

VOLUME III OF III

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Richland County
Honorable J. C. Buddy Nicholson, Circuit Court Judge

AUG 04 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

HANK E. HAWES,

APPELLANT

APPELLATE CASE NO. 2014-002288

RECORD ON APPEAL

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1 bit of a drip trail, which would indicate a series of
2 drip stains in one direction or another. The balance
3 of this, what we see here, is pretty much transfer
4 trail.

5 Q. Are you able to determine say, a series of drip stains
6 moving in one direction or another? Can you determine
7 which direction the movement is?

8 A. Not -- not for this particular drip pattern or drip
9 trail.

10 Q. Okay. Let me show you what's marked as State's 139, a
11 little further into the kitchen.

12 A. Uh-huh.

13 Q. Can you identify anything on that?

14 A. Well, we have some pooling of blood, a large
15 concentration of blood, more transfer impressions as
16 well as several swipes. And swipes are patterns that
17 are created when you have an object that has blood on
18 it that comes across, laterally across the surface and
19 deposits blood, indicating some motion. So that's what
20 a swipe is. We have a lot of swipes throughout the
21 kitchen floor. Up on the side here (indicating) on
22 the, I believe that's a dryer, there's some cast off
23 stains. And cast off would indicate an object that has
24 blood on it that releases that blood due to motion. So
25 this could -- where this comes from could be any number

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1 of sources, but some examples would be a hand, a
2 weapon, hair, anything that's moving that has blood on
3 it can cast off. That's why the name of the pattern is
4 called cast off.

5 Q. But you can't determine in this particular instance
6 what cast the blood off that you're referring to,
7 correct?

8 A. That's correct.

9 Q. Okay. Let me show you what's marked as State's 144.
10 And what can you tell us about that?

11 A. We have a lot of spatter. And spatter is a generic
12 term for any airborne stain that's four millimeters or
13 less in width when we're measuring the stains. This is
14 -- it's not possible for me based on the photos to
15 determine whether this is the result of an impact or
16 cast off or some other mechanism. So we do have quite
17 a bit of staining on the lower half of this door -- of
18 this refrigerator, which largely is predominantly less
19 than four millimeters in size.

20 Q. Okay. And what's marked as State's 143?

21 A. Again, we -- we are --

22 Q. Can you describe what you see in that picture?

23 A. Yes. So here, we're further down into the kitchen and
24 we're still looking at the refrigerator here and these
25 other stains I was just referring to. We have more

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1 transfer and swipes all on the floor. We have some
2 additional spatter up on the tablecloth as well as
3 swipes coming down the -- the refrigerator door.

4 Q. And, again, what's a swipe?

5 A. A swipe is when you have an object that has blood on it
6 that moves across a surface depositing more blood,
7 indicating motion.

8 Q. You indicated there's more spatter. How about the
9 cloth on the table, what is on the surface of that?

10 A. This right here (indicating)?

11 Q. Yes.

12 A. Yes, this is some more spatter.

13 Q. Is there any way to determine the mechanism that
14 deposited the spatter?

15 A. There is not a way to determine the mechanism. There's
16 several possible mechanisms.

17 Q. Okay. Do you, also, see drips in this picture?

18 A. Yes. We have several drip stains right here
19 (indicating), just adjacent to that end table. We have
20 drip stains throughout. These are the circular ones
21 that you see.

22 Q. And drip stains are consistent with what mechanism?

23 A. A drip stain is gravity is creating those drops, which,
24 ultimately, fall to the floor.

25 Q. Okay.

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1 A. So it could be from a bleeding source. It could be
2 from an object. It could be from a number of things.

3 Q. Okay. Let me show you 135 and ask you if you recognize
4 that?

5 A. Yes. Here, we're looking back towards the direction we
6 were coming in, towards the back door. And, again, we
7 have a large here (indicating) with some pooling at the
8 base of the refrigerator, a large area. Again, there's
9 transfer patterns, swipe patterns, drip stains here
10 (indicating).

11 Q. Okay. Turning to State's 129, can you describe what
12 you see in this photograph?

13 A. So here, we're a little bit, you know, towards the end
14 of the kitchen, entrance to the hallway. And we have
15 some swipes and transfer impressions and some drip
16 stains. So it's really more of the same.

17 Q. Okay. What could swipes be consistent with as far as
18 how they can -- they make the deposit?

19 A. They can be consistent with a lot of things.

20 Q. Okay.

21 A. With swipes, we really have to have the object. We
22 have to know what the object is that created it to,
23 actually, put those together. And we have a lot of
24 blood in the scene and a lot of objects that have blood
25 on them in this scene. So it's very difficult to

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1 relate exactly what those swipes were created by.

2 However, we do have a large swipe that comes down
3 (indicating). And in this area right here
4 (indicating), we have a towel at the end and it does
5 appear that this is the disruptive area (indicating)
6 from the continuous swipe that we see from the floor
7 extending from the kitchen out into the hallway. We do
8 have some disruption there.

9 Q. Just to be clear, did we ask you to do an in-depth
10 analysis of this entire scene?

11 A. No.

12 Q. Do you have any estimate on how long it would take to
13 do an in-depth analysis of this entire scene?

14 A. Yes. There's -- because we have, potentially, two
15 bleeding sources and we have attempts at clean up and
16 we have blood in nearly every room, it would probably
17 take me a couple of months to get an analysis.

18 Q. State's 177, what do you see in this picture?

19 A. So here, we're at the threshold between the kitchen and
20 the hallway and we have a couple of towels resting over
21 that area. We see the swipes leading up to this area,
22 and we see a more concentrated, higher volume swipes
23 leading out from the kitchen into the hallway and
24 towards the bedroom.

25 Q. You also see drips -- drip stains?

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1 A. Yes. We have several drip stains here and we,
2 actually, have some drip stains on -- I don't want to
3 say on top of it, but they are transposed.
4 Determination as to what came first is very difficult,
5 especially since I have not had an opportunity to go to
6 the scene. But you do have drip stains throughout,
7 even within this pattern on over here as well we have
8 some drip stains all over the floor.

9 Q. All right. And then what's marked as State's 107?

10 A. So we have some transfer, some more transfer, swipe and
11 more drip staining and a lot of transfer (indicating)
12 on this mat (indicating), this floor mat as well as we
13 have staining on -- I believe this is clothing and,
14 obviously, staining on the side of the bed.

15 Q. Do you know what room that is?

16 A. This is the bedroom, the north bedroom.

17 Q. And I show you what's marked as State's Exhibit No. 96.
18 Just one second. What do you see there?

19 A. So we have more drip staining down here (indicating) on
20 the floor. We have several stains that are up on the
21 wall (indicating) as well as some transfer. This is
22 transfer (indicating). So something came in contact
23 with these areas here (indicating). We do have some
24 airborne stains here that could have been resulted from
25 cast off or projected. And so projection pattern --

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1 projected pattern is, basically, blood that is ejected
2 from a blood source under pressure. So there are a
3 number of mechanisms or common mechanisms to, actually,
4 create that. But it is -- I am not able to determine
5 if this is the result of a projected or cast off.

6 Q. And, again, if it were cast off, you couldn't determine
7 what it was cast off from?

8 A. That is correct.

9 Q. All right. State's 98. Please describe what you see
10 here?

11 A. So here, we're further in the bedroom. We're looking
12 at -- this is the wall from the previous photo. We
13 have some drip stains that are on the window sill,
14 interior window sill. We have drip stains throughout
15 as well as transfer patterns on the floor.

16 Q. Transfer patterns could be consistent with footprints?

17 A. Yes. There are transfer patterns that are easily
18 determined to be foot impressions.

19 Q. Okay. Let me show you what's marked as State's 105
20 here. And ask you what you know about that photograph?

21 A. So this is the north side of the bed. We have a wall
22 immediately adjacent here. We have a nightstand right
23 next to the bed. So we have a lot of staining on the
24 floor. So here's a large concentration of blood here
25 on the floor, which are drip stains and drip patterns

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1 intermixed.

2 So drip pattern is different from a drip stain in
3 that they are drip stains that are falling on top of
4 each other kind of a pool effect. And so when blood
5 hits blood, it, actually, creates satellite that are
6 small stains that are emanating from a parent center
7 stain. So around this entire area (indicating), we
8 have small stains around this center mass. We might
9 have a better photograph.

10 Q. We do.

11 A. Coming up? But we have circular drip stains and a
12 large area right here (indicating) away from the bed.

13 Q. What do you see on the bed?

14 A. So on the bed, we have a lot of different things. Now,
15 when you're talking about clothing and cloth and fabric
16 absorbent material, it becomes much more difficult
17 because cloth can absorb and wick the stains and create
18 very odd-shaped stains. But sometimes it is very easy
19 to tell some directionality. So we do have probably
20 some transfer patterns here, these large areas, and
21 flow where blood is, basically, running onto the bed
22 (indicating). And we have absorption and saturation
23 stains throughout the bed. And we, also, have some
24 smaller stains in this area (indicating) that have
25 been -- that are airborne and do exhibit some

JEFF GURVIS DIRECT BY MR. STRICKLER

1 directionality here. And I would say that that would
2 be consistent with projected matter.

3 Q. Okay. Let me show you State's 113 and ask you what you
4 can tell us. Is that a better shot of the pattern on
5 the floor?

6 A. I think so.

7 Q. Okay. Could you describe what you see there, sir?

8 A. So we have -- here is our center area, our center mass
9 where we have, basically, drip stains and drip pattern,
10 potentially, a little bit of splashing all in this
11 center area. We have drip stains, as you can see,
12 around the periphery of this as well as small stains
13 (indicating) throughout -- around the edges of this
14 pattern. We, also -- if you notice here, we have some
15 linear stains -- or linear patterns -- that's perfect,
16 thank you.

17 Q. Okay.

18 A. Going and extending up onto the wall. And this would
19 be a classic projected pattern where you have a stream
20 that is ejected under pressure and it comes and lands
21 on whatever surface it makes it to. And we know it's
22 projected because it is a linear pattern that has
23 similar-sized stains throughout the pattern. And it's
24 very similar to -- you can make the analogy of a squirt
25 gun. If you're squirting a stream of water or blood,

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1 when it comes to rest, it does result in a linear
2 pattern where all the stains are roughly the same size.

3 Q. Okay. From this, do you see any other projected
4 patterns in this?

5 A. Yes. We have some projected patterns here on the
6 nightstand. As we see them, the linear pattern is
7 extending along the floor because not everything --
8 when you have the ejection of blood, not everything
9 will make it to a wall. So gravity takes hold and it
10 naturally falls down to the floor, resulting in that
11 linear pattern.

12 So we have some projected, these (indicating) as
13 up here on the wall, you'll see, I believe, some more
14 staining that would have that. So we have -- these are
15 -- all these right here (indicating) are projected
16 patterns.

17 Q. Okay. As to the -- with the projected patterns, are
18 you able to tell from what height they were projected,
19 at least, in this particular instance?

20 A. No. Because the nature of how projected patterns are
21 created, we don't know if the projection is straight,
22 if it's up and then arcing and coming down, or if it's
23 going straight down. We don't have that ability at the
24 moment. So we have no way to know how high above this
25 area the projection is, actually, originating from.

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- 1 Q. As opposed to height, can you make any estimates as far
2 as directionality of the projected pattern?
- 3 A. Yes. So projected pattern, this is definitely going --
4 this is north. This is going eastward onto the east
5 wall and -- you know, if a linear pattern emanates from
6 this area (indicating) here. So whatever the source is
7 that created the projection is directly above this
8 center area.
- 9 Q. Okay. And turning back to State's 105, do you know
10 notice projected patterns on the bed sheets?
- 11 A. Yes. So in -- in looking at the sheet, we have several
12 small stains here (indicating) that exhibit
13 directionality in a southeasterly direction towards the
14 opposite corner of the bed. They are smaller in size
15 than you see in these transfers and they do -- because
16 they show directionality, we know that they're
17 airborne. And since these stains exhibit similar sizes
18 as we see on the nightstand and on the wall, I'm able
19 to make the determination that that would be consistent
20 with being more projected pattern than we see -- likely
21 see on the wall.
- 22 Q. Okay. Now, once again, back to State's 113, do you see
23 an object at the foot of the nightstand, not the towel,
24 the other object?
- 25 A. This object here (indicating)?

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1 Q. Yes.

2 A. That appears to be a cell phone.

3 Q. A cell phone?

4 A. (The witness nodded head.)

5 Q. Do you remember seeing pictures of the cell phone?

6 A. I do.

7 Q. Okay. Did that have any blood on it?

8 A. It did.

9 Q. It did. Okay. Do you remember what the nature of the
10 stain was on it? I'll pull the picture.

11 A. I believe it's a combination of transfer and I believe
12 we do have a drip stain on there.

13 Q. Okay. All right. Now, as result of what you found at
14 this particular area and in consultation with
15 Ms. Pringle and myself, did you advise us to do
16 anything?

17 A. Yes. So when the question comes up as to what is
18 causing these projections, one of the important things
19 with bloodstain pattern analysis is that we rely on
20 information outside of just the patterns themselves.
21 So it would be important to know whose blood that could
22 be to help, potentially, reconstruct events.

23 So the next question is, is there any way to
24 determine whose blood any of this is. And,
25 unfortunately, we didn't have the samples taken from

JEFF GURVIS DIRECT BY MR. STRICKLER

1 the forensic personnel, but we did have this sheet. So
2 what I asked for was for those stains on the top
3 portion of that that exhibit that airborne and
4 directionality that was consistent with these stains
5 (indicating) and these stains (indicating) to be tested
6 by the laboratory because that was the best shot we had
7 in, potentially, correlating the stains here
8 (indicating) with the stains here (indicating).

9 Q. Let me show you State's 200 and ask if you can -- this
10 is black and white. You see a couple of areas marked
11 with circles?

12 A. Yes.

13 Q. Okay. Do you know what those are?

14 A. Those -- I believe those were done and requested before
15 I pointed out the stains.

16 Q. Okay.

17 A. So these are just saturation stains that were within
18 the sheet and mattress that were circled to test.

19 Q. Then show you what's marked as 201, is that additional
20 examples of that?

21 A. Yes, correct. There is more saturation stains that,
22 apparently, were circled for testing.

23 Q. And then after you consulted with us, let me show you
24 State's 402. And can you identify a couple of areas --

25 A. Yes.

JEFF GURVIS DIRECT BY MR. STRICKLER

1 Q. -- on that.

2 A. So this is a photo that I, actually, annotated to
3 circle the stains myself. Because here are the stains
4 (indicating) that were showing and exhibiting
5 directionality in that southeasterly direction. Again,
6 the sizes of these stains were consistent with the
7 stains that we saw on the nightstand. And so, these
8 stains, if we had an opportunity to find out what the
9 source of these stains -- these are, actually,
10 traveling across the bed, and these are, actually,
11 running down the side of the bed (indicating). If we,
12 potentially, determine whose blood that is, we can then
13 correlate those to the ones on the nightstand and on
14 the floor.

15 Q. Okay. And you were here on Friday?

16 A. I was.

17 Q. During the testimony of Ms. Stanley. Do you know to
18 whom all the stains on the sheet we've been talking
19 about are identified through DNA analysis?

20 A. Yes. The stains that were tested from the sheet, I
21 believe they came back to the Defendant.

22 Q. The Defendant. Those stains (indicating) and,
23 specifically, the two that you suggested we look at?

24 A. Correct.

25 Q. Okay. All right. While we're still at this point, can

JEFF GURVIS DIRECT BY MR. STRICKLER

1 you tell us -- let me ask you this, is it easy to
2 determine the volume of blood on any scene through
3 visual observation?

4 A. No, it's not.

5 Q. It is hard to determine?

6 A. It is hard and there are -- actually, it's beyond the
7 limits currently of bloodstain pattern analysis to
8 estimate the volume of blood. There is new research
9 coming out and we're getting there, but current time,
10 we're not able to determine that.

11 Q. Okay. You wouldn't disagree that there's a large
12 volume of blood on the scene?

13 A. There is a large volume of blood on the scene.

14 Q. Is there any way -- let me ask you this, as to the pool
15 of blood on the floor next to the bed that you've been
16 describing, is that consistent with someone being in
17 that area for a period of time?

18 A. Yes. Because we have that center -- and if we can go
19 back.

20 Q. I'll go back.

21 A. That will be great. Because we have satellite all the
22 way around and drip stains all the way around in a very
23 large area, this indicates that the source had to have
24 been directly above this area for a period of time to,
25 actually, create that pattern and the various stains

JEFF GURVIS DIRECT BY MR. STRICKLER

1 around it.

2 Q. Is there any way to determine with any precision how
3 long a period of time that would be?

4 A. No, there's no -- no way. The rate to which that blood
5 source is releasing that blood is not determined.

6 Q. Okay. And do you see examples -- and you may have
7 already testified to this, I'm sorry -- of satellite
8 stains in this particular picture that would be
9 indicative of blood falling into an already-existing
10 pool of blood?

11 A. Yes, so we see -- we see that all along the periphery
12 of that.

13 Q. Those are the smaller stains?

14 A. Those are the smaller stains.

15 Q. These --

16 A. So these are drip stains, these larger stains, but
17 intermixed in here are very small stains that are less
18 than four millimeters.

19 Q. What characteristics do they have that leads you to
20 believe that they are satellite stains?

21 A. Their size and presence around that lead drip.

22 Q. Okay. Moving on to -- this is the area that we asked
23 you to go ahead and concentrate on?

24 A. Correct.

25 Q. Okay. Just finishing the walk-through of the State's

JEFF GURVIS DIRECT BY MR. STRICKLER

- 1 122, can you describe what you see in that picture?
- 2 A. So this is the window sill and we have some more drip
3 stains and we have what I would say are cast off stains
4 here (indicating). I believe there's a handle on the
5 window.
- 6 Q. I will show you State's 123?
- 7 A. So we have a handle on the window, the twisting handle
8 to close the blinds. And so this is a transfer pattern
9 because blood is transferred, contact transfer with
10 this -- with the handle here. And these stains that
11 are immediately adjacent to the left here would be
12 indicative and consistent with someone who had blood on
13 their hand reaching up and turning the blind shut
14 (indicating).
- 15 Q. Okay. Showing you State's 71, let's see, can you
16 identify where that is?
- 17 A. This is the main hallway. This is the bedroom here
18 (indicating), and to the right, we have the kitchen
19 (indicating), and to the left, we have the bathroom
20 (indicating). So this is the hallway here
21 (indicating).
- 22 Q. And what do you see on the hallway?
- 23 A. In the hallway, we see more drip stains and drip trails
24 as well as transfer patterns, foot impressions
25 throughout there.

JEFF GURVIS CROSS BY MS. CAMPBELL

1 Q. And, lastly, show you State's 70. What do you see on
2 this photograph?

3 A. So here, we have some more spatter. And these are two
4 distinct areas here (indicating). I didn't spend a lot
5 of time on this, but there are a couple potential
6 mechanisms that could have created these, one being
7 cast off and the other being projected. Both of those
8 are linear-type patterns and these are linear in
9 nature. When we say linear, it's not single-file
10 stains, it's just the overall distribution is in a
11 linear pattern.

12 Q. Okay. You can go ahead and resume the stand.

13 A. (The witness complies.)

14 THE COURT: Why don't you leave it up if you would
15 because the State will use it on cross, if you don't mind,
16 please.

17 MR. STRICKLER: My apologies.

18 THE COURT: Okay. I don't know.

19 Solicitor, you think you want to use it or you
20 want it removed?

21 MS. CAMPBELL: I may use it, Your Honor.

22 THE COURT: Just leave it if you don't mind,
23 please.

24 MR. STRICKLER: Thank you very much, sir. Answer
25 any questions the prosecution may have.

JEFF GURVIS CROSS BY MS. CAMPBELL

1 THE COURT: Cross-examination.

2 MS. CAMPBELL: Yes, sir.

3 CROSS-EXAMINATION

4 BY MS. CAMPBELL:

5 Q. Morning.

6 A. Morning.

7 Q. I don't think we're ever met?

8 A. No.

9 Q. And just so I can go back on some things. Basically,
10 you talked about your training in this field as far
11 as -- and we're going to stick to bloodstain patterns
12 for this purpose?

13 A. Uh-huh.

14 Q. When was the last time you, actually, went to a crime
15 scene and processed it?

16 A. I believe about three years ago.

17 Q. About three years ago. And when you go to a crime
18 scene and process it, would it then be proper to make a
19 report about what you've done?

20 A. Yes.

21 Q. And in this case, I believe that you were retained by
22 the Defense on August the 30th is when you first met
23 with somebody?

24 A. That was when I first met with someone, correct.

25 Q. And then, since then they've sent you a number of --

JEFF GURVIS CROSS BY MS. CAMPBELL

1 what you've said was pretty exhaustive, all the photos,
2 some of the reports?

3 A. (The witness nodded head.)

4 Q. Some of the incident reports, the crime scene analyst
5 reports and things of that nature?

6 A. Yes. I received many materials.

7 Q. Okay. And in this case, you, also, became aware, I
8 guess, at some point that there were two people
9 bleeding at the scene, or eventually became aware
10 through DNA testing?

