULD BRING HIS PAYCHECK AND START
10 DRINKING, AND THEN HE WOULD START TAKING IT OUT ON
11 THE FAMILY IT WAS REPORTED THAT HE BEAT JOHN
12 KENNEDY HUGHEY'S MOTHER WHILE SHE WAS PREGNANT WITH
13 JOHN KENNEDY, I UNDERSTAND

14 Q HE DID? HE ACTUALLY BEAT DOLLY MAY HUGHEY
15 WHILE SHE WAS CARRYING JOHN KENNEDY?

16 A THAT'S WHAT THE OLDER CHILDREN REPORT IN THIS
17 CASE

18 Q AND ALSO THAT HE HAD NOT ONLY THREATENED WITH
19 WEAPONS BUT THAT HE HAD SHOT THEM IN THEIR PRESENCE
20 IN THE CEILINGS AND WALLS, IS THAT CORRECT?

21 A YES, SIR

22 Q AND IN ADDITION TO HIS PRIMARY TARGET BEING,
23 OF COURSE, HIS WIFE, THE SECONDARY TARGETS WERE THE
24 THREE OLDER CHILDREN, IS THAT CORRECT?

25 A YES, SIR, I BELIEVE THAT'S CORRECT

1 Q FOLLOWED BY THE FOUR YOUNGER CHILDREN?

2 A RIGHT AND THEN -- BUT ALL -- NO MATTER WHO
3 WAS TARGETED FOR THE ABUSE, THEY ALL OBSERVED THE
4 ABUSE OR WERE A PARTY TO THE ABUSE THEY SAW IT
5 HAPPENING THEY HAD TO BE AFFECTED BY THAT AND
6 ALMOST -- NOT AS MUCH, BUT ALMOST AS MUCH AS IF
7 THEY'D BEEN ABUSED THEMSELVES

8 Q AS MR HUGHEY SMITH GOT OLDER, WERE THERE ANY
9 CHANGES IN HIS BEHAVIOR THEN?

10 A WELL, AS THE CHILDREN GOT OLDER AND HE GOT
11 OLDER THE ABUSE OR THE VIOLENCE TOWARDS THE CHILDREN
12 WENT UP BECAUSE THEY EITHER MOVED OUT OF THE HOME OR
13 WERE TOO BIG TO ATTACK BUT HIS BEHAVIOR GOT
14 INCREASINGLY WORSE AFTER HE HAD HIS INJURY -- OR HIS
15 ACCIDENT WHERE HE INJURED HIS HEAD AND HE HAD A
16 SEIZURE DISORDER

17 ACCORDING TO THE FAMILY, HE CONTINUED TO DRINK
18 EVEN THOUGH HE WAS TAKING THE SEIZURE MEDICATION AND
19 IT AFFECTED HIM HE WAS HOSPITALIZED AT LEAST TWICE
20 FOR PHYSICAL PROBLEMS IN REGARD TO DRINKING AND
21 SEIZURES, AND ONCE HE WAS HOSPITALIZED IN A MENTAL
22 FACILITY

23 Q I SEE AND OBVIOUSLY THE MEDICATIONS AND THE
24 ALCOHOL WOULD NOT MIX PROPERLY?

25 A NO, SIR

1 Q AND ALSO, THE DEATH OF MS HUGHEY WAS FOLLOWED
2 BY HIS DEATH APPROXIMATELY A YEAR LATER, IS THAT
3 CORRECT?

4 A YES, SIR, YES, THAT WAS REPORTED

5 Q AND AFTER MS HUGHEY DIED, WHO WAS LIVING AT
6 300 MAPLE STREET?

7 A JOHN KENNEDY HUGHEY

8 Q AND WHO ELSE?

9 A ONE OF THE SISTER'S, BUT I DON'T RECALL WHICH
10 ONE

11 Q WELL, BETWEEN '91 AND '92, WHO WAS LIVING WITH
12 HIM UP THERE, DO YOU RECALL?

13 A NO, SIR, I DON'T

14 Q WOULD IT BE FAIR TO SAY MR SMITH WAS?

15 A OH, YES

16 Q WOULD IT BE APPROPRIATE AFTER -- WELL, FIRST,
17 IN THE EDUCATION SETTING, WOULD IT HAVE BEEN
18 APPROPRIATE FOR A MAN SUCH AS JOHN KENNEDY HUGHEY
19 WITH AN IQ OF 80 TO HAVE SOME SPECIAL EDUCATION?

20 A LIKE I SAID, IT DEPENDS ON THE SCHOOL
21 DISTRICT, BUT HE WAS DOWN -- AND IT ALSO DEPENDS ON
22 THE IQ TEST, HOW MUCH DISCREPANCIES ARE BETWEEN THE
23 DIFFERENT SCORES, BUT -- AND I DIDN'T SEE THAT
24 THEY DIDN'T LIST IT AS TO THE TWO SCORES, SO I DON'T
25 KNOW

1 Q OKAY

2 A IT COULD HAVE COME OUT OF THAT

3 Q AND AFTER HIS MOTHER'S DEATH, WOULD IT HAVE

4 BEEN APPROPRIATE THEN FOR HIM TO RECEIVE SOME

5 COUNSELING AND HELP IN THAT?

6 A YES, YES, SIR, DEFINITELY

7 Q AND BASED UPON YOUR INVESTIGATION, WAS HE --

8 DID HE, INDEED, RECEIVE SUCH HELP?

9 A NO, NO, HE DID NOT.

10 Q I BELIEVE A COUPLE OF THE SISTERS DID?

11 A YES, THEY DID

12 Q AND THE WHOLE SITUATION WITH HIS MOTHER'S

13 DEATH AFFECTED JOHN VERY DEEPLY, DID IT NOT?

14 A YES

15 Q AND HOW DO YOU CHARACTERIZE THE AFFECT THAT IT

16 HAD ON JOHN SPECIFICALLY VERSUS HIS SIBLINGS AND MR

17 SMITH?

18 A WELL, ONE OF THE QUOTES FROM JOHN WAS THAT

19 WHEN I LOST MY MAMA I LOST EVERYTHING AND I THINK

20 THAT'S A FAIRLY GOOD PICTURE OF WHAT HAPPENED HE

21 USED HER AS HIS EMOTIONAL SUPPORT WHEN SHE WAS

22 GONE HE HAD NONE AS A RESULT

23 AND THAT AND THE FACT THAT HE STARTED

24 DEVELOPING THE SYMPTOMS CONSISTENT WITH POST-

25 TRAUMATIC STRESS DISORDER, HIS BEHAVIOR CHANGED, AND

1 I THINK I SAID HE WAS EASILY PROVOKED, HE WAS
2 WITHDRAWN, HE WAS DEPRESSED, HE CERTAINLY -- AT
3 LEAST TWO OCCASIONS HAD SUICIDAL IDEATION WHERE HE
4 SAID HE WANTED TO KILL HIMSELF BECAUSE HE WAS SO --
5 FELT THE SITUATION WAS SO HOPELESS

6 Q WHAT ABOUT STRANGE BEHAVIOR, UNUSUAL OR WEIRD
7 BEHAVIOR IN RELATION TO HIS MOTHER?

8 A WELL, I DON'T KNOW THAT'S IT'S PARTICULARLY
9 WEIRD, BUT HE DID -- AS I SAID, HE DID HAVE AUDITORY
10 HALLUCINATIONS HE THOUGHT HE HEARD HIS MOTHER
11 SPEAKING TO HIM AND HE WOULD ANSWER HER BY WRITING
12 ON THE MIRRORS OF HIS ROOM AT THE HOUSE AT 300
13 MAPLE

14 Q HAVE YOU BEEN TO 300 MAPLE?

15 A YES, SIR, I HAVE

16 Q HAVE YOU OBSERVED SOME OF THIS?

17 A YES, SIR THERE WAS LIKE -- IT WAS HARD TO
18 READ BECAUSE IT HAD STARTED TO FADE, BUT THERE WAS
19 ONE LINE ABOUT -- IT WAS IN MY NOTES -- IT WAS
20 CLEARLY INDICATOR HE WAS SPEAKING TO HER -- HE WAS
21 ANSWERING HIS MOTHER OR TALKING TO HIS MOTHER BY
22 WRITING

23 Q WELL, THAT WOULD CERTAINLY BE DEEMED UNUSUAL,
24 WOULD IT NOT?

25 A YES

1 MR TINSLEY MAY I HAVE THE COURT'S
2 INDULGENCE, PLEASE?

3 EXAMINATION CONTINUED

4 BY MR TINSLEY

5 Q NOW, MR YOUNGMAN, DID THESE THINGS THAT
6 AFFECTED OR HAPPEN TO JOHN KENNEDY HUGHEY AFFECT HIS
7 ABILITY IN ANY MANNER TO RELATE TO FOLKS?

8 A IT DID

9 Q WOULD YOU LIKE SOME WATER?

10 A YEAH, IF I COULD HAVE A LITTLE MORE WATER I'D
11 APPRECIATE IT

12 Q OKAY YOU HAVE NO MORE?

13 A NO, I'M OUT

14 Q LET ME GET YOU SOME YOU CAN GO AHEAD AND
15 START ANSWERING IF YOU WANT

16 A IT AFFECTED THE RELATIONSHIP HE HAD WITH
17 ANYBODY BECAUSE IT AFFECTED HIS DECISION-MAKING
18 ABILITY

19 Q THAT'S WHAT I WANT TO ASK YOU HOW DID IT
20 AFFECT HIS ABILITY TO MAKE DECISIONS?

21 A WELL, EVERYBODY HAS SORT OF A MENU OF
22 DECISIONS THEY CAN -- OR DECISIONS THEY CAN MAKE ON
23 ANY GIVEN MATTER AND JOHN'S MENU, ALTHOUGH IT WAS
24 ALL THERE, THE ONLY ONES HE COULD SEE WERE A LIMITED
25 NUMBER BASED ON WHAT HE LEARNED AS A CHILD AND WHAT

1 KIND OF BEHAVIORS HE GREW UP WITH AS A CHILD SO AS
2 A RESULT, A LOT OF WHAT, WHEN IN A STRESSFUL
3 SITUATION, WHAT HE REVERTED TO WAS THE BEHAVIORS HE
4 SAW GROWING UP AS A CHILD, WHICH WAS VIOLENT
5 BEHAVIOR ON THE PART OF HIS FATHER

6 Q IS THAT COUPLED WITH THE TRAUMA AND HIS HEAD
7 INJURY?

8 A YEAH, I THINK -- I COULD DIAGRAM IT FOR YOU IF
9 YOU'D LIKE IT MIGHT BE EASIER TO VISUALIZE

10 Q OKAY, I'M GOING TO GET YOU TO DO THAT IN JUST
11 A MINUTE

12 A OKAY

13 Q LET ME ASK YOU A FEW MORE QUESTIONS FIRST, AND
14 THEN WE'LL GO OVER THAT NOW, BASED UPON YOUR
15 INVESTIGATION, MR YOUNGMAN, DID YOU LEARN THAT
16 JOHN'S BEHAVIOR CHANGED AFTER HIS MOTHER'S DEATH?

17 A OH, YES, SIR

18 Q AND I THINK YOU TALKED ABOUT THAT SOME, BUT
19 WHILE HE WAS NOT A -- JOHN WAS NOT A HEAVY DRINKER
20 OR INTO DRUGS, WAS THERE SOME INDICATION THAT HE
21 BEGAN AT LEAST DRINKING FOR A PERIOD AFTER THAT

22 A OH, YES, ACCORDING TO ALL THE FAMILY MEMBERS
23 HE STARTED DRINKING HEAVILY

24 Q NOW I'LL ASK YOU TO JOIN ME WITH THE MATTER
25 YOU WANTED TO DEMONSTRATE, IS THAT CORRECT?

1 A YES

2 Q LET ME TURN THIS A LITTLE MORE TO MAKE SURE
3 THAT EVERYONE CAN SEE

4 A WELL, IF YOU -- IF YOU ASSUME THAT EVERYBODY -
5 - EVERYBODY'S DECISION MAKING ABILITY PROCESS IS
6 DETERMINED BY FACTORS THAT THEY'VE GROWN UP WITH OR
7 LEARNED SOCIETAL FACTORS OR EDUCATIONAL FACTORS,
8 THERE'S ALL DIFFERENT KINDS OF FACTORS THAT
9 DETERMINE HOW A PERSON MAKES THE DECISIONS HE MAKES,
10 ESPECIALLY IN A STRESSFUL SITUATION AND IN JOHN
11 KENNEDY, HIS BIOPS, WHAT I LIKE TO CALL HIS
12 PARAMETERS, THERE WERE FOUR THINGS THAT FOCUS IN ON
13 WHAT KIND OF DECISIONS HE WOULD MAKE

14 ONE WAS HIS EXPOSURE (WRITING) AND -- ONE WAS
15 HIS EXPOSURE TO VIOLENCE IN THE HOME WHEN HE WAS A
16 CHILD AND WHAT HE SAW HAPPEN TO HIS SIBLINGS AND TO
17 HIS MOTHER

18 ANOTHER WAS THE ABUSE HE HIMSELF RECEIVED AS A
19 CHILD AND THE FACT THAT HE SAW VIOLENCE HAPPENING
20 AND HE ALSO HAD VIOLENCE HAPPEN TO HIMSELF

21 Q LET ME ASK YOU THIS, DOCTOR WOULD YOU
22 CONSIDER THE -- I MEAN, MISTER YOUNGMAN, WOULD YOU
23 CONSIDER THE DRIVING INCIDENT WHEN JOHN WAS FOUR
24 YEARS OLD TO BE AN EXAMPLE OF THE ABUSE THAT HE
25 SUFFERED EVEN THOSE HE WASN'T DIRECTLY STRUCK BY MR

1 HENRY -- JOHN HENRY HUGHEY SMITH?

2 A WELL, THERE WAS SOME ABUSE SOME NEGLECT ON
3 MR SMITH'S PART BECAUSE HE DID NOT -- WASN'T SAFE
4 WITH JOHN BUT THEY'RE THE SAME THING

5 Q SO IT DOES FALL IN OVER HERE UNDER THE DIRECT
6 ABUSE THAT HE HIMSELF SUFFERED? AND, OF COURSE, AN
7 ACT LIKE THAT BY A DRUNKEN FATHER RESULTING IN THE
8 PEELING BACK OF HIS SKULL WOULD BE A HIGHLY
9 IMPACTING TYPE THING, WOULD IT NOT?

10 A YES

11 Q AND HOW COULD THAT AFFECT JOHN KNOWING THAT
12 HIS FATHER HAD CAUSED THIS INJURY TO HIM?

13 A WELL, I DON'T KNOW -- I CAN'T SAY IF ANY
14 PHYSICAL -- WHAT KIND OF PHYSICAL BRAIN DISFUNCTION
15 OR ANYTHING WITH JOHN BECAUSE OF THIS INJURY BUT
16 THE FACT THAT JOHN KNEW THAT HIS FATHER WAS THE
17 PERSON THAT WAS SUPPOSED TO CARE FOR HIM ACTUALLY
18 CUT OPEN HIS HEAD BECAUSE OF HIS NEGLECT CERTAINLY
19 DIDN'T DO JOHN ANY GOOD

20 Q I SEE OKAY GO AHEAD, SIR

21 A THE THIRD -- FOR JOHN, THE THIRD AREA WOULD BE
22 THE HEAD TRAUMAS -- THE SIX HEAD TRAUMAS IN THE
23 COURSE OF TWENTY-TWO YEARS CERTAINLY HAD SOME AFFECT
24 ON HIS ABILITY TO MAKE DECISION AND HIS DECISION
25 MAKING POWER

1 AND THEN THE FOURTH ONE WAS HIS MOTHER AND HIS
2 -- AS LONG AS JOHN'S MOTHER WAS ALIVE HE APPEARED TO
3 BE ABLE TO COPE FAIRLY WELL BECAUSE SHE SORT OF KEPT
4 THE OTHER THREE SIDES IN PLACE SHE WAS THE SUPPORT
5 FOR JOHN SO THAT EVEN THOUGH HE GREW UP WITH THE
6 EXPOSURE TO VIOLENCE AND ABUSE AND THE HEAD TRAUMAS,
7 HE FUNCTIONED FAIRLY WELL AS AN ADULT FOR AWHILE
8 BECAUSE HIS MOTHER WAS THERE FOR HIM, AND SHE WAS
9 THE SUPPORT FOR HIM

10 BUT THEN IN '91 WHEN SHE DIED, THIS BOX
11 ACTUALLY STARTED COLLAPSING ON HIM, SO THAT WHERE AT
12 ONE POINT HE WAS ABLE TO LIVE WITH THIS MUCH IN HIS
13 WAY OF HIS MENU OF DECISION MAKING ABILITY, HE GOT
14 TO THIS MUCH (INDICATING ON CHART)

15 AND UNDER STRESSFUL SITUATIONS GIVEN THE
16 CONSISTENCIES WITH PTSD, POST-TRAUMATIC STRESS
17 DISORDER, THE BOX GOT SMALLER AND SMALLER THAT HIS
18 ABILITY TO MAKE DECISIONS GOT SMALLER AND SMALLER
19 NOW THAT DOESN'T EXCUSE HIS BEHAVIOR THIS EXPLAINS
20 WHY IN STRESSFUL SITUATIONS HE MAY HAVE ACTED THE
21 WAY HE ACTED

22 Q AND THAT WOULD BE ON DECEMBER 4, 1995?

23 A YES

24 Q YOU CAN RESUME YOUR SEAT, MR YOUNGMAN IF
25 YOU NEED TO REFER TO THIS DRAWING, YOU ARE WELCOME

1 TO SO AM I CORRECT IN SAYING THAT WHEN THE FOURTH
2 WALL WAS ELIMINATED, THAT IS THE WALL REPRESENTING
3 HIS MOTHER, THAT THE OTHER THREE WALLS DID WHAT?

