

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Anderson County

Carmen T. Mullen, Circuit Court Judge

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S.C. Supreme Court

WALTER CHASE ALLEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000438

APPENDIX

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State of South Carolina

In the Court of General Sessions

County of Anderson

State of South Carolina,

Plaintiff,

-vs-

Walter Chase Alley,

Defendant.

2011-GS-04-1722, 1723, 1724

February 4-5, 2013

Transcript of Record

BEFORE:

The Honorable, Judge

APPEARANCES:

Rame Campbell, Esquire
 Brantley Haigler, Esquire
 Assistant Solicitor for 10th Judicial Circuit
 Attorney for the State

Scott Robinson, Esquire
 Attorney for the Defendant

Renee H. Tollison
 Circuit Court Reporter

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Juror #	Name	Race	Sex	<u>Strikes</u>			Accept
				Ct.	Pl.	Def.	
42	Loretta L. Cruse	W	F				X
178	Judith C. Vaughn	W	F			X	
78	Lisa N. Hargrove	W	F		X		
103	Shirley L. Kemp	B	F				X
106	Allison C. Leahey	W	F			X	
132	Barry J. Murphy	W	M				X
123	Rebecca C. Milford	W	F			X	
20	Gary f. Bittinger	W	M			X	
139	Robert E. Phillips	W	M			X	
41	Terry B. Crocker	W	F			X	
183	Jennifer M. Weaver	W	F				X
84	Sherri P. Hill	W	F			X	
47	John L. Dean	W	M				X
6	Gregory L. Alexander	B	M		X		
195	Gail S. Williams	W	F			X	
76	Betsy E. Gregory	W	F				X
141	Mary A. Posey	W	F		X		
186	Christopher J. Whitmire	W	M				X
79	Adam R. Haskett	W	M		X		
107	Kara C. Little	W	F				X
174	Lacey L. Torge	W	F				X
163	Sundra R. Shands	B	F				X
140	John S. Poole	W	M				X
188	Stephanie R. Whysong	W	F				X
131 A	Pamela L. Motes	W	F				X
172	Angela M. Tarbutton	W	F			X	
122	Frank H. McKinney	W	M			X	
64 A	Dennis J. Evitt	W	M				X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

1 February 4, 2013

2 (WHEREUPON, court convened and the following
3 proceedings were had commencing at approximately
4 10:50 a.m.)

5 THE COURT: Have y'all got the indictment? If
6 you'll hand up the indictment, whoever has it.

7 (WHEREUPON, Mr. Campbell handed up indictment to the
8 Court.)

9 THE COURT: Thank you, sir.

10 MR. CAMPBELL: Yeah.

11 THE COURT: Solicitor, all three?

12 MR. CAMPBELL: Yes, sir.

13 THE COURT: Okay. All right. Ladies and
14 gentlemen of the jury, the State is calling the case of
15 the State versus Walter Chase Alley. And we're going to
16 draw a jury on that case. But before we do that, I'm
17 going to have to ask you all to step out -- out in the
18 hall for about five minutes and then I'll get you back.
19 If all of the jurors can go out in the hall for five
20 minutes.

21 (WHEREUPON, the jury panel exited the open court at
22 approximately 10:51 a.m.)

23 THE COURT: Is everybody out? Y'all want to
24 bring -- if y'all would bring the Defendant in, please?
25 Mr. Robinson, is that what you wanted?

1 MR. ROBINSON: Yes, sir, Your Honor. Thank
2 you.

3 THE COURT: As soon as we get the Defendant in,
4 we'll bring the jury back.

5 (WHEREUPON, the Defendant entered the open court at
6 approximately 10:59 a.m.)

7 THE COURT: All right. Would you bring us the
8 jury in, please?

9 THE BAILIFF: All right.

10 THE COURT: Thank you very much.

11 (WHEREUPON, the jury panel entered the open court at
12 approximately 11:00 a.m.)

13 THE COURT: All right. Ladies and gentlemen of
14 the jury panel, the State's calling the case of the State
15 versus Walter Chase Alley who is charged with possession
16 of a weapon during a violent crime and robbery and by
17 indictment for murder. These are indictments. They're
18 not evidence in the case. They're merely the means by
19 which the Defendant's brought before the Court for trial.
20 It's not evidence. The indictments do not indicate
21 innocence or guilt of the Defendant. It's just merely
22 the administrative process by which the Defendant's
23 brought before the Court.

24 Now, I'm going to ask you certain questions. And
25 the first thing I'm going to do is call out a list of

1 names. And I'm going to ask you basically the same
2 question about each name. I'm going to ask you did you
3 know the individual, are you related by blood or marriage
4 or have you had any type of contact with the individual.
5 And when I say marriage, I'm talking about present
6 marriages and past marriages -- if you -- or any future
7 marriages. If you plan on marrying somebody on this
8 list, I'd like to know about it. If you're divorced from
9 somebody on this list, I would like to know about it.

10 The first name is Steve Phillips. Is anybody
11 related by blood or marriage? Does anybody know Steve
12 Phillips? If so, please stand.

13 (No response)

14 THE COURT: Tommy Johnson, Anderson County
15 Sheriff's Office. Anybody know Tommy Johnson? Is
16 anybody related by blood or marriage? If so, please
17 stand.

18 (No response)

19 THE COURT: Todd Caron, Anderson County
20 Sheriff's Office. Anybody related by blood or marriage?
21 Does anybody know Todd Caron? If so, please stand.

22 (No response)

23 THE COURT: The next name is Dr. Brett Woodard.
24 Does anybody know Dr. Brett Woodard? Is anybody related
25 by blood or marriage to Dr. Woodard? I wouldn't ask if

1 you've been treated by him since he's a pathologist.

2 Anybody related by blood or marriage? If so, please
3 stand.

4 (No response)

5 THE COURT: The next name is Matt McDonald,
6 Anderson County Sheriff's Office. Anybody related by
7 blood or marriage? Does anybody know Matt McDonald? If
8 so, please stand.

9 (No response)

10 THE COURT: The next name is Todd Owens,
11 Anderson County Sheriff's Office. Does anybody know Todd
12 Owens or anybody related to Todd Owens? If so, please
13 stand.

14 (No response)

15 THE COURT: Steve Reeves, Anderson County
16 Sheriff's Office. Anybody related by blood or marriage
17 or does anybody know Steve Reeves? If so, please stand.

18 (No response)

19 THE COURT: The next name is Nathan Mitchell,
20 Anderson County Sheriff's Office. Anybody related by
21 blood or marriage or does anybody know Nathan Mitchell?
22 If so, please stand.

23 (No response)

24 THE COURT: The next name is Matthew Voight,
25 Anderson County Sheriff's Office. Is anybody related by

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1 blood or marriage? Does anybody know Matthew Voight? If
2 so, please stand.

3 (No response)

4 THE COURT: The next name is Chris Wilson,
5 Anderson County Sheriff's Office. Anybody related by
6 blood or marriage? Does anybody know Chris Wilson? If
7 so, please stand.

8 (No response)

9 THE COURT: The next name is Sarah Simpson. Is
10 anybody related by blood or marriage? Does anybody know
11 Sarah Simpson? If so, please stand.

12 (No response)

13 THE COURT: The next name Julia Dudley.
14 Anybody related by blood or marriage? Does anybody know
15 Julia Dudley? If so, please stand.

16 (No response)

17 THE COURT: The next name is Dr. Kimberly
18 Harrison, South Carolina Department of Mental Health.
19 Anybody know Kimberly Harrison? Anybody been treated by
20 Dr. Harrison? If so, please stand.

21 (No response)

22 THE COURT: The next name is Dan DeFreese,
23 South Carolina Law Enforcement, commonly referred to
24 SLED. Does anybody know Dan DeFreese or is anybody
25 related by blood or marriage? If so, please stand.

1 (No response)

2 THE COURT: The next name is Toni Broome of
3 SLED. Anybody related by blood or marriage or does
4 anybody know Toni Broome?

5 (No response)

6 THE COURT: John Roberts, also of SLED.
7 Anybody know John Roberts? Is anybody related to John
8 Roberts? If so, please stand.

9 (No response)

10 THE COURT: Bob -- Bob -- Rob Gebing.

11 Is that Gebing, or how is that ---

12 MR. CAMPBELL: Gebing.

13 THE COURT: Gebing?

14 Rob Gebing from the Anderson County Sheriff's
15 Office. Anybody related by blood or marriage? Does
16 anybody know Rob Gebing? If so, please stand.

17 (No response)

18 THE COURT: Chad Bell. Anybody related by
19 blood or marriage? Does anybody know Chad Bell? If so,
20 please stand.

21 (No response)

22 THE COURT: The next name is Holly Whitfield.
23 Anybody related by blood or marriage? Does anybody know
24 Holly Whitfield?

25 (No response)

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1 THE COURT: The next name is Diane Ruth. Is
2 anybody related by blood or marriage? Does anybody know
3 Diane Ruth? If so, please stand.

4 (No response)

5 THE COURT: John Ingram. Anybody related?
6 Does anybody know John Ingram? If so, please stand.

7 (No response)

8 THE COURT: Brian Dennis. Anybody related by
9 blood or marriage? Does anybody know Brian Dennis? If
10 so, please stand.

11 (No response)

12 THE COURT: Tracy Kerr. Anybody related by
13 blood or marriage? Does anybody know Tracy Kerr? If so,
14 please stand.

15 (No response)

16 THE COURT: Phyllis Ragsdale. Anybody know
17 Phyllis Ragsdale? Is anybody related by blood or
18 marriage? If so, please stand.

19 (No response)

20 THE COURT: Brad Dukes. Does anybody know Brad
21 Dukes? Is anybody related by blood or marriage to Brad
22 Dukes? If so, please stand.

23 (No response)

24 THE COURT: The next name is Dr. David Price.
25 He's a forensic psychiatrist. Anybody related by blood

1 or marriage? Does anybody know David Price or been
2 treated by David Price? If so, please stand.

3 (No response)

4 THE COURT: The next name is Walter Chase
5 Alley.

6 Mr. Alley, if you'll stand and face the jury,
7 please?

8 (WHEREUPON, the Defendant stood and faced the jury.)

9 THE COURT: Thank you. You may have a seat,
10 Mr. Alley.

11 Is anybody related by blood or marriage to Mr.
12 Alley? Anybody know Mr. Alley? If so, please stand.

13 Yes, ma'am, your name?

14 THE JUROR: Ann Branyon.

15 THE COURT: What's your number?

16 THE JUROR: 25.

17 THE COURT: 25? Yes, ma'am, Ms. Branyon. How
18 do you know Mr. Alley?

19 THE JUROR: His brother -- I mean, his father,
20 I was friends of his.

21 THE COURT: You were friends with his mother
22 and father?

23 THE JUROR: Yes.

24 THE COURT: Okay. How often do you see his
25 mother and father?

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1 THE JUROR: I don't.

2 THE COURT: When's the last time you saw them?

3 THE JUROR: Several years.

4 THE COURT: Several years ago?

5 THE JUROR: (Nodded head up and down in the
6 affirmative.)

7 THE COURT: Would that cause you any
8 difficulty, Ms. Branyon, sitting on this jury?

9 THE JUROR: Yes, sir.

10 THE COURT: It would?

11 THE JUROR: Yes, sir.

12 THE COURT: Okay. All right. I'll excuse you
13 from service on this jury. Just have a seat. That's
14 just this jury.

15 Is any member of the jury panel related by blood or
16 marriage to a member of law enforcement? If so, please
17 stand.

18 (No response)

19 THE COURT: Does any member of the jury panel
20 have a close personal friend who is a member or works
21 with law enforcement? If so, please stand.

22 THE JUROR: Does that include retired?

23 THE COURT: Pardon?

24 THE JUROR: Does that include retired law
25 enforcement?

1 THE COURT: Yes, ma'am. Your name?
2 THE JUROR: Angela Tarbutton.
3 THE COURT: Your number?
4 THE JUROR: 172.
5 THE COURT: I'm sorry. 1-what?
6 THE JUROR: 172.
7 THE COURT: Okay. Is it Tarbutton?
8 THE JUROR: Yes, sir.
9 THE COURT: All right. Ms. Tarbutton, who do
10 you know?
11 THE JUROR: My father-in-law, Charles William
12 Tarbutton.
13 THE COURT: How long did he work in law
14 enforcement?
15 THE JUROR: Twenty-five years in Greer, South
16 Carolina.
17 THE COURT: Okay. Whereabouts?
18 THE JUROR: Greer, South Carolina.
19 THE COURT: Greer? Was he a city police or
20 what?
21 THE JUROR: Yes, sir.
22 THE COURT: How long's he been retired?
23 THE JUROR: About a year.
24 THE COURT: All right. Would that cause you
25 any difficulty in sitting on this jury?

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1 THE JUROR: No, sir.

2 THE COURT: Can you be fair and impartial to
3 both the State and the Defendant?

4 THE JUROR: Yes, sir.

5 THE COURT: Can you base your decision on the
6 testimony you hear in the courtroom?

7 THE JUROR: Yes, sir.

8 THE COURT: Thank you, Ms. Tarbutton.

9 Yes, ma'am, your name?

10 THE JUROR: Judy Vaughn, number 178.

11 THE COURT: Yes, ma'am, Ms. Vaughn?

12 THE JUROR: My husband's a retired highway
13 patrolman from Anderson County.

14 THE COURT: How long did he work?

15 THE JUROR: Twenty-five years, but he retired
16 in '93.

17 THE COURT: '93? Okay. Would that cause you
18 any difficulty in sitting on this jury?

19 THE JUROR: No, sir.

20 THE COURT: Can you be fair and impartial to
21 both the State and the Defendant?

22 THE JUROR: Yes, sir.

23 THE COURT: Yes or no?

24 THE JUROR: I can be fair.

25 THE COURT: You can be fair to both parties?

1 THE JUROR: Yes, sir.

2 THE COURT: Can you base your decision on the
3 testimony here in the courtroom?

4 THE JUROR: Yes, sir.

5 THE COURT: All right. Thank you, Ms. Vaughn.
6 Yes, ma'am?

7 THE JUROR: My number's 123.

8 THE COURT: 123?

9 THE JUROR: Yes, sir.

10 THE COURT: Ms. Milford?

11 THE JUROR: Yes, sir. My brother worked --
12 retired nine years ago from the SLED in South Carolina.

13 THE COURT: Okay. Would that cause you any
14 problems in sitting on this jury?

15 THE JUROR: No, sir.

16 THE COURT: Can you be fair to both the State
17 and the Defendant?

18 THE JUROR: Yes, sir.

19 THE COURT: Can you base your testimony --
20 excuse me. Can you base your decision on the testimony
21 you hear in the courtroom?

22 THE JUROR: Yes, sir.

23 THE COURT: All right. Thank you, Ms. Milford.
24 Yes, sir, your name?

25 THE JUROR: Chris Salatino, juror 157.

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1 THE COURT: 157? Yes, sir, Mr. Salatino?

2 THE JUROR: My uncle, Brian Wagner, retired
3 from the F.B.I. and currently works for the Department of
4 Defense.

5 THE COURT: How long's he been retired?

6 THE JUROR: Five years.

7 THE COURT: Okay. Would that cause you any
8 problems in sitting on this jury?

9 THE JUROR: No, sir.

10 THE COURT: Can you be fair to both the State
11 and the Defendant?

12 THE JUROR: Yes, sir.

13 THE COURT: All right. Thank you, Mr.
14 Salatino.

15 Yes, ma'am?

16 THE JUROR: Terry Crawford, number 41.

17 THE COURT: Yes, ma'am, Ms. Crawford?

18 THE JUROR: My stepson was captain of the
19 police force in Greenville, South Carolina.

20 THE COURT: How long ago?

21 THE JUROR: He's been retired a year.

22 THE COURT: Okay.

23 THE JUROR: Twenty-four years.

24 THE COURT: Been retired how long?

25 THE JUROR: One year.

1 THE COURT: One year. Okay. How often do you
2 see him?

3 THE JUROR: Two or three times a week.

4 THE COURT: Oh, okay. Would that cause you any
5 problems of sitting on this jury?

6 THE JUROR: No, sir. No, sir.

7 THE COURT: Can you be fair to both the State
8 and the Defendant?

9 THE JUROR: Yes, sir.

10 THE COURT: Can you base your decision on the
11 testimony you hear in the courtroom?

12 THE JUROR: Yes, sir.

13 THE COURT: Not some preconceived notion that
14 you have acquired from your son-in-law?

15 THE JUROR: No, sir.

16 THE COURT: Thank you very much.

17 Has any member of the jury panel or your family ever
18 been a victim of a violent crime? If so, please stand.

19 Yes, ma'am, your name?

20 THE JUROR: Sherri Hill.

21 THE COURT: What number?

22 THE JUROR: 84.

23 THE COURT: I'm sorry. What?

24 THE JUROR: 84.

25 THE COURT: 84? Yes, ma'am, Ms. Hill? Were

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21

1 you the victim?

2 THE JUROR: My brother-in-law was murdered
3 about thirteen years ago.

4 THE COURT: Your brother-in-law?

5 THE JUROR: Yes, sir.

6 THE COURT: Okay. Do you want to come around
7 up front, Ms. Hill?

8 What's your name?

9 THE JUROR: Opal Yost.

10 THE COURT: Were you the victim?

11 THE JUROR: My sister-in-law was murdered.

12 THE COURT: Okay. Y'all want to stand -- stand
13 right there and come up front. The lawyers can join me
14 up here.

15 (WHEREUPON, the following was held on the record in
16 the presence of the jury panel but out of the
17 hearing of the jury panel.)

18 Yes, ma'am, Ms. Hill? You say your -- who was it?

19 THE JUROR: It was my brother-in-law.

20 THE COURT: Your brother-in-law was murdered?

21 THE JUROR: Uh-huh (affirmative).

22 THE COURT: How long ago?

23 THE JUROR: Thirteen years ago.

24 THE COURT: Was it here in Anderson?

25 THE JUROR: It was in Abbeville County.

1 THE COURT: Abbeville County. Was anybody ever
2 arrested?

3 THE JUROR: Yes.

4 THE COURT: Was anybody prosecuted?

5 THE JUROR: Yes.

6 THE COURT: Were you involved in that at all?

7 THE JUROR: No, not other than ---

8 THE COURT: You just knew it happened? Did you
9 go to the trial?

10 THE JUROR: I sat as a -- just a participant in
11 the trial but not as a witness.

12 THE COURT: Okay. You sat and watched the
13 trial?

14 THE JUROR: Yes, sir.

15 THE COURT: All right. Do you feel -- how do
16 you feel about this particular case? Or do you have any
17 feelings ---

18 THE JUROR: I don't have any knowledge about
19 this case.

20 THE COURT: My concern is -- I don't know how
21 you felt -- I'm sorry it happened to you. I'm sorry you
22 were involved in it. But my concern is, do you have any
23 bias or prejudice that would make you prejudiced against
24 the Defendant because of the charge, i.e., murder?

25 THE JUROR: No. I think I'd be fair.

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1 THE COURT: Why not?

2 THE JUROR: Based on the evidence.

3 THE COURT: You would?

4 THE JUROR: I said, I think I can be fair based

5 on the evidence.

6 THE COURT: So you think you can be fair?

7 THE JUROR: Yes.

8 THE COURT: You don't think it would prejudice

9 you at all with your prior experience?

10 THE JUROR: No, sir.

11 THE COURT: Okay. Do you have any bias or

12 prejudice towards any police officer or the State, the

13 criminal system in general because of how it was -- how

14 your case was handled?

15 THE JUROR: No, sir.

16 THE COURT: Okay. Any questions from the

17 State?

18 MR. CAMPBELL: No, Your Honor.

19 THE COURT: Anything from the Defendant?

20 MR. ROBINSON: No, sir.

21 THE COURT: All right. You may have a seat,

22 Ms. Hill. Thank you. Ms. Hill, let me ask you one more

23 question.

24 THE JUROR: Yes, sir.

25 THE COURT: Can you set that experience aside

1 and be fair and impartial to both the State and the
2 Defendant?

3 THE JUROR: Yes, sir.

4 THE COURT: You can base your decision on what
5 you hear in the courtroom?

6 THE JUROR: Yes, sir.

7 THE COURT: Not the prior experience sitting in
8 a murder trial?

9 THE JUROR: Yes, sir.

10 THE COURT: Because every case is different.

11 THE JUROR: Yes, sir.

12 THE COURT: Understand?

13 THE JUROR: Yes, sir, I do.

14 THE COURT: All right. Thank you very much.

15 THE JUROR: Thank you.

16 THE COURT: Any motions?

17 MR. ROBINSON: None, Your Honor.

18 THE COURT: Okay.

19 Yes, ma'am, your name?

20 THE JUROR: Opal Yost.

21 THE COURT: Do you know your number?

22 THE JUROR: 198.

23 THE COURT: 198. You've got it written down,
24 huh?

25 THE JUROR: I still have my card.

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25

1 THE COURT: Your what?

2 THE JUROR: I have my card out ---

3 THE COURT: You've got your card out.

4 THE JUROR: --- so I can see it.

5 THE COURT: 198. You're the last one on the

6 list. Who was murdered, Ms. Yost?

7 THE JUROR: My sister-in-law.

8 THE COURT: How long ago was this?

9 THE JUROR: It's been -- it was in ---

10 THE COURT: Just approximately.

11 THE JUROR: About twenty-five years.

12 THE COURT: Twenty-five years ago?

13 THE JUROR: Yes.

14 THE COURT: How old were you at the time?

15 THE JUROR: I was about twenty, twenty-five.

16 THE COURT: Don't tell your age, now. About

17 twenty-five?

18 THE JUROR: Yeah, approximately.

19 THE COURT: Okay. Well, did you participate in

20 the ---

21 THE JUROR: No.

22 THE COURT: Was anybody ever arrested?

23 THE JUROR: Her husband.

24 THE COURT: Her husband was charged? Okay.

25 THE JUROR: Yeah. But he ---

1 THE COURT: Was he tried or ...
2 THE JUROR: They got him for ---
3 THE COURT: Voluntary manslaughter?
4 THE JUROR: --- a self-defense.
5 THE COURT: Got him what?
6 THE JUROR: Self-defense.
7 THE COURT: Self-defense?
8 THE JUROR: That's what he claimed.
9 THE COURT: The jury acquitted in self ---
10 THE JUROR: No. He got seven years because
11 they got him for a second degree.
12 THE COURT: Okay. And what state did that
13 occur in?
14 THE JUROR: Louisiana.
15 THE COURT: Louisiana? Okay. Were you living
16 in Louisiana at that time?
17 THE JUROR: No. We were in Kodiak, Alaska.
18 THE COURT: Kodiak, Alaska? Okay. All right.
19 That's right. You said your husband was retired
20 military.
21 THE JUROR: Yes.
22 THE COURT: Air Force? Army?
23 THE JUROR: Coast Guard.
24 THE COURT: Coast Guard? Okay. I bet it was
25 cold up there in Alaska?

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1 THE JUROR: No. It was beautiful. We were on
2 the islands.

3 THE COURT: Did he cut the -- ice cutter?

4 THE JUROR: No. He was on the fishery patrols.

5 THE COURT: Oh, okay. You got a lot of salmon,
6 a lot of fishing up there.

7 THE JUROR: We did.

8 THE COURT: You did?

9 THE JUROR: Yeah, we went fishing all the time.

10 THE COURT: Okay. Well, let me tell you my
11 concern. My concern is, would this affect you sitting on
12 this trial?

13 THE JUROR: Yes, it would.

14 THE COURT: How? In what respect?

15 THE JUROR: There was also a murder/suicide
16 here in Anderson two years ago. That was my nephew.

17 THE COURT: That was your nephew?

18 THE JUROR: Yeah.

19 THE COURT: So you don't think you could be
20 fair in this case?

21 THE JUROR: No, I don't. I don't. There's too
22 many -- there's too many feelings.

23 THE COURT: I understand. I'm awful sorry that
24 you had to go through both of them. But thank you for
25 being sincere and honest with me. Okay?

1 THE JUROR: Uh-huh (affirmative).

2 THE COURT: And I'll excuse you from service on
3 this particular jury. Okay?

4 THE JUROR: Thank you.

5 THE COURT: All right. You can go have a seat.

6 (WHEREUPON, the following was held on the record in
7 open court.)

8 THE COURT: Has any member of the jury panel or
9 a member of your family had any experience in dealing
10 with problems, legal, medical, otherwise, that relate to
11 the use or abuse of a controlled substance or
12 prescription medications? If so, please stand.

13 (No response)

14 THE COURT: Is any member of the jury panel a
15 member of any organization which is dedicated to drug
16 abuse education or awareness such as Just Say No or DARE?
17 If you're a member of either one of those organizations
18 or a similar organization, please stand.

19 (No response)

20 THE COURT: Is there anyone who would
21 automatically give more weight to the testimony of an
22 employee of the police department or other government
23 agency just because he or she was such an employee? If
24 you automatically think that, please stand.

25 (No response)

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1 THE COURT: Do you understand that the
2 testimony of the police department and other government
3 employees is to be treated just like any other testimony
4 in a case? If you don't understand that, please stand.

5 (No response)

6 THE COURT: All right. This alleged crime
7 occurred on July the 18th, 2011.

8 What section of the county did it occur in,
9 Solicitor?

10 MR. CAMPBELL: Belton-Honea Path area.

11 THE COURT: Where?

12 MR. CAMPBELL: Belton-Honea Path area.

13 THE COURT: In the Belton-Honea Path area. Has
14 anybody read anything in the paper about it, heard
15 anything on T.V. about it when it occurred back in July
16 of 2011? Do you remember hearing anything about it? If
17 so, please stand.

18 Yes, ma'am, your name?

19 THE JUROR: Kelly A. Bell, juror number 18.

20 THE COURT: What number?

21 THE CLERK: 18.

22 THE COURT: Yes, ma'am, Ms. Bell? You want to
23 come around up front?

24 Has anybody else heard anything about the case
25 either today or at the time it occurred? Or anyone

1 talking about the case today or at any point in time? If
2 so, please stand.

3 (WHEREUPON, the following was held on the record in
4 the presence of the jury panel but out of the
5 hearing of the jury panel.)

6 THE COURT: Yes, ma'am, Ms. Bell, what do you
7 remember hearing?

8 THE JUROR: I remember hearing that the
9 Defendant came into the home and that he robbed and
10 murdered.

11 THE COURT: All right. Do you remember -- do
12 you remember where you heard it?

13 THE JUROR: Yes.

14 THE COURT: Newspaper? T.V.?

15 THE JUROR: Newspaper and TV.

16 THE COURT: Newspaper? Okay.

17 THE JUROR: But also from the victim's family.

18 THE COURT: You heard it from the victim's
19 family?

20 THE JUROR: Yes.

21 THE COURT: How do you know the victim's
22 family?

23 THE JUROR: My husband and the victim's son-in-
24 law are first cousins.

25 THE COURT: They're first cousins?

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1 THE JUROR: Yes, sir.

2 THE COURT: And what all have they told you?

3 THE JUROR: The only thing that I have been
4 told, not by the family, but just by -- I haven't been
5 told anything directly from them.

6 THE COURT: Right. But what did your husband
7 tell you that they told you?

8 THE JUROR: My husband just told me that
9 Stephanie -- I'm nervous. I apologize.

10 THE COURT: That's okay. Calm down. Nobody's
11 going to bother you.

12 THE JUROR: No, I know. I know.

13 THE COURT: Just calm down.

14 THE JUROR: Yes. But Stephanie Craft, who is
15 the daughter of the victim, that her father had been
16 murdered.

17 THE COURT: Okay.

18 THE JUROR: And that the people that had
19 murdered him were -- had robbed him, gone in his house
20 and murdered him. And that they were on drugs. That's
21 all I know. That's all I've been told.

22 THE COURT: All right. With that information
23 that you received from your husband and what you read in
24 the paper, do you have an opinion -- at that time -- do
25 you have opinion of the Defendant's innocence or guilt?

1 THE JUROR: Yes, I do, sir.

2 THE COURT: What was it?

3 THE JUROR: That they would be guilty.

4 THE COURT: That they would be guilty?

5 THE JUROR: Yes, sir.

6 THE COURT: And that would be your opinion here
7 today?

8 THE JUROR: Yes, sir.

9 THE COURT: Okay. Fine. And what's your
10 number?

11 THE JUROR: Kelly Bell, number 18.

12 THE COURT: Number 18. Ms. Bell, thank you so
13 very much. And I'm going to excuse you for service on
14 this particular jury, okay?

15 THE JUROR: Thank you. Thank you.

16 THE COURT: Thank you very much.

17 (WHEREUPON, the following was held on the record in
18 open court.)

19 THE COURT: Is there any member of the jury
20 panel that has any -- has any particular religious,
21 philosophical or other belief that prevents you from
22 being an impartial juror in this case in deciding the
23 case according to testimony you hear in the courtroom?
24 If -- if so, please stand.

25 (No response)

1 THE COURT: Solicitor, if you'd stand and
2 introduce yourself, please?

3 MR. CAMPBELL: My name is Rame Campbell. I am
4 the Assistant Solicitor that is prosecuting this case. I
5 work for Solicitor Chrissy Adams. Also helping is
6 Brantley Haigler who also will be assisting me in this
7 matter.

8 THE COURT: All right. Is there any member of
9 the jury panel that has a -- close personal friends with
10 the Solicitor or anyone in the Solicitor's office? If
11 so, please stand.

12 (No response)

13 THE COURT: Mr. Robinson, would you stand and
14 introduce yourself?

15 MR. ROBINSON: Yes, sir. Thank you, Judge.

16 Good morning. My name is Scott Robinson. I'm an
17 attorney in Greenville, and it's my pleasure to represent
18 Mr. Alley. Sitting to my right is Brad Baxter, my
19 investigator.

20 THE COURT: All right. Is there any member of
21 the jury panel been represented by Mr. Robinson? Is
22 anybody close personal friends with Mr. Robinson? If so,
23 please stand.

24 (No response)

25 THE COURT: Has any member of the jury panel

1 expressed or formed an opinion about any issue or matter
2 involved in this case based upon the charge itself? If
3 so, please stand.

4 (No response)

5 THE COURT: Is any member of the jury panel
6 aware of any bias or prejudice towards either the State
7 or the Defendant in this case? If so, please stand.

8 (No response)

9 THE COURT: Does any member of the jury panel
10 know of any reason, personal or otherwise, as to why they
11 cannot serve on this jury? If so, please stand.

12 (No response)

13 THE COURT: Does any member of the jury panel
14 have any bias or prejudice towards the Solicitor or law
15 enforcement as a result of some bad experience you may
16 have had with law enforcement or a prosecutor? If so,
17 please stand.

18 (No response)

19 THE COURT: Any further questions from the
20 State?

21 MR. CAMPBELL: No, Your Honor.

22 THE COURT: Any further questions from the
23 Defendant?

24 MR. ROBINSON: No, Your Honor.

25 THE COURT: All right. After we get a jury,

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1 I'll give you the strike sheet -- I'll give you the
2 sheet. How long do y'all need before you're ready to
3 strike?

4 MR. CAMPBELL: The State's ready to proceed,
5 Your Honor.

6 THE COURT: Pardon?

7 MR. CAMPBELL: The State's ready, Your Honor.

8 MR. ROBINSON: The Defense is ready, Your
9 Honor.

10 THE COURT: All right. Mr. Clerk, would you
11 print us out a sheet?

12 THE CLERK: How many do you want?

13 THE COURT: Pardon?

14 THE CLERK: Five each? Five strikes each?

15 THE COURT: No, no, no, no, no. The Defense
16 would get ten, so that would be five for the State. That
17 would be fifteen, and we need twelve. So twenty-seven
18 ...

19 THE CLERK: Two or three?

20 THE COURT: Let me see, two alternates.

21 THE CLERK: Two alternates.

22 THE COURT: That would be six.

23 THE CLERK: Thirty-three?

24 THE COURT: Pull thirty-five just in case.

25 Mr. Robinson, are you going to be ready to strike

1 when you get the sheet?

2 MR. ROBINSON: Yes, sir, Your Honor.

3 THE COURT: Okay. All right. As soon as we
4 get the sheet, we'll give them to you to strike the jury.

5 THE CLERK: Here's yours, Your Honor.

6 THE COURT: Thank you, sir. We'll draw two
7 alternates. Okay?

8 THE CLERK: If it pleases the Court?

9 THE COURT: Yes, sir.

10 THE CLERK: Back in the days, we used to have a
11 thing almost like a Bingo game. Your names were put in
12 capsules and it was -- and you reached in and pulled them
13 out. Now the computer does that for us automatically.
14 So what Ms. Morgan Rogers of my office is doing is she's
15 hitting a button, and from all the names that appeared
16 here this morning, they are getting thrown into an
17 electronic hopper. And it is going to print out names in
18 a haphazard fashion just like reaching into the Bingo
19 drum.

20 THE COURT: While they're doing that, one
21 question I have asked off and on during the years of
22 jurors, is anybody on the jury panel related to each
23 other. Is anybody on this jury panel related to each
24 other?

25 (No response)

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1 THE COURT: Nobody? No first cousins, second
2 third or fourth?

3 (No response)

4 THE COURT: I've been surprised the number of
5 jurors that I've seen around the state where they are
6 related. And the reason I have asked that question in
7 the past is I was trying a case over in Lancaster I guess
8 about seven or eight years ago. And we had been trying
9 it for about three days. Wednesday afternoon the bailiff
10 said, Judge, this juror has got to talk to you. So I
11 brought the juror out. And the juror said, Judge, I've
12 been in this jury room off and on for three days with my
13 older sister. She's been telling me what to do all my
14 life, and I just can't sit in there with her anymore.

15 (Laughter)

16 THE COURT: So I excused that juror and put the
17 alternate on. So I've been real curious about jurors
18 that are related to each other. And the ones that do
19 stand and say they're related, they always -- the second
20 question is, well, can you get along. And so far, all of
21 them have said they can get along. But it was an
22 interesting episode, to say the least. Yeah, they used
23 to years ago, as the Clerk said, put them in, shake them
24 up and draw them out. And they had a blind person that
25 would draw them out of a hat, sort of like a little

1 coupon Bingo. And some clerks would use little pieces of
2 paper with your name and juror on there. So it's evolved
3 over the years. Now it's done, I guess, electronically
4 sort of like the -- I guess the lottery they still use
5 ping-pong balls, don't they? They don't do it
6 electronically. I guess you can buy your computer and
7 get your numbers electronically, but they still pick it
8 out ...

9 THE CLERK: Computers. We still have the cage
10 and little capsules in the back room. I'm going to pull
11 it out one of these days for old times sake.

12 THE COURT: Computers are wonderful. Simply
13 wonderful. When they first started this system, there
14 was some glitch in it. If you drew one jury -- and we
15 were trying to draw a jury -- and we excused a couple
16 after we drew this list. And the system wouldn't let you
17 go back and pull out any more jurors. So we got the
18 shaker out and put the names in the shaker and did it the
19 manual way. I had a bunch of lawyers in chambers with me
20 a couple of weeks ago, and we were trying to get a
21 witness' phone number. And they all had their
22 Blackberries and their computers out, and they were going
23 to town trying to find it. And they said, Judge, we
24 can't find it. So I got the phone book out and handed it
25 to them. One of them looked up the number in the

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1 phonebook. So the old system works every now and then.

2 THE CLERK: There's yours, Your Honor.

3 THE COURT: We'll draw two alternates, okay?

4 THE CLERK: If it pleases the Court.

5 THE COURT: Yes, sir.

6 THE CLERK: When I call your name, if you would
7 come forward and stand in front of me and turn and face
8 the audience, please.

9 Our first potential juror is number 42, Loretta L.
10 Cruse.

11 What say you for the State?

12 MR. CAMPBELL: Present Ms. Cruse.

13 THE CLERK: What say you for the Defense?

14 MR. ROBINSON: Please seat this juror.

15 THE CLERK: That way, please, ma'am.

16 The next potential juror is number 178, Judith C.
17 Vaughn.

18 What say you for the State?

19 MR. CAMPBELL: Present Ms. Vaughn.

20 THE CLERK: What say you for the Defense?

21 MR. ROBINSON: Please excuse this juror.

22 THE CLERK: Have a seat, please, ma'am.

23 The next potential juror, number 78, Lisa N.
24 Hargrove.

25 What say you for the State?

1 MR. CAMPBELL: Please excuse Ms. Hargrove.

2 THE CLERK: Have a seat, please, ma'am.

3 The next potential juror number 103, Shirley L.
4 Kemp.

5 What say you for the State?

6 MR. CAMPBELL: Present Ms. Kemp.

7 THE CLERK: What say you for the Defense?

8 MR. ROBINSON: Please seat this juror.

9 THE CLERK: That way, please, ma'am.

10 THE JUROR: May I get my belongings?

11 THE CLERK: Please. I'm sorry. I should have
12 told you.

13 When your -- if your name is called, please bring
14 everything that you have with you today -- with you in
15 the event that you are put on the jury, you'll have all
16 your items.

17 Thank you, Ms. Kemp.

18 The next potential juror is number 106, Allison C.
19 Leahey.

20 What say you for the State?

21 MR. CAMPBELL: Present Ms. Leahey.

22 THE CLERK: What say you for the Defense?

23 MR. ROBINSON: Excuse Ms. Leahey.

24 THE CLERK: Have a seat, please, ma'am.

25 The next potential juror is number 132, Barry J.

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1 Murphy. Right up here, please, sir.

2 What say you for the State?

3 MR. CAMPBELL: Present Mr. Murphy.

4 THE CLERK: What say you for the Defense?

5 MR. ROBINSON: Please seat this juror.

6 THE CLERK: The next potential juror is number
7 123, Rebecca C. Milford.

8 What say you for the State?

9 MR. CAMPBELL: Present Ms. Milford.

10 THE CLERK: What say you for the Defense?

11 MR. ROBINSON: Please excuse this juror.

12 THE CLERK: Have a seat, Ms. Milford.

13 Next is number 20, Gary F. Bittinger.

14 What say you for the State?

15 MR. CAMPBELL: Present Mr. Bittinger.

16 THE CLERK: What say you for the Defense?

17 MR. ROBINSON: Please excuse this juror.

18 THE CLERK: Have a seat, Mr. Bittinger.

19 Juror 139, Robert E. Phillips. Right here, please,
20 sir. Thank you.

21 What say you for the State?

22 MR. CAMPBELL: Present Mr. Phillips.

23 THE CLERK: What say you for the Defense?

24 MR. ROBINSON: Please excuse this juror.

25 THE CLERK: Have a seat, Mr. Phillips.

1 Next is number 41, Terry B. Crocker.

2 What say you for the State?

3 MR. CAMPBELL: Present Ms. Crocker.

4 THE CLERK: What say you for the Defense?

5 MR. ROBINSON: Please excuse this juror.

6 THE CLERK: Have a seat, Ms. Crocker, please.

7 Next is juror 183, Jennifer M. Weaver.

8 What say you for the State?

9 MR. CAMPBELL: Present Ms. Weaver.

10 THE CLERK: What say you for the Defense?

11 MR. ROBINSON: Please seat this juror.

12 THE CLERK: That way, please.

13 Next is number 84, Sherri P. Hill.

14 What say you for the State?

15 MR. CAMPBELL: Present Ms. Hill.

16 THE CLERK: What say you for the Defense?

17 MR. ROBINSON: Please excuse this juror.

18 THE CLERK: Have a seat, Ms. Hill.

19 Next is number 47, John L. Dean. Right here,
20 please, sir. Thank you.

21 What say you for the State?

22 MR. CAMPBELL: Present Mr. Dean.

23 THE CLERK: What say you for the Defense?

24 MR. ROBINSON: Please seat this juror.

25 THE CLERK: That way, Mr. Dean.

1 Next is number 6, Gregory L. Alexander.

2 What say you for the State?

3 MR. CAMPBELL: Please excuse Mr. Alexander.

4 THE CLERK: Have a seat, Mr. Alexander, please.

5 Next is number 195, Gail S. Williams.

6 What say you for the State?

7 MR. CAMPBELL: Present Ms. Williams.

8 THE CLERK: What say you for the Defense?

9 MR. ROBINSON: Please excuse this juror.

10 THE CLERK: Have a seat, please.

11 Next is number 76, Betsy E. Gregory. Right here,

12 please, ma'am. Thank you so much.

13 What say you for the State?

14 MR. CAMPBELL: Present Ms. Gregory.

15 THE CLERK: What say you for the Defense?

16 MR. ROBINSON: Please seat this juror.

17 THE CLERK: Next is number 141, Mary A. Posey.

18 Right here, please, ma'am. Thank you so much.

19 What say you for the State?

20 MR. CAMPBELL: Please excuse Ms. Posey.

21 THE CLERK: Have a seat, Ms. Posey.

22 Next is number 186, Christopher J. Whitmire.

23 What say you for the State?

24 MR. CAMPBELL: Present Mr. Whitmire.

25 THE CLERK: What say you for the Defense?

1 MR. ROBINSON: Please seat this juror.

2 THE CLERK: That way, Mr. Whitmire, please.

3 Thank you.

4 Next is number 79, Adam R. Haskett.

5 What say you for the State?

6 MR. CAMPBELL: Please excuse Mr. Haskett.

7 THE CLERK: Have a seat, please, sir.

8 Next is juror 107, Kara C. Little.

9 What say you for the State?

10 MR. CAMPBELL: Present Ms. Little.

11 THE CLERK: What say you for the Defense?

12 MR. ROBINSON: Please seat this juror.

13 THE CLERK: That way, please.

14 By the way, that was your fourth.

15 Juror number 174, Lacey L. Torge. Right here,

16 please, ma'am. Thank you so much.

17 What say you for the State?

18 MR. CAMPBELL: Present Ms. Torge.

19 THE CLERK: What say you for the Defense?

20 MR. ROBINSON: Please seat this juror.

21 THE CLERK: That way, please, ma'am.

22 Next is juror 163, Sundra R. Shands. Right here,

23 please, ma'am. Thank you so much.

24 What say you for the State?

25 MR. CAMPBELL: Present Ms. Shands.

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1 THE CLERK: What say you for the Defense?

2 MR. ROBINSON: Please seat this juror.

3 THE CLERK: That way, please, ma'am. Thank you

4 Juror 140, John S. Poole. Right here, please, sir.

5 What say you for the State?

6 MR. CAMPBELL: Present Mr. Poole.

7 THE CLERK: What say you for the Defense?

8 MR. ROBINSON: Please seat this juror.

9 THE CLERK: The next potential juror number

10 188, Stephanie R. Whysong. That way, please. Thank you

11 so much.

12 What say you for the State?

13 MR. CAMPBELL: Present Ms. Whysong.

14 THE CLERK: What say you for the Defense?

15 MR. ROBINSON: Please seat this juror.

16 THE CLERK: That way, please, ma'am.

17 Your Honor, I have that that's twelve.

18 THE COURT: Okay.

19 THE CLERK: But we'll work on the two

20 alternates.

21 THE COURT: Two alternates.

22 THE CLERK: The first potential is number 131,

23 Pamela L. Motes.

24 What say you for the State?

25 MR. CAMPBELL: Present Ms. Motes.

1 THE CLERK: What say you for the Defense?

2 MR. ROBINSON: Please seat this juror.

3 THE CLERK: That way, please, ma'am.

4 Next potential juror 172, Angela M. Tarbutton.

5 Right here, please.

6 What say you for the State?

7 MR. CAMPBELL: Present Ms. Tarbutton.

8 THE CLERK: What say you for the Defense?

9 MR. ROBINSON: Please excuse this juror.

10 THE CLERK: Have a seat, Ms. Tarbutton.

11 Juror 122, Frank H. McKinney.

12 What say you for the State?

13 MR. CAMPBELL: Present Mr. McKinney.

14 THE CLERK: What say you for the Defense?

15 MR. ROBINSON: Please excuse this juror.

16 THE CLERK: Juror 64, Dennis J. Evitt. Right

17 here, please, sir.

18 What say you for the State?

19 MR. CAMPBELL: Just -- present Mr. Evitt.

20 THE CLERK: And I had two strikes.

21 THE COURT: Any for cause?

22 MR. ROBINSON: Please seat this juror.

23 THE COURT: Okay.

24 THE CLERK: That way, please, sir.

25 Your Honor, I believe that is twelve jurors and two

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1 alternates.

2 THE COURT: Okay.

3 Richard?

4 (Off record discussion)

5 THE COURT: Solicitor, let me see you up here
6 just a second, please.

7 (WHEREUPON, a bench conference was held off the
8 record.)

9 THE COURT: All right. Ladies and gentlemen of
10 the jury panel, the Clerk's going to pass out a phone
11 number for you to call. Call in after six o'clock, and
12 there'll be a message for the jury panel. Just follow
13 those instructions. The instructions may be call
14 tomorrow night. The instructions may be to report. But
15 just follow the instructions on the call-in. He's going
16 to pass out the number for you.

17 Yes, sir?

18 MR. CAMPBELL: May we approach real quick?

19 THE COURT: Yes, sir.

20 (WHEREUPON, a bench conference was held off the
21 record.)

22 THE COURT: All right. Madam forelady, members
23 of the jury, while he's doing that, I'm going to ask you
24 to go to the jury room. The bailiff will show you the
25 jury room. And please don't discuss the case among

1 yourselves. If you have any computers with you, you're
2 going to have to leave them with the bailiff. I'm not
3 going to allow them into the jury room. Your phones will
4 not go in the jury room. They will take them from you.
5 You will get them when you come out. I'll get you back
6 very shortly. If you'll follow the bailiff to the jury
7 room.

8 (WHEREUPON, the jury exited the open court at
9 approximately 11:54 a.m.)

10 THE COURT: All right. Any motions from the
11 State as far as drawing the jury?

12 MR. CAMPBELL: No, Your Honor.

13 THE COURT: Any motion from the Defense?

14 MR. ROBINSON: No motions, Your Honor.

15 THE COURT: Okay. Go ahead. I just want to
16 get that on the record.

17 THE CLERK: You are free to leave now.

18 (WHEREUPON, the jury panel was excused at
19 approximately 11:54 a.m.)

20 THE COURT: All right. Would you bring us the
21 jury, please?

22 (WHEREUPON, the jury entered the open court at
23 approximately 11:58 a.m.)

24 THE COURT: All right. Ms. Little?

25 THE JUROR: Yes, sir.

1 THE COURT: Will you swap places with the lady
2 here? I'm going to appoint you as forelady of the jury.
3 And the two alternates -- where are the two alternates?

4 Where's the other one? Okay. If y'all will sit in
5 those two end chairs, please.

6 The Forelady, Ms. Little, if you'll sit in that
7 chair.

8 Where the rest of you sit depends on how you file
9 in, okay?

10 All right. We're not going to start the testimony
11 on the case until in the morning. And I'm going to
12 excuse you for the rest of the day and ask you to come
13 back tomorrow at ten o'clock.

14 Now, when you come back, come straight to the --
15 when you come in the courthouse, come straight to the
16 jury room. The bailiff, when you leave, will show you
17 where to go and where to come to.

18 Now, I don't know what's going to be in the paper; I
19 don't know what's going to be on television. I don't
20 want you reading anything in the paper; I don't want you
21 watching television about this case. I want you to base
22 your decision on what the testimony you hear in the
23 courtroom. I don't want you basing your decision on
24 something a news reporter may write or his opinion of
25 what transpired or some T.V. reporter's opinion what

1 transpired. I want you to base it on what you hear and
2 what you determine in this courtroom, not what happened
3 outside the courtroom.

4 I do not want you going on the Internet researching
5 the case. I don't want anybody doing any type of
6 research on the case on your Internet, your iPhones or
7 whatever phones you use. I want you to base your
8 decision, and as I've said many times to you, on what you
9 hear in the courtroom because there's certain things that
10 are admissible into evidence and certain things that
11 aren't admissible into evidence. And the newspaper may
12 be writing -- they can write about anything. It's free
13 press. They can write about what's admissible and what's
14 not admissible. They don't care. They've got to sell
15 newspapers, so they go write it. I'm concerned about
16 whether something's admissible under our rules of
17 evidence, and you're to make a decision on evidence
18 that's presented that's admissible according to the rules
19 of evidence.

20 In every newspaper article I've ever read, there's
21 always opinions and information in it that would not be
22 admissible in the courtroom. So do not read anything.
23 Do not watch anything. Do not do any research.

24 I'll see you in the morning at ten o'clock. Have a
25 good evening. Be back in the jury room at ten o'clock

1 and we'll get started then.

2 (WHEREUPON, the jury exited the open court at
3 approximately 12:00 p.m.)

4 THE COURT: Y'all want to take a short break
5 before we get started on this *Jackson v. Denno*? What's
6 the pleasure of the lawyers?

7 (WHEREUPON, a bench conference was held off the
8 record.)

9 THE COURT: All right. We'll adjourn until
10 one-thirty. Thank you very much.

11 (WHEREUPON, court stood at recess for a lunch
12 break.)

13 (WHEREUPON, Defendant's Exhibit Numbers 1 and 2 and
14 State's Exhibit Numbers 1 through 5 were marked for
15 identification only.)

16 THE COURT: All right. Are we ready to, I
17 guess, move forward on the *Jackson v. Denno* hearing?

18 MR. CAMPBELL: The State's ready, Your Honor.

19 MR. ROBINSON: The Defense is ready.

20 THE COURT: All right. What's your allegations
21 on the *Jackson v. Denno*? It's not free and voluntarily
22 or ---

23 MR. ROBINSON: May it please the Court?

24 THE COURT: --- the *Miranda* rights weren't
25 given or what's your position?

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1 MR. ROBINSON: It's -- Your Honor, based on --
2 based on the background of the Defendant in this case,
3 we're alleging it was not a voluntary statement that was
4 signed.