11 A. Yes.

12 Q. And then you looked at everything and you've come up to
13 some conclusions that you've testified to here today?

14 A. Correct.

15 Q. And at what point -- or I guess I didn't -- I never got
16 your report?

17 A. (The witness nodded head.)

18 Q. Did you make one?

19 A. I did not. It wasn't until last week where it was
20 understood what kind of blood evidence was going to be
21 presented.

22 Q. So it wasn't until last week that you knew about what
23 blood evidence was going to be presented?

24 A. That's correct. Usually, I write a report based on
25 specific request about what kind of analysis was going

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 to be requested, and from there, generating a report.
- 2 It wasn't until last week until we knew what -- because
- 3 it's a very extensive scene, a lot of photographs. As
- 4 I said and testified earlier, it could take two months
- 5 to do a complete analysis. And it wasn't really known
- 6 as to what the question was for presentation here
- 7 today.
- 8 Q. But you were directed by the Defense as to what area to
- 9 concentrate on, weren't you?
- 10 A. They asked me about that.
- 11 Q. They're the ones that asked you to concentrate on that
- 12 pool next to the bed and this sheet right there, right?
- 13 A. They did.
- 14 Q. And then you're the one that suggested that they send
- 15 off those photographs to SLED to request certain
- 16 testing on the sheets?
- 17 A. That's correct.
- 18 Q. And that was done -- the first testing was done on
- 19 September 12th, so, at least, by September 12th, you
- 20 knew you wanted that area tested or they wanted that
- 21 area tested; is that correct?
- 22 A. Correct. We were in the fact finding, gather
- 23 information stage of just trying to get our bearings as
- 24 to what the analysis needed to be.
- 25 Q. And at that point, you were concentrating on that. Did

JEFF GURVIS CROSS BY MS. CAMPBELL

1 you ever -- prior to knowing what the DNA, you still
2 had examined those photographs, didn't you?

3 A. The DNA, I knew -- the original DNA reports, I had when
4 I had the initial examination.

5 Q. And as far as what you can testify to today, you can't
6 tell this jury whose DNA was there or not, right?

7 A. Correct.

8 Q. But you are able to analyze and talk about what kind of
9 patterns. So prior to September 12th, you knew what
10 kind of patterns were in the area where they asked you
11 to focus, right?

12 A. That's correct.

13 Q. But you didn't do a report?

14 A. That's correct.

15 Q. And are you being paid to be here today?

16 A. I am.

17 Q. And, in fact, how many hours have you put in so far in
18 this case?

19 A. Total hours for the analytical portion of this is
20 roughly about 20 hours.

21 Q. Roughly about 20 hours. Does that include your
22 testimony here today?

23 A. It does not.

24 Q. Is that a different rate from what you're getting paid
25 for the other?

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 A. No.
- 2 Q. What is your rate?
- 3 A. My rate is \$200 per hour.
- 4 Q. \$200 dollars per hour, so 20 hours so far. Does that
5 include travel?
- 6 A. No, travel is, obviously, reimbursed as well.
- 7 Q. Are you paid for your travel time, too?
- 8 A. I am.
- 9 Q. And you came last Friday?
- 10 A. I did.
- 11 Q. And that's at \$200 an hour?
- 12 A. That is correct.
- 13 Q. And then you did what the Defense asked you to do,
14 which was just to concentrate on this one area in this
15 crime scene, right?
- 16 A. That is correct.
- 17 Q. And you already said this, but you never went to the
18 crime scene, of course, you didn't have the opportunity
19 to do that?
- 20 A. That is correct.
- 21 Q. And they provided you pictures and some reports. Did
22 you ever get a copy of the Baptist records where the
23 Defendant was treated for the injuries to his wrists?
- 24 A. Yes.
- 25 Q. You did? This was provided to me this morning as to

JEFF GURVIS CROSS BY MS. CAMPBELL

1 what was provided to you. It includes the EMS reports.

2 Is that all that was provided to you?

3 (Pause.)

4 A. So this EMS patient record, is that what you're
5 referring to?

6 Q. No, that's what was provided to you. I'm talking about
7 the emergency room treatment records?

8 A. I would have to go through the stack again.

9 Q. But you would agree they aren't listed here?

10 A. That would be correct.

11 Q. Did you ever meet with Dr. Robinson to talk about the
12 nature of his injuries?

13 A. I did not.

14 Q. Did you ever meet with any witnesses from the scene?

15 A. I did not.

16 Q. Did you ever consult with Columbia Police Department as
17 far as their observations and what they saw?

18 A. I did not.

19 Q. And, in fact, all that you had was what was provided to
20 you by the Defense; is that correct?

21 A. That is correct.

22 Q. And you narrowed -- they narrowed it down for you for
23 this one area they were interested in?

24 A. That was the request that was made.

25 Q. And, specifically, we've talked about some terms and

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 I'm not good at this stuff, so can I go over some of
2 the terms you've used in your analysis?
- 3 You mentioned cast off. Is that the correct term?
- 4 A. That is a correct term.
- 5 Q. A correct term. And what is that, sir?
- 6 A. So cast off pattern is a pattern that's created when
7 blood is cast off from an object that's in motion.
- 8 Q. That has blood on it?
- 9 A. That has blood on it.
- 10 Q. And that could be part of the body (indicating)?
- 11 A. Part of the body.
- 12 Q. It could be a weapon being held by somebody?
- 13 A. Yes.
- 14 Q. And you even said earlier when you were talking about
15 drip, and you used an example of how you can drip your
16 hand in blood, then hold it up and gravity makes it go
17 straight down, right?
- 18 A. Correct.
- 19 Q. And you've mentioned there's a bunch of drips in this
20 scene; is that correct?
- 21 A. That's correct.
- 22 Q. And drip just goes straight down, but cast off goes
23 more like this (indicating); is this correct, or is
24 that possible?
- 25 A. That is --

JEFF GURVIS CROSS BY MS. CAMPBELL

1 Q. I don't mean to --

2 A. No.

3 Q. I don't want to put words in your mouth.

4 A. Sure. So cast out of is different than drip stains
5 because the drip stains, when gravity is forming them,
6 they tend to be larger than four millimeters. They,
7 actually, can be as large as 21 millimeters in size.
8 Cast off, because there's a little more force than
9 gravity, those stains, actually, tend to be smaller,
10 and they're, also, linear. There are a series of
11 stains --

12 Q. They're, actually, cast off, so there's some projection
13 towards this?

14 A. Well, anything that travels through air is projected
15 through the air. But we, actually, define projected
16 patterns as a specific type of mechanism.

17 Q. And let me go back to that. You testified earlier that
18 it's hard to tell between cast off and projected
19 patterns. You said that about the hallway that you
20 looked at?

21 A. Yes, on the hallway to the bathroom as well as the
22 inside of the bedroom on the -- would be the west wall.
23 That would be difficult to tell whether they were
24 projected or cast off based on the photographs that I
25 have.

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 Q. Okay. Let me go back to drip for a minute. Those are
2 generally circular?
- 3 A. Correct.
- 4 Q. Generally, they're kind of a round shape?
- 5 A. Correct.
- 6 Q. And cast off has more of a direction to it, doesn't it?
- 7 A. It does.
- 8 Q. What do those look like?
- 9 A. What do they -- so, depending upon the angle in which
10 they strike the surface, they may be more elliptical,
11 more acutely angular.
- 12 Q. Depending -- and that's an exaggeration, but is that
13 correct?
- 14 A. Correct.
- 15 Q. And then with projection -- and correct me any time I
16 say something wrong because I'm not good at this.
17 Again, you talked about directionality and things of
18 that nature?
- 19 A. (The witness nodded head.)
- 20 Q. And you said it's difficult to say between cast off and
21 projection. And is that because the patterns can be
22 similar?
- 23 A. It may be difficult to tell the difference, but there
24 are times when it is clearly obvious what pattern.
- 25 Q. And, again, those are more elliptical, typically?

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 A. It's all depending upon how those stains strike a
2 surface.
- 3 Q. And you say you have a projection pattern if it hits
4 something, even if it hits it square on or at an angle,
5 depending on the volume of blood, it may then drip?
- 6 A. Correct. If there had been any sufficient volume there
7 that runs off and exhibits flow.
- 8 Q. Down a wall?
- 9 A. Correct.
- 10 Q. Say?
- 11 A. Uh-huh.
- 12 Q. And what were the -- some of the other terms you used?
- 13 A. Swipe pattern, transfer.
- 14 Q. Swipe pattern, transfer?
- 15 A. Right.
- 16 Q. Thank you. And a swipe is what?
- 17 A. A swipe is when you have an object that has blood on it
18 and it moves laterally across a clean surface
19 depositing blood and it indicates motion.
- 20 Q. And in this crime scene, just from what you're able to
21 tell right off the bat, there were a number of swipes
22 in the kitchen area?
- 23 A. Correct.
- 24 Q. And in the hallway into the bedroom?
- 25 A. Correct.

JEFF GURVIS CROSS BY MS. CAMPBELL

1 Q. And those kind of go hand in hand transfer, too, don't
2 they, or can?

3 A. Yes.

4 Q. And transfer is what?

5 A. So transfer is when you don't have any motion between
6 those two objects. The blood on an object comes in
7 contact and is released off, which may exhibit the
8 pattern of that original object, such as a foot --

9 Q. Footprint, that's what I was getting ready to get to.
10 Thank you.

11 And there's some other terms that can be used that
12 you didn't mention, say in the case where someone has
13 been stabbed in the lung and they start spewing blood
14 from their mouth, what do you call that?

15 A. Those are aspirated patterns.

16 Q. And how do those manifest themselves?

17 A. They can also exhibit very small stains that are
18 directly and focused in a given area. They're
19 frequently intermixed with air bubbles because the air
20 gets into the lungs. So that is, actually, some of the
21 consideration that I had when looking at some of these
22 patterns because we do have some injuries to the lungs.
23 However, we, also, heard that we don't have any
24 blood -- when they did the autopsy, there wasn't any
25 blood in the mouth.

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 Q. And you aren't a pathologist, are you?
- 2 A. I am not.
- 3 Q. Thank you. And, finally, there is what we call
- 4 arterial?
- 5 A. That, actually, is an example of projected.
- 6 Q. Okay. So that goes right back to this projection?
- 7 A. Right.
- 8 Q. And when an artery is breached or cut or gouged, blood
- 9 comes squirting out, doesn't it?
- 10 A. It can, yes.
- 11 Q. Like when the heart beats, because -- arteries are big
- 12 veins; is this correct?
- 13 A. Arteries are big blood vessels that are under pressure
- 14 from the heart. So the blood is coming from the heart
- 15 through the arteries to the various areas of the body.
- 16 Q. And were you here when the pathologist testified on
- 17 Friday?
- 18 A. I was.
- 19 Q. Okay. And every time her heart beat, it could be
- 20 projected; is this correct?
- 21 A. That's correct.
- 22 Q. These are all terms that people say that are familiar
- 23 with the medical field or with blood work, these are
- 24 all mechanisms that that person would be familiar with?
- 25 A. Yes.

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 Q. And you, also, mentioned that -- you said in your
2 observation of the autopsy there was no blood in her
3 mouth. Were you aware she was bathed at the scene?
- 4 A. I was.
- 5 Q. He asked you specifically about, I believe, in State's
6 96, the wall in the bedroom, the green with the picture
7 on it next to the double windows. And what did you say
8 about those patterns that you could tell?
- 9 A. There's a couple different things going on. We have
10 some transfer towards the bottom portion of the wall,
11 but we, also, have some larger stains. And those
12 larger stains, typically, indicate to me projected, but
13 we only have single stains that are kind of distributed
14 a little farther apart from each other. So it was
15 difficult for me to make a determination whether those
16 were result of projected or cast off. But, certainly,
17 those stains were far enough apart that a breached
18 artery probably would not create something like that.
- 19 Q. That's your testimony?
- 20 A. That is my testimony.
- 21 Q. Well, let's look at these pictures that are classic in
22 textbooks of arterial stains?
- 23 A. Uh-huh.
- 24 Q. Does that look like what's on the wall?
- 25 A. No.

JEFF GURVIS CROSS BY MS. CAMPBELL

1 Q. That's your testimony?

2 A. Yeah. Those stains -- if I may see.

3 Q. You can see it all day.

4 A. These stains here, the stains are very close to one
5 another. As I mentioned with the stream, when you have
6 a projection of blood, that stream separates through
7 the air. And so if you were to have an ejection from
8 an artery, you would expect to see series of stains
9 very close to one another.

10 Here, we have those within these photographs that
11 are taken from a book. These photos -- these stains,
12 we have four stains that are not very close, do not
13 exhibit a stream breaking up and just creating stains
14 that are far apart. So these stains would not be
15 indicative of a breached artery.

16 MS. CAMPBELL: Beg the Court's indulgence.

17 BY MS. CAMPBELL:

18 Q. So in the kitchen on the, I believe, the washer and
19 dryer?

20 A. Yes.

21 Q. There are stains similar to what's in the bedroom, they
22 run down?

23 A. There are stains that have some volume that run down.

24 Q. Okay.

25 A. Not every stain that has flow patterns coming off of it

JEFF GURVIS CROSS BY MS. CAMPBELL

- 1 are a result of projection. They're all based on
2 volume of that stain that strikes. So if there's a
3 larger stain, regardless of the mechanism, it's going
4 to have flow to it because the stain can't retain the
5 gravity pull.
- 6 Q. And that's what I wanted to get to.
- 7 A. Right.
- 8 Q. The larger the stain, the more significant the blood
9 amount being projected?
- 10 A. Correct. The larger the stain, the larger the blood
11 drop.
- 12 Q. When talking about cast off and stuff, too, say if
13 somebody dips their hand into a bucket and goes up
14 against the wall like that (indicating), is that what's
15 going to be a classic cast off example?
- 16 A. That will be cast off.
- 17 Q. And then projection is when it's, actually, being
18 squirted from the body?
- 19 A. That is an example, yes.
- 20 Q. And your testimony is it's very difficult to tell
21 between the two?
- 22 A. It can be difficult to tell between the two based upon
23 the pattern itself.
- 24 Q. And, again, when you're talking about this, you're
25 talking about this bloodstain next to the bed. And you

JEFF GURVIS REDIRECT BY MR. STRICKLER

1 said that there's satellites and that means blood drips
2 on blood?

3 A. Correct.

4 Q. And you can't tell this jury how that blood was dripped
5 onto that blood?

6 A. I thought that it came directly above.

7 Q. Directly above?

8 A. Yeah.

9 Q. We agree on that?

10 A. Yeah.

11 Q. Have you looked at the physical evidence in this case?

12 A. I have not.

13 Q. And you aren't here to tell this jury how much blood
14 anybody lost at that scene?

15 A. That is correct.

16 Q. He asked you specifically about the phone there in the
17 area where you were told to concentrate. Did you
18 request that the blood on the phone be tested?

19 A. No.

20 Q. And, again, as far as your expert -- the reason you
21 couldn't do a report was because you needed more
22 information, your expert opinion is limited, basically,
23 to that area next to the bed?

24 A. That is correct.

25 MS. CAMPBELL: Thank you, Doctor. I have no

JEFF GURVIS REDIRECT BY MR. STRICKLER

1 further questions.

2 THE COURT: Any redirect?

3 MR. STRICKLER: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. STRICKLER:

6 Q. First of all, let me show you this document and ask you
7 to take a look at it.

8 A. Yes.

9 Q. You recognize that document?

10 A. Yes.

11 Q. What is that?

12 A. That is an e-mail that was sent to me after I received
13 all the material.

14 Q. Okay. And from whom did that e-mail come?

15 A. That come from Fielding Pringle.

16 Q. Okay. And you know what date you were sent the e-mail?

17 A. That was on September 17th.

18 Q. And was there an attachment to the e-mail?

19 A. There was.

20 Q. What was that attachment?

21 A. That was the Palmetto records.

22 Q. Okay. Those didn't come to you in the initial?

23 A. They did not come to me in the initial.

24 Q. Didn't come to you until September?

25 A. Seventeenth.

JEFF GURVIS RECROSS BY MS. CAMPBELL

1 Q. Seventeenth? And Ms. Campbell asked you about making a
2 report, was there any report whatsoever submitted by
3 any agency of the State in this case regarding
4 bloodstain pattern analysis?

5 A. Not that I'm aware of.

6 Q. Could you characterize how prominent bloodstains were
7 at the scene in this particular case?

8 A. Prominent as in the number of stains?

9 Q. Yes, sir.

10 A. Yeah, there are hundreds -- probably close to a hundred
11 patterns because you have blood in every single room
12 within the house.

13 Q. Okay. And yet, no report from the State?

14 A. That is correct.

15 Q. And --

16 A. To my knowledge.

17 Q. You were informed that Dr. Robinson on his testimony
18 here testified that there are many minor veins and
19 arteries in the wrists, correct?

20 A. Correct.

21 Q. And that Mr. Hawes could have lost a lot of blood,
22 correct?

23 A. He could have.

24 MR. STRICKLER: That's all I have.

25 THE COURT: Any recross?

JEFF GURVIS RE-CROSS BY MS. CAMPBELL

1 RE-CROSS-EXAMINATION

2 BY MS. CAMPBELL::

3 Q. You were present for Dr. Robinson's testimony. At no
4 time did Dr. Robinson ever testify that he would have
5 spewing blood from those arteries?

6 A. I heard no testimony to that effect..

7 THE COURT: You may step down. Thank you very
8 much.

9 Would you take the screen down, please, sir?

10 MR. STRICKLER: Your Honor, may he be excused?

11 THE COURT: Solicitor, any reason he cannot be
12 excused?

13 MS. CAMPBELL: No, sir.

14 THE COURT: Thank you very much. You're welcome
15 to stay, but have a safe trip back.

16 THE WITNESS: Thank you.

17 THE COURT: No further witnesses on behalf of the
18 Defense?

19 MR. STRICKLER: That's correct, the Defense rests.

20 THE COURT: All right.

21 Does the State plan on having any reply testimony
22 to the blood expert?

23 MS. CAMPBELL: No, sir.

24 THE COURT: Pardon?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Okay. All right.

2 Mr. Foreman, ladies and gentlemen of the jury,
3 leave your note pads in the chairs, please. Don't discuss
4 the case amongst yourselves. We will take a break at this
5 time. If the smokers need to smoke, let the bailiff know
6 that. Anything you need, let the bailiffs know. We'll take
7 a morning break at this time.

8 (Whereupon, the jury left the courtroom
9 at 10:58 a.m.)

10 THE COURT: How much time y'all need to get ready
11 for the closing arguments? First of all, I've got to hear
12 motions, I understand. I will in a second. I guess I might
13 as well hear the motions.

14 Any motions from the State?

15 MS. CAMPBELL: No, sir.

16 THE COURT: Any motion from the Defense?

17 MR. STRICKLER: Your Honor, I will make -- I'm
18 just trying to get myself sequenced here.

19 THE COURT: You want to renew all the motions you
20 made at the end of the State's case?

21 MR. STRICKLER: That's the first thing I want to
22 do.

23 THE COURT: Okay. I will accept those.

24 MR. STRICKLER: All right. Then, Your Honor, in
25 addition to renewing the motions at the end of the State's

1 case, we need to go ahead and ask that Your Honor declare a
2 mistrial at this point. Referencing back to the recall of
3 Mr. Hawes to the stand, which was, actually, during the
4 Defense case, so I'm speaking as if I'm talking at the end
5 of the Defense case at this point. We objected at that
6 point in time. We asked that Your Honor revisit your ruling
7 in that regard. And we submit that that subjected undue
8 prejudice in this matter for the basis that we enunciated at
9 that point in time, and that you should declare a mistrial.
10 So that's an additional basis in that regard.

11 And then, of course, Your Honor, if I need to
12 renew my objections, previous objections at the end of the
13 State's reply testimony, and I'm not sure whether I do or
14 not, but out of an abundance of caution, I renew all
15 previous motions, including those from the end of the
16 State's case, during the State's case, during the Defense
17 case, at the end of the Defense case, and at the end of the
18 reply testimony. So I renew all motions at that stage of
19 the trial. I think that's it.

20 THE COURT: All right. Thank you so very much.

21 MR. STRICKLER: Yes, sir.

22 THE COURT: All motions for a mistrial is denied.

23 All motions for the directed verdict are denied. And I
24 understand what you're saying because there was -- we sort
25 of had everything out of sequence and the Court never really

1 gave you an opportunity to readdress those motions at the
2 end of the State's reply.

3 MR. STRICKLER: Yes, sir.

4 THE COURT: And I will accept those motions at
5 this time and they are denied.

6 MR. STRICKLER: Thank you, sir.

7 THE COURT: All right. Anything else? Is there
8 anything else y'all need to discuss with the Court, informal
9 charge conference before we go the closing arguments? I'll
10 be glad to do it very briefly at this time, if you so
11 choose.