4 A THEY COLLAPSED OR NARROWED SO THAT THEY CUT --
5 WHERE AS SHE MAY HAVE HELPED HIM MAKE SOME GOOD
6 DECISIONS IN STRESSFUL SITUATIONS, THAT WAS NO
7 LONGER AVAILABLE SO HIS DECISION-MAKING ABILITY OR
8 HIS MENU OF DECISIONS TO MAKE LESSENERD

9 Q ALL RIGHT AND YOU'RE NOT ARGUING AN INSANITY
10 DEFENSE, THAT SORT OF THING?

11 A NO, NO, CERTAINLY NOT HE HAS -- EVERYBODY
12 HAS THE ABILITY TO MAKE DECISIONS SOME PEOPLE JUST
13 DON'T HAVE THE NUMBER OF OPTIONS OTHERS HAVE BASED
14 ON VARIOUS PARAMETERS

15 Q WOULD YOU CHARACTERIZE JOHN'S OPTIONS AND
16 ABILITY TO MAKE ALL TYPES OF DECISIONS FOR US AT
17 THIS TIME?

18 A WELL, IT WAS CERTAINLY LIMITED AND AMONG
19 INDICATIONS OF EVERYBODY I SPOKE WITH, IT OFTEN,
20 ESPECIALLY IN STRESSFUL SITUATIONS, REVERTED BACK,
21 AS I SAID BEFORE, TO THE LEARNED BEHAVIOR HE CAME UP
22 WITH AS A CHILD WHICH WAS VIOLENCE AND ACTING OUT
23 AND EASILY-PROVOKED TYPE OF BEHAVIOR

24 Q AND GIVE SOME EXAMPLES OF THE KIND OF
25 STRESSFUL SITUATIONS WHERE, IF YOU CAN, THAT MIGHT

1 CAUSE DIFFICULT DECISION MAKING FOR MR HUGHEY?

2 A WELL, ONE IS CERTAINLY THE AREA OF EMPLOYMENT
3 BY ALL REPORTS AFTER HIS -- PRIOR TO HIS MOTHER'S
4 DEATH HE HAD -- HE WAS -- HE WORKED FAIRLY
5 REGULARLY AFTER HIS MOTHER DIED HE DID NOT HOLD A
6 STEADY JOB AND CERTAINLY EMPLOYMENT PUTS STRESS ON
7 A PERSON SOME TIME AND HE WAS UNABLE TO DO THAT
8 HE COULDN'T EVEN HOLD A STEADY JOB

9 AND THEN, OF COURSE, CERTAINLY IN ANY KIND OF
10 RELATIONSHIP AND EITHER AS, YOU KNOW, AS FRIENDS OR
11 AS, YOU KNOW, SORT OF THE HUSBAND/WIFE RELATIONSHIP
12 THAT HE HAD, THAT ALWAYS PUTS -- THAT KIND OF A
13 RELATIONSHIP PUTS A STRAIN ON A PERSON AT SOME TIMES
14 AND CAUSES SOME STRESS

15 Q SO FINANCIAL RESPONSIBILITIES, RELATIONSHIPS,
16 ALSO EMPLOYMENT WHAT ABOUT DAY-TO-DAY
17 COMMUNICATIONS AND THINGS LIKE THAT?

18 A DAY-TO-DAY SOMEBODY EXHIBITING THESE KIND OF
19 BEHAVIORS OR HAVING THESE LIMITED DECISION-MAKING
20 POWERS OR ABILITIES COULD GO ON AND DO OKAY ON A
21 DAY-TO-DAY BASIS IT'S WHEN THE SITUATION BECOMES
22 STRESSFUL THAT YOU MAY SEE THE ACTING OUT -- ACTING
23 BECAUSE OF A LIMITED DECISION BUT AS TO WHETHER,
24 YOU KNOW, I GET UP OR NOT GO -- GET UP IN THE
25 MORNING TO WHAT I EAT FOR LUNCH, THAT ISN'T AFFECTED

1 AT ALL BY THIS THING

2 Q WELL, WHAT'S THE DISTINCTION?

3 A THE FACTOR IS STRESS THAT'S WHAT CAUSES
4 THE --

5 Q CAN YOU GIVE US A GOOD LAYMAN'S DEFINITION OF
6 STRESS?

7 A HUM WELL, I GUESS, SOME EVENT OR PERSON OR
8 WHATEVER THE CAUSE OF SOME PRESSURE ON THE PERSON,
9 ON A HUMAN BEING TO MAKE A DECISION OF SOME SORT

10 Q SO THE VERY DECISION MAKING WHEN INVOLVED
11 SOMETHING VERY IMPORTANT CAN LEAD TO A STRESSFUL
12 SITUATION?

13 A YES

14 Q THAT'S LEADS TO MY POINT THE POINT IS, AND I
15 ASK YOU, DOCTOR, WERE JOHN HUGHEY'S ABILITIES TO
16 REVIEW ALL HIS OPTIONS, TO ADDRESS IT, TO ASSESS IT
17 AND TO CHOOSE AMONGST THEM AFFECTED BY THE MATTERS
18 THAT YOU'VE DISCUSSED?

19 A YES, DEFINITELY

20 Q AND OVER TIME AFTER HIS MOTHER'S DEATH DID
21 THEY BECOME WORSE?

22 A YES, IT APPEARS THAT THEY DID -- THAT THEY
23 WENT PROGRESSIVELY DOWNHILL, I GUESS

24 Q NOW, DOCTOR, HAVE I COVERED EVERYTHING IN YOUR
25 ANALYSIS HERE TODAY DO YOU THINK? OR IS THERE

1 SOMETHING YOU'D LIKE ADD THAT I'VE LEFT OUT -- I
2 MEAN, MR YOUNGMAN

3 MR JONES YOUR HONOR, I'M GOING TO
4 HAVE TO OBJECT TO HIS REQUEST TO IS THERE SOMETHING
5 YOU'D LIKE TO ADD I MEAN, YOU KNOW --

6 THE COURT SUSTAINED

7 MR TINSLEY I'LL WITHDRAW

8 EXAMINATION CONTINUED

9 BY MR TINSLEY

10 Q AND A LOT OF YOUR DATE GATHERING INCLUDED
11 REPORTS FROM SUCH HIS SCHOOLS, MEDICALS, THAT SORT
12 OF THING, IS THAT CORRECT?

13 A YES, SIR

14 Q SO IT WENT BEYOND JUST TALKING TO THE BROTHERS
15 AND SISTERS, IS THAT CORRECT?

16 A YES, SIR, I TRIED TO -- EVERYTHING I LEARNED I
17 TRIED TO CONFIRM FROM AT LEAST TWO DIFFERENT
18 SOURCES I DIDN'T TAKE ANYTHING WITH JUST ONE
19 PERSON OR ONE SOURCE IT WAS IN THE, YOU KNOW,
20 MEDICAL RECORDS OR CHECKED AGAINST THE REPORTS OF
21 HEAD TRAUMA, ETC

22 Q AND NOW, MINUS THE HEAD TRAUMA FOR JUST A
23 MINUTE LET'S TALK ABOUT -- FOR JUST A MINUTE LET'S
24 TALK ABOUT THE OTHER TWO WALLS LET'S TAKE OUT THE
25 HEAD TRAUMA AND TALK ABOUT EXPOSURE TO VIOLENCE AND

1 THE ABUSE FOR JUST A MINUTE HAD HE NOT SUFFERED A
2 SERIES OF HEAD TRAUMAS, COULD THOSE OTHER TWO WALLS
3 HAVE -- STILL AFFECTED HIS ABILITY TO DEAL WITH
4 STRESS AND MAKE DECISIONS?

5 A SURE

6 Q EXPLAIN THAT, PLEASE

7 A WELL, IN A -- I'M NOT A MEDICAL DOCTOR, I
8 DON'T KNOW WHAT DAMAGE THE HEAD TRAUMA DID I KNOW
9 THAT THE FAMILY HAS SAID THAT HE EXPERIENCED, YOU
10 KNOW, DIFFERENT -- SOME OF THEM SAID BLACKOUTS
11 SOME OF THEM SAID HE WAS DAZED SOME SAID HE WAS
12 OUT OF IT BUT THERE WAS SOMETHING AND ALSO
13 EXPERIENCED SEVERE HEADACHES BUT I DON'T -- BUT AS
14 FAR AS THAT GOES I CAN'T VERIFY THAT I'M NOT A
15 DOCTOR BUT I DO KNOW ABUSE AND NEGLECT AND I
16 KNOW THE AFFECTS OF THAT ON CHILDREN AND ON ADULTS
17 AND --

18 Q DOES IT CARRY ON FROM CHILDHOOD TO ADULTHOOD?

19 A OH, CERTAINLY

20 Q OKAY

21 A SOME PEOPLE INTERNALIZE IT AND LEARN TO LIVE
22 WITH IT SOME PEOPLE GET HELP THROUGH THERAPY AND
23 SOME PEOPLE UNFORTUNATELY DON'T GET EITHER OF THOSE
24 AND THEN IT AFFECTS THEM AS AN ADULT

25 Q SO REGARDLESS OF THE HEAD TRAUMA, JOHN

1 KENNEDY'S -- JOHN KENNEDY HUGHEY'S HISTORY OF THE
2 TOP AND THE SIDE WALL, EXPOSURE TO VIOLENCE AND
3 ABUSE COULD HAVE LED HIM OR -- INTO A POOR DECISION
4 MAKING PROCESS IN RELATION TO STRESS SITUATION
5 WITHOUT THE HEAD TRAUMAS, CORRECT?

6 A YES, SIR

7 Q AND WITHOUT THE POST-TRAUMATIC STRESS FROM HIS
8 MOTHER'S DEATH?

9 A IT COULD HAVE, BUT THE FACT THAT HE LOST HIS
10 MOTHER SORT OF WAS THE TRIGGER THAT CAUSED HIM TO
11 SORT OF DECOMPENSATE, IF YOU WANT TO SAY, OR -- HE
12 WAS FUNCTIONING FAIRLY WELL PRIOR TO THAT, AND HE
13 CERTAINLY WAS NOT FUNCTIONING NEAR AS WELL AFTER
14 THAT

15 Q OVER TIME, AFTER THAT, DID HE DETERIORATE AS
16 TIME WENT ON?

17 A YES, SIR

18 Q NOW, YOU'RE NOT IN HERE TODAY TO OFFER THIS AS
19 AN EXCUSE FOR MR HUGHEY, ARE YOU?

20 A NO, CERTAINLY NOT

21 Q WHAT ARE YOU EXPLAINING TO THE JURY HERE
22 TODAY?

23 A WELL, THAT'S EXACTLY WHAT I'M DOING IS
24 PROVIDING AN EXPLANATION FOR MR HUGHEY'S BEHAVIOR
25 AND WHY HE DECIDES TO DO THINGS THE WAY HE DOES

1 THEM

2 Q AND THAT IS IN NO WAY SAYING THAT HE'S NOT
3 RESPONSIBLE, CORRECT?

4 A OH, NO, SIR, NO HE WAS RESPONSIBLE FOR HIS
5 BEHAVIOR

6 Q BUT YOU'RE TRYING TO EXPLAIN THE REASONS?

7 A YEAH, THERE ARE CERTAIN THINGS THAT HAPPENED
8 IN MR HUGHEY'S LIFE THAT MITIGATED ON THE FACT THAT
9 HE MADE DECISIONS THE WAY HE DID AND THOSE --
10 THAT'S WHAT I'M HERE TO DO IS EXPLAIN THOSE FACTORS

11 Q AND AS SUCH ARE THESE MINOR PROBLEMS THAT HE
12 SUFFERED?

13 A NO, I WOULDN'T CLASSIFY THEM AS MINOR
14 PROBLEMS

15 Q HOW WOULD YOU CLASSIFY THEM?

16 A VERY MAJOR PROBLEMS

17 Q VERY SERIOUS?

18 A VERY SERIOUS

19 Q JUST ONE SECOND, MR YOUNGMAN

20 MR TINSLEY YOUR WITNESS

21 CROSS EXAMINATION

22 BY MR JONES

23 Q BRIEFLY, MR YOUNGMAN, WHEN WERE YOU CONTACTED
24 TO DO YOUR INVESTIGATION OF THE DEFENDANT?

25 A APPROXIMATELY THREE WEEKS TO A MONTH AGO

1 Q AND YOU BEGAN LOOKING INTO HIS BACKGROUND
2 COULD I SEE YOUR NOTES A MINUTE? (COUNSEL PERUSES
3 NOTES) AND BASICALLY YOUR OBJECTIVE IN DOING THIS
4 STUDY WAS WHAT?

5 A THE PURPOSE OF MY STUDY WAS -- STUDY, THAT'S
6 GOOD ENOUGH -- EVALUATION WAS TO LOOK INTO HIS
7 BACKGROUND TO SEE WHETHER OR NOT HE ABUSED OR
8 NEGLECTED, HOW THAT AFFECTED HIS ABILITIES TO MAKE
9 DECISIONS, WHETHER HE SUFFERED HEAD TRAUMA, HOW DID
10 THAT AFFECT HIS ABILITY, AND HOW HIS MOTHER'S DEATH
11 AFFECTED HIS ABILITY TO MAKE DECISIONS

12 Q AND YOU DID NOT PREPARE A REPORT TO PRESENT TO
13 THE PEOPLE THAT REPRESENT HIM?

14 A I HAVE NOTES, SIR

15 Q TOOK NOTES?

16 A YEAH

17 Q BUT YOU DIDN'T PREPARE A REPORT FOR THEM, YOU
18 PREPARED YOUR NOTES WHEN DID YOU GIVE THEM YOUR
19 NOTES?

20 A THEY'VE NEVER SEEN THOSE NOTES

21 Q THEY HAVE NOT?

22 A THEY HAVE NOT

23 Q YES, SO WHEN DID YOU REPORT TO THEM ABOUT YOUR
24 FINDINGS?

25 A PROBABLY AFTER THE TRIAL STARTED I DON'T

1 KNOW THAT THEY --

2 Q WELL, IT WAS PRIOR TO THE TRIAL STARTING?

3 A YES, SIR

4 Q AND WHEN WAS IT PRIOR TO THE TRIAL STARTING?

5 THE TRIAL STARTED ON THE THIRTEENTH, WAS IT PRIOR TO
6 THE THIRTEENTH?

7 A WHAT -- THIRTEENTH WAS A MONDAY?

8 Q UH-HUH

9 A THEN PROBABLY A WEEK BEFORE THAT

10 Q DID YOU SHOW THEM YOUR NOTES, GO OVER YOUR
11 NOTES?

12 A NO, I SPOKE TO THEM BY PHONE

13 Q BY PHONE, ALL RIGHT NOW WHEN YOU CHECKED
14 WITH THE SCHOOL, DID YOU FIND OUT WHETHER HE COULD
15 READ OR WRITE?

16 A WELL, NO, BUT I ASSUMED HE COULD READ OR WRITE
17 SINCE HE MADE IT TO THE TENTH GRADE ALTHOUGH THAT
18 SOMETIMES IS A FAULTY ASSUMPTION

19 Q THAT COULD BE A FAULTY ASSUMPTION SO YOU --
20 YOU DIDN'T CHECK WITH HIM TO SEE IF HE COULD READ
21 AND WRITE?

22 A NO

23 Q AND ON WHAT LEVEL HE CAN READ AND WRITE?

24 A NO, SIR

25 Q BUT YOU KNOW HE CAN READ AND WRITE?

1 A I ASSUME HE CAN READ AND WRITE

2 Q YOU DIDN'T ASK HIM WHEN YOU INTERVIEWED HIM IF
3 HE COULD READ AND WRITE?

4 A NO

5 Q WELL, DOES THE ABILITY TO READ AND WRITE
6 REPRESENT CERTAIN COGNITIVE SKILLS IN AN INDIVIDUAL?

7 A YES

8 Q A FAIRLY IMPORTANT COGNITIVE SKILLS IN AN
9 INDIVIDUAL?

10 A FAIRLY

11 Q WITH REGARD TO FUNCTIONING IN OUR SOCIETY?

12 A YES, YOU CERTAINLY CAN GET A BETTER JOB, DO
13 BETTER, YEAH, IN SOCIETY IF YOU CAN READ OR WRITE,
14 YES

15 Q AND FEEL LESS FRUSTRATED IN YOUR EVERY DAY
16 ENDEAVORS?

17 A YES, SIR

18 Q AND ON WHAT THAT SIGN SAYS -- WHAT THIS SAYS
19 WHERE TO GO AND WHAT TO DO?

20 A YES, SIR

21 Q THAT'S A PRETTY BASIC PREMISE THAT YOU
22 NEGLECTED TO EXPLORE IN YOUR STUDY

23 A WELL, I DIDN'T REALLY NEGLECT IT IT DIDN'T
24 PERTAIN AS MUCH AS WHETHER HE'D BEEN ABUSED OR
25 NEGLECTED AS A CHILD, WHETHER HE RECEIVED A HEAD

1 TRAUMA, OR HOW HIS MOTHER'S DEATH AFFECTED HIM
2 THOSE WERE THE THREE AREAS I WAS CONCERNED ABOUT

3 Q ALL RIGHT, WELL, LET ME GO NEXT INTO THE
4 MEDICAL AREAS YOU SAID YOU LOOKED INTO HIS MEDICAL
5 RECORDS --

6 A YES, SIR

7 Q -- TO CHECK ON DID YOU ALSO LOOK INTO ALL OF
8 HIS MEDICAL RECORDS?

9 A EVERYTHING THAT WAS REQUESTED BY THE DEFENSE I
10 HAVE

11 Q I MEAN, DID YOU GO TO THE AREA HOSPITAL TO
12 CHECK THE RECORDS? DID YOU ASK FOR RECORDS FROM THE
13 HOSPITAL?

14 A NO, I DID NOT ASK FOR THEM

15 Q DID YOU ASK FOR --

16 A I WAS PROVIDED WITH THEM

17 Q PARDON ME?

18 A I WAS PROVIDED WITH THEM I DIDN'T ASK FOR
19 THEM

20 Q BY WHO?

21 A BY MR TINSLEY AND HIS STAFF

22 Q SO YOUR INFORMATION THAT YOU RECEIVED WAS
23 DEPENDANT UPON HIS LAWYERS?

24 A YES, SIR

25 Q WHAT MEDICAL RECORDS DID YOU RECEIVE FROM

1 THEM?

2 A YOU HAVE MY NOTES

3 Q DO YOU HAVE THE MEDICAL RECORDS THAT THEY SENT
4 YOU?

5 A I HAVE THEM

6 Q WHERE?

7 A AT HOME

8 Q IN ANY OF THE MEDICAL RECORDS YOU REVIEWED,
9 DID YOU FIND A HISTORY OF BLACKOUTS?

10 A NO, SIR, I DID NOT

11 Q DID YOU FIND THAT INTERESTING OR JUST --

12 A WELL -- NO, ACTUALLY I DIDN'T FIND IT --
13 DIDN'T FIND IT SURPRISING BECAUSE THE FAMILY HAD
14 SAID HE WAS NEVER TREATED FOR THOSE SO I WOULD
15 HAVE BEEN SURPRISED HAD I FOUND SOMETHING

16 Q DID YOU ASK HIM WHY HE WAS NEVER TREATED FOR
17 THEM?

18 A NO, I THINK THAT'S PROBABLY A PERSONAL
19 DECISION IF THEY HAD

20 Q WELL, THEN YOU DON'T CONSIDER BLACKOUTS, BASED
21 ON HIS HISTORY, TO HAVE A SUBSTANTIAL IMPACT ON YOUR
22 DECISION ABOUT HIS PERSONALITY?

