

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. Edward Welmaker, Circuit Court Judge

Appellate Case No. 2013-001945

Charles Christopher
Williams,

Appellant,

v.

The State of South
Carolina,

Respondent.

APPENDIX
VOLUME 5 OF 11

Derek J. Enderlin
ROSS AND ENDERLIN, PA
330 East Coffee Street
Greenville, SC 29601
864-647-7205
derek@rossenderlin.com
Attorney for Petitioner

Other Counsel of Record:
Attorney General of South Carolina
Donald J. Zelenka, Esquire
Post Office Box 11549
Columbia, SC 29211
Attorney for Respondent
803-734-6305

VOLUME FIVE OF SIX

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES CHRISTOPHER WILLIAMS,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Deputy Chief Appellate Defender
for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

Volume Five
Pages 2001 - 2499

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

ROBERT M. ARIAIL
Solicitor, Thirteenth Judicial Circuit
Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185
(864) 467-8282

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT (VOLUME ONE)	1
COURT REPORTER'S INDEX	2

MONDAY, FEBRUARY 7, 2005

MOTIONS	6
GENERAL <i>VOIR DIRE</i>	52

INDIVIDUAL *VOIR DIRE*

CAMILA OLMEDA

<i>Voir Dire</i> Examination by the Court	81

DEBRA ROLLINS

<i>Voir Dire</i> Examination by the Court	83

MICHAEL WRIGHT

<i>Voir Dire</i> Examination by the Court	87
<i>Voir Dire</i> Examination by Mr. Mauldin	90
<i>Voir Dire</i> Examination by Mr. Ariail	92
<i>Voir Dire</i> Examination by Mr. Mauldin	100
<i>Voir Dire</i> Examination by Mr. Ariail	102
Examination by the Court	105

BETTY JO BRANYON

<i>Voir Dire</i> Examination by the Court	109
<i>Voir Dire</i> Examination by Mr. Ariail	114
<i>Voir Dire</i> Examination by Mr. Nettles	118

VERNON E. MERCHANT, III

<i>Voir Dire</i> Examination by the Court	130
<i>Voir Dire</i> Examination by Mr. Nettles	134
<i>Voir Dire</i> Examination by Mr. Ariail	145

RUFUS R. HAFFER

<i>Voir Dire</i> Examination by the Court.....	149
<i>Voir Dire</i> Examination by Mr. Ariail.....	154
<i>Voir Dire</i> Examination by Mr. Mauldin	157

TUESDAY, FEBRUARY 8, 2005

COLLOQUY BETWEEN COURT AND ATTORNEYS.....	169

INDIVIDUAL *VOIR DIRE* (CONTINUED)

APRIL RILEY

<i>Voir Dire</i> Examination by the Court.....	178
<i>Voir Dire</i> Examination by Mr. Mauldin	187

GLORIA B. BELCHER

<i>Voir Dire</i> Examination by the Court.....	191
<i>Voir Dire</i> Examination by Mr. Mauldin	193

GLENDA J. FULLER

<i>Voir Dire</i> Examination by the Court.....	197
<i>Voir Dire</i> Examination by Mr. Nettles.....	205
<i>Voir Dire</i> Examination by Mr. Ariail.....	211

WILLIAM M. FLEMINGS

<i>Voir Dire</i> Examination by the Court.....	216

ELISHA SHAW

<i>Voir Dire</i> Examination by the Court.....	224
<i>Voir Dire</i> Examination by Mr. Mauldin	230

LARITHA ANN TODD

<i>Voir Dire</i> Examination by the Court.....	234
<i>Voir Dire</i> Examination by Mr. Nettles.....	248

PAUL FIELDS

<i>Voir Dire</i> Examination by the Court.....	256

CLARENCE LAND

<i>Voir Dire</i> Examination by the Court.....	262
<i>Voir Dire</i> Examination by Mr. Ariail.....	271
<i>Voir Dire</i> Examination by Mr. Nettles.....	273

BRIAN HOLMSTRAND

Voir Dire Examination by the Court.....282

JAQUELINE POUNTNEY

Voir Dire Examination by the Court.....296

Voir Dire Examination by Mr. Ariail.....306

PHILLIP ELLENBURG

Voir Dire Examination by the Court.....315

Voir Dire Examination by Mr. Nettles.....324

Voir Dire Examination by the Court.....332

Voir Dire Examination by Mr. Nettles.....335

EDWARD THOMAS BABINSKI

Voir Dire Examination by the Court.....348

Voir Dire Examination by Mr. Nettles.....353

MIKELL ARDOIN

Voir Dire Examination by the Court.....354

CHERYL L. LASHLEY

Voir Dire Examination by the Court.....364

SHARON SHUMAKER

Voir Dire Examination by the Court.....366

ANGELA A. HALL

Voir Dire Examination by the Court.....373

GLENDA J. FULLER

Voir Dire Examination by the Court.....378

MICHAEL J. DUNLAP

Voir Dire Examination by the Court.....402

Voir Dire Examination by Mr. Ariail.....415

Voir Dire Examination by the Court.....422

JOHN A. BOTT

Voir Dire Examination by the Court.....426

Voir Dire Examination by Mr. Mauldin.....433

Voir Dire Examination by the Court.....457

JOEL MOSS

<i>Voir Dire</i> Examination by the Court.....	460
<i>Voir Dire</i> Examination by Mr. Ariail.....	466

JOSEPH D. JOHNSON

<i>Voir Dire</i> Examination by the Court.....	480
<i>Voir Dire</i> Examination by Mr. Ariail.....	498

VOLUME TWO

JOSEPH D. JOHNSON

<i>Voir Dire</i> Examination by Mr. Ariail (Continued).....	501

JOHN R. HAAKER

<i>Voir Dire</i> Examination by the Court.....	502

MARK R. HAGEN

<i>Voir Dire</i> Examination by the Court.....	536
<i>Voir Dire</i> Examination by Mr. Nettles.....	545
<i>Voir Dire</i> Examination by Mr. Ariail.....	553

NELSON C. MILES, II

<i>Voir Dire</i> Examination by the Court.....	556
<i>Voir Dire</i> Examination by Mr. Ariail.....	566

ELIZABETH DANIEL

<i>Voir Dire</i> Examination by the Court.....	582
<i>Voir Dire</i> Examination by Mr. Ariail.....	597

MARY A. BRADBERRY

<i>Voir Dire</i> Examination by the Court.....	602
<i>Voir Dire</i> Examination by Mr. Ariail.....	606
<i>Voir Dire</i> Examination by Mr. Nettles.....	618

REBEKAH WHITE

<i>Voir Dire</i> Examination by the Court.....	627
<i>Voir Dire</i> Examination by Mr. Ariail.....	631

SHIELDS M. COCHRAN

<i>Voir Dire</i> Examination by the Court.....	635
<i>Voir Dire</i> Examination by Mr. Ariail.....	645

KYLE BROWNING	
<i>Voir Dire</i> Examination by the Court.....	657
JESSE S. MULLINAX	
<i>Voir Dire</i> Examination by the Court.....	675
STEPHANIE DIXON	
<i>Voir Dire</i> Examination by the Court.....	679
<i>Voir Dire</i> Examination by Mr. Nettles.....	689
<i>Voir Dire</i> Examination by the Court.....	693
ROBERT E. ELLIS, JR.	
<i>Voir Dire</i> Examination by the Court.....	696
STACY S. GONICK	
<i>Voir Dire</i> Examination by the Court.....	702
<i>Voir Dire</i> Examination by Mr. Ariail.....	713
<i>Voir Dire</i> Examination by Mr. Mauldin.....	717
ROY A. CRISP	
<i>Voir Dire</i> Examination by the Court.....	725
JOSEPH G. BRASWELL	
<i>Voir Dire</i> Examination by the Court.....	730
JAMES WILLIAMS	
<i>Voir Dire</i> Examination by the Court.....	739
JOHN R. SULLIVAN	
<i>Voir Dire</i> Examination by the Court.....	745
HERMAN G. KIRVEN	
<i>Voir Dire</i> Examination by the Court.....	759
<i>Voir Dire</i> Examination by Mr. Nettles.....	768
FRANCES T. ELMORE	
<i>Voir Dire</i> Examination by the Court.....	787
MARGARET STEWART	
<i>Voir Dire</i> Examination by the Court.....	808
<i>Voir Dire</i> Examination by Mr. Ariail.....	829

ANNA NELSEN	
<i>Voir Dire</i> Examination by the Court.....	833

THURSDAY, FEBRUARY 10, 2005

COLLOQUY BETWEEN COURT AND ATTORNEYS.....	842

INDIVIDUAL VOIR DIRE (CONTINUED)

JASON GUNTER	
<i>Voir Dire</i> Examination by the Court.....	852

TRACY SHOOK	
<i>Voir Dire</i> Examination by the Court.....	857
<i>Voir Dire</i> Examination by Mr. Nettles.....	872

PAMELA BLACKWELL	
<i>Voir Dire</i> Examination by the Court.....	884

MICHAEL FOWLER	
<i>Voir Dire</i> Examination by the Court.....	901

MARCUS GREENE	
<i>Voir Dire</i> Examination by the Court.....	932
<i>Voir Dire</i> Examination by Mr. Ariail.....	940
<i>Voir Dire</i> Examination by Mr. Mauldin	946

CONSTANCE HILL	
<i>Voir Dire</i> Examination by the Court.....	959
<i>Voir Dire</i> Examination by Mr. Nettles.....	971
<i>Voir Dire</i> Examination by Mr. Ariail.....	977

ROBERT MINA	
<i>Voir Dire</i> Examination by the Court.....	983
<i>Voir Dire</i> Examination by Mr. Ariail.....	992

VOLUME THREE

ROBERT MINA	
<i>Voir Dire</i> Examination by Mr. Ariail (Continued).....	1001

CHRISTOPHER MCCASSLAND	
<i>Voir Dire</i> Examination by the Court.....	1011

JASON L. GUNTER	
<i>Voir Dire</i> Examination by the Court.....	1045
MARGARET B. BILLINGS	
<i>Voir Dire</i> Examination by the Court.....	1050
JEANETTE D. CUMMINGS	
<i>Voir Dire</i> Examination by the Court.....	1064
JOHN J. COX	
<i>Voir Dire</i> Examination by the Court.....	1070
JAMES LAVERTY	
<i>Voir Dire</i> Examination by the Court.....	1080
KENNY WILLIAMS	
<i>Voir Dire</i> Examination by the Court.....	1096

FRIDAY, FEBRUARY 11, 2005

COLLOQUY BETWEEN COURT AND ATTORNEYS.....	1119

INDIVIDUAL *VOIR DIRE* (CONTINUED)

JAMES WYNN	
<i>Voir Dire</i> Examination by the Court.....	1120
<i>Voir Dire</i> Examination by Mr. Mauldin	1138
ASHLEY JOHNSON	
<i>Voir Dire</i> Examination by the Court.....	1157
<i>Voir Dire</i> Examination by Mr. Mauldin	1162
MELISSA STALLCUP	
<i>Voir Dire</i> Examination by the Court.....	1168
<i>Voir Dire</i> Examination by Mr. MacDougall.....	1184
AMY NELSEN	
<i>Voir Dire</i> Examination by the Court.....	1194
DAN M. CALNON	
<i>Voir Dire</i> Examination by the Court.....	1201
<i>Voir Dire</i> Examination by Mrs. Strom.....	1215

AMY A. SOUTHERN	
<i>Voir Dire</i> Examination by the Court	1224
 DONNA E. DANDREA	
<i>Voir Dire</i> Examination by the Court	1226
<i>Voir Dire</i> Examination by Mrs. Strom	1234
 GAIL J. HUSSEY	
<i>Voir Dire</i> Examination by the Court	1246
 DUANE A. CONSTABLE	
<i>Voir Dire</i> Examination by the Court	1265
 FLORA G. RIDEN	
<i>Voir Dire</i> Examination by the Court	1269
<i>Voir Dire</i> Examination by Mr. MacDougall	1283
 ROGER A. WATSON	
<i>Voir Dire</i> Examination by the Court	1292
<i>Voir Dire</i> Examination by Mr. Moyer	1307
 BONNIE S. KITTS	
<i>Voir Dire</i> Examination by the Court	1310
 ALAN J. EDWARDS	
<i>Voir Dire</i> Examination by the Court	1320
 THEODORE A. WOOD	
<i>Voir Dire</i> Examination by the Court	1326
 SHARON HEATH	
<i>Voir Dire</i> Examination by the Court	1332
<i>Voir Dire</i> Examination by Mrs. Strom	1353
 CHERYL L. WATSON	
<i>Voir Dire</i> Examination by the Court	1372
<i>Voir Dire</i> Examination by Mr. Nettles	1375
 STANTON WOOD BOROFF	
<i>Voir Dire</i> Examination by the Court	1378
 DAVID HARPER	
<i>Voir Dire</i> Examination by the Court	1382
<i>Voir Dire</i> Examination by Mr. Nettles	1390

GLEND A BRIDGES

<i>Voir Dire</i> Examination by the Court	1399
<i>Voir Dire</i> Examination by Mr. Nettles	1414
<i>Voir Dire</i> Examination by the Court	1429
<i>Voir Dire</i> Examination by Mr. Nettles	1429

JACKSON V. DENNO HEARING

PRE-TRIAL MATTERS	1437

TESTIMONY**MICHAEL MCNAMARA (IN CAMERA)**

Direct Examination by Mr. Ariail	1439
Cross Examination by Mr. Nettles	1462

COURT'S RULING	1466

DEFENSE RENEWS <i>VOIR DIRE</i> OBJECTIONS	1474

TESTIMONY**JOHN BOTT**

Juror Questioning by the Court	1470

JURY SELECTION	1475

COURT'S PRELIMINARY REMARKS TO JURY	1495

SUNDAY, FEBRUARY 13, 2005

RENEWAL OF OBJECTIONS	1498

VOLUME FOUR

OPENING STATEMENT BY THE SOLICITOR	1509

OPENING STATEMENT BY THE DEFENSE	1528

TESTIMONY

DEBRA REID

Direct Examination by Mr. Ariail 1536

Cross Examination by Mr. Mauldin.....1554

TINA SMITH

Direct Examination by Mr. Ariail 1556

Cross Examination by Mr. Mauldin.....1568

LESLEY KAVARAN

Direct Examination by Mr. Ariail 1570

Cross Examination by Mr. Mauldin.....1576

EDDIE GRIGGS

Direct Examination by Mr. Ariail 1576

Cross Examination by Mr. Mauldin.....1582

MICHAEL D. HAFFEN

Direct Examination by Mr. Ariail 1585

Cross Examination by Mr. Mauldin.....1600

NANCY CROSBY

Direct Examination by Mr. Ariail 1603

MOTIONS 1625

TESTIMONY

NANCY CROSBY

Direct Examination by Mr. Ariail 1639

CHRISTOPHER T. MILLER

Direct Examination by Mrs. Strom 1646

Cross Examination by Mr. Mauldin.....1652

JAMES BEAVER

Direct Examination by Mrs. Strom 1654

Cross Examination by Mr. Mauldin.....1664

TONY LEE

Direct Examination by Mrs. Strom 1666

Cross Examination by Mr. MacDougall 1679

CAREY AVERY

Direct Examination by Mrs. Strom 1683

THOMAS MCCONNELL	
Direct Examination by Mrs. Strom	1690
DAVID TERRY WILLIAMS	
Direct Examination by Mrs. Strom	1698
Cross Examination by Mr. Mauldin	1708
HARRY DEAN DOUGLAS	
Direct Examination by Mrs. Strom	1711
Cross Examination by Mr. Mauldin	1720
MICHAEL MCNAMARA	
Direct Examination by Mr. Ariail	1723
Cross Examination by Mr. Nettles	1760
Redirect Examination by Mr. Ariail	1788
MOTIONS	1793
TESTIMONY	
CECIL THRASHER	
Direct Examination by Mr. Ariail	1797
Cross Examination by Mr. Mauldin	1824
AUBRY TOMLIN	
Direct Examination by Mr. Moyer	1837
Cross Examination by Mr. Mauldin	1844
<i>TUESDAY, FEBRUARY 15, 2005</i>	
DISCUSSION OF JURY INSTRUCTIONS	1850
TESTIMONY	
DARWIN SHAW	
Direct Examination by Mr. Moyer	1851
Cross Examination by Mr. Mauldin	1859
PAUL A. SILVAGGIO	
Direct Examination by Mr. Ariail	1862
Cross Examination by Mr. MacDougall	1870
Redirect Examination by Mr. Ariail	1888
MARK STEPHAN	
Direct Examination by Mrs. Strom	1890

JOE WOOD	
Direct Examination by Mrs. Strom	1898
MICHAEL PETERSON	
Direct Examination by Mrs. Strom	1904
Cross Examination by Mr. Mauldin.....	1920
MICHAEL WARD, M.D.	
Direct Examination by Mr. Ariail	1931
Cross Examination by Mr. MacDougall	1955
Redirect Examination by Mr. Ariail.....	1956
MOTIONS AT CLOSE OF STATE'S CASE.....	1958
TESTIMONY	
ROBERT RICHARD, M.D.	
Direct Examination by Mr. Nettles	1961

VOLUME FIVE

CHARLES CHRISTOPHER WILLIAMS (<i>IN CAMERA</i>)	
Direct Examination by Mr. Mauldin	2004
Examination by the Court.....	2005
CLOSING ARGUMENT BY THE SOLICITOR	2013
CLOSING ARGUMENT BY THE DEFENSE	2033
JURY CHARGE.....	2046
VERDICT	2069

THURSDAY, FEBRUARY 17, 2005 **Penalty Phase of the Trial**

MOTIONS	2072
OPENING STATEMENT BY THE SOLICITOR.....	2110
OPENING STATEMENT BY THE DEFENSE	2122

TESTIMONY

SANDRA TRAMMELL

Direct Examination by Mr. Ariail 2132

JAMES MULDROW

Direct Examination by Mr. Ariail 2137

RAYMOND SASS

Direct Examination by Mr. Ariail 2142

Cross Examination by Mr. Mauldin.....2148

PAMELA CRAWFORD, M.D.

Direct Examination by Mr. Ariail 2150

MOTIONS AND ARGUMENT (*IN CAMERA*) 2152

TESTIMONY

PAMELA CRAWFORD, M.D.

Direct Examination by Mr. Ariail 2158

MOTIONS AND ARGUMENT (*IN CAMERA*) 2159

JURY IN 2169

TESTIMONY

PAMELA CRAWFORD, M.D.

Direct Examination by Mr. Ariail 2172

Cross Examination by Mr. Nettles 2176

Redirect Examination by Mr. Ariail.....2186

Recross Examination by Mr. Nettles.....2186

TINA SMITH

Direct Examination by Mrs. Strom 2187

PAT WILLIAMS

Direct Examination by Mrs. Strom 2191

GARY WILLIAMS

Direct Examination by Mrs. Strom 2200

MOTIONS AT CLOSE OF STATE'S CASE.....2204

TESTIMONY – DEFENSE CASE

DWIGHT WILLIAMS

Direct Examination by Mr. Nettles 2208

ANN WILSON

Direct Examination by Ms. Coyle 2220

Cross Examination by Mr. Ariail 2232

REBECCA OWENS

Direct Examination by Ms. Coyle 2234

MARJORIE HAMMOCK

Direct Examination by Mr. Mauldin 2241

JAMES TOLLISON

Direct Examination by Ms. Coyle 2264

Cross Examination by Mr. Ariail 2269

FRIDAY, FEBRUARY 18, 2005

COLLOQUY BETWEEN COURT AND ATTORNEYS 2271

TESTIMONY

DR. ERIC BOGEN

Direct Examination by Mr. MacDougall 2272

Cross Examination by Mr. Ariail 2285

Redirect Examination by Mr. MacDougall 2290

Recross Examination by Mr. Ariail 2291

JAMES AIKEN

Direct Examination by Mr. Mauldin 2291

Cross Examination by Mr. Ariail 2301

SEYMOUR HALLECK, M.D.

Direct Examination by Mr. MacDougall 2302

Cross Examination by Mr. Ariail 2318

Redirect Examination by Mr. MacDougall 2326

Recross Examination by Mr. Ariail 2328

MAUREEN BANGCUYO

Direct Examination by Mr. Nettles 2328

COLLOQUY WITH APPELLANT 2351

XV

MOTION AND CHARGE DISCUSSION	2359
COLLOQUY WITH APPELLANT	2361
CLOSING ARGUMENT BY THE SOLICITOR	2363
CLOSING ARGUMENT BY THE DEFENSE	2380
JURY CHARGE.....	2399
JURY RETIRES FOR THE EVENING	2409

SATURDAY, FEBRUARY 19, 2005

MOTIONS	2410
<i>ALLEN</i> CHARGE.....	2413
EXCEPTION TO CHARGE.....	2415
VERDICT	2416
SENTENCE.....	2420
MOTIONS TRANSCRIPT – NOVEMBER 1, 2004.....	2424
MOTIONS TRANSCRIPT – DECEMBER 15, 2004.....	2469

VOLUME SIX

TRANSCRIPT - MAY 25, 2004.....	2520
PRE-TRIAL MOTIONS TRANSCRIPT – JANUARY 13, 2005	2559
PRE-TRIAL SUPPRESSION HEARING – JANUARY 26, 2005	2647
TESTIMONY	
MICHAEL MCNAMARA	
Direct Examination by Mr. Ariail	2656
Cross Examination by Mr. Nettles	2684

PAMELA CRAWFORD, M.D.	
Direct Examination by Mr. Ariail	2694
Cross Examination by Mr. MacDougall	2718
RICHARD L. FRIERSON, M.D.	
Direct Examination by Mr. Nettles	2757
Cross Examination by Mr. Ariail	2771
Redirect Examination by Mr. Nettles.....	2778
SEYMORE L. HALLECK, M.D.	
Direct Examination by Mr. MacDougall	2780
Cross Examination by Mr. Ariail	2798
ARGUMENT BY MS. COYLE	2807
ARGUMENT BY MR. ARIAIL.....	2832
ARGUMENT BY MS. COYLE	2838
MOTIONS TRANSCRIPT – APRIL 6, 2005	2842
COURT’S EXHIBIT 2 (SEPTEMBER 3, 2003 QUESTIONING OF APPELLANT BY DR. CRAWFORD).....	2869
COURT’S EXHIBIT 13 (PROPOSED <i>ALLEN</i> CHARGE)	2964
COURT’S EXHIBIT 14 (JURY NOTE ON 9 TO 3 DEADLOCK)	2965
INDICTMENTS	2966
CERTIFICATE OF COUNSEL.....	2970

VOLUME SIX CONTINUED

FIRST PCR APPLICATION.....	2971
APPOINTMENT ORDER.....	2979
FIRST RETURN OF ATTORNEY GENERAL	2988

VOLUME SEVEN

First Return of Attorney General	3001
First Amendment to Application	3036
Return to Amended Application	3039
Second Amendment to Application	3134
Amicus Brief.....	3136
PCR Transcript.....	3175
Pre-Trial Matters	3180
Jan Vogelsane, Direct	3186
Jan Vogelsane, Cross	3221
Jan Vogelsane, Re-Direct.....	3252
William Nettles, Direct	3260
William Nettles, Cross.....	3291
William Nettles, Re-Direct	3310
William Nettles, Re-Cross	3317
John Mauldin, Direct	3319
John Mauldin, Cross	3350
John Mauldin, Re-Direct.....	3379
Robert Dudek, Direct.....	3384
Robert Dudek, Cross.....	3389
Robert Dudek, Re-Direct	3405
Daisy Huckaby, Direct.....	3412
Daisy Huckaby, Cross.....	3420
Dwight Williams, Direct.....	3426
Dwight Williams, Cross.....	3431
Dwight Williams, Re-Direct	3434
Paul Connor, Direct	3441

VOLUME EIGHT

PCR Transcript, Part Two.....	3556
Paul Connor, Cross	3556
Paul Connor, Re-Direct.....	3599

Richard Adler, Direct.....	3603
Richard Adler, Cross.....	3722
Richard Adler, Re-Direct.....	3772
Richard Adler, Re-Cross.....	3781
Richard Adler, Recalled.....	3794
Richard Adler, Recalled.....	3799
Natalie Novick-Brown, Direct.....	3785
Natalie Novick-Brown, Cross.....	3902
Natalie Novick-Brown, Re-Direct.....	3946

VOLUME NINE

Petitioner's Post Trial Brief.....	4017
Dismissal Order	4167
Motion to Reconsider.....	4217
Dismissal of Motion to Reconsider.....	4229
Notice of Appeal	4232
Exhibit List, PLAINTIFF	4235
Family Tree.....	4238
Memo from Reprieve.....	4239
Affidavit from Linda Mroz	4245
First Grade Report.....	4248
School psychological evaluation.....	4249
Pediatrician Records	4254
Second Grade Report	4263
Interview Notes.....	4265
Investigator Notes	4269
Investigator Notes	4270
Risk Factors	4271
Themes.....	4272
Dr. Evan's Notes.....	4273
Email – August 26, 2004	4303
ABA Guidelines.....	4304
Neuro Evaluation	4441
Email – February 2, 2005.....	4446
Focus Group.....	4449
Themes or Theory.....	4460
ABA Guidelines.....	4467
Email – January 5, 2005.....	4470
Jury Charge	4471
Pre-Trial Brief.....	4475

VOLUME TEN

Exhibit List - Continued, PLAINTIFF.....	4531
Appendix of FAS documents.....	4531
Affidavit of Dr. Griesemer.....	4851
Death Certificate	4858
Citizenship certificate	4860
Photograph of Carlo Rossi burgandy	4863
CV of Paul David Connor, Ph.D.....	4864
CV of Natalie Novick Brown, Ph.D	4878
CV of Richard S. Adler, M.D.	4887
Fetal Alcohol Syndrome Manual	4898
CDC, FAS Guidelines for Referral and Diagnosis	4907
FAS facial Photographic Analysis Report	4969
Diagnostic Criteria for FAS.....	4970
Photo of Chris Willaims brain(MRI)	4971
Quantitative EEG Analyses	4972
Raw EEG Report of Dr. Walker	4992
Hospital Timeline.....	4994

VOLUME ELEVEN

Exhibit List - Continued, PLAINTIFF.....	5005
GMH medical records.....	5005
Slide Normal Corpus Callosum	5028
Exhibit List - DEFENSE.....	5030
2005 Slide 12 of brain.....	5030
2005 Slide 13 of brain.....	5031
2005 Slide 12 of brain.....	5032
2005 Slide 13 of brain.....	5033
2005 Slide 14 of brain.....	5034
2011 MRI report	5035
2005 MRI report	5036
FASD in the legal system	5038
Status Conference Transcript.....	5039

1 (DEFENDANT SWORN.)

2 THE COURT: YOUR ATTORNEY IS GOING TO ASK YOU SOME
3 QUESTIONS ABOUT YOUR RIGHT TO TESTIFY. AND THEN THE
4 COURT'S GOING TO ASK YOU SOME QUESTIONS. OKAY?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: MR. MAULDIN, YOU WANT ME TO GO FIRST OR
7 DO YOU WANT TO?

8 MR. MAULDIN: I'LL BE GLAD TO, YOUR HONOR.

9 THE COURT: OKAY.

10 CHARLES CHRISTOPHER WILLIAMS,
11 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

12 BY MR. MAULDIN:

13 Q CHRIS, I HAVE TALKED TO YOU NUMEROUS TIMES IN THE
14 LAST YEAR AND A HALF; IS THAT RIGHT?

15 A YES, SIR.

16 Q YOU HAVE TO SPEAK UP.

17 A YES.

18 Q AND ON MANY OF THOSE CONVERSATIONS HAVE BEEN
19 REGARDING YOUR RIGHT TO OFFER TESTIMONY AT YOUR TRIAL AT
20 THIS PHASE. IS THAT RIGHT?

21 A YES.

22 Q AND YOU UNDERSTOOD THE CONVERSATIONS WE HAD?

23 A YES.

24 Q YOU KNOW THAT YOU CAN TESTIFY OR NOT, DEPENDING UPON
25 HOW YOU WANT TO PROCEED?

1 A YES.

2 Q YOU ALSO UNDERSTAND THAT IF YOU CHOOSE TO TESTIFY,

3 ~~THE PROSECUTION WOULD HAVE THE RIGHT TO ASK YOU QUESTIONS.~~

4 DO YOU UNDERSTAND THAT?

5 A YES.

6 Q YOU UNDERSTAND THAT IF YOU CHOOSE NOT TO TESTIFY, THE

7 JUDGE WOULD INSTRUCT THE JURY THAT THEY ARE NOT TO USE THE

8 FACT THAT YOU DID NOT TESTIFY IN ANY WAY AGAINST YOU. DO

9 YOU UNDERSTAND THAT?

10 A YES, SIR.

11 Q HAVE YOU UNDERSTOOD MY CONVERSATIONS WITH YOU

12 REGARDING YOUR RIGHTS TO TESTIFY OR NOT?

13 A YES.

14 Q DO YOU HAVE ANY QUESTIONS OF ME REGARDING YOUR RIGHT

15 TO TESTIFY?

16 A NO.

17 Q ALL RIGHT. AND YOU CHOOSE WHAT?

18 A TO NOT TESTIFY.

19 Q TO NOT TESTIFY.

20 MR. MAULDIN: YOUR HONOR, HE WILL NOT TESTIFY AT THIS
21 PROCEEDING.

22 THE COURT: OKAY. ALL RIGHT.

23 BY THE COURT:

24 Q MR. WILLIAMS, JUST TALKING ABOUT YOUR RIGHT TO

25 TESTIFY IN THE FIRST PHASE OR GUILT PHASE, DO YOU

1 UNDERSTAND?

2 A YES.

3 Q YOU MAY STILL TESTIFY; IF THERE IS A PENALTY PHASE,
4 YOU CAN TESTIFY AT THAT PHASE IF YOU DON'T TESTIFY NOW OR
5 NOT. DO YOU UNDERSTAND?

6 A YES.

7 Q WE'RE NOT PRECLUDING YOU FROM TESTIFYING LATER ON IF
8 WE HAVE A SECOND PHASE. DO YOU UNDERSTAND?

9 A YES.

10 Q WE MAY NOT HAVE A SECOND PHASE; BUT IF WE DO, THIS
11 DOESN'T PRECLUDE YOU FROM TESTIFYING IN THE SECOND PHASE.
12 DO YOU UNDERSTAND?

13 A YES.

14 Q WHEN I GO THROUGH THIS, IF YOU HAVE ANY QUESTIONS
15 PLEASE STOP ME AND ASK THE QUESTION. CAN YOU DO THAT?

16 A YES, SIR.

17 Q ALL RIGHT. DO YOU UNDERSTAND THAT NO ONE, UNDER THE
18 FIFTH AMENDMENT TO THE CONSTITUTION, CAN BE COMPELLED IN A
19 CRIMINAL CASE TO BE A WITNESS AGAINST THEMSELVES? IN
20 OTHER WORDS, YOU CANNOT BE REQUIRED TO TESTIFY, DO YOU
21 UNDERSTAND?

22 A YES.

23 Q DO YOU UNDERSTAND IF YOU DO TESTIFY, THEN, YOU WILL
24 BE SUBJECT TO CROSS EXAMINATION. IT'S NOT LIKE YOU SEE IN
25 THE MOVIES OR TV WHERE YOU'RE SITTING ON THE STAND AND

1 TAKE THE FIFTH AMENDMENT TO CERTAIN QUESTIONS AND CERTAIN
2 QUESTIONS YOU DON'T. YOU EITHER TAKE THE FIFTH AMENDMENT
3 NOW, NOT TESTIFY; OR YOU TAKE THE STAND AND ANSWER ALL THE
4 QUESTIONS, DO YOU UNDERSTAND?

5 A YES, SIR.

6 Q NOW, YOU UNDERSTAND THIS IS A PERSONAL RIGHT THAT YOU
7 HAVE?

8 A YES, SIR. I UNDERSTAND.

9 Q NOT YOUR ATTORNEY'S RIGHT, NOT THE COURT'S OR NO ONE
10 ELSE'S RIGHT. IT'S A PERSONAL RIGHT YOU HAVE AND ONLY YOU
11 CAN GIVE UP THAT RIGHT. DO YOU UNDERSTAND?

12 A YES, SIR.

13 Q HAS ANYBODY FORCED YOU OR THREATENED YOU TO MAKE YOU
14 NOT TESTIFY?

15 A NO.

16 Q DO YOU UNDERSTAND YOUR RIGHT TO TESTIFY?

17 A YES.

18 Q DO YOU UNDERSTAND YOUR RIGHT AND PROTECTIONS UNDER
19 THE FIFTH AMENDMENT?

20 A YES.

21 Q DO YOU UNDERSTAND IF YOU DO NOT TESTIFY, I WILL
22 INSTRUCT THE JURY THEY CANNOT TAKE THAT INTO
23 CONSIDERATION?

24 A YES.

25 Q YOU MAY TALK TO YOUR ATTORNEY OR YOUR FAMILY MEMBERS

1 BEFORE YOU MAKE A FINAL DECISION AS TO YOUR RIGHT IF YOU
2 WANT TO TESTIFY. DO YOU UNDERSTAND?

3 A YES, SIR.

4 Q DO YOU WANT TO TALK TO YOUR LAWYER ONE MORE TIME OR
5 YOUR FAMILY MEMBERS TO MAKE A FINAL DECISION AS TO WHETHER
6 YOU WANT TO TESTIFY OR NOT TESTIFY?

7 A NO.

8 Q HAVE YOU UNDERSTOOD EVERYTHING I'VE TOLD YOU?

9 A YES, SIR.

10 Q DO YOU HAVE ANY QUESTIONS YOU WANT TO ASK ME?

11 A NO, SIR.

12 Q DO YOU WANT TO TESTIFY OR DO YOU NOT WANT TO TESTIFY?

13 A NO, SIR, I DO NOT WANT TO TESTIFY.

14 Q DO NOT WANT TO TESTIFY. OKAY. ANYTHING ELSE? YOU
15 MAY HAVE A SEAT.

16 MR. ARIAIL: HE HAS A RIGHT TO ADDRESS THE JURY IN
17 THIS PHASE, YOUR HONOR. I THINK YOU SHOULD QUESTION HIM
18 IN REGARD TO THAT, ALSO.

19 THE COURT: MR. WILLIAMS, DO YOU UNDERSTAND EVEN
20 THOUGH YOU DO NOT TESTIFY, YOU HAVE THE RIGHT TO SPEAK TO
21 THE JURY. DO YOU UNDERSTAND?

22 A YES, SIR.

23 Q AND THAT'S A PERSONAL RIGHT THAT YOU HAVE UNDER THE
24 STATUTE OF THE PARTICULAR CRIME YOU'RE FACING. DO YOU
25 UNDERSTAND?

1 A YES, SIR.

2 Q YOU DO NOT HAVE TO MAKE THAT DECISION NOW, YOU CAN
3 MAKE IT AT A LATER TIME. TALK TO YOUR ATTORNEYS AND LET
4 ME KNOW LATER ON WHETHER YOU WANT TO MAKE A STATEMENT TO
5 THE JURY. THAT STATEMENT I WILL ALLOW YOU TO MAKE AFTER
6 EVERYBODY ELSE HAS MADE CLOSING ARGUMENTS. YOU
7 UNDERSTAND?

8 A YES, SIR.

9 Q YOU DON'T HAVE TO TELL ME THAT AT THIS TIME, BUT
10 BEFORE WE FINISH THE CLOSING ARGUMENTS, I'LL ASK YOU OR
11 YOUR ATTORNEY IF YOU WANT TO MAKE A STATEMENT. DO YOU
12 UNDERSTAND?

13 A YES, SIR.

14 Q THANK YOU VERY MUCH. ANYTHING ELSE, SOLICITOR?

15 MR. ARIAIL: NO, SIR.

16 MR. MAULDIN: ONE OTHER THING, JUDGE. I ASSUME THAT
17 WILL BE IN THE PRESENCE OF THE JURY. IF YOU ASK THAT,
18 WILL ANYTHING ELSE BE OFFERED OR SOMETHING SO THERE WON'T
19 BE DIRECT FOCUS ON HIS CHOICE?

20 THE COURT: WE CAN DO IT AFTER THE BREAK BEFORE YOU
21 ALL START IF YOU WANT TO, BEFORE WE BRING THE JURY BACK.
22 IF YOU WANT TO TALK TO HIM ONE MORE TIME ABOUT IT.

23 MR. MAULDIN: AND HE KNOWS ALL ABOUT THIS. WE TALKED
24 ABOUT IT.

25 THE COURT: DOES HE WANT TO MAKE A STATEMENT?

1 MR. MAULDIN: HE DOES NOT.

2 THE COURT: MR. WILLIAMS, YOU -- I UNDERSTAND YOU DO
3 NOT WANT TO MAKE A STATEMENT; IS THAT CORRECT?

4 THE DEFENDANT: NO.

5 THE COURT: TO THE JURY?

6 THE DEFENDANT: RIGHT NOW?

7 THE COURT: NO, AFTER YOUR ATTORNEY MADE HIS CLOSING
8 ARGUMENT, DO YOU WANT TO MAKE A STATEMENT?

9 THE DEFENDANT: YES.

10 THE COURT: TO THE JURY?

11 THE DEFENDANT: YES.

12 THE COURT: YOU WANT TO TALK TO THE JURY?

13 THE DEFENDANT: YES, SIR.

14 MR. MAULDIN: WE'LL TAKE A BREAK, YOUR HONOR.

15 THE COURT: ALL RIGHT. WE WILL TAKE A BREAK.

16 MR. ARIAIL: CAN I ASK YOU, INQUIRE ONE OTHER THING,
17 WHETHER OR NOT HE IS UNDER ANY MEDICATION OR TAKING ANY
18 MEDICATION THAT MAY IMPACT HIS ABILITY TO THINK CLEARLY OR
19 RATIONALLY, TO MAKE THESE DECISIONS?

20 THE COURT: MR. WILLIAMS, ARE YOU TAKING ANY KIND OF
21 MEDICATION?

22 THE DEFENDANT: NO, SIR.

23 THE COURT: OVER THE COUNTER OR PRESCRIPTION?

24 THE DEFENDANT: NO, SIR.

25 THE COURT: OKAY.

1 MR. NETTLES: YOUR HONOR?

2 THE COURT: YES, SIR.

3 MR. NETTLES: I WANT TO OBJECT.

4 THE COURT: WHAT IT IS YOUR OBJECTION?

5 MR. NETTLES: MY OBJECTION IS HE DOESN'T HAVE TO
6 ANSWER THAT QUESTION.

7 THE COURT: WELL, HE'S ALREADY ANSWERED IT. NOW YOU
8 WANT TO WITHDRAW IT?

9 MR. NETTLES: I DO.

10 THE COURT: ON WHAT BASIS?

11 MR. NETTLES: ON THE GROUNDS THAT I OBJECTED.

12 THE COURT: I THINK THE COURT HAS TO MAKE A
13 DETERMINATION WHETHER IT'S FREELY, VOLUNTARILY, AND
14 INTELLIGENTLY MADE. I THINK THAT WOULD GO INTO THAT
15 CONSIDERATION. I'LL OVERRULE YOUR OBJECTION. ANYTHING
16 ELSE?

17 MR. MAULDIN: NOTHING FURTHER, YOUR HONOR.

18 THE COURT: ALL RIGHT. WE'LL TAKE A RECESS. LET ME
19 KNOW WHEN YOU ALL ARE READY.

20 (BRIEF RECESS TAKEN.)

21 THE COURT: ALL RIGHT. IS THE STATE READY TO
22 PROCEED?

23 MS. STROM: THE STATE'S READY, YOUR HONOR.

24 THE COURT: ALL RIGHT. IS THERE ANYTHING WE NEED TO
25 PUT ON THE RECORD TO GET EVERYTHING STRAIGHT? I'M GOING

1 TO TELL THE JURY THE DEFENSE HAS NO FURTHER WITNESSES AND
2 WE'RE GOING TO CLOSING ARGUMENTS.

3 MR. MAULDIN, IS YOUR CLIENT GOING TO MAKE A
4 STATEMENT?

5 MR. MAULDIN: NOT AT THIS STAGE, YOUR HONOR. NOT IN
6 THIS PHASE OF THE TRIAL. WE HAVE TALKED ABOUT THAT.

7 THE COURT: MR. WILLIAMS, I ASKED YOU BEFORE WE TOOK
8 A BREAK WHETHER YOU WANTED TO MAKE A STATEMENT TO THE
9 JURY. YOU SAID, "YES." IS THAT CORRECT?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: HAVE YOU CHANGED YOUR MIND?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: YOU DO NOT WANT TO MAKE A STATEMENT TO
14 THE JURY AT THIS TIME. IS THAT CORRECT?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: HAS ANYBODY APPLIED ANY PRESSURE OR FORCE
17 OR COERCION TO GET YOU TO CHANGE YOUR MIND?

18 THE DEFENDANT: NO, SIR.

19 THE COURT: ANYTHING ELSE BEFORE WE BRING THE JURY?

20 MS. STROM: NOTHING FROM THE STATE.

21 THE COURT: BRING THE JURY.

22 (WHEREUPON, THE JURY RETURNS TO OPEN COURT WHEN THE
23 FOLLOWING PROCEEDINGS WERE HAD:)

24 THE COURT: MR. FOREMAN, MEMBERS OF THE JURY, THE
25 DEFENDANT DOES NOT HAVE ANY FURTHER TESTIMONY TO OFFER,

1 NOR DOES THE STATE HAVE ANY REBUTTAL TESTIMONY. AND WE'LL
2 HAVE CLOSING ARGUMENTS AT THIS TIME. AND THEN I WOULD,
3 AFTER THE CLOSING ARGUMENTS, CHARGE YOU ON THE LAW THAT'S
4 APPLICABLE TO THIS PARTICULAR CASE.

5 SOLICITOR.

6 **CLOSING STATEMENT**

7 BY MS. STROM:

8 MS. STROM: GOOD AFTERNOON, LADIES AND GENTLEMEN. WE
9 ARE AT THAT STAGE OF THE CASE THAT'S CALLED CLOSING
10 ARGUMENTS. THE ATTORNEYS GET TO GET UP HERE AND ARGUE TO
11 YOU WHAT WE FEEL THE EVIDENCE SHOWS YOU. AT THE END OF
12 ARGUMENTS HIS HONOR WILL CHARGE YOU WHAT THE LAW IS IN
13 THIS CASE. SO, WHAT YOU WILL DO WHEN WE FINISH, YOU ALL
14 WILL GO BACK TO YOUR JURY ROOM AND COLLECTIVELY DECIDE
15 WHAT THE FACTS ARE AND APPLY THEM TO THE LAW AS HIS HONOR
16 GIVES IT TO YOU AND RENDER A DECISION. THAT'S WHERE WE
17 ARE.

18 I WANT TO POINT OUT THAT ALL OF US HAVE NOTICED HOW
19 ATTENTIVE EACH AND EVERY ONE OF YOU HAVE BEEN AND WE
20 APPRECIATE THAT. WE ARE CONFIDENT YOU WILL CONTINUE THAT
21 DELIBERATE ATTENTIVENESS TO YOUR DUTY AS A JUROR.

22 WE TALKED SOMETIME BACK IN WHAT WE CALL VOIR DIRE,
23 WHEN WE BROUGHT YOU IN INDIVIDUALLY AND TALKED ABOUT YOUR
24 VIEWPOINTS AND THAT SORT OF THING OR SOME OF YOU WERE
25 TALKED TO ABOUT THE FACT THAT THE STATE GOES FIRST, WOULD

1 YOU WAIT UNTIL THE END BEFORE YOU MADE YOUR DECISION, AND
2 ALL OF YOU SAID YOU WOULD.

3 I WANT TO EXPLAIN A LITTLE SOMETHING TO YOU; AND THAT
4 IS, THE STATE DOES GO FIRST. WE GO FIRST BECAUSE WE HAVE
5 THE BURDEN OF PROOF. THE STATE HAS TO PROVE THE DEFENDANT
6 GUILTY OF THE CHARGES THAT ARE ALLEGED AGAINST HIM. SO,
7 WE HAVE TO GO FIRST.

8 IN OPENING STATEMENTS WE WENT FIRST, THE DEFENSE WENT
9 SECOND. IN THE PRESENTATION OF EVIDENCE WE WENT FIRST,
10 DEFENSE WENT SECOND. NOW, IN CLOSING ARGUMENTS WE GO
11 FIRST, THE DEFENSE GOES SECOND. SEEMS PRETTY SIMPLE. WHY
12 YOU GOING OVER THAT WITH US? WELL, ONE POINT. WHEN I SIT
13 DOWN, I WON'T HAVE AN OPPORTUNITY TO GET BACK UP TO TALK
14 TO YOU. WHEN I SIT DOWN, THE DEFENSE GETS TO COME UP
15 HERE, BECAUSE THOSE ARE THE RULES, AND ARGUE TO YOU. SO,
16 I DON'T HAVE A CHANCE TO GET BACK UP AND REBUT ANYTHING
17 THEY MAY ARGUE TO YOU.

18 I TELL YOU THAT BECAUSE THAT PUTS ME IN A POSITION OF
19 HAVING TO ANTICIPATE WHAT THEY WILL LIKELY ARGUE. I MAY
20 GET UP HERE AND ARGUE SOMETHING TO YOU TRYING TO
21 ANTICIPATE THEY'RE GOING TO ARGUE ONE THING, TRY TO ARGUE
22 AGAINST IT, THEY GET UP HERE AND SAY, WE DON'T HAVE THAT
23 ARGUMENT. BEAR WITH ME BECAUSE THEY DON'T HAVE TO TELL ME
24 WHAT THEY'RE GOING TO ARGUE. WE DON'T HAVE TO TELL THEM
25 WHAT WE'RE GOING TO ARGUE. SO, I WOULD RATHER TRY TO

1 ANTICIPATE AS MUCH AS POSSIBLE AND TRY TO ADDRESS IT THAN
2 NOT ADDRESS IT AND SIT DOWN AND SAY, "OH, I SHOULD HAVE
3 TALKED ABOUT THAT." SO, I APPRECIATE YOUR PATIENCE WITH
4 ME. BEAR WITH ME ON THAT.

5 AND ONE FINAL POINT. I KNOW MY NATURE. I'M GOING TO
6 FAIL TO ANTICIPATE SOMETHING. SO, IF I DO FAIL TO
7 ANTICIPATE AN ARGUMENT, THEY GET UP HERE, ARGUE SOMETHING
8 TO YOU THAT I HAVE NOT COUNTERED, JUST LOOK AT THIS
9 EVIDENCE, LOOK AT THIS EVIDENCE FOR THE ANSWER. ASK
10 YOURSELVES, WHAT WOULD MRS. STROM HAVE POINTED TO FOR A
11 DIFFERENT ARGUMENT?

12 YOUR ROLE AS A JURY, HIS HONOR WILL CHARGE YOU IN HIS
13 CHARGE THAT YOU AS A JURY COLLECTIVELY, AS I SAID BEFORE,
14 IS TO DECIDE THE FACTS. WELL, HOW DO YOU GO ABOUT DOING
15 THAT? YOU DO THAT BY JUDGING THE CREDIBILITY AND THE
16 BELIEVABILITY OF THE WITNESSES THAT HAVE BEEN PRESENTED
17 FOR BOTH SIDES. SAME STANDARD FOR BOTH SIDES.

18 HOW DO YOU JUDGE THAT CREDIBILITY? YOU JUDGE THEIR
19 DEMEANOR, YOU JUDGE THEIR OPPORTUNITY TO OBSERVE WHAT THEY
20 SAID THEY OBSERVED. YOU LOOK FOR ANY REASON THAT THAT
21 WITNESS MAY HAVE TO BE BIASED OR TO BE PREJUDICED FOR OR
22 AGAINST ONE SIDE OR THE OTHER. IN OTHER WORDS, YOU USE
23 YOUR GOOD COMMON SENSE THAT YOU USE EVERY DAY TO MAKE
24 DECISIONS.

25 ONE OTHER IMPORTANT THING ABOUT JUDGING CREDIBILITY

1 IS YOU NOT ONLY APPLY IT TO THE WITNESSES THAT GOT UP HERE
2 AND SAT IN THE BOX AND SWORE TO TELL THE TRUTH, YOU ALSO
3 APPLY IT TO STATEMENTS MADE OUTSIDE OF COURT THAT HAVE
4 BEEN PRESENTED TO YOU HERE AS EVIDENCE, SUCH AS THE
5 DEFENDANT'S STATEMENT. YOU JUDGE THE CREDIBILITY OF THIS
6 STATEMENT.

7 HIS HONOR WILL CHARGE YOU, YOU MUST FIRST, BEFORE YOU
8 EVEN CONSIDER IT, JUDGE WHETHER THE DEFENDANT GAVE THE
9 STATEMENT FREELY AND VOLUNTARILY. YOU HEARD THE TESTIMONY
10 FROM INVESTIGATOR MCNAMARA ABOUT THE DEFENDANT'S EAGERNESS
11 TO TALK, WANTING TO TALK. HE DIDN'T ASK TO STOP, DIDN'T
12 ASK FOR A LAWYER, DIDN'T WANT ANYTHING. HE WAS WILLING TO
13 TALK. NOBODY THREATENED HIM. NOBODY LAID ANY HANDS ON
14 HIM. NOBODY PROMISED HIM ANYTHING TO GET HIM TO TALK.
15 SO, THAT'S THE VOLUNTARINESS OF IT. THEN YOU GO FURTHER
16 AND SAY, LET ME JUDGE THE CREDIBILITY OF IT. CAN I
17 BELIEVE WHAT'S IN THIS STATEMENT?

18 BECAUSE ONE OF THE THINGS THIS JUDGE WILL ALSO TELL
19 YOU ABOUT CREDIBILITY AND THE BELIEVABILITY OF WITNESSES
20 IS YOU CAN BELIEVE EVERYTHING THAT WITNESS TOLD YOU, YOU
21 CAN BELIEVE PART OF WHAT THAT WITNESS TOLD YOU AND
22 DISBELIEVE THE OTHER PART; OR YOU CAN BELIEVE NONE OF IT.
23 IT'S TOTALLY WITHIN YOUR SOUND DISCRETION.

24 AND THE SAME IS TRUE WITH ANY STATEMENT MADE. YOU
25 CAN BELIEVE SOME OF IT, YOU CAN BELIEVE ALL OF IT, OR YOU

1 CAN BELIEVE NONE OF IT. SO, I JUST WANT YOU TO UNDERSTAND
2 THAT THE CREDIBILITY AND THE BELIEVABILITY APPLIES TO THE
3 WRITTEN STATEMENTS AS WELL AS TO THE TESTIMONY.

4 ONE OF THE THINGS YOU'RE GOING TO LOOK FOR OR CAN
5 LOOK FOR AND SHOULD LOOK FOR IN JUDGING CREDIBILITY IS HOW
6 DOES IT MESH WITH THE OTHER EVIDENCE IN THE CASE? HOW
7 DOES IT CONNECT WITH THE OTHER EVIDENCE IN THE CASE? IS
8 IT SUPPORTED BY OTHER EVIDENCE OR IS IT REFUTED BY OTHER
9 EVIDENCE? IS IT CORROBORATED BY IT OR IS IT IN CONFLICT
10 WITH IT? SO, YOU LOOK AT EVERYTHING. WE USE A PHRASE,
11 THE TOTALITY OF THE CIRCUMSTANCES, YOU LOOK AT EVERYTHING
12 AND DETERMINE WHICH PARTS YOU BELIEVE AND WHICH PARTS YOU
13 DON'T BELIEVE.

14 I'M GOING TO START TALKING TO YOU IN A FEW MINUTES
15 ABOUT WHAT THE ISSUES ARE IN THIS CASE. BEFORE I DO, I
16 WANT TO FIRST TALK ABOUT WHAT THE ISSUES ARE NOT. I DON'T
17 WANT ANYONE TO GET SIDETRACKED HERE. SOLICITOR ARIAIL GOT
18 UP HERE AND QUOTED FROM YOGI BERRA. BEING A YANKEES FAN,
19 I KNOW WHO HE IS; BUT I DON'T KNOW HIM AS WELL AS MR.
20 ARIAIL, I DIDN'T KNOW HIM WHEN HE WAS PLAYING. BUT HE
21 SAID, "KEEP YOUR EYE ON THE BALL. KEEP YOUR EYE ON THE
22 BALL." THAT'S WHAT WE WANT TO FOCUS ON HERE AT THIS STAGE.

23 REMEMBER BACK WHEN WE TALKED WITH YOU INDIVIDUALLY?
24 WE TALKED ABOUT IN CASES SUCH AS THIS THERE CAN BE TWO
25 PHASES; AND IN THE FIRST PHASE YOU'RE SIMPLY TO DETERMINE

1 WHETHER THE DEFENDANT COMMITTED THE CRIME, NOT TO
2 DETERMINE ANYTHING ELSE. YOU'RE NOT TO CONSIDER ANYTHING
3 ELSE. DID THE DEFENDANT COMMIT THE CRIME? SO, THAT'S
4 WHAT THE BALL IS HERE. OKAY?

5 THE BALL IS NOT SOMEHOW -- LET ME JUST REPHRASE IT.
6 THE DEFENSE GETS UP HERE AND STARTS TO ARGUE THAT THEY PUT
7 IN CERTAIN EVIDENCE. THEY PUT IN THE JOURNAL, THEY PUT IN
8 CERTAIN PIECES OF PAPER, THEY PUT IN CERTAIN PHOTOS
9 BECAUSE WE DIDN'T WANT TO BRING IT TO YOU. I SUBMIT TO
10 YOU, THAT THAT'S GETTING YOUR EYE OFF THE BALL. THERE'S
11 CERTAIN EVIDENCE THAT'S RELEVANT IN THIS FIRST PHASE,
12 CERTAIN EVIDENCE THAT'S RELEVANT IN THE SECOND PHASE.

13 AND ALSO, AS YOU SAW, WE'VE PUT UP WITNESSES. JUST
14 BECAUSE THEY'VE PUT IN A PIECE OF EVIDENCE BEFORE WE GET
15 TO THE WITNESS THAT WE WANT TO PUT IT UP IN, DOESN'T MEAN
16 WE'RE HIDING ANYTHING FROM YOU. SO, I DON'T WANT YOU TO
17 GET THAT IMPRESSION FROM THE PRESENTATION OF EVIDENCE.

18 ANOTHER THING THAT'S NOT THE ISSUE HERE IS MENTAL
19 ILLNESS. RIGHT BEFORE WE STARTED DOING CLOSING ARGUMENTS
20 THERE WAS THIS PRESENTATION OF EVIDENCE FROM DR. RICHARDS
21 ABOUT MENTAL ILLNESS. WELL, THAT'S NOT THE ISSUE HERE.
22 THE ISSUE HERE IS, DID THE DEFENDANT COMMIT THE ACTS? DID
23 HE ACT WITH MALICE AFORETHOUGHT? AT THIS STAGE OF A
24 PROCEEDING -- LET ME JUST BACK UP.

25 DR. RICHARDS EVEN SAID HE KNEW RIGHT FROM WRONG.

1 THAT'S WHAT YOU'RE TO DEAL WITH AT THIS STAGE. OKAY? DID
2 HE COMMIT THE ACTS? DID HE ACT WITH MALICE AFORETHOUGHT?
3 AND MAYBE SOME OF THE INFORMATION MR. RICHARDS TESTIFIED
4 TO, MAY BE EVIDENCE RELEVANT IN THE SECOND PHASE. WE
5 DON'T KNOW YET. THEY'RE NOT RELEVANT HERE. WHAT YOU HAVE
6 TO DETERMINE IS DID HE HAVE MALICE AFORETHOUGHT WHEN HE
7 COMMITTED THE ACT OF KILLING MARANDA WILLIAMS?

8 THE REASON I BRING THAT UP IS THERE WAS A LOT OF TALK
9 IN OPENING STATEMENTS ABOUT WHY. I BELIEVE SOLICITOR
10 ARIAIL GOT UP AND TOLD YOU THE JUDGE WILL CHARGE YOU THE
11 STATE DOES NOT HAVE TO PROVE MOTIVE. WE DON'T HAVE TO
12 PROVE WHY SOMEBODY DID SOMETHING. BECAUSE SOMETIMES YOU
13 MAY NEVER KNOW. WE MAY NEVER KNOW WHY SOMEONE DOES SUCH A
14 HORRIBLE CRIME.

15 AND MR. MAULDIN MADE AN ISSUE ABOUT IN OPENING, OF
16 COURSE IT'S IMPORTANT TO KNOW WHY. OF COURSE IT'S
17 IMPORTANT TO KNOW WHY. IT'S HUMAN NATURE TO WANT TO KNOW
18 WHY. THE LAW DOES NOT REQUIRE US TO PROVE IT. AND THERE
19 IS A DIFFERENCE. I SUBMIT TO YOU THAT THERE IS AN
20 APPROPRIATE TIME TO BE THINKING ABOUT WHY, AND THAT IS IN
21 THE SECOND PHASE. AND AT THAT TIME WE WILL TALK TO YOU
22 ABOUT WHY.

23 BUT IF YOU START HEARING ARGUMENTS AT THIS PHASE
24 ABOUT WHY SOMEONE DID SOMETHING, WHY DID CHRIS WILLIAMS
25 COMMIT THIS CRIME? WHY? WHY? WHY? I WOULD JUST REFER

1 YOU BACK TO THIS EVIDENCE THAT YOU WILL HAVE WITH YOU.
2 YOU'LL HAVE EACH AND EVERY PIECE OF THIS EVIDENCE WITH YOU
3 TO EXAMINE. BUT IF YOU HAVE TO KNOW WHY NOW, "I HAVE TO
4 HAVE SOME REVENGE." BECAUSE, LADIES AND GENTLEMEN, THAT'S
5 WHAT THIS IS ABOUT.

6 IN TALKING TO YOU ABOUT WHY IN OPENING STATEMENTS
7 THERE WAS THIS TALK ABOUT SUICIDE AND THERE WAS THIS TALK
8 ABOUT THIS DETERIORATION OF CHRIS WILLIAMS. AND THEN WE
9 HAD DR. RICHARD'S TESTIMONY ABOUT HIS BAD BACKGROUND, HIS
10 ALCOHOLIC PARENTS. AND I SUBMIT TO YOU, LADIES AND
11 GENTLEMEN, THAT IS AN ATTEMPT TO BLAME OTHERS, TO NOT TAKE
12 RESPONSIBILITY FOR YOUR OWN ACTIONS. IT'S AN ATTEMPT TO
13 BLAME OTHERS. BECAUSE, ALSO START LOOKING AT HIS
14 STATEMENT, WHO DOES HE BLAME IN HIS STATEMENT? HE BLAMES
15 MANDY. HE'S PUTTING IT ALL ON SOMEONE ELSE.

16 "IF MARANDA WOULDN'T HAVE TRIED TO TAKE THE GUN, NONE
17 OF THIS WOULD HAVE EVER HAPPENED." IT'S MANDY'S FAULT
18 THAT SHE'S DEAD. IT'S MANDY'S FAULT. IT'S NOT CHRIS
19 WILLIAMS'S FAULT. IT'S NOT HIS FAULT THAT SHE DOESN'T
20 WANT TO SEE HIM ANY MORE. IT'S NOT HIS FAULT HE KEEPS
21 CALLING HER WHEN SHE TELLS HIM TO QUIT CALLING. IT'S NOT
22 HIS FAULT HE BEATS HER UP IN THE PARKING LOT JUST A FEW
23 WEEKS BEFORE THIS. NO, NONE OF THIS IS HIS FAULT. IT'S
24 MANDY'S FAULT BECAUSE SHE GRABBED THE GUN.

25 LET'S LOOK AT THAT. SHE GRABBED THE GUN. WHAT

1 EVIDENCE DO YOU HAVE THAT SHE GRABBED THE GUN? YOU HAVE
2 HIS STATEMENT. IT SAID, "SHE GRABBED THE GUN." I DON'T
3 KNOW IF SHE GRABBED THE GUN OR NOT, WE WEREN'T THERE; BUT
4 EVEN IF SHE DID, EVEN IF SHE DID, LOOK AT THE TIME FRAME
5 IN WHICH SHE DID IT. YOU WILL HAVE THAT 911 TAPE. YOU
6 WILL HAVE THAT NEGOTIATION TAPE. AND HE SAID IT WAS JUST
7 BEFORE THE SHOTS WERE FIRED.

8 AND WHAT IS SHE SCREAMING IN THE BACKGROUND ON THE
9 VERY LAST CONVERSATION THAT SHE HAS?

10 "HE'S TRYING TO KILL ME."

11 AND WHAT DOES HE SAY? "QUIET, BE QUIET."

12 AND SHE SAYS, "YOU SAID YOU WERE GOING TO KILL ME.
13 STOP, PLEASE, STOP, PLEASE. STOP, PLEASE, PLEASE. NO,
14 CHRIS."

15 SO, SHE GRABS THE GUN, WHAT OTHER CHOICE DID SHE
16 HAVE?

17 LADIES AND GENTLEMEN, HIS HONOR WILL CHARGE YOU THAT
18 THE STATE HAS TO PROVE THE DEFENDANT GUILTY OF EACH AND
19 EVERY CHARGE, EACH AND EVERY ELEMENT OF THE OFFENSE BEYOND
20 A REASONABLE DOUBT.

21 BEYOND A REASONABLE DOUBT IS A LEGAL TERM AND HIS
22 HONOR WILL DEFINE IT FOR YOU. AND HE WILL TELL YOU THAT
23 BEYOND A REASONABLE DOUBT IS THAT EVIDENCE WHICH LEAVES
24 YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. I SUBMIT
25 TO YOU THAT BASED UPON THE EVIDENCE YOU HAVE RECEIVED, THE

1 STATE HAS MET ITS BURDEN OF PROOF. NOT ONLY HAVE WE MET
2 IT, WE HAVE SURPASSED IT. THERE IS NO DOUBT IN THIS CASE
3 THAT THE DEFENDANT COMMITTED THE CRIMES OF KIDNAPPING,
4 MURDER, AND POSSESSION OF A WEAPON DURING THE COMMISSION
5 OF A VIOLENT OFFENSE.

6 WE'RE GOING TO GO THROUGH THOSE CHARGES INDIVIDUALLY.
7 KIDNAPPING. THE JUDGE WILL CHARGE YOU IT'S UNLAWFUL TO
8 SEIZE, CONFINE, KIDNAP, ENVEIGLE OR CARRY AWAY ANOTHER
9 PERSON WITHOUT AUTHORITY OF LAW. HE WILL TELL YOU THAT
10 THE STATE DOES NOT HAVE TO PROVE EACH ONE OF THOSE, ONLY
11 ONE OF THOSE.

12 IT DOES NOT REQUIRE RANSOM. THAT'S WHAT A LOT OF
13 PEOPLE THINK. THAT'S WHAT WE SEE ON TV. KIDNAPPING,
14 SOMEONE IS TAKEN SOMEWHERE. THEY'RE HIDDEN OUT IN SOME
15 SHED AND WE START SEEING RANSOM NOTES. THAT IS A FORM OF
16 KIDNAPPING, IT'S NOT THE ONLY ONE. IF YOU CONFINE SOMEONE
17 AGAINST THEIR WILL WITHOUT THE AUTHORITY OF LAW, IT IS
18 KIDNAPPING. AND HIS HONOR WILL TELL YOU THAT KIDNAPPING
19 BEGINS WHEN THE PERSON'S FREEDOM HAS BEEN TAKEN AWAY.
20 KIDNAPPING ENDS WHEN THE FREEDOM HAS BEEN RESTORED. AND
21 THAT'S KEY.

22 BECAUSE LOOK AT WHAT WE HAVE IN THIS CASE. AND THERE
23 AGAIN, I DON'T KNOW IF THE DEFENSE IS GOING TO GET UP HERE
24 AND SAY SHE WASN'T KIDNAPPED, I DON'T KNOW. BUT I HAVE TO
25 ANTICIPATE THEY'LL MAKE SOME ARGUMENT TO YOU ON THAT POINT

1 BASED ON THE QUESTIONS THEY ASKED SOME OF THE WITNESSES.

2 I DON'T KNOW IF THEY'RE GOING TO GET UP HERE AND SAY
3 SHE WASN'T KIDNAPPED, BECAUSE YOU SEE HER WALKING THROUGH
4 THE AISLE WAY WITH THE DEFENDANT; AND HE'S NOT POINTING
5 THE GUN AT HER. THEN THEY MAY SAY IN THE STORAGE AREA SHE
6 WAS WALKING BEHIND HIM, SO, SHE'S OBVIOUSLY NOT KIDNAPPED.
7 I DON'T KNOW IF THEY'RE GOING TO GET UP HERE AND SAY THAT.
8 SO I HAVE TO BE PREPARED TO ARGUE AGAINST THAT.

9 I WANT TO TELL YOU IF THEY DO GET UP HERE AND TRY TO
10 ARGUE TO YOU SHE WAS NOT KIDNAPPED, I WANT TO DIRECT YOUR
11 ATTENTION TO A FEW THINGS. FIRST AND FOREMOST, MANDY HAS
12 ALREADY BEEN A VICTIM OF HIS VIOLENT TEMPER AND HIS
13 VIOLENT ACTIONS BECAUSE HE BEAT HER UP IN THE PARKING LOT.
14 SO, WHEN HE COMES IN THE BI-LO AT 10:00 IN THE MORNING,
15 YIELDING A SAWED-OFF PUMP-ACTION SHOTGUN FULLY LOADED AND
16 WITH EXTRA AMMUNITION, DO YOU THINK HER FREEDOM WAS TAKEN
17 AWAY FROM HER? DO YOU BELIEVE THAT SHE WAS CONFINED? DO
18 YOU BELIEVE THAT SHE HAD THE ABILITY TO LEAVE?

19 WHAT HAPPENS ON THE NEGOTIATION TAPES AND 911 TAPES?
20 HOW MANY TIMES IS MANDY ASKED, "CAN YOU LEAVE?"

21 AND SHE TURNS TO CHRIS WILLIAMS AND SAYS, "CAN I
22 LEAVE?"

23 AND WHAT IS THE RESPONSE?

24 "NO."

25 AND WHAT ARE THE WORDS OUT OF HIS MOUTH TO NEGOTIATOR

1 TONY LEE AT THE VERY END? DO YOU RECALL IT? "SHE TRIED
2 TO GET AWAY AND I HAD TO STOP HER. I HAD TO STOP HER."

3 LADIES AND GENTLEMEN, AS I TOLD YOU, KIDNAPPING
4 STARTS WHEN A PERSON'S FREEDOM HAS BEEN TAKEN AWAY. AND
5 IT ENDS WHEN THE FREEDOM HAS BEEN RESTORED. MANDY'S
6 FREEDOM WAS NEVER RESTORED. HER KIDNAPPING WAS THE
7 ULTIMATE KIDNAPPING. SHE NEVER AGAIN WAS FREE TO MOVE,
8 BECAUSE WHEN SHE DID, WHEN SHE STARTED FIGHTING FOR HER
9 LIFE, WHEN SHE BEGAN TO RUN AWAY FROM THE DEFENDANT, WHAT
10 DOES HE DO? WHAT DOES HE DO?

11 DOES HE SAY, "OH, LET ME LET HER GO, BECAUSE I'M
12 GOING TO LET HER GO OUT ANYWAY"?

13 THEY GET UP HERE AND TRY TO ARGUE TO YOU THAT HE WAS
14 GOING TO LET HER GO. HE TOLD THE NEGOTIATOR HE WAS GOING
15 TO LET HER GO. I SUBMIT TO YOU HE WAS LYING TO THE
16 NEGOTIATOR WHEN HE SAID HE WAS GOING TO LET HER GO. HE
17 NEVER INTENDED TO LET HER GO. BECAUSE IF HE HAD, WHEN SHE
18 STARTED RUNNING, ALL YOU DO IS LET HER RUN SLAP OUT THE
19 FRONT DOOR. BUT THAT'S NOT WHAT HE DID.

20 WHAT DOES HE DO?

21 (MRS. STROM PUMPS SHOTGUN FOUR TIMES.)

22 HER FREEDOM IS PERMANENTLY TAKEN AWAY.

23 THE SECOND INDICTMENT CHARGES TWO CRIMES ON THE SAME
24 INDICTMENT. MURDER, AND POSSESSION OF A WEAPON DURING THE
25 COMMISSION OF A VIOLENT OFFENSE. GO TO POSSESSION OF A

1 WEAPON DURING THE COMMISSION OF A VIOLENT OFFENSE FIRST
2 BECAUSE I THINK IT'S MORE SELF-EXPLANATORY.

3 YOU'RE COMMITTING A VIOLENT CRIME AND POSSESS A
4 WEAPON, YOU'RE GUILTY. THAT WEAPON CAN BE A FIREARM OR
5 KNIFE. IN THIS CASE WE SUBMIT THE DEFENDANT WAS IN THE
6 POSSESSION OF A SAWED-OFF SHOTGUN WHILE HE WAS COMMITTING
7 A VIOLENT OFFENSE, A VIOLENT CRIME. THAT CRIME BEING
8 MURDER. THE JUDGE WILL ALSO CHARGE YOU THAT MURDER AND
9 KIDNAPPING ARE BOTH DEFINED AS VIOLENT CRIMES.

10 MURDER. WHAT IS MURDER? WE TALKED TO YOU A LITTLE
11 ABOUT THIS IN THE BEGINNING. IT'S THE UNLAWFUL KILLING OF
12 ANOTHER PERSON WITH MALICE AFORETHOUGHT. WE TALKED TO YOU
13 ABOUT THE FACT THAT IT'S AN INTENTIONAL ACT. IT'S NOT
14 ACCIDENT. IT'S NOT INSANITY. IT'S NOT ANY OF THESE OTHER
15 ISSUES. IT'S AN INTENTIONAL ACT. I DON'T BELIEVE THERE
16 CAN BE ANY QUESTION THAT EACH TIME HE RACKS THE SHOTGUN,
17 EACH TIME HE PULLS THAT TRIGGER, HE'S INTENDING FOR THAT
18 GUN TO FIRE. IT IS AN INTENTIONAL ACT.

19 SO THE QUESTION BECOMES, IS THE DEFENDANT ACTING WITH
20 MALICE AFORETHOUGHT? WHAT IS MALICE AFORETHOUGHT? MALICE
21 AFORETHOUGHT IS A DEPRAVED HEART, A HEART FATALLY BENT ON
22 MISCHIEF. THOSE ARE THE LEGAL TERMS YOU'LL HEAR FROM THE
23 JUDGE. WICKEDNESS. AND IN LAYMAN'S TERMS IT'S MEANNESS.
24 MEANNESS. HE HAD MALICE IN HIS HEART. DID HE HAVE
25 MEANNESS IN HIS HEART WHEN HE WAS FIRING THIS WEAPON?

1 THE JUDGE HAS TOLD YOU THERE ARE TWO KINDS OF MALICE,
2 EXCUSE ME, TWO WAYS OF EXPRESSING MALICE. IT CAN BE
3 INFERRED FROM THE USE OF A DEADLY WEAPON OR IT CAN BE
4 EXPRESSED, "I'M GOING TO KILL YOU?"

5 HOW MANY TIMES IN THIS JOURNAL DO WE HAVE, "I'M GOING
6 TO KILL YOU"? YOU WILL HAVE IT. THE DIAGRAM WHICH SHOWS
7 THE BI-LO, HE PLANS IT OUT. THE EXACT AISLE HE'S GOING TO
8 GO DOWN. THE PLANNING, THE LETTERS.

9 "YOU WILL NOT LEAVE HERE TODAY. YOU HAVE SIGNED YOUR
10 DEATH WARRANT. I WILL KILL YOU TODAY." THAT IS EXPRESS
11 MALICE. BUT I SUBMIT TO YOU, GO EVEN FURTHER. LOOK AT
12 ALL THE EVIDENCE IN THIS CASE.

13 HE GOES TO THE POINT NOT ONLY OF PLANNING IT BY
14 DRAWING OUT A DIAGRAM, HE GOES TO THE BI-LO THE NIGHT
15 BEFORE AND STEALS THE WORK SCHEDULE. DO YOU REMEMBER THAT
16 TESTIMONY FROM THE DELI-BAKERY MANAGER SAYING THAT THE
17 WORK SCHEDULE WAS MISSING? AND WHERE WAS IT FOUND? THE
18 DEFENDANT'S HOME. IN THE DEFENDANT'S HOME. HE SNUCK IN
19 TO THE BI-LO THE NIGHT BEFORE, SNUCK INTO THE DELI-BAKERY
20 MANAGER'S OFFICE. WHY? BECAUSE HE WAS PLANNING THIS, AND
21 HE HAD BEEN PLANNING IT AND HE WAS GOING TO CARRY OUT HIS
22 PLAN. HE WAS NOT GOING TO BE STOPPED.

23 THE DEFENSE MAY POINT YOU TO DR. CRAWFORD'S INTERVIEW
24 WITH THE DEFENDANT. WHEN YOU READ IT, YOU WILL SEE IN
25 THERE, THERE WERE OTHER ATTEMPTS ON HER LIFE. HE WAS

1 THERE BEFORE, HE WAS GOING TO SHOOT HER ONCE BEFORE, BUT
2 IT DIDN'T WORK OUT. THIS TIME HE WAS NOT GOING TO BE
3 STOPPED.

4 ON THE DIAGRAM WHERE THE DEFENDANT PLANS THIS EVENT,
5 I WANT YOU TO GO THROUGH AND LOOK AT IT. HE EVEN PLANS IT
6 OUT TO THE NTH DEGREE. NO ONE WILL GET HURT IF NO ONE
7 COMES IN THE STORE. ISN'T THAT EXACTLY WHAT MANDY
8 WILLIAMS TOLD 911 WHEN SHE FIRST CALLED? HE SAID, "NO ONE
9 WILL GET HURT IF YOU DON'T COME IN."

10 HE HAS HIS JACKET ON HIM. THE OD JACKET, OD JACKET.
11 LOOK AT THE CRAWFORD INTERVIEW. IT WILL TELL YOU THAT HE
12 WENT OUT AND BOUGHT THAT SPECIFICALLY FOR THIS EVENT. HE
13 HAS BOOTS, GLOVES, SKI MASK. WHAT'S FOUND IN THE CAR, IN
14 THE FLOORBOARD OF THE CAR OF THE MUSTANG? YOU WILL HAVE
15 THIS, LOOK AT IT.

16 "SECURE HER TO THE TABLE AND LET HER READ LETTER."
17 WHAT LETTERS ARE THOSE? THE ONES FOUND IN HIS WALLET, THE
18 ONE WHERE HE'S PLANNING HER DEATH, WHERE HE SAYS, "YOU ARE
19 GOING TO CALL YOUR PARENTS AND TELL THEM YOU'RE GOING TO
20 DIE. I WANT TO HEAR THEM BEG FOR YOUR LIFE, TOO. I WANT
21 YOU TO SUFFER AS MUCH AS I HAVE. YOU WILL NEVER SEE YOUR
22 DAUGHTER AGAIN."

23 LADIES AND GENTLEMEN, I SUBMIT TO YOU IF THAT IS NOT
24 MALICE, THEN THERE IS NONE. THERE IS NEVER MALICE IF THAT
25 DOES NOT RISE TO THE LEVEL OF MALICE.

1 I TALKED TO YOU A LITTLE BIT EARLIER ABOUT THE FACT
2 THE DEFENSE MAY GET UP HERE AND TRY TO TELL YOU THIS WAS
3 AN INSTANTANEOUS DECISION ON HIS PART; THAT HE DIDN'T MEAN
4 TO KILL HER OR DIDN'T INTEND TO KILL HER WHEN HE WALKED IN
5 THE DOOR. BECAUSE IN SOME OF THE PARTS HE TALKS ABOUT,
6 "WELL, IF I HAD ONLY GONE IN THERE WITH SCISSORS, IT
7 REALLY WOULDN'T HAVE SCARED HER."

8 WELL, GO IN THERE WITH AN UNLOADED GUN, BUT THAT'S
9 NOT WHAT HE DOES. HE GOES IN THERE WITH A FULLY-LOADED
10 GUN WITH EXTRA AMMUNITION. HE IS INTENDING HIS ACTIONS.
11 THERE IS NO DOUBT AS TO WHAT HE WANTS TO ACCOMPLISH THAT
12 DAY AT THE BI-LO.

13 THEY MAY POINT TO THIS STATEMENT TO SAY THAT HE
14 DIDN'T PLAN ON KILLING HER, THAT HIS DECISION HAD NOT BEEN
15 MADE AT THAT TIME. AND THAT'S WHERE I WANT TO TALK TO YOU
16 ABOUT JUDGING THE CREDIBILITY OF THE STATEMENT. THERE ARE
17 A COUPLE OF ISSUES I WANT TO POINT OUT.

18 FIRST OF ALL, I SUBMIT TO YOU THAT THE STATEMENT IS
19 AN ATTEMPT ON THE DEFENDANT'S PART TO DOWNPLAY HIS OWN
20 ACTIONS. YOU MIGHT SAY, "WHY DO YOU SAY THAT? HE JUST
21 TOLD THE POLICE HE KILLED HER?"

22 YEAH, HE DOES, BUT LOOK AT THE STATEMENT. ONE OF THE
23 FIRST THINGS HE STARTS TALKING ABOUT IS WHY THEY BROKE UP.
24 HE STARTS TALKING ABOUT MANDY AND MANDY HAVING THIS DRUG
25 PROBLEM. WHAT EVIDENCE IS THERE OF THAT? NONE. ZERO.

1 AND THEN HE STARTS SAYING THAT THE REASON FOR THE BREAK UP
2 WAS THAT SHE HAD AN ABORTION. WHERE IS THE EVIDENCE OF
3 THAT? THERE IS NONE. BUT, THERE AGAIN, HE'S SHIFTING
4 THAT BLAME TO MANDY. SHE'S THE REASON. SHE'S THE REASON
5 FOR THIS BREAK UP.

6 AGAIN, IT HAS NOTHING TO DO WITH THE FACT HE'S
7 BEATING ON HER. IT HAS NOTHING TO DO WITH THE FACT THAT
8 HE'S BOTHERING HER OR SIMPLY SHE DOESN'T WANT TO BE WITH
9 HIM. NO. IT'S MANDY'S FAULT. THERE'S NO EVIDENCE TO
10 SUPPORT THAT ALLEGATION. AND IF THAT WERE TRUE, LADIES
11 AND GENTLEMEN, IF MANDY WERE THIS HORRIBLE PERSON, WHY
12 WOULDN'T HE BE GLAD TO NOT BE WITH HER? IF SHE'S THIS
13 HORRIBLE PERSON HE DOESN'T LIKE TO BE AROUND, BECAUSE SHE
14 HAS ALL THESE PROBLEMS, THEN BE GLAD YOU'RE GONE. BUT
15 THAT DOESN'T MAKE SENSE.

16 WHAT MAKES SENSE IS SHE ENDED THE RELATIONSHIP, HE
17 DIDN'T LIKE IT. HE DIDN'T LIKE IT. AND WHAT DOES HE DO
18 ABOUT IT? HE FIRST TRIES TO GIVE HER GIFTS AND THAT'S NOT
19 WORKING AND HE'S GETTING MADDER. HE'S GETTING MADDER.
20 AND HE GOES TO THE BI-LO. HE BEATS HER UP. I WANT TO SAY
21 ONE OTHER THING ABOUT THAT SUICIDE. I KNOW I MENTIONED IT
22 EARLIER AND IT JUST POPPED IN MY HEAD. HE HAS THE SUICIDE
23 ATTEMPT A FEW WEEKS, MONTHS BEFORE THIS INCIDENT HAPPENED,
24 I THINK IT WAS BACK IN JUNE, READ DR. CRAWFORD'S INTERVIEW
25 WITH HIM. WHAT DOES HE TELL DR. CRAWFORD?

1 HE DID IT TO SEE HOW SHE WOULD REACT TO IT. AND WHEN
2 SHE DIDN'T, HE GOT MAD. HE GOT MAD AND HE JUST GETS
3 Madder AND Madder BECAUSE SHE'S NOT GIVING IN TO HIM.
4 SHE'S HOLDING HER GROUND. SHE'S SAYING, "YOU ARE NOT THE
5 PERSON I WANT TO BE WITH." HE CAN'T STAND IT.

6 I WANT TO TALK TO YOU A LITTLE FURTHER ABOUT THE
7 STATEMENT AND JUDGING ITS CREDIBILITY IN THAT THE
8 DEFENDANT SAYS IN THIS STATEMENT THAT HE TOLD OTHER
9 EMPLOYEES TO LEAVE THE STORE. I WANT YOU TO RECALL THE
10 TESTIMONY OF MRS. REID. WHAT DOES SHE SAY?

11 HE COMES IN, HE HAS THE GUN, HE DOES SOMETHING WITH
12 HIS FINGERS TO HIS MOUTH AND POINTS THE GUN AT HER.
13 (DEMONSTRATES.) WELL, I GUESS THAT IS TELLING SOMEBODY TO
14 LEAVE, HE'S POINTING A GUN AT HER.

15 AND WHAT DOES HE SAY HAPPENS WHEN THE TWO EMPLOYEES
16 TRY TO COME BY OR COME TO THE OFFICE TO TRY TO GIVE AID TO
17 MANDY, TRY TO HELP HER OUT? WHAT DOES HE SAY IN HIS
18 STATEMENT? HE SAYS THEY WALKED PAST THE DOOR AND THEY
19 KEEP ON WALKING BECAUSE HE HAS THE GUN POINTED AT THE
20 DOOR. AGAIN, DOWNPLAYING HIS OWN ACTIONS. NOT ACCEPTING
21 RESPONSIBILITY FOR WHAT HE HAS DONE.

22 WHAT DID MR. GRIGGS AND MR. HAFFEN SAY TO YOU? IT
23 WAS POINTED DOWN AND HE RAISED IT UP TO MY FACE.

24 AND FINALLY ON THE ISSUE OF HIS STATEMENT. HE TALKS
25 ABOUT MANDY STRUGGLING OVER THIS GUN, GRABBING THE BARREL

1 OF THE GUN AND KNOCKING THE SAFETY OFF AND FIRING THE
2 WEAPON. AGAIN, YOU WILL HAVE IT. YOU HAVE THE SAFETY
3 HERE. YOU CAN PUSH IT. SEE IF THAT'S GOING TO BE KNOCKED
4 OFF IF SHE'S GRABBING THE BARREL. I SUBMIT TO YOU THE
5 SAFETY WAS NEVER ON BECAUSE HIS INTENTIONS WERE TO KILL
6 HER. SO, THE SAFETY WAS NEVER ON.

7 AND IF THEY DID STRUGGLE OVER THE GUN IN HER ATTEMPT
8 TO SAVE HER OWN LIFE AND THE GUN WENT OFF -- BECAUSE WHAT
9 DO WE HAVE? WE HAVE A SHOT CUT IN BLUE CLOTH AND WE HAVE
10 HER APRON WITH A HOLE IN IT.

11 WHAT THIS CASE COMES DOWN TO IS, DID THE DEFENDANT
12 ACT WITH MALICE? AND THE DEFENSE MAY TRY TO ARGUE THAT HE
13 WAS GOING TO KILL HIMSELF, TOO, BECAUSE THAT'S WHAT HE
14 SAID IN HIS STATEMENT; HE WAS GOING TO KILL HIMSELF, TOO.
15 WELL, HE HAD FIVE EXTRA LIVE ROUNDS WITH HIM. HE DOESN'T
16 KILL HIMSELF, HE KILLS MANDY. AND IF THEY TRY TO TELL
17 YOU, SUBMIT TO YOU THAT ON THE VIDEO YOU SEE HIM WHEN HE'S
18 FIRING AND THEN HE PULLS THE WEAPON UP TO HIM LIKE THIS,
19 (INDICATING). HE'S NOT ABOUT TO KILL HIMSELF. WHAT'S HE
20 DOING? YOU LOOK AT IT. BLOWING THE BARREL OFF.
21 (INDICATES. HE AIN'T TRYING TO KILL HIMSELF. BECAUSE IF
22 HE DID, MANDY GOES AWAY BECAUSE THAT FIRST SHOT IS TO HER
23 ELBOW. IT'S TO HER ELBOW. SHE KEEPS RUNNING.

24 BUT IT DOESN'T STOP THERE, DOES IT? BECAUSE WHAT
25 DOES HE DO? HE CHASES HER DOWN. CHASES HER DOWN. AND

1 WHILE SHE IS ON THE GROUND ON THE FLOOR, FIRES. AND FIRES
2 AGAIN. HOW MUCH MEANNESS, HOW MUCH MALICE DO YOU HAVE TO
3 HAVE IN YOUR HEART WHEN A WOMAN IS BEGGING FOR HER LIFE,
4 "PLEASE, PLEASE STOP, PLEASE STOP"? HOW MUCH MALICE DO
5 YOU HAVE TO HAVE TO THEN CHASE THAT WOMAN OUT INTO AN AREA
6 AND GUN HER DOWN LIKE A DOG?

7 EACH AND EVERY ONE OF THE SHOTS TO MANDY WILLIAMS WAS
8 FROM THE BACK. SHE IS RUNNING FOR HER LIFE AND IT IS THIS
9 DEFENDANT THAT IS FULL OF MALICE THAT FIRES UPON HER AND
10 CHASES HER DOWN AND FIRES UPON HER AGAIN. SHE DID NOT
11 STAND A CHANCE. SHE DIDN'T HAVE A CHANCE FROM THE MOMENT
12 CHRIS WILLIAMS WALKED INTO THAT BI-LO. HE HAD HIS PLAN,
13 HE WAS GOING TO EXECUTE IT. NO ONE WAS GOING TO STOP HIM.

14 LADIES AND GENTLEMEN, I SUBMIT TO YOU THAT THERE IS
15 SO MUCH MALICE IN THIS CASE THAT THERE IS NO DOUBT THAT
16 THE DEFENDANT IS GUILTY OF MURDER, POSSESSION OF A WEAPON
17 DURING THE COMMISSION OF A VIOLENT CRIME AND OF
18 KIDNAPPING.

19 I JUST REMIND YOU OF A COUPLE OF MORE POINTS.

20 "I WANT YOU TO CALL YOUR PARENTS AND TELL THEM YOU'RE
21 ABOUT TO DIE." IT'S IN THESE LETTERS, IT'S IN THE
22 JOURNAL. WHAT'S THE THING OF THE NEGOTIATION TAPE?

23 "HE WANTS ME TO CALL MY MAMA." WHAT'S IN THE PLAN?
24 CALL MAMA. "I WANT TO HEAR YOUR PARENTS BEG FOR YOUR
25 LIFE. YOU WILL PAY THE ULTIMATE PRICE. YOU WILL NEVER

1 SEE YOUR DAUGHTER AGAIN."

2 HOW MUCH MALICE DOES IT TAKE TO SIT THERE AND TELL A
3 WOMAN YOU WILL NEVER SEE YOUR CHILD AGAIN BECAUSE I AM
4 GOING TO KILL HER? AND NOT ONLY I AM GOING TO KILL YOU --
5 RUB IT A LITTLE DEEPER -- I'LL GIVE YOU THE CHOICE. HOW
6 DO YOU WANT TO DIE? YOU WANT ME TO SHOOT YOU IN THE BACK
7 OF THE HEAD OR DO YOU WANT ME TO STRANGLE YOU? AND THAT'S
8 WHEN YOU HEAR HER ON THE TAPE. THAT'S WHEN YOU HEAR HER
9 SCREAMING FOR HER LIFE. BECAUSE THAT IS WHEN HE HAS
10 FINALLY TOLD HER HE IS GOING TO KILL HER.

11 THESE TIMES WHEN THEY'RE WALKING AROUND IN THE AISLES
12 AND THEY'RE WALKING AROUND IN THE STOCK ROOM, SHE HAS NO
13 REASON TO RUN FROM HIM, BECAUSE SHE DOESN'T KNOW AT THAT
14 TIME HE'S PLANNED OUT HER DEATH. AND WHAT GOOD DID IT DO
15 HER? JUST GETS SHOT IN THE BACK.

16 LADIES AND GENTLEMEN, I APPRECIATE YOUR TIME. I KNOW
17 YOU WILL BE DELIBERATE AND CONSCIENTIOUS IN YOUR DECISION
18 MAKING. BUT I SUBMIT TO YOU THERE IS NO DOUBT IN THIS
19 CASE THAT THE DEFENDANT ACTED WITH THE ULTIMATE MALICE
20 AFORETHOUGHT. THANK YOU.

21 **CLOSING STATEMENT**

22 MR. MACDOUGALL: PLEASE THE COURT?

23 BY MR. MACDOUGALL:

24 GOOD AFTERNOON. AGAIN, MY NAME IS MARK MACDOUGALL.
25 AND ALONG WITH JOHN, BILL, AND COLLEEN I'M HERE

1 REPRESENTING THE DEFENDANT IN THIS CASE, CHRIS WILLIAMS.
2 THERE'S ONE THING I'D LIKE TO TELL YOU BEFORE I TELL YOU
3 ANYTHING, BECAUSE IT'S PROBABLY THE MOST IMPORTANT THING I
4 CAN TELL YOU TODAY. THAT IS, THAT THIS IS A TERRIBLE,
5 TERRIBLE CRIME, A TERRIBLE ACT, AND A TERRIBLE LOSS.

6 YOU KNOW, I COUNTED THIS MORNING, AMONG THE FOUR OF
7 US OVER THERE, WE HAVE 12 CHILDREN, AND I CAN'T GET MY
8 MIND AROUND WHAT IT WOULD BE LIKE TO LOSE ONE. YOU CAN'T
9 TAKE IN WHAT THE LOSS MUST BE TO THE WILLIAMS FAMILY AND
10 TO HER FRIENDS AND WE UNDERSTAND THAT. THIS IS A
11 TERRIBLE, TERRIBLE THING.

12 I'VE LIVED IN THE SAME COUNTY IN VIRGINIA FOR ALMOST
13 25 YEARS AND I'VE BEEN A LAWYER FOR ALMOST 19. AND I'VE
14 NEVER BEEN CALLED AS A JUROR. I DON'T KNOW WHY THAT IS.
15 BUT I'VE NEVER SERVED AND NEVER BEEN CALLED. AND ONE
16 THING I CAN AGREE WITH BOB ARIAIL ON, IT IS AN AWESOME
17 DUTY. IT IS A SOLEMN, SOLEMN DUTY. AND IT'S ONE THAT
18 WILL FOLLOW YOU AFTER YOU'RE FINISHED, BECAUSE YOU'LL
19 REMEMBER WHAT YOU DID HERE AND HOW YOU ACT AND HOW YOU
20 THINK. AND YOU CARRY THAT WITH YOU AFTER THIS FOR THE
21 REST OF YOUR LIFE. SO, IT REALLY HAS TO BE AMONG THE MOST
22 IMPORTANT, AMONG THE MOST SERIOUS THINGS YOU EVER TO DO.

23 THE OATH YOU TOOK WHEN THE JUDGE FIRST EMPANELED YOU,
24 IF I'VE GOT IT CORRECTLY, "YOU SHALL WELL AND TRULY TRY
25 THIS CASE AND A TRUE VERDICT RENDER ACCORDING TO THE LAWS

1 AND THE EVIDENCE, SO HELP YOU, GOD." AND THAT'S ALL WE
2 ASK YOU TO DO HERE. AND I ALSO WANT TO SAY ON BEHALF OF
3 ALL OF US, YOU'VE BEEN ATTENTIVE, CAREFUL, AND WE
4 APPRECIATE THAT.

5 YOU DO NEED TO WEIGH THE EVIDENCE ON THE CHARGE OF
6 MURDER. IT IS OBVIOUSLY A VERY SERIOUS ONE. MISS STROM
7 HAS GONE THROUGH THE EVIDENCE AS THE STATE SEES IT. AND
8 WE ASK YOU TO DO WHAT THE JUDGE INSTRUCTED YOU TO DO, WHAT
9 YOUR OATH OBLIGES YOU TO DO; AND THAT IS, WEIGH IT
10 CAREFULLY AND RENDER A TRUE VERDICT. AND THAT'S ALL WE
11 CAN ASK YOU TO DO ON THE CHARGE OF MURDER. YOU HAVE THE
12 EVIDENCE, YOU HAVE THE FACTS, AND YOU HAVE THE TESTIMONY.
13 AND NOW IT WILL BE SHORTLY BE YOUR TURN TO ACT. ALL WE
14 CAN ASK YOU TO DO ON THE CHARGE OF MURDER, ALL WE CAN ASK
15 YOU TO DO IS THAT.

16 MISS STROM SAID SOMETHING ABOUT TAKING RESPONSIBILITY
17 AND WHETHER THE RESPONSIBILITY SOMEHOW IS BEING SHIFTED TO
18 SOMEBODY ELSE. AND I WANT TO TELL YOU THAT'S NOT THE
19 CASE. AND SHE SHOULD KNOW BETTER. DEFENSE TAKES
20 RESPONSIBILITY FOR WHAT HAPPENED HERE. AND THE VERY
21 EVIDENCE SHOWS THAT AT LEAST ON THAT DAY, ON SEPTEMBER
22 3RD, 2003, CHRIS WILLIAMS WITHIN AN HOUR TOOK
23 RESPONSIBILITY AND TOLD THE POLICE EXACTLY WHAT HAPPENED.
24 HE DIDN'T NEED A LAWYER, DIDN'T WAIT, TOLD THEM WHAT
25 HAPPENED. A TERRIBLE STORY AND A TERRIBLE CRIME. BUT THE

1 QUESTION OF RESPONSIBILITY IS NOT WHAT'S AT STAKE HERE.

2 AND WE TAKE RESPONSIBILITY -- AS THE JURY MUST -- FOR
3 THE EVIDENCE; EVERY BIT OF IT. THE GOOD AND THE BAD AND
4 THE TERRIBLE. AND THERE'S A GREAT DEAL IN THIS CASE. IT
5 IS TERRIBLE. AND THAT'S WHY, AS JOHN MAULDIN TOLD YOU AT
6 THE BEGINNING OF THE TRIAL, WE WANT YOU TO KNOW
7 EVERYTHING. AND MISS STROM MADE REFERENCE TO THAT DURING
8 THE COURSE OF THIS TRIAL. THE DEFENSE AND MY COLLEAGUES
9 HAVE ASKED CERTAIN EVIDENCE BE PUT IN THAT IS NOT
10 FAVORABLE EVIDENCE. SOME OF IT IS TERRIBLE EVIDENCE. BUT
11 WE DID THAT BECAUSE IT'S VERY IMPORTANT FOR FAIRNESS, FOR
12 JUSTICE, AND FOR EQUITY THAT YOU KNOW EVERYTHING.

13 THIS IS AN AWFUL THING THAT HAPPENED. AND SOME AWFUL
14 EVIDENCE THAT YOU'VE SEEN. AND WHAT HAPPENED IS PRETTY
15 CLEAR FOR THE MOST PART. THE EVIDENCE IS IN FRONT OF YOU
16 AND YOU'VE HEARD THE TESTIMONY; BUT WHY IT HAPPENED IS
17 ALSO IMPORTANT. BECAUSE AS WE LIVE OUR LIVES, THE WHY IS
18 JUST AS IMPORTANT AS THE WHAT. AND WHATEVER VERDICT YOU
19 REACH, IT'S IMPORTANT TO YOUR OATH AND TO YOUR LIFE AND
20 THE LIFE YOU LIVE AFTER TODAY AND THIS WEEK THAT YOU KNOW
21 WHY AND THAT YOU UNDERSTAND WHY, AND THAT YOU HAVE THAT
22 ANSWER FOR YOURSELF.

23 THE TERRIBLE AWFUL FACTS OF THIS CASE AND THE WHY OF
24 THIS TERRIBLE CRIME IS NOT SOMETHING I'M GOING TO TELL
25 YOU. I'M NOT GOING TO GO AND TRY TO TELL YOU THAT THERE'S

1 SOMETHING OUT THERE BEYOND THE EVIDENCE, OR SOME FACT, OR
2 THERE'S SOME THEORY THAT'S GOING TO CHANGE WHAT'S HERE.
3 BUT WHAT I WILL ASK YOU TO DO, PLEASE, IS TO TRY TO
4 UNDERSTAND THE WHY BY LOOKING AT THE EVIDENCE, LOOKING AT
5 IT CLOSELY, AND LOOKING, MOST IMPORTANTLY, AT IT ALL.

6 DEPUTY SILVAGGIO THIS MORNING TESTIFIED ABOUT THE
7 JOURNAL. YOU REMEMBER THAT, THE JOURNAL? YOU'VE SEEN IT
8 IN CLOSING ARGUMENT. IT'S GOING TO GO BACK TO THE JURY
9 ROOM WITH YOU. IT'S NOT EASY TO READ, BUT I ASK YOU
10 BEFORE YOU RETURN YOUR VERDICT, HAVE A LOOK AT IT. AND IN
11 PARTICULAR HAVE A LOOK AT EXHIBIT 24, WHICH IS TWO SIDES
12 OF THE FACING PAGE. YOU CAN SEE IT IN THE ORIGINAL; AND
13 WE HAD IT MARKED SEPARATELY, SO YOU'LL HAVE IT IN FRONT OF
14 YOU.

15 AND THE REASON I ASK YOU TO LOOK AT THAT IS SOME
16 TESTIMONY YOU HEARD THIS MORNING FROM DEPUTY SILVAGGIO, HE
17 LOOKED AT IT AND HE SAID, "SOMETHING CHANGED." BECAUSE
18 FOR 30 ODD PAGES UP UNTIL THEN YOU HAVE EXPRESSION AFTER
19 EXPRESSION OF LOVE, SORT OF IN A JUVENILE WAY. BAD
20 POETRY, THE SAME THING OVER AND OVER AGAIN. ALL HE'S
21 SAYING FOR 30 PAGES IS, "I LOVE YOU."

22 AND THEN IN A SINGLE PERHAPS MOMENT, PERHAPS DAY,
23 SOMETHING HAPPENED. AS THE DEPUTY SAID, SOMETHING
24 CHANGED. EVEN LOOKED AT IT, SAID THE WRITING IS
25 DIFFERENT, SOMETHING IS GOING ON. SOMETHING IS DIFFERENT.

1 THEN EVERYTHING CHANGES, I'M GOING TO KILL YOU, DEATH
2 VIOLENCE, SOMETHING HAPPENED.

3 I DON'T KNOW WHAT THAT SOMETHING IS. I SUGGEST TO
4 YOU THAT NO ONE KNOWS WHAT THAT SOMETHING IS. BUT WHAT I
5 WILL TELL YOU IS THAT A FAIR CONCLUSION CAN BE REACHED.
6 WHAT YOU HEARD FROM DR. RICHARDS AND EVERYTHING YOU'VE
7 SEEN IS THAT SOME OF THE DEMONS OF CHRIS WILLIAMS' MIND,
8 PSYCHE, TOOK OVER BECAUSE SOMETHING HAPPENED. I DIDN'T
9 SAY THAT TO YOU, THE POLICE SAID IT. WHEN YOU LOOK AT
10 THAT 30 PAGES OF EXPRESSIONS OF LOVE OVER AND OVER AGAIN
11 REPEATED, AND THEN ANOTHER 30 PAGES OR SO OF VIOLENCE. WE
12 DON'T KNOW WHEN IT WAS WRITTEN, BUT WE DO KNOW -- AGAIN,
13 HAVE A LOOK AT IT WHEN YOU'RE DELIBERATING. OVER AND OVER
14 AGAIN, REPETITION. YOU HEARD DR. RICHARDS TODAY TELL YOU
15 WHAT THAT KIND OF REPETITION MEANS.

16 AND WHEN YOU'RE LOOKING AT THE JOURNAL, HAVE ANOTHER
17 LOOK AT THE PAGE WHERE THE EXHIBIT APPEARS. RIGHT
18 AFTER -- RIGHT AFTER THAT CHANGE, THREE PAGES LATER,
19 YOU'LL SEE THE NAMES OF TWO HOSPITALS AND PHONE NUMBERS.
20 AND I SUGGEST TO YOU THAT WHAT YOU'LL BE LOOKING AT THEN
21 IS NOTICE, EVIDENCE IN THE FILE, EVIDENCE IN THE JOURNAL,
22 THAT THE DEMONS HAD TAKEN OVER AND THAT HE UNDERSTOOD
23 THAT. AND FOR THREE PAGES OF VIOLENCE IN THE JOURNAL YOU
24 SEE WHAT CHRIS WILLIAMS' PSYCHE IS SAYING TO HIM. FOR A
25 MOMENT HE REACHES OUT FOR HELP. LOOK AT THE HOSPITAL

1 NAMES, THAT'S THE HOSPITAL HE GOES TO AFTER THE SUICIDE
2 ATTEMPT. SOMETHING CHANGED. SOMETHING CHANGED.

3 AND WHEN YOU READ THE JOURNAL AND WHEN YOU READ AFTER
4 THAT EVENT, AFTER THAT CHANGE, YOU'LL SEE THAT IT'S A
5 GREAT DEAL OF DISCUSSION ABOUT DEATH; BUT IT'S NOT JUST
6 ABOUT MARANDA WILLIAMS. IT'S ABOUT OTHER PEOPLE. AND
7 YOU'LL SEE OVER AND OVER AGAIN IT'S ABOUT CHRIS' OWN
8 DEATH. SOMETHING IS GOING ON, SOMETHING VERY, VERY
9 STRANGE. AND SOMETHING, I WOULD SUBMIT TO YOU, REFLECTS A
10 MENTAL ILLNESS, A PSYCHOSIS, AN EVENT THAT IT'S VERY
11 IMPORTANT TO ANSWER THAT QUESTION WHY THIS TERRIBLE CRIME
12 TOOK PLACE. SO, PLEASE LOOK AT THE JOURNAL.

13 ANOTHER WAY I THINK TO UNDERSTAND WHY AND UNDERSTAND
14 THE ROLE THAT MENTAL ILLNESS, PSYCHOLOGICAL EVENTS PLAY IN
15 THIS IS FROM THE MOMENT OF THE CRIME, WITHIN THE HOUR, THE
16 POLICE KNEW. THEY ARREST HIM BETWEEN 11:45 AND NOON ON
17 SEPTEMBER 3rd. ABOUT AN HOUR LATER THEY'VE GOT A
18 PSYCHIATRIST IN, HIS CONFESSION HASN'T BEEN TAKEN. HE'S
19 BEING INTERVIEWED AT THE POLICE STATION. AND BEFORE
20 ANYTHING ELSE HAPPENS, LET'S GET A PSYCHIATRIST HERE.

21 NOW, YOU CALL CRIME SCENE EXAMINERS BECAUSE YOU HAVE
22 A TERRIBLE CRIME SCENE. YOU CALL BALLISTICS EXPERTS
23 BECAUSE A FIREARM IS INVOLVED. CALL ALL THE PEOPLE, THE
24 LAW ENFORCEMENT AND POLICE BRING TO PLAY ON A TERRIBLE
25 CRIME LIKE THIS. BUT YOU BRING A PSYCHIATRIST BECAUSE

1 SOMEONE HAS A MENTAL ILLNESS. BECAUSE THERE IS A
2 PSYCHOLOGICAL ASPECT TO THIS CASE THAT THEY WANTED
3 ANSWERED RIGHT AWAY. THEY KNEW. THEY KNEW WHAT WE KNOW
4 NOW, THAT SOMETHING HAD HAPPENED WITH CHRIS WILLIAMS. AND
5 THAT SOMETHING NEEDED A PSYCHIATRIST TO UNDERSTAND.

6 ONE OF THE THINGS THAT THEY ALWAYS TOLD US WHEN I WAS
7 A PROSECUTOR TO TELL JURORS IS, "DON'T LEAVE YOUR COMMON
8 SENSE AT THE DOOR." NO ONE ASKS YOU TO DO THAT. I THINK
9 THAT'S IMPORTANT HERE, TOO, BECAUSE ONCE YOU GET PAST, AND
10 IT'S DIFFICULT TO GET PAST SOME OF THE TERRIBLE FACTS OF
11 THIS CASE, THE IMAGES AND THE VIOLENCE, YOU HAVE TO LOOK
12 AT SOME OF THE DETAILS, SOME OF THE THINGS THAT DON'T LEAP
13 OUT AT YOU THE WAY A SHOTGUN DOES AND AN AUTOPSY
14 DESCRIPTION.

15 I'D LIKE TO REMIND YOU WHAT SOME OF THOSE THINGS
16 WERE. AND DEPUTY SILVAGGIO TALKED ABOUT THAT THIS
17 MORNING. CHRIS WILLIAMS' BEST FRIEND IS 16 YEARS OLD. HE
18 WAS 21. IN THE COURSE OF THE INVESTIGATION THE POLICE
19 FOUND OUT ABOUT AN OVERDOSE OF SLEEPING PILLS. HE WENT TO
20 THE HOSPITAL. HE WAS REPORTED AS BEING DEPRESSED. HIS
21 FATHER BEAT HIS MOTHER IN FRONT OF HIM. HIS MOTHER WAS AN
22 ALCOHOLIC. HE HAD DREAMS OF RUNNING FROM DINOSAURS AND
23 BEING EATEN BY THEM. AND HIS FATHER BELIEVED WHEN HE WAS
24 A CHILD HE NEEDED RITALIN.

25 LOOK AT THOSE FACTS. AND WHEN YOU TRY TO UNDERSTAND

1 WHY, TAKE THOSE INTO ACCOUNT AND TAKE INTO ACCOUNT WHAT
2 DR. RICHARDS SAID.

3 AND IF YOU CAN HAVE ANOTHER LOOK AT THE VIDEO,
4 BECAUSE IN THE COURSE OF THE VIDEO MUCH OF THE TIME SPENT
5 ON THE VIDEO YOU SAW THIS MORNING IS CHRIS WILLIAMS AND
6 MANDY WALKING THE AISLES. THEY'RE REALLY ONLY IN TWO
7 PLACES, THEY'RE IN THE OFFICE IN THE DELI-BAKERY, AND
8 THEY'RE WALKING THE AISLES. AND WHEN THEY'RE WALKING THE
9 AISLES THEY'RE LOOKING FOR SLEEPING PILLS, WHAT CHRIS
10 WANTS TO DO -- AND THAT'S THE METHOD HE SOUGHT TO USE THE
11 FIRST TIME. BECAUSE RIGHT AFTER SOMETHING CHANGED, WHEN
12 YOU SEE IT THERE IN THE JOURNAL, IS WHEN HE TURNS AND ENDS
13 UP GOING TO THE HOSPITAL FOR 13 HOURS.

14 DON'T LEAVE YOUR COMMON SENSE AT THE DOOR WHEN YOU'RE
15 PUTTING THE PIECES OF THE WHY TOGETHER COLLECTIVELY. WHEN
16 YOU DELIBERATE IN YOUR OWN MIND TODAY OR AFTERWARDS
17 BECAUSE YOU SEE THEM WALKING AND YOU HEAR THE TRANSCRIPT,
18 THE 911 OPERATOR IS ASKING MARANDA WILLIAMS WHAT IS HE
19 WEARING? WHAT IS HIS CLOTHING DESCRIPTION?

20 SHE TELLS THEM, "ARMY-NAVY JACKET AND BLUE JEANS."

21 THE OPERATOR SAYS "AN ARMY JACKET?"

22 AND SHE SAYS, "YES, MA'AM, AND A BLACK TOBOGGAN.
23 HE'S WANTING ME TO TAKE SOME SLEEPING PILLS."

24 AND THE OPERATOR ASKS, "HE WANTS TO MAKE YOU TAKE
25 SOME SLEEPING PILLS?"

1 AND MARANDA ANSWERS, "WELL, HE SAID HE WAS GOING TO
2 TAKE THEM."

3 THE OPERATOR SAYS, "HE SAID HE WAS GOING TO TAKE THE
4 SLEEPING PILLS?"

5 AND MARANDA SAYS, "YES."

6 IT'S ALL HAPPENING. YOU HAVE THE VIDEO, THE AUDIO.
7 SOMETHING IS GOING ON AND THAT SOMETHING REFLECTS
8 PSYCHOLOGICAL ILLNESS AND MENTAL ILLNESS, THAT IS SERIOUS.

9 I TELL YOU ALL THAT NOT TO SHIFT RESPONSIBILITY, NOT
10 TO CHANGE WHAT THESE FACTS ARE TO YOU, BUT TO SUGGEST TO
11 YOU A WAY TO UNDERSTAND WHY.

12 I SAID A FEW MINUTES AGO WITH REGARD TO THE MURDER
13 CHARGE, THE EVIDENCE IS WHAT THE EVIDENCE IS. YOU'VE
14 TAKEN AN OATH. YOU WILL DELIBERATE UNDER THAT OATH. BUT
15 LET ME SUGGEST A COUPLE OF THINGS ON KIDNAPPING. I'D ASK
16 YOU TO LISTEN CAREFULLY TO THE INSTRUCTIONS ON KIDNAPPING.
17 IT'S NOT A MURDER OFFENSE KIDNAPPING IS DIFFERENT, IT HAS
18 DIFFERENT ELEMENTS AND DIFFERENT EVIDENCE HAS TO BE
19 PROVED.

20 PLEASE LISTEN CAREFULLY BECAUSE THE JUDGE WILL SAY
21 SEVERAL TIMES IN HIS CHARGE "BEYOND A REASONABLE DOUBT."
22 A VERY IMPORTANT PHRASE. THE GOVERNMENT BEARS THAT
23 BURDEN, AS THEY'VE SAID, ALL ALONG. THEY'RE RIGHT. THEY
24 HAVE TO PROVE KIDNAPPING BEYOND A REASONABLE DOUBT.