12 Does the State need to do that? The State ready
13 to close?

14 MS. CAMPBELL: The State's ready -- Your Honor,
15 can I have 10 minutes to get some stuff together?

16 THE COURT: Yeah, I'm going to give you some time.
17 Do y'all want to talk to me about the charge at this point
18 in time?

19 MR. STRICKLER: I don't need to talk with you any
20 more regarding the charge, Your Honor.

21 THE COURT: Okay.. All right. We'll take about --
22 how much time you need, about 10 minutes?

23 MS. CAMPBELL: 10 to 15 minutes.

24 THE COURT: Well, they'll probably take longer
25 than that because the smokers take a long time to get

1 downstairs. We'll take about a 15, 20-minute recess.

2 MS. CAMPBELL: Perfect.

3 THE COURT: I understand you're going to open on
4 the law and then reply, is that correct?

5 MS. CAMPBELL: Yes, sir.

6 MR. STRICKLER: Your Honor, I'm not sure what
7 she's going to do in opening on the law. I may need a brief
8 recess myself just to line up whatever I have to physically
9 deal with.

10 THE COURT: I'll give you what you need, okay?
11 Just let me know.

12 MR. STRICKLER: Yes, sir.

13 THE COURT: Let me know and I will situate you any
14 way I can.

15 MR. STRICKLER: Thank you, sir.

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

17 (Whereupon, a short recess was held.)

18 THE COURT: Is the State ready for closing?

19 MS. CAMPBELL: Yes, sir.

20 THE COURT: Is the Defense ready?

21 MR. STRICKLER: Yes, sir.

22 THE COURT: All right. Bring us the jury, please.

23 BAILIFF: Yes, Your Honor.

24 (Whereupon, the jury returned to the
25 courtroom at 11:25 a.m.)

1 BAILIFF: The jury's seated, Your Honor.

2 THE COURT: Thank you very much.

3 Solicitor.

4 MS. CAMPBELL: May it please the Court.

5 Good morning. First thing I want to do on behalf
6 of the State of South Carolina, the citizens of Richland
7 County, and the family of Jennifer Wilson is to thank you
8 for your service in this case. I know when you came to
9 court over a week ago, about a week and a half ago, you
10 might have wondered what type of case you would be asked to
11 serve on. And I doubt very many of you thought it would be
12 one that was quite as awful, as gory, and as gruesome as
13 this. We have subjected you to looking at photographs of
14 volumes of blood, of dead bodies, of stab wounds, of
15 splashes. And for that, I apologize. But I think as you
16 have seen as this case has developed, unfortunately, it was
17 necessary.

18 Right now, everybody in this courtroom has a role.
19 The State's role is to present all of the admissible,
20 relevant evidence that can come before you in this case.
21 The Defense role is to defend their client. The Judge's
22 role is to rule on the admissibility to determine what
23 you're allowed to hear, and, ultimately, after you hear from
24 both of us, to instruct you on what the law is that you have
25 to apply to the facts as you find them. But the most

1 important role in this courtroom, ladies and gentlemen, is
2 yours, each of you individually and, ultimately,
3 collectively once you go back there. Because you must
4 determine what happened back on August 28th. You must
5 determine if Jennifer Wilson was killed with malice or if
6 Hank Hawes was just the victim.

7 Now, I'm going get to talk to you a little bit on
8 this front end about the law in this case. Then you will
9 here from Mr. Strickler, and he will get up and argue before
10 you. Then, ultimately, I will have the opportunity to come
11 back and talk about the facts a little more. And as I am
12 talking about the law, if I say anything different from what
13 the Judge (indicating) says, it's not intentional, but,
14 please, take the law as the Judge gives it to you, the law
15 that you are to use in this case. And in that same vein, if
16 either side mischaracterizes the testimony or the evidence,
17 you remember because you are the ultimate trier of the facts
18 in this case as our constitution dictated over 200 years
19 ago.

20 Now, you've heard all of the evidence that you can
21 consider in the case. And the Judge will instruct you -- or
22 as already instructed you, what is evidence? It is the
23 sworn testimony. It is the physical evidence that has,
24 actually, been entered, it's any stipulation that you may
25 have heard. What's not evidence? Questions by the

1 attorneys, fishing expeditions, innuendos, speculation,
2 conjecture or just plain wishful thinking, that's not
3 evidence.

4 I want to apologize right now if during the course
5 of this if we have done anything to offend you. At times,
6 our questions have been unartful, clumsy. At times, it's
7 been difficult because evidence that wasn't initially
8 admissible later became admissible and we had to go back
9 over things. You have been sent out time and time again to
10 sit back there (indicating). There's been legal rambling
11 going on. And I want to apologize. Please don't hold that
12 against the State. I, also, apologize for my voice. I'm
13 sorry. I have allergies today, so if I sound off, that's
14 it.

15 Criminal cases are unique. In a criminal case,
16 the defendant, as he should, has the right to confront each
17 and every witness that comes before him. You have heard
18 references to statements that were given. You have heard
19 references to reports, such as the pathologist, the DNA
20 report, all things of that nature. That is not admissible
21 because the Defendant has a right to confront every witness
22 so that you, the jury, can see them (indicating), look at
23 them, judge their demeanor, judge their credibility because,
24 ultimately, ladies and gentlemen, that's what this case
25 boils down to, credibility. Because either it happened the

1 way Hank Hawes said it did and it was self-defense or this
2 is murder. Credibility.

3 Now, the burden is on the State of South Carolina
4 to prove this Defendant guilty beyond a reasonable doubt.
5 That is his constitutional right and that's the way it
6 should be. It is the highest burden of proof in the country
7 in criminal cases, proof beyond a reasonable doubt. And I
8 submit, ladies and gentlemen, in this case, with this
9 evidence, in this courtroom, that is a burden the State
10 welcomes because the evidence in this case is overwhelming.
11 You have one indictment to decide and that indictment is
12 murder.

13 Now, the Judge is going to instruct you, what is
14 reasonable doubt. In our laws are cases set out, some
15 parameters. The easiest definition of reasonable doubt is
16 the type of doubt who makes a reasonable person to hesitate
17 to act, proof beyond a reasonable doubt. But our courts
18 have gone a little further in defining that. And reasonable
19 doubt, they have said, proof beyond a reasonable doubt is
20 proof that leaves you firmly convinced of the Defendant's
21 guilt.

22 There are very few things in this world that we
23 know with absolute certainty, and in criminal cases, the law
24 does not require proof that overcomes every possible doubt.
25 Let me repeat that. In criminal cases, the law does not

1 require proof that overcomes every possible doubt. If based
2 on your consideration of the evidence, you are firmly
3 convinced that the Defendant is guilty of the crime charged,
4 you must find him guilty. If on the other hand, you think
5 there's a real possibility he's not guilty, you must give
6 him the benefit and find him not guilty. Proof that leaves
7 you firmly convinced. The law even recognizes we don't have
8 to overcome every possible doubt, although, I submit, ladies
9 and gentlemen, in this case, we have.

10 Now, there are two types of evidence that you can
11 consider. It's known as direct evidence and circumstantial
12 evidence. And, basically, the difference between those,
13 direct evidence is, typically, eyewitness evidence, evidence
14 that is perceived through the senses, taste, hear, smell,
15 see, sight, things of that nature. Circumstantial evidence
16 has been defined as proof of a chain of facts and
17 circumstances indicating the existence of a fact, such as
18 DNA testimony is the easiest way to use an example. DNA,
19 the blood at the scene came back, therefore, it's reasonable
20 to infer that that person's blood was left there at the
21 scene from the DNA testimony. Circumstantial evidence.

22 In this case, ladies and gentlemen, you don't have
23 all circumstantial evidence. You don't have all direct
24 evidence. You have both. And it's very important because
25 in this case, the direct evidence is totally corroborated by

1 the circumstantial evidence. The Judge will instruct you
2 the law makes no distinction or weight or value to be given
3 to either direct or circumstantial evidence. Only to the
4 extent the State relies on circumstantial evidence that
5 circumstances must be consistent or should be consistent
6 with each other when taken together and point conclusively
7 to the guilt of the accused when taken in context with the
8 direct evidence. The burden rest with the State regardless
9 of whether the State relies on direct evidence or
10 circumstantial evidence and acknowledges or some combination
11 of the two.

12 Now, the indictment in this case is murder. And
13 to be the most heinous crime that could be committed, that's
14 probably the shortest definition in our code of laws. Very
15 simply, ladies and gentlemen, 16-3-10, murder is defined --
16 and you've seen it on TV where you murder in the first
17 degree, second degree, third degree. In South Carolina, we
18 have murder. There's the less included, voluntary
19 manslaughter, which I'll get to in a minute. Murder
20 encompasses the killing of any person with malice
21 aforethought either expressed or inferred. Sometimes the
22 Judge may use the term implied, that means the same as
23 inferred.

24 What is murder? The killing of any person with
25 malice aforethought. The cases have gone and they've

1 defined what is malice and how can that be defined to help
2 you. And the Judge will instruct you that malice is very
3 simply the unlawful doing of an act to another person
4 without just cause. That's the simplest definition. Our
5 courts have gone further.

6 In its popular sense, malice means hatred, ill
7 will, or hostility towards another. In its legal sense,
8 however, malice does not necessarily mean ill will towards
9 the individual injured, but signifies a general malignant
10 recklessness of the lives and the safety of others, or a
11 condition of the mind which shows a heart regardless of
12 social duty and fatally bent on mischief. If this case
13 doesn't show a heart regardless of social duty and fatally
14 bent on mischief.

15 The word malice -- the easiest way for me to
16 define it is a malicious act. It doesn't get any more
17 malicious than this. This case reeks of malice. A
18 malicious killing is where the act is done without legal
19 justification, excuse or extenuation. And malice has been
20 frequently substantially so defined as consisting of the
21 intentional doing of a wrongful act towards another without
22 just -- without legal justification or excuse.

23 You will also hear that malice can be conveyed in
24 two ways. It can be expressed malice or inferred malice.
25 It doesn't mean that the malice itself changes, it's just

1 the way in which it's expressed. The Judge will instruct
2 you expressed malice is shown -- or he may instruct you on
3 this -- when a person speaks words which express hatred or
4 ill will for another person. Or an example, lying in wait
5 for a person. Malice indicates a wicked or depraved spirit
6 intent on doing wrong.

7 Now, listen carefully when the Judge instructs
8 you, because in murder, the State does not have to prove
9 premeditation. The State does not have to prove motive,
10 although that's obvious in this case. And listen to that,
11 he will not tell you that we have to prove motive. He will
12 not tell you that we have to prove premeditation. Listen to
13 his definition of malice aforethought. And I'll get back to
14 that in a minute. Malice indicates a wicked or depraved
15 spirit intent on doing wrong. The Judge will further
16 instruct you malice may be inferred from conduct showing a
17 total disregard for human life. His actions that night, 12
18 stab wounds, 11 slashes, trauma to the head. Is that
19 malice?

20 The Judge will further instruct you, in addition
21 to not telling you that you have to have motive or
22 premeditation, malice does not require expressed or direct
23 evidence of intent to kill. Although, I submit, ladies and
24 gentlemen, 12 stab wounds, it doesn't get much more intent
25 to kill.

1 The Judge will further instruct you malice may be
2 inferred from brutal conduct on the part of the person
3 committing the crime. You heard from the pathologist.

4 Now, as I talk to you about premeditation, the
5 Judge will also instruct you that malice aforethought does
6 not require that malice exist for any particular time before
7 the act is committed. But malice must be exist in the mind
8 of the Defendant just before and at the time the act is
9 committed. Therefore, there must be a combination of
10 previous evil intent and the act. At the moment he got the
11 knife, with the first stab wound, the first slash, the next
12 stab wound, what was in his mind? He didn't stop with one.
13 He didn't stop with two. He made sure that Jennifer Wilson
14 suffered, died a death that took a while. And she fought
15 for her life. Malice.

16 The Judge will instruct you that if you don't
17 think that there was malice, and I submit the evidence in
18 this case of malice is overwhelming, then you can consider
19 the lesser included. The lesser included of murder is
20 voluntary manslaughter. And, please, listen carefully to
21 the definition of this. The State must prove beyond a
22 reasonable doubt the Defendant took the life of another.
23 That's not contested in this case. In the sudden heat of
24 passion based upon sufficient legal provocation. Both heat
25 of passion and sufficient legal provocation must be present

1 at the time of the killing to constitute voluntary
2 manslaughter. The Judge will further instruct you that the
3 law does not reduce from murder to manslaughter in every
4 homicide committed in the heat of passion. Every murder is
5 in the heat of passion. It must be passion justly excited
6 by legal provocation.

7 The Defense, in their opening, talked about
8 passion. Passion does not mean that it's just a lesser
9 included. The fact that the victim and the Defendant knew
10 each other and had a relationship does not give him a by.
11 Sudden heat of passion may for a time affect a person's self
12 control and temporarily disturb a person's reasoning. The
13 sudden heat of passion must be the type that would make an
14 ordinary person unable to fully reflect on his actions and
15 would produce an uncontrolled impulse to do that. Listen to
16 the Defendant's own story, his own version (indicating).
17 Even he says he wasn't acting in the heat of passion.

18 The Defense will get up here and argue this is
19 just voluntary manslaughter. By his own version, it's not
20 voluntary manslaughter because he says it's self-defense.
21 He says he was cool and calm. He went over there that night
22 to coolly and calmly break up. She was the aggressor. She
23 was the one enraged. She was one with the big knife
24 (indicating) that suddenly disappeared. That's his story.
25 His story doesn't even fit voluntary manslaughter.

1 Beyond that, sufficient legal provocation, must be
2 the type that would make a person of ordinary reason and
3 caution become enraged and to lose control. By his own
4 testimony, that didn't happen. The provocation needed for
5 voluntary manslaughter must come from some act related to
6 the victim. Words alone, however bold or insulting, are not
7 enough to be legal provocation. Where death is caused by
8 the use of a deadly weapon, the words must be accompanied by
9 some overt threatening act. The exercise of a legal
10 right -- and remember, she's in her own home. Even if she's
11 telling him to leave, she's in her own home. No matter how
12 offensive it is to another, it's never sufficient legal
13 provocation for voluntary manslaughter. If the heat of
14 passion had cooled or there was enough time between the
15 provocation, if any, and the killing, for the passion of a
16 reasonable person to cool, the killing would not be
17 voluntary manslaughter.

18 In deciding whether they had enough time to cool
19 off, you should consider all circumstances surrounding the
20 killing. You may consider the nature of the provocation, if
21 any, the Defendant's mental and physical state, the
22 circumstance and relationships between the parties.

23 His own testimony is not -- because he testified,
24 remember, he was afraid for his life? He was defending
25 himself. In this state, there is self-defense. That's what

1 he's claiming. That's why you're hearing this. In order to
2 prove self-defense, first -- but we'll get back to
3 credibility. The first element of self-defense is the
4 defense without fault in bringing on the difficulty. If the
5 Defendant's conduct is the type reasonably calculated to and
6 did provoke a deadly assault, he would be at fault for
7 bringing on the difficulty and would not be entitled to an
8 acquittal based on self-defense. He must be without any
9 fault in this case. And if you think he really went over
10 there that night cool, calm and collected and suddenly,
11 after begging her for months, getting a therapist that it
12 was time to turn in the towel, and he was calmly and coolly
13 when he went there, then acquit him. Let him go.

14 The second element of self-defense is that the
15 Defendant must have, actually, believed he was in imminent
16 danger of losing his life or sustaining serious bodily
17 injury, or that he was, actually in imminent danger. I
18 submit a whole 105 pounds even, even if she had a knife, his
19 only recourse then was to stab her 12 times and slash her 11
20 and smash her head against four different blunt objects and
21 split her lip.

22 Further, the third element -- excuse me. In
23 deciding whether he was in imminent danger, even if you take
24 his story, you should consider all the facts and
25 circumstances, including the physical condition and

1 characteristics of the Defendant and the victim. Even if
2 you take him at his story, it's not self-defense. And
3 remember this, the Judge is going to instruct you, there are
4 four elements. In order to be entitled to an acquittal of
5 self-defense, he has to meet all four. One doesn't do it.
6 He has to be without fault, that he was either in danger or
7 believed he was in danger, and that if he did base it on
8 actual belief of imminent danger, a reasonable prudent man
9 of ordinary firmness and courage would have entertained the
10 same belief. If the Defendant, actually, was in imminent
11 danger and the circumstances were such that would warrant a
12 man of ordinary prudence, firmness and courage to strike the
13 fatal blow. This wasn't one fatal blow. This wasn't two
14 fatal blows. This wasn't three fatal blows, and it wasn't
15 four fatal blows. I can't remember if he said it was five
16 or six fatal blows along with all of the other injuries.

17 And, finally, the Defendant has what we call the
18 duty to retreat. Again, without fault, believed in imminent
19 danger, and an ordinary person would have reacted the same
20 way. And, finally, the duty to retreat, had no other
21 probable means of avoiding the danger of losing his life.
22 You judge this crime scene. You judge these injuries.

23 The Judge is further going to instruct you, you
24 heard about how he has ADHD. You heard a lot about that.
25 That he was drinking that night and he may have been taking

1 drugs for his ADHD. The law is voluntary intoxication is
2 never an excuse or defense to a crime. A person who
3 voluntarily renders himself intoxicated is no less
4 responsible for his acts while in such a condition. If a
5 person voluntarily drinks intoxicating liquors and becomes
6 intoxicated, and if while in that condition, an act which
7 would be a crime if it had been committed by a sober person,
8 the fact of drunkenness would not relieve the intoxicated
9 person from responsibility. Voluntary intoxication is not
10 an excuse for or a defense to a crime. This will, also,
11 extend to the voluntary ingestion of drugs. And taking
12 that, ladies and gentlemen, or is it a combination therein.
13 Voluntary intoxication does not include one's ability to act
14 malice aforethought.

15 Now, the Judge is, also, going to instruct you
16 that in this case certain witnesses have been able to get up
17 here and give an opinion if they have certain training. If
18 you have training in a field, you're allowed to be qualified
19 as an expert. But he will, also, tell you, and this is very
20 important, when you listen to those experts, you judge their
21 credibility the same way you do any other witness. Be an
22 expert for the State, be a lay witness, be a neighbor, be it
23 a friend, you judge their credibility. Do they have a bias
24 or prejudice?

25 And on that note, I want to talk to you a little

1 bit about credibility where this case is concerned. Because
2 either Jennifer Wilson was murdered or Hank Hawes is a
3 victim. Credibility, believability. Do they have something
4 to gain or lose? Do they have bias or prejudice? You can
5 believe all of a witness, none of a witness, part of a
6 witness. You can believe many against one, one against
7 many. Listen carefully to the Judge. You can look at their
8 demeanor on the stand. Did they have something to gain or
9 to lose? I beg you, judge credibility.

10 The Defense has gotten up here and brought forth
11 every sordid piece of Jennifer Wilson's life. I beg you to
12 judge her credibility. Because looking beyond that, she was
13 an educator, a professor. She founded a foundation to help
14 third world countries' children get educated. I beg you to
15 judge Jennifer Wilson's life.

16 And in that same vein, the Defense has absolutely
17 no obligation to put up a defense. The burden is on the
18 State, as we talked about. But once they choose to put up
19 evidence, you judge it the same way that you judge each and
20 every witness that's come before you.

21 All the State ask is that, ultimately, once you've
22 heard from the Judge as to what the law is is that you
23 render a verdict that speaks the truth, and that you find
24 him guilty for his choices and his actions, what he did
25 before, what he did during, and what he did after and hold

1 him responsible for, as in their words, this tragedy. Thank
2 you.

3 THE COURT: Mr. Strickler, whenever you get set
4 up, you may proceed with your closing.

5 MR. STRICKLER: Mr. Foreman, ladies and gentlemen
6 of the jury, as we said at the beginning of this trial, this
7 is a case about passion. Passion over a period of time
8 between two people, not one-sided, between two people. And
9 I'd submit passion at a particular point on the morning of
10 August 28th, 2011.

11 We spent a lot of time, a solid day, reading
12 exchanges changes between people. You got all of that
13 stuff. I'm not going to wade through all of it. I hope
14 it's abundantly clear that what you had in Jennifer Wilson
15 and Hank Hawes was a couple of people who felt very strongly
16 about each other, sometimes good strong, sometimes not so
17 good strong, and kept coming back to each other. Not Hank
18 Hawes just coming back to her, her coming back to him. You,
19 also, had a pair of people who -- I believe Hank said this,
20 who were less than completely honest with each other about
21 the relationship. Not just Hank, but both of them. And
22 that ends up August 28th, 2011. So their history was what
23 was passionate. And I submit the crime scene as opposed to
24 showing malice, as opposed to showing a cold, calculated
25 killing shows passion in itself. It shows extreme passion.

1 Ms. Campbell just said that every murder is a
2 crime of passion. Well, that's simply not the case. That's
3 simply not the case. Lie in wait for someone, lying outside
4 a door waiting for them to come home at night and jump them
5 and kill them, that's not a crime of passion. That's
6 premeditation. And she's right, you don't have to show
7 premeditation in murder. You have to show malice existed at
8 the time of the offense, that's what you have to show. But
9 every killing is not a crime of passion.

