

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DILLON COUNTY

Robin Stilwell, Circuit Court Judge

ORIGINAL

RECEIVED

NOV 03 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAMIEN INMAN,

APPELLANT

APPELLATE CASE NO. 2015-002353

MOTION FOR A NEW TRIAL
OR, IN THE ALTERNATIVE, AN ORDER TO
RECONSTRUCT THE RECORD OF APPELLANT'S TRIAL

Pursuant to Rule 240 of the South Carolina Appellate Court Rules Appellant, through undersigned counsel, requests an order setting aside his convictions and ordering a new trial. In the alternative, Appellant requests an order requiring the parties to reconstruct Appellant's trial transcript. As will be seen *infra*, all of the trial testimony and arguments before the jury were unable to be transcribed because of an error in the courtroom's audio-recording system.

Counsel submits the following documents to support his motion: indictments for murder and burglary first degree (Exhibit #1); sentencing sheets (Exhibit #2); partial trial transcript dated June 8-10, 2015, totaling one hundred two pages (Exhibit #3); partial trial transcript dated June

11, 2015, totaling thirty-three pages (Exhibit #4); *Aiken v. Byars*¹ sentencing transcript dated October 29, 2015, totaling one hundred fourteen pages (Exhibit #5); June 7, 2016 letter from Court Reporter Hattie O. Gordon to Office of Appellate Defense; (Exhibit #6); June 17, 2016 letter from Court Reporter Gordon to Office of Appellate Defense (Exhibit #7); and June 23, 2016 letter from Court Reporter Gordon to Office of Appellate Defense (Exhibit #8).

In support of this motion, Appellant alleges the following:

1. On May 13, 2010, a Dillon County Grand Jury indicted Appellant for murder, possession of a weapon during a violent crime, burglary first degree, kidnapping, armed robbery, grand larceny, and criminal conspiracy. Exhibit #1.

2. On December 13, 2010, Appellant was tried before the Honorable Thomas A. Russo and a jury. Deputy Solicitor Kernard E. Redmond and Assistant Solicitor Shipp Daniel represented the State. Rosalind Sellers represented Appellant. The jury found Appellant guilty of all charges. Judge Russo sentenced Appellant to life without parole for murder, life without parole for burglary in the first degree, thirty years for kidnapping, thirty years for armed robbery, ten years for grand larceny, five years for possession of a weapon during the commission of a violent crime, and five years for conspiracy. He ordered the sentences to run consecutively.

3. Appellant filed a timely notice of appeal. On appeal, he was represented by Appellate Defender Susan B. Hackett. Senior Assistant Deputy Attorney General Donald J. Zelenka represented the State. This Court reversed Appellant's convictions and remanded his case to Dillon County based on an improper *Batson*² ruling by the trial court. *See State v. Inman*, 409 S.C. 19, 760 S.E.2d 105 (2014).

¹ 410 S.C. 534, 765 S.E.2d 572 (2014).

² *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712 (1986).

4. On June 8-11, 2015, Appellant was tried before the Honorable Paul M. Birch and a jury. Exhibit #3 at 1. Deputy Solicitor Kernard E. Redmond and Assistant Solicitor Shipp Daniel represented the State. Thurmond Brooker represented Appellant. *Id.* The jury found Appellant guilty as charged. Exhibit #4 at 3-5.

5. Judge Birch sentenced Appellant to life without parole for murder, life without parole for burglary in the first degree, thirty years for armed robbery, five years for possession of a weapon during the commission of a violent crime, and five years for conspiracy. Exhibit #4 at 29-30; Exhibit #5 at 108-113. He ordered the sentences to run concurrently. *Id.*

6. Appellant filed a timely notice of appeal and was approved for representation by the Office of Appellate Defense. It took almost a year for a partial trial transcript to be produced. On June 7, 2016, the Office of Appellate Defense received a letter from Court Reporter Hattie O. Gordon stating that only the trial proceedings on June 8th and June 11th were able to be transcribed. Exhibit #6.

7. The June 8th trial transcript contained only *voir dire*, jury selection, and pre-trial hearings. Exhibit #3. The June 11th trial transcript contained the jury verdict and Appellant's sentencing for burglary first degree. Exhibit #4. The October 29th *Aiken v. Byars* sentencing hearing, where Appellant was sentenced to life without parole, was also transcribed. Exhibit #5.

8. In her June 7, 2016 letter to the Office of Appellate Defense, Court Reporter Gordon explained that Appellant's trial was relocated on June 9th from the old Dillon County Courthouse to the new Dillon County Judicial Center and that her recording equipment was not compatible with the new courthouse's audio system:

On Tuesday, June 9, 2015 upon arrival to the Judicial Center we discovered that the audio system was not working and was not compatible to my digital recorder. This was the first day of work at the Judicial Center. When the judge came onto the bench and the

jury had entered the courtroom, I explained that I was having equipment problems. I then attempted to hook up my personal microphones to my digital recorder. The way this courtroom is designed it was not possible for me to run my microphone wires around the courtroom. So the only thing I could do was to put them on the rail around my desk which is below the judge's bench and across from the witness stand.

When we started the trial I advised the judge that my microphones were not picking up the sound very well. I also let him listen to my recorder. I was told to work with what I have. Each day I would inquire as to the status of the audio system and was told that an email was sent and no response was received yet.

To date testimony for June 9th and June 10th have not been produced.

Exhibit #6. As a result of these technical difficulties, Court Reporter Gordon was unable to transcribe June 9th and June 10th of Appellant's trial. *Id.*; *see also* Exhibit #7.

9. The two days of missing trial proceedings, June 9th and 10th, are the entire jury trial with the exception of the verdict, delivered on June 11th. No witness testimony was transcribed. Opening and closing arguments are lost. The trial court's jury instructions are unavailable. In sum, nothing that occurred in front of the jury during Appellant's trial was transcribed.

10. When a trial transcript has been lost or destroyed, the Court may vacate the conviction and sentence and remand for a new trial if meaningful appellate review is not possible. *See Koon v. State*, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); *Whitehead v. State*, 352 S.C. 215, 574 S.E.2d 200 (2002); *Deaton v. Leath*, 279 S.C. 82, 84, 302 S.E.2d 335, 336 (1983); *China v. Parrott*, 251 S.C. 329, 162 S.E.2d 276 (1968); *Dolive v. J.E.E. Developers, Inc.*, 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App. 1992); *State v. Ladson*, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007).

11. In *Deaton, supra*, the defendant's convictions were set aside and a new trial had where the court reporter's equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal. By contrast, this Court denied a request for reconstruction in *State v. Serrette*, 375 S.C. 650, 652-653, 654 S.E.2d 554, 555 (Ct. App. 2007) where the reason for the lack of transcript was due to the defendant's absence for a ten-year period, which this Court explained was "not a situation where the court reporter's equipment malfunctioned at trial leading to a loss of the trial transcript."

12. Here, as in *Deaton*, through no fault of Appellant's the vast majority of his trial transcript is unavailable. The transcript was not transcribed due to the incompatibility of the Court Reporter's equipment with the audio system of the new Dillon County Judicial Center. Exhibit #6.

13. There is no record of any testimony before the jury. In light of the court reporter's inability to produce a transcript of Appellant's trial, and in the interests of judicial economy, Appellant requests this Court order a new trial in his case. Appellant cannot obtain meaningful appellate review based upon the portions of the transcript available.

14. In the alternative, when a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. *Whitehead, supra; China, supra; Koon, supra; Dolive, supra; Ladson, supra*. The vast majority of Appellant's trial transcript, including all testimony before the jury, cannot be produced and is no longer available through no fault of Appellant based on a failure of the Court Reporter's equipment and the Dillon County Judicial Center's recording system.

15. Therefore, meaningful review of the record below is not possible with the current transcript. In the event this Court denies Appellant's motion for a new trial, Appellant seeks reconstruction of the record to permit meaningful appellate review of his trial.

WHEREFORE, the undersigned counsel requests this Court set aside his convictions and remand for a new trial. In the alternative, Appellant requests an order for the reconstruction of Appellant's trial transcript in order to perfect Appellant's direct appeal in the case. While this petition is pending, Appellant asks this Court to hold the timelines for filing his initial brief and designations in abeyance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John H. Strom", written over a horizontal line.

John H. Strom
Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Defendant

This 3rd day of November, 2016

EXHIBIT #1

WITNESSES

Allan Rogers

Dillon County Sheriff

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
J708307

ARRESTED ON: 2009-08-19

ACTION OF GRAND JURY

Kimberly Woodell
Grand Jury Foreperson

Date

1-25-2010

VERDICT

Guilty

Brenda Hamilton
Petit Jury Foreperson

Date

6-11-2015

DOCKET NUMBER:
2009-GS-17-1210

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
November 2009

THE STATE

vs.

Damian Inman

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

TRUE BILL

CERTIFIED
TRUE COPY

William B. Rogers, Jr., Solicitor

CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF DILLON

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

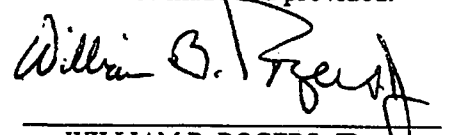
At a Court of General Sessions, convened on November 24, 2009, the Grand Jurors of Dillon County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Damian Inman did in Dillon County, on or about August 18, 2009, willfully, feloniously, and intentionally kill the victim, Mary Stutts, with malice aforethought, either express or implied, by means of shooting victim in the head several times, and the victim did die as a proximate result thereof on or about August 18, 2009 in Dillon County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Jason Turner

Dillon Police Department

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
J008488

ARRESTED ON: 2009-08-19

ACTION OF GRAND JURY

TRUE BILL

Grand Jury Foreperson

Date

VERDICT

Guilty

Perit Jury Foreperson

Date

6-11-2015

DOCKET NUMBER:
2009-GS-17-1212

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
May 2010

THE STATE

vs.

Damian Inman

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) -
First degree

§16-11-0311

CDR Code: 0079

CERTIFIED
TRUE COPY

William B. Rogers, Jr., Solicitor

CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON)

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) - First
degree

§16-11-0311

At a Court of General Sessions, convened on May 13, 2010, the Grand Jurors of Dillon
County present upon their oath:

BURGLARY, 1ST DEGREE

CDR: 0079 16-11-0311

That Damian Inman did in Dillon County on or about August 17, 2009 either enter or aid co-defendants in entering
the dwelling of Mary Stutts located at 947 West Calhoun St. Dillon SC without consent and with the intent to
commit a crime therein and the defendant did so in the nighttime and/or while armed with a deadly weapon, in
violation of Section 16-11-0311(A), 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.

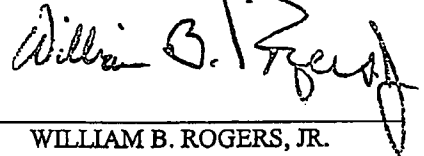

WILLIAM B. ROGERS, JR.
SOLICITOR

EXHIBIT #2

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dillon

VS.

Damian Irman

AKA:

Race: Black

Sex: M

Age: 23

DOB:

SS#:

Address:

City, State, Zip: Dillon, SC 29536

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-17-1210

A/W#: J708307

Date of Offense: 8/19/2009

S.C. Code §: 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Daniel Shipp

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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 probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 11(7.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BIT Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

Proviso 90.5 (SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

_____ 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:

CLERK OF COURT

☐ Appointed PD or appointed other counsel.

§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter

Presiding Judge

Judge Code:

Court Reporter

October 29, 2015

STATE OF SOUTH CAROLINA

COUNTY OF Dillon
STATE VS.

Damian Roman

AKA:

Race: Black Sex: M Age: 23

DOB: SCU

Address:

City/State/Zip: Dillon, SC 29536

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: W. S. L.

76085

Daniel, Shipp

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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 probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ku	\$ <u>5.00</u>
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-17-1212

A/W#: J008488

Date of Offense: 8/19/2009

S.C. Code § 16-11-0311

CDR Code #: 0079

RECEIVED

NOV 12 2015

SENTENCE 80 Court of Appeals

☒ CONVICTED OF or ☐ PLEADS

_____ 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: _____

CLERK OF COURT

☐ Appointed PD or Appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: _____

October 29, 2010 (pms)

EXHIBIT #3

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF DILLON) 2009-GS-17-01210
) 2009-GS-17-01212

STATE OF SOUTH CAROLINA)
) PLAINTIFF
) vs.) TRANSCRIPT OF RECORD
) June 8, 2015
DAMIAN INMAN)
) DEFENDANT

June 8-10, 2015
Dillon, South Carolina

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

A P P E A R A N C E S:

SHIPP DANIEL, ASSISTANT SOLICITOR
Attorney for the State

THURMOND BROOKER, ESQUIRE
Attorney for the Defendant

JASON TURNER, Dillon Police Department
CLIFF ARNETTE, Dillon County Sheriff's Office
ROXANNE BETHEA, S.C. Law Enforcement Division

HATTIE O. GORDON
Circuit Court Reporter

I N D E X

MONDAY, JUNE 08, 2015

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CLIFF ARNETTE

Direct By Mr. Daniel 67

Cross By Mr. Brooker 73

Redirect By Mr. Daniel 78

ROXANNE BETHEA

Direct By Mr. Daniel 79

Cross By Mr. Brooker 83

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COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	DILLON CTY PD MIRANDA FORM	44	44
2	DILLON CTY SHRF OFF MIRANDA FORM	44	44
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VOIR DIRE OF THE JURY

THE COURT: All right, ladies and gentlemen of the jury, the case that we are going to draw a jury on is entitled the State of South Carolina v. Damian Inman. The Court is calling that case for trial at this time. I am going to request that the Solicitor read the indictments that we will be concerned with in this trial. Solicitor.

MR. DANIEL: Thank you, Your Honor. May it please the Court. The State is prepared for its trial in the case of the State v. Damian Inman on the following indictments:

2009-GS-17-1210, it is an indictment for murder.

2009-GS-17-1211 is possession of a weapon during the commission of a violent crime.

2009-GS-17-1212, burglary in the first degree.

2009-GS-17-1213, kidnapping.

2009-GS-17-1214, armed robbery.

2009-GS-17-1215, grand larceny.

And, finally, 2009-GS-17-1217 for criminal conspiracy. All of these indictments have been true billed by the Grand Jury, and the State is ready for trial.

THE COURT: Ladies and gentlemen of the jury, you've heard the list of indictments. I have some additional questions to pose to you at this time. I'm going to ask

1 the Defendant, Damian Inman, if he would, to stand and
2 face the jury so I can pose the question about kinship,
3 relationship. Thank you, sir. You may be seated.

4 Mr. Inman is present in Court and entered a plea of
5 not guilty to these charges, and he's represented by Mr.
6 Thurmond Brooker of our Bar. Solicitor Daniel and
7 Solicitor Redmond will be handling the case for the State.
8 And I will have some questions concerning representation
9 in a few minutes.

10 First question I need to pose to you: Anybody on the
11 panel related by blood or by marriage or have any
12 business, social, religious or fraternal relationship with
13 the Defendant, Damian Inman? If so we need you to stand
14 at this time. And any question I post to you we need to
15 be able to hear. Your number, please, sir.

16 PROSPECTIVE JUROR: 194.

17 THE COURT: 194. How does that question apply?

18 PROSPECTIVE JUROR: My brother married Mr. Inman's
19 aunt.

20 THE COURT: All right. Your brother married
21 Mr. Inman's aunt. All right. If you will come up,
22 please, to the court reporter's station. Counsel, y'all
23 may approach. All right. She's got to hear everything
24 that you say. Your brother, married the Defendant's aunt?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: I've got a question I'm going to pose to
2 you, and I want you to think about it. If you were to be
3 chosen for this jury could you be both fair and impartial
4 to the State as well as Mr. Inman?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Okay. Questions?

7 MR. BROOKER: No questions.

8 THE COURT: Questions?

9 MR. DANIEL: No questions.

10 THE COURT: Thank you, sir. You may return to your
11 seat. Come on up. Counsel, y'all may return. Sorry.
12 Juror 142.

13 PROSPECTIVE JUROR: His father and my father are
14 first cousins.

15 THE COURT: His father and your father are first
16 cousins. Your first cousins once removed by grandfathers.
17 Let me ask you this. If you were to be seated on this
18 jury could you be both fair and impartial both to the
19 State and the Defendant?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Okay. I am now going to call a list of
22 names to you. It will be the same question. If you are
23 related by blood or by marriage or you have any business,
24 social, religious or fraternal relationship in any form or
25 fashion with any of these individuals we need for you to

1 stand.

2 The alleged victim in this case, Mary Stutts. That's
3 spelled S-T-U-T-T-S. Rich Charles with the State Law
4 enforcement Division, Shaquile Crowley, Alan Rogers with
5 the Sheriff's Department, Martha Ann Jacobs, Crystal
6 Norris with Dillon Police Department, Dr. Edward Proctor,
7 a forensic pathologist who practices out of Grand Strand
8 Hospital if I remember correctly.

9 Dustin Jacobs, Eddy Boone, that's E-D-D-Y. Boone,
10 B-O-O-N-E. Jacqueline Morris, Jasmine Mearite. That's
11 spelled M-E-A-R-I-T-E. Jason Turner with the Dillon
12 Police Department, John Henry Bridges, Sandra Thompson,
13 Josh Lee, Lisa Alford, Rhonda Fields with the State Law
14 Enforcement Division, Ricky Lee, Robbie Bucy. That's
15 B-U-C-Y, with the Darlington County Sheriff's Department.

16 CLERK OF COURT: Dillon.

17 THE COURT: Sorry. What did I say? Dillon County
18 Sheriff's Department. I'll be holding court in Darlington
19 next week, and I just discussed that with Judge Henderson.
20 I guess I had that on my mind.

21 Roxanne Bethea with the State Law Enforcement
22 Division, Suzann Cromer with the State Law Enforcement
23 Division, Vicki Hallman with the State Law Enforcement
24 Division. Any other names that I need to run by the jury,
25 from the State or the Defense?

1 MR. DANIEL: None from the State.

2 MR. BROOKER: None from the Defense, Your Honor,
3 other than I think we passed you a list. I don't know if
4 you read the names off that list.

5 THE COURT: Inman Charles and Crowley?

6 MR. BROOKER: Yes, sir.

7 THE COURT: Yes, ma'am.

8 PROSPECTIVE JUROR: I'm kin to Josh and Ricky Lee.
9 Josh and Ricky Lee.

10 THE COURT: All right. And your number, please?

11 PROSPECTIVE JUROR: 133.

12 THE COURT: All right. How are they related to you?

13 PROSPECTIVE JUROR: My cousins. Ricky and my dad are
14 third cousin.

15 THE COURT: Okay. You would be third cousin.

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: All right. The fact that you have that
18 relationship with some potential witness would that affect
19 your ability to be a fair and impartial juror? I need
20 just yes or no and no explanation.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: It would affect your ability?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: All right. If you will come on up. Come
25 on up, please. Yes, sir, your name?

1 PROSPECTIVE JUROR: Jackie Outlar, Juror 175. I'm a
2 church member with Ricky Lee.

3 THE COURT: Would that affect your ability to be a
4 fair and impartial juror in this case?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: All right. If you will come up and wait
7 in line by Madam Juror. Yes, sir, your number?

8 PROSPECTIVE JUROR: Buck Gramham, Number 90. I'm a
9 deacon at church with Ms. Mary Alice Stutts, attend the
10 church.

11 THE COURT: All right. Would that affect your
12 ability to be a fair and impartial juror in this case?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you, sir. You may be seated.
15 Mr. Bethea.

16 PROSPECTIVE JUROR: Number 22. I'm a church member
17 with Ms. Mary Alice Stutts.

18 THE COURT: All right. Would that fact affect your
19 ability to be a fair and impartial juror in this case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Thank you, sir. You may be seated. Yes,
22 ma'am. Your number?

23 PROSPECTIVE JUROR: Number 235. I'm Ricky Lee's
24 neighbor.

25 THE COURT: All right. And the fact that you are a

1 potential witness' neighbor would that affect your ability
2 to be a fair and impartial juror in this case?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you. Yes, ma'am.

5 PROSPECTIVE JUROR: 217. I'm related to Ricky Lee.

6 THE COURT: First cousin?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Would the fact that you're related to him
9 would that affect your ability to be fair and impartial in
10 this case?

11 PROSPECTIVE JUROR: Yes, sir, it would.

12 THE COURT: Come on up, please. Counsel, y'all
13 approach. All right. We have Juror 133, and I'm going to
14 ask you not to speak too loud, but she's got to hear
15 everything you say. Why do you say it would affect your
16 ability?

17 PROSPECTIVE JUROR: Well, Josh is a friend. He's at
18 my house with his children all the time. Like he's been
19 to my house with his children and I know the family. I
20 would stick with the family. I don't want to be any part
21 of that.

22 THE COURT: All right. All right. Thank you. You
23 may return to your seat. Don't discuss this case with
24 anyone. Even though I may excuse you off of this case.
25 We may try another case so don't leave us.

1 PROSPECTIVE JUROR: Okay.

2 THE COURT: All right. We have a fellow Game Cock
3 here. Juror 175.

4 PROSPECTIVE JUROR: I'm a church member with
5 Mr. Ricky Lee. They ask for prayer every Sunday morning,
6 and I feel emotionally tied.

7 THE COURT: Okay. Stay with us. We may need you for
8 another case. We may try another case so we need you to
9 say.

10 PROSPECTIVE JUROR: Understood.

11 THE COURT: Come on up. How does that question
12 apply?

13 PROSPECTIVE JUROR: Ricky Lee's mom in law and my mom
14 are both sisters. His mother is my aunt.

15 THE COURT: His mother in law is your -- tell me
16 again?

17 PROSPECTIVE JUROR: Ricky Lee's mom in law and my
18 mother are sisters. His mom is my aunt.

19 THE COURT: The fact that you're kin to him, once
20 again, are you able to be a fair and impartial juror?

21 PROSPECTIVE JUROR: Well, I don't know.

22 THE COURT: Only you can answer that question.

23 PROSPECTIVE JUROR: It would affect me.

24 THE COURT: Stay with us cause we may have another
25 trial later on. Any others? All right. Gentlemen, looks

1 like those will be out of the pot. All right. Do I have
2 any juror that attend or members of Mount Calvary Baptist
3 Church and First Baptist Church here in Dillon? If you
4 will stand and give us your numbers, please.

5 PROSPECTIVE JUROR: 188.

6 THE COURT: Which one.

7 PROSPECTIVE JUROR: Mount Calvary Baptist Church.

8 THE COURT: 188, Mount Calvary. Thank you, sir.

9 Yes, ma'am.

10 PROSPECTIVE JUROR: Juror 165, First Baptist.

11 THE COURT: 165, First Baptist.

12 PROSPECTIVE JUROR: 213. 2-1-3.

13 THE COURT: 213. First Baptist?

14 PROSPECTIVE JUROR: Yes, sir, First Baptist.

15 THE COURT: First Baptist. Thank you. Yes, sir.

16 PROSPECTIVE JUROR: 176, First Baptist. Any others?

17 THE COURT: No you're fine. You're fine. You got
18 them all? Juror Number 190, Mr. Graham, what church did
19 you attend?

20 PROSPECTIVE JUROR: Little Rock Baptist.

21 THE COURT: Got you. Do I have any members or anyone
22 that regularly attends Little Rock Baptist? Other than
23 you two. Okay. All right.

24 Has anyone on the jury panel or a member of your
25 immediate family ever been prosecuted or currently being

1 prosecuted by the Fourth Circuit Solicitor's Office? If
2 so we need you to stand and give us your number. And a
3 little expansion of that case, has anybody on the panel
4 presented represented or represented in the past by any of
5 the individual attorneys involved in this case:

6 Mr. Brooker, Mr. Daniel, and Mr. Redmond?

7 Have you ever been the victim of any gun violence?
8 If so we need you to stand and give us your number. Any
9 immediate family member, close friend or neighbor ever
10 been the victim of a murder or a crime involving gun
11 violence?

12 PROSPECTIVE JUROR: I have.

13 THE COURT: If you would stand, please. We need your
14 number.

15 PROSPECTIVE JUROR: 179. My nephew was murdered in
16 2011.

17 THE COURT: Thank you. Yes, ma'am. Okay. Thank
18 you. Yes, ma'am.

19 PROSPECTIVE JUROR: 247. It was my same nephew that
20 was murdered.

21 THE COURT: Thank you. Your number again.

22 PROSPECTIVE JUROR: 247.

23 THE COURT: 247. Yes, ma'am.

24 PROSPECTIVE JUROR: 117. My step-daddy was killed.

25 THE COURT: Step what?

1 PROSPECTIVE JUROR: Step-daddy.

2 THE COURT: Father. Thank you. Yes, sir.

3 PROSPECTIVE JUROR: My daddy was a State Trooper and
4 was shot several years ago.

5 THE COURT: Thank you, sir. Yes, sir.

6 PROSPECTIVE JUROR: Friend a while back in the Oak
7 Grove Community.

8 THE COURT: And your number?

9 PROSPECTIVE JUROR: 137.

10 THE COURT: 137. Do any of you hold any religious or
11 conscious belief that would make it difficult for you to
12 be an impartial juror in a trial where the defendant is
13 charged with the offense of murder?

14 Are you or immediate member of your family or close
15 friend are a member of any group or organization that
16 advocates against violence? I can give you an example. I
17 think there is an organization call CAVE, C-A-V-E, and
18 there are some student organizations out there.

19 Are any of you or immediate family member or close
20 friend any -- that's a member of any community or
21 neighborhood crime watch group or organization?

22 Are you or any member of your immediate family or
23 close friend a member of any group or organization that
24 advocates against the possession of guns or firearms?

25 Are any of you or immediate family member a member of

1 the N.R.A. or other similar organization that advocates
2 private gun ownership rights? Yes, sir.

3 PROSPECTIVE JUROR: Juror Number 243. Member of the
4 N.R.A.

5 THE COURT: N.R.A., okay. Anyone else?

6 PROSPECTIVE JUROR: 218. N.R.A.

7 THE COURT: All right. Anyone else? Any of you or
8 immediate family member in a group or organization that
9 advocates against domestic violence?. Have any of you or
10 had an immediate family member that's ever been falsely
11 accused of a crime?

12 All right. Counsel, if y'all will step back up here.
13 Let me talk to you about one of these questions.

14 (WHEREUPON, a bench conference was held off the
15 record in the presence of the jury, but out of the
16 hearing of the jury.)

17 THE COURT: Okay. The Court is aware that there was
18 press publicity about this particular alleged crime. If
19 you read or you have discussed this case with anyone or
20 you have seen it on any media release or media press
21 coverage and you feel that you have developed an opinion
22 to whereby you are biased or prejudiced or have any
23 feelings whatsoever that you could not be a fair and
24 impartial juror from what you read or heard we need you to
25 stand at this time, but don't say anything except give us

1 your number. Anyone else? You're fine. You may be
2 seated. You're fine. You may be seated. You're okay.
3 Sir, if you will come up, please. Will y'all come up,
4 please. William Haire, 225, yes, sir. Tell me about it.

5 PROSPECTIVE JUROR: Well, I read it and I remember
6 when it happened. I just formed an opinion. I will be
7 biased.

8 THE COURT: Okay. All right. I understand how you
9 feel, but after you listen to the evidence presented by
10 both sides do you still feel you could not be fair?

11 PROSPECTIVE JUROR: I think I can be fair about it.

12 THE COURT: My question was if you were to sit on the
13 jury and listen to the evidence from both sides could you
14 be fair and impartial?

15 PROSPECTIVE JUROR: It's going to be hard to, you
16 know. I mean it's just something that went on in Dillon
17 that a lot of us have formed an opinion about.

18 THE COURT: Okay. Well, I want to give you a little
19 time to think about it.

20 PROSPECTIVE JUROR: Okay.

21 THE COURT: And I'll just ask -- I just need a yes or
22 into. If you were to be seated on this jury and hear the
23 case as presented could you be fair and impartial to both
24 the State and the Defendant?

25 PROSPECTIVE JUROR: Yeah -- no.

1 THE COURT: Thank you, sir. All right. We have
2 Juror.

3 PROSPECTIVE JUROR: 161.

4 THE COURT: Number 161.

5 PROSPECTIVE JUROR: I attend church at First Baptist
6 Church and I also attend church at Mount Calvary Baptist
7 Church.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: The grandchildren in this case
10 attend there as well. And I do not know them, but I know
11 the family and read all about it and all the time we
12 prayed a lot for the family at that time.

13 THE COURT: Okay. All right. Bearing in mind your
14 previous experience with this case if you were to be
15 seated on this jury you were hear the evidence presented
16 by both sides could you be both fair and impartial to the
17 State and the Defendant?

18 PROSPECTIVE JUROR: To be honest I don't think I
19 could.

20 THE COURT: All right, 161. Thank you. Stay because
21 we may have another case.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: She's out. Hello there.

24 PROSPECTIVE JUROR: Eighty-four.

25 THE COURT: Eighty-four. Tell me about it.

1 PROSPECTIVE JUROR: I am the teacher at First Baptist
2 Church.

3 THE COURT: If you were to be seated on this jury,
4 hear all the evidence presented by both sides, you feel
5 you could be both fair and impartial to the State as well
6 as the Defendant?

7 PROSPECTIVE JUROR: No.

8 THE COURT: That's a no?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Eighty-four. Thank you. She's out. Got
11 another question. No matter what you have heard or what
12 you have read, what has been discussed with you, taking
13 all factors into mind after I have posed these questions
14 over the last 30 minutes I pose this question to you:

15 If you feel that you could be both fair and impartial
16 to the State as well as the Defendant if you were to be
17 seated on this jury we need you to stand at this time.
18 Now, those of you I've already talked to about this you
19 don't need to stand again.

20 (WHEREUPON, a bench conference was held on the record
21 in the presence of the jury, but out of the hearing
22 of the jury.)

23 THE COURT: Okay. Anything else?

24 MR. BROOKER: Yes, one thing left, Your Honor, and
25 that is for the purposes of making a determination as to

1 whether or not a motion for change of venue. I understand
2 that there were some people that said they could be fair
3 and impartial. We estimate the number of people who have
4 heard, you know, you have some prior knowledge, you know,
5 of this particular case, you know, regardless of what they
6 say we've got to know the truth about what they read in
7 the newspaper and the facts in this case. And they accept
8 the facts.

9 (WHEREUPON, a bench conference was held off the
10 record in the presence of the jury, but out of the
11 hearing of the jury.)

12 THE COURT: All right, ladies and gentlemen, I need
13 all jurors that remember hearing or reading or have any
14 discussion with anyone else about the facts of this case.
15 If you remember that we need you to stand at this time.

16 I will go over that again. Any press coverage, any
17 media coverage. That could be television, radio or print
18 media or someone else approach you and discussed this case
19 with you, and you remember that approach or that hearing
20 we need -- those of you that hadn't already discussed it
21 with us up here we need the rest of you to stand, please.
22 All right. Let's start to my far left if you will give us
23 your number.

24 PROSPECTIVE JUROR: 126.

25 THE COURT: 126. Yes, sir.

1 PROSPECTIVE JUROR: 224.

2 PROSPECTIVE JUROR: 22.

3 THE COURT: 22..

4 PROSPECTIVE JUROR: 90.

5 THE COURT: 90.

6 PROSPECTIVE JUROR: 15.

7 PROSPECTIVE JUROR: 247.

8 THE COURT: 247.

9 PROSPECTIVE JUROR: 11.

10 THE COURT: 11. . . .

11 PROSPECTIVE JUROR: 185.

12 THE COURT: 185.

13 PROSPECTIVE JUROR: 192.

14 THE COURT: All right. I'm going to -- want to be as
15 concise as I can about this, now. From what you read or
16 heard if you have developed an opinion about the facts of
17 this case I need for you to step forward at this time if
18 you feel in any way that it could affect your decision in
19 this case after all the evidence has been presented.

20 Does anybody need to step forward and discuss what
21 they heard or read that you feel like you developed an
22 opinion. We have Juror Number 26.

23 PROSPECTIVE JUROR: My sister and her husband were
24 friends with Josh, the grandson of Ms. Stutts, and they
25 told me some things that he had said.

1 THE COURT: All right. What you've been told does
2 that affect your ability to be a fair and impartial juror
3 in this case if you're seated on this jury?

4 PROSPECTIVE JUROR: I feel that it might.

5 THE COURT: Okay. Juror Number 182. Thank you.
6 I'll take care of her. She's out. Anyone else? Y'all
7 may be seated. One final question: Now that you've had
8 time to reflect on this process if you know of any reason
9 whatsoever that you feel now that you could not be fair
10 and impartial if seated on this jury, and that is towards
11 both the State and the Defendant, we need you it come up
12 here. All right.

13 (Bench conference held off the record but in the
14 presence of the jury.)

15 THE COURT: Court stands at ease just a minute or
16 two.

17 (WHEREUPON, a short break was taken.)

18 THE COURT: All those I just asked to sit down to
19 that last question I need for y'all to stand back up,
20 please. All right. You may be seated. You're okay. I'm
21 going to ask y'all to come up here, please, and be seated
22 in the jury box. I've got some questions we're going to
23 need to pose to y'all. Everybody else, just relax.

24 EXAMINATION BY THE COURT

25 (WHEREUPON, the following testimony was conducted in

1 the jury room and not in open court.)

2 THE COURT: Y'all experienced enough. Y'all know,
3 now, that all questions have to come through me.

4 MR. BROOKER: Yes, sir.

5 THE COURT: Don't pull an Adam Foard on me.

6 MR. REDMOND: I remember that.

7 CLERK OF COURT: You've got Number 224.

8 THE COURT: You have a seat right here beside me.
9 How are you doing?

10 PROSPECTIVE JUROR: All right.

11 THE COURT: All right. We have Juror 224. All
12 right. You responded to the question that you had read or
13 heard media or discussed this case with someone. Would
14 you tell us what you heard.

15 MR. DANIEL: I have read it and it was in the
16 newspapers and all back here when the case first came out
17 years ago. And that's basically what was in the papers at
18 all about that.

19 THE COURT: What do you remember about it?

20 PROSPECTIVE JUROR: Very little, if anything. Its
21 been so long.

22 THE COURT: Okay. Did you form any opinion or belief
23 from what you read at that time?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Okay. Once again, if you were to be

1 seated on this jury would you be both fair and impartial?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: To the State as well as the Defendant?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. Anything further?