23 A NO, BUT HIS HISTORY -- WHETHER HE BLACKED OUT
24 OR NOT DIDN'T AFFECT WHAT HAPPENED TO HIM AS A
25 CHILD

1 Q ALL RIGHT WHAT ABOUT THE EXAMINATION BY ANY
2 DOCTORS, BE THEY PSYCHOLOGISTS OR PSYCHIATRISTS, DID
3 YOU HAVE A CHANCE TO REVIEW THOSE MEDICAL RECORDS?

4 A NO

5 Q YOU DID NOT? WELL, DO YOU KNOW -- THEN YOU
6 DON'T KNOW WHETHER HE'S BEEN EXAMINED BY A
7 PSYCHIATRIST?

8 A I UNDERSTAND PRIOR TO THE TRIAL THAT HE WAS
9 EXAMINED BY --

10 Q YOU DIDN'T WANT TO SEE THOSE TO DETERMINE WHAT
11 THOSE DOCTORS HAD FOUND WITH REGARD TO POST-
12 TRAUMATIC STRESS DISORDER?

13 A NO, I DISCUSSED IT WITH HIS ATTORNEY, THOUGH

14 Q YOU DISCUSSED WHETHER OR NOT YOU SHOULD HAVE
15 BEEN ABLE TO REVIEW THE REPORTS OF THE DOCTORS?

16 A NO, I DISCUSSED WHAT THE DOCTORS FINDINGS
17 WERE

18 Q NOW, YOU MENTIONED THE IQ LEVEL AND YOU TALKED
19 ABOUT HIS BEING EIGHTY AND AT SEVENTY-NINE
20 REPRESENTS THE BORDERLINE BUT ACTUALLY YOU'VE GOT
21 TO GET ON DOWN BEFORE YOU ACTUALLY GET TO ANY
22 RETARDED LEVEL BELOW SEVENTY INTO THE MID-SIXTIES,
23 DON'T YOU?

24 A EIGHTY IS -- I THINK I SAID EIGHTY IS THE LOW
25 RANGE OF LOW-AVERAGE INTELLIGENCE

1 Q LOW AVERAGE?

2 A YES

3 Q THOSE WORDS -- YOU KNOW, HE'S IN THE TWENTY-
4 FIVE OR TWENTY PERCENT OF THE POPULATION IN THIS
5 COUNTRY?

6 A I DON'T KNOW THE EXACT PERCENTAGE, BUT HE'S
7 BELOW AVERAGE

8 Q WELL, BASED ON YOUR WORK --

9 A WELL --

10 Q BASED ON YOUR WORK, WHAT PERCENTAGE IS HE IN?

11 A BASED ON MY WORK, MOST OF THE KIDS I DEAL WITH
12 AT MY CURRENT JOB ARE IN THAT LOW AVERAGE TO BELOW
13 LOW AVERAGE TO MENTALLY RETARDED

14 Q RIGHT, SO HE FALLS IN TO THE ONE HUNDRED
15 PERCENT OF YOUR GROUP?

16 A YES, SIR

17 Q BUT YOU WOULD NOT THINK IT WOULD BE A FAIR
18 STATEMENT TO SAY THAT AS FAR AS THE GENERAL
19 POPULATION IS CONCERNED HE'S IN TWENTY TO THIRTY
20 PERCENT OF THE POPULATION IQ WISE?

21 A HE COULD BE LIKE I SAY, I DON'T KNOW THE
22 PERCENTAGE BUT HE IS BETTER -- HE'S NOT THE ONLY
23 ONE WITH A LOW AVERAGE INTELLIGENCE

24 Q RIGHT AND IF HE IS, AND THERE ARE TWO
25 HUNDRED MILLION PEOPLE IN THIS COUNTRY, THEN THERE

1 ARE SIXTY MILLION PEOPLE WITH HIS IQ LEVEL IN THE
2 LOW AVERAGE?

3 A USING YOUR PERCENTAGES, YES

4 Q DO YOU DISAGREE WITH THOSE?

5 A I JUST DON'T KNOW ALL HIS PERCENTAGES

6 Q ALL RIGHT OKAY, THE SCHOOL RECORDS, THE
7 HOSPITAL RECORDS, WOULD YOU AGREE AT THIS JUNCTION
8 THAT YOU -- YOUR REVIEW OF THOSE RECORDS COULD HAVE
9 BEEN MORE EXTENSIVE?

10 A WELL, THE HOSPITAL RECORDS I HAD ALONG WITH
11 THE RECORDS I HAD THE REQUEST FROM THE DEFENSE STAFF
12 ASKING FOR THESE RECORDS THEY SAID PLEASE SUBMIT
13 EVERY RECORD YOU HAVE OF MR JOHN KENNEDY HUGHEY

14 Q RIGHT

15 A I HAVE TO ASSUME THAT THE HOSPITAL PROVIDED
16 THEM WITH EVERY RECORD THEY REQUESTED

17 Q RIGHT AND WHAT DID YOUR REVIEW OF THE TRAUMA
18 AT FOUR INDICATE ABOUT THAT INJURY?

19 A EXCUSE ME?

20 Q WHAT DID YOUR REVIEW OF THE TRAUMA THAT HE
21 SUFFERED AT THE AGE OF FOUR INDICATE ABOUT THAT
22 INJURY?

23 A IT INDICATED HE WAS HOSPITALIZED, HE WAS
24 OPERATED ON, AND THAT THEY HAD TO REPLACE PART OF
25 HIS SCALP, OR REATTACH PART OF HIS SCALP

1 Q WHAT TYPE OF OPERATION WAS IT?

2 A I DON'T KNOW WHAT KIND I MEAN, THEY SUTURED
3 HIM UP

4 Q RIGHT, THEY PUT STITCHES IN BUT THERE WAS NO
5 OPERATION ON THE BRAIN OR THE SKULL?

6 A NO, NO, I MEAN, OPERATED ON -- YOU KNOW, THEY
7 USED A SURGICAL PROCESS

8 Q SO THEY STITCHED UP HIS SKIN, RIGHT?

9 A YES

10 Q WHEN YOU REVIEWED THESE --

11 A YES

12 Q AND WHAT WERE THE EXTENT OF ANY OTHER MEDICAL
13 TREATMENT HE RECEIVED AS A RESULT OF HEAD INJURIES
14 AS YOU REVIEWED?

15 A THE OTHER?

16 Q YES

17 A YOU'RE NOT TALKING ABOUT THE FOUR-YEAR-OLD ONE
18 ESPECIALLY?

19 Q NO, SIR, I'M TALKING ABOUT THESE OTHER SCARRED
20 BY HEAD TRAUMA

21 A HE WAS -- ALL THE OTHERS HE WAS TREATED IN THE
22 EMERGENCY ROOM AND RELEASED --

23 Q AND RELEASED?

24 A -- AFTER RECEIVING X-RAYS OR STOPPING THE
25 BLEEDING, WHATEVER -- WHATEVER TRIAGE PROCESS THEY

1 USED

2 Q RIGHT, HE DIDN'T SPEND THE NIGHT IN EVERY
3 OTHER INJURY?

4 A NO, SIR

5 Q NOW, THE NOTEBOOK THAT YOU RECEIVED, DO YOU
6 HAVE THAT?

7 A NO, SIR

8 Q WHO HAS THAT?

9 A WELL, I HAVE IT AT HOME I DON'T HAVE IT ON
10 ME

11 Q AND YOU REMEMBER SOME OF THINGS IN THE
12 NOTEBOOK?

13 A THERE -- I DO REMEMBER THERE ARE A LOT OF
14 LARGE DRAWINGS -- WRITINGS WITH HIS CHILDREN'S NAME
15 IN THEM

16 Q YEAH

17 A AND WITH THE NOTE -- THE ONE NOTE THAT STOOD
18 OUT WAS THE ONE ASKING ABOUT WILL THERE EVER BE A
19 BETTER DAY

20 Q OKAY, WELL, YOU MENTIONED HIS CHILDREN IN
21 YOUR SOCIAL HISTORY OF HIM, HOW MANY CHILDREN DOES
22 HE HAVE BASED ON YOUR SOCIAL HISTORY?

23 A THE FAMILY TOLD ME ABOUT THE TWO WHOSE NAMES
24 ARE ON MY NOTES, IF I HAD THEM I COULD TELL YOU

25 Q DO YOU KNOW OF ANY OTHERS?

1 A ONLY AFTER THIS MORNING

2 Q AND WHAT OTHERS DO YOU KNOW OF AFTER THIS
3 MORNING?

4 A THE ONES YOU MENTIONED

5 Q ALL RIGHT, WELL, DOES KNOWLEDGE OF THOSE OTHER
6 CHILDREN IMPACT YOUR FINDINGS AT ALL?

7 A NOT REALLY, BECAUSE I WAS CONCERNED WITH
8 HIS -- BASICALLY WITH HIS CHILDHOOD SO THAT NO
9 MATTER, YOU KNOW, IF HE HAD TWO OR TEN CHILDREN, THE
10 FACT THAT HE HAD THEM DIDN'T AFFECT HOW HE WAS
11 RAISED AS A CHILD THERE WERE TWO DIFFERENT ISSUES
12 THERE

13 Q WELL, BUT DIDN'T YOU SAY THAT IN 1991, AFTER
14 THE TRAUMA ASSOCIATED WITH THE DEATH OF HIS MOTHER,
15 IS WHEN HE BEGAN TO EXHIBIT AND RETURN TO HIS
16 ACTIONS THAT, BECAUSE OF THE STRESS OF THAT EVENT,
17 THAT HE HAD LIMITED, AS YOU PUT IT, LIMITED OPTIONS
18 REGARDING HIS BEHAVIOR, RIGHT?

19 A REGARDING HIS DECISION MAKING PROCESS

20 Q ALL RIGHT IS IT YOUR OPINION -- DID YOUR
21 STUDY OF THIS FAMILY INDICATE TO YOU HOW HE
22 RESPONDED PRIOR TO 1991 IN A RELATIONSHIP WITH THE
23 MOTHER OF HIS FIRST CHILD?

24 A NO, NONE OF HIS FAMILY TOLD ME THAT HE HAD A
25 MOTHER OF THE FIRST CHILD

1 Q WELL, IF YOU LEARNED THAT HIS BEHAVIOR TOWARDS
2 THE MOTHER OF HIS FIRST CHILD --

3 MR TINSLEY OBJECTION, YOUR HONOR

4 MR JONES -- WAS SINCE --

5 THE COURT SUSTAINED YOU GUYS COME
6 HERE JUST A MINUTE SIDE BENCH

7 (COUNSEL AT SIDE BENCH)

8 EXAMINATION CONTINUED

9 BY MR JONES

10 Q WHAT INFORMATION DID YOU GATHER CONCERNING
11 THIS DEFENDANT'S BEHAVIOR REGARDING INAPPROPRIATE
12 RELATIONSHIPS PRIOR TO 1991?

13 A ALL I COULD SAY -- THE FAMILY TOLD ME HE
14 BEHAVED ONE WAY HE WAS A RELATIVELY -- I DON'T
15 KNOW WHAT TO SAY -- HE BEHAVED RELATIVELY NORMAL
16 PRIOR TO THAT TO THE BEST OF HIS ABILITIES BUT
17 AFTER THAT, THINGS WENT DOWNHILL NOW AS
18 SPECIFICALLY AN INDIVIDUAL PERSON, I DON'T HAVE THAT
19 INFORMATION

20 Q ALL RIGHT THEN, WE'RE OPERATING THE PREMISES
21 THAT YOUR OPINIONS ARE BASED ON WHAT HIS FAMILY TOLD
22 YOU?

23 A WELL, ANY SOCIAL WORK EVALUATION IS -- THE
24 PEOPLE YOU GO TO TO MAKE THAT EVALUATION ARE THE
25 PEOPLE THAT YOU KNOW PERSON BEST, SO I WENT TO HIS

1 FAMILY, YES, SIR

2 Q WELL, RIGHT, BUT IF YOU GO TO SELECTED ONES
3 THEN YOU REALLY ONLY GET ONE SIDE OF HIM, DON'T YOU?

4 A WELL, I WENT TO EVERYONE I KNEW THAT EXISTED -
5 - EVERY ADULT THAT I KNEW EXISTED THAT WAS RELATED
6 TO HIM BY BLOOD

7 Q I'M NOT TALKING ABOUT WHO YOU WENT TO MY
8 QUESTION IS, IF YOU WERE ONLY PRESENTED SELECTED
9 ONES, THEN YOUR OPINION IS NOT AS COMPLETE AND WHOLE
10 AS IT COULD BE, IS IT?

11 A POSSIBLY DEPENDS WHAT THAT INFORMATION IS
12 AND HOW CLOSE THEY ARE TO THAT PERSON

13 Q RIGHT DID -- WHAT INCIDENT WAS IT THAT THE
14 FAMILY TOLD YOU ABOUT -- AND WHEN THEY'RE TALKING --
15 ARE YOU TALKING ABOUT AFTER 1991 NOW, THEY SAID HIS
16 BEHAVIOR CHANGED WHAT IS IT THAT YOU LEARNED ABOUT
17 HIM TO COME IN HERE AND SAY THAT HE CAN'T MAKE
18 PROPER DECISIONS OR AS WELL OPTIONED DECISIONS AS
19 MOST OF US CAN?

20 A WELL --

21 Q WHAT EVENT --

22 A WHAT EVENT?

23 Q -- CAUSED YOU TO DECIDE THAT?

24 A I DON'T -- I DON'T -- THERE WASN'T ONE EVENT
25 IT WAS A SERIOUS OF EVENTS THE FACT THAT HE DRANK

1 HEAVILY THE FACT THAT HE WOULDN'T -- COULDN'T HOLD
2 A JOB THE FACT THAT HE WOULDN'T SEEK ANY
3 COUNSELING FOR HIS OBVIOUS DEPRESSION AND HIS
4 STATEMENTS OF WANTING TO KILL HIMSELF ALL LEAD ME TO
5 THINK THAT

6 Q WELL, NOW, YOU PROBABLY RUN INTO A LOT OF
7 FOLKS THAT SAY THEY WANT TO KILL THEMSELVES, DON'T
8 YOU?

9 A UNFORTUNATELY, YES

10 Q UNFORTUNATELY, YES AND YOU HAVE TO MAKE THE
11 DECISION BETWEEN THE ONES THAT REALLY DO AND THE
12 ONES THAT ARE JUST LOOKING FOR SOME SELF ENJOYABLE
13 ATTENTION, DON'T YOU?

14 A I WOULDN'T CALL IT SELF ENJOYABLE, BUT, YES,
15 SOME IS ATTENTION SEEKING AND SOME --

16 Q SELF-FOCUSED ATTENTION?

17 A YEAH

18 Q SELF-FOCUSED ATTENTION, IS THAT FAIR?

19 A YES, SIR

20 Q NOW, WE TALKED ABOUT THE DRINKING WHEN DID
21 HE START DRINKING?

22 A HE DIDN'T START DRINKING -- I DON'T KNOW WHEN
23 HE STARTED DRINKING AS AN ADULT BUT HE STARTED
24 DRINKING MORE HEAVY OR HEAVIER AFTER HIS DEATH OF
25 HIS MOTHER

1 Q AND HOW HEAVILY WAS HE DRINKING RIGHT AFTER?

2 A WELL, THE FAMILY SAYS THAT HE WAS OFTEN
3 INTOXICATED

4 Q AND HOW OFTEN WAS -- DO YOU KNOW WHETHER HE
5 WAS DRINKING A FIFTH OF BOURBON A DAY?

6 A NO, I DON'T BELIEVE --

7 Q DO YOU KNOW WHETHER HE'S DRINKING A SIX PACK
8 OF BEER A DAY?

9 A NO

10 Q DO YOU KNOW HOW LONG THIS HEAVY DRINKING KEPT
11 ON THAT YOU HEARD ABOUT?

12 A AS FAR AS I KNOW THAT FROM '91 UNTIL -- UNTIL
13 HE WAS INCARCERATED

14 Q HE WAS ARRESTED ON DECEMBER 5, '95?

15 A UH-HUH

16 Q AS FAR AS YOU KNOW?

17 A AS FAR AS I KNOW

18 Q BUT YOU DON'T KNOW HOW MUCH HEAVY MEANS? I
19 MEAN --

20 A WELL, HEAVY TO ME MEANS IF YOU'RE INTOXICATED
21 HE -- THEY DEFINITELY SAID HE WAS INTOXICATED OFTEN?

22 Q INTOXICATED OFTEN, OKAY WELL, COULD THAT
23 ALSO MEAN THAT HE JUST LIKED TO DRINK?

24 A THAT ALONE, IF THERE WEREN'T OTHER FACTORS
25 BUT GIVEN EVERYTHING ELSE THAT WAS GOING ON WITH

1 HIM, I DON'T THINK THAT MEANS THAT HE JUST LIKED TO
2 DRINK

3 Q WHAT JOB WAS IT THAT HE LOST AS A RESULT OF
4 HIS DRINKING?

5 A I DON'T RECALL IT'S IN MY NOTES, BUT I DON'T
6 RECALL WHICH ONE IT WAS NOT IN THOSE NOTES, MY
7 NOTES AT ---

8 Q NOT THESE NOTES?

9 A NO, THE ONES AT HOME

10 Q YOU'VE GOT TWO DIFFERENT SETS OF NOTES?

11 A WELL, I JUST HAVE THE NOTES I TAKE AS I TALK
12 TO PEOPLE, SURE

13 Q SO YOU DO RECALL THAT THERE BEING SOME JOB
14 THAT HE LOST AS A RESULT OF DRINKING?

15 A YES

16 Q AND YOU DIDN'T FIND THAT TO BE SIGNIFICANT
17 ENOUGH TO PUT IN THIS THREE PAGE SYNOPSIS OF NOTES?

18 A NOT THE PARTICULAR JOB, NO

19 Q WELL, WAS THERE MORE THAN ONE JOB THAT HE LOST
20 BECAUSE OF HIS DRINKING?

21 A THE FAMILY SAID HE COULD NOT KEEP A JOB I
22 DON'T KNOW HOW MANY JOBS THAT MEANT HE LOST, OR EVEN
23 IF HE TRIED TO GET ANY AFTER HIS MOTHER PASSED AWAY

24 Q WHEN YOU REFER TO THE FAMILY, ARE YOU
25 REFERRING TO ANY ONE PERSON ANY MORE THAN ANOTHER,

1 OR DID YOU SPEAK TO SEVERAL PEOPLE?

2 A I SPOKE TO ALL OF THEM I SPOKE TO A COUPLE
3 BY PHONE AND THE REST IN PERSON

4 Q WHICH ONES DID YOU SPEAK TO IN PERSON?

5 A I SPOKE TO ANTHONY, DONNY RAY, AND RUBY, AND
6 -- ONE MORE

7 Q OKAY

8 A I CAN'T REMEMBER

9 Q WELL --

10 A YOU HAVE IT THERE I DON'T HAVE IT IN FRONT
11 OF ME

12 MR TINSLEY YOUR HONOR, I ASK AT THIS
13 TIME THAT HE BE GIVEN HIS NOTES BACK

14 THE COURT YEAH, LET HIM USE THEM IF
15 HE NEEDS TO TO REFRESH HIS RECOLLECTION

16 THE WITNESS AND AN AUNT

17 EXAMINATION CONTINUED

18 BY MR JONES

19 Q AUNT NANCY?

20 A AUNT NANCY

21 Q LET ME ASK YOU THIS YOU MENTIONED THAT AFTER
22 1991 HE WANTED TO KILL HIMSELF, IS THAT CORRECT?

23 A YES, SIR

24 Q AND THAT EVERYTHING WAS HOPELESS, IS THAT YOUR
25 WORDS?

1 A THAT'S MY WORDS, YES

2 Q BUT THAT'S KIND OF THE GENERAL --

3 A YES, SIR

4 Q IS THIS WHAT YOU GOT FROM THE FAMILY?

5 A AND FROM THE DEFENDANT HIMSELF

6 Q THE DEFENDANT? DID HE TELL YOU EXACTLY WHAT
7 PERIOD OF TIME IT WAS THAT HE WAS HAVING THOSE
8 FEELINGS THAT EVERYTHING WAS HOPELESS AND -- WHEN
9 WAS IT THAT HE FELT THOSE MOST DRAMATICALLY, MOST
10 POIGNANTLY, MOST SIGNIFICANT?