25 WHEN YOU LOOK AT THE VIDEO AS YOU DID THIS MORNING

1 WITH REGARD TO THE KIDNAPPING CHARGE, CHRIS WILLIAMS AND
2 MARANDA ARE IN TWO PLACES. THEY'RE IN THE OFFICE WHERE
3 THE WHOLE THING BEGAN, AND THEY'RE WALKING THE AISLES.
4 AND PLEASE LOOK AT THE TAPE AGAIN IF YOU HAVE ANY DOUBT
5 ABOUT THIS. BECAUSE WHEN I SAY THEY'RE WALKING THE
6 AISLES, THE GUN IS POINTED DOWN. AT ONE POINT CHRIS
7 WILLIAMS IS WALKING AHEAD OF MARANDA. SHE'S WALKING
8 BEHIND HIM. AND ONE POINT, IF YOU DIDN'T NOTICE, I ASK
9 YOU TO GO BACK AND LOOK AT HIM. HE'S DOWN, LOOKING DOWN.
10 TURNED AWAY. HIS BACK IS AWAY FROM MARANDA. MARANDA IS
11 STANDING BEHIND HIM.

12 I'D SUGGEST TO YOU THAT THAT'S NOT A KIDNAPPING.
13 THAT'S SOMETHING ELSE. IT'S PART OF THE WHOLE EVENT AND
14 PART OF THE WHY. BUT I WOULD SUGGEST TO YOU THAT IS NOT
15 THE EVIDENCE OF -- A LEVEL OF EVIDENCE YOU NEED TO FIND
16 BEYOND A REASONABLE DOUBT THAT THE CRIME OF KIDNAPPING
17 OCCURRED.

18 THE SAME IS TRUE WITH REGARD TO THE 911 CALL. THIS
19 IS EARLY ON, THE 911 OPERATOR ASKED, "DO YOU KNOW WHAT
20 ROOM YOU'RE ACTUALLY IN, MANDY?"

21 AND REMEMBER MANDY IS TALKING ON HER CELL PHONE.
22 TALKING ON HER CELL PHONE. CHRIS WILLIAMS IS IN, AS BETTY
23 STROM DESCRIBED IT, A CONFINED PLACE, A SMALL PLACE.
24 SHE'S USING THE PHONE. SHE'S TALKING TO THE NEGOTIATOR,
25 TALKING TO THE OPERATOR.

1 THE OPERATOR ASKS, "DO YOU KNOW WHAT ROOM YOU'RE
2 ACTUALLY IN, MANDY?"

3 AND SHE SAYS, "THE STOCK ROOM."

4 "YOU'RE IN THE STOCK ROOM, IN THE BACK, RIGHT?"

5 SHE ANSWERED, "NOW, I'M WALKING THROUGH THE STORE.
6 HE WANTED ME TO TAKE HIM THROUGH THE DRUG AISLE. I'M
7 WALKING TO THE FRONT OF THE STORE."

8 "HE'S MAKING YOU WALK TO THE FRONT OF THE STORE?"

9 MANDY ANSWERED, "HE'S MAKING ME WALK THROUGH THE
10 STORE. HE SAID THERE'S SOMETHING IN THE DRUG AISLE HE
11 WANTS TO GET."

12 THE OPERATOR ASKS, "THE DRUG AISLE? ARE YOU IN THE
13 STORE NOW?"

14 "ANSWER: YES, MA'AM."

15 THE OPERATOR SAYS, "THEY'RE IN THE STORE RIGHT NOW,
16 GOING TOWARDS THE DRUG AISLE."

17 "YOU'RE GOING TOWARD THE DRUG AISLE?"

18 AGAIN, "YES, MA'AM."

19 "QUESTION: DOES HE HAVE THE GUN POINTED AT YOU?"

20 "ANSWER: NO, MA'AM. HE DOES NOT."

21 "HE DOES NOT?"

22 "NO, MA'AM."

23 "HE JUST HAS IT IN HIS HAND?"

24 "ANSWER: UH-HUH."

25 THE EVIDENCE IN THIS CASE OVERALL IS SUBSTANTIAL,

1 IT'S GRAPHIC, IT'S UPSETTING, IT'S TERRIBLE. BUT THROUGH
2 ALL OF THAT, AND AGAIN COMMON SENSE THAT WE ALL ARE BORN
3 WITH, GROW UP WITH, LEARN IN SCHOOL AND LEARN FROM OUR
4 PARENTS, DOESN'T HAVE TO BE LEFT AT THE DOOR. I SUGGEST
5 TO YOU, YOU CONSIDER THE STATE HAS NOT MET THE BURDEN THAT
6 A KIDNAPPING, KIDNAPPING UNDER THE INSTRUCTIONS THE JUDGE
7 WILL GIVE YOU, HAS TAKEN PLACE.

8 SO, WHAT WE ASK, AND ALL WE ASK, IS THAT YOU LOOK AT
9 THE EVIDENCE AND BE FAIR AND TRUE TO THE LAW AND TO
10 YOURSELVES AND TO THE COMMUNITY AND THE COUNTRY WE LIVE
11 IN. I THANK YOU FOR YOUR ATTENTION AND YOUR TIME. WE ALL
12 DO, JOHN, AND BILL, AND COLLEEN. WE THANK YOU FOR THE
13 CARE YOU'VE GIVEN IN THIS CASE IN YOUR DELIBERATION AND WE
14 WISH YOU GOD SPEED.

15 THANK YOU, YOUR HONOR.

16 (WHEREUPON, THE COURT CHARGED THE JURY AS
17 FOLLOWS:)

18 MR. FOREMAN, MEMBERS OF THE JURY, THE STATE OF SOUTH
19 CAROLINA CHARGES THE DEFENDANT, CHARLES CHRISTOPHER
20 WILLIAMS, WITH MURDER OF MARANDA WILLIAMS. THE STATE OF
21 SOUTH CAROLINA ALSO CHARGES THE DEFENDANT WITH KIDNAPPING
22 MARANDA WILLIAMS. AND, FINALLY, THE STATE CHARGES THE
23 DEFENDANT WITH POSSESSION OF A WEAPON DURING THE
24 COMMISSION OF A CRIME OR ATTEMPT TO COMMIT A VIOLENT
25 CRIME.

1 AND TO THESE INDICTMENTS THE DEFENDANT HAS ENTERED A
2 PLEA OF NOT GUILTY, WHICH PLACES UPON THE STATE THE BURDEN
3 OF PROVING THE DEFENDANT GUILTY. A PERSON CHARGED WITH
4 COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER
5 REQUIRED TO PROVE HIMSELF INNOCENT. I CHARGE YOU THAT IT
6 IS A VITAL, IMPORTANT RULE OF THE LAW OF EVIDENCE THAT THE
7 DEFENDANT IN A CRIMINAL TRIAL, NO MATTER HOW GREAT OR
8 SERIOUS MAY BE THE OFFENSE WITH WHICH HE IS CHARGED, MUST
9 ALWAYS BE PRESUMED INNOCENT UNTIL HIS GUILT HAS BEEN
10 PROVEN BEYOND A REASONABLE DOUBT.

11 THIS PRESUMPTION OF INNOCENCE REMAINS WITH THE
12 DEFENDANT AT ALL TIMES, FROM THE MOMENT OF HIS APPEARANCE
13 IN THIS COURT THROUGHOUT THE TRIAL AND UNTIL YOU, THE
14 JURY, HAVE UPON THE TESTIMONY AND EVIDENCE PRESENTED,
15 REACHED A VERDICT OF GUILTY BEYOND A REASONABLE DOUBT.

16 IT IS THE SOLEMN DUTY OF THE JURY IF NOT CLEARLY
17 CONVINCED OF HIS GUILT BEYOND A REASONABLE DOUBT TO ACQUIT
18 THE DEFENDANT. SO, THE BURDEN OF PROOF IS UPON THE STATE
19 TO ESTABLISH BY EVIDENCE TO YOUR SATISFACTION THE GUILT
20 BEYOND A REASONABLE DOUBT OF THIS DEFENDANT HERE ON TRIAL
21 FOR THE CRIME OF MURDER, KIDNAPPING, POSSESSION OF A
22 WEAPON DURING THE COMMISSION OF OR ATTEMPT TO COMMIT A
23 VIOLENT CRIME.

24 NOW, WHAT IS REASONABLE DOUBT? A REASONABLE DOUBT IS
25 THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO

1 HESITATE TO ACT. IF YOU HAVE SUCH A DOUBT AS TO THE GUILT
2 OF THE DEFENDANT, HE WOULD BE ENTITLED TO A VERDICT OF NOT
3 GUILTY. REASONABLE DOUBT MAY ARISE FROM EVIDENCE WHICH IS
4 IN THE CASE OR FROM THE ABSENCE OR LACK OF EVIDENCE IN THE
5 CASE. YOU ALONE MUST MAKE THE DETERMINATION WHETHER OR
6 NOT REASONABLE DOUBT EXISTS TO THE GUILT OF THE DEFENDANT.

7 THE TERM REASONABLE DOUBT SHOULD BE GIVEN ITS
8 EVERYDAY PLAIN AND ORDINARY MEANING. PROOF BEYOND A
9 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED
10 OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN
11 THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY; AND IN
12 CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT
13 OVERCOMES EVERY POSSIBLE DOUBT. IF BASED ON YOUR
14 CONSIDERATION OF THE EVIDENCE YOU ARE FIRMLY CONVINCED THE
15 DEFENDANT IS GUILTY OF THE CRIMES CHARGED, YOU MUST FIND
16 HIM GUILTY.

17 ON THE OTHER HAND, IF YOU THINK THERE IS A REAL
18 POSSIBILITY HE'S NOT GUILTY, YOU MUST GIVE HIM THE BENEFIT
19 OF THE DOUBT AND FIND HIM NOT GUILTY.

20 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY
21 PRESENTED DURING A TRIAL. DIRECT EVIDENCE AND
22 CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE TESTIMONY
23 OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT.
24 DIRECT EVIDENCE IS BASED UPON PERSONAL KNOWLEDGE OR
25 OBSERVATION, LIKE AN EYEWITNESS. CIRCUMSTANTIAL EVIDENCE

1 IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING
2 THE EXISTENCE OF A FACT BASED UPON NOT PERSONAL KNOWLEDGE,
3 INFORMATION, OBSERVATION.

4 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
5 WEIGHT TO BE GIVEN TO DIRECT OR CIRCUMSTANTIAL EVIDENCE,
6 NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF
7 CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. THE
8 STATE MAY PROVE ITS CASE BY USING ONLY DIRECT EVIDENCE OR
9 ONLY CIRCUMSTANTIAL EVIDENCE OR A COMBINATION OF BOTH.

10 REGARDLESS OF THE TYPE OF EVIDENCE UPON WHICH THE
11 STATE RELIES TO PROVE ITS CASE, IT MUST BE SUCH TO PROVE
12 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT. YOU
13 SHOULD WEIGH ALL THE EVIDENCE IN THE CASE. AFTER WEIGHING
14 ALL THE EVIDENCE IF YOU'RE NOT CONVINCED OF THE GUILT OF
15 THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE
16 DEFENDANT NOT GUILTY. CONVERSELY, IF YOU'RE CONVINCED OF
17 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, THEN
18 YOU MUST FIND HIM GUILTY.

19 NOW, UNDER THE CONSTITUTION AND CODE OF LAWS OF SOUTH
20 CAROLINA ONLY YOU, THE JURY, CAN MAKE FINDINGS OF FACT IN
21 THIS CASE. I'M NOT PERMITTED TO INDICATE TO YOU HOW I MAY
22 FEEL ABOUT THE TESTIMONY AND EVIDENCE PRESENTED.
23 THROUGHOUT THE TRIAL IT'S BEEN MY INTENTION TO BE FAIR AND
24 IMPARTIAL TO EACH OF THE PARTIES INVOLVED. TO DETERMINE
25 THE FACTS IN THIS CASE YOU WILL HAVE TO DETERMINE THE

1 CREDIBILITY, WHICH MEANS THE BELIEVABILITY, OF EACH
2 WITNESS.

3 SOME OF THE THINGS YOU MAY CONSIDER AS YOU DECIDE
4 WHETHER OR NOT TO BELIEVE A WITNESS' TESTIMONY ABOUT A
5 PARTICULAR MATTER INCLUDE, WHAT WAS THE MANNER AND
6 APPEARANCE OF THE WITNESS WHO TESTIFIED? WAS HE OR SHE
7 STRAIGHTFORWARD OR HESITANT WHEN ANSWERING? WAS THE
8 TESTIMONY OF A WITNESS CONSISTENT OR INCONSISTENT? HOW
9 DID THE WITNESS COME TO KNOW THE FACTS ABOUT WHICH HE OR
10 SHE TESTIFIED TO? WAS THE PERSON PRESENT DURING THE
11 INCIDENT OR DID HE HAPPEN ON THE SCENE AFTER IT OCCURRED?
12 IS THERE SOME REASON A WITNESS WOULD WANT TO GIVE
13 TESTIMONY WHICH WOULD HELP OR HURT ONE SIDE OR THE OTHER?

14 IN OTHER WORDS, WAS A WITNESS BIASED OR PREJUDICED?
15 WAS THE TESTIMONY OF A WITNESS STRENGTHENED OR WEAKENED BY
16 OTHER TESTIMONY AND EVIDENCE? YOU CAN BELIEVE AS MUCH OR
17 AS LITTLE OF EACH WITNESS'S TESTIMONY AS YOU THINK PROPER.
18 YOU MAY BELIEVE TESTIMONY OF A SINGLE WITNESS AGAINST THAT
19 OF MANY OR JUST THE OPPOSITE. OF COURSE, YOU DO NOT
20 DETERMINE THE TRUTH BY MERELY COUNTING THE NUMBER OF
21 WITNESSES PRESENTED BY EACH SIDE. THROUGHOUT THIS PROCESS
22 YOU HAVE BUT ONE OBJECTIVE; THAT IS, TO SEEK THE TRUTH,
23 REGARDLESS OF ITS SOURCE.

24 THE SAME CONSTITUTION AND LAW THAT MAKES YOU THE
25 FINDERS OF THE FACT, AS I HAVE JUST EXPLAINED, ALSO MAKE

1 ME THE SOLE INSTRUCTOR OF THE LAW. YOU SHOULD ACCEPT THE
2 INSTRUCTIONS GIVEN TO YOU. THE ATTORNEYS ARE NOT
3 INSTRUCTORS OF THE LAW. BASE YOUR DECISION ON WHAT THE
4 LAW IS, NOT WHAT YOU THINK THE LAW SHOULD BE.

5 I CHARGE YOU FURTHER, MR. FOREMAN, MEMBERS OF THE
6 JURY, THAT THE FACT THAT A DEFENDANT ELECTS NOT TO TESTIFY
7 IN HIS OWN BEHALF CANNOT AND MUST NOT BE CONSIDERED
8 AGAINST HIM UNDER ANY CIRCUMSTANCES OR ANY MANNER
9 WHATSOEVER. A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO
10 REMAIN SILENT; AND THE ASSERTION OF THIS RIGHT MUST NOT BE
11 CONSIDERED BY YOU IN YOUR DELIBERATIONS.

12 A DECISION OF ANY DEFENDANT NOT TO TAKE THE WITNESS
13 STAND AND TESTIFY IN HIS OWN BEHALF DOES NOT CREATE ANY
14 INFERENCE AGAINST HIM. I TELL YOU NOW THAT YOU MUST NOT
15 PERMIT THAT FACT TO WEIGH EVEN THE SLIGHTEST DEGREE
16 AGAINST SUCH DEFENDANT. YOU MUST NOT PERMIT THIS FACT TO
17 ENTER INTO YOUR DISCUSSIONS OR DELIBERATIONS ON ISSUES IN
18 THIS CASE.

19 IT HAS BEEN ADMITTED IN THIS CASE A STATEMENT ALLEGED
20 TO HAVE BEEN MADE BY THE DEFENDANT. BEFORE YOU MAY
21 CONSIDER THIS STATEMENT AS EVIDENCE FOR ANY PURPOSE, YOU
22 MUST DECIDE FOUR QUESTIONS. FIRST, DID THE DEFENDANT MAKE
23 THE STATEMENT? SECOND, WAS THE DEFENDANT WARNED OF HIS
24 CONSTITUTIONAL RIGHTS? THIRD, DID THE DEFENDANT KNOWINGLY
25 AND INTELLIGENTLY WAIVE HIS CONSTITUTIONAL RIGHTS?

1 FOURTH, WAS THE STATEMENT GIVEN VOLUNTARILY?

2 THE FACT THAT THE COURT HAS ADMITTED HIS STATEMENT
3 INTO EVIDENCE SHOULD NOT BE CONSIDERED BY YOU AS ANY
4 EVIDENCE WHATSOEVER THAT THE DEFENDANT MADE SUCH A
5 STATEMENT THAT REQUIRED THAT CONSTITUTIONAL SAFEGUARDS
6 WERE IN FACT PROVIDED AND WAIVED BY THE DEFENDANT OR THE
7 STATEMENT WAS VOLUNTARILY GIVEN, BECAUSE THOSE ISSUES ARE
8 FOR YOU, THE JURY, TO DETERMINE. THE STATE MUST PROVE
9 BEYOND A REASONABLE DOUBT EACH OF THE FOUR REQUIREMENTS
10 THAT I HAVE JUST STATED TO YOU BEFORE YOU CONSIDER THE
11 STATEMENT AS EVIDENCE FOR ANY PURPOSE WHATSOEVER.

12 NOW, AS TO THE FIRST REQUIREMENT, DID THE DEFENDANT
13 MAKE THE STATEMENT? IF YOU CONCLUDE THAT THE DEFENDANT
14 DID NOT MAKE THE STATEMENT, YOU MUST THEN COMPLETELY AND
15 TOTALLY DISREGARD THE STATEMENT. CONVERSELY, IF YOU FIND
16 THE DEFENDANT DID MAKE THE STATEMENT, YOU MUST NEXT
17 CONSIDER THE SECOND REQUIREMENT. WAS THE DEFENDANT WARNED
18 OF HIS CONSTITUTIONAL RIGHTS? WHEN AN INDIVIDUAL IS TAKEN
19 INTO CUSTODY OR OTHERWISE DEPRIVED OF HIS FREEDOM OF
20 ACTION IN ANY SIGNIFICANT WAY BY A POLICE OFFICER OR LAW
21 ENFORCEMENT OFFICERS, HE MUST BE WARNED OF HIS
22 CONSTITUTIONAL RIGHTS PRIOR TO OR BEFORE ANY CUSTODIAL
23 INTERROGATION OR CUSTODIAL QUESTIONING.

24 THESE RIGHTS ARE THAT HE HAS A RIGHT TO REMAIN
25 SILENT; THAT ANY STATEMENT HE DOES MAKE CAN AND WILL BE

1 USED AGAINST HIM IN A COURT LAW; THAT HE HAS A RIGHT TO
2 SELECT AN ATTORNEY OF HIS CHOICE, BUT IF HE DOES NOT HAVE
3 THE MONEY OR RESOURCE TO EMPLOY A LAWYER, THE COURT WILL
4 APPOINT AND PROVIDE AN ATTORNEY TO REPRESENT HIM WITHOUT
5 COST OR EXPENSE TO HIM IF HE SO DESIRES; THAT HE HAS A
6 RIGHT TO CONSULT A LAWYER BEFORE ANSWERING ANY QUESTIONS
7 OR MAKING ANY STATEMENTS; HE HAS THE RIGHT TO HAVE HIS
8 LAWYER PRESENT WITH HIM DURING ALL TIMES, DURING ALL
9 INTERVIEWS AND ALL INTERROGATIONS; AND HE CAN STOP
10 ANSWERING QUESTIONS AT ANY TIME DURING THE INTERROGATION.

11 IF YOU DETERMINE THAT THESE CONSTITUTIONAL RIGHTS
12 WERE NOT GIVEN TO THE DEFENDANT PRIOR TO THE INTERROGATION
13 AND TAKING OF THE STATEMENT OR THAT THE DEFENDANT WAS NOT
14 AFFORDED AN OPPORTUNITY TO EXERCISE HIS RIGHTS, YOU MUST
15 COMPLETELY DISREGARD THE STATEMENT. IF YOU FIND THE
16 DEFENDANT DID MAKE THE STATEMENT AND YOU CONCLUDE THESE
17 CONSTITUTIONAL WARNINGS WERE IN FACT GIVEN TO THE
18 DEFENDANT AND THE DEFENDANT WAS AFFORDED AN OPPORTUNITY TO
19 EXERCISE HIS CONSTITUTIONAL RIGHTS, YOU MUST NEXT CONSIDER
20 THE THIRD REQUIREMENT. DID THE DEFENDANT KNOWINGLY AND
21 INTELLIGENTLY WAIVE HIS CONSTITUTIONAL RIGHTS BEFORE YOU
22 CAN CONSIDER THIS STATEMENT AS EVIDENCE IN THE CASE?

23 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
24 THE DEFENDANT, AFTER BEING GIVEN HIS CONSTITUTIONAL
25 RIGHTS, KNOWINGLY AND INTELLIGENTLY WAIVED HIS

1 CONSTITUTIONAL RIGHTS AND AGREED TO ANSWER QUESTIONS AND
2 MAKE A STATEMENT. THEREFORE, IF YOU FIND THE DEFENDANT
3 DID NOT KNOWINGLY AND INTELLIGENTLY WAIVE HIS
4 CONSTITUTIONAL RIGHTS, YOU MUST COMPLETELY DISREGARD THE
5 STATEMENT.

6 HOWEVER, IF YOU FIND THAT THE DEFENDANT WAS GIVEN HIS
7 CONSTITUTIONAL RIGHTS, HE KNOWINGLY AND INTELLIGENTLY
8 SHOULD HAVE WAIVED HIS CONSTITUTIONAL RIGHTS AND AGREED TO
9 ANSWER QUESTIONS AND THEN MADE HIS STATEMENT, YOU MUST
10 NEXT CONSIDER THE FOURTH REQUIREMENT. WAS THE STATEMENT
11 GIVEN VOLUNTARILY?

12 THE WORDS VOLUNTARILY MEANS THE STATEMENT WAS THE
13 EXPRESSION OF DEFENDANT'S OWN FREE WILL AND NOT INDUCED BY
14 PRESSURE, FORCE OR FEAR, OR HOPE OF PROMISE OR SOME
15 BENEFIT OR REWARD; OR EXTRACTED BY THREATS, PRESSURE OR
16 INTIMIDATION. A STATEMENT NOT VOLUNTARILY MADE MAY NOT BE
17 USED AGAINST THE DEFENDANT UNLESS IT IS THE PRODUCT OF THE
18 ESSENTIALLY FREE AND UNCONSTRAINED CHOICE BY IT'S MAKER.

19 IF THE STATEMENT IS VOLUNTARY, IF THE DEFENDANT HAS
20 WILLED TO MAKE A STATEMENT, IT CAN BE USED AGAINST HIM.
21 IF A STATEMENT IS NOT VOLUNTARY, IT CANNOT BE USED AGAINST
22 HIM. THE TRUE TEST TO BE APPLIED IS WHETHER THE STATEMENT
23 IS FREELY, VOLUNTARILY, AND UNDERSTANDINGLY MADE WITHOUT
24 COMPULSION OR INDUCEMENT.

25 IN DETERMINING WHETHER OR NOT THE ALLEGED STATEMENT

1 OF THE DEFENDANT WAS VOLUNTARY, YOU MAY CONSIDER ALL THE
2 FACTS AND CIRCUMSTANCES SURROUNDING THE TAKING OR THE
3 MAKING OF THE STATEMENT. YOU MAY CONSIDER ALL THE
4 EVIDENCE IN THE CASE IN REACHING AN ULTIMATE CONCLUSION AS
5 TO THE VOLUNTARY OR INVOLUNTARY CHARACTER OF SUCH
6 STATEMENT.

7 WITH REGARD TO THE ALLEGED STATEMENT OF THE
8 DEFENDANT, THE STATE MUST PROVE BY EVIDENCE EACH AND EVERY
9 REQUIREMENT AS I EXPLAINED EARLIER, BEYOND A REASONABLE
10 DOUBT BEFORE YOU MAY CONSIDER THE ALLEGED STATEMENTS AS
11 EVIDENCE OR YOU MUST GIVE THE ALLEGED STATEMENT SUCH
12 WEIGHT AND SUCH VALUE AS TO WHICH YOU CONCLUDE IT IS
13 ENTITLED.

14 THE DEFENDANT IS CHARGED WITH MURDER. THE STATE MUST
15 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT KILLED
16 ANOTHER PERSON WITH MALICE AFORETHOUGHT. MALICE IS
17 HATRED, ILL WILL, OR HOSTILITY TOWARD ANOTHER PERSON. IT
18 IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST
19 CAUSE OR EXCUSE WITH AN INTENT TO INFLECT INJURY UNDER
20 CIRCUMSTANCES OF THE LAW THAT WILL INFER AN EVIL INTENT.

21 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
22 EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED
23 BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST
24 BEFORE THE TIME THE ACT IS COMMITTED. THEREFORE, THERE
25 MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE

1 ACT.

2 THAT MALICE AFORETHOUGHT MAY BE EXPRESSED OR
3 INFERRED. THESE TERMS EXPRESSED AND INFERRED DO NOT MEAN
4 DIFFERENT KINDS OF MALICE, MERELY THE MANNER WHICH MALICE
5 MAY BE SHOWN TO EXIST; THAT IS, EITHER BY DIRECT EVIDENCE
6 OR INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE
7 PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS
8 WORDS WITH EXPRESS HATRED OR ILL WILL FOR ANOTHER, OR WHEN
9 THE PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS
10 LATER ACCOMPLISHED. FOR EXAMPLE, LYING IN WAIT FOR A
11 PERSON OR ANY OTHER ACT OF PREPARATION GOING TO SHOW THAT
12 THE DEED WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS
13 MALICE.

14 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL
15 DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY ALSO ARISE
16 WHEN THE DEED IS DONE WITH A DEADLY WEAPON. DEADLY WEAPON
17 IS ANY ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS LIKELY
18 TO CAUSE DEATH OR BODILY HARM. WHETHER AN INSTRUMENT HAS
19 BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND
20 CIRCUMSTANCES OF EACH CASE.

21 THE FOLLOWING EXAMPLES OF INSTRUMENTS WHICH MAY BE A
22 DEADLY WEAPON: A PISTOL, A SHOTGUN, A RIFLE, A DERC, A
23 DAGGER, A KNIFE, A SLINGSHOT, METAL KNUCKLES, A RAZOR,
24 GASOLINE, A FIRE BOMB, MOLOTOV COCKTAIL, AND LIGHTER
25 FLUID. A GUN MAY BE A DEADLY WEAPON, EVEN IF IT'S NOT

1 OPERATING. IF ONE INTENTIONALLY KILLS ANOTHER DURING
2 COMMISSION OF A FELONY, AN INFERENCE OF MALICE MAY ARISE
3 IF FACTS PROVED ARE SUFFICIENT TO RAISE AN INFERENCE OF
4 MALICE TO YOUR SATISFACTION. THIS INFERENCE WOULD SIMPLY
5 BE AN EVIDENTIARY FACT TAKEN INTO CONSIDERATION BY YOU,
6 ALONG WITH OTHER EVIDENCE, AND YOU MAY GIVE IT SUCH WEIGHT
7 YOU DECIDE IT SHOULD RECEIVE.

8 THE DEFENDANT IS CHARGED WITH KIDNAPPING. THE STATE
9 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
10 KNOWINGLY, UNLAWFULLY, SEIZED, CONFINED, ENVEIGLED,
11 DECOYED, KIDNAPPED, ABDUCTED, OR CARRIED AWAY ANOTHER
12 PERSON WITHOUT AUTHORITY OF LAW. KIDNAP IS A CONTINUOUS
13 OFFENSE THAT COMMENCES WHEN ONE IS WRONGFULLY DEPRIVED OF
14 FREEDOM AND CONTINUES UNTIL THE FREEDOM IS RESTORED. THE
15 GRAVAMEN OF THE OFFENSE OF KIDNAPPING IS SOME FORM OF
16 COMPULSION.

17 THE LAW SAYS THE REQUISITE FORCE OR COMPULSION NEED
18 NOT CONSIST OF USE OF PHYSICAL FORCE OR VIOLENCE OR
19 EXPRESS THREATS. KNOWINGLY MEANS WITH KNOWLEDGE,
20 CONSCIOUSLY, NOT ACCIDENTALLY. SEIZE MEANS TO HOLD
21 SUDDENLY OR FORCEFULLY. CONFINE MEANS TO LIMIT, RESTRICT,
22 OR ENCLOSE WITHIN BOUNDS, IMPRISON, OR SHUT OR KEEP IN.
23 ENVEIGLE MEANS TO ENTICE OR TO ACQUIRE BY INGENUITY OR
24 FLATTERY. DECOY MEANS TO LURE BY; OR IF BY DECOY, A DECOY
25 IS SOMETHING TO ENTICE A PERSON TO A TRAP. KIDNAP IS TO

1 REMOVE A PERSON AGAINST HIS WILL BY UNLAWFUL FORCE OR BY
2 FRAUD. INDUCE MEANS TO CARRY OFF SECRETLY OR BY FORCE FOR
3 AN ILLEGAL PURPOSE. CARRY AWAY MEANS TO REMOVE.

4 THE STATE DOES NOT HAVE TO PROVE THE DEFENDANT DID
5 ALL OF THESE THINGS. INSTEAD, IF YOU FIND BEYOND A
6 REASONABLE DOUBT THE DEFENDANT DID ANY OF THESE THINGS,
7 YOU MAY FIND THE DEFENDANT GUILTY OF KIDNAPPING.
8 SOMETHING DONE WITHOUT AUTHORITY OF LAW IS SOMETHING WHICH
9 THE LAW DOES NOT SANCTION, PERMIT, ALLOW, CONDONE, OR
10 PROVIDE JUSTIFICATION FOR.

11 KIDNAPPING DOES NOT HAVE TO BE FOR ANY PERSONAL
12 MONETARY GAIN OR ANY LEGAL PURPOSE, BUT MAY BE FOR ANY
13 REASON WHATSOEVER.

14 POSSESSION OF A WEAPON DURING THE COMMISSION OR
15 ATTEMPT TO COMMIT A VIOLENT CRIME. THE DEFENDANT IS
16 CHARGED WITH POSSESSION OF A WEAPON DURING THE COMMISSION
17 OF OR ATTEMPT TO COMMIT A VIOLENT CRIME. THE STATE MUST
18 PROVE BEYOND A REASONABLE DOUBT THE DEFENDANT WAS IN
19 POSSESSION OF A FIREARM OR VISIBLY DISPLAYED WHAT APPEARED
20 TO BE A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.
21 FIREARM MEANS ANY MACHINE GUN, AUTOMATIC RIFLE, REVOLVER,
22 PISTOL.

23 IN ORDER TO FIND THE DEFENDANT GUILTY OF POSSESSION
24 OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, YOU
25 MUST FIND THE DEFENDANT GUILTY OF ATTEMPT, COMMITTING OR

1 ATTEMPTING TO COMMIT A VIOLENT CRIME. MURDER, ASSAULT,
2 AND BATTERY WITH INTENT TO KILL, KIDNAPPING, ARMED ROBBERY
3 FIRST DEGREE BURGLARY, ARE ALL EXAMPLES OF CRIMES DEFINED
4 AS VIOLENT CRIMES IN THE STATE OF SOUTH CAROLINA.

5 THE RULES OF EVIDENCE GENERALLY DO NOT PERMIT
6 WITNESSES TO TESTIFY AS TO THEIR OPINION OR CONCLUSION.
7 AN EXCEPTION, HOWEVER, TO THIS RULE DOES EXIST TO THOSE WE
8 CALL EXPERT WITNESSES. EXPERT WITNESSES ARE WITNESSES BY
9 EDUCATION OR EXPERIENCE BECOME EXPERT IN SOME ART,
10 SCIENCE, PROFESSION, OR CALLING. THESE WITNESSES MAY
11 STATE THEIR OPINIONS AS TO RELEVANT AND MATERIAL MATTER IN
12 WHICH THEY PROFESS TO BE AN EXPERT, AND ALSO MAY STATE
13 THEIR REASON FOR THE OPINION.

14 YOU SHOULD CONSIDER EXPERT OPINION RECEIVED IN
15 EVIDENCE IN THIS CASE AND GIVE IT SUCH WEIGHT AS YOU THINK
16 IT DESERVES. IF YOU SHOULD DECIDE THAT THE OPINION OF AN
17 EXPERT WITNESS IS NOT BASED UPON SUFFICIENT EDUCATION AND
18 EXPERIENCE, OR IF YOU SHOULD CONCLUDE THAT THE REASONS
19 GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND; OR IF YOU
20 FEEL IT'S OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD
21 THE OPINION ENTIRELY.

22 NOW, YOU'VE BEEN SELECTED AS FAIR AND IMPARTIAL
23 JURORS SWORN TO IMPARTIALLY, TO TRY AND DETERMINE THE
24 FACTS OF THIS CASE. AND WHEN YOU COMPLY WITH YOUR OATH TO
25 DO SO, THEN NO ONE WOULD HAVE A RIGHT TO CRITICIZE YOUR

1 VERDICT AND YOU WILL HAVE FULLY DISCHARGED YOUR DUTY AS
2 JURORS. YOU DECIDE THIS CASE ACCORDING TO TESTIMONY THAT
3 YOU'VE HEARD FROM THE SWORN WITNESSES, ALONG WITH THE
4 OTHER EVIDENCE INTRODUCED.

5 I CHARGE YOU AS JURORS YOU MUST DECIDE THE ISSUES IN
6 THIS PROCEEDING WITHOUT BIAS, WITHOUT PREJUDICE TO ANY
7 PARTY. YOU CANNOT ALLOW YOURSELF TO BE GOVERNED BY
8 SYMPATHY, BY PASSION, BY PREJUDICE, BY PUBLIC OPINION, OR
9 ANY OTHER ARBITRARY FACTOR. BOTH THE STATE AND THE
10 DEFENDANT HAVE THE RIGHT TO EXPECT EACH OF YOU WILL
11 CAREFULLY AND IMPARTIALLY CONSIDER ALL THE EVIDENCE IN THE
12 CASE AND THAT YOU WILL FOLLOW THE LAW AS I HAVE EXPLAINED
13 IT TO YOU.

14 I HAVE PERMITTED YOU TO TAKE NOTES DURING THE COURSE
15 OF THIS TRIAL. OF COURSE, YOU'RE NOT OBLIGATED TAKE ANY
16 NOTES. BUT IF YOU HAVE TAKEN NOTES, THEY SHOULD BE USED
17 ONLY AS MEMORY AIDS. YOU SHOULD NOT GIVE YOUR NOTES
18 PRECEDENCE OVER THE INDEPENDENT RECOLLECTION OF THE
19 EVIDENCE. IF YOU CHOSE NOT TO TAKE NOTES, YOU SHOULD RELY
20 ON YOUR INDEPENDENT RECOLLECTION OF THE PROCEEDINGS AND
21 YOU SHOULD NOT BE INFLUENCED BY THE NOTES OF OTHER JURORS.
22 I EMPHASIZE NOTES ARE NOT ENTITLED TO ANY GREATER WEIGHT
23 THAN THE RECOLLECTION AND IMPRESSION OF EACH JUROR AS TO
24 WHAT THE TESTIMONY MAY HAVE BEEN. FURTHER, THESE NOTES
25 ARE YOUR NOTES. YOU MAY DESTROY THEM AT THE END OF THE

1 CASE OR THE COURT WILL DESTROY THEM FOR YOU.

2 I WILL GIVE YOU A COPY OF THESE INSTRUCTIONS IN
3 WRITTEN FORM. DURING THE DELIBERATIONS YOU MAY REFER TO
4 THE INSTRUCTIONS TO GUIDE YOUR DECISION MAKING. YOU MUST
5 CONSIDER THE INSTRUCTIONS AS A WHOLE, NOT FOLLOW SOME AND
6 IGNORE OTHERS. AFTER YOU'VE REACHED A VERDICT, MR.
7 FOREMAN, PLEASE RETURN THE CHARGE BACK TO THE COURT.

8 LADIES AND GENTLEMEN, YOUR VERDICT HAS TO BE
9 UNANIMOUS. ALL 12 OF YOU MUST AGREE. I HAVE TYPED TWO
10 VERDICT FORMS. PLEASE DO NOT CONSIDER THE ORDER IN WHICH
11 I CALL OUT THE INFORMATION ON THE FORMS, AS THE COURT HAS
12 AN OPINION AS TO INNOCENCE OR GUILT OF THE DEFENDANT.

13 IT SAYS, "THE STATE OF SOUTH CAROLINA, PLAINTIFF,
14 VERSUS CHARLES CHRISTOPHER WILLIAMS, CASE NUMBER
15 2004-GS-23-1745. WE THE JURY FIND THE DEFENDANT, CHARLES
16 CHRISTOPHER WILLIAMS, GUILTY OF KIDNAPPING MARANDA
17 WILLIAMS."

18 "WE, THE JURY, FIND THE DEFENDANT, CHARLES
19 CHRISTOPHER WILLIAMS, NOT GUILTY OF KIDNAPPING MARANDA
20 WILLIAMS." A PLACE FOR THE FOREPERSON TO SIGN IT, DATE
21 IT. AND TODAY'S DATE IS FEBRUARY 15th.

22 PREPARE THE SECOND VERDICT FORM, IT SAYS, "THE STATE
23 OF SOUTH CAROLINA VERSUS CHARLES CHRISTOPHER WILLIAMS,
24 CASE NUMBER 2004-GS-23-1746. WE, THE JURY, FIND THE
25 DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, GUILTY OF THE

1 MURDER OF MARANDA WILLIAMS. WE, THE JURY, FIND THE
2 DEFENDANT CHARLES CHRISTOPHER WILLIAMS NOT GUILTY OF THE
3 MURDER OF MARANDA WILLIAMS."

4 POSSESSION OF A FIREARM DURING THE COMMISSION OF A
5 VIOLENT CRIME. "WE, THE JURY, FIND THE DEFENDANT, CHARLES
6 CHRISTOPHER WILLIAMS, GUILTY OF POSSESSION OF A FIREARM
7 DURING THE COMMISSION OF A VIOLENT CRIME AS TO MURDER OF
8 MARANDA WILLIAMS.

9 WE, THE JURY, FIND THE DEFENDANT, CHARLES CHRISTOPHER
10 WILLIAMS, NOT GUILTY OF POSSESSION OF A FIREARM DURING THE
11 COMMISSION OF A VIOLENT CRIME AS TO THE MURDER OF MARANDA
12 WILLIAMS."

13 AS I SAID PREVIOUSLY, YOUR VERDICT HAS TO BE
14 UNANIMOUS. I WILL TELL YOU THAT IT'S A COLLECTIVE
15 DECISION PROCESS FOR ALL 12 OF YOU. PLEASE CONSIDER EACH
16 OTHER'S OPINIONS. LOOK AT THE EVIDENCE, STUDY THE
17 EVIDENCE, RESPECT EACH OTHERS OPINIONS. BUT IT'S A GIVE
18 AND TAKE PROCESS OF ALL 12. AND HONOR EACH OTHERS
19 OPINIONS, IT IS A COLLECTIVE REASONING PROCESS FOR ALL 12
20 OF YOU.

21 NOW, I'M GOING TO ASK YOU, MR. FOREMAN, TO GO TO THE
22 JURY ROOM. HOWEVER, I DO NOT WANT YOU TO BEGIN YOUR
23 DELIBERATIONS UNTIL THE BAILIFF BRINGS THE VERDICT FORMS,
24 THE CHARGE BOOK, AND ALL THE EXHIBITS THAT HAVE BEEN
25 ADMITTED INTO EVIDENCE AND TELLS YOU TO BEGIN YOUR

1 DELIBERATIONS. I MAY HAVE TO BRING YOU BACK AND CHARGE
2 YOU ON ANOTHER ISSUE, OR TAKE SOMETHING OUT, OR ADD
3 SOMETHING THAT I MISSED. I HAVE TO TAKE THAT UP WITH THE
4 ATTORNEYS.

5 ALL RIGHT. MR. FOREMAN, LADIES AND GENTLEMEN, IF
6 YOU'LL GO TO THE JURY ROOM, AS FAR AS THE THREE
7 ALTERNATES, IF YOU WOULD KEEP YOUR SEAT JUST A SECOND. IF
8 THE REST OF THE JURY WOULD FOLLOW THE BAILIFF TO THE JURY
9 ROOM.

10 JUROR: DO WE TAKE OUR NOTES?

11 THE COURT: YES, SIR. TAKE YOUR NOTES.

12 (WHEREUPON, AT 6:30 P.M. THE JURY RETIRES.)

13 THE COURT: ALL RIGHT. IF THE THREE ALTERNATES WOULD
14 GO OUT, STAND IN THE HALL WITH THE BAILIFFS, DON'T GO INTO
15 THE JURY ROOM, JUST STAND IN THE HALL PLEASE, MA'AM.

16 AS FAR AS -- LET ME TELL YOU WHAT'S GOING TO HAPPEN.
17 THE BAILIFFS ARE GOING TO TAKE YOU BACK TO THE MOTEL. BUT
18 YOU'RE NOT GOING TO PARTICIPATE IN THE DELIBERATION
19 PROCESS. AND IF WE DO GO TO A SECOND PHASE, WE'LL BRING
20 YOU BACK FOR THE SECOND PHASE. SO, JUST STAND OUT IN THE
21 HALL. THE BAILIFFS WILL TAKE CARE OF YOU. OKAY?

22 JUROR: YES, SIR.

23 (THE FOLLOWING PROCEEDINGS ARE HAD OUTSIDE THE
24 PRESENCE OF THE JURY:)

25 THE COURT: I DON'T KNOW WHO IS GOING TO BE MAKING

1 ARGUMENTS, BUT THE ATTORNEY FOR THE STATE START GOING
2 THROUGH THE EXHIBITS, MAKE SURE THEY'RE ALL HERE. AND
3 SOMEBODY DO THE SAME FOR THE DEFENSE SIDE.

4 NOW, ARE THERE ANY EXCEPTIONS TO THE CHARGE FROM THE
5 STATE?

6 MS. STROM: NO, SIR.

7 THE COURT: NO EXCEPTIONS TO THE CHARGE?

8 MS. STROM: NO, SIR.

9 THE COURT: ANY EXCEPTIONS TO THE CHARGE FROM THE
10 DEFENDANT?

11 MR. MAULDIN: ONLY AS TO YOUR RULINGS, JUDGE, WHICH I
12 ASSUME WE'RE GOING TO HAVE AN OPPORTUNITY TO PUT ON THE
13 RECORD AT SOME POINT. THE FALSE IMPRISONMENT AND ALSO THE
14 JURY FORM ON THE KIDNAPPING.

15 THE COURT: THAT'S WHAT I WANT YOU TO PUT ON THE
16 RECORD. THAT'S WHAT I'M ASKING YOU FOR RIGHT NOW. DOES
17 THE YOUNG LADY ON THE FRONT ROW WANT TO COME FORWARD AND
18 MAKE AN ARGUMENT?

19 MR. MAULDIN: YEAH.

20 THE COURT: I'LL BE GLAD TO HEAR HER. I'M SORRY, I
21 DON'T REMEMBER HER NAME.

22 MR. MAULDIN: JEN GADD, YOUR HONOR. G-A-D-D.

23 THE COURT: OKAY. GLAD FOR HER TO COME FORWARD AND
24 MAKE HER ARGUMENT.

25 MR. MAULDIN: AND I WILL HAVE ONE ADDITIONAL COMMENT

1 AFTER MS. GADD.

2 THE COURT: BEFORE WE GET INTO THE FALSE
3 IMPRISONMENT, WERE THERE ANY OTHER EXCEPTIONS TO THE
4 CHARGE FROM THE DEFENDANT? JUST AS TO THE CHARGE.

5 MR. MAULDIN: THE ADDITIONAL WILL BE THE REQUEST WE
6 MADE CONCERNING THE FORM, REGARDING THE KIDNAPPING CHARGE,
7 JUDGE. I WILL PUT THAT ON THE RECORD.

8 THE COURT: YOU CAN MAKE THAT. I DENY THAT, BUT YOU
9 CAN MAKE IT A COURT'S EXHIBIT IF YOU WOULD, PLEASE, SIR.
10 ANY OTHER EXCEPTIONS TO THE CHARGE OTHER THAN THE FAILURE
11 OF THE COURT TO AGREE TO CHARGE FALSE IMPRISONMENT AS A
12 LESSER INCLUDED?

13 MR. MAULDIN: AND THIS.

14 THE COURT: THAT'S IT, NOTHING ELSE?

15 MR. MAULDIN: THAT'S IT.

16 THE COURT: ALL RIGHT. IS IT GADD?

17 MS. GADD: YES.

18 THE COURT: I'LL BE GLAD TO HEAR YOU ON YOUR ARGUMENT
19 AS TO WHY THE DEFENDANT THINKS FALSE IMPRISONMENT SHOULD
20 BE A LESSER INCLUDED TO THE KIDNAPPING.

21 MS. GADD: MAY IT PLEASE THE COURT, YOUR HONOR? THE
22 DEFENDANT ESPECIALLY EXCEPTS TO THE ABSENCE OF THE FALSE
23 IMPRISONMENT FROM THE JURY CHARGE. THIS COURT HAS
24 SPECIFICALLY RECOGNIZED FALSE IMPRISONMENT AS AN
25 INDEPENDENT OFFENSE FROM KIDNAPPING AS EVIDENCED FROM YOUR

1 2004 PLEA AGREEMENT; AND WE BELIEVE THAT AS SUCH, IT'S AN
2 EQUAL PROTECTION VIOLATION FOR FALSE IMPRISONMENT NOT TO
3 BE INCLUDED IN THIS JURY CHARGE.

4 THE COURT: OKAY.

5 MS. GADD: FURTHER, WE ALSO BELIEVE THAT FALSE
6 IMPRISONMENT HAS ALSO BEEN RECOGNIZED BY RECOGNITION AS
7 THE CDR CODE HAS ALSO RECOGNIZED FALSE IMPRISONMENT AS ITS
8 OWN CRIME. THE CDR CODE NUMBER 764 SPECIFICALLY
9 RECOGNIZED FALSE IMPRISONMENT SEPARATE AND APART FROM
10 KIDNAPPING. KIDNAPPING IS RECOGNIZED UNDER THE CDR CODE
11 NUMBER 95. SO, WE BELIEVE THAT FALSE IMPRISONMENT IS A
12 LESSER-INCLUDED OFFENSE OF KIDNAPPING. AND, AS SUCH, IT
13 SHOULD BE INCLUDED IN THE JURY OFFENSE -- IN THE JURY
14 CHARGE.

15 THE COURT: OKAY. BASED UPON STATE VERSUS BERNTSEN
16 367 S.E. 2D, 152, A 1988 CASE; AND THEN I THINK THERE WAS
17 A '93 CASE THAT REFERRED TO BERNTSEN AND BOTH OF THOSE
18 CASES IN THIS COURT'S OPINION STATED THAT FALSE
19 IMPRISONMENT IS NOT A LESSER-INCLUDED CHARGE. AND AS TO
20 THE ISSUE OF WHETHER FALSE IMPRISONMENT IS AN INDEPENDENT
21 CRIME AND IT SURVIVED THE COMMON LAW OR AT LEAST THE
22 STATUTORY INCORPORATION AND WHERE IT EXISTS PRESENTLY AS A
23 INDEPENDENT CRIME, I'M NOT GOING TO ADDRESS THAT AT THIS
24 TIME.

25 MS. GADD: CAN I RESPOND TO THAT, YOUR HONOR?

1 THE COURT: YES, MA'AM.

2 MS. GADD: WELL, WE BELIEVE THAT STATE VERSUS
3 BERNTSEN IS NOT EXACTLY CLEAR ON THAT ISSUE; AND THE 1993
4 CASE OF SCHULLER WE BELIEVE THAT SCHULLER STANDS FOR THE
5 PROPOSITION THAT A DEFENDANT CANNOT BE CONVICTED FOR BOTH
6 FALSE IMPRISONMENT AND KIDNAPPING AT THE SAME TIME. AND
7 WHAT WE'RE ASKING FOR HERE IS FALSE IMPRISONMENT AS A
8 LESSER-INCLUDED OFFENSE OF KIDNAPPING; AND, AS SUCH, THE
9 JURY WOULD ONLY BE FINDING A GUILT VERDICT OR A NOT GUILT
10 VERDICT.

11 THE COURT: AS TO THE FALSE IMPRISONMENT?

12 MS. GADD: RIGHT. AS EITHER OR.

13 THE COURT: I THINK STATE VERSUS SCHUMPERT, 435 S.E.
14 2D, 835 OR 850 -- 859. OKAY. ANYTHING YOU WANT TO MARK
15 AS COURT'S EXHIBIT PURSUANT TO YOUR ARGUMENT?

16 MS. GADD: YES, YOUR HONOR.

17 THE COURT: ANYTHING YOU'D LIKE TO MARK, I'LL BE GLAD
18 FOR YOU TO MARK.

19 MS. GADD: I'D LIKE TO MARK THIS AS DEFENSE EXHIBIT.

20 THE COURT: I'M NOT SURE THE COURT'S EVER ADDRESSED
21 THE ISSUE OF FALSE IMPRISONMENT SURVIVING AS A COMMON LAW
22 ACTION. I DON'T KNOW THAT THE COURT'S EVER ADDRESSED
23 THAT.

24 MS. GADD: THAT'S ALL, YOUR HONOR. THANK YOU.

25 THE COURT: THANK YOU FOR YOUR ARGUMENT. I'M GOING

1 TO DENY THE REQUEST TO INCLUDE FALSE IMPRISONMENT AS A
2 LESSER INCLUDED. I'M NOT SURE THE COURT'S EVER ADDRESSED
3 THE ISSUE WHETHER FALSE IMPRISONMENT SURVIVED AS A COMMON
4 LAW ACTION. I DON'T KNOW THE COURT'S EVER ADDRESSED THAT.

5 MS. GADD: YES, SIR.

6 MR. MAULDIN: THE OTHER FINAL MOTION, JUDGE, IS THE
7 -- I THINK ON THE FOURTH PAGE OF THE JURY INSTRUCTION
8 THERE WAS A PROPOSED JURY QUESTION ON KIDNAPPING, AND IT
9 HAD QUESTION ONE, QUESTION TWO. I'M SURE YOU CONSIDERED
10 THAT AND SAW IT.

11 THE COURT: DO YOU WANT TO MARK THAT AS A COURT'S
12 EXHIBIT?

13 MR. MAULDIN: IT IS SHOWN AS THE FOURTH PAGE ON THAT
14 ONE. IS THAT SUFFICIENT?

15 THE COURT: THAT'S FINE.

16 MR. MAULDIN: AS LONG AS IT GOES IN AS A COURT'S
17 EXHIBIT. THE REASON WE BELIEVE THAT THAT WOULD BE AN
18 APPROPRIATE QUESTION IS IF THE JURY AT A SUBSEQUENT SECOND
19 PHASE OF THIS TRIAL CONSIDERS KIDNAPPING AS A STATUTORY
20 AGGRAVATOR, WE BELIEVE THAT QUESTION NUMBER TWO ON THIS
21 FORM WOULD HAVE BEEN APPROPRIATELY ANSWERED. THAT NEEDS
22 TO BE ANSWERED IN ORDER TO GO TO THE NEXT PHASE. THAT'S
23 THE PURPOSE.

24 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

25 MR. MAULDIN: THANK YOU, JUDGE.

1 (COURT'S EXHIBIT NUMBER 8 IS MARKED FOR
2 IDENTIFICATION.)

3 THE COURT: ANYTHING ELSE YOU NEED TO PUT ON THE
4 RECORD, MR. MAULDIN, CONCERNING THE CHARGE OR ANYTHING?

5 MR. MAULDIN: NO, JUST RENEWING ALL THOSE MOTIONS.
6 YOU REMEMBER THAT.

7 THE COURT: OKAY. ALL THOSE MOTIONS DENIED OR
8 GRANTED AS THE RECORD SO REFLECT.

9 MR. MAULDIN: AND PREVIOUS ORDERS STILL CONTINUE?

10 THE COURT: YES, SIR.

11 MR. MAULDIN: THANK YOU, JUDGE.

12 THE COURT: THANK YOU VERY MUCH.

13 ALL RIGHT. ALL THE DEFENDANT'S EXHIBITS ARE PRESENT;
14 IS THAT CORRECT?

15 SOLICITOR, GOT THEM ALL? ALL THE STATE'S EXHIBITS?

16 MS. STROM: YES, SIR.

17 THE COURT: WE'RE GOING TO LOAD THEM UP. TELL THEM
18 TO BEGIN THEIR DELIBERATIONS.

19 (WHEREUPON, AT 6:40 P.M. THE JURY RETIRES TO BEGIN
20 ITS DELIBERATIONS.)

21 VERDICT.

22 (WHEREUPON, AT 8:15 P.M. COURT IS AGAIN IN SESSION,
23 WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)

24 ALL RIGHT. WOULD YOU BRING US THE JURY, PLEASE, SIR?

25 (AT 8:20 P.M. THE JURY RETURNS TO OPEN COURT TO

1 REPORT ITS VERDICT.)

2 THE COURT: ALL RIGHT. MR. FOREMAN, I UNDERSTAND
3 YOU'VE REACHED A VERDICT; IS THAT CORRECT?

4 FOREMAN: YES, SIR.

5 THE COURT: WOULD YOU HAND THE VERDICT FORMS TO THE
6 BAILIFF, PLEASE, SIR?

7 FOREMAN: YES, SIR.

8 THE COURT: MADAM CLERK, IF YOU WOULD.

9 THE CLERK: YOUR HONOR, CASE NUMBER 2004-GS-23-1745,
10 THE STATE OF SOUTH CAROLINA, PLAINTIFF, VERSUS CHARLES
11 CHRISTOPHER WILLIAMS, DEFENDANT. "WE, THE JURY, FIND THE
12 DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, GUILTY OF
13 KIDNAPPING MARANDA WILLIAMS." SIGNED NELSON C. MILES, II,
14 FOREMAN.

15 "2004-GS-23-1746, THE STATE OF SOUTH CAROLINA VERSUS
16 CHARLES CHRISTOPHER WILLIAMS, INDICTED FOR MURDER. "WE,
17 THE JURY, FIND THE DEFENDANT, CHARLES CHRISTOPHER
18 WILLIAMS, GUILTY OF THE MURDER OF MARANDA WILLIAMS."

19 POSSESSION OF A FIREARM DURING THE COMMISSION OF A
20 VIOLENT CRIME. "WE, THE JURY, FIND THE DEFENDANT, CHARLES
21 CHRISTOPHER WILLIAMS, GUILTY OF POSSESSION OF A FIREARM
22 DURING THE COMMISSION OF A VIOLENT CRIME AS TO THE MURDER
23 OF MARANDA WILLIAMS." SIGNED NELSON C. MILES, II,
24 FOREMAN.

25 IF THESE ARE YOUR VERDICTS PLEASE RAISE YOUR RIGHT

1 HANDS.

2 (NO NEGATIVE RESPONSE ELICITED.)

3 THE COURT: MR. FOREMAN, I HAVE FILLED OUT ON THE
4 INDICTMENTS, GUILTY AS TO KIDNAPPING AND GUILTY AS TO THE
5 MURDER AND POSSESSION OF A WEAPON AND DATED IT. AND I'M
6 GOING TO ASK THE CLERK TO GET YOU TO SIGN THE BACK OF THE
7 INDICTMENT, PLEASE, SIR.

8 DOES THE DEFENDANT WANT THE JURY POLLED?

9 MR. MAULDIN: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 LADIES AND GENTLEMEN OF THE JURY, WHAT'S GOING TO
12 HAPPEN NOW, WE'RE GOING TO SEND YOU TO THE MOTEL. THERE'S
13 GOING TO BE A 24-HOUR WAITING PERIOD. WE'LL START BACK
14 THURSDAY MORNING AT 9:30 WITH THE SECOND PHASE OF THE
15 TRIAL. AND DON'T DISCUSS THE CASE AMONGST YOURSELVES
16 BETWEEN NOW AND WHEN WE START THE SECOND PHASE, WHICH IS
17 THE PENALTY PHASE. IT WILL BE JUST LIKE A NEW TRIAL
18 EXCEPT THE ISSUE WILL BE THE PENALTY.

19 NOW, AS FAR AS YOUR NOTES ARE CONCERNED, ARE THEY IN
20 THE JURY ROOM? I'M GOING TO GET THE CLERK TO COLLECT THE
21 NOTES. AND WHEN WE START THURSDAY MORNING, I'LL REISSUE
22 THE NOTEPADS. IF ANYONE HAS THEIR NOTEPADS WITH THEM,
23 JUST PASS THEM TO THE CLERK. AND, MR. FOREMAN, IF YOU'LL
24 GIVE ME THAT CHARGE BOOK BACK.

25 I'LL GET THE CLERK TO COLLECT THE REST OF THE NOTES

1 FROM THE JURY ROOM. WE'LL HAVE THEM AVAILABLE FOR YOU
2 THURSDAY MORNING. IF YOU ALL GO WITH THE BAILIFFS, WE'LL
3 SEE YOU THURSDAY MORNING.

4 JURY EXCUSED AT 8:24 P.M.

5 (WHEREUPON, AT 8:24 P.M. THE JURY IS EXCUSED, WHEN
6 THE FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE PRESENCE OF
7 THE JURY:)

8 THE COURT: DONNA, FOR THE RECORD, THE JURY RETURNED
9 8:15 P.M. TUESDAY FEBRUARY 15th 2005. UNLESS THE
10 DEFENDANT WANTS TO WAIVE 24-HOUR PERIOD, WE WILL TAKE THE
11 24-HOUR PERIOD AT THIS TIME.

12 MR. MAULDIN: YES, PLEASE, YOUR HONOR.

13 THE COURT: YOU WANT THE 24 HOURS?

14 MR. MAULDIN: YES, SIR.

15 THE COURT: WE WILL RECONVENE AT 9:30 THURSDAY
16 MORNING.

17 MR. MAULDIN: THANK YOU, YOUR HONOR.

18 MR. ARIAIL: THANK YOU, JUDGE.

19 (WHEREUPON, AT 8:30 P.M. THE PROCEEDINGS ARE
20 ADJOURNED TO FEBRUARY 17, 2005.)

21 * * * * *

22 * * *

23 *

24

25

1 Thursday, February 17, 2005

2 THE COURT: Is the state ready to proceed?

3 MR. ARIAIL: Yes, Your Honor.

4 THE COURT: We've got a memorandum of law that
5 supports exclusion of photographs of the victim. I
6 believe we heard part of that in the guilty phase. In the
7 penalty phase, do you want to go into that now or wait
8 until -- apparently, I don't know what witness --
9 apparently Raymond Sass is the one that's going to go into
10 the photographs, solicitor?

11 MR. ARIAIL: Yes.

12 THE COURT: Do you want to wait until he's ready to
13 testify?

14 MR. MAULDIN: We'll have about a half dozen matters
15 we need to go into before we begin. I will put on the
16 record the position that we've come with regarding all
17 photos in this phase. So, I do think this solution is
18 much less complicated than originally believed. We have
19 several legal matters we need to put on the record.

20 THE COURT: Have you all agreed on the photographs?

21 MR. MAULDIN: I can't say that, Judge. If you would,
22 please, I'd take it up now. But I would prefer, if
23 possible, to have another matter taken up initially.

24 THE COURT: That's fine.

25 MR. MAULDIN: If that is okay with the court?

1 THE COURT: That's fine.

2 MR. MAULDIN: I would ask Kate Meecham come around
3 and present a motion regarding a matter we have for the
4 court's consideration in this phase. Defendant's motion
5 to include use of the phrase "right from wrong" or any
6 derivative thereof.

7 THE COURT: All right. Before we get to that, let me
8 put on the record the verdict was received Tuesday,
9 February 15th at 8:15 p.m. It is now Thursday,
10 February 17th 2005 and more than 24 hours have elapsed
11 since the verdict was received on the guilt phase and
12 we're starting the sentencing phase.

13 Yes, ma'am?

14 MS. MEECHAM: Good morning, Your Honor. I'm Kate
15 Meecham on the team for the defendant. The defendant
16 makes a motion to exclude use of the phrase right and
17 wrong or any derivative of the phrase right and wrong from
18 the sentencing proceedings. We do this for two reasons.

19 THE COURT: Who's going to be talking about right and
20 wrong? Who do you anticipate saying it?

21 MS. MEECHAM: We anticipate the solicitor using the
22 phrase right and wrong.

23 THE COURT: In what context and with what witness?

24 MS. MEECHAM: Throughout for purposes of saying that
25 the defendant in fact knew that his actions were -- he

1 could tell his actions and knew the difference between
2 right and wrong at the time of the incident, sir.

3 THE COURT: What basis do you have to make that
4 request? Or let me shut up and listen to your argument.
5 Go ahead.

6 MS. MEECHAM: On two bases. The phrase right and
7 wrong is not relevant at this stage of the trial and it is
8 also prejudicial. During the first phase of a trial there
9 are three mental health issues. Insanity, guilty but
10 mentally ill, and competence. Competence is judicially
11 determined. Insanity is an affirmative defense that the
12 defendant lacked the capacity to distinguish moral or
13 legal right from moral or legal wrong. No affirmative
14 defense was raised by the defendant. All three of these
15 issues have already been determined; and, therefore, the
16 standards for any of these three issues are not relevant
17 at this stage of the proceeding.

18 During the second phase of the trial there are
19 statutory mitigators that involve mental health issues.
20 The first one is section 16-3-20(c)(b)6 and this will not
21 be raised, so it is not relevant. The second statutory
22 mitigator is murder under the influence of mental or
23 emotional disturbance. This will be the only mental
24 statutory mitigator at issue during this stage of the
25 proceeding. Neither uses the insanity standard of --

1 THE COURT: What are you offering that mitigation
2 for? What is your purpose? What are you insinuating to
3 the jury when you're offering the testimony concerning the
4 mental illness.

5 MS. MEECHAM: That he was under the influence of a
6 mental or emotional disturbance.

7 THE COURT: For what purpose are you offering that to
8 the jury?

9 MS. MEECHAM: To mitigate the crime, sir.

10 THE COURT: I understand to mitigate the crime, but
11 what are you insinuating to the jury?

12 MS. MEECHAM: That he was mentally unstable at the
13 time of the crime.

14 THE COURT: That he was mentally unstable?

15 MS. MEECHAM: Yes.

16 THE COURT: Doesn't that insinuate or at least lend
17 the argument he didn't really know what he was doing? He
18 didn't appreciate the impact of what he was doing?

19 MS. MEECHAM: It insinuates, but it is not the
20 correct standard for this stage of the proceeding.

21 THE COURT: I'm not talking about the standard, I
22 just said what's it insinuating. Other than that, for
23 what purpose would you even be offering it, other than
24 convince the jury he couldn't appreciate what he did? And
25 that goes to right and wrong, doesn't it?

1 MS. MEECHAM: No, Your Honor. It goes to he was
2 acting under an emotional disturbance at the time. When
3 you're under emotional disturbance, even if you know that
4 you are acting incorrectly, you may still act in that
5 manner. For example, Involuntary manslaughter.

6 THE COURT: Talking about irresistible impulse? Is
7 that what you're offering it for?

8 MS. MEECHAM: No, we're offering it as an emotional
9 disturbance.

10 THE COURT: All right.

11 MS. MEECHAM: Neither of these issues uses the
12 standard of inability to distinguish between right and
13 wrong; therefore, the standard is not relevant.

14 The second reason that this issue should not be
15 brought up, is that it's prejudicial. During voir dire
16 the defense repeatedly asked the jury about mental
17 illness. I think universally the potential jurors
18 replied, mental illness is knowing the difference between
19 right and wrong. So, there's already confusion about
20 applicable standards. And the defense believes that no
21 one should further confuse the jury.

22 The jury has already determined that the defendant
23 knew the difference between right and wrong during the
24 first phase.

25 THE COURT: Hold on just a second. Go ahead.

1 MS. MEECHAM: The jury already determine the
2 defendant knew the difference between right and wrong
3 during the first phase of the trial. So, the defendant
4 comes to sentencing with a clean slate as to his mental
5 incapacity. Any argument or statement that the defendant
6 knew right from wrong so he could rationally make choices
7 is prejudicial and should be precluded.

8 THE COURT: Is that it?

9 MS. MEECHAM: Yes.

10 THE COURT: Thank you very much.

11 MS. MEECHAM: Thank you, Your Honor.

12 THE COURT: Let me hear from the state, please.
13 Solicitor, anything you want to add, or Solicitor Strom?

14 MR. ARIAIL: I just got this two or three minutes
15 ago. I haven't read it all.

16 THE COURT: I just got it ten seconds ago.

17 MR. ARIAIL: I understand. Our response is one of
18 rather than legal because I haven't had a chance to read
19 these cases, but ours is one of practicality. To begin
20 with, everything that's in this first phase is going to be
21 in, in the second phase. So issues we've already talked
22 about as to right and wrong and competency and ability to
23 conform the behavior or from Dr. Richards are going to be
24 in. That's going to be in. So, any subsequent testimony
25 that may relate to that subject, I think, is fair for

1 comparison to the jury to understand what these subsequent
2 people may be saying in regard to what the first witness
3 has said about it.

4 Secondly, I think the argument that they can put in
5 mitigating evidence, which they certainly can as to the
6 this issue; but for the jury's edification, the jury
7 needs, or the state needs to be able to question witnesses
8 to put a ceiling or limitation, or as it were, to put that
9 in a box.

10 What is it that you're really talking about,
11 Mr. Witness? You're not talking about this and you're not
12 talking about that, not talking about on top, you can put
13 it in a box so I can limit where that witness is really
14 testifying. And I think to limit these phrases which are
15 the law in this state, it's only fair to make sure that
16 the jury fully understands exactly the limitation of the
17 testimony of this individual who is testifying.

18 I don't know what they're going to put up. I'll
19 assume they'll put up a psychiatrist. I want to be able
20 to ask the psychiatrist the simple question, "did he know
21 right from wrong? Could he conform his behavior? And is
22 he competent?"

23 THE COURT: You don't anticipate using that language
24 until we get to that point?

25 MR. ARIAIL: Not unless there's a psychiatrist.

1 THE COURT: What I'm going to do, is take it under
2 advisement, give Solicitor Strom an opportunity to look at
3 the cases they cited and see if there's any legal basis
4 for your argument. And I'll take it under advisement.
5 Until we get to the psychiatrist, I don't really think it
6 will come until examination of the psychiatrist. Who is
7 the psychiatrist on the witness list, the same person you
8 used last time, Dr. Richards?

9 MR. MACDOUGALL: No. Dr. Richards is in the guilt
10 phase.

11 THE COURT: Who you going to use this phase?

12 MR. MACDOUGALL: Dr. Sy Halleck.

13 THE COURT: I don't even think it will come up until
14 that witness takes the witness stand. Solicitor, in
15 opening statement just don't use the term for right now.

16 MR. ARIAIL: Yes, sir.

17 THE COURT: And I'll address it before we do cross on
18 the psychiatrist. Okay?

19 MR. ARIAIL: Yes, sir.

20 THE COURT: What it is your next --

21 MR. MAULDIN: Your Honor, and in follow up to that,
22 we are asking that the court be reminded of the state's
23 position that he did make reference just a minute ago fair
24 for comparison, and I follow up on that. I want to make
25 sure the court is reminded of the state's position that

1 the hearing in January regarding their intent not to call
2 Dr. Crawford. And the reason I do that is because I spoke
3 to Pam this morning as I came in the courtroom. She's
4 present. And I don't know what they're going to do. But
5 I just want to remind the court of what's on the record
6 regarding the use of Dr. Crawford in this case.

7 THE COURT: I already ruled. I think I ruled before
8 trial. I ruled at least three or four times during the
9 guilt phase. How many times do you want me to rule
10 against you on the issue?

11 MR. ARIAIL: He's making reference to a
12 representation that we made; and I'm going to disagree
13 with him. We did not agree not to call her, we agreed not
14 to call her as an expert. That's what we agreed to.

15 MR. MAULDIN: That's true.

16 THE COURT: Is that what you're making reference to?

17 MR. MAULDIN: Yes, sir.

18 THE COURT: He's going to call her as just an
19 investigator or assisting the police, I would assume.

20 MR. ARIAIL: Yes, sir.

21 THE COURT: Not as expert and not giving any expert
22 opinion as to the defendant's mental capacity.

23 MR. ARIAIL: I do intend to qualify her as an expert,
24 she is a psychiatrist. Otherwise, it doesn't make -- but
25 I don't intend to ask her any opinions or any opinions she

1 reached.

2 THE COURT: Now, solicitor, throughout this process
3 you said you were not going to offer her as an expert.

4 MR. ARIAIL: That's correct, call her as an expert.

5 THE COURT: So, I assume there will not be any
6 qualification.

7 MR. ARIAIL: Well, the problem is, Judge, as we
8 present that to the jury, she is going to be a
9 psychiatrist. I don't know how to get around that.
10 They've already denoted her.

11 THE COURT: That's fine. I don't have any problem
12 with you telling them who she is and what she does for a
13 living. But as far as offering the court as an expert
14 forensic psychiatrist, from day one you said you weren't
15 going to do that.

16 MR. ARIAIL: I'm going to go through and tell who she
17 is, who she works for, what her relationship is, why she
18 was called in this case. And in that process she is going
19 to testify she's a forensic psychologist, psychiatrist.

20 THE COURT: That's fine. I have no problem with
21 that. I'll just put on the record right now if you do
22 offer her as an expert, the court's going to reject it
23 based on the affirmations you made throughout the process.
24 Okay?

25 MR. ARIAIL: The only response I have to do if they

1 began to ask her expert opinions, I don't want to have to
2 stand up here --

3 THE COURT: That's a different -- they've opened the
4 door then.

5 MR. ARIAIL: All right.

6 THE COURT: If they do that, they've opened the door.
7 That's a different situation. But where we're sitting
8 right now, I'm not going to accept her as an expert based
9 upon what you told the court and the defense throughout
10 pretrial motions and --

11 MR. ARIAIL: We do not intend to offer her.

12 THE COURT: Now, if they open the door, that's a
13 different situation, solicitor. And they understand that.
14 Mr. Nettles understands that.

15 MR. NETTLES: We understand that.

16 THE COURT: If you get to the point you're trying to
17 box her in on certain opinions, you have to try -- you
18 have to try your case. But you understand what open the
19 door means, I'm sure?

20 MR. NETTLES: I understand. I understand.

21 THE COURT: Okay. Do you understand my ruling?

22 MR. NETTLES: I understand.

23 THE COURT: I mean, I don't know what else I can say
24 at this point in time.

25 MR. MAULDIN: Thank you, Your Honor. I'm going to

1 take this opportunity to, you might say, fall on the
2 sword. This is my mistake. I mentioned it to the
3 solicitor this morning. I accidentally left a name off
4 the witness list, and it's completely my fault. It is
5 Chris' sister, she lives in Atlanta -- Charleston now, but
6 she lived in Atlanta at the time and she now lives in
7 Charleston.

8 We do have that other person who called me during
9 jury selection that we've provided. I am going to want to
10 ask the court at the time you ask the jurors about the
11 other person, you also include the name of the sister.
12 And I've got no excuse for it, I just made a mistake.

13 THE COURT: What are the two names we're referring
14 to?

15 MR. MAULDIN: The two names, Your Honor, are the two
16 names --

17 THE COURT: One is Rebecca Owens, right?

18 MR. MAULDIN: Rebecca Owens.

19 THE COURT: Who is other one?

20 MR. MAULDIN: Maureen, M-A-U-R-E-E-N, Bangcuyo.

21 THE COURT: What?

22 MR. MAULDIN: I'll spell the last name. I can't
23 hardly get it out of my mouth. B-A-N-G-E-U-Y-O [sic], and
24 it's pronounced Bangcuyo. Maureen Williams Bangcuyo. She
25 is the name that I just simply, in the haste of getting

1 the list for you -- I didn't want to give you a list of 50
2 names and I just tried to narrow it down. And I just
3 failed to put her on there.

4 THE COURT: Solicitor, what's your response or do you
5 have one?

6 MR. ARIAIL: I don't want to be hard nosed, let's ask
7 the jury if they know --

8 THE COURT: Okay. I'll ask if they know her.

9 MR. ARIAIL: If one says I know them, I would have an
10 objection.

11 THE COURT: Let me say this. If somebody says they
12 know them, I'm going to excuse the other 14 and go into it
13 a little deeper.

14 MR. ARIAIL: I would object to taking a juror off at
15 this stage based on his mistake.

16 THE COURT: I understand. We'll just have to see
17 what they say if they know any of the parties. I'm not
18 going to expose the other jurors to those questions. I
19 mean we got 14.

20 MR. MAULDIN: Your Honor, the next item for the
21 record is that we, once again, renew our pretrial motions
22 subject to the rulings you have made; and we trust that
23 those rulings are continuing throughout and we are taking
24 positions accordingly.

25 THE COURT: They are.

1 MR. MAULDIN: Two particular motions I think relate
2 directly to this proceeding is our motion which the court
3 took under advisement on November 2nd; and that is, what I
4 will, for lack of a better term, call the ring motion.
5 That is the motion where the statutory scheme requires the
6 entry of a not guilty plea in order to have a sentencing
7 by a jury. We claimed at that time that that was an
8 unconstitutional scheme.

9 I take all respect with regard to recent South
10 Carolina supreme court cases, but I do want to go on the
11 record that that motion is once again renewed. We request
12 the court impose a life sentence on my client immediately
13 on the basis of the unconstitutionality of a subsequent
14 sentencing proceeding under the statute.

15 THE COURT: Motion denied.

16 MR. MAULDIN: The other, Your Honor, that does relate
17 directly to this proceeding is our objection to the term
18 "recommend." And I won't go into any more detail, we
19 talked about that a good bit.

20 THE COURT: It's the state law. The form was
21 provided by the state law. I got to go into it and I will
22 explain it to the jury. I will explain to the jury it is
23 not a recommendation, the court is obligated to follow --
24 the statute needs to be amended, the word recommendation
25 needs to be taken out. That's denied unless the state

1 wants to consent.

2 MR. ARIAIL: No, sir.

3 MR. MAULDIN: The next matter, Your Honor, does
4 relate to the photos. And I'd like to give the court my
5 understanding of our position at this time. I understand
6 the state has advised me that certain photos we had
7 serious differences about have been withdrawn. They were
8 photos involving the nature of the injuries to Mandy
9 Williams. We understand that those are not going to be
10 submitted.

11 Now, there are two other areas of photos, Miss Strom
12 has displayed to me photos that I guess could be termed
13 in-life photos. These are photos of Mandy with her
14 family, Mandy when she was young, Mandy with her child,
15 and also photos of her child. We have no objection to any
16 of those photos. We suggest that they -- I don't know
17 they've been premarked. But we suggest they go ahead and
18 be premarked and in fact admitted to the extent that that
19 would be appropriate. And so we do not object to those
20 photos. The photos that are --

21 THE COURT: Hold on a second. You're starting at 105
22 through 113.

23 MS. STROM: I have -- Yes, sir. And I have a list if
24 you need one.

25 THE COURT: I don't have a list of each item. How

1 many are there? I guess there's what seven?

2 MR. MAULDIN: I don't have that what you're referring
3 to. I understand I'm not necessarily entitled to whatever
4 it is you're looking at, but that's okay.

5 THE COURT: I'll be glad to share it with you. Just
6 a list of --

7 MR. MAULDIN: Proposed exhibits?

8 THE COURT: I'll be glad to share it with you.

9 MS. STROM: I shared it with him.

10 MR. MAULDIN: All right. And we are aware of those
11 three. That's fine.

12 The one that the court does need to take a look at,
13 however, is photos regarding the prior assault and battery
14 case, Your Honor. And if the court will please bear with
15 me just a moment. All right. We were provided, upon the
16 court's instructions to the state, we were provided in
17 advance of trial the Friday before jury selection, six
18 photos relating to the assault and battery with intent to
19 kill charge of July 16th. And I will be glad to pass up
20 the six. I don't know if you seen them in a group, but I
21 understand the state will intend to offer all six; is that
22 correct?

23 MR. ARIAIL: Right.

24 THE COURT: What's the basis for objecting to those
25 photos?

1 MR. MAULDIN: I think you need to look at them then
2 I'll tell you the basis.

3 THE COURT: What's your basis, what they depict or
4 you have another basis?

5 MR. MAULDIN: The basis is the medical records from
6 this particular incident indicate two things that are
7 inconsistent with what is depicted in the photographs.
8 That means the photographs do not accurately depict what
9 the status was. The first thing the medical records
10 indicate is that she was treated, but not admitted to the
11 hospital. She was treated, I guess, in the emergency
12 facility, but she was never an admitted patient.

13 The second thing that the photos indicate or appear
14 to indicate is the presence of a neck injury. She has a
15 precautionary neck brace. She -- the medical records
16 indicate there was no neck injury. In fact, there were no
17 fractures of any sort or neck injuries or anything of that
18 sort. So, what we're suggesting that this court take into
19 your hands the photos and look and let me tell you which
20 ones we do not object to.

21 THE COURT: All right. Let me see them. All right.
22 Looking at, you got the numbers, 115? Do you have the
23 back. This photograph, State's Exhibit 115, shows her
24 apparently on a gurney.

25 MR. MAULDIN: I'm going to pass up my two that I have

1 no objection to. And see if that won't solve the problem.
2 These show that, actually show the facial injuries but
3 take out the hospital bed and the neck brace.

4 THE COURT: All right. You don't have any objection
5 to State's Exhibit 119 or 121?

6 MR. MAULDIN: Yeah, whatever that -- as to those two
7 I just handed, Your Honor.

8 THE COURT: Do you want to argue each one? The
9 general argument the same on each one?

10 MR. MAULDIN: I don't know the numbers, but I can
11 show you what I'm going -- you can identify the number.
12 The first one I think would be the real obvious one, is
13 the one where she's --

14 THE COURT: That's State's Exhibit 116?

15 MR. MAULDIN: We argue that simply is not an accurate
16 depiction of the extent of the injury that was inflicted
17 in the assault and battery with intent to kill case.

18 THE COURT: Doesn't go to the weight of the picture
19 or the weight of the evidence, not the admissibility.

20 MR. MAULDIN: It might if we were trying the assault
21 and battery with intent to kill. But we're not trying
22 that case. He's never been tried for it. He's never been
23 convicted or -- in other words, it's a pending charge,
24 that is being used over our objection by the way. An in
25 limine motion we objected to use of unadjudicated charges.

1 You overruled that objection or denied that motion. And
2 with all due respect, we renew it; but assuming that it's
3 coming in pursuant to your pretrial ruling.

4 THE COURT: I thought your motion was just limit the
5 issue of standing up and waiving a warrant for assault and
6 battery with intent to kill. And that was your motion,
7 not talking about the battery. Isn't that correct,
8 solicitor?

9 MR. ARIAIL: Yes, sir. That was my understanding.

10 THE COURT: That was my understanding of your motion,
11 not excluding all the testimony. As a matter of fact you
12 put all that testimony in through various exhibits you
13 offered in the guilt phase. Your motion was limiting the
14 state from standing up with a warrant saying he was
15 charged with assault and battery with intent to kill and
16 not going into the subject matter if I remember correctly.

17 MR. MAULDIN: May I, Your Honor?

18 THE COURT: Yes, sir.

19 MR. MAULDIN: The initial motion was to prohibit the
20 use entirely. No question that as the arguments at the
21 motion's hearing developed -- and we have the transcript
22 of the motions hearing -- it clearly, the ultimate ruling
23 was that the evidence of the assault was going to be
24 admitted, but not --

25 THE COURT: Look at the transcript, if you would; but

1 I don't think the court ruled on -- I thought that was
2 sort of an agreement that the parties reached. Solicitor,
3 tell me if I'm wrong. Solicitor?

4 MR. ARIAIL: I thought it was Mr. Nettles and myself.

5 THE COURT: I thought the parties agreed on that
6 resolution, that motion. The court never made a ruling
7 one way or the other.

8 MR. ARIAIL: His response, Mr. Nettles response was,
9 "We just want to keep it out, I realize we're not going to
10 be able to keep out facts."

11 THE COURT: I thought that was sort of an agreement
12 between the parties. The cat's out of the bag now because
13 you all covered it extensively in the guilt phase. I
14 don't think the court actually ever ruled on that motion.
15 The parties agreed, the court said, "that's fine."

16 Look at the transcript and tell me if I'm wrong.

17 MR. NETTLES: Right. I'd just like to add this.

18 THE COURT: Yes, sir.

19 MR. NETTLES: If the argument for the admissibility
20 of this and the fact that this shows things that aren't
21 the case, that goes to the weight, you know, I believe
22 what John was referencing when he said we're not trying
23 the assault and battery is that, is that even in the
24 penalty phase, I mean, we are entitled to a sentencing
25 that's sort of fair. I mean, and you know, there's

1 evidence here of --

2 THE COURT: I understand what he's saying. My
3 question, he made a comment that I ruled that evidence
4 out. Or excuse me, overruled your motion, and said it was
5 admissible. And I don't think that's ever been done.

6 MR. NETTLES: I don't know about that. I'd like to
7 back him up.

8 THE COURT: If you got the transcript, look at it.

9 MR. MAULDIN: I'll be glad to look at it, judge.

10 THE COURT: Tell me if I'm wrong.

11 MR. NETTLES: I'm kind of raising a different issue.
12 That may not come as a surprise to you.

13 THE COURT: It's always a surprise to me.

14 MR. NETTLES: My issue is simply this. What happened
15 was horrible and there are pictures that show
16 uncontroverted, it is just uncontroverted what happened.
17 There are pictures of her face where she got hurt. And
18 there's two groups of pictures.

19 THE COURT: I understand.

20 MR. NETTLES: And there's another group of pictures
21 that show things that I don't think it goes to the weight
22 but --

23 THE COURT: I understand your argument. Solicitor,
24 let me hear you very briefly.

25 MR. ARIAIL: The basis of the pictures or the scope

1 of the five or six you have is that the EMS technician is
2 going to testify based upon his analysis of her at the
3 scene, that this was the appropriate treatment he felt was
4 necessary. And that's why the pictures are there. They
5 don't represent something that's not accurate. They
6 represent what is totally accurate. That is, that this is
7 what happened to her. She was put on that stretcher. She
8 was put on the thing because they thought she had a neck
9 injury. They thought she had a -- because she lost
10 consciousness, that she had the potential for a bleeding
11 concussion and that they took those precautions and took
12 her to the hospital. And, in fact, she went to the
13 hospital and was treated at the hospital. Eventually she
14 was released.

15 Now, I'm not trying to put something in that doesn't
16 indicate what happened. So, I guess we're arguing about
17 weight. I guess what we're arguing about --

18 THE COURT: All right. I'm going to grant their
19 motion as to State's Exhibit 116. And the rest of them
20 I'm going to allow in.

21 MR. MAULDIN: Which one is that?

22 THE COURT: Those -- the one showing the hospital bed
23 and the hospital room. I'm going to allow the rest of
24 them in.

25 MR. MAULDIN: We do with respect take exception to

1 that, Your Honor. 116 is stricken?

2 THE COURT: Right. What else you got?

3 MR. MAULDIN: I refer you back, Your Honor, to our
4 motions regarding victim impact evidence. We filed the
5 motions on November the 8th, served them on November the
6 8th, and they were heard by you on January 13th. And
7 according to my notes, which certainly are not necessarily
8 reliable; but I have to try to rely on them, the state was
9 to provide statements or summaries of intended victim
10 impact testimony after a conviction. That you were not
11 going to allow any repetition.

12 In fact, I wrote the quote, "we're not going to
13 parade."

14 THE COURT: We're not going to get cumulative.
15 That's what I was referring to.

16 MR. MAULDIN: But my understanding of that --

17 THE COURT: Each witness will offer something new and
18 different is what I was saying.

19 MR. MAULDIN: And my understanding is that we would
20 have been providing something that showed something about
21 victim impact. And we at least, unless it was given to
22 somebody other than me, I haven't gotten anything.

23 THE COURT: Quite frankly I don't remember, Mr.
24 Mauldin. I don't remember what transpired concerning that
25 motion. What are you asking the court for now?

1 MR. MAULDIN: Well, you recall we had a series of
2 motions, one of which was a pretrial review, one was
3 inflammatory, one was live testimony, one was a single
4 witness, one was background of the witness; one was crime,
5 defendant, and sentence. All those motions were filed and
6 served at the same time and taken under consideration.
7 Now, no definitive rulings as to admissibility were made
8 at that time by this court. And I do acknowledge that.
9 But I was under the impression that the court would
10 provide statements after conviction regarding the intended
11 victim impact testimony. And we just hadn't gotten that.
12 I thought it was paramount to a court order. But the
13 motion is we don't have anything yet and --

14 THE COURT: And you want it.

15 MR. MAULDIN: Yes, sir.

16 THE COURT: I don't remember what transpired at the
17 motion hearing, Mr. Mauldin. I really don't. So, I can't
18 address that. Basically what he's asking the court, you
19 to give him a small synopsis or synopsis what each witness
20 is going to testify to as far as victim impact is
21 concerned.

22 MR. ARIAIL: My recollections what we were going to
23 do was we made a representation that after the guilt phase
24 we would have a meeting with the court to advise the court
25 and give a summary to the court orally, not in writing;

1 but a summary of what witnesses we intended to present and
2 what the scope of each one of those witness' victim impact
3 testimony would be.

4 THE COURT: Then let's do that.

5 MR. ARIAIL: We're certainly prepared to do that.

6 THE COURT: Okay.

7 MR. ARIAIL: We're going to give it to you. They're
8 asking you to exclude it. This is not discovery.

9 THE COURT: You said you're going to give it to me
10 orally?

11 MR. ARIAIL: Yes.

12 THE COURT: Well, then, let me hear it.

13 MR. ARIAIL: Well, the point is, if we're going to
14 give it to you, then we're going to give it to them, too.
15 I thought the nature of the motion was for you to ensure
16 the compliance with the defense's motion; however, you
17 wanted to comply that we weren't going to be cumulative
18 and overload.

19 THE COURT: That was my only concern as far as that
20 motion was concerned.

21 MR. ARIAIL: And our position is we'll be glad to
22 tell you that to ensure against that, but not tell them.

23 THE COURT: Fine. I understand your position.

24 MR. MAULDIN: I do not believe that is responsive to
25 the motions that we have made, nor to the rulings.

1 THE COURT: Let's forget about what happened in the
2 past. Make your motion, let me hear what you want the
3 court to do. Okay. Forget about what happened in the
4 past. Just tell me what you're asking the court to do.

5 MR. MAULDIN: All right. On January 13th we moved
6 this court to prohibit victim impact testimony in it's
7 entirety. We understand the precedent of our state cases.

8 THE COURT: And that was denied. Or that is denied
9 if you're making it again.

10 MR. MAULDIN: At that time, Your Honor, at that time
11 we also moved -- Cara Pierce argued this motion in fact --
12 and as she was arguing it, the state, if I'm not -- well,
13 forget the past, I'm sorry. The fact is we made a motion
14 for a pretrial review of the anticipated victim impact
15 testimony. I believe that's what the state is now
16 alluding to. I understood that statements or summaries
17 were going to be provided. I thought we were going to get
18 them. Otherwise, we don't know what to object to until
19 they're actually being presented. And that's what we're
20 trying to avoid in this situation.

21 We want this to be as respectful a proceeding it can
22 be. We want the appropriate people to have an opportunity
23 to state their testimony in front of this jury. And it's
24 the last thing in this world I ever want to do is to
25 object to something like that in this court. Why in the

1 world we can't do some sort of preliminary evaluation of
2 the appropriateness and admissibility of that testimony so
3 that we don't -- I don't want to get out of this seat when
4 those folks are testifying. I don't want to. And I think
5 they're entitled to the dignity and respect, and I intend
6 to give it to them. But I also have an obligation as this
7 young man's lawyer to determine whether things are
8 admissible or not. And I strongly encourage the court to
9 do some sort of review. If you haven't got the summaries,
10 you all supposed to go back in the back room and talk
11 about it? I kind of got an objection to that.

12 MR. ARIAIL: We give. We give. We'll tell them. We
13 give.

14 MS. STROM: Judge, we plan to call Tina Smith.

15 THE COURT: All right. Tell me, first of all, who is
16 going to be victim impact.

17 MS. STROM: Tina Smith, is going to be one victim
18 impact witness, who has already testified in the guilt
19 phase. She will talk about how she knew Mandy, she saw
20 Mandy interact with her child, Callista; that Mandy was a
21 very bubbly person, good person, hard worker, trained to
22 be a manager, good employee. She misses her bubbly smile.
23 She -- I'm trying to think of what else, judge. And the
24 fear that she had on that day, even though the defendant
25 did not point the gun directly at her, the fear she had on

1 that day and that that continues in her family.

2 THE COURT: Mr. Mauldin, you have that down?

3 MR. MAULDIN: No objection to that testimony.

4 MR. NETTLES: I object to it continues in her family.

5 THE COURT: Object to what?

6 MR. MAULDIN: In Tina Smith's family, is that what --

7 MR. NETTLES: In Tina Smith's family.

8 MR. MAULDIN: Yeah, we object to that, Tina Smith's
9 family.

10 THE COURT: What's that got to do with anything? She
11 can object, she was scared, her reaction to the --

12 MS. STROM: And what she told me when she met with
13 me, is that she has children and they are afraid of her
14 going to work because of what happened at her job. I'm
15 not getting into great detail on it, but that's one of the
16 things she told me. And I can't tell you she's not going
17 to say it here today. I'm not going to ask her
18 specifically about it.

19 THE COURT: I'm going to exclude that about her
20 family. Ask you to instruct her accordingly, and if you
21 want me to, I will.

22 MS. STROM: I'll talk to her.

23 THE COURT: She can tell how she reacted but we're
24 not going to get into how her family reacted to it.

25 MS. STROM: The second victim impact witness will be

1 a Ms. Pat Williams, who is her stepmother but who raised
2 her from a young child.

3 THE COURT: That's the photos and excerpts from the
4 baby book?

5 MS. STROM: Yes, sir. And then Mandy's father,
6 Mr. Gary Williams.

7 THE COURT: Pat Williams is her mother?

8 MS. STROM: Stepmother but raised her from a child.

9 THE COURT: All right. What is Pat Williams going to
10 testify to?

11 MS. STROM: She will testify to the fact -- first of
12 all, I'm going to have her go through the photographs,
13 identify the people in the photographs, give some
14 background about Mandy and her growing up. Then she will
15 testify that she was at work at the Woodruff Road store.
16 She was told to go over to the East North Store because
17 something was going on.

18 She goes over there. She's out in the parking area,
19 she never goes inside the store. And it is there that she
20 sees the stretcher go into the store, the stretcher comes
21 out empty. She is initially relieved by that fact because
22 she does not see Mandy coming out on a stretcher. And
23 then lo and behold, she is told that there were shots and
24 that Mandy was dead.

25 And then the impact that that has had on her and her

1 family. They're now having to raise Callista, the small
2 child. How they've had to tell the child that the mother
3 is not coming home. Those types of impact statements.

4 THE COURT: Any problem with anything?

5 MR. MAULDIN: No objection.

6 MS. STROM: As to her father, Gary Williams, he is
7 going to testify obviously as to his relationship with his
8 daughter and the closeness of their relationship and
9 specifically that he did not find out about her death
10 until late that afternoon when someone comes to his job
11 sight over in Anderson to tell him; and the conversations
12 he has had to have with Callista in explaining to her why
13 her mother is not here any more.

14 THE COURT: Not going into any of their opinions as
15 to what should happen to the defendant?

16 MS. STROM: No, sir. I specifically instructed them
17 they should not, cannot, and will not say what sentence
18 should be imposed. I told them that I will not ask them
19 that, that they cannot comment on that at all, and that
20 the defense cannot ask them that.

21 THE COURT: So, those are your three witnesses on
22 victim impact?

23 MS. STROM: That's all the victim impact we have,
24 Your Honor, that we were going to present.

25 THE COURT: Mr. Mauldin?

1 MR. MAULDIN: We acknowledge receipt of that
2 information in court and we'll proceed accordingly, other
3 than registration of the objection regarding the other
4 family, we have no objection to Gary and Pat Williams'
5 testimony.

6 THE COURT: Is Tina Smith in the courtroom or do you
7 know?

8 MS. STROM: Yes, sir, she is.

9 THE COURT: Miss Smith, will you stand up.

10 (Witness complies.)

11 THE COURT: You been in the courtroom, you've heard
12 what's transpired?

13 THE WITNESS: Yes.

14 THE COURT: I'm instructing you when you get on the
15 witness stand not to testify about the impact on your
16 family. Testify how it affected you personally, but not
17 your family.

18 THE WITNESS: I understand.

19 THE COURT: You understand?

20 THE WITNESS: Yes.

21 THE COURT: Any question about it?

22 THE WITNESS: No, sir.

23 THE COURT: Thank you very much. Anything else
24 before we get started?

25 MR. NETTLES: Yes, sir.

1 THE COURT: Okay.

2 MR. NETTLES: I'd like to ask the court to
3 considering revisiting the Pam Crawford issue. Let me
4 share with you my concern. My concern is this. Dr. Pam
5 Crawford comes in, testifies, goes through what she does,
6 she's a psychiatrist, et cetera, et cetera, et cetera.
7 The evidence that we've got, you know, her interview has
8 already been moved in. And that was moved in through
9 McNamara.

10 THE COURT: Yeah, the defense moved it in.

11 MR. NETTLES: Yes, sir. Now, if the government is
12 allowed to bring her in as a psychiatrist, and that she
13 interviewed this guy and saw him and, you know, just as a
14 fact witness, and then stopped there, the inference to
15 that jury is that there's nothing wrong with it.

16 Now, we wholeheartedly disagree with the way she went
17 about it. But the fact is that in her report she says
18 he's got a mood disorder. The remedy to that problem is
19 allow her to come in as a SLED agent who came in and
20 questioned him again. And then it -- because we're in a
21 bad spot now because they're going to be allowed to
22 mislead the jury into believing there's nothing wrong with
23 him. The fact that a psychiatrist is coming in and
24 talking about these facts is giving, in effect, an
25 opinion. And that's not even close to fair.

1 THE COURT: Why shouldn't he be able to identify her
2 as a psychiatrist working for SLED?

3 MR. NETTLES: Because the inference that it leaves
4 with the jury. What's he going to say, she's a police
5 officer? What is he supposed to do? He's just going to
6 introduce her, she's a psychiatrist working for Sled.
7 That's a fact. I don't know how you can get around that.
8 The fact is what she did. They have then -- they chose
9 not to introduce her report.

10 MR. ARIAIL: No. No. We're getting way off track,
11 we didn't choose not to do anything. We just simply told
12 them that we weren't going to call her as an expert.

13 THE COURT: Weren't going to offer it in the guilt
14 phase.

15 MR. ARIAIL: Right. And then we went to the penalty
16 phase. What I can -- I can understand his problem, and
17 that's why I said this morning, I don't have any problem
18 in qualifying her as an expert. Because I know they're
19 going to want -- I understand what he's saying. I think
20 it does create a problem.

21 THE COURT: Mr. Nettles, do you want her to qualify
22 as an expert? If you do, then I'll let the state to do
23 it, and I'll let you cross examine as to her
24 qualifications and make a determination whether she's
25 qualified or not, if you want to do that. It's sort of a

1 catch 22.

2 MR. NETTLES: If they are going to introduce her as a
3 psychiatrist -- let me talk to cocounsel just a second.

4 THE COURT: You understand? First of all, you say
5 don't let him do it. And I said, "fine, I won't let him
6 do it."

7 Now, you're saying, "Well, he's going to do it
8 anyhow." I'm not going to sit here and mislead the jury
9 that she's not a psychiatrist. Now, if you all want to
10 qualify as an expert and go into whatever you want to on
11 cross examination, that's fine. I will do that.

12 MR. ARIAIL: Your Honor, she's already in the record.
13 The transcript reflects that she is a forensic
14 psychiatrist. And that's the only reason I was going into
15 it.

16 THE COURT: And the defendant put that into evidence.
17 Now, let's do this, Mr. Nettles. I understand this is
18 crucial to you. Let's take a ten-minute break, you all
19 talk about it. You may be better off, and I'm not trying
20 to try your case, you may be better off having her as an
21 expert, and treat her as expert. I don't know, but we
22 can't do it both ways.

23 MR. NETTLES: I understand. One thing, help all of
24 us.

25 THE COURT: Yes, sir.

1 MR. NETTLES: It's not clear to me whether the
2 government is going to offer her.

3 THE COURT: The government said he's going to qualify
4 her as an expert. Now, where he goes from that, I don't
5 know. I'm not going to make him sit here and tell you.

6 MR. NETTLES: Our understanding was, the
7 representation made to us was, she was not going to be
8 called as an expert.

9 THE COURT: I agree with you. I Just said earlier I
10 wouldn't let him qualify her as expert, and I wouldn't let
11 her give opinions. I've already ruled on that. Now, if
12 you want me to change that, fine. Talk about it, let me
13 know. I'm not hard and fast on that. If you want to
14 qualify her as an expert or you want him to qualify her as
15 an expert, that's fine. I was just following suit with
16 what he said previously because I thought that's what Mr.
17 Mauldin was asking me to do. That's what I did.

18 Now, if you want to change that, fine. I don't have
19 any problem with that. But I can't sit here and tell you
20 what he's going to do once she's qualified. I'm not going
21 to sit here and make him tell you that.

22 MR. NETTLES: Before we go any further, and I'm
23 looking at the transcript of the hearing. The question
24 goes, "THE COURT: Well, I think she's going to be offered
25 as an agent of Sled, that took a confession from the

1 accused, I would assume. Is that correct, solicitor?"

2 "MR. ARIAIL: I'm sorry. She's going to be offered
3 as a state agent."

4 "THE COURT: As a state agent that took a statement
5 from the defendant, who took three statements, is how
6 she's going to be offered?"

7 "MR. ARIAIL: That's how she'll be offered."

8 THE COURT: I think we all agree to that and I'm
9 going to keep him to that standard. Okay. If that's what
10 you want. If you don't want to, that's fine, too.

11 MR. NETTLES: That's our problem, is this. That
12 whole conversation was about whether she was going to be
13 offered as a psychiatrist. He said she was going to be a
14 state agent, an agent of SLED.

15 THE COURT: The front sheet of the transcript says
16 she's a forensic psychiatrist, she's a doctor. And that's
17 in evidence already. So, why don't you all talk about it.
18 Let's take a ten-minute break. You all put your heads
19 together. Tell me what you want to do. All right. We'll
20 take a ten-minute break.

21 (Brief recess taken.)

22 THE COURT: Yes?

23 MR. NETTLES: After having the opportunity -- I
24 appreciate you giving me the opportunity to talk with my
25 cocounsel and the court is absolutely right. Psychiatrist

1 I mean, it's been admitted on the report and we talked
2 about it.

3 This is our concern, though, that as part of the
4 testimony she not be offered any opinion evidence. In
5 other words, "why did you go in there?"

6 And her saying, "I went in to find out whether he
7 could distinguish right from wrong," all that kind of
8 stuff. That's opinion testimony, and obviously we'd
9 object to that.

10 My understanding is that she will only be used as a
11 lay fact witness and not an as an expert. Am I correct in
12 that understanding?

13 THE COURT: That's my understanding, too. If we go
14 that route, the opinions are out; if we go the other
15 route, the opinions are in.

16 MR. NETTLES: Having said that, our objection would
17 be at this point that her testimony is not relevant and
18 it's a violation of the best evidence rule. What we have
19 is a transcript of all the facts she's going to be allowed
20 to testify. Question, answer; question, answer; question,
21 answer.

22 THE COURT: Mr. Nettles, you put it in. It's in
23 evidence without objection. It's there.

24 MR. NETTLES: So, she shouldn't be allowed to come in
25 and pull out pieces of it, all of it is there.

1 THE COURT: It's in evidence. She can sit up there,
2 and read the whole transcript if she wants to. It's in
3 evidence.

4 MR. NETTLES: Thank you.

5 THE COURT: I mean, tell me why it's wrong.

6 MR. NETTLES: Well, that's not. That's not.

7 THE COURT: What's any different than picking out
8 excerpts and saying, "this is what she said on such and
9 such"?

10 MR. NETTLES: We'll just wait and see what they do
11 with her.

12 THE COURT: The only thing I can do is deal with the
13 objection as we go along.

14 MR. NETTLES: I understand.

15 THE COURT: Mr. Mauldin, is that everything?

16 MR. MAULDIN: I think so.

17 THE COURT: Does anybody else have anything else
18 before we get started?

19 MR. ARIAIL: I just want your clarification. I can
20 ask her if she is a psychiatrist and her relationship with
21 the Department of Mental Health and SLED.

22 THE COURT: Right. We're not going into education or
23 anything like that. Okay. Is the state ready?

24 MR. ARIAIL: Yes, sir.

25 MS. STROM: The state's ready.

1 THE COURT: Bring us the jury please.

2 (WHEREUPON, at 11:05 a.m. the jury returns to open
3 court, when the following proceedings were had:)

4 THE COURT: Does everybody have a pad that wants a
5 pad?

6 (No negative response elicited.)

7 THE COURT: Solicitor, opening statements.

8 MS. STROM: May it please the court, Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. STROM: I'm getting ahead of myself. Thank you.

11 OPENING STATEMENT

12 BY MS. STROM:

13 Good morning, ladies and gentlemen. We are now at
14 the second phase of the trial we all talked to you about
15 during the voir dire. This is the beginning of the
16 sentencing phase in this case. It will pretty much work
17 in the same order, in the same fashion as the first phase.

18 In other words, we have opening statements, like we
19 did in the first phase. The state goes first, the defense
20 goes second, like we did before. Then we'll present
21 evidence to you, and then the defendant if he wants to,
22 can present evidence to you. And at the close of the
23 evidence, then we will have the closing arguments just
24 like we did in the first phase; and the judge will
25 instruct you as to the law. The same format, just

1 slightly different evidence.

2 I want to take you back for a moment to two weeks
3 ago, a week ago, when we were talking with you
4 individually about your opinions on the death penalty and
5 your opinions on life imprisonment. And I submit that
6 when you were sitting in that witness chair, you didn't
7 think you'd be sitting here at this phase of the trial.
8 But as you can see now and probably saw then, what we were
9 looking for, and what we're always looking for, is jurors
10 who can be fair, jurors who can listen to all the evidence
11 and then come to a determination as to the guilt of the
12 defendant and to the penalty to be imposed.

13 So, that's what we were doing when we were talking
14 with you last week individually about those kinds of
15 things, trying to determine that you would all be fair,
16 conscientious, and dedicated jurors. We all understand
17 it's not an easy transition from going from that witness
18 chair into the jury box. We all understand this is not an
19 easy decision that you're going to have to come to.

20 No matter what your decision is, it's not going to be
21 an easy one. No one expects it to be easy. We all
22 recognize this is a difficult decision you're going to
23 have to make. And it's true in life that generally the
24 most important decisions that you have to make are the
25 most difficult ones.

1 We all know and trust that you will take your job as
2 jurors very seriously and do what needs to be done based
3 upon the facts and the law. You were told in the first
4 phase of the trial, I think solicitor Ariail told you in
5 his opening, about jury service being the most important
6 service you can give to your country in a time of peace.
7 And that is true. Because as a member of a jury
8 collectively you become a body that speaks for the
9 community. That's what your job is, to speak for the
10 community. You become one. Individuals who become one
11 and you are the voice of this community.

12 Simply put, when the legislature enacted the
13 statutes, they said the judge is not going to impose the
14 sentence on a capital case. We want to hear what the
15 community believes is the appropriate punishment. They're
16 the ones who live in this community. They're the ones who
17 determine what is acceptable in my community, what is not
18 acceptable, what is an appropriate punishment for this
19 crime for my community.

20 Part of that, when the legislature passed the laws,
21 said that the state could not seek the death penalty in
22 every case. We talked a little bit about this. It has to
23 be a murder plus an aggravating circumstance. And I
24 actually went back and looked at the statute. There are
25 11 aggravating circumstances outlined in the statute. So,

1 if it's a murder and we don't have one of those
2 aggravating circumstances, we can't even seek the death
3 penalty.

4 So it's a very limited situation. There are only
5 limited crimes for which we can even seek the death
6 penalty. And out of those 11 we are going to rely on two.
7 We only have to prove one. We're going to offer to you
8 two different aggravating circumstances for your
9 consideration, your determination.

10 One of the things about this phase is before you can
11 even consider which penalty to impose, you're going to
12 have to make a finding as a jury whether an aggravating
13 circumstance exists. In other words, the judge will tell
14 you, when you go back to that jury room, the first thing
15 you have to determine is, is there a statutory aggravating
16 circumstance?

17 If you say no, then it stops. If you say yes, then
18 you go to what penalty should be imposed. The two
19 aggravating circumstances upon which the state relies is,
20 one, that the murder was committed during the commission
21 of a kidnapping. So, you go back in your jury room and
22 you determine was there a kidnapping. And by your
23 verdicts on Tuesday, I submit you already made that
24 determination, because the standard is the same in this
25 phase. It is, has the state proven to you beyond a

1 reasonable doubt an aggravating circumstance?

2 Reasonable doubt being the same definition as it was
3 in the first phase. In other words, the evidence
4 presented to you, is it evidence that leaves you firmly
5 convinced? That was the language from the judge Tuesday.
6 The first aggravating circumstance is that the murder was
7 committed during the commission of a kidnapping.

8 Second, that the defendant, by his act of murder,
9 knowingly created a great risk of death to more than one
10 person in a public place by means of a weapon or device
11 which normally would be hazardous to the lives of more
12 than one person.

13 I know that's a lot of language going on. And the
14 judge at the end of the case will charge you the law and
15 will give it to you in writing as he did before. But it's
16 did the defendant cause a great risk of death to more than
17 one person in a public place with a weapon that can
18 normally be hazardous to the lives of more than one
19 person?

20 And I submit to you there is testimony already in the
21 record to support that. You heard in the first phase that
22 the defendant went into the Bi-Lo with a loaded sawed-off
23 shotgun. He's not going in there with one bullet, he went
24 in there with ten. Ten shotgun shells, five of them were
25 shot once he was in the Bi-Lo, he had five live ones left.

1 So, I submit to you, you have already -- you already have
2 evidence to this aggravating circumstance. And you also
3 already have evidence in the transcript of the interview
4 with Pam Crawford that he would have killed anyone who got
5 in his way. So, I submit you already have the evidence
6 regarding the aggravating circumstances.

7 And I want to point out one thing. That just because
8 we're in this second phase, we don't forget or wipe out
9 what you heard in the first phase. We will actually stand
10 up and move into evidence all of the evidence that you
11 received in the first phase. So, you will get to consider
12 that. You don't put that behind you and start anew. You
13 take that with you into this phase. So, you can consider
14 all of that evidence when you are making your
15 determination.

16 Ladies and gentlemen, we're going to make, again, a
17 very concise presentation for you. It will not take a
18 long time for the state to present its evidence to you.
19 The type of evidence we're going to present to you in this
20 phase is evidence, number one, of the prior assault on
21 Mandy out in the parking lot. You've heard it referred to
22 as a fight. We're going to present to you the
23 eyewitnesses of that assault. And you are going to
24 determine whether it was a fight or whether it was an
25 unprovoked attack on a woman attempting to leave work.

1 We will also present to you testimony of Pam
2 Crawford. You already have her transcript, the transcript
3 of that interview; but you will hear from her as far as
4 the circumstances and surroundings of that interview. And
5 we will also present to you what's been called victim
6 impact evidence.

7 In the first phase we heard a little bit about the
8 defendant, Chris Williams. That was from Dr. Richards who
9 talked about that he had a bad childhood, a bad
10 upbringing, had alcoholic parents. So, we heard about
11 him. We don't really know much about Mandy at this stage
12 other than the fact she was working at the Bi-Lo and was
13 gunned down when she was trying to run for her life.

14 What you will hear from victim impact evidence, hear
15 from one of her coworkers what kind of employee she was,
16 what kind of person she was. You will hear from her
17 parents what kind of child she was, what kind of teenager
18 she was, what kind of mother she was. Because you will
19 hear evidence that Mandy had a small child. You will get
20 to hear all that.

21 And you will also hear evidence, I suspect, although
22 not required, more evidence about the defendant and his
23 upbringing. And that will be presented to you, if at all,
24 by the defense regarding his upbringing. I don't know if
25 the defense will get up here as either part of this

1 argument or at a later stage and state to you that what
2 the state -- what we're asking you to do is to kill
3 someone. They may not get up here and say that. I don't
4 know.

5 But if they do, I want you to think about this. What
6 we're asking you to do and the solicitor will ask you in
7 his closing statement to you at the end of the
8 presentation of the evidence, is to impose a legal
9 sentence upon a defendant who has committed one of the
10 most heinous acts. We are asking you to impose a sentence
11 that you individually and collectively believe is the
12 appropriate sentence based upon the facts and the
13 circumstances of the crime and on this defendant.

14 Thank you.

15 MR. NETTLES: Your Honor, could we approach the
16 bench?

17 (WHEREUPON, a bench conference is held within the
18 presence but outside the hearing of the jury.)

