

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

George C. James, Circuit Court Judge

JAMES KEION SPANN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002135

SUPPLEMENTAL APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

JULIE COLEMAN
Assistant Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
FROM THE APRIL 16, 2015 PCR HEARING (2012-CP-31-00311): PLAINTIFF'S
EXHIBIT#2 (EMAIL) AND FROM THE MARCH 30-31, 2010 Trial (2009-GS-31-0073):
STATE'S EXHIBIT #3 (911 CALL)**

STATE OF SOUTH CAROLINA

COUNTY OF LEE

STATE OF SOUTH CAROLINA,

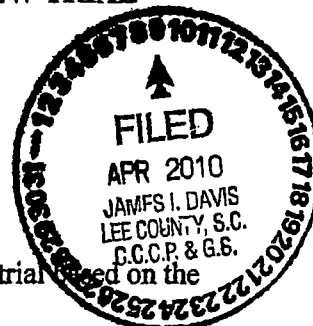
v.

James Keion Spann,

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT
Indictment #2009-GS-31-073

MOTION FOR A NEW TRIAL



Defendant files this motion before the Court to ask the Court for a new trial on the following grounds:

I. Procedural Posture

On March 30, 2010 a jury found Defendant guilty of murder (S.C. Code Ann. § 16-3-10), burglary in the first degree (S.C. Code Ann. § 16-11-311), and possession of a firearm during commission of a violent crime (S.C. Code Ann. § 16-8-210). Defendant was sentenced to life in prison for murder, life in prison for burglary in the first degree, and five years for possession of a firearm during commission of a violent crime.

Defendant files this motion based upon the fact that two jurors lied under oath to the Court during voir dire as to (1) whether they were familiar with the facts of the case and (2) whether they knew or were personal friends of the victim and/or the family of the victim. Defendant asserts that he learned of the juror misconduct and this information was not available to him or his counsel. There is no question as to whether due diligence could have prevented these jurors from being selected for the jury as it was not in Defendants capacity to read the minds and intentions of these jurors and these jurors were not truthful when responding to some very straightforward questions.

II. Facts relevant to this motion.

After completion of the trial, dismissal of the jury, and sentencing, counsel for Defendant met with other clients to prepare for the rest of the term of court. Counsel for Defendant met with McKenzie Dyrell Morgan, who resides at 135 Shaw Street in Bishopville, South Carolina, his wife, Cassey Morgan. The Morgans informed counsel for Defendant that juror number 72, Christopher W. Hickman of 326 Woodward Street, Bishopville, South Carolina was family friends with victim's family. Exhibit 1, *1; Exhibit 2, *1.

Christopher Hickman's brother, Andrae Hickman, was romantically involved with the victim's mother, Mary Ann Lovely. Exhibit 1, *1. Cassey Morgan wrote in a sworn statement that she had seen the victim's mother kissing and being affectionate with Andrae Hickman at local clubs in Bishopville, South Carolina. Exhibit 1, *1.

Witnesses also wrote that they had seen juror Christopher Hickman at the home of Mary Ann Lovely on numerous occasions, where he was drinking and socializing. Exhibit 1, *1, Exhibit 2, *1. Christopher Hickman was friends with the victim's mother by virtue of his brother's relationship with Mary Ann Lovely. Exhibit 2, *1.

Juror Christopher Hickman was also friends with the victim, Lindsay Lovely. Exhibit 1, *2; Exhibit 2, *1. Cassey Morgan stated that she witnessed Christopher Hickman riding around in a truck with Lindsay Lovely on numerous occasions before Lovely was shot. Exhibit 1, *2.

Finally, it is alleged that Christopher Hickman was a neighbor of the Lovely's. Exhibit 1, *2; Exhibit 2, *1. He and his brother lived on Stackley Circle with other relations, where the crime allegedly occurred. Exhibit 1, *2; Exhibit 2, *1.

Cassey Morgan wrote that juror Felicia Williams is a neighbor of the victim and the victim's mother, Mary Ann Lovely, and McKenzie Morgan wrote that he "thinks" Ms. Williams knew the victim and his family. Exhibit 1, *1; Exhibit 2, *1.

III. Legal argument.

The juror's dishonesty has infringed upon Defendant's rights under Amendment VI of the United States Constitution as incorporated and made applicable to the state of South Carolina by the Fourteenth Amendment of the United States Constitution. Defendant's state constitutional rights were violated pursuant to Article I, § 14 of the South Carolina Constitution.

"A 'defendant has a constitutional right to be tried by competent jurors,' which 'implies a tribunal both impartial and mentally competent to afford a hearing.'" *State v. Hurd*, 325 S.C. 384, 389, 480 S.E.2d 94, 97 (Ct.App. 1996) (quoting *Tanner v. United States*, 483 U.S. 107, 134, 107 S.Ct. 2739, 2755, 97 L.Ed.2d 90 (1987) (Marshall, J., dissenting)); *State v. Bell*, 374 S.C. 136, 646 S.E.2d 888 (Ct.App. 2007).

If a juror does not disclose information on voir dire that would have supported a challenge for cause or would have been material in the use of preemptory challenges, a mistrial must be granted once the information is discovered. *Thompson v. O'Rourke*, 288 S.C. 13, 339 S.E.2d 505 (1986). A new trial is required only when the court finds the juror intentionally concealed information which would have supported a challenge for cause or would have been a material factor in the use of the party's preemptory challenges. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998), cert. denied, 525 U.S. 1077, 119 S.Ct. 816, 142 L.Ed.2d 675 (1999).

The trial court must focus on the character of the concealed information, not on the mere fact that a concealment occurred. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998).

“Intentional concealment” occurs when the question presented to the jury on voir dire is reasonably comprehensible to the average juror and the subject of the inquiry is of such significance that the juror’s failure to respond is unreasonable. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001). “Unintentional concealment” occurs when the question posed to the jury on voir dire is ambiguous or incomprehensible to the average juror, or where the subject of the inquiry is insignificant or so far removed in time that the juror’s failure to respond is reasonable under the circumstances. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001).

Whether a juror’s failure to respond is intentional is a fact intensive determination which must be made on a case by case basis. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001).

Where a juror’s response to voir dire amounts to an intentional concealment, the movant need only show that the information concealed would have supported a challenge for cause or would have been a material fact in the use of the party’s peremptory challenges. Where the juror’s failure to disclose information is “without justification,” i.e., intentional, the juror’s bias will be inferred. Conversely, where the failure to disclose is innocent, no inference of bias can be drawn. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001); *State v. Savage*, 206 S.C. 5, 409 S.E.2d 809 (Ct.App. 1991); *State v. Stone*, 350 S.C. 442, 567 S.E.2d 244 (2002).

In *State v. Woods*, the South Carolina Supreme Court held the defendant was entitled to a new trial because a seated juror failed to disclose that she worked for three years as a volunteer victims’ advocate in the solicitor’s office which prosecuted the case despite a voir dire question which sought such information. The Court held it did not need to decide whether the juror’s relationship with the solicitor’s office would support a challenge for cause because the Court found her failure to disclose the relationship prevented the defendant’s intelligent exercise of his peremptory challenges.

The South Carolina Supreme Court has found an abuse of discretion where the trial judge denied a motion for mistrial based on a juror's failure to disclose her relation by marriage to a deputy sheriff who viewed the crime scene and had custody of the defendant during the trial. *State v. Gulledge*, 277 S.C. 368, 287 S.E.2d 488 (1982). The Court noted that, absent some justification for the juror's failure to disclose this information during voir dire, a mistrial should have been granted. *State v. Gulledge*, 277 S.C. 368, 287 S.E.2d 488 (1982).

The Court should grant a new trial based upon the sworn statements of two disinterested third-party witnesses. Had these jurors been truthful regarding the fact that they resided near the scene of the alleged murder, Juror Hickman's relationship with the victim and the victim's family, Defendant would certainly have used his peremptory challenges to excuse the jurors or challenge the selection of the jurors for cause.

Defendant asks the Court to note that at the end of jury selection he had at least three strikes remaining. The juror's dishonesty has infringed upon Defendant's Sixth Amendment right to "enjoy the right to a speedy and public trial, *by an impartial jury...*" Emphasis added. The jurors' dishonesty is in and of itself an intentional concealment of pertinent information. While Defendant does not have a transcript, Defendant is certain that the Court propounded of the veniremembers something similar to the following:

1. Are you, any member of your family, or any close personal friend friends with or acquainted with the following persons:
 - a. Lindsay Lovely;
 - b. Mary Ann Lovely;
 - c. Etc.

2. Are you, any member of your family, or any close personal friend acquainted with the events that occurred April 7, 2009 at [REDACTED], Bishopville, South Carolina at the home of Lindsay Lovely and Mary Ann Lovely;

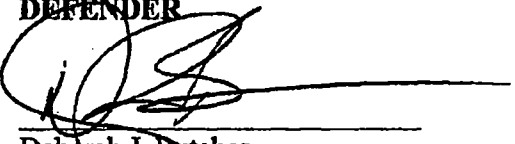
These interrogatories are often the most straightforward of all voir dire presented to the jury venire because the Court propounds these interrogatories at every jury trial in both Common Pleas and General Sessions.

IV. Conclusion.

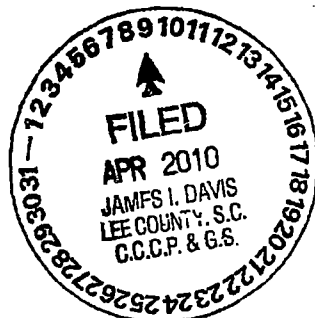
Defendant's use of his peremptory challenges or challenges for cause would have been significantly altered if these two jurors had truthfully disclosed their relationship to the victim and the victim's family. Defendant asks the Court to note that he had challenges remaining when the jury was struck and these juror's were called forward by the clerk of court. The United States .

Respectfully submitted,

**OFFICE OF THE THIRD
JUDICIAL CIRCUIT PUBLIC
DEFENDER**



Deborah J. Butcher
Attorney for Defendant
1042-A Broad Street
Camden, South Carolina 29020
Post Office Box 610
Camden, South Carolina 29021
Telephone: 803.432.7599
Facsimile: 803.432.7466
S.C. Bar No.: 74029
E-mail: Debbie@camdensc-law.com



Camden, South Carolina
April 9, 2010

STATE OF SOUTH CAROLINA
COUNTY OF LEE

COURT OF GENERAL SESSIONS
09-GS-31-00073

STATE OF SOUTH CAROLINA :
 :
 -vs- : TRANSCRIPT OF RECORD
JAMES KEION SPANN :

THURSDAY, MAY 13, 2010
BISHOPVILLE, SOUTH CAROLINA

B E F O R E:

HONORABLE R. FERRELL COTHRAN, JR., JUDGE, AND JURY.

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

JOHN GENTRY, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

DEBORAH BUTCHER, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

1	<u>I N D E X</u>			
2	WITNESS	DIRECT	CROSS	REDIRECT RECROSS
3	CAYCE MORGAN			
4	MS. BUTCHER	4		24
5	MR. GENTRY		14	
6	MCKENZIE MORGAN			
7	MS. BUTCHER	27		40/45
8	MR. GENTRY		32	43
9	CHRISTOPHER HICKMAN			
10	THE COURT	47		
11	FELICIA WILLIAMS			
12	THE COURT	52		
13	CERTIFICATE OF COURT REPORTER		60	

14

15

16

17

18

E X H I B I T S

19

ID. IN EV

20 S-1

MAP OF [REDACTED] OFF

21

ROYER ROAD 16 38

22

23

24

25

1 THE COURT: OKAY. MS. BUTCHER.

2 MS. BUTCHER: THANK YOU, YOUR HONOR. I WOULD LIKE TO
3 MAKE A MOTION FOR A NEW TRIAL IN THE CASE OF THE STATE
4 VERSUS JAMES KEION SPANN, BASED UPON AFTER-DISCOVERED
5 EVIDENCE OF SUBSTANTIAL EVIDENCE, THAT ONE OR MORE OF THE
6 JURORS PERJURED THEMSELVES WHEN REVIEWED BY THIS COURT AND
7 ASKED THE QUESTIONS OR WHETHER OR NOT THEY WERE FAMILIAR
8 WITH THE FACTS OF THE CASE, AND ALSO WHETHER THEY WERE
9 PERSONAL FRIENDS WITH THE VICTIM OR THE VICTIM'S FAMILY.

10 THE COURT: OKAY. AND WHAT JURORS DO YOU THINK FALL
11 IN THIS CATEGORY? WHAT ARE THEIR NAMES?

12 MS. BUTCHER: YOUR HONOR, CHRISTOPHER HICKMAN AND ALSO
13 A FELICIA JOHNSON (SIC). DO YOU NEED THOSE JUROR NUMBERS?

14 THE COURT: NO. WELL, GIVE ME FELICIA'S JUROR NUMBER.

15 MS. BUTCHER: ONE MOMENT, YOUR HONOR.

16 (PAUSE.)

17 THE COURT: I HAVE FELICIA WILLIAMS. I DON'T HAVE
18 FELICIA JOHNSON.

19 MS. BUTCHER: MR. HICKMAN WAS 72.

20 THE COURT: RIGHT. WHAT ABOUT ---

21 MS. BUTCHER: YOUR HONOR, I'M NOT SEEING THAT PAGE.

22 THE COURT: I DON'T HAVE A FELICIA JOHNSON ON MY JURY
23 LIST, THE REASON I ASK THAT.

24 MS. BUTCHER: MAYBE, PERHAPS I'M MIS-PRONOUNCING HER
25 NAME, YOUR HONOR. WILLIAMS. FELICIA WILLIAMS, YOUR HONOR.

CAYCE MORGAN — DIRECT BY MS. BUTCHER

4

1 THE COURT: OKAY. JUROR 146.

2 MS. BUTCHER: I APOLOGIZE.

3 THE COURT: OKAY. ALL RIGHT. YOU MAY PRESENT ANY
4 EVIDENCE YOU HAVE.

5 MS. BUTCHER: YOUR HONOR, I WOULD CALL MS. CAYCE
6 MORGAN TO THE STAND. AND SHE IS SEQUESTERED.

7 THE COURT: WHAT'S HER NAME AGAIN?

8 MS. BUTCHER: CAYCE MORGAN.

9 THE COURT: OKAY.

10 CAYCE MORGAN, BEING FIRST
11 DULY SWORN, TESTIFIED AS FOLLOWS:

12 CLERK: STATE YOUR FULL NAME FOR THE RECORD.

13 WITNESS: CAYCE MORGAN.

14 DIRECT EXAMINATION BY MS. BUTCHER:

15 Q MS. MORGAN, WERE YOU IN THIS COURTROOM DURING THE TIME
16 OF THE TRIAL OF STATE VERSUS JAMES KEION SPANN AROUND MARCH
17 30TH OF THIS YEAR?