5 THE COURT: Okay. Are you're alleging Miranda
6 rights were not given, or does that enter into it?

7 MR. ROBINSON: There is an Advisory of Rights
8 form that was given that he signed off on.

9 THE COURT: Pardon?

10 MR. ROBINSON: There was an Advisory of Rights
11 form that was signed off on by him.

12 THE COURT: Okay.

13 MR. ROBINSON: But only two parts were signed,
14 the first two parts. The three other parts that talk
15 about a lawyer were not checked off, so I don't know ...

16 THE COURT: All right. Is your position he
17 didn't understand the rights?

18 MR. ROBINSON: Yes.

19 THE COURT: Okay. All right.
20 Call your first witness.

21 MR. CAMPBELL: Your Honor, the State calls
22 Tommy Johnson.

23 **THOMAS L. JOHNSON, III**

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 DIRECT EXAMINATION

2 BY MR. CAMPBELL:

3 Q. Mr. Johnson, you're employed with the Anderson
4 County Sheriff's Office?

5 A. Yes, sir.

6 Q. How long have you been in law enforcement?

7. A. Nineteen years with the Sheriff's Department.

8 Q. And what was your position or capacity at the
9 Sheriff's Office back on July 19, 2011?

10 A. I was a detective -- a deputy assigned to the
11 detective division.

12 Q. And what's your primary area?

13 A. My primary area was property crime in the Belton-
14 Honea Path area.

15 Q. And did you have occasion to assist in the case of
16 the death of Glenn Craft?

17 A. I did.

18 Q. And did you go to the crime scene that happened on
19 or about July 18th, 2011?

20 A. I did that morning, yes, sir.

21 Q. Now, I'm just going to skip forward to your
22 involvement in dealing with the statement. Do you recall
23 being involved in that?

24 A. I do.

25 Q. Do you recall what day that was?

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1 A. Not right off. The day? It was in July.

2 Q. I'm going to show you what's been marked State's
3 Exhibit 1. That's already been shown to counsel.

4 MR. CAMPBELL: Your Honor, we have already
5 actually identified, for this hearing only -- we have
6 pre-marked State's Exhibits 1 through 5.

7 THE COURT: Okay.

8 Q. I'm going to show you, Mr. Johnson -- do you
9 recognize this?

10 A. Yes, I do.

11 Q. And what is this?

12 A. This is an Advisory of Rights form that we use at
13 the Sheriff's Department anytime we conduct an interview
14 with an individual. It's has custody and interrogation.

15 Q. Is this also what's known as *Miranda* rights?

16 A. Yes, sir.

17 Q. And what date did you do this?

18 A. July the 19th, 2011.

19 Q. Now, how -- I want to talk to you about how you got
20 up to this point, okay?

21 A. Okay.

22 Q. You were obviously working on July 19th, 2011?

23 A. Yes, sir.

24 Q. How did you become involved prior to giving this
25 Advisement of Rights?

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1 A. I was in the Honea Path area meeting with some Honea
2 Path officers in regards to this case and assisting with
3 Detective Owens as the lead investigator. I was
4 contacted by the Chief of Honea Path that advised that
5 Mr. Alley, the Defendant in this case, was at the Honea
6 Path Police Department. I responded there, and I spoke
7 with Mr. Alley briefly. Asked him would he voluntarily
8 like to come with me and ride to the Sheriff's Office and
9 talk. He said yes. He was ...

10 When I came in the Police Department he was sitting
11 in the chair near the door. He was not restrained. And
12 I advised him that he was not under arrest. He rode in
13 the front seat of my patrol car from the Honea Path
14 Police Department to the Anderson County Sheriff's
15 Office. He was not restrained then.

16 Q. And did y'all talk about the case on the way to the
17 Anderson County Sheriff's Office?

18 A. Not about the case. We talked about other things,
19 some things that happened when I was an S.R.O. at B.H.P.
20 and he was in a relationship with a young lady that was
21 at B.H.P.

22 Q. Now, do you know how he got to the Honea Path Police
23 Department?

24 A. I do not.

25 Q. And to your knowledge at this point in time, was law

- 1 enforcement actually actively looking for him?
- 2 A. Not that I'm aware of, we were not.
- 3 Q. And did he voluntarily, himself, go to Honea Path
- 4 Police Department wishing to speak with them?
- 5 A. My understanding, yes, sir, he showed up there and
- 6 wanted to talk with them.
- 7 Q. So as a result, you picked him up, took him back to
- 8 the Sheriff's Office?
- 9 A. That's correct.
- 10 Q. About what time of morning was this?
- 11 A. I'd say around eight fifteen, eight thirty-ish.
- 12 Sometime that morning.
- 13 Q. And you brought him to the Sheriff's Office; is that
- 14 right?
- 15 A. That's correct.
- 16 Q. Where did you talk about -- do this Advisory of
- 17 Rights form?
- 18 A. We were actually in an interview room. We have two
- 19 interview rooms on the second floor in the C.I.D.
- 20 division. We were in the first interview room as you
- 21 exit the stairway. Mr. Alley was sitting inside the
- 22 interview room across the table. I came in and sat down
- 23 and went over this with him.
- 24 Q. Let me ask you, how was he dressed that day, number
- 25 one?

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1 A. I don't -- I think it was like basketball or
2 athletic shorts and a shirt.

3 Q. And did you -- had you ever dealt with him prior to
4 that?

5 A. As far as any type of criminal issues, no. I have
6 -- I think I spoke with him once. I've dealt with a
7 girlfriend at the time he had, back again when him and
8 her was at B.H.P., in reference to some issues going on
9 between them just down the road from the high school.

10 Q. And how was his demeanor that morning?

11 A. The morning I picked him up?

12 Q. Yes, sir.

13 A. He appeared relaxed. He appeared very coherent. He
14 didn't appear to be under any type of intoxicating
15 substance. I didn't smell an odor of alcohol about him
16 or anything like that.

17 Q. And did he mention to you he had any physical
18 limitations or handicaps?

19 A. No, sir, he did not other than the prosthesis that
20 was -- I don't remember which leg. I think maybe the
21 left leg.

22 Q. Now, if he had told you at the Honea Path Police
23 Department he didn't wish to come and speak with y'all,
24 would you have left him there?

25 A. Yes, sir.

1 Q. At this point in time, he was not a suspect?

2 A. No, sir. He was not a suspect in the case at this
3 point in time, nor did we have any reason to take him
4 into custody at this point in time.

5 Q. But he voluntarily sought out y'all?

6 A. From my understanding, yes. He came to the Honea
7 Path Police Department.

8 Q. Now, prior to speaking with him, you went through
9 this Advisement of Rights; is that correct?

10 A. That is correct.

11 Q. And that is what is memorialized on State's Exhibit
12 1?

13 A. That is correct.

14 Q. And were you the one who went through the Advisement
15 of Rights and the Waiver of Rights with him?

16 A. I was.

17 Q. Now what, if anything, did y'all talk about prior or
18 up to y'all going into this *Miranda* waiver?

19 A. Basically, there was no discussion about the case
20 other than we did tell him we wanted to talk with him
21 about the case. But to do so, we wanted to advise him of
22 his rights first. And that was a requirement that we had
23 to do. He was also notified he was not under arrest. He
24 was free to leave. This was more of a formality that we
25 do on any case.

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1 Q. And who else was with you in this interview room?

2 A. Detective Owens, the lead investigator, and myself
3 were in the room.

4 Q. Now, is Mr. Alley in the courtroom today?

5 A. Yes, he is.

6 Q. And what is he wearing?

7 A. It appears to be a striped shirt, long-sleeved. And
8 he's sitting in between Mr. Robinson and -- I just know
9 him by first name, Brad.

10 Q. Mr. Baxter?

11 A. Mr. Baxter. I'm sorry.

12 Q. Now, at that point in time, you handed him -- or you
13 took out the Advisement of Rights form that was blank; is
14 that right?

15 A. That's correct.

16 Q. And what information did you fill out regarding
17 this?

18 A. On this, I put his name which is under Advisory of
19 Rights. It's Walter Chase Alley. The date, the location
20 of Anderson County Sheriff's Department. I then asked
21 Mr. Alley could he read and write. He said yes, he
22 could. I asked him what grade in high school he
23 completed. He stated tenth. That I put in the upper
24 right-hand corner. I then read the first part where it
25 says, before we ask any questions you must understand

1 your rights. I put a line beside the next two and
2 advised him and asked him to read those two. This is
3 done so that we can relate that he does know how to read
4 and write. He read both of those aloud, and then I asked
5 him to initial beside them. At that point ---

6 Q. Just ---

7 A. I'm sorry.

8 Q. Sorry to interrupt you. At this point, did he have
9 any problem reading these out loud to you?

10 A. No, sir.

11 Q. All right. And after he read each one, you had him
12 initial them?

13 A. Yes, sir, the first two.

14 Q. So he was able to follow your directions?

15 A. That's correct.

16 Q. Please continue.

17 A. After the first two were read, he initialed -- he
18 read those aloud and he initialed beside them. I
19 continued reading at that point. I read, "You have the
20 right to speak to a lawyer for advice before we ask you
21 any questions and have them with you during the
22 questioning." And also, "If you cannot afford a lawyer,
23 one will be appointed for you before questioning if you
24 wish. If you decide to answer questions now without a
25 lawyer present, you still have the right to stop

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1 answering questions at any time. And you also have the
2 right to stop answering questions at any time to speak to
3 a lawyer."

4 At this point I asked him did he understand what his
5 rights were that were afforded to him by the
6 Constitution. He said he did. I asked him if he would
7 sign this. I witnessed it, dated it and timed it.

8 Then we continued on into the bottom section, which
9 is the Waiver of Miranda Rights. In this section, I read
10 it aloud to him. "I have read this statement of my
11 rights and understand what my rights are, and I'm willing
12 to make a statement and answer questions. I do not want
13 a lawyer at this time, and I understand and know what I'm
14 doing. No promises or threats have been made to me, and
15 no pressure or coercion of any kind has been used against
16 me."

17 I then underlined the word coercion and asked Mr.
18 Alley, do you understand what that means. He was not
19 familiar with the term, so I explained it to him in
20 laymen terms using two different type of examples to show
21 good coercion and bad coercion, and then basically
22 explained to him that coercion was the fact that I was
23 not offering him anything, a reward for his statement,
24 nor was I threatening him in any kind of way to get his
25 statement.

1 Q. And after you went through that with him, did he
2 sign that?

3 A. Yes, sir, he did. I explained to him that if he
4 would like to talk with me about the case and answer some
5 questions about the case that I would need his signature
6 at the bottom, and he agreed and he signed. This was
7 witnessed by Detective Owens and myself.

8 Q. And at this point, you didn't -- did you have any
9 idea of what his involvement was, if any, regarding the
10 death of Mr. Glenn Craft?

11 A. No, sir, I did not.

12 Q. At any point after you read the Advice of Rights and
13 the Waiver of Rights form which he signed, did he ever
14 ask for an attorney?

15 A. No, sir, he did not.

16 Q. Did he say he wished to speak to y'all about the
17 presence of an attorney?

18 A. He never asked for an attorney the entire time.

19 Q. And did you force or threaten him to speak to y'all?

20 A. No, sir. We talked in pretty much the same tone
21 that me and you are talking.

22 Q. And did he appear to you to understand what he was
23 doing there and what this was -- when you went through
24 this, he understood what you were talking about?

25 A. Yes, he did.

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1 Q. And did he appear to you to comprehend the
2 situation? Did he appear to have full control of his
3 mental faculties?

4 A. He did to me.

5 Q. If he had some sort of issue regarding his ability
6 to understand this, this form, his Waiver of Rights,
7 would you have proceeded with questioning?

8 A. I would have probably gone back over the Waiver of
9 Rights again a second time. But he never indicated to me
10 that he did not understand it in any way.

11 Q. In your past experience in law enforcement, have you
12 ever interviewed people under the influence of alcohol or
13 drugs?

14 A. I have.

15 Q. And you typically give them an Advice -- you go over
16 the Advice of Rights form with them?

17 A. I have gone over it, but they -- you can -- you can
18 tell pretty much if they're under the influence of some
19 type of drugs by slurred speech, their actions,
20 lethargicness (phonic), things like that.

21 Q. If he had appeared that to you, would you have gone
22 through this with him?

23 A. No, sir.

24 Q. And what was the purpose of why wouldn't you?

25 A. Because I don't -- a lot of -- depending on the

1 individual, it can affect their memory as far as whether
2 they actually had this. Their statements can be
3 exaggerated. They can forget or not give details. So
4 it's not a very good, for a lack of a better word,
5 statement to take from individuals that are under the
6 influence.

7 Q. Would it affect his voluntariness to give a
8 statement?

9 A. Very much so.

10 Q. And in this, did he exhibit any of those
11 characteristics that you just mentioned that would
12 prohibit you from going forward and getting a statement
13 from him?

14 A. No, sir.

15 Q. Mr. Johnson, I have no further questions regarding
16 the Advice of Rights form. Please answer any questions
17 Mr. Robinson may have.

18 THE COURT: Mr. Robinson, cross-examination?

19 MR. ROBINSON: Thank you, Judge.

20 CROSS-EXAMINATION

21 BY MR. ROBINSON:

22 Q. Officer, let me ask you something. I think he
23 passed up to you a second ago the Waiver of Rights; is
24 that correct?

25 A. Yes, sir.

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1 Q. Now, that Waiver of Rights looks like -- how many
2 boxes are there to check there?

3 A. There are no boxes. These are lines that I draw.

4 Q. That you draw? Okay.

5 A. Yes.

6 Q. Okay. And could I see a copy of that one second,
7 please?

8 (WHEREUPON, the witness handed exhibit to counsel.)

9 Q. Now, let's just -- I want to ask you, though -- this
10 is State's Exhibit Number 1. Isn't it customary --
11 looking at what's been marked State's Exhibit Number 1,
12 you would agree with me that there are actually one, two,
13 three, four, five paragraphs as to State's Exhibit Number
14 1 under the Advisory of Rights. You'd agree with that,
15 wouldn't you?

16 A. I would.

17 Q. Is that fair to say?

18 A. In the top section, yes, sir.

19 Q. On this part right here?

20 A. Yes, sir, there's five.

21 Q. And it also appears -- turning to what's been marked
22 State's Exhibit Number 1 -- that the only boxes that are
23 checked that have Mr. Alley's little signature there are
24 just the top two. Does that look like that to you?

25 A. That is correct.

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- 1 Q. And it would appear, looking at State's Number 1,
2 that three of the paragraphs have not been answered. You
3 agree with that?
- 4 A. I would not say they've not been answered. The
5 boxes beside the top two are for his initials. Those are
6 the two we initially asked him to read. The other three
7 we read to them. We don't ask them to check off on it.
8 That's normal procedure we use in Advisory of Rights.
- 9 Q. So it's your testimony then -- now, you've done a
10 number of Advisory of Rights ---
- 11 A. Very much so.
- 12 Q. --- haven't you? And it's your testimony that you
13 never -- excuse me -- that you do not have them initial
14 each of these paragraphs?
- 15 A. That is correct. I don't.
- 16 Q. You don't?
- 17 A. No, sir.
- 18 Q. Okay.
- 19 A. I have them initial the first two, which is the two
20 that they read out to establish that they can read and
21 write.
- 22 Q. But turning to what's been marked State's Exhibit
23 Number 1, the last two paragraphs, you would agree with
24 me that those all have to do with whether or not he wants
25 a lawyer, that he has a right to a lawyer and so forth;

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1 correct?

2 A. I would agree, yes, sir.

3 Q. And none of those three boxes were checked, were
4 they?

5 A. No, sir. They were read over.

6 Q. None of them had like a -- let me -- let me -- let
7 me finish this. None of them had like a mark on them
8 with his initials to indicate that he signed off on
9 those; correct?

10 A. No, sir, none of them had that.

11 Q. Okay. Now, and it's your testimony that he never
12 asked for an attorney?

13 A. That's correct.

14 Q. Now, when you -- when you took -- when you met with
15 him at the police department or wherever you were, this
16 is Belton-Honea Path; is that right?

17 A. That's correct. Honea Path Police Department.

18 Q. Now, you stated the first, as far as what you do,
19 you investigated back then property crimes in the Belton-
20 Honea Path area; is that correct?

21 A. That is correct.

22 Q. Okay. Can you tell me what -- as far as property
23 crimes, what are you talking about? Like what?

24 A. Investigating burglaries, grand larcenies, things
25 like that. People stealing things, copper, grand larceny

1 of vehicles, breaking into people's houses, stealing
2 trailers out of people's yards, things of that nature.
3 Basically anything involving property.

4 Q. So how much experience at that time, back in July
5 19th, 2011, did you have in the Belton-Honea Path area as
6 far as law enforcement, people in that area? Did you ---

7 A. I've been in that area since 2001. From 2001 to
8 2008, I was at Belton-Honea Path High School assigned as
9 a deputy in which I investigated certain crimes that
10 happened both on and off the campus in that area. In
11 2008, I moved to the Criminal Investigative Unit, and
12 that was my area I was assigned from the start of that.

13 Q. Is part of your job with the Belton-Honea Path in
14 the property crimes arena, you investigated also or you
15 had knowledge of accidents and so forth that happened in
16 the area, didn't you?

17 A. Accidents?

18 Q. Accidents, yeah.

19 A. No, sir. The Sheriff's Department doesn't deal with
20 accidents. That's Highway Patrol.

21 Q. Let me ask you about your knowledge of Mr. Alley.
22 You knew prior to this talk, that you call it, with him,
23 you knew that he had had an accident back in 2000 to 2002
24 involving a closed-head injury, didn't you?

25 A. I didn't know injuries. I knew he was involved in

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1 an accident, but I didn't know what type of injuries he
2 had.

3 Q. You didn't know anything about that?

4 A. No. He was not a student at the high school when I
5 was assigned.

6 Q. Now, in this -- at the Belton-Honea Path Police
7 Department the property crimes -- you all had meetings at
8 that time, didn't you, as far as meeting about what's
9 going on in the area?

10 A. We would have a meeting -- we have a regular meeting
11 on Wednesday mornings, but it's just people we're looking
12 to talk to, things like that, that we have warrants on.
13 I don't really think there was a property crime -- as far
14 as meeting with other agencies? No, sir, we didn't do
15 that at that time.

16 Q. So it's your testimony you didn't know that he had
17 been involved in a pretty serious accident?

18 A. I knew he'd been in an accident, but I didn't know
19 how bad or what his injuries were.

20 Q. Okay. Did you also know that he had, at that time
21 in July 19th, 2011, that he'd also lost a leg in Belton-
22 Honea Path?

23 A. I knew that from -- I'd known that for a couple of
24 years because it involved a student from my school whom
25 he was in a relationship with and the actions of her

1 father.

2 Q. Okay. And that was -- that's where his leg was
3 taken off?

4 A. Yes. It was actually on Barker's Creek Road from my
5 understanding just down -- I'd say maybe a mile or so
6 down the street from the high school.

7 Q. Okay. As far as your -- your interaction with Mr.
8 Alley, had you had many interactions with him prior to
9 this time?

10 A. Personally, no. I think I only had one or two
11 maybe, and that was, again, the domestic issue between
12 him and the young lady he was having a relationship. She
13 would come to my office. They would break up, and she
14 would request help. He's bothering me, things like that.
15 But as far as coming on campus, didn't have that issue.
16 Didn't deal with any criminal issues.

17 Q. Now, when you were conducting your interview or your
18 talk with him and so forth, you stated that he appeared
19 to you to be -- to understand everything that you had
20 said to him; is that correct?

21 A. That is correct.

22 Q. Okay. And how do you go about observing someone as
23 far as making sure they understand what you're telling
24 them and what you're asking them to do?

25 A. Well, it's just like when you ask about coercion --

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1 whichever, you know -- if they say, no, I'm not sure, or,
2 can you explain it to me, you break it down in laymen
3 terms. Basically, good coercion would be an example, I'm
4 not buying him a beer or steak to get what I want. Bad
5 coercion is, I'm not pushing you into a corner, yelling
6 at you saying that you're going to do this and you're
7 going to get this. And so basically you just break it
8 down. And I said, do you understand it? And he said,
9 yeah.

10 Q. Was he -- in your opinion -- in your knowledge at
11 that time -- and you'd been in law enforcement at that
12 point for how many years?

13 A. In 2010? Approximately seventeen years.

14 Q. Actually, it's July 2011.

15 A. 2011? Excuse me.

16 Q. Yeah.

17 A. I'm sorry.

18 Q. July 18th, you'd been in law enforcement ---

19 A. Probably about seventeen and a half, somewhere in
20 there.

21 Q. He appeared pretty eager to answer any questions of
22 him, didn't he?

23 A. At first, after the *Miranda* was waived ---

24 Q. Yeah.

25 A. --- he was very non-responsive as far as going

- 1 directly to the point when we first started talking to
2 him.
- 3 Q. What does that mean?
- 4 A. When I say that, he was, you know, I wasn't there.
5 I don't know those things. Stuff like that.
- 6 Q. All right. And you say he was non-responsive?
- 7 A. No, non-responsive. When I say non-responsive, not
8 coming forth the answers we would ask him or the
9 questions we were asking him.
- 10 Q. Okay. Now, you were there when the statement was
11 given to Mr. Alley, weren't you?
- 12 A. The statement was given to Detective Owens.
- 13 Q. I'm sorry. Detective -- you were there when that
14 was given by Detective Owens to Mr. Alley, correct?
- 15 A. No, the statement was given verbatim. You're
16 talking about when he signed his statement?
- 17 Q. Yes, sir.
- 18 A. Yes.
- 19 Q. Okay. And that was a typed-up statement. Who typed
20 that up?
- 21 A. Detective Owens.
- 22 Q. Okay. And where did he type that up?
- 23 A. In his office.
- 24 Q. And where was that?
- 25 A. Right next door to the interview room. We don't

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1 have those capabilities in the interview room as far as
2 using the computer to type things up.

3 Q. And I think you said a moment ago that he was not
4 under arrest; is that right?

5 A. Not at that point. We were -- I think at that
6 point, once he had actually -- we had talked to him in
7 the interview room and he'd actually told us his part in
8 this crime. At that point, it kind of shifted over to
9 the point that he was in custody at that point.

10 Q. So was he put in handcuffs at that point?

11 A. No, sir. We just asked him if he would move next
12 door so we could put what he had just told us in the
13 interview room on paper in Mr. -- Sergeant Owens' office.
14 And so we just walked out of that room and turned left
15 and went right into Mr. Owens' office.

16 Q. Now, at this point back in July of 2011, you didn't
17 have any sort of audio equipment to tape this?

18 A. No, sir.

19 Q. And no sort of video equipment to tape this?

20 A. No, sir.

21 Q. It was just you and Officer ---

22 A. Detective Owens.

23 Q. Detective Owens?

24 A. Yes, sir.

25 Q. And that was it, correct?

1 A. Yes, sir.

2 MR. ROBINSON: One second, Your Honor.

3 THE COURT: Yes, sir.

4 Q. And going back again, as far as the -- as far as the
5 interview, this was done at the police department, your
6 testimony is; is that right?

7 A. It was done at the Sheriff's Department.

8 Q. The Sheriff's Department?

9 A. Yes, sir.

10 Q. And you didn't notice anything obvious about him,
11 anything that you could tell by looking at him as far as
12 physical -- as far as anything that was different about
13 him?

14 A. Well, I noticed he had a prosthesis, but that
15 doesn't mean that -- you know, I knew that that accident
16 had happened as far as when the father had actually shot
17 him.

18 Q. Do you know whether -- at that stage, at that point
19 back in July of 2011, was his head shaved or did he have
20 hair?

21 A. I don't remember.

22 Q. Did you -- you did see the scar on the side of his
23 head, didn't you? The large scar with ---

24 A. I don't remember that.

25 Q. You don't recall that?

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1 A. No, sir, I don't recall.

2 MR. ROBINSON: That's all I have. Thank you.

3 THE COURT: Redirect?

4 MR. CAMPBELL: No, Your Honor.

5 THE COURT: No questions?

6 MR. CAMPBELL: No, sir.

7 THE COURT: All right. Detective Johnson, you
8 may step down. Thank you very much.

9 You may call your next witness.

10 MR. CAMPBELL: Your Honor, the State calls
11 Detective Owens to the stand.

12 **TODD OWENS,**

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. CAMPBELL:

16 Q. Mr. Owens, you're employed at the Anderson County
17 Sheriff's Office?

18 A. That's correct.

19 Q. And what current position do you currently hold?

20 A. I am a sergeant in the detective division in the
21 Criminal Investigation Division at the Anderson County
22 Sheriff's Office.

23 Q. And how long have you been a detective at the
24 Sheriff's Office?

25 A. A detective at the Sheriff's Office? About eight

- 1 and a half years.
- 2 Q. Now, what was your primary responsibility or duties
3 at the Sheriff's Office back in July 2011?
- 4 A. Back in July 2011, I was a corporal and field
5 training officer. I was training new detectives coming
6 into the agency. And also, I was assigned to the Crimes
7 Against Persons Unit where I investigated crimes against
8 individuals such as armed robbery, assaults, murders,
9 that type of ...
- 10 Q. And was one of your primary responsibilities that
11 you investigated homicide cases that occurred?
- 12 A. That's correct.
- 13 Q. Did you have an occasion back in July of 2011 to
14 investigate the death of Glenn Craft?
- 15 A. I did.
- 16 Q. This occurred at [REDACTED] Trail Road in Belton?
- 17 A. That is correct.
- 18 Q. Now, did you go to the crime scene that day?
- 19 A. I did, sir.
- 20 Q. And what day was that?
- 21 A. I want to say it was on a -- either a Monday or
22 Tuesday, but I know it was around the -- I believe the
23 18th of July.
- 24 Q. And what time of day did you show up there?
- 25 A. It was shortly before lunch. I'd say eleven thirty,

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1 somewhere in there.

2 Q. And how long did you stay on the scene?

3 A. I did not leave -- I left and came back -- I went to
4 a convenience store to get something to drink and came
5 back. But other than that, I was there until about
6 seven-thirty that night.

7 Q. Now, did you go home after that that night?

8 A. I did.

9 Q. At that point in time, when you went home that
10 night, did you have any potential suspects involving the
11 death of Mr. Glenn Craft?

12 A. No. We had actually nothing. We had some cuts and
13 forensic evidence on the scene with open blood identified
14 as the victim's. If there was something forensic in
15 there, we did our initial procedures, but we had no
16 definite suspect at that time.

17 Q. Now, the next day, July 19th, 2011, you went to
18 work?

19 A. That's correct.

20 Q. About what time did you get to the office or did you
21 start working on this case that morning?

22 A. Well, actually, I never made it to work. I got a
23 phone call about six that morning on my mobile phone from
24 the dispatch center stating that a Honea Path police
25 officer had some information and had a female who wanted

1 to talk with the Sheriff's Office about Mr. Craft's
2 murder. She had some information.

3 Q. And what was her name?

4 A. Her name was Holly Whitfield.

5 Q. And did you go to the Honea Path Police Department
6 and pick her up?

7 A. Actually, she was never at the Honea Path Police
8 Department. She was at her home. The Honea Path police
9 officer just waited there with her at her home. Her
10 father actually had called and she had called. They
11 never did talk to. And so the Honea Path Police
12 Department went out, and they subsequently called me.
13 And I met them there at their home about six forty-five
14 to seven a.m. that morning.

15 Q. As a result of speaking to her, did she agree to go
16 with you to the Anderson County Sheriff's Office and talk
17 to you further?

18 A. She did. She did. I spoke with her. She told me
19 that she knew the dudes that were responsible for the
20 incident and the murder of Mr. Craft. She said that
21 three boys that she knew ---

22 MR. ROBINSON: Your Honor, objection to
23 hearsay.

24 THE COURT: Overruled.

25 Q. We'll just skip to the point. Was one of the names

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1 actually ---

2 THE COURT: If we had a jury here, I would
3 sustain the objection. Okay?

4 Go ahead.

5 Q. Let's get to the point. Was one of the individuals
6 that she named Walter Chase Alley?

7 A. That's correct.

8 Q. And where did you speak with her at, the Sheriff's
9 Office?

10 A. Yes. I picked her up from her home, asked her to
11 accompany me, told her she was not under arrest at this
12 time. And she went voluntarily with me to the Sheriff's
13 Office. She rode in the front seat, not handcuffed. We
14 got to the Sheriff's Office. At this point, I didn't
15 know if she was a suspect or a victim -- not a victim but
16 witness. So I started out the interview actually in my
17 office so I could write down as she spoke and we could
18 take her statement from her.

19 Q. And as you were getting information, at some point
20 in time that morning, did you receive information that
21 Walter Chase Alley was at the Honea Path Police
22 Department?

23 A. Yeah. We -- a while into our interview, or my
24 interview with Ms. Whitfield, I received a call from
25 Detective Johnson saying he'd received a call from the

1 Honea Path Police Department that a gentleman by the name
2 of Chase Alley -- who I later found out to be Walter
3 Chase Alley -- Chase Alley was at the Honea Path Police
4 Department stating he wanted talk to me. And I told him,
5 I said, go pick him up, find out who he is, what he knows
6 and see if he'll come up with you to the Sheriff's Office
7 and talk with us instead of up there.

8 Q. And about what time that morning did you meet Mr.
9 Chase Alley?

10 A. It wasn't over until probably ten fifteen, ten
11 thirty that morning before I actually got to meet with
12 him. Because it was -- by the time Detective Johnson got
13 the call and got down there, picked him up, brought him
14 back and I finished my interview with Ms. Whitfield, it
15 was probably mid-morning, ten fifteen, ten thirty,
16 somewhere in there.

17 Q. Did Ms. Whitfield leave the Sheriff's Office that
18 morning?

19 A. She did.

20 Q. And she wasn't under arrest at that time?

21 A. No.

22 Q. And as a result, the next person you talked to was
23 Chase Alley?

24 A. That's correct. I left my office, walked out, went
25 next door to the interview room and met with Miss -- with

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1 Mr. Alley and Detective Johnson.

2 Q. You stated -- what is the relationship of the
3 interview room next to your office? Is it right next to
4 it?

5 A. It's literally next door. There's a wall that
6 separates the two of them.

7 Q. He was there. What was your impression of him when
8 you first met him?

9 A. Average. He was sitting down. Didn't appear to
10 have any kind of outward signs of being nervous or crying
11 or emotional or upset. Didn't appear to be angry.
12 Didn't appear to be lethargic. Didn't appear to be under
13 the influence of anything. Just appeared to be a normal
14 person sitting there wanting to talk with us.

15 Q. And where you present when Detective Johnson went
16 over his Advice of Rights which is shown on State's
17 Exhibit 1?

18 A. I was.

19 Q. So you were present for all of that; is that
20 correct, sir?

21 A. That's correct.

22 Q. And that's your signature on that statement?

23 A. Yes, sir. In blue ink, the bottom witness -- on
24 both the bottom witness blocks.

25 Q. Now, after this statement was given, did you ask him

1 if he was willing to talk to you about the incident
2 occurring dealing with Mr. Craft?

3 A. Well, actually, I said, you came forward to us and
4 you wanted to talk to us. What do you want to talk to us
5 about? And he said, well, I really don't know anything
6 about what happened. I said, well, then why did you want
7 to come forward and talk to us? Did you -- have you
8 heard something about it? Because at this point I didn't
9 know his involvement. I didn't know if he was going to
10 be a person of interest. I didn't know if he might be a
11 potential witness. The only reason he's in the interview
12 room is because my office was taken by Ms. Whitfield. So
13 that's why I just had Detective Johnson -- I said, put
14 him in the interview room and then we'll go talk to him.
15 After I got done talking with Ms. Whitfield, that's when
16 I realized that he may be a person of interest. And
17 that's why we decided to do *Miranda*.

18 Q. And after y'all did the *Miranda* form, did y'all take
19 a break at that point in time?

20 A. Yeah. Well, we -- we -- not immediately. I talked
21 to him asking, you know, why he came forward and wanted
22 to talk with us. We spoke briefly. At first, he said, I
23 really don't know anything about what happened. I said,
24 well, we're receiving two different reports. We're
25 hearing that your name is coming up, that you might have

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1 some information about it. He said, no, I really don't
2 know anything about it. I said, well, think about it.
3 The truth is very important, and we need to get to the
4 bottom of it. You know, someone's lost their life. We
5 need to figure out who may be responsible, and we need to
6 determine the truth. He kept on for a few minutes saying
7 he really didn't know anything. I asked if he knew some
8 of the people, the names that I had like Holly Whitfield.
9 He said he did. I asked him about a Charlie Tyler
10 Robinson. He said he knew him. I asked him about -- did
11 he know anything about a car? Was he with those people?
12 Then he started getting to the point where he showed
13 signs of stress. Basically, his body language changed a
14 little bit. And then he got to the point where he kind
15 of just lowered his head and said, well, I do know
16 something. And I said, well, what? And he said, well, I
17 was with him. I said, okay. What happened? And then he
18 asked, well, can I smoke a cigarette? I said, sure.
19 So we got up. We went downstairs. Detective
20 Johnson took him outside. He smoked a cigarette. He
21 came back up. I asked him if he wanted some water.
22 Q. At this point in time, was he handcuffed when he
23 went outside?
24 A. No, no, no. I asked him if he wanted some water.
25 Because he appeared, like I said, he still appeared to be

1 under -- kind of stressed. I gave him some water and
2 asked if he needed to use the restroom. I don't -- I
3 don't remember if he went to restroom or not at that
4 time. And we talked for just a few more minutes in the
5 interview room. And he said, well, you know, I know who
6 was there. And I was there and, you know, I know what
7 happened. I said, okay, well, let's go to my office and
8 would you provide, give me a written statement to that?
9 And he said, sure.

10 Q. When you say he appeared under stress, did he appear
11 that he couldn't control his mental faculties when you're
12 saying he's under stress?

13 A. No, no. He -- no. He appeared -- and to put it in
14 explainable terms, I guess, would be is if you asked
15 someone an accusatory question, if they're involved, you
16 can almost see the stress level rise in them where
17 they're trying to hide it, that they had involvement.
18 But as the facts become more available that they did do
19 it, you see the stress level begin to build. And they
20 get to a point to where they actually -- I don't want to
21 say give up. But they get to the point to where they
22 kind of go, okay. You got me.

23 That kind of -- that's what I'm explaining. Because
24 it appeared the stress level rose in him. You know, he
25 never began to sweat or cry or get red in the face or

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1 anything like that, but his body became more rigid. He
2 looked up. He looked around. His eye contact became
3 less and less with me. And you can just -- as -- in my
4 experience, you realize that those are actions of someone
5 under stress.

6 MR. ROBINSON: Your Honor, I'm going to object.
7 It's got a lack of foundation. And he's giving opinion
8 in this case.

9 THE COURT: What's your legal objection?

10 MR. ROBINSON: It's foundation, Your Honor. I
11 think it's irrelevant what he's ---

12 THE COURT: Foundation? Is that your legal
13 objection?

14 MR. ROBINSON: Your Honor, it's foundation and
15 the fact that he's trying to give an opinion without some
16 sort of foundation of that.

17 THE COURT: Well, he's just testifying to what
18 he observed. Eye contact, the body rigid, he looks
19 around. We haven't got to an opinion. Overruled.

20 Go ahead.

21 Q. Now, at this point in time, you took him down and
22 had a smoke break, an opportunity for a bathroom break,
23 an opportunity to have something to drink. Did y'all
24 come back up at that point? Did you start asking him
25 questions regarding his involvement dealing with the

- 1 death of Mr. Craft?
- 2 A. Yeah. When we came back up I -- once he -- we
3 started talking again, he said, you know, he knew some
4 information. So I said, well, will you provide me a
5 written statement to that effect? Can we go and let me
6 type a statement for you in my office and we'll put this
7 down on paper? And he said, yeah, sure.
- 8 Q. Well, I'm going to show you what's been marked as
9 State's Exhibit Number 2. Can you please identify this,
10 sir?
- 11 A. This is the written statement that I typed in my
12 office with Mr. Alley present and Detective Johnson
13 present. And I printed it out.
- 14 Q. Now, prior to you typing the statement out, did you
15 ask him the information regarding himself that's put on
16 this piece of paper?
- 17 A. Yes. As far as like demographic information, name,
18 date of birth, that type thing, I did. Actually, I start
19 -- it's a Word document. It's blank. It's not a form.
20 It's not a format or a program. It's just a -- you pull
21 up the Word document and it's a blank sheet of paper and
22 I type in the date, the time, Office of Detective Todd
23 Owens and the address at 305 Camson Road, Anderson County
24 Sheriff's Office.
- 25 Q. Let me ask you -- prior to this, did you know Mr.

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- 1 Chase Alley?
- 2 A. No. I'd never really seen him to my knowledge.
- 3 Q. No prior dealings -- I'm sorry. Go ahead.
- 4 A. I'd never seen him before in my life prior to my
5 knowledge. I had never dealt with him at all. I may
6 have seen him, but I didn't know who he was.
- 7 Q. Okay. So the information that you put on your
8 demographics was information you had to receive from him;
9 is that right?
- 10 A. That's correct. The only thing I wrote other than
11 the date, the time, the location, where it was, I wrote,
12 the statement of and then asked him his full name.
- 13 Q. Which he provided to you?
- 14 A. That's correct. He said Walter Chase Alley. I
15 asked him -- I don't think I asked him his race and sex.
16 That was pretty obvious. But I did ask him his date of
17 birth. And that's the [REDACTED].
- 18 Q. And then next you asked him where he lived?
- 19 A. I asked him his home address. And you have to
20 explain to a lot of individuals when you say, you know,
21 what's -- what's an address that we -- well, they'll give
22 you an address and it turns out to be a P.O. box. And I
23 asked him, I said, where do you live? Not a Post Office
24 box where you receive mail, but where do you actually
25 live? And he told me [REDACTED] Trussell Street.

1 Q. And then you asked him his Social Security number?

2 A. That's correct.

3 Q. And was he able to provide that to you?

4 A. He was.

5 Q. And did you ask him his contact telephone numbers?

6 A. I asked him for two. I said, give me two phone
7 numbers I can call you on, whether it be a home, a
8 mobile, a mom, dad, grandmother. Somebody if we need to
9 get in touch with you, we need to have at least two phone
10 numbers. And he provided that. I put 'H' for home, and
11 then I put 'C' for cell phone.

12 Q. And you asked him how far he went in school?

13 A. That's correct.

14 Q. Now, what is the purpose of why you asked him this
15 type of information?

16 A. Well, I'm gauging their ability to give me specific
17 information about themselves. If they are able to recall
18 their Social Security number -- you know, it's a
19 complicated series of numbers -- it's a pretty good
20 indication that they're not under the -- not under heavy
21 influence of drugs or alcohol. The recalling of phone
22 numbers is another stumbling block that people have if
23 they're intoxicated or if they're under the influence of
24 alcohol, drugs, or if they have some type of mental
25 impairment. If you ask for one phone number, even with

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1 an impairment, some people can still give you a phone
2 number real quick if it's always been their phone number.
3 But two phone numbers, it requires a little more complex
4 thought.

5 Q. And he was able to follow directions?

6 A. Oh, absolutely.

7 Q. And didn't appear to you to have any problems
8 communicating with you?

9 A. No. He spoke clearly, did not slur his speech, did
10 not smell of any alcohol, did not appear to be lethargic,
11 did not appear to be sleepy or tired or over-agitated,
12 excited. Just appeared to be almost in a relaxed state
13 now that we were talking pretty open and we kind of got
14 away from those accusatory questions. His demeanor was a
15 little more relaxed. He wasn't as rigid as he was.

16 Q. Now, you typed this statement out; is that right?

17 A. That's correct.

18 Q. Okay. Now, why won't you let him write it out?

19 A. Well, what I do is I do -- the first thing I do,
20 after I get the demographic information is I write this
21 statement typed for me by Detective Todd Owens. I can
22 read and write. And I put a blank beside it. And what I
23 do is after I have typed the initial statement with them
24 and go over things -- on a computer it's a lot easier.
25 If I go line-by-line with them, they may want to add

1 something, may want to take out. And they may want to,
2 well, no, I forgot. This happened before this. So it's
3 a lot easier to cut and paste and go back in a digital
4 format than it is handwriting, because you end up doing
5 statements like two or three times sometimes if you're
6 taking a pretty detailed statement.

7 Q. But the wording that's in here is what he told you?

8 A. Correct. And that's gone over with -- when I --
9 when he tells me something, what happens is when an
10 individual tells me something, they're literally on my
11 right side here and I'm typing facing my screen. They
12 inform me this happened, and so I type it. And I ask
13 them, so what you're saying is on Sunday, and I quote,
14 and Charlie Robinson and a guy named Weaver -- at least
15 that's what we called him. I don't know his real name --
16 showed up at my house. He goes, correct. I said, all
17 right. And then what happened?

18 Q. Do you go line-by-line with him?

19 A. After he tells me the initial story, we go back and
20 we start breaking it down and go line-by-line to make
21 sure everything's in there they want to have in there.
22 And if there's anything they want to delete or add, we
23 can do so before we move on to the next thing.

24 Q. And he did that in each sentence that you went
25 through ---

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1 A. Yes.

2 Q. --- in this statement?

3 A. Yes.

4 Q. Now, after you have finished a statement, you type
5 "end of statement"?

6 A. Uh-huh (affirmative).

7 Q. And do you give him an opportunity to read or review
8 it?

9 A. Correct. I actually -- the reason I put that first
10 sentence in there, this statement typed for me by
11 Detective Todd Owens, I can read and write, in the event
12 someone else has Mirandized them in another room, another
13 section, I come in and do the interview, just -- not in
14 this case, but in some cases that may happen -- I put
15 that in there so I can gauge their ability to read and
16 write the English language and listen to them talk and
17 something that they have to look at and concentrate, to
18 see if their speech is slurred, to see if they're under
19 the influence of something.

20 Q. And after you typed this out, you printed it out and
21 gave him an opportunity to read it; is that correct?

22 A. Yeah, I print it out. And what I do is I said -- or
23 I tell them, read over it. See if there's anything you
24 want to add; see if there's anything you want to delete.
25 It's your statement. Anything else you want to say at

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1 the bottom? And if they say, no, I say, well, at the top
2 right here, do me a favor, read that out loud for me.
3 And they'll read it out loud for me. And I'll say, well,
4 how about sign it right here in this blank. They sign
5 that. That way I can testify to the fact that they read
6 that out loud to me and I know they can read and
7 comprehend the English language.

8 From there, down at the bottom, I said, you see
9 where it says, end of statement. Yes. Is there anything
10 you wish to add? No. And it says -- and I tell them, do
11 you see where it says, "I received a copy of the
12 statement." They say, yes. Sign there, please. When
13 they sign there, then I'm going to witness it and
14 whoever's with me witnesses it as well.

15 Q. In this case it was Tommy Johnson?

16 A. That's correct.

17 Q. And will you just go ahead and read out what he told
18 you regarding the death of Mr. Craft?

19 A. Starting at the beginning it says, "This statement
20 typed for me by Detective Todd Owens. I can read and
21 write," signed Chase Alley.

22 Sunday, Charlie Robinson and a guy named
23 Weaver -- at least that's what we called him.
24 I don't know his real name -- showed up at my
25 house. It was after dark. We drank a few

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1 beers.

2 Somebody said something about being
3 hungry, and we walked toward Hardee's. It was
4 around ten p.m. because Hardee's was closed.
5 We walked over to the Spinx. We ran into Holly
6 Whitfield. We got into her car, and she gave
7 us a ride home to my house.

8 We all went in, and it came up in a
9 conversation that we could rob somebody. The
10 Weaver guy knew of a person we could rob. We
11 decided to do it. I think it may have been
12 around or may have been twelve a.m. to one a.m.
13 in the morning.

14 I grabbed my three-eighty caliber handgun
15 -- it was a Hi-Point -- and stuck in my pocket.
16 Charlie had a chrome revolver. I don't know
17 where he got it from.

18 We jumped in the car, and I was driving.
19 I got directions there from someone in the car.
20 I don't remember who. They all were talking.

21 We drove out to Trail Road in Craytonville
22 and stopped at a brick house. We got out, all
23 of us. We had on gloves and went inside. I
24 was the last in.

25 By the time the old man was awake, it

1 looked like he had been asleep and everyone was
2 yelling at him. Holly and Weaver were in the
3 back rambling through stuff. Me and Charlie
4 were holding him with guns. He was standing up
5 beside his bed. He was wearing a white t-
6 shirt, and I walked up and pointed my gun at
7 him. I told him that I would shoot him, and he
8 said he had to pee. He reached for my gun and
9 the gun went off. He fell down, and we ran out
10 of the house. I thought I was going to get
11 left. I finally got into the car and we drove
12 back to my house.

13 We didn't stay long and went to
14 Greenville. On the way, I threw the gun. We
15 were still moving in the car when I threw it.
16 It was at a bridge at Erwin Mill or the Saluda
17 River Bridge.

18 We went to Greenville to Holly's
19 apartment. We hung out. The first time I saw
20 money, it was in Charlie's hand. It was a
21 little over two hundred bucks and we all split
22 it, around fifty a piece.

23 I fell asleep, and the next morning I woke
24 up and came home. Holly drove me home. End of
25 Statement. I received a copy of the statement.

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1 Signed by Chase Alley. Witnessed by myself and
2 Detective Johnson.

3 Q. Now, you had been at the crime scene and saw Mr.
4 Craft; is that right?

5 A. Correct.

6 Q. And did some of the facts that he put in here match
7 some of the information that you had already known?

8 A. Correct. Specifically, the address of Craytonville,
9 Trail Road. Also, a brick house. That was the house
10 that it was. Old man. Mr. Craft was an elderly male.
11 Like he'd been asleep. The victim was found near a
12 hospital bed. Holly and Weaver were in the back rambling
13 through stuff. Drawers, cabinets, closets in the back of
14 the house away from where Mr. Craft was had been gone
15 through, turned over, and appeared to be searched. He
16 was standing up beside his bed. We found blood spatter
17 at the -- beside the bed as if someone had been shot
18 while standing by the bed. He was wearing a white t-
19 shirt, and I walked up and pointed my gun at him. He was
20 only wearing a white t-shirt. He didn't have anything
21 else on. The gun went off, he fell down and we ran out
22 of the house. The door was still unsecured when
23 witnesses found him, when the complainants contacted us.
24 And at that point, that is all I knew because I'd just
25 been at the scene.

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- 1 Q. Did y'all find any shell casings at the scene?
- 2 A. One single shell casing.
- 3 Q. And what caliber was it?
- 4 A. A three-eighty caliber.
- 5 Q. Now, after he gave his statement, did you place him
- 6 under arrest at this point in time?
- 7 A. I did, and informed him of what the procedures were.
- 8 That I would be obtaining a warrant on him that would be
- 9 served on him at the jail. He said he understood that.
- 10 Asked him, you know, is there anything else? And he said
- 11 no. And I said, you understand what this means? He said
- 12 yes. I said, I'd like for you to take us to this weapon
- 13 if that would be possible. And he said, okay. And I
- 14 said, do you remember how to get there? He said yes. I
- 15 said, well, someone will come and get you probably
- 16 tomorrow. I said, I've got some more things I've got to
- 17 work on. I said, or it may be this afternoon. I'm not
- 18 sure. But we'll get somebody to come by and pick you up
- 19 and get down there and see if you can take us to where
- 20 that gun is. He said, okay.
- 21 Q. And did you take him back to the Sheriff's Office at
- 22 that point in time, or did you leave him ---
- 23 A. He was already at the Sheriff's Office.
- 24 Q. I mean the detention center at this point in time?
- 25 A. Yeah. I had someone else transport him down to the

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1 detention center and place a hold on him for the charge
2 of murder under my name and under the case number for
3 this case.

4 Q. Was he kept at the holding cell at the Sheriff's
5 Office?

6 A. Well, briefly, while he was waiting for a ride, to
7 be picked up to be taken to the detention center.

8 Q. At this point did you know who Weaver was?

9 A. I did not know who Weaver was. Holly Whitfield had
10 alluded to another individual. And so I was curious to
11 see if this was one in the same person.

12 Q. And how were you going to go about doing that?

13 A. I had gotten information that a Charles Steven Bell
14 was this supposed Weaver or a/k/a Chad Bell. So I
15 contacted the State Law Enforcement Division -- well, I
16 searched our records first. We did not have any
17 photographs of Chad Bell in our mug shot file in order
18 for me to make a photo lineup to positively identify him.
19 So I contacted the State Law Enforcement Division because
20 I found that a Charles Steven Bell had a driver's license
21 photograph. And so I contacted the State Law Enforcement
22 Division to see if they would complete a photo I.D.
23 lineup based upon a driver's license because they have
24 that capability. We do not. And they created one for
25 me.

1 Q. And did you inform Mr. Alley that someone would be
2 coming to talk to him about this?

3 A. Yeah. Once I -- once I had figured that information
4 out, I told him -- I said, you know, would you recognize
5 this Weaver guy? He said he did or he would. And at
6 that time I said, well, I'm going to put you down in the
7 holding cell. Somebody will be coming to pick you up,
8 and we'll let you look at that photo lineup when we get a
9 chance -- when we get it back and see if you can identify
10 Weaver. And at that point, a short time later, I
11 received the photo lineup back by email from SLED. I
12 printed it off and gave it to Steve Reeves at the
13 Sheriff's Office.

14 Q. Thank you, Detective Owens. I have no further
15 questions regarding this deal or his statement. Please
16 answer any questions Mr. Robinson may have.

17 A. Yes, sir.

18 THE COURT: Mr. Robinson, just a second. What
19 time did you finish the statement? You said you started
20 about ten fifteen, ten thirty. What time ...

21 THE WITNESS: Your Honor, I would say -- I
22 think it was around lunchtime, twelve o'clock maybe at
23 the latest. Because I know -- I know after I left there,
24 I went and ate lunch. But I don't remember the exact
25 moment we finished it.