6 MR. REDMOND: Nothing from the State, Your Honor.

7 MR. BROOKER: Nothing further, Your Honor.

8 THE COURT: You may return to the panel. Thank you,
9 sir.

10 PROSPECTIVE JUROR: Yes, sir.

11 CLERK OF COURT: Number 126. Judge, do you want them
12 to go back out yonder.

13 THE COURT: They can go back out to the panel. You
14 will have a seat. Thank you. I've got a couple of
15 questions for you.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: What did you hear or read or see?

18 PROSPECTIVE JUROR: Just from the newspapers.

19 Basically, that this lady was kidnapped and taken
20 somewhere else and killed. I mean I don't even know who
21 it was that's even, you know, saying that they say did it.
22 I don't know the people involved. The only other, the
23 lady's granddaughter, my kids go to the same daycare as
24 her. But me and her have never spoken about anything that
25 happened.

1 THE COURT: Okay. Based on everything that happened
2 at this point, what you may have heard or were told, I ask
3 you now if you were to be seated on this jury could you be
4 both fair and impartial to the State as well as the
5 Defendant?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Thank you. Just a second. Anything?

8 MR. REDMOND: Nothing from the State, Your Honor.

9 MR. BROOKER: No, sir.

10 THE COURT: You may return to the panel.

11 PROSPECTIVE JUROR: Thank you.

12 CLERK OF COURT: 185, Joshua Poston.

13 THE COURT: Have a seat right here. I have some
14 additional questions. You indicated that you heard or saw
15 or discussed this with some folks. Can You tell us what
16 you heard or saw.

17 PROSPECTIVE JUROR: I just remember hearing about it
18 in the Dillon Herald.

19 THE COURT: Do you remember any specific facts about
20 it, what you read or.

21 PROSPECTIVE JUROR: I mean I just remember the story
22 and that's all.

23 THE COURT: Okay. Did you develop any opinion about
24 what you read?

25 PROSPECTIVE JUROR: No. I didn't follow it up after

1 I read about it.

2 THE COURT: And, once again. If you were to be
3 seated on this jury, even though you read or heard
4 something, could you be both fair and impartial to the
5 State as well as the Defendant?

6 PROSPECTIVE JUROR: Yes, sir.

7 MR. REDMOND: Nothing further from the State, Your
8 Honor.

9 MR. BROOKER: Nothing further, Your Honor.

10 THE COURT: Okay. If you will return to the panel.

11 CLERK OF COURT: Ronald Bethea, Number 22.

12 THE COURT: Mr. Bethea, if you would sit here beside
13 me. We understand that you read or heard something or
14 discussed something. Would you tell us what that was.

15 PROSPECTIVE JUROR: Well, I heard the whole, you
16 know, where Miss Stutts' body was found. What happened at
17 the -- Bill's Convenience Store where she was in the
18 trunk. The car was attempted to be sold at the junk yard.
19 And I heard a guy got a call early in the morning that she
20 was abducted asked to pray cause the family couldn't find
21 her. My fellow church members called her and prayer list.
22 So early in the process I was aware that she was missing
23 and then got word when they found her deceased.

24 So those are things that I heard and I guess and read
25 in the newspapers what -- what happen to her and all.

1 THE COURT: Did you form or develop any opinions
2 about what you heard or read?

3 PROSPECTIVE JUROR: I thought it was terrible that
4 this lady that I knew many years was -- had to go through
5 that.

6 THE COURT: Did you reach a determination that you
7 felt that if someone was guilty of committing a crime in
8 this? In other words, did you develop an opinion?

9 PROSPECTIVE JUROR: I did, and I must say that when
10 the verdict was handed down I felt that justice had been
11 served.

12 THE COURT: All right. One last question. Even
13 though you have been very open and honest with us about it
14 if you were to be seat on this jury and this hear case do
15 you feel that you could be fair and impartial towards the
16 State as well as the Defendant?

17 PROSPECTIVE JUROR: I'd like to say that to hear the
18 evidence I could -- I could take that in and form an
19 opinion based on that alone. What I heard previously or
20 believed or felt.

21 THE COURT: All right. Anything else?

22 MR. BROOKER: No further questions, Your Honor.

23 THE COURT: Thank you, sir. You may return to the
24 panel.

25 CLERK OF COURT: Number 90, Buck Graham, Jr.

1 THE COURT: Graham, how are you doing?

2 PROSPECTIVE JUROR: Fine.

3 THE COURT: This is follow up questions.

4 PROSPECTIVE JUROR: Okay.

5 THE COURT: You indicated that you read or discussed
6 or heard some information about this alleged offense.

7 Tell us what you heard or read?

8 PROSPECTIVE JUROR: Well, of course, I just read and
9 heard all the news stories. What had transpired and
10 certainly going to church with Miss Stutts. Just a lot of
11 talk, you know. But now, I mean I don't remember -- you
12 talking about specifically what happened in the case or?

13 THE COURT: Anything that you remember.

14 PROSPECTIVE JUROR: Anything that I remember. All I
15 remember was that it was brutal. Put her in the trunk.
16 He dumped her Admiral Road where my boys actually work --
17 the actually work for some of the Prices out there in that
18 area of the County. So very familiar with the area and
19 stuff.

20 And Miss Stutts was actually a neighbor of my mother
21 in law. So, you know, knew her pretty well. So that's
22 why I followed the story pretty closely.

23 THE COURT: All right. Based on what you heard or
24 discussed I now ask you if you were to be seated on this
25 jury could you be both fair and impartial to the State as

1 well as the Defendant?

2 PROSPECTIVE JUROR: Yeah, I would certainly listen to
3 all the facts in this case.

4 THE COURT: Okay.

5 MR. REDMOND: Nothing further from the State.

6 MR. BROOKER: Nothing further, Your Honor.

7 THE COURT: Thank you, sir. If you will return to
8 the panel.

9 CLERK OF COURT: Number 11, Shane Bakazan.

10 THE COURT: Sit right here beside me. All right.
11 You indicted to us out there in the courtroom that you
12 heard or discussed or read some information about the
13 case. Will you tell us what that was.

14 PROSPECTIVE JUROR: Yes, sir. I work for the Morning
15 News in Florence for about seven years. So just in my day
16 to day just headlines and things like that. Seems like I
17 remember coming across this headline a few years back. So
18 that's my extent of it. I know I'm familiar with that
19 being from Dillon as well.

20 THE COURT: From what you heard or discussed or read
21 did you develop an opinion? I'll try to clean that up.
22 Did you develop an opinion as to anyone's guilt or
23 innocence?

24 PROSPECTIVE JUROR: I have not.

25 THE COURT: As far as the crime? Okay. If you were

1 to be seated on this jury could you be fair and impartial
2 to both the State and the Defendant?

3 PROSPECTIVE JUROR: Absolutely.

4 THE COURT: Thank you, sir. Just a second.

5 MR. REDMOND: Nothing further.

6 MR. BROOKER: The only thing I would like to know,
7 Your Honor, is that to know what he heard, read or
8 discussed. He said that he maybe read, heard or
9 discussed. I'd like to know what it is that he heard,
10 read or discussed.

11 THE COURT: Do you remember specifically what you
12 read?

13 PROSPECTIVE JUROR: It's been so -- some time now.
14 To be the details of everything I couldn't remember. I
15 just -- from the general scope of what I could remember of
16 it it was a local Dillon residence that was I think an
17 elderly lady was murdered locally here. That's -- and I
18 can't remember suspects or the exact details of it, but
19 that's the scope of what I remember in the case.

20 MR. BROOKER: That's good.

21 MR. REDMOND: Sure.

22 THE COURT: Thank you, sir. You may return to the
23 panel.

24 CLERK OF COURT: Number 15, Cheryl Berry.

25 THE COURT: Miss Berry, sit right beside me here.

1 You indicated to the Court out in the open courtroom that
2 you had read or heard or discussed this case. Would you
3 tell us the specifics of that? What you remember, what
4 you read or heard. She's got to hear you and that air
5 conditioner.

6 PROSPECTIVE JUROR: Okay. It is supposed to be his
7 retrial. He is supposed to be retried, and I've heard
8 that.

9 COURT REPORTER: Can you speak up.

10 PROSPECTIVE JUROR: Okay. I've heard that him and
11 some of his friends road around with the victim in the
12 back of the car. And it was over by the ballpark. It was
13 an elderly lady. And I read, you know, something about
14 the case, but it was, you know, a while back. And then I
15 heard it on t.v. and then I heard on the news that he was
16 supposed to be retried again.

17 THE COURT: Okay. Do you -- okay, you answered what
18 I was going to ask. If you were to be seated on this jury
19 could you be both fair and impartial to the State as well
20 as the Defendant?

21 PROSPECTIVE JUROR: I don't know all the facts, you
22 know. Just what I heard and read, but, yes, I do.

23 THE COURT: Okay. Anything further?

24 MR. REDMOND: Nothing further.

25 MR. BROOKER: Nothing further, Your Honor.

1 THE COURT: Thank you. You may return to the panel.

2 CLERK OF COURT: 247, Mary Catherine Williams.

3 THE COURT: Ms. Williams.

4 PROSPECTIVE JUROR: Hi.

5 THE COURT: Have a seat right there for me.

6 PROSPECTIVE JUROR: Thank you.

7 THE COURT: You indicated to the Court out in the
8 open courtroom that you had read or heard or discussed
9 some aspect of this case. Would you tell us specifically
10 what that was.

11 PROSPECTIVE JUROR: Just the incident itself. His
12 mom is friends with my mother, and they were just talking
13 about what happened. My mom was telling how sorry she
14 felt for his mom when it happened.

15 THE COURT: When you say, 'his mom' you're talking
16 about Mr. Inman?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And that -- in other words, that
19 discussion was with another individual? That wasn't press
20 coverage?

21 PROSPECTIVE JUROR: No. it wasn't in press. It was
22 my mom told me about the discussion that she had with his
23 mom.

24 THE COURT: Okay. So it wasn't anything specifically
25 discussed about this incident. Any other specifics?

1 PROSPECTIVE JUROR: No.

2 THE COURT: All right. If you were to be seated on
3 this jury could you be both fair and impartial to the
4 State and the Defendant?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Any further questions?

7 CLERK OF COURT: No, sir.

8 MR. BROOKER: No, sir.

9 THE COURT: Thank you. You may return to the panel.

10 PROSPECTIVE JUROR: Thank you.

11 THE COURT: That's it?

12 DEPUTY: Yes, sir.

13 THE COURT: Thank you. Let's discuss a little
14 procedure here. Once again if you will talk with
15 Mr. Inman after he's heard what we heard. If he wants to
16 go forward with his motion we can go ahead and seat a
17 jury. Not swear them and get the motion in and I'll hear
18 it out. From the Manning case you know basically what we
19 will be faced with to grant a change.

20 Which I never did understand the reasoning for that
21 when they could adopted the North Carolina rule instead of
22 the Pennsylvania rule. But, anyway, okay. All right.

23 (WHEREUPON, the examination of the Court was
24 concluded in the jury room at 1:33 p.m.)

25 (WHEREUPON, testimony was continued in open court

1 with a jury.)

2 THE COURT: All right. Any further requests for voir
3 dire?

4 MR. DANIEL: None from the State, Your Honor.

5 MR. BROOKER: None from the Defense, Your Honor.

6 SELECTION OF THE JURY

7 THE COURT: All right, Madam Clerk, strikes will be
8 five and ten.

9 CLERK OF COURT: How many alternates?

10 THE COURT: Two.

11 CLERK OF COURT: And that would be like three
12 strikes? Two?

13 THE COURT: Gentlemen, she just posed me a question.
14 I said two alternates, but might aught to go with three.
15 Doe anybody have any idea about that?

16 MR. DANIEL: I think that's a good idea.

17 THE COURT: Mr. Brooker?

18 MR. BROOKER: I don't have any problem with that,
19 Your Honor. That will be fine.

20 THE COURT: All right. Let go with three. All
21 right. As your name is called we need you to come around
22 and come right here in front of Ms. Hyatt's desk, turn and
23 face both tables where they can get a good look at you.
24 Please bring your personal belongings with you in case
25 you're seated in the jury box. And you certainly have my

1 permission to feel awkward because I know it is awkward
2 for you, okay.

3 CLERK OF COURT: Number 183, Dorothy Pinkney. What
4 says the State.

5 MR. DANIEL: Please present Ms. Pinkney.

6 CLERK OF COURT: Defendant.

7 MR. BROOKER: Please present the juror.

8 CLERK OF COURT: Have a seat in the jury box to my
9 right, please, ma'am. Number 90, Buck C. Graham, Jr.
10 What says the State.

11 MR. DANIEL: Please present Mr. Graham.

12 CLERK OF COURT: Defendant.

13 MR. BROOKER: Your Honor, we would like to strike for
14 cause.

15 THE COURT: All right. I'll deny for cause. You
16 want to exercise your strike?

17 MR. BROOKER: We exercise the strike, Your Honor.

18 THE COURT: All right.

19 CLERK OF COURT: You're excused, sir. Number 214,
20 Patricia A. Rogers. What says the State.

21 MR. DANIEL: Please present Ms. Rogers.

22 CLERK OF COURT: Defendant.

23 MR. BROOKER: Please present Ms. Rogers.

24 CLERK OF COURT: Have a seat in the jury box, please,
25 ma'am. Number 44, Mary Carter. What says the State.

1 MR. DANIEL: Please present Ms. Carter.

2 CLERK OF COURT: Defendant.

3 MR. BROOKER: Please present the juror.

4 CLERK OF COURT: Have a seat in the jury box, please,
5 ma'am. Number 176, Kevin Owens. What says the State.

6 MR. DANIEL: Please present Mr. Owens.

7 CLERK OF COURT: Defendant.

8 MR. BROOKER: If you will indulge me just a second
9 please.

10 THE COURT: Yes.

11 MR. BROOKER: Please present the juror.

12 CLERK OF COURT: Would you have a seat in the jury
13 box, please, sir. Number 230, Grace Towery. What says
14 the State.

15 MR. DANIEL: Please present Ms. Towery..

16 CLERK OF COURT: Defendant.

17 MR. BROOKER: Please present the juror..

18 CLERK OF COURT: Have a seat in the jury box, please,
19 ma'am. Number 232, Shomaria Townsend. What says the
20 State.

21 MR. DANIEL: Please present the juror.

22 CLERK OF COURT: Defendant.

23 MR. BROOKER: Present the juror.

24 CLERK OF COURT: Have a seat in the jury box, please,
25 ma'am. Number 11, Shane Bakazan. What says the State.

1 MR. DANIEL: Please present Mr. Bakazan.

2 CLERK OF COURT: Defendant.

3 MR. BROOKER: Move to strike for cause.

4 CLERK OF COURT: You're excused, sir.

5 THE COURT: No. No, wait just a minute. I have to
6 rule on that. I'll deny the strike for cause. You may
7 exercise a regular strike.

8 MR. BROOKER: Recognize regular strike, Your Honor.

9 THE COURT: All right.

10 CLERK OF COURT: I didn't hear him. What did you
11 say, sir?

12 MR. BROOKER: Strike.

13 CLERK OF COURT: Okay. You're struck, sir. Number
14 15, Cheryl Berry. What say the State.

15 MR. DANIEL: Please present Ms. Berry.

16 CLERK OF COURT: Defendant.

17 MR. BROOKER: We move to strike for cause.

18 THE COURT: I will deny that.

19 MR. BROOKER: We'll use a strike then.

20 CLERK OF COURT: You're excused, ma'am. Number 185,
21 Joshua Poston. What says the State.

22 MR. DANIEL: Please present Mr. Poston.

23 CLERK OF COURT: Defendant.

24 MR. BROOKER: Move to strike for cause.

25 THE COURT: Based on what's before the Court I will

1 deny that.

2 MR. BROOKER: Then we will use a strike.

3 THE COURT: All right.

4 CLERK OF COURT: You're excused, sir. You may return
5 to your seat.

6 THE COURT: All right. This air conditioner is
7 running so y'all speak a little louder, everybody,
8 including me.

9 CLERK OF COURT: Number 92, Latonya Green. What says
10 the State.

11 MR. DANIEL: Please present Ms. Green.

12 CLERK OF COURT: Defendant.

13 MR. BROOKER: Just a second, please.

14 THE COURT: Yes, sir.

15 MR. BROOKER: Present the juror.

16 CLERK OF COURT: Have a seat in the jury box, please,
17 ma'am. Number 43, Rondell Carmichael. What says the
18 State.

19 MR. DANIEL: Please present Mr. Carmichael.

20 CLERK OF COURT: Defendant.

21 MR. BROOKER: Please present the juror.

22 CLERK OF COURT: Have a seat in the jury box, please,
23 sir. Number 116, Zhane Jessup. What says the State.

24 MR. DANIEL: Please excuse this juror from service in
25 this case.

1 CLERK OF COURT: You're excuse ma'am. Number 98,
2 Brenda Hamilton. What says the State.

3 MR. DANIEL: Please present Miss Hamilton.

4 CLERK OF COURT: Defendant.

5 MR. BROOKER: Indulge me just a second, please.

6 THE COURT: Sure.

7 MR. BROOKER: Present the juror.

8 CLERK OF COURT: Have a seat in the jury box, please,
9 ma'am. Number 202, Jamacca Rogers. What says the State.

10 MR. DANIEL: Please present Ms. Rogers.

11 CLERK OF COURT: Defendant.

12 MR. BROOKER: Present the juror.

13 CLERK OF COURT: Have a seat in the jury box, please,
14 ma'am. Number 113, Betty Jacobs. What says the State.

15 MR. DANIEL: Please present Ms. Jacobs.

16 CLERK OF COURT: Defendant.

17 MR. BROOKER: If you will indulge me just a second.
18 I apologize.

19 THE COURT: Yes, sir.

20 MR. BROOKER: Present the juror.

21 CLERK OF COURT: Have a seat in the jury box, please.
22 Number 69, Audrea Douglas. What says the State.

23 MR. DANIEL: Please excuse Miss Douglas from service
24 in this case.

25 CLERK OF COURT: You're excused, ma'am. Number 188,

1 Robert Price. What says the State.

2 MR. DANIEL: Please present Mr. Price.

3 CLERK OF COURT: Defendant.

4 MR. BROOKER: Indulge me just a second, please.

5 THE COURT: Yes, sir.

6 MR. BROOKER: Strike took. Strike for cause.

7 CLERK OF COURT: You're excused, sir.

8 THE COURT: No. Wait just a second.

9 CLERK OF COURT: Oh, I'm sorry, Your Honor.

10 THE COURT: Just a second. Based on what I have

11 before the Court I'll deny call for cause.

12 MR. BROOKER: I will use a peremptory strike.

13 THE COURT: All right.

14 CLERK OF COURT: You're excused, sir. You're

15 excused, Mr. Price. Thank you. Number 248, Robert

16 Williams. What says the State.

17 MR. DANIEL: Please present Mr. Williams.

18 CLERK OF COURT: Defendant.

19 MR. BROOKER: Present the juror.

20 CLERK OF COURT: Have a seat in the jury box, please,

21 sir.

22 THE COURT: All right. Three alternates. Strikes

23 are one and two per alternate.

24 CLERK OF COURT: Number 103, Courtney Harley. What

25 says the State.

1 MR. DANIEL: Please present Miss Harley.

2 CLERK OF COURT: Defendant.

3 MR. BROOKER: Present the juror.

4 CLERK OF COURT: Have a seat over in our alternate
5 seat, ma'am. I didn't hear him.

6 MR. BROOKER: I'll just speak up.

7 CLERK OF COURT: Thank you. Number 156, Tevin McRae.

8 THE COURT: There was no need to apologize, Mr.
9 Brooker. As poor as my hearing was I heard you.

10 CLERK OF COURT: What says the State.

11 MR. DANIEL: Please present Mr. McRae.

12 CLERK OF COURT: Defendant.

13 MR. BROOKER: Please present the juror.

14 CLERK OF COURT: Have a seat over in our second
15 alternate seat, please. Thank you. Number 169, Raheen
16 Nails. What says the State.

17 MR. DANIEL: Please excuse Mr. Nails from service in
18 this case.

19 CLERK OF COURT: You're excused, sir. Number 247,
20 Mary Catherine Williams. What says the State.

21 MR. DANIEL: No cause.

22 CLERK OF COURT: Defendant.

23 MR. BROOKER: Present the juror.

24 CLERK OF COURT: Have a seat in our alternate seat
25 for Number Three.

1 THE COURT: All right. Any Batson related motions at
2 this time?

3 MR. DANIEL: None from the State, Your Honor.

4 MR. BROOKER: None from the Defense, Your Honor.

5 COLLOQUY

6 THE COURT: Thank you, gentlemen. All right. I know
7 we will hear some motions after lunch, and it is well into
8 the lunch hour. And as I understand from what y'all have
9 outlined to me we need bring them back in the morning.

10 MR. DANIEL: At the new building.

11 THE COURT: At the new building. What is that street
12 address?

13 MR. DANIEL: 1033 Old Latta Highway. If you're
14 looking from the road at the jail it's the new building.
15 And, Judge, if I may. Everybody will enter through the
16 front with the metal detector and all. And if the jury
17 will just alert the security out front as they go through
18 that they are a member of the jury then they will be
19 escorted through the court to their jury room.

20 THE COURT: All right. Brand new ball game for us,
21 building wise. County Council has built a judicial center
22 that direction, and it's 1033 Old Latta Highway. We will
23 start at 10:00 in the morning. Does that cause anybody
24 any problem?

25 MR. BROOKER: No, sir.

1 THE COURT: We need y'all to promptly report down
2 there. Try to get there a few minutes before 10:00. Let
3 the security staff know that y'all are jurors, and they
4 will give you an escort to the jury room. And we will
5 take it from there.

6 Now, we've got to stay here and work on some other
7 matters that I will tell you later on that y'all are the
8 triers of the facts, and I am the judge of the law. So
9 sometimes I have to take up matters of law as far as the
10 Court's attention and it doesn't require the jury to hear
11 that. Anything before I release them?

12 CLERK OF COURT: They need to wear their badges in
13 the morning.

14 THE COURT: Just keep your badges and have those with
15 you when you go. All right. Anybody got any questions
16 concerning the building or anything?

17 PROSPECTIVE JUROR: This is the one next to the
18 Detention Center?

19 THE COURT: Correct. Correct.

20 CLERK OF COURT: Out there next to the jail.

21 PROSPECTIVE JUROR: Okay.

22 THE COURT: Okay. Thank you very much. We'll see
23 y'all in the morning, ten o'clock, at the new building
24 over on Old Latta Highway.

25 (WHEREUPON, the jury panel was excused from the

1 courtroom at 2:06 p.m.)

2 THE COURT: All right. For the jurors that remain,
3 thank you so much for coming and being willing to help us.
4 We will give you a call back number. I need y'all to call
5 in after 6:00 tomorrow evening just to get an update in
6 case we may need to get you back in here. Is there any
7 problem, Solicitor?

8 MR. DANIEL: No. That's fine.

9 THE COURT: Okay. Y'all are free to go. Make sure
10 you get that number and call in to that number after 6:00
11 tomorrow night.

12 (WHEREUPON, the remainder of the jury pool was
13 excused from the courtroom at 2:07 p.m.)

14 THE COURT: All right. Counsel, before we take a
15 lunch break here y'all give any idea what all we're going
16 to cover this afternoon so I can make a decision about our
17 time.

18 MR. DANIEL: Judge, we have two things that
19 Mr. Brooker and I discussed. One I want to put on the
20 record about the Blair issues. We had had an evaluation
21 done, and would make that a Court's exhibit. But we've
22 talked, Mr. Brooker, we don't have the doctor here because
23 the Defense is not contesting the findings of competence.
24 And then we have a Jackson v. Denno. I have three
25 witnesses, and we'll stick to the issues. We won't --

1 there in no point, Judge. There is no jury in the box so
2 we won't be -- I won't be getting into any voluntariness.

3 MR. BROOKER: The only other thing is, Your Honor, is
4 that, obviously, you and I trying to discuss with him the
5 issue of the change of venue to see whether or not that is
6 something he seeks to pursue, and we will make that motion
7 at that particular time, but I imagine that should be
8 quick.

9 THE COURT: Okay. All right. Let's be back here at
10 three o'clock. That cause anybody a heartburn?

11 MR. BROOKER: No, sir.

12 MR. DANIEL: No, sir. Thank you.

13 (WHEREUPON, Court was in recess at 2:08 p.m. and
14 reconvened at 3:05 p.m.)

15 (WHEREUPON, Court's Exhibit Nos. ONE THROUGH FOUR
16 were marked for identification and received into
17 evidence.)

18 THE COURT: Yes, sir.

19 MR. DANIEL: Thank you, Your Honor. Before you is or
20 the first issue before you is the competency of the
21 Defendant. We have a report here that's Court's Exhibit
22 Number 4 dated May 21st 2015. Dr. Joshi, an associate
23 professor of clinical psychology at the State of South
24 Carolina University of Medicine completed this report
25 which states on Page One here, "Mr. Inman currently has

1 the capacity to stand trial." We spoke with Mr. Brooker
2 about this earlier last week, I guess, and Mr. Brooker was
3 not going to contest the findings of the report which is
4 why there is no need for a hearing other than to put this
5 on the record.

6 And, of course, this is already introduced as a
7 Court's exhibit that, of course, will not be used as
8 evidence in the trial, but it is the State's contention
9 based on this report that Mr. Inman is competent to stand
10 trial.

11 THE COURT: Mr. Brooker, anything?

12 MR. BROOKER: Your Honor, just for purposes of the
13 record, Your Honor, is that I did receive a copy, you
14 know, of the, you know, of the forensic psychiatric
15 evaluation of Mr. Inman.

16 And, of course, I've read over it. I also think that
17 last week, I think specifically Friday, I went down to the
18 detention center and met with Mr. Inman and we went over
19 this report and the mental health provider's conclusion
20 that he is competent to stand trial.

21 And, of course, is that I'm -- at that particular
22 period of time, of course, it's my understanding is that
23 Mr. Inman did not object to that; that he would consent to
24 his competency, and my understanding is that that's still
25 his position. Like I said I met with him Friday which

1 would have been June 6th in reference to this.

2 And, of course, my understanding is that he consents
3 to the conclusions that the mental health provider made.
4 We don't challenge the report.

5 THE COURT: Okay. Based on what is in the report and
6 y'all's review of it and the position you're taking at
7 this point the Court finds Mr. Inman is competent to stand
8 trial and is fully capable of assisting counsel in his
9 defense. What else?

10 JACKSON V. DENNO HEARING

11 MR. DANIEL: Thank you, Judge. Now the State would
12 move to begin the Jackson v. Denno hearing and would call
13 Jason Turner.

14 JASON TURNER, after being duly sworn, testified as
15 follows:

16 CLERK OF COURT: Be seated. State your full name for
17 the court spelling your last name, please.

18 THE WITNESS: Larry Jason Turner. T-U-R-N-E-R.

19 MR. DANIEL: May it please the Court?

20 THE COURT: Yes.

21 DIRECT EXAMINATION

22 BY MR. DANIEL:

23 Q. Detective Turner, is it detective?

24 A. Yes, sir.

25 Q. By whom are you employed?

1 A. The City of Dillon Police Department.

2 Q. How long have you been so employed?

3 A. July 1 will be 20 years.

4 Q. Did you have an occasion to work on the case
5 involving the Defendant, Damian Inman?

6 A. Yes, sir.

7 Q. Did you ultimately take a statement from Mr. Inman?

8 A. I did.

9 Q. Okay. And it's a little bit confusing how this all
10 went down. So could you explain to the Court exactly how
11 you came to be in a room with Mr. Inman to begin with back
12 in 2009?

13 A. In 2009 we were working the murder case of Miss Mary
14 Alice Stutts. We started on the 18th of August and went
15 into the 19th of August. On the 19th of August we talked
16 about doing some interviews on several different people.
17 And among those interviewed were, obviously, Mr. Damian
18 and Lorenzo Inman.

19 Q. Cause they had just been arrested?

20 A. Because they had just been arrested. So I was talked
21 to, along with two other people, to interview Damian Inman
22 on the evening of the 19th.

23 Q. Okay. And did you conduct an interview with
24 Mr. Inman?

25 A. I did.

1 Q. Where did this interview take place?

2 A. At the Dillon County Task Force Office on the County
3 side.

4 Q. Okay. And when you say, 'county side' what do you
5 mean by that?

6 A. It is -- it's a duplex. It's a wide, singular
7 building, but it's split in half. The County rents one
8 half of it and the City rents the other half.

9 Q. Okay. Who was in the room the first time you talked
10 to Mr. Inman?

11 A. First time it was myself, S.L.E.D. Agent Steven
12 Howell and Sheriff's Deputy Allen Rogers.

13 Q. Okay. I'm showing you what's been marked as Court's
14 Exhibit Number One. You recognize that document?

15 A. I do.

16 Q. And what is that?

17 A. That is a City of Dillon Police Department Miranda
18 Form, Miranda Warnings Form.

19 Q. Okay. Is that the Miranda Form that you went over
20 with the defendant?

21 A. Yes, sir.

22 Q. On that day?

23 A. Yes, sir.

24 Q. In the County -- on the County side of the Task Force
25 like you testified?

1 A. Yes, sir.

2 Q. Did you go over all of his rights as listed on that
3 form?

4 A. Yes, sir.

5 Q. And can you read for the Court what those rights are?

6 A. The first one, "You have the right to remain silent."
7 The second one, "Anything you say can be used against you
8 in a Court of law." The third one, "You have the right to
9 talk to a lawyer and to have them present while you're
10 being questioned." Fourth one, "If you can't afford to
11 hire a lawyer one will be appointed to represent you
12 before any questioning if you wish." And the fifth one,
13 "If you consent to answer questions now without a lawyer
14 present you will still have the right to stop answering at
15 any time."

16 Q. All right. Did you go over each of those that you
17 just read with the Defendant that day?

18 A. I did.

19 Q. Did you make it through all of them?

20 A. We made it through all five. Yes, sir.

21 Q. And what happened at the end of that?

22 A. After reading all five Miranda warnings he looked --
23 Damian Inman looks at me and says, "I want my lawyer to
24 read these warnings to me." Read the Miranda warnings to
25 me.

1 Q. Was his lawyer in the room at the time?

2 A. There was no lawyer in the room at the time.

3 Q. Okay. So what did you take that to mean?

4 A. As soon as he said that I actually -- I repeated it
5 back to him to which he actually said it again. And at
6 that point we stopped the interview and I documented on
7 the paper.

8 Q. What did you write to document that on paper?

9 A. I actually wrote, "Read Miranda and requested lawyer
10 to read for him after reading all five warnings. Wouldn't
11 cooperate. Jason Turner. 8/19/2009."

12 Q. Okay. So at that point you terminated discussions
13 with the Defendant, right?

14 A. Yes, sir.

15 Q. What happened to the Defendant at that time?

16 A. He was actually taken out of the Task Force Room to
17 be taken back to the County jail.

18 Q. Okay. What did you do next?

19 A. The next thing we did was we brought the team back in
20 between the City and County and S.E.E.D. and we talked
21 about the next move. We were going to be interviewing
22 Lorenzo Inman.

23 Q. Okay. Did you do that?

24 A. We did. They brought Lorenzo in from the County Jail
25 and then myself and Agent Howell were tasked with

1 interviewing Lorenzo Inman.

2 Q. Okay. And then what happened?

3 A. In the middle of interviewing Lorenzo Inman Assistant
4 Chief Bobby McClain walks into the room, and he's
5 motioning to me. And so we were at a place where I could
6 actually get up and walk out. I actually walked out to
7 speak with Mr. McClain.

8 As a result of that I learned that Damian Inman was
9 in the City side of the Task Force offices, and he had
10 requested to speak back with me again from our earlier
11 conversation. He had asked to speak with me again.

12 Q. With you personally?

13 A. With me personally.

14 Q. Now, was this the same day that you had just seen
15 him?

16 A. The exact same day. Within a few -- probably 20, 30
17 minutes from the last time I talked with him.

18 Q. Okay. And the impression you got was that he
19 wanted -- that Damian wanted to speak to you?

20 A. Right. That's right.

21 Q. So what did you do at that point?

22 A. So we got another officer to go in with -- and I
23 can't remember who was taking the statement from Lorenzo
24 at the time. We had one go in with that officer and I
25 went into the City side and I actually met with the

1 officers that -- to get a briefing before I walked in to
2 talk with Damian.

3 Q. Okay. And so did you, right there after, walk into
4 the room where Damian was?

5 A. I did.

6 Q. Who was in the room at that time?

7 A. Actually, Damian was in the back office, the back
8 room with the door shut. And I had asked Lieutenant
9 Roxanne Bethea to -- if she would assist -- if she would
10 go in with me.

11 Q. Okay. So you then did what?

12 A. We go in. Myself and Lieutenant Bethea with S.L.E.D.
13 we walk into the room and we talk with Mr. Inman and I
14 simply asked him -- well, the first thing I wanted to
15 clarify -- we actually clarified with the captain, Captain
16 Cliff Arnette, that he had -- I had clarified what he had
17 said prior to me walking into the room.

18 They said that he had been -- I asked had he been
19 Mirandized again, a second time, said they said that he
20 had. And we saw the form. I saw the form.

21 Q. Let me show you what's been marked as State's Two.
22 Do you recognize that? I'm sorry. I mean Court's Two.
23 Do you recognize that?

24 A. I do.

25 Q. And what is that?

1 A. This is a Dillon County Sheriff's Office Miranda
2 Form.

3 Q. Okay. And is that the form you saw that day?

4 A. That is, yes, sir.

5 Q. Okay. Now, you didn't sign that?

6 A. I did got sign that.

7 Q. Cause you weren't in the room when this second
8 Miranda was given, right?

9 A. Right.

10 Q. Okay. But you -- I think your testimony is that you
11 heard with both Agent Bethea and Cliff Arnette of the
12 Sheriff's Office because they went over that form.. We'll
13 get into that later.

14 A. Yes, sir.

15 Q. Okay. So at that point you walk in and you confirm
16 that Miranda is given. What do you do?

17 A. I actually sit down with Damian and I just simply
18 look at him and say, "Damian, tell any what's going on.
19 What do you want to talk about."