11 A WELL, THE MOST SIGNIFICANTLY WAS WHEN HIS
12 MOTHER WAS KILLED

13 Q AND THEN SAY SIX MONTHS AFTER THAT OR A YEAR
14 AFTER THAT?

15 A WELL, IN MR HUGHEY'S CASE IT APPEARS THAT
16 WHEREAS PEOPLE GO THROUGH A GRIEVING PROCESS AND AT
17 SOME POINT COME TO THE FACT THAT THEY ACCEPT THEIR
18 LOVED ONE HAS PASSED AWAY

19 Q YES

20 A IT DIDN'T APPEAR THAT HE'S EVER GOT THROUGH
21 THAT PROCESS THAT HE'S STILL -- STILL BEEN
22 AFFECTED BY HIS MOTHER'S DEATH

23 Q DID YOU TALK TO HIM, THOUGH, WHEN YOU TALKED
24 TO HIM TO ASK HIM HOW HE WAS FEELING, SAY IN JULY --
25 JULY 20, 1992, HOW WAS HE FEELING THEN?

1 A I DIDN'T SAY A SPECIFIC TIME

2 Q WELL, DID YOU ASK HIM HOW HE WAS FEELING IN
3 NOVEMBER OF '92 WHEN ONE OF HIS CHILDREN WAS BORN?

4 A NO

5 Q DID YOU KNOW THAT IN NOVEMBER OF '92 THAT HE
6 NOT ONLY HAD A RELATIONSHIP WITH A WOMAN BUT THEY
7 HAD A CHILD TOGETHER?

8 MR TINSLEY OBJECTION, YOUR HONOR

9 THE COURT SUSTAINED

10 MR JONES JUDGE, I'M TALKING ABOUT

11 SHEKA JACKSON'S CHILD THERE ON NOVEMBER, '92

12 THE COURT I'M SORRY, GO AHEAD

13 EXAMINATION CONTINUED

14 BY MR JONES

15 Q DID YOU KNOW IN NOVEMBER OF '92 THAT HE WAS
16 ENGAGING IN A RELATIONSHIP WITH --

17 A I KNEW HE HAD TWO CHILDREN FROM -- WITH
18 TESHEKA JACKSON

19 Q DID YOU DISCUSS WITH HIM THAT HE FELT
20 EVERYTHING WAS HOPELESS AND EVERYTHING WAS BAD AND
21 EVERYTHING WAS WRONG WHEN THAT CHILD WAS BORN?

22 A NO

23 Q DID YOU DISCUSS WITH HIM ABOUT HIS FEELINGS
24 GENERALLY ABOUT LIFE THEN AND HOW HE WAS FEELING
25 ABOUT HIMSELF?

1 A NO

2 Q DID YOU DISCUSS WITH HIM HOW HE FELT IN
3 OCTOBER OF 1994 WHEN A SECOND CHILD WAS BORN TO
4 SHEKA JACKSON -- THE BIRTH OF HIS SECOND SON?

5 A NO, I DID NOT

6 Q DID YOU DISCUSS WITH HIM WHEN HE WAS LIFE WAS
7 GRIME AND AND EVERYTHING WAS BLEAK AND HE DIDN'T
8 WANT TO HAVE -- DID YOU DISCUSS ABOUT THAT HE FELT
9 LIFE WAS HOPELESS AND EVERYTHING WAS BLEAK AND HE
10 WANTED NOTHING TO DO WITH THESE FOLKS THAT HE WAS --

11 A NO, SIR

12 MR JONES THANK YOU, SIR

13 RE-DIRECT EXAMINATION

14 BY MR TINSLEY

15 Q MR YOUNGMAN, DID YOU BELIEVE THAT IN TALKING
16 TO MR HUGHEY, LOOKING AT HIS NOTEBOOK AND ALL THAT
17 HE COULD READ AND WRITE?

18 A CERTAINLY THAT THAT WAS REPORTEDLY HIS WRITING
19 IN THE NOTEBOOK, YES, SIR

20 Q NOW, THE DEFENSE IN NOW WAY LIMITED YOUR
21 INVESTIGATION AT ALL, DID THEY?

22 A NO, THE ONLY LIMIT WAS TIME CONSTRAINT

23 Q TIME CONSTRAINT AND DO YOU RECOGNIZE THIS
24 INDIVIDUAL?

25 A YES, I DO

1 Q WHO IS THAT?

2 A THAT'S PAIGE TARR

3 Q AND CAN YOU DESCRIBE FOR US WHAT SHE DOES?

4 A I GUESS --

5 MR JONES YOUR HONOR THIS IS NOT IN
6 ANY WAY IN RESPONSE TO --

7 MR TINSLEY I'LL HAVE TO PUT HER UP,
8 NOW, JUDGE YOU CAN COME DOWN

9 THE COURT I SUSTAIN THE OBJECTION
10 DO YOU GOT ANY OTHER QUESTIONS YOU WANT TO ASK?

11 MR TINSLEY BRIEFLY, YOUR HONOR LOW
12 AVERAGE, BOTTOM RANGE OF AVERAGE, RIGHT?

13 A YES, SIR

14 Q BUT THAT IS AS IMPACTED BY THE ABUSE, CORRECT?
15 CORRECT?

16 MR JONES LEADING, YOUR HONOR IT'S
17 A LEADING QUESTION

18 THE WITNESS I'M NOT SURE WHAT YOU'RE
19 ASKING

20 THE COURT DON'T -- REPHRASE IT
21 DON'T LEAD

22 MR TINSLEY I'LL REPHRASE IT

23 EXAMINATION CONTINUED

24 BY MR TINSLEY

25 Q THE FACT THAT HE IS LOW-AVERAGE INTELLIGENCE

1 IS FURTHER IMPACTED BY WHAT?

2 A BY HIS UPBRINGING AND WHAT HAPPENED TO HIM AS
3 A CHILD

4 Q DID ---

5 A THE TRAUMA HE RECEIVED AND THE TRAUMA HE
6 OBSERVED AS A CHILD

7 Q AND THAT ALL HAPPENED BEFORE '91 THAT ALL
8 HAPPENED WHEN HE WAS -- SOME OF THE HEAD TRAUMA,
9 CORRECT?

10 A YES, SIR

11 Q WELL BANK IN TIME DATING BACK INTO THE
12 SEVENTIES AND EIGHTIES, THAT SORT OF THING

13 A SEVENTIES, YES, SIR

14 Q AND YOU LOOKED AT ALL THAT YOU WERE GIVEN TO
15 CONSIDER, RIGHT?

16 A YES, SIR

17 Q AND IS IT TRUE THAT AS A GENERAL RULE HE COULD
18 FUNCTION UNLESS HE WAS UNDER A STRESSFUL SITUATION,
19 IS THAT RIGHT?

20 A YES, THE FACT THAT HE HAD -- THE FACT THAT HE
21 MAY OR MAY NOT HAVE POST-TRAUMATIC STRESS OR AT
22 LEAST THAT HE HAS SYMPTOMS CONSISTENT WITH IT,
23 DOESN'T MEAN HE CAN'T FUNCTION IN EVERYDAY
24 SITUATIONS

25 Q IT'S JUST THE MORE-DEMANDING SITUATIONS?

1 A YES, SIR

2 MR TINSLEY THAT'S ALL

3 RE-CROSS EXAMINATION

4 BY MR JONES

5 Q AND THEN YOU STATED YOU MAY OR MAY NOT HAVE
6 IT, YOU'RE NOT GIVING OFF THE OPINION THAT HE DOES
7 HAVE IT?

8 A ALL I CAN SAY THAT HE IS CONSISTENT WITH IT

9 Q OKAY

10 THE COURT YOU MAY STEP DOWN MR
11 TINSLEY, LET ME SEE YOU AND THE SOLICITOR FOR JUST A
12 MINUTE

13 (WITNESS STEPS DOWN AT 3 22 O'CLOCK P M)

14 (COUNSEL APPROACH THE BENCH)

15 MR TINSLEY WE CALL MS PAIGE TARR TO
16 THE STAND

17 THE CLERK THE EVIDENCE YOU SHOULD
18 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
19 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
20 THE TRUTH, SO HELP YOU, GOD?

21 (WITNESS PRESENTED AT 3 22 O'CLOCK P M)

22 DIRECT EXAMINATION

23 BY MR TINSLEY

24 Q STATE YOUR NAME, PLEASE

25 A PAIGE MONTY (PHONETIC) TARR

1 Q AND WHERE ARE YOU FROM, MS TARR?

2 A COLUMBIA

3 Q AND WHAT IS YOUR LINE OF WORK?

4 A I'M CALLED A MITIGATION SPECIALIST

5 Q AND WHAT DOES A MITIGATION SPECIALIST DO?

6 A LOTS OF DIFFERENT THINGS BUT IN MY
7 PARTICULAR, I GUESS, LINE, AS MITIGATION SPECIALIST
8 -- THAT MUST BE IT -- I HANDLE ALL THE
9 INVESTIGATIONS FOR PEOPLE WHO ARE FACING MURDER
10 TRIALS, NORMALLY

11 Q AND AS SUCH IN THIS CASE DID YOU GATHER THE
12 RECORDS THAT MR YOUNGMAN JUST TESTIFIED TO?

13 A YES, I DID I -- WHAT I DID WAS WHAT I
14 NORMALLY DO I SIGNED RELEASES FROM THE DEFENDANT
15 AND THE CLIENT AND WENT ON FULL SCALE -- JUST LISTS
16 OF ALL LOCAL MEDICAL FACILITIES, PSYCHOLOGI-
17 CAL/PSYCHIATRIC FACILITIES, THE HEALTH DEPARTMENT,
18 LOCAL DOCTORS, SCHOOL RECORDS, REALLY ANYTHING AND
19 EVERYTHING

20 I MEAN, I'LL FIND OUT WHETHER THERE HAD BEEN
21 ANY HISTORY OF LIKE MILITARY OR I'VE GOT TO TRY TO
22 GET LIKE SOCIAL SECURITY RECORDS FOR -- YOU KNOW,
23 JUST THE WHOLE GAMBIT ANYTHING THAT COULD POSSIBLY
24 -- THAT IS A WRITTEN DOCUMENTATION OF THE LIFE OF
25 THE PERSON THAT I AM WORKING FOR

1 Q SO -- AND THAT WOULD INCLUDE MEDICAL DOCUMENTS
2 AND THAT SORT OF THING?

3 A RIGHT

4 Q AND DID YOU DO THAT IN THIS CASE?

5 A YES, I DID

6 Q AND IN YOUR GATHERING DID YOU -- DID YOU
7 GATHER THE INFORMATION SUCH AS ON THE MEDICAL HEAD
8 TRAUMA SUFFERED BY MR HUGHEY?

9 A UH-HUH, YES

10 Q AND YOU SHARED THOSE WITH A COUPLE EXPERTS IN
11 THE CASE, IS THAT RIGHT?

12 A RIGHT

13 Q AND THOSE CAME FROM ABBEVILLE MEMORIAL,
14 CORRECT?

15 A UH-HUH, YES

16 Q ANDERSON GENERAL?

17 A UH-HUH, YES

18 Q AND THOSE TYPE OF FACILITIES, IS THAT CORRECT?

19

20 A RIGHT, RIGHT

21 MR TINSLEY ONE SECOND, YOUR HONOR

22 EXAMINATION CONTINUED

23 BY MR TINSLEY

24 Q NOW, MS TARR, IN A CASE LIKE THIS, OFTEN
25 ISN'T IT TRUE THAT THE MEDICAL RECORDS THEMSELVES

1 WILL NOT NECESSARILY BE INTRODUCED INTO EVIDENCE
2 BECAUSE OF THE COMPLEXITY AND THAT SORT OF THING?

3 A RIGHT

4 Q WHAT TYPICALLY IS -- IS DONE IN REFERENCE TO
5 THAT ISSUE?

6 A DIFFERENT THINGS I MEAN, I COLLECT THEM AND
7 CATALOG THEM AND PROVIDE THEM TO ANYBODY THAT NEEDS
8 THEM LIKE DEFENSE COUNSEL OR AN EXPERT AND IF
9 YOU'RE ASKING IN THIS CASE, THE RECORDS THAT I
10 COLLECTED WERE ALL TAKEN TO COLUMBIA TO HALL
11 PSYCHIATRIC AND THEY DID NOT RETURN THEM TO ME

12 Q THEY DID NOT?

13 A NO

14 Q SO THOSE RECORDS THE SOLICITOR ASKED JEFF
15 ABOUT -- JEFF YOUNGMAN ABOUT ARE AT THE SOUTH
16 CAROLINA -- WITH SOUTH CAROLINA DEPARTMENT OF
17 MENTAL HEALTH?

18 A UH-HUH, RIGHT

19 Q BUT DID HE TESTIFY BASED UPON ACCURATE
20 RECORDS?

21 A THEY WERE -- THEY'RE CERTIFIED THEY'RE ALL
22 STAMPED I MEAN, WHEN I REQUEST THEM I SAY THEY'RE
23 GOING TO BE USED IN COURT SO, FOR INSTANCE, IF
24 THEY'RE FROM A MENTAL INSTITUTE, YOU KNOW,
25 INSTITUTION OR DEPARTMENT OF MENTAL HEALTH OR A

1 HOSPITAL OR WHATEVER, THEY ARE SIGNED AND STAMPED AS
2 TRUE -- YOU KNOW, TRUE COPIES OF THE REAL MEDICAL
3 RECORDS

4 Q AND YOUR FUNCTION ISN'T SO MUCH TO RENDER
5 OPINIONS AS IT TO GATHER DATA AND PROVIDE THAT DATA
6 AND DIRECT ANY OF THAT DATA AND THAT SORT OF THING,
7 ISN'T IT?

8 A RIGHT, I JUST DO ALL THE LEGWORK FOR THE
9 PEOPLE WHO DO ALL THE THINKING, I GUESS

10 Q WELL, DON'T MEAN TO INSULT YOUR INTELLI-
11 GENCE --

12 A I KNOW

13 Q -- BY ANY MEANS IT'S VERY DEMANDING WORK, IS
14 IT NOT?

15 A FOR ME, AT LEAST, YEAH

16 MR TINSLEY THANK YOU SO MUCH

17 CROSS EXAMINATION

18 BY MR JONES

19 Q MS TARR, HOW ARE YOU THIS AFTERNOON?

20 A PRETTY GOOD

21 Q GOOD YOU GATHER RECORDS DO YOU ALSO GET
22 SOME INFORMATION FROM THE DEFENDANT?

23 A YES

24 Q AND, OF COURSE, YOU AND WE ARE PRETTY MUCH,
25 WITH REGARD TO THAT INFORMATION, AT THE MERCY OF

1 WHETHER OR NOT YOU GET TRUTHFUL INFORMATION, RIGHT?

2 A RIGHT AND --

3 Q IS THAT RIGHT?

4 A THAT'S TRUE

5 Q ALL RIGHT

6 MR JONES THANK YOU, MA'AM

7 THE COURT YOU MAY STEP DOWN

8 (WITNESS STEPS DOWN AT 3 29 O'CLOCK P M)

9 THE COURT ALL RIGHT, LADIES AND
10 GENTLEMEN, LET'S TAKE A SHORT BREAK BEFORE WE GO

11 FURTHER PLEASE GO TO YOUR JURY ROOM DON'T

12 DISCUSS THE CASE WE'LL BRING YOU BACK SHORTLY

13 (JURY EXITS THE COURTROOM AT 3 29 O'CLOCK P M)

14 THE COURT LET'S TAKE ABOUT TEN

15 MINUTES

16 (COURT IN RECESS)

17 THE COURT THANK YOU BE SEATED ALL

18 RIGHT, ARE WE READY FOR THE JURY?

19 MR TINSLEY YES, YOUR HONOR THE

20 WITNESS HAS ARRIVED, YOUR HONOR

21 (JURY RE-ENTERS COURTROOM AT 4 00 O'CLOCK P M)

22 THE COURT THE JURY IS PRESENT YOU

23 MAY PROCEED

24 MR TINSLEY THANK YOU SO MUCH MAY

25 IT PLEASE THE COURT, I CALL DOCTOR JAMES EVANS TO

1 THE STAND, YOUR HONOR

2 THE CLERK THE EVIDENCE YOU SHOULD
3 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
4 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
5 THE TRUTH, SO HELP YOU, GOD?