10 You have Hank Hawes trying to contact her over the
11 course of the evening, trying to contact her. Leaving his
12 house, which is a good several minutes away from hers,
13 several-minute drive away from hers, and coming over there
14 after she got home to break up with her. Not lying in wait,
15 coming over to break up with her. And being allowed into
16 the house by her. Didn't have a key. There's no
17 testimony -- that's his testimony. There's no testimony he
18 did have a key. There's no sign of forced entry. That's
19 the testimony from the officers on the scene. He was let
20 into the house by Ms. Wilson. So there's no lying in wait.
21 And every crime -- every murder is not a crime of passion.
22 Every manslaughter is, and, I submit, every self-defense is.
23 Self-defense and manslaughter are mutually exclusive
24 concepts. We'll talk about that in a little bit.

25 So the State's theory is this was a cold-blooded

1 crime, I guess. And if you don't have lying in wait, how do
2 you commit a cold-blooded murder in this situation? Walk in
3 the door and just kill a person. I mean, step through the
4 door and kill a person, rather than engage in some free for
5 all around the house. You go over there with that purpose.
6 You arm yourself before you get there, rather than grabbing
7 the first thing available. You've got the photos
8 (indicating). I'm not going to wade through. You've got
9 the photos of where the knives came from. So you arm
10 yourself and you come in prepared to go in to do the deed.

11 We spent a fair amount of time talking about the
12 scene itself, concluding with today, for a good reason. The
13 State would have you believe that this was -- best I can
14 figure, that this was a cold-blooded killing and that Hank
15 Hawes, using his wide medical experience, managed to cut
16 both his wrists in a fake suicide attempt, for what reason,
17 I'm not sure, and that the incident that occurred began back
18 in the bedroom. Okay. So that's why we spent a lot of time
19 talking about the scene because the scene does not agree
20 with that.

21 You've got all of the pictures. No objection from
22 the Defense in putting anything in as far the pictures of
23 the blood at the scene. Not good to look at, not easy to
24 look at, but has to be looked at. But the scene does not
25 agree with that. If you look at the large pool of blood in

1 the bedroom -- and had we not gone and done what we did and
2 tested the sheets there and established that the blood on
3 the sheets on that bed was Hank Hawes's blood. You heard
4 Ms. Stanley, the DNA expert, testify, no question about it.
5 That's him. That's the big stains, that's the little stains
6 that our expert testified about today that are consistent
7 with projected stains. The projected stains are consistent
8 with the projected stains against the -- against the clothes
9 hanger, wall -- and the wall behind the close hanger, and on
10 the cabinet next to the bed. And the large pool of blood
11 next to the bed, which is immediately underneath where the
12 stains on the sheets are, is consistent with someone being
13 there for a long period of time, which is precisely what
14 Hank Hawes described as his location for a long period of
15 time. Remember? I started writing down all the numbers as
16 he was speaking on multiple occasions with Stacey Newsom.

17 He spoke with her between 2:37 and six something,
18 I think. For over 67 minutes, like half the time he was
19 there during that period of time. He didn't leave until
20 about 8:30, but during that period of time, between the
21 first call with her and the last call with her, he spent
22 over half that period of time on the phone with her. She
23 would have you believe that he didn't tell her what had
24 happened. He described him as being -- she described him as
25 being upset, crying, obviously, distraught, coming and going

1 in and out of the conversation. Never told her what
2 happened.

3 Now, you saw Ms. Newsom on a couple of occasions.
4 She had a long-term relationship with Mr. Hawes, which broke
5 up, however, they didn't break up quite the way she talked
6 about it because they were intimate, I believe, during the
7 spring of that year. And, evidently, she was the focus of
8 some problems as far as Mr. Hawes and Ms. Wilson were
9 concerned. If you remember his description of what
10 happened, are you still seeing her? Are you still talking
11 to her? Are you having sex with her? That precipitated --
12 his response to that precipitated the incident.

13 So I felt like we had to go ahead and address
14 whether or not the incident began in the bedroom. If it
15 began in the bedroom, all of that blood, which as far as I'm
16 concerned, the State would have us own as being from
17 Ms. Wilson, we don't go ahead and test what we can, that's
18 what they'd be up here telling you. And they may come up
19 here and tell you that anyway. You know what, you don't
20 know. You do have some pretty good circumstantial evidence
21 that it's from Mr. Hawes. You know the blood on the bed
22 immediately adjacent to it was his. You know the projected
23 pattern on the bed is his. You've got projected patterns
24 right next to -- or onto the nightstand. And the hanger and
25 the walls, couldn't test those, didn't have those to test.

1 Same sort of projection as on the bed. It's reasonable to
2 infer that's him. It's reasonable to infer that he was
3 there for several hours. And it's reasonable to infer that
4 the blood on the floor is his, not someone else's.

5 Because you see, the State welcomes their burden
6 of proof. You know what, it doesn't much matter. They
7 don't get a chance to welcome it. It is their burden.
8 Welcome it or not, it's their burden. It's their burden.
9 So we've shown you reasonable explanation to believe that
10 the blood in that area is all Hank Hawes's.

11 You know what they didn't do? I went through
12 this, I believe, with Ms. Stanley. Took a DNA swab -- this
13 was Mr. Wise, I believe, that testified about this. DNA
14 swab from the vomit by the living room couch. Did they send
15 that to SLED to test? The answer is no. And I asked
16 Ms. Stanley, how can you make sure you don't get a result on
17 DNA? We don't test it, that's how. Took the DNA swab from
18 the cell phone that I spoke with our expert about this
19 morning, lying on the floor, okay. They, actually, swabbed
20 that. He said he thought it had blood on it, looked like it
21 was drips on it, maybe some transfer, but drips. They swab
22 it and then proceeded not to send it to SLED. So whose
23 blood is on that phone? Well, I submit that if you don't
24 test, you don't know. And they didn't bother to test that.

25 They took a DNA swab -- remember, early on with

1 Mr. Hawes, I asked him what his reaction was after
2 Ms. Wilson had been stabbed, when he realized what had
3 happened. He backed up, went over, checked and saw she had
4 no pulse, backed away towards the door and then cut his
5 right wrist. He showed you the spots on the floor. This is
6 the very first picture I started off with our expert this
7 morning. The trail of spots on the floor. Is that where
8 that happened? Yeah, I think so. That should be my blood.
9 That's where that happened. That's marked in some other
10 pictures here as evidence, marked with 33, which was where a
11 DNA swab was taken from the kitchen and not sent to SLED for
12 analysis.

13 See, Hank Hawes, as you've heard before, is
14 presumed to be innocent. He was presumed to be innocent
15 when this trial started. He is, under your oath, presumed
16 to be innocent at this point in time. He is presumed to be
17 innocent as you go back to the room later on today to start
18 considering this case. And he remains presumed innocent
19 until y'all are convinced otherwise. The law will tell you
20 that the presumption of innocence is not some fancy, legal
21 term, it's a substantial legal right. The presumption of
22 innocence is legal proof of innocence unless or until you
23 all are convinced otherwise. So that's what puts the burden
24 on the State.

25 You know, they collect evidence, they don't send

1 it in, then they don't collect evidence. They don't collect
2 evidence from this huge pool of blood beside the bed. They
3 don't collect evidence from the huge pool of blood in the
4 kitchen. They don't sample any of the areas of blood other
5 than that one spot as you enter the kitchen and the handle
6 on the blind adjuster, and, I believe, one spot on the
7 kitchen couch [sic]. But they, also, don't collect
8 evidence.

9 Now, you heard Hank testify that he ended up
10 getting Ms. Wilson's body from the kitchen to the bedroom.
11 He said I think I carried her, that's how I remembered it.
12 I would submit his memory was probably bad in that regard.
13 It looks like she was dragged somehow and that may be the
14 source of some bruises. I don't know. We don't know. But
15 I then got her on the bed. I was over there in the area of
16 the bed, the part we've just been talking about, bleeding,
17 talking with Stacey Newsom, kind of fading in and fading
18 out, losing blood. And we know from the testimony of Dr.
19 Robinson that he didn't have to slice an artery, a major
20 artery, the radial or the ulnar artery, to bleed a lot. Dr.
21 Robinson said lots of minor arteries and minor veins are in
22 the wrist area, and you can lose a lot of blood from injury
23 to those.

24 I submit he's sitting there talking with Stacey,
25 standing there, sitting, standing, leaning, bleeding. And

1 he says eventually, he just thinks he better -- because he's
2 not thinking rational because he's in shock -- clean her up.
3 Clean her up and him up. And he says he took her pajamas
4 off, her panties off, which they hit the floor where they
5 were found. I took my shirt off, it hit the floor. I took
6 her top off and threw it down.

7 And I asked him to identify something, okay, the
8 top. It's not in evidence because it was never collected.
9 They collected a top with thin straps on it. It's, I guess,
10 from the door right as you're exiting the kitchen, I
11 believe. It's kind of stacked up with towels there.
12 There's not a mark on that shirt. There are no stab marks
13 on that shirt. There's no blood that I could discern on
14 that shirt. The shirt they didn't collect was the one the
15 State would have you believe -- there's a towel and that's
16 from just where Hank said it was, took the PJ's off, threw
17 them down there, shirt off, threw them down there
18 (indicating). And that shown in State's -- no, Defense 40,
19 which the State claims is a towel, okay. That shows again
20 (indicating) in 39, shows again in 38 (indicating).

21 Now, this sequence of pictures, these were taken,
22 if you will remember, August 29th, okay. The scene was
23 processed first on the 28th, then came back and processed it
24 on the 29th. There's pictures of this on the 28th, okay.
25 There's several of them, because there's several of

1 everything that they took pictures of. I don't feel like
2 arguing over whether they're cumulative or not. There's
3 several of everything. Just put them in. I don't care. I
4 want you to look at them. It's, also, on the video from the
5 28th. All right.

6 The position of the shirt, the shirt it is in this
7 photograph from the 29th is in the same position it was in
8 on the video. It's the same position it was in on the
9 photographs taken on the 28th, okay. This shirt, the shirt
10 it is, is probably full of holes, should be, I'm sure it is,
11 was never touched by the police in working their scene
12 because it's in the same place on August 29th that it was in
13 on August 28th. Have not so much as picked it up. On the
14 29th, they're throwing stuff off the bed right here
15 (indicating) under the pillows. They didn't touch the
16 shirt. That's the shirt.

17 Now, the law is that the Defendant does not have
18 to prove self-defense. The law is the State must disprove
19 the existence of self-defense. That's because the burden of
20 proof is on the State and they welcome it so much. They
21 have to prove that self-defense did not occur. They have to
22 prove that he didn't come over -- that he was at fault in
23 bringing the situation about, or that he wasn't in danger of
24 death or serious bodily injury, or that he didn't believe
25 that was in danger of death or serious bodily injury, or

1 that he -- if he believed that, it was not a reasonable
2 belief, or that he had a way to escape without exercising
3 self-defense.

4 Had the door locked behind him. You heard from
5 him as to how it came about when he came over there. He was
6 admitted into the house by Ms. Wilson. His testimony,
7 uncontroverted, was that she came at him with a knife. The
8 State had every opportunity to put up whatever witnesses
9 they wanted to speak to her peacefulness, to speak to her
10 character for peacefulness. And you heard nothing in that
11 regard. Well, she's 105 and he's 170. Yeah, may be true.
12 170 with a knife is not to be toyed with. 105 with a knife
13 is not to be toyed with.

14 So what was his state of mind when he arrived?
15 Not in the heat of passion. Upset, intending to break this
16 off. They have an argument culminating in the statement
17 that he had been intimate with Stacey Newsom, to which she
18 reacted loudly. And as he's looking for a way out, she has
19 picked up a knife from somewhere. Pictures of the kitchen,
20 there are some dishes by the sink. Who knows what was in
21 the sink or with those dishes. No one knows where the
22 knives were. There are a couple of other -- there's three
23 empty slots in the butcher block. Okay. Nothing to say
24 that all three of them were there at that point in time.
25 She could have gotten them from anywhere. And he sees her

1 coming at him with a knife and he reacts.

2 What did he say? First, she bit his hand. He
3 pulled that away. Then he sees her coming with a knife, he
4 reacts. And one, it all happened so fast, I was just trying
5 to get her off of me. Just trying to get her off of me.
6 Not even sure if he had his eyes opened the entire time.
7 Not taking detailed notes as to what he was doing. And yes,
8 he killed her. Yes, he killed her.

9 That number of stab wounds, the State would
10 portray as cold-blooded. I would say that that number of
11 stab wounds, the wounds to her body are consistent with
12 someone that is overcome by passion, overcome by the moment.
13 So if it's not self-defense, it's looking to me not like a
14 cold-blooded killing, but a passionate killing. Passionate
15 killing, voluntary manslaughter doesn't excuse the killing,
16 just views it in a different light than a cold-blooded
17 murder.

18 Now, as further evidence of heat and passion, you
19 should look at the circumstances surrounding that incident.
20 He came over there upset. Ms. Newsom described how he was
21 on the phone to her after the incident, in tears, in and out
22 of the conversation. You heard from Jennifer Williams
23 getting a call wanting money later in the day, okay, from
24 someone who said that he had acted in self-defense, but no
25 one will believe him. Probably for just the reasons she

1 said, 105 pounds, 170, whatever.

2 Now, trying to kill himself should reflect, I
3 submit, passion on his part. That's an example of acting on
4 something he has out of passion. Sitting in the room for
5 hours crying, talking with someone, that reflects a hugely
6 emotional state. Unclothing her and picking her body up
7 from the bed and taking it into the bathroom and cleaning
8 her and himself reflects cold-bloodedness or passion?
9 Laying her out on the sofa in the living room after first
10 putting a comforter down and some other stuff down. Laying
11 her out, covering her up, and then sitting with her after he
12 cuts his wrist for the third time.

13 Remember, there's a knife in the living room
14 marked with, Ms. Stanley said from SLED, DNA. DNA on the
15 blade of the knife in the living room right by where he says
16 he was sitting, right by that little bag that had blood in
17 it. The blood on that knife was his. The blood on the
18 blade of that knife is his. He cut his wrists with that
19 knife. I left out the knife in the bedroom where he cut his
20 wrists, which the blood on the blade is his.

21 So he washes her, he sets up a place to put her on
22 the sofa, carries her there, drags her there or whatever,
23 puts her on the sofa and cuts his wrist, hangs his wrist
24 over the bag, the cooler bag, and bleeds into it. That is
25 something straight out of Romeo and Juliet. That's all that

1 scenario is. And that does not reflect a cold-bloodedness,
2 it reflects passion. He killed her, now he will kill
3 himself. That doesn't reflect cold-bloodedness. That is
4 straight out of Romeo and Juliet.

5 Now, we tested the sheet, I told you, because I
6 was worried about some kind of claims we might get from the
7 State about who was present on a particular spot. You got
8 examples of that. We spent a lot of time -- the State spent
9 a lot of time talking with their witness who did the drug
10 analysis, you know, the gentleman from SLED. A lot of talk
11 about whether marijuana would show up in Ms. Wilson's blood
12 had she ingested it within the last day or so. I think he
13 ended up saying 13 days. Well, the implication is that Hank
14 Hawes said she was smoking dope that day or week preceding
15 it. He made no such statement. He talked about her having
16 -- her having engaged in that, but no particular time in the
17 past.

18 The State started talking about -- they did it
19 with our expert today and did it with Mr. Hawes about
20 Ms. Wilson spewing blood from this wound to her lungs.
21 Well, there's no testimony that she did. In fact, I asked
22 the doctor who did the autopsy who said could have been
23 spewing blood. Any blood in her mouth? No. Okay. No.

24 I go way out and I guess you could postulate that
25 Mr. Hawes cleaned the inside of her mouth when he was

1 cleaning her in the bathtub. Short of that, there is no
2 evidence whatsoever that she was, their term, sorry, spewing
3 blood. She bled a lot. There's no question about that.
4 But whether there's any evidence -- or there is no evidence
5 that she was spewing blood. They have to prove that.
6 That's their burden. They want to advance that as their
7 theory. We've got theories all over the place. That
8 doesn't make them fact. They have to prove that. And they
9 can't. They just want to throw it out there and see if
10 somebody might bite on it.

11 Now, I guess on the -- they're raising this issue
12 of voluntary intoxication being a defense. I hope I was
13 clear when Mr. Hawes testified. It went something like, Are
14 you saying that ADHD had anything to with what happened that
15 night.

16 No. Absolutely not. No.

17 Adderall?

18 He's not blaming anything on what happened that
19 night other than the events he testified about. They want
20 to address that, spend as much time as they want addressing
21 that. That's just not an issue.

22 Mr. Hawes talked about that in some letters to his
23 mother six months after the incident, I guess, or excerpts
24 were read to you. And you will see them. As he's trying to
25 work his way through and make sense out of what happened

1 that night still, also, two and half years later, trying to
2 make sense. Well, the fact is, at the time, he told Ms.
3 Williams, Jennifer Williams, he acted in self-defense. I
4 submit he told Stacey Newsom he acted in self-defense.
5 Believe otherwise is just to say they had this wuv you,
6 baby, baby, call, relationship even after they'd broken up
7 and he spends an hour -- 67 minutes, by my count, talking
8 with her on the phone immediately after and doesn't say
9 anything to her about what had happened. You know, that
10 gives rise to disbelief.

11 So proof beyond a reasonable doubt. I've talked
12 with you about presumption of innocence. We've spoken about
13 the burden of proof in the case, what has to be proven, how
14 facts could be proven. And then proof beyond a reasonable
15 doubt. You will hear charges. I don't take exception to
16 anything Ms. Campbell read to you about what the definition
17 is and His Honor is, certainly, going to charge you. Let's
18 talk about what that is. That is the single highest
19 standard of proof that exist in our system of law. Nothing
20 has to be proven more strongly than that in our courts. If
21 you have a car wreck and someone gets killed in the car
22 wreck, you know, the burden of proof on something like that
23 is by preponderance of the evidence, which is something just
24 by a little bit. That's enough. You can decide in their
25 favor. There's some intermediate levels of proof. Clear

1 and convincing evidence. Clear and convincing evidence is a
2 term. Clear and convincing evidence. That's not proof
3 beyond a reasonable doubt. That's far lower than proof
4 beyond a reasonable doubt. Okay. And if you have a doubt,
5 it needs to be resolved in favor of the Defendant
6 (indicating). That's how we work. That's how our system
7 works.

8 So Mr. Hawes says he acted in self-defense. I
9 submit that there's nothing to contradict that he did act in
10 self-defense. I'm willing to agree that reasonable minds
11 can disagree on their interpretation of the same set of
12 facts. So I would submit to you if you find in considering
13 the evidence that self-defense is not proven to you -- or
14 not -- has been negated to your satisfaction, which is what
15 has to happen, the State has to prove it didn't happen. If
16 you decide they've proven self-defense didn't happen, then
17 voluntary manslaughter fits what happened.

18 It fits Hank's state of mind prior to the
19 incident. It fits his state of mind and actions during the
20 incident. It fits his state of mind as testified to by
21 other people immediately after the incident. It fits his
22 actions in washing the body, sitting with the body, and just
23 not acting rationally, acting grief-stricken, if anything,
24 after the incident. It fits his statements to other people.
25 It fits completely. What doesn't fit is an action that was

1 cold-blooded and was calculated, that's not passion. This
2 was a crime of passion. The relationship was a relationship
3 of passion. So if self-defense doesn't fit, I submit
4 voluntary manslaughter does.

5 Now, lastly, the law says that y'all have no
6 friends to reward and you have no enemies to punish. You're
7 not here to punish anyone. You're here to listen to the
8 evidence, take the law as His Honor charges it, apply it to
9 the facts as you find them to be, and arrive at a verdict.
10 So whether or not you think someone needs punishing, that's
11 not part of the equation. The equation is what do the facts
12 state? What law supports the facts? And you have no
13 friends to reward and no enemies to punish. You're here to
14 speak the truth. You're here to return a verdict that
15 speaks the truth. That's what the word means, two Latin
16 words, vere is truth, dicto is to speak. Veredicto,
17 verdict, to speak the truth. That's what I ask you to do.

18 Go back, look at what you have to look at,
19 consider the evidence, and return a verdict that speaks the
20 truth. If you do that, your verdict will be not guilty of
21 murder. That's what I ask that you do. Thank you.

22 THE COURT: All right. Mr. Foreman, ladies and
23 gentlemen of the jury, why don't you stand and stretch. As
24 they say, stretch it out, shake it out. Relax for a few
25 minutes. And we'll continue with closing arguments in just

1 a few minutes after you move around a little bit. I'm not
2 going to take a break. I'm going to let you stand and relax
3 for a few minutes and we'll continue with the closing
4 arguments.

5 (Pause.)

6 MR. FOREMAN: May we have five minutes?

7 THE COURT: You need five minutes? Okay. We'll
8 take five minutes.

9 (Whereupon, the jury left the courtroom
10 at 12:35 p.m.)