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1 THE COURT: An hour and a half, hour and forty-
2 five?

3 THE WITNESS: If that, sir. Yes, from
4 beginning to end.

5 THE COURT: You're aware -- are you aware of
6 his education?

7 THE WITNESS: Yes, sir. I asked him in the
8 statement what level of education he completed. He said
9 he completed the tenth grade.

10 THE COURT: How about his mental status?

11 THE WITNESS: I spoke with him. I wasn't aware
12 of any injuries he had. I did see the scar on his head,
13 and I was made aware of the reason for him having a
14 prosthesis was an altercation with, I believe, a
15 girlfriend's father. And he'd been shot in the leg and
16 had it amputated. But as far as any kind of mental
17 illness or anything like that, that never came up in
18 conversation. He appeared alert, competent and normal to
19 me.

20 THE COURT: Did you make any determination as
21 to his I.Q. or ability to form cognizant thoughts?

22 THE WITNESS: No, as far as like an I.Q. number
23 or anything like that. I spoke with him. He was able to
24 give me specific information about his address, Social
25 Security number, date of birth. I had him recall events

1 that occurred in the past with detail. So I gauged his
2 I.Q. to be normal in my opinion.

3 THE COURT: So the only thing you observed of
4 his physical condition was the leg and the scar on the
5 head; is that correct?

6 THE WITNESS: That's correct.

7 THE COURT: Okay.

8 Cross-examination?

9 MR. ROBINSON: May it please the Court.

10 CROSS-EXAMINATION

11 BY MR. ROBINSON:

12 Q. Investigator Owens, in the beginning Mr. Campbell
13 asked you about what you knew about the incident before
14 you went to speak with Mr. Alley. Do you recall that?

15 A. Where I had -- from the scene itself, you're talking
16 about?

17 Q. Yeah. Because the incident actually happened on
18 7/17. You interviewed Mr. Alley two days later on the
19 19th; is that correct?

20 A. I don't believe it happened on the 17th. I believe
21 it happened on the 18th of July.

22 Q. 7/18, you interviewed him on 7/19; is that correct?

23 A. The next day, that's correct.

24 Q. Would you agree with me that you interviewed Holly
25 Whitfield first ---

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1 A. Yes.

2 Q. --- before you interviewed Mr. Alley?

3 A. Yes. Yes.

4 Q. Now, in the interim between the time you were called
5 out to the scene of this, of this happening and so forth,
6 out to the gentleman's house, what were you -- were you
7 doing an investigation right after in terms of trying to
8 figure out who could have done this or who was involved?

9 A. Yes. I was conducting an investigation to see that
10 -- my first priority on the scene was to oversee
11 collection efforts to make sure all evidence, or
12 potential evidence, was collected.

13 Q. Now, a call came in at some point regarding a Holly
14 Whitfield ---

15 A. That's correct.

16 Q. --- sometime on the 19th; is that correct?

17 A. That's correct. I received that around six a.m.
18 that morning from my dispatch center that a Honea Path
19 Police officer was out with her and she wished to speak
20 with us because she had information regarding Mr. Craft's
21 case.

22 Q. So you actually got a history from her of her
23 involvement with that and other people that possibly were
24 involved, correct?

25 A. Correct.

1 Q. And she actually gave you a statement at, I believe,
2 in the morning of 7/19; is that correct?

3 A. That's correct.

4 Q. So prior to you even interviewing Mr. Alley in this
5 case, you had -- in your mind you knew the statement that
6 Holly Whitfield had given you; isn't that correct?

7 A. That's correct.

8 Q. That's correct. And actually you -- besides Holly
9 Whitfield, what other information did you have?

10 A. Just information that I gleaned from the scene
11 itself. The physical evidence that was there that I
12 could observe such as the single shell casing being
13 three-eighty caliber, Mr. Craft wearing only a white t-
14 shirt. Information I gleaned from the Coroner's Office
15 about Mr. Craft had died from a single gunshot wound.
16 Things of that nature.

17 And then I had taken a statement from Ms. Whitfield
18 where she stated that her involvement was minimal and she
19 stated some other individuals were involved and had taken
20 her car, used her car to commit this act. But other than
21 that -- and I didn't know all of her facts, if they were
22 correct or not, because I wasn't able at that point to
23 corroborate anything other than, you know, what I had
24 seen at the scene.

25 Q. I'm going to let you look at a statement that ---

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1 MR. ROBINSON: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes, sir.

4 Q. Do you recognize this statement?

5 A. I do.

6 Q. And is that your signature at the bottom of the
7 statement?

8 A. It is.

9 Q. And that was the statement that was taken from Holly
10 Whitfield, correct?

11 A. That is correct.

12 Q. Let me get that back for one second.

13 MR. ROBINSON: Let me get that marked.

14 (WHEREUPON, Defendant's Exhibit Number 3 was marked
15 for identification only.)

16 THE COURT: Is that number 1?

17 MR. ROBINSON: Number 3, Your Honor.

18 THE COURT: Number 3? Defendant's?

19 MR. ROBINSON: Yes, sir.

20 THE COURT: Is it Defendant's 3 or the State's
21 3?

22 MR. ROBINSON: Defense 3, Your Honor.

23 THE COURT: Okay.

24 Q. So turning to what's been marked Defense Number 3,
25 if you can look at that, that was a statement that you

1 took from Holly Whitfield at nine forty-four a.m. that
2 morning; is that correct?

3 A. That's correct.

4 Q. That's correct. And she actually gave you a lot of
5 facts in her statement, didn't she?

6 A. She did.

7 Q. And you took -- you were actually -- so in that
8 statement that she gave you, you actually had a large
9 number of facts that she gave you regarding the
10 involvement, if any, of Mr. Alley, Mr. Bell and Mr.
11 Robinson; is that correct?

12 A. Correct. She identified an individual by the name
13 of Bell, an individual by the name of Chase, and an
14 individual by the name of Charles.

15 Q. Okay. And you had gleaned from the scene when you
16 were at the scene the previous day and up until the 19th
17 -- or through the 19th, you had gleaned the type of
18 weapon that was involved, different parts as far as the
19 white t-shirt, different things -- different physical
20 evidence that was there that you looked at. You had that
21 information as well as her statement to you as well,
22 didn't you? Before you met with Mr. Alley; isn't that
23 correct?

24 A. Yes.

25 Q. And as far as the statement goes that you took,

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1 which has been marked in this case as State's Number 2, I
2 believe, that was a statement that was prepared by you;
3 isn't that correct?

4 A. It was a statement that was typed by me interviewing
5 Mr. Alley, yes.

6 Q. Okay.

7 A. Same as with Ms. Whitfield.

8 Q. Right, but you typed the statement; correct?

9 A. I did in both incidents, yes.

10 Q. And what you did -- after you took. Excuse me.

11 Strike that. But before you got -- you got -- you got --
12 you had to sign this statement and look at this statement
13 and so forth, you actually put together from Holly
14 Whitfield's statement what you wanted in the statement
15 from Mr. Alley; didn't you?

16 A. No. I wanted what his version of the story was, not
17 her version. That's why I wanted to speak with him and
18 get his version of what happened. I didn't know if his
19 details were going to be different than hers or
20 corroborate hers or be something totally different. In
21 order for me to believe her statement, there has to be
22 evidence that I can corroborate if he provides those same
23 statements or those same facts. If he doesn't, then I
24 can't completely corroborate her statement. That's why I
25 wanted his version of what happened.

- 1 Q. Now, you were in the court when I asked the other
2 officer, you don't have any sort of audio equipment that
3 tape things?
- 4 A. No, I do not. I do now, but I didn't at that time.
- 5 Q. At the time you had no video or anything like that?
- 6 A. No, sir.
- 7 Q. Just you, Mr. Alley and the officer that just
8 testified?
- 9 A. Detective Johnson. That's correct.
- 10 Q. And I think that the Judge asked you a question
11 about the scar on his head?
- 12 A. Uh-huh (affirmative)
- 13 Q. There's a -- you would agree that there's a large
14 scar on the left-hand side of his head; correct?
- 15 A. That's correct.
- 16 Q. And that didn't give you pause as far as to think
17 maybe there could be a problem here as far as ---
- 18 A. No, sir. I actually have one that runs from my
19 eyebrow to the back of my head. And it's just a scar
20 that I've always had, and it was actually from birth.
- 21 Q. But you had information -- didn't you have
22 information regarding a serious accident that he got
23 into?
- 24 A. No. I had no idea that he'd ever been in any kind
25 of accident other than the situation with the leg. I

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1 believe Detective Johnson told me that he had -- he was
2 involved -- he said you remember you heard several years
3 ago when the guy got shot with a high powered rifle? And
4 I said, yes. He said, well, this is him. I said, oh,
5 okay. And he said, he lost his leg. I said, I didn't
6 know that. Other than that, I had no information about
7 Mr. Alley.

8 MR. ROBINSON: One second, Your Honor.

9 THE COURT: Yes, sir.

10 Q. And Officer, just for my information, the -- turning
11 to what's been marked Defense Number 3, the time on that
12 -- the interview that you did with Holly Whitfield was
13 nine forty-four a.m.; correct?

14 A. That's correct.

15 Q. What was the time that you -- on your -- on the
16 statement, which has been marked State's 2, what time was
17 that statement taken?

18 A. On the statement involving Mr. Alley?

19 Q. Yes, sir.

20 A. Eleven-oh-two a.m.

21 Q. All right. Now -- and Mr. Alley never asked for an
22 attorney?

23 A. No.

24 Q. And I believe you said he was cooperative; is that
25 right?

1 A. Very cooperative.

2 Q. So you only had him -- when -- when this was going
3 on -- did he only -- was he cooperative enough just to
4 sign one time? Just came up, said, here we go, let's
5 sign it?

6 A. No. He signed actually three -- four times.

7 Q. Four times? All right.

8 MR. ROBINSON: Thank you.

9 THE COURT: Any redirect?

10 MR. CAMPBELL: No, Your Honor.

11 THE COURT: Okay. You may step down. Thank
12 you very much.

13 Call your next witness.

14 MR. CAMPBELL: Your Honor, the State calls
15 Steve Reeves.

16 (WHEREUPON, the witness was duly sworn.)

17 THE COURT: Please proceed, Solicitor.

18 MR. CAMPBELL: Thank you, Your Honor.

19 **STEVE REEVES,**

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. CAMPBELL:

23 Q. Mr. Reeves, you're employed at Anderson County
24 Sheriff's Office?

25 A. Yes, sir.

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1 Q. What position are you currently employed as?

2 A. Lieutenant assigned to Office of Professional
3 Standards.

4 Q. And what position did you hold back in July of 2011?

5 A. A lieutenant assigned to the Criminal Investigation
6 Division.

7 Q. So you were Detective Owens' and Detective Johnson's
8 boss basically?

9 A. Yes, sir.

10 Q. And did you have an occasion to become involved in
11 the investigation, a murder investigation, of the death
12 of Glenn Craft?

13 A. I did.

14 Q. And how did that come about?

15 A. We were notified that morning, and our assets
16 responded to the incident location. A crime scene was
17 set up. I spent most of the day there assisting the
18 detectives, giving them the resources they needed to do
19 their job.

20 Q. And the next day -- well, after you left that day,
21 you had no suspects involved -- potential suspects ---

22 A. Correct.

23 Q. --- in this case? And the next day on July 19th,
24 2011, you went to work that morning?

25 A. I did.

- 1 Q. On that day did you have the occasion to come into
2 contact with Walter Chase Alley?
- 3 A. Yes.
- 4 Q. And where was that?
- 5 A. At Anderson County Sheriff's Office.
- 6 Q. And approximately about what time of day was that?
- 7 A. As I recall, when I sat down to lunch about maybe
8 one fourteen. I'm sure if that's off a little bit,
9 you'll correct me.
- 10 Q. And did you know Mr. Chase Alley?
- 11 A. I'd never met him before. I knew of him.
- 12 Q. But you didn't know him personally or ever dealt
13 with him in your years in investigations?
- 14 A. No, I did not.
- 15 Q. Now, were you present when Detective Owens and
16 Detective Johnson were interviewing Mr. Alley regarding
17 his involvement in the death of Glenn Craft?
- 18 A. No, sir. I was on the floor, but I was not in the
19 interview room or Detective Owens' office.
- 20 Q. Did you know that they were interviewing him?
- 21 A. I did.
- 22 Q. And after they completed his -- their interview of
23 him, do you know where he was placed?
- 24 A. Excuse me?
- 25 Q. Do you know where he was placed at after he got done

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1 -- they got done?

2 A. Detective Owens advised me that he was putting --
3 putting him in one of our holding cells on the lower part
4 of the office.

5 Q. And what was the next process that y'all were going
6 through regarding this investigation dealing with Mr.
7 Craft -- I mean, Mr. Alley?

8 A. Detective Owens had advised me that he had
9 Mirandized the Defendant in this case and had got a
10 written statement or a typed statement from him.
11 Detective Owens was going to have to be going to multiple
12 other locations to continue his case, but he needed a
13 lineup shown to Mr. Alley in reference to this case in
14 order to identify a possible -- possible co-defendant.

15 Q. And did he ask you to assist him in doing this
16 lineup?

17 A. He did.

18 Q. And the lineup was being requested from SLED, the
19 South Carolina Law Enforcement Division?

20 A. Correct.

21 Q. Did you receive a copy of the lineup?

22 A. I did.

23 Q. I'm going to show you what's been marked State's
24 Exhibit Number 4. Is this a copy of the lineup that you
25 received?

- 1 A. Yes.
- 2 Q. And how do you know that? How do you know that?
- 3 A. This was given to me -- if I recall, I think
- 4 actually the email from the wide array officer (phonic)
- 5 presented this to Mr. Alley, that we were waiting for the
- 6 email to come from SLED or the fusion center. So it was
- 7 sent to me on multiple emails while Detective Owens was
- 8 gone. So I had to wait in the office to receive this.
- 9 And then obviously, a short time later, presented it to
- 10 Mr. Alley.
- 11 Q. Are those your initials at the bottom?
- 12 A. They are.
- 13 Q. On the bottom right-hand corner? I'm sorry.
- 14 A. Correct.
- 15 Q. Now, about what time did you see Mr. Alley?
- 16 A. Well, like I said, about the time that should be on
- 17 the photo lineup waiver that we present with all our
- 18 photo lineups with our -- I think it was one fourteen.
- 19 So it possibly was two to three minutes before that.
- 20 Q. I want to show you what's marked as State's Exhibit
- 21 3.
- 22 A. Yes.
- 23 Q. And what is this, sir?
- 24 A. This is an Affidavit of Photo Lineup that we use at
- 25 the Anderson County Sheriff's Office anytime we present a

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1 photo lineup to a person.

2 Q. And where did you meet Mr. Alley at at the Sheriff's
3 Office?

4 A. I asked for the help of another detective to come
5 down and be a witness with me. I think it was holding
6 cell number one where Mr. Alley was. We went in, and
7 Detective Richey and I unlocked the door. Mr. Alley was
8 reclined on the bunk that is inside the holding cell.
9 I'm not sure if he was asleep, taking a catnap or what he
10 was doing. But as soon as we opened the door, he woke up
11 and sat up on the bunk beds inside the holding cell. I
12 identified myself, identified Investigator Richey. I
13 also told Mr. Alley that if he recalled -- Detective
14 Owens had told me earlier that he was going to advise Mr.
15 Alley that I would be coming to show him a lineup
16 sometime later in the afternoon -- and advised him if he
17 recalled that conversation with Detective Owens. He said
18 he did. And I told him I had a lineup that I wanted to
19 show to him.

20 Q. And was he in handcuffs when you were talking to
21 him?

22 A. He was not.

23 Q. Was he in leg irons?

24 A. He was not.

25 Q. Now, how did his demeanor appear to you when you

1 started talking to him?

2 A. Like I said, I never met him before. I don't know
3 how he acts day-to-day. He seemed fine to me. We had a
4 little bit of conversation. Like I said, I introduced
5 myself and I introduced Detective Richey. And then also
6 from responses if he'd -- if he remembered having the
7 conversation with Detective Owens for a good part of the
8 morning. And that -- when he said that he did. So it
9 was like he was expecting it. I felt pretty comfortable
10 about going through this photo lineup with him.

11 Q. And did he agree to look at it with you?

12 A. He did.

13 Q. Okay. Now, prior to him looking at it, did you
14 Mirandize him again?

15 A. I did not.

16 Q. And why not?

17 A. It's -- every detective does things a little bit
18 different. If it had been the next day, obviously, we
19 would have done that. In my mind, he's still under the
20 umbrella of that initial *Miranda* and waiver. And like I
21 said -- the detectives, they were working for me. And I
22 knew they're doing the job the right way with Mr. Alley.
23 Otherwise, they wouldn't be working for me. I felt very
24 comfortable in working under that initial -- initial
25 *Miranda* that he'd had earlier in the morning.

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1 Q. And how long after they finished up their interview
2 with Mr. Alley did you speak to him? Time-wise
3 approximately?

4 A. I want to say it probably was no more than an hour
5 and a half or so. Like I say, I never seen exactly what
6 time they were done with their interview. Detective
7 Owens, I think he talked with me by phone, telling me to
8 expect a lineup through the email and that he was going
9 to have to go to another location.

10 Q. And what is the purpose of having the Affidavit --
11 Affidavit of Photo Identification?

12 A. Well, it formalizes the whole -- our procedure a
13 little bit. It's no different than formalizing the
14 *Miranda* -- the *Miranda* procedure that we do with our
15 statements or whatnot. It breaks it down a little bit in
16 some different parts. It also gives an opportunity for
17 the -- the person making the photo lineup to actually
18 either initial or sign. And like I said, it formalizes
19 the whole procedure.

20 Q. And just describe for the Court how you went through
21 this photo lineup with him.

22 A. Well, I had this copy with me, and I advised Mr.
23 Alley that I had six pictures on this photo lineup. I
24 just asked him if he recognized anybody and handed it to
25 him. Not quite instantaneously, but within just a short

1 amount of time, he said he did recognize number two. I
2 questioned him.

3 In my experience in showing lineups, a lot of
4 people, I have to ask them are you recognizing number two
5 or are you recognizing the picture above number two?
6 That can be important. Obviously we're talking about a
7 homicide case here. And he said it was the picture above
8 number two.

9 When I asked him how does he know the person, he
10 used the -- called him Weaver. And I had never heard
11 that word before. I had never heard that name before. I
12 know by this lineup that the target on this lineup last
13 name was Bell. And I actually had his South Carolina
14 I.D. or driver's license target photo. So I recall
15 looking at Investigator Richey and then looking back at
16 Mr. Alley and asking him to repeat that because that was
17 not a name that was familiar to me in the process of this
18 investigation. And obviously that was a name that had
19 just come forward that morning with Detective Owens. I
20 did ask him how he knew him, and he told me that he was
21 with him on Trail Road when -- when Alley shot someone --
22 shot the man. He did mention that -- his word was
23 relative. That he was under the understanding that this
24 man called Weaver that he had identified was somehow
25 related to the man that he had shot. He didn't say how.

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1 I don't know if he knew how exactly he was related. But
2 those were most of the facts that he related to me.

3 Q. Now, after he identified the individual he knew as
4 Weaver as the photograph labeled number two, how did you
5 have him identify that?

6 A. Well, initially -- and in my experience in showing
7 lineups, a lot of people do this. When you tell them one
8 thing, they don't -- they tend to do exactly the opposite
9 or something close to it. It's not exactly right. He
10 circled the number two, which that's not exactly what I
11 asked him to do. I asked him to circle the picture. So
12 after he circled number two, I went ahead and told him,
13 go ahead, initial that and we'll date and time stamp it.
14 Now let's go back and do the whole picture, which is
15 exactly what you're identifying, which one on this photo
16 lineup. The number two is circled, initialed by Mr.
17 Alley and date and time stamped. And then he also
18 circled the picture of Mr. Bell, put his signature --
19 initials down and the date and time stamp.

20 Q. So he was able to follow your directions --
21 instructions?

22 A. Yes, he was.

23 Q. And at any point did he appear not to comprehend
24 what you were asking him?

25 A. No, he didn't.

1 Q. At any point during this, did he ask for an
2 attorney?

3 A. No, he didn't.

4 Q. Now, after he circled -- after he finished filling
5 out the photo I.D., the photo lineup of pictures, did you
6 fill out the Affidavit of Photo Identification with him?

7 A. I did.

8 Q. And after you filled out the information regarding
9 his name, the date and the photograph he identified,
10 there's a five-line statement. Where did that
11 information come from?

12 A. That came from Mr. Alley.

13 Q. Was this you putting the information in there
14 yourself?

15 A. I put that in my writing after he told me how he
16 knew who this Weaver person was.

17 Q. And is the information that -- exactly as he told it
18 to you?

19 A. Yes.

20 Q. And what did -- what did you put down there after he
21 told it to you?

22 A. I put down in the affidavit -- as the person he
23 identified as number two, as displayed by me,
24 Investigator Steve Reeves, Anderson County Sheriff's
25 Office, to be the person who I know as Weaver in quotes.

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1 And he knew the man that I shot on Trail Road while we
2 were robbing him. Weaver, in quotes, said he was the
3 grandson or some relative -- relation of the man shot.
4 Weaver was the one who told us the old man is a relative
5 and had money.

6 Q. And did you transpose those words, or that's how he
7 told it to you?

8 A. That's how he told it.

9 Q. And when he was picking this photograph out, did you
10 make any type of suggestions to him about which one they
11 were or which one you'd like him to pick?

12 A. No, sir.

13 Q. And prior to this, you did not even know who Bell or
14 Weaver was?

15 A. No.

16 Q. At any point did he mention he had any mental
17 faculties or defects that would prohibit him from holding
18 a conversation or being able to converse with you?

19 A. No, sir.

20 Q. At any point did you feel like he had something that
21 would prohibit him from communicating with you or
22 something that would prohibit him from understanding what
23 you were trying to accomplish?

24 A. No, sir.

25 Q. At any point did you -- he ask you to stop and re-

25 A. But other than that ...

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1 Q. So you really -- so you really don't know how to
2 recognize whether someone has got mental issues or not,
3 do you?

4 A. No, sir.

5 Q. And in fact, when you were going through the --
6 what's been marked, I believe, State's Number 3, which is
7 the lineup in this case?

8 A. Yes.

9 Q. Is that number 3? Is that right? You actually
10 asked Mr. Alley to circle the picture, and he actually,
11 instead of doing that, circled the number; is that
12 correct? Is that correct or not?

13 A. Yes.

14 Q. And in fact, you actually had to show him where to
15 sign -- where to circle the picture what you wanted him
16 to do; didn't you?

17 A. Didn't show him. Verbally told him.

18 Q. You told him?

19 A. Yes, sir.

20 Q. But you'd agree the first time when you asked him to
21 sign the picture ---

22 A. He circled number two.

23 Q. --- he circled number ---

24 A. Right. And he did ---

25 Q. --- the picture, he didn't do that, did he?

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- 1 A. He circled number two.
- 2 Q. Right. But didn't circle the picture; did he?
- 3 A. As plenty of people have done before when I've given
- 4 photo lineups.
- 5 Q. But in this case with Mr. Alley, he didn't do that,
- 6 correct?
- 7 A. No. He did. He circled the number two. He circled
- 8 the number instead of the picture.
- 9 Q. Okay. Asked him to circle the picture and he
- 10 circled the number, correct?
- 11 A. Right.
- 12 Q. Now, about this five-line statement -- I believe
- 13 this is State's Exhibit ---
- 14 A. Three.
- 15 Q. --- 3. Prior to ask -- or answering -- or asking
- 16 the question or having him sign that, you're the one that
- 17 wrote out the paragraph down at the bottom?
- 18 A. I did.
- 19 Q. I think Mr. Campbell said the five-line statement --
- 20 you're the person that filled it out; is that correct?
- 21 A. Yes, sir.
- 22 Q. That's your writing there?
- 23 A. Yes, sir.
- 24 Q. Is that right?
- 25 A. Yes, sir.

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1 Q. And I think you would acknowledge that ...

2 MR. ROBINSON: And I think you acknowledge this
3 too, Mr. Campbell.

4 Q. You did not Mirandize him prior to him signing off
5 on this statement; did you?

6 A. I did not.

7 Q. You didn't -- you didn't get a separate waiver like
8 we've seen in this case -- other exhibits in this matter.
9 You didn't have him sign off on a waiver, a written
10 waiver, prior to signing it, did you?

11 A. No, sir.

12 Q. Okay. Thank you.

13 THE COURT: Any redirect?

14 MR. CAMPBELL: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. CAMPBELL:

17 Q. Lieutenant Reeves, regarding the fact that he
18 circled the number two, did you consider that anything
19 out of the ordinary when dealing with him or anybody
20 else?

21 A. No, sir.

22 Q. Okay. And why is that?

23 A. He seemed to understand everything I was asking him
24 to do. As I said before, I've had numerous people --
25 when you give them directions to circle number two, just

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1 like on this lineup, they typically circle the number
2 instead of the picture. You just go back and you ask
3 them to circle the picture that they identified versus
4 the number. And that's -- that's not a slight on the
5 person. That can even be a slight on the investigator
6 for not asking a more specific question.

7 Q. And so this was not out of the ordinary from what
8 your past dealings were?

9 A. No, sir.

10 Q. Okay. No further questions.

11 MR. ROBINSON: I have no recross, Your Honor.

12 THE COURT: Okay. You may step down. Thank
13 you very much.

14 Call your next witness.

15 MR. CAMPBELL: Your Honor, the State calls
16 Matthew Voigt to the stand.

17 **MATTHEW BARNES VOIGT,**

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. CAMPBELL:

21 Q. Mr. Voigt, you're a Detective at Anderson County
22 Sheriff's Office?

23 A. Yes, sir, I am.

24 Q. Okay. Were you employed in that capacity back in
25 July 20, 2011?

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1 A. Yes, sir, I was.

2 Q. On that day, did you have an occasion to come into
3 contact with Mr. Walter Chase Alley?

4 A. Yes, sir, I did.

5 Q. And where was that?

6 A. That was in the patrol car of Detective Mitchell
7 outside of the detention center. Well, actually, I first
8 contacted him inside the detention center.

9 Q. Now, did you know Mr. Walter Chase Alley?

10 A. No, sir.

11 Q. Did you have prior dealings with him prior to this
12 day ---

13 A. No, sir.

14 Q. Or that day. I'm sorry. What was the purpose that
15 you met him at the detention center?

16 A. We'd been advised by the lead investigator on the
17 case, Detective Owens, that Mr. Alley had heaved a gun
18 into the Saluda River -- or into a river. And I'm also
19 the assistant dive team leader, so myself and Detective
20 Mitchell were going to drive him to that point to attempt
21 to see where he threw the gun at and then possibly later
22 recover it.

23 Q. And where did you go to get him?

24 A. We went to the detention center.

25 Q. And was he already dressed and waiting to go, or did

- 1 you have to go get him out of the cell yourself?
- 2 A. The detention officers brought him over from there.
- 3 Q. And when they brought him to you, how was he
- 4 dressed?
- 5 A. He was dressed in orange.
- 6 Q. One of the orange jumpsuits?
- 7 A. Yes, sir.
- 8 Q. And did he appear to you to understand why you
- 9 wanted him to go with you?
- 10 A. Yes, sir. Actually, we asked him if he wanted to
- 11 take a ride with us to show us the point where the gun
- 12 was thrown in. And he said, yes, he did.
- 13 Q. And did he appear not to have anything that
- 14 prohibited him from understanding why y'all wanted to go
- 15 find -- or go find the evidence?
- 16 A. There was nothing about him that struck me as out of
- 17 the ordinary. He seemed like he was just wanting to
- 18 cooperate with the investigation.
- 19 Q. Did he appear to be under the influence of alcohol
- 20 or drugs to you when you were speaking to him?
- 21 A. No, sir.
- 22 Q. So at this point, did y'all -- was he in handcuffs
- 23 or leg irons?
- 24 A. As he was taken -- prior to being taken out of
- 25 intake, he was placed in leg shackles and handcuffed and

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1 then placed in the rear of the vehicle.

2 Q. And what was the purpose of why were you cuffing
3 him?

4 A. Obviously, we knew he'd been involved in a homicide
5 and a possible flight risk. Just for our safety and his.

6 Q. And prior to y'all leaving the detention center,
7 what, if anything, did y'all do?

8 A. Prior to leaving the detention center, he was
9 advised of his *Miranda* rights, and a written form was
10 completed.

11 Q. And were you present when this went on?

12 A. Yes, sir, I was.

13 Q. I'm going to show you what's marked State's Exhibit
14 Number 5. Can you please identify this, sir?

15 A. This is our standard Advisory of Rights form. And
16 it is the one that Mr. Alley signed that day that was
17 read to him.

18 Q. And what time of the morning was it?

19 A. Nine o'clock.

20 Q. And please describe to the Court how y'all went
21 through -- how it was gone through with him regarding his
22 advice of rights.

23 A. Okay.

24 Q. First, let me step back. What was the purpose of
25 why were y'all giving him advice of rights at this point

1 in time?

2 A. Anytime that an individual's in custody or is locked
3 up, they're advised of their *Miranda* rights. It's
4 standard operating procedure, and also we're required to.
5 What I typically do, and just about all the investigators
6 in the office do, is you have the suspect read the first
7 two lines out loud, then initial next to them indicating
8 that they did understand those and that they did read
9 them out loud. That's one way of also gauging if they're
10 understanding, listening, paying attention to your
11 directions.

12 Then typically you will say, read along with me.
13 You'll continue to read along with the Advisory of
14 Rights. They're asked if they understand those rights.
15 If they say, yes, they do understand their rights, then
16 we ask them to please sign. They then sign indicating
17 that they understand their rights, and then you time and
18 date stamp it as well as witness it.

19 Q. And when you're doing the Advisory of Rights part,
20 did you read out to him the first two lines?

21 A. No. He read the first two lines out loud per being
22 instructed.

23 Q. And after he read those, what did he do next?

24 A. He initialed next to those per instructions.

25 Q. Now, at this point, did you read the rest of the

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1 lines to him?

2 A. Yes, sir. The third, fourth and fifth were read
3 aloud to him, and he was advised to follow along as it
4 was read out loud.

5 Q. And what did you read to him?

6 A. That, "You have the right to speak to a lawyer for
7 advice or ask him questions and have him be present
8 during questioning. If you cannot afford a lawyer, one
9 will be appointed for you before any questions if you
10 wish. If you decide to answer any questions now without
11 a lawyer present, you still have the right to stop
12 answering questions at any time. You also have the right
13 to stop answering at any time until you speak with a
14 lawyer."

15 Q. And after he went through that -- after that was
16 gone through, did you ask him if he understood his
17 rights?

18 A. Yes, sir.

19 Q. And did he wish to have an attorney present?

20 A. He never indicated that he wished to have an
21 attorney present.

22 Q. As a result, did you ask him to sign it?

23 A. Yes. He was advised if he understood his rights and
24 wished to continue speaking with us, that he would sign.

25 And he did.

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1 Q. Now, regarding the Advice of Rights form, there is
2 five sentences, two of them which were read aloud to him,
3 three of which were read to him. There are little boxes
4 next to them. Were those boxes actually checkmark boxes,
5 or are they just bullets?

6 A. It appears to be like they're bullets. Ever since
7 I've been in investigations, I was trained to do it this
8 way. And like I said, just about -- I can't think of
9 anybody I've witnessed reading an Advisory of Rights to
10 them do it any differently than we did it that day. The
11 suspect reads the first two lines out loud, initials.
12 It's a way of gauging their reading and understanding
13 levels. And then the rest is read aloud to them. It's
14 normal procedure.

15 Q. And like you said -- you said this form has been
16 changed; is that right?

17 A. I believe so. I believe that there's -- we've
18 located several forms at the office.

19 Q. Now, after you went through the Advice of Rights,
20 did you do the Waiver of Rights with him?

21 A. Yes, that is affirmed.

22 Q. And what did you read to him?

23 A. It says -- the next paragraph is read out loud
24 typically. It says, "I have read this statement of my
25 rights and understanding what my rights are. I'm willing

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1 to make a statement and answer questions. I do not want
2 a lawyer at this time. I understand and know what I'm
3 doing. No promises or threats have been made to me. No
4 pressure or coercion of any kind been used against me."

5 Usually, the coercion is emphasized. And then typically
6 you explain coercion to the person.

7 Q. Was this explained to him?

8 A. Yes, sir.

9 Q. And did you have prior knowledge that he'd already
10 been Mirandized the day before?

11 A. Yes, sir. Actually, if I remember correct, I
12 believe he had made a comment about he'd already been
13 read his rights. But I can't be a hundred percent on
14 that.

15 Q. Now, after you went through that with him, did he
16 sign his rights again, Waiver of Rights?

17 A. Yes, sir. He then signed down, per instructions,
18 after he was advised what coercion meant. We advised if
19 he understood his rights and wanted to continue speaking
20 with us, then he needed to do -- sign to indicate that.
21 He did sign that. And it was time and date stamped and
22 witnessed as well.

23 Q. Now, after this, did you indicate to him why you
24 were removing him from the detention center?

25 A. Yes. It was explained to him that the main purpose

1 of this was for him to tell us how to get to the location
2 where the firearm was thrown.

3 Q. And did you even have any idea where this location
4 was prior to leaving?

5 A. No, sir.

6 Q. Now, as -- after you got done with this, what was
7 the next procedure y'all did?

8 A. I think as we were getting ready to drive away we
9 asked him where we needed to go, and he said, Honea Path.
10 So we backed up, waited for the gate, the sally port, to
11 open and proceeded through.

12 Q. And as that was going on, did he say anything else
13 to y'all?

14 A. Yes, sir. Right about the time when we were coming
15 either right out of the parking lot -- I mean, we're
16 still in front of the jail. He just said, I done went
17 and shot that man in the face. And I mean, I looked at
18 Detective Mitchell and it was just -- I mean, it was out
19 of nowhere. No one asked him any questions about it or
20 anything. We just said, where do we need to go? He
21 said, Honea Path. We started driving down the road and
22 it was just -- yeah.

23 Q. So after he -- this was not in response to any
24 questions that you or Detective Mitchell were asking him?

25 A. No, sir. He just -- he just blurted it out.

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1 Q. And did y'all follow up any questions with him
2 regarding the statement he just made?

3 A. No, sir. We -- we did not ask any more questions
4 about that. Actually, I believe Detective Mitchell said
5 something to the effect of, well, you know, we're really
6 not here to talk about all of that right now. Our main
7 focus -- we'd just like to find out where this gun's at
8 so that way it won't fall into the hands of kids or
9 something to that effect.

10 Q. And did he give y'all -- did he lead y'all to where
11 he had thrown this pistol?

12 A. Yes, sir. He actually gave us turn-by-turn
13 directions.

14 Q. And did it appear to you that he had anything
15 mentally that affected his ability to give y'all
16 directions on where to go to find this weapon?

17 A. No, sir.

18 Q. And did you even know where you were going?

19 A. No, sir. I actually had no clue.

20 Q. So he led you right to it?

21 A. Yes, sir.

22 Q. And you stated you were the assistant dive team
23 commander?

24 A. Yes, sir. I'm the assistant dive team leader.

25 Q. And were you present when this weapon was found?

1 A. Yes, sir, I was.

2 Q. And what kind of weapon was it?

3 A. It was a Hi-Point three-eighty.

4 Q. And when was that found? Do you recall?

5 A. Without looking at my supplemental, I can't recall
6 the exact date. I want to say it was -- I'd have to look
7 at my supplemental. I know it was the 22nd, 23rd, maybe,
8 somewhere in there.

9 Q. A couple of days after he took y'all down there?

10 A. Yes, sir. Yes, sir, a few days after that.

11 Q. And after he gave you directions to where he threw
12 this weapon, was this weapon found in the vicinity of
13 where he said he threw it?

14 A. Yes, sir, it was.

15 Q. I have no further questions. Please answer any
16 questions Mr. Robinson may have.

17 THE COURT: Cross-examination?

18 MR. ROBINSON: May it please the Court.

19 CROSS-EXAMINATION

20 BY MR. ROBINSON:

21 Q. Officer, again, you heard me speak to Mr. Reeves a
22 second ago. You have no background in mental health or
23 diagnosing mental health or anything like that, do you?

24 A. Diagnosing mental conditions, no, sir. I am not
25 qualified to diagnose that.

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1 Q. So you're really not able to think -- to really say
2 that someone's impaired or not; is that correct?

3 A. I'm not sure I exactly understand what you're
4 asking.

5 Q. If you're looking at -- if you're talking to someone
6 that may be impaired, you don't know if they're impaired
7 or -- if they're mentally or not, you don't know whether
8 or not they are or not, do you?

9 A. Not medically, sir, but I can draw upon life
10 experiences to deem if someone is normal or not. I mean,
11 he didn't strike me as unusual.

12 Q. Okay. That's all the questions I have.

13 THE COURT: Any redirect?

14 MR. CAMPBELL: No, Your Honor.

15 THE COURT: You may step down. Thank you very
16 much.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Any more witnesses?

19 MR. CAMPBELL: None from the State, Your Honor.
20 That's regarding the three statements we're saying that
21 he gave.

22 THE COURT: Okay. Do you have any witnesses?

23 MR. ROBINSON: I do, Your Honor.

24 THE COURT: All right.

25 MR. ROBINSON: May it please the Court, Your

1 Honor, we would call Dr. David Price to the stand.

2 THE COURT: You're going to call who?

3 MR. ROBINSON: Dr. David Price.

4 THE COURT: All right. We've been going for
5 about an hour and a half right now. Why don't we take
6 about a ten-minute break, and then we'll come back and
7 put Mr. Price on the stand, okay?

8 MR. ROBINSON: Yes, Your Honor. Thank you.

9 (WHEREUPON, court stood at recess for a short
10 break.)

11 THE COURT: All right. Call your next witness,
12 please.

13 MR. ROBINSON: May it please the Court. Your
14 Honor, we would call Dr. David Price to the stand.

15 THE COURT: Okay. Dr. Price, if you'll come
16 around and be sworn, please, sir.

17 THE WITNESS: Yes, sir.

18 (WHEREUPON, the witness was duly sworn.)

19 MR. ROBINSON: May it please the Court.

20 THE COURT: Yes, sir.

21 MR. ROBINSON: Your Honor, prior to this
22 hearing today, Mr. Campbell and I stipulated that Mr. --
23 Dr. Price is an expert witness in this case.

24 THE COURT: Expert on what? In what?

25 MR. ROBINSON: The areas are clinical

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1 psychology, neuropsychology and forensic psychology.

2 THE COURT: Clinical psychology?

3 MR. ROBINSON: Neuropsychology.

4 THE COURT: All right. What else?

5 MR. ROBINSON: And forensic psychology.

6 THE COURT: All right.

7 You got a -- you agree, Mr. Campbell, that he's
8 qualified in those areas?

9 MR. CAMPBELL: Yes, sir. For purposes of this
10 hearing, I'm not ---

11 THE COURT: Pardon?

12 MR. CAMPBELL: For purposes of this hearing,
13 I'm not going to deny he's an expert.

14 THE COURT: Okay. All right.

15 Please proceed.

16 MR. ROBINSON: And we have -- and I have pre-
17 marked his C.V., Your Honor, as Defense Exhibit Number 1,
18 in this matter. If I can hand it to the Court?

19 THE COURT: Yes, sir. Number 1?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: Okay. Thank you, sir.

22 **DAVID PRICE,**

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. ROBINSON:

- 1 Q. Dr. Price, the Court has what's been marked Defense
2 Number 1, your curriculum vitae.
- 3 A. Yes, sir.
- 4 Q. And I believe that you have provided that both to me
5 and I provided that to the State; is that correct?
- 6 A. That's correct.
- 7 Q. Now, you've been qualified in other states -- excuse
8 me -- other courts in this state. When is the last time
9 you testified in Anderson County as an expert?
- 10 A. I believe the last time I testified in Anderson
11 County as an expert was in 2012 in Judge Maddox's
12 courtroom.
- 13 Q. All right. And you qualified at that time as an
14 expert as well?
- 15 A. Yes, sir, in forensic psychology, clinical
16 psychology and neuropsychology.
- 17 Q. All right. Now, tell me -- what is your involvement
18 in this case? How did you become involved with this
19 case?
- 20 A. Your office contacted me about some concerns about
21 Mr. Alley and Mr. Alley's cognitive ability.
- 22 Q. And were you hired by the Alleys to investigate this
23 and do a report?
- 24 A. Yes, sir.
- 25 Q. And did you, in fact, do an investigation in this

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1 matter?

2 A. Well, in my field, we call them examinations or
3 evaluations. And I did an examination in this matter. I
4 read voluminous amounts of medical records for Mr. Alley,
5 conducted my own evaluation of Mr. Alley, including
6 testing him for intellectual ability and other cognitive
7 skills.

8 Q. Do you have a copy of your report with you?

9 A. Yes, sir, I do.

10 Q. I'm going to give you what's been marked, or pre-
11 marked, Defense Exhibit Number 2 for identification
12 purposes. Is this a copy of the -- of your report?

13 A. Yes, sir, it is.

14 Q. Let's talk about that -- what you did in your
15 evaluation in this case. Let's talk about where you
16 started and what you were -- what were you actually
17 looking through in doing your examination?

18 A. Well, I started the evaluation certainly talking
19 with you, reading over the legal documents at that time.

20 Q. Yes, sir.

21 A. Then I met with his two aunts and interviewed them.
22 And then I reviewed voluminous records, all of which are
23 listed on page one through page six of my report.

24 Q. All right. And tell me how you went about your
25 evaluation? Did you get the records in this case as far

1 as the records from the hospitals, Mr. Alley's history?

2 Is that right?

3 A. That's correct.

4 Q. And go through those -- what else -- what do you do
5 next?

6 A. Well, you know, when we do an evaluation in my
7 field, particularly doing a neuropsychological evaluation
8 or a forensic evaluation, we look at the -- at what the
9 brain was and the intactness of the brain and how that
10 affects brain behavior relationships prior to the
11 offense. And what we look for is we look for objective
12 documentation of what that person might experience. And
13 there were certainly numerous documentations for Mr.
14 Alley.

15 Q. Okay.

16 A. So we did that. We look to see what kind of life
17 experiences, what other kind of problems that they have
18 -- and I actually put them in a chronological order so I
19 can follow the pattern.

20 Q. All right.

21 A. We do that in diagnosis -- generally speaking in
22 clinical psychology, looking at a psychiatric diagnosis.
23 We try to look at -- we know certain things about
24 disorders. We know what starts them, how they progress
25 and that nature. And so we certainly look for that in a

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1 case like this as well.

2 Q. Okay.

3 A. So we look for all of that independent
4 documentation. We look for collateral sources, like I
5 talked with his aunts. And then actually evaluate him
6 and give him objective tests, well-respected in the
7 fields, to determine his standard of function.

8 Q. Okay. And you did these tests?

9 A. I did these tests for him.

10 Q. And what was the result of your testing?

11 A. Well, you know, in evaluating him, the one thing I
12 had to determine prior to the evaluation was were there
13 any deficits that he may have from the wrecks that he's
14 had. He was involved in a motor vehicle accident in 2000
15 in which he sustained a severe brain injury. And this is
16 one in which at the emergency room, the initial
17 hospitalization, they felt he was going to be a fatality.

18 Q. What does that mean?

19 A. They thought he was going to die.

20 Q. Okay.

21 A. He no longer had gag reflex. His blood pressure was
22 in the 80s. His Glasgow Coma Scale was three. Glasgow
23 Coma Scale is the scale that we give immediately when we
24 think someone's brain-injured -- E.M.S. does it. It's
25 followed up at the hospital. We do repeated measures of

1 it. A score of fifteen is perfect. It doesn't go any
2 lower than three. He had a score of three, meaning he's
3 just basically unresponsive.

4 They -- he's in a coma for weeks. They end up doing
5 a craniotomy. And there's actually two scars on Mr.
6 Alley's head that we look at. There's a long scar that
7 goes from his frontal lobes back over the motor strip to
8 his temporal lobe on the left side. And the parietal
9 lobe on the right side is where they put a shunt to
10 relieve pressure on the brain.

11 So there's actually two prominent scars. But more
12 importantly than that, one of the things that you have to
13 be aware of when you're evaluate a man like this -- and I
14 understand from the testimony I heard here today, people
15 noted a scar on his left side. But nobody's mentioned
16 that he's blind in the left eye. He has no peripheral
17 vision in the right eye. He's deaf in the right ear, and
18 he has some hearing loss in the left ear. So you really
19 have to take that into consideration if you're going to
20 read anything to him or have him read anything to you.

21 Q. Okay.

22 A. I mean, those are -- those are loss of significant
23 skills that are well-documented that certainly would
24 affect things. One of the things that we went on to do
25 -- because in this case -- is we tested his cognitive

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1 functioning. And we used the Wechsler Adult Intelligence
2 Scale IV. It is the gold standard for measuring
3 somebody's intellect. We gave him the Wide Range
4 Achievement Test IV. It's also the gold standard of
5 reading what kind of academic skills you have had.

6 Q. Yes, sir.

7 A. Now, the salient feature for the purpose of this
8 hearing is that -- is that it gives us a percentage in
9 grade equivalency for reading such as in word reading,
10 spelling and sentence comprehension. Now, we would look
11 at that and compare that to the I.Q. that you would get
12 from the WAIS IV. And if they're roughly where you'd
13 think they'd be, it would be mental retardation. If the
14 I.Q.'s higher and they're low, then you would think that
15 they would be the result of a learning disability. These
16 were comparable.

17 He has an I.Q. of 68. An I.Q. of 68 is clearly a
18 mental -- the mild range of mental retardation. That's
19 the largest group of mentally retarded. In the old days
20 we used to call it educable retarded because you could
21 give them academic skills up to about the sixth grade.

22 We looked at his academic skills. They're a --
23 they're under the sixth grade, but they'd be consistent
24 with mild mental retardation. He -- if you ask him just
25 to read words, you know, listen to words and see how he

1 can read before he starts making repetitive errors, he's
2 at the fourth percentile. And that's with a grade
3 equivalency of fourth grade, four point seven.

4 Q. Now, what does that mean? What does that mean?
5 Translate that into normal speak in terms of when he
6 reads a document what's going to happen.

7 A. Well, he's going to understand simple words, but
8 he's not going to understand -- and I think the example
9 was used earlier, coercion. He's not going to be able to
10 spell that word or understand it.

11 Q. Let me -- let me let you look at some of the
12 exhibits we have -- some of the State's exhibits. I'm
13 going to let you look at State's 5, which is the waiver
14 from 7/20/2011. I want you to look at that for me. Tell
15 me -- tell me what you just said, how that would impact
16 that. What's -- what's going to happen?

17 THE COURT: What is number 5?

18 MR. ROBINSON: It's a waiver, Your Honor.

19 THE COURT: A waiver? Okay. All right.

20 A. Well, with all due respect, when I was listening to
21 the testimony about if they can read the first sentences,
22 they can read and write.

23 Q. Yes, sir.

24 A. I'm not sure what those first sentences relate to as
25 far as anyone's ever done research on reading ability.

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1 However, there has been research on individuals' ability
2 to understand *Miranda* rights. And research indicates
3 that anybody of an I.Q. of less than seventy-five
4 generally does not understand those at an abstract level,
5 meaning what they mean for themselves in the future.

6 In this particular case, the two sentences that
7 they're asked to read are the two similar sentences in
8 the five rights that are listed here. Certainly, you
9 have a much more complex sentence when you get to the
10 bottom. If you decide to answer questions now without a
11 lawyer present, you'll still have the right to stop
12 answering questions at any time. You also have the right
13 to stop answering at any time until you speak to a
14 lawyer. That's a much more complex sentence. And that
15 was read to him -- and that's read to a man that's got
16 significant listening -- hearing problems.

17 Q. Yes, sir.

18 A. And so there's no indication of what accommodation
19 took place for those hearing problems. Now, this may not
20 be responsive to your question. But one of the problems
21 with asking him do you understand, the mildly mentally
22 retarded group is probably the most troublesome
23 population for law enforcement. At the higher end of
24 mild mental retardation, from an I.Q. of about sixty-two,
25 sixty-three -- they are intact enough to recognize that

1 they're different, that they're not as smart as other
2 people. They've been made of fun of at points in their
3 life about that. So they tend to say they understand, or
4 they agree they can do things that they can't. It's just
5 acquiescence -- acquiescence is what it is.

6 Q. All right.

7 A. So some of that took place with this. Now, the
8 problem, again, here is the most complex thing here is
9 the waiver of rights which says, "I've read this
10 statement of my rights and understand what my rights
11 are." And we know from testimony that he read the first
12 two sentences of these rights, not all of them. "I do
13 not want a lawyer at this time. I understand and know
14 what I'm doing. No promises or threats have been made to
15 me. No pressure or coercion of any kind ..." Any kind
16 has been used. That's a very complex sentence. And the
17 -- probably the most significant word in there is
18 coercion, which we know he didn't understand and that had
19 to be interpreted for him. You know, I'm not sure that
20 he would have understood those definitions that were
21 provided to him. So that's problematic with a man that
22 has an I.Q. of sixty-eight. And he has a sentence
23 comprehension and word reading level of fifth or fourth
24 grade. So there are significant problems with that.
25 Q. Okay. And I'm going to let you look at what's been

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1 marked State's Number 1. And that is a waiver as well.
2 Would you apply the same concepts to that Waiver of
3 Rights which is marked State's Number 1?
4 A. Yes, sir. This is just the same thing as the one I
5 was just discussing. So everything I said about that
6 form would certainly apply to this one.
7 Q. Is Mr. Alley retarded?
8 A. Yes, he is.
9 Q. And Mr. Alley's I.Q. is sixty-eight; is that right?
10 A. Sixty-eight.
11 Q. All right.
12 A. That would be at the second percentile of
13 intelligence. That would mean if you lined up a hundred
14 people, ninety-eight people would be to his right
15 depending on how you line them up.
16 Q. Okay. Tell me what you did next after -- we talked
17 about the Waiver of Rights and so forth. What did you do
18 next in your -- in your background check as far as your
19 evaluation goes?
20 A. Well, I certainly interviewed him. Talked about his
21 experiences, looked through his records. And then I take
22 -- I compare three things. I compare -- well, I compare
23 four things. I compare what he says, how he looks, his
24 test data to what his records say about him and look for
25 the consistency among them. And then I arrived at a

1 diagnosis for him to diagnose the conditions that he has
2 now.