18 A YES, SIR -- YES, MA'AM.

19 Q OKAY. WERE YOU ABLE TO OBSERVE THE JURORS IN THIS
20 CASE?

21 A YES, MA'AM.

22 Q OKAY. ARE YOU FAMILIAR WITH A FELICIA WILLIAMS?

23 A YES, MA'AM, SHE'S MY COUSIN.

24 Q WHAT COUSIN IS SHE? BY THAT I MEAN, FIRST, SECOND?

25 A SHE'S MY FIRST COUSIN.

STATE VS. JAMES KEION SPANN

CAYCE MORGAN -- DIRECT BY MS. BUTCHER

5

1 Q AND COULD YOU DESCRIBE THAT RELATIONSHIP BY YOUR
2 MOTHER'S SIDE, FATHER'S SIDE?

3 A ON MY FATHER'S SIDE.

4 Q OKAY. AND YOUR FATHER THEN WOULD BE ---

5 A HER DADDY -- AS A MATTER OF FACT, SHE'S MY SECOND
6 COUSIN BECAUSE THAT MY FATHER NEPHEW DAUGHTER.

7 Q YOUR FATHER'S NEPHEW'S DAUGHTER?

8 A SHE'S MY SECOND COUSIN.

9 Q OKAY. DO YOU ACQUAINT YOURSELF WITH HER AS FAR AS
10 TALKING TO HER, SOCIALIZING, KNOWING EACH OTHER?

11 A YEAH, WHEN WE SEE EACH OTHER.

12 Q OKAY. TO YOUR KNOWLEDGE HAS SHE EVER LIVED NEAR
13 STACKLEY CIRCLE OR THE VICTIM IN THE CASE ON BEING LINDSEY
14 LOVELY?

15 A YES, SHE LIVE STRAIGHT ACROSS FROM WHERE HE WAS LIVING
16 AT.

17 Q OKAY. AND WHEN WAS THAT TIME THAT HE LIVED -- SHE
18 LIVED ACROSS?

19 A SHE STILL DO.

20 Q SHE STILL DOES?

21 A YES, MA'AM.

22 Q IS THE HOUSE IN HER NAME OR DO YOU KNOW?

23 A IN HER MOTHER NAME. HER MOTHER LIVE THERE ALSO.

24 Q SO THAT WOULD BE HER MOTHER'S HOUSE?

25 A YES, MA'AM.

1 Q WHAT'S HER MOTHER'S NAME?

2 A I DON'T KNOW HER BY THE FIRST NAME BECAUSE I DON'T
3 KNOW HER TOO GOOD. I JUST KNOW MY COUSIN NAME.

4 Q WHAT DO YOU KNOW OF HER NAME? DO YOU KNOW HER LAST
5 NAME OR ---

6 A JUST NET, THAT'S ALL I KNOW THE NICKNAME. THE
7 NICKNAME IS NET. THAT'S ALL I KNOW, HER NICKNAME.

8 Q NATE?

9 A NET.

10 Q SPELL IT.

11 A N-E-T.

12 Q OKAY. AND THAT WOULD BE FELICIA WILLIAMS'S MOTHER?

13 A HER MOTHER.

14 Q OKAY. DO YOU KNOW THAT ADDRESS OFFHAND?

15 A I THINK IT [REDACTED] -- I DON'T KNOW THE STREET NAME BY

16 HEART, BUT I JUST KNOW THE STREET WHEN I GET ---

17 Q AND THAT'S ACROSS THE STREET?

18 A YES, MA'AM.

19 Q OKAY. DO YOU KNOW THAT -- YOU KNOW SHE LIVES ACROSS

20 THE STREET. DO YOU KNOW IF SHE WAS FRIENDS WITH THE

21 LOVELYS?

22 A I KNOW SHE PROBABLY KNEW THEM BECAUSE THEY LIVE AROUND

23 THE SAME NEIGHBORHOOD, AND THEY LIVE RIGHT ACROSS THE

24 STREET. SO I'M PRETTY SURE SHE KNEW THEM TOO.

25 Q OKAY. DID YOU EVER SEE THEM TOGETHER?

CAYCE MORGAN - DIRECT BY MS. BUTCHER

7

- 1 A NO, MA'AM.
- 2 Q DID SHE EVER TALK TO YOU ABOUT THEM?
- 3 A NO, MA'AM.
- 4 Q DO YOU KNOW IF SHE WENT TO THE FUNERAL OR MENTION
- 5 ANYTHING ABOUT THE DEATH OF MR. LOVELY?
- 6 A NO, MA'AM.
- 7 Q SO BASICALLY YOU'RE TALKING ABOUT YOU JUST ARE MAKING
- 8 THIS ASSUMPTION?
- 9 A YES, MA'AM.
- 10 Q OKAY. LET'S MOVE ON TO DO YOU KNOW A CHRISTOPHER
- 11 HICKMAN?
- 12 A YES, MA'AM.
- 13 Q HOW DO YOU KNOW HIM?
- 14 A BY WE GREW UP AROUND EACH OTHER, AROUND IN THE SAME
- 15 NEIGHBORHOOD.
- 16 Q DID YOU ALL PLAY TOGETHER AS FRIENDS?
- 17 A HUH? NO, MA'AM. WE JUST KNEW EACH OTHER FROM GROWING
- 18 UP AROUND EACH OTHER.
- 19 Q DO YOU RECOGNIZE HIM BY SIGHT?
- 20 A YES, MA'AM.
- 21 Q DID YOU GO TO SCHOOL WITH HIM?
- 22 A NO, MA'AM.
- 23 Q JUST IN THE NEIGHBORHOOD?
- 24 A YES, MA'AM.
- 25 Q AND FOR HOW MANY YEARS HAVE YOU KNOWN HIM?

1 A PROBABLY FOR LIKE 10 TO 15 YEARS.

2 Q OKAY. A LONG TIME?

3 A YES, MA'AM.

4 Q DO YOU KNOW FROM YOUR OWN PERSONAL KNOWLEDGE WHETHER
5 OR NOT CHRISTOPHER HICKMAN WOULD HAVE KNOWN THE LOVELYS?

6 A YES, MA'AM, BECAUSE I USED TO SEE CHRISTOPHER AND
7 LINDSEY IN THE TRUCK RIDING AROUND TOGETHER.

8 Q DID YOU SAY LINDSEY?

9 A YES, MA'AM.

10 Q THAT BEING THE INDIVIDUAL WHO WAS KILLED?

11 A YES, MA'AM.

12 Q OKAY. WHEN DID YOU SEE THEM RIDING AROUND TOGETHER?
13 AND I KNOW YOU PROBABLY CAN'T SAY A DAY OR A TIME, BUT JUST
14 A GENERAL TIMEFRAME?

15 A I CAN'T REMEMBER A TIME. I ALWAYS USED TO SEE THEM
16 RIDING AROUND AND BEING TOGETHER, BEING AT THE COOKOUTS AND
17 EVERYTHING TOGETHER, BY THEM LIVING RIGHT BESIDE EACH
18 OTHER. I JUST SEE THEM. I CAN'T REMEMBER THE DATE OR
19 TIME.

20 Q OKAY. ON HOW MANY OCCASIONS WOULD YOU SAY YOU SAW
21 THEM TOGETHER?

22 A A LOT.

23 Q OKAY. AND WHEN I SAY TOGETHER, I'M NOT TALKING ABOUT
24 AT THE SAME BAR OR WHATEVER ACROSS THE ROOM. I'M SAYING
25 ENGAGED IN CONVERSATION OR ENGAGED IN ACTIVITY TOGETHER?

CAYCE MORGAN -- DIRECT BY MS. BUTCHER

9

1 A A LOT.

2 Q OKAY. DID YOU SEE THEM RIDING AROUND OR ENGAGED IN
3 ACTIVITY OR CONVERSATION TOGETHER -- HOW FAR PRIOR TO THE
4 DEATH OF MR. LOVELY WOULD YOU SAY?

5 A TO -- TO THE DAY HE DIED.

6 Q OKAY. BISHOPVILLE IS A SMALL TOWN?

7 A YES, MA'AM.

8 Q SO YOU KNOW OTHER PEOPLES' BUSINESSES. WERE THERE --
9 CAN YOU DESCRIBE -- YOU SAID YOU SAW THEM RIDING AROUND
10 TOGETHER?

11 A UH-HUH.

12 Q ALSO YOU SAID YOU SAW THEM ENGAGED IN CONVERSATION OR
13 ACTIVITY. COULD YOU DESCRIBE THE TIMES YOU SAW THEM
14 ENGAGED IN CONVERSATION OR ACTIVITY TOGETHER -- WHAT I MEAN
15 IS THE LOCATION OF WHERE THEY WERE AND WHAT WAS GOING ON?

16 A THE TIMES I RIDE THROUGH THE TRAILER PARK, I USED TO
17 SEE AT LINDSEY MOTHER HOUSE -- I COULD SEE CHRIS AND THEM
18 OVER THERE AT THE COOKOUT AND EVERYTHING. AND I USED TO
19 SEE -- GO LIKE TO THE TOBACCO STORE, I USED TO SEE THEM
20 TOGETHER. AND JUST RIDING THROUGH TOWN I USED TO SEE THEM.

21 Q HOW MANY PEOPLE WOULD BE AT THESE COOKOUTS?

22 A A GOOD MANY.

23 Q WHEN YOU SAY GOOD MANY, DO YOU MEAN 15? DO YOU MEAN
24 50?

25 A PROBABLY LIKE 30 -- 30 OR MORE.

- 1 Q OKAY. SO 30?
- 2 A UH-HUH.
- 3 Q OR LESS OR MORE?
- 4 A 30 OR LESS.
- 5 Q 30 OR LESS. OKAY. TO YOUR KNOWLEDGE WHERE DOES
- 6 CHRISTOPHER HICKMAN LIVE OR WHERE HAS HE LIVED OR STAYED?
- 7 A HE HAD LIVED IN THE TRAILER PARK PROBABLY LIKE -- LIKE
- 8 TWO TRAILERS DOWN FROM WHERE LINDSEY AND THEM WAS LIVING
- 9 AT.
- 10 Q WHO DID HE LIVE THERE WITH, DO YOU KNOW?
- 11 A NO, MA'AM.
- 12 Q HOW DO YOU KNOW HE LIVED THERE?
- 13 A BECAUSE I KNOW -- I USED TO PASS BY THE HOUSE AND THEY
- 14 USED TO BE OUT THERE.
- 15 Q DO YOU KNOW HE LIVED THERE OR YOU JUST KNOW HE STAYED
- 16 THERE A LOT?
- 17 A I KNOW HE STAYED THERE.
- 18 Q OKAY. DO YOU KNOW IF HE SPENT THE NIGHTS THERE OR ---
- 19 A BASICALLY, NO. I KNOW -- I KNOW HE USED TO BE THERE
- 20 MIGHTY OFTEN.
- 21 Q DO YOU KNOW THE VICTIMS IN THIS CASE, THE LOVELYS?
- 22 A THE LOVELYS, UH-HUH.
- 23 Q DID YOU ATTEND THE FUNERAL OR ---
- 24 A NO, MA'AM.
- 25 Q OKAY. SO YOU WOULDN'T KNOW WHO WAS AT THE FUNERAL?

CAYCE MORGAN -- DIRECT BY MS. BUTCHER

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- 1 A NO, MA'AM.
- 2 Q DO YOU KNOW WHO ANDRE HICKMAN IS?
- 3 A YES, MA'AM, THAT'S CHRIS BROTHER.
- 4 Q CHRIS' BROTHER?
- 5 A UH-HUH.
- 6 Q WOULD YOU KNOW OR HAVE ANY KNOWLEDGE OF A RELATIONSHIP
- 7 BETWEEN ANDRE HICKMAN AND MARY ANN LOVELY?
- 8 A YES, I USED TO SEE THEM AT THE CLUB WHEN THE SANDBOX
- 9 WAS GOING ON IN LAMAR, SOUTH CAROLINA, AND I SEE THEM.
- 10 THEY WAS IN THE CLUB KISSING AT THE TIME WHEN I -- WHEN I
- 11 SEEN THEM IN THE CLUB.
- 12 Q OKAY. DO YOU KNOW ANYTHING ELSE OF THEIR
- 13 RELATIONSHIP?
- 14 A NO, MA'AM.
- 15 Q SO YOU DON'T KNOW THEY DATED OR ANYTHING ---
- 16 A NO, MA'AM.
- 17 Q --- OR IF THEY WERE JUST KISSING?
- 18 A IT'S IN THE CLUB.
- 19 Q OKAY. AND WHEN ROUGHLY -- YOU MENTIONED A FESTIVAL.
- 20 WHEN WOULD THAT HAVE BEEN?
- 21 A OH, THAT WAS PROBABLY LIKE 8 YEARS -- 8 OR 9 YEARS
- 22 AGO.
- 23 Q OKAY. SO THAT'S BEEN A WHILE?
- 24 A YES, MA'AM.
- 25 Q OKAY. AND DID YOU EVER SEE ANDRE HICKMAN AT THE HOME

- 1 OF MARY ANN LOVELY ---
- 2 A YES, MA'AM.
- 3 Q --- ON A MORE RECENT BASIS?
- 4 A YES, MA'AM.
- 5 Q WHAT WAS HIS INVOLVEMENT OR HIS -- WHILE YOU MAY NOT
- 6 KNOW WHY HE WAS THERE, BUT WHAT WAS GOING ON? WHAT DID YOU
- 7 OBSERVE?
- 8 A STANDING AROUND, DRINKING, TALKING AS ALWAYS.
- 9 Q WHO WAS HOME -- WHO ELSE DID YOU SEE AT THE LOVELYS'
- 10 HOME WHEN YOU SAW BOTH ANDRE HICKMAN THERE ANY TIME YOU SAW
- 11 CHRISTOPHER HICKMAN THERE?
- 12 A JUST MARY ANN MAMA, AND JUST DIFFERENT PEOPLE OUT
- 13 THERE IN THE YARD.
- 14 Q DID YOU EVER SEE LINDSEY THERE WHEN THEY WERE THERE?
- 15 A YES, MA'AM.
- 16 Q OKAY. AND DID YOU EVER SEE MARY ANN THERE WHEN THEY
- 17 WERE THERE?
- 18 A YES, MA'AM.
- 19 Q AND THAT'S APPLYING TO BOTH OF THEM?
- 20 A YES, MA'AM.
- 21 Q OKAY. DO YOU HAVE ANY REASON TO LIE ABOUT THIS?
- 22 A NO, MA'AM.
- 23 Q DO YOU KNOW MR. JAMES SPANN?
- 24 A NO, MA'AM.
- 25 Q DO YOU KNOW HIM BY JUST HIS FACE?

CAYCE MORGAN -- DIRECT BY MS. BUTCHER

13

- 1 A NO, MA'AM.
- 2 Q SO YOU -- IF HE WALKED IN THE ROOM, IT'S NOT SOMEBODY
- 3 THAT'S FAMILIAR TO YOU?
- 4 A NO, MA'AM.
- 5 Q OKAY. HAVE YOU EVER HAD ANY ARGUMENTS WITH THE
- 6 LOVELYS?
- 7 A NO, MA'AM.
- 8 Q HOW ABOUT HICKMANS?
- 9 A NO, MA'AM.
- 10 Q DO YOU KNOW IF MR. LINDSEY LOVELY HAD ANY GANG
- 11 RELATIONS?
- 12 A NO, MA'AM, I DON'T KNOW.
- 13 Q DO YOU HAVE ANY GANG RELATIONS?
- 14 A NO, MA'AM.
- 15 MS. BUTCHER: NO FURTHER QUESTIONS.
- 16 THE COURT: MS. MORGAN, I COULDN'T -- YOU SAID THAT
- 17 YOU SAW CHRIS HICKMAN AT A COOKOUT WHERE?
- 18 MS. MORGAN: AT LINDSEY -- AT LINDSEY MAMA HOUSE.
- 19 THE COURT: OKAY. AND WHO WAS ANDRE HICKMAN KISSING?
- 20 MS. MORGAN: MARY ANN, LINDSEY MOTHER.
- 21 THE COURT: LINDSEY?
- 22 MS. MORGAN: LINDSEY MOTHER, UH-HUH.
- 23 THE COURT: OKAY. THANK YOU.
- 24 MS. BUTCHER: YOUR HONOR, IF I MAY FOLLOW UP.
- 25 DIRECT EXAMINATION CONTINUED BY MS. BUTCHER:

1 Q TO YOUR KNOWLEDGE DID LINDSEY LOVELY LIVE AT MARY ANN
2 LOVELY'S HOME?

3 A YES, MA'AM.

4 Q OKAY. SO WHEN YOU SAY YOU SAW CHRIS OR ANDRE AT MARY
5 ANN LOVELY'S HOUSE, YOU'RE ALSO SAYING YOU SAW THEM AT
6 LINDSEY LOVELY'S HOME?