11 (Whereupon, a short recess was held.)

12 THE COURT: You ready? Solicitor, you ready?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: All right. Bring us the jury, please.

15 BAILIFF: Yes, Your Honor.

16 (Whereupon, the jury returned to the
17 courtroom at 12:45 p.m.)

18 BAILIFF: The jury is seated, Your Honor.

19 THE COURT: Thank you very much.

20 Solicitor.

21 MS. CAMPBELL: May it please the Court.

22 In preparing for trial, we try to anticipate what
23 the defense may be. In a murder case, there may be three or
24 four. Number one, you've got the wrong guy. It's an ID
25 case. Or maybe the defense side it's really not murder,

1 it's just voluntary manslaughter. It's just a drug deal
2 that went bad or self-defense.

3 This case, though, was a little unique because
4 it's kind of a combination of defenses. Because the defense
5 is going to get up here and the Defendant is going to get on
6 the stand and claim self-defense. No one else was there.
7 Who's going to dispute him? But when that doesn't really
8 work, then they get up here, just like they just did, and
9 argue oh, well, it's only voluntary manslaughter. Because
10 even if the Defendant's story is not only just untrue, but
11 impossible -- and we'll get back to that in a minute --
12 we'll just to create that little bit of doubt, that
13 reasonable doubt to reduce it from the murder it is.

14 And if that doesn't work, we'll go ahead and just
15 trash the victim. Let's talk about every time she said
16 anything sexual in a text message. Let's talk about the men
17 she was speaking to that night, although there's no evidence
18 she was doing anything other than having an evening with
19 friends. The DNA evidence speaks to that. Let's try and
20 make her look as bad as possible. Accuse her of drug use,
21 call her a whore, his words (indicating), not mine.

22 And if that doesn't work, go back to the oldest
23 defense in the book, just talking about what the police
24 didn't do. As they pointed out, there are three swabs that
25 they didn't test. There was blood at the scene that they

1 didn't collect because no one knew, but Hank Hawes, that he
2 cut his wrists there. And just try to throw this all up and
3 see what sticks. Confuse the jury. Blame Jennifer Wilson.
4 Because that's what Hank Hawes has done since the day they
5 met. Evil, cunning, manipulating Jennifer Wilson. It's her
6 fault. They talk about the presumption of innocence. His
7 own attorneys have gotten up here and argued that at the
8 very least, he's guilty of voluntary manslaughter, but that
9 doesn't stop them from trashing the victim.

10 In opening statement, Ms. Pringle got up here --
11 and I, actually, made sure I got the correct verbiage out of
12 the transcript. And she said -- the word passion has been
13 heard over and over and over again. And by the way, listen
14 carefully to the Judge because he is not going to charge you
15 that it has to be a cold-blooded murder. Listen carefully
16 to that. Mr. Strickler said cold-blooded, at least, 15
17 times. We don't have to prove it's cold-blooded. In fact,
18 all we have suggested is that it's brutal.

19 In opening, a case of passion. Passion that
20 resulted in tragedy. What happened was a tragic turn of
21 events. Their words. That these two people had a passion
22 for each other, that they should have moved on away from
23 each other, but they didn't. It wasn't one-sided. From the
24 moment this case started, pointing to the victim. I can't
25 tell you what this is right now, just not murder. She then

1 said malice murder is the worst kind of murder. Ladies and
2 gentlemen, I submit every murder by definition is a malice
3 murder. And that you are not here to send a cry out for
4 justice. Listen carefully to the Judge. Your job is to
5 evaluate the evidence, judge the credibility of the
6 witnesses, apply the law, and come to a verdict that speaks
7 the truth. You're only job, ladies and gentlemen, is to
8 seek justice. Because what this case boils down to is Hank
9 Hawes telling the truth? Because the only reason he
10 wouldn't be telling the truth is because what happened that
11 night, what really happened was murder. Why else would he
12 have to make up a story?

13 Now, ladies and gentlemen, this was a violent and
14 vicious, and I submit, from the infliction of the wounds, I
15 don't know if passion is the right word, but it doesn't get
16 any more brutal. Ms. Pringle got up here and talked about
17 in opening, too, about every week real murders come into
18 this courthouse. Kind of inferred that Hank Hawes is
19 different (indicating). I'm not sure if she meant that he
20 looks different. And I asked myself, what does a burglar
21 look like? For that matter, what does a rapist, a robber, a
22 child molester look like? Unfortunately, he can be the
23 priest, soccer coach, teacher. Hank Hawes may think he is
24 above the law, that the law doesn't apply to him, that he
25 can just talk his way out of anything. I submit, ladies and

1 gentlemen, Hank Hawes drinks from the same cup of justice as
2 every other defendant that comes in this courtroom. He is
3 not above the law.

4 Now, I want to take this opportunity to talk about
5 the facts, the facts and the evidence that's been presented
6 to you. And in doing that, we're going to talk a little bit
7 about what the witnesses showed you or were able to testify
8 to.

9 The first witness you heard from was Jack
10 Swerling. He was the defense attorney. He called 911. You
11 have the 911 tape. He calls around 11 o'clock -- and if I'm
12 misstating the times or anything, it's not intentional.
13 There's just a lot of times in this case. So y'all remember
14 because that's important. In that vein, he said he knew
15 about a murder, gave them directions where to go, that he
16 had been contacted by Hank Hawes.

17 The next person you heard from was Kelly Smith.
18 And Mr. Smith, they didn't mention in their closing
19 argument. Kelly Smith's testimony is important. What did
20 Kelly Smith tell you? And remember, consider his bias or
21 prejudice. What does he have to gain or lose? What
22 Mr. Smith told you is that was he home that night. He had
23 been under the weather. He had gone to bed early. He was
24 awakened sometime after two in the morning by noise. Noise
25 that he had heard, similar noise earlier in the summer

1 between Hank Hawes and Jennifer Wilson where she yelled out
2 no. This time, the noise came from the bedroom area.

3 And let me be the first to say, was there a
4 struggle in the bedroom? Do we have to prove that he
5 stabbed her all in the bedroom? No. The State doesn't
6 submit that. And I'll get back to that. Was there a
7 struggle in the bedroom that alerted Mr. Smith? Remember,
8 it went on for a while and then it was quiet, and then he
9 heard more sounds. Remember how he described what happened?
10 He could feel it like hitting the walls. Is that consistent
11 with the head trauma we're talking about? Because, ladies
12 and gentlemen, this wasn't a quick, over-like-that murder.
13 This was one where Jennifer Wilson fought hard for her life.
14 Twelve stab wounds to the front and to the back.

15 Started in the bedroom. The next thing he hears
16 is in the kitchen. What's significant about that? That's
17 where the knives are. That's where the pool of blood is,
18 where the drag marks are coming back into the bedroom. Is
19 it corroborated by the crime scene we heard? Completely.

20 What else did he tell you? That towel that was
21 shown, the towel that had never been on that back door
22 before (indicating), as you can see clearly from the back
23 porch, which he would have seen every day if he had gone to
24 his car, was up when he got back there the next morning when
25 the police were there. He called 911. He told them that

1 his neighbor was being beaten. You have that tape. He did
2 what he thought he should, even though he was scared.

3 What happens next? And think about this when you
4 consider the Defendant's version of what happened
5 (indicating). The police respond. They check the house.
6 At that point, they see nothing inside. So he's in shock,
7 out of control, yet he never testified that this whole fight
8 happened in the dark. That's absolutely ludicrous. The
9 first thing he did, look at the light switch in the kitchen,
10 was go over and turn out the lights because he knew the
11 police were coming. It had been loud. He puts a towel over
12 the window that has blood on it, and the keys in the door
13 lock, which he said were in her purse and that he retrieved
14 right before he left. And remember, that's after he's had
15 his shower, too, after he's cleaned up. And we know he's
16 not bleeding profusing at that point because there's no real
17 blood in his car which he immediately gets into. Look at
18 the photographs of the keys and the door, they're covered in
19 blood. Because the first thing he did after murdering
20 somebody was make sure the police didn't get there. Knew to
21 keep quiet while they were outside. All the lights were
22 off. No movement inside. Kelly Smith heard them out there.
23 They approached the front door to check. No one went to the
24 door. Are those the actions of a person who has just been
25 victimized by evil Jennifer Wilson? Why did he not want the

1 police to come in? And we'll get back to that. Because he
2 wasn't ready. He hadn't thought it through what he was
3 going to do.

4 You heard from Eric Ashton. He saw the Defendant
5 leaving the next morning around eight. He's driving funny.
6 He's still not sure quite where he's going with everything.
7 So he's working on the self-defense, so he doesn't want to
8 get blood in his car.

9 You heard from Janelle Bondr, who was Skyping with
10 Jennifer that day. David Virtue, she was at his house that
11 night. He was concerned for her safety. From Steven
12 Harrod, dinner that night. We did the entire timeline of
13 what she did that night. She liked to bake. She liked to
14 can, too. You can see the cans in the pictures. She took a
15 cake over to Chandra at the party that night, stayed about
16 an hour. And we'll get back to all the texts, and I know
17 you're sick of them, but they do show what happened that
18 night.

19 On her way home, at 1:36 a.m., right before that,
20 look on the timeline. She calls the Defendant, If you want
21 me to come over, I will. No answer. He's been waiting on
22 her all night. He's ready to break up with her. Why didn't
23 he answer his phone? Because he's doing other things.

24 Tasha Laman, told her, I will destroy your life
25 brick by brick. It's even in the texts. And she told him

1 to go see a therapist. Dr. Bruce Hill, one night that
2 summer, she was scared. He had to stay in the building with
3 her. You heard how the police responded that night. No one
4 was there. No one came to the odor. Certainly, no one was
5 calling 911 or reporting having been a victim of Jennifer
6 Wilson.

7 Instead, what does he do? He calls Stacey Newsom.
8 And the Defense has gotten up here and said he told Stacey
9 everything that happened. But that's kind of funny because
10 when he, actually, calls 911 for himself sometime around 11,
11 something like that, so he can get help because he's dizzy,
12 he talks about how he needs an ambulance.

13 What's wrong, sir?

14 I'm cut. I'm bleeding.

15 Okay, what happened that you got cut?

16 I've cut my wrists -- excuse me, my wrists got
17 cut.

18 Then finally, did you cut your own wrists?

19 Yes.

20 He's committed to that at that point.

21 Then he gives them details on how to get in the
22 back. There's a gate on the side that's fake locked. Told
23 them to open the lock, come in the back of the deck.

24 Stay on the phone. What's your name?

25 Hank.

1 You still have a weapon?

2 Do I have what?

3 Do you still have a weapon or did you cut yourself
4 with a knife?

5 Yeah, like a steak knife. I don't have it, I'm
6 outside.

7 Doesn't say, it's bad where I killed my
8 girlfriend.

9 Then, you're outside? Again, he gives them
10 direction on how to get back in the gate.

11 And keep you on the phone. How long ago did you
12 do this?

13 I don't remember.

14 He doesn't remember a lot when he doesn't want to
15 talk about it.

16 What's your last name? Anybody live with you?

17 No, my dog.

18 And his dog is important to him. Remember, he had
19 to leave Jennifer's that morning to go check on his dog.

20 I called my ex, that would be Stacey, and I told
21 her that she needed to come pick up my dog. So she knows
22 how to get in, but she doesn't really know what's going on.
23 That's what he told them before he changed his story. She
24 doesn't know what's going on.

25 And the pair of shorts. You heard from other

1 officers that processed the crime scene. You heard from
2 Paul Nelson and George Wise. You, also, heard from Zach
3 Jackson, who was the hospital guy that went in to check on
4 the Defendant. He was there and how he got back with
5 Investigator -- Officer Hudson and they figured out that
6 this was the person they were looking for. And you heard
7 from Julius Jones, who some seven days after this occurred,
8 eight days, maybe, he's confronted about the wounds to his
9 wrists, all Hank Hawes tells him is that they're defensive
10 wounds. Because at that point, that's his defense.

11 Who else did you hear from before I get back to
12 the crime scene? Aaron Wilson. And he was important
13 because he talked about how Hank Hawes contradicted some of
14 what he said. He stayed there until midnight, 11:30 to 12.
15 While he was there, he was buying shots for everybody,
16 drinking, having a good time, happy about getting back with
17 his girlfriend. That was his state of mind.

18 You heard from Stacey Newsom. And what did Stacey
19 Newsom tell you? That she got a phone call, that he was in
20 and out of it. He wanted her to stay on the phone because
21 he didn't feel well. And with Hank Hawes, look at the
22 texts, every time he wants attention, he just starts talking
23 about how he doesn't feel well. And he throws up whenever
24 he doesn't want to feel well. That's a common theme.

25 You, also, heard from Kimberly Williams, who he

1 calls -- and we'll get to the timeline in a minute, after
2 he's already done his research on his defense attorneys,
3 after he's phoned Jack Swerling. And he calls her up, and
4 it's interesting what he says. And remember her testimony
5 and don't let me misquote it. He, basically, tells her I've
6 killed someone. It was in self-defense, but no one will
7 believe me. Even he knew (indicating) no one would believe
8 his story. So I cut my wrists. And, by the way, I need
9 25,000, 30,000 for a lawyer.

10 You heard about the text messages. And I just
11 want to go over those briefly before we talk about the crime
12 scene and what some of those show as far as that day or even
13 weeks before that. Because that is like they said, it goes
14 back and forth. Look at all the text messages. Y'all will
15 have everything back there. Who was always the one begging,
16 obsessed with getting back together? Who was the only one
17 that ever says no. I'm scared. I don't know what you will
18 do to me. And these are just a few of these things. And
19 these are just in the 10 days before this happened.

20 On the 18th, 8:07, basically, they're fighting
21 over the Stanley Steamer thing where he thought Chandra was
22 in the house. His reaction. He didn't have any problem
23 with giving her up. Whore. Again, liar, whore. You will
24 both get what you deserve, comma, I do deserve happiness
25 from a truthful person.

1 That same day, still fighting. 10:50 or earlier,
2 talking about how he secretly tapes her. I reviewed the
3 videos and spoke to my attorney. I was clear to tape.

4 August 20th. Remember the ones in white -- all
5 the yellows are him reacting. I didn't want sex tapes out
6 on me. Remember the threats. If you break up with me, I'll
7 expose you, I'll expose your friends. This is a man who
8 went there calmly to break up?

9 Starting not to care. I got the message. No
10 worries. Don't screw with me. And you will have all the
11 pages. These are just a few.

12 08/20, 1:35, please don't, you scare me. If I
13 felt safer, I would come over. I probably shouldn't have
14 texted you, I'm sorry.

15 I won't beg. Your choice. You have nothing to
16 fear.

17 No, you might video everything and that worries
18 me.

19 The 20th, get in your car. I miss you. Come on,
20 Curly Q.

21 I can't. I can't risk it. I'm still too
22 frightened. And God, I love you.

23 And yeah, fault her for loving him.

24 Lay beside me tonight if you love me.

25 Her answer, not when someone tells you they will

1 ruin your life brick by brick. In this case, it was stab by
2 stab. I have to be a bit more careful.

3 But give him credit, he's persistent in his texts.
4 He talks about how that's his MO, persistence.

5 Later, after they'd been together, I wish you were
6 always like you were this afternoon.

7 Baby, I'm not saying it will never work, just not
8 now. Get good at being the man you like and I being the
9 woman I like and then maybe we can try again. And it's goes
10 on.

11 Hank, don't push it. This is on the 21st, the
12 next day. This was my first night without nightmares. And
13 that was because you were really nice yesterday.

14 They, also, talked about how he went over that
15 night and she confronted him about Stacey because she was
16 obsessed with Stacey, and that's what set her off. When
17 that rage came over her, remember, she pulling her hair out,
18 according to him, because he mentioned Stacey. She asked
19 him if he had been in touch with her and he said yes, and
20 that's what sent her over the edge. Does that even make
21 sense?

22 On 08/26, to Jennifer Wilson from him, I need your
23 help. This is when he was trying to get her to come over,
24 which she does. When he had the gallbladder issue, which
25 ended up being a kidney stone. I'm on the phone with Stacey

1 and she thinks it's my gallbladder. Where are you when I
2 need you? Well, if Stacey is what set her off, it doesn't
3 even make sense.

4 And the timeline from those two days, the 27th and
5 the 28th. And these will be back there with you as well.
6 He wakes up that morning after having googled, yet again,
7 what does passing a kidney stone feel like so he can make
8 sure when he tells Jen he's passed a kidney stone, he knows
9 what it's supposed to feel like. And remember, earlier,
10 he's asked her if she can watch Lad, that's how he gets her
11 over to the house. Then he goes into the kidney stone
12 thing. Then they talk about getting together. She brings
13 him a biscuit.

14 Thank you, it was sweet.

15 How are you feeling? And that's at 12:25 on that
16 Saturday, the 27th.

17 Little sore, but better. I'm bored and hungry
18 now. What are you up to? Can we get together?

19 He talks about how he's talked to Connie that
20 morning. He admits he didn't do that, I guess he just made
21 that up, too. He's got quite an obsession with medical
22 issues. Connie was his doctor. She said he needs to drink
23 three liters a day. He said the meds are eating up my
24 water. I would like you to stop by. The oven is beeping,
25 do I need to do anything? That afternoon when he was over

1 there.

2 Then that evening, 1519, later that afternoon, he
3 starts talking to Jennifer. Where are you? Probably going
4 to Cantina. And his story was when he got up here that they
5 had plans to get together. Well, then why are they texting
6 back and forth about what he's doing that afternoon, where
7 he's been. She doesn't even know. If she was supposed to
8 meet him there, why is he texting her?

9 Aaron's on the way, things of that nature. That's
10 when he starts texting Rachel. And remember, even at the
11 bar that night, he's trying to find out from Aaron who he
12 can hit on. All these to Rachel (indicating) that he said
13 was teaching him how to jump.

14 Rachel, Monica, Stacey, Rachel. He says he's
15 telling everybody he's happy he's getting back with his
16 girlfriend. And these don't even include like Antoinette
17 and Amy and all those. Stacey, Rachel, Stacey, Rachel,
18 Stacey, Rachel.

19 And then it gets to be about 2129. Are you with
20 someone? Are you on one as a date? I won't be here in an
21 hour. No worries. Maybe something is up.

22 No. No one is a date. She's desperate because
23 she knows him. And if he thinks she's on a date, it's not
24 going to go well for her. She doesn't want him to show up.

25 Some more to Rachel.

1 I won't make it tonight to 76, but I will come by
2 your place. This is to her. And that's at 2211, which
3 would be 10:11.

4 We're still waiting on the check. It's taking
5 forever.

6 I'm tired. I want to curl up with you right now.

7 Back to Jennifer, let me know when you walk out
8 and I'll see you at my place. That's at 2218.

9 Then to Jennifer, to Jennifer, to Jennifer. Are
10 you out yet, babe?

11 Yes, we just left. Taking forever to get the
12 check. I'm sorry.

13 No worries.

14 I'm headed home.

15 To Jennifer. Are you coming? Is it better there
16 than with me?

17 She writes back never.

18 Then come on.

19 To her, early night? Babe? Really? Then good
20 night, party girl. That's at 2329, 30 minutes before
21 midnight.

22 Then one to Kim Williams. Then he texted her, the
23 door's unlocked if you decide to show up. Then it gets to
24 be, Don't do this, please.

25 Do what?

1 Because it's all about control. That's Hank
2 Hawes, he's got to be in control.

3 Then it goes on after the text. Are you coming or
4 not? Jen, make your choice tonight. I don't want this
5 life.

6 Then on the 27th, outgoing text to Jennifer
7 Wilson, Please, are you coming, yes or no?

8 She texted back. I said I would come, sorry it is
9 later than you had hoped.

10 Then on the 28th at 1:36 from Jennifer to him. So
11 I didn't hear back from you. I left a message. I am home
12 and in bed, goodnight.

13 Then you see calls to Jennifer Wilson, then
14 outgoing text at 2:03:17. And remember what Investigator
15 Pegram testified to about a time period when he crosses into
16 her zone. He's going to her house.

17 Outgoing to Jennifer, I'm still waiting on you and
18 I never said anything about three a.m. Outgoing call to
19 Jennifer Wilson, 2:13; outgoing call to Jennifer Wilson,
20 2:14.

21 And sometime between that last call and 2:37 when
22 he calls the love of his life, Stacey Newsom, these events
23 transpired. And I submit in between that time that he's
24 done his best to cut off the lights, put up the towel, and
25 he's calling Stacey, but he doesn't tell her what he did

1 because he knows Stacey will call the police. But he just
2 needs somebody to be there and to hold his hand while he
3 figures out what to do.

4 2:37, 2:53, 3:08, 3:19, 3:52, Stacey. Phone call,
5 outgoing call, Stacey Newsom, 4:21, 4:21. Then an e-mail at
6 5:22, his Last Will.

