

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Williamsburg County

William Jeffrey Young, Circuit Court Judge

RECEIVED

SEP 28 2012

S.C. Supreme Court

TASHON SAMPSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

DAYNE C. PHILLIPS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

VOLUME ONE
PAGES 501-733

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN HARRIGAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
FINAL ANDERS BRIEF OF APPELLANT.....	647
OPINION NO. 2008-UP-524, Filed September 9, 2008	661
APPLICATION FOR POST-CONVICTION RELIEF	663
RETURN	682
POST-CONVICTION RELIEF HEARING TRANSCRIPT	691
ORDER OF DISMISSAL	712
CLERK OF COURT RECORDS	723

1 ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THIS
2 PROVISION OF CONSTITUTIONAL LAW MEANS THAT YOU CANNOT BE
3 COMPELLED OR REQUIRED TO TESTIFY IN THIS CASE.

4 THIS IS A PERSONAL PRIVILEGE AND NO ONE CAN WAIVE
5 THIS RIGHT EXCEPT YOU. YOU HAVE THE RIGHT NOT TO TESTIFY
6 BUT YOU ALSO HAVE THE RIGHT TO TESTIFY. THIS COURT WILL
7 GRANT YOU THE RIGHT TO FURTHER CONSULT WITH YOUR ATTORNEY
8 BEFORE YOU MAKE A FINAL DECISION.

9 IF YOU ELECT NOT TO TESTIFY, YOUR FAILURE TO TESTIFY
10 CANNOT BE USED BY THE STATE AS AN INFERENCE OF GUILT AND
11 YOUR FAILURE TO TESTIFY CANNOT BE CONSIDERED BY THE JURY
12 IN ITS DELIBERATIONS, AND I WILL CLEARLY INSTRUCT THE JURY
13 AS TO -- TO THAT LAW.

14 NOW, IF YOU ELECT TO TESTIFY AND WAIVE THE PRIVILEGE
15 EXTENDED TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION
16 OF THE UNITED STATES, I ADVISE YOU THAT YOU WILL THEN
17 ASSUME THE ROLE OF A WITNESS IN THIS CASE AND YOU WAIVE OR
18 GIVE UP YOUR CONSTITUTIONAL PRIVILEGES AGAINST
19 SELF-INCRIMINATION.

20 THIS MEANS THAT IF YOU VOLUNTARILY TAKE THE WITNESS
21 STAND AND TESTIFY, YOU SUBJECT YOURSELF TO THE SAME RULES
22 THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED AND
23 CROSS-EXAMINED ON ANY RELEVANT ISSUE AND YOU MAY BE
24 IMPEACHED AS TO THAT, THAT IS TO THE SAME EXTENT AS ANY
25 OTHER WITNESS, ALL OF WHICH IS SUBJECT, HOWEVER, TO OUR

1 RULES OF COURT AND LAW.

2 I FURTHER ADVISE YOU THAT IF YOU ELECT TO TAKE THE
3 WITNESS STAND AND TESTIFY THAT THE DECISION ON YOUR PART
4 MUST BE MADE FREELY AND VOLUNTARILY, KNOWINGLY AND
5 INTELLIGENTLY AND WITH KNOWLEDGE OF THE PROTECTIONS GIVEN
6 TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE
7 UNITED STATES AND WITH KNOWLEDGE OF THE CONSEQUENCES OF
8 YOUR ELECTION TO TESTIFY. DO YOU NEED TO FURTHER CONSULT
9 WITH YOUR ATTORNEY?

10 A YES, MA'AM.

11 Q YES? OKAY. I WILL ALLOW YOU TO DO THAT.

12 THE COURT: AT THIS TIME MR. WILSON, IF YOU WILL
13 PLEASE STAND.

14 (DEFENDANT WILSON STOOD.)

15 JOSEPH WILSON, AFTER BEING
16 DULY SWORN, TESTIFIED AS FOLLOWS:

17 EXAMINATION

18 BY THE COURT:

19 Q ALL RIGHT. MR. WILSON, I ADVISE YOU NOW THAT YOU
20 HAVE THE RIGHT TO INVOKE THE PROTECTIONS GIVEN TO YOU BY
21 THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED
22 STATES AND A SIMILAR COUNTERPART PROVISION IN THE
23 CONSTITUTION OF THE STATE OF SOUTH CAROLINA.

24 THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED
25 STATES PROVIDES IN PART NO PERSON SHALL BE COMPELLED IN

1 ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THIS
2 PROVISION OF CONSTITUTIONAL LAW MEANS THAT YOU CANNOT BE
3 COMPELLED OR REQUIRED TO TESTIFY IN THIS CASE.

4 THIS IS A RIGHT AND A PRIVILEGE WHICH THE LAW EXTENDS
5 TO YOU. IT'S A PERSONAL PRIVILEGE AND NO ONE CAN WAIVE IT
6 EXCEPT YOU. YOU HAVE THE RIGHT NOT TO TESTIFY BUT YOU
7 ALSO HAVE THE RIGHT TO TESTIFY.

8 THE COURT WILL GRANT YOU THE RIGHT TO FURTHER CONSULT
9 WITH YOUR ATTORNEY BEFORE YOU MAKE A FINAL DECISION. IF
10 YOU ELECT NOT TO TESTIFY, YOUR FAILURE TO TESTIFY CANNOT
11 BE USED BY THE STATE AS AN INFERENCE OF GUILT. AND YOUR
12 FAILURE TO TESTIFY CANNOT BE CONSIDERED BY THE JURY IN ITS
13 DELIBERATIONS, AND I WILL CLEARLY INSTRUCT THEM ON THAT
14 FACT.

15 NOW, IF YOU ELECT TO TESTIFY AND WAIVE THE PRIVILEGE
16 EXTENDED TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION
17 OF THE UNITED STATES, I ADVISE YOU THAT YOU WILL ASSUME
18 THE ROLE OF A WITNESS IN THE CASE AND YOU WAIVE OR GIVE UP
19 YOUR CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION.

20 THIS MEANS THAT IF YOU VOLUNTARILY TAKE THE WITNESS
21 STAND AND TESTIFY, YOU SUBJECT YOURSELF TO THE SAME RULES
22 THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED,
23 CROSS-EXAMINED ON ANY RELEVANT ISSUE IN THIS CASE AND YOU
24 MAY BE IMPEACHED TO THE SAME EXTENT AS ANY OTHER WITNESS
25 ALL OF WHICH IS SUBJECT, HOWEVER, TO OUR RULES OF LAW AND

1 COURT.

2 I FURTHER ADVISE YOU THAT IF YOU ELECT TO TAKE THE
3 WITNESS STAND AND TESTIFY, THAT THIS DECISION MUST BE MADE
4 FREELY AND VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY WITH
5 KNOWLEDGE OF THE PROTECTIONS THAT ARE GIVEN TO YOU BY THE
6 FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES
7 AND WITH KNOWLEDGE OF THE CONSEQUENCES OF YOUR ELECTION TO
8 TESTIFY. DO YOU NEED TO FURTHER CONSULT WITH YOUR
9 ATTORNEY?

10 A NO, MA'AM.

11 Q ALL RIGHT. HAVE YOU DISCUSSED THIS WITH YOUR
12 ATTORNEY?

13 A YES, MA'AM.

14 Q DO YOU UNDERSTAND WHAT I'VE EXPLAINED TO YOU?

15 A YES, MA'AM.

16 Q DO YOU HAVE ANY QUESTIONS ABOUT WHAT I HAVE EXPLAINED
17 TO YOU?

18 A NO, MA'AM.

19 Q ALL RIGHT. DO YOU WISH TO TESTIFY?

20 A NO, MA'AM.

21 Q ALL RIGHT. I NOTE FOR THE RECORD THAT THIS
22 DEFENDANT'S DECISION IS NOT TO TESTIFY. HE'S MAKING THIS
23 DECISION FREELY AND VOLUNTARILY, KNOWINGLY AND
24 INTELLIGENTLY AND WITH THE ADVISE OF COUNSEL. THANK YOU,
25 SIR. YOU MAY BE SEATED.

1 TASHON SAMPSON, AFTER BEING PREVIOUSLY
2 SWORN, TESTIFIED AS FOLLOWS:

3 EXAMINATION.

4 BY THE COURT:

5 Q MR. SAMPSON, HAVE YOU HAD A CHANCE TO FURTHER DISCUSS
6 THIS MATTER WITH YOUR ATTORNEY?

7 A YES, MA'AM.

8 Q ALL RIGHT. DO YOU UNDERSTAND EVERYTHING I HAVE
9 EXPLAINED TO YOU?

10 A YES, MA'AM.

11 Q DO YOU HAVE ANY QUESTIONS OF YOUR ATTORNEY ABOUT
12 ANYTHING THAT WE HAVE JUST BEEN OVER?

13 A NO, MA'AM.

14 Q ALL RIGHT. DO YOU HAVE ANY QUESTIONS OF THE COURT
15 ABOUT ANYTHING WE HAVE BEEN OVER?

16 A NO, MA'AM.

17 Q DO YOU WISH TO TESTIFY?

18 A NO, MA'AM.

19 Q OKAY.

20 THE COURT: I WILL NOTE ALSO FOR THE RECORD THAT
21 MR. SAMPSON'S DECISION IS NOT TO TESTIFY AND THAT
22 HE'S MADE THIS DECISION FREELY AND VOLUNTARILY,
23 KNOWINGLY AND INTELLIGENTLY AND WITH THE ADVICE OF
24 COUNSEL. THANK YOU. MR. SAMPSON, YOU MAY BE SEATED.

25 IS THERE ANYTHING FURTHER AT THIS TIME FROM

1 EITHER THE STATE OR FROM THE DEFENDANT?

2 MR. SABB: NOTHING FROM THE STATE, JUDGE.

3 THE COURT: ALL RIGHT. LET ME ASK FOR
4 SCHEDULING PURPOSES. WE'RE GOING TO GO LIKE THIS,
5 SAMPSON WHO WILL BE ALLOWED TO PRESENT EVIDENCE AND
6 TESTIMONY IF THAT'S YOUR DESIRE, THEN IT WILL BE
7 WILSON WHO WILL BE ALLOWED TO PRESENT EVIDENCE AND
8 TESTIMONY IF THAT'S YOUR DESIRE.

9 DO YOU HAVE WITNESSES THAT YOU INTEND TO CALL IN
10 THE TRIAL OF THIS MATTER?

11 MR. CARRAWAY: WE DO NOT, YOUR HONOR.

12 THE COURT: ALL RIGHT. AND FOR MR. WILSON?

13 MR. BARR: NO, MA'AM.

14 THE COURT: ALL RIGHT. VERY WELL. WHAT I WILL
15 DO THEN IS I WILL -- WHEN THE JURY COMES BACK OUT, I
16 WILL INFORM THEM -- WE WILL TAKE A BREAK BEFORE WE DO
17 THIS, BUT I WILL INFORM THEM THAT WE HAVE REACHED THE
18 POINT IN TIME WHEN THEY WILL BE HEARING THE CLOSING
19 ARGUMENTS OF THE ATTORNEYS AND RECEIVING THE CHARGE
20 ON THE LAW.

21 ARE YOU SATISFIED WITH THAT OR DO YOU WANT ME TO
22 TURN TO YOU AND ASK IF YOU HAVE ANY WITNESSES?

23 MR. CARRAWAY: ONE THING I WOULD SAY, I WOULD
24 LIKE A PERIOD OF TIME TO PREPARE THE FINAL ARGUMENT.

25 THE COURT: SURE. I WILL GIVE YOU THAT.

1 MR. CARRAWAY: OKAY. YES.

2 THE COURT: WHAT I'M ASKING YOU NOW IS VERY
3 SPECIFIC. WOULD YOU DESIRE THE COURT, BECAUSE I WILL
4 ALLOW YOU TO REST ON THE RECORD HERE -- WOULD YOU
5 DESIRE THE COURT TO TURN TO YOU AND HAVE YOU REST ON
6 THE RECORD IN FRONT OF THE JURY OR WOULD YOU RATHER
7 ME JUST INFORM THE JURY THAT WE ARE NOW GOING TO --
8 INTO THE CLOSING ARGUMENTS AND CHARGE ON THE LAW?
9 YOU WANT TO DISCUSS THAT AND THEN INFORM THE COURT?

10 MR. BARR: NO, MA'AM. WE DON'T HAVE ANY PROBLEM
11 WITH RESTING HERE.

12 THE COURT: OKAY. YOU REST ON THE RECORD HERE--

13 MR. CARRAWAY: ALLOWING YOU TO SAY IT.

14 THE COURT: -- OUTSIDE THE PRESENCE OF THE JURY.
15 OKAY. YOU WANT TO DO THE SAME THING?

16 MR. CARRAWAY: THAT'S FINE.

17 THE COURT: ALL RIGHT. WHEN THE JURY IS BROUGHT
18 BACK OUT, AND OF COURSE, WE'RE GOING TO TAKE A BREAK
19 BEFORE THAT HAPPENS, I WILL TELL THEM THAT WE HAVE
20 REACHED THE POINT IN TIME WHERE THE -- WE ARE HEARING
21 CLOSING ARGUMENTS.

22 ALL RIGHT. VERY WELL. LET'S TAKE A BREAK.
23 ABOUT 15 MINUTES. BE BACK IN ABOUT 15 MINUTES.

24 (WHEREUPON A RECESS WAS TAKEN.)

25 THE COURT: GET THE DEFENDANTS BACK OUT, PLEASE.

1 MR. BARR: JUDGE, BEFORE THE JURY COMES IN, I
2 WOULD LIKE TO GO ON THE RECORD AND HAVE REQUEST TO
3 CHARGE ON MANSLAUGHTER.

4 THE COURT: OKAY. VERY WELL. YES, SIR. THERE
5 WAS A -- A REQUEST FOR A CHARGE ON MANSLAUGHTER WHICH
6 THE COURT DENIED, SAID THAT THIS IS THE EVIDENCE,
7 IT'S EITHER MURDER CASE, THAT THESE INDIVIDUALS
8 EITHER DID OR DID NOT. IT'S NOT A MANSLAUGHTER.

9 MS. BARR: JUDGE, WE WOULD ALSO FOR THE RECORD
10 ASK THE COURT TO INSTRUCT THE JURY ON A LESSER
11 INCLUDED OFFENSE OF ATTEMPTED ARMED ROBBERY. THINK
12 THERE'S SOME EVIDENCE THAT THE MONEY WAS THERE, THEY
13 DID NOT GET THE EVIDENCE.

14 THE JURY COULD IN ALL LIKELIHOOD CONSIDER THAT
15 THIS WAS AN ATTEMPTED ARMED ROBBERY SINCE THEY WERE
16 NOT SUCCESSFUL IN GETTING THE MONEY AND CAN FIND THEM
17 GUILTY OF ATTEMPTED ARMED ROBBERY AS OPPOSED TO ARMED
18 ROBBERY.

19 EVEN THOUGH THE CELLPHONE WAS TAKEN, THEY COULD
20 VERY WELL CONCLUDE THAT THAT WAS NOT A PART OF THE --
21 THE ROBBERY ITSELF. AND SO WE WOULD MAKE THAT
22 REQUEST.

23 WE WOULD ALSO ASK THE JUDGE TO -- TO TELL US IN
24 TERMS OF THE INSTRUCTIONS WOULD THE COURT ALSO
25 INSTRUCT THE JURY ON THE FELONY MURDER RULE?

1 THE COURT: I'M SORRY?

2 MS. BARR: THE FELONY MURDER RULE?

3 THE COURT: YES, IT'S IN THERE.

4 MS. BARR: MAY I INQUIRE TO THE LANGUAGE THAT
5 THE COURT IS GOING TO USE?

6 THE COURT: I WILL LET MY LAW CLERK SHOW THAT TO
7 YOU.

8 MS. BARR: OKAY.

9 THE COURT: IS THAT THE DESIRE OF THE DEFENSE,
10 THAT WE WOULD ALSO INCLUDE ATTEMPTED ARMED ROBBERY AS
11 A LESSER INCLUDED OFFENSE OF ARMED ROBBERY? FROM
12 SAMPSON, WHAT'S YOUR POSITION?

13 MR. CARRAWAY: I WOULD ASK THAT THAT BE CHARGED,
14 YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 MR. BARR: YES, MA'AM.

17 THE COURT: ALL RIGHT. VERY WELL. WE WILL ADD
18 ATTEMPTED ARMED ROBBERY INTO THE CHARGE. ANYTHING
19 FURTHER IN REGARDS TO THE CHARGE?

20 MR. SABB: NOTHING FROM THE STATE, JUDGE.

21 THE COURT: ALL RIGHT. ALL RIGHT. WE WILL SHOW
22 YOU THE LANGUAGE JUST AS SOON AS WE LET THE JURY GO.
23 ALL RIGHT. WE ARE READY FOR THEM. TELL YOU NOW,
24 1:00 SHARP. STARTING AT ONE. MAYBE A MINUTE
25 BEFORE -- A MINUTE TILL ONE. 12:59.

1 MR. SABB: IS THAT LAWYER TIME OR THE CLOCK TIME
2 IN THE BACK, JUDGE?

3 (JURY ENTERED THE COURTROOM AT 11:49 AM.)

4 THE COURT: MADAM FORELADY AND LADIES AND
5 GENTLEMEN OF THE JURY, WE HAVE COME TO A POINT IN
6 TIME WHERE WE WILL BE HEARING THE CLOSING ARGUMENTS
7 OF THE ATTORNEYS AS WELL AS THE CHARGE ON THE LAW.

8 AND BECAUSE WE'RE AT THAT POINT, WE THOUGHT IT
9 MAY BE BEST IF WE GO AHEAD AND TAKE OUR LUNCH BREAK
10 AND THEN HAVE YOU COME BACK. AND I'M SORRY IT TOOK
11 US A WHILE TO MAKE THAT DECISION. BUT TO GO AHEAD
12 AND HAVE THE LUNCH BREAK AND HAVE YOU COME BACK AT
13 1:00 SHARP.

14 WE'RE GOING TO BRING YOU OUT AT 1:00 SHARP. SO
15 IF YOU HAVE TO BE HERE A FEW MINUTES EARLY TO MAKE
16 SURE YOU'RE HERE ON TIME, PLEASE DO THAT BECAUSE IT'S
17 OUR INTENTION TO BRING YOU RIGHT OUT AT 1:00 AT WHICH
18 TIME YOU WILL BE HEARING THE CLOSING ARGUMENTS, I
19 WILL THEN CHARGE YOU AS TO THE LAW AND YOU WILL GO
20 BACK AND BEGIN YOUR DELIBERATIONS IN THIS CASE.

21 NOW, I'M GOING TO ALLOW YOU TO GO TO LUNCH AND
22 ASK YOU TO BE BACK AT ONE, BUT I NEED FOR YOU TO WEAR
23 YOUR JUROR BUTTON, PLEASE, WHEN YOU'RE OUT IN THE
24 COMMUNITY, AND YOU KNOW WHY. IT PUTS EVERYBODY ON
25 NOTICE THAT YOU'RE SERVING AS A JUROR.

1 ALSO NEED FOR YOU TO CONTINUE TO REFRAIN FROM
2 READING OR WATCHING OR LISTENING TO ANYTHING
3 REGARDING THIS CASE. AND OF COURSE, DO NOT DISCUSS
4 THIS CASE WITH ANYONE.

5 WE WILL SEE YOU BACK IN THAT JURY ROOM. WE
6 INTEND TO BRING YOU OUT PROMPTLY AT 1:00, SO COME A
7 LITTLE EARLY. WE WILL SEE YOU THEN. HAVE A GOOD
8 LUNCH.

9 (JURY LEFT COURTROOM AT 11:51 AM.)

10 THE COURT: TO THE PARTIES HERE, EVERYBODY ELSE,
11 WE ARE HERE EARLIER THAN ONE BECAUSE I WANT US SEATED
12 AND IN PLACE TO BRING THE JURY OUT PROMPTLY AT 1:00.
13 AND YOU KNOW I WILL BE HERE BECAUSE I WILL BE
14 CHECKING INSTANT MESSAGES AND SUCH.

15 WAIT JUST A MINUTE. LET ME LET THEM GO AND THEN
16 I WILL RELEASE ALL OF US AS WELL. IS THERE ANYTHING
17 FROM THE STATE PRIOR TO OUR TAKING OUR LUNCH BREAK?

18 MR. SABB: NOTHING, JUDGE.

19 THE COURT: ANYTHING FROM EITHER OF THE
20 DEFENDANTS?

21 MR. CARRAWAY: NOTHING FROM MR. SAMPSON.

22 MR. BARR: NOTHING.

23 THE COURT: HAVE A GOOD LUNCH. BE HERE EARLY,
24 BEFORE ONE. SEE YOU THEN.

25 (COURT IN RECESS FOR LUNCH.)

1 THE COURT: ANYTHING FROM THE STATE AT THIS
2 TIME?

3 MR. SABB: NO JUDGE, WE'RE READY.

4 THE COURT: ANYTHING FROM THE DEFENSE?

5 MR. CARRAWAY: NOTHING FROM MR. SAMPSON.

6 THE COURT: ALL RIGHT.

7 MR. BARR: NO, MA'AM.

8 THE COURT: VERY GOOD. I WANT TO KNOW WHO THAT
9 ONE IS.

10 THE CLERK: SHANITA JENKINS.

11 (WHEREUPON THERE WAS A PAUSE.)

12 THE COURT: SOON AS THEY ARE HERE, WE WILL BRING
13 THEM OUT.

14 (WHEREUPON THERE WAS A PAUSE.)

15 THE COURT: ALL RIGHT. WE ARE READY FOR THEM.

16 (JURY ENTERED THE COURTROOM AT 1:07 P.M.)

17 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN
18 OF THE JURY, WE HAVE COME TO THE PHASE OF THE CASE
19 WHERE YOU'LL BE HEARING THE CLOSING ARGUMENTS OF THE
20 ATTORNEYS. AFTER THAT YOU WILL BE RECEIVING THE LAW,
21 THAT IS THE CHARGE ON THE LAW.

22 I WILL DIRECT YOU AS TO THE LAW THAT YOU MUST
23 APPLY TO THE FACTS AS YOU FIND THEM IN THIS CASE. WE
24 WILL BEGIN AT THIS TIME. YES, SIR. I'M SORRY. YES,
25 SIR, MR. SABB.

1 MR. SABB: THANK YOU, YOUR HONOR. MAY IT PLEASE
2 THE COURT. CO-COUNSEL. MR. BARR, MR. CARRAWAY.

3 CLOSING STATEMENT

4 MR. SABB: MADAM FORELADY AND LADIES AND
5 GENTLEMEN OF THE JURY, GOOD AFTERNOON. WE WANT TO
6 CERTAINLY PAUSE AT THIS MOMENT ON BEHALF OF MANY
7 PEOPLE AND MORE SPECIFICALLY ON BEHALF OF THE PERRY
8 FAMILY WHO FIND THEMSELVES AT A PLACE WHERE THEY
9 NEVER HOPED THAT THEY WOULD HAVE TO BE AS THEY HAVE
10 TO SIT AND LISTEN TO WHAT OCCURRED WITH THEIR MOTHER,
11 THEIR GRANDMOTHER DURING THE LAST FEW MOMENTS OF HER
12 LIFE.

13 AND SO WE THEN PAUSE TO -- TO SAY THANK YOU FOR
14 GIVING OF YOURSELVES IN THE WAY THAT YOU ALL HAVE FOR
15 THIS MOST WORTHY CAUSE. I THINK WHAT JUDGE THOMAS
16 INDICATED IN HER OPENING REMARKS BEARS REPEATING, AND
17 THAT IS THAT JURY SERVICE IS THE HIGHEST CALLING THAT
18 AN AMERICAN CITIZEN CAN BE CALLED UPON TO PERFORM
19 SECOND ONLY TO ONE SERVING HIS OR HER COUNTRY AT A
20 TIME OF WAR.

21 SO SECOND TO PUTTING YOUR LIFE ON THE LINE, THIS
22 SERVICE THAT YOU ALL GIVE IS LOOKED UPON AS BEING THE
23 CALLING SECOND ONLY TO THAT ONE. AND ESSENTIALLY,
24 FOLKS, YOU ALL ARE THE GATEKEEPERS OF JUSTICE.

25 WHEN IT COMES TO WILLIAMSBURG COUNTY LISTENING

1 TO THE FACTS OF A PARTICULAR CASE, DECIDING WHO HAS
2 VIOLATED THE LAW AND HOLDING THEM ACCOUNTABLE FOR THE
3 VIOLATIONS THAT THEY COMMIT, DOESN'T GET ANY WORSE
4 UNFORTUNATELY THAN THE SITUATION THAT WE'RE HERE
5 INVOLVED IN.

6 AND SO I WANT TO SPEND JUST A FEW MOMENTS GOING
7 OVER SOME OF THE FACTS THAT ARE INVOLVED IN THIS CASE
8 AND TALKING ABOUT WHAT WE CONSIDER TO BE SOME OF THE
9 INFERENCES, THAT IS THOSE THINGS THAT ARE LOGICALLY
10 DEDUCED FROM THE FACTS.

11 YOU SEE, EVERYTHING IS NOT ALWAYS FILLED IN WITH
12 TESTIMONY AND WITH EVIDENCE. YOU SORT OF HAVE TO PUT
13 THE PIECES TOGETHER SOMETIMES, AND SO I WANT TO
14 REVIEW SOME OF THAT INFORMATION WITH YOU ALL, FOLKS.
15 NOW, I JUST ASK THAT IF YOU WOULD, PLEASE MA'AMS AND
16 SIRS, JUST KIND OF BEAR WITH ME AS WE GO THROUGH THIS
17 PROCESS.

18 WE KNOW THAT THESE TWO DEFENDANTS ARE CHARGED
19 WITH MURDER, THEY ARE CHARGED WITH ARMED ROBBERY,
20 THEY ARE CHARGED WITH CRIMINAL CONSPIRACY, THEY ARE
21 CHARGED WITH POSSESSION OF A WEAPON DURING A VIOLENT
22 CRIME.

23 NOW, LET'S START AT THE BEGINNING. AND THE
24 BEGINNING WAS THE CONSPIRACY, THAT IS THE NOTION OF
25 GETTING SOMEBODY TO DRIVE AND GETTING SOMEBODY ELSE

1 TO ASSIST WHAT HAPPENED.

2 THESE TWO, THESE TWO COUSINS, JOSEPH WILSON AND
3 HIS COUSIN TASHON SAMPSON DECIDED THAT THEY NEEDED
4 MONEY. ONE WILSON BEING FOR SOME BILLS, SAMPSON
5 BEING TO GET BACK HOME TO NEW JERSEY. AND THAT
6 ESSENTIALLY THEY KNEW WHERE THEY COULD GET THE MONEY
7 FROM.

8 A CAR, THAT IS THE GET-AWAY DRIVER, GIVE US A
9 LOOK OUT AND WE'RE SET, YOU SEE, BECAUSE I'LL DO
10 WHAT? I'LL CARRY THE GUN. YOU GET THE MONEY. YOU
11 WATCH OUT. YOU BE READY WHEN WE COME RUNNING. YOU
12 SEE, THAT'S THE PLAN.

13 AND WE KNOW WHAT? INITIALLY THEY WERE GOING TO
14 ROB WHERE? THE LIQUOR STORE. FORTUNATELY FOR THAT
15 INDIVIDUAL THERE WERE CUSTOMERS THERE AT THE TIME.
16 AND SO RAYMOND MACK DIDN'T GET THE OPPORTUNITY TO BE
17 THE LOOKOUT ON THAT OCCASION.

18 JOSEPH WILSON DIDN'T GET THE OPPORTUNITY TO PUT
19 THE GUN IN THAT INDIVIDUAL'S FACE. TASHON SAMPSON
20 DIDN'T GET THE OPPORTUNITY TO GO BEHIND THE COUNTER
21 AND GET THE MONEY IN THAT INSTANCE AND NOR DID TRAVIS
22 ORANGE GET THE OPPORTUNITY TO DRIVE THEM AWAY AFTER
23 THEY RUN BECAUSE THERE WERE PEOPLE THERE.

24 AND THEY DON'T WANT ANYBODY AROUND, YOU SEE.
25 THEY WANT TO DO IT WHEN NOBODY IS THERE. AND SO THEN

1 THEY EASE ON DOWN THE ROAD A LITTLE BIT. AND WE KNOW
2 WHAT THEY TRIED TO DO IN ADDITION TO WHAT THEY DID.
3 LET'S FIND OURSELVES SOME MASKS IF WE CAN, YOU KNOW,
4 LET'S GET SOMETHING TO COVER UP OUR IDENTITY.

5 AND WHEN THAT EFFORT PROVED FRUITLESS, THERE WAS
6 NO STOPPING THEM THERE. THERE WAS A CERTAIN
7 DETERMINATION WITH THEM, ALTHOUGH THEY COULDN'T GET
8 THE MASK THEY WANTED OUT OF JONES NOR THAT OTHER
9 STORE, THERE WAS A CERTAIN -- DOLLAR GENERAL -- THERE
10 WAS A CERTAIN DETERMINATION ABOUT THEM THAT THIS
11 THING WOULD HAPPEN ON THIS PARTICULAR DAY.

12 AND SO THEN THEY DRIVE A LONG A LITTLE FURTHER.
13 OH, I KNOW WHERE THERE'S A LITTLE 76 YEAR-OLD LADY
14 THAT WORKS BY HERSELF, YOU SEE. LET'S GO ON DOWN
15 THERE AND WE'LL CARRY OUT THE PLAN THAT WE TALKED
16 ABOUT BEFORE, WE WILL DO IT THE VERY SAME WAY.

17 SO THEY GO DOWN THERE, BUT THEN WHAT?
18 UNFORTUNATELY THERE'S A WHAT? THERE'S A CAR THERE.
19 BUT IT'S ONLY HOW MANY? ONE. SO WE MAY NOT HAVE TO
20 WAIT THAT LONG. LET'S GO TURN AROUND. TRAVIS, YOU
21 GO PARK IN THIS AREA, AND THEN WE'LL GET OUT AND
22 WE'LL JUST WAIT. AND THEN WHEN THEY PASS, WE'LL GO
23 AND DO OUR JOB.

24 AND SO THEN THEY JUST STAND RIGHT THERE BESIDE
25 THE SIGN AND THEN WE WATCH THE TWO JOHNSON BOYS AFTER

1 THEY HAVE GONE IN AND GOTTEN THEIR BEER, GO ON BY
2 THEM. AND THEN THE SECOND THEY PASS, THE SECOND THEY
3 LEAVE IS WHAT? AN OPPORTUNITY TO DO THEIR DASTARDLY
4 DEEDS.

5 AND SO THEN THEY GO WALKING. AND YOU KNOW,
6 THOSE GUYS HAD A CERTAIN INTUITION. WHEN THEY SAW
7 THEM WALKING LIKE THAT AND THEN YOU SEE THE CAR
8 MYSTERIOUSLY PARKED WHERE THE FELLOW IS TRYING TO DO
9 SOMETHING.

10 Y'ALL KNOW WHAT HE WAS REALLY DOING? HE WAS
11 HIDING HIS FACE. WASN'T NOTHING ABOUT NO SPEAKER
12 WIRES. HE SAW THOSE GUYS PASSING BY. HE WAS
13 CONVENIENTLY DUCKING BECAUSE HE DOESN'T WANT TO BE
14 IDENTIFIED, YOU SEE. HE'S THE ONE THAT'S REMOVED
15 FROM THE CRIME.

16 IF THOSE GUYS DON'T IDENTIFY HIM AND IF HE
17 DOESN'T GET CAUGHT IN THE CAR, HE'S HOME FREE.
18 THAT'S A PART OF HIS THOUGHT PROCESS, YOU SEE. AND
19 SO THAT'S HIM. THEN THE OTHERS GO ON IN THE STORE
20 AND THEY CARRY OUT THE PLAN.

21 SO YOU SEE THE CRIMINAL CONSPIRACY, THIS NOTION
22 OF TWO OR MORE PEOPLE GETTING TOGETHER TO PERFORM AN
23 UNLAWFUL ACT. THAT'S CRIMINAL CONSPIRACY.

24 NOW LET'S TALK ABOUT THE ARMED ROBBERY FOR A
25 SECOND. JOSEPH WILSON. HIS JOB IS TO -- IS TO CARRY

1 THIS GUN AND STICK THE PERSON UP WITH THE GUN,
2 TOTALLY RENDER THE INDIVIDUAL HELPLESS, PETRIFIED IN
3 HIS OR HER OWN HEART, IN THIS INSTANCE MRS. LILA
4 PERRY. PETRIFY HER TO DEATH.

5 YOU KNOW WHAT IT'S LIKE TO BE LOOKING DOWN THE
6 BARREL OF A GUN? IF THAT DOESN'T PUT YOU IN FEAR,
7 NOTHING ELSE WILL. BECAUSE YOU CAN INSTANTLY SEE
8 DEATH. I MEAN, IT'S THERE. BY THE SIMPLE PULLING OF
9 A TRIGGER, LIFE CAN BE ERASED IN AN INSTANT.

10 AND ANYBODY WHO HAS LIVED 76 YEARS I PROMISE YOU
11 ARE FULLY AWARE BASED UPON LIFE'S EXPERIENCES ABOUT
12 WHAT THESE THINGS DO TO YOU, AND I SUBMIT TO YOU IT'S
13 ONE OF THE GREATEST FEAR IF YOU'RE OPERATING A STORE.

14 AND MY GOODNESS, HER SON SAID, YOU KNOW, I TRIED
15 TO GET MAMA TO CLOSE THAT PLACE UP, TRIED TO TELL
16 HER, MAMA, IT'S A LITTLE TOO DANGEROUS, GO ON AND
17 RETIRE, YOU REARED A GOOD LIFE, YOU REARED TWO
18 BEAUTIFUL CHILDREN, YOU'VE GOT GREAT GRANDDAUGHTERS
19 THAT LOVE YOU, MAMA, JUST TAKE IT EASY, YOU DON'T
20 NEED TO WORK ANY MORE, YOU PAID YOUR DUES.

21 BUT WE KNOW HOW THE OLDER ONES ARE. THEY ARE
22 FIXED IN THEIR WAYS. THEY DEVELOPED THEIR OWN
23 LIFESTYLE OVER THE YEARS. THEY KNOW WHERE THEIR
24 COMFORT ZONE IS. FOR SOME OF THEM ITS JUST SITTING
25 ON THE PORCH WATCHING THE CARS AS THEY GO BY.

1 FOR OTHERS IT'S WATCHING THEIR SOAP OPERAS. BUT
2 WHATEVER IT IS, THEY HAVE GROWN ACCUSTOMED TO DO, IS
3 WHAT THEY WANT TO DO. AND YOU KNOW, IF YOU'RE NOT
4 CAREFUL, A MAMA WILL TELL YOU IN A MINUTE, I SAW THE
5 SUN FIRST WHEN IT COMES TO THEM AND DOING WHAT THEY
6 WANT TO DO.

7 BUT BE ALL OF THAT AS IT MAY, SHE DECIDED THAT
8 SHE WAS GOING TO CONTINUE TO KEEP HER STORE. AND AN
9 IMPASS, RAYMOND MACK, WHO GOES BY THE BEER COOLERS
10 AND STUFF SO THAT HE CAN SEE -- AND YOU NOTED ONE
11 THING?

12 WHICH ONE OF THEM OUT OF TASHON SAMPSON, OUT OF
13 JOSEPH WILSON, OUT OF RAYMOND MACK, WHO WAS THE FIRST
14 ONE TO SEE THE GUY STOOPING DOWN PEEPING? THE
15 LOOK-OUT MAN. SO HE WASN'T THERE DEALING WITH NO
16 BEER. HE WAS DOING HIS JOB AND HE ACTUALLY DID HIS
17 JOB WELL.

18 THE ONLY THING WAS THE HOME BOY SNUCK UP ON HIM.
19 YOU SEE, THEY CAME IN IN AN INCONSPICUOUS SORT OF A
20 WAY TO SEE WHAT WAS GOING ON, SO STOOPING DOWN AND
21 PEEPING THROUGH THOSE WINDOWS IS WHAT THEY DID. SO
22 HE DIDN'T SEE THEM WHEN THEY CAME BACK UP BECAUSE OF
23 THE WAY THEY CAME AND THEY KNEW THEY WANTED TO KNOW
24 WHAT WAS GOING ON INSIDE THAT STORE.

25 AND SO THAT'S EXACTLY WHAT HAPPENED. BUT THE

1 LOOKOUT MAN, THE ONE DOING HIS JOB WAS THE ONE THAT
2 CALLED ATTENTION TO SOMEBODY BEING THERE. BUT I'M
3 GETTING AHEAD OF MYSELF JUST A LITTLE BIT. BUT I
4 WANTED YOU ALL TO UNDERSTAND THE ROLES THAT
5 EVERYBODY'S PLAYING IN THIS THING.

6 NOW, WHEN JOSEPH WILSON PULLS THAT GUN ON HER,
7 YOU REMEMBER WHAT RAYMOND MACK SAID? THAT SHE WAS A
8 LITTLE OVER AND THEN SHE STARTED WALKING BACK TOWARDS
9 THE COUNTER WHEN THEY CAME IN, WHICH IS WHAT THE
10 FOLKS THAT OPERATE THESE STORES DO.

11 YOU KNOW, IF YOU'RE DOING A LITTLE SOMETHING IN
12 THE STORE AND A CUSTOMER COMES IN, THE FIRST THING
13 YOU'RE GOING TO DO IS GO BEHIND THE COUNTER, MAY I
14 HELP YOU, MA'AM? MAY I HELP YOU, SIR? SO SHE WAS ON
15 HER WAY BACK TO THE COUNTER AND HERE HE GOES WITH
16 THIS GUN, GIVE ME YOUR MONEY, YOU CAN HAVE IT.

17 NOW, WHAT'S HAPPENING HERE? OKAY. WHAT'S GOING
18 ON WHEN HE PULLS THE GUN ON HER? WHAT ARE THE
19 KNEE-JERK REACTIONS OF PERSONS WHO ARE FACED IN THAT
20 SITUATION? MY GOODNESS, IF I CAN JUST HIT SPEED DIAL
21 ON MY CELLPHONE, YOU KNOW, THAT'S THE BEAUTY OF THE
22 CELLPHONES. YOU KNOW. NUMBERS ARE PROGRAMED IN.

23 WE DON'T HAVE TO DIAL FULLY, WE CAN JUST HIT A
24 BUTTON OR TWO AND ALL OF A SUDDEN WE GOT SOMEBODY
25 INSTANTLY ON THE OTHER LINE. AND SO THEN THAT'S HER

1 FIRST REACTION IS TO USE THE CELLPHONE TO TRY TO GET
2 WHAT? HELP.

3 AND IF YOU NOTICED IT -- AND LET ME TELL --
4 WELL, I WILL GET BACK TO THAT IN A MINUTE. BUT IF
5 YOU NOTICED WHEN MR. CARRAWAY WAS QUESTIONING RAYMOND
6 MACK ON THE STAND, HE ALMOST SAID, I SNATCHED THAT
7 PHONE TO STOP HER FROM CALLING THE POLICE. HE ALMOST
8 SAID IT. HE WAS THAT CLOSE TO SAYING IT.

9 AND WE SUBMIT TO YOU ALL THAT'S A PART OF WHAT
10 WAS GOING ON IN THIS THING, YOU SEE. WHEN SHE
11 GRABBED THAT CELLPHONE, THEY THEN BEGAN TO PANIC.
12 JOSEPH WILSON WITH THE GUN IN HIS HAND AND TASHON
13 SAMPSON WITH HIS MERCHANDISE, YEAH, THAT'S WHAT HE
14 CALL IT. HE DOESN'T CALL IT A KNIFE. WITH HIS
15 MERCHANDISE.

16 AND THAT'S WHEN HE BEGAN STABBING THIS LADY
17 BRUTALLY IN HER BACK WITH THAT KNIFE. AND THERE CAME
18 A POINT IN TIME YOU SEE, IF YOU REMEMBER RAYMOND
19 MACK'S TESTIMONY, WHERE SHE, WHAT? WAS OVER ON THE
20 COUNTER.

21 AND THEN JOSEPH WILSON CAME HOW CLOSE? CLOSE
22 ENOUGH FOR HER TO GET THE DEATH GRIP ON HIM, FOR HER,
23 AND A 76 YEAR-OLD WOMAN TO BE ABLE TO HOLD ON TO A
24 YOUNG STRONG MAN. DOESN'T HAPPEN NORMALLY. IT'S
25 THAT ADRENALINE FLOW, YOU SEE.

1 WHEN WE ARE DOING EVERYTHING WE CAN TO PRESERVE
2 LIFE, WE GET STRENGTH FROM SOME HIGHER BEING, AND
3 THAT'S WHAT THAT GRIP WAS ALL ABOUT, DON'T LET HIM
4 KILL ME, PLEASE.

5 BUT YOU KNOW WHAT HAPPENED TO HER AFTER THAT?
6 AT THE VERY MOMENT THAT SHE GRABBED JOSEPH WILSON,
7 YOU SEE THIS BLOOD ON THE COUNTER? TELL YOU HOW IT
8 GOT THERE. TELL YOU HOW IT GOT THERE. WHEN SHE
9 GRABBED HIM OVER THAT COUNTER, GUESS WHERE HER THROAT
10 WAS. RIGHT THERE OVER THE COUNTER.

11 AND GUESS WHAT TASHON SAMPSON DID? HE REACHED
12 AROUND AND HE SLIT HER THROAT, FOLKS. THAT'S EXACTLY
13 HOW THAT POOL OF BLOOD GOT ON THAT COUNTER, YOU SEE.
14 EXACTLY THE WAY THAT RAYMOND MACK INDICATED SHE WAS
15 STANDING UP WHEN SHE GOT THAT DEATH GRIP ON HIM,
16 IT'S -- AND THAT'S THE REASON THAT POOL OF BLOOD IS
17 ON THE COUNTER. THAT'S THE REASON IT'S ON THE
18 COUNTER.

19 AND HE DIDN'T STOP WHEN HE SLIT HER THROAT. HE
20 CONTINUED STABBING HER IN THE BACK. REMEMBER HOW
21 RAYMOND MACK DESCRIBED ONE OF IT? HE STABBED IT SO
22 DEEP UNTIL THE KNIFE, WHAT? WOULDN'T JUST COME OUT.
23 HE HAD TO WRIGGLE IT IN THERE TO CLEAR A SPACE TO
24 COME OUT.

25 AND I WONDER WHETHER OR NOT THAT'S NOT ONE OF

1 THE FATAL WOUNDS THAT DR. COLLINS -- COLLINS
2 DESCRIBED. YOU REMEMBER THERE WERE TWO IN THE BACK
3 THAT COULD PROVE FATAL. YOU SEE, STABBED HER THROUGH
4 THE BACK TO THE POINT WHERE IT PIERCED, WHAT? ONE
5 PIERCED HER HEART AND THE OTHER PIERCED HER LUNG,
6 BOTH OF WHICH COULD HAVE BEEN THE FATAL BLOW.

7 AND SO THAT'S WHAT WE SEE OCCURRING. NOW, LET'S
8 TALK A LITTLE BIT ABOUT CORROBORATION ON ALL OF THAT.
9 JOSEPH WILSON, WHEN HE RAN OUT OF THE STORE -- WELL
10 NO, RONNIE. DON'T WANT TO GET AHEAD OF MYSELF. LET
11 ME TALK A LITTLE BIT MORE ABOUT THE INSIDE OF THE
12 STORE, AND THEN I WANT TO TALK ABOUT CORROBORATION.
13 DON'T WANT TO GET AHEAD OF MYSELF.

14 THEN AT THE POINT WHERE HER THROAT HAD BEEN
15 SLASHED, WHERE SHE HAD BEEN STABBED IN THE BACK,
16 WHERE SHE HAD PUT THE DEATH GRIP ON JOSEPH WILSON AND
17 HE SNATCHED LOOSE AND TOOK THAT GUN AND POPPED THAT
18 OLD LADY BESIDE THE HEAD WITH THE BUTT OF THAT GUN --
19 THAT'S WHAT DR. COLLINS WAS TALKING ABOUT WHEN SHE
20 TALKED ABOUT THE BLUNT INSTRUMENT, REMEMBER?

21 IT'S NOT EXACTLY A LACERATION OF SORT, BUT IT
22 WAS A CUT BASED UPON A BLUNT INSTRUMENT. I SUBMIT TO
23 YOU ALL THAT'S THE BLUNT INSTRUMENT. THAT'S IT RIGHT
24 THERE, THAT GUN, THAT ONCE HE GOT LOOSE HE HIT HER
25 ACROSS THE HEAD WITH IT TO FREE HIS OTHER ARM.

1 BUT SHORTLY AFTER IS WHEN RAYMOND MACK NOTICED
2 THAT THERE WAS SOMEBODY DOWN THERE PEEPING, SO IT'S
3 TIME TO GO. AND SO THEN IN A HASTE TO TRY TO RUN
4 OUT, THEY RUN INTO THE DOOR. AND THAT CAN HAPPEN,
5 YOU KNOW. YOU DON'T KNOW WHETHER THEY OPEN THAT WAY
6 OR WHETHER THEY OPEN THIS WAY.

7 AND SO YOU'RE HOPING THAT IT OPENS THAT WAY, AND
8 SO IN CASE WHAT DID THE FELLOW SAY? HE ALMOST
9 KNOCKED HIMSELF, WHAT? ALMOST KNOCKED HIMSELF OUT.
10 AND THEN WHAT DID RAYMOND MACK SAY? THE VERY SAME
11 THING.