7 A YES, MA'AM.

8 Q AND YOU SAY THAT YOU DID SEE LINDSEY LOVELY ENGAGED AT
9 HIS HOUSE WITH CHRIS' BROTHER?

10 A YES, MA'AM.

11 MS. BUTCHER: THAT'S ALL, YOUR HONOR.

12 THE COURT: OKAY. HE'S GOING TO ASK YOU SOME
13 QUESTIONS.

14 CROSS EXAMINATION BY MR. GENTRY:

15 Q ARE YOU THE SAME CAYCE MORGAN THAT PLED GUILTY TO
16 FORGERY ABOUT 6 YEARS AGO HERE IN THIS COURTROOM?

17 A I SURELY DID.

18 Q ALL RIGHT. YOU SAY YOU KNOW FELICIA AS A COUSIN OF
19 YOURS, FELICIA WILLIAMS?

20 A YES, SIR.

21 Q AND WHERE DOES SHE LIVE, YOU SAY?

22 A I DON'T EXACTLY KNOW THE ADDRESS, BUT ACROSS --
23 ACROSS THE STREET FROM THE TRAILER PARK FROM WHERE LINDSEY
24 LOVELY ---

25 Q ACROSS THE STREET FROM WHERE?

CAYCE MORGAN -- CROSS BY MR. GENTRY

15

- 1 A THE TRAILER PARK -- ACROSS FROM THE TRAILER PARK WHERE
2 LINDSEY ---
- 3 Q WHAT'S THE NAME OF THE TRAILER PARK?
- 4 A I JUST KNOW IT'S HARLEM TRAILER PARK.
- 5 Q WHERE IS THE TRAILER PARK LOCATED?
- 6 A HUH?
- 7 Q WHERE IS THE TRAILER PARK?
- 8 A IT'S LOCATED HARLEM -- I JUST KNOW IT'S THE HARLEM
9 TRAILER PARK.
- 10 Q IS IT IN BISHOPVILLE?
- 11 A YES, SIR.
- 12 Q IS IT IN THE CITY LIMITS OF BISHOPVILLE?
- 13 A YES, SIR.
- 14 Q WHERE IS STACKLEY CIRCLE?
- 15 A HUH?
- 16 Q WHERE IS [REDACTED]?
- 17 A [REDACTED]? I'M NOT FAMILIAR WITH THE STREET
18 NAME.
- 19 Q YOU'RE NOT FAMILIAR WITH THAT?
- 20 A THE STREET NAMES, I'M NOT.
- 21 Q OKAY. SO HOW DO YOU GET TO [REDACTED]?
- 22 A I CAN'T TELL YOU. I DON'T KNOW THE NAME OF THE
23 STREETS. I'M NOT FAMILIAR WITH THE NAMES OF THE STREETS.
- 24 Q HOW DO YOU GET TO MARY ANN LOVELY'S HOUSE?
- 25 A OKAY. YOU GO BY THE TRAILER PARK, RIGHT ACROSS FROM

1 THE TRAILER PARK.

2 Q RIGHT ACROSS FROM THE TRAILER PARK YOU JUST TALKED
3 ABOUT IN THE CITY OF BISHOPVILLE?

4 A UH-HUH.

5 Q THAT'S IN THE CITY LIMITS?

6 A YES, SIR.

7 (MAP OF [REDACTED] OFF ROYER ROAD MARKED FOR
8 IDENTIFICATION AS STATE'S EXHIBIT NO. 1.)

9 Q ALL RIGHT. LET ME SHOW YOU SOMETHING. THIS I AM
10 MARKING AS STATE'S EXHIBIT NO. 1. IT IS A THING TAKEN FROM
11 MAPQUEST, YAHOO MAPS. CAN YOU LOOK AT THAT AND TELL ME IF
12 YOU CAN IDENTIFY ANY PART OF IT?

13 MS. BUTCHER: YOUR HONOR, I WOULD OBJECT. I THINK I
14 COULDN'T IDENTIFY MY HOME ON A SATELLITE VIEW.

15 MR. GENTRY: WELL ---

16 MS. BUTCHER: SHE TESTIFIED SHE DOESN'T KNOW STREET
17 NAMES.

18 THE COURT: I UNDERSTAND. BUT SHE HASN'T ANSWERED THE
19 QUESTION YET. SHE HAS A RIGHT TO LOOK AT IT.

20 (PAUSE.)

21 Q YOU KNOW WHERE ROYER ROAD IS. ROYER ROAD, R-O-Y-E-R
22 ROAD?

23 A IT'S LIKE YOU'RE GOING NEAR SUMTER.

24 Q GOING WHERE?

25 A NEXT TOWARDS SUMTER.

CAYCE MORGAN - CROSS BY MR. GENTRY

17

- 1 Q ALL RIGHT. WHERE IS [REDACTED] CIRCLE? DO YOU KNOW
2 WHERE HIGHWAY 15 IS?
- 3 A I KNOW WHERE HIGHWAY 15 IS.
- 4 Q ALL RIGHT. HOW DO YOU GET TO MARY ANN LOVELY'S HOUSE?
- 5 A OKAY. WHEN I KNOW WHERE SHE WAS LIVING AT -- WHEN I
6 KNEW THAT SHE WAS LIVING RIGHT ACROSS FROM THE TRAILER
7 PARK.
- 8 Q WHAT TRAILER PARK?
- 9 A THAT WHERE I KNOW SHE WAS LIVING AT THEN.
- 10 Q HOW MANY YEARS AGO WAS THAT?
- 11 A THAT WAS PROBABLY LIKE -- LIKE A COUPLE OF YEARS.
- 12 Q A COUPLE OF YEARS. WOULD YOU SAY THAT SHE HAD MOVED
13 OUT TO ANOTHER PLACE? WAS SHE STILL MARRIED TO HER
14 HUSBAND?
- 15 A I DON'T KNOW ALL THAT.
- 16 Q YOU DON'T KNOW. YOU'RE A CLOSE, PERSONAL FRIEND, BUT
17 YOU DON'T KNOW IF SHE WAS STILL MARRIED?
- 18 A I WAS NOT CLOSE FRIENDS WITH MARY ANN.
- 19 Q YOU WEREN'T CLOSE, PERSONAL FRIENDS. WELL, HOW COME
20 SHE INVITED YOU TO YOUR HOUSE -- TO HER HOUSE ALL THE TIME?
- 21 A SHE -- I AIN'T NEVER BEEN INVITED TO HER HOUSE.
- 22 Q SO YOU WERE NEVER IN HER HOUSE?
- 23 A I AIN'T NEVER BEEN TO HER HOUSE.
- 24 Q ALL RIGHT. CHRISTOPHER HICKMAN'S BROTHER'S NAME IS
25 NAMED ANDRE; IS THAT RIGHT?

- 1 A UH-HUH.
- 2 Q HOW DO YOU KNOW -- YOU SAY CHRISTOPHER -- ANDRE AND
- 3 MARY ANN WERE ROMANTICALLY INVOLVED?
- 4 A I DON'T KNOW. I JUST SEE THEM IN THE CLUB KISSING.
- 5 Q SEE THEM IN A CLUB?
- 6 A UH-HUH.
- 7 Q WHAT CLUB?
- 8 A AT SANDBOX IN LAMAR WHEN IT WAS OPEN.
- 9 Q THE SANDBOX IN LAMAR?
- 10 A UH-HUH.
- 11 Q HOW MANY YEARS AGO WAS THAT?
- 12 A THAT ABOUT LIKE 9 -- 8, 9 YEARS AGO.
- 13 Q 8 OR 9 YEARS AGO. DO YOU KNOW IF THEY'VE BEEN DATING
- 14 IN THE LAST 8 OR 9 YEARS?
- 15 A NO, MA'AM -- NO, SIR.
- 16 Q THAT WAS THE LAST TIME YOU SAW THEM 8 OR 9 YEARS AGO?
- 17 A KISSING AND ROMANCING, BUT NOT AROUND EACH OTHER.
- 18 Q 8 OR 9 YEARS AGO?
- 19 A (NODS HEAD.)
- 20 Q ALL RIGHT. WHEN DID YOU SEE CHRISTOPHER HICKMAN AT
- 21 THE HOME OF MARY ANN LOVELY?
- 22 A I CAN'T TELL THE DATE OR THE TIME, BUT I KNOW THE TIME
- 23 I USED TO PASS THROUGH THERE, THEY USED TO BE IN THE SAME
- 24 SPOT WHERE MARY ANN MOTHER HOUSE RIGHT THERE.
- 25 Q MARY ANN'S MOTHER'S HOUSE?

CAYCE MORGAN - CROSS BY MR. GENTRY

19

- 1 A RIGHT THERE.
- 2 Q AND THAT'S IN THE TRAILER PARK HERE ---
- 3 A AT THE SAME HOUSE ---
- 4 Q --- IN THE CITY LIMITS OF BISHOPVILLE?
- 5 A --- THAT SAME HOUSE WHERE SHE WAS STAYING AT THAT I
- 6 LAST KNOWN OF.
- 7 Q OKAY. NOW, YOU SAY YOU SAW CHRISTOPHER RIDING AROUND
- 8 IN A TRUCK WITH LINDSEY LOVELY ON NUMEROUS OCCASIONS?
- 9 A (NODS HEAD.)
- 10 Q ALL RIGHT. YOU SAY YOU CAN'T TELL US HOW MANY
- 11 OCCASIONS?
- 12 A NO, SIR.
- 13 Q WHEN WAS THIS?
- 14 A I CAN'T GIVE YOU THE DATE OR TIME ON THAT EITHER, I
- 15 WASN'T KEEPING UP WITH THAT BECAUSE I DIDN'T KNOW I HAD TO
- 16 TESTIFY AGAINST IT, SO I WASN'T KEEPING UP WITH ALL OF
- 17 THAT.
- 18 Q WAS LINDSEY -- HOW OLD WAS LINDSEY?
- 19 A I CAN'T TELL YOU THAT EITHER.
- 20 Q YOU CAN'T TELL ME THAT EITHER?
- 21 A HUH-UH.
- 22 Q WHAT KIND OF JOB WAS LINDSEY WORKING?
- 23 A I DON'T KNOW.
- 24 Q WHAT KIND OF ---
- 25 MS. BUTCHER: OBJECTION, YOUR HONOR. RELEVANCE OF HIS

1 EMPLOYMENT? I DON'T THINK THERE IS ANY.

2 MR. GENTRY: I'M ASKING HOW FAMILIAR SHE WAS WITH THE
3 INDIVIDUAL.

4 THE COURT: THIS IS CROSS EXAMINATION. I'LL ALLOW IT.
5 GO AHEAD.

6 Q ALL RIGHT. SO YOU DON'T KNOW WHAT KIND OF WORK
7 LINDSEY WAS DOING?

8 A NO. WE WASN'T CLOSE LIKE THAT.

9 Q YOU WEREN'T CLOSE?

10 A HUH-UH. I JUST KNEW HIM, BUT WE WASN'T CLOSE LIKE
11 THAT.

12 Q DO YOU KNOW HOW OLD LINDSEY WAS?

13 A NO.

14 Q SO LET ME SEE IF I UNDERSTAND YOUR TESTIMONY. 8 OR 9
15 YEARS AGO YOU SAW ANDRE HICKMAN SOCIALIZING WITH MARY ANN
16 LOVELY IN A CLUB IN LAMAR 8 OR 9 YEARS AGO?

17 A UH-HUH.

18 Q DO YOU KNOW IF ANDRE EVEN TOLD HIS BROTHER ABOUT THIS
19 CLOSE, PERSONAL RELATIONSHIP?

20 A I DON'T KNOW.

21 Q YOU DON'T KNOW. ALL RIGHT. AS FAR AS YOU KNOW, MARY
22 ANN LOVELY WAS STILL LIVING IN A TRAILER PARK HERE IN TOWN;
23 IS THAT RIGHT?

24 A YES, SIR.

25 Q WHAT IF I TOLD SHE WAS LIVING AT [REDACTED],

CAYCE MORGAN - CROSS BY MR. GENTRY

21

1 WOULD YOU AGREE WITH THAT?

2 A IF THAT WHAT YOU SAY, BECAUSE I DON'T KNOW WHERE SHE
3 -- I'M NOT THAT CLOSE WITH HER. SO I KNOW WHERE I USED TO
4 SEE THEM AT.

5 Q YOU KNOW -- I'VE ALREADY ASKED YOU AND YOU HAD TOLD ME
6 YOU DON'T KNOW WHERE [REDACTED] IS?

7 A NO.

8 Q AND YOU DON'T KNOW WHERE ROYER ROAD IS EXCEPT IT'S ON
9 THE WAY TO SUMTER?

10 A YES, SIR.

11 Q ALL RIGHT. NOW, HOW OLD WAS FELICIA WHEN SHE WAS
12 LIVING BY MARY ANN? WAS THAT ALSO OVER IN THIS TRAILER
13 PARK?

14 A IT'S ACROSS THE ROAD FROM -- THE ROAD ACROSS FROM HER
15 HOUSE.

16 Q IS THAT THE D.O.T. D.M.V. OFFICE CLOSE TO THERE?

17 A NO.

18 Q WHERE IS IT THEN?

19 A IT CLOSE -- CLOSER BY THE B&R LUMBER.

20 Q BY B&R LUMBER. THAT'S BEHIND, BACK UP IN THE ---

21 A YEAH, AROUND THERE.

22 Q OKAY. SO THAT'S WHERE THEY ALL LIVE?

23 A UH-HUH.

24 Q AND LONG AGO DID YOU SAY THAT WAS?

25 A I KNOW FELICIA STILL STAYING THERE, BEST OF MY

- 1 KNOWLEDGE.
- 2 Q SHE'S STILL THERE?
- 3 A AS MY KNOWLEDGE THAT SHE WAS.
- 4 Q OKAY. AND SO YOU DON'T HAVE ANY IDEA WHERE MARTIN
- 5 ROAD IS?
- 6 A MARTIN ROAD?
- 7 Q YES.
- 8 A NO, SIR.
- 9 Q DO YOU KNOW WHERE FELICIA'S MOTHER LIVES?
- 10 A AT THAT ADDRESS WHERE I HAD GOT FROM MS. DEBORAH.
- 11 Q IN THE TRAILER PARK?
- 12 A THE ROAD ACROSS FROM THE TRAILER PARK.
- 13 Q AND THAT'S WHERE MARY ANN LOVELY LIVES?
- 14 A HUH?
- 15 Q THAT'S WHERE MARY ANN LOVELY LIVES AS FAR AS YOU KNOW?
- 16 A AS FAR AS I KNOW WHERE SHE WAS LIVING IN A BROWN
- 17 DOUBLE-WIDE TRAILER.
- 18 Q OKAY. AND HOW LONG AGO WAS IT SHE LIVED THERE?
- 19 A TO MY KNOWLEDGE I AIN'T KNOW SHE MOVED, SO.
- 20 Q OKAY. SHE HASN'T MOVED. (PAUSE.) YOU DON'T KNOW
- 21 WHEN MARY ANN AND HER HUSBAND, WILLIE, BROKE UP, DO YOU?
- 22 A I SURELY DON'T.
- 23 Q OKAY.
- 24 A BECAUSE I DON'T KNOW HER HUSBAND.
- 25 Q OKAY. WOULD YOU OBJECT IF I SAID IT WAS ABOUT 7

CAYCE MORGAN - CROSS BY MR. GENTRY

23

1 YEARS?

2 A HUH?

3 Q WOULD YOU DISAGREE IF I SAID IT WAS ABOUT 7 YEARS AGO?

4 A I WOULDN'T KNOW THAT, BECAUSE I DON'T KNOW HER
5 HUSBAND.

6 Q WOULD YOU DISAGREE IF I TOLD YOU THAT SHE AND HER
7 HUSBAND, WILLIE, BEFORE THEY BROKE UP MOVED TO A TRAILER --
8 A PLACE CALLED KAISER ROAD?