3 Q. Okay.

4 A. When we did that currently -- the current
5 authoritative text for making diagnosis of psychiatric or
6 mental disorders is the Diagnostic and Statistical Name
7 of a Mental Disorder, fourth edition and text revision
8 ---

9 Q. Is that commonly called the D.S.M.; is that right?

10 A. It's called D.S.M. The first one came out in 1952.
11 It was revised in '68, '80, '87, '94 and 2000. D.S.M. V
12 comes out in May. We have been making diagnoses along
13 what we call a multi-axial diagnosis since 1980. We'll
14 no longer do that under D.S.M. V in May.

15 Under the current standards, I gave him a diagnosis
16 across five axes. In Axis I is where you diagnose mental
17 disorders or vicode (phonic) conditions. The mental
18 disorders that I diagnosed for him was dementia due to
19 head trauma. That is the problems he's had related to
20 the brain injury he had in 2000.

21 In fact, I gave him three diagnoses related to that
22 brain injury. There's a misspelling on this. It says
23 mind disorder. It's supposed to be mental disorder due
24 to brain trauma. And then personality change due to a
25 general medical condition, brain trauma, disinhibited

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1 type. What he had is he's had a loss in some of his
2 ability to make judgments, informed decisions, planning,
3 organization, use of information, problem-solving.
4 That's related to the dementia due to head trauma. And I
5 also diagnosed under Axis II mild mental retardation.

6 Now, I discussed this some in my report, and I hope
7 I can make it clear for the Court. Dementia due to head
8 trauma is when someone has the loss of cognitive skill
9 related to some injury, a brain injury. It's sort of a
10 loss of intellect. Mild mental retardation is the
11 failure to acquire intellect. You basically have a
12 limitation by your I.Q., intellectual ability, to profit
13 from your environment, from learning, from educational
14 experiences, from your own personal experiences. So he
15 had two very significant disorders.

16 Now, it is possible that his I.Q. was lowered some
17 by the brain injury that I mentioned due to head trauma.
18 For the purposes of this proceeding, it wouldn't make any
19 difference. That happened in 2000. However, his
20 educational experience and his academic skills are
21 consistent with mild mental retardation. And you know,
22 it's also consistent with his academic history.

23 The mood disorder due to brain trauma relates to
24 some of the difficulties we've seen since he has been --
25 had that brain injury in 2000. You know, this man -- the

1 frontal lobe's the most advanced part of the brain. It's
2 what makes us different from animals. It involved the
3 most sophisticated cognitive processes, executive
4 functioning, decision-making, problem-solving.

5 Attention and concentration are very modulated
6 there. The ability to inhibit your behavior or to
7 control your behavior. The ability to read social cues,
8 and respond appropriately. It's all right there. People
9 that have significant frontal lobe injuries, D.S.M. IV
10 doesn't have it as a diagnosis, but medically we have
11 what's called the frontal lobe syndrome. People that are
12 very uninhibited, they're very impulsive, they often wind
13 up with problems with the authorities because they don't
14 regulate their behavior. They do anti-social things.
15 They're pleasure-driven or satiation-driven, whatever
16 they feel at the time, not being able to inhibit those
17 drives and not being able to manage their behavior
18 appropriately.

19 The personality change, again, reflects some of that
20 disinhibited style. He doesn't really have a personality
21 disorder. Generally speaking, on Axis II we diagnose
22 personality disorders. I've written several book
23 chapters on personality disorders. They have to be --
24 they don't come into existence until about the age of
25 eighteen, early adulthood, and then they're lifelong.

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1 His problems are more related to having had that brain
2 injury. You know, that brain injury -- his significant
3 little criminal history is all post-2000. It's all post
4 that brain injury. That changed him. Not only did it
5 change him; it disabled him. Social Security Disability
6 put him on disability for the brain injury and the loss
7 of that ability and the blindness and the deafness at
8 that time. What that meant is that Social Security --
9 which is done through the Disability Determination
10 Division of the South Carolina Department of Vocational
11 Rehabilitation -- determined that he couldn't perform
12 substantial gainful activity which they define as he
13 can't maintain concentration and attention and perform
14 repetitive menial tasks for two-hour intervals, that he
15 did not have the ability to do that.

16 To give an indication of some of his judgment and
17 not being able to understand social situations and
18 indications is how he lost that limb, his right leg,
19 which was discussed about he was shot with by a high-
20 powered rifle. He was shot by a high-powered rifle, from
21 what I understand the situation, by the father of the
22 woman he had fathered a child with. He wanted to visit
23 the child who was a baby he hadn't seen in several
24 months. The father has the rifle up in the air and says
25 if you step on my property, I'm going to shoot you. He

1 steps on that property, and that father did exactly what
2 he said he was going to do. Shot him in the leg which
3 ended up him losing the leg. He didn't press criminal
4 charges, and they forgave child support. But I mean,
5 it's a good example of the poor decision-making by Mr.
6 Alley that has brought him to where he's at today.

7 He also had a polysubstance dependence which was
8 also diagnosed by the State in controlled environment.
9 His drug use became worse after the brain injury. The
10 same kind of problem we see in people that have bipolar
11 disorders and manic episodes -- we see people with
12 frontal lobe -- they just don't have any judgment about
13 doing that and the implications of doing that on the body
14 criminally and things of that nature.

15 You know, also related to that mood disorder was the
16 significant suicide attempts he's had since 2000 which
17 has lead to psychiatric hospitalizations, between
18 stepping in front of cars and taking his mother's drugs.
19 He's really had significant and severe psychiatric
20 disorders since he had that major motor vehicle accident.
21 He's had four, but that was the one that injured his
22 brain the worst.

23 Now, he might have been on a path to having some
24 problems anyway. I think he has a father who is
25 schizophrenic; he's got a mother who is on Geodon, which

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1 is an anti-psychotic, usually uses an anti-psychotic
2 drug. So genetically, he might have had a predisposition
3 to have significant problems. His -- his mother -- by
4 the records, his mother used drugs and alcohol when she
5 was pregnant which certainly could contribute to the
6 developmental mental retardation.

7 Q. Okay. Now, let's -- let's take someone like Mr.
8 Alley, what you've got and what you've said about him in
9 terms of these different issues that he has, okay? The
10 police get him, they have him do a statement, that
11 written statement, or writes a statement. Tell me --
12 tell me about how he would have reacted to that and the
13 problem he would have had with that.

14 A. You know, it's a good example of failing to learn
15 from his experience. It's been my experience with
16 criminal defendants that have a history, they get law
17 enforcement savvy. They know not to make statements.
18 They've been through it before. It's not the shocking
19 experience it could be for someone who's never had it
20 before. And he had been arrested multiple times, so he
21 knew something about that but failed to understand what
22 it would mean making a statement. He didn't understand,
23 with that kind of I.Q. and those kind of problems in the
24 frontal lobe that he's had; what the implications of
25 making a statement would be and how it -- what it would

1 mean for him long-term. Whatever he did when he did it,
2 he didn't realize he'd be here today and or tomorrow
3 having to answer for that.

4 Q. Based on your evaluation when you took all of his
5 medical records in the past and so forth, your
6 interviews, all the tests and so forth that you did on
7 him and so forth, have you come up with an opinion as to
8 whether or not his statements, his statements which are
9 marked as State's Number 3 and State's Number 2, were
10 voluntary or not?

11 A. Given his intellectual ability, the problems with
12 judgment related to the frontal lobe injury, he was
13 acquiescent and he would -- that's just what mentally
14 retarded people do on that level. I mean, they just try
15 to acquiescence and do whatever's asked of them without
16 understanding the implications for doing that.

17 Q. Right. And someone -- if they had put a statement
18 in front of him, actually written down a statement, typed
19 it out, could he understand, in your professional
20 opinion, your expert opinion, what that -- could he
21 understand that?

22 A. No. Actually, what's been recommended is that law
23 enforcement have people read the whole statement to them
24 and then explain what they have read. That would have
25 had a different outcome. You know, again, you're talking

1 about a man with intellectual, judgment, visual and
2 auditory deficits.

3 Q. So given that, in your expert opinion, based on your
4 evaluation based on your qualifications as an expert in
5 the areas of clinical psychology, neuropsychology and
6 forensic psychology, were his statements voluntary?

7 A. Likely not. But in fairness to the officers, he
8 would have said that they were, but he didn't understand
9 what he was doing.

10 Q. Answer any questions that Mr. Campbell has. Thank
11 you.

12 CROSS-EXAMINATION

13 BY MR. CAMPBELL:

14 Q. Now, Dr. Price, you're not a medical physician, are
15 you?

16 A. No, I'm not.

17 Q. You can't prescribe medication to an individual?

18 A. That's correct.

19 Q. Now, based upon -- let me see. Where did those go?

20 THE COURT: What do you need?

21 MR. CAMPBELL: I want to see the exhibits, the
22 Defense exhibits.

23 THE COURT: Okay.

24 Q. I'm looking at -- okay, your report is State's
25 Exhibit -- Defendant's Exhibit Number 2. Now, based upon

1 -- when were you retained in this case?

2 A. I was retained last fall.

3 Q. And Mr. Robinson had sought you out to evaluate his
4 client; is that right?

5 A. That's correct.

6 Q. And you did see him, I believe -- I think it's in --
7 I'm looking at Defendant's Exhibit Number 2. You saw him
8 on August the 15th, 2012, and also January 16th, 2013?

9 A. That's correct.

10 Q. And also besides that, you also looked at medical
11 records that had been provided to you?

12 A. That's correct.

13 Q. Now, everything that you reviewed has been put into
14 your evaluation procedures section; is that correct?

15 A. I think everything that I reviewed except the
16 criminal records I viewed the first time I talked with
17 Mr. Robinson at his office.

18 Q. And on this line that says, background information,
19 what is that? What did that entail?

20 A. Background information involves some forms he filled
21 out. Actually, his background information also is all
22 the medical records that were furnished.

23 Q. And how long did you spend with him -- on August 15,
24 2012, you and Mr. Robinson went to the Anderson County
25 Detention Center. How long did you stay with him there?

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- 1 A. I don't remember exactly, but I think approximately
2 three hours.
- 3 Q. And this is about thirteen months after the murder
4 had taken place; is that right?
- 5 A. That's correct.
- 6 Q. And did you conduct -- I notice in your report you
7 state you conducted at least five different tests. Did
8 you do these tests at that point in time?
- 9 A. I did some of the tests at that point in time.
- 10 Q. What tests did you do in August 2012?
- 11 A. Give me just one second. Again, the Wechsler Adult
12 Intelligence Scale. I gave him the Wide Range
13 Achievement Test. Those are the two tests I gave at that
14 time.
- 15 Q. So you took those with you when you went out there?
- 16 A. I did.
- 17 Q. And how long did you spend with him on January 16th,
18 2013?
- 19 A. Two to three hours.
- 20 Q. Was Mr. Robinson with you at that time?
- 21 A. No. Mr. Robinson was only there with me the first
22 time to introduce his client. He wasn't present for my
23 evaluation.
- 24 Q. And during the second time you met him, January
25 16th, 2013, is that when you gave the other three tests,

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- 1 the mini-mental status exam, the brief fifteen-item test
2 and the trail-making (phonic) test?
3 A. That's correct.
4 Q. Other than that, did you have any other face-to-face
5 or over-the-phone contact with him?
6 A. No, sir.
7 Q. Now, you're testifying today to say that his
8 statement wasn't freely and voluntarily given due to the
9 fact that you diagnosed him with a low I.Q. of sixty-
10 eight; is that right?
11 A. That was one of the things, yes.
12 Q. Okay. And you're not saying that he was insane back
13 in July 18, 2011?
14 A. In July 2011, he had the same diagnoses that I gave
15 him in 2013 that affected his ability to monitor,
16 maintain and control his behavior.
17 Q. And you also reviewed the South Carolina Department
18 of Mental Health's evaluation regarding his competency to
19 stand trial?
20 A. I did.
21 Q. And you also -- his criminal responsibility?
22 A. I did.
23 Q. And they stated that he had the capacity to
24 distinguish between right and wrong. Do you agree with
25 that?

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1 A. I would agree with that.

2 Q. In fact, the medical records you received -- one of
3 the common themes we see with Mr. Alley is that he has a
4 heavy drug dependency, polysubstance abuse; is that
5 correct?

6 A. That's correct.

7 Q. In fact, he self-reported to the Wellsprings back in
8 2004 that he'd been using drugs since he was at the age
9 of thirteen years old?

10 A. That's correct.

11 Q. And he likes to use meth, cocaine, marijuana,
12 alcohol, pills; is that right?

13 A. At various times, yes, sir.

14 Q. And based upon your clinical assessment of him, you
15 would consider, I think you did, that he does have a drug
16 dependency?

17 A. Yes, sir. I made that diagnosis.

18 Q. But what you're testifying today is that his low
19 I.Q. that you have diagnosed him with of sixty-eight
20 affected his ability on the day of January -- July 19th,
21 2011, and July 20, 2011, to effectively waive his rights
22 and give a statement?

23 A. That's correct.

24 Q. Now, this sixty-eight you determined on the I.Q.,
25 that's the lowest -- you say he's mildly mentally

- 1 retarded. That's the lowest level; is that right?
- 2 A. No.
- 3 Q. Well, you have -- isn't it mild, moderate, severe,
- 4 and profound?
- 5 A. Right. And mild is the higher end of the mental
- 6 retardation. Profound is the lowest.
- 7 Q. Lowest. Okay. I'm sorry. I had it reversed.
- 8 Sorry. Now, the seventy is the cutoff for mental
- 9 retardation; is that right?
- 10 A. No, it's not.
- 11 Q. Okay. What is it then?
- 12 A. Because you also look at adaptive behavior, you can
- 13 actually have an I.Q. up into the seventies and be
- 14 mentally retarded. But it's suggested that the cutoff is
- 15 sixty-nine.
- 16 Q. And D.S.M. -- the D.S.M. book also gives you a plus
- 17 or minus five points either direction; is that right?
- 18 A. That's correct.
- 19 Q. So in this case with sixty-eight, he could have a
- 20 low of sixty-three I.Q. to a high of seventy-three?
- 21 A. That's correct.
- 22 Q. And anything above the seventy would take him out of
- 23 the mental retardation; is that right?
- 24 A. Not necessarily, no. If you'll read, since you have
- 25 a D.S.M. IV -- mine's a little bit more beaten up than

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1 yours, by the way -- you'll see that it states that you
2 can have an I.Q. up into the seventies depending on the
3 adaptive behavior. But it also says the D.S.M. IV should
4 be used by trained clinical professionals and that it's
5 not a recipe book. It's not a cookbook.

6 Q. No. But it's a book for you, in your profession, to
7 talk to one another; is that right?

8 A. That's correct.

9 Q. And if you look on page forty-one -- do you have the
10 D.S.M. IV T.R.?

11 A. That's correct.

12 Q. Basically when you're talking about mental
13 retardation, the first line that comes out is, "The
14 essential feature of mental retardation is significant,
15 sub-average, general intellectual functioning ..."

16 A. That's correct.

17 Q. "... that is accompanied by significant limitations
18 and adaptive functioning in at least two of the following
19 skill areas ..."

20 A. That's correct.

21 Q. "... communication, self-care, home living, social
22 interpersonal skills, use of community resources, self-
23 direction, functional academic skills, work, leisure,
24 health, safety." And it must occur before the age of
25 eighteen; is that right?

1 A. That's correct.

2 Q. Anything that you learned through your research on
3 his medical records -- did he have those problems prior
4 to his wreck?

5 A. Well, before I answer that, it's only fair, since
6 you're reading from that part of the ---

7 Q. Well, just answer my question first, okay?

8 MR. ROBINSON: Your Honor, I'm going to object.
9 He's just trying to explain his answer.

10 THE COURT: Well, he hasn't answered the
11 question.

12 Answer the question and then you can explain it,
13 Doctor.

14 Do you want to repeat your question?

15 MR. CAMPBELL: Yes, sir.

16 Q. Do you show -- through your research and the
17 documentation -- medical research -- anything shows
18 before this wreck that occurred -- was it, I think the
19 year 2000 -- that he had any of these problems or a low
20 I.Q. prior to that?

21 A. He had a ninth grade education. He also had a
22 lowered ability in math, spelling, comprehension and
23 behavioral problems that, yes, I felt that they were
24 present. But going back to the I.Q. issue that you
25 raised, I'd like to read from the bottom of forty-one

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1 that says, it's possible to diagnose mental retardation
2 in individuals with I.Q.s between seventy and seventy-
3 five.

4 Q. But you've still got to take in the adaptive
5 function ability; is that right?

6 A. Sure did.

7 Q. Now, did you look at his school records?

8 A. I looked at -- let me see.

9 Q. Well, I think your evaluation procedure indicates
10 that you did review the ---

11 A. No. I was just checking to make sure before I
12 answered the question.

13 THE COURT: Did you say yes or no?

14 THE WITNESS: I said, no, sir.

15 THE COURT: Okay. I'm sorry. I didn't hear
16 you. Excuse me.

17 Go ahead.

18 Q. He completed all the way through the ninth grade; is
19 that right?

20 A. That's correct.

21 Q. And he only repeated one grade, and that was the
22 first grade?

23 A. Didn't he repeat the ninth grade?

24 Q. No, sir.

25 A. He quit?

1 Q. He dropped out.

2 A. Right.

3 Q. Now, he was not in any special education classes
4 during his educational years, was he?

5 A. Not to my knowledge.

6 Q. And to your knowledge, based upon what you see, did
7 you see any prior psychiatric testing regarding his I.Q.
8 prior to yours?

9 A. I did not. The only I.Q. testing I saw of him was
10 mine. The State didn't give him any I.Q. tests. I
11 didn't see anything from the school. But I didn't need
12 them after performing mine.

13 Q. And is your low I.Q. determination really based
14 upon, or determined, everything after his car wreck, the
15 significant car wreck in 2000?

16 A. It's based upon the WAIS that I gave him in August
17 of 2012. It's based upon his academic achievement
18 scores, and it's based upon his difficulties he's had,
19 social, behavioral, communication difficulties.

20 Q. And his wreck of 2000 when he had all of these
21 frontal lobe injuries you're talking about, he
22 acknowledged in the medical records that it was due to
23 him being reckless and speeding; is that right?

24 A. That's correct.

25 Q. And the fact that a person has an I.Q. regarding

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1 what you say he has doesn't affect his ability to know
2 the difference between right and wrong?

3 A. That's correct.

4 Q. I mean, even the D.S.M. here, it does state that
5 individuals with mild mental retardation can usually live
6 successfully in the community either independently or in
7 supervised settings?

8 A. That's correct.

9 Q. So the fact that a person has a low I.Q. doesn't
10 prohibit them from being able to function day-to-day in
11 the community?

12 A. No. But an I.Q. of this level would prohibit him
13 from getting the death penalty in a murder -- in a murder
14 case.

15 Q. I'm sorry. It was kind of slurred. I apologize.

16 A. I'm sorry. But his I.Q. by definition that he has
17 now would prevent him from getting the death penalty in a
18 murder case.

19 Q. But you're dealing with mitigation; is that right?

20 A. Pardon?

21 Q. You're dealing with mitigation?

22 A. I believe it's by direct -- it's by the *Anderson*
23 *versus Virginia* Supreme Court decision.

24 Q. Have you ever testified in a death penalty case?

25 A. I have.

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1 Q. How many criminal cases have you testified in?

2 A. I couldn't give you a number. Throughout my career,
3 I did a lot of criminal incident cases.

4 Q. How many times have you testified for the
5 prosecution?

6 A. Numerous times. I've testified for the prosecution
7 in the Tenth Circuit as well as the Thirteenth.

8 Q. Okay. Where in your C.V. do you show where you have
9 been -- I think it's State's Exhibit -- Defense Exhibit
10 Number 1. Tell me where your criminal history is
11 regarding testifying for the State is.

12 A. I don't list a list of testimony ---

13 MR. ROBINSON: Your Honor.

14 A. --- in my curriculum vitae, nor do I know anyone
15 else that does.

16 MR. ROBINSON: Your Honor, I'm going to object.
17 He's already stipulated he's an expert. And this is just
18 going ---

19 THE COURT: Okay. We're getting far afield for
20 the purpose of this hearing. You can do all of this
21 other with the trial, get into his qualifications. But
22 we're getting far afield.

23 MR. CAMPBELL: All right.

24 Q. Well, let me ask you this.

25 THE COURT: You got far afield too, but he

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1 didn't object. Okay? Let's get the issue we're here
2 for, the voluntariness of the statement.

3 MR. CAMPBELL: Oh.

4 Q. What were you saying prohibits him from voluntarily
5 giving the statement to law enforcement?

6 A. The mild mental retardation, the dementia due to
7 head trauma, the frontal lobe syndrome that he couldn't
8 understand what he was doing because of deafness in his
9 right ear and partial loss of hearing in his left ear,
10 the loss of vision in his left eye and the loss of
11 peripheral vision in his right eye. There were no
12 accommodations made regarding those statements to account
13 for those disabilities, much less his cognitive
14 disability.

15 Q. Okay. Now, regarding being voluntarily given, based
16 upon all of these injuries that he received, he still has
17 the ability to distinguish between right and wrong; is
18 that right?

19 A. I think so, yes.

20 Q. And in assessing this, did you speak to his family
21 members?

22 A. I did.

23 Q. Who did you speak to?

24 A. I spoke to his two aunts.

25 Q. And did you speak to any other family or friends?

- 1 A. Speak to?
- 2 Q. Did you speak to any of his other family or friends?
- 3 A. No, sir.
- 4 Q. Did you review the case file that law enforcement
- 5 had provided in discovery?
- 6 A. I reviewed the records at Mr. Robinson's office,
- 7 yes.
- 8 Q. And you reviewed his statements that he gave?
- 9 A. I did.
- 10 Q. And did you do any type of independent investigation
- 11 on your own regarding these statements?
- 12 A. I evaluated him and documented the deficits that he
- 13 had, that no one else had bothered to document or
- 14 document his intellect or his dementia.
- 15 Q. Now, you're talking about -- did you talk to law
- 16 enforcement at all?
- 17 A. I did not.
- 18 Q. Did you talk to the detective?
- 19 A. Sure didn't.
- 20 Q. Okay. You say dementia. You're talking about it's
- 21 a loss of his intellect. Where's -- show me your report
- 22 where you talked about -- that you diagnosed him with
- 23 this, what the symptoms are that he has.
- 24 A. The diagnosis would be on page thirty-six.
- 25 Q. Okay. I see you've got dementia due to head trauma.

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1 A. That's correct.

2 Q. Where in your summary and conclusions are you
3 stating that you're describing symptoms regarding his
4 dementia?

5 A. Well, I didn't describe his symptoms related to
6 polysubstance dependence either. I talked about it under
7 the first one, I believe. Dementia due to head trauma,
8 mood disorder due to brain trauma and mixed features of
9 personality change due to general medical condition.

10 Q. And dementia, that does not prohibit a person still
11 from knowing right from wrong?

12 A. Well, it would depend on the dementia.

13 Q. What is your assessment?

14 A. I've testified numerous times to you that I felt he
15 knew the difference between right and wrong.

16 Q. And when you talked to him, he cooperated with you
17 fully; is that right?

18 A. I felt so, yes, sir.

19 Q. And did he tell you when you were talking to him
20 that he was under the influence of alcohol and drugs at
21 the time this incident took place?

22 A. No.

23 Q. And you've read the charges that are pending against
24 him; is that right?

25 A. That's correct.

1 Q. The murder, the armed robbery and the weapons
2 charge?

3 A. Yes, sir.

4 Q. And I believe that you stated in your summary and
5 conclusions that without undue influence of drugs or
6 alcohol, he should have the capacity to distinguish right
7 from wrong. That's in your conclusions. At what part
8 did alcohol or drugs or did -- I think you called it
9 influence of other individuals. None of that had the
10 ability to affect him to pull a trigger, did it?

11 A. It could have the ability to have him pull the
12 trigger. You know, as you will ---

13 THE COURT: Let's get to what we're here for,
14 okay? Pulling the trigger can come later. Okay? It
15 doesn't matter what he says about pulling the trigger.
16 That doesn't have anything to do with voluntariness of
17 the statement given on July the 19th.

18 Q. Is there -- Doctor, is there any evidence that you
19 can show and based on your summary and conclusions that
20 he voluntarily did not waive his rights?

21 A. I think I've discussed that at length. And I think
22 that his ability to do that was profoundly impacted by
23 his mental retardation, his dementia, his frontal lobe
24 syndrome and the personality change. I also felt that he
25 may not have completely understood the rights that were

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1 read to him given his deafness, nor understood the ones
2 that he read given his visual impairments along with his
3 cognitive difficulties.

4 Q. And I believe on direct exam you talked to Mr.
5 Robinson regarding a person who was law enforcement staff
6 in his previous experience, that that can play into his
7 ability to talk to law enforcement?

8 A. No. My testimony reflected generally they have some
9 judgment to not talk to law enforcement.

10 Q. Well, you reviewed his criminal history, did you
11 not?

12 A. I did.

13 Q. And it's pretty extensive?

14 A. That's correct.

15 Q. And he's also pled guilty in 2009 to habitual
16 traffic offender offense?

17 A. That's correct.

18 Q. And he pled guilty to possession of meth in 2007?

19 A. That's correct.

20 Q. Both of these were after all these other wrecks that
21 occurred?

22 A. That's correct. His criminal history really is
23 after the wreck, 2000 wreck.

24 Q. But prior to that, he had been a juvenile; is that
25 right?

- 1 A. That's correct.
- 2 Q. And is there any evidence you can show that law
3 enforcement forced him or threatened him or coerced him
4 to speak to them?
- 5 A. No. Just that his intellectual deficits and his
6 dementia.
- 7 Q. And he voluntarily requested to speak to law
8 enforcement. Do you agree with that?
- 9 A. I think he went along with the situation from what I
10 understand the testimony here today.
- 11 Q. Well, did law enforcement know -- he had no idea he
12 was a suspect until he went to the Honea Path Police
13 Department by himself?
- 14 A. That's correct.
- 15 Q. And was there any evidence based upon what you read
16 in the file, the criminal history file, regarding this
17 murder and his medical records to show that he was
18 unwilling to participate in this crime?
- 19 A. I think in a group that had influence that he was
20 involved in with the other four people, that he would
21 have gone along with the crowd.
- 22 Q. Okay. And what you're trying to say is he -- say he
23 would go along with the crowd -- him speaking to law
24 enforcement, couldn't that very well be that he had his
25 conscience he wanted to get off his mind?

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1 A. Well, possibly. Also, he would just acquiesce as
2 well.

3 Q. Well, wouldn't that be a motivator to tell -- you
4 know, spill the beans, so to speak, that I did something
5 bad and I want to get it off my chest?

6 A. And that would be a reflection of the immaturity of
7 his cognitive ability, not being able to understand the
8 implications for doing that.

9 Q. But it still doesn't prohibit him from knowing right
10 from wrong about his actions?

11 A. That's correct.

12 MR. CAMPBELL: I have no further questions.

13 THE COURT: Mr. Campbell, would you hand me
14 those statements and the Waiver of Rights, wherever they
15 are, please?

16 (WHEREUPON, Mr. Campbell handed exhibits up to the
17 Court.)

18 THE COURT: Thank you, sir.

19 Doctor, looking at your report ...

20 THE WITNESS: Yes, sir.

21 THE COURT: ... you stated that he had a word-
22 reading ability of four point, seven grade; is that
23 correct?

24 THE WITNESS: Yes, sir.

25 THE COURT: What does that mean? I mean,

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1 what's the comprehensive level of a four point, seven
2 grade student?

3 THE WITNESS: Well, we would expect him to be
4 able to -- and that's just sight-reading words at a
5 higher level. He can't read such words -- and I'll just
6 give you specific examples, if that'll help you, Your
7 Honor. Huge, license ---

8 THE COURT: Would he know directions?

9 THE WITNESS: --- tough. I would not think he
10 would know directions.

11 THE COURT: Okay.

12 THE WITNESS: He doesn't know -- he can't spell
13 like deteriorate, concoct. We already know he can't
14 spell coercion. He doesn't -- he can't -- that's word
15 reading. He can't spell such words as educate, purchase,
16 institute.

17 THE COURT: I see he's got a spelling grade of
18 five point one.

19 THE WITNESS: Right.

20 THE COURT: How does that differ from the word
21 reading of four point seven? Do they intertwine or ---

22 THE WITNESS: No, they're actually different
23 tasks. Word reading is based upon recognition; spelling
24 is based upon recall.

25 THE COURT: So the word reading is the

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1 recognition of the word itself?

2 THE WITNESS: Yes, sir. You give them a list
3 of words and ask them to read across.

4 THE COURT: Okay. All right. And then he had
5 a math grade of six point three. What type of math would
6 he be able to do at a six point three grade level?

7 THE WITNESS: You know, generally they can do
8 addition and subtraction, but they run into trouble with
9 fractions, multiplications, division.

10 THE COURT: Can he count money and divide?

11 THE WITNESS: He could divide some. He could
12 do -- just give me one second, Your Honor, and I'll give
13 you some examples.

14 THE COURT: Okay.

15 THE WITNESS: He can't subtract fractions.
16 Like, he can't subtract three and a third from five.

17 THE COURT: I can understand that. I can't
18 either.

19 (Laughter)

20 THE WITNESS: He can't do things like, take
21 three-fourths and understand it's seventy-five percent;
22 he can't convert that. He can't do -- he can't do square
23 roots. He can't do any division.

24 THE COURT: He can do plus and minus and simple
25 division?

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1 THE WITNESS: Simple division.

2 THE COURT: Count change?

3 THE WITNESS: Count change.

4 THE COURT: Okay.

5 THE WITNESS: You know, as far as money, his
6 aunt manages his money that he gets from Social Security.

7 THE COURT: Okay. All right. Now, you also
8 have here on sentence comprehension five point three.
9 Now, I'm sure that's got to sort of be tied into word
10 reading of four point seven. But what -- what would a
11 five point three student be able to comprehend in
12 sentences?

13 THE WITNESS: Well, sentence comprehension is a
14 much more sophisticated task than spelling or word
15 recognition. It reflects that you have to understand the
16 sentence. And the way we generally test that is we read
17 them a sentence with a word missing. They need to
18 furnish the word that would make that an appropriate
19 sentence.

20 And he can't do things like, by following the sound
21 of the screeching and squawking, the children are able to
22 blank the missing parrot. He can't come up with locate,
23 catch, discover. He just can't do those kind of tasks.
24 He could do something like, when someone turns on a lamp,
25 blank fills the room. He could say, light fills the

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1 room. He can't do things like, because of the sweltering
2 heat from the afternoon sun, the cows crowded together in
3 the blank of the lone tree. You know, about everybody
4 says shade. He can't do it. He says branches or trees.
5 It's just -- there was no more room on the board for the
6 teacher to write, so she asked a volunteer to help her
7 blank everything from it. You know, anybody that's been
8 to school knows erase.

9 So he just really can't comprehend what's going on
10 with what are relatively simple sentences. When you get
11 up into some of these longs sentences like in the ---

12 THE COURT: Would that be -- would that be the
13 same as a normal fifth grade student?

14 THE WITNESS: About a twelve-year-old.

15 THE COURT: A twelve-year-old?

16 THE WITNESS: Eleven- or twelve-year-old.

17 THE COURT: All right. Well, let me ask you
18 this. And I guess this is the crucial question I have
19 for you. Here's -- referring to, I believe, State's
20 Exhibit Number 2, this is apparently the statement
21 according to the testimony of the police officer he typed
22 out and read to the Defendant. So my question on the
23 sentence comprehension of a grade level five point three,
24 if that statement was read to him, would he be able to
25 comprehend what was being read to him?

1 THE WITNESS: Probably not. But you also have
2 to remember he's deaf in one ear.

3 THE COURT: I understand.

4 THE WITNESS: But no. This is ---

5 THE COURT: I mean, setting aside and the deaf
6 and the hearing, the eye loss ...

7 THE WITNESS: Right.

8 THE COURT: ... would he understand -- tell me
9 what he would not understand in that letter or that
10 statement. I guess that's a better question.

11 THE WITNESS: Can I share an example before I
12 do that ---

13 THE COURT: Yes, sir.

14 THE WITNESS --- that will help you understand?

15 THE COURT: Yes, sir.

16 THE WITNESS: The reason why he couldn't write
17 this statement, to begin with, is this is how he writes.
18 This is how he spells.

19 (WHEREUPON, the witness handed document to the
20 Court.)

21 THE COURT: Okay.

22 THE WITNESS: So he'd never be able to write
23 this statement.

24 THE COURT: Right. Right.

25 THE WITNESS: And then when we get here -- I

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1 mean, he could do the things about remembering names and
2 Hardee's. But then the, drove to Trail Club and stopped
3 at a brick house. Some of these things about what was
4 going on. Me and Charlie were holding the guns. He
5 probably understood that.

6 THE COURT: Now, my understanding according to
7 police testimony, if I may interrupt you, that he told
8 this story and the police officer typed it on the
9 computer as he went and then went back and read it to
10 him. Would him telling the story help him comprehend
11 what's on that statement?

12 THE WITNESS: I don't think so. I think giving
13 something orally and then understanding it visually are
14 two different tasks.

15 THE COURT: Okay.

16 THE WITNESS: And given the limitations that we
17 know that he has, I don't think he could have.

18 THE COURT: Okay. Go ahead and tell me what
19 you think he -- what in the statement he may not be able
20 to identify under the, I guess, the sentence
21 comprehension section of a grade point -- five point
22 three level?

23 THE WITNESS: You know, this thing about
24 directions from someone. I don't remember who. They
25 were all taking. The way that statement is. Everyone

1 was yelling at him. Now, the importance of that to a
2 mentally retarded person that as Mr. Campbell's reading
3 from the D.S.M. IV -- and I can read it right here --
4 talking about mentally retarded, that they decompensate
5 under unusual social or economic stress. That would be
6 very stressful, which would cause him in his judgment to
7 regress even further than what it was, the way that it
8 was described here. "In the back rambling through ..."
9 Rambling is not a word that he would typically use. I
10 would be surprised -- I mean, this bridge at Erwin Mill
11 or the Saluda River Bridge, I don't know that he could
12 spontaneously come up with that. He doesn't have the
13 location for Holly's apartment. Certainly, I think those
14 are kind of problems. "I grabbed my three-eighty caliber
15 handgun." He's using the word caliber just like
16 coercion.

17 THE COURT: Okay. Thank you so very much.

18 THE WITNESS: Yes, sir.

19 THE COURT: I guess the last question I would
20 like to ask that the Court's concerned about, based upon
21 what you've testified to here today, how would the police
22 officers be able to determine that he's not comprehending
23 this when they read it to them and he says, I understand.

24 THE WITNESS: That's one of the reasons, Your
25 Honor, I said it's the most difficult problematic group

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1 for law enforcement to deal with is the mildly retarded.
2 And what most people do is they have them read the whole
3 statement. They don't read it to them because it gets
4 more -- gets progressively more complex. And they would
5 have him read it and then explain it to them.

6 THE COURT: They would have the defendant read
7 it and then explain what he just read to the police
8 officer ---

9 THE WITNESS: To the officer.

10 THE COURT --- to see if they fully understand
11 what they've put down on paper?

12 THE WITNESS: Yes, sir. That's what the
13 literature suggests as the solution.

14 THE COURT: Okay. All right. Thank you so
15 very much.

16 Does anybody have any questions based on the Court's
17 questioning? I'll be glad to entertain anything you
18 would like to ask the doctor along those lines from the
19 State or the Defendant?

20 I guess we'll start with Mr. Robinson. Do you have
21 anything you would like to ask?

22 MR. ROBINSON: I don't. I think the Court
23 asked the questions. I would -- the only thing I would
24 add -- and I was going to bring this up -- I want to make
25 sure that's into evidence.

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1 THE COURT: Speak up.

2 MR. ROBINSON: I want to make sure that that's
3 been entered as an exhibit, Your Honor. I think it's
4 marked as exhibit number 3, I believe, in this case.

5 THE COURT: What are you talking about, the
6 statement? Number 2.

7 MR. ROBINSON: Dr. Price's report.

8 THE COURT: Number 2. The statement I gave to
9 the doctor?

10 MR. ROBINSON: The evaluation.

11 THE WITNESS: Your Honor, he's asking if my
12 report's into evidence.

13 THE COURT: I think it's in evidence, yeah.

14 MR. ROBINSON: That's all I have.

15 THE COURT: Do you have any questions you would
16 like to ask?

17 MR. CAMPBELL: Yes, sir.

18 RECROSS EXAMINATION

19 BY MR. CAMPBELL:

20 Q. Regarding -- Judge Nicholson was asking you about
21 directions to Erwin Mills. What you're testifying to is
22 that he could not have given them directions to that
23 place? Is that what you're saying?

24 A. He was asking me what words he would have difficulty
25 with, did I think, in reading that statement.

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1 Q. You said -- you talked about giving directions to
2 Erwin Mills Bridge. And you said ---

3 A. Actually, it was more complex than that. It was the
4 bridge and some other place. I don't have it right in
5 front of me.

6 THE COURT: Here it is. I'll give it to you.

7 Q. Are you saying that he would not be able to give
8 directions to that place?

9 A. I said I don't think he would say that -- he would
10 understand those words -- in using those words in making
11 a statement. Because even retarded people have a special
12 sense of where things are. I mean, it's like when they
13 were talking about he remembered Social Security. Well,
14 he may remember -- you know, children remember their
15 birth date and Social Security number, particularly
16 someone that's on Social Security Disability. But he
17 can't recall -- if you tell him four digits in a row and
18 ask him to repeat it, he can't do that. When I said that
19 the bridge at Erwin Mill and the Saluda River Bridge.

20 Q. Now, you're not saying that he couldn't give them --
21 law enforcement directions to that place?

22 A. I think he pointed them out that way, right.

23 Q. Even though that's where law enforcement found the
24 gun was ---

25 A. I understand.

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1 Q. --- through his directions, right?

2 A. I understand.

3 Q. I just wanted to clarify that. Okay. Thanks.

4 THE COURT: Thank you, Doctor. You may step
5 down. Thank you very much.

6 THE WITNESS: Thank you.

7 THE COURT: Do you have any further witnesses?

8 MR. ROBINSON: One -- one second, Your Honor.

9 THE COURT: Okay. Be careful stepping down,
10 Dr. Price.

11 MR. ROBINSON: Your Honor, no more witnesses.

12 THE COURT: No more witnesses.

13 Does the State -- it's five o'clock. Do you need a
14 rebuttal witness this afternoon, or do you want to do one
15 in the morning? Or what's your position? You may not
16 want one. I don't know.

17 MR. CAMPBELL: Just one second, Your Honor.

18 THE COURT: Okay. I'll be happy to let you do
19 it in the morning, if you so choose.

20 MR. CAMPBELL: No, Your Honor.

21 THE COURT: No rebuttal?

22 MR. CAMPBELL: No rebuttal.

23 THE COURT: Okay. Thank you very much.

24 Are you going to make an argument or ---

25 MR. ROBINSON: If the Court ---

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1 THE COURT: I'll be glad to hear you very
2 briefly. I don't want to belabor the point, but go
3 ahead.

4 MR. ROBINSON: Your Honor, I think you've had
5 an opportunity to listen to Dr. Price's testimony. He
6 had been qualified as an expert.

7 THE COURT: The acoustics are horrible in here.
8 Speak up.

9 MR. ROBINSON: I'm going to stand up here a
10 little bit, Your Honor, and make sure I can ...

11 Your Honor, you've had the opportunity to listen to
12 Dr. Price and also question him. I would stand on what
13 Dr. Price said, what his testimony was regarding the
14 involuntary nature of the statements as well as the --
15 also, regarding -- this would be exhibit number --
16 State's Exhibit Number 3, Officer Reeves testified that
17 -- that he ---

18 THE COURT: What's number 3?

19 MR. ROBINSON: That would be number -- the
20 advisory -- actually the photo identification ---

21 THE COURT: Okay.

22 MR. ROBINSON: --- where Mr. Reeves talked to
23 him and gave him a lineup. His impairment is apparent
24 when he tells him to circle a picture and he circles the
25 -- circles the number instead. He can't follow his

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1 instructions.

2 Also, too, he can't identify the person. He can
3 say, well, Weaver. Just comes up with the name Weaver
4 which is not the name of this person. Also, as well, on
5 cross-examination, Officer Reeves testified that while --
6 that Mr. Alley -- that he did not give him any sort of
7 Miranda rights before getting him to sign off on those or
8 anything like that.

9 But I believe that -- I believe that the involuntary
10 nature of the statements that he gave, which are -- which
11 are exhibits in this case were well documented as being
12 involuntary by Dr. Price. He went through a whole litany
13 of tests and so forth with Mr. Alley. You have the
14 report which is marked as an exhibit. Went through all
15 the hospital records that were given, all different
16 things and so forth. And he came up with -- and he
17 advised the Court this guy is mentally retarded.

18 He also has a low I.Q. He told the Court a litany
19 of disabilities that he has. And on examination by the
20 Court he pointed out different problems and so forth that
21 he would have.

22 But Your Honor, I believe, or we would submit, that
23 expert testimony which was not -- there's been no other
24 person to -- a witness or an expert that can go against
25 that. But we believe that the -- Dr. Price's testimony

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1 shows -- establishes by a preponderance of evidence that
2 the statements were involuntary.

3 Thank you.

4 THE COURT: What about the statement where --
5 let me find where I wrote it down.

6 MR. ROBINSON: Yes, sir.

7 THE COURT: I shot the man in the face. That
8 was to Officer Voigt when they put him in the car going
9 to the location of the pistol.

10 MR. ROBINSON: Your Honor, I think that, I
11 think -- and I don't know if that was addressed directly
12 with Dr. Price. But I believe he talked about ---

13 THE COURT: Well, I understand. But that's
14 part of his confession that we're talking about,
15 voluntary orally and written, I assume, right?

16 MR. ROBINSON: Yes, Your Honor. I think that
17 ---

18 THE COURT: What was involuntary about that?

19 MR. ROBINSON: I think it was involuntary
20 because Mr. ---

21 THE COURT: He just blurted it out, according
22 to testimony. He just said it. Just said it.

23 MR. ROBINSON: But going back to ---

24 THE COURT: I mean -- I mean -- I heard the
25 doctor was saying about the -- go ahead. I'm listening

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1 to you.

2 MR. ROBINSON: Judge, I think that all the
3 description ---

4 THE COURT: When he was talking about they were
5 acquiescent to the police in the interrogation room when
6 they were going through the process, there was no
7 acquisition -- acquiescence. The police weren't doing
8 anything. We got in a car and he blurts it out. So how
9 would that apply to what the doctor has said here today?
10 That particular statement I'm talking about.

11 MR. ROBINSON: It would apply because the
12 doctor has described the characteristics of someone who's
13 mentally retarded, that's got this background of this
14 individual, this injury that he had back in 2000. It
15 shows ---

16 THE COURT: Well, the injury's irrelevant. I
17 mean, the only problem with the injury is did that cause
18 the retardation. Was he retarded before? Did it make it
19 more severe? The injury doesn't have anything to do with
20 it. The question is, was he retarded to the extent that
21 he couldn't understand what was transpiring? And did he
22 acquiesce with -- to the police? That's the question.
23 So -- but my question to you is, there was none of that
24 going on when he blurted out, I shot the man in the face.

25 MR. ROBINSON: I can only go by what -- the

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1 only response I can make, Judge, is that Dr. Price has
2 described the type of individual he was -- that Mr. Alley
3 is. That's what I have to go by.

4 THE COURT: I haven't read the statement that
5 Lieutenant Reeves put out. What's in that statement?

6 MR. ROBINSON: In this statement ---

7 THE COURT: Was there some type of
8 incrimination in that?

9 MR. ROBINSON: Yes. Yes, there was, Your
10 Honor.

11 THE COURT: What was incriminating in that
12 statement? I didn't read it. I'm sorry.

13 MR. ROBINSON: In this statement, this is
14 State's Exhibit Number 3, Your Honor.

15 THE COURT: It was what?

16 MR. ROBINSON: State's Exhibit 3.

17 THE COURT: Okay.

18 MR. ROBINSON: And in this statement, Officer
19 Reeves writes down, "I know as Weaver and he knew the man
20 that I shot on Trail Road while we were robbing him.
21 Weaver said he was the grandson or some relation of the
22 man I shot. Weaver was the one who told us he -- the old
23 man, his relative, had money."

24 THE COURT: But that was actually Bell,
25 correct? Or was there a man named Weaver? Pardon?

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1 MR. ROBINSON: It's actually a different name.

2 THE COURT: What was the -- what's the real
3 name of Weaver?

4 MR. ROBINSON: Charlie Bell.

5 THE COURT: Charlie Bell, okay. All right.
6 Well, let me hear you about this particular statement
7 then. As far as the voluntariness of that. I think
8 there's probably three of them, right? Two original and
9 one?

10 MR. ROBINSON: Your Honor, I think -- I think I
11 asked Dr. Price about all of these. I think all of the
12 statements except for the verbal statement. And I think
13 that what came out of that was that the statements were
14 involuntary based on his diagnosis of Mr. Alley as far as
15 the retardation and so forth. That's where -- that's why
16 I get that from.

17 THE COURT: Okay. All right. Anything else?

18 MR. ROBINSON: No, sir, Judge.

19 THE COURT: Thank you very much, Mr. Robinson.

20 Mr. Rame? Mr. Campbell. Excuse me. Mr. Rame
21 Campbell?

22 MR. CAMPBELL: Your Honor, based upon the
23 statements he gave -- I mean, the State's alleging
24 there's three statements: the written statement that he
25 gave Detective Owens, the statement he gave to Lieutenant

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1 Steve Reeves regarding the photographic lineup, and then
2 the verbal statement. Case law in South Carolina has
3 stated -- and this really goes back to criminal
4 responsibility, right from wrong. These laws in the
5 State of South Carolina case that our Court's upheld
6 dealing with the Supreme Court that subnormal mentality
7 in a defendant to a crime is not a defense to a crime
8 unless the accused is by reason thereof unable to
9 distinguish between right or wrong with respect to the
10 particular act in question. Criminal responsibility does
11 not depend upon the mental age of the defendant nor upon
12 his mind nor upon whether his mind is above or below that
13 of a normal man.

14 THE COURT: I agree with that. But the
15 criminal responsibility aspect is not what we're talking
16 about.

17 MR. CAMPBELL: The fact that in and of itself
18 ---

19 THE COURT: The question was because he has
20 mental retardation, was the statement voluntary or
21 involuntary?

22 MR. CAMPBELL: Yes, Your Honor.

23 THE COURT: That's the question.

24 MR. CAMPBELL: Yes, sir. His statements were
25 voluntarily given.

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1 THE COURT: Why?

2 MR. CAMPBELL: Because first of all, he freely
3 and voluntarily went to the Honea Path Police Department.
4 He stated, hey, I want to talk to y'all about this. Law
5 enforcement -- in this case, Sheriff's Office detectives
6 did not know he was a suspect at that time nor did they
7 know of anybody else who was a suspect. He approached
8 them on his own. They went and picked him up and went
9 through the proper procedures. And they went through the
10 *Miranda*. Then after that he gave a confession.

11 After that, they spoke to him regarding this -- who
12 the Weaver was. Because as the Detective stated, we
13 didn't know who Weaver was. And the testimony from other
14 witnesses is going to spell out who Weaver is and why he
15 was called that. But they didn't know that was Charles
16 Bell. He was able to identify that person. And he
17 admitted when he gave that statement he shot his
18 grandfather. And that's what it's coming down to.

19 And in this statement that he spontaneously blurted
20 out, that was not to a question that law enforcement was
21 asking him at the time. They read his *Miranda* and they
22 were going out the Sally Port there at the detention
23 center, and he blurts that out. That wasn't directly
24 related to a question. And the courts have held in the
25 Supreme Court in *State v. Hughes* -- it is a '99 case --

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1 that a defendant's mental condition in and of itself does
2 not render a statement involuntarily in violation of due
3 process.

4 Further, a state law of confession is not
5 inadmissible because of a mental deficiency alone. It's
6 just a factor that can be used to determine whether or
7 not his statements were voluntarily given, which goes to
8 a jury question. It goes to the weight of whether these
9 statements are voluntary.

10 THE COURT: You've got to get by me before you
11 get to the jury, okay?

12 MR. CAMPBELL: Yes, sir, I understand. But
13 what I'm saying is, is that our -- the courts have held
14 that this is just one factor to consider whether or not
15 these statements are voluntarily given. You look at his
16 education, how far he went to school. He was in no
17 special ed classes whatsoever through his ninth grade of
18 education or tenth grade of education. He wasn't in any
19 special learning disability classes.

20 And his drug use in and of itself -- as the courts
21 have held, voluntary intoxication in itself does not
22 excuse a person from the crimes that they commit. And
23 the testimony is going to show that he was under the
24 influence at the time this occurred. In fact, they all
25 were. That's a standard point. But when he gave the

1 statements, he wasn't under duress.

2 They -- law enforcement did not know he was a
3 suspect. And they still had to corroborate his
4 statements to determine whether or not he was telling the
5 truth. And they were able to do that.