19 THE COURT: Mr. foreman, ladies and gentlemen of the
20 jury, don't discuss the case among yourselves. I'm going
21 to have to ask you to go to the jury room very briefly.

22 (whereupon, the following proceedings were had
23 outside the presence of the jury:)

24 MR. MAULDIN: All right, there it is. Mr. Nettles,
25 Solicitor Strom, come up here and look at the realtime,

1 I'll get her to go back to the words that you're objecting
2 to and we'll know exactly what was said.

3 (Attorneys comply.)

4 THE COURT: Mr. Nettles, which language are you
5 objecting to? The language you objected to in opening
6 statement, "I would suspect, although not required, more
7 evidence about the defendant and his upbringing." Is that
8 correct? "You will also hear evidence, I suspect,
9 although not required, more evidence about the defendant
10 and his upbringing." Is that correct?

11 MR. NETTLES: Yes, sir.

12 THE COURT: Not about the language later on; is that
13 correct?

14 MR. NETTLES: That's correct.

15 THE COURT: Not the language where you said, "I don't
16 know if the defendant will get up here as either part of
17 his argument or at a later stage and state to you what the
18 state will ask you to do is to kill someone. They may not
19 get up here and say that, I don't know. But if they do, I
20 want you to think about this."

21 MR. NETTLES: I think the first part is clearly the
22 most objectionable, but I object to that as well.

23 THE COURT: What's your objection?

24 MR. NETTLES: My objection is that we don't have to
25 put up anything and they can't comment on it at all,

1 period. I mean, all they can do is talk about their case,
2 what they're going to put up, and that's it. If we had
3 been in closing argument and they had done that, and as
4 part of her closing argument she wanted to say, the
5 defense may get up here in closing and talk more about it,
6 well, that's different because that's in the record. But
7 at this point it's not in the record. And she is now --
8 if we choose not to put it up there, she's commenting on
9 our right to remain silent.

10 THE COURT: It's shifting the burden, is what the
11 problem is.

12 MR. NETTLES: Yes, sir.

13 THE COURT: Not the comment per se?

14 MR. NETTLES: She is shifting the burden. They are
15 now expecting us to bring something to them. Well, it's
16 actually both.

17 THE COURT: Let me hear from the state.

18 MS. STROM: I do, first of all, Your Honor, I believe
19 the realtime shows that I said it's not required.
20 Furthermore, we have already, through the individual voir
21 dire of these jurors, they have already been instructed on
22 numerous times that the defendant does not have to present
23 any evidence to the jury. And I don't think that my
24 opening statement at all was shifting the burden. But a
25 simple way to cure it, if you think there's any problem,

1 is to simply tell this jury that the defense does not have
2 to bring any evidence.

3 THE COURT: I'm going to deny his motion for
4 mistrial; but I am going to tell the jury the defense has
5 no obligation to put up anything at all. It is still the
6 state's burden and responsibility to prove beyond a
7 reasonable doubt aggravating circumstances. Okay. I'm
8 going to deny your motion for new trial; but I will give a
9 curative instruction unless you specifically request me
10 not to.

11 MR. NETTLES: No, sir, I don't think a curative
12 instruction can cure this problem.

13 THE COURT: I understand. You take that up with
14 someone later.

15 MR. NETTLES: You can understand I have to say that,
16 it's nothing personal.

17 THE COURT: I understand that. That doesn't bother
18 me.

19 MR. NETTLES: Okay.

20 THE COURT: That's what they're there for.

21 MR. NETTLES: We got to keep them with work.

22 MR. MAULDIN: With regard, Your Honor, to the
23 reference to the jury selection colloquy, that is clearly,
24 and was expressed to the jurors as a hypothetical
25 qualification question. It has nothing to do with Chris

1 Williams' constitutional guarantees.

2 MR. ARIAIL: Your Honor, are we going to abide by the
3 rules you set out that once you make a ruling, there's no
4 more argument?

5 THE COURT: I think he was bringing up another issue
6 at the beginning when she started out stating, "we talked
7 to you in voir dire." Was your objection to that, Mr.
8 Mauldin?

9 MR. MAULDIN: No, I was referencing Ms. Strom said
10 that somehow the jurors already knew about all this,
11 because during jury selection we had talked about it, and
12 I refer to my comments.

13 THE COURT: Anything else you want to put on the
14 record?

15 MR. NETTLES: No, sir.

16 THE COURT: All right, motion denied. Bring us the
17 jury.

18 (WHEREUPON, the following proceedings were had within
19 the presence of the jury:)

20 THE COURT: Mr. Foreman, Ladies and gentlemen of the
21 jury, the state in their opening statement made some
22 reference to the defendant may put up this, may put up
23 that, and a possibility of what they may say or whatnot.
24 Disregard all those statements the solicitor made
25 concerning what the defense may do or may not do.

1 The defendant, as I told you in the first phase of
2 the trial, does not ever have to come forward and present
3 any testimony or prove himself in any manner whatsoever.
4 It's the state's burden to prove the defendant violated
5 certain aggravating circumstances beyond a reasonable
6 doubt. That's the state's burden.

7 The defendant does not have to testify. And, as I
8 stated in the charge in the first phase, you cannot use
9 that against him in any manner whatsoever.

10 Who is making the opening statement?

11 MR. MAULDIN: I am, Your Honor.

12 THE COURT: Please proceed.

13 OPENING STATEMENT

14 BY MR. MAULDIN:

15 You know, back in September of '03 after this
16 incident, I knew that I would be in this position. I knew
17 that I would be standing before some jury at some point
18 talking about this case. And in preparation I've been
19 writing and rewriting and reading and rereading to make
20 sure that I did right -- that I did the right thing.

21 It's an extraordinary responsibility to have a client
22 who's life essentially is in a person's hands. That's
23 pretty overwhelming. And in my preparation for these
24 comments, you know, my brain starts kind of turning into
25 grits, I guess. But I will say that when I wanted to be a

1 lawyer, when I first started out being a lawyer, I kind of
2 thought I wanted to do something that was really
3 important, something that was really important to
4 somebody. And I would certainly say that this is one of
5 those opportunities.

6 Now, I've got notes here and I'm going to refer to
7 them. I apologize, but I don't want to make a mistake
8 because it's an important, important thing. The other
9 night when you came in with your verdicts, you know, I
10 watched you as you came back in the courtroom. And what I
11 could feel was that there was an extraordinary sense of
12 sadness for Mandy Williams and her family and the people
13 who have suffered, And also a feeling of anger at Chris
14 Williams for what he did.

15 And you're only about now halfway through this
16 process where -- probably not in terms of time, I don't
17 think this stage of the case is going to be as long as the
18 other. But I do think in terms of significance it's a
19 very long process. I know that you're upset and angry, or
20 I suspect you are, that you're saddened by this horrible
21 tragedy. And I simply felt like that needed to be said.

22 I really do feel, however, that you want to do the
23 right thing. I think all 12, the alternates of course in
24 addition, but everybody in this box does want to do what's
25 right.

1 And it's okay to be human. You know, you can't leave
2 your humanity out on the sidewalk when you come in a jury
3 room. And it's all right to have those feelings. But,
4 you know, I'll tell you something that was said to me one
5 time. And that is, "when is the last time you made an
6 important decision when you were angry that you ended up
7 being proud of?"

8 And I just say that to you because I wanted you to
9 try to compose and try to think and legitimately decide
10 what's right. And whatever you say is what's going to
11 happen.

12 I want to mention another thing preliminarily that
13 came to my mind that was during the time you were in the
14 jury room after the trial on the issue of whether Chris
15 has committed these offenses. I was sitting waiting on
16 your verdict and I thought, you know, they're probably in
17 there wondering why we entered a not guilty plea. I mean,
18 the case was pretty clear. I mean, why did you have to go
19 through all that? And I think I owe some explanation
20 about that.

21 Because, let me remind you, Chris accepted
22 responsibility for his act in that grocery store from the
23 first moment of arrest to the first --

24 THE COURT: Mr. Mauldin, Mr. Mauldin. Let's not get
25 into so much argument. This is an opening statement. The

1 same type of opening statement we're supposed to make in
2 every case. Okay?

3 MR. MAULDIN: I'm referring to the evidence already
4 in, Your Honor.

5 THE COURT: I understand. Let's don't make too many
6 arguments. It's an opening statement. You can make your
7 arguments at the end of the case, this phase of the case.

8 MR. MAULDIN: All right, sir.

9 Chris Williams accepted responsibility at every stage
10 of this proceeding. Why do we have a trial? I'm going to
11 tell you.

12 MS. STROM: I'm going to object, Your Honor. I think
13 we need a side bar here very quickly.

14 THE COURT: All right. Come on up.

15 (WHEREUPON, a bench conference is held within the
16 presence but outside the hearing of the jury.)

17 MR. MAULDIN: The law is in order for a person
18 accused under this procedure that we've been going through
19 for the past two weeks, in order for that person to have a
20 jury decide the penalty, he has to enter a not guilty plea
21 at the first phase so the jury can first deliberate and
22 then come back. So, that's what I was trying to say. But
23 you need to know that. That's why we had that first phase
24 of that trial that seemed to -- it was just something came
25 to my mind while you were there deliberating. So, I did

1 want to mention that to you.

2 What I want you to do now is just to please continue
3 to listen. Continue to listen because we talked to you in
4 jury selection about the fact that information would be
5 provided to you and the question was whether you could
6 really give meaningful consideration to matters. And that
7 really is what we want to ask you to do. We want to ask
8 you to do that because we believe that there is in fact a
9 reason to choose life in prison without parole for Chris
10 Williams. That's why we're here. And that's what we want
11 to do.

12 We want you to listen and to consider what you hear,
13 not only because it's your sworn-as-an-oath duty. You
14 know, that's the simple answer, well, I swore to do it.
15 I'm going to have to do it. And not only because you told
16 everyone that that's what you would want to do, you would
17 want to hear everything, you'd want to hear it all; but
18 because in fact life, any life is worth giving meaningful
19 consideration. That's the bottom line, to individually,
20 honestly, and morally give consideration to life
21 imprisonment for Chris Williams.

22 Now, this case, as you have clearly determined and
23 already know, is full of tragedy. It's full of tragedy
24 for Mandy and her family, for people that knew her.
25 Because Mandy Williams was somebody's daughter, somebody's

1 coworker, somebody's mother. It's a tragedy.

2 You will hear from her parents, you will hear from
3 her coworkers. You will see photographs of Mandy and her
4 family, Mandy and her child. And that is appropriate.
5 And nothing that we will do will interfere with the right
6 of dignity that this family has in this loss. We only ask
7 that you in turn give meaningful consideration to an
8 alternative to the death penalty. Whatever we say to you
9 or present to you should in no way be understood as some
10 sort of diminishing of another person's loss in this case.
11 A word for Chris Williams does not mean a negative word
12 for anyone.

13 You heard in the first phase of this trial the
14 evidence of a horrible crime. And the fact is, we told
15 you that we would bring you information. We told you that
16 we would bring you everything we could because we knew
17 where you would be. We knew that you would be making a
18 life or death decision. And we felt that you needed all
19 you could to make that individual choice.

20 The prosecution in their opening statement a moment
21 ago talked about aggravating circumstances. And I want to
22 follow up just a comment or two about that. The presence
23 of or proof of an aggravating circumstance does not mean
24 the death penalty. And let me just give it to you in a
25 logical way.

1 You have already written a verdict that Chris
2 Williams is guilty of the offense of kidnapping. You
3 already wrote that. And we have full and total respect
4 for that. We completely respect that decision. That is
5 an aggravating circumstance under our statute. And if the
6 presence of an aggravator meant the death penalty, we
7 wouldn't need the jury. That's already written on the
8 verdict.

9 So, it is obvious that when the judge says the law in
10 our state presumes life in prison, he means it. There is
11 a presumption that this person and any other person under
12 this procedure would be sentenced to life. It only allows
13 the prosecution to then seek or ask that the death penalty
14 be on the table.

15 I tell you something else you're not going to hear in
16 this procedure, and that is some sort of justification or
17 excuse for what you heard in the trial. Because there is
18 none. There's no justification for what Chris did. There
19 is no excuse for what Chris did. And we are not going to
20 present one ounce of testimony about that, and no
21 intention of doing so. But you do have the right to
22 information regarding why. You do have the right to
23 understand, have some sort of explanation for how and why.
24 This is not offered for the purposes of an excuse.

25 I tell you one other thing that your verdicts did the

1 other night. That is, we don't have to worry about
2 punishing Chris Williams. You have already decided by
3 those verdicts that Chris Williams will never be released
4 from prison. That is done. You have decided that he will
5 never again be on the streets. You have decided that
6 Chris Williams will die in jail. His death in prison is
7 written in stone right now and so be it.

8 The question is, as the prosecution would have you
9 believe, that death is the only answer. The law in South
10 Carolina says the opposite, presumption of life. Under
11 our law death is the last answer, never the only answer.

12 In fact, when we were going through jury selection,
13 perhaps some of you may have been questioned about this;
14 but I know others were, regarding severity of life
15 imprisonment without parole. Some potential jurors said,
16 "I think life in prison without parole would be an even
17 worse sentence." A person sentenced to life without
18 parole must live with what he did every single day of his
19 miserable imprisoned life. And Chris, every day when he
20 gets up and looks in the mirror, he's going to have to
21 relive the pain and suffering that he imposed. Every time
22 he sees the "M" he branded into his arm.

23 MS. STROM: Objection, Your Honor. I think this is
24 getting into argument again.

25 THE COURT: I agree. I'll Sustain the objection.

1 Mr. Mauldin, limit your opening statement to telling
2 the jury what you're going to prove, please, and the law.
3 You can make your arguments in closing.

4 MR. MAULDIN: Yes, Your Honor.

5 I'll talk to you a minute or two about the individual
6 moral choice that you as jurors will have to make between
7 these two penalties. And I would like to describe it
8 almost as a juror's rights or whatever.

9 You were chosen individually in a very onerous
10 process. You'll recall Ms. Strom mentioned you were on
11 that witness stand, questioned about all sorts of personal
12 information. You haven't known each other very long. You
13 don't know much about each other. You came from different
14 backgrounds, different experiences. And in making a
15 decision of this magnitude, you're going to be called upon
16 to individually search your own conscience about what you
17 feel is the right thing to do.

18 And you have the right and in fact the moral
19 obligation to bring that choice into this court. Each
20 juror individually is entitled to have his or her opinion
21 respected. And we questioned each of you about the right
22 to have your own choice and that respect be given to it.
23 Nobody in a situation like this wants to be told what to
24 do. You have the right to make a separate, moral,
25 individual, and respected choice.

1 Mention a moment or two in conclusion about what you
2 may hear or will hear. We will try to respond with how
3 such a thing could have happened, why such a thing could
4 have happened, and what do we now do about it. It's kind
5 of the how, why, what are we going to do?

6 The how, I guess, we'll try to give you as full
7 information about Chris Williams as we can, as the law
8 will allow us to. We want to make sure that you know as
9 much about this person as we can bring to you. It's going
10 to indicate obviously the presence of a mental illness
11 that has been presented and will be further developed.
12 You're going to hear about lack of family support or
13 family support systems and how the combination of those
14 two things combined to create a very, very horrible and
15 difficult situation.

16 With regard to the mental impairment testimony,
17 everybody in this process agrees about that mental
18 illness. I told you in opening statement, in the other
19 phase, everybody from the very moment knew that something
20 was wrong, and they were right. Officer Silvaggio
21 testified in the previous proceeding when referring to
22 that journal, something changed. Within the bounds of one
23 page to the next, something changed. And we will attempt
24 to show in this next proceeding how the combination of
25 those circumstances led to this tragedy.

1 And we're going to ask you this question. Here is
2 kind of one of the questions that you'll be asked. When a
3 person is clearly mentally ill and does something that he
4 would not have done had he not been mentally ill, do we
5 kill him for it?

6 What do we do? Two critical things have been
7 accomplished. The first thing the prosecutor talked
8 about, the community. The community. You're the
9 community. The community has, by your verdict, been
10 protected. That's a done deal. And harsh punishment has
11 been guaranteed. That's two things that have happened.

12 Is there a reason for you to consider a life
13 sentence? We hope at the end of this proceeding that
14 there will be another answer to death; and that is the
15 answer of life in prison without parole.

16 Thank you.

17 THE COURT: Solicitor, you want to call your first
18 witness, please, sir?

19 MR. ARIAIL: Call Sandra Trammell.

20 SANDRA TRAMMELL, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Ariail:

24 THE CLERK: State your name for the record, please.

25 THE WITNESS: Sandra Trammell.

1 THE CLERK: Thank you, be seated.

2 MR. ARIAIL: Your Honor, prior to questioning
3 Miss Trammell, I would like to at this time move into the
4 record or into the record of this phase of the trial the
5 evidence which was presented in the trial phase by the
6 State of South Carolina.

7 THE COURT: I'll move in all the evidence that was
8 admitted into evidence and the testimony.

9 MR. MAULDIN: And subject to our positions on each
10 piece, Your Honor.

11 THE COURT: I understand.

12 MR. MAULDIN: Thank you, Your Honor.

13 BY MR. ARIAIL:

14 Q Miss Trammell, if you would, state your name for the
15 record.

16 A Sandra Trammell.

17 Q That's great. Keep your voice up so these last two
18 jurors can hear you. How long -- by whom are you
19 employed?

20 A Bi-Lo, Incorporated.

21 Q And how long have you worked with Bi-Lo,
22 Incorporated?

23 A I'm entering into my 14th year.

24 Q Are you a full-time employee or part-time employee?

25 A Full time.

1 Q What store do you work at?

2 A I work at store 195 on East North Street.

3 Q How long have you worked at that store?

4 A About ten years.

5 Q And during your employment with the Bi-Lo 195, did
6 you have occasion to know Mandy Williams?

7 A Yes, I did.

8 Q I want to direct your attention back to the day of
9 July 16 in 2003 and ask you if you had occasion to
10 encounter the defendant and Mrs. Williams in the parking
11 lot of Bi-Lo 195?

12 A Yes, I did.

13 Q Tell us, were you at that time coming to work, going
14 home from work, or what were you doing?

15 A Leaving from work.

16 Q And what time of day was this?

17 A It was around about 3:30 in the afternoon.

18 Q Daylight?

19 A Yes.

20 Q And tell us the circumstances under which you came in
21 contact with Miss Williams and the defendant and what
22 happened.

23 A Mandy had left work about an hour before I did. And
24 when I went out to my car, the way we were parked, her car
25 was facing my car. And she was in the car with the

1 defendant. And in my opinion, just from the expressions
2 on her face, I felt --

3 MR. MAULDIN: Hang on one minute, Miss Trammell. I
4 don't know what Miss Trammell is going to say.

5 THE COURT: What is your legal objection?

6 MR. MAULDIN: Object to speculation, state of mind
7 reading or whatever.

8 Q As a result of your opinion, what did you do?

9 A As a result of my opinion, I went over to Mandy's car
10 and asked her if she needed any help.

11 She said, "He will not get out of the car."

12 Q As a result of that, what did you do?

13 A I just leaned down and spoke across the driver's seat
14 and asked would he please get out of the car, that he was
15 making Mandy nervous and scaring her.

16 And he said, "We're just talking, and it's really
17 none of your business."

18 In return I said, "I realize that it is none of my
19 business but I'm just trying to help Mandy. So why don't
20 you go ahead and get out of the car and let her go home."

21 He said, "I'm not going anywhere until you leave."

22 So, I sort of walked over to my car. I thought
23 perhaps if I walked away from the car he would go ahead
24 and get out. And he did not get out of the car at that
25 time. So, I waited a few moments and I walked back over

1 there. And I asked him one more time would he not get out
2 of the car so that Mandy could go home.

3 And he said, "I'm not going anywhere until you
4 leave."

5 So, I realized that I was not helping the situation.
6 So, I went ahead and got in my car and I drove down and
7 circled around and came back up behind Mandy's car. And
8 at that time the defendant was standing out on the parking
9 lot. I thought, well, maybe everything is going to be
10 okay. So, I went ahead and drove home.

11 Q When you say you were standing out on the parking
12 lot, how close or far away would you say he was from
13 Mandy's car?

14 A He was just standing outside of the car sort of at
15 the back fender. So, I drove on home, which takes me
16 about 20 minutes to get home. And I called back to the
17 store to speak to my deli/bakery manager. I was going to
18 get Mandy's telephone number to see if she got home.
19 Okay.

20 Q Who is your deli/bakery manager?

21 A Tina Smith at that time.

22 Q Miss Smith?

23 A Yes.

24 Q And she told me, "Well, there's no point in calling,
25 Mandy's on her way" --

1 MR. MAULDIN: Your Honor, objection to hearsay.

2 THE COURT: Don't say what anybody said, please,
3 ma'am.

4 Q Did you talk to Miss Smith?

5 A Yes.

6 Q That's all I have. Answer any questions Mr. Mauldin
7 may have.

8 MR. MAULDIN: No questions. Thank you.

9 THE COURT: Thank you very much, Miss Trammell. You
10 may step down. Thank you very much.

11 MR. ARIAIL: James Muldrow.

12 JAMES MULDROW, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ARIAIL:

16 THE CLERK: What is your name, please, sir?

17 THE WITNESS: James Muldrow.

18 THE CLERK: Thank you, be seated.

19 Q State your name, please, sir.

20 A James Edward Muldrow.

21 Q That's great. Keep your voice up so these last two
22 jurors can hear you. Mr. Muldrow, you met with both
23 myself and Miss Strom of my office regarding your
24 testimony?

25 A Yes, sir.

1 Q And it's obvious to the jury you are somehow
2 incarcerated at this time?

3 A Yes, sir.

4 Q And you are incarcerated at the Allendale
5 Correctional Institution in Allendale, South Carolina?

6 A Yes, sir.

7 Q What are you incarcerated for?

8 A Driving under suspension.

9 Q As a matter of fact, you and I talked yesterday. As
10 it turned out, you and I went to the same grammar school,
11 same middle school, same high school?

12 A Yes, sir.

13 Q But since that time, you've had a number of
14 encounters with the law?

15 A Correct.

16 Q Is that a fair statement?

17 A Yes, sir.

18 Q And I have handed Mr. Mauldin a copy of your criminal
19 rap sheet. Other than offenses for the possession of
20 marijuana, driving under suspension and DUI, have you had
21 any other criminal convictions?

22 A No, sir.

23 Q All related to alcohol and possession of marijuana?

24 A Right. Correct.

25 Q And how many days left do you have on your present

1 sentence?

2 A Forty-two, I believe.

3 Q As of today?

4 A Right.

5 Q I want to take you back to July 16th of 2003 and
6 ask you if you had occasion to be in the Bi-Lo parking lot
7 on East North Street?

8 A Yes, sir, I did.

9 Q What were you there for?

10 A To buy groceries.

11 Q And who were you buying groceries for?

12 A An elderly woman that I help with.

13 Q And what is this elderly woman's name?

14 A Elsie Johnson.

15 Q And you call her?

16 A Granny.

17 Q And you were getting groceries for Granny at that
18 time?

19 A Yes, sir.

20 Q Were you driving a vehicle?

21 A Yes, sir.

22 Q Did you have a license to drive?

23 A No, sir.

24 Q Didn't have a license to drive?

25 A No, sir.

1 Q All right. I don't want to talk about your driving
2 the vehicle, what I want to talk about is while you were
3 in the parking lot, did you have occasion to witness an
4 altercation?

5 A Yes, sir, I did.

6 Q Tell me what you witnessed. Tell us first what
7 caught your attention, directed your attention to it.

8 A I was putting groceries in the trunk of the car.

9 Q Speak up a little. You're getting a little light on
10 me.

11 A I was putting groceries in the trunk of a car. I
12 heard a woman's voice holler, "Stop, stop it. Stop."
13 Shrieking out loud.

14 I saw a woman trying to fend someone in -- fending
15 off someone in her car. I thought it was a carjacking or
16 robbery or something like that. I started to kind of walk
17 up thataway. For a minute I said, "I can't let this go
18 on."

19 About that time the person exited the passenger side
20 of the car and I thought she fended off her attacker or
21 something.

22 Q This person that exited, was this a male or female?

23 A A male.

24 Q And the female was on the pass' -- driver's side?

25 A Driver side, Yes, sir.

1 Q And you heard, the first thing you described, "Stop.
2 Stop." Did you hear any other statements?

3 A She had her window down is how I was able to hear her
4 because it was summer time and all, of course. Then the
5 person exited the car, came around the car, and said, "I'm
6 going to kill you." Like a robbery or something.

7 I thought it didn't -- so, I thought maybe right then
8 it must be a domestic dispute or something. I thought I
9 don't know if I need to get involved in something like
10 that. But then he went up to her open window and started
11 hitting her in the face with his fist after he said he was
12 going to kill her.

13 I thought, "Well, I can't let somebody get killed."
14 So, I started to run up that way and the person turned
15 around to see if anybody was looking and saw me coming up
16 that way and kind of bowed up their chest.

17 Q Before we get there, how many times, based on your
18 observation, did this individual strike the woman in the
19 car with his fist?

20 A I would say probably somewhere five to six times,
21 somewhere that ratio.

22 Q You started walking up and what happened?

23 A He turned around, faced me, started coming towards
24 me. I thought, maybe I better not. Put my hands out to
25 the side, kind of like (indicates) -- then he turned back

1 around. But instead of going towards her car, he took off
2 running through the parking lot. So, I hollered to one of
3 the bag boys, "Call 911, run in there and call right now."

4 And then I ran on up, tried to get his tag number as
5 he drove off.

6 Q Were you able to get it?

7 A No, sir.

8 Q What kind of car was it he drove off in?

9 A It was kind of small, sporty kind of looking car,
10 kind of reddish color.

11 Q All right. Did you, in any of that encounter see the
12 female person strike this individual, the male individual?

13 A No, sir.

14 Q Answer any questions Mr. Mauldin may have or Mr.
15 Nettles.

16 MR. MAULDIN: No questions.

17 THE COURT: Mr. Muldrow, you may -- be careful
18 stepping down. Have a good 42 days.

19 MR. ARIAIL: Call Raymond Sass.

20 RAYMOND SASS, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Ariail:

24 THE CLERK: State your name for the record, please.

25 THE WITNESS: Raymond Sass.

1 THE CLERK: Thank you, be seated.

2 Q If you would, state your name for the record.

3 A Raymond Sass.

4 Q Mr. Sass, by whom are you employed?

5 A Greenville County emergency medical services.

6 Q How long have you been with the Greenville County
7 emergency medical services?

8 A Seventeen and a half years.

9 Q I want to direct your attention back to July 16th
10 2003, and ask you if you had occasion on that day to
11 respond to a call at the Bi-Lo on East North Street.

12 A Yes, sir, I did.

13 Q When you responded, what were the circumstances that
14 you found there?

15 A We were responding to an assault victim. Upon our
16 arrival we met two deputy sheriffs, Greenville County
17 sheriff's office deputies. Advised we had a female
18 subject in one of the offices, they led me to where he was
19 at.

20 Q When you say we, there was more than one of you?

21 A Yes, sir. My partner, Drew Harrell, was working with
22 me that day.

23 Q Were you the senior person on the vehicle?

24 A Yes, sir.

25 Q Were you in charge?

1 A Yes, sir.

2 Q Finding out from the officers where this individual,
3 this female was, where did you go?

4 A We went to where the sheriff's office was and found
5 the female subject sitting in a chair.

6 Q Were you able to identify the female subject or could
7 she identify herself for you?

8 A Yes, sir. She told me her name.

9 Q Do you have your report with you?

10 A Yes, sir, I do.

11 Q What was her name?

12 A Mandy Williams.

13 Q And did you have a conversation with Miss Williams?

14 A As then, sir?

15 Q At that time.

16 A Yes, I did.

17 Q Could you at that time also or did you observe her
18 face and any other aspects of her body that may have been
19 injured?

20 A She had physical trauma to her face.

21 Q And based on the observation of the physical trauma
22 to her face and the description or the conversation you
23 had with her, did you have a conversation with anybody
24 else?

25 A No, sir, just her.

1 Q You received information from the officers on the
2 scene as to any other item?

3 A I received from one of the officers that was there
4 that she was struck several times, several times by a male
5 subject at her car; and they had a witness that saw her
6 being struck several times.

7 Q Now, as a result of the conversation with her and her
8 physical trauma you observed and conversation or
9 information you received from the officer, what medical
10 steps did you take?

11 A While performing my survey of the patient, she
12 answered questions that I had to find out. She advised me
13 that she could only remember being struck once by the male
14 subject, in which I knew there was something up when I'm
15 being told by a deputy sheriff she had been struck several
16 times and that when the subject or the person that gave
17 the story to the deputy sheriff said she was unconscious,
18 I knew that something might be up, that she could possibly
19 have a concussion.

20 Q And as a result of that, what did you do?

21 A At first Miss Williams did not want to go to the
22 hospital. I strongly suggested to her that it would be to
23 her best interest to go to the hospital, to please prove
24 me wrong in the possibility of her injuries. And as I
25 told her, I said, "I'd much rather you go to the emergency

1 room and prove me wrong that you don't have a head injury,
2 instead of waking up tomorrow morning dead."

3 Q Did you take her to the emergency room?

4 A Yes, sir, we did.

5 Q How did you transport her?

6 A Because of the facial trauma that she had, she was
7 not complaining of any neck or back pain; but for
8 precautions we spinal immobilized her because if she did
9 have a brain injury, she could have had a spinal injury
10 too, but just didn't know about it.

11 So, what we did, with her in a seated position, we
12 applied a C collar. We went ahead and gently moved her to
13 a long spine board, checking motor and sensory before and
14 after us moving her. We went ahead, put her on oxygen, on
15 a heart monitor, monitoring her vital signs during
16 transport to the hospital. We started an IV and also
17 contacted the hospital and monitored her vitals during
18 route.

19 Q All right. I'm going to show you what's been marked
20 as state's exhibit 115, 117, 118, 119, 120, and 121.

21 MR. MAULDIN: Subject to our previous position, Your
22 Honor.

23 THE COURT: Overruled.

24 MR. MAULDIN: Thank you.

25 (State's Exhibit Numbers 115-121 are received into

1 evidence.)

2 Q Let me show you these documents and ask you if these
3 photographs accurately reflect the injuries you observed
4 to Miss Williams on July 16th of '03.

5 A Yes, sir, they are.

6 Q Okay. I'm going to place these up here briefly so
7 the jury can --

8 THE COURT: Solicitor, would you mind calling out the
9 numbers when you're going through?

10 MR. ARIAIL: You want all of them? When you go
11 through --

12 THE COURT: No, just as you put them up, please, sir.

13 MR. ARIAIL: Okay. All right.

14 Q What does that reflect?

15 A That reflects Miss Williams fully spinal mobilized on
16 a long spine board.

17 Q And the yellow thing is the long spine board?

18 A Yes, sir. The long spine board is the yellow thing
19 you see.

20 Q And State's Exhibit 117 being a closer shot of that?

21 A Yes, sir.

22 Q And the wrap around the head, what is that for?

23 A The wrap around the head is you have foam blocks and
24 it's secured with tape. What it does is keeps the
25 patient's head from moving during movement of the spine

1 board.

2 Q And another angle of that same shot, 118. The same?

3 A Yes, sir. That's also a C collar that's around her
4 neck.

5 Q A C collar being a cervical collar?

6 A Yes, sir.

7 Q Let me show you what is 119. Close up. Is that the
8 facial trauma you referred to earlier?

9 A Yes, sir.

10 Q And 120, another shot of that?

11 A Yes, sir.

12 Q Not quite as clear. Let's see if I can do a little
13 better with 121. Is that the facial trauma you're talking
14 about?

15 A Yes, sir.

16 Q Thank you, sir. Answer any questions that either Mr.
17 Mauldin or Mr. Nettles may have.

18 CROSS EXAMINATION

19 BY MR. MAULDIN:

20 Q Just a couple, Officer Sass. The steps that you
21 took -- the steps you took placing Mandy on the board, you
22 have a picture of -- were a matter of procedural steps you
23 would take when you are reported certain information,
24 they're precautionary steps?

25 A They're precautionary steps, or we have mechanism of

1 injury.

2 Q So, when you're not sure of the severity or the
3 nature of the injury, you take the precautionary step to
4 prevent possibly aggravating an injury?

5 A Yes, sir.

6 Q That would include I think you mentioned a possible
7 concussion. I think you mentioned a neck, what did you
8 call that?

9 A Spinal injury, sir.

10 Q Spinal injury, is that what you're referring to?

11 A The neck thing?

12 Q C collar.

13 A Cervical collar.

14 Q The spinal collar or whatever?

15 A Yes, sir.

16 Q And those were steps you took in this case so that if
17 in fact some such injury might end up, have been the case,
18 you would have taken precautionary steps in the beginning?

19 A Yes, sir. We have to look at it as worst possible
20 scenario.

21 Q Worst possible scenario. Exactly. And are you aware
22 that no such injury did in fact exist?

23 A No, sir, I did not follow up.

24 Q Oh, you didn't follow up?

25 A After I took her to the emergency room.

1 Q You didn't follow up?

2 A Not by record. We follow up.

3 Q I see. So, you're not aware of the actual medical
4 records?

5 A No, sir.

6 Q All right. Thank you.

7 THE COURT: Any redirect?

8 MR. ARIAIL: None, Your Honor.

9 THE COURT: Mr. Sass, you may step down. Thank you
10 very much.

11 Call your next witness.

12 MR. ARIAIL: Dr. Pam Crawford.

13 PAMELA CRAWFORD, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Ariail:

17 THE CLERK: State your name please.

18 THE WITNESS: My name is Pamela Crawford.

19 THE CLERK: Thank you.

20 Q Dr. Crawford, if you would, state your name, please.

21 A Pamela Crawford.

22 Q By whom are you employed?

23 A South Carolina Department of Mental Health.

24 Q And how long have you been with the South Carolina
25 Department of Mental Health?

1 A For about seven and half years.

2 Q Were you so employed with the Department of Mental
3 Health on September 3rd of 2003?

4 A Yes, I was.

5 Q And your employment with the Department of Mental
6 Health is as what?

7 A A forensic psychiatrist.

8 Q And, now, back on September the 3rd, did you have
9 occasion at my request to come to Greenville, South
10 Carolina?

11 A Yes, I did.

12 Q As an employee of the Department of Mental Health?

13 A That's correct.

14 Q And were you also in any way connected with any other
15 state agency at that time?

16 A Yes. The Department of Mental Health had what we
17 call a memorandum of agreement with SLED, South Carolina
18 Law Enforcement Division, where I was the consultant
19 forensic psychiatrist for SLED.

20 Q Explain to the jury prior to September the 3rd of
21 2003, what the working relationship you had either with my
22 office or other solicitors.

23 A This was all through my work with Department of
24 Mental Health, through the memorandum of agreement with
25 SLED. I would do a variety of things. Some of the things

1 I would do, for example, go on SWAT calls and assist with
2 negotiations. But as far as your office and the
3 solicitor's office is concerned, I would be called by a
4 solicitor if, for example, there was some kind of alleged
5 crime of significant magnitude. And they would call me
6 and ask me to come and provide assistance.

7 Q All right. What type of assistance in particular did
8 I request from you in this particular case on September
9 the 3rd?

10 A In this particular case, and again I'm called by
11 various solicitors throughout the state, and I'm only
12 called when it's a case of a very severe nature. And
13 typically it's when the death penalty may be considered.
14 And I'm asked to assess --

15 MR. NETTLES: Objection. And I'm going to ask the
16 jury be sent out.

17 THE COURT: Mr. foreman, members of the jury don't
18 discuss the case. I'll get you back very shortly.

19 (The following proceedings were had outside the
20 presence of the jury.)

21 THE COURT: First off, tell me what your legal
22 objection is and I'll hear your argument.

23 MR. NETTLES: My legal objection is that this
24 testimony has been ruled on repeatedly. People got to the
25 point they mocked John Mauldin for how many times he

1 stands up and gets this clear. He has not opened his
2 mouth for two weeks without saying this is going to be a
3 problem. We cleaned this up before they come in. She's
4 now going to come in and what they're going to do -- what
5 the jury is now left with is this. They told us that what
6 she was going to do was come in and say, "I'm a
7 psychiatrist and I'm a fact witness."

8 And now what she's saying is, "I get brought in on
9 death penalty cases." They're going to put in all these
10 facts and they're going to leave that she puts her
11 blessing over this case.

12 THE COURT: I don't know where they're going, just
13 the fact she says I'm brought in on -- well, let me look.
14 What she said, "I'm only called when it's a case of a very
15 severe nature and, typically it's when the death penalty
16 may be considered. And I'm asked to assess."

17 MR. NETTLES: Access, that's right. That's it.

18 THE COURT: Go ahead, Mr. Nettles.

19 MR. NETTLES: We always had everybody at their word
20 had all this squared away. What they were going to do or
21 what they weren't going to do. What they have now done --

22 THE COURT: He testified even in the motions weeks
23 ago. He brought her in for purposes to assist him in
24 making a decision about the death penalty. And that's
25 been the purpose presented for the court for that's what

1 his position is. What's wrong with her saying what she
2 said.

3 MR. NETTLES: Because she's getting ready -- an
4 opinion.

5 THE COURT: I don't know where she's headed.

6 MR. ARIAIL: No, no, she's not giving any opinion.

7 MR. NETTLES: Yes, is going to. Because what they're
8 going to do is say this. They told us that what they were
9 going to do -- hang on just one second, if I may. And we
10 took them at their word, that what they were going to do,
11 they were going to bring her in here, they were going to
12 ask her if she's a psychiatrist, and then she was going to
13 be a fact witness.

14 Now, what they've done is a little bit different.
15 Because what they've said, "you're a psychiatrist, she
16 self-qualified herself as an expert and, "I get brought in
17 on death penalty cases to help access." So, now what that
18 is, is I've been brought as an expert to help access on
19 this. "I'm a psychiatrist. Death is appropriate
20 punishment or it's appropriate for them to bring death
21 penalty in this case." That's an expert. That's not what
22 they told us they were going to do. That's -- they told
23 us this was going to be a fact witness.

24 THE COURT: Solicitor, I don't think she responded
25 that to any question, she just sort of blurted it out.

1 MR. NETTLES: Which makes it even worse.

2 THE COURT: You didn't ask her that question, she
3 just sort of Lett it fly out.

4 MR. ARIAIL: I asked her to explain the background
5 and the working relationship that we had.

6 THE COURT: Between her and SLED, right?

7 MR. ARIAIL: Yeah. And her statement is accurate.
8 That's what she was asked to come here for.

9 THE COURT: All right. What's your motion?

10 MR. NETTLES: My motion is, I mean at this point
11 that -- well, I object to that question. I object to that
12 answer. I object to this going any further. And at this
13 point I'm asking for a curative instruction.

14 THE COURT: I will sustain your objection to that
15 answer and am going to give a curative instruction to
16 disregard anything this lady assessed, anything she said
17 about the death penalty. And let's go into the factual
18 basis from this point on, solicitor. Okay?

19 MR. NETTLES: And, and --

20 THE COURT: Hold on a second. Do you understand
21 Solicitor? Solicitor, Do you understand?

22 MR. ARIAIL: You're getting ready to, what you're
23 telling me is you're getting ready to strike the woman's
24 responsive question to what the purpose for her coming
25 here. Could I be heard on that? Because they're the ones

1 that have told this jury over and over why she came. And
2 the reason they have told the jury is not true. And it's
3 inaccurate. Mr. MacDougall, in closing argument yesterday
4 said, the reason she came was because that they knew
5 something was wrong with the defendant. And that's not
6 true. She didn't come for that reason. And no
7 communication was ever made to her on that basis. And
8 that's where I was going with this. To Let her explain to
9 the jury in contravention of all this other stuff that's
10 come out, that she did not come for the purpose that they
11 have alluded.

12 THE COURT: That's fine. I don't have any problem
13 with that. But we're going to phrase it in a certain
14 manner. Okay. We're going to phrase that she came to
15 make a factual determination, investigated the facts for
16 you to make a determination as to whether you were going
17 to seek the death penalty or not, not her.

18 MR. ARIAIL: Oh, no.

19 THE COURT: She's indicated that she did.

20 MR. ARIAIL: Not when I get through the next
21 question.

22 THE COURT: I understand that, but we're going at it
23 that way, do you understand?

24 Miss Crawford, do you understand?

25 THE WITNESS: I'm not entirely clear. He asked me a

1 question about what I did and I gave the answer.

2 THE COURT: I understand. I will sustain your
3 objection.

4 MR. NETTLES: And I appreciate it. But I just want
5 to add this. In the first page of her -- the allegation
6 that we're trying to mislead this jury, in the first page
7 of her interview that's in evidence. In the first page it
8 says, "okay there's some things that I need to make sure
9 you understand, is I'm not your doctor. Okay? If we talk
10 and I feel like you need some treatment, I'm going to
11 refer you to somebody else. And my guess is there's a
12 good likelihood of that. Because, you know, from what I
13 understand about your past, this is a very unusual
14 circumstance here."

15 We're not trying to mislead the jury. They're the
16 ones that are trying to mislead the jury.

17 THE COURT: Solicitor, Do you understand?

18 MR. ARIAIL: Yes.

19 THE COURT: As far as helping you assess the case on
20 a factual basis in investigation, not any assessment she
21 made. Do you understand?

22 MR. ARIAIL: Yes. That's where I was going.

23 THE COURT: All right. Miss Crawford, you
24 understand?

25 THE WITNESS: Yes.

1 MR. MAULDIN: While they're bringing the jury, may I
2 have an opportunity? I won't if you choose not,
3 obviously, judge, you're the judge.

4 THE COURT: Opportunity to do what?

5 MR. MAULDIN: Well, their own memorandum in
6 opposition to our motion states why they called her. And
7 I renew that. It was filed January 25th and is in the
8 court records, state's memorandum in opposition to
9 defendant's motion to suppress evidence.

10 THE COURT: I understand you put that in form of a
11 motion or just your argument in addition to what Mr.
12 Nettles said?

13 MR. MAULDIN: In addition, Your Honor.

14 THE COURT: Thank you. Bring us the jury please.

15 (The following proceedings were had within the
16 presence of the jury:)

17 THE COURT: Mr. foreman, ladies and gentlemen of the
18 jury please disregard anything that she said that she may
19 be asked to assess concerning the death penalty.
20 Disregard that. That's not appropriate. We're not going
21 there.

22 Solicitor.

23 Q Let me clarify and go back. We were talking about
24 what you had come to Greenville for. And as a result of
25 coming to Greenville, did you in fact interview the

1 defendant?

2 A Yes, I did.

3 Q What was the purpose of you interviewing --

4 MR. NETTLES: Objection.

5 THE COURT: Hold on a second. Solicitor, you may
6 lead her through these questions, please, sir, laying your
7 foundation. You may lead her.

8 MR. ARIAIL: Was the purpose of you interviewing the
9 defendant to provide that information to me in
10 consideration of whether or not --

11 MR. NETTLES: Objection. And I'm going to --

12 THE COURT: Hold on. Don't get into the facts. Come
13 on up here for a second, both of you.

14 (bench conference held within the presence but
15 outside the hearing of the jury.)

16 THE COURT: Mr. foreman, ladies and gentlemen, go to
17 the jury room. Don't discuss the case please.

18 (The following proceedings were had outside the
19 presence of the jury:)

20 THE COURT: All right. Mr. Nettles. He never really
21 got the question, "What was the purpose of your
22 interviewing the defendant to provide information to me in
23 consideration of whether or not" --

24 So, the rest of the question was not even asked. So,
25 what's your objection?

1 MR. NETTLES: My objection is now she's giving an
2 opinion. That's what she can't do. This witness needs to
3 be excused at this point. Needs to be excused. Her
4 testimony is in evidence, there's a question and answer of
5 hers already -- of the complete transcript is already in
6 evidence and she just needs to be excused.

7 THE COURT: Well, that's not -- that's not going to
8 happen. Okay? That's not in the court's prerogative to
9 do that. What's your objection to the last question the
10 solicitor asked?

11 I'll read it to you. "What was the purpose of you
12 interviewing the defendant, to provide that information to
13 me in consideration of whether or not" -- I assume in
14 making a decision on the death penalty; is that correct,
15 solicitor? I assume that would be the rest of the
16 question. But that never came out.

17 MR. NETTLES: That's right, because that --

18 THE COURT: What's your objection?

19 MR. NETTLES: First of all, it goes beyond what the
20 court's ruling was.

21 THE COURT: I don't think so, but go ahead.

22 MR. NETTLES: Secondly, it goes to -- she hasn't been
23 qualified as an expert, told us she wasn't going to be
24 expert; but think about what they're getting ready to do.
25 Give me information to seek the death penalty, you know,

1 we're all here because there's a death penalty. So now
2 what they've been able to do is tell this jury that she
3 helped in his decision to seek the death penalty and
4 they've told us she's not going to be an expert; but she
5 is going to be an expert. They've self-qualified her.
6 Did I ask you get information to help me decide whether or
7 not to seek the death penalty? There's the death penalty.

8 THE COURT: All right. Solicitor, Let me hear from
9 you.

10 MR. ARIAIL: I withdraw the question.

11 THE COURT: Going to go into the facts.

12 MR. ARIAIL: Just going to withdraw, this is
13 nonsense.

14 THE COURT: All right. He withdrew the question.

15 MR. NETTLES: I want another curative --

16 THE COURT: What curative instruction do you want?
17 Let's do this. Sit with counsel, write it down, and give
18 it to me. Okay?

19 MR. MAULDIN: I want to put this on the record while
20 they're busy writing out.

21 THE COURT: I'll be glad to hear from you.

22 MR. MAULDIN: I don't understand what part of the
23 English language we all are seeming to have here. We
24 talked about this in Anderson at the hearing, about if
25 they were -- if she was called at all, there was a

1 confined purpose. We came in here this morning, saw her
2 in the courtroom, I brought that to your attention and
3 then it was all this -- this is all she can say. Just
4 read that -- she can get up there and read the testimony.
5 It's already in the record. That's words out of your
6 mouth.

7 And we've got, the defense has a real problem, and I
8 represent Chris as lead counsel and I have a real problem
9 with what is processing here because that jury is sitting
10 in that jury room right now saying that Mr. Mauldin told
11 me he wanted me to hear everything. He's a liar. He's
12 trying to disrupt, He's trying to prevent, he's trying to
13 keep these witnesses from testifying. Nothing could be
14 further from the truth and no curative instruction made on
15 this side of the moon is going to take care of this.

16 We move for a mistrial. We respectfully demand a
17 mistrial. Because she has talked about her purpose in
18 this case. She has talked about the contract she's got to
19 come around with these solicitors and render these,
20 whatever she does. She's talked about other cases.

21 She was asked about why she came to Greenville, what
22 was the purpose. She answered it. We ruled that was out
23 of order, brought the jury in and corrected that. Then he
24 turns around, just reverses the question. Was the purpose
25 for you to come to Greenville to assist me in -- what is

1 wrong with the English language here? This is all wrong.

2 THE COURT: He's withdrawn the question. And the
3 question was never completed nor answered.

4 MR. MAULDIN: It's not the withdraw of the question.

5 THE COURT: The question was never completed, much
6 less answered.

7 MR. MAULDIN: We can't clean this up. The prejudice
8 to my client is overwhelming. It's something -- we done
9 everything but -- pretrial motions, hearings, I been
10 reserving it until I'm blue in the face; and here, lo and
11 doggone behold, if she can't say it on the stand he'll
12 state in the form of a question. I'm just trying to
13 figure out what form of Latin is being spoken here. I
14 apologize.

15 If you said, judge, right now strike her testimony
16 she's back to Columbia, you know what that jury would do?
17 They'd blame Chris Williams. They'd blame John Mauldin.
18 They'd blame Bill Nettles. So, we demand a mistrial, Your
19 Honor.

20 THE COURT: Solicitor, you got any comments?

21 MR. ARIAIL: No.

22 THE COURT: Motion denied for mistrial.

23 MR. NETTLES: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25 MR. NETTLES: This is our proposed jury instruction.

1 THE COURT: Solicitor, you want to make a comment?

2 MR. ARIAIL: Everything was going all right until the
3 last two sentences, she has any opinion of any kind,
4 that's not true. And improper? There's nothing improper,
5 if you want to -- and she's not an expert of any kind?
6 That's not true. She is an expert. She hasn't been
7 qualified as this expert. To say she's not an expert is
8 to say she wasn't qualified to do the exam.

9 THE COURT: It's ten minutes until one. We're going
10 to take a lunch break at this time. I'm going to tell the
11 bailiff to take them to lunch. Okay. Thank you very
12 much. Be back at 2:30.

13 (WHEREUPON, court was adjourned for the luncheon
14 recess.)

15 AFTERNOON SESSION

16 (Pursuant to the adjournment for the luncheon recess,
17 court was again in session at 2:30 p.m. when the
18 following proceedings were had:)

19 THE COURT: Miss Crawford, you want to come around
20 and have a seat, please, ma'am?

21 (Witness complies.)

22 THE COURT: First of all, solicitor, Let me say this.
23 The mere fact that you want to change, you know, in
24 midstream during the trial on what you're going to produce
25 from the witness is normally okay. No problem. However,

1 in this situation you've been saying from the first time
2 we had motions concerning Mrs. Crawford's testimony that
3 you were not going to offer her as an expert. Normally
4 you can switch and do that in trial as strategy. But,
5 however, because if you're trying to offer her as an
6 expert, I think that would be inherently unfair to the
7 defense at this time; therefore, I'm going to limit you,
8 not ask her opinions, to give any opinions whatsoever
9 based on her being an expert.

10 You're going to offer her as a lay person. So,
11 therefore, I think you're going to be limited to rule 701,
12 opinion testimony by lay witnesses. And I'm going to ask
13 you to ask questions according to 701, which is generally
14 their perceptions of what occurred. So, would you take a
15 minute and look at rule 701? If you don't have it, I've
16 got it here. Solicitor, if you'll just take a look at
17 rule 701, the court is going to limit you to those type of
18 questions concerning this witness.

19 MR. ARIAIL: Okay.

20 THE COURT: Now, having said that, I presume this
21 witness is going to be treated as if she was an
22 investigating officer that took a confession?

23 MR. ARIAIL: That's correct.

24 THE COURT: We're going to limit it to that. We're
25 not going into any opinions she may have as to why he

1 reacted certain ways or anything like that. She can
2 describe his demeanor, do anything a police officer would
3 do during interrogation she conducted of the defendant.
4 We are going to limit it to that.

5 MR. ARIAIL: That's correct.

6 THE COURT: Okay? Now, having said that, I think the
7 defense is correct in that some of your questions tend to
8 try to get in her opinion through the back door so to
9 speak. And I have sustained some of their objections.

10 MR. ARIAIL: I would disagree with that.

11 THE COURT: Okay. Well, I have sustained some of the
12 objections. And I just want you to know I will continue
13 to do that. Now, I don't want to keep running the jury in
14 and out with the objections.

15 MR. ARIAIL: Well, why don't I tell you what I'm
16 going to do?

17 THE COURT: Why don't you do that? That's what I was
18 getting to. Either tell me what you're going to do or
19 let's listen to it in camera.

20 MR. ARIAIL: What I'm going to do, once I got past
21 the question why she was up here, since they injected that
22 into the trial, why she was here, they did it by argument
23 and by suggestion to the jury. We didn't bring that up,
24 they brought it up. I wanted her to respond as to what
25 the real reason was why she's here. Then what I'm going

1 to ask her is, did she interview and take a recorded
2 statement from the defendant.

3 And I'm going to ask her, for purposes of this
4 record, to put in or to read with me an exchange of what
5 she asked him and what he responded through the period of
6 his rights being given and his responses to it, and the
7 introductory part. The introductory part, as I point out,
8 already contains that she's a forensic psychiatrist, that
9 she's a doctor, she's an M.D. and she's working with SLED
10 and she's working with the solicitor. All those things
11 which I previously asked are on the cover sheet of the
12 this defendant's exhibit that they have put in. All I
13 want to do is have that recited as to when she got here,
14 what purpose she came for, and put that in.

15 And possibly I'm going to, in the process -- not
16 possibly, but I will -- ask her what was his demeanor
17 during the course of the conversation.

18 THE COURT: I have no problem with that.

19 MR. ARIAIL: That's still what we're going to ask
20 her.

21 THE COURT: All right. If you'll look at the first
22 page, I believe about the, where she says, "Exactly, I
23 work for SLED."

24 MR. ARIAIL: Uh-huh.

25 THE COURT: And ask -- "The solicitor called me up

1 and said we have this situation. A guy told me roughly
2 what happened, what he knew about what happened, asked me
3 to see if I could talk to you, try to determine your state
4 of mind to try to get an idea of what was going through
5 your head when all this happened."

6 That's in evidence. We're not going past that.

7 MR. ARIAIL: Not going anywhere except read it.

8 THE COURT: As far as why she came. As far as
9 helping you evaluate the death penalty, et cetera, or make
10 an assessment as to whether you wanted to ask for the
11 death penalty, we're not going there. Okay? And we've
12 already gone through those questions, already given a
13 curative charge, getting ready to give another one. Let's
14 move on to new ground.

15 MR. ARIAIL: What is the subject of the second
16 curative instruction, if I may ask?

17 THE COURT: Basically what we talked about, about she
18 hasn't been qualified as expert, not consider anything she
19 says as coming from an expert witness.

20 MR. ARIAIL: Because she has not been qualified?

21 THE COURT: She hasn't been qualified.

22 MR. ARIAIL: But not that she's not an expert.

23 THE COURT: I agree with you. I'm going to tell them
24 because she has not been qualified, she's not entitled to
25 give an opinion. And if she does, disregard it. She can

1 give opinions under rule 701.

2 Mr. Nettles, anything you want to add?

3 MR. NETTLES: No, sir.

4 MR. MAULDIN: Just a renewal of our motions we made
5 before lunch.

6 THE COURT: What motions?

7 MR. MAULDIN: You know, the motions regarding the
8 mistrial and the tactics used with this witness, and we've
9 been fussing about it six months now. I just want to make
10 sure we understand the ruling, Your Honor.

11 THE COURT: Okay. Anything else before we bring the
12 jury?

13 MR. ARIAIL: Not from the state, Your Honor.

14 THE COURT: Anything from the defendant?

15 MR. MAULDIN: No, sir.

16 THE COURT: Bring us the jury, please.

17 (WHEREUPON, the jury returns to open court, when the
18 following proceedings were had:)

19 THE COURT: Mr. foreman, members of the jury, I told
20 you this in the first phase of the trial. I'm going to
21 tell you again. Whenever one of the attorneys makes an
22 objection, they're merely telling the court that they do
23 not think that's admissible under the rules of evidence or
24 the rules of court. And it's my job to decide whether
25 it's admissible or not admissible. I ask you to leave the

1 courtroom so I can comment on the facts, because I'm not
2 at liberty to comment on the facts when the jury is
3 present.

4 I'm the one that asked you to leave the courtroom so
5 I can be free with what I say to the attorneys and the
6 questions I ask the attorneys. The attorneys are not
7 trying to hide anything, they just have an opinion it's
8 not admissible, and that's their job. You are not to
9 consider anything for or against either one of the
10 attorneys when they make objections as to the rules of
11 evidence. That's the procedure we are going through, and
12 that's the reason I've been running you in and out of the
13 courtroom, so I would be free, not that the attorneys are
14 hiding anything. You understand?

15 All right. Now, normally opinions are not given in a
16 courtroom. However, opinions may be given in a courtroom
17 by laypersons when they're based on the perceptions of a
18 witness, such as, if someone is staggering and you smell
19 alcohol on their breath, you have an opinion they're
20 intoxicated, that's a lay opinion that may be admissible
21 in a courtroom; or if it's going to be helpful for the
22 jury to understand and does not require special skill,
23 experience, or training.

24 An expert may give his opinion if they qualify when
25 there's a scientifically, technical, or other specialized

1 knowledge required for the jury to understand the
2 question.

3 Now, in this particular case this witness has not
4 been qualified as an expert. In order for an expert to
5 give an opinion, they have to be qualified. And the court
6 has to find that they're qualified. This witness has not
7 been qualified as an expert and I'm going to tell you, you
8 must disregard any suggestion either in the solicitor's
9 questions or any answer that this witness has given that
10 Mrs. Crawford was asked, has formulated, or given an
11 opinion of any kind in this case. She's going to be
12 treated as a lay witness, not an expert.

13 Solicitor.

14 MR. ARIAIL: Thank you, judge.

15 Pamela Crawford, M.D., having
16 been previously sworn, further testified as follows:

17 Direct Examination by Mr. Ariail:

18 Q Dr. Crawford, if you would, I'm going to hand you
19 what's been marked Defendant's Exhibit Number 4 and ask if
20 you're familiar with that document.

21 A Yes, I am.

22 Q What is that?

23 A This is a transcript of the interview that I did with
24 the defendant.

25 Q I believe at the time of the recess we had gotten to

1 the point that you had, we were discussing you had come to
2 Greenville and I asked you if you actually interviewed the
3 defendant, Mr. Chris Williams?

4 A Yes.

5 Q Where did that interview take place?

6 A It took place at the law enforcement center.

7 Q And who was present during the course of the
8 interview?

9 A I'm blanking on that.

10 Q All right. Was there law enforcement there?

11 A Yes. Law enforcement was there.

12 Q Any other -- anybody other than you and law
13 enforcement personnel and Mr. Williams?

14 A No.

15 Q What I want to do now, you'll take the first page, I
16 want to have you read exactly what you told Mr. Williams.
17 And I'll read his answers and we'll go through this little
18 bit of colloquy.

19 A "I am Dr. Pamela Crawford and I'm interviewing
20 Charles Christopher Williams and the date is September
21 3rd, 2003. I'm what is called a forensic psychiatrist so
22 I'm a doctor, an M.D. doctor. Okay?

23 Q "Okay.

24 A "I went to medical school and then I specialized in
25 psychiatry. And what I do and what I'm doing in this job

1 is I'm working for SLED. Are you familiar with SLED?

2 Q "Yeah. South Carolina Law Enforcement Division.

3 A "Exactly. And I work for SLED and I work for the
4 solicitor's office. And what happens is today is Bob
5 Ariail, who is the solicitor in Greenville, called me up
6 and said we have a situation with a guy and told me
7 roughly about what happened, what he knew about what
8 happened, and asked me to see if I could talk to you to
9 try to understand your state of mind, try and get an idea
10 what was going through your head when all this happened.

11 Q "Okay.

12 A "So, that's what I'm here to do.

13 Q "Right.

14 A "Okay. There are things that I need to make sure you
15 understand, is I'm not your doctor. Okay? If we talk and
16 I feel like you need treatment, I'm going to refer you to
17 somebody. And my guess is there's a good likelihood of
18 that because you know from what I understand about your
19 past, this is a very unusual circumstance here?

20 Q "Yeah.

21 A "But I myself am not your treating doctor.

22 Q "Okay.

23 A "And that anything we talk about, I'm going to talk
24 about in court or to the solicitor or to other people.
25 It's not like I'm going to get out there on the news and

1 tell all your business, but it's not private.

2 Q "Okay.

3 A "Do you understand that?

4 Q "Yeah.

5 A "Okay. And you don't have to talk to me if you don't
6 want to. If you wanted a lawyer, you could have a lawyer.
7 If you couldn't afford it, someone could pay for it.

8 Q "Okay.

9 A "You can stop any time you want. I mean, it will not
10 hurt you in any way, shape, or form.

11 Q "Okay.

12 A "Just say, Dr. Crawford, I'm sick of talking about
13 this, I don't want to, and we will stop and be totally
14 cool with each other. Okay?

15 Q "Okay.

16 A "Anything we talk about may come up in court to the
17 judge and jury in sentencing and anything like that.

18 Q "Okay.

19 A "Do you understand all that?

20 Q "Yeah.

21 A "Do you have any questions for me about those things?

22 Q "No.

23 A "Are you certain?

24 Q "Yeah.

25 A "Well, what I'm going to do" --

1 Q All right. That's enough. Now, we'll stop there.
2 Now, as a result -- first, did you continue the interview
3 with Mr. Williams?

4 A Yes.

5 Q How long did it last, approximately?

6 A Approximately on that particular afternoon about two
7 and a half hours.

8 Q And did you tape that interview?

9 A Yes, sir.

10 Q Is it a normal practice of yours to audiotape the
11 interview?

12 A In these circumstances it is.

13 Q Did you give those tapes to law enforcement for
14 transcription?

15 A Yes, I did.

16 Q Did you review the transcripts to determine if it's
17 an accurate representation of your taped conversation?

18 A Yeah. It's generally accurate. Some places where
19 there's inaudible portions; but other than that, yes.

20 Q And the contents of this transcript are the entire
21 interview other than the inaudible portion you had with
22 the defendant on that day?

23 A Yes.

24 Q Would you describe to us as best you can, his
25 demeanor during the course of the interview.

1 A He was calm, pleasant, cooperative, not tremendously
2 expressive, but was calm and coherent and cooperative.

3 Q All right. Answer any questions that Mr. Nettles or
4 Mr. Mauldin may have.

5 CROSS EXAMINATION

6 BY MR. NETTLES:

7 Q Hi, how you doing?

8 A Okay.

9 Q You and I have had a chance to meet before, haven't
10 we?

11 A We certainly have.

12 Q Let's talk for a little bit about just a second ago I
13 think one of the things you and the solicitor talked about
14 was that in the front page you all talked about there you
15 thought that if he -- you weren't his treating physician?

16 A Right.

17 Q But if you thought he needed something, that you
18 would refer him to somebody?

19 A Yes.

20 Q And you, in fact, placed him on suicide watch; is
21 that right?

22 A I didn't place him on suicide watch. That would not
23 be my capacity.

24 MR. ARIAIL: Your Honor, I've got to interpose an
25 objection. I think we just crossed back over the line

1 again. That would be my objection.

2 THE COURT: All right. Come up here.

3 (Whereupon, a bench conference is held within the
4 presence but outside the hearing of the jury:)

5 THE COURT: Objection is overruled for the record.

6 MR. ARIAIL: All right.

7 THE COURT: At this time the objection is overruled.

8 Okay?

9 MR. ARIAIL: I understand that.

10 Q Now, you -- Chris clearly didn't have to talk to you?

11 A That's correct.

12 Q And Chris -- you told him that he didn't have to talk
13 to you if he didn't want to?

14 A That's correct.

15 Q And that if he wanted a lawyer, he could have a
16 lawyer?

17 A Yes.

18 Q And he didn't even need to have to ask for a lawyer,
19 if he just didn't want to talk to you any more, that you'd
20 quit?

21 A That's correct.

22 Q And he spoke to you?

23 A Yes.

24 Q And what's contained in there, he told you what
25 happened?

1 A Yes.

2 Q He didn't try to -- he said, "I took a gun in there,"
3 and went through some pretty graphic detail?

4 A Yes, he did.

5 Q And you didn't have to even encourage him?

6 A No, I did not.

7 Q He told you anything you wanted to know?

8 A Yes, he did.

9 Q Now, let's talk about one other thing. In there you
10 asked him some questions about his family?

11 A Yes.

12 Q He didn't -- and let's be clear about what
13 precipitated that, or what caused that to happen. Okay?

14 A Okay.

15 Q He didn't come in and say, "I want to tell you about
16 my family." You asked him about it?

17 A That's correct.

18 Q So, you asked him questions about his family?

19 A Yes.

20 Q And he didn't -- let's be clear about one other
21 thing. He didn't offer it to you up front, it was only
22 because you asked the question?

23 A That's correct.

24 Q Let's talk about the content of that. He told you
25 his parents got divorced when he was ten years old?

- 1 A Yes.
- 2 Q He told you that he was raised by his mother?
- 3 A Yes. And various stepfathers.
- 4 Q And various stepfathers. And he was significantly --
- 5 that he had been very angry about the divorce?
- 6 A Yes.
- 7 Q He told you that his father had not had much
- 8 involvement at all in his raising?
- 9 A That's correct.
- 10 Q He told you that he felt -- he just told you, this
- 11 isn't -- that his problems, he started his anger and his
- 12 problems started when the divorce came?
- 13 A Yes.
- 14 Q He was very angry with his dad, right?
- 15 A Yes.
- 16 Q That it broke up their family?
- 17 A Yes.
- 18 Q That that's whenever he felt like he was an evil
- 19 child?
- 20 A Yes.
- 21 Q After the divorce?
- 22 A It was around that time, uh-huh.
- 23 Q And his mother, he told you, had been married at
- 24 least two other times?
- 25 A Yes.

1 Q That he did not get along with any of the
2 stepfathers?

3 A I think it was mixed, but I think generally it was
4 not generally good.

5 Q His mother was an alcoholic for 30 years?

6 A Yes.

7 Q That she was intoxicated much of the time that he was
8 a child.

9 A Yes.

10 Q And then let's talk, lets fast forward a little bit.
11 a lot of that, you then got in the car and this -- the
12 first part of this that we're talking about here, just to
13 help you -- does that guy there in the white shirt look
14 familiar?

15 A Yes.

16 Q That's who you were with, that's the law enforcement
17 guy?

18 A Yes, sir.

19 Q That's investigator McNamara, you just winked at?

20 A Yes.

21 Q That's because you all know each other, right?

22 A Yes.

23 Q But the guy sitting next to him, you rode in the car
24 with him to Atlanta?

25 A Yeah, Paul Silvaggio.

1 Q You went and spoke with that woman right here,
2 sitting next to the woman in the white pants?

3 A Yes.

4 Q And you recognize that as who?

5 A His sister.

6 Q And you spoke to that African American man in the
7 white shirt?

8 A Yes.

9 Q Who is that?

10 A It's been a while.

11 Q I understand.

12 A I believe it may be his father.

13 Q And you spoke to the woman to his left, your right?

14 A That's his mother.

15 Q That's his mother. And based on their interviews
16 they substantiated pretty much what Chris told you about
17 his upbringing?

18 A Yes.

19 Q Now, you talked to him about school. He told you he
20 failed the first grade?

21 A Yes.

22 Q He told you that he had -- that there had been some
23 discussion about maybe he had some ADD?

24 A Yes.

25 Q But he never received any medication for it?

1 A That's correct. I think it was recommended, but it
2 was not followed through.

3 Q Nobody ever followed through?

4 A That's correct.

5 Q And whenever you talked to Maureen, his sister, she
6 verified it was an unstable --

7 A Yes, she did.

8 Q She verified that the mother was an alcoholic?

9 A Yes.

10 Q And she told you that, that the mother, in raising
11 Chris, had provided virtually no support?

12 A Yes. Very little supervision.

13 Q And no support I believe she said, too?

14 A I believe -- I can't remember exactly, but it was not
15 adequate.

16 Q And that there was lack of a father commitment?

17 A Yes.

18 Q And that she, she had invited him to come live with
19 her in Columbia at one point?

20 A Yes. That's correct.

21 Q That was because she was worried about Chris staying
22 with his mother?

23 A Yes. I think there was not adequate supervision and
24 support. Yes.

25 Q And she wanted to give him a better environment?

1 A Yes, she did.

2 Q And the one thing that you looked at was, you looked
3 and you didn't -- during any of your question -- and you
4 went, the night you went to his mama's house at what time?

5 A It was late at night.

6 Q Like 11:00 at night?

7 A I don't think it was that late. Maybe 10:30, 10:00.
8 It was late.

9 Q You went to his mama's house and questioned her?

10 A Yes.

11 Q That was the night that this happened?

12 A Yes.

13 Q And they searched his room?

14 A Yes. Yes.

15 Q And you -- you rode over there with law enforcement?

16 A I sure did.

17 Q And nobody gave you -- ever told you anything about
18 Chris using drugs?

19 A No.

20 Q Nothing?

21 A No.

22 Q And nobody told you anything -- Chris told you that
23 he had drank some, but that it wasn't anything that was
24 out of whack?

25 A That's correct.

1 Q Let's talk a little bit about what Chris told you
2 about he and Maranda. He told you they met at the Bi-Lo?

3 A Yes.

4 Q He told you that they became friends and quickly
5 started dating?

6 A Yes.

7 Q He told you that they had a rapid and intense
8 relationship?

9 A Yes.

10 Q He told you that he thought that she had had an
11 abortion?

12 A Yes.

13 Q After the break up, he told you about this journal?

14 A Yes.

15 Q Right? And he told you about that --

16 A Yes, he did.

17 Q -- didn't he? I mean, that's nothing -- And he told
18 you that he used to record his feelings about ending their
19 relationship?

20 A I don't recall if that was a quote from the
21 transcript; but, yes, that's why he was keeping the
22 journal, to record his thoughts and feelings.

23 Q And he told you about his suicide?

24 A His suicide attempt?

25 Q Yes. Obviously, if it was a suicide, we wouldn't be

1 here, would we?

2 A No.

3 Q But he told you about a suicide attempt?

4 A Yes.

5 Q And he told you he had OD'd on his mother's
6 medication?

7 A Yes.

8 Q He told you he did it to get Maranda's attention?

9 A Yes.

10 Q He told you he became angry when she did not respond
11 to his suicide attempt?

12 A Yes.

13 Q He told you that he branded his arm, didn't he?

14 A Yes.

15 Q He told you that he took a piece of metal, made an
16 "M" out of it, and heated it over a torch, and branded his
17 arm?

18 A Yes, he did.

19 Q He told you he planned to kill himself as well?

20 A At different times, yes. He certainly did, planned
21 to kill himself.

22 Q He told you that the months before the break up he
23 had experienced decreased sleep?

24 A Yes.

25 Q He told you he had racing thoughts?

1 A At times, Yes, sir.

2 Q He told you he tried to distract himself, but was
3 unable to do so?

4 A Yes.

5 Q And the way he told you that he tried to distract
6 himself, thought about moving into the woods and living
7 alone?

8 A Yes. To be a little more accurate about it, he was
9 keeping long lists about supplies he would buy and he
10 would distract himself by listing all these supplies and
11 listing the prices of these supplies. The distraction
12 wasn't necessarily about moving to the woods, but he would
13 distract himself by making these lists.

14 Q Okay. Fair enough. I believe I have nothing else.
15 Nothing further.

16 THE COURT: Solicitor, any redirect?

17 **REDIRECT EXAMINATION**

18 BY MR. ARIAIL:

19 Q Did he tell you he had any racing thoughts, at the
20 time of the incident?

21 A No.

22 **RE CROSS EXAMINATION**

23 BY MR. NETTLES:

24 Q You didn't ask him, did you?

25 A Yeah.

1 Q Where?

2 A I asked him if he had been having racing thoughts in
3 the week or so before. And I believe he said, "no," That
4 the racing thoughts had gotten better.

5 MR. NETTLES: Thank you.

6 THE COURT: You may step down, Mrs. Crawford. Thank
7 you very much.

8 MR. ARIAIL: May she be excused, Your Honor?

9 Any objection?

10 MR. NETTLES: None. None.

11 THE COURT: Ms. Crawford, you may be excused. Thank
12 you so very much.

13 (Witness excused.)

14 TINA SMITH, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Ms. Strom:

18 THE CLERK: State your name for the record.

19 THE WITNESS: Tina Smith.

20 THE CLERK: Thank you. Be seated.

21 Q Miss Smith, if you would, please state, again, your
22 full name for the record.

23 A Tina Marie Smith.

24 Q Need you to keep your voice up as you did before.
25 You previously testified, correct?

1 A Yes, ma'am.

2 Q In your previous testimony you were talking a little
3 bit about Mandy. Tell us a little bit about her. What
4 kind of employee was she, how you got know her, that sort
5 of thing.

6 A I hired her. Her mother had worked for me and Mandy
7 needed a job. She was very good, caught on very fast.
8 So, it wasn't long that we actually made her full-time.
9 At that point I decided she was probably capable of
10 becoming a manager and wanted to begin working with her
11 with that.

12 Q Were you responsible for bringing her to the East
13 North Street --

14 A I was.

15 Q -- Bi-Lo? Tell me a little bit about Mandy, how she
16 interacted with coworkers, how she interacted with
17 employees, how she interacted with you.

18 A Always happy, always pulled her hair back in a little
19 ponytail. Would just bounce into work almost. When
20 everybody else would be down, she was always happy. I
21 looked forward to the days she would work because she'd
22 bring your spirits up.

23 Q Were you aware that Mandy had a small child?

24 A Yes, ma'am.

25 Q And how was it that you knew that?

1 A She talked about her all the time. Would bring her
2 up and let us see her. It took her a little while to open
3 up to me, Callista, but eventually she did; and she'd say,
4 "let's go see Tina." And brought pictures of her
5 constantly.

6 Q Mandy would bring pictures?

7 A Yeah. So many you would almost think, "more of those
8 pictures?" But she was so proud of her, dress her up, put
9 little necklaces on her, little high heels, and show
10 picture after picture of her.

11 Q Did you see her interact with Callista?

12 A Yes, I did.

13 Q How was that?

14 A Very close. She was so proud of Callista. That was
15 her goal in life. I remember when we made her full time,
16 that gave her the opportunity to get insurance. She was
17 so excited she could provide insurance for Callista. I
18 remember helping her fill her papers out. You know,
19 things we never thought we would ever have to use, the
20 beneficiary part. Everything was Callista, Callista,
21 Callista. And she was so excited she could actually
22 provide that for her.

23 Q Were you aware of Mandy's plans on that particular
24 day of September 3 2003, if she had any particular plans
25 regarding Callista?

1 A She did. She was going to take her to the fair. I
2 don't know if it was the Anderson or Upstate fair, but one
3 of the fairs. She was going to take her that evening,
4 didn't want to work late. I think her Mom was going to go
5 with her. Told her Mom not to work late, they were going
6 to take her to the fair that evening.

7 Q Miss Smith, you were obviously present at the Bi-Lo
8 when the defendant entered the store and you've already
9 testified as to what happened. How has that experience
10 affected you personally?

11 A I live in fear every day of my life. It's something
12 I think about every single day. That's not an
13 exaggeration. I'm always afraid. At work I look around
14 to see if somebody's coming in with a gun. It's constant
15 fear every day. Actually, I'm suffering from post
16 traumatic stress. It's something I have not been able to
17 get past.

18 Q And specifically how has Mandy's death affected you?

19 A It's the most traumatic thing I ever experienced. I
20 will never forget the look on her face when he grabbed
21 her. And I had to leave her, and I have to see her family
22 and know I had to leave her that day. And it was fear.
23 It's something I'll never forget. I'll remember it the
24 rest of her life. I'm so sorry to her family that I had
25 to leave her.

1 Q Thank you, miss Smith.

2 MS. STROM: We have no further questions.

3 THE COURT: Any cross examination?

4 MR. MAULDIN: No questions.

5 THE COURT: Miss Smith, you may step down. Thank you
6 very much.

7 Solicitor, you wanted to call your next witness?

8 MS. STROM: Yes, sir, your honor. The state calls
9 Pat Williams.

10 THE CLERK: State your name for the record, please.

11 THE WITNESS: Pat Williams.

12 THE COURT: Have a seat.

13 MR. MAULDIN: No objection to these matters, Your
14 Honor.

15 THE COURT: Yes, sir.

16 PAT WILLIAMS, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Ms. Strom:

20 Q Good afternoon, Miss Williams. Please state your
21 full name for the record.

22 A Pat Williams.

23 Q And I need you to speak into that microphone just
24 like that. Okay?

25 A Okay.

1 Q You were Mandy's stepmother, correct?

2 A Yes.

3 Q When did you first get to know Mandy? Was she a
4 teenager, young girl?

5 A No, she was just five years old.

6 Q Just five?

7 A Uh-huh.

8 Q And are you aware of what -- her natural mother is
9 deceased, correct?

10 A She died when Mandy was four years old. She had
11 cancer. Mandy automatically, when she met me, wanted me
12 to be her Mommy. And it just so happened -- I had just
13 got divorced and I had told several people, I wish I could
14 find a little girl about five years old that I could take.
15 And it just so happened that's what happened, but I had to
16 take the daddy, too.

17 Q And you raised her as your very own?

18 A Yes.

19 Q And she saw you as her mother?

20 A Yes, she did.

21 Q Ms. Williams, you stated Mandy's mother died of
22 cancer and you raised her after that. How did that affect
23 her?

24 A Mandy, she always wondered, you know, what her real
25 mama was like. She said all she could remember was her

1 hair, her long hair. She couldn't remember her face. We
2 just had some pictures to show her. But that's all she
3 had in her mind was just hair she remembered feeling of.

4 Q I want to take a few minutes. You and I have gone
5 over several photographs. You brought me several
6 photographs from the family, correct?

7 A Uh-huh.

8 Q And I want to go over those and show those to the
9 jury so they can see who Mandy was. Okay?

10 MS. STROM: And, Your Honor, I'll call out the
11 numbers as I place them on the overhead, obviously place
12 them into evidence. And it's my understanding the defense
13 has no objection.

14 MR. MAULDIN: No objection, Your Honor.

15 THE COURT: 105 through 113, solicitor, admitted
16 without objection.

17 MS. STROM: Yes, sir.

18 (State's exhibit Numbers 105 through 113 are received
19 into evidence).

20 Q This is state's 105. If you would, tell us who
21 you're seeing.

22 A Mandy, her dad, and her little brother right after
23 her mama had died.

24 Q Is that the reason for this photograph? Are you
25 aware?

1 A I don't know why they made it, I guess maybe just to
2 get a little picture together. I really don't know.

3 Q State's Exhibit number 106. And how old was Mandy at
4 that time? I'm sorry.

5 A She was four.

6 Q Four. And what are we seeing in State's Exhibit
7 number 106?

8 A This, that's one of her cheerleading.

9 Q One of her cheerleading pictures?

10 A Uh-huh. She loved cheerleading and tumbling and
11 stuff like that.

12 Q What did you -- did she go to any tournament or any
13 contests?

14 A They went to state championships in Dallas, Texas.

15 Q Did you go with her on that trip?

16 A Yes, ma'am, I did.

17 Q And how did they do at that trip?

18 A They come in -- I don't remember what place, but
19 she's got all her little things together, we kept them,
20 put them together.

21 Q Do you still have those ribbons and things?

22 A Yes, ma'am.

23 Q She enjoy cheerleading?

24 A Yes, she did. As a matter of fact she enjoyed
25 everything.

1 Q We've already heard testimony that Mandy had a small
2 child, Callista?

3 A Uh-huh.

4 Q How old was Mandy when Callista was born?

5 A Well, she must have been 22.

6 Q This is State's Exhibit number 107. What are we
7 seeing in State's Exhibit 107?

8 A That's Mandy and Callista.

9 Q And that's obviously very shortly after Callista was
10 born?

11 A Uh-huh. That was -- that was Mandy's whole life.

12 Q State's Exhibit number 108 is, again, another picture
13 of her with Callista?

14 A Uh-huh. She was probably about four months old.
15 Every time -- she just thought -- just taught her to do
16 everything, had her at the zoo when she was about two
17 months old.

18 That was at the park one day. Mandy wanted her to do
19 everything. She didn't even know what a park was, but
20 Mandy wanted her to do everything.

21 Q State's Exhibit 109?

22 A That was at the beach. We went to the beach. We got
23 back July 14th and that's when she was beaten up on the
24 16th.

25 Q And that's Mandy and Callista?

1 A Yes, it is.

2 Q What are we seeing in State's Exhibit number 110?

3 A It was little Callista's birthday. That was her
4 second birthday.

5 Q Her second birthday?

6 A Uh-huh.

7 Q And where was that occurring? Where was that
8 birthday party occurring?

9 A It was at my house.

10 Q On September the 3rd, 2003, where was Mandy and
11 Callista living? Where were they living?

12 A They were living with us at our house.

13 Q You and your husband?

14 A Uh-huh. Mandy took Callista that day to the day
15 care, let her out, and she didn't come back. And that's
16 what we're having a hard time dealing with Callista.

17 Q I'm going to show you State's Exhibit number 111.
18 What are we seeing in State's Exhibit 111?

19 A That was Christmas time.

20 Q Christmas time with Mandy and Callista?

21 A Uh-huh.

22 Q How were they at Christmas time? They enjoy that
23 time?

24 A Oh, yeah. They enjoyed all times. That's all Mandy
25 did. From the time she come home from work, she'd set her

1 purse down and she'd automatically go to Callista.

2 Q State's Exhibit 112, who are we seeing in State's
3 Exhibit 112?

4 A Mandy and Callista and her daddy and daddy's other
5 granddaughter, which is Mandy's little niece.

6 Q The other girl to the far corner is the
7 granddaughter?

8 A Uh-huh.

9 Q And State's Exhibit 113?

10 A That's Callista.

11 Q Is that a recent picture of her?

12 A Yes, it is.

13 Q How old is she?

14 A She's four.

15 Q She's four now?

16 A (witness nods head up and down.)

17 Q Miss Williams, you talked about you were at the Bi-Lo
18 on Woodruff Road the day this happened, correct?

19 A Yes, ma'am.

20 Q How was it that you found out something was going on?

21 A Mark, the store manager, called over the intercom and
22 said he needed me in the office. I went over there and he
23 told me Chris had Mandy hostage at the store. He said,
24 "Come on, I'll take you over there. By the time I take you
25 over there, it will probably be all over. Don't get

1 upset."

2 I went to drive my car, he said, no, he would take
3 me. So, he took me over there.

4 Q So, you went to the Bi-Lo, at least the parking area?

5 A That's as far as I could get.

6 Q Is the parking area of the Bi-Lo on East North
7 Street?

8 A Uh-huh.

9 Q How long were you there before you realized what had
10 happened?

11 A I got there shortly after ten, and it was probably a
12 little after 12 until I finally realized what had
13 happened. I thought she was all right. I had been
14 waiting on her to come out. Someone told me the stretcher
15 went in empty and I saw it come out empty, so I kept
16 waiting. My son-in-law, my daughter was with me.

17 And I said, "let's go a little bit closer."

18 And we went on down. And I kept saying, "Where is
19 she at? Why is she not coming out?" And I didn't know.
20 Gilbert knew that that was the coroner, and I didn't. I
21 kept saying, "Where is Mandy? Where's Mandy?"

22 I heard a shot. My daughter let out a scream, and I
23 knew what it was. I started screaming and I couldn't
24 quit. The next thing I know, I was in the coroner's. I
25 didn't really know what happened. I knew Mandy was gone

1 and all I could think of was Callista don't have a mama.
2 What am I going to do? I could never be the mama that she
3 was. I'm not a young person. And I'll never see her grow
4 up. (Crying.)

5 And I'm sorry I'm acting like this. I said I
6 wouldn't. But I have all the responsibilities. Me and
7 her daddy do, of raising Callista, which I wouldn't take
8 nothing for. She's what keeps us going. She asks me
9 every day, just last night she wanted to know why didn't
10 she get to go with Mommy, when's Mommy coming back. She
11 misses her so bad, and I don't know what to tell her. I
12 can't tell her, her mama is not coming back. I just tell
13 her, mama's in heaven, and when Jesus comes back, we'll
14 all see mama again. I just have to deal with it every day
15 as it comes to me.

16 I think the most important thing in her life to her
17 was her Mommy. And I just dread the day that I have to
18 tell her what happened, because I don't know how I'll do
19 it. I'm sorry.

20 Q It's quite all right. I have no further questions.

21 THE COURT: Any recross?

22 MR. MAULDIN: No. I have no questions of
23 Mrs. Williams.

24 THE COURT: Ms. Williams, you may step down. Thank
25 you very much.

1 MS. STROM: The state calls Gary Williams.

2 GARY WILLIAMS, being
3 first duly sworn, testified as follows:

4 THE CLERK: State your name for the record, please,
5 sir.

6 THE WITNESS: Gary Williams.

7 DIRECT EXAMINATION

8 By Ms. Strom:

9 THE CLERK: Thank you. Be seated, Mr. Williams.

10 Q Please state your full name for the record.

11 A Gary Thomas Williams.

12 Q You are Mandy's father?

13 A Yes, I am.

14 Q And tell us a little bit, if you will, about Mandy
15 and her growing up.

16 A Well, Mandy was just a real vibrant kid, you know,
17 when she was young. Just always wanting to play with
18 other kids, just wanting a lot of friends and just loving
19 and caring, always conscientious about everybody else's
20 feelings and everything. She was like that all of her
21 life, you know, just honest and loving and caring. Just
22 what you'd want your kid to be.

23 Q And she had Callista, we've heard about Callista.

24 A Yes.

25 Q I want to take you to September 3 2003. When did you

1 first become aware -- Let me ask it this way. You were
2 not in Greenville on that day, correct?

3 A No, I was in Anderson.

4 Q And you were working on a job I believe you told me?

5 A That's right.

6 Q And you don't work inside a building. You were
7 working outside, no phone access, correct?

8 A That's right.

9 Q How was it that you learned that something had
10 happened to Mandy? Who came up to you?

11 A Well, my first cousin, Randy, Randy Williams, he come
12 up to me about 2:30 that evening and told me that
13 something was wrong. And I didn't have any idea, you
14 know, what he was talking about. I thought he was just
15 passing through and stopped to see me. And I saw him
16 walking up, and I just kind of joked around with him, you
17 know, thinking that maybe he was, you know, dropping in to
18 say, "hey," or maybe even to help me out a little bit on
19 what I was doing.

20 But I could tell right away there was something
21 wrong. He just, usually he's in a real good mood, you
22 know, and it wasn't that way that day. As soon as I spoke
23 to him, I could tell there was something wrong. And he
24 told me about what had happened. And I'd say it was about
25 2:30 that evening and he wouldn't go into a lot of detail

1 about it. He just told me that Mandy was being held and
2 that it was a bad situation. But he wouldn't get too far
3 into what he was trying to get across to me. I think he
4 felt like maybe I couldn't handle it that suddenly.

5 Of course, naturally I took off right then, and my
6 son had called me on my cousin's cell phone while I was on
7 my way home. He, my cousin gave me his cell phone and my
8 cousin had -- I mean, my son had actually called me and
9 told me that they were going to meet me back at my house.

10 And I kept asking him, I said, "Well, don't I need to
11 go on to the hospital or wherever she may be at?"

12 And he said, "Well, I can't go into a lot of details
13 right now. I don't know everything." You know, he said,
14 "Just meet me at your house."

15 And so by the time I got home, all of my family was
16 already there. That's when my wife told me what had
17 happened. It was the worst day of my life. I lost my dad
18 years ago, and I've lost lots of other people in my
19 family, but nothing has ever affected me like that did.
20 It's a terrible thing, losing your child.

21 Q Mr. Williams, if you can, I realize it's difficult,
22 but try to tell us how has it affected you.

23 A It's affected me in every way you can think of, in my
24 opinion. It's continually on my mind all the time. I
25 mean all the time. I can't concentrate on what I'm doing

1 on my job, Let alone at home or anywhere else. It took me
2 months and months before I could ever really get back into
3 my flow of trying to do my job.

4 And it's just something that's going to last forever,
5 I know. I know it's, you know, people tell me it will get
6 easier, but I don't know if it is. I really don't. It's
7 not the same as losing my dad. As hard as it hurt me when
8 Mandy's mother died, it's a lot harder than that, too.
9 It's just something I don't think is ever going to get
10 real easy, really easy.

11 I have a lot of anxiety. I have a lot of breathing
12 problems at times. And I know Pat goes through that, too,
13 my wife. She goes through a lot of that. And my little
14 granddaughter, Callista, even though she's too young to
15 really understand what's happened, she misses her mother
16 so bad. It hurts us so bad that it's unbearable
17 sometimes.

18 But I want to say this, Mandy's passing away has made
19 a lot of difference in a lot of other people's lives.
20 Many, many people. Her death was not in vain because it
21 changed so many people.

22 MS. STROM: Thank you, sir. Thank you.

23 THE COURT: Cross examination?

24 MR. MAULDIN: I have no questions of Mr. Williams.

25 THE COURT: Mr. Williams, you may step down. Thank

1 you very much.

2 Solicitor, you have another witness?

3 MR. ARIAIL: State's case.

4 THE COURT: Mr. foreman, members of the jury I'm
5 going to have to ask you to go to the jury room. Why
6 don't we take a 15- or 20-minute break at this time.
7 Don't discuss the case among yourselves. Leave your
8 notepads in the courtroom.

9 (The following proceedings were had outside the
10 presence of the jury:)

11 (Defendant crying.)

12 THE COURT: Any motions?

13 MR. MAULDIN: Take a break, Your Honor?

14 THE COURT: Yeah. You want to make your motions
15 before we take a break?

16 MR. MAULDIN: One moment. Your Honor, could we make
17 any motions when we resume, please?

18 THE COURT: That's fine, Yes, sir. All right. Take
19 a break.

20 (Brief recess taken.)

21 MR. MAULDIN: Please the court, Your Honor? I refer
22 to the state's notice of evidence in aggravation filed
23 December 6th 2004.

24 THE COURT: I don't know if I have an extra copy.

25 MR. MAULDIN: There were six listed items and I would

1 like to take those up with you at this point, Your Honor.

2 THE COURT: I think the state's just going on two,
3 right?

4 MS. STROM: We're going on two statutory aggravating
5 circumstances. Obviously, whatever the evidence supports
6 as far as the character and characteristics of the
7 defendant -- of the crime itself, and the victim impact.

8 MR. MAULDIN: And what she's identified on their form
9 would be number one, number two, number four, number five.

10 THE COURT: I don't have the form. You got the form?

11 MR. MAULDIN: I'll hand them up to you.

12 THE COURT: Okay, I have the form.

13 MR. MAULDIN: If you will, look first of all,
14 addressing number three on the form. We believe that
15 simply is now a nonissue. The opportunity to establish
16 that has been had and passed on. So, we do move that the
17 prior criminal history of the defendant simply is no
18 longer an issue in this case as far as we can tell. My
19 motion is that that in fact be the law of the case.

20 MS. STROM: We don't intend to offer any more
21 evidence about the defendant's criminal history. I can't
22 say that it won't come up if they put up some in their
23 case that we have to respond to.

24 THE COURT: I think what we're talking about, is
25 what's going back to the jury on the statutory aggravating

1 form. And the only two I'm planning on sending back are
2 these two.

3 MS. STROM: That's correct.

4 THE COURT: Okay? I'm sending back the murder was
5 committed while in the commission of the following crimes
6 or acts, kidnapping; and then the defendant by his act of
7 murder knowingly created a great risk of death to more
8 than one person in a public place by means of a weapon or
9 device known to be hazardous to the lives of more than one
10 person. Those are the two that's going on the form. And
11 nothing else is going on the form. I don't know if that
12 answers your question or not.

13 MR. MAULDIN: At the conclusion of the evidence we
14 will address the second one of those two.

15 THE COURT: That's fine. But I don't know if that
16 addresses the sheet you handed to me or not.

17 MR. MAULDIN: Well, that's just what we've got served
18 with.

19 THE COURT: That's the court's intention. That's the
20 only thing that's going back. We can address the second
21 one if you want to. Does that answer your motion?

22 MR. MAULDIN: Yes, sir, at this time.

23 THE COURT: Because future dangerousness of the
24 defendant, the prior criminal history aren't statutory
25 aggravations, they're not going in on the form. They can

1 make that argument as far as life or death; but it's not
2 going on the form that's going to the jury. Okay?

3 MR. MAULDIN: Yes, sir.

4 THE COURT: Anything you want to add, Mr. Nettles?

5 MR. NETTLES: Believe it or not, No, sir.

6 THE COURT: You just looked like you wanted to say
7 something.

8 MR. NETTLES: I did, but I couldn't think of anything
9 intelligent to say.

10 THE COURT: I can't believe that now. Anything else,
11 Mr. Mauldin?

12 MR. MAULDIN: No, sir.

13 THE COURT: Are you ready to call your first witness?

14 MR. MAULDIN: Yes, sir.

15 THE COURT: Anything from the state before we bring
16 the jury?

17 MS. STROM: No, sir.

18 THE COURT: Bring us the jury, please.

19 (WHEREUPON, the following proceedings were had within
20 the presence of the jury:)

21 THE COURT: Mr. foreman, ladies and gentlemen, when
22 we went through the voir dire process, I gave you two
23 lists of names, asked all of you did you recognize any of
24 those names. There were two names left off that list.
25 I'm going to cover that with you now. The name I ask you

1 do you recognize is Rebecca Owens. Does anybody know
2 Rebecca Owens? Anybody have any personal contact with
3 Owens?

4 (no response elicited.)

5 The next name is Maureen Bangcuyo. And that's.
6 B-A-N-G-E-U-Y-O. Does Anybody know or recognize the name
7 Maureen Bangcuyo?

8 (no response elicited.)

9 THE COURT: Anything else you want to ask concerning
10 those two witnesses from the state?

11 MR. ARIAIL: No.

12 THE COURT: From the defense?

13 MR. MAULDIN: None, Your Honor.

14 THE COURT: Call your first witness.

15 MR. NETTLES: Your Honor, Dwight Williams.

16 DWIGHT WILLIAMS, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Nettles:

20 THE CLERK: State your name for the record.

21 THE WITNESS: Dwight Charles Williams.

22 Q Thank you. Good evening, Mr. Williams.

23 A Good morning -- afternoon.

24 Q Where is it you live?

25 A I live at 225 Bluff Drive in Greenville.

- 1 Q Who is that young man right there?
- 2 A That's my son, Chris.
- 3 Q When is the first time you saw him?
- 4 A The first time I saw Chris he was about like two
- 5 weeks old [sic]. I was giving him piano lessons, the tune
- 6 was chopsticks. He was about two years old.
- 7 Q You play piano?
- 8 A Yes.
- 9 Q How many instruments do you play?
- 10 A Thirteen.
- 11 Q You ever play instruments in the army?
- 12 A Yes, I did.
- 13 Q Tell us about you being in the army.
- 14 A Well, when I was in the army I was, I received a
- 15 position as an army band master. That was a position
- 16 where I was a conductor. I conducted a 25-piece band,
- 17 post army band.
- 18 Q Now, was Chris -- were you in Germany?
- 19 A Yes.
- 20 Q Where was Chris born?
- 21 A Chris was born here in Greenville.
- 22 Q And who is his mama?
- 23 A Daisy is his mother.
- 24 Q Daisy who?
- 25 A Daisy Huckaby is her name.

1 Q But that wasn't her name. She took your name when
2 she married you?

3 A Yes.

4 Q Did there come a time you and Daisy got a divorce?

5 A Yeah. We got a divorce after we lived here in South
6 Carolina for about 13, 14 years after we moved here to
7 South Carolina.

8 Q How old was Chris when you got a divorce?

9 A Approximately eight years old, from what I can
10 remember.

11 Q Now, Let me ask you something, This divorce, did it
12 affect Chris?

13 A Yeah, it affected him a lot. A lot more than what I
14 thought it did -- the home place was --

15 Q What home place?

16 A Where we lived, our home. Our home had -- there was
17 disturbances a lot of times.

18 Q Disturbances?

19 A Yeah, did have some arguments. Weren't physical
20 arguments, but more or less verbal arguments. There was
21 some disturbances going on in the home. And I had felt
22 like I had put Chris through enough. And so separation at
23 that time was the best answer.

24 Q What do you mean it was the best answer?

25 A Well, to keep a child from being subjected to

1 continued arguments all the time and I would say
2 unstableness in the home. You know, you couldn't predict
3 like what would happen each day. You just couldn't
4 predict what the result would be, the final result of that
5 day would be.

6 Q Mr. Williams?

7 A Yes.

8 Q Was there violence in your household?

9 A There may -- yeah, there have been, yeah. There have
10 been violence, depending upon what you would consider
11 violence.

12 Q What do you consider violence?

13 A Bruising someone.

14 Q Uh-huh.

15 A Breaking objects in the home.

16 Q Uh-huh. Was that in your household?

17 A Yes.

18 Q Is that a healthy place for kids?

19 A No, it's not. And that was my decision. I felt like
20 it may have been best to create a cooling-off period so
21 that to keep the child from being subjected to that type
22 of environment.

23 Q How did -- so, if I'm correct, you moved out of the
24 house?

25 A Yes, I did.

1 Q How did that affect your relationship with Chris?

2 A It affected us quite a bit.

3 Q Tell us how.

4 A Well, because I had spent a lot of time with Chris
5 while I was in the home. Chris was my buddy. As a matter
6 of fact, the only -- like friends, I called them friends,
7 my instruments that I fooled with, whether it be Chris or
8 me practicing writing music or something like that.

9 Q But my question was this.

10 A Yes.

11 Q How did the divorce affect your relationship with
12 him?

13 A I think it bothered him so much to where he lost a
14 friend.

15 Q Who was that friend he lost?

16 A Me, because he didn't have any friends.

17 Q He didn't have any friends?

18 A No. He was, like, a real quiet person, subdued. He
19 kept to himself quite a bit.

20 Q Let me ask you this. As you sit there today --

21 A Yes.

22 Q -- was leaving, your leaving that home the best
23 decision?

24 A It may have been the best decision for me.

25 Q What do you mean by, it was the best decision for

1 you?

2 A Well, because I needed some space. And I felt like
3 at one point or another there may have been something I
4 couldn't overcome; therefore, in my situation it was the
5 best thing for me to do. But it wasn't the best thing for
6 Chris to do.

7 Q Why is that?

8 A I mean, I was -- it wasn't the best situation for
9 Chris.

10 Q Why is that?

11 A Well, because when you're separated, his one true
12 friend and then I guess he felt isolated and then alone.

13 Q Uh-huh. Now, who, when you left, who was there to
14 take care of Chris?

15 A Well, Daisy was there.

16 Q How about Maureen?

17 A Maureen was off in college about that time.

18 Q Tell the jury who Maureen is.

19 A She's my daughter. She was my first daughter.

20 Q First daughter?

21 A Yes, the oldest.

22 Q So, you left and Maureen was off at college?

23 A Yes.

24 Q Who did that leave Chris with?

25 A Daisy.

1 Q Was that a good place for him?

2 A Well, considering that he did have a mother, but in
3 the situation, his being in that situation, no.

4 Q Why?

5 A Well, because there was a lot of -- well, drinking
6 went on into the home. Daisy did have a habit of drink --
7 she did drink heavily.

8 Q Heavily?

9 A Yes, sir. Yes.

10 Q Now, when you left the home, tell the jury what
11 happened to you.

12 A Well, of course, I crashed and burned.

13 Q Crashed and burned. What do you mean by that?

14 A I went through a period of despair. I -- personally,
15 like, I didn't have any place to go. So, I basically just
16 isolated myself from everybody.

17 Q Where did you live?

18 A I lived in my car a while.

19 Q How long did you live in your car?

20 A About a month.

21 Q At the end of that month, where did you go?

22 A I had started a relationship with, like, with a lady
23 friend. And I stayed with that lady friend for a while.
24 But I soon started to develop a depression.

25 Q And as a result of that depression, where did you go?

1 A I -- Well, first it was a series of appointments with
2 Greer Mental health because I would need to separate -- I
3 needed to get a hold of the depression; but I later on
4 then checked into Patrick Harris.

5 Q Patrick Harris?

6 A Yes.

7 Q What is Patrick Harris?

8 A That's a mental health facility and --

9 Q How long were you there?

10 A Two weeks.

11 Q You were there because of what?

12 A Depression, situational depression.

13 Q Situational depression. At the end of that were you
14 on medication?

15 A Yeah. I was on Doxepin, they placed me on Doxepin.

16 Q Did you ever have to go back for mental health?

17 A Yeah, later on. Because I couldn't get ahold of it,
18 the situational depression. They tell me a genius is
19 teetering on mental illness.

20 Q I understand.

21 A So, I didn't get a hold of it. So, I had to go back
22 and I went back to Charter.

23 Q To Charter?

24 A Yes.

25 Q Now, so -- are you, for lack of a better term, on top

1 of all that now?

2 A You never get on top of it. Not on top of
3 depression. Depression is something that's like an
4 instant replay of situation that's -- that's a grief-based
5 situation.

6 Q I understand.

7 A And it's like instant replay. You can't get away
8 from it. If it repeats itself, the situation comes back
9 again and again and again, and new situation just
10 compounds the problem.

11 Q Share with the jury, share with the jury -- I mean,
12 you would agree with me while you still have to deal with
13 it every day, it doesn't cause you to have to live in your
14 car any more?

15 A No. It didn't cause me to have to do that.

16 Q Share with the jury what it is that has allowed you
17 to come to grips with your depression.

18 A Having, well, saying dealing with it, like being able
19 to deal with the depression. Because you don't get rid of
20 it. Having some friends around, close associates.

21 Q Friends how?

22 A Someone you can trust.

23 Q How do friends help?

24 A Tremendously, because there's nights you don't sleep,
25 so you need someone to talk to. Someone to go to, like

1 someone to tell your most inner feelings to and it --
2 without friends and dealing with depression, you never
3 come out of it. So, like it's always there.

4 Q You heard some testimony about what your son went
5 through?

6 A Yes.

7 Q Were you a friend for him?

8 A Yeah. As far as I knew, I was his best friend.

9 Q Did you reach out to him?

10 A Yeah, I reached out to him. But I don't think as
11 well as I should have. Because for fear of subjecting
12 myself to, I'd say, getting in trouble.

13 Q Getting in trouble how?

14 A Well, of getting like maybe locked up or the police
15 being called on me.

16 Q Why would you possibly get locked up for helping your
17 son with his mental illness?

18 A Well, I guess it's because of I was character
19 assassination.

20 Q What do you mean by that?

21 A Well, what he had been told about me wasn't really
22 true.

23 Q Here is the question I want to ask you. When is the
24 last time you talked to your son before this incident took
25 place?

1 A The last time I talked to my son, he was in my office
2 and I could tell that he was really agitated, his speech
3 was scattered a little more than before, and he was really
4 irritated and concerned about something.

5 Q What I want to ask you is this.

6 A Okay.

7 Q Did you ever go by and see him at his house?

8 A Not at the one where he lives now; but there was one
9 on Sanderling lane. Like I always tried to keep in touch
10 with him, likes once every two weeks, like that kind of
11 thing, but that's not enough time.

12 Q You had friends when you were dealing with
13 depression?

14 A Yes.

15 Q They helped you?

16 A Right.

17 Q Were you that kind of friend to your son?

18 A No, I wasn't. And I apologized to him for not having
19 been there as much as I should have been. Because I was
20 more or less thinking of my own situation, keeping myself
21 out of trouble. So, therefore, I would neglect to see him
22 as much as I should have. You know, I take full
23 responsibility for that. I should have been there a
24 little more than what I was.

25 Q A little more?

1 A A lot more than what I was.

2 Q The situation, you've heard the testimony about your
3 son breaking up with somebody he loved?

4 A Yes.

5 Q You heard about the depression he went through
6 afterwards?

7 A Yes.

8 Q Is that anything like what you went through?

9 A It's the exact mirror image what I went through. But
10 the thing is, I was able, fortunate enough to have friends
11 around me. They can help me handle it. And Chris being
12 the type of person he is, he's so reserved and so refined,
13 that he don't reach out for anybody. He's a different
14 person than I know him personally. That's my son. I
15 don't have to be a psychologist to know about my son. And
16 I know what he feels on the inside. Outside, you know, he
17 might be like a stone-face individual but there's a lot
18 going on inside. He's a good kid to me, you know. That's
19 my son.

20 Q I don't have any further questions.

21 THE COURT: Cross examination?

22 THE WITNESS: I'd like to say --

23 THE COURT: No, sir. Just answer the questions.

24 Cross examination?

25 MR. ARIAIL: None.

1 THE COURT: Thank you very much. You may step down.
2 Call your next witness.

3 State your name for the record, please.

4 ANN WILSON, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Ms. Coyle:

8 Q Can you just repeat your name again for the jury,
9 please.

10 A Ann Wilson.

11 Q Mrs. Wilson, where do you work?

12 A Taylors Elementary.

13 Q How long have you worked there?

14 A This is my 21st year.

15 Q Are you a teacher?

16 A Yes, ma'am.

17 Q What grade do you teach?

18 A I moved to kindergarten this year. Previously, I
19 taught first grade, and second grade two years.

20 Q You ever taught Chris Williams?

21 A Yes.

22 Q When was that?

23 A 1990, that school year.

24 Q And what grade was that?

25 A First grade.

1 Q What do you remember about him as a student?

2 A Very weak academically and that he needed to be
3 retained. He was not ready to go to second grade the next
4 year. So, he was retained in first grade because he
5 wasn't able to handle the curriculum academically.

6 Q May I approach the witness, Your Honor?

7 THE COURT: Yes, ma'am.

8 (WHEREUPON, DEFENDANT'S Exhibit No. 25 was marked for
9 identification only.)

10 Q Miss Wilson, handing you Defendant's exhibit number
11 25. Ask you to take a look at that and tell me what it
12 is, if you could.

13 A This is a -- one of many forms that the teacher fills
14 out after she has spoken with the parents about wanting to
15 refer a child for evaluation to see if he would qualify
16 for remedial services, a resource class.

17 Q Is that your signature at the bottom of the page?

18 A Yes, ma'am.

19 MS. COYLE: Offer Defendant's exhibit 25 into
20 evidence.

21 THE COURT: Any objection?

22 MR. ARIAIL: No objection.

23 (DEFENDANT'S Exhibit Number 25 is received into
24 evidence.)

25 Q Miss Wilson, draw your attention to number six, ask

1 you if you can read the question for us and the answer
2 below that.

3 A The question, "what do you perceive the problem to
4 be?"

5 And then my answer was, "a very short attention
6 span." And another problem seemed to be immaturity.

7 Q And what resources had been utilized to help solve
8 the problem?

9 A He attended already regular classroom with me, but he
10 attended an EIA program, which is outdated; but way back
11 then it was an extra remedial reading and math program.

12 Q Was the EIA program sufficient to handle the problem?

13 A No, ma'am.

14 (DEFENDANT'S Exhibit Number 26 is marked for
15 identification.)

16 Q Mrs. Wilson, I'm going to hand you Defendant's
17 Exhibit 26 and ask you if you can tell us what that is.

18 A In the steps prior to being evaluated to see if
19 there's a learning disability, the school has the teacher
20 rate the child by the these standards. And there's a
21 whole long list, two or three pages, four pages. Then, in
22 a separate observation, classroom observation, a different
23 teacher comes in as a different observer to mark what she
24 or he observed during that classroom observation.

25 Q And were you the teacher that did the observation to

1 fill in column two?

2 A Yes, I'm teacher number two, his regular classroom
3 teacher.

4 MS. COYLE: Offer exhibit number 26 into evidence.

5 THE COURT: Any objection?

6 MR. ARIAIL: No, Your Honor.

7 THE COURT: Twenty-six admitted in evidence without
8 objection.

9 (Defendant's Exhibit Number 26 is received into
10 evidence.)

11 Q Could you turn to the second page of exhibit 26,
12 please. And I'm going to draw your attention to auditory
13 attention, the first group of items there; and ask you if
14 you found that Chris had each of the problems identified
15 there?

16 A Yes, ma'am.

17 Q And did the observer there -- who was the observer?

18 A Carol Head.

19 Q And did the observer agree with that?

20 A Yes, ma'am. She has her checks in the first column.

21 Q And sort of in summary fashion, could you tell us
22 what you're evaluating in numbers one through four?

23 A Just on a regular day-to-day interaction with the
24 child in the classroom, that easily distracted by noise.
25 I mean, if something was going on in the room he was

1 paying attention to it rather than me. If I was doing a
2 lecture -- not that you lecture first graders, but if I
3 was teaching orally, you had to constantly focus his
4 attention. "Chris, look at me. Pay attention. Quit
5 playing with your crayons," whatever it is that would be a
6 distraction.

7 "Teacher finds it necessary to refocus a lot." You
8 know, if you don't refocus children's attention, you lose
9 them. "Variability in his work sample." If he was really
10 on task, then he could perform better than when he was not
11 on task, not paying attention, or didn't know the
12 direction kind of thing.

13 Q Could you turn to the group under auditory memory?
14 Are those checks in the right-hand column yours indicating
15 you agree that Chris has these characteristics?

16 A Yes, ma'am.

17 Q Could you sort of summarize for us what you're
18 looking at under auditory memory?

19 A When you're trying to sound out words to co-reading,
20 which was my job to teach reading, he had a difficult time
21 doing that. He needed constant teacher prompts to process
22 it, than rather than be able to do it on his own.

23 Carrying out oral directions because he didn't understand,
24 wasn't listening or paying attention; or even if he was
25 looking at me, being able to process it and do it

1 correctly.

2 Unable to maintain interest or attention during
3 orally-presented lesson. That was not his strength. I
4 had to do it with him and let him manipulate that. Most
5 children they need that, but talking to Chris to get him
6 to learn something, no, that is not how he learned.

7 Does he remember what he hears? Especially details,
8 if you read a story to ask comprehension questions, he may
9 not remember them nine times out of ten.

10 Q Okay. And, finally, if you would turn to the next
11 page, page three. Under behavior I want to ask you if the
12 checks in column two are the checks you made indicating
13 you observed these things in Chris?

14 A "Difficulty staying on task." There, again, not just
15 academic but even other things that we were doing. Well,
16 it's all academic, but if it was even manipulating
17 something, it would be still difficult staying on task to
18 complete the assignment.

19 "Easily distracted, restless, impulsive." Impulsive
20 there, like if he had a countress account and there were
21 six of them there, he would tell me anything off the top
22 of his head instead of taking the time to do it. So,
23 frustrated. You know, is it because the child can't count
24 or he's just too frustrated, it seems hard, so that's why
25 you just answer off the top of your head, too. So, the

1 impulsivity would get him.

2 "Blames others for his or her mistakes." Usually
3 during recess time, nonstructured times like lining up to
4 go to music, art, PE, standing in the bathroom line, going
5 to lunch, that kind of thing, when you were not sitting at
6 your seat, hands to yourself in a group, I constantly had
7 to refocus him, direct him, discipline him. It was
8 usually the attitude, "I didn't do it," coming from the
9 child.