7 At that point -- and the State doesn't -- we don't
8 have to prove whether he faked his suicide or attempted it.
9 I submit he's a phlebotomist. He'd been a medical tech for
10 10 years. He was obsessed with medical things. He was,
11 certainly, able to kill Jennifer Wilson, three-inch deep
12 wounds to her. So was he able to kill himself? That's for
13 you to decide. It doesn't affect whether or not he
14 committed murder. He sends her a Last Will. I wish to
15 leave everything, all possessions, including Lad to Stacey
16 Newsom. I wish for her to handle all my final arrangements,
17 exclusively, according to my wishes. My family is to have
18 no say in my arrangements. This is what they describe as in
19 and out, unable to function, not knowing what's going on.
20 Just sat there and bled into a cooler, which I'll get to in
21 a minute.

22 Then he goes home. Last call to Stacey Newsom is
23 at 8:48. He's on the internet. He's come back to a little.
24 He's able to look up the Strong Law Firm, South Carolina
25 criminal defense lawyer, Jack Swerling, contact Dave

1 Farrell, attorney at law, South Carolina defense attorney,
2 Randolph Huff, Victor Lee Law. Then the phone calls to
3 Swerling, Swerling, one back to Stacey, Kim, Kim, money,
4 Kim, Stacey. Because he needs help with his defense.

5 That day, Kim, 10:25; Stacey, 10:54. 11:11 is his
6 call to 911. And what's telling? He calls 911. Did he
7 ever call anybody for Jennifer Wilson? No, but he's able to
8 call for himself. He's on the phone with Stacey when they
9 come. Right there (indicating) 11:21. Incoming call from
10 Kim. Outgoing call back to Stacey. He's at the hospital.
11 He won't tell them what he's done because he's not sure how
12 he's going to go with it yet. And I will get back to that.

13 Phone call to Stacey, Kim, Stacey -- excuse me,
14 Stacey, Stacey, throughout the whole afternoon to the point
15 where he has to ask the nurse, who, by the way, he wanted to
16 know that he's from Florida and he's in finance, for a
17 charger. He's just killed someone in self-defense or
18 voluntary manslaughter and that's how he reacts?

19 The crime scene, the Defense has gotten up here
20 and talked to you about we can't prove exactly where she was
21 stabbed. We don't have to prove exactly where each stab
22 wound occurred. We don't have to prove exactly where each
23 slash happened. We don't have to prove exactly which wall
24 or bedpost he banged her head into. We don't have to prove
25 at what point he punches her in the mouth and causes a slit

1 on her lip. Is that where he got the little dot on his
2 finger? The tooth mark.

3 And by the way, the police photographed him. They
4 searched him, every and any inch of him. He says that she
5 bit his finger. There's no bruise. There's one mark
6 (indicating). Did he get that in this violent attack where
7 his shirt is ripped -- and I'll get back to that -- where
8 he's fighting for his life and she has a big knife?
9 Remember, not any of the ones he used, a big knife that
10 miraculously isn't anywhere to be found. It's not next to
11 supposedly where her body ended up. And we submit, yeah,
12 she did bleed in that kitchen. Did it end up there? Yes.
13 That's consistent with what Mr. Kelly Smith told you, where
14 she was screaming no, no, as she fought for her life.
15 Where's the big knife? Where are the buttons from his
16 shirt?

17 What do we know about the crime scene? We
18 submitted multiple items to be tested. And when these
19 investigators were processing the crime scene, no one had
20 the information about Hank Hawes slitting his wrists there
21 at the crime scene. And let me say one thing right now,
22 even if all that blood on the side of the bed is his, I
23 submit that doesn't prove this was self-defense. It proves
24 it was murder. Because what does he do afterwards?

25 According to him, he gets her body and dragged --

1 he didn't say dragged, he said he didn't know how he got her
2 into the bedroom. And they're drag marks there. Is it
3 consistent? She layed in that pool of blood until he
4 decided he was going to stage the scene. And what do we
5 have to prove that? By his own admission, he puts the body
6 on the bed, for whatever reason, he never really said. And
7 then according to him, at some point, he decides to wash
8 her, which he does. And he's able to take off her
9 clothes -- and we'll get back to the tank top -- and able to
10 get her into the bathtub. And he washes both of them. And
11 we know this because when he leaves, he gets into his car
12 and then he goes to his home. And the most we see is a
13 small swipe in his home of blood. And in his car, there's
14 nothing, except some specs from the bottom of his feet
15 because he's been tromping through the blood all night doing
16 stuff.

17 And look at the crime scene. Why is he pacing
18 back and forth so much? They brought in this expert, but
19 limited him to testify to this one space they wanted to be.
20 Ladies and gentlemen, assume that's his blood there, and we
21 submit it is, but what the expert wasn't able to tell you is
22 how did it get there.

23 And when this case first came in, you look at the
24 crime scene and there's this cooler. And there are many
25 photographs of it, this cooler (indicating), and it's got

1 blood. But what's unusual, it's not just blood on the
2 outside, it's blood on the inside. And we tested that blood
3 and it's Hank Hawes's blood. And his explanation is is that
4 he was putting his hand so he wouldn't get blood on the rug
5 that he threw up on. Yet, if you look at this crime scene,
6 there is blood everywhere, everywhere. Why would he need
7 this cooler to collect his blood? He's a phlebotomist.
8 He's a medic. He needs blood to make it into a crime scene
9 that could support self-defense. So in order to put it
10 where he wanted it, he had to collect it.

11 And look at this (indicating), because these
12 straps are cut. Were they in the way? And they're photos.
13 Look at the top, what appears to be a pour pattern and the
14 drips down the side. And this doesn't take reconstruction
15 of the scene. This is common sense. Hold it up to the area
16 of the sheets (indicating), where he wanted the cuttings
17 taken from, and you'll see these. That's his blood
18 (indicating). And remember, there's a knife right next to
19 that, in case he needs to go to self-defense. Is the pour
20 pattern consistent? And they talk about how this pool of
21 blood down there. And I submit some of it probably is his
22 blood because it got poured in there, remember the stains
23 around, so that he could go with self-defense. The crime
24 scene itself suggest this.

25 And then I thought well, why did he wash the body?

1 Why do he move into the living room? And remember, all this
2 takes time. He's having to wait to make sure the police
3 aren't outside in the dark before he can start doing things
4 and moving things by his own admission. And we, also, don't
5 have to prove at what point he cut his wrists. But he
6 needed the blood, so he cut his wrists and he collects it.
7 And then he washes the body and he wraps it up. Remember,
8 how it appears at the scene? In a comforter or a blanket.
9 You'll have the photographs. Why clean it? Why put it
10 there?

11 You have photographs from his car, State's Exhibit
12 No. 262. Here's the only even presence of blood in that car
13 other than some miniscule drops on one of the foot pedals.
14 But what's in the trunk? These items (indicating), the
15 Playtex gloves, paper towels, the tarp. Those were in his
16 car we know when he left because they're still there when
17 the police arrived. So the clear inference is were those in
18 his car when he went there? And why did he need paper
19 towels, latex gloves and a tarp?

20 Was the plan to clean the body and move it because
21 he thought he could get it out to the car after he put his
22 blood at the crime scene? He miscalculated because he did
23 get weak from the blood loss and he couldn't finish
24 executing the plan. And are those the acts of someone
25 acting in self-defense or someone who's a victim? Is that

1 what happened? Common sense. And they're so worried about
2 having her blood in that bedroom. There's a mixture of the
3 blood where he looked through the shades. I submit he went
4 back and forth on multiple occasions to check and see who
5 was out in the yard.

6 He did get weak, so he decided he had to get out
7 of there. He'd figure it out when he got home. And that's
8 when he started calling defense attorneys.

9 Put blood on the blades of all the knives, his
10 blood. What was the whole story about how he cut himself
11 multiple times with different knives, why was that?

12 The shirt. And I submit, ladies and gentlemen, if
13 that had been the shirt, to say the Columbia Police
14 Department wouldn't have collected, the shirt with stab
15 wounds in it, it's ludicrous. But he had to find something
16 that looked like a shirt because that's a problem because
17 the black tank top -- remember, he's the one who said it was
18 a black tank top she was wearing -- was down the hallway.
19 So it wouldn't support his story. It wouldn't support his
20 story either if he had gotten her to take off that top prior
21 to stabbing her. That wouldn't work so well for his defense
22 if I went over there to break up. That's her piece of
23 clothing found there. The tank top that he described, but,
24 oh, that's not it. It's this other one. And they put in
25 those little pictures, we put in the big ones. Because.

1 there is no tank top with stab wounds. So that in and of
2 itself disproves what he did. Left his shirt at the scene,
3 and yet, more of his blood, ripped. The buttons missing.
4 Did he throw those out, stick them in his pocket?

5 You heard from the pathologist about her wounds.
6 Stab wound number one, that's not just one that went in. He
7 twisted it. And he knew from his training where the carotid
8 and the jugular were, so he made sure he got that one.
9 Because then, she would only be able to fight for about two
10 more minutes. Stab wound two to the left breast, three
11 inches deep -- on the floor, that's the entire length of
12 that knife. It perforates the left lung. And when you look
13 at it in terms of perforate or penetrate. Penetrate means
14 it went into the lung, but not all the way through.
15 Perforate, all the way through the lung. Stab wound three,
16 the right breast, two inches deep. Perforates the right
17 lung. Multiple stab wounds to the back of the arm, the back
18 of the right arm -- excuse me, the left arm, the left arm,
19 the back of the right forearm, the upper left chest. And
20 these are just the stab wounds. I'm not talking about all
21 the other defensive wounds. And you'll have those
22 photographs. Upper back. She fought. Jennifer Wilson
23 wanted to live.

24 And in his scenario where she's coming at him, and
25 he just reacts and defends her off for his life, how did she

1 get all these wounds to the front, the back, the back of the
2 arm? Stab wounds, not just slices. Was she crawling away
3 there in the kitchen when he finished her off and she bled
4 out?

5 Upper left chest, upper left back. Stab wound
6 number nine, left back, three inches deep, perforates left
7 lung. Stab wound 10, posterior left back, 2.3 inches deep.
8 Stab wound number 11, posterior right back, 2.5 inches deep,
9 penetrates the liver. Stab wound number 12, right back,
10 perforates, all the way through, the liver.

11 And then when he testified, he got some letters
12 from his mother. They were provided. And his first words
13 to Kimberly Williams, self-defense. Seven or eight days
14 later, to Julius Jones, these were defensive wounds. First
15 letter to his mother, January 24th, 2012, the Lord has put
16 me in a situation of self-defense. February 10th, pray for
17 me. Pray for Jennifer's family through this horrible event.
18 My heart goes out to them. I beg for their forgiveness
19 because this tragedy was in no way an act of aggression on
20 my part. I believe we were both victims of a psychotic
21 episode. Even he knows his self-defense isn't standing up
22 real well. He's moving on to psychotic defenses.

23 He tells his mother, We'd seen a counselor the
24 week before to establish boundaries and my dislike of her
25 use of drugs.

1 The only person that ever says that Jennifer
2 Wilson and the only evidence is Hank Hawes. Because, again,
3 he's the victim.

4 The counselor had given me the courage not to
5 settle and I was at her house to part company as friends.

6 So at this point, it's the counselor's idea, not
7 what he testified to, that it just came to me sometime after
8 he left Cantina.

9 My prayer is to make a way that does not seem to
10 exist to free me.

11 Even he acknowledges.

12 To allow me to go back to school.

13 And then he talks about how he spared my life,
14 severed artery. There was no severed artery. But once
15 again, that whole medical thing. Guilt. No medical
16 attention for over five hours and he's given back to his
17 mother.

18 By the way, any information you can find online
19 about amphetamine recalls from Sandoz and Teva.

20 So he's going for option number two at this point.
21 He's moving on to a new defense.

22 February 16, writes her about ADHD. He says he
23 has positive traits, creativity and his IQ is very high.
24 His only negative is disorganization. He had almost all
25 positive traits.

1 Other letters, Pray that I receive a break in my
2 case and send me anything you can find on amphetamine
3 recalls, acceptable dosing. I've been praying for a miracle
4 --

5 He knows he needs a miracle.

6 -- in my case before my birthday. Please send me
7 the research material I asked about the amphetamines.

8 He's still on the amphetamine thing at that point.
9 And, remember, these were letters sent to his mother, not to
10 us.

11 April 4th, 2012, if you could look up and send me
12 the address to the Citadel and College of Charleston and
13 Charleston School of Law, information on admission to each.

14 April 9th, I've really been praying for a miracle
15 so I can pursue my dreams.

16 April 17th, Let dad know I'm in here. Maybe he
17 can think of something to help with my case.

18 The Defense has gotten up here and talked about
19 the blood spatter at the scene and put up an expert. You
20 heard from Dr. Robinson, yes, he could have bled a lot with
21 those because he did hit the veins. No arteries. That was
22 Dr. Robinson's testimony. Also, Dr. Robinson never
23 testified that he was spewing this blood. So listening to
24 their crime scene expert today, I'm like what more was he
25 doing? Because, you know, they're frantic, they don't want

1 that blood on the wall next to the picture in the corner of
2 the bedroom to be arterial blood, like Dr. Marcus testified.
3 No, it's not that because that then again refutes his story.
4 Because then she was stabbed while in the bedroom.

5 And you look at. We've described it. He told you
6 that you really can't tell the difference between cast off,
7 but that arterial is thicker, more of an amount. And look
8 at the drips down that wall. Is that consistent with cast
9 off? And what is he doing? He's collecting this blood in a
10 bag, according to him, so then he's going around and spewing
11 his arms around. That's what you have to believe. And if
12 he is doing that, what is he doing other than trying to
13 create a crime scene to help him? And there are many more.

14 You, also, heard from Dr. Trask, who said she
15 would never advise someone to break it off on the first
16 thing. Then you heard from Jemme Stewart. And what did she
17 tell you? That in her two session with Jennifer, classic
18 red flags of domestic abuse. And she didn't mean by
19 Jennifer Wilson.

20 You heard from DNA who did the testing. And there
21 is both of their blood present. And, ladies and gentlemen,
22 the six hours when he remained at the scene, no one could
23 control where he chose to put his blood to try to create his
24 story. Why else would he stay there that long?

25 She testified, but now it's not even in play, that

1 the only semen, what was there was consistent with just the
2 Defendant. The only other was a female fraction. There was
3 no one else's. But it didn't really matter. And the
4 Defendant can't get up here and testify about his anger and
5 going over there because then that would be murder. The day
6 before, Michelle Trask told them they both needed space.
7 Look at the text. Look at the interaction. He's always the
8 one pushing to control for them to be together.

9 I listened to the Defense talk about passion. And
10 listen carefully to the Judge. The brutality of the actual
11 crime itself is a factor in considering whether or not
12 malice was present. In this case, with this evidence, if
13 this is not murder, then what is? Does he get a by or a
14 lesser included because it's domestic? That Jennifer Wilson
15 kind of just, you know, assumed the risk when she chose to
16 date, chose to love that man (indicating). She had it
17 coming.

18 That night, she went out with friends. She had a
19 good time. Her last night. She went over and saw David
20 Virtue. He told her to be careful. She said she would call
21 911.

22 And let me get back to her phone on the ground.
23 Was she trying to get to it to call 911 like she told her
24 friend while they struggled? Had he stabbed her at that
25 point? It doesn't matter. They talk about how we didn't

1 test that. They didn't ask for it to be tested. The phone
2 on the ground had been dropped with blood on it. Was she
3 trying to get there? Did she run into the kitchen trying to
4 get away? Her last minutes on this earth were with him.
5 The last face she saw was Hank Hawes as he stabbed her over
6 and over and over and over and again and again and again.
7 It wasn't -- and it wasn't pretty, and it was painful and
8 she fought.

9 He doesn't have a -- he can't even substantiate a
10 bite mark. But isn't it ironic that he bit her? Haha, I
11 bit her, I'll just say she bit me.

12 On August 28th, this was Jennifer Wilson
13 (indicating). Lucky for her, she went out that night with
14 friends and she had a good time. She even went to a second
15 party for Chandra, her new friend. Maybe she wanted to get
16 romantically involved with him. Remember, she was scared.
17 She told him she wanted to protect him -- Jennifer thought
18 she could control it, the rage. The Defense in this case
19 says because he's gotten up here and said self-defense,
20 which if you don't believe that, voluntary manslaughter
21 because he may have been angry. How many murders happen
22 because people are angry? I submit unless it's a murder --
23 even a person hiring is angry to murder for hire. It's not
24 an act of friendship.

25 After he finished with her and left her there --

1 by the way, even when he left that morning, he still didn't
2 call 911. This is what was left (indicating), and the two
3 stab wounds, one to each breast, one the length of the
4 knife, one almost. Was that kind of just symbolic for him?
5 Ha ha, I can't have her, no one else will. Up close and
6 personal, this murder. His own way of still being in
7 control.

8 Hank Hawes counted on the fact that he could just
9 get away with it, get away from the scene, try to get a by
10 maybe. He'd cover it up as he staged the scene. And if
11 that didn't work, he's going to do what he just does best,
12 just get up here and testify (indicating), talk his way out
13 of it. That's what he does, and just blame the victim.

14 Ladies and gentlemen, I submit Hank Hawes
15 miscalculated. All we ask is that you reach a verdict that
16 supports the cold, brutal facts of this case. Thank you.

17 THE COURT: Mr. Foreman, ladies and gentlemen of
18 the jury, I will give you a copy of these instructions in
19 written form. During your deliberations, you may refer to
20 the instructions to guide your decision-making. You must
21 consider the instructions as a whole and not follow some and
22 ignore others. After you've reached a decision, please,
23 return the written charges to the Court.

24 I have allowed you to take notes during the course
25 of this trial. However, please remember that some people

1 are better note takers than others. Juror notes should not
2 be given any greater weight than the recollection of other
3 jurors. The recollections of individual jurors should be
4 considered reliable as notes taken by any other jurors. I,
5 also, warn you that when you are taking notes, you may not
6 have noticed the body language of a witness which could be
7 used by you in deciding the witness's credibility.

8 The Defendant has pled not guilty to these
9 indictments, which places the burden on the State to prove
10 the Defendant guilty. A person charged with committing a
11 criminal offense in South Carolina is never required to
12 prove himself innocent.

13 I charge you that it is a vital, important rule of
14 law that the Defendant in a criminal trial, no matter what
15 the seriousness of the charge may be, must always be
16 presumed to be innocent until his guilt has been proven
17 beyond a reasonable doubt. This presumption of innocence
18 remains with the Defendant at all times, from the moment he
19 appears in this court, throughout the trial, until you, the
20 jury, reach a verdict of guilty beyond a reasonable doubt
21 based on the testimony and evidence presented.

22 The presumption of innocence is a substantial
23 right to which every defendant is entitled, unless and
24 until, you reach a verdict of guilt beyond a reasonable
25 doubt. If you, the jury, do not find the Defendant guilty

1 beyond a reasonable doubt, it is your duty to acquit the
2 Defendant.

3 What is reasonable doubt? A reasonable doubt is
4 the kind of doubt that would cause a reasonable person to
5 hesitate to act. The State has the burden of proving the
6 Defendant guilty beyond a reasonable doubt. Some of you may
7 have served on juries in civil cases where you were told it
8 is only necessary to prove that a fact is more likely true
9 than not true, such as the greater weight or the ponderance
10 of the evidence. In criminal cases, the State's proof must
11 be more powerful than that. It must be beyond a reasonable
12 doubt.

13 Proof beyond a reasonable doubt is proof that
14 leaves you firmly convinced of the Defendant's guilt. There
15 are very few things in this world that we know with absolute
16 certainty, and criminal cases, the law does not require
17 proof that overcomes every possible doubt. If based on your
18 consideration of the evidence, you are firmly convinced that
19 the Defendant is guilty of the crime charged, you must find
20 the Defendant guilty. On the other hand, if you think there
21 is a real possibility that the Defendant is not guilty, you
22 must give the Defendant the benefit of the doubt and find
23 the Defendant not guilty.

24 The same constitutional laws which designate and
25 make you the finders of fact make me the sole instructor of

1 the law. It is my duty to charge you the law applicable to
2 this case, and it is your duty as jurors to accept and apply
3 the law as I now state it to you. The lawyers are not
4 instructors of the law. You must accept the law and apply
5 the law exactly as I stated it to you. You must not base
6 your decision-making on your idea of what the law is or what
7 you think the law should be.

8 Under our constitution and code of laws of South
9 Carolina, only you the jury can make findings of facts in
10 this case. I'm not permitted to indicate to you how I may
11 feel about the testimony and evidence which has been
12 presented. Throughout this trial, it has been my intention
13 to be fair and impartial toward each of the parties
14 involved.

15 Necessarily, you must determine the credibility of
16 the witnesses who have testified in this case. Credibility
17 simply means believability. It is your duty as jurors to
18 analyze and evaluate the evidence and determine which
19 evidence convinces you of its truth.