6 THE WITNESS YES

7 THE CLERK BE SEATED

8 (WITNESS PRESENTED AT 4 01 O'CLOCK P M)

9 DIRECT EXAMINATION

10 BY MR TINSLEY

11 Q STATE YOUR NAME, PLEASE

12 A MY NAME IS JAMES EVANS

13 Q AND WHAT IS YOUR EDUCATION AND WORK, SIR?

14 A I TEACH FULL-TIME AT THE UNIVERSITY OF SOUTH
15 CAROLINA IN THE PSYCHOLOGY DEPARTMENT AND I HAVE A
16 PART-TIME PRIVATE PRACTICE IN NEURO-PSYCHOLOGY AND
17 CLINICAL PSYCHOLOGY

18 Q AND NOW WHAT IS THE DIFFERENCE BETWEEN NEURO-
19 PSYCHOLOGY AND CLINICAL PSYCHOLOGY?

20 A NEURO-PSYCHOLOGY IS PRIMARY INTEREST --
21 FOCUSED ON THE RELATIONSHIP BETWEEN BRAIN FUNCTION
22 AND ABNORMAL BEHAVIOR

23 Q I SEE AND WHAT IS YOUR EDUCATION IN THESE
24 AREAS?

25 A I GOT A PH D IN PSYCHOLOGY AND HAVE DONE

1 POST DOCTORAL WORK IN NEURO-PSYCHOLOGY AT THE
2 MEDICAL COLLEGE OF GEORGIA, UNIVERSITY OF GEORGIA,
3 AND AT THE UNIVERSITY OF CALIFORNIA AT SAN
4 FRANCISCO

5 Q DID YOU ALSO ATTEND PEABODY COLLEGE?

6 A THAT'S WHERE I GOT THE PH D DEGREE, YES, SIR

7 Q AND WHAT IS THAT SCHOOL CALLED NOW?

8 A VANDERBILT UNIVERSITY ABSORBED PEABODY IT'S
9 NOW -- IT WAS PART OF VANDERBILT THEN, BUT IT HAD A
10 SEPARATE NAME NOW IT'S JUST UNDER VANDERBILT

11 Q HOW LONG HAVE YOU WORKED AND TAUGHT IN THESE
12 FIELDS -- THESE TWO FIELDS, PSYCHOLOGY AND NEURO-
13 PSYCHOLOGY?

14 A HOW MANY YEARS?

15 Q YES, SIR

16 A NEURO-PSYCHOLOGY SINCE -- ABOUT 1980
17 CLINICAL PSYCHOLOGY ABOUT SINCE THAT TIME PRIOR TO
18 THAT I WAS INTO SCHOOL PSYCHOLOGY FOR ABOUT EIGHT
19 YEARS

20 Q AND WHAT DO YOU TEACH AT THE UNIVERSITY?

21 A I TEACH ASSESSMENT COURSES AND TEACH NEURO-
22 PSYCHOLOGY OF LEARNING DISABILITIES, PSYCHOLOGICAL
23 ASSESSMENT, AND SUPERVISE STUDENTS IN PRACTICUM --
24 IN THEIR PRACTICUM SITUATION

25 Q DOES THAT MEAN YOU'RE TEACHING GRADUATE LEVEL

1 COURSES?

2 A SOME OF THOSE ARE GRADUATE LEVEL I ALSO
3 TEACH UNDERGRADUATE ABNORMAL PSYCHOLOGY

4 Q AND AS PART OF YOUR WORK, DOCTOR, DID YOU HAVE
5 OCCASION TO EVALUATE INDIVIDUALS ON SUCH MATTERS AS
6 ORGANIC-BRAIN DAMAGE, POST-TRAUMATIC STRESS DISORDER
7 AND THAT SORT OF THING?

8 A YES

9 Q AND CAN YOU DESCRIBE PRIMARILY THE NEURO-
10 PSYCHOLOGICAL EVALUATIONS THAT YOU DO?

11 A A NEURO-PSYCHOLOGICAL EVALUATIONS ARE COMPOSED
12 PRIMARILY OF TESTS WHICH ARE NOT THAT DIFFICULT TO
13 COMPLETE IF YOU DON'T HAVE ANY BRAIN DYSFUNCTION OF
14 ANY SORT BUT IF YOU DO, THEY CAN BE UNUSUALLY
15 DIFFICULT TO COMPLETE AND YOU MAY FAIL THEM AND DO
16 POORLY ON THEM SOME OF THEM -- I ALSO INCLUDE IN
17 MY BATTERY OF TESTS, THE TEST FOR GENERAL
18 INTELLIGENCE

19 AND ALSO INCLUDE A QUANTITATIVE EEG,
20 WHICH IS A MEASURE OF THE BRAIN ELECTRICAL ACTIVITY
21 ONLY INSTEAD OF LOOKING AT IT LIKE A NEUROLOGIST
22 WOULD, I HAVE IT SCORED BY COMPUTER AND I COMPARED
23 HIS SCORES -- OR A PERSON'S SCORES AGAINST A
24 DATABASE TO SEE IF THEY DIFFER SIGNIFICANTLY FROM
25 OTHER PEOPLE THE SAME AGE AND THE SAME GENDER

1 Q HAVE YOU TESTIFIED IN COURTS OF THIS STATE
2 PRIOR TO TODAY?

3 A YES, SIR

4 Q AND HAVE YOU DONE SO A NUMBER OF TIMES?

5 A YES, SIR, APPROXIMATELY -- I BELIEVE IT'S
6 TWENTY-FIVE TIMES IN SOUTH CAROLINA -- TWENTY-FOUR,
7 TWENTY-SIX, AROUND THAT

8 Q HAVE YOU DONE SO IN OTHER STATES IN FEDERAL
9 COURT?

10 A YES, SIR

11 Q AND YOU HAVE TESTIFIED IN THE AREAS OF
12 PSYCHOLOGY AND NEURO-PSYCHOLOGY, CORRECT?

13 A YES, SIR

14 MR TINSLEY YOUR HONOR, AT THIS TIME
15 I WOULD OFFER DOCTOR EVANS AS AN EXPERT IN THE AREAS
16 OF PSYCHOLOGY AND NEURO-PSYCHOLOGY

17 MR JONES NO OBJECTION, YOUR HONOR

18 THE COURT HE IS SO QUALIFIED

19 EXAMINATION CONTINUED

20 BY MR TINSLEY

21 Q DOCTOR, AS AN EXPERT IN THESE AREAS, WERE YOU
22 CONSULTED IN THIS MATTER TO DO AN NEURO-
23 PSYCHOLOGICAL EVALUATION ON MR JOHN KENNEDY HUGHEY?

24 A YES, I WAS

25 Q AND AS SUCH I THINK YOU BASICALLY EXPLAINED

1 WHAT A NEURO-PSYCHOLOGICAL EVALUATION IS VERSUS A
2 PSYCHOLOGY ONE

3 A YES, SIR, THERE'S A LOT OF OVERLAP, BUT THE
4 NEURO-PSYCHOLOGICAL HAS A CERTAIN FOCUS

5 Q AND BASICALLY YOU WERE CONCENTRATING WITH MR
6 HUGHEY IN THE NEURO-PSYCHOLOGICAL AREA?

7 A YES, SIR

8 Q BUT YOU ALSO HAD SOME OVERLAP IN THE
9 PSYCHOLOGICAL, IS THAT CORRECT?

10 A THAT'S CORRECT

11 Q AND WHEN DID YOU FIRST MEET WITH JOHN HUGHEY,
12 DO YOU RECALL, SIR?

13 A IT WAS JULY 9, 1997

14 Q AND AT THAT TIME DID YOU ADMINISTER SOME TESTS
15 TO MR HUGHEY?

16 A YES, SIR, I ADMINISTERED THE MAJOR PORTION OF
17 THE REITAN -- THAT'S R-E-I-T-A-N, NEURO-
18 PSYCHOLOGICAL TEST BATTERY AND ALSO THE WECHSLER
19 NORMAL INTELLIGENCE SCALE AND ALSO A FEW IN THE
20 NATURE OF PERSONALITY OR GENERAL PSYCHOLOGICAL
21 ADJUSTMENT CALLED THE RORSCHACH

22 Q AND HOW ABOUT WIDE-RANGE ACHIEVEMENT TESTS,
23 THAT SORT OF THING?

24 A YES, SIR, I ALSO ADMINISTERED A WIDE RANGE
25 ACHIEVEMENT TEST TO GET AN IDEA OF HIS READING AND

1 SPELLING SKILLS

2 Q DID YOU BASICALLY SPEND THE WHOLE DAY WITH MR
3 HUGHEY OR HOW LONG DO YOU RECALL?

4 A THAT'S APPROXIMATELY A SIX HOUR EVALUATION

5 Q SO YOU SPENT THAT MUCH TIME WITH HIM BACK ON
6 JULY THE SECOND

7 A YES, SIR

8 Q NOW, DOCTOR, AS SUCH ARE YOU FAMILIAR WITH THE
9 TERM MALINGERING?

10 A YES

11 Q CAN YOU DESCRIBE FOR US WHAT MALINGERING IS?

12 A WELL, MALINGERING BASICALLY MEANS THAT YOU'RE
13 FAKING

14 Q FAKING?

15 A FAKING USUALLY TRYING TO FAKE BAD, YOU KNOW,
16 FAKE AS IF YOU WERE MENTALLY ILL OR HAD BRAIN DAMAGE
17 OR SOMETHING THAT MIGHT BE TO YOUR BENEFIT

18 MALINGERING TECHNICALLY, I THINK, IS DEFINED AS
19 FAKING WHEN YOU HAVE A GOAL IN MIND OF GETTING MONEY
20 OR GETTING OUT OF TROUBLE

21 Q DID YOU -- DID THE TESTS MEASURE MALINGERING
22 ALSO?

23 A THERE ARE SOME TESTS THAT ARE CONSIDERED
24 MALINGERING TESTS AND THEN THE GENERAL -- JUST
25 TAKING GENERAL VIEW OF THE FINDINGS AND BASED ON

1 YOUR EXPERIENCE IS ANOTHER WAY OF LOOKING FOR
2 MALINGERING

3 Q DID YOU HAVE AN OCCASION TO TEST MR HUGHEY
4 FOR MALINGERING?

5 A AGAIN, I SAW HIM, I THINK IT WAS SEPTEMBER 27
6 I HAD FORGOTTEN TO BRING ALONG ONE PIECE OF MY
7 EQUIPMENT THAT FIRST TIME SO I WENT UP AGAIN AND
8 SAW HIM ON SEPTEMBER 27 TO ADMINISTER A TEST OF
9 ATTENTION, A COMPUTERIZED TEST THAT I HAD TO BRING
10 SPECIAL EQUIPMENT AT THAT TIME I ALSO -- I HAD THE
11 SOFTWARE ON THERE FOR SOME MALINGERING TESTS, AND I
12 ADMINISTERED TWO OF THOSE AND HE HAD NO -- THERE
13 WERE NOT INDICATIONS OF MALINGERING

14 Q SO HE WAS NOT FAKING IN YOUR OPINION?

15 A IN MY OPINION HE WAS NOT FAKING, YES

16 Q NOW DURING THE FIRST EVALUATION BACK IN JULY,
17 DID YOU ALSO HAVE AN OPPORTUNITY TO ADMINISTER A
18 QUANTITATIVE EEG TEST?

19 A QUANTITATIVE EEG, YES, SIR

20 Q IT'S QUANTITATIVE?

21 A QUANTITATIVE, YES

22 Q DESCRIBE THAT TEST TO US, PLEASE, DOCTOR

23 A MOST EVERYONE'S FAMILIAR WITH AN EEG WHERE
24 THEY'RE MEASURING BRAIN ELECTRICAL ACTIVITY BUT
25 TYPICALLY THE EEG, YOU PUT ELECTRODES ON -- ALL OVER

1 THE SCALP IT'S FED INTO AN AMPLIFIER AND THEN
2 THE REPRESENTATION OF THE BRAIN ELECTRICAL ACTIVITY
3 COMES OUT ON THE MOVING PAPER AND YOU SEE THESE
4 SQUIGGLY LINES THAT SORT OF LIKE AN EKG, ONLY THAT
5 WOULD BE FROM YOUR HEART BUT THIS IS ELECTRICAL
6 ACTIVITY OF YOUR BRAIN

7 TRADITIONALLY IT'S DONE BY AN
8 ELECTROENCEPHALOGRAPHER AND A NEUROLOGIST LOOKS AT
9 IT AND READS IT BASED ON HIS EXPERIENCE SORT OF
10 LIKE I'VE SEEN LOTS OF THEM, SO I'LL LOOK AT THIS
11 ONE AND SEE DO I FIND ANYTHING ABNORMAL BUT IN
12 RECENT YEARS THERE'S BEEN ANOTHER APPROACH WHICH
13 DOESN'T REQUIRE THE NEUROLOGIST TO ACTUALLY LOOK AT
14 IT

15 IT -- DO THE SAME THING EXCEPT IT'D FED INTO A
16 COMPUTER AND THEN THE COMPUTER ANALYSES SOME
17 MEASURES MANY MORE MEASURES THAN COULD BE DONE BY
18 HUMAN -- WOULD TAKE THEM MONTHS TO DO IT SOME OF
19 THEM YOU COULDN'T EVEN SEE FAST ENOUGH TO DO THOSE
20 MEASURES THAT THE COMPUTER CAN PICK UP

21 AND THEN ARE DATABASES, MEANING THAT PEOPLE
22 HAVE TAKEN NORMAL PERSONS WITH NO BRAIN INJURY AND
23 HAVE DONE THIS ON THEM AND FOUND OUT WHAT THEIR --
24 WHAT'S A NORMAL EEG WHAT'S THE RANGE OF NORMAL
25 AND THEN THE COMPUTER COMPARES THIS PERSON

1 THAT YOU'RE TESTING, YOUR CLIENT, AGAINST THE OTHER
2 PEOPLE OF HIS AGE, IN HIS CASE WOULD BE TWENTY-SEVEN
3 YEAR OLD MALES TO SEE IF THERE WAS ANY AREAS OF ANY
4 OF THOSE EIGHT HUNDRED AND SOME SCORED WERE
5 SIGNIFICANTLY DIFFERENT FROM NORMAL

6 Q AND DOES THAT RELATE TO THE BRAIN'S ELECTRICAL
7 ACTIVITY AND THAT SORT OF THING?

8 A THAT'S WHAT IT IS, YES

9 Q AND IF THIS IS A NEURO-PSYCHOLOGICAL
10 EVALUATION, CORRECT?

11 A YES

12 Q AND DO YOU DO THAT IN CONJUNCTION WITH OTHER
13 TESTS?

14 A YES, I WOULD NEVER USE A QEEG ALONE I WOULD
15 ALWAYS USE OTHER NEURO-PSYCHOLOGICAL TESTS SUCH AS A
16 REITAN AND BATTERY WHICH I DID ADMINISTER

17 Q AND WHAT DID YOU FIND IN THE CASE OF JOHN
18 KENNEDY HUGHEY FROM SUCH TESTING?

19 A WELL, THERE WAS EVIDENCE OF BRAIN DISFUNCTION
20 ESPECIALLY THE TYPE THAT WOULD LEAD YOU TO HAVE
21 TROUBLE WITH VERBAL LEARNING, LIKE SOME TYPES OF
22 SCHOOL LEARNING ESPECIALLY LIKE ENGLISH, SOME TYPE
23 OF MATH, WRITING, SPELLING THESE WOULD HAVE BEEN
24 INTERFERED WITH BY THAT TYPE OF ABNORMALITY AND HE
25 HAD STRONG EVIDENCE OF THAT

1 NOT ONLY ON THE QUANTITATIVE EEG, WHICH SHOWED
2 THE ABNORMALITIES TO BE CENTERED LIKE IN THIS LEFT
3 SIDE AND GOING BACK HERE -- LEFT AND BACK, BUT ALSO
4 THE EEG GIVES YOU A PRINTOUT OF THE HEAD AND SHOWS
5 WHERE THE ABNORMALITIES WERE THEY WERE CENTERED
6 THERE, AS I SAID AND THEN ALSO THE NEURO-
7 PSYCHOLOGICAL TESTS THAT ARE SENSITIVE TO PROBLEMS
8 IN THOSE AREAS WERE THE ONES HE DID POOREST ON
9 SUCH AS HOW MANY WORDS CAN YOU THINK OF THAT BEGIN
10 WITH THE LETTER S IN A MINUTE

11 AND THEN YOU TALLY THEM UP HE HAD TROUBLE
12 WITH THE FLUENCY THAT'S INVOLVED IN THAT ALSO
13 LISTENING TO DIFFERENT WORDS OR NONSENSE WORDS THAT
14 SOUND ALMOST THE SAME, LIKE MAYBE BUG AND LOG AND
15 THEN HE HAS TO UNDERLINE WHICH ONE HE HEARD HE HAD
16 TROUBLE WITH THAT THAT'S USUALLY A FUNCTION OF
17 THIS LEFT TEMPLE AREA

18 SO THERE WAS CONVERGING EVIDENCE TO LEAD ME TO
19 BELIEVE THAT HE DOES HAVE BRAIN DISFUNCTION OF THAT
20 TYPE AND THEN, OF COURSE, HE HAD HAD A HEAD INJURY
21 WHICH COULD HAVE BEEN A SOURCE OF THAT, OR COULD
22 HAVE MADE IT WORSE ANYWAY WHERE HE FELL FROM A CAR,
23 YOU KNOW, LIKE HE HAS A SCAR ON HIS HEAD AS A RESULT
24 OF THAT

25 Q YES AND WE TALKED TO YOU ABOUT BASICALLY

1 PHYSICAL BRAIN ORGANIC DISFUNCTION, ARE WE NOT?

2 A YES, YES

3 Q WE'RE NOT TALKING ABOUT NOT GUILTY BY REASON
4 OF INSANITY TYPE THING AT ALL, RIGHT?

5 A NO, NO, THAT WOULDN'T MAKE HIM -- THE WOULDN'T
6 MAKE HIM INSANE

7 Q THIS WOULD -- HOW WOULD THESE TYPES OF
8 PROBLEMS AFFECT HIM, SIR?

9 A WELL, AS I SAID, ONE OF THE MAIN AREAS THAT
10 WOULD AFFECT HIM WOULD BE IN SCHOOL TYPE LEARNING,
11 READING, SPELLING, ETC

12 Q WOULD YOU --

13 A IF WOULD AFFECT HIS ABILITY TO PERHAPS
14 FORMULATE WHAT HE WANTED TO SAY IN AN EFFICIENT
15 MANNER HE WOULD ALSO JUST GENERAL -- IN BRAIN
16 DAMAGE IN GENERAL, NO MATTER WHERE IT IS IN THE
17 BRAIN, IF IT WERE IN FACT DAMAGES AS A RESULT OF --
18 IN PART AT LEAST, FROM FALLING FROM A CAR, IF THAT
19 WERE A PART OF IT AND IT WAS IN FACT DAMAGED RATHER
20 THAN SOME DISFUNCTION THAT HE WAS BORN WITH, THEN
21 YOU WOULD EXPECT THERE TO BE, OH, SAY -- MORE
22 SUBJECT TO STRESS

23 SORT OF LIKE -- A LOT OF PEOPLE ARE FAMILIAR
24 WITH PERSONS WHO ARE IN THEIR EIGHTIES AND THEY SEEM
25 FINE UNLESS THERE'S A STRESSFUL SITUATION OCCURS

1 SO THAT -- YOU MIGHT -- TALKING WITH THEM AT HOME
2 AND EVERYTHING'S FINE BUT YOU GET THEM OUT ON THE
3 ROAD SOMEWHERE IN A CROWD, AND ALL OF THE SUDDEN
4 THEY DON'T SEEM TO BE AS SMART AS THEY WERE BEFORE
5 IT'S LIKE THEIR BRAIN FUNCTION ISN'T AS GOOD

6 AND THAT HAPPENS IN OLD AGE BECAUSE YOUR BRAIN
7 IS NATURALLY DETERIORATING AND -- SO YOU DON'T
8 HAVE AS MUCH, SAY, TOLERANCE FOR STRESS AND YOU
9 CAN'T THINK AS STRAIGHT AND THAT'S TRUE WITH
10 PERSONS WHO HAVE BRAIN DAMAGE IN GENERAL OF ANY AGE,
11 BUT WE'RE MOSTLY FAMILIAR WITH IT WITH PEOPLE WHO
12 ARE OLDER

13 Q SO IT WOULD BE -- THAT KIND OF INABILITY TO
14 ADAPT TO STRESS WOULD RELATE DIRECTLY TO THE BRAIN
15 DYSFUNCTION, IS THAT CORRECT?