10 "Is moody or inconsistent behavior?" There, again,
11 maybe as you would characterize a quick temper kind of
12 thing. I noticed here I put checks. Obviously there's
13 not a place for two checks, but I must have felt strongly
14 about it. Immature just in social, getting along with
15 other children and immature academically, his thought
16 process for doing academic work, I put two checks there.
17 Must have felt strongly about that one.

18 Sits idly, at the bottom. Was not on task, didn't
19 know what to do a lot of times.

20 Q As a result of this evaluation, what did you do?

21 A Went to refer him on. This is just a middle step for
22 after you talk to the parents about your concern about his
23 academic work, classroom behavior, stuff like that, then
24 you refer him on for evaluations. This is another step.
25 After all the paperwork is done with other things, then

1 he's sent into the district to be evaluated by the
2 district employees.

3 Q Was he evaluated by a psychologist in the district?

4 A A school psychologist.

5 Q Mrs. Wilson, I'm going to hand you Defendant's
6 exhibit 27, ask you to take a look at that and ask if you
7 can tell us what that is.

8 A These are the results from the school psychologist
9 that came and gave him a battery of tests. Some of them
10 were I.Q. tests, some of them were achievement tests and
11 then her summary of the test results were gone over with
12 the parents and myself and the school psychologist and
13 several other people from the school. It's just a big
14 team you put together when you're doing this.

15 It did say that he --

16 MR. ARIAIL: Your honor, I think I'm going to object.
17 This is about --

18 MS. COYLE: Just --

19 MR. ARIAIL: I don't object to her testifying what it
20 said. This is a document by the school psychologist, not
21 her.

22 MS. COYLE: I have another question I can set this up
23 with.

24 THE COURT: All right.

25 Q Mrs. Wilson, did you have access to -- Let me change

1 that. Did you see this document near the time the school
2 psychologist prepared it?

3 A Yes.

4 Q Was it a subject of discussion among the teachers who
5 were evaluating Chris?

6 A Uh-huh.

7 Q Did you use it as an evaluation point in making
8 decisions about his education?

9 A Yes.

10 MS. COYLE: We would offer exhibit 27 into evidence.

11 THE COURT: Do you have any objection to it?

12 MR. ARIAIL: Yes. The objection is to interpret this
13 document, you need a school psychologist. Now, I don't
14 want to get in a big discussion about it.

15 MS. COYLE: I'm not going to ask her to interpret it.

16 THE COURT: She just offered the document. Do you
17 have any objection to the document?

18 MR. ARIAIL: No.

19 THE COURT: That would be defendant's exhibit number
20 27; is that right, Donna?

21 COURT REPORTER: Yes.

22 (WHEREUPON, Defendant's Exhibit No. 27 was marked for
23 identification and received into evidence.)

24 Q Mrs. Wilson, can you turn to the second page, please,
25 under background information, and the second sentence

1 there states, "Chris' teacher records that he is very
2 distractible in the classroom and has difficulty attending
3 to complete tasks. She adds that he exhibits a very high
4 energy level and has difficulty staying seated at times."

5 Is that something you reported to the school
6 psychologist?

7 A Yes, ma'am. That is taken off a report that is
8 background information that I had written at the beginning
9 of this process of why I wanted to seek help for him.

10 Q And if you turn further back in the document. And I
11 apologize, it doesn't have page numbers on it; but it's
12 about the 11th page of that document. It's called form
13 250-304. Are you with me?

14 A Show me real quick. What does it look like?

15 Q What is this form that we're looking at?

16 A This looks like a summary from all of the testing
17 that was done, and then we all came together again for a
18 meeting.

19 Q And what are all the signatures on the bottom there?

20 A The first one looks like Janet Hawkins. She's the
21 school psychologist from the district that did the
22 testing, the evaluation. Beth Barnes was the resource
23 teacher at the time at the school, the special teacher at
24 the time. Mary Woods was the principle at the time.
25 Kathy Jones at this time was his new first grade teacher,

1 the retention year. I had him the first year, this was
2 the second year. So, he was in her classroom this next
3 year. Emily Smith was another peer teacher first-grade
4 teacher, in on the assistant team. Carol Head was the
5 person that did the other evaluations as the observer with
6 all the check marks, she also helped teach him math the
7 year I had him when we grouped. And then I'm the last one
8 from the previous year.

9 Q Were all these people involved in the evaluation of
10 Chris?

11 A Yes, with the whole process start to finish.

12 Q And item number six there, "if there is a severe
13 discrepancy between achievement and ability, which is not
14 correctible without special education and related
15 services." Did you agree with that conclusion?

16 A Yes, ma'am.

17 Q And does the signature on the bottom of that page
18 indicate all these people agreed with that conclusion?

19 A Yes, ma'am.

20 Q And did you refer Chris to special education?

21 A That's what the whole process was. Yes.

22 Q Was it your typical practice to refer a first grader
23 to special education?

24 A Typically not. If it's their first year in first
25 grade, you're hoping that more exposure, because they've

1 only been in school, in kindergarten and then the first
2 time in first grade; that it might be environmental, that
3 they have not been exposed to as much academic practice.

4 Anther factor is immaturity with the child. We are
5 different, we all mature at different times and are ready
6 to grasp things at different times. So, typically, no, I
7 would not recommend a child for testing the first time in
8 first grade if I didn't think it was severe enough. And
9 when I looked at the test date, I talked to Mom at the
10 conference on November --

11 Q You talked to Chris' mom?

12 A Chris' Mom, when I had him, and the signatures and
13 the date was November first. SO, THAT'S THREE MONTHS into
14 the school year. I was very certain I needed to do it now
15 instead of waiting. I didn't think maturity would be
16 enough, because I felt there was a learning disability. I
17 hated for time to keep ticking by without receiving as
18 much help as he could get.

19 Q If I'm understanding you correctly, you all
20 corrected -- three months into the first grade you
21 recognized there was a learning disability and when you
22 discussed that with his mother, what was your recollection
23 of it?

24 A My basic remembrance of it was negative. That she
25 did not want to go through this. She didn't want him

1 retained. Of course, I didn't mention retaining at that
2 point. But it was negative, but with a lot of convincing
3 and talking, she agreed to at least let us test to see if
4 there was something.

5 Q And did you recommend at the end of the school year
6 that Chris repeat the first grade?

7 A Yes.

8 Q And did he?

9 A He did.

10 THE COURT: Any cross examination?

11 CROSS EXAMINATION

12 BY MR. AIRIAL:

13 Q Miss Wilson, I'm looking at a copy of Chris Williams'
14 statement to Detective McNamara. You're probably not
15 familiar with this. But he states or told Detective
16 McNamara he had a 12th grade education.

17 According to any records you have, do you have
18 anything that indicates he did not, after your initial
19 evaluation, proceed on through the public school system
20 and to the 12th grade?

21 A All I know is when he left our school, Taylors
22 Elementary, he left in the middle of third grade. I
23 didn't have contact with him after that.

24 Q If he indicates he has a 12th grade education, that
25 would indicate he went somewhere else and graduated from.

1 I also noticed on the evaluation form it said, "is there
2 acting out behavior?"

3 And you said, "no"? Is there --

4 A Uh-huh.

5 Q Is there withdraw behavior?

6 You put, "no."

7 And the other question I had is, is it that unusual,
8 I don't know how to exactly phrase this, but do you have a
9 significant number of children who have similar type
10 problems in the first grade, similar to what Chris had,
11 that you have to either hold back or refer for additional
12 testing?

13 A Some years you have one or two. Some years you have
14 none.

15 Q Over the 21 year period you been teaching, how many
16 would you say you've had?

17 A Out of 21 years, probably 40.

18 Q And out of those 40, have you ever had one who
19 committed murder?

20 A I haven't kept -- I don't know. I haven't kept up
21 with -- I didn't even recognize the name at all. I didn't
22 pay attention to it on the news and all that when it
23 happened.

24 Then when I was called at the school about two weeks
25 ago, "did you teach Charles Williams?" I couldn't

1 remember, so I went to the yearbook, looked at his
2 picture. And when I saw his picture, it refreshed my
3 memory.

4 Q You remembered?

5 A (witness nods head up and down.)

6 Q Thank you.

7 THE COURT: Any redirect?

8 MS. COYLE: No, Your Honor. May the witness be
9 excused?

10 THE COURT: You may step down. You may be excused.
11 Thank you very much.

12 (Witness excused.)

13 MS. COYLE: The defense calls Rebecca Owens, please.

14 REBECCA OWENS, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Ms. Coyle:

18 THE CLERK: State your name for the record, please.
19 What is your name, please?

20 THE WITNESS: Rebecca Owens.

21 THE CLERK: Thank you, be seated.

22 Q Miss Owens, would you please introduce yourself to
23 the jury?

24 A I'm Rebecca Owens.

25 Q I have to ask, how did you get the shiner?

1 A I have a very ferocious puppy. She actually pushed
2 me into the side of the coffee table and it's
3 progressively getting worse. But they tell me it's going
4 to get better.

5 Q Hope it doesn't get yellow like mine did.

6 A Yes. Everybody tells me to get rid of my husband.

7 Q Do you know Chris Williams?

8 A I do.

9 Q How do you know Chris?

10 A His mother worked for me for approximately six years.

11 Q What kind of work did she do?

12 A She was an assistant to the owner of the salon.

13 Q So, she worked in the beauty parlor?

14 A Uh-huh.

15 Q How long did you work with Chris' mother?

16 A Approximately six years.

17 Q How old was Chris at the time?

18 A He was nine something.

19 Q Did Chris ever come into the salon?

20 A He did.

21 Q Why would he be at the salon?

22 A If the school would call and he needed to be picked
23 up, she would bring him to the salon. If he didn't need
24 to go to school, I mean. If he was sick the day before
25 she came to work, she just left him at home.

1 Q And who was home with him?

2 A No one.

3 Q Would this be between the time he was nine and
4 thirteen?

5 A Uh-huh.

6 Q When Chris did come to the salon, what was his
7 demeanor?

8 A Just as it is now.

9 Q Can you describe that?

10 A He was instructed never to speak unless spoken to.
11 He would come in, if he had homework to do, he would sit
12 there on the sofa in the salon, he would do his homework.
13 If he was to misbehave in any way, Daisy would give him
14 the look and you would see terror.

15 Q Did you ever have an occasion to talk to him?

16 A Yes, many times.

17 Q What kind of kid was he?

18 A He was a wonderful child. Actually, when I saw the
19 news, it didn't hit me either that that could be
20 Christopher.

21 Q Were you -- were you ever at the Williams' home?

22 A I've been at the Williams' home many times.

23 Q And when you were at the Williams' home, where was
24 Chris?

25 A Always in his room.

1 Q Was he sent to his room or did he voluntarily go to
2 his room?

3 A He was always sent to his room.

4 Q What does -- were you ever asked to help Chris with
5 Daisy?

6 A Christopher had called me on several occasions.
7 After they had moved in with Hans is when she started to
8 drink a little bit more heavier and started having
9 delusions or some kind of fits or something. And he
10 called me one night and told me his Mom was going crazy.
11 And I could hear her screaming in the background.

12 Because she was so essential to the operation of the
13 salon, I would go over there to get her back together,
14 because she had to be there at work. So, on this
15 particular occasion I got there and he was talking to
16 Maureen in Charleston, crying. And she told him to, "Hang
17 up the phone, you little black bastard," and smacked him
18 openly handed in the face.

19 Q And then what happened?

20 A She sent him to his room. He was crying and she went
21 up to the room and told him to shut his f-ing mouth.

22 Q Approximately how old was he at the time?

23 A Maybe 11, 12.

24 Q Was there ever a time where you were called over to
25 Daisy's house with your brother?

1 A Yes.

2 Q Can you tell us about that time?

3 A Another night she started having these fits, I don't
4 know if that's what you want to call them.

5 Q Describe the fits that you're talking about.

6 A She would drink very heavily and she would be
7 disorientated. Sometimes you wouldn't even know what she
8 was saying. This particular night she had called my
9 brother or maybe Christopher called my brother, which is
10 the owner of the salon, and we both went over there. And
11 she was lying naked on the top of the stairs.

12 Q Where was Chris?

13 A He was there, standing in the doorway to his room.
14 And she was screaming, "You got to get me an ambulance."
15 And, "You got to get me an ambulance."

16 And we're like, "What do you need an ambulance for?"

17 And she said, "I need an ambulance."

18 She didn't look like she needed an ambulance to me.
19 She looked like she needed a cold bath and maybe some
20 coffee.

21 Q Why do you say she needed a cold bath?

22 A She was extremely intoxicated. Of course, then
23 again, Chris was sent to his room by me.

24 Sorry, Christopher.

25 Q Do you know anything about Daisy's relationship with

1 somebody called Hanz? (phonetic)

2 A Hans.

3 Q Hans, I'm sorry.

4 A Uh-huh. He's an ambassador, I think, from Germany.

5 She met him in our salon. Two weeks from the time he came

6 into the salon, he bought her this huge diamond and wanted

7 to marry her -- she, he was a much older gentleman. Since

8 he spoke German and she did to. He bought her a big ring

9 and two weeks later he bought her a new car. She told me

10 she was getting ready to secure her financial future.

11 Q Did you talk to her about that statement at all?

12 A No.

13 Q Did Chris live with Daisy and Hans?

14 A He did.

15 Q What was the relationship between Daisy and Hans

16 like?

17 A Relationship between Daisy and Hans?

18 Q Yes.

19 A Relationship between Daisy and Hans was very

20 volatile.

21 Q What do you mean by that?

22 A She was very mean to him, verbally abusive. At one

23 point, she came to work one day, she was very beat up.

24 She told me she had beat herself up with a telephone and

25 Hans was in jail. She called the police.

1 Q She blamed that on Hans?

2 A She did. And he was about 5'4" and a very old man.

3 Q Did Chris have any friends?

4 A Never. He was never allowed to go outside and play.
5 I've never known him to have a friend.

6 Q You -- do you know Maranda Williams?

7 A I do.

8 Q How do you know her?

9 A I know her from a restaurant she used to work at.
10 She used to be my waitress.

11 Q And you and I met for the first time a couple of days
12 ago. Is that right?

13 A Yes, ma'am.

14 Q And I'd ask you tell the jury how you came to be a
15 witness here today.

16 A It was very difficult for me to come here because I
17 was told not to by so many of my friends. But I've held
18 him one time before and didn't help him when I knew his
19 mother was so crazy, and I felt like I had to come.

20 Q Thank you.

21 Can you answer the solicitor's questions, please?

22 THE COURT: Cross examination, solicitor?

23 MR. ARIAIL: No questions.

24 THE COURT: Miss Owens, you may step down. Thank you
25 so very much. Be careful stepping down. Call your next

1 witness.

2 MR. MAULDIN: Marjorie Hammock, please. Professor
3 Marjorie Hammock, come around.

4 MARJORIE HAMMOCK, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Mauldin:

8 Q Professor Hammock, I want to ask you where you are
9 employed.

10 A I teach at Benedict College in Columbia, South
11 Carolina.

12 Q Do you live in Columbia?

13 A I do.

14 Q And can you tell me what your professional title is?

15 A I am a clinical social worker and I'm also an
16 assistant professor of social work.

17 Q And that is at Benedict?

18 A That's correct.

19 Q What degrees, please, ma'am, educational degrees do
20 you hold?

21 A I hold a Bachelor of Arts degree in sociology and a
22 Masters in social work.

23 Q What licenses, certifications do you currently hold?

24 A I am licensed at the independent level, clinical
25 practice in the state of South Carolina. I'm also a

1 member of the academy of certified social workers and I
2 hold a diplomate in clinical social work.

3 Q What are your professional affiliations?

4 A I am a member of the National Association of Social
5 Workers; of the National Association of Black Social
6 Workers; and a member --

7 MR. ARIAIL: We'll stipulate she's going to qualify
8 as an expert in sociology, social work.

9 THE COURT: Anything else you want to say to
10 introduce her to the jury, please do.

11 MR. MAULDIN: Thank you, judge.

12 THE COURT: The court so finds.

13 BY MR. MAULDIN:

14 Q By the way, Professor Hammock, what is a clinical
15 social worker, by definition if you will?

16 A A clinical social worker is a mental health
17 professional who practices at the master's level and has
18 experience, education, and training at that level.

19 They're -- we are trained in human development and
20 behavior, family systems, and the impact of the
21 environment on an individual or a family. We do -- we
22 diagnose and we treat, particularly in the areas of
23 emotional and behavioral disorders. And we work with
24 individuals, families, and groups.

25 Some of us educate at university, do training in

1 seminars. We may teach or conduct research. We, of
2 course, do work in many aspects, in many fields, and we
3 are known to testify in courts, particularly using the
4 Biopsychosocial assessment.

5 Q Now, as a clinical social worker, do you conduct a
6 type of assessment, if you will, used to create the
7 opportunity for you, to form opinions or conclusions
8 regarding a hypothetical client?

9 A Yes.

10 Q Do you do that activity?

11 A Yes, we do. I do.

12 Q What is the assessment that you do called?

13 A It's called a Biopsychosocial assessment. It's a
14 social work tool for gathering any information on a
15 client. And in this case it's a defendant. And we work
16 in both the private setting and state agencies. We look
17 at patterns of behavior. We gather information about the
18 background of the client and the kind of experiences that
19 that client has. We develop a family history, and we take
20 a look at those patterns to see if they determine an
21 impact on the nature of the client's behavior.

22 Q Did I contact you and request that you do such an
23 assessment on behalf of Chris Williams?

24 A Yes, you did.

25 Q And did you form conclusions based upon your

1 assessment of Chris Williams?

2 A Yes, I did.

3 Q Now, before we talk about those conclusions, let me
4 ask you, when you're going to do such an assessment, well,
5 how do you get the information that you then draw upon to
6 help you form such conclusions or opinions?

7 A I conduct interviews with the client or the
8 defendant, with family members, with friends. I speak to
9 teachers and other professionals about their findings. I
10 review records, school records, clinical records from
11 other professionals, bringing together a whole picture of
12 the client.

13 Q Tell me, this is a Biopsychosocial assessment?

14 A That's correct.

15 Q Can you break that up definitionally please? Then
16 we're going to come up with a little easier word for me to
17 use during my questions. The first phrase is Bio -- tell
18 me what that's got to do with your assessment, just
19 briefly.

20 A It deals with the biological background of a client,
21 and we work in a multi-disciplinary arena; that is, I
22 consult with the medical community to see what their
23 information is about the client. We refer to and receive
24 reference from -- referrals from doctors and other health
25 providers. We share records and use a collaborative

1 amount of information to make a determination about how
2 important is that biological piece to the whole picture.

3 Q Now, tell me, you referred to the psych part of this?

4 A That's the psychological or the developmental part of
5 also a client. And we take a look, again, conferring with
6 other practitioners, in most instances psychologists or
7 psychiatrists and other social work colleagues, to
8 determine what is the developmental and behavioral pattern
9 of a client.

10 Q And then the social part of the definition is the,
11 essentially speaks for itself, I guess?

12 A The environmental piece, which is our particular area
13 of training, to understand what are those influences in a
14 client or in a defendant's life that would have impact
15 along with the Bio and the psycho part.

16 Q Now, the description you've given, is that the type
17 of activities you would have used by definition, if you
18 will, to respond to my request about Chris?

19 A That's correct.

20 Q Have you testified numerous times in the courts of
21 South Carolina?

22 A Yes, I have.

23 Q Regarding the conducting of this type of assessment?

24 A Yes, I have.

25 Q Now, I want to ask you -- and, Your Honor, of course

1 they have stipulated we do offer her as an expert witness
2 in the area of clinical social work and the performance of
3 Biopsychosocial assessments and rendering opinions
4 therefrom.

5 Now, Miss Hammond, what is a little easier word for
6 me to use in this questioning than that long
7 Biopsychosocial word?

8 A Family history.

9 Q All right. Did you conduct a family history on
10 Charles Christopher Williams and his family?

11 A Yes, I did.

12 Q In order to do that, who did you interview?

13 A I interviewed Chris Williams, the client; his mother,
14 his father, his sister. I spoke to two of his teachers,
15 Miss Wilson and Miss Bentenfield. I also spoke to Dwight
16 Williams' cousins; Alfred and Ernestine. Who are -- let's
17 see, they are -- really are Dwight's first cousin, though
18 Chris may not know them.

19 Q But you conducted a series of interviews relating to
20 members of his family?

21 A That's correct. I also spoke -- I'm sorry, I also
22 spoke with Chris' paternal grandmother, Mary Snipes.

23 Q And these interviews included teachers as well as
24 family members?

25 A Teachers, yes.

1 Q What records did you review in your evaluation, this
2 assessment?

3 A Reviewed educational records, medical records,
4 psychiatric history, particularly of the folks that I've
5 mentioned to date. Employment records, Army records of
6 Mr. Williams.

7 Q All right. And the list of records that you have
8 provided to the jury as a list that you use, those are the
9 ones that were provided to you in order to develop the
10 assessments?

11 A That's correct.

12 Q Did you consult other professionals regarding Chris'
13 family history?

14 A Yes, I did. I spoke with and met with Dr. Rob
15 Richards and also conferred with Dr. Halleck and Dr. Eric
16 Elbogen.

17 Q Now, did you in preparation for this testimony have
18 prepared a couple of visual aids for the jury?

19 A Yes, I have.

20 Q All right. Let me show you please.

21 (Defendant's Exhibit Number 28 is marked for
22 identification.)

23 Q I want to ask you before displaying this to the jury
24 if you're familiar with this.

25 A Yes. It is --

1 Q And what is this?

2 A This is the Williams' family tree.

3 MR. MAULDIN: Your Honor, we offer this as
4 Defendant's exhibit number 28.

5 THE COURT: Admitted without objection.

6 (Defendant's Exhibit Number 28 is received into
7 evidence.)

8 Q And you say that is the family tree, is that also
9 called a genogram?

10 A That's correct.

11 Q Did you prepare that genogram in conformity with your
12 standards regarding clinical social work?

13 A Yes.

14 Q I want you to take a moment and briefly show the jury
15 who these people are, and in relation to Chris, my client.

16 A All right. To the extreme left side is Mary Snipes,
17 who is Chris' paternal grandmother. Coming down, Bryant
18 Miles and Dwight Williams. Their dad was A.C. Williams.
19 And then Dwight married Daisy, and they had two children,
20 Chris and Maureen.

21 Daisy was married previously -- and, by the way, her
22 names are listed up there. Margarete These Elizabeth Leis
23 Scheller, Williams, Seifert, and Huckaby. And she's now
24 Daisy Huckaby. She has a previous marriage to Uwe
25 Scheller and they have two children Uwe and Sylvia. And

1 then she was married to Hans Seifert. And currently she's
2 married to Rodney Huckaby. We also see Maureen's marriage
3 to Carlito and they have two children Drae and Rimi.

4 Q So, just in a nutshell, Chris and Maureen at the
5 lower portion are my client and his sister?

6 A That's correct. And that's what the genogram
7 reflects.

8 Q All right. Now, I want to ask you to take a moment,
9 if you will, and briefly describe if you could what you
10 were able to learn about Chris's mother's background and
11 why her background would necessarily be important in
12 deciding -- looking at the background information of this
13 family.

14 A Well, Daisy is from Germany. She was born there.
15 She was, in fact, was the child of Erica. Her father was
16 unknown. Erica was a teenage parent and Daisy was
17 actually raised by her grandparents after Erica left her.
18 She, in fact, had a somewhat troubled life herself and
19 was, as I said before, abandoned by her own mother, never
20 saw her own father. She was of mixed background. That
21 caused some consternation in the family, because she was
22 clearly darker than the rest of the members and was
23 challenged by that.

24 She leaves the home at a relatively early age. She
25 is 16 when she marries Uwe. She, in fact, has difficulty,

1 had difficulty dealing with her grandparents at that
2 point. That marriage to Uwe was not a successful one.
3 There was a great deal of violence reported to be in that.
4 And ultimately she leaves him after a relatively short
5 period of time. He assumes responsibility for raising Uwe
6 and Sylvia, their children.

7 Q Can you give us a little background, if you will,
8 regarding Chris' father, Dwight?

9 A Chris Williams was born and grew up here in
10 Greenville. He -- his mother and his father separated at
11 a fairly early age. So, for all practical reasons he was
12 raised by a single parent, his mother. There was, again,
13 a great deal of conflict between Mary and A.C. A.C. was a
14 member of the United States Army and was stationed away
15 most of the young years when they were living together.
16 Dwight saw very little of his father. And then when Mary
17 and A.C. separate, there is almost a total break in
18 relationship with his father.

19 He was, in fact, taught very early on to only think
20 negative about his dad. I think he shared with me that
21 he's only seen him a few times after the actual
22 separation. Dwight manages to graduate from high school
23 and goes off into the service. He's got some challenges
24 himself. Has a rather serious or had a serious stuttering
25 problem, somewhat unsure of himself; but he does do very

1 well in the service and he receives all kinds of
2 commendations for starting up a band in Germany that was
3 known to have celebrated and cemented relationships
4 between Germany and America through music. So, he
5 receives that kind of satisfaction.

6 Q How did Daisy and Dwight meet? Did they meet while
7 he was in Germany?

8 A Yes, they did.

9 Q How did they come then to marry?

10 A Dwight was given the authority to form what amounts
11 to an R and B or rhythm and blues band in Germany at that
12 time, which played locally when the members of the band
13 were off duty. They played at some local clubs. Daisy
14 frequented those clubs. She went there so she'd have an
15 opportunity to dance with American soldiers, enjoy the
16 music, and hopefully meet someone, because her ultimate
17 goal was to get to the United States.

18 They court for a short period of time and she became
19 pregnant with Maureen and subsequently they married.

20 Q Now, Maureen is a good bit older than Chris; is that
21 right?

22 A Eleven years older than Chris.

23 Q And was Maureen born in Germany or in America?

24 A She was born in Germany.

25 Q So, sometime after Maureen was born, they then came

1 to the United States?

2 A Approximately three or four years -- I think she was
3 three or four years old when they moved to the United
4 States.

5 Q In the 11 years from the time they begin their
6 relationship until Chris was born, could you give us some
7 idea of what your study of the records and material, your
8 interviews and so forth again tell you the nature of that
9 relationship?

10 A It appears that the years and -- the few years in
11 Germany were relatively harmonious, they got along well.
12 Daisy is described as a good mother. They looked forward
13 to a life together. They then return to the United
14 States, I think it's Fort Hood. And they live outside of
15 South Carolina for at least a year. And then they move to
16 South Carolina when Mr. Williams is discharged, honorably
17 discharged, from the Service.

18 Things then begin to change, according to folks.
19 They were in constant conflict. There was a lot of
20 drinking and use of marijuana. They fought a great deal
21 about the way in which they were going to conduct their
22 lives.

23 Mr. Williams was very interested in returning to
24 school, and he did, completing a degree and working on a
25 masters. That was challenged, however, by his wife, who

1 felt that he ought to spend more time with her and also
2 use his time to make money to support them. So, it's
3 quite conflictual during this whole period of time. And,
4 as I had indicated, there was a great use of drinking and
5 drugging and there were numerous fights going on in the
6 family.

7 Q Now, they were living where when Chris was born in
8 1982?

9 A Here in Greenville.

10 Q And the -- what were the circumstances surrounding
11 Chris' birth?

12 A Well, as I indicated, there was a great deal of
13 conflict going on in the home, and there was drinking.
14 The Williamses were described as being violent towards
15 each other, and it was a couple of days before
16 Mr. Williams even saw Chris.

17 Q I want to ask you when, as we get into Chris's
18 childhood, I want to ask you what a clinical social worker
19 means when they talk about human development as a -- what
20 that concept means. Then we'll talk specifically
21 regarding Chris.

22 A We're looking at and using basic theories on how
23 people grow and develop and function. So, we are, there
24 are different stages that all of us go through. They're
25 critical in terms of our reaching our adulthood with the

1 skills and ability to proceed ahead. All of those steps
2 are important. And if in fact some of the steps are
3 missed because of all kinds of conditions, it's very hard
4 to replace or repeat those steps at a later period.

5 So, human development is the way we all form our
6 ideas, our opinions, our values, the way we learn the
7 rules of the game of this society, and the way in which we
8 learn how to respect relationships and respect other
9 folks.

10 Q Does it -- if you -- with regard generally to the
11 human development concept, does it make any difference
12 that a child might be what you might call a special child
13 or special needs child? Does that make any difference
14 with regard to human development aspect?

15 A All children need a great deal of attention, support,
16 love and consistency from their caregivers, their parents,
17 whoever is important in their lives. Special needs
18 children even more, because in fact they have certain
19 challenges that are different from children who don't have
20 these challenges. So, consistency, understanding,
21 patience, the ability to provide the kind of resources
22 that are needed for special needs children, especially
23 those with also developing mental health problems, are
24 essential.

25 Q Were the things that you have described, the things

1 that would in fact be wholesome or positive, were those
2 things present in the Williams' household when Chris was
3 born and began the early years?

4 A No.

5 Q What did -- can you describe, if you will, the -- how
6 his mother responded to the fact he appeared very early to
7 be a special needs child? What type of responses did
8 Daisy make to those red flags, if you will?

9 A In essence, she ignored them. She didn't think they
10 were important. She saw him as just being a normal child.
11 So, in effect, she ignored them and did not respond to
12 them in terms of getting him the kind of help and
13 resources that he needed, responding to the professionals,
14 teachers, doctors who made specific recommendations.

15 Q What, then, would -- what then happened to Chris
16 personally in terms of his own development as a result of
17 the fact these needs were not -- were not responded to
18 when they were identified? What then happened to him?

19 A Well, in essence he withdrew, he pulled back. He
20 stopped trying in the sense of being a part of an
21 environment where he could continue to grow. His growth,
22 in other words, then was challenged and limited. He
23 didn't develop the kind of skills, personal or academic
24 skills, he needed in order to feel comfortable and whole
25 in the society in order to be able to successfully

1 interact with others.

2 Q Does this type, when he ended up in this withdraw
3 response, did that affect his ability to then cope with
4 decisions as he got older?

5 A Of course it does. It does.

6 Q Now, let me change a little bit with regard to what
7 he necessarily would have witnessed or what he would have
8 seen in his family. There has been testimony this
9 afternoon regarding the presence of violence or at least
10 chaos. Can you describe the effect that would have,
11 first, on a normal child, then on a child with special
12 needs?

13 A Well, there's very little he can trust in his
14 environment from day-to-day. Because it wasn't
15 consistent, and there was a great deal of violence. There
16 are police reports that indicate there was violence in
17 that home, challenges in terms of his ability to with --
18 interact with other children, support for his academic
19 career, nurturing, attention to his needs, helping him to
20 learn outside of the classroom when it was clear that he
21 had those kinds of challenges that made learning difficult
22 for him anyway.

23 Q How did he personally then respond to this type of
24 violence? Was this a withdraw matter as well?

25 A Yes. And not only did he withdraw into himself but

1 he actively, according to school records, withdrew from
2 interaction with other children. He was not comfortable,
3 and also as you heard before, he was not allowed to
4 interact on a regular kind of basis with other children.
5 He became a loner with poor, poor social skills.

6 Q You referred a few moments ago about the fact that
7 the response from his caregiver, his mother, she was not
8 responsive to the signs from the authorities, I guess, the
9 school people.

10 Now, Chris had the basic necessities of clothing and
11 shelter and food. And so, when I ask you a question about
12 neglect, is there a concept of neglect when someone has
13 the basic necessities but those types of special needs
14 issues are ignored?

15 A His growth and development were not attended to, his
16 need for comfort, for support, for encouragement, for even
17 challenging. Because, again, children also have to learn
18 the rules of behavior in our society. So, those kind of
19 things just didn't happen for him.

20 Q What did you learn from your review of his school
21 records, his school history? Did you have an opportunity
22 to review?

23 A Yes, I did review the records.

24 Q Did you form some opinions or conclusions about his
25 school records?

1 A Yes, I did. Again, the triggers or the cites that
2 there are problems occur early on in the records in terms
3 of his grades, achievement remarks, and also the kind of
4 remarks made in the records. And there are numerous
5 recommendations for services. He was in fact referred to
6 resource learning, special needs, the term of the classes
7 have changed over the times. But his needs were in fact
8 identified by the school.

9 I might add also that there were numerous changes in
10 his schooling. I think there were at least three
11 elementary schools and two middle schools. So, that also
12 contributes to his inability to get what he needed out of
13 the environment.

14 Q We heard earlier this afternoon actual specific
15 reference from actually one of his school teachers. I
16 want to ask you if the records you reviewed as well as the
17 interviews indicated anything to you that you would like
18 to give to the jury regarding how he was perceived by his
19 teachers?

20 A Well, again, it's a little repetitive because the
21 records do indicate the need for special Ed and the access
22 to special Ed, that he had special problems and low
23 reading scores, specific visual motor task difficulties, a
24 real disparity in what he appeared to know and what he
25 could demonstrate. He was considered to be someone who

1 isolates himself, unable to play by the fifth grade. It's
2 really marked that he attempted to isolate himself and to
3 ward off the advances of other students.

4 Q Two more areas, professor Hammock, that I want to
5 specifically cover with you. One is your opinion or
6 conclusion regarding when a child comes along and goes
7 through the human development you described, has special
8 needs; whether that type of neglect, if you will, has an
9 effect on how they perceive love relationships or
10 relationships between them and other people? Can you just
11 briefly describe that for the jury?

12 A Well, they become very possessive and very clingy.
13 Everything in the nature of a relationship is very
14 important. It's heightened. They don't have the capacity
15 to understand because they've not been helped to
16 understand loss and rejection that are a normal part of
17 most of our lives, because that just didn't happen. And a
18 relationship will take on greater height, particularly if
19 it's the one and only.

20 Q The last area I want to ask you questions about is
21 regarding mental health history and what the records
22 demonstrate in regarding the existence of mental health
23 issues in this family tree. And what I'm going to do is
24 ask you, first of all, whether or not you discovered
25 through your review of the records that there was the

1 existence of prevalent mental health issues in this
2 family?

3 A Yes.

4 Q And who did you -- were you able to identify in that
5 regard?

6 A I was able to identify Mary Snipes, Bryant Williams,
7 Dwight William, Daisy Huckaby, and of course Chris and
8 Maureen.

9 Q All right. I'm going to hand you this red pencil
10 here and I want you to just step down and mark on this
11 exhibit -- you can just draw a circle, if you will --
12 around those you were able to identify from records and
13 interviews and documents where there existed mental health
14 issues.

15 A (Complies.) Mary Snipes, Bryant, Dwight, Chris,
16 Daisy, and Maureen.

17 MR. MAULDIN: All right. I'm going to ask the court
18 reporter to mark this final exhibit, Your Honor.
19 Defendant's exhibit 29.

20 (whereupon, Defendant's Exhibit Number 29 is marked
21 for identification.)

22 Q I want to ask you without publishing this
23 necessarily, can you identify this exhibit?

24 A Yes, I can.

25 Q And did you request this be produced?

1 A Yes, I did.

2 Q And what is that?

3 A Williams' family mental health history.

4 MR. MAULDIN: Your Honor, we offer this as
5 Defendant's exhibit 29.

6 THE COURT: Any objection?

7 MR. ARIAIL: None.

8 THE COURT: Okay. Thank you.

9 (WHEREUPON, Exhibit Number 29 is received into
10 evidence.)

11 Q The last question I'll ask you, Professor Hammock, is
12 off that exhibit. And that is mighty small writing. I
13 tell you what we're going, let me -- I want you to come
14 stand where I am, please, ma'am, just so these jurors
15 won't have to -- I want you very briefly to -- you've got
16 people identified and issues identified. I'd like for you
17 to give a short statement on each one of those people.

18 A This identifies a client or a person, in this
19 instance Dwight Williams, who is Chris' father and the
20 history of hospitalizations at the places and the date and
21 the nature of, the reason for hospitalization. And in the
22 instance of Mr. Williams, suicidal and homicidal feelings
23 towards the family. The diagnosis as rendered by the
24 physician, major depression episodes, severe; needs to at
25 least examine bipolarity and alcohol dependence.

1 Q All right. And the next person on the list is?

2 A You can see there were meds, also, administered.
3 Sinequan, Doxepin, and there was some consideration for
4 the need for Lithium.

5 The next is Daisy Scheller Williams Seifert Huckaby.
6 And the reason for contact with medical facilities or
7 mental health facilities had to do with threats of
8 suicide. And, as you can see, there are seven referrals
9 to either hospital, emergency room, to private
10 practitioners, and to the neurological consultants. And
11 the diagnoses in her case includes overdose of medication,
12 depression, poisoning by antidepressants, anxiety, panic,
13 and alcohol abuse. And the meds that were administered
14 over the period of times were Wellbutrin, Xanax,
15 Trofranil, and Valium.

16 Bryant Williams, who is Chris Williams' uncle, was --
17 had numerous admissions also for suicidal and homicidal
18 threats towards the family. And he has numerous
19 hospitalizations, Chestnut Hill, South Carolina; State
20 Hospital, Greenville. Diagnosis in this instance includes
21 adjustment disorder, depression, dysthymia disorder,
22 passive-aggressive personality disorder, and mild mental
23 retardation. Meds, medication used, Haldol, Clonopin, and
24 Halcion. Maureen Williams Bangcuyo is Chris's sister, and
25 she has had a history of suicidal feelings. She's been

1 diagnosed with depression and insomnia. And she has been
2 treated with medications, including Paxil and Trazadone.
3 To my -- it's my information she's never been
4 hospitalized, but seen outpatient practitioners.

5 And particularly Mary Williams Snipe has been a part
6 of her son's hospitalizations and treatment; and so, she
7 has been known also to mental health facilities. And the
8 physician's statement, according to the records, is that
9 she appears to be mentally ill and she has, by her own
10 admission, bad nerves. And she has -- and she's
11 considered unstable and threatening.

12 Q Got one final question, Marjorie. If you'll just
13 step back to the witness stand, please. And you can put
14 that back up on the --

15 (Witness complies.)

16 In each one of the family members that you have
17 identified on the genogram and on the family mental health
18 history, did each one of those family members receive some
19 treatment or help regarding the mental issue?

20 A Yes, they did.

21 Q Did Chris Williams, the defendant in this case, ever
22 receive any help or treatment regarding his mental health
23 issues?

24 A No, he did not.

25 Q Thank you, ma'am. You can answer any questions Mr.

1 Ariail may have for you.

2 THE COURT: Cross examination?

3 MR. ARIAIL: No, Your Honor. No questions.

4 MR. MAULDIN: May she be excused, Your Honor?

5 THE COURT: You may be excused. Careful stepping
6 down. Have a safe trip back to Columbia.

7 THE WITNESS: Thank you, sir.

8 (Witness excused.)

9 JAMES TOLLISON, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Ms. Coyle:

13 THE CLERK: State your name for the record.

14 THE WITNESS: James R. Tollison.

15 Q Hi, Mr. Tollison.

16 A Hey.

17 Q Sir, would you please tell the jury whether you are
18 employed or not?

19 A At this time I'm retired, but I'm a retired police
20 officer. I was a major operations commander at Mauldin
21 city police.

22 Q How long were you a police officer?

23 A Thirty years.

24 Q In 1997 where were you working?

25 A At the Mauldin city police.

1 Q Do you know Hans Seifert?

2 A Hans Seifert, yes.

3 Q Did you know Daisy Seifert?

4 A Yes.

5 Q How do you know Hans and Daisy Seifert?

6 A A number of calls to their residence, criminal
7 domestic violence.

8 Q Were you asked in the divorce proceeding to file an
9 affidavit in the divorce of Hans Seifert from Daisy
10 Seifert?

11 A That's correct. I was.

12 Q Did you do that?

13 A Yes, ma'am, I did.

14 Q Mr. Tollison, take a moment to look at Defendant's
15 exhibit 30 and tell me what that is.

16 A That's the statement I gave to Mr. Seifert's
17 attorneys.

18 Q And is that your signature on page four?

19 A Yes, it is.

20 Q Defense moves admission of exhibit 30, please.

21 THE COURT: Any objection?

22 MR. ARIAIL: No objection.

23 THE COURT: Defendant's exhibit 30 admitted without
24 objection.

25 (WHEREUPON, Defendant's Exhibit No. 30 was marked for

1 identification and received into evidence.)

2 Q Mr. Tollison, you said the police were called out on
3 several domestic violence calls. Were you personally
4 called out there?

5 A Yes, several times.

6 Q Can you tell us about the occasions which you were
7 called out there?

8 A A lot of times Hans would come to the police
9 department and get me because at the time I could speak a
10 little German, and he's German. He would come to the
11 police department and request me to deal with him and
12 handle the matter.

13 Q Was there a problem between Daisy and Hans?

14 A Yes, ma'am, there was.

15 Q What was the problem?

16 A Well, she would accuse Hans of attacking her either
17 verbally or physically, and he would do the same thing.
18 He would complain against her as being assaulted by her
19 verbally and physically.

20 Q Was there ever a time you became afraid for one or
21 the other's safety?

22 A Yes, there was.

23 Q And can you tell us about that?

24 A Maybe not quite, say, afraid; but I was concerned.

25 One time Hans came and made the allegation -- this was the

1 time they were separated, but they were living in the same
2 residence for a period of time. He was staying
3 downstairs, she was staying upstairs. And at the time he
4 has been threatened by her, so he comes to report it to
5 the police. At this time he was trying to locate his
6 clothes and business equipment at the residence and she
7 had changed the locks on the doors and everything at
8 different times concerning, you know, the domestic
9 disputes.

10 All right. I went over and made some pictures of the
11 residence where he alleged she had stolen some furniture
12 and office equipment. He had office equipment because he
13 was a solar engineer or something of that effect in
14 Germany, and had a company here in the states, also. And
15 she had taken even the plug-in telephones out of the
16 residence along with his fax machine and computer setups.
17 And at this time around the bed area where he lived or
18 stayed at was an antique lantern or lamp that had been
19 broken.

20 Q Was it a gas lamp or kerosene?

21 A It could have been either one, I just do not recall
22 right off. But it was an antique lantern or a lamp. And
23 also when we were looking for his clothes in another room,
24 there was a gun holster, the gun was missing out of the
25 holster. But there was an empty holster on the dresser or

1 the night stand.

2 Q And did Hans have the gun?

3 A He had no weapon.

4 Q Can you describe Daisy's behavior in your presence?

5 A Miss Seifert was -- could be calm as anything one
6 minute and then the next minute she would be making all
7 kinds of accusations, threats, and jumping up into Hans's
8 face, you know, type arguments and so on and so forth.

9 Q Look at paragraph 14 of your affidavit. Could you
10 read that to the jury, please?

11 A "Mr. Seifert appears to be a kinder older man, and
12 based on my observations of both he and Mrs. Siefert,
13 Mr. Seifert is not a violent person. Miss Seifert appears
14 to be very erratic and violent. She turns her emotion on
15 and off with the snap of a finger. In my dealings with
16 her and based on my experience, I do not believe her to be
17 a credible person."

18 Q And was that your impression of Mrs. Seifert in 1997?

19 A That's correct.

20 Q Did Miss Seifert ever make any allegations against
21 you at the police department?

22 A She made allegations against myself and the police
23 department.

24 Q Can you tell us how that came about?

25 A She was complaining there was nothing ever being done

1 concerning her and Hans; and that Hans had paid off the
2 department to throw the blame over on her as opposed to
3 him. And one night, I still do not know how she got my
4 home phone number, but around midnight to 1 a.m. one
5 morning I received a call and she was reporting prowlers
6 around the residence. And I asked her, had she called the
7 police department?

8 And she said, "yes, but I told them I was going to
9 call you, too." And so it's, like I said, I do not
10 recall how she got my phone number for home, but she said
11 I had -- "it wouldn't matter anyway because Hans is paying
12 the police department off and he's certainly paying you
13 off."

14 I said, "Miss Seifert, the best thing I could tell
15 you to do is dial 911."

16 Q Did anything ever become of her allegations?

17 A Nothing. They were unfounded allegations.

18 Q Approximately how many times were you or members of
19 the police department called out to the Seiferts'
20 residence in 1997.

21 A I know at least 10 to 12 times within about a
22 four-month period.

23 Q No further questions.

24 CROSS EXAMINATION

25 BY MR. AIRIAL:

1 Q Mr. Tollison, good to see you again.

2 A Good to see you.

3 Q Hope you are enjoying retirement.

4 A I'm trying.

5 Q Did you ever become aware of a call in which there
6 was a complaint that Miss Huckaby was abusing or
7 neglecting the child, Charles Christopher Williams?

8 A Not to my knowledge.

9 Q Thank you.

10 THE COURT: Any redirect?

11 MS. COYLE: No, Your Honor.

12 THE COURT: Okay. Mr. Tollison, you may step down.

13 Thank you so much. You may be excused. (Witness excused.)

14 Mr. foreman, members of the jury, we're going to stop
15 at this time. We'll start in the morning at 9:00. Don't
16 discuss the case amongst yourselves. Leave your notepads
17 in the chairs. Have a good evening. I'll see you in the
18 morning at 9:00.

19 (The following proceedings were had outside the
20 presence of the jury:)

21 Anything from the state until we break in the
22 morning?

23 MR. ARIAIL: No, Your Honor.

24 THE COURT: Anything from the defense before we break
25 until in the morning?

1 MR. MAULDIN: You say 9:00?

2 THE COURT: Nine o'clock.

3 MR. MAULDIN: Nothing further.

4 (WHEREUPON, The proceedings are adjourned to the
5 following day.)

6 * * * * *

7 * * *

8 *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 FRIDAY, FEBRUARY 18, 2005

2 (WHEREUPON, COURT RECONVENED WITH ALL PARTIES
3 PRESENT, WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)
4 THE COURT: READY TO PROCEED? IS THE STATE READY?

5 MR. MAULDIN: YES, SIR.

6 MS. STROM: YES, SIR.

7 MR. MAULDIN: I HAVE A COUPLE OF MATTERS I WANT TO
8 PASS UP REGARDING POTENTIAL JURY INSTRUCTION AND
9 AGGRAVATERS. I WANTED TO PASS THEM UP NOW SO YOU COULD AT
10 LEAST BE LOOKING OVER THEM. AND I WOULD PROPOSE THAT WE
11 ARGUE THESE MATTERS PRIOR TO THE CASE GOING TO THE JURY.
12 THIS IS A PROPOSED JURY INSTRUCTION WITH A MEMORANDUM OF
13 LAW.

14 THE COURT: DO YOU HAVE A LIST OF MITIGATING
15 CIRCUMSTANCES THE DEFENDANT IS RELYING ON?

16 MR. MAULDIN: I WILL BE PROVIDING THOSE TO YOU, BUT I
17 DON'T HAVE IT NOW. I CAN GIVE IT TO YOU ORALLY.

18 THE COURT: JUST GIVE IT TO ME IN WRITING WHEN YOU
19 GET IT.

20 MR. MAULDIN: YES, SIR. IN ADDITION, YOUR HONOR, WE
21 HAVE A MEMORANDUM REGARDING STRIKING OF AN AGGRAVATOR THAT
22 WE'RE GOING TO PASS UP TO THE COURT TO CONSIDER AT THE
23 APPROPRIATE TIME.

24 NOTHING ELSE AT THIS POINT. YOUR HONOR, WE'RE
25 PREPARED.

1 THE COURT: BRING US THE JURY, PLEASE.

2 (THE FOLLOWING PROCEEDINGS WERE HAD WITHIN THE
3 PRESENCE OF THE JURY:)

4 THE COURT: CALL YOUR NEXT WITNESS, PLEASE, SIR.

5 MR. MACDOUGALL: THE DEFENSE DR. ERIC ELBOGEN.

6 ERIC ELBOGEN, AFTER BEING DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY MR. MACDOUGALL:

9 Q STATE YOUR NAME FOR THE RECORD.

10 A IT'S ERIC ELBOGEN.

11 Q GOOD MORNING, DR. ELBOGEN. COULD YOU TELL US WHAT
12 YOU DO FOR A LIVING?

13 A ASSISTANT PROFESSOR AT DUKE UNIVERSITY MEDICAL
14 CENTER.

15 Q COULD YOU GIVE US A LITTLE ABOUT YOUR EDUCATIONAL
16 BACKGROUND?

17 A SURE. I WENT TO CORNELL UNIVERSITY UNDERGRADUATE AND
18 THEN ATTENDED HARVARD UNIVERSITY FOR GRADUATE SCHOOL IN
19 PSYCHOLOGY. WORKED IN THE FIELD A FEW YEARS AND GOT A
20 PH.D. IN CLINICAL FORENSIC PSYCHOLOGY FROM THE UNIVERSITY
21 OF NEBRASKA.

22 Q YOU SAID YOU WORK AT DUKE NOW IN THE FACULTY?

23 A YES.

24 Q AND YOU LIVE IN DURHAM, NORTH CAROLINA?

25 A YES.

1 Q AND AFTER YOU FINISHED SCHOOL AND YOU RECEIVED YOUR
2 DOCTORATE IN PSYCHOLOGY, WHAT KIND OF WORK DID YOU DO?

3 A I DID A CLINICAL INTERNSHIP AT HARVARD MEDICAL
4 SCHOOL, AND WENT TO DUKE TO DO RESEARCH IN CLINICAL WORK.

5 Q TELL ME WHAT YOU MEAN BY CLINICAL WORK.

6 A SURE. I ASSESS PATIENTS AT THE STATE PSYCHIATRIC
7 HOSPITAL IN BUTNER, NORTH CAROLINA. I CONDUCT
8 PSYCHOLOGICAL ASSESSMENTS THERE.

9 Q HAVE YOU PUBLISHED ANY OF YOUR WORK IN THE LAST FEW
10 YEARS?

11 A YES.

12 Q WHAT AREAS HAVE YOU PUBLISHED IN?

13 A IN FORENSIC PSYCHOLOGY, SPECIFICALLY VIOLENCE RISK
14 ASSESSMENT.

15 Q ABOUT HOW MANY OF YOUR PIECES HAVE BEEN PUBLISHED?

16 A TWENTY-FIVE TO THIRTY.

17 Q HAVE THESE BEEN IN WHAT ARE PEER REVIEW JOURNALS?

18 A YES.

19 Q COULD YOU TELL US, PLEASE, WHAT PEER A REVIEW JOURNAL
20 IS.

21 A A PEER REVIEW JOURNAL INVOLVES SENDING AN ARTICLE TO
22 AN EDITOR WHO DISTRIBUTES IT TO THREE OR FOUR ANONYMOUS
23 REVIEWERS AND THEY DETERMINE WHETHER THE PAPER IS ACCEPTED
24 OR REJECTED.

25 Q WHAT ARE THE SOME OF THESE ARTICLES ABOUT?

1 A THEY'RE ABOUT HOW TO ASSESS VIOLENCE RISK IN
2 DIFFERENT POPULATIONS, CORRECTIONAL POPULATIONS,
3 PSYCHIATRIC POPULATIONS.

4 Q IS THAT THE KIND OF WORK YOU DO AT BUTNER?

5 A YES.

6 Q COULD YOU GIVE US A LITTLE MORE DETAIL ABOUT THAT
7 WORK?

8 A SURE. I CONDUCT A -- EVERY WEEK I SEE A FEW PATIENTS
9 WHERE I DO A PSYCHOLOGICAL ASSESSMENT TO DETERMINE WHETHER
10 TO DISCHARGE PATIENTS TO THE COMMUNITY TO SEE WHETHER
11 THEY'RE GOING TO BE VIOLENT IN THE COMMUNITY.

12 Q NOW, IN THE COURSE OF YOUR CAREER SO FAR, ABOUT HOW
13 MANY INDIVIDUALS HAVE YOU CLASSIFIED FOR VIOLENCE RISK
14 ASSESSMENT?

15 A HUNDREDS.

16 MR. MACDOUGALL: YOUR HONOR. WE WOULD MOVE THAT
17 DR. ELBOGEN BE QUALIFIED AS AN EXPERT IN THE FIELD OF
18 VIOLENCE RISK ASSESSMENT.

19 THE COURT: ANY OBJECTION?

20 MR. ARIAIL: I'M SORRY, IN THE FIELD OF WHAT?

21 MR. MACDOUGALL: VIOLENCE RISK ASSESSMENT.

22 THE COURT: DO YOU WANT TO ASK HIM ANY QUESTIONS
23 ABOUT HIS QUALIFICATIONS?

24 MR. ARIAIL: NOT AT THIS TIME. THANK YOU.

25 THE COURT: DO YOU OPPOSE HIM BEING RECOGNIZED AS AN

1 EXPERT IN VIOLENT RISK ASSESSMENT?

2 MR. ARIAIL: NO.

3 THE COURT: ALL RIGHT. THE COURT SO FINDS.

4 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

5 Q DR. ELBOGEN, CAN YOU TELL US HOW YOU BECAME INVOLVED
6 IN THIS CASE.

7 A THE ATTORNEY FOR THE DEFENDANT CONTACTED ME, YOU.

8 Q AND YOU'RE BEING PAID FOR YOUR WORK?

9 A YES.

10 Q HOW MUCH ARE YOU BEING PAID?

11 A A HUNDRED DOLLARS AN HOUR.

12 Q AND YOU UNDERSTAND THE COURT MUST APPROVE ANY
13 COMPENSATION YOU RECEIVE?

14 A YES.

15 Q NOW, DR. ELBOGEN, HAVE YOU PREPARED A SUMMARY OF THE
16 TESTIMONY THAT YOU'RE GOING TO PROVIDE TODAY.

17 A YES.

18 Q AND DO YOU BELIEVE THAT SUMMARY WILL BE HELPFUL TO
19 THE JURY IN UNDERSTANDING WHAT WE'RE GOING TO TALK ABOUT
20 FOR THE NEXT FEW MINUTES.

21 A YES.

22 Q MAY I APPROACH, YOUR HONOR? I'M GOING TO HAND YOU A
23 DOCUMENT MARKED DEFENDANT'S EXHIBIT -- I'LL ASK THE COURT
24 REPORTER TO NUMBER IT IN A MOMENT. IS THAT THE SUMMARY
25 YOU PREPARED?

1 A YES.

2 MR. MACDOUGALL: I'D ASK THAT THAT BE MARKED AS THE
3 NEXT EXHIBIT NUMBER FOR IDENTIFICATION, PLEASE.

4 (DEFENDANT'S EXHIBIT NUMBER 31 IS MARKED FOR
5 IDENTIFICATION.)

6 Q DOCTOR COULD WE START OFF BY HAVING YOU TELL US WHAT
7 VIOLENCE RISK ASSESSMENT IT IS?

8 A VIOLENCE RISK ASSESSMENT INVOLVES LOOKING AT CERTAIN
9 CHARACTERISTICS OF A PERSON AND THEIR ENVIRONMENT THAT ARE
10 STATISTICALLY RELATED TO THE CHANCES THEY'RE GOING TO BE
11 VIOLENT AGAIN IN THE FUTURE IN A CERTAIN CONTEXT.

12 Q HOW HAS VIOLENCE RISK ASSESSMENT DEVELOPED OVER THE
13 LAST 20 YEARS?

14 A IT USED TO BE DONE BY JUST A CLINICIAN INTERVIEWING A
15 PATIENT OR A DEFENDANT. BUT IN THE LAST 20 YEARS, THERE'S
16 BEEN HUNDREDS OF STUDIES THAT HAVE LOOKED AT A NUMBER OF
17 DIFFERENT, WHAT THEY CALL FACTORS THAT ARE STATISTICALLY
18 RELATED TO VIOLENCE. SO, FOR INSTANCE, A MENTAL ILLNESS,
19 MY COLLEAGUES AT DUKE AND I HAVE SHOWN THAT MENTAL ILLNESS
20 RELATES TO FUTURE VIOLENCE RISK. AND A NUMBER OTHER
21 FACTORS HAVE BEEN IDENTIFIED AS BEING STATISTICALLY
22 RELATED TO VIOLENCE.

23 Q COULD YOU TELL US HOW WELL VIOLENCE RISK ASSESSMENT
24 AS A SCIENCE IS ACCEPTED NOW AMONG PSYCHOLOGISTS,
25 CRIMINOLOGISTS, PSYCHIATRISTS?

1 A GENERALLY ACCEPTED IN THE FIELD NOW TO LOOK AT THOSE
2 SCIENTIFIC FACTORS THAT ARE RELATED TO VIOLENCE.

3 Q DOCTOR, I'M GOING TO ASK YOU TO HAVE A LOOK AT THE
4 FIRST SLIDE I'M PUTTING UP. I THINK WE'VE GOT IT ON.
5 IT'S CAPTIONED RISK ASSESSMENT AT CAPITAL SENTENCING. AND
6 MY QUESTION FOR YOU IS, HOW DOES AN INDIVIDUAL'S -- WHAT'S
7 THE PROCESS OF VIOLENCE RISK ASSESSMENT?

8 A THE FIRST THING YOU DO IS YOU LOOK AT THE RATES OF
9 HOW OFTEN A CERTAIN VIOLENT BEHAVIOR OCCURS. AND THEN, SO
10 YOU'RE LOOKING AT THE DATA, WHAT THE NUMBERS SHOW. AND
11 THEN YOU LOOK AT THE INDIVIDUAL AND YOU ADJUST, YOU CHANGE
12 THAT RISK, BASED ON FACTORS THAT FACTORS THAT INCREASE OR
13 REDUCE OR LOWER VIOLENCE RISK.

14 Q DO I UNDERSTAND CORRECTLY THAT THIS SUMMARY HAS TO DO
15 WITH CAPITAL SENTENCING IN PARTICULAR?

16 A YES.

17 Q NOW, MY NEXT QUESTION, DOCTOR, IS HOW DOES PAST
18 CONDUCT, HOW DOES AN INDIVIDUAL'S PAST BEHAVIOR AFFECT
19 YOUR PROCESS OF VIOLENCE RISK ASSESSMENT?

20 A THE FIRST THING TO REALIZE IS THAT SCHOLARLY WORK AND
21 ACTUALLY THE DEPARTMENT OF JUSTICE HAVE SHOWN THAT THE
22 SERIOUSNESS OF AN OFFENSE DOES NOT -- IS NOT PREDICTIVE OF
23 WHETHER OR NOT SOMEONE IS GOING TO ENGAGE IN VIOLENCE IN
24 THE PRISON. SO, IF SOMEONE ENTERS JAIL FOR A DRUG CRIME
25 OR ROBBERY OR MURDER, IT DOESN'T MATTER WHAT THE OFFENSE

1 IS. THAT DOESN'T PREDICT WHETHER OR NOT THEY'RE GOING TO
2 BE VIOLENT IN THE PRISON SETTING.

3 IN PART THAT'S BECAUSE, IN LARGE PART BECAUSE YOU'RE
4 TALKING ABOUT A DIFFERENT CONTEXT FOR THE VIOLENCE. ONE
5 IS IN THE COMMUNITY AND OTHER IS IN PRISON. IN THE
6 COMMUNITY YOU HAVE ACCESS TO DRUGS TO WEAPONS AND YOU JUST
7 DON'T HAVE THAT IN A PRISON SETTING. IT'S LIKE APPLES AND
8 ORANGES. YOU REALLY CAN'T COMPARE. AND INSTEAD, WHAT'S
9 MOST IMPORTANT IS TO LOOK AT AN INDIVIDUAL'S CONDUCT IN
10 THE PRISON SETTING.

11 SO, WERE THEY SERIOUSLY VIOLENT IN A PRISON SETTING?
12 AND THAT'S WHAT -- THAT'S MOST PREDICTIVE OF FUTURE PRISON
13 VIOLENCE.

14 Q DOCTOR, TELL ME WHAT YOU MEAN BY RISK FACTORS WHEN
15 YOU'RE ASSESSING SOMEONE FOR THE RISK OF FUTURE VIOLENCE.

16 A THE RESEARCH HAS IDENTIFIED SIX VARIABLES, FACTORS
17 THEY'RE CALLED, THAT ARE SHOWN TO INCREASE SERIOUS PRISON
18 VIOLENCE. AND THOSE ARE ROBBERY AND BURGLARY DURING THE
19 TIME OF THE OFFENSE, IF THERE WERE MULTIPLE VICTIMS AT THE
20 TIME OF THE OFFENSE, AN ATTEMPTED MURDER OR ASSAULT AT THE
21 TIME OF ON SOMEONE ELSE; IF SOMEONE HAS HAD GANG
22 MEMBERSHIP AT ALL DURING ANY INSTITUTIONAL STAY; IF THEY
23 HAD A PRIOR PRISON TERM AND IF THEY WERE YOUNGER AGE, IF
24 THEY WERE BELOW THE AGE OF 21 AT THE TIME OF THE OFFENSE.

25 Q THERE ARE FACTORS THAT INCREASE RISK, THERE ARE ALSO

1 FACTORS THAT LOWER RISK, IS THAT RIGHT?

2 A YES.

3 Q AND WHAT ARE SOME OF THE RISK FACTORS THAT LOWER
4 RISK?

5 A PROBABLY ONE OF THE MOST IMPORTANT FACTORS TO LOOK AT
6 IS WHETHER OR NOT SOMEONE, IF THEY HAVE MENTAL ILLNESS, IF
7 IT'S BEING TREATED. SO, THERE HAVE BEEN A NUMBER OF
8 STUDIES THAT SHOW THAT PEOPLE WHO ARE TAKING MEDICATION,
9 ARE GETTING MENTAL HEALTH TREATMENT, ARE SIGNIFICANTLY
10 REDUCED RISK OF VIOLENT BEHAVIOR. CLOSE MONITORING OF
11 THOSE PSYCHIATRIC SYMPTOMS IN A SETTING, SUCH AS PRISON,
12 WOULD ALSO LOWER RISK; AND, ALSO, AS AN INMATE GROWS
13 OLDER, THERE IS A DRAMATIC REDUCTION IN VIOLENCE RISK.

14 Q TELL ME A LITTLE BIT ABOUT HOW AGING IN YOUR
15 EXPERIENCE, AMONG PEOPLE WHO DO VIOLENT RISK ASSESSMENT,
16 HOW THE AGING OF THE INMATE AFFECTS HIS RISK OF VIOLENCE.

17 A GENERALLY AFTER THE AGE OF 25 OR 26 THERE'S A
18 DRAMATIC REDUCTION IN THEIR, I'M TALKING ABOUT SERIOUS
19 VIOLENCE RISK, THERE'S A DRAMATIC REDUCTION IN SERIOUS
20 VIOLENCE RISK.

21 Q TALKING ABOUT, NOT TALKING ABOUT SOMEONE SHOVING AN
22 INMATE IN THE LINE TO USE THE LATRINE?

23 A NO, TALKING ABOUT A WEAPON AGAINST ANOTHER INMATE OR
24 GUARD.

25 Q ARE YOU FAMILIAR WITH THE DEFENDANT IN THIS CASE

1 CHRIS WILLIAMS?

2 A YES.

3 Q HAVE YOU EXAMINED CHRIS WILLIAMS?

4 A YES.

5 Q ABOUT HOW MUCH TIME DID YOU SPEND WITH HIM?

6 A TWO HOURS.

7 Q AND WHAT ELSE HAVE YOU EXAMINED OR REVIEWED IN THE
8 COURSE OF PREPARING TO TESTIFY TODAY?

9 A I'VE REVIEWED HIS SCHOOL RECORDS, I'VE REVIEWED THE
10 DETENTION CENTER RECORDS FOR THE 18 MONTHS THAT HE WAS
11 THERE. I REVIEWED DR. CRAWFORD'S INTERVIEW. I LOOKED AT
12 THE EMERGENCY ROOM RECORDS AND I LOOKED ALSO AT HIS, THE
13 DIARY.

14 Q WHEN YOU SAY YOU REVIEWED THE DIARY, COULD YOU BE A
15 LITTLE MORE SPECIFIC?

16 A THE DIARY THAT CHRIS KEPT.

17 Q AND YOU SAY YOU EXAMINED HIM; IS THAT RIGHT?

18 A YES.

19 Q WHERE WERE YOU WHEN YOU EXAMINED HIM?

20 A I WAS IN THIS BUILDING I BELIEVE.

21 Q YOU WERE AT THE LAW ENFORCEMENT CENTER HERE IN
22 GREENVILLE?

23 A YES.

24 Q NOW, RECOGNIZING THAT CHRIS WILLIAMS IS NOW A
25 CONVICTED CAPITAL OFFENDER AND THAT HE WILL CERTAINLY

1 SPEND THE REST OF HIS LIFE IN PRISON. HAVE YOU FORMED AN
2 OPINION REGARDING THE RISK THAT CHRIS WILL KILL A
3 CORRECTIONAL OFFER WHILE IN PRISON?

4 A YES.

5 Q WHAT IS THAT OPINION?

6 A EXTREMELY LOW RISK.

7 Q AND WOULD YOU PLEASE EXPLAIN WHY?

8 A WELL, THERE'S ANOTHER SLIDE THAT WILL HELP EXPLAIN
9 IT.

10 Q THANK YOU FOR REMINDING ME. AND THERE IT IS.

11 A SO, LIKE I SAID BEFORE, THE PROCESS OF ASSESSING
12 PRISON VIOLATION RISK IS THE FIRST GROUND YOUR ASSESSMENT
13 IN WHAT ARE THE RATES. AND THE RATES OF -- ARE VERY LOW
14 IN STATE CORRECTIONAL FACILITIES THAT AN INMATE WILL KILL
15 A STAFF MEMBER. AND SO, WHAT YOU DO FROM THERE, YOU LOOK
16 AT THOSE BASE RATES. THEY'RE CALLED BASE RATES, JUST A
17 FANCY TERM FOR HOW OFTEN IT HAPPENS; AND YOU ADJUST IT
18 BASED ON THE RISK FACTORS AND WHETHER THOSE RISK FACTORS
19 INCREASE OR LOWER THE RISK. AND IF YOU LOOK AT THOSE SIX
20 RISK FACTORS, CHRIS ONLY HAS ONE OF THOSE SIX, WHICH IS
21 THAT HE WAS A YOUNG AGE AT THE TIME OF THE OFFENSE.

22 BUT THERE ARE A NUMBER OF FACTORS THAT ARE LOWERING
23 THE RISK, INCLUDING THE FACT THAT IN THE 18 MONTHS THAT HE
24 WAS IN THE DETENTION CENTER, THERE WERE NO INSTANCES, HE
25 HAD NO INSTANCES OF ENGAGING IN WHAT I CALLED SERIOUS

1 VIOLENCE A FEW MINUTES AGO. SO, PAST PATTERN OF CONDUCT
2 DOES NOT SEEM TO PREDICT PRISON VIOLENCE.

3 AND ALSO IN A PRISON SETTING, HE'D BE GETTING
4 TREATMENT FOR HIS MENTAL ILLNESS AND THERE WOULD BE CLOSE
5 MONITORING OF ANY PSYCHIATRIC SYMPTOMS. AND HE'D BE
6 GETTING, AS HE GROWS OLDER, VIOLENCE WOULD BE REDUCED.
7 SO, I THINK IF YOU ADJUSTED ACCORDING TO WHAT INCREASES OR
8 LOWERS THE RISK, IT WOULD BE EVEN, YOU KNOW, LOWER. IT'S
9 A REALLY EXTREMELY LOW CHANCE THAT HE WOULD KILL A GUARD.

10 Q ALL RIGHT. DOCTOR, TELL US, WHAT IS YOUR SOURCE FOR
11 THE STATISTICS YOU HAVE UP ON THE SCREEN NOW?

12 A A NUMBER OF SCHOLARLY WORKS AND THE BUREAU OF PRISON
13 STATISTICS.

14 Q FEDERAL BUREAU OF PRISON STATISTICS?

15 A FEDERAL BUREAU OF PRISON STATISTICS.

16 Q A FEW MINUTES AGO I ASKED ABOUT YOUR OPINION ABOUT
17 CHRIS COMMITTING A SERIOUS ACT OF VIOLENCE TOWARD A GUARD.
18 I'D LIKE TO ASK YOU THE SAME QUESTION WITH REGARD TO
19 ANOTHER INMATE. HAVE YOU FORMED AN OPINION AS TO WHETHER
20 OR NOT CHRIS WILLIAMS IS LIKELY TO COMMIT A SERIOUS CRIME
21 AGAINST ANOTHER INMATE?

22 A YES.

23 Q WHAT IS THAT OPINION?

24 A EXTREMELY LOW.

25 Q CAN YOU ELABORATE?

1 A FOR SIMILAR REASONING. YOU TAKE THE BASE RATE, YOU
2 CAN SEE UP ON THE SCREEN, WHICH IS ALREADY VERY LOW, AND
3 YOU ADJUST IT ACCORDING TO THE ONE RISK FACTOR, WHICH IS
4 HIS AGE AT THE TIME OF THE OFFENSE. BUT THEN YOU LOWER IT
5 BASED ON THE FACT HE'S NOT GOING TO BE UNTREATED; HE'S
6 GOING TO GET TREATMENT AND HE HAS, YOU KNOW, A HISTORY OF
7 NOT ENGAGING IN SERIOUS VIOLENCE IN THAT CONTEXT, IN
8 INSTITUTION CONTEXT. SO, THE CHANCES OF IT HAPPENING ARE
9 EXTREMELY LOW.

10 Q DR. ELBOGEN, YOU'RE A TRAINED CLINICAL PSYCHOLOGIST;
11 IS THAT RIGHT?

12 A YES.

13 Q YOU'VE BEEN EVALUATING INDIVIDUALS FOR THE RISK OF
14 VIOLENCE ALL YOUR CAREER?

15 A YES.

16 Q LET ME ASK YOU THE FOLLOWING QUESTION. AND YOU KNOW
17 A LOT ABOUT CHRIS WILLIAMS, HAVING DONE THE WORK WITH --
18 YOU KNOW A LOT ABOUT HIS BACKGROUND?

19 A YES.

20 Q IF CHRIS WILLIAMS HAD PRESENTED HIMSELF TO YOU THE
21 DAY BEFORE THIS TERRIBLE MURDER AND YOU KNEW ABOUT HIM
22 WHAT WE KNOW NOW, SAW THE JOURNAL, READ IT, KNEW ABOUT THE
23 SUICIDE ATTEMPT, INTERVIEWED HIM, AND FOUND OUT WHAT HE --
24 YOU FOUND OUT AND KNEW HE HAD A SHOTGUN IN HIS CLOSET,
25 WHAT IF ANYTHING WOULD YOU HAVE DONE?

1 A WOULD HAVE HAD HIM COMMITTED INSTANTLY.

2 Q WHAT DOES IT MEAN TO HAVE HIM COMMITTED?

3 A HAVE HIM ADMITTED TO A FACILITY.

4 Q COULD YOU LEAVE AT ANY TIME YOU WANT TO?

5 A NO, IT'S A LOCKED FACILITY.

6 Q WHY IS THAT?

7 A DEFINITELY A DANGER TO HIMSELF, A SUICIDE ATTEMPT.

8 AND IF YOU KNEW ABOUT THIS JOURNAL, YOU WOULD KNOW THAT HE
9 WAS HAVING VIOLENT FANTASIES, SO HE WOULD BE A DANGER TO
10 OTHERS. AND IF YOU SCRATCHED THE SURFACE AND STARTED
11 ASSESSING HIS MENTAL STATUS, PSYCHIATRIC SYMPTOMS, ALL
12 THOSE ARE THE INGREDIENTS FOR CIVIL COMMITMENT.

13 MR. MACDOUGALL: YOUR HONOR, I MAY HAVE NEGLECTED TO
14 FORMALLY ASK THAT DEFENDANT'S EXHIBIT 31 BE MOVED INTO
15 EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. ARIAIL: NO.

18 THE COURT: ALL RIGHT. DEFENDANT'S EXHIBIT NUMBER 31
19 ADMITTED WITHOUT OBJECTION.

20 (DEFENDANT'S EXHIBIT NUMBER 31 IS RECEIVED INTO
21 EVIDENCE.)

22 MR. MACDOUGALL: THANK YOU, YOUR HONOR, NO FURTHER
23 QUESTIONS.

24 DR. ELBOGEN, ANSWER ANY QUESTIONS THE SOLICITOR HAS.

25 THE WITNESS: YES.

CROSS EXAMINATION

BY MR. ARIAIL:

Q IT'S ELBOGEN, IS THAT CORRECT?

A THAT'S CORRECT.

Q I DON'T WANT TO MISPRONOUNCE IT. DOCTOR, I DON'T BELIEVE WE'VE MET, BUT JUST A COUPLE OF QUESTIONS. AS I UNDERSTAND WHAT YOU'RE TESTIFYING TO IS BASED ON AN ASSUMPTION THAT THE JURY IN THIS CASE WERE TO GIVE THE DEFENDANT A LIFE SENTENCE AND HE WOULD GO TO PRISON?

A THAT'S CORRECT.

Q HOW HE WOULD ACT WITHIN THAT PRISON ENVIRONMENT IN THE FUTURE? AND THAT'S BASED UPON YOUR ANALYSIS OF STATISTICS THAT HAVE COME OUT OF VARIOUS REPORTS FROM VARIOUS DEPARTMENTS OF CORRECTIONS?

A IN PART, YES.

Q AND MATERIALS AND READINGS AND THOSE SORTS OF THINGS. HAVE YOU EVER ACTUALLY VISITED ANY OF THE FACILITIES IN THE STATE OF SOUTH CAROLINA, ANY OF THE DEPARTMENT OF CORRECTIONS FACILITIES WHERE HE WOULD BE HOUSED?

A NO.

Q DO YOU KNOW ANYTHING IN REGARD TO THE INMATE-CORRECTIONAL OFFICER RATIO THAT EXISTS AT THE PRESENT TIME, AS OPPOSED TO FOUR YEARS AGO WHEN BUDGET CUTS BEGAN IN THE STATE?

A I'M UNAWARE OF THOSE STATISTICS.

1 Q ALL RIGHT. WOULD YOU AGREE WITH ME THAT THE DECREASE
2 IN THE NUMBER OF CORRECTIONAL STAFF HAS A PROPORTIONAL --
3 HAS A SIMILAR INCREASE IN THE ACTS OF VIOLENCE
4 STATISTICALLY?

5 A ACTUALLY THAT HAS NOT BEEN SHOWN.

6 Q THE LESS GUARDS, THERE'S NOT THAT MUCH MORE VIOLENCE,
7 IS THAT WHAT YOU'RE SAYING?

8 A THAT -- IT'S NOT BEEN SHOWN IN THE SCIENTIFIC
9 LITERATURE. THERE ARE OTHER FACTORS THAT ARE MORE
10 RELEVANT STATISTICALLY.

11 Q ALL RIGHT. THERE ARE LESS GUARDS, DOES THAT HAVE ANY
12 IMPACT UPON INMATE BEHAVIOR AS FAR AS YOU'RE AWARE,
13 STATISTICALLY?

14 A MY READ ON THE LITERATURE, AND I ALSO KNOW ABOUT
15 LITERATURE IN TERMS OF PATIENT-TO-STAFF RATIO AND
16 PSYCHIATRIC FACILITIES, FORENSIC FACILITIES, AND
17 CORRECTIONAL FACILITIES, IS THAT THAT DOESN'T HAVE AS
18 GREAT AN IMPACT AS THE SIX FACTORS THAT I LISTED.

19 Q I'M NOT SAYING IT HAS MORE IMPACT, I'M JUST SAYING IT
20 DOES HAVE EXACT?

21 A NO, NOT BECAUSE -- IT JUST DOESN'T COME OUT IN THE
22 FINAL EQUATIONS, IT FALLS OUT IN THE WASH.

23 Q LET ME TRY IT THIS WAY. WE HAVE CORRECTIONAL GUARDS
24 FOR A REASON, CORRECT?

25 A YEAH, YES.

1 Q THEY ARE TO GUARD THE INMATES?

2 A THE FEWER GUARDS, OBVIOUSLY, IF WE DIDN'T NEED ANY
3 GUARDS, WE WOULDN'T HAVE THEM; BUT WE NEED GUARDS.

4 Q DO YOU KNOW WHERE THE LINE STOPS THAT THE LOWER
5 NUMBER OF GUARDS BECOMES A PROBLEM?

6 A I DON'T THINK ANYONE KNOWS THAT.

7 Q YOU DON'T THINK IT BECOMES A PROBLEM?

8 A NO. I DON'T THINK ANYONE KNOWS THE ANSWER TO THAT.

9 Q SO, WE DON'T REALLY KNOW WHERE THAT MAY INCREASE THE
10 LEVEL OF VIOLENCE?

11 A WHAT CAN I TELL YOU, THAT CHARACTERISTIC YOU'RE
12 TALKING ABOUT HAS NEVER BEEN SHOWN TO BE RELATED TO THE
13 VIOLENCE RISK IN A PRISON SETTING.

14 Q HAVE YOU EVER WORKED IN A PRISON?

15 A I'VE DONE EVALUATIONS IN PRISON. YES, SIR.

16 Q I UNDERSTAND. HAVE YOU EVER WORKED ON STAFF OF A
17 PRISON ANY LENGTH OF TIME?

18 A FORENSIC FACILITY.

19 Q THE MENTAL ASPECT, MENTAL HOSPITAL ASPECT?

20 A YEAH. I WORKED FOR PRISON FOR CRIMINALLY INSANE.

21 Q YOU MENTIONED SOMETHING ABOUT IN REGARDS TO WORKING
22 IN THE PRISON FACILITY OR IN RELATIONSHIP TO THAT, I
23 WANTED TO ASK YOU SOMETHING ABOUT -- YOU MENTIONED LIMITED
24 ACCESS TO WEAPONS; AND BY THAT I ASSUME YOU MEAN THERE'S
25 MORE LIMITED ACCESS THAN THERE IS IN THE PUBLIC? THEY

1 CAN'T BUY GUNS AT A LOCAL PAWN SHOP OR GUN DEALER?

2 A THERE'S LESS ACCESS.

3 Q RIGHT. BUT YOU'RE NOT SAYING THERE ARE NOT WEAPONS
4 IN PRISON?

5 A NO, CLEARLY THERE ARE.

6 Q THERE ARE A LARGE NUMBER OF EITHER HANDMADE OR
7 BROUGHT IN WEAPONS IN THE, INSIDE OF ANY DEPARTMENT OF
8 CORRECTIONS?

9 A RIGHT. CORRECT.

10 Q YOU ALSO TALKED ABOUT CLOSELY MONITORING HIS
11 PSYCHOLOGICAL, AND CLOSELY MONITORING I BELIEVE HIS
12 MEDICAL OR INTAKE OF MEDICINE. ASSUMING THOSE TWO THINGS,
13 THEN HE WOULD, STATISTICALLY YOUR OPINION IS HE WOULD
14 FUNCTION AT AN ACCEPTABLE RATE WHERE HE WOULD NOT BE A --
15 BE EXTREMELY LOW RISK TO VIOLENCE TO OTHERS?

16 A I WOULD SAY THAT HE'S ALREADY AT A LOW RATE AND THAT
17 WOULD LOWER IT EVEN FURTHER.

18 Q AND IF HE DIDN'T TAKE HIS MEDICATION OR HE WASN'T
19 CLOSELY MONITORED, THEN THAT WOULD INCREASE THE
20 PROBABILITY OF HIS VIOLENCE?

21 A TO SOME EXTENT.

22 Q ALL RIGHT. BUT IT WOULD BE THE STATE'S
23 RESPONSIBILITY SOMEHOW, THROUGH PSYCHIATRISTS OR MEDICAL
24 PERSONAL OR NURSES OR SOMETHING TO TAKE CARE OF HIM, TO
25 MAKE SURE HE TOOK HIS MEDICINE AND TO MONITOR HIS

1 BEHAVIOR?

2 A I THINK TO SOME EXTENT HE MAY TAKE IT HIMSELF.

3 Q RIGHT. BUT THEY WOULD HAVE TO MONITOR HIM TO MAKE
4 SURE HE DID IT?

5 A THEY MAY HAVE TO, THEY MAY NOT HAVE TO. HE MAY TAKE
6 IT VOLUNTARILY.

7 Q ALL RIGHT. WHAT WERE YOU TALKING ABOUT, CLOSELY
8 MONITORING?

9 A THEY WOULD BE MONITORING HIS SYMPTOMS SO IF THEY
10 BEGAN TO SEE HE WAS WITHDRAWING, WITHDRAWN, OR DEPRESSED
11 SUCH AS HAPPENED BEFORE.

12 Q I'LL GO BACK. I MISSTATED, THEN, NOT NECESSARILY
13 CLOSELY MONITORING HIS MEDICINE INTAKE, BUT MONITOR
14 BEHAVIOR ON A REGULAR BASIS, KEEP UP WITH HOW HIS BEHAVIOR
15 WAS, HOW HE WAS FEELING, DO REGULAR ASSESSMENTS THAT SORT
16 OF THING?

17 A THE EXTENT THAT THAT IS DONE, THE MORE THAT'S DONE,
18 THE LOWER THE RISK.

19 Q BUT YOU'RE NOT TELLING US HE'S NOT A RISK FOR
20 VIOLENCE?

21 A I'M SAY SAYING HE'S EXTREMELY LOW RISK FOR SERIOUS
22 VIOLENCE.

23 Q YOU'RE NOT SAYING NO RISK?

24 A I DON'T HAVE A CRYSTAL BALL, THAT WOULD BE SCIENCE
25 FICTION.

1 Q THANK YOU.

2 THE COURT: ANY REDIRECT?

3 MR. MACDOUGALL: JUST A COUPLE OF QUESTIONS.

4 REDIRECT EXAMINATION

5 BY MR. MACDOUGALL:

6 Q DR. ELBOGEN, THE SOLICITOR, ASKED YOU ABOUT MEANS
7 THAT ARE USED IN PRISONS AND THAT MIGHT BE USED WITH AN
8 INMATE THAT HAS MENTAL ILLNESS TO CONTROL. YOU BEEN IN --
9 I THINK YOU TESTIFIED YOU BEEN IN MANY INSTITUTIONS THAT
10 ARE CORRECTIONAL FACILITIES OR PSYCHIATRIC LOCK-DOWN
11 FACILITIES, IS THAT RIGHT?

12 A YES.

13 Q ARE YOU FAMILIAR WITH THE TERM LOCK DOWN?

14 A YES.

15 Q WHAT IS LOCK DOWN?

16 A LOCK DOWN MEANING WHEN SOMEONE IS CONFINED.

17 Q YEAH. WHAT IS THAT ALL ABOUT?

18 A THEY WOULD BE OBSERVED CONSTANTLY AND THEY WOULDN'T
19 BE ABLE TO DO ANYTHING WITHOUT, YOU KNOW, HAVING SOME
20 STAFF OBSERVE THEM.

21 Q AND WHEN YOU HAVE AN INMATE THAT IS NOT TAKING
22 MEDICINE OR IS NOT BEING PROPERLY MONITORED AS A RISK,
23 WHAT METHOD IS USED TO CONTROL THEM?

24 A I MEAN, IT DEPENDS ON THE SITUATION. THEY CAN USE
25 LOCK DOWN, THEY COULD YOU KNOW, IF SOMEONE'S BECOMING

1 DANGEROUS, THEY COULD FORCE MEDICATIONS. THERE'S A LOT OF
2 DIFFERENT METHODS.

3 Q SO, THEY'VE GOT ALL KINDS OF WAYS OF CONTROLLING
4 PEOPLE?

5 A YEAH.

6 Q THANK YOU. YOUR HONOR, NO FURTHER QUESTIONS.
7 THE COURT: ANY RECROSS?

8 **RECROSS EXAMINATION**

9 BY MR. ARIAIL:

10 Q JUST ON THE QUESTION, I REALIZE THEY HAVE ALL KINDS
11 OF WAYS TO DO THAT, BUT ALSO HAVE LIMITED FACILITIES AND
12 LIMITED SERVICES TO DO THAT? THEY CAN'T LOCK DOWN EVERY
13 PRISON IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS?

14 A THAT'S CORRECT.

15 Q OKAY. THANK YOU.

16 THE COURT: YOU MAY STEP DOWN. THANK YOU VERY MUCH.

17 (WITNESS STEPS DOWN FROM THE STAND.)

18 JAMES AIKEN, BEING

19 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 **DIRECT EXAMINATION**

21 BY MR. MAULDIN:

22 THE CLERK: STATE YOUR NAME FOR THE RECORD.

23 THE WITNESS: JAMES AIKEN, A-I-K-E-N.

24 THE CLERK: THANK YOU, BE SEATED.

25 Q PLEASE INTRODUCE YOURSELF TO THE JURY, PLEASE.

1 A MY NAME IS JAMES EVAN AIKEN, A-I-K-E-N.

2 Q MR. AIKEN, CAN YOU GIVE THE JURY A SUMMARY OF YOUR
3 EDUCATION, PLEASE?

4 A I HAVE AN UNDERGRADUATE DEGREE FROM BENEDICT COLLEGE,
5 COLUMBIA, SOUTH CAROLINA, AND MASTER'S DEGREE IN CRIMINAL
6 JUSTICE FROM THE UNIVERSITY OF SOUTH CAROLINA, COLUMBIA.

7 Q AND I WANTED -- I WANT YOU TO DESCRIBE TO THE JURY
8 YOUR EMPLOYMENT HISTORY AND THE BASIC POINT WITH REGARD TO
9 THE DUTIES IN EACH OF YOUR POSITIONS THAT YOU'VE GONE
10 THROUGH. WELL, LET'S PUT -- HAVE YOU WORKED FOR THE
11 DEPARTMENT OF CORRECTIONS FOR SOUTH CAROLINA IN YOUR
12 PREVIOUS EMPLOYMENT?

13 A YES.

14 Q WOULD YOU DESCRIBE TO THE JURY A SUMMARY OF THAT
15 ACTIVITY?

16 A YES, I STARTED WORKING IN CORRECTIONS WITH THE SOUTH
17 CAROLINA DEPARTMENT OF CORRECTIONS IN 1971. THAT'S 32, 33
18 YEARS AGO. I STARTED OFF IN THE CAPACITY AS A SUBSTANCE
19 ABUSE COUNSELOR, SOCIAL WORKER, AT THE MANNING
20 CORRECTIONAL INSTITUTION. THAT IS A FACILITY THAT HOUSED
21 YOUTHFUL OFFENDERS; NOT JUVENILES, YOUTHFUL OFFENDERS, AGE
22 BASICALLY 17 TO 25, EVEN THOUGH WE HAD POPULATION OLDER
23 THAN THAT.

24 THIS FACILITY WAS MAXIMUM SECURITY ON THE OUTSIDE;
25 THAT IS, FENCES, GUN TOWERS, ATTACK DOGS, WEAPONS,

1 HANDCUFFS, THOSE TYPE OF THINGS THAT COULD RESTRAIN A
2 POPULATION BECAUSE THIS INMATE POPULATION WAS A DANGER TO
3 THE GENERAL COMMUNITY IF THEY WERE OUTSIDE OF THE FENCE,
4 SO TO SPEAK, OR NOT UNDER THE GUN.

5 FROM THERE I WAS PROMOTED TO ADMINISTRATIVE ASSISTANT
6 TO THE WARDEN AT THAT SAME FACILITY. AND THAT WAS A
7 NUMBER OF YEARS AGO. AND WHAT THE ADMINISTRATIVE
8 ASSISTANT GOT TO DO IS WHAT EVERYBODY ELSE DIDN'T WANT TO
9 DO. SO, I MANNED GUN TOWERS, BROKE UP FIGHTS, LOOKED FOR
10 CONTRABAND, ESCAPER APPREHENSION, ESCAPE PREVENTION,
11 CRIMINAL INVESTIGATIONS, LOOKING FOR THAT DISRUPTIVE
12 VIOLENT INMATE WITHIN THE FACILITY TO TRY TO CONTROL
13 BEHAVIOR AND MANAGE ELICIT ACTIVITIES THAT GO ON IN THE
14 FACILITY.

15 FROM THERE I WAS PROMOTED TO DEPUTY WARDEN OF THAT
16 SAME FACILITY. I WAS SECOND IN COMMAND OVER THAT SAME
17 FACILITY OVER ALL CORRECTIONAL STAFF AS WELL AS CIVILIAN
18 STAFF WERE INVOLVED IN CRIMINAL INVESTIGATIONS
19 ADMINISTRATIVE INQUIRES, CONTRABAND CONTROL, GANG
20 MANAGEMENT, RIOTING CONTROL-MANAGEMENT, AS WELL AS TO
21 ENSURE THAT THAT FACILITY WAS OPERATED IN ACCORDANCE TO
22 POLICY AND THE DICTATES OF LAW IN THE PROTECTION OF THE
23 PUBLIC AS WELL AS THOSE PEOPLE THAT WORK THERE AND LIVE
24 THERE.

25 FROM THERE I BECAME DEPUTY WARDEN. I WAS PROMOTED TO

1 DEPUTY WARDEN OF THE CENTRAL CORRECTIONAL INSTITUTION,
2 BETTER KNOWN AS CCI. IT WAS THE STATE PENITENTIARY. AND
3 A DEPUTY WARDEN OF THAT FACILITY AT THAT PARTICULAR TIME
4 WAS THE SAME AS A WARDEN IN A SMALLER FACILITY BECAUSE CCI
5 MANAGED 1800 OF THE MOST DANGEROUS PREDATOR DISRUPTIVE,
6 VIOLENT PEOPLE IN THE WHOLE CRIMINAL JUSTICE SYSTEM IN
7 SOUTH CAROLINA.

8 IN FACT, WE HAD TO HOUSE INMATE POPULATION THAT HAD
9 PSYCHIATRIC DIFFICULTIES AND, THEREFORE, EVALUATION. WE
10 ALSO HAD TO HOUSE AND MANAGE INMATE POPULATION THAT WAS SO
11 DISRUPTIVE IN AN COUNTY FACILITY, THAT WHEN THE COUNTY
12 FACILITIES COULD NOT MANAGE THIS POPULATION, THEY HAD TO
13 SEND THEM TO US.

14 Q MR. AIKEN, AND YOU WERE SERVING AS THE DEPUTY WARDEN
15 OF CCI AT THAT POINT?

16 A THAT'S CORRECT.

17 Q DID YOU AT SOME POINT ACTUALLY BECOME THE WARDEN OF
18 THE CENTRAL CORRECTIONAL INSTITUTE, THE PRIMARY PRISON
19 FACILITY FOR THE STATE OF SOUTH CAROLINA? DID YOU BECOME
20 THE WARDEN?

21 A THAT IS CORRECT, SIR. I BECAME WARDEN OF THE WOMEN'S
22 PRISON. AND THEN FROM THERE I WAS PROMOTED TO THE WARDEN
23 OF CCI, WHERE I JUST GOT FINISHED EXPLAINING IT TO YOU,
24 THERE ALSO HOUSED DEATH-ROW POPULATION. AND WHILE SERVING
25 IN THAT CAPACITY OF WARDEN, I PUT TWO INMATES TO DEATH BY

1 EXECUTION PERSONALLY.

2 Q AND WHAT YEARS DID YOU SERVE AS WARDEN OF THE CCI
3 FACILITY?

4 A FROM 1982 TO 1987.

5 Q AND THEN IN 1987, WERE YOU STILL -- DID YOU REMAIN IN
6 THE SOUTH CAROLINA SYSTEM?

7 A THAT'S CORRECT, SIR.

8 Q WHERE DID YOU GO THEN?

9 A I WAS PROMOTED TO THE POSITION OF DEPUTY REGIONAL
10 ADMINISTRATOR, MANAGING 16 PRISONS WITHIN THE MIDLANDS
11 REGION OF SOUTH CAROLINA. AND THAT RANGED FROM MINIMUM
12 SECURITY PRISONS TO, OF COURSE, CCI AND THE SUPER MAXIMUM
13 FACILITIES WITH VERY DISRUPTIVE POPULATION.

14 Q AT SOME POINT, MR. AIKEN, YOU LEFT SOUTH CAROLINA
15 DEPARTMENT OF CORRECTIONS AND I BELIEVE WENT TO ANOTHER
16 STATE. JUST A MOMENT OF COMMENT ABOUT THAT, PLEASE.

17 A SURE. I WAS SELECTED TO BE COMMISSIONER OF
18 CORRECTIONS IN 1989 FOR THE STATE OF INDIANA, WHICH
19 COMPRISED OF JUVENILE CORRECTIONS, ADULT CORRECTIONS, AS
20 WELL AS PAROLE SERVICES. I WAS THE CHIEF ADMINISTRATIVE
21 OFFICER FOR THE STATE OF INDIANA FOR THE WHOLE PRISON
22 SYSTEM.

23 Q WERE YOU SUBSEQUENTLY ON A TWO-YEAR CONTRACT IN
24 ANOTHER LOCATION?

25 A THAT'S CORRECT, SIR.

1 Q WHERE WAS THAT?

2 A UNITED STATES VIRGIN ISLANDS, WHERE I MANAGED ADULT
3 CORRECTIONS, JUVENILE CORRECTIONS, AS WELL AS JAIL
4 OPERATIONS.

5 Q NOW, WOULD YOU TAKE AN ADDITIONAL MOMENT TO SHARE
6 WITH THE JURY YOUR SERVICES OR YOUR EXPERIENCE IN THE
7 FIELD OF CONSULTING WITH THE PRISONS AND IN PARTICULAR THE
8 UNITED STATES DEPARTMENT OF JUSTICE?

9 A YES. IN 1986 I STARTED PROVIDING EXPERT
10 CONSULTATIONS AND TECHNICAL ASSISTANCE TO CORRECTIONAL
11 AGENCIES THROUGHOUT THE UNITED STATES THROUGH THE UNITED
12 STATES DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF
13 CORRECTIONS, AS WELL AS THE NATIONAL ACADEMY OF
14 CORRECTIONS.

15 I TAUGHT WARDENS HOW TO BE WARDENS OF PRISONS, THAT'S
16 NEW WARDENS; UPDATING EXISTING WARDENS, TEACHING WARDENS
17 HOW TO BE WARDENS OF SUPER MAXIMUM SECURITY PRISONS; AS
18 WELL AS GANG MANAGEMENT, DEALING WITH THE VIOLENT YOUTHFUL
19 OFFENDER AND ADULT FACILITIES AS WELL AS DEALING WITH
20 PSYCHIATRICALY IMPAIRED POPULATION, AS WELL AS
21 DISRUPTIVE, VIOLENT, PREDATOR INMATE POPULATIONS.

22 CLASSIFICATION, I'VE CLASSIFIED THOUSANDS AND
23 THOUSANDS OF INMATES IN MY CAREER. AND I TAUGHT PEOPLE
24 HOW TO CLASSIFY, HOW TO SET UP SYSTEMS, AS WELL AS TO
25 EVALUATE THOSE SYSTEMS.

1 Q HAVE YOU, DURING THE COURSE OF THIS VAST EXPERIENCE,
2 HAD AN OPPORTUNITY OR AN OCCASION TO EVALUATE AND
3 SPECIFICALLY EVALUATE THE ASSESSMENT OF THE SECURITY AND
4 THE CONFINEMENT BEHAVIOR OF INMATES?

5 A YES.

6 Q AND HAVE YOU BEEN QUALIFIED IN THE COURTS OF MANY
7 STATES, INCLUDING THE STATE OF SOUTH CAROLINA, AS AN
8 EXPERT IN PRISON AND INMATE ASSESSMENT?

9 A THAT IS CORRECT, AS WELL AS UNITED STATES FEDERAL
10 DISTRICT COURTS.

11 MR. MAULDIN: YOUR HONOR, I OFFER MR. AIKEN AS AN
12 EXPERT REGARDING THE ASSESSMENT OF THE DEFENDANT AND
13 PRISON SECURITY.

14 THE COURT: SOLICITOR?

15 MR. ARIAIL: YOUR HONOR, WE HAVE NO OBJECTION BASED
16 ON HIS PRIOR QUALIFICATION IN THIS COURTROOM.

17 THE COURT: THANK YOU, SIR.

18 THE WITNESS: THANK YOU, MR. AIRIAL. THANK YOU, YOUR
19 HONOR.

20 Q MR. AIKEN, WERE YOU ASKED BY ME TO CONDUCT AN
21 ASSESSMENT OF THE PRISON ADAPTABILITY AND THE CLASSIC
22 CHARACTERIZATION REGARDING THIS PARTICULAR CASE?

23 A THAT'S CORRECT, SIR.

24 Q AND YOU ARE -- YOU UNDERSTOOD AT THE TIME THAT I
25 APPROACHED YOU, THAT ANY FEE WOULD HAVE TO BE APPROVED BY

1 THE COURT. IS THAT CORRECT?

2 A THAT'S CORRECT, SIR.

3 Q AND WHAT ACTIVITY DID YOU PERFORM IN CONDUCTING YOUR
4 EVALUATION AND ASSESSMENT IN THIS MATTER?

5 A I APPROACHED THIS AS A PRISON WARD OR PRISON
6 OFFICIAL, LOOKING AT THIS PARTICULAR INDIVIDUAL'S RECORDS;
7 THAT IS, HIS CONVICTION RECORD, HIS CONFINEMENT RECORDS,
8 AS WELL AS SOME SCHOOL RECORDS THAT WERE MADE AVAILABLE TO
9 ME, AND MADE AN EVALUATION BASED ON THAT INFORMATION.

10 Q YOU MENTIONED CONFINEMENT RECORDS. OF COURSE PRIOR
11 TO SEPTEMBER THE 3RD, WHEN HE WAS ARRESTED ON THIS CASE,
12 THERE WOULD HAVE BEEN NO CONFINEMENT RECORDS?

13 A BASICALLY.

14 Q SO, WHEN YOU'RE SAYING CONFINEMENT RECORDS, FROM
15 SEPTEMBER THE 3RD UNTIL NOW, IN THE GREENVILLE COUNTY
16 JAIL?

17 A THAT'S CORRECT, SIR.

18 Q AND WHAT WERE YOUR OBSERVATIONS FROM A REVIEW OF
19 THOSE RECORDS -- OH, AND BY THE WAY, DID YOU EVER
20 INTERVIEW CHRIS WILLIAMS?

21 A NO, SIR.

22 Q AND I WANTED YOU TO GIVE THE JURY SOME IDEA OF WHY
23 YOU WOULD NOT HAVE INTERVIEWED CHRIS WILLIAMS REGARDING
24 YOUR ASSESSMENT OF THE SOUTH CAROLINA DEPARTMENT OF
25 CORRECTION'S ABILITY TO MANAGE HIM?

1 A YES, SIR, VERY BRIEFLY. I HAVE CLASSIFIED THOUSANDS
2 AND THOUSANDS OF INMATES, AS I SHARED WITH YOU. AND I
3 HAVE FOUND, AS WELL AS OTHER PRISON OFFICIALS HAVE FOUND,
4 JUST SITTING DOWN INTERVIEWING AN INDIVIDUAL FOR THAT
5 PURPOSE IS NOT NECESSARILY BENEFICIAL. WHAT IS MOST
6 BENEFICIAL IS TO READ THE OFFICIAL RECORDS ABOUT WHAT
7 PEOPLE HAVE SAID ABOUT THIS INDIVIDUAL OVER AN EXTENDED
8 PERIOD OF TIME. AND IN THIS SITUATION WE'RE TALKING ABOUT
9 OVER A YEAR, I THINK 16, 18 MONTHS, WHERE I CAN LOOK AT
10 THE PROFESSIONALS THAT SAW HIM DAY IN AND DAY OUT AND MADE
11 AN ASSESSMENT BASED ON WHAT I'VE READ AND WHAT I DIDN'T
12 FIND IN THOSE PARTICULAR RECORDS.

13 THAT IS MORE BENEFICIAL THAN TO SIT DOWN WITH HIM 18
14 MINUTES OR AN HOUR, PER SE. BECAUSE I WANT TO SEE WHAT
15 OTHER PEOPLE SAY ABOUT HIM. AND I FOUND THAT THE
16 PROFICIENCY OF THAT IS GREATLY INCREASED WHEN YOU'RE
17 CLASSIFYING AN INMATE.

18 Q AND FROM A PRACTICAL STANDPOINT, MR. AIKEN, IF A
19 PERSON IS GOING TO GO INTO THE DEPARTMENT OF CORRECTIONS
20 IN SOUTH CAROLINA, THEY'RE NOT GOING TO BE INTERVIEWED BY
21 THE WARDEN. IS THAT RIGHT?

22 A NO. THAT'S NOT THE CASE. THEY'RE NOT GOING TO BE
23 INTERVIEWED BY THE WARDEN. THE WARDEN WANTS TO SEE WHAT
24 OTHER PEOPLE SAY ABOUT HIM.

25 Q ASK YOU JUST A COUPLE OF FOLLOW UPS REGARDING WHAT

1 YOU EVALUATED IN THIS CASE AND THEN I'M GOING TO ASK YOU
2 WHAT YOUR OPINION IS REGARDING THE SOUTH CAROLINA
3 DEPARTMENT OF CORRECTIONS CAPABILITY AND ABILITY TO SAFELY
4 AND SECURELY HOLD CHRIS WILLIAMS.

5 ONE, YOU MENTIONED INMATE CLASSIFICATIONS SEVERAL
6 TIMES, AND I JUST WANT YOU TO CLARIFY TO THE JURY WHAT THE
7 TERM INMATE CLASSIFICATION, WHAT PROCESS GOES THROUGH TO
8 DETERMINE INMATE CLASSIFICATION?

9 A VERY SIMPLY, CLASSIFICATION IS A PROCESS THAT PRISON
10 SYSTEMS USE TO PUT THE RIGHT INMATE IN THE RIGHT LEVEL OF
11 SECURITY AND THE RIGHT LEVEL OF MANAGEMENT, THE RIGHT
12 LEVEL OF CUSTODY TO ENSURE THAT THAT INMATE STAYS CONFINED
13 AND IS SAFE AND WILL NOT CAUSE AN UNUSUAL RISK OF HARM TO
14 STAFF, INMATES, OR THE COMMUNITY.

15 Q YOU MENTIONED A MOMENT AGO AS WELL, YOU USED THE TERM
16 UNDER THE GUN, ALWAYS UNDER THE GUN, I THINK YOU
17 MENTIONED. WOULD YOU GIVE THE JURY A LITTLE BIT OF A
18 CLARIFICATION OF YOUR COMMENT REGARDING THAT?

19 A BEING UNDER THE GUN MEANS THAT THE PRISON SYSTEM WAS,
20 WITH A CERTAIN TYPE OF INMATE, WILL ALWAYS BE SUBJECTED TO
21 THE USE OF NON LETHAL AS WELL AS LETHAL FORCE TO CONTROL
22 BEHAVIOR AND TO PROTECT OTHER INMATES, STAFF, AND THE
23 COMMUNITY.

24 Q MR. AIKEN, BASED UPON THE EVALUATION THAT YOU HAVE
25 CONDUCTED, THE EXAMINATION OF THE RECORDS THAT YOU HAVE

1 REFERRED TO AND THOSE FACTORS THAT YOU HAVE DISCUSSED WITH
2 THE JURY THIS MORNING, HAVE YOU FORMULATED AN EXPERT
3 OPINION CONCERNING THIS DEFENDANT'S ABILITY TO BE
4 ADEQUATELY MANAGED IN A PRISON FOR THE REMAINDER OF HIS
5 LIFE?

6 A YES, SIR, I HAVE.

7 Q AND WHAT IS YOUR OPINION REGARDING THAT?

8 A MR. WILLIAMS CAN BE SAFELY CONFINED IN A PRISON
9 SYSTEM FOR THE REMAINDER OF HIS LIFE WITHOUT CAUSING AN
10 UNDUE RISK OF HARM TO STAFF, INMATES, NOR THE COMMUNITY.

11 Q THANK YOU, MR. AIKEN. ANSWER ANY QUESTIONS THE
12 PROSECUTOR MAY HAVE.

13 THE COURT: SOLICITOR?

14 CROSS EXAMINATION

15 BY MR. ARIAIL:

16 Q MR. AIKEN, GOOD TO SEE YOU AGAIN.

17 A GOOD TO SEE YOU, SIR.

18 Q DID YOU SAY THAT THAT LAST STATEMENT, BASED ON YOUR
19 KNOWLEDGE OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
20 THAT OPINION, THAT'S PRETTY MUCH TRUE OF ANY INMATE, THE
21 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS HAS THE ABILITY
22 TO, IF NECESSARY, TO MANAGE ANY PERSON, REGARDLESS OF
23 THEIR DEGREE OF VIOLENCE?

24 A YES, SIR. THAT IS CORRECT. BUT THAT DOESN'T
25 NECESSARILY SAY THAT I WOULD SAY THAT EVERY INMATE THAT

1 I'VE EVALUATED --

2 Q I UNDERSTAND.

3 A -- WOULD FIT IN THAT CATEGORY.

4 Q I UNDERSTAND. BUT WHAT I'M GETTING AT IS THE
5 DEPARTMENT OF CORRECTIONS HAS THE ABILITY TO PUT SOMEBODY
6 ON 23 HOUR A DAY LOCKDOWN WITH AN HOUR OF SOLITARY
7 RECREATION IF THEY WANT TO?

8 A THAT'S CORRECT, SIR. THE DEPARTMENT OF CORRECTIONS
9 NOT ONLY HAS THAT FLEXIBILITY, IF WE NEED TO TIE THEM DOWN
10 IN A BED, WE'LL TIE THEM IN DOWN IN BED. IF WE HAVE TO
11 GIVE THEM ELECTRICAL SHOCKS TO CONTROL THEIR BEHAVIOR, WE
12 GIVE THEM ELECTRICAL SHOCKS. IF WE HAVE TO KILL THEM, AND
13 I'VE KILLED -- HAD INMATES KILLED IN HOSTAGE SITUATIONS
14 AND DISTURBANCES, WE'LL KILL THEM.

15 Q THANK YOU.

16 MR. MAULDIN: YOU MAY STEP DOWN. NO FURTHER
17 QUESTIONS, YOUR HONOR. MAY MR. AIKEN BE EXCUSED?

18 THE COURT: YES, SIR. YOU MAY BE EXCUSED.

19 THE WITNESS: THANK YOU VERY MUCH, SIR.

20 (WITNESS EXCUSED.)

21 THE COURT: CALL YOUR NEXT WITNESS.

22 MR. MACDOUGALL: DEFENSE CALLS DR. SEYMOUR HALLECK.

23 SEYMOUR HALLECK, M.D., BEING
24 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. MACDOUGALL:

2 THE CLERK: STATE YOUR NAME FOR THE RECORD.

3 THE WITNESS: SEYMOUR LEON HALLECK.

4 THE CLERK: THANK YOU, BE SEATED.

5 Q GOOD MORNING, DR. HALLECK, WOULD YOU TELL US WHAT YOU
6 DO FOR A LIVING?

7 A I PRACTICE FORENSIC PSYCHIATRY.

8 Q AND IN THE COURSE OF YOUR PRACTICE OF FORENSIC
9 PSYCHIATRY YOU BEEN ASSOCIATED WITH ANY INSTITUTIONS?

10 A I'VE BEEN ASSOCIATED WITH THE UNIVERSITY OF NORTH
11 CAROLINA UP UNTIL 1996. I WAS A FULL-TIME PROFESSOR AT
12 UNIVERSITY OF NORTH CAROLINA AND DID A JUST A LITTLE BIT
13 OF FORENSIC WORK. IN THE PAST NINE YEARS I'VE DONE
14 PRIMARILY FORENSIC PSYCHIATRY.

15 Q COULD YOU TELL US YOUR EDUCATIONAL BACKGROUND,
16 PLEASE?

17 A I STARTED AT THE UNIVERSITY OF CHICAGO IN 1945,
18 GRADUATED FROM THERE IN 1948 WITH A BACHELOR OF PHILOSOPHY
19 DEGREE, ENTERED MEDICAL SCHOOL. AT THE -- IN THE SECOND
20 YEAR OF MEDICAL SCHOOL I RECEIVED A BACHELOR OF SCIENCE
21 DEGREE IN ANATOMY. IN 1952 I RECEIVED MY M.D. SHALL I GO
22 ON FROM THERE?

23 Q WELL, AFTER MEDICAL SCHOOL, WHAT PROFESSIONAL
24 TRAINING DID YOU RECEIVE IN PSYCHIATRY?

25 MR. ARIAIL: WE'LL STIPULATE HE'S GOING TO QUALIFY AS

1 AN EXPERT IN FORENSIC PSYCHIATRY.

2 THE COURT: FORENSIC PSYCHIATRY? PLEASE INTRODUCE
3 THE WITNESS TO THE JURY PLEASE.

4 MR. MACDOUGALL: THANK YOU.

5 Q DR. HALLECK, YOU ARE AN EXPERT IN FORENSIC
6 PSYCHIATRY. LET ME JUST ASK YOU A COUPLE OF QUESTIONS
7 ABOUT THE KIND OF WORK YOU DO. HAVE YOU DONE ANY WORK IN
8 THE RECENT PAST FOR ANY FEDERAL AGENCIES?

9 A I'VE BEEN WORKING FOR THE FEDERAL BUREAU OF PRISONS
10 ALMOST SINCE 1953 IN VARIOUS CAPACITIES, ONE AS A PRISON
11 DOCTOR, LATER AS A MEMBER OF SOME OF THE RESEARCH CONSULS;
12 AND IN THE LAST SEVERAL YEARS THE ONLY THING I DO FOR THEM
13 IS TEACH AT ONE OF THE FEDERAL PRISONS AND I HAVE BEEN
14 INVOLVED IN MANAGING DIFFICULT CASES FOR THEM
15 PERIODICALLY.