9 MS. BUTCHER: YOUR HONOR, I'M GOING TO OBJECT. SHE'S
10 ALREADY SAID SHE DOESN'T KNOW. SO I DON'T THINK IT'S
11 PROPER FOR HIM TO TRY TO GET HER TO AGREE WITH HIM. SHE
12 SIMPLY DOESN'T KNOW.

13 THE COURT: SHE CAN ANSWER THE QUESTION IF SHE KNOWS
14 IT. GO AHEAD.

15 Q WOULD YOU DISAGREE WITH ME IF I SAID THAT SHE AND HER
16 HUSBAND MOVED TO A PLACE CALLED KAISER ROAD BACK ABOUT
17 1997?

18 A I COULDN'T AGREE BECAUSE I DON'T KNOW.

19 Q YOU DON'T KNOW. YOU DON'T KNOW WHEN SHE MOVED AND
20 LEFT WILLIE?

21 A I SURE -- BECAUSE I DON'T KNOW WILLIE.

22 Q ALL RIGHT. I BELIEVE YOU TOLD ME ALREADY YOU DON'T
23 KNOW HOW CLOSE THE HICKMAN BROTHERS ARE, DO YOU?

24 A NO, SIR. I JUST KNOW WHEN I SEEN THEM KISSING IN THE
25 CLUB; THAT'S ALL I COULD TELL YOU.

1 Q 8 OR 9 YEARS AGO?

2 A UH-HUH.

3 MR. GENTRY: THANK YOU. I HAVE NOTHING FURTHER OF
4 THIS WITNESS.

5 MS. BUTCHER: IF I MAY, YOUR HONOR.

6 REDIRECT EXAMINATION BY MS. BUTCHER:

7 Q NOW, MS. MORGAN, YOU SAID THAT YOU DON'T KNOW IF
8 FELICIA WILLIAMS WAS CLOSE, PERSONAL FRIENDS?

9 A NO, SIR.

10 Q OKAY. WE LEFT THAT LINE OF QUESTIONING, DIDN'T WE?

11 A YES, SIR -- YES, MA'AM.

12 Q OKAY. NOW, I'M A LITTLE CONFUSED ON ONE POINT. YOU
13 SAID YOU KNOW WHERE MARY ANN LOVELY AND LINDSEY LOVELY
14 LIVED?

15 A THEY WAS STAYING THE LAST TIME I KNOW, THEY WAS LIVING
16 IN THE TRAILER -- IN A DOUBLE-WIDE BROWN TRAILER.

17 Q OKAY. WHERE IS THAT TRAILER LOCATED?

18 A I COULDN'T -- I COULDN'T -- I DON'T KNOW THE NAME OF
19 THE STREET. BUT I KNOW IT'S IN FRONT OF THE TRAILER PARK.

20 Q AND WHAT TRAILER PARK?

21 A I KNOW -- I KNOW IT AS HARLEM TRAILER PARK THAT I CALL
22 IT.

23 Q OKAY. DO YOU KNOW WHERE THE CITY LIMITS ARE AROUND
24 BISHOPVILLE EXACTLY?

25 A IT JUST -- IT SEEM GOING -- I KNOW WHERE I LIVE AT,

CAYCE MORGAN -- REDIRECT BY MS. BUTCHER

25

1 THE CITY LIMIT STOP. I LIVE ON SHAW STREET, AND THE CITY
2 LIMITS STOP RIGHT THERE IN THE MIDDLE WAYS OF THAT IN THE
3 ROAD OF THAT.

4 Q OKAY. HOW LONG AGO DID YOU SEE MARY ANN LOVELY AT THE
5 TRAILER PARK -- COULD YOU DESCRIBE FROM THE COURTHOUSE, HOW
6 WOULD I GET TO THE TRAILER PARK THAT YOU'RE TALKING ABOUT?

7 A OKAY. AS SOON AS YOU LEAVE -- IF YOU LEAVING OUT FROM
8 HERE, YOU MAKE A RIGHT. AND THEN YOU GO PAST THE MARKET.
9 AND THEN YOU GO UP ON THE LIGHT. THEN YOU GO -- YOU PASS,
10 GO UP ON THE LIGHT. AND THEN WHEN YOU GET TO THE -- THE
11 SECOND TURN, YOU MAKE A LEFT. AND THEN THERE WILL BE A
12 TRAILER PARK RIGHT THERE.

13 Q OKAY. SO I -- OKAY. YOU'RE NOT TALKING ABOUT THE
14 TRAILER PARK BEHIND THE COURTHOUSE?

15 A HUH?

16 Q SO YOU'RE NOT TALKING ABOUT THE TRAILER PARK ---

17 A IT'S NUMEROUS WAYS YOU CAN GET TO THE TRAILER PARK.
18 DIFFERENT WAYS YOU CAN GET -- YOU CAN GO THIS WAY. YOU CAN
19 GO THAT WAY.

20 Q OKAY. WHEN DID YOU FIRST BECOME AWARE OF MARY ANN
21 LOVELY AND LINDSEY LOVELY LIVING IN THE TRAILER PARK YOU'RE
22 TALKING ABOUT?

23 MR. GENTRY: OBJECTION. THIS GOES BEYOND THE SCOPE OF
24 MY CROSS.

25 MS. BUTCHER: YOUR HONOR, I DON'T THINK SO. I BELIEVE

1 MR. GENTRY INQUIRED IN TO MARY ANN LOVELY LEAVING AND
2 MOVING. I BELIEVE THIS IS ---

3 THE COURT: YOUR QUESTION WAS WHAT? REPEAT IT.

4 MS. BUTCHER: MY QUESTION IS: WHEN -- HOW LONG AGO
5 WAS SHE -- HOW LONG HAS SHE KNOWN MS. LOVELY TO LIVE IN THE
6 LOCATION SHE'S TALKING ABOUT?

7 A EVER SINCE I KNEW THEM.

8 Q WHEN DID YOU KNOW THEM?

9 A I KNEW THEM EVER SINCE -- EVER SINCE I COULD KNOW
10 MYSELF, REALLY. I KNEW THEM, BUT I AIN'T KNEW NOTHING
11 ABOUT THEM MOVING OR ANYTHING, BECAUSE I'M NOT CLOSE
12 FRIENDS WITH THEM LIKE THAT. SO I DIDN'T KNOW THAT THEY
13 MOVED, BUT I KNOW THEY USED TO BE THERE. I USED TO SEE
14 CHRIS AND ANDRE THERE.

15 Q OKAY. AND LET ME ASK YOU THIS. IS IT POSSIBLE THAT
16 THEY COULD HAVE MOVED AND -- BUT YOU STILL SAW THEM
17 TOGETHER AT ONE LOCATION OR THE OTHER?

18 A YES, MA'AM.

19 Q SO YOUR TESTIMONY IS THAT YOU'VE SEEN THEM ---

20 MR. GENTRY: OBJECTION.

21 Q --- TOGETHER?

22 MR. GENTRY: OBJECTION.

23 A YES, MA'AM.

24 MR. GENTRY: LET THE WITNESS TESTIFY.

25 THE COURT: OKAY. I'LL SUSTAIN THAT OBJECTION.

MCKENZIE MORGAN - DIRECT BY MS. BUTCHER

27

1 YOU'RE LEADING HER.

2 Q OKAY. IF THE LOVELYS MOVED FROM ONE LOCATION TO
3 ANOTHER, WOULD YOU PERSONALLY HAVE A REASON TO KNOW THEY
4 HAD CHANGED WHERE THEY LAY THEIR HEAD AT NIGHT?

5 A NO, MA'AM.

6 MS. BUTCHER: I HAVE NO FURTHER QUESTIONS.

7 THE COURT: ANYTHING FURTHER?

8 MR. GENTRY: NO, SIR.

9 THE COURT: YOU CAN STEP DOWN.

10 (THE WITNESS LEAVES THE WITNESS STAND.)

11 THE COURT: ALL RIGHT. YOU CAN CALL YOUR NEXT
12 WITNESS.

13 MS. BUTCHER: THANK YOU. I CALL MCKENZIE MORGAN.

14 MCKENZIE MORGAN, BEING FIRST
15 DULY SWORN, TESTIFIED AS FOLLOWS:

16 CLERK: STATE YOUR FULL NAME FOR THE RECORD.

17 WITNESS: MCKENZIE DUREL MORGAN.

18 THE COURT: STATE YOUR NAME AGAIN?

19 MS. BUTCHER: MCKENZIE MORGAN.

20 WITNESS: MCKENZIE DUREL MORGAN.

21 THE COURT: OKAY. THANK YOU.

22 DIRECT EXAMINATION BY MS. BUTCHER:

23 Q MR. MORGAN, YOU DON'T REALLY WANT TO BE HERE, DO YOU?

24 A NO, NOT REALLY.

25 Q OKAY. WERE YOU HERE IN THIS COURTROOM DURING THE CASE

- 1 OF STATE VERSUS JAMES KEION SPANN?
- 2 A YES, I WAS.
- 3 Q OKAY. DID YOU HAVE AN OPPORTUNITY TO VIEW WHO THE
- 4 JURORS WERE IN THAT CASE?
- 5 A YES, I DID.
- 6 Q OKAY. ARE YOU FAMILIAR WITH A FELICIA WILLIAMS?
- 7 A YES, I AM.
- 8 Q OKAY. DO YOU KNOW MS. FELICIA WILLIAMS WAS PERSONAL
- 9 FRIENDS WITH THE LOVELYS?
- 10 A NOT PERSONAL, BUT I KNOW SHE KNEW THEM.
- 11 Q HOW WOULD SHE HAVE KNOWN THEM? HOW DO YOU -- HOW DO
- 12 YOU KNOW SHE KNOWS THEM?
- 13 A SHE STAYS JUST A BLOCK AWAY, ON THE NEXT STREET OVER.
- 14 Q DID YOU EVER SEE THEM SOCIALIZING TOGETHER?
- 15 A NO.
- 16 Q SO YOU'RE ONLY MAKING AN ASSUMPTION AS FAR AS MS.
- 17 WILLIAMS KNOWING THE LOVELYS, CORRECT?
- 18 A YES.
- 19 Q OKAY. DO YOU KNOW CHRISTOPHER WILLIAMS (SIC)?
- 20 A YES.
- 21 Q HOW DO YOU KNOW MR. CHRISTOPHER WILLIAMS (SIC) -- I'M
- 22 SORRY, MR. CHRISTOPHER HICKMAN?
- 23 A WE ASSOCIATE EVERY NOW AND THEN.
- 24 Q DO YOU KNOW CHRISTOPHER HICKMAN?
- 25 A YES. YES, CHRIS.

MCKENZIE MORGAN - DIRECT BY MS. BUTCHER

29

- 1 Q HOW DO YOU KNOW MR. CHRISTOPHER HICKMAN?
- 2 A WE TALK EVERY NOW AND THEN.
- 3 Q OKAY. HOW GOOD OF FRIENDS ARE YOU WITH HIM?
- 4 A WE GREW UP AROUND THE SAME NEIGHBORHOOD. WE'RE NOT
- 5 CLOSE FRIENDS, BUT WE KNOW EACH OTHER.
- 6 Q YOU KNOW HIM BY SIGHT?
- 7 A YES.
- 8 Q OKAY. SO YOU HAVE NO TROUBLE RECOGNIZING HIM?
- 9 A NO.
- 10 Q OKAY. DO YOU KNOW -- DID YOU KNOW LINDSEY LOVELY?
- 11 A YES.
- 12 Q YOU'D RECOGNIZE HIM BY SIGHT?
- 13 A YES.
- 14 Q DO YOU KNOW MARY ANN LOVELY?
- 15 A YES.
- 16 Q DO YOU RECOGNIZE HER BY SIGHT?
- 17 A YES.
- 18 Q HOW DO YOU KNOW MARY ANN LOVELY?
- 19 A THE SAME WAY I KNOW CHRIS. WE GREW UP AROUND THE SAME
- 20 NEIGHBORHOOD.
- 21 Q OKAY. HOW ABOUT MR. LOVELY?
- 22 A YES.
- 23 Q OKAY. WOULD YOU KNOW IF CHRISTOPHER HICKMAN AND
- 24 LINDSEY LOVELY WERE FRIENDS?
- 25 A NO, I WOULDN'T SAY FRIENDS. BUT I SEEN THEM

- 1 ASSOCIATE.
- 2 Q OKAY. HOW HAVE YOU SEEN THEM SOCIALLY?
- 3 A DRINKING A FEW BEERS TOGETHER, HANGING OUT.
- 4 Q SO YOU'VE SEEN THEM ENGAGED IN CONVERSATION?
- 5 A YES.
- 6 Q HAVE YOU EVER SEEN THEM IN VEHICLES TOGETHER?
- 7 A I CAN'T RECALL.
- 8 Q OKAY. HAVE YOU EVER SEEN ONE AT THE OTHER'S HOUSE?
- 9 A YES.
- 10 Q OKAY. WHO HAVE YOU SEEN AT WHOSE HOUSE?
- 11 A I SEEN CHRIS AT LINDSEY'S HOUSE.
- 12 Q OKAY. HOW MANY OCCASIONS HAVE YOU SEEN THAT?
- 13 A ONCE OR TWICE.
- 14 Q OKAY. WHERE DID THE LOVELYS LIVE, TO YOUR KNOWLEDGE?
- 15 A I CAN'T RECALL THE EXACT NAME OF THE ROAD, BUT I KNOW
- 16 IT'S IN THE TRAILER PARK.
- 17 Q OKAY. COULD YOU DESCRIBE HOW TO GET TO THE TRAILER
- 18 PARK?
- 19 A YES.
- 20 Q COULD YOU DO THAT?
- 21 A FROM COMING UP EAST CHURCH STREET, MAKE A LEFT BY
- 22 SHIRLEY'S FLORIST, AND COME UP ABOUT 2 BLOCKS AND MAKE
- 23 ANOTHER LEFT.
- 24 Q OKAY. IS THIS -- IF I TOLD YOU THE NAME STACKLEY
- 25 CIRCLE, WOULD THAT BE FAMILIAR TO YOU?