6 THE COURT: Well, I thought that Mr. Owens had
7 talked to Holly -- Holly Whitfield that morning, and he
8 knew it.

9 MR. CAMPBELL: And as he stated ---

10 THE COURT: Did I misunderstand that?

11 MR. CAMPBELL: No, sir. But ---

12 THE COURT: I understand that -- I understand
13 that Tommy Johnson didn't know when he picked him up in
14 Honea Path and when he gave him -- advised him of his
15 rights. But I understand that Detective Owens had
16 already talked to Holly, and he was a suspect in his
17 mind. Is that incorrect? Did I ---

18 MR. CAMPBELL: He stated -- that is incorrect.
19 He stated that he -- otherwise, she would have been
20 arrested. He let her go because he didn't know if she
21 was telling the truth or if she was a witness, as he
22 stated. I don't know if she was a ---

23 THE COURT: Well, he was a suspect at that time
24 based on what she had told Mr. Owens -- Detective Owens;
25 is that correct?

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1 MR. CAMPBELL: No, Your Honor.

2 THE COURT: Okay.

3 MR. CAMPBELL: Because he had to determine
4 whether or not -- as he stated on the stand, I didn't
5 know who was telling the truth or what was going on.
6 We're just now getting into this. And when he gave him
7 the statement, because of his knowledge of the crime
8 scene himself -- that's what I asked him. Based upon his
9 own personal knowledge when he went to the crime scene,
10 could he verify what he was telling him was true? And
11 what he told them had to be something from someone who
12 had to be in there. And so it all goes to show that he
13 voluntarily gave this statement.

14 They gave a smoke break. They allowed him time to
15 break. He wasn't overborne by their presence. He went
16 to them. They spoke to him. He wasn't immediately
17 arrested once he said, you know, I shot this man in the
18 face. They didn't even put handcuffs on him at that
19 point in time. They still had to -- they still had to
20 take time to determine whether his statement was the
21 truth or not.

22 THE COURT: I think they had him in handcuffs
23 and shackles when they brought him out of the jail.

24 MR. CAMPBELL: That was the next day after he
25 acknowledged -- he was under arrest at that point in

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1 time.

2 THE COURT: That's when he gave the statement,
3 "I shot him in the face"?

4 MR. CAMPBELL: Yes, sir, that's when he gave
5 it. But the State's position is the fact that he has
6 this mental deficiency based upon this car wreck and
7 based upon his past drug history doesn't negate that he
8 can't voluntarily give a voluntary statement. He still
9 knows right from wrong. And as the doctor -- their own
10 doctor stated that. And that all goes to voluntariness.
11 He wants to get it off his chest. He wants to tell them.
12 They did not know at that point in time when he spoke to
13 them whether or not he was a suspect or what his
14 involvement was. He was the one that told them that he
15 shot him, not anybody else. And he keeps on and on.

16 A few minutes later, about an hour, hour and a half
17 later, he tells Steve Reeves when he does the
18 photographic lineup, where he states in there -- I think
19 you have it.

20 THE COURT: Here it is.

21 MR. CAMPBELL: He states in here that we're
22 talking about who Weaver is. He doesn't know -- you
23 know, they don't know who Weaver is. But he knew the man
24 I shot on Trail Road. You know, this isn't in response
25 to actually questioning whether he did this or not. He's

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1 out there -- he's voluntarily telling them this regarding
2 who this other individual is. And he adds that in.
3 That's not a direct question from that officer regarding
4 the facts of the case because he'd already -- Detective
5 Owens was the case officer. So he's already going to
6 have knowledge of that. Not the other set of officers.
7 As he stated, I didn't know much about what was going on
8 except I'm helping out, showing this lineup. And that's
9 what his words are.

10 And the courts have held that spontaneous statements
11 to law enforcement are admissible because, you know,
12 they're not based upon any type of police coercion. And
13 based upon all of that, we feel that all the statements,
14 the three statements he gave, indicate that he
15 voluntarily gave them and should be admissible in the
16 State's case-in-chief.

17 THE COURT: Okay. Thank you very much.
18 Appreciate it.

19 MR. ROBINSON: May I just -- one quick -- this
20 is something that's bothered me because I couldn't find
21 it in the discovery, the Rule 5 materials that I have.
22 Your Honor, part of the Rule 5 materials is that the
23 State is supposed to let us know certain things. I got
24 the report that the State gave me in discovery from Mr.
25 Voigt. There's not one statement in here from this

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1 Officer Voigt regarding any sort of blurting or anything.
2 This statement -- if they've got a statement from this
3 guy, they've got to give it to us in discovery. And they
4 did not give it to us in discovery. This is -- this is
5 three pages right here.

6 THE COURT: Well, does what you have say that
7 he's made the statement or not made the statement?

8 MR. ROBINSON: Doesn't say anything about it in
9 here.

10 THE COURT: Doesn't say anything at all about
11 the statement?

12 MR. ROBINSON: I can hand it up to the Court,
13 Your Honor.

14 THE COURT: Pardon?

15 MR. ROBINSON: I can hand it to the Court if
16 the Court would like to see it, but there's no statement
17 in here. This is what I have.

18 THE COURT: What is that? Is that his -- what
19 is that?

20 MR. ROBINSON: This is what I've got.

21 THE COURT: What is it you're waiving around?

22 MR. ROBINSON: This is his report, Officer
23 Voigt's report.

24 MR. CAMPBELL: That's the dive team report.
25 What we're talking about is a report that's actually in

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1 the supplemental report that we gave in which he does
2 state ---

3 THE COURT: Well, did you give him the
4 supplemental report?

5 MR. CAMPBELL: Yes, sir, we did.

6 THE COURT: Have you got the supplemental
7 report?

8 MR. ROBINSON: May I see it?

9 THE COURT: Well, find it. If he doesn't have
10 it, then they've got a problem. If you've got it, then
11 they don't.

12 MR. ROBINSON: I don't know if I have this,
13 Your Honor, that particular report.

14 THE COURT: All right. While you're looking
15 for it, we can -- we can take that up in the morning.
16 Anything else we need to take up this afternoon?

17 MR. ROBINSON: Your Honor, I would just ask the
18 Court to -- in terms of the -- in rebuttal, the officer
19 -- I made sure that that officer, Officer Owens, said the
20 times that he talked to Mr. -- Ms. Whitfield and the
21 times he talked to Mr. Alley. It was an hour or two
22 afterwards. He got a statement from her first. I showed
23 him a copy of the statement he took from her. And then
24 he took it later. So he knew about what was going on.
25 He knew about what he wanted to get from Mr. Alley.

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1 THE COURT: Okay. Thank y'all very much. Let
2 me think about it, and I'll give you my decision in the
3 morning. Thank you very much.

4 We'll adjourn until, what, nine o'clock in the
5 morning? You're going to have DeFreese here in the
6 morning? Is he going to be able to make it?

7 MR. CAMPBELL: Yes, sir, Your Honor, he is.

8 THE COURT: Okay. All right. We'll see you at
9 nine o'clock.

10 MR. ROBINSON: Thank you, Judge.

11 (WHEREUPON, court stood at recess for the day.)

12 **FEBRUARY 5, 2013**

13 (WHEREUPON, State's Exhibit Number 6 through 60-A,
14 60-B, 60-C, and 61 marked for identification only.)

15 (WHEREUPON, court convened with all parties present,
16 and the following proceedings were had commencing at
17 approximately 9:18 a.m.)

18 THE COURT: All right. Yesterday we heard the
19 motion on the voluntariness of the statement, and I took
20 it under advisement. And I'm going to -- based upon the
21 following, I find that there was no police coercion. I
22 find that the length of interrogation was anywhere from
23 an hour and a half to a hour and forty-five. It's
24 location was at the Sheriff's Office. It was a
25 continuing process for an hour and a half. There wasn't

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1 any breaks.

2 As to the written statement, the education, physical
3 and mental health and the maturity of the Defendant was
4 in question, especially by the Defense and their expert
5 testimony; however, the Court finds that looking at the
6 totality of the circumstances and the fact that the
7 Court's opinion on the sentence [sic] and comprehension
8 of the Defendant at a five point three grade level and
9 word reading four point seven, which he was functioning
10 approximately at a five -- grade five level, and having
11 read the statement, I think a fifth grader would be able
12 to understand the statement. And according to the
13 testimony, the police officer that actually read the
14 statement to the Defendant and whether he did it
15 sentence-by-sentence or read it as a whole, asked him if
16 he understood it. He indicated he did.

17 And having reviewed the statements themselves and
18 based upon Dr. Price's testimony, there was some of the
19 words such as direction and other words that he may not
20 have understood. And -- but as a whole, I think the
21 statement, a fifth-grader could understand it. And I
22 find that the testimony offered by the Defendant by Dr.
23 Price, the Court does not believe that that testimony is
24 sufficient to show that the statement was not voluntarily
25 given.

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1 I find that his *Miranda* rights were given to him
2 under the Fifth and Sixth Amendments of the Constitution,
3 and he understood those. They were voluntarily given to
4 the Defendant. I find that the Defendant [sic] was
5 freely and voluntarily given without duress, without
6 coercion, without undue influence, without reward,
7 without promise or hope of reward, without promise of
8 leniency, without of threat of injury, without compulsion
9 or inducement of any kind. As such, the statement was a
10 voluntary product of a free and unconstrained will of
11 this Defendant even though he was mildly retarded with an
12 I.Q. of sixty-nine and a -- I believe a rate -- a
13 deviation rate of, I believe it was plus or minus five.
14 Is that correct, was the deviation?

15 MR. CAMPBELL: Yes, sir. It was a sixty-eight.

16 THE COURT: So he could have run anywhere from,
17 I guess, from a sixty -- ninety -- I guess he could --
18 let me find my notes.

19 MR. CAMPBELL: It would have been anywhere from
20 a sixty-three to a seventy-three I.Q.

21 THE COURT: All right. He said it was an I.Q.
22 of sixty-eight; is that correct?

23 MR. CAMPBELL: Yes, sir. He said sixty-eight.

24 THE COURT: So it could run anywhere from
25 sixty-three to ninety -- in the nineties [sic]. And I

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1 believe he testified retardation started at -- mild
2 retardation started, I believe, at seventy; is that
3 correct?

4 MR. CAMPBELL: He said anything below sixty-
5 nine was considered mental retardation.

6 THE COURT: Mental retarded. Okay. Sixty-
7 nine. The Court finds that the frontal lobe injury and
8 the other injuries -- it doesn't really matter whether
9 that accentuated the retardation or it caused the
10 retardation. That's immaterial because the question in
11 time was his I.Q., understandability on July the 19th,
12 2011.

13 As far as the vision and hearing loss, there was no
14 indication at all from any of the testimony that he had
15 difficulty reading. And the testimony was that he did
16 read it and initialed the waiver of statement. So I
17 don't see where any of the vision disability or the
18 hearing disability would go towards the voluntariness.

19 The only issue from the Court's perspective was
20 whether the sixty-eight I.Q. -- whether or not he was
21 competent to make a voluntary -- whether he was mentally
22 competent to voluntarily, knowingly and voluntarily,
23 enter into the agreement. And the Court finds from the
24 totality of the circumstances that he was. And I'll
25 allow the statement to go the jury with the final factual

1 finding by the jury as to the voluntariness will still be
2 an issue.

3 Now, I believe we are here this morning to have a
4 motion hearing on -- what's our motion hearing, Mr.
5 Robinson?

6 MR. ROBINSON: Your Honor, originally it's a
7 motion to suppress the gun, the gun that they recovered
8 from the river, I believe.

9 THE COURT: Uh-huh (affirmative).

10 MR. ROBINSON: It's our position it's not the
11 same gun that was used in this incident, and we believe
12 it is irrelevant to this case. And the probative value
13 of this piece -- this piece of info -- this piece of
14 evidence, which is in that box over there ---

15 THE COURT: And I think I told you in chambers
16 that I would listen to the testimony ---

17 MR. ROBINSON: Yes, sir.

18 THE COURT --- from Dan DeFreese, who's a SLED
19 expert on ballistics ...

20 MR. ROBINSON: Yes, sir.

21 THE COURT: ... and judge the admissibility or
22 relevancy of it prior to it being introduced.

23 MR. ROBINSON: Yes, sir.

24 THE COURT: But I'm still not sure how that
25 would go towards suppression.

1 MR. ROBINSON: Yes, sir. I wanted to -- I
2 agree, Your Honor. I agree with that. I think maybe the
3 ---

4 THE COURT: Now, some of the testimony he
5 offers may not be relevant. It may not be substantiated
6 by the science that he's involved in or his opinion. But
7 that's to the weight and sufficient -- admissibility of
8 it, not suppression.

9 MR. ROBINSON: And I thought about that last
10 night, and I think the Court is correct. I think that I
11 probably at the time, right before he testifies in this
12 case, I'd have him proffer ---

13 THE COURT: Now, it should have been -- in the
14 Court's opinion, it should have been a motion in limine,
15 not a suppression.

16 MR. ROBINSON: It will be changed to a motion
17 in limine, Your Honor.

18 THE COURT: Okay. All right. Call your first
19 witness.

20 MR. HAIGLER: The State calls Mr. Dan DeFreese.

21 (WHEREUPON, the witness was duly sworn.)

22 THE COURT: You stipulate he's a ballistics
23 expert?

24 MR. ROBINSON: Your Honor, I spoke beforehand
25 to the Prosecution. I stipulate that. I believe he is

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1 an expert based on his fifty years of test -- fifty years
2 of experience -- actually, thirty years. I'm sorry.

3 THE COURT: Okay. All right.

4 Please proceed.

5 MR. HAIGLER: Thank you, Your Honor.

6 THE COURT: Mr. Haigler.

7 **FRANK DAN DEFREESE,**

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. HAIGLER:

11 Q. Mr. DeFreese, where are you employed?

12 A. I work for the South Carolina Law Enforcement
13 Division in the forensic services laboratory in Columbia.

14 Q. And how long have you worked at SLED?

15 A. Since ---

16 THE COURT: Mr. Haigler, I hate to interrupt
17 you, but we've got a jury coming in at ten. He's
18 probably testified in my court at least fifteen or twenty
19 times.

20 MR. HAIGLER: Okay.

21 THE COURT: I know where he works. I know his
22 qualifications.

23 MR. HAGGLER: Your Honor, I can go right ahead

24 ---

25 THE COURT: Get to the point.

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1 MR. HAIGLER: I can go right ahead and hand him
2 the evidence and ask him ---

3 THE COURT: Okay. He's not a stranger to this
4 Court. I've seen him testify many times.

5 MR. HAIGLER: I understand.

6 Q. All right. Mr. DeFreese, I'm going to hand up some
7 items that have previously been marked as State's Exhibit
8 6, I believe 6. And this is not opened -- I'm going to
9 ask you to open it. Can you take a look at those and
10 tell me if you recognize them?

11 A. Do you have scissors or something?

12 THE COURT: Here.

13 THE WITNESS: Thanks.

14 THE COURT: While he's opening it, Mr.
15 Robinson, let me ask you one last question.

16 MR. ROBINSON: Yes, sir, Your Honor.

17 THE COURT: Maybe we can try to narrow the
18 testimony down of Mr. DeFreese. What specific testimony
19 are you trying to exclude from Mr. DeFreese based upon
20 your conversation you had with the State?

21 MR. ROBINSON: Please the Court? Your Honor,
22 what I want to know from him is can he -- is this the
23 same gun that was used? Can he say to a reasonable
24 degree of certainty that this is the same gun that was
25 used in this incident? That's what I want to know.

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1 THE COURT: Okay. All right. Please proceed.

2 A. Yes, sir.

3 Q. You've seen those items before?

4 A. I have.

5 Q. And how do you recognize them?

6 A. I recognize them by the marks which I put on both
7 the evidence items and their containers at the time that
8 I examined them.

9 Q. How did those items come into your possession?

10 A. They were brought to headquarters by Anderson County
11 Law Enforcement.

12 THE COURT: You're not concerned about the
13 chain, are you, for this hearing?

14 MR. ROBINSON: I've already stipulated to that,
15 Your Honor.

16 MR. HAIGLER: Okay.

17 Q. Did you perform an examination on these items?

18 A. I did.

19 Q. Will you describe in detail the examination that you
20 performed -- the test you performed on them?

21 A. Sure. I retrieved the pistol in water, dried it and
22 collected certain information about it, and then I test-
23 fired the pistol and obtained known bullets and cartridge
24 cases for comparison purposes. I compared the test
25 bullets with the fired bullet which is received in the

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1 container marked projectile Craft comma Glenn which is
2 denoted as item three in my report. It's a fired three-
3 eighty auto caliber full metal case bullet -- full metal
4 jacket bullet. While I found the same general rifling
5 characteristics on this bullet that I found on test
6 bullets fired by the pistol, I was not able to identify
7 this bullet as being fired by only that pistol. This
8 bullet could have been fired by the Hi-Point pistol.
9 There was also another pistol submitted at the same time
10 which this bullet could not have been fired by. But it's
11 -- it's what I refer to as inconclusive in the sense that
12 I can't say this gun fired this bullet. But I can say
13 this gun could have fired this bullet, or another gun
14 just like this that had the same general rifling
15 characteristics could have fired it.

16 In another container, I received one fired three-
17 eighty auto caliber cartridge case. I'll check this one
18 since I've got it. In another container, I received six
19 fired three-eighty auto caliber cartridge cases and one
20 fired nine millimeter Luger caliber cartridge case. I
21 compared all of these with test cartridge cases I had
22 fired in the pistol. From that, I concluded that the six
23 fired three-eighty auto caliber cartridge cases were
24 fired by that pistol. The nine millimeter Luger
25 cartridge case, which was badly abraded and badly

1 corroded, was the wrong caliber to be fired. And it was
2 not fired by that pistol.

3 And in another container, there was a single fired
4 three-eighty auto caliber cartridge case which I also
5 compared to test cartridge cases fired by the pistol.
6 From those, I concluded that this cartridge case was
7 fired by this pistol.

8 So there's a total of seven cartridge cases that
9 were not fired by the pistol and one bullet that could
10 have been fired by this pistol or by another pistol with
11 the same general rifling characteristics.

12 Q. Okay. Could you explain to the Court -- you've
13 already touched on this -- why that three-eighty Hi-Point
14 was not able to leave a marking -- did not leave a
15 marking that you could tell was the same -- was not
16 consistent with the other bullets?

17 A. Well, it was a combination of two factors. One of
18 them being that the fired bullet in this case is rather
19 badly damaged. It's -- has rather extreme damage on its
20 side. Part of its jacket may be missing so that not all
21 of what was originally on the bullet may even still be
22 here. The damage to the bullet combined with the fact
23 that this particular gun does not leave consistent
24 repeatable markings, even on test bullets, that I --
25 knowing that the bullets were fired by this gun because I

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1 had fired them, I was still not able to observe
2 sufficient individual markings to identify the test
3 bullets, or all the test bullets, with each other. So it
4 was the case of both badly damaged evidence and
5 inconsistent markings.

6 Q. Okay. Thank you, Mr. DeFreese. I have no more
7 questions. Please answer any questions Mr. Robinson may
8 have.

9 THE COURT: Cross-examination?

10 MR. ROBINSON: Thank you, Judge.

11 CROSS-EXAMINATION

12 BY MR. ROBINSON:

13 Q. So what I get -- what I want to ask you -- excuse
14 me.

15 A. Yes, sir.

16 Q. Mr. DeFreese, you cannot connect the bullet, the
17 slug, that shot this victim in this case -- you can't
18 connect it conclusively to the gun that was found in the
19 river, can you?

20 A. I can't identify it to that specific gun to the
21 exclusion of all other guns.

22 Q. Thank you. And ---

23 A. But I can say it could have been fired by it.

24 Q. Could have been? Possibly. In the year 2011 and
25 prior to 2011, how many three-eighty Hi-Points were

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1 produced in your opinion?

2 A. A large number. Probably a million and a half Hi-
3 Point compact pistols. And what percentage of those were
4 three eighties, I don't know. But there's a lot of Hi-
5 Point three-eighty pistols that have been manufactured.

6 Q. Thank you.

7 MR. ROBINSON: That's all I have, Judge.

8 THE COURT: Any redirect?

9 MR. HAIGLER: None, Your Honor.

10 THE COURT: Okay. Mr. DeFreese, you may step
11 down. Thank you so very much. If you want to collect
12 your belongings.

13 Now, what do you want to limit in that testimony?

14 MR. ROBINSON: Your Honor ---

15 THE COURT: I mean, he said it could have been
16 fired. He can't conclusively say ---

17 MR. ROBINSON: Correct.

18 THE COURT: --- it was fired.

19 MR. ROBINSON: My -- my objection to the
20 introduction of this gun is a 403 objection, which is
21 basically that gun, that ---

22 THE COURT: Well, first of all, let me -- let
23 me say something for the record and make y'all -- so we
24 can see if y'all agree. My understanding is a single
25 cartridge was found at the scene that he testified to; is

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1 that correct?

2 MR. ROBINSON: Yes, sir.

3 MR. HAIGLER: That's correct, Your Honor.

4 THE COURT: Is that your understanding, Mr.
5 Robinson?

6 MR. ROBINSON: That's my understanding,
7 correct.

8 THE COURT: The other six were actually test-
9 fired by SLED. Is that your understanding?

10 MR. HAIGLER: No, sir, Your Honor. The other
11 six were found at the bridge, which the Defendant led the
12 police to where he said that he ---

13 THE COURT: Found at the bridge?

14 MR. HAIGLER: Yes, sir.

15 THE COURT: Where they found the gun?

16 MR. HAIGLER: Yes, sir.

17 THE COURT: Okay. All right.

18 Is that correct?

19 MR. ROBINSON: That's correct.

20 THE COURT: And the projectile, the bullet
21 itself, was removed from the body; is that correct?

22 MR. ROBINSON: That is correct.

23 MR. HAIGLER: Yes, sir.

24 THE COURT: Okay. All right. Because none of
25 that's come out. But I understand those are the facts

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1 that we could stipulate to for purposes of this hearing;
2 is that correct from the State?

3 MR. HAIGLER: Yes, sir, Your Honor.

4 THE COURT: Is that correct from the Defendant?

5 MR. ROBINSON: That is, Your Honor.

6 THE COURT: All right. Please proceed.

7 MR. ROBINSON: But Your Honor, I believe since
8 it could have been, possibly, I don't think, I would
9 submit that my 403 objection in limine is that that is
10 extremely prejudicial putting a three-eighty gun as an
11 exhibit in this case which may not even be the gun that
12 we're talking about. It's a gun that was found in a
13 river that may be a lot of things. But he testified that
14 there were millions of these three eighties produced.
15 And he cannot say -- he cannot say, it could be, maybe
16 not, we don't know. And given the -- given that, I
17 believe that ---

18 THE COURT: Well, that's only as to the
19 projectile. The cartridges he said, yes, they were fired
20 by this gun.

21 MR. ROBINSON: Yes, but they're not connected
22 to the victim in this case, those cartridges.

23 THE COURT: Well, there was one cartridge found
24 at the scene; there was six found at where they found the
25 gun.

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1 MR. ROBINSON: Correct.

2 THE COURT: Where the Defendant took them to
3 locate the gun. So why isn't that a connection? The
4 cartridges, now, not the projectile or the bullet or
5 however -- whatever you want to call it.

6 MR. ROBINSON: Well, Your Honor, I think what
7 he's saying, if I'm listening to the testimony -- the
8 Court heard it too, and I hope I'm hearing it right. But
9 he can't connect that as being the shell ---

10 THE COURT: Well, tell me on what legal basis
11 you think the Court should exclude that evidence? About
12 the cartridge. Now, I'm not talking about the bullet.

13 MR. ROBINSON: I think that -- I think it's
14 going to be a 403 objection as far -- as far as the fact
15 the prejudicial of that, when he says that it could have
16 been and so forth.

17 THE COURT: Now, he didn't say could have been
18 about the cartridges. He said very definitely that it
19 was fired -- the cartridges were fired by this gun.

20 MR. ROBINSON: Okay.

21 THE COURT: The projectile, he said, could have
22 been; is that correct?

23 MR. ROBINSON: Your Honor, that's -- I'm going
24 to withdraw my motion in limine at this point since --
25 and I will ---

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1 THE COURT: Well, I mean, as far as the
2 cartridges are concerned, your motion's denied. Okay?

3 MR. ROBINSON: Yes, sir.

4 THE COURT: Now, as far as the projectile,
5 which I understand he said it could have been ---

6 MR. ROBINSON: Yes, sir.

7 THE COURT: --- by this gun or any other type
8 similar gun.

9 MR. ROBINSON: Yes, sir.

10 THE COURT: Now, do you want to suppress that?

11 MR. ROBINSON: Yes, I do.

12 THE COURT: All right. Why?

13 MR. ROBINSON: I think it's not -- could have
14 been is not -- if I'm understanding correctly, could have
15 been is not enough to get this in. I think it's
16 prejudicial. That particular slug is prejudicial.

17 THE COURT: Okay.

18 Mr. Haigler?

19 MR. HAIGLER: Your Honor, I feel like you've
20 made a lot of my arguments for me. I believe that
21 anything would go to the weight, not the admissibility,
22 of this evidence. Of course, it's prejudicial. Almost
23 everything is prejudicial to his client at this point.
24 But the projectile found at the scene matches the six
25 fired at the bridge which the Defendant led the police

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1 to. It's circumstantial evidence, but it all adds up
2 perfectly. So I don't see how it is not relevant.

3 THE COURT: Okay. All right. On your 403
4 argument, I'm going to find that the prejudicial value is
5 not sufficient to outweigh the probative value. I think
6 it sort of goes to the weight and sufficiency, and it's
7 relevant as to what was found -- what transpired with the
8 pistol and the cartridges as well as the projectile.

9 All right. Any other motions? It's ten minutes
10 till ten, and the jury will be here at ten. Anything
11 else we need to hear before we bring the jury in at ten?

12 MR. ROBINSON: Your Honor, two things.
13 Actually, three things. One, I would like to have the
14 witnesses sequestered in this case.

15 THE COURT: You want what?

16 MR. ROBINSON: Sequestered.

17 THE COURT: Okay. All right. That's fine.
18 Who are you going to sequester? All the witnesses?

19 MR. ROBINSON: All the witnesses.

20 THE COURT: All right. Now, you can -- the
21 victims can stay.

22 MR. ROBINSON: Of course.

23 THE COURT: The family of the victims, I'm
24 going to allow to stay. Okay?

25 MR. ROBINSON: And the investigating officer.

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1 THE COURT: And they can keep the chief -- I
2 guess Detective Owens is the chief. They can keep him.
3 Who do you want to keep on your side?

4 MR. ROBINSON: I'm not going to keep any.

5 THE COURT: Pardon?

6 MR. ROBINSON: I am going to add -- I would
7 like -- I'm going to have everyone go out. Even Dr.
8 Price is not going to come in or anything of that -- like
9 that. Everyone's going to be out as witnesses.

10 THE COURT: I'll be happy -- as far as
11 witnesses are concerned, are you going to leave -- are
12 the witnesses -- your witnesses in the courtroom?

13 MR. ROBINSON: I've got -- there are two
14 witnesses that I want to add to the list that I have, if
15 I can. I talked to -- I spoke to Mr. Campbell about
16 this. And it would be Joyce Means and ---

17 THE COURT: Who?

18 MR. ROBINSON: Joyce Means.

19 THE COURT: Joy?

20 MR. ROBINSON: Joyce.

21 THE COURT: J-O-Y-C-E?

22 MR. ROBINSON: Yes, sir. And Vicki Alexander.

23 THE COURT: Joyce Means?

24 MR. ROBINSON: Means. M-E-A-N-S, Your Honor.

25 THE COURT: All right. And who's the other

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1 one?

2 MR. ROBINSON: Vicki Alexander.

3 THE COURT: Are they in the courtroom?

4 MR. ROBINSON: They are, Your Honor. And they
5 would be sequestered.

6 THE COURT: All right. Any of the others,
7 Diane Ruth, Ingram, Dennis, Kerr, Ragsdale, Dukes in the
8 courtroom? Are they in the courtroom?

9 MR. ROBINSON: No, sir, Your Honor.

10 THE COURT: All right. From the State's
11 standpoint who's in the courtroom?

12 MR. CAMPBELL: Your Honor, basically who we
13 have is, of course, SLED Agent Dan DeFreese. We also
14 have some of the officers who are going to be testifying
15 in this matter.

16 THE COURT: Okay. All right. Do you have an
17 objection to him adding Joyce Means and Vicki Alexander?

18 MR. CAMPBELL: Well, I guess it's going to be
19 when he tries to take this up on relevance -- I have a
20 problem at this point in time, this stage of the game,
21 because these names have not come up whatsoever during
22 this investigation. So I don't know if this is trying to
23 be -- trying to use as mitigation or what?

24 THE COURT: I don't know. But do you have any
25 objection ---

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1 MR. CAMPBELL: No, sir.

2 THE COURT --- of adding them at this time at
3 this point in the proceedings?

4 MR. CAMPBELL: No, sir. At this point in time,
5 I do not have an objection.

6 THE COURT: Okay. Thank you very much.

7 All right. As far as the sequestration of the
8 witnesses, Mr. Robinson and Solicitor Campbell, I'm going
9 to ask you to instruct the witnesses after they testify
10 and go back out in the hall, don't discuss what was
11 testified about with the other sequestered witnesses,
12 okay? And you can tell them if they do talk to them and
13 tell them what transpired, I'm going to find them in
14 contempt of court.

15 MR. ROBINSON: Yes, sir.

16 THE COURT: I want both of y'all to explain
17 that to these witnesses. I've had some bad experiences
18 with jurors -- witnesses going out and telling what
19 transpired and then come in and testify. Okay? Make it
20 very clear that they're not going to discuss the
21 testimony of what transpired in this courtroom when they
22 go back out with the witnesses that are waiting to come
23 in.

24 MR. ROBINSON: Yes, sir.

25 THE COURT: Okay?

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1 MR. CAMPBELL: Yes, sir.

2 THE COURT: All right. Anything else?

3 MR. ROBINSON: No, sir, Your Honor. I just
4 have one ---

5 THE COURT: Do you want them to stay in for
6 opening arguments, or do you want them all to go out now?

7 MR. ROBINSON: I don't, Your Honor. I want
8 them out.

9 THE COURT: All right. All potential
10 witnesses, get them out of the courtroom now.

11 Let me see the lawyers up here just a second.

12 (WHEREUPON, a bench conference was held off the
13 record.)

14 THE COURT: All right. For the record, juror
15 number 76, Betsy Gregory, her father's being taken to the
16 emergency room this morning. She called in and wants to
17 go to the emergency room and meet her father. I'm going
18 to excuse her. And Pamela Motes, juror number 131, will
19 be on the jury, who is the first alternate. And the
20 State agrees to take the alternates in the order that we
21 drew them; is that correct?

22 MR. CAMPBELL: Yes, sir.

23 THE COURT: And the Defendant also agrees to
24 that; is that correct?

25 MR. ROBINSON: That's correct, Your Honor.

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1 THE COURT: Okay. All right. Anything else we
2 need to take up?

3 MR. CAMPBELL: No, Your Honor.

4 THE COURT: Okay. All right. We'll take --
5 it's ten minutes till ten. We'll take a ten-minute break
6 until the jury gets here, and then we'll bring the jury
7 in and swear them. Are y'all ready for opening
8 statements?

9 MR. CAMPBELL: Yes, Your Honor.

10 MR. ROBINSON: Yes, sir.

11 THE COURT: Okay. We'll start the opening
12 statements as soon as the jury gets here. And move that
13 camera further back, please, sir, out of the purview of
14 the jury. Get it against the wall. Is that a sufficient
15 location for you?

16 THE VIDEOGRAPHER: Yes, sir.

17 THE COURT: Okay. Do we need to move this
18 podium so you can have a better view?

19 THE VIDEOGRAPHER: No, sir, I don't think so.

20 THE COURT: If you need to, let me know. I'll
21 move it. I just want you out of the eyesight, peripheral
22 and otherwise, of the jury, okay?

23 THE VIDEOGRAPHER: I understand, Your Honor.

24 THE COURT: Okay. All right. Thank you very
25 much.

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1 We'll take a recess until we get the jury here.

2 (WHEREUPON, court stood at recess for a short
3 break.)

4 MR. CAMPBELL: Your Honor, as part of this
5 agreement, we're also dismissing the armed robbery as
6 well as the weapons charge. He's only pleading to 2011-
7 GS-04-1723, the murder. He has signed the sentencing
8 sheet as well a Mr. Robinson, his attorney.

9 THE COURT: Okay. Thank you.

10 MR. CAMPBELL: We're going to make that an
11 exhibit. It's a Court exhibit.

12 (WHEREUPON, Court's Exhibit Number 1 was marked for
13 identification only.)

14 THE COURT: All right. Mr. Robinson?

15 MR. ROBINSON: Yes, sir, Your Honor.

16 THE COURT: Can your client stand with you
17 there?

18 MR. ROBINSON: I would like that, yes, sir.

19 THE COURT: If he can come around.

20 Mr. Alley, how you doing today?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Pardon?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Can you lean sort of in the
25 microphone so everybody can hear you, if you would?

1 THE DEFENDANT: Sure thing.

2 THE COURT: Mr. Alley, what's your full name?

3 THE DEFENDANT: Walter Chase Alley.

4 THE COURT: Okay. Would you please raise your
5 right hand?

6 **WALTER CHASE ALLEY,**

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 EXAMINATION

9 BY THE COURT:

10 THE COURT: All right. Have you had
11 conversations with your attorney about the guilty plea?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And have you talked to your family
14 about the guilty plea?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you understand the
17 conversations that you have had with your attorney and
18 your family?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. Do you have any
21 questions about anything your attorney has told you?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. And do you know your
24 date of birth?

25 THE DEFENDANT: Yes, sir. It's [REDACTED]

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1 THE COURT: Do you know your Social Security
2 number?

3 THE DEFENDANT: Yes, sir. It's [REDACTED].

4 THE COURT: Okay. Have you ever been employed
5 anywhere?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Whereabouts?

8 THE DEFENDANT: Alley Construction. It's
9 located on Highway 252.

10 THE COURT: What did you do with them?

11 THE DEFENDANT: Construction work.

12 THE COURT: Construction work?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, I understand you're blind in
15 one eye; is that correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Which eye is that?

18 THE DEFENDANT: My left eye.

19 THE COURT: Your left eye? How's your vision
20 in your right eye?

21 THE DEFENDANT: I have no peripheral vision.

22 THE COURT: Peripheral, but your central
23 vision's okay?

24 THE DEFENDANT: Yeah. I see straight forward.

25 THE COURT: Can you read all right with that

1 one eye?

2 THE DEFENDANT: Decent.

3 THE COURT: Pardon?

4 THE DEFENDANT: Decent, yes, sir.

5 THE COURT: Okay. And you have some hearing

6 loss. In which ear?

7 THE DEFENDANT: My left ear.

8 THE COURT: Okay. Can you hear anything out of

9 your left ear?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: How about your right ear?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Can you hear what I'm telling you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Can you hear normal conversation?

16 THE DEFENDANT: Do what?

17 THE COURT: Can you hear people talking with

18 each other? Can you hear when someone's talking to you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. And where do you live, Mr.

21 Alley?

22 THE DEFENDANT: ████ Trussell Street, Honea

23 Path.

24 THE COURT: Honea Path?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: You don't know the zip code of
2 Honea Path, do you?

3 THE DEFENDANT: 29 -- 29654.

4 THE COURT: Okay. When you were working, how
5 much did you earn per hour?

6 THE DEFENDANT: Nine dollars.

7 THE COURT: Nine dollars?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And how many hours would you
10 normally work?

11 THE DEFENDANT: Forty hours. This was before I
12 lost my leg, sir. I haven't worked since.

13 THE COURT: You haven't worked since you lost
14 your leg?

15 THE DEFENDANT: No, sir.

16 THE COURT: Did you lose your leg below the
17 knee, above the knee, or where?

18 THE DEFENDANT: Above the knee.

19 THE COURT: Above the knee?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: How far up does your prosthetic go?

22 THE DEFENDANT: I think I have eight inches.

23 THE COURT: Pardon?

24 THE DEFENDANT: I think I have about eight
25 inches left.

1 THE COURT: Okay. All right. How long have
2 you had your artificial leg?

3 THE DEFENDANT: Ten years.

4 THE COURT: Pardon?

5 THE DEFENDANT: Ten years.

6 THE COURT: Ten years?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you able to get around okay
9 with the leg?

10 THE DEFENDANT: Decent.

11 THE COURT: Okay. You don't need crutches or a
12 cane?

13 THE DEFENDANT: Just the leg.

14 THE COURT: Just the leg? Okay. All right.
15 Has your attorney explained to you the charge?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you entered a plea to murder;
18 is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has your attorney explained to you
21 the time you could receive for murder?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Did you understand?

24 THE DEFENDANT: (No verbal response)

25 THE COURT: Do you understand you could receive

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1 anywhere from thirty years to life?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you have any questions about
4 that?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you understand that you would --
7 cannot be paroled from this offense? Do you understand?
8 In other words, you can't get out of jail until you've
9 served your time. Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And if you get thirty years, you'll
12 serve thirty years. Do you understand? If you get forty
13 years, you'll serve forty years. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you take any medication?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you take any medication for
18 anything? Headaches? Anything?

19 THE DEFENDANT: Not currently, no, sir.

20 THE COURT: Okay. Have you taken anything in
21 the past?

22 THE DEFENDANT: I used to take something for
23 anxiety.

24 THE COURT: For anxiety? What do you take? Do
25 you know the name of it?

1 THE DEFENDANT: No, sir.

2 THE COURT: How often do you take it?

3 THE DEFENDANT: I took it two or three times a
4 day.

5 THE COURT: Okay. Have you taken it today?

6 THE DEFENDANT: No, I haven't took it since
7 I've been incarcerated. They cut me off from it.

8 THE COURT: Okay. All right. How long have
9 you been incarcerated?

10 THE DEFENDANT: Nineteen months, sir.

11 THE COURT: Nineteen months?

12 THE DEFENDANT: (No verbal response)

13 THE COURT: Has anybody forced you or
14 threatened you to make you enter this plea?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you understand what I mean when
17 I say forced you or threatened you?

18 THE DEFENDANT: Yes. Yes, sir.

19 THE COURT: Pardon?

20 THE DEFENDANT: Yes, sir, I understand.

21 THE COURT: Have you had enough time to enter
22 the plea?

23 THE DEFENDANT: Do what?

24 THE COURT: Have you had enough time to make
25 your decision to enter the plea?

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1 THE DEFENDANT: Yes, sir. I'm ready.

2 THE COURT: Pardon?

3 THE DEFENDANT: I'm ready.

4 THE COURT: Okay. You're ready? All right.

5 Have you understood the questions I have asked you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Mr. Robinson, I want to
8 ask you questions about his constitutional rights.

9 MR. ROBINSON: Yes, Your Honor.

10 THE COURT: Have you explained to him his right
11 to remain silent under the Fifth Amendment?

12 MR. ROBINSON: I have, Your Honor.

13 THE COURT: Did he appear to understand?

14 MR. ROBINSON: He does, yes. He understands.

15 THE COURT: Have you had -- what kind of
16 difficulty, if any, have you had in communicating with
17 the Defendant?

18 MR. ROBINSON: I've had no difficulty. He's
19 very -- he's been a great client. He really has. His
20 family's been great. I visited him at the jail. My
21 investigator, Brad, is to my right. He's also visited
22 with him as well. No problem with communication.

23 THE COURT: Okay. He hasn't had any difficulty
24 hearing you?

25 MR. ROBINSON: No. No. We're -- at the jail,

1 it's just one small room. There's really no chance of --
2 he's -- he's -- he really -- he bends his ear, whatever
3 he needs to do, to talk. So he understands it.

4 THE COURT: And have you explained to him his
5 right to a jury trial?

6 MR. ROBINSON: I have.

7 THE COURT: Have you explained to him the
8 process of the jury trial?

9 MR. ROBINSON: Yes.

10 THE COURT: Did he appear to understand?

11 MR. ROBINSON: Yes.

12 THE COURT: Have you explained to him his right
13 to appeal the guilty plea ten days from today?

14 MR. ROBINSON: Yes. I -- I'm going to -- I'll
15 talk to him once we get done with this. As far as that
16 -- we were in a trial mode for this.

17 THE COURT: Right.

18 MR. ROBINSON: And as far as that, I will,
19 after the plea, advise him of that.

20 THE COURT: Okay.

21 MR. ROBINSON: That he has ten days.

22 THE COURT: All right. Mr. Alley, do you
23 understand in the court system, this is a trial-level
24 court where you have jury trials. Do you understand?

25 THE DEFENDANT: Do what?

1 THE COURT: You have a jury -- jury trials in
2 this court. Do you understand?

3 THE DEFENDANT: Right here? Yes, sir.

4 THE COURT: In this courtroom.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: We also have what is called an
7 appellate court that you can appeal what I do to the
8 appellate court. Do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, do you understand you have ten
11 days to make that appeal if you want to appeal? Do you
12 understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Mr. Robinson, have you
15 explained to Mr. Alley his -- the process of the guilty
16 but mentally ill?

17 MR. ROBINSON: I have, Your Honor.

18 THE COURT: Did he appear to understand?

19 MR. ROBINSON: He does.

20 THE COURT: Have you explained it to his family
21 members?

22 MR. ROBINSON: Yes.

23 THE COURT: And are the family members in
24 agreement with this?

25 MR. ROBINSON: Yes. We actually met. I met

1 with the family members back in the arbitration room, all
2 of them. Then we met with the -- let me talk to the two
3 aunts and his natural mother back in the -- back in the
4 lobby back there. And yes, I have talked with them.

5 THE COURT: Okay. All right. I understand Mr.
6 Alley's been evaluated by the State for mental competency
7 or competency to stand trial; is that correct?

8 MR. CAMPBELL: Yes, Your Honor.

9 THE COURT: Do you have a copy of that report?

10 MR. CAMPBELL: Yes, sir. I made it an exhibit
11 as Court's Exhibit Number 1. Mr. Robinson has a copy of
12 this also.

13 THE COURT: All right. I'm going to mark that
14 as Court's Exhibit Number 1, which was prepared, looks
15 like, on June the 6th, 2012, by the South Carolina
16 Department of Mental Health.

17 MR. CAMPBELL: It's Dr. Kimberly Harrison who
18 evaluated him.

19 THE COURT: Dr. Harrison?

20 MR. CAMPBELL: Yes, sir.

21 THE COURT: He's the chief psychologist; is
22 that correct?

23 MR. CAMPBELL: That's correct, Your Honor.

24 THE COURT: All right. It looks like the
25 conclusion and recommendation is that he's competent to

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1 stand trial and he has adequate factual understanding of
2 the courtroom personnel and legal procedures. He's shown
3 an ability to learn information relevant to his case.
4 Has an adequate rational appearance of his legal
5 situation and ability to evaluate his options in a
6 logical manner. Appears motivated well and able to
7 participate in his legal defense. Did not exhibit any
8 overt difficulties in memory, attention or concentration.
9 There's no indication the Defendant's behaviors, thought
10 process or ability to communicate are currently
11 influenced by a mental disorder is his conclusions and
12 recommendations. And I'll -- before sentencing, I'll
13 read the entire report.

14 Have you talked to Mr. Alley on numerous occasions?

15 MR. BAXTER: Yes, I have, Judge.

16 THE COURT: Would you state your full name?

17 MR. BAXTER: My name is Larry Bradley Baxter.

18 THE COURT: All right. And what has been your
19 involvement with Mr. Alley and this case?

20 MR. BAXTER: His investigator.

21 THE COURT: Okay.

22 MR. BAXTER: To investigate the good job that
23 the Sheriff's Office had done.

24 THE COURT: All right. How long have you been
25 helping Mr. Robinson investigate the case?

1 MR. BAXTER: A couple of years on this case.

2 THE COURT: A couple of years? And how often
3 have you talked with Mr. Alley?

4 MR. BAXTER: I've been to the jail a bunch of
5 times to see him. I don't know how many times exactly.
6 Rame -- a bunch of times.

7 THE COURT: Okay. Numerous times?

8 MR. BAXTER: Yes.

9 THE COURT: All right. During those
10 conversations, did you have any difficulty communicating
11 with Mr. Alley?

12 MR. BAXTER: At first.

13 THE COURT: Okay.

14 MR. BAXTER: And then after a while, after you
15 meet with people enough, you figure out how to talk to
16 them and how to read a person and how to get your point
17 across.

18 THE COURT: Okay. Were you able to communicate
19 with Mr. Alley ---

20 MR. BAXTER: Yes.

21 THE COURT: --- appropriately?

22 MR. BAXTER: Yes.

23 THE COURT: Did he appear to understand?

24 MR. BAXTER: Yes.

25 THE COURT: How long did it take you to

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1 determine how was the best way to communicate with Mr.
2 Alley?

3 MR. BAXTER: The first two times I went to
4 speak with him, it was a learning process. And then
5 after the third or fourth time, I could speak to him
6 where we could have a conversation where he could
7 understand what he was really facing.

8 THE COURT: Okay. All right. And have you
9 been involved in the discussions this morning with Mr.
10 Robinson and Mr. Alley?

11 MR. BAXTER: Yes, sir.

12 THE COURT: And do you think Mr. Alley
13 understands what's taking place here today?

14 MR. BAXTER: Yes, sir.

15 THE COURT: Okay. All right. The Court finds,
16 based upon the attorney's statements, the investigator's
17 attorney [sic] and the questions and answers that Mr.
18 Alley gave to the Court, and based upon the conclusions
19 by the Department -- South Carolina Department of Mental
20 Health that he's competent to enter the guilty plea.
21 He's been properly advised by his attorney of his
22 constitutional rights, and the Court will accept the
23 plea.

24 As far as competency is concerned -- now, the issue,
25 Mr. Robinson, is whether or not he was mentally ill or

1 had a mental defect where he could not appreciate his
2 conduct at the time the act was committed. I believe --
3 I don't -- when was the date?

4 MR. CAMPBELL: July 18th, 2011.

5 THE COURT: July 18th, 2011. And I understand
6 the doctor will be back at two o'clock; is that correct?

7 MR. ROBINSON: That is correct, Your Honor.

8 THE COURT: Okay. So what I'm going to do is
9 we will hold the sentencing and hold the Court's findings
10 on the mental illness until we can -- you can have the
11 doctor back and he offer some testimony concerning his
12 opinion as to his mental illness and/or his mental defect
13 and how it affected his ability on July the 18th, 2011.

14 MR. ROBINSON: Yes, sir.

15 THE COURT: Okay?

16 MR. ROBINSON: Yes, sir.

17 THE COURT: So we'll adjourn until two o'clock.
18 And at -- after I have made that determination, we'll
19 enter the sentencing phase. And I'll be glad to hear
20 from the victims at that time and from the State.

21 MR. CAMPBELL: Thank you, Your Honor.

22 THE COURT: Okay. Anything else?

23 MR. ROBINSON: Not from the Defense, Your
24 Honor.

25 THE COURT: Anything from the State?

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1 MR. CAMPBELL: No, Your Honor.

2 THE COURT: Okay. All right. Thank you so

3 very much.

4 MR. ROBINSON: Thank you, Judge.

5 (WHEREUPON, court stood at recess for a lunch

6 break.)

7 THE COURT: All right. Let me see. I believe

8 this is a continuation of Mr. Alley's plea. And Mr.

9 Robinson, you wanted to call Dr. Price to prove that he

10 was mentally ill at the time of the act?

11 MR. ROBINSON: Yes, sir.

12 THE COURT: Or had a mental defect; is that

13 correct?

14 MR. ROBINSON: That is correct, Your Honor.

15 THE COURT: All right. If you'll call Dr.

16 Price. And his report was entered yesterday, I believe,

17 pursuant to your motion?

18 MR. ROBINSON: It was, Your Honor.

19 THE COURT: Where is that -- that report of the

20 Doctor yesterday? Was it admitted?

21 THE CLERK: I think it was the Court's Exhibit

22 2.

23 THE COURT: Where is it?

24 MR. CAMPBELL: I think it was exhibit number 2.

25 THE COURT: All right.

1 MR. ROBINSON: I have my copy of it.

2 MR. CAMPBELL: I think it was Defense Exhibit
3 2.

4 THE COURT: Thank you. All right. I'm -- what
5 was admitted as Defendant's Exhibit 2 pursuant to the
6 Defendant's motion to find that the statement was not
7 voluntarily given, I'm going to admit as Court's Exhibit
8 pursuant to this plea.

9 MR. ROBINSON: Thank you, Judge.

10 (WHEREUPON, Court's Exhibit Number 2 was marked for
11 identification only.)

12 THE COURT: All right. If you'll call Dr.
13 Price.

14 MR. ROBINSON: I would, Your Honor. We would
15 call Dr. David Price.

16 THE COURT: Okay.

17 (WHEREUPON, the witness was duly sworn.)

18 THE WITNESS: And Your Honor, I apologize for
19 my attire. I came from seeing patients.

20 THE COURT: No problem. Glad to have you.

21 THE WITNESS: Thank you.

22 MR. ROBINSON: May it please the Court.

23 THE COURT: Yes, sir.

24 **DAVID PRICE,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

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1 DIRECT EXAMINATION

2 BY MR. ROBINSON:

3 Q. Dr. Price, you were here yesterday in the *Jackson v.*
4 *Denno* hearing; is that correct?

5 A. That's correct.

6 Q. And you presented testimony and you presented your
7 evaluation in that case?

8 A. That's correct.

9 Q. I'm going to show you a copy of the evaluation.

10 MR. ROBINSON: If I could -- you got a copy?

11 THE COURT: There it is right there.

12 Q. I show you what's been marked Defense Number 2. Is
13 that a copy of your evaluation?

14 A. Yes, sir.

15 Q. And that includes, I think -- in the first part it's
16 an evaluation procedure in terms of what kind of
17 background, including medical records, testing, that you
18 did; is that correct?