12 NOW LET'S TALK ABOUT CORROBORATION FOR A WHILE
13 AND THEN WE'RE GOING TO TALK ABOUT WHAT OCCURRED
14 AFTER THEY LEFT IN A MOMENT OR TWO. BUT NOW, THE
15 PLAN WAS FOR JOSEPH TO HAVE THIS GUN. RAYMOND MACK
16 TESTIFIED THAT JOSEPH HAD THE GUN. TRAVIS ORANGE
17 TESTIFIED THAT JOSEPH HAD THE GUN.

18 AND IF YOU REMEMBER WHAT MR. JOHNSON SAID.
19 REMEMBER WHEN HE SAID THAT HE POINTED THE GUN AT HIM?
20 HE WENT ON TO SAY THAT THE GUN WAS OLD LOOKING, BUT
21 I'M STILL DUCKING AND HIDING BECAUSE IT MIGHT STILL
22 FIRE. JUST BECAUSE IT LOOKS OLD DOESN'T MEAN IT
23 DOESN'T WORK.

24 AND YOU KNOW, WHEN YOU LOOK AT THE TAPE ON THE
25 HANDLE OF A GUN AND THE FACT THAT IT'S GOT SOME RUST

1 AND STUFF IN HERE, IT'S AN OLD LOOKING GUN. BUT IF
2 YOU REMEMBER HOW CLOSE HE WAS TO JOSEPH, IT WAS
3 ALMOST LIKE FROM -- FROM ME TO YOU ALL. REMEMBER, HE
4 WAS THERE AND I WAS RIGHT HERE?

5 AND SO YOU'RE TALKING IN TERMS OF CLOSENESS.
6 YOU'RE TALKING IN TERMS OF HAVING A GOOD VIEW. HE
7 HAD IT. AND SO THERE CAN BE NO QUESTION, WE SUBMIT
8 TO YOU ALL, BASED ON THE EVIDENCE THAT JOSEPH WILSON
9 HAD THE GUN.

10 NOW, THAT FELLOW THERE IS SMART. IT'S
11 UNFORTUNATE THAT HE USES HIS INTELLIGENCE THE WRONG
12 WAY. BUT LOOK AT HIM, NOW. HE GOES IN. HE'S THE
13 ONE THAT NOBODY REALLY KNOWS, YOU KNOW. OKAY. SO HE
14 HAD THE, WHAT? GOT HIM A BIG COAT AND A HOOD, YOU
15 SEE. I'M NOT GOING TO BE EASY TO RECOGNIZE.

16 AND THEN HE'S GOT WHAT ON HIS HANDS? WELL, I
17 AIN'T LEAVING NO FINGERPRINTS. I'M GOING TO WEAR
18 GLOVES, YOU SEE. SO HE'S REALLY A PART OF THE
19 MASTERMIND OF THIS WHOLE OPERATION AND HE HAS IDEAS
20 OF GETTING AWAY.

21 NOW, IF YOU LOOK AT JOSEPH WILSON AND RAYMOND
22 MACK, WHEN THEY RUN OUT, THEY DO WHAT? FACE THE
23 GUYS, YOU KNOW, WITH NOTHING -- THEY FACING THEM, THE
24 GUYS LIKE, HEY, I KNOW YOUR MAMA, CAN RUN IF YOU
25 WANT, BUT WE KNOW WHO YOU ARE. BUT WHAT DOES THIS

1 ONE DO? OH, NO, I'M NOT GOING THAT -- THAT SIDE.
2 I'M GOING THE OTHER SIDE.

3 SO HE USES HIS HOOD AND HIS COAT TO TRY TO EASE
4 OUT OF THERE THINKING THE WHOLE TIME, THINKING. BUT
5 NOW HE'S GOT HIS MERCHANDISE. REMEMBER THE GUY
6 TALKING ABOUT HIM HAVING TWO KNIVES? REMEMBER
7 RAYMOND MACK SAID HE HAD TWO? HOW MANY KNIVES WE
8 GOT, FOLKS? TWO.

9 YOU REMEMBER TRAVIS ORANGE DESCRIBING HOW THAT
10 BLADE IS -- IS LIKE THIS AND THEN IT GOES UP AND IT
11 GETS BIGGER AND BIGGER? YES, MA'AM. THESE ARE HIS
12 MERCHANDISE. THIS IS WHAT HE USED TO GET MONEY, YOU
13 SEE.

14 SOME FOLKS WOULD GO INTO BUSINESS AND THEY WOULD
15 DEVELOP INVENTORY THAT THEY WOULD USE TO GET MONEY,
16 BUT THEN THERE ARE SOME OTHERS -- FOLKS I PROMISE
17 YOU, EVERYBODY WHO GO TO SLEEP AT NIGHT DON'T SAY
18 THEIR PRAYERS AND HOPE THAT ALL IS WELL WITH EVERYONE
19 ELSE.

20 THERE ARE THOSE THAT WHILE WE SLEEP, THEY PLOT,
21 PLAN AND PRAY FOR AN OPPORTUNITY TO TAKE ADVANTAGE OF
22 FOLKS WHO ARE WILLING TO WORK FOR A LIVING. THEY
23 BELIEVE IT'S JUST FREE, IT'S THERE FOR ME TO TAKE.
24 WHENEVER I WANT TO GO TO NEW JERSEY, MAN, I KNOW
25 WHERE SOME MONEY IS, YOU KNOW THOSE STORE PEOPLE,

1 THEY SELL THEIR MERCHANDISE, I USED MINE. AND THAT'S
2 EXACTLY WHAT WE HAVE GOT IN THIS CASE.

3 NOW, TRAVIS ORANGE IS OUTSIDE IN THE CAR READY.
4 OKAY. THAT BOY IS READY TO TAKE OFF. AND SO WHEN --
5 WHEN THE THREE OF THEM FINALLY GET TO THE CAR, AND --
6 YOU REMEMBER WHAT HE SAID? WHO WAS THE LAST ONE TO
7 ARRIVE? TASHON SAMPSON IS THE LAST ONE TO ARRIVE,
8 YOU SEE, BECAUSE THE OTHERS WENT STRAIGHT.

9 HE DID WHAT? CURVED AROUND THE BUILDING TO
10 AVOID BEING SEEN, YOU SEE. SEE, ALL OF THAT IS
11 CONSISTENT TESTIMONY. IT ALL BEARS AN INDICIA
12 LIABILITY AND THAT'S WHY IT REPRESENTS THE TRUTH.

13 AND SO THEN THEY GET INTO THE CAR. AND -- AND
14 THE GUY SAID TO JOSEPH, I MEAN, THAT HIS EYES WERE
15 JUST, YOU KNOW, JUST IN A STATE OF SHOCK ALMOST. AND
16 HE SAID, HEY MAN, WHAT'S WRONG? AND HE COULD TELL
17 RIGHT THEN AND THERE BASED ON THE EXPRESSION ON
18 JOSEPH'S FACE THAT THINGS HAD NOT GONE, WHAT?
19 ACCORDING TO PLAN. SOMETHING HAD GONE WRONG.

20 AND SO HE WANTED TO KNOW WHAT HAD GONE WRONG.
21 THEY WEREN'T TALKING. MAN, SHUT UP AND DRIVE. PULLS
22 OFF. MAN, MAN, WHAT'S GOING ON? WHAT'S GOING ON?
23 LISTEN, IF YOU NOT GOING TO DRIVE FAST, I WILL DRIVE.
24 I AIN'T GOT NO DRIVER'S LICENSE, BUT I WILL DRIVE
25 FAST. WE GETTING OUT OF HERE. FROM HEMINGWAY TO

1 CONWAY, WE HAVE BUSINESS AND SO WE'RE GOING. AND SO
2 THE SWITCH TAKES PLACE.

3 AND THEN TASHON REALIZING WHAT HE HAD DONE AND
4 REALIZING THAT HE'S GOT, WHAT? NOTHING TO SHOW FOR
5 IT, THEN HE GETS ANGRY. AND REMEMBER WHERE THEY SAY
6 HE WAS SITTING? RIGHT BEHIND THE, WHAT? RIGHT
7 BEHIND THE DRIVER'S SEAT, YOU SEE.

8 AND SO THEN THAT'S WHY JEFFREY SCOTT KNEW THAT
9 IT WAS IMPORTANT TO GET THE HEADREST. BECAUSE WHAT
10 YOU WILL NOTICE ON THE HEADREST WILL BE INDICATIONS
11 OF FRUSTRATION FOR NOT BEING ABLE TO OPEN THAT CASH
12 REGISTER AND GET THAT MONEY, FOR NOT HAVING MORE TIME
13 TO SIFT THROUGH THOSE BAGS TO SEE WHERE THE OVERFLOW
14 CASH IS.

15 YOU KNOW, SOME FOLKS WHEN THEY GET THE BIG
16 BILLS, THEY DON'T PUT THEM LINED IN THE THING. THEY
17 DO, WHAT? PUT THEM UNDERNEATH THE MONEY. BUT MS.
18 PERRY HAD LIVED LONG ENOUGH TO CONCLUDE, I BELIEVE,
19 THAT -- THAT FOLKS HAVE COME TO THE POINT WHERE THEY
20 KNOW THAT IT'S UNDER THERE, SO SHE SAID, I'M GOING TO
21 GO A STEP FURTHER, I'M GOING TO GO UNDER MY BAGS, YOU
22 SEE.

23 AND THAT'S A PART OF THE WISDOM THAT WE ACQUIRE
24 WHEN GOD BLESSES US AND ALLOWS US TO LIVE THAT LONG.
25 BUT YOU SEE INDICATORS OF FRUSTRATION ON THIS BY

1 SAMPSON AS HE JABS HIS KNIFE INTO THE BACK OF THIS.
2 AND THEN WHEN THEY START TALKING A LITTLE FURTHER,
3 HUH-UH, AIN'T NOBODY TALKING ABOUT THIS, ANYBODY
4 TALKS, THEY'RE DEAD.

5 THAT'S THE MIND OF WHAT WE'RE DEALING WITH. AND
6 THEN SO THEY GO ON. THEY LEAVE THIS LOCATION AND GO
7 TO ANOTHER LOCATION WHERE THERE ARE OTHER PERSONS
8 THERE. AND YOU KNOW THE STRIKING THING THAT OCCURS
9 THERE IS WHEN THE YOUNG LADY GETS THE KNIFE, AND WHAT
10 DOES TASHON SAMPSON SAY? HUH-UH, DON'T TOUCH THAT,
11 THAT'S MY MERCHANDISE. DO YOU KNOW WHAT YOU ARE
12 HOLDING? DO YOU KNOW WHAT THAT KNIFE HAS BEEN
13 THROUGH? THAT'S MY MERCHANDISE, DON'T TOUCH IT.

14 AND REMEMBER WHAT ALL HE HAD DONE TO THE KNIFE?
15 HOME BOY SAID HE DID WHAT? HE WIPED IT OFF IN THE
16 CAR, GOT RID OF THE BLOOD. THEN WHEN HE GOT TO THE
17 APARTMENT, THEN HE WENT IN THE BATHROOM, REMEMBER?
18 HE WAS THE FIRST ONE IN THE BATHROOM. THE OTHER GUY
19 HAD TO WAIT UNTIL HE COMES OUT.

20 AND EVEN AFTER HE'S COME OUT, HE'S STILL GOT THE
21 KNIFE. AND REMEMBER WHAT HE DOES? HOLDS IT UNDER
22 THE HOT WATER FOR ABOUT 15 OR 20 MINUTES. DOING
23 WHAT? WASHING AND ERASING THE BLOOD STAINS AND STUFF
24 AWAY OFF OF HIS MERCHANDISE. CONSTANTLY THINKING,
25 CONSTANTLY TRYING TO FIGURE OUT HOW TO COVER HIS

1 TRACKS.

2 BUT ONCE LAW ENFORCEMENT GOT HOT ON THE TRAIL,
3 THERE WAS NO HIDING. TO CONWAY THEY HAD BUSINESS.
4 EARLY IN THE MORNING. SURPRISE ATTACK, SOME OFFICERS
5 IN THE FRONT, SOME IN THE BACK. WHEN THEY CONVERGE
6 ON HIM, THEY GOT HIM. AND WHAT DOES HE STILL HAVE ON
7 HIS HAND? STILL GOT ON THE GLOVES, YOU SEE.

8 NOW FOLKS, I SUSPECT, AND UNDER OUR LAW WE GET
9 THE OPPORTUNITY TO ARGUE TO YOU NOW AND THEN MY GOOD
10 FRIENDS AND COLLEAGUES, VERY ABLE TRIAL LAWYERS, MR.
11 CARRAWAY, ATTORNEY CHARLES DAVID BARR, ATTORNEY
12 CARRAWAY AND ATTORNEY CHARLES DAVID BARR WILL COME
13 AFTER ME.

14 AND I CAN'T LOOK INTO THEIR LEGAL MINDS AND KNOW
15 WHAT IT IS THEY WILL POSIT BEFORE YOU. BUT I PROMISE
16 YOU IF I HAD THE OPPORTUNITY BASED ON THE EVIDENCE IN
17 THIS CASE, I COULD RESPOND TO EVERY SINGLE THING
18 BECAUSE WE HAVE GOT THE GUILTY PARTIES HERE AND IN
19 COURT.

20 THEY SEAT -- THEY SIT RIGHT HERE BETWEEN THOSE
21 LAWYERS AND ON THE END OF THAT LAWYER. BUT I SUSPECT
22 THAT ONE OF THE THINGS THAT THEY'LL TALK ABOUT IS,
23 OH, SO SLED CAME DOWN, THEY DIDN'T LOOK FOR DNA
24 STUFF.

25 OH, WELL, WHY DIDN'T THEY PRESENT DNA STUFF?

1 THEY DON'T HAVE ANY. OH, SLED CAME DOWN. THEY
2 LOOKED FOR FINGERPRINTS. WHY DIDN'T THEY HAVE
3 FINGERPRINT STUFF? THEY DON'T HAVE IT.

4 WELL FOLKS, LET ME SAY, DNA IS CERTAINLY A
5 USEFUL TOOL. FINGERPRINTING IS CERTAINLY A USEFUL
6 TOOL. BUT WHEN YOU HAVE A CASE INVOLVING RAPE WHERE
7 CERTAIN BODILY FLUIDS THAT ASSIST IN FINDING OUT WHO
8 THE ASSAILANT IS, SOMEBODY HAD BEEN CUT OTHER THAN
9 MS. PERRY, TO THE EXTENT THAT THAT BEARS SOME INDICIA
10 OF RELIABILITY AND IT TIES EVERYTHING IN, CERTAINLY
11 THAT'S STUFF THAT CAN BE USED, BUT IT AIN'T PRESENT
12 IN EVERY CASE.

13 WHEN A PERSON WEARS GLOVES, GUESS WHAT YOU AIN'T
14 GOING TO FIND. YOU AIN'T GOING TO FIND NO
15 FINGERPRINTS, OKAY? SO PLEASE, MA'AMS AND SIRS,
16 LISTEN TO THEM AS THEY MAKE THOSE ARGUMENTS, BUT GIVE
17 A GOOD COMMON SENSE VIEW TO IT. DON'T JUST ACCEPT
18 THE NOTION AS BEING SOMETHING THAT WE HAVE NOT DONE.

19 THE OTHER THING THAT I WOULD BE SURPRISED IF
20 THEY DID NOT TALK WITH YOU ALL ABOUT IS THE IDEA OF
21 THE PEOPLE WHO TESTIFIED, A COUPLE OF THEM HAVING
22 BEEN INVOLVED IN THE CRIME ITSELF. NOW THEY MAY GO
23 AS FAR AS TO SAY THAT -- THAT SOME SORT OF DEAL WAS
24 MADE WITH THE DEVIL AND SOMEHOW OR ANOTHER WE'VE
25 COAXED SOMETHING.

1 I ASSURE YOU ALL IT DIDN'T HAPPEN. YOU SEE, WE
2 DIDN'T CHOOSE TRAVIS ORANGE TO BE OUR DRIVER. WE
3 DIDN'T CHOOSE RAYMOND MACK TO BE OUR LOOKOUT. THOSE
4 ARE THEIR FRIENDS, THEIR HALF-BROTHERS, THEIR
5 COUSINS. THE STATE DIDN'T CHOOSE THEM.

6 BUT YOU SEE, IF A PERSON -- THEY DIDN'T PLEAD
7 GUILTY -- COULDN'T BE FORCED TO TESTIFY BECAUSE THE
8 FIFTH AMENDMENT ALLOWS ANYBODY WHO IS CHARGED WITH A
9 CRIME TO NOT TAKE THE STAND. ALL YOU GOT TO DO IS
10 TAKE WHAT? TAKE THE FIFTH.

11 BUT ONCE THEY'VE PLED GUILTY, THEN THEY DON'T
12 HAVE THAT PROTECTION, YOU SEE. WE GET THE
13 OPPORTUNITY TO HEAR WHAT THEY HAVE GOT TO SAY AFTER
14 THEY PUT THEIR HAND ON THAT BIBLE AND TAKE THIS
15 WITNESS STAND.

16 AND THERE'S NO QUESTION THAT THEIR TESTIMONY IN
17 THIS CASE HAS BEEN USEFUL AND BENEFICIAL WHEN IT
18 COMES TO DEALING WITH THE ONES WHO WOULD TAKE WEAPONS
19 INTO AN ESTABLISHMENT OF THIS SORT.

20 NOW, THE LAW -- AND I WANT TO TALK ABOUT A
21 COUPLE OF THEM AND THEN I'M GOING TO SIT DOWN. THE
22 LAW. HER HONOR, JUDGE THOMAS, WILL CHARGE YOU ALL ON
23 THE LAW. AND I PROMISE YOU I WOULD NEVER TRY TO
24 MISREPRESENT ANYTHING ALONG THE LAW LINES.

25 BUT I ALWAYS TELL JURORS WHEN I TALK ABOUT THE

1 LAW, IF I SHOULD SAY SOMETHING DIFFERENT FROM JUDGE
2 THOMAS, PLEASE TAKE WHAT SHE SAYS AND PARDON RONNIE
3 SABB ON THAT NOTION. OKAY.

4 BUT -- BUT IN PARTICULAR I WANT TO TALK TO YOU
5 ALL ABOUT WHAT WE CALL THE FELONY MURDER RULE. WHEN
6 FOLKS GET TOGETHER AND THEY PLAN AN ARMED ROBBERY,
7 OKAY, DON'T PLAN TO MURDER SOMEBODY, JUST PLAN AN
8 ARMED ROBBERY, AND THE PERSON WHO THEY INTEND TO ROB
9 THEN REACTS IN A WAY THAT THEY HAVE NOT ANTICIPATED,
10 AND THE ONLY WAY THEN FOR THEM TO GET AWAY WITH WHAT
11 THEY'VE DONE IS TO KILL THE PERSON, IT DOESN'T MATTER
12 WHETHER OR NOT THEY INTENDED TO ONLY COMMIT THE
13 OFFENSE OF ARMED ROBBERY.

14 AND DOESN'T THAT MAKE SENSE? IT SHOULDN'T
15 MATTER. BECAUSE WE'VE GOT SOMEBODY WHO IS, WHAT?
16 WE'VE GOT SOMEBODY WHO IS WHAT? IT SHOULDN'T MATTER.
17 THE FACT THAT THEY DIDN'T PLAN TO DO IT SHOULDN'T
18 MATTER AND IT DOESN'T MATTER.

19 THE LAW SAYS THAT IF WHAT THEY HAVE DONE IS IN
20 FURTHERANCE OF WHAT THEY SET OUT TO DO, THEN THEY'RE
21 GUILTY OF MURDER AND IT DOESN'T DISTINGUISH WHETHER
22 OR NOT SHE WAS SHOT BY JOSEPH WILSON OR WHETHER OR
23 NOT SHE WAS STABBED TO DEATH BY TASHON SAMPSON.
24 DOESN'T MAKE ANY DIFFERENCE.

25 YOU KNOW WHAT THE LAW SAYS? THE HANDS OF ONE IS

1 GUESS WHAT? WELL, ONE OF THOSE GUYS TOLD YOU ALL
2 ABOUT IT, BECAUSE APPLICABLE TO ALL OF THESE
3 SITUATIONS, THE HANDS OF ONE IS THE HAND OF THE OTHER
4 OR THE HAND OF ALL.

5 AND SO SEE, IT DOESN'T MAKE ANY DIFFERENCE. AND
6 THAT'S WHY BOTH OF THEM, WE SUBMIT TO YOU THE
7 EVIDENCE HAS SHOWN, ARE GUILTY OF MURDER. OH, YEAH,
8 THEY'RE GUILTY OF POSSESSION OF A WEAPON DURING A
9 VIOLENT CRIME, THEY ARE GUILTY OF ARMED ROBBERY AND
10 THEY'RE GUILTY OF CRIMINAL CONSPIRACY.

11 ONE OTHER POINT OF LAW THAT I WANT TO TALK ABOUT
12 AND THEN I'M FINISHED. HER HONOR WILL CHARGE YOU ALL
13 ON WHAT WE CALL A LESSER INCLUDED OFFENSE OF ARMED
14 ROBBERY. A LESSER INCLUDED OFFENSE OF ARMED ROBBERY.

15 AND HERE'S THE SIGNIFICANCE OF IT. AND IT'S UP
16 TO YOU ALL. YOU HAVE HEARD THE EVIDENCE. IT'S UP TO
17 YOU TO FIND THE FACTS, APPLY THEM TO THE LAW AND
18 BRING BACK A VERDICT THAT SPEAKS THE TRUTH, TOTALLY
19 WITHIN YOUR PROVINCE AS JURORS.

20 BUT HERE'S THE ISSUE ON THAT. THE QUESTION IS,
21 WHERE FOLKS SET OUT TO GET SOMETHING OF VALUE, IE
22 MONEY, OKAY? NO QUESTION THEY DIDN'T GET THE MONEY.
23 THEY DIDN'T GET A CHANCE BECAUSE THEY WERE
24 INTERRUPTED BY THESE GUYS WHO KNEW SOMETHING WAS
25 WRONG AND CAME BACK TO SEE IT.

1 SO THEY DIDN'T GET A CHANCE TO POP OPEN THE CASH
2 REGISTER, TOO BUSY KILLING THIS LADY. YOU KNOW,
3 THAT'S WHAT RAYMOND MACK SAID. AT THE MOMENT I
4 RECOGNIZED HIM, HE WAS STILL STABBING HER IN THE
5 BACK.

6 AND ONCE OTHERS ARE THERE, IT'S TIME TO HIGH
7 TAIL IT BECAUSE SOON THE POLICE AND EVERYBODY IS
8 GOING TO BE THERE. BUT THEY DIDN'T GET TO OPEN THE
9 CASH REGISTER NOR DID THEY GET TO FIND ANYTHING ELSE.

10 AND SO BECAUSE THEY DIDN'T GET THE MONEY THAT
11 THEY SET OUT TO GET, THERE MIGHT BE SOME OF YOU ALL
12 THAT THINK THAT IT WAS AN ATTEMPTED ARMED ROBBERY
13 BECAUSE THEY DIDN'T GET THE MONEY. AND SO YOU ALL
14 ARE GOING TO BE ABLE TO CONSIDER THAT AS A POSSIBLE
15 CRIME AS OPPOSED TO THE ARMED ROBBERY.

16 BUT THE OTHER VIEW, FOLKS, THE OTHER VIEW IS
17 THEY HAD NO BUSINESS TAKING A SINGLE SOLITARY THING
18 FROM THIS ESTABLISHMENT THAT DID NOT BELONG TO THEM,
19 NOT A SINGLE SOLITARY THING. I DON'T CARE IF IT WAS
20 A PENNY, DON'T TAKE IT, IT AIN'T YOURS, AND DON'T
21 TAKE GUNS INTO THE ESTABLISHMENT FOR PURPOSES OF
22 TAKING ANYTHING.

23 SO WE WOULD ASK THAT YOU ALL HOLD THEIR FOOT TO
24 THE FIRE AND THEN USE THE -- THE STATEMENT EARLIER
25 THAT -- THAT THE SOLICITOR'S OFFICE IS AFTER THEM,

1 WE'RE AFTER THEM. WE DID NOT PLACE INTO THEIR MINDS
2 MISCHIEF ON FEBRUARY THE 18th OF 2003. WE ARE NOT
3 AFTER THEM.

4 WE SEEK JUSTICE ON BEHALF OF THE PERSON WHO
5 CAN'T SEEK JUSTICE FOR HERSELF, WHO WE HOPE IS
6 LOOKING DOWN ON ALL OF US RIGHT NOW URGING THAT
7 JUSTICE BE DONE IN HER ABSENCE. DO WE SEEK AFTER
8 THEM? NO. DO WE SEEK JUSTICE? ABSOLUTELY.

9 AND YOU ALL WILL HAVE THE OPPORTUNITY. FOLKS,
10 YOU ARE THE ONLY FOLKS IN THIS WORLD, YOU ARE THE
11 ONLY ONES THAT CAN BRING JUSTICE IN THIS CASE. I
12 DON'T CARE HOW POWERFUL PRESIDENT BUSH IS, HE'S GOT
13 NO AUTHORITY HERE. I DON'T CARE HOW POWERFUL
14 CONGRESS IS, HOW INFLUENTIAL THE POPE IS, THEY'VE GOT
15 NO AUTHORITY HERE.

16 THE AUTHORITY OF JUSTICE RESTS IN YOUR HANDS.
17 AND ON BEHALF OF ALL THE LAW ENFORCEMENT OFFICERS AND
18 ON BEHALF OF THIS FAMILY, IN PARTICULARLY MY
19 CO-COUNSEL, MS. BARR, WE WANT YOU ALL TO KNOW WE'VE
20 ALL DONE THE BEST WE CAN TO PRESENT THE TRUTH TO YOU
21 ALL.

22 WE URGE YOU TO LISTEN TO THESE LAWYERS. WHAT
23 THEY SAY MIGHT BE INFORMATIVE. CERTAINLY LISTEN TO
24 HER HONOR WITH THE LAW. BUT FOLKS, THEY CAN'T CHANGE
25 THE FACTS. THEY CAN'T CHANGE THE MISCHIEF THAT THEIR

1 CLIENTS INTENDED TO DO ON THIS OCCASION. THEY CAN'T
2 CHANGE IT. BUT LISTEN TO THEM, PLEASE MA'AMS AND
3 SIRS. THANK YOU.

4 THE COURT: THANK YOU, SIR. YES, SIR.

5 MR. CARRAWAY: MAY IT PLEASE THE COURT, YOUR
6 HONOR.

7 THE COURT: YES, SIR.

8 MR. CARRAWAY: MR. SABB, MS. BARR.

9 CLOSING STATEMENT

10 MR. CARRAWAY: LADIES AND GENTLEMEN OF THE JURY,
11 YOU KNOW, DID YOU NOTICE THAT THE ONLY EVIDENCE YOU
12 HAVE HEARD AGAINST MR. SAMPSON CAME FROM MR. ORANGE
13 AND FROM MR. MACK? NOW, ISN'T THAT FUNNY? NOW, THEY
14 ACT LIKE THESE GUYS -- IT'S JUST -- IT'S JUST FUNNY.

15 THESE GUYS ARE NO DIFFERENT THAN ANYBODY ELSE.
16 YOU KNOW WHAT THEY'RE GOING TO DO? THEY'RE GOING TO
17 ADMIT TO WHAT THEY'VE GOT TO ADMIT TO AND THEY ARE
18 GOING TO DENY EVERYTHING ELSE.

19 NOW LET'S LISTEN TO MR. MACK -- MACK UP HERE
20 FIRST. NOW, WHAT YOU'LL FIND IS NONE OF WHAT THEY
21 HAVE SAID WAS CORROBORATED BY ANYTHING IN ANY OF
22 THESE BOXES RIGHT HERE. JUST AS AN EXAMPLE, THEY
23 TALK ABOUT THESE GLOVES OR WHATEVER WHERE HE CAN'T
24 GET FINGERPRINTS.

25 WELL, YOU KNOW, YOU CAN SURE GET BLOOD ON

1 GLOVES, CAN'T YOU? AND THESE WENT OFF TO SLED AND
2 THEY WERE EXAMINED, AND THERE WASN'T -- THEY BRING
3 THIS JACKET IN HERE OR WHATEVER. AIN'T NO BLOOD ON
4 THIS JACKET. I GUESS THERE'S NO BLOOD ON THIS
5 JACKET.

6 SO NOTHING THAT THESE GUYS HAVE SAID IS
7 CORROBORATED AT ALL. NOTHING THESE GUYS HAVE SAID.
8 NOW RAYMOND MACK, ALL HE'S DONE IS WHAT ANYBODY IS
9 GOING TO DO. HE'S ADMITTED TO WHAT HE'S GOT TO ADMIT
10 TO.

11 HE CAME OUT OF THE STORE AND THEODORE JOHNSON,
12 WHO HE SAID HE KNEW, HE SAID, I KNOW HIM WELL. HE
13 LOOKED ME RIGHT IN THE EYE AND SAID, I KNOW WHO YOU
14 ARE. AND WHEN JOSEPH CAME OUT, HE SAID, I KNOW WHO
15 YOU GUYS ARE OR WHATEVER. HE SAID, I KNEW HIM WELL.

16 SO HERE HE IS COMING OUT OF THE STORE. SO DON'T
17 GET THE IDEA THAT RAYMOND MACK IS GOING TO TELL YOU
18 THE TRUTH. HE AIN'T TOLD YOU ANYTHING. HE SAID, OH,
19 I JUST WENT IN THERE TO GET A BEER. I JUST WENT IN
20 THERE TO GET A BEER. I TOLD THEM I WASN'T GOING TO
21 GET INVOLVED IN ANYTHING.

22 WELL, HE'S NOT TELLING YOU -- HE -- HE'S NOT
23 TELLING YOU ANYTHING BEYOND WHAT HE'S GOT TO TELL YOU
24 AND WHAT HE'S -- BECAUSE THEY'VE ALREADY SEEN HIM
25 COME RUNNING OUT THE STORE. THEY HAVE IDENTIFIED

1 HIM. AND HE SAID, I KNOW YOU TWO GUYS. HE SAID AND,
2 YOU KNOW, HE AND I HALF-BROTHERS, SO THEY KNEW US.
3 SO HE HASN'T TOLD THE TRUTH ABOUT ANYTHING AND WE
4 KNOW HE HASN'T TOLD THE TRUTH.

5 NOW, BECAUSE HE'S GOT A REASON TO LIE TO
6 PRESERVE HIS OWN LIFE IS WHAT HE'S TRYING TO DO.
7 HE'S LOOKING OUT FOR HIMSELF. AND WHAT HAPPENED HERE
8 WAS WHAT HE SAID WAS, I DIDN'T DO IT, I JUST WENT IN
9 TO GET A BEER AND I LOOK OVER AND ALL THIS STUFF IS
10 GOING ON OR WHATEVER. HE'S DONE WHAT ANYBODY IS
11 GOING TO DO.

12 BUT WHAT DID THEODORE JOHNSON SAY THAT HE SAW
13 WHEN HE LOOKED THROUGH THAT WINDOW? I SAW ALL THREE
14 GUYS BEATING ON THAT WOMAN. DIDN'T HE SAY THAT? BUT
15 RAYMOND MACK SAID, NO, NO, I WAS STANDING AWAY FROM
16 HER, I WASN'T DOING ANY OF THAT.

17 WELL, OBVIOUSLY HE'S NOT GOING TO ADMIT TO
18 ANYTHING. AND THEN HE SAID, GEE WHIZ, YOU KNOW, I
19 DON'T KNOW, I WAS IN SHOCK. THAT'S WHY I GRABBED
20 THAT PHONE OFF THE FLOOR AND RAN OUT WITH IT OR
21 WHATEVER.

22 NOW, DO YOU BELIEVE THAT THAT'S WHAT HAPPENED?
23 BUT YET THIS IS ALL THEY HAVE HERE. THIS IS WHAT --
24 THIS IS -- THIS IS JUST ASTONISHING THAT'VE YOU PUT A
25 LIAR LIKE THAT UP HERE. MR. JOHNSON SAID, I LOOKED

1 IN AND ALL THREE OF THOSE GUYS WERE BEATING ON THAT
2 WOMAN. THAT'S WHAT HE SAID, THEY WERE ALL THREE
3 BEATING ON THAT WOMAN. AND HE SAID, I YELLED.

4 NOW MR. SABB SAID HE WAS OFF -- THIS IS FUNNY.
5 NOW, GET A LOAD OF WHO THEY CUT A DEAL WITH HERE.
6 THEY CUT A DEAL WITH SOMEBODY THAT MR. JOHNSON SAYS
7 IS THERE BEATING ON THIS WOMAN. HE SAID THEY BEATING
8 ON HER, ALL THREE OF THEM WERE BEATING ON THIS WOMAN,
9 AND SOMEBODY STOLE HER CELLPHONE OR WHATEVER WHEN
10 THEY SAY SHE'S TRYING TO GET OUT OF THERE OR
11 WHATEVER.

12 NOW BOY, ISN'T THAT -- THAT'S WHO THEY CUT A
13 DEAL WITH HERE. AND THEN THEY GET UP THERE AND EVEN
14 AFTER MR. JOHNSON -- I GUESS THEY CALLING MR. JOHNSON
15 A LIAR WHEN THEY SAY, WELL, YOU KNOW, ALL HE WAS WAS
16 A LOOKOUT, AND HE JUST GRABBED THE PHONE OFF THE, YOU
17 KNOW, HE GRABBED THE PHONE, HE SAW SHE WAS TRYING TO
18 DIAL OR WHATEVER.

19 BUT THEY GO DIRECTLY AGAINST WHAT A WITNESS,
20 MR. JOHNSON, SAYS WHO DOESN'T HAVE ANY REASON TO COME
21 IN HERE AND LIE. MR. JOHNSON, HE SAID THAT'S WHAT I
22 SAW. HE SAID OVER AND OVER AGAIN, I SAW THEM BEATING
23 ON THAT WOMAN, ALL THREE OF THEM BEATING ON THAT
24 WOMAN. THAT'S WHAT HE SAID.

25 SO YOU LISTEN TO THAT GUY. AND SO WHO YOU GOING

1 TO BELIEVE, MR. JOHNSON OR YOU GOING TO BELIEVE
2 MR. MACK? BECAUSE MR. MACK IS ONLY GOING TO ADMIT TO
3 WHAT HE CAN ADMIT TO.

4 YOU KNOW, YOU GET TO THIS ABOUT -- HAVE YOU EVER
5 WONDERED ABOUT -- YOU LOOK AT THIS, WHY DO WE HAVE A
6 GET-AWAY DRIVER? A GET-AWAY DRIVER DOESN'T MAKE ANY
7 SENSE. A GET-AWAY DRIVER -- YOU KNOW, I PARK A CAR
8 HERE, I TAKE THE KEYS AND I GO, THAT CAR IS GOING TO
9 BE THERE WHEN I GET BACK. I WANT THAT CAR THERE.

10 I DON'T WANT SOME KID SITTING IN SOME CAR, OUT
11 THERE WHEN ALL OF THIS OTHER STUFF -- WHEN WE GETTING
12 READY TO GO -- WHEN WE COME RUNNING OUT, WE EXPECT
13 THIS CAR TO BE HERE. HELL, I DON'T KNOW WHETHER HE'S
14 GOING TO BE HERE OR NOT. I DON'T KNOW WHAT'S GOING
15 TO HAPPEN OUT THERE.

16 BUT I GOT THESE KEYS, I'M NOT LEAVING THIS KID
17 OUT HERE WITH THIS. I'M NOT DOING ANY OF THAT. AND
18 WHAT AM I GOING TO DO? WHEN WE ROB THIS PLACE, AM I
19 GOING TO SHARE EVERYTHING WITH THIS GUY? HAVE YOU
20 EVER WONDERED ABOUT -- HAVE YOU EVER WONDERED IS IT
21 THREE PEOPLE OR WAS THERE FOUR PEOPLE HERE. HAVE YOU
22 WONDERED ABOUT THIS?

23 NOW, LET ME ASK YOU THIS. THESE JOHNSON GUYS
24 SAY THEY COME BY. THEY TESTIFIED, I SEE THREE GUYS
25 TO THE LEFT, I GO ON UP AND I SEE A GUY IN THE CAR,

1 SO THEY TURN AROUND AND COME BACK. THAT'S WHAT THEY
2 SAID.

3 BUT YOU REMEMBER WHAT MRS. TYLER SAID? NOW KEEP
4 IN MIND, REMEMBER WHAT MR. ORANGE SAID ALSO. HE
5 SAID, I HAD THE HOOD UP AND I HAD THE FLASHERS ON.
6 YOU REMEMBER WHAT MRS. TYLER SAID? SHE SAID, I CAME
7 OUT -- HE SAID WHEN I CAME UP -- MRS. TYLER SAID,
8 WHEN I LOOKED DOWN THERE, I SAW A CAR BUT I DIDN'T
9 SEE ANYBODY AT THE CAR. SHE SAID, I DIDN'T SEE
10 ANYBODY THERE.

11 AND MR. ORANGE, HE TESTIFIED -- SEE, WHEN
12 SOMETHING -- IF YOU'RE GOING TO BE GET-AWAY DRIVER,
13 YOU DON'T WANT TO DRAW -- IF YOU'RE DOWN THERE, YOU
14 DON'T WANT TO DRAW ATTENTION TO YOURSELF. HOOD UP
15 AND FLASHERS ON.

16 NOW, WHEN YOU GOT FLASHERS ON -- I DON'T OFTEN
17 SEE EMERGENCY FLASHERS, BUT USUALLY WHAT HAPPENS IS
18 IF I REALLY WERE A GET-AWAY DRIVER, I DON'T THINK I'D
19 WANT A BUNCH OF PEOPLE STOPPING TO ASK ME WHAT WAS
20 WRONG OR WHATEVER OR PERHAPS LAW ENFORCEMENT TO COME
21 AND SAY, YOU KNOW, WHAT'S GOING ON HERE, DO YOU NEED
22 ANY HELP?

23 BUT YOU KNOW, THAT'S WHAT -- YOU KNOW, BUT
24 THAT'S WHAT HE SAID HAPPENED HERE. NOW, DOES THAT
25 MAKE ANY SENSE OR WHATEVER? BECAUSE REMEMBER MRS.

1 TYLER SAID, WHEN I LOOKED DOWN, I SAW THE CAR BUT I
2 DIDN'T SEE ANYBODY THERE. DO YOU REMEMBER THAT? ASK
3 YOURSELF WHY DO YOU HAVE A GET-AWAY DRIVER. WHY DO
4 YOU HAVE -- HOW DOES THAT HAPPEN HERE, YOU KNOW?

5 NOW, YOU HEARD TRAVIS SAY THAT, OH WELL, I
6 ROOMED -- I HAD -- I STAY WITH JOSEPH FOR THREE
7 WEEKS. WE GOT OVER THERE IN JAIL, I STAYED THERE FOR
8 THREE WEEKS, AND YOU HEARD HIM TRY TO CHANGE EVERY
9 SINGLE THING AROUND AS TO WHO -- WHO NEEDED THE MONEY
10 TO BEGIN WITH.

11 GETTING READY -- HE SAID THAT I NEEDED MONEY --
12 HE SAID THAT JOSEPH SAID I NEEDED MONEY BECAUSE THE
13 GAS WAS OFF AT MY GIRLFRIEND'S APARTMENT. LENA
14 JACKSON, WAS OFF THERE AND WE NEEDED -- AND I NEEDED
15 SOME MONEY -- AND HE SAID -- IN HIS STATEMENT HE SAID
16 I'M GOING TO SHOW HER THAT I CAN COME UP WITH SOME
17 MONEY HERE. SHE SAID SHE'S GOING BACK TO HER
18 DADDY'S. THE GAS IS OFF.

19 KEEP IN MIND, THEY EVEN TESTIFIED TASHON SAMPSON
20 STAYED THERE THAT NIGHT WITH THE CHILD OR WHATEVER,
21 STAYED THERE THAT NIGHT WITH HER CHILD WHILE THEY
22 WENT TO JOHNSONVILLE OR WHATEVER.

23 ISN'T IT FUNNY HOW -- YOU REMEMBER ALSO HERE,
24 YOU START -- AND THIS IS -- THIS IS SUCH A COMPLEX
25 CASE. AND WHEN YOU THINK ABOUT THIS, YOU LOOK AT IT

1 THIS WAY. RAYMOND MACK SAID, I KNEW MS. PERRY REAL
2 WELL. HE SAID -- HE SAID -- I UNDERSTOOD HIM TO SAY,
3 I STOPPED BY THERE AND I KNEW HER WELL ENOUGH THAT I
4 STOPPED BY AND I WOULD WAVE AT HER AND I STOP BY AND
5 I WOULD BUY A BEER WHEN I'M WORKING AT THE PACKING
6 PLANT AND I KNEW HER. AND THEN HE SAID JOSEPH KNEW
7 HER EVEN BETTER. YOU REMEMBER WHEN HE SAID THAT? HE
8 SAID, OH, HE KNEW HER REAL WELL.

9 NOW, THEIR IDEA HERE IS, BOY, WOULDN'T WE
10 ALWAYS -- WOULDN'T WE ALL HATE -- WOULDN'T WE ALL
11 LOVE TO HAVE THIS SITUATION? SOMEBODY TO COME IN
12 HERE AND ME TO BE STANDING OVER HERE OVER A DEAD
13 PERSON AND THEN FOR SOMEBODY TO SUDDENLY SAY, GEE, WE
14 GOT ANOTHER PERSON HERE THAT WE CAN DROP ALL THE
15 BLAME ON. WOULDN'T WE ALL LOVE IT?

16 NOW, WHAT -- THEIR WHOLE IDEA IS -- GET A LOAD
17 OF THIS STORY. THIS STORY DOESN'T MAKE ANY SENSE TO
18 BEGIN WITH. HOW ARE YOU GOING TO ROB SOMEONE THAT
19 KNOWS YOU REAL WELL WITHOUT YOU BEING CAUGHT? THESE
20 GUYS WERE FROM HEMINGWAY. THAT'S WHERE THEY
21 ALWAYS -- THAT'S WHERE THEY GREW UP OR WHATEVER.

22 AND YOU KNOW HOW THIS GOES, ANYBODY KNOWS -- A
23 LOT OF TIMES PEOPLE KNOW YOUR PARENTS, A LOT OF TIMES
24 PEOPLE KNOW YOU THAT YOU DON'T KNOW KNOWS YOU OR
25 WHATEVER. BUT THEY SAID -- RAYMOND SAID THEY KNEW

1 THIS WOMAN OR WHATEVER. SO HOW DID THEY THINK THEY
2 WERE GOING TO GET AWAY WITH THIS? HOW DID THEY THINK
3 WITHOUT KILLING THIS WOMAN OR WHATEVER?

4 NOW, KEEP IN MIND WHAT MR. JOHNSON SAID NOW, ALL
5 THREE WERE HITTING ON THIS WOMAN OR WHATEVER. AND
6 THEN WHEN THEY TALKED ABOUT THE TWO KNIVES HERE OR
7 WHATEVER, TOO. YOU REMEMBER WHEN THEY TALK ABOUT TWO
8 KNIVES. YOU GOT ONE GUY WITH A GUN AND TWO GUYS WITH
9 KNIVES OR WHATEVER.

10 I WANT YOU TO THINK EVEN FURTHER. NOW, YOU MAY
11 THINK -- WELL, THINK ABOUT ANY OF THIS STUFF THAT
12 THEY COLLECTED. I SEE NUMBERS ON THIS SHEET HERE
13 STARTING WITH -- FROM 26 GOING THROUGH 58 HERE.

14 NOW, THEY KNEW FROM THE BEGINNING -- I ASKED
15 OFFICER TISDALE, I SAID, NOW, DIDN'T MR. SAMPSON TELL
16 YOU FROM THE START WHEN Y'ALL ARRESTED HIM RIGHT
17 THERE AT FIRST, DIDN'T HE TELL YOU THAT HE WAS
18 BABYSITTING THAT DAY AND THAT HE DIDN'T COME OVER
19 WITH THESE GUYS?

20 SO THEY KNEW RIGHT OFF THAT -- THEY ALREADY HAD
21 THE MR. JOHNSON WHO RECOGNIZED RAYMOND AND JOSEPH.
22 SO IN THEIR MIND THEY KNEW TWO -- OVER TWO YEARS AGO
23 THAT THEY HAD TO SOMEHOW COME UP WITH SOME EVIDENCE
24 TO PUT TASHON SAMPSON IN WILLIAMSBURG COUNTY.

25 DID YOU HEAR -- ISN'T IT FUNNY -- YOU REMEMBER

1 WHEN THE OFFICER SAID THAT WHEN THEY CAME TO
2 RAYMOND'S HOUSE, HE SAID, JOSEPH DROVE TO RAYMOND'S
3 HOUSE TO THE SISTER WHO IS THE -- WHO IS RAYMOND'S
4 SISTER. NO, HE SAID, CAME TO JOSEPH -- CAME TO
5 RAYMOND'S SISTER'S HOUSE. SAID JOSEPH CAME OVER WITH
6 A GUY THEY DIDN'T KNOW. AND IT WAS RAYMOND'S SISTER
7 WHO SAID JOSEPH CAME TO MY HOUSE TO PICK UP RAYMOND.

8 AND THAT IS THE SISTER WHO IS TASHON'S COUSIN,
9 AND SHE SAID IT WAS SOME UNKNOWN GUY, SAID, I DIDN'T
10 KNOW WHO HE HAD WITH HIM, I DON'T KNOW WHO HE HAD
11 WITH HIM.

12 YOU REMEMBER THIS OTHER DEAL WHERE THEY TALK
13 ABOUT -- WHERE THEY TALK ABOUT WHO WAS THIS FOURTH
14 GUY OR WHATEVER, AND THEY SAID TASHON -- AND THEY
15 SAID THEY DIDN'T KNOW HIS LAST NAME. RAYMOND MACK?
16 REMEMBER RUDY TISDALE SAID, THEY COULDN'T GIVE ME HIS
17 LAST NAME, THAT RAYMOND -- I TALKED TO -- TALKED --
18 WAS THERE TALKING TO RAYMOND AND JOSEPH AND THEY
19 COULDN'T GIVE ME A LAST NAME FOR TASHON.