16 A IT CERTAINLY COULD

17 Q WHAT ABOUT A LEARNING DISABILITY?

18 A A LEARNING DISABILITY IS WHAT I WAS MENTIONING
19 EARLIER I SUSPECT THAT HE HAD A VERBAL LEARNING
20 DISABILITY IN SCHOOL ESPECIALLY OF VERBAL LEARNING
21 WHICH IS WHAT SCHOOL MATERIAL MAINLY IS EXCEPT FOR
22 GEOMETRY AND SHOP WORK AT THAT SORT OF THING BUT
23 OUTSIDE OF THAT, I SUSPECT HE WOULD HAVE HAD
24 CONSIDERABLE DIFFICULTY IN SCHOOL

25 Q WHAT ABOUT IN THE AREA OF IQ, DOCTOR?

1 A WELL, HIS OVERALL INTELLIGENCE IN NON-VERBAL
2 SKILLS WAS NOT FAR OFF THE NORM IT WAS IN --
3 WITHIN THE AVERAGE RANGE BUT WHEN WE GOT TO THE
4 VERBAL SKILLS IT WAS DOWN INTO WHAT SOME PEOPLE
5 REFER TO AS THE BORDERLINE RANGE

6 IT WAS DOWN BELOW NORMAL, BUT IT WAS NOT QUITE
7 TO THE LEVEL OF WHAT WE USUALLY THINK OF AS MENTAL
8 RETARDATION AND WHEN YOU AVERAGE THE TWO TOGETHER
9 AND GET YOUR TOTAL IQ SCORE, HE WAS BELOW AVERAGE --
10 LOW BELOW AVERAGE RIGHT ON THE BOTTOM OF LOW
11 AVERAGE RANGE

12 Q THE VERY BOTTOM ON THAT SCALE?

13 A ON THE LOW AVERAGE RANGE

14 Q AND DID YOU DETERMINE APPROXIMATELY WHAT GRADE
15 LEVEL HE'S FUNCTIONING IN?

16 A HE WAS READING -- RECOGNIZING WORDS, IN ANY
17 EVENT -- I DON'T KNOW THAT HE WOULD COMPREHEND AT
18 THAT LEVEL -- BUT RECOGNIZING WORDS AT THE SEVENTH
19 GRADE LEVEL AND DOING ARITHMETIC AT THE SEVENTH
20 GRADE LEVEL

21 Q AND AS SUCH DID YOU FURTHER INCORPORATE THE
22 WIDE-RANGE ACHIEVEMENT TYPE TEST?

23 A THAT'S WHERE I GOT THOSE SEVENTH GRADE LEVEL,
24 WHICH IS ABOUT WHETHER YOU WOULD BE THIRTEEN YEARS
25 OLD IF YOU AT THAT LEVEL

1 Q AND, DOCTOR, DOES THE -- DID YOU FIND ORGANIC-
2 BRAIN DAMAGE IN MR HUGHEY?

3 A WELL, I COULDN'T SAY I FOUND ORGANIC BRAIN
4 DAMAGE BECAUSE IT WOULD HAVE TO -- DAMAGE ITSELF
5 WOULD IMPLY THAT THERE WAS SOMETHING STRUCTURALLY
6 DIFFERENT AND WE DIDN'T HAVE AN MRI SCAN THAT
7 SHOWED THAT OR AN X-RAY ON THE BRAIN THAT WOULD
8 ACTUALLY SHOW THE DAMAGE BUT I CAN SAY HE HAD LOTS
9 OF SIGNS OF BRAIN DISFUNCTION, THAT HIS BRAIN WAS
10 NOT WORKING NORMALLY

11 Q SO IT'S YOUR CONCLUSION AND OPINION THEN THAT
12 MR HUGHEY SUFFERS FROM ORGANIC BRAIN DISFUNCTION?

13 A YES, IT'S MY OPINION, YES, SIR

14 Q AND COULD THAT BE A RESULT OF HEAD TRAUMAS?

15 A YES, IT COULD BE A RESULT OF HEAD TRAUMA, YES

16 Q AND ARE YOU FAMILIAR WITH THE TERM
17 DECOMPENSATION?

18 A I'M FAMILIAR WITH IT AS I USE IT, YES, SIR

19 Q AND WOULD YOU EXPLAIN IT TO US, PLEASE?

20 A WELL, WHEN PEOPLE LOSE THEIR USUAL -- SAY
21 THEIR MINDS ARE IN TACT, AND THEN THEY BEGIN TO
22 DETERIORATE AS I SAID, THERE'S A PERSON GETTING IN
23 THEIR EIGHTIES AND THEIR BRAIN BEGINS TO
24 DETERIORATE, YOU MIGHT THINK THAT WAS A SIMILAR
25 BEHAVIOR THEY DECOMPENSATE THEY COULDN'T

1 REMEMBER NAMES AS WELL AS THEY USE TO THEY GET
2 CONFUSED IN TRAFFIC AND THAT SORT OF THING

3 IT COULD HAPPEN TO A PERSON WHO IS -- AND I
4 THINK IN THE KOREAN WAR WHEN THE PEOPLE -- THE NORTH
5 KOREAN'S WOULD BRAINWASH THE AMERICAN SOLDIERS --
6 THEY USE THAT TERM BRAINWASHING -- THEY WOULD PUT
7 THEM UNDER CONTINUING STRESS UNTIL THEY SOMETIMES
8 DECOMPENSATED AND WOULD ACTUALLY ACT MENTALLY ILL OR
9 BEGIN TO HALLUCINATE OR TO HAVE FALSE BELIEFS IN
10 FACT, SOME OF THEM WOULD ACTUALLY GIVE UP THEIR, YOU
11 KNOW, AMERICAN IDEALS AND BEGIN TO TALK LIKE THE
12 ENEMY AND THAT WOULD BE CONSIDERED A FORM OF
13 DECOMPENSATION

14 Q AND THAT WOULD BE A RESULT OF GREAT STRESS?

15 A IT CERTAINLY COULD BE A RESULT, YES, SIR I
16 THINK ANYBODY -- ANY OF US UNDER ENOUGH WOULD
17 DECOMPENSATE SOME PEOPLE CAN TAKE A LOT MORE THAN
18 OTHERS, AS WAS SHOWN IN MANY A WAR THAT SOME PEOPLE
19 CAN TAKE A LOT MORE THAN OTHERS

20 Q IF SOMEONE WAS SUFFERING FROM ORGANIC BRAIN
21 DISFUNCTION, WOULD THAT LOWER THEIR ABILITY TO DEAL
22 WITH STRESS?

23 A I WOULD -- YES, USUALLY IT WOULD I THINK
24 THAT'S A TRUE STATEMENT THAT IN MOST CASES, IF NOT
25 ALL, IT WOULD I MEAN, THERE MAY BE SOME -- ONE

1 COULD ARGUE THAT IT DOESN'T ALWAYS HAPPEN, BUT IT'S
2 CERTAINLY A VERY COMMON DEVELOPMENT

3 Q WERE THERE ANY INDICATIONS IN YOUR STUDY OF
4 MR HUGHEY OF ANY DEPRESSION, THAT SORT OF THING?

5 A WHEN I FIRST SAW HIM I DIDN'T PICK UP MUCH
6 DEPRESSION I ONLY ADMINISTERED THE RORSCHACH WHICH
7 WOULDN'T HAVE MUCH RELEVANCE TO DEPRESSION AND I
8 MADE NOTES ON THEIR -- ON MY INITIAL REPORT OR THIS
9 FORM THAT I COMPLETED, SAYING HE HAD MINOR SIGNS OF
10 REJECTION AND DEPRESSION

11 WHEN I SAW HIM AGAIN FOR THE MALINGERING TEST
12 AND THE ATTENTION TEST, AGAIN, DIDN'T PICK UP MUCH
13 DEPRESSION BUT WHEN I SAW HIM UP HERE AGAIN -- AND
14 THAT WASN'T MENTIONED THAT I HAD SEEN HIM HERE A
15 COUPLE OF WEEKS AGO -- THAT AT THAT POINT HE DID
16 SEEM DEPRESSED AND SOMEWHAT DECOMPENSATED

17 Q AND WHAT ABOUT THE AREA OF POST-TRAUMATIC
18 STRESS DISORDER, DOCTOR?

19 A WELL, THAT'S SOMETHING THAT AGAIN THAT WAS
20 POPULARIZED BY THE VIETNAM WAR MEN WHO, YOU COULD
21 SAY, DECOMPENSATED FOLLOWING BEING IN A BATTLE HAD
22 CERTAIN SYMPTOMS OF JUMPING WHEN LIKE YOU DROP PIN
23 AND THEY JUMP ALMOST HEARING THE SOUNDS OF
24 HELICOPTER WOULD PERHAPS MAKE THEM BECOME EXTREMELY
25 DISTRAUGHT THEY CALL THAT POST-TRAUMATIC STRESS

1 DISORDER

2 WE NOW KNOW THAT HE CAN HAPPEN SOMEONE'S
3 RAPPED, AFTER BEING THROUGH A MUGGING, AFTER A
4 SERIOUS CAR WRECK WHERE THEY SAW -- ALMOST ANY CASE
5 WHERE THEY THOUGHT THEIR LIFE WAS IN DANGER OR
6 SOMEONE AROUND THEM'S LIFE WAS IN DANGER OR ACTUALLY
7 WAS -- THEY SAW PEOPLE LOSING THEIR LIVES

8 Q AND WHAT ABOUT THE SUDDEN DEATH OF A LOVED
9 ONE, COULD THAT CAUSE THAT?

10 A THAT CAN CAUSE IT, YES AND, YOU KNOW, MOST
11 OF US WHEN THAT HAPPENS SUDDENLY WE HAVE A PERIOD OF
12 DECOMPENSATION YOU MIGHT EVEN TEMPORARILY ACT OUT
13 OF IT I MEAN, SOMEONE MIGHT DENY THAT THE PERSON
14 WAS DEAD EVEN THOUGH THEY SAW THEM LYING THERE ' AND
15 THIS USUALLY, HOWEVER, WE RECOVER FROM IT AND GO ON
16 WITH A PERIOD OF BEREAVEMENT AND THEN IT'S OVER

17 SOME PEOPLE IT IF EXTENDS MORE THAN A YEAR OR
18 SO IT'S CONSIDERED HIGHLY ABNORMAL AND THEY NEED TO
19 GET SOME HELP FOR IT SOME PEOPLE IT WOULD HAVE
20 BEEN SUCH A TRAUMATIC EVENT THAT THEY MIGHT CONTINUE
21 TO HAVE PROBLEMS RELATED TO IT YEARS DOWN THE LINE

22 Q WELL, THERE'S STILL SOLDIERS FROM VIETNAM
23 SUFFERING FROM IT, ARE THEY NOT?

24 A OF COURSE, YES, SIR

25 Q AND SO IF ONE'S ABILITY TO DEAL WITH SUCH A

1 POST-TRAUMATIC STRESS DISORDER BE AFFECTED BY
2 ORGANIC BRAIN DISFUNCTION?

3 A I WOULD THINK THAT IT WOULD IN THAT, AS YOU
4 SAID EARLIER, STRESS -- THEY'RE MORE SUSCEPTIBLE TO
5 THE AFFECTS OF STRESS AND THAT'S STRESS -- AND VERY
6 MUCH -- VERY STRESSFUL

7 Q AND AS SUCH DID YOU -- OR CAN YOU SAY WHETHER
8 THE DEATH OF MR HUGHEY'S MOTHER IN 1991 CREATED
9 SOME PROBLEMS FOR HIM?

10 A CERTAINLY APPEARED TO FOR EXAMPLE, WHEN I
11 SAW HIM HERE, THE WEEK -- WEEK OR TEN DAYS AGO -- HE
12 WAS TELLING ME THAT HE SAW HIS MOTHER THERE IN THE
13 ROOM WITH US AND THAT THIS HAS BEEN SOMETHING THAT
14 HAPPENS TO HIM REGULARLY AND THAT HE HEARD HER
15 TALKING

16 AND I KNOW THAT THAT MIGHT SOUND LIKE
17 MALINGERING, LIKE ONE MIGHT BE WANTING TO FAKE THAT
18 THEY'RE MENTALLY ILL, BUT HIS WORDS WERE, I AIN'T
19 CRAZY, BUT I DON'T KNOW WHAT'S GOING ON I THINK IF
20 HE HAD BEEN WANTING TO THINK HE WAS HE WOULD HAVE
21 SAID, I MUST BE CRAZY

22 SO ANYWAY, THAT'S AN ASIDE BUT WHAT I DID
23 NOTICE THAT WHEN HE WAS SAYING THAT THIS HAPPENED
24 AND IF HE IS SEEING THIS WOMAN, HIS MOTHER, I SAID,
25 WHAT'S SHE SAYING? AND SHE ALWAYS SAYS THE SAME

1 THING SHE ALWAYS SAYS THE SAME WORDS THAT SHE WAS
2 SAYING THE LAST TIME YOU SAW HER SOMETHING ABOUT
3 KEEPING THE DINNER WARM UNTIL SHE GOT BACK FROM THE
4 STORE, AND THEN THEY WOULD EAT TOGETHER AND HE
5 SEES HER WEARING THE SAME CLOTHES

6 IT'S LIKE TIME STOOD STILL FOR HIM ONCE THAT
7 HAPPENED HE NEVER REALLY GOT OVER IT LIKE MOST OF
8 US WOULD GET OVER IT IN, YOU KNOW, A MONTH OR TWO
9 MAYBE WE MIGHT OCCASIONALLY REMEMBER OUR LAST
10 MOMENTS WITH A LOVED ONE BUT IT SEEMS LIKE HE
11 LITERALLY THINKS SHE'S THERE AND THAT MAY ONLY
12 OCCUR IN A -- IN TIMES OF DEPRESSION, I DON'T KNOW
13 BUT IT DOES

14 Q WHAT ABOUT HIGH STRESS TIME?

15 A WELL, YES, IT COULD OCCUR UNDER HIGH STRESS,
16 TOO HE MAY, IN FACT, THERE MAY BE A SEQUENCE OF
17 HIGH STRESS, DEPRESSION, AND THEN THESE PSYCHOTIC
18 LIKE FEATURES THAT WOULD -- COULD BE CHARACTERIZED
19 AS DEPRESSION WITH PSYCHOTIC FEATURES THAT WOULD
20 BE A POSSIBLE DIAGNOSIS I DON'T KNOW EITHER WHAT'S
21 GOING ON, AS HE SAID BUT IT'S HIGHLY UNUSUAL AND
22 IT'S OUT OF CONTACT WITH REALITY, OF COURSE

23 Q AND CAN DECOMPENSATION AND THESE TYPES OF POST
24 TRAUMA, CAN THEY RELATE TO A DISSOCIATION?

25 A OH, YES, DISSOCIATION IS ONE OF THE SYMPTOMS

1 THAT'S COMMONLY SEEN IN POST-TRAUMATIC STRESS
2 DISORDER AND A DISSOCIATION -- OR SOME PEOPLE
3 WOULD CALL IT A DISASSOCIATION -- BUT IT REFERS TO
4 LIKE A DISCONNECTION WITHIN YOUR CONSCIOUSNESS, SO
5 THAT YOU MIGHT HAVE -- SAY ABSENCES IN YOUR MEMORY
6 PIECES OF YOUR MEMORY YOU FORGOT

7 OR YOU MIGHT -- IN THE MOST EXTREME CASES OF
8 DISSOCIATION ARE MULTIPLE PERSONALITY THAT'S ONE
9 OF THE MOST EXTREME CASES, MULTIPLE PERSONALITY,
10 WHERE THE PERSON EXISTS AS AN INDIVIDUAL A AND THEN
11 ALL OF THE SUDDEN BECOME INDIVIDUAL B WITH DIFFERENT
12 -- DIFFERENT -- MAYBE EVEN DIFFERENT ALLERGIES,
13 DIFFERENT WAY OF TALKING, AND A LOT OF DIFFERENT
14 THINGS CAN HAPPEN THAT'S A COMPLETE DISSOCIATION

15
16 AND I'M NOT IMPLYING HE HAS THAT I'M
17 IMPLYING THAT WHEN YOU HAVE A POST-TRAUMATIC STRESS
18 DISORDER YOU OFTEN HAVE LESSER DISSOCIATIONS BUT
19 THEY ARE THINGS LIKE WHERE YOU MIGHT HAVE A SPLIT
20 CONSCIOUSNESS YOU SEE -- YOU'RE PROCESSING TWO
21 THINGS AT THE SAME TIME OR THIS ONE, THEN THIS ONE,
22 THEN THIS ONE, THEN THIS ONE AND IT'S KIND OF
23 CONFUSING TO YOU OR YOU MAY NOT REALIZE THAT
24 YOU'RE FEELING SOMETHING S

25 SOME PEOPLE WILL SAY, I'M NOT MAD, AND THEY

1 REALLY THINK THEY AREN'T BUT YOU CAN TELL THEY
2 REALLY ARE BUT IT'S A DIS-CONNECTION BETWEEN THEIR
3 -- WHAT THEY'RE CONSCIOUSLY FEELING AND WHAT THEY
4 REALLY -- WHAT THEIR BODY IS DOING AND THOSE ARE
5 DISSOCIATIONS AND THEY OCCUR QUITE A LOT

6 THE COMMONEST DISSOCIATION OF ALL WE CAN ALL
7 RELATE TO, IS YOU START DRIVING DOWN COLUMBIA, SAY,
8 AND ALL THE SUDDEN YOU FOUND YOURSELF HEADED TOWARD
9 CHARLESTON YOU SAY, I DON'T REMEMBER THE LAST TEN
10 MILES AND THAT'S A DISSOCIATION

11 YOU'RE SORT OF LIKE IN A TRANCE THEN, BUT PART
12 OF YOUR CONSCIOUSNESS SPLIT OFF SOMETHING MUST
13 HAVE STILL BE DRIVING THE CAR OR YOU'D BE WRECKED,
14 BUT YOU DON'T REMEMBER WHAT WAS DRIVING THE CAR, SO
15 YOU SPLIT AND HE APPEARS TO HAVE SOME OF THOSE
16 SPLIT TYPE THINGS, AND THAT CERTAINLY CAN -- CAN
17 COME FROM -- AS ONE OF THE COMMON SYMPTOMS OF POST-
18 TRAUMATIC STRESS DISORDER

19 Q AND, DOCTOR, WHEN SOMEONE IS -- IS IN THIS
20 STATE OF MIND -- I'LL COME BACK TO THE ISSUE OF
21 STRESS WITH THIS PROBLEMS -- ARE THEY LESS CAPABLE
22 OF DEALING WITH STRESS?