MCKENZIE MORGAN — DIRECT BY MS. BUTCHER

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- 1 A YEAH, THAT SOUNDS FAMILIAR.
- 2 Q WOULD THAT BE WHERE THE TRAILER PARK IS LOCATED?
- 3 A I THINK SO.
- 4 Q OKAY. DO YOU KNOW -- HAVE ANY KNOWLEDGE IF THE
- 5 LOVELYS HAVE EVER MOVED?
- 6 A NO, I HAVE NO IDEA.
- 7 Q YOU DON'T KNOW?
- 8 A NO.
- 9 Q OKAY. BUT TO YOUR KNOWLEDGE, THE LOVELYS LIVED AT
- 10 STACKLEY CIRCLE?
- 11 A YES.
- 12 Q DO YOU KNOW WHERE CHRISTOPHER WILLIAMS (SIC) LIVED?
- 13 A I KNOW HE -- I KNOW HIS GRANDMOTHER STAYS 2 HOUSES
- 14 DOWN.
- 15 Q 2 HOUSES DOWN FROM WHAT?
- 16 A FROM THE LOVELYS.
- 17 Q OKAY. AND WHO DID YOU SAY STAYS THERE?
- 18 A HIS GRANDMOTHER.
- 19 Q GRANDMOTHER?
- 20 A YEAH.
- 21 Q DO YOU KNOW AN ANDRE HICKMAN?
- 22 A YEAH.
- 23 Q WHO IS HE?
- 24 A I THINK THAT'S CHRIS' BROTHER OR COUSIN.
- 25 Q WOULD YOU HAVE ANY KNOWLEDGE OF A RELATIONSHIP BETWEEN

1 ANDRE HICKMAN AND MARY ANN LOVELY?

2 A NO.

3 Q NO. OKAY. DID YOU EVER VISIT THE LOVELYS?

4 A NO.

5 Q EVER VISITED THE HICKMANS?

6 A YEAH, I MEAN, I'VE BEEN BY THE LOVELYS' HOUSE BUT JUST
7 BRIEF, YOU KNOW, JUST PULLING UP THERE AND DROPPING
8 SOMEBODY OFF.

9 Q WAS CHRIS EVER THERE WHEN YOU WERE THERE AT THE
10 LOVELYS?

11 A YEAH.

12 Q WHO WOULD YOU TALK TO -- DO YOU KNOW WHO HE WAS
13 TALKING TO -- WAS TALKING TO, EXACTLY WHAT WAS GOING ON?

14 A IT WAS QUITE A FEW PEOPLE. I KNOW LINDSEY MIGHT HAVE
15 BEEN IN THE CROWD.

16 Q DID YOU SEE LINDSEY?

17 A YES.

18 Q OKAY. DO YOU KNOW MR. JAMES KEION SPANN?

19 A I SEEN HIM AROUND. I DON'T KNOW HIM PERSONAL, NO.

20 Q OKAY. DO YOU HAVE ANY REASON TO LIE HERE TODAY?

21 A NO.

22 MS. BUTCHER: I HAVE NO FURTHER QUESTIONS.

23 CROSS EXAMINATION BY MR. GENTRY:

24 Q MR. MORGAN, YOU'RE THE SAME MCKENZIE MORGAN WHO PLED
25 GUILTY TO A DRUG OFFENSE HERE BEFORE THIS COURT LAST TIME?

MCKENZIE MORGAN - CROSS BY MR. GENTRY

33

- 1 A YES, SIR.
- 2 Q ALL RIGHT. WHERE IS STACKLEY CIRCLE AGAIN?
- 3 A THE TRAILER PARK.
- 4 Q TRAILER PARK. AND THAT'S HERE IN BISHOPVILLE?
- 5 A YES, IT IS.
- 6 Q HOW DO YOU GET TO IT?
- 7 A LIKE I SAID, WHEN I'M COMING UP EAST CHURCH STREET, I
- 8 CAN MAKE A LEFT ON -- I THINK IT'S TRUMAN ROAD. AND THEN I
- 9 GO UP ABOUT A BLOCK OR TWO AND MAKE ANOTHER LEFT. IT'S
- 10 RIGHT THERE.
- 11 Q OKAY. SO AS WE SIT HERE IN THE COURTROOM HERE ON MAIN
- 12 STREET OUT HERE AND CHURCH STREET RIGHT OVER THERE, IT'S IN
- 13 THAT DIRECTION ABOUT HALF A MILE?
- 14 A YES.
- 15 Q OKAY. OVER CLOSE TO THE HIGHWAY DEPARTMENT?
- 16 A YES.
- 17 Q ALL RIGHT. AND HOW MANY TIMES HAVE YOU BEEN TO
- 18 STACKLEY CIRCLE?
- 19 A QUITE A FEW TIMES.
- 20 Q HOW MANY?
- 21 A QUITE A FEW TIMES.
- 22 Q QUITE A FEW TIMES. ISN'T IT TRUE THE FIRST TIME WHEN
- 23 YOU HEARD OF THIS PLACE DESCRIBED AS STACKLEY CIRCLE WAS
- 24 HERE IN THE COURTROOM WHEN YOU WERE GETTING -- JUST PRIOR
- 25 TO PLEADING GUILTY TO THE DRUG OFFENSE?

- 1 A EXCUSE ME?
- 2 Q ISN'T IT TRUE THAT THE FIRST TIME YOU HEARD OF WHERE
3 LINDSEY LIVED DESCRIBED AS STACKLEY CIRCLE WAS HERE IN THIS
4 COURTROOM?
- 5 A YEAH, I CAN SAY THAT.
- 6 Q THAT'S THE FIRST TIME YOU HEARD OF THAT?
- 7 A UH-HUH.
- 8 Q OKAY. SO YOU DON'T HAVE ANY INDEPENDENT KNOWLEDGE OF
9 WHERE STACKLEY CIRCLE IS?
- 10 A I MEAN, LIKE I TOLD DEBORAH, IT SOUNDS FAMILIAR, YOU
11 KNOW. I KNOW IT'S IN THE AREA.
- 12 Q OKAY. ALL RIGHT. NOW, YOU ARE WERE RAISED IN THE
13 SAME GENERAL VICINITY, YOU AND MR. LOVELY AND FELICIA
14 WILLIAMS?
- 15 A YEAH, I'M JUST A COUPLE OF BLOCKS OVER.
- 16 Q AND THAT'S IN THE TRAILER PARK HERE IN TOWN?
- 17 A NO. I'M FROM HARLEM.
- 18 Q HARLEM?
- 19 A YEAH.
- 20 Q HARLEM SIDE OF TOWN?
- 21 A YES, IT IS.
- 22 Q OKAY. NOW, YOU SAY THAT CHRISTOPHER KNEW MARY ANN
23 LOVELY AND LINDSEY LOVELY; IS THAT CORRECT?
- 24 A THAT'S CORRECT.
- 25 Q AND WHEN DID THEY KNOW -- WHEN DID MR. CHRISTOPHER

MCKENZIE MORGAN - CROSS BY MR. GENTRY

35

- 1 KNOW MARY ANN AND LINDSEY?
- 2 A WHEN?
- 3 Q YES, WHEN. HOW MANY YEARS AGO?
- 4 A I CAN'T BE EXACTLY SURE.
- 5 Q WAS THAT WHEN YOU WERE GROWING UP IN THE TRAILER PARK?
- 6 A YEAH.
- 7 Q HOW OLD ARE YOU NOW?
- 8 A 25.
- 9 Q 25. AND WHEN DID YOU MOVE OUT OF THAT TRAILER PARK?
- 10 A I NEVER LIVED IN THE TRAILER PARK. I USED TO HANG OUT
- 11 AROUND THERE.
- 12 Q OKAY. SO WHERE DID YOU LIVE WHEN EVERYBODY ELSE WAS
- 13 HANGING OUT IN THE TRAILER PARK?
- 14 A I WAS STILL STAYING IN HARLEM.
- 15 Q YOU WERE IN TOWN?
- 16 A YEAH.
- 17 Q SO YOU NEVER HAD REASON TO GO OUT TO ROYER ROAD? DO
- 18 YOU KNOW WHERE ROYER ROAD IS?
- 19 A YEAH.
- 20 Q WHERE IS IT?
- 21 A IT'S OFF 15.
- 22 Q OFF 15?
- 23 A OFF HIGHWAY 15, YEAH.
- 24 Q GOING WHICH WAY?
- 25 A IN THIS DIRECTION.

- 1 Q DOES THAT GO TO SUMTER?
- 2 A YES.
- 3 Q LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NO.
- 4 1. LET ME ASK YOU, CAN YOU PICK OUT ROYER ROAD ON THERE?
- 5 A YEAH.
- 6 Q OKAY. YOU SEE SOMETHING ELSE OVER BY HERE THAT SAYS
- 7 STACKLEY CIRCLE?
- 8 A UH-HUH.
- 9 Q THAT'S NOT CLOSE TO ROYER ROAD, IS IT? OR IS IT?
- 10 A NO.
- 11 Q IT'S CLOSE TO ROYER ROAD OR NOT CLOSE?
- 12 A SEE THAT MAP AGAIN.
- 13 (PAUSE.)
- 14 MS. BUTCHER: YOUR HONOR, I OBJECT. THAT'S A
- 15 SATELLITE VIEW. I DON'T KNOW THAT MR. MORGAN IS FAMILIAR
- 16 WITH THE SCALE OF THAT MAP ---
- 17 A THAT'S NOT TOO CLEAR.
- 18 MS. BUTCHER: --- TO REALLY MAKE A DECISION ON WHETHER
- 19 OR NOT IT'S CLOSE OR NOT CLOSE.
- 20 THE COURT: HE CAN ANSWER THE QUESTION IF HE KNOWS.
- 21 Q DO YOU WANT TO ANSWER THE QUESTION?
- 22 A IT'S NOT TOO CLEAR FOR ME.
- 23 Q IT'S NOT TOO CLEAR TO YOU?
- 24 A NO.
- 25 Q BUT YOU AGREE THAT IT SHOWS ROYER ROAD, AND YOU'D

MCKENZIE MORGAN - CROSS BY MR. GENTRY

37

1 AGREE IT SHOWS STACKLEY CIRCLE; IS THAT CORRECT?

2 A I SEE BOTH OF THOSE LOCATIONS ON THE MAP. I SEE BOTH
3 OF THOSE LOCATIONS ON THE MAP.

4 Q ALL RIGHT. YOU SEE BOTH OF THEM ON THE MAP. YOU
5 WOULD AGREE THAT THIS -- TO GET TO ROYER ROAD, YOU GO DOWN
6 HIGHWAY 15 TOWARDS SUMTER SEVERAL MILES; IS THAT RIGHT?

7 A YES.

8 Q AND YOU'D AGREE THAT'S NOT WITHIN THE CITY LIMITS OF
9 BISHOPVILLE; IS THAT RIGHT?

10 A YES.

11 Q AND YOU'D AGREE IT'S NOWHERE NEAR TRUMAN ROAD OR THE
12 HIGHWAY DEPARTMENT; IS THAT RIGHT?

13 A YES.

14 Q ALL RIGHT.

15 MR. GENTRY: WE'D OFFER THIS.

16 MS. BUTCHER: YOUR HONOR, I WOULD OBJECT TO THE
17 REFERENCE ON HERE AS FAR AS RELATIONSHIP TO BISHOPVILLE.

18 MR. GENTRY: THE WITNESS JUST DESCRIBED IT.

19 MS. BUTCHER: I WOULD OBJECT, YOUR HONOR.

20 THE COURT: OKAY. AND WHAT'S THE BASIS FOR YOUR
21 OBJECTION?

22 MS. BUTCHER: YOUR HONOR, THERE'S NO RELATIONSHIP ON
23 THAT MAP OF HOW IT RELATES TO BISHOPVILLE OR ANYTHING. MR.
24 MORGAN HAS ALREADY TESTIFIED THAT THE ONLY WAY HE'S
25 FAMILIAR WITH ANY PLACE CALLED STACKLEY CIRCLE IS HE'S

1 ASSUMING IT BECAUSE HE'S HEARD IT.

2 MR. GENTRY: HE WROTE AN AFFIDAVIT, COUNSEL, THAT SAID
3 HE KNOWS WHERE IT IS.

4 MS. BUTCHER: AND I THINK HE'S CROSSED ON THAT.

5 THE COURT: BUT YOUR OBJECTION IS HE DOESN'T KNOW
6 WHERE STACKLEY CIRCLE -- THAT HAS NOTHING TO DO WITH THIS
7 MAP. YOU KNOW, HE'S TESTIFIED AS TO WHAT HE KNEW AND
8 DIDN'T KNOW ABOUT STACKLEY CIRCLE AND ROYER ROAD. WHAT'S
9 THAT GOT TO DO WITH THE ADMISSIBILITY OF THIS MAP?

10 MS. BUTCHER: I'M JUST SAYING THAT MAP -- IT DOESN'T
11 INDICATE WHERE ROYER ROAD OR STACKLEY CIRCLE IS, IT JUST
12 BASICALLY INDICATES THEY EXIST.

13 THE COURT: IT SHOWS IT ON THE MAP.

14 MS. BUTCHER: BUT IT DOESN'T SHOW THE RELATIONSHIP TO
15 BISHOPVILLE.

16 THE COURT: I UNDERSTAND THAT; THAT'S WHAT HIS
17 TESTIMONY -- I'LL OVERRULE YOUR OBJECTION. I'LL ALLOW IT
18 IN. YOU KNOW, THE RELATIONSHIP TO BISHOPVILLE, I DON'T
19 KNOW HAS ANYTHING TO DO WITH WHETHER THE MAP'S ADMISSIBLE
20 OR NOT.

21 (STATE'S EXHIBIT NO. 1 RECEIVED IN EVIDENCE.)

22 Q NOW, WHEN YOU GOT TO STACKLEY CIRCLE WHERE YOU SAY YOU
23 VISIT THESE FOLKS MANY TIMES, HOW DID YOU GET THERE?

24 A I DIDN'T EXACTLY SAY STACKLEY CIRCLE.

25 Q LET'S READ THIS. CHRISTOPHER AND HIS BROTHER ANDRE

MCKENZIE MORGAN - CROSS BY MR. GENTRY

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1 LIVED A HOUSE DOWN FROM THE LOVELYS. I HAVE VISITED THEM
2 ON STACKLEY CIRCLE; IS THAT CORRECT? IS THIS YOUR
3 SIGNATURE AT THE BOTTOM OF THIS AFFIDAVIT?