19 A. That's correct.

20 Q. And I think yesterday you said you did certain tests
21 on Mr. Alley; is that correct?

22 A. I did.

23 Q. And I think your conclusion was at the time of this
24 incident in 2011 that he was suffering from a mental
25 defect; is that right?

1 A. That's correct.

2 Q. And can you -- based on your -- based on all the
3 evaluations that you did, the different tests that you
4 did, do you have an opinion as to whether or not he was
5 mentally -- mentally defective or mentally challenged at
6 that time?

7 A. Yes, sir.

8 Q. Please tell the Court.

9 A. I would be reticent to use the term mentally
10 defective, but he did have mental disorders at the time
11 of the events. Very significant mental disorders that I
12 had discussed pretty extensively yesterday. But he had
13 -- when we -- when we diagnose an individual, we use a
14 multi-axial diagnostic system. And I'll explain it to
15 you, but ---

16 Q. You don't have to.

17 A. Okay. Because we're not going to be using it
18 effective in May. He had five diagnoses actually. And
19 the one on Axis I where we put clinical disorders -- that
20 would be a focus of treatment -- he had dementia due to
21 head trauma, which was related to the very significant
22 and severe brain injury he had in 2000 in a motor vehicle
23 accident.

24 Q. Yes, sir.

25 A. He had mood disorder related to that brain trauma.

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1 And that mood disorder was really more like having a
2 bipolar manic kind of disorder. Bipolar is a mood
3 disorder as is depression. He would have some type of
4 hyper-manic where he would be very active, make poor
5 decisions.

6 And he also would have some depressive periods when
7 he would attempt suicide. He was hospitalized several
8 times for a suicide attempt. And then he had a
9 personality change due to the brain injury.

10 It's very common when individuals have a frontal
11 lobe injury, they'll have a personality change. What
12 happens is you can take people that are very rigid,
13 prudish, et cetera, and they have a frontal lobe injury
14 and all of a sudden they become very uninhibited. Almost
15 profane language they use. They just don't -- aren't
16 able to screen and regulate their behaviors as they are.
17 And that's often interpreted as having personality
18 characteristics of an antisocial type. And it's not.
19 It's directly related to the frontal lobe syndrome that
20 they've had.

21 One of the most classic cases was a woman that was
22 involved in a cable car accident in -- I think it was
23 1958 -- which really started the research on frontal lobe
24 injuries. She had a brain injury that affected her
25 frontal lobe. Prior to that, she was very religious,

1 very rigid, very critical of people that were less than
2 adequate by her religion. After the brain injury, she
3 would use profane and obscene language, became
4 promiscuous, and very disinhibited and very sacrilegious.
5 And you know, that might be seen as antisocial.

6 Which the State sort of thought he had antisocial
7 characteristics. It's not. It's completely related to
8 the damage to the frontal lobes which he's had.

9 And then he had polysubstance dependence. He used
10 multiple drugs: alcohol, methamphetamine and drugs like
11 that. Of course, he hasn't been using those drugs for
12 the thirteen months he's been incarcerated.

13 He also had mild mental retardation on Axis II. We
14 actually see mental retardation as a developmental
15 disorder, not necessarily a psychiatric disorder in the
16 sense that you see depression or schizophrenia.

17 Q. Right.

18 A. And he had that. And you know, the State and I went
19 back and forth yesterday about his mental retardation and
20 whether that was preexisting. You know, it doesn't make
21 any difference for the purposes of this. It's the I.Q.
22 he had at the time of the offense, whether you attribute
23 it to the 2000 accident or birth. Consistent with school
24 performance and his achievement testing, I actually think
25 he has mild mental retardation that was exacerbated by

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1 the brain injury.

2 Q. Okay.

3 A. But in any event, he functions in the retardation
4 range.

5 Q. Was he mentally impaired at the time of the
6 incident?

7 A. He was.

8 Q. Okay. And that is your opinion?

9 A. That is my opinion.

10 Q. And that is based on your -- your background and
11 your evaluation and so forth; is that correct?

12 A. It's based upon my background, training and my
13 personal evaluation of him and his record.

14 Q. All right.

15 MR. ROBINSON: That's all I have, Your Honor,
16 of this witness.

17 THE COURT: Okay. Any cross-examination?

18 MR. CAMPBELL: Briefly.

19 CROSS-EXAMINATION

20 BY MR. CAMPBELL:

21 Q. Dr. Price ---

22 THE COURT: Let me see the report before you
23 ---

24 MR. ROBINSON: I'm sorry.

25 THE COURT: --- the one that's marked. Have

1 you got one?

2 MR. CAMPBELL: Yes, sir.

3 THE COURT: Oh, okay. That's fine.

4 Q. Dr. Price, what you're saying is -- you're not
5 saying he didn't know criminally responsible -- that he
6 knew right from wrong on the day of the incident on July
7 18, 2011?

8 A. That's correct.

9 Q. But what you're saying is, is that because of a
10 mental disease or defect, he lacked sufficient capacity
11 to conform his conduct to the law at that time?

12 A. Yes, sir. That's what I testified to yesterday.

13 Q. And you also testified that his I.Q. was, as you
14 labeled it, a sixty-eight; is that correct?

15 A. That's correct.

16 MR. CAMPBELL: No further questions.

17 THE COURT: Okay. Based upon the doctor's
18 report that's marked -- that's going to be marked as
19 Court's Exhibit Number 2, and based upon his testimony,
20 the Court finds that he sufficiently has a mental illness
21 or defect where he could not appreciate his conduct at
22 the time the crime was committed on July 18th, 2011, I
23 will accept his plea of guilty but mentally ill.

24 Now, as far as sentencing, who would like to go
25 first? The State or the Defendant?

1 MR. CAMPBELL: However, you want to do it, Your
2 Honor.

3 THE COURT: Okay. Before we do that, I wanted
4 to ask the doctor a couple of questions prior to
5 sentencing so he can go.

6 Doctor, based upon your diagnosis, what -- is there
7 any treatment process that can be administered? And
8 basically, my concern is he basically just shot a man in
9 the head. Now, whether he -- so to me, that means he's a
10 danger to society. So I have an obligation to protect
11 society to a certain extent. So my concern is, can he be
12 treated where this doesn't possibly happen again? I know
13 nobody can be assured of that. But what kind of
14 treatment can be processed, or is he always going to be
15 able to be influenced by people because of his
16 retardation?

17 THE WITNESS: That's a very, very good
18 question, Your Honor. And I'm going to make it a little
19 bit harder to answer by telling you that the mentally
20 retarded population is four times as likely as the
21 general population to have psychiatric disorders as part
22 of that. So it's really a complex thing. And the two
23 things you have here is you have mental retardation, and
24 then you have the brain injury that contributes to three
25 of his diagnoses. You know, he has been treated

1 successfully just by incarceration. Because by
2 incarceration, he has not been able to use drugs which
3 limits some of the -- when you take some of the brain
4 injury, and even a small amount of alcohol or drugs can
5 really exacerbate their function, really inflame it. So
6 the restriction from that has certainly been beneficial.

7 He has been treated in the past with a number of
8 things like antidepressants and medications like that.
9 And some of those medications can be effective. Like I
10 suspect the treating psychiatrist, that will get to know
11 him on a regular basis because of the mood disorder
12 related to brain trauma and it having sort of a bipolar
13 emphasis, will put him on some type of mood stabilizer
14 like Depacote, Lithium. There's a number of different
15 things that they can do. And I'm not sure what's on the
16 state's formulary that they elect to use.

17 One of the other things, Your Honor, that we know of
18 young males his age with these kind of problems, they
19 become less problems as they age. In other words, forty-
20 year-olds don't cause the same problems, psychiatrically
21 or criminally, that twenty-year-olds cause for whatever
22 reason. It's also true if you take the biggest
23 sociopath, anti-social personality in the world, they're
24 a different person at forty-five than they were at
25 twenty-five. I can't tell you why -- neither can anybody

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1 else -- other than the aging process seems to moderate
2 that. There are some drugs. And actually, he -- he --
3 his maintenance -- and whenever he would be released from
4 prison -- it's probably going to be facilitated by
5 reasonable medical management. That's a psychiatric
6 management, again, through the use of a mood stabilizer
7 to calm him. Some of it is just consistent management.

8 You know, in the old days, that's basically how we
9 managed the mentally retarded. We put them in
10 institutions such as Whitten Village and managed them
11 that way. We've come a lot farther along since then and
12 understand how things can contribute when we treat those
13 different things.

14 You know -- and not being disrespectful to the
15 deceased family. But you know, he did shoot -- shoot
16 that man, but he doesn't have a history of violence. He
17 has a history of crimes related to poor judgment, but not
18 aggressive or violent crimes. And I think that the
19 chances of him being violent are actually pretty low.
20 That the chances of him making poor decisions that impact
21 him, such as what led him to have that leg shot off, is
22 probably higher than the average person without any
23 psychiatric disorders and mental retardation.

24 I don't know if I confused you more or answered your
25 question. There are some things that can be done. It's

1 a maintenance kind of thing. There's not a cure for
2 mental retardation. And when you have a severe brain
3 injury like -- and I know we've all read a lot about
4 brain injury because of what's going on in football and
5 the N.F.L. players. When you have a mild traumatic brain
6 injury, you recover within hours to days. When you have
7 a moderate brain injury -- and you recover completely.
8 When you have a moderate brain injury, that is, you have
9 a Glasgow Coma Scale between eight and twelve, your loss
10 of consciousness is less than twenty-four hours and you
11 don't have that horrendous a neurological exam, as he
12 would have had because of the hematoma and whatnot, you
13 recover most of your pre-morbid abilities back but not
14 all of them.

15 When you have a severe brain injury like he has had,
16 you make some recovery from where you were. And he's
17 lucky to be alive. I mean, he went from being perceived
18 as going to be a fatality to still being alive. You
19 recover some, but you don't recover as much as you would
20 in moderate. And it becomes a management problem as it
21 has been for him.

22 THE COURT: Okay. Thank you so very much.

23 I'll be glad to hear from the State on sentencing.
24 And I -- you said -- I believe you informed the Court
25 that you would like to -- the victims would like to say

1 something. Any reason the doctor can't be excused?

2 MR. CAMPBELL: No reason.

3 THE COURT: Thank you so very much, Doctor.

4 THE WITNESS: Thank you.

5 THE COURT: I appreciate you coming back.

6 Thank you for your information.

7 Where does this form show the guilty but mentally
8 ill to you? Is there a block for it, or do I have to
9 write in?

10 MR. CAMPBELL: No, sir. There is no -- there
11 is no block for it.

12 THE COURT: Okay. All right. Is there a
13 special C.D.R. code for it, or do you know?

14 MR. CAMPBELL: That, I do not know, Your Honor.
15 It -- I know it's § 17 ---

16 THE COURT: Can we find that out?

17 MR. CAMPBELL § 17-24-20 is the code section
18 regarding the guilty but mentally ill.

19 THE COURT: Which one?

20 MR. CAMPBELL: § 17-24-20 is the code section.

21 And I can -- I'll hand my book up.

22 THE COURT: § 17- what? I'm sorry?

23 MR. CAMPBELL: § 17, section § 17-24-20 is the
24 code section regarding guilty but mentally ill.

25 THE COURT: Okay. Do you have somebody that

1 could maybe look up to see if there's a special C.D.R.
2 code for it? Because the C.D.R. code here is murder.

3 THE CLERK: We're getting it.

4 THE COURT: Pardon?

5 THE CLERK: I'm getting it for you.

6 THE COURT: Okay. All right. All right. I'll
7 be glad to hear you.

8 MR. CAMPBELL: Your Honor, I'll just go into
9 his record. Before you also is Glenna Price. She is Mr.
10 Craft's daughter. And she wishes to address the Court at
11 the appropriate time. And also, Detective Todd Owens,
12 who was the lead Investigator, I'm going to let him fill
13 you in on some of the facts that didn't come out ---

14 THE COURT: Okay.

15 MR. CAMPBELL --- in this case. He can tell it
16 better than I can being the lead investigator.

17 Mr. Alley's criminal history in '01 is just a simple
18 possession of marijuana, trespass; '02 driving under
19 suspension, disorder conduct; in '07 he had a -- pled
20 guilty to possession of meth. And then in '09, he pled
21 guilty to habitual traffic offender, D.U.S. That's prior
22 to this case what his criminal history is. And I don't
23 know at which point you want to go ahead and hear the
24 facts of the case.

25 THE COURT: That'll be fine, yeah.

1 MR. CAMPBELL: And your Honor, I'm going to let
2 Detective -- Sergeant Todd Owens give you the facts. He
3 was the lead case officer.

4 THE COURT: Okay.

5 MR. CAMPBELL: And he can give you more about
6 it than I can.

7 THE COURT: I'll be glad to hear you, Detective
8 Owens.

9 DETECTIVE OWENS: What we discovered when we
10 arrived on the scene was Mr. Craft was at the home. He
11 was undressed from the waist down, in a white shirt. He
12 was laying face down on his side, left side, a little
13 bit. There was a large pool of blood around him, and
14 there was a lot of markings in the blood, as appeared he
15 was either crawling or trying to get up. He had trauma
16 about his face, and we later discovered that he had a
17 gunshot wound through the mouth, into the tongue. And
18 the projectile came to rest in the left clavicle area of
19 his chest cavity.

20 We looked at the scene itself. There was a hospital
21 bed there and there was some blood in front of the
22 hospital bed over to where he expired tragically.

23 The home was unlocked. The door had not been locked
24 and had not been forced open. And there was actually a
25 sign there that said, "Knock. If I do not answer, come

1 on in." Evidently, he was hard of hearing we discovered
2 later on.

3 Went into the home itself. In the back, there were
4 a lot of drawers totally pulled out, flipped upside down.
5 In the one bedroom in the back part of the house, the
6 bedroom was completely ransacked as if someone were
7 looking for particular items. Nothing else in the home
8 was touched except we found the phone cord -- part of the
9 phone cord where the phone had actually been jerked out
10 of the wall, close to where Mr. Craft had expired.

11 Later on in our investigation, we found out that one
12 of the co-defendants actually jerked the phone out of the
13 wall while he was crawling on his hands and knees toward
14 the phone basically to deny him the ability to call for
15 help.

16 In my investigation it was discovered that the whole
17 incident started over Mr. Bell, which is the great-
18 grandson of Mr. Craft, had escaped from a juvenile
19 facility in Greenville, met up on the phone with a friend
20 of his by the name of Charlie Robinson. They spoke on
21 the phone and came up with an escape plan basically for
22 Mr. Bell.

23 Mr. Robinson assisted Mr. Bell in escaping from this
24 juvenile facility. They traveled to the Honea Path area
25 in Anderson County. While there, they began to drink

1 alcohol, beer specifically, and use methamphetamine.

2 After they ran out of the money that they did have
3 just within a few hours, Mr. Bell -- Mr. Robinson said,
4 we need to get some money from some individuals for some
5 more drugs. And Mr. Bell came up with the idea of well,
6 hey, my grandfather lives down here. We can go get some
7 money from him.

8 Later on that evening, they acquired some money from
9 some other people that owed Mr. Robinson for some drugs.
10 And he gave them -- or they gave Mr. Robinson some money,
11 so it supplied the immediate need.

12 Later on that night, once it become dark, they went
13 to Mr. Alley's house. There at Mr. Alley's house they
14 continued to drink alcohol and continued to use
15 methamphetamine. And Mr. Robinson brought up in question
16 to Mr. Bell, didn't you say something about one of your
17 family members had money? And he said, yeah, my
18 grandfather. He said, I could go ask him for some money.
19 And Mr. Robinson and Mr. Alley said, no, we need to go
20 take that money. And so that's when the robbery plan was
21 hatched.

22 At that point, they did not have any transportation
23 because they had been walking and getting rides from
24 other people. They decided to walk to the store to get
25 some food because basically they'd become hungry due to

1 this large amount of time partying.

2 When they went to the Spinx store in Honea Path,
3 they met up with a girl by the name of Holly Whitfield.
4 She was in her red car, her Honda car. They told her
5 what they were planning to do. She said and agreed,
6 yeah, I'll help.

7 So at that point, they all went back to Mr. Alley's
8 house. Mr. Alley retrieved his handgun that he owned,
9 made sure it was loaded and put on a mask and gloves to
10 disguise himself and disguise his fingerprints -- cover
11 up his fingerprints so he didn't leave any. The others
12 followed suit. Mr. Bell did not have a mask, and they
13 did not have one for him. And Mr. Alley actually gave
14 him one of the stockings that he uses for his amputated
15 limb to put over his face, and Mr. Bell wore that.

16 After they came up with a plan, Mr. Alley and Mr.
17 Robinson both had weapons. Mr. Bell says he pleaded with
18 them, do not take loaded weapons in there. I don't want
19 anybody to get hurt. And Mr. Alley said, no, nobody's
20 taking my gun away from me. And Mr. Robinson said,
21 you're crazy. I'm taking my gun.

22 They go in Holly Whitfield's car, drive to the
23 residence. Mr. Bell gives them directions to where it's
24 at. They get out at the house, go in. Mr. Bell and Ms.
25 Whitfield go first. And they go in and go straight past

1 Mr. Craft -- because he's sleeping in the front room of
2 the house where his wife who had just recently deceased
3 had been on a hospital bed. He had taken up the habit
4 sleeping on that hospital bed after she had passed. They
5 run past him, head straight to the back because Mr. Bell
6 said that is where the money was kept.

7 From there, Mr. Robinson comes in and Mr. Alley has
8 fallen behind. Due to his amputated limb, it takes him a
9 little longer to get out of the car and get up to the
10 residence. There Mr. Robinson confronts Mr. Craft, who
11 is then waking up due to the noise in the house. He
12 starts to sit up. At that time, Mr. Alley is in the home
13 and Mr. Robinson reaches over, hits Mr. Craft in the
14 face, knocks him back onto the bed. Mr. Craft sits back
15 up, starts to get up again, Mr. Robinson hits him again
16 and tells him to stay where he's at. Mr. Alley,
17 according to his statement, stepped up and said, if you
18 get up, I'll shoot you. Mr. Craft said, I've got to pee,
19 and had his hands up and said, I've got to pee. Went to
20 stand up and step toward Mr. Alley. And when he did, Mr.
21 Alley told me that he shot him in the face out of
22 reaction. Shot him in the face. He fell. They looked
23 at each other, ran out of the home.

24 Mr. Bell came from the back because he heard the
25 shot, saw his grandfather crawling, bleeding, stepped

1 over him, went to his overalls and took his wallet from
2 his overalls and took the entire wallet with him. Ms.
3 Whitfield came out, saw Mr. Craft crawling, bleeding.
4 Don't know if she did it on her own or if Mr. Bell told
5 her or someone else was giving instructions, but she took
6 the phone and the cord, jerked it out of the wall so he
7 couldn't call for help, and they all ran out of the house
8 leaving the door open and unsecure.

9 Mr. Craft, according to the Coroner's Office, was
10 alive for some time. He moved approximately fifteen
11 feet, maybe crawling. And for some time, once he became
12 weaker and weaker, tried to get back up. And that's why
13 we had such a large pool of blood and such -- and the
14 streaks and some furniture knocked over with blood
15 spatter on them. But he eventually succumbed to -- to
16 his wounds.

17 When they left there, they went back to Mr. Alley's
18 house. Mr. Alley -- at Mr. Alley's house, Mr. Alley got
19 a black trash bag. They took the gloves, the mask and
20 put them into this black trash bag. They kept the
21 weapons with them, and they all left and went to
22 Greenville.

23 On the way to Greenville, they went over Erwin Mill
24 Bridge. There, Mr. Alley took his weapon that he'd used
25 and shot the remainder of the magazine out of his gun to

1 empty all the bullets out of it so they couldn't be
2 traced. Then once the slide locked back, took and threw
3 the weapon off the bridge. They continued -- and took
4 his shoes off and told the others to take their shoes
5 off. And they all threw their shoes in the river as well
6 and then continued on to Greenville.

7 Once in Greenville, they stayed at an abandoned
8 apartment complex that Ms. Whitfield had once stayed at,
9 stayed there overnight.

10 And then the next day they went to a apartment
11 complex called Harts Cove in Oconee County -- or Pickens
12 County in the Clemson area. There, using the money they
13 had taken from Mr. Craft, which was approximately two
14 hundred and sixty dollars -- and they split it up in
15 approximately fifty dollar increments between the four of
16 them -- they ordered pizza, played on the Internet there.
17 We've got photographs of them on surveillance at this --
18 it's kind of like a community pool house that members of
19 the apartment complex can use to entertain, play pool,
20 swim in the swimming pool, use the Internet, that type
21 thing. They hung out there the remainder of the day.

22 Early afternoon, three or four o'clock, they
23 returned to the Honea Path area. At that time, they
24 pulled off a dirt road and took the black trash bag and
25 used an accelerate, and Mr. Robinson and Mr. Alley burned

1 the black trash bag while Mr. Bell sat in the vehicle.
2 Because at this time, he'd seen the news and realized his
3 grandfather had died or his great-grandfather had died.
4 And Ms. Whitfield drove the car, and she stayed in the
5 car while they burned the items to cover up the evidence.
6 The phone -- and I left out, the phone was in there as
7 well that they'd taken out of the house.

8 From there, they went back to Honea Path. Mr. Alley
9 got out at his house. Mr. Robinson and Mr. Bell went to
10 Rock Hill area and dropped Mr. Bell off and Mr. Robinson
11 returned back to the Honea Path area and Ms. Whitfield
12 went to a friend's house and eventually went home.

13 And that is when we got involved the next morning.
14 Her father saw her. It was early and he saw her in the
15 car earlier that afternoon with these individuals. And
16 he found her the next morning and started talking to her,
17 and that's how he got the information that she had been
18 with them and they had been involved in this crime. And
19 that's what turned us on to it.

20 THE COURT: Okay. Thank you very much.

21 GLENNA PRICE: The family of Glenn Craft
22 requests that Chase Alley not be allowed to ever get out
23 ---

24 THE COURT: What's your name? Would you state
25 -- tell me your name?

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1 GLENNA PRICE: Glenna Price.

2 THE COURT: Pardon?

3 GLENNA PRICE: Glenna Price.

4 THE COURT: Okay. Thank you, Ms. Price.

5 GLENNA PRICE: Okay. Do you want me to start?

6 THE COURT: Go ahead.

7 GLENNA PRICE: The family of Glenn Craft
8 requests that Chase Alley not be allowed to ever get out
9 of jail. The loss of my father has devastated my family.
10 I have one sister who is so upset and distraught over
11 this cold-blooded murder that she is not able to even
12 attend the trial.

13 My father was a good, Christian man. He loved and
14 took care of his family, and we loved him. I am so glad
15 that my mom, who had Alzheimer's, was not there. I
16 always wondered if she had been there if they would have
17 also killed her.

18 Your Honor, we again ask that you give him the
19 maximum sentence for this senseless killing of our
20 father.

21 I just have a question to ask Mr. Alley. How did it
22 feel to stick a gun in my dad's mouth and pull the
23 trigger?

24 Your Honor, I would like for Deputy Owens to speak.

25 DETECTIVE OWENS: She wanted me to convey the

1 site that I explained to them when they wanted to know
2 what had happened. And I did not want to give any
3 opinion during my factual representation of the case to
4 you. But in my opinion, this was very gruesome. It was
5 very quick decided. But it was also very calculated. If
6 an individual is asked, don't take your weapon, I can get
7 money from him without it, and they choose to take a
8 weapon anyway -- even if the individual says, we'll just
9 unload and take the bullets out and they refuse, that
10 shows to me a level of violence that I'm going -- or have
11 the potential if I need to to use violence.

12 We've heard from Dr. Price about the incident where
13 he makes bad decisions and especially the incident where
14 he lost his leg. I have, after my first dealing with Mr.
15 Alley, found out later on that the facts aren't exactly
16 like Dr. Price says. The reason the other individual was
17 not charged is not because Mr. Alley did not want to
18 prosecute him; it's because that individual was acting in
19 self-defense. Mr. Alley was on his property, threatening
20 him. So he was threatening him and the individual
21 homeowner used a firearm in self-defense to try to scare
22 Mr. Alley away and tragically shot him and took his leg.

23 I feel sorry for Mr. Alley's family and I feel sorry
24 for Mr. Alley for making bad decisions, but it doesn't
25 excuse his behavior. His behavior has been calculated.

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1 It has been harmful and it has devastated two families.
2 Not only Mr. Craft's family, but his own. I do think he
3 is a danger to society for the simple reason if he was
4 really truly remorseful or if he was truly acting and did
5 not know what he was doing, he would not have tried to
6 disguise forensically his fingerprints or his image by
7 covering up his face up with a mask. He would not have
8 tried to get rid of forensic evidence after the fact and
9 throw it into the river, while expending all of the
10 ammunition and getting rid of shoes. He would not have
11 -- I think guilt got to him after the fact. But it was
12 too little too late.

13 Mr. Craft was sleeping with nothing on but a white
14 t-shirt. Was beaten in the face until some of his teeth
15 fell out. He was hit twice that hard. Twice he got back
16 up. And all he wanted to do was use the restroom. And
17 out of sheer intimidation and -- I don't know any other
18 definition other than meanness -- he shot him in the face
19 because he stepped toward him. I do feel he is
20 dangerous, and I do feel that he needs to receive the
21 maximum.

22 THE COURT: Okay. Thank you so very much.

23 Solicitor, anything else?

24 MR. CAMPBELL: No, Your Honor.

25 THE COURT: Mr. Robinson, I'll be glad to hear

1 from you or anybody you'd like for me to hear from.

2 MR. ROBINSON: May it please the Court? Your
3 Honor, I've got the family here, but I wanted to ---

4 THE COURT: You've got what?

5 MR. ROBINSON: I've got the family here.

6 THE COURT: I'll be glad to hear from anybody
7 that would like to speak to me.

8 BETTY GUNNELS: My name is Betty Gunnels ---

9 THE COURT: Hold on just a second. Hold on
10 just a second.

11 Do they have one that's not guilty by reason of
12 insanity? That's not what I'm asking for. What I'm
13 asking for is the C.D.R. code for guilty but mentally
14 ill. There's two different things.

15 THE CLERK: Okay.

16 THE COURT: Okay. What you've got here doesn't
17 have anything to do with this plea.

18 THE CLERK: Okay.

19 THE COURT: Okay? This is a not guilty by
20 reason of insanity.

21 THE CLERK: Okay.

22 THE COURT: What he has is guilty but mentally
23 ill. And I'm just trying to find out if there's a
24 special C.D.R. code for that.

25 THE CLERK: Okay.

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1 THE COURT: Yes, ma'am. I'm sorry. What's
2 your name?

3 BETTY GUNNELS: My name is Betty Marie Gunnels.
4 I am Walter Chase Alley's mother.

5 THE COURT: Yes, ma'am.

6 BETTY GUNNELS: And what I wanted to say is
7 words cannot even begin to explain what a precious,
8 humble ---

9 THE COURT: Can you back off the speaker just a
10 little bit? It's sort of blurring what you're saying.

11 BETTY GUNNELS: Words can't begin to explain
12 what a wonderful, caring, loving person Chase Alley is.
13 He's -- up until and through his schooling, he got bad
14 grades but he loved outside. After the car wreck, he did
15 -- he was in a coma for two months. Two brain surgeries,
16 and a blind eye and trauma surgeries and learned to walk,
17 talk, eat and all that. Plus, then when he got shot, the
18 leg amputation.

19 So, therefore, all this has really played on his
20 mind. He's had to relearn how to even -- what he could
21 or couldn't do. And most of his dreams have been
22 stripped. But the fact is I know he was there. I know.
23 I've listened to everything. And that's a very kind
24 family. They're wonderful. Chase did not know when he
25 was getting in there what he was getting into. But I

1 understand that he has to be held accountable for his
2 actions. But I cannot see my son actually being cruel to
3 someone just because he was showing off or being mean.
4 That's not him. Most anybody you could ask, he's very
5 humble. He's very loving. He's very giving. He's a
6 very, very humble person and never starts trouble and
7 stuff. But he is -- the truth is, now, when he's with
8 other people, boys or whatever his age, he likes to
9 pretend that he's higher in school or maybe he'll
10 exaggerate. He can go a little faster than what he did
11 or, you know -- and it was like really and truly,
12 exaggerations to make himself look smarter so that they
13 couldn't recognize him.

14 But Chase has a little boy, a two-year old son that
15 he adores. Chase got married, you know, had an
16 apartment, his wife. And then when him and his wife
17 split up, his wife tested positive for methamphetamine.
18 And then it was found in my grand baby's system. This
19 was while Chase was in jail. So when Chase found out she
20 was doing all of this -- see, D.S.S. came and took the
21 baby when they were separated.

22 And he had been clean from drugs for three years,
23 lack of money. And he had done great. And he would go
24 to church and learn about God. He has such a wonderful
25 love for people. He truly does. He's -- he's got an

1 absolutely brilliant personality. And without all the
2 extenuating circumstances, the brain injures, him getting
3 shot, having to have his leg amputated, you know, with
4 being separated, them coming and getting his little boy.
5 And the most charges that has ever been against Chase, it
6 was stupid, petty, silly adolescent kind of stuff. And
7 as far as the meth, it was a small quantity that they
8 found. He went to N.A. for it, and he completed his
9 courses. He's completed everything that he's ever had to
10 do.

11 Like, when he's around me -- see, he'll pick up on
12 what a person likes, and he'll go out of his way to try
13 to do something to make them feel good that day. And I
14 know that if Chase had not been completely out of his
15 mind, he would not have been in that house trying to rob
16 that old man. I know that.

17 I do pray and ask, Your Honor, that you take my
18 words into consideration because they're completely
19 honest. It was a joy raising him and my daughter. They
20 were well-behaved, you know. And he's went to church.
21 And when he did get on drugs and he did go his self to a
22 facility and put his self in the hospital, he stayed at
23 Owl's Nest in Florence for four months. And he came out
24 and he done great for three years until the situation
25 where his wife got on drugs. And then she tested

1 positive for meth, and he wound up -- it was almost like
2 it was too much for his mind to handle. So he went back
3 to -- a drug addict, alcoholic, gambler, anything, if
4 they're in pain, what do they do? They go right back to
5 that familiar. We all know that.

6 So all I can say is, I ask that you take all this
7 into consideration and have mercy for him and, you know,
8 give -- do the best you can by him. Because I believe
9 that given time, under the right facilities, the right
10 medication and counseling, I believe -- because he needs
11 it for all of these things that he's been through, so
12 maybe where he could start to really become the man --
13 maybe the not the smartest man in the world, but he's a
14 good man and we love him very much.

15 Thank you.

16 THE COURT: Thank you so very much.

17 MR. ROBINSON: Your Honor, her name is Betty
18 Gunnels, and I gave that to the court reporter with the
19 spelling.

20 THE COURT: Okay.

21 MR. ROBINSON: My next person up is Joyce
22 Means, his aunt.

23 THE COURT: Is who?

24 MR. ROBINSON: Joyce Means.

25 THE COURT: Joyce Means.

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1 MR. ROBINSON: That's M-E -- M-E-A-N-S.

2 THE COURT: Ms. Means, I'll be glad to hear
3 you.

4 JOYCE MEANS: Your Honor, first of all, I would
5 just like to say that we have heard Dr. Price, and he is
6 an expert. He just confirmed a lot of what we already
7 knew.

8 And I'd like to express some of the things that
9 y'all don't know about Chase. Chase has had a very
10 difficult, very traumatic life. And he's had a lot of
11 pain and suffering. I can't even imagine. I walked
12 through a lot of that with him, but I cannot even imagine
13 enduring all that he has endured. And it is a result of
14 his brain injury.

15 He was a very athletic, a very popular young man.
16 Very good looking. He -- he worked. He said -- he did
17 work at a construction company for his dad. But he
18 worked at McDonald's, his first job. And he was so
19 proud. He had a little car, and he fixed it up. He did
20 stunt bike riding. He was very good at that. And he was
21 coming home from McDonald's one night. Yeah, he was
22 going a little bit fast. But the reason -- it was not
23 that he was just flying down the road and had the wreck.
24 His tire blew out going around a curve. And he went end
25 over end.

1 We were told at the hospital by Dr. Bucci -- he had
2 three surgeries. He had a craniotomy. He had to have a
3 hole drilled in the back of his skull to allow his brain
4 to swell. And then they had to go back in because he had
5 a blood clot. So technically he had -- well, drilling
6 the hole was -- I don't know if you call that a surgery
7 or not. I personally would, but I don't know medically
8 if that was a surgery. We was told by Dr. Bucci that
9 night that on a scale from one to ten, Chase was a zero
10 that night. But he made it.

11 And since then, Chase is so humble. He's loving.
12 He's giving. None of these things that he's been
13 through, the surgeries, the amputation of his leg, none
14 of those things have caused him to be bitter. He's still
15 just a sweet, humble, loving child.

16 He's a child. He's thirty, but he is a child. He's
17 our child. I have been taking care of him for
18 approximately the last ten years. I do his paperwork. I
19 take him where he needs to go. I make sure he has his
20 prosthesis, the liners when he needs them. Just
21 everything. I take care of him.

22 I go -- I would go to his house every night or text
23 him and say, are you in. And then I was -- do you need
24 anything? And then we would text each other good night.

25 This specific night, July the 18th, Chase had been

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1 with me all day with his son until about six-thirty. And
2 I called him that night about nine-thirty. And I said,
3 are you in. And he said, yes. He said, I'm just laying
4 on the couch about to knock out, meaning go to sleep. I
5 said, do you need anything. He said, no. And we said
6 good night.

7 The next thing I know, I'm getting a phone call
8 stating that Chase -- and this information came from the
9 Chief of Police, David King. His stepdaughter called and
10 said, Chase is about to be arrested for accessory to
11 murder. Not -- I mean, the testimonies were ...

12 Can I say all this? I can say what I want to say?

13 The testimonies said that he wasn't a suspect. He
14 was a suspect from the very beginning. Holly Whitfield
15 had told her story. And they already had it planned out.
16 They said that he was never in handcuffs.

17 THE COURT: Well, I mean, is your position he
18 didn't shoot Mr. Craft?

19 JOYCE MEANS: Excuse me?

20 THE COURT: Is your position he didn't shoot
21 Mr. Craft?

22 JOYCE MEANS: No. No.

23 THE COURT: Well, then if he's such a loving,
24 caring person, why did he shoot Mr. Craft in the mouth?

25 JOYCE MEANS: I don't think that he ---

1 THE COURT: Pardon?

2 JOYCE MEANS --- intentionally shot -- he
3 didn't intentionally shoot anybody. He's not a murderer.

4 THE COURT: Well, the gun didn't go off
5 accidentally. It didn't aim at Mr. Craft's mouth when he
6 pulled the trigger.

7 JOYCE MEANS: You don't think he could have ---

8 THE COURT: That's a fairly intentional act.

9 JOYCE MEANS: Well, Sheriff Skipper got on
10 television and said that it was an accident, that he
11 stumbled. I do know that his balance is horrible because
12 of the leg.

13 THE COURT: You know what?

14 JOYCE MEANS: I know that his balance is
15 horrible because of the leg.

16 THE COURT: Okay.

17 JOYCE MEANS: My intention was not to get up
18 here and say all this. My intention was just simply to
19 get up here and tell you how humble he is and that he is
20 a loving person and he is kind and giving. I've seen him
21 take his grocery money and buy school supplies for other
22 people's kids.

23 THE COURT: Well, I don't think there's any
24 question he's had a very tragic life.

25 JOYCE MEANS: Well, and that's correct. And I

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1 I know I don't need to go into all of it. I just hate that
2 people think that he's a hardened criminal because he's
3 not. He did a horrible thing. He was at a place he
4 should have never been at. These people went and got
5 him, knocked on his door, and woke him up. He was home
6 in the bed asleep.

7 I just would like -- I would just like to ask the
8 Court to have mercy on him. And I would pray that he
9 would get a minimum sentence. I would pray that his
10 illness would be taken into consideration.

11 I would also like to address the Craft family and
12 tell them how very sorry that my family and Chase are.
13 They have our deepest sympathy. I have prayed. I know
14 these sisters and I know this family. I have prayed for
15 each and every one of them.

16 THE COURT: Anything else?

17 JOYCE MEANS: (No verbal response)

18 THE COURT: Thank you very much for being here
19 and it's a tragedy for both families.

20 JOYCE MEANS: I know that.

21 THE COURT: It's a real tragedy to all.

22 JOYCE MEANS: Yes, sir.

23 THE COURT: To both families. And I'm awful
24 sorry it happened, but I can't undo what has transpired.
25 But thank you so very much for being here.

1 Anybody else, Mr. Robinson?

2 MR. ROBINSON: Your Honor, Chase would like to
3 address you.

4 THE COURT: I'm sorry?

5 MR. ROBINSON: Chase would like to address the
6 Court.

7 THE COURT: Okay.

8 I'll be glad to hear from you, Mr. Alley.

9 THE DEFENDANT: Your Honor, I just -- I want to
10 get up here today and tell everybody that I'm sorry, that
11 I'm really sorry to you, to the Craft Family, to my
12 family. I really ain't a bad person. Bad, bad mistake.

13 THE COURT: Well, what kind of drugs were you
14 taking that night?

15 THE DEFENDANT: I'm very sorry.

16 THE COURT: What kind of drugs were you using
17 that night? Meth or what?

18 THE DEFENDANT: Meth and benzos.

19 THE COURT: Meth mixed with what?

20 THE DEFENDANT: Benzos. Xanax bars.

21 THE COURT: How much had you been using?

22 THE DEFENDANT: I don't know. Maybe ten days.

23 THE COURT: Okay. All right. Anything else
24 you want to tell me?

25 THE DEFENDANT: Please don't take me away from

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1 my family forever.

2 THE COURT: Okay. Thank you. Thank you so
3 very much.

4 Mr. Robinson, anything you would like to add?

5 MR. ROBINSON: I do. I have a couple ---

6 THE DEFENDANT: I'm sorry.

7 MR. ROBINSON --- of points, Your Honor.

8 THE COURT: Okay.

9 MR. ROBINSON: Your Honor, I want to -- the
10 first point I want to get across is what Dr. Price
11 testified to. That is -- that is in these cases for a
12 person like Chase -- the limited record that he has in
13 this matter, age and so forth, treatment and so forth,
14 will make him a better person, will -- disease -- this
15 injury that he suffered, this closed-head injury with the
16 mild retardation, all that kind of thing, that will get
17 -- it will hopefully get better with age obviously.

18 THE COURT: Well, I mean, I understand what
19 you're saying. But the doctor also said that he is very
20 easily influenced.

21 MR. ROBINSON: Yes, sir.

22 THE COURT: So my concern if he gets out of
23 jail, who's going to influence him the next time when
24 he's under the use of drugs to do something else
25 horrible?

1 MR. ROBINSON: Yes, sir. Yes, sir.

2 THE COURT: And that's my concern. I don't
3 disagree with what the doctor said.

4 MR. ROBINSON: Yes, sir.

5 THE COURT: I mean, not only -- I mean,
6 confinement is a legitimate reason to punish someone to
7 keep them off the street so they don't hurt somebody
8 else.

9 MR. ROBINSON: Yes, sir.

10 THE COURT: I mean, I'll be glad to hear you on
11 that issue.

12 MR. ROBINSON: Well, I think -- I think the
13 issue that I want to get -- the point I want to get
14 across, Your Honor, is that the charge carries from
15 thirty years to life.

16 THE COURT: Right.

17 MR. ROBINSON: It is a day-for-day sentence in
18 this case. A sentence of thirty years, which is the
19 minimum sentence, day-for-day would put him at most being
20 out of jail when he's sixty.

21 THE COURT: It would put him out of jail --
22 he's got five hundred and sixty-seven days credit. It
23 would put him out of jail at fifty-eight.

24 MR. ROBINSON: Fifty-eight. At that point,
25 Your Honor, I don't -- that's way in the future, of

State v. Walter Case Alley
Guilty Plea Hearing

2011-GS-04-1722, 1723, 1724

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1 course. But the treatment, anything he gets in terms of
2 -- I mean, age is going to play a big part in this whole
3 thing. He won't hopefully be around the same people.
4 These people won't be around. But I believe that the
5 minimum sentence in this case would do the -- would --
6 would -- would punish him and send a message that this
7 kind of conduct is not good behavior. What we also have
8 here a different situation than a person standing before
9 you that has got a long record that has -- that is a
10 hundred percent, that has got a normal I.Q., things of
11 that nature. This is an impaired individual who has an
12 I.Q. of sixty-eight who's been tested by Dr. Price. He
13 reads at a fifth grade level. This is not the typical,
14 normal person that gets sentenced. There's -- there's a
15 reason for this statute of guilty but mentally ill. It's
16 to address these kind of situations.

17 THE COURT: Well, it's to address the mentally
18 ill so he can get help. Help for the mental illness
19 before they put him in general prison.

20 MR. ROBINSON: Yes, sir.

21 THE COURT: That's the purpose of the statute.

22 MR. ROBINSON: Yes, sir.

23 THE COURT: Not to put them back on the
24 streets.

25 MR. ROBINSON: Yes, sir. But if you could --

1 but I think the purpose is to help get him back to square
2 one, basically. And because of this impairment -- you
3 did hear from Dr. Price the effect that this impairment
4 had. And at the time of this incident, he did have this
5 impairment that he had. He did have this diagnosis by
6 Dr. Price in this matter.

7 And Your Honor, I just want to -- I want to step
8 back for one second in terms of -- I disagree with the
9 facts that the officer and the Solicitor have put
10 forward. I agree that he was part of this group, but I
11 believe he was not the ringleader. He was not even near
12 being the ringleader. I think that Chase was the fall
13 guy for these three individuals. I read the report of --
14 of the officer in this case. He did talk to Holly
15 Whitfield beforehand. He did get the statement from her,
16 and so forth, beforehand.

17 Charlie Bell and -- excuse me. Chad Bell and
18 Charlie Robinson were the ringleaders in this case.
19 Holly Whitfield had the car. Chase was the fall guy in
20 this matter. And I would submit to the Court that the
21 facts that this officer read -- that put across is the
22 rendition that all these folks pretty much got together
23 and concocted in this matter to put on this guy. But
24 Your Honor, I don't believe he's a ringleader. I think
25 he had a different kind of role than what they're trying

State v. Walter Case Alley
Guilty Plea Hearing

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1 to portray him as.

2 He has a serious disability. He's blind in one eye,
3 deaf, one leg. And we dispute the facts, obviously, as
4 well.

5 But Your Honor, I would ask the Court on behalf of
6 my client and his family for justice. Justice is not
7 putting someone away that's -- that has mental issues
8 like he has for the rest of his life. If he -- a minimum
9 sentence serves the purpose in this matter of -- of -- of
10 punishment, rehabilitation potentially and so forth.
11 That's what it serves because he is not the ringleader in
12 this case, and I'd request the minimum sentence in this
13 case, Your Honor, on behalf of Chase and the family.

14 THE COURT: He's twenty-nine; is that correct?

15 MR. ROBINSON: He's thirty, Your Honor.

16 THE COURT: He's thirty now?

17 MR. ROBINSON: Thirty.

18 THE COURT: Okay.

19 MR. CAMPBELL: Your Honor, may we approach just
20 for a second?

21 THE COURT: Yeah. Anybody come up with a
22 C.D.R. code?

23 (WHEREUPON, a bench conference was held off the
24 record.)

25 THE COURT: All right. Mr. Alley, indictment

State v. Walter Case Alley
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2011-GS-04-1722, 1723, 1724

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1 number 1723, you're sentenced to the State Department of
2 Corrections for a period of thirty-seven years. I'll
3 give you credit for the five hundred and sixty-seven
4 days. Thank you very much.

5 MR. ROBINSON: Thank you, Judge.

6 (WHEREUPON, the trial ended at approximately 4:00
7 p.m.)

8 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

State v. Walter Case Alley
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1

CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 4th and 5th days of February 2013.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14

September 25, 2012

15

16

Renee H. Tollison

17

Circuit Court Reporter

STATE OF SOUTH CAROLINA)

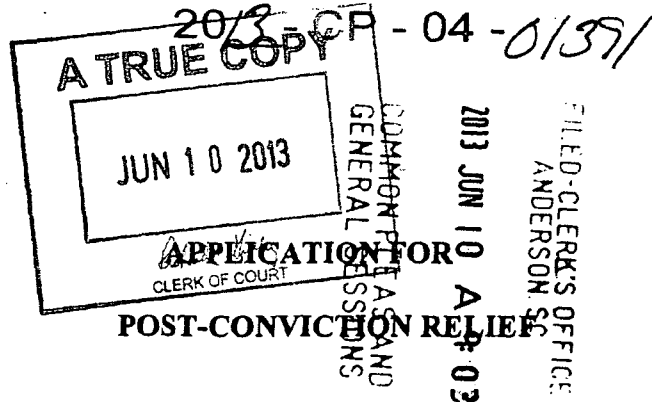
County of Anderson)

IN THE COURT OF COMMON PLEAS

Walter Chase Alley #354190)
 Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

**INSTRUCTIONS B READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland Receptional and Evaluation Center. 4344 Broad River Rd. Columbia, SC 29210
2. Name and location of Court which imposed sentence Anderson County Court House, 105 S. Main St., Anderson, SC 29622
3. Name(s) of co-defendant(s) (if any) Charlie Tyler Robinson
Holly Whitfield and Charles "Chad" Bell
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) I don't know what this is

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence: 215/13
- (a) Murder, mental illness - Special order to stay
- (b) in mental health facility. Not eligible for
- (c) Parole. 37 years day for day Order not done
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Encouraged by attorney Scott Robinson.
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence? No -
- Not until now
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing: He said there was
- (a) My attorney said this was good! No reason to
appeal. I did not understand the appeal
process. It was not explained to me by
my lawyer. I did not know how.

Plea
was
"Said"
to be
less
than
Sentence
but
got
more

Not applicable

(b) I was scared to death to make this decision
~~on the spur of the moment. Never been in~~
this kind of trouble before.

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Involuntary plea due to bad legal representation.
 (b) Ineffective Assistance of Counsel. Did not present my case
 (c) Lack of Attorney seeking out all of evidence & witnesses before court.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) ~~See page 8~~: See next page:
 (b) _____
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____

- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) I did not have an attorney to take action on fac
 (b) I am unaware of what procedure to take.
 (c) I do not have a lawyer now

17. Were you represented by an attorney at any time during the course of: Yes

(a) your arraignment and plea? Guilty, mental illness
 (b) your trial, if any? yes
 (c) your sentencing? 37 years day for day
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? none
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? none

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Scott D. Robinson, Esq @ 9 East Av.
Greenville SC 29601

ii.

iii.

(b) the proceedings at which each such attorney represented you:

i. Anderson County General Section
Court

ii. Guilty plea I did not agree to, I
was in a incompetant state of mind

iii.

19. State clearly the relief you seek in filing this application:

~~Petitioner~~ ~~have~~ Petitioner wish ~~to~~ to
have plea vacated

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of

Anderson

)
)
)
VERIFICATION

I, Walter Alley, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Walter Alley

SWORN to and subscribed before me this 30th
day of April, 2013.

Shirley D. P. - P. D. - P. D. (L.S.)
Notary Public

My Commission Expires: April 12, 2023

FILED-CLERK'S OFFICE
ANDERSON SC
2013 JUN 10 A 9:03
COMMON PLEAS AND
GENERAL SESSIONS

- ① Attorney didn't adequately contact with the defendant before plea
- ② Attorney didn't inform the defendant of all the evidence against him, or evidence that would have helped, etc.
- ③ Attorney failed in acquiring relevant information in defendant's possession which would have assisted in the preparation of his defense.
- ④ Attorney failed to have defendant prepared for trial or plea
- ⑤ Attorney failed to make an independent investigation of the facts and circumstances of the case.
- ⑥ Attorney had to big of case load to adequately represent defendant
- ⑦ Attorney didn't interview any witnesses prior to trial/plea.
- ⑧ Attorney failed to object admission of state evidence.
- ⑨ Attorney failed to investigate and consider valid defenses
- ⑩ Attorney failed to inform the defendant of what witnesses the state had testifying against him.
- ⑪ Attorney failed to give/inform the defendant of alternate courses of action.
- ⑫ Attorney failed to preserve issues for appellate review through timely and appropriate objection
- ⑬ Attorney failed to subject the prosecution's case to a meaningful adversarial testing.
- ⑭ Attorney and Prosecutor knew I was to be used as the "Fall guy" that was never mentioned and they let it happen to close the case.
- ⑮ The gun they had was not mine and ballistics said so.
- ⑯ Attorney gave me a different plea than the Judge. He acted like it was good with him and prosecutor when he told me about it.
- ⑰ He told me it would most likely be hand of one hand of all in SC. My sentence is very stiff according to my case worker and everyone. Co-defendants were the master minds, but I got 37 years, day for day. Charlie Robinson got 25 years and the other two go this month. They will get even less.
- ⑱ The Attorney never explained how it was an accident. He kept letting everyone change it to I was a cold blooded killer. No defense.

- 1, My attorney didn't try to have my case settle in a matter that would have my best advantage.
- 2, Did not protect my rights or preserve them, knowing I was not versed in the law.
- 3, I was never properly ~~infor~~ Consulted with or kept informed with my case.
- 4, My charges were never discussed or explained to me in elements.
- 5, I was not took through any of the evidence or nor w it explained to me how it would be used against me by the prosecution example: State Vs. Boyd.
- 6, The tactical Choices made or being made were never discussed with me.
- 7, My case was dictated exactly how it would be handled and offered no alternative options.
- 8, Because of intentional negligence there were a very serious error in both the facts on the law.
- 9, There was no witnesses called on my behalf that would have proven my innocence.
- 10, My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

~~Page 8:~~

Next page

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Walter Alley, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Walter Alley
Applicant

SWORN or affirmed to and subscribed before me this

30th day of April, 2013.