20 AND YOU REMEMBER WHEN I ASKED -- I SAID -- I
21 ASKED RAYMOND, I SAID TASHON'S LIVED IN -- HE LIVED
22 IN HEMINGWAY WITH HIS GRANDPARENTS; DOESN'T HE? HE
23 SAID, YEAH. HE SAID, I WENT TO JUNIOR HIGH WITH HIM.
24 HE'S ALWAYS BEEN AROUND THERE.

25 NOW, HE'S -- SAID HE LIVED WITH HIS GRANDPARENTS

1 OR WHATEVER. HE SAID -- I THINK THEY MENTIONED HE
2 SPENT SOME TIME IN NEW JERSEY OR WHATEVER, BUT THIS
3 IS WHERE -- HEMINGWAY IS WHERE THIS MAN IS FROM OR
4 WHATEVER HERE. YOU GOT ALL OF THESE THINGS.

5 WHEN YOU COME UP -- WHEN THEY GO BACK, THEY
6 ALREADY -- REMEMBER THEY SAID -- NOW, YOU SUPPOSED TO
7 BELIEVE THESE TWO WHO ARE LIARS GOT UP HERE, THEY
8 SAID THEY DRIVING BACK THERE.

9 NOW, YOU HAVE ALREADY GOT MR. JOHNSON WHO HAS
10 IDENTIFIED TWO OF THESE GUYS OR WHATEVER HERE. AND
11 WHEN THEY GO RIDING BACK, THEY DON'T SAY ANYTHING
12 ABOUT, MAN, YOU KNOW, WE IN SOME TROUBLE HERE, WE GOT
13 A GUY -- BECAUSE LIKE RAYMOND SAID, I KNOW
14 MR. JOHNSON, MR. JOHNSON KNOWS ME.

15 SO THESE TWO GUYS WERE IDENTIFIED. THEY KNEW
16 THAT. REMEMBER THESE WHO LITTLE LIARS THAT GOT UP
17 THERE AND SAID NOBODY TALKED ABOUT ANYTHING?

18 MR. SABB: YOUR HONOR, PLEASE. JUDGE, I THINK
19 THAT THAT'S AN IMPROPER CHARACTERIZATION.

20 THE COURT: ALL RIGHT. YEAH, I'D CAUTION YOU
21 ABOUT THAT.

22 MR. CARRAWAY: TOO LITTLE BARRICADERS OF THE
23 TRUTH, LET'S PUT IT THAT WAY, GOT UP THERE AND SAID
24 THAT NOBODY TALKED ABOUT ANY OF THAT ON THE WAY BACK.

25 NOW, YOU KNOWS THAT GOT TO BE -- OH, MY GOD.

1 AND THERE'S NOTHING ABOUT -- REMEMBER THEY TALKED
2 ABOUT SOMEBODY SNITCHING OR WHATEVER. WELL, AIN'T NO
3 STITCH. IT'S ALREADY DONE. IT IS ALREADY DONE.

4 FUNNY THING IS, TOO, YOU REMEMBER THE OTHER
5 THING THEY TALKED ABOUT, YOU REMEMBER NO BLOOD --
6 REMEMBER THE OTHER THING THEY TALKED ABOUT ABOUT
7 FOOTPRINTS. REMEMBER THOSE FOOT CASTS THAT THEY HAD
8 WHERE THEY GOT FOOTPRINTS I GUESS OF SHOES FROM THE
9 OUTSIDE? AND HE SAID THEY HAD THEM IN HERE OR
10 WHATEVER. AND I GUESS THEY HAD THESE CASTS IN THERE.
11 BUT GUESS WHAT, THEY DIDN'T MATCH THAT UP WITH
12 ANYTHING.

13 NOW, I GUESS THEIR IDEA WAS HE WANTED TO STEAL
14 SOME MONEY TO GO TO NEW JERSEY SO HE COULD GET BACK
15 UP TO NEW JERSEY. WELL, DON'T YOU THINK IF HE HAD
16 BEEN INVOLVED IN THIS, IF HE HAD ACTUALLY DONE WHAT
17 HE SAID HE DONE, HE WOULDN'T HAVE STAYED IN CONWAY IN
18 LENA JACKSON'S APARTMENT THAT NIGHT, THAT'S NOT WHERE
19 THEY WOULD HAVE FOUND HIM?

20 THESE TWO GUYS -- HE WOULD HAVE KNOWN THAT HE
21 WERE THERE, AND THESE GUYS WERE GOING BACK OVER TO
22 JOHNSONVILLE, THAT BY THE TIME THOSE GUYS GOT --
23 THOSE GUYS WENT OVER TO JOHNSONVILLE BASICALLY JUST
24 TO GIVE THEMSELVES UP IS WHAT THEY DID.

25 I MEAN, THERE WASN'T ANY GETTING AWAY FROM

1 ANYTHING BECAUSE THE JOHNSONS KNEW WHO THEY WERE. I
2 GUESS THEY JUST DIDN'T WANT TO GET SHOT IN CONWAY OR
3 WHATEVER, SO THEY WENT BACK OVER TO JOHNSONVILLE.
4 REMEMBER, THEY HAD SOMEBODY -- THE SISTER CALLED AND
5 COME PICK THEM UP.

6 THE SISTER CALLED LAW ENFORCEMENT OR WHATEVER
7 AND THEY WAITED THERE FOR LAW ENFORCEMENT. SO THAT'S
8 THE ONLY THING I CAN FIGURE THERE. REMEMBER HOW THEY
9 SAID, THOUGH, THAT TASHON WANTED TO GO. HE DIDN'T
10 KNOW ANYTHING ABOUT THIS.

11 THEY SAID HE WANTED TO GO BUT THERE WASN'T ROOM
12 OR THAT SOMEBODY NEEDED TO STAY AND BABYSIT FOR THE
13 CHILD IS WHAT THEY NEEDED TO STAY. THAT WHAT'S THEY
14 SAID. SO HE DIDN'T GO EITHER TIME. NOBODY HAS
15 IDENTIFIED HIM AS DOING -- AS EVEN BEING IN
16 JOHNSONVILLE, THE JOHNSONVILLE-HEMINGWAY AREA THAT
17 DAY.

18 NONE OF THESE CLOTHES OR WHATEVER. IMAGINE --
19 IMAGINE ALL OF THESE THINGS. YOU HAD OTHER THINGS
20 LIKE HAIR SAMPLES THAT YOU CAN COME UP WITH, THAT
21 THEY HAVE -- THESE ARE THINGS -- MAN, I'M TELLING YOU
22 WHAT NOW. REMEMBER, THEY SAID THEY BROUGHT SLED AND
23 IN AND SLED CORDONED THAT PLACE OFF, AND RUDY TISDALE
24 SAID THEY WERE THERE IN 45 MINUTES.

25 SO WHAT YOU HAVE GOT THERE, YOU GOT A GUY WHO IS

1 SITTING OVER AT THE SAME HOUSE OR WHATEVER, BACK
2 THERE BACK OVER IN CONWAY. NOW DO YOU THINK THERE'S
3 ANY WAY POSSIBLE, IT'S POSSIBLE THAT -- THAT THERE
4 WOULDN'T BE SOME BLOOD ON SOMETHING ON THESE GLOVES?

5 HOW -- REMEMBER THEY TALKED ABOUT -- THEY TRIED
6 TO SAY WEAR DARK GLOVES OR WHATEVER HERE. THEY GOT
7 DARK GLOVES HERE AND THESE ARE THE ONES THAT HE SAID
8 HE HAD ON OR WHATEVER. WHERE IS THE BLOOD?

9 IF SOMEBODY HAS STABBED SOMEBODY THAT MANY TIMES
10 OR WHATEVER, DON'T YOU THINK THESE GUYS KNOW HOW WEAK
11 THIS CASE IS? LET ME TELL YOU -- HOW IN THE WORLD --
12 WHEN YOU GOT THESE GUYS TELLING THAT THIS GUY STABBED
13 SOMEBODY 10 TIMES OR WHATEVER AND TWISTED -- LET ME
14 ASK YOU THIS. I WONDER HOW RAYMOND MACK WOULD KNOW
15 WHO IS STANDING OVER, WAY OVER WHERE HE WAS, IF
16 SOMETHING GOT STUCK AND SOMEBODY HAD TO TWIST
17 SOMETHING OR WHATEVER IF IT WASN'T HIM DOING THE
18 STABBING AND TWISTING OR WHATEVER. WONDER HOW HE
19 WOULD KNOW THAT.

20 BUT THEY TOLD ALL THAT STORY OR WHATEVER YET
21 MIRACULOUSLY THERE ISN'T NO SPECK OF BLOOD ON -- IS
22 NOT A SPECK OF BLOOD. NOW, YOU KNOW HOW IT GOES,
23 NOW. I'M TELLING YOU NOW, YOU MAY LOOK RIGHT HERE
24 AND I DON'T SEE ANY ON THESE BLUE JEANS OR WHATEVER,
25 BUT THEY PICK THESE BLUE JEANS UP, THEY TAKE ALL THE

1 BLUE JEANS OUT OF THAT PLACE OR WHATEVER BECAUSE
2 THAT'S WHAT THEY HAVE GOT TO DO IN THIS CASE.

3 RUDY TISDALE KNEW THAT NIGHT OR WHEN HE TALKED
4 TO TASHON SAMPSON, HE SAID, I WASN'T EVEN THERE. HE
5 KNEW IT WAS IMPORTANT FOR THEM TO CONNECT SOMETHING
6 UP OUT OF THAT STORE TO HIM. SOMETHING HAD TO BE
7 CONNECTED UP.

8 DID HE LEAVE ANY HAIR SAMPLES IN THERE? DID HE
9 LEAVE ANYTHING? WERE THERE ANY OF HIS HAIR SAMPLES
10 ON MS. PERRY OR WHATEVER? AND THEY TALK ABOUT THIS,
11 WAS ANYTHING FOUND THERE OR WHATEVER. IF THEY HAD
12 BEEN, THEY'D HAVE FOUND IT.

13 THEY HAVE GOT TO FIND SOME LINK, SOMETHING OF
14 HIM THERE OR SOMETHING OF HER WITH HIM IN CONWAY OR
15 WHATEVER. NOW, HOW DO YOU EXPLAIN THAT? HOW DO YOU
16 EXPLAIN -- IF THIS IS THE THEORY OF THEIR CASE, BOY
17 THAT'S A BIG JACKET OR WHATEVER.

18 OF COURSE, IF YOU REMEMBER MR. JOHNSON SAID THAT
19 THE FIRST GUY OUT THE STORE, WHICH WAS RAYMOND MACK,
20 WAS WEARING THIS. HE SAID THE THIRD GUY OUT OF THE
21 STORE -- HE SAID HE SAID HE GOT A GOOD LOOK AT HIM.
22 HE SAID HE WASN'T WEARING -- HE SAID HE DIDN'T HAVE A
23 HOOD ON OR ANYTHING.

24 THAT'S WHAT MR. JOHNSON TESTIFIED TO. SO I
25 DON'T KNOW WHAT THIS -- BUT Y'ALL REMEMBER WHAT Y'ALL

1 WILL OF HIS TESTIMONY. BUT THAT'S WHAT HE TRIED TO
2 SAY. HE SAID, OH, I GOT A GOOD LOOK AT HIM OR
3 WHATEVER. AND THEN HE SAID, WELL, I SAW HIS FACE,
4 WHATEVER, AND THEN HE LOOKED OVER HERE AND HE -- KEEP
5 THIS IN MIND. HE SAID HE WASN'T WEARING ANYTHING.

6 AND HE LOOKED OVER HERE AND HE WAS NOT ABLE TO
7 SAY THAT THIS IS THE GUY I SAW OR WHATEVER. HE
8 DIDN'T SAY THAT AND HIS BROTHER DIDN'T SAY THAT
9 EITHER. NONE OF THEM SAID THAT.

10 NOW, THEY'VE TAKEN ALL THESE SHOE CASTS OR
11 WHATEVER. WHY DO YOU THINK THEY TOOK THOSE SHOE
12 CASTS? THEY DIDN'T TAKE THEM FOR JOSEPH WILSON. FOR
13 GOSH SAKES. HELL, YOU ALREADY GOT THE JOHNSONS WHO
14 SAID THAT THEY KNOW HIM. THEY TOOK THEM FOR TASHON
15 SAMPSON.

16 THIS IS A BRUTAL -- LET ME TELL YOU WHAT. THIS
17 IS NOT -- THEY DIDN'T GOOF AROUND ON THIS CASE, NOW.
18 THEY DIDN'T PLAY AROUND ON. THIS THEY BROUGHT SLED
19 IN AND THEY KNEW WHAT THE DEAL WAS. THEY KNEW WHAT
20 THESE GUYS HAD SAID. THEY KNEW WHAT THESE TWO GUYS
21 HAD SAID OR WHATEVER.

22 OF COURSE, THEIR TESTIMONY IS TOTALLY
23 SELF-SERVING. WE DIDN'T DO ANYTHING, SOMEBODY ELSE
24 DID IT. THAT'S WHAT EVERYBODY ALWAYS SAYS. THAT'S
25 WHAT EVERYBODY TRIES TO SAY -- SAY HERE OR WHATEVER.

1 EVERYBODY WANTS TO -- THAT'S NOT WHAT MR. JOHNSON
2 SAID.

3 HE SAID, THOSE THREE GUYS IN THAT STORE WERE
4 BEATING ON THAT WOMAN. HE SAID IT OVER AND OVER
5 AGAIN... THERE WASN'T ANYBODY OFF ANYWHERE LOOKING OUT
6 OR DOING ANYTHING. HE SAID, I YELLED. NOBODY TURNED
7 AND SAW ME. HE SAID, I YELLED. HE SAID, I SEE WHAT
8 Y'ALL DOING, AND THAT'S WHEN THEY GOT OUT OF THERE.
9 THAT'S WHAT HE TESTIFIED TO.

10 YOU KNOW, THIS IS JUST CAN -- IT BLOWS MY MIND
11 WHEN YOU GET THIS GUY, MR. JOHNSON, GETTING UP HERE
12 SAYING ALL THESE THINGS CONTRADICTORY TO WHAT RAYMOND
13 MACK SAID, AND THEN THEY ACT LIKE RAYMOND MACK IS
14 TELLING THE TRUTH. ISN'T THAT JUST STUNNING?

15 THIS GUY SITTING -- RAYMOND MACK SAID, I WASN'T
16 DOING ANYTHING WITH THAT WOMAN, I WASN'T DOING
17 ANYTHING, I WAS STANDING OFF OVER HERE. THEN
18 MR. JOHNSON SAYS ALL THREE OF THEM WERE BEATING ON
19 THAT WOMAN. AND MR. JOHNSON SAYS, I YELLED OUT.
20 RAYMOND SAID, I DIDN'T HEAR ANYBODY YELLING OUT.
21 WELL, WHO DO YOU BELIEVE, MR. JOHNSON OR RAYMOND
22 MACK?

23 NOW, DID THEY COME IN HERE AND TELL YOU -- YOU
24 KNOW ONE THING, THEY TOOK THAT SHOE -- THESE SHOE
25 PRINTS FROM OUTSIDE HERE. THEY TOOK THOSE. NOW THEY

1 MIGHT TRY TO SAY -- IF THEY DIDN'T -- IF THEY DIDN'T
2 HAVE GOOD PRINTS FROM THIS AND GOOD CASTS, WHY WOULD
3 THEY HAVE TAKEN THEM AND SENT THEM OFF?

4 APPARENTLY THEY HAD GOOD CASTS HERE OR WHATEVER.
5 BUT YOU KNOW WHAT HAPPENED? WHEN THEY WENT TO THIS
6 HOUSE AND GOT ALL HIS SHOES, NONE OF THEM MATCHED
7 THAT. YOU KNOW THAT'S WHAT THEY ARE TRYING -- WHY
8 ELSE WOULD THEY HAVE TAKEN THEM IF THEY WEREN'T GOING
9 TO TRY TO MATCH THEM UP TO HIS SHOES.

10 WHY ELSE WOULD THEY HAVE TAKEN ALL THIS STUFF
11 OUT OF THERE THAT THEY THOUGHT MAY HAVE BEEN HIS OR
12 WHATEVER. I DON'T KNOW WHETHER IT IS OR NOT. BUT
13 EVEN SO, THERE'S NOT ANY BLOOD ON.

14 Y'ALL MAY SAY, WELL, GEE, DO YOU THINK IF THERE
15 WAS BLOOD ON HERE THAT WAS MS. PERRY, THEY WOULDN'T
16 HAVE TOLD YOU ABOUT IT? DO YOU THINK IF ANY OF THESE
17 ITEMS HERE MY GOSH, LOOK AT ALL OF THIS STUFF, IF ANY
18 OF THIS STUFF -- YOU KNOW, IF I HAD -- IF THIS GUY
19 PAID ME \$5 MILLION AND I HIRED A BUNCH OF
20 INVESTIGATORS, THIS IS WHAT I WOULD HAVE DONE TO
21 PROVE HE WAS INNOCENT.

22 I WOULD HAVE GOTTEN ALL THIS STUFF, GATHERED ALL
23 THIS STUFF AND GONE OUT AND -- AND SHOWN YOU THAT
24 NONE OF IT MATCHES UP OR WHATEVER. THEY HAVE ALREADY
25 DONE THAT FOR US. THEY HAVE DONE THAT. THEY SPENT

1 ALL OF THIS MONEY.

2 HOW MUCH DO YOU THINK THIS WOULD HAVE COST FOR
3 ME TO GET THESE CASTS FROM OUT THERE TO PAY SOMEBODY
4 TO COME IN AND TO GO GET EVERY PAIR OF SHOES OF HIS
5 OR WHATEVER AND FOR ME TO GET THIS JACKET OR WHATEVER
6 THEY MADE A CLAIM TO SEND THIS OFF TO SOME LAB TO GET
7 SOMEBODY TO CHECK TO SEE THERE WASN'T ANY BLOOD ON
8 IT.

9 AND THESE GLOVES THAT THEY SAID HE WAS WEARING
10 HERE, WHAT DO YOU THINK IT WOULD HAVE COST FOR ME TO
11 DO ALL OF THAT, AND ALL THESE OTHER ITEMS HERE, TO
12 PROVE TO YOU THAT NONE OF THESE THINGS CONNECT TO
13 TASHON SAMPSON.

14 HOW MUCH WOULD THAT HAVE COST ME TO DO THAT?
15 BUT THEY HAVE DONE ALL OF THAT. WHY DO YOU THINK
16 THEY DID THAT? THEY DIDN'T DO THAT FOR JOSEPH
17 WILSON. THEY DID ALL OF THIS TO TRY TO SHOW THAT
18 SOME CONNECTION TO TASHON SAMPSON IN THIS CRIME,
19 EITHER SOME OF HER -- SOME OF HEMINGWAY AND
20 JOHNSONVILLE AND SOME OF MS. PERRY IN CONWAY OR ON
21 HIS CLOTHES OR SOME OF HIM THERE IN THIS STORE OR
22 WHATEVER.

23 HERE'S WHERE THESE GUYS GOT LUCKY HERE. THIS
24 IS -- THIS IS WHERE THEIR LUCK CAME IN. I ASK YOU TO
25 CONSIDER THIS. THIS IS WHERE THESE CATS GOT LUCKY.

1 MR. JOHNSON SAYS THERE'S FOUR GUYS THERE. MY GOSH
2 THERE'S FOUR GUYS.

3 THERE WEREN'T BUT THREE OF US THERE. BUT MR.
4 JOHNSON THINKS THERE ARE FOUR GUYS THERE BECAUSE HE
5 SAW SOMEBODY AT THE CAR, THEN AS HE IS TURNING AROUND
6 I CROSS OVER, SEE THREE COMING OUT.

7 REMEMBER MRS. TYLER? SHE DIDN'T SEE ANYBODY UP
8 AT THAT CAR. SHE DIDN'T SAY SHE SAW ANY EMERGENCY
9 FLASHERS ON AND THE HOOD UP OR ANYTHING OF THAT. SHE
10 DIDN'T SAY ANY OF THAT. SO ASK YOU TO CONSIDER THAT.

11 THEN WHAT HAPPENS IS -- WELL, WE KNOW WHO -- WE
12 KNOW -- NOW WE GOT SOMEBODY WE CAN BLAME ALL THIS ON
13 BECAUSE NOBODY WANTS TO SAY, MY GOSH, I'D SURE HATE
14 TO BE SOMEPLACE WHERE, YOU KNOW, WHERE I HAD TO ADMIT
15 TO THIS OR WHATEVER.

16 NOW I -- I GOT -- WE GOT SOMEBODY ELSE WE CAN
17 LAY ALL THIS OFF ON. BUT YOU KNOW, WHEN THEY GO TO
18 DO THAT, WHEN THIS COMES TO THEIR MIND THERE'S A
19 FOURTH GUY HERE OR WHATEVER, THEY ARE NOT EVEN SURE
20 ABOUT, YOU KNOW, THEY NOT EVEN SURE ABOUT DOING THIS
21 BECAUSE THEY EVEN DON'T WANT TO GIVE HIS LAST NAME.
22 THEY SAY TASHON OR WHATEVER. THEY KNOW HIS LAST NAME
23 AS GOOD AS ANYTHING.

24 BUT THEY ARE QUESTIONING -- THEY WONDER, HELL,
25 WE GOING TO GET CAUGHT IN A LIE HERE ANYHOW. AND

1 WHAT HAPPENS HERE IS THEY DON'T EVEN -- NOW, YOU
2 HEARD OFFICER TISDALE SAY, I ASKED THOSE GUYS ABOUT
3 THIS. AND THEY SAID -- TASHON -- THEY SAID, WE DON'T
4 KNOW HIS LAST NAME. NOW, HOW CAN THAT BE? IF ALL OF
5 THIS STUFF WERE TRUE THAT THEY ARE STATING, WHY WOULD
6 THEY NOT BE ABLE TO SAY, WELL, THAT'S TASHON SAMPSON.

7 YOU KNOW, IF THEIR STORY IS, WE WENT IN THERE
8 AND WE DIDN'T HAVE ANY INTENTION OF HURTING THIS
9 WOMAN WHATSOEVER AND HE DOES ALL THIS STUFF AND HE'S
10 GOT NOTES OF ALL THIS STUFF OR WHATEVER, YOU KNOW.
11 GOOD AND WELL THEY WOULDN'T HAVE ANY TROUBLE TELLING
12 THAT OR WHATEVER.

13 WHY WOULD OFFICER TISDALE GET UP THERE AND SAY
14 THAT JOSEPH WILSON AND RAYMOND MACK COULD NOT TELL
15 YOU THE LAST NAME OF TASHON SAMPSON? HE SAID THEY
16 COULDN'T TELL ME THE LAST NAME, THEY DIDN'T KNOW HIS
17 LAST NAME.

18 AND WHAT DOES THAT TELL YOU ABOUT HOW
19 QUESTIONABLE ALL THIS IS. BUT THAT'S HOW THEY GOT
20 ARRESTED TO BEGIN WITH, BECAUSE THE JOHNSONS SAID
21 THERE WERE FOUR GUYS THERE.

22 AND THESE THREE GUYS, THEY CAME OVER TO
23 JOHNSONVILLE WITH LENA JOHNSON (SIC) TO JOSEPH
24 SISTER'S HOUSE. THAT'S WHERE THEY CAME TO. TASHON
25 SAMPSON DIDN'T COME ALONG WITH THEM. THEY SAID HE

1 ASKED TO COME, BUT SOMEBODY HAD TO STAY THERE.

2 NOW, IF THIS GUY WAS THE MASTERMIND THEY TALKING
3 ABOUT HERE AND EVERYTHING, BOY, I'M TELLING YOU WHAT,
4 I MIGHT HAVE BEEN A LOT OF PLACES, BUT THE LAST PLACE
5 I'D HAVE BEEN WAS SITTING RIGHT THERE AT THAT HOUSE
6 WHERE SOMEBODY COULD FIND ME.

7 I COULD BE ANYWHERE ELSE IN CONWAY AND IT MIGHT
8 BE DIFFICULT FOR THEM TO FIND ME -- OR I'D BE ON A
9 BUS TO SOMEWHERE. I CAN TELL YOU THAT. BUT THIS IS
10 WHAT -- THIS IS WHAT I WONDER ABOUT HERE, HOW WE ARE
11 SO QUICK TO BELIEVE WHAT THESE GUYS SAID UP HERE.

12 BUT YOU SAW HOW MR. ORANGE'S STORY COMPLETELY
13 CHANGED AROUND. NOW REALLY WHAT THIS IS ABOUT IS WE
14 GOT -- YOU GOT THE THREE GUYS HERE. YOU HAVE GOT THE
15 THREE GUYS THAT COMMITTED THIS CRIME. THAT'S TRAVIS
16 ORANGE, JOSEPH WILSON AND RAYMOND MACK. YOU GOT
17 THOSE THREE GUYS.

18 TRAVIS ORANGE GOT TO BE THE GUY IN THE CAR
19 BECAUSE THEY ALREADY KNEW THESE TWO GUYS. THESE
20 GUYS, ONE OF THESE TWO GUYS COULDN'T BE A DRIVER
21 BECAUSE THE JOHNSONS HAD ALREADY -- MR. THEODORE
22 JOHNSON HAD ALREADY SEEN THESE GUYS. SO THEY
23 COULDN'T BE THAT GUY.

24 BUT BOY, IT IS GOOD THING TO HAVE SOMEBODY ELSE
25 YOU CAN BE BLAME EVERY THING ELSE ON, AND THAT'S WHAT

1 THEY HAVE DONE. ISN'T IT FUNNY, MR. JOHNSON, ALL
2 THREE GUYS BEATING ON THIS WOMAN. BUT BOY, THESE
3 GUYS, THEY ACTED LIKE, NO THERE WASN'T BUT ONE GUY
4 AND IT WASN'T ANY OF US, IT WAS TASHON SAMPSON.

5 TASHON SAMPSON WHO TOLD LAW ENFORCEMENT I WAS
6 BABYSITTING THAT DAY AND THEY WENT TO ALL OF THIS
7 TROUBLE HERE TO TRY TO CONNECT -- HOW IN THE WORLD
8 WAS A SOUTH CAROLINA SLED LAB NOT ABLE TO FIND A
9 SPECK OF BLOOD ON TASHON SAMPSON?

10 NOW I ASK YOU THAT, NOW. WE WANT TO FIND OUT
11 THE TRUTH HERE. WE -- WE -- WE WANT TO BE FAIR TO
12 THE PARENTS, WE WANT TO BE FAIR TO JOSEPH WILSON, WE
13 WANT TO BE FAIR TO RAYMOND MACK AND TRAVIS ORANGE OR
14 WHATEVER, BUT WE WANT TO BE FAIR ALSO TO TASHON
15 SAMPSON HERE NOW.

16 NOW TELL ME WHAT -- YOU TELL ME BECAUSE I CAN'T
17 FIGURE IT OUT HOW THEY COULDN'T FIND ANY BLOOD HERE
18 IF THERE WAS ANY BLOOD. IF HE HAD DONE WHAT THEY
19 SAID THAT HE HAD DONE WEARING THOSE GLOVES, DOING
20 THESE THINGS, STILL AT THE HOUSE WITH GLOVES ON.

21 NOW, WHAT ARE YOU TELLING ME? HE JUST LAID UP
22 THERE AT THE HOUSE AND GOT RID OF SOME OTHER GLOVES
23 AND SAID, WELL I WILL DESTROY ALL THIS OTHER STUFF
24 AND I WILL LAY UP HERE UNTIL THEY COME TAKE ME, WON'T
25 LET THEM FIND ANY BLOOD? YOU KNOW THAT DIDN'T

1 HAPPEN.

2 HE IS INNOCENT UNTIL HE'S PROVEN GUILTY HERE.
3 HE'S INNOCENT. YOU THINK THIS GUY IS SOME KIND OF A
4 GENIUS THAT HE CAN BEAT A SLED LAB? BUT YOU KNOW,
5 WHEN YOU GET -- YOU KNOW, THERE'S NOT BLOODSTAINS
6 SOMEWHERE THAT YOU CAN'T EVEN SEE ON YOUR BOOT OR ON
7 YOUR SHOE OR ON THESE BLUE JEANS THAT YOU CAN'T SEE
8 OR ON THOSE GLOVES, AND NO MATTER HOW HARD YOU TRY TO
9 WASH IT OR DO WHATEVER, IT MAY BE A LITTLE DEGRADED,
10 BUT YOU CAN STILL PICK IT UP? DO YOU THINK ANY OF
11 THAT?

12 HOW ABOUT THESE FOOT CASTS THAT YOU HEARD
13 JEFFREY SCOTT TESTIFY ABOUT THAT THEY HAD? HOW ABOUT
14 ALL OF THAT? NONE OF THAT MATCHED UP. THEY KNEW --
15 THEY BROUGHT EVERY -- THE STATE OF SOUTH CAROLINA
16 BROUGHT EVERY INVESTIGATIVE TECHNIQUE AND -- THAT
17 THEY COULD POSSIBLY COME UP WITH, AND IT WAS ONLY FOR
18 ONE REASON, TO TRY TO LINK -- BECAUSE THEY KNEW ALL
19 THIS OTHER STUFF, BUT TO TRY TO LINK HIM SOMEHOW TO
20 BEING THERE BECAUSE HE SAID HE WASN'T THERE.

21 AND THERE ISN'T ANY LINK ON ANY OF THIS STUFF.
22 OH, WELL, THESE GUYS SAID THERE WAS A KNIFE. SO
23 HERE'S A KNIFE. WELL, WHAT DOES THAT MEAN? WHAT
24 DOES THAT MEAN THAT THERE'S A KNIFE? WE KNOW SHE WAS
25 STABBED. WE KNOW THAT UNFORTUNATELY SHE IS DEAD OR

1 WHATEVER, BUT WHAT -- HOW -- WHAT DOES THIS HAVE TO
2 DO WITH TASHON SAMPSON?

3 YOU KNOW THESE GUYS HAVE ADMITTED TO NOTHING.
4 THEY HAVE ADMITTED NOT TO ONE THING. NONE OF IT.
5 (PAUSE.) HOW WOULD HE KNOW THAT HE HADN'T BEEN
6 RECOGNIZED IN THIS? BECAUSE REMEMBER HE WAS THE
7 THIRD GUY.

8 REMEMBER MR. JOHNSON SAID, I KNOW YOU GUYS, I
9 KNOW YOU GUYS. NOW, WHY WOULD HE NOT THINK THAT HE
10 MAY BE REFERRING TO HIM IF HE WERE INVOLVED IN THIS?
11 WHY WOULDN'T HE THINK THAT?

12 I MEAN, YOU KNOW, IF HE'S FROM THE HEMINGWAY
13 AREA OR WHATEVER, HE'S FROM AROUND THERE, YOU KNOW,
14 YOU DON'T ALWAYS KNOW WHO KNOWS YOU OR WHATEVER. BUT
15 WHY WOULDN'T HE THINK THEY WERE REFERRING TO HIM AND
16 IF THAT WERE THE CASE.

17 YOU KNOW, WHEN THESE OTHER TWO GUYS, THE
18 JOHNSONS, RECOGNIZED HIM IT WAS OVER FOR THEM. YOU
19 KNOW, THEY JUST HAD TO FIGURE -- THEY WERE BASICALLY
20 FIGURING OUT A WAY NOT TO GET KILLED OVER SOMEWHERE
21 WHERE THEY COULD TURN THEMSELVES IN IS WHAT THEY WERE
22 BASICALLY FIGURING OUT, AND THAT'S WHAT THEY DID.

23 THEY GOT IN THAT CAR AND THEY DROVE TO
24 JOHNSONVILLE TO A SISTER'S HOUSE. AND REMEMBER THEY
25 SAID THEY GOT A TIP. WELL, THE SISTER CALLED, TOLD

1 THEM TO COME PICK THEM UP AND THEY WENT TO THE HOUSE
2 AND PICKED UP THESE THREE GUYS IS WHAT THEY DID.

3 AND TASHON ASKED TO COME ALONG, BUT THEY SAID
4 NO, YOU KNOW, WE NEED SOMEBODY TO TAKE CARE OF THE
5 CHILD OR WHATEVER, SO HE DIDN'T GO. HE DIDN'T KNOW
6 ANYTHING ABOUT IT OR WHATEVER.

7 PATHOLOGIST SAID, WELL, THESE KNIVES LOOK PRETTY
8 MUCH ALIKE. ALL SHE SAID WAS THESE KNIFE WOUNDS WERE
9 NOT INCONSISTENT WITH A KNIFE -- WITH THE SAME KNIFE.
10 SHE DIDN'T SAY IT WAS THE SAME KNIFE. THESE KNIVES
11 LOOK -- I DON'T KNOW HOW YOU WOULD DISTINGUISH ANY OF
12 THIS.

13 I CAN TELL YOU ONE THING. THESE KNIVES COME
14 FROM THE SAME SET OF KNIVES. I MEAN, THEY GOT THE
15 SAME NAME ON IT LOOKS LIKE TO ME. I THINK THEY ARE
16 THE SAME KNIVES. I THINK THEY COME FROM THE SAME SET
17 IS WHAT IT LOOKS LIKE FROM THE HANDLE OR WHATEVER
18 HERE.

19 AND WHOSE HOUSE WERE THEY AT? THEY WERE AT LENA
20 JACKSON'S HOUSE. AND WHO LIVES AT -- WHO LIVES WITH
21 LENA JACKSON BUT JOSEPH WILSON. THAT'S WHO LIVES
22 THERE.

23 AND KEEP IN MIND THEY ALREADY KNEW -- BECAUSE
24 REMEMBER WHAT THEY SAID? THEY LEFT ABOUT 10:00 THAT
25 NIGHT TO GO TO JOHNSONVILLE. THEY SAID THEY ALREADY

1 SEEN IT ON THE NEWS. THEY SAW IT ON THE TV, WHAT HAD
2 HAPPENED. THEY KNEW THAT THE JOHNSONS WOULD
3 RECOGNIZE THEM. THEY KNEW THAT. AND THAT'S WHY THEY
4 WENT OVER THERE.

5 ISN'T THAT WHAT SOMEONE WOULD DO? I DON'T WANT
6 TO BE OVER HERE IN CONWAY WHERE I DON'T KNOW ANYBODY.
7 I DON'T WANT SOMEBODY COMING OVER HERE BUSTING IN
8 SHOOTING ME OR WHATEVER. WE RIDE BACK OVER TO
9 JOHNSONVILLE AND WE'LL HAVE OUR SISTER CALL HAVE
10 THEM, HAVE THEM COME PICK US UP, SOMEBODY WE KNOW
11 OVER THERE, AND THAT'S WHAT THEY DID.

12 REMEMBER, RANDAL CARMICHAEL, I BELIEVE IS WHAT
13 THEY SAID, WAS THE FIRST ONE OVER THERE. THEY CALLED
14 THE CHIEF IN HEMINGWAY. AND I THINK HE -- EVEN
15 THOUGH THIS HOUSE WAS IN JOHNSONVILLE, I THINK HE
16 CROSSED THE COUNTY LINES TO GO OVER THERE BECAUSE
17 THAT'S WHO THEY KNOW. BUT THAT'S WHY THEY WENT OVER
18 THERE, AND THAT DOES MAKE SENSE.

19 NOW, IF HE BEEN INVOLVED WITH THIS AND BEEN THE
20 KIND OF GUY THEY SAY HE IS, HE SURE WOULDN'T HAVE
21 BEEN WAITING RIGHT THERE WHERE HE COULD BE FOUND. HE
22 COULD HAVE BEEN ANYWHERE ELSE IN CONWAY WOULD HAVE
23 NEVER FOUND HIM.

24 THEY GONE TO THAT PLACE IN CONWAY OR WHATEVER,
25 IF HE HADN'T BEEN AT LENA JACKSON'S HOUSE, THEY

1 WOULDN'T HAVE FOUND HIM BECAUSE THEY DON'T KNOW WHO
2 ELSE HE MIGHT HANG AROUND WITH THERE OR WHATEVER.

3 REMEMBER, MR. ORANGE SAID HE HAD ONLY BEEN THERE
4 TWO WEEKS. THAT'S WHAT HE SAID. SAID, I KNOWN
5 JOSEPH FOR FOUR MONTHS, BUT HE ONLY BEEN -- I ONLY
6 KNOWN HIM FOR TWO WEEKS AND I LIVE RIGHT NEAR LENA
7 AND I DRIVE FOR HER OR WHATEVER.

8 YOU NOTICE THOSE TWO GUYS DIDN'T GET UP AND SAY
9 WE WENT OVER THERE, TURNED OURSELVES IN, WHICH IS
10 WHAT THEY DID. THEY DIDN'T SAY THEY TALKED TO HIM
11 ABOUT GOING OVER THERE OR ANYTHING. AND HE SAID,
12 WELL, I'M NOT GOING OR I DIDN'T DO ANYTHING OR -- OR
13 NO, I'M GOING TO JERSEY OR ANYTHING.

14 WHAT DO YOU THINK THOSE THREE GUYS GOT IN THAT
15 CAR TO GO BACK OVER TO JOHNSONVILLE FOR? THAT'S
16 EXACTLY WHAT THEY WENT OVER THERE FOR. THEY DIDN'T
17 SAY ANYTHING ABOUT HIM OR WHATEVER. THEY DIDN'T SAY
18 ANYTHING ABOUT WOULD HE COME OR THAT'S WHAT WE WENT
19 TO DO, BUT HE WOULDN'T COME, HE SAID THIS OR HE SAID
20 THAT.

21 HE DIDN'T KNOW ANYTHING ABOUT ANY OF THIS. HOW
22 WERE THESE TWO GUYS, JOSEPH WILSON AND RAYMOND MACK,
23 HOW DID THEY EXPECT TO ROB THIS WOMAN LIKE THEY SAY
24 AND JUST TAKE HER MONEY AND WALK OUT WHEN SHE KNEW
25 WHO THEY WERE, WITHOUT KILLING HER IF THAT WASN'T

1 PART OF THEIR PLAN TO KILL THIS WOMAN.

2 HOW WOULD -- HOW ARE YOU GOING TO GET -- YOU
3 TALK ABOUT -- YOU HEARD HOW THEY SAID THAT SHE KNEW
4 THEM AND THAT THEY KNEW HER, AND THAT JOSEPH WILSON
5 KNEW HER REAL WELL, HOW DID THEY THINK THAT WAS GOING
6 TO HAPPEN OR WHATEVER?

7 AND THAT'S CONSISTENT WITH -- WHAT I'M TELLING
8 YOU IS THOSE THREE GUYS WENT IN THERE KNOWING THEY
9 WERE GOING TO HAVE TO KILL THAT WOMAN AND THEY WERE
10 PREPARED TO DO IT.

11 AND WHAT DID MR. JOHNSON SAY? I SAW ALL THREE
12 OF THEM HITTING ON THAT WOMAN. WHEN THE STABBING WAS
13 GOING ON, HE DIDN'T SAY HE SAW ANY KNIFE, BUT THAT'S
14 WHAT HE SAW. AND WHAT DOES STABBING LOOK LIKE FOR
15 THREE PEOPLE HITTING AND ONE GUY PISTOL WHIPPING?
16 WHAT DOES IT LOOK LIKE?

17 MR. JOHNSON DOESN'T HAVE ANY REASON TO LIE ABOUT
18 WHAT HE SAW IN THERE, AND HE WAS CONSISTENT ABOUT I
19 SAW THREE PEOPLE, ALL THREE GUYS HITTING ON THAT
20 WOMAN OR WHATEVER AND -- BUT THEIR STORY, OF COURSE,
21 IS OH, WE WEREN'T GOING TO DO ANYTHING, WE JUST
22 WANTED THE MONEY, WE JUST WANTED TO WALK OUT THAT.

23 WELL, THAT COULDN'T HAPPEN BECAUSE SHE KNOWS
24 THEM. SHE KNOWS TWO OF THEM. AND LIKE I SAID,
25 MR. JOHNSON SAID THEY WERE ALL THREE BEATING ON HER

1 WHEN I LOOKED, AND I YELLED, AND THAT'S WHEN THEY
2 TOOK OFF.

3 I -- WHEN YOU GO BACK IN THAT JURY ROOM, I WANT
4 YOU TO CONSIDER THE CREDIBILITY OF ALL -- ALL YOU'VE
5 HEARD IS SELF-SERVING TESTIMONY OUT OF TRAVIS ORANGE
6 AND RAYMOND MACK UP THERE. THAT'S ALL YOU HAVE HEARD
7 OUT OF THEM.

8 THEY JUST ADMITTED TO WHAT THEY HAD TO ADMIT TO.
9 AND THEN I WANT YOU TO SEE WHETHER THE EVIDENCE, ALL
10 OF THIS, WHETHER ANY OF THIS STUFF, WHETHER IT'S
11 POSSIBLE THAT WITH ALL THAT BLOOD, ALL THAT STABBING
12 AND ALL THAT THROAT CUTTING, IF SOMETHING WOULD NOT
13 HAVE GOTTEN ON A JACKET OR A WHITE T-SHIRT AS TRAVIS
14 ORANGE SAYS TASHON SAMPSON WAS WEARING OR GLOVES THAT
15 THEY SAID THEY FOUND THERE.

16 HOW COULD THAT HAVE HAPPENED? DOES THIS -- IS
17 IT POSSIBLE FOR NO BLOOD TO BE ON ANYTHING? IS IT
18 POSSIBLE FOR HIM TO HAVE ACTUALLY BEEN INVOLVED IN
19 THIS AS THEY SAY, YET FOR NONE OF THESE PIECES OF
20 EVIDENCE THAT SLED WITHIN 45 MINUTES GOT THERE AND
21 TOOK TRYING TO CONNECT HIM UP, IS HE THAT SMART?

22 IS THAT WHAT YOU'RE TELLING ME? HE'S THAT SMART
23 TO WHERE HE COULD HAVE DONE WHAT THEY SAID HERE YET
24 NONE OF THIS, SLED'S NOT SMART ENOUGH TO CONNECT HIM
25 UP AT ALL WITH THE BLOOD OR ANYTHING. NONE OF HER

1 BLOOD WOULD HAVE GOTTEN ON HIM. NONE OF IT WOULD
2 HAVE GOTTEN ON HIS CLOTHES? IS THAT WHAT YOU'RE
3 SAYING?

4 THAT THAT SHOE CAST OR WHATEVER, SOMEHOW HE WAS
5 SMART ENOUGH TO DESTROY THE SHOES? BECAUSE THEY GOT
6 GOOD CASTS THEY SAID. THEY MADE -- SENT THEM HERE OR
7 WHATEVER TO CONNECT UP THE SHOES. WAS HE SMART
8 ENOUGH TO DO ALL OF THAT BUT YET HE'S DUMB ENOUGH TO
9 WAIT IN THAT HOUSE WITHOUT, YOU KNOW, IF ALL YOU HAVE
10 TO DO IS WALK UP TO THE PAVILION AND HE COULD HAVE
11 GOTTEN LOST THERE FOR THREE -- FOR A MONTH.

12 IS HE THAT SMART OR WHATEVER? I DON'T THINK SO.
13 I THINK HE NEVER WAS THERE JUST LIKE HE SAID, BECAUSE
14 THEY SPENT TWO AND A HALF YEARS TRYING TO PROVE THAT
15 HE WASN'T BABYSITTING LIKE HE SAID HE WAS THAT
16 MORNING, AND SLED WAS ABLE -- THERE WITHIN 45
17 MINUTES, GOT ALL OF THIS STUFF AND NONE OF IT
18 CONNECTS TO HIM, NOT ONE THING.

19 ANYTHING YOU'VE HEARD FROM THESE CATS OR FROM
20 THESE GUYS, THAT'S JUST WHAT THEY ARE SAYING OR
21 WHATEVER. BUT REMEMBER WHAT MR. JOHNSON SAW WHEN HE
22 LOOKED THROUGH THAT WINDOW? REMEMBER WHAT HE SAW.

23 AND REMEMBER HOW NO ONE HAS SAID THAT HE WAS
24 EVER AROUND. HIS SISTER DIDN'T SAY HE CAME TO PICK
25 UP RAYMOND WITH JOSEPH. SHE SAID IT WAS SOME UNKNOWN

1 GUY THAT CAME.

2 AND REMEMBER OFFICER TISDALE SAID, WHEN I ASKED
3 HIM WHO THE OTHER GUY WAS, THEY SAID, OH WELL,
4 ANOTHER GUY? REALLY THEY THINKING AIN'T BUT THREE
5 GUYS. BUT Y'ALL -- ANOTHER GUY? WELL, TASHON.
6 WHAT'S HIS LAST NAME? WE DON'T KNOW. WE DON'T KNOW
7 HIS LAST NAME.

8 AND WHAT DOES THAT MEAN? IF HE HAD DONE THIS
9 AND GOTTEN INTO ALL THIS TROUBLE, DO YOU THINK THEY
10 WOULD HAVE HESITATED TO GET THAT LAST NAME? DO YOU
11 THINK? BE FAIR TO MR. SAMPSON.

12 NOW I MEAN, THEY HAVE TRIED AND THEY -- THEY
13 HAVE THEY HAVE FAILED TO CORROBORATE ANYTHING THAT
14 THESE GUYS HAVE SAID. OH, THEY GOT THIS HEADREST.
15 WELL, ANY OF THEM COULD HAVE DONE THE HEADREST.