4 A YES, IT IS.

5 Q AND THAT'S YOU SWORE BEFORE JOHNNY DAVIS, WHO'S AN
6 INVESTIGATOR FOR THE DEFENSE COUNSEL, DIDN'T YOU?

7 A YES, I DID.

8 Q AND YOU SWORE THAT YOU VISITED THEM ON STACKLEY CIRCLE
9 AND YOU DON'T KNOW WHERE STACKLEY CIRCLE IS?

10 A I KNOW I'VE BEEN TO THE HOUSE.

11 Q YOU'VE BEEN TO THE HOUSE. THE HOUSE OVER IN THE
12 TRAILER PARK; IS THAT RIGHT?

13 A YES.

14 Q THAT'S NOT STACKLEY CIRCLE OVER THERE, IS IT?

15 A I'M NOT EXACTLY SURE.

16 Q OKAY. NOW, WHEN YOU SAW CHRISTOPHER AT LINDSEY'S
17 HOUSE, WAS THAT THE HOUSE OVER HERE IN THE TRAILER PARK?

18 A YES.

19 Q AND HOW LONG AGO WAS THAT?

20 A IT'S ABOUT A FEW YEARS.

21 Q WAS THAT WHEN YOU WERE STILL A JUVENILE?

22 A NO.

23 Q THAT'S BEFORE YOU HAD ANY TROUBLE WITH THE LAW?

24 A I CAN'T RECALL.

25 Q YOU CAN'T RECALL. IF I TOLD YOU THAT MARY ANN LOVELY

1 HAS MOVED FROM THAT PLACE OVER THERE SOME 10 YEARS AGO,

2 WOULD THAT IMPROVE YOUR MEMORY AT ALL?

3 A THEY STILL HAVE FAMILY THAT LIVES THERE.

4 Q THEY HAVE FAMILY -- HER MOTHER STILL LIVES OVER THERE,

5 RIGHT?

6 A YES.

7 Q YOU DON'T KNOW EXACTLY WHEN YOU SAW CHRISTOPHER OVER

8 THERE?

9 A I CAN'T RECALL THE EXACT DATE, NO.

10 Q OKAY. WELL, WHAT DATE CAN YOU RECALL?

11 A I CAN'T TELL YOU.

12 MR. GENTRY: I HAVE NO FURTHER QUESTIONS.

13 MS. BUTCHER: THANK YOU.

14 REDIRECT EXAMINATION BY MS. BUTCHER:

15 Q MR. MORGAN, TO YOUR KNOWLEDGE, DO YOU BELIEVE THAT THE

16 LOVELYS, BEING MARY ANN AND LINDSEY LOVELY, LIVED WITH MARY

17 ANN LOVELY'S -- A RELATIVE OF MARY ANN LOVELY?

18 A YES.

19 Q AND WHO WOULD THAT RELATIVE BE?

20 A I GUESS HER MOTHER.

21 Q OKAY. AND WHERE IS THAT HOME LOCATED?

22 A IT'S IN THE TRAILER PARK.

23 Q OKAY. ALL RIGHT.

24 A I CAN'T -- I CAN'T RECALL THE EXACT NAME OF THE ROAD,

25 BUT ---

MCKENZIE MORGAN - REDIRECT BY MS. BUTCHER

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- 1 Q THAT'S HERE IN TOWN?
- 2 A YES, IT'S HERE IN TOWN.
- 3 Q LOCATED NEAR THE D.M.V.?
- 4 A YES. YES.
- 5 Q OKAY. HAVE YOU SEEN THEM THERE RECENTLY?
- 6 A NO, NOT RECENTLY, NO.
- 7 Q WHEN'S THE LAST TIME YOU WOULD HAVE SEEN THEM THERE?
- 8 A I'M GOING TO SAY ABOUT A YEAR MAYBE.
- 9 Q OKAY. AND IS IT AT THIS LOCATION THAT WE'RE TALKING
- 10 ABOUT RIGHT NOW THAT YOU'RE UNDER THE IMPRESSION THAT MARY
- 11 ANN LOVELY AND LINDSEY LOVELY LAST LIVED?
- 12 A YES.
- 13 Q OKAY. IS THIS THE LOCATION THAT YOU HAVE SEEN
- 14 CHRISTOPHER WILLIAMS (SIC) AT?
- 15 A YES.
- 16 Q OKAY. AND THIS IS THE LOCATION THAT YOU SAY YOU DROVE
- 17 UP IN THE YARD, I THINK IT WAS?
- 18 A YES.
- 19 Q AND YOU SAW BOTH LINDSEY LOVELY AND CHRISTOPHER LOVELY
- 20 -- CHRISTOPHER WILLIAMS (SIC)?
- 21 A YES.
- 22 Q OKAY. NOW, ARE YOU GOOD FRIENDS WITH THE LOVELYS?
- 23 A I ASSOCIATE WITH THEM, BUT I WOULDN'T SAY GOOD
- 24 FRIENDS.
- 25 Q AND IF THE LOVELYS HAD MOVED SOME YEARS PRIOR TO YOU

1 LAST SEEING CHRISTOPHER WILLIAMS (SIC) AT THAT HOUSE YOU'RE
2 TALKING ABOUT, WOULD YOU REALLY HAVE ANY KNOWLEDGE OF THAT?

3 A NO, BECAUSE I WAS UNDER THE IMPRESSION THAT THEY WAS
4 STILL LIVING THERE.

5 Q OKAY. SO WHAT YOU DO KNOW IS THAT THE LOVELYS WERE
6 STILL AT THAT HOUSE WHERE MARY ANN LOVELY'S MOTHER LIVED AT
7 TIMES?

8 A YES.

9 Q AND YOU'RE STATING -- ARE YOU STATING THAT YOU MADE
10 THE ASSUMPTION THEY LIVED THERE?

11 A YEAH.

12 Q OKAY. NOW, MR. GENTRY ASKED YOU IF THE FIRST TIME YOU
13 HEARD OF THE TRAILER PARK OR ANYTHING CALLED STACKLEY
14 CIRCLE WAS HERE IN THIS COURTROOM. OKAY. YOU'VE HEARD
15 THE WORD TRAILER PARK THROWN OUT NOW A COUPLE TIMES,
16 HAVEN'T YOU?

17 A YEAH.

18 Q OKAY. IS THIS A TRAILER PARK THAT WE'RE TALKING ABOUT
19 WHERE MARY ANN LOVELY'S MOTHER LIVES AND TO YOUR KNOWLEDGE
20 MARY ANN LIVED AT SOME POINT?

21 A YES.

22 Q OKAY. SO FOR SOMEONE TO MENTION A TRAILER PARK WHERE
23 MARY ANN LOVELY LIVED AND LINDSEY LOVELY LIVED, YOU WOULD
24 HAVE HAD NO REASON TO BELIEVE IT WAS A DIFFERENT TRAILER
25 PARK, WOULD YOU?

MCKENZIE MORGAN — RECROSS BY MR. GENTRY

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1 A NO.

2 Q OKAY. BUT FROM YOUR OWN KNOWLEDGE YOU CAN TESTIFY
3 THAT YOU HAVE SEEN CHRISTOPHER -- CAN YOU TESTIFY YOU'VE
4 SEEN CHRISTOPHER WILLIAMS (SIC) AT A HOME WHERE MARY ANN
5 LOVELY AND LINDSEY LOVELY OCCUPIED FREQUENTLY?

6 A YES.

7 Q AND I'M SURE YOU ANSWERED THIS. AND I THINK I
8 ACTUALLY HAVE JUST ASKED THIS RECENTLY PERHAPS. WHEN WAS
9 IT THAT YOU LAST SAW CHRISTOPHER WILLIAMS (SIC) AT MARY ANN
10 LOVELY'S MOTHER'S HOME WHEN MARY ANN LOVELY OR LINDSEY
11 LOVELY WERE THERE?

12 A I CAN'T BE SURE ON THE EXACT DATE.

13 Q WITHIN THE LAST YEAR?

14 A YEAH.

15 MS. BUTCHER: OKAY. NO FURTHER QUESTIONS.

16 RECROSS EXAMINATION BY MR. GENTRY:

17 Q YOU SAY YOU SAW MARY ANN THERE WITH CHRISTOPHER WITHIN
18 THE YEAR; IS THAT RIGHT?

19 A NO. I SAW THEM AT THE RESIDENCE.

20 Q AT WHERE?

21 A I SAW THEM AT THE RESIDENCE. I DIDN'T SAY WITH MARY
22 ANN.

23 Q OKAY. THAT'S WITHIN A YEAR AGO?

24 A YEAH.

25 Q YOU KNOW THAT LINDSEY WAS KILLED ON APRIL THE 7TH OF

1 LAST YEAR?

2 A NO, I DIDN'T KNOW THAT. I DIDN'T KNOW ---

3 Q THAT'S MORE THAN A YEAR, ISN'T IT?

4 A YEAH.

5 Q ALL RIGHT. YOU'RE UNDER THE IMPRESSION THAT -- DON'T

6 YOU KNOW FOR SURE WHEN YOU SWORE TO THIS OATH, YOU SWORE

7 THAT THIS WAS THE TRUTH?

8 A I DIDN'T SAY I SAW CHRIS WITH LINDSEY A YEAR AGO. I

9 SAID I SAW HIM AT THE RESIDENCE.

10 Q I HAVE SEEN THEM SOCIALIZING AND DRINKING WITH THE

11 LOVELYS ON NUMEROUS OCCASIONS.

12 A I DIDN'T SAY EXACT DATE.

13 Q YOU DIDN'T SAY EXACTLY THAT. SO SOMEBODY TOOK IT DOWN

14 WRONG?

15 A I SAY I DIDN'T SAY A EXACT DATE.

16 Q OH, OKAY. SO HOW LONG AGO WAS IT?

17 A IT'S BEEN A WHILE. IT'S BEEN A FEW YEARS.

18 Q BEEN A FEW YEARS?

19 A YEAH.

20 Q OKAY. WHO IS CHRISTOPHER WILLIAMS (SIC), BY THE WAY?

21 SHE -- MS. BUTCHER'S HAS ASKED YOU TWICE AND YOU SAID --

22 YOU STARTED TO ANSWER THE QUESTION. WHO'S CHRISTOPHER

23 WILLIAMS (SIC)?

24 A I THINK IT'S CHRISTOPHER HICKMAN.

25 Q CHRISTOPHER HICKMAN. OKAY. NOW, THE NAME OF THAT

1 TRAILER PARK YOU'RE TALKING ABOUT, DOES THE NAME PALMETTO

2 TRAILER PARK RING A BELL WITH YOU?

3 A YEAH.

4 Q THAT'S THE NAME OF THE TRAILER PARK WHERE MARY ANN

5 LOVELY'S MOTHER LIVES NOW, ISN'T IT?

6 A YEAH.

7 Q ALL RIGHT. DO YOU KNOW FELICIA WILLIAMS?

8 A YES.

9 Q WHERE DOES SHE LIVE?

10 A SHE LIVES JUST AROUND THE CORNER, ABOUT A BLOCK OVER.

11 Q FROM MARY ANN LOVELY?

12 A YEAH.

13 Q DO YOU KNOW WHERE MARION STREET IS?

14 A NO, NOT EXACTLY, NO.

15 Q OKAY.

16 MR. GENTRY: NOTHING FURTHER.

17 REDIRECT EXAMINATION BY MS. BUTCHER:

18 Q YOU TESTIFIED THAT YOU DIDN'T KNOW EXACTLY WHEN IT WAS

19 YOU SAW LINDSEY LOVELY AT THE HOUSE OF CHRISTOPHER WILLIAMS

20 (SIC)?

21 A YES.

22 Q YOU ALSO TESTIFIED IT WAS ABOUT A YEAR AGO?

23 A HUH?

24 Q YOU ALSO TESTIFIED THAT IT WAS ABOUT A YEAR AGO, YOU

25 WEREN'T SURE?

1 A I'M NOT EXACTLY SURE.

2 Q WOULDNT YOU SAY THAT APRIL OF 2009 IS ABOUT A YEAR
3 AGO?

4 A YEAH.

5 MS. BUTCHER: NO FURTHER QUESTIONS.

6 THE COURT: YOU CAN STEP DOWN.

7 (THE WITNESS LEAVES THE WITNESS STAND.)

8 THE COURT: DO YOU HAVE ANY OTHER WITNESSES?

9 MS. BUTCHER: THAT'S MY CASE, YOUR HONOR.

10 THE COURT: OKAY. DO YOU HAVE ANYTHING YOU WANT TO
11 PUT UP?

12 MR. GENTRY: I CAN PUT UP MS. LOVELY, YOUR HONOR. BUT
13 I DON'T KNOW IF THAT WOULD BE ANY GOOD. I MEAN, THESE
14 WITNESSES HAVE ---

15 THE COURT: OKAY.

16 MR. GENTRY: NOTHING.

17 THE COURT: ALL RIGHT. I WILL TAKE A 10 OR 15 MINUTE
18 BREAK BEFORE I BRING THE JURORS OUT AND THEN COME OUT AND
19 QUESTION THEM.

20 IF YOU ALL HAVE ANY QUESTIONS THAT YOU WANT ME TO ASK
21 THEM, YOU CAN SUBMIT THEM TO ME.

22 MR. GENTRY: ALL RIGHT.

23 (A RECESS WAS TAKEN.)

24 THE COURT: OKAY. DEFENSE READY?

25 MS. BUTCHER: YES, YOUR HONOR.

CHRISTOPHER HICKMAN - DIRECT BY THE COURT

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1 THE COURT: THE STATE READY?

2 MR. GENTRY: YES, SIR.

3 THE COURT: ALL RIGHT. BRING ME MR. HICKMAN.

4 (MR. HICKMAN ENTERS THE COURTROOM.)

5 CHRISTOPHER HICKMAN, BEING

6 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY THE COURT:

8 Q MR. HICKMAN, GOOD MORNING.

9 A GOOD MORNING.

10 Q I'M GOING TO ASK YOU A FEW QUESTIONS. ME AND YOU ARE
11 GOING TO TALK A MINUTE.

12 YOU WERE ONE OF THE JURORS IN THE CASE OF STATE VERSUS
13 MR. JAMES SPANN, YOU REMEMBER THAT?

14 A YES, SIR.

15 Q OKAY. AND I NEEDED JUST TO ASK YOU A COUPLE OF
16 QUESTIONS ABOUT YOUR INVOLVEMENT IN THAT CASE. DID YOU
17 PRIOR TO THAT CASE, DID YOU KNOW MR. SPANN?