16 Q ANY OTHER FEDERAL AGENCIES?

17 A I ALSO WORK FOR THE FBI AND HAVE WORKED FOR THEM FOR
18 ABOUT 20 YEARS.

19 Q WHAT KIND OF WORK DO YOU DO FOR THE FBI?

20 A MY WORK FOR THE FBI INVOLVES PRIMARILY SCREENING FOR
21 FITNESS FOR DUTY; AND THE TWO TYPES OF PEOPLE I SEE, ONE,
22 ARE PEOPLE WHO ARE REALLY IN TROUBLE AND HAVE DONE
23 SOMETHING WRONG AND WE HAVE TO DETERMINE IF THEY'RE FIT TO
24 CONTINUE TO WORK AS FBI AGENTS. AND THE OTHER IS LOOKING
25 AT NEW CANDIDATES TO SEE IF THEY HAVE ANY PROBLEMS.

1 Q THESE ARE FOR SPECIAL --

2 A THESE ARE FOR SPECIAL AGENTS.

3 Q YOU'RE BEING PAID IN THIS CASE?

4 A YES, I AM.

5 Q YOU UNDERSTAND THE COURT WILL HAVE TO APPROVE ANY
6 COMPENSATION?

7 A I UNDERSTAND THAT.

8 Q DOCTOR, WOULD YOU TELL US PLEASE, WHAT FORENSIC
9 PSYCHIATRY IS, HOW IT'S DEVELOPED?

10 A FORENSIC PSYCHIATRY IS THE USE OF PSYCHIATRIC
11 KNOWLEDGE AND PRINCIPLES IN HELPING THE LEGAL SYSTEM
12 RESOLVE ISSUES INVOLVING MENTAL CAPACITIES OF PEOPLE WHO
13 ARE LITIGATED. SOMETIMES WE GET INVOLVED IN OTHER THINGS
14 SUCH AS MALPRACTICE LITIGATION. BUT FOR THE MOST PART, WE
15 ARE LOOKING AT CAPACITIES BOTH IN THE CRIMINAL CONTEXT AND
16 IN THE CIVIL CONTEXT.

17 Q HOW WELL IS FORENSIC PSYCHIATRY ACCEPTED IN THE
18 GENERAL MEDICAL PROFESSION?

19 A I THINK CURRENTLY IT IS QUITE WELL ACCEPTED. IT
20 GENERALLY HOLDS HIGH ESTEEM WITH OTHER PROFESSIONALS AND
21 CURRENTLY IS A VERY POPULAR PROFESSION. THERE ARE
22 MANY MORE PEOPLE INTERESTED IN DOING THIS KIND OF WORK.

23 Q SORT OF LIKE BEING A LAWYER?

24 A PERHAPS.

25 Q ARE YOU FAMILIAR WITH THE DEFENDANT IN THIS CASE,

1 CHRISTOPHER WILLIAMS?

2 A YES, I AM.

3 Q HAVE YOU EVER TREATED CHRIS WILLIAMS?

4 A NO, I HAVE NOT.

5 Q WHEN DID YOU FIRST MEET CHRIS WILLIAMS?

6 A JANUARY 19TH OF THIS YEAR.

7 Q NOW, YOU'RE FAMILIAR WITH THE CRIME OF WHICH CHRIS
8 WILLIAMS HAS NOW BEEN CONVICTED; IS THAT RIGHT?

9 A YES, I AM.

10 Q WHAT HAVE YOU DONE TO FAMILIARIZE YOURSELF WITH CHRIS
11 WILLIAMS' BACKGROUND AND HISTORY?

12 A I INTERVIEWED HIM FOR FOUR HOURS. I ALSO REVIEWED A
13 LOT OF MATERIAL, WHICH INCLUDED SOME MITIGATION NOTES MADE
14 BY THE DEFENSE. IT INCLUDED HIS JOURNAL, IT INCLUDED THE
15 REPORTS OF OFFICER MCNAMARA AND ALSO OFFICE SILVAGGIO, IT
16 INCLUDED VERY DETAILED REPORTS FROM THE GREENVILLE POLICE
17 DEPARTMENT. IT INCLUDED SOME STATEMENT OF THE RECORDS OF
18 CHRISTOPHER. IT INCLUDED HIS RAP SHEETS. IT INCLUDED
19 STATEMENTS ABOUT HIS PREVIOUS OFFENSES WITH THE PAINT BALL
20 INCIDENT AND WITH THE FIRST ASSAULT ON MISS WILLIAMS.

21 I HAVE ALSO REVIEWED HIS RECORDS IN DETENTION, I'VE
22 REVIEWED HIS SCHOOL RECORDS, REVIEWED THE RECORDS OF HIS
23 HOSPITALIZATION FOR SUICIDE, AND I'VE REVIEWED ALL OF THE
24 WITNESS REPORTS OF THE PEOPLE WHO OBSERVED THE ATTACK ON
25 MISS WILLIAMS AND ALL OF THE POLICE REPORTS IN GENERAL ON

1 THAT EVENT.

2 Q NOW, IN THE COURSE OF YOUR PSYCHIATRIC EVALUATION,
3 WHAT HAVE YOU LEARNED ABOUT CHRIS WILLIAMS' CHILDHOOD?

4 A I LEARNED THAT HE HAD A VERY CHAOTIC CHILDHOOD AND HE
5 WAS LIVING IN AN ENVIRONMENT WHICH THERE WAS A GREAT DEAL
6 OF VIOLENCE BETWEEN HIS MOTHER AND FATHER.

7 Q HOW ABOUT HIS FAMILY HISTORY?

8 A HIS FAMILY HISTORY IS THAT THINGS GOT VERY MUCH WORSE
9 WHEN FATHER LEFT THE HOME WHEN CHRIS WAS NINE YEARS OLD.
10 IN SPITE OF THE FACT HE HAD PROBLEMS WITH HIS FATHER AND
11 THE FATHER WOULD FREQUENTLY BEAT THE MOTHER, CHRIS REALLY
12 CARED ABOUT HIS FATHER AND FELT VERY MUCH AT A LOSS WHEN
13 HIS FATHER LEFT THE HOME.

14 Q HOW MUCH RELATIONSHIPS WITH OTHER FAMILY MEMBERS
15 BEYOND THE FATHER AND MOTHER?

16 A HIS RELATIONSHIP WITH HIS MOTHER WAS AMBIVALENT. IN
17 SOME WAY HE WAS VERY CLOSE TO HER. SHE RAN HIS LIFE AND
18 HE WAS TRYING REALLY HARD TO NOT HAVE HER RUN HIS LIFE.
19 AS HE GOT OLDER, SHE DID SOME THINGS THAT WERE STRANGE.
20 SHE LET HIM SLEEP WITH HER UNTIL HE WAS 14 YEARS OLD. SHE
21 WOULD SOMETIMES IN A PLAYFUL WAY TOUCH THE GENITALS OF
22 CHRIS AS WELL AS THE SISTER. THE SISTER OBJECTED TO THAT
23 QUITE STRONGLY AND THAT EVENTUALLY STOPPED. SHE WAS VERY
24 MUCH INVOLVED IN HIS LIFE IN WHATEVER WAY POSSIBLE.

25 THERE WERE ALSO SOME THINGS THE PARENTS DID THAT

1 CHRIS DIDN'T LIKE. THEY WERE SOMETIMES INVOLVED IN
2 DISHONEST VENTURES AND WANTED HIM TO PARTICIPATE IN THAT.
3 HE ALSO FELT AT TIMES THAT HIS MOTHER WOULD SIMULATE
4 INJURIES IN ORDER TO SUE VARIOUS ESTABLISHMENTS; AND HE
5 WAS TROUBLED BY THAT AS WELL.

6 Q HOW ABOUT OTHER FAMILY MEMBERS IN THE EXTENDED
7 FAMILY? UNCLES, AUNTS, SO FORTH?

8 A HE DID HAVE TROUBLE WITH ONE UNCLE WHEN HE WAS ABOUT
9 SIX OR SEVEN YEARS OLD. THE UNCLE WOULD ASK HIM TO FONDLE
10 HE, THE UNCLE'S, GENITALS; ALSO ASKED HIM TO DO SOMETHING
11 QUITE STRANGE, IS PUT TOOTHPICKS INTO THE UNCLE'S URETHRA,
12 WHICH HE DID SEVERAL TIMES.

13 Q BEYOND THE FAMILY HISTORY, WHAT HAVE YOU LEARNED
14 ABOUT CHRIS WILLIAMS' SCHOOLING, EDUCATION?

15 A I KNOW THAT HE HAD A GREAT DEAL OF TROUBLE IN SCHOOL,
16 PARTICULARLY AT THE BEGINNING. AND HE WAS PLACED IN
17 SPECIAL CLASSES WHICH WAS DEFINED AS SOMEBODY WHO HAD
18 LEARNING DISABILITY AND WAS SERIOUSLY CONSIDERED THAT HE
19 HAD ATTENTION DEFICIT HYPERACTIVITY DISORDER, AND SOME
20 PEOPLE ACTUALLY RECOMMENDED THAT HE BE ON MEDICATION. IN
21 THIS CASE RITALIN TO CONTROL HIS ADHD. THE MOTHER DID NOT
22 WANT HIM ON THAT MEDICATION AND IT DID NOT HAPPEN.

23 LATER ON, IN 1993 SOME NEW TESTS INDICATED THAT
24 PERHAPS HE COULD FUNCTION IN A REGULAR CLASSROOM WITH
25 SPECIAL ATTENTION AND THAT WAS BEGAN. BUT CHRIS NEVER

1 REALLY DID WELL IN SCHOOL. HE WAS STILL 18 YEARS OLD WHEN
2 HE WAS IN THE NINTH GRADE AND HE DROPPED OUT OF SCHOOL.

3 Q SO THE HIGHEST EDUCATION LEVEL HE OBTAINED WAS NINTH
4 GRADE AND HE WAS 18 YEARS OLD?

5 A THAT'S CORRECT.

6 Q NOW, OBVIOUSLY, DOCTOR, YOU'RE HERE TESTIFYING
7 BECAUSE OF THE MURDER OF MANDY WILLIAMS ON SEPTEMBER 3,
8 2003. WHAT CONCLUSIONS, WHAT OBSERVATIONS HAVE YOU
9 DEVELOPED WITH REGARD TO CHRIS WILLIAMS' CONDITION DURING
10 THE MONTHS LEADING UP TO THAT CRIME?

11 A I FELT HE WAS A HIGHLY DISTURBED AND SICK YOUNG MAN
12 DURING THOSE MONTHS.

13 Q HAVE YOU DEVELOPED ANY DIAGNOSIS?

14 A YES.

15 Q WHAT IS THAT, PLEASE.

16 A HE HAD TWO DIAGNOSES. HE HAD A MAJOR DEPRESSIVE
17 EPISODE AND HE ALSO HAD AN OBSESSIVE COMPULSIVE DISORDER.

18 Q START WITH THE FIRST, WHAT IS A MAJOR DEPRESSIVE
19 EPISODE? AND IF YOU COULD, GO INTO A LITTLE BIT OF
20 DETAIL. WE ALL GET DEPRESSED, I'M TRYING TO GET BEYOND
21 THAT. WHAT IS INVOLVED IN A MAJOR DEPRESSIVE EPISODE?

22 A THIS IS NOT JUST HAVING THE BLUES OR HAVING A BAD
23 DAY. THIS IS THE MOST SERIOUS DEPRESSIVE DIAGNOSIS WE
24 HAVE IN THE MANUAL. IT REALLY MEANS YOU ARE SUFFERING.
25 IT MEANS YOU ARE PRACTICALLY DYSFUNCTIONAL. SOME PEOPLE

1 CAN FUNCTION WITH IT, BUT MOST PEOPLE DON'T. OFTEN IT
2 MEANS YOU NEED TO BE IN THE HOSPITAL. IT MEANS YOU NEED
3 TO BE ON MEDICINE. IT MEANS YOU ARE AT HIGH RISK OF
4 KILLING YOURSELF. PEOPLE DESCRIBE DEPRESSION AS SOMETHING
5 THEY WOULD FAR RATHER HAVE A BROKEN LEG OR TWO BROKEN
6 LEGS. IT IS AN INNERLY PAINFUL EXPERIENCE; NOT ONLY FELT
7 INWARDLY, BUT IT REFLECTS ITSELF IN RELATIONSHIPS WITH
8 OTHERS, WHICH DETERIORATE. AND YOU'RE INCAPABLE OF HAVING
9 HAPPY LOVING FEELINGS WITH YOUR FAMILY.

10 Q DOCTOR, BE SPECIFIC, WHAT ARE THE SYMPTOM OF A MAJOR
11 DEPRESSIVE EPISODE?

12 A THE DIAGNOSIS IN THE DIAGNOSTIC STATISTICAL MANUAL,
13 ROMAN NUMERAL IV. IT IS A SYSTEM WHERE YOU HAVE TO
14 DIAGNOSE THE PRESENCE OF FIVE OUT OF NINE SYMPTOMS. I'LL
15 LIST THE NINE SYMPTOMS, THOSE THAT CHRIS HAS. ONE SYMPTOM
16 IS YOU HAVE TO HAVE SAD FEELINGS EVERY DAY, MOST OF THE
17 DAY FOR OVER TWO WEEKS. THAT'S THE FIRST. THE SECOND
18 SYMPTOM, YOU HAVE TO BE WITHDRAWN FROM PEOPLE, NOT
19 INTERESTED IN PLEASURABLE THINGS, AND NOT ABLE TO ENJOY
20 PLEASURABLE THINGS. A SYMPTOM SOMETIMES CALLED
21 **ANTIDONIA/PHONIA.

22 THE THIRD SYMPTOM YOU HAVE TO HAVE LOSS OF APPETITE
23 AND WEIGHT LOSS OR TREMENDOUS APPETITE AND WEIGHT GAIN.
24 THAT'S NOT RELEVANT HERE, BECAUSE CHRIS HAD NEITHER.

25 A FOURTH SYMPTOM IS THAT YOU HAVE TO HAVE INSOMNIA,

1 SEVERE LOSS OF SLEEP, AND I'LL TALK ABOUT THAT LATER; BUT
2 CHRIS HAD THAT QUITE SEVERELY. OR HYPERSOMNIA, TOO MUCH
3 SLEEP, WHICH HE DID NOT HAVE.

4 ANOTHER SYMPTOM IS AGITATION OR RETARDATION, EITHER
5 YOU ARE VERY AGITATED OR YOU SIT VERY STILL AND TRY NOT TO
6 MOVE. AND CHRISTOPHER DID HAVE AGITATION. ANOTHER
7 SYMPTOM IS LOSS OF ENERGY, WHICH CHRIS DID NOT HAVE.
8 STILL ANOTHER SYMPTOM IS INABILITY TO THINK CLEARLY AND
9 INABILITY TO CONCENTRATE. AND CHRIS HAD THAT SYMPTOM IN A
10 VERY SERIOUS WAY.

11 STILL ANOTHER SYMPTOM IS FEELINGS OF GUILT, FEELINGS
12 OF WORTHLESSNESS, FEELING YOU HAVE DONE SOMETHING WRONG
13 AND IN GENERAL LOW SELF-ESTEEM. AND CHRIS HAD THAT
14 SYMPTOM. AND THE FINAL SYMPTOM IS SUICIDAL IDEATION. HE
15 HAD BEEN THINKING ABOUT SUICIDE AND THINKING ABOUT DEATH.
16 AND IN THE MORE ADVANCED STAGES, ACTUALLY PLANNING DEATH
17 AND A LARGE NUMBER OF PEOPLE WITH MAJOR DEPRESSIVE
18 EPISODES DO KILL THEMSELVES.

19 Q YOU MENTIONED A SECOND DIAGNOSIS, DOCTOR, AND I
20 BELIEVE THAT WAS AN OBSESSIVE-COMPULSIVE DISORDER. WOULD
21 YOU PLEASE TELL US WHAT THAT IS ABOUT?

22 A CHRIS HAD OBSESSIONS WITH REGARD TO MIRANDA.
23 OBSESSIONS ARE THOUGHTS, IMAGES OR IMPULSES WHICH ARE
24 UNPLEASANT, WHICH SEEM TO COME OUT OF NOWHERE, SEEM
25 UNWILLED, ARE EXPERIENCED AS INTRUSIVE AND CAN BE VERY

1 VERY TROUBLING. EVEN IF THE OBSESSIONS ARE MILD, THEY'RE
2 TROUBLING; IF THEY TEND TO BE VIOLENT, THEY ARE EVEN MORE
3 TROUBLING. THEY HAVE TO BE PRESENT FOR AT LEAST AN HOUR A
4 DAY AND THEY WERE PRESENT A LOT MORE THAN THAT WITH CHRIS.

5 Q HOW SERIOUS A CONDITION IS OBSESSIVE-COMPULSIVE
6 DISORDER?

7 A IT VARIES. MANY MANY PEOPLE CAN SURVIVE WITH THOSE
8 AND LOOK QUITE COMFORTABLE AND NOT REALLY BECOME
9 DYSFUNCTIONAL; BUT IT CAN GET MUCH WORSE. AND IN CHRIS'
10 CASE IT WAS MUCH WORSE BECAUSE THE OBSESSIONS WERE OF
11 WANTING TO HURT SOMEBODY, OBSESSIONS WERE GOING OVER HIS
12 OWN LOSSES, THE OBSESSIONS WERE OF EXTREME RESENTMENT, THE
13 OBSESSIONS WERE OF HOPELESSNESS, AND FEAR OF THE FUTURE.
14 AND HE WAS DEEPLY TROUBLED WITH HIS OBSESSIONS.

15 AND THE OTHER THING ABOUT HIS OBSESSIONS, IS SOME OF
16 THEM, AT LEAST AT THE BEGINNING WITH THE FEELING THAT HE
17 HAD THAT MIRANDA HAD AN ABORTION AND THAT SHE HAD ABORTED
18 HIS CHILD. HE WAS DEEPLY TROUBLED BY THOSE, BUT THOSE
19 SEEMED TO BE ALMOST DELUSIONAL.

20 I TRIED TO GET HIM EXPLORE THE EVIDENCE FOR THAT
21 PARTICULAR BELIEF, AND HE COULD NOT REALLY DEFINE IN A
22 VERY CLEAR WAY THAT THERE WAS ANY SUBSTANCE TO THAT
23 BELIEF. SO, THESE -- SOMETIMES OBSESSIONS ARE DELUSIONAL
24 AND THESE OBSESSIONS COULD HAVE BEEN DELUSIONAL. AND SOME
25 OBSESSIONS ARE SO BAD THAT THEY APPROACH A DELUSIONAL

1 STATUS AND WE THINK OF THE PERSON AS PSYCHOTIC.

2 AND IN MANY WAYS CHRIS' OBSESSIONS WERE SO BIZARRE,
3 SO UNFOUNDED, AND SO VIOLENT, THAT THEY APPROACHED BEING
4 PSYCHOTIC OBSESSIONS.

5 Q DOCTOR, YOU'VE DESCRIBED TWO DIAGNOSES,
6 OBSESSIVE-COMPULSIVE DISORDER, AND MAJOR DEPRESSIVE
7 EPISODES. WOULD YOU TELL US HOW THOSE TWO ASPECTS OF
8 MENTAL EPISODES COLLIDED IN 2003?

9 A THEY FED ON EACH OTHER. I THINK THE OBSESSIONAL
10 DISORDER MADE THE DEPRESSION WORSE AND THE DEPRESSION MADE
11 THE OBSESSIONAL DISORDER WORSE, AND BOTH CONTRIBUTED TO A
12 POWERFUL SENSE OF HOPELESSNESS, WHICH I THINK IN THE END
13 WAS A FACTOR IN CHRIS COMMITTING A VIOLENT ACT.

14 Q AND HOW DOES THIS ALL, TO TIE IT UP, HOW DOES THIS
15 ALL RELATE? BY THIS ALL, I MEAN THE OBSESSIVE COMPULSIVE
16 DISORDER, THE MAJOR DEPRESSIVE EPISODE, THE FEEDING YOU
17 DESCRIBED OF THE TWO OF THEM TOGETHER, HOW DO THEY ALL
18 LEAD UP TO THE TERRIBLE CRIME OF SEPTEMBER 3 2003?

19 A I THINK PRIMARILY IN TERMS OF THE SENSE OF
20 HELPLESSNESS AND THE SENSE OF HOPELESSNESS, HE WAS
21 EXPERIENCING AND FEELING THAT HE HAD TO DO SOMETHING ABOUT
22 IT TO ESCAPE FROM THE SUFFERING HE WAS EXPERIENCING.

23 Q THE JURY HAS HEARD TESTIMONY ABOUT VISITS TO
24 GREENVILLE MEMORIAL HOSPITAL JUNE 13 AND 15TH 2003, HAVE
25 YOU EXAMINED THE MEDICAL RECORDS ASSOCIATED WITH THAT

1 VISIT?

2 A YES, I HAVE.

3 Q CAN YOU DESCRIBE PLEASE, BASED UPON YOUR VIEW OF THE
4 MEDICAL RECORDS, WHAT HAPPENED THOSE TWO DAYS?

5 A HE HAD APPARENTLY TAKEN 40 OR 50 PILLS, AND
6 APPARENTLY SOME OF THEM WERE TRICYCLIC ANTIDEPRESSANT
7 PILLS. TRICYCLIC ANTIDEPRESSANT PILLS CAN BE LETHAL IN
8 DOSES WHICH ARE JUST SLIGHTLY ABOVE THERAPEUTIC DOSE. SO,
9 HE TOOK ENOUGH TO KILL HIMSELF. HE TOLD ME HE TOOK THE
10 PILLS WITH THE INTENTION OF KILLING HIMSELF.

11 HE THEN CALLED SOMEBODY, EITHER A FRIEND OR A SUICIDE
12 HOTLINE. AND HE TOLD ME HE CALLED NOT SO MUCH BECAUSE HE
13 WANTED TO CHANGE HIS MIND AND GET HELP; BUT HE JUST WANTED
14 TO TALK TO SOMEBODY BEFORE HE DIED. HE SAID HE WAS QUITE
15 CONVINCED THAT HE WOULD BE DEAD BEFORE ANYBODY COULD
16 RESCUE HIM. LO AND BEHOLD, WHILE HE IS ON THE PHONE, AN
17 EMS TRUCK SHOWS UP AND HE IS TAKEN TO THE HOSPITAL. AT
18 THE HOSPITAL HE IS REALLY UNCONSCIOUS. HE'S REALLY NOT
19 SPEAKING. HE RESPONDS ONLY TO PAINFUL STIMULI.

20 A TUBE IS PUT DOWN HIS STOMACH TO CLEAN OUT HIS
21 STOMACH. HIS PUPILS DO NOT REACT TO LIGHT, AND HE STAYS
22 IN THAT STATE FOR 12 HOURS AND VERY GRADUALLY COMES OUT.
23 SO, WITHOUT MEDICAL INTERVENTION, HE PROBABLY WOULD HAVE
24 DIED. AND IT WAS A SERIOUS SUICIDE ATTEMPT, WHICH ALMOST
25 RESULTED IN HIS DEATH.

1 THE HOSPITAL, FOR REASONS WHICH ARE NOT CLEAR, DID
2 NOT KEEP HIM. THEY SENT HIM HOME WITH ONLY HIS PARENTS
3 AND HE SIGNING A CONTRACT THAT HE WOULD NOT KILL
4 HIMSELF -- TRY TO KILL HIMSELF AGAIN. HE WAS BACK IN THE
5 HOSPITAL TWO DAYS LATER ASKING FOR HELP AND STATING THAT
6 HE WAS STILL FEARFUL THAT HE MIGHT AGAIN TRY TO KILL
7 HIMSELF.

8 HE WAS REASSURED AND THEN HE EVENTUALLY CALMED DOWN,
9 SAID HE WOULDN'T TRY TO KILL HIMSELF AND HE WAS RELEASED
10 FROM THE HOSPITAL AGAIN.

11 Q DOCTOR, HAVE YOU DEVELOPED A CLINICAL OPINION AS TO
12 WHETHER RELEASING CHRIS WILLIAMS FROM GREENVILLE MEMORIAL
13 HOSPITAL ON THOSE TWO OCCASIONS WAS THE APPROPRIATE
14 RESPONSE?

15 A I THOUGHT IT WAS HIGHLY INAPPROPRIATE. I THINK
16 ANYBODY WHO MAKES A SUICIDE ATTEMPT OF THIS SEVERITY
17 SHOULD BE VERY VERY CAREFULLY EVALUATED FOR SUICIDE
18 POTENTIAL. AND I DON'T THINK THAT CAN BE DONE IN JUST 18
19 HOURS OR 12 HOURS. I THINK THAT PERSON HAS TO BE IN THE
20 HOSPITAL LONG ENOUGH UNTIL YOU KNOW HIM WELL ENOUGH AND
21 ARE CONVINCED THAT HE'S NOT GOING TO KILL HIMSELF.

22 AND PATIENTS WITH SERIOUS SUICIDE ATTEMPTS SHOULD NOT
23 WALK HOME. SUICIDE CONTRACTS HAVE BEEN STUDIED AND THEY
24 ARE NOT WORTH ANYTHING. THEY'RE NOT WORTH THE PAPER
25 THEY'RE WRITTEN ON. AND ANYBODY CAN SIGN A CONTRACT. AND

1 THERE'S, OF COURSE, IF YOU'RE DEPRESSED AND SUICIDAL, YOU
2 CAN ALWAYS SIGN A CONTRACT THAT YOU'RE NOT GOING TO KILL
3 YOURSELF. IT MEANS NOTHING.

4 Q DOCTOR, I'M ASSUMING YOU TREATED THOUSANDS OF
5 PSYCHIATRIC PATIENTS IN THE COURSE OF YOUR CAREER. IS
6 THAT FAIR STATEMENT?

7 A YES.

8 Q IN RECOGNIZING THAT, WE CAN ALL ENGAGE IN HINDSIGHT,
9 IF YOU WERE PRESENTED WITH THE SAME INFORMATION AS A
10 PHYSICIAN, LET'S ASSUME YOU WERE IN THE EMERGENCY ROOM AT
11 GREENVILLE MEMORIAL HOSPITAL JUNE 13th 2003, WHAT DO YOU
12 EXPECT YOU WOULD HAVE DONE?

13 A I WOULD HAVE CIVILLY COMMITTED THAT PATIENT.

14 Q WHAT IS CIVIL COMMITMENT?

15 A IT MEANS THE PERSON IS CONFINED TO A HOSPITAL AND NOT
16 ALLOWED TO LEAVE, AND IS TREATED.

17 Q HOW LONG HAVE YOU DONE THAT IN THE COURSE OF YOUR
18 CAREER?

19 A MAYBE 500 TIMES.

20 Q WHEN YOU DECIDE A PATIENT REQUIRES CIVIL COMMITMENT,
21 WHAT STEPS DO YOU ACTUALLY TAKE WITH AUTHORITIES?

22 A THE FIRST STEP IS TO TELL THE PATIENT YOU'RE GOING TO
23 DO IT. FIRST, TRY TO TALK THEM INTO COMING IN WITHOUT
24 DOING IT. YOU WOULD ONLY GET THE CIVIL COMMITMENT IF THE
25 PATIENT REFUSES TO COME INTO THE HOSPITAL. SOMETIMES YOU

1 HAVE TO CIVILLY COMMIT PEOPLE TO MAKE SURE THEY STAY, EVEN
2 IF THEY SAY THEY WANT TO COME IN.

3 ONCE YOU DECIDE TO COMMIT, YOU HAVE TO FILL OUT
4 PAPERS AND THEN THE POLICE HAVE TO TAKE THE INDIVIDUAL TO
5 A MAGISTRATE, WHO OKAYS THE COMMITMENT ORDER. AND FROM
6 THERE A TRIAL DATE IS SET, AND THE JUDGE HAS TO FIND,
7 FULLY OKAY THE COMMITMENT LATER ON. SOMETIMES YOU RUN
8 INTO TROUBLE WITH A PATIENT WHO YOU WANT TO COMMIT WHO
9 WILL SAY, "I DON'T WANT TO GO IN THE HOSPITAL AND I'M
10 LEAVING." AND IN THAT SITUATION YOU'RE REALLY OBLIGATED
11 TO CALL THE POLICE, TO PICK THEM UP, AND THEN YOU FILL OUT
12 THE COMMITMENT PAPERS.

13 Q AND AS FAR AS YOU KNOW NOTHING LIKE THAT OCCURRED ON
14 JANUARY 13?

15 A NOTHING LIKE THAT OCCURRED.

16 Q LET'S GO BACK TO SEPTEMBER 2nd, THE DAY BEFORE THE
17 MURDER. YOU KNOW A GREAT DEAL ABOUT CHRIS WILLIAMS. AND
18 IF YOU WERE PRESENTED WITH THE SAME SET OF FACTS WE KNOW
19 OF, YOU KNEW OF THE JOURNAL WITH THE MURDEROUS LANGUAGE IN
20 IT, YOU KNEW HE HAD A SHOTGUN IN HIS CLOSET, YOU KNEW
21 ABOUT THE NEAR FATAL SUICIDE ATTEMPT, YOU KNEW ALL THAT WE
22 DO HERE TODAY; WHAT, IF ANY, STEPS WOULD YOU HAVE TAKEN IF
23 YOU WERE PRESENTED WITH THAT PATIENT?

24 A I WOULD HAVE CIVILLY COMMITTED THAT MAN AS QUICKLY AS
25 I COULD.

1 Q WHY IS THAT?

2 A BECAUSE HE WAS CLEARLY DANGEROUS TO HIMSELF AND
3 OTHERS AND HE WAS MENTALLY ILL.

4 Q ONCE YOU HAD CIVILLY COMMITTED HIM, WHERE WOULD HE
5 HAVE GONE NEXT?

6 A HE WOULD HAVE GONE TO A HOSPITAL THAT HAD THE
7 CAPACITY TO KEEP HIM FROM ESCAPING.

8 MR. MACDOUGALL: COULD I HAVE A MOMENT, YOUR HONOR?

9 THE COURT: YES, SIR.

10 MR. MACDOUGALL: I HAVE NO FURTHER QUESTIONS,
11 DR. HALLECK. PLEASE ANSWER ANY QUESTIONS THE SOLICITOR
12 MAY HAVE FOR YOU.

13 THE COURT: CROSS EXAMINATION.

14 MR. ARIAIL: DR. HALLECK, JUST A COUPLE.

15 CROSS EXAMINATION

16 BY MR. ARIAIL:

17 Q AND YOU AND I TALKED EARLIER, AND JUST TO MAKE SURE
18 I'M STILL UNDERSTANDING YOU, AT THE TIME OF THIS EVENT ON
19 SEPTEMBER THE 3RD, MR. WILLIAMS, KNEW CRIMINAL RIGHT FROM
20 CRIMINAL WRONG AND HE KNEW AND WAS ABLE TO CONFORM HIS
21 BEHAVIOR TO THE REQUIREMENTS OF THE LAW, CORRECT?

22 A I THINK HE KNEW RIGHT FROM WRONG. I THINK HE WAS
23 HAVING A TERRIBLE TIME TRYING TO CONFORM HIS BEHAVIOR TO
24 THE REQUIREMENTS OF THE LAW.

25 Q BUT, UNDER THAT STANDARD, YOU ARE NOT TESTIFYING HE

1 DIDN'T KNOW RIGHT FROM WRONG AND HE COULDN'T CONFORM HIS
2 BEHAVIOR TO THE REQUIREMENTS OF THE LAW?

3 A THAT'S NOT MY TESTIMONY. I WOULD TESTIFY THAT HIS
4 CAPACITY TO CONFORM HIS BEHAVIOR WAS SOMEWHAT IMPAIRED.

5 Q THAT'S YOUR OPINION?

6 A YES.

7 Q NOW, WHAT IS YOUR OPINION ON THE DEATH PENALTY?

8 A MY OPINION ON THE DEATH PENALTY IS THAT I OPPOSE IT.
9 AND I'VE DISCUSSED THIS WITH YOU BEFORE.

10 Q SORRY?

11 A I DISCUSSED IT WITH YOU BEFORE.

12 Q THAT'S RIGHT. DISCUSSED IT BEFORE, OPPOSE IT IN ALL
13 CIRCUMSTANCES?

14 A YES.

15 Q DO YOU THINK THAT IMPACT IN ANY WAY AFFECTS YOUR
16 OPINIONS OR ANALYSIS OR INTERPRETATIONS INVOLVING PEOPLE
17 WHO ARE SUBJECTED TO POTENTIALLY HAVING THE DEATH PENALTY
18 OPPOSED?

19 A I WOULD GIVE YOU THE SAME ANSWER I GAVE YOU LAST
20 TIME. I RECOGNIZE THAT I OPPOSE IT. I TRY TO BE JUST AS
21 CONSERVATIVE AS I CAN IN FINDING ILLNESS AND TRY AND
22 CHECK, DOUBLE CHECK EVERYTHING I SAY TO MAKE SURE I'M NOT
23 SIMPLY BEING AN ADVOCATE. SO, I TRY JUST TO BE AS
24 PROFESSIONAL AS I CAN AND BE AN EXPERT AND NOT AN
25 ADVOCATE.

1 Q I UNDERSTAND THAT. I'M NOTHING QUESTIONING THAT.
2 I'M JUST SAYING, DOES THE FACT YOU HOLD THAT OPINION SO
3 STRONGLY HAVE OR POSSIBLY HAVE AN IMPACT UPON YOUR
4 ABILITY -- UPON YOUR OPINIONS?

5 A I DON'T THINK IT DOES. I'VE TESTIFIED IN SOME CASES
6 WHERE I COULDN'T FIND A THING AND THAT WAS MY TESTIMONY.

7 Q I'VE LOOKED AT ONE SET OF RECORDS. YOU MENTIONED
8 THAT YOU LOOKED AT THE DETENTION RECORDS OF MR. WILLIAMS.
9 AND I LOOK THROUGH YOUR RECORDS, AND I DIDN'T SEE THIS
10 PARTICULAR DOCUMENT. BUT, FOR YOUR REFERENCE, IF
11 NECESSARY, THERE IS A DOCUMENT THAT -- DETENTION RECORDS
12 THAT I REVIEWED IN DOCTOR ROBERT RICHARD'S DOCUMENTS. ARE
13 YOU FAMILIAR WITH DR. RICHARDS?

14 A YES, SIR.

15 Q HE'S ALSO TESTIFIED IN THIS CASE?

16 A YES.

17 Q LET ME ASK YOU IF YOU HAVE READ THAT PARTICULAR
18 DOCUMENT BEFORE?

19 A I THINK I MISSED THIS DOCUMENT. I DON'T THINK I'VE
20 SEEN IT.

21 Q LET ME ASK YOU IF YOU HAD SEEN THAT PARTICULAR
22 DOCUMENT AND HAD YOU READ IT? WHAT IS THE DATE ON IT?

23 A 5-16-04.

24 Q SO THAT'S MAY 16, '04 AND THAT IS ON FORM OF THE
25 DETENTION CENTER, GREENVILLE COUNTY DETENTION CENTER

1 REPORT FORM. IF YOU HAD READ THAT REPORT, WOULD THAT HAVE
2 IMPACTED YOUR ANALYSIS OR CHANGED THE MANNER IN WHICH YOU
3 WENT ABOUT YOUR ANALYSIS AND OPINIONS?

4 A I DON'T THINK IT WOULD CHANGE MY OPINIONS. I THINK
5 HE IS CAPABLE OF BEING DEVIANT AT TIMES. THIS IS AN
6 EPISODE OF THAT. I DON'T THINK IT WOULD CHANGE MY GENERAL
7 OPINIONS.

8 Q YOU SAY HE IS CAPABLE OF BEING DEVIANT. YOU'RE
9 SPEAKING OF MR. WILLIAMS?

10 A YES.

11 Q LET ME, IF I COULD -- YOUR HONOR, WE'D LIKE TO OFFER
12 THIS. AS THE NEXT STATE'S EXHIBIT. THIS IS FROM
13 DOCTOR --

14 MR. MACDOUGALL: COULD WE APPROACH ON THIS, YOUR
15 HONOR?

16 THE COURT: YES, SIR.

17 (WHEREUPON, A BENCH CONFERENCE IS HELD WITHIN THE
18 PRESENCE BUT OUTSIDE THE HEARING OF THE JURY.)

19 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
20 JURY, PLEASE STEP OUT TO THE JURY ROOM. DON'T DISCUSS
21 CASE AMONG YOURSELVES. WHILE YOU'RE OUT, WE'LL TAKE ABOUT
22 A 20 MINUTE BREAK. TAKE A SMOKE BREAK, WHATEVER YOU NEED.
23 IT MAY BE 30 MINUTES.

24 THE COURT: SOLICITOR, DO YOU WANT TO MARK THAT FOR
25 IDENTIFICATION? I'LL BE GLAD TO HEAR YOUR ARGUMENT. WHY

1 YOU THINK IT'S ADMISSIBLE?

2 MR. ARIAIL: I HAVE NO ARGUMENT IT'S ADMISSIBLE. I
3 MISSTATED WHEN I SAID I WANTED TO ADMIT IT. I JUST WANTED
4 TO BE ABLE TO READ IT TO HIM SO THE JURY WILL UNDERSTAND
5 HIS RESPONSE, WHICH WAS ABOUT THE DEVIANCY AND THAT HE
6 DIDN'T CONSIDER -- IT WOULDN'T CHANGE HIS OPINION.

7 THE COURT: WHERE WE ARE RIGHT AT THIS POINT IN TIME
8 I DON'T THINK THAT WOULD BE RELEVANT. OKAY? AND I'M NOT
9 GOING TO LET YOU READ IT TO HIM WHERE WE ARE AT THIS POINT
10 IN THE TRIAL. IT MAY BE AT A DIFFERENT POINT IN TIME, BUT
11 I THINK IT'S HEARSAY. I'M NOT GOING TO LET YOU STAND UP
12 AND PUBLISH IT TO THEM.

13 ANYTHING THE DEFENSE WANTS TO ADD?

14 MR. MACDOUGALL: NO, YOUR HONOR, I LEARNED LONG AGO.

15 THE COURT: OKAY. SOLICITOR, I DON'T MEAN TO MISLEAD
16 YOU, WHAT I'M SAYING. I DON'T THINK IT'S RELEVANT FROM
17 THE STANDPOINT ANY MALINGERING OR ANYTHING EVER BEEN
18 BROUGHT BEFORE THE COURT AS TO THAT STATEMENT WITH THIS
19 WITNESS. AND THAT'S THE REASON I'M SAYING I'M NOT GOING
20 TO LET YOU PUBLISH IT. I DON'T KNOW IF YOU UNDERSTAND
21 WHAT I'M SAYING OR NOT? BUT THAT'S MY REASONING AT THIS
22 POINT IN TIME.

23 MR. ARIAIL: I JUST DO NOT UNDERSTAND HOW YOU CAN
24 ALLOW THIS WITNESS TO TESTIFY AS TO BLANKET HEARSAY ABOUT
25 EVERY RECORD IN THIS BOX, AND WHEN THIS RECORD IS IN THE

1 BOX, NOT ALLOW ME TO ASK HIM ABOUT IT.

2 THE COURT: BECAUSE HE CAN REVIEW THE RECORDS IN
3 FORMING HIS OPINIONS. HEARSAY, DEPOSITIONS, ALL KINDS OF
4 HEARSAY. THAT'S WHAT THE RULES SAY. BUT THE RULES DON'T
5 SAY YOU CAN TAKE IT A STEP FURTHER AND SIT HERE AND
6 PUBLISH ALL THAT HEARSAY TO THE JURY.

7 MR. ARIAIL: I CAN ASK HIM --

8 THE COURT: I'M NOT GOING TO GO ANY FURTHER. YOU CAN
9 SIT THERE AND THINK ABOUT IT AND APPROACH IT FROM A
10 DIFFERENT WAY AND IT MAY BE; BUT I DON'T KNOW. IT MAY BE,
11 I DON'T KNOW. BUT AT THIS POINT IN TIME --

12 MR. ARIAIL: WITH THAT RULING, I WOULD WANT TO MARK
13 THIS AS STATE'S EXHIBIT FOR IDENTIFICATION.

14 THE COURT: WELL, I JUST ASKED YOU --

15 MR. ARIAIL: YOU DIDN'T GIVE ME THAT RULING BEFORE.
16 THAT'S WHY I DIDN'T WANT TO.

17 THE COURT: STATE'S EXHIBIT 110 FOR IDENTIFICATION
18 ONLY.

19 (STATE'S EXHIBIT NUMBER 110 IS MARKED FOR
20 IDENTIFICATION ONLY.)

21 MR. MACDOUGALL: YOUR HONOR, IF I COULD ADD --

22 THE COURT: YES, SIR.

23 MR. MACDOUGALL: I'M QUITE CERTAIN THE RECORD WILL
24 REFLECT THAT DR. HALLECK'S RESPONSE WAS, EVEN THOUGH IT
25 WAS THIS BOX OF PAPERS PROVIDED, HE HAD NOT REVIEWED IT.

1 SO, THIS DOCUMENT IS NOT PART OF THE MATERIAL DR. HALLECK
2 REVIEWED.

3 THE COURT: HE ACKNOWLEDGE THAT HE READ IT, THE
4 SOLICITOR ASKED HIM A QUESTION, WOULD IT CHANGE HIS
5 OPINION?

6 HE SAID, "NO." I MEAN, HE'S ALREADY READ IT, SO HE'S
7 ALREADY FORMED HIS OPINIONS. HE'S ALREADY READ THE
8 DOCUMENT. THE QUESTION NOW IS WHETHER THE SOLICITOR WANTS
9 TO READ WHAT THE DOCUMENT SAYS. I'M NOT GOING TO LET HIM
10 DO IT AT THIS POINT IN THE TRIAL.

11 ANYTHING ELSE BEFORE WE BRING THE JURY BACK?
12 GREENVILLE COUNTY DETENTION CENTER STATEMENT.

13 MR. MACDOUGALL: WHILE WE'RE ON A BREAK, I'D JUST ASK
14 THE COURT TO INQUIRE IF THERE ARE ANY OTHER EVIDENTIARY
15 ISSUES OF THIS KIND THAT THE SOLICITOR ANTICIPATES COMING
16 UP.

17 THE COURT: I DON'T KNOW. LET HIM GET HIS THOUGHTS
18 TOGETHER, THEN I'LL ASK HIM.

19 (BRIEF RECESS TAKEN.)

20 THE COURT: SOLICITOR, ARE YOU READY?

21 MR. ARIAIL: YES, SIR.

22 THE COURT: ANY OTHER EVIDENCE PLAN ON COMING IN?
23 WHERE YOU PLAN ON GOING?

24 MR. ARIAIL: NO, SIR.

25 THE COURT: OKAY. BRING US THE JURY.

1 (STATE'S EXHIBIT NUMBER 122 IS MARKED FOR
2 IDENTIFICATION ONLY.)

3 THE COURT: SOLICITOR, YOU MAY CONTINUE CROSS.

4 MR. ARIAIL: THANK YOU.

5 SY HALLECK, HAVING BEEN
6 PREVIOUSLY SWORN, FURTHER TESTIFIED AS FOLLOWS:
7 BY MR. ARIAIL:

8 Q DR. HALLECK, I'VE SHOWED YOU WHAT HAS BEEN MARKED FOR
9 IDENTIFICATION STATE'S EXHIBIT 105, AND YOU READ IT. I
10 BELIEVE YOUR COMMENTS OR RESPONSE WAS THAT WOULD NOT HAVE
11 CHANGED YOUR OPINION.

12 A THAT'S CORRECT.

13 Q AND THAT IT INDICATED OR MAY INDICATE DEVIANCY OR
14 SOME PHRASE. HOW DID YOU SAY THAT?

15 A I MEANT TO SAY DEVIOUSNESS.

16 Q DEVIOUSNESS?

17 A YES.

18 Q ON BEHALF OF THE DEFENDANT?

19 A YES.

20 Q HAVING REVIEWED THAT DOCUMENT AND THE OTHER DOCUMENTS
21 YOU HAVE LOOKED AT, DID YOU FIND OR DO YOU PERCEIVE ANY
22 INFORMATION THAT YOU'VE REVIEWED IN THE FILE THAT MAY BE
23 INDICATIVE THAT THE DEFENDANT IS MALINGERING?

24 A COULD I ASK MALINGERING WHAT?

25 Q WELL, YOU DEFINE MALINGERING AS TO PSYCHOLOGICAL OR

1 PSYCHIATRIC ILLNESS. WHAT DOES THAT MEAN?

2 A I DON'T BELIEVE HE'S MALINGERING ANY KIND OF
3 PSYCHIATRIC ILLNESS. NO.

4 Q BASED ON ANYTHING YOU'VE REVIEWED?

5 A THAT'S CORRECT.

6 Q WHAT IS MALINGERING? WHAT WOULD MALINGERING BE?

7 A MALINGERING IS CREATING FALSE SYMPTOMS TO TRY TO
8 IDENTIFY YOURSELF AS HAVING ILLNESS YOU DON'T HAVE.

9 Q AND EVEN AFTER REVIEWING STATE'S EXHIBIT 122, YOU
10 DON'T SEE ANY EVIDENCE HE IS MALINGERING?

11 A NO. IT DOES NOT CHANGE MY MIND AT ALL ABOUT MY
12 TESTIMONY.

13 THE COURT: ANYTHING ELSE, SOLICITOR?

14 MR. ARIAIL: NO, YOUR HONOR.

15 THE COURT: ANY REDIRECT?

16 MR. MACDOUGALL: JUST A COUPLE OF QUESTIONS, YOUR
17 HONOR.

18 **REDIRECT EXAMINATION**

19 BY MR. MACDOUGALL:

20 Q DR. HALLECK, GIVE US AN ESTIMATE, HOW MANY -- YOU
21 BEEN PRACTICING MEDICINE FOR 60 YEARS. IS THAT RIGHT?

22 A FIFTY -- FIFTY-THREE.

23 Q FIFTY. I APOLOGIZE.

24 A FIFTY-THREE.

25 Q AND AS A PSYCHIATRIST, YOU PROBABLY COULDN'T TELL ME

1 HOW MANY PATIENTS YOU'VE EXAMINED, TENS OF THOUSANDS?

2 A PROBABLY, YES.

3 Q IN THE COURSE OF YOUR PRACTICE, HAVE YOU DEVELOPED,
4 AND AS TO THE PSYCHIATRIC PROFESSION, HAVE ANY TOOLS FOR
5 DETECTING ANY DEVIOUSNESS ON THE PART OF PATIENTS WHO
6 PRESENT THEMSELVES AS HAVING MENTAL ILLNESS?

7 A WELL, YOU'RE ALWAYS LOOKING FOR IT. YOU'RE ALWAYS
8 EXPECTING IT, FREQUENTLY FIND IT.

9 Q AND WHEN YOU FIND IT, WHAT DO YOU DO?

10 A YOU WEIGH IT. BECAUSE SOMETIMES YOU SEE DEVIOUSNESS
11 IN THE COURSE OF AN INDIVIDUAL DEALING WITH A LOT OF BAD
12 SITUATIONS, WHICH IS NOT CHARACTERISTIC OF THAT
13 INDIVIDUAL; AND IT'S ONLY ONE ASPECT OF HIS CHARACTER IN
14 ONE PARTICULAR SITUATION. AND SOMETIMES IT'S MORE
15 SERIOUS.

16 Q AND WHAT CONCLUSION HAVE YOU REACHED WITH REGARD TO
17 CHRIS WILLIAMS IN THIS CASE?

18 A I THINK HE IS CAPABLE OF BEING DEVIOUS AND
19 MANIPULATIVE IN ORDER TO MAKE HIMSELF LOOK BETTER. BUT I
20 DON'T THINK THAT'S A MAJOR PART OF HIS PRESENTATION. AND
21 I DON'T THINK ANYTHING ABOUT HIS ILLNESS IS DEVIOUSNESS.
22 MY TESTIMONY ABOUT THE DEPRESSION AND THE
23 OBSESSIVE-COMPULSIVE SYNDROME, I DON'T FEEL ANY OF THAT
24 WAS MALINGERED, FRAMED, OR HAD ANYTHING MANIPULATIVE ABOUT
25 IT.

1 Q SITTING HERE RIGHT NOW, IS THERE ANY QUESTION IN YOUR
2 MIND WITH REGARD TO YOUR DIAGNOSIS AND ITS EFFECTS?

3 A NO.

4 Q NOTHING FURTHER. THANK YOU.

5 MR. ARIAIL: JUST ONE QUESTION.

6 **RECROSS EXAMINATION**

7 BY MR. ARIAIL:

8 Q THE FIRST TIME YOU SAW HIM WAS JANUARY OF THIS YEAR?

9 A THAT'S CORRECT.

10 Q SO THE 16 MONTHS PRIOR TO THAT, YOU DIDN'T HAVE ANY
11 CONTACT WITH HIM?

12 A THAT'S CORRECT.

13 THE COURT: DOCTOR, YOU MAY STEP DOWN. I'M NOT GOING
14 TO EXCUSE YOU, SO JUST HAVE A SEAT IN THE AUDIENCE,
15 PLEASE, SIR.

16 THE WITNESS: THANK YOU.

17 THE COURT: YOU WANT TO CALL YOUR NEXT WITNESS?

18 MR. NETTLES: YES, SIR. THE DEFENSE CALLS MAUREEN
19 BANGCUYO TO THE STAND.

20 MAUREEN BANGCUYO, BEING
21 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

22 **DIRECT EXAMINATION**

23 BY MR. NETTLES:

24 THE CLERK: STATE YOUR NAME FOR THE RECORD.

25 A MAUREEN ST. JOHN BANGCUYO.

1 Q HEY.

2 A HI.

3 Q I WANT YOU TO SPELL YOUR NAME IF YOU DON'T MIND.
4 THAT'S A HORRIBLE WAY TO START OFF, BUT IT'S KIND OF A
5 UNIQUE NAME.

6 A LAST NAME?

7 Q YES.

8 A B-A-N-G-C-U-Y-O.

9 Q NOW, HOW DID YOU GET INVOLVED IN THIS?

10 A CHRIS IS MY BABY BROTHER.

11 Q IS HE YOUR ONLY BROTHER?

12 A THE ONLY BROTHER I'M CLOSE TO.

13 Q NOW, LET ME ASK YOU THIS. WHEN IS THE FIRST TIME YOU
14 MET CHRIS?

15 A IT WAS SOON AFTER HE WAS BORN AND DWIGHT AND DAISY
16 BROUGHT HIM HOME FROM THE HOSPITAL. I WAS 11 AND I WAS SO
17 EXCITED THAT THERE WAS GOING TO BE A BABY IN THE HOUSE
18 BECAUSE I FELT LIKE THAT FINALLY THERE WOULD BE SOMETHING
19 POSITIVE. AND I THOUGHT---

20 Q SOMETHING WHAT?

21 A SOMETHING POSITIVE.

22 Q TELL YOU WHAT YOU CAN DO. WE'RE GOING TO BE TALKING
23 A LONG TIME. I WANT YOU TO SLIDE UP A LITTLE. PULL THE
24 MICROPHONE UP LITTLE BIT.

25 A OKAY.

1 Q THERE YOU GO.

2 A I FELT, I WAS HAPPY WE'D FINALLY HAVE SOMETHING
3 POSITIVE IN OUR HOME. THE NEW BABY WOULD BE THE BEGINNING
4 OF A NEW LIFE, MAYBE DWIGHT AND DAISY WOULD CHANGE THEIR
5 HABITS, THE WAY THEY BROUGHT ME UP. I THOUGHT CHRIS WOULD
6 BE THE BEGINNING OF THAT BECAUSE HE WAS SO SPECIAL.

7 Q WAS HE SPECIAL?

8 A OH, HE'S ALWAYS SPECIAL TO ME. WHEN I CAME HOME FROM
9 SCHOOL I RAN HOME AND I WALKED INTO DWIGHT AND DAISY'S
10 BEDROOM. THAT'S WHERE THEY HAD HIS CRIB, AND HE WAS
11 LAYING ON HIS STOMACH AND HAD HIS BOTTOM UP IN THE AIR,
12 AND HE SLEPT LIKE THAT UNTIL I CAN REMEMBER.

13 DAISY TOLD ME, "DON'T WAKE THE BABY." AND I DIDN'T
14 WANT TO GET IN TROUBLE SO I KIND OF NUDGED THE CRIB WITH
15 MY KNEE. AND HE OPENED HIS EYES AND HE LOOKED AT ME
16 THROUGH THE, THROUGH THE CRIB. AND I WAS ON MY KNEES AND
17 I LOOKED AT HIM. AND I SAID, "WELCOME HOME CHRIS. I'M
18 YOUR BIG SISTER, MAUREEN, AND I WILL DO EVERYTHING I CAN
19 TO LET YOU KNOW THAT YOU'RE THE MOST SPECIAL THING IN MY
20 LIFE."

21 AND I SAID TO HIM THAT HE'S GOING TO BE DESTINED FOR
22 GREATNESS IF I HAD ANYTHING TO DO WITH IT.

23 Q CAN I ASK YOU SOMETHING? I THINK YOU STARTED OFF BY
24 SAYING THAT YOU FELT LIKE THAT HIS -- THAT CHRIS WAS GOING
25 TO CHANGE THINGS IN THE HOUSE?

1 A YES.

2 Q WHAT ABOUT THE HOUSE NEEDED CHANGING?

3 A EVERYTHING.

4 Q TELL US.

5 A I HAD TO ENDURE WATCHING DWIGHT BEAT DAISY.

6 Q WHEN YOU STAY DWIGHT, WHO IS DWIGHT?

7 A HE'S MY BIOLOGICAL FATHER.

8 Q WHO IS DAISY?

9 A MY BIOLOGICAL MOTHER.

10 Q WHY DID YOU SAY IT LIKE THAT?

11 A WE HAVE NO EMOTIONAL CONNECTION WITH ONE ANOTHER. I
12 DON'T THINK THEY'RE CAPABLE OF ALTRUISTIC LOVE AS I KNOW
13 AND MY BROTHER KNOWS, THAT WE KNOW FOR EACH OTHER.

14 Q NOW, I APOLOGIZE FOR INTERRUPTING YOU; BUT TELL US A
15 LITTLE ABOUT WHAT THE HOUSEHOLD WAS LIKE WHEN CHRIS GOT
16 THERE.

17 A FROM THE DAY I CAN REMEMBER, EVEN MEMORIES OF WHEN I
18 WAS REALLY YOUNG AND LIVING IN GERMANY WITH DWIGHT AND
19 DAISY, DWIGHT WAS IN THE MILITARY AT THE -- I JUST
20 REMEMBER CONSTANT FIGHTING, PHYSICAL ABUSE ON DAISY,
21 PHYSICAL ABUSE ON MYSELF. AND I HAD, I HAD TO ENDURE
22 THAT. AND I HAD TO KEEP QUIET BECAUSE WE WERE NEVER
23 ALLOWED TO EXPRESS HOW WE FELT. THE VIOLENCE AND THE
24 ALCOHOL EVERY NIGHT, GALLONS GONE IN WEEKS, DRUGS, YOU
25 KNOW. I THOUGHT IT WAS NORMAL BECAUSE I HAD NO, NOTHING

1 TO COMPARE IT TO.

2 I WASN'T ALLOWED TO DO ANYTHING. I WAS NEVER ALLOWED
3 TO DATE, EVEN WHEN I WAS IN HIGH SCHOOL. I THOUGHT THAT'S
4 THE WAY THINGS WERE SUPPOSED TO BE. EVEN AT A YOUNG AGE I
5 KNEW THAT IT DIDN'T FEEL RIGHT, BUT THAT'S ALL THAT I
6 KNEW.

7 Q I UNDERSTAND. NOW, DID CHRIS -- DID CHRIS' ARRIVAL
8 CHANGE ANY OF THAT?

9 A IT DID MOMENTARILY. I THINK EVERYONE WAS JUST, YOU
10 KNOW, ANYONE CAN TELL YOU THAT. ANYONE CAN TELL YOU THAT
11 A NEW CHILD ALWAYS BRINGS ON NEW HOPE. SO, I HAD HIGH
12 HOPES FOR HIM. REALLY HIGH HOPES FOR HIM. BUT THINGS
13 JUST STARTED TO CASCADE DOWNHILL LIKE A SPIRAL. I MEAN, I
14 CAN'T REMEMBER A SINGLE TIME WHERE WE WERE HAPPY AS A
15 FAMILY.

16 YOU KNOW, WE NEVER WENT TO MOVIES TOGETHER. WE NEVER
17 HAD FAMILY DAY LIKE SO MANY OTHER FAMILIES HAVE. YOU
18 KNOW, NO TRIPS TO THE PARK, NO -- I TAUGHT CHRIS HOW TO
19 RIDE A BIKE BECAUSE DWIGHT WAS TOO BUSY, WHATEVER HE WAS
20 DOING. I TAUGHT CHRIS HOW TO PLAY SOCCER.

21 AND WHEN I WENT TO COLLEGE, HE'D COME STAY WITH ME
22 OVER THE SUMMER A COUPLE OF WEEKS. TELL YOU, THAT KID IS
23 SO SMART. HE WAS, I WAS IN PREMED AT THE TIME AND BY THE
24 TIME HE WAS NINE YEARS OLD, HE COULD TELL YOU WITHOUT
25 INTERRUPTION HE EVERY SINGLE BONE IN THE HUMAN BODY.

1 Q I UNDERSTAND.

2 A BUT THINGS, THEY DIDN'T GET BETTER.

3 Q IT DIDN'T GET BETTER?

4 A NO.

5 Q DID A TIME COME WHEN YOUR PARENTS GOT A DIVORCE?

6 A YES.

7 Q AND WHERE WERE YOU WHEN THEY GOT A DIVORCE?

8 A IN COLUMBIA, SOUTH CAROLINA, AT THE UNIVERSITY OF
9 SOUTH CAROLINA.

10 Q DO YOU REMEMBER -- TELL US ABOUT, LIKE THE LAST MONTH
11 BEFORE THE DIVORCE CAME THROUGH.

12 A I WAS GETTING CONSTANT PHONE CALLS FROM DAISY INTO MY
13 DORM ROOM TELLING ME DWIGHT IS BEATING ME AGAIN, COME
14 HOME, COME HOME. I WANTED SO MUCH TO BE ABLE TO COME
15 HOME. BUT I SPENT 17 YEARS OF MY LIFE BEING THE REFEREE
16 FOR THOSE TWO PEOPLE. I KNEW THAT IF I WAS EVER GOING TO
17 BE ABLE TO HELP CHRIS, I WAS GOING TO HAVE TO HELP MYSELF
18 FIRST.

19 Q I UNDERSTAND. I UNDERSTAND.

20 A SO, HE JUST BECAME, YOU KNOW, CALL ME EVERY SINGLE
21 DAY. "NANNY," HE COULDN'T PRONOUNCE MY NAME WHEN HE WAS A
22 CHILD, ALWAYS CALL ME NANNY. HE'S LIKE, "YOU DON'T KNOW
23 HOW BAD IT IS HERE SINCE YOU'VE BEEN GONE. AND I FELT SO
24 HORRIBLE BECAUSE I COULDN'T DO ANYTHING."

25 YOU KNOW, I PRAYED AND I JUST CRIED EVERY NIGHT.

1 BECAUSE I COULDN'T HELP MY BABY BROTHER.

2 Q MAUREEN, WHERE DID THEY LIVE THE FIRST COUPLE OF
3 MONTHS AFTER THE DIVORCE?

4 A THEY LIVED IN A SHELTER FOR ABUSED WOMEN AND THEIR
5 CHILDREN.

6 Q WHY DID THEY HAVE TO LIVE THERE?

7 A I GUESS IN RETALIATION OF THE ENSUING DIVORCE, DWIGHT
8 STOPPED MAKING PAYMENTS ON OUR HOME, SO IT WAS TAKEN BACK.
9 DWIGHT STOPPED MAKING PAYMENTS ON A CAR AND, YOU KNOW,
10 WHEN YOU HAVE A CHILD, YOU KNOW HOW IMPORTANT IT IS TO
11 HAVE TRANSPORTATION.

12 Q WHAT HAPPENED TO THEIR CLOTHES?

13 A ALL OF OUR BELONGINGS WERE DESTROYED, ALL MY
14 PICTURES.

15 Q WHAT DO YOU MEAN DESTROYED?

16 A DWIGHT SET THEM ON FIRE AND BURNED EVERYTHING.

17 Q WHERE?

18 A IN OUR BACK YARD. ALL OF MY BABY PICTURES OF CHRIS,
19 ALL OF MY JOURNALS THAT I WROTE AS A CHILD, AS A TEENAGER.
20 MY OWN PERSONAL THERAPY. IT WAS ALL DESTROYED.

21 Q HOW DID THAT FEEL?

22 A I FELT LIKE, YOU KNOW, THIS IS IT, THINGS CAN'T GET
23 ANY WORSE, BUT OBVIOUSLY, OBVIOUSLY THEY COULD. AND AS
24 THE YEARS WENT BY, I SAW HOW THINGS JUST WENT FROM BAD TO
25 INCONCEIVABLE.

1 Q AS A RESULT OF WHAT YOU WERE SEEING HAPPENING, AS A
2 RESULT OF WHAT YOU WERE SEEING HAPPENING AT HOME HERE,
3 WHAT DID YOU DO ABOUT CHRIS?

4 A AFTER DWIGHT LEFT THE HOME, I BECAME REALLY CONCERNED
5 ABOUT CHRIS' WELL BEING, HIS EMOTIONAL WELLBEING, HIS
6 MENTAL WELL BEING. I SAW HIM BECOME REALLY WITHDRAWN AND
7 TO ME, EVEN THOUGH I'M NOT CLINICALLY CERTIFIED, BUT FROM
8 THE LITERATURE --

9 Q WHAT DO YOU DO FOR A LIVING?

10 A I'M A NURSE, REGISTERED NURSE. BUT MY SPECIALTY IS
11 NOT IN MENTAL HEALTH, BUT I DEAL WITH A LOT OF PEOPLE AND
12 I SAW MY BROTHER BECOMING MORE AND MORE DEPRESSED, MORE
13 WITHDRAWN. YOU LOOK INTO HIS EYES AND HE JUST LOOKS SO
14 EMPTY. I HAVE NO WAY TO DESCRIBE HOW THAT MADE ME FEEL.

15 Q DID YOU TRY TO DO SOMETHING ABOUT IT?

16 A YES.

17 Q WHAT DID YOU DO?

18 A WHEN I STARTED NURSING SCHOOL IN 1997, I -- DAISY
19 CALLED ME, SAID "I JUST CAN'T HANDLED CHRIS. I DON'T KNOW
20 WHAT TO DO." IT WAS THIS POINT SHE JUST GOTTEN MARRIED TO
21 HER THIRD HUSBAND.

22 AND I SAID, YOU KNOW, "DAISY IT'S NOT GOING TO LOOK
23 GOOD. IT'S NOT GOING TO MAKE CHRIS FEEL ANY BETTER IF YOU
24 WANT TO SHOVE HIM OFF. I HAVE NO PROBLEMS WITH TAKING MY
25 BROTHER AND DOING WHAT I CAN."

1 HE CAME TO LIVE WITH ME IN COLUMBIA IN 1997. I
2 BELIEVE IT WAS IN THE FALL.

3 Q DID THAT WORK OUT?

4 A NO.

5 Q WHY NOT?

6 A CHRIS NEEDED SOMEONE WHO WAS GOING TO BE ABLE TO GIVE
7 HIM UNDIVIDED ATTENTION. HE HAS A LEARNING DISORDER. YOU
8 CAN'T JUST SPEND A FEW HOURS A DAY, GO OVER HOMEWORK WITH
9 CHILDREN LIKE THAT. THEY NEED MORE. I WAS IN NURSING
10 SCHOOL. I WORKED TWO JOBS, AND I WAS TRYING MY BEST TO
11 TAKE CARE OF MY BABY BROTHER, BUT I COULDN'T.

12 Q THEN WHERE DID HE GO?

13 A HE WENT BACK TO GREENVILLE WITH DAISY.

14 Q DID THINGS GET BETTER?

15 A NO, THEY JUST GOT WORSE. I MEAN DAISY'S DRINKING
16 JUST GOT OUT OF CONTROL. I COULD CALL HER 12:00 IN THE
17 AFTERNOON SHE WOULD BE SO DRUNK SHE COULD BARELY TALK TO
18 ME. CHRIS WAS VERY ANGRY ABOUT THAT. AND I FELT LIKE I
19 WISH I COULD HAVE KEPT HIM THERE, IT WOULD HAVE BEEN
20 BETTER THAN WHAT HE HAD TO LIVE THROUGH WHEN HE WENT BACK.

21 Q MAUREEN, I'M GOING TO ASK YOU SOMETHING KIND OF
22 PERSONAL. HAVE YOU BEEN DIAGNOSED WITH MENTAL ILLNESS?

23 A YES, I HAVE.

24 Q MAUREEN YOU HAVEN'T KILLED ANYBODY?

25 A NO, I HAVE NOT.

1 Q YOU EVER THOUGHT ABOUT KILLING YOURSELF?

2 A EVERY DAY.

3 Q MAUREEN, YOU TAKE MEDICATION?

4 A YES, I DO.

5 Q I HAVE TO SAY YOU GRADUATED FROM NURSING SCHOOL. THE
6 JURY DOESN'T KNOW IT YET, BUT SHARE WITH THEM A LITTLE
7 ABOUT YOUR FAMILY.

8 A MY PRESENT FAMILY?

9 Q YEAH.

10 A I MARRIED A WONDERFUL MAN. BESIDES MY BROTHER, HE'S
11 THE SECOND BEST THING IN MY LIFE.

12 Q I UNDERSTAND.

13 A HIS FAMILY IS SO SUPPORTIVE, SO UNDERSTANDING. THEY
14 CRY WITH ME WHEN I'M UPSET. THEY ALWAYS GIVE ME THE BEST
15 EMOTIONAL SUPPORT. THEY LOVE CHRIS BECAUSE HE CAME AND
16 SAW THEM, YOU KNOW SPENT WEEKEND AT THE BEACH HOUSE,
17 PARTIES, YOU KNOW, JUST HAVING GOOD FAMILY FUN.

18 AND I THOUGHT IT WAS WONDERFUL THAT CHRIS WOULD
19 FINALLY BE EXPOSED TO WHAT A NORMAL FAMILY WAS LIKE. AND
20 I THOUGHT YOU KNOW, THIS COULD BE IT. MAYBE HE JUST
21 NEEDED TO SEE WHAT IT COULD REALLY BE LIKE TO BE LOVED
22 AND, YOU KNOW, AND -- UNTIL HE WOULD CRY IN MY ARMS FOR
23 THE FIRST TIME, I NEVER KNEW WHAT IT WAS LIKE TO LOVE A
24 PERSON IN MY FAMILY.

25 Q DO YOU ALSO TAKE MEDICATION?

1 A YES, MA'AM, I DO.

2 Q AT SOME POINT WHEN YOU WERE TREATING YOURSELF, HAVE
3 YOU EVER HAD JOURNALS?

4 A YES.

5 Q OKAY. TELL THE JURY A LITTLE ABOUT HOW A JOURNAL
6 KIND OF WORKS WITH SOMEONE WHO'S GOT A MENTAL ILLNESS.

7 A WHEN I STARTED WRITING JOURNALS, I DIDN'T EVEN KNOW
8 WHAT MENTAL ILLNESS WAS. DWIGHT ALWAYS SAID MENTAL
9 ILLNESS IS A WEAKNESS, AND THERE'S NOTHING JACK DANIELS
10 CAN'T DO FOR A BLACK MAN THAT PSYCHIATRIC -- PSYCHIATRY
11 WAS BASICALLY A FARCE.

12 BUT I DIDN'T BELIEVE THAT. I GUESS I HAD THE TOOLS
13 TO UNDERSTAND THAT WASN'T TRUE. I DIDN'T SEE IT HELPING
14 THEM. I KNEW IT WASN'T GOING TO HELP ME.

15 Q WAS THEIR SITUATION GETTING ANY BETTER, THE WAY THEY
16 WERE HANDLING IT?

17 A NO.

18 Q WHAT DID YOU DO?

19 A I WROTE JOURNALS, I STARTED WRITING JOURNALS WHEN I
20 WAS MAYBE 13 AND WAS JUST HAVING A PARTICULARLY DIFFICULT
21 TIME BEING A TEENAGER, YOU KNOW. AND IT REALLY DID HELP
22 ME TO PUT MY THOUGHTS DOWN, AND I COULD GO BACK AND
23 REEVALUATE HOW I FELT AT A PARTICULAR TIME AND TOOK
24 MEASURES NOT TO REPEAT THINGS I THOUGHT WOULD BE
25 DETRIMENTAL TO MY OWN PERSONAL WELL BEING. SO, THEY WERE

1 HELPFUL I RECOMMEND IT TO ALL MY PATIENTS TO WRITE
2 JOURNALS.

3 Q WOULD IT BE SAFE TO SAY YOU HAD HELP WITH YOUR MENTAL
4 ILLNESS.

5 A YES, SIR.

6 Q ANYTHING ELSE HELPED YOU WITH THAT?

7 A MY STRONG BELIEF IN CHRIST. MY FAMILY, THE
8 BANGCUYOS, AND MY BABY BROTHER. BECAUSE THROUGHOUT ALL OF
9 THIS, HE IS STILL A VERY INTEGRAL PART IN WHY I GO ON
10 EVERY DAY.

11 Q MAUREEN, THIS JURY HAS HEARD A FAIR AMOUNT ABOUT THIS
12 JOURNAL CHRIS HAD, THE GOVERNMENT SEIZED IT FROM HIS ROOM.
13 WHO BOUGHT THAT JOURNAL FOR HIM?

14 A I DID.

15 Q WHY DID YOU BUY THAT JOURNAL FOR HIM?

16 A IT HADN'T BEEN LONG SINCE HE WAS RELEASED FROM THE
17 HOSPITAL WHEN HE TRIED TO COMMIT SUICIDE, AND I RACED TO
18 GREENVILLE TO SEE MY BROTHER IN THE EMERGENCY ROOM. AND I
19 SAID, YOU KNOW, MAYBE A LITTLE SELF-THERAPY WOULD HELP
20 BECAUSE HE CERTAINLY WASN'T GETTING IT FROM DAISY AND
21 DWIGHT. AND I LEFT HIM A NOTE WHEN I LEFT GREENVILLE TO
22 GO BACK TO COLUMBIA TO MY FAMILY, AND I SAID, CHRIS, I
23 HOPE THIS HELPS YOU AS MUCH AS IT HELPED ME IN SOME WAY.
24 I THOUGHT IT WOULD I WAS JUST CONSTANTLY SEARCHING FOR
25 SOMETHING THAT WAS GOING TO HELP MY BABY BROTHER OUT

1 ALWAYS, AND THAT'S WHAT THE JOURNALS WERE MEANT FOR, FOR
2 HIM TO PUT DOWN HIS THOUGHTS AND FEELINGS.

3 Q DID HE COME TO LIVE WITH YOU A SECOND TIME?

4 A YES.

5 Q AND WHERE WERE YOU LIVING THEN?

6 A I WAS IN ATLANTA, GEORGIA.

7 Q WHY DID YOU HAVE HIM COME TO ATLANTA TO LIVE?

8 A ONCE AGAIN, I GOT A CALL FROM DAISY, WE WERE PACKING
9 UP.

10 Q WE WHO?

11 A MY HUSBAND AND I AND OUR YOUNG SON.

12 Q NAMED WHO?

13 A MY YOUNG SON IS NAMED RIPLEY, AND MY HUSBAND IS
14 CARLITO.

15 Q YOU ALL WERE PACKING UP?

16 A WE WERE PACKING UP AND CHRIS WAS THERE HELPING US
17 PACK. IT WAS JUST KIND OF COINCIDENTAL THAT HE WAS THERE
18 WHILE WE WERE PLANNING ON MOVING, WHEN I GET ANOTHER PHONE
19 CALL FROM DAISY SAYING, "OH, I CAN'T HANDLE HIM, HE'S OUT
20 OF CONTROL.

21 Q DID HE SEEM OUT OF CONTROL TO YOU?

22 A NO, HE WASN'T OUT OF CONTROL. HE WAS JUST SAD, HE
23 JUST WANTED HIS MOM TO LOVE HIM. HE NEVER GOT TO SEE
24 DWIGHT. HE'D MAKE APPOINTMENTS TO SEE HIM, AND HE
25 WOULDN'T SHOW UP.

1 Q HE BEING WHO?

2 A DWIGHT. I REMEMBER ONE TIME SAID HE WAS GOING TO
3 COME TAKE HIM AWAY FOR THE WEEKEND. THIS IS WHEN HE FIRST
4 GOT DIVORCED. I WAS HOME FROM SCHOOL FOR THE SUMMER AND I
5 WATCHED THAT LITTLE BOY SIT AT THE END OF THE DRIVEWAY FOR
6 THREE AND A HALF HOURS UNTIL IT WAS SO DARK. I HAD TO
7 DRAG HIM INSIDE, KICKING, AND SCREAMING. BECAUSE HE SAID,
8 "NO, MY DADDY IS GOING TO COME."

9 I DIDN'T HAVE THE HEART TO TELL HIM HE WASN'T GOING
10 TO COME.

11 Q DID YOU TAKE CHRIS WITH YOU AFTER THAT?

12 A YES, I DID.

13 Q WHY?

14 A I KNEW THAT IF HE WOULD GET OUT OF THAT ENVIRONMENT,
15 GET AWAY FROM DAISY, THAT HE STILL HAD A CHANCE TO DO
16 SOMETHING WITH HIS LIFE. HE STILL HAD A CHANCE TO FULFILL
17 THE DREAMS WE TALKED ABOUT. YOU KNOW, BEING A PILOT OR,
18 YOU KNOW, DOCTOR, EVERYTHING. THE WORLD WAS WIDE OPEN TO
19 HIM AND THEY TOOK THAT ALL AWAY.

20 Q DID THAT WORK OUT?

21 A NO.

22 Q WHY NOT?

23 A I HAD SO MUCH GOING ON AT THAT TIME AND I FOUND
24 MYSELF AGAIN IN THE SITUATION WHERE I COULDN'T DEDICATE
25 THE TIME THAT I WANTED TO TO MY BROTHER. I JUST WAS

1 LOOKING FOR A JOB AND NO ONE DIDN'T -- NO ONE WANTED TO BE
2 TRUTHFUL, BUT I WAS SEVEN MONTHS PREGNANT AT THE TIME; AND
3 WHO WANTS TO HIRE A PREGNANT NURSE WHO'S GOING TO BE OUT
4 ON MATERNITY LEAVE AS SOON AS YOU GET HER TRAINED.

5 Q RIGHT.

6 A BUT MAINLY I WANTED CHRIS TO COME BACK AND FULFILL
7 HIS OBLIGATION TO PTI. I SAID, YOU KNOW, "IF YOU HAVE
8 THINGS LIKE THAT HANGING OVER YOUR HEAD, YOU'RE NEVER GET
9 A FRESH START." SO HE WENT BACK.

10 Q IS THAT THE PTI WITH HIM ASSAULTING MANDY?

11 A IT WAS FOR THE PAINTBALL INCIDENT.

12 Q NOW, WE'VE TALKED A GOOD DEAL ABOUT --

13 THE COURT: ANYBODY ELSE GOT ANY CAR PHONES, TURN
14 THEM OFF OR GET OUT OF THE COURTROOM. IN THE AUDIENCE I'M
15 SPEAKING OF. PLEASE PROCEED.

16 MR. NETTLES: THANK YOU, YOUR HONOR.

17 Q WE TALKED A FAIR AMOUNT ABOUT CHRIS AND STUFF.
18 THERE'S SOME GOOD THINGS ABOUT HIM?

19 A SOME -- NOT SOME GOODS THINGS, THERE ARE A LOT OF
20 GOOD THINGS.

21 Q LET ME ASK YOU TO SHARE THAT WITH THE JURY.

22 A CHRIS WAS A VERY DEDICATED BROTHER.

23 Q TO WHO?

24 A TO ME. YOU KNOW, EVERY CHANCE THAT HE GOT AND EVERY
25 TIME I WAS AVAILABLE FOR WEEKENDS, SUMMERS, HE WOULD COME

1 DOWN AND SEE ME. EVERY TIME HE CAME DOWN, HE WOULD WASH
2 MY CAR, WAX MY CAR.

3 I'D JOKE WITH HIM, I'D SAY, "YOU'RE JUST GOING TO
4 WASH THE PAINT RIGHT OFF THAT THING IF YOU KEEP WASHING IT
5 THE WAY YOU DO." JUST VERY DEDICATED TO HIS SISTER. HE
6 WOULD DO LITTLE THINGS LIKE, BECAUSE HE KNOWS HOW I FEEL
7 ABOUT DIRTY CLOTHES LAYING AROUND THE HOUSE, HE WOULD MAKE
8 SURE THINGS WERE PICKED UP WHEN I CAME HOME. HE STARTED
9 COOKING DINNER, EVEN IF IT WAS JUST A PACK OF RAMEN
10 NOODLES.

11 Q ALL RIGHT. LET ME ASK YOU THIS. DID YOU TALK TO HIM
12 VERY OFTEN?

13 A WE TALKED.

14 Q WHEN HE WASN'T THERE?

15 A WHEN HE WASN'T THERE. WE TALKED ON THE PHONE ALMOST
16 EVERY SINGLE DAY.

17 Q ABOUT WHAT?

18 A DAISY, DWIGHT.

19 Q NOW, DOES CHRIS KNOW YOUR SON?

20 A YES.

21 Q NOW, HE DOES -- DOES HE KNOW THE SECOND ONE?

22 A NO.

23 Q WHY NOT?

24 A MY SON WAS BORN ON OCTOBER 29th OF 2003. AND WE
25 ALL KNOW WHAT HAPPENED ON AUGUST [SIC] THE 3RD OF THAT

1 YEAR.

2 Q I UNDERSTAND. LET'S TALK A LITTLE ABOUT WHAT
3 HAPPENED, WHAT ABOUT RIPLEY?

4 A RIPLEY LOVES HIS UNCLE. AT THAT TIME HE COULDN'T
5 PRONOUNCE CH- CONSONANTS, SO HE'S ALWAYS CALLED HIM UNCLE
6 TRIS. EVERY TIME WE SEE SOMEONE THAT RESEMBLES CHRIS OUT,
7 HE SAYS, "WHEN AM I GOING TO SEE UNCLE CHRIS? WHEN HE IS
8 HE COMING BACK?" I HAVE TO TELL HIM CHRIS IS TAKING CARE
9 OF SOME BUSINESS THAT HE'S RESPONSIBLE FOR. MAYBE HE'LL
10 SEE HIM SOMEDAY; BUT RIGHT NOW HE'S JUST GOT TO TAKE CARE
11 OF HIS BUSINESS.

12 Q LET ME ASK YOU SOMETHING. WHAT KIND OF SON WAS
13 CHRIS?

14 A HE WAS A GOOD SON. I MEAN, YOU LOOK AT WHAT PARENTS
15 HAVE TO GO THROUGH WITH TEENAGERS THESE DAYS. HE DIDN'T
16 DRINK, DIDN'T GET INTO FIGHTS. HE WAS A GREAT KID. HE
17 WAS A GREAT KID. HE WAS A WONDERFUL KID. AND I STILL SEE
18 HIM AS THAT LITTLE TWO-YEAR OLD RUNNING THROUGH THE BACK
19 YARD IN THE WATER SPRINKLERS. I TOOK A PICTURE OF IT, IT
20 WAS PROBABLY THE MOST PRECIOUS THING I HAD FOR A LONG TIME
21 UNTIL DWIGHT DESTROYED IT, RUNNING TOWARDS ME WITH THE
22 DIAPER HANGING BETWEEN HIS KNEES BECAUSE HE HAD BEEN IN
23 THE WATER SO LONG THAT DAY. AND HE HAD A SMILE ON HIS
24 FACE. LOOKS JUST LIKE MY OLDEST SON WHEN HE WAS DOING
25 THAT AND THAT'S HOW I ALWAYS SEE HIM.

1 Q MAUREEN, THE JURY'S LOOKED AT CHRIS FOR THE BETTER
2 PART OF A WEEK NOW. I THINK ONE COULD SAY THAT SOMETIMES
3 HE APPEARS VACANT?

4 A YEAH.

5 Q HAS HE ALWAYS --

6 A I UNDERSTAND.

7 Q -- BEEN LIKE THAT?

8 A WHEN YOU GROW UP IN AN ENVIRONMENT WHERE YOU'RE NEVER
9 ALLOWED TO EXPRESS HOW YOU FEEL -- DWIGHT ALWAYS SAID
10 CHILDREN SHOULD BE SEEN, NOT HEARD. IF YOU WERE UPSET
11 ABOUT SOMETHING, YOU COULDN'T SHOW IT. IF YOU WERE MAD
12 ABOUT SOMETHING, YOU COULDN'T SHOW IT. AND YOU CERTAINLY
13 COULDN'T SHOW MY PARENTS YOU WERE ANGRY WITH THEM FOR
14 WHATEVER REASON. THEY ALWAYS SAID THEY WERE ALWAYS RIGHT
15 AND WE WILL ALWAYS BE WRONG. SO, YOU'RE PROGRAMMED THAT
16 WAY. YOU KNOW, YOU THINK OF 22 YEARS OF NEVER BEING
17 ALLOWED TO EXPRESS YOURSELF. IT BECOMES SECOND NATURE.

18 Q MAUREEN, WHAT'S THE HAPPIEST TIME YOU AND CHRIS EVER
19 HAD?

20 A WHEN WE WENT TO THE BEACH. WE WENT TO MYRTLE BEACH
21 FOR A VACATION.

22 Q DID THE WHOLE FAMILY GO?

23 A NO, IT WAS JUST ME AND HIM.

24 Q WHERE WERE YOU AT THAT POINT?

25 A I WAS -- IT WAS THE TWO SUMMERS BEFORE I STARTED

1 NURSING SCHOOL.

2 Q OKAY. WHO PAID FOR IT?

3 A I DID.

4 Q YOU WENT TO MYRTLE BEACH?

5 A YES.

6 Q WHAT DID YOU DO?

7 A WE SPENT A LOT OF TIME ON THE BEACH IN THE WATER.
8 CHRIS GOT STUNG BY A JELLYFISH AND WE WENT TO THE PAVILION
9 AND WE RODE THE RAINBOW SO MANY SOMETIMES I WAS ALMOST
10 SICK ON MY STOMACH, WENT TO GRAVATRON, WENT TO RIPLEY'S
11 BELIEVE IT OR NOT. JUST HAD A WONDERFUL TIME. IT WAS
12 GREAT BECAUSE IT WAS LIKE A FAMILY THAT WAS ACTUALLY
13 HAVING FUN AND WE NEVER FOUGHT. I MEAN, WE'VE HAD OUR
14 DISAGREEMENTS ON THINGS, BUT WHO DOESN'T. BUT IT WAS A
15 HAPPY HAPPY TIME BECAUSE WE WERE DOING THINGS THAT
16 FAMILIES DO, BECAUSE -- EVEN IF OUR FAMILY JUST CONSISTED
17 OF THE TWO OF US.

18 Q MAUREEN, DID YOU KNOW MANDY?

19 A I HAD THE PLEASURE OF MEETING HER ONE TIME.

20 Q HOW -- HOW DID YOUR BROTHER FEEL ABOUT HER?

21 A MY BROTHER NEVER SPOKE ABOUT A GIRL UNTIL HE MET
22 MANDY. I KNOW IN THE BOTTOM OF MY HEART HE LOVED HER. HE
23 LOVED HER SO MUCH AND HE LOVED HER DAUGHTER, CALLISTA.

24 Q LOVED WHO?

25 A HER DAUGHTER. AND SHE WAS TAKING ABOUT MAKING PLANS

1 TO, YOU KNOW, WELL IT WOULD BE GREAT IF WE COULD TAKE THE
2 KIDS TO SIX FLAGS.

3 Q THE KIDS BEING WHO?

4 A MANDY'S DAUGHTER AND MY OLDEST SON. THEY'RE THE SAME
5 AGE.

6 Q I UNDERSTAND. I UNDERSTAND. MAUREEN, HOW MANY
7 PEOPLE DO YOU KNOW OF HAVE EVER LOVED CHRIS?

8 A ME. I LOVE MY BROTHER UNCONDITIONALLY. I LOOK AT
9 HIM NOW AND I SEE ONLY THE MILLIONS OF GOOD THINGS THAT
10 HE'S DONE IN HIS LIFE. HE'S WARMHEARTED. I REMEMBER ONCE
11 HE CAME TO STAY WITH ME OVER THE SUMMER WHEN I WAS AT
12 U.S.C. FINISHING UP MY EDUCATION THERE. AND HE
13 ACCIDENTALLY ATE AN ENTIRE PAN OF BROWNIES BECAUSE HE
14 THOUGHT THEY WERE MINE.

15 Q HOW DO YOU ACCIDENTALLY EAT?

16 A HE THOUGHT THEY WERE MINE. MY ROOMMATE CAME, SHE
17 SAID "CHRIS ATE ALL MY BROWNIES."

18 I TOLD CHRIS, "MY ROOMMATE IS NOT TOO HAPPY YOU ATE
19 ALL HER BROWNIES." SO ON HIS OWN HE WALKED DOWN TO FOOD
20 LION.

21 Q IN COLUMBIA DOWN HARDEN STREET?

22 A YEAH, EXACTLY. WALKED DOWN TO THE FOOD LION AND CAME
23 BACK TO THE APARTMENT AND PROCEEDED TO MAKE BROWNIES FOR
24 MY ROOMMATE. AND HE SURPRISED HER WITH THEM. AND YOU
25 KNOW, HE WASN'T EVEN A TEENAGER THEN, AND I THOUGHT THAT

1 WAS REALLY SWEET. WHEN I WORKED AS A VETERINARY
2 TECHNICIAN, IN COLUMBIA, SUNSET ANIMAL CLINIC, THE SUMMERS
3 HE WOULD COME DOWN, HE WOULD VOLUNTEER HIS TIME, CLEANING
4 LITER BOXES, WALKING DOGS. IT WASN'T ANYTHING GLAMOROUS.
5 HE NEVER GOT TO MEDICATE THE ANIMALS. BUT IT WAS JUST
6 REALLY WARM FOR ME TO SEE THIS TALL GUY HOLDING THESE TINY
7 DEFENSELESS ANIMALS IN HIS HAND.

8 I HAD A HOUSE FULL OF CATS, SQUIRRELS, TURTLES, YOU
9 NAME IT.

10 Q SQUIRRELS?

11 A YEAH.

12 Q A PET SQUIRREL?

13 A WELL, IT WASN'T REALLY A PET. WE WERE REHABILITATING
14 HIM TO SET HIM FREE. I ACTUALLY TOOK A PHOTO OF CHRIS ONE
15 SUMMER WE WERE IN THE HORSESHOE IN COLUMBIA FEEDING
16 SQUIRRELS. AND ONE ACTUALLY I DON'T KNOW HOW HE GOT HIM
17 TO DO THAT, BUT A SQUIRREL WALKED UP TO CHRIS SITTING ON
18 THE BENCH AND WAS FEEDING HIM PEANUTS OUT OF HIS HAND.

19 Q ALL RIGHT. MAUREEN, DID YOU AND I MEET FOR BREAKFAST
20 THIS MORNING?

21 A YES, WE DID.

22 Q DID YOU SHARE WITH ME SOMETHING YOU WROTE LAST NIGHT?

23 A YES, I DID.

24 Q DO YOU STILL WANT TO READ IT?

25 A YES, I DO.

1 Q DID I ASK YOU TO DO IT?

2 A NO, I DID IT ON MY OWN AFTER I HEARD MRS. WILLIAMS'
3 TESTIMONY. YEAH. I WASN'T SURE IF THE LETTER I HAD
4 WRITTEN TO THEM AFTER MIRANDA'S DEATH ACTUALLY GOT TO THE
5 FAMILY.

6 Q WHAT LETTER?

7 A DETECTIVE SILVAGGIO AND DR. CRAWFORD CAME TO MY HOME
8 IN ATLANTA AFTER MIRANDA'S MURDER, AND I WROTE A LETTER TO
9 THE FAMILY AND MAILED IT TO SILVAGGIO AND ASKED HIM --

10 Q THIS MAN RIGHT HERE?

11 A YES.

12 Q ASKED HIM TO DO WHAT?

13 A I ASKED HIM IF HE WOULD GIVE IT TO THE FAMILY.

14 Q DO YOU HAVE SOMETHING YOU WANT TO READ?

15 A YES.

16 "ON BEHALF OF THE BANGCUYO FAMILY AND MYSELF WE WANT
17 TO EXTEND TO THE WILLIAMS' FAMILY OUR PRAYERS THAT YOU MAY
18 SOON FIND PEACE. WE ALL WANT YOU TO KNOW YOU HAVE OUR
19 MOST SINCERE SYMPATHY AND WE CAN ONLY HOPE YOU CAN SOME
20 DAY FIND IT IN YOUR HEARTS TO SOMEHOW FORGIVE MY BABY
21 BROTHER FOR WHAT HE HAS DONE.

22 "MANDY'S DEATH AND CHRIS' INCARCERATION ARE BY FAR
23 THE TWO MOST PAINFUL EXPERIENCES I'VE EVER BEEN FORCED TO
24 ENDURE. IN COMPARISON TO EVERYTHING THAT I HAD TO LIVE
25 THROUGH GROWING UP AS A CHILD WITH DWIGHT AND DAISY, EVERY

1 SINGLE DAY IS FILLED WITH THOUGHTS OF AUGUST THE 3RD.

2 "THE ONLY SOLACE I GET IS KNOWING THAT GOD LOVES ALL
3 OF US ALL THE TIME, AND THROUGH HIM ALL THINGS ARE
4 POSSIBLE. I LOVE MY BABY BROTHER UNTIL THE DAY I DRAW MY
5 LAST BREATH. MANDY WILL FOREVER BE IN MY PRAYERS AS WILL
6 CHRIS. AND WE PRAY THAT GOD'S WILL BE WITH YOU AND YOUR
7 FAMILY.

8 "I LOVE MY BABY BROTHER. HE GAVE ME THE FIRST
9 OPPORTUNITY TO LOVE SOMEONE IN MY FAMILY, AND HE WAS THE
10 ONLY ONE IN MY FAMILY TO TRULY LOVE ME BACK. HE IS THE
11 REASON I WANTED TO HAVE ALL BOYS, AND GOD HAS BLESSED ME
12 WITH TWO OF THE MOST WONDERFUL SONS YOU COULD POSSIBLY
13 EVER IMAGINE.

14 "I'M NOT SURE EXACTLY WHY GOD HAS CHOSEN FOR MIRANDA
15 TO DIE, AND I MAY NEVER KNOW; BUT WHAT I DO KNOW IS THAT
16 ALL THE SUFFERING WE ALL LIVED THROUGH, THAT THERE IS A
17 PURPOSE FOR IT, WHETHER WE KNOW IT TODAY OR TOMORROW OR
18 NEVER AND THAT MAYBE WE COULD FIND A RESOLUTION AND STOP
19 THIS SENSELESS VIOLENCE IN THE HOME AND TO KEEP THINGS
20 LIKE THIS FROM HAPPENING IN THE FUTURE.

21 "OUR PRAYERS ARE WITH YOU ALWAYS."

22 THANK YOU, MAUREEN.

23 THE COURT: CROSS EXAMINATION?

24 MR. ARIAIL: NO, YOUR HONOR.

25 THE COURT: YOU MAY STEP DOWN. BE CAREFUL STEPPING

1 DOWN. OKAY? DON'T FALL.

2 (WITNESS STEPS DOWN FROM THE STAND.)

3 ALL RIGHT. MR. FOREMAN, MEMBERS OF THE JURY, I'M
4 GOING TO HAVE TAKE UP SOME LEGAL MATTERS OUT OF THE JURY'S
5 PRESENCE. I'LL ASK YOU TO GO TO THE JURY ROOM. DON'T
6 DISCUSS THE CASE. LEAVE YOUR NOTEPADS IN YOUR CHAIRS.
7 YOU MAY TAKE A SMOKE BREAK, WHATEVER YOU NEED THIS WILL
8 PROBABLY TAKE ABOUT 20 OR 30 MINUTES. ALL RIGHT.

9 (THE FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE
10 PRESENCE OF THE JURY:)

11 THE COURT: ALL RIGHT. MR. WILLIAMS, WOULD YOU
12 PLEASE STAND, PLEASE, SIR.

13 A YES, SIR.

14 CHARLES CHRISTOPHER WILLIAMS,
15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 EXAMINATION

17 BY THE COURT:

18 Q NOW, I WENT THROUGH THIS PROCESS WITH YOU CONCERNING
19 YOUR RIGHT TO TESTIFY IN THE FIRST PHASE, THE GUILT PHASE
20 OF THE TRIAL. DO YOU REMEMBER?

21 A YES, SIR.

22 Q ALL RIGHT. DO YOU REMEMBER EVERYTHING I TOLD YOU IN
23 THAT PHASE?

24 A YES, SIR.

25 Q DO YOU UNDERSTAND NO ONE CAN COMPEL YOU TO TESTIFY

1 UNDER THE FIFTH AMENDMENT?

2 A YES, SIR.

3 Q DO YOU UNDERSTAND IT'S A PERSONAL RIGHT THAT YOU
4 HAVE?

5 A YES, SIR.

6 Q NO ONE CAN MAKE THAT DECISION FOR YOU. YOU HAVE TO
7 MAKE IT YOURSELF, DO YOU UNDERSTAND?

8 A YES, SIR.

9 Q HAVE YOU DISCUSSED IT WITH YOUR ATTORNEY?

10 A YES, SIR.

11 Q HAVE YOU DISCUSSED IT WITH YOUR SISTER OR OTHER
12 FAMILY MEMBERS?

13 A NO, SIR.

14 Q DO YOU NEED TO DISCUSS IT WITH ANYONE?

15 A NO, SIR.

16 Q HAVE YOU MADE A DECISION AS TO WHETHER OR NOT YOU
17 WANT TO TESTIFY OR NOT TESTIFY?

18 A YES, SIR.

19 Q WHAT'S YOUR DECISION?

20 A I DO NOT WISH TO TESTIFY.

21 Q DO YOU NEED TO TAKE -- DO YOU NEED ANY MORE TIME TO
22 DELIBERATE ON THAT DECISION ANY FURTHER?

23 A NO, SIR.

24 Q DO YOU UNDERSTAND THAT I WILL INSTRUCT THE JURY
25 THEY'RE NOT TO CONSIDER THAT IN ANY CIRCUMSTANCE IN THE

1 DELIBERATIONS AS I DID IN THE FIRST PHASE?

2 A YES, SIR.

3 Q YOU UNDERSTAND? HAS ANYBODY FORCED YOU OR THREATENED
4 YOU TO MAKE YOU NOT DESIRE TO TESTIFY?

5 A NO, SIR.

6 Q AND YOU FULLY UNDERSTAND WHAT I'VE TOLD YOU?

7 A YES, SIR.

8 Q AND YOU'VE DISCUSSED IT WITH YOUR ATTORNEY?

9 A YES, SIR.

10 Q DO YOU UNDERSTAND EVERYTHING YOUR ATTORNEY TOLD YOU
11 ABOUT YOUR RIGHT TO TESTIFY?

12 A YES, SIR.

13 THE COURT: MR. MAULDIN, DO YOU HAVE ANY QUESTIONS
14 YOU WANT TO ASK YOUR CLIENT?

15 MR. MAULDIN: NO, SIR.

16 THE COURT: DO ANY OF THE OTHER ATTORNEYS HAVE ANY
17 QUESTIONS THEY WANT TO ASK THEIR CLIENT?

18 MR. MAULDIN: NO, SIR.

19 THE COURT: NOW, MR. WILLIAMS, ONE OTHER THING. I
20 DON'T KNOW IF THE STATE'S GOING TO HAVE ANY REPLY
21 TESTIMONY, THEY MAY. IF THEY DO, AFTER REPLY TESTIMONY IS
22 OVER, WE'LL GO INTO CLOSING ARGUMENTS AND CHARGE. YOU'RE
23 ENTITLED TO MAKE YOUR STATEMENT TO THE JURY. I TOLD YOU
24 THAT IN THE FIRST PHASE, IN THE GUILT PHASE. I TELL YOU
25 AGAIN, YOU'RE ENTITLED TO MAKE A STATEMENT TO THE JURY.

1 DO YOU UNDERSTAND?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: YOU DON'T HAVE TO MAKE THAT DECISION NOW,
4 BUT BEFORE WE START THE CLOSING ARGUMENTS, I WOULD LIKE TO
5 KNOW WHETHER YOU'RE GOING TO MAKE A STATEMENT OR NOT MAKE
6 A STATEMENT. CAN YOU DO THAT?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. ALL
9 RIGHT. WE HAVE A MOTION TO WHAT? STRIKE?

10 MR. MAULDIN: YES, YOUR HONOR.

11 MR. ARIAIL: YOUR HONOR, WE'LL SOLVE THAT. WE'LL
12 WITHDRAW THAT.

13 THE COURT: ALL RIGHT. THAT'S SOLVED.

14 MR. MAULDIN: ON THE AGGRAVATOR, YOUR HONOR.

15 THE COURT: ON THE AGGRAVATOR, THE ONLY AGGRAVATOR
16 WOULD BE THE KIDNAPPING; IS THAT CORRECT, SOLICITOR?

17 MR. ARIAIL: YES, SIR.

18 MR. MAULDIN: THE NEXT MATTER, YOUR HONOR, IS THE
19 PROPOSED JURY INSTRUCTION THAT WE PASSED UP.

20 THE COURT: SOLICITOR, HAVE YOU SEEN THE PROPOSED
21 JURY INSTRUCTION?

22 MR. ARIAIL: THE DEPUTY HAS.

23 THE COURT: DOES SHE HAVE ANY OBJECTION TO IT?

24 MR. MAULDIN: SHE'S THE LAW.

25 THE COURT: DO YOU HAVE ANY OBJECTION TO IT?

1 MS. STROM: JUST ONE SECOND, JUDGE.

2 THE COURT: DO YOU HAVE ANY OBJECTION TO THAT REQUEST
3 TO CHARGE BASICALLY ABOUT IN ORDER FOR THE DEFENDANT TO --
4 WHAT DOES IT SAY MR. MAULDIN, I'M SORRY?

5 MR. MAULDIN: IT IS IN LINE WITH OUR RING MOTION,
6 JUDGE, REGARDING THE CONSTITUTIONALITY OF THE STATUTE.
7 AND THE FOLLOW UP IF THAT MOTION WAS DENIED, WHICH IT WAS
8 BY THE COURT, WE ARE OFFERING THIS AS AT LEAST THE MINIMUM
9 ALTERNATIVE TO THE GRANTING OF THAT MOTION, WHICH I ASSUME
10 THE JUDGE WOULD CONTINUE TO DENY IF I ARGUE MY HEAD OFF
11 ABOUT IT RIGHT NOW.

12 THE COURT: YOU'RE RIGHT.

13 MR. MAULDIN: SO, WE'RE SAYING IN LIGHT OF THAT
14 DENIAL, WE NOW SUBMIT WHAT WE BELIEVE WOULD BE AN
15 APPROPRIATE JURY INSTRUCTION TO MAKE SURE THE JURY IS
16 FULLY INFORMED AS TO WHY THEY WENT THROUGH THAT FIRST
17 PROCESS.

18 THE COURT: SOLICITOR, YOU HAVE ANY OBJECTION TO THE
19 CHARGE?

20 MR. ARIAIL: YES, SIR.

21 THE COURT: WHAT IS YOUR OBJECTION?

22 MR. ARIAIL: MY OBJECTION I THINK HE'S COMMENTING ON
23 THE FACTS. I THINK THAT YOU CAN READ THEM IF YOU WANT TO,
24 THE APPROPRIATE CODE SECTION. BUT I THINK WHEN YOU GET
25 INTO DEFENDANT WAS REQUIRED TO ENTER A PLEA OF NOT GUILTY,

1 THEY ARE ASKING YOU TO INTERPRET FOR THEM THE INTENT AND
2 THE THINKING OF THE DEFENDANT. AND I THINK THAT IS
3 OUTSIDE THE SCOPE OF WHAT YOU'RE AUTHORIZED TO DO UNDER
4 THE LAW. I THINK YOU CAN CERTAINLY CHARGE THE JURY THAT
5 UNDER OUR SYSTEM OF LAW THE JURY IS THE ONE WHO MAKES THE
6 DETERMINATION AS TO WHETHER OR NOT THE DEFENDANT SHOULD
7 BE --

8 THE COURT: SO, YOUR PROBLEM IS WITH THE SECOND PART
9 OF THE CHARGE WHERE IT SAYS, "IN ORDER TO HAVE THE JURY
10 DETERMINE WHETHER THE DEFENDANT SHOULD BE SENTENCED TO
11 DEATH, LIFE WITHOUT POSSIBILITY OF PAROLE," THAT'S YOUR
12 OBJECTION, TO THE SECOND PART?

13 MR. ARIAIL: YES. THE FIRST PART READS, "A DEFENDANT
14 CHARGED WITH MURDER IS REQUIRED TO ENTER A PLEA OF NOT
15 GUILTY IN ORDER TO BE SENTENCED BY A JURY OF HIS PEERS.
16 IF A DEFENDANT PLEADS GUILTY, THE SENTENCING PROCEDURE
17 MUST BE CONDUCTED BY A JUDGE, NOT A JURY."

18 THE COURT: THAT'S BASICALLY WHAT THE STATUTE SAYS.

19 MR. ARIAIL: THAT'S RIGHT. "IN ORDER TO HAVE A JURY
20 DETERMINE WHETHER THE DEFENDANT SHOULD BE SENTENCED TO
21 LIFE WITHOUT POSSIBILITY PAROLE OR SENTENCED TO DEATH, THE
22 DEFENDANT WAS REQUIRED TO ENTER A PLEA NOT GUILTY." I
23 WOULD TAKE EXCEPTION TO THAT AS A COMMENT ON THE FACTS.
24 THE FIRST PART I DON'T HAVE ANY OBJECTION TO.

25 MR. MAULDIN: MAY I, YOUR HONOR?

1 THE COURT: YES, SIR.

2 MR. MAULDIN: IF YOU WILL RECALL WHAT I CONSIDER TO
3 BE MY, WELL-REASONED ARGUMENT ON THE RING MOTION, THE LAW
4 DOES REQUIRE EXACTLY WHAT WE HAVE PUT IN OUR REQUEST. IF
5 THE COMPLAINT OF THE STATE IS THE LANGUAGE, "DEFENDANT WAS
6 REQUIRED TO ENTER A PLEA OF NOT GUILTY," NOTHING COULD BE
7 FURTHER THAN THE LEGAL TRUTH. IT IS NOT A COMMENT ON THE
8 FACTS OF THE CASE. IT IS A CLEAR AND CONCISE COMMENT ON
9 THE LAW OF THIS STATE.

10 AND AS MUCH AS WE BELIEVE IT'S UNCONSTITUTIONAL AT
11 LEAST FROM OUR ARGUMENT, IF IT'S GOING TO BE THE LAW OF
12 THIS CASE, WE'RE ASKING THAT IT BE INSTRUCTED TO THE JURY
13 EXACTLY AS WE PROPOSED IT.

14 THE COURT: I WILL CHARGE YOU -- I'LL MAKE A CHANGE
15 TO IT. AND THE SECOND PART WILL READ, "IN ORDER TO HAVE A
16 JURY DETERMINE WHETHER A DEFENDANT SHOULD BE SENTENCED TO
17 LIFE WITHOUT THE POSSIBILITY OF PAROLE OR SENTENCED TO
18 DEATH FOR MURDER AND KIDNAPPING, THE DEFENDANT HAD TO
19 PROCEDURALLY ENTER A PLEA OF NOT GUILTY." AND I'LL ADD
20 THAT WORD, HAD TO PROCEDURALLY ENTER A PLEA OF NOT GUILTY.

21 SOLICITOR, DID YOU HEAR? I'M GOING TO MAKE THAT -- I
22 THINK THAT'S AN ACCURATE QUOTE OF THE LAW. I WOULD AGREE
23 WITH YOU, I WOULD SAY IT'S BORDERLINE ON COMMENTING ON THE
24 FACTS, THE WAY IT WAS WRITTEN. BUT I'M GOING TO MAKE THAT
25 CHANGE. OTHER THAN THAT CHANGE, I'LL MAKE THAT CHANGE.

1 ALL RIGHT? WHAT ELSE DO WE NEED TO TAKE UP?

2 MR. MAULDIN: YOUR HONOR, I WOULD AT THIS TIME ADVISE
3 THE COURT AS TO WHAT I CONSIDER TO BE THE APPROPRIATE
4 STATUTORY MITIGATING CIRCUMSTANCES.

5 THE COURT: CAN YOU WRITE THEM OUT FOR ME? JUST HAND
6 THEM TO ME ON A PIECE OF PAPER.

7 MR. MAULDIN: FOR YOUR INFORMATION THEY ARE 12 AND 7.
8 WELL, IN FACT, I'LL JUST RUN A COPY OF THIS PAGE.

9 THE COURT: GIVE IT TO CAROLINE, SHE CAN RUN A COPY
10 OF IT. AND YOU CAN GO AHEAD PUT IN THE RECORD WHAT THEY
11 ARE.

12 HOW ABOUT YOUR NONSTATUTORY?

13 MR. MAULDIN: NONSTATUTORY? IT'S 12 AND 7 ON THAT
14 LIST, YOUR HONOR. AND MR. NETTLES IS VERY QUICKLY
15 WRITING.

16 THE COURT: TWELVE AND SEVEN.

17 MR. MAULDIN: YES, SIR. COULD MR. ARIAIL AND I
18 APPROACH JUST ONE SECOND?

19 (WHEREUPON, A BENCH CONFERENCE IS HELD, AFTER WHICH
20 THE PROCEEDINGS ARE ADJOURNED FOR THE LUNCHEON RECESS.)

21 AFTERNOON SESSION

22 (PURSUANT TO THE ADJOURNMENT FOR THE LUNCHEON RECESS,
23 COURT WAS AGAIN IN SESSION WHEN THE FOLLOWING PROCEEDINGS
24 WERE HAD OUTSIDE THE PRESENCE OF THE JURY:)

25 THE COURT: ALL RIGHT. I UNDERSTAND YOU HAVE A

1 REQUEST ON BEHALF OF THE DEFENDANT. IS THAT RIGHT, MR.
2 MAULDIN?

3 MR. MAULDIN: YES. A COUPLE OF THINGS, YOUR HONOR.

4 THE COURT: FIRST OF ALL, LET ME PUT ON THE RECORD WE
5 HAD ABOUT A 30-MINUTE INFORMAL CHARGE CONFERENCE. THE
6 PARTIES HAVE GONE OVER THE CHARGE. YOU WOULD LIKE TO MAKE
7 A REQUEST FOR CHARGE AT THIS TIME; IS THAT CORRECT?

8 MR. MAULDIN: YES.

9 THE COURT: I'LL BE GLAD TO HEAR YOU.

10 MR. MAULDIN: WITH REGARD TO THE CHARGE, YOUR HONOR,
11 WE WANT IN PARTICULAR A THIRD SENTENCING SHEET PROVIDED TO
12 THE JURY. THE JURY CURRENTLY WILL RECEIVE TWO SHEETS.
13 ONE THAT SAYS WE IMPOSE A LIFE SENTENCE, THE OTHER SAYS WE
14 FIND AN AGGRAVATING CIRCUMSTANCE AND WE, THE 12
15 SIGNATURES, OPPOSE THE DEATH SENTENCE. WE ASK THAT A
16 THIRD SHEET GO IN THAT SAYS, WE FIND THE EXISTENCE OF AN
17 AGGRAVATING CIRCUMSTANCE, TO WIT: KIDNAPPING, AND IMPOSE
18 A LIFE SENTENCE. THAT'S MY REQUEST. BECAUSE I THINK THAT
19 REALLY THERE ARE THREE OPTIONS.

20 THE COURT: WELL, THEY DON'T HAVE TO FIND THE
21 AGGRAVATING CIRCUMSTANCES IN ORDER TO GIVE HIM LIFE.

22 9 MR. MAULDIN: ABSOLUTELY. I AGREE WITH THAT.

23 THE COURT: THEY DON'T HAVE TO FIND IT. SO, WHY
24 SHOULD I PUT IT IN THERE? THAT INDICATES WE REQUIRE TO
25 HAVE A HIGHER STANDARD OF GUILT TO GIVE LIFE.

1 MR. MAULDIN: NO, WHAT IT INDICATES IS THAT THEY CAN
2 FIND AN AGGRAVATOR AND STILL IMPOSE LIFE AND THAT THAT IS
3 NOT SIMPLY TOLD TO THEM, IT IS IN FACT PROVIDED TO THEM IN
4 THE FORM OF A SENTENCING SHEET.

5 THE COURT: WHAT'S THE STATE'S POSITION ON THAT?

6 MS. STROM: YOUR HONOR, IN ORDER FOR THE JURY TO
7 RENDER ANY SENTENCE, THEY MUST FIRST FIND AN AGGRAVATING
8 CIRCUMSTANCE; AND I KNOW YOU'RE GOING TO TELL THEM THEY
9 CANNOT IMPOSE A SENTENCE UNLESS AND UNTIL THEY FIND AN
10 AGGRAVATING CIRCUMSTANCE. SO, THAT'S MY CONCERN IS THE
11 ONE THAT JUST SAYS WE FIND LIFE, WE IMPOSE A LIFE
12 SENTENCE, IT DOESN'T SAY THEY HAVE FOUND AN AGGRAVATING
13 CIRCUMSTANCE.