20 Q. Okay. Now, during this time, actually both times,
21 when you did the first Miranda when -- that very brief
22 meeting with Damian, and then at this time to the best of
23 your knowledge did the Defendant understand what was going
24 on?

25 A. He did.

1 Q. Did he appear to have his faculties in order enough
2 to know what was happening?

3 A. He appeared to. Yes, sir.

4 Q. Did he appear to be under the influence of any drugs
5 or alcohol that may have impaired his ability to
6 understand what was going on?

7 A. He didn't appear to be.

8 Q. Did he appear to have any physical or mental issues
9 that would have impaired his ability to understand what
10 was going on?

11 A. He didn't appear to be.

12 Q. Was he denied, at any time that you were with him
13 that day, was he denied any access to like a restroom if
14 he needed to or water or crackers or something if he had
15 asked for it?

16 A. No, sir, he was not denied.

17 Q. Okay. Were any threats or promises made to him to
18 get him to talk to you?

19 A. No, sir.

20 Q. In fact he asked to speak to you again?

21 A. Yes, sir.

22 Q. Okay. When you were asking him question, when you
23 finally got to that point which would have been the second
24 time you saw him, were his answers rational and responsive
25 to your questions?

1 A. They were.

2 Q. Okay. Did either you or anybody in your presence,
3 whether that be Special Agent Bethea or Lieutenant Bethea
4 or Cliff Arnette, did anybody threaten him or coerce him
5 in any way to get him to talk to you?

6 A. No, sir.

7 Q. Okay, and I want to be clear about this. He came
8 back to you after you had terminated a conversation with
9 him when he said the word, 'lawyer'?

10 A. Right.

11 Q. Your testimony is that he came back and wanted to
12 talk to you?

13 A. Specifically asked for me.

14 Q. Okay. Now, I'm showing you Court Exhibit Three. You
15 recognize that?

16 A. Yes, sir.

17 Q. What's that?

18 A. This is the two page statement that Mr. Inman wrote
19 as a result of that second interview.

20 Q. Okay. Now, at the top of that page there is some
21 personal information of the Defendant and then there is a
22 long blurb that's written there -- that's typed there?

23 A. Yes, sir.

24 Q. Essentially, what is that?

25 A. That is the same Miranda Warnings that we do on a

1 separate form. It's the same thing.

2 Q. So he actually would have gone over it twice?

3 A. Twice.

4 Q. So, now, three times. First time being Court's One.
5 Second time being Court's Two and now Court's Three?

6 A. Yes, sir.

7 Q. Okay. Since that's a Court's exhibit no point in
8 reading that, but he wrote that statement?

9 A. He wrote it. Yes, sir, he wrote it. I did not write
10 it for him. He wrote that.

11 Q. You saw him write that statement?

12 A. I did.

13 Q. Every word of that statement?

14 A. I did.

15 Q. And then is that your signature at the bottom?

16 A. Yes, sir.

17 Q. And who witnessed it?

18 A. Lieutenant Roxanne Bethea with S.L.E.D.

19 Q. And then did the Defendant sign his name to that
20 statement?

21 A. He did.

22 Q. Did he initial in at least five places on the front
23 page?

24 A. He did. What we do is everywhere there is a
25 beginning and ending of a paragraph we have him initial it

1 at the beginning and the end to confirm that we went over
2 it.

3 Q. So did he initial at the beginning of the Miranda
4 paragraph?

5 A. He did.

6 Q. Okay. And then on Page Two of Court's Three do you
7 see Damian Inman's signature there as well?

8 A. Yes.

9 Q. And did you sign that.

10 A. I did, yes, also.

11 Q. Okay. Now, again at any point, cause you're with him
12 the entire time he wrote this, right?

13 A. Yes, sir.

14 Q. At any point did anybody cuss at him?

15 A. No, sir.

16 Q. Did anybody a threaten him?

17 A. No, sir.

18 Q. So he to your knowledge he gave this statement freely
19 and voluntarily?

20 A. Yes, sir.

21 Q. Okay. After he gave that statement -- after he wrote
22 that statement for you what happened?

23 A. He was taken back to the County Jail.

24 MR. DANIEL: Your Honor, I have no further questions.

25 BY MR. DANIEL:

1 Q. Please answer any questions that the Defense may
2 have?

3 A. Yes, sir.

4 THE COURT: Mr. Brooker.

5 MR. BROOKER: Thank you.

6 CROSS-EXAMINATION

7 BY MR. BROOKER:

8 Q. Sergeant Turner?

9 A. Yes, sir.

10 Q. Just want to ask you a few questions in reference to
11 this, and I'll be quick?

12 A. Yes, sir.

13 Q. It's my understanding that -- it's your testimony
14 that -- well, let me back up. Were you present when
15 Damian was taken into custody from the -- I think it was
16 from Dillon High School?

17 A. No, sir, I was not.

18 Q. Okay. Do you know what day he was taken into
19 custody?

20 A. I don't -- I can't remember if it was the 18th or the
21 19th, sir. I don't want to tell you. It would -- I
22 would -- I'll not sure.

23 Q. Okay. All right. Now, but you were involved at
24 least in I think taking a statement on the 18th? Excuse
25 me, the 19th, I believe?

1 A. Yes, sir.

2 Q. Is that correct?

3 A. Yes, sir.

4 Q. And I think your testimony was the first time, and I
5 think this has been identified as State's -- for
6 identification purposes State's Exhibit Number One. Now,
7 the first time that you talked with Damian?

8 MR. DANIEL: Court's one.

9 MR. BROOKER: Excuse me. I'm sorry. Court's One. I
10 apologize.

11 BY MR. BROOKER:

12 Q. The first time that you talked to Damian, this was
13 the Miranda Warning Form that you attempted to complete
14 with him?

15 A. Yes, sir.

16 Q. Okay. Now, do you know what time it was that you met
17 with him to try and have him complete this Miranda Warning
18 Form?

19 A. I'm not sure. It was late in the evening. It was
20 later in the evenings. It was -- it would have been
21 somewhere after 4:00. Between -- around 4:00 or
22 five o'clock. Between 4:00 and five o'clock.

23 Q. Okay. And I think your testimony was this; that once
24 you went over the Miranda warnings that's on Court's
25 Exhibit Number One that's when he informed you that he'd

1 like to have his attorney go over this form with him?

2 A. Yes, sir.

3 Q. Okay. And did you disengage in all questions at that
4 particular period of time?

5 A. Yes, sir.

6 Q. Now, you testified about 20 minutes later or so that
7 you were informed that he wanted to speak with you?

8 A. Yes, sir, somewhere around 20 -- 20 to 30 minutes
9 later.

10 Q. Okay, sir. Who informed you of that?

11 A. Assistant Chief Bobby McClain.

12 Q. Okay, Bobby McClain. Is Bobby McClain with the City
13 of Dillon Police Department?

14 A. He was at that time. Yes, sir.

15 Q. Was at that time, okay. And then, of course, that
16 when he advised you that, you know, that Damian wanted to
17 speak with you again you said at some point in time you
18 went over and talked with him, but he never left the --
19 what was Damian at that particular period of time?

20 A. Well, when I left Lorenzo -- when I walked out from
21 talking with Lorenzo on the County side of the Task Force
22 Office I walked -- we walked outside and that's when the
23 Assistant Chief told me that Damian was back in -- back up
24 at the Task Force Office and they put him on the City side
25 and that he wanted to talk and he had asked for me

1 specifically.

2 Q. The City and County share the same building?

3 A. Yes, sir.

4 Q. Okay. All right.

5 A. And there is a divide. They don't actually -- you
6 can't go from one -- you have to walk out and go.

7 Q. Yes, sir.

8 A. It's not like a divider door or anything. It's just
9 one building but there are two doors.

10 Q. Yes, sir. Yes, sir. And do you know about what time
11 you went back over and talked to Damian?

12 A. The only reason why I have any idea is on the County
13 Miranda Form they did the Miranda around 5:20 to 5:30.
14 Somewhere in that time, 20 range. And it would have been
15 sometime after the Miranda would have been read and
16 witnessed.

17 Q. Okay. And, of course, would you agree with me on
18 what's been identified as Court's Exhibit Number Two that
19 it has a time of at least 5:00 -- Damian Inman's name,
20 below his name it has 5:29 p.m.?

21 A. Yes, sir.

22 Q. Okay. Now, were you present when the Court's Exhibit
23 Number Two was executed or allegedly executed by Damian
24 Inman?

25 A. That's the -- is that is Sheriff's Department Miranda

1 Form?

2 Q. Yes, that's the Sheriff's Department Miranda Form.

3 A. I was not present when that was done. No, sir.

4 Q. So it was completed before you went back over and
5 talked with him?

6 A. Yes, sir.

7 Q. And because that was completed before you went back
8 over and talked with him you would have no idea under what
9 conditions or circumstances in which he executed that?

10 A. No, sir, I don't.

11 Q. You don't know whether or not he was yelled at or
12 cursed at or whether or not he was threatened or anything
13 like that? You don't know?

14 A. I don't know, sir. I don't.

15 Q. Cause you were not present?

16 A. Yes, sir.

17 Q. Now, it's my understanding and let me just ask -- I'm
18 almost finished. Let me ask at lease a couple of
19 questions in reference to the service of the arrest
20 warrant. Is that my understanding that the arrest warrant
21 was obtained, I think, on August 19th of 2009. That would
22 have been the same day that the statement took place or
23 that these statements -- this statement was taken from
24 Damian Inman?

25 A. I don't have one, but if it's on the warrant form

1 then that would be in the -- that would be the little box
2 where the judge's signature would have been.

3 Q. Okay. And I have a copy of the warrants that were
4 produced during discovery if you want to take a look at
5 them and confirm that that's the date?

6 A. Yes, sir. August 19th. Yes, sir.

7 Q. Okay. And that was by Judge Rogers?

8 A. Yes, sir..

9 Q. Okay. Now, did you secure -- you did not secure the
10 arrest warrants, did you? For Damian Inman's arrest, did
11 you go to Judge Rogers and obtain arrest warrants for
12 Damian's arrest?

13 A. Gosh, I'm not sure. I would have to look at the
14 arrest warrants. I don't remember who actually -- that
15 is -- this is Damian's. That is my signature. That is my
16 signature.

17 It's my signature on the possession of a weapon or
18 firearm during commission of a violent crime. That is
19 also my signature on burglary one. It's my signature on
20 armed robbery. That's my signature on kidnapping. Also
21 my signature on grand larceny. And that's my signature on
22 criminal conspiracy. And, Detective Allen, this is
23 Detective Allen Rogers. This is his name. I'm not
24 testifying to his signature. I'm saying this is not my
25 signature on these warrants.

1 Q. Okay. So do you remember what time you went to Judge
2 Rogers and got those warrants on the 19th?

3 A. I sure don't. Off the top I don't.

4 Q. Okay. Do you know whether or not you got them before
5 or after he gave a statement to you?

6 A. I don't remember. Timewise, I don't remember the
7 timeline.

8 Q. So and, of course, is that on these warrants, and
9 I'll let you take a look at them again; that down where it
10 says, 'return'. Where it says, 'return and service', is
11 that -- did you serve these warrants on Damian?

12 A. I did not.

13 Q. Okay. Now, would you agree with me, at least on
14 those forms -- I'm looking at the procession of a firearm
15 during the commission of a violent crime; that that is
16 down where it says, 'return' it's dated 8/19/2009 and it
17 looks as if it's signed by Allen Rogers?

18 A.. Yes, sir.

19 Q. Okay. Burglary one, 8/19/2009, Allen Rogers?

20 A. Yes, sir.

21 Q. In the return column, armed robbery. In the return
22 column it's dated 8/19/2009. And, again, it looks like
23 the name of Allen Rogers?

24 A. Yes, sir.

25 Q. And where it says, 'kidnapping, 8/19/2009', and

1 again, the signature of Allen Rogers in the return column?

2 A. Yes, sir.

3 Q. And then, of course, for grand larceny, 8/19/2009,
4 and again, it looks like as if the signature of Allen
5 Rogers; is that correct?

6 A. Yes, sir.

7 Q. And then, of course, we have a criminal conspiracy,
8 and that has 8/20/2009, and looks like that has the
9 signature of a Sergeant R. Bar -- looks like Berry?

10 A. Yes, sir, Ryan Berry.

11 Q. Ryan Berry. And then, of course, there is that the
12 charge for murder is dated 8/19/2009, and then, of course,
13 that's by you?

14 A. I serves -- yes, sir, I served that one.

15 Q. Okay. All right. And we have another one for
16 possession of a firearm during the commission -- looks
17 like during the commission of a violent crime. Do you
18 know whether or not, and that's August 19th 2009. And, of
19 course, your signature is on the return?

20 A. Yes, sir.

21 Q. Okay. All right. Okay, but you're saying you don't
22 remember what time you obtained the warrants or you don't
23 remember what time you served them on him?

24 A. Not specifically, no, sir.

25 Q. Okay. And those times, would you agree with me, that

1 between the time in which you obtained the warrant and the
2 time in which you served the warrant is not contained on
3 the warrant itself?

4 A. No, sir, it's not.

5 MR. BROOKER: If you can indulge me just one second,
6 Your Honor. I do believe I'm finished with my questions?

7 THE COURT: Yes, sir.

8 MR. BROOKER: No further questions, Your Honor.

9 MR. DANIEL: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. DANIEL:

12 Q. Very briefly. Just to be clear, and I think you said
13 this during your direct, but when you were in the room,
14 whether it's the first time when you were going over
15 Miranda or when you got in the room and ultimately took a
16 statement, did anyone mistreat the Defendant?

17 A. No, sir.

18 Q. Did anyone promise him anything to get him to talk to
19 you?

20 A. No, sir.

21 Q. Did anybody threaten him?

22 A. No, sir.

23 Q. When you were in the room none of that happened?

24 A. When I -- none of that happened while I was in the
25 room with him.

1 Q. Obviously, you can't speak to what happened when you
2 weren't in the room?

3 A. No, sir.

4 Q. Right.

5 MR. DANIEL: No further questions.

6 THE COURT: Anything?

7 MR. BROOKER: No redirect.

8 THE COURT: You may step down. Thank you.

9 MR. DANIEL: State calls Cliff Arnette.

10 CLIFF ARNETTE, after being duly sworn, testified
11 as follows:

12 CLERK OF COURT: Be seated. State your full name for
13 the Court spelling your last.

14 THE WITNESS: Clarence Clifford Arnette, Jr. Last
15 name is spelled A-R-N-E-T-T-E.

16 MR. DANIEL: May it please the Court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. DANIEL:

20 Q. Captain Arnette, you're employed by the Sheriff's
21 Department?

22 A. That's correct.

23 Q. How long have you been so employed?

24 A. Soon be 23 years.

25 Q. Okay. And you're over investigations?

1 A. Yes, sir.

2 Q. Were you in 2009 over investigations?

3 A. Yes, I was.

4 Q. Okay. You're familiar with the case we're here
5 about?

6 A. Yes, sir.

7 Q. I'm showing you Court's One. This is the City Police
8 Department's Miranda Form that Damian -- that was gone
9 over with Damian Inman. Were you in the room when this
10 happened as Sergeant Turner just testified about?

11 A. I was not.

12 Q. Okay. Were you in the room when Court's Two was
13 filled out; that being the Sheriff's Department Miranda
14 Form?

15 A. I was.

16 Q. Okay. Can you talk about that form? Are the Miranda
17 warnings on that form?

18 A. Yes, sir, they are.

19 Q. Does that form have a blank space out beside the each
20 Miranda form where the defendant is to initial
21 demonstrating that he understands?

22 A. It does.

23 Q. Okay. You've probably gone over those rights with a
24 lot of defendants through your time in law enforcement,
25 have you not?

1 A. I have.

2 Q. Did you on that day go over those rights as listed on
3 that form with the defendant?

4 A. Yes. Yes, I did.

5 Q. Who was in the room when you did that?

6 A. Lieutenant Roxanne Bethea with the South Carolina Law
7 Enforcement Division.

8 Q. Okay. How did you come to be in that room that day
9 we the defendant?

10 A. Okay. On that particular day I received a call from
11 Captain Sapp. He's over the Detention Center, around he
12 called me stating that Damian Inman wanted to speak to
13 someone. And upon doing that we made arrangements to have
14 him transported from the Detention Center to the Task
15 Force office here.

16 Q. Okay. At that time were you aware that Sergeant
17 Turner and others had already tried to talk to Mr. Inman?

18 A. I don't recall being aware of that at that time.

19 Q. Okay.

20 A. I knew that different ones were being talked to, but
21 him specifically, no, I don't recall.

22 Q. Okay. So arrangements were made for Mr. Inman to be
23 brought back to the Task Force, and whose in the room
24 again when he comes?

25 A. Lieutenant Roxanne Bethea and myself.

1 Q. Okay. So Lieutenant Bethea and you and Mr. Inman,
2 and those are the only people in the room when that form
3 is gone over there?

4 A. That's correct.

5 Q. Court's Two?

6 A. That is correct.

7 Q. And so you personally witnessed Mr. Inman going over
8 that form?

9 A. I did.

10 Q. Did you walk him through it or did Lieutenant Bethea
11 walk him through it?

12 A. I did. It's a standard form for the Sheriff's
13 Office. So I got his name and went over his rights.

14 Q. Okay. And I see the top section of the form has some
15 personal information of the defendant. And then the
16 warning of rights. There are five there. Are those Mr.
17 Inman's initials after each of the five statements?

18 A. Yes, it is.

19 Q. Okay. And you witnessed him ---

20 A. I did.

21 Q. --- put his initials there?

22 A. I did.

23 Q. And then is Mr. Inman's signature underneath those
24 five?

25 A. His signature is below all the initials.

1 Q. And there are two signatures there below his
2 signature. Whose are they?

3 A. One of them is mine, and the other is Lieutenant
4 Bethea.

5 Q. Okay. So that's the warning of rights. Then at the
6 bottom, the waiver of rights section, and there are three
7 numbered statements there where the defendant actually has
8 to write the words, 'yes' or 'no'.

9 For Number One, "Do you understand each of the rights
10 as I have explained to you." What did Mr. Inman write?

11 A. He wrote in, 'yes'.

12 Q. And then?

13 A. He initialed beside that.

14 Q. Okay. Two is, "Having these rights in mind do you
15 now wish to answer questions." And what did he write?

16 A. He wrote in, 'yes'.

17 Q. And then?

18 A. He initialed.

19 Q. And then, Number Three, "Do you wish to answer
20 questions without a lawyer." What does he write?

21 A. He wrote, 'yes' and then he initialed.

22 Q. Okay. And then it says, No promises or threats have
23 been made to me. No pressure or coercion has been used
24 against me." And then did he sign his name?

25 A. He did.

- 1 Q. And did he date it?
- 2 A. He did. Well, no, I dated it. I dated it.
- 3 Q. But that's his ---
- 4 A. That's his signature. Yes.
- 5 Q. And did you sign again as a witness?
- 6 A. I did witness again.
- 7 Q. And did Lieutenant Bethea?
- 8 A. She did.
- 9 Q. Now, during the time that you were going over these
- 10 rights with Mr. Inman did he appear to understand what you
- 11 were going over with him?
- 12 A. He appeared to me that he did.
- 13 Q. Did he appear to be under the influence of any drugs
- 14 or alcohol that may have impaired his ability to
- 15 understand what was happening?
- 16 A. He did not.
- 17 Q. Did he appear to be suffering from any mental or
- 18 physical impairment which would have affected his ability
- 19 to understand what's happening?
- 20 A. He did not.
- 21 Q. Were the answers to his questions -- to your
- 22 questions and Lieutenant Bethea's questions of him and
- 23 Sergeant Turner's questions rational and responsive?
- 24 A. Yes, sir.
- 25 Q. He appeared to understand?

1 A. Yes, he appeared to understand what I was saying to
2 him.

3 Q. Okay. And his answers were making sense to your
4 questions?

5 A. Yes, sir, they were.

6 Q. Did you also witness the statement?

7 A. I did got.

8 Q. Okay. Why not?

9 A. I was not a part of the statement and ---

10 Q. Were you in there when the statement was written?

11 A. I was not.

12 Q. Okay. So you were there for Miranda?

13 A. I was.

14 Q. For this entire form, and you walked out of the room?

15 A. I did.

16 Q. Okay.

17 MR. DANIEL: Your Honor, I have no further questions
18 for this witness.

19 BY MR. DANIEL:

20 Q. If you would please answer any questions Mr. Brooker
21 may have.

22 A. Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. BROOKER:

25 Q. Is it Captain Arnette?

1 A. Yes, sir.

2 Q. Okay. Captain, are you with the Dillon County
3 Sheriff's Department?

4 A. Yes, I am.

5 Q. And you were so employed at that particular period of
6 time?

7 A. Yes, I have.

8 Q. All right. Let me just ask you a couple of questions
9 in reference to this. I know you testified on direct
10 examination that you received a call from a Captain -- was
11 that ---

12 A. Sapp, S-A-P-P. S-A-P-P, Captain Sapp. He's in
13 administrator with the Detention Center.

14 Q. All right. Okay. And you said that Captain Sapp
15 told you that Damian wanted to talk?

16 A. Yes, sir.

17 Q. Now, did you discuss with Captain Sapp under what
18 circumstances -- under what circumstances -- let me
19 rephrase that. Did you discuss with Captain Sapp whether
20 or not someone had -- someone from the Detention Center
21 had approached him to try and influence him to talk with
22 law enforcement?

23 A. No, sir, I did not.

24 Q. Okay. You were not aware of the fact that when --
25 you were -- and I think you testified, but you were not

1 aware of the fact that when a Sergeant Turner had
2 previously tried to question him a little bit earlier that
3 day that he had made a request for an attorney?

4 A. I was not aware of that. No, sir.

5 Q. Okay. Now, would you agree with me that once the
6 defendant has made a request for an attorney that at that
7 particular period of time that all questions must cease
8 and no from the State must have approached him in
9 reference to trying to convince him to ---

10 A. Well, I would agree to what you're saying. Yes.

11 Q. Can you testify to that was not done at the Detention
12 Center?

13 A. Testify as far as?

14 Q. Can you testify that no one down at the Detention
15 Center had talked with Mr. Inman, and you know, you know,
16 got him to change his mind?

17 A. No, sir. I can't testify to any of that. No, sir.
18 I cannot.

19 Q. So you don't know what happened at the Detention
20 Center?

21 A. No, sir.

22 Q. Did you ever talk with -- and I just want to make
23 clear for the record. Did you at any point in time go to,
24 you know, to Captain Sapp and say, you know -- under what
25 circumstances -- did Inman approach you or did you

1 approach Inman or who approached who?

2 A. No.

3 Q. Did you have that conversation?

4 A. No, sir. Not -- that initial conversation, him
5 calling to say that Damian wanted to talk. Other than
6 that, no, sir.

7 Q. Okay. But he didn't testify with respect to someone
8 at the Detention Center approached Damian or Damian
9 approached them?

10 A. No, sir. I don't have any knowledge of that.

11 Q. Now, I know you said you took -- my understanding is
12 that you were simply -- that you did not stay in the room
13 for -- let me ask you this question. Do you know who
14 transported him from the Detention Center?

15 A. I do not. I do not know that.

16 Q. And the reason why I'm asking that is do you have any
17 knowledge with respect to whether he was initially
18 resistant from leaving the Detention Center and coming
19 back up to the Sheriff's Office facility to discuss this?

20 A. I have no knowledge of that.

21 Q. Now, you may have -- well?

22 MR. BROOKER: Indulge me a second, Your Honor. I
23 believe I'm about finished.

24 BY MR. BROOKER:

25 Q. But I think you testified that you went over this

1 form with him? ..

2 A. Yes, sir, I did.

3 Q. Okay. Now, and I think you testified to the fact, at
4 least from your principle appearance, that he didn't
5 appear to be under the influence of any alcohol or drugs
6 or anything like that?

7 A. That's correct.

8 Q. Okay. Did you talk to him about his education?

9 A. I don't recall whether I did or not.. I don't think
10 there is anything indicated on that form indicating that,
11 so I don't recall.

12 Q. Okay. So with, at least from your memory, you don't
13 recall whether you talked with him about, you know, what
14 was his educational background or how far he went in
15 school?

16 A. I don't remember that.

17 Q. Did you ask him whether or not he has ever -- whether
18 or not he has ever been treated for any sort of
19 psychological conditions or mental problems before?

20 A. No.

21 Q. Would you agree with me that whether or not a person
22 voluntarily and intelligently consents to something that
23 whether or not that person is suffering from a mental
24 illness has a relevant factor in that particular issue?

25 A. I don't really know how to answer that appropriately.

1 Q. Well, if you don't know you can say you don't know.
2 Yeah, that's fine. That's fine. Just wanted to -- and
3 just the same question with respect to education. At
4 least in your experience as a law enforcement officer when
5 it comes to the issue of a person giving a voluntarily and
6 knowing statement would you agree with me that's it's
7 relevant with respect to what that person's educational
8 health is on that particular issue?

9 A. Either their educational background or life history
10 learning, I think.

11 Q. Okay. Is relevant?

12 A. Yes.

13 THE COURT: If you can indulge me one moment, Your
14 Honor. I don't think I have any further questions. Let
15 me check with my client. No further questions, Your
16 Honor.

17 MR. DANIEL: Very briefly.

18 REDIRECT EXAMINATION

19 BY MR. DANIEL:

20 Q. When Mr. Inman first got there in the room where you
21 were and before you began filling out Court's Two, the
22 Miranda Form, was it discussed with Mr. Inman that he had
23 initiated this conversation?

24 A. Yes, it was.

25 Q. And how did that conversation go?

1 A. Well, we just kind of, in a basic form, you know, you
2 asked to talk with us and we want you to understand that.
3 And then after going through that we went through the
4 Miranda rights. But we made sure he understood that he
5 initiated with us, and he wanted to talk to us, meaning
6 law enforcement. Maybe not me specifically, but law
7 enforcement.

8 Q. Okay. Thank you.

9 MR. DANIEL: No further questions.

10 MR. BROOKER: No re-cross, Your Honor.

11 THE COURT: You may step down. Thank you.

12 MR. DANIEL: Finally, Judge, State calls Lieutenant
13 Roxanne Bethea.

14 ROXANNE BETHEA, after being duly sworn,
15 testified as follows:

16 CLERK OF COURT: Be seated. State your full name for
17 the Court spelling your last.

18 THE WITNESS: Amelia Roxanne Bethea. B-E-T-H-E-A.

19 MR. DANIEL: May it please the Court. Thank you,
20 Your Honor.

21 DIRECT EXAMINATION

22 BY MR. DANIEL:

23 Q. Lieutenant Bethea, by whom are you employed?

24 A. The South Carolina Law Enforcement Division

25 Q. And how long have you been so employed?

1 A. Twenty-three years.

2 Q. And you obviously know why we are here. You were
3 involved in the questioning of Damian Inman ---

4 A. Yes, sir.

5 Q. --- back in 2009. I'm showing you Court's Two. You
6 recognize that form?

7 A. I do.

8 Q. Can you still the Court what that form is?

9 A. It's the Dillon County Sheriff's Office Miranda
10 Rights Form.

11 Q. Okay. We've already gone through what the form says.
12 Did you -- were you present when Mr. Inman filled out that
13 form?

14 A. I was.

15 Q. Are you the one that went over that form with him?

16 A. I did not read the form. Captain Arnette read the
17 form. I witnessed it.

18 Q. Okay. And did you sign actually two places on that
19 form indicating that you witnessed?

20 A. I did.

21 Q. Okay. Did you witness Mr. Inman's signature and
22 several initials indicated that he understands and waives
23 his rights?

24 A. I did.

25 Q. Okay. During the conversation that you were present

1 for with Mr. Inman and law enforcement did he appear to
2 understand what was going on when that form was gone over
3 with him?

4 A. Yes, he did.

5 Q. Did he appear to be under the influence of any drugs
6 or alcohol that may have impaired his ability to
7 understand what was going on?

8 A. No, sir.

9 Q. Was he denied any basic human rights like his ability
10 to go to the restroom if he needed to or some water or
11 something like that?

12 A. He was not denied anything.

13 Q. Okay. Was he mistreated or threatened in any way to
14 get him to talk to you guys?

15 A. No, sir.

16 Q. State's -- I'm sorry. Court's Three, I'm showing you
17 now. Can you identify that?

18 A. This is the voluntary statement form with Miranda
19 rights included, and it includes his, Damian Inman's,
20 handwritten statement.

21 Q. Okay. And you were, of course -- were you present
22 for the whole statement that Mr. Inman gave that day?

23 A. Yes, sir, I was.

24 Q. Okay. At the top of that page you will see the
25 personal information, and can you tell the Court what

1 grade it says the Defendant had completed?

2 A. He completed the 11th grade.

3 Q. Okay. And that information is gathered from whom or
4 was gathered in that case by whom?

5 A. It was obtained from -- information from Damian
6 Inman.

7 Q. Okay. You were there when he initialed on this form
8 that he understood his rights? The big paragraph at the
9 top?

10 A. Yes, I was.

11 Q. Okay. And then you were there when he wrote in his
12 own words what had happened?

13 A. Yes, I was.

14 Q. And you were there when he signed his name, and is
15 that in fact his signature at the bottom?

16 A. Yes, sir.

17 Q. And did you sign witnessing that statement as well?

18 A. I did.

19 Q. Okay. Now, finally, when Mr. Inman was brought into
20 the room with you guys, this obviously we heard was the
21 second conversation he had with law enforcement, did you
22 or did anyone in the room at that point say anything to
23 Mr. Inman about whether or not who initiated that
24 conversation?

25 A. Yes, we discussed or talked with him and basically

1 told him that the only reason we were here talking with
2 him today is that he wanted to talk with us, with law
3 enforcement.

4 Q. And what was he response to that?

5 A. He wanted to continue with the interview, but he
6 wanted to talk with Sergeant Turner.

7 Q. Which is when he came into the room?

8 A. Yes, sir.

9 Q. So to the best of your ability to understand, without
10 getting in the someone's head, was Mr. Inman's statement
11 to law enforcement they day given freely and voluntarily?

12 A. Absolutely.

13 Q. Thank you. I have no further questions. Please
14 answer any questions that Mr. Brooker may have.

15 MR. BROOKER: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. BROOKER:

18 Q. Just very briefly. You said that you were Lieutenant
19 Bethea. First you say you were there when what's been
20 identified as Court's Exhibit Two was signed; that's the
21 Dillon County Sheriff's Office Miranda Form?

22 A. Yes, sir.

23 Q. And that you actually witnessed that being read to
24 him by I think Captain Arnette, I believe; is that
25 correct?

1 A. Yes, sir.

2 Q. All right, now, I know you were in the courtroom when
3 I asked Captain Arnette questions in reference to whether
4 or not questions were asked of Mr. Inman in reference to a
5 prior mental health history. Did you ask Mr. Inman about
6 any questions regarding prior mental health?

7 A. No, sir, I did not. Not that I recall. No, sir.

8 Q. So I'm assuming that you were not aware of the fact
9 that he had received prior mental health treatment?

10 A. I'm sorry?

11 Q. I'm assuming that you're not aware of the fact he had
12 received prior mental health treatment before the
13 statement was given in 2009?

14 A. No, sir. I was not aware that he received mental
15 health treatment.

16 Q. And I'll ask you this question and then I will move
17 on. And I know you said that you'd been working for
18 S.L.E.D. for approximately 26 years?

19 A. Yes, sir.

20 Q. In what capacity?

21 A. Started out in narcotics and ended up working in the
22 region where we work regular criminal investigations. And
23 now I'm a lieutenant in the Pee Dee Region which is
24 Investigative Services.

25 Q. And I assume you've taken a lot of classes?

1 A. Over time, yes, sir.

2 Q. Over the course of your law enforcement career you've
3 been involved in statements being taken from defendants?

4 A. Yes, sir.

5 Q. I'll ask you this Question, and of course, I'll sit
6 down. And that is in your experience as a law enforcement
7 officer, with respect to the issue of voluntary and
8 intelligent statements, would you agree with me that the
9 mental health condition and mental health history of the
10 person is relevant with respect to whether or not that
11 person is capable of giving a knowingly and voluntary
12 statement? Is mental health relevant?

13 A. Evidently it is or he would have already seen a
14 psychologist to rule him competent to stand trial.

15 Q. But although it's relevant -- although mental health
16 is relevant that's to stand trial. Although mental health
17 is relevant no questions were asked of him in reference to
18 his mental health treatment or whether or not he had prior
19 mental health?

20 A. I did not ask him anything about his mental health.

21 Q. All right. That's all I wanted to establish.

22 MR. BROOKER: If you could indulge me for just one
23 second, Your Honor. I may be finished.

24 THE COURT: Yes, sir.

25 MR. BROOKER: No further questions, Your Honor.

1 THE COURT: All right.

2 MR. DANIEL: Nothing from the State's side, Judge.

3 THE COURT: Thank you. You may step down.

4 COLLOQUY

5 MR. BROOKER: Indulge me just one second. Your
6 Honor, what I'm doing at this particular time is I'm
7 talking with Mr. Inman as to whether or not he would take
8 to take the stand.

9 THE COURT: Yes, sir. Take your time.

10 MR. BROOKER: Thank you, sir. Your Honor, Mr. Inman
11 will not take the stand, and we will not present any
12 evidence.

13 THE COURT: All right. Anything else concerning?

14 MR. DANIEL: No evidence, Judge. I think the
15 evidence is clear, what we have presented that, obviously,
16 this Defense brought up some issues of whether Mr. Inman
17 understood what was going on. Of course, that is very
18 important whether he understood whether his mental
19 abilities were such a state that he didn't understand what
20 was going on.

21 Here what we have is law enforcement agents have done
22 this for years and years and years, and they are trained
23 to do this and they are not required to get mental health
24 records of a suspect before they question him. All three
25 have testified that his answers to their questions were

1 rational and responsive; that he appeared to understand
2 what was going on, that he was not under the influence of
3 anything.

4 Of course, Your Honor, our only question here is was
5 this statement freely and voluntarily given, and the
6 testimony is that he was not coerced. He was not
7 threatened in any way to give this statement.

8 Additionally, the Defendant wrote his own statement.
9 And we see from that, and the testimony that we have is
10 that he had the where with all to contact law enforcement
11 to come back to talk to him and to cooperate. And so
12 given the totality of the circumstances the State feels
13 that, again, the only question here is whether this
14 statement was freely and voluntarily given, and I think
15 that all that has been shown in the facts of this case.