18 A NO. WELL, I KNOW HIM, BUT I AIN'T NEVER BEEN AROUND
19 HIM.

20 Q OKAY. AND DID YOU KNOW THE VICTIM IN THIS CASE,
21 LINDSEY LOVELY?

22 A I KNEW LINDSEY.

23 Q YOU KNEW LINDSEY?

24 A YES.

25 Q OKAY. AND I ASKED YOU IN THAT CASE WHETHER YOU WERE A

- 1 CLOSE, PERSONAL FRIEND OR ---
- 2 A AIN'T CLOSE.
- 3 Q --- A CLOSE RELATIONS WITH ---
- 4 A WEREN'T CLOSE.
- 5 Q YOU DON'T THINK YOU WERE CLOSE ---
- 6 A NO, SIR.
- 7 Q --- TO EITHER ONE OF THEM?
- 8 A JUST SEE THEM ON THE STREET AND GO ABOUT MY BUSINESS.
- 9 Q OKAY. SO DID YOU EVER HAVE ANY SOCIAL RELATIONS WITH
- 10 EITHER ONE OF THEM?
- 11 A NO, SIR.
- 12 Q DID YOU EVER RIDE AROUND ---
- 13 A NO, SIR.
- 14 Q --- IN AN AUTOMOBILE WITH EITHER ONE ---
- 15 A NO, SIR.
- 16 Q --- OF THEM?
- 17 A LINDSEY -- I'M 35 YEARS OLD. I DON'T MESS WITH A
- 18 YOUNG BOY LIKE THAT.
- 19 Q OKAY. SO YOU DIDN'T RIDE AROUND WITH LINDSEY?
- 20 A NEVER.
- 21 Q OKAY. AND DID YOU EVER GO TO ANY -- GO TO HIS HOUSE
- 22 OR HIS GRANDMOTHER'S HOUSE?
- 23 A WELL, I DONE WALKED BY, BUT I AIN'T NEVER -- I DON'T
- 24 KNOW WHERE HE LIVE AT.
- 25 Q OKAY. DID YOU EVER ATTEND ANY KIND OF PARTIES ---

CHRISTOPHER HICKMAN - DIRECT BY THE COURT

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- 1 A NO, SIR.
- 2 Q --- OR SOCIAL RELATIONS OF ANY KIND?
- 3 A NO, SIR.
- 4 Q ALL RIGHT. SO YOU DON'T EVEN KNOW WHERE HE LIVED?
- 5 A NO, NOT UNTIL ---
- 6 Q NOT UNTIL THE TRIAL?
- 7 A YES.
- 8 Q OKAY. DID YOU KNOW WHERE MARY ANN LOVELY ---
- 9 A NO, SIR.
- 10 Q --- LIVED?
- 11 A NO, SIR. NO, SIR.
- 12 Q DID YOU KNOW WHERE HER MOTHER LIVED?
- 13 A I THINK SHE LIVED IN THE TRAILER PARK.
- 14 Q OKAY. DID YOU EVER ---
- 15 A MY GRANDMA LIVED ---
- 16 Q YOUR GRANDMAMA LIVED IN THE TRAILER PARK?
- 17 A DOWN THE STREET FROM HER.
- 18 Q DOWN THE STREET. OKAY. HAD YOU EVER BEEN IN HER
- 19 HOME, MARY ANN LOVELY'S HOME?
- 20 A NO, SIR. NO, SIR, NEVER.
- 21 Q HAD YOU EVER BEEN IN HER MOTHER'S HOME?
- 22 A I PROBABLY WALKED BY, BUT I AIN'T NEVER INSIDE.
- 23 Q OKAY. DURING THE COURSE OF THE TRIAL, DID YOU
- 24 CONSIDER YOURSELF FAIR AND IMPARTIAL?
- 25 A YES.

1 Q OKAY. AND DURING THAT TRIAL I INSTRUCTED YOU AS WELL
2 AS THE OTHER JURORS THAT THE STATE HAD THE BURDEN OF
3 PROVING GUILT BEYOND A REASONABLE DOUBT.

4 A YES, SIR.

5 Q DID YOU HOLD THE STATE TO THAT STANDARD?

6 A YES, SIR.

7 Q YOU DID?

8 A YES, SIR.

9 Q OKAY. DO YOU HAVE ANY BIAS OR PREJUDICE AGAINST THIS
10 DEFENDANT OR ANYBODY INVOLVED IN THIS CASE?

11 A NO, SIR.

12 Q SO PRIOR TO THIS CASE, HAD YOU FORMED OR EXPRESSED AN
13 OPINION ABOUT ANY OF THE MATTERS INVOLVED IN THIS CASE?

14 A NO, SIR.

15 Q OKAY. SO YOU FEEL LIKE YOU CAME IN THIS CASE WITH A
16 CLEAR AND OPEN MIND?

17 A YES, SIR.

18 Q OKAY. ALL RIGHT. THEN I AM GOING TO ASK YOU TO STEP
19 IN THE HALL A MINUTE. I'M GOING TO TALK TO THE ATTORNEYS A
20 LITTLE BIT ABOUT YOUR TESTIMONY AND SEE IF THEY WANT ME TO
21 ASK ANY MORE QUESTIONS.

22 A YES, SIR.

23 (THE WITNESS LEAVES THE WITNESS STAND AND EXITS THE
24 COURTROOM.)

25 THE COURT: ANY QUESTIONS EITHER SIDE THINK THAT I

CHRISTOPHER HICKMAN - DIRECT BY THE COURT

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1 NEED TO KNOW THAT I HAVEN'T EXPLORED?

2 MR. GENTRY: NOT FROM THE STATE, YOUR HONOR.

3 MS. BUTCHER: JUST WHETHER OR NOT HE ATTENDED THE
4 FUNERAL OR ANY OF THE SERVICES OR ANYTHING OF THAT NATURE,
5 ASSOCIATED WITH THE FUNERAL.

6 MR. GENTRY: JUDGE, HE DOESN'T KNOW ANYBODY THAT'S
7 INVOLVED ---

8 THE COURT: HE DOESN'T KNOW HIM. I'LL ASK HIM.

9 MS. BUTCHER: JUST ---

10 THE COURT: OKAY. BRING HIM BACK IN.

11 (MR. HICKMAN RETURNS TO THE COURTROOM AND RETURNS TO
12 THE WITNESS STAND.)

13 DIRECT EXAMINATION CONTINUED BY THE COURT:

14 Q ALL RIGHT. MR. HICKMAN, LET ME MAKE SURE I'VE GOT
15 THIS STRAIGHT. YOU'RE TELLING ME THAT YOU KNEW BOTH OF
16 THEM ---

17 A RIGHT.

18 Q --- BUT YOU DIDN'T CONSIDER YOURSELF CLOSE TO EITHER
19 ONE OF THEM?

20 A NEITHER ONE OF THEM.

21 Q OKAY. AND DID YOU GO TO MR. LOVELY'S FUNERAL?

22 A NO, SIR.

23 Q OKAY. ALL RIGHT. THANK YOU, SIR. YOU CAN GO. IF
24 YOU'LL JUST HANG AROUND A MINUTE, I'VE GOT TO DEAL WITH
25 SOME OTHER MATTERS, AND THEN I'LL GET BACK WITH YOU. OKAY?

1 A YES, SIR.

2 THE COURT: THANK YOU.

3 (THE WITNESS LEAVES THE WITNESS STAND AND EXITS THE
4 COURTROOM.)

5 THE COURT: OKAY. ANYTHING ELSE FROM EITHER SIDE?

6 MS. BUTCHER: NOT FROM HIM, YOUR HONOR. I'D JUST LIKE
7 FOR YOU TO ASK A QUESTION OF FELICIA WILLIAMS.

8 MR. GENTRY: I HAVE NOTHING.

9 THE COURT: ALL RIGHT. BRING IN MS. WILLIAMS.

10 MS. BUTCHER: AND, YOUR HONOR, IF YOU WOULD ASK THE
11 QUESTION ABOUT THE FUNERAL.

12 THE COURT: OKAY.

13 (MS. WILLIAMS ENTERS THE COURTROOM.)

14 FELICIA WILLIAMS, BEING
15 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY THE COURT:

17 Q GOOD MORNING, MS. WILLIAMS. HOW ARE YOU DOING?

18 A FINE. HOW ARE YOU?

19 Q GOOD. I NEED TO -- YOU SERVED AS A JUROR ON THE CASE
20 OF THE STATE VERSUS JAMES SPANN.

21 A UH-HUH.

22 Q AND I'M SURE YOU REMEMBERED THAT?

23 A UH-HUH.

24 Q AND I JUST NEEDED TO ASK YOU A COUPLE OF QUESTIONS
25 CONCERNING THAT. DID YOU KNOW MR. SPANN PRIOR TO THE

FELICIA WILLIAMS - DIRECT BY THE COURT

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- 1 TRIAL?
- 2 A NO.
- 3 Q DID YOU KNOW THE VICTIM IN THIS CASE?
- 4 A I DIDN'T KNOW HIM, BUT I'VE SEEN HIM BEFORE.
- 5 Q YOU'D SEEN HIM BEFORE ---
- 6 A UH-HUH.
- 7 Q --- BUT YOU DIDN'T KNOW HIM?
- 8 A NO.
- 9 Q WOULD YOU CONSIDER YOURSELF A CLOSE, PERSONAL FRIEND
- 10 OR CLOSE SOCIAL RELATIONS TO HIM?
- 11 A NO.
- 12 Q OKAY. NOT?
- 13 A (SHAKES HEAD.)
- 14 Q DO YOU FEEL LIKE THAT DURING THE TRIAL, YOU WERE A
- 15 FAIR AND IMPARTIAL JUROR?
- 16 A NO.
- 17 Q YOU DON'T FEEL LIKE YOU WERE FAIR?
- 18 A OH, YEAH, I WAS FAIR.
- 19 Q OKAY. SO YOU FELT THAT PRIOR TO THAT TRIAL THAT YOU
- 20 WERE FAIR AND IMPARTIAL?
- 21 A YES.
- 22 Q THAT YOU DIDN'T HAVE ANY BIAS OR PREJUDICE TOWARD
- 23 EITHER SIDE ---
- 24 A OH, NO.
- 25 Q --- IN THIS CASE?

- 1 A HUH-UH.
- 2 Q AND AS I INSTRUCTED YOU IN THAT TRIAL, THAT THE
- 3 STANDARD OF PROOF WAS BEYOND A REASONABLE DOUBT. IN YOUR
- 4 DELIBERATIONS DID YOU HOLD THE STATE TO THAT STANDARD?
- 5 A UH-HUH.
- 6 Q OKAY. PRIOR TO THAT TRIAL, HAD YOU FORMED OR
- 7 EXPRESSED AN OPINION ABOUT ANY OF THE MATTERS OR ISSUES
- 8 INVOLVED IN THAT CASE?
- 9 A NO.
- 10 Q DID YOU KNOW WHERE MR. LINDSEY LIVED, THE VICTIM IN
- 11 THIS CASE?
- 12 A NO.
- 13 Q OKAY. DID YOU KNOW WHERE HIS MOTHER LIVED?
- 14 A NO.
- 15 Q WHAT ABOUT HIS GRANDMOTHER?
- 16 A NO.
- 17 Q HAD YOU EVER BEEN IN THEIR HOME?
- 18 A NO.
- 19 Q OR VISITED IN THEIR HOME?
- 20 A NO.
- 21 Q SO YOU HAD NEVER BEEN IN ANY SOCIAL SETTINGS WITH
- 22 THEM?
- 23 A NO.
- 24 Q INTERACTED WITH THEM AT ALL?
- 25 A HUH-UH.

FELICIA WILLIAMS - DIRECT BY THE COURT

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- 1 Q OKAY. DID YOU GO TO HIS FUNERAL?
- 2 A NO.
- 3 Q OR ANY WAKE OR ANYTHING INVOLVED IN THE FUNERAL?
- 4 A NO.
- 5 Q ALL RIGHT. WERE YOU AWARE OF ANY BIAS OR PREJUDICE
- 6 THAT YOU MAY HAVE HAD AGAINST THE DEFENDANT IN THIS CASE OR
- 7 THE STATE BEFORE THIS TRIAL?
- 8 A NO.
- 9 Q OKAY. ALL RIGHT. I APPRECIATE YOU COMING. I'M GOING
- 10 TO ASK YOU TO STEP OUT FOR A MINUTE. I'M GOING TO TALK TO
- 11 THESE LAWYERS TO SEE IF THEY WANT ME TO ASK YOU ANY MORE
- 12 QUESTIONS. OKAY?
- 13 A OKAY.
- 14 (THE WITNESS LEAVES THE WITNESS STAND AND EXITS THE
- 15 COURTROOM.)
- 16 THE COURT: ANYTHING FURTHER?
- 17 MR. GENTRY: NOT FROM THE STATE.
- 18 MS. BUTCHER: NO, YOUR HONOR.
- 19 THE COURT: ALL RIGHT. ANY OTHER EVIDENCE OR ANYTHING
- 20 EITHER ONE OF YOU ALL WANT TO BRING UP TO THE COURT, OR
- 21 ARGUE ANY LEGAL POINTS ---
- 22 MR. GENTRY: NO, SIR.
- 23 THE COURT: --- BEFORE I MAKE A DECISION?
- 24 MS. BUTCHER: JUST ARGUMENT.
- 25 THE COURT: OKAY.

1 MS. BUTCHER: YOUR HONOR, I WOULD ARGUE THAT IN
2 REFERENCE TO CHRISTOPHER HICKMAN, THAT WHEN YOU WERE THERE
3 IN THE JURY POOL AND ASKED THEM IF THERE WAS A CLOSE,
4 PERSONAL OR SOCIAL RELATIONSHIP THAT IT WAS AMBIGUOUS, YOUR
5 HONOR. I BELIEVE, YOUR HONOR, MY CLIENT HAD A RIGHT TO
6 KNOW THAT CHRISTOPHER HICKMAN KNEW THE VICTIM AND HIS
7 FAMILY.

8 YOUR HONOR, I WOULD ASSERT -- HAD I KNOWN THAT, I
9 WOULD HAVE CERTAINLY STRUCK HIM AS A JUROR. WHEN WE
10 FINISHED STRIKING THE JURY, YOUR HONOR, MY CLIENT HAD
11 PEREMPTORY CHALLENGES LEFT TO BE ABLE TO BE USED, YOUR
12 HONOR. AND THAT IS CERTAINLY ONE WE WOULD HAVE USED.

13 I BELIEVE THAT HIS KNOWING THIS INDIVIDUAL IS
14 MATERIAL, YOUR HONOR. AND THAT ON THAT BASIS, YOUR HONOR,
15 I BELIEVE HIS SIXTH AMENDMENT RIGHT TO THE CONSTITUTION HAS
16 BEEN VIOLATED, BECAUSE HE DIDN'T HAVE AN IMPARTIAL JURY,
17 YOUR HONOR, OR AT LEAST ONE HE FELT WAS IMPARTIAL, YOUR
18 HONOR, THAT TRIED THIS CASE.

19 THE COURT: OKAY. ANYTHING ELSE?

20 (NO RESPONSE.)

21 THE COURT: ANY FROM THE STATE?

22 MR. GENTRY: NO, SIR. I THINK IT IS A MISTAKE ON
23 ANYONE'S PART TO ASSUME THAT NO ONE IN LEE COUNTY KNOWS
24 ANYONE ELSE IN LEE COUNTY. EVERYBODY IN LEE COUNTY KNOWS
25 SOMEONE OR KNOWS SOMEONE WHO KNOWS SOMEONE.

1 MS. BUTCHER: AND, YOUR HONOR, EVEN IF HIS NOT COMING
2 FORWARD WITH THAT WAS UNINTENTIONAL, THE FACT THAT THAT IS
3 A MATERIAL FACTOR.

4 THE COURT: THE QUESTION AND THE STANDARD IS WHETHER
5 HE WAS OR EVER WAS A CLOSE, PERSONAL FRIEND OR CLOSE,
6 PERSONAL RELATION.

7 AND HIS ANSWER TO BOTH OF THOSE QUESTIONS WERE, NO,
8 THAT HE NEVER WAS AND HE DIDN'T HANG AROUND. HE WAS A GOOD
9 BIT OLDER. EVEN THOUGH HE TESTIFIED HE KNEW BOTH OF THEM,
10 I DID NOT ASK THAT QUESTION. THE QUESTION WAS WHETHER HE
11 WAS CLOSE AND FELT -- OBVIOUSLY, IF YOU WERE CLOSE TO
12 SOMEONE, YOU CAN'T BE -- OR MAY NOT BE ABLE TO BE UNBIASED
13 AND IMPARTIAL.

14 AND IF HE'D HAVE ANSWERED THAT HE WAS A CLOSE SOCIAL
15 RELATION, MY NEXT QUESTION WOULD HAVE BEEN IF HE WOULD HAVE
16 STOOD UP: WOULD THE FACT THAT YOU ARE A CLOSE, PERSONAL
17 RELATION, WOULD THAT EFFECT YOUR ABILITY TO GIVE BOTH THE
18 STATE AND THE DEFENSE A FAIR AND IMPARTIAL TRIAL?