[Signature]
Notary Public

My Commission Expires: April 12, 2023

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ANDERSON SC
2013 JUN 10 A 9:03
COMMON PLEAS AND
GENERAL SESSIONS

Waller Alley 354190
 KCI 43 B F2
 4344 Broad Ave Rd
 Columbia SC 29210

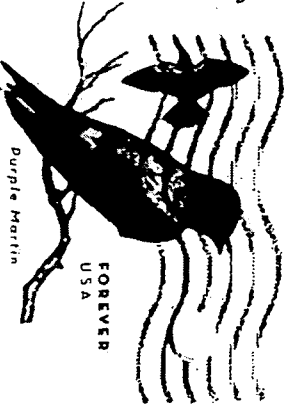
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Anderson County
 Clerk of Court

PB Box 8002

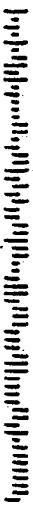
Anderson SC 29622

COMMON PLEAS AND
 GENERAL SESSIONS

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 ANDERSON SC

29622800202



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	Case No. 2013-CP-04-1391
Walter Chase Alley,	)	
S.C.D.C. No. 354190,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief filed June 10, 2013 would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the October 2011 term of the Anderson County Grand Jury for murder (2011-GS-04-1723). Applicant was represented by Scott Robinson, Esq. On February 4, 2013, the State called its case to trial. On February 5, 2013, Applicant entered a Guilty but Mentally Ill (GBMI) guilty plea as indicted. The Honorable J.C. Nicholson sentenced Applicant to thirty-seven (37) years imprisonment for murder. Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Anderson County Clerk of Court regarding the subject conviction, the applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:

- a. Failure to consult with Applicant prior to the plea hearing;
- b. Failure to inform Applicant of the State's evidence against him, or evidence that would have helped;
- c. Failure to "acquire relevant information in defendant's possession which would have assisted in the preparation of his defense;"
- d. Failure "to have defendant prepared for trial or plea;"
- e. Failure to conduct independent investigation of facts and circumstances of the case;
- f. Failure to balance case load when representing Applicant;
- g. Failure to interview witnesses prior to trial;
- h. Failure to object to the admission of State's evidence;
- i. Failure to investigate and consider valid defenses;
- j. Failure to inform defendant of witnesses that would testify against him;
- k. Failure "to inform defendant of what witnesses the State had testifying against him;"
- l. Failure "to subject the prosecution's case to a meaningful adversarial review;"
- m. "Attorney and Prosecutor knew I was to be used as the fall guy;"
- n. "The gun they had was not mine and the ballistics said so;"
- o. Failure to accurately convey the terms of the guilty plea offer;
- p. Applicant received "stiff" sentence compared to his more culpable co-defendants;
- q. Failure to present Applicant's version of the facts of the offense that the "incident was an accident;"

2. Involuntary Guilty Plea:

- a. Failure "to have case settled in most advantageous manner;"
- b. Failure to "protect or preserve defendant's rights;"
- c. Failure to explain the elements of the offense;
- d. Failure to consult Applicant in presenting defense theory of the case;
- e. Coerced into pleading guilty because of counsel's intentional negligence;
- f. Failure to present defense witnesses;

g. Failure to file a notice of appeal;

Any claims not specifically enumerated in the PCR application or amendments **not filed timely ten (10) days prior of the evidentiary hearing** will be opposed by the State, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a

reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered

conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

The Respondent submits that Applicant raises numerous allegations for Post-Conviction Relief that should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegations presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised these issues at trial or on appeal. His failure to do so has waived these allegations as grounds for relief. Therefore, the Court should summarily dismiss these allegations.

VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH

Chief Deputy Attorney General

KAREN C. RATIGAN

Senior Assistant Deputy Attorney General

J. WALT WHITMIRE

Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General

P.O. Box 11549

Columbia, SC 29211

Telephone: (803) 734-3737

Dec 31st, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE TENTH CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	2013-CP-04-1391
	)	
WALTER CHASE ALLEY, # 354190	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Hugh W. Welborn, Esq.
Post Office Box 173
Anderson, SC 29622

DATED this 31st day of December, 2013


Troyeski Brailey, Legal Assistant
For Respondent

State of South Carolina

County of Anderson

In the Court of Common Pleas

Walter Chase Alley,

Applicant,

-VS-

State of South Carolina,

Respondent.

2013-CP-04-1391

December 1, 2014

Transcript of Record

BEFORE:

The Honorable Carmen T. Mullen, Judge

APPEARANCES:

Hugh Welborn, Esquire
Attorney for the Applicant

John W. Whitmire, Esquire
Attorney for the State

Renee H. Tollison
Circuit Court Reporter

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Certificate of Reporter

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EXHIBITS

No	DESCRIPTION	ID	EV
A-1	<i>No exhibits were presented during the hearing</i>		
A-2			
A-3			

1 (WHEREUPON, court convened with all parties present
2 and the following proceedings were had commencing at
3 approximately 9:45 a.m.)

4 THE COURT: Good morning.

5 MR. WHITMIRE: Good morning, Judge.

6 THE COURT: It's my understanding you want to
7 call -- you tell me what case you'd like to do first.

8 MR. WHITMIRE: Chase Alley first in order to
9 get Mr. Robinson out of the courtroom. He's got another
10 case after this too. For that reason.

11 So the first case of the day is Chase Alley v. State
12 of South Carolina, 2013-CP-04-1391.

13 THE COURT: Okay.

14 MR. WHITMIRE: Mr. Alley was indicted for
15 murder at the October 2011 term of General Sessions.
16 February 4th, 2013, the State called this case to trial.
17 Mr. Alley was represented by Scott Robinson. The
18 following day he entered a guilty plea pursuant to a DVMI
19 [sic] finding. As indicted, Judge Nicholson sentenced
20 Mr. Alley to thirty-seven years imprisonment. He did not
21 appeal the sentence or conviction. He, however, did file
22 a timely post-conviction relief action.

23 He is present and represented by counsel. At this
24 time I would turn matters over to counsel to lay out the
25 allegations Mr. Alley is pursuing today.

Walter Chase Alley - Direct Examination by Mr. Welborn

4

1 THE COURT: Okay.

2 Good morning.

3 MR. WELBORN: Good morning. May it please the
4 Court.

5 THE COURT: Yes, sir.

6 MR. WELBORN: Your Honor, I'm Hugh Welborn.
7 I'm representing Chase Walter Alley [sic]. And at this
8 time I would call -- with the Court's permission, I will
9 call Mr. Alley to the stand.

10 THE COURT: Okay.

11 Come on forward, Mr. Alley, and we'll swear you in.

12 (WHEREUPON, the Applicant was duly sworn.)

13 MR. WELBORN: May it please the Court.

14 **WALTER CHASE ALLEY,**

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. WELBORN:

18 Q. You're Walter Chase Alley?

19 A. Yes, sir.

20 Q. Now, Mr. Alley, I'm going to talk a little bit loud
21 where everybody can hear me. Can you hear me okay?

22 A. Yes, sir.

23 Q. I'm going to ask you to speak up too, if you can.

24 You might even want to slide forward a little bit where
25 you can speak to the microphone.

1 A. All right.

2 Q. Mr. Alley, you're currently incarcerated for a plea
3 of guilty but mentally ill as to the charge of murder; is
4 that correct?

5 A. Yes, sir.

6 Q. And you had a sentence of thirty-seven years; is
7 that correct?

8 A. Yes, sir.

9 Q. Now, I'm going to ask you some questions. You filed
10 a post-conviction relief application with this court
11 sometime back, and that's why we're here today. In your
12 application, you've alleged several things. I'm going to
13 go through these one at a time and let you tell the Court
14 your position on them. Do you understand, sir?

15 A. Yes, sir.

16 Q. Now, we talked about this just the other day over
17 the telephone. It's going to be some of the same
18 questions. Do you remember that?

19 A. Yes, sir.

20 Q. All right. Here are my questions to you. You've
21 alleged in your application, the first thing, that there
22 was a failure of your -- it was a failure to consult.
23 Your lawyer failed to consult with you prior to the plea
24 hearing. Tell the Court about those facts of what
25 happened there and how he failed to consult with you.

1 A. Well, for starters, my own opinion of the case and
2 how things should have went was never took into
3 consideration. I don't think -- I think Mr. Robinson had
4 a plan all his own. And what I wanted or what I felt I
5 needed was never considered.

6 Q. And what were those things?

7 A. I wanted a plea bargain. I wanted to -- I wanted to
8 take responsibility for what my part in what was done,
9 but I was never given the opportunity.

10 Q. Now, when you say a plea bargain, you pled guilty
11 but mentally ill to murder. What were you hoping to
12 discuss as a plea bargain?

13 A. Armed robbery.

14 Q. And did you mention that to Mr. Robinson at some
15 point?

16 A. Yes, sir.

17 Q. What did he tell you?

18 A. To not worry about it, that he had it under control.

19 Q. Now -- but you say he failed to consult with you.

20 Are you telling the Court that was his failure to consult
21 with you?

22 A. To the best of my understanding, yes, sir. I mean,
23 I'm not familiar with what -- but yeah, that's what I
24 feel.

25 Q. Okay. You also allege that there was a failure of

1 your lawyer to inform you of the State's evidence against
2 you or evidence that would have helped you. Tell the
3 Court what you mean by that.

4 A. Well, there -- I don't think there was any evidence.
5 There was just statements. And he said that he was going
6 to subpoena character witnesses and different people to
7 -- on my behalf. And that was never done.

8 Q. Well, what State's evidence have you come to find
9 out he didn't tell you about?

10 A. I'm not -- I don't understand.

11 Q. You said he didn't tell you about some State's
12 evidence that would have helped you or that would have
13 been used against you.

14 A. Right.

15 Q. Tell me have you found what evidence that is after
16 your hearing?

17 A. Well, the evidence that the State had against me, he
18 told me in confidence -- he said that there was no
19 concern, that he was going to get rid of it. And I told
20 him that I didn't -- that was his whole thing about going
21 to trial. He said that he could get rid of the evidence.

22 Q. What evidence did he say that he could get rid of?

23 A. All the statements.

24 Q. All the statements. And besides that, what else?

25 A. That's it. I mean, that's all the evidence the

1 State had.

2 Q. All right. You also allege that there was a failure
3 by your lawyer to acquire relevant information in your
4 possession which would have assisted in the preparation
5 of your defense. What relevant information did he not
6 get?

7 A. My warrants wasn't signed. And I spoke to him about
8 that, and he said that it didn't matter. He didn't even
9 know what that meant as far as I could tell.

10 Q. Your warrants weren't signed?

11 A. No, sir, my warrants wasn't -- when I was arrested,
12 my warrants wasn't signed off by a judge. And I told him
13 that. And he acted like he didn't understand what I was
14 saying.

15 Q. Well, are you telling the Court that to this day,
16 these warrants were never signed?

17 A. Oh, no, sir. By the time I went to trial, the State
18 had a direct indictment against me. But for the first --
19 I'm not sure. I was in the County for eighteen months, I
20 believe. And my warrants -- I had never been given a
21 direct indictment up until I went to trial.

22 Q. All right. You also allege that there was a failure
23 to -- by your lawyer to have you prepared for a trial or
24 a plea. Tell how he failed to prepare you for a trial or
25 a plea.

1 A. I mean, throughout my sentencing -- or throughout my
2 incarceration at the County, he just -- more or less, he
3 would come and see me every so often. I mean, like once
4 every six months or so. It was just more or less he
5 would give me thumbs up and act like everything was okay.
6 I would ask him questions and stuff, and he would always
7 just beat around it. Like one time he came in and just
8 let me play with his iPad. And I mean, I don't know how
9 that was anything to do with my case.

10 Q. Well, did he talk about ---

11 A. No, sir.

12 Q. --- the evidence in this case?

13 A. Never.

14 Q. So what did y'all talk about when he came?

15 A. More or less, he called me stupid and told me to
16 agree with him.

17 Q. He did what, sir?

18 A. He would say that I was stupid and he would want me
19 to follow along with that. You know, that because of a
20 car wreck that I was in previous to this ---

21 Q. Let's talk about that for a moment. You were in a
22 car wreck at some point. Let's talk about your mental
23 situation. It's in the transcript.

24 A. Yes, sir.

25 Q. You've had -- previous, years ago, you've had some

1 injuries, and those injuries led to some brain injury; is
2 that correct?

3 A. Yes, sir.

4 Q. And I think the trial transcript indicated clearly
5 you have an IQ overall of around 68; is that correct?

6 A. I'm not familiar.

7 Q. Well, we talked about that over the phone the other
8 day. And that's in the transcript. And there's no
9 denial of that by anyone. Would you agree with that?

10 A. I reckon.

11 Q. So you had some problems understanding things.

12 Would you agree with that, sir?

13 A. If they said it.

14 Q. And did you talk to Mr. Robinson and say, "Mr.
15 Robinson, I'm having trouble understanding you. Can you
16 help me with this?"

17 A. Maybe not as much as I should have.

18 Q. Well, you said he didn't help you prepare for trial.
19 He knew about your mental problems, did he not?

20 A. Yes, sir.

21 Q. And did he help you when you asked questions to
22 explain things better?

23 A. No, sir.

24 Q. Now, you've also alleged that Mr. Robinson failed to
25 conduct an independent investigation of these facts and

1 circumstances. Now, he did have a private investigator
2 on this case, did he not?

3 A. Yes, sir.

4 Q. And I believe that that private investigator met
5 with you several times; is that correct?

6 A. Yes, sir.

7 Q. But you've alleged here that he didn't conduct an
8 independent investigation of the facts. How did he not
9 do that since he had a private investigator?

10 A. Well, even with the private investigator, there was
11 never anything that -- I mean, he never informed me of
12 anything. You know, he would come and see me and tell me
13 to be quiet. "Don't talk to other inmates," and such as
14 that. But as far as like telling me, "Well, I've spoke
15 to such and such, and I got this going on or I got that
16 going on because I talked ..." I never -- that was never
17 -- it was just more or less like friendly conversation
18 like trying to be my friend rather than be my
19 investigator.

20 Q. Well, I understand what you just said. But again,
21 can you tell the Court how there was a failure of this
22 private investigator to investigate the facts?

23 A. Because there was never anything investigated.

24 Q. All right. You've also alleged that there was a
25 failure to balance the caseload when representing you.

1 You're saying your lawyer failed to balance his caseload.

2 Do you mean he had too many things going on? Is that
3 what you mean?

4 A. Yes, sir.

5 Q. Tell the Court how you came to that conclusion.

6 A. Because there was other inmates in the County that
7 had hired Mr. Robinson ---

8 MR. WHITMIRE: Objection to relevance.

9 THE COURT: You can go ahead.

10 Q. Go ahead. Answer the question I asked you.

11 A. Well, I mean, it was just -- there was a -- at my
12 time of incarceration, there was several of us that had
13 the same -- that had Mr. Robinson for an attorney. And
14 he was just always working. I mean, he was never ---

15 Q. Can you tell the Court how you knew that his
16 caseload was too heavy? You know, lawyers have a lot of
17 cases. How can you tell the Court it was too much for
18 him?

19 A. Well, when my stuff was submitted as evidence at my
20 trial, he didn't even know certain things that was in my
21 discovery. So I mean, obviously he was overworked, or he
22 would have read mine.

23 Q. All right. You also allege that he failed to
24 interview witnesses prior to trial. Who did he fail to
25 interview?

1 A. My aunt, for one.

2 Q. And what is your aunt's full name?

3 A. Joyce Means.

4 Q. And if he had interviewed her, what would he have
5 found from her that the Court needs to know about?

6 A. That I was arrested and took into -- and I was took
7 into the City jail to wait for the sheriffs to come and
8 pick me up. I was read my Miranda rights. And none of
9 that was done. I mean, I don't understand.

10 Q. Would Ms. Means allege that maybe you had been
11 coerced in your confession? Is that what you're trying
12 to tell the Court?

13 A. Yes, sir.

14 Q. Okay. We'll have her testify in just a little bit.
15 Was there someone else he should have interviewed that he
16 didn't?

17 A. My co-defendants.

18 Q. Co-defendants?

19 A. Yes, sir.

20 Q. Okay. You don't know whether he interviewed them or
21 not?

22 A. No, sir.

23 Q. Now, they were represented by lawyers. Would that
24 be the truth?

25 A. To my knowledge, yes, sir.

1 Q. So he might not have permission to talk to
2 somebody's client. Would you agree with that?

3 A. I guess.

4 Q. Okay. Well, did you ask him, "Did you interview any
5 of these other co-defendants?"

6 A. No, sir.

7 Q. You didn't?

8 A. I mean, like I said, he always told me he had it
9 under control. I didn't know what to ask.

10 Q. Okay. You've alleged that he failed to object to
11 the admission of the State's evidence. What evidence is
12 that that he failed to object to?

13 A. (No verbal response)

14 Q. Did you hear me, sir?

15 A. Yes, I heard you. I was -- I'm having a hard time.
16 Getting nervous.

17 Q. Well, you take your time. And if I'm asking
18 something you don't understand, I want you to understand
19 it. So I'm going to slow down and ask you again. Okay?
20 Just take your time. Calm down about it.

21 You said that he failed to object to some admission
22 of State's evidence. Are you talking maybe about
23 statements that you've made?

24 A. Right. Well -- and there was a pistol that the
25 police had found. And they kept saying it was the murder

1 weapon, it was the murder weapon. But it wasn't my
2 pistol. It wasn't even the gun I had. I told him that,
3 and he never objected to it and said that, you know,
4 that's not mine.

5 Q. Well, there was some testimony -- so the Court can
6 understand, there was some testimony that you actually
7 led police officers and found a gun in the water; is that
8 correct?

9 A. Right.

10 Q. And ---

11 A. They didn't call my uncle though when -- my Aunt
12 Joyce's husband. He could have testified that that
13 wasn't my pistol. I mean, because like he knewed ---

14 Q. Well, here's my question then. So the Court
15 understands, whose pistol was it, and how did you know
16 where it was if it wasn't yours?

17 A. Lucky find, I reckon.

18 Q. Okay.

19 A. I mean, honest to goodness, it wasn't mine.

20 Q. All right. You've also alleged that there was a
21 failure to investigate and consider valid defenses. We
22 talked about the failure to investigate. What valid
23 defenses would you have had, Mr. Alley?

24 A. Just my background.

25 Q. Your background being you have some mental problems

1 because of various accidents. Is that fair to say?

2 A. And I never been in no trouble like this. You know?

3 I mean, they said that I -- it was my idea to go and rob

4 somebody. It was my -- you know, and I -- if they would

5 look at my criminal history, I ain't never did nothing

6 like this. I ain't never been in no serious trouble.

7 Q. So your defenses would be that you had some mental
8 problems understanding things due to prior injuries. Is
9 that it, or is there something else?

10 A. The influence. You're right. I mean, it was just
11 -- yes, sir.

12 Q. Okay. Now, if you don't understand my questions,
13 Mr. Alley, just tell me and I'll ---

14 A. I had a good doctor. I had a real good doctor. I
15 had a very sorry lawyer. There's a difference.

16 Q. Okay. We'll talk about that some more in a minute.

17 You also said that your lawyer failed to inform you
18 of witnesses that would testify against you. Who were
19 those witnesses that you've now found out that would
20 testify against you?

21 A. Sir?

22 Q. All right. You've alleged in your application that
23 Mr. Robinson, your lawyer, failed to tell you about
24 witnesses that would testify against you..

25 A. Right.

1 Q. Who were those witnesses that you should have known
2 about?

3 A. For one, there was a lady -- her name was Diane Ruth
4 -- was on the -- for the prosecutor.

5 Q. Yes.

6 A. And I had never heard anything about her being
7 involved.

8 Q. How did you find out about a Diane Ruth?

9 A. When the prosecutor called -- when they asked the
10 prosecutor did he have any witness, and he said that was
11 one of them. It's just one of the names I remember.

12 Q. What would Diane Ruth have testified to? Do you
13 know?

14 A. I have no idea.

15 Q. Who else?

16 A. That's the only one I can recall. I just -- that's
17 the only one I remember right this second.

18 Q. You also allege your lawyer failed to inform you of
19 what witnesses the State had testifying against you.
20 Well, we just answered that question. Is that fair to
21 say?

22 A. Yes, sir.

23 Q. All right. Let's go to the next one. You said your
24 lawyer failed to subject the Prosecution's case to a
25 meaningful adversarial review. What do you mean by that?

1 A. I'm not sure.

2 Q. Well, this is your application, right?

3 A. Right. And it was explained to me that I need to
4 put everything on this one time because if it didn't go
5 through this time, there was no turning back. So a lot
6 of questions that's on there, they sounded like they
7 meant something to me. But as far as like having a
8 specific answer like you're asking for right now, I'm not
9 prepared for that.

10 Q. Okay.

11 A. Because like I don't even -- I didn't write it
12 twice. I wrote it one time. I sent it to you guys.

13 Q. Did someone help ---

14 A. If I would have known that I was supposed to have an
15 answer for all these questions, I would have kept a copy
16 of it, and I would have made sure that I had these
17 answers prepared for you. But I didn't know to do that.

18 Q. Well, since this was your application, are you
19 saying that someone helped you and you just sort of let
20 them put stuff down? Is that what you're trying to tell
21 the Court?

22 A. I had help, but ---

23 Q. Okay. That's fine.

24 A. --- it's my P.C.R.

25 Q. I got it. Now, you also allege that your attorney

1 and the prosecutor knew you were going to be used as the
2 fall guy. Tell the Court what you mean by that.

3 A. Once everything happened, it was all my fault.
4 Everybody blamed me. The State blamed me. My co-
5 defendants blamed me. And this was after John Skipper
6 went on the news and said that it was a bad accident.

7 Q. Let's stop for just a moment so the Court
8 understands. Someone was killed, shot by a gun; is that
9 correct?

10 A. Yes, sir.

11 Q. And it was an older man?

12 A. Yes, sir.

13 Q. And allegedly you and two or three other people went
14 in there to his home late at night, and somebody shot
15 him. Is that fair to say?

16 A. Yes, sir.

17 Q. Now, you say you're being the fall guy. How did you
18 -- what did you mean by you were going to be the fall
19 guy? Why would they do that, and what do you mean by
20 that?

21 A. Well, after hindsight, I was at home minding my own
22 business. These three showed up at my house, went and
23 come and got me after doing some drugs.

24 Q. Three co-defendants?

25 A. Yes, sir.

1 Q. Yes, sir. Go ahead.

2 A. They're co-defendants, but they're not acquaintances
3 or friends or anything.

4 Q. I got you.

5 A. One just happens to be married to my daddy's wife,
6 and we know each other through association that way. We
7 all did drugs, and we all just happened to be doing drugs
8 together that night. Not that we usually did drugs
9 together. Just this one night, they came and got me to
10 do drugs with them. And all this happened. And I don't
11 believe that even they realized that anyone was going to
12 get killed. But I think before they ever showed up at my
13 house, it was, "If we get caught, we'll blame it on
14 Chase."

15 Q. Why would they do that? Because of your mental
16 condition?

17 A. They didn't care if I had a mental condition. They
18 just needed somebody to be in trouble instead of them.

19 Q. Okay. All right. Now, you also allege that the gun
20 -- you talked about this a little while ago. The gun
21 that they found wasn't yours, and the ballistics proved
22 it wasn't yours. Now, you said you led the police
23 officers to this gun in the water?

24 A. Yes, sir.

25 Q. So -- and then you testified how it wasn't yours and

1 it was a lucky find. So tell the Court about the rest.

2 You said the ballistics may sort of confirm this. What

3 do you mean?

4 A. Do what, now?

5 Q. The ballistics, you said, would have proven the gun

6 was not yours?

7 A. Right.

8 Q. How? Did you own a gun?

9 A. Yes, sir.

10 Q. And you're telling the Court that if they had done a

11 ballistics test, it would have not matched to ---

12 A. Right.

13 Q. --- to that gun in the water as being yours?

14 A. Right.

15 Q. So they didn't do a ballistics test at all?

16 A. I don't know. I mean, if they did, you'd have to

17 ask Mr. Robinson.

18 Q. All right.

19 A. That was his job, not mine.

20 Q. Now, you also say that there was a failure to convey

21 the terms of a guilty plea offer. What do you mean by

22 that?

23 A. Sir?

24 Q. You've alleged that Mr. Robinson failed to tell you

25 the terms of the guilty plea offer. What do you mean by

1 that statement?

2 A. Up until I -- up until he told me that I should
3 plead -- because he never said to plead guilty. Never
4 once the whole time I was in the County -- he never once
5 said, "You should plead guilty to this." And then two
6 days into trial, the prosecutor was like -- I don't know
7 exactly how it all happened. But my lawyer comes to me.
8 He was like, "You need to plead guilty. It's a good
9 thing." You know, "You're lucky."

10 Q. Well, when you say terms of a guilty plea, did he
11 not explain to you what it meant to plead guilty? Is
12 that what you're saying?

13 A. I signed a blank piece of paper. He brought me a
14 blank piece of paper. He said, "Sign this." I signed
15 it.

16 THE COURT: When you say a blank piece of
17 paper, sir, was it a sentencing sheet and nothing was
18 filled out yet; you just signed your name to a sentencing
19 sheet?

20 THE WITNESS: Right.

21 THE COURT: Okay.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Kind of like the middle of the
24 page?

25 THE WITNESS: And it was filled out when I got

1 it back.

2 THE COURT: Okay.

3 THE WITNESS: Does that make sense?

4 THE COURT: Yeah. And did you realize that you
5 were pleading guilty to murder?

6 THE WITNESS: I thought it was manslaughter.

7 THE COURT: Okay.

8 Q. All right. Mr. Alley, you also say that you
9 received a stiff sentence compared to your other more
10 guilty co-defendants. I'm changing the wording a little
11 bit for you. You got a different sentence. You got
12 thirty-seven years. What did your co-defendants receive?
13 Do you remember?

14 A. Charlie got twenty-seven years.

15 MR. WHITMIRE: Objection, hearsay.

16 THE COURT: That's fine. What did his co-
17 defendants get?

18 MR. WHITMIRE: I'm sorry, Your Honor.

19 THE COURT: That's fine. Go ahead.

20 Q. Go ahead and answer the question.

21 THE COURT: What did your co-defendants get?

22 A. Twenty-seven years, seventeen years and twelve
23 years.

24 Q. Now, you've alleged -- I think by your sentence you
25 mean that wasn't fair that you got a much stronger

1 sentence. Is that what you're trying to say?

2 A. Right.

3 Q. And what could your lawyer or should your lawyer
4 have done about that, if anything?

5 A. I'm not sure what he should have done. I feel like
6 he should have done something.

7 Q. Well, you feel like you were prejudiced by this
8 sentence. Is that fair to say?

9 A. Yes, sir.

10 THE COURT: Mr. Alley, let me ask you, your co-
11 defendants, did they plead guilty prior to your trial or
12 after the beginning of your trial?

13 THE WITNESS: After.

14 THE COURT: After you began? And were they
15 going to testify against you in your trial?

16 THE WITNESS: I don't know.

17 THE COURT: You don't know?

18 Q. All right. Mr. Alley, you also alleged that there
19 was a failure to present your version of the facts and
20 that this whole thing, this incident, this event, was an
21 accident. Do you understand what I just said?

22 A. That it was an accident?

23 Q. Let me restate it. You're saying in your
24 application that your lawyer failed to show that this was
25 an accident.

1 A. Right.

2 Q. How did he fail to show that this shooting was an
3 accident?

4 A. Because it was more about my IQ or my mental state
5 rather than what happened. Once the mental part of the
6 trial ---

7 Q. Well, let me see if I can rephrase this question a
8 little bit. We talked the other day. And I think you
9 suggested that the gun went off accidentally. Is that
10 what you said?

11 A. Yes, sir.

12 Q. Did you have the gun in your hand that went off
13 accidentally?

14 A. Yes, sir.

15 Q. And did you tell Mr. Robinson about that?

16 A. Yes, sir.

17 Q. And so you're saying that he should have used that
18 as a defense in some fashion?

19 A. Yes, sir.

20 Q. All right.

21 A. Or at least talk to the prosecutor about a plea
22 bargain. He didn't do that, and I asked him to several
23 times.

24 Q. Now, you've also alleged -- and I'm just going
25 through what you've put here. And I think this might be

1 a little repetitive, so work with me.

2 A. Yes, sir.

3 Q. ... that your lawyer failed to have the case settled
4 in an advantageous manner. Do you mean you should have
5 gotten a better deal? Is that it?

6 A. Yes, sir. Or at least work on one.

7 Q. I got you. You've alleged that your lawyer failed
8 to protect or preserve your rights. What do you mean by
9 that?

10 A. I just don't feel like he had my best interest at
11 heart. I think it was just ---

12 Q. How? What did he do that shows you that that
13 prejudiced you?

14 A. I mean, he never -- like I said, when he come in to
15 talk to me and stuff when I was at the County, it was
16 more like friendly, "How you doing? How you holding up?"
17 rather than telling me what he was doing to help me. He
18 never explained anything to me. He just told me
19 everything was going to be okay.

20 Q. How long would he talk to you?

21 A. Sir?

22 Q. When he would visit roughly about how long would he
23 stay with you?

24 A. Maybe thirty minutes.

25 Q. Now, you also allege that he failed to explain the

- 1 elements of the offense.
- 2 A. Right.
- 3 Q. He didn't tell you what murder consists of?
- 4 A. No, sir.
- 5 Q. At all?
- 6 A. No, sir.
- 7 Q. And you were charged with murder; is that correct?
- 8 A. Yes, sir.
- 9 Q. Now, if you had found out later -- and I guess you
- 10 knew what the elements were -- would you have pled guilty
- 11 to what you pled guilty to?
- 12 A. Absolutely not.
- 13 Q. Would you have insisted on going to trial?
- 14 A. No, sir.
- 15 Q. You would not?
- 16 A. Going to trial?
- 17 Q. Yes, sir.
- 18 A. I don't understand.
- 19 Q. If -- here's my question. If you knew now all this
- 20 stuff that you're telling the Court today ...
- 21 A. Yes, sir.
- 22 Q. ... would you have insisted on having a trial
- 23 instead of pleading guilty?
- 24 A. Yes, sir.
- 25 Q. That's what I'm asking. Thank you.

1 Now, you also allege that Mr. Robinson didn't tell
2 you his defense theory. Did he ever talk about defenses?

3 A. Just that doctor.

4 Q. And the doctor is the one that in the transcript is
5 the one that testified as to your mental condition, how
6 you, in his opinion, his expert opinion, you didn't
7 understand what was going on?

8 A. Right.

9 Q. That's who you're talking about?

10 A. Yes.

11 Q. Okay. And that was the one that you were using to
12 try to keep your statement out of evidence; is that
13 correct?

14 A. Yes.

15 Q. And the judge ultimately ruled that the statements
16 could come in; is that correct?

17 A. Yes, sir.

18 Q. So the Court understands. All right. Now, you've
19 also alleged that you were coerced into pleading guilty
20 because of your lawyer's, you called it, intentional
21 negligence. What do you mean by that?

22 A. I just -- whenever the discovery, the evidence, was
23 brought from the discovery, he didn't know what was in
24 there.

25 Q. What did he not know?

1 A. A statement I had made.

2 Q. And what statement was that?

3 A. I had stated to the police that I shot that man in
4 his face. And it was misconstrued. I don't know how it
5 was taken. I just said it. I meant it as an apology.

6 Q. You meant it as an apology?

7 A. Yes, sir. I meant it like I can't believe that
8 happened.

9 Q. All right. Now, you also allege that he failed to
10 present any kind of defense witnesses. Who would have
11 been defense witnesses for you?

12 A. My Aunt Joyce.

13 Q. And anyone else?

14 A. My Uncle Sam.

15 Q. And what's Uncle Sam's last name?

16 A. Means.

17 Q. Okay. What would he have testified to?

18 A. About that pistol not being mine.

19 Q. All right. So for the Court's understanding ---

20 A. I even tried to tell Mr. Robinson how to figure out
21 -- because I wasn't real sure who I had gotten the pistol
22 -- I know who I got the pistol from, but I didn't know --
23 I tried to tell him how to get in touch with them so that
24 they could say that it wasn't my pistol. You know? But
25 it was never brought up.

1 Q. So the Court understands this, Aunt Joyce Means is
2 here today; is that correct?

3 A. Yes, sir.

4 Q. And she's going to talk about what she felt was
5 coerced statements from you; is that correct?

6 A. Yes, sir.

7 Q. And Uncle Sam, now, he's not here today; is that
8 right?

9 A. No, sir.

10 Q. But he would have said that's not your gun?

11 A. Right.

12 Q. Would Aunt Joyce know that as well?

13 A. No, she wouldn't.

14 Q. All right. There's one more thing that you said.
15 You said that Mr. Robinson failed to file a notice of
16 appeal. Did you ask him to appeal this case?

17 A. Yes, sir.

18 Q. And do you have anything that would prove that? Any
19 kind of letter to him or writing or anything like that?

20 A. No, sir. I talked to my Aunt Joyce. My Aunt Joyce
21 is the one that helped me throughout all this. And as
22 soon as I got back to the County, I called her and asked
23 her to please get in touch with my -- with Mr. Robinson
24 and let him know that I wanted to appeal this.

25 Q. Okay. He never appealed it?

1 A. No, sir.

2 Q. Now -- and she probably will testify to that in a
3 few minutes?

4 A. Yes, sir.

5 Q. Now, a couple more questions and I'll wrap this up,
6 Mr. Alley, for you. What you're basically saying is that
7 because of these things, you were -- you involuntarily
8 felt like you were involuntarily pleading guilty?

9 A. Yes, sir.

10 Q. And but for that, you would have insisted on going
11 to a trial in this?

12 A. Yes, sir.

13 Q. Thank you. Answer anything the Court or opposing
14 counsel may have.

15 MR. WHITMIRE: May it please the Court.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. WHITMIRE:

19 Q. Good morning, Mr. Alley.

20 A. Yes, sir.

21 Q. This wasn't your first guilty plea, was it?

22 A. Sir?

23 Q. This wasn't your first guilty plea?

24 A. At all? Ever? No, sir.

25 Q. You pled guilty to possession of methamphetamine in

- 1 2001?
- 2 A. Yes, sir.
- 3 Q. Who was your attorney?
- 4 A. I forget his name.
- 5 Q. Was it in Anderson?
- 6 A. Yes.
- 7 Q. Was there anything different about your experience
- 8 in that case from the way Mr. Robinson handled your case?
- 9 A. I was guilty. I had meth on me.
- 10 Q. Did y'all review discovery?
- 11 A. No, sir.
- 12 Q. So you pled guilty and your first attorney never
- 13 reviewed discovery and talked about the elements of the
- 14 offense with you?
- 15 A. No, sir.
- 16 Q. Again in 2007 you pled guilty to possession of
- 17 methamphetamine?
- 18 A. That's the one time.
- 19 Q. Just one?
- 20 A. Yeah, just one time.
- 21 Q. In 2009 you pled guilty to habitual traffic
- 22 offender?
- 23 A. Yes, sir.
- 24 Q. Who was your attorney?
- 25 A. Same fellow.

1 Q. But you can't recall his name?

2 A. I know that sounds horrible.

3 Q. That's okay. But did y'all talk about the State's
4 case and the elements of habitual traffic offender?

5 A. No, sir.

6 Q. So you just showed up and pled guilty?

7 A. Yes, sir.

8 Q. Now, that same attorney you had on these two prior
9 cases, did he meet with you?

10 A. There wasn't no need to.

11 Q. Did you serve jail time on those cases?

12 A. No, sir.

13 Q. But you were out on bond at that time?

14 A. What do you mean?

15 Q. In ---

16 A. Yeah, between the offense and the court date, yes,
17 sir.

18 Q. Did you have any problems communicating with the
19 judge at those two prior pleas?

20 A. Not that I recall.

21 Q. Did you understand you were pleading guilty to
22 possession of meth in 2001?

23 A. Yes.

24 Q. Did you understand habitual traffic offender in
25 2009?

1 A. Yes, sir. I didn't know it was habitual, but I
2 remember. I mean, I know what you're talking about.
3 I've seen it since then.

4 Q. Now, correct me if I'm wrong. The plea you just
5 testified to, you thought you were pleading guilty to
6 manslaughter in front of Judge Nicholson?

7 A. Yes, sir.

8 Q. Mr. Robinson never reviewed the elements of murder
9 with you?

10 A. No, sir.

11 Q. Okay. And I believe you also just testified that
12 you spent about eighteen months in the County waiting on
13 trial in this case?

14 A. Yes, sir.

15 Q. And if I'm wrong on any of this, please correct me.
16 How many times did Mr. Robinson meet with you?

17 A. Maybe twelve.

18 Q. And his investigator, Mr. Baxter?

19 A. Probably eighteen.

20 Q. And in those thirty meetings, they never discussed
21 the evidence they got from the State in discovery?

22 A. No, sir.

23 Q. Again, correct me if I'm wrong. But what you're
24 testifying here today, you had no idea that your co-
25 defendant Bell may have given a statement to police?

1 A. I never read my discovery. I had asked about it,
2 but I was never told anything.

3 Q. So you had no idea your co-defendant, Holly
4 Whitfield, had similarly gave a statement to police?

5 A. It was never talked about with my attorney.

6 Q. They would just stop in and say hello to you and
7 just check on you? That was kind of the extent of what
8 they were doing?

9 A. Yes, sir.

10 Q. Okay. At some point during his representation, Mr.
11 Robinson had you evaluated by Dr. Price in Greenville?

12 A. Right.

13 Q. How many times did he meet with you?

14 A. Maybe six.

15 Q. And did you tell Mr. Robinson everything about your
16 statements to police?

17 A. My statement was never brought up.

18 Q. And again, correct me if I'm wrong. You voluntarily
19 went to the Honea Path Police Department the day after
20 this offense?

21 A. No, sir.

22 Q. Did you tell Mr. Robinson that?

23 A. Yes, sir.

24 Q. I'm confused. I think you just testified that your
25 statement was never brought up.

1 A. As far as I told him what had happened and what went
2 on. But as far as like what was written in the discovery
3 was never brought up.

4 Q. Okay. Did the police Mirandize you and read you
5 your rights?

6 A. Yes.

7 Q. Did you help identify your co-defendants in a
8 federal lineup after giving your statement?

9 A. Yeah.

10 Q. The following day you took them to a gun?

11 A. Yes, sir.

12 Q. And again, correct me if I'm wrong. But you're
13 alleging that Mr. Robinson should have investigated the
14 true owner of that gun?

15 A. Right.

16 Q. And correct me if I'm wrong again. It was just a
17 lucky find?

18 A. Right.

19 Q. Okay.

20 MR. WHITMIRE: Beg the Court's indulgence.

21 Q. Again, correct me if I'm wrong. But you brought up
22 several allegations today that you're upset Mr. Robinson
23 didn't get you a good plea deal?

24 A. Right.

25 Q. Do you recall if there ever was a plea offer from

1 the State?

2 A. No, sir.

3 Q. Did Mr. Robinson explain his plea negotiations with
4 you?

5 A. No, sir.

6 Q. Not once?

7 A. No.

8 Q. So your recollection is the State never offered to
9 drop the murder charge to anything lesser like
10 manslaughter?

11 A. Right.

12 Q. But you thought you were pleading guilty to
13 manslaughter the second day of trial?

14 A. Yes.

15 Q. Can you explain that, what led you to think you were
16 pleading guilty to manslaughter?

17 A. Because I knowed murder carried thirty years. And I
18 was told I was getting less than that. I was told I was
19 getting thirty years.

20 Q. Who told you that?

21 A. Mr. Robinson that -- the second day of the trial.
22 It was all really confusing. I mean, it wasn't explained
23 to me. I was just told to sign the plea bargain.

24 Q. Now, were you similarly confused on your two prior
25 pleas in 2001 and 2009?

1 A. No, sir.

2 Q. What made this case different?

3 A. I was in trouble this time. I wasn't guilty. I
4 mean, I wasn't guilty of murder.

5 Q. And again, just a few more questions. I believe
6 you're also raising the allegation that Mr. Robinson
7 should have investigated an accident theory of defense?

8 A. I told him. That's what I told him happened. He
9 never -- he said that it was okay, not to worry about it.

10 Q. And when did you tell him that?

11 A. The first time I ever met him.

12 Q. And correct me if I'm wrong. But you're not
13 contesting that you were holding the gun that fired that
14 killed the victim?

15 A. I'm saying -- sir?

16 Q. So you're not contesting it?

17 A. What does that mean? Contesting?

18 Q. You're not disputing or saying the police got it
19 wrong when you gave the statement that you were holding
20 the gun that fired; it just went off by accident?

21 A. Right.

22 MR. WHITMIRE: No further questions, Your
23 Honor.

24 Thank you, Mr. Alley.

25 THE COURT: Anything further from him?

1 MR. WELBORN: Not from this witness.

2 THE COURT: You may step down, Mr. Alley.

3 MR. WELBORN: If it please the Court, we'd call
4 another witness.

5 THE COURT: Please.

6 MR. WELBORN: We call Joyce Means.

7 (WHEREUPON, the witness was duly sworn.)

8 MR. WELBORN: May it please the Court.

9 THE COURT: Yes, sir.

10 **JOYCE MEANS,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. WELBORN:

14 Q. You're Joyce Means?

15 A. Yes, sir.

16 Q. Ms. Means, can you hear me okay?

17 A. Yes, sir, I can.

18 Q. Ms. Means, what's your relationship to Chase Walter
19 Alley [sic]?

20 A. He's my nephew.

21 Q. Now, you're his aunt. Is his mother still alive, or
22 where is she?

23 A. She is still alive, and she's in the courtroom
24 today.

25 Q. Okay. Now, you're here to testify in his behalf.

1 Now, tell me the relationship you've had so far as him
2 being in your home or seeing him on a regular basis.

3 A. Chase lived with me for six years. And for the last
4 ten years, he's been pretty much more like a son to me
5 than a nephew because after he lived with me for that six
6 years, I just kind of took him under my wing. And I
7 helped him to get into his own apartment. And then two
8 years after he got into his own apartment, he had -- just
9 six months prior to this happening, we had got him into a
10 little house about five minutes away from me. And so he
11 was getting out on his own and just doing quite well.

12 After the six years, he had been clean and sober for
13 two years. Got married and had a child. Chase was doing
14 great until his marriage kind of went sour and he started
15 to dabble a little bit.

16 Q. All right. I'm going to ask you some question then
17 about this relationship.

18 A. Okay.

19 Q. What age is Chase as we speak today?

20 A. Chase is thirty-seven.

21 THE APPLICANT: Thirty-one.

22 A. Thirty-one. I'm sorry. It's Michael that's thirty-
23 seven. He's thirty-one.

24 Q. Thirty-one? Now, from what age did he start living
25 with you? At what age? The six years, when did that

1 begin?

2 A. Chase was -- he was about twenty, twenty-one when he
3 started to live with me.

4 Q. And so he lived with you until he was about twenty-
5 six, twenty-seven, somewhere in there?

6 A. Uh-huh (affirmative).

7 Q. And then he at some point -- well, you saw him every
8 day when he lived with you obviously; is that true?

9 A. Yes.

10 Q. Now, let's talk about his physical condition and his
11 mental condition so the Court understands a little bit
12 more. He had had some mental problems due to some
13 accidents. Tell the Court a little bit about what
14 happened and that sort of thing.

15 A. When Chase was seventeen, he had a very traumatic
16 car accident. He had -- he was following one of his
17 friends home from work to see that she got home safe.
18 And he was speeding a little bit. But he had a blowout
19 on his car and overcorrected, and the car started to flip
20 end over end and hit a telephone pole. And that pole hit
21 him in the side of his face. The rescue squad worker
22 said that there was actually brain matter on the ground.

23 Q. Okay.

24 A. So he has frontal lobe injuries and ---

25 Q. All right. I'm going to ---

1 A. Chase is about at age seventeen. To sum it up, he's
2 about age seventeen and will probably never get more than
3 that.

4 Q. Did this accident affect, from your observations,
5 his judgment on other things so far as who his friends
6 were?

7 A. Everything, yes.

8 Q. Now ---

9 A. Very easily influenced.

10 Q. And as a result of that particular brain injury,
11 were there some other problems such as a confrontation
12 where he got shot in the leg?

13 A. Uh-huh (affirmative).

14 Q. And that was after this accident happened; is that
15 correct?

16 A. That's correct.

17 Q. And so you've noticed those changes through the
18 years that would cause him to have a different attitude
19 and a different way of judging things.

20 A. Yes, sir.

21 Q. Is that fair to say?

22 A. Oh, yes.

23 Q. Now, let's talk about the event that happened here.

24 A. Okay.

25 Q. You said you saw him for the next ten years. So

1 you've stayed in touch?

2 A. Oh, yeah, even -- I saw him on a daily basis even
3 after he left. I mean, when I went and got dinner, I got
4 him dinner. I know everything he likes at every
5 restaurant. When I cooked, I called Chase to come home
6 and eat. And every night he texted me. Even the night
7 that this occurred. I had already called Chase to make
8 sure he was in for the night, and he was in.

9 Q. All right. Let's focus on the events that we talked
10 about in my office the other day. And those were the
11 fact that the allegations against him included
12 suggestions or statements that he allegedly voluntarily
13 made on his own. And tell me about those statements and
14 your position as to whether or not they were truthfully
15 voluntarily given or if they were sort of pulled out of
16 him because of his mental condition.

17 A. I think he was coerced.

18 MR. WHITMIRE: Objection, hearsay.

19 Q. Were you with him ---

20 MR. WELBORN: I'm sorry. I didn't let the
21 Court rule.

22 THE COURT: Okay. Number one, she can testify,
23 but she wasn't there. I mean, my understanding is she
24 wasn't there. My question would be -- and maybe we need
25 to get to it -- is you pulled a jury on Monday. There

1 was Jackson v. Denno hearing all that day. Then I see
2 there was also the next morning before the jury was
3 coming back -- I'm assuming it's Dan DeFreese. It says
4 Mr. DeFreese testified as to the ballistics. Were you
5 there during all of this? Were you there during the jury
6 selection? Were you there during the guilty plea?

7 THE WITNESS: I was there during the whole
8 time.

9 THE COURT: Okay. Did you speak at his guilty
10 plea because I haven't gotten that far, quite frankly, in
11 the testimony yet.

12 THE WITNESS: I didn't get to speak. And I
13 actually -- a part of -- I think a part of the failure to
14 present a defense witness would have been me because I
15 had been with Chase when he was -- when we were pulled
16 over. The morning that he was taken in, he did not go to
17 the Honea Path Police Department and say, "Here I am. I
18 want to talk to y'all." That was a lie. I don't know
19 ---

20 MR. WHITMIRE: Again objection to hearsay.

21 THE WITNESS: An untruth.

22 THE COURT: Ms. Means, will you just tell me
23 what happened? How did he end up ---

24 THE WITNESS: Well, it was a lie because he was
25 with me.

1 THE COURT: Okay.

2 THE WITNESS: The chief of police David King's
3 stepdaughter called me because she was my stepdaughter at
4 one time also. Her father and my daughter's father are
5 the same person.

6 THE COURT: Okay.

7 THE WITNESS: Two different mothers.

8 THE COURT: Okay.

9 THE WITNESS: Same father. And so she's his
10 stepdaughter. She called me and said, "Chase is about to
11 be arrested."

12 MR. WHITMIRE: Objection to hearsay again.

13 THE WITNESS: It's not hearsay. She said it to
14 me. It's not hearsay if she said it to me.

15 THE COURT: That's okay. All right. So they
16 said that he was going to be arrested.

17 THE WITNESS: For accessory to murder.

18 THE COURT: So what did you do?

19 THE WITNESS: I went to Chase's home. And she
20 even told me the names of the co-defendants which were
21 not acquaintances or friends of his or anything. So I
22 went straight to Chase's home, and he was laid out on the
23 couch. I said, "Chase, where have you been?" And I had
24 missed him for a day. I won't lie. And I said, "Where
25 have you been?" And he said, "I've just been hanging out

1 with some friends." And so I named -- I said, "You've
2 been with, you know, Holly Whitfield, Chop (phonetic),"
3 this one and that. And I didn't know the other guy. And
4 he just looked at me like really strange. And I said,
5 "Well, Stephanie just called me, and you're about to be
6 arrested for accessory to murder." And I was angry. And
7 I just got up. He said, "I was with them a couple of
8 hours." And I could tell he was scared. And I got up
9 and I was about to leave. And he said, "Aunt Joyce, can
10 I go with you?" And I said, "Yeah." And so he got up,
11 and he went with me.

12 Well, we weren't two minutes up the road and clue --
13 and lights came on and we were pulled over. And the
14 officer asked him if he would go with him and voluntarily
15 talk to him. Now, that was -- he asked him if he would
16 voluntarily go. And Chase said, "Yes." Well, I had on
17 my pajamas because when I got a call like that, you know,
18 I just went. So he said, "I'm just going to the
19 station." And so Chase said, "Yes." And I said, "I'm
20 going home to get some clothes on. I'll be there in just
21 a minute."

22 Well, this is a little bitty town. And it don't --
23 we live in town. So it didn't take me five minutes. And
24 I got my clothes on. I just jerked on the first thing I
25 could find, and I was back up there. By the time I got

1 to the police department, they already had him in the car
2 and they were pulling out. And so they had no time to
3 question him, talk to him or anything. They were pulling
4 out.