20 As you decide whether or not to believe a
21 witness's testimony about a particular matter, you may
22 consider the following: The matter and appearance of the
23 witness while on the witness stand. Was he or she
24 straightforward or hesitant in answering? The testimony of
25 the witness, was it consistent or inconsistent? How the

1 witness came to know the facts that he or she testified to.
2 Was the witness present during the incident or did the
3 witness happen on the scene after the incident occurred?
4 The reason the witness would want to give testimony, which
5 could help or hurt one side or the other. Has the witness
6 exhibited to you any interest, bias, prejudice, or other
7 motive in this case? Thus, you may consider whether a
8 particular witness may gain some reward, payment, personal
9 advantage, or vindication through his or her testimony. The
10 strength of the testimony of the witness. Was the testimony
11 of the witness strengthened or weakened by other testimony
12 or evidence? The duration and length of time between the
13 incident and when they were reported. Would the duration
14 and length of tie weaken or strengthen the witness's memory
15 of the incident? All prior statements. Were prior
16 statements made by the witness consistent or inconsistent
17 with the witness's testimony?

18 In determining the believability of the witnesses
19 who have testified in this case, you may believe one witness
20 over several or several witnesses over one. You may believe
21 a part of the testimony of a witness and reject the
22 remaining part of the testimony of that same witness. You
23 may believe the testimony of a witness in its entirety or
24 reject the testimony of a witness in its entirety.

25 Of course, you do not determine the truth by

1 merely counting the number of witnesses presented by each
2 side.

3 The rules of evidence generally and ordinarily do
4 not permit a witness to testify to opinions or conclusions.
5 An exception to this rule exist for what is called expert
6 witnesses. Witnesses by education or experience that have
7 become an expert in some art, science or profession are
8 permitted to give their opinions in certain areas if the
9 Court qualifies them as expert witnesses. An expert witness
10 may also give a reason for their opinion. An expert opinion
11 is that for you to use any way you see fit. You should give
12 the evidence the weight and credibility you deem
13 appropriate. If you decide the expert opinion is not based
14 on sufficient education or experience, if you decide that
15 the reasons given in support of the opinion are not sound,
16 or the opinion is outweighed by the other evidence, you may
17 disregard the opinion entirely.

18 The evidence or lack of evidence in which you are
19 to decide the facts include the following: The sworn
20 testimony of the witness, both on direct and
21 cross-examination, regardless of which side called the
22 witness; the exhibits that have been received into evidence
23 by the Court and any facts agreed to or stipulated to by the
24 lawyers. The followings are not evidence and you may not
25 consider them when deciding the facts: Arguments and

1 statements made by the lawyers are not evidence. The
2 lawyers are not witness. Their opening statements, closing
3 arguments and other statements are intended to help you
4 interpret the evidence, but are not evidence. If the facts,
5 as you remember them, differ from the lawyers' statements,
6 your memory controls. Questions and objections by the
7 lawyers are not evidence. Lawyers have a duty to their
8 client to make objections when they believe a question is
9 improper under the rules of evidence. You should not allow
10 any objections or the Court's ruling on the objections to
11 influence you. Testimony that has been stricken, or that
12 you have been instructed to disregard, is not evidence and
13 must not be considered. Anything that you may have seen on
14 television, read in the newspaper or on the internet, or
15 heard from others when court is not in session is not
16 evidence. You should base your decision solely on the sworn
17 testimony of the witnesses, exhibits received into evidence
18 by the Court, and any facts agreed or stipulated to by all
19 the parties.

20 The fact that the Defendant was arrested, charged
21 and indicted in this case is not evidence and cannot be
22 considered as evidence of guilt, nor does it create any
23 presumption or inference of guilt. The indictment is merely
24 the written form which contains the charges made against the
25 Defendant.

1 There are two types of evidence which are
2 generally presented during a trial, direct evidence and
3 circumstantial evidence. Direct evidence directly proves
4 the existence of a fact and does not require deduction.
5 Circumstantial evidence is proof of a chain of facts and
6 circumstances indicating the existence of a fact.

7 Crimes may be proven by circumstantial evidence.
8 The law makes no distinction between the weight or value to
9 be given to either direct or circumstantial evidence.
10 However, to the extent the State relies on circumstantial
11 evidence, all of the circumstances must be consistent with
12 each other, and when taken together, point conclusively to
13 the guilt of the accused beyond a reasonable doubt. If
14 circumstances merely portray the Defendant's behavior as
15 suspicious, the proof has failed.

16 The State has the burden of proving the Defendant
17 guilty beyond a reasonable doubt. This burden rests with
18 the State regardless of whether the State relies on direct
19 evidence, circumstantial evidence or some combination of the
20 two.

21 Murder. The Defendant is charged with murder.
22 The State must prove beyond a reasonable doubt that the
23 Defendant killed another person with malice aforethought.
24 In its popular sense, the term malice conveys the meaning of
25 hatred, ill will or hostility towards another. In its legal

1 sense, however, malice does not necessarily mean ill will
2 towards the individual injury, but signifies a malignant
3 recklessness for the lives and safety of others or a
4 condition of the mind which shows a heart fatally bent on
5 mischief. Malice has been defined as the intentional doing
6 of a wrongful act toward another without legal justification
7 or excuse where the circumstances attending a killing show
8 an abandoned heart or malignant heart.

9 Malice aforethought does not require that malice
10 exist for any particular time before the act is committed,
11 but malice must exist in the mind of the Defendant just
12 before and at the time the act is committed. In other
13 words, malice may be conceived at the very moment the fatal
14 blow is given. Therefore, there must be a combination of
15 the evil intent and the act.

16 Malice aforethought may be expressed or inferred.
17 These terms, "expressed" and "inferred" do not mean
18 different kinds of malice, but merely the manner in which
19 malice may be shown to exist. That is either by direct
20 evidence or by inference from the facts and circumstances
21 which are proved. Expressed malice is shown when a person
22 prepared beforehand to do the act which was later
23 accomplished. For example, lying in wait for a person or
24 any other acts of preparation going to show that the deed
25 was within the Defendant's mind would be expressed malice.

1 Malice is said to be expressed where there is manifestation
2 of a violent deliberate intention to unlawfully take away
3 the life of another human being.

4 Malice may be inferred from conduct showing a
5 total disregard for human life. Malice may be inferred
6 where there is no excuse or legal provocation for the
7 killing. Malice may be inferred from the brutal conduct on
8 the part of the person committing the crime. The jury may
9 also conclude by deductive reasoning that under certain
10 circumstances, malice arises even though there is no
11 expressed or direct evidence of an intent to kill. If facts
12 proved are sufficient to raise an inference of malice, this
13 inference would be simply an evidentiary fact to be taken
14 into consideration by you, the jury.

15 The Defendant is not required to prove the absence
16 of malice, rather, the State is required to prove the
17 existence of malice beyond a reasonable doubt.

18 If you find that the State has failed to prove
19 beyond a reasonable doubt that the Defendant committed
20 murder, you may consider whether the State has proved beyond
21 a reasonable doubt that the Defendant committed voluntary
22 manslaughter.

23 To prove voluntary manslaughter, the State must
24 prove beyond a reasonable doubt that the Defendant took the
25 life of another in the sudden heat of passion based on

1 sufficient legal provocation. Both heat of passion and
2 sufficient legal provocation must be present at the time of
3 the killing to constitute voluntary manslaughter.

4 Sudden heat of passion may for a time affect a
5 person's self-control and temporarily disturb a person's
6 reason. The sudden heat of passion must be the type that
7 would make an ordinary person unable to coolly reflect on his
8 actions and would produce an uncontrollable impulse to do
9 violence. The law does not reduce murder to voluntary
10 manslaughter in every homicide committed in the heat of
11 passion. There must be passion justified, excited by legal
12 provocation. Sufficient legal provocation must be the type
13 that would make a person of ordinary reason and caution
14 become enraged and to lose control temporarily. The
15 provocation needed for voluntary manslaughter must come from
16 some act of or related to the victim.

17 Words alone, however vulgar or insulting, are not
18 enough to be legal provocation. Where death is caused by
19 the use of a deadly weapon, the words must be accompanied by
20 some overt, threatening act, which could have produced the
21 heat of passion.

22 The exercise of a legal right, no matter how
23 offensive it is to another is never sufficient legal
24 provocation for voluntary manslaughter.

25 If the heat of passion had cooled or if there was

1 enough time between the provocation, if any, and the killing
2 for the passion of a reasonable person to cool, the killing
3 would not be voluntary manslaughter. In deciding whether a
4 reasonable person would have had enough time to cool off,
5 you should consider all the circumstances surrounding the
6 killing. You may consider the nature of the provocation, if
7 any, the Defendant's mental and physical state, and the
8 circumstances and relationships between the parties.

9 The Defendant has raised a defense of
10 self-defense. Self-defense is a complete defense to murder
11 and voluntary manslaughter, and if not disproved by the
12 State, you must find the Defendant not guilty.

13 The State has the burden of disproving
14 self-defense by proof beyond a reasonable doubt. If you
15 have a reasonable doubt of the Defendant's guilt after
16 considering all the evidence, including the evidence of
17 self-defense, then you must find the Defendant not guilty.
18 On the other hand, if you have no reasonable doubt of the
19 Defendant's guilt after considering all the evidence,
20 including the evidence of self-defense, then you must find
21 the Defendant guilty.

22 The State has the burden of disproving one of the
23 following elements of self-defense: The first element, the
24 Defendant was without fault in bringing on the difficulty;
25 two, the Defendant believed he was in imminent danger or

1 actually was in such imminent danger of losing his life or
2 sustaining serious bodily injury, or he actually was in such
3 imminent danger; if the Defendant believed he was in
4 imminent danger and a reasonably prudent man of ordinary
5 firmness and courage would have entertained the same belief;
6 four, and the Defendant had no other probable means of
7 avoiding the danger.

8 Without fault. The Defendant must be without
9 fault in bringing on the difficulty. If the Defendant's
10 conduct was the type which was reasonably calculated to, and
11 did provoke an assault, the Defendant would be at fault in
12 bringing on the difficulty and would not be entitled to an
13 acquittal based on self-defense.

14 The Defendant must have been in actual imminent
15 danger of death or serious bodily injury or Defendant must
16 have actually believed that he was in imminent danger of
17 death or serious bodily injury.

18 If the Defendant was actually in imminent danger,
19 it must be shown that the circumstances would have warranted
20 a person of ordinary firmness and courage to strike the blow
21 to prevent death or serious bodily injury.

22 If the Defendant's defense of self-defense is
23 based upon his belief of imminent danger, it must be shown
24 that a reasonable and prudent man of ordinary firmness and
25 courage would have entertained the same belief.

1 The Defendant does not have to show that he was
2 actually in danger of loss of life or serious bodily injury,
3 but only that he believed he was in imminent danger because
4 the Defendant has the right to act on appearances. The
5 Defendant has the right to act on appearances even though
6 the Defendant's believes may have been wrong or mistaken.
7 It is for you to decide whether the Defendant's fear of
8 imminent danger or death or serious bodily harm would have
9 been felt by an ordinary person in the same situation. In
10 the final analysis, you are not to decide whether the
11 Defendant made the wisest or best choice, but whether he
12 made a reasonable choice under the circumstances as they
13 appeared to him.

14 If the Defendant's belief that he is in imminent
15 danger of attack is reasonable, he need not wait until
16 actual attack or injury before exercising his right to use
17 non-deadly force.

18 In deciding whether the Defendant actually was or
19 believed that he was in imminent danger of death or serious
20 bodily injury, you should consider all the facts and
21 circumstances surrounding the crime, including the physical
22 condition and characteristics of the Defendant and the
23 victim. The relative sizes, ages and weights of the
24 Defendant and the victim may be considered in deciding the
25 apparent or actual need for force in self-defense and the

1 amount of force needed.

2 The fourth element of self-defense is that the
3 Defendant had no other probable way to avoid the danger of
4 death or serious bodily injury than to act as the Defendant
5 did in this particular case. In other words, a man may not
6 act in self-defense if he had other probable means of
7 avoiding the danger. This requirement is sometimes called
8 "the duty to retreat." This requirement is subject to the
9 limitation that a man need not retreat before acting on
10 self-defense if doing so would apparently increase his risk
11 of danger.

12 Voluntary intoxication. I charge you that
13 voluntary intoxication is never an excuse or a defense to a
14 crime. A person who voluntarily renders himself intoxicated
15 is no less responsible for his acts while in such condition.
16 If a person voluntarily drinks intoxicating liquors and
17 becomes intoxicated and if while in that condition commits
18 an act which would be a crime if it had been committed by a
19 sober person, the fact of drunkenness would not relieve the
20 intoxicated person from responsibility. Voluntary
21 intoxication is not an excuse or a defense to a crime. This
22 rule also extends to the voluntary ingestion of drugs.
23 Voluntary intoxication does not preclude one's ability to
24 act with malice aforethought and is not a defense to a
25 crime.

1 In determining the guilt or innocence of the
2 Defendant, you cannot consider any possible penalty for any
3 particular crime. The punishment for the crime is a matter
4 for me to determine and should never be considered by you in
5 any way whatsoever in arriving at an impartial verdict as to
6 the guilt or innocence of the Defendant.

7 You have been selected as fair and impartial
8 jurors, sworn to impartially try and determine the facts of
9 this case. And when you comply with your oath to do so,
10 then no one will have a right to criticize your verdict and
11 you will have fully discharged your duty as jurors. You are
12 to decide this case according to the testimony that you have
13 heard from the sworn witnesses along with other evidence
14 introduced.

15 I charge you that as jurors, you must make your
16 decision in this case without bias and without prejudice to
17 any party. You cannot allow yourself to be governed by
18 sympathy, prejudice, passion, public opinion or any other
19 arbitrary factor.

20 Both the State and the Defendant have the right to
21 expect that each one of you will carefully and impartially
22 consider all of the evidence in this case and that you will
23 follow the law as I have explained it to you.

24 Nothing that I may have said or done during the
25 course of this trial has been in any way intended to express

1 or suggest a view of this case or any opinion as to the
2 facts, the weight of the evidence, or the credibility of the
3 witnesses. If you believe any of my actions or words have
4 indicated otherwise, you must disregard such and form your
5 own view of this case or your own opinion as to the facts,
6 the weight of the evidence, or the credibility of the
7 witnesses.

8 Mr. Foreman, ladies and gentlemen of the jury, I
9 have prepared a verdict form. It has the name of the case,
10 the case number and it says, number one, as to the charge of
11 murder, we, the jury, on the charge of murder by unanimous
12 consent find the Defendant, Hank Hawes, guilty or not
13 guilty. If you find the Defendant not guilty of murder,
14 proceed to question two.

15 Question two, on the charge of voluntary
16 manslaughter, we, the jury, on the charge of voluntary
17 manslaughter by unanimous consent find the Defendant, Hank
18 Hawes, guilty or not guilty. There's a place for the
19 foreperson to sign and date.

20 Ladies and gentlemen, I will tell you that your
21 decision has to be unanimous, all 12 of you have to agree.
22 And I would, also, ask using the collective reasoning
23 process on your part, I would ask you to respect each
24 other's opinions, review the evidence, talk about the
25 evidence, and reach a unanimous decision after you have

1 reviewed the evidence and talked about the case.

2 I don't want you to start deliberating. I have to
3 take the charge up with the jury -- excuse me, with the
4 lawyers. I may have to bring you back and correct something
5 or add something to it. So don't begin your deliberations
6 until the bailiffs has brought you the charge book and
7 verdict form, and all the exhibits, plus we have to review
8 to make sure we've got all the exhibits. It will take us a
9 while to do that and get it back to your jury room. I think
10 your lunch will be waiting for you in the jury room.

11 So if you will take your notes in the jury room,
12 don't begin deliberations at this point until we get all of
13 the exhibits back to you. You may follow the bailiffs to
14 the jury remember.

15 (Whereupon, the jury left the courtroom
16 at 2:13 p.m.)

17 THE COURT: Any exceptions to the charge from the
18 State?

19 MS. GARFIELD: No, sir.

20 THE COURT: Any from the Defendant?

21 MR. STRICKLER: Your Honor, only in that Your
22 Honor did not charge my request for charge of exfoliation of
23 evidence on the part of the State. I need to locate a copy
24 of that --

25 THE COURT: I've got it. I'll mark it as a

1 Court's Exhibit No. 4.

2 MR. STRICKLER: Thank you very much.

3 (Court's Exhibit No. 4 was marked for
4 identification.)

5 THE COURT: All right. If you all would come
6 forward --

7 MR. STRICKLER: Can we deal with one thing prior
8 to that?

9 THE COURT: I want you to look at all the evidence
10 and make sure it's here.

11 MR. STRICKLER: Yes, sir. We just need to get one
12 thing on the record prior to that.

13 MS. PRINGLE: We have an issue, I believe, with
14 respect to the photographs shown by Ms. Campbell to the
15 jury, but I need to see them so I can identify them for the
16 record and make my objection.

17 THE COURT: What photographs are you talking
18 about?

19 MS. PRINGLE: There were two photos or three that
20 she showed to the jury at the end of her closing argument
21 where she said this is how he found her and this is how he
22 left her, before and after. I think what she held up was
23 the picture of her at the birthday party with Mr. Harrod at
24 10:00, and then put up an autopsy picture --

25 THE COURT: If it's in evidence, she can show

1 them.

2 MS. PRINGLE: Well, I would just like to make my
3 objection -- renew our objections to the photographs for the
4 record if I could, please.

5 THE COURT: Well, you've already made them. If
6 she showed something that's not in evidence, that's a
7 different story.

8 MS. PRINGLE: May I just place my grounds on the
9 record, Your Honor?

10 THE COURT: Yeah, please do.

11 MS. PRINGLE: Thank you. The photograph at the
12 birthday party, I objected to. It went in through Steven
13 Harrod. The objection that I made at the time was to 403
14 relevance and prejudice. The stated reason for entering
15 that photograph by the State was for state of mind. That
16 was a photograph taken four or five hours before this
17 incident. The autopsy pictures were claimed to be offered
18 to assist the pathologist in explaining his findings. But I
19 just want to state for the record the two autopsy pictures
20 used. --

21 MS. CAMPBELL: They're not autopsy.

22 MS. PRINGLE: I'm sorry, the two -- they were not
23 autopsy, they were on the couch, State's Exhibit 202,
24 State's Exhibit 46, showing the gaping wound to the jugular,
25 her breast, her naked upper body. The stated reasons for

1 entering these photos is not the reason why these photos are
2 being used. I understand they're in evidence, but the
3 solicitors, and this is an ongoing issue in the appellate
4 courts, as you know, are offering this photos for stated
5 reasons and then using them in this dramatic, inflammatory
6 fashion. And I think there is no way you can say that that
7 does not elicit an emotional and inflammatory reaction.
8 That's why we have those rules. So I just want to state for
9 the record what the jury was shown. These photos --

10 THE COURT: How about identifying them, if you
11 would, please.

12 MS. PRINGLE: I did. They are State's Exhibit
13 202, State's Exhibit 46. I don't know about the birthday
14 party picture.

15 MS. CAMPBELL: 322 is the birthday party.

16 THE COURT: 322. Okay. Those are three or four
17 exhibits?

18 MS. PRINGLE: Three that she showed them.

19 These photographs, the jurors cried when they saw
20 them, so they're eliciting an emotional reaction. I think
21 they're inflammatory. I know you're going to deny it, but I
22 would renew our motion for a mistrial and renew our previous
23 objections.

24 THE COURT: All right. Your motion for a new
25 trial is denied.

1 All right. Will y'all please make sure all the
2 exhibits are in the court reporters's hands so we can send
3 them back to the jury, please?

4 (Whereupon, a short recess was held.)

5 THE COURT: All the alternates are in the hallway.

6 (Whereupon, a short recess was held.)

7 THE COURT: All right. I believe it will be
8 Court's Exhibit No. 5 will be the note from the jury to stop
9 deliberations and come back in the morning. And both
10 parties agree to that.

11 Is that correct, Ms. Campbell?

12 MS. CAMPBELL: Yes, sir.

13 THE COURT: That's, also, correct from the
14 Defendant?

15 MR. STRICKLER: Yes, sir.

16 THE COURT: And I have just notified that on the
17 note and I'll mark it Court's Exhibit No. 5.

18 (Court's Exhibit No. 5 was marked for
19 identification.)

20 THE COURT: Bring the jury, please.

21 (Whereupon, the jury returned to the
22 courtroom at 5:33 p.m.)

23 BAILIFF: The jury is seated, Your Honor.

24 THE COURT: Thank you very much.

25 Mr. Foreman, I got your request to stop

1 deliberations this afternoon and return in the morning at
2 9:30. I'm going to grant the request. Only thing I would
3 ask is to make sure you leave all the exhibits in the jury
4 room. The jury room will be locked and the exhibits will be
5 locked up tonight. Be back in the jury room at 9:30 in the
6 morning to continue deliberations.

7 Please don't discuss the case with anyone else and
8 don't read anything in the paper or anything on TV about it.
9 Same instruction I've been giving you for a week and a half.
10 See you in the morning at 9:30. Come straight to the jury
11 room. When all 12 of you are in the jury room, y'all can
12 continue your deliberations. Have a good evening. Thank
13 you very much.