14 THE COURT: DO YOU WANT TO PUT IT IN? I MEAN, IF YOU
15 ALL WANT TO PUT IT IN BY AGREEMENT. THAT'S FINE BY ME.
16 I'LL PUT ANYTHING YOU ALL WANT IN THERE IF YOU WANT TO DO
17 IT BY AGREEMENT. IF YOU WANT TO PUT THAT REQUEST IN, I'LL
18 BE HAPPY TO DO IT.

19 MS. STROM: YES, SIR.

20 MR. MAULDIN: I'M SAYING THERE WOULD END UP BEING
21 THREE SHEETS.

22 MS. STROM: WELL, JUDGE, I'M SAYING THERE WOULD BE
23 THOSE TWO SHEETS. WE FIND AN AGGRAVATING CIRCUMSTANCE,
24 GIVE DEATH. WE FIND AN AGGRAVATING CIRCUMSTANCE, GIVE
25 LIFE WITHOUT PAROLE. THE THIRD SHEET BEING WE FIND NO

1 AGGRAVATING CIRCUMSTANCE.

2 THE COURT: AND GIVE LIFE?

3 MS. STROM: NO, SIR. WE FIND NO AGGRAVATING
4 CIRCUMSTANCE, PERIOD. BECAUSE IF THEY DON'T FIND IT, YOU
5 SENTENCE HIM. THERE SHOULD BE THREE SHEETS: WE FIND
6 AGGRAVATING AND GIVE HIM DEATH; WE FIND AGGRAVATING, GIVE
7 HIM LIFE; WE FIND NO AGGRAVATING CIRCUMSTANCES.

8 THE COURT: LET ME SEE THE LAWYERS UP HERE A SECOND.

9 (BENCH CONFERENCE HELD.)

10 ALL RIGHT ANYTHING ELSE?

11 MS. STROM: NOTHING FROM THE STATE.

12 THE COURT: OKAY. ALL RIGHT. ANYTHING ELSE, MR.
13 MAULDIN?

14 MR. MAULDIN: YES, SIR. ONE FINAL TIME. ONE FINAL
15 TIME, YOUR HONOR. WE AT THIS TIME, OF COURSE, PUT ON THE
16 RECORD A RENEWAL OF OUR IN LIMINE MOTIONS AND A RULING OF
17 MOTIONS WE MADE DURING THE TRIAL OF BOTH PHASES OF THIS
18 CASE, INCLUDING, AND I WOULD MAKE SPECIFIC REFERENCE TO
19 MOTIONS FOR A MISTRIAL DURING THE SENTENCING PHASE. WE DO
20 RENEW THOSE MOTIONS AND THE REMEDY THAT WE BELIEVE WOULD
21 BE AVAILABLE WOULD BE THAT THIS COURT IMPOSE A LIFE
22 SENTENCE WITHOUT PAROLE ON OUR CLIENT IMMEDIATELY. THAT'S
23 OUR MOTION.

24 THE COURT: MOTION DENIED.

25 MR. MAULDIN: ALL RIGHT, SIR.

1 THE COURT: ANYTHING ELSE?

2 MR. MAULDIN: I BELIEVE THAT'S IT, YOUR HONOR.

3 MS. STROM: THE DEFENDANT'S DECISION --

4 MR. MAULDIN: OH, YEAH.

5 MS. STROM: -- AS TO WHETHER HE WILL GIVE A FINAL
6 ARGUMENT.

7 THE COURT: MR. WILLIAMS, BEFORE WE TOOK A LUNCH
8 BREAK, I EXPLAINED TO YOU, YOU HAD THE RIGHT TO MAKE A
9 STATEMENT TO THE JURY. AND I TOLD YOU TO TALK TO YOUR
10 ATTORNEY AND ANYONE ELSE YOU WANT TO TALK TO DURING LUNCH
11 AND I WOULD ASK YOU FOR YOUR DECISION AFTER LUNCH. DO YOU
12 WANT TO MAKE A STATEMENT TO THE JURY OR DO YOU NOT WANT TO
13 MAKE A STATEMENT TO THE JURY?

14 THE DEFENDANT: NO, SIR.

15 THE COURT: YOU DO NOT WANT TO MAKE A STATEMENT TO
16 THE JURY?

17 THE DEFENDANT: NO, SIR.

18 THE COURT: HAS ANYBODY FORCED YOU OR THREATENED YOU
19 TO MAKE YOU NOT WANT TO MAKE A STATEMENT?

20 THE DEFENDANT: NO, SIR.

21 THE COURT: YOU FULLY UNDERSTAND YOU HAVE THE RIGHT
22 TO STAND BEFORE THE JURY AND SAY WHATEVER YOU WANT TO SAY?
23 DO YOU UNDERSTAND?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: THANK YOU VERY MUCH.

1 ANYTHING ELSE?

2 MR. ARIAIL: NOTHING FROM THE STATE.

3 THE COURT: ANYTHING FROM THE DEFENDANT?

4 MR. MAULDIN: BELIEVE IT OR NOT, NOTHING FROM THE
5 DEFENSE.

6 THE COURT: ALL RIGHT. BRING US THE JURY, PLEASE.

7 (WHEREUPON, THE JURY RETURNS TO OPEN COURT WHEN THE
8 FOLLOWING PROCEEDINGS WERE HAD:)

9 ALL RIGHT. I UNDERSTAND THE DEFENDANT HAS NO
10 WITNESSES?

11 MR. MAULDIN: NO FURTHER TESTIMONY.

12 THE COURT: THE DEFENDANT'S RESTING. DOES THE STATE
13 HAVE ANY REPLY TESTIMONY?

14 MS. STROM: NO, YOUR HONOR.

15 THE COURT: READY FOR CLOSING ARGUMENTS?

16 MR. MAULDIN: YES, YOUR HONOR.

17 THE COURT: SOLICITOR?

18 **CLOSING STATEMENT**

19 BY MR. ARIAIL:

20 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, WE
21 HAVE NOW REACHED WHAT IS THE END OF THIS CASE, CLOSING;
22 AND AS SOON AS WE COMPLETE THESE ARGUMENTS, YOU
23 PARTICIPATE IN YOUR JURY DELIBERATIONS AND RETURN YOUR
24 VERDICT. YOU CAN RETURN TO YOUR NORMAL LIVES THAT WE
25 SNATCHED YOU FROM A WEEK AGO. BUT I HOPE YOU UNDERSTAND

1 THE IMPORTANCE OF WHAT YOU'RE DOING, AND I HOPE YOU'VE
2 BENEFITTED, ALTHOUGH I UNDERSTAND IT'S A HUGE
3 INCONVENIENCE, TO SERVE ON THE JURY.

4 BUT THIS SYSTEM REQUIRES THAT WE HAVE GOOD, FAIR, AND
5 COMPETENT JURORS TO ASSIST IN THE LARGE AND IMPORTANT
6 DECISION THAT WE MAKE IN THESE COURTS. SO, FROM THE STATE
7 OF SOUTH CAROLINA WE THANK YOU FOR YOUR SERVICE AND WE
8 APPRECIATE YOUR ASSISTANCE IN WHAT WE DO IN THIS
9 PARTICULAR COURT.

10 THERE'S ONLY ONE DECISION LEFT FOR YOU TO MAKE AND
11 THAT IS THE APPROPRIATE SENTENCE, EITHER LIFE OR DEATH.
12 BUT, FIRST, BEFORE YOU CAN MAKE THAT DECISION, THE PROCESS
13 IS AND THE JUDGE WILL INSTRUCT YOU, WHEN YOU RETURN TO THE
14 JURY ROOM YOU MUST FIND AN AGGRAVATING FACTOR. THAT'S THE
15 FIRST DECISION YOU MUST MAKE, IS THERE AN AGGRAVATING
16 FACTOR? THOSE AGGRAVATING FACTORS ARE SET FORTH BY
17 STATUTE. OUR LEGISLATURES DEFINED WHAT IT IS THAT AN
18 AGGRAVATING FACTOR IS.

19 IN THIS CASE THE STATE HAS SUBMITTED ONLY ONE. THAT
20 IS MURDER COMMITTED DURING THE COURSE OF KIDNAPPING. WE
21 ORIGINALLY SUBMITTED TWO. WE HAVE ORIGINALLY WITHDRAWN
22 THE SECOND AS THE ISSUE OF KIDNAPPING HAD BEEN DECIDED;
23 THAT IS, AT THE MOUNT IN OUR JUDGMENT TO THE FINDING OF A
24 VERDICT. HOWEVER, YOU STILL WHEN YOU RETURN TO THE JURY
25 ROOM, MUST ONCE AGAIN DELIBERATE AND INCLUDE YOU FOUND

1 BEYOND A REASONABLE DOUBT THE VICTIM OF KIDNAPPING.

2 IF YOU DO FIND THAT, THEN YOU, AND ONLY AT THAT TIME
3 UNDER THE LAW, CAN YOU BEGIN TO CONSIDER THE DEATH
4 PENALTY. SO, THAT'S THE PROCESS. GUILT PHASE,
5 DETERMINING IF THERE'S AN AGGRAVATING CIRCUMSTANCE; IF
6 THERE IS AN AGGRAVATING CIRCUMSTANCE, THEN YOU PROCEED TO
7 DETERMINE WHAT PUNISHMENT SHOULD BE, LIFE OR DEATH.

8 LET ME REMIND EACH OF YOU ALL THAT AT THE BEGINNING
9 YOU SWORE UNDER AN OATH THAT YOU WOULD BE A FAIR AND
10 IMPARTIAL JURY AND YOU WOULD FAIRLY CONSIDER BOTH FORMS OF
11 PUNISHMENT IN THE PENALTY PHASE. EACH INDIVIDUAL JUROR
12 WILL CONSIDER IT, AND ALL 12 OF YOU WILL DELIBERATE. YOU
13 DELIBERATE AND EXCHANGE IDEAS. THAT'S THE PROCESS
14 BRINGING CONSENSUS TOGETHER, EACH CONSIDER THE OTHERS'
15 VIEWPOINTS AND CONSIDER WHAT THE OTHER HAS TO SAY AND A
16 FAIR AND REASONABLE JURY VERDICT IS REACHED DURING THAT
17 PROCESS.

18 IF FOR ANY REASON DURING THE COURSE OF THE
19 DELIBERATIONS YOU CONCLUDE YOU CANNOT CONTINUE TO ADHERE
20 TO YOUR OATH, THAT IS SOMETHING YOU WOULD NEED TO REPORT
21 TO YOUR FOREMAN OR TO THE COURT.

22 NOW, YOU CAN CONSIDER ALL OF THE EVIDENCE THAT WAS
23 PRODUCED DURING THE FIRST PHASE OF THE TRIAL. ALL OF THAT
24 EVIDENCE HAS BEEN ADMITTED CONCERNING THE NATURE OF THE
25 CASE, THE CRIME, NATURE OF THE CRIME, AND THE

1 CIRCUMSTANCES UNDER WHICH IT WAS COMMITTED.

2 THE STATE IS ASKING YOU TO IMPOSE THE DEATH PENALTY.
3 THAT'S WHAT WE'RE HERE FOR AND WHAT THIS SECTION IS ABOUT.
4 THIS PHASE OF THIS CASE, YOU MAY HEAR ARGUMENTS FROM THE
5 DEFENSE. I HAVE TO ANTICIPATE WHAT THEY MAY SAY. I DON'T
6 KNOW WHAT THEY WILL SAY. BUT YOU MAY HEAR ARGUMENTS FROM
7 DEFENSE COUNSEL THAT TRIES TO PERSUADE YOU THAT GIVING THE
8 DEATH PENALTY IS SOMEHOW WRONG OR THAT KILLING THE
9 DEFENDANT IS SOMEHOW WRONG. THOSE PHRASES YOU MAY HEAR
10 AND THAT TRY TO INDICATE TO YOU THAT WHAT YOU'RE DOING MAY
11 NOT BE RIGHT.

12 LET ME TALK TO YOU A LITTLE BIT ABOUT THAT. I WANT
13 TO PUT IT IN CONTEXT. ~~THE STATE, REPRESENTED BY THE~~
14 SOLICITOR, CAN IN CERTAIN CIRCUMSTANCES UNDER OUR LAW ASK
15 FOR THE IMPOSITION OF THE DEATH PENALTY. HOWEVER, IT IS
16 ONLY IN LIMITED CIRCUMSTANCES, SPECIFICALLY MURDER CASES,
17 AND ONLY THOSE MURDER CASES IN WHICH IS SPECIFICALLY
18 DEFINED BY OUR STATUTORY LAW BY OUR LEGISLATURE. AND ONLY
19 IN THOSE CASES CAN THE STATE SEEK TO HAVE THE DEATH
20 PENALTY IMPOSED.

21 SO, THIS IS A LEGAL PROCESS, A LEGAL PENALTY ENACTED
22 BY OUR LEGISLATORS; AND IT IS A FUNCTION OF GOVERNMENT
23 CARRIED OUT BY YOU, THE CITIZENS. AND THAT'S THE WAY THE
24 PROCESS HAS BEEN INITIATED AND CREATED BY OUR STATE
25 LEGISLATURE AND APPROVED BY OUR COURTS. THIS IS A

1 FUNCTION OF YOU AS CITIZENS CARRYING OUT PART OF OUR
2 GOVERNMENT PROCESS. YOU ARE SHAPING A LAWFUL PUNISHMENT
3 TO AN UNLAWFUL ACT. SO, THE RESPONSIBILITY IS GIVEN TO
4 YOU TO DECIDE WHAT THE APPROPRIATE PUNISHMENT IS.

5 I REMEMBER IN VOIR DIRE WE WENT OVER THIS, YOU ARE
6 THE JUDGE. THE JUDGE DOES NOT SENTENCE, YOU SENTENCE.
7 AND THAT'S WHAT THIS PROCESS IS ABOUT. AND IT IS A
8 PROCESS WHICH WE HAVE ENTRUSTED TO YOU AS OUR CITIZENS TO
9 CARRY IT OUT FAIRLY; AND THERE'S NOTHING WRONG WITH WHAT
10 YOU'RE DOING. YOU'RE NOT KILLING ANYONE, AND YOU'RE NOT
11 MAKING A DECISION THAT IS IN ANY WAY WRONG.

12 NOW, LET'S TALK A LITTLE BIT ABOUT THE FACT THAT THIS
13 IS OBVIOUSLY A DIFFICULT DECISION, THAT THIS IS NOT AN
14 EASY DECISION. IT'S NOT EASY FOR ME TO ASK YOU TO EVEN
15 MAKE IT. BUT RESPONSIBLE PEOPLE MAKE TOUGH DECISIONS ALL
16 THE TIME. YOU MAKE TOUGH DECISIONS IN YOUR JOBS, AT YOUR
17 HOMES, REGARDING YOUR CHILDREN, AND YOU MAKE THEM IN YOUR
18 MARRIAGE.

19 THE PROCESS MAKES YOU RESPONSIBLE FOR THIS DIFFICULT
20 DECISION; BUT WE CAN'T RUN AND HIDE FROM OUR
21 RESPONSIBILITIES. THE LAW PLACES IT ON OUR SHOULDERS, THE
22 LAW ENTRUSTED IT TO YOU AND IT MEANS WE'LL DO IT, JUST
23 LIKE ANY OTHER TOUGH DECISION THAT WE MAKE; THAT IS, YOU
24 WILL APPLY COMMON SENSE, YOU WILL CONSIDER THE FACTS AND
25 YOU WILL CONSIDER THE ALTERNATIVE SOLUTION, JUST LIKE YOU

1 DO WHEN YOU MAKE YOUR DECISIONS ON YOUR JOBS, WITH YOUR
2 FAMILY, OTHERWISE. IF YOU IMAGINE YOURSELF MAKING A TOUGH
3 DECISION AND HANDLING IT IN THE SAME WAY YOU WOULD HANDLE
4 IT WITH YOUR JOB OR WITH YOUR FAMILY, WE TRUST YOU WOULD
5 MAKE THE RIGHT DECISION.

6 MR. MAULDIN TOLD YOU IN HIS OPENING STATEMENTS THAT
7 THE REASON WE HAD THE FIRST PHASE IS THAT THE DEFENDANT
8 PLED NOT GUILTY BECAUSE THAT WAS THE ONLY WAY TO GET THE
9 JURY TO DECIDE THE PUNISHMENT. I SUBMIT TO YOU THAT THAT
10 IS NOT CORRECT, BECAUSE IN THE OPENING PHASE, THE GUILT
11 PHASE, THEY ASKED YOU TO LOOK AT THE ISSUE OF KIDNAPPING
12 AND WHETHER OR NOT THE STATE HAD PROVED THE ISSUE OF
13 KIDNAPPING BEYOND A REASONABLE DOUBT. IN FACT, THEY
14 SUGGESTED TO YOU IN CLOSING ARGUMENT THAT THE ISSUE OF
15 KIDNAPPING HAD NOT BEEN PROVED AND THAT YOU NEEDED TO
16 CLOSELY EXAMINE THAT EVIDENCE.

17 I SUBMIT TO YOU THAT YOUR VERDICT SPEAKS THAT WE DID
18 IN FACT PROVE KIDNAPPING AND THAT KIDNAPPING IS NO LONGER
19 AN ISSUE IN THIS CASE; BUT IT IS THE REASON WE HAD THE
20 TRIAL IN THE FIRST PHASE.

21 YOU WILL HEAR ABOUT MERCY. THEY WILL TALK TO YOU
22 ABOUT MERCY, THEY WILL SUGGEST TO YOU, IS AN ACT OR YOU
23 CAN GIVE AN ACT OF MERCY TO SAVE A LIFE. I SUBMIT TO YOU
24 ALSO IT'S NATURAL TO WANT TO HAVE MERCY, PARTICULARLY IN A
25 DECISION, MAKING A DECISION LIKE THIS. MERCY IS A NATURAL

1 HUMAN TENDENCY. BUT MERCY IN THESE CASES OBVIOUSLY IS NOT
2 AUTOMATIC. BECAUSE IF MERCY WERE AUTOMATIC, THERE WOULD
3 NEVER BE A REASON FOR THE DEATH PENALTY.

4 AND I ASK YOU IN CONSIDERING MERCY, WHY SHOULD THIS
5 DEFENDANT RECEIVE THE MERCY THAT HE DID NOT GIVE TO MANDY?
6 WHEN THE NEGOTIATOR AND MANDY PLED TO HIM FOR HER LIFE, AS
7 THEY WILL DO TO YOU, PLEAD TO YOU FOR HIS LIFE, BEFORE HE
8 IMPOSED HER DEATH SENTENCE. HE REJECTED THAT MERCY PLEA
9 AND HE EXECUTED HER. AND HE COULD HAVE STOPPED AT THE
10 FIRST SHOT AND WE WOULD NOT BE HERE. BECAUSE THE FIRST
11 SHOT WAS NOT FATAL, AND IT DID NOT KILL MANDY.

12 SO, WHEN YOU HEAR THAT THEY ASK FOR MERCY, ASK WHAT
13 MERCY HE SHOWED MANDY WHEN HE SHOT HER THREE TIMES WITH A
14 SHOTGUN AND KEPT PUMPING THOSE SHELLS INTO HER BODY AS SHE
15 RAN FROM THAT DELI IN AN ATTEMPT TO ESCAPE.

16 ALSO, THEY ARGUED IN THEIR OPENING THAT ANY LIFE IS
17 WORTH GIVING MEANINGFUL CONSIDERATION TO. WE AGREE WITH
18 THAT. ANY LIFE IS WORTH GIVING MEANINGFUL CONSIDERATION
19 TO. BUT I ASK YOU AGAIN, IN CONSIDERING AND CARRYING OUT
20 YOUR RESPONSIBILITY IN THE CONTEXT OF THIS CASE, WHAT
21 MEANINGFUL CONSIDERATION DID THIS DEFENDANT GIVE TO THE
22 LIFE OF MANDY WILLIAMS ON SEPTEMBER 3RD 2003? IT'S NOT
23 ENJOYABLE FOR ME OR US TO ASK FOR YOU TO IMPOSE THE DEATH
24 PENALTY. THAT'S NOT SOMETHING WE LIKE TO DO.

25 WE WISH THE CASES DIDN'T EXIST. WE WISH WE DIDN'T

1 HAVE A CASE LOAD, BUT WE DO. AND OUR RESPONSIBILITY IS TO
2 COME TO YOU AS THE ELECTED PROSECUTOR AND PRESENT THESE
3 CASES WE DEEM APPROPRIATE FOR THE DEATH PENALTY. IT'S A
4 NECESSARY DECISION. WE DON'T WANT TO HURT HIS FAMILY, WE
5 DON'T WANT TO DO ANYTHING TO CAUSE ANY MORE DISRUPTION TO
6 THAT FAMILY THAN HAS ALREADY OCCURRED; BUT JUST REMEMBER,
7 WE ARE HERE, WE ARE HERE BECAUSE OF WHAT CHRISTOPHER
8 WILLIAMS DID. THAT'S WHY WE'RE HERE. HE BROUGHT US HERE.
9 HE BROUGHT US HERE AND IT'S HIS RESPONSIBILITY.

10 HE WRECKED ALL THESE PEOPLE'S LIVES. HE WRECKED THE
11 LIVES OF THE WILLIAMS' FAMILY, MANDY'S FAMILY, HIS OWN
12 FAMILY, AND THEY JUST CAN'T ARGUE A BAD CHILDHOOD AND BAD
13 PARENT AND GET THE MINIMUM SENTENCE. SURELY, THERE'S MORE
14 TO PUNISHMENT IN A CASE LIKE THIS THAN THE MINIMUM
15 SENTENCE.

16 THEY HAVE SAID EARLIER THE SOLICITOR IS NOT SATISFIED
17 WITH A LIFE SENTENCE. AND I AGREE, I AM NOT. THEY TOLD
18 YOU HE'S GOING TO WANT THE DEATH PENALTY, AND I DO. WHY
19 IS THE DEATH PENALTY THE APPROPRIATE SENTENCE IN THIS
20 CASE? AND THAT IS A FAIR QUESTION FOR YOU TO ASK, ASK OF
21 US, THE STATE OF SOUTH CAROLINA. AND I SUBMIT TO YOU THAT
22 THIS IS THE REASON, IS THAT THERE ARE MEAN AND EVIL PEOPLE
23 WHO LIVE IN THIS WORLD WHO DO NOT DESERVE TO CONTINUE TO
24 LIVE WITH THE REST OF US REGARDLESS OF HOW CONFINED THEY
25 MAY BE.

1 THE LAW LIMITS THE STATE'S RIGHT TO SEEK THE DEATH
2 PENALTY TO A VERY FEW MURDERS. WE SEEK THE DEATH PENALTY
3 IN ONLY A FEW CASES. BUT THE CIRCUMSTANCES WHERE IT'S
4 AVAILABLE ARE FOR MEAN AND EVIL PEOPLE. THE WORST OF THE
5 WORST. CHRISTOPHER WILLIAMS AND THIS MURDER ARE ONE OF
6 THOSE CASES. THE WORST OF THE WORST.

7 PUNISHMENT AND DEATH PENALTY ARE ABOUT ACCOUNTABILITY
8 AND RESPONSIBILITY. CHRIS WILLIAMS HAD A CHOICE ON
9 SEPTEMBER 3 2003. HE HAD A CHOICE, KILL OR LET MANDY
10 LIVE. SO, WE'RE HERE BECAUSE CHRIS WILLIAMS MADE A
11 TERRIBLE CHOICE, A TERRIBLE CHOICE. BUT IT WAS AN
12 INTENTIONAL AND IT WAS A WILLFUL CHOICE.

13 HE MADE THE INTENTIONAL AND CALCULATED CHOICE TO KILL
14 MANDY. AND HIS PUNISHMENT SHOULD REFLECT THE DEGREE AND
15 MAGNITUDE OF THAT CHOICE. BAD DECISIONS AND BAD JUDGMENTS
16 HAVE CONSEQUENCES. WE ALL KNOW THAT FROM OUR DAILY LIVES;
17 BUT INTENTIONAL PREMEDITATED ACTS OF VIOLENCE SHOULD HAVE
18 MORE SEVERE CONSEQUENCES. WE MUST HOLD PEOPLE ACCOUNTABLE
19 WHEN THEIR ACTS ARE SO ATROCIOUS TO JUSTIFY THE MOST
20 SEVERE PUNISHMENT. ACCOUNTABLE. RESPONSIBILITY.

21 CHRISTOPHER WILLIAMS HAD A DUTY TO MAKE CHOICES. HE
22 KNEW RIGHT FROM WRONG. KNEW EVIL BRUTALITY, EMOTIONAL
23 TORTURE, AND HE CHOSE UNNECESSARY KILLING. AND THE
24 PUNISHMENT HE RECEIVES SHOULD REFLECT HE IS ACCOUNTABLE
25 FOR THOSE CHOICES. WE MUST ENSURE AND WE MUST MEASURE THE

1 EXTENT OF THE PUNISHMENT AND THE EXTENT OF CULPABILITY AND
2 DETERMINE THE PROPER PUNISHMENT.

3 SO, LET'S TALK ABOUT CULPABILITY. THE GREATER EXTENT
4 OF CULPABILITY, OBVIOUSLY, THE MORE SEVERE THE PUNISHMENT.
5 REMEMBER THE WORST OF THE WORST. THAT'S WHERE WE ARE, THE
6 WORST OF THE WORST. LIFE IMPRISONMENT IS THE LEAST OF THE
7 TWO PUNISHMENTS THE LAW ALLOWS IN THIS CASE. DOES THIS
8 CASE DESERVE LEAST?

9 MR. NETTLES: YOUR HONOR, MAY WE APPROACH THE BENCH?
10 (WHEREUPON, A BENCH CONFERENCE IS HELD WITHIN THE
11 PRESENCE BUT OUTSIDE THE HEARING OF THE JURY:)

12 MR. ARIAIL: LET'S REVIEW THE EXTENT AND DEGREE OF
13 CULPABILITY. DAMAGE AND DESTRUCTION TO MANDY'S FAMILY,
14 YOU HEARD THAT FROM HER PARENTS. YOU HEARD THEM TESTIFY.
15 WHAT AN EMOTIONAL HORROR THIS HAD TO BE. WHAT AN
16 EMOTIONAL HORROR IT WILL CONTINUE TO BE. AND YOU ADD TO
17 THAT THE DEFENDANT'S FAMILY, PARTICULARLY HIS SISTER. HIS
18 SISTER BROUGHT TO YOU TESTIMONY THAT, OBVIOUSLY SHE IS A
19 LOVING SISTER WHO SUPPORTS HIM, SHE HAS ALWAYS SUPPORTED
20 HIM. AND SHE LOVES HIM DEARLY. THEY WERE CLOSE AND SHE
21 IS CLEARLY A GOOD PERSON AND STILL WANTS TO BE MOTHER TO
22 HER BROTHER.

23 WHICH MAKES ONE THINK, HOW COULD HE DO THIS TO HER?
24 HOW COULD HE MAKE THESE CHOICES AND DO THIS TO HIS SISTER
25 WHO OBVIOUSLY LOVES HIM AS MUCH AS SHE DOES? HOW COULD HE

1 THROW AWAY HER LOVE FOR HIM LIKE THIS? HE'S NOT ENTITLED
2 TO USE HER NOW IN ORDER TO ESCAPE A MORE PROPER
3 PUNISHMENT. SURE SHE'S HURT. SHE'S HURT AND SHE'S SAD.
4 BUT HE SHOULD HAVE THOUGHT OF THAT WHEN HE MADE HIS
5 CHOICES.

6 THIS IS ABOUT ACCOUNTABILITY, CULPABILITY.. BECAUSE
7 WE DON'T JUST BLINK OUR EYES AND FORGET ABOUT THIS
8 HORRIBLE CRIME. JUST DOESN'T GO AWAY. THIS IS LONG TERM,
9 NOT JUST ON THIS FAMILY. YOU HEARD FROM -- BUT THE ENTIRE
10 COMMUNITY IS A VICTIM OF THIS CRIME BECAUSE HE
11 INTENTIONALLY, WILLFULLY, AND MALICIOUSLY; AFTER FULL
12 PLANNING, DESTROYED TWO FAMILIES, THE FRIENDS OF BOTH.
13 THE GREATER COMMUNITY BECAME A VICTIM AND THIS WAS A
14 BRUTAL MURDER IN A PUBLIC PLACE, IN A PUBLIC PLACE WITH NO
15 CONCERN SHOWED FOR THE SAFETY OF OTHERS. CRIME SHOULD
16 MEET THE PUNISHMENT, SHOULD MEET THE CULPABILITY AND
17 EXTENT OF THE CRIME. THIS IS A CROWDED SHOPPING CENTER,
18 INNOCENT BYSTANDERS ALL OVER.

19 NOW, MR. AIKEN TESTIFIED TO YOU THAT LIFE IN PRISON
20 WAS SOMETHING THAT THIS MAN COULD ADAPT TO; THAT HE WOULD
21 BE A LOW RISK, ALONG WITH TESTIMONY OF THE PSYCHIATRIST,
22 IF CONFINED IN PRISON. HE COULD ADAPT TO PRISON. BUT THE
23 DEPARTMENT OF CORRECTIONS CAN MAKE ANYBODY, EVEN MR. AIKEN
24 SAID IF THEY DON'T ADAPT, WE'LL KILL THEM. THE POINT WE
25 SHOULD CONSIDER THERE IS NOT WHETHER SOLITARY CONFINEMENT

1 AND THREE GUARDS TO A CELL, LIMITATIONS, AND CAMERAS AND
2 TYING THEM TO BEDS AND THAT SORT OF THING IS WHAT WE'RE
3 TALKING ABOUT. THAT MISSES THE POINT. IT'S NOT WHAT'S
4 THE EASIEST THING WE COULD DO, IT IS WHAT IS THE
5 APPROPRIATE THING TO DO UNDER THE CIRCUMSTANCES OF THIS
6 CASE?

7 WE WILL AGREE THAT THE DEFENDANT COULD ADAPT TO
8 PRISON, BECAUSE THEY WILL MAKE HIM ADAPT. BUT THAT'S NOT
9 THE ISSUE. BECAUSE, OTHERWISE, WE WOULD NEVER HAVE THE
10 DEATH PENALTY. THERE WOULD BE NO REASON FOR IT. AND THE
11 SOLICITOR SAYS THERE IS A REASON FOR IT AND THAT IT'S
12 SOMETHING YOU SHOULD CONSIDER IN SHAPING THE PUNISHMENT TO
13 FIT THE EXTENT OF THE CRIME.

14 THE DEFENSE PRESENTED TO YOU EVIDENCE OF MENTAL
15 DISORDERS THROUGH THE TESTIMONY OF A COUPLE OF
16 PSYCHIATRISTS. BY THE WAY, THE PSYCHIATRISTS DIDN'T AGREE
17 ON THE DIAGNOSIS. ONE TALKED ABOUT BIPOLARITY. OTHER
18 DIDN'T SAY HE HAD BIPOLAR. HAD DIFFERENT OPINIONS FROM
19 THE TWO PSYCHIATRISTS; BUT THEY ARGUED TO YOU WHY HE DID
20 IT. THEY HEARD ABOUT THAT FROM THE VERY BEGINNING OF THIS
21 CASE, WHY HE DID IT.

22 HE DID IT BECAUSE HE WANTED TO PUNISH HER. HE TOLD
23 YOU THAT. HE TOLD YOU THAT IN HIS LETTERS. HE TOLD YOU
24 THAT IN THE INTERVIEW WITH PAM CRAWFORD. HE KILLED HER
25 BECAUSE HE WANTED TO, HE INTENDED TO. IT IS IN THE LETTER

1 WHICH IS MARKED STATE'S EXHIBIT NO. 17. HE WANTED TO KILL
2 HER. AND HE TOLD PAM CRAWFORD ON PAGE 52 OF HER
3 TRANSCRIPT, HE SAID, HE THOUGHT IT WOULD BE EXHILARATING,
4 BUT IT WASN'T. THAT'S WHAT HE TOLD PAM CRAWFORD.

5 HIS MENTAL ISSUES MAY HAVE EXISTED AT THE SAME TIME
6 AS THIS KILLING, BUT THEY'RE NOT THE WHY. THEY JUST
7 EXISTED CONCURRENTLY WITH IT. BECAUSE HE KNEW RIGHT FROM
8 WRONG. AND HE COULD CONFORM HIS BEHAVIOR TO THE
9 REQUIREMENTS OF THE LAW. NO ONE HAS SAID THE MENTAL
10 ISSUES CAUSED HIM TO KILL MANDY. THEY HAVE TALKED ABOUT
11 THOSE MENTAL ISSUES. THE REASON THEY HAVEN'T SAID THEY
12 CAUSED HIM TO KILL MANDY IS BECAUSE THEY DIDN'T. THEY MAY
13 HAVE AFFECTED THE WAY HE THOUGHT ABOUT THINGS. BUT DIDN'T
14 CAUSE HIM TO KILL MANDY, BECAUSE HE KNEW WHAT WAS RIGHT,
15 HE KNEW WHAT WAS WRONG, AND HE KNEW HOW TO CONFORM HIS
16 BEHAVIOR, WHICH MEANS HE KNEW WHAT HIS CHOICES WERE. AND
17 HE MADE THOSE CHOICES INTENTIONALLY AND WILLFULLY.

18 AND A GOOD EXAMPLE OF THAT IS THAT HE WANTED TO LIVE
19 AFTER THIS WAS OVER. BECAUSE IF YOU LOOK, FIRST HE CLAIMS
20 IN HIS STATEMENT HE WANTED TO COMMIT SUICIDE. AND HE SAYS
21 HE PUT THE GUN TO HIS MOUTH AFTER HE HAD FIRED ALL THE
22 SHELLS AND PULLED THE TRIGGER. AND HE REALIZED THAT IT
23 DIDN'T -- THERE WEREN'T ANY MORE SHELLS IN THERE.

24 NOW, LADIES AND GENTLEMEN, THERE WERE FIVE UNFIRED
25 SHELLS LAYING IN THE FLOOR IN THE BASKET, GROCERY BASKET

1 IN THE BI-LO. IF HE WANTED TO KILL HIMSELF, IT WOULD HAVE
2 BEEN EASY. BUT HE DIDN'T WANT TO KILL HIMSELF. BECAUSE
3 IF YOU LOOK AT THE VIDEO, WHAT HE WANTED TO DO WAS ESCAPE.
4 AND HE DROPPED THAT GUN AND HE RAN THROUGH THE BACK OF THE
5 STORE TO THE FAR END. AND WHEN HE GOT THERE, COULDN'T GET
6 OUT, HE STARTED RUNNING BACK THIS WAY.

7 BUT HE MADE SURE OF ONE THING, FIRST HE DROPPED THAT
8 GUN, BECAUSE HE KNEW WHEN THE SWAT TEAM CAME THROUGH THAT
9 DOOR, IF HE HAD THAT GUN, HE WAS GOING TO BE DEAD. SO, HE
10 SAVED HIS OWN LIFE. HE FLED, HE DIDN'T TRY TO COMMIT
11 SUICIDE.

12 YOU LOOK AT THE FILM. THE ONLY TIME THE GUN WAS
13 RAISED ANYWHERE NEAR HIM WAS WHEN HE BLEW THE SMOKE OFF,
14 LIKE A WESTERN GUN SLINGER (INDICATES); AND THEN TOOK TWO
15 ADDITIONAL STEPS, FIRING BOTH TIMES AND STRIKING HER AND
16 KILLING HER. HE WANTED TO LIVE.

17 NOW, THIS HAS OBVIOUSLY BEEN A LIFE CHANGING
18 EXPERIENCE FOR MANDY'S FAMILY, AND IT'S HAD TO BE HARD TO
19 LIVE THROUGH. SO THE GREATER THE EXTENT OF THE
20 CULPABILITY, THE GREATER THE PUNISHMENT. THE KILLING WAS
21 TRAGICALLY UNNECESSARY. SO, LET'S LOOK AT CULPABILITY.
22 HE PLANNED THIS KILLING. HE STOLE THE WORK SCHEDULE. HE
23 WENT TO THE EXTENT TO STEAL IT, SO HE KNEW WHEN TO COME TO
24 GET HER, WHEN SHE WOULD BE THERE.

25 HE DREW A DIAGRAM OF THE SCENE, PUT IT IN HIS BOOK SO

1 HE WOULD KNOW EXACTLY WHERE TO GO, WHERE THE PLACES WERE.
2 HE PLANNED HIS CLOTHES, WHAT HE WAS GOING TO WEAR WHEN HE
3 DID THIS. HE KIDNAPPED HER AND HE WROTE IT ALL OUT ON THE
4 TOP OF HIS FORM. HE BROUGHT HIS LETTERS WITH HIM AND HE
5 BROUGHT PLENTY OF FIRE POWER TO GET THE JOB DONE.
6 EMOTIONALLY AND MENTALLY TORTURED HER FOR TWO HOURS. MADE
7 HER CALL HER MOTHER TO TELL HER SHE WAS GOING TO DIE. "I
8 WANT YOU TO CALL YOUR MOTHER." AND HE MADE HER CHOOSE HOW
9 SHE WAS GOING TO DIE.

10 AND THEN HE TOLD DR. CRAWFORD HE HAD COME THERE
11 EARLIER TO KILL HER, BUT THE CIRCUMSTANCES WEREN'T RIGHT.
12 AND THEN HE COME ONE OTHER TIME, STRUCK HER PHYSICALLY,
13 AND SENT HER TO THE HOSPITAL. THIS SHOWS THE EXTENT OF
14 CULPABILITY. IT'S NOT AN IMPULSIVE ACT, NOT SOMETHING IN
15 A RAGE OR SHORT NOTICE OR ON THE SPUR OF THE MOMENT. THIS
16 THING WAS PLANNED DOWN TO THE DETAILS.

17 SO, WHAT IS THE APPROPRIATE SENTENCE TO FIT THIS
18 CRIME AND HOLD HIM RESPONSIBLE? LIFE IN PRISON IS NOT
19 APPROPRIATE. YOU CAN'T PUT HIM IN PRISON FOR LIFE AND
20 EXPECT HIM TO SUFFER. YOU CAN'T DO IT. BECAUSE HE IS NOT
21 GOING TO THINK ABOUT IT EVERY DAY, BECAUSE THERE'S NOT
22 GOING TO BE ANYBODY THERE TO REMIND HIM OF THE DAMAGE
23 THAT'S DONE TO MANDY'S FAMILY OR TO HIS FAMILY. NO ONE IS
24 GOING TO DO THAT. NOBODY IS GOING TO CONSTANTLY REMIND
25 HIM. SO, HE'S NOT GOING TO THINK ABOUT IT.

1 SURE YOU AND I MAY THINK GOING TO PRISON FOR LIFE IS
2 A SERIOUS SENTENCE, BUT WHAT ABOUT CHRIS WILLIAMS? BEING
3 IN PRISON IS LIKE A SMALL CITY, ALLOW ALL THINGS OF LIFE.
4 PLACES, RESTAURANT, PLACES TO EXERCISE, RECREATION WHEN HE
5 WANTS. DOCTORS, HOSPITAL TAKE CARE OF HIM, CLOTHING
6 PROVIDED, TV. CONTACT WITH FAMILY AND LOVED ONES. HE'LL
7 HAVE FREEDOM OF MOVEMENT, A SOCIAL STRUCTURE. HE'LL PLAY
8 CARDS AND GAMES. GO TO WORK IF HE WANTS, GO TO SCHOOL IF
9 HE WANTS. WATCH BALL GAMES ON TV.

10 SURE, HE DOESN'T HAVE A CAR AND HIS TRAVEL IS
11 LIMITED, BUT IT'S NOT REALLY MUCH MORE THAN A SERIOUS
12 CHANGE OF ADDRESS. HE WILL HAVE HIS FAMILY TO VISIT HIM.
13 BUT MANDY'S FAMILY WON'T, AND HER DAUGHTER WON'T.

14 THE DEATH PENALTY IS THE APPROPRIATE PUNISHMENT. I
15 WANT YOU TO REMEMBER IN CONSIDERING THAT, THAT A HUMAN
16 BEING, A LIVE, LIVING, BREATHING HUMAN BEING WHO HAD NEVER
17 HARMED A SOUL, WITH A BUBBLY PERSONALITY, A GOOD JOB, WORK
18 ETHIC, A GOOD AND SWEET PERSON WHO LOVED HER DAUGHTER WAS
19 KILLED. MURDERED. HE INVADDED HER WORK PLACE AND HE TOOK
20 HER LIFE. HE WENT OVER THERE WITH MALICE, CARRIED ENOUGH
21 AMMUNITION TO GET THE JOB DONE. AND TO MAKE SURE IF HE
22 HAD TO, HE COULD KILL OTHERS THAT GOT IN HIS WAY.

23 WHEN YOU CONSIDER PUNISHMENT, I WANT YOU TO CONSIDER
24 THE EXTENT OF THIS CRIME AND THE CULPABILITY OF THIS
25 DEFENDANT. MAYBE ONE SHOT, MAYBE ONE SHOT WE COULD SAY HE

1 DESERVED LIFE; BUT NOT THREE, NOT THREE SHOTS TO HER BACK
2 AS SHE WAS RUNNING AWAY. MAYBE ONE, BUT THREE? THE
3 EXTENT OF THE CULPABILITY AFTER SHE HAD BEGGED FOR HER
4 LIFE, "PLEASE, PLEASE, PLEASE DON'T KILL ME."

5 AND THE NEGOTIATOR HAS BEGGED FOR HER LIFE. AND SHE
6 IS TELLING HIM, "STOP, PLEASE STOP."

7 THEN HE FIRES ONE TIME. AND HE HEARS THE SOUND OF
8 THAT SHOTGUN BLAST HITTING HER FLESH AND HER BODY AND THE
9 BLOOD AND THE FLESH THAT HE SEES. MAYBE ONE SHOT, THAT
10 NONFATAL SHOT THAT DR. WARD TALKED ABOUT TO THE RIGHT ARM.
11 BUT THEN TO SNUFF OUT THE LIFE OF THIS YOUNG PERSON WHO'S
12 LIFE HAD JUST BEGUN BY STALKING AND FOLLOWING HER UNTIL
13 SHE LAY HELPLESS ON THE FLOOR OF THE BI-LO PARALYZED AND
14 PUMPED TWO MORE SHOTS IN HER AS SHE'S GOING.

15 THINK ABOUT IT. THIS IS A HORRIBLE CRIME. AND IT
16 DESERVES THE MOST SEVERE PUNISHMENT BECAUSE HE SHOULD BE
17 HELD ACCOUNTABLE.

18 AND IN CLOSING, LET ME TELL YOU THIS IN CONSIDERING
19 THE PROPER PUNISHMENT. YOU HAVE BEEN ENTRUSTED UNDER OUR
20 SYSTEM AND BY US AS JURORS TO CONSIDER AND MAKE A DECISION
21 AS REPRESENTATIVES OF THE COMMUNITY TO SPEAK FOR THIS
22 COMMUNITY AS TO WHAT IS THE APPROPRIATE PUNISHMENT. AND
23 THE APPROPRIATE SENTENCE UNDER THE FACTS OF THIS CASE --
24 YOU KNOW THIS CASE AS WELL AS ANYBODY, YOU'VE HEARD
25 EVERYTHING THAT'S BEEN PRESENTED IN THIS COURTROOM -- AND

1 IT IS YOUR DECISION AND AS YOU SPEAK FOR THIS COMMUNITY,
2 MAKE THAT DECISION, WHATEVER THAT DECISION IS, IT WILL
3 RING LIKE A BELL OUTSIDE OF THIS COURTHOUSE. IT WILL RING
4 LIKE A BELL TO BE HEARD WHILE ALL OF THOSE WHO ARE
5 REASONING AND ALL OF THOSE WHO WANT TO LISTEN.

6 AND I URGE YOU, ON BEHALF OF THE STATE OF SOUTH
7 CAROLINA THAT THE APPROPRIATE PUNISHMENT UNDER THIS CRIME
8 IS THE DEATH PENALTY. LET THAT BELL RING SO THIS
9 COMMUNITY WILL KNOW THAT WE WILL NOT TOLERATE CONDUCT OF
10 THIS TYPE WITHOUT THE MAXIMUM PUNISHMENT. THOSE WHO
11 COMMIT THIS TYPE OF CRIME MUST PAY THE ULTIMATE PRICE.
12 THANK YOU.

13 CLOSING STATEMENT

14 BY MR. NETTLES:

15 DID HE SAY RESTAURANTS? DID HE SAY CHRIS WILLIAMS IS
16 GOING TO A PLACE IN PRISON WITH RESTAURANTS THERE?
17 BECAUSE I DIDN'T HEAR ANYTHING ABOUT RESTAURANTS. WHAT I
18 HEARD ABOUT WHERE CHRIS WILLIAMS IS GOING AT THE END OF
19 THIS TRIAL IS A PLACE WHERE IT'S MEN AND HE'S IN A CELL BY
20 HIMSELF. WHAT I HEARD JIM AIKEN TALK ABOUT WAS A PLACE
21 WHERE IF YOU DON'T DO WHAT THEY TELL YOU TO DO, THEY'LL
22 KILL YOU.

23 HE SAID RESTAURANTS. RESTAURANTS IN PRISON? DO ANY
24 OF YOU ALL REALLY BELIEVE YOUR TAX DOLLARS ARE PAYING FOR
25 RESTAURANTS IN PRISON? THEY'RE NOT. PRISON IS A VERY

1 SERIOUS PLACE. AND WHAT YOU ARE BEING ASKED IS TO DECIDE
2 BETWEEN WHETHER CHRIS WILLIAMS DIES ON GOD'S TIME OR YOUR
3 TIME.

4 WHAT YOU'RE BEING ASKED TO DECIDE IS WHETHER CHRIS
5 WILLIAMS SPENDS THE REST OF HIS LIFE UNTIL HE'S DEAD IN
6 PRISON OR WHETHER THAT, HOWEVER THEY WANT TO WORD IT TO
7 TRY TO MAKE IT SEEM OKAY, WHETHER THE GOVERNMENT EITHER
8 ELECTROCUTES HIM OR STRAPS HIM TO A GURNEY AND KILLS HIM.
9 THAT'S WHERE WE ARE. LET'S MAKE NO DOUBT ABOUT THAT.
10 LET'S NOT TRY TO DO ANYTHING TO MAKE THAT SEEM LESS
11 SEVERE. THAT'S WHAT WE'RE TALKING ABOUT.

12 NOW, I AGREE WITH THE SOLICITOR THAT THERE ARE PEOPLE
13 IN THIS WORLD WHO ARE SO FAR BEYOND REDEMPTION, WHO ARE SO
14 FAR BEYOND WHAT THIS SOCIETY CAN DEAL WITH, WHO COME INTO
15 THIS COURTROOM, THEY GET SENTENCED, THEY GET BACK OUT;
16 THEY GET SENTENCED, THEY GET BACK OUT; THEY GO TO JAIL,
17 THEY GET BACK OUT, THAT KILLING IS THEIR HANDIWORK. THERE
18 ARE PEOPLE THAT WE'RE NOT SAFE UNLESS THEY ARE NOT ALIVE.

19 I AM NOT HERE TO TELL YOU THE DEATH PENALTY IS WRONG.
20 THE DEATH PENALTY IS THE LAW OF THE STATE OF SOUTH
21 CAROLINA. AND EACH ONE OF YOU SAID THAT IT'S SOMETHING
22 YOU CAN CONSIDER. BUT, YOU KNOW, JUST LIKE THERE'S SOME
23 PEOPLE THAT THE ONLY WAY THAT WE CAN PROTECT OUR SOCIETY
24 IS TO PUT HIM TO DEATH, THERE'S SOME PEOPLE WHO'VE DONE
25 SOME VERY BAD THINGS AND FOR WHAT THEY'VE DONE, THEY NO

1 LONGER DESERVE TO LIVE AMONG US. THEY NO LONGER DESERVE
2 TO LIVE AMONG US. THEY GO TO PRISON AND IN THIS CASE
3 CHRIS WILLIAMS WILL GO TO PRISON FOR THE REST OF HIS
4 NATURAL LIFE. HE WILL DIE IN PRISON. AND DESPITE THE
5 GOVERNMENT'S BEST EFFORTS, I HOPE TO EACH AND EVERY ONE OF
6 YOU THE PENALTY OF LIFE IN PRISON IS ONE THAT IS
7 RECOGNIZED AS A TRULY SERIOUS PENALTY. AND THAT'S WHERE
8 WE ARE.

9 IF I MAY, I'D LIKE TO TALK TO YOU A LITTLE ABOUT THE
10 LAW. THEN I'D LIKE TO TALK TO YOU ABOUT THE FACTS WE'VE
11 HEARD HERE. THEN I'M GOING TO PUT CHRIS' LIFE IN YOUR
12 HANDS. AS LONG AS I'M TALKING, HE'S ALIVE.

13 LET'S TALK A LITTLE BIT ABOUT THE LAW. YOU FOUND HIM
14 GUILTY OF KIDNAPPING IN THE FIRST PHASE AND YOU FOUND HIM
15 GUILTY OF MURDER. THAT MEANS WE HAVE TO ACCEPT THE FACT
16 THAT THE CHANCE -- YOU ALL ARE GOING TO FIND THE
17 AGGRAVATOR KIDNAPPING. ALL THAT DOES, LET'S NOT CONFUSE
18 ANYTHING. ONCE YOU FOUND THE AGGRAVATOR, THAT ALLOWS YOU
19 TO CONSIDER THE DEATH PENALTY AS A POSSIBLE PUNISHMENT FOR
20 THIS PERSON. IT ALSO ALLOWS YOU TO SEND HIM TO PRISON FOR
21 THE REST OF HIS LIFE. SO, LET'S BE CLEAR ABOUT THAT.

22 LET'S TALK ABOUT ANOTHER THING. IN TERMS OF
23 FOLLOWING THE LAW AND BEING RESPONSIBLE, THE LAW AND THE
24 JUDGE IS GOING TO TELL YOU, THE LAW IN THE STATE OF -- THE
25 LAW, THIS ISN'T MY OPINION, THIS IS THE LAW. THE SAME

1 LEGISLATURE THAT ENACTED THE DEATH PENALTY ENACTED A LAW
2 THAT THE LAW ALWAYS FAVORS LIFE. FAVORS LIFE.

3 NOW, IF I MAY, I'D LIKE TO TALK TO YOU A LITTLE ABOUT
4 THE EVIDENCE. WE DIDN'T OFFER THE EVIDENCE AS ANY KIND OF
5 EXCUSE, NO EXCUSE FOR WHAT HE DID. BEFORE I TALK ABOUT
6 THAT, LET ME TALK ABOUT THIS. THE GOVERNMENT SAYS THAT
7 SOMEHOW CHRIS WILLIAMS IS NOT TAKING RESPONSIBILITY FOR
8 THIS CRIME. THEY COULD NOT PRODUCE TO YOU ONE SINGLE
9 PERSON WHO CAME IN HERE AND SAID THAT CHRIS EVER TRIED TO
10 DO ANYTHING OTHER THAN TAKE RESPONSIBILITY FOR WHAT HE
11 DID.

12 NOW, THE REASON THEY WANT TO MAKE YOU BELIEVE THAT HE
13 DIDN'T TAKE RESPONSIBILITY IN THIS, BECAUSE THAT'S
14 SOMETHING THAT MAKES PEOPLE WANT TO KILL PEOPLE. BUT THE
15 FACT IS HE TOOK RESPONSIBILITY FOR EVERY SINGLE TIME
16 ANYBODY EVER TALKED TO HIM. AND, AS A MATTER OF FACT, THE
17 ONLY TIME HE EVER TALKED ABOUT HIS FAMILY WAS WHEN THE
18 GOVERNMENT PSYCHIATRIST, PAM CRAWFORD, WENT IN TO SEE HIM
19 AND SHE TOLD YOU THAT SHE ASKED HIM ABOUT HIS FAMILY.
20 SHE'S THE ONE THAT WANTED TO KNOW ABOUT HIS FAMILY AND HE
21 TOLD HER.

22 THEN SHE GOT IN THE CAR AND WENT AND SAW HIS SISTER.
23 THEN SHE GOT IN THE CAR AND WENT AND SAW HIS PARENTS, AND
24 IT ALL CHECKED OUT. OR SHE WOULD HAVE BEEN IN HERE SAYING
25 IT DIDN'T CHECK OUT. IT ALL CHECKED OUT. THIS KID HAD AN

1 ATROCIOUS FAMILY. HE HAD AN ATROCIOUS FAMILY. AND DOES
2 THAT MEAN THAT YOU SENTENCE HIM TO LIFE, BECAUSE HE HAD A
3 BAD FAMILY?

4 BECAUSE YOU KNOW WHAT YOU ALL -- PEOPLE COME OUT OF
5 BAD FAMILIES AND BECOME OKAY. THEY RISE ABOVE IT. SOME
6 PEOPLE DO. BUT YOU HAVE TO -- YOU HAVE TO ADMIT THIS,
7 IT'S A LITTLE BIT HARDER. YOU KNOW, YOU GOT TO BE A
8 LITTLE BIT SMARTER WHEN YOU COME OUT OF A BAD FAMILY. YOU
9 HAVE TO BE A LITTLE BIT QUICKER. YOU HAVE TO BE ABLE TO
10 ASSIMILATE A LITTLE QUICKER. IT'S EASIER -- LET'S PUT IT
11 THE OTHER WAY -- IT'S EASIER FOR THOSE WHO COME FROM GOOD
12 FAMILIES TO SUCCEED THAN IT IS FOR THOSE WHO DON'T COME
13 FROM GOOD FAMILIES. BUT I WILL CONCEDE THAT SOME PEOPLE
14 MANAGE TO RISE ABOVE THEIR RAISING.

15 BUT YOU KNOW WHAT? MOST OF THEM ARE KIND OF SMART,
16 YOU KNOW? THEY'RE KIND OF SMART. THEY GET IT. THEY
17 FIGURE OUT THAT THEY'RE NOT IN A REAL GOOD FAMILY AND THEY
18 START LOOKING AROUND AT OTHER FAMILIES AND THINKING, "WOW,
19 HOW ARE THE FAMILIES DOING IT WHO HAVE GOTTEN TO WHERE I
20 WANT TO BE?" AND THEY'RE KIND OF SMART.

21 YOU KNOW MAUREEN WAS KIND OF SMART. MAUREEN'S KIND
22 OF SMART. MAUREEN HAS PUT HERSELF THROUGH COLLEGE AND HAS
23 BECOME A NURSE AND SHE'S THOUGHT ABOUT HOW OTHER FAMILIES
24 DO IT, AND SHE'S TRYING TO DO IT.

25 I'LL GIVE YOU THAT SOME PEOPLE THAT AREN'T REAL SMART

1 MANAGE TO RISE UP OUT OF BAD FAMILIES. BUT, YOU KNOW,
2 WHAT? NOT A LOT OF THEM HAVE MENTAL ILLNESS. NOT A LOT
3 OF THEM HAVE MENTAL ILLNESS. AND MENTAL ILLNESS IS NOT AN
4 EXCUSE, BUT EVERYBODY AGREES THAT THAT YOUNG MAN RIGHT
5 THERE IS MENTALLY ILL. HE IS THE FACE OF MENTAL ILLNESS.

6 I KNOW THAT THERE ARE PEOPLE THAT THINK MENTALLY ILL
7 PEOPLE DROOL ON THEMSELVES OR WHATEVER. I HOPE IF NOTHING
8 ELSE, WE BROUGHT YOU IN HERE DURING THE COURSE OF THIS
9 TRIAL PEOPLE THAT ADMIT THEY'RE MENTALLY ILL, AND IT'S A
10 STRUGGLE. IT'S A STRUGGLE.

11 AND I REALIZE THAT IN A BETTER WORLD THAT THE
12 MENTALLY ILL WOULD ONLY BE PLACED IN FAMILIES WHERE THE
13 FAMILIES CAN HELP THEM. BECAUSE ONE THING THAT DWIGHT
14 TOLD US, HIS DAD, IS THAT THE ONLY WAY HE GOT THROUGH THE
15 MENTAL ILLNESS IS BECAUSE HE HAD FRIENDS AND FRIENDS
16 HELPED HIM. AND DWIGHT LEFT A FAMILY SITUATION THAT WAS
17 SO BAD IT CAUSED HIM TO LEAVE HIS SON. NOW, THAT'S EITHER
18 AN INDICTMENT OF THE FAMILY OR AN INDICTMENT OF DWIGHT.
19 BUT, YOU KNOW, WHAT? EITHER WAY, IT'S NOT GOOD FOR CHRIS.

20 IN A PERFECT WORLD, IF WE HAVE TO HAVE PEOPLE -- AND
21 LET'S BE CLEAR ABOUT ONE OTHER THING ABOUT THIS MENTAL
22 ILLNESS WE'RE TALKING ABOUT. OKAY? THIS IS NOT THE KIND
23 OF THING -- THERE ARE COURTROOMS ALL ACROSS AMERICA WHERE
24 SOMEBODY'S COMING IN THAT USED DRUGS AND SAID, YOU KNOW, I
25 USED DRUGS. IT MADE ME DO SOMETHING I OTHERWISE WOULDN'T

1 DO. THIS KID DID NOT USE DRUGS. IF THERE WAS A POSTER
2 BOY SOMEONE SHOULD BE USING DRUGS, COMING FROM THAT
3 FAMILY, ISN'T IT HIM?

4 HE DIDN'T USE DRUGS. THERE'S PEOPLE COME IN DRANK
5 TOO MUCH SAY, YOU KNOW, I WAS OUT OF MY MIND AND I DID IT.
6 THIS IS SOMETHING THAT WAS GIVEN TO HIS DAD, THIS MENTAL
7 ILLNESS, IT WAS GIVEN TO HIS MOM. IT WAS GIVEN TO HIS
8 GRANDPARENTS, AND IT'S BEEN GIVEN TO HIM. AND HE DIDN'T
9 CHOOSE THAT. AND, YOU KNOW, THE GOVERNMENT'S ARGUMENT
10 SEEMS TO CENTER AROUND, HE MADE THESE CHOICES.

11 AND WE NEVER SAID HE DIDN'T KNOW RIGHT FROM WRONG.
12 AT NO TIME DID WE EVER SAY CHRIS WILLIAMS DIDN'T KNOW
13 RIGHT FROM WRONG. HE KNOWS WHAT HE DID WAS WRONG, AND HE
14 NEEDS TO BE PUNISHED. BUT IN TAKING INTO CONSIDERATION
15 THAT PUNISHMENT, YOU NEED TO TAKE INTO ACCOUNT WHAT GOT
16 HIM THERE. HE KNEW WHAT HE DID WAS WRONG, AND IT SHOULD
17 NOT BE EXCUSED; BUT YOU HAVE TO ACCEPT THE FACT THAT THE
18 MENTAL ILLNESS AND THE FAMILY AND THE FACT THAT HE'S NOT
19 THE SMARTEST GUY IN THE WORLD HAD A LOT TO DO WITH IT.

20 CHARLES CHRISTOPHER WILLIAMS, THE LADY WHO COME IN
21 AND TESTIFIED FOR -- MRS. OWENS, DIDN'T YOU LIKE MRS.
22 OWENS? WASN'T SHE RIGHT OUT OF FRIED GREEN TOMATOES?

23 SHE'S WHAT -- SHE IS A LADY WHO WORKS IN A BEAUTY
24 PARLOR PLACE. AND THE WAY SHE KIND OF SWIVELED AROUND AND
25 LOOKED AT THE JUDGE. YOU KNOW, WE DIDN'T GO OUT AND FIND

1 HER. SHE'S NOT AN EXPERT. SHE TOLD YOU THAT SHE SAW ON
2 THE TELEVISION WHAT WAS GOING ON WITH CHRIS, AND SHE
3 REALIZED THE KIND OF FAMILY HE HAD COME FROM.

4 I'VE HEARD IT SAID, I DON'T KNOW IT TO BE TRUE, BUT
5 I'VE HEARD IT SAID THAT IN THE NORTH PEOPLE ASK, WHAT DOES
6 HIS DADDY DO FOR A LIVING? AND IN THE SOUTH PEOPLE ASK
7 WHO ARE YOUR PEOPLE? WHO ARE YOUR PEOPLE? AND THAT'S
8 BECAUSE WE KNOW, WE KNOW HERE THAT A PART OF WHO WE ARE IS
9 WHERE WE CAME FROM. NOT ALL OF IT, BUT A PART OF IT IS
10 WHERE WE CAME FROM. AND MAUREEN TALKED TO YOU ABOUT THAT.

11 MAUREEN TOLD YOU ABOUT THAT. MISS OWENS TOLD YOU
12 ABOUT THAT. THE POLICE OFFICER TOLD YOU ABOUT THAT. CAN
13 YOU IMAGINE FOR A SECOND, I MEAN, I CAN'T IMAGINE THIS;
14 BUT I'VE GOT TO IMAGINE IF YOU'RE AFRICAN AMERICAN, PEOPLE
15 SAY THINGS TO YOU ABOUT YOUR RACE THAT ARE DEROGATORY AND
16 THEY'RE STRANGERS AND THAT HURTS. CAN YOU IMAGINE THAT
17 YOUNG MAN RIGHT THERE BEING CALLED A LITTLE BLACK BASTARD
18 BY HIS MOM? DOESN'T MAKE YOU GO TO A BI-LO AND KILL
19 SOMEBODY. BUT IF YOU DO THAT LONG ENOUGH AND IF YOU SLAP
20 HIM LONG ENOUGH AND IGNORE HIS PROBLEMS LONG ENOUGH,
21 YOU'RE GOING TO HAVE A PROBLEM ON YOUR HANDS.

22 PERHAPS THE MOST TELLING THING IS THIS. I ASSUME IF
23 YOU ALL DON'T HAVE CHILDREN, YOU KNOW SOMEBODY WHO DOES.
24 BUT IMAGINE FOR A SECOND THAT YOU GET A PHONE CALL FROM
25 THE SCHOOL ABOUT YOUR SON WHO'S BEEN IN SCHOOL THREE

1 MONTHS AND THEY'RE SAYING WE THINK THIS GUY HAS GOT
2 PROBLEMS. HE'S GOT PROBLEMS AND YOU HEARD THE SCHOOL
3 TEACHER. NOW, THERE'S ANOTHER ONE. WE JUST GOT HIS
4 SCHOOL RECORDS, LOOKED, AND WENT AND INTERVIEWED HER. SHE
5 CAME IN HERE.

6 NOW, THERE ARE HARD DECISIONS THAT NEED TO BE MADE IN
7 RAISING CHILDREN. YOU KNOW, WHAT TIME DO YOU MAKE THEM
8 COME IN AT NIGHT? WHAT DO YOU LET THEM WATCH ON TV?
9 WHERE DO YOU SEND THEM TO SCHOOL? DO YOU SEND THEM TO
10 PUBLIC SCHOOL, DO YOU SEND THEM TO PRIVATE SCHOOL? I
11 MEAN, THERE ARE DECISIONS THAT LITERALLY KEEP PARENTS
12 AWAKE AT NIGHT FOR DAYS ON END. BUT THE EASY ONE, THE
13 REALLY EASY ONE IS WHEN THE SCHOOL TEACHER CALLS YOU IN
14 AND SAYS, "LOOK, YOU GUYS ONLY BEEN HERE THREE MONTHS. I
15 THINK HE'S GOING TO FAIL THE FIRST GRADE, HE NEEDS SOME
16 HELP."

17 AND YOU KNOW WHAT THAT LADY DID? SHE DID NOTHING.
18 NOTHING. YOU KNOW THE OPPOSITE OF LOVE IS NOT HATE. IT'S
19 INDIFFERENCE. INDIFFERENCE IS WORSE THAN HATE. AND THOSE
20 PEOPLE SITTING BACK THERE WERE INDIFFERENT TO THEIR
21 CHILDREN. NOW, ONE OF THEM BECAUSE SHE HAPPENS TO BE
22 FAIRLY INTELLIGENT, MANAGED TO PULL HERSELF OUT, NOT ONLY
23 MANAGED TO PULL HERSELF OUT; BUT WENT BACK TWICE AND TRIED
24 TO SAVE HIM FROM THEM. AND SHE COULDN'T DO IT. BUT SHE
25 TRIED.

1 AND YOU ALL, FOR THE GOVERNMENT TO GET UP HERE AND TO
2 SAY THAT IT'S KIND OF OKAY TO KILL CHRIS WHEN SHE TRIED TO
3 SAVE HIM BECAUSE HE SHOULD HAVE THOUGHT ABOUT THAT WHEN HE
4 WAS IN THE BI-LO, THAT JUST -- THAT DEFIES LOGIC. THAT
5 DEFIES LOGIC.

6 WHEN YOU ALL STARTED HERE, EACH ONE OF YOU TOLD US
7 AND I DON'T KNOW WHETHER YOU KNOW IT OR NOT, WE QUESTIONED
8 YOU SECRETLY; BUT YOU KNOW THE SECRET IS, WE ALL KIND OF
9 ASKED YOU PRETTY MUCH THE SAME THING. OKAY? AND THE ONE
10 THING WE ASKED EACH AND EVERY ONE OF YOU IS THIS, EVEN IF
11 IT WAS A MURDER, EVEN IF IT WAS A MURDER, COULD YOU --
12 WOULD YOU AUTOMATICALLY SENTENCE HIM TO DEATH?

13 YOU KNOW WHAT THE PEOPLE THAT SAID, LOOK, IF YOU KILL
14 SOMEBODY, ONLY SENTENCE THEY GIVE IS DEATH, THEY DIDN'T
15 GET TO SERVE. AND WE ASKED EACH ONE, IF IT'S A MURDER,
16 DEFINED MURDER, HEART DEVOID OF ALL SOCIAL DUTY, FATALLY
17 BENT ON MISCHIEF, IS THE ONLY SENTENCE FOR THAT PERSON
18 DEATH? EACH AND EVERY ONE OF YOU SAID NO, ON A BIBLE.

19 THEN WE SAID, YOU KNOW, WHAT IF HE EVEN GOT CONVICTED
20 OF ANOTHER SERIOUS CRIME, MAYBE KIDNAPPING, MURDER COLD
21 HEARTED, DID IT, MEANT TO DO IT; AND A KIDNAPPING, WOULD
22 DEATH BE THE ONLY SENTENCE? AND EACH AND EVERY ONE OF YOU
23 SAID -- YOU KNOW WHAT ELSE WE SAID? WE SAID, HOW ABOUT IF
24 IN THE PENALTY PHASE THE GOVERNMENT BRINGS YOU ALL THE
25 AGGRAVATION THEY CAN FIND, THE VICTIM IMPACT EVIDENCE AND,

1 THE DEFENSE PUTS UP NOTHING, WE ASKED EACH AND EVERY ONE
2 OF YOU THAT, IS THE ONLY SENTENCE THEN DEATH? AND YOU
3 SAID, "NO."

4 WELL, WE DIDN'T SIT ON OUR HANDS. WHAT WE TRIED TO
5 DO, EXPLAIN TO YOU WHY. WE TRIED TO EXPLAIN TO YOU WHY IT
6 IS THAT CHRIS WOUND UP IN THAT STORE. I HOPE WE'VE BEEN
7 ABLE TO DO IT WITHOUT IN ANY WAY, WITHOUT IN ANY WAY DOING
8 ANYTHING TO DISRESPECT MANDY. BECAUSE YOU KNOW WHAT MANDY
9 WAS? CHRIS SAW MANDY AS HIS WAY OUT. HE SAW HER, HE KNEW
10 WHAT KIND OF FAMILY SHE CAME FROM. YOU SAW THOSE PEOPLE,
11 THEY'RE GOOD FAMILY. AND IF THOSE PEOPLE HAD BEEN CHRIS'
12 SON OR MAYBE JUST, YOU KNOW, SON-IN-LAW, THIS WOULDN'T
13 HAVE HAPPENED.

14 YOU KNOW, MAUREEN HAD SMARTS. THAT'S WHAT GOT HER
15 OUT. SHE HAD SMARTS. AND I THINK THAT CHRIS THOUGHT IN
16 HIS MIND THAT MAYBE HE COULD GET OUT. BECAUSE JUST LOOK
17 AT WHAT HAPPENED. HE TRIED TO GET OUT. HE WENT TO
18 MAUREEN'S TWICE. MAUREEN JUST HAD HER PLATE FULL. HE
19 WENT TO THE HOSPITAL -- HE COMMITTED -- TRIED TO COMMIT
20 SUICIDE. AND WHERE DID THEY SEND HIM? BACK TO HIS
21 FAMILY. HE WENT BACK TO THE HOSPITAL, SAID, "LOOK GUYS, I
22 CAN'T HANDLE THIS. THERE'S SOMETHING GOING ON INSIDE OF
23 ME. I CAN'T HANDLE IT. I CAN'T DO IT ALONE."

24 I WOULD SUBMIT THAT EACH AND EVERY ONE OF YOU ALL
25 HAVE GOT A FRIEND YOU CAN CALL, HAVE GOT A FAMILY MEMBER

1 YOU CAN GET ON THE PHONE AND SAY I MET THIS GIRL AND GOT,
2 "I JUST LOVED HER SO MUCH. NEVER MET ANYBODY I'VE EVER,
3 LOVED BEFORE AND I LOVE HER AND SHE DOESN'T LOVE ME. I
4 STAY IN MY ROOM ALL THE TIME. I CAN'T GET OUT OF MY BED.
5 I DON'T KNOW WHAT'S GOING ON IN MY HEAD. MY SISTER IS
6 GIVING ME THIS THING AND I'M WRITING IN IT."

7 LOOKING BACK IN IT, THE MOST -- AS THAT MAN SAID IN
8 THAT RIGHT THERE -- SAID THE MOST PROFOUND THING SAID IN
9 THE TRIAL. "SOMETHING CHANGED."

10 GOT YOU ALL -- I DON'T KNOW WHAT HAPPENED. I USED TO
11 THINK ABOUT GOOD THINGS. NOW, ALL I THINK ABOUT IS
12 KILLING HER. EVERY SINGLE PSYCHIATRIST THAT SAW HIM SAID
13 THEY WOULD HAVE COMMITTED HIM. THAT HE COULD HAVE BEEN
14 PUT ON MEDICATION. HE COULD HAVE BEEN PUT SOMEPLACE AND
15 THIS COULDN'T HAVE HAPPENED. SOMETHING CHANGED.

16 HE'S RIGHT. HE'S EXACTLY RIGHT. SOMETHING CHANGED.

17 AND YOU KNOW WHAT? UNLIKE MOST OF US, THERE WASN'T
18 ANYBODY THERE TO KIND OF KEEP HIM BETWEEN THE DITCHES.
19 HIS FAMILY WASN'T THERE. HIS SISTER WAS TRYING, YOU KNOW,
20 SHE WAS GONE. THE BOY DIDN'T HAVE ANY FRIENDS. DIDN'T
21 HAVE ANY FRIENDS. THERE WAS NOBODY THERE. AND THERE IS
22 NO ONE AMONG US THAT HAS DONE IT ALL BY THEMSELVES. WE
23 LIKE TO THINK SO, BUT WHEN WE REALLY GET DOWN TO IT,
24 THERE'S NOT A SINGLE ONE OF US THAT HAS DONE IT BY
25 THEMSELVES.

1 THE GOVERNMENT GOT UP HERE AND MOCKED MERCY. THE
2 QUALITY OF MERCY IS NOT STRAINED, IT DROPPETH AS THE
3 GENTLE RAIN FROM THE HEAVEN UPON THE PLACE THAT NEED IT IS
4 TWICE BLESSED. IT IS BLESSED HIM THAT GIVETH DEATH AND
5 TAKETH DEATH.

6 SOME AMONG US MAYBE DON'T THINK MERCY IS A MOCKERY.
7 I'M NOT SAYING THAT THAT'S A REASON TO SENTENCE HIM TO
8 LIFE WITHOUT PAROLE JUST BECAUSE A MOCKERY. I SUBMIT THAT
9 WE HAVE BROUGHT TO YOU ABUNDANT REASONS WHY THIS YOUNG MAN
10 IS NOT THE WORST OF THE WORST. HE IS BAD. HE DID A
11 HORRIBLE THING. THE GOVERNMENT SAID IF HE SHOT HER ONCE;
12 BUT IF HE SHOT HER ONCE AND KILLED HER, IT WOULDN'T HAVE
13 BEEN A DEATH PENALTY CASE?

14 THERE ARE PEOPLE IN THIS WORLD THAT JUST DIDN'T GET
15 THE CHANCE THAT THE REST OF US DID. THERE ARE THOSE AMONG
16 YOU WHO BELIEVE, WHO BELIEVE THAT THIS YOUNG MAN IS NOT
17 THE WORST OF THE WORST. HE'S BAD. AND THERE ARE THOSE
18 AMONG YOU WHO BELIEVE THIS, THAT WHILE WHAT HE DID WAS
19 HORRIBLE AND TRAGIC AND CAUSED HEARTACHE TO BOTH THIS SIDE
20 AND THAT SIDE; BUT THAT WHEN YOU STEP BACK FROM IT, WHEN
21 YOU STEP BACK FROM IT, IT WAS A TWO-MONTH PERIOD IN HIS
22 LIFE. IT WAS A TWO-MONTH PERIOD IN HIS LIFE.

23 AND I HOPE YOU ALSO RECOGNIZE THAT WHAT CAUSED THAT
24 TWO-MONTH PERIOD IN HIS LIFE IS SOMETHING THAT CAN BE
25 TREATED. THIS IS NOT ROCKET SCIENCE TO TREAT THIS GUY.

1 IT'S MEDICATION. IT CAN BE TREATED AND IT WILL BE
2 TREATED. IT WILL BE TREATED.

3 YOU KNOW, SOME PEOPLE SAY THAT EVERYBODY GETS A
4 CHANCE TO DO SOMETHING. THE GOVERNMENT MAKES IT SOUND
5 LIKE THE HARD THING IS TO KILL HIM. SO, YOU OUGHT TO DO
6 THE HARD THING JUST BECAUSE IT'S THE HARD THING. THAT
7 DOESN'T MAKE IT THE RIGHT THING. AND I WOULD HOPE FOR
8 EACH AND EVERY ONE OF YOU, NOT IMPOSING THE DEATH PENALTY
9 BUT IMPOSING THE DEATH PENALTY ON THAT MAN ON THIS DAY IS
10 SOMETHING THAT YOU JUST CAN'T DO. BECAUSE IT'S NOT RIGHT.

11 BECAUSE HE'S NOT THE KID THAT CAME FROM THE GOOD
12 FAMILY WHO HAD ALL THE BREAKS, WHO HAD ALL THE HELP, WHO
13 HAD EDUCATION AND DECIDED JUST, YOU KNOW, IN THE ABSTRACT
14 TO GO KILL A BUNCH OF PEOPLE. HE'S NOT THE WORST OF THE
15 WORST. I BEG YOU TO JUDGE HIM ON SOMETHING OTHER THAN THE
16 TWO WORST MONTHS OF HIS ENTIRE LIFE.

17 EVERYBODY THAT'S SEEN HIM HAS SAID, YOU KNOW, WHILE
18 HE'S 22, YOU KNOW, HE WAS LIKE GOING TO BE 21 BY THE TIME
19 HE GRADUATED FROM HIGH SCHOOL. HE'S NOT THE MOST
20 DEVELOPED GUY, AND IN MY EYES HE'S A KID. THERE ARE THOSE
21 AMONG YOU WHO, THIS IS YOUR TIME. THIS IS YOUR TIME.
22 THIS IS WHAT YOU WERE PUT HERE FOR. THERE HAS TO BE A
23 REASON WHY THAT MENTALLY ILL CHILD WAS PLACED IN THAT
24 FAMILY. THIS IS YOUR TIME. THIS IS YOUR TIME TO REJECT
25 IT, TO SET YOUR ANGER ABOUT WHAT HAPPENED ASIDE, AND FORCE

1 HIM TO GO TO PRISON FOR THE REST OF HIS LIFE.

2 IF YOU DON'T AGREE WITH ME ON ANYTHING ELSE, I
3 HESITATE TO SAY THIS, YOU KNOW, BUT BASED ON WHAT WE'VE
4 ALL SEEN HERE, IF YOU DON'T AGREE WITH ME ON ANYTHING
5 ELSE, WHEN YOU LEAVE HERE TODAY, PROMISE US THAT YOU'RE
6 GOING TO CALL THE PEOPLE YOU LOVE AND YOU'RE GOING TO TAKE
7 CARE OF THEM. AND MORE IMPORTANTLY, CALL THE PEOPLE
8 YOU'RE SUPPOSED TO LOVE AND TELL THEM YOU LOVE THEM.
9 BECAUSE IT MIGHT KEEP ALL THIS FROM HAPPENING AGAIN.

10 BUT YOU DON'T NEED TO KILL THIS KID. NOT HERE, NOT
11 TODAY. FORCING CHRIS WILLIAMS TO SPEND THE REST OF HIS
12 LIFE IN PRISON IS A PUNISHMENT AND I RESPECTFULLY SUBMIT
13 TO YOU IT'S THE APPROPRIATE PUNISHMENT. I BEG YOU NOT TO
14 KILL MY CLIENT.

15 THE COURT: MR. FOREMAN, MEMBERS OF THE JURY, YOU'VE
16 HEARD THE TESTIMONY, THE EVIDENCE, AND THE ARGUMENTS OF
17 THE STATE AND THE DEFENDANT. I WILL NOW EXPLAIN TO YOU
18 THE LAW THAT APPLIES IN THIS SECOND PHASE OF THIS CASE.
19 UNDER THE CONSTITUTION AND LAWS OF SOUTH CAROLINA, YOU'RE
20 THE FINDERS OF FACT OF THE CASE. I DO NOT HAVE THE RIGHT
21 TO PASS UPON THE FACTS OR EVEN EXPRESS AN OPINION I MIGHT
22 HAVE FOR THEM.

23 UNDER SOUTH CAROLINA CODE SECTION 16-3-20(B) A
24 DEFENDANT CHARGED WITH MURDER IS REQUIRED TO ENTER A PLEA
25 OF NOT GUILTY IN ORDER TO BE SENTENCED BY A JURY OF HIS

1 PEERS. IF A DEFENDANT PLEADS GUILTY, THE SENTENCING
2 PROCEEDING MUST BE CONDUCTED BY A JUDGE, NOT A JURY. IN
3 ORDER TO HAVE A JURY DETERMINE WHETHER THE DEFENDANT
4 SHOULD BE SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF
5 PAROLE, OR SENTENCED TO DEATH FOR MURDER AND KIDNAPPING,
6 THE DEFENDANT HAD TO PROCEDURALLY ENTER A PLEA OF NOT
7 GUILTY.

8 YOU'RE THE JUDGES, THE SOLE JUDGES OF CREDIBILITY,
9 THE BELIEVABILITY OF THE WITNESSES WHO HAVE TESTIFIED IN
10 THIS CASE. IN PASSING UPON THE CREDIBILITY, YOU MAY TAKE
11 INTO CONSIDERATION MANY THINGS, SUCH AS THE Demeanor OR
12 MANNER OF TESTIFYING, WHETHER A WITNESS HAD REASON TO BE
13 BIASED OR PREJUDICED, WHETHER A WITNESS'S TESTIMONY WAS
14 CONTRADICTED ON ONE HAND OR SUPPORTED AND CORROBORATED ON
15 THE OTHER. YOU CERTAINLY DO NOT DETERMINE CREDIBILITY OR
16 BELIEVABILITY BY COUNTING THE NUMBER OF WITNESSES FOR
17 EITHER SIDE.

18 YOU MAY BELIEVE A SMALL PORTION OF A WITNESS'S
19 TESTIMONY AND DISREGARD THE LARGER OR VICE VERSA. YOU MAY
20 BELIEVE ONE WITNESS AGAINST MANY OR MANY AGAINST ONE. ALL
21 THESE THINGS YOU CONSIDER, BEARING IN MIND YOU SHOULD GIVE
22 THE DEFENDANT THE BENEFIT OF A REASONABLE DOUBT.

23 YOU'VE HEARD THE TESTIMONY OF WITNESSES WHO HAVE
24 SPECIAL KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR
25 EDUCATION IN A PARTICULAR PROFESSION OR OCCUPATION, AND

1 WHO HAVE GIVEN THEIR OPINIONS AS EXPERTS AS TO MATTERS IN
2 WHICH THEY ARE SKILLED. IN DETERMINING THE WEIGHT TO BE
3 GIVEN SUCH OPINIONS, YOU SHOULD CONSIDER THE
4 QUALIFICATIONS, THE CREDIBILITY OF THE EXPERT WITNESS AND
5 THE REASONS GIVEN FOR EACH OF THEIR OPINIONS. YOU ARE NOT
6 BOUND BY THESE OPINIONS. GIVE EACH OF THESE OPINIONS THE
7 WEIGHT, IF ANY, TO WHICH YOU DEEM IT IS ENTITLED.

8 THE SAME CONSTITUTION AND LAWS WHICH DESIGNATE AND
9 MAKE YOU THE FINDERS OF FACT, AS I JUST EXPLAINED, ALSO
10 MAKE ME THE SOLE INSTRUCTOR OF THE LAW. YOU ACCEPT THE
11 STATEMENTS OF THE LAW AS I GIVE THEM TO YOU, BASED ON YOUR
12 DECISION MAKING OF WHAT THE LAW IS AND NOT WHAT YOU THINK
13 THE LAW SHOULD BE.

14 THERE ARE TWO TYPES OF EVIDENCE GENERALLY PRESENTED
15 DURING A TRIAL, DIRECT AND CIRCUMSTANTIAL EVIDENCE.
16 DIRECT EVIDENCE IS TESTIMONY OF A PERSON WHO ASSERTS OR
17 CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN
18 EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN
19 OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
20 FACT.

21 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
22 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
23 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF
24 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
25 DIRECT. YOU SHOULD WEIGH ALL THE EVIDENCE IN A CASE ON A

1 CONTESTED FACTUAL ISSUE. YOU MAY HAVE SOME DIRECT AND
2 SOME CIRCUMSTANTIAL, OR A COMBINATION OF THE TWO TYPES OF
3 EVIDENCE ON A DISPUTED FACT. THE PROOF OF THIS CASE MAY
4 RELY ON EITHER OR BOTH OF THESE TYPES OF EVIDENCE; THAT
5 IS, DIRECT OR CIRCUMSTANTIAL.

6 NOW, I FURTHER CHARGE YOU THE EVIDENCE OF PRIOR
7 CRIMES OF MISCONDUCT BY THE DEFENDANT SHOULD NOT BE
8 CONSIDERED AND MAY NOT BE USED AS PROOF OF ANY STATUTORY
9 AGGRAVATING CIRCUMSTANCES, ABOUT WHICH I WILL INSTRUCT YOU
10 SHORTLY. HOWEVER, YOU MAY CONSIDER SUCH EVIDENCE ONLY AS
11 TO THE DEFENDANT'S CHARACTERISTICS, BUT NOT AS PROOF AS
12 THE ALLEGED STATUTORY AGGRAVATING CIRCUMSTANCES.

13 IN THIS CASE THE ALLEGED STATUTORY AGGRAVATING
14 CIRCUMSTANCE IS THE MURDER WAS COMMITTED WHILE IN THE
15 COMMISSION OF THE CRIME OF KIDNAPPING.

16 MR. FOREMAN, MEMBERS OF THE JURY, IT NOW BECOMES YOUR
17 DUTY TO DECIDE WHAT SENTENCE YOU RECOMMEND THIS COURT
18 IMPOSE UPON THE DEFENDANT. THERE ARE TWO VERDICTS YOU ARE
19 TO CONSIDER IN THIS CASE. ONE IS THE DEATH PENALTY, WHICH
20 IN THIS STATE IS BY ELECTROCUTION OR BY LETHAL INJECTION.
21 THE OTHER IS LIFE IN PRISON WITHOUT PAROLE. YOU MAY
22 CONSIDER ALL THE EVIDENCE AND TESTIMONY IN THE GUILT PHASE
23 AND THE SENTENCING PHASE IN MAKING A DECISION ON THE
24 EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE. YOU WILL ALSO
25 CONSIDER ALL THE TESTIMONY AND EVIDENCE IN THE GUILT PHASE

1 AND THE PENALTY PHASE IN DECIDING BETWEEN LIFE OR DEATH.

2 UNDER SOUTH CAROLINA CODE ANNOTATED 16-3-20(A), A
3 LIFE SENTENCE IN SOUTH CAROLINA CARRIES NO POSSIBILITY OF
4 PAROLE. LIFE IMPRISONMENT MEANS UNTIL THE DEATH OF THE
5 DEFENDANT. NO PERSON SENTENCED TO LIFE IMPRISONMENT
6 PURSUANT TO THIS SECTION IS ELIGIBLE FOR PAROLE, COMMUNITY
7 SUPERVISION, OR ANY EARLY RELEASE PROGRAM; NOR IS A PERSON
8 ELIGIBLE TO RECEIVE ANY WORK CREDITS, EDUCATION CREDIT,
9 GOOD CONDUCT CREDITS, OR ANY OTHER CREDITS THAT REDUCE THE
10 MANDATORY LIFE IMPRISONMENT REQUIRED BY THIS SECTION.
11 PLEASE UNDERSTAND YOUR SENTENCE RECOMMENDATION WILL BE
12 FOLLOWED BY THIS COURT.

13 THE ORDER IN WHICH I EXPLAIN THESE TWO SENTENCES IS
14 IN NO WAY A RECOMMENDATION BY THIS COURT AS TO WHICH
15 SENTENCE YOU SHOULD CHOOSE TO RECOMMEND, IT'S SIMPLY THAT
16 ONE MUST BE STATED FIRST.

17 BY THE RECOMMENDATION OF SENTENCE WHICH I HOLD IN MY
18 HAND, YOU, THE JURY, MAY RECOMMEND THAT THIS COURT
19 SENTENCE THE DEFENDANT TO DEATH. PLEASE OBSERVE
20 IMMEDIATELY BELOW THE BODY OF THE RECOMMENDATION THERE ARE
21 12 LINES. THIS IS WHERE, SHOULD YOU DECIDE TO RECOMMEND
22 THE DEATH PENALTY, EACH ONE OF YOU WOULD SIGN YOUR NAME.
23 AS IT IS THE LAW IN THIS STATE, MR. FOREMAN, MEMBERS OF
24 THE JURY, RECOMMENDATION FOR IMPOSITION OF DEATH PENALTY
25 BE A UNANIMOUS RECOMMENDATION AND EACH AND EVERY JUROR IS

1 TO SIGN HIS OR HER NAME TO THE RECOMMENDATION FORM. I
2 WILL READ THIS FORM TO YOU.

3 IT SAYS AT THE TOP, THE CAPTION OF THE CASE, AND IT
4 SAYS, "RECOMMENDATION OF SENTENCE OF DEATH PENALTY.

5 "WE, THE JURY, IN THE ABOVE-ENTITLED CASE, HAVING
6 FOUND BEYOND A REASONABLE DOUBT THE EXISTENCE OF THE
7 FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCE, TO WIT:"
8 AND THE AGGRAVATING CIRCUMSTANCES ARE GIVEN BY THE
9 STATUTORY INSTRUCTIONS. AND THE AGGRAVATING CIRCUMSTANCE
10 IN THIS CASE, "THE MURDER WAS COMMITTED WHILE IN THE
11 COMMISSION OF THE FOLLOWING ACT, KIDNAPPING."

12 AND IT GOES ON TO SAY -- NOW, AFTER YOU FILL IN THE
13 AGGRAVATING CIRCUMSTANCES, "IF YOU UNANIMOUSLY AGREE IT'S
14 BEEN PROVEN, RECOMMEND TO THE COURT THAT THE DEFENDANT,
15 CHARLES CHRISTOPHER WILLIAMS, BE SENTENCED TO DEATH."

16 AND EVEN THOUGH THE FORM SAYS "RECOMMENDATION," I
17 CHARGE YOU THAT THE COURT IS OBLIGATED TO FOLLOW THAT
18 RECOMMENDATION.

19 NOW, FOR THIS RECOMMENDATION TO BE MADE; THAT IS,
20 THAT THE DEFENDANT BE SENTENCED TO DEATH, YOU MUST FIND
21 THAT A STATUTORY AGGRAVATING CIRCUMSTANCE EXISTED BEYOND A
22 REASONABLE DOUBT.

23 WHAT IS A STATUTORY AGGRAVATING CIRCUMSTANCE? IT IS
24 A FACT, AN INCIDENT, A DETAIL OR OCCURRENCE WHICH THE
25 SOUTH CAROLINA GENERAL ASSEMBLY HAS DECLARED BY STATUTE

1 WOULD MAKE WORSE; THAT IS, AGGRAVATE, THE OFFENSE OF
2 MURDER WHEN THE TWO OCCURRED TOGETHER. IN OTHER WORDS, IT
3 IS SOMETHING WHICH INCREASES THE ENORMITY OR ADDS TO THE
4 INJURY OR CONSEQUENCES OF THE OFFENSE.

5 UPON THIS SHEET OF PAPER I HOLD IN MY HAND -- YOU
6 WILL HAVE THE PAPER IN THE JURY ROOM DURING YOUR
7 DELIBERATIONS -- AS I SAID, THE BODY OF THE FORM STATES,
8 "IN DETERMINING WHETHER TO RECOMMEND THE DEFENDANT,
9 CHARLES CHRISTOPHER WILLIAMS, BE SENTENCED TO THE LIFE
10 IMPRISONMENT OR DEATH, YOU MAY CONSIDER THE FOLLOWING
11 STATUTORY AGGRAVATING CIRCUMSTANCE, MURDER COMMITTED WHILE
12 IN THE COMMISSION OF THE CRIME, ACT, KIDNAPPING."

13 LET ME EMPHASIZE TO YOU THAT THESE ARE THE ONLY
14 CIRCUMSTANCES YOU MAY CONSIDER AS AGGRAVATING
15 CIRCUMSTANCES. YOUR DECISION MUST BE UNANIMOUS. AND THE
16 STATE MUST PROVE THE AGGRAVATING CIRCUMSTANCE BEYOND A
17 REASONABLE DOUBT. IF YOU FIND THE STATE HAS PROVEN THE
18 AGGRAVATING CIRCUMSTANCE SHOWN ON THE SHEET OF PAPER, THEN
19 YOU WOULD BE AUTHORIZED TO CONSIDER WHETHER THE DEFENDANT
20 SHOULD BE SENTENCED TO DEATH.

21 WHAT DO I MEAN BY THE TERM, "PROVEN BEYOND A
22 REASONABLE DOUBT?" A REASONABLE DOUBT IS THE KIND OF
23 DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO
24 ACT.

25 AND PLEASE PAY PARTICULAR ATTENTION TO THIS. YOU ARE

1 NEVER REQUIRED TO RECOMMEND THE DEATH PENALTY, EVEN IF YOU
2 FIND THAT A STATUTORY AGGRAVATING CIRCUMSTANCE EXISTED AT
3 THE TIME THE OFFENSE OCCURRED. THE LAW IN SOUTH CAROLINA
4 PRESUMES LIFE.

5 I INSTRUCT YOU FURTHER THAT SHOULD YOU FIND THE STATE
6 HAS NOT PROVEN THAT SUCH CIRCUMSTANCES EXIST; THAT IS TO
7 SAY, YOU FIND THAT YOU STILL HAVE A REASONABLE DOUBT AS TO
8 THE EXISTENCE OF SUCH A CIRCUMSTANCE, THEN YOU WOULD NOT
9 BE AUTHORIZED TO RECOMMEND DEATH PENALTY. RECOMMENDATION
10 MUST BE LIFE IMPRISONMENT.

11 REMEMBER, DEATH PENALTY MEANS DEATH PENALTY,
12 ELECTROCUTION OR LETHAL INJECTION.

13 LIFE IMPRISONMENT. BY THIS FORM WHICH I HOLD IN MY
14 HAND, YOU, THE JURY, CAN RECOMMEND TO THIS COURT THAT THE
15 DEFENDANT BE SENTENCED TO LIFE IN PRISON. IT HAS AT THE
16 TOP, "RECOMMENDATION OF SENTENCE, LIFE IN PRISON WITHOUT
17 PAROLE."

18 IT SAYS WE, THE JURY, IN THE ABOVE-ENTITLED CASE,
19 HAVING FOUND BEYOND A REASONABLE DOUBT THE EXISTENCE OF
20 THE FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCE, TO WIT:
21 RECOMMEND TO THE COURT THAT THE DEFENDANT, CHARLES
22 CHRISTOPHER WILLIAMS, BE SENTENCED TO LIFE IN PRISON
23 WITHOUT THE POSSIBILITY OF PAROLE."

24 PLEASE NOTE THAT ALTHOUGH YOU MUST UNANIMOUSLY AGREE
25 TO RECOMMEND LIFE IN PRISON, ONLY THE FOREMAN IS REQUIRED

1 TO SIGN THE RECOMMENDATION FORM AS TO LIFE.

2 I WILL NOW INSTRUCT YOU ON WHAT YOU MAY CONSIDER IN
3 MAKING A DECISION AS TO WHICH SENTENCE TO RECOMMEND.

4 AS I PREVIOUSLY INSTRUCTED, IF YOU FIND THE EXISTENCE
5 BEYOND A REASONABLE DOUBT OF A STATUTORY AGGRAVATING
6 CIRCUMSTANCE, YOU ARE PERMITTED BUT NOT REQUIRED TO
7 RECOMMEND THE DEATH PENALTY. THERE ARE THREE CONDITIONS
8 WHICH YOU CONSIDER IN REACHING YOUR DECISION.

9 FIRST, WHETHER THE EXISTENCE OF A STATUTORY
10 MITIGATING CIRCUMSTANCE IS SUPPORTED BY THE EVIDENCE;
11 SECOND, WHETHER THE EXISTENCE OF ANY NONSTATUTORY
12 MITIGATING CIRCUMSTANCE WAS SUPPORTED BY THE EVIDENCE;
13 THIRD, WHETHER FOR ANY REASON YOU CAN THINK OF OR FOR NO
14 REASON AT ALL THE DEFENDANT SHOULD BE SENTENCED TO LIFE IN
15 PRISON.

16 STATUTORY MITIGATING CIRCUMSTANCES. WHAT IS A
17 STATUTORY MITIGATING CIRCUMSTANCE? IT IS IN FACT AN
18 INCIDENT, A DETAIL, OR AN OCCURRENCE WHICH THE SOUTH
19 CAROLINA GENERAL ASSEMBLY HAS DECLARED BY STATUTE WILL
20 REDUCE THE SEVERITY OF THE OFFENSE OF MURDER. IN OTHER
21 WORDS, A CIRCUMSTANCE RECOGNIZED BY STATUTE AS ONE WHICH
22 IN FAIRNESS AND MERCY MAY BE CONSIDERED EXTENUATING OR AS
23 REDUCING THE DEGREE OF MORAL CULPABILITY FOR THE
24 COMMISSION OF THE ACT OF MURDER.

25 MITIGATING CIRCUMSTANCE IS NEITHER JUSTIFICATION NOR

1 EXCUSE FOR THE MURDER, IT SIMPLY LESSENS THE DEGREE OF
2 ONES GUILT; THAT IS, IT MAKES HIM LESS BLAMEWORTHY OR LESS
3 CULPABLE. WHAT STATUTORY MITIGATING CIRCUMSTANCES CAN YOU
4 CONSIDER IN THIS CASE? I REFER TO THE SHEET OF PAPER
5 ENTITLED "STATUTORY INSTRUCTIONS." IMMEDIATELY BELOW THE
6 STATUTORY AGGRAVATING CIRCUMSTANCES, WHICH I READ TO YOU
7 EARLIER, THE TEXT CONTINUES.

8 "YOU MAY ALSO CONSIDER THE FOLLOWING MITIGATING
9 CIRCUMSTANCES: THE MURDER WAS COMMITTED WHILE THE
10 DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL
11 DISTURBANCE, THE AGE OR MENTALITY OF THE DEFENDANT AT THE
12 TIME OF THE CRIME.

13 YOU MAY ALSO CONSIDER NON MITIGATING CIRCUMSTANCES.
14 A NON -- EXCUSE ME, NON-STATUTORY MITIGATING CIRCUMSTANCE.
15 A NON-STATUTORY MITIGATING CIRCUMSTANCE IS ONE WHICH IS
16 NOT PROVIDED BY STATUTE, BUT ONE FOR WHICH THE DEFENDANT
17 CLAIMS SERVES THE SAME PURPOSE; THAT IS, SUPPORTS THE
18 IMPOSITION OF A LIFE SENTENCE.

19 WHILE THERE MUST BE SOME EVIDENCE WHICH SUPPORTS A
20 FINDING BY YOU THAT A STATUTORY OR NON STATUTORY
21 MITIGATING CIRCUMSTANCE EXISTS, IT IS NOT NECESSARY FOR
22 YOU TO FIND THE EXISTENCE OF SUCH CIRCUMSTANCE UNANIMOUSLY
23 BEYOND A REASONABLE DOUBT. THE EXISTENCE OF AN ALLEGED
24 STATUTORY MITIGATING CIRCUMSTANCES AN ALLEGED NON
25 STATUTORY MITIGATING CIRCUMSTANCES OR BOTH IS NOT A BAR TO

1 THE IMPOSITION OF THE DEATH PENALTY.

2 I FURTHER CHARGE YOU, IN DECIDING THE APPROPRIATE
3 PENALTY, YOU'RE NOT TO WEIGH AGGRAVATING CIRCUMSTANCES
4 VERSUS MITIGATING CIRCUMSTANCES; BUT YOU MUST CONSIDER ANY
5 MITIGATING CIRCUMSTANCES AS WELL AS ANY AGGRAVATING
6 CIRCUMSTANCES. EVEN IF YOU SHOULD CONSIDER THE STATUTORY
7 AGGRAVATING CIRCUMSTANCES EXIST, YOU MAY RECOMMEND LIFE IN
8 PRISON FOR ANY REASON, FOR NO REASON AT ALL, OR FOR NO
9 OTHER REASON THAN COMPASSION, MERCY, CHARITY OR
10 UNDERSTANDING.

11 THIS IS WHAT HAS BEEN TRADITIONALLY REFERRED TO AS A
12 RECOMMENDATION OF MERCY; AND SHOULD SUCH BE YOUR DECISION,
13 YOU WOULD SO INDICATE BY RETURNING TO THE COURT A
14 RECOMMENDATION OF LIFE IMPRISONMENT FORM WHICH WOULD BE
15 SIGNED BY THE FOREMAN ALONE. IN THIS INSTANCE SHOULD YOU
16 CHOOSE TO RECOMMEND LIFE IN PRISON, YOUR DECISION WOULD BE
17 A UNANIMOUS ONE, AND THE FOREMAN ALONE WOULD BE REQUIRED
18 TO SIGN.

19 I HAVE ALSO PREPARED A LIST OF NON STATUTORY
20 MITIGATING CIRCUMSTANCES. NOW, I CHARGE YOU THAT YOU MAY
21 CONSIDER THE FOLLOWING NON STATUTORY MITIGATING
22 CIRCUMSTANCES. IF YOU, THE JURY, FIND THAT THEY EXIST --
23 I AM NOT COMMENTING ON THE EXISTENCE OF ANY OF THESE;
24 HOWEVER, THEY HAVE BEEN SUGGESTED BY THE DEFENSE.

25 ANY TESTIMONY REGARDING THE DEFENDANT, CHARLES

1 CHRISTOPHER WILLIAMS'S MENTAL ILLNESS IS TREATABLE WITH
2 MEDICATION. ANY TESTIMONY REGARDING THE DEFENDANT CHARLES
3 CHRISTOPHER WILLIAMS' ADAPTABILITY TO PRISON. ANY
4 TESTIMONY REGARDING THE DEFENDANT, CHARLES CHRISTOPHER
5 WILLIAMS' FUTURE VIOLENCE IN PRISON. ANY TESTIMONY THAT
6 THE DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, IS LOVED AND
7 SUPPORTED BY HIS SISTER, MAUREEN, AND HER FAMILY THAT HAVE
8 AND WILL CONTINUE TO ENCOURAGE, SUSTAIN, AND ASSIST HIM IN
9 THE FUTURE, OR ANY OTHER TESTIMONY OR ANY OTHER REASON OR
10 REASONS WHICH THE JURY MAY CONSIDER.

11 IN CONSIDERING WHETHER TO RECOMMEND THE DEFENDANT TO
12 BE SENTENCED TO DEATH OR LIFE IMPRISONMENT I CHARGE YOU AS
13 JURORS YOU MUST DECIDE THE ISSUE INVOLVED IN THIS
14 PROCEEDING WITHOUT BIAS OR WITHOUT PREJUDICE TO ANY PARTY.
15 YOU'VE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS SWORN TO
16 IMPARTIALLY DETERMINE THE FACTS. WHEN YOU COMPLY WITH
17 YOUR OATH TO DO SO, NO ONE WILL HAVE THE RIGHT TO
18 CRITICIZE YOUR VERDICT. YOU WILL HAVE FULLY DISCHARGED
19 YOUR DUTY AS JURORS, DECIDE THIS CASE ACCORDING TO THE
20 TESTIMONY WHICH YOU HAVE HEARD FROM THE SWORN WITNESSES,
21 ALONG WITH THE EVIDENCE INTRODUCED.

22 I CHARGE YOU AS JURORS YOU MUST DECIDE THE ISSUE,
23 PROCEED WITHOUT BIAS OR PREJUDICE TO ANY PARTY.

24 MR. FOREMAN, MEMBERS OF THE JURY, I CHARGE YOU
25 FURTHER THAT THE FACT THAT THE DEFENDANT ELECTS NOT TO

1 TESTIFY IN HIS OWN BEHALF CANNOT AND MUST NOT BE
2 CONSIDERED AGAINST HIM UNDER ANY CIRCUMSTANCES, UNDER ANY
3 MANNER WHATSOEVER. THE DEFENDANT HAS A CONSTITUTIONAL
4 RIGHT TO REMAIN SILENT AND THE ASSERTION OF THIS RIGHT
5 MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS. THE
6 DECISION OF ANY DEFENDANT NOT TO TAKE THE WITNESS STAND
7 AND TESTIFY IN HIS OWN BEHALF DOES NOT CREATE ANY
8 INFERENCE AGAINST HIM. I TELL YOU NOW, YOU MUST NOT
9 PERMIT THAT FACT TO WEIGH IN EVEN THE SLIGHTEST DEGREE
10 AGAINST THE DEFENDANT. YOU SHOULD NOT PERMIT THIS FACT TO
11 ENTER INTO YOUR DISCUSSIONS OR DELIBERATIONS OF THE ISSUES
12 IN THIS CASE.

13 NOW, I'VE PERMITTED YOU TO TAKE NOTES DURING THE
14 COURSE OF THIS TRIAL. YOU HAVE, OF COURSE, NOT BEEN
15 OBLIGATED TO TAKE ANY NOTES. IF YOU HAVE TAKEN NOTES,
16 THEY SHOULD BE USED ONLY AS A MEMORY AID. YOU SHOULD NOT
17 GIVE YOUR NOTES PRECEDENT OVER YOUR INDEPENDENT
18 RECOLLECTION OF THE EVIDENCE. IF YOU HAVE CHOSEN NOT TO
19 TAKE NOTES, YOU SHOULD RELY ON YOUR OWN INDEPENDENT
20 RECOLLECTION OF THE PROCEEDINGS, AND YOU SHOULD NOT BE
21 INFLUENCED BY THE NOTES OF OTHER JURORS.

22 I EMPHASIZE THAT NOTES ARE NOT ENTITLED TO ANY
23 GREATER WEIGHT, AND THE RECOLLECTION AND IMPRESSION OF
24 EACH JUROR AS TO WHAT THE TESTIMONY MAY HAVE BEEN.
25 RATHER, THESE NOTES ARE YOUR NOTES. WE CAN DESTROY THE

1 NOTES FOR YOU OR YOUR CAN DESTROY THEM YOURSELVES.

2 I'LL GIVE YOU A COPY OF THESE INSTRUCTIONS IN WRITTEN
3 FORM. DURING YOUR DELIBERATIONS YOU MAY REFER TO THE
4 INSTRUCTIONS TO GUIDE YOUR DECISION MAKING. YOU MUST
5 CONSIDER THE INSTRUCTIONS AS A WHOLE, AND NOT FOLLOW SOME
6 AND IGNORE OTHERS. PLEASE RETURN THE INSTRUCTIONS TO THE
7 COURT AT THE TIME THE VERDICT IS REACHED.

8 YOU CANNOT ALLOW YOURSELF TO BE GOVERNED BY SYMPATHY,
9 BY PREJUDICE, BY PASSION, BY PUBLIC OPINION, OR ANY OTHER
10 ARBITRARY FACTOR. BOTH THE STATE AND THE DEFENDANT HAVE
11 THE RIGHT TO EXPECT THAT EACH OF YOU WILL CAREFULLY AND
12 IMPARTIALLY CONSIDER ALL THE EVIDENCE OF THE CASE AND THAT
13 YOU WILL FOLLOW THE LAW AS I'VE EXPLAINED IT TO YOU.

14 AFTER YOUR SERVICE IN THIS TRIAL HAS CONCLUDED, YOU
15 HAVE THE RIGHT TO REFUSE TO DISCUSS THE VERDICT YOU RENDER
16 OR DISCUSS THE VERDICT TO THE EXTENT YOU SO DESIRE IF YOU
17 CHOOSE TO DISCUSS THE VERDICT. YOU ARE FREE TO TERMINATE
18 ANY SUCH DISCUSSION AT ANY POINT. IF THE PERSON WITH WHOM
19 YOU'RE SPEAKING CONTINUES TO PURSUE THE DISCUSSION FURTHER
20 AFTER YOU HAVE COMMUNICATED A DESIRE TO TERMINATE THE
21 DISCUSSION; OR IF A PERSON CONTINUES TO HARASS YOU AFTER
22 YOU HAVE REFUSED TO DISCUSS THE VERDICT, YOU SHOULD REPORT
23 THIS TO THE CLERK OF COURT AND THE COURT WILL DEAL WITH
24 THAT INDIVIDUAL.

25 NOW, I'M GOING TO ASK YOU TO GO TO THE JURY ROOM. I

1 HAVE TO TAKE MY CHARGE UP WITH THE ATTORNEYS. DON'T BEGIN
2 YOUR DELIBERATIONS UNTIL THE BAILIFF BRINGS THE EVIDENCE,
3 THE CHARGE, AND THE STATUTORY INSTRUCTIONS, THE
4 RECOMMENDATION OF SENTENCE, LIFE WITHOUT PAROLE, THE
5 RECOMMENDATION OF SENTENCE OF PENALTY AND LIST OF
6 NONAGGRAVATING -- NONSTATUTORY MITIGATING CIRCUMSTANCES
7 AND TELLS YOU TO BEGIN YOUR DELIBERATIONS. .

8 MR. MAULDIN: YOU MAY.

9 THE COURT: ANY EXCEPTIONS FROM THE STATE?

10 MS. STROM: JUDGE, I DON'T HAVE ANY EXCEPTIONS TO
11 YOUR CHARGE. I WAS JUST THINKING, I DON'T KNOW IF YOU
12 CHARGED ON EXPERT TESTIMONY. IF YOU DID, THEN I JUST
13 MISSED IT.

14 THE COURT: I DID.

15 MS. STROM: OKAY. THEN IF YOU DID -- I KNEW IT WAS
16 IN YOUR BOOK TO CHARGE.

17 THE COURT: I DID.

18 MR. MAULDIN: NO, EXCEPTIONS, YOUR HONOR.

19 THE COURT: ANY EXCEPTIONS FROM THE DEFENDANT?

20 MR. MAULDIN: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. HOW ABOUT THE STATE AND THE
22 DEFENDANT LOOK THROUGH THE EXHIBITS, MAKE SURE THEY'RE ALL
23 HERE, AND WE'LL SEND THEM BACK.

24 (ATTORNEYS REVIEW EXHIBITS.)

25 (WHEREUPON, THE JURY IS INSTRUCTED TO BEGIN

1 DELIBERATIONS AT 3:50 P.M. AT 7:00 P.M. THEY RETURN
2 TO OPEN COURT AND ARE CHARGED AS FOLLOWS:)

3 THE COURT: LADIES AND GENTLEMEN OF THE JURY IT'S
4 BEEN A LONG 12 DAYS, AND IT'S BEEN A LONG DAY TODAY. I
5 KNOW EVERYONE IS TIRED. WHAT I'M GOING TO DO IS STOP
6 DELIBERATIONS, TURN YOU OVER TO THE BAILIFFS, GET SUPER
7 AND BE BACK IN THE MORNING AT 9:30. WE'LL CONTINUE
8 DELIBERATIONS AT THAT TIME. SEE YOU IN THE MORNING AT
9 9:30. DON'T MISUNDERSTAND ME, DON'T DELIBERATE. DON'T
10 DISCUSS THE CASE UNTIL ALL 12 OF YOU ARE TOGETHER AT 9:30
11 IN THE MORNING. THE ALTERNATES WILL ALSO BE WITH YOU
12 TONIGHT. DON'T DISCUSS THE CASE AMONG YOURSELVES. HAVE A
13 GOOD EVENING. ALL RIGHT.

14 (WHEREUPON, THE JURY RETIRES FOR THE EVENING RECESS.)