16 THE COURT: Mr. Brooker.

17 MR. BROOKER: Thank you, Your Honor. We, obviously,
18 the burden is on the State to prove that the that
19 statement is given and voluntarily and knowingly, and I
20 think the State has not proved that particular burden and
21 for a number of reasons.

22 First, of all Your Honor, is that -- is that we know
23 from the testimony that was given from the stand is that
24 Lieutenant Turner or Sergeant Turner, I think, met with
25 Mr. Inman, and of course, is that attempted to obtain a

1 statement from Mr. Inman; that Mr. Inman at that
2 particular period in time made a request for his attorney.

3 Sergeant Turner testified that at that particular
4 period of time that he understood the importance of that,
5 and of course, is that he then ceased communications
6 because when a defendant requests an attorney, and then,
7 of course, is they must not proceed with any more
8 questions or conversations of that particular person. And
9 he said he did that.

10 And he said that at that particular period of time,
11 my understanding of the testimony, is he was sent back to
12 the Detention Center. And, of course, is that I think
13 there is at least a gap as far as with respect to what
14 happened when he was at the Detention Center. I think
15 Sergeant Turner said it maybe around, anywhere between 20
16 and 30 minutes before he was either notified that Mr.
17 Inman was brought back up to the law enforcement facility.
18 Upon the statements or the information he received that he
19 wanted to now talk.

20 But there is no testimony with respect to whether or
21 not during that period of time, I think it was testified
22 to that a Captain Sapp at the Detention Center, I think,
23 contacted Mr. Arnette and advised Mr. Arnette that, I
24 think, he wanted to talk with you. But no understanding
25 with respect to whether or not anyone from the Detention

1 Center had approached him and had a conversation with him
2 to try to influence him to change his mind. Absolutely
3 nothing to suggest that from the time in which Mr. Inman
4 requested an attorney to the time in which Mr. Inman was
5 brought back that he was not improperly contacted or
6 communicated by someone representing the State. And it
7 doesn't have to be a law enforcement officer. It has to
8 be someone representing the State.

9 And on that coerced him or, you know, talked him into
10 changing his mind and giving a statement where he
11 previously indicated that he would like to have a lawyer.
12 And I think that gap is significant. I think they have
13 provided no testimony, you know, to suggest that he was
14 not improperly influenced.

15 Now, that burden is not on us. It's on them. They
16 have to demonstrate that at all times during this process,
17 during this interrogation process, that he was in no way
18 coerced or in no way intimidated.

19 And, of course, he was in no way contacted, you know,
20 in violation of, you know, his Fifth Amendment Right once
21 he exercises and said that he did want to talk to an
22 attorney. I think Captain Sapp was not called here to
23 testify with regard to, you know, how it came about that
24 he changed his mind or whether or not no one else or
25 testified that no one else, you know, at the Detention

1 Center was involved in influencing him to change his mind.
2 And I think that that's a significant part.

3 But the second thing, Your Honor, we would note is
4 that, and of course, this is relevant from the South
5 Carolina Department of Mental Health, and I think that
6 we've already previously stipulated to having this made a
7 Court's Exhibit.

8 And, of course, is that, you know, in the mental
9 health evaluation, you know, that the psychological
10 examiner on Page Three of that exhibit, and let me
11 further, for purpose of the record, at least identify what
12 Court exhibit that is. I think it's identified as Court's
13 Exhibit Number Four. That is the forensic evaluation and
14 it's done by the Department of Mental Health.

15 Is that the mental health provider's examiner on
16 Page, I think, Three of that report specifically
17 mentioned, you know, a history of mental health treatment
18 with the Tri-County Mental Health Mental Health
19 Institution. I think this was in the year 2005 which was,
20 you know, four years prior, you know, to this statement.

21 I think what's really important is that on the bottom
22 of that page the report reads, "Mr. Inman reported that he
23 has suicidal thoughts previously, but he denies suicidal
24 ideation at the intake appointment the Defendant endorsed
25 hearing the devil at night and seeing a monster in his

1 closet. He was diagnosed with depression not otherwise
2 specified and disruptive behavior disorder not otherwise
3 specified.

4 He was prescribed; you know, obviously, medications
5 for that, and my understanding is was that at that
6 particular period of time when the statement was taken
7 that he had somehow was no longer under the care of the
8 Department of Mental Health because he had missed a number
9 of appointments.

10 And I think that's why it's particularly relevant
11 within respect to, and I know they're not -- law
12 enforcement is not under any obligation to go and obtain
13 Department of Mental Health records, you know, when
14 they're trying to get a statement from an individual. But
15 they do have an obligation to ensure that the statement
16 they are taking is knowingly and voluntarily given.

17 And that means asking questions in reference to a
18 person's -- their educational background or asking
19 questions in reference to -- you know, basic questions of
20 that individual in reference to mental health history so
21 if there is -- so if that person does suggest that he's
22 had a significant mental health issue that would raise red
23 flags that possibly they should proceed with caution.

24 But that was not done. And I think it's clear, at
25 least from the Department of Mental Health, the evaluation

1 report, you know, that prior to this he was suffering from
2 some, I think, serious mental health issues.

3 And the last part that, Your Honor, we make is we
4 think that this statement should be suppressed and was not
5 knowingly and intelligently given. And in order for a
6 statement, and this goes to whether or not Mr. Inman was
7 properly in custody -- this is an argument that I've made
8 previously with Courts, and I think, it's a good one. I
9 don't know if anybody else does.

10 But my understanding of the South Carolina law, Your
11 Honor, is that when a law enforcement officer takes a
12 defendant into custody that prior to arresting someone
13 that that law enforcement officer has to secure an
14 arresting document from, you know, an authorized -- a
15 person that's authorized to issue that, like a warrant.
16 So before law enforcement can arrest someone they have to
17 obtain a warrant and serve that warrant on that particular
18 person.

19 Now, there are exceptions to that, and some of those
20 exceptions are that, obviously, is that when a law
21 enforcement officer witness a crime the law enforcement
22 officer does got have to go get a warrant because he
23 actually witnessed the crime. He can actually proceed and
24 arrest the person and obtain the search warrant later.

25 There is a section contained in the South Carolina

1 Domestic Violence Act to allow law enforcement when they
2 come to a -- when they receive a domestic violence call, I
3 think it's specifically written in the statute that there
4 is an exception created for domestic violence. And
5 although they did not witness the incident they don't have
6 to go get a warrant prior to arresting someone.

7 In this particular scenario is that there is no
8 exception to the warrant. So the day they took Mr. Inman
9 into custody, that they had actually taken him in custody,
10 at least from my understanding of South Carolina law, you
11 know, unlawfully. And because he was taken into custody
12 unlawfully, you know, at that particular period of time
13 any statement that he would have given to them, anything
14 that they would have said to him, you know, would not
15 be -- therefore, not be lawful.

16 Because -- and that's the reason why I'm was asking
17 and trying to prove as to whether or not prior to them
18 questioning Mr. Inman; that whether or not at that
19 particular period of time that they had obtain a warrants
20 and have served this warrant -- served Mr. Inman with
21 warrants so that he would properly be in custody. And I
22 know that, you know, that federal law recognizes that you
23 can do, and what's called, 'investigatory detention' so
24 you can temporarily detain someone, you know, for the
25 purposes of temporary investigation and it does not have

1 to be a warrant.

2 But this is not a situation where there was a
3 temporary investigation. Mr. Inman was actually arrested
4 on the 18th. I think this homicide took place on the
5 17th, so he was arrested on the 18th and that this
6 statement took place late in the afternoon on the 19th.
7 And, of course, is that there is no testimony that he had
8 been -- that warrants had been received at that particular
9 period of time and that he had been served with these.

10 So, you know, we would ask the Court that based upon
11 those grounds that you find that the statement is not --
12 it was not a knowingly and voluntarily statement and will
13 suppress the statement that law enforcement is seeking to
14 enter into evidence. Thank you, Your Honor.

15 THE COURT: Thank you. Anything else?

16 MR. DANIEL: No, sir. I don't think it's necessary.

17 DECISION OF THE COURT

18 THE COURT: All right. Concerning the statement, I
19 don't really have any conflicting evidence that has been
20 presented to the Court. However, any time a defendant
21 changes his mind you got to be a little more cautious
22 about it to why and under what circumstances the defendant
23 changed his mind and wanted to talk with law enforcement.
24 And I've heard all that. Heard the arguments about it.
25 There is nothing before the Court that I could base any

1 decision or finding that there was any coercion or any
2 promises made.

3 Cause it stands with what's before the Court, even
4 though I don't have any conflicting evidence, I still am
5 going to go over and take the extra step and make the
6 finding that from the testimony and evidence offered the
7 Defendant's statement was freely, voluntarily and
8 intelligently entered into at that particular time. Okay.

9 COLLOQUY

10 MR. DANIEL: Thank you, Judge. And the only other
11 thing we're just going to this. We're just going to try
12 to go ahead and agree to some evidence. Go ahead and
13 premark some stuff. We can actually -- we're not starting
14 until 10:00 in the morning.

15 MR. BROOKER: We can do that in the morning, is that
16 if we can put a brief motion for change of venue on the
17 record. I'll be very brief for the purposes of protecting
18 him because he asked me to do that, Your Honor.

19 THE COURT: Yes, sir.

20 MR. BROOKER: It will be very brief, Your Honor, and
21 it's the standard stuff. And, of course, just very
22 briefly, Your Honor, is that, and of course, I've looked
23 at that statement that was handed to Your Honor, and I
24 understand at least the grounds for change of venue.
25 Specifically, change of venue is based upon, you know, on

1 publicity. And, of course, we think in this particular
2 case, and this is obviously based from, you know, the
3 information that we received during voir dire, that there
4 was a number of witnesses or number of potential jurors
5 within the panel, you know, that testified to the fact
6 that they had knowledge, you know, of, you know, of this
7 particular crime. Heard about it either through the
8 newspaper; that some of them had conversations about it
9 with, you know, other members of the community. Some of
10 them had heard about it through television.

11 I think it was a number of the members of the panel,
12 jury panel, that stepped up -- that stood up and said the
13 knew Ms. Stutts and I think go to church with her. And so
14 we think that the amount of publicity that -- the amount
15 of publicity that's been in -- this case has received
16 since the initial trial back I think in 2009 -- since the
17 homicide occurred back in 2009. The trial back in 2010.

18 And, of course, is the publicity which was received
19 after my conviction was overturned and new trial being
20 brought up and all that I think the testimony of the
21 panel, you know, that I think it was clear that this case
22 is well known in the community.

23 I know another standard is whether or not jurors --
24 the standard is not whether or not jurors, you know, have
25 knowledge of this particular case. It is whether or not

1 somehow that knowledge of this particular case may affect
2 their ability to be fair and impartial. And I know that
3 some of the jurors testified to the fact that they could
4 not -- they don't believe it would affect their ability to
5 be fair and impartial.

6 And then, of course, some of them had pretty
7 significant background information in reference to what
8 happened in the case. And also we think that when you
9 asked the jurors would they be fair and impartial they may
10 believe they can, you know, but in actually -- in reality
11 they may not.

12 I remember specifically Juror Number 22. The juror
13 panel, Number 22, previously when Your Honor had asked her
14 whether or not he could be fair and impartial he was. And
15 then, of course, when I did, you know, a little bit more
16 detailed inquiry, you know, back in the jury room, you
17 know, of those particular jurors. He indicated -- I think
18 he and also Juror Number 90 indicated that they had prior
19 knowledge of this.

20 That I think Juror Number 22 -- Panel Number 22,
21 indicated is that at the time in which it happened that he
22 had received calls that she had been missing; that the
23 church had talked about it and they prayed for her. And
24 he had followed it closely in the newspaper. And also
25 other individuals that knew what was going on, and the

1 Court probably in his mind thought, okay, well, this
2 doesn't disqualify me. I can still be fair and impartial.

3 But that is a substantial amount of information to
4 know about a case and not be affected by it. And Juror
5 Number 90 also testified to having similar knowledge, and,
6 of course, that's another individual who testified -- the
7 juror member who testified that he attended church with
8 Ms. Stutts and that -- had followed the case very closely
9 since Ms. Stutts' homicide.

10 And so we think that the fact that this is an
11 extremely serious case that due process requires that he
12 have a fair and impartial jury panel in which to select
13 this jury from. We think that the panel, at least that
14 was here today, does not qualify. We think there was at
15 least six or five -- anywhere from five to seven strikes
16 for causes that we made when those particular
17 individuals -- when their name was drew as potential
18 jurors for this trial.

19 Obviously, Your Honor denied that motion. Denied our
20 request to strike them for cause, and we then, of course,
21 struck them with our -- struck them with peremptory
22 strikes. You know, but I think it demonstrates on that
23 there was significant publicity in reference to this case.
24 Got a lot of people that new about it. A lot of people
25 from this panel knew a lot about this particular case.

1 And although they said they could be fair and
2 impartial, I think it's part to make the arguments that
3 someone that has that much prior knowledge of the specific
4 facts in this case sit down that juror -- sit down in that
5 jury box and have an open mind, you know, and be fair and
6 impartial and not allow their previous knowledge of the
7 case in interfere with the evidence or the lack of
8 evidence that would be entered into during the course of
9 this trial. Thank you, Your Honor.

10 MR. DANIEL: Very briefly, Judge. Obviously, no one
11 here can get into the minds of the jury. We have to take
12 their word for what it is. Their word, if they say they
13 can be fair and impartial then we have to assume that they
14 can be fair and impartial. That's the only way we can do
15 it cause we don't have the ability to get inside their
16 minds and know if they're being honest or not.

17 But in this case I think the Court did a fantastic
18 job. Actually went over and beyond what I think is
19 required to do to the extent that the Court took some
20 jurors who had expressed that they had seen or heard some
21 media attention or had conversations with anybody about
22 the case, individually question them in the jury room.

23 I think the Court went to great lengths to ensure
24 that this Defendant and the statement for that matter has
25 a fair or had a fair and impartial panel from which to

1 choose as juror.

2 Also, none of the jurors -- obviously, the challenge
3 for cause, I'm sure is what Mr. Brooker's argument is, but
4 none of the jurors that Mr. Brooker speaks about made it
5 to the jury. I think that's significant.

6 And, third, the only way the Court can deal with
7 these type situations is to ask them, 'can you be fair and
8 impartial. Even if you heard something can you be fair
9 and impartial'. And the record will show several of these
10 jurors said, 'yeah, I remember having a conversation about
11 somebody dying, but I don't know -- one of them said, "I
12 don't even know who was charged." Another one said, "I
13 really don't know what happened." And they all said they
14 could be fair and impartial.

15 And so I think that the Court did a -- did great
16 work, actually, in making sure that this jury selection
17 process was fair to both sides.

18 THE COURT: Okay. Being acutely aware of the Manning
19 Decision, which happened right here, we're not anywhere
20 close to me being able to grant your motion on that. That
21 situation is just that the Court would have to find that
22 you couldn't get a fair and impartial jury out of the
23 panel. And I will note that we had an expanded panel, and
24 as a side note, looking at my jury strike list, the State
25 exercised two strikes. The Defense exercised five strikes

1 on the initial 12. And on the alternates, there was only
2 one strike, and that was by the State. So I will have to
3 deny any motions for change of venue.

4 MR. DANIEL: Thank you, Judge.

5 THE COURT: All right. Y'all gone say and work a
6 little bit longer today on your exhibits or you going to
7 do that in the morning?

8 MR. DANIEL: I can stay.

9 MR. BROOKER: It's whatever you like to do. I can
10 stay?

11 MR. DANIEL: We'll work it out and then be ready to
12 go right at ten o'clock or earlier?

13 THE COURT: Ten o'clock. All right. Remember we've
14 moving. Everybody, down the street. Thank you for
15 everybody's hard work in this case and we'll fire back up
16 in the morning.

17 END OF TRANSCRIPT OF RECORD

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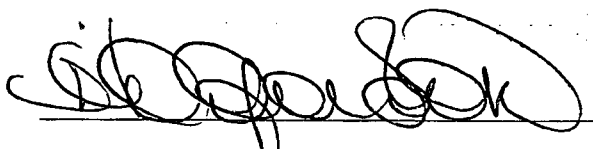
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON)

I, HATTIE O. GORDON, Official Court Reporter for the
4th 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
Dillon County, South Carolina, on the 8th day of June,
2015.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

June 23, 2016

A handwritten signature in black ink, appearing to read 'Hattie O. Gordon', written over a horizontal line.

HATTIE O. GORDON, Court Reporter

EXHIBIT #4

STATE OF SOUTH CAROLINA)
COUNTY OF DILLON) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
09-GS-17-1210

DAMIAN INMAN

DEFENDANT.)

June 11, 2015
Dillon, South Carolina

B E F O R E :

THE HONORABLE PAUL M. BURCH, JUDGE;
AND JURY

A P P E A R A N C E S:

W. SHIPP DANIEL, III, ESQ.
KERNARD E. REDMOND, ESQ.
Assistant Solicitors

THURMOND BROOKER, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

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1 (Jury began deliberations at 10 a.m.)

2 (Whereupon, a lunch break was taken and court
3 resumed at 2:15 p.m.)

4 THE COURT: All right, we're back on the
5 record. The jury has sent a note out saying that
6 they have reached a verdict, or verdicts. I have no
7 idea what the jury has done on this so I'm gonna
8 talk with everybody in this courtroom about your
9 emotions. If you feel like that you cannot accept
10 what this jury has done, no matter what it is, I
11 would strongly suggest that you step outside. I'm
12 not gonna tolerate any disruption or any disorderly
13 conduct in the courtroom. So with that said and a
14 second or two to reflect on it before I send for the
15 jury to come in, once again, if you feel like that
16 you cannot accept what the jury's done, you need to
17 step out.

18 (There was no response.)

19 THE COURT: Okay. Madam Clerk, if you
20 will bring the jury in.

21 (WHEREUPON, the jury was returned to the
22 courtroom at approximately 3:28 p.m., and
23 the following proceedings commenced in
24 open court.)

25 THE COURT: All right, all jurors are

1 reported, Madam Clerk.

2 THE CLERK OF COURT: Madam Forelady, have
3 y'all reached a verdict?

4 THE FORELADY: Yes, we did.

5 (Verdict tendered to the Court.)

6 THE COURT: Okay, all verdict forms have
7 been signed and dated.

8 Madam Clerk, you may publish the verdicts.

9 THE CLERK OF COURT: Thank you, Your
10 Honor. On Your Honor's docket 2009-GS-17-1214, the
11 State of South Carolina, County of Dillon, the State
12 versus Damian Inman: We, the jury, find the verdict
13 of guilty, signed by foreperson Brenda Hamilton
14 6/11/2015. On Your Honor's docket is
15 2009-GS-17-1211, the State of South Carolina versus
16 Damian Inman: We, the jury, find guilty, signed by
17 foreperson Brenda Hamilton. 2009-GS-17, the State
18 of South Carolina versus Damian Inman for burglary:
19 Verdict, guilty, signed by foreperson Brenda
20 Hamilton. On Your Honor's docket is
21 2009-GS-17-1217, the State of South Carolina versus
22 Damian Inman: We, the jury, find guilty, signed by
23 foreperson Brenda Hamilton. 2009-GS-17-1213, the
24 State of South Carolina versus Damian Inman: We,
25 the jury, find him guilty, kidnapping. On Your

1 Honor's docket is 2009-GS-17-1210, the State of
2 South Carolina versus Damian Inman, indictment for
3 murder: We find guilty, signed by foreperson Brenda
4 Hamilton, 6/11/2015.

5 THE COURT: Counsel, anything further of
6 the jury?

7 MR. DANIEL: Nothing from the State, Your
8 Honor.

9 MR. BROOKER: None from the defense, Your
10 Honor.

11 THE COURT: I couldn't hear you.

12 MR. BROOKER: None from the defense, Your
13 Honor.

14 THE CLERK OF COURT: Ladies and gentlemen
15 of the jury, if this is your verdict would you
16 signify by raising your right hand.

17 (All jurors complied by raising their hand.)

18 THE COURT: All right. Ladies and
19 gentlemen of the jury, I know this case has been a
20 unique experience in your lives. It's not easy to
21 serve on a jury, but I want to take the time before
22 you leave this courtroom to thank you for your
23 service. I want to thank each and every one of you
24 for your patience with the Court. You have put in
25 long hours and you have done your duty. You

1 listened to the oath that you took, you listened to
2 the evidence, and you reached a verdict. The good
3 news for you is that if you're drawn on a jury this
4 year, of course you would not be able to serve; but
5 if you're drawn in the future, for two more years
6 you would certainly have a right to ask for an
7 exemption. But I would certainly hope if you're
8 drawn in the future past exemption dates, especially
9 past that date, that you'd be willing to come and
10 serve. We all have decisions we have to make in
11 life and sometimes they are very difficult. No one
12 can criticize a jury for any decision they reach.
13 Our country was founded on the principles, basically
14 in common law principles that were formed in England
15 since we were english colonies. And the jury
16 system, our trial system, is set up to protect the
17 rights of the state, the citizens of the state, as
18 well as the rights of defendants. And that's true
19 whether it's criminal cases or civil cases. No
20 other system has ever been developed that does that
21 just like our system. No one has a right to
22 criticize what we do in this country. Slow process,
23 as you witnessed. It took several days to work
24 through this and you worked some long hours at
25 night, and I commend you for that.

1 The next phase of this trial will be what
2 we call sentence and mitigation. That's where we
3 will talk about possible sentences, and I will hear
4 whatever the State and the Defense would like for me
5 to hear concerning that. You're more than welcome
6 to stay and watch or if you're more comfortable in
7 doing it, you may leave. I'll leave that up to you.
8 If you would like to stay and you would feel better,
9 feel more comfortable sitting in the rear of the
10 courtroom, that will be fine too or you can stay
11 right where you are. That choice will be yours.

12 Solicitor.

13 MR. DANIEL: Judge, before we move into
14 the sentencing phase we would ask for about ten
15 minutes. Given the recent South Carolina State
16 Supreme Court opinion and then the accompanying U.S.
17 Supreme Court detailing the case with sentencing for
18 individuals who are under the age of 18 at the time
19 the incident occurs, we'd like to spend just a few
20 minutes with our victim's family here discussing our
21 options at this point. We probably wouldn't need
22 more than ten minutes, if that would be okay with
23 the Court.

24 THE COURT: Certainly you may do so. All
25 right, we will take a brief recess. We're gonna

1 stand at ease. I don't want anybody getting in
2 trouble now after I've talked to you about any
3 disorderly conduct. We're not gonna tolerate it,
4 okay. So some of the jurors desire to leave at this
5 time -- Solicitor?

6 MR. REDMOND: Oh, I was asking you, about
7 to address, I was gonna say because of the delay, if
8 some of them decide they wanted to stay, maybe they
9 could go back into the jury room or something if
10 they want to stay.

11 THE COURT: That will be fine. All right,
12 with that said, let's give counsel, and they may
13 want to talk with the defense counsel about this
14 too, what I'll do is I'm gonna step out. We'll
15 stand at ease, we'll come back for mitigation, okay.
16 Court will stand at ease for about 15 minutes.

17 (WHEREUPON, the jury was removed from the
18 courtroom.)

19 (During recess an altercation ensued between
20 defendant and deputy.)

21 THE COURT: From the altercation we had up
22 here, we had a lady that came past the back rail
23 that got involved in this and she is now in custody,
24 I'm gonna have to deal with her so I know -- she's
25 probably where now?

1 THE DEPUTY: In the detention center.

2 THE COURT: Just for the record, after the
3 jury had departed the defendant -- well, the officer
4 of the courtroom went to secure the defendant and he
5 attacked Deputy -- Hodge?

6 THE DEPUTY: Hodge, sir.

7 THE COURT: Are you -- did you receive a
8 cut?

9 THE DEPUTY: On my finger. It's fine.

10 THE COURT: Are you okay now?

11 THE DEPUTY: Yes, sir.

12 THE COURT: Where did he hit you?

13 THE DEPUTY: Across the face, right across
14 the face (indicating).

15 THE COURT: You sure you're all right?

16 THE DEPUTY: I'm sure. The only thing he
17 bent my band (indicating to Sheriff Hulon.)

18 THE COURT: And for the record we had a
19 couple of court officers that were spat upon as the
20 defendant was leaving the courtroom, and I will deal
21 with all that later on. I'm just clearing the
22 record up as to what happened since we were
23 interrupted so.

24 MR. REDMOND: May we approach, Your Honor.

25 THE COURT: Yes, sir.

1 (WHEREUPON, counsel approached the
2 Bench for an off-the-record discussion.)

3 THE COURT: The defendant is back present
4 in the courtroom. I understand that the attorneys
5 have spoken, and from the bench conference up here
6 it appears that we may have a bifurcation of the
7 sentencing because of the recent Supreme Court
8 decision. I will let the Solicitor lead off and let
9 y'all outline a game plan for me for this situation.
10 It's rather unique because of the age of the
11 defendant when these crimes occurred.

12 MR. DANIEL: Thank you, Judge, may it
13 please the Court. Due to the recent South Carolina
14 State Supreme Court decision and then action, or
15 rather inaction, by the United States Supreme Court
16 not granting cert in that particular case, in order
17 for the Court to sentence an individual who was
18 under the age of 18 at the time the crime occurred
19 to life without parole the Court has to consider
20 several factors, which essentially is another
21 hearing in and of itself. And the State, after
22 speaking at length with the family of the victim in
23 this case, the State firmly believes that life
24 without parole is the appropriate sentence in this
25 case for the two charges that the defendant has been

1 convicted of where life without parole is a
2 possibility, and those would be burglary first and
3 murder of course. And so at this time the State is
4 respectfully requesting that sentencing on those two
5 charges alone be delayed; and by delay we will
6 schedule that with the Court, obviously with Your
7 Honor since you are the trial judge. And we'll be
8 sentencing the defendant on those other charges,
9 we'll schedule that as quickly as we can. It won't
10 be some long, day long hearing. It will just be --
11 we have to make sure we are dotting our I's and
12 crossing our T's and the Defense has got to look
13 into some things before we can get ready for that
14 hearing. But we are asking the Court today to go
15 ahead and sentence Mr. Inman pursuant to his
16 conviction today on armed robbery, on possession of
17 a weapon with the commission of violent crime, and
18 on criminal conspiracy.

19 Of course, that leaves the kidnapping
20 charge and also pursuant to statute, if someone is
21 convicted of murder where there was a kidnapping
22 that person cannot be sentenced on the kidnapping.
23 So we have a conviction for kidnapping of course,
24 but we're asking the Court just to not add an
25 additional sentence for that charge, again, pursuant

1 to statute. But the State is respectfully, yet
2 strongly, asking for the maximum sentence on armed
3 robbery which would be 30 years to be run
4 consecutively to a five year sentence on conspiracy,
5 which is the maximum for that charge; and then of
6 course, statutorily the five year sentence on
7 possession of a weapon during the commission of a
8 violent crime must be consecutive to the other
9 charges. So at this time that is what the State is
10 asking.

11 I'll pass up the sentencing sheets on
12 these four; and I will hold the other two, the
13 murder and the burglary in the first degree
14 sentencing sheets and we can handle that again once
15 we schedule the hearing. If the Court is ready to
16 hear on sentencing.

17 THE COURT: Let me hear from Mr. Brooker
18 if he has anything for the record.

19 MR. BROOKER: Thank you, Your Honor. Your
20 Honor, obviously this has been I think a
21 tremendously tough day on everyone, a tremendously
22 tough day on the family, the victim. It's been a
23 tremendously tough day on the defendant, and I think
24 it's been a tremendously tough day for everyone
25 that's been involved in this case. Obviously there

1 was an altercation that occurred within the
2 courtroom, and I think after the verdict was read
3 and I'd like to at least say to Your Honor, is that
4 even though that was a tremendously horrible thing
5 and that I beg and plead the Court not to hold it
6 against him. And the reason why is, is that I am
7 not unsympathetic to this situation. He's a 22 year
8 old man. He has been found guilty of charges that
9 could potentially land him in jail for the rest of
10 his life, and that is quite an awesome thing to
11 face. For someone like him to receive that
12 information it's shocking, it's emotional. And I
13 think that sort of information is the type of
14 information that would even cause the most docile
15 and civil person to lose, you know, control. And I
16 think certainly when you're talking about someone
17 like him, he's 22 years of age. He has an 11th
18 grade education. And even though that he went, I
19 think, up until the 11th grade, I don't think that
20 is indicative of what his education actually is. Is
21 that he has dealt with psychological problems in the
22 past. I think that Your Honor was made aware of
23 this at the pretrial hearing that involved whether
24 or not he was competent to stand for trial. And
25 obviously he had been psychologically evaluated to

1 make that determination. And one of the things that
2 came out of that psychological evaluation was, is
3 that at the age of 12 and 13 that he had
4 experienced, I guess, some significant, some
5 significant, I think, mental health issues. And the
6 reason why I say significant is I think specifically
7 the doctor of mental health, as he notes on that,
8 between the ages of 12 and 13 at that particular
9 period of time he had at some point in time
10 considered suicide, or suicidal ideations was
11 concerned, that he had heard voices so he has had a
12 tremendous difficult life. He is extremely
13 disadvantaged. And the fact that he behaved in
14 which he did, like I said, it's not right but it is
15 not, you know, I guess completely unpredictable. I
16 don't think he was in a position where he could
17 control himself; I really don't.

18 And I feel sad for him and I feel sad for
19 his family because although he was involved in
20 something that was extremely horrible and we have --
21 we're a system of laws and a system of justice. And
22 you have to, you know, you have to be accountable,
23 you know, for your actions; but I think it's sad is
24 that, unfortunately, I think when some of us grow
25 up, you know, we're put in positions in which we

1 have a much greater chance in life to be successful.
2 There's some kids out there that they have a road
3 that is so difficult that failure is highly
4 probable, it's highly probable.

5 I think given his background it's not
6 unpredictable or at least not unplausible that he
7 might be in the situation he finds himself.
8 Obviously I think the jury struggled with this case
9 and I think that they struggled with the case
10 because it was not a simple case. The issue of
11 felony murder was not simple. It was a complicated
12 case. And what I mean by complicated is it was
13 complicated with respect to the law but not
14 complicated with respect to the facts. The facts
15 were very simple. Your Honor, Mrs. Stutts' death,
16 there's no dispute about it how it happened.
17 There's no dispute about how horrible it was, you
18 know; but I would ask the Court to take into
19 consideration who he is, what background he came
20 from, take into consideration that the outburst that
21 he demonstrated in court that I think that is
22 probably just as much of a mitigating factor than
23 anything I can say to you. I don't think that he is
24 the same as the rest of us, and I don't think he
25 ever was the same as the rest of us. I think he is

1 a lot more disturbed. He's been acting that way for
2 a while, and I don't know how he feels about it but
3 I have pity for him. I really do. I have pity for
4 him because he's got to be punished, but I think you
5 have to take into consideration who he is and where
6 he came from and the disadvantages that he had in
7 life. His road was something that I'm sure a lot of
8 people who knew him; and with that being said, Your
9 Honor, I would just ask you to consider all of that
10 when you're considering the balancing what the
11 appropriate sentence should be. Thank you, Your
12 Honor.

13 MR. DANIEL: Your Honor, please the Court,
14 just a few things before sentencing before I turn it
15 over to Mr. Redmond and then to at least one of the
16 members of the family would like to speak. The
17 incident that occurred here a little while ago
18 shouldn't really surprise any of us when we consider
19 the two days worth of testimony we heard about the
20 actions of this defendant, and you know, I -- first,
21 let me say that Mr. Brooker in no way shape or form
22 should be held even the tiniest bit responsible for
23 the actions of his client. Mr. Brooker has been
24 nothing but professional and respectful to
25 everybody, including the family of the victim here

1 this week and then in the weeks leading up to this.
2 He is certainly someone who my office has a lot of
3 respect for. And today in the world, in this
4 country particularly, we hear a lot about law
5 enforcement, a lot of bad stuff about law
6 enforcement. But take a look right now, there are
7 all these people in this room, the badges and the
8 guns and other things. This right here is how it's
9 supposed to be. I am so proud of our law
10 enforcement in Dillon County, of our police
11 department, of our municipalities here, of our
12 Sheriff's Department, of our jail staff. This is
13 how it's supposed to be. And nobody is perfect, but
14 the way that our law enforcement not only
15 investigated this case, including SLED, but the way
16 they have handled today, the incident today, the way
17 they handled the cases that they deal with on a
18 daily basis, they're to be commended for their work.
19 And I -- if you hear nothing else I say please hear
20 that.

21 This family has now sat through three
22 trials, two for this defendant, one for another one,
23 and then a guilty plea on Mr. Bridges. There are no
24 winners here today. The State has been successful
25 in convincing a jury beyond all reasonable doubt

1 that this defendant committed these heinous acts;
2 but there are no winners here today, and a lot of
3 that goes to what Mr. Brooker just said. There's a
4 family over there who has now lost two young men who
5 will likely never be free, but that's what should
6 happen based on their actions. They shouldn't ever
7 again be free people because that's the appropriate
8 punishment when you do what they did to a completely
9 innocent 75 year old female. Mrs. Stutts didn't
10 deserve that; nobody does. It was senseless, and I
11 look forward to the hearing when we can convince
12 this Court that life without parole is the
13 appropriate sentence on murder and burglary in the
14 first degree. But until then, the State
15 respectfully asks this Court, again, for maximum
16 sentences consecutively run on the charges before
17 it; and with that, I'll defer to deputy Solicitor
18 Redmond.

19 THE COURT: Solicitor.

20 MR. REDMOND: May it please the Court, if
21 I could repeat verbatim what Assistant Solicitor
22 Daniel just indicated I would because I would adopt
23 that entirely and in its entirety both in its
24 eloquence and content. I do want to at least
25 restate a few things, one starting with law

1 enforcement, the fact that with everything that took
2 place even talked about in my closing before,
3 during, and after, certain irony because even when
4 we look at what has transpired today, before we got
5 to court, the way that the cooperation between the
6 multiple agencies here in Dillon County and the
7 State came together to help bring justice to
8 Mrs. Stutts, you know. Obviously during the trial,
9 the testimony, the actions around the courtroom,
10 keeping the courtroom safe, keeping all of us safe,
11 and the professionalism they exhibited, again, all
12 the agencies involved. And then afterwards with the
13 melee which, unfortunately, you know, takes some of
14 the story that really should be all about
15 Mrs. Stutts and takes it in a whole nother direction
16 but even the professionalism exhibited there.