5 So on the stand, Tommy Johnson said that he wasn't a
6 suspect at that time or anything. He just -- he went in.
7 All that was ---

8 THE COURT: I read the testimony.

9 THE WITNESS: Okay. Good. All of that was not
10 true. They already knew that he was -- Holly had already
11 made her comments or testimony or whatever. But anyway,
12 by the time I got there behind them and got to the
13 station -- they were saying that he wasn't in handcuffs
14 and all that. He was in handcuffs. But he did say he
15 wasn't under arrest. He said, "He's probably going to go
16 back home with you." And Chase said, "Well, can you take
17 these handcuffs off?" And he said, "When we get upstairs
18 to the interview room." And he said, "Well, can you at
19 least put them in front and, you know, loosen them up?"
20 And he said, "Well, I'm going to take them off when we
21 get up front." And he said, "I assure you you're not
22 under arrest. You're probably going to go back home with
23 your aunt." But he did say that twice.

24 And I went up there, and I waited for what seemed
25 like an eternity. But he come back out, and he said,

1 "I'm going to ..." He took me back to some office. And
2 he said, "Chase is going to be detained. He's, you know,
3 going to be charged with murder." And I got hysterical,
4 and I was like, "That's a lie." I said, "He did not
5 murder anybody. Chase would not hurt anybody." And he
6 said, "Well, he's admitted to his involvement, and he is
7 going to be detained." And I told him right then -- I
8 said, "He has a brain injury, and he's got to have an
9 attorney." I said, you know, "He has to have legal
10 counsel." He said, "Well, that's his right."

11 And they acted like they didn't know anything about
12 him having -- I mean, every one of them that got on the
13 stand acted like they didn't see the scars on his head.
14 They didn't -- I mean, and you just heard testimony from
15 him. You can tell he's confused. And they didn't see
16 it, none of them. And they know. They're from that
17 small town.

18 But then they made their remarks also about, you
19 know, his -- the way he had confrontations with his
20 girlfriend, at the school, where he worked or they made
21 their little smart remarks about how he was going too
22 fast or driving reckless. You know, they had their --
23 oh, and one of them -- it was Tommy Johnson that was
24 sitting beside -- behind my sister at the courtroom --
25 said that if it had been him -- I'm trying to think

1 exactly how he made the comment. He didn't -- I don't
2 know. He didn't -- I don't know how he made it. But
3 anyway, he wouldn't have just shot his leg off. He would
4 have did more damage than that. I mean, it's like they
5 all had it out for him anyway. And they all had their
6 little thing together.

7 But my point to that is -- all that being said -- is
8 that I went to Scott three times and asked him to put me
9 up there just to give the judge the opportunity to know
10 that he was not -- he did not go in -- you know, and it
11 wasn't that way. That he did feel coerced, and he is
12 easily, you know, pushed into saying things, and that it
13 was a typed confession. And that, you know, Holly was
14 giving testimony right in the next room just before him.
15 And I mean, there's even a statement -- I mean, one of
16 the statements is like -- and I know they probably have
17 to do this. But it's a 380 caliber handgun. He wouldn't
18 say it like that. He would say it's a 380 pistol or
19 something. But he wouldn't have said it like it was
20 typed in there.

21 But anyway, I went to Scott three times. I hate
22 Scott. He should have did what I asked him to do and put
23 me on the stand. And he did not. And then he told me
24 not to come back up there. But I was so upset I sent my
25 husband up there with a note, you know. And he still did

Joyce Means - Direct Examination by Mr. Welborn

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1 not put me up there as a witness. But yet, he sent me
2 and my sister both out of the courtroom because he said
3 we were going to be witnesses. But he still didn't use
4 us. And I just thought that was unfair of him.

5 And then the other thing is I did go back and ask
6 him -- like Chase had asked him to do an appeal. And he
7 still didn't do that.

8 And there was also the ---

9 THE COURT: Just so I'm clear, you're telling
10 me that you asked his attorney to do an appeal within the
11 ten days?

12 THE WITNESS: Uh-huh (affirmative). I went
13 back and asked him if Chase had asked him to, and he
14 said, "no." And he still didn't do it. Also, there was
15 an order that was -- the judge told him to do an order, a
16 special order, for Chase not to be with the general
17 public. And to my knowledge, that's never been done. A
18 special order has never been done.

19 Now, I will tell you that the prison says it don't
20 matter. But it matters to me because it's never been
21 done. And if they ever want to put him in the general
22 public, at least I would have some kind of leg to stand
23 on. Because he don't need to be with the general public.
24 He thinks he can make friends with everybody. And you
25 don't make friends with people in prison.

1 And I'm trying to think if there's -- what else? I
2 mean -- oh, the comment that he made, that was very
3 hurtful in that that was something that I felt was one of
4 the most important things. And it was meant to be an
5 apology. I mean, he blurts things out. That's part of
6 the brain injury is that you blurt things out. And he
7 wasn't prepared. He was like that was the first thing or
8 the first time he heard that comment. And he was like,
9 "What? He said that?" You know, and he should have been
10 prepared.

11 And he did tell me that he was overloaded with
12 cases. He told me that. So -- and there was -- as far
13 as the gun, the ballistics, there was ballistics done.
14 And the ballistics did not match. It wasn't a matter of
15 he should have done it; it was done, and the ballistics
16 did not match. So ...

17 THE COURT: I've read the testimony.

18 THE WITNESS: Yeah.

19 THE COURT: Dan DeFreese testified.

20 THE WITNESS: And my husband could testify. He
21 saw the gun. And as soon as he pulled that gun out, he
22 was like, "That's not Chase's gun." And we told him that
23 in the courtroom, but he didn't put my husband on the
24 stand.

25 And there was another guy, T.J. Campbell, that I

1 told him that he should have called. And he never called
2 him. I gave him the number. That could have just as
3 easily been Chase. He called him and asked him if he
4 would drive that night. Now, T.J. is in the hospital
5 about to die. But I'm sure I could get an affidavit from
6 him at this time. He's dying with Lou Gehrig's. But he
7 said that he asked him to drive that night.

8 And Mr. Robinson also told me that it had been
9 established between him and the prosecutor that Chase was
10 the fall guy. He told me that. But when we got in the
11 courtroom, it was like Chase was the mastermind or
12 something. These three other people, they had ties with
13 Mr. Craft. Chase had no ties with that man. Holly
14 cleaned his house. She knew that he was coming into some
15 money. They discussed it. It's in the testimony that
16 he's -- Chad, the grandson, and the other guy is at some
17 Cookie's house. And they're in a fight. And he says,
18 "Come on. I know where we can get some money." And you
19 know, he's like, "Is it a guarantee?" Or the other guy's
20 like, "Is it a guarantee?" And they had -- he has a
21 criminal record. Chase has no criminal record. He's
22 never been mean to anybody. Yes, he had a ---

23 MR. WHITMIRE: Objection.

24 THE WITNESS: --- meth ---

25 MR. WHITMIRE: Objection to relevance.

1 THE WITNESS: Well, I mean, you brought it up.

2 Meth and traffic. But nothing -- he never hurt anyone.

3 THE COURT: Overruled. Just let her testify.

4 THE WITNESS: I mean, you did.

5 A. I'm sorry. I thought I was doing what I was

6 supposed to do.

7 Q. No. You've answered the questions I would have

8 asked you. And I appreciate that. I think what you've

9 told the judge was in effect that he had some head

10 injuries, that some of the things they testified to about

11 his voluntariness to the statement was not true, and that

12 you feel that he was led to say things that, had someone

13 been with him and could have explained his injuries, he

14 wouldn't have done those things?

15 A. Right.

16 Q. He was led to a confession to something he didn't

17 do. Does that summarize it?

18 A. Exactly. And he did say that he asked for an

19 attorney and wasn't given one when he was in there.

20 Q. Thank you, Ms. Means.

21 A. Yes, sir.

22 Q. Please answer anything opposing counsel may have.

23 MR. WHITMIRE: Just a few questions, Your

24 Honor.

25

CROSS-EXAMINATION

1 BY MR. WHITMIRE:

2 Q. So it's your testimony today that Mr. Robinson sent
3 you home, wouldn't let you testify at the Denno hearing?

4 A. That's correct.

5 Q. But you were listed as a trial witness?

6 A. That's correct.

7 Q. Why were you listed as a trial witness?

8 A. Because I had told Scott everything I knew about the
9 arrest. He was with me. I knew that night that he was
10 home in the bed. I had already called and checked on
11 him. I called and checked on him about nine thirty that
12 night, and he had already told me that he was at home and
13 in the bed for the night. There was nothing in the
14 background except for the TV.

15 Q. And it's your testimony that -- just to get it
16 correct, it's your testimony here today that Mr. Robinson
17 told you to go home although you were a trial witness?

18 A. He -- I don't understand. I was there the entire
19 time. But I asked -- I was there the entire time. He
20 didn't tell me to go home from the courtroom, if that's
21 what you're asking me, no. But every time I asked him
22 was he going to put me on the stand, he said -- the first
23 time, it was, "Yes." The second time, it was,
24 "Probably." The third time, it was, "I don't know." And
25 he never put me on the stand.

1 Q. But you weren't present during those interviews with
2 the police, were you?

3 A. No.

4 Q. You weren't present at the Anderson County Sheriff's
5 Department?

6 A. I was.

7 Q. During the interview?

8 A. I was outside in a little lobby area for a lot of
9 the time, yes. I did follow him from the Honea Path
10 Police Department to the Sheriff's Department. And I sat
11 out there for quite a bit of time. And then I was called
12 back there to be told that he was going to be detained by
13 Tommy Johnson.

14 Q. And again, when you retained Mr. Robinson or you
15 paid the fee, you told all of this to him; correct?

16 A. I sure did.

17 Q. Did you ever meet with Brad Baxter, his
18 investigator?

19 A. Sure did.

20 Q. How many times?

21 A. Numerous times. I can't count them.

22 Q. So you were heavily involved in Mr. Alley's case?

23 A. Very heavily. I got notation -- I got a whole
24 binder. I've got dates and times every time we met and
25 who was with us. That's at Hugh Welborn's office.

1 Q. So -- okay. But you were present for some of these
2 jailhouse consultations Mr. Robinson had with Mr. Alley?

3 A. I was not.

4 Q. Not any of those thirty visits?

5 A. No. And I don't believe there was thirty visits. I
6 think he was confused about that.

7 Q. Or for the visits that Mr. Baxter and Mr. Robinson
8 made, you weren't present during those consultations,
9 were you?

10 A. I was not.

11 Q. Now, did Mr. Robinson give you a reason why he
12 didn't want to present you at that pretrial hearing?

13 A. Why he didn't want to ---

14 Q. Right. Why he chose not to?

15 THE COURT: Have you testify.

16 A. Why he didn't want to have me testify?

17 Q. Uh-huh (affirmative).

18 A. He did not. He acted like he wanted me to right up
19 until he didn't use me. Like I said, he sent us out of
20 the courtroom. And he had us prepared all the way up.
21 He acted like he was going to use us as witnesses.

22 Q. So he had you prepared for trial?

23 A. Yes. And every time I asked him about a plea
24 bargain, he said that we wasn't going to talk about that.
25 That he was a jury trial lawyer. That he liked to do

1 jury trials.

2 Q. Okay. Thank you, Ms. Means. I just have two more
3 questions for you.

4 A. Okay.

5 Q. We'll just make up one.

6 A. Okay.

7 Q. You're upset because of the way Mr. Alley was
8 treated by police. Am I correct?

9 A. I am.

10 Q. You didn't like some of their comments?

11 A. I did not. I thought they were untruthful.

12 Q. And you think Mr. Alley was the fall guy?

13 A. I do. I know he was. And they do too. Said they
14 were. I mean, he said that was established between him
15 and the solicitor. They talked about it.

16 Q. And just one final question. And you're still
17 sticking to this testimony despite Mr. Alley testifying
18 years later in a P.C.R. today that he did hold the gun
19 that fired and killed the victim?

20 A. Yes. And it -- he said from the very beginning that
21 it was an accident. Granted, they should have not been
22 in that home.

23 Q. Thank you, Ms. Means. That's all.

24 A. But the gun went off.

25 MR. WHITMIRE: No further questions, Your

1 Honor.

2 REDIRECT EXAMINATION

3 BY MR. WELBORN:

4 Q. Ms. Means, are you telling the Court that if the
5 testimony of these deputies, if you had been allowed to
6 testify, it might have contradicted or would have
7 contradicted the voluntariness of the statement of Mr.
8 Alley; is that correct?

9 A. That's correct.

10 MR. WHITMIRE: Objection, relevance. Ms. Means
11 isn't an attorney. That's a legal conclusion for Your
12 Honor to make.

13 THE COURT: Keep going.

14 Q. And he would have insisted, as he said earlier then,
15 on having a trial at that point?

16 A. That's correct.

17 Q. Thank you. He was prejudiced by those falsehoods,
18 as you've called them; is that correct?

19 A. That's correct.

20 Q. Thank you. That's all I have.

21 A. Yes, sir.

22 MR. WELBORN: That's all we have.

23 THE COURT: You may step down now.

24 THE WITNESS: Thank you.

25 MR. WELBORN: That's our case, Your Honor.

1 THE COURT: Thank you.

2 MR. WELBORN: The rest would be cumulative.

3 That's our case.

4 THE COURT: Okay. Thank you.

5 MR. WHITMIRE: May it please the Court, Your
6 Honor. The Respondent calls Mr. Robinson to the stand.

7 THE COURT: Come on up, Mr. Robinson.

8 (WHEREUPON, the witness was duly sworn.)

9 SCOTT ROBINSON,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. WHITMIRE:

13 Q. Good morning, Mr. Robinson. Just a few background
14 questions for you for the record. Do you recall your
15 representation in this matter?

16 A. I do.

17 Q. Have you had a chance to review your file?

18 A. Yes.

19 Q. Can you describe or testify to the circumstances
20 leading up to you being retained on this case and taking
21 it?

22 A. The circumstances?

23 Q. Yeah, when you took the case?

24 A. They came in, retained me. And I had an
25 investigator. And we went about preparing for trial.

1 Q. Do you recall how long your representation lasted
2 before the State called the case to trial?

3 A. It was months and months it lasted.

4 Q. Describe your initial consultation or your first few
5 consultations with Mr. Alley.

6 A. The consultations were always very cordial. I
7 always try to -- I try to make sure that the client is
8 comfortable with me and that I want to know about them as
9 far as background, history and so forth. I think Chase
10 is a very nice fellow, and he's very articulate, very
11 intelligent. He does have some issues, some physical
12 issues. But I never had an issue with him in terms of he
13 was always very pleasant to deal with.

14 Q. And do you recall how many times you met with Mr.
15 Alley during his representation?

16 A. I don't think it was eighteen times. It was at
17 least -- it was over seven or eight. It wasn't into the
18 thirty range, to my best recollection.

19 Q. Did he give you his version of events?

20 A. Yes, he did.

21 Q. Did you also -- again, we've heard testimony from
22 Ms. Means today. Did she give you her version of events?

23 A. She did. She actually -- Ms. Means was great. She
24 came in a good bit. Went through Chase's background, the
25 accidents that he had, the different things that he'd

1 done in his life and so forth. She was very helpful.

2 Q. And what was Mr. Alley's version of the facts that
3 led to his arrest and ultimate conviction?

4 A. I think that there's no question that he was there.
5 There's no question that he was -- I think he got into
6 some drugs or something that night or that day this
7 happened. I think that they may have used him because of
8 his physical disability and his -- you know, when someone
9 has a disability like that, I think there's -- you want
10 to get along with people and you want to fit in. And I
11 think they may have taken advantage of that with him.
12 Had him come along, got him -- got plied with alcohol and
13 drugs and so forth. But there's no question he did have
14 a gun.

15 As far as his recollection, I think, is a little
16 different than the case statements in this case. Threw
17 things out. But I don't think he can tell you
18 specifically -- could tell me specifically what happened.
19 No question the guy wanted to pee. Told him not to move.
20 The gun went off.

21 Q. Just a few more questions for you going
22 chronologically through. Did you receive discovery from
23 the State at once, or was this, you know, piecemeal over
24 time?

25 A. They're pretty good about getting discovery to us,

1 so I got the discovery as soon as they -- as soon as the
2 files were sent, they sent it to us. And he would get --
3 he gets a copy of everything. He had a big thick file of
4 stuff.

5 Q. Would you discuss State's evidence ---

6 A. Yes.

7 Q. --- when you would go meet with him?

8 A. He would see everything.

9 Q. Did he have any questions about it?

10 A. Most of the time he -- anytime he had a question, we
11 answered it. Okay. And that's what we did. I can't
12 tell you specifically that each time he would ask a
13 question about something, whatever, I can't tell you.
14 What I can tell you is that any question he would have
15 asked, my answer would have been -- I would have
16 answered.

17 Q. And again, you just said "we." Can you testify to
18 Brad Baxter's, your investigator's involvement in Mr.
19 Alley's case?

20 A. Yes. He was the investigator. Brad was a former
21 Anderson County Sheriff's deputy. He went through --
22 this is my understanding. I didn't go with him when he
23 met people and so forth. But he investigated this case
24 for me. With me.

25 Q. Did y'all look into all potential witnesses and

1 defenses that Mr. Alley asked for?

2 A. Yes.

3 Q. And there's been some discussion today about plea
4 negotiations. Do you recall engaging in any plea
5 negotiations with Solicitor Campbell?

6 A. There were no plea negotiations.

7 THE COURT: There was never an offer to
8 voluntary? Nothing?

9 THE WITNESS: There was never an offer. If
10 there had been an offer, we would have been at the
11 courthouse the next minute.

12 Q. Did you ever have any doubt that Mr. Alley was -- or
13 maybe had some confusion on whether this was murder or
14 voluntary?

15 A. Never. Never confused. It was never -- not only
16 did I go through it with him several times, but the Judge
17 at the plea said specifically exactly what he was
18 pleading to. It was never any confusion on that.

19 Q. And we'll get back to just a few questions on the
20 plea at the end.

21 A. Okay.

22 Q. Now, going into trial, do you recall Ms. Means
23 coming to you and wanting to testify?

24 A. She would have testified in the trial, and she could
25 have testified and potentially could have discredited

1 possibly in the jury's eyes the officers because I think
2 Joyce had a very strong opinion that they should not have
3 -- if they knew about his condition, they should not have
4 done what they did, according to her.

5 Q. According to her? Was it your strategy to wait till
6 trial to get that in front of the jury?

7 A. I think it was part of the strategy as far as to
8 discredit them, as all defense attorneys do, when it
9 comes to actually trial. That was a strategy, part of
10 the strategy, but we never got to that point.

11 Q. At what point of the pretrial hearings does Mr.
12 Alley decide he wants to plead straight up?

13 A. At what point did he decide?

14 Q. Yeah. Or make a decision.

15 A. I don't know exactly at what point he decided. We
16 went through -- we went to the Jackson v. Denno hearing.
17 We -- at some point we had Dr. Price testify regarding
18 the capacity, his capacity to understand, because if Dr.
19 Price had said that he did not have the capacity to
20 understand, I think the judge would have potentially kept
21 that statement out. But Dr. Price, on cross-examination,
22 didn't say that. He -- it's not that he intentionally
23 did that. But he said, well, you know, "He would have
24 understood that."

25 Q. Were you provided a list of State's witnesses?

1 A. They don't normally do that until the day of the
2 trial. I normally get that the day of trial.

3 Q. Now, were his co-defendants, Holly Whitfield and I
4 believe Robinson and a third one, Bell, were they going
5 to testify against him in the State's case in chief?

6 A. I believe they would have. I don't -- I'd have to
7 look at a transcript to see if they were going to be
8 called as witnesses or not. But I would believe that Mr.
9 Campbell, based on my prior history with him, would have
10 called them to testify.

11 Q. Did you and Mr. Baxter investigate their statements,
12 their credibility leading up to trial?

13 A. Yeah. Their credibility is horrible. I mean, they
14 were just -- they all were -- the credibility could have
15 been attacked.

16 Q. Did Mr. Alley ever dispute firing the gun or having
17 it in his hand?

18 A. No.

19 Q. Did you explain to him hand of one, compass
20 liability?

21 A. I did.

22 Q. And if you can't recall, I understand. Maybe you
23 have notes. What was it that triggered Mr. Alley's
24 decision to plead guilty?

25 A. Now, I can't tell you in his mind what he was

1 thinking. I really can't do that. But I can tell you
2 after the judge decided that the statements that he made
3 -- because there were several different statements. I
4 think the statement would have hurt him in terms of the
5 fact that the gun went off when this guy was -- when the
6 victim in the case was going to go to the bathroom. The
7 second time is he showed the police where the gun was
8 tossed. And the third was him blurting out to the
9 officer that he shot the guy in the face. I think that
10 would have just really sandwiched us in this case. I
11 think maybe at that point he may have decided that that
12 was in his best interest.

13 Q. Did he waver at all at that time on whether to go to
14 trial or plea, or was he pretty firm in this decision?

15 A. You know, I can only go by what people do, their
16 actions. I can't tell you in his mind the things he was
17 going through. We were prepared to go to trial. I mean,
18 this was a trial case, but we were hoping that Dr. Price
19 would have been able to establish that he did not have
20 the capacity to give that statement. That's what part of
21 the statute is.

22 Q. If you had any questions concerning his decision to
23 plead guilty, would you have stood down and talked to him
24 more?

25 A. If he didn't want to plead guilty?

1 Q. If he was just on the fence or he was uncertain.

2 A. He was on trial.

3 Q. Well, I'm talking about when plea colloquy started.
4 Would you have stopped it and taken the time to talk to
5 him?

6 A. Yes. If a judge thought there was any sort of
7 hesitancy on his part, he would have stopped as well.

8 Q. Just a few final questions. Did you receive any
9 correspondence or possible phone call from Ms. Means
10 regarding Mr. Alley's desire to appeal?

11 A. Now, I don't recall that. But I'll tell you, if
12 they wanted to appeal it and I made the mistake of not
13 appealing it, they should have a right to appeal.

14 Q. Do you keep records just as a matter of general
15 practice regarding getting mail about appeals for
16 clients? I know you do a lot of trials.

17 A. I do. I do. But I can tell you that if she had
18 called me and said that, I didn't do it.

19 Q. And that's just your recollection today. You just
20 don't know?

21 A. Yes.

22 MR. WHITMIRE: No further questions, Your
23 Honor.

24 Thank you, Mr. Robinson.

25 EXAMINATION

Scott Robinson - Examination by the Court
Scott Robinson - Cross-examination by Mr. Welborn

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1 BY THE COURT:

2 Q. I have a few questions for you, Mr. Robinson. I see
3 in the testimony that you told the judge that you were
4 talking about the grand jury and that also when he
5 decided to plead guilty, you went, it says, to the
6 arbitration room?

7 A. Yes.

8 Q. And spoke with Mr. Alley's mother and the aunt, Ms.
9 Means, that testified; is that correct?

10 A. That's right.

11 Q. Okay. And you believe he understood he was pleading
12 guilty to murder; is that correct?

13 A. Yes. He was under the statute guilty but ---

14 Q. Mentally ill. I understand that.

15 A. Yes.

16 Q. Okay.

17 A. And that's what we did. We went back and talked it
18 over.

19 CROSS-EXAMINATION

20 BY MR. WELBORN:

21 Q. Mr. Robinson, did you interview a Sam Means who was
22 married to Joyce Means?

23 A. I think that's her husband, is it not?

24 Q. Yes. Uncle Sam Means.

25 A. Interviewed? I don't know -- I can't independently

1 tell you that I interviewed him. But I think what you're
2 going towards is this gun issue as far as the gun?

3 Q. That's correct.

4 A. But I think Mr. DeFreese -- if I can answer the
5 question?

6 Q. Sure.

7 A. They didn't connect the bullet that killed Mr.
8 Robinson [sic] with this gun. It was the type of gun,
9 but no, they couldn't connect it.

10 Q. There was a ballistics test?

11 A. There was. Ms. Means, I think, testified as well
12 that there was. I think that I may have met with him or
13 talked with him outside of the second floor, I think, up
14 in the courthouse here. He may have told me something
15 about the fact that it couldn't have been the same gun.
16 That kind of thing. That's the only thing I can tell you
17 is I think.

18 Q. Did you make an issue of that at the hearing that
19 day with your doctor, with the expert?

20 A. That wouldn't have been relevant with the expert
21 because the expert, Dr. Price, was -- he was testifying
22 as to two things. First, he testified in the Jackson v.
23 Denno as far as capacity and the ability to understand
24 and so forth. And second, at the guilty but mentally ill
25 part of it as far as that. So I don't know if that had

1 anything to do with Dr. Price.

2 Q. Now, you may have already answered this with the
3 judge because I was writing some notes. So forgive me if
4 I'm asking you and you've already answered. But did you
5 talk with Ms. Means about being a witness in this case?

6 A. She would have been a witness in the case-in-chief.
7 If we had gone to trial, she would have been a witness.
8 In fact, she was listed as a witness, I believe, in this
9 matter.

10 Q. I do remember now y'all did have some testimony just
11 a few minutes ago about that. That basically what you
12 were doing was trying to keep statements out, and hers
13 would have been more the credibility of the officers
14 later. Is that fair to say?

15 A. It would have. That's what I felt. I felt that --
16 that was kind of what I was thinking in this case. I
17 didn't really think it would have been relevant at the
18 Jackson v. Denno hearing.

19 Q. Did you share all the State's evidence with my
20 client, Mr. Robinson?

21 A. Absolutely. Several, several times. Both myself
22 and the investigator did as well. And I have never said
23 anything about -- other than -- to Mr. Alley other than
24 -- I always treated him as he is which he is a very nice
25 young man. Very articulate. I always enjoyed my talks

1 with him. And I never made any intimation of any
2 intelligence or anything. I just wanted to clarify that.

3 Q. Thank you. Did you tell him you had too much work
4 to do to help represent him? You had an overload of
5 cases?

6 A. I always take as many cases as I can do. I'm not
7 perfect, but I handle every single case. In this case
8 ---

9 Q. Who did you interview to prepare for trial? Do you
10 remember?

11 A. Interview to prepare for trial?

12 Q. To prepare for trial?

13 A. Well, the only -- here's the thing. The three co-
14 defendants I couldn't talk to. They had attorneys. They
15 were not going to talk to me. Okay? The only other
16 person was Mr. Alley. There really wasn't -- this was --
17 these folks went into this guy's house, this old man's
18 house, and shot him. That's what happened. That's what
19 happened. There's really -- it's really not -- there's
20 really not any witnesses in this case.

21 Q. Thank you.

22 A. Other than the co-defendants and Mr. Alley.

23 Q. Did you ever hear of a Diane Ruth as a witness?

24 A. I think that she would have been put as a State's
25 witness potentially, but I had never spoken to her before

1 that day.

2 Q. Never heard of her before that day?

3 A. I don't believe so. But a lot of times you can -- I
4 mean, you can only go to what you have in discovery. And
5 if she had been named as a potential witness in this
6 case, she would have been interviewed. The day of trial,
7 that is when the State disclosed this particular witness.
8 I don't know what she was going to testify to.

9 Q. Did you go over his various rights, to remain
10 silent, et cetera, things of that nature?

11 A. Of course, I did.

12 Q. Did you ever try to force him to plead guilty
13 because you thought he'd get a better sentence that day,
14 Mr. Robinson?

15 A. No. That's definitely not true. And in fact, I
16 don't think that Mr. Alley is the type person you can do
17 that with. Mr. Alley is a pretty articulate guy. I
18 think he's a very strong-willed individual, and I don't
19 -- no, that's not my character to do.

20 Q. One more question. Did -- I think you testified
21 that if you had been told that he wanted to appeal and
22 you didn't, then he should still have the right to
23 appeal. Isn't that what you said?

24 A. Absolutely.

25 Q. Thank you.

1 MR. WHITMIRE: No redirect, Your Honor.

2 THE COURT: Thank you. You may step down, sir.

3 THE WITNESS: Thank you, Judge.

4 THE COURT: Anything else on behalf of the
5 State?

6 MR. WHITMIRE: The Respondent would rest. We'd
7 be happy to answer any questions Your Honor may have.

8 MR. WELBORN: No, nothing further, Your Honor.

9 THE COURT: Thank you. I appreciate it.

10 I am just about finished reading this. This is the
11 entire transcript. I want to get to the very end of the
12 guilty plea. So I'll just let y'all know. Okay?

13 MR. WELBORN: Thank you, Your Honor.

14 THE COURT: I appreciate it. Thank you.

15 MR. WHITMIRE: Thank you, Your Honor. And for
16 the record, Your Honor, I do believe Mr. Craft, the
17 victim in this case, his family is here. They just came
18 in right before we started. I just wanted to put it on
19 the record. They will also be here for Ms. Whitfield.
20 Her P.C.R. is later this week.

21 THE COURT: Thank you.

22 (WHEREUPON, the hearing ended at approximately 11:13
23 a.m.)

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 1st day of December 2014.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14 April 27, 2015

15

16 S/ *Renee H. Tollison*

17 Circuit Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON) FOR THE TENTH JUDICIAL CIRCUIT

Walter Chase Alley,
S.C.D.C. No. 354190,

C.A. No. 2013-CP-04-1391

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

COMMON PLEAS AND
GENERAL SESSIONS

2015 FEB 12 2:41 PM

FILED-CLERK'S OFFICE
ANDERSON SC

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 10, 2013. Respondent subsequently filed its responsive pleadings. An evidentiary hearing into the matter was convened on December 1, 2014 at the Anderson County Courthouse. Applicant was present and was represented by Hugh W. Welborn, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the October 2011 term of the Court of General Sessions for Anderson County for murder. (2011-GS-04-1723). He was represented by Scott Robinson, Esq. On February 4, 2013, the State called its case to trial. On February 5, 2013, Applicant entered a Guilty But Mentally Ill (GBMI) plea as indicted. The Honorable J.C. Nicholson accepted Applicant's plea and found he met his burden to prove GBMI. Judge Nicholson sentenced Applicant to a term of thirty-seven (37) years imprisonment. Applicant did not appeal his guilty plea or sentence.

At the PCR hearing, Applicant proceeded on the limited allegations of ineffective assistance of counsel in his assertion that he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:
 - a. failure to reasonably consult with Applicant and communicate developments in the case;
 - b. failure to elicit a plea bargain;
 - c. failure to prepare Applicant's case in light of counsel's purported "high case volume;"
 - d. failure to reasonably investigate a suppression defense concerning Applicant's confession;
 - e. failure to call Joyce Means as a witness at the Jackson v. Denno¹ hearing.
 - f. failure to investigate a defense theory of accident;
 - g. failure to investigate the ownership of the firearm used during the commission of the offense;
 - h. failure to move to suppress a purportedly defective arrest warrant;
 - i. failure to investigate and present an adequate mitigation defense during the sentencing phase of the plea hearing;
 - j. failure to file a notice of appeal from Applicant's plea hearing
2. Involuntary Guilty Plea:
 - a. failure to apprise Applicant that he was pleading, as indicted, to murder;
 - b. failure to apprise Applicant of the elements of the murder.

Summary of Evidence and Testimony from the PCR Hearing

Applicant testified and offered his *post-hoc* assessment of counsel's representation during his case. Applicant alleged that counsel did not consult him concerning substantive matters in the case. He testified that counsel discussed the State's evidence with him without providing him a physical copy of the State's discovery disclosures. Yet, he also testified that he was unaware of the State's evidence against him. He noted that counsel did make periodic visits to the county

¹ Jackson v. Denno, 378 U.S. 368 (1964)

detention center to meet with him. He further testified that counsel employed a private investigator (P.I.) on the case, but he asserted that he was unaware of how counsel utilized the P.I. in his case. He testified that counsel would tell him "I have it under control" in response to his questions and concerns. Applicant testified that counsel disparaged his intellectual capabilities during their consultations.

Applicant alleged counsel did not properly investigate his case and prepare for trial. Applicant speculated that counsel had too many cases to devote sufficient time and resources to his case. He based this assessment on purported conversations with other inmates at the county detention center. He testified to his version of facts of the murder as follows: he did drugs with the co-defendants before they decided to commit the burglary at the victim's residence; that the "attorneys" all knew he would be the fall guy for the murder because "everyone" blamed him for causing the victim's death. Applicant alleged counsel did not mount an adequate suppression defense concerning his confession. The allegation was based on his assertion that Joyce Means (the Aunt) would have testified that the police coerced his confession. He opined that the police misconstrued his apology for a confession. Next, Applicant alleged counsel should have investigated and moved to suppress the purported defective arrest warrant because it lacked a signature from a magistrate judge. Applicant also alleged counsel should have investigated the State's ballistic evidence that, according to him, showed that he did not own the firearm that he used to kill the victim. When questioned on how he was able to locate the weapon for police, he responded that it was just a random coincidence. Applicant alleged counsel should have investigated a defense theory of accident. Applicant testified that the firearm accidentally discharged after he pointed it at the victim. Last, Applicant alleged counsel should have further investigated and presented a better mitigation defense at the plea hearing. He opined that his

disabilities and minor criminal history should have resulted in a more favorable prison sentence. He further based this allegation on the purported lower sentences his co-defendant's received.

Applicant alleged counsel did not file a notice of appeal despite his desire to appeal the guilty plea. He testified that he asked the Aunt to contact counsel to ensure he got an appeal. Applicant alleged that his guilty plea was rendered involuntary because counsel did not apprise him that he was pleading guilty to the offense of murder. He testified that he was under the impression that he was pleading guilty to the lesser-included offense of voluntary manslaughter. Alternatively, he alleged his guilty plea was rendered involuntary because counsel did not apprise him on the elements of murder. When questioned on what distinguished counsel's purported deficient performance from his prior attorneys on prior offenses, Applicant was unable to provide an answer.

Applicant's Aunt testified to the relationship with Applicant and involvement in his case. She noted that she was acquaintances with the local law enforcement and testified to conduct on the day Petitioner confessed, gave a written statement, and was arrested. She testified to her concerns of purported police misconduct where she accused the police of coercion and dishonesty. However, she noted that she was not in the interview room with Applicant when he was being questioned about the murder. The Aunt opined that counsel should have complied with her requests during the representation because she paid to have counsel retained. Last, the Aunt testified that after the plea hearing, she told counsel to file an appeal and to ensure that Applicant did not get placed in general population when he got to the Department of Corrections.

Counsel testified to his course of conduct during the representation. He noted that he met with Applicant on numerous occasions. Upon being retained, counsel elicited Applicant's version of the facts of the murder from him. Counsel noted that the fact that Applicant was

armed and involved in the burglary, and that he had used drugs with the other co-defendant's prior to the murder were not in dispute. Counsel reviewed all the discovery disclosures from the State, apprised Applicant accordingly, and provided a copy for him. Counsel covered all of Petitioner's concerns and questions. Furthermore, counsel retained a private investigator (P.I.) to assist him in the preparation of the case. He noted that they discussed accomplice liability theory of guilt and elements of murder. The ownership of the weapon was neither relevant nor material to the case. He testified that condition of ballistics retrieved from the crime scene inhibited an identification to the murder weapon, yet he noted that murder weapon was one of several possible firearm models that matched the ballistics.

Based on the overwhelming evidence of guilt, counsel pursued a diminished capacity theory that alternatively aided in his suppression defense concerning the confession and established a substantial mitigation case in sentencing. Counsel was adamant that State never made a plea offer to manslaughter during the case. He testified that he felt as if he was fully prepared for trial. He noted that he was precluded from interviewing the co-defendants. Counsel interviewed the Aunt and apprised her of his strategy to refrain from presetting her as defense witness at the Denno hearing, electing to present her as a trial witness.

Also, counsel did not indicate the manner in which the State disclosed its witness list for trial adversely affected his ability to provide effective assistance. Counsel was adamant that Applicant was not adversely effected in anyway whatsoever because of his case load.

He testified that Applicant made the decision to enter a guilty plea to murder after the Trial Judge found his confession to be admissible. Counsel met with Applicant in a private room within the courthouse, just prior to the plea, to discuss the implications and consequences of Applicant's decision to plead and forgo his trial. Counsel was adamant that there was no

confusion on the fact that Applicant was pleading as indicted and not to a phantom lesser-included offense. His mitigation investigation proved fruitful and resulted in the Judge finding that Applicant was Guilty but Mentally Ill (GMBI). Furthermore, Applicant received a favorable sentence on the lower end of the sentencing range. Last, Counsel testified that he had no independent recollection or notations that Applicant or the Aunt requested that he file a notice of appeal.

APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland, *supra*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a

reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Kolle v. State, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

----- This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject's convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant fell well short of meeting his burden to prove that he was denied constitutionally effective representation. In light of counsel's extensive labor and admirable efforts in Applicant's case despite the simplicity of State's case and its overwhelming evidence of Applicant's guilt, the majority of Applicant's allegations are illogical and facially unsound. For instance, Applicant and the Aunt made numerous speculative assertions on the impropriety and inaccuracy of the confession entirely inconsistent to Applicant's allegation that counsel should have pursued an accident theory based on the substance of his confession. Furthermore, this Court is further dissuaded in assessing

credibility to Applicant's *post-hoc* testimony because he was a seasoned participant in the criminal justice system. This Court finds the all too familiar impetus behind this PCR action derived from Applicant's current frustration that his co-defendants received lighter sentences than him. Instead, this Court finds that the record here shows that Applicant made the knowing, intelligent and voluntary decision to plead guilty during trial. Simply, Applicant shot and killed the victim and received the benefit of the bargain and competent assistance of counsel when he was exposed to a possible term of life imprisonment. Simply, Applicant cannot have his cake and eat it to.

A.

This Court finds that Applicant has failed to prove that counsel was either deficient or ineffective for purportedly failing to adequately communicate with Applicant during the representation. "From counsel's function as assistant to the defendant derive the overarching duty to advocate the defendant's cause and the more particular duties to consult with the defendant on important decisions and to keep the defendant informed of important developments in the course of the prosecution." Strickland v. Washington, 466 U.S. 668, 688, 104 S. Ct. 2052, 2065, 80 L. Ed. 2d 674 (1984). "There is no claim of deficient consultation without a showing of prejudice from the deficiency." U.S. v. Mealy, 851 F.2d 890, 908 (7th Cir. 1988). This Court finds the conclusory allegation itself is facially inadequate and without merit. See Jones v. Gomez, 66 F.3d 199, 204 (9th Cir. 1995) ("Conclusory allegations not supported by specifics do not warrant relief."). Therefore the generic allegation, as pled and pursued, is summarily denied and dismissed.

This Court finds Applicant has failed to meet his burden to prove that counsel's performance was either deficient or ineffective for purportedly failing to apprise him of the

State's witnesses prior to trial. Applicant testified that he was forced to plead because counsel did not explain the purpose of a purported State witness "Diane Ruth's" testimony to State's case against him. Applicant has failed to meet his burden to make a *prima facie* showing that the purported witness was even material to State's case. Regardless, Applicant's allegation here is wholly unsupported by the Record before this Court. Furthermore, this Court finds counsel's testimony to be credible that Applicant's decision to plead guilty was independent and intelligently made as a result of the Judge's adverse finding on the admissibility of his confessions. Therefore, this allegation is denied and dismissed.

B.

This Court finds Applicant's allegation that counsel's failure to elicit a plea bargain from State constituted ineffective assistance to be without merit. Absent detrimental reliance, not present in this case, a criminal defendant has no right to a plea bargain. Instead, the constitutional authority here rests solely within the purview of the prosecuting office. See Ex parte Harrell v. Attorney Gen. of State, 409 S.C. 60, 66, 760 S.E.2d 808, 810-11 (2014) (citing State v. Thrift, 312 S.C. 282, 306, 440 S.E.2d 341, 355 (1994) (internal quotations omitted) ("Noting that the State possesses "wide latitude in selecting what cases to prosecute and what cases to plea bargain, the Court observed that the Attorney General's authority to prosecute derives from our state constitution.")). Therefore, the allegation is summarily denied and dismissed.

C.

This Court finds Applicant has failed to prove that his guilty plea was rendered involuntary because of counsel's purported failure to apprise him that he was pleading to guilty to murder as indicted. "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell

below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial" Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)).

In light of counsel's credible testimony on the matter, this Court finds Applicant has failed to produce a compelling or even remotely credible reason why he should be able to depart from the truthfulness of his assurances and statements made to Judge Nicholson during the plea hearing. See Id. at 137, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977) (A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed.")). Similarly, this Court rejects Applicant's allegation that his guilty plea was rendered involuntary because counsel never apprised him of the elements of murder. This Court finds both allegations are incredible in light of the substantial number of consultations counsel held with Applicant during the representation. Therefore, both allegations are denied and dismissed.

D.

Applicant failed to meet his burden to prove counsel's performance was either deficient or ineffective for purportedly failing to further investigate and pursue a suppression defense to admissibility of his confession. "This Court has stated previously that criminal defense attorneys

have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case.” Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citation omitted). “State must show the statement was voluntarily made by a preponderance of the evidence.” Jackson v. Denno, 378 U.S. 368, 376, 84 S.Ct. 1774, 12 L.Ed.2d 908 (1964). If the statement is found to have been given voluntarily, it is then submitted to the jury, where its voluntariness must be established beyond a reasonable doubt. State v. Washington, 296 S.C. 54, 56, 370 S.E.2d 611, 612 (1988). “When reviewing a trial court’s ruling concerning voluntariness, this Court does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial court’s ruling is supported by any evidence.” State v. Parker, 381 S.C. 68, 74, 671 S.E.2d 619, 622 (Ct. App. 2008).

Applicant fell well short of his burden here. Applicant asserts that the written manifestation of his statement did not accurately comport to what he described as “an apology” he gave police. This Court finds that Applicant failed to make a prima facie showing of what additional investigation could have altered Judge Nicholson’s finding that the Applicant’s confession was made voluntarily. See Nickel v. Hannigan, 97 F.3d 403 (10th Cir. 1996) (Failure to object to an allegedly involuntary confession failed the prejudice prong where there was no evidence of police coercion as required.). This Court finds that counsel made a valid strategic decision to pursue the best available defense here in presenting expert testimony from Dr. Price on diminished capacity. See Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992) (where counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel). Therefore, this allegation is denied and dismissed.

Similarly, this Court finds Applicant failed to meet his burden to prove that counsel was either deficient or ineffective for not presenting the Aunt as a witness at the Denno hearing. This Court finds counsel made a valid strategic decision to wait until trial to present the Aunt. This Court finds the majority of her account of Applicant's arrest and interactions with police to be emotionally charged, suspicious, and conclusory. This Court finds that the potential import of her testimony to Applicant's case was substantially diminished by her abject bias demonstrated by her emotional outbursts. Had the Aunt testified at the Denno hearing, the State would have certainly been on notice of her eccentricities, thereby allowing the State to prepare to expose her limitations during cross-examination at trial. Most important, her testimony was immaterial to the pre-trial determination concerning the voluntariness of Applicant's statement because she was not present with Applicant during his interviews and interactions with police. Skillicorn v. Luebbers, 475 F.3d 965, 974 (8th Cir. 2007) (not ineffective to fail to ask questions of a witness which would elicit information either beyond the witnesses knowledge or that would be inadmissible); Amendment). Therefore, this allegation is denied and dismissed.

Applicant failed to meet his burden to prove that counsel was either deficient or ineffective for failing to investigate and pursue an accident theory of the case. "A homicide will be excusable on the ground of accident when (1) the killing was unintentional, (2) the defendant was acting lawfully, and (3) due care was exercised in the handling of the weapon." State v. Commander, 396 S.C. 254, 271, 721 S.E.2d 413, 422 (2011). This Court finds counsel's testimony on the matter to be credible. This Court further finds that even in a light most favorable to Applicant, his PCR testimony failed to meet both the second and third elements. See Baker v. Corcoran, 220 F.3d 276, 294 (4th Cir. 2000) (failure to investigate trigger pull for the

possibility of accident was not ineffective assistance of counsel). Therefore, this allegation is denied and dismissed.

Applicant's allegation that counsel was ineffective for failing to investigate the ballistics evidence is without merit. Counsel pursued the matter through a pre-trial hearing. Therefore, the allegation is summarily dismissed and denied where it was entirely refuted by counsel's performance at trial. Similarly, Applicant's allegation that counsel's purported high case load rendered him ineffective to be without merit. Therefore, this allegation is summarily denied and dismissed.

Last, Applicant's allegation that counsel was ineffective for failing to investigate the murder weapon to determine ownership is without merit. It was undisputed that Applicant possessed the pistol during the robbery where he ultimately shot and killed the victim. This Court finds the claim to be illogical in light of Applicant's failure to present any testimony or evidence to the contrary. Therefore, this allegation is denied and dismissed.

E.

Applicant's allegation that counsel was ineffective for failing to quash the purported defective arrest warrant is without merit. Applicant was on notice that the State intended to pursue its murder and burglary case against him from the outset of his arrest. Any other *post-hoc* contention is absurd and devoid of credibility. Therefore, this allegation is summarily denied and dismissed.

F.

Applicant failed to meet his burden to prove that counsel was either deficient or ineffective for failing to file a notice of appeal on his behalf. "[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either

(1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). Although counsel lacks a recollection here, this Court finds Applicant and the Aunt's testimonies on the matter to be not credible. See Burt v. Titlow, 134 S. Ct. 10, 17, 187 L. Ed. 2d 348 (2013) ("It should go without saying that the absence of evidence cannot overcome the strong presumption that counsel's conduct [fell] within the wide range of reasonable professional assistance"). Judge Nicholson found Applicant met his burden to prove he qualified as GBMI; moreover, Applicant received a favorable sentence close to the mandatory minimum. The Court finds the lack of correspondence from Applicant's camp to counsel on the matter to be telling in light of the Aunt's substantial involvement in the case. Therefore, this allegation is denied and dismissed.

G.

Except as discussed above, this Court finds that the Applicant affirmatively abandoned the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 6 day of Feb., 2015.


CARMEN T. MULLEN
Presiding Judge
Tenth Judicial Circuit

Beaufort, South Carolina

DOCKET NO. 2011GS04 01723

WITNESSES

Todd Owens, Anderson County Sheriff's Dept.

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

OCT 25 2011

Term

ARREST WARRANT NUMBER

J893568

THE STATE

vs.

Walter Chase Alley

COMMITMENT

2/5/13-KV

ACTION OF GRAND JURY
TRUE BILL

2011 OCT 25

Signature

Foreperson of Grand Jury
Date:

RLC

Indictment for

VERDICT

Murder / Murder

SC Code: 16-03-0010, 0020
CDR Code: 0116

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

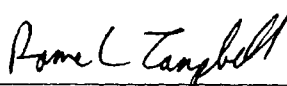
OCT 25 2011

At a Court of General Sessions, convened on _____, the Grand Jurors of Anderson County present upon their oath:

Murder / Murder

That Walter Chase Alley did in Anderson County, on or about July 18, 2011, unlawfully and with malice aforethought kill Glenn Craft during the commission of an armed robbery, by means of shooting the victim with a firearm, and that Glenn Craft died as a proximate result thereof. This is in violation of §16-3-0010 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

COUNTY OF Anderson
 STATE VS.
Walter Chase Alley
 AKA: _____
 Race: W Sex: M Age: 29

 City, State, Zip: Honea Path, SC 29654

 SID#: SC01340935

INDICTMENT/CASE#: 2011GS0401723A/W#: J893568Date of Offense: 7/18/2011S.C. Code §: 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Murderin violation of § 16-03-0010, 0020of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Donal Campbell13981Walter Chase AlleySC Bar#65381WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 37 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter: R. Tolison

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: 17-24-20 & 17-24-20
THE CT. ACCEPTS THE
GUILTY BUT MENTALLY
ILL PLEA & FINDS DEFENDANT
WAS MENTALLY ILL.
☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code: _____

Sentence Date: 2/5/13

ARREST WARRANT

J-893568

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

 THE STATE 2011-40283
 against

Walter Chase Alley

Address:

Honca Path, SC 29654-

Phone:

SSN: [REDACTED]

Sex:

M

Race:

W

Height:

5

Weight:

166

DL State:

SC

DL #:

[REDACTED]

DOB:

[REDACTED]

Agency ORI #:

SC0040000

Prosecuting Agency:

Anderson County Sheriff

Prosecuting Officer:

Todd Owens - 307

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 is to be arrested and brought before me to be
 dealt with according to the law. The accused

(L.S.)

Signature of Judge

Date:

RETURN

 A copy of this arrest warrant was delivered to
 defendant Alley-Walker
 on 7-12-11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

100 South Main Street

Po Box 8002

Anderson, SC 29622

392

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

Personally appeared before me the affiant Todd Owensbeing duly sworn deposes and says that defendant Walter Chase Alleydid within this county and state on or about 07/18/2011
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Anderson)
 in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 That on July 18, 2011 in the county of Anderson, one Walter Chase Alley did, with malice and aforethought, cause the death of
 Glenn Craft during a robbery at [REDACTED] Road. A written statement was given by the defendants as an active participant in the
 crime.

AFFIDAVIT

ORIGINAL

 Form Approved by
 SC Attorney General
 July 2, 2003
 SCGA 510

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

Affiant's Address

305 Camson Road

Affiant's Telephone

Anderson, SC 29625-
864-260-4429

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/18/2011defendant Walter Chase Alley
☒ County/ ☐ Municipality of Anderson

 did violate the criminal laws of the State of South Carolina (or ordinance of Anderson) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

 Having found probable cause and the above affiant having sworn before me, you, are empowered and directed to arrest the said defendant and bring him or
 her before the court to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable.
 Sworn to and subscribed before me on 07/19/2011

Signature of Judge

(L.S.)

Judge's Address

Po Box 8002

Judge's Telephone

Anderson, SC 29622-
(864)260-4156

Judge Code:

7013

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge 1. Hagan, Jr.
on 7/20/11

63 Type and Amount: No Bond
63 Name of Surety: _____

PRELIMINARY HEARING held by _____

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before _____

Judge _____

on _____

by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

* J893568 *