15 THE COURT: ALL RIGHT. I UNDERSTAND THE JURY ROOM
16 WILL NOT LOCK. THEN WE'LL HAVE TO GET ALL THE EXHIBITS
17 AND ALL THE EVIDENCE AND MOVE IT IN HERE, LOCK THE
18 COURTROOM TONIGHT. WE CAN LOCK THE COURTROOM I'M SURE.

19 MR. ARIAIL: YES, SIR.

20 THE COURT: WE'LL ADJOURN UNTIL 9:30 IN THE MORNING.
21 THE BAILIFFS ARE GETTING ALL THE EVIDENCE AND EXHIBITS
22 TONIGHT.

23 MR. ARIAIL: YOU CANNOT LOCK THE COURTROOM ON THE
24 BACK DOORS.

25 THE COURT: THEY CAN PUT THE EVIDENCE IN THE CLOSET.

1 MR. MAULDIN: WILL IT ALL GO IN THAT LITTLE --

2 THE CLERK: YES, SIR.

3 THE COURT: WE'LL ADJOURN UNTIL 9:30 IN THE MORNING.

4 MR. ARIAIL: SEE YOU IN THE MORNING, JUDGE.

5 (WHEREUPON AT 7 P.M. THE PROCEEDINGS ARE ADJOURNED TO
6 THE FOLLOWING DAY.)

7 SATURDAY, FEBRUARY 19, 2005

8 (AT 9:30 A.M. THE JURY RECONVENES IN THE JURY ROOM TO
9 CONTINUE ITS DELIBERATIONS.)

10 THE COURT: FOR THE RECORD COURT'S EXHIBIT NUMBER 13
11 IS DEFENDANT'S REQUEST FOR ALLEN CHARGE. JURY JUST HAD
12 TWO MORE QUESTIONS COURT'S EXHIBIT NUMBER 13 IS
13 DEFENDANT'S REQUEST FOR ALLEN CHARGE. NO DIDN'T HAVE
14 ANOTHER QUESTION.

15 MR. FOREMAN, THE SOLICITOR -- THE JURY HAS WRITTEN A
16 NOTE SAYING BASICALLY THEY ARE SPLIT AND THEY'RE ASKING
17 FOR FURTHER INSTRUCTIONS. AND THE COURT'S GOING TO GIVE
18 THEM AN ALLEN CHARGE. I'LL MARK THIS NOTE AS COURT'S THE
19 NEXT EXHIBIT IN THIS CASE. I UNDERSTAND YOU HAVE A
20 REQUEST FOR ALLEN CHARGE -- A MOTION ALSO BASED UPON THE
21 NOTE FROM THE JURY?

22 NOW, THE JURY DID TELL THE COURT THE SPLIT BETWEEN
23 LIFE AND DEATH. THE COURT DIDN'T ASK FOR IT, BUT IT WAS
24 IN THE NOTE WHEN I RECEIVED IT. LET ME HEAR FROM YOU.

25 MR. MAULDIN: LET'S DO THE MOTION FIRST BECAUSE I

1 THINK THAT WILL BE THE DISPOSITIONAL ISSUE. WITHOUT GOING
2 INTO COURT. I HAVE SEEN THE NOTE. I UNDERSTAND THIS IS A
3 BREAKDOWN BETWEEN LIFE AND DEATH JURORS AT THIS POINT. WE
4 BELIEVE THE DISCLOSURE OF THE COURT'S EXHIBIT NOTE THAT
5 YOU'RE HOLDING DOES NOW REQUIRE THAT THIS COURT END
6 DELIBERATIONS AND IMPOSE A LIFE WITHOUT PAROLE SENTENCE.
7 WE BELIEVE THAT THE LAW REQUIRES THAT, NOTHING FURTHER
8 FROM THE JURY. THEY SHOULD NOT BE BROUGHT IN AND ASKED
9 ANY QUESTIONS OR COMMENTED TO. THEY HAVE TOLD YOU WHAT
10 THEIR COUNT IS BY THE DISCLOSURE OF THAT NOTE TO YOU. SO,
11 WE DO SO MOVE THAT THE SENTENCE BE IMPOSED, LIFE WITHOUT
12 PAROLE, AT THIS TIME WITHOUT FURTHER DELIBERATIONS.

13 THE COURT: SOLICITOR, YOU HAVE ANY COMMENTS?

14 MS. STROM: YOUR HONOR, IT WOULD BE -- WE CAN'T UNDO
15 WHAT THE JURY HAS DONE IN THE SENSE OF THE NOTE THEY'VE
16 SENT OUT. I THINK THE LAW IS SPECIFICALLY WE CANNOT ASK
17 THEM. SO, THE FACT THAT THEY VOLUNTARILY TOLD US WHAT THE
18 SPLIT IS, I DO NOT THINK THE LAW SAYS THAT THAT REQUIRES
19 AN IMPOSITION OF THE LIFE SENTENCE.

20 THE COURT: OKAY. IN ADDITION TO THE NOTE, IT SAID
21 PLEASE REFER TO INSTRUCTION ABOUT WHAT PROCEDURE TO FOLLOW
22 IN RESOLVE -- IN SOUTH CAROLINA I THINK THE PROCEDURE IS
23 TO GIVE AN ALLEN CHARGE AND LET THEM CONTINUE
24 DELIBERATION. YOUR MOTION TO DECLARE A MISTRIAL AT THIS
25 TIME IS DENIED.

1 MR. MAULDIN: YOUR HONOR, WE PASS UP COURT'S EXHIBIT
2 NUMBER 13 AS OUR REQUEST FOR THE COURT TO CONSIDER THE
3 TEXT OF THE SO-CALLED ALLEN CHARGE.

4 THE COURT: OKAY. I'M -- I HAVE AN ALLEN CHARGE.
5 THE ALLEN CHARGE IS NOT VERBATIM OF WHAT YOU HAVE, BUT IT
6 COVERS BASICALLY THE SAME THING. AND I'M GOING TO CHARGE
7 MY CHARGE I NORMALLY USE WITH THE EXCEPTION OF TELLING THE
8 JURY THE SAME PARTICIPANTS WOULD COME, THE SAME LAWYERS
9 WOULD ASK THE SAME QUESTIONS, AND ANOTHER JURY WOULD MAKE
10 A DECISION. I'M NOT GOING INTO THAT BECAUSE I DON'T THINK
11 IT'S APPLICABLE IN THIS CASE.

12 MR. MAULDIN: YOUR HONOR, TO THE EXTENT THAT YOUR
13 CHARGE YOU WILL BE MOMENTARILY GIVING THE JURY IS
14 DIFFERENT FROM THE CHARGE WE HAVE IMPOSED, WE TAKE
15 EXCEPTION, YOUR HONOR.

16 THE COURT: I UNDERSTAND YOUR EXCEPTION WAS ON MY
17 CHARGE AND I'LL READ IT.

18 "LADIES AND GENTLEMEN, YOU HAVE STATED YOU ARE UNABLE
19 TO AGREE ON A VERDICT IN THIS CASE. AS I INSTRUCTED YOU
20 EARLIER, THE VERDICT OF A JURY MUST BE UNANIMOUS." I AM
21 NOT GOING TO CHARGE THAT. I'M TAKING THAT SENTENCE OUT.
22 THE SENTENCE SAYS, "AS I INSTRUCTED YOU EARLIER, THE
23 VERDICT OF A JURY MUST BE UNANIMOUS." I WILL NOT CHARGE.
24 OKAY? I'M JUST TELLING YOU WHAT I'M GOING TO DO.

25 MR. MAULDIN: YES, SIR. ONE FURTHER MOMENT.

1 THE COURT: THAT'S YOUR OBJECTION, THAT LANGUAGE IN
2 MY CHARGE, AND I'M TAKING IT OUT.

3 MR. MAULDIN: YES. YES. THE NEXT QUESTION I GUESS
4 OR POSITION WE WOULD TAKE IS THAT ALL INSTRUCTIONS THAT
5 THE JURY HAS BEEN GIVEN IN THIS PROCEEDING HAVE BEEN
6 PROVIDED TO THEM IN WRITING. WE REQUEST THAT THIS COURT
7 PROVIDE TO THEM IN WRITING WHAT YOU'RE GETTING READY TO
8 INSTRUCT THEM.

9 THE COURT: I WILL DO THAT.

10 MR. MAULDIN: SO THEY CAN TAKE IT BACK WITH THEM.

11 THE COURT: I WILL DO THAT. NOW, LET ME SAY THIS. I
12 THINK PROCEDURALLY YOU HAVE TO TAKE EXCEPTION TO THE
13 CHARGE I GIVE THEM AT THE APPROPRIATE TIME AFTER I GIVE IT
14 TO THEM. OKAY? I'LL BE GLAD TO LET YOU DO THAT AFTER I
15 GIVE THE CHARGE AND SEND THEM BACK OUT. YOU CAN TAKE
16 EXCEPTION TO WHATEVER YOU HAVE AT THE END.

17 MR. MAULDIN: YES, SIR.

18 THE COURT: BUT I WILL TYPE IT OUT AND SEND IT BACK
19 WITH THEM. ANYTHING ELSE BEFORE WE BRING THE JURY?

20 MR. ARIAIL: NOTHING FROM THE STATE.

21 MR. MAULDIN: NOTHING FROM THE DEFENSE.

22 THE COURT: ALL RIGHT. BRING US THE JURY, PLEASE.

23 (WHEREUPON, AT 11:55 A.M. THE JURY RETURNS TO OPEN
24 COURT TO BE FURTHER CHARGED AS FOLLOWS:)

25 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE

1 JURY, YOU'VE STATED YOU'VE BEEN UNABLE TO REACH A VERDICT
2 IN THIS CASE. WHEN A MATTER IS IN DISPUTE, IT ISN'T
3 ALWAYS EASY FOR EVEN TWO PEOPLE TO AGREE. SO, WHEN 12
4 PEOPLE MUST AGREE, IT BECOMES EVEN MORE DIFFICULT. IN
5 MOST CASES ABSOLUTE CERTAINTY CANNOT BE REACHED OR
6 EXPECTED. YOU SHOULD CONSULT WITH ONE ANOTHER, EXPRESS
7 YOUR OWN VIEWS, AND LISTEN TO THE OPINIONS OF YOUR FELLOW
8 JURORS. TELL EACH OTHER HOW YOU FEEL AND WHY YOU FEEL
9 THAT WAY. DISCUSS YOUR DIFFERENCES WITH OPEN MINDS.
10 THEREFORE, TO SOME DEGREE IT CAN BE SAID JURY SERVICE IS A
11 MATTER OF GIVE AND TAKE.

12 EVERY ONE OF YOU HAS THE RIGHT TO YOUR OWN OPINION,
13 THE VERDICT YOU AGREE TO MUST BE YOUR OWN VERDICT, A
14 RESULT OF YOUR OWN CONVICTIONS. YOU SHOULD NOT GIVE UP
15 YOUR FIRMLY HELD BELIEFS MERELY TO BE IN AGREEMENT WITH
16 YOUR FELLOW JURORS. THE MINORITY SHOULD CONSIDER THE
17 MAJORITY'S OPINION AND THE MAJORITY SHOULD CONSIDER THE
18 MINORITY'S OPINION. YOU SHOULD CAREFULLY CONSIDER AND
19 RESPECT THE OPINIONS OF EACH OTHER AND EVALUATE YOUR
20 POSITION FOR REASONABLENESS, CORRECTNESS, AND PARTIALITY.
21 YOU MUST LAY ASIDE ALL OUTSIDE MATTERS AND REEXAMINE THE
22 QUESTION BEFORE YOU BASE THE LAW AND THE EVIDENCE IN THIS
23 CASE.

24 I, THEREFORE, ASK YOU TO RETURN TO YOUR DELIBERATIONS
25 WITH THE HOPE THAT YOU CAN ARRIVE AT VERDICT.

1 I WILL REDUCE THIS CHARGE TO WRITING AND RETURN IT TO
2 THE JURY ROOM, CONSIDER IT AS A WHOLE, NOT ONE PART OVER
3 ANOTHER. JUST AS SOON AS I GET IT TYPED, THE BAILIFF WILL
4 BRING IT TO THE JURY ROOM.

5 MR. FOREMAN, IF YOU ALL WILL RETIRE TO THE JURY ROOM,
6 PLEASE, SIR.

7 (THE FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE
8 PRESENCE OF THE JURY:)

9 THE COURT: ANY EXCEPTIONS TO THE CHARGE FROM THE
10 STATE?

11 MR. ARIAIL: NO, SIR.

12 THE COURT: ANY EXCEPTIONS TO THE CHARGE FROM THE
13 DEFENDANT?

14 MR. MAULDIN: ONE MOMENT.

15 YOUR HONOR, THE -- WE DO TAKE EXCEPTION,
16 RESPECTFULLY, TO THE EXTENT THAT YOUR INSTRUCTION DIFFERS
17 FROM THE PROPOSED INSTRUCTION THAT WE'VE HAD MARKED AS
18 COURT'S EXHIBIT NUMBER 13. AND IN SPECIFIC, YOUR HONOR,
19 WE USE AS SUPPORT THE STATE VERSUS HUGHES CASE AND IT
20 REFERS TO THE JURORS EMPHATICALLY NOT HAVING TO SIMPLY GO
21 ALONG TO GET ALONG TYPE LANGUAGE. WE BELIEVE THE LANGUAGE
22 THAT WE'VE PROPOSED SPECIFICALLY IDENTIFIES TO THE JURORS
23 THAT THEY HAVE THE RIGHT AND SPECIFICALLY ESSENTIALLY AN
24 OBLIGATION TO DEAL WITH THEIR OWN VIEWS IN THIS CASE AND
25 NOT TO AGREE SIMPLY TO AGREE.

1 THE COURT: I THINK MY CHARGE COVERED THAT. IT
2 COVERED IT IN DIFFERENT WORDING, BUT IT COVERED THAT
3 "MAINTAIN YOUR OWN CONVICTIONS."

4 MR. MAULDIN: AND WE ARE GETTING A WRITTEN --

5 THE COURT: YES, SIR. AS SOON AS HE CAN TYPE IT.
6 OKAY. ANYTHING ELSE?

7 MR. MAULDIN: (SHAKES HEAD FROM SIDE TO SIDE.)

8 THE COURT: WE'LL STAND AT EASE, WAITING A JURY
9 VERDICT.

10 (WHEREUPON, THE DELIBERATIONS CONTINUE FROM 12:02
11 P.M. TO 3:45 P.M.)

12 THE COURT: BRING THE JURY IN PLEASE. JURY THIS AT
13 3:45 P.M.

14 (WHEREUPON, THE JURY RETURNS TO OPEN COURT TO REPORT
15 THEIR VERDICT.)

16 THE COURT: I UNDERSTAND THE JURY REACHED A VERDICT;
17 IS THAT CORRECT?

18 THE FOREMAN: YES, SIR.

19 THE COURT: WOULD YOU HAND THE VERDICT FORMS TO THE
20 BAILIFF, PLEASE, SIR?

21 (FOREMAN COMPLIES.)

22 THE COURT: MADAM CLERK, IF YOU'D PUBLISH THE
23 VERDICT, PLEASE.

24 THE CLERK: YOUR HONOR, IN CASES NUMBER
25 2004-GS-23-1745 AND 2004-GS-23-1746, THE STATE OF SOUTH

1 CAROLINA VERSUS CHARLES CHRISTOPHER WILLIAMS, DEFENDANT.
2 RECOMMENDATION OF SENTENCE, DEATH PENALTY. WE, THE JURY,
3 IN THE ABOVE-ENTITLED CASE, HAVING FOUND BEYOND A
4 REASONABLE DOUBT THE EXISTENCE OF THE FOLLOWING STATUTORY
5 AGGRAVATING CIRCUMSTANCE, TO WIT: KIDNAPPING, NOW
6 RECOMMEND TO THE COURT THAT THE DEFENDANT, CHARLES
7 CHRISTOPHER WILLIAMS, BE SENTENCED TO DEATH."

8 SIGNED NELSON C. MILES, FOREMAN; BETTY JO BRANYON,
9 BRIAN A. HOLMSTRAND, MICHAEL DUNLAP, JOEL MOSS, JOSEPH
10 DANIEL JOHNSON, STACY S. GONICK, FRANCES D. ELMORE,
11 MARGARET STEWART, TRACY SHOOK, MICHAEL FOWLER, CONSTANCE
12 HILL.

13 THE COURT: THANK YOU, MA'AM.

14 DOES THE DEFENDANT HAVE ANYTHING?

15 MR. MAULDIN: JUST LIKE TO POLL THE JURORS
16 INDIVIDUALLY, YOUR HONOR.

17 THE COURT: MADAM CLERK, IF YOU'LL POLL THE JURY.

18 THE CLERK: LADIES AND GENTLEMEN, THE VERDICT THAT I
19 JUST PUBLISHED WAS THE VERDICT YOU REACHED IN THE JURY
20 ROOM. I ASK YOU, WAS IT YOUR VERDICT THEN AND IS IT YOUR
21 VERDICT --

22 THE COURT: HE WANTS THEM POLLED INDIVIDUALLY, I
23 BELIEVE, DON'T YOU?

24 MR. MAULDIN: WANT THEM POLLED INDIVIDUALLY.

25 THE COURT: GO AHEAD AND FINISH TELLING THEM WHAT YOU

1 WERE TELLING THEM, CALL OUT THE NAMES AND GET THE
2 RESPONSE.

3 THE CLERK: THE VERDICT THAT I JUST PUBLISHED WAS THE
4 VERDICT THAT YOU REACHED IN THE JURY ROOM. WAS IT YOUR
5 VERDICT THEN AND IS IT YOUR VERDICT NOW? AS I CALL YOUR
6 NAMES, PLEASE ANSWER YES OR NO.

7 NELSON MILES.

8 PROSPECTIVE JUROR MILES: YES.

9 THE CLERK: BETTY JO BRANYON?

10 PROSPECTIVE JUROR BRANYON: YES.

11 THE CLERK: BRIAN HOLMSTRAND.

12 PROSPECTIVE JUROR HOLMSTRAND: YES.

13 THE CLERK: MICHAEL DUNLAP.

14 PROSPECTIVE JUROR DUNLAP: YES.

15 THE CLERK: JOEL MOSS.

16 PROSPECTIVE JUROR MOSS: YES.

17 THE CLERK: JOSEPH JOHNSON.

18 PROSPECTIVE JUROR JOHNSON: YES.

19 THE CLERK: STACY GONICK?

20 PROSPECTIVE JUROR GONICK: YES.

21 THE CLERK: FRANCES ELMORE?

22 PROSPECTIVE JUROR ELMORE: YES.

23 THE CLERK: MARGARET STEWART.

24 PROSPECTIVE JUROR STEWART: YES.

25 THE CLERK: TRACY SHOOK.

1 PROSPECTIVE JUROR SHOOK: YES.

2 THE CLERK: MICHAEL FOWLER.

3 PROSPECTIVE JUROR FOWLER: YEAH.

4 THE CLERK: CONSTANCE HILL?

5 PROSPECTIVE JUROR HILL: YES.

6 THE COURT: OKAY.

7 MR. WILLIAMS, IF YOU PLEASE, STAND, PLEASE, SIR. IS
8 THERE ANYTHING YOU WOULD LIKE TO SAY?

9 THE DEFENDANT: NO, SIR.

10 THE COURT: ANYTHING YOU WANT TO SAY TO MR. MAULDIN
11 OR MR. NETTLES?

12 THE DEFENDANT: NO, SIR.

13 THE COURT: MR. MAULDIN, ANYTHING YOU WANT TO SAY?

14 MR. MAULDIN: WELL, I HAD SOMETHING I WANTED TO SAY.
15 LET ME THINK A MINUTE. FIRST OF ALL, FOR THE RECORD, I
16 HAVE TO RENEW THE MOTIONS.

17 THE COURT: WE'LL DO THAT. DO YOU HAVE ANYTHING
18 BEFORE I PRONOUNCE SENTENCE IS WHAT I'M ASKING.

19 MR. MAULDIN: I WANT TO -- I WANT TO SAY THAT WE HAVE
20 TRIED THE CASE -- WE ATTEMPTED TO TRY THE CASE WITH THE
21 HIGHEST LEVEL OF DIGNITY AND WITH RESPECT WITH WHAT THESE
22 FAMILIES WENT THROUGH AND WILL FOREVER REMEMBER. AND WE
23 FEEL LIKE THAT WAS DONE IN A PROPER WAY. I HAVE NOTHING
24 FURTHER TO SAY.

25 CHRIS, OBVIOUSLY, THE QUESTION OF WHETHER HE WOULD

1 ADDRESS THE JURY WAS A SERIOUS CONSIDERATION; BUT I
2 RECOMMENDED THAT THAT NOT BE DONE, AND THAT WAS MY
3 RECOMMENDATION TO HIM. BUT I DON'T THINK ANYTHING ELSE
4 NEEDS TO BE SAID BEFORE THE SENTENCE IS --

5 THE COURT: AS THE TRIAL JUDGE IN THE ABOVE-ENTITLED
6 ACTION, PRIOR TO IMPOSITION OF THE DEATH SENTENCE UPON THE
7 DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, I FIND AS AN
8 AFFIRMATIVE FACT THE EVIDENCE IN THE CASE WARRANTS THE
9 IMPOSITION OF THE DEATH PENALTY AND ITS IMPOSITION IS NOT
10 A RESULT OF PREJUDICE, PASSION, OR ANY OTHER ARBITRARY
11 FACTOR. THE DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, HAS
12 BEEN FOUND BY THE JURY TO BE GUILTY OF THE OFFENSE OF
13 MURDER. THE JURY HAS RECOMMENDED THAT THE DEFENDANT
14 SHOULD BE SENTENCED TO DEATH.

15 IT IS, THEREFORE, JUDGMENT OF LAW AND THE SENTENCE OF
16 THIS COURT THE DEFENDANT, CHARLES CHRISTOPHER WILLIAMS,
17 BE TAKEN TO THE COUNTY DETENTION CENTER HENCEFORTH TO THE
18 STATE DEPARTMENT OF CORRECTIONS HENCEFORTH TO BE KEPT IN
19 CLOSE AND SAFE CONFINEMENT UNTIL THE 18th DAY APRIL
20 2005, UPON WHICH DATE BETWEEN THE HOURS OF 6 P.M. AND 6
21 A.M. OR UPON THE ORDER OF EXECUTION ISSUED BY THE SOUTH
22 CAROLINA SUPREME COURT, THE DEFENDANT, CHARLES CHRISTOPHER
23 WILLIAMS, SHALL SUFFER DEATH BY ELECTROCUTION OR LETHAL
24 INJECTION IN THE MANNER PROVIDED FOR BY LAW.

25 ANY POST-TRIAL MOTIONS?

1 MR. MAULDIN: YOUR HONOR, WE WOULD REQUEST, WE WOULD
2 REQUEST A REASONABLE TIME IN WHICH TO SUBMIT THOSE MOTIONS
3 TO YOU. IF YOU WISH THAT THEY BE DONE THIS AFTERNOON, I
4 WOULD LIKE AN OPPORTUNITY TO COLLECT MY THOUGHTS ABOUT
5 THOSE MOTIONS AND PRESENT THEM TO YOU.

6 THE COURT: ALL RIGHT. I'LL GIVE YOU TEN DAYS TO
7 SUBMIT THEM TO THE COURT IN WRITING.

8 MR. MAULDIN: THANK YOU, JUDGE.

9 THE COURT: OKAY.

10 MR. MAULDIN: YES, SIR.

11 THE COURT: AND ALONG WITH THAT, LET ME KNOW AT THE
12 TIME WHETHER YOU'RE GOING TO WANT ORAL ARGUMENTS ON THE
13 MOTIONS OR WHETHER MEMORANDUM IS SUFFICIENT AND I'LL DO
14 EITHER ONE.

15 MR. MAULDIN: YES.

16 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

17 LADIES AND GENTLEMEN OF THE JURY. I WANT TO THANK
18 YOU FOR YOUR SERVICES THIS WEEK AND LAST WEEK. THE CLERK
19 HAS SOME LETTERS FOR YOUR EMPLOYER. IF YOU WANT TO GO TO
20 THE JURY ROOM, THE CLERK WILL BRING THOSE TO YOU. PLEASE
21 FOLLOW THE BAILIFF TO THE JURY ROOM.

22 THE COURT: ANYTHING ELSE?

23 MR. MAULDIN: NO, SIR.

24 THE COURT: ALL RIGHT. WE WILL ADJOURN. THANK YOU
25 VERY MUCH.

1 MR. ARIAIL: THANK YOU, JUDGE.

2 * * * * * END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF SOUTH CAROLINA)
)
2 COUNTY OF GREENVILLE) CERTIFICATE OF REPORTER

3

4 I, THE UNDERSIGNED, DONNA M. BRADY, OFFICIAL COURT
5 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
6 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
7 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
8 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE
9 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL
10 SESSIONS FOR GREENVILLE COUNTY, SOUTH CAROLINA ON THE 7TH DAY
11 OF FEBRUARY, 2005.

12 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
13 NOR INTEREST TO ANY PARTY HERETO.

14

15

16

17

Donna Brady
DONNA M. BRADY

18

Dec. 20, 2005
DATE

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

THE STATE,

VERSUS

CHARLES CHRISTOPHER WILLIAMS,

DEFENDANT.

04-GS-23-1745 AND 1746

TRANSCRIPT OF RECORD

NOVEMBER 1, 2004
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J.C. BUDDY NICHOLSON, JR.

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

ROBERT ARIAIL, Esquire
Solicitor for the 13th Judicial Circuit
BETTY STROM, Esquire
Deputy Solicitor for the 13th Judicial CircuitJOHN MAULDIN, Esquire
Public Defender for Greenville CountyDAWN V. KOFFSKEY
COURT REPORTER

INDEX

PAGE NO.

3

MOTIONS

INDEX TO EXHIBITSNO.DESCRIPTIONID.EV.

(NO EXHIBITS WERE ENTERED INTO EVIDENCE DURING THIS PLEA)

1 THE COURT: ALL RIGHT. MR. MAULDIN, I'LL BE GLAD TO HEAR
2 FROM YOU.

3 MR. MAULDIN: YOUR HONOR---

4 THE COURT: OUR FIRST MOTION IS A MOTION TO QUASH THE DEATH
5 NOTICE; IS THAT CORRECT?

6 MR. MAULDIN: YES, SIR.

7 I HAVE PASSED UP TO THE COURT A LIST OF NINE MOTIONS OF
8 WHICH SEVEN -- WE ARE PROPOSING ONE THROUGH SEVEN BE HEARD THIS
9 MORNING, AND I'M GOING TO SUGGEST THAT WE GO RIGHT DOWN THAT
10 LIST, IF IT SUITS THE COURT.

11 THE COURT: THAT'LL BE FINE.

12 MR. MAULDIN: FIRST OF ALL, YOUR HONOR, THE MOTION TO QUASH
13 DEATH NOTICE WAS FILED AND SERVED ON AUGUST THE 30TH AND REQUEST
14 THAT THIS COURT QUASH THE DEATH NOTICE ON THE GROUNDS THAT THE
15 PENALTY -- THE IMPOSITION OF THE DEATH PENALTY VIOLATES THE
16 EIGHTH AMENDMENT REGARDING PUNISHMENT THAT CONSTITUTE CRUEL AND
17 UNUSUAL. WE UNDERSTAND OF COURSE IN MAKING THIS MOTION THAT THERE
18 IS SIGNIFICANT PRECEDENT THAT WOULD SUPPORT A RULING IN DENIAL OF
19 THAT MOTION.

20 THE COURT: YES, SIR.

21 MR. MAULDIN: BUT WE DO BELIEVE THAT IT'S APPROPRIATE THAT
22 THAT MOTION BE MADE AT THIS TIME.

23 THE COURT: OKAY. SOLICITOR ARIAIL, IS THERE ANYTHING YOU
24 WANT TO PUT ON THE RECORD PURSUANT TO THAT MOTION?

25 MR. ARIAIL: THE ONLY THING I WOULD LIKE TO PUT ON THE

MOTIONS

2427

1 RECORD IS THAT IN OUR MOTION RESPONSE, PARAGRAPH 2, IT READS
2 INCORRECTLY. IT TALKS ABOUT THE DEFENDANT BEING CONVICTED OF
3 MURDER, BURGLARY, KIDNAPPING AND SEVERAL OTHER CHARGES. IT
4 SHOULD READ, HE'S BEEN CHARGED WITH MURDER, KIDNAPPING AND
5 POSSESSION OF A WEAPON DURING A VIOLENT CRIME..

6 THE COURT: OKAY. YOU WANT TO MAKE THAT CORRECTION? OKAY.
7 THANK YOU, SIR.

8 MR. MAULDIN, I'LL DENY THAT MOTION.

9 MR. MAULDIN: YOUR HONOR, THE NEXT MOTION, NUMBER 2 ON YOUR
10 LIST, IS A MOTION TO QUASH THE DEATH NOTICE, AND THIS MOTION IS,
11 I BELIEVE, A LITTLE MORE COMPLEX AND I DO ASK THE COURT'S
12 INDULGENCE WHILE I PUT ON THE RECORD THE POSITION OF THE
13 DEFENDANT.

14 THE COURT: OKAY.

15 MR. MAULDIN: I HOPE THAT THE COURT RECEIVED MY MEMORANDUM
16 IN SUPPORT OF THIS MOTION.

17 THE COURT: I DID.

18 MR. MAULDIN: IT WAS MAILED ONE DAY DELIVERY BUT I ALWAYS
19 HAVE SOME CONCERN ABOUT TRUSTING THE POST OFFICE.

20 THE COURT: I'VE GOT IT IN FRONT OF ME NOW.

21 MR. MAULDIN: ALL RIGHT. THANK YOU, YOUR HONOR.

22 AND I KNOW THAT I DID PROVIDE THE STATE WITH A COPY OF THAT

23 MS. STROM: WE DO NOT HAVE IT.

24 MR. ARIAIL: WE DO NOT HAVE IT.

25 THE COURT: DO YOU WANT TO LOOK AT MY VERY BRIEFLY? I HAV

1 REVIEWED IT. I'LL BE HAPPY TO SHARE IT WITH YOU. DO YOU HAVE
2 ANOTHER COPY YOU CAN GIVE SOLICITOR ARIAIL?

3 MR. MAULDIN: I'VE GOT MY COPY, AND I'LL BE GLAD TO GIVE IT
4 TO HIM FOR THE PURPOSES OF THIS HEARING.

5 MR. ARIAIL: WHY DON'T -- I --

6 THE COURT: WHY DON'T YOU JUST USE MINE FOR RIGHT NOW? IF
7 YOU DON'T MIND, MR. MAULDIN, JUST GIVE HIM A FEW MINUTES TO LOOK
8 AT IT.

9 MR. MAULDIN: YES, SIR.

10 THE COURT: OKAY. AND I'LL LISTEN TO YOUR ARGUMENT AND
11 HE'LL BE IN A POSITION TO LISTEN TO YOUR ARGUMENT.

12 MR. MAULDIN: YES, SIR.

13 THE COURT: I HAVE REVIEWED YOUR MEMORANDUM PREVIOUSLY.

14 MR. MAULDIN: ALL RIGHT. THANK YOU, JUDGE. JUST LET ME
15 KNOW WHEN YOU WANT ME TO GO FORWARD.

16 THE COURT: JUST AS SOON AS MR. ARIAIL FINISHES READING IT,
17 WE'LL MOVE FORWARD.

18 (AT EASE WHILE SOLICITOR ARIAIL REVIEWS MEMORANDUM)

19 MR. ARIAIL: I'M READY, YOUR HONOR.

20 THE COURT: OKAY. (PAUSE) OKAY, MR. MAULDIN.

21 MR. MAULDIN: MAY IT PLEASE THE COURT. YOUR HONOR, WITH
22 REGARD TO HISTORICAL FOUNDATION FOR THIS MOTION THE CURRENT
23 CAPITAL SENTENCING PROCEEDING IN SOUTH CAROLINA WAS PASSED IN
24 1977, AND IT ESSENTIALLY SAYS IN PERTINENT PART THAT A DEFENDANT
25 WHO PLEADS GUILTY TO MURDER UNDER THIS STATUTORY SCHEME THE

1 SENTENCING PROCEEDING AT THAT POINT MUST BE CONDUCTED BEFORE THE
2 JUDGE.

3 NOW, IN THE STATE'S RESPONSE TO MY MOTION I WANT THE COURT
4 TO TAKE NOTE OF THE FACT THAT THE MOST CURRENT CASE CITED BY THE
5 GOVERNMENT IN SUPPORT OF THEIR POSITION THAT THIS MOTION BE
6 DENIED IS 20 YEARS OLD. I'M GOING TO TAKE AN OPPORTUNITY THIS
7 MORNING TO TRY TO BRING YOU A LITTLE MORE FORWARD INTO THE
8 PRESENT WITH REGARD TO WHAT OUR UNITED STATES SUPREME COURT HAS
9 DONE WITH SIMILAR STATUTORY STRUCTURES.

10 THE FIRST CASE THAT IS RELEVANT IS THE 1990 CASE OF WALTON,
11 AND IT'S CITED IN THE MEMORANDUM. AND IN WALTON THE COURT -- IF
12 WALTON WERE STILL THE LAW, I WOULD CONCEDE THAT THIS MOTION WOULD
13 LIKELY BE DENIED. IT MAY BE PRESENTED AND ARGUED -- AND I WAS
14 ARGUING THE SAME MOTION BACK IN 1990, SO I REMEMBER THIS CASE.
15 THE WALTON CASE WOULD NOT NECESSARILY HAVE GIVEN ME MUCH SUPPORT
16 TO SAY THE LEAST. BUT TWO THINGS ESSENTIALLY HAVE HAPPENED IN
17 THE LAST 14 YEARS WITH REGARD TO THIS INTERPRETATION.

18 THE FIRST THING THAT HAPPENED WAS A NON-CAPITAL CASE OF
19 APRENDE WHICH THIS COURT IS CERTAINLY FAMILIAR WITH, AND IT'S
20 JUST ONE OF THOSE JIGSAW PUZZLES OF THE LAW AS FAR AS A SIMPLE
21 MAN LIKE ME IS CONCERNED. IT'S SO COMPLICATED I CAN'T HARDLY --
22 IT'S ALMOST LIKE IT'S WRITTEN IN LATIN OR SOMETHING. BUT BE THA'
23 AS IT MAY APRENDE WAS A NON-CAPITAL CASE AND IT DEALT WITH THE
24 ENHANCEMENT -- ESSENTIALLY THE ISSUE WAS AN ENHANCEMENT OF A
25 PENALTY POST-JURY DETERMINATION OF GUILT AND THE IMPOSITION OF A

1 SENTENCE BY A JUDGE THAT WAS ENHANCED BY FACTS FOUND BY THE JUDGE
2 AT THE TIME OF SENTENCING THAT HAD NOT BEEN PRESENTED TO THE JURY
3 DURING THEIR DELIBERATIONS AND HAD NOT BEEN FOUND BY THE JURY.
4 SINCE THAT TIME-- AND THAT WAS A UNITED STATES SUPREME COURT
5 CASE. SINCE THAT TIME---

6 THE COURT: WASN'T THAT -- LET ME JUST ASK YOU A QUESTION.
7 I MEAN, WASN'T THAT BASED UPON A FACTUAL DETERMINATION BY THE
8 JURY?

9 MR. MAULDIN: THE JURY WAS NOT---

10 THE COURT: IN OTHER WORDS IF THE ENHANCEMENT WAS A FACTUAL
11 DETERMINATION.

12 MR. MAULDIN: THE JUDGE MADE A FACTUAL---

13 THE COURT: FACTUAL DETERMINATION.

14 MR. MAULDIN: YES, SIR.

15 THE COURT: AND WHAT I'M TRYING TO DO IS ASK YOU: ISN'T
16 THERE A DISTINCTION BETWEEN A FACTUAL DETERMINATION AND THE JUDGE
17 MAKING A DECISION ON THE LAW?

18 MR. MAULDIN: AND, YOUR HONOR, THAT IS FINE. I DO INTEND
19 TO SUGGEST THAT IN OUR STATUTORY SCHEME WHAT WE CALL AGGRAVATING
20 CIRCUMSTANCES---

21 THE COURT: UH-HUH (AFFIRMATIVE).

22 MR. MAULDIN: ---ARE ELEMENTS. SO TO THAT EXTENT I
23 UNDERSTAND YOUR TRAIN OF THOUGHT THERE AND I DO INTEND TO ADDRESS
24 THAT.

25 THE COURT: OKAY. ALL RIGHT.

1 MR. MAULDIN: IN RING VERSUS ARIZONA IN 2002, THE COURT
2 TOOK THE OPPORTUNITY TO ESSENTIALLY APPLY THE CONCEPT THAT HAD
3 BEEN INITIALLY FORMULATED IN APRENDE AND APPLY IT TO CAPITAL
4 LITIGATION, THEREBY ESSENTIALLY REVERSING OR RESCINDING THE
5 PRECEDENT THAT HAD BEEN SET BY LAW IN 1990. SO THAT'S A LITTLE
6 BIT OF THE HISTORICAL CHAIN OF EVENTS.

7 NOW HERE'S HOW IT APPLIES TO THIS CASE. IN A NON-CAPITAL
8 MURDER PROCEEDING IN SOUTH CAROLINA THE GREATEST PENALTY A
9 DEFENDANT CAN RECEIVE IS LIFE. IN A CAPITAL PROCEEDING THE
10 CHARGE IS MURDER BUT IT IS A CHARGE THAT IS THEN ACCOMPANIED BY
11 AN AGGRAVATING CIRCUMSTANCE, AND THE AGGRAVATING CIRCUMSTANCE IS
12 WHAT DISTINGUISHES THE CAPITAL FROM THE NON-CAPITAL MURDER. IT
13 ALSO IS WHAT IS FOUND, QUOTE-UNQUOTE, AT THE TIME OF THE
14 SENTENCING BEYOND A REASONABLE DOUBT THAT THEN ALLOWS A JURY TO
15 CONSIDER THE DEATH PENALTY. IN OTHER WORDS, IT IS A FUNDAMENTAL
16 ELEMENT IN THE AUTHORIZATION OF A JURY TO THEN EVEN CONSIDER THE
17 IMPOSITION OF THE DEATH PENALTY. AND THAT PROCEEDING MUST OCCUR
18 AT THE SENTENCING PHASE OF A CLIENT'S CASE IF THEY ARE TRIED
19 UNDER OUR SCHEME. THERE IS NO ARGUMENT TO THAT. THAT IS EXACTLY
20 WHAT ACTUALLY HAPPENS.

21 NOW, THE AGGRAVATOR AT SENTENCING MUST ONCE AGAIN -- I
22 EMPHASIZE -- BE PROVEN BEYOND A REASONABLE DOUBT BEFORE THE JURY
23 CAN THEN CONSIDER THE IMPOSITION OF THE DEATH PENALTY. WE
24 BELIEVE THAT THE APPLICATION OF THAT STATUTE DENIES, NUMBER ONE,
25 A DEFENDANT'S RIGHT TO A JURY DETERMINATION AS GUARANTEED BY THE

1 CONSTITUTION, BY THE FEDERAL AND STATE CONSTITUTION. IT DENIES
2 THE DEFENDANT'S RIGHT TO DUE PROCESS AS GUARANTEED BY THE UNITED
3 STATES AND STATE CONSTITUTION, AND IT IS ALSO A DENIAL OF EQUAL
4 PROTECTION. THE APPLICATIONS THAT I ASK THE COURT CONSIDER ARE
5 THE SIXTH AMENDMENT, THE FOURTEENTH AMENDMENT, THE EIGHTH
6 AMENDMENT AND TO THE EXTENT THE 5TH AMENDMENT ACTUALLY ADDRESSES
7 DUE PROCESS AND THEN IS APPLIED TO THE STATE'S THROUGH THEIR --
8 THROUGH THE INCORPORATION CONCEPT, I ASK THAT THE COURT ALSO TAKE
9 INTO CONSIDERATION THE FIFTH AMENDMENT.

10 NOW, HERE IS THE NUTS AND BOLTS OF THE MOTION. UNDER OUR
11 STATUTE IT IS SET UP WHERE IF A DEFENDANT CHOOSES TO PLEAD GUILTY
12 AND ADMIT AND DEMONSTRATE REMORSE AND THROW HIMSELF ESSENTIALLY
13 UPON THE MERCY OF THE SYSTEM TO APPLY A PENALTY, HE IS GOING TO
14 BE SENTENCED UNDER OUR SCHEME BY THE COURT, NOT BY A JURY,
15 BECAUSE THE WORD "MUST" IN THE STATUTE DOES NOT GIVE YOU A
16 CHOICE, AND CASE LAW IN OUR STATE HAS SAID THAT IF A DEFENDANT
17 PLEADS GUILTY, HE MUST BE SENTENCED BY THE COURT. ON THE OTHER
18 HAND, YOUR HONOR, A DEFENDANT WHO MIGHT BE CLEARLY GUILTY,
19 ABSOLUTELY UNQUESTIONABLY GUILTY, CHOOSES TO PLEAD NOT GUILTY IN
20 ORDER TO AVAIL HIMSELF OF THE RIGHT TO HAVE THE JURY ULTIMATELY
21 IMPOSE THE PENALTY IS IN FACT GIVEN THAT BENEFIT.

22 SO YOU HAVE A SYSTEM THAT SAYS TO A DEFENDANT, YOU MIGHT
23 WANT TO PLEAD GUILTY, BUT IF YOU WANT A JURY TO IMPOSE SENTENCE
24 YOU CAN'T PLEAD GUILTY. AND I'M NOT SAYING THAT MY CLIENT OR ANY
25 OTHER CLIENT THAT I'VE HAD IN YEARS PAST OR WILL HAVE IN YEARS TO

MOTIONS

2433

1 COME HAS A RIGHT TO PLEAD GUILTY. I UNDERSTAND THAT THERE IS NO
2 RIGHT TO PLEAD GUILTY. BUT, YOU KNOW, HE DOES HAVE THE RIGHT TO
3 DUE PROCESS. AND FOR US TO SET UP A SYSTEM THAT SAYS, IF YOU
4 WANT A JURY TO SENTENCE YOU, YOU'RE GOING TO HAVE TO PLEAD NOT
5 GUILTY. YOU'RE GOING TO HAVE TO SIT AND FOR DAYS LISTEN TO
6 TESTIMONY THAT THIS JURY IS GOING TO WONDER, "WHY IN THE WORLD
7 ISN'T THIS CLIENT PLEADING GUILTY?"

8 YOU KNOW, IN A HYPOTHETICAL CASE, I MIGHT ADD, YOUR HONOR,
9 FOR PURPOSES OF THIS ARGUMENT, THE JURY WOULD SIT THERE AND SAY,
10 "THIS GUY IS TRYING TO GET AWAY WITH MURDER. HE'S TRYING TO
11 DECEIVE US. HIS TRICKY LAWYER IS TRYING TO COME UP WITH SOME
12 SLICK MANEUVERS TO GET HIM OUT OF THIS." THAT'S NOT FAIR TO A
13 CLIENT WHO WOULD WANT TO PLEAD GUILTY BUT CAN'T IN ORDER TO HAVE
14 A JURY DETERMINE HIS PENALTY.

15 SO WHAT I SUGGEST TO YOU, THE BOTTOM LINE IS THIS STATUTE
16 THAT REQUIRES SUCH A SCENARIO IS FUNDAMENTALLY UNCONSTITUTIONAL
17 PURSUANT TO THE RESCISSION OF THE LAW IN WALTON, APRENDE, RING.
18 THE UNITED STATES SUPREME COURT IS SCREAMING OUT TO THE STATES,
19 "LOOK, FELLOWS. Y'ALL ARE CONVICTING AND SENTENCING PEOPLE TO
20 DEATH THAT TEN YEARS FROM NOW WE'RE GOING TO HAVE TO ERASE ALL
21 THOSE DEATH SENTENCES AND COME BACK AND START ALL OVER BECAUSE
22 YOU DIDN'T LET A DEFENDANT WHO WANTS TO PLEAD GUILTY DO IT AND
23 HAVE A JURY DETERMINE HIS GUILT -- HIS PENALTY." SO, I SO MOVE,
24 YOUR HONOR.

25 THE COURT: LET ME ASK YOU A QUESTION.

1 MR. MAULDIN: YES, SIR.

2 THE COURT: I UNDERSTAND WE'RE TALKING HYPOTHETICAL --
3 WELL, THAT'S ALL RIGHT. LET ME HEAR FROM MR. ARIAIL OR --
4 SOLICITOR ARIAIL OR SOLICITOR STROM, OR WHOEVER IS GOING TO MAKE
5 THE ARGUMENT.

6 MR. ARIAIL: IF I NEED HER HELP, I'LL CALL.

7 THE COURT: OKAY. WELL, SHE'S SITTING CLOSE BY.

8 MR. ARIAIL: THAT'S RIGHT.

9 THERE ARE SEVERAL POINTS, AGAIN, THAT I THINK WE OUGHT TO
10 LOOK AT. FIRST, THE INTERPRETATION MR. MAULDIN USES OF RING
11 VERSUS ARIZONA IS OBVIOUSLY A PERVERTED INTERPRETATION. RING
12 VERSUS ARIZONA HAS A VERY SIMPLE HOLDING, AND THAT IS THAT A
13 JUDGE CANNOT MAKE A DETERMINATION OF FACT THAT ENHANCES A
14 SENTENCE. THAT'S THE PRINCIPLE OF APRENDE, AND IT WAS ADOPTED---

15 THE COURT: WELL, LET ME ASK YOU THIS QUESTION, MR. ARIAIL,
16 AND WE'RE TALKING A HYPOTHETICAL. LET'S ASSUME A DEFENDANT WANTS
17 TO PLEAD GUILTY, THAT YOU SERVED A NOTICE OF DEATH PENALTY AND
18 THE DEATH PENALTY IS ON THE TABLE AND HE DECIDES TO PLEAD GUILTY.
19 WITH OUR STATUTORY SCHEME AND IN LIGHT OF RING HOW DO YOU THINK
20 THAT PROCEDURE BE CONDUCTED?

21 MR. ARIAIL: HOW WOULD IT BE CONDUCTED?

22 THE COURT: YES, SIR.

23 MR. ARIAIL: WELL, I THINK---

24 THE COURT: IN LIGHT OF WHAT RING SAID.

25 MR. ARIAIL: I THINK YOU'VE GOT TO GET TO THE THRESHOLD,

1 WHICH IS HE HAS TO PLEAD GUILTY FIRST.

2 THE COURT: RIGHT. I UNDERSTAND.

3 MR. ARIAIL: BEFORE WE EVER REACH IT. STANDING HERE AND
4 TALKING, YOU KNOW, BEFORE HE'S STANDING UP THERE AND SAYS I'M
5 GUILTY----

6 THE COURT: I UNDERSTAND. IF HE -- IF YOU ACCEPT HIS
7 GUILTY PLEA AND THEN WE COME BACK TO SENTENCING PHASE, LIFE OR
8 DEATH, IN LIGHT OF RING UNDER OUR STATUTORY SCHEME, HOW DO YOU
9 THINK IT SHOULD PROCEED AT THAT POINT IN TIME?

10 MR. ARIAIL: IT WOULD NOT EVER GET TO THAT POINT BECAUSE I
11 -- THE STATE WOULD NEVER CONSENT TO A GUILTY PLEA. SO THE ISSUE
12 IS MOOT. I HAVE A RIGHT REPRESENTING THE STATE AND THE VICTIMS
13 IN THIS CASE----

14 THE COURT: WELL, THE STATE CAN'T STOP SOMEONE FROM COMING
15 UP HERE AND PLEADING GUILTY... YOU DON'T HAVE TO CONSENT TO A
16 GUILTY PLEA.

17 MR. ARIAIL: YES, YOUR HONOR, THE LAW--

18 THE COURT: THE DEFENDANT CAN DO---

19 MR. ARIAIL: ---IS CLEAR WE DO.

20 THE COURT: ---WHATEVER HE WANTS TO.

21 MR. ARIAIL: I'M SORRY. WE HAVE AN ABSOLUTE TO A TRIAL BY
22 JURY AND HAVE EXERCISED IT IN SEVERAL DEATH PENALTY CASES BEFORE
23 WHERE THERE HAS BEEN AN EFFORT MADE, AND I CAN PRESENT YOU WITH
24 THE LAW ON THAT. BUT THE STATE WOULD NEVER CONSENT TO A DEATH
25 PENALTY DEFENDANT PLEADING GUILTY IF IT WAS FOR THE PURPOSE OF

1 CONJURING UP A LEGAL ARGUMENT.

2 NOW, THE SECOND---

3 THE COURT: I MEAN, IT'S HAPPENED, MR. ARIAIL... IT'S
4 HAPPENED HERE.. IT'S HAPPENED ALL OVER THE STATE. MY QUESTION
5 IS: IN LIGHT OF RING HOW DO YOU THINK THE PROCEEDING SHOULD BE
6 CONDUCTED?

7 MR. ARIAIL: YOU MEAN IF I CONSENTED TO IT?

8 THE COURT: WELL, WHETHER YOU CONSENTED OR NOT. I MEAN...

9 MR. ARIAIL: WELL---

10 THE COURT: LET'S JUST ASSUME YOU CONSENTED.. HOW DO YOU
11 THINK THE PROCEEDING SHOULD BE CONDUCTED AS FAR AS THE PENALTY
12 PHASE?

13 MR. ARIAIL: I ASSUME THAT WHAT WOULD HAPPEN THEN IS THAT
14 THE JUDGE WOULD APPOINT A JURY OR -- IF YOU BUY INTO THIS
15 ARGUMENT, WHICH I---

16 THE COURT: WELL, I'M JUST ASKING YOU FROM YOUR---

17 MR. ARIAIL: WELL, I DON'T THINK YOU CAN---

18 THE COURT: ---STANDPOINT

19 MR. ARIAIL: I'M JUST SO FAR---

20 THE COURT: I JUST WANT TO KNOW HOW YOU THINK IT WOULD
21 PROCEED AT THAT POINT.

22 MR. ARIAIL: I DON'T -- I CAN'T IMAGINE EVER GETTING THAT
23 FAR UNDER OUR SYSTEM BECAUSE I THINK RING VERSUS ARIZONA WAS
24 DESIGNED AND ATTACKED A TOTALLY DIFFERENT SET UP. AND IN FACT,
25 RING VERSUS ARIZONA IN THE FOOTNOTES IN THE CASE APPROVES THE

MOTIONS

2437

1 SYSTEM THAT EXISTS IN SOUTH CAROLINA. SO IT WASN'T INTENDED TO
2 TELL THE STATES WHICH HAD AFFORDED THE DEFENDANT A RIGHT TO A
3 TRIAL BY JURY THAT HE COULD EXERCISE IT. IF HE WAIVES HIS RIGHT
4 TO A TRIAL BY JURY, THAT'S HIS DECISION. YOU'VE GOT TO MAKE SURE
5 IT'S VOLUNTARY, AND WHEN YOU DO YOU'RE GOING TO ADVISE HIM, "IF
6 YOU WAIVE IT, YOU GIVE UP YOUR RIGHT TO HAVE THE JURY MAKE THE
7 DECISION." SO ANY PLEA OF GUILTY HE MAKES IS KNOWINGLY GIVING UP
8 THE RIGHT TO HAVE A JURY SIT AS A FACT FINDER AND SUBSTITUTES
9 INSTEAD A JUDGE.

10 THE COURT: I DON'T KNOW THE ANSWER -- AND I PROBABLY
11 SHOULD -- BUT ON THE RING CASE THE STATUTORY SCHEME THERE WAS
12 GUILT, AND THE JUDGE DID THE SENTENCING AND FOUND AGGRAVATION,
13 THE JUDGE RATHER THAN THE JURY; IS THAT CORRECT?

14 MR. ARIAIL: CORRECT.

15 THE COURT: UNDER THAT STATUTORY SCHEME UNDER RING, WHICH
16 IS NOT OUR STATUTORY SCHEME.

17 MR. ARIAIL: IT'S NOT OUR STATUTORY SCHEME.

18 THE COURT: OKAY. GO AHEAD.

19 MR. ARIAIL: IT'S A TOTALLY DIFFERENT STATUTORY SCHEME.
20 AND IN RING, IF YOU WANT TO GET THE OPINION OUT, I CAN POINT OUT
21 THE FOOTNOTES IN THERE WHERE SOUTH CAROLINA IS POINTED OUT AS ONE
22 OF THOSE STATES THAT DOESN'T HAVE THE SYSTEM. THE DEFENDANT HAS
23 A RIGHT -- IN THE LAST DEATH PENALTY CASE IN WHICH THIS ISSUE WAS
24 SERIOUSLY RAISED JUDGE WATSON'S RESPONSE WAS THAT GOING FORWARD
25 UNDER THE PRESENT SCHEME JUST LIKE IT IS IS NOT SOME SORT OF, AS

1 MR. MAULDIN CHARACTERIZED IT, DAYS OF LISTENING TO TESTIMONY OF
2 GUILT WITH A SLICK LAWYER BEING ACCUSED OF TRYING TO GET AROUND
3 THE SYSTEM, BECAUSE THE EASY THINGS TO DO, AS IT HAPPENS IN A LOT
4 OF THESE CASES, IS AT THE BEGINNING OF OPENING STATEMENTS THE
5 DEFENSE LAWYER SAYS, "THERE'S NOT GOING TO BE ANY ISSUE OF GUILT
6 IN THIS CASE. THERE'S NOT GOING TO BE AN ISSUE. MY CLIENT IS
7 GUILTY," JUST LIKE HE WOULD HAVE TOLD THE COURT. "THE ONLY ISSUE
8 IN THIS CASE IS GOING TO BE SENTENCING." AND THE FACT THAT THE
9 JURY WOULD HAVE TO LISTEN, SOMEHOW THAT IS PREJUDICIAL OR SOME
10 SORT OF LIMITATION ON THE STATE. OBVIOUSLY, YOUR HONOR KNOWS
11 FROM TRYING THESE CASES PREVIOUSLY THAT THE STATE, WHETHER HE
12 PLEADS GUILTY OR WHETHER HE GOES TO FULL-BLOWN TRIAL, WILL
13 PRESENT EXACTLY THE SAME EVIDENCE IN THE SAME VOLUME BECAUSE THE
14 JURY HAS GOT TO KNOW EVERYTHING ABOUT THE CRIME SO THEY CAN MAKE
15 THE DETERMINATION. SO WHETHER HE PLEADS GUILTY OR NOT, ADMITS
16 HIS GUILT IN FRONT OF THE JURY, THEY'RE GOING TO HEAR ALL OF IT
17 JUST THE SAME SO THEY CAN MAKE AN INFORMED AND -- INFORMED AND A
18 FAIR JUDGMENT.

19 BUT OUR POINTS ARE THREE. NUMBER ONE, RING DOESN'T APPLY TO
20 US. SO WE'RE EXERCISING AN ACADEMIC ENDEAVOR THIS MORNING.
21 NUMBER TWO, EVEN IF THERE WAS SOME PROBLEM IN REGARD TO THE
22 DEFENDANT PLEADING GUILTY, HE MAKES THAT DECISION ON HIS OWN AS A
23 VOLUNTARY DECISION AS TO WHETHER OR NOT HE PLEADS GUILTY
24 KNOWINGLY AND INTELLIGENTLY AND WAIVES HIS RIGHTS. IF HE DOES
25 THAT AND THEN YOU -- HE ACTUALLY COMES UP HERE AND PLEADS GUILTY,

MOTIONS

2439

1 I CONSENT, OR YOU CONCLUDE I CAN'T STOP HIM, WHICH I WOULD
2 DISPUTE AT THIS POINT, BUT IF YOU CONCLUDE I CAN'T STOP HIM BY
3 INSISTING ON THE STATE'S RIGHT TO A TRIAL BY JURY -- BECAUSE I
4 STRENUOUSLY BELIEVE THE PEOPLE OF THIS COMMUNITY AND THE VICTIMS
5 OF THIS CASE HAVE A RIGHT TO TRIAL BY JURY JUST AS MUCH AS THE
6 DEFENDANT, AND I THINK THERE IS AMPLE CASE LAW IN THE STATE TO
7 SUPPORT THAT -- BUT ASSUMING YOU RULE THAT, THEN I GUESS WE WOULD
8 BE IN THIS ISSUE OF WHAT DO WE DO? AND AT THAT POINT I WOULD
9 SUGGEST THAT WE WOULD COME BACK AND READDRESS IT. BUT RIGHT NOW
10 IT'S JUST A HYPOTHETICAL BECAUSE, NUMBER ONE, HE HASN'T PLEADED
11 GUILTY.

12 THE COURT: YEAH, I---

13 MR. ARIAIL: HE AIN'T TOLD US HE'S GOING TO PLEAD GUILTY.

14 THE COURT: I UNDERSTAND. I THINK WE'RE DEALING, AS YOU
15 SAID, IN AN ACADEMIC WORLD IN OUR DISCUSSION RIGHT NOW.

16 MR. ARIAIL: AND I DON'T MIND HAVING AN ACADEMIC
17 DISCUSSION. BUT IF WE'RE GOING TO GO THERE, I WANT TO HAVE A
18 LITTLE MORE RESEARCH. BUT I DON'T THINK WE CAN GET THERE UNDER
19 MY UNDERSTANDING OF THE LAW. SO I'M NOT PREPARED TO ARGUE---

20 THE COURT: I UNDERSTAND.

21 MR. ARIAIL: ---THE THIRD EXTENSION OF THAT.

22 THE COURT: I UNDERSTAND.

23 MR. ARIAIL: THANK YOU.

24 THE COURT: ALL RIGHT. VERY BRIEFLY IN REBUTTAL.

25 MR. MAULDIN: YOUR HONOR, THE SOLICITOR DESCRIBES MY

1 INTERPRETATION AS SOME SORT OF PERVERTED---

2 THE COURT: HE DESCRIBED YOU AS A SLICK LAWYER.

3 MR. MAULDIN: WELL---

4 MR. ARIAIL: HE SAID THAT.

5 MR. MAULDIN: ---I DON'T KNOW WHETHER TO EXPRESS MY
6 APPRECIATION OR NOT.

7 THE COURT: (LAUGHING)

8 MR. MAULDIN: BUT I SUGGEST THAT HIS RESPONSE IS
9 ESSENTIALLY CONVOLUTED, AND I'LL TELL YOU VERY BRIEFLY WHY. HE
10 SAYS THAT IN ORDER FOR THIS ISSUE TO ESSENTIALLY BECOME RIPE, IF
11 YOU WILL, NO LONGER BEING HYPOTHETICAL BUT A REAL ISSUE, A
12 DEFENDANT WOULD HAVE TO PLEAD GUILTY. HE THEN SAYS HE WILL NOT
13 ALLOW A DEFENDANT TO PLEAD GUILTY. I MEAN, I DON'T KNOW WHAT
14 THAT -- YOU TALK ABOUT CONVOLUTED. NOW, WAIT A MINUTE. HE SAYS
15 BEFORE I CAN RIPEN THE ISSUE I MUST OFFER A PLEA THAT HE THEN
16 SAYS HE WON'T TAKE. WELL, WE CAN BEAT AROUND THE MULBERRY BUSH
17 UNTIL WE ARE BLUE IN THE FACE, BUT THE FACT IS THAT TEN YEARS
18 FROM NOW SOMEBODY IS GOING TO HAVE TO DECIDE WHAT WE TALK ABOUT
19 AS HYPOTHETICAL. IT'S NOT VERY HYPOTHETICAL IF THE DEFENDANT IS
20 SENTENCED TO DEATH. THAT'S REAL IN THIS STATE.

21 HE ALSO SAYS THAT IT REALLY DOESN'T MATTER WHETHER HE PLEADS
22 OR NOT, THEY ARE GOING TO HEAR THE SAME EVIDENCE. WELL, I BEG
23 HIS PARDON. IF HE PLEADS GUILTY, THERE WON'T BE A THEY.
24 THERE'LL BE A YOU. AND THAT'S THE POINT OF THE MOTION. THERE IS
25 A LINE WHERE SOMETHING TAKES EFFECT ON A PLEA OF GUILTY, AND WE

MOTIONS

2441

1 ALL KNOW WHAT THE STATUTE SAYS IT IS. WE KNOW WHAT THE STATE OF
2 SOUTH CAROLINA'S SUPREME COURT HAS SAID IT IS. WE KNOW WHAT THE
3 WORD "MUST" MEANS.

4 AND THEN FINALLY HE INVITES THE DEFENDANT'S LAWYER TO
5 CONCEDE GUILT IN AN OPENING STATEMENT AND THAT SOMEHOW SOLVES THE
6 PROBLEM. THERE ARE CONSEQUENCES THAT SOUTH CAROLINA'S SUPREME
7 COURT HAS TOLD ME AS A CAPITAL LITIGATOR THAT HAPPEN WHEN YOU
8 CONCEDE GUILT IN THE OPENING. I DON'T HAVE THE CASES IN FRONT OF
9 ME RIGHT NOW BECAUSE I CERTAINLY DIDN'T EXPECT THAT ARGUMENT.
10 BUT THAT'S A -- YOU KNOW, IF YOU WANT THIS RIGHT, YOU'RE GOING TO
11 HAVE TO WAIVE THAT RIGHT. AND IF YOU WANT TO EXERCISE THIS
12 RIGHT, YOU'RE GOING TO HAVE TO WAIVE THAT RIGHT. AND I
13 UNDERSTAND THAT THERE ARE CERTAIN WAIVERS INVOLVED IN ANY
14 DECISION, BUT THESE ARE FUNDAMENTAL CONSTITUTIONAL ISSUES THAT I
15 SUGGEST YOU TAKE SERIOUSLY, YOUR HONOR..

16 THE COURT: OKAY. ALL RIGHT. I'LL TAKE IT UNDER
17 ADVISEMENT. LET ME HEAR YOU ON THE NEXT ONE.

18 MR. MAULDIN: YOUR HONOR, THE THIRD MOTION ON THE LIST IS
19 ESSENTIALLY DECLARING THE CASE LIFE WITHOUT PAROLE, AND I BELIEVE
20 THAT I READ THEIR RESPONSES AS FOR THE MOST PART RESOLVING THIS
21 PROBLEM, BUT PERHAPS WE CAN HEAR FROM THE SOLICITOR AND SEE IF
22 HE'S GOING TO TAKE A DIFFERENT POSITION AT THE TRIAL.

23 WHAT WE BELIEVE IS CRITICAL IS THAT WHEN THE JURORS ARE
24 SUMMONED THE FIRST DAY THAT THEY BE, WITHOUT QUESTION, ADVISED BY
25 THIS COURT IN NO UNCERTAIN TERMS AND BY LAWYERS IN NO UNCERTAIN

1 TERMS THAT IF YOU IMPOSE A LIFE SENTENCE OR IF THEY IMPOSE A LIFE
2 SENTENCE THE DEFENDANT WILL NEVER BE ELIGIBLE FOR ANY TYPE OF
3 RELEASE. WE BELIEVE THAT'S WHAT THE STATUTE ACTUALLY SAYS.

4 AND THE POINT, YOUR HONOR -- AND FOR THE RECORD, IF I MAY,
5 THE POINT IS THAT JURIES ARE NOTORIOUS FOR MISUNDERSTANDING THAT.
6 IN FACT, YOU WILL FIND WHEN WE PICK THE JURY IN THIS CASE THE
7 JURORS MAY EVEN VOLUNTARILY SAY, "WELL, YOU KNOW, IF HE GETS OUT
8 IN EIGHT YEARS, SIX YEARS, TEN YEARS, FIFTEEN..." YOU KNOW. THEY
9 JUST DON'T UNDERSTAND THAT OUR CURRENT LAW SAYS THAT IF A JURY
10 IMPOSES THE SENTENCE AT SENTENCING PHASE THAT A DEFENDANT UNDER
11 THE CIRCUMSTANCES WOULD NEVER BE RELEASED FROM PRISON. IT'S REAL
12 CLEAR. I BELIEVE THE STATE IS ESSENTIALLY SAYING, "TELL THE JURY
13 THAT LIFE IN PRISON MEANS LIFE WITHOUT PAROLE" FROM THE
14 BEGINNING. BUT I DID WANT TO PUT THAT ON THE RECORD.

15 THE COURT: OKAY.

16 MS. STROM: WE HAVE NO OBJECTION TO THAT, YOUR HONOR. THAT
17 IS HOW WE OPERATE IN THIS CIRCUIT.

18 THE COURT: OKAY. LET'S MOVE ON TO THE NEXT ONE.

19 NOW, LET ME ASK YOU THIS.

20 MR. MAULDIN: YES, SIR.

21 THE COURT: I NORMALLY -- THE ONES I HAVE TRIED IN THE
22 PAST, I HAVE DONE THAT. BUT I DID NOT DO IT EXCEPT IN THE CHARGE
23 TO THE JURY. IF YOU WANT IT DONE EARLY ON, I WILL DO THAT.

24 MR. MAULDIN: IT DOES NEED TO BE DONE---

25 THE COURT: I DON'T HAVE ANY PROBLEM DOING IT AT THE VERY

MOTIONS

2443

1 BEGINNING---

2 MS. STROM: YES, SIR.

3 THE COURT: ---WITH JURY QUALIFICATIONS IF THAT'S THE WAY
4 YOU WANT TO DO IT. I'VE DONE IT IN THE PAST IN THE CHARGE OR
5 DURING THE INDIVIDUAL VOIR DIRE OF THE INDIVIDUAL JURORS IF THE
6 SUBJECT CAME UP.

7 MS. STROM: YES, SIR.

8 THE COURT: BUT I'LL BE HAPPY TO DO IT AT THE VERY
9 BEGINNING.

10 MR. MAULDIN: WE BELIEVE FROM THE BEGINNING.

11 THE COURT: OKAY.

12 MS. STROM: THAT'S THE WAY WE'VE DONE IT IN THE PAST, YOUR
13 HONOR.

14 THE COURT: THAT'S FINE.

15 MR. MAULDIN: YOUR HONOR, THE NEXT MOTION, I DO WANT TO
16 OFFER SOME SUPPORT FOR THIS. THIS -- YOU KNOW, WE NEED TO LIVE
17 FROM EXPERIENCE. AND I DID HAVE QUITE AN EXPERIENCE ONE TIME
18 WITH REGARD TO THE DISCLOSURE OF PUBLIC EXPRESSIONS REGARDING THE
19 CASE, AND I WON'T GO INTO THE DESCRIPTION OF THAT. BUT IT
20 ACTUALLY WAS ONE OF THOSE THINGS WHERE I JUST -- WHERE WE ASKED
21 FOR IT. WE GOT IT, AND THEN LO AND BEHOLD IT BECAME VERY, VERY
22 TRUE DURING VOIR DIRE. WHAT WE'RE ASKING FOR IS ANY
23 DOCUMENTATION OR ANY RECORD OF ANY EXPRESSION BY INDIVIDUALS OR
24 ORGANIZATIONS OR GROUPS OF ANY SORT THAT EXPRESS A POSITION WITH
25 REGARD TO THE APPROPRIATE SENTENCE IN THIS CASE BE DISCLOSED TO

1 THE DEFENSE.

2 AND THE REASON WOULD BE, IF, FOR -- I'LL GIVE YOU A PERFECT
3 EXAMPLE. IF AN ORGANIZATION, FOR EXAMPLE, HAD EXPRESSED TO THE
4 SOLICITOR ENCOURAGEMENT TO SEEK THE DEATH PENALTY, FOR EXAMPLE,
5 AND IF THAT ORGANIZATION DID THAT AND WE DIDN'T KNOW IT -- WE
6 JUST DO NOT KNOW IT -- AND IT BECOMES KNOWN DURING VOIR DIRE THAT
7 EITHER THROUGH QUESTIONNAIRES OR OTHERWISE THAT A PARTICULAR
8 JUROR IS A MEMBER OF THAT ORGANIZATION BUT WE DON'T KNOW THAT
9 THAT ORGANIZATION HAS EXPRESSED TO THE SOLICITOR A POSITION IN
10 THE CASE, THEN WE'RE NOT GOING TO KNOW TO EVEN ASK THE QUESTION,
11 AND WE DON'T WANT TO SIT HERE -- AND I KNOW THE COURT WILL NOT
12 ALLOW US TO SIT HERE AND GO THROUGH DAYS AND DAYS OF VOIR DIRE,
13 TRYING TO FIGURE OUT EVERY ORGANIZATION, WHAT ORGANIZATIONS HAVE
14 EXPRESSED POSITIONS AND SO FORTH. I MEAN, THAT'S CRAZY. IF THEY
15 HAVE SUCH INFORMATION, IF THEY'LL JUST SIMPLY PRODUCE IT, THEN WE
16 CAN DO OUR OWN INVESTIGATION.

17 THE COURT: ARE YOU ASKING IF ANY ORGANIZATION SUCH AS
18 VICTIM'S RIGHTS OR MADD OR ANY OTHER -- ANYBODY'S CONTACTED THE
19 SOLICITOR'S OFFICE REQUESTING A DEATH PENALTY, THAT'S WHY WANT TO
20 KNOW?

21 MR. MAULDIN: ENCOURAGING A POSITION IN THIS CASE OR
22 OTHER---

23 THE COURT: AND THAT'S INFORMATION YOU WANT FROM THE
24 PROSECUTOR?

25 MR. MAULDIN: OR INDIVIDUALS.

MOTIONS

2445

1 THE COURT: OKAY.

2 MR. MAULDIN: YES, SIR.

3 THE COURT: SOLICITOR, LET ME HEAR YOU ON THAT?

4 MR. ARIAIL: DOES HE WANT ALL THE ONES THAT CONTACT ME THAT
5 DON'T WANT ME TO SEEK IT?

6 MR. MAULDIN: YES, SIR.

7 MR. ARIAIL: IN ALL THE CASES?

8 MR. MAULDIN: I THINK THAT'S FAIR.

9 MR. ARIAIL: HOW ABOUT THE ONES THAT CONTACT ME---

10 THE COURT: I ASSUME YOU'RE TALKING ABOUT IN THIS CASE, MR.
11 MAULDIN, JUST THIS CASE? ALL PAST CASES OR JUST THIS CASE?

12 MR. MAULDIN: NO---

13 MR. ARIAIL: WELL, I'M SORRY. I DON'T HAVE ANY. I
14 DON'T---

15 THE COURT: OKAY.

16 MR. ARIAIL: I MEAN, IF I HAD SOMETHING -- LET'S SAY I HAD
17 A GROUP OF PEOPLE WHO HAD BANDED TOGETHER AS THE KNIGHTS FOR
18 JUSTICE AND HAD WRITTEN ME A LETTER AND SAID, YOU KNOW, "YOU'RE
19 DOING A GREAT JOB AND WE HOPE TO SUPPORT YOU" AND SIGN IT THE
20 KNIGHTS OF JUSTICE AND UNIDENTIFIED. WELL, OBVIOUSLY, THAT WOULD
21 BE SOMETHING I'D TURN OVER TO THE COURT. I DON'T KNOW WHO THE
22 KNIGHTS OF JUSTICE ARE. AND IF I HAD JOHN DOE SEND ME A LETTER
23 AND HE'S GOT A NAME AND ADDRESS AND HE SHOWS UP ON A JURY LIST,
24 OBVIOUSLY, I'M GOING TO SHOW THAT BECAUSE I THINK MY OBLIGATION
25 AND DUTY IS TO MAKING SURE THAT THE JURY IS FREE FROM ANY SORT OF

1 PERMEATION OF OPINIONS OR SUPPORT ONE WAY OR THE OTHER.
2 LIKEWISE, I WOULD ASSUME I WOULD RECEIVE THE SAME FROM THE
3 DEFENSE AND ALSO FROM THE CLERK OR ANYBODY ELSE THAT THE COURT
4 ORDERS THAT IS AWARE OF A JUROR OR POTENTIAL JUROR OR A JUROR
5 THAT'S IN A GROUP OF PEOPLE TO TELL US WHAT IT IS THAT IS ON
6 THEIR MIND REGARDING THIS SPECIFIC, PARTICULAR CASE.

7 I HAVE NO OBJECTION TO GIVING HIM ANYTHING THAT COMES TO ME
8 IN WRITING, EMAILS, LETTERS, PICTURES, HARD DOCUMENTS. NOW, I
9 CAN'T BEGIN TO TELL YOU HOW MANY PEOPLE COMMENTED ABOUT THIS AND
10 A NUMBER OF OTHER DEATH PENALTY CASES I'VE DONE SINCE '97 ABOUT
11 THEIR BELIEF IN THE DEATH PENALTY AND THAT SORT OF THING THAT I
12 DON'T THINK HAS ANY -- FIRST, I COULDN'T IDENTIFY THEM, PROBABLY,
13 ANY MORE. BUT THEY'RE JUST CONVERSATIONS, YOU KNOW, "THAT WAS A
14 GOOD JOB" OR "WE'RE GLAD YOU SOUGHT THE DEATH PENALTY" OR "WISH
15 YOU HADN'T DONE THAT." MY PREACHER GETS ON ME ALL THE TIME. HE
16 DOESN'T BELIEVE IN THE DEATH PENALTY. HE SAYS, YOU KNOW, "I WANT
17 TO TALK TO YOU. I WANT TO CHANGE YOUR MIND ABOUT SEEKING THE
18 DEATH PENALTY." SO PEOPLE ARE TALKING ALL THE TIME ABOUT THAT,
19 BUT NOT SPECIFIC CASES. SO I JUST WANT -- I'LL GO WITH THIS
20 SPECIFIC CASE. I DON'T HAVE A PROBLEM WITH THAT.

21 THE COURT: . . . OKAY. ALL RIGHT. I'LL GRANT THE MOTION. MR.
22 MAULDIN, IT'S RECIPROCATING AS FAR AS YOU ARE CONCERNED FOR THE
23 STATE.

24 MR. MAULDIN: YES, SIR.

25 YOUR HONOR, THE NEXT MOTION -- I BELIEVE -- HANG ON ONE

MOTIONS

2447

1 MINUTE. I MADE A NOTE ON THE WRONG PAGE. LET ME GET THAT
2 STRAIGHTENED OUT. (PAUSE)

3 YOUR HONOR, THE NEXT MOTION IS THE MOTION REGARDING A
4 RESTRICTION OF THE USE OF THE WORD "MURDER." AND I REALIZE THE
5 PRACTICAL ISSUE THERE, BUT THERE IS A FUNDAMENTAL PROCESS THAT I
6 WOULD LIKE TO MAKE SURE IS ON THE RECORD.

7 AND THE SOLICITOR ASKED IF THEY COULD ARRAIGN MY CLIENT THIS
8 MORNING AFTER THE MOTIONS, AND I SAID CERTAINLY. THAT'D BE
9 GREAT. DURING THE ARRAIGNMENT HE IS GOING TO BE ARRAIGNED FOR
10 THE LEGAL CHARGE OF MURDER. THE ISSUE BEFORE A TRIAL, WHETHER BY
11 YOU OR BY A JURY, ULTIMATELY WILL BE HIS CULPABILITY OR
12 RESPONSIBILITY FOR THE ELEMENTS OF THE LEGAL OFFENSE OF MURDER.
13 BUT THE WORD "MURDER" IS A LEGAL WORD, AND IT IS THE ULTIMATE
14 LEGAL ISSUE IN THIS CASE.

15 AND ALL WE WANT IS ESSENTIALLY A BROAD RESTRICTION THAT
16 WITNESSES, EXPERTS AND THE STATE IN THEIR RESPONSE SAYS -- A
17 CLEAR EXAMPLE OF THE PROBLEM IN MY MOTION IS WHEN THE PATHOLOGIST
18 NECESSARILY MUST DISTINGUISH THIS MURDER OR HOMICIDE FROM AN
19 ACCIDENTAL OR NATURAL DEATH. I'VE TRIED CASES IN THIS COURT FOR
20 30 YEARS, AND I HAVE NEVER HEARD A PATHOLOGIST SAY A CASE WAS
21 MURDER, NOT ONE SINGLE TIME. THAT WORD IS NOT -- SHOULD NOT AND
22 IS NOT IN THEIR VOCABULARY. THEY CONCLUDE THE CASE WAS A
23 HOMICIDE. THAT'S THE WORD THAT YOU FIND ON THE AUTOPSIES AND
24 THAT'S THE WORD THAT WILL COME OUT OF THEIR MOUTH.

25 SO THE POINT IS THAT WITNESSES SHOULD BE TOLD NOT TO

1 DESCRIBE THE CONDUCT OF THE DEFENDANT, NOT TO DESCRIBE THEIR
2 OPINION OF THE INCIDENT AS A CONSTITUTION OF THE OFFENSE OF
3 MURDER BECAUSE THAT IS THE LEGAL CHARGE. THAT'S LIKE THE WITNESS
4 GETTING UP AND SAYING, YOU KNOW, WANTING TO TALK ABOUT SELF-
5 DEFENSE. SELF-DEFENSE, AGAIN, IS A LEGAL CONCLUSION THAT A JURY
6 WOULD OR WOULD NOT---

7 THE COURT: WHO DO YOU WANT TO RESTRICT FROM USING THAT
8 WORD?

9 MR. MAULDIN: THE -- AND I DON'T KNOW THAT WE'VE EVEN
10 GOT---

11 THE COURT: ARE YOU TALKING ABOUT EVERYBODY?

12 MR. MAULDIN: I DON'T THINK THE---

13 THE COURT: ARE YOU TALKING ABOUT EVERYBODY OR WHO DO YOU
14 WANT TO RESTRICT USING THAT WORD?

15 MR. MAULDIN: THE QUESTIONS BY THE STATE AND BY THE
16 DEFENSE. BY THE WAY, I THINK IT'S COMPLETELY RECIPROCAL
17 RESPONSIBILITY. BUT I INTEND -- CLEARLY, I INTEND TO AVOID IT.
18 THE STATE SHOULD BE RESTRICTED, AND THE DEFENSE, CERTAINLY,
19 LIKEWISE, FROM EITHER ASKING QUESTIONS REGARDING THE, QUOTE,
20 MURDER OF THE VICTIM, AND THE WITNESSES BEFORE THEY TESTIFY
21 SHOULD BE ADVISED THAT THEY ARE NOT TO FORM AN OPINION, WHICH IS
22 ESSENTIALLY A LEGAL OPINION, AS TO THE OFFENSE OF MURDER. THEY
23 HAVE THE RIGHT TO TESTIFY TO WHAT THEY SAW, WHAT THEY DID, WHAT
24 EVIDENCE WAS GATHERED AND WHAT -- AND THE STATE HAS THE RIGHT TO
25 STAND BEFORE THE JURY DURING ITS ARGUMENTS FOR PERSUASION

1 PURPOSES AND USE THE WORD "MURDER" A THOUSAND TIMES---

2 THE COURT: WHAT ABOUT OPENING STATEMENTS?

3 MR. MAULDIN: YES, SIR, OPENING STATEMENTS. THE STATE HAS
4 THE RIGHT---

5 THE COURT: SO WHAT YOU'RE TALKING ABOUT IS QUESTION AND
6 ANSWER---

7 MR. MAULDIN: I'M TALKING ABOUT TESTIMONY.

8 THE COURT: ---OF THE WITNESSES IS WHAT YOU'RE ASKING---

9 MR. MAULDIN: CHARACTERIZATION.

10 THE COURT: ---A LIMITATION THERE?

11 MR. MAULDIN: YES, SIR. CHARACTERIZATION BY WITNESSES, LAY
12 OR EXPERT, REGARDING THE OFFENSE OF MURDER. THAT HAS NO PLACE IN
13 THE TESTIMONY.

14 THE COURT: ALL RIGHT. WELL, YOU'VE NARROWED DOWN WHERE
15 YOU WANT IT LIMITED. LET ME HEAR FROM THE STATE.

16 MR. ARIAIL: I CONSENT.

17 THE COURT: OKAY.

18 MR. ARIAIL: I HAVE NEVER DONE THAT. WHAT HE WANTS IS
19 THIS, JUDGE. THE OLD TIMEY PROSECUTOR, "NOW, WHEN YOU ARRIVED AT
20 THE SCENE OF THIS MURDER, THIS HEINOUS MURDER, WHAT DID YOU FIND,
21 OFFICER?" WE DON'T DO THAT. WE DON'T DO THAT, NEVER HAVE DONE
22 THAT.

23 BUT LET ME POINT OUT ONE OTHER THING THAT HAS CREPT IN FROM,
24 I GUESS, THE SEMINARS OF THE DEFENSE; WHICH WE WILL MAKE AN ISSU
25 IN THIS CASE FOR THE FIRST TIME, BECAUSE I THINK IT HAS GONE TO

1 THE EXTENT OF ABUSE.

2 WE WILL MOVE -- AND I'M JUST GIVING YOU HEADS UP. I'M GOING
3 TO FILE A MOTION THAT THE DEFENSE IN THEIR OPENING AND CLOSING
4 STATEMENT IN THE PENALTY NOT BE ABLE TO USE THE WORD "KILLING" AS
5 A CHARACTERIZATION OF WHAT THE JURY WOULD DO IF IT BROUGHT BACK
6 THE DEATH PENALTY. IT IS NOTHING BUT AN EFFORT TO INTIMIDATE AN
7 JUROR, PUT A JUROR---

8 THE COURT: PUT A JUROR---

9 MR. ARIAIL: ---IN---

10 THE COURT: YOU'RE SAYING INSINUATING---

11 MR. ARIAIL: THE LAST TIME---

12 THE COURT: ---THAT THE JURY IS KILLING THE PEOPLE?

13 MR. ARIAIL: YEAH. THE LAST TIME THE DEFENSE LAWYER STOOD
14 IN FRONT OF THAT JURY AND TOLD THEM NINE TIMES IN OPENING
15 STATEMENT THAT IF THEY RETURNED A VERDICT OF DEATH, THEY WOULD BE
16 KILLING THE DEFENDANT, THEY WOULD BE MURDERERS ALSO.

17 THE COURT: ALL RIGHT. WELL, MAKE YOUR MOTION. WE'LL HEAR
18 IT AT THE APPROPRIATE TIME.

19 MR. ARIAIL: I JUST WANT TO BRING THAT UP. WE---

20 THE COURT: ALL RIGHT. HE'S CONSENTED TO THE MURDER.

21 MR. MAULDIN: I APPRECIATE THE WARNING, BUT I UNDERSTAND MY
22 MOTION WAS CONSENTED TO.

23 THE COURT: RIGHT. THAT'S RIGHT.

24 MR. ARIAIL: YES, SIR.

25 MR. MAULDIN: YOUR HONOR, THE NEXT MOTION AND A LOT OF

MOTIONS

2451

1 TIMES PEOPLE CHUCKLE AND SNEER ABOUT SOME OF THE THINGS I
2 SUGGEST, BUT YOU KNOW WHAT HAPPENS HERE IS WHEN WE CREATED THE
3 BIFURCATED PROCESS THAT WE HAVE IN SOUTH CAROLINA IN 1977---

4 THE COURT: LET ME JUST -- WHAT YOU WANT IS THE NONUSE OF
5 DEATH PENALTY VERSUS REFERRING TO IT AS A CAPITAL CASE; IS THAT
6 WHAT YOU'RE ASKING FOR?

7 MR. MAULDIN: YES, SIR. AND THE WORD "GUILT" PHASE BE
8 CONSIDERED TRIAL PHASE. IT'S TRIAL PHASE AND A SENTENCING PHASE,
9 AND A CAPITAL CASE, NOT A DEATH PENALTY CASE.

10 THE COURT: WELL, I THINK -- I WOULD NOT LIMIT IT TO GUILT
11 PHASE. I THINK YOU CAN CALL IT THE TRIAL PHASE TO DETERMINE
12 INNOCENCE OR GUILT. BUT I THINK WE HAVE TO USE THE "GUILT" WORD
13 SOMEWHERE IN TIME.

14 MR. MAULDIN: NO QUESTION ABOUT THAT, JUDGE. WHAT I'M
15 SUGGESTING IS THAT WHEN THE COURT DESCRIBES TO THE JURORS, EITHER
16 AS A WHOLE OR DURING YOUR VOIR DIRE REMARKS AND THEN DURING OTHER
17 INSTRUCTIONAL POINTS, THAT THE COURT WOULD FIND ITSELF ADDRESSING
18 THE JURY THAT THE WORD "GUILT" PHASE NOT BE USED; THE WORD
19 "TRIAL" PHASE BE USED. NOW, THEY SHOULD BE CLEARLY INSTRUCTED
20 THAT TRIAL PHASE IS WHEN THE ISSUE OF GUILT OR INNOCENCE---

21 THE COURT: WELL, LET ME SAY THIS: THE SAME MOTION WAS MADE
22 LAST TRIAL THAT I GRANTED, SOLICITOR, BUT I'LL BE GLAD TO HEAR
23 YOU ON THAT ISSUE. THAT'S WHAT I -- THAT'S THE WAY -- THE
24 PHRASEOLOGY I USED IN MY LAST TRIAL. BUT I'LL BE GLAD TO HEAR
25 YOU.

MOTIONS

2452

1 MR. ARIAIL: NO, NO. I---

2 THE COURT: AND BASICALLY WHAT I'M SAYING IS I DON'T USE
3 DEATH PENALTY. I USE CAPITAL CASE RATHER---

4 MR. ARIAIL: AND I WILL PROMISE THE COURT---

5 THE COURT: ---THAN DEATH PENALTY CASE. AND I WILL USE THE
6 WORD "GUILT" PHASE -- I MEAN, TRIAL PHASE RATHER THAN GUILT
7 PHASE.

8 MR. ARIAIL: AND I PROMISE THE COURT WE'LL---

9 THE COURT: AND I GRANTED THAT MOTION LAST TIME.

10 MR. ARIAIL: ---DO OUR BEST TO DO THAT ALSO.

11 THE COURT: I KNOW SOMETIMES YOU FORGET AND IT SLIPS OUT,
12 BUT I DON'T HAVE ANY PROBLEM GRANTING THAT MOTION.

13 MR. ARIAIL: IT'S BEEN A DEATH PENALTY CASE FOR THE LAST 30
14 YEARS FOR ME.

15 THE COURT: I UNDERSTAND.

16 MR. ARIAIL: THEY CHANGED THE LANGUAGE. SOMETIMES, I'LL
17 ADMIT, I WILL SLIP UP.

18 THE COURT: I UNDERSTAND.

19 MR. ARIAIL: BUT HOPEFULLY IT'S NOT GOING TO BE
20 SIGNIFICANT.

21 THE COURT: I'LL GRANT THAT MOTION.

22 MR. MAULDIN: I'LL SLIP UP TOO.

23 THE COURT: BUT I MAY SLIP UP TOO, MR. MAULDIN. BUT I WILL
24 ATTEMPT TO REFER TO IT AS CAPITAL CASE AND TRIAL PHASE. OKAY?

25 MR. ARIAIL: YES, SIR.

MOTIONS

2453

1 MR. MAULDIN: WE STARTED IT 27 YEARS AGO, AND IT'S JUST
2 HARD TO BREAK THESE HABITS.

3 THE COURT: I UNDERSTAND. I UNDERSTAND. AND I MAY SLIP
4 UP. BUT I DID GRANT THAT SAME MOTION THE LAST TRIAL.

5 MR. MAULDIN: I'M WORKING ON BREAKING MY BAD HABIT, JUDGE,
6 AND I APPRECIATE IT, YOUR HONOR.

7 THE COURT: WELL, IT'S HARD TO DO.

8 MR. MAULDIN: THE LAST MOTION, YOUR HONOR, THAT I'M GOING
9 TO ASK THE COURT TO CONSIDER THIS MOTION IS THE BARRING OF
10 CAMERAS IN THE COURTROOM, AND I SUBMITTED TO YOU A VERY LENGTHY,
11 WORDY MOTION. AND INSTEAD OF GOING THROUGH ALL THE INTIMIDATE
12 ISSUES AND THE SHOWOFF ISSUES, AND I'M THE STAR FOR A DAY TYPE
13 POINTS, I JUST ASK THE COURT TO TURN TO THE NEXT TO LAST PAGE,
14 BECAUSE I THINK WE'VE GOT TO LEARN FROM WHAT WE DO RIGHT AND
15 WRONG.

16 I SUGGEST THAT THE COURT LOOK -- AND I MADE REFERENCE TO TH
17 O.J. SIMPSON AND SUSAN SMITH CASES IN MY MOTION. WELL, I'LL TEL
18 YOU WHAT, WE CAN THROW OLD -- WHAT'S THAT FELLOW'S NAME? --
19 PETERSON, THAT GUY. I MEAN, THIS IS OUTRAGEOUS. THOSE CASES
20 LAST FOR MONTH -- THEY'RE OUT THERE IN ESSENTIALLY NEON LIGHTS
21 BASICALLY WITH A SHOWBOAT OF A TRIAL. IF YOU LOOK BACK AT WHAT
22 JUDGE HOWARD DID IN SUSAN SMITH, HE FORTUNATELY HAD THAT O.J.
23 CLOUD RIGHT THERE AT THAT AND HE SAW THE ERROR OF THOSE WAYS AND
24 HE SAID, I'M NOT GOING TO FALL INTO THAT PIT. I'M GOING TO CLOS
25 THIS COURTROOM. THESE NEWSPAPER PEOPLE AND THESE -- THEY CAN

1 COME IN HERE AND WRITE DOWN ALL THEY WANT TO AND THEY CAN DRAW
2 ALL THE PICTURES THEY WANT TO, BUT I'M NOT GOING TO SET UP MOVIE
3 CAMERAS IN THE COURTROOM AND MAKE A CIRCUS OUT OF THESE
4 PROCEEDINGS.

5 NOW, I'LL TELL YOU, I HAVE TRIED CASES WHEN CAMERAS WERE
6 ALLOWED. I OBJECTED TO IT AND FUSSED ABOUT IT. AND THERE ARE
7 WAYS IN WHICH WE CAN MANAGE IT. WE CAN PREVENT THE JURY FROM
8 BEING EXPOSED, FOR EXAMPLE, WHICH I THINK IS THE ABSOLUTE ROCK
9 MINIMUM. YOU'VE JUST GO TO GET THE JURY---

10 THE COURT: WELL, LET ME TELL YOU WHAT I NORMALLY DO, OKAY?
11 AND I WILL TAKE THIS UNDER ADVISEMENT DEPENDING UPON WHAT THE
12 NEWS MEDIA REACTION IS AT THE TIME OF TRIAL. I NORMALLY WILL
13 ALLOW ONE CAMERA IN THE COURTROOM. I PUT IT AWAY FROM THE JURY,
14 NOT TO SHOW -- OUT OF THE SIGHT OF THE JURY. I DO NOT ALLOW A
15 LIVE RECORDING. IT'S JUST A TAPE RECORDING. EVERYBODY ELSE CAN
16 FEED OFF OF THAT FOR THE NIGHTLY NEWS, IF THEY WANT. THAT'S WHAT
17 I NORMALLY ALLOW.

18 NOW, LET ME HEAR FROM THE SOLICITOR BEFORE I --
19 UNDERSTANDING WHAT I'VE DONE IN THE PAST, OKAY?

20 MR. MAULDIN: CAN I -- AND FINALLY, YOUR HONOR, AND I DO
21 THINK---

22 THE COURT: I'M NOT GOING TO ALLOW A LIVE TAPING OR A LIVE
23 TV CAMERA IN THE COURTROOM IS WHAT I'M TELLING YOU.

24 MR. MAULDIN: YES, SIR.

25 THE COURT: THEY CAN BE IN HERE AND TAPE SCENES AND USE IT

MOTIONS

2455

1 FOR THE NIGHTLY NEWS, AND THE OTHER NEWS MEDIA CAN USE IT TO FEED
2 OFF OF THAT ONE CAMERA. THAT'S WHAT I'VE DONE IN THE PAST, BUT
3 I'M OPEN TO SUGGESTIONS FROM BOTH OF YOU. AND I DON'T KNOW HOW
4 MUCH NEWS MEDIA INTEREST IS GOING TO BE IN THIS CASE. I HAVE I
5 NO IDEA.

6 MR. MAULDIN: MY MOTION IS TO NOT---

7 THE COURT: BUT I CAN TELL YOU IT'S NOT GOING TO TURN INTO
8 A CIRCUS.

9 MR. MAULDIN: YES, SIR. BUT MY MOTION IS TO PREVENT THAT,
10 BUT I CERTAINLY -- WHATEVER YOU FIND, I JUST HOPE THE COURT WILL
11 RECONSIDER THAT BETWEEN NOW AND THE TRIAL.

12 THE COURT: WHAT'S THE STATE'S POSITION ON THAT?

13 MR. ARIALL: THE STATE'S POSITION IS THAT IT IS YOUR CALL.
14 WE BELIEVE -- WE -- IN THE LAST SEVEN YEARS WE'VE TRIED EIGHT
15 DEATH PENALTY CASES AND THE CAMERAS HAVE BEEN IN -- OR THE
16 CAMERA, THE SOLE CAMERA WITH THE LIVE FEED FOR EVERYBODY HAS BEEN
17 DISCREETLY PLACED WITHIN THE COURTROOM. IT IS NOT A PROBLEM. IT
18 HASN'T CREATED ANY PROBLEMS. IT'S NOT A CIRCUS. AND IT ALLOWS
19 THEM TO FEED, JUST LIKE THEY'RE DOING UPSTAIRS IN COURTROOM 8
20 RIGHT NOW, AND GIVES THE COMMUNITY INFORMATION ON WHAT'S GOING
21 ON. I DO THINK THE COMMUNITY IS INTERESTED IN WHAT GOES ON IN
22 ITS PUBLIC COURTHOUSES IN MORE CASES THAN OTHERS. BUT I THINK
23 FOR THAT REASON IT'S NOT APPROPRIATE TO STAND IN THE WAY OF THE
24 PUBLIC HAVING THE RIGHT TO KNOW WHAT'S GOING ON OR LIMIT IT TO
25 SUCH EXTENT THEY'VE GOT TO COME DOWN HERE, FIND A PARKING PLACE

1 AND COME SIT IN ONE OF THESE SMALL COURTROOMS. THEY CAN --
2 THERE'S NOTHING WRONG WITH SEEING THAT OVER THE AIRWAVES AS LONG
3 AS IT'S PROTECTED LIKE YOU WILL PROTECT IT.

4 I KNOW WHAT YOU'LL DO, AND IT WON'T BE A CIRCUS, AND IT
5 WON'T BE A PROBLEM. SO WE WOULD BE SUPPORTIVE OF THAT RULING,
6 BUT WE RECOGNIZE THAT THAT IS THE COURT'S CALL AND NOT THE
7 STATE'S CALL.

8 THE COURT: ALL RIGHT. MR. MAULDIN, WHAT I'LL DO IS TAKE
9 IT UNDER ADVISEMENT AND MAKE THAT DECISION CLOSER TO THE TRIAL
10 TIME. OKAY?

11 MR. MAULDIN: YES, SIR.

12 THE COURT: BECAUSE I KNOW ONE CASE I TRIED THERE WASN'T --
13 NOBODY EVEN ASKED TO COME IN WITH A TV CAMERA. SO I DON'T KNOW
14 WHAT KIND OF NEWS MEDIA REACTION YOU'RE GOING TO HAVE WITH THIS
15 CASE.

16 MR. ARIAIL: COULD I POINT OUT ONE OTHER THING ON THAT THAT
17 JOHN AND I WILL AGREE ON? WHAT WE DON'T WANT TO DO IS WHAT
18 HAPPENED IN THE JOSEPH SHEPPARD CASE WHERE WE ENDED UP EXCLUDING
19 THE PRESS AND JUSTICE PLEICONES DENIED THEM A HEARING AND WE
20 ENDED UP WITH ALL THESE APPEALS AND ALMOST DELAYED THE CASE AND
21 THIS AND THAT, AND THEN HE GOT REVERSED ON APPEAL FOR THE PRESS
22 THING. IF WE'RE GOING TO BAR THEM, OUR POSITION IS LET THEM COME
23 IN HERE AND TALK SO WE CAN COVER THAT ISSUE---

24 THE COURT: I AGREE WITH THAT. IN OTHER WORDS, IF I WAS
25 GOING TO HAVE AN ABSOLUTE BAR, I THINK WHOEVER WANTED TO COME IN,

MOTIONS

2457

1 I. THINK, THEY'RE ENTITLED TO BE HEARD ON THAT ISSUE.

2 MR. MAULDIN: AND I CERTAINLY AGREE WITH THAT. BUT THEY DO
3 HAVE THE RIGHT, IF THE COURT ISSUES WHAT I WANT YOU TO DO---

4 THE COURT: I THINK THE NEWS MEDIA HAVE A RIGHT TO ADDRESS
5 THAT ISSUE.

6 MR. MAULDIN: RIGHT. YOUR HONOR, THE ONLY OTHER MATTER
7 THAT I HAVE, YOUR HONOR, IS I AM GOING TO ASK FOR A FEW MOMENTS
8 FOR EX PARTE FUNDING.

9 THE COURT: OKAY.

10 MR. MAULDIN: BUT IT WON'T TAKE JUST A FEW MINUTES. AND
11 THEN THE LAST THING, WE DID BRING THE QUESTIONNAIRE AT YOUR
12 REQUEST IN ORDER TO---

13 THE COURT: ALL RIGHT. HAVE Y'ALL REVIEWED THE
14 QUESTIONNAIRE I SENT TO YOU?

15 MR. ARIAIL: YES.

16 THE COURT: DO YOU HAVE ANY OBJECTIONS TO IT?

17 MR. ARIAIL: YES. I HAVE STRENUOUS OBJECTIONS TO IT. I
18 THINK IT'S---

19 THE COURT: OKAY.

20 MR. ARIAIL: ---OVERLY BROAD. IT'S INTRUSIVE. IT GIVES US
21 TOO MUCH INFORMATION THAT I THINK THE JURORS---

22 THE COURT: I DON'T HAVE A COPY IN FRONT OF ME, OKAY?

23 MR. ARIAIL: AND I'M NOT PREPARED TO ARGUE SPECIFICALLY.
24 BUT I JUST LOOKED AT IT, AND TO BE HONEST WITH YOU -- AND I'M
25 HONEST WITH YOU BECAUSE I'VE KNOWN YOU 30 YEARS -- IT SCARED ME.

1 IT REALLY SCARED ME THAT WE ARE PUTTING THAT MUCH RESPONSIBILITY
2 ON JURORS TO ANSWER QUESTIONS.

3 AND THE BIGGEST ONE THAT CONCERNED ME WAS THERE WAS A LOT OF
4 INFORMATION IN HERE THAT I DON'T THINK EITHER ONE OF US REALLY
5 WANT. BUT THE ONE THAT BOTHERED ME THE MOST, NUMBER ONE, IT
6 DOESN'T ADDRESS THE ISSUE OF PRETRIAL PUBLICITY, WHICH I THINK IS
7 GOING TO BE A HUGE ISSUE IN THIS CASE. AND NUMBER TWO, IT DOES
8 ADDRESS IN THE QUIETNESS AND SOLITUDE OF THEIR HOME AS TO WHAT
9 THEIR POSITION IS ON THE DEATH PENALTY. AND I JUST FEEL THAT
10 THAT IS GOING TO ENCOURAGE RESPONSES THAT ARE NOT GOING TO BE
11 ACCURATE.

12 PEOPLE FIGURE OUT -- JOHN AND I HAVE DONE ENOUGH OF THESE TO
13 KNOW THEY FIGURE OUT WHAT THE RIGHT RESPONSE IS TO GET OFF JURY
14 DUTY, AND IF THEY CAN DO THAT AT HOME AND THEY CAN BE FOCUSED ON
15 THAT, I WOULD SUBMIT THAT THAT'S GOING TO CREATE A REAL PROBLEM
16 AND WE'RE GOING TO GET A LOT OF RESPONSES THAT ARE STATED IN SUCH
17 A WAY THAT IF THEY WERE HERE IN FRONT OF YOU TALKING TO YOU THEY
18 WOULD GIVE YOU A MORE ACCURATE ANSWER AND WOULD NOT BE INTENDED
19 TO GET THEM DIVERTED FROM THEIR RESPONSIBILITY. TELLING THE
20 JUDGE THE TRUTH UNDER OATH SITTING IN FRONT OF YOU IS A WHOLE LOT
21 DIFFERENT THAN SIGNING A PIECE OF PAPER IN THE DEN OF THEIR HOME
22 WATCHING TV WITH THEIR WIFE AND COMING UP WITH THE IDEA THAT,
23 GEE, I CAN MISS TWO WEEKS OF LOSING TIME FROM MY JOB BY SAYING
24 I'M DA, DA, DA, DA, DA, DA. THEY CAN FIND THAT OUT. SO I WOULD
25 BE REAL OPPOSED TO GOING ON THAT.

1 AND THERE ARE A LOT OF OTHER THINGS THAT I---

2 THE COURT: WELL, WHY DON'T YOU GO THROUGH IT -- LET ME SAY
3 THIS TO YOU THOUGH. WE USED THIS QUESTIONNAIRE IN THE LAST
4 TRIAL, AND I DIDN'T SEE ANY INDICATION OF WHAT YOUR OBJECTION WAS
5 ABOUT THE DEATH PENALTY. AS A MATTER OF FACT, I THOUGHT IT MADE
6 IT EASIER AS FAR AS THE QUESTIONS THAT THE ATTORNEYS WERE GOING
7 TO ASK. AND IT IS TRUE THAT SOME OF THE JURORS MISUNDERSTOOD THE
8 QUESTIONS AND CLARIFIED IT AND THEY DID EXPOUND UPON IT. BUT AS
9 FAR AS USING IT AS A MEANS TO GET OFF OF THE JURY, I DIDN'T SEE
10 ANY INDICATION OF THAT. AS A MATTER OF FACT, I THOUGHT IT HELPED
11 SPEED UP THE PROCESS OF THE VOIR DIRE FOR INDIVIDUAL JURORS. I'M
12 TALKING ABOUT THE DEATH PENALTY.

13 I AGREE WITH YOU, SOLICITOR, THAT WE NEED TO PUT SOMETHING
14 ABOUT PRETRIAL PUBLICITY. AS A MATTER OF FACT, I THOUGHT I TOLD
15 MY SECRETARY TO STICK SOME QUESTIONS IN THERE BEFORE SHE MAILED
16 IT TO YOU, BUT I AGREE THAT NEEDS TO BE PUT IN THERE.

17 I'M OPEN TO SUGGESTIONS. I LOOKED AT YOURS. MR. ARIALL, I
18 THOUGHT THAT -- SOLICITOR ARIALL, EXCUSE ME. I'LL GET YOUR NAME
19 RIGHT IN A MINUTE, SOLICITOR ARIALL. I THOUGHT YOURS WERE TOO
20 BRIEF.

21 MR. ARIALL: AND IT MAY BE.

22 THE COURT: OKAY. I THOUGHT YOURS WERE TOO BRIEF. I WANT
23 TO GET MORE INFORMATION FROM THE JURORS, OKAY? YOURS THAT YOU
24 PRESENTED WAS VERY, VERY SIMILAR TO THIS ONE.

25 MR. MAULDIN: YOUR HONOR, MAY I?

1 THE COURT: YES, SIR. YEAH.

2 MR. MAULDIN: YOU'RE ESSENTIALLY TAKING IT UNDER
3 ADVISEMENT.

4 THE COURT: YEAH.

5 MR. MAULDIN: THE FACT IS THAT SOLICITOR ARIAIL AND I HAVE
6 TRIED A NUMBER OF CASES TOGETHER AND GONE THROUGH QUITE A BIT OF
7 VOIR DIRE. HE SAYS THAT FOLKS COME UP WITH REASONS TO GET OFF
8 THE JURY. WELL, AND I'M NOT GOING TO NECESSARILY ASK THAT HE
9 AGREE WITH THIS, BUT I ALSO SEE A LOT OF PEOPLE COME UP WITH
10 ANSWERS THAT THEY WANT TO GET ON THE JURY. IN FACT, WE FIND
11 THAT, IN MY VIEW, MORE COMMON THAN THE REVERSE. THEY KNOW WHAT
12 THEY WANT TO TRY TO SAY AND SO THEY SAY IT IN THE RIGHT WAY
13 ACCORDING TO THIS ENVIRONMENT.

14 HERE'S WHY WE BELIEVE THAT THESE QUESTIONS THAT WE'VE
15 SUBMITTED TO YOU ARE APPROPRIATE. SITTING AT YOUR OWN DINING
16 ROOM TABLE WITH YOUR SPOUSE WITH THE TV ON---

17 THE COURT: ALL RIGHT. ARE YOU TALKING ABOUT THE QUESTIONS
18 IN YOUR QUESTIONNAIRE?

19 MR. MAULDIN: PARDON?

20 THE COURT: OR THIS QUESTIONNAIRE?

21 MR. MAULDIN: PARDON?

22 THE COURT: ARE YOU TALKING ABOUT THIS QUESTIONNAIRE THAT
23 I'M HOLDING OR THE ONES YOU SUBMITTED?

24 MR. MAULDIN: I'M TALKING ABOUT THE ONE YOU -- NOT ONLY THE
25 ONE I SUBMITTED BUT THE ONE YOU SENT BACK.

1 THE COURT: OKAY. ALL RIGHT.

2 MR. MAULDIN: IN OTHER WORDS, WHAT I BELIEVE HAPPENS IS
3 THAT PEOPLE WHEN THEY'RE NOT UNDER THE BRIGHT LIGHTS OF THE
4 COURTROOM WITH A GUY IN A BLACK ROBE AND ALL THESE GRAY-HEADED
5 LAWYERS, YOU KNOW, POINTING FINGERS AT EACH OTHER AND
6 SCREAMING---

7 THE COURT: WELL, I DON'T SEE BUT ONE GRAY-HEADED LAWYER IN
8 HERE RIGHT NOW.

9 MR. MAULDIN: WELL, THAT'S---

10 THE COURT: I SEE ONE WITH A LITTLE LESS HAIR BUT IT'S NOT
11 GRAY YET.

12 MR. MAULDIN: BUT MY POINT IS A LOT OF TIMES YOU GET MORE
13 TRUTHFUL ANSWERS WHEN YOU'RE SITTING IN FRONT OF YOUR TV.

14 THE COURT: OKAY. ALL RIGHT.

15 MR. MAULDIN: AND WE CAN ASK THEM QUESTIONS TO FOLLOW UP.

16 THE COURT: WELL, THAT WAS MY EXPERIENCE WHERE WE USED THIS
17 ONE.

18 SOLICITOR, TELL ME YOUR OBJECTIONS AND I'LL TAKE THEM UNDER
19 ADVISEMENT. I'M INCLINED TO USE THIS ONE AND ADD IN SOME
20 PRETRIAL PUBLICITY QUESTIONS, AND I'LL LET Y'ALL DRAFT THOSE
21 PRETRIAL PUBLICITY QUESTIONS.

22 MR. MAULDIN: CAN I MAKE A---

23 THE COURT: BUT I'LL BE GLAD TO -- TELL ME WHICH QUESTIONS
24 YOU OBJECT TO AND I'LL BE GLAD TO REVISIT, LOOK AT IT AND HEAR
25 WHAT YOU HAVE TO SAY, OKAY? BUT I WOULD LIKE TO ASK SOME

1 PRETRIAL PUBLICITY QUESTIONS.

2 MR. MAULDIN: MAY I SUGGEST A WARNING TO THE COURT IN
3 REGARDS TO THAT?

4 THE COURT: YES, SIR.

5 MR. MAULDIN: THIS QUESTIONNAIRE, IF YOU READ IT, IT
6 CLEARLY RELATES TO A DEATH PENALTY CASE. IT CLEARLY REFERS TO
7 CERTAIN RELEVANT ISSUES THAT I THINK ARE HELPFUL TO BOTH OF US.
8 IF YOU ADD PRETRIAL PUBLICITY, WHICH WE'RE NOT NECESSARILY
9 OBJECTING TO, ALL I'M SAYING IS YOU THEN ESSENTIALLY DISCLOSE IN
10 ADVANCE THE CASE. WHEN THEY GET THEIR SUMMONS 30 DAYS BEFORE
11 THEY COME TO THE COURTHOUSE, THEY'RE GOING TO KNOW WHICH CASE,
12 AND UNFORTUNATELY THEY'RE LIABLE TO START TO DO THEIR OWN
13 INVESTIGATION, AND THAT REALLY IS A SERIOUSLY DANGEROUS PROBLEM.

14 THE COURT: WELL---

15 MR. MAULDIN: SO PRETRIAL PUBLICITY QUESTIONS IN A
16 QUESTIONNAIRE WHILE BEING LEGITIMATE CERTAINLY OPEN A MINE FIELD.

17 MR. ARIAIL: THE LAST ONE WE DID WITH JUDGE COLE HE DID
18 THAT, AND HE SENT -- AND I HAD SOME CONCERNS ABOUT THAT. I'LL BE
19 HONEST. HE SENT -- IT WAS A HIGH, HIGH VISIBILITY CASE.