19 IF HE'D HAVE SAID IT WOULD EFFECT HIS ABILITY, I WOULD
20 HAVE EXCUSED HIM. AND IF NOT, YOU COULD HAVE DECIDED
21 WHETHER TO STRIKE HIM.

22 BUT HE'S TESTIFIED HERE TODAY THAT HE FELT LIKE HE
23 ANSWERED MY QUESTIONS APPROPRIATELY DURING THE TRIAL, THAT
24 HE WAS NOT CLOSE TO EITHER SIDE, THAT HE KNEW BOTH OF THEM,
25 BUT HE DID NOT SOCIALIZE WITH EITHER ONE OF THEM. HE HAD

1 NOT BEEN TO THE HOUSE. HE'D NOT BEEN TO A SOCIAL FUNCTION.
2 HE'D NOT RIDDEN AROUND IN THE TRUCK WITH HIM. HE HAD DONE
3 NONE OF THOSE THINGS.

4 AND IN A SMALL TOWN MERELY KNOWING PARTIES MANY TIMES
5 YOU WOULD NEVER GET A JURY. I DON'T THINK THAT'S THE
6 STANDARD THAT THE COURT HAS TO FOLLOW.

7 AND HE TOLD ME THAT HE HAD NOT FORMED OR EXPRESSED AN
8 OPINION ABOUT ANY OF THE MATTERS OR THE ISSUES INVOLVED IN
9 THE CASE; THAT HE HELD THE STATE TO THEIR STANDARD OF PROOF
10 BEYOND A REASONABLE DOUBT. HE WAS NOT AWARE OF ANY BIAS OR
11 PREJUDICE THAT HE HAD AT ALL AGAINST EITHER SIDE IN THIS
12 CASE.

13 AND I DON'T FEEL LIKE HIS RESPONSES WEREN'T
14 INTENTIONAL AT ALL AND THAT HE FELT LIKE HE ANSWERED THEM
15 APPROPRIATELY.

16 AND AS WELL AS MS. WILLIAMS. I MEAN, SHE SAID, YOU
17 KNOW, SHE KNOWN THEM BUT SHE HAD NO SOCIAL CONTACT WITH
18 THEM AT ALL.

19 SHE RESPONDED LIKEWISE, SHE THOUGHT SHE WAS FAIR AND
20 IMPARTIAL, THAT SHE HELD THE STATE TO THEIR STANDARD OF
21 PROOF BEYOND A REASONABLE DOUBT. SHE WAS AWARE OF NO BIAS
22 OR PREJUDICE TOWARD EITHER SIDE.

23 AND I DON'T THINK EITHER ONE OF THEM HAD ANY
24 INTENTIONAL FAILURE TO RESPOND APPROPRIATE TO MY QUESTIONS.

25 I RESPECTFULLY DENY YOUR MOTION FOR A NEW TRIAL.

1 MS. BUTCHER: THANK YOU, YOUR HONOR.

2 (THE TWO JURORS WERE EXCUSED.)

3 --- END OF TRANSCRIPT OF RECORD ---

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1 I, THE UNDERSIGNED DIANNE A. RUTLEDGE, OFFICIAL COURT
2 REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF
3 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
4 TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THE RECORD OF THE
5 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF
6 THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
7 COURT FOR LEE COUNTY, SOUTH CAROLINA ON THE 13TH DAY OF
8 MAY, 2010.

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

11

12

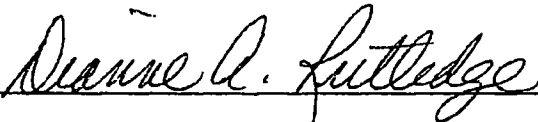
MARCH 29, 2011

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COURT REPORTER

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STATE OF SOUTH CAROLINA)

COUNTY OF LEE)

IN THE COURT OF GENERAL SESSIONS
2009-GS-31-73

The State,)

v.)

James Keion Spann)

Defendant.)

**ORDER
DENYING NEW TRIAL**

Pursuant to Defendant's motion, a hearing was held at the Lee County Courthouse on May 13, 2010.

The Court heard testimony from the jurors who were allegedly tainted and from witnesses called by the Defendant. The Court evaluated the testimony of the challenged jurors and found their testimony credible. The Court evaluated the testimony of the witnesses called by the Defendant and judged their testimony not credible.

Accordingly, Defendant's motion for a new trial based on juror misconduct is denied.

AND IT IS SO ORDERED.

Ralph F. Cothran, Jr.
Circuit Court Judge

February ____, 2011



STATE OF SOUTH CAROLINA

COUNTY OF LEE

STATE OF SOUTH CAROLINA,

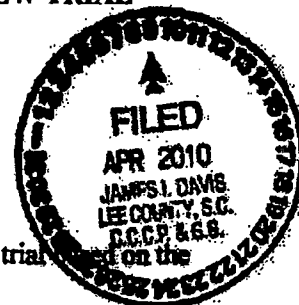
v.

James Keion Spann,

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT
Indictment #2009-GS-31-073

MOTION FOR A NEW TRIAL



Defendant files this motion before the Court to ask the Court for a new trial on the following grounds:

I. Procedural Posture

On March 30, 2010 a jury found Defendant guilty of murder (S.C. Code Ann. § 16-3-10), burglary in the first degree (S.C. Code Ann. § 16-11-311), and possession of a firearm during commission of a violent crime (S.C. Code Ann. § 16-8-210). Defendant was sentenced to life in prison for murder, life in prison for burglary in the first degree, and five years for possession of a firearm during commission of a violent crime.

Defendant files this motion based upon the fact that two jurors lied under oath to the Court during voir dire as to (1) whether they were familiar with the facts of the case and (2) whether they knew or were personal friends of the victim and/or the family of the victim. Defendant asserts that he learned of the juror misconduct and this information was not available to him or his counsel. There is no question as to whether due diligence could have prevented these jurors from being selected for the jury as it was not in Defendants capacity to read the minds and intentions of these jurors and these jurors were not truthful when responding to some very straightforward questions.

II. Facts relevant to this motion.

After completion of the trial, dismissal of the jury, and sentencing, counsel for Defendant met with other clients to prepare for the rest of the term of court. Counsel for Defendant met with McKenzie Dyrell Morgan, who resides at 135 Shaw Street in Bishopville, South Carolina, his wife, Cassey Morgan. The Morgans informed counsel for Defendant that juror number 72, Christopher W. Hickman of 326 Woodward Street, Bishopville, South Carolina was family friends with victim's family. Exhibit 1, *1; Exhibit 2, *1.

Christopher Hickman's brother, Andrae Hickman, was romantically involved with the victim's mother, Mary Ann Lovely. Exhibit 1, *1. Cassey Morgan wrote in a sworn statement that she had seen the victim's mother kissing and being affectionate with Andrae Hickman at local clubs in Bishopville, South Carolina. Exhibit 1, *1.

Witnesses also wrote that they had seen juror Christopher Hickman at the home of Mary Ann Lovely on numerous occasions, where he was drinking and socializing. Exhibit 1, *1, Exhibit 2, *1. Christopher Hickman was friends with the victim's mother by virtue of his brother's relationship with Mary Ann Lovely. Exhibit 2, *1.

Juror Christopher Hickman was also friends with the victim, Lindsay Lovely. Exhibit 1, *2; Exhibit 2, *1. Cassey Morgan stated that she witnessed Christopher Hickman riding around in a truck with Lindsay Lovely on numerous occasions before Lovely was shot. Exhibit 1, *2.

Finally, it is alleged that Christopher Hickman was a neighbor of the Lovely's. Exhibit 1, *2; Exhibit 2, *1. He and his brother lived on Stackley Circle with other relations, where the crime allegedly occurred. Exhibit 1, *2; Exhibit 2, *1.

Cassey Morgan wrote that juror Felicia Williams is a neighbor of the victim and the victim's mother, Mary Ann Lovely, and McKenzie Morgan wrote that he "thinks" Ms. Williams knew the victim and his family. Exhibit 1, *1; Exhibit 2, *1.

III. Legal argument.

The juror's dishonesty has infringed upon Defendant's rights under Amendment VI of the United States Constitution as incorporated and made applicable to the state of South Carolina by the Fourteenth Amendment of the United States Constitution. Defendant's state constitutional rights were violated pursuant to Article I, § 14 of the South Carolina Constitution.

"A 'defendant has a constitutional right to be tried by competent jurors,' which 'implies a tribunal both impartial and mentally competent to afford a hearing.'" *State v. Hurd*, 325 S.C. 384, 389, 480 S.E.2d 94, 97 (Ct.App. 1996) (quoting *Tanner v. United States*, 483 U.S. 107, 134, 107 S.Ct. 2739, 2755, 97 L.Ed.2d 90 (1987) (Marshall, J., dissenting)); *State v. Bell*, 374 S.C. 136, 646 S.E.2d 888 (Ct.App. 2007).

If a juror does not disclose information on voir dire that would have supported a challenge for cause or would have been material in the use of preemptory challenges, a mistrial must be granted once the information is discovered. *Thompson v. O'Rourke*, 288 S.C. 13, 339 S.E.2d 505 (1986). A new trial is required only when the court finds the juror intentionally concealed information which would have supported a challenge for cause or would have been a material factor in the use of the party's preemptory challenges. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998), cert. denied, 525 U.S. 1077, 119 S.Ct. 816, 142 L.Ed.2d 675 (1999).

The trial court must focus on the character of the concealed information, not on the mere fact that a concealment occurred. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998).

“Intentional concealment” occurs when the question presented to the jury on voir dire is reasonably comprehensible to the average juror and the subject of the inquiry is of such significance that the juror’s failure to respond is unreasonable. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001). “Unintentional concealment” occurs when the question posed to the jury on voir dire is ambiguous or incomprehensible to the average juror, or where the subject of the inquiry is insignificant or so far removed in time that the juror’s failure to respond is reasonable under the circumstances. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001).

Whether a juror’s failure to respond is intentional is a fact intensive determination which must be made on a case by case basis. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001).

Where a juror’s response to voir dire amounts to an intentional concealment, the movant need only show that the information concealed would have supported a challenge for cause or would have been a material fact in the use of the party’s peremptory challenges. Where the juror’s failure to disclose information is “without justification,” i.e., intentional, the juror’s bias will be inferred. Conversely, where the failure to disclose is innocent, no inference of bias can be drawn. *State v. Woods*, 345 S.C. 583, 550 S.E.2d 282 (2001); *State v. Savage*, 206 S.C. 5, 409 S.E.2d 809 (Ct.App. 1991); *State v. Stone*, 350 S.C. 442, 567 S.E.2d 244 (2002).

In *State v. Woods*, the South Carolina Supreme Court held the defendant was entitled to a new trial because a seated juror failed to disclose that she worked for three years as a volunteer victims’ advocate in the solicitor’s office which prosecuted the case despite a voir dire question which sought such information. The Court held it did not need to decide whether the juror’s relationship with the solicitor’s office would support a challenge for cause because the Court found her failure to disclose the relationship prevented the defendant’s intelligent exercise of his peremptory challenges.

The South Carolina Supreme Court has found an abuse of discretion where the trial judge denied a motion for mistrial based on a juror's failure to disclose her relation by marriage to a deputy sheriff who viewed the crime scene and had custody of the defendant during the trial. *State v. Gullede*, 277 S.C. 368, 287 S.E.2d 488 (1982). The Court noted that, absent some justification for the juror's failure to disclose this information during voir dire, a mistrial should have been granted. *State v. Gullede*, 277 S.C. 368, 287 S.E.2d 488 (1982).

The Court should grant a new trial based upon the sworn statements of two disinterested third-party witnesses. Had these jurors been truthful regarding the fact that they resided near the scene of the alleged murder, Juror Hickman's relationship with the victim and the victim's family, Defendant would certainly have used his peremptory challenges to excuse the jurors or challenge the selection of the jurors for cause.

Defendant asks the Court to note that at the end of jury selection he had at least three strikes remaining. The juror's dishonesty has infringed upon Defendant's Sixth Amendment right to "enjoy the right to a speedy and public trial, *by an impartial jury...*" Emphasis added. The jurors' dishonesty is in and of itself an intentional concealment of pertinent information. While Defendant does not have a transcript, Defendant is certain that the Court propounded of the veniremembers something similar to the following:

1. Are you, any member of your family, or any close personal friend friends with or acquainted with the following persons:
 - a. Lindsay Lovely;
 - b. Mary Ann Lovely;
 - c. Etc.

2. Are you, any member of your family, or any close personal friend acquainted with the events that occurred April 7, 2009 at [REDACTED], [REDACTED] Bishopville, South Carolina at the home of Lindsay Lovely and Mary Ann Lovely;

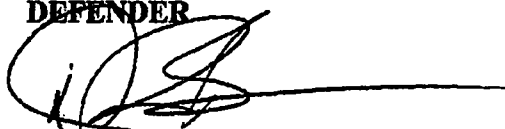
These interrogatories are often the most straightforward of all voir dire presented to the jury venire because the Court propounds these interrogatories at every jury trial in both Common Pleas and General Sessions.

IV. Conclusion.

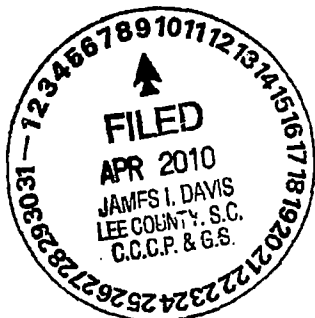
Defendant's use of his peremptory challenges or challenges for cause would have been significantly altered if these two jurors had truthfully disclosed their relationship to the victim and the victim's family. Defendant asks the Court to note that he had challenges remaining when the jury was struck and these juror's were called forward by the clerk of court. The United States .

Respectfully submitted,

**OFFICE OF THE THIRD
JUDICIAL CIRCUIT PUBLIC
DEFENDER**



Deborah J. Butcher
Attorney for Defendant
1042-A Broad Street
Camden, South Carolina 29020
Post Office Box 610
Camden, South Carolina 29021
Telephone: 803.432.7599
Facsimile: 803.432.7466
S.C. Bar No.: 74029
E-mail: Debbie@camdensc-law.com



Camden, South Carolina
April 9, 2010

11/11/81

Page
One

THE COURT REPORTER AND TRANSCRIBER
ASSOCIATION, INC. (TRATA)

March 25, 1982

PAUL E. HAN

Dear John:

James H. Scarborough has stated under oath and is submitting this letter to the Court. From 1:00pm - 1:30pm on December 17th, 1981, he was in the office of the Court Reporter and Transcriber Association, Inc. (TRATA) but he was not the only person in the office.

Very truly yours,

James H. Scarborough

Deborah L. Bolcher
The Garden Law Office

16424 Broad Street
Camden, South Carolina 29203
One Office Box 815
Camden, South Carolina 29203

Phone: 803-438-7821
Telex: 438721

Telex: 438721

Enclosed for the Court Reporter and Transcriber Association, Inc. (TRATA) is a copy of the letterhead memorandum dated and captioned as above.

Very truly yours,
Deborah L. Bolcher
The Garden Law Office
16424 Broad Street
Camden, South Carolina 29203
One Office Box 815
Camden, South Carolina 29203
Phone: 803-438-7821
Telex: 438721

*per Paul
Shantale D...
nothing about the*

PLAINTIFF'S
EXHIBIT
28
4/17/85