16 RAYMOND MACK, MAN'S ALREADY SAID THEY WERE OVER
17 HITTING ON HER, SO THIS HEADREST AND EVERYTHING, NONE
18 OF THAT -- NONE OF THIS IS TIED TO HIM. AND GLOVES,
19 JACKET, NO BLOOD, NO NOTHING, NO SHOES, NOTHING ON
20 BLUE JEANS TO WHERE BLOODSTAINS MAY FADE AND YOU NOT
21 SEE THEM.

22 MAN, I'M TELLING YOU. THEY WERE THERE WITHIN 45
23 MINUTES OF THAT STORE AND THEY WERE THERE THAT NIGHT
24 AT THAT HOUSE WHEN THEY WENT IN I GUESS ABOUT TWO OR
25 THREE IN THE MORNING WHEN HE WAS ASLEEP THERE OR

1 WHATEVER. TALK ABOUT HIM WEARING GLOVES--

2 THE COURT: LET'S START WINDING DOWN.

3 MR. CARRAWAY: THEY SAID HE'S WEARING GLOVES.

4 WELL, HE IS WEARING GLOVES BECAUSE HER GAS WAS OFF,
5 IT'S FEBRUARY, IT'S COLD IN THERE. REMEMBER, THAT'S
6 WHAT THEY SAID. HER GAS WAS OFF. THAT'S WHY JOSEPH
7 NEEDED MONEY AND SHE WAS GOING BACK WITH HER DADDY.

8 SO MAKES SENSE THAT HE WOULD HAVE GLOVES ON.
9 IT'S FEBRUARY, MIDDLE OF THE NIGHT, AND THERE ISN'T
10 ANY HEAT THERE OR WHATEVER. BUT I WOULD ASK THAT YOU
11 CONSIDER ALL THESE THINGS AND PUT ALL THIS TOGETHER.

12 AND I WOULD SUGGEST THAT THERE'S CERTAINLY --
13 THAT THERE'S LITTLE DOUBT, NONE OF THIS STUFF -- ALL
14 OF THIS STUFF CAN'T LIE. THERE'S NO QUESTION TASHON
15 SAMPSON DID NOT HAVE ANYTHING TO DO WITH THIS. HE
16 DID NOT DO WHAT THEY SAID HE DID, STABBING THIS WOMAN
17 ALL THESE TIMES.

18 NONE OF THIS STUFF -- NONE OF THIS STUFF WOULD
19 HAVE MISSED THAT. IF -- IF IT EITHER PROVES IT ONE
20 WAY OR THE OTHER. IF HE DID IT, THEY COULD HAVE
21 PROVED IT. AND SINCE THERE IS NO PROOF ON ANY OF
22 THIS, THAT PROVES HE DID NOT HAVE ANYTHING TO DO WITH
23 THIS. THANK YOU.

24 THE COURT: THANK YOU, SIR. YES, SIR.

25 MR. BARR: YOUR HONOR, THE JURORS MAY HAVE TO

1 TAKE LITTLE STRETCH NOW.

2 THE COURT: I HOPE THAT THEY'RE GOING TO BE ABLE
3 TO ABLE TO STAY THROUGH YOUR AND MY -- MY CHARGE AND
4 YOUR CLOSING. BUT WHAT WE MAY HAVE TO DO IF AFTER
5 MR. BARR'S CLOSING YOU THINK YOU NEED A BREAK, RAISE
6 YOUR HAND. MY CHARGE SHOULDN'T BE VERY LONG.

7 AND I WOULD ANTICIPATE MR. BARR'S CLOSING WILL
8 BE SUCCINCT AS WELL. MR. BARR, YOU SPEAK AS LONG AS
9 YOU NEED TO TO GO THROUGH ALL THE EVIDENCE AND
10 TESTIMONY THAT YOU NEED TO DO. PLEASE PAY ATTENTION.

11 CLOSING STATEMENT

12 MR. BARR: YOU KNOW, ABOUT FIVE OR 10 YEARS AGO
13 I WAS FILLING AN OFFICE AND SOMEBODY CAME IN ONE
14 NIGHT AND STOLE ALL MY TOOLS AND THEY LEFT ONE BENCH
15 SAW. AND I CAME BACK THE NEXT NIGHT AND HID BEHIND
16 THE CHURCH WITH MY RIFLE, AND I WAS HOPING THAT THEY
17 WOULD COME BACK FOR THE BENCH SAW. THAT WAS ON A
18 FRIDAY.

19 THAT SATURDAY MORNING I WENT TO BIBLE STUDY.
20 AND THE -- THE BIBLE STUDY LESSON THAT WEEK WAS
21 FORGIVENESS AND LOVING -- AND I TELL YOU, I STARTED
22 THINKING ABOUT THAT THING. I SAID -- I SAID, LORD,
23 YOU CAN'T MEAN THAT MAN WHO STOLE MY TOOLS. I COULD
24 SEE MYSELF PERHAPS SOMETHING -- THEN IT DAWNED ON ME
25 AND IT HIT ME FOR A WHILE, AND I REALIZED THAT

1 EVERYTHING THE MAN HAD STOLE, IF I NEEDED TO, I COULD
2 GO BACK AND BUY IT ALL THE NEXT DAY.

3 YOU KNOW, BEFORE I COULD FIND ANY PEACE, I
4 FINALLY HAD TO RESOLVE THAT. I MEAN, I HAD TO -- HAD
5 TO STRAIGHTEN THAT OUT. AND YOU KNOW, IT -- AS
6 YOU -- AS YOU JURORS, AS YOU SIT THERE NOW AND YOU
7 TAKE ONE PRINCIPLE THAT HIS HONOR HAS ALREADY GIVEN
8 YOU WHICH SAYS A PERSON IS PRESUMED INNOCENT UNTIL
9 PROVEN GUILTY.

10 NOW, WHAT THAT MEANS IF YOU PUT IT INTO
11 PRACTICE, IT MEANS THAT RIGHT NOW ALL 12 OF YOU AS
12 YOU SIT THERE AND YOU LOOK OVER HERE AT THIS TABLE
13 AND YOU LOOK BACK OVER HERE AT THIS TABLE AND YOU
14 LOOK OVER HERE AT THE PERRY FAMILY -- NOW, TO DO TO
15 MS. PERRY WHAT WAS DONE IN THIS SITUATION IS ALMOST
16 UNBELIEVABLE.

17 AND YOU ASK YOURSELF IF THE SOLICITOR AND -- AND
18 THE DEPUTY, IF THEY GOT THE RIGHT PEOPLE, ONE OF THEM
19 IS SITTING OVER HERE AT THIS TABLE. AND ANY PERSON
20 THAT COULD DO THIS, HOW -- HOW DO YOU -- HOW DO YOU
21 SIT HERE NOW AND START AND SAY THEY ARE PRESUMED
22 INNOCENT? THAT'S DIFFICULT TO DO. THAT'S
23 CHALLENGING.

24 BECAUSE LADIES AND GENTLEMEN, I WOULD TELL YOU
25 IT WOULD TAKE A HEARTLESS, IT WOULD TAKE AN EVIL, IT

1 WOULD TAKE A PERSON TOTALLY, TOTALLY DESTITUTE OF
2 ANYTHING GOOD TO DO THIS TO A HELPLESS 77 OR 76 YEAR
3 OLD WOMAN.

4 YOU KNOW I MET PHIL PERRY ABOUT 20 YEARS AGO,
5 AND I STARTED BUYING FURNITURE FROM HIM. HE'S A GOOD
6 MAN. AND I'M SURE HE'S A GOOD MAN BECAUSE HE HAD
7 GOOD MOTHER. AND AS I SIT HERE AT THIS TABLE, I
8 LISTENED TO MR. SABB FIRST.

9 AND I SIT HERE AND I ASKED MYSELF WHAT, WHAT,
10 WHAT? I MEAN, IN TERMS OF A SOCIETY OF PEOPLE, AND
11 IN THIS SITUATION SUCH AS WE HAVE GATHERED HERE TO
12 RESOLVE A LEGAL ISSUE, WHAT IS IT THAT WENT WRONG?

13 SOMEBODY WENT WRONG SOMEWHERE TO CAUSE A YOUNG
14 MAN -- I MEAN, NOT A BAD LOOKING YOUNG MAN, BUT TO
15 CAUSE A YOUNG MAN LIKE THIS TO COME UP WITH NOTHING
16 BETTER IN HIM THAN TO BE ABLE TO JUMP ON THIS OLD
17 WOMAN AND STAB HER 10 TIMES AND THEN CUT HER THROAT
18 AND SIT HERE RIGHT NOW AND JUST AS IF I JUST HAD A
19 STROLL IN THE PARK.

20 YOU KNOW, I -- IT DAWNED ON ME AS I SAT THERE
21 AND I LISTENED AT MY COLLEAGUE, I LISTENED AT MR.
22 CARRAWAY. YOU KNOW, WE ALL HAVE SOME DIFFICULT JOBS
23 TO DO AND I'M JUST THANKFUL THAT WE HAVE GOT
24 GUIDANCE, WE HAVE GOT THE LAW AS HER HONOR WILL
25 CHARGE YOU.

1 SHE WILL CHARGE YOU ON THE LAW IN THIS CASE.
2 BECAUSE LADIES AND GENTLEMEN, IF YOU JUST LOOKED AT,
3 YOU'D BE TEMPTED TO JUST LET THEM ALL GO TO HELL IN A
4 HANDBASKET. BECAUSE, I MEAN, WHEN YOU LOOK AT THIS
5 KIND OF STUFF, MY LORD HAVE MERCY.

6 BUT NOW, AS I SAT THERE AND I LISTENED TO
7 MR. CARRAWAY, BECAUSE SEE, WE GOT A -- WE ALL HAVE
8 DIFFICULT JOBS TO DO. I MEAN, THAT'S ONE OF THE
9 REASONS WHY WE WERE VERY SELECTIVE WHEN WE STARTED
10 JURY SELECTION, STARTED SCREENING, BECAUSE WE ALL
11 HAVE JOBS TO DO.

12 BUT LADIES AND GENTLEMEN, WE SELECTED YOU 12
13 PEOPLE BECAUSE WE THOUGHT THAT YOU COULD PUT ASIDE,
14 PUT ASIDE YOUR DIFFERENCES, WHATEVER THEY MIGHT BE,
15 AND WHATEVER EMOTIONS MIGHT BE INVOKED IN YOU BECAUSE
16 OF WHAT YOU'RE LOOKING AT HERE, THAT YOU COULD PUT
17 THAT ASIDE, THAT YOU CAN LISTEN TO THE FACTS, THAT
18 YOU CAN LISTEN TO THE LAW AND YOU COULD APPLY THE LAW
19 TO THE FACTS AS YOU FIND THEM TO BE AND COME BACK
20 WITH A VERDICT THAT SPEAKS THE TRUTH.

21 THAT'S WHY WE HAVE -- THAT'S WHY WE'VE SELECTED
22 THE 12 OF YOU. NOW, YOU KNOW, I PROMISE YOU, I
23 PROMISE YOU, IF YOU COULD JUST BEAR WITH ME FOR ABOUT
24 15 OR 20 MINUTES, I'M NOT GOING TO TAKE A LONG TIME.
25 I'M ASHAMED FIRST OF ALL TO BE IN HERE AND BEING

1 INVOLVED IN A CASE LIKE THIS.

2 BUT NOW, I TOOK AN OATH A LONG TIME AGO TO
3 DEFEND ANY PERSON, BECAUSE THE LAW SAYS THAT A MAN IS
4 INNOCENT UNTIL PROVEN GUILTY. AND QUITE FRANKLY,
5 LADIES AND GENTLEMEN, AS I SAT THERE AND I LISTENED
6 TO MR -- I SAID, YOU KNOW, LAWYERS HAVE DIFFICULT
7 JOBS SOMETIMES. SOME PEOPLE THINK WE GET PAID WELL.
8 BUT QUITE FRANKLY, WE GET SOME DIFFICULT THINGS TO
9 DO.

10 I HAVE LISTENED AT MY GOOD FRIEND AND COLLEAGUE
11 MR. CARRAWAY TRIED TO EXPLAIN TO YOU IN LORD KNOWS
12 WHAT KIND OF WAY THAT SOMEHOW YOU JUST SUPPOSED TO
13 THINK THAT THIS MAN DIDN'T KILL THAT WOMAN LIKE
14 EVERYBODY SAID HE DID.

15 I GUESS SOMEHOW IN WILLIAMSBURG COUNTY ON THE
16 18th OF FEBRUARY THE EASTER BUNNY CAME DOWN HERE
17 AND COMMITTED A MURDER. BECAUSE IF YOU LISTEN TO HIS
18 ARGUMENT, MY LORD, I DON'T KNOW WHO WAS COMMITTED --
19 WELL, IT WAS COMMITTED AND IT WAS COMMITTED BY
20 TASHON. THAT'S WHO DID IT.

21 I ASSURE YOU MS. PERRY DIDN'T STAB HERSELF 10 OR
22 12 TIMES, THEN TURN AROUND AND CUT HER OWN THROAT.
23 SHE DIDN'T DO THAT. SHE DIDN'T DO THAT. THIS ONE
24 RIGHT HERE, RIGHT HERE, MR. SLICK NEW JERSEY FROM
25 WHEREVER HE COME FROM.

1 MY FIRST THOUGHT AS I THOUGHT ABOUT THIS THING
2 WAS TO SAY, WELL LOOK, HE'S JUST A PIECE OF TRASH
3 STRAIGHT OUT OF HELL. BUT YOU CAN'T LOOK AT IT THAT
4 WAY. YOU CAN'T LOOK AT IT THAT WAY. YOU GOT TO LOOK
5 AT IT AS THE LAW SAYS YOU HAVE TO LOOK AT IT. AND
6 THAT'S WHAT WE'RE ALL CALLED UPON TO DO.

7 WE ARE CALLED UPON TO FIND FACTS, YOU AS JURORS,
8 AND ME AS A DEFENSE LAWYER, MR. SABB AS A PROSECUTOR,
9 AND TAKE THIS KIND OF SITUATION AND SOMEHOW, SOMEHOW
10 BRING HEALING AND AN END IN A SITUATION WHERE JUSTICE
11 WILL PREVAIL.

12 THAT'S WHY WE HAVE LAWS. THAT'S WHY WE HAVE A
13 CONSTITUTION OF SOUTH CAROLINA AND THAT'S WHY WE HAVE
14 STATUTES IN SOUTH CAROLINA AND THAT'S WHY WE HAVE A
15 SYSTEM IN SOUTH CAROLINA THAT PROVIDES FOR A TRIAL BY
16 A JURY.

17 NOW, LADIES AND GENTLEMEN, LET ME JUST TELL YOU,
18 I THANK YOU FOR YOUR JURY SERVICE. AND AS I
19 INDICATED, I'M NOT GOING TO TAKE A LONG TIME. THERE
20 ARE A COUPLE OF THINGS I JUST WANT TO TALK TO YOU
21 ABOUT AS YOU THINK ABOUT THIS CASE.

22 FIRST OF ALL, WHATEVER YOU THINK ABOUT IT AND
23 WHATEVER YOU THINK ABOUT THE PERSONALITIES, JOSEPH
24 WILSON AND EVEN -- EVEN -- EVEN -- EVEN TASHON IS
25 PRESUMED INNOCENT RIGHT NOW. RIGHT NOW THEY ARE

1 PRESUMED INNOCENT, BOTH OF THEM.

2 NOW, YOU MIGHT ASK YOURSELF, WELL, WHAT HAPPENED
3 IN THIS CASE? MR. SABB HAS AN INTERESTING, VERY
4 INTERESTING -- I LISTENED WITH GREAT INTEREST. HE'S
5 GOT AN INTERESTING SCENARIO AS TO WHAT REALLY TOOK
6 PLACE. BUT NOW, I ASSURE YOU HE'S A PROSECUTOR AND
7 HE KNOWS HIS JOB.

8 HE WOULD HAVE YOU BELIEVE SAY FOR INSTANCE FIRST
9 OF ALL THAT SOMEHOW RAYMOND MACK AND THE OTHER YOUNG
10 MAN THAT WAS DRIVING THE VEHICLE, TRYING TO THINK OF
11 HIS NAME, TRAVIS ORANGE, THAT'S HIS NAME, TRAVIS
12 ORANGE.

13 SOMEHOW RAYMOND MACK AND TRAVIS ORANGE HAD NO
14 CHOICE AND THEY HAD NO -- NOTHING THEY COULD DO IN
15 THIS CASE AND THAT THE PROSECUTION HAD NO CHOICE BUT
16 TO DEAL -- MR. SABB CALLS IT DEALING WITH THE DEVIL.
17 WELL THAT'S -- THAT'S EXACTLY WHAT.

18 NOW, LET ME JUST TELL YOU THIS MUCH. MR. SABB
19 SAID, WELL LOOK, THE ONLY WAY TO GET THEM TO TESTIFY
20 WAS TO CUT THEM A DEAL. WELL, THERE'S JUST A LITTLE
21 BIT MORE TO THAT BECAUSE Y'ALL SAW US WALKING AROUND
22 HERE WITH STATEMENTS.

23 I THINK IT CAME OUT INTO EVIDENCE THAT SOME OF
24 THEM WERE 45, 50 PAGES LONG. THEY HAD STATEMENTS
25 FROM THESE GENTLEMEN. ALL THEY HAD TO DO IS BRING

1 THEM IN HERE, BRING A TAPE RECORDER IN HERE AND PLAY
2 THEM.

3 MR. SABB: YOUR HONOR, PLEASE.

4 THE COURT: THAT -- I'M STRIKING THAT. THAT IS
5 NOT FOR YOUR CONSIDERATION.

6 MR. BARR: YOUR HONOR, HE'S THE ONE--

7 THE COURT: LET ME HAVE YOU COME FORWARD.

8 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

9 MR. SABB: THANK YOU, JUDGE.

10 THE COURT: AS I INDICATED, WHAT THE ATTORNEYS
11 HAVE TO SAY IN THEIR CLOSING ARGUMENTS AS WELL AS
12 WHAT THEY SAID EARLIER IN THEIR OPENING STATEMENTS IS
13 NOT EVIDENCE FOR YOUR CONSIDERATION.

14 YOU'RE TO RECALL THE EVIDENCE AS YOU HEARD IT
15 FROM THE WITNESS STAND OR AS YOU SEE IT IN THE
16 EXHIBITS THAT GO BACK WITH YOU. NOW, DON'T
17 MISUNDERSTAND ME. WHAT THEY HAVE TO SAY MY ASSIST
18 YOU IN SIFTING THROUGH THE EVIDENCE, BUT YOU'RE TO
19 RECALL IT AS YOU HEARD IT FROM THE WITNESS STAND AND
20 AS YOU SEE IT IN THE EXHIBITS.

21 I'M STRIKING HIS LAST STATEMENT. WE ARE
22 CONTINUING AT THIS TIME.

23 MR. BARR: LADIES AND GENTLEMEN, WHAT I SAY IS
24 NOT EVIDENCE. I TOLD YOU THAT. WHAT I SAY IS NOT
25 EVIDENCE. THE EVIDENCE COMES FROM THE WITNESS STAND.

1 BUT NOW I CAN TELL YOU THIS MUCH. WHEN ANY
2 PERSON GETS ON THE WITNESS STAND TO TESTIFY, THEY
3 PLACE INTO ISSUE WHAT WE CALL CREDIBILITY. AND
4 CREDIBILITY IS NOTHING MORE THAN THEIR BELIEVABILITY.

5 NOW, I WOULD SUBMIT TO YOU THAT AS REASONABLE
6 JURORS, YOU MIGHT CERTAINLY WANT TO CONSIDER THE
7 TESTIMONY OF TRAVIS ORANGE AND RAYMOND MACK IN VIEW
8 OF THE FACT THAT THEY DID CUT A DEAL WITH THE
9 SOLICITOR'S OFFICE.

10 THEY ADMITTED ON THE WITNESS STAND, ADMITTED
11 THAT THEY REALIZED THAT THEY WERE IN A LOT OF
12 TROUBLE, THAT THEY REALIZED THAT IF THEY WENT DOWN
13 WITH TASHON THAT THEY WERE GOING TO GET A LOT OF
14 TIME.

15 AND TRAVIS ORANGE ADMITTED -- NOW, IF I DON'T
16 GET THIS RIGHT, PLEASE -- TRAVIS ORANGE ADMITTED THAT
17 THAT MIGHT INFLUENCE HIS TESTIMONY. ANY REASONABLE
18 PERSON IT WOULD.

19 I WOULD SUBMIT TO YOU THAT RAYMOND MACK AND
20 TRAVIS ORANGE WOULD HAVE LIED ON THEIR MOTHER WHEN
21 THEY TOOK THAT WITNESS STAND TO GET THEMSELVES SOME
22 KIND OF DEAL TO KEEP FROM GOING WHERE THEY THINK
23 TASHON WAS GOING.

24 THAT'S JUST THE SHORT AND THE LONG OF IT. ANY
25 REASONABLE PERSON KNOW. THEY ADMITTED AS MUCH ON THE

1 WITNESS STAND.

2 NOW, WHY WOULD THEY HAVE DONE THAT? LET ME TELL
3 YOU SOMETHING. THIS SITUATION IS ONE WHERE YOU GOT
4 FOUR YOUNG MEN, THREE OF WHICH GOT MIXED UP IN
5 SOMETHING OVER THEIR HEADS, AND THAT'S WHAT HAPPENED
6 HERE.

7 THERE IS NO QUESTION IN MY MIND THAT JOSEPH
8 WILSON, TRAVIS ORANGE AND RAYMOND MACK -- AS I ASKED
9 TRAVIS ORANGE -- HAD LARCENY IN THEIR HEARD. THEY
10 INTENDED TO ROB SOMEPLACE.

11 SO NOW, WHEN IT COMES TO THIS ISSUE OF WHETHER
12 OR NOT THERE WAS A PLAN, THERE'S NO QUESTION -- I
13 WOULD HAVE TO BE SOME KIND OF MORON TO COME UP HERE
14 AND SUGGEST TO YOU BECAUSE THE EVIDENCE CLEARLY SHOWS
15 THAT THEY TALKED ABOUT IT, THAT'S WHAT THEY INTENDED
16 TO -- INTENDED TO DO.

17 BUT NOW, THEY HAD NO IDEA THAT THIS MAN RIGHT
18 HERE WAS WHO HE IS, HAD NO IDEA. NONE. NONE. IF
19 YOU REMEMBER WHAT TRAVIS ORANGE SAID WHEN HE SAW
20 JOSEPH WILSON COMING BACK TO THE VEHICLE, HE SAID
21 JOSEPH WILSON WAS IN SHOCK.

22 YOU KNOW WHY HE WAS IN SHOCK? BECAUSE THEY WENT
23 IN THERE TO ROB THE LADY AND HERE COME THIS MAN, JUMP
24 ON THE WOMAN, SOMEBODY THAT THEY KNEW, AND START
25 STABBING HER.

1 NOW, I WOULD SUBMIT TO YOU THAT THE SHORT AND
2 THE LONG OF IT IS THAT THE ONLY REASON RAYMOND MACK,
3 TRAVIS ORANGE GOT TOGETHER WITH THE SOLICITOR AND
4 WORKED OUT THEM A DEAL TO TESTIFY TO TRY TO GET
5 JOSEPH WILSON WAS BECAUSE JOSEPH WILSON HAD THAT
6 PISTOL.

7 NOW, IF YOU NOTICE -- AND YOU WILL HAVE THE
8 PISTOL WHEN YOU GO BACK INTO YOUR JURY ROOM. LOOK AT
9 THE OLD RUSTED PISTOL. AND ALSO NOTICE THAT THERE
10 AIN'T EVEN NO BULLETS. WHEN YOU GO BACK THERE, YOU
11 WON'T SEE ONE BULLET, ONE SHELL TO GO WITH THIS
12 PISTOL.

13 NOW, YOU KNOW WHY? BECAUSE JOSEPH WILSON HAD NO
14 INTENTIONS OF KILLING ANYBODY WHEN THEY WENT IN
15 THERE. THEY INTENDED TO ROB THE STORE. AND TRAVIS
16 ORANGE AND RAYMOND MACK INTENDED TO PARTICIPATE.
17 THAT'S WHY THEY WENT IN THERE.

18 BUT NOW I WOULD SUBMIT TO YOU THAT WHEN THIS MAN
19 WENT OUT OF CONTROL, IT SCARED ALL OF THEM, AND THEY
20 DIDN'T KNOW WHAT TO DO BUT TO RUN, AND THAT'S WHAT
21 THEY DID.

22 NOW, THIS BUSINESS OF THEM GOING BACK IN THE
23 CAR, THEY WERE SPEECHLESS. THEM BOYS KNEW THAT OLD
24 LADY. BUT NOW I DON'T KNOW WHAT IT IS ABOUT THE
25 YOUNG PEOPLE NOW THAT JUST CAUSE THEM NOT TO THINK.

1 SOMETIMES THEY FEEL LIKE THEY CAN JUST DO ALMOST
2 ANYTHING. THEY JUST DON'T THINK.

3 NOW JOSEPH WILSON, HE KNEW MS. PERRY. WHEN THEY
4 RAN OUT OF THE STORE, THEY KNEW THE TWO JOHNSON GUYS
5 AND THEY KNEW THAT THEY SAW THEM. BUT WHAT DID THEY
6 DO? GO HOME AND SIT DOWN. THEY JUST DON'T THINK.
7 AND NOT THINKING GOT THEM INTO THIS MESS. THAT'S
8 WHAT GOT THEM INTO THIS.

9 NOW, HOWEVER LONG THIS TRIAL HAS TAKEN AND
10 WHATEVER ARGUMENTS THE SOLICITOR HAS MADE WITH
11 RESPECT TO TRYING TO GET YOU FOR SOME REASON TO
12 BELIEVE THAT JOSEPH WILSON IS GUILTY OF MURDER,
13 LADIES AND GENTLEMEN, I WOULD SUBMIT TO YOU THAT IT'S
14 JUST NOT THE CASE.

15 NOW NOTICE, AS I SAID, THE SOLICITOR WAS VERY
16 WILLING TO TELL TRAVIS ORANGE OR TRAVIS ORANGE AND
17 RAYMOND MACK, WELL LOOK, WE'LL JUST LET YOU PLEAD
18 GUILTY TO ARMED ROBBERY.

19 NOW -- AND NOTICE -- NOTICE WHAT THEY PLED TO.
20 THEY PLED TO ARMED ROBBERY. AT THE APPROPRIATE TIME
21 HER HONOR WILL EXPLAIN TO YOU WHAT THE OFFENSE OF
22 ARMED ROBBERY IS. QUITE FRANKLY I DON'T SEE THE
23 ARMED ROBBERY. I DON'T SEE THE ARMED ROBBERY.

24 BECAUSE ARMED ROBBERY IN SOUTH CAROLINA INVOLVES
25 TAKING FROM SOME PERSON BY MEANS OF FORCE OR

1 INTIMIDATION THAT PERSON'S PROPERTY BY MEANS OF --
2 NOW, IF YOU LOOK AT THE TESTIMONY IN THIS CASE, THE
3 TESTIMONY IN THIS CASE, IF IT'S TO BE BELIEVED, WAS
4 THAT WHILE TASHON WAS STABBING MS. PERRY, SHE DROPPED
5 THE TELEPHONE.

6 AND ACCORDING TO RAYMOND MACK, HE CAME ALONG AND
7 PICKED IT UP. SHE DROPPED THE TELEPHONE, HE CAME
8 ALONG AND PICKED IT UP. NOW NOTICE, WHEN I ASKED
9 RAYMOND ABOUT THAT SITUATION ON THE WITNESS STAND,
10 HADN'T PRODUCED ONE TELEPHONE.

11 NOW, IF RAYMOND IS WORKING WITH THE SOLICITOR,
12 WHERE IS THE TELEPHONE? I KNOW THEY HAVE GOT
13 SUBPOENA POWER. I KNOW THAT. AND I KNOW THEY HAVE
14 GOT RAYMOND'S COOPERATION. THEY BOTH SAID, WELL
15 LOOK, WE KNOW -- WE KNOW THAT IF WE DON'T SAY WHAT
16 WE'RE SUPPOSED TO SAY ON THIS WITNESS STAND, OUR DEAL
17 MIGHT BE OFF.

18 SO IF THERE WAS A TELEPHONE, AIN'T NO REASON WHY
19 THEY COULDN'T GET IT IF THERE WAS ONE. THEY COULD
20 TAKE TWO OR THREE DEPUTIES OUT THERE AND TAKE AND
21 RAYMOND -- AND RAYMOND WOULD RUN OUT THERE AND FIND
22 IT AND BRING IT WHEREVER HE HAD IT IF IT WAS ONE.
23 BUT THE ONLY TELEPHONE I SAW IS THE ONE THAT YOU WILL
24 SEE ON THE COUNTER IN THE STORE.

25 NOW, WHAT AM I SAYING? I'M SAYING THAT IN ORDER

1 AND BECAUSE THEY WERE SO ANXIOUS TO GET THIS DEAL,
2 THEY WOULD PLEAD TO ANYTHING TO AVOID SITTING OVER
3 THERE AND BEING WITH HIM, WITH TASHON, BECAUSE THEY
4 KNOW WHAT HE IS LOOKING AT.

5 NOW, HOW DO WE INTERPHASE THIS IN TERMS OF THE
6 LAW? BE IT EVER SO LONG, HIS HONOR WILL INSTRUCT YOU
7 THAT ASIDE FROM THE PRESUMPTION OF INNOCENCE IN THIS
8 CASE, IF YOU ARE TO FIND JOSEPH WILSON -- AND I'M NOT
9 TALKING ABOUT ANYBODY ELSE -- BUT IF YOU WERE TO FIND
10 JOSEPH WILSON GUILTY OF MURDER, AND MURDER IS THE
11 UNLAWFUL KILLING OF A PERSON WITH MALICE
12 AFORETHOUGHT -- THERE'S NO QUESTION IN MY MIND HER
13 HONOR WILL INSTRUCT YOU THAT THE KIND OF MALICE THAT
14 WE'RE TALKING ABOUT IS NOT MALICE LIKE GENERALLY THAT
15 ORDINARILY HATING SOMEBODY, BUT AS -- IT'S MALICE IN
16 THE SENSE OF JUST HAVING A MALIGNANT HEART, HAVING
17 THE KIND OF HEART THAT THIS MAN RIGHT HERE.

18 NOW AND I TELL YOU, IT -- IRRESPECTIVE OF HOW HE
19 MIGHT SIT THERE, HE IS A MURDERER. THAT'S WHAT HE
20 IS. HAVING A MALIGNANT HEART. AND IT TAKES A
21 MALIGNANT HEART TO DO. NOW, THAT'S HOW YOU DEFINE.

22 NOW, HER HONOR WILL ALSO INSTRUCT YOU THAT
23 MALICE MIGHT BE EXPRESS OR IMPLIED. YOU CAN FIND
24 MALICE IN THE USE OF A DEADLY WEAPON. AND YOU COULD
25 USE THAT MALICE TO SUPPLY WHAT THE LAW REQUIRES WHEN

1 IT SAYS THAT A PERSON, IN ORDER TO FIND HIM GUILTY OF
2 MURDER, YOU HAVE TO FIND THAT THEY UNLAWFULLY KILLED
3 SOMEBODY WITH MALICE AFORETHOUGHT.

4 NOW, HER HONOR WILL ALSO TALK TO YOU ABOUT
5 SOMETHING IN SOUTH CAROLINA THAT WE CALL THE FELONY
6 MURDER RULE, AND I WANT YOU TO LISTEN AT IT VERY
7 CAREFULLY.

8 LISTEN AT IT VERY CAREFULLY BECAUSE IN ADDITION
9 TO THIS THEORY OF THE HANDS OF ONE IS THE HANDS OF
10 ALL, THE HANDS OF ONE IS THE HANDS OF ALL -- THE
11 SOLICITOR SAID, WELL, YOU SHOULD FIND JOSEPH WILSON
12 GUILTY OF MURDER UNDER THE HANDS OF ONE...

13 LADIES AND GENTLEMEN, IF YOU LISTEN, AND I TELL
14 YOU RIGHT NOW, TUNE YOUR EARS IN, BECAUSE SOMEWHERE
15 IN HER HONOR'S INSTRUCTION CONCERNING THE HANDS OF
16 ONE IS THE HANDS OF ALL, SHE'S GOING TO TELL YOU THAT
17 IN ORDER TO CONVICT SOMEBODY ELSE, A CO-DEFENDANT,
18 THAT YOU MUST FIND THAT THAT PERSON WAS AIDING AND
19 ABETTING THE PRINCIPAL FELON.

20 THE PROSECUTION WOULD HAVE YOU BELIEVE THAT,
21 WELL LOOK, SOMEHOW JOSEPH WILSON STRUCK MS. PERRY AND
22 PARTICIPATED IN THE KILLING.

23 LADIES AND GENTLEMEN, AS MUCH AS I HATE TO SAY,
24 AND AS MUCH AS I HATE TO ADMIT IT, IF JOSEPH WILSON
25 STRUCK MS. PERRY, HE WAS TRYING TO GET LOOSE FROM HER

1 BECAUSE OF WHAT HE SAW, AND HE DIDN'T KNOW WHAT ELSE
2 TO DO. HE PANICKED. ALL HE WANTED TO DO WAS GET OUT
3 OF THERE.

4 NOW, WHEN I ASKED MR. TISDALE ABOUT THE MONEY,
5 THERE WAS MONEY ALL OVER THE PLACE. IT WAS ALL OVER
6 THE PLACE. THAT'S WHAT THEY WENT IN THERE TO GET.
7 BUT GUESS WHAT? WHEN THIS MAN WENT INTO ACTION, THEY
8 FORGOT ABOUT ANY MONEY. BOYS WERE SO SCARED THEY
9 DIDN'T KNOW WHAT TO DO OTHER THAN RUN. AND THAT'S
10 WHAT THEY DID.

11 NOW, HER HONOR WILL INSTRUCT YOU THAT AS RELATES
12 TO THIS FELONY MURDER RULE, THAT IS THAT THE -- WHEN
13 SOMEBODY IS KILLED IN THE COMMISSION OF A FELONY,
14 WHEN SOMEBODY IS KILLED IN THE COMMISSION OF A
15 FELONY -- NOW NOTICE, LADIES AND GENTLEMEN, SOMEWHERE
16 IN THERE, AND I ASK YOU RIGHT NOW TO LISTEN FOR IT
17 BECAUSE SHE'S GOING TO TELL YOU THAT IN SOUTH
18 CAROLINA THAT FELONY HAS TO BE IN PROGRESS.

19 WELL, IN THIS CASE WHY WAS IT NOT IN PROGRESS?
20 LET ME TELL YOU WHY. BECAUSE AT ANY POINT, AT ANY
21 POINT PRIOR TO THE TIME WHEN THIS MAN STARTED
22 STABBING THIS WOMAN, JOSEPH WILSON COULD HAVE TAKE
23 THE GUN THAT HE HAD AND WALKED BACK OUT THE STORE,
24 AND WHERE WOULD HAVE BEEN THE ARMED ROBBERY? AND
25 WHERE WOULD HAVE BEEN THE POSSESSION OF A WEAPON

1 DURING A VIOLENT CRIME?

2 IT WOULDN'T HAVE BEEN NONE. THE LAW DOESN'T
3 PUNISH PEOPLE FOR HAVING A GUILTY MIND. YOU HAVE GOT
4 TO DO SOMETHING. IN ADDITION TO HAVING THE MENTAL
5 STATE, YOU HAVE TO DO WHAT WE CALL -- YOU HAVE TO
6 HAVE SOME KIND OF ACT, WE CALL IT ACTORS RACE IN THE
7 LAW.

8 YOU HAVE TO HAVE -- IN ADDITION TO THE MENTAL
9 STATE, YOU HAVE TO HAVE -- YOU HAVE TO DO SOMETHING.
10 AND I WOULD SUBMIT TO YOU AND AT ANY POINT, AND AT
11 THAT POINT THOSE BOYS DISENGAGED FROM WHATEVER
12 CONSPIRACY -- AND THERE WAS AN AGREEMENT AS TO WHAT
13 EACH ONE OF THEM WOULD DO.

14 BUT WHEN THEY SAW WHAT THIS MAN WAS DOING, THEY
15 TOOK OFF. THEY TOOK OFF. NOW, BE IT SO EVER WRONG
16 FOR THEM COMING TOGETHER AND INSTEAD OF GOING TO WORK
17 SOMEPLACE DECIDING TO TRY TO ROB SOMEBODY TO GET SOME
18 MONEY, THAT WAS WRONG.

19 I URGE YOU AND I IMPORE YOU TO FIND JOSEPH
20 WILSON GUILTY OF ONLY THAT THAT HE'S GUILTY OF. HE
21 HAD THE GUN. AND AIN'T NO QUESTION ABOUT IT. THEY
22 HAD A PLAN TO GO IN THERE AND ROB THE STORE.

23 MR. SABB TALKING ABOUT THE LESSER INCLUDED
24 OFFENSE. THERE WASN'T NO ATTEMPTED ROBBERY OF
25 ATTEMPT -- THEY DIDN'T START TO ROB IT. AS I SAID,

1 AT ANY POINT ALL THEY HAD TO DO IS TURN AROUND AND
2 WALK OUT.

3 ATTEMPTED ROBBERY DIDN'T EVEN GET NEAR THE CASH
4 REGISTER WHICH IS WHAT -- AND THAT'S THE ONLY THING
5 THEY WENT IN THERE FOR. THEY WEREN'T GOING IN THERE
6 TO BUY CLOTHES OR BUY NO BEER. THEY WENT IN TO GET
7 THE WOMAN'S MONEY. AND WHEN TASHON WENT OFF THE
8 CHAIN, THEY DIDN'T KNOW WHAT TO DO OTHER THAN TO RUN.

9 NOW, THERE'S NO QUESTION AND I'M NOT ATTEMPTING
10 TO HOLD JOSEPH TO BLAME FOR THIS. NOT. YOU DON'T
11 GET NO GUN AND GO TO -- AND EVEN THINK ABOUT ROBBING
12 PEOPLE.

13 BUT LADIES AND GENTLEMEN, I URGE YOU THAT AS YOU
14 THINK ABOUT THE LAW AS HIS HONOR GIVES IT TO YOU, AS
15 YOU THINK ABOUT THE BURDEN OF PROOF IN THIS CASE AS
16 HIS HONOR WILL INSTRUCT YOU, BECAUSE A DEFENDANT
17 DOESN'T HAVE TO PROVE ANYTHING. THEY DON'T HAVE TO
18 PROVE THEY'RE INNOCENT. THEY ARE ASSUMED TO BE
19 INNOCENT.

20 THAT PRESUMPTION OF INNOCENCE, LADIES AND
21 GENTLEMEN, IS NOT NOTHING THAT ME AND MY BROTHER
22 COOKED UP DOWN THERE AT OUR OFFICE. THAT PRESUMPTION
23 OF INNOCENCE IS IN THE LAW, AND A PERSON IS PRESUMED
24 INNOCENT UNTIL PROVEN GUILTY. AND THAT PROOF OF
25 GUILT HAS TO BE BY A STANDARD THAT WE CALL BEYOND A

1 REASONABLE DOUBT.

2 NOW, WHAT DOES THAT -- THAT MEANS THAT IF YOU
3 THINK COLLECTIVELY THAT THAT -- THAT THERE IS A REAL
4 POSSIBILITY THAT THE PROSECUTION HAS NOT PROVEN TO
5 YOU BEYOND A REASONABLE DOUBT THAT JOSEPH WILSON
6 COMMITTED MURDER, THEN LADIES AND GENTLEMEN, EVEN IF
7 YOU HAVE -- EVEN IF YOU HAVE A DOUBT AND YOU FIND
8 THAT THAT DOUBT IS A REASONABLE DOUBT, HER HONOR WILL
9 INSTRUCT YOU THAT YOU HAVE TO RESOLVE IT ON BEHALF OF
10 THE DEFENDANT.

11 IT HAS TO BE RESOLVED ON BEHALF -- IF THERE'S A
12 QUESTION IN YOUR MIND AS TO WHETHER OR NOT THE DOUBT
13 IS REASONABLE, IT HAS TO BE RESOLVED ON THE SIDE --
14 AND SEE, LADIES AND GENTLEMEN, THAT'S WHAT MAKES THIS
15 DIFFICULT, ESPECIALLY WHEN YOU'RE LOOKING AT A
16 SITUATION LIKE THIS.

17 BUT THAT'S WHAT WE ARE CALLED UPON TO DO, TO
18 SEEK THE TRUTH. AND WE ARE CALLED UPON TO DO THAT IN
19 SUCH A WAY THAT EVEN IN A CLIMATE WHERE IT'S REALLY
20 NOT IN OUR HEARTS TO WANT TO DO THAT, WE STILL HAVE
21 TO DO IT.

22 I URGE YOU IN THIS CASE TO GO TO YOUR JURY ROOM,
23 TO TAKE THE EVIDENCE, TO CONSIDER THE EVIDENCE, TO
24 CONSIDER THE TESTIMONY, TO USE YOUR GOOD COMMON
25 SENSE, THAT GOOD COMMON SENSE THAT -- THAT YOU'RE ALL

1 ENDOWED WITH, AND THAT YOU APPLY IT TO THE FACTS IN
2 THIS CASE AND THAT YOU COME BACK WITH A VERDICT WHICH
3 SPEAKS THE TRUTH BASED ON THE LAW AND BASED ON THE
4 EVIDENCE.

5 NOW THERE'S ONE LAST THING THAT I WANT TO
6 MENTION TO YOU AND I'M GOING TO SIT DOWN BECAUSE I
7 KNOW YOU'RE HUNGRY. I AM.

8 POSSESSION OF A WEAPON DURING A VIOLENT CRIME.
9 POSSESSION OF A WEAPON DURING A VIOLENT CRIME.
10 JOSEPH WILSON, WHERE IS THE VIOLENT CRIME? IF YOU
11 THINK ABOUT THE THEORY OF THE HANDS OF ONE IS THE
12 HAND -- AS I SAID, THERE HAS TO BE AIDING AND
13 ABETTING AND THERE HAS TO BE A VIOLENT CRIME GOING ON
14 AT THE TIME THAT THE WEAPON WAS POSSESSED. THERE HAS
15 TO BE A VIOLENT CRIME.

16 LADIES AND GENTLEMEN, AS BAD AS IT IS, AS BAD AS
17 IT IS, AND QUITE FRANKLY I DON'T KNOW -- I DON'T
18 KNOW -- I'M JUST, I'M SADDENED BY THIS WHOLE
19 SITUATION. I'M SADDENED BY IT.

20 BUT I BELIEVE THAT YOU HAVE TAKEN VERY SERIOUSLY
21 THE OATH THAT YOU TOOK WHEN YOU ANSWERED THE
22 QUESTIONS THAT HIS HONOR ASKED YOU EARLIER WHEN YOU
23 DECIDED TO BE JURORS AND YOU WERE SELECTED TO BE
24 JURORS, THAT YOU WILL DO YOUR BEST TO REACH A VERDICT
25 THAT SPEAKS THE TRUTH IN THIS CASE, AND THE TRUTH

1 BASED ON THE LAW AND THE EVIDENCE.

2 AND I THINK THE EVIDENCE HAS CLEARLY SHOWN THAT
3 THIS YOUNG MAN, TASHON, KILLED MS. PERRY. BAD AS IT
4 MIGHT BE, HE DID IT. JOSEPH WILSON, HE IS MY CLIENT.
5 HE HAD NO BUSINESS WITH THAT PISTOL. BUT HE DIDN'T
6 GO IN THERE TO KILL ANYBODY. PISTOL WITH NO BULLETS,
7 AND THE MONEY RIGHT THERE IN FRONT OF THEM.

8 HE PANICKED AND HAULED TAIL IT OUT OF THERE.
9 AND THEY ALL RAN AND WENT AND SAT DOWN JUST LIKE OUR
10 YOUNG PEOPLE DO TODAY WHEN THEY DON'T THINK. PLEASE,
11 PLEASE DON'T PUNISH HIM FOR THAT, OR IF YOU PUNISH
12 HIM FOR WHAT HE DID, LADIES AND GENTLEMEN, LET YOUR
13 VERDICT SPEAK THE TRUTH. LET IT BE ONE THAT'S
14 COMMENSURATE, ONE THAT'S COMMENSURATE WITH THE WRONG
15 THAT HE'S DONE. THANK YOU.

16 THE COURT: THANK YOU. I HAVE RECEIVED -- I'VE
17 GOTTEN SOME INDICATION OF A NEED FOR A BREAK PRIOR TO
18 THE CHARGE ON THE LAW. IT'S GOING TO BE A VERY BRIEF
19 BREAK. I NEED TO REMIND YOU THAT YOU CANNOT DISCUSS
20 THE CASE. WE WILL SEND YOU BACK AT THIS TIME.

21 (JURY LEFT COURTROOM AT 2:58 P.M.)

22 THE COURT: TO THE BAILIFFS, IF YOU LET ME KNOW,
23 TOO, WHEN THEY ARE READY TO COME OUT, JUST AS SOON AS
24 THEY'RE READY TO COME OUT, WE WILL BE READY FOR THEM.
25 WE WILL TAKE A FIVE MINUTE BREAK.

1 WHEN THE CHARGE BEGINS, YOU CAN'T MOVE IN OR
2 OUT, SO IF YOU DON'T WANT TO BE HERE FOR THE CHARGE,
3 DON'T COME BACK IN. SEE YOU BACK IN HERE IN FIVE
4 MINUTES.

5 (WHEREUPON A BRIEF RECESS WAS TAKEN.)

6 (JURY ENTERED COURTROOM AT 3:11 P.M.)