17 And from a personal standpoint, I'm just
18 gonna be personally perfectly honest, and I don't
19 think it's any secret now that I guess I was in some
20 point involved in some of the victreo from the
21 defendant; but I understand the professionalism that
22 I must maintain -- well, I'm human -- and for a
23 second that was pretty much compromised. And I
24 personally want to thank the officers involved that,
25 quite frankly, given the nature of what happened,

1 probably saved my career and I want to thank all of
2 y'all for what you did for me from a personal
3 standpoint. Obviously emotions get high and as
4 professional as I hope I try to be, sometimes you
5 get tested; and fortunately, they thought enough of
6 me to help that situation. And that's enough said
7 about that because the sad part of that is, again,
8 as I indicated, I deplore what took place afterwards
9 because, again, that isn't, that shouldn't be part
10 of this. This emphasis should strictly be on
11 Mrs. Stutts.

12 And if the Court would allow me, it is
13 personal for me and beyond what happened after this,
14 this is personal for me beforehand. I believe I
15 mentioned that to the jury. And just to share a
16 quick little story, Mrs. Bobbie Lee, my
17 mother-in-law was having a surgery at McLeod in
18 Florence and just happened to run into her -- this
19 was back in 2011. This was after we had tried the
20 first two cases. And she met my wife and my wife
21 was pregnant with my daughter at this time. So we
22 talked to her and had a really good encounter and
23 she was really sweet to all of us. So then I come
24 to Dillon to -- we were at the office on Main
25 Street, come to Dillon one day and there's this box

1 on my desk. And I open the box and it's a blanket
2 and there's note in there and it's, it was a hand
3 made blanket from Mrs. Stutts. She used to hand
4 knit. And of course my daughter has laid under that
5 blanket to sleep at night when she was small. She's
6 almost four now but we still keep that, and we'll
7 always keep it and treasure it. So when I say that
8 there's a personal connection beyond just the
9 pleasure of having to meet and talk with all the
10 members of the family, it has been an absolute
11 pleasure getting to know each and every single one
12 of you; but there is that personal connection. And
13 again, that's why I even deplore being part of
14 whatever happened today other than the verdict. And
15 in my mind that's the only consideration. It's not
16 fair to Mrs. Stutts. Whatever happened afterwards,
17 you know what, I can deal with it, I'm still here.
18 Unfortunately because of this defendant, she's gone.
19 And I understand that we're only dealing with the
20 certain charges that are before you because of the
21 hearing that will come later, but just without
22 anything ever having had happened today, without
23 anything having happened today, he would deserve a
24 maximum sentence that this Court can impose even on
25 the charges that we're dealing with now with the

1 exception, obviously, of the murder and the
2 burglary. But he would deserve the maximum that the
3 Court could impose without considering anything that
4 took place today. And quite frankly, I'm asking the
5 Court to do that. I'm asking that the Court impose
6 a maximum sentence on these charges just because the
7 act against Mrs. Stutts, what took place, what I
8 described during the course of the trial, what
9 Assistant Solicitor Daniel described during the
10 trial, more than justifies this defendant being
11 sentenced to the maximum allowed by law on those
12 charges. Again, forget whatever happened afterwards
13 because this is all about Mrs. Stutts. This
14 procedure is all about Mrs. Stutts. That's where it
15 should remain. That's where I hope it remains
16 because that really is what should be the story
17 today. Thank you, Your Honor. Of course, I yield
18 to any member of the family that want to speak.

19 THE COURT: Thank you, Solicitor. Any
20 member of the family would like to make any
21 statements at this time I'll be happy to hear from
22 you.

23 MR. WILKES: Thank you, Your Honor. Thank
24 you for the privilege of addressing His Honor.

25 THE COURT: I need your name please, sir.

1 MR. WILKES: I'm a retired federal agent.
2 I've been in law enforcement for 44 years. I had
3 one sister seven years older than I, and she was
4 murdered, brutally murdered. In my 44 years I have
5 not been exposed to the crime of murder as gruesome
6 and horrible the way she was treated, and I'm
7 struggling to find the right words, I just hope you
8 get the message. It doesn't matter that I've never
9 seen a more gruesome crime in my 44 yours; but it's
10 true, I'm asking this Honorable Court for the
11 maximum sentence allowable by law on every charge
12 made against that defendant.

13 Mary Alice, my daughter -- I mean, my
14 sister, had congestive heart failure, 75 years old.
15 And some of us are better off at 75 than we are at
16 65, but she had congestive heart failure. She was
17 a, one of the finest Christian women I've known in
18 my life time. She's a God fearing woman. She would
19 give you anything you'd ask her for. She loved
20 people whether you be black, white, red, or brown.
21 She was a Christian woman. She is in heaven now.
22 For those who are Christian here, I say to you my
23 sister is in heaven. Nobody can hurt her anymore.
24 But her corpse, her body is rotting in the grave.
25 This is something that she had no choice in her life

1 which ended by premeditated murder.

2 In the law enforcement business we ask the
3 questions who, what, where, when, why, and how. The
4 lingering question in my mind is why, why, what was
5 there to gain. We have three young men approach a
6 75 year old woman who is helpless and cannot defend
7 herself. I've been through this as, I think one of
8 the solicitors pointed out through trial until now,
9 I can't even remember, okay. I'm a little emotional
10 Your Honor, I apologize for that. I want this man
11 to spend the rest of his natural life behind bars.
12 And if there was an opportunity for capital
13 punishment that would be what I would be asking Your
14 Honor for, and I know you're not going to administer
15 that sentence today considering what's been said.

16 Why? Why? He destroyed his life. He
17 destroyed his life as well. My sister is not coming
18 back. She didn't have a chance to eat in a jail
19 cell or watch TV or whatever they do. She's dead.
20 I'll never see her again except when I go to be with
21 the Lord. Now I begin to take up the Court's time
22 and I thank you for that, and I believe that's all I
23 want to say.

24 THE COURT: Thank you.

25 MS. LEE: My name is Bobbie Lee. Mary

1 Alice Stutts was my mother. And I know all of you
2 have heard and I'll say it now, how much pain we've
3 experienced because of it but I want to say a little
4 bit about what my uncle said. My momma was a fine
5 Christian woman, and she taught us what the Bible
6 said, her and my daddy. And we tried to behave
7 ourselves during all of this like the Lord would
8 want us to do, like mom and daddy taught us to do.
9 And even though I know that it can't happen but in
10 God's word it says, if you take a person's life that
11 your life should be taken so that's why we're asking
12 you for the maximum sentence that you can give
13 because my momma never got a chance. She couldn't
14 take up for herself. That's what I don't
15 understand, why you felt like you had to kill her
16 'cause she would have given you anything she had.
17 So please, I'm just asking you to give him the max
18 that you can give keep him in jail.

19 THE COURT: Thank you.

20 MR. WILKES: If it please the Court, I
21 would state my name. My name is Harvey, with middle
22 initial T., Wilkes and I'm the sister of the
23 deceased -- I'm the brother of the deceased.

24 THE COURT: Thank you, Mr. Wilkes. Anyone
25 else?

1 (There was no response.)

2 MR. REDMOND: Your Honor, if I could
3 briefly, and I've got to apologize because
4 Mr. Daniel talked about Mr. Brooker; but from a
5 personal standpoint, obviously he did an excellent
6 job in representing his client because the jury as
7 we all know took and considered everything it
8 appears just based on the length of the
9 deliberations. But just the professionalism he
10 exhibited with in his work on this case and even
11 afterwards, I just want to make sure the Court for
12 the record, I want -- I already told him but just
13 personally I want to make sure the record is clear
14 that I sincerely appreciate the professionalism he's
15 exhibited both in acting in doing his job in an
16 adversarial system, but also showing humanity I
17 think that is a testament to the practice of law.
18 Thank you, Your Honor.

19 THE COURT: With that said, once again, I
20 want to thank all three of you for your
21 professionalism and courtesy for one another and to
22 the Court for doing the excellent job that y'all did
23 presenting this case to the Court and jury.

24 The next thing I want to do is I want to
25 thank the family members for their behavior and your

1 demeanor during the course of this trial. I want to
2 apologize to the two that testified in this case
3 about the behavior of some individuals in the
4 courtroom. I got it stopped, and I don't think we
5 had any problem after that; but I apologize for
6 that. I finally caught it; I hope that took care of
7 it. And I appreciate y'all, the family not reacting
8 to that behavior and possibly having an incident,
9 okay.

10 All right, now is the time we need to hear
11 from the defendant if you would like to make any
12 statements. And of course, Mr. Brooker, with the
13 incident that happened that will also include
14 anything that he may want to say about the incident
15 that occurred in court because that put me in the
16 position I have to find him in contempt; but before
17 I will consider any sentence, punishment for that,
18 he certainly has a right to explain anything he
19 would like to explain or anything he would like to
20 say about this case. Now is the time.

21 (Mr. Brooker confers with defendant Inman.)

22 THE DEFENDANT: I'd like to apologize for
23 my behavior, you know what I'm saying. It was like
24 my attorney said, it was the verdict. I ask you now
25 to excuse me for my behavior in court. I apologize

1 for the incident. I bless everybody in the
2 courtroom for the good judgment and court.

3 THE COURT: All right, for the record,
4 during the altercation the defendant struck a deputy
5 sheriff with a fist, loose handcuff, in the face
6 that results in a cut to the deputy's hand and some
7 personal property damage. Also witnessed by the
8 Court the defendant spat in the face of Deputy
9 Solicitor as well as the Sheriff of this county.

10 Mr. Wilkes, I'm gonna reserve comments to
11 later on since this is an unusual circumstance that
12 because of the recent Supreme Court decision we're
13 having to bifurcate in sentencing because of the age
14 of the defendant when this incident occurred. I
15 have to agree with you, being a senior circuit judge
16 in this state 24 years this month, this is one of
17 the most brutal, callous crimes I have witnessed.
18 Believe me, I have seen some worst. It about puts
19 you in a position to where even if you don't want to
20 go to church, you go to church just to make sure
21 that mankind still has some hope or some sanity left
22 in life. You just have to reassess yourself
23 sometime. The world around you, especially when
24 you're dealing in the criminal justice system and
25 see things that a lot of citizens are not even aware

1 of. So once again, I thank you for being here as
2 well as.

3 MR. WILKES: Thank you, Your Honor. Thank
4 you.

5 THE COURT: Madam Clerk, we're gonna have
6 to have an extra sentencing sheet for the contempt.
7 We're gonna have to do that. Counsel, I will
8 withhold sentencing, of course, on the murder charge
9 conviction in which also the kidnapping is absorbed
10 into that. I'm also gonna withhold sentencing on
11 the possession of a weapon till that time.

12 MR. REDMOND: Yes, sir.

13 THE COURT: At this time I will go forward
14 with the other sentencing. All right. We're also
15 withholding the burglary -- excuse me, I left that
16 out.

17 MR. REDMOND: Yes, sir.

18 THE COURT: All right. No, I will go
19 ahead. All right, the armed robbery -- let me back
20 up and make sure now. The three that the State
21 requests I go forward on at this time are the armed
22 robbery, conspiracy, and the weapon, correct?

23 MR. REDMOND: Yes, sir.

24 THE COURT: Okay. On the armed robbery
25 the sentence of the Court is that Damian Inman be

1 confined in the State Department of Corrections for
2 the period of 30 years, and I will need to know a
3 calculation on his jail time. I have to put that
4 down even though it may be an irrelevant later on.
5 That's something that's left open, but I will need
6 to know that. On the conspiracy the sentence is
7 five years; that is consecutive. And on the
8 possession of a weapon during a violent crime, which
9 armed robbery certainly qualifies, the sentence on
10 that at this time will be five years consecutive.

11 On the contempt of Court, the sentence is
12 a consecutive sentence of four months. To
13 Mr. Inman, and of course Mr. Brooker already is
14 aware of this, appellate rights run ten days for you
15 to file a notice of appeal. In other words, you've
16 got to file a notice of appeal within ten days to
17 preserve that right. Now this would strictly be up
18 to counsel and Mr. Inman to decide how they want to
19 approach this. Since this is a bifurcated
20 sentencing phase, if you were to choose not to file
21 a notice of appeal, you could preserve that right to
22 file a notice of appeal following the later
23 sentencing by filing a motion to reconsider the
24 sentence so you got two angles you can go at it.
25 That will strictly be up to whatever you choose.

1 Does that complete everything?

2 MR. DANIEL: Yes, sir. As far as the time
3 that he has served, he's actually gonna get credit
4 from the day he was arrested on this so I'll work
5 with Lieutenant Johnson at the jail and we'll get a
6 firm number on that.

7 THE COURT: That was August the 19th.

8 MR. DANIEL: 18th.

9 THE COURT: 18th. Please confirm that
10 arrest date for me.

11 MR. DANIEL: Yes, sir.

12 THE COURT: I will await counsel to
13 contact the Court. I will come back to Dillon at
14 any time rather than to have to schedule in another
15 court unless y'all so desire to do so. But I think
16 Dillon may be the best place for everybody involved
17 in this case, but that will strictly be up to
18 counsel to decide that. I'll be more than glad to
19 handle it any way in the circuit.

20 MR. DANIEL: Thank you, Judge. And also I
21 neglected earlier to say thanks to the Court for
22 understanding that we've already gone through this
23 thing a couple of times. One other time with this
24 defendant and the Court I think went to great
25 lengths to make sure that we didn't have any serious

1 appealable issues, and so I certainly appreciate the
2 Court's diligence in that regard as well.

3 THE COURT: All right. Before we -- and
4 I'll speak with other solicitors and Mr. Scales in a
5 minute about the other business we got. At this
6 time let me take the time to thank all the court
7 officers for y'all's patience, the way you handled
8 yourselves. Thank goodness things didn't get worse
9 than what they did.

10 Sheriff, I know you got hit and you got
11 your hand cut. I certainly hope everything is okay
12 there, all right.

13 All right, this matter is concluded but
14 court is still in session.

15
16 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 31st day of March, 2016.

Frances B. Ray

FRANCES B. RAY, RPR

EXHIBIT #5

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF DILLON) 2009-GS-17-01210,
) 2009-GS-17-01212

STATE OF SOUTH CAROLINA)
) PLAINTIFF
) vs.
) TRANSCRIPT OF RECORD
) SENTENCING HEARING
DAMIAN INMAN)
) DEFENDANT

October 29, 2015
Dillon, South Carolina

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE.

A P P E A R A N C E S:

SHIPP DANIEL, ASSISTANT SOLICITOR
Attorney for the State

KERNARD E. REDMOND, DEPUTY SOLICITOR
Attorney for the State

THURMOND BROOKER, ESQUIRE
Attorney for the Defendant

KAUSTABH G. JOSHI, Doctor
PAMELA JOHNSON, Dillon Cty. Detention Center

HATTIE O. GORDON
Circuit Court Reporter

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STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Competency Evaluation	5	
2	Juvenile History Report	5	
3	Inmate Discipline Report	5	86

DEFENDANT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	I.E.P. Report	21	21
2	Psychoeducational Eval.	26	26
3	H.S. Disciplinary Report	42	42
4	Vol. Stmt. - D. Inman	57	57
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1 (WHEREUPON, State's Exhibit Nos. 1 THROUGH 3 were
2 marked for identification only.)

3 COLLOQUY

4 THE COURT: All right. We're back on the Inman
5 matter, and, Solicitor, if you will bring us up to date,
6 and just for the record as to where we stand on what these
7 proceedings will be about just to lay a foundation for the
8 record, please.

9 MR. DANIEL: Thank you, Your Honor. If it pleases
10 the Court, as the Court just noted we are here for
11 sentencing purposes on 2009-GS-17-1210. It's an
12 indictment for murder and -1212. It's an indictment for
13 burglary in the first degree for Damian Inman who was
14 convicted at trial in the murder and other charges
15 involving Miss Mary Alice Stutts. Pursuant to Aiken v.
16 Byars, 410 SC 534, a 2014 opinion from our Supreme Court
17 in Columbia, we are here for the specialized sentencing
18 given the fact that this defendant was under the age of 18
19 at the time the incidents occurred.

20 And to that end we are seeking as the State, after
21 discussions with Ms. Stutts' family, we are seeking life
22 in prison. And In order for this Court to be able to
23 sentence this defendant or any defendant who like I said
24 was under the age of 18 at the time this crime occurred to
25 life in prison the Court must consider the factors that

1 are laid out in the Aiken v. Byars case. And, of course,
2 that case references at length the United States Supreme
3 Court which got this ball rolling, 132 Supreme Court at
4 2469 to be exact, the Miller case. And that Miller case
5 established a specific framework articulating the factors
6 that the sentencing Court, so of course, this Court should
7 consider at this hearing. And those five factors include:

8 Chronological age of the offender and the hallmark
9 features of youth.

10 And family and home environment that surrounded the
11 offender.

12 The circumstances of the homicide offense including
13 the extent of the offender's participation and the
14 conduct.

15 The incompetencies associated with youth. For
16 example, the offender's ability to deal with police
17 officers or prosecutors or his ability to assist his own
18 attorneys.

19 And, finally, the possibility of rehabilitation.

20 So with those five factors in mind we are here now
21 before the Court again seeking a sentence of life in
22 prison on the two charges that carry the possibility of
23 life; those being murder and burglary in the first degree.

24 And after discussions with Mr. Brooker we believe
25 this is the first hearing of this kind in the State. So

1 we are -- we've all been sort of feeling our way with the
2 best way to handle this and the best way to approach this
3 hearing.

4 And we think that since four of those five factor
5 primary involve the defendant's case, for lack of a better
6 word, then this will essentially in our minds be turned
7 over to Mr. Brooker to call whatever witnesses he wishes
8 and we, of course, will have a few things to add as well.

9 THE COURT: All right, Mr. Brooker.

10 MR. BROOKER: Thank you, Your Honor. Call the first
11 witness that we'd like to call is a doctor. I think it's
12 Kaustabh Joshi. I pronounced that correctly. I hope I
13 did. Thank you.

14 THE COURT: Doctor, if you would come around and be
15 sworn, please.

16 KAUSTABH JOSHI, after being duly sworn,
17 testified as follows:

18 CLERK OF COURT: Would you spell your last name for
19 us, sir.

20 THE WITNESS: Last name is spelled J-O-S-H-I.

21 DIRECT EXAMINATION

22 BY MR. BROOKER:

23 Q. It's my pronunciation of your name, was that correct,
24 Joshi?

25 A. Joshi.

1 Q. Joshi?

2 A. Um hum.

3 Q. Okay. I apologize. Dr. Joshi, do you know why we're
4 here?

5 A. My understanding that this is a sentencing hearing
6 for the defendant.

7 Q. Okay. And, of course, is that that defendant is
8 Damian Inman?

9 A. Yes, sir.

10 Q. Okay. Did you have an opportunity, I think May 21 of
11 2015 of this year to evaluate Mr. Inman?

12 A. I did.

13 Q. Okay. And, of course, is what sort of evaluation did
14 you perform?

15 A. As a Court ordered competency to stand trial
16 evaluation.

17 Q. And before I actually get into the competency
18 evaluation let me ask you at least, sir, just a little bit
19 of information about your background. You're licensed in
20 South Carolina as?

21 A. As a medical doctor, yes.

22 Q. As a medical doctor. Okay. And, of course, is that
23 in what field?

24 A. Psychiatry and forensic psychiatry.

25 Q. Psychiatry and forensic psychiatry. And how long

1 have you been licensed as a psychiatrist?

2 A. I've have been practicing as a psychiatrist for about
3 ten years.

4 Q. What about a forensic psychiatrist?

5 A. Nine years.

6 Q. Okay. And I want -- I won't go into great detail,
7 but my simple question is what is the difference
8 between -- and I guess a general psychiatrist versus a
9 forensic psychiatrist?

10 A. A forensic -- to do forensic psychiatry you have to
11 do four years of training a adult psychiatry which is
12 general psychiatry. Once you finish that you can do an
13 additional year of training in forensic psychiatry. So
14 I'm training in both adult psychiatry with specialized
15 training in forensic psychiatry.

16 Q. Okay. All right. Now, you've had an opportunity, I
17 think to evaluate Damian Inman I think back in May 21 of
18 2015?

19 A. Yes.

20 Q. Okay. How long did that evaluation took place?

21 A. The interview was approximately 50 minutes in
22 duration. This was proceeded by reviewing the records
23 that I listed in my evaluation. So several hours of
24 records review plus the interview.

25 Q. Okay. And, of course, is that did you also take a

1 clinical history of him?

2 A. Yes.

3 Q. Okay. And what did you discover doing that clinical
4 history?

5 A. In regards to what aspect?

6 Q. In regards to his background. I think at least in
7 your -- what has been marked as State's Exhibit One which
8 is the psychological examination itself; is that on,
9 specifically Page Three, there is a section that is
10 identified 'Current Clinical History'.

11 And then, of course, is that I think in that current
12 clinical history that -- what sort of information do you
13 take during the clinical history I guess or is what I'm
14 asking you?

15 A. Okay. So in addition to interviewing the defendant
16 about mental health symptoms he may or may not have
17 experienced I also review past medical records, past
18 mental health records to see what other providers have
19 noted when working with the defendant.

20 Q. Okay. And what past medical records did you review?

21 A. I reviewed -- if I may look at my report. I reviewed
22 Tri -- the South Carolina Department of Mental Health
23 Tri-County Mental Health records. I reviewed South
24 Carolina Department of Corrections medical record. I
25 reviewed the medical record from the Dillon County

1 Detention Center. And I also reviewed all of the arrest
2 warrants and background information related to his case.

3 Q. Okay. And did you know how old he was at the time in
4 which the -- time in which the crime in which he was
5 charged how old he was?

6 A. My understanding at the time of the alleged events he
7 was 17 years-old.

8 Q. Okay. And I think you indicated that you reviewed
9 some records from Tri-County Mental Health?

10 A. Yes.

11 Q. Okay. And what sort of treatment did he receive from
12 Tri-County Mental Health?

13 A. At first gone to the Tri-County Mental Health at
14 approximately 12 to 13 years of age. At that time my
15 understanding is that his family brought him in because he
16 was having behavioral problems at school and behavioral
17 problems at home. In addition to that there was a
18 question about he may have had some depressed mood there
19 as well.

20 Q. And, of course, at Tri-County Mental Health did they
21 at least diagnosis him with any sort of conditions?

22 A. At that time they diagnosed him with disruptive
23 behavior disorder and depression not otherwise specified.

24 Q. Okay. And can you tell us what depressive non --
25 depressive not otherwise specified, what is that?

1 A. That means somebody had symptoms of depression that
2 can be potentially interfering with their lives but they
3 don't meet diagnostic criteria for a major depressive
4 disorder or some other severe depressive disorder.

5 Q. Okay. And what are some of the causes of depression?

6 A. Depression can be due to sometimes circumstances or
7 sometimes it can be due to a tendency which someone has
8 developed depressive. A genetic predisposition if you
9 will.

10 Q. Okay. And I don't know whether or not that --
11 whether or not you can answer this question, but did you
12 talk with him specifically about, you know, what sort of I
13 guess stressors that was going on in his environment at
14 that particular period of time in which he was diagnosed
15 back in -- when he was 12 or 13 years old that might have
16 contributed to him being diagnosed by Tri-County as, you
17 know, depression not otherwise specified?

18 A. I did not ask for that.

19 Q. Okay. Now, disruptive behavior disorder, what's
20 that?

21 A. It's a behavioral problem in which the individual
22 doesn't follow the rules of whether it be authority
23 figures, rules of the parents, rule of society, and it's
24 basically creates a disruption in their lives and other
25 people's lives as well.

1 Q. And just to be certain is -- that's not something
2 that is just made up? Is that a medical diagnosis?

3 A. Yeah, it is what is in the previous psychiatric
4 manual.

5 Q. Okay. And what are some of the causes of, you know,
6 of disruptive behavioral disorder?

7 A. It can be several causes. Home environment,
8 depending on how the child was exposed to rules or not
9 exposed to rules. Same thing as in school. If the
10 engaged in behavior that was deemed not appropriate were
11 there any consequences for those actions? Were
12 consequence reinforced? So depending on that a child
13 could potentially reduce their bad behavior or increase
14 their bad behavior.

15 Q. And is disruptive behavioral disorder, is this kind
16 of a common thing? Is this something that everybody has?
17 You know, every human being has disruptive behavioral
18 disorder? Or is this, I guess, a typical?

19 A. It's a small set of subpeople that get diagnosed with
20 disruptive behavioral disorder.

21 Q. Okay. So this is not normal?

22 A. It's not normal.

23 Q. Okay. And disruptive behavioral disorder, is this
24 something that is hereditary or something that is
25 developed because of environmental factor? Biological

1 factors?

2 A. There is no ---

3 Q. Do you have any idea exactly why people -- why a
4 small set of people within our society get -- develop
5 disruptive behavioral disorder and, of course, is that the
6 great bulk of society doesn't?

7 A. There is no set cause in terms of what the results
8 are. It's a behavioral problem, so that means there are
9 external factors a child gets exposed to that reinforce or
10 decrease their behaviors.

11 Q. Okay.

12 A. So there is an external role that plays a part of it.
13 Whether there is a generic role or not I'm not sure of
14 that. But there is also external factors that will
15 reinforce or decrease the behaviors.

16 Q. Okay. And, of course, is that a child or individual,
17 you know, they don't determine whether they develop this
18 disorder or not; is that correct?

19 A. The child does not determine when -- doesn't
20 determine when they develop a disorder or not. That's a
21 label that's given for the behaviors that the child has
22 displayed.

23 Q. Okay. And I guess is that, and I know it might sound
24 silly, but I'm doing it for a point.

25 A. Right.

1 Q. Is that this is not a voluntarily induced condition?
2 This is not something that people say, you know, I'm going
3 to voluntarily induced -- you know, disruptive behavioral
4 disorder?

5 A. Well, a child engages -- can engage voluntarily in
6 behaviors that are not conforming to society's rules,
7 their parent's rules, and not listening to teachers. A
8 child can voluntarily do that. And those behaviors then
9 sometimes get a diagnostic label which is what disruptive
10 behavior disorder is.

11 Q. Okay. And I understand exactly what you're saying is
12 that if that child voluntarily engages in disruptive
13 behavior is that voluntary? And you correct me if I'm
14 wrong, but it's my understand is that that disruptive
15 behavior is not necessarily that the child is a bad child
16 but that the child may be suffering from, you know, some
17 at least, if my classification is wrong, at least some
18 emotional or at least some psychological disorder?

19 A. Potentially.

20 Q. Okay. But he was diagnosed with disruptive
21 behavioral disorder?

22 A. Yes, he was.

23 Q. And, of course, is that I think you've already
24 testified to the fact is that that is a -- that is a
25 diagnosed medical condition?

1 A. Yes.

2 Q. Okay. And, of course, is that depression not
3 otherwise specified is a diagnosed medical condition?

4 A. Yes.

5 Q. And I'll ask you the same what might sound like a
6 silly question is that depression not otherwise specified
7 is that a condition, you know, that normally, you know,
8 one can voluntarily choose to induce upon himself?

9 A. Depression, no, not usually.

10 Q. Okay.

11 A. Just not usually.

12 Q. These are conditions, depression not otherwise
13 specified and disruptive behavioral disorder, these are
14 medical conditions that are beyond a person's control; is
15 that not correct?

16 A. Not accurate. No. Again, depression is a mood
17 disorder. How one's mood results in impairment and
18 functioning is what depression is. A behavior disorder
19 can be valuatinal, cannot be but it's different. These
20 are two different conditions. They're not the same.

21 Q. I understand they're not the same, but my question
22 is -- my question is that -- is that -- and let me
23 rephrase it another way. With respect to these conditions
24 is that these are diagnosed medical conditions that no one
25 is blame; that individual is not to blame if that

1 individual develops those psychological conditions?

2 A. That's not accurate. For behavior people are
3 voluntarily engaging in behaviors that don't follow
4 society's rule. Even though it's given a label that
5 person is still held accountable for their behaviors.

6 Q. And I understand, but -- and I think we have a, you
7 know, a cart and a horse competition we're engaging in.
8 And that is -- that is the behavior the results of the
9 depression and the disruptive behavioral disorder or, you
10 know, vice versa.

11 The bad behaviors caused by the disruptions is caused
12 by the depression and the disruptive behavioral disorder.
13 But what you're saying is that when someone engages in bad
14 conduct then, of course, that bad conduct then causes them
15 to develop these conditions. The condition actually comes
16 first, and the conditions are actually the cause of the
17 bad behavior; is that not correct?

18 A. It can be in both ways, but both statements that you
19 are making are accurate. You know, in this case, you
20 know, I didn't go into too much detail to explore what
21 came first in this particular situation cause at that time
22 he was at Tri-County Mental Health.

23 Q. Okay. And, yeah, I guess what I'm trying to say is
24 that is he responsible for generating depression?

25 A. No, not necessarily.

1 Q. Okay. If I get depressed tomorrow, if I get
2 depressed the day after is it my fault that I developed
3 depression?

4 A. If you develop clinical depression, not necessarily.
5 It just depends on what the circumstances were, what the
6 situation is, what's going on with the particular
7 individual. Lots of times -- yeah.

8 Q. Okay. And does depression affect the way someone
9 thinks and the way they behave?

10 A. Sure, it can.

11 Q. Okay. What about disruptive behavioral disorder?

12 A. Disruptive behavioral disorder is the way a person
13 has behaved. What they have done.

14 Q. Okay.

15 A. It doesn't affect one's thinking because it's already
16 the action.

17 Q. Okay. Now, and I'm going to ask you at least another
18 question that as it relates to his adolescence, and you
19 tell me what you know about this or not. But generally is
20 there a difference between -- well, let me put it this
21 way. As we start off as children and as we age do we
22 develop cognitively?

23 A. Yes.

24 Q. Okay. There is a gradual progression of cognitive
25 development?

1 A. Yes.

2 Q. And so then, of course, I imagine at some point in
3 time, and I don't know whether or not you know this or
4 not, is that is there some -- is there some progression in
5 which we -- I guess we reach some age in which we reach or
6 meet maximum cognitive development?

7 A. I mean there is -- I don't know the answer to that
8 question. I know when we get towards our mid 20s it means
9 we reach a point, you know, we have already we perceive
10 the world around us. We react to the world around us. We
11 know the rules and how to act in society. That kind of
12 reaches a maximum, if you will, in their mid 20s.

13 Q. Okay. And the reason why I'm asking you that is that
14 would you agree with me that the cognitive development or
15 the cognitive state of children is usually different from
16 that of adults, you know, who have lived for a period of
17 time, experienced things, made mistakes, learned from,
18 etc, etc?

19 A. It is different for children than adults. Yes.

20 Q. Okay. And in your experience, at least as a
21 psychologist -- psychiatrist, is that, you know, 15 kinds
22 generally have a lessor or diminished cognitive
23 development or cognitive understanding that adults do?

24 A. It depends on the age of the child. Based on the age
25 achievements of a child some children, 17, 16, can think

1 closer to individual in their 20s. Some cannot.

2 Q. Okay. And so, obviously, education or at least, you
3 know, cognitive education, of course is a part of that.

4 You know, it determines how fast someone develops
5 intellectually and socially; is that correct?

6 A. It does affect that. Yes.

7 Q. Now, when you examined Damian did you at least
8 explore his educational background?

9 A. I did.

10 Q. Okay. And what did you learn about his educational
11 background?

12 A. My understanding was that he went to school up to the
13 ninth grade which at that time is when the incidents have
14 occurred so he didn't finish high school.

15 Q. Okay. Now, did you also have a chance to at least
16 take a look at -- I think he was in school and I think had
17 an I.E.P; that is correct? And I think in this I.E.P. --
18 he had an I.E.P, you know, I think from, if I'm not
19 mistaken, was May of 2000 -- excuse me. May of 2009, you
20 know, which would have been a couple of months, you know,
21 prior to the, you know, the, you know, the, you know, the
22 crime that we're here. Did you have a chance to look at
23 that I.E.P.

24 A. You showed me an I.E.P. earlier. I don't know if it
25 was 2009 or 2006.

1 Q. No. I think the 2006 was actually a
2 psycho-educational evaluation. But the I.E.P -- I have it
3 right here. And, of course, I'm not -- I'm going to have
4 you to take a look at it?

5 MR. BROOKER: And I'm going to move to introduce it
6 into the record. Any objection?

7 MR. DANIEL: No objection.

8 BY MR. BROOKER:

9 Q. Okay. Here is his ---

10 MR. BROOKER: I move to enter this into the record
11 as, I guess, Defense Exhibit One.

12 THE COURT: All right. Any objection?

13 MR. DANIEL: None from the State.

14 THE COURT: In without objection.

15 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
16 identification and received into evidence.)

17 BY MR. BROOKER:

18 Q. Let me give this to you and have you take a look at
19 it. Okay. Now, the I.E.P. is an individualized
20 educational program; is that correct?

21 A. Yes.

22 Q. And my understanding, and you tell me if I'm wrong,
23 is that the person -- the purpose of an I.E.P. is --
24 I.E.P.s, are developed for, you know, children, you know,
25 who may have a learning disability or either a learning

1 disadvantage and that they don't learn in the same rate,
2 you know, as, you know, may be a normal kid; is that
3 correct?

4 A. That is correct.

5 Q. Okay. And at least on his I.E.P. and specifically
6 is that I'm looking at I guess the second page of his
7 I.E.P. where it says, academic achievement. And, of
8 course, is that in that category where it says, 'areas of
9 assessment, reading comprehension' that they indicated
10 that his reading comprehension, his ability to be able to
11 read something and understand what he has read; his
12 ability to process information, it's my understanding of
13 what reading comprehension is, is that he was functioning
14 on a fifth grade level; is that not correct?

15 A. That's what it says.

16 Q. Okay. And I think we also -- and at the very top
17 where it says, 'I.E.P. Meeting Date' the I.E.P. meeting,
18 the assessment date, was May 19th 2009; is that correct?