23 A OH, YOU MEAN DO THEY HAVE A LOWER TOLERANCE
24 FOR STRESS?

25 Q YES, YES, YES

1 A YES, AND THAT'S -- YOU KNOW, LIKE IN A NORMAL
2 SITUATION AFTER A PERSON HAS BEEN RAPED, FOR
3 EXAMPLE, THAT THEY CAN'T TOLERATE MUCH STRESS I
4 MEAN, THAT'S WHY -- ONE OF THE REASONS THEY NOW HAVE
5 RAPE CRISIS PEOPLE ENTERING THE PICTURE INSTEAD OF
6 HAVING, AS IT USE TO BE, SOME PERHAPS A POLICY
7 OFFICER WHO DIDN'T UNDERSTAND THE FEELINGS GET IN
8 THERE AND START QUESTIONING THEM ABOUT A LOT OF
9 THINGS AND THEY WERE MORE -- THEY COULDN'T DEAL
10 WITH THAT BECAUSE THEY WERE ALREADY UNDER A
11 CONSIDERABLE STRESS IT WAS A POST-TRAUMATIC TYPE
12 STRESS

13 Q DOCTOR, THERE'S BEEN TESTIMONY IN THE CASE
14 ABOUT A SUICIDE ATTEMPT WOULD THAT BE INDICATIVE
15 TO HIS CONDITIONS -- HIS STATE OF MIND?

16 A WELL, MOST PERSONS WHO -- THE OTHER DISORDER
17 THAT'S MOST COMMONLY ASSOCIATED WITH SUICIDE IS
18 DEPRESSION BUT IT'S MOST ANYONE WHO HAS ATTEMPTED
19 SUICIDE -- AT LEAST THIS IS WHAT I'VE BEEN TOLD BY
20 MANY PSYCHIATRISTS WHO HAVE WORKED WITH THEM, AND
21 IT'S MY EXPERIENCE WITH THE SOME I HAVE WORKED WITH
22 TOO -- WHENEVER A PERSON HAS ATTEMPTED SUICIDE AND
23 THEN DIDN'T WORK OR THEY WERE SAVED, AN AMBULANCE
24 GOT THERE IN TIME OR WHATEVER, USUALLY THEY'LL
25 SOMETHING AFTERWARDS LIKE I MUST HAVE NOT BEEN IN MY

1 RIGHT MIND I WAS SO DISTRAUGHT I DON'T REALLY
2 REMEMBER MUCH WHAT HAPPENED THERE IT WAS -- THANK
3 YOU FOR SAVING ME I'M SURE GLAD THAT YOU DIDN'T
4 LET ME DO IT THOSE SORTS OF THINGS ARE COMMONLY
5 SAID

6 SO I THINK THE ANSWER IS THEY MUST BE IN A
7 VERY DISTRAUGHT -- A VERY UPSET -- EXTREMELY UPSET
8 AT THE TIME YOU WOULD BE THINKING ABOUT KILLING
9 YOURSELF

10 Q AND, DOCTOR, THERE'S BEEN SOME TESTIMONY ABOUT
11 MR HUGHEY BEING ABUSED AS A CHILD AND VIEWING AND
12 BEING EXPOSED TO VIOLENCE AND THAT SORT OF THING IN
13 THE HOME NOW COULD THAT BE CONSIDERED A STRESSOR
14 IN THIS CASE?

15 A YES, IT COULD, OF COURSE SEVERE PHYSICAL
16 ABUSE, SEXUAL ABUSE ARE WELL KNOWN MAJOR STRESSORS
17 WITH CONTINUING RESULTS AND CONTINUING RESIDUAL
18 AFFECTS

19 Q AND COULD THIS AFFECT SOMEONE'S MEMORY?

20 A THAT'S ANOTHER THING THAT LATELY IS GENERALLY
21 ACCEPTED THAT SOMETIME YOU DISSOCIATE YOU'RE BACK
22 TO THAT WORD DISSOCIATION YOU MAY CUT OFF THAT
23 PART OF YOUR LIFE AND YOU MAY -- I'VE SEEN QUITE A
24 FEW WOMEN IN THERAPY WHO HAVE BEEN MOLESTED AS
25 CHILDREN AND THEY'LL -- BEFORE THEY COME TO REALIZE

1 IT WILL SAY, I JUST DON'T REMEMBER AGES FOUR, FIVE,
2 SIX, SEVEN, AND EIGHT AND IT'S IMMEDIATELY A RED
3 FLAG THAT THEY MAY BE DISSOCIATING I WONDER WHAT
4 HAPPENED DURING THAT PERIOD

5 Q EXCUSE ME GO AHEAD

6 A NO

7 Q DOCTOR, WHAT ABOUT AVOIDANCE FOR INSTANCE IN
8 THIS CASE THERE'S BEEN TESTIMONY THAT -- THAT MR
9 HUGHEY AVOIDED HIS SISTER'S HOME WHERE HIS MOTHER
10 WAS KILLED

11 A (WITNESS NODS HEAR AFFIRMATIVELY)

12 Q WHAT'S THAT A SIGN OF?

13 A WELL, THAT'S ANOTHER ONE OF THE SYMPTOMS OF
14 POST-TRAUMATIC STRESS DISORDER PEOPLE WHO'VE BEEN
15 IN A SERIOUS AUTOMOBILE ACCIDENT, FOR EXAMPLE, IT
16 WAS VERY TRAUMATIC FOR THEM, THEY WILL NOT GO OUT ON
17 A RAINY NIGHT

18 I HAD A CLIENT WHO WOULD GO OUT ON A RAINY
19 NIGHT AFTER THAT BECAUSE IT WAS RAINY THE NIGHT THE
20 WRECK OCCURRED PEOPLE WILL AVOID THE AREA. WOMEN
21 HAVE BEEN KNOWN TO AVOID MEN AFTER A RAPE AND SO ON
22 SO AVOIDING THE HOME WHERE THE -- WHERE IT HAPPENED
23 WOULD CERTAINLY BE LOGICAL IT WOULD FIT IN WITH
24 THAT

25 Q THE CONDITIONS THAT MR HUGHEY'S SUFFERED FROM

1 WOULD THEY AFFECT -- POSSIBLY AFFECT HIS INABILITY
2 TO REMEMBER DETAILS, THAT SORT OF THING?

3 A WELL, WHEN YOU PUT OUT OF MIND A SET OF
4 MATERIALS -- I'LL CALL THEM SETS A, B, AND C
5 SOMETIMES SETS D, E, AND F GO WITH IT AND EVEN
6 THOUGH IT WASN'T RELATED, IT IMPAIRS YOUR MEMORY

7 Q I SEE AND, DOCTOR, WHEN SOMEONE IS
8 FUNCTIONING AT A SEVENTH GRADE LEVEL, WOULD YOU SAY
9 THAT IT'S FAIR TO SAY THAT THEY'RE AN INDIVIDUAL --
10 I BELIEVE YOU SAID WAS FUNCTIONING ON A THIRTEEN
11 YEAR OLD'S LEVEL?

12 A WELL, USUALLY YOU'RE THIRTEEN WHEN YOU'RE IN
13 SEVENTH GRADE THAT'S TYPICAL

14 Q WELL, WHAT ABOUT WHEN THAT THIRTEEN YEAR OLD
15 GETS OLDER IN YEARS -- CHRONOLOGICAL YEARS, IS THE
16 GOING TO CHANGE THAT THIRTEEN AND HIS BEHAVIOR?

17 A WELL, USUALLY PEOPLE -- IT DOESN'T -- YOU
18 DON'T ALWAYS HAVE PERSONS WHO ARE READING AT THE
19 SIXTH GRADE LEVEL ACTING LIKE A TWELVE YEAR OLD OR
20 THIRTEEN -- SEVENTH GRADE LEVEL ACTING LIKE A
21 THIRTEEN YEAR OLD BUT IT MORE GOES WITH THE IDEA
22 OF THEIR LEVEL OF INTELLIGENCE SO IF WE THINK OF
23 HIS INTELLIGENCE AS BEING EIGHTY PERCENT OF NORMAL,
24 AND INTELLIGENCE CEASES TO DEVELOP AROUND AGE
25 SIXTEEN, THEN YOU'RE AS SMART AS SIXTEEN AS YOU'RE

1 GOING TO BE EVER IN TERMS OF HOW DEEP YOU CAN THINK,
2 ETC AND HE WOULD EXPECT HIM TO PEAK OUT SOMEWHERE
3 AROUND THE THIRTEEN YEAR OLD LEVEL AND SO, IN SOME
4 RESPECTS, HE MIGHT BE LIKE A THIRTEEN YEAR OLD IN
5 ADDITION TO THE READING LIKE A THIRTEEN YEAR OLD

6 Q DOCTOR, IN TESTING MR HUGHEY, DID YOU APPLY
7 STANDARD ACCEPTED DSM TYPE TESTS?

8 A YES

9 Q LIKE RORSCHACH AND WECHSLER, YOU TALKED OF
10 THAT

11 A THOSE ARE STANDARD TESTS OF NEURO-
12 PSYCHOLOGICAL AND PSYCHOLOGICAL TEST MATTER, YES

13 Q WOULD THESE SCARS ON MR HUGHEY'S HEAD -- CAN
14 YOU SEE THEM, DOCTOR?

15 A YES, SIR, I'VE SEEN THEM BEFORE

16 Q AND HE'S GOT OTHER AROUND THE HEAD, DOES HE
17 NOT?

18 A LOOKS LIKE THE WHOLE WAY AROUND, YES

19 Q YES WOULD THOSE BE INDICATIVE OF SEVERE HEAD
20 TRAUMA?

21 A WELL, I DON'T -- I CAN'T SAY THAT I DON'T
22 KNOW WHAT --

23 Q WHAT CAN YOU SAY?

24 A I DON'T KNOW WHAT CAUSED THEM IF THOSE CAME
25 FROM THE TIME HE WAS IN AN ACCIDENT, THEN THEY COULD

1 BE BUT I'M NOT A PHYSICIAN, SO THEREFORE I DON'T
2 KNOW ONE SCAR FROM ANOTHER IN TERMS OF WHAT MIGHT
3 HAVE CAUSED THEM

4 Q I SEE I SEE ARE THEY CONSISTENT WITH ---

5 A THEY'D BE CONSISTENT WITH A SERIOUS HEAD
6 INJURY OR SOME KIND OF NEURO-SURGERY

7 Q THAT LOOKS LIKE A NEURO-SURGICAL SCAR, DOES IT
8 NOT?

9 A THAT'S WHAT IT LOOKS LIKE, YEAH FROM WHAT I
10 --THE FEW SCARS I'VE SEEN THAT WERE BASED ON NEURO-
11 SURGERY, THAT'S WHAT THEY LOOKED LIKE

12 Q AND, DOCTOR, YOU'RE NOT OUT TO DISPROVE IN
13 EVIDENCE TODAY TO SAY THAT MR HUGHEY IS NOT
14 RESPONSIBLE, ARE YOU?

15 A NO, SIR, NOT RESPONSIBLE --

16 Q FOR HIS CRIMES?

17 A FOR HIS CRIMES, NO, SIR

18 Q YOU'RE OFFERING THEM AS EXPLANATIONS FOR HIS
19 INDIVIDUAL CHARACTERISTICS?

20 A YES, IN A WAY I'M OFFERING THEM AS FACTS THE
21 WOULD APPEAR TO MODIFY OR MITIGATE OR WHATEVER THE
22 CRIME -- IT WOULD -- IT WASN'T -- IT MIGHT BE
23 SOMETHING THAT -- HE'S DIFFERENT FROM THE AVERAGE
24 PERSON IN MANY WAYS AND THOSE ARE THE WAYS WE'VE
25 TALKED ABOUT NOW AND THOSE CERTAINLY THERE IS

1 QUESTION WHETHER THEY WERE FACTORS -- IT NEEDS TO BE
2 ASKED ARE THOSE FACTORS IN THE CRIME AND THEY MAY
3 WELL HAVE BEEN

4 Q IN YOUR OPINION, THEY COULD DEFINITELY HAVE
5 IMPACTED HIM ON DECEMBER 4, '95?

6 A THEY COULD HAVE BEEN FACTORS, YES

7 Q AND, DOCTOR, IN YOUR MEDICAL OPINION AS NEURO-
8 PSYCHOLOGIST, IF AN INDIVIDUAL WHO SUFFERS FROM
9 ORGANIC BRAIN DISFUNCTION IS EXPOSED TO VIOLENCE AT
10 AN EARLY AGE, ABUSED, AND THEN SUFFERS A SERIES OF
11 HEAD TRAUMAS, IN YOUR OPINION AS AN EXPERT, WOULD
12 THOSE FACTORS AFFECT THAT PERSON'S ABILITY TO COPE
13 AND DEAL WITH STRESS AND LIFE ITSELF?

14 A YES

15 Q AND, DOCTOR, IN YOUR EVALUATION AND STUDY OF
16 JOHN KENNEDY HUGHEY, HAVE YOU FOUND ORGANIC BRAIN
17 DISFUNCTION?

18 A I FOUND A LOT OF CONVERGING EVIDENCE FOR
19 ORGANIC BRAIN DISFUNCTION TO THE POINT THAT I WOULD
20 SAY, YES, IT EXISTS

21 MR TINSLEY THANK YOU, DOCTOR, THAT'S
22 ALL I HAVE

23 CROSS EXAMINATION

24 BY MR JONES

25 Q HELLO, DOCTOR EVANS

1 A HELLO, THERE

2 Q HOW ARE YOU DOING?

3 A TIRED

4 Q TIRED WELL, WE'LL TRY NOT TO MAKE THIS TOO
5 LONG I JUST HAVE A FEW QUESTIONS FOR YOU THE
6 OPINION YOU GAVE US IS THAT YOU HAD CONVERGING
7 FACTORS THAT WOULD RESULT YOUR BEING ABLE TO COME IN
8 THIS COURTROOM AND TELL US THAT IN YOUR OPINION HE
9 HAS ORGANIC BRAIN DISORDER?

10 A YES

11 Q WHAT ABOUT POST-TRAUMATIC STRESS DISORDER?

12 A YOU MEAN -- WHAT DO YOU MEAN?

13 Q WELL, DOES HE HAVE IT?

14 A IN MY OPINION? BASED ON THE -- NOT FROM WHAT
15 I GOT AT THE FIRST TWO TESTS, BUT BASED ON THE
16 INFORMATION THAT I GATHERED LATER AT THAT -- WHEN WE
17 WERE UP HERE BEFORE A WEEK OR SO AGO -- I WOULD BE
18 STRONGLY SUSPICIOUS THAT HE SUFFERS FROM POST-
19 TRAUMATIC STRESS DISORDER

20 Q BUT YOU'RE NOT GOING TO RENDER AN OPINION HERE
21 TODAY?

22 A I'M NOT GOING TO SAY THAT IT WAS POST-
23 TRAUMATIC STRESS DISORDER ALTHOUGH, AGAIN, THERE
24 WAS CONVERGING EVIDENCE THAT WOULD SUPPORT THAT AS
25 AN ADDITIONAL DIAGNOSIS

1 Q ARE YOU GOING TO RENDER YOUR EXPERT OPINION
2 HERE THAT HE HAS IT OR NOT?

3 A I'M NOT GOING TO SAY THAT I -- THAT HE HAS
4 POST-TRAUMATIC STRESS DISORDER

5 Q RIGHT YOU CANNOT RENDER THAT OPINION HERE
6 TODAY?

7 A I CANNOT SAY THAT WITH A DEGREE OF CERTAINTY
8 THAT I CAN THE OTHER

9 Q ALL RIGHT AND AS FAR AS THE OTHER IS
10 CONCERNED, WHAT IMPACT DOES THE MRI -- THE BRAIN MRI
11 HAVE ON YOUR ASSESSMENT OF HIS NEUROLOGICAL
12 DISFUNCTION?

13 A MRI ONLY LOOKS FOR STRUCTURAL ABNORMALITIES IN
14 THE BRAIN

15 Q STRUCTURAL ABNORMALITIES, ALL RIGHT

16 A AND THERE ARE MANY BRAIN DISFUNCTION AS
17 BROADER THAN THAT

18 Q ALL RIGHT

19 A NOW IF YOU -- IT IS WELL KNOWN THAT IN
20 NEUROLOGY CIRCLES AND NEURO-PSYCHOLOGICAL CIRCLES
21 THAT THERE CAN BE ACTUAL BRAIN DAMAGE THE MRI
22 DOESN'T PICK UP AND IT'S ALSO WELL KNOWN THAT IT
23 DOES NOT PICK UP A GREAT MANY TYPES OF BRAIN
24 DISFUNCTION SO IF YOU GET AN MRI AND YOU CAN SEE
25 ON THERE THAT HERE IS DAMAGE, THAT'S GREAT, BUT IF

1 YOU DON'T, YOU CAN'T RULE IT OUT BY ANY MEANS

2 Q RIGHT, BUT MY QUESTION FOR WAS WHAT AFFECT
3 DID THE MRI IN THIS CASE HAVE THE ANSWER IS NONE
4 BECAUSE THERE WAS NO DAMAGE SHOWN IN THE MRI, WAS
5 THERE?