7 JURY CHARGE

8 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF
9 THE JURY. WELCOME BACK. I HOPE THAT I DIDN'T RUSH
10 YOU TOO MUCH DURING YOUR BREAK. I HOPE EVERY ONE OF
11 YOU THAT NEEDED A BREAK GOT ONE. IS THAT CORRECT?
12 VERY GOOD. BECAUSE I NEED YOUR ATTENTION AT THIS
13 TIME.

14 I CHARGE YOU THAT THERE ARE TWO DEFENDANTS IN
15 THIS CASE. YOU HAVE BEEN INTRODUCED TO THEM. IT'S
16 TASHON SAMPSON AND JOSEPH WILSON, EACH OF WHOM ARE
17 CHARGED WITH MURDER, ARMED ROBBERY, CRIMINAL
18 CONSPIRACY AND POSSESSION OF A WEAPON DURING THE
19 COMMISSION OF A VIOLENT CRIME.

20 THE CASE OF EACH DEFENDANT AND THE EVIDENCE AND
21 THE LAW CONCERNING THAT DEFENDANT SHOULD BE
22 CONSIDERED SEPARATELY AND INDIVIDUALLY. YOUR VERDICT
23 DOES NOT HAVE TO BE THE SAME FOR BOTH DEFENDANTS.

24 THE FACT THAT YOU MAY FIND ONE DEFENDANT GUILTY
25 OR NOT GUILTY SHOULD NOT CONTROL YOUR VERDICT AS TO

1 THE OTHER DEFENDANT.

2 WHERE MORE THAN ONE PERSON IS CHARGED WITH A
3 CRIME, IF THE EVIDENCE WARRANTS IT, YOU MAY CONVICT
4 ONE AND ACQUIT THE OTHER OR YOU MAY ACQUIT BOTH OR
5 YOU MAY CONVICT BOTH. IT WILL DEPEND UPON YOUR VIEW
6 OF THE TESTIMONY AND THE EVIDENCE.

7 YOU MUST TAKE EACH DEFENDANT AND CONSIDER THE
8 EVIDENCE AS TO THAT DEFENDANT AND MY INSTRUCTIONS TO
9 YOU ON THE LAW AND YOU WILL THEN WRITE A SEPARATE
10 VERDICT OF GUILTY OR NOT GUILTY FOR EACH INDIVIDUAL
11 DEFENDANT FOR EACH OFFENSE FOR WHICH THEY ARE
12 CHARGED.

13 NOW, THE INDICTMENT IN THE CASE ALLEGES SEVERAL
14 DIFFERENT OFFENSES AGAINST BOTH OF THESE DEFENDANTS.
15 THE CHARGES ARE: COUNT ONE MURDER; COUNT TWO, ARMED
16 ROBBERY; COUNT THREE, CRIMINAL CONSPIRACY; AND COUNT
17 FOUR, POSSESSION OF A WEAPON DURING THE COMMISSION OF
18 A VIOLENT CRIME.

19 NOW, EACH COUNT CHARGES A SEPARATE AND DISTINCT
20 OFFENSE. YOU MUST DECIDE EACH COUNT ON THE
21 INDICTMENT SEPARATELY ON THE EVIDENCE AND THE LAW
22 APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO
23 THE OTHER COUNT.

24 THE DEFENDANT MAY BE CONVICTED OR EACH DEFENDANT
25 MAY BE CONVICTED OR ACQUITTED ON ANY OR ALL OF THE

1 OFFENSES CHARGED. YOU WILL BE ASKED TO WRITE A
2 SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH
3 COUNT OF THE INDICTMENT FOR EACH DEFENDANT.

4 NOW, THE DEFENDANTS HAVE PLED NOT GUILTY TO THIS
5 INDICTMENT AND THAT PLEA PUTS THE BURDEN ON THE STATE
6 TO PROVE THE DEFENDANTS GUILTY. A PERSON CHARGED
7 WITH COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA
8 IS NEVER REQUIRED TO PROVE HIMSELF INNOCENT.

9 I CHARGE YOU THAT IT IS IMPORTANT RULE OF LAW
10 THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO MATTER
11 WHAT THE SERIOUSNESS OF THE CHARGES MAY BE, WILL
12 ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIMES FOR
13 WHICH HE HAS BEEN INDICTED UNLESS GUILT HAS BEEN
14 PROVEN BY EVIDENCE SATISFYING YOU OF THAT GUILT
15 BEYOND A REASONABLE DOUBT.

16 THIS PRESUMPTION OF INNOCENCE DOESN'T END WHEN
17 YOU BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE
18 DEFENDANTS THROUGHOUT THE TRIAL UNTIL YOU REACH A
19 VERDICT OF GUILT BASED ON EVIDENCE SATISFYING YOU OF
20 THAT GUILT BEYOND A REASONABLE DOUBT.

21 THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
22 RIGHTEOUSNESS PLACED AROUND THE SHOULDERS OF THE
23 DEFENDANTS WHICH REMAIN WITH THE DEFENDANTS UNTIL
24 IT'S BEEN STRIPPED FROM THEM BY EVIDENCE SATISFYING
25 YOU OF THEIR GUILT BEYOND A REASONABLE DOUBT.

1 THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL
2 THEORY. IT'S NOT JUST A LEGAL PHRASE. IT IS A
3 SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS
4 ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE
5 EVIDENCE OF THE DEFENDANTS' GUILT BEYOND A REASONABLE
6 DOUBT.

7 NOW, WHAT IS A REASONABLE DOUBT IN THE LAW? A
8 REASONABLE DOUBT IS THE KIND OF DOUBT WHICH WOULD
9 CAUSE A REASONABLE PERSON TO HESITATE TO ACT. THE
10 STATE HAS THE BURDEN OF PROVING THAT -- THE DEFENDANT
11 GUILTY BEYOND A REASONABLE DOUBT.

12 SOME OF YOU MAY HAVE SERVED AS JURORS IN A CIVIL
13 CASE WHERE YOU WERE TOLD IT WAS ONLY NECESSARY TO
14 PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE
15 SUCH AS BY THE GREATER WEIGHT OR THE PREPONDERANCE OF
16 THE EVIDENCE.

17 IN CRIMINAL CASES THE STATE'S PROOF MUST BE MORE
18 POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE
19 DOUBT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
20 LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.

21 NOW, THERE ARE VERY FEW THINGS IN THE WORLD THAT
22 WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL
23 CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES
24 EVERY POSSIBLE DOUBT. IF BASED ON YOUR CONSIDERATION
25 OF THE EVIDENCE YOU ARE FIRMLY CONVINCED THAT THE

1 DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST
2 FIND THE DEFENDANT GUILTY.

3 IF ON THE OTHER HAND YOU THINK THERE'S A REAL
4 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU
5 MUST GIVE THE DEFENDANT THE BENEFIT OF DOUBT AND FIND
6 HIM NOT GUILTY.

7 I REMIND YOU THAT DURING THE TRIAL YOU AND I
8 HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE
9 IT'S MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF
10 THIS CASE AND I ALSO HAVE TO DUTY TO RULE ON THE
11 ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THE
12 TRIAL. YOU'RE TO CONSIDER ONLY THE COMPETENT
13 EVIDENCE BEFORE YOU.

14 IF THERE IS ANY TESTIMONY OR STRICKEN FROM THE
15 RECORD IN THIS CASE, AND THERE WAS, YOU MUST
16 DISREGARD THAT TESTIMONY. YOU'RE TO CONSIDER ONLY
17 THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THE
18 WITNESS STAND, ANY EXHIBITS AND ANY EXHIBITS THAT
19 HAVE BEEN MADE PART OF THE RECORD IN THIS CASE.

20 NOW, I HAVE THE ADDITIONAL DUTY TO CHARGE YOU AS
21 TO THE LAW THAT'S APPLICABLE TO THIS CASE. AS THE
22 PRESIDING JUDGE I'M THE SOLE JUDGE OF THE LAW OF THE
23 CASE AND IT'S YOUR DUTY AS JURORS TO ACCEPT AND APPLY
24 THE LAW AS I STATE IT TO YOU.

25 IF YOU ALREADY HAVE AN IDEA AS TO WHAT THE LAW

1 IS AND WHAT THE LAW OUGHT TO BE AND IT DOESN'T AGREE
2 WITH WHAT I TELL YOU THE LAW IS, YOU MUST ABANDON
3 THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND
4 APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

5 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY
6 THE JURY, YOU, BECOME THE SOLE AND EXCLUSIVE JUDGE OF
7 THE FACTS OF THE CASE. THE TRIAL JUDGE CANNOT
8 INTIMATE, STATE, COMMENT ON OR MAKE ANY STATEMENT AS
9 TO YOU, THE JURY, ABOUT THE FACTS IN THE CASE.

10 SINCE YOU, THE JURY, ARE THE SOLE JUDGES OF THE
11 FACTS OF THE CASE, YOU ARE NOT TO INFER FROM WHAT I
12 HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING
13 UPON THE ADMISSIBILITY OF EVIDENCE OR OTHERWISE OR
14 ANYTHING THAT I SAY TO YOU NOW DURING THE COURSE OF
15 THE INSTRUCTION THAT I HAVE ANY OPINION ABOUT THE
16 FACTS IN THIS CASE.

17 LAW DOESN'T ALLOW ME TO HAVE AN OPINION ABOUT
18 THE FACTS IN THE CASE. THIS IS A MATTER SOLELY FOR
19 YOU, THE JURY, TO DETERMINE. AS JURORS IT'S YOUR
20 DUTY TO DETERMINE THE EFFECT, THE VALUE, THE WEIGHT,
21 AND THE TRUTH OF THE EVIDENCE PRESENTED DURING THE
22 TRIAL.

23 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
24 GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE
25 AND CIRCUMSTANTIAL EVIDENCE.

1 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
2 CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT SUCH AS AN
3 EYE WITNESS. IT IS EVIDENCE WHICH IMMEDIATELY
4 ESTABLISHES THE MAIN FACT TO BE PROVED.

5 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
6 FACTS AND CIRCUMSTANCES INDICATING THE EXISTANCE OF A
7 FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES
8 COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE
9 INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON
10 INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR
11 OBSERVATION.

12 NOW, THE LAW MAKES ABSOLUTELY NO DISTINCTION
13 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
14 DIRECT OR CIRCUMSTANTIAL EVIDENCE NOR IS A GREATER
15 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
16 EVIDENCE THAN THAT OF DIRECT EVIDENCE.

17 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE
18 CASE, AND AFTER WEIGHING ALL OF THE EVIDENCE, YOU ARE
19 NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
20 REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT
21 GUILTY.

22 NOW NECESSARILY YOU MUST DETERMINE THE
23 CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS
24 CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT
25 BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO

1 EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE
2 CONVINCES YOU OF ITS TRUTH.

3 NOW, IN DETERMINING THE BELIEVABILITY OF
4 WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY
5 BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL
6 WITNESSES OVER ONE WITNESS.

7 YOU MAY BELIEVE THE PART OF THE TESTIMONY OF A
8 WITNESS AND REJECT THE REMAINING PART OF THE
9 TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE
10 TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE
11 TESTIMONY OF A WITNESS IN ITS ENTIRETY.

12 YOU MAY CONSIDER WHETHER ANY WITNESS HAS
13 EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE OR
14 OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE
15 APPEARANCE AND MANNER OF A WITNESS WHILE ON THE
16 WITNESS STAND.

17 A PERSON WHO IS PRESENT AT THE SCENE OF A CRIME
18 AND INTENTIONALLY OR THROUGH A COMMON PLAN AIDED,
19 ABETTED OR ASSISTED IN THE COMMISSION OF THAT CRIME
20 THROUGH SOME OVERT ACT IS GUILTY AS AN ACCOMPLICE.

21 TO BE LIABLE AS AN ACCOMPLICE, THE DEFENDANT
22 MUST HAVE KNOWLEDGE OF THE PRINCIPAL'S CRIMINAL
23 CONDUCT. MERE PRESENCE AT THE SCENE OF THE CRIME IS
24 NOT SUFFICIENT TO ESTABLISH GUILT AS AN ACCOMPLICE.

25 INTENTIONALLY MEANS WILLFULLY, INTENDING THE

1 RESULT WHICH ACTUALLY OCCURRED, NOT ACCIDENTALLY OR
2 INVOLUNTARY. THE RULES OF EVIDENCE ORDINARILY DO NOT
3 PERMIT WITNESSES TO TESTIFY TO OPINIONS OR
4 CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR
5 WITNESSES WE CALL EXPERT WITNESSES.

6 A WITNESS WHO BY EDUCATION, EXPERIENCE HAS
7 BECOME AN EXPERT IN SOME ART, SCIENCE, PROFESSION OR
8 CALLING MAY STATE AN OPINION AS TO RELEVANT AND
9 MATERIAL MATTERS IN WHICH THE WITNESS CLAIMS TO BE AN
10 EXPERT AND MAY ALSO STATE THE REASONS FOR THAT
11 OPINION.

12 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED
13 IN EVIDENCE IN THIS CASE AND LIKE ANY OTHER EVIDENCE
14 GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU
15 DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT
16 BASED ON SUFFICIENT EDUCATION AND EXPERIENCE OR IF
17 YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE
18 OPINION ARE NOT SOUND OR THAT THE OPINION IS
19 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE
20 OPINION ENTIRELY.

21 AN EXPERT WITNESS'S TESTIMONY IS TO BE GIVEN NO
22 GREATER WEIGHT THAN THAT OF ANY OTHER WITNESS SIMPLY
23 BECAUSE THE WITNESS IS AN EXPERT. FURTHER YOU'RE NOT
24 REQUIRED ACCEPT THE EXPERT'S OPINION EVEN THOUGH IT
25 IS NOT CONTRADICTED.

1 NOW, I INSTRUCT TO YOU AND EMPHASIZE TO YOU THE
2 FACT THAT THE DEFENDANTS IN THIS CASE DID NOT TESTIFY
3 IS NOT A FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN
4 YOUR DELIBERATION AND IN YOUR CONSIDERATION ON THE
5 QUESTION OF THE GUILT OF THE DEFENDANT.

6 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER
7 WHATSOEVER. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT
8 TO REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT
9 MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS.

10 I REPEAT, UNDER YOUR OATH YOU ARE TO DRAW NO
11 CONCLUSIONS WHATSOEVER FROM THE FACT THAT THE
12 DEFENDANTS IN THIS CASE DID NOT TESTIFY. THE FACT
13 THAT THESE DEFENDANTS DID NOT TESTIFY SHOULD NOT EVEN
14 BE DISCUSSED IN THE JURY ROOM.

15 THE BURDEN OF PROOF AS I HAVE STATED TO YOU IS
16 ON THE STATE. THE DEFENDANTS ARE NOT REQUIRED TO
17 PROVE THEIR INNOCENCE. THE BURDEN OF PROOF REMAINS
18 ON THE STATE TO PROVE GUILT BEYOND A REASONABLE
19 DOUBT.

20 IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE
21 WHO ARE ACTING TOGETHER IN COMMITTING A CRIME, THE
22 ACT OF ONE IS THE ACT OF ALL. THE PERSON WHO JOINS
23 WITH ANOTHER TO ACCOMPLISH AN ILLEGAL PURPOSE IS
24 CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY THE
25 OTHER PERSON WHICH OCCURS AS A NATURAL CONSEQUENCE OF

1 THE ACTS DONE IN CARRYING OUT THE COMMON PLAN AND
2 PURPOSE.

3 IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING
4 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
5 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL, OR AS IT
6 IS SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF
7 ALL.

8 PRIOR KNOWLEDGE OF THE CRIME IS GOING TO BE
9 COMMITTED WITHOUT MORE IS NOT SUFFICIENT TO MAKE A
10 PERSON GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT
11 ANOTHER PERSON IS GOING TO COMMIT A CRIME, EVEN IF
12 THE DEFENDANT IS PRESENT WHEN THE CRIME IS COMMITTED,
13 IS NOT SUFFICIENT TO CONVICT THE DEFENDANT AS A
14 PRINCIPAL.

15 GUILT AS A PRINCIPAL IS SHOWN BY ACTUAL OR
16 CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF
17 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR
18 ARRANGED PLAN OR COMMON SCHEME IS NECESSARY FOR A
19 FINDING OF GUILT AS A PRINCIPAL.

20 THE STATE MUST ALSO PROVE BEYOND A REASONABLE
21 DOUBT BY COMPETENT EVIDENCE THE THEORY OF THE HAND OF
22 ONE IS THE HAND OF ALL. A PRINCIPAL IN A CRIME IS
23 ONE WHO EITHER ACTUALLY COMMITS THE CRIME OR WHO IS
24 PRESENT AIDING, ABETTING OR ASSISTING IN COMMITTING
25 THE CRIME.

1 WHEN A PERSON DOES AN ACT IN THE PRESENCE OF AND
2 WITH THE ASSISTANCE OF ANOTHER, THE ACT IS DONE BY
3 BOTH. WHERE TWO OR MORE -- WHERE TWO OR MORE ACTING
4 WITH A COMMON PLAN OR INTENT ARE PRESENT AT THE
5 COMMISSION OF A CRIME, IT DOESN'T MATTER WHO ACTUALLY
6 COMMITTS THE CRIME, ALL ARE GUILTY. THE HAND OF ONE
7 IS THE HAND OF ALL.

8 PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE
9 SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN THE
10 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT
11 THE SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE
12 AS A PRINCIPAL ON THE THEORY OF AIDING AND ABETTING.

13 INTENT IS ALSO A NECESSARY ELEMENT. THERE TO
14 HAVE BEEN A COMMON DESIGN OR INTENT TO COMMIT THE
15 CRIME AND THE CRIME MUST HAVE BEEN COMMITTED PURSUANT
16 THERETO WITH THE PERSON AIDING AND ABETTING BY SOME
17 OVERT ACT.

18 INTENT MEANS INTENDING THE RESULT WHICH ACTUALLY
19 OCCURS, NOT ACCIDENTALLY OR INVOLUNTARILY. INTENT
20 MAY BE SHOWN BY ACTS AND CONDUCT OF THE DEFENDANT AND
21 OTHER CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
22 REASONABLY INFER INTENT.

23 THE STATE MUST PROVE THESE ELEMENTS BEYOND A
24 REASONABLE DOUBT. AN ISSUE IN THIS CASE IS THE
25 IDENTIFICATION OF THE PERSON WHO COMMITTED THE CRIME

1 CHARGED. THE STATE HAS THE BURDEN OF PROVING
2 IDENTITY BEYOND A REASONABLE DOUBT. YOU MUST BE
3 SATISFIED BEYOND A REASONABLE DOUBT OF THE ACCURACY
4 OF THE IDENTIFICATION OF THE DEFENDANT BEFORE YOU MAY
5 CONVICT THE DEFENDANT.

6 IDENTIFICATION TESTIMONY IS AN EXPRESSION OR
7 BELIEF OR AN IMPRESSION BY A WITNESS. YOU MUST
8 DETERMINE THE ACCURACY OF THE IDENTIFICATION OF THE
9 DEFENDANT. YOU MUST CONSIDER THE BELIEVABILITY OF
10 EACH IDENTIFICATION WITNESS IN THE SAME WAY AS YOU DO
11 OTHER WITNESSES.

12 YOU MAY CONSIDER WHETHER THE WITNESS HAD AN
13 ADEQUATE OPPORTUNITY TO OBSERVE THE OFFENDER AT THE
14 TIME OF THE OFFENSE. THIS WILL BE AFFECTED BY THINGS
15 LIKE HOW LONG OR SHORT A TIME WAS AVAILABLE, HOW FAR
16 OR CLOSE THE WITNESS WAS, THE LIGHTING CONDITIONS,
17 AND WHETHER THE WITNESS HAD THE CHANCE TO SEE OR KNOW
18 THE PERSON IN THE PAST.

19 ONCE AGAIN I INSTRUCT YOU THAT THE BURDEN OF
20 PROOF IS ON THE STATE EXTENDS TO EVERY ELEMENT OF THE
21 CRIME CHARGED, AND THIS SPECIFICALLY INCLUDES THE
22 BURDEN OF PROVING BEYOND A REASONABLE DOUBT THE
23 IDENTITY OF THE DEFENDANT AS THE PERSON WHO COMMITTED
24 THE CRIME.

25 IF AFTER EXAMINING THE TESTIMONY YOU HAVE A

1 REASONABLE DOUBT AS TO ACCURACY OF THE
2 IDENTIFICATION, YOU MUST FIND THE DEFENDANT NOT
3 GUILTY.

4 NOW, IF THERE HAVE BEEN EVIDENCE PRESENTED THAT
5 WITNESSES HAVE MADE PRIOR STATEMENTS WHICH ARE NOT
6 CONSISTENT WITH THE WITNESSES PRESENT TESTIMONY, YOU
7 MAY USE THIS EVIDENCE TO DECIDE WHETHER TO BELIEVE
8 THE WITNESS.

9 YOU MAY ALSO USE EVIDENCE OF EARLIER
10 CONTRADICTORY STATEMENTS TO DETERMINE THE TRUTH OF
11 THOSE STATEMENTS. IT'S UP TO YOU TO DECIDE WHETHER
12 TO BELIEVE THE EARLIER STATEMENT OR THE TESTIMONY
13 GIVEN AT TRIAL.

14 IF A WITNESS IS SHOWN TO HAVE KNOWINGLY
15 TESTIFIED UNTRUTHFULLY CONCERNING ANY MATERIAL
16 MATTER, YOU MAY CONSIDER THIS IN DETERMINING WHETHER
17 TO TRUST THE WITNESS'S TESTIMONY AS TO OTHER MATTERS.
18 YOU MAY REJECT ALL TESTIMONY OF THAT WITNESS OR GIVE
19 IT ALL OR PART OF THE TESTIMONY THE WEIGHT YOU THINK
20 IT DESERVES.

21 IN ORDER TO ESTABLISH CRIMINAL LIABILITY,
22 CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL
23 STATE REQUIRED TO BE PROVEN BY THE STATE FOR A
24 PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE,
25 RECKLESSNESS OR CRIMINAL NEGLIGENCE.

1 CRIMINAL INTENT MUST BE PROVEN BY THE STATE
2 BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS
3 A MATTER THAT MUST BE DETERMINED BY YOU, THE JURY,
4 FROM THE CIRCUMSTANCES SURROUNDING THE SITUATION.

5 THERE IS NO WAY TO PROVE INTENT TO A
6 MATHEMATICAL CERTAINTY. THERE IS NO WAY MEDICAL
7 SCIENCE CAN DISSECT A PERSON'S BRAIN AND DETERMINE
8 WHAT THAT PERSON HAD IN MIND.

9 THE LAW SAYS CRIMINAL INTENT MAY BE INFERRED
10 FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS
11 IS HOW YOU WILL MAKE A DETERMINATION OF WHETHER OR
12 NOT THE ELEMENT REQUIRING INTENT WAS PRESENT.

13 IT'S NOT NECESSARY TO ESTABLISH INTENT BY DIRECT
14 AND POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED
15 BY INFERENCES IN THE SAME WAY AS ANY OTHER FACT, BY
16 TAKING IT INTO CONSIDERATION THE ACTS OF THE PARTIES
17 ALL THE FACTS AND CIRCUMSTANCES OF THE CASE.

18 CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS
19 WRONGDOING. IT'S UP TO YOU TO DETERMINE WHAT THE
20 DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES
21 SHOWN TO HAVE EXISTED.

22 CRIMINAL INTENT MAY ARISE FROM AN ACTION OR A
23 FAILURE TO ACT. IT MAY ARISE FROM NEGLIGENCE,
24 RECKLESSNESS OR AN INDIFFERENCE TO DUTY OR TO
25 CONSEQUENCES. THAT IS CONSIDERED BY THE LAW TO BE

1 THE EQUIVALENT OF CRIMINAL INTENT.

2 NOW, THE DEFENDANTS ARE CHARGED WITH MURDER.
3 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
4 THE DEFENDANT KILLED ANOTHER PERSON WITH MALICE
5 AFORETHOUGHT.

6 MALICE IS HATRED, ILL WILL OR HOSTILITY TOWARDS
7 ANOTHER PERSON. IT'S THE INTENTIONAL DOING OF A
8 WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN
9 INTENT TO INFLECT INJURY OR UNDER CIRCUMSTANCES THAT
10 THE LAW WILL INFER AS EVIL INTENT.

11 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
12 EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
13 COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
14 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS
15 COMMITTED; THEREFORE, THERE MUST BE A COMBINATION OF
16 THE PREVIOUS EVIL INTENT AND THE ACT.

17 MALICE AFORETHOUGHT MAY BE EXPRESSED OR
18 INFERRED. THESE TERMS EXPRESS AND INFERRED DON'T
19 MEAN DIFFERENT KINDS OF MALICE, BUT MERELY THE MANNER
20 IN WHICH MALICE MAY BE SHOWN TO EXIST, THAT IS EITHER
21 BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND
22 CIRCUMSTANCES WHICH PROVED.

23 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS
24 WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR
25 WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT

1 WHICH IS LATER ACCOMPLISHED. FOR EXAMPLE, LYING IN
2 WAIT FOR A PERSON OR ANY OTHER ACTS OF PREPARATION
3 GOING TO SHOW THAT THE DEED WAS WITHIN THE
4 DEFENDANT'S MIND WOULD BE EXPRESS MALICE.

5 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A
6 TOTAL DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY
7 ALSO ARISE WHEN THE DEED IS DONE WITH A DEADLY
8 WEAPON.

9 NOW, A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT
10 OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
11 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS
12 A DEADLY WEAPON DEPENDS ON THE FACTS AND
13 CIRCUMSTANCES OF THIS CASE.

14 THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WAY
15 MAY BE CONSIDERED DEADLY WEAPONS; FIREARM, A RIFLE,
16 DIRK, A DAGGER, SLINGSHOT, METAL KNUCKLES, A RAZOR.
17 THESE ARE JUST EXAMPLES OF DEADLY WEAPONS.

18 NOW, IF ONE INTENTIONALLY KILLS ANOTHER DURING
19 THE COMMISSION OF A FELONY, THE INFERENCE OF MALICE
20 MAY ARISE. IF FACTS ARE PROVED BEYOND A REASONABLE
21 DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO
22 YOUR SATISFACTION, THIS INFERENCE WOULD SIMPLY BE AN
23 EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY
24 YOU ALONG WITH ALL THE OTHER EVIDENCE OF THE CASE AND
25 YOU MAY GIVE IT THE WEIGHT THAT YOU DECIDE IT SHOULD

1 RECEIVE.

2 NOW, THE DEFENDANTS ARE CHARGED WITH ARMED
3 ROBBERY. IN ORDER TO PROVE THIS OFFENSE THE STATE
4 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
5 DEFENDANT TOOK PERSONAL PROPERTY FROM THE PERSON OR
6 PRESENCE OF ANOTHER.

7 PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS
8 WITHIN THE PERSON'S REACH, INSPECTION, OBSERVATION OR
9 CONTROL SO THAT THE PERSON COULD, IF NOT OVERCOME
10 WITH VIOLENCE OR PREVENTED BY FEAR, KEEP POSSESSION
11 OF THE PROPERTY.

12 THE STATE MUST ALSO PROVE BEYOND A REASONABLE
13 DOUBT THAT THE DEFENDANT CARRIED THE PROPERTY AWAY
14 INTENDING TO PERMANENTLY DEPRIVE THE OWNER OF THE
15 PROPERTY AND TO KEEP THE PROPERTY FOR THE DEFENDANT'S
16 OWN USE.

17 THE SLIGHTEST REMOVAL OF THE PROPERTY OR THE
18 COMPLETE POSSESSION OF THE PROPERTY EVEN FOR AN
19 INSTANT BY THE DEFENDANT IS SUFFICIENT TO SHOW A
20 TAKING AND CARRYING AWAY OF THE PROPERTY. THE TAKING
21 AND CARRYING AWAY OF THE PROPERTY MUST HAVE BEEN DONE
22 WITH VIOLENCE OR BY PUTTING THE OWNER IN -- THE OWNER
23 OF THE PROPERTY IN FEAR OF VIOLENCE.

24 FINALLY THE STATE MUST PROVE BEYOND A REASONABLE
25 DOUBT THAT THE DEFENDANT WAS ARMED WITH A DEADLY

1 WEAPON DURING THE ROBBERY. A DEADLY WEAPON IS ANY
2 ARTICLE, INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO
3 CAUSE DEATH OR GREAT BODILY HARM.

4 ONCE AGAIN WHETHER AN INSTRUMENT HAS BEEN USED
5 AS A DEADLY WEAPON DEPENDS UPON THE FACTS AND
6 CIRCUMSTANCES OF EACH CASE. I HAVE GIVEN YOU
7 EXAMPLES PREVIOUSLY OF THE -- OF WHAT COULD BE
8 CONSIDERED DEADLY WEAPONS.

9 NOW, AN ATTEMPT IS AN EFFORT TO ACCOMPLISH A
10 CRIME WHICH DOES NOT SUCCEED. AN ATTEMPT INCLUDES A
11 SPECIFIC INTENT TO DO A PARTICULAR CRIMINAL ACT ALONG
12 WITH AN ACT FALLING SHORT OF THE ACT INTENDED.

13 THE STATE MUST PROVE MORE THAN MERE PREPARATION
14 AND INTENT. THERE MUST BE SOME OVERT ACT COMMITTED
15 IN THE EFFORT TO COMMIT THE CRIME. INTENT MEANS
16 INTENDING THE RESULT WHICH ACTUALLY OCCURS NOT
17 ACCIDENTALLY OR INVOLUNTARY.

18 INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE
19 DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY
20 NOT NATURALLY AND REASONABLY INFER INTENT. THIS GOES
21 AS TO THE LESSER INCLUDED OFFENSE, AND THAT IS OF
22 INTENTION -- INTENT TO COMMIT ARMED ROBBERY.

23 NOW, THE DEFENDANTS ARE CHARGED WITH POSSESSION
24 OF A WEAPON DURING THE COMMISSION -- AND LET ME TELL
25 YOU AS TO -- LET ME TELL YOU AS TO THE INTENT TO

1 COMMIT AN ARMED ROBBERY, IT IS A LESSER INCLUDED
2 OFFENSE OF ARMED ROBBERY, AND YOU WILL SEE THAT ON
3 THE VERDICT FORM.

4 IF YOU -- YOU SHOULD GIVE THE DEFENDANTS THE
5 BENEFIT OF REASONABLE DOUBT IN MAKING A DETERMINATION
6 OF WHETHER OR NOT THEY ARE GUILTY OF ARMED ROBBERY OR
7 ATTEMPTED ARMED ROBBERY.

8 NOW, THE DEFENDANTS ARE ALSO CHARGED WITH
9 POSSESSION OF A WEAPON DURING THE COMMISSION OF OR
10 ATTEMPT TO COMMIT A VIOLENT CRIME. THE STATE MUST
11 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
12 WAS IN POSSESSION OF A DEADLY WEAPON OR VISIBLY
13 DISPLAYED WHAT APPEARED TO BE A DEADLY WEAPON DURING
14 THE COMMISSION OF A VIOLENT CRIME.

15 NOW, A FIREARM MEANS ANY MACHINE GUN, AUTOMATIC
16 RIFLE, REVOLVER, PISTOL OR ANY WEAPON WHICH WILL --
17 WHICH WILL AND IS DESIGNED TO OR MAY BE READILY
18 CONVERTED TO EXPEL A PROJECTILE. A KNIFE MEANS AN
19 INSTRUMENT OR TOOL WITH A SHARP CUTTING BLADE WHETHER
20 OR NOT FASTENED TO A HANDLE WHICH CAN BE USED TO
21 INFLECT A CUT, SLASH OR WOUND.

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

1 ATTEMPTING TO COMMIT A VIOLENT CRIME.

2 MURDER AND ARMED ROBBERY ARE BOTH CONSIDERED
3 VIOLENT CRIMES FOR YOUR INFORMATION.

4 NOW, THE DEFENDANTS ARE CHARGED WITH CONSPIRACY.
5 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
6 THE DEFENDANT COMBINED WITH ONE OR MORE PERSONS FOR
7 THE PURPOSE OF COMMITTING AN UNLAWFUL ACT OR
8 COMMITTING A LAWFUL ACT BY UNLAWFUL MEANS.

9 THERE MUST BE A MUTUAL UNDERSTANDING, AGREEMENT
10 OR COMMON INTENTION AND PLAN. MERE PASSIVE KNOWLEDGE
11 OF OR CONSENT TO CRIMINAL CONDUCT OF ANOTHER IS NOT
12 ENOUGH TO MAKE A PERSON A CONSPIRATOR. THEY MUST BE
13 GUILTY KNOWLEDGE AND PARTICIPATION.

14 SIMILARLY, THE MERE FACT THAT THE DEFENDANT MAY
15 HAVE ASSOCIATED WITH ANOTHER PERSON OR MET WITH
16 ANOTHER PERSON AND DISCUSSED COMMON AIMS AND
17 INTERESTS DOES NOT NECESSARILY ESTABLISH PROOF OF THE
18 EXISTENCE OF A CONSPIRACY OR THAT THE DEFENDANT WAS
19 INVOLVED IN THE CONSPIRACY.

20 ON THE OTHER HAND, IT'S NOT NECESSARY THAT THE
21 AGREEMENT BE A FORMAL ONE, THAT IT BE IN WRITING, AND
22 THAT THE PERSON HOLDS A MEETING AND EXPRESSLY STATES
23 THE TERM OF THE COMMON PLAN OR THAT THE AGREEMENT IS
24 STATED IN WORDS BETWEEN THEM.

25 THE AGREEMENT OF A CRIMINAL CONSPIRACY MAY COME

1 THROUGH AN IMPLIED MUTUAL UNDERSTANDING. THE
2 WILLFUL, INTENTIONAL AND KNOWING ADOPTION BY TWO OR
3 MORE PERSONS OF A COMMON PLAN IS SUFFICIENT. NO
4 OVERT ACT NEED TO BE SHOWN TO ESTABLISH CONSPIRACY.
5 A CONSPIRACY MAY BE SHOWN BY CIRCUMSTANTIAL EVIDENANCE
6 AND THE CONDUCT OF THE PARTIES.

7 IN ORDER TO CONVICT THE DEFENDANT OF CONSPIRACY,
8 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT NOT
9 ONLY THAT THE DEFENDANT KNEW OF THE UNLAWFUL CONDUCT
10 BUT THAT THE DEFENDANT AGREED TO COMBINE WITH THE
11 OTHER PERSONS FOR THE PURPOSES OF ACCOMPLISHING THE
12 UNLAWFUL CONDUCT.

13 NOW I'M GOING TO STEP DOWN AND SHOW YOU THESE
14 VERDICT FORMS. THERE ARE MANY OF THEM BECAUSE AS YOU
15 KNOW -- BECAUSE AS YOU KNOW, THERE ARE FOUR CHARGES
16 AGAINST EACH OF THESE DEFENDANTS.

17 I HAVE TOLD YOU VERY CLEARLY YOU ARE TO CONSIDER
18 THE EVIDENCE AGAINST EACH DEFENDANT INDEPENDENTLY OF
19 WHAT YOUR DECISION IS WITH THE OTHER.

20 I'M GOING TO FOCUS ON YOU, MADAM FORELADY, AND
21 THAT IS SIMPLY BECAUSE -- THAT IS SIMPLY BECAUSE YOU
22 ARE THE ONE WHO WILL BE FILLING OUT THE VERDICT FORM,
23 BUT ALL OF YOU WILL NEED TO AGREE. ANY DECISION THAT
24 YOU MAKE IN THIS CASE MUST BE A UNANIMOUS ONE. YOU
25 ALL MUST AGREE.

1 AND I'M JUST GOING TO TAKE THEM IN THE ORDER
2 THAT I SEE THEM HERE. ON THE CHARGE OF MURDER, THERE
3 IS A DETERMINATION -- AFTER YOU'VE MADE A UNANIMOUS
4 DECISION OF WHETHER THE STATE HAS MET ITS BURDEN OF
5 PROOF, YOU WILL CHECK OFF EITHER GUILTY OR NOT GUILTY
6 DEPENDING UPON WHAT DECISION IS. YOU WILL SIGN AND
7 DATE THE VERDICT FORM.

8 AS TO ARMED ROBBERY, AGAIN, THIS JUST HAPPENS TO
9 BE THE ONE FOR TASHON SAMPSON. DON'T READ ANYTHING
10 INTO THE ORDER THAT I HAVE THESE. IN THIS CASE IT
11 HAPPENS TO BE GUILTY BEFORE NOT GUILTY. THERE'S NO
12 MAGIC TO THAT. SIMPLY ONE MUST PRECEDE THE OTHER.

13 WHATEVER YOUR DECISION IS IS WHAT NEEDS TO BE
14 CHECKED OFF. ONCE AGAIN, HAS THE STATE MET ITS
15 BURDEN OF PROOF? IF THE STATE HAS MET ITS BURDEN OF
16 PROOF, YOU MAKE A DETERMINATION AS TO GUILTY OF ARMED
17 ROBBERY. IF YOU THINK THE STATE HAS FAILED TO MEET
18 ITS BURDEN OF PROOF, YOU MAKE THE DETERMINATION OF
19 NOT GUILTY.

20 IF YOU FOUND NOT GUILTY, YOU THEN COULD CONSIDER
21 THE LETTER INCLUDED OFFENSE WHICH BY THE WAY IS ALSO
22 A VIOLENT CRIME WHICH I WILL TELL YOU MORE ABOUT THAT
23 LATER -- THEN YOU WOULD SAY, OKAY, THE CASE -- DID
24 THE STATE MEET ITS BURDEN OF PROOF AS TO AN ATTEMPTED
25 ARMED ROBBERY? AND YOU MAKE A DETERMINATION OF

1 EITHER YES OR NO.

2 YOU WOULD ONLY CONSIDER THIS LESSER INCLUDED
3 OFFENSE IF YOU DID NOT CONVICT ON THE GREATER. YOU
4 CAN CONVICT OF ONLY ONE. YOU COULD ACQUIT AS TO BOTH
5 OR FIND NOT GUILTY AS TO BOTH. IS THAT CLEAR? OKAY.
6 AND THAT'S JUST AS TO THE ARMED ROBBERY AND THE
7 ATTEMPT.

8 AS TO THE POSSESSION OF A WEAPON DURING THE
9 COMMISSION OF A VIOLENT CRIME, THIS IS AS TO
10 DEFENDANT SAMPSON WHERE THE ALLEGATION IS THAT HE HAD
11 A KNIFE OR IN THE COMMISSION OF A VIOLENT CRIME. AS
12 TO WILSON THE ALLEGATION IS THAT HE HAD A GUN DURING
13 THE COMMISSION OF A VIOLENT CRIME.

14 YOU WILL MAKE A DETERMINATION. IT MUST BE A
15 UNANIMOUS ONE. YOU WILL CHECK OFF EITHER GUILTY OR
16 NOT GUILTY DEPENDING UPON WHETHER OR NOT YOU HAVE
17 FOUND THE STATE MET ITS BURDEN OF PROOF. YOU WILL
18 SIGN AND DATE THIS VERDICT FORM AS WELL.

19 ONCE YOU HAVE COMPLETED ALL OF THESE, YOU CAN
20 LOOK THEN TO CRIMINAL CONSPIRACY. AND ONCE AGAIN,
21 YOU MAKE THAT DETERMINATION OF WHETHER THE STATE HAS
22 MET ITS BURDEN OF PROOF, COME UP WITH A UNANIMOUS
23 DECISION, CHECK OFF EITHER GUILTY OR NOT GUILTY AND
24 SIGN THIS VERDICT FORM.

25 NOW, I'M GOING TO GO BACK TO POSSESSION OF A

1 WEAPON DURING THE COMMISSION OF A VIOLENT CRIME FOR
2 THIS REASON. AS TO THE POSSESSION OF A WEAPON DURING
3 THE COMMISSION OF A VIOLENT CRIME, YOU COULD NOT FIND
4 THE DEFENDANT GUILTY OF THIS UNLESS YOU FOUND THE
5 DEFENDANT GUILTY OF A VIOLENT CRIME.

6 VIOLENT CRIMES THAT HE HAS BEEN ACCUSED OF IS
7 MURDER AND THE ARMED ROBBERY OR ATTEMPTED ARMED
8 ROBBERY. IF YOU HAVE FOUND HIM GUILTY OF ONE OF
9 THOSE, THEN YOU COULD, DEPENDING UPON WHETHER YOU
10 FOUND THAT THE STATE HAS MET ITS BURDEN OF PROOF,
11 FIND HIM GUILTY OF POSSESSION OF A WEAPON DURING THE
12 COMMISSION OF A VIOLENT CRIME. HAVE I MADE THAT
13 CLEAR?

14 OKAY. AND I HAVE GONE OVER THE CONSPIRACY. YOU
15 WILL THEN GO THROUGH THE SAME PROCEDURE AS TO THE
16 OTHER DEFENDANT, THAT IS THE DEFENDANT MR. WILSON.
17 YOU'VE GOT THE SAME CHARGES, MURDER, ARMED ROBBERY
18 WITH THE LESSER INCLUDED OFFENSE, POSSESSION OF A
19 WEAPON DURING THE COMMISSION OF A VIOLENT CRIME. AND
20 YOU UNDERSTAND THAT THERE WOULD HAVE TO BE A FINDING
21 OF A VIOLENT CRIME. AND THEN CRIMINAL CONSPIRACY.

22 IF YOU HAVE ANY QUESTIONS ABOUT HOW TO FILL OUT
23 THE VERDICT FORMS, I WANT YOU TO PUT THAT IN WRITING
24 AND SEND IT OUT. IF YOU HAVE ANY QUESTIONS ABOUT THE
25 CHARGE OR ANY OTHER MATTER OF LAW, YOU WOULD ALSO PUT

1 THAT IN WRITING.

2 AND MADAM FORELADY, IF YOU WOULD SIGN IT AND
3 SEND IT OUT ON A PIECE OF PAPER. ALL RIGHT? NOW I'M
4 GOING TO SEND YOU BACK WITH THESE INSTRUCTIONS. YOU
5 HAVE HEARD ALL OF THE EVIDENCE AND TESTIMONY IN THIS
6 CASE AND YOU RECEIVED THE CHARGE ON THE LAW, YET I'M
7 STILL GOING TO TELL YOU PLEASE DO NOT DISCUSS THE
8 CASE.

9 THE REASON FOR THAT IS QUITE SIMPLE. WE DO HAVE
10 SOME MATTERS OF LAW THAT NEED TO BE ADDRESSED OUT
11 HERE. ONCE WE DETERMINE THAT YOU MAY BEGIN
12 DELIBERATIONS, WE WILL SEND BACK THESE VERDICT FORMS
13 AS WELL AS THE EXHIBITS IN THE CASE. THAT WILL BE
14 YOUR SIGNAL THAT YOU MAY BEGIN DELIBERATIONS.

15 NOW, TO MY ALTERNATES, I'M GOING TO PUT YOU IN
16 ANOTHER ROOM AND I'M GOING TO MAKE SURE THAT ALL OF
17 MY JURORS ARE FINE AND ABLE TO GO FORWARD WITH
18 DELIBERATIONS. WHEN THEY START DELIBERATIONS, I WILL
19 GO BACK TO YOU AND RELEASE YOU.

20 YOU HAVE HAD THE MOST DIFFICULT ROLE. YOU WERE
21 HERE IN CASE ANY OF THE JURORS COULD NOT GO FORWARD.
22 SINCE THE PARTIES ARE ENTITLED TO 12 JURORS, WE MAKE
23 SURE WE HAVE 12 ALTERNATES HERE IN CASE WE LOSE ANY
24 JURORS. WE HAVE NOT AND THAT IS A GOOD THING, BUT
25 THAT'S PUT YOU IN A MOST DIFFICULT ROLE.

1 WE WILL SEPARATE YOU AT THIS TIME AND I WILL BE
2 BACK TO YOU JUST AS SOON AS THEY BEGIN THEIR
3 DELIBERATIONS. YOU MAY GO BACK AT THIS TIME WITH A
4 REMAINDER DO NOT DISCUSS THE CASE.

5 (JURY LEFT COURTROOM AT 3:39 P.M.)

6 THE COURT: ANYTHING FROM THE STATE AT THIS
7 TIME?

8 MR. SABB: NOT WITH REGARD TO ANY OF THE
9 EXCEPTIONS TO YOUR HONOR'S RULING.

10 THE COURT: ALL RIGHT. ANYTHING -- MAKE SURE
11 THAT DOOR IS CLOSED. ANYTHING FROM THE DEFENDANT
12 SAMPSON?

13 MR. CARRAWAY: NOTHING FROM THE DEFENDANT
14 SAMPSON.

15 THE COURT: ANYTHING FROM THE DEFENDANT WILSON?

16 MR. BARR: NO, MA'AM.

17 THE COURT: ALL RIGHT. VERY GOOD. IF YOU'D
18 COME FORWARD, PLEASE MAKE SURE THAT YOU HAVE LOOKED
19 THROUGH THE EXHIBITS AND THAT NOTHING GOES BACK TO
20 THAT JURY THAT HAS NOT BEEN ENTERED INTO EVIDENCE.
21 ALSO LOOK AT THESE VERDICT FORMS, IF YOU WOULD,
22 PLEASE.