20 THE COURT: UH-HUH (AFFIRMATIVE).

21 MR. ARIAIL: HE SENT A LETTER TO THE JURORS AND TOLD THEM
22 WHAT THE CASE -- WHO THE DEFENDANT WAS AND WHAT THE CASE WAS
23 ABOUT, NOT THE FACTS OF IT BUT THAT IT WAS GOING TO BE A DEATH
24 PENALTY CASE. AND HE HAD A VERY CONCISE LETTER AND HE TOLD THEM
25 IN THAT LETTER, "DON'T YOU READ ANYTHING. DON'T YOU GO BACK AND

MOTIONS

2463

1 READ ANYTHING. DON'T YOU LISTEN TO ANYTHING, AND FOLLOW THIS
2 INSTRUCTION. AND WHEN YOU COME INTO COURT, I'M GOING TO ASK YOU
3 UNDER OATH IF YOU FOLLOWED IT." AND EVERY ONE OF THOSE JURORS
4 WHO CAME IN THAT DOOR, HE ASKED THEM THAT, AND I AM CONVINCED
5 THAT ALL OF THE PEOPLE THAT RESPONDED THAT THEY HAD NOT READ WERE
6 TELLING THE TRUTH. AND I THINK IT JUST COMES FROM THE JUDGE.
7 BUT I DO THINK TO GET THAT UP FRONT -- AND IF WE GET IT UP FRONT
8 IT MAKES IT A LOT EASIER FOR US TO DEAL WITH IT, BECAUSE IF THEY
9 SAY, "YES, I HAVE BEEN EXPOSED TO IT," "WHAT HAVE YOU BEEN
10 EXPOSED TO?" "WELL, THE NEWSPAPER." "DO YOU REMEMBER ANYTHING?"
11 "NO." THEN WE'VE GOT A -- WE DON'T HAVE TO DELVE THROUGH---

12 THE COURT: ALL RIGHT. SEND ME A PROPOSED LETTER.

13 MR. ARIAIL: OKAY.

14 THE COURT: LET MR. MAULDIN LOOK AT IT, AND SEND THE
15 PROPOSED QUESTIONS FOR THE PRETRIAL PUBLICITY.

16 MR. ARIAIL: ALL RIGHT.

17 THE COURT: AND TELL ME SPECIFICALLY, SOLICITOR STROM, WHAT
18 YOU -- I KNOW YOU'RE GOING TO BE DOING THIS. TELL ME
19 SPECIFICALLY WHAT YOU'RE OPPOSED TO IN THIS QUESTIONNAIRE I'M
20 HOLDING, OKAY?

21 MR. ARIAIL: YOU'RE SELLING ME A LITTLE SHORT THERE, JUDGE.
22 I DID DO -- I HAVE DONE SOME WORK HERE LATELY.

23 THE COURT: YOU'LL DO SOME WORK WHEN WE GET READY TO GO TO
24 TRIAL, RIGHT?

25 (LAUGHTER IN THE COURTROOM)

1 THE COURT: MR. MAULDIN, HERE'S YOUR COPY.

2 AND CAN YOU GET THAT TO ME RIGHT AWAY?

3 MR. ARIAIL: YES, SIR.

4 MR. MAULDIN: YOUR HONOR, WE DID FILE A SERIES -- ANOTHER
5 SERIES OF MOTIONS AND ARE GOING TO BE ASKING FOR ANOTHER HEARING.
6 I'M GOING TO GET YOU COPIES OF THOSE TODAY---

7 THE COURT: OKAY.

8 MR. MAULDIN: ---ABOUT PENDING MOTIONS THAT WILL NEED TO BE
9 HEARD.

10 THE COURT: OKAY. ALL RIGHT.

11 MR. MAULDIN: WE TRY TO KEEP UP WITH THE PACE.

12 THE COURT: ALL RIGHT. WHEN DO YOU WANT TO -- DO YOU WANT
13 TO HEAR THEM BEFORE THE FIRST OF THE YEAR?

14 MR. MAULDIN: OH, YEAH. OH, YEAH. WE WANT -- HOW MUCH --
15 HOW MANY DAYS NOTICE DO Y'ALL NEED ON THE RESPONSES?

16 MS. STROM: TWENTY.

17 MR. MAULDIN: TWENTY? I WILL GIVE YOU THE DATE OF SERVICE,
18 AND WE'RE GOING TO ASK FOR ANY TIME BEYOND THE 20TH DAY OF
19 SERVICE.

20 THE COURT: WELL, WE CAN GET THEM DONE SOMETIME IN---

21 MR. MAULDIN: SOMETIME EARLY -- LATE NOVEMBER EVEN.

22 THE COURT: SOMETIME IN THE FIRST PART OF DECEMBER.

23 MR. ARIAIL: AND I -- I DON'T KNOW IF YOU BROUGHT IT UP OR
24 JOHN BROUGHT IT UP. SOMEBODY BROUGHT IT UP THAT WE OUGHT TO MOVE
25 BECAUSE OF THE HOLIDAYS TO SEND THE JURY LETTER OUT A LITTLE

MOTIONS

2465

1 SOONER.

2 THE COURT: COME ON UP HERE. LET ME SEE THE LAWYERS UP.
3 HERE JUST A SECOND.

4 THE COURT: YES, SIR.

5 (BENCH CONFERENCE OFF RECORD FROM 9:35 TO 9:40 A.M.)

6 THE COURT: SOLICITOR, ARE YOU READY TO...

7 MS. STROM: YES, SIR, YOUR HONOR. AT THIS TIME, FOR THE
8 RECORD, WE WOULD LIKE TO SERVE UPON THE DEFENDANT CERTIFIED
9 COPIES OF HIS INDICTMENTS. THEY ARE 2004-GS-23-1745, THE STATE
10 OF SOUTH CAROLINA VERSUS CHARLES CHRISTOPHER WILLIAMS, INDICTED
11 FOR KIDNAPPING; ALSO 2004-GS-23-1746, THE STATE OF SOUTH CAROLINA
12 VERSUS CHARLES CHRISTOPHER WILLIAMS, INDICTED FOR MURDER IN COUNT
13 ONE, AND COUNT TWO, POSSESSION OF A WEAPON DURING THE COMMISSION
14 OR THE ATTEMPT TO COMMIT A VIOLENT OFFENSE. WE ARE AT THIS TIME
15 HANDING THOSE TO HIS LAWYER, AND HE IS PRESENT HERE IN THE
16 COURTROOM TODAY.

17 THE COURT: MR. WILLIAMS, IF YOU WILL PLEASE STAND AND
18 RAISE YOUR RIGHT HAND.

19 DEFENDANT: (COMPLIES)

20 (DEFENDANT PLACED UNDER OATH)

21 THE COURT: I DON'T HAVE THE INDICTMENTS. LET ME SEE THE
22 INDICTMENTS. (PAUSE) MR. WILLIAMS, AS TO INDICTMENT NUMBER
23 001745, WHICH IS AN INDICTMENT FOR KIDNAPPING, HOW DO YOU PLEAD,
24 GUILTY OR NOT GUILTY?

25 DEFENDANT: NOT GUILTY.

1 THE COURT: ALL RIGHT. AS TO INDICTMENT NUMBER 001746,
2 INDICTMENT FOR MURDER, POSSESSION OF A WEAPON DURING THE
3 COMMISSION OF ATTEMPT TO COMMIT A VIOLENT CRIME, HOW DO YOU
4 PLEAD, GUILTY OR NOT GUILTY?

5 DEFENDANT: I PLEAD NOT GUILTY.

6 THE COURT: THIS CASE IS SCHEDULED FOR TRIAL ON, I BELIEVE,
7 FEBRUARY THE 7TH, 2005. MR. MAULDIN, WILL YOU AND YOUR CLIENT BE
8 READY FOR TRIAL AT THAT TIME?

9 MR. MAULDIN: PARDON ME, YOUR HONOR?

10 THE COURT: WILL YOU BE READY FOR TRIAL ON FEBRUARY THE 7TH,
11 2005?

12 MR. MAULDIN: THAT WOULD BE IMPOSSIBLE FOR ME TO ANSWER AT
13 THIS DATE.

14 THE COURT: OKAY. AS OF NOW YOU'RE---

15 MR. MAULDIN: WE'RE ON NOTICE OF THAT ANTICIPATED TRIAL
16 DATE.

17 THE COURT: YOU'RE ON NOTICE OF THAT DATE, THE ANTICIPATED
18 TRIAL DATE?

19 MR. MAULDIN: YES, SIR.

20 THE COURT: OKAY. UNLESS SOMETHING COMES UP, YOU'LL BE
21 READY.

22 MR. MAULDIN: WE -- I CAN'T---

23 THE COURT: SOMETHING I ANTICIPATED. YOU FEEL LIKE YOU'LL
24 BE READY?

25 MR. MAULDIN: I CAN'T ANSWER THAT AT THIS POINT, YOUR

MOTIONS

2467

1 HONOR. I MEAN, WE'RE DOING EVERYTHING WE CAN TO BE PREPARED JUST
2 LIKE EVERY OTHER CASE, YOUR HONOR.

3 THE COURT: ALL RIGHT. OKAY. THAT'S ALL I CAN ASK.

4 ALL RIGHT. HOW DO YOU WANT -- HOW DO YOU WISH TO BE TRIED,
5 MR. WILLIAMS?

6 DEFENDANT: BY A JURY.

7 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. APPRECIATE
8 IT.

9 ALL RIGHT. ANYTHING ELSE THAT WE NEED TO TAKE UP TODAY?

10 MR. ARIAIL: NOT FROM THE STATE, YOUR HONOR.

11 THE COURT: ALL RIGHT. OFF THE RECORD.

12 -----END OF REQUESTED TRANSCRIPT OF RECORD[al]----

13

14

15

16

17

18

19

20

21

22

23

24

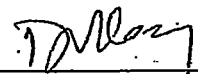
25

CERTIFICATE

I, THE UNDERSIGNED, DAWN V. KOFFSKEY, OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 1ST DAY OF NOVEMBER 2004.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

FEBRUARY 2, 2007



DAWN V. KOFFSKEY
COURT REPORTER

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS

3

4

5 STATE OF SOUTH CAROLINA,)

6 PLAINTIFF,)

7 VERSUS)

8 CHARLES CHRISTOPHER WILLIAMS,)

9 DEFENDANT.)

TRANSCRIPT OF RECORD
2004-GS-23-1745, 1746
2003-GS-23-6677

10

11

DECEMBER 15, 2004
ANDERSON, SOUTH CAROLINA

12

13

14 B E F O R E:

15 THE HONORABLE J.C. NICHOLSON, JR, JUDGE.

16

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

18 ROBERT AIRIAL, SOLICITOR
19 BETTY STROM, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

20 JOHN MAULDIN, PUBLIC DEFENDER
21 WILLIAM N. NETTLES, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

22

23 A L S O P R E S E N T:

24 JENNIFER GADD, ESQ.

25

DONNA M. BRADY
CIRCUIT COURT REPORTER

1 WEDNESDAY, DECEMBER 15, 2004

2 (WHEREUPON, AFTER THE LUNCHEON RECESS, COURT
3 RECONVENED WITH ALL PARTIES PRESENT, WHEN THE FOLLOWING
4 PROCEEDINGS WERE HAD:)

5 THE COURT: ARE YOU READY TO MOVE FORWARD?

6 MR. MAULDIN: WE HAVE THREE MATTERS FOR THE COURT
7 THIS AFTERNOON.

8 THE COURT: OKAY.

9 MR. MAULDIN: ONE OF THOSE WILL BE THE HEARING BY
10 YOU OF SIX MOTIONS THAT WE'VE PASSED UP FOR THE COURT. AND
11 WE'RE GOING TO SUGGEST THEY BE HEARD IN THAT ORDER, IF IT
12 PLEASE THE COURT. ANOTHER WOULD BE AN EX PARTE FUNDING
13 REQUEST OR A MEETING WITH YOU IN CHAMBERS ON BEHALF OF OUR
14 CLIENT, FUNDING.

15 BUT BEFORE WE GET INTO EITHER OF THOSE TWO, YOUR
16 HONOR, I WOULD ASK THAT MR. NETTLES BE ALLOWED TO MAKE A
17 MOTION REGARDING PARTICIPATION BY OUT OF STATE.

18 MR. NETTLES: THANK YOU, YOUR HONOR. ABOUT TWO
19 YEARS AGO I WAS APPROACHED BY THE ABA, ABOUT A LAW FIRM,
20 AKIN GUMP STRAUSS HAUER AND FELD, WHICH A PARTICULAR
21 PARTNER, MARK MCDUGALD, WAS OUT OF WASHINGTON D.C. HE CAME
22 DOWN AND WAS MOVED IN PRO HAC AND TRIED A CASE WITH ME, THE
23 STATE VERSUS BOBBY LEE HOLMES IN FRONT OF JUDGE HAYES IN
24 YORK COUNTY. AND IT WAS A GOOD EXPERIENCE.

25 THE AIKEN GUMP CAME DOWN, THEY PAID ALL OF THEIR

1 OWN EXPENSES. THEY ARE DOING THIS COMPLETELY FREE IS THE
2 BOTTOM LINE, AS I UNDERSTAND IT. BY STATUTE, FIRST OF ALL
3 BY STATUTE, NO ONE FROM OUT OF STATE CAN GET PAID.
4 SECONDLY, THEY ARE DOING THIS -- AND WHEN I SAY THEY COVERED
5 ALL THEIR OWN EXPENSES, I MEAN TO SAY THEY COVERED ALL
6 THEIR MEALS, THEY COVERED THEIR TRAVEL, THEY COVERED THEIR
7 HOTEL. WE NEVER HAD TO DO ANY SCHEDULING TO ACCOMODATE
8 THEM. I MEAN, IT WAS JUST TRULY AMAZING THE COMMITMENT THEY
9 MADE.

10 I WOULD ASK THE COURT TO ALLOW THEM TO PARTICIPATE
11 THIS TIME. I HAVE GOT THE PRO HAC PAPERWORK DONE. ONE OF
12 THEM IS MR. MARK MCDUGALD, WHO IS A PARTNER AT AKIN GUMP
13 STRAUSS HAUER AND FELD IN WASHINGTON D.C. WHO WORKED WITH ME
14 TWO YEARS AGO IN THE BOBBY LEE HOLMES CASE. THE OTHER IS
15 MS. COLLEEN COYLE, WHO IS A PARTNER AT AKIN GUMP STRAUSS
16 HAUER & FELD. A THIRD IS A MISS CARA FOOSE. AND THESE ARE
17 I'VE DONE THE PAPERWORK ON THEM. I'VE SIGNED, I'VE GOT
18 IT PREPARED TO BE PRESENTED TO THE SOUTH CAROLINA SUPREME
19 COURT ALONG WITH THEIR CHECKS.

20 TODAY WITH US WE HAVE JENNIFER GADD. AND JENNIFER
21 GADD IS FROM THE HOUSTON OFFICE. SHE HAS ALREADY DONE ALL
22 HER PAPERWORK AND THE SOUTH CAROLINA BAR HAS ALREADY ISSUED
23 HER AN ASSOCIATES ID CARD AT JUST AMAZING SPEED. SO, I'D
24 JUST LIKE TO MOVE THEM TO BE THEM TO BE ABLE TO PARTICIPATE.

25 THE COURT: MR. WILLIAMS, DO YOU HAVE ANY.

1 OBJECTION TO THIS?

2 THE DEFENDANT: NO, SIR.

3 THE COURT: MR. MAULDIN?

4 MR. MAULDIN: NO.

5 THE COURT: SOLICITOR?

6 MR. AIRIAL: YOUR HONOR, I'M NOT SURE -- I DON'T
7 HAVE A RESPONSE AT THIS TIME. I DON'T UNDERSTAND WHAT WE'RE
8 TALKING ABOUT AT THIS JUNCTURE, OTHER THAN HE'S ASKING
9 SOMEBODY TO BE ADMITTED PRO HAC VICE TO THE STATE BAR OF
10 SOUTH CAROLINA.

11 THE COURT: TO PARTICIPATE IN THIS TRIAL?

12 MR. AIRIAL: WELL, THEN I WOULD OBJECT AT THIS
13 POINT UNTIL I FIND OUT WHO THEY ARE.

14 THE COURT: HE JUST TOLD YOU WHO THEY ARE.

15 MR. AIRIAL: I LIKE TO SEE THE PAPERWORK.

16 THE COURT: GO LOOK AT THE PAPERWORK.

17 MR. AIRIAL: AND I DON'T KNOW WE NEED TO RESOLVE
18 IT TODAY.

19 THE COURT: I UNDERSTAND, BUT JUST LOOK AT THE
20 PAPERWORK AND SEE. IT'S A SIMPLE MATTER. I DON'T KNOW WHY
21 IT'S A COMPLEX MATTER. I DON'T KNOW WHY WE CAN'T RESOLVE IT
22 TODAY. SO, JUST TAKE A LOOK AT IT.

23 MR. AIRIAL: I GUESS WHAT I'M THINKING, AS COMPLE
24 AS IT IS, WE'RE GOING TO ADD THREE MORE ATTORNEYS AT A
25 TABLE.

1 THE COURT: I DON'T KNOW IF THEY'LL BE ON A TABLE
2 OR THE FRONT ROW. I CAN PUT THEM WHEREVER WE WANT TO PUT
3 THEM. I THINK THEY'RE DOING IT PRIMARILY TO GET EXPERIENCE
4 IN THE DEATH PENALTY TYPE CASES IS WHAT THEY'RE DOING. I
5 DOUBT SERIOUSLY THEY EVEN PARTICIPATE MUCH. WILL THEY?

6 MR. NETTLES: WELL, YOUR HONOR, THERE WILL BE SOME
7 BUT IT WILL BE, YOU KNOW, MR. MAULDIN AND I HAVE TALKED
8 ABOUT IT. IT'S GOING TO BE -- I MEAN, WE'RE CERTAINLY NOT
9 GIVING ANYBODY ANY RESPONSIBILITY THAT WOULD BE IMPRUDENT.

10 THE COURT: TRYING TO EDUCATE SOME OPPOSITION FOR
11 ALL THE PROSECUTORS IN VIRGINIA.

12 MR. AIRIAL: WE DON'T HAVE ANY OBJECTION IF WE
13 COULD JUST GET COPIES OF THOSE. I DO HAVE SOME CONCERNS
14 JUST ASKING MR. WILLIAMS IF HE HAS ANY OBJECTION. I THINK
15 ADDING FOUR PEOPLE THAT THE COURT HAS NO KNOWLEDGE AS TO
16 THEIR COMPETENCE OR SKILL IN THIS ARENA AND HOW IT'S GOING
17 TO DO. I THINK HE NEEDS TO BE ADVISED OF THAT SO HE CAN
18 MAKE A KNOWING AND INTELLIGENT CONSENT TO HAVING FOUR NEW
19 ATTORNEYS ADDED TO HIS CASE.

20 THE COURT: I'M SURE MR. NETTLES HAS TALKED TO HIM
21 ABOUT IT BEFORE NOW AND EXPLAINED IT ALL TO HIM. IS THAT
22 CORRECT, MR. NETTLES?

23 MR. NETTLES: YES, SIR.

24 MR. AIRIAL: I'M SURE HE HAS, TOO. BUT I THINK
25 FOR THE PURPOSES OF THIS RECORD IT OUGHT TO BE PUT ON THE

1 RECORD HE UNDERSTANDS WHAT'S GOING ON WITH HIS CASE AND WE
2 GOT FOUR NEW LAWYERS COMING IN AND THEY MAY BE WORKING ON
3 HIS CASE, MAY BE PRESENTING EVIDENCE, MAY BE CROSS EXAMINING
4 WITNESSES.. AND IF THAT'S ALL OKAY WITH HIM SO WE DON'T HAVE
5 AN ISSUE ON APPEAL LATER ON.

6 THE COURT: I'VE ALREADY ASKED HIM IF HE HAS ANY
7 OBJECTIONS. I'LL ASK MR. WILLIAMS, DO YOU HAVE ANY
8 QUESTIONS YOU WANT TO ASK THE COURT OR YOUR ATTORNEYS ABOUT
9 THE INVOLVEMENT OF THESE FOUR ADDITIONAL ATTORNEYS?

10 THE DEFENDANT: NO, SIR.

11 THE COURT: HAVE YOU PREVIOUSLY DISCUSSED IT WITH
12 YOUR ATTORNEY?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: DO YOU UNDERSTAND THE CONVERSATION
15 BETWEEN YOU AND MR. NETTLES?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: THERE WILL BE FOUR ADDITIONAL
18 ATTORNEYS INVOLVED IN YOUR CASE AND ASSISTING YOUR PRESENT
19 COUNSEL WITH THE CASE. DO YOU UNDERSTAND?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: YOU HAVE ANY QUESTIONS ABOUT IT?

22 THE DEFENDANT: NO, SIR.

23 THE COURT: DO YOU HAVE ANY OBJECTIONS ABOUT IT?

24 THE DEFENDANT: NO, SIR.

25 THE COURT: MR. AIRIAL, DO YOU HAVE ANY QUESTIONS

1 YOU WANT TO ASK MR. WILLIAMS ON THAT SUBJECT MATTER?

2 MR. AIRIAL: NO, SIR.

3 THE COURT: ALL RIGHT. ANY OTHER QUESTIONS, MR.
4 NETTLES, YOU WANT TO ASK YOUR CLIENT?

5 MR. NETTLES: NO, SIR.

6 THE COURT: MR. MAULDIN?

7 MR. MAULDIN: NO, SIR.

8 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. IF
9 YOU'LL GIVE ME THE ORDERS, I'LL SIGN THEM ALL.

10 MR. NETTLES: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. MR. MAULDIN, THE FIRST ONE
12 I BELIEVE IS A MOTION EXCUSING TRIAL COUNSEL FROM OTHER
13 DUTIES? ANY OBJECTION TO THAT, MR. AIRIAL? YOU'LL CONSENT
14 TO THAT, WON'T YOU?

15 MR. AIRIAL: NO, SIR. PARAGRAPH SIX IS, WE
16 CONSENT TO THE TRIAL DUTIES; BUT AS PUBLIC DEFENDER, THAT
17 PARTICULAR EXCEPTION WE MAKE THERE RELATES TO GUILTY PLEAS
18 OF PEOPLE WHO -- WE HAVE THREE TERMS OF GENERAL SESSIONS
19 COURT BETWEEN NOW AND THE DATE OF THAT TRIAL. SO, WE'D ASK
20 THAT HE BE AVAILABLE ON GUILTY PLEA DAYS THAT HE'S ASSIGNED
21 EACH WEEK TO HANDLE THOSE CASES.

22 THE COURT: I THINK THE STATUTE ALLOWS YOU, WHAT
23 IS IT, HOW MANY WEEKS?

24 MR. MAULDIN: THE STATUTE ALLOWS YOU TEN DAYS.
25 WE'RE ASKING THAT THE TEN DAYS BE EXPANDED IN THIS CASE

1 TO -- OBVIOUSLY DUE TO THE COMPLEXITY OF IT. NOW, PARAGRAP
2 SIX IS RELEVANT FOR THE COURT'S DECISION. I WILL SAY ON TH
3 RECORD THAT I WILL DO WHAT I CAN TO COOPERATE WITH THE
4 SOLICITOR'S OFFICE REGARDING MATTERS BETWEEN JANUARY FIRST
5 AND FEBRUARY SEVENTH. THE PROBLEM I HAVE IS THAT I DON'T
6 WANT TO BE COMPELLED TO COOPERATE I GUESS WOULD BE THE
7 POINT. I WILL SAY THAT, AS I ALWAYS HAVE, I'LL TRY TO WORK
8 WITH THEM HOW I CAN; BUT IF I HAVE SOMETHING THAT IS TYING
9 ME UP, I'M JUST NOT GOING TO BE ABLE TO BE RESPONSIVE TO A
10 REQUEST TO SIT IN PLEA COURT. SO, THAT'S THE POINT, YOUR
11 HONOR. WE'RE ASKING THAT IT BE AN EXCUSE FROM COURT. AND
12 IF THERE'S SOMETHING THAT THE ASSISTANT SOLICITOR AND I CAN
13 WORK OUT, THEN LET THAT BE IT.

14 THE COURT: SOLICITOR AIRIAL, IS THAT AGREEABLE
15 WITH YOU? HE SAYS HE'S GOING TO TRY TO WORK WITH YOU. BUT
16 IF HE'S GOT SOMETHING SCHEDULED AND YOU WANT HIM IN PLEA
17 COURT, THE OTHER IS GOING TO TAKE PRIORITY.

18 MR. AIRIAL: HE KNOWS WHEN PLEA COURT DAY IS. HE'
19 ALREADY ASSIGNED, HE KNOWS IT. SO, THERE SHOULDN'T BE
20 ANYTHING SCHEDULED THOSE DAYS. HE'S GOT JAIL CASES. HE'S
21 GOT DEFENDANTS WHOSE CASES HAVE BEEN GOING ON THAT NEED TO
22 BE RESOLVED. HE HAS CERTAIN TIME LIMITATIONS THAT HE'S GOT
23 TO MEET. AND I JUST THINK IT'S NOT UNREASONABLE FOR HIM TO
24 SAY I GOT A PLEA DATE HERE, HERE, HERE; THREE PLEA DAYS,
25 THAT I'LL BE THERE THOSE THREE DAYS OUT OF THE NEXT SIX OR

1 SEVEN DAYS.

2 THE COURT: WHAT ARE THOSE DAYS, DO YOU KNOW?

3 MR. AIRIAL: WHAT DAYS THEY ARE?

4 THE COURT: YEAH.

5 MR. AIRIAL: NO, I DON'T. HE KNOWS WHAT DAYS THEY
6 ARE.

7 MR. MAULDIN: I KNOW WHICH DAYS THEY ARE. THEY'RE
8 MONDAY, AND LET ME TELL YOU SOMETHING, JUDGE, WITH ALL DUE
9 RESPECT. IF MR. AIRIAL IS ON THE OTHER SIDE OF THE CLIENT,
10 THEN I'LL BE THERE.

11 THE COURT: WHAT IF HE'S NOT?

12 MR. MAULDIN: AND THE POINT IS THAT I'VE GOT A
13 CASE LOAD THAT I HAVE TO BE RESPONSIVE TO, AND I ADMIT THAT.
14 BUT, YOU KNOW, IF I GET 15 OR 20 BOND CARDS FOR CLIENTS THAT
15 KEEP ME TIED UP THOSE THREE MONDAYS, THEN THAT IS THREE DAYS
16 I CAN'T WORK ON THIS CASE. AND THAT'S WHAT I'M TRYING TO
17 GET THE COURT TO PROTECT ME.

18 THE COURT: LET ME DO THIS. I'M GOING TO SPLIT
19 THE BABY. I'LL GIVE HIM PROTECTION AS HE REQUESTS JANUARY
20 FIRST TO FEBRUARY SEVENTH. HOWEVER, ON THE THREE MONDAYS,
21 YOU'LL MAKE YOURSELF AVAILABLE FOR TWO HOURS FOR PLEA COURT.
22 NOW, MR. AIRIAL, YOU'LL JUST HAVE TO WORK OUT WHERE YOU'LL
23 USE THEM THOSE TWO HOURS; BUT NO MORE THAN TWO HOURS. YOU
24 ALL CAN AGREE ON THE TWO-HOUR PERIOD EACH MONDAY.. OKAY?

25 MR. MAULDIN: THANK YOU, JUDGE.

1 THE COURT: YOU WANT TO TYPE ME UP AN ORDER FOR
2 THAT?

3 MR. MAULDIN: YES, SIR. AND I'LL SUBMIT A WRITTEN
4 ORDER FOR THAT, YOUR HONOR. AND I'M ASSUMING THAT EXTENDS
5 TO MR. NETTLES AS WELL?

6 THE COURT: YOU JOIN IN THE REQUEST? I'M SURE
7 YOU'RE NOT COMING TO GREENVILLE FOR TWO HOURS OF PLEA COURT,
8 ARE YOU, MR. NETTLES?

9 MR. NETTLES: IF THEY WANT TO SEND ME SOME WHITE
10 COLLAR WORK, I'LL BE THERE.

11 MR. MAULDIN: THE POINT IS---

12 THE COURT: DO YOU NEED THE PROTECTION?

13 MR. NETTLES: YES, SIR. I'LL SUBMIT AN ORDER TO
14 YOU ON THAT.

15 THE COURT: WHAT DAYS DO YOU NEED PROTECTION ON?
16 WHEN DO YOU WANT TO START IT?

17 MR. MAULDIN: JANUARY THE 1ST THROUGH FEBRUARY THE
18 7TH IS THE DATE THAT I HAVE REQUESTED FOR BOTH COUNSEL.

19 THE COURT: YOU'VE GOT IT.

20 MR. NETTLES: I'LL SUBMIT YOU AN ORDER.

21 MR. MAULDIN: THANK YOU, JUDGE.

22 YOUR HONOR, THE NEXT MOTION IS THE MOTION TO
23 PRODUCE JUROR NCIC INFORMATION. AND LET ME PREFACE THE
24 MOTION -- THERE ARE A NUMBER OF JUROR-RELATED MOTIONS -- I
25 HAVE ONLY ASKED FOR A DISPOSITION OF THIS ONE AT THIS TIME

1 BECAUSE OF THE NATURE OF THIS PARTICULAR MOTION.

2 THE JUROR LIST HAS BEEN SELECTED AND THE
3 PROSECUTION HAS AVAILABLE TO THEM AND ACCESS TO AN NCIC
4 PRINTOUT THAT DEMONSTRATES ANY PRIOR OFFENSES, CONVICTIONS,
5 ARRESTS THAT EACH OF THE INDIVIDUAL JURORS MIGHT HAVE HAD.
6 AND THEY DO THAT, AND THEY CUSTOMARILY DO THAT, UNIFORMLY.
7 WE -- THEY THEIR ABILITY TO DO THAT IS UNDER SOME CONTRACT
8 WITH THE PEOPLE THAT PRINT THOSE THINGS OUT.

9 WE DO NOT HAVE ACCESS TO THAT. AND WHAT WE, IN
10 EACH OF OUR CASES DO, IS WE REQUEST THAT THAT INFORMATION
11 THEN BE, WHEN IT IS RECEIVED BY THEM, IT THEN BE PROVIDED TO
12 US, EITHER THROUGH THE COURT TO PROTECT THEIR CONTRACT.
13 WE'RE NOT INTERESTED IN JEOPARDIZING THEIR ACCESS. WE JUST
14 SIMPLY WANT THE SAME CRIMINAL HISTORY INFORMATION ON
15 PROSPECTIVE JURORS. AND THAT'S WHAT THIS MOTION ENTAILS.
16 AND WE DON'T THINK THAT IT'S REALLY OF ANY PROBLEM OTHER
17 THAN THEY JUST HAVE TO RUN A COPY.

18 THE COURT: ALL RIGHT.

19 MR. AIRIAL: WE CONSENT.

20 THE COURT: THEY CONSENT. RUN IT THROUGH THE
21 COURT. NOW, THE QUESTION IS, WHAT TIME FRAME DO YOU WANT
22 THIS?

23 MR. AIRIAL: WE PRINT THE RECORDS ONLY AFTER THE
24 JUROR RESPONDS. WE DON'T PRINT THE RECORDS OF EVERY JUROR
25 BECAUSE OVER 50 PERCENT OF THEM DON'T RESPOND. WHEN THEY

1 RESPOND, WHEN SHE GETS THE QUESTIONNAIRE---

2 THE COURT: LET ME ASK YOU THIS. WHY DO YOU NEED
3 TO GET IT ON 200 PEOPLE? I MEAN, WHY CANT YOU GET IT ON --
4 WELL, HOWEVER YOU WANT TO DO IT, THAT'S FINE. JUST GIVE IT
5 TO ME AND I'LL SHARE IT WITH THE DEFENDANTS AT THE
6 APPROPRIATE TIME.

7 MR. AIRIAL: ONCE WE RUN IT, WE'LL MAKE A COPY,
8 PASS IT TO THE COURT, AND THEN YOU CAN PASS IT TO MR.
9 MAULDIN.

10 THE COURT: OKAY. AND I'LL JUST PASS IT TO YOU
11 THAT WAY. WHENEVER HE RUNS IT, I'LL GET IT, I'LL PASS IT C
12 TO YOU. OKAY?

13 MR. MAULDIN: FOR JURORS WHO RESPOND, IS THAT WHAT
14 WE'RE SAYING?

15 THE COURT: RIGHT.

16 MR. MAULDIN: ALL RIGHT.

17 THE COURT: AND IF THEY RESPOND THE DAY OF
18 FEBRUARY THE 7TH, WE'LL RUN IT THAT DAY.

19 MR. MAULDIN: RIGHT.

20 MR. AIRIAL: YES, SIR.

21 MR. MAULDIN: SO, THE ISSUE, IT WILL GO FROM THE
22 SOLICITOR TO THE COURT TO THE DEFENSE?

23 THE COURT: RIGHT.

24 MR. MAULDIN: ALL RIGHT. THANK YOU, YOUR HONOR.

25 THE COURT: ANYTHING ELSE ON THAT, MR. AIRIAL?

1 MR. AIRIAL: NO, SIR.

2 MR. MAULDIN: YOUR HONOR, THE NEXT MOTION IS A
3 MOTION WHICH WE FILED ON OCTOBER 29TH. IT RELATES TO THE
4 PRODUCTION OF POLICE REPORTS. LET ME TAKE A MOMENT TO GIVE
5 YOU THE CHRONOLOGY THAT WE HAVE OPERATED IN THIS CASE. THE
6 DEFENSE MOTION FOR THE PRODUCTION OF POLICE REPORTS,
7 INCIDENTAL REPORTS OR INCIDENT REPORTS AND SUPPLEMENTALS WAS
8 FILED AND SERVED ON MARCH 12TH OF '04. THE STATE RESPONSE
9 TO OUR ORIGINAL MOTION FOR PRODUCTION WAS MAY 19TH OF '04.
10 WE HAD A HEARING BEFORE YOU SIX DAYS LATER ON MAY THE 25TH.
11 AND AT THAT HEARING YOU ISSUED AN ORDER.

12 AND THIS IS YOUR ORDER FILED JULY 13TH, WRITTEN
13 ORDER, AND IT IS PARAGRAPH NUMBER 3 OF THAT ORDER, WHERE YOU
14 IN NO UNCERTAIN TERMS SPECIFICALLY EXCEPT THE STATE'S
15 STATEMENT THAT THEY HAVE PROVIDED US WITH THEIR ENTIRE FILE
16 THAT THEY WILL CONTINUE TO PROVIDE US WITH THEIR ENTIRE
17 FILE. ALSO AT THAT HEARING THE STATE REPRESENTED THAT THEY
18 HAD WRITTEN ALL AGENCIES INVOLVED IN THIS CASE AND REQUESTED
19 THAT ALL MATERIAL BE SENT TO THEM. THIS WAS BACK IN MAY.

20 AFTER HEARING BOTH SIDES IN THIS ISSUE, THE COURT
21 ORDERED THE STATE TO PRODUCE ALL INFORMATION AS IT WAS
22 RECEIVED ESSENTIALLY DURING THE PENDENCY OF THE CASE. AND
23 WE HAVE RECEIVED SINCE THAT TIME. -- THE STATE HAS PROVIDED
24 ON FIVE OCCASIONS DURING THIS CASE PACKAGES OF MATERIAL.
25 THE LATEST BEING THE DAY BEFORE YESTERDAY. WE GOT SOME

1 MATERIAL THE DAY BEFORE YESTERDAY. NOWHERE IN THAT MATERIAL
2 ARE THE REPORTS, RECORDS, NOTES, SUMMARIES, OR ANY
3 REFERENCES TO WORK MATTER OF AGENT, SLED AGENT, DR. PAMELA
4 CRAWFORD.

5 WHAT IS IN THAT RECORD AND MATERIAL IS THAT THE
6 DAY OF THE OFFENSE AFTER BEING INTERVIEWED BY LAW
7 ENFORCEMENT, CHRIS WILLIAMS WAS AT LENGTH INTERVIEWED BY DR.
8 CRAWFORD, A PSYCHIATRIST. THAT INTERVIEW WAS AT THE REQUEST
9 OF DEPUTY SOLICITOR STROM, I UNDERSTAND FROM THE MATERIALS
10 THAT I'VE READ. THAT TRANSCRIPT OF THAT INTERVIEW HAS BEEN
11 PROVIDED TO US. WE'VE GOT THE QUESTIONS, ANSWERS;
12 QUESTIONS, ANSWERS THAT WERE DONE.

13 I'LL TELL YOU WHAT WE DO NOT HAVE AND WE ARE
14 ASKING THAT THIS COURT ORDER THE SOLICITOR FORTHWITH TO
15 PRODUCE IT IMMEDIATELY, ARE THE FOLLOWING MATTERS. SHE
16 INTERVIEWED OUR CLIENT AND CERTAINLY DURING THE PERIOD OF
17 THAT INTERVIEW SHE WOULD HAVE MADE SOME SORT OF REPORT,
18 REFERENCE, NOTES, OR SOMETHING. SHE THEN LEFT OUR CLIENT
19 AND INTERVIEWED OUR CLIENT'S PARENTS AT THEIR RESIDENCE OR
20 AT THEIR RESIDENCES. SHE, WE UNDERSTAND FROM THE MATERIAL
21 THE STATE HAS PROVIDED TO US, LATER INTERVIEWED OUR CLIENT
22 AGAIN. SHE THEN WENT TO ATLANTA AND INTERVIEWED OUR
23 CLIENTS'S SISTER AT HER RESIDENCE.

24 WE HAVE SURMISED THAT FROM THE INFORMATION WE HAVE
25 BEEN PROVIDED. BUT WHAT HAS NOT BEEN PROVIDED ARE THE

1 REPORTS, RECORDS, NOTES, OR WHAT HAVE YOU THAT WOULD HAVE
2 BEEN PRODUCED AS A RESULT OF THIS INVESTIGATION BY PAMELA
3 CRAWFORD. AND I DON'T KNOW WHAT PROCEDURES SLED OPERATES
4 UNDER, AND I DON'T KNOW IF MR. AIRIAL HAS NOTIFIED THEM AND
5 SHE JUST SIMPLY HAS NOT TURNED THEM OVER TO HIM, I DON'T
6 KNOW. BUT WHAT I DO KNOW IS THAT WE DON'T HAVE IT. AND WE
7 ARE NOW LESS THAN TWO MONTHS FROM TRIAL AND THIS PROCESS HAS
8 BEEN GOING ON FOR MONTHS. AND IT IS CRITICAL, OBVIOUSLY,
9 IT'S CRITICAL INFORMATION. SO WE ARE ASKING THAT ANY, THAT
10 AGENT PAMELA CRAWFORD AND/OR SLED OR WHOEVER, IF THEY
11 HAVEN'T TURNED THE MATERIAL OVER TO MR. AIRIAL, TO DO IT
12 IMMEDIATELY.

13 NOW, THE LAST THING I'LL MENTION IN CONJUNCTION
14 WITH THIS PARTICULAR AREA, JUDGE, ON AUGUST THE 24TH IN
15 ANTICIPATION OF RELUCTANCE BY LAW ENFORCEMENT TO COOPERATE,
16 EVEN WITH THE REQUEST OF THE SOLICITOR TO GIVE HIM THE
17 FILES, WE SENT A LETTER TO MR. AIRIAL -- AND I'LL SUBMIT A
18 COPY TO BOB NOW -- HE, I EXPECT WOULD HAVE SEEN IT. WE ARE
19 GOING TO SUBMIT THIS AS A THREE-PAGE EXHIBIT IN SUPPORT OF
20 OUR REQUEST.

21 AND WHAT THIS LETTER DOES, JUDGE, IS IT IS A DRAFT
22 OF A LETTER WRITTEN BY ME AND A DRAFT OF A MEMORANDUM
23 WRITTEN BY ME THAT I AM SUGGESTING THAT THE SOLICITOR SEND
24 TO ALL LAW ENFORCEMENT AGENCY INVOLVED IN THIS CASE. NOW, I
25 REALIZE THAT THIS IS UP TO MR. AIRIAL TO DO IT. I'M JUST

1 MAKING THIS AS A SUGGESTION IN MY LETTER DATED AUGUST THE
2 24TH 2004. NOW, THAT'S FIVE MONTHS AGO. AND I STILL HAVE
3 NOT GOTTEN THE PAM CRAWFORD RECORDS AS I STAND HERE TODAY
4 UNLESS THEY'RE SITTING AT MY BACK AT MY DESK SINCE I LEFT
5 TOWN.

6 I ASK, YOUR HONOR, THAT BE MARKED AS AN EXHIBIT.

7 THE COURT: DONNA, IF YOU'LL MARK THAT AS
8 DEFENDANT'S EXHIBIT ONE AS TO MOTION CONCERNING PRODUCTION
9 OF POLICE REPORTS, AND THEN GIVE IT TO THE CLERK. SHE CAN
10 FILE IT IN THE FILE IN GREENVILLE.

11 (WHEREUPON, THE COPY OF THE LETTER SENT TO MR.
12 AIRIAL FROM MR. MAULDIN IS MARKED AND RECEIVED INTO EVIDENC
13 AS DEFENDANT'S EXHIBIT NO. 1.)

14 LET ME ASK YOU A QUESTION. ISN'T PAMELA CRAWFORD
15 IN PRIVATE PRACTICE IN COLUMBIA?

16 MR. MAULDIN: PARDON ME?

17 THE COURT: ISN'T SHE A PSYCHIATRIST IN PRIVATE
18 PRACTICE IN COLUMBIA? OR WHO IS SHE?

19 MR. NETTLES, YOU CAN PROBABLY ANSWER THAT.

20 MR. NETTLES: THAT'S THE SAME PERSON.

21 THE COURT: THE SAME PERSON? IS THIS THE SAME
22 PERSON THAT DOES ALL THE SEXUAL ABUSE, THE PREDATOR
23 EVALUATIONS FOR THE STATE?

24 MR. NETTLES: YES, SIR. YES, SIR. YES, SIR.

25 THE COURT: USED TO DO IT FOR DEFENDANTS, NOW THE

1 DO IT FOR THE STATE?

2 MR. NETTLES: YES, SIR. AND SHE'S GOT A CONTRACT,
3 I MEAN, I DON'T WANT TO SPEAK FOR THE SOLICITOR'S OFFICE,
4 BUT MY UNDERSTANDING IS SHE'S GOT A CONTRACT WITH SLED. SHE
5 DOESN'T WORK FULL TIME FOR SLED, BUT SHE'S GOT A CONTRACT
6 FOR SLED. AND BASED ON MY READING OF THE DISCOVERY AND MR.
7 MAULDIN'S READING OF THE DISCOVERY, WHEN SHE CAME AND MET
8 WITH MR. WILLIAMS, SHE WAS DOING SO IN HER CAPACITY AS A
9 SLED AGENT.

10 MR. MAULDIN: THAT'S WHAT THE RECORDS THAT WE DO
11 HAVE SHOW US.

12 THE COURT: OKAY.

13 MR. MAULDIN: AND LIKE MR. NETTLES REPRESENTS TO
14 THE COURT, WE'RE NOT REAL SURE WHO HER EMPLOYER IS; BUT WE
15 KNOW THAT IN HER CAPACITY IN THIS CASE SHE WAS IDENTIFIED AS
16 A SLED AGENT IN THE POLICE RECORDS.

17 THE COURT: ANYTHING ELSE?

18 MR. MAULDIN: PSYCHIATRIST WORKING FOR SLED.

19 THE COURT: I THINK I UNDERSTAND. IS THERE
20 ANYTHING ELSE? SOLICITOR AIRIAL, SOLICITOR STROM, WHOEVER
21 WANTS TO RESPOND.

22 MR. AIRIAL: AFTER ALL OF THIS PRESENTATION THAT
23 JOHN IS SO ADEPT AT TO CREATE SOME AIR OF CLANDESTINE---

24 THE COURT: WELL, YOU'RE VERY ADEPT AT IT, TOO.

25 MR. AIRIAL: WELL, I MEAN, NOT QUITE AS ADEPT AS

1 HE, BECAUSE I DON'T HAVE THE CONSPIRATORIAL THEORY.

2 THE COURT: OH, OKAY. ALL RIGHT.

3 MR. AIRIAL: BUT, LET ME GO BACK AND TELL YOU WHAT
4 WE DO KNOW. NUMBER ONE, THESE INTERVIEWS WITH MR. WILLIAMS
5 WERE TRANSCRIBED, WERE TAPED AND THEY WERE TRANSCRIBED. THE
6 TAPES AND THE TRANSCRIPTIONS WERE PROVIDED TO THEM, OKAY?
7 IT'S NOT LIKE WE WERE HIDING MS. CRAWFORD.

8 THE COURT: I UNDERSTAND.

9 MR. AIRIAL: AND THERE'S SUPPLEMENTALS ALL
10 THROUGHT THE FILE IN WHICH LAW ENFORCEMENT REFERS TO "DR.
11 CRAWFORD COMING COMING AT MY REQUEST AND MRS. STROM'S
12 REQUEST TO EVEN INTERVIEW THE DEFENDANT."

13 WHAT HAS NOT BEEN PROVIDED BECAUSE WE DON'T HAVE
14 IT, NOT BECAUSE WE DIDN'T ASK FOR IT -- WE DID ASK FOR IT,
15 WE JUST DIDN'T GET IT FOR WHATEVER REASON -- SHE HAS AN
16 INTERVIEW SCHEDULED AS A RESULT OF MR. NETTLES' REQUEST TO
17 MEET WITH HER AND GO OVER ALL OF THE INFORMATION SHE HAS,
18 WHICH SHE'S CONSENTED TO AND IT'S SCHEDULED FOR THE 28TH.
19 AT THAT TIME, WHILE THAT WAS BEING TALKED ABOUT, WE TALKED
20 TO HER ABOUT HER NOTES. DID SHE HAVE NOTES OF THIS
21 INTERVIEW. ALTHOUGH WE HAD SENT A LETTER TO SLED REQUESTING
22 THAT ALL THOSE NOTES BE SENT TO US. WE DIDN'T GET THEM, BUT
23 AS FOLLOW UP, AS WE DO, WE FOLLOWED UP AND ASKED HER IF
24 SHE'S GOT NOTES. SHE HAS NOW PROVIDED THOSE TO US AND WE'RE
25 COPYING THEM, AND THE'LL BE PROVIDED TO THEM PROBABLY

1 TOMORROW OR ON FRIDAY.

2 THE COURT: OKAY.

3 MR. AIRIAL: THERE ARE NO REPORTS. SHE HAS NO
4 REPORT, WHICH I'D LIKE TO ADDRESS THAT JUST A MOMENT.

5 THE COURT: WELL, PLEASE ADDRESS THAT. I'LL BE
6 GLAD TO HEAR FROM YOU.

7 MR. AIRIAL: PARDON?

8 THE COURT: I'LL BE GLAD TO HEAR ABOUT THE
9 REPORTS, RECORDS, AND NOTES.

10 MR. AIRIAL: YEAH. THERE ARE NO REPORTS. AND
11 THERE ARE NO REPORTS BECAUSE I TOLD HER, "DON'T DO A
12 REPORT." I DON'T WANT TO SEE A REPORT UNTIL SUCH TIME AS I
13 WANT A REPORT. AND THE REASON IS THIS, WE GOT TO TALK ABOUT
14 THIS. WE TALKED ABOUT -- I'VE TALKED ABOUT THIS WITH OTHER
15 JUDGES. WE GOT TO GET THIS THING ON A LEVEL PLAYING FIELD,
16 JUDGE..

17 NOW, I'VE GIVEN THE WHOLE FILE, I'VE GIVEN THEM
18 ALL THE INFORMATION, I'VE GIVEN HIM EVERY PIECE OF PAPER I
19 HAVE, LET THEM INTERVIEW EVERY WITNESS THEY WANTED TO
20 INTERVIEW. NOW, I KNOW THEY GOT WITNESSES OUT THERE THAT
21 THEY'VE TALKED TO THAT THEY TELL DON'T DO REPORTS. I DON'T
22 TELL MY PATHOLOGIST NOT TO DO REPORTS. I DON'T TELL MY
23 BALLISTICS PEOPLE NOT TO DO REPORTS. WE DO REPORTS OF
24 EVERYTHING. AND PAM CRAWFORD IS WORKING ON A VERY DETAILED
25 REPORT AND IT WILL BE READY IN TIME OF TRIAL. BUT WE WANT

1 TO KNOW IN ADVANCE OF TRIAL SUFFICIENTLY SO THAT WE CAN
2 PREPARE FOR CROSS EXAMINATION WHO THE WITNESSES ARE, HAVE
3 THEM GENERATE A REPORT, OR HAVE THEM---

4 THE COURT: WE'RE GETTING ASIDE. THAT'S WHAT YOU
5 WANT. LET ME GO BACK TO HIS MOTION FIRST, THEN I'LL HEAR
6 WHAT YOU WANT.

7 MR. AIRIAL: AND THAT'S WHY---

8 THE COURT: MY UNDERSTANDING YOU'RE GOING TO
9 PROVIDE ALL THE NOTE OF PAM CRAWFORD TOMORROW OR THE NEXT
10 DAY, RIGHT?

11 MR. AIRIAL: THAT'S CORRECT.

12 THE COURT: ALL RIGHT. CONTINUE TO DO THAT.
13 OKAY?

14 MR. AIRIAL: YES, SIR. WE WILL. WE CONTINUE TO
15 ASK ALL WITNESSS EVERY TIME WE MEET WITH THEM. AND WE FIND
16 STUFF ALL THE TIME.

17 THE COURT: ALL RIGHT. MR. MAULDIN---

18 MR. MAULDIN: THAT'S ALL BY TOMORROW? IS THAT---

19 THE COURT: HE SAID THEY'RE RUNNING COPIES OF IT
20 NOW.

21 MR. MAULDIN: TOMORROW OR FRIDAY. OKAY. ALL
22 RIGHT.

23 THE COURT: NOW, MR. MAULDIN, DOES THAT MEET YOUR
24 MOTION?

25 MR. MAULDIN: THAT TAKES CARE OF THAT MOTION.

1 THE COURT: NOW, AS TO MR. AIRIAL'S MOTION, MR.
2 AIRIAL, I ASSUME THAT'S AN ORAL MOTION YOU'RE MAKING FOR THE
3 COURT TODAY?

4 MR. MAULDIN: NO, IT ISN'T.

5 MR. AIRIAL: WE ACTUALLY FILED ONE YESTERDAY IN
6 WRITING AND FAXED TO YOU. AND WE CAN ARGUE IT LATER IF YOU
7 WANT. I JUST WANT TO RAISE THE ISSUE TO GIVE YOUR HONOR---

8 THE COURT: LET ME TELL YOU MY CONCERN. OKAY?
9 AND WHAT I DON'T WANT TO HAPPEN. YOU TELL ME PAM CRAWFORD
10 IS PREPARING A DETAILED REPORT. THAT'S FINE. I DON'T WANT
11 YOU TO WALK IN TWO OR THREE DAYS BEFORE TRIAL AND AND THEM
12 THE DETAILED REPORT AND THEY DON'T HAVE SUFFICIENT TIME TO
13 LOOK AT IT, TALK TO THEIR PEOPLE ABOUT IT PREPARATION FOR
14 TRIAL. AND THEN WE WINDING UP LOOKING AT A MOTION TO
15 CONTINUE THE CASE. THAT'S WHAT I DON'T WANT TO HAPPEN.

16 SO, MY QUESTION TO YOU IS, WHEN IS SHE GOING TO
17 HAVE THIS DETAILED REPORT AVAILABLE?

18 MR. AIRIAL: COULD I RESPOND BEFORE I ANSWER THAT
19 QUESTION?

20 THE COURT: YES, SIR.

21 MR. AIRIAL: I THINK WHAT'S GOOD FOR ME IS GOOD
22 FOR THEM.

23 THE COURT: WELL, WE'LL TALK ABOUT THAT IN A
24 MINUTE. I WANT TO DEAL WITH THE PAM CRAWFORD PROBLEM RIGHT
25 NOW, AND THEN WE'LL LISTEN TO YOUR PROBLEM. AND I.

1 UNDERSTAND YOUR PROBLEM.

2 MR. AIRIAL: I DON'T KNOW WHEN SHE'LL HAVE A
3 REPORT DONE. I'LL HAVE TO ASK. I WOULD ASSUME---

4 THE COURT: MR. NETTLES IS MEETING WITH HER ON THE
5 28TH OF DECEMBER; IS THAT CORRECT?

6 MR. AIRIAL: THAT'S CORRECT.

7 THE COURT: IS THERE ANY REASON SHE CAN'T HAVE
8 THAT REPORT AVAILABLE BY THEN?

9 MR. AIRIAL: I DON'T KNOW. I HAVEN'T ASKED HER
10 ABOUT WHEN SHE WOULD HAVE IT READY. BUT I ASSUME---

11 THE COURT: SOLICITOR STROM, DO YOU HAVE A CAR
12 PHONE?

13 MS. STROM: I BEG YOUR PARDON?

14 THE COURT: DO YOU HAVE A PHONE WITH YOU?

15 MS. STROM: CELL PHONE? YES, SIR.

16 THE COURT: GO CALL MRS. CRAWFORD, FIND OUT WHEN
17 SHE CAN HAVE THIS REPORT AVAILABLE. PLEASE, IF YOU WOULD?

18 MS. STROM: YES, SIR, I'VE.

19 THE COURT: DO YOU HAVE HER NUMBER?

20 MS. STROM: YES, SIR.

21 THE COURT: CALL HER AND I WOULD LIKE TO HAVE IT
22 AVAILABLE BEFORE MR. NETTLES MEETS WITH HER, BECAUSE THAT
23 WOULD ENHANCE HIS MEETING TREMENDOUSLY. I THINK IT WOULD
24 SPEED THE PROCESS UP SOME. NOW---

25 MS. STROM: I'M JUST GOING TO STEP OUT THERE AND

1 DO IT.

2 (ASSISTANT SOLICITOR STROM EXITS THE COURTROOM.)

3 THE COURT: ALL RIGHT. NOW, MR. AIRIAL, WHAT DO
4 YOU SPECIFICALLY WANT FROM THEM CONCERNING THEIR WITNESSS
5 AND WHEN DO YOU WANT IT? AND I'LL HEAR FROM YOU, MR.
6 MAULDIN, JUST CALM DOWN. I'LL HEAR FROM YOU.

7 MR. MAULDIN: JUDGE, I WAS SERVED WITH THEIR
8 MOTION FOR MY RECORDS AT---

9 THE COURT: IF YOU DON'T WANT ME TO RULE TODAY I
10 WON'T, BUT LET ME HEAR HIM. HE WANTS TO TALK ABOUT IT.
11 I'VE GIVEN YOU THE OPPORTUNITY TO SAY SOMETHING. LISTEN TO
12 HIM? OKAY? SOLICITOR AIRIAL?

13 MR. AIRIAL: I WANT THE SAME THING. I WANT TO
14 KNOW WHO THE WITNESSS ARE.

15 THE COURT: WHAT KIND OF TIME FRAME DO YOU WANT
16 THEM IN?

17 MR. AIRIAL: IT DOESN'T MATTER, GIVE THEM TO ME IN
18 THE NEXT 30 DAYS. IT DOESN'T MATTER. GIVE ME AT LEAST TWO
19 WEEKS BEFORE TRIAL. I'D LIKE TO BE ABLE TO MEET WITH THE
20 PEOPLE, JUST LIKE MR. NETTLES AND MR. MAULDIN ARE DOING WITH
21 MS. CRAWFORD. I'D LIKE TO HAVE A REPORT FROM THEM, JUST
22 LIKE YOU'RE MAKING MS. CRAWFORD DO, I WANT YOU TO MAKE THEM
23 DO THAT, PRODUCE A REPORT. AND I WANT TO FIND OUT WHAT
24 THEIR UNDERLYING BASIS FOR ANY OPINIONS ARE, WHAT RECORDS
25 THEY USE, ETC. ETC. SO THAT WHEN WE GET ON CROSS

1 EXAMINATION, I DON'T HAVE TO TAKE A HALF-A-DAY BREAK WITH
2 EACH ONE OF THESE EXPERTS TO FIGURE OUT WHAT THEY USED FOR
3 THEIR OPINION.

4 THAT'S ALL I WANT.

5 THE COURT: ALL RIGHT. I UNDERSTAND.

6 MR. MAULDIN, IF YOU WANT TO ADDRESS IT TODAY,
7 FINE; OR IF YOU WANT TO WAIT UNTIL A LATER TIME TO RESEARCH
8 IT AND ADDRESS IT THEN, I'LL DO IT BOTH WAYS. YOU CAN TELL
9 ME YOUR GUT REACTION TODAY AND LATER ON YOU CAN SUBMIT
10 SOMETHING TO ME IN WRITING. I'M NOT TRYING TO PUSH A
11 DECISION TODAY.

12 MR. MAULDIN: A COUPLE OF MATTERS JUST FOR THE
13 RECORD.

14 THE COURT: YES, SIR.

15 MR. MAULDIN: AT 4:28 YESTERDAY AFTERNOON,
16 ACCORDING TO THE CLERK OF COURT'S STAMP, THE MOTION THAT MR
17 AIRIAL IS NOW ARGUING BEFORE YOU WAS FILED. SOMETIME
18 BETWEEN 4:28 AND 5:00 IT WAS SERVED ON ME. I BELIEVE THAT
19 IT WOULD BE REASONABLE FOR ME TO BE ALLOWED AN OPPORTUNITY
20 TO RESPOND.

21 THE COURT: I JUST TOLD YOU I WOULD GIVE YOU THAT
22 OPPORTUNITY IF YOU WANT IT?

23 MR. MAULDIN: I MEAN THEY DO IT EVERY TIME AND
24 THEY HAVE NOT HAD A JUDGE ORDER IT YET.

25 MR. AIRIAL: YES, SIR. THAT'S NOT CORRECT.

1 THE COURT: LET ME TELL YOU THIS. I DON'T
2 PARTICULARLY CARE WHAT THEY DO EVERY TIME AND I DON'T
3 PARTICULARLY CARE WHAT OTHER JUDGES HAVE RULED. MY QUESTION
4 TO YOU, DO YOU NEED ADDITIONAL TIME TO RESPOND?

5 MR. AIRIAL: YES, SIR.

6 THE COURT: OKAY, THAT'S FINE. YOU CAN HAVE IT.

7 MR. MAULDIN: IN FACT, WE'D ASK FOR -- I THINK
8 THEY HAVE WHAT, 30 DAYS RESPOND TO OUR MOTIONS? I CAN'T
9 REMEMBER HOW LONG. WHATEVER TIME THEY HAVE TO RESPOND TO
10 OUR MOTIONS, I'D LIKE TO RESPONDS TO THAT ONE. I THINK IT'S
11 EITHER 20 DAYS OR 30 DAYS.

12 THE COURT: I THINK IT'S 20.

13 MR. MAULDIN: IT'S IN THE ORDER, YOUR HONOR, AND I
14 WILL COMPLY.

15 THE COURT: OKAY, THAT'S FINE.

16 MR. MAULDIN: THANK YOU, JUDGE.

17 THE COURT: NOW, ARE YOU GOING TO WANT ORAL
18 ARGUMENTS ON THAT POINT.

19 MR. MAULDIN: YES, SIR. YES, SIR.

20 THE COURT: THAT'S FINE. SOLICITOR AIRIAL, WE'LL
21 HEAR IT AT APPROPRIATE TIME.

22 MR. AIRIAL: THAT'S FINE WITH ME. YOU'VE
23 PRACTICED LAW ENOUGH TO KNOW, I JUST NEED SOME TIME AHEAD OF
24 TIME TO DO WHATEVER INTERVIEWING I WANT TO DO AND---

25 THE COURT: I UNDERSTAND.

1 MR. MAULDIN: WHAT WE INTEND TO DO IS FILE
2 ADDITIONAL MOTIONS, YOUR HONOR, AND WE ALSO HAVE ABOUT 30
3 MORE MOTIONS THAT ARE NOW PENDING THAT WOULD HAVE TO BE
4 HEARD IN JANUARY. SO, THERE WILL BE A HEARING DATE IN
5 JANUARY.

6 THE COURT: WE'LL SET A HEARING DATE TODAY BEFORE
7 YOU LEAVE. OKAY?

8 MR. MAULDIN: YES, SIR.

9 THE COURT: ALL RIGHT.

10 WHAT'S YOUR NEXT MOTION? MOTION TO PRODUCE STORE
11 SURVEILLANCE VIDEO?

12 MR. MAULDIN: THE NEXT MOTION, YOUR HONOR, IS THE
13 MOTION ALSO FOR PRODUCTION -- AND THIS RELATES TO THE
14 SURVEILLANCE VIDEO TAPES IN THE STORE AT THE TIME.

15 MR. AIRIAL: WE CONSENT.

16 MR. MAULDIN: PARDON?

17 MR. AIRIAL: WE'VE ALREADY MADE THAT AVAILABLE TO
18 HIM. IT'S IN PROPERTY AND EVIDENCE. WE'VE TOLD HIM THAT IF
19 ANYTHING HE WANTS TO REVIEW IN PROPERTY AND EVIDENCE, HE CAN
20 GO DOWN THERE AND LOOK AT IT. SO, IT'S JUST A MATTER OF HIM
21 GOING TO REVIEW IT. AND WE'VE PROVIDED HIM A CONDENSED COPY
22 ALREADY OF THE PART THAT APPLIES TO THE DEFENDANT. BUT HE'S
23 CERTAINLY WELCOME SEE THE WHOLE 30-HOUR FILM.

24 THE COURT: WHEN YOU WANT TO LOOK AT IT?

25 MR. MAULDIN: HERE'S WHAT WE NEED.

1 THE COURT: LET ME ASK YOU. HAVE YOU ALL GONE ON
2 THE SCENE, YET? WE WERE GOING TO DO IT LATE ONE NIGHT. HAS
3 THAT BEEN DONE?

4 MR. MAULDIN: NO.

5 THE COURT: BECAUSE THAT WAS SUPPOSED TO HAVE BEEN
6 SET UP, WE DEALT WITH THAT MONTHS AGO.

7 MR. MAULDIN: WELL, YOU ORDERED IT MONTHS AGO. I
8 MEAN, IT DIDN'T HAVE A DEADLINE ABOUT WHEN WE WERE SUPPOSED
9 TO DO IT.

10 THE COURT: BUT THAT HASN'T BEEN DONE YET?

11 MR. MAULDIN: NO, SIR.

12 THE COURT: OKAY. ALL RIGHT.

13 MR. MAULDIN: AND WE HAVE A REASON FOR THAT.

14 HERE'S WHAT WE'VE BEEN GIVEN. WE'VE BEEN GIVEN A VIDEO
15 CASSETTE THAT HAS PROBABLY FIVE TO EIGHT MINUTES OF TAPE ON
16 IT. THE INCIDENT, AS YOU MAY AT THIS POINT BE AWARE,
17 OCCURRED OVER AS MUCH AS AN HOUR-AND-A-HALF TO TWO-HOUR
18 PERIOD. YOU KNOW, IN TERMS OF FIRST 911 CALL, EMS, CALL.
19 IN OTHER WORDS, THIS WAS AN EXTENDED PERIOD OF TIME. THERE
20 WERE A NUMBER OF CAMERAS IN THAT STORE. IF MR. -- IF WHAT
21 MR. AIRIAL IS SAYING IS WE HAVE IN OUR PROPERTY AND EVIDENCE
22 VIDEO TAPES, WE -- WHAT WE WANT IS JUST COPIES OF THEM.

23 THE COURT: YOU WANT THE WHOLE HOUR AND HALF IF
24 IT'S AVAILABLE---

25 MR. MAULDIN: IN OTHER WORDS, IF HE'S---

1 THE COURT: ---FROM ALL CAMERAS; IS THAT RIGHT?

2 MR. MAULDIN: WE JUST WANT HIM TO PROVIDE US WHAT
3 HE'S SAYING HE'S PROVIDING US.

4 THE COURT: YOU WANT AN HOUR AND A HALF FROM ALL
5 CAMERAS, RIGHT?

6 MR. MAULDIN: RIGHT. JUST THE COVERAGE.

7 THE COURT: WELL, FIRST OF ALL, LET'S FIND OUT IF
8 IT'S EVEN AVAILABLE. SOLICITOR, IS THAT AVAILABLE?

9 MR. AIRIAL: THEY ARE ALL AVAILABLE. THERE IS A
10 PART OF OUR DISCOVERY PACKAGE. WE TOLD HIM IN OUR RESPONSE
11 THAT EVERYTHING IN PROPERTY AND EVIDENCE, AND IT'S ALL
12 LISTED RIGHT THERE, HE COULD REVIEW AT ANY TIME HE WANTED.

13 NOW, TO TELL ME TO MAKE HIM A COPY IS A LITTLE BIT
14 DIFFERENT THAN HIM GOING DOWN THERE. HE'S WELCOME TO GO
15 DOWN THERE AND SIGN IT OUT UNDER SOME COURT ORDER AND TAKE
16 IT BACK TO HIS OFFICE AND DO WHAT HE WANTS TO WITH IT, AS
17 LONG AS HE DOESN'T COMPROMISE THE CHAIN. BUT TO TELL US TO
18 MAKE A COPY OF 40 OR 50 TAPES IS A LITTLE BIT ABSURD. I
19 MEAN, YOU'RE TALKING ABOUT TWO HOURS ON 20 DIFFERENT
20 CAMERAS. THAT'S WHY WE HAVEN'T DONE THAT.

21 THE COURT: I UNDERSTAND. ALL RIGHT. MR.
22 MAULDIN, SPECIFICALLY WHAT DO YOU WANT FROM THE STATE? TELL
23 ME THAT.

24 MR. MAULDIN: WE ARE WILLING AT LEAST AT THIS
25 POINT, IF THIS COURT WILL GIVE US A COURT ORDER---

1 THE COURT: I'VE GIVE YOU A COURT ORDER TO HAVE
2 ACCESS TO IT.

3 MR. MAULDIN: ALLOW US TO TAKE OUT THESE TAPES,
4 WE'LL RETURN OUR OWN COPIES.

5 THE COURT: THAT'S FINE.

6 MR. MAULDIN: THAT TAKES CARE OF IT.

7 THE COURT: I'LL GIVE YOU A COURT ORDER TO GO DO
8 IT. YOU CAN RUN COPIES OF WHATEVER YOU NEED TO RUN. NOW,
9 UNDER THE PROVISIO THAT -- WAIT A MINUTE, UNDER THE PROVISIO
10 THAT IT'S NOT GOING TO BE ARGUING ABOUT ANY -- I DON'T THINK
11 HE NEEDS THE CHAIN, AS LONG AS IT CAN BE IDENTIFIED OR
12 HASN'T BEEN TAMPERED WITH. THE CHAIN OF EVIDENCE IS NOT
13 GOING TO BE QUESTIONED AT TRIAL.

14 MR. MAULDIN: RIGHT. AS TO OUR CONNECTION, THAT'S
15 RIGHT. WE DON'T KNOW ABOUT THE CHAIN OF CUSTODY ON OTHER
16 MATTERS.

17 THE COURT: I UNDERSTAND. BUT I'M TALKING ABOUT
18 WHEN YOU TAKE IT, FROM THE TIME YOU TAKE IT TO THE TIME YOU
19 RETURN IT, THAT'S NOT GOING TO BE QUESTIONED AT TRIAL. I
20 WANT THAT IN THE ORDER.

21 MR. MAULDIN: THAT'S RIGHT.

22 MR. AIRIAL: AND IT WON'T BE ALTERED IN ANY WAY.

23 THE COURT: WELL, I'LL TRUST HIM AS AN OFFICER OF
24 THE COURT IT'S NOT GOING TO BE ALTERED, OKAY?

25 MR. AIRIAL: I'M NOT WORRIED ABOUT HIM. I'M

1 WORRIED ABOUT IF HE SENDS IT SOMEWHERE.

2 THE COURT: THAT'S FINE. I MEAN, I'LL TRUST HIM
3 AS AN OFFICER OF THE COURT, IT WON'T BE ALTERED.

4 MR. MAULDIN: I MEAN, WE OBVIOUSLY WOULD BE
5 HORRIFIED AT THE IDEA IT WAS TO BE ALTERED. WE'RE JUST
6 GOING TO HAVE TO HAVE IT---

7 THE COURT: I JUST SAID, "I TRUST YOU NOT TO ALTER
8 IT."

9 MR. MAULDIN: HE DOESN'T WANT TO COPY IT I'M GOING
10 TO HAVE TO.

11 THE COURT: MOVE ON. WHAT'S NEXT?

12 MR. MAULDIN: THANK YOU, JUDGE.

13 THE NEXT MOTION, YOUR HONOR, INVOLVES THE
14 ADMISSIBILITY OF UNADJUDICATED CHARGES. AND MR. NETTLES IS
15 GOING TO PRESENT THAT TO YOU, YOUR HONOR.

16 THE COURT: OKAY. MR. NETTLES?

17 MR. NETTLES: THE SITUATION WE HAVE HERE IS THIS.
18 AND I THINK IT'S ROUGHLY SIX WEEKS OR A PERIOD OF TIME PRIOR
19 TO THIS INCIDENT HAPPENING AT THE BI-LO. THERE WAS AN
20 ALTERCATION BETWEEN MR. WILLIAMS AND MANDY, THE VICTIM IN
21 THIS CASE. AND WHAT -- SUBSEQUENT THAT HE WAS CHARGED AND
22 HE WAS CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL.
23 THE MOTION READS THAT WE WANT TO KEEP OUT ALL PRIOR BAD
24 ACTS.

25 I'VE LOOKED AT THIS, AND -- I MEAN, MY TAKE ON

1 THIS IS THIS. IS THAT THE GOVERNMENT THAT -- AND I'VE READ
2 THE DISCOVERY. THERE IS A WITNESS WHO SEES MANDY COMING IN,
3 SHE'S BEEN BEAT UP. I BELIEVE THERE'S ALSO BEEN EVIDENCE OF
4 ONE OF THE STORE EMPLOYEES, I'M TALKING ABOUT SIX WEEKS
5 PRIOR TO THE INCIDENT WE'RE HERE FOR TODAY, THAT A STORE
6 EMPLOYEE SEES THAT CHRIS IS THERE, AND CHRIS GETS CHARGED,
7 AND CHRIS GETS A BOND SET, AND CHRIS GETS OUT ON BOND. ALL
8 OF THAT I WOULD SAY AGREE THE GOVERNMENT CAN PRODUCE IN THE
9 PENALTY PHASE.

10 THE ONLY PART THAT I BELIEVE, UNDER THE LAW, WE'RE
11 RIGHTFUL IN ASKING BE KEPT OUT, IS THE FACT THAT THE CHARGE
12 IS ASSAULT AND BATTERY WITH INTENT TO KILL. IN OTHER WORDS,
13 YOU KNOW, I DON'T OBJECT TO, WITH PROPER EVIDENCE, TO THEM
14 PUTTING UP -- THEY SAW HER GO OUT THERE. THEY SAW HER MEET
15 WITH HIM. THEY SAW HER COME BACK. SHE HAD BEEN HIT. I
16 DON'T MIND THEM PUTTING UP THAT CHRIS WAS ARRESTED AS A
17 RESULT OF THAT. I DON'T MIND THEM PUTTING UP THAT HE WAS
18 OUT ON BOND, ALL OF THAT. SPECIFICALLY WHAT WE OBJECT TO IS
19 THE CHARGE ASSAULT AND BATTERY WITH INTENT TO KILL. FOR
20 THAT WE'RE RELYING ON THREE CASES.

21 PRIMARILY A CASE STATE VERSUS ARTHUR. AND
22 THAT'S A DIFFERENT SPELLING, IT'S SPELLED A-R-T-H-E-R.
23 AND THE CITE ON THAT IS 350 S.E. 2D, 187. I'M GOING TO
24 PROVIDE THE STATE WITH A COPY OF THAT. I'LL PROVIDE THE
25 COURT WITH A COPY, YOUR HONOR.

1 THE COURT: YES, SIR, PLEASE DO.

2 MR. NETTLES: ESSENTIALLY WHAT HAPPENED IN THAT
3 CASE WAS THIS. IT WAS A A CAPITAL CASE OUT OF HORRY COUNTY.
4 WHAT HAPPENED WAS THE DEFENDANT HAD BEEN CHARGED WITH MURDER
5 IN -- PRIOR TO THIS TRIAL.

6 THE COURT: LET ME ASK YOU REAL QUICK. MR.
7 AIRIAL, ARE YOU PLANNING ON GOING INTO THE CHARGE OF ASSAULT
8 AND BATTERY WITH INTENT TO KILL? EVERYTHING ELSE THEY AGREE
9 TO EXCEPT FOR WHAT HE WAS CHARGED WITH. ARE YOU PLANNING ON
10 DOING THAT AT TRIAL OR HAVE YOU DECIDED YET? THE ONLY THING
11 HE OBJECTS TO ABOUT THE PRIOR INCIDENT WITH THE VICTIM IS
12 GOING IN TO THE CHARGE OF ASSAULT AND BATTERY WITH INTENT TO
13 KILL. ARE YOU PLANNING ON DOING THAT? IF YOU NOT PLANNING
14 ON DOING THAT, IT'S A MOOT ISSUE.

15 MR. AIRIAL: THAT HE WAS ACTUALLY SERVED WITH A
16 WARRANT?

17 THE COURT: HE WAS CHARGED WITH ASSAULT AND
18 BATTERY WITH INTENT TO KILL. THAT'S WHAT HE'S OBJECTING TO
19 COMING INTO EVIDENCE. IF YOU'RE NOT PLANNING ON DOING THAT
20 THEN, I DON'T NEED TO LISTEN TO HIM ANY MORE.

21 MR. AIRIAL: WE HAVE NOT MADE THAT DECISION. WE
22 DO INTEND TO GO INTO THE FACTS AND THE FACTS---

23 THE COURT: HE SAID HE DOESN'T OBJECT TO THAT?

24 MR. AIRIAL: WELL, BUT THE FACTS HE STATED ARE NOT
25 THE COMPLETE FACTS; BUT THERE MAY BE FACTS AS HE UNDERSTANDS

1 THEM, BUT THERE ARE OTHER FACTS.

2 THE COURT: LET ME TELL YOU WHERE I'M COMING FROM
3 ON YOUR MOTION, MR. NETTLES. I UNDERSTAND YOUR ARGUMENT AND
4 I'LL LET YOU FINISH IN A MINUTE. I DON'T KNOW WHO THIS
5 WITNESS IS, I DON'T KNOW WHAT SHE'S GOING TO SAY. FOR ME TO
6 EFFECTIVELY RULE ON THIS MOTION, WE'RE GOING TO HAVE TO TAKE
7 SOME IN-CAMERA TESTIMONY.

8 MR. MAULDIN: THAT'S FINE.

9 THE COURT: NOW, LET ME HEAR YOU ON THE CASES REAL
10 QUICK. BUT IF MR. AIRIAL IS NOT PLANNING ON GOING INTO
11 THAT, IT'S A MOOT ISSUE. NOW, IF HE IS, SET UP A TIME,
12 WE'LL TAKE SOME IN-CAMERA TESTIMONY, WE'LL GET THE WITNESS
13 IN HERE, SEE WHAT THEY'RE GOING TO SAY, AND I'LL MAKE A
14 DECISION. I DON'T KNOW HOW I COULD POSSIBLY MAKE A DECISION
15 ON THIS ISSUE WITHOUT HEARING IN-CAMERA TESTIMONY FROM THE
16 PARTICULAR WITNESS YOU'RE CONCERNED WITH.

17 MR. NETTLES: I AGREE.

18 THE COURT: NOW, LET ME HEAR YOU ON THE CASES REAL
19 QUICK.

20 MR. NETTLES: ON THE CASE LAW, STATE VERSUS
21 ARTHER, WHICH CASE I HANDED UP, I'VE GOT TWO OTHER CASES
22 THAT RELATE TO THE WHOLE ADMISSIBILITY OF AN AFFIDAVIT,
23 WHICH IS SORT OF A -- BUT STATE VERSUS ARTHUR, THE DEFENDANT
24 PRIOR TO GOING ON TRIAL -- THE DEFENDANT HAD BEEN CHARGED
25 WITH MURDER IN NORTH CAROLINA. HE PLED TO INVOLUNTARY

1 MANSLAUGHTER OR VOLUNTARY MANSLAUGHTER, A LESSER CHARGE. AT
2 TRIAL, OVER OBJECTION, THE GOVERNMENT INTRODUCED THE FACT HE
3 HAD BEEN CHARGED WITH MURDER IN NORTH CAROLINA. AND THE
4 SOUTH CAROLINA SUPREME COURT RULED THAT THAT WAS, YOU KNOW,
5 CLEARLY THE PREJUDICIAL ERROR OUTWEIGHED THE PROBATIVE.

6 AND I THINK WE'VE GOT A VERY SIMILAR SITUATION
7 HERE. I MEAN, AT THIS POINT HE HAS NOT BEEN CONVICTED OF
8 ASSAULT AND BATTERY WITH INTENT TO KILL. HE HAS BEEN MERELY
9 CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL. AND
10 IT'S -- TO BE CLEAR ABOUT WHAT MY ARGUE IS, IS THAT THAT IS
11 -- FIRST OF ALL, THERE HASN'T BEEN ANY DETERMINATION OF THE
12 CHARGE. SO, WE DON'T HAVE ANY AN ISSUE OVER LIABILITY. I
13 AGREE THAT ANYTHING ANYBODY WANTS TO COME IN TALK ABOUT THAT
14 THEY SAW DIRECTLY IS A DIFFERENT ISSUE, AN ENTIRELY
15 DIFFERENT ISSUE; BUT THAT THE CHARGE IS VERY ANALOGOUS TO
16 INTRODUCING THE FACT THAT SOMEONE HAD BEEN CHARGED WITH
17 MURDER IN STATE VERSUS ARTHUR.

18 THE COURT: ALL RIGHT. SO WE'RE ALL ON THE SAME
19 PAGE, WHAT YOU DISAGREE WITH IS THE STATE GETTING UP AND
20 SAYING HE WAS CHARGED WITH ASSAULT AND BATTERY WITH INTENT
21 TO KILL AS A RESULT OF THIS INCIDENT, ASSUMING WHATEVER
22 OTHER TESTIMONY, THERE MAY BE SOME OBJECTABLE MATERIAL IN
23 THAT THAT YOU DON'T KNOW ABOUT AT THIS TIME.

24 MR. NETTLES: RIGHT. RIGHT.

25 THE COURT: SOLICITOR, DO YOU UNDERSTAND WHERE

1 HE'S COMING FROM?

2 MR. AIRIAL: I UNDERSTAND.

3 THE COURT: MAKE A DECISION WHETHER YOU'RE GOING
4 TO DO IT OR NOT DO IT.

5 MR. AIRIAL: I DOUBT VERY SERIOUSLY WE GO THERE.
6 I DOUBT SERIOUSLY---

7 THE COURT: JUST MAKE A DECISION AND LET ME KNOW.
8 AND IF YOU ARE, I'LL RULE ON THE MOTION. AND I MAY TAKE
9 SOME IN-CAMERA TESTIMONY ON THAT PARTICULAR ISSUE IF YOU ARE
10 PLANNING ON USING IT. OKAY? IF YOU'RE NOT, IT'S A MOOT
11 ISSUE? SO WHEN ARE YOU GOING TO LET US KNOW?

12 MR. AIRIAL: WE WILL PROBABLY BE ABLE TO LET YOU
13 KNOW THAT BY THE END OF THE FIRST WEEK OF JANUARY, JANUARY
14 10TH.

15 THE COURT: OKAY. THAT'S FINE.

16 MR. AIRIAL: LET ME MAKE SURE I'M UNDERSTANDING.
17 I THINK YOU'RE GOING -- LET ME -- HE'S OBJECTING TO US USING
18 THE PHRASE OR HAVING AN AN OFFICER TESTIFY, I THINK THIS IS
19 WHAT HE SAID.

20 THE COURT: WHAT HE WAS CHARGED WITH, ASSAULT AND
21 BATTERY WITH INTENT TO KILL.

22 MR. AIRIAL: A WARRANT WAS TAKEN FOR ASSAULT AND
23 BATTERY WITH INTENT TO KILL. ASSUMING WE DON'T HAVE ANY
24 INTEREST IN PUTTING UP THE EXISTENCE OF THE WARRANT OR THE
25 FACT THAT A WARRANT WAS TAKEN, WE DO REPRESENT TO THE COURT

1 AT THIS TIME WE INTEND TO GO INTO THAT INCIDENT.

2 THE COURT: HE'S ALREADY AGREED THAT YOU CAN DO
3 THAT.

4 MR. NETTLES: I THINK UNDER THE LAW, THERE'S
5 NOTHING I CAN DO ABOUT THAT. TRUST ME, I WOULD IF I THOUGHT
6 I COULD.

7 THE COURT: I MEAN, HE AGREES WITH THAT. ALL
8 RIGHT? WE ON THE SAME PAGE WITH THAT, SOLICITOR?

9 MR. AIRIAL: YES, SIR.

10 THE COURT: AND, MR. NETTLES?

11 MR. NETTLES: YES, SIR.

12 THE COURT: LET ME KNOW IF YOU, SOLICITOR, IF YOU
13 SAY YOU WANT TO GO INTO IT, WHENEVER WE SET UP THESE
14 MOTIONS, BRING ME THE PARTICULAR WITNESS SO I CAN HEAR WHAT
15 THEY'RE GOING TO HAVE TO SAY IN-CAMERA BEFORE I MAKE A
16 DECISION. OKAY? YOU UNDERSTAND WHAT I'M ASKING?

17 MR. AIRIAL: YES, SIR. WELL, THERE MAY BE
18 SEVERAL.

19 THE COURT: WELL, THAT'S FINE. THAT'S FINE.

20 MR. MAULDIN: YOUR HONOR, THE LAST MOTION THAT WE
21 WOULD HAVE FOR YOU TO TAKE INTO CONSIDERATION -- AND I KNOW
22 YOU'RE JUST AS HAPPY AS YOU CAN BE TO SEE ME STAND BACK
23 UP -- BUT THE MOTION IS FOR A MORE DEFINITE STATEMENT OF
24 EVIDENCE IN AGGRAVATION.

25 THE COURT: HAVEN'T WE ALREADY ADDRESSED THIS

1 ISSUE ONE TIME BEFORE?

2 MR. MAULDIN: NO, SIR.

3 THE COURT: WE DID NOT?

4 MR. MAULDIN: NO, SIR.

5 THE COURT: I THOUGHT WE DID THE SOLICITOR SAID HE
6 WOULD GIVE IT TO YOU AT THE APPROPRIATE TIME.

7 MR. MAULDIN: NO, SIR.

8 MS. STROM: WE GAVE A NOTICE, A WRITTEN NOTICE OF
9 EVIDENCE IN AGGRAVATION; AND AT THAT TIME WE -- PART OF MY
10 ARGUE WAS, JUDGE, AS SOON AS I GIVE IT TO HIM, HE'S GOING TO
11 MAKE A MOTION FOR A MORE DEFINITE STATEMENT.

12 AND YOU SAID, "WELL, GO AHEAD AND GIVE IT TO HIM
13 AND THEN WE'LL HEAR THAT MOTION.

14 MR. MAULDIN: THAT'S RIGHT.

15 MS. STROM: SO, WE DID HAVE A CONVERSATION ABOUT
16 IT, JUDGE. IT WAS MENTIONED.

17 THE COURT: THANK YOU MA'AM.

18 MR. MAULDIN: THAT'S RIGHT. WHAT THE THE SEQUENCE
19 IS THIS, JUDGE. WE FILED TO REQUIRE THEM TO PRODUCE THEIR
20 EVIDENCE IN AGGRAVATION. THEY -- YOU TOLD THEM TO PRODUCE
21 THEIR EVIDENCE IN AGGRAVATION I BELIEVE IT WAS BY DECEMBER
22 SEVENTH I BELIEVE. ON THE AFTERNOON OF DECEMBER OR ACTUALLY
23 LATE MORNING -- NO, AFTERNOON OF DECEMBER 6TH, WE WERE
24 SERVED WITH WHAT SHOULD BE A STATE'S EXHIBIT.

25 THE COURT: MR. MAULDIN, I APPRECIATE YOU -- I

1 DON'T NEED TO GO INTO ALL THE HISTORICAL BACKGROUND. HERE'S
2 THE STATE'S NOTICE OF EVIDENCE OF AGGRAVATION, PULL IT OUT
3 AND SPECIFICALLY TELL ME WHAT YOU NEED TO BE MORE DEFINITE
4 AND CERTAIN. I APPRECIATE YOUR EFFORT, BUT LET'S JUST GET
5 TO THE POINT.

6 MR. MAULDIN: NUMBER ONE.

7 THE COURT: NUMBER ONE. YOU GOT ONE, TWO, THREE,
8 FOUR, FIVE, AND SIX. TELL ME WHAT YOU NEED EXPANDED UPON.
9 OKAY?

10 MR. AIRIAL: ONE AND TWO ARE STATUTORY AGGRAVATORS
11 AND ARE SUFFICIENT NOTICE TO US. NUMBER THREE, THE PRIOR
12 CRIMINAL HISTORY OF THE DEFENDANT. WE NEED ADDITIONAL
13 DISCLOSURE OF WHAT THEY INTEND TO USE AS PRIOR CRIMINAL
14 HISTORY. AND THE REASON IS THE WORD "HISTORY" IS AMBIGUOUS.

15 THE COURT: I UNDERSTAND. SOLICITOR, WHAT ARE YOU
16 PLANNING ON USING ON CRIMINAL HISTORY?

17 MR. AIRIAL: I HAVE NO IDEA, JUDGE.

18 THE COURT: WELL, THEN, WHEN CAN YOU FIND OUT?
19 WHAT TIME FRAME CAN YOU FIND OUT BECAUSE I THINK THEY'RE
20 ENTITLED TO THAT INFORMATION.

21 MR. AIRIAL: WELL, WE'VE ALREADY IDENTIFIED ONE.

22 THE COURT: OKAY.

23 MR. AIRIAL: WE'VE ALREADY IDENTIFIED ONE PRIOR
24 CRIMINAL HISTORY, WHICH IS---

25 THE COURT: ALL RIGHT. CAN YOU GIVE THEM THAT

1 INFORMATION BY 10TH OF JANUARY AT THE SAME TIME. BECAUSE I
2 THINK THEY'RE ENTITLED TO THAT.

3 MR. AIRIAL: YES, WE CAN. ALTHOUGH I DON'T THINK
4 THEY'RE ENTITLED TO IT, WE'LL GIVE IT TO THEM IF YOU ORDER
5 IT.

6 THE COURT: OKAY. I'M GOING TO ORDER IT. OKAY,
7 WHAT YOU WANT ON NUMBER FOUR?

8 MR. MAULDIN: NUMBER FOUR READS, "THE CHARACTER,
9 CHARACTERISTICS OF THE DEFENDANT, AND THE CIRCUMSTANCES OF
10 THE CRIME."

11 INITIALLY THAT IS TWO DIFFERENT THINGS. THE
12 CHARACTER, CHARACTERISTICS OF THE DEFENDANT AND
13 CIRCUMSTANCES OF THE CRIME. WE NEED A NOTICE IF WE ARE
14 GOING TO HAVE THE TO RESPOND AS GUARANTEED BY DUE PROCESS.
15 WE NEEDS TO KNOW WHAT CHARACTER, CHARACTERISTICS EVIDENCE
16 THEY INTEND TO BRING WITH REGARD TO OUR CLIENT.

17 THE COURT: SOLICITOR, WHEN CAN YOU MAKE THAT
18 AVAILABLE? WHEN CAN YOU EXPAND UPON -- I MEAN, THIS REALLY
19 DOESN'T SAY ANYTHING. I MEAN, THE CHARACTER OF THE
20 DEFENDANT AND THE CIRCUMSTANCES OF THE CRIME. THAT COULD BE
21 ANYTHING. WHEN CAN YOU MAKE IT MORE DEFINITE AND CERTAIN?

22 MR. AIRIAL: I DON'T THINK HE'S ENTITLED TO
23 ANYTHING MORE DEFINITE THAN THAT.

24 THE COURT: YES, YOU CAN, FACTUALLY. I MEAN,
25 INSTEAD OF DRAWING CONCLUSIONS, EXPANDING FACTUALLY ON WHAT

1 YOU'RE REFERRING TO.

2 MR. AIRIAL: HERE'S THE PROBLEM RUN INTO WHEN WE
3 START DOING, WE START DOWN THIS SLIPPERY SLOPE OF -- IF YOU
4 MAKE ME BE SPECIFIC, THEN WHAT HE COMES AROUND LATER AND
5 ARGUES IS THAT WE DIDN'T TELL HIM THIS; AND THEREFORE, WE
6 EXCLUDED. SO THIS ISN'T A NOTICE AND SPECIFIC. THIS IS A
7 NOTICE IN SPECIFIC AGGRAVATION OR MORE DEFINITE AND CERTAIN.
8 THIS IS AN EXCLUSIONARY EFFORT BY THE DEFENSE TO PUT ME IN A
9 BOX.

10 THE COURT: I DON'T VIEW IT AS AN EXCLUSIONARY
11 EFFORT. OKAY? AND I WILL NOT VIEW IT THAT WAY. I THINK
12 IT'S JUST A REQUEST TO TRY TO FIND OUT WHAT YOU'RE TALKING
13 ABOUT. AND I'M NOT GOING TO VIEW IT AS AN EXCLUSIONARY
14 REQUEST. I UNDERSTAND WHAT YOU TELL ME IN A WEEK, TWO
15 MONTHS, OR A MONTH FROM NOW, SOMETHING ELSE MAY COME UP THAT
16 YOU WANT TO GO INTO. THAT'S FINE. I'M NOT GOING TO EXCLUDE
17 THAT, JUST LET HIM KNOW ABOUT IT.

18 MR. AIRIAL: WELL, THE PROBLEM IS THAT IF I START
19 SPECIFYING WHAT I THINK MIGHT BE COVERED UNDER THIS -- AND
20 IT EXISTS AS OF TODAY OR EXISTS AS OF THE DATE I'VE
21 SPECIFIED, THEN SOMETHING ELSE COMES UP THAT I HAVEN'T
22 THOUGHT OF IN THAT CONTEXT, THEN I'M GOING TO RUN INTO THE
23 ARGUMENT THAT YOU KNEW THAT, YOU SHOULD HAVE KNOWN THAT, AND
24 THEREFORE, YOU CAN'T USE THAT.

25 THE COURT: I JUST SAID, ALL YOU GOT TO DO WHEN IT

1 COMES UP TO YOUR MIND WHEN YOU'RE TAKING A SHOWER ONE
2 MORNING, LET HIM KNOW. OKAY? THAT'S ALL I'M TELLING YOU.

3 MR. AIRIAL: I'LL DO IT IF YOU ORDER ME, BUT I
4 THINK THAT'S GOING WAY BEYOND THE BOUNDS OF THE LAW TO MAKE
5 ME BE THAT SPECIFIC. HE KNOWS WHAT HIS CLIENT'S
6 CHARACTERISTIC IS. IT'S FOUR HOURS OF INTERVIEW BY PAM
7 CRAWFORD. IF I'VE GOT TO GO THROUGH THAT WHOLE TAPE AND
8 PICK OUT EVERY LITTLE CHARACTER FLAW OF THIS DEFENDANT IN
9 THERE.

10 THE COURT: I DON'T THINK HE'S ASKING THAT. WHAT
11 ARE YOU SPECIFICALLY ASKING FOR, MR. MAULDIN.

12 MR. MAULDIN: YOUR HONOR, THE FACT OF THE MATTER
13 IS THAT THE PROSECUTION IN A CASE OF THIS NATURE, WHEN THEY
14 WANT TO PRESENT SOMETHING TO A JURY, THEY HAVE TO PRESENT
15 INFORMATION. IT HAS TO BE TESTIMONY, EVIDENCE. IT CAN'T
16 JUST BE A VAGUE ARGUMENT. HE'S GOT TO HAVE A -- SOMETHING
17 HAS GOT TO BE TESTIFIED TO.

18 THE COURT: WHAT ARE YOU SPECIFICALLY ASKING HIM
19 TO GIVE TO YOU. YOU WANTS FACTS AND CIRCUMSTANCES? TELL ME
20 WHAT YOU WANT.

21 MR. MAULDIN: THEY TOLD ME BY THIS NOTICE THAT
22 THEY HAVE EVIDENCE OF THE CHARACTER OR CHARACTERISTICS OF
23 THE DEFENDANT THAT THEY INTEND TO PRESENT AS EVIDENCE IN THE
24 SENTENCING PHASE OF THIS CASE. AND I'M JUST SAYING WHAT
25 EVIDENCE? I MEAN, RIGHT NOW, THAT'S ALL I HAVE. I HAVE

1 WHAT'S ON THIS PAPER. SO, THAT IS NOT NOTICE ACCORDING TO
2 THE CONSTITUTION.

3 MR. AIRIAL: IT IS NOTHING MORE THAN WHAT IS IN
4 THAT ENTIRE CASE FILE THAT WE HAVE GIVEN HIM. WE DON'T HAVE
5 ANYTHING IN OUR POSSESSION OTHER THAN OUR INTERPRETATION OF
6 WHAT'S IN THAT CASE FILE. AND FOR YOU OR HIM TO SUGGEST
7 THAT THE STATE HAS TO INTERPRET THAT FOR HIM IS CARRYING
8 THIS TOO FAR. HE'S GOT THE SAME EVIDENCE. HE CAN GO IN
9 THERE AND READ IT. HE CAN GO IN THERE AND FIGURE OUT WHAT
10 I'M GOING TO DO WITH IT OR WHAT HE THINKS I'M GOING TO DO
11 WITH IT. BUT I HAVE GIVEN HIM THE WHOLE CASE FILE,
12 EVERYTHING UP UNTIL THE MOMENT, EXCEPT PAM CRAWFORD'S NOTES,
13 AND WE'RE GOING TO GIVE HIM THAT: SO, HE OUGHT TO BE ABLE
14 TO GO IN THERE AND FIGURE IT OUT HIMSELF.

15 I THINK IT'S UNFAIR FOR YOU TO ORDER ME HIM TO
16 EVEN ASK YOU TO ORDER ME GIVE HIM WHAT OUR STRATEGY IS, WHAT
17 OUR PRESENTATION IS GOING TO BE. I DON'T GET ANYTHING FROM
18 THE OTHER SIDE; AND, YET, HE'S COMING DOWN, WANTS ME TO TAKE
19 MY CASE FILE LINE BY LINE AND GO THROUGH IT, TELL HIM WHAT
20 THE CHARACTERISTICS OF THE DEFENDANT ARE WHEN HE CAN GO
21 THROUGH IT. I CERTAINLY DON'T KNOW WHAT THE CHARACTERISTICS
22 OF THE DEFENDANT, ARE OTHER THAN WHAT'S IN THAT FILE. I
23 HAVE NOTHING OUTSIDE THE FILE. EVERYTHING I'VE GOT IS IN
24 THERE.

25 SO, FOR YOU TO TELL ME TO DO IT, I'VE GOT TO GO IN

1 THERE AND INTERPRET IT AND THEN GIVE IT TO HIM. AND THEN HE
2 GETS TO SAY, "WELL, THAT'S ALL YOU SAID YOU WERE GOING TO
3 USE. NOW, YOU DIDN'T SAY THIS, SO YOU CAN'T USE IT."

4 THE COURT: I JUST TOLD YOU, I WOULDN'T CONSIDER
5 IT EXCLUSIONARY. OKAY?

6 MR. AIRIAL: I KNOW, BUT CAN SEE WE'RE GOING TO
7 GET ON THAT SLIPPERY SLOPE. BUT IF I HAVE TO GO THROUGH THE
8 FILE, SIT DOWN LABORIOUSLY AND PICK OUT EVERY DETAIL I THINK
9 MAY BE INTERPRETED BY A JURY AS CHARACTER FLAW OR A
10 CHARACTERISTIC OF THE DEFENDANT, I THINK IS WELL ENTITLED TO
11 RECEIPT OF THE DEATH PENALTY; THEN I HAVE AM HAVING TO GIVE
12 NOTICE OF THINGS RIGHT UNDER HIS NOSE AND HE CAN LOOK AT.
13 AND HE'S GOT THE DEFENDANT WITH HIM. AND HE CAN TALK TO
14 HIM. I CAN'T.

15 SO, I THINK THE LAW DIDN'T INTEND THAT. THAT'S
16 WHY THE LAW HAS BEEN PRESERVED IN THESE CASES ABOUT MAKING
17 US GIVE MORE SPECIFIC NOTICE. AND I WOULD OBJECT TO IT. IF
18 YOU ORDER ME TO DO IT, OF COURSE I'M GOING TO DO IT. BUT IT
19 WOULD BE ONE HECK OF A BURDEN FOR ME TO HAVE TO GO THROUGH.
20 I'M TELLING YOU, THIS CASE FILE IS A COUPLE OF BOXES.
21 I HAVE TO DO THAT BETWEEN NOW AND JANUARY SEVENTH. I'M JUST
22 DOING HIS WORK FOR HIM, JUDGE. AND HE'S GOT FOUR NEW
23 LAWYERS, AND I WOULD LIKE THEM TO DO SOMETHING. THEY CAN
24 SWEEP THROUGH THE THING AND FIGURE OUT WHAT WE'RE GOING TO
25 DO.

1 THE COURT: THEY PROBABLY WON'T BE HERE UNTIL
2 FEBRUARY.

3 MR. AIRIAL: WELL, THAT'S ALL RIGHT. THEY'LL HAVE
4 SOMETHING TO DO WHILE WE'RE PICKING THE JURY.

5 (ASSISTANT SOLICITOR STROM RETURNS TO THE
6 COURTROOM)

7 MR. MAULDIN: FINALLY, JUDGE, WE'RE NOT ASKING FOR
8 ANY STRATEGIC ISSUES, STRATEGY. HERE IS REALLY THE WAY YOU
9 TRY A CASE. WHEN YOU GET READY TO HAVE A HEARING, WHEN YOU
10 GET READY TO HAVE A CASE, YOU SUBPOENA WITNESSES, YOU
11 PREPARE DOCUMENTS, YOU GET READY TO PRESENT EVIDENCE,
12 TESTIMONY AND EVIDENCE.

13 AND THAT'S ALL WE'RE ASKING. WHAT IS IT IN THIS
14 DOCUMENT WHERE HE SAYS CHARACTER OR CHARACTERISTICS OF THE
15 DEFENDANT THAT HE WOULD ACTUALLY CALL A WITNESS TO TESTIFY
16 TO? IT'S NOT A STRATEGIC QUESTION. HOW HE BENDS IT OR
17 INTERPRETS IT IS UP TO HIM IN HIS ARGUMENT. BUT WHAT I'M
18 ASKING, IF HE INTENDS TO CALL WITNESSES OR PRESENT
19 DOCUMENTARY EVIDENCE OR EXHIBITS AT THE SENTENCING PHASE, HE
20 NEEDS TO TELL US WHAT THEY ARE SO THAT WE CAN REBUT UNDER
21 OUR OWN STATE LAW, UNDER THE RIDDLE CASE, UNDER THE DUE
22 PROCESS GUARANTEES OF THE CONSTITUTION. THAT'S ALL I'M
23 ASKING FOR. I'M NOT ASKING FOR STRATEGIC ISSUES.

24 THE COURT: OKAY.

25 MR. MAULDIN: YOUR HONOR, WITH REGARD TO NUMBER

1 FIVE, I WILL TELL YOU THERE ARE A NUMBER OF MOTIONS
2 REGARDING VICTIM IMPACT TESTIMONY THAT WE HAVE PENDING.
3 WE'RE WILLING TO RESERVE RULING -- IN OTHER WORDS, LET'S
4 SKIP THAT ONE BECAUSE THAT ONE WILL BE DECIDED BASED UPON
5 YOUR RULINGS ON THOSE OTHER MOTIONS, WHICH WE ANTICIPATE
6 SOMETIME IN THE MIDDLE OF JANUARY.

7 THE COURT: OKAY.

8 MR. MAULDIN: THE LAST ONE, YOUR HONOR, IS FUTURE
9 DANGEROUSNESS OF THE DEFENDANT. AND I DON'T WHAT ELSE I
10 NECESSARILY WOULD NEED TO MENTION TO YOU, OTHER THAN WHAT
11 WAS COVERED IN THE CHARACTER OR CHARACTERISTICS.

12 THE COURT: WELL, DON'T WE DO THIS. WHY DON'T WE
13 POSTPONE HEARING THAT UNTIL MR. NETTLES MEETS WITH PAM
14 CRAWFORD? I MEAN, THAT MAY VERY WELL ADDRESS THOSE ISSUES.
15 IF IT DOESN'T, I'LL BE GLAD TO HEAR IT AT THE SAME TIME WE
16 HEAR NUMBER FIVE. OKAY?

17 MR. MAULDIN: I'LL BE GLAD TO.

18 THE COURT: THAT MAY CLEAR THAT UP COMPLETELY. I
19 DON'T KNOW IF IT WILL OR NOT, BUT IT POSSIBLY CAN.

20 MR. MAULDIN: WELL, I TELL YOU ONE THING, YOU
21 MIGHT ALSO KEEP IN MIND REGARDING NUMBER SIX, WE'VE ALREADY
22 DETERMINED THAT IT'S A LIFE WITHOUT PAROLE CASE. THAT'S
23 WHAT THE JURY IS GOING TO BE TOLD AT VOIR DIRE. AND THEN
24 THE QUESTION BECOMES, IS THERE AN ISSUE OF FUTURE
25 DANGEROUSNESS TO BE PRESENTED TO THE JURY IF IT'S A LIFE

1 WITHOUT PAROLE CASE?

2 NOW, THERE IS A STATE CASE I BELIEVE THAT INVOLVES
3 DANGER TO INMATES. WE SPECIFICALLY RESERVE OUR OBJECTION TO
4 THIS COURT BEING HE WOULD BY THAT PRECEDENT. IN OTHER
5 WORDS, WE BELIEVE WITH ALL DUE RESPECT THAT THAT IS WAY OFF
6 BASE ON THE ISSUE OF FUTURE DANGEROUSNESS. SO, WE DO ASK
7 THAT THE COURT TAKE THIS INTO CONSIDERATION. WE'LL RESERVE
8 OUR PRESENTATION ON THAT UNTIL A LATER TIME.

9 THE COURT: LET'S DO THAT. UNTIL AFTER HE MEETS
10 WITH DR. CRAWFORD. ON DR. CRAWFORD, DID YOU GET A HOLD OF
11 HER?

12 MS. STROM: NO, SIR, I DID NOT. I PAGED HER. I
13 CALLED HER OFFICE. IT'S MY UNDERSTANDING SHE IS IN FLORIDA
14 AT WALT DISNEY WORLD WITH HER FAMILIES. I WAITED FOR HER TO
15 CALL BACK. I LEFT A MESSAGE FOR HER TO CALL ME BACK WITH
16 HER OFFICE; AND, AS I SAID, I PAGED HER.

17 THE COURT: WHEN DO YOU THINK, WHAT'S A REASONABLE
18 TIME PERIOD YOU THINK SHE COULD GET THIS REPORT DONE? I
19 KNOW IT'S CHRISTMAS AND SHE'S ON VACATION.

20 MR. AIRIAL: WE'LL JUST TELL HER TO HAVE IT READY
21 FOR THEIR MEETING.

22 THE COURT: THAT'S WHAT I WOULD LIKE TO---

23 MR. AIRIAL: IF SHE CAN'T, WE'LL ADVISE THE COURT
24 DUE TO THE HOLIDAYS OR WHATEVER COMMITMENT SHE'S GOT, ADVISE
25 THE COURT.

1 MR. NETTLES: IF I COULD JUST SAY THIS. IF YOU
2 JUST LET ME KNOW, WE'LL DECIDE WHETHER WE NEED TO
3 RESCHEDULE. I MEAN, IF IT'S SOMETHING AND---

4 THE COURT: AND HE'LL JUST RESCHEDULE. OKAY?

5 MR. NETTLES: ---I'LL JUST SAY---

6 THE COURT: BUT DON'T RUN IT ON FOREVER. OKAY?
7 SOLICITOR STROM, TALK TO HER. IF SHE CAN'T HAVE IT BY THE
8 28TH, LET MR. NETTLES KNOW AND HE CAN RESCHEDULE IT. BUT
9 TALK TO HER AND REALISTICALLY -- I WANT IT BY JANUARY THE
10 10TH AT THE VERY LATEST.

11 MS. STROM: I CANNOT SEE FORESEE THAT AS PROBLEM,
12 JUDGE.

13 THE COURT: BY THE VERY LATEST, JANUARY 10TH. I'LL
14 IMPOSE THAT RESTRICTION ON HER. I WANT TO COOPERATE WITH
15 HER, BUT THE VERY LATEST JANUARY 10TH.

16 MS. STROM: SHE'S VERY COOPERATIVE.

17 THE COURT: I HOPE I DON'T HAVE TO GET INVOLVED IN
18 THAT AGAIN.

19 MS. STROM: I DON'T THINK SO.

20 THE COURT: ALL RIGHT.

21 MR. AIRIAL: I WOULD JUST URGE THE COURT TO
22 REMEMBER THIS COLLOQUY WE HAD WHEN IT COMES TIME TO DECIDE
23 ON MY MOTION TO GET REPORTS FROM THEM.

24 THE COURT: I UNDERSTAND YOUR ARGUMENT, SOLICITOR.

25 MR. NETTLES: AND YOUR HONOR, I REALIZE -- I WOULD

1 JUST POINT OUT, AND I REALIZE YOU'RE IN THE MIDST OF A CIVIL
2 CASE -- BUT THE PLAYING FIELD IS NOT SUPPOSED TO BE FAIR.
3 OKAY? THEY'RE THE GOVERNMENT. THEY'VE GOT ENHANCED DUTIES
4 THAT COME ASSOCIATED WITH THAT. I JUST WANT TO SAY THAT.

5 THE COURT: I UNDERSTAND THAT.

6 MR. MAULDIN: THEY'RE CALLED THE RULES OF
7 CRIMINAL PROCEDURE, JUDGE, NOT THE 705 CIVIL PROCEDURE.

8 THE COURT: IF YOU LOOK AT THE TECHNICAL RULES,
9 THE SOLICITOR HAS ALREADY GONE WELL PAST THOSE.

10 MR.. MAULDIN: YES, SIR.

11 THE COURT: IF YOU'RE GOING TO GET TECHNICAL ABOUT
12 THE RULES.

13 MR. MAULDIN: YOU TALKING ABOUT WHAT THEY HAVE
14 CONSENTED TO DO?

15 THE COURT: WHAT THEY HAVE CONSENTED TO DO. BUT
16 THAT'S NEITHER HERE NOR THERE.

17 MR. MAULDIN: WELL AND HE'S GOT HIS REASONS.

18 THE COURT: I UNDERSTAND.

19 MR. AIRIAL: I'M A FAIR-MINDED SOLICITOR.

20 THE COURT: I'M GOING TO SLEEP ON THIS THING ABOUT
21 THE CHARACTERISTICS. AND I'LL LET YOU KNOW BY LETTER. AND,
22 MR. AIRIAL, REGARDLESS OF WHAT I DO, I'M NOT ASKING YOU TO
23 GIVE HIM EVERY QUESTION OR EVERY INFORMATION YOU'RE GOING TO
24 ASK A WITNESS. WHAT I'M THINKING IS POSSIBLY A LITTLE MORE
25 SPECIFIC AS FAR AS THE SUBJECT AREA WHAT YOU'RE TALKING

1 ABOUT.

2 MR. AIRIAL: LET ME MAKE A STAB AT IT.

3 THE COURT: NOT SPECIFICALLY WITNESS BY WITNESS.
4 NOT GOING THROUGH THE FILE. YOU KNOW GENERALLY WHAT YOU'RE
5 PLANNING ON DOING, AND THAT'S WHAT I'M THINKING, SOLICITOR.

6 MR. AIRIAL: LET US MAKE A STAB AT IT. BY JANUARY
7 10TH, AFTER WE HAVE GOT OUR FINAL PREPARATIONS PRETTY WELL
8 DONE, AND I'LL MAKE A STAB AT IT, THEN HE CAN COME BACK AND
9 ARGUE ABOUT THAT.

10 THE COURT: WILL YOU DO THAT?

11 MR. AIRIAL: YES, SIR.

12 THE COURT: AND I'M NOT ASKING YOU -- I DON'T
13 EXPECT YOU TO GIVE HIM EVERY WITNESS, EVERYTHING YOU'RE
14 GOING TO ASK THE WITNESS OR ANYTHING LIKE THAT. BUT I DO
15 THINK HE'S ENTITLED TO SOMETHING A LITTLE MORE THAN JUST
16 CHARACTERISTICS.

17 MR. AIRIAL: I NORMALLY WOULD AGREE WITH YOU, BUT
18 IN THIS CIRCUIT WE GIVE THE WHOLE CASE FILE. HE KNOWS AS
19 MUCH ABOUT THIS CASE AS I DO.

20 THE COURT: I UNDERSTAND, PROBABLY AT THIS TIME
21 MORE.

22 MR. AIRIAL: PROBABLY MORE.

23 THE COURT: MIGHT NOT KNOW MORE THAN SOLICITOR
24 STROM THERE.

25 MS. STROM: NO, SIR.

1 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE
2 THAT WE CAN COVER TODAY?

3 MR. MAULDIN: NOTHING FURTHER ON THE RECORD, YOUR
4 HONOR.

5 * * * * * END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) CERTIFICATE OF REPORTER

3

4 I, THE UNDERSIGNED, DONNA M. BRADY, OFFICIAL COURT
5 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
6 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
7 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
8 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE
9 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL
10 SESSIONS FOR ANDERSON COUNTY, SOUTH CAROLINA ON THE 15TH DAY
11 OF DECEMBER, 2005.

12 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
13 NOR INTEREST TO ANY PARTY HERETO.

14

15

16

Donna Brady
DONNA M. BRADY

17

18

12/20/05
DATE

19

20

21

22

23

24

25