19 A. What page is that?

20 Q. At the very top of the page. On the top of every
21 page. You can see on the second page.

22 A. Yeah, there it is. May 19th.

23 Q. May 19th?

24 A. 2009.

25 Q. 2009. And, of course, that would have been, you

1 know, roughly a couple of months before this incident. So
2 he was at least to some extent cognitively he was way
3 below a 17 year old; is that correct?

4 A. Well, when it came to reading ability his ability was
5 lower than that expected kids his age when this was done.

6 Q. But not just reading comprehension. Comprehension
7 means ability to be able to understand and -- be able to
8 process and understand what you just read or the
9 information that you've just taken in?

10 A. Yes, that's correct.

11 Q. He's functioning at a fifth grade level?

12 A. His reading comprehension was at a fifth grade level
13 according to this.

14 Q. Okay. And, of course, is I don't know whether or not
15 you know what this is, but it says, 'Functional
16 Performance'. And then, of course, it says underneath
17 that same -- the next heading says, 'Functional
18 Performance'. And it says is that, "Damian received a
19 score of 45 out of 100 on the job interview preparation.
20 A rating scale as completed by Mrs -- a Foreshee.

21 So the functional assessment as far as, you know,
22 life skill preparation for jobs they assessed him 45 out
23 of 100; is that correct?

24 A. That's what it says here. I'm not familiar with this
25 inventory so I can't comment on what it exactly measures,

1 what it doesn't measure. I'm not familiar with it.

2 Q. -Okay. But do you know with at least with respect to
3 that assessment is that the school district had made a
4 determination that educationally he was not functioning,
5 you know, at the same level as normal kids; that is
6 correct?

7 A. That's what it's saying.

8 Q. Now, I know that you said previously is that a --
9 that one of the factors that somehow determine development
10 of a child, cognitive development, is education; is that
11 correct?

12 A. Education can, yes.

13 Q. Okay. Affects cognitive development, and in this
14 particular situation, you know, I think I.E.P.
15 demonstrates that he was not functioning at a cognitive
16 level, you know, of a 17 year old at that time, is that
17 correct?

18 A. That's not what it's saying. It's saying that his
19 reading comprehension for a ninth grader was at a fifth
20 grade level. That doesn't necessarily mean his overall
21 functioning was that less than a 17 year old.

22 Q. Okay. So his reading comprehension is at a fifth
23 year old?

24 A. No, fifth grade level.

25 Q. Fifth grade. And what does comprehension mean?

1 A. Means ones ability to understand, at least from
2 reading, what they're reading.

3 Q. Yeah, it means -- what it means is that the ability
4 of people to understand, be able to receive information
5 and process that information. That's not also -- that --
6 would you agree with me that comprehension, reading
7 comprehension, is your ability to be able to see
8 information, take it in and go over it and process it;
9 that also just does not deal with what you read in books.

10 That deals with what you experience in everyday life.
11 When you come across a situation to be able to understand
12 what just happened, process it and comprehend it. But his
13 comprehension level is very low, fifth grade level, am I
14 correct?

15 A. From a reading perspective you can also comprehend
16 things by looking at things, by hearing what other people
17 are saying to you. Not just by just reading. By
18 observing the world around you. In his case his reading
19 level is lower than that of other ninth graders.

20 Q. Now, he also -- did you also, as part of your
21 evaluation, I think we showed you this, I think, prior to
22 the hearing, the psycho-educational environmental
23 evaluation. Did you have a chance to take a look at that?

24 A. I did. If I could look at it again.

25 Q. Okay. And I'll hand up a copy to you. And I'm going

1 to enter this into the record as Defense Exhibit Two.

2 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
3 identification and received into evidence.)

4 BY MR. BROOKER:

5 Q. Now, would you agree with me that at the top of the
6 first page the date of evaluation it indicated this
7 evaluation was complete on December the 4th 2006; is that
8 correct?

9 A. Yes.

10 Q. And, of course, is that some of the things -- some of
11 the, I guess, some of the things that were performed as a
12 part of this, you know, psycho-educational evaluation was
13 what's called the -- is that the Westler Intelligence
14 Scale for Children, Fourth Edition?

15 A. He was administered that.

16 Q. It was administered?

17 A. Um hum.

18 Q. Okay. Are you familiar with that intelligence scale?

19 A. Not as it applies for children. I'm not a child
20 psychiatrist so I don't know that.

21 Q. I understand that. Is there a similar scale that's
22 applied to adults?

23 A. Yes.

24 Q. Okay. Have you ever administered that scale?

25 A. No. I'm not qualified to. Only psychologist are

1 qualified to.

2 Q. Okay. Okay. And then, of course, on Page Two of
3 that, you know, it says, 'composite score summary'. I'm
4 going to at least -- I'm read at least the first paragraph
5 just very quickly. It says, "Webster's Intelligence Scale
6 For Children, Fourth Edition was administered as the major
7 intelligence assessment."

8 And then, of course, is that goes on to say that,
9 "The WISC-4 is an individualized administered clinically
10 instrument for assessing the intellectual ability of
11 children ages six through 16, 11 months and has good
12 reliability in evidence of validity.

13 A composite score -- scores are reported as standard
14 scores which have a mean of 100 and a standard deviation
15 of 15. This means that approximately two thirds of all
16 children should score between 85 and 115. Damian
17 responses to the immediate stimuli demonstrated the
18 following result:

19 And, of course, verbal comprehension, it says
20 composite score of 71;" is that correct?

21 A. That's what it says.

22 Q. And it lists that as borderline, below, you know, the
23 average or the mean level of 85 and 115; is that correct?

24 A. That's what it says.

25 Q. Perceptual reasoning is 86, and of course, it lists

1 that as low average between I guess the 86 and the 115; is
2 that correct?

3 A. That's what it says.

4 Q. Working memory, 71, which is below the means score;
5 is that correct? Processing speed is 83 which is below
6 the mean average, you know, for children between the ages
7 of six and 16; is that correct?

8 A. That's what it says.

9 Q. And the full scale score is 72 which is borderline
10 which is way below the mean average of children between
11 the ages of six and 16 because it's at least -- it's at
12 least 13 I think levels, you know, below the base line
13 average; is that correct?

14 A. That's what it says.

15 Q. Now, do you have any reason to dispute of either the
16 accuracy or the validity of this report?

17 A. I'm not that familiar with all these tests so I can't
18 assess whether it's valid or not. I going to assume it
19 is, but it don't administer these tests. So I can't say
20 with 100 percent certainty.

21 Q. And I understand that, and that's why I was asking
22 did you have any reason to justify the validity of it? To
23 question the validity of it?

24 A. I don't.

25 Q. Okay. Now, this is consistent at least with the

1 I.E.P. and that is that Damian was not functioning, you
2 know, at least intellectually and scholastically at the
3 same level, you know, as normal children do?

4 A. He had some difficulties. Yes.

5 Q. Okay. And I don't know whether or not you know the
6 answer on this question. But these difficulties are
7 children having difficulties, you know, comprehensive
8 struggles, other educational difficulties who are
9 suffering from, you know, depression?

10 A. I think in Damian's situation he was diagnosed with
11 depression, disorder non-specific behavioral disorder.

12 Q. Are children that are suffering from all of these
13 things or even an adult for that matter, in your opinion
14 as a psychologist does it affect behavior? Does it affect
15 judgment? Does it affect maturity?

16 A. It has a potential to.

17 Q. It has a potential to?

18 A. Um hum.

19 Q. Okay. So an example is it can affect judgment; is
20 that correct?

21 A. It has a potential to. Yes.

22 Q. It can affect maturity; is that correct?

23 A. It has a potential to.

24 Q. It can affect control; is that correct?

25 A. It has a potential to.

1 Q. Now, indulge me for just a second. I'm going to go
2 back to at least your psychological evaluation report. Do
3 you have a copy of it with you?

4 A. Yes.

5 Q. Okay. Now, at the time in which he was diagnosed
6 with depression, non-specific disorder, and I guess
7 disruptive behavior disorder I think your report indicates
8 that he was placed on -- and that's a I guess which is a
9 generic for Prozac. And it was an anti-depressant and he
10 was also placed on, I guess, another medication,
11 Hydroxyzine; is that correct?

12 A. Hydroxyzine.

13 Q. Are you familiar with those medications?

14 A. I am.

15 Q. Okay. And what's the purpose of, you know, for use
16 for I guess that's Flozatine?

17 A. Floxatine.

18 Q. Floxatine. What's that generally used for?

19 A. It is used for individuals with depressive or anxiety
20 disorders to target depressed mood or anxious mood.

21 Q. Okay. And, then of course, Drixoxine?

22 A. Hydroxine.

23 Q. Hydroxine. What is that used for?

24 A. That's an anti-histamine. People use it sometimes.

25 Mostly if you have an allergic reaction to anything, but

1 sometimes it's used for a side affect which causes
2 sedation. So for some people it's prescribed to help them
3 sleep.

4 Q. Okay. All right. And also you go on to say that his
5 treatment was cut short. I think in your next paragraph
6 it says -- you says, "Mr. Inman missed several
7 appointments." In the mental health center progress notes
8 documented that he did not make such progress. He did not
9 make much progress, and he was not committed to therapy
10 and did not want to change while enrolled at the clinic.

11 And so at from -- your, at least, review of
12 Tri-County Mental Health records they're saying is that
13 while he was, at least for the brief period of time that
14 he was being treated for these two conditions, that he did
15 not make much progress; is that correct?

16 A. For several appointments that he missed. In addition
17 to that he didn't make much progress, so up until the last
18 appointment where he said his mood improved.

19 Q. His mood improved?

20 A. Um hum.

21 Q. But he was still on the medication. Is there any
22 indication that he was taken off the medication at that
23 particular period of time?

24 A. I don't -- can't surmise that based on the note.

25 Q. Okay. And it's also my understanding, at least from

1 your records, is that Tri-County didn't voluntarily
2 discontinue treatment, but treatment was involuntarily
3 discontinued because of his missed appointments; is that
4 correct?

5 A. He is -- my understanding is that he stopped going to
6 appointments so they closed his case at that point in
7 time.

8 Q. Okay. All right. And just one last question, and
9 like I said is that it might be redundant, but I want to
10 be absolutely certain here is that he was not discharged
11 from at least from my reading of your records and
12 Tri-County's record he was not discharged from treatment
13 for these two medical conditions because he was all fine
14 and no longer needed it? He was discharged because he
15 didn't I guess continue with his appointments and didn't
16 make it?

17 A. From my review of the record what they wrote in there
18 was that his case closed on December 14th 2005 after
19 missing multiple appointments.

20 Q. Now, one of the things that you also testified to is
21 that with that depression and disruptive behavioral
22 disorder manifest itself into, you know, acting out and
23 that sort of stuff? And I think we also have -- I think
24 this has already been marked as State's Exhibit Two, and I
25 want you to take a look at it and just ask very brief

1 questions in reference to it.

2 And I think to my understanding is that this is at
3 least one of the documents I think you indicated you did
4 review on -- I thinking in your evaluation report you
5 indicated that you reviewed documents from the school
6 districts that pertains to his, now, I guess, disciplinary
7 history; am I correct? If I'm not you correct me.

8 A. I haven't reviewed this particular piece of paper.
9 The documents I had were from the school district which
10 ...

11 Q. Okay. And, of course, what's been marked as State's
12 Exhibit Number Two which is a legal history, and it
13 indicates that, and you just correct me if I'm wrong, is
14 that in -- it starts of in the bottom of 2007. It appears
15 as if he had a disciplinary issue that related to
16 possession of marijuana; is that correct?

17 A. That's what it states here.

18 Q. Okay. In 2008, specifically in May of 2008 -- excuse
19 me. August of 2008 he had a disciplinary issue related to
20 larceny or petit larceny; is that correct?

21 A. That's what it says here.

22 Q. Also in November of 2008 he had multiple truancy
23 issues that was dealt with by the school?

24 A. That's what it says.

25 Q. And, of course, I think at some point in time he was

1 placed on probation for some of these truancy issues
2 and/or disciplinary issues by the Family Court in June of
3 2009. It indicates that he had been in contempt of Court
4 for, I guess, violating previous orders of the Court; is
5 that correct?

6 A. That's what it says.

7 Q. Are these the types of -- types of behavior problems,
8 inability to follow directions, that is consistent with
9 someone who has a diagnosis of, you know, disruptive
10 behavioral disorder?

11 A. These are the behaviors that lead to that diagnosis.

12 Q. Okay. I'll ask one more line of questioning in
13 reference to than and then I'll move on. Is, and I don't
14 know if you know the answer to this or not, is depression,
15 is it a disease or some sort of medical condition that can
16 be caused by biological factors?

17 A. There is a genetic pre-disposition to depression. I
18 mean it's not 100 percent, but there is a certain amount
19 of genetics can play in depression.

20 Q. It can be -- my understanding is it can be
21 environmental and also can be biological which means there
22 can be multiple factors?

23 A. Exactly. Multiple factors.

24 Q. Yeah. Yeah. It can be some kind of chemical
25 imbalance inside the body, etc. etc?

1 A. Yeah, etc. etc.

2 Q. Okay. And also in my research is that, and I have it
3 here is that, from my research I also learned that are --
4 that disruptive behavioral disorder can also be caused by
5 environmental factors and also biological factors that
6 someone can misbehave because of a biological defect? A
7 chemical imbalance or something else that would cause him
8 not to think or react normally? React the same way a
9 normal person does?

10 A. It's has a potential to it just depends on the
11 behaviors that one is discussing about.

12 Q. Okay. And that all I want you to admit is that -- is
13 that dysfunctional -- dysfunction -- disruptive behavioral
14 disorder can be the cause of some the disciplinary
15 problems because disruptive behavioral disorder can be
16 caused by, you know, environmental and also biological
17 factors?

18 A. Right. The behavior that result in a diagnosis of
19 disruptive behavior disorder can have multiple causes,
20 environmental and biological, because there are many
21 causes that can occur.

22 Q. And that's what I'm talking about, the cause?

23 A. Yes. Potentially, there are potential causes.

24 Q. It can be caused by biological factors that are
25 beyond the control of an individual?

1. A. It can be. Yes.

2. Q. And it can be caused by environmental factors that
3 are beyond the control of the child?

4. A. Sometimes, yes.

5. Q. Okay.

6. A. It's all potential. Yes.

7. Q. Now, I also think you indicate in your report that
8 Mr. Inman told you that he started I guess using -- I
9 guess in your report it says, 'Mad Dog' which is a kind of
10 a fortified wine. And also at the age of 12 -- and he
11 also start consuming, is that correct, starts drinking
12 alcohol about the age of 12?

13. A. He started drinking alcohol at the age of 12, and he
14 started smoking marijuana around the age of 12.

15. Q. Okay. And I'm going to ask you a silly question.
16 So, alcohol and drugs, can that alter the logic, the
17 reason -- the reasoning and behavior of a child?

18. A. Under the influence of a substance an adult and a
19 child are susceptible to have their thinking altered.

20. Q. Absolutely. Absolutely. So it can affect a child's
21 cognitively?

22. A. Sure.

23. Q. It can affect their decision making?

24. A. Sure.

25. Q. It can affect their behavior?

1 A. Sure.

2 Q. It can affect their control?

3 A. Sure. Under the influence of a substance, sure.

4 Q. Okay. And he indicates that he started about the age
5 of 12?

6 A. That's what he said.

7 Q. Now, did you make any diagnosis of this? I think,
8 and you correct me if I'm wrong, but where it says,
9 diagnostic formulation' that you reach the conclusion that
10 he suffered from, I guess, what's called, and you explain
11 to me, cognitive disorder or conduct disorder?

12 A. Conduct disorder.

13 Q. Okay. Now, what causes conduct disorder?

14 A. No cause. It's a behavioral problem. So conduct
15 disorder is diagnosed when a person engages in behaviors
16 that violate society's rules. They don't listen to
17 adults. They destroy property. When they engage in these
18 behaviors over a set period of time as an adolescent or
19 child then that's what the diagnosis is.

20 Q. Yeah, and my question is that do that engage in this
21 bad behavior because they -- when someone engages in this
22 bad behavior it's just -- it is just because they are bad
23 people? They were born bad. They're bad people, or are
24 there -- or are there, you know, are there, you know,
25 explanations? Cognitive -- excuse me. Biological

1 explanations or either, you know, environment
2 explanations?

3 A. This diagnosis is given to a person that has engaged
4 in these behaviors that violate all these rules. That is
5 why it takes the conduct disorder diagnosis.

6 Q. Absolutely. And do you know what reason what causes
7 them to engage in the bad behavior?

8 A. For these kinds -- for this diagnosis it's by choice.
9 They chose to break the rules. they chose to burn things.
10 They chose to steal things. They engage in the pattern of
11 behavior.

12 Q. By choice?

13 A. By choice.

14 Q. Okay.

15 A. That's why this diagnosis is given.

16 Q. By choice?

17 A. By choice.

18 Q. So someone -- so someone who has a cognitive
19 deficiency -- someone who has had cognitive deficiency are
20 they engaging in conduct purely by choice? Someone who
21 has a learning disability?

22 A. A learning disability doesn't preclude you from
23 knowing right and wrong and engaging in behavior that
24 doesn't follow the rules.

25 Q. It doesn't preclude you from behaving in right or

1 wrong, but is it a contributing factor?

2 A. Repeat the question. I'm not following you.

3 Q. Okay. Is learning disability, a learning impediment,
4 is the use of alcohol and drugs or being under the
5 assumption -- under the condition -- being under the
6 control of a chemical substance, can any of those factors
7 that we just discussed and talked about before can any
8 those contribute to bad behavior?

9 A. It can.

10 Q. Absolutely, it can. It can contribute to bad
11 behavior. And simply because a child engages in bad
12 behavior it's not just a conclusion that, hey, some people
13 are bad. Some people are good, and so he's a bad person.
14 He's a good person, that's the reason why this person
15 behaves that way. That's the reason why this person
16 behaves a different way. It's not that simple, is it?

17 A. A learning disorder doesn't mean that he's a bad
18 person. That's not what it means.

19 Q. Okay. And there is a whole science -- there is a
20 whole science or field of study of the mind and brain that
21 suggest that it's not that simple; is it? You know, that
22 sometimes people have conditions or people have factors,
23 environmental factor, or biological factors or conditions
24 that affects the way that they think, affects the way that
25 they act, affects, you know, how they interact?

1 A. Sure.

2 Q. That's what makes all of us different. We think
3 differently, is that correct?

4 A. Sure.

5 Q. My perception is not the same as yours; is that
6 correct?

7 A. Depending on the situation; could be.

8 Q. My cognitive development might be different than
9 yours; is that correct?

10 A. Sure.

11 Q. We're all on different levels; is that correct?

12 A. That's realistic.

13 Q. And that's one of the reasons why, for lack of a
14 better word, is that some people are, you know,
15 intellectually advanced and some people are not because
16 there are different levels of cognitive development?

17 A. Yeah.

18 Q. Okay. Are you on the same level as your six year old
19 or y'all cognitive development the same?

20 A. I don't have a six year old, so.

21 Q. Any six year old?

22 A. It's going to be different. Adults and children are
23 different.

24 Q. You evaluated Mr. Inman. Is Mr. Inman on the -- Mr.
25 Inman, when you evaluated him that day, was his cognitive

1 development the same as yours? Was he on the same
2 cognitive development level as you are?

3 A. He's on a different level. That's all I can say.

4 Q. Because he's a child and you're an adult and you're
5 much more advanced in that particular area than he was?
6 Was he not?

7 A. What are you referring to exactly because everyone is
8 on a different level? I'm not getting at where you're
9 going at here.

10 Q. And that different level affects choices and how
11 people make choices and make decisions. And that's why
12 usually in our society we protect adolescents from
13 themselves, you know, by, you know, putting them under the
14 control of an adult and having a adult make decisions for
15 them until we've perceived that they've reached a level in
16 which they're cognitively developed enough to make them on
17 their own; is that correct?

18 A. Sure.

19 Q. All right. I am almost finished. I promise.

20 MR. BROOKER: And just for the record I have at
21 least -- and I brought this. This is a high school
22 disciplinary report that you're going to be referring to.
23 I'm going to enter that into the record if you don't have
24 any objection?

25 MR. DANIEL: No.

1 THE COURT: Okay.

2 MR. BROOKER: I'm going to enter this as -- this is
3 the high school disciplinary report, Defendant Three.

4 (WHEREUPON, Defendant's Exhibit No. 3 was marked for
5 identification and received into evidence.)

6 BY MR. BROOKER:

7 Q. Now, I know you said you looked at his school
8 disciplinary report I think when I showed you the previous
9 one. Is that the one that you took a look at in his
10 school disciplinary record?

11 A. I believe so.

12 Q. Okay. And, of course, it shows, and I'm just going
13 to go through this quickly. It has here where, under the
14 section of, 'Description' truancy, profanity -- truancy in
15 which he received an intervention plan. Profanity, in
16 school suspension. Tardiness, in school suspension. I
17 think it has eight tardinesses. And of course, again,
18 Number Four, Tardiness, in school suspension. And it has
19 nine tardiness, cutting classes. Punishment, in school
20 suspension. Tobacco use, suspension.

21 And habitual truant. It looks like truant. I'm
22 assuming that is truancy or should be truancy. And it
23 says, "Family Court referral." Did I read that correctly?

24 A. That's what it says.

25 Q. Okay. And that is consistent with what we've at

1 least discussed before? That's consistent with someone
2 who has or can be manifested -- those behaviors that we
3 just listed can be manifested through depression and can
4 also can be manifested through -- and also biological or
5 environmental factors that could lead to disruptive
6 behavioral disorder; is that correct?

7 A. Well, it could, but in this case he was last
8 diagnosed with depression in 2005. Hadn't endorsed
9 depressive symptoms since that time, to me that is.

10 Q. But ---

11 A. Now, these are the behaviors that resulted from a
12 diagnosis of conduct disorder or disruptive behavior
13 disorder.

14 Q. You said he was diagnosed with depression when?

15 A. 2005.

16 Q. Okay.

17 A. That's when he got a diagnosis. When I talked to him
18 he hadn't endorsed depressive symptoms since that time.
19 He hasn't been treated with an anti-depressant. Wasn't
20 endorsing depression.

21 Q. Okay. You said he hadn't been treated with -- let me
22 ask you a question and just for certainty. In your report
23 when you asked him about -- when you asked him about being
24 treated, you know, for depression and being treated for
25 the -- being treated for depression and also being treated

1 for disruptive behavioral disorder, you know, at
2 Tri-County Department of Mental Health. He denied that,
3 didn't he?

4 A. He initially denied that to me, I think.

5 Q. He thought he was fine, wasn't he?

6 A. Just because he didn't deny treatment doesn't mean
7 that you're necessarily fine.

8 Q. Sir, and the situation is that -- is that it's not
9 fair for you to say he was not -- that he had not been
10 suffering from depression since 2005?

11 A. No. I said that he denied it to me.

12 Q. Absolutely. He denied it to you?

13 A. Right. It could have been but he denied it to me.

14 Q. Absolutely?

15 A. Right.

16 Q. And he denied a lot of things to you that you ended
17 up confronting him with that were true? He denied
18 receiving the treatment in 2005. He denied, I think it
19 says assaulting his brother. And I think you said that
20 you brought that to his attention. He denied some of the
21 disciplinary problems in school. And I think you
22 corrected him on a number of things that he denied; is
23 that correct?

24 A. That's correct.

25 Q. Okay. And so it doesn't mean that he wasn't

1 suffering from it. It means that he simply denied it to
2 you?

3 A. Um hum.

4 Q. Is that correct?

5 A. As far as I know he didn't deny it to me. We didn't
6 see any evidence of that in school records.

7 Q. Okay. And were you evaluating him for that?

8 A. No. I was evaluating him for competency to stand
9 trial and determine what diagnoses he may or may not have.

10 Q. And you saw him for I think you said you saw him 50
11 minutes?

12 A. The evaluation was about 50 minutes.

13 Q. About 50 minutes, okay.

14 MR. BROOKER: Indulge me for just one second, Your
15 Honor. I may be finished with this witness.

16 THE COURT: Okay.

17 BY MR. BROOKER:

18 Q. Did you administer any sort of tests to him during
19 your evaluation?

20 A. No formal psychological tests. I can't admit those.

21 Q. Okay. No formal psychological tests?

22 A. Um hum.

23 Q. Okay. Did you do informal psychological testing?

24 A. What are you referring to?

25 Q. I'm just asking you. I just want to know what

1 happened during those 50 minutes. Did y'all have a
2 conversation?

3 A. Yes, we had a conversation. I talked to him. I did
4 basic screening for memory, concentration, fund of
5 knowledge. I did those basic screening tests.

6 Q. Okay, but you said no formal psychological?

7 A. Not like the stuff that you showed me.

8 Q. Okay.

9 A. No.

10 Q: Okay. So this was more observation?

11 A. Observational records review.

12 Q. Observation and record review?

13 A. And interviewed the defendant himself.

14 MR. BROOKER: Indulge me for just a second. I might
15 be finished. No further questions for the doctor, Your
16 Honor.

17 MR. REDMOND: May it please the Court, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. REDMOND:

20 Q. Just to -- I'm going to back up a little bit just to
21 address something for the record. Make sure the record is
22 clear. You conducted competency evaluation; is that
23 correct?

24 A. Competency to stand trial evaluation.

25 Q. Exactly. And in that evaluation was he competent to

1 stand trial? Did he understand the nature of the charges
2 against him? The seriousness of those charges? And did
3 he indicate anything that he would not be able to assist
4 his attorneys in the preparation of the trial -- for the
5 trial?

6 A. He understood the charges against him. He understood
7 me. He understood why he was being charged with those
8 charges. He had no -- there is no reason why he could not
9 work with his attorney.

10 Q. Okay. Thank you. And just wanted to clear that up.
11 Now, another thing I want to clear up if you can. We've
12 heard talk about, and I want to make sure that certain
13 things are put in a particular context. And I really
14 think that at the end of the day this battle line is at
15 this disruptive behavior disorder.

16 Before we get into that could you tell the Court is
17 there a difference between a disorder and an illness?

18 A. It's kind of used interchangeably.

19 Q. Okay. Now in this particular case ---

20 A. Sometimes.

21 Q. Okay. Sometimes. In this particular situation has
22 he been diagnosed with a mental illness?

23 A. In the past, in 2005, he was diagnosed with
24 depression.

25 Q. Depression. But as it relates to this disorder, this

1 disruptive behavior disorder?

2 A. No. That's a behavior disorder.

3 Q. Okay.

4 A. That's different.

5 Q. So to be clear when we're talking about this
6 behavior, disruptive behavior disorder, we're not talking
7 about a mental illness as defined in the DSM 5?

8 A. No. Depression is a mental illness.

9 Q. Okay. All right. But not the disruptive behavior?

10 A. No.

11 Q. Thank you.

12 A. It's a behavioral problem.

13 Q. Thank you. A behavior problem. And I just want to
14 make sure we've got a context of this. Now, also just a
15 little bit so there is no confusion, and I know we refer
16 to it now as intellectual disability or deficiency, but
17 was there any evidence that, from a clinical standpoint,
18 that he, despite everything that Mr. Brooker, I guess,
19 outlined as it relates to some of the testing that's been
20 done, is there is anything indicating that he was what was
21 formally known as MR, we refer to as intellectually
22 disabled?

23 A. No. He did not meet diagnostic criteria for
24 intellectual disability.

25 Q. Okay. Now, let's start getting into the brass tax

1 here, and again, talking about the disruptive behavior
2 disorder. In the research that I've done, I guess, part
3 of the treatment therapy for such a condition isn't it
4 true that it actually involves a willingness of the
5 defendant or anybody who is diagnosed with such a
6 condition? Doesn't that involve a willingness of that
7 particular person to engage in the treatment regimen?

8 A. A person has to be willing to change their behaviors
9 and engage in therapy to change those behaviors.

10 Q. Okay. And we'll get to that in just a minute
11 further. And then there was something you said to Mr.
12 Brooker that I think really gets to the crux of what we're
13 here about, and that's choice.

14 And in other words, these are choices that are being
15 made. Is it fair to say that when someone, despite being
16 diagnosed with disruptive behavior disorder, engages in
17 certain disruptive behaviors as we've heard about in
18 school settings and other settings that some of us are
19 familiar with, is it fair to say that those actions are
20 part of choices the defendant is making?

21 A. Yes.

22 Q. Okay. And I understand all of the family factors and
23 the home factors and what not, but at the end of the day
24 is it a choice, a choice that the defendant has made to
25 engage in disruptive behavior?

1 A. I can be depending on what those disruptive behaviors
2 are. Yes.

3 Q. All right. And when we talk about disruptive
4 behavior in the context that its been presented it appears
5 that most of those situations deal with an issue with
6 authority figures. It seems like a lot of them.

7 And I think even in some of the records indicates I
8 think he mentions before about being mad at teachers and
9 things like that. So would that be a fair statement?

10 A. It's fair if you're not -- to have a pattern of
11 disobeying authority figures is a choice.

12 Q. Okay. Are you familiar with the facts of this case?
13 Just briefly, I guess, what you indicated in your report
14 you got?

15 A. Just based on what I read in the arrest warrant.

16 Q. Yes.

17 A. That's it.

18 Q. Does the disruptive behavior disorder that he was
19 diagnosed with in any way fit the patten of what occurred
20 to Mrs. Mary Alice Stutts?

21 A. Since I don't know the full detail of what happened
22 to the victim I can't make that assumption.

23 Q. Okay. She was not an authority figure for him. If I
24 were to tell you that she was not an authority figure. If
25 I were to tell you that she did not know this defendant.

1 If I were to tell you that he actually was involved in
2 going to her house and asking for water and then resulting
3 in her being robbed, put in the back of a truck, taken out
4 seven miles and shot in the back of the head twice. Does
5 that fit the pattern that he was diagnosed with disruptive
6 behavior disorder?

7 A. Disruptive behavior disorder is more than just not
8 following authority figures. It also includes not
9 following rules of authority. Not following other
10 people's -- not respecting other people's rights.

11 Q. And to my question though, again, with the patters
12 that caused you to make that diagnosis?

13 A. I made the diagnosis of conduct disorder.

14 Q. Okay.

15 A. Which is more severe than disruptive behavior.

16 Q. Okay. And I guess just to make sure that I'm clear
17 with my question, the incidents that you used to review
18 and make your diagnosis were independent from what
19 happened to Mrs. Stutts? I guess that's what I'm trying
20 to get to?

21 A. Yes.

22 Q. Okay. Totally different context?

23 A. Yes, because he hadn't been adjudicated at that point
24 in time.

25 Q. Okay. And is there anything in there showing, and I

1 noticed in the evaluation -- now, I understand you did a
2 competency evaluation, but was there anything during the
3 course of your time in review of his records and
4 evaluation showing that the defendant didn't know the
5 difference between right and wrong?

6 In other words he didn't know that engaging in
7 certain behaviors was wrong?

8 A. There is no indication to me that he didn't know the
9 difference between right or wrong.

10 Q. Any indication that he couldn't conform his behavior?

11 A. Not that I could tell even though that was not what I
12 was asked to evaluate.

13 Q. And I understand that.

14 A. Right.

15 Q. In fairness to you I understand that you were not
16 asked to evaluate him, but based on the review that you
17 had was there any indication that you could tell that he
18 couldn't conform his behavior?

19 A. No, there was no indication.

20 Q. Okay. Again, we get back to choices. And would it
21 be fair to say that despite everything that we've heard to
22 this point at the end of the day the defendant make
23 choices that, you know, tend to be bad?

24 A. That is what the pattern has been.

25 Q. Okay. And I guess in closing, when he makes those

1 choices, you know I understand the family history and all
2 that, is there anything indicating that he could not
3 control -- in other words, could he have chosen not to do
4 these things or did he just go ahead and choose to do them
5 despite understanding that they were wrong?

6 A. From my review of the records and interviewing him, it
7 was his choice to make the decisions that he did.

8 Q. Okay. That's all the questions I have. Thank you so
9 much, Doctor.

10 MR. BROOKER: Just very briefly.

11 REDIRECT EXAMINATION

12 BY MR. BROOKER:

13 Q. Is that I think you were asked by Solicitor Redmond
14 whether or not he had his ability -- had the ability to be
15 able to conform, you know, his conduct to the law which is
16 I think is a -- and I think you testified to the fact is
17 that you were not asked to do that sort of evaluation; is
18 that correct?

19 A. I was not asked to do a criminal responsibility or
20 capacity conform evaluation.

21 Q. Did you do a criminal responsibility evaluation?

22 A. No, I did not.

23 Q. Okay. Is it fair for you to make an opinion as to
24 whether or not he had the ability to conform without
25 doing, you know, a clinical formal evaluation?

1 A. To the specific charges that we were asked to do, I
2 can't. That's not what I was asked to do.

3 Q. Okay. So you cannot answer that question?

4 A. For this specific charge I cannot answer that
5 question. I can say overall that there is no mental
6 illness which he would not have the capacity to conform to
7 the requirements and behavior of the law. Requirements of
8 the law overall or a conduct disorder.

9 Q. Okay. But you cannot answer no to that question that
10 he did not have the capacity?

11 A. On the specific charges that we're talking about I
12 can't. That's not what I was asked to evaluate.

13 Q. That's what I want to ask, and that's all I want to
14 ask. And, of course, I think is you were asked or ask one
15 more question is that, you know, whether or not this was
16 all about choices and it was choices to make. But
17 choices, choices are influenced -- can be influenced, and
18 I'll ask this and you've already answered it and then I'm
19 going to sit down. Choices are influenced by age, do you
20 agree with me?

21 A. They can be.

22 Q. Okay. Choices are also influenced, and the reason
23 why what I say about age is that, you know, you can take
24 someone who is ten years-old and take someone who is 20
25 years-old and you can present them with the same situation

1 and they may do two different things because of the way in
2 which they comprehend or process the information they
3 receive. So age does affect choice, is that correct?

4 A. It can.

5 Q. Okay. And depression, you know, is a clinical
6 psychological condition; is that correct? It is a medical
7 condition; is that correct?

8 A. It's a mental illness, yes.

9 Q. It's a mental illness. And depression can affect
10 decision making; is that correct?

11 A. It can.

12 Q. Okay. Environmental and biological factors can also
13 affect decision making; is that correct?

14 A. It can.

15 Q. Although he is not, and of course, is that I'll use
16 the not politically correct term so everyone understands
17 what I'm saying is you were asked a question as to whether
18 or not he was suffering from what used to be formally
19 called mental retardation; is that correct? And your
20 answer was that he was not suffering from that; is that
21 correct?