6 A SO IT DIDN'T HAVE AN AFFECT ON MY DIAGNOSIS
7 ONE WAY OR THE OTHER

8 Q RIGHT, BUT IT -- IT IS ONE WAY THAT YOU CAN
9 NOTE BRAIN NEUROLOGICAL DISFUNCTION, CAN IT, DOCTOR?

10 A THAT IS ONE WAY, YES, SIR

11 Q AND IN THIS INSTANCE, IN HIS CASE, THEY
12 CONDUCTED A MAGNETIC RESONANCE IMAGERY OF HIS BRAIN
13 AND FOUND NO -- AS A MATTER OF FACT I BELIEVE IT
14 STATES --

15 MR TINSLEY OBJECTION, YOUR HONOR

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q -- YOU REVIEWED THAT HAVEN'T YOU?

19 A I DON'T -- THIS IS AN AREA THAT I'M NOT IN TO
20 I CAN'T TELL -- I CAN'T READ MRI'S

21 Q CAN YOU READ EEG'S?

22 A THE COMPUTER SCORES THEM, AND THE RESULTS THE
23 COMPUTER GIVES BACK TO ME, YES

24 Q BUT YOU DON'T ACTUALLY READ THE EEG YOURSELF?

25 A NO, SIR

1 Q THAT'S LEFT UP TO A MEDICAL DOCTOR TO DO THAT,
2 ISN'T IT?

3 A TRADITIONALLY, YES AND THEY'RE ALL --

4 Q YOU MENTIONED A COMPUTER, BUT ACTUALLY IT'S A
5 MEDICAL DOCTOR THAT READS AN EEG, CORRECT?

6 A ONLY THE REGULAR EEG, THE ROUTINE ONE, THE ONE
7 THAT I DISCUSSED EARLIER WHERE YOU SEE THE WAVE
8 FORMS ON A PAPER

9 Q ALL RIGHT AND, IN FACT, HIS EEG, THE
10 DEFENDANT'S HERE, SHOWED NO SEIZURE ACTIVITY, DID
11 IT?

12 A I DON'T KNOW I DIDN'T REVIEW THAT

13 Q YOU DIDN'T?

14 A NO

15 Q WELL, DID YOUR EEG SHOW ANY SEIZURE ACTIVITY?

16 A THE QUANTITATIVE EEG DOES NOT LOOK FOR SEIZURE
17 ACTIVITY

18 Q ALL RIGHT

19 A IT LOOKS FOR OTHER ASPECTS OF BRAIN ELECTRICAL
20 ACTIVITY BUT IT IS NOT USED FOR DETECTING
21 SEIZURES

22 Q WELL, LET ME ASK YOU THIS THEN YOU SAID THAT
23 YOU EXAMINED HIM TWICE ON JULY NINTH AND SEPTEMBER
24 TWENTY-SEVENTH

25 A AND ALSO UP HERE A COUPLE -- A WEEK OR SO AGO

1 Q EXACTLY

2 A YES

3 Q AND UP HERE, A COUPLE WEEKS AGO, IS WHEN YOU
4 TOLD ME THAT YOU ACTUALLY, BASED ON THE TIME YOU
5 SPENT WITH HIM, YOU HAD CONSIDERED NO POST-TRAUMATIC
6 STRESS DISORDER EVEN PRESENT IT WASN'T UNTIL PAIGE
7 TARR SUGGESTED TO YOU --

8 MR TINSLEY OBJECTION HE CAN'T ---

9 MR JONES -- THAT POSSIBLY THERE
10 WAS ----

11 THE COURT EXCUSE ME, JUST A MINUTE
12 WHAT'S THE NATURE OF THE OBJECTION?

13 MR TINSLEY MISCHARACTERIZATION

14 THE COURT FINISH THE QUESTION AND
15 THEN WE'LL GET TO IT

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q IT WAS THEN, TWO WEEKS AGO, THAT YOU SUGGESTED
19 IT WASN'T UNTIL PAIGE TARR MENTIONED THAT MAYBE WE
20 OUGHT TO LOOK IN AND SEE IF HE MIGHT HAVE SOME POST-
21 TRAUMATIC STRESS DISORDER DID YOU DECIDE THAT YOU
22 WANTED HIM EXAMINED BY A PSYCHOLOGIST IN AN EFFORT
23 TO MAKE THAT DETERMINATION, IS THAT SO?

24 THE COURT OVERRULE THE OBJECTION

25 THE WITNESS I DON'T KNOW THAT'S QUITE

1 TRUE, NO, SIR THE FIRST PART IS TRUE WHEN I WAS
2 EVALUATING HIM MY CHARGE THERE, SO TO SPEAK, WAS TO
3 DO A NEURO-PSYCHOLOGICAL ASSESSMENT TO SEE IF THERE
4 WAS ANY EVIDENCE OF BRAIN DISFUNCTION I WAS NOT
5 LOOKING FOR -- SPECIFICALLY FOR ANYTHING LIKE A
6 POST-TRAUMATIC STRESS DISORDER

7 AND MY RORSCHACH WAS GIVEN JUST AS A
8 GENERAL SCREEN SORT OF LIKE A PHYSICIAN MIGHT
9 LISTEN TO SOMEONE'S HEART THROUGH A STETHOSCOPE JUST
10 TO SEE IF THERE'S ANYTHING MAJOR THAT SHOWS UP AND
11 AT THAT TIME I DIDN'T THINK ABOUT A POST-TRAUMATIC
12 STRESS DISORDER IT WASN'T A FOCUS

13 IT WAS LIKE THERE WAS MANY THINGS ONE
14 COULD HAVE LOOKED FOR, BUT IN SIX HOURS YOU'VE GOT
15 TO FOCUS ON WHAT YOU WERE HIRED TO DO WHICH WAS FOR
16 THE NEURO-PSYCHOLOGICAL PROBLEMS SO I DIDN'T LOOK
17 FOR THAT AND I DIDN'T SUSPECT IT ON THE BASIS OF HIS
18 BEHAVIORS AT THE TIME

19 EXAMINATION CONTINUED

20 BY MR JONES

21 Q RIGHT

22 A THE FIRST PART IS TRUE NOW THE SECOND PART
23 ABOUT THE -- MY WANTING HIM REFERRED FOR A
24 PSYCHIATRIST TO LOOK AT THE CHANCE OF POST-TRAUMATIC
25 STRESS DISORDER, THAT WASN'T WHAT THAT WAS ABOUT I

1 Q EXACTLY

2 A YES

3 Q AND UP HERE, A COUPLE WEEKS AGO, IS WHEN YOU
4 TOLD ME THAT YOU ACTUALLY, BASED ON THE TIME YOU
5 SPENT WITH HIM, YOU HAD CONSIDERED NO POST-TRAUMATIC
6 STRESS DISORDER EVEN PRESENT IT WASN'T UNTIL PAIGE
7 TARR SUGGESTED TO YOU --

8 MR TINSLEY OBJECTION HE CAN'T ---

9 MR JONES -- THAT POSSIBLY THERE
10 WAS ----

11 THE COURT EXCUSE ME, JUST A MINUTE
12 WHAT'S THE NATURE OF THE OBJECTION?

13 MR TINSLEY MISCHARACTERIZATION

14 THE COURT FINISH THE QUESTION AND
15 THEN WE'LL GET TO IT

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q IT WAS THEN, TWO WEEKS AGO, THAT YOU SUGGESTED
19 IT WASN'T UNTIL PAIGE TARR MENTIONED THAT MAYBE WE
20 OUGHT TO LOOK IN AND SEE IF HE MIGHT HAVE SOME POST-
21 TRAUMATIC STRESS DISORDER DID YOU DECIDE THAT YOU
22 WANTED HIM EXAMINED BY A PSYCHOLOGIST IN AN EFFORT
23 TO MAKE THAT DETERMINATION, IS THAT SO?

24 THE COURT OVERRULE THE OBJECTION

25 THE WITNESS I DON'T KNOW THAT'S QUITE

1 TRUE, NO, SIR THE FIRST PART IS TRUE WHEN I WAS
2 EVALUATING HIM MY CHARGE THERE, SO TO SPEAK, WAS TO
3 DO A NEURO-PSYCHOLOGICAL ASSESSMENT TO SEE IF THERE
4 WAS ANY EVIDENCE OF BRAIN DISFUNCTION I WAS NOT
5 LOOKING FOR -- SPECIFICALLY FOR ANYTHING LIKE A
6 POST-TRAUMATIC STRESS DISORDER

7 AND MY RORSCHACH WAS GIVEN JUST AS A
8 GENERAL SCREEN SORT OF LIKE A PHYSICIAN MIGHT
9 LISTEN TO SOMEONE'S HEART THROUGH A STETHOSCOPE JUST
10 TO SEE IF THERE'S ANYTHING MAJOR THAT SHOWS UP AND
11 AT THAT TIME I DIDN'T THINK ABOUT A POST-TRAUMATIC
12 STRESS DISORDER IT WASN'T A FOCUS

13 IT WAS LIKE THERE WAS MANY THINGS ONE
14 COULD HAVE LOOKED FOR, BUT IN SIX HOURS YOU'VE GOT
15 TO FOCUS ON WHAT YOU WERE HIRED TO DO WHICH WAS FOR
16 THE NEURO-PSYCHOLOGICAL PROBLEMS SO I DIDN'T LOOK
17 FOR THAT AND I DIDN'T SUSPECT IT ON THE BASIS OF HIS
18 BEHAVIORS AT THE TIME

19 EXAMINATION CONTINUED

20 BY MR JONES

21 Q RIGHT

22 A THE FIRST PART IS TRUE NOW THE SECOND PART
23 ABOUT THE -- MY WANTING HIM REFERRED FOR A
24 PSYCHIATRIST TO LOOK AT THE CHANCE OF POST-TRAUMATIC
25 STRESS DISORDER, THAT WASN'T WHAT THAT WAS ABOUT I

1 THINK THE QUESTION, AS I RECALL LAST TIME, WAS
2 WHETHER HE WAS COMPETENT TO STAND TRIAL

3 Q UH-HUH

4 A AND I HAD SAID THAT EVEN THOUGH, YOU KNOW,
5 THERE ARE MANY DIFFERENT TYPES OF COMPETENCY THE
6 COMPETENCY TO GO TO SCHOOL, THE COMPETENCY TO GO TO
7 COLLEGE AND VARIOUS TYPES OF COMPETENCY BUT THE
8 QUESTION OF COMPETENCY TO STAND TRIAL IS A VERY
9 SPECIFIC COMPETENCY THAT YOU'RE LOOKING FOR

10 Q UH-HUH

11 A AND THERE ARE PEOPLE WHO SPECIALIZE IN THAT
12 THEREFORE, I DIDN'T FEEL LIKE I COULD GIVE YOU A
13 STATEMENT YES OR NO REGARDING WHETHER HE WAS
14 COMPETENT TO STAND TRIAL AND I KNEW THERE WERE
15 PEOPLE AT HALL WHO DO THAT FOR A LIVING

16 AND SO WHEN IT WAS MENTIONED THAT HE SHOULD GO
17 DOWN TO HALL INSTITUTE, I THOUGHT IT WAS
18 SPECIFICALLY TO FIND OUT IF HE WAS COMPETENT TO
19 STAND TRIAL PERHAPS THEY WOULD HAVE CONSIDERED
20 POST-TRAUMATIC STRESS DISORDER IN THEIR EVALUATION,
21 BUT IT WAS NOT PRIMARILY TO DETERMINE WHETHER HE HAD
22 POST-TRAUMATIC STRESS DISORDER

23 Q ALL RIGHT, AND YOU WANTED SOMEBODY ELSE TO
24 LOOK AT IT?

25 A WELL, YOU DID

1 Q EXCUSE ME

2 A I THOUGHT YOU DID I DIDN'T -- I MEAN, I JUST
3 FELT LIKE I COULDN'T MAKE THE DECISION OF WHETHER HE
4 WAS COMPETENT OR NOT

5 Q THIS IS A TRANSCRIPT -- THIS IS A TRANSCRIPT
6 OF YOUR TESTIMONY A COUPLE WEEKS AGO I'D LIKE FOR
7 YOU TO JUST BEGIN READING AT THE TOP OF THAT PAGE
8 THAT'S YOUR ANSWER TO THE QUESTION

9 THE COURT READ IT TO YOURSELF

10 MR TINSLEY YOUR HONOR, I WANT TO
11 OBJECT TOO MUCH GOING INTO THAT ASPECT BECAUSE OF
12 THIS MATTER, BECAUSE THE --

13 THE COURT LET ME SEE YOU WHILE HE'S
14 LOOKING

15 (COUNSEL AT SIDE BENCH)

16 EXAMINATION CONTINUED

17 BY MR JONES

18 Q DOCTOR, I TELL YOU WHAT, YOU'VE HAD A CHANCE
19 TO LOOK AT THAT RIGHT?

20 A RIGHT

21 Q GIVE IT BACK TO ME JUST LET ME ASK YOU THIS
22 QUESTION DO YOU REMEMBER SAYING THAT YOU HAD NOT
23 THOUGHT ABOUT A POST-TRAUMATIC STRESS DISORDER TILL
24 THE SOCIAL WORKER MENTIONED TO YOU, ISN'T THAT
25 CORRECT?

1 A YES, YEAH, I HAD TO GO BACK WE WERE TALKING
2 ABOUT TWO DIFFERENT THINGS I SEE WHAT YOU'RE
3 TALKING ABOUT KNOW WHEN I WAS -- I DID RECOMMEND
4 THAT A PSYCHOLOGIST ADMINISTER THAT EXAM

5 Q RIGHT

6 A RIGHT, I DID DO THAT THAT WASN'T -- THAT WAS
7 INDEPENDENT FROM THE HALL INSTITUTE

8 Q THAT'S FINE AND YOU DIDN'T KNOW THAT THAT
9 REPORT AT HALL WAS AVAILABLE FOR YOU TO LOOK AT
10 TODAY BEFORE YOU TESTIFIED TO THIS JURY ABOUT THIS
11 DEFENDANT'S STATE OF MIND AND THAT SORT OF THING?
12 YOU DIDN'T LOOK AT IT?

13 A WHICH ONE?

14 Q THE REPORT THAT WAS GENERATED AS A RESULT OF
15 YOUR CLIENT -- YOUR PATIENT GOING TO HALL INSTITUTE
16 FOR A MORE COMPLETE EVALUATION?

17 A I HAVEN'T SEEN THAT NO, SIR, I HAVE NOT SEEN
18 IT

19 Q AND YOU DIDN'T FEEL IT WAS NECESSARY FOR YOU
20 TO REVIEW THAT MORE COMPLETE AND THOROUGH EVALUATION
21 OF YOUR CLIENT BEFORE YOU TESTIFIED BEFORE THIS
22 JURY?

23 A I WAS TOLD THAT THEY FOUND HIM COMPETENT, AND
24 THAT'S WHY HE WAS SENT

25 Q NOW, BRIEFLY, I PROMISE YOU -- TRY TO BE, YOU

1 TALKED ABOUT THESE TESTS THAT YOU ADMINISTERED, THE
2 DEFICIENT TEST, THE -- CAN'T READ MY OWN WRITING --
3 RORSCHACH TEST, WIDE-RANGE TEST THOSE ARE THE
4 TESTS?

5 A YES, SIR

6 Q ALL RIGHT, DOCTOR, I DON'T MEAN TO SOUND, WHEN
7 I ASK YOU THIS QUESTION, FUNNY, BUT DO YOU HAVE ANY
8 KIND OF TEST THAT YOU COULD PUT ON HIM TO GAUGE
9 VICIOUSNESS AND MEANNESS?

10 A NO, SIR, I DON'T HAVE ANY DIRECT TEST THERE
11 IS NO SUCH TEST THAT I KNOW OF

12 Q ALL RIGHT NOW, WHEN YOU ADMINISTERED THE
13 TESTS THAT YOU DID THAT YOU SAY POINT OUT THAT HE
14 HAS INDICATORS THAT STRESS CAUSES HIM PROBLEMS?

15 A I DON'T THINK I TESTIFIED THAT I HAD TESTS
16 THAT SHOWED STRESS CAUSES HIM PROBLEMS WHAT I
17 TESTIFIED TO WAS TO MR TINSLEY'S STATEMENT THAT IF
18 A PERSON HAS BRAIN DISFUNCTION OR BRAIN DAMAGE AND A
19 HISTORY OF ABUSE, WOULD THEY BE MORE LIKELY TO BE
20 SUSCEPTIBLE TO STRESS, WOULD THEY HAVE A LOWER
21 TOLERANCE FOR STRESS, MIGHT THEY DECOMPENSATE MORE
22 RAPIDLY UNDER STRESS

23 Q UH-HUH

24 A THOSE WERE NOT BASED ON THE TEST FINDINGS
25 OTHER THAN SOMETHING -- NOT ON THE TEST FINDINGS

1 SOME OF IT MIGHT BE BASED ON THE INTERVIEW WITH HIM,
2 BUT NOT THE TESTS THEMSELVES

3 Q AND SO STRESS IS THE KEY?

4 A STRESS COULD BE A KEY

5 Q WHAT WOULD BE ANOTHER KEY?

6 A TO -- A KEY TO WHAT?

7 Q THE VIOLENT BEHAVIOR ON HIS PART?

8 A WELL, ANYTHING THAT YOU COULD THINK OF THAT
9 MAKES US VIOLENT WE ALL COULD SAY THERE ARE
10 DIFFERENT BUTTONS THAT GET PUSHED TO MAKE US
11 VIOLENT SO IT'S POSSIBLE HE HAD SOME -- WE ALL
12 HAVE UNIQUE BUTTONS -- DIFFERENT BUTTONS IF PRESSED
13 COULD KICK OFF VIOLENCE

14 Q WOULD A DECISION ON HIS PART, A DECISION HE
15 MAKES TO MURDER SOMEBODY -- IF HE DECIDES TO MURDER
16 SOMEBODY, WOULD THAT CREATE A STRESSFUL SITUATION
17 WITHIN HIMSELF?

18 A I'M INCLINED TO THINK THAT

19 MR TINSLEY OBJECTION, YOUR HONOR
20 THAT'S NOT A PROPER QUESTION

21 THE COURT OVERRULED

22 THE WITNESS I THINK THERE MAY BE
23 SOMETHING -- WOULD YOU ASK IT ONCE MORE?

24 EXAMINATION CONTINUED

25 BY MR JONES