23 MR. SABB: ALL RIGHT. JUDGE, WITH YOUR HONOR'S
24 PERMISSION, THEY HAVE GOT A LOCK THAT THEY PUT ON THE
25 GUN--

1 THE COURT: YEAH, WE HAVE A PROCEDURE. IT
2 CANNOT GO BACK WITHOUT THE KNIFE.

3 COURT REPORTER: WHAT ABOUT THIS KNIFE THAT'S
4 KIND OF IN THE OPEN?

5 THE COURT: THAT'S IN EVIDENCE?

6 COURT REPORTER: YEAH, THIS ONE.

7 THE COURT: ALL RIGHT. BAGGIE IT UP. JUST
8 STICK IT IN A BAGGIE AND THEY CAN LOOK AT IT. ANY
9 OBJECTION TO THAT?

10 MR. SABB: IT CAME OUT OF THIS BOX, JUDGE.

11 THE COURT: I DON'T WANT A LOOSE KNIFE THERE
12 WITH MY JURORS. I'M SORRY. I JUST DON'T. WE'RE
13 GOING TO HAVE TO FIND A BAGGIE OR SOMETHING TO LOOK
14 AT IT SO THEY'RE AT LEAST NOT GOING TO GET A GRIP.
15 I'M NOT GOING TO HAVE A LOOSE KNIFE BACK THERE FOR
16 THEIR OWN SAFETY. SO FIND YOURSELF SOME SORT OF
17 PLASTIC BAG OR SOMETHING TO PUT IT IN OR SOMETHING.

18 MR. SABB: ALL RIGHT.

19 (JURY BEGAN DELIBERATIONS AT 3:40 P.M.)

20 (WHEREUPON THE COURT STEPPED BACK AND RELEASED
21 THE ALTERNATES.)

22 (WHEREUPON THERE WAS A RECESS.)

23 THE COURT: THERE IS A QUESTION FROM THE JURY.
24 WE NEED ALL THE PARTIES. LET'S GET EVERYBODY IN
25 PLACE PRETTY QUICKLY.

1 (WHEREUPON, THE FOLLOWING TOOK PLACE AT
2 4:27 P.M.)

3 MR. SABB: YES.

4 THE COURT: ALL RIGHT. LET'S GET EVERYBODY IN
5 PLACE. I HAVE GOTTEN A MESSAGE FROM THE JURY. IT IS
6 SIGNED BY THE FOREPERSON. IT SAYS, IS THERE A WAY
7 THAT JOSEPH WILSON CAN HAVE AN ACCESSORY TO MURDER
8 CHARGE AS AN OPTION. WE DO UNDERSTAND THE HAND OF
9 ONE IS THE HAND OF ALL. CAN THIS BE CONSIDERED.

10 WELL, NO. THAT WAS NOT A CHARGE. THAT IS NOT A
11 CHARGE IN THIS CASE. I DON'T KNOW WHAT SHE MEANS BY
12 CAN THIS BE CONSIDERED OR WHETHER SHE'S SAYING WE CAN
13 CONSIDER THE CHARGE.

14 WHAT I PROPOSE WE DO IS I BRING HER OUT AND I
15 ASK HER TO EXPLAIN THIS AND THEN I WILL RESPOND TO
16 HER THAT I HAVE CHARGED THEM AS TO THE LAW THAT'S
17 APPROPRIATE IN THIS CASE AND THAT THEY ARE TO
18 CONSIDER THE LAW AS CHARGED. ALL RIGHT? ANYTHING
19 FROM THE STATE AT THIS TIME? ANYTHING FROM THE
20 DEFENSE SAMPSON?

21 MR. CARRAWAY: NOTHING, YOUR HONOR.

22 THE COURT: ANYTHING FROM THE DEFENSE WILSON?

23 MR. BARR: NO, MA'AM.

24 THE COURT: ANYTHING FROM THE STATE?

25 MR. SABB: NO, JUDGE.

1 THE COURT: ALL RIGHT. WE ARE READY FOR THEM.

2 (JURY ENTERED THE COURTROOM AT 4:28 P.M.)

3 THE COURT: I HAVE RECEIVED THE MESSAGE FROM THE
4 JURY. WELCOME, LADIES AND GENTLEMEN OF THE JURY.
5 YOU CAN SIT RIGHT THERE WILL BE FINE. I RECEIVED A
6 MESSAGE FROM THE JURY, IS THERE A WAY THAT JOSEPH
7 WILSON CAN HAVE AN ACCESSORY TO MURDER CHARGE AS AN
8 OPTION.

9 I HAVE CHARGED YOU AS TO THE LAW THAT'S
10 APPLICABLE TO THIS CASE, SO YOU WILL TAKE THE LAW AS
11 CHARGED IN THIS CASE. WE DO UNDERSTAND THE HAND OF
12 ONE IS THE HAND OF ALL. CAN THIS BE CONSIDERED.

13 I'M NOT SURE I UNDERSTAND WHAT THAT MEANS. YOU
14 CERTAINLY WOULD CONSIDER THE HAND OF ONE IS THE HAND
15 OF ALL. THAT HAS BEEN CHARGED IN THIS CASE. WHEN
16 YOU'RE ASKING WHAT CAN BE CONSIDERED, I'M NOT CLEAR.
17 WILL YOU CLARIFY THAT FOR THE COURT?

18 FORELADY: IT WAS JUST BROUGHT UP ABOUT THE
19 ACCESSORY CHARGE VERSUS THE MURDER CHARGE.

20 THE COURT: OKAY. THE ACCESSORY CHARGE IS AND
21 HAS BEEN CHARGED AS TO THE LESSER FOR THE ARMED
22 ROBBERY ONLY. OKAY. ALL RIGHT. I WILL SEND YOU
23 BACK TO THE JURY ROOM AT THIS TIME. DOES THAT ANSWER
24 YOUR QUESTION?

25 FORELADY: YES, IT DOES.

1 THE COURT: VERY GOOD. YOU MAY GO BACK.

2 (JURY LEFT THE COURTROOM AT 4:30 P.M.)

3 (WHEREUPON, COURT'S EXHIBIT NO 1 WAS MARKED FOR
4 IDENTIFICATION ONLY.)

5 THE COURT: ANYTHING FROM THE STATE AT THIS
6 TIME?

7 MR. SABB: NOTHING, JUDGE.

8 THE COURT: ANYTHING FROM EITHER OF THE
9 DEFENDANTS?

10 MR. CARRAWAY: NOTHING FROM DEFENDANT SAMPSON.

11 MR. BARR: NO, MA'AM.

12 THE COURT: ALL RIGHT. STICK AROUND CLOSE. WE
13 MAY HAVE ANOTHER QUESTION IN THE NEAR FUTURE. WE
14 WILL BE AT EASE UNTIL WE HEAR FURTHER.

15 (WHEREUPON THERE WAS A PAUSE.)

16 THE COURT: I'M SORRY. I SAID ACCESSORY RATHER
17 THAN ATTEMPTED, AND I'M AFRAID THAT MIGHT CONFUSE
18 THEM, SO I WILL SEE IF I CAN STRAIGHTEN IT OUT. ALL
19 RIGHT.

20 I WANT TO GO AHEAD PUT ON THE RECORD I REALIZED
21 THAT I MAY HAVE CONFUSED THIS JURY IN THAT I SAID
22 ACCESSORY IS AS TO THE ARMED ROBBERY WHEN I MEANT TO
23 SAY ATTEMPT WAS AS TO THE ARMED ROBBERY ONLY.

24 SO I'M GOING TO BRING THEM BACK OUT AND MAKE
25 THAT CLARIFICATION. MY APOLOGIES, BUT THAT NEEDS TO

1 BE CLARIFIED TO THIS JURY. WE ARE READY FOR THEM.
2 ANYTHING FROM THE STATE IN REGARD TO THAT
3 CLARIFICATION?

4 MR. SABB: NOTHING, JUDGE.

5 THE COURT: ANYTHING TO THE DEFENDANTS?

6 MR. CARRAWAY: NOTHING FROM DEFENDANT SAMPSON. . .

7 MR. BARR: NO, MA'AM.

8 THE COURT: ALL RIGHT. AGAIN, MY APOLOGIES.

9 (JURY ENTERED THE COURTROOM AT 4:34 P.M.)

10 THE COURT: MY INTENT WAS TO CLARIFY THINGS, AND
11 WHAT I DID WAS I REALLY MISSTATED. LET ME MAKE
12 SOMETHING VERY CLEAR. WHEN I SAID ACCESSORY WAS AS
13 TO THE ARMED ROBBERY ONLY, I WAS WRONG. IT'S ATTEMPT
14 IS AS TO THE ARMED ROBBERY ONLY. DO YOU UNDERSTAND?

15 I SAID ACCESSORY BUT I MEANT ATTEMPT. THE
16 ATTEMPT WAS AS TO THE ARMED ROBBERY ONLY. NOW, THERE
17 IS A -- LET ME JUST -- BEAR WITH ME JUST A MINUTE
18 BECAUSE IT'S OUT OF ORDER. IT'S REALLY OUT OF ORDER.

19 I DID CHARGE YOU AS TO AIDING AND ABETTING
20 DEALING WITH ACCOMPLICE LIABILITY AND I DID CHARGE
21 YOU AS THE HAND OF ONE IS THE HAND OF ALL WHICH YOU
22 HAD INDICATED THAT YOU UNDERSTOOD.

23 IF THERE IS ANY PORTION OF THE CHARGE THAT YOU
24 NEED RE-CHARGED, I WILL BE GLAD TO DO THAT. I WANT
25 TO MAKE CLEAR THAT YOU ARE TO CONSIDER THE CHARGE IN

1 ITS ENTIRETY AND I ALSO WANT TO MAKE CLEAR THAT WHEN
2 I SAID ACCOMPLICE, I ACTUALLY MEANT ATTEMPTED. THE
3 ATTEMPT IS AS TO THE ARMED ROBBERY ONLY. HAVE I MADE
4 IT CLEAR NOW? OKAY. VERY GOOD. LET ME SEND YOU
5 BACK AT THIS TIME.

6 (JURY LEFT THE COURTROOM.)

7 THE COURT: ALL RIGHT. I SIMPLY WANTED THEM TO
8 KNOW IN CASE THERE IS ANY PORTION OF THE CHARGE THEY
9 NEED TO BE RE-CHARGED, I WILL BE GLAD TO DO THAT AND
10 THAT IT IS AVAILABLE. WE'VE GOT TO GET IT IN ORDER,
11 THOUGH. IS THERE ANYTHING FROM THE STATE AT THIS
12 TIME?

13 MR. SABB: NOTHING, JUDGE.

14 THE COURT: IS TERE ANYTHING FROM EITHER OF THE
15 DEFENDANTS?

16 MR. CARRAWAY: NOTHING, YOUR HONOR.

17 MR. BARR: NO, MA'AM.

18 THE COURT: ALL RIGHT. VERY GOOD. NOW WE WILL
19 BE AT EASE UNTIL WE HEAR FURTHER.

20 (WHEREUPON COURT WAS IN RECESS.)

21 THE COURT: ALL RIGHT. LET'S GET EVERYBODY IN
22 PLACE. LET ME LET YOU KNOW THE COURT HAS BEEN
23 INFORMED THAT THE JURY HAS REACHED A VERDICT. FIRST
24 OF ALL LET ME STATE TO THE INDIVIDUALS WHO ARE HERE,
25 I HAVE NO WAY OF KNOWING WHAT THIS VERDICT MAY BE.

1 IF YOU ARE NOT GOING TO BE ABLE TO CONTAIN
2 YOURSELF, I DON'T WANT TO HEAR ANY OUTBURSTS. IF
3 YOU'RE NOT GOING TO BE ABLE TO CONTAIN YOURSELF,
4 UNLESS YOU'RE A DEFENDANT HERE OR A NECESSARY PARTY,
5 THEN YOU NEED TO LEAVE AT THIS TIME.

6 I WOULD EXPECT THAT EVERYBODY IS GOING TO
7 CONTINUE IN THE DECORUM THAT I HAVE EXPECTED ALL WEEK
8 LONG, AND THAT IS THAT WE WOULD BE QUIET IN HERE IN
9 THIS COURTROOM AND THERE WILL BE NO OUTBURSTS. I'M
10 GIVING YOU THE OPPORTUNITY TO EXIT AT THIS TIME IF
11 THAT'S YOUR DESIRE.

12 ALL RIGHT. HAVING STAYED, THEN YOU ARE
13 COMMITTING THEN TO FOLLOW THE COURT'S RULING IN THAT
14 REGARD. IS THERE ANYTHING FROM THE STATE PRIOR TO
15 BRINGING THE JURY OUT?

16 MR. SABB: NOTHING, YOUR HONOR.

17 THE COURT: IS THERE ANYTHING FROM THE
18 DEFENDANT, EITHER DEFENDANT SAMPSON OR DEFENDANT
19 WILSON?

20 MR. CARRAWAY: NOTHING FROM DEFENDANT SAMPSON.

21 MR. BARR: NO, MA'AM.

22 THE COURT: ALL RIGHT. VERY WELL. WE ARE READY
23 FOR THEM.

24 (JURY ENTERED THE COURTROOM AT 4:42 P.M.)

25 VERDICT

1 THE COURT: MADAM FORELADY AND LADIES AND
2 GENTLEMEN OF THE JURY, I UNDERSTAND THE JURY HAS
3 REACHED A VERDICT IN THIS CASE. IS THAT CORRECT?

4 FORELADY: CORRECT.

5 THE COURT: YOU MAY HAND IT TO THE CLERK,
6 PLEASE.

7 (CLERK APPROACHED THE FORELADY THEN APPROACHED
8 THE COURT.)

9 THE COURT: THEY ARE CORRECT AS TO THEIR FORM.
10 THEY MAY BE PUBLISHED AT THIS TIME. IF THE
11 DEFENDANTS WOULD PLEASE STAND.

12 THE CLERK: STATE OF SOUTH CAROLINA VERSUS
13 JOSEPH WILSON. ON THE CHARGE OF CRIMINAL CONSPIRACY,
14 WE THE JURY BY UNANIMOUS CONSENT FIND THE DEFENDANT
15 JOSEPH WILSON GUILTY.

16 STATE VERSUS JOSEPH WILSON, ON THE CHARGE OF
17 ARMED ROBBERY, WE THE JURY BY UNANIMOUS CONSENT FIND
18 THE DEFENDANT JOSEPH WILSON NOT GUILTY. ON THE COUNT
19 OF ATTEMPTED ARMED ROBBERY, GUILTY.

20 STATE VERSUS JOSEPH WILSON, POSSESSION OF A
21 WEAPON DURING A COMMISSION OF A VIOLENT CRIME, WE THE
22 JURY FIND THE DEFENDANT JOSEPH WILSON GUILTY.

23 STATE VERSUS JOSEPH WILSON, ON THE CHARGE OF
24 MURDER, WE THE JURY BY UNANIMOUS CONSENT FIND THE
25 DEFENDANT JOSEPH WILSON GUILTY.

1 THE STATE VERSUS TASHON SAMPSON. ON THE CHARGE
2 OF CRIMINAL CONSPIRACY, WE THE JURY BY UNANIMOUS
3 CONSENT FIND THE DEFENDANT GUILTY.

4 THE STATE VERSUS TASHON SAMPSON, ON THE CHARGE
5 OF ARMED ROBBERY, WE FIND THE DEFENDANT NOT GUILTY.
6 ON THE LESSER CHARGE OF ATTEMPTED ARMED ROBBERY,
7 GUILTY.

8 STATE VERSUS TASHON SAMPSON, ON THE CHARGE OF
9 POSSESSION OF A WEAPON DURING THE COMMISSION OF A
10 VIOLENT CRIME, WE THE JURY BY UNANIMOUS CONSENT FIND
11 THE DEFENDANT GUILTY.

12 STATE VERSUS TASHON SAMPSON, ON THE CHARGE OF
13 MURDER, WE THE JURY BY UNANIMOUS CONSENT FIND THE
14 DEFENDANT TASHON SAMPSON GUILTY. IF THESE ARE YOUR
15 VERDICTS, SO SAY YE ALL. PLEASE LET IT BE KNOWN BY
16 RAISING YOUR RIGHT HANDS. THANK YOU.

17 THE COURT: I WILL NOTE FOR THE RECORD THAT ALL
18 THE JURORS DID IN FACT RAISE THEIR RIGHT HAND. YOU
19 MAY BE SEATED. ARE THERE ANY MATTERS THAT NEED TO BE
20 ADDRESSED IN THE PRESENCE OF THE JURY? ANYTHING FROM
21 THE STATE?

22 MR. SABB: NOTHING FROM THE STATE, YOUR HONOR.

23 THE COURT: ANYTHING FROM THE DEFENDANT? FIRST
24 DEFENDANT SAMPSON?

25 MR. CARRAWAY: NOT AT THIS POINT, YOUR HONOR. I

1 WILL MAKE -- I DO HAVE SOME MOTIONS TO MAKE.

2 THE COURT: ALL RIGHT. AND THEN TO AS TO
3 DEFENDANT WILSON, ANYTHING IN THE PRESENCE OF THE
4 JURY?

5 MR. BARR: NO, JUDGE.

6 THE COURT: ALL RIGHT. LET ME TURN TO THE JURY
7 NOW. THERE'S TWO THINGS YOU CAN DO. FIRST OF ALL
8 LET ME THANK YOU FOR YOUR SERVICE. I KNOW NONE OF
9 YOU ASKED TO BE CALLED IN THIS CASE, BUT HAVING BEEN
10 CALLED UPON TO SERVE, YOU HAVE DONE YOUR DUTY.

11 I HAVE WATCHED YOU DURING THE COURSE OF THE
12 TRIAL AND YOU HAVE PAID CLOSE ATTENTION TO THE
13 EVIDENCE. I ON BEHALF OF THE STATE AND THE
14 DEFENDANTS WISH TO THANK YOU.

15 (WHEREUPON THE COURT ALLOWED JURORS TO BE
16 DISMISSED.)

17 SENTENCING

18 THE COURT: AS TO SENTENCING, I WILL BE GLAD TO
19 HEAR FROM THE STATE IN REGARD TO ANY PRIOR... ANY
20 PRIOR RECORD AND --

21 MR. SABB: JUDGE, MAKE THOSE MOTIONS FIRST.

22 THE COURT: -- ANY INFORMATION. WE CAN DO THE
23 MOTIONS AT ANY TIME. YOU WANT TO NOTE YOUR MOTIONS
24 NOW FOR THE RECORD OR YOU WANT TO DO THEM -- WE CAN
25 DO THE MOTIONS AT ANY TIME. YOU WANT TO DO THOSE

1 NOW?

2 MR. SABB: JUDGE, IF I MIGHT, IF YOU WERE TO DO
3 THAT -- AND I APOLOGIZE FOR NOT HAVING ALL OF THE
4 FORMS COMPLETED, BUT WE COULD ACTUALLY BE COMPLETING
5 THE FORMS, IF THEY DON'T MIND, DOING THOSE MOTIONS
6 NOW.

7 THE COURT: PLEASE DO THAT, PLEASE.

8 MR. SABB: YES, MA'AM.

9 THE COURT: ALL RIGHT. YES, SIR. FROM
10 MR. SAMPSON LET ME HEAR THE MOTIONS.

11 MR. CARRAWAY: YOUR HONOR, I WOULD ASK FOR THE
12 COURT MAKE A MOTION FOR A JUDGMENT NOTWITHSTANDING
13 THE VERDICT HERE, YOUR HONOR. I BELIEVE THAT THE
14 EVIDENCE IN THIS CASE WAS INSUFFICIENT TO CONVICT
15 MR. SAMPSON AND FOR THAT REASON I WOULD ASK THE COURT
16 CONSIDER GRANTING A MOTION FOR A JUDGMENT NOT
17 WITHSTANDING THE VERDICT.

18 AND IF -- IF THE COURT DOES NOT GRANT THAT
19 MOTION, I WOULD ASK THAT THE COURT GRANT MY MOTION
20 FOR A NEW TRIAL.

21 THE COURT: ALL RIGHT. ANY RESPONSE TO JNOV OR
22 NEW TRIAL?

23 MR. SABB: JUDGE, WE WOULD TAKE THE POSITION
24 THAT THERE IS CERTAINLY EVIDENCE IN THE RECORD TO
25 SUPPORT THE JURY'S FINDINGS, AND WE WOULD JUST ASK

1 THE COURT TO NOT SUBSTITUTE ANY KIND OF INDEPENDENT
2 JUDGMENT. THEY WERE THE TRIERS OF THE FACT.

3 THEY OBVIOUSLY SPENT CONSIDERABLE TIME AND
4 EFFORT IN SORTING THROUGH THE EVIDENCE IN THE CASE
5 AND WE WOULD URGE THE COURT TO SIMPLY DENY DEFENSE
6 COUNSEL'S MOTION.

7 THE COURT: I DO THINK THERE WAS NO FAILURE OF
8 COMPETENT EVIDENCE. THERE WAS SUFFICIENT EVIDENCE
9 UPON WHICH THE JURY CAN BE -- CONVICTED. I DON'T
10 FIND THAT IT WAS BASED ON PASSION, PREJUDICE OR IT'S
11 CERTAINLY WITHIN PROVINCE OF THE JURY TO -- TO MAKE
12 ITS DETERMINATION AND THERE WAS SUBSTANTIAL EVIDENCE
13 TO SUPPORT THE JURY'S VERDICT. I RESPECTFULLY DENY.
14 YES, SIR. ON BEHALF OF MR. WILSON?

15 MR. BARR: HAVE THE SAME MOTION JUDGE, JUDGMENT
16 NOT WITHSTANDING THE VERDICT OR IN THE ALTERNATIVE
17 FOR A NEW TRIAL.

18 THE COURT: OKAY. AND ONCE AGAIN THERE WAS NO
19 FAILURE OF COMPETENT EVIDENCE. THE -- THE EVIDENCE
20 SUPPORTED THE ALLEGATIONS THAT WERE CONTAINED IN THE
21 INDICTMENT AND EACH AND EVERY ONE OF THE ELEMENTS,
22 THERE WAS SUBSTANTIAL EVIDENCE TO SUPPORT EVEN
23 LOOKING AT THE EVIDENCE IN THE LIGHT MOST FAVORABLE
24 TO THE NON-MOVING PARTY.

25 ONCE AGAIN, NOT BASED ON ANY PASSION OR

1 PREJUDICE. NO FINDINGS IN THAT REGARD. I
2 RESPECTFULLY DENY.

3 NOW AS TO SENTENCING, I WILL BE GLAD TO HEAR --
4 WE ARE GOING TO GO -- WE WILL HANDLE IT SAMPSON AND
5 WILSON AS WE HAVE DONE IN THE PAST. WE HAVE TRIED TO
6 HAVE AN ORDER TO THIS. I WILL BE GLAD TO HEAR FROM
7 THE STATE AS TO MR. SAMPSON FIRST.

8 MR. SABB: THANK YOU, JUDGE.

9 THE COURT: NO, NOT OVER HERE. GET THEM OVER
10 HERE. COME ON.

11 MR. SABB: SORRY, JUDGE. THAT'S JUST THE WAY...

12 THE COURT: I KNOW. IT'S NOT THE WAY WE ARE
13 GOING TO DO IT THIS TIME.

14 MR. SABB: THAT'S FINE.

15 THE COURT: JUST FOR SECURITY REASONS, JUST --
16 IT JUST MAKES SENSE. WE ARE GOING TO KEEP THEM OVER
17 ON THIS SIDE. NO OFFENSE, BUT I DON'T WANT YOU
18 CROSSING IN FRONT OF THE DEFENDANTS OR ANYTHING AT
19 THIS TIME. I WANT TO KNOW YOU'RE OVER THERE AND YOU
20 ARE SECURE. OKAY. JUST GIVE ME THE RECORD NOW,
21 OKAY?

22 MR. SABB: JUDGE, ACTUALLY THAT'S WHAT I WAS
23 LOOKING FOR. BUT TASHON SAMPSON HAS A PRIOR CRIMINAL
24 RECORD FOR AN ARMED ROBBERY WHEN HE WAS A JUVENILE.
25 HE WAS SENTENCED FOR A PERIOD OF TIME NOT TO EXCEED

1 HIS 21st BIRTHDAY.

2 I WAS TRYING TO ZERO IN ON THE EXACT DATE,
3 JUDGE. I'M -- I BELIEVE IT WAS 1999. WAS IT 1997?
4 OKAY. AND IN ADDITION TO THAT, HE HAD A POSSESSION
5 OF A STOLEN VEHICLE CHARGE. THAT'S HIS RECORD, BUT I
6 CAN'T GIVE THE COURT...

7 THE COURT: IS IT POSSESSION OF -- CHARGE OR
8 CONVICTION?

9 MR. SABB: IT WAS A CONVICTION.

10 MS. BARR: IT WAS IN 2001, YOUR HONOR. HE ALSO
11 HAD POSSESSION OF CONTROLLED SUBSTANCE CHARGE IN NEW
12 JERSEY THAT HE HAD, AND THAT IS THE -- I BELIEVE THAT
13 WAS IN 2002 HE HAD THAT CONVICTION.

14 THE COURT: AND THAT'S A CONVICTION OR CHARGE?

15 MS. BARR: CORRECT. HE WAS FOUND GUILTY.

16 THE COURT: OKAY. ALL RIGHT.

17 MS. BARR: MR. WILSON HAS A CONVICTION FOR
18 BURGLARY IN THE THIRD DEGREE. THAT'S THE ONLY THING
19 THAT'S ON HIS RECORD.

20 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM
21 THE STATE?

22 MR. SABB: JUDGE, WE HAVE THE -- MS. PERRY'S
23 FAMILY HERE WHO HAVE INDICATED, SOME OF THEM, AND I'M
24 NOT SURE WHICH OR IN WHAT ORDER, JUDGE, THAT THEY
25 WOULD LIKE TO ADDRESS THE COURT AT THE APPROPRIATE

1 TIME.

2 THE COURT: THAT'S FINE. IF YOU'D STATE YOUR
3 NAME FOR THE RECORD FIRST, PLEASE.

4 GINGER DAVIS: MY NAME IS GINGER DAVIS, AND IT
5 WAS MY MOTHER THAT WAS KILLED. AND I JUST WANT TO
6 THANK EVERYONE HERE AND GOD IN HELPING TO HELP IN
7 THIS CASE BECAUSE I KNOW IT TOOK A LOT OF HARD WORK.
8 NO ONE WILL EVER BE ABLE TO FILL HER SHOES AND I'M
9 SURE EVERYONE THAT KNEW HER WILL SAY THAT.

10 SHE WORKED 50 YEARS, 12 HOURS A DAY TO PAY HER
11 BILLS. SHE WAS AN EXAMPLE TO ME. SHE RAISED ME TO
12 NEVER MISS A DAY OF SCHOOL, TO MAKE STRAIGHT A'S, TO
13 DRESS WELL AND TO BE A GOOD CITIZEN. AND SHE NEVER
14 KNEW HOW MUCH I ADMIRERD HER, LOOKED UP TO HER.

15 EVEN THOUGH, AS A COLLEGE GRADUATE, SHE WAS IN
16 THAT GROCERY STORE EVERY DAY FILLING HER
17 RESPONSIBILITY AND WORKING. AND I COULDN'T
18 UNDERSTAND HOW SOMEONE COULD GO TO WORK EVERY DAY AND
19 PAY FOR TWO CARS AND PLACES TO LIVE, AND IT WAS HARD
20 FOR ME, A COLLEGE GRADUATE, TO BE ABLE TO DO THAT.

21 BUT I JUST WANT Y'ALL TO KNOW THAT I QUESTIONED
22 MYSELF BEFORE AND I DIDN'T KNOW IF I LOVED MY MOTHER.
23 BUT AFTER THIS HAPPENED, I CAN TRULY SAY THAT I LOVED
24 MY MOTHER BECAUSE LOVE IS NOT JUST A WORD, IT'S AN
25 ACTION.

1 AND I TRIED TO FULFILL AND HONOR HER EVERYWHERE
2 I HAVE BEEN. COLLEGE GRADUATE. SHE HELPED ME TO BE
3 A COLLEGE GRADUATE, GO ON TO NASHVILLE -- AND THE
4 FIRST DAY I APPLIED FOR TALK SHOW FOR OPRAH WAS -- I
5 WAS ACCEPTED. I JUST AFRAID TO SPEAK IN FRONT OF A
6 CAMERA. BUT MY MOTHER WILL GO ON LIVING BECAUSE
7 YOU -- SHE WILL LIVE IN ME AND THE THINGS THAT I DO.

8 AND AS FAR AS THE BOYS THAT KILLED HER, I'M
9 REALLY SORRY THAT YOU HAVE TO FACE THIS PUNISHMENT.
10 SOMEWHERE IN YOUR LIFE I KNOW SOMETHING HAS HAPPENED
11 TO YOU THAT CAUSED YOU TO DO THIS.

12 AND THE ONLY THING I CAN SAY TO YOU TODAY IS,
13 THERE ARE TWO THINGS IN LIFE THAT YOU CAN DO TO GAIN
14 MONEY. AND I'VE BEEN OUT THE WORLD 30 YEARS BY
15 MYSELF AND I HAVE NEVER HAD TO STEAL FOR A MEAL, I
16 HAVE NEVER HAD TO LIE, CHEAT OR STEAL OR BE DISHONEST
17 IN ANY WAY TO GET WHAT I HAD.

18 THERE WERE TWO THINGS I USED, WAS WORK AND
19 PRAYER. AND LIKE I SAID, I'M REALLY SORRY YOU WILL
20 HAVE TO GO LIVING YOUR LIFE AND REMEMBERING WHAT YOU
21 DID, AND YOUR FREEDOM IS GOING TO BE TAKEN AWAY, AND
22 THAT'S GOING TO BE DEATH EVERY DAY.

23 BUT I JUST WANT TO ENCOURAGE, AS MY MOTHER DID
24 ME GROWING UP, TO TRY TO LEARN TO READ, TO WRITE AND
25 TO PRAY AND ASK GOD TO HELP YOU. AND I GUESS THAT'S

1 ALL I HAVE TO SAY.

2 THE COURT: THANK YOU, MA'AM.

3 MR. SABB: JUDGE, I JUST WANTED TO SAY THAT THE
4 FAMILY HAS BEEN A WONDERFUL GROUP TO WORK WITH IN
5 LIGHT OF THE CIRCUMSTANCES. THEY HAVE ALWAYS SHOWN
6 RESPECT AND COURTESY IN OUR CONVERSATIONS. AND
7 THOUGH IT'S BEEN DIFFICULT AS -- IN SPEAKING FOR LAW
8 ENFORCEMENT AND THE SOLICITOR'S OFFICE, WE APPRECIATE
9 THE MANNER IN WHICH THEY ALLOWED US TO -- TO WORK
10 WITH THEM THROUGH THIS DIFFICULT TIME.

11 THE COURT: ALL RIGHT. ANYTHING FURTHER IN
12 REGARD TO -- OR FROM THE STATE OR THE FAMILY?

13 MR. SABB: NOTHING, JUDGE.

14 THE COURT: ALL RIGHT. BE GLAD TO HEAR THEN
15 FROM THE DEFENSE.

16 MR. SAMPSON: FIRST?

17 THE COURT: AS TO MR. SAMPSON FIRST, YES, SIR.

18 MR. SAMPSON: WELL, I SAT IN THE COUNTY JAIL FOR
19 TWO YEARS AND NOT SECURE -- I'M ACCUSED OF FOR TWO
20 YEARS, 27 MONTHS OF IT. AND THE DAY THE TRIAL DIDN'T
21 GO APPROPRIATE BECAUSE SIMPLE FACT MY EYE WITNESS
22 WASN'T HERE TO JUSTIFY WHERE I WAS AT DURING THE TIME
23 THIS INCIDENT HAPPENED.

24 AND SO HE SAID ON THE STATEMENT HE WAS THERE OR
25 WHAT-NOT. AND ME BEING FOUND GUILTY, EVERY DAY FOR

1 ME TO BE SITTING IN THE COUNTY JAIL TWO YEARS, IT
2 JUST HAD ME PUZZLED LIFE TOGETHER. I MEAN, EXCUSE MY
3 LANGUAGE.

4 MR. BARR STATE HE SAID I'M ON TRIAL IN NEW
5 JERSEY OR WHATEVER, BUT IT'S NOT THAT. BUT FOR ME TO
6 SIT IN THE COUNTY JAIL FOR TWO YEARS BEHIND SOMETHING
7 THAT I DIDN'T DO AND TO SEE THAT I'M GOING TO RECEIVE
8 LIFE FOR IT, IT HURT ME ALSO AS IT HURT THE FAMILY BY
9 READING THE PAPER WHAT -- WHEN I KNOW I DIDN'T COMMIT
10 THIS.

11 BUT THAT'S WHY I SAT HERE AT THIS TABLE TO
12 DEFEND MY INNOCENCE AND I WILL DEFEND MY INNOCENCE
13 TILL THE DAY I DIE. BUT TRULY SPEAKING, I'M SORRY
14 WHAT HAPPENED TO YOUR FAMILY MEMBER.

15 AND THIS GUY RIGHT HERE, THEY WENT OUT, DONE
16 WHAT THEY DID. I DID NOT CAUSE IT. THAT'S ALL I
17 HAVE TO SAY, AND THAT'S THE TRUE STORY.

18 THE COURT: ALL RIGHT. MR. CARRAWAY, ANYTHING
19 FURTHER?

20 MR. CARRAWAY: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. AS TO THIS DEFENDANT AS
22 TO CRIMINAL CONSPIRACY, THE SENTENCE OF THE COURT IS
23 FIVE YEARS.

24 AS TO THE ATTEMPTED ARMED ROBBERY, THE SENTENCE
25 OF THE COURT IS 20 YEARS. AS TO MURDER THE SENTENCE

1 OF THE COURT IS LIFE. THAT WILL SUBSUME THIS
2 POSSESSION OF A WEAPON DURING THE COMMISSION OF A
3 VIOLENT CRIME. GOOD LUCK, SIR.

4 YES. BE GLAD TO HEAR FROM MR. WILSON AT THIS
5 TIME.

6 MR. WILSON: ALL RIGHT. FIRST OF ALL, I WANT TO
7 APOLOGIZE TO THE FAMILY BECAUSE I DID KNOW THEIR
8 FAMILY FOR QUITE A LONG TIME. MY MOM AND MY FATHER
9 ALSO DEALT BUSINESS WITH THEY FAMILY MEMBER.

10 AND FOR THIS MAN HERE, YOU KNOW WHAT I MEAN, I
11 FORGIVE HIM ALSO. GOD SAID ALWAYS FORGIVE EVERYBODY
12 FOR THEIR WRONGDOING. HE KNEW HE DID DID THAT, AND
13 YES INDEED, Y'ALL PARENT DID GRAB MY HAND. I ADMIT
14 SHE DID GRAB MY HAND AND ASKED ME FOR HELP.

15 BUT FOR HIM TO SIT HERE AND LIE -- I SIT THERE
16 AND WATCH HIM DID THIS. AND I DID ASK AND RAN OUT
17 THE STORE, BUT I NEVER DID STRUCK Y'ALL PARENT ACROSS
18 THE HEAD JUST BECAUSE I KNEW HER. I KNEW HER ALL MY
19 LIFE.

20 AND I SIT THERE AND WATCHED THIS MAN HERE DO
21 THIS. AND FOR HIM TO SIT THERE AND LIE TO Y'ALL IN
22 Y'ALL FACE, AND HE KNOW HE LYING, AND FOR WHAT THE
23 EYE WITNESS SEEN, THEY AIN'T LYING, AND I CAN'T SEE
24 HE LYING LIKE THAT.

25 BUT SEE, I GOT TO TAKE PARTS FOR MY ROLE DOING,

1 TOO, BECAUSE I COULD LIKE EVERYBODY ELSE AS -- AS THE
2 OFFICER RUDY TISDALE ASKED ALSO, I COULD HAVE STAYED
3 THERE AND DONE SOMETHING.

4 BUT LIKE I TOLD RUDY, REALLY, SINCE I BEEN
5 KNOWING Y'ALL FAMILY, IF I HAD BULLETS IN THIS GUN, I
6 WOULD HAVE BLAST HIM, AND WE FAMILY. I WOULD HAVE
7 BLAST HIM FOR THE SIMPLE FACT HE KNOW HE LYING AND
8 NOW I GOT TO GO DOWN FOR SOMETHING HE DID.

9 THE ONLY REASON WHY I AIN'T TESTIFIED ON THAT
10 STAND AGAINST HIM BECAUSE I FELT THAT I WAS INNOCENT.
11 BUT NOW I SHOULD HAVE WENT AHEAD AND TESTIFY AGAINST
12 HIM. BUT NOW I GOT TO HOLD THIS PART HERE, GOING
13 DOWN RIGHT WITH HIM.

14 AND I'M ASKING Y'ALL -- Y'ALL FORGIVE ME, WHICH
15 I SHOULD HAVE HAD DONE SOMETHING. AND I ASK FOR
16 EVERYBODY HERE, FOR THEY FORGIVENESS FOR HAVING TO
17 HAVE THIS TIME TO GO THROUGH THIS HERE WITH THE -- WE
18 AIN'T HAD TO BEEN HERE.

19 THE COURT: MR. BARR, IS THERE ANYTHING FURTHER?

20 MR. BARR: YES, MA'AM. MAY I APPROACH THE
21 BENCH? MAY WE APPROACH THE BENCH?

22 THE COURT: YES, SIR.

23 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

24 MR. BARR: MAY IT PLEASE THE COURT, JUDGE. I --
25 OF COURSE, I DEFENDED THE MR. JOSEPH WILSON TO THE

1 BEST OF MY ABILITY, AND I INDICATED TO THE COURT AT
2 THE VERY BEGINNING OF THE TRIAL THAT I HAVE KNOWN
3 MR. PERRY FOR PROBABLY -- I SAID 30 -- I SAID 20
4 INITIALLY, BUT IT'S BEEN MORE LIKE 30 YEARS.

5 AND HE IS -- HE IS A FINE GENTLEMAN. AND I AM
6 JUST SO SORRY TO HAVE TO STAND BEFORE THIS COURT
7 TODAY AND -- AND SHARE IN THE EXPERIENCE OF WHAT I
8 KNOW HIS FAMILY MUST BE EXPERIENCING NOW.

9 I WILL SAY THAT I AM -- AM -- I'M JUST -- I'M
10 HUMBLED BY THE ATTITUDE THAT'S BEEN TAKEN BY HIS
11 SISTER, AND IT IS AN ATTITUDE THAT -- THAT CERTAINLY
12 SEEM TO ME THAT IS ONE THAT EXPRESSES THE ABILITY
13 TO -- TO HEAL FROM THIS TRAGEDY. IT ALSO SEEMS
14 THAT -- THAT RATHER THAN -- THAN TAKING THE COURSE OF
15 VENGEANCE, SHE WAS TAKING ONE OF AN ATTITUDE OF
16 FORGIVENESS.

17 YOUR HONOR, AS RELATES TO MR. WILSON, I CAN ONLY
18 SAY THAT -- THAT UNLIKE TASHON, HE HAS AT LEAST TAKEN
19 THE FIRST STEP TO REHABILITATION AND THAT FIRST STEP
20 IS TO ADMIT HIS GUILT.

21 AND THERE'S NO WAY THAT -- THAT YOU CAN COME
22 BACK FROM SOMETHING LIKE THIS UNLESS YOU ADMIT FIRST
23 OF ALL THAT YOU WERE WRONG FOR WHAT YOU DID. AND I'M
24 PLEASED TO SEE THAT HE IS -- HE'S ADMITTED THAT HE'S
25 WRONG. I THINK HE UNDERSTANDS THAT, AND I HAVE TOLD

1 HIM ALL ALONG THAT HE WOULD HAVE TO PAY FOR -- FOR
2 WHAT HE DID IN THAT WHAT HE DID WAS WRONG.

3 YOUR HONOR, I -- I WOULD CERTAINLY JUST
4 SIMPLY -- I'M SORRY FOR WHAT'S ABOUT TO HAPPEN TO
5 MR. WILSON. I'M -- AS I SAID, I'M DEEPLY SYMPATHETIC
6 TO THE PERRY FAMILY. BUT YOUR HONOR, YOU ARE THE
7 SENTENCING JUDGE AND THE MATTER IS IN YOUR HAND.
8 THANK YOU.

9 THE COURT: OKAY. I WILL SAY RIGHT UP FRONT
10 THAT I DO SEE THE DIFFERENCE IN MR. SAMPSON AND
11 MR. WILSON IN THAT MR. SAMPSON HAS MORE OF A
12 SUBSTANTIAL PRIOR RECORD THAN MR. WILSON WHO HAS
13 SIMPLY THIS BURGLARY THIRD IN HIS PAST.

14 ALSO I SEE A DIFFERENCE IN THEIR ROLES IN THIS
15 CRIME IN -- IN THESE CRIMES. NEVERTHELESS, MURDER
16 CARRIES 30 YEARS.

17 THE SENTENCE OF THE COURT AS TO MURDER IS 30
18 YEARS. THE SENTENCE AS TO POSSESSION OF A WEAPON
19 DURING THE COMMISSION OF A VIOLENT CRIME IS FIVE
20 YEARS. CRIMINAL CONSPIRACY IS FIVE YEARS. AND
21 ATTEMPTED ARMED ROBBERY IS 20 YEARS. GOOD LUCK,
22 SIRS.

23 MR. SABB: THANK YOU, JUDGE.

24 THE COURT: THANK YOU. AND TO THE FAMILY, THE
25 BEST OF LUCK TO YOU.

1 (WHEREUPON THERE WAS A PAUSE.)

2 MR. BARR: I UNDERSTAND IT'S -- YOU INDICATED
3 WHEN I ASKED THE QUESTION INITIALLY, UNLESS YOU SAID
4 OTHERWISE, YOU MEANT A CONCURRENT SENTENCE.

5 THE COURT: YEAH. WHAT USUALLY HAPPENS THOUGH
6 WITH POSSESSION OF A WEAPON DURING THE COMMISSION OF
7 A VIOLENT CRIME IS IT USUALLY IS CONSECUTIVE BY
8 NATURE.

9 WHAT I DID IN MR. WILSON'S CASE IS BECAUSE HE'S
10 GOT 30 YEARS FOR THE MURDER, HE CAN GET SOME CREDIT
11 FOR GOOD TIME. I STILL WANT TO HAVE THAT INCENTIVE
12 FOR HIM TO BEHAVE, SO I MADE IT CONCURRENT.

13 I EVEN MADE THE FIVE YEAR POSSESSION OF THE
14 WEAPON DURING THE COMMISSION OF A VIOLENT CRIME
15 CONCURRENT. NOW, I DIDN'T DO THAT ON SAMPSON, BUT
16 HE'LL DO LIFE. HE'S GOT LIFE. ALL RIGHT?

17 MR. BARR: AND THE ATTEMPTED...

18 THE COURT: AND NOW I WANT SAMPSON TO SHOW ON
19 THAT ONE CONSECUTIVE IN CASE SOMETHING HAPPENS TO
20 THAT CHARGE. SO ON SAMPSON'S, WE CAN SHOW IT -- NO
21 IT'S SUBSUMED, THOUGH. IT WILL -- NEVER MIND.

22 MR. BARR: AND THE ATTEMPTED ARMED ROBBERY IS
23 CONCURRENT, TOO, FOR WILSON?

24 THE COURT: ALL OF THE CHARGES WILL RUN -- WHAT
25 WILSON IS LOOKING AT IS 30 YEARS. WHAT SAMPSON IS

1 LOOKING AT IS LIFE.

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

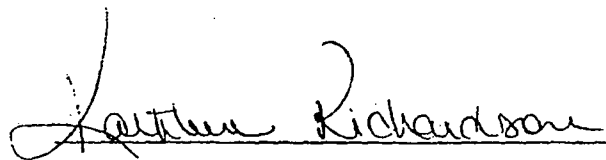
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

I, KATHLEEN RICHARDSON, RPR, OFFICIAL COURT
REPORTER FOR THE THIRD JUDICIAL CIRCUIT OF THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF
THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
GENERAL SESSIONS FOR WILLIAMSBURG COUNTY, SOUTH CAROLINA,
ON THE TWENTY-FIFTH DAY OF MAY, 2005.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

JULY 29, 2005



KATHLEEN RICHARDSON, RPR

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Paula H. Thomas, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TASHON SAMPSON,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANTROBERT M. DUDEK
Appellate DefenderSouth Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

RECEIVED

SEP 08 2006

SC Court of Appeals

TABLE OF CONTENTS

TABLE OF CONTENTS.....	1
TABLE OF AUTHORITIES.....	2
STATEMENT OF ISSUE ON APPEAL.....	3
STATEMENT OF THE CASE.....	4
ARGUMENT.....	5
PETITION TO BE RELIEVED AS COUNSEL.....	11

TABLE OF AUTHORITIES

Cases

<u>State v. Evans</u> , 216 S.C. 328, 57 S.E.2d 756 (1950).....	8
<u>State v. Gentry</u> , 363 S.C. 93, 610 S.E.2d 494 (2005).....	9
<u>State v. Means</u> , 367 S.C. 374, 626 S.E.2d 348 (2006).....	9
<u>State v. Schumpert</u> , 312 S.C. 502, 435 S.E.2d 859 (1993).....	8

Statutes

S.C. Code § 17-19-20.....	9
---------------------------	---

STATEMENT OF ISSUE ON APPEAL

Whether the court erred by allowing the state to amend the indictment after its rested its case to change the date of the robbery-murder from February 17, 2003 to February 18, 2003 since appellant was on notice that he had to prepare a defense for February 17, 2003, and this untimely amendment on a material matter was fundamental unfair?

STATEMENT OF THE CASE

Appellant, Joseph Wilson, Raymond Mack, and Travis Orange were indicted at the August 23, 2004 term of the Williamsburg County grand jury for the offenses of murder, armed robbery, and criminal conspiracy. Appellant was also indicted along with Joseph Wilson for possession of a weapon during the commission of a violent crime. R. 641 - 645.

The state called the case against appellant and Joseph Wilson to trial on May 23, 2005 before the Honorable Paula H. Thomas and a jury. Legrand Carraway represented appellant. Charles Barr represented Wilson. R. 1. Mack and Orange pled guilty to lesser-offenses and testified for the state.

On May 25, 2005 the jury found appellant guilty on each offense, and guilty of "the lesser-charge" of attempted armed robbery.¹ The jury reached the same verdicts for Joseph Wilson. R. 624, l. 12 - 625, l. 16.

Judge Thomas sentenced appellant to life imprisonment for murder, twenty years imprisonment for attempted armed robbery and five years imprisonment for criminal conspiracy. R. 634, l. 21 - 635, l. 3. Joseph Wilson was sentenced to thirty years for murder, twenty years imprisonment for attempted armed robbery, five years imprisonment for criminal conspiracy, and five years imprisonment for the possession of a weapon during the commission of a violent crime. R. 638, ll. 9 - 22.

This appeal follows.

¹ See State v. Hiott, 276 S.C. 72, 276 S.E.2d 163 (1981) on attempted robbery as a lesser-included offense *cited in* State v. Elliott, 346 S.C. 603, 615-616, 552 S.E.2d 727, 734 (2001) (ABHAN is a lesser-included offense of sexual battery crimes). (Pleicones, J. dissenting)("where an attempt crime exists, it is properly considered a lesser-included offense of the completed offense, so long as the completed offense is a felony.").

ARGUMENT

The indictment stated that appellant and three other men committed the robbery and murder on February 17, 2003. It was fundamentally unfair to allow the state to amend the indictment after it had rested its case to state the offense actually took place on February 18, 2003. A primary purpose of an indictment is to put the defendant on notice of the time and place of the crime for which he was on trial so that he defend himself.

Relevant Facts

Theodore Johnson testified he often went by Ms. Perry's country store near Hemingway because it had "the coldest beer in town." R. 75, l. 20 – 76, l. 2. Johnson described Perry as an "elderly lady," and he stated that he usually spent ten to fifteen minutes talking with her when he went into the store. R. 76, ll. 3 – 12.

On the morning of February 18, 2003, Johnson and his brother went by the store to get a "couple of cold beers." However, Johnson only had a fifty dollar bill. Ms. Perry did not have enough change for them. R. 76, ll. 13 – 25. However, the men were able to get enough loose change together to buy two beers and they left the store. R. 77, l. 20 – 78, l. 5.

Johnson recalled as they were leaving they noticed "these three fellows standing up" in a yard near the store. R. 78, ll. 21 – 25. Johnson claimed his brother predicted: "they [are] going to rob that store." R. 79, ll. 7 – 14.

Once the men entered the store, Johnson said he went back to the store and looked through the window. He testified saw the men "beating that lady." R. 79, ll. 10 – 19. Johnson said as the men left the store one of the men, who was later identified as Wilson, shot at him. Johnson also said he recognized Mack. R. 79, ll. 15 -25.

Johnson claimed that he saw all three men, appellant, Wilson and Mack hitting the decedent. R. 96, ll. 22 – 25; R. 98, ll. 23 – 25. Johnson also remembered Wilson hit the decedent, but he did not remember if he also hit her with his gun. R. 101, ll. 19 – 23.

Raymond Mack pled guilty to armed robbery and possession of a weapon during a violent crime. He testified for the state. R. 207, ll. 8 – 11.

Mack testified that on the day of the robbery appellant and Wilson woke him, and he claimed appellant said that he needed money. R. 207, l. 15-208, l. 20. Mack maintained appellant said he would rob someone if necessary to get the money to go back to New Jersey. R. 209, ll. 14 – 19. Mack claimed he told the other men he did not want to be involved in any robbery. R. 209, l. 14 – 210, l. 11.

Mack said that the plan for the robbery was that Wilson would point the gun at Ms. Perry and demand the money. He maintained appellant's job was to get the money from Ms. Perry while she was held at gunpoint. R. 212, ll. 7 – 10.

Mack claimed that during the robbery attempt appellant was stabbing the decedent in the back with two knives. R. 216, ll. 2 – 7. Mack also said Wilson hit the decedent across the head with his gun. Mack maintained that he was shocked by what was transpiring because he thought it was only going to be a robbery. R. 217, ll. 1 – 16.

Mack also testified that following the robbery appellant said: "I done killed somebody and I ain't got nothing out of it." R. 224, ll. 12 – 25. Mack admitted on cross-examination that he told the police that Wilson told the others that he was going to blame "the whole thing" on appellant. R. 251, ll. 9 – 12. Mack said that appellant and Wilson both made threats against the other men if anyone told on them. R. 225, ll. 1 – 2.

Travis Orange also testified for the state. Orange claimed the robbery was appellant's idea, and that Wilson instructed him where to park the getaway car before the robbery.² R. 368, l. 3 – 380, l. 22.

On cross-examination Orange admitted that he told the police at one point that Wilson wanted to commit the robbery because he needed money. At trial Orange maintained both Wilson and appellant wanted to rob the store. R. 383, l. 20 – 384, l. 11. Orange also admitted he made threats of retaliation against anyone who told about the robbery. R. 394, ll. 20 – 25.

The pathologist testified that the decedent was stabbed twelve times and died from stab wounds to the heart and lungs. R. 434, l. 3 – 435, l. 23; R. 439, ll. 4 – 10; R. 443, ll. 11.

—13—

Appellant's Statement

In appellant's statement to the police he told them he never went to Williamsburg County, and he stated he was actually babysitting at the time it was alleged that he was participating in the robbery. R. 467, l. 20 – 469, l. 8.

After the state rested its case, the solicitor moved to amend the indictment. She claimed she wanted to correct a "clerical error" in the indictment that alleged the offense took place on February 17th rather than February 18th. Defense counsel Carraway objected and he argued that appellant was informed he had to defend against the charge of what happened on the "seventeenth." R. 484, l. 12 – 485, l. 12.

² The owner of the getaway car was in dispute. However, the judge ruled that Wilson's girlfriend owned the car – thereby rejecting Wilson's in camera testimony that he actually owned the car -- and that his girlfriend consented to a search of her car. The search produced a knife, a hand gun, black gloves and a black skull cap. R. 312, l. 13 – 314, l. 13.

Defense counsel Barr also objected that the indictment alleged "an offense on one day and it turns out that he is having to defend a charge on another day." R. 485, l. 8 – 486, l. 11. The judge ruled the indictment stating "on or about February 17, 2003" placed the defendants on sufficient notice of the charge. R. p. 641 - 645. The judge allowed the indictment to be amended. R. 486, l. 12 – 487, l. 8.

At sentencing appellant complained that his alibi witness or witnesses were not present "to justify where I was during the time this incident happened." R. 633, ll. 17 – 23.

Discussion

In State v. Evans, 216 S.C. 328, 57 S.E.2d 756 (1950) the defendant was tried and convicted on an indictment charging him with manufacturing whisky on February 10, 1949. The Court found that because of the testimony at the preliminary hearing, the defendant had ample notice and the opportunity to be prepared with his alibi testimony for the correct date, February 11, 1949. The amendment changing the date therefore was not prejudicial.

However, in the absence of a preliminary hearing, the Court noted that if a defendant was not prepared with his witnesses to prove an alibi for February 11, 1949 – due to there being no preliminary hearing -- then the judge should have declared a mistrial and continued the case until the defendant could gather his witnesses to testify as to his whereabouts on the date alleged in the indictment *as amended*.

In State v. Schumpert, 312 S.C. 502, 435 S.E.2d 859 (1993), the Court found the defendant was not prejudiced by an amendment alleging the assaults occurred during a five-week period. The court noted the defendant produced alibi witnesses for every weekend during the time period charged in the indictment.

Here, appellant complained that he had been put on notice to defend against an offense that was committed on February 17, 2003, and that the state, after it rested, wanted to change the applicable date to February 18, 2003. Both defense attorneys objected to this amendment as being unfair to what they had to defend against.

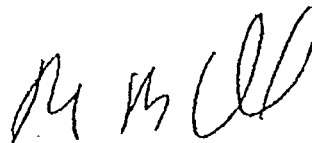
In State v. Means, 367 S.C. 374, 626 S.E.2d 348 (2006) the Supreme Court noted that the primary purposes of an indictment was to put the defendant on notice of what he is called upon to answer, and it stated that the required notice is a component of Due process. The Court also held that in South Carolina an indictment was sufficient if it alleged the time and place of the offense and it charges the crimes substantially in the language of the common law or of the statute. See S.C. Code § 17-19-20.

The Court also wrote that when determining whether an indictment was sufficient the trial court must look at the indictment with a "practical eye in the view of all of the surrounding circumstances." State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

Although defects in the indictment will no longer be considered matters of subject matter jurisdiction following Gentry, the deficiency in the indictment in this case was fundamental because the defense argued that the date in the indictment was key to what they had to defend against.

The judge erred by allowing the change of date amendment to the indictment after the state had just rested its case, and immediately before appellant was called upon to present his defense. Appellant should be granted a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. M. Dudek', written over a horizontal line.

Robert M. Dudek
Appellate Defender

ATTORNEY FOR APPELLANT

September 8, 2006

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County

Paula H. Thomas, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TASHON SAMPSON,

APPELLANT

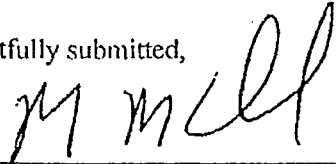
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Tashon Sampson states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Paula H. Thomas, which was held on May 23-25, 2005, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Tashon Sampson.

Respectfully submitted,



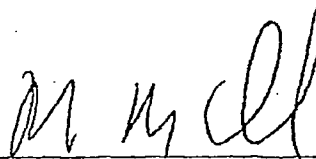
Robert M. Dudck
Appellate Defender

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

September 8, 2006

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

Attorney for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County
Paula H. Thomas, Circuit Court Judge

THE STATE,

RESPONDENT,

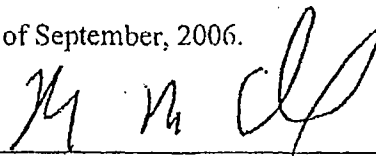
V.

TASHON SAMPSON,

APPELLANT

CERTIFICATE OF SERVICE

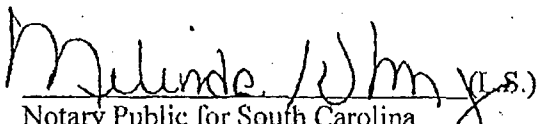
The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, and the Final Anders Brief of Appellant and Record on Appeal have been served upon Tashon Sampson, #261273 at Lee Correctional Institution this 8th day of September, 2006.



Robert M. Dudek
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 8th day of September, 2006.



Notary Public for South Carolina

My Commission Expires: November 16, 2008

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Tashon Sampson, Appellant.

Appeal From Williamsburg County
Paula H. Thomas, Circuit Court Judge

Unpublished Opinion No. 2008-UP-524
Submitted September 2, 2008 – Filed September 9, 2008

APPEAL DISMISSED

Appellate Defender Robert M. Dudek, of
Columbia, for Appellant.

Attorney General Henry Dargan
McMaster, Chief Deputy Attorney General
John W. McIntosh, Assistant Deputy
Attorney General Donald J. Zelenka, all of
Columbia; and Solicitor Cecil Kelly
Jackson, of Sumter, for Respondent.

PER CURIAM: A jury found Tashon Sampson guilty of murder, attempted armed robbery, criminal conspiracy, and possession of a weapon during the commission of a violent crime. Sampson argues the trial court erred in allowing the State to amend its indictment after it had rested its case to state the offense took place on February 18, 2003, when the original indictment indicated the crimes occurred on February 17, 2003. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305

S.C. 116, 406 S.E.2d 357 (1991), we dismiss Sampson's appeal and grant counsel's motion to be relieved.^[1]

APPEAL DISMISSED.

HEARN, C.J., and HUFF and GEATHERS, JJ., concur.

^[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

200743000164
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
04-23-2009 At 01:07 PM.
COMM PLE NF .00

659

Book _____ Page _____

09 CP 45 164

STATE OF SOUTH CAROLINA

County of Kingstree/Williamsburg

In the Court of Common Pleas

Tashen Sampson #261273

Full name and prison number (if any) of Applicant,

vs.

State of South Carolina

Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention Lee Correctional Institution, 990 Wisacky Hwy,
Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Kingstree, South Carolina Courthouse
135 West Main St. Kingstree, S.C. 29556 Williamsburg County
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2004 - C-5-45-0132 Murder, Att/Armed Robbery/Criminal Conspiracy/ ^{Poss. of weapon} during violent crim
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 25, 2005 Life sentence, 20 yrs, 5 yrs, 5 yrs, Ran Concurrent
 - (b) _____
 - (c) _____

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

5. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. Appellate Court of South Carolina
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. Appeal Dismissed
- ii. _____
- iii. _____

(c) the date of each such result:

- i. Submitted September 3, 2008 - Filed September 9, 2008
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Anders v. California, 386 U.S. 738 (1967), State v. Williams, 305 S.C. 116, 406 S.E.2d 35 (1991)
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) _____
- (b) _____
- (c) _____

X N/A

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) SEE ATTACHED SHEET
- (b) _____
- (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) SEE ATTACHED SHEET
- (b) _____
- (c) _____

09 CP 45 164

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? No
- (d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. X
- iii. X
- iv. X

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. X
- iii. X
- iv. X

(c) the disposition thereof:

- i. N/A
- ii. X
- iii. X
- iv. X

(d) the date of each such disposition:

- i. N/A
- ii. X
- iii. X
- iv. X

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. X
- iii. X
- iv. X

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. Non Applicable
 ii. X
 iii. _____

(b) the proceedings in which each ground was raised:

- i. Non Applicable
 ii. X
 iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth ground, and state concisely the reasons why such ground has not previously been presented:

- (a) Non Applicable
 (b) X
 (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? ✓
 (b) your trial, if any? ✓
 (c) your sentencing? ✓
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? ✓
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? X

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Legrand Carraway, Esquire Attorney at Law P.O. Box 819
Kingsree, South Carolina 29556-0819
 ii. Robert M. Dudek, Appellate Defense Attorney P.O. Box 11589
Columbia, S.C. 29211-1589
 iii. _____

(b) the proceedings at which each such attorney represented you:

- i. 16. (a), (b), (c); And (d)
 ii. 16. (d)
 iii. _____

18. State clearly the relief you seek in filing this application.

SEE Attached SHEET

19. Are you now under sentence from any other court that you have not challenged?

No

Carolyn F. Williams
 CAROLYN F. WILLIAMS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

09 CP 45 164

STATE OF SOUTH CAROLINA

County of Williamsburg

VERIFICATION

I, Tashon Sampson # 261273, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

x Tashon Sampson

SWORN to and subscribed before me this Jan.day of 16, 2009.

Jonice L. Melton (L.S.)
 Notary Public

My Commission Expires: 4-26-2014

APPLICATION TO PROCEED WITHOUT PREPAYMENT
 OF COSTS AND AFFIDAVIT
 IN SUPPORT THEREOF

I, Tashon Sampson # 261273, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

x Tashon Sampson
 Applicant

SWORN or affirmed to and subscribed before me this

Jan. day of 16, 2009.

Jonice L. Melton
 Notary Public

pg. 2 Questions (9.); (10.) pg. 4 Question (18.)

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)

09 CP 45 164

Tashon Sampson, #261273

Applicant

- vs -

State of South Carolina

Respondent

Attached Sheet for
Application for
Post - Conviction Relief
pursuant to § 17-27-10
through § 17-27-160

The Applicant was charged and Convicted of Murder; Alt. Armed Robbery; Criminal Conspiracy; and poss. of weapon during violent crime whereupon he was sentenced to Life sentence, 30yrs, 5yrs, 5yrs. Ran Concurrent. He was Indicted by Grand Jury # 2004 - GS-45-0132. A Trial was dated May 23, 2005 starting and finished on May 25, 2005, underwent where the Applicant was represented by Attorney Legrand Carraway, Esquire. Counsel that the Applicant submits/contends provided Ineffective Assistance of Counsel. The Applicant submits/Contends the sixth Amendment to the U.S. Constitution Guarantees criminal defendants the right to the Assistance of Counsel. Gideon - vs - Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed. 2d 799 (1963). The Right to Counsel is the Right to the Effective Assistance of Counsel, McMann - vs - Richardson, 397 U.S. 759, 771 N. 14, 90 S.Ct. 1441, 1449 N. 14, 25 L.Ed. 2d 763 (1970); SEE: Strickland - vs - Washington, 466 U.S. 668, 688, 104 S.Ct. 2052, 2065, 80 L. Ed. 2d 674 (1984) Applicant submits his Counsel's Conduct so undermined the proper functioning of the Adversarial Process that the Trial cannot be relied on as having Produced a just result, His Representation Fell below an Objective Standard of Reasonableness Probability Exist that the result of the proceeding would have been different.

STATE OF South CAROLINA
County of WILLIAMSBURG

IN THE COURT OF Common Pleas ⁶⁶⁵
09 CP 45 164

TASHON Sampson

Applicant

C/A No. 2004-GS-45-0132

09 CP 45 164

-VS-

Post Conviction Relief

Issues A-10

State of South CAROLINA

Respondent

Pg. 2 Question (9); (10.) Pg. 4 Question (18.)

The Applicant, Above Named, Request that these following Grounds Be the Argument for Post Conviction Relief.

1.) TRIAL Counsel Provided Ineffective Assistance of Counsel IN VIOLATION OF SIXTH Amendment (6th Amendment) U.S. Constitution AND DEPRIVED HIS CLIENT HIS fourteenth Amendment (14th Amendment) Right To A FAIR TRIAL,

A.) TRIAL Counsel failure to make A motion FOR SEVERANCE OF TRIAL From Co-Defendant Wilson when throughout the TRIAL Wilson's Attorney DURING opening Arguments, DURING the TRIAL AND Emphatically DURING closing Arguments Repeatedly Attempt to Frame Applicant AS the Guilty Party — this Defense WAS Antagonistic to the Defense of Applicant that there were only three (3) ROBBERS Wilson, ORANGE, AND MACK. Which placed on the position of Not only Having to Defend Against the State, But Wilson's Counsel AS well. TRIAL Counsel HAD A AFFIRMATIVE Duty to consult with Wilson's Counsel AND Determine if each Defendant Defense WAS Both mutually exclusive AND Wilson's Defense WAS to BLAME Applicant FOR the MURDER.

Failure to Request the COURT To Exercise Her Discretion AS to whether Sever the TRIAL WAS A CLASSIC ERROR OF LAW AND SUBSTANTIALLY Prejudiced the Applicant AS there IS A Reasonable PROBABILITY But for this error the Result of the Proceeds would Have Been Different;

B.) Failure To Request Funds UNDER the DEFENSE OF INDIGENT AC Hire A expert to show that HAD the Applicant Killed the victim in the manner Portrayed by the State - Sled - would Have Been Able to find traces of Blood on the Gloves, Knife OR Headrest, clothes, AND on the HAIR AND BODY OF Applicant. This would HAV

666 Applicant AS the KILLER, AND THAT HAD HE KILLED THE VICTIM IN SUCH MANNER WOULD BE AVAILABLE TO CONNECT HIM TO THE CRIME.

THIS WOULD HAVE BEEN VALUABLE TO SUPPORT THE DEFENSE THEORY. THUS THERE IS A REASONABLE PROBABILITY BUT FOR DEFICIENCY OF COUNSEL IN THIS REG THE RESULT OF COUNSEL IN THIS DECISION WOULD HAVE BEEN DIFFERENT;

C.) FAILURE TO SUBPENA ALIBI WITNESS TO SHOW THAT APPLICANT WAS BABYSIT WHILE THIS CRIME WAS COMMITTED WAS GROSSLY INEFFECTIVE AND DEPRIVED THE APPLICANT OF THE ONE PIECE OF EVIDENCE THAT MIGHT WELL HAVE BEEN THE DIFFERENCE BETWEEN AGUILTAL AND GUILT, ESPECIALLY IN LIGHT OF THE MOTIVATION OF CODEFENDANTS TO HELP THEMSELVES BY CONCOCTING A FOURTH (4TH) ROBBER, THE LACK OF EVIDENCE (PHYSICAL) AND THE QUESTIONABLE POLICE CONDUCT IN PRODUCING EVIDENCE OF KNIVES AND GLOVES;

09 CP 45 164

D.) FAILED PURSUANT TO S.C. RULES OF EVIDENCE 615 TO SEQUESTER WITNESSES DURING THE TRIAL THAT ALLOWED JOHNSON BROTHERS TO COINCIDE THE TESTIMONY WITH EACH OTHER, AS WELL AS OTHER WITNESSES, ESPECIALLY THE POLICE DETECTIVES TO IDENTIFY ME WHEN HE SAID HE SAW ME GIVE FOUR (4) OR FIVE (5) LICKS AND ON CROSS-EXAMINATION COUNSEL ELICITED THE TRUTH THAT I WAS NOT IDENTIFIED BY EITHER OF THE JOHNSON BROTHERS NOR DID EITHER BROTHER SAW ME GIVE LICKS; (ME AS APPLICANT) (HE AS THEODORE JOHNSON);

E.) FAILED TO OBJECT TO THE TRIAL COURT COMMITTING A STRUCTURAL ERROR IN STRIKING JUROR NUMBER THIRTY-FOUR (34) FOR CAUSE WITHOUT A INQUIRY AS TO WHETHER SHE COULD BE IMPARTIAL;

F.) APPLICANT DECISION WHETHER TO TESTIFY IN HIS DEFENSE WAS IMPACTED BY THE CODEFENDANT COUNSEL ATTEMPTING TO LAY BLAME ON APPLICANT, IN THAT HAD TESTIFIED DEFENSE COUNSEL BARR WOULD HAVE PORTRAYED HIM AS THE KILLER AND THAT APPLICANT WOULD HAVE TESTIFIED TO A ALIBI DEFENSE.

THIS WAS A COLLATERAL RESULT OF TRIAL COUNSEL FAILURE TO MOVE FOR A CONTINUANCE;

G.) TRIAL COUNSEL FAILED TO SHOW THE KNIVES USED IN EVIDENCE AS A MURDER WEAPON WAS NOT CONNECTED TO THE CRIME, THAT THE POLICE ACTUALLY RECOVERED THREE (3) MURDER WEAPONS (ALLEGED) AND THAT POLICE NECESSARILY WOULD HAVE HAD TO FABRICATE ONE OF THE THREE (3) KNIVES AND THAT ONE

Police officer claim Applicant had gloves on when arrested.

These crucial discrepancies and fabrications could have been used to impeach the entire investigation to show that police were overzealous attempting by any means to connect Applicant to offense and to show that statements of Mack and Orange were a product over this overzealousness of police.

Other discrepancies that counsel failed to do were;

- 1.) Failed to show I was not the sole occupant of that house to possess constructively or actually the weapon found in that house;
- 2.) To bring up the deal that the Prosecutor made with FAYMOND and TRAVIS ORANGE for their statement to testify that was not disclosed in Motion for Discovery; (Rule 609. Impeachment by evidence of conviction of crime. A conviction resulting from type of Plea.)
- 3.) Failed to Hire An Autopsist To see or show how the victim did die.
- 4.) Failed to consult with Applicant whether to testify in my behalf or not to testify on my behalf;
- 5.) Failed to get a deal the same as the Codefendants and receive the same Plea as the Codefendants
- 6.) Failed to show that the Codefendants was biased and prejudiced to get their Plea Deal to testify against Applicant.

668 H.) TRIAL Counsel failed to object to the JURY charge Because it did Not Prove the Allegations set forth in the indictment; 09 CP 45 164

I.) TRIAL Counsel failed to Motion to suppress the States Evidence;

J.) TRIAL Counsel failed to object To The indictment Before the GRAND JURY WAS SWORN;

K.) TRIAL Counsel failed to object to All the Prosecution evidence Belongs to Applicant was under the presumption of Innocence theory;

L.) TRIAL Counsel failed to ASK FOR AN CURATIVE charge to the JURY DEAL with the Identification of who was actually Identified By the Johnson Brothers;

M.) TRIAL Counsel failed to ~~object~~ AND move for A motion to MISSTAYAL Du to the STATE LACK OF PROVING ITS CASE AND SUBJECT MATTER JURISDICTION;

N.) TRIAL Counsel failed to object To The Erroneous MURDER charge of "INFERRED" ALICE MAY APPEAL When the Deed IS Done with A DEADLY weapon;

O.) TRIAL Counsel failed to Ask Judge to charge JURY To A MANSLAUGHTER charge

Applicant Asserts That His Rights To Due Diligence⁶⁶⁹
AND Due Process OF Law, A FAIR TRIAL WAS THE PROXIMATE RESULT
INEFFECTIVE ASSISTANCE OF COUNSEL AND RENDERED THE PROCEEDING
FUNDAMENTALLY UNFAIR AND UNDERMINES THE CONFIDENCE IN THE VERDICT
TO THE EXTENT THAT IT CAN NOT BE RELIED UPON AS A JUST
VERDICT AND WAS A MISCARRIAGE OF JUSTICE STACKING TO THE
UNIVERSAL SENSE OF JUSTICE, PURSUANT TO SIXTH (6TH) AND
FOURTEENTH (14TH) AMENDMENT OF U.S. CONSTITUTION.

09 CP 45 164

I VERIFY THESE FACTS UNDER OATH,

Jashon Simpson #261273

Lee C. I.
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010

RELIEF GRANTED

SENTENCE AND CONVICTION

VACATED

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

JASHON SIMPSON #261273
Applicant

-VS-

STATE OF SOUTH CAROLINA
Respondent

IN THE COURT OF COMMON PLEAS

CASE No: 09 CP 45 164

Post Conviction Relief
Issue A

Pg. 2 Question (9); (10) Pg. 4 Question (1)

THE APPLICANT, ABOVE NAMED, REQUEST THAT THIS FOLLOWING
GROUND BE THE SOLE ARGUMENT FOR POST CONVICTION RELIEF.

A.) THE MURDER INDICTMENT DOES NOT STATE TIME /
PLACE OF THE VICTIM'S DEATH THEREFORE TRIAL COURT LACKED SUBJECT
MATTER JURISDICTION

I VERIFY THIS FACT UNDER OATH,

Jashon Simpson #261273

Lee C I

990 WISACKY HWY.

Bishopville, S.C. 29010

Relief GRANTED

Sentence AND Conviction
VACATED

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

JASHON SAMPSON #261273
Applicant

-VS-

STATE OF SOUTH CAROLINA
Respondent

IN THE COURT OF COMMON PLEAS 671

CASE No. 09 CP 45 164

Post Conviction Relief

Issue A

Pg. 2 Question (9.); (10) Pg. 4 Question (18.)

The Applicant, ABOVE NAMED, Request that ~~this~~ following Ground
Be the sole argument for post conviction relief.

A.) Whether Applicant properly received notice that He would be tried
for a crime of MURDER, Attempted ARMED ROBBERY, POSSESSION OF A DEAD
WEAPON DURING COMMISSION OF A CRIME, AND CRIMINAL CONSPIRACY
where indictment referenced to FEB. 17, 2003.

I VERIFY THIS FACT UNDER OATH,

Jashon Sampson #261273

Relief GRANTED
sentence AND conviction

VACATED

Lee C. I.
990 WISACKY HWY.
BISHOPVILLE, S.C.
29010

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

JASHON SAMPSON #261273
Applicant

-VS-

STATE OF SOUTH CAROLINA
Respondent

IN The COURT OF Common Ple

09 CP 45 164

C/A No: _____

Post Conviction Relief

Issue A-B

Pg. 2 Question (9); (10.) Pg. 4 Question (18.)

The Applicant, ABOVE NAMED, Request that these following be the sole argument for post conviction relief.

A) TRIAL COURT Allowed the untimely Amendment to Reflect to the Appropriate Dates IN the MURDER, AN ARMED ROBBERY, CRIMINAL CONSPIRACY, AND the POSSESSION OF A WEAPON DURING COMMISSION OF A CRIME INDICTMENTS;

B) TRIAL COURT failed TO CHARGE THE JURY TO A MANSLAUGHTER CHARGE

I VERIFY These Facts under oath,

Jashon Sampson #261273

Relief GRANTED

Sentence AND CONVICTION
VACATED

Lee C. I
990 WISACKY HWY.
Bishopville, S.C. 29010

STATE OF South CAROLINA)
COUNTY OF WILLIAMSBURG)

In The Court of Common Pleas ⁶⁷³

TASHON SIMPSON #261273)
APPLICANT)

Case No: 09 CP 45 164

Post Conviction Relief

-VS-

Pg. 2 Question (9.); (10.) Pg. 4 Question (18.)

STATE OF South CAROLINA)
RESPONDENT)

The Applicant, ABOVE NAMED, Request that these following Grounds Be the
Sole Argument for Post Conviction Relief.

1.) The Applicant's Indictment Are "SHAM LEGAL Processes" THAT
Failed to Confer SUBJECT MATTER JURISDICTION UPON TRIAL COURT TO CONVICT HIM

LACK OF SUBJECT MATTER JURISDICTION MAY NOT BE WAIVED AND MAY BE RAISED
ANY TIME. State v. GUTHRIE, 572 S.E.2D 309 (S.C. App. 2000)

Applicant contends that His MURDER, ARMED ROBBERY, CRIMINAL CONSPIRACY, &
POSSESSION OF A WEAPON DURING VIOLENT CRIME INDICTMENT 2004-GS-45-0132 WERE "SHAM
LEGAL Processes" THAT FAILED TO CONFER SUBJECT MATTER JURISDICTION UPON TRIAL COURT
TO CONVICT HIM. A "SHAM LEGAL Process" IS DEFINED UNDER S.C. CODE ANN. SECTION
6-17-735, IN RELEVANT PART, AS FOLLOWS:

"...THE ISSUANCE, DISPLAY, RELIANCE ON AN INSTRUMENT THAT IS NOT LAWFULLY
ISSUED..., WHICH PURPORTS TO: ... (B) ASSERT JURISDICTION OR AUTHORITY OVER OR DETERMINE
OR ADJUDICATE THE LEGAL STATUS, RIGHT, DISPUTE OR PRIVILEGE OF A PERSON..."

Here, Applicant's Indictments Indicate THAT He WAS INDICTED FOR MURDER,
ARMED ROBBERY, CRIMINAL CONSPIRACY, AND POSSESSION OF A WEAPON DURING VIOLENT CRIME
BY A GRAND JURY AT THE AUGUST (2003) TERM OF WILLIAMSBURG COUNTY GENERAL SES-
SIONS COURT. HOWEVER, UNDER S.C. CODE ANN. SECTION 14-5-640, THE S.C. LEGISLATURE HAS
ENACTED THE FOLLOWING SCHEDULE FOR WILLIAMSBURG COUNTY GENERAL SESSIONS COURT:
"THE COURT OF GENERAL SESSIONS FOR WILLIAMSBURG COUNTY SHALL BE HELD AT KINGSTREE ON THE
SECOND MONDAY AFTER THE SECOND MONDAY IN FEBRUARY, ON THE FIRST MONDAY IN JUNE AND

Shall be held at Baytree on the third Monday in March for one week, on the fourth Monday in June for one week, on Wednesday first succeeding the first Monday in June for one week and on the third Monday in November for two weeks. But no Jury Trial of civil cases shall be had at the June term except by consent. The Petit Jurors for the first and third terms of the Court of General Sessions shall not be required to attend the first, second and fourth terms of the Court of Common Pleas, but separate Juries shall be drawn and summoned for such Courts."

09 CP 45 164

In conjunction, the S.C. Legislature has enacted S.C. Code Ann. Section 14-70, which mandates the following provisions for convening of the Grand Jury for service upon the General Sessions Court:

The Grand Jury lawfully drawn in accordance with law for service upon the Court of General Sessions in each of the counties shall constitute the Grand Jury for County Court and shall meet with the County Court at each of its terms, except the alternate term succeeding each session of Circuit Court, at which term the Grand Jury need not meet.

Furthermore, the S.C. Legislature has enacted S.C. Code Ann. Section 14-9-211 which imposes the following lawful requirements upon the County Solicitor to obtain indictments:

"The County Solicitor shall prepare and through the Presiding Judge of the Court of General Sessions, submit to the Grand Jury while in attendance upon the Court of General Sessions, Bill of Indictments in all cases in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days (emphasis added)."

As can be shown from the plain and unambiguous language of the foregoing statutory enactments, the ~~now~~ S.C. Legislature has not enacted any "August (2003) term" of General Sessions Court in Williamsburg County as is indicated by Applicant's indictment. The Applicant's indictment allegedly obtained by the Solicitor at a "August (2003) term" of General Sessions for Williamsburg County, while no lawfully Grand Jury was in attendance, operate as "SHAM legal processes" that failed to confer subject matter jurisdiction upon Trial Court since there was no "legally existing" Grand Jury in attendance at a November term contrary to S.C. Code Ann. Section 14-9-120 and 14-9-210. (14-9-170 and see, e.g., State v. Hann, 12 S.E.2d 726 (1940).

Notwithstanding AS A THRESHOLD MATTER, IN BROWN V. STATE, 449 S.E.2D 751 (1994), THE COURT DEALT WITH AN ISSUE SIMILAR TO APPLICANT'S ISSUE. IN BROWN CASE, THE INDICTMENT INDICATED THAT THE GRAND JURY FOREMAN SIGNED THE INDICTMENT "TRUE BILL" ON 10-19-1990 WHILE THE INDICTMENT'S CAPTION INDICATED THAT THE GRAND JURY CONVENED ON 10-22-1990. THE COURT ULTIMATELY HELD BY ORDER OF THE CHIEF JUSTICE, THE CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES IN EACH COUNTY WITHIN THE CIRCUIT COULD CONVENE THE GRAND JURY WHEN THE COURT WAS NOT IN SESSION, AND THAT THE DIFFERENT DATES ON BROWN'S INDICTMENT ONLY INDICATED THAT THE GRAND JURY TOOK ACTION ON THE INDICTMENT EARLIER THAN THEY MADE THEIR REPORT TO COURT." BROWN CLAIM WAS DENIED.

CONVERSELY, APPLICANT CONTENTS THAT IN HIS CASE ANY RELIANCE ON THE BROWN DECISION TO DENY HIS CLAIM WOULD BE MISPLACED. TO BEGIN WITH S.C. CODE ANN. SECTION 14-7-1550 (CITED IN BROWN'S CASE) HAS SINCE BEEN REPEALED AND REINSTITUTED UNDER S.C. CODE ANN. SECTION 14-7-1520 (ENTITLED DRAWING OF LAW GRAND JURY), WHICH MANDATES IN RELEVANT PART THE FOLLOWING PROVISIONS:

NOT LESS THAN FIFTEEN DAYS BEFORE THE CONVENING OF THE FIRST TERM GENERAL SESSIONS COURT FOR THE CALENDAR YEAR, THE JURY COMMISSION SHALL PROCEED TO DRAW... GRAND JURORS WHICH THE... ADMINISTRATIVE JUDGE FOR PRECINCT HAS DETERMINED TO BE SUFFICIENT IN ORDER TO IMPANEL A GRAND JURY. "IMMEDIATELY AFTER THESE GRAND JURORS ARE DRAWN, THE CLERK SHALL ISSUE WRIT OF VENUE FACIAS FOR THESE GRAND JURORS, REQUIRING THEIR ATTENDANCE IN THE FIRST DAY OF THE FIRST WEEK OF CRIMINAL COURT IN THE COUNTY..."

09 CP 45 164

IN REVIEWING THE PLAIN AND UNAMBIGUOUS LANGUAGE OF SECTION 14-7-15 (FORMERLY SECTION 14-7-1550) DURING THE BROWN CASE DECISION, IT IS CLEAR THAT THE S.C. LEGISLATURE DID NOT (NOR COULD NOT UNDER ARTICLE 1, SECT. 8, S.C. CONSTITUTION) EMPOWER THE CHIEF JUSTICE OR ADMINISTRATIVE JUDGE TO CONVENING A GRAND JURY OUTSIDE A TERM OF GENERAL SESSIONS COURT, BUT DID RATHER EMPOWER THE ADMINISTRATIVE JUDGE TO DETERMINE THE SUFFICIENCY OF EMpaneled GRAND JURY FOR CONVENING WITH GENERAL SESSIONS COURT TO RETURN INDICTMENTS FOR TRIAL. SEE GILFILLAN V. GILFILLAN, 541 S.E.2D 829 (2001).

FINALLY, APPLICANT CONTENTS THAT ANY RELIANCE ON THE RECENTLY DECIDED CASE STATE V. GENTRY, 610 S.E.2D 494 (2005), WOULD BE MISPLACED AS WELL SINCE

678 JUDICATE HIS INDICTMENTS, AND NOT THEIR SUFFICIENCY.

09 CP 45 164

Conclusion

BASED ON ALL THE FOREGOING, THIS COURT DID NOT CONTEST TO ANY OF APPLICANT'S ISSUES AND APPLICANT HAS ESTABLISHED CONSTITUTIONAL VIOLATION BY THE STATE, COUNSEL, AND APPELLATE COUNSEL. THEREFORE, APPLICANT SHOULD BE RELEASED FROM RESPONDANT WITHIN FIFTEEN DAYS UPON REVIEWING THIS BRIEF AND APPLICATION.

Relief GRANTED

Sentence AND conviction

VACATED

I VERIFY THESE FACTS UNDER OATH,

Jashon Sampson #261273

Lee C. I

990 WISACKY HWY.
BETHSVILLE, S.C. 29010

STATE OF South CAROLINA
County OF WILLIAMSBURG

IN THE COURT OF Common Pleas 677

TASHAN SAMPSON #261273
Applicant

CERTIFICATE OF
SERVICE

-VS-

STATE OF South CAROLINA
Respondent

FILED

4-23-09 1:07 PM

Williamsburg County
Clerk of Court
Kingstree SC

Applicant Hereby Certify that the original of the
Post-Conviction Relief Application are placed in the hands of
Lee CORRECTIONAL INST. MAILROOM STAFF for mailing.

Following are Post-Conviction Relief Application AND
Certificate of Service HAS this APRIL DAY OF
21 2009, BEING SERVED BY WAY OF U.S. MAIL to the
Following ADDRESS:

MS. CAROLYN F. WILLIAMS
CLERK OF COURT
125 West MAIN Street
Kingstree, S.C. 29556

~~SWORN TO AND SUBSCRIBED Before me~~
~~this~~ DAY OF

~~Notary Public for South Carolina~~

~~My Commission Expires:~~

Plus 13 Pages with 1
Application AND letter
Asking to send A copy BY
to me STAMPED FILED
PLEASE. (clock stamp
for the Reco

no pages Not stapled.

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS

2009-CP-45-0164

Tashon Sampson, #261273,

Applicant,

v.

State of South Carolina,

Respondent.

RETURN

(Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 23, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was indicted at the August 2004 term of the Williamsburg County Grand Jury for (1) Murder, (2) Armed Robbery, (3) Criminal Conspiracy, (4) Possession of Knife During Commission of Crime of Violence (2007-GS-43-0221).¹ Legrand Carraway, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Paula Thomas on May 23-25, 2005.² On May 25, 2005, the jury found Applicant guilty of Murder, Attempted Armed Robbery, Criminal Conspiracy, and Possession of a Weapon During the Commission of a Violent Crime.³ On the same date, Applicant was sentenced as follows:

¹ The remaining counts in the indictment did not involve Applicant.

² Applicant was tried with co-defendant Joseph Wilson.

³ Applicant was found not guilty of Armed Robbery but guilty of Attempted Armed Robbery.

- Life imprisonment for Murder.
- Twenty (20) years imprisonment for Attempted Armed Robbery.
- Five (5) years imprisonment for Criminal Conspiracy.
- Five (5) years imprisonment for Possession of a Weapon During the Commission of a Violent Crime.

All sentences were to be served concurrently.

A notice of appeal was filed and an appeal perfected. An Anders brief was submitted on Applicant's behalf. The appeal was dismissed. State v. Sampson, Op. No. 2008-UP-524 (S.C. Ct. App. filed Sept. 9, 2008). The remittitur was sent on September 25, 2008.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the appellate records, and the transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failed to move for severance of Applicant's trial from co-defendant Wilson's.
 - b. Failed to request funds for an "expert to show that had the Applicant killed the victim in the manner portrayed by the State – SLED – would have been able to find traces of blood on the gloves, knives, car headrest, clothes, and on the hair and body of Applicant. ..."
 - c. Failed to subpoena alibi witnesses to show that Applicant was babysitting at the time of the crime.
 - d. Failed to sequester witnesses, allowing witnesses (i.e. the Johnson brothers) to corroborate their testimony.

- e. "Failed to object to the trial court committing a structural error in striking juror number thirty-four (34) for cause without [an] inquiry as to whether she could be impartial."
- f. "Applicant decision whether to testify was impacted by co-defendant counsel attempting to lay blame on Applicant, in that had he testified defense counsel Barr would have portrayed him as the killer and that Applicant would have testified to [an] alibi defense. This was a collateral result of trial counsel failure to move for a continuance."
- g. "Trial counsel failed to show the knives used in evidence as the murder weapon was not connected to the crime, that the police actually recovered three (3) murder weapons (alleged) and that the police necessarily would have to fabricate one of the three (3) knives and that one police officer claimed he seized a pair of gloves with jacket and another police officer claim applicant had gloves on when arrested. These crucial discrepancies and fabrications could have been used to impeach the entire investigation to show that police were overzealously attempting by any means to connect Applicant to offense and to show that statements of Mack and Orange were a product of this overzealousness of police."
- h. Failed to bring up other discrepancies:
 - i. "Failed to show I was not the sole occupant of that house to possess constructively or actually the weapon found in that house."
 - ii. "To bring up the deal that the prosecutor made with Raymond Mack and Travis Orange for their statement to testify that was not disclosed in the motion for discovery ..."
 - iii. "Failed to hire an Autopist to see or show how the victim did die."
 - iv. "Failed to consult with Applicant whether to testify in my behalf or not testify in my behalf."
 - v. "Failed to get a deal the same as the codefendants and receive the same plea as the codefendants."
 - vi. "Failed to show that the codefendants were bias and prejudiced to get their plea deal to testify against Applicant."
- i. "...failed to object to the jury charge because it did not prove the allegations set forth in the indictment."
- j. "...failed to motion to suppress the State's evidence."
- k. "...failed to object to the indictment before the Grand Jury was sworn in."
- l. "...failed to object to all the prosecution evidence beings that Applicant was under the presumption theory."

- m. "...failed to ask for [a] curative charge to the jury dealing with the identification of who was actually identified by the Johnson brothers."
- n. "...failed to object and move for a motion to mistrial due to the State lack of proving its case and subject matter jurisdiction."
- o. "...failed to object to the erroneous murder charge of 'inferred malice may arise when the deed is done with a deadly weapon.'"
- p. "...failed to ask the judge to charge jury to a manslaughter charge."

In additional attachments to the application Applicant adds the following grounds for relief:

- 1. "The murder indictment does not state the time and place of the victim's death therefore the trial court lacked subject matter jurisdiction."
- 2. "Whether Applicant properly received notice that he would be tried for a crime of murder, attempted armed robbery, possession of a deadly weapon during commission of a crime, and criminal conspiracy where indictment referenced to Feb. 17, 2003."
- 3. "Trial court allowed the untimely amendment to reflect to the appropriate dates in the murder, att. armed robbery, criminal conspiracy, and possession of a weapon during commission of a crime indictments."
- 4. "Trial court failed to charge the jury to a manslaughter charge."
- 5. "The Applicant's Indictment are 'sham legal process' that failed to confer subject matter jurisdiction upon trial court to convict him."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process

that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, Op. No. 25949, 2005 WL 524813, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v.

Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003).

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001); overruled in part by Gentry, 610 S.E.2d 494. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 610 S.E.2d 494; See also S.C. Const. Art. V, § 7. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. The Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

V.

The Respondent submits that certain allegations should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy;... *Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.*

S.C. Code Ann. § 17-27-20 (1976) (Emphasis in original).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. Allegations regarding sufficiency of the evidence or trial court error are not appropriately raised through PCR. Therefore, the Court should summarily dismiss these allegations.

VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Aug. 20, 2009.

STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS

2009-CP-45-0164

TASHON SAMPSON, 261273)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Samuel L. Floyd, Esquire
 Samuel L. Floyd, LLC
 15 Courthouse Square
 Kingstreet SC 29556

DATED this 26th day of August, 2009.

Aughtry E. K. Randall
 Aughtry E. K. Randall, Legal Assistant
 For Respondent

State of South Carolina)
)
County of Williamsburg)
)

Tashon Sampson,
Plaintiff

vs.

Transcript of PCR
2009-CP-45-00164

The State of South Carolina
Defendants

BEFORE THE HONORABLE W. Jeffrey Young, Judge.

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

Mr. Charles T. Brooks,
Attorney for Plaintiff

Ms. Mary Williams,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

	<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Recross</u>	<u>Redirect</u>
1	Tashon Sampson				
2	by Mr. Brooks	3			
3	by Ms. Williams		11		
4	W. Legrand Carraway				
5	by Mr. Brooks	11			
6	by Ms. Williams		18		
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 THE COURT: The next one is number 261273.

2 Tashon Sampson versus State of South Carolina

3 under Docket Number 2009-CP-45-164. Present and

4 appearing is the Petitioner with his attorney,

5 Mr. Charles Brooks, of the Sumter County bar.

6 Present for the State is Ms. Mary S. Williams. I

7 understand this is actually two -- no, it is just

8 one matter. Is there anything before the court

9 before we begin?

10 MR. BROOKS: Ready, Judge.

11 THE COURT: Call your first witness,

12 Mr. Brooks.

13 MR. BROOKS: We would call Mr. Sampson to

14 the stand.

15 Tashon Sampson, being

16 first duly sworn, testified as follows:

17 THE CLERK: State your name, and spell

18 your last for the record.

19 A Tashon Sampson 261273.

20 MR. BROOKS: Are you ready, Judge?

21 THE COURT: I am ready.

22 DIRECT EXAMINATION by Mr. Brooks:

23 Q Now, Mr. Sampson, before we begin, I want

24 to put some -- just a little bit of background

25 information on the record. You are serving a life

Tashon Sampson-direct by Brooks

1 sentence; is that correct?