22 A. That's correct.

23 Q. Now, although he is not suffering from mental
24 retardation from the I.E.P., from the psycho-educational
25 evaluation he was suffering from learning disabilities and

1 may not have reached the level of mental retardation, but
2 he did have learn deficits, did he not?

3 A. Yes, he had some difficulty with reading
4 comprehension. Yes.

5 Q. He had more than that with the psychological -- if
6 you can remember the psycho-educational, you know,
7 evaluation. The, I think it's the Wesler Test for
8 children. And, of course, is that he scored -- I think he
9 scored below average or below the mean average of
10 everything except one thing in which he was, you know, a
11 low average; is that correct?

12 A. He had several subsets of the test, yes.

13 Q. So he had -- he did have -- had learning deficiencies
14 or learning difficulties; is that correct?

15 A. He had difficulties, yes.

16 Q. You also read, and I think you indicated in the your
17 report, is that you read the statement as a part of your
18 evaluation that he made to law enforcement in connection
19 with this case?

20 A. Yes.

21 Q. Okay. Can I ask you to take a look -- do you have
22 that statement?

23 A. Not easily accessible. Do you?

24 Q. It have it right here. Y'all have any objection to
25 me making this a part of the record?

1 MR. REDMOND: No objection.

2 MR. BROOKER: I'm marking this as a Defendant's
3 Exhibit.

4 THE COURT: That's in without objection.

5 MR. BROOKER: Thank you, Your Honor.

6 (WHEREUPON, Defendant's Exhibit No. 4 was marked for
7 identification and received into evidence.)

8 BY MR. BROOKER:

9 Q. Have you read the statement?

10 A. Yes.

11 Q. He was 17 years-old at the time in which he wrote
12 this statement; is that correct?

13 A. That is my understanding. Yes.

14 Q. Okay. Now, and I won't ask you to read this aloud.
15 It's not necessary because what I'm asking you is that can
16 you take a look at that statement. Take a look at the
17 reasoning. Take a look at the writing. Take a look at
18 the logic of it. Can you tell me whether or not at least
19 whether or not you have an opinion with respect to whether
20 or not what he wrote, the reason, the logic, the writing,
21 whether or not it is consistent with someone 17 years of
22 age?

23 A. What he wrote shows that he had difficulty with
24 sentence structure, with grammar, use of pronouns and
25 nouns which is -- would be considered if someone has

1 difficulty with reading comprehension. How he writes it
2 is not what you would expected someone who would be 17
3 years-old of age at that level of comprehension.

4 Q. When he expressed himself was he difficult to
5 understand at least at some part? You can read it to
6 yourself. Did he have difficulty expressing himself?

7 A. I was able to follow, but based on how he was writing
8 the sentence there is some difficulty expressing his
9 thoughts the way he probably wanted to express them based
10 on language and reading problem.

11 Q. Okay. So, in closing, so when Assistant Solicitor
12 Redmond says, "Well, this is all about choice," it's just
13 not that black and white, is it?

14 A. Overall in society you can't. It's difficult.

15 Q. Society affects -- choices are affected by many, many
16 factors?

17 A. Um hum.

18 Q. Educational, environmental?

19 A. It can be.

20 Q. Biological?

21 A. Yes, it can be.

22 Q. You know, psychological?

23 A. Um hum.

24 Q. Etc.; is that correct?

25 A. It can be.

1 MR. BROOKER: No further questions of this witness,
2 Your Honor.

3 MR. REDMOND: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. REDMOND:

6 Q. On Page 4 -- could you flip to Page Four of your
7 evaluation. Need to finish a thought that I forget to
8 finish up earlier. In that particular section, in the
9 first full paragraph of that page, and we talked about
10 choices and if can read this. And, please, if I misstate
11 something alert me and the Court that I have misread it.

12 Says here, "Mr. Inman missed several appointments.
13 This is back regarding the 2005 situation. Mr. Inman
14 missed several appointments and mental health center and
15 mental health center progress notes document that he did
16 not make much progress and he was not committed to
17 therapy." And this is the key part. Does it indicate,
18 "And did not want to change?"

19 A. That is what the progress note says.

20 Q. And when I asked you about the disruptive behavior
21 disorder and part of the -- and my question was is that --
22 is the therapy for that requiring that a person want to
23 change? Want to buy in and alter their behavioral issues?
24 When I asked you that the fact that he did not want to
25 change would you classify that as well as a choice the

1 defendant made?

2 A. According to the note it says that he did not want to
3 change his behaviors. Why that is? I don't know because
4 the note didn't say. But that's all it said, "He did not
5 want to change his behavior."

6 Q. And, in other words, if somebody doesn't want to do
7 something or does want to do something that's something
8 that we classify as a choice, isn't it?

9 A. It's something we decide to do?

10 Q. Yeah.

11 MR. REDMOND: Nothing further.

12 THE COURT: Anything further?

13 MR. BROOKER: One question.

14 THE COURT: Yes, sir.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. BROOKER:

17 Q. In your records you indicated at that particular
18 period of time he was 12 to 13 years-old, was he not?

19 A. My understanding is, yes.

20 Q. Okay.

21 MR. BROOKER: No further questions, Your Honor.

22 THE COURT: You may step down, Doctor. Thank you.

23 MR. DANIEL: Your Honor, permission for Dr. Joshi to
24 be excused so he can go back -- I think he's got patients
25 to see this afternoon.

1 MR. BROOKER: I have no objection, Your Honor.

2 THE COURT: All right. Doctor is excused.

3 MR. BROOKER: May we approach, Your Honor?

4 THE COURT: Yes.

5 MR. BROOKER: Very briefly.

6 COLLOQUY

7 (WHEREUPON, a bench conference was held on the record
8 but outside of everyone's hearing.)

9 MR. BROOKER: I just asked him a couple of minutes
10 ago, and he indicated that he did want to speak. So I
11 just wanted to put it on the record that I've discussed
12 that with him, and he advised me that he wanted to speak
13 to the Court. So I'm putting something on the record to
14 that effect that I did speak with him.

15 I told him he doesn't have to, but he wants to. So
16 he has the right to do that. Thank you.

17 THE COURT: All right.

18 (WHEREUPON, Court is back on the record in open
19 court.)

20 MR. BROOKER: Your Honor, next is that we intend to
21 call Damian Inman, and before we call I'd like to at least
22 put something on the record. You know, at least for the
23 purposes of the record to indicate that I have talked with
24 Damian Inman in reference to what sort of hearing this is;
25 that this is a sentencing hearing that is complying with

1 the new rules in light of Miller v. Alabama and, you know,
2 Byers.

3 And that, of course, the purpose of this hearing is
4 that for the Court to take into consideration factors or,
5 you know, that normally are not taken into consideration
6 in a, I guess, adult sentencing hearing.

7 I have discussed that with him. Talk about what
8 those factors are. What the Court looks at. I have
9 discussed whether or not he has an interest in, you know,
10 addressing the Court and speaking to the Court. He
11 advised me that he wants to speak to the Court.

12 I've also informed him of that should he choose not
13 to speak to the Court that he doesn't have to, but if he
14 does want to testify and address the Court that he has a
15 right. He had indicated to me, I asked him just a minute
16 ago, you know, whether or not he wanted to address the
17 Court, and that I would simply be asking him some
18 questions. He advised me at that particular period of
19 time that he would like.

20 And for the purposes of the record I'm going to ask
21 him one more time on the record, you know, whether or not
22 he would like to testify so that we can have him -- have a
23 response to that before he gets on the stand and on the
24 record.

25 THE COURT: Okay.

1 MR. BROOKER: Okay. Damian, would you like to
2 testify at the sentencing hearing?

3 MR. INMAN: Yeah.

4 MR. BROOKER: I'm sorry?

5 MR. INMAN: Yeah.

6 MR. BROOKER: You would like to testify? Okay. You
7 want to take the stand?

8 DAMIEN INMAN, after being duly sworn, testified
9 as follows:

10 (WHEREUPON, the Defendant was wearing a spit mask
11 during testimony.)

12 DIRECT EXAMINATION

13 BY MR. BROOKER:

14 Q. Damian, you indicated that you like to at least
15 testify in this sentencing hearing; is that correct?

16 A. Yes, sir.

17 Q. Okay. And you are aware of the fact that you don't
18 have to testify? That it is your right to testify or not
19 to testify; is that correct?

20 A. Yeah, that's correct.

21 Q. And do you understand exactly what the purpose of
22 this hearing is for?

23 A. Yeah.

24 Q. Okay. Let me just ask you a question. What is your
25 understanding of what is the purpose of this hearing? I

1 ask you that because you hesitated when I asked you the
2 previous question. What's your understanding of why we
3 are gathered here today?

4 A. Can you say that one more time for me?

5 Q. What's your understanding as to why we are here
6 today? The purpose of this hearing? Tell me your
7 understanding of the purpose of this hearing.

8 A. It's kind of drawn out, you know what I'm saying.
9 Can you say that one more time?

10 Q. What's your, and I'll walk a little bit closer to
11 you?

12 A. Okay.

13 Q. What's your purpose -- what's your understanding of
14 the purpose of this hearing? What's the purpose of this
15 hearing as you understand it?

16 A. To -- did we discuss this in the holding cell?

17 Q. Yes, we did.

18 A. So, yeah, the purpose was dealing with the
19 sentencing.

20 Q. Dealing with the sentencing.

21 A. Yeah.

22 Q. Okay. And I also told you that if you got on the
23 stand I would be asking you some questions; is that
24 correct?

25 A. Yes, sir.

1 Q. Some background questions; is that correct?

2 A. Yes.

3 Q. Okay. Damian, how old were you when this incident
4 happened, you know, back in 2009?

5 A. I was 17.

6 Q. And what grade were in?

7 A. I was in the ninth. I flunked. I got held back.

8 Q. You were in the ninth grade?

9 A. Yeah.

10 Q. Okay.

11 A. I was supposed to be in the tenth, but I flunked.

12 THE COURT: Supposed to be in the tenth, but I
13 flunked.

14 BY MR. BROOKER:

15 Q. Okay. And when you were in school were you in
16 alternative school?

17 A. At that period of time I was.

18 Q. At that period of time I was. And you were in
19 alternative school because you had been expelled from
20 regular school; is that correct?

21 A. Yes, sir.

22 Q. Now, and I'm going to try to do this as easy as
23 possible. When you were in school were you taking special
24 classes; is that correct? Special education classes?

25 A. Yes, sir.

1 Q. Okay. And do you know why you were taking special
2 education classes?

3 A. Yes, sir.

4 Q. Do you know why were taking special educatin classes?

5 A. Yeah.

6 Q. Why?

7 A. I had a learning disability.

8 Q. Okay. And do you know when you were first diagnosed
9 with a learning disability or determined to have a
10 learning disability?

11 A. I can't -- I can't get ...

12 Q. I'm sorry. Could you repeat that?

13 A. I say right now I can't remember.

14 Q. You can't remember?

15 A. Naw.

16 Q. Were you every on medications?

17 A. Yes, sir.

18 Q. And what's your understanding as to why you were on
19 that medication?

20 A. Depression and mood swings.

21 Q. Now, do you agree with me that normally when people
22 are suffering from depression, sometimes, not all the
23 times, it can be based on some difficulty that they're
24 having in their life? Did you have any problems in your
25 life that you were experiencing at that time that you know

1 of?

2 A. Yes, sir.

3 Q. What sort of problems were you having?

4 A. I was having problems with myself, you know what I'm
5 saying. Early learning. Learning things.

6 Q. You have a problem with learning things?

7 A. Yeah.

8 Q. Okay. Now, did you have any problems at home?

9 A. Like as far as behavior?

10 Q. As far as behavior?

11 A. Well, I say yeah, yeah, yeah, yeah.

12 Q. What sort of behavioral problems were you having?

13 A. Like, you know what I'm saying, like as far as me and
14 my brother fighting, fussing. Temporary mood swings with
15 my family.

16 Q. Now, I've read someplace at some time that you fought
17 with your brother and attempted to hurt him with a knife?

18 A. Yeah.

19 Q. Did that -- do you remember that?

20 A. Yeah. Yes, sir.

21 Q. Do you know -- I'm sorry? Go ahead.

22 A. Yes, sir.

23 Q. Do you know why you did that?

24 A. We had got a little scuffle about -- I forget what it
25 was about. But, yeah, he got the best of me, you know

1 what I'm saying. I felt he got the best of me so I had to
2 pick the knife up. And my reaction was to hurt him.

3 Q. Okay, now, you also had disciplinary problems in
4 school; is that correct?

5 A. Yeah. Yes, sir.

6 Q. Now, probably what everybody in this courtroom is
7 thinking is why. Is that why you act out in the way you
8 did? Do you know why?

9 A. The situation?

10 Q. Yeah, the problems that you had in school, you know,
11 with disobedience of teachers, was not attending school,
12 you know, with substance abuse. Why did you act out in
13 that way?

14 A. As far as me acting out, I guess I could say I was an
15 individual that, like I said, had trouble comprehending
16 things and special classes. I used to take speech
17 classes. I had problems with my speech, you know what I'm
18 saying. So it was a lot going on with me during that time
19 period. But like as far as myself learning ...

20 Q. Now, do you remember this incident where you went to
21 the home -- you went to the home -- I think this was on
22 August of 2009. Do you remember this incident with you,
23 your brother and I think John Henry?

24 A. Yes, sir.

25 Q. Okay. Were you with them that day when this incident

1 took place?

2 A. Yes, sir.

3 Q. Why were you there?

4 A. Like I explained I went there on my own free will,
5 you know what I'm saying. I say, he, the individual, my
6 co-defendant, you know what I'm saying, he misled me,
7 threatened me, you know what I'm saying, to commit a crime
8 that I had no intention of doing as far as my life was in
9 the danger.

10 Q. Have you ever done anything like that before? What
11 happened that day did you ever been involved in anything
12 like that before?

13 A. No, sir.

14 Q. And I know what a lot of people are also asking is
15 that was this your idea?

16 A. No, sir.

17 Q. If it wasn't your idea, if you didn't want to be
18 there, why didn't you just walk away?

19 A. Cause at the point my codefendant, he had a gun, you
20 know what I'm saying. Like I say if I would have walked
21 away he would have shot me cause it was like, 'you gone do
22 this. Get down with the program or you gone get shot'.
23 Yeah, I felt endangered.

24 Q. Yeah, I'll ask again.

25 A. She didn't understand me?

1 Q. Yeah, the court reporter can't understand everything
2 that you're saying so you have to speak up and speak a
3 little bit more clearly.

4 A. Can I remove this face mask?

5 Q. I don't know if we can. You know, that's a law
6 enforcement issue. I don't know if we can, but could you
7 just try to speak up?

8 A. All right.

9 Q. Okay.

10 A. That's what you were saying?

11 Q. Did you have any problems in the home? I noticed
12 that throughout the entire time of this trial, and I don't
13 want to get you upset, but underneath this new procedure
14 these are the types of information that this judge needs
15 to hear.

16 So I noticed through the entire proceedings, and my
17 understanding is that from the time of this incident, from
18 the first trial, the second trial to this hearing that
19 your father hasn't been here. What's sort of relationship
20 do you have with him?

21 A. With my father?

22 Q. Yes.

23 A. Like, as far as he being in my life. Yeah.

24 Q. Yes?

25 A. As far as father figure, I can't really say. But we

1 had good intentions. I mean we relate.

2 Q. Okay. You also, I think, told the doctor doing
3 your -- I think Dr. Joshi, during your psychological
4 evaluation I think back earlier this year in May of 2015
5 that you started using I think what you referred to as Mad
6 Dog at the age of 12. And you also indicated that you
7 started using marijuana at the age of 12. So how do you
8 go about at that early age, who introduced you to alcohol
9 and drugs at 12 years-old?

10 A. Well, my cousin.

11 Q. Your cousin?

12 A. Yeah.

13 Q. And at 12 years of age -- at 12 years of old, and I
14 don't know a whole lot about marijuana. I know you told
15 the examiner that you were smoking an ounce and sometimes
16 an ounce and a half a day?

17 A. Um hum.

18 Q. Okay.

19 A. Yes, sir.

20 Q. How many cigarettes or blunts is that? I don't know
21 anything about marijuana.

22 A. An ounce?

23 Q. An ounce, how many blunts can you roll from an ounce?
24 Ounce and a half?

25 Q. You roll up -- there are 28 blunts in an ounce.

1 Q. How many were you smoking a day?

2 A. Like about seven a day.

3 Q. About seven a day. How much alcohol were you
4 consuming?

5 A. I drink like two or three pints of Mad Dog 20/20.
6 Basically, wine.

7 Q. Okay. Now, at that early age of 12 years old you
8 were smoking 12, and let me ask -- let me rephrase that.
9 Did you smoke everyday?

10 A. Yeah, yeah, I smoked every day.

11 Q. And you said you started from 12. Did you smoke all
12 the way to 17 when this incident happened?

13 A. Yes, sir.

14 Q. Did the family around you smoke?

15 A. Yeah, the people I hang with, they smoked.

16 Q. Did you think smoking and drinking at 12 years-old,
17 did you think that was a normal thing?

18 A. Yeah, for me I did, you know what I'm saying. For me
19 I thought it was normal thing.

20 Q. Why did you think it was a normal thing?

21 A. I just -- I like how it made me feel. I like how it
22 got me high. How to ease my mind.

23 Q. Did you have any directional guidance from an adult
24 at that time?

25 A. No. No, sir.

1 Q. Now, let me question you at least a couple of
2 questions in reference to the depression and then I'll
3 move on from there. I know we briefly mentioned that and
4 ask you just a couple of questions.. When you were
5 experiencing depression, and I don't know whether or not
6 you can answer this question or whether or not it's an
7 intelligent question. What were the things that was going
8 on that was causing you to be depressed?

9 A. Like as far as my environment.

10 Q. I'm sorry.

11 A. I said as far as my environment.

12 Q. Your environment. You can answer any way you want.

13 A. Yeah.

14 Q. You can talk about your environment. As far as your
15 environment?

16 A. Yeah, as far as my environment.

17 Q. What about your environment?

18 A. Like, my environment, like, how I lived.

19 Q. How did you live?

20 A. He -- that he -- (unintelligible) go up.

21 Q. Okay. You have got to speak up so she can capture --
22 the court reporter can capture everything you say. Okay.
23 Try to speak up, okay?

24 A. Yeah.

25 Q. Cause she's trying to record everything you say,

1 okay. All right. Go ahead. Tell me what it is about
2 your environment? Where do you live?

3 A. Like growing up, say seeing the same people behave
4 wild. Like behave savage like. Like fighting is a big
5 constant.

6 Q. He says growing up he saw people behaving wild,
7 savage like.

8 A. Like fighting everyday.

9 Q. Fighting every day.

10 A. And stuff like that. Arguments. All that.

11 Q. Arguments and that sort of thing?

12 A. Yeah.

13 Q. Did you think that that sort of violence and behavior
14 was normal?

15 A. Yeah.

16 Q. Now, as far as your way of thinking do you remember
17 when you were 17 years old, right?

18 A. Right. Yeah, I remember.

19 Q. When you were involved in this crime right?

20 A. Yes, sir.

21 Q. I'm trying to find the appropriate way to ask this
22 question. I'm trying to communicate at least talk about
23 your -- at least your -- did you consider yourself to be
24 immature at that time?

25 A. You say immature?

1 Q. Yes. At 17 years old did you consider yourself to be
2 immature at that time?

3 A. Yes, sir.

4 Q. At that time, I guess, like most 17 years old, people
5 17 years old are about to become adults soon, were you
6 thinking about college, your future, and your career?

7 A. No, sir.

8 Q. Why wouldn't you?

9 A. Like I say back -- when I was 17 I had a lot of
10 problems with learning. You know what I'm saying. So
11 that was my real issue as far as me learning things
12 reference to college and a degree.

13 Q. When you were 17 years olds at that time had you made
14 my plans for the future?

15 A. No.

16 Q. No. Why didn't you make plans for the fugure? I
17 guess as a normal 17 year-old was about to embark on
18 adulthood?

19 A. Like I said dealing with my faults and my ability --
20 my capability of thinking I ain't think like that.

21 Q. Okay. Were you influenced in any way by the people
22 around you?

23 A. Yes, sir.

24 Q. Now, I know sometimes -- you had an older brother,
25 Lorenzo?

1 A. Yeah.

2 Q. Lorenzo was involved in this crime with you?

3 A. Yes, sir.

4 Q. Did you look up to him?

5 A. Somewhat. Somewhat. Sort of. Somewhat.

6 Q. Did you hang around him much?

7 A. Yeah, we -- pretty much. Pretty much cause we stayed

8 in the same household so we hung out.

9 Q. Did y'all do the same things?

10 A. (Unintelligible).

11 Q. What I mean by the same things as far as drinking?

12 A. Smoke.

13 Q. Smoking and that sort of stuff?

14 A. Yeah, and we smoked and drank like every day.

15 Q. Was your father in the home at that time?

16 A. Yeah.

17 Q. Did he ever try to step in and stop you and guide

18 you?

19 A. He used to, yeah -- he would beat us. You know what

20 I'm saying.

21 Q. He used to beat us?

22 A. Yeah, he used to beat us, like that. As far as

23 sitting down and having a talk with us, naw.

24 Q. Raise your voice almost as loud as you can.

25 A. All right.

1 Q. Speak up almost as loud as you can. I don't want you
2 to scare anybody. She really needs to hear you. Okay.

3 A. All right.

4 Q. Little bit higher?

5 A. Yeah.

6 Q. A little bit higher?

7 A. Ah.

8 Q. Okay. Perfect. All right. Now, I was asking you
9 again, so she can get it at least on the record, is that
10 when you and your brother was doing this sort of thing and
11 you were drinking and you were smoking, especially at such
12 an early age, I know you said your father would beat you a
13 lot.

14 A. Yeah, he used to beat us.

15 Q. Okay. Did he know that y'all were engaging in drugs
16 and alcohol, drinking and that sort of thing?

17 A. Yeah, he knew.

18 Q. I'm going to ask you a tough question because I heard
19 this, too. Did your father at any point in time in his
20 life have a problem with substance abuse with drugs?

21 A. Not that I know of.

22 Q. Okay. Now, almost finished with you, okay?

23 A. Yeah.

24 Q. All right. Just make sure you keep your voice up?

25 A. All right. And he used to drink a lot.

1 Q. Okay. He used to drink a lot?

2 A. Yeah. That I know he used to do. He used to drink.
3 I used to see him drink beer. Matter of fact he gave me a
4 beer. You know what I'm saying.

5 Q. He gave you a beer?

6 A. Yeah, he gave me a beer when I was around 11 years
7 old. No, I was 12.

8 Q. He gave you beer when you wer 12 years-old?

9 A. Yeah.

10 Q. I'm going to ask you just a couple more questions and
11 I know these are going to be difficult questions.
12 Difficult for you and also difficult for the family. For
13 the purposes of the -- of this inquiry, and the
14 information I have to solicit from you that the Judge has
15 to consider underneath Byers, I'm going to ask you some
16 questions as it relates to your participation in this
17 homicide. Did you do the shooting?

18 A. No, sir.

19 Q. You were there when the shooting took place, right?

20 A. Yes, sir.

21 Q. Now, when were you arrested for this, you know, for
22 the homicide, had you ever been arrested by law
23 enforcement before?

24 A. As far as like being -- going to jail?

25 Q. Yeah.

1 A. No.

2 Q. Did you understand how serious the conduct that you
3 were a part of? Did you understand how serious it was?

4 A. At that particular time, no. No, I didn't.

5 Q. Now, I don't know whether or not this is a good
6 question or not. I know you said at that particular
7 period of time you didn't really understand how serious
8 all of this was. Do you understand how serious it is now?

9 A. Yes, sir.

10 Q. And I know that since you've been in S.C.D.C. and I
11 think there has been some documents entered into the
12 record. I think some S.C.D.C. reports and I think it's
13 also contained in the psychological examination --
14 psychological evaluation, competency evaluation; that you
15 have had some disciplinary problems since you've been in
16 S.C.D.C; is that correct?

17 A. Yes, sir.

18 Q. And I think there was some -- also some disciplinary
19 problems you had when you were waiting trial in the Dillon
20 County Detention Center; is that correct?

21 A. Yes, sir.

22 Q. Okay. And, you know, I think at least some of the
23 disciplinary problems that were listed were things like --
24 some of them were sexual related, masturbation. Some of
25 them deal with disruptive behavior as it relates to

1 authority, following commands, disruptive behavior, you
2 know, as it relates to the correctional officers. Do you
3 know that's what's contained in your disciplinary reports?

4 A. Yes, sir.

5 Q. Did these things happen?

6 A. Yeah, they happened.

7 Q. Do you know why they happened?

8 A. Yeah.

9 Q. Why they happen?

10 A. You like, well, as far as you talking about the
11 sexual part?

12 Q. Well, the sexual part or all of them. Why do you do
13 these things? In your own words do you know why you did
14 these things?

15 A. Yeah, I mean I got urges.

16 Q. He has urges. Is those urges beyond your control?

17 A. Yeah, sometimes, yeah. Yeah.

18 Q. And the reason that I ask you is that beyond your
19 control is these things that you consciously want to deal
20 with or things that you know you basically have to do?

21 A. I'd say, yeah. I'd say, half that ---

22 Q. I'm sorry. Speak up.

23 A. So the question, what were you trying to say?

24 Q. Can you control yourself? Can you control yourself
25 from doing those things, the sexual things and the other

1 things? Did you have control of yourself?

2 A. No. Naw, not really. Not really.

3 Q. Now, there were also some mention -- the doctor was
4 asked about this, and then I'm going to sit down and I'm
5 almost finished. I think in the --

6 MR. BROOKER: If you can indulge me just a second,
7 Your Honor?

8 THE COURT: Yes, sir.

9 MR. BROOKER: I apologize.

10 BY MR. BROOKER:

11 Q. In think in the psychological evaluation?

12 MR. BROOKER: If you can indulge me just a second,
13 Your Honor. I want to find what I'm looking for. I'm
14 going to do it very quickly.

15 BY MR. BROOKER:

16 Q. In the psychological evaluation the doctor and the
17 psychological evaluation when the Doctor Joshi was
18 reviewing mental health records from Tri-County Mental
19 Health treatment, and I think you were sitting there when
20 we discussed this. That is around the age of 12 or 13
21 when you went to Tri-County Mental Health.

22 And he specifically notes in his records that, "His
23 mental status examination on July 21, 2005 did not reveal
24 evidence of disturbing thought processes or disturbed
25 thought content. Mr. Inman reported that he had suicidal

1 thoughts previously, but he denied suicidal ideations at
2 the intake process.

3 That the defendant endorsed hearing the devil at
4 night and seeing a monster in his closet." Do you
5 remember around about the age of 12 or 13 when you saw --
6 when you went briefly to the Department of Mental Health?
7 Do you remember having these thoughts of suicide?

8 A. Yes, I did.

9 Q. And why at that time did you want to kill yourself or
10 were thinking about killing yourself?

11 A. I told you I was scared cause, you know what I'm
12 saying, cause I used to be a show, a mover. This show on
13 t.v. called, 'Boogie Man', you know --

14 Q. I want you to repeat that so we can make sure the
15 court reporter can hear it.

16 A. I said there used to be a show that come on t.v.
17 call, 'The Boogie Man' I used to look at when I was
18 little. So the vision came in my head. And you know what
19 I'm saying, at night I be hearing, you know, the Boggie
20 Man in the closet trying to kill me. Trying to get me.

21 And some nights I lay in bed and I can't move, you
22 know what I'm saying. I don't know what the reason was,
23 you know what I'm saying. I was thinking it's the Boogie
24 Man. So when I was young I -- you know what I'm saying,
25 he was out to get me. So I was scared and went ahead and

1 want to kill myself.

2 Q. You wanted to kill yourself because you thought the
3 Boogie Man was out to get you?

4 A. Yeah.

5 Q. And how long did those thoughts, you know -- this
6 is -- these were reported in, I guess, your mental health
7 records, I think around 2005, I think, for the brief
8 period of time that you saw Tri-County Mental Health.

9 How long did you have those sorts of thoughts or how
10 long have they been going on; that you were afraid of the
11 Boogie Man; that he was out to get you, and you wanted to
12 kill yourself because you thought the Boogie Man was going
13 to get you? How long have you had these thoughts?

14 A. They been going on for a while cause I had a vision
15 of a witch. Well, really, it was a witch, you know what
16 I'm saying. And it came to me. I used to tell my mommy
17 and my daddy that I wanted to sleep with them because the
18 witch was trying to get me.

19 And I went to sleep with mommy and daddy I actually
20 seen the face of the witch. Like it was real, and it
21 turned the bed sideways and looked me in my face. Had
22 like white eyes with green hair. And like a white gown
23 on. So it's spooked me out. So I was terrified for my
24 life at that moment. So I like, you know what I'm saying,
25 so I might as well kill myself.

1 Q. Okay. Almost finished with you. Now, I know that
2 you were only 12 or 13 -- I think the Tri-County
3 Department of Mental Health records indicated that back in
4 2005 when you were seeing them that the reason why they
5 stopped treating you was because you stopped making the
6 appointments. I know that you're 12 or 13 years-old, and
7 you're not responsible for driving yourself and making
8 your own appointments. Do you know why you didn't make
9 those appointments?

10 A. No, I didn't.

11 Q. Okay. Do you even remember all of this?

12 A. No. My ain't got no memory to it to that period of
13 time in my life.

14 MR. BROOKER: If you can indulge me just one second,
15 Your Honor. Make sure I don't have any further questions.
16 I don't have any further questions for him, Your Honor.

17 THE COURT: Solicitor.

18 MR. DANIEL: No questions.

19 THE COURT: You may step down. Court will be in
20 recess for about five minutes.

21 (WHEREUPON, Court was in recess at 1:15 p.m. and
22 reconvened at 1:20 p.m.)

23 MR. DANIEL: May it please the Court. Thank you,
24 Your Honor. My understanding is that Mr. Brooker hasn't
25 any further witnesses. At this time the State will very

1 briefly call Pam Johnson from the jail.

2 PAMELA JOHNSON, after being duly sworn,
3 testified as follows:

4 CLERK OF COURT: Would you state your full name for
5 the us, ma'am.

6 THE WITNESS: Pamela Townsend Johnson.

7 DIRECT EXAMINATION

8 BY MR. DANIEL:

9 Q. Lieutenant Johnson, you run the jail here, kind of,
10 with all due respect to Johnny Sapp, but you run our jail?

11 A. Yes, sir, we do.

12 Q. Can you tell the Court what sort of inmate Mr. Inman
13 has been?

14 A. Since Damian has been an inmate we have had several
15 run ins with him to the point that we finally sent him to
16 another facility in Marion County. Once he got there he
17 went into the suicide pod.

18 Q. So he was so bad he was sent to another facility?

19 A. Yes, sir.

20 Q. Some of his behavior was he did -- I think some of
21 his behavior resulted in criminal charges?

22 A. I think so. One of the female officers got a warrant
23 on him for sexual larceny.

24 Q. So he's actually got pending charges right now?

25 A. Yes, sir.

1 Q. That's from his actions at that time?

2 A. Exactly.

3 Q. Now, there has been lots of talk today about
4 behavior. Was Mr. Inman kind of being a follower and not
5 making his own choice when these things happened at the
6 jail?

7 A. No. That was his choice.

8 Q. All right. And I'm going to show you this, your
9 document. Show you what's been marked as State's Three.

10 MR. DANIEL: And without objection it's in evidence.
11 It's from the South Carolina Department of Corrections.
12 Hand you this. Is this a disciplinary from South Carolina
13 Department of Corrections?

14 A. It is.

15 Q. Your familiar with these cause you've seen the
16 report?

17 A. Yes, sir?

18 MR. BROOKER: Judge, just note I have looked at it.
19 This just shows several disciplinaries from his time.
20 And, of course, it just began on the 29th of June this
21 year.

22 (WHEREUPON, State's Exhibit No. 3 was admitted into
23 evidence.)

24 BY MR. DANIEL:

25 Q. Just one more time. Mr. Inman was moved from your

1 facility?

2 A. Yes.

3 Q. Because he basically couldn't get along with other
4 people.

5 A. When I said fight with one guy I think that guy took
6 out a warrant because he was hurt real bad. We had to
7 move him to Marion County. We really don't like moving
8 people to other facilities, but he was on the male pod at
9 our jail. We sent him to Marion County.

10 Q. In fact today we had arranged that Mr. Inman be
11 brought here just for the day so he doesn't have to spend
12 the night?

13 A. Exactly.

14 Q. Y'all don't want to deal with him?

15 MR. DANIEL: No further questions. Please answer any
16 questions that Mr. Brooker may have.

17 CROSS-EXAMINATION

18 BY MR. BROOKER:

19 Q. Just very briefly. And that's -- when you make the
20 statement in reference to his behavior is that -- let me
21 ask this question first. Do you sometimes have, you know,
22 detainees that y'all have to house that have emotional or
23 psychological problems?

24 A. We do wherever. Because I mean, you know, once they
25 come in we don't know what type of issues they have until

1 they really get there and you know what I'm saying.

2 Q. Yeah, y'all handle detainees that might have
3 emotional and psychological problems. Is it uncommon for
4 them to act out?

5 A. No.

6 Q. And I don't know that you will know this, but in your
7 experience at least, you know, in a detention facility do
8 you have more problems with the younger people than with
9 the older people?

10 A. We were just talking about that. We have more
11 problems with the younger generation now than we do the
12 older people. They seem to be the ones that are a bit
13 more immature, getting into arguments and fights and that
14 sort of thing. That is true.

15 Q. And the way they behave?

16 A. That much is true.

17 Q. And so is mental health a factor?

18 A. Exactly.

19 MR. DANIEL: No further questions.

20 THE COURT: All right. You may step down. Thank
21 you.

22 COLLOQUY

23 MR. DANIEL: That would be all of the State's
24 witnesses, but we do have the victim's family.

25 THE COURT: I'll be glad to hear from anybody that

1 would like to speak to the Court.