14 (Whereupon, the jury left the courtroom
15 at 5:34 p.m.)

16 THE COURT: All right. If everybody will keep
17 their place and give the jury an opportunity to exit the
18 courthouse, then everybody else, the public can leave at
19 that time.

20 MR. STRICKLER: Your Honor, may we approach
21 briefly?

22 THE COURT: Yes, sir.

23 (Whereupon, a bench conference was held
24 off the record.)

25 THE COURT: All right. How long does it take the

1 jury to get out of the courthouse so I can let everybody go?

2 BAILIFF: About eight minutes -- eight to ten
3 minutes.

4 THE COURT: Okay.. All right. We're going to
5 adjourn, but not let anybody out of the courtroom for about
6 10 minutes to give the jury a chance to get out the
7 courthouse and parking area, please.

8 BAILIFF: Yes, sir.

9 THE COURT: All right. We'll adjourn until 9:30
10 in the morning. And everybody leave the courtroom in about
11 10 minutes. Thank you very much.

12 MR. STRICKLER: Thank you.

13 (Whereupon, Court was adjourned for the
14 day, October 15, 2014, to be reconvened
15 on Thursday, October 16, 2014.)

16 THE COURT: Anything from the State before we
17 bring the jury in? They said we have a verdict.

18 MS. GARFIELD: No, sir.

19 THE COURT: Anything from the Defense?

20 MR. STRICKLER: No, sir.

21 THE COURT: All right. Bring the jury, please.

22 BAILIFF: Yes, sir.

23 (Whereupon, the jury returned to the
24 courtroom at 10:19 a.m.)

25 THE COURT: Mr. Foreman, I understand the jury has

1 reached a verdict; is that correct?

2 PROSPECTIVE JUROR: Yes, Your Honor.

3 THE COURT: Would you mind giving the verdict form
4 to the bailiff, please?

5 Mr. Foreman, I have typed on the indictment your
6 verdict, and have I a place for you to sign for the
7 foreperson, if you would, please.

8 Madame Clerk, would you get that signed where it
9 says foreperson, please?

10 Thank you so very much.

11 Madame Clerk, you may publish the verdict.

12 THE CLERK: In the State of South Carolina, County
13 of Richland V. Hank Hawes, in case number 2011-GS-40-5012,
14 on the charge of murder, we, the jury, on the charge of
15 murder by unanimous consent find the Defendant, Hank Hawes,
16 guilty, signed by the foreperson, No. 212, on October 16th,
17 2014.

18 Mr. Foreman, is this your verdict and the verdict
19 of entire jury?

20 THE FOREPERSON: Yes, ma'am.

21 THE CLERK: Thank you.

22 THE COURT: Any motions as far as polling the jury
23 from either party?

24 MR. STRICKLER: The Defense would request polling?

25 THE COURT: You want the jury polled?

1 MR. STRICKLER: Yes, sir.

2 THE COURT: Okay.

3 Madame Clerk, would you poll the jury, please?

4 THE CLERK: Ladies and gentlemen of the jury
5 panel, I'm going to call your juror number and ask you two
6 questions relating to your verdict. Just answer yes or no,
7 please.

8 No. 212, was this your verdict?

9 JUROR #212: Yes, ma'am.

10 THE CLERK: Is it still your verdict?

11 JUROR #212: Yes, ma'am.

12 THE CLERK: 302, was this your verdict?

13 JUROR #302: Yes, ma'am.

14 THE CLERK: Is it still your verdict?

15 JUROR #302: Yes, ma'am.

16 THE CLERK: 108, was this your verdict?

17 JUROR #108: Yes, ma'am.

18 THE CLERK: Is it still your verdict?

19 JUROR #108: Yes, ma'am.

20 THE CLERK: 278, was this your verdict?

21 JUROR #278: Yes, ma'am.

22 THE CLERK: Is it still your verdict?

23 JUROR #278: Yes, ma'am.

24 THE CLERK: 25, was this your verdict?

25 JUROR #25: Yes, ma'am.

1 THE CLERK: Is it still your verdict?
2 JUROR #25: Yes, ma'am.
3 THE CLERK: 282, was this your verdict?
4 JUROR #282: Yes, ma'am.
5 THE CLERK: Is it still your verdict?
6 JUROR #282: Yes, ma'am.
7 THE CLERK: 95, was this your verdict?
8 JUROR #95: Yes, ma'am.
9 THE CLERK: Is it still your verdict?
10 JUROR #95: Yes, ma'am.
11 THE CLERK: 265, was this your verdict?
12 JUROR #265: Yes, ma'am.
13 THE CLERK: Is it still your verdict?
14 JUROR #265: Yes, ma'am.
15 THE CLERK: No. 7, was this your verdict?
16 JUROR #7: Yes, ma'am.
17 THE CLERK: Is it still your verdict?
18 JUROR #7: Yes, ma'am.
19 THE CLERK: 206, was this your verdict?
20 JUROR #206: Yes, ma'am.
21 THE CLERK: Is it still your verdict?
22 JUROR #206: Yes, ma'am.
23 THE CLERK: 46, was this your verdict?
24 JUROR #46: Yes, ma'am.
25 THE CLERK: Is it still your verdict?

1 JUROR #46: Yes, ma'am.

2 THE COURT: 112, was this your verdict?

3 JUROR #112: Yes, ma'am.

4 THE CLERK: Is it still your verdict?

5 JUROR #112: Yes, ma'am.

6 THE CLERK: The jury has been polled, Your Honor.

7 THE COURT: Thank you so very much.

8 Do you have a sentencing sheet?

9 MS. GARFIELD: I do not, Judge.

10 THE COURT: You do or you don't?

11 MS. GARFIELD: I do not.

12 THE COURT: Well, are you going to give me one?

13 MS. GARFIELD: Yes, sir.

14 THE COURT: How long is it going to take you to
15 get me one?

16 MS. GARFIELD: The paralegal has gone to get one
17 right now.

18 THE COURT: Okay. All right. How long before
19 they get here?

20 MS. GARFIELD: She just goes next door to get it.
21 She'll be right back.

22 THE COURT: Okay. All right. I'll be glad to
23 hear from the State on sentencing and I'll be glad to hear
24 from anyone that would like to speak on sentencing. I'll be
25 glad to hear from you at this time. And I'll hear from the

1 Defendant if he has anything.

2 Before we get to that, I'll give you the 10 days
3 to submit motions unless you want to make them today.

4 MR. STRICKLER: No, sir, I think at this point in
5 time, we must -- we'll go ahead and move that Your Honor
6 grant a new trial in this matter and reference our motions
7 for directed verdict and mistrial entered at the end of the
8 State's case, renewed at the end of the Defense case with
9 the additional bases from Your Honor's ruling regarding
10 Mr. Hawes retaking the stand was during the Defense case.
11 And so under those bases, we ask that you reconsider your
12 ruling in that regard -- or in those regards and reverse
13 yourself in granting a new trial in this matter.

14 THE COURT: All right. Those motions are denied.

15 Now, I will -- I would also extend you 10 days if
16 you so choose. If you want to raise any other issues, I
17 would extend that to you.

18 MR. STRICKLER: Thank you, sir.

19 THE COURT: To produce them in writing.

20 MR. STRICKLER: Thank you.

21 THE COURT: All right. Anything from the State on
22 sentencing while we're waiting on the sentencing sheet?

23 MS. GARFIELD: Yes, Your Honor, Mr. Hawes had, we
24 believe, two prior domestic violence arrests in the State of
25 Florida in 1999. One, we believe was a no contest

1 conviction. The other one was that he went through some
2 sort of --

3 THE COURT: Do you know the facts of those cases
4 at all?

5 MS. GARFIELD: Judge, those were subject to the
6 prior bad acts that we tried to get in.

7 THE COURT: I understand. I want to hear about
8 them now for sentencing.

9 MS. GARFIELD: Yes, sir. Just give me one moment.

10 MR. STRICKLER: Of course, Your Honor, I object to
11 these regarding -- information regarding arrest for the
12 purpose --

13 THE COURT: I understand, we're talking about
14 sentencing.

15 MR. STRICKLER: Yes, sir.

16 THE COURT: And I'll hear anything they want to
17 tell me and I will listen to what you want to tell me.

18 MR. STRICKLER: Thank you, sir.

19 THE COURT: Okay.

20 MS. GARFIELD: Judge, I can't put my hands on it,
21 but from my recollection, there was a woman that he was
22 involved with and she -- they got into some sort of
23 altercation. She goes into the bathroom to try to dry her
24 eyes and he goes in and grabs her from behind, struggling
25 her to the floor. A child came down to check on mom and I

1 want to say he hit the child, I believe, if my memory serves
2 me correctly. She then persuades him to take her to her
3 mother's house trying to get away. Once she gets to her
4 mother's house, she reports it to law enforcement. While
5 law enforcement is interviewing her, Mr. Hawes calls law
6 enforcement and reports that the woman he was involved had,
7 actually, begun the altercation and that she was taking
8 Adderall that was not prescribed to her.

9 That was one of the incidents we were trying to
10 get in previously, obviously, because we believe it was the
11 same set of facts. Those are the facts that I recall.
12 There are multiple other acts of violence. We interviewed
13 several women in the past, to include former wives that he
14 has assaulted as well. They were prepared to come forward
15 and testify if Your Honor had ruled in our favor. Several
16 of them -- one particular girlfriend, however, refused to
17 come because she said that she didn't want anything to do
18 with Mr. Hawes and all he would try to do is make her look
19 like a drug addict.

20 THE COURT: All right. Anything else on
21 sentencing or victim impact?

22 MS. GARFIELD: Beg the Court's indulgence. Your
23 Honor, if you would, please, hear from Ms. Wilson's mother,
24 Pat Wilson.

25 THE COURT: Ms. Wilson, I will be glad to hear

1 you. Can you speak up so everybody can hear you?

2 MS. PAT WILSON: I will try.

3 THE COURT: What's your full name?

4 MS. PAT WILSON: I'm Pat Wilson.

5 THE COURT: Yes, ma'am.

6 MS. PAT WILSON: And Jennifer's mother. I don't
7 know how a parent can described the broken heart when
8 someone takes your child from you. There's always a dark
9 cloud over your head. No matter what happy holiday or
10 family event that you have, it's -- it invades. Your first
11 thought in the morning, it always is, and your last thought
12 at night that you have is about Jennifer. Jennifer was so
13 lively, brought so much life to our family. She was an
14 excellent daughter. She was a fantastic sister. And she
15 always wanted to be the world's best aunt to our grandson
16 and accomplished that.

17 She's a friend. Everybody here has been so
18 supportive of us and we appreciate it. But Jen was really
19 big smiles, curls, high heel shoes clicking across the floor
20 90 miles an hour. It was a challenge to keep up with her, a
21 challenge we enjoyed every minute of. She liked to read.
22 Really, she loved to read. When she was small, not too
23 small, but her room was on the second floor and she would
24 climb out of the bedroom window. If you were looking for
25 her, you always looked up because she was laying on the roof

1 reading. Or she had a favorite tree in our yard and you
2 could go and find her up in the branches reading. She was
3 an avid reader, but she, also, loved to travel. She loved
4 snow skiing. She loved yoga. Any sport or challenge you
5 put in front of her, she just went for it with gusto. Her
6 real passion was teaching.

7 THE COURT: Her real passion was what?

8 MS. PAT WILSON: Teaching.

9 THE COURT: Okay.

10 MS. PAT WILSON: She loved to be in the classroom
11 and she loved to be in with the kids more than she ever
12 loved research, but she did both of them with excellence
13 here at the University.

14 Now, I guess if I wasn't so nervous, I could tell
15 you Jen stories all day. There's so many memories that we
16 have of her, but, really, here, I'm here, Your Honor, to say
17 that Mr. Hawes did not passionately love our daughter. If
18 you would let me just part of a quote from a well-known and
19 very respected source.

20 Love is patient, love is kind. It does not envy,
21 it does not boast. It is not proud, it is not rude. It is
22 not self-seeking. And I could read further, but if you read
23 all of it, you will not find anywhere in there that love is
24 murder.

25 But I ask you, Your Honor, to please remove

1 Mr. Hawes from society. Do not let him free for the rest of
2 his life. Your Honor, it's too late for Jennifer, but not
3 for Kimberly, Karen, Stacey, Christine, Amy, Antoinette,
4 Joy, Rachel, Monica. And these are only the ones mentioned
5 this week. And, sir, I worry about his daughters.

6 Your Honor, only you can make this decision. You
7 have the power to free these woman from living lives of
8 fear, fear of Mr. Hawes.

9 Jennifer had this thing she'd do when she came
10 home. She'd come in the house and she'd wrap her arms
11 around you and she'd squeeze so tight, you'd thought the air
12 was going to be just squeezed out of you. She called them
13 squishies. And squishes made everything better. They were
14 hi, I'm glad to be home. It meant gee, mom, that's a great
15 dinner you made tonight, or if I was tired, it was you need
16 a squishy, mom, it will be better. Sir, I need a squishy
17 right now.

18 THE COURT: I'm awfully sorry for your loss.
19 Thank you very much.

20 Solicitor, anybody else you would like me to hear
21 from?

22 MS. GARFIELD: Your Honor, I believe that's the
23 only person that would like to address the Court. And I do
24 have my hands on the materials I was trying to find, Judge.
25 So I won't mislead the Court, the incident that I described

1 to you involved a victim named Amy Hiight, H-I-I-G-H-T. Law
2 enforcement did not, actually, make an arrest in that case.
3 They were not able to determine if Mr. Hawes was the primary
4 aggressor because there were no fresh markings found on Ms.
5 Hiight. Obviously, Judge, our domestic violence laws have
6 changed drastically since the late 90's.

7 The incident where the Defendant was convicted
8 involved another woman by the name of Marsha Hance. And in
9 that incident, also, happening in 1999 in the State of
10 Florida, they were dating. And they got involved in a
11 verbal argument concerning the victim wanting to leave the
12 residence to meet a friend. At that point, they began an
13 altercation during which the Defendant covered her mouth
14 with her hand, holding her on the floor. She tried to free
15 herself, but he bit her on her left hand. She was able to
16 flee and summon law enforcement. That's the one that we
17 believe he went to pretrial diversion. This is the victim
18 that refused to come. She was scared of the Defendant,
19 wanted nothing do with him and was afraid he would try to
20 make her into some sort of drug addict.

21 THE COURT: Okay. Thank you so very much.
22 Anything else from the State?

23 MS. GARFIELD: Nothing further, Judge.

24 THE COURT: Mr. Strickler, I will be glad to hear
25 from you or anyone you would like me to hear from.

1 MR. STRICKLER: Your Honor, just very briefly. As
2 you just heard from the State, Mr. Hawes has no prior
3 criminal history. Just that one charge that they alluded to
4 initially, which was not a charge, never charged. And one
5 charge, which he went to court for and received a pretrial
6 diversion sentence, which should be expunged from his
7 record.

8 Beyond that, Your Honor, of course, our hearts go
9 out to the Wilson family. We will pursue appropriate --
10 subject to sentencing.

11 THE COURT: All right. Anything else you would
12 like to tell me?

13 MR. STRICKLER: No, sir.

14 THE COURT: All right, Ms. Pringle, anything you
15 would like to add?

16 MS. PRINGLE: No, sir.

17 THE COURT: Pardon?

18 MS. PRINGLE: No, Your Honor.

19 THE COURT: Mr. Hawes, is there anything you would
20 like to say to the Court prior to sentencing?

21 THE DEFENDANT: No, sir, Your Honor.

22 MS. EIGENBROT: No, Your Honor.

23 THE COURT: Thank you so very much.

24 All right. Mr. Hawes, indictment number 5012, the
25 sentence -- excuse me, the charge of murder, you're

1 sentenced to the State Department for Corrections for a
2 period of life. Thank you very much.

3 All right. Mr. Foreman, ladies and gentlemen, you
4 may retire to the jury room. Thank you so very much. The
5 Court is adjourn.

6 *****END OF PROCEEDINGS*****

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REST WARRANT

K689579 K-689579 1125305

STATE OF SOUTH CAROLINA

County/ Municipality of COLUMBIA

THE STATE against

HANK HAWES

Address: COLUMBIA SC 29202

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 170

DL State: DL#

DOB: Agency ORI#: SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: MENENDEZ/D GARFIELD

Offense: MURDER

Code/Ordinance Sec: 16-3-112 Offense Code: HDM

Code/Ordinance Sec: 16-3-112

This Warrant is CERTIFIED FOR SERVICE in the County/ X Municipality of

COLUMBIA The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Hank Hawes

on 09/29/11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA MUNICIPAL COURT 811 WASHINGTON ST. COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA

County/ Municipality of COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant JUV L. MENENDEZ being duly sworn deposes and says that defendant HANK HAWES did within this county and state on 08/28/2011 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of COLUMBIA) in the following particulars: DESCRIPTION OF OFFENSE: MURDER 16-3-10

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 08/28/11 COLUMBIA POLICE WERE NOTIFIED THAT A HOMICIDE HAD OCCURRED AT ST WHEN POLICE ARRIVED AT ABOUT 1100 HRS THE RESIDENCE WAS UNLOCKED AND THE UNRESPONSIVE VICTIM JENNIFER LEE WILSON WAS LOCATED INSIDE OF HER RESIDENCE. WITNESS KELLY SMITH STATED THAT HE OVERHEARD A PHYSICAL ALTERCATION BETWEEN THE VICTIM AND DEF DURING THE EARLY MORNING HOURS OF 8/28/11. THE DEF DID ON THIS DATE BETWEEN THE HOURS OF 0200 AND 0800 HOURS WITH MALICE AFORETHOUGHT KILL THE VICTIM JENIFER WILSON BY STABBING HER TO DEATH. WITNESSES POSITIVELY IDENTIFIED THE DEF IN A PHOTO LINK UPWEEDEE WAS LOCATED AFTER HE ATTEMPTED TO COMMIT SUICIDE.

STATE OF SOUTH CAROLINA

County/ Municipality of COLUMBIA

Affiant's Address: #1 JUSTICE SQUARE COLUMBIA, SC 29204

Affiant's Telephone: 5452500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

In appearing from the above affidavit that there are reasonable grounds to believe that on 08/28/2011 defendant HANK HAWES did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: MURDER 16-3-10

Having found probable cause and the above affiant having sworn before me, I have authorized and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 08/28/2011

Signature of Judge (L.S.)

Ministerial Recorder

Judge's Address: CITY OF COLUMBIA, SC

MUNICIPAL COURT, P.O. BOX 544 29202

Judge's Telephone:

Issuing Court: Magistrate X Municipal Circuit

ORIGINAL

Filed by S.L. May General April 21, 2003 SCCA 618

1144

WITNESSES

(S) Sgt. William Pegram - Columbia Police Department

ARREST WARRANT NUMBER

K689579

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: **OCT 05 2011**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS4005012

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2011

87

**THE STATE
vs.**

HANK ERIC HAWES

**Indictment for
MURDER**

SC Code: 16-03-0010
CDR Code: 0116

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

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 STATE OF SOUTH CAROLINA)
)
 vs.)
)
 HANK HAWES)
)
 Defendant)
)
 _____)

IN THE COURT OF GENERAL
 SESSIONS FOR THE FIFTH
 JUDICIAL CIRCUIT

Case No. 2011-GS-40-5012

VERDICT

1. ON THE CHARGE OF MURDER:

WE THE JURY, ON THE CHARGE OF MURDER, BY UNANIMOUS CONSENT, FIND

THE DEFENDANT HANK HAWES:

 X GUILTY
 _____ NOT GUILTY


IF YOU FIND THE DEFENDANT NOT GUILTY OF MURDER, PROCEED TO QUESTION 2:

2. ON THE CHARGE OF VOLUNTARY MANSLAUGHTER:

WE THE JURY, ON THE CHARGE OF VOLUNTARY MANSLAUGHTER, BY

UNANIMOUS CONSENT, FIND THE DEFENDANT HANK HAWES:

_____ GUILTY
 _____ NOT GUILTY



 Foreperson

October 16, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF 1148 Richland
STATE VS. Hank Hawes
AKA:
Race: WHITE Sex: M Age: 40
DOB: SS#:

INDICTMENT/CASE#: 2011GS4005012
A/W#: K689579
Date of Offense: 8/23/2011
S.C. Code § : 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

DL#: COLUMBIA, SC 29201
SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Garfield, Dolly SC Bar# 13433 Defendant
Agency for Defendant SC Bar# 5391

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of life days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 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:

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

Clerk of Court/ Deputy Clerk
Court Reporter:

Jeanette McBride/Holmes

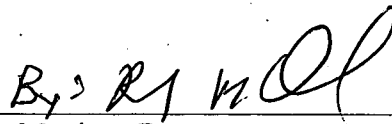
Presiding Judge
Judge Code:
Sentence Date:

Handwritten signature and date 10/16/14

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully submitted,



A. Mattison Bogan
Nelson Mullins Riley & Scarborough, LLP
PO Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Robert M. Dudek
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of August, 2016.