2 A Yes, sir.

3 Q And I want to make sure you understand
4 that the only thing that Judge Young can do is,
5 give you a new trial. In essence, start over.

6 And I do know that the Solicitor had
7 mentioned to me, and I wanted to make you aware
8 that like you talked about to counsel; that if
9 this did turn into a new trial, they could
10 potentially try to seek the death penalty. Okay.
11 You understand that. And you understand that if
12 it's open, reopened again, they could potentially
13 do that. You understand that? You got to speak
14 up now.

15 A Oh, yes, sir.

16 Q Knowing that, it is still your desire to
17 go forward and get your PCR granted; is that
18 correct?

19 A Yes, sir.

20 Q Okay. Now you had Mr. Carraway as your
21 lawyer; is that correct?

22 A Yes, sir.

23 Q He was court appointed as public defender
24 for you; is that correct?

25 A Yes, sir.

Tashon Sampson-direct by Brooks

1 Q And you all went to trial in 2005; is that
2 correct?

3 A Yes, sir.

4 Q Several days. And you brought this
5 application alleging ineffective assistance of
6 counsel against him; that he was not sufficiently
7 representing you correctly; is that correct?

8 A Yes, sir.

9 Q Okay. Now tell Judge Young what
10 Mr. Carraway was deficient in doing in
11 representing you in your case.

12 A Deficient?

13 Q And what -- like we're saying, he was a
14 bad lawyer. And he didn't represent you
15 correctly. And but for that, that's what got you
16 this life sentence; got you convicted and got you
17 in prison. And remember now we want a new trial;
18 right?

19 A Yes, sir.

20 Q Okay. We're saying he was ineffective.
21 He was bad; right?

22 A Yes, sir.

23 Q Tell the judge some instances, some
24 examples of how Mr. Carraway was bad in doing, in
25 representing you.

Tashon Sampson-direct by Brooks

1 A Mr. Carraway failed to object to the
2 indictment before it was -- while it was being
3 granted upon by the Judge. And Mr. Carraway did
4 not bring it before Ms. Beverly Singleton to the
5 courtroom to testify on my behalf.

6 Q Now I am going to stop right there.
7 Ms. Singleton, why was she critical in your case?

8 A As critical.

9 Q Yeah, why was she important?

10 A Important?

11 Q Right.

12 A Ms. Singleton was important to my case,
13 because she would notify the court that on
14 February---

15 MS. WILLIAMS: Your Honor, I would object
16 to anything---

17 THE COURT: Sustained.

18 MS. WILLIAMS: ---that Ms. Singleton would
19 say.

20 THE COURT: It's hearsay.

21 MR. BROOKS: Judge, he can say what he
22 told his lawyer why this witness was important.

23 THE COURT: He can say what he told his
24 lawyer.

25 Q What did you tell your lawyer about Ms.

Tashon Sampson-direct by Brooks

1 Singleton and what she, you know, why was she
2 important in your case?

3 A Because I told him that I was at her house
4 on February 18th. No, excuse me, I never got a
5 chance to tell Mr. Carraway that I had went,
6 because he never asked me that question. He never
7 talked to me about where was I, or what was I.
8 The only time Mr. Carraway came to see me was
9 probably two times at the most. And that was
10 because he came to the county on the C block, to
11 see who all back there was to plead guilty to the
12 charges. And I stopped them coming down the
13 hallway. And that's when I talked to him.

14 Q So---

15 A It wasn't long.

16 Q Okay. How many times do you recall
17 talking to Mr. Carraway about your case?

18 A I would say approximately only two, two at
19 the most.

20 Q How long were you in jail before going to
21 trial?

22 A 27 months.

23 Q And he only talked to you twice?

24 A Twice. He never came to the county jail
25 and talked to me. Never, not on his will. I had

Tashon Sampson-direct by Brooks

1 to act up. And they say they would call him. But
2 they never called him. So I just chilled out.
3 And that was that. When he did come, it was no
4 more than 20 minutes or 30 minutes at the most. I
5 wasn't even given 30 minutes.

6 Q Okay.

7 A He never talked about Ms. Beverly
8 Singleton. He said he was notified by that by
9 reading my statement that I told the police
10 officers at the beginning.

11 Q Did Mr. Carraway have an investigator
12 assisting him preparing your case?

13 A I don't recall none of that. He never
14 talked to me about it.

15 Q Okay. And he didn't do what I did; such
16 as,---

17 A No, sir.

18 Q ---having Investigator Benny Webb.

19 A That's because Investigator Benny Webb, I
20 don't know who -- what happened after that.

21 Q Okay. But Mr. Carraway didn't have an
22 investigator come talk to him.

23 A Nobody would come talk to me, period.

24 Q Like I did.

25 A Like you did. Like I requested to you.

Tashon Sampson-direct by Brooks

1 Q Okay.

2 A About Ms. Beverly Singleton.

3 Q Right.

4 A But he did not do that job.

5 Q What else do you think Mr. Carraway failed
6 in doing in representing you?

7 A Mr. Carraway because I -- because they
8 said I had murdered this woman, which I didn't.
9 Mr. Carraway, he could at least have hired or
10 gotten an investigator to do this for the trial,
11 as he said in his closing arguments. The
12 prosecutor done this for us. So therefore, if
13 this guy paid me 5 million dollars, what would I
14 have to go out there and do this for?

15 Q Okay. So you felt like he sold you out?

16 A Yes.

17 Q He didn't represent you properly at all.

18 A He didn't go and talk to Ms. Beverly
19 Singleton so she could come and testify. Even
20 though they did not give us the right appropriate
21 date, which was February the 17th, to defend or
22 February 18th, to defend. And he could have at
23 least investigated that.

24 Q Okay. Is there, and what else could
25 Mr. Carraway have done or should have done in your

Tashon Sampson-direct by Brooks

1 case? What do you want to tell Judge Young here?

2 A If he -- if he -- excuse me for repeating
3 it like that, but if he thought I was guilty, he
4 could have at least gave me, tried to get me a
5 plea as the co-defendant had got. Which I don't
6 want to call the co-defendant, because they were
7 not, because I was not with them. So he could at
8 least have done that for me, sir.

9 Q Did they offer you anything; is that
10 right?

11 A They didn't offer me nothing. They just
12 said, well you are going to trial.

13 Q Okay.

14 A As a matter of fact, he said we are going
15 to trial in a Preliminary Hearing. He stood up
16 and said: Your Honor we are going to trial.

17 Q Okay. Is there anything else you want to
18 tell Judge Young about Mr. Carraway representing
19 you? And remember, we are doing all we can to get
20 you this new trial.

21 A That's basically was the facts of the
22 case.

23 MR. BROOKS: Answer any questions that the
24 attorney may have.

25 THE COURT: Ms. Williams.

Tashon Sampson-direct by Brooks

1 Cross Examination by Ms. Williams:

2 Q Mr. Sampson, would you have wanted to
3 plead guilty if you had gotten an offer for a
4 plea?

5 A It was a possibility, because I wanted,
6 you know, like I said, what I am plead -- I would
7 have asked her what I am pleading guilty for. So
8 obviously I would, you know.

9 Q And you mentioned that Mr. Carraway failed
10 to object to the indictment. And you mentioned
11 the dates. Was there anything else that you
12 needed to tell us about that?

13 A I mean from what they said with the law,
14 the law point of view, the dates, it said in the
15 State vs. Williams case, it says the prosecutor
16 must prove time and place of death. And time and
17 place of assault before a person may be lawfully
18 convicted.

19 MS. WILLIAMS: That's it. Thank you.

20 MR. BROOKS: No other questions, Judge.

21 THE COURT: Thank you. You may step down.

22 MR. BROOKS: We would call Mr. Carraway to
23 the stand.

24 W. LEGRAND CARRAWAY, after being duly
25 sworn, testified as follows:

Tashon Sampson-cross by Williams

1 THE CLERK: State your name and spell your
2 last for the record.

3 A Legrand Carraway. C-A-R-R-A-W-A-Y.

4 Direct Examination by Mr. Brooks:

5 THE COURT: You may proceed.

6 Direct Examination by Mr. Brooks:

7 Q Mr. Carraway, how are you today?

8 A I am good.

9 Q And you had the privilege of representing
10 Mr. Sampson.

11 A I did.

12 Q And can you give me a brief summary of
13 what the State's case was against him?

14 A The State's case was that four guys went
15 to a small country store on the -- between
16 Hemingway and Johnsonville, I believe, is where it
17 was. And a lady, Lila Perry, ran this store. And
18 she was the lady, I believe, in her 70's. And she
19 had run this store for years. And I don't know
20 that she sold gas, but it sold snacks and things
21 like that. And it was a small Four runner. It
22 was a convenience store over there. It was an
23 older store or whatever.

24 And they claim that a fellow named Raymond
25 Mack, a fellow named Joseph Wilson, and a young

Legrand Carraway-direct by Brooks

1 guy's last name was Orange and Tashon Sampson,
2 went to store. And Mr. Orange stayed outside in
3 the car. And they claim that Mr. Mack,
4 Mr. Sampson and Mr. Wilson went in the store. And
5 basically went to rob Ms. Perry and Mr. Wilson.
6 Said that, I was standing there with the gun. And
7 Mr. Sampson started stabbing this woman numerous
8 times. He said the woman grabbed me by the arm
9 and begged me to stop him from doing this or
10 whatever. And he said I was just petrified here.

11 And then they ran out of the store and
12 they went back to Conway or whatever. I think
13 they had -- are from Conway. They were from
14 Hemingway. Wherever. They were from that area.
15 But they had gone to Conway. I think one of them
16 had a girlfriend over there or something.

17 Q Okay. And as I understand it from looking
18 at the transcript, three of the co-defendants had
19 ended up testifying in this case against
20 Mr. Sampson; is that correct?

21 A That's right. Mr. Wilson, Mr. Mack. And
22 Mr. Orange of course was not in the store. He was
23 out in the car. And he talked about Mr. Sampson
24 coming back to the car stabbing the seats and
25 stuff like that. Sort of menacing the other three

Legrand Carraway-direct by Brooks

1 about, you know, not telling or anything like
2 that.

3 Q But did Mr. Sampson -- didn't Mr. Sampson
4 indicate to you that he wasn't there?

5 A He said he was not there.

6 Q Okay. And you went and did an
7 investigation and talked to these people, I am
8 sure.

9 A I talked to the lady he spoke about. And
10 she did not provide an alibi for him that day. I
11 think what he claimed is that he had stayed there
12 that day looking after -- looking after her
13 daughter's child I think is what it was. He
14 claimed that he stayed there.

15 THE COURT: Do you need to take your
16 client outside and talk to him?

17 MR. BROOKS: No, just he was concerned
18 about Mr. Carraway's answer and my question being
19 on the record. And I explained to him that this
20 lady seated right here is taking all that down;
21 put it on the record. That's the record.

22 Q Do you have any -- do you have any record
23 of your own notes or anything that were -- any
24 notes from your conversation with this lady
25 Beverly Singleton?

Legrand Carraway-direct by Brooks

1 A No, I don't have any notes of it. But I
2 would certainly, if she said he was there that
3 day, then she certainly would have been there.
4 Because this was a little bit of time that it took
5 for them. We knew exactly what time this happened
6 or whatever. And Conway is maybe an hour from
7 there or whatever. So it took a little bit of
8 time for them to get there and to get back or
9 whatever. And of course if she had told that
10 that's where he was during that time, she would
11 have been there. But she said he was not there on
12 that day.

13 Q And are you sure you talked to her?

14 A Yes, I am.

15 Q And now you don't have any notes to
16 correspond.

17 A No.

18 Q So you are going based on your memory?

19 A Based on my memory. At that, if she told
20 me yes he was here taking care of this baby or
21 whatever, she would have been there. She said no,
22 he was not there.

23 Q Okay.

24 A That's what she said. I am not saying he
25 wasn't there. But that's what she said.

Legrand Carraway-direct by Brooks

1 Q Okay. Did you relay that to?

2 A Yes, I did.

3 MR. BROOKS: Okay. I beg the court's
4 indulgence.

5 THE COURT: Yes, sir.

6 Q Okay. Now you didn't hire an investigator
7 to help with this case; did you?

8 A I didn't need an investigator to help me
9 with this case; no. I talked to her. And that
10 was his alibi witness.

11 Q But couldn't an investigator have done
12 more?

13 A No.

14 Q Now these, these guys that testified
15 against him, you feel you effectively cross
16 examined them?

17 A Yes, I do.

18 Q And they all took deals in order to
19 testify against Mr. Sampson; isn't that correct?

20 A One thing that happened in Mr. Sampson's
21 favor in this case was, a witness came up and saw
22 these guys running out of this store. And they
23 recognized the other guys. They didn't recognize
24 him. So the question then was, I argued is there
25 another person. And or was there even another

Legrand Carraway-direct by Brooks

1 person there but just two running out of the
2 store.

3 Q And three being involved as opposed to
4 four.

5 A That's right. One out of the car. So
6 that's what the argument was. And some -- maybe
7 one ran out another door. And two ran out of one
8 or whatever. But the witness that came up and saw
9 this, he saw them run out. And he testified to
10 that.

11 Q So---

12 A Go ahead.

13 Q So basically the only real evidence that
14 was against Mr. Sampson was the testimony of the
15 co-defendants.

16 A The testimony of the co-defendants. I
17 don't know that there was anything else but the
18 testimony of the co-defendants. And I think there
19 was a girl that spoke after this when they got
20 back to Conway or whatever. She spoke about some
21 of his actions and some things he said after he
22 got back to the house or whatever. But basically
23 that was it. But as far as this eye witness, this
24 eye witness saw two people run out. And I believe
25 he said he knew those two guys. And these two

Legrand Carraway-direct by Brooks

1 guys were not Tashon Sampson.

2 Q Okay.

3 A Mr. Mack and Mr. Wilson.

4 MR. BROOKS: Okay. I beg the court's
5 indulgence, Your Honor.

6 THE COURT: Yes, sir. Anything else?

7 MR. BROOKS: Nothing.

8 Cross Examination by Ms. Williams:

9 Q Can you tell us your legal experience and
10 how you came to represent Mr. Sampson?

11 A I have been a public defender for since
12 August of 1990. And the only public defender in
13 Williamsburg County from July of 1991, until now.

14 Q And in this case were there any plea
15 offers made for Mr. Sampson's consideration?

16 A No. This woman was stabbed numerous
17 times. And this was a case they strongly
18 considered trying as a death penalty case. And
19 Mr. Sampson, his thing all along was, I was not
20 there. And that's what he adamantly maintained
21 all along. I was not even there, I was in
22 Conway.

23 Q And you were able to get that out on cross
24 examination through a witness without having to
25 call your client; is that correct?

Legrand Carraway-cross by Williams

1 A Yes.

2 Q Did you have an opportunity to speak to
3 any of the State's witnesses prior to the trial?

4 A Yes. Yes.

5 Q How was that done?

6 A I just sat there. And they let me sit off
7 to the side while they talked to him and while
8 they asked him. And, you know, I know from that
9 what they are going to say.

10 Q So that's something that you are in a
11 room with the witness and the solicitor and you
12 get to see what their testimony. Kind of get a
13 preview.

14 A Yes.

15 Q And I believe you objected to the
16 amendment of the indictment; is that correct, from
17 the dates?

18 A Yes.

19 MS. WILLIAMS: And I believe that's all
20 the questions I have got.

21 THE COURT: Any redirect?

22 MR. BROOKS: No other questions, Judge.

23 THE COURT: You may step down, Mr.

24 Carraway.

25 MR. BROOKS: Judge, that's the Applicant's

Legrand Carraway-cross by Williams

1 case.

2 THE COURT: Does the State wish to present
3 any testimony.

4 MS. WILLIAMS: Nothing further from the
5 State, Your Honor.

6 THE COURT: I will take this matter under
7 advisement. I will notify the parties of my
8 ruling.

9 MR. BROOKS: Thank you, Judge.

10 -----End of Requested Transcript of Record---

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

I, Margaret T. Sullivan, Official Court Reporter for the Third Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and Complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Williamsburg County, South Carolina, on the 27th day of April, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 19th 2012



Court Reporter

My Commission Expires: 9/7/2021

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2009-CP-45-0164

Tashon Sampson, #261273,
Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,
Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 23, 2009. The Respondent made its Return on or about August 20, 2009.

An evidentiary hearing into the matter was convened on April 27, 2011, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

The Applicant testified on his own behalf at the hearing. Also testifying was Applicant's trial counsel, Legrand Carraway, Esquire ("counsel"). This Court had before it the records of the Williamsburg County Clerk of Court, the guilty plea transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was indicted at the August 2004 term of the Williamsburg County Grand Jury for

(1) Murder, (2) Armed Robbery, (3) Criminal Conspiracy, (4) Possession of Knife During Commission of Crime of Violence (2007-GS-43-0221).¹ Legrand Carraway, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Paula Thomas on May 23-25, 2005.² On May 25, 2005, the jury found Applicant guilty of Murder, Attempted Armed Robbery, Criminal Conspiracy, and Possession of a Weapon During the Commission of a Violent Crime.³ On the same date, Applicant was sentenced as follows:

- Life imprisonment for Murder.
- Twenty (20) years imprisonment for Attempted Armed Robbery.
- Five (5) years imprisonment for Criminal Conspiracy.
- Five (5) years imprisonment for Possession of a Weapon During the Commission of a Violent Crime.

All sentences were to be served concurrently.

A notice of appeal was filed and an appeal perfected. An Anders brief was submitted on Applicant's behalf. The appeal was dismissed. State v. Sampson, Op. No. 2008-UP-524 (S.C. Ct. App. filed Sept. 9, 2008). The remittitur was sent on September 25, 2008.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failed to move for severance of Applicant's trial from co-defendant Wilson's.
 - b. Failed to request funds for an "expert to show that had the Applicant killed the victim in the manner portrayed by the State

¹ The remaining counts in the indictment did not involve Applicant.

² Applicant was tried with co-defendant Joseph Wilson.

³ Applicant was found not guilty of Armed Robbery but guilty of Attempted Armed Robbery.

- SLED – would have been able to find traces of blood on the gloves, knives, car headrest, clothes, and on the hair and body of Applicant. ..."
- c. Failed to subpoena alibi witnesses to show that Applicant was babysitting at the time of the crime.
- d. Failed to sequester witnesses, allowing witnesses (i.e. the Johnson brothers) to corroborate their testimony.
- e. "Failed to object to the trial court committing a structural error in striking juror number thirty-four (34) for cause without [an] inquiry as to whether she could be impartial."
- f. "Applicant decision whether to testify was impacted by co-defendant counsel attempting to lay blame on Applicant, in that had he testified defense counsel Barr would have portrayed him as the killer and that Applicant would have testified to [an] alibi defense. This was a collateral result of trial counsel failure to move for a continuance."
- g. "Trial counsel failed to show the knives used in evidence as the murder weapon was not connected to the crime, that the police actually recovered three (3) murder weapons (alleged) and that the police necessarily would have to fabricate one of the three (3) knives and that one police officer claimed he seized a pair of gloves with jacket and another police officer claim applicant had gloves on when arrested. These crucial discrepancies and fabrications could have been used to impeach the entire investigation to show that police were overzealously attempting by any means to connect Applicant to offense and to show that statements of Mack and Orange were a product of this overzealousness of police."
- h. Failed to bring up other discrepancies:
 - i. "Failed to show I was not the sole occupant of that house to possess constructively or actually the weapon found in that house."
 - ii. "To bring up the deal that the prosecutor made with Raymond Mack and Travis Orange for their statement to testify that was not disclosed in the motion for discovery ..."
 - iii. "Failed to hire an Autopist to see or show how the victim did die."
 - iv. "Failed to consult with Applicant whether to testify in my behalf or not testify in my behalf."
 - v. "Failed to get a deal the same as the codefendants and receive the same plea as the codefendants."
 - vi. "Failed to show that the codefendants were bias and prejudiced to get their plea deal to testify against Applicant."

- i. "...failed to object to the jury charge because it did not prove the allegations set forth in the indictment."
- j. "...failed to motion to suppress the State's evidence."
- k. "...failed to object to the indictment before the Grand Jury was sworn in."
- l. "...failed to object to all the prosecution evidence beings that Applicant was under the presumption theory."
- m. "...failed to ask for [a] curative charge to the jury dealing with the identification of who was actually identified by the Johnson brothers."
- n. "...failed to object and move for a motion to mistrial due to the State lack of proving its case and subject matter jurisdiction."
- o. "...failed to object to the erroneous murder charge of 'inferred malice may arise when the deed is done with a deadly weapon.'"
- p. "...failed to ask the judge to charge jury to a manslaughter charge."

In an additional attachment to the application, Applicant added the following grounds for relief:

- 1. "The murder indictment does not state the time and place of the victim's death therefore the trial court lacked subject matter jurisdiction."
- 2. "Whether Applicant properly received notice that he would be tried for a crime of murder, attempted armed robbery, possession of a deadly weapon during commission of a crime, and criminal conspiracy where indictment referenced to Feb. 17, 2003."
- 3. "Trial court allowed the untimely amendment to reflect to the appropriate dates in the murder, att. armed robbery, criminal conspiracy, and possession of a weapon during commission of a crime indictments."
- 4. "Trial court failed to charge the jury to a manslaughter charge."
- 5. "The Applicant's Indictment are 'sham legal process' that failed to confer subject matter jurisdiction upon trial court to convict him."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the

opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. 17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors,

the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Object to Erroneous Information Contained in Indictment

Applicant alleges that trial counsel was ineffective because Counsel failed to object to the indictment which had incorrect information regarding the time and place of the alleged assault and death from which the charges stemmed.

Applicant was indicted August 23, 2004, term of the Williamsburg County Grand Jury for murder, armed robbery, criminal conspiracy and possession of a weapon during the commission of a violent crime. In the original indictment, the date of the incident was stated as February 17, 2003; however, at the close of the State's case at trial, it moved to amend the indictment to correct the date of the crimes as stated in the indictment to reflect their occurrence on February 18, 2003. Counsel contemporaneously objected to the Court allowing such an amendment, but was overruled and the indictment was corrected. Therefore, Applicant's contention that counsel was ineffective for failing to object to the errors in the indictment is without merit. Further, Applicant cannot prove that he was prejudiced by any alleged deficiency in this regard as this issue of improper amendment of the indictment was raised on direct appeal and subsequently dismissed by the Court of Appeals by order filed September 9, 2008 (See Sampson v. State, Unpub. Op. No. 2008-UP-524 (Filed September 9, 2008)). Therefore, any alleged deficiency in this regard by counsel did

not result in prejudice to Applicant's trial as required under Strickland v. Washington.

Failure to Present Alibi Witness

Applicant's second contention is counsel was ineffective for failing to present the testimony of Beverly Singletary ("Singletary") at trial where Singletary would have testified as an alibi witness on Applicant's behalf. Applicant alleges he was watching his child and therefore not present at the time these crimes occurred and, had counsel called Singletary as a witness at trial, Applicant would have been able to prove such. Counsel testified that he did in fact interview a lady in preparation for trial that Applicant had mentioned using as an alibi witness, however, that witness was unable to provide an alibi for the times and dates in question. Counsel went on to say he did not have any specific notes in his file regarding the specifics of his conversation with that potential witness, but that had any such witness provided an alibi for Applicant, he would have called them to testify at trial.

I find counsel's testimony to be credible. Counsel properly investigated Applicant's alleged alibi witness and, after speaking with her, determined that she could not provide the information necessary to be presented as an alibi witness at trial. Therefore, counsel was not ineffective in this regard. Further, Applicant has failed to carry his burden in proving prejudice based on this alleged deficiency. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his

burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Applicant failed to present any testimony from Singletary at the PCR hearing, and for that reason, he has failed to establish prejudice as required.

Failure to Negotiate a Plea Deal on Applicant's Behalf

Applicant's next contention raised on the PCR hearing was that counsel was ineffective because he never tried to elicit an advantageous plea offer from the State. Applicant went on to state that counsel was set on going to trial, even mentioning that at the preliminary hearing. On cross-examination, Applicant conceded that even had he been offered an advantageous plea offer before trial, he likely would not have accepted it as he maintained his innocence to the charges and therefore refused to enter a plea that would acknowledge guilt. Counsel testified that the State never made any plea offers to Applicant during his representation, as the state could have considered pursuing the death penalty on these charges.

I find that based on Applicant's own admission at the PCR hearing, any alleged deficiency in counsel failing to pursue plea negotiations with the State did not result in any prejudice to Applicant as he has conceded that he would not have accepted any such plea offers anyway. Therefore, this allegation is without merit and must be dismissed.

Failure to Investigate

The final allegation of ineffective assistance of counsel raised by Applicant at the PCR hearing was that counsel failed to properly investigate his case in preparation for trial. Applicant alleges counsel met with him only two (2) time during his nearly two and a half years of representation prior to trial. Applicant went on to say that counsel's failure to hire a private investigator on his case, where PCR counsel had hired an investigator, rendered counsel ineffective in his preparations as well. Counsel testified that he felt he properly and adequately investigated Applicant's case for trial, and that he did not believe a private investigator could have done anything more to help in counsel's preparation for trial.

I find that Applicant has failed to carry his burden in proving that counsel was ineffective based on a failure to further investigate his case. Counsel testified that he did adequate investigation into the charges and facts surrounding the case to present a strong case at trial, and I find this testimony to be credible. Further, Applicant has failed to produce what, if any, beneficial outcome would have resulted had counsel undertaken more investigation or hired a private investigator. ("Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).) Therefore, Applicant has failed to carry his burden in this regard.

Based on the foregoing, this Court finds that the Applicant has failed to meet his burden in proving counsel's performance fell below the objective standard of reasonableness based on professional norms as required under Strickland v. Washington.

Counsel thoroughly investigated the case, interviewed and investigated potential witnesses, met with Applicant several times to discuss the charges Applicant was facing, and reviewed all relevant discovery and potential defenses to be used at trial. Additionally, Counsel presented a logical and strong trial strategy that was discussed and prepared with Applicant prior to proceeding to trial. Where counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995). Defense counsel is not ineffective for making valid trial strategy decisions. Caprood v. State, 338 S.C. 103, 525 S.E.2d 514 (2000). Therefore, Applicant has failed to prove by a preponderance of the evidence that counsel's performance fell below the objective standard of reasonableness required of criminal defense attorneys based on professional norms.

Further, Applicant has failed to prove that there is a reasonable probability that the result at trial would have been different had trial counsel done what the applicant alleges he should or should not have done. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). This Court finds the entirety of Applicant's allegations of ineffective assistance of trial counsel to be without merit. Therefore, this Court finds that the application must be denied and dismissed with prejudice.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not

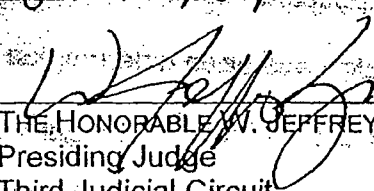
established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18 day of Sept, 2011.



THE HONORABLE W. JEFFREY YOUNG
Presiding Judge
Third Judicial Circuit

Sumter, South Carolina.

719

ARREST WARRANT

G- 231032

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 WILLIAMSBURG CO.

THE STATE

against

SAMPSON, TASHON

 Address: 105 WASHINGTON, ST.
 HEMINGWAY, SC 29554

Phone: 843 558-5665 SSN: - -

Sex: M Race: B Height: 5' 10" Weight: 130

DL State: DL #:

DOB: 09/21/1982 Agency ORI #: SC0450000

Prosecuting Agency: WMSBG CO SHERIFFS DEPT.

Prosecuting Officer:

Offense: MURDER

Offense Code: 0116

Code/Ordinance Sec. 16-03-0010

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

 A copy of this arrest warrant was delivered to
 defendant SAMPSON, TASHON

on 2-19-03

 Signature of Constable/Law Enforcement Officer
 J. L. Ball

RETURN WARRANT TO:

 WILLIAMS, CYNTHIA W.
 #10 COURT HOUSE SQUARE
 KINGSTREE, SC 29556

 A CERTIFIED TRUE COPY
 CAROLINE F. WILLIAMS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA)

☒ County/ ☐ Municipality of)

WILLIAMSBURG CO.)

AFFIDAVIT

 Form Approved by
 S.C. Attorney General
 July 28, 1990
 SCCA 518

 Personally appeared before me the affiant LT. RUDY TISDALE)
 being duly sworn deposes and says that defendant SAMPSON, TASHON)
 did within this county and state on 02/18/03) violate the criminal laws of the
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of WILLIAMSBURG CO.)
 in the following particulars:

DESCRIPTION OF OFFENSE: MURDER

16-03-0010

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 ON 02/18/03, AROUND 1300 HRS, LOCATED 633 HWY 41/51 N. (PERRY'S GRO.)
 THE DEFENDANT DID WHILE ARMED W/A KNIFE STAB AND CUT THE THROAT OF MRS.
 LILLIA PERRY. DURING THE COMMISSION OF AN ARMED ROBBERY. CAUSING THE DEATH
 OF MRS. PERRY. MURDER IS IN VIOLATION OF S.C. CODE OF LAWS.

 Sworn to and subscribed before me)
 on FEBRUARY 19, 2003)

 Signature of Issuing Judge
 Cynthia W. Williams (L.S.)

Signature of Affiant

Affiant's Address 126 S. JACKSON ST.

KINGSTREE, SC 29556

Affiant's Telephone 843 355-6381

STATE OF SOUTH CAROLINA)

☒ County/ ☐ Municipality of)

WILLIAMSBURG CO.)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on 02/18/03 defendant SAMPSON, TASHON
 did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of WILLIAMSBURG CO.) as set forth below:

DESCRIPTION OF OFFENSE: MURDER

16-03-0010

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
 me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
 defendant at the time of its execution, or as soon thereafter as is practicable.

 Signature of Issuing Judge
 Cynthia W. Williams (L.S.)

Judge Code: 649

Judge's Address #10 COURT HOUSE SQUARE

KINGSTREE, SC 29556

Judge's Telephone 843 355-9602

 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

WILLIAMS, CYNTHIA W.

ORIGINAL

ARREST WARRANT

H-437182

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

WILLIAMSBURG CO.

THE STATE

against

SAMPSON, TASHON

Address: 103 WASHINGTON ST.

HEMINGWAY, SC 29556

Phone: SSN:

Sex: Race: Height: 5' 10" Weight: 130

DL State: DL#:

DOB: 09/21/1982 Agency ORI#: SC0450000

Prosecuting Agency: WMSB CO SHERIFFS DEPT.

Prosecuting Officer:

Offense: ARMED ROBBERY WHILE ARMED WITH

WEAPON Offense Code: 0130

Code/Ordinance Sec. 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant SAMPSON, TASHON

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

WILLIAMS, CYNTHIA W.
#10 COURT HOUSE SQUARE
KINGSTREE, SC 29556

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

WILLIAMSBURG CO.

AFFIDAVIT

Personally appeared before me the affiant L.T. RUDY TISDALE who being duly sworn deposes and says that defendant SAMPSON, TASHON did within this county and state on 02/18/03 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of WILLIAMSBURG CO. in the following particulars:

DESCRIPTION OF OFFENSE: ARMED ROBBERY WHILE ARMED WITH WEAPON

16-11-0330(A)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 02/18/03, AROUND 1300 HRS, LOCATED 633 HWY 41/51 N. (PERRY'S GRO.) THE DEFENDANT DID WHILE ARMED W/A KNIFE STAB AND CUT THE THROAT OF MRS. LILLIAN PERRY. DURING THE COMMISSION OF AN ARMED ROBBERY. CAUSING THE DEATH OF MRS. PERRY. ARMED ROBBERY WHILE ARMED W/A WEAPON IS IN VIOLATION OF S.C. CODE OF LAWS.

Sworn to and subscribed before me

on FEBRUARY 19, 2003

Cynthia W. Williams (S.)
Signature of Issuing Judge

Signature of Affiant

Affiant's Address 126 S. JACKSON ST.

KINGSTREE, SC 29556

Affiant's Telephone 843-355-6381

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

WILLIAMSBURG CO.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/18/03 defendant SAMPSON, TASHON did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☐ Municipality of WILLIAMSBURG CO. as set forth below:

DESCRIPTION OF OFFENSE: ARMED ROBBERY WHILE ARMED WITH WEAPON

16-11-0330(A)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Cynthia W. Williams (S.)
Signature of Issuing Judge

Judge Code: 649

WILLIAMS, CYNTHIA W.

Judge's Address #10 COURT HOUSE SQUARE

KINGSTREE, SC 29556

Judge's Telephone 843-355-9602

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA 518

721

ARREST WARRANT

H-437183

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 WILLIAMSBURG CO.

 THE STATE
 against

SAMPSON, TASHON

Address: 103 WASHINGTON ST.

HEMINGWAY, SC 29554

Phone: 843-558-5660 SSN: - -

Sex: M Race: B Height: 5' 10" Weight: 130

DL State: DL #:

DOB: 09/21/1982 Agency ORI#: SC0450000

Prosecuting Agency: WMSBG CO SHERIFFS DEPT.

Prosecuting Officer:

Offense: POSS WEAP DURING VIOLENT CRIME

Offense Code: 0549

Code/Ordinance Sec. 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 The accused
 is to be arrested and brought before me to be
 dealt with according to law.

 _____ (L.S.)
 Signature of Judge

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
 defendant SAMPSON, TASHON
 on 2-19-03

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 WILLIAMS, CYNTHIA W.
 #10 COURT HOUSE SQUARE
 KINGSTREE, SC 29556

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 WILLIAMSBURG CO.

AFFIDAVIT

 Personally appeared before me the affiant LT. RUDY TISDALE wh
 being duly sworn deposes and says that defendant SAMPSON, TASHON
 did within this county and state on 02/18/03 violate the criminal laws of th
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of WILLIAMSBURG CO.
 in the following particulars:

 DESCRIPTION OF OFFENSE: POSS WEAP DURING VIOLENT CRIME
 16-23-0490

 I further state that there is probable cause to believe that the defendant named above did comm
 the crime set forth and that probable cause is based on the following facts:
 ON 02/18/03, AROUND 1300 HRS, LOCATED 633 HWY 41/51 N. (PERRY'S GRO.) THE
 DEFENDANT DID WHILE ARMED W/A KNIFE STAB AND CUT THE THROAT OF MRS. LILLIA
 PERRY. DURING THE COMMISSION OF AN ARMED ROBBERY. CAUSING THE DEATH OF MRS.
 PERRY. POSS OF A WEAPON DURING A VIOLENT CRIME IS IN VIOATION OF S.C. CODE
 OF LAWS.

Sworn to and subscribed before me

on FEBRUARY 19, 2003

 Signature of Issuing Judge
 Cynthia W. Williams (L.S.)

Signature of Affiant

 Affiant's Address 126 S. JACKSON ST.
KINGSTREE, SC 29556
Affiant's Telephone 843 355-6381

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 WILLIAMSBURG CO.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe t
 on 02/18/03 defendant SAMPSON, TASHON
 did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of WILLIAMSBURG CO.) as set forth below:

 DESCRIPTION OF OFFENSE: POSS WEAP DURING VIOLENT CRIME
 16-23-0490

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her be
 me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 defendant at the time of its execution, or as soon thereafter as is practicable.

 Signature of Issuing Judge
 Judge Code: 649
 WILLIAMS, CYNTHIA W.

 Judge's Address #10 COURT HOUSE SQUARE
KINGSTREE, SC 29556
Judge's Telephone 843 355-9602
 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circ

 Form Approved by
 S.C. Attorney General
 July 26, 1990
 SCCA 518

A CERTIFIED TRUE COPY

ORIGINAL

WITNESSES

SHERIFF'S OFFICE

sdale

ARREST WARRANT NUMBER

437185, H188179, G231032, H188182 (1&3)

H188181, H437182, H188180, H473185 (2)

H437183 (4); H437184 (5)

ACTION OF GRAND JURY

John R. Myers

True Bill

Foreperson of Grand Jury

Date: *08-19-2004*

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

AUGUST TERM 2004

THE STATE

vs.

RAYMOND MACK

TRAVIS ORANGE

TASHON SAMPSON

JOSEPH WILSON

Indictment for

MURDER, ARMED ROBBERY, CRIMINAL
CONSPIRACY, POSSESSION OF KNIFE
DURING COMMISSION OF CRIME OF
VIOLENCE AND POSSESSION OF
FIREARM DURING COMMISSION OF
CRIME OF VIOLENCE

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
 MURDER, ARMED ROBBERY, CRIMINAL
 CONSPIRACY, POSSESSION OF KNIFE DURING
 COMMISSION OF CRIME OF VIOLENCE AND
 POSSESSION OF FIREARM DURING COMMISSION
 OF CRIME OF VIOLENCE

At a Court of General Sessions, convened on August 23, 2004, the Grand Jurors
 of WILLIAMSBURG County present upon their oath:

COUNT ONE – MURDER

That RAYMOND MACK, TRAVIS ORANGE, TASHON SAMPSON AND JOSEPH WILSON did in Williamsburg County on or about February 17, 2003, feloniously, wilfully and with malice aforethought, kill one Lila Perry by means of stabbing and cutting her with a knife, and that the said Lila Perry did die as a proximate result thereof.

✓ COUNT TWO – ARMED ROBBERY

That RAYMOND MACK, TRAVIS ORANGE, TASHON SAMPSON AND JOSEPH WILSON did in Williamsburg County on or about February 17, 2003, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as amended, while armed with a deadly weapon, to-wit: a knife and a pistol, feloniously take from the person in the presence of Lila Perry, by means of force or intimidation, goods or monies of the said Lila Perry, such goods or monies being described: a cellular phone.

COUNT THREE – CRIMINAL CONSPIRACY

That RAYMOND MACK, TRAVIS ORANGE, TASHON SAMPSON AND JOSEPH WILSON did in Williamsburg County on or about February 17, 2003, violate Section 16-17-410 of the Code of Laws of South Carolina (1976), as amended, in that each did unlawfully, wilfully, knowingly, wickedly and feloniously unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other for the purpose of committing the crime of murder and/or armed robbery.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

E. Kelly Jackson
 SOLICITOR

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR MURDER, ARMED ROBBERY, CRIMINAL CONSPIRACY, POSSESSION OF KNIFE DURING COMMISSION OF CRIME OF VIOLENCE AND POSSESSION OF FIREARM DURING COMMISSION OF CRIME OF VIOLENCE WITH THE AFORESAID NAMES OF RAYMOND MACK, TRAVIS ORANGE, TASHON SAMPSON AND JOSEPH WILSON SHOWN THEREON:

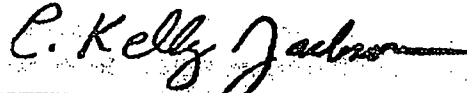
COUNT FOUR – POSSESSION OF KNIFE DURING COMMISSION
OF CRIME OF VIOLENCE

That TASHON SAMPSON in Williamsburg County on or about February 17, 2003, was in possession of and did visibly display a knife during the commission of a violent crime, to-wit: murder and/or armed robbery, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

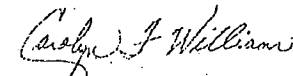
COUNT FIVE – POSSESSION OF FIREARM DURING COMMISSION
OF CRIME OF VIOLENCE

That JOSEPH WILSON in Williamsburg County on or about February 17, 2003, was in possession of and did visibly display a pistol during the commission of a violent crime, to-wit: murder and/or armed robbery, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.


SOLICITOR

A CERTIFIED TRUE COPY


CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR MURDER, ARMED ROBBERY, CRIMINAL CONSPIRACY, POSSESSION OF A FIREARM DURING THE COMMISSION OF CRIME OF VIOLENCE WITH THE AFORESAID NAME OF RAYMOND MACK FOR POSSESSION OF A FIREARM DURING THE COMMISSION OF CRIME OF VIOLENCE SHOWN THEREON.

COUNT SEVEN - POSSESSION OF A FIREARM DURING THE COMMISSION
OF CRIME OF VIOLENCE

That one RAYMOND MACK did in Williamsburg County on or about February 18, 2003 possess or visibly display a firearm during the commission of a violent crime, to wit: a gun in the armed robbery of Lila Perry, in violation of Code Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

C. Kelly Jackson
SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

In the Court of General Sessions
Case Number: 04-GS-45-0132

STATE OF SOUTH CAROLINA,

Plaintiff,

Verdict Form

v.

TASHON SAMPSON,

Defendant.

On the charge of MURDER:

We, the Jury, by unanimous consent, find the Defendant, TASHON SAMPSON:

☒

GUILTY

☐

NOT GUILTY

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

May 25, 2005

Janetta Jacobs
Foreperson's Signature

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

In the Court of General Sessions
Case Number: 04-GS-45-0132

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

TASHON SAMPSON,

Defendant.

Verdict Form

On the charge of ARMED ROBBERY:

We, the Jury, by unanimous consent, find the Defendant, TASHON SAMPSON:

☒ GUILTY
☐ NOT GUILTY

OR

On the lesser included offense of ATTEMPTED ARMED ROBBERY:

We, the Jury, by unanimous consent, find the Defendant, TASHON SAMPSON:

☒ GUILTY
☐ NOT GUILTY

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

May 25, 2005

Janetta Jacobs
For person's Signature

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

In the Court of General Sessions
Case Number: 04-GS-45-0132

STATE OF SOUTH CAROLINA,

Plaintiff,

Verdict Form

V.

TASHON SAMPSON,

Defendant.

On the charge of POSSESSION OF A WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME:

We, the Jury, by unanimous consent, find the Defendant, TASHON SAMPSON:

✓

GUILTY

NOT GUILTY

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

May 25, 2005

Foreperson's Signature Janetta Jackson

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

In the Court of General Sessions
Case Number: 04-GS-45-0132

STATE OF SOUTH CAROLINA,

Plaintiff,

Verdict Form

Y.

TASHON SAMPSON,

Defendant.

On the charge of CRIMINAL CONSPIRACY:

We, the Jury, by unanimous consent, find the Defendant, **TASHON SAMPSON**:

✓

GUILTY

NOT GUILTY

A CERTIFIED TRUE COPY:

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

May 25, 2005

Jaretta Jacobs
 For person's Signature

730

CAROLYN E. WILLIAMS
CLERK OF COURT

STATE OF SOUTH CAROLINA

WILLIAMSBURG COUNTY

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Williamsburg
STATE VS.AKA: Tashon Sampson
Race: B Sex: M Age: 22
DOB: 09/21/1982 SS#: 154-74-8567
Address: 105 Washington Street
City, State, Zip: Hemingway, SC 29554
DL# _____ SID# _____INDICTMENT/CASE#: 2004 -GS- 45 - 0132
AW#: G-231032
Date of Offense: February 18, 2003
S.C. Code §: 16-3-10
CDR Code #: 0 1 1 1 1 1 6
☐ CASE RESTORED
SENTENCE
☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murderin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 1 1 6☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of LIFE days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$
\$14-1-206 (Assessments 107.5%)	\$
\$14-1-211(A)(1) (Conv. Surcharge)	\$100 \$
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$
\$56-5-2995 (DUI Assessment)	\$12 \$
\$ 35.13 (Public Def/Prob)	\$500 \$
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$
\$33.7, 1B TP (Drug Court Surcharge)	\$100 \$
\$50-21-114(BUI Breath Test Fee)	\$50 \$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$
TOTAL	\$

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0 1 1 1 0 1 9Sentence Date: May 25, 2005Carolyn E. Williams
Clerk of Court/ Deputy ClerkCourt Reporter: Kathy Richardson

STATE OF SOUTH CAROLINA

A CERTIFIED TRUE COPY

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Williamsburg
STATE VS.
Tashon Sampson
AKA:
Race: B Sex: M Age: 22
DOB: 09/24/1982 SS#: 154-74-8567
Address: 105 Washington Street
City, State, Zip: Hemingway, SC 2955
DL# _____ SID# _____

INDICTMENT/CASE#: 2004 -GS- 45 - 0132
AW#: H 437182
Date of Offense: February 18, 2003
S.C. Code §: 16-11-330A
CDR Code #: 0 1 1 3 1 9
☐ CASE RESTORED
SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Attempted Armed Robbery

in violation of §16-11-330B of the S.C. Code of Laws, bearing CDR Code # 0 1 0 1 2 1 6

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§ 35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 01 11 01 9

Sentence Date: May 25, 2005

Clerk of Court/ Deputy Clerk
Court Reporter: Kathy Richardson

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS

CLERK OF COURT

WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEWilliamsburg

VS.

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip

DL#

SID#

Tashon SampsonBM2209/24/1982154-74-8567105 Washington StreetHemingway, SC 29557

INDICTMENT/CASE#:

2004 -GS- 45 - 0132

A/W#:

H-437183

Date of Offense:

February 18, 2003

S.C. Code §:

16-23-490

CDR Code #:

0151419☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of Weaponin violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0151419☒ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*, the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211(A)(1) (Conv. Surcharge)

\$14-1-211(A)(2) (DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Carolyn F. Williams

Clerk of Court/Deputy Clerk

Court Reporter:

Kathy Richardson

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning\$ paid to Public Defender Fund

Other:

life under murder charge☐ Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

May 25, 2005

*Carolyn F. Williams*CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Williamsburg
STATE VS.

AKA:

Race: B Sex: M Age: 22DOB: 09/21/82 SS#: 154-14-8567Address: 105 Washington StreetCity, State, Zip: Hemingway, SC 29554

DL# _____ SID# _____

INDICTMENT/CASE#:

2004 -GS- 45 - 0132

A/W#:

Date of Offense: February 18, 2003S.C. Code §: 16-17-410CDR Code #: 0101419☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Conspiracyin violation of § 16-17-410 of the S.C. Code of Laws, bearing CDR Code # 0101419☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§ 35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0101019Sentence Date: May 25, 2005Court Reporter: *Kathy Richardson*

Clerk of Court/ Deputy Clerk