2 MS. LEE: Thank you, Judge for letting me speak say.
3 The Bible in Genesis, Chapter 9, Verse 6, "Whoever sheds
4 the blood of man, by man shall his blood be shed for God
5 made man in his image." I read that because this and some
6 other things my momma marked in her Bible and had written
7 for us has brought us some comfort. We felt the Lord was
8 prepared for what was going to happen to her. And i don't
9 understand it. We have tried to deal with it the best
10 that we could.

11 I feel like he should get the same thing. If it was
12 possible he should be placed in the trunk of a car and
13 killed. I know that's not possible, but one day the Lord
14 will deal with that. I'd like to read to him, if that's
15 okay. Another verse that my momma marked from Isaiah,
16 Chapter 55, Verse 6, "Seek the Lord while he may be found,
17 call upon him while he is near." That's all I have is to
18 call on the lord. That's all I want to say.

19 THE COURT: We need your name, please.

20 MS. LEE: Bobbi Lee.

21 THE COURT: Thank you.

22 MR. DANIEL: Your Honor, having heard from the
23 victim's family, having heard from the State's just one
24 witness, and, of course, the Court will take into
25 consideration the facts of this case that the Court heard

1 in this trial I don't think that the State needs to get
2 into any more testimony or discussion about the facts in
3 this case. You heard it all.

4 And so I certainly believe that the Court can take
5 notice of that. Having said that the State rests its part
6 of this case.

7 THE COURT: Mr. Brooker, anything in closing?

8 MR. BROOKER: Yes, Your Honor. Your Honor, obviously
9 is that, you know, the South Carolina Supreme Court, it
10 outlined a number of factors and conclusive factors that
11 the Court should consider in determining an appropriate
12 sentence for someone who is facing life without the
13 possibility of parole.

14 And they mentioned factors and that is common logical
15 age of the offender and features of such as youth
16 including immaturity, and I'm trying to read my writing,
17 of one's behavior subject the family and home environment
18 that surround the offender; that the circumstances of the
19 offense including the extent of the offender's
20 participation in this and the conduct and how family and
21 peer pressure may have affected him or/and the capacity to
22 assist his own attorneys and the possibility of
23 rehabilitation.

24 I think it's appropriate for the Court to consider
25 that this is not a death penalty, but there are factors

1 that are listed in the proceedings for death penalty
2 cases; factors that took or the standards that the Court
3 also said that these factors would be appropriate even
4 though this is not a death penalty case.

5 And, obviously, the reason why, you know, we have
6 these particular hearings that are specialized hearings or
7 individualized hearings, you know, whenever youth are
8 considered for life in prison. When I read that case
9 there are so many things the United States Supreme Court
10 mentioned that justify, you know, why, you know, and I
11 think the Court even said that. And I think made a
12 statement just -- and absolutely, I think a substantial
13 statement when the Supreme Court says that
14 constitutionally of children are different than adults.

15 Some as a matter of law children are different from
16 adults and they are to be treated differently from the
17 adults. And the Court went on at least to note numerous
18 of cases, you know, that basically show that children,
19 young people, you know, that they are different or they
20 are, you know, at least cognitively different than adults.

21 That they're not as cognitively developed; that
22 they're immature. These thing are the hallmarks of youth.
23 That in society we protect children from themselves. We
24 don't allow children to make a decision. We don't allow a
25 16 year olds or 17 year olds to make the decision to drink

1 beer. We don't allow them to make the decision to drive a
2 car or to smoke. There are so many decisions that as a
3 society we say that you can't make because cognitively we
4 don't think that you're developed enough to make those
5 decisions. You know, youth are immature. And these
6 things are going to cause you to make mistakes. They
7 affect your decision making. And that's true, and the
8 Supreme Court recognizes it and also it's also true for
9 Damian.

10 We would be kidding ourselves if we said that back in
11 August of 2009 when Damian was with his brother and was
12 with John Henry and when this significant, life altering
13 decision was being made, a decision that would affect two
14 families, a decision that involved life and death, and a
15 decision that, you know, not adults; that you had a child
16 making that decision.

17 You had a child trying to rationalize the
18 consequences, rationalize the wrong. And, you know, also
19 trying to deal peer pressure from the two others that were
20 with him. And he testified that at that time he didn't
21 appreciate the seriousness of what he was in. He never
22 thought about it. He never thought about the consequences
23 of death. He never thought about the consequences of life
24 in prison. He never thought about the consequences of the
25 pain that he was going to inflict on the Lee Family and

1 affect the family of the victims. That's the type of
2 thinking that adults do. That's the type of rationalizing
3 that adults do when we make decisions. Kids don't do it.

4 And on that he wasn't just a youth or a kid. He was
5 also a youth, a child, that was struggling with other
6 psychological problems and emotional problems. At that
7 time he was diagnosed with depression. He was also
8 diagnosed with disruptive behavior disorder. And there
9 was a history of the, you know, in the school records and
10 also in the D.J.J. records.

11 The fact that a 12 year-old; that he testified during
12 the competency evaluation he started using alcohol. I
13 think he stated the first time I think he had a beer that
14 his father gave it to him at the age of 11; that he
15 started drinking four the five what he referred to as Mad
16 Dog. He started smoking marijuana. He would consume, you
17 know, he would consume, you know, I think he stated seven
18 blunts, seven marijuana blunts, a day.

19 Now, the Court said that when a child commits a crime
20 or is involved in a serious crime that he should be
21 punished. But what the Court also says is that we have to
22 look at who is committing these crimes. We have to look at
23 their capacity, you know, their intellectual capacity. We
24 have to look at, you know, the impetuiousness of youth.
25 All of those bad things go along with youth. We all went

1 through, and I can probably tell the Court I made tons of
2 mistakes when I was young. Mistakes I probably would not
3 make now, you know, that I'm much older because my
4 cognitive development is different. I think differently.
5 I rationalize things differently. I perceive things
6 differently. Children don't. They are not as capable as
7 an adult, and we can't treat them the same as we treat
8 adults.

9 Damian had a lot of disadvantages in his life. A
10 tremendous amount of disadvantages. I don't think it's a
11 surprise to anyone after hearing his story, after hearing
12 about the things that he experienced, that he ended up
13 where he is. With the consuming of alcohol and drugs,
14 with his mental health problems that he was suffering,
15 from the mental and emotional problems he was having, from
16 dealing with those and not receiving treatment for them.

17 And he did receive treatment for them for a while and
18 was diagnosed; that treatment was discontinued and it was
19 discontinued when he was 12 or 13 years old. And it's not
20 his fault that he was discontinued and those treatments
21 were discontinued. I hate to say it, but that falls on
22 his parents. So to some extent they let him down. They
23 should have been there for him. They should have made
24 sure that he received the treatment that he needs. Every
25 day when he had an appointment they should have took him,

1 but they didn't. They didn't and I think maybe if they
2 had maybe we wouldn't be here today.

3 The courts also say that you could take a look at his
4 participation and his culpability. Now, when I went to
5 trial I followed one of the arguments that was made and
6 was charged with the jury is that, if my memory serves me
7 correctly, is that one of the theories was that he was
8 still liable for the crime because whether or not it was
9 proven he actually committed, you know, the homicide
10 itself; that he pulled the trigger. You know, that he was
11 a participant.

12 So what some people refer to as the hand of one is
13 the hand of all in all conspiracy theories and that was
14 one of the elements of his that was charged to the jury.
15 And was argued to the jury. But the Supreme Court
16 STHRABLDZ said it should be considered whether or not an
17 individual -- whether or not an individual, a child, was
18 actually the main culprit or whether or not he may have a
19 lesser role. That is a factor that is to be considered.

20 That is a mitigating factor when you are dealing with
21 a child and specifically when you're dealing with a child,
22 you know, suffering from emotional issues, the mental
23 issue that he was and that he came in and I think at
24 least, you know, that there is competent criminal evidence
25 to suggest that he was not the main culprit; that he did

1 not -- was the individual that actually pulled the
2 trigger.

3 And the evidence and his statement which is already
4 in the record and also a couple other documents that were
5 submitted in discovery and entered in the record. And of
6 course, is one of those memorandum of interview, you know,
7 from Rick I think from S.L.E.D, the South Carolina Law
8 Enforcement Division, who performed a polygraph test on
9 John Henry. And John Henry was one of the parties who
10 testified, you know, that at some point in time he gave
11 law enforcement a statement. He gave at least one
12 statement that Damian, you know, shot -- Damian was the
13 one that did the shooting.

14 And, of course, I'll only read the last part of it
15 and I'll sit down. I've already talked with the
16 prosecutor regarding entering this in the record. I think
17 they don't any any objections, and, of course, he says,
18 and this is John Henry, one of the parties. And he said
19 they grabbed her keys and he helped put Stuttts into the
20 trunk of her car. Bridges says Lorenzo got into the car
21 seat and he got into the front passenger seat with Damian.

22 After a while Damian got in the back seat. He says
23 Lorenzo had a handgun in the front seat between his legs.
24 As they drove out into the country he claimed that Damian
25 kept asking for the gun and said that he was going to

1 shoot Stutts. He said they stopped on a dirt road and
2 they drug Stutts out of the trunk. He claimed that Damian
3 had the gun in his hand and he shot Stutts three times.

4 Bridges said that while they were driving to the dirt
5 road he could hear Stutts in the trunk begging for her
6 life. Bridges did not shoot Stutts at any time. The
7 results of his polygraph indicates that Bridges -- that
8 Bridges was untruthful when he said that he did not shoot
9 Stutts. In his statements he had consistently said that
10 he did not do the shooting; that he just blames Damian.

11 I'd also like to -- of course, I've already discussed
12 this with the prosecutor as well, the statement of xxx bah
13 Shaquill [sic] Crowley. And this was the statement that
14 was someone who had taken Bridges that was not involved,
15 you know, in the homicide in any way.

16 And Shaquill gave a written statement to law
17 enforcement. And in the written statement it stated -- I
18 think it was March 31st 2010, she said John Bridges told
19 me that he robbed some old lady for her car. John said
20 that he shot the lady and took her car. John said that
21 they went into the country. And I think I was told this
22 Monday. I was told this Monday, March 29th 2010.

23 Lorenzo Inman was also involveed in the shooting.
24 Lorenzo is actually Damian's brother, and I won't read
25 Lorenzo's statement, but Lorenzo wrote a long statement.

1 And in his statement he said the exact same things. He
2 said that John Henry was the one who wielded the gun and
3 John Henry was the one who did the shooting.

4 Now, all of this is not to say that he had no
5 culpability. He does, and in the Miller Case the Supreme
6 Court is not trying to say that he doesn't have any
7 culpability. He in fact does, but what the Supreme Court
8 says with Miller is that he has a lessor degree of
9 culpability because of the factors that we were just
10 talked about because of age and all the factors that come
11 along with age.

12 And I think at least, and, of course, is that the
13 Supreme Court suggested -- not bound by this firmly --
14 might have that the Supreme Court suggested that they will
15 reach a conclusion; that the -- that life in prison
16 without the possibility of parole may be
17 unconstitutionally applied or cannot be constitutionally
18 applied to a minor, you know, who committed a crime.

19 It's a homicide, and in their language, I think if my
20 memory serves me correctly, reached the decision or
21 reached the conclusion that a life without parole probably
22 is the same as making minors who commit a non-homicidal
23 crime; that banned the use of homicide against minors for
24 crimes that are non-homicidal. Their conclusion is that
25 the court says all of these rationals also apply to youth,

1 and you know, who are, you know, in prison without the
2 possibility of parole in the homicide case, too. In
3 addition to all of these rationals, all of these reasons
4 and rationalizations that court sided for banning it in
5 non-homicidal cases. They all apply in homicide cases.

6 You know, there are young people are facing life in
7 prison without the possibility of parole. Another
8 rational, at least some specific mention is sometimes life
9 without the possibility of parole for youths with, what
10 you know, actually might be a more significant punishment,
11 you know, for young people than for adults. And the
12 Supreme Court says that when adults commit a crime and
13 that adult is 35, 45, 50, whatever the ages are and you
14 have a minor who is 16, 17 or 18 and both commit a crime
15 and both of them receive the same type of life in prison
16 without the possibility of parole; that that sentence is
17 far more punitive, you know, to the young person because
18 the adult whose 35, 45 or 50 their life expectancy might
19 be 30, 35, 40 years.

20 That will be punishment when you have a 16 year old
21 who could potentially live a lot over than 60 years and
22 that the punitive affect is going to be far greater on the
23 young person with a life in prison without the possibility
24 of parole. Far greater on that young person than it is on
25 the adult who committed the same crime and received the

1 same sentence; that the punishment affect is different.

2 All of this is a kind of tough to argue because, you
3 know, a life has been taken. And I think sometimes when a
4 life is taken I think everybody wants, you know, the
5 individual who did it or participated in it to be punished
6 and it's a natural feeling. I'm sure I would feel the
7 same way where if I had a life, one that was taken in a
8 situation where I might be a little bit more emotional,
9 when her family says that he should get the death penalty.
10 That's a natural emotion for them, and I can understand
11 that.

12 But as lawyers and judge there are more factors that
13 we have to take into consideration calmly without emotion.
14 He deserves to be punished, and he has been and will be.
15 But I think giving Damian's mitigating factors that were
16 discussed here today, you know, I don't think and I hope
17 the Court will see fit to come to the same conclusion.
18 That the Court reach the same conclusion that life in
19 prison under these particular circumstances without the
20 possibility of parole is inappropriate. It may be
21 appropriate in some cases for some minors, but I don't
22 think it's appropriate in this particular situation.

23 And, Your Honor, is I think that in talking to the
24 prosecutor about entering these statements enter them into
25 the record, and of course, that would be the memorandum of

1 the interview from the S.L.E.D. Polygraph Examiner. And
2 then also the statement that was given by Lorenzo Inman,
3 his brother.

4 MR. WATERS: No objection.

5 THE COURT: Well, I don't know. I have a serious
6 philosophical problem allowing any evidence concerning a
7 polygraph or lie detector test. Those things ring
8 unreliable in many cases that the appeal courts have been
9 very protective of.

10 MR. WATERS: To be clear, Your Honor, not the
11 polygraph or results from the polygraph.

12 THE COURT: Okay. Strike what I said.

13 MR. WATERS: I would have an argument if you were
14 going to try to get in the polygraph.

15 THE COURT: Without objection.

16 Xxx all exhibits state and defendant are in evidence.

17 (WHEREUPON, Defendant's Exhibit Nos. 5, 6 AND 7 were
18 marked for identification and received into
19 evidence.)

20 MR. DANIEL: May it please the Court. Thank you,
21 Your Honor. I'll just say a couple of things before Mr.
22 Redmond who is kind of our expert on mental health stuff
23 takes over. Judge, I think that life without the
24 possibility of parole is the appropriate sentence in some
25 of these cases, and Judge, I would submit to the Court

1 that this is one of those cases. The facts speak for
2 themselves about what happened on that hot August
3 afternoon in 2009.

4 And, you know, all the weed and Mad Dog didn't change
5 what happened on that day. This case represents a
6 heinous, senseless crime. He wasn't eight or nine or ten.
7 He was 17 when this happened that involved him in a
8 situation the consequences of which he was aware. He had
9 been in the system before. He has a prior D.J.J. record.
10 He knew enough about the court if you recall from
11 the facts of the case. He knew enough to make a
12 confession at least putting themselves and to some degree
13 at least an active participate. And like I said that Mr.
14 Inman's mental health, Mr. Redmond is going to address
15 those issues.

16 But before I sit down I just want to begin by
17 recognizing law enforcement, both for the investigators,
18 the Sheriff's Department of Dillon County and S.L.E.D.
19 They all did a fantastic job, and law enforcement. And
20 throughout the course of this trial they are to be
21 commended. And their dignity and grace and class speaks
22 for itself. And I'll turn it over to Mr. Redmond.

23 MR. REDMOND: May it please the Court, Your Honor.
24 Just briefly. As set out by the Miller v Alabama,
25 obviously, the defendant is one of the petitioners in that

1 particular case. And so I know he's the first petitioner
2 to come forward on this particular issue. But he isn't
3 the only petitioner. So with that said, Your Honor, one
4 thing I find interesting is that if you read Miller, and I
5 think we heard a lot of discussion, and of course, the
6 Court understands that there is nothing prohibiting the
7 Court from doing it. The law, of course, is that the
8 Court consider all of those factors that have been set
9 forth, and I'll briefly recount them briefly.

10 The first factor as it relates to the age of the
11 offender. We're talking about the maturity and what not
12 when it relates to this particular incident. We're not
13 talking about shoplifting as it relates to the defendant's
14 maturity. Obviously, we're talking about one of the most
15 heinous crimes when you talk about the situation and
16 consequences.

17 And let's talk about the consequences. Obviously,
18 the age of 17 years, whether you've got behavioral
19 disruptive disorder or whatever, it is hard not
20 understanding the consequences of putting a 76 year old in
21 her own car, having abducted her from her own house and
22 driving 57 miles to consider those particular consequences
23 before she's shot and killed. Killed out in the middle of
24 a field.

25 Obviously, the State would content also in favor --

1 in support of a life sentence. And then impetuous, let's
2 look at the definition of impetuous. The definition, done
3 quickly without thought. The Court in the trial heard
4 testimony where they before were actually, and when I say,
5 'case it' -- they were casing the neighborhood, we
6 contend, looking for a victim. As the Court recalls there
7 was testimony that the three of them were walking together
8 I think that afternoon walking this neighborhood, we
9 contend, looking for a victim.

10 Mrs. Stutts, unfortunately, was that victim that they
11 located and then, of course, the nature of the incident
12 itself and the time it took place in the face of not being
13 mature, due to being impetuous, because it flies in the
14 face of the definition of impetuous. This was the
15 premeditated, thought out murder of Mrs. Stutts.

16 The second standard talks about family and life
17 environment. I think nothing in all the discussion or any
18 type of evidence.

19 Third, there is nothing that indicates that he was
20 ever raised or in way any attention by his family to be
21 involved in the abduction and murder of a 76 year old
22 lady, Mrs. Stutts, like we heard in this Court.

23 As it relates to what took place, even though in his
24 role there was an attempt to minimize his role. If you
25 look at it in the totality of the situation he was

1 involved in it from the beginning, during and then
2 afterwards.

3 There has been much talk about the fact that after
4 hanging in the neighborhood there were portions of his
5 testimony where he said that John Henry Bridges went into
6 the house. There was an opportunity, if he was under such
7 duress, for him to leave at that point, but he didn't.
8 My point being that shows that he was just as involved in
9 this incident as anyone else. The hand of one is the hand
10 of all, accomplice liability.

11 The fourth prong being the competency issue. You
12 heard from Dr. Joshi. I don't think there is any dispute
13 that the defendant was competent and was able to
14 understand the nature of the charges against him. He was
15 able to cooperate with his attorney, but then we get to
16 rehabilitation and that's where there were a lot of things
17 I want to discuss briefly as it relates to that cause
18 having sat through this hearing that it all comes down to
19 the defendant chose to testify. He was within his right.

20 I didn't ask any questions. We didn't have to based
21 on what he testified to at any point while the defendant
22 was testifying, but was there any indication at all, any
23 expression of remorse by this defendant. I don't recall
24 any or even seeing any exhibited as it relates to this
25 particular incident. And then I don't recall him

1 exhibiting any distress because, let's face it, from a
2 common sense standpoint, Your Honor, if I'm involved in
3 something as heinous as this and I didn't want to be
4 involved in it I know my demeanor in describing that would
5 be a lot different than what we saw exhibited from this
6 defendant.

7 We were talking about choices, and this is also very
8 important because of the fact that during the time that we
9 were talking with Dr. Joshi the fact that the defendant
10 during those incidents where he was getting in trouble
11 disregarded authority itself. His mother talked about his
12 family history. His mother did as an adult to get some
13 help for him, but at least there's credit made. They took
14 him to try to get help for him. But what is indicated is
15 that he didn't want to change. He had no desire to
16 change.

17 Today have we seen no indication that the defendant
18 sought to change his behavior or tried to change his
19 behavior. I'm not going into what we all have been
20 hearing during the course of the trial and immediately
21 after the trial with the record. Just a month ago, over a
22 month ago, there is an issue with an assault on a
23 corrections officer that this defendant was involved in;
24 that shows he hadn't had any intent to change his
25 behavior. And as I mentioned as it relates to the choices

1 of the defendant this is a type of disorder; that there is
2 no discussion of any medication. There is a question of
3 whether or not that he wanted to conform his behavior.

4 And the last thing that I'm going to say to you is as
5 it relates to the mental health issue. You know, the
6 Court is aware of the mental health issues. Your Honor,
7 with all due respect to this Court and this situation with
8 the actions of this defendant, in regards to this
9 defendant; that the defendant deserves life, and we
10 respectfully request the Court to do just that. Thank
11 you, Your Honor.

12 THE COURT: All right. I want to thank all counsel
13 involved for their professional and zealous representation
14 of your clients. It makes my job a lot easier. I've got
15 a good, clear record in this case. Mr. Daniel and I were
16 talking, just for clarification of the record, about the
17 memorandum of interview. I just want to make that clear
18 for the record.

19 MR. DANIEL: And I want it clear for the record that
20 we are not objecting to it being introduced because for
21 sentencing purposes, for purposes of this hearing, I want
22 to make it clear that this was an issue being presented
23 along with the statement of Mr. Inman. We are only
24 agreeing for purposes of that sentence, the hearing. If
25 that was in the trial in chief we would not be, but I

1 would, obviously, oppose as to the document being
2 introduced.

3 THE COURT: All right.

4 MR. BROOKER: Your Honor, and, of course, I think the
5 trial attorney obviously would have to get that in,
6 actually, by the witnesses, you know, putting them on the
7 stand.

8 THE COURT: Okay. All right. The Court has
9 carefully listened to all the evidence presented by
10 Dr. Joshi, medical doctor, psychiatrist, trained forensic
11 psychiatrist, testified in his testimony and to the
12 testimony presented about the defendant, Damian Inman's,
13 past mental health history. He had disruptive behavior
14 disorder as far back as age 12 and about depression or
15 diagnosed with depression.

16 He stopped treatment at Tri-County, and as far back
17 as 2005 we've got school records that indicated the use of
18 marijuana. Then all the way back to age 12 and 13 the use
19 of alcohol and marijuana. 2008, testimony concerning
20 larceny and truancy issues and he did not follow the Court
21 order and directive in the Family Court.

22 In that regard as to a finding today of the factors
23 that the Supreme Court has asked us to look at I have made
24 some notes and made some findings at this time. First is
25 the chronological age of the offender and hallmarks of

1 youth and maturity and the ability to appreciate the risks
2 and consequences.

3 The Court noted that he had some behavioral disorder
4 issues as far back as an age that this Court finds that he
5 was able and still is able to distinguish between right
6 and wrong and that was clearly established by the doctor's
7 professional testimony.

8 As to Number Two, family and home environment, I find
9 that -- I would note from the testimony about the drug and
10 alcohol use. From his own testimony that his father may
11 have participated or at least may have been involved in
12 some of the alcohol use. That's been presented and from
13 the record, and in all honesty he's had a very little
14 structure in his environment. As far as family issues and
15 family control and influence on him, you know, I'm not
16 going to get too deep into it even at the time of
17 conviction.

18 It should be noted that his sister got in trouble
19 with the Court about jumping into the fray when Mr. Inman
20 assaulted the deputy and other law enforcement officials
21 here in this courtroom. So, you know, those were problems
22 way back with this family. It's apparent he just did not
23 want to follow the rules or structures of society, and I
24 just don't know if he had very much family support in that
25 regard.

1 As to Number Three, the violence of the homicide
2 offense including to the extent of the offender's conduct,
3 and peer pressure may have affected him as well. That
4 goes back to the issue, Number Two, as far as a family,
5 familial, influences. But, obviously, from this he was
6 with peers because it was that situation where you had,
7 obviously, more than one defendant. So peer pressure
8 could have been in there. It may have had some influence,
9 but from the trial record and my memory there was evidence
10 and information and credible evidence that Mr. Inman was
11 indeed a clear participant in excuse of this heinous
12 crime.

13 And after 24 years of doing this job and in being
14 involved in death penalty cases I would say that this
15 crime, as far as the cruelty and the heinousness of it,
16 probably ranks in the top ten that I have ever dealt with.
17 This murder was a cruel and inhuman act in total disregard
18 of human life. If I remember correctly there was
19 testimony from a gentlemen that stated, and this is in the
20 record. Correct me if I'm wrong; that Mr. Inman claimed
21 he shot the victim like a dog.

22 Also, it was testimony and evidence about his taping
23 the victim before she was executed. I note that the
24 defendant's statements from the stand today about his
25 involvement in the crime certainly conflicted with the

1 testimony and evidence presented at trial.

2 Number Four, as it relates to incompetency associated
3 with youth, for example Mr. Brooker, as his attorney,
4 obviously, from the trial found no problem with what was
5 presented, the evidence presented concerning his
6 competency to stand trial. And I observed from the bench
7 that Mr. Inman was able to cooperate with counsel, and the
8 trial went smoothly until the jury reached a verdict and
9 then we had some problems.

10 But as far as his competency I certainly find that he
11 was competent at that time and he is still competent and
12 he was able to assist everyone then and everyone today in
13 defense. Now, as far as I or the prosecutors I don't know
14 what to say about that except I noticed the violence that
15 was shown towards law enforcement which was exhibited in
16 the courtroom brawl we had on the day of conviction.

17 Regarding the possibility of rehabilitation, the
18 Court finds that the possibility of rehabilitation is
19 unlikely. Mr. Inman had been out of control since age 12
20 to the present time. He obviously has been unable to and
21 can't follow the rules of society. He refused treatment
22 when offered. The cruelty committed in the commission of
23 the crime and in the violence committed right here in the
24 presence of us in the courtroom tells me that I find that
25 the defendant should be permanently confined within the

1 Department of Corrections.

2 His evident discipline problems and self-control
3 problems have continued right into prison with this
4 defendant. In the opinion of this Court requires a
5 structured facility for him to remain the rest of his life
6 because he can't function if he were to be released into
7 society.

8 SENTENCE OF THE COURT

9 So, therefore, on Indictment 2009-1212, burglary in
10 the first degree, the sentence of the Court is that Damian
11 Inman be confined for the period of his natural life in
12 the Department of Corrections.

13 Concurrent to that on 2009-1210 the sentence of the
14 Court, that being the murder conviction; that Damian Inman
15 be confined in the State Department of Corrections for a
16 period of his nature life..

17 I will note again since today is sentencing on these
18 particular offenses that Mr. Inman has ten days to file a
19 notice of appeal. Anything else?

20 MR. DANIEL: Nothing from the State, Your Honor.
21 Thank you.

22 MR. BROOKER: Your Honor, thank you.

23 THE COURT: One final thank you, counsel, for their
24 professionalism and performance that they have shown in
25 trying this very difficult case. As I said I believe it's

1 in the top ten in my career.

2 MR. DANIEL: Thank you, Judge.

3 (WHEREUPON, a short break was taken.)

4 THE COURT: All right. We're back on the record.

5 Mr. Brooker, are you okay? Counsel, are you okay?

6 MR. BROOKER: Oh, yes, sir. I'm fine. He didn't get
7 me at all.

8 THE COURT: How about the officers.

9 DEPUTY: We'll check, Judge.

10 THE COURT: Once again, violence in the courtroom.

11 Let the record reflect and clearly show that he displayed
12 the same violent tendencies in the courtroom, and he
13 attempted to spit upon courtroom personnel and law
14 enforcement deputies.

15 END OF TRANSCRIPT OF RECORD

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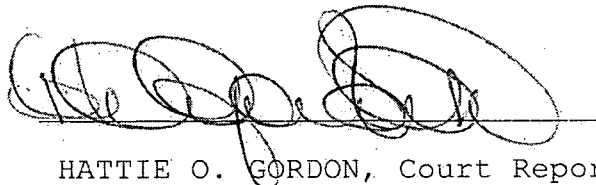
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON)

I, HATTIE O. GORDON, Official Court Reporter for the
4th 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
Dillon County, South Carolina, on the 29th day of October,
2015.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

April 12, 2016

A handwritten signature in dark ink, appearing to read 'Hattie O. Gordon', is written over a horizontal line.

HATTIE O. GORDON, Court Reporter

EXHIBIT #6

June 7, 2016

Loriene French, Legal Services Coordinator
SCCID – Indigent Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

In re: STATE V DAMIAN INMAN
CASE NUMBER 2009 GS 17 1210, 1212
JUNE 8 – 11, 2015
DILLON COUNTY

Dear Ms. French:

With regard to the transcript of the above-entitled case which convened June 8 through June 11, 2015.

The days of June 11th 2015 and October 29th 2015 have been transcribed. The sentencing portion which was held on 10/29/15 was delivered on April 4, 2016. Francis Bakas Ray typed and delivered the last day of the trial which was the June 11th portion of the transcript. I do not know the date in which she delivered it.

The days of June 9 and 10 cannot be transcribed. I apologize for this, and I will attempt to explain the unfortunate circumstances.

Monday, June 8 we held court at the Dillon County Courthouse where we completed voir dire, jury selection and a hearing. I was working on that portion of the transcript and was assigned out of town. I took all of my equipment with me and set it up in a hotel. Upon arriving back home I discovered that the flash drive that I was using to work on the transcript was gone and could not be found. This flash drive contained a copy of the transcript for that day and the audio. I then had the transcript turned over to another court reporter who was unable to complete it.

I was told Monday afternoon that we were relocating to the new Dillon County Judicial Center from the courthouse. I was asked by Assistant Solicitor Shipp Daniel to go over to the Judicial Center at lunch time and check the sound system. I was unable to do that.

On Tuesday, June 9, 2015 upon arrival to the Judicial Center we discovered that the audio system was not working and was not compatible to my digital recorder. This was the first day of work at the Judicial Center. When the judge came onto the bench and the jury had entered the courtroom, I explained that I was having equipment problems. I then attempted to hook up my personal microphones to my digital recorder. The way this courtroom is designed it was not possible for me to run my microphone wires around the courtroom. So the only thing I could do was to put them on the rail around my desk which is below the judge's bench and across from the witness stand.

When we started the trial I advised the judge that my microphones were not picking up the sound very well. I also let him listen to my recorder. I was told to work with what I have. Each day I would inquire as to the status of the audio system and was told that an email was sent and no response was received yet.

To date testimony for June 9th and June 10th have not been produced. If you require any further information please feel free to contact me.

Hattie O. Gordon
Circuit Court Reporter
Fourth Judicial Circuit

Cc: Court Administration
SC Court of Appeals

EXHIBIT #7

June 17, 2016

Loriene French, Legal Services Coordinator
SCCID – Indigent Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

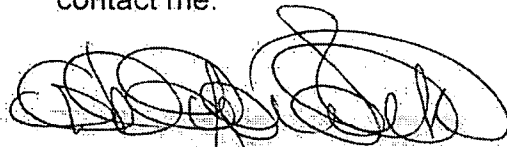
In re: STATE V DAMIAN INMAN
CASE NUMBER 2009 GS 17 1210, 1212
JUNE 8 – 11, 2015
DILLON COUNTY

Dear Ms. French:

This letter is to advise you on the current status of the above mentioned transcript requested.

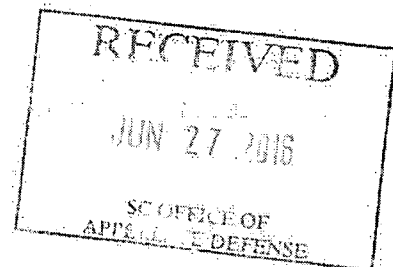
The date of Monday, June 8, 2015 which was the portion of the transcript that was on the lost flash drive is currently being reconstructed by use of the original notes and audio files. This transcript will include voir dire, jury selection and a hearing.

As I indicated in the letter dated June 7, 2016 testimony for June 9th and June 10th cannot be reproduced. If you require any further information please feel free to contact me.



Hattie O. Gordon
Circuit Court Reporter
Fourth Judicial Circuit

Cc: Court Administration
SC Court of Appeals
Thomas Strom, SCCID ✓



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EXHIBIT #8

HATTIE O. GORDON
Circuit Court Reporter
Post Office Box 597
Wallace, South Carolina 29596-0597

June 23, 2016

LORIE NE FRENCH, SCCID
POST OFFICE BOS 11589
COLUMBIA, South Carolina 29211-1589

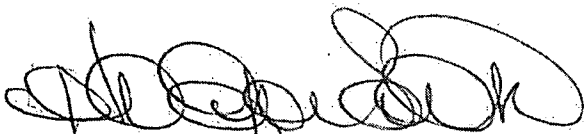
Re: STATE V DAMAIN INMAN
CASE NO.: 2009 GS 17 1210, 1211

Dear Ms. French:

Enclosed please find a verbatim, certified copy of the trial proceedings for the above mentioned case for the day of June 8, 2015.

If you require any further information, please feel free to contact me.

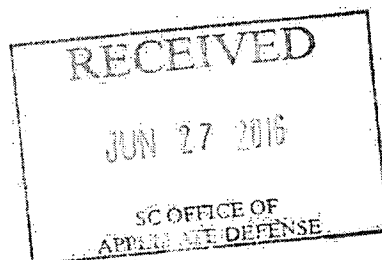
Sincerely,



Hattie O. Gordon, Circuit Court Reporter

Cc: Court of Appeals
Court Administration
Thomas Strom, SCCID ✓

JS



UNITED STATES
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

MEMORANDUM

TO : DIRECTOR, FBI
FROM : SAC, NEW YORK
SUBJECT: [Illegible]

Enclosed for the Bureau are two copies of a letterhead memorandum (LHM) dated and captioned as above. The LHM was prepared by the New York Office on [illegible] and contains information regarding the activities of [illegible] in the New York area.

[Handwritten signature]



Approved: [Illegible]
Special Agent in Charge

7

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dillon County

Honorable Paul M. Burch, Circuit Court Judge

RECEIVED

NOV 03 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAMIAN INMAN,

APPELLANT

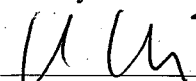
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion for a New Trial or, in the Alternative, an Order to Reconstruct the Record of Appellant's Trial in the above referenced case has been served upon Donald Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Motion for a New Trial or, in the Alternative; an Order to Reconstruct the Record of Appellant's Trial has been served on Damian Inman, #344143, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 3rd day of November, 2016.



John H. Strom
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 3rd day of November, 2016.

 (L.S)
Notary Public for South Carolina
My Commission Expires: 